AGENDA

CITY COUNCIL - REGULAR MEETING OF THE BANNING CITY COUNCIL
CITY OF BANNING, CALIFORNIA

November 12, 2024
5:00 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 the City of Banning Manual of Procedural Guidelines, matters taken up by the Council before 10 p.m. may be concluded, but no new matters shall be taken up except upon a majority 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

1.1 INVOCATION
Performed by Pastor Nate Rodriguez of Infinite Center

1.2 PLEDGE OF ALLEGIANCE

1.3 ROLL CALL

2. AGENDA APPROVAL

2.1 AGENDA APPROVAL

3. PRESENTATIONS

3.1 Recycling All-Star Awards
Recommendation: Recognize Recycling All-Stars in the community.

3.2 Quarterly Small Business Recognition - Johnny's Russo Italian Kitchen
Recommendation: Staff respectfully recommends City Council recognize Johnny Russo's Italian Kitchen, an exceptional small business within the City.

4. REPORT ON CLOSED SESSION

Serita Young, City Attorney

5. PUBLIC COMMENTS, CORRESPONDENCE, APPOINTMENTS, AND REPORTS

5.1 PUBLIC COMMENTS

5.2 CORRESPONDENCE

5.3 APPOINTMENTS

5.4 CITY COUNCIL COMMITTEE REPORTS

5.5 CITY MANAGER'S REPORT

5.6 CITY ATTORNEY'S REPORT

5.7 CITY TREASURER'S REPORT

6. CONSENT ITEMS

The following items have been recommended for approval and will be acted upon simultaneously, unless a member of the City Council/Banning Utility Authority/Successor Agency Board wishes to remove an item for separate consideration.

6.1 Approval of the Meeting Minutes for the October 22, 2024 City Council Meetings
Recommendation: Approve the minutes of the October 22, 2024 City Council Meetings.

6.2 Consideration of Resolution 2024-173, Approving the City of Banning Electric Utility Power Source Disclosure Annual Report and Power Content Label for Calendar Year 2023
Recommendation: Adopt Resolution 2024-173.

6.3 Consideration of Resolution 2024-174, Awarding a Construction Contract for Project No. 2024-06W Charles Street and Lincoln Street Non-Potable Water Booster Stations and Reservoirs to Pyramid Building and Engineering, Inc. in the amount of $9,236,546 and Approving a 10% Contingency for a Total Project Budget Not-to-Exceed $10,160,200.60
Recommendation: Adopt Resolution 2024-174.

6.4 Consideration of Resolution 2024-175, Approving a Professional Services Agreement with NewGen Strategies and Solutions, LLC for the Banning Electric Utility Cost-of-Service Analysis and Rate Design Study in the Amount of $164,600
Recommendation: Adopt Resolution 2024-175.

6.5 Consideration of Resolution 2024-176, Accepting Community Development Block Grant (CDBG) Funds for Fiscal Year 2024/2025 in the Amount of $159,408 for the Banning Senior Center (5.BN.61-24) in the Amount of $43,144; Dysart Park Improvement Project (5.BN.62-24) in the Amount of $105,000; And the Banning Peace Center Food Program in the Amount of $11,264, and Rescinding Resolution 2024-159
Recommendation: Adopt Resolution 2024-176.

6.6 Consideration of Resolution 2024-177, Approving a Successor Memorandum of Understanding (MOU) with the International Brotherhood of Electrical Workers (IBEW) Local 47 Representing the Utility Unit Employees, Effective July 1, 2024 through December 31, 2026, and Authorizing the City Manager to Finalize and Execute a Successor Agreement
Recommendation: Adopt Resolution 2024-177.

6.7 Consideration of Resolution 2024-178, Approving Amendment No. 1 to the Professional Services Agreement (C00991) with Aragon Geotechnical, Inc. for Surface Mining Inspection Services to Extend the Contract for an Additional Year and Increase the Contract by $6,082.50 for a Total Not to Exceed $12,165
Recommendation: Adopt Resolution 2024-178.

6.8 Consideration of Resolution 2024-179, Approving a Subdivision Improvement Agreement with RSI Development Banning, LLC for Tract 36939 and Accepting Performance and Labor and Material Bonds for Public Improvements and Exonerate Existing Bonds Submitted by the

Previous Property Owner
Recommendation: Adopt Resolution 2024-179.

6.9 Consideration of Resolution 2024-180, Approving an Easement Purchase and Sale Agreement with Southern California Edison for an Easement in the City of Banning Water Canyon
Recommendation: Adopt Resolution 2024-180.

6.10 Consideration of Resolution 2024-181, Amending the Classification and Compensation Plan
Recommendation: Adopt Resolution 2024-181.

6.11 Consideration of Resolution 2024-182, Approving Community Development Block Grants (CDBG) for FY 2025-2026
Recommendation: Adopt Resolution 2024-182.

6.12 Update on Cost Recovery Services for First Responder (EMS/Fire) Medical Billing Fees Collected by Wittman Enterprises LLC for the City of Banning
Recommendation: Receive and file.

6.13 Receive and File Annual Fire Inspection Report of Certain Occupancies for Fiscal Year 2023/2024 Pursuant to California Health and Safety Code Section 13146.4
Recommendation: Receive and File.

6.14 Community Cleanup and Compost Giveaway Event Update
Recommendation: This is informational only; receive and file report.

6.15 Accept as Complete Various Improvements Related to the Atwell Specific Plan Development and Authorize 90% Reduction of the Improvement Bonds
Recommendation: City Council accepts as complete various improvements related to the Atwell Specific Plan Development and authorize the 90% reduction of the improvement bonds.

6.16 Consideration of Approving Amendment No. 1 to the Renewable Natural Gas Supply Agreement with AmpRenew Offtake I, LLC
Recommendation: Approve Amendment No. 1 to the Renewable Natural Gas Supply Agreement with AmpRenew Offtake I LLC (AmpRenew) and authorize the City Manager, or designee, to execute Amendment No.1 to the Renewable Natural Gas Supply Agreement.

6.17 Accept an Easement from Tri Pointe Homes for Electric Utility Purposes on Accessor's Tract Map No. 37388-3, within the Atwell Development for the Maintenance of the City-Owned Electric Distribution System
Recommendation: Staff recommends that City Council accepts an easement from Tri Pointe Homes for electric utility purposes for Tract Map No. 37388-3, Lots 12, 18, and 24 within the Atwell Development for the maintenance of the City-owned electric distribution system.

7. PUBLIC HEARINGS

8. REPORTS OF OFFICERS

8.1 Consideration of Resolution 2024-183, Making a Determination of Exemption under CEQA Guidelines Section 15301 and Further Making a Determination that the Public Convenience or Necessity Would be Served by the Issuance of Alcoholic Beverage Control License Type 21 (Off-Sale General) for a Market and Deli Located at 263 West Ramsey Street, within the Downtown Commercial Zone and Census Tract 441.01
Recommendation: Adopt Resolution 2024-183.

8.2 Update on the Sun Lakes Boulevard Extension Project and Consideration of Resolution 2024-184, Approving EA 24-0051, An Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program Pursuant to the California Environmental Quality Act for the Sun Lakes Boulevard Extension Project
Recommendation: Adopt Resolution 2024-184.

8.3 Consideration of Resolution 2024-185, Authorizing the City Manager to Execute Amendment No. 1 to the Transportation Uniform Mitigation Fee Reimbursement Agreement with Western Riverside Council of Governments for up to $13,000,000 for the Sun Lakes Boulevard Extension Project
Recommendation: Approve Resolution 2024-185.

8.4 Consideration of Resolution 2024-186, Approving a Police Chief Employment Agreement & Swearing In
Recommendation: Adopt Resolution 2024-186.

8.5 Consideration of Resolution 2024-07 UA, Approving a Reimbursement in the Amount of $127,613.58 to the Banning Heights Mutual Water Company for Consultant Expenses Related to the San Gorgonio Flume Project
Recommendation: Adopt Resolution 2024-07 UA.

8.6 Preliminary Results of Operations for Fiscal Year 2023-24
Recommendation: Receive and file.

9. DISCUSSION ITEMS

9.1 Consider Animal Shelter Options
Recommendation: Provide direction to City Manager.

9.2 Discuss Options for Use of Zoom During City Council Meetings
Recommendation: Provide direction to the City Manager regarding use of Zoom for City Council meetings.

10. ANNOUNCEMENTS FROM LEGISLATIVE BODY MEMBERS

11. ITEMS FOR FUTURE AGENDAS

11.1 NEW ITEMS
11.2 EXISTING ITEMS

1. Grow Banning (Sanchez)
2. Neighborhood Groups/Identities (Minjares)
3. Update on Community Garden (Flynn)
4. Zencity Contract (Flynn)
5. Zoom Options for Public Meetings (Flynn)
6. Developer Presentation for Sunset Crossroads Project (Flynn)
7. City Manager Evaluation (Flynn)
8. All Active Lawsuits against the City (Flynn)
9. Increased Compensation for City Treasurer and City Clerk (Flynn)

12. ADJOURNMENT

Next Regular Meeting – December 10, 2024

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 72 hours in advance of the meeting.



Caroline Patton, Administrative City Clerk
Secretario adjunto de la ciudad

PUBLIC NOTICE • NOTICIA PÚBLICA

Meeting Agendas and Notices
Interested in receiving email and/or text notifications of upcoming City Council meetings? Sign up for meeting notifications through the City's website. Pursuant to amended Government Code §54957.5(b), staff reports and other public records related to open session agenda items are available on the City's website (www.banningca.gov/).

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:	**Holly Stuart, Public Works Program Manager** **Art Vela, Public Works Director**
MEETING DATE:	**November 12, 2024**
SUBJECT:	**Recycling All-Star Awards**

RECOMMENDATION:

Recognize Recycling All-Stars in the community.

BACKGROUND:

City staff along with its partner, Waste Management, would like to take this opportunity to recognize and showcase community members in both residential and commercial sectors for their contributions to the recycling industry and waste reduction efforts.

JUSTIFICATION:

Per the franchise agreement for collection services, the City's hauler, Waste Management, shall identify a member from both the residential and commercial sectors for their extraordinary efforts in participating in recycling programs and provide recognition at the City Council meeting during the month of November.

FISCAL IMPACT:

No impact.

ALTERNATIVES:

No alternatives.

BUDGETED?:

No

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. Certificate of Recognition - Waste Management Recycling All Stars 2024.pdf

City of Banning

Certificate of Recognition

PRESENTED TO

SANTANA RUBIO

The City Council of the City of Banning recognizes you for your exemplary recycling efforts as part of ***Waste Management's Recycling All Stars Program*** *by doing your part to* **Recycle Often and Recycle Right**.

RECYCLING ALL STARS

Presented on this 12th day of November, 2024

Alberto Sanchez, Mayor

City of Banning

Certificate of Recognition

PRESENTED TO

JOHN HARRISON CONTRACTING

OF BANNING, CALIFORNIA

The City Council of the City of Banning recognizes you for your exemplary recycling efforts as part of ***Waste Management's Recycling All Stars Program*** *by doing your part to* **Recycle Often and Recycle Right**.

RECYCLING ALL STARS

Presented on this 12th day of November, 2024

Alberto Sanchez, Mayor

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Douglas Schulze, City Manager**
PREPARED BY:	**Marisol Lopez,** **Doug Schulze, City Manager**
MEETING DATE:	**November 12, 2024**
SUBJECT:	**Quarterly Small Business Recognition - Johnny's Russo Italian Kitchen**

RECOMMENDATION:

Staff respectfully recommends City Council recognize Johnny Russo's Italian Kitchen, an exceptional small business within the City.

BACKGROUND:

Every quarter, the City recognizes one of its outstanding small businesses. The businesses get recognized at a City Council meeting and highlighted on the City's website and social media.

JUSTIFICATION:

California's small businesses account for over 99% of total businesses in the state and employ more than 7 million people. Small businesses are crucial to the City's local economy.

FISCAL IMPACT:

None

ALTERNATIVES:

N/A

BUDGETED?:

No

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. Banning Small Business Recognition - November 2024.pdf

City of Banning

Small Business Recognition

PRESENTED TO

Johnny Russo's Italian Kitchen

*This City of Banning recognizes **Johnny Russo's Italian Kitchen** for being an exceptional small business. The City Council thanks you for showing pride and commitment to enriching the City of Banning and the Pass Area community.*

Presented on this 12th day of November, 2024

Alberto Sanchez, Mayor

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Douglas Schulze, City Manager**
PREPARED BY:	**Caroline Patton, Administrative City Clerk** **Doug Schulze, City Manager**
MEETING DATE:	**November 12, 2024**
SUBJECT:	**Approval of the Meeting Minutes for the October 22, 2024 City Council Meetings**

RECOMMENDATION:

Approve the minutes of the October 22, 2024 City Council Meetings.

BACKGROUND:

After every meeting, the City Clerk's Office prepares meeting minutes. The City Council reviews and approves these minutes either as presented or with modifications.

JUSTIFICATION:

These minutes have been prepared as Action Minutes in accordance with City Council Resolution 1995-21 and Government Code Sections 36814, 40801, and 54953(c)(2).

FISCAL IMPACT:

None

ALTERNATIVES:

1. Approve as recommended.
2. Approve with modifications.

BUDGETED?:

No

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. 2024 10 22_Minutes_Special Meeting - Closed Session.pdf
2. 2024 10 22_Minutes_Special Meeting - Workshop.pdf
3. 2024 10 22_Minutes_Regular Meeting.pdf

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

MINUTES **10/22/2024**
CITY COUNCIL **SPECIAL MEETING**

COUNCIL MEMBERS PRESENT: Council Member Sheri Flynn
Council Member David Happe
Mayor Alberto Sanchez
Council Member Colleen Wallace

COUNCIL MEMBERS ABSENT: Mayor Pro Tem Rick Minjares

OTHERS PRESENT: Doug Schulze, City Manager
Serita Young, City Attorney
Caroline Patton, Administrative City Clerk
Lincoln Bogard, Administrative Services Director
Art Vela, Director of Public Works
Nicole Jews, Human Resources Manager
Oliver Yee, City Counsel (Liebert, Cassidy, and Whitmore)
John Z. LaCrosse, City Counsel (Liebert, Cassidy, and Whitmore)

1. CALL TO ORDER

Mayor Sanchez called the special meeting to order at 3:00 p.m.

1.1 Roll Call

COUNCIL MEMBER	PRESENT:	ABSENT
Flynn, Sheri	✕	
Happe, David	✕	
Minjares, Rick		✕
Sanchez, Alberto	✕	
Wallace, Colleen	✕	

2. PUBLIC COMMENT – *Agenda Items*

None

3. CLOSED SESSION

Serita Young, City Attorney, read the closed session citation.

3.1 CONFERENCE WITH LABOR NEGOTIATORS
Pursuant to Government Code Section 54957.6
Agency Designated Representatives: Doug Schulze, City Manager; Lincoln Bogard, Administrative Services Director; Art Vela, Director of Public Works; Nicole Jews,

Human Resources Manager; Oliver Yee, City Counsel (Liebert, Cassidy and Whitmore); John Z. LaCrosse, Liebert Cassidy and Whitmore (City Counsel)
Employee Organization: International Brotherhood of Electrical Workers (IBEW) General Unit; International Brotherhood of Electrical Workers (IBEW) Utility Unit; Teamsters; Banning Police Management Association (BPMA)

4. ADJOURNMENT

The Special City Council meeting adjourned at 3:59 p.m.

Minutes Prepared by:



Caroline Patton, Administrative City Clerk

*These minutes have been prepared as **Action Minutes** in accordance with City Council Resolution 1995-21 and Government Code Sections 36814, 40801, and 54953(c)(2).*

This entire meeting and all associated documents may be viewed here:
https://banningca.granicus.com/ViewPublisher.php?view_id=1

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

MINUTES **10/22/2024**
CITY COUNCIL **SPECIAL MEETING**

COUNCIL MEMBERS PRESENT: Council Member Sheri Flynn
Council Member David Happe
Mayor Alberto Sanchez
Council Member Colleen Wallace

COUNCIL MEMBERS ABSENT: Mayor Pro Tem Rick Minjares

OTHERS PRESENT: Doug Schulze, City Manager
Serita Young, City Attorney
Caroline Patton, Administrative City Clerk
John Garside, Multimedia Specialist

1. CALL TO ORDER

Mayor Sanchez called the special meeting to order at 4:13 p.m.

1.1 Roll Call

COUNCIL MEMBER	PRESENT:	ABSENT
Flynn, Sheri	✕	
Happe, David	✕	
Minjares, Rick		✕
Sanchez, Alberto	✕	
Wallace, Colleen	✕	

2. PUBLIC COMMENT – *Agenda Items*

- Frank Connolly
- Kathleen Dale

3. WORKSHOP

3.1. Discussion of Creating a Community Revitalization Investment Authority (CRIA) to Operate within the Community

Doug Schulze, City Manager, presented the staff report. Joe Dieguez of Kosmont Companies presented to City Council.

Public Comments
- Kathleen Dale

- Frank Connolly

4. ADJOURNMENT

The Special City Council meeting adjourned at 5:21 p.m.

Minutes Prepared by:



Caroline Patton, Administrative City Clerk

*These minutes have been prepared as **Action Minutes** in accordance with City Council Resolution 1995-21 and Government Code Sections 36814, 40801, and 54953(c)(2).*

This entire meeting and all associated documents may be viewed here:
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The following information comprises the minutes for a regular meeting of the City Council, a joint meeting of the Banning City Council and Banning Utility Authority and a joint meeting of the Banning City Council and the Banning City Council sitting in its capacity as the Successor Agency Board.

MINUTES **10/22/2024**
CITY COUNCIL **REGULAR MEETING**

COUNCIL MEMBERS PRESENT: Council Member Sheri Flynn
Council Member David Happe
Mayor Alberto Sanchez
Council Member Colleen Wallace

COUNCIL MEMBERS ABSENT: Mayor Pro Tem Minjares

OTHERS PRESENT: Doug Schulze, City Manager
Serita Young, City Attorney
Caroline Patton, Administrative City Clerk
John Garside, Multimedia Specialist
Lincoln Bogard, Administrative Services Director
Art Vela, Director of Public Works
David Newell, Community Development Director
Nate Smith, Deputy Director of Public Works/City Engineer
Barbara Mason, Purchasing Manager

1. CALL TO ORDER

Mayor Sanchez called the regular meeting to order at 5:40 p.m.

1.1. Invocation – Reverend Cecil Swindell led the invocation.

1.2. Pledge of Allegiance

1.3. Roll Call

COUNCIL MEMBER	PRESENT	ABSENT
Flynn, Sheri	✕	
Happe, David	✕	
Minjares, Rick		✕
Sanchez, Alberto	✕	
Wallace, Colleen	✕	

2. AGENDA APPROVAL

2.1. Approve Agenda

Motion to approve the agenda, moving agenda item 8.3 to follow the Consent Agenda and precede Public Hearings.

Motion by Council Member Wallace
Seconded by Council Member Flynn

COUNCIL MEMBER	YES	NO	ABSTAIN	RECUSE	ABSENT
Flynn, Sheri	✕				
Happe, David	✕				
Minjares, Rick					✕
Sanchez, Alberto	✕				
Wallace, Colleen	✕				

Motion approved by a vote of 4-0, with 1 absence.

3. PRESENTATIONS

3.1. Proclamation – First Baptist Missionary Church 75th Anniversary Recognition

4. REPORT ON CLOSED SESSION

Serita Young, City Attorney, reported that as to Agenda Item 3.1, there was discussion and direction provided to staff with no final nor reportable action.

5. PUBLIC COMMENTS, CORRESPONDENCE, APPOINTMENTS, CITY COUNCIL COMMITTEE REPORTS, CITY MANAGER REPORT, AND CITY ATTORNEY REPORT

5.1. PUBLIC COMMENTS

The following individuals addressed City Council during Public Comment:

- Gladys “Sue” Savage
- Inge Schuler
- Kent Anguiano
- Jack Gunderson
- Bill Hobbs

5.2. CORRESPONDENCE

Two items of correspondence were received and distributed to City Council prior to the meeting.

5.3. APPOINTMENTS

None

5.4. CITY COUNCIL COMMITTEE REPORTS

Council Member Wallace reported on a CalCities Conference and a recent Community Day promoting Public Safety.

Mayor Sanchez reported on the CalCities Conference.

Council Member Flynn reported on the State of the City for Banning and San Jacinto. She also reported on the CalCities Conference.

Council Member Happe reported on the State of the City for Banning,

5.5. CITY MANAGER REPORT

City Manager Schulze reported on the upcoming Christmas Parade and the Trunk or Treat Event hosted by the Parks and Recreation Department.

5.6. CITY ATTORNEY REPORT
City Attorney Young had no report.

5.7. CITY TREASURER REPORT
City Treasurer Geronimo reported on a meeting of the Budget and Finance Committee.

6. CONSENT AGENDA

6.1 Approval of the Meeting Minutes for the October 8, 2024 City Council Meetings
6.2 Receive and File Accounts Payable and Payroll Warrants Issued in the Month of September 2024
6.3 Receive and File Cash and Investments Report for the Month of September 2024
6.4 Receipts, Disbursements, & Fund Balances Reporting for Fiscal Year 2024-25, Period 3, September 2024
6.5 Receive and File Police Department Statistics for the Month of September 2024
6.6 Receive and File Fire Protection Services Statistics for the Month of September 2024
6.7 Public Works Capital Improvement Project Tracking List
6.8 Code Enforcement Update and Statistics for the Month of September 2024
6.9 Receive and File Contracts Approved Under the City Manager's Signature Authority and Inventory Reports for September 2024
6.10 City Council Travel and Conference Expense Report Year to Date Through September 30, 2024
6.11 Consideration of Resolution 2024-165, Approving of the Grant Agreement Between the City of Banning and the State of California - Office of Traffic Safety (OTS) for the FY 2024-2025 Selective Traffic Enforcement Program (STEP) Grant, and Acceptance of the OTS STEP Grant Award in the Amount of $95,000
6.12 Consideration of Resolution 2024-166, Awarding a Construction Contract for Project No. 2023-15W Ramsey Street Water Main Replacement - Phase 1 to MCC Pipeline, Inc. of Yucaipa, CA in the Amount of $1,199,106.33 and Approving a 10% Contingency for a Total Project Budget of "Not-to-Exceed" $1,319,016.96
6.13 Consideration of Resolution 2024-167, Authorizing the City Manager to Execute an Agreement with the California Board of State and Community Corrections (BSCC) for the Proposition 47 Safe Neighborhoods and Schools Grant Program

Public Comment
None

Motion to adopt consent agenda items 6.2 through 6.4, 6.6 through 6.8, 6.11, and 6.13

Motion by Council Member Wallace
Seconded by Council Member Flynn

COUNCIL MEMBER	YES	NO	ABSTAIN	RECUSE	ABSENT
Flynn, Sheri	✕				
Happe, David	✕				
Minjares, Rick					✕
Sanchez, Alberto	✕				
Wallace, Colleen	✕				

Motion approved by a vote of 4-0, with 1 absence

6.1 Approval of the Meeting Minutes for the October 8, 2024 City Council Meetings

Caroline Patton, Administrative City Clerk, reported on a change to the regular meeting minutes for October 8, 2024.

Public Comments
None

Motion to adopt the Meeting Minutes for the October 8, 2024 City Council Meetings.

Motion by Council Member Happe
Seconded by Council Member Wallace

COUNCIL MEMBER	YES	NO	ABSTAIN	RECUSE	ABSENT
Flynn, Sheri	✕				
Happe, David	✕				
Minjares, Rick					✕
Sanchez, Alberto	✕				
Wallace, Colleen	✕				

Motion approved by a vote of 4-0, with 1 absence.

6.5 Receive and File Police Department Statistics for the Month of September 2024

Public Comments
None

6.9 Receive and File Contracts Approved Under the City Manager's Signature Authority and Inventory Reports for September 2024

Barbara Mason, Purchasing Manager, and Lincoln Bogard, Administrative Services Director, answered City Council questions about the report.

Public Comments
None

6.10 City Council Travel and Conference Expense Report Year to Date Through September 30, 2024

Barbara Mason, Purchasing Manager, and Lincoln Bogard, Administrative Services Director, answered City Council questions about the report.

Public Comment
None

6.12 Consideration of Resolution 2024-166, Awarding a Construction Contract for Project No. 2023-15W Ramsey Street Water Main Replacement - Phase 1 to MCC Pipeline,

Inc. of Yucaipa, CA in the Amount of $1,199,106.33 and Approving a 10% Contingency for a Total Project Budget of "Not-to-Exceed" $1,319,016.96

Art Vela, Director of Public Works, reported on a change to the resolution.

Public Comment
- Frank Connolly

Motion to adopt Resolution 2024-166 as amended.

Motion by Council Member Wallace
Seconded by Council Member Happe

COUNCIL MEMBER	YES	NO	ABSTAIN	RECUSE	ABSENT
Flynn, Sheri	✕				
Happe, David	✕				
Minjares, Rick					✕
Sanchez, Alberto	✕				
Wallace, Colleen	✕				

Motion approved by a vote of 4-0, with 1 absence.

Reordered under Agenda Item 2.1.

8.3. Consideration of Resolution 2024-172, Denying an Appeal Filed by Two Brothers 14 Corporation of the Denial of a Business License to Operate a Tobacco Sales Retailer Located at 300 South Highland Drive #8A and Making Findings in Support Thereof

David Newell, Community Development Director, presented the staff report.

Public Comment
- Mansour Jafarian, representing the appellant
- Christian Garcia and Mosab Snoubar, appellants
- Juanita Diaz
- Kathleen Dale
- Dorrie Gartzke
- Frank Connolly

Motion to call the question and adopt the Resolution 2024-172.

Motion by Council Member Flynn
Seconded by Mayor Sanchez

COUNCIL MEMBER	YES	NO	ABSTAIN	RECUSE	ABSENT
Flynn, Sheri	✕				
Happe, David		✕			
Minjares, Rick					✕
Sanchez, Alberto	✕				
Wallace, Colleen	✕				

Motion approved by a vote of 3-1, with 1 absence.

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7. PUBLIC HEARING(S)

7.1 Consideration of Resolution 2024-168, Adopting a Proposed Amendment to the Fire City Department and Fee Group Schedule of the City of Banning Master User Fee Schedule to Adopt New and Increase Certain Fees and Charges Related to Annual Fire Inspections, Plan Checks, and Other Fire Prevention Services and Making a Determination of Exemption under CEQA

David Newell, Community Development Director, presented the staff report. Mikki Sherry, Supervising Fire Marshal, assisted with the report.

Mayor Sanchez opened the public hearing.

Public Comment
- Frank Connolly

Mayor Sanchez closed the public hearing.

Motion to adopt Resolution 2024-168.

Motion by Council Member Flynn
Seconded by Council Member Wallace

COUNCIL MEMBER	YES	NO	ABSTAIN	RECUSE	ABSENT
Flynn, Sheri	✕				
Happe, David	✕				
Minjares, Rick					✕
Sanchez, Alberto	✕				
Wallace, Colleen	✕				

Motion approved by a vote of 4-0, with 1 absence.

7.2 Consideration of Resolution 2024-169, Approving Electric Rate Increases and Revisions to Certain Electric Rates and Tariffs

Art Vela, Director of Public Works, presented the staff report.

Mayor Sanchez opened the public hearing.

Public Comment
- Cindy Barrington
- Kathleen Dale

Mayor Sanchez closed the public hearing.

Motion to adopt Resolution 2024-169.

Motion by Council Member Wallace

Seconded by Council Member Happe

COUNCIL MEMBER	YES	NO	ABSTAIN	RECUSE	ABSENT
Flynn, Sheri	✕				
Happe, David	✕				
Minjares, Rick					✕
Sanchez, Alberto	✕				
Wallace, Colleen	✕				

Motion approved by a vote of 4-0, with 1 absence.

Mayor Sanchez announced a recess at 8:33 p.m. The meeting was reconvened at 8:48 p.m.

8. REPORTS OF OFFICERS

8.1 Consideration of Resolution 2024-170, Approving a Reimbursement Agreement with SFPP, L.P., a Delaware Limited Partnership, for Costs Associated with the Design and Relocation of Pipeline Facilities Owned and Operated by SFPP in Relation to the Sun Lakes Boulevard Extension Project

Nate Smith, Deputy Director of Public Works/City Engineer, presented the staff report.

Public Comment
None

Motion to adopt Resolution 2024-170.

Motion by Mayor Sanchez
Seconded by Council Member Wallace

COUNCIL MEMBER	YES	NO	ABSTAIN	RECUSE	ABSENT
Flynn, Sheri	✕				
Happe, David	✕				
Minjares, Rick					✕
Sanchez, Alberto	✕				
Wallace, Colleen	✕				

Motion approved by a vote of 4-0, with 1 absence.

8.2 Consideration of Resolution 2024-171, Approving Replacement of NeoGov Human Resources Information System (HRIS) and Related Modules with Paylocity Human Capital Management (HCM) Including Payroll, Time & Labor, Benefits, Human Resources, Talent, Employee Experience, Insights & Reporting, and Customer Service

Lincoln Bogard, Administrative Services Director, presented the staff report.

Public Comment
None

Motion to adopt Resolution 2024-171.

Motion by Council Member Wallace
Seconded by Council Member Happe

COUNCIL MEMBER	YES	NO	ABSTAIN	RECUSE	ABSENT
Flynn, Sheri	✕				
Happe, David	✕				
Minjares, Rick					✕
Sanchez, Alberto	✕				
Wallace, Colleen	✕				

Motion approved by a vote of 4-0, with 1 absence.

9. DISCUSSION ITEM(S)

None

10. ITEMS FOR FUTURE AGENDAS

10.1. New Items:

None

10.2. Pending Items:

1. Grow Banning (Sanchez)
2. Neighborhood Groups/Identities (Minjares)
3. Update on Community Garden (Flynn)
4. Zencity Contract (Flynn)
5. Zoom Options for Public Meetings (Flynn)
6. Developer Presentation on Sunset Crossroads Project (Flynn)
7. City Manager Evaluation (Flynn)
8. All Active Lawsuits against the City (Flynn)
9. Increased Compensation for City Treasurer and City Clerk (Flynn)

11. ADJOURNMENT

Motion to adjourn.

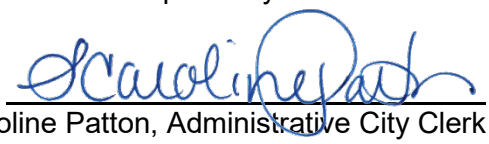
Motion by Mayor Sanchez
Seconded by Council Member Wallace

COUNCIL MEMBER	YES	NO	ABSTAIN	RECUSE	ABSENT
Flynn, Sheri	✕				
Happe, David	✕				
Minjares, Rick					✕
Sanchez, Alberto	✕				
Wallace, Colleen	✕				

Motion approved by a vote of 4-0, with 1 absence.

The meeting was adjourned at 9:07 p.m.

Minutes Prepared by:



Caroline Patton, Administrative City Clerk

*These minutes have been prepared as **Action Minutes** in accordance with City Council Resolution 1995-21 and Government Code Sections 36814, 40801, and 54953(c)(2).*

This entire meeting and all associated documents may be viewed here:
https://banningca.granicus.com/ViewPublisher.php?view_id=1

ATTACHMENTS:

Exhibit A – Public Comment Received
Exhibit B – Agenda Item 5.5: City Manager's Report
Exhibit C – Agenda Item 8.3: Staff Presentation
Exhibit D – Agenda Item 7.1: Staff Presentation
Exhibit E – Agenda Item 7.2: Staff Presentation

Exhibit A

To: The Banning City Council

The residents of Sun Lakes Country Club chose to move into the community because it met the needs of these residents who were entering the latter stages of their life. The surrounding community offered a slower pace of life with adequate resources for their everyday needs. The air quality was good. The traffic was moderate. The neighbors were nice. The city was looking after the public health, safety, and welfare of its citizens and the community.

This approach to choosing where you live is likely not so different from how some members of the City Council choose the homes they live in. They want a safe, clean neighborhood with a quality school close to home for their children and not too far from work. We ask the Council: If your children's school is shut down or there was a factory constructed across the street from the school that produced constant fumes and noise surrounding the playground, would you consider re-locating to another neighborhood? As a person who is 30 to 50 years younger than most Sun Lakes residents, you have the option to re-locate.

We, in Sun Lakes, are not in our prime earning years and our options are limited due to health issues and reduced income. We ask the City Council to delay any vote on the Banning Point Project until after they take into consideration that Sun Lakes Country Club alone represents nearly 20 percent of Banning's total residential population, and this population is going to be negatively affected by the development of the Banning Point Project for the rest of their natural lives.

We ask the Banning City Council to also take into consideration that the City is still looking for land to develop low density and/or medium density housing. A small apartment complex built to house our own Banning seniors whose income would not allow them to purchase or rent homes in Sun Lakes would be a godsend to many. The City is also trying to encourage the re-opening of a new Department of Motor Vehicles building. With so many seniors within a two- or three-mile radius of this property, a medical facility providing medical specialists would be well supported. A facility like this would bring residents from many of the surrounding cities to take advantage of Banning's Specialist facility. Any of these options could be developed on the Banning Point 47 acres. Consider promoting and soliciting developers for these types of projects. Allow the current developer to re-locate to an area farther away from existing, mature developments designed to house seniors, and allow the current developer to negotiate with the owners of one of the many empty warehouses already collecting dust.

PRINT YOUR NAME	*SIGN YOUR NAME*	*STREET ADDRESS*	*DATE*
BEVERLY R AGNER	Beverly R Agner	1901 Masters Dr	10-5-24

RECEIVED
CITY OF BANNING
OCT 10 2024
CITY MANAGER'S OFFICE
BY:

Sun Lakes Investment, LLC

October 21, 2024

Banning City Council
99 E. Ramsey Street
Banning, CA 92220

Dear Banning City Council Members:

My name is Bryan Scheidler and I represent Sun Lakes Investment, LLC, the property management company for the Sun Lakes Village Shopping Center located at 300 S. Highland Springs Ave in Banning. I am writing to you today on behalf of Mr. Mosab Snoubar and Two Brothers Corporation, a California Corporation. On June 25th of this year we entered into a lease agreement with Mr. Snoubar who intended on opening a high-end, retail store selling
e-cigarettes as well as associated e-cigarette supplies and accessories in one of our vacant retail spaces at the center.

Unfortunately, after Mr. Snoubar had completed the renovation and build-out of his store, including submitting all appropriate paperwork, passing fire inspections, etc., his provisional business license was voided by the city. The reason given to Mr. Snoubar was that an
e-cigarette/ smoke shop/ retail location did not meet the permitted usage for the center. This was not only a surprise to us and Mr. Snoubar but also to NAI Capital who helped negotiate the leasing of the space.

From the year 2000 thru 2013 the Sun Lakes Village Shopping Center has seen similar retail stores conduct business operations in full compliance with the city. Given this precedent we are confused why the city finds that this type of retail store does not fit the permitted usage.

Since this usage has historically been acknowledged by us the landlords and the City of Banning, we request that the council grant Mr. Snoubar and the Two Brothers Corporation their business license so that they may proceed with opening their business as soon as possible.

Bryan Scheidler
Property Manager
Sun Lakes Investment, LLC

Sun Lakes Investment, LLC
41 East Foothill Blvd., Suite 200
Arcadia, CA 91006
Phone: (626) 445-9196
email: info@sunlakesvillage.c

Gladys "Sue" Savage comments for Oct 22, 2024 Banning City Council meeting commencing at 5:00 pm.

My name is Gladys Sue Savage.

When is Banning going to be held accountable to obey the law?

At the last City Council meeting, the city manager denied discussing the Treasurer in July. The city clerk has copies of the July staff report when the City Manager did discuss Banning's City Treasurer. He states other cities are not complying with California law for Treasurers either. Attending the July 2022 meeting were City Council members Mary Hamlin, Kyle Pingree, Alberto Sanchez and Colleen Wallace. David Happe was absent. Kevin Ennis was city attorney. Doug Schultz was city manager. Carolyn Patton was deputy city clerk. Should these people be held accountable for disregarding California law?

I, Gladys Sue Savage, am campaigning for Banning City Treasurer to perform the seven Lawful Treasurer duties listed on the City Manager's July 2022 staff report.

Including:

1. (Section 41001) Receiving and safely keeping all money into my hands as treasurer including the investment portfolio;
2. (Section 41002) Complying with all laws governing the deposit and securing of public funds, and the handling of trust funds in my treasurer possession;
3. (Section 41003) Paying out money only on warrants signed by legally designated persons;
4. (Section 41004) Providing a written report accounting for all receipts, disbursements and fund balances;
5. (Section 41005) Performing duties of collection of city taxes and license fees as are prescribed by Banning city ordinance;
6. (Section 41006) Appointing deputies for whose actions I and the city bondsman are responsible;
7. (Section 41007) The deputies serve at the pleasure of the Treasurer and receive compensation as is provided by City Council.

I am campaigning to be Department Head of the Banning Treasurer Department and as such, I expect to be fairly, equitably and commensurately compensated.

I request my comments be included in tonight's City Council Meeting minutes.

Thank you.

CITY OF BANNING
STAFF REPORT

TO: **CITY COUNCIL**

FROM: **Douglas Schulze, City Manager**

MEETING DATE: **July 12, 2022**

SUBJECT: **Report on City Treasurer Duties and Responsibilities/Scope of Comments under Brown Act**

RECOMMENDATION:

No action requested.

BACKGROUND:

During the June 28, 2022 City Council meeting, a request was made to discuss the Elected City Treasurer time allowed for comment during meetings of the City Council. Questions have been raised regarding the City Treasurer's ability to participate in City Council meetings without time limitations/restrictions.

First, it is important to understand the duties and responsibilities of a City Treasurer, as established in California Government Code Sections 41001-41007, Chapter 3. The duties and responsibilities are:

- 41001. The city treasurer shall receive and safely keep all money coming into his hands as treasurer.
- 41002. He shall comply with all laws governing the deposit and securing of public funds and the handling of trust funds in his possession.
- 41003. He shall pay out money only on warrants signed by legally designated persons.
- 41004. Regularly, at least once each month, the city treasurer shall submit to the city clerk a written report and accounting of all receipts, disbursements, and fund balances. He shall file a copy with the legislative body.
- 41005. The city treasurer shall perform such duties relative to the collection of city taxes and license fees as are prescribed by ordinance.
- 41006. The city treasurer may appoint deputies for whose acts he and his bondsmen are responsible.
- 41007. The deputies shall hold office at the pleasure of the city treasurer and receive such compensation as is provided by the legislative body.

The elected city treasurer position for the City of Banning does not perform these duties as they are all performed by the City Finance Department under the direction of the

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

MINUTES **7/12/2022**
CITY COUNCIL **REGULAR MEETING**

COUNCIL MEMBERS PRESENT: Council Member Mary Hamlin
Mayor Kyle Pingree
Council Member Alberto Sanchez
Mayor Pro Tem Colleen Wallace

COUNCIL MEMBERS ABSENT: Council Member David Happe

OTHERS PRESENT: Doug Schulze, City Manager
Kevin Ennis, City Attorney
Marie Calderon, City Clerk
Caroline Patton, Deputy City Clerk
Art Vela, Director of Public Works
Lincoln Bogard, Finance Director
Thomas Miller, Electric Utility Director
Adam Rush, Community Development Director
Laurie Sampson, Assistant City Manager
John Garside, Multimedia Specialist

*Participated via Zoom.

1. CALL TO ORDER

Mayor Pingree called the regular meeting to order at 5:00 p.m.

1.1. Invocation – Matthew Hamner, Chief of Police, performed the invocation.

1.2. Pledge of Allegiance – Mayor Pro Tem Wallace led the Pledge of Allegiance.

1.3. Roll Call

COUNCIL MEMBER	PRESENT	ABSENT
Hamlin, Mary	X	
Happe, David		X
Pingree, Kyle	X	
Sanchez, Alberto	X	
Wallace, Colleen	X	

Metropolitan News-Enterprise

Thursday, August 8, 2024

Page 3

Court of Appeal:

City May Not Strip Elected Officer of Duties by Ordinance

Opinion Says Oxnard's Actions to Reduce Authority of Treasurer Amounted to 'Un-Electing' of Candidate

By Kimber Cooley, Associate Editor

Div. Six of this district's Court of Appeal held yesterday that actions by the City of Oxnard to strip its elected treasurer of certain duties—and substantially reduce his compensation—impermissibly undermined the statutory authority provided to the office under the Government Code.

"A city treasurer deprived of the office's duties is tantamount to no treasurer," Presiding Justice Arthur Gilbert said in an unpublished opinion. "The City may not through legerdemain un-elect the office of city treasurer and defeat the choice of the voters."

Justices Kenneth Yegan and Hernaldo J. Baltodano joined in the opinion.

Inappropriate Comments

The dispute arose after the municipality placed Treasurer Phillip Molina on administrative leave in October 2019 following an 83-page investigative report looking into allegations that Molina made inappropriate comments toward female employees, such as suggesting that they go home and cook for their husbands and wondering if they would give him mouth-to-mouth resuscitation if he suffered a heart attack.

During a May 2020 City Council meeting, Oxnard leaders voted to strip Molina of the bulk of his responsibilities by passing a series of resolutions and ordinances. They also shifted Molina's 19-member staff to a newly created department and reduced his salary from a range of $114,656.88 to $157,652.98 to a fixed $20,418.08, equal to the remuneration of city council members.

At the meeting, Molina accused City Manager Alex Nguyen of running the city like a "dictator."

relies on section 34004 authorizing a transfer of the treasurer's duties....The City points to no applicable general law that charges the director of finance with duties of the same character as the treasurer's... duty under section 41004."

He continued:

"A report on the City finances by a treasurer who is directly answerable to the voters is not the same as a report by the director of finance who is answerable to other city officials. The treasurer is independent and can provide a check on other city officials, including the City counsel and the director of finance."

Deletion of Duties

Gilbert reasoned that the deletion of certain duties from a list of responsibilities belonging to the treasurer is without legal effect, saying:

"The duties mandated by state law remain notwithstanding their deletion by the ordinance. For example, one of the duties deleted by the ordinance is to '[p]erform such duties relative to the collection of City taxes and license fees as are prescribed by ordinance.' That is a duty mandated by section 41005. The deletion of that duty by ordinance does not nullify the statutory duty to collect city taxes and license fees."

Finding that the actions by the city to strip authority from the elected treasurer were unfounded, the jurist declared:

"The Government Code calls for an elected treasurer. Molina was duly elected. The ordinances as a whole have the intent and effect of removing Molina from his office. For this reason, we reverse. All the challenged ordinances are void and Molina's duties as treasurer are restored. Molina's salary is restored to its previous compensation, including restoration of compensation withheld pending resolution of this case."

The case is *Molina v. Nguyen*, B327286.

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Outlook

Re: District 4 Detailed City Map

From sue savage <sue.savage@hotmail.com>
Date Wed 10/16/2024 10:24 AM
To Caroline Patton <cpatton@banningca.gov>

Ms. Patton,

Thank you for your help regarding these matters!

Sue Savage, Banning City Treasurer Candidate

From: Caroline Patton <cpatton@banningca.gov>
Sent: Wednesday, October 16, 2024 9:54 AM
To: sue savage <sue.savage@hotmail.com>
Subject: RE: District 4 Detailed City Map

Ms. Savage,

A.

The contact is rovweb@rivco.org. You may submit your comments in person at the meeting.

Caroline Patton, MPA, CMC
Administrative City Clerk
City of Banning
Office. 951-922-3102
Fax. 951-922-3128
99 E. Ramsey Street
Banning, CA 92220
www.banningca.gov

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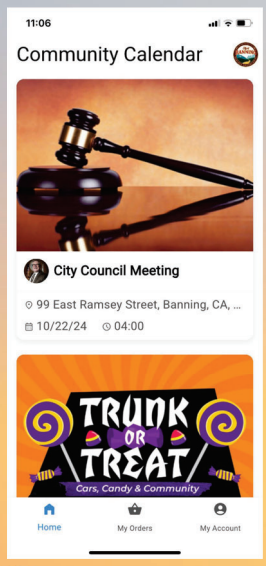
CITY MANAGER'S REPORT

October 22, 2024

Cowboy Christmas Parade & Tree Lighting Festival

- Saturday, December 7
  - 4p – 8p
  - Ramsey/San Gorgonio
  - Parade Step-Off 5:30p
  - Food Vendors
  - Tree Lighting 7:00p
  - Santa Photos
  - Gift Giveaway
  - Snow Sledding

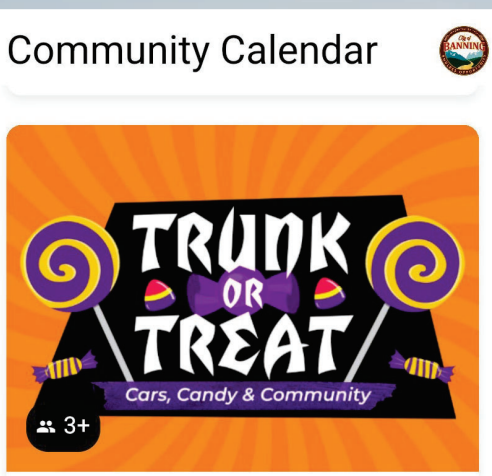
Parade Registration



Banning Community Calendar

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BANNING CALIFORNIA

CITY COUNCIL

REPORT OF OFFICERS ITEM NO. 8.3

OCTOBER 22, 2024

Consideration of Resolution 2024-172, Denying an Appeal Filed by Two Brothers 14 Corporation of the Denial of a Business License to Operate a Tobacco Sales Retailer Located at 300 South Highland Drive #8A; and Making Findings in Support Thereof

BANNING CALIFORNIA

Background

- 07/08/24 – the applicant/appellant submitted a business license application to operate a tobacco store at 300 S. Highland Drive, #8A
- 07/15/24 – a business license certificate was issued by online system
- 09/19/24 – the applicant was notified by Community Development Department that the business is not permitted in Specific Plan
- 09/30/24 – the applicant filed a timely appeal under BMC Section 5.04.170

Allowable Uses at Sun Lakes Village

- Site is located within Sun Lakes Village Specific Plan, which provides a list of permissible uses in Section VI (*Permitted Land Uses*)
- Under the Commercial/Office list of permitted uses, several types of commercial-retail uses are allowed by right, such as art stores, bookstores, donut shops, florists, gift shops, supermarkets, etc.
- Specific Plan Section B.1.a.(89) allows other uses determined to be similar in character, accessory to or compatible by the Director

Appeal

The applicant/appellant identifies five reasons for granting the appeal:

1. **Inconsistent Issuance**. After applying, the applicant received emails stating balance due and a fire inspection and tobacco retail license are required, but nothing regarding a zoning issue. A license was issued, and per BMC 5.04.110(B) the business is located proper zoning.

Staff's Response: Section 5.04.030 states "any person required to pay a business tax for transacting and carrying on any business under this chapter shall...remain subject to the regulatory provisions of other ordinances." Section 5.04.010 defines a business license certificate: "'Certificate' means the business tax payment certificate issued to the taxpayer upon the payment of the business tax. It is not a permit to engage in business. It is the document issued upon the payment of the business tax."

2. **Compliance with Local Ordinances**. The applicant believes the proposed business is fully compliant with all local, state and federal regulations, in order to operate. The alleged zoning issue clearly existed when the certificate was originally issued.

Staff's Response: As referenced by code requirements above, a zoning clearance was not provided at any time and the collection of a business tax does not constitute a right to forego zoning compliance and engage in business.

Appeal (cont'd.)

3. **Financial Impact and Operational Impact**. The applicant states that the rejection of the business license has caused significant financial strain, due to the reliance on the certificate issued by the city.
4. **Improper Internal Procedure to Issue Business License**. The applicant contends that even if a zoning restriction exists, the City should have verified compliance before issuing the certificate.
5. **Request for Clarification.** The applicant seeks clarification of any specific concerns, requirements, documentation or adjustment to comply with City regulations, that have arisen since the certificate issuance and notes a willingness to cooperate.

Staff's Response, Items 3, 4 and 5: While understanding of the applicant's frustration, the City is obligated to uphold the current law and ensure all businesses are property located based on municipal and zoning requirements. The proposed tobacco retail store is not listed in the Permitted Land Uses (Section VI) of the Sun Lakes Village Specific Plan. Should they wish to pursue the proposed use in the proposed location, the Applicant may submit an amendment to the Specific Plan to properly permit or conditionally permit the use in the Plan area.

Recommendation

- Adopt Resolution 2024-172, Denying an Appeal Filed by Two Brothers 14 Corporation of the Denial of a Business License to Operate a Tobacco Sales Retailer Located at 300 South Highland Drive #8A; and Making Findings in Support Thereof
- Alternatively, the Council may accept the appeal and direct staff to return with a Resolution approving the business license.

Questions?

Contact Information

David A. Newell, AICP, Community Development Director

dnewell@banningca.gov

BANNING CALIFORNIA

RESOLUTION 2024-169

APPROVING ELECTRIC RATE INCREASE AND REVISIONS TO CERTAIN ELECTRIC RATES AND TARIFFS

BANNING CALIFORNIA

Background

Electric Utility's most recent utility-wide rate increase occurred in 2013

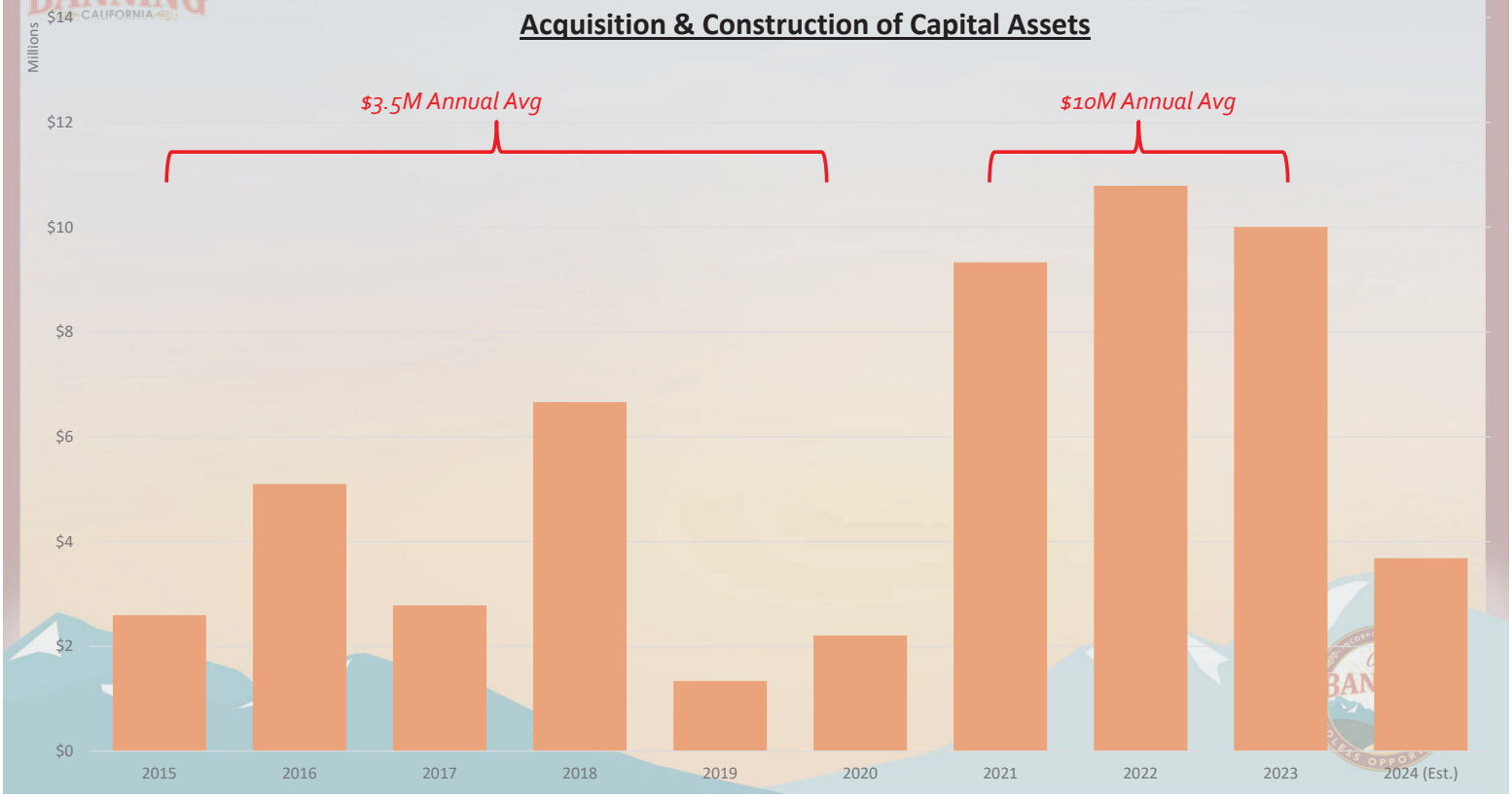
- Most recent rate adjustment occurred in 2022 when some customer categories' rates increased while others decreased, but there was no net increase in the overall rates

During the last 10 years, the Electric Utility has seen increasing pressure from operating expense inflation, power purchase costs, and capital expenditures

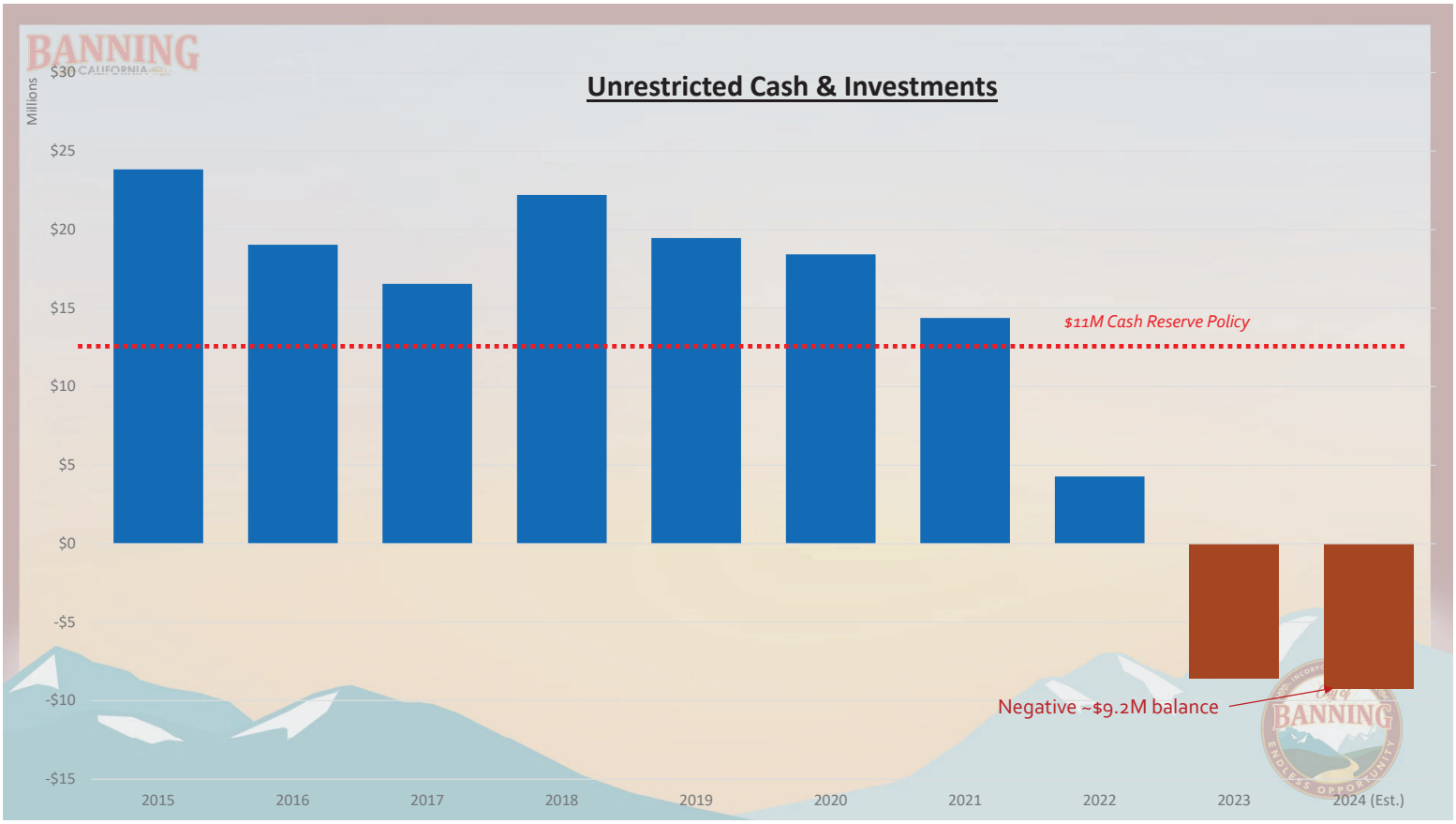
- Pressures have resulted in a negative ~$9 million fund balance and have required the Electric Utility to borrow from other funds to make required debt service payments on outstanding debt

Electric Utility's negative cash balance and declining debt service coverage caused S&P to lower the rating from "A- to "BB" – (i.e., "junk" bonds rating)

Acquisition & Construction of Capital Assets



Unrestricted Cash & Investments



Rate Increase Objective

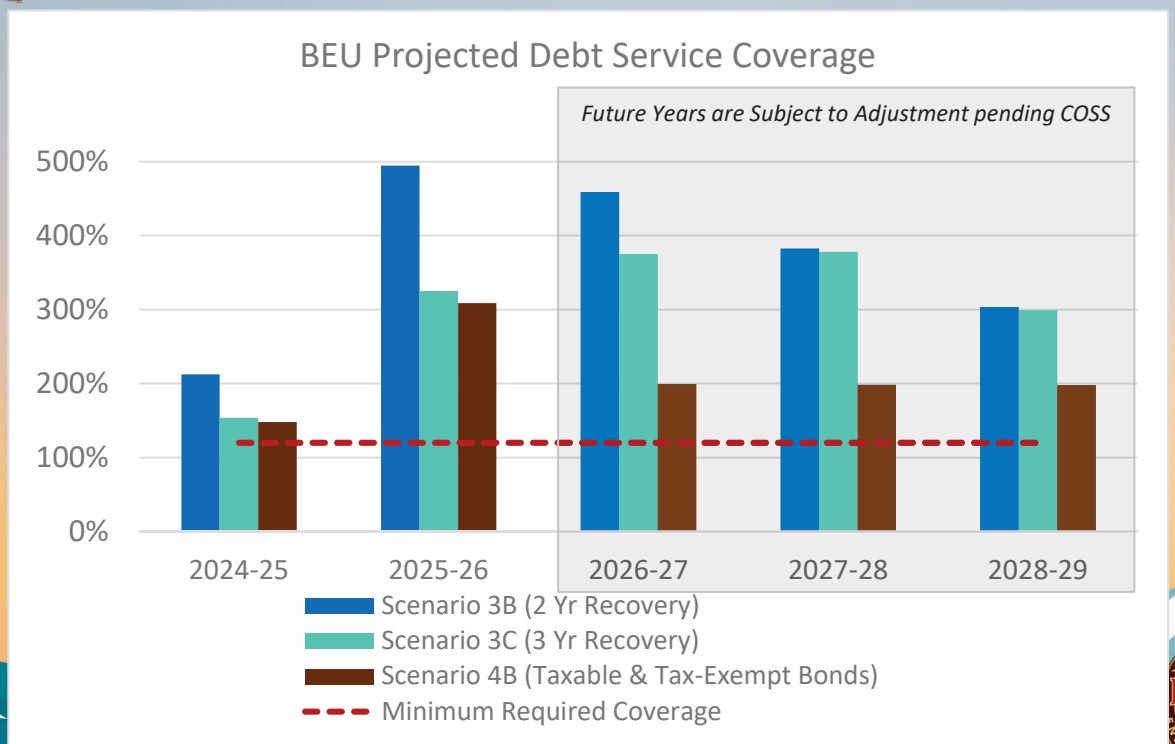
- Electric Utility rate increases will:
  - Cover ongoing operating expenses and eliminate an existing annual structural deficit.
  - Repay back other City funds that were used to fund the Electric Utility's cash shortage.
  - Comply with the minimum debt service coverage commitment to bond investors and avoid default on bonds.
  - Begin restoring the Electric Utility's reserves.

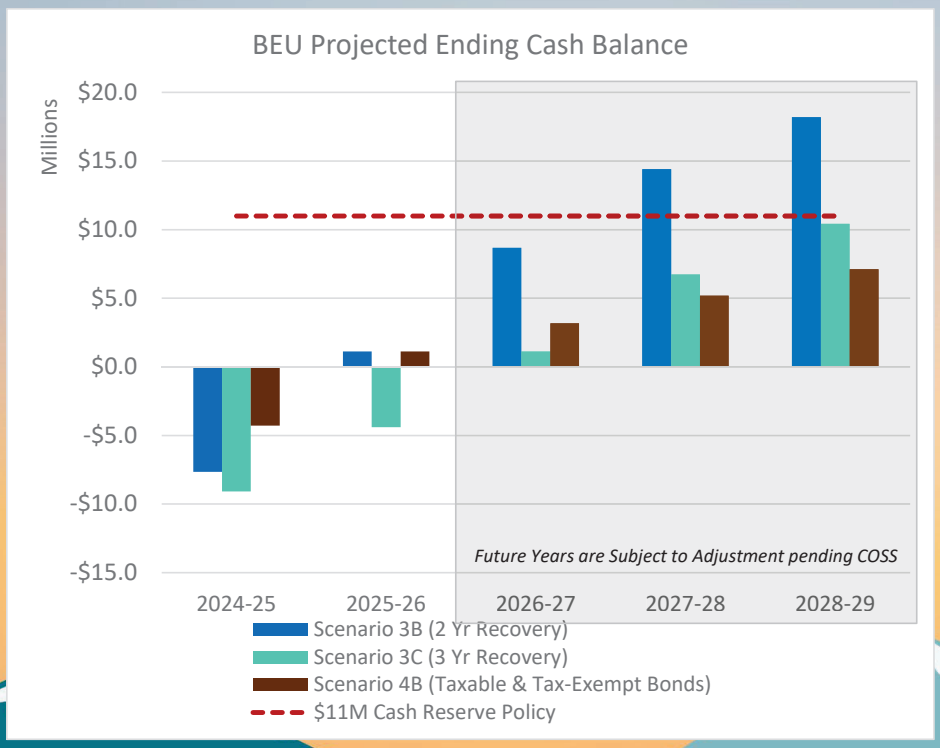
Rate Increase Options – 8/27/24

	Option 1	Option 2	Option 3 A/B	Option 4A
Description	No Action *Fund balance remains negative; likely debt coverage covenant default in FY 2025*	Maintain Services *Fund balance remains negative; avoids debt coverage covenant default in FY 2025*	Maintain Services + Replenish Cash with Rate Revenues *Fund balance remains negative for 12-24 months; avoids debt coverage covenant default in FY 2025*	Maintain Services + Replenish Cash with ~$10M Bond *Fund balance becomes positive in 3-4 months; avoids debt coverage covenant default in FY 2025*
Rate Increases Needed	None	13% in FY 2025	64% in FY 2025 **OR** 22%/year for 2 years	13% in FY 2025

Rate Increase Options – 9/24/24

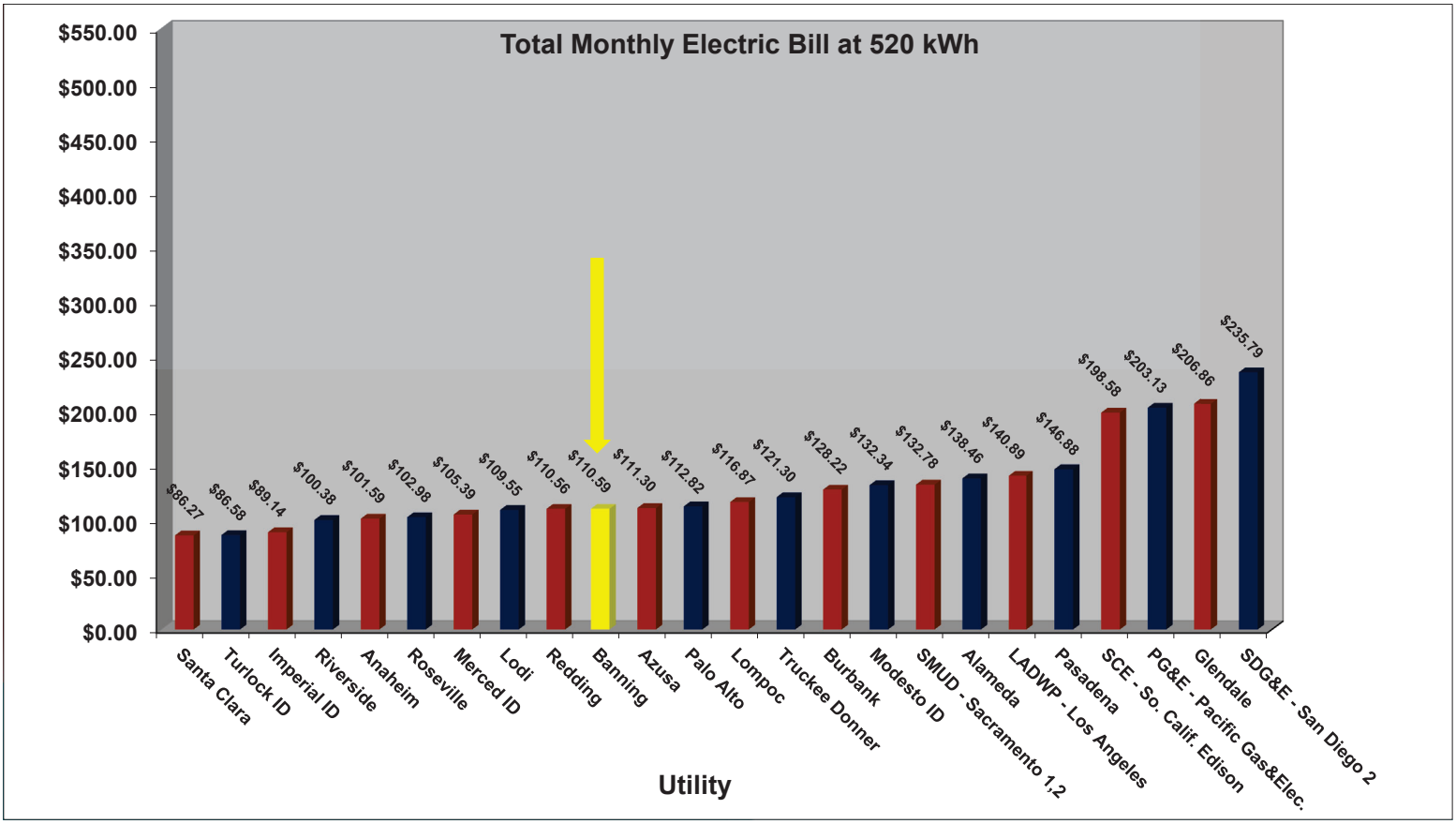
	Option 4B
Description	Maintain Services + Replenish Cash with ~$6M Bond *Fund balance remains negative for 12 months; avoids debt coverage covenant default in FY 2025*
Rate Increases Needed	13.9% for 2 years

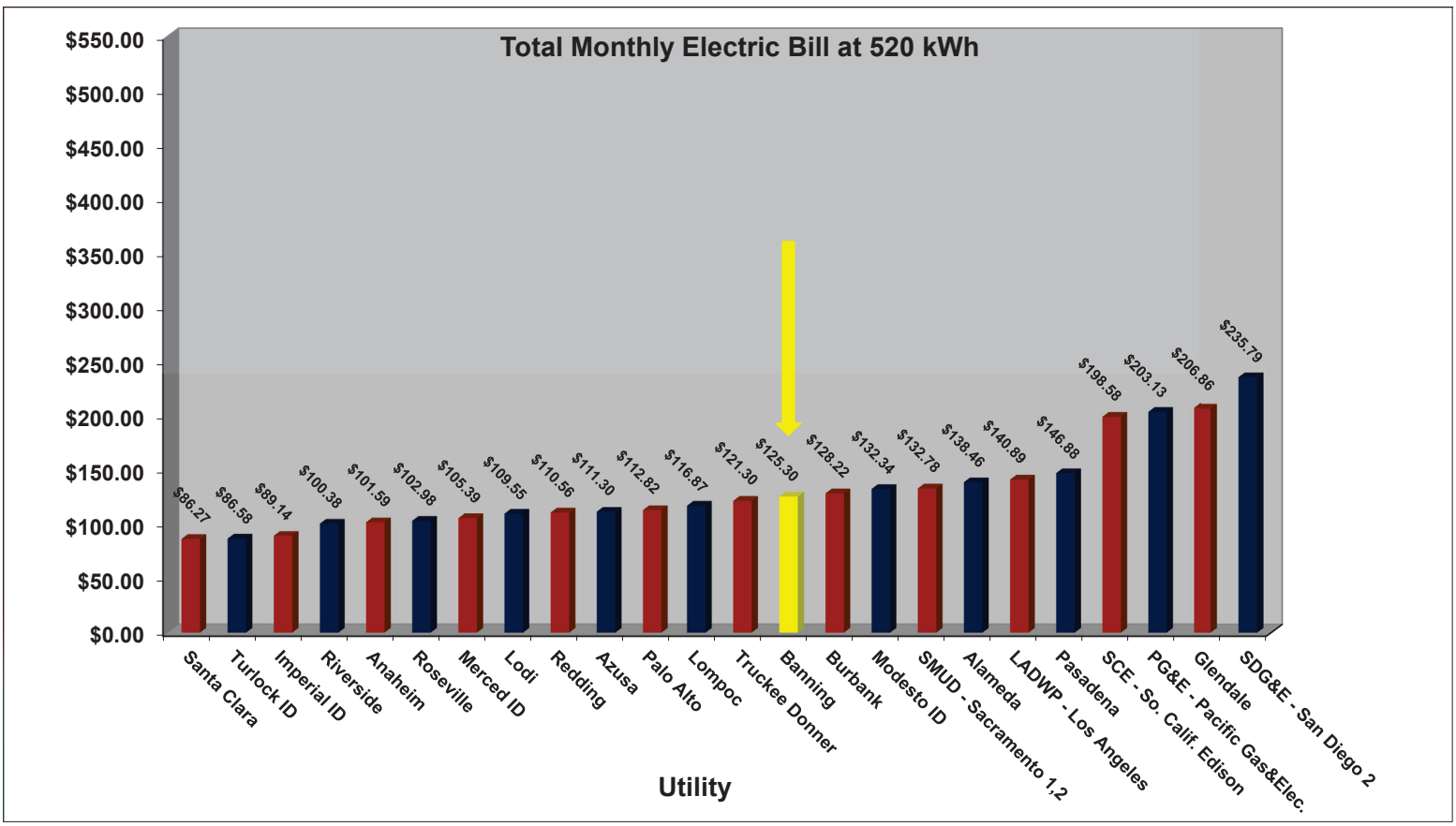




Average Customer Billing

CUSTOMER TYPE (kWh)	CURRENT	11/1/2024	11/1/2025
Residential (520)	$ 110.59	$ 125.30	$ 142.32
General Service Single Phase (2,276)	$ 361.55	$ 405.31	$ 459.04
Small Commercial Muti-Phase (1,730)	$ 300.03	$ 324.61	$ 367.67
Medium Commercial Services (11,138)	$ 1,584.56	$ 1,774.68	$ 2,009.81
Industrial Services (38,843)	$ 4,748.08	$ 5,352.14	$ 6,058.49


Total Monthly Electric Bill at 520 kWh
$550.00
$500.00
$450.00
$400.00
$350.00
$300.00
$250.00
$200.00
$150.00
$100.00
$50.00
$0.00
$86.27
$86.58
$89.14
$100.38
$101.59
$102.98
$105.39
$109.55
$110.56
$110.59
$111.30
$112.82
$116.87
$121.30
$128.22
$132.34
$132.78
$138.46
$140.89
$146.88
$198.58
$203.13
$206.86
$235.79
Santa Clara
Turlock ID
Imperial ID
Riverside
Anaheim
Roseville
Merced ID
Lodi
Redding
Banning
Azusa
Palo Alto
Lompoc
Truckee Donner
Burbank
Modesto ID
SMUD - Sacramento 1,2
Alameda
LADWP - Los Angeles
Pasadena
SCE - So. Calif. Edison
PG&E - Pacific Gas&Elec.
Glendale
SDG&E - San Diego 2
Utility


Total Monthly Electric Bill at 520 kWh
$550.00
$500.00
$450.00
$400.00
$350.00
$300.00
$250.00
$200.00
$150.00
$100.00
$50.00
$0.00
$86.27
$86.58
$89.14
$100.38
$101.59
$102.98
$105.39
$109.55
$110.56
$111.30
$112.82
$116.87
$121.30
$125.30
$128.22
$132.34
$132.78
$138.46
$140.89
$146.88
$198.58
$203.13
$206.86
$235.79
Santa Clara
Turlock ID
Imperial ID
Riverside
Anaheim
Roseville
Merced ID
Lodi
Redding
Azusa
Palo Alto
Lompoc
Truckee Donner
Banning
Burbank
Modesto ID
SMUD - Sacramento 1,2
Alameda
LADWP - Los Angeles
Pasadena
SCE - So. Calif. Edison
PG&E - Pacific Gas&Elec.
Glendale
SDG&E - San Diego 2
Utility

Rate Implementation

- Rate increases are not in excess to meet financial targets:
  - Operational expenses have been reduced to limit impacts on rate payers.
  - Capital expenses have been deferred to limit impacts on rate payers.
- Rate increases avoid discrimination by applying to all customer classes equally.
- A full detailed cost of service/rate study (COS) analysis will be completed and presented to Council possibly before the implementation of the second increase (i.e. November 1, 2025).
  - Recommendation for award of COS expected on November 12, 2024.

Resolution 2024-169

- Staff recommends the following next steps:
  - Open the public hearing
  - Approve Resolution 2024-169
    - Revisions to certain electric rates and tariffs
    - 13.9% electric rate increase effective November 1, 2024
    - 13.9% electric rate increase effective November 1, 2025

BANNING CALIFORNIA

Thank You



RESOLUTION 2024-170

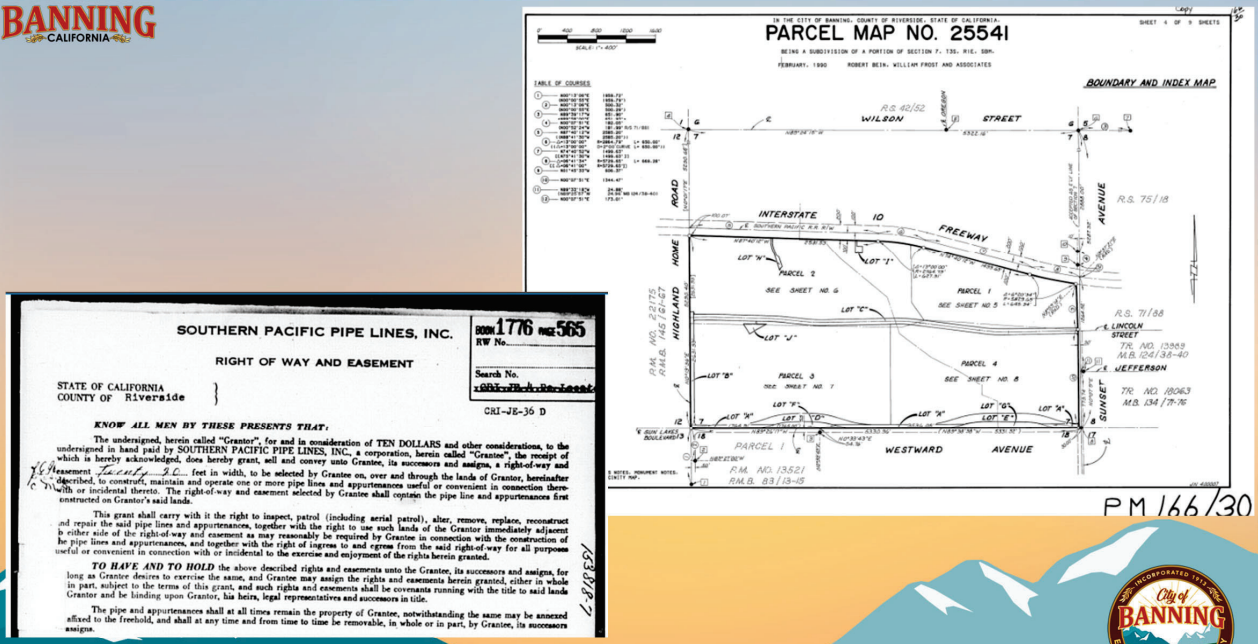
Reimbursement Agreement with SFPP, L.P. for Costs Associated with Pipeline Relocation Necessary for the Sun Lakes Boulevard Extension Project

Background

- August 4, 1955: Southern Pacific Pipelines (and future assignees) was granted an easement for oil pipeline facilities along an undeveloped portion of Westward Ave between Highland Home Ave and Sunset Ave.
- September 17, 1990: Parcel Map 25541 offers Right of Way to the City of Banning for the extension of Sun Lakes Boulevard between Highland Home Ave and Sunset Ave.
  - This offered alignment was coincident with the pipeline easement from 1955, and the 1955 easement holds senior rights.

Background

- Sun Lakes Boulevard Extension Actions
  - Resolution 2020-21: Accepting Lettered Lots A, D, E, F, and G from PM 25514, bringing the offered Right of Way under City of Banning control.
  - Resolution 2020-48: Award of Profession Services Agreement for the Design of Sun Lakes Boulevard Extension in the Alignment from PM 25541
  - Resolution 2020-97: Execution of a TUMF Reimbursement Agreement for design related actions for the Sun Lakes Boulevard Extension Project.



SOUTHERN PACIFIC PIPE LINES, INC.

RIGHT OF WAY AND EASEMENT

BOOK 1776 PAGE 565

RW No.

Search No.

STATE OF CALIFORNIA
COUNTY OF Riverside

CRI-JE-36 D

KNOW ALL MEN BY THESE PRESENTS THAT:

The undersigned, herein called "Grantor", for and in consideration of TEN DOLLARS and other considerations, to the undersigned in hand paid by SOUTHERN PACIFIC PIPE LINES, INC., a corporation, herein called "Grantee", the receipt of which is hereby acknowledged, does hereby grant, sell and convey unto Grantee, its successors and assigns, a right-of-way and easement [illegible] feet in width, to be selected by Grantee on, over and through the lands of Grantor, hereinafter described, to construct, maintain and operate one or more pipe lines and appurtenances useful or convenient in connection therewith or incidental thereto. The right-of-way and easement selected by Grantee shall contain the pipe line and appurtenances first constructed on Grantor's said lands.

This grant shall carry with it the right to inspect, patrol (including aerial patrol), alter, remove, replace, reconstruct and repair the said pipe lines and appurtenances, together with the right to use such lands of the Grantor immediately adjacent to either side of the right-of-way and easement as may reasonably be required by Grantee in connection with the construction of the pipe lines and appurtenances, and together with the right of ingress to and egress from the said right-of-way for all purposes useful or convenient in connection with or incidental to the exercise and enjoyment of the rights herein granted.

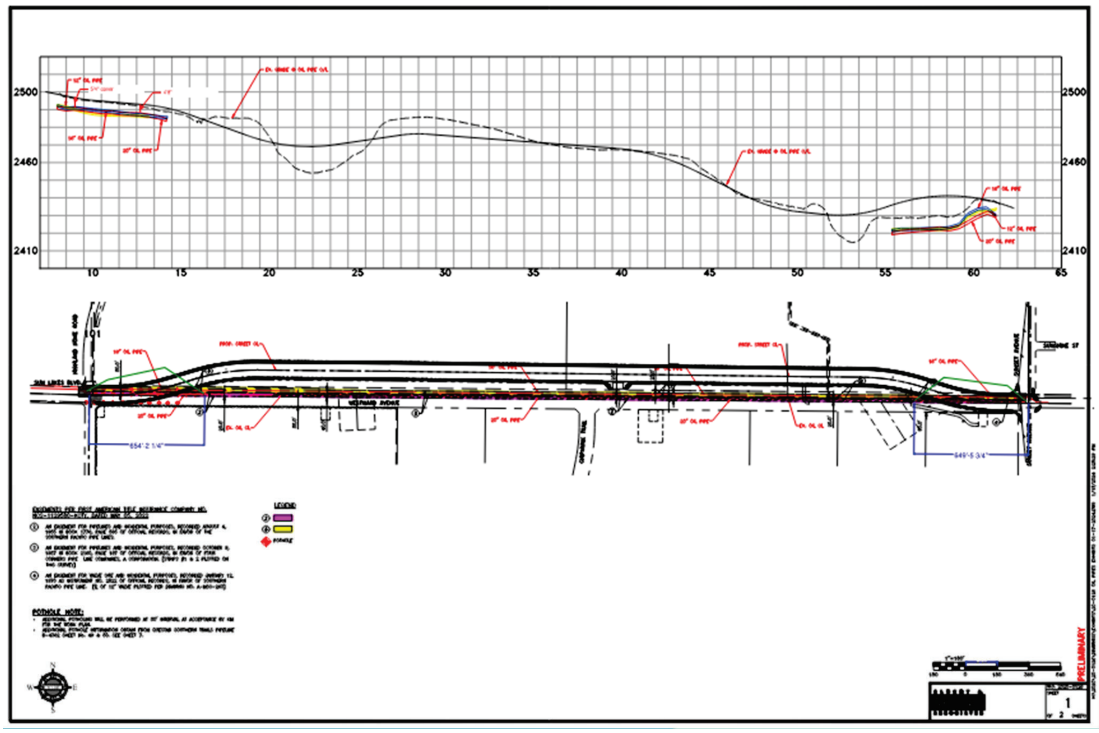
TO HAVE AND TO HOLD the above described rights and easements unto the Grantee, its successors and assigns, for so long as Grantee desires to exercise the same, and Grantee may assign the rights and easements herein granted, either in whole or in part, subject to the terms of this grant, and such rights and easements shall be covenants running with the title to said lands of Grantor and be binding upon Grantor, his heirs, legal representatives and successors in title.

The pipe and appurtenances shall at all times remain the property of Grantee, notwithstanding the same may be annexed or affixed to the freehold, and shall at any time and from time to time be removable, in whole or in part, by Grantee, its successors and assigns.

PARCEL MAP NO. 25541

BOUNDARY AND INDEX MAP

PM 166/30



BANNING
CALIFORNIA

TUMF WRCOG

WRCOG TUMF Credit/Reimbursement Manual

2.4 Eligible Project Expenses

Eligible project expenses include the following items, provided that such items are included in the scope of work approved under the reimbursement agreement between the public agency and WRCOG:

Table 2-2 Eligible Project Expenses for TUMF Reimbursement
Public agency and/or consultant costs associated with direct project coordination and support
Funds expended in preparation of preliminary engineering studies
Funds expended in preparation of environmental review documentation for the project
All costs associated with right-of-way acquisition, legal costs for condemnation procedures if authorized by the public agency, and costs of reviewing appraisals and offers for property acquisition
Costs reasonable incurred if condemnation proceeds
Costs incurred in the preparation of plans, specifications, and estimates by the public agency or consultants
Public agency costs associated with bidding, advertising, and awarding of project contracts
Construction costs, including change orders to construction contract approved by the public agency
Construction management, field inspection and material testing costs
Any public agency administrative cost to deliver the project
Maximum reimbursed for Project Approval and Environmental Document (PA&ED) Phase work = 10% of Construction Costs
Maximum reimbursed for Plan, Specification and Estimate (PS&E) Phase work = 15% of Construction Costs
Maximum reimbursed for Construction Management (CM) Phase work = 15% of Construction Costs
Relocation of Utilities: Where the local agency is responsible for the relocation of utilities, these relocations are eligible for reimbursement through TUMF. Where the utility company is responsible for the relocation of these utilities, this is NOT eligible for reimbursement through TUMF. As a general rule, when other agencies bear the responsibility of project improvements, than the TUMF program should not be a part of the reimbursement for the needed improvement.

- The Relocation of Utilities where the local agency is responsible for the relocation is reimbursable through TUMF.
- City staff will seek additional reimbursement commitments from TUMF for eligible expenses related to the roadway construction.

Reimbursement Schedule

EXHIBIT B

KINDER MORGAN

PROJECT NAME	SFPP LS-111 Sun Lakes Blvd Relocation, City of Banning		
PUBLISH DATE	Oct-24	OVERHEAD	11.00%
PROJECT MANAGER	Nicole Rodriguez	TAX GROSS UP	0.00%
STATE	California	PROJECT TYPE	Reimbursable
COUNTY	Riverside		

Project Scope: Relocate approx. 1,600ft of 20" line section LS-111 in two locations by open cut and bore due to encroachment. The City of Banning (City) is proposing a road expansion in conflict with KM's existing alignment. Related to encroachment MP2204068.

Phase 1	Professional Engineering and Internal Labor	Phase 3	Material and Construction
Phase 2	Permitting	Phase 4	Damage Prevention during City construction

ESTIMATE SUMMARY

	Phase 1	Phase 2	Phase 3	Phase 4	TOTAL
MATERIAL (INCL SALES TAX)			$ 413,160		$ 413,160
COMPANY LABOR COST	$ 87,560				$ 87,560
PM, ENG, LAND, ENVIRO - EXPENSE			$ 7,920		$ 7,920
PRIMARY CONSTRUCTION CONTRACTOR			$ 2,320,450		$ 2,320,450
SECONDARY CONTRACTOR			$ 181,500		$ 181,500
PROFESSIONAL ENGINEERING	$ 28,600				$ 28,600
INSPECTION SERVICES			$ 116,930	$ 100,000	$ 216,930
RADIOGRAPHY SERVICES			$ 2,860		$ 2,860
RIGHT OF WAY CONTRACTOR		$ 11,000			$ 11,000
SURVEY CONTRACTOR			$ 28,270		$ 28,270
ROW & DAMAGES			$ 17,600		$ 17,600
PERMIT FEES		$ 27,500			$ 27,500
SUBTOTAL	$ 116,160	$ 38,500	$ 3,088,690	$ 100,000	$ 3,343,350
CAPITALIZED OVERHEAD (BURDEN)	$ 12,778	$ 4,235	$ 339,756	$ 11,000	$ 367,769
TAX GROSS-UP	$ -	$ -	$ -	$ -	$ -
ESTIMATED TOTAL COST	$ 128,938	$ 42,735	$ 3,428,446	$ 111,000	$ 3,711,119

ASSUMPTIONS

- No asbestos coating.
- No conflicting utilities.
- Assuming Developer/City to provide workspace and laydown area.
- Two tie-in locations are adjacent to active road.
- Bore under roadway (eastern relocation).
- No Federally listed or State listed species of special concern will be impacted; no species surveys, reporting, or consultation with USFWS will be required.
- No cultural resources will be impacted.
- Land disturbance will be greater than (1) acre. Stormwater discharge permit required.
- Any necessary building or development permits will be acquired by Project Management of the Contractor.

** Estimate shelf life is 6 months from published date.

- Phase 1: $128,938 to Kinder Morgan for design services. Due Now.
- Phase 2 (Estimate): $42,735 due at completion of Phase 1 for Right of Way Services and Construction Permitting
- Phase 3 (Estimate): $3,428,466 for construction phase. Due prior to commencement of construction phase, estimated mid-2025.
- Phase 4 (Estimate): $111,000 for inspection services post construction.

Recommendation

- Adopt Resolution 2024-170, approving a reimbursement agreement with SFPP, L.P., a Delaware Limited Partnership, for costs associated with the design and relocation of pipeline facilities owned and operated by SFPP in relation to the Sun Lakes Boulevard Extension Project

Thank You

Nate Smith, PE
Deputy Director of Public Works/City Engineer
nsmith@banningca.gov

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Douglas Schulze, City Manager**
PREPARED BY:	**Jim Steffens, Deputy Director of Electric** **Art Vela, Director of Public Works**
MEETING DATE:	**November 12, 2024**
SUBJECT:	**Consideration of Resolution 2024-173, Approving the City of Banning Electric Utility Power Source Disclosure Annual Report and Power Content Label for Calendar Year 2023**

RECOMMENDATION:

Adopt Resolution 2024-173.

BACKGROUND:

On October 11, 2009 the Governor signed California State Assembly Bill 162 ("AB 162"), which amended the Power Content Label reporting requirements originally set forth in Senate Bill 1305. The amendments changed the reporting requirements from quarterly to annual, and require that utilities report actual power content information instead of projected.

The information must be provided to the utility's customers through either printed or electronic means, including posting it on the City's website. The Utility will provide it by posting an electronic copy of the Power Content Label on the City's website.

The California Energy Commission (CEC), which has oversight authority for this requirement, has stated that the governing body of each locally owned public utility must approve both the Power Source Disclosure Annual Report and the annual Power Content Label for the utility(s) under its jurisdiction. Therefore, staff is requesting that the City Council adopt Resolution 2024-173, approving both the Utility's Power Source Disclosure Annual Report, attached as Exhibit "A" to the Resolution, and the Utility's Power Content Label, attached as Exhibit "B" to the Resolution.

JUSTIFICATION:

AB 162 requires that all load serving electric utilities develop and provide to its customers on an annual basis an approved Power Content Label. The Power Content Label shows the percentages of each type of energy resource that is used to serve an electric utility's customers. The regulation has been amended beginning in calendar year 2019, requiring the governing body of each locally owned public utility to approve both the Power Source Disclosure Annual Report and the Power Content Label.

FISCAL IMPACT:

None

ALTERNATIVES:

Do not adopt Resolution 2024-173, and provide alternative direction to staff.

BUDGETED?:

No

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. Resolution 2024-173, Power Content Label.docx
2. Exhibit A - TN256051_20240429T152417_2023 PSD Annual Report City of Banning.pdf
3. TN259310_20240926T105245_2023 Power Content Label City of Banning.pdf

RESOLUTION 2024-173

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE CITY OF BANNING ELECTRIC UTILITY POWER SOURCE DISCLOSURE ANNUAL REPORT AND POWER CONTENT LABEL FOR CALENDAR YEAR 2023

WHEREAS, the City of Banning owns and operates its own Municipal Electric Utility; and

WHEREAS, California State Senate Bill 1305 and Assembly Bill 162 have certain reporting requirements pertaining to electric utility Power Source Disclosure Annual Report and Power Content Labels; and

WHEREAS, the Banning Electric Utility ("Utility") is subject to these reporting requirements; and

WHEREAS, the California Energy Commission, which has oversight authority for this requirement, has stated that the governing body of each locally owned public utility must approve both the Power Source Disclosure Annual Report and the Power Content Label for the utility(s) under its jurisdiction.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The City Council approves the Utility's Power Source Disclosure Annual Report and the Power Content Label for Calendar Year 2023, attached hereto as Exhibit "A" and Exhibit "B," respectively.

SECTION 2. The City Council authorizes the Electric Utility Deputy Director, or his or her designee, to disseminate the information included on the Power Content Label to the Utility's customers in compliance with the requirements of Senate Bill 1305 and Assembly Bill 162.

SECTION 3. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 12th day of November 2024.

Alberto Sanchez, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

Serita R. Young, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2024-173, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 12th day of November 2024 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

EXHIBIT A
Power Source Disclosure Annual Report

EXHIBIT B
Power Content Label

Version: April 2024

2023 POWER SOURCE DISCLOSURE ANNUAL REPORT
For the Year Ending December 31, 2023

Retail suppliers are required to use the posted template and are not allowed to make edits to this format. Please complete all requested information.

GENERAL INSTRUCTIONS

RETAIL SUPPLIER NAME
City of Banning

ELECTRICITY PORTFOLIO NAME
Electric Utility

CONTACT INFORMATION	
NAME	Jim Steffens
TITLE	Power Resources Manager
MAILING ADDRESS	99 E. Ramsey Avenue
CITY, STATE, ZIP	Banning, CA 92220
PHONE	951-922-3266
EMAIL	jsteffens@banningca.gov
WEBSITE URL FOR PCL POSTING	http://www.ci.banning.ca.us/DocumentCenter/View/224/PowerContentLabel_2015_Annual

Submit the Annual Report and signed Attestation in PDF format with the Excel version of the Annual Report to PSDprogram@energy.ca.gov. Remember to complete the Retail Supplier Name, Electricity Portfolio Name, and contact information above, and submit separate reports and attestations for each additional portfolio if multiple were offered in the previous year.

NOTE: Information submitted in this report is not automatically held confidential. If your company wishes the information submitted to be considered confidential an authorized representative must submit an application for confidential designation (CEC-13), which can be found on the California Energy Commissions's website at https://www.energy.ca.gov/about/divisions-and-offices/chief-counsels-office.

If you have questions, contact Power Source Disclosure (PSD) staff at PSDprogram@energy.ca.gov or (916) 639-0573.

2023 POWER SOURCE DISCLOSURE ANNUAL REPORT
SCHEDULE 1: PROCUREMENTS AND RETAIL SALES
For the Year Ending December 31, 2023
City of Banning
Electric Utility

Instructions: Enter information about power procurements underlying this electricity portfolio for which your company is filing the Annual Report. Insert additional rows as needed. All fields in white should be filled out. **Fields in grey auto-populate as needed and should not be filled out.** For EIA IDs for unspecified power or specified system mixes from asset-controlling suppliers, enter "Unspecified Power", "BPA", or "Tacoma Power" as applicable. For specified procurements of ACS power, use the ACS Procurement Calculator to calculate the resource breakdown comprising the ACS system mix. **Procurements of unspecified power must not be entered as line items below; unspecified power will be calculated automatically in cell N9**. Unbundled RECs must not be entered on Schedule 1; these products must be entered on Schedule 2. At the bottom portion of the schedule, provide the other electricity end-uses that are not retail sales including, but not limited to transmission and distribution losses or municipal street lighting. Amounts should be in megawatt-hours.

Retail Sales (MWh)	141,775
Net Specified Procurement (MWh)	95,662
Unspecified Power (MWh)	46,113
Procurement to be adjusted	-
Net Specified Natural Gas	-
Net Specified Coal & Other Fossil Fuels	-
Net Specified Nuclear, Large Hydro, Renewables, and ACS Power	95,662
GHG Emissions (excludes grandfathered emissions)	31,044
GHG Emissions Intensity (in MT CO_2e/MWh)	0.2190

DIRECTLY DELIVERED RENEWABLES

Facility Name	Fuel Type	State or Province	WREGIS ID	RPS ID	N/A	EIA ID	Gross MWh Procured	MWh Resold	Net MWh Procured	Adjusted Net MWh Procured	GHG Emissions Factor (in MT CO_2e/MWh)	GHG Emissions (in MT CO_2e)	N/A
RE Astoria 2	Solar	CA	W4931	62691A		59977	21772	21,144	628	628	-	-	
Puente Hills Landfill Gas-to-Energy Facility	Biomass & biowa	CA	W448	60290A		10472	36,468	8,448	28,020	28,020	0.0032	90	
Coso Energy Developers (BLM West)	Geothermal	CA	W748	60322A		10875	986		986	986	0.3160	312	
Coso Energy Developers (BLM East)	Geothermal	CA	W460	60322A		10875	28,348	5,468	22,880	22,880	0.3160	7,230	
Coso Finance Partners (Navy I)	Geothermal	CA	W747	60309A		10873	5,369		5,369	5,369	0.1400	752	
Coso Finance Partners (Navy I)	Geothermal	CA	W453	60309A		10873	17,558	5,844	11,714	11,714	0.1400	1,640	
Coso Finance Partners (Navy I)	Geothermal	CA	W746	60309A		10873	14,859	5,684	9,175	9,175	0.1400	1,285	
									-	-	#N/A		
									-	-	#N/A		
									-	-	#N/A		

FIRMED-AND-SHAPED IMPORTS

Facility Name	Fuel Type	State or Province	WREGIS ID	RPS ID	EIA ID of REC Source	EIA ID of Substitute Power	Gross MWh Procured	MWh Resold	Net MWh Procured	Adjusted Net MWh Procured	GHG Emissions Factor (in MT CO_2e/MWh)	GHG Emissions (in MT CO_2e)	Eligible for Grandfathered Emissions?
									-	-	#N/A		
									-	-	#N/A		
									-	-	#N/A		
									-	-	#N/A		
									-	-	#N/A		

SPECIFIED NON-RENEWABLE PROCUREMENTS

Facility Name	Fuel Type	State or Province	N/A	N/A	N/A	EIA ID	Gross MWh Procured	MWh Resold	Net MWh Procured	Adjusted Net MWh Procured	GHG Emissions Factor (in MT CO_2e/MWh)	GHG Emissions (in MT CO_2e)	N/A
Palo Verde Nuclear Generating Station	Nuclear	Arizona				6008	18,571	2,803	15,768	15,768	-	-	
Hoover Dam Uprating	Large hydro	Arizona/Nevada border				154	1,132	10	1,122	1,122	-	-	
									-	-	#N/A		
									-	-	#N/A		
									-	-	#N/A		
									-	-	#N/A		
									-	-	#N/A		
									-	-	#N/A		
									-	-	#N/A		

PROCUREMENTS FROM ASSET-CONTROLLING SUPPLIERS

Facility Name	Fuel Type	N/A	N/A	N/A	N/A	EIA ID	Gross MWh Procured	MWh Resold	Net MWh Procured	Adjusted Net MWh Procured	GHG Emissions Factor (in MT CO_2e/MWh)	GHG Emissions (in MT CO_2e)	N/A
										-	#N/A		
										-	#N/A		
										-	#N/A		
										-	#N/A		

END USES OTHER THAN RETAIL SALES	MWh
Self Consumption - City Water Pumps	3,272
Distribution losses & unmetered street ligh	6,567

Version: April 2024

2023 POWER SOURCE DISCLOSURE ANNUAL REPORT
SCHEDULE 2: RETIRED UNBUNDLED RECS
For the Year Ending December 31, 2023
City of Banning
Electric Utility

INSTRUCTIONS: Enter information about retired unbundled RECs associated with this electricity portfolio. Insert additional rows as needed. All fields in white should be filled out. Fields in grey auto-populate as needed and should not be filled out.

			Total Retired Unbundled RECs	-
RETIRED UNBUNDLED RECS				
Facility Name	Fuel Type	State or Province	RPS ID	Total Retired (in MWh)

Version: April 2024

2023 POWER SOURCE DISCLOSURE ANNUAL REPORT
SCHEDULE 3: POWER CONTENT LABEL DATA
For the Year Ending December 31, 2023
City of Banning
Electric Utility

Instructions: No data input is needed on this schedule. Retail suppliers should use these auto-populated calculations to fill out their Power Content Labels.

	Adjusted Net Procured (MWh)	Percent of Total Retail Sales
Renewable Procurements	78,772	55.6%
Biomass & Biowaste	28,020	19.8%
Geothermal	50,124	35.4%
Eligible Hydroelectric	-	0.0%
Solar	628	0.4%
Wind	-	0.0%
Coal	-	0.0%
Large Hydroelectric	1,122	0.8%
Natural gas	-	0.0%
Nuclear	15,768	11.1%
Other	-	0.0%
Unspecified Power	46,113	32.5%
Total	**141,775**	**100.0%**

Total Retail Sales (MWh)	**141,775**
GHG Emissions Intensity (converted to lbs CO_2e/MWh)	**483**
Percentage of Retail Sales Covered by Retired Unbundled RECs	**0.0%**

2023 POWER SOURCE DISCLOSURE ANNUAL REPORT
ATTESTATION FORM
For the Year Ending December 31, 2023
City of Banning
Electric Utility

I, Jim Steffens, Power Resources Manager, **declare under penalty of perjury, that the information provided in this report is true and correct and that I, as an authorized agent of the City of Banning, have authority to submit this report on the retail supplier's behalf. I further declare that all of the electricity claimed as specified purchases as shown in this report was sold once and only once to retail customers.**

Name: Jim Steffens

Representing (Retail Supplier): City of Banning

Signature: _____

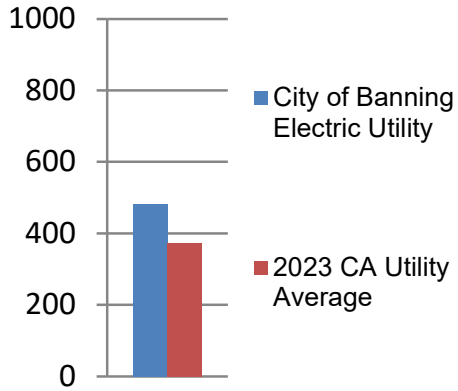
Dated: 5-30-24

Executed at: Banning, CA

2023 POWER CONTENT LABEL

City of Banning Electric Utility

banningca.gov/124/Power-Content-Label

Greenhouse Gas Emissions Intensity (lbs CO_2e/MWh)		Energy Resources	Electricity Portfolio Name	2023 CA Power Mix
City of Banning Electric Utility	2023 CA Utility Average	**Eligible Renewable**[1]	**55.6%**	**36.9%**
483	**373**	Biomass & Biowaste	19.8%	2.1%
		Geothermal	35.4%	4.8%
		Eligible Hydroelectric	0.0%	1.8%
		Solar	0.4%	17.0%
		Wind	0.0%	11.2%
		Coal	**0.0%**	**1.8%**
		Large Hydroelectric	**0.8%**	**11.7%**
		Natural Gas	**0.0%**	**36.6%**
		Nuclear	**11.1%**	**9.3%**
		Other	**0.0%**	**0.1%**
		Unspecified Power[2]	**32.5%**	**3.7%**
		TOTAL	**100.0%**	**100.0%**
Percentage of Retail Sales Covered by Retired Unbundled RECs[3]:			**0%**	

[1]The eligible renewable percentage above does not reflect RPS compliance, which is determined using a different methodology.

[2]Unspecified power is electricity that has been purchased through open market transactions and is not traceable to a specific generation source.

[3]Renewable energy credits (RECs) are tracking instruments issued for renewable generation. Unbundled renewable energy credits (RECs) represent renewable generation that was not delivered to serve retail sales. Unbundled RECs are not reflected in the power mix or GHG emissions intensities above.

For specific information about this electricity portfolio, contact:	**City of Banning Electric Utility (951) 922-3260**
For general information about the Power Content Label, visit:	https://www.energy.ca.gov/programs-and-topics/programs/power-source-disclosure-program

CITY OF BANNING
STAFF REPORT

TO: **CITY COUNCIL**

FROM: **Douglas Schulze, City Manager**

PREPARED BY: **Patrick Safari, Capital Improvement Projects Manager**
Art Vela, Director of Public Works

MEETING DATE: **November 12, 2024**

SUBJECT: **Consideration of Resolution 2024-174, Awarding a Construction Contract for Project No. 2024-06W Charles Street and Lincoln Street Non-Potable Water Booster Stations and Reservoirs to Pyramid Building and Engineering, Inc. in the amount of $9,236,546 and Approving a 10% Contingency for a Total Project Budget Not-to-Exceed $10,160,200.60**

RECOMMENDATION:

Adopt Resolution 2024-174.

BACKGROUND:

The City recently completed the construction of a non-potable water main trunk that will deliver non-potable water from the newly constructed Well NP-1 located at the east end of the City of Banning to Sun Lakes Country Club (SLCC) located at the west end of the City of Banning.

Two (2) booster stations ("Project") are needed to achieve the delivery of non-potable water to SLCC. The Charles Street Booster Station will pump non-potable water from Well NP-1 to Lincoln Street Booster Station. The Lincoln Booster Station will then pump non-potable water to SLCC for the use on the SLCC golf courses.

On March 11, 2021, the American Rescue Plan Act (ARPA) was signed into law by the President establishing the Coronavirus State Fiscal Recovery Fund intended to provide support to state, local and tribal governments in responding to the economic impact of COVID-19. The funds were intended to be used for public health emergencies as well as for necessary investments in water infrastructure projects.

On September 13, 2022, the City Council approved Resolution 2022-123, "Approving a Funding Agreement between the County of Riverside and the City of Banning in the Amount of $5,049,202 for Two Non-Potable Water Infrastructure Projects", ("ARPA Funding Agreement") funded by the County of Riverside's ARPA funding allocations.

On August 23, 2024, staff released an Invitation for Bids (IFB) for the Project on the City's public bidding platform. The bids were due on October 9, 2024. In response to the IFB, six (6) bids were received from the following companies:

	Contractor	Amount
1)	Pyramid Building & Engineering, Inc.	$9,236,546
2)	Canyon Springs Enterprises	$9,382,500
3)	RE Chaffee Construction, Inc.	$9,394,080

4) Myers & Sons Construction, LLC $10,075,300
5) SCW Contracting Corp. $10,333,847
6) Metro Builders & Engineers Group, Ltd $11,675,375

The Project scope will consist of the construction of a Non-Potable Booster Pump Station at Charles Street which will include two (2) vertical turbine pumps housed in a masonry building, an emergency engine generator and 54' diameter, 27' high above ground steel tank. The scope will also include the construction of a Non-Potable Booster Pump Station at Lincoln Street which will include two (2) vertical turbine pumps housed in a masonry building and a 24" diameter, 24" high Forebay Tank.

JUSTIFICATION:

The non-potable water infrastructure projects will provide benefits to the City including reduction in demand for potable water for activities such as irrigation of golf courses and public parks and continuous provision of non-potable irrigation water during drought times. The Project also completes a master planned improvement identified in the City's Integrated Master Plan.

The Invitation for Bids (IFB) is based on the lowest cost from the pool of responsive qualified bidders. As a result, staff recommend the award of a Construction Contract to Pyramid Building and Engineering, Inc. in the amount of $9,236,546.

FISCAL IMPACT:

If approved, the construction contract with Pyramid Building and Engineering, Inc. will be in the amount of $9,236,546 and with a 10% contingency in the amount of $923,654.60 there will be a total "not-to-exceed" project budget of $10,160,200.60.

The contract will be funded by the following sources and appropriations:

Fund	Account No.	Appropriation From Fund Balance Needed	Approximate Fund Balance
Water Operations Fund	660-6300-471.95-08 (Special Utility Cap Items/Wells/Pumping Equipment)	$7,360,200.60	$26,505,216.35
Irrigation Water Fund	662-6300-471.95-08 (Special Utility Cap Items/Wells/Pumping Equipment)	$1,400,000.00	$1,401,778.29
BUA Water Capital Fund	663-	$1,400,000.00	$1,462,304.90
	TOTAL	**$10,160,200.6**	

The project will be partially funded through reimbursements from Riverside County related to the ARPA Funding Agreement in the amount of $5,049,202, which will be received and accounted for in Fund 660, which will reduce Fund 660 contribution to the project to a maximum of $2,310,998.60.

ALTERNATIVES:

Do not approve Resolution 2024-174 and provide alternative direction to staff.

BUDGETED?:

No

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. Resolution_2024-174.docx
2. C01093 Pyramid - PW Charles and Lincoln Booster Station.docx
3. Resolution No. 2022-123.pdf
4. Funding Agreement_COR & City of Banning.pdf
5. Pyramid Bid Proposal.pdf

RESOLUTION 2024-174

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AWARDING A CONSTRUCTION CONTRACT FOR PROJECT NO. 2024-06W CHARLES STREET AND LINCOLN STREET NON-POTABLE WATER BOOSTER STATIONS AND RESERVOIRS TO PYRAMID BUILDING AND ENGINEERING, INC. IN THE AMOUNT OF $9,236,546 AND APPROVING A 10% CONTINGENCY FOR A TOTAL PROJECT BUDGET OF "NOT-TO-EXCEED" $10,160,200.60

WHEREAS, the City recently completed the construction of a non-potable water main trunk that will deliver non-potable water from the newly constructed Well NP-1 located at the east side end of the City of Banning to Sun Lakes Country Club (SLCC) located at the west end of the City of Banning; and

WHEREAS, two (2) booster stations are needed to achieve the delivery of non-potable water to the end users; and

WHEREAS, on March 11, 2021, the American Rescue Plan Act (ARPA) was signed into law by the President establishing the Coronavirus State Fiscal Recovery Fund intended to provide support to state, local and tribal governments in responding to the economic impact of COVID-19 including necessary investments in water infrastructure projects; and

WHEREAS, on September 13, 2022, the City Council approved Resolution 2022-123, "Approving a Funding Agreement between the County of Riverside and the City of Banning in the Amount of $5,049,202 for Two Non-Potable Water Infrastructure Projects", ("ARPA Funding Agreement") funded by the County of Riverside's ARPA funding allocations; and

WHEREAS, on August 23, 2024, staff released an Invitation for Bids (IFB) for Charles Street and Lincoln Street Non-Potable Water Booster Stations/Reservoir Construction on the City's public bidding platform and received six (6) bid proposals ranging in price from $9,236,546 to $11,675,375; and

WHEREAS, the scope will consist of the construction of a Non-Potable Water Booster Pump Station at Charles Street which will include two (2) vertical turbine pumps housed in a masonry building, an emergency engine generator and 54' diameter, 27' high above ground steel tank; the construction of a Non-Potable Water Booster Pump Station at Lincoln Street which will include two (2) vertical turbine pumps housed in a masonry building and a 24" diameter, 24" high Forebay Tank, and

WHEREAS, staff recommend awarding a Construction Contract to Pyramid Building and Engineering, Inc. in the amount of $9,236,546 and approving a 10% contingency in the amount of $923,654.60 for a total "not-to-exceed" project budget of $10,160,200.60; and

WHEREAS, the project will be funded by appropriations from Fund 660 ($7,360,200.60), Fund 662 ($1,400,000.00) and Fund 663 ($1,400,000); and

WHEREAS, the project will be partially funded through reimbursements from Riverside County related to the ARPA Funding Agreement in the amount of $5,049,202, which will be received and accounted for in Fund 660.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The City of Banning approves the Construction Contract between Pyramid Building and Engineering, Inc. and the City of Banning.

SECTION 2. The City Council authorizes the City Manager, or designee, to make necessary budget adjustments, appropriations, and transfers related to the Construction Contract with Pyramid Building and Engineering, Inc.

SECTION 3. The City Council authorizes the City Manager to make non-substantive changes and to execute the Construction Contract with Pyramid Building and Engineering, Inc. on behalf of City Council.

SECTION 4. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 12th day of November 2024.

Alberto Sanchez, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

Serita R. Young, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, do hereby certify that the foregoing Resolution 2024-174, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 12th day of November 2024 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

Exhibit A
Construction Contract with Pyramid Building and Engineering, Inc.

CONTRACT (C01093)

CITY OF BANNING CONTRACT FOR
CHARLES STREET AND LINCOLN STREET NON-POTABLE WATER BOOSTER PUMP STATIONS & RESERVOIR/TANK PROJECT & IFB 24-082

THIS CONTRACT ("Contract") is made and entered this _____ ("Effective Date"), by and between the CITY OF BANNING, a California municipal corporation ("City") and Pyramid Building & Engineering, Inc. ("Contractor"). Contractor's California State Contractor's license number is 782024; Class A,B,C-8). Contractor's DIR registration number is 1000003470.

In consideration of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

1. Contract Documents. The Contract Documents consist of this Contract, the Notice Inviting Bids, Instructions to Bidders, Bid (including documentation accompanying the Bid and any post-Bid documentation submitted before the Notice of Award), the Bonds, permits from regulatory agencies with jurisdiction, General Provisions, Special Provisions, Plans, Standard Plans, Standard Specifications, Reference Specifications, Addenda, Change Orders, and Supplemental Agreements. The Contract Documents are attached hereto and incorporated herein by reference.

2. Scope of Services. Contractor shall perform the Work in a good and workmanlike manner for the project identified as Charles Street and Lincoln Street Non-Potable Water Booster Pump Stations & Reservoir/Tank Project (IFB 24-082) ("Project"), as described in this Contract and in the Contract Documents.

3. Compensation. In consideration of the services rendered hereunder, City shall pay Contractor a not to exceed amount of Nine Million Two Hundred Thirty-Six Thousand Five Hundred Forty-Six Dollars ($9,236,546.00) in accordance with the prices as submitted in the Bid.

4. Incorporation by Reference. All of the following documents are attached hereto and incorporated herein by this reference: Workers' Compensation Certificate of Insurance, Additional Insured Endorsement (Comprehensive General Liability), Additional Insured Endorsement (Automobile Liability), and Additional Insured Endorsement (Excess Liability).

5. Antitrust Claims. In entering into this Contract, Contractor offers and agrees to assign to City all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. § 15) or under the Cartwright Act (Business and Professions Code Section 16700 *et seq*.) arising from purchases of goods, services, or materials pursuant to the Contract. This assignment shall be made and become effective at the time City tenders final payment to Contractor without further acknowledgment by the parties.

6. Prevailing Wages. City and Contractor acknowledge that the Project is a public work to which prevailing wages apply.

7. Workers' Compensation. Labor Code Sections 1860 and 3700 provide that every contractor will be required to secure the payment of compensation to its employees. In accordance with the provisions of Labor Code Section 1861, by signing this Contract, the Contractor certifies as follows:

> "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the Work of this Contract."

8. Titles. The titles used in this Contract are for convenience only and shall in no way define, limit or describe the scope or intent of this Contract or any part of it.

9. Authority. Any person executing this Contract on behalf of Contractor warrants and represents that he or she has the authority to execute this Contract on behalf of Contractor and has the authority to bind Contractor to the performance of its obligations hereunder.

10. Debarment or Suspension.Contractor represents and warrants that, as of the Effective Date of this Agreement, Contractor is not debarred or suspended pursuant to any applicable Federal or State law providing for the debarment of contractors. Contractor shall not perform the Services with any subcontractor that has been debarred or suspended pursuant to any applicable Federal or State law providing for the debarment. Contractor and its subcontractors shall not be debarred or suspended throughout the Term of this Agreement pursuant to any applicable Federal or State law providing for the debarment of contractors. If Contractor or any subcontractor becomes debarred or suspended during the Term of this Agreement, Contractor shall immediately notify City.

11. Entire Agreement. This Contract, including the Contract Documents and any other documents incorporated herein by specific reference, represents the entire and integrated agreement between City and Contractor. This Contract supersedes all prior oral or written negotiations, representations or agreements. This Contract may not be modified or amended, nor any provision or breach waived, except in a writing signed by both parties that expressly refers to this Contract.

12. Counterparts. This Contract may be executed in counterpart originals, duplicate originals, or both, each of which is deemed to be an original for all purposes.

IN WITNESS WHEREOF, the parties hereto have executed the Contract the day and year first above written.

CITY OF BANNING

City Council Approval: _____

By: _____
City Manager Date

ATTEST:

APPROVED AS TO FORM:

By: _____
Administrative City Clerk Date

By: _____
City Attorney Date

_____
("CONTRACTOR")

By: _____
Name: Date
Title:

By: _____
Name: Date
Title:

RESOLUTION 2022-123

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING A FUNDING AGREEMENT BETWEEN THE COUNTY OF RIVERSIDE AND THE CITY OF BANNING IN THE AMOUNT OF $5,049,202 FOR TWO NON-POTABLE WATER INFRASTRUCTURE PROJECTS

WHEREAS, on March 11, 2021, President Biden signed into law a $1.9 trillion economic stimulus bill also known as the COVID-19 Stimulus Package or the American Rescue Plan Act (ARPA), with the intent to accelerate the United States recovery from the economic and health impacts of the COVID-19 pandemic; and

WHEREAS, Riverside County's share of the American Rescue Plan funding is estimated to be $479 million; and

WHEREAS, on February 8, 2022, the Riverside County Board of Supervisors approved establishing the ARPA infrastructure funding category in the amount of $82 million which included an allocation of $5,049,202 to the City of Banning for two non-potable water infrastructure projects.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The Funding Agreement between the County of Riverside and the City of Banning is hereby approved; and

SECTION 2. The City Council hereby authorizes and directs the City Manager to execute the Funding Agreement on behalf of the City of Banning.

PASSED, APPROVED AND ADOPTED this 13th day of September 2022.

Colleen Wallace, Mayor
City of Banning

ATTEST:

Caroline Patton, Deputy City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

Kevin G. Ennis, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Caroline Patton, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2022-123, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 13th day of September 2022 by the following vote, to wit:

AYES: Happe, Minjares, Sanchez, and Wallace.

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Deputy City Clerk
City of Banning, California

SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

ITEM: 3.6
(ID # 20187)
MEETING DATE:
Tuesday, October 18, 2022

FROM : EXECUTIVE OFFICE:

SUBJECT: EXECUTIVE OFFICE: Approve and Execute the Infrastructure Project Funding Agreement Between the County of Riverside and the City of Banning for Delivery of Water System Infrastructure Projects, through Fiscal Year 23/24. District 5. [$5,049,202 Total Cost; 100% ARPA Funds]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the Infrastructure Project Funding Agreement Between the County of Riverside and the City of Banning for Delivery of the NP-1 Booster/Reservoir Project, and NP-2 Booster Pump Station Project, for a Total Cost of $5,049,202, through Fiscal Year 23/24; and

2. Authorize the Chair of the Board of Supervisors to Execute the Agreement on Behalf of the County; and

3. Direct the Executive Officer, or Designee, to take all Necessary Steps to Approve, Sign and Execute any Future Non-Substantive Amendments within the Agreement that do not Increase Costs to the County and do not Materially Change the Scope of Services, Subject to Approval as to Form by County Counsel.

ACTION:Policy

Rania Odenbaugh
Rania Odenbaugh, Director of Constituent Services 10/12/2022

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Jeffries, seconded by Supervisor Perez and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes:	Jeffries, Spiegel, Washington, Perez and Hewitt
Nays:	None
Absent:	None
Date:	October 18, 2022
xc:	E.O.

Kecia R. Harper
Clerk of the Board
By: Deputy

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	$ 2,000,000	$ 3,049,202	$ 5,049,202	$ 0
NET COUNTY COST	$ 0	$ 0	$ 0	$ 0
SOURCE OF FUNDS: 100% ARPA Funds			**Budget Adjustment:** No	
			For Fiscal Year: 22/23 – 23/24	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

On March 11, 2021, President Biden signed into law a $1.9 trillion economic stimulus bill also known as the COVID-19 Stimulus Package or the American Rescue Plan Act (ARPA). The intent of the bill is to accelerate the United States recovery from the economic and health impacts of the COVID-19 pandemic. ARPA includes $362 billion in Coronavirus State and Local Fiscal Recovery Funds (ARPA Fiscal Recovery Funds) for eligible state, local, territorial, and tribal governments. These ARPA Fiscal Recovery Funds can be utilized for four categories of eligible uses:

a) To respond to the public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality.
b) To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers.
c) For the provision of government services to the extent of the reduction in revenue due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency; and
d) To make necessary investments in water, sewer, or broadband infrastructure.

Riverside County's share of the American Rescue Plan funding is estimated to be $479 million, of which the first installment of $239,937,299 was received on May 10, 2021. Funds must be obligated by December 31, 2024, and expended by December 31, 2026.

On April 27, 2021, the Executive Office presented the Board of Supervisors with a preliminary ARPA funding allocation and on October 19, 2021, presented a revised funding allocation after the U.S. Treasury released the ARPA interim funding guidelines. The revised allocation included a new category for Child Care. The funding allocation obligates funds to 7 categories: Infrastructure, Housing & Homelessness, Economic Recovery, County Departments Response, Non-Profit Assistance, Child Care and Revenue Backfill.

In its final funding guidelines issued on January 6, 2022 , the U.S. Treasury broadened the use of the ARPA funds to include disproportionately impacted communities projects to develop

neighborhood features that promote improved health and safety outcomes, such as parks, green spaces, recreational facilities, sidewalks, pedestrian safety features like crosswalks, projects that increase access to healthy foods, streetlights, neighborhood clean-up, and other projects to revitalize public access.

On February 8, 2022, the Board approved establishing the ARPA infrastructure funding category in the amount of $82 million. This amount dedicated $75 million to water and sewer infrastructure projects, distributed $15 million per district and the remaining $7 million was allocated to the Broadband affordability program.

The attached proposed Infrastructure Funding Agreement between the County of Riverside and the City of Banning (City) addresses two (2) infrastructure projects which were determined by the County Executive Office to be in compliance with ARPA funding objectives and US Treasury eligibility criteria. The City will administer, construct and maintain the following infrastructure projects, which will be completed on or before December of 2026, utilizing a combination of City funding and proposed ARPA Infrastructure funding. On May 24, 2022 (Agenda Item 3.4), the County Board of Supervisors approved allocation of a total of $5,049,202 in ARPA funds toward the following water infrastructure projects at the recommendation of the County's 5th District:

NP-1 Reservoir Project – This $3.1 million Project will expand the capability of the City's non-potable water supply for use in irrigation, thereby lessening reliance on imported water supplies. The Project includes installation of a 54' diameter above ground steel tank and booster pump station adjacent to the existing City of Banning Wastewater Treatment Plant. The attached proposed funding agreement reflects the Board approved contribution of $2,669,725 from the ARPA infrastructure category to the City for project delivery.

NP-2 Booster Station Project - This $2.7 million Project will work in conjunction with the above listed NP-1 Reservoir project through construction of a pump station on Lincoln Street, to deliver stored non-potable water to end users. The attached proposed funding agreement reflects the Board approved contribution of $2,379,477 from the ARPA infrastructure category to the City for project delivery.

Impact on Residents and Businesses

The proposed water infrastructure projects will improve quality of life and promote economic recovery in communities within the County by improving water systems and lessening reliance on imported water supplies.

ATTACHMENTS:

- Infrastructure Funding Agreement Between County of Riverside and City of Banning



Scott Bruckner 9/30/2022

FUNDING AGREEMENT FOR
CITY OF BANNING AGENCY INFRASTRUCTURE PROJECTS

This Funding Agreement ("Agreement") is entered into by and between the County of Riverside, a political subdivision of the State of California, ("County") and the City of Banning, ("Subrecipient"). County and Subrecipient are sometimes individually referred to as "Party" and collectively as "Parties."

RECITALS

WHEREAS, on March 11, 2021, the American Rescue Plan Act (ARPA) was signed into law, amending Section 9901 of Title VI of the Social Security Act which establishes the Coronavirus State and Local Fiscal Recovery Funds (Fiscal Recovery Funds) to provide state, local and Tribal governments with the resources needed to respond to the pandemic and its economic effects and to build a stronger, more equitable economy during the recovery; and

WHEREAS, on February 8, 2022, Minute Order 3.3, the Board of Supervisors of the County of Riverside approved allocation of ARPA funds to support eligible infrastructure projects within Riverside County; and

WHEREAS, on January 6, 2022, the U.S. Department of the Treasury (U.S. Treasury) adopted a final rule implementing the Fiscal Recovery Funds which takes effect on April 1, 2022 (Final Rule), however, Subrecipient may generally take actions and use funds in a manner consistent with the terms of the Final Rule prior to April 1, 2022, to the extent they are more restrictive than those in the interim final rule, issued on May 10, 2021; and

WHEREAS, to respond to the negative effects of the pandemic, which in turn affect our community as a whole, the County has dedicated a portion of the allotted ARPA funds to local agencies for the delivery and implementation of vital and eligible infrastructure projects; and

WHEREAS, the County desires to reimburse and the Subrecipient desires to accept ARPA Fiscal Recovery Funds in a total amount not to exceed $5,049,202, for expenditures identified in Attachment A related to the NP-1 Booster/Reservoir Project, and NP-2 Booster Pump Station Project; and

NOW THEREFORE, in consideration of the mutual benefits, covenants, terms and conditions contained herein, the Parties agree as follows:

AGREEMENT

1. Incorporation of Recitals. The Recitals set forth above are incorporated herein and made an operative part of this Agreement.

2. Contract Documents. This Agreement consists of this Agreement and the following attachments, attached hereto and by this reference incorporated herein:
   2.1 Attachment A – Infrastructure Projects Scope
   2.2 Attachment B – U.S. Treasury ARPA Fiscal Recovery Funds Final Rule

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2.3 Attachment C – Uniform Administrative Requirements, Cost Principles, Federal Provisions and Audit Requirements for Federal Awards -2 CFR Part 200 et seq
2.4 Attachment D – Indemnification and Insurance Requirements
2.5 Attachment E – Project Monitoring Requirements
2.6 Attachment F – Construction Requirements

3. Infrastructure Projects; Scope of Work. Subrecipient shall be responsible for completion of all activities associated with design, implementation, installation and construction of the Infrastructure Projects, as described in **Attachment A**, on or before December 31, 2026, by first using funds received from the County in the amount provided in Section 4 of this Agreement. The Subrecipient shall also furnish timely reporting and documentation assuring Subrecipient's compliance with the U.S. Treasury ARPA Guidelines (as stated in the Final Rule of the U.S. Department of the Treasury published in the Federal Register on January 27, 2022), and within the timelines and specifications provided in **Attachment E**. Under the provisions of the Agreement, the County shall bear no responsibility for the Infrastructure Projects, including without limitation any activities associated with implementation, installation and construction, or any future operation or maintenance of the Infrastructure Projects.

3.1 Project Signage. Subrecipient shall include appropriate acknowledgement of credit to the County for its support when promoting the Infrastructure Projects or using any data and/or information developed under this Agreement. Signage shall be posted in a prominent location at Infrastructure Project site(s) and shall include the U.S. Department of Treasury's, and the County's color logos, along with the following disclosure statement: "Funding for this project has been provided in full or in part from the American Rescue Plan Act, and through an agreement with the County of Riverside." The Recipient shall also include in each of its contracts for work under this Agreement a provision that incorporates the requirements stated within this Paragraph.

4. Funding.

4.1 County shall provide funding to Subrecipient in a total amount not to exceed $5,049,202 ("Award"), in quarterly payments in accordance with progress pay estimates submittals, and in compliance with ARPA Guidelines as set forth in **Attachment B**, attached hereto and by this reference incorporated herein, for the completion of the Infrastructure Projects. In the event that there is a conflict in the terms for payment in this Agreement and the terms in Attachments B and C, the terms in Attachments B and C shall take precedence. Subrecipient shall provide other non-federal funding at least equal to the amounts shown in **Attachment A**, attached hereto and by this reference incorporated herein, as a match to the funds provided by the County for the Infrastructure Projects.

4.2 Except as expressly provided in **Attachment A** of this Agreement, Subrecipient shall not be entitled to, nor receive from County any additional funding or other type of remuneration for services rendered under this Agreement. The Award amounts described in this Section are specifically for each Infrastructure Project and make up the entire amount which the County has approved to fund for each Infrastructure Project. Subrecipient shall not be entitled by virtue of this Agreement to consideration in excess of specified per-project Award amounts, and Subrecipient shall be responsible for any and all costs incurred above any Award amount for its implementation and completion of the specified Infrastructure Project. Any subsequent amendments to Infrastructure Project scopes or descriptions are not covered by this Agreement, and the funding for any such amendments or for any Infrastructure Project cost overruns shall be the sole responsibility of Subrecipient, unless otherwise approved in writing by the County.

4.3 Should it be determined at any time by the Subrecipient or the County that the Subrecipient cannot, will not or is unable to complete an Infrastructure Project subject to this Agreement in accordance with the applicable State and Federal requirements and the provisions of this

Agreement on or before December 31, 2026, then the subrecipient shall return 100% of the Award amount reimbursed to Subrecipient for any uncompleted Infrastructure Project as of the date of notification to the County, within thirty (30) days of notification.

4.4 In the event the actual cost for any Infrastructure Project is less than Award, Subrecipient shall refund the difference to County within thirty (30) days of filing the Notice of Completion for the Infrastructure Project, or by June 30, 2026, whichever occurs first. Subrecipient shall return any reimbursed Award Funds that have not been expended or are not adequately supported by invoices and documentation to the County, within thirty (30) days of completion of construction of the Infrastructure Project, or upon request by the County, whichever occurs first.

5. Invoicing and Billing

5.1 Invoices.

5.1.1 Invoices shall be submitted via e-mail to RIVCOARPA@RIVCO.ORG. The final invoice from the Subrecipient will be submitted with enough time for the County to reimburse the Subrecipient prior to December 31, 2026, per the final rule of ARPA.

5.1.2 Supporting documentation shall accompany each invoice: copies of paid receipts and invoices of all Subrecipient Infrastructure Project costs incurred by Subrecipient.

5.1.3 To ensure compliance with Federal and State regulations, County may require additional supporting documentation or clarification of claimed expenses as follows:

5.1.3.1 County Executive Office staff shall notify Subrecipient to obtain necessary additional documentation or clarification.

5.1.3.2 Subrecipient shall respond within three (3) business days with required additional documentation or clarification to avoid disallowances/partial payment of invoice.

5.1.3.3 All invoices containing expenses that need additional documentation or clarification not provided to County within three (3) business days of request shall have those expenses disallowed and only the allowed expenses shall be paid.

5.1.3.4 Subrecipient may resubmit disallowed expenses as a supplemental invoice only and must be accompanied by required documentation.

5.2 Payments

5.2.1 If the conditions set forth in this Agreement are met, County shall pay, on/or before the thirtieth (30th) day after receipt of a complete and accurate invoice, the sum of money claimed by the approved invoice, (less any credit due County for adjustments of prior invoices). If the conditions are not met, County shall pay when the necessary processing is completed and/or proper backup documentation is provided.

5.2.2 County shall not pay for unauthorized costs incurred by Subrecipient or for the claimed work which County monitoring shows have not been provided as authorized.

5.2.3 County retains the right to withhold payment on disputed claims.

6. Term. The Term of this Agreement shall be from the date of approval of this Agreement until filing of notice of completion for all Infrastructure Projects, or on December 31, 2026, whichever is sooner, unless sooner terminated as provided herein.

7. Subrecipient Compliance Obligations. The Subrecipient agrees to comply with the terms and conditions of this Agreement. The Subrecipient also agrees to apply the terms and conditions of this Agreement to all of its subcontractors (if applicable) and to require their strict compliance therewith. If it is determined that the Subrecipient is noncompliant, County may temporarily withhold or disallow reimbursement of costs, under 2 C.F.R. Part 200, as supplemented by 2 C.F.R. Part 910.

7.1 Federal Provisions. Subrecipient and all of its subcontractors shall comply with the Uniform Administrative Requirements, Cost Principles, Federal Provisions and Audit Requirements for Federal Awards Provisions contained in **Attachment C**.

7.2 Additional terms and conditions for Infrastructure Projects. The Subrecipient and all of its subcontractors shall comply with the Drinking Water and / or the Clean Water State Revolving Fund compliance requirements as reflected in the U.S. Treasury ARPA Fiscal Recovery Funds Final Rule.

8. Contract Representatives.

8.1 County Representative. The County Executive Officer, or designee, shall be the designated representative who shall administer this Agreement on behalf of the County.

8.2 Subrecipient Representative. The City Manager, or designee, shall be the designated representative who shall administer this Agreement on behalf of the Subrecipient.

8.3 The Contract Representatives may be contacted as described in Section 11, below.

9. Records and Audit.

9.1 Subrecipient shall store and maintain all writings, documents and records prepared or compiled in connection with the performance of this Agreement for a minimum of five (5) years from the termination or completion of this Agreement. This includes any handwriting, typewriting, printing, photostatic, photographing and every other means of recording upon any tangible thing, any form of communication or representation including letters, words, pictures, sounds or symbols or any combination thereof. Any authorized representative of County shall have access to any writings as defined above for the purposes of making a report, audit, evaluation, or examination Further, County has the right at all reasonable times to audit, inspect or otherwise evaluate the work performed or being performed under this Agreement.

9.2 If it is determined pursuant to an audit that any funds provided pursuant to this Agreement have been improperly expended, Subrecipient shall, at the direction of the agency performing the audit, reimburse the County within thirty (30) days the full amount of such improperly expended funds. The funds shall be reimbursed in accordance with the recommendations in the audit.

10. Monitoring of Contract Compliance and Infrastructure Progress Reports.

10.1 Contract Compliance. The Subrecipient shall comply with the monitoring arrangements set forth in **Project Monitoring Requirements,** and **Construction Requirements,** attached as **Attachments E** and **F,** respectively.

10.2 Infrastructure Projects Progress Reports and Progress Pay Estimates. Subrecipient shall, as specified herein, provide quarterly reports detailing each Infrastructure Project's progress, including a financial status report and milestone progress report as described in **Attachment E**.

11. Notices. As used in this Agreement, notice includes but is not limited to the communications

of any notice, request, demand, approval, statement, report, acceptance, consent, waiver, and appointment. All notices must be in writing. All such notices from one Party to another may be delivered in person, sent via reputable overnight courier, or served by first-class mail, certified or registered, postage prepaid, to each and all of the addresses set forth below.

If to County:
Riverside County Executive Office
Attention: Rania Odenbaugh and Scott Bruckner
4080 Lemon Street, 4th Floor,
Riverside, CA. 92501

If to Subrecipient:
City of Banning
Attention: Director of Public Works
99 E. Ramsey Street
Banning, CA 92220

12. Conflicts of Interest. Subrecipient covenants that it presently has no interest, including but not limited to, other projects or independent contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. RECIPIENT further covenants that in the performance of this Agreement, no person having any such interest shall be employed or retained by it under this Agreement. In the event federal funds are used, in whole or in part, for this Project, Subrecipient understands and agrees it must maintain a conflict of interest policy consistent with 2. C.F.R. section 200.318 (c) and that such conflict of interest policy is applicable to each activity funded under this award. Subrecipient must disclose in writing to the U.S. Treasury or through Recipient, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2. C.F.R. section 200.12.

13. Nondiscrimination. During any period in which Subrecipient is in receipt of funds from Recipient, Subrecipient and its City Council, officers, employees, agents, representatives or subcontractors shall not unlawfully discriminate in violation of any Federal, State or local law, rule or regulation against any employee, applicant for employment or person receiving services under this Agreement because of race, religious creed, color, national origin, ancestry, physical or mental disability including perception of disability, medical condition, genetic information, pregnancy related condition, marital status, gender/sex, sexual orientation, gender identity, gender expression, age (over 40), political affiliation or belief, or military and veteran status. Subrecipient and its officers, employees, agents, representatives or subcontractors shall comply with all applicable Federal, State and local laws and regulations related to non- discrimination and equal opportunity, including without limitation the County's non- discrimination policy; Title VI of the Civil Rights Act of 1964 (42 US.C. sections 2000d *et seq.*) and U.S. Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance; The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. sections 3601 *et seq.*), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability; Section 504 of the Rehabilitation Act of 1973, as amended (42 U.S.C. sections 6101 *et seq.*), and the U.S. Treasury's implementing regulations at 31 C.F.R. part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. sections 12101 *et seq.*) which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto; The Fair Employment and Housing Act (Government Code sections 12900 *et seq.*); California Labor Code sections 1101, and 1102; the Federal Civil Rights Act of 1964 (P.L. 88-352), as amended; and all applicable regulations promulgated in the California Code of Regulations or the Code of Federal Regulations, and Riverside County's non-discrimination policy.

Subrecipient shall include the non-discrimination and compliance provisions of this Section in all subcontracts to perform work under or as a derivative of this Agreement.

14. Indemnification. The Subrecipient shall be bound by the indemnification, hold harmless and defend provisions contained in **Attachment D**.

15. Insurance. Subrecipient shall obtain, and maintain, or caused to be obtained and maintained, at all times during the Term of this Agreement, insurance coverage in the amounts and coverage specified in **Attachment D**.

16. Termination. The County may terminate this agreement upon a determination that Subrecipient is not complying with ARPA terms and conditions. The County may withhold additional planned distributions of funding to Subrecipient pending receipt of requisite reporting requirements by Subrecipient to the County as described herein.

17. Compliance with Laws. The Subrecipient is required to comply with all applicable federal, state and local laws and regulations for all work performed or funded by and through this Agreement. The Subrecipient is required to obtain all necessary federal, state and local permits, authorizations and approvals for all work performed under this Agreement.

18. Disputes. The parties shall attempt to resolve any disputes amicably at the working level. If that is not successful, the dispute shall be referred to the senior management of the parties. The Subrecipient shall proceed diligently with the Infrastructure Projects described in this Agreement pending the resolution of a dispute. The Parties reserve the right to pursue any remedies at law or in equity should any dispute relating to this Agreement not by resolved by the Parties. Notwithstanding the foregoing, prior to the filing of any legal action related to this Agreement, the Parties shall be obligated to attend a mediation session in Riverside County before a neutral third party mediator. A second mediation session shall be required if the first session is not successful. The parties shall share the cost of the mediations.

19. Status of Subrecipient. The Subrecipient is, for purposes relating to this Agreement, an independent contractor and shall not be deemed an employee of the County. It is expressly understood and agreed that the Subrecipient (including its employees, agents, and subcontractors) shall in no event be entitled to any benefits to which County employees are entitled, including but not limited to overtime, any retirement benefits, worker's compensation benefits, and injury leave or other leave benefits. There shall be no employer-employee relationship between the parties nor is there a joint venture; and Subrecipient shall indemnify and hold County harmless from any and all claims that may be made against County based upon any contention by a third party that an employer-employee relationship exists by reason of this Agreement.

19.1 All acts of Subrecipient and its officers, employees, agents, representatives, subcontractors, and all others acting on behalf of Subrecipient relating to the performance of this Agreement, shall be performed as independent contractors and not as agents, officers, or employees of County. Subrecipient, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. No agent, officer or employee of the County is to be considered an employee of Subrecipient. At all times during the term of this Agreement, the Subrecipient and its officers, employees, agents, representatives, or subcontractors are, and shall represent and conduct themselves as, independent contractors and not employees of County.

19.2 Subrecipient shall determine the method, details, and means of performing the work and services to be provided by Subrecipient under this Agreement. Subrecipient shall be responsible to County only for the requirements and results specified in this Agreement and, except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Subrecipient in fulfillment of this Agreement. Subrecipient has control over the manner and means for completion of the Infrastructure Project described in this Agreement. If necessary, Subrecipient has the responsibility for employing or engaging other persons or firms to assist Subrecipient in fulfilling the terms and obligations under this Agreement.

19.3 If in the performance of this Agreement any third persons are employed by Subrecipient, such persons shall be entirely and exclusively under the direction, supervision, and control of Subrecipient. All terms of employment including hours, wages, working conditions, discipline, hiring and discharging or any other term of employment or requirements of law shall be determined by the Subrecipient. It is further understood and agreed that Subrecipient must issue W-2 forms or other forms as required by law for income and employment tax purposes for all Subrecipient's assigned personnel under the terms and conditions of this Agreement.

20. Entire Agreement. This Agreement is the result of negotiations between the Parties. This Agreement is intended by the Parties as a full and final expression of their understanding with respect to the matters contained in this Agreement and shall not be modified in any manner except by an instrument in writing executed by the Parties or their respective successors in interest.

21. Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

22. Governing Law and Venue. The interpretation and performance of this Agreement shall be governed by the laws of the State of California. Venue shall be in Riverside County, California.

23. Construction/Interpretation. Headings or captions to the provisions of this Agreement are solely for the convenience of the Parties, are not part of this Agreement, and shall not be used to interpret or determine the validity of this Agreement. Any ambiguity in this Agreement shall not be construed against the drafter, but rather the terms and provisions hereof shall be given a reasonable interpretation as if both parties had in fact drafted this Agreement.

24. No Waiver. Failure of the Parties to insist upon strict compliance with any of the terms, covenants or conditions hereof shall not be deemed a waiver of such term, covenant or condition, nor shall any waiver or relinquishment of any rights or powers hereunder at any one time or more times be deemed a waiver or relinquishment of such other right or power at any other time or times.

25. No Third-Party Beneficiaries. There are no intended third-party beneficiaries of any right or obligation assumed by the Parties.

26. Severability. It is intended that each paragraph of this Agreement shall be treated as separate and divisible, and in the event that any paragraphs are deemed unenforceable, the remainder shall continue to be in full force and effect so long as the primary purpose of this Agreement is unaffected.

27. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

28. Use of Electronic (Digital) Signatures. This Agreement may be executed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument. Each Party of this Agreement agrees to the use of electronic signatures, such as digital signatures that meet the requirements of the California Uniform Electronic Transactions Act (("CUETA") Cal. Civ. Code §§ 1633.1 to 1633.17), for executing this Agreement. The parties further agree that the electronic signatures of the parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic signature means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record pursuant to the CUETA as amended from time to time. The CUETA authorizes use of an electronic signature for transactions and contracts among parties in California, including a government agency. Digital signature means an electronic identifier, created by computer, intended by the Party using it to have the same force and effect as the use of a manual signature, and shall be reasonably relied upon by the parties. For purposes of this section, a digital signature is a type of "electronic signature" as defined in subdivision (i) of Section 1633.2 of the Civil Code

[Signature Provisions on Following Page]

28. Authority to Enter Agreement. Each Party to this Agreement warrants to the other that it is duly organized and existing and that it and the respective signatories have full right and authority to enter into and consummate this Agreement and all related documents and bind the parties thereto.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date as indicated beside each Party's signature.

COUNTY:
COUNTY OF RIVERSIDE, a political subdivision of the State of California

By: _____
JEFF HEWITT
Chair, Board of Supervisors

SUBRECIPIENT:
CITY OF BANNING
City Manager

By: _____
Doug Schulze

ATTEST:
Clerk of the Board
Kecia Harper

By: _____
Deputy

ATTEST:
Deputy City Clerk

By: _____
Caroline Patton

(Seal)

(Seal)

APPROVED AS TO FORM
County Counsel

By: _____

APPROVED AS TO FORM:
City Attorney

By: _____
Kevin G. Ennis

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Attachment A – Infrastructure Project Scope

NP- 1 Booster/Reservoir Project

Scope of Work

The NP-2 Booster Pump Station will be located adjacent to the existing City of Banning Wastewater Treatment Plant. On Charles Street in the City of Banning. The non-potable water supply will be from Well NP-1. The NP-1 Booster Pump Station will pump to the NP-2 Booster Pump Station on Lincoln Street.

The NP-1 Booster Pump Station will be designed to pump a maximum of 1,000 gpm. The Booster Station will have two (2) vertical turbine can mounted pumps, one (1) duty and one (1) standby and pump can for a future pump. The Booster Pumps will be enclosed in a masonry building. A diesel fueled emergency engine generator will be provided. The design includes mechanical, architectural, structural, electrical, instrumentation and SCADA.

The NP-1 Non-Potable Water Reservoir will be a 54' diameter above ground steel tank with ring wall foundation. The height of the tank will be approximately 27' tall, with 21' to the high-water level. The design will include, inlet and outlet pipes, overflow pipe, access manholes, exterior and interior access ladders and other appurtenances as required. The design includes mechanical, structural, electrical instrumentation and SCADA.

Project Budget

ITEM	DESCRIPTION	COUNTY OF RIVERSIDE ARPA PROJECT FUNDING AMOUNT (Not to Exceed)	SUBRECIPIENT NON-FEDERAL FUNDING AMOUNT	ESTIMATED PROJECT COST
1	Facility Planning	$0	$20,200	$20,200
2	Preliminary Design	$0	$41,000	$41,000
3	Final Design	$0	$368,000	$368,000
4	Spec Review, Bid/Award	$0	$13,500	$13,500
5	Construction	$2,669,725	$0	$2,669,725
6	Admin Closeout	$0	$0	$0
	TOTAL:	$2,669,725	$442,700	$3,112,425

Project Schedule

ITEM	DESCRIPTION OF SUBMITTAL	ESTIMATED DUE DATE
1	Feasibility Report	Complete
2	Preliminary Design Report	Complete
3	Final Design	November 1, 2022
4	Spec Review, Bid/Award	January 15, 2023
5	Construction and Implementation	January 15, 2024
6	Admin Closeout	March 15, 2024

NP-2 Booster Pump Station Project

Scope of Work

The NP-2 Booster Pump Station will be located on Lincoln Street in the City of Banning future park site. NP-2 Booster Pump Station will pump to the Sun Lakes irrigation lakes.

The NP-2 Booster Pump Station will be designed to pump a maximum of 1,000 gpm. The Booster Station will have two (2) vertical turbine can mounted pumps, one (1) duty and one (1) standby and pump can for a future pump. The Booster Pumps will be enclosed in a masonry building. The design includes mechanical, architectural, structural, electrical, instrumentation and SCADA.

Project Budget

ITEM	DESCRIPTION	COUNTY OF RIVERSIDE ARPA PROJECT FUNDING AMOUNT (Not to Exceed)	SUBRECIPIENT NON-FEDERAL FUNDING AMOUNT	ESTIMATED PROJECT COST
1	Facility Planning	$0	$13,000	$13,000
2	Preliminary Design	$0	$30,000	$30,000
3	Final Design	$0	$272,000	$272,000
4	Spec Review, Bid/Award	$0	$9,000	$9,000
5	Construction	$2,379,477	$0	$2,379,477
6	Admin Closeout	$0	$0	$0
	TOTAL:	$2,379,477	$324,000	$2,703,477

Project Schedule

ITEM	DESCRIPTION OF SUBMITTAL	ESTIMATED DUE DATE
1	Feasibility Report	Complete
2	Preliminary Design Report	Complete
3	Final Design	November 1, 2022
4	Spec Review, Bid/Award	January 15, 2023
5	Construction and Implementation	January 15, 2024
6	Admin Closeout	March 15, 2024

Attachment B – U.S. Treasury ARPA Fiscal Recovery Funds Final Rule

Attachment C – Uniform Administrative Requirements, Cost Principles, Federal Provisions and Audit Requirements for Federal Awards -2 CFR Part 200 *et seq.*

2 CFR Part 200 attached hereto

ATTACHMENT C CONTINUED

FEDERAL PROVISIONS

Should funding be allocated through American Rescue Plan Act (ARPA; (Title VI of the Social Security Act Section 602 *et seq.*), the COUNTY will administer and distribute those funds in accordance with ARPA. ARPA requires that payments from the Coronavirus Fiscal Recovery Fund be used to respond to the public health emergency or its negative economic impacts, to respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay, provide government services to the extent the reduction of revenue due to COVID-19 public health emergency, and to make necessary investments in water, sewer or broadband infrastructure. It is effective beginning May 17, 2021 and ends on December 31, 2026.

Subrecipient acknowledges and agrees that this Agreement is subject to the federal requirements, including but not limited to the federal provisions provided below:

1. NON-DISCRIMINATION. Subrecipient shall not be discriminate in the provision of services, allocation of benefits, accommodation in facilities, or employment of personnel on the basis of ethnic group identification, race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex in the performance of this Agreement; and, to the extent they shall be found to be applicable hereto, shall comply with the provisions of the California Fair Employment and Housing Act (Gov. Code 12900 *et seq.*), the Federal Civil Rights Act of 1964 (P.L. 88-352), the Americans with Disabilities Act of 1990 (42 U.S.C. S1210 *et seq.*) and all other applicable laws or regulations.

2. EQUAL EMPLOYMENT OPPORTUNITY/ FAIR EMPLOYMENT PRACTICES/ FEDERAL PROVISIONS. During the performance of this Agreement, the Subrecipient shall not deny benefits to any person on the basis of religion, color, ethnic group identification, sex, age, physical or mental disability, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, mental disability, medical condition, marital status, age, or sex. Subrecipient shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.

A. Subrecipient shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 *et seq.*), the regulations promulgated thereunder (California Code of Regulations, Title 2, Section 11000 *et seq.*), the provisions of Executive Order 11246 of Sept. 23, 1965 and of the rules, regulations, and relevant orders of the Secretary of Labor, the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Government Code, Sections 11135-11139.8), and of the rules, regulations or standards adopted by the County to implement such article.
B. The Subrecipient shall comply with the provisions of the Copeland "Anti-Kickback" Act, 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this Agreement.

3. CLEAN AIR ACT. The Subrecipient agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. Section 7401 *et seq.* The Subrecipient agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the California

Governor's Office of Emergency Services, Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office. The Subrecipient agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

4. FEDERAL WATER POLLUTION CONTROL ACT

The Subrecipient agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. Sections 1251 *et seq.*

The Subrecipient agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office.

The Subrecipient agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

5. DEBARMENT AND SUSPENSION CLAUSE

This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the Subrecipient is required to verify that none of the Subrecipient, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

The Subrecipient must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

This certification is a material representation of fact relied upon by the County. If it is later determined that the Subrecipient did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

6. BYRD ANTI- LOBBYING AMENDMENT, 31 U.S.C. § 1352 (AS AMENDED)

Subrecipients who apply or bid for an award of $100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the County.

APPENDIX A, 44 C.F.R. PART 18- CERTIFICATION REGARDING LOBBYING

The undersigned [Subrecipient] certifies, to the best of his or her knowledge, that:

A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection

with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

C. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

The Subrecipient certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Subrecipient understands and agrees that the provisions of 31 U.S.C. § 3801 *et seq.*, apply to this certification and disclosure, if any.

SUBRECIPIENT

By _____

Date _____

7. PROCUREMENT OF RECOVERED MATERIALS

In the performance of this Agreement, the Subrecipient shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired

A. Competitively within a timeframe providing for compliance with the contract performance schedule;
B. Meeting contract performance requirements; or
C. At a reasonable price.

Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program

The Subrecipient also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

8. ACCESS TO RECORDS

The following access to records requirements apply to this Agreement:

A. The Subrecipient agrees to provide the County, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Subrecipient which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions.
B. The Subrecipient agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

C. The Subrecipient agrees to provide the FEMA Administrator or his or her authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
D. In compliance with the Disaster Recovery Act of 2018, the County and the Subrecipient acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

9. DEPARTMENT OF HOMELAND SECURITY SEAL, LOGO, FLAGS

The Subrecipient shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

10. COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS

This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The Subrecipient will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

11. NO OBLIGATION BY FEDERAL GOVERNMENT

The Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

12. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

The Subrecipient acknowledges that 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements) applies to the Subrecipient's actions pertaining to this Agreement.

13. FEDERAL PREVAILING WAGE

DAVIS-BACON ACT COMPLIANCE (applicable to construction contracts in excess of $2,000 awarded by grantees and subgrantees when required by Federal grant program legislation)

To the extent required by any Federal grant programs applicable to expected funding or reimbursement expenses incurred in connection with the services provided under this Agreement, Subrecipient agrees to comply with the Davis-Bacon Act (40 U.S.C. §§ 3141-3144 and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5) as set forth below.
A. The Subrecipient shall be bound to the provisions of the Davis-Bacon Act, and agrees to be bound by all the provisions of Labor Code section 1771 regarding prevailing wages. All labor on this project shall be paid neither less than the greater of the minimum wage rates established by the U.S. Secretary of Labor (Federal Wage Rates), or by the State of California Director of Department of Industrial Relations (State Wage Rates). Current DIR requirements may be found at http://www.dir.ca.gov/lcp.asp. Additionally, wages are required to be paid not less than once a week.
B. The general prevailing wage rates may be accessed at the Department of Labor Home Page at www.wdol.gov. Under the Davis Bacon heading, click on "Selecting DBA WDs." In the drop down menu

for State, select, "California." In the drop down menu for County, select "Riverside." In the drop down menu for Construction Type, make the appropriate selection. Then, click Search.

The Federal minimum wage rates for this project are predetermined by the United States Secretary of Labor. If there is a difference between the minimum wage rates predetermined by the Secretary of Labor and the general prevailing wage rates determined by the Director of the California DIR for similar classifications of labor, the Subrecipient and subcontractors shall pay not less than the higher wage rate. The County will not accept lower State wage rates not specifically included in the Federal minimum wage determinations. This includes "helper" (or other classifications based on hours of experience) or any other classification not appearing in the Federal wage determinations. Where Federal wage determinations do not contain the State wage rate determination otherwise available for use by the Subrecipient and subcontractors, the Subrecipient and subcontractors shall pay not less than the Federal minimum wage rate which most closely approximates the duties of the employees in question.

14. CONTRACT WORK HOURS AND SAFETY STANDARDS (applicable to all contracts in excess of $100,000 that involve the employment of mechanics or laborers, but not to purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence)

A. Compliance: Subrecipient agrees that it shall comply with Sections 3702 and 3704 of the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701–3708) as supplemented by Department of Labor regulations (29 CFR Part 5), which are incorporated herein.

B. Overtime: No contractor or subcontractor contracting for any part of the work under this Agreement which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

C. Violation; liability for unpaid wages; liquidated damages: In the event of any violation of the provisions of paragraph B of this section, the Subrecipient and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such Subrecipient and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of the provisions of paragraph B, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by paragraph B.

D. Withholding for unpaid wages and liquidated damages: Subrecipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set for in paragraph C of this section.

E. Subcontracts: The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs A through D of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs A through D of this section.

15. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT— Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by HUD.

16. RIGHTS TO DATA AND COPYRIGHTS – Subrecipients and consultants agree to comply with all applicable provisions pertaining to the use of data and copyrights pursuant to 48 CFR Part 27.4, Federal Acquisition Regulations (FAR).

17. PROHIBITION ON CONTRACTING FOR COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES

A. Definitions. As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy, #405-143-1 Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services As used in this clause—

B. Prohibitions.

(1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.

(2) Unless an exception in paragraph (c) of this clause applies, the contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:

(i) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

(ii) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

(iii) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or (iv)Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

C. Exceptions.

(1) This clause does not prohibit contractors from providing—

a. A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

b. Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) By necessary implication and regulation, the prohibitions also do not apply to:

a. Covered telecommunications equipment or services that:

i. Are not used as a substantial or essential component of any system; and

ii. Are not used as critical technology of any system.

b. Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

D. Reporting requirement.

(1) In the event the contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the contractor is notified of such by a subcontractor at any tier or by any other source, the contractor shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.

(2) The Subrecipient shall report the following information pursuant to paragraph (d)(1) of this clause:

(i) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services. Page 10

E. Subcontracts. The Subrecipient shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments.

18. REPORTING OF MATTERS RELATED TO RECIPIENT INTEGRITY AND PERFORMANCE

A. General Reporting Requirement

If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds $10,000,000 for any period of time during the period of performance of this Federal award, then you as the recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

B. Proceedings About Which You Must Report

Submit the information required about each proceeding that:

a. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;

b. Reached its final disposition during the most recent five-year period; and

c. Is one of the following:

(1) A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;

(2) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of $5,000 or more;

(3) An administrative proceeding, as defined in paragraph 5. of this award term and condition, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of $5,000 or more or reimbursement, restitution, or damages in excess of $100,000; or

(4) Any other criminal, civil, or administrative proceeding if:

(i) It could have led to an outcome described in paragraph 2.c.(1), (2), or (3) of this award term and condition;

(ii) It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and

(iii) The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

C. Reporting Procedures

Enter in the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition. You do not need to submit the information a second time under assistance awards that you received if you already provided the information through SAM because you were required to do so under Federal procurement contracts that you were awarded.

D. Reporting Frequency

During any period of time when you are subject to the requirement in paragraph 1 of this award term and condition, you must report proceedings information through SAM for the most recent five year period, either to report new information about any proceeding(s) that you have not reported previously or affirm that there is no new information to report. Recipients that have Federal contract, grant, and cooperative agreement awards with a cumulative total value greater than $10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

E. Definitions

For purposes of this award term and condition:

a. Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (*e.g.,* Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.

b. Conviction, for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.

c. Total value of currently active grants, cooperative agreements, and procurement contracts includes -

(1) Only the Federal share of the funding under any Federal award with a recipient cost share or match; and

(2) The value of all expected funding increments under a Federal award and options, even if not yet exercised.

Attachment D – Indemnification and Insurance Requirements

INDEMNIFICATION

A. Basic Indemnity

1. To the fullest extent permitted by applicable law, Subrecipient agrees to indemnify, hold harmless and defend the County of Riverside, its Agencies, Districts, Departments and Special Districts, Board of Supervisors, elected and appointed officials, and each of their respective directors, members officers, employees, agents, volunteers and representatives ("Indemnitees") and each of them from any and all Losses that arise out of or relate to any act or omission constituting ordinary and not professional negligence (including, without limitation, negligent breach of contract), recklessness, or willful misconduct on the part of Subrecipient or its subconsultants or their respective employees, agents, representatives, or independent contractors.

2. "Losses" shall mean any and all economic and non-economic losses, costs, liabilities, claims, damages, actions, judgements, settlements and expenses, including, without limitation, full and actual attorney's fees (including, without limitation, attorney's fees for trial and on appeal), expert and non-expert witness fees, arbitrator and arbitration fees and mediator and mediation fees.

3. Subrecipient further agrees to and shall indemnify and hold harmless the Indemnitees from all liability arising from suits, claims, demands, actions, or proceedings made by agents, employees or subcontractors of Subrecipient for salary, wages, compensation, health benefits, insurance, retirement or any other benefit not explicitly set forth in this Agreement and arising out of work performed for County pursuant to this Agreement. The Indemnitees shall be entitled to the defense and indemnification provided for hereunder regardless of whether the Loss is in part caused or contributed to by the acts or omissions of an Indemnitee or any other person or entity; provided however, that nothing contained herein shall be construed as obligating Subrecipient to indemnify and hold harmless any Indemnitee to the extent not required under the provisions of Paragraph B below.

B. Indemnity for Design Professionals

1. To the fullest extent permitted by Applicable Law, Subrecipient agrees to defend (through legal counsel reasonably acceptable to County), indemnify and hold harmless the Indemnitees, and each of them, against any and all Losses that arise out of, pertain to, or relate to, any negligence, recklessness or willful misconduct constituting professional negligence on the part of Subrecipient or its Subconsultants, or their respective employees, agents, representatives, or independent contractors. The Indemnitees shall be entitled to the defense, and indemnification provided for hereunder regardless of whether the Loss is, in part, caused or contributed to by the acts or omissions of an Indemnitee or any other person or entity; provided, however, that nothing contained herein shall be construed as obligating Subrecipient to indemnify and hold harmless any Indemnitee to the extent not required under the provisions of this section. Subrecipient shall defend and pay, all costs and fees, including but not limited to attorney fees, cost of investigation, and defense, in any loss, suits, claims, demands, actions, or proceedings to the extent and in proportion to the percentage, such costs and fees arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of Subrecipient arising out of or from the performance of professional design services under this Agreement. The duty to defend applies to any alleged or actual negligence, recklessness, willful misconduct of Subrecipient. The cost for defense shall apply whether or not Subrecipient is a party to the lawsuit and shall apply whether or not Subrecipient is directly liable to the plaintiffs in the lawsuit. The duty to defend applies even if Indemnitees are alleged or found to be actively negligent, but only in proportion to the percentage of fault or negligence of Subrecipient.

2. Without affecting the rights of County under any other provision of this Agreement, Subrecipient shall not be required to indemnify or hold harmless or provide defense or defense costs to an Indemnitee for a loss due to that Indemnitee's negligence, recklessness or willful misconduct; provided, however, that such negligence, recklessness or willful misconduct has been determined by agreement of Subrecipient and Indemnitee or has been adjudged by the findings of a court of competent jurisdiction.

C. Subrecipient agrees to obtain or cause to be obtained executed defense and indemnity agreements with provisions identical to those set forth in this section from each and every Subconsultant, of every Tier.

D. Subrecipient's indemnification obligations under this Agreement shall not be limited by the amount or type of damages, compensation or benefits payable under any policy of insurance, workers' compensation acts, disability benefit acts or other employee benefit acts.

E. The Indemnitees shall be entitled to recover their attorneys' fees, costs and expert and consultant costs in pursuing or enforcing their right to defense and/or indemnification under this Agreement.

INSURANCE REQUIREMENTS

Without limiting or diminishing the Subrecipient's obligation to indemnify or hold the County harmless, Subrecipient shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverages during the term of this Agreement. As respects to the insurance section only, the County herein refers to the County of Riverside, its Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents or representatives as Additional Insureds.

A. Workers' Compensation: If the Subrecipient has employees as defined by the State of California, the Subrecipient shall maintain statutory Workers Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than $1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in favor of The County of Riverside.

B. Commercial General Liability: Commercial General Liability insurance coverage, including but not limited to, premises liability, unmodified contractual liability, products and completed operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or out of Subrecipient's performance of its obligations hereunder. Policy shall name the County as Additional Insured. Policy's limit of liability shall not be less than $2,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit. Policy shall name the County as Additional Insureds.

C. Vehicle Liability: If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then Subrecipient shall maintain liability insurance for all owned, non-owned or hired vehicles so used in an amount not less than $1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit. Policy shall name the County as Additional Insureds.

D. Professional Liability (ONLY TO BE INCLUDED IN CONTRACTS WITH SERVICE PROVIDERS INCLUDING BUT NOT LIMITED TO ENGINEERS, DESIGN PROFESSIONALS, DOCTORS, AND LAWYERS) Contractor shall maintain Professional Liability Insurance providing coverage for the Contractor's performance of work included within this Agreement, with a limit of liability of not less than $1,000,000 per occurrence and $2,000,000 annual aggregate. If Contractor's Professional Liability Insurance is written on a claims made basis rather than an occurrence basis, such insurance shall continue through the term of this Agreement and Subrecipient shall purchase at his sole expense either 1) an Extended Reporting Endorsement (also, known as Tail Coverage); or 2) Prior Dates Coverage from new insurer with a retroactive date back to the date of, or prior to, the inception of this Agreement; or 3) demonstrate through Certificates of Insurance that Subrecipient has Maintained continuous coverage with the same or original insurer. Coverage provided under items 1), 2), or 3) will continue as long as the law allows. Policy shall name the County as Additional Insureds.

E. General Insurance Provisions - All lines:

1. Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A M BEST rating of not less than A: VIII (A:8) unless such requirements are waived, in writing, by the County Risk Manager. If the County's Risk Manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.

2. The Subrecipient must declare its insurance self-insured retention for each coverage required herein. If any such self-insured retention exceed $500,000 per occurrence each such retention shall have the prior written consent of the County Risk Manager before the commencement of operations under this Agreement. Upon notification of self-insured retention unacceptable to the County, and at the election of the County's Risk Manager, Subrecipient's carriers shall either; 1) reduce or eliminate such self-insured retention as respects this Agreement with the County, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.

3. Subrecipient shall cause Subrecipient's insurance carrier(s) to furnish the County of Riverside with either 1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein, and 2) if requested to do so orally or in writing by the County Risk Manager, provide original Certified copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that a minimum of thirty (30) days written notice shall be given to the County of Riverside prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. If Subrecipient insurance carrier(s) policies does not meet the minimum notice requirement found herein, Subrecipient shall cause Subrecipient's insurance carrier(s) to furnish a 30 day Notice of Cancellation Endorsement.

4. In the event of a material modification, cancellation, expiration, or reduction in coverage, this Agreement shall terminate forthwith, unless the County of Riverside receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage's set forth herein and the insurance required herein is in full force and effect. Subrecipient shall not commence operations until the County has been furnished original Certificate (s) of Insurance and certified original copies of endorsements and if requested, certified original policies of insurance including all endorsements and any and all other attachments as required in this Section. An individual authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the Certificate of Insurance.

5. It is understood and agreed to by the Parties hereto that the Subrecipient's insurance shall be construed as primary insurance, and the County's insurance and/or deductibles and/or self-insured retentions or self-insured programs shall not be construed as contributory.

6. If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services; or, there is a material change in the equipment to be used in the performance of the scope of work; or, the term of this Agreement, including any extensions thereof, exceeds five (5) years; the County reserves the right to adjust the types of insurance and the monetary limits of liability required under this Agreement, if in the County Risk Management's reasonable judgment, the amount or type of insurance carried by the Subrecipient has become inadequate.

7. Subrecipient shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Agreement.

8. The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to the County.

9. Subrecipient agrees to notify County of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement

Attachment E - Project Monitoring Requirements

Quarterly Progress Reports shall be submitted on the 21st of the month following the previous quarter. Quarterly reports shall be sent via e-mail to RIVCOARPA@RIVCO.ORG. The quarterly report shall include a brief description of the work performed during the reporting period, including construction status, milestones achieved, financial status report including cost incurred to date, cash flow projections, schedule updates, and any problems encountered in the performance of the work under this Agreement. The progress pay estimate for the reporting period shall be included as part of the quarterly progress report submittal.

In addition to the above, project schedule and cashflow projection updates shall be emailed to the County on a monthly basis.

Attachment F - Construction Requirements

Subrecipient shall:

1. Pursuant to the California Environmental Quality Act ("CEQA") and National Environmental Policy Act ("NEPA"), act as Lead Agency and assume responsibility for preparation, circulation and adoption of all necessary and appropriate CEQA documents pertaining to the construction, operation and maintenance of Infrastructure Projects.

2. To the extent that it has not already done so, the Subrecipient shall prepare or cause plans and specifications ("Plans") to be prepared for the Infrastructure Projects prior to advertising Infrastructure Projects for construction bids.

3. Provide County a copy of the engineering design cost proposal and associated design schedule for each Infrastructure Project.

4. Advertise and award a public works construction contract for the Infrastructure Projects and begin construction per the schedules included in **Attachment A** of this Agreement.

5. Prior to advertising Infrastructure Projects for public works construction contract, obtain all necessary permits, approvals, or agreements as may be required by any federal, state and local resource or regulatory agencies pertaining to the construction, operation and maintenance of Infrastructure Projects. Assume sole responsibility for compliance with the requirements of all regulatory permits, including any amendments thereto, pertaining to the construction, operation and maintenance of Infrastructure Projects.

6. Implement or cause to be implemented, all environmental mitigation required in association with the construction, operation and maintenance of Infrastructure Projects.

7. Prior to advertising Infrastructure Projects for public works construction contract, obtain all necessary permits, licenses, agreements, approvals, rights of way, rights of entry, encroachment permits, and temporary construction easements as may be needed to construct, operate and maintain the Infrastructure Projects.

8. Advertise, award and administer a public works construction contract for the Infrastructure Projects pursuant to the provisions of applicable laws for public works of improvements, including but not limited to the California Public Contract Code, Government Code and Labor Code.

9. Shall certify and cause its contractor to certify, that it is not a target of economic sanctions imposed in response to Russia's actions in Ukraine imposed by the United States government or the State of California. The Recipient and its Contractor is required to comply with the economic sanctions imposed in response to Russia's actions in Ukraine, including with respect to, but not limited to, the federal executive orders identified in California Executive Order N-6-22, located at https://www.gov.ca.gov/wp-content/uploads/2022/03/3.4.22-Russia-Ukraine-Executive-Order.pdf and the sanctions identified on the United States Department of the Treasury website (https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/ukraine-russia-related-sanctions). The Subrecipient and its Contractor is required to comply with all applicable reporting requirements regarding compliance with the economic sanctions, including, but not limited to, those reporting requirements set forth in California Executive Order N-6-22 for all parties with one or more agreements with the State of California, the County of Riverside, or any other local agency, with a value of Five Million Dollars ($5,000,000) or more. Notwithstanding any other provision in these documents, failure to comply with the economic sanctions and all applicable reporting

requirements may result in disqualification or termination of the Construction Agreement, if awarded.

For parties and contractors with an agreement value of Five Million Dollars ($5,000,000) or more with the State of California, the County of Riverside, or any other local agency, reporting requirements include, but are not limited to, information related to steps taken in response to Russia's actions in Ukraine, including but not limited to:

a. Desisting from making any new investments or engaging in financial transactions with Russian institutions or companies that are headquartered or have their principal place of business in Russia;
b. Not transferring technology to Russia or companies that are headquartered or have their principal place of business in Russia; and
c. Direct support to the government and people of Ukraine.

To comply with this requirement, Subrecipient and its contractors shall insert their name and Federal ID Number (if available) on the Certification Form attached hereto, and cause the certification to be executed by a duly authorized representative for the Subrecipient or contractor and return to the County.

10. The Subrecipient shall require, and the specifications, bid and contract documents shall require all contractors, subcontractors, vendors, equipment operators and owner operators, in each such case to the extent such individuals or entities are engaged to perform work on the Infrastructure Projects, to pay at least general prevailing wage rates to all workers employed in the execution of the contract, to post a copy of the general prevailing wage rates at the job-site in a conspicuous place available to all employees and applicants for employment, and to otherwise comply with applicable provisions of the California Labor Code and applicable laws relating to general prevailing wage rates.

11. Each contractor engaged to perform work on the Infrastructure Projects shall be required to furnish (i) labor and material payment bonds, and (ii) contract performance bonds, each in an amount equal to 100% of the contract price naming the Subrecipient as obligee and issued by a California admitted surety which complies with the provisions of Section 995.660 of the California Code of Civil Procedure.

12. Provide County with written notice that Subrecipient has awarded a public works construction contract for Infrastructure Projects. The written notice shall include the Contractor's actual bid amounts for Infrastructure Projects, setting forth herein the lowest responsible bid contract amount.

13. Prior to commencing Infrastructure Projects construction, provide to County:

a. A construction schedule which shall show the order and dates in which Subrecipient or Subrecipient's contractor proposes to carry on the various parts of work, including estimated start and completion dates, and

b. A confined space procedure specific to Infrastructure Projects. The procedure shall comply with requirements contained in California Code of Regulations, Title 8, Section 5156 et seq. and County's Confined Space Procedures, SOM-18.

14. Require its construction contractor(s) to comply with all Cal/OSHA safety

regulations including regulations concerning confined space and maintain a safe working environment for all working on the site.

15. Order the relocation of all utilities within Subrecipient rights of way which conflict with the construction of Infrastructure Projects and which must be relocated at the expense of who may have superior property rights.

16. Procure or caused to be procured insurance coverages during the term of this Agreement. Subrecipient shall require its Infrastructure Projects construction contractor(s) to furnish original certificate(s) of insurance and original certified copies of endorsements and if requested, certified original policies of insurance including all endorsements and any and all other attachments. Prior to Subrecipient issuing a Notice to Proceed to its construction contractor(s) to begin construction of Infrastructure Projects, an original certificate of insurance evidencing the required insurance coverage shall be provided to County. At minimum, the procured insurance coverages should adhere to the County's required insurance provided in **Attachment D** to this Agreement.

17. Construct, or cause to be constructed, Infrastructure Projects pursuant to a Subrecipient administered public works construction contract, in accordance with the Plans, and pay all costs associated therewith.

18. Inspect each Infrastructure Projects construction or cause each Infrastructure Project's construction to be inspected by its construction manager and pay all costs associated therewith.

19. Provide County with a copy of the Subrecipient's recorded Notice of Completion.

20. Keep an accurate accounting of all Infrastructure Projects cost and provide this accounting to County with Subrecipient's Notice of Completion. The final accounting of construction cost shall include a detailed breakdown of all costs, including, but not limited to, payment vouchers, Subrecipient approved change orders and other such construction contract documents as may be necessary to establish the actual cost of construction for the PLANS. Subrecipient shall be responsible to pay any amounts in excess of Award amount provided in this Agreement.

21. Refund to County, at the time of providing a Notice of Completion, any unexpended portions of Award amount within thirty (30) days of the Notice of Completion is filed for recordation.

COMPLIANCE WITH ECONOMIC SANCTIONS IN RESPONSE TO RUSSIA'S ACTIONS IN UKRAINE

Prior to bidding on, submitting a proposal, or executing a contract, a party/contractor must certify: 1) it is not a target of economic sanctions and 2) in compliance with economic sanctions imposed by the U.S. government in response to Russia's actions in Ukraine, as well as any requirements related to the Russian sanctions imposed by the California Governor's Executive Order N-6-22 issued on March 4, 2022 and under state law, if any.

To comply with this requirement, please insert the party/contractor name and Federal ID Number (if available), complete the information described below and execute by an authorized representative of the contractor.

CERTIFICATION

I, the authorized representative for contractor named below, certify I am duly authorized to execute this certification on behalf of the contractor below, and the contractor identified below has conducted a good faith review of existing contracts. I attest that the contractor is not a target of economic sanctions, and that contractor is in compliance with the economic sanctions imposed by the U.S. government in response to Russia's actions in Ukraine, as well as any requirements related to the Russian sanctions imposed by the California Governor's Executive Order N-6-22 issued on March 4, 2022 and under state law, if any.

Party/Contractor Name (Printed)	*Federal ID Number (or n/a)*
By (Authorized Signature)	
Printed Name and Title of Person Signing	
Date	

CHECKLIST FOR BIDDERS

The following information is required of all Bidders at the time of Bid submission:

- ✓ Completed and Signed Bid Cover Form
- ✓ Completed and Signed Bid Sheets (line Items – USE ELECTRONIC FORMAT)
- ✓ Completed and Signed Questionnaire
- ✓ Completed References Form
- ✓ Resume of General Construction Superintendent/On-Site Construction Manager
- ✓ Completed Subcontractor Designation Form
- ✓ Completed and Signed Industrial Safety Record Form
- ✓ Completed, Signed and Notarized Bid Bond or Other Security Form
- ✓ Signed Noncollusion Declaration Form
- ✓ Evidence satisfactory to the City indicating the capacity of the person(s) signing the Bid to bind the Bidder

Failure of the Bidder to provide all required information in a complete and accurate manner may cause the Bid to be considered non-responsive.

BID

CITY OF BANNING

PROJECT NO. 2024-06W "CHARLES STREET AND LINCOLN STREET NON-POTABLE WATER BOOSTER PUMP STATIONS & RESERVOIR/TANK"

TO THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF BANNING:

The undersigned, as Bidder, declares that: (1) this Bid is made without collusion with any other person and that the only persons or parties interested as principals are those named herein; (2) the undersigned has carefully examined the Contract Documents (including all Addenda) and the Project site; and (3) the undersigned has investigated and is satisfied as to the conditions to be encountered, the character, quality and quantities of Work to be performed, and the materials to be furnished. Furthermore, the undersigned agrees that submission of this Bid shall be conclusive evidence that such examination and investigation have been made and agrees, in the event the Contract be awarded to it, to execute the Contract with the City of Banning to perform the Project in accordance with the Contract Documents in the time and manner therein prescribed, and to furnish or provide all materials, labor, tools, equipment, apparatus and other means necessary so to do, except as may otherwise be furnished or provided under the terms of the Contract Documents, for the following stated unit prices or lump-sum price as submitted on the Bid herein.

Bidder acknowledges receipt of all addenda electronically as instructed herein.

The undersigned submits as part of this Bid a completed copy of its Industrial Safety Record. This Safety Record includes all construction Work undertaken in California by the undersigned and any partnership, joint venture or corporation that any principal of the undersigned participated in as a principal or owner for the last five (5) calendar years and the current calendar year before the date of Bid submittal. Separate information is being submitted for each such partnership, joint venture, or corporate or individual Bidder. The undersigned may attach any additional information or explanation of data that it would like to be taken into consideration in evaluating the Safety Record. An explanation of the circumstances surrounding any and all fatalities is attached.

Accompanying this Bid is cash, a cashier's check, a certified check or a Bid Bond in an amount equal to at least ten percent (10%) of the total aggregate Bid price based on the quantities shown and the unit prices quoted. The undersigned further agrees that, should it be awarded the Contract and thereafter fail or refuse to execute the Contract and provide the required evidence of insurance and Bonds within fifteen (15) Days after delivery of the Contract to the undersigned, then the cash, check or Bid Bond shall be forfeited to the City to the extent permitted by law.

The undersigned certifies to have a minimum of three (3) consecutive years of current experience in the type of Work related to the Project and that this experience is in actual operation of the firm with permanent employees performing a part of the Work as distinct from a firm operating entirely by subcontracting all phases of the Work. The undersigned also certifies to be properly licensed by the State as a contractor to perform this type of Work. The undersigned possesses California Contractor's License Number 782024, Class A, B, C-8, which expires on 7-31-26.

Bidder's Name: Pyramid Building + Engineering Inc.

Signature: _____ Title: President Date: 10-1-24

Signature: _____ Title: Secretary Date: 10-1-24

CITY OF BANNING

BID SHEETS FOR

PROJECT NO. 2024-06W "Charles Street and Lincoln Street Non-Potable Water Booster Pump Stations & Reservoir/Tank"

Bidder's Name: Pyramid Building & Engineering Inc.

To the Honorable Mayor and Members of the City Council:

In compliance with the Notice Inviting Bids, the undersigned hereby agrees to execute the Contract to furnish all labor, materials, equipment and supplies for the Project in accordance with the Contract Documents to the satisfaction and under the direction of the City Engineer, utilizing the following Bid Schedule. *All Bid amounts for the following Bid Schedule shall be entered and submitted electronically in the City's electronic Bidding system using the "line items" tab.:

BASE AMOUNT:

ITEM NO.	DESCRIPTION	UNIT	ESTIMATED QUANTITY
PART A – CHARLES STREET NON-POTABLE BOOSTER PUMP STATION			
1.	Mobilization/Demobilization of Construction Equipment and facilities (Including Preliminary Construction Schedule, Bonds, Insurance, Permits).	LS	1
2.	Provide Sheeting, Shoring, and Bracing for Excavations, or Equivalent Method Conforming to Applicable Safety Orders	LS	1
3.	Provide Project Submittals, Facility Startup, Project Closeout and all Division 1 Requirements	LS	1
4.	Furnish and Install Site Grading Earthwork, Paving, Drainage and Water Facilities per Separate Grading, Paving and Drainage Plans	LS	1
5.	Furnish and Install Concrete Foundation Slab for Booster Pump Station and all Appurtenant Work	LS	1
6.	Furnish and Install Concrete Masonry Split Face Building per Structural & Architectural Sheets including Ventilation and Intake Louvers, Security Grates and all Appurtenance Work	LS	1
7.	Furnish and Install 1,000 GPM Vertical Turbine Pump and Motor Assembly including Concrete Pump Pedestal, Pump Barrel and all Fittings and Appurtenance Work as Required	EA	2

8.	Furnish and Install 24" Diameter Steel Pump Barrel for Future Pump with Blind Flange	EA	1
9.	Furnish And Install all Above and Below Ground Mechanical Piping to Points of Connection, Fittings, Pressure Reducing Valve, Isolation Valve, Control Valves, Check Valves, Air-Release Valves, Transmitter Assemblies, Gauges and Switches, Flow Meters and Pipe Supports	LS	1
10.	Provide Painting and Coatings and Anti-Graffiti Coatings	LS	1
11.	Furnish and Install 4" Solvent Weld SDR26 PVC Drain Piping Including all Appurtenances as Required per Contract Drawings	LF	46
12.	Furnish and Install 3" Solvent Weld SDR26 PVC Drain Piping including all Appurtenances as Required per Contract Drawings	LF	20
13.	Furnish and Install 2" Solvent Weld SDR26 PVC Vent Piping Including all Appurtenances as Required per Contract Drawings	LF	18
14.	Furnish and Install all Electrical Equipment per Electrical Sheets (Mechanical Plans) including all Conduits, Fittings, Cables, Panels, VFD, 4" Concrete Housekeeping Pad, Site related Electrical Work and all Appurtenances as Required for a Complete Operating System	LS	1
15.	Furnish and Install Instrumentation Devices, Panels, Conduits, Cables, Wiring, Terminal Strips and all Appurtenances	LS	1
16.	Furnish and Install Fiber Optic Cable and Conduits including all Fittings, Pull Boxes and Site Related Work.	LS	1
17.	Furnish and Install 150 KW Emergency Standby Diesel Engine Generator with Level 2 Sound Enclosure, Subase Fuel Tank, Rypos Diesel Particulate Filter, Control Panel and all Appurtenances	LS	1
18.	Furnish and Install Concrete Generator Containment Pad with Drain Pipes	LS	1
19.	Furnish and Install SCADA System Including all Panels, Devices and Appurtenances as Required	LS	1
20.	Furnish and Install SWPPP and BMPs per Erosion Control Plans and Requirements of the 2022 California Construction General Permit (City to Provide SWPPP)	LS	1
21.	Furnish and Install Project Sign per Plans and Specifications.	LS	1
22.	Furnish and Install all Electrical Equipment per Banning Electrical Design Plan (Separate Plans) including	LS	1

	Trenching, Slab Boxes, Vault, Conduits, Street Trench Repair, Full Encasement (Red Brick Davis) and Cable Pull		
PART B – CHARLES STREET NON-POTABLE RESERVOIR			
23.	Mobilization/Demobilization of Construction Equipment and facilities (Including Preliminary Construction Schedule, Bonds, Insurance, Permits).	LS	1
24.	Provide Sheeting, Shoring, and Bracing for Excavations, or Equivalent Method Conforming to Applicable Safety Orders	LS	1
25.	Provide Project Submittals, Facility Startup, Project Closeout and all Division 1 Requirements	LS	1
26.	Furnish and Install Concrete Reservoir Ring Wall Footing including Column Foundations, Grounding Rods, Oiled Sand and all Appurtenance Work as Required.	LS	1
27.	Furnish and Install all Above and Below Ground Mechanical Piping to Site Piping Points of Connection, Fittings, Force Balance Flex Tends (2), Control Valves, Isolation Valve, Check Valves, Air-Release Valves, Transmitter Assemblies, Gauges, Painting and Coatings and Pipe Supports as Required.	LS	1
28.	Furnish and Install all Electrical Equipment per Electrical Sheets Including all Conduits, Fittings, Cables, Panels, Pole Mounted Lights and all Appurtenances as Required for a Complete Operating System.	LS	1
29.	Furnish and Install 0.30 MG Welded Steel Tank with Standard 3 Foot Knuckle Including Exterior Spiral Staircase, Interior Ladder Assembly, Overflow Pipe Assembly, Overflow Catch Basin, Roof Hatches, Roof Vent, and all other Appurtenances per Plans and Required.	LS	1
30.	Furnish and Install Interior and Exterior Painting and Coating Systems	LS	1
PART A + PART B: TOTAL BID CHARLES STREET NON-POTABLE BOOSTER STATION AND RESERVOIR			$ 5,210,888.00

ITEM NO.	DESCRIPTION	UNIT	ESTIMATED QUANTITY
PART C – LINCOLN STREET NON-POTABLE WATER BOOSTER STATION			
1.	Mobilization/Demobilization of Construction Equipment and Facilities (Including Preliminary Construction Schedule, Bonds, Insurance, and Permits)	LS	1
2.	Provide Sheeting, Shoring, and Bracing for Excavations, or Equivalent Method Conforming to Applicable Safety Orders	LS	1
3.	Provide Project Submittals, Facility Startup, Project Closeout and all Division 1 Requirements	LS	1
4.	Furnish and Install Site Grading Earthwork, Paving, Drainage and Water Facilities per Separate Grading, Paving and Drainage Plans	LS	1
5.	Furnish and Install Concrete Foundation Slab for Booster Pump Station and all Appurtenant Work	LS	1
6.	Furnish and Install Concrete Masonry Split Face Building per Structural & Architectural Sheets including Ventilation and Intake Louvers, Security Grates and all Appurtenance Work	LS	1
7.	Furnish and Install 1,000 GPM Vertical Turbine Pump and Motor Assembly including Concrete Pump Pedestal, Pump Barrel and all Fittings and Appurtenance Work as Required	EA	2
8.	Furnish and Install 24" Dia Steel Pump Barrel for Future Pump with Blind Flange	EA	1
9.	Furnish and Install all Above and Below Ground Mechanical Piping to Points of Connection, Fittings, Pressure Reducing Valve, Isolation Valve, Control Valves, Check Valves, Air-Release Valves, Transmitter Assemblies, Gauges and Switches, Flow Meters and Pipe Supports	LS	1
10.	Provide Painting and Coatings and Anti-Graffiti Coatings	LS	1
11.	Furnish And Install 4" Solvent Weld SDR26 PVC Drain Piping Including All Appurtenances as Required Per Contract Drawings	LF	46
12.	Furnish And Install 3" Solvent Weld SDR26 PVC Drain Piping including all Appurtenances as Required per Contract Drawings	LF	20
13.	Furnish and Install 2" Solvent Weld SDR26 PVC Vent Piping including all Appurtenances as Required per Contract Drawings	LF	18
14.	Furnish and Install all Electrical Equipment per Electrical Sheets including all Conduits, Fittings, Cables, Panels, VFD, 4" Concrete Housekeeping Pad, Site related Electrical Work	LS	1

	and all Appurtenances as Required for a Complete Operating System		
15.	Furnish and Install Instrumentation Devices, Panels, Conduits, Cables, Wiring, Terminal Strips and all Appurtenances	LS	1
16.	Furnish and Install Fiber Optic Cable and Conduits including all Fittings, Pull Boxes and Site related Work.	LS	1
17.	Furnish and Install SCADA System including all Panels, Devices and Appurtenances as Required	LS	1
18.	Furnish and Install Project Sign per Plans and Specifications.	LS	1
19.	Furnish and Install SWPPP and BMPs per Erosion Control Plans and Requirements of the 2022 California Construction General Permit (City to Provide SWPPP)	LS	1
20.	Furnish and Install all Electrical Equipment per Banning Electrical Design Plan (Separate Plans) including Trenching, Slab Boxes, Vault, Conduits, Street Trench Repair, Full Encasement (Red Brick Davis) and Cable Pull	LS	1
PART D – LINCOLN STREET NON-POTABLE FOREBAY TANK			
21.	Mobilization/Demobilization of Construction Equipment and facilities (Including Preliminary Construction Schedule, Bonds, Insurance, Permits).	LS	1
22.	Provide Sheeting, Shoring, and Bracing for Excavations, or Equivalent Method Conforming to Applicable Safety Orders	LS	1
23.	Provide Project Submittals, Facility Startup, Project Closeout and all Division 1 Requirements	LS	1
24.	Furnish and Install Concrete Forebay Ring Wall Footing including Column Foundations, Grounding Rods, Oiled Sand and all Appurtenance Work as Required.	LS	1
25.	Furnish and Install all Above and Below Ground Mechanical Piping to Site Piping Points of Connection, Fittings, Force Balance Flex-Tends (2), Control Valves, Isolation Valve, Check Valves, Air-Release Valves, Transmitter Assemblies, Gauges, Painting and Coatings and Pipe Supports as Required.	LS	1
26.	Furnish and Install all Electrical Equipment per Electrical Sheets including all Conduits, Fittings, Cables, Panels, Pole Mounted Lights and all Appurtenances as Required for a Complete Operating System.	LS	1
27.	Furnish and Install 0.06 MG Bolted Steel Tank including Exterior Spiral Staircase, Interior Ladder Assembly, Overflow Pipe Assembly, Overflow Catch Basin, Roof Hatches, Roof Vent and all other Appurtenances as Shown and Required.	LS	1

28.	Furnish and Install Interior and Exterior Painting and Coating Systems	LS	1
~~29.~~	~~Furnish and Install SWPPP and BMPs per Erosion Control Plans and Requirements of the 2022 California Construction General Permit (City to Provide SWPPP)~~	~~LS~~	~~1~~
PART C + PART D: TOTAL BID LINCOLN STREET NON-POTABLE BOOSTER PUMP STATION & FOREBAY TANK		$ 4,025,658.00	

Note: Items may be adjusted or deleted. Therefore, regardless of total actual volume (percentage) compared to estimated quantities, the unit prices submitted electronically by the Bidder shall be applied to the final quantity when payment is calculated for these items. No adjustment in the unit prices will be allowed. The City reserves the right not to use any of the estimated quantities; and if this right is exercised, the Contractor will not be entitled to any additional compensation. Cost of all export of material shall be included in the above unit costs; no additional compensation will be granted for such expenses.

TOTAL BID PRICE IN DIGITS (PART A + PART B + PART C + PART D):

$ 9,236,546.00

TOTAL BID PRICE IN WORDS (PART A + PART B + PART C + PART D):

NINE million Two Hundred Thirty six Thousand Five Hundred Forty six Dollars - Zero cents

Signature: _____ Title: President Date: 10-1-24

Signature: _____ Title: Secretary Date: 10-1-24

QUESTIONNAIRE FORM

Fill out all of the following information. Attach additional sheets if necessary.

(1) Bidder's Name: Pyramid Building & Engineering Inc.

(2) If the Bidder's name is a fictitious name, who or what is the full name of the registered owner? If the Bidder's name is not a fictitious name, write "N/A" in the response to this question. If you are doing business under a fictitious name, provide a copy of the filed valid Fictitious Business Name Statement.
N/A

(3) Business Address: 10975 G. Ave Hesperia Ca. 92345

(4) Telephone: 760.949.9005 Facsimile: 760.949.9855

(5) Type of Firm – Individual, Partnership, LLC or Corporation: Corporation

(6) Corporation organized under the laws of the State of: California

(7) California State Contractor's License Number and Class: 782024 ; A, B, C-8

Original Date Issued: 7.26.2000 Expiration Date: 7.31.26

(8) DIR Contractor Registration Number: 1000003470

(9) List the name and title of the person(s) who inspected the Project site for your firm:
John Garrison - Estimator

(10) Number of years' experience the company has as a contractor in construction work: 34

(11) List the names, titles, addresses and telephone numbers of all individuals, firm members, partners, joint venturers, and company or corporate officers having a principal interest in this Bid:
John Garrison ; President ; 9842 Joshua St. Oak Hills Ca. 92344 ; (760) 949-9005

Karen Garrison ; Secretary ; 9842 Joshua St. Oak Hills Ca. 92344 (760) 949-9005

(12) List all current and prior D.B.A.'s, aliases, and fictitious business names for any principal having interest in this Bid:
N/A

(13) List the dates of any voluntary or involuntary bankruptcy judgments against any principal having an interest in this Bid:
N/A

(14) For all arbitrations, lawsuits, settlements and the like (in or out of court) that the company or any principal having an interest in this Bid has been involved with in the past five (5) years:

a. List the names, addresses and telephone numbers of contact persons for the parties:

N/A

b. Briefly summarize the parties' claims and defenses:

N/A

c. State the tribunal (e.g., Superior Court, American Arbitration Association, etc.), the matter number, and the outcome:

N/A

(15) Has the company or any principal having an interest in this Bid ever had a contract terminated by the owner or agency? If yes, explain.

NO

(16) Has the company or any principal having an interest in this Bid ever failed to complete a project? If yes, explain.

ND

(17) Has the company or any principal having an interest in this Bid ever been terminated for cause, even if it was converted to a "termination of convenience"? If yes, explain.

ND

(18) For projects that the company or any principal having an interest in this Bid has been involved with in the last five (5) years, did you have any claims or actions:

a. By you against the owner? Circle one: Yes (No)

b. By the owner against you? Circle one: Yes (No)

c. By any outside agency or individual for labor compliance? Circle one: (Yes) No

d. By Subcontractors? Circle one: Yes (No)

e. Are any of these claims or actions unresolved or outstanding? Circle one: Yes (No)

If your answer is "yes" to any part or parts of this question, explain.

Accidentally paid "Enhineering" wage instead of "Building" wage for San Diego County. All wages & penalties have been paid and in good standing.

(19) List the last three (3) projects you have worked on or are currently working on for the City of Banning:

N/A

Upon request of the City, the Bidder shall furnish evidence showing a notarized financial statement, financial data, construction experience, or other additional information.

Failure to provide truthful answers to the questions above or in the following References Form may result in the Bid being deemed non-responsive.

The Bidder certifies under penalty of perjury under the laws of the State of California that the information provided above is true and correct.

Company

Signature: _____

Title: President

Date: 10·1·24

Signature: _____

Title: Secretary

Date: 10·1·24

REFERENCES FORM

For all public agency projects in excess of $15,000 that you are currently working on or have worked on in the past two (2) years, provide the following information:

Project 1 Name/Number L-25 Sewer Rehabilitation Project

Project Description Replacement of new mechanical & electrical systems inside lift station, install of new (MH) & 12 inch VCP & AC access path paving.

Approximate Construction Dates From: 6.26.22 To: Current

Agency Name: Long Beach Water Dept. Contact Person: Wendy Chen

Email Address: Wendy.Chen@lbwater.org Telephone: (562) 570-2324

Address: 1800 E. Wardlow Rd. Long Beach Ca. 90807

Original Contract Amount: $3,241,350.00 Final Contract Amount: $3,241,350.00

If final amount is different from original amount, please explain (change orders, extra work, etc.).

N/A

Did you or any Subcontractor, file any claims against the Agency?
Circle one: Yes (No)

Did the Agency file any claims against you? Circle one: Yes (No)

If you answered yes to either of the above two questions, please explain and indicate outcome of claims.

N/A

Project 2 Name/Number Henry J. Mills Water Treatment Plant

Project Description upgrading plants 4,160V main switchgear & standby generators switchgear, Replace Existing emergency generator control

Approximate Construction Date From: 3.13.22 To: Current

Agency Name: Metropolitan Water District Contact Person: Robert Gonzalez

Email Address: Robert.gonzalez@cs1electric.com Telephone: (562) 946-0700

Address: 28343 Greenspot Rd. Highland Ca. 92346

Original Contract Amount: $2,052,900.00 Final Contract Amount: $2,300,000.00

If final amount is different from original amount, please explain (change orders, extra work, etc.).

Change order

Did you or any Subcontractor, file any claims against the Agency?
Circle one: Yes (No)

Did the Agency file any claims against you? Circle one: Yes (No)

If you answered yes to either of the above two questions, please explain and indicate outcome of claims.

N/A

Project 3 Name/Number Clearwell pump Station Replacement

Project Description Construction of new Potable Water Pump Station.

Approximate Construction Dates From: 11.4.22 To: Current

Agency Name: City of Imperial Contact Person: Shane Bloomfield

Email Address: Shane.Bloomfield@WEBBASSOCIATES.com Telephone: (951) 248-4293

Address: 420 S. Imperial Ave Imperial, Ca. 92251

Original Contract Amount: $16,010,623.00 Final Contract Amount: $16,183,699.70

If final amount is different from original amount, please explain (change orders, extra work, etc.).

Change order

Did you or any Subcontractor, file any claims against the Agency?
Circle one: Yes (No)

Did the Agency file any claims against you? Circle one: Yes (No)

If you answered yes to either of the above two questions, please explain and indicate outcome of claims.

N/A

Project 4 Name/Number Los Coyotes Water Reclamation Plant

Project Description Replacement of existing SCE power service, medium voltage switchgear, 2500 KW gas turbine emergency generator.

Approximate Construction Dates From: 6.19.19 To: 1.21.24

Agency Name: LA County Sanitation District Contact Person: Jay Handleson

Email Address: Jayhandleson@csmelectric.com Telephone: (562) 946-0700

Address: 1955 Workman Mill Rd. Whittier Ca. 90601

Original Contract Amount: $4,710,915.00 Final Contract Amount: $5,800,000.00

If final amount is different from original amount, please explain (change orders, extra work, etc.).

Change order

Did you or any Subcontractor, file any claims against the Agency?
Circle one: Yes (No)

Did the Agency file any claims against you? Circle one: Yes (No)

If you answered yes to either of the above two questions, please explain and indicate outcome of claims.

N/A

Project 5 Name/Number Hespena I-15 Corridor Utility Improvements

Project Description Grading, underground utilities, Install of pre fabricated SLS wet well - Construct CMU Building.

Approximate Construction Dates From: 6.1.23 To: Current

Agency Name: City of Hespena Contact Person: Wade Pleper

Email Address: Wpleper@hespenaca.gov Telephone: (760) 947-1000

Address: 9700 7th Ave Hespena Ca. 92345

Original Contract Amount: $2,989,957.00 Final Contract Amount: $3,017,928.97

If final amount is different from original amount, please explain (change orders, extra work, etc.).

Change order

Did you or any Subcontractor, file any claims against the Agency?
Circle one: Yes (No)

Did the Agency file any claims against you? Circle one: Yes (No)

If you answered yes to either of the above two questions, please explain and indicate outcome of claims.

N/A

Project 6 Name/Number Azusa Ave Sewer Lift Station.

Project Description Replacing existing sewer pumps, Equipment, Controls, Conduits, wiring + Appurtenances.

Approximate Construction Dates From: 3.17.20 To: 4.30.23

Agency Name: City of West Covina Contact Person: Luanne Brian

Email Address: luanne.brian@nv5.com Telephone: (951) 377-1506

Address: 1444 W. Garvey Ave S. West Covina Ca. 91790

Original Contract Amount: $2,239,700.00 Final Contract Amount: $3,000,000.00

If final amount is different from original amount, please explain (change orders, extra work, etc.).

Change Order

Did you or any Subcontractor, file any claims against the Agency?
Circle one: Yes (No)

Did the Agency file any claims against you? Circle one: Yes (No)

If you answered yes to either of the above two questions, please explain and indicate outcome of claims.

N/A

RESUME

Attach to this Bid the experience resume of the person who will be designated as General Construction Superintendent or on-site Construction Manager for the Project.

Phillip M. Miller

14557 Jelan Ave
Apple Valley, CA 92307
(760) 403-0944 (cell) (760) 240-7445 (home)
Miller5pak@gmail.com

SKILLS

Over 25 years in underground construction, I am seeking a position to utilize and further develop my knowledge, skills and profession in a growth-oriented company.

EXPERIENCE

Pyramid Building & Engineering, Inc, Hesperia, CA

Superintendent, Underground Construction (May 2008 - PRESENT)

Responsibilities include installation, troubleshooting, and underground excavation in a water utilities and/or in the underground utilities/public works environment. Adhere to quality, safety and inspector regulations, as required.

- Extensive knowledge and ability to install all types of underground utilities: water, sewer, Edison, storm drain systems, reclaimed water systems and booster stations.
- Study and interpret blueprints, specifications, and job site conditions to plan effective procedures for successful execution.
- Able to calculate, establish and verify proper grades and elevations for all operations.
- Effectively record production and managing projects.
- Complete and process daily logs to document pertinent employee and project information.
- Review and process all project documents, daily logs, time cards, field work orders and incident reports.
- Record equipment usage and schedule moves to ensure cost effective project and rental duration.
- Review and process accurate as-built drawings.
- Effectively interact with project inspectors and governing authorities to complete project requirements and objectives.
- Effectively interact with the General Superintendent and Project Manager to schedule and meet project deadlines.
- Possess leadership skills required to effectively grow, manage and coordinate multiple crews to complete company and project objectives.
- Oversee Foremen and/or crew member interaction to ensure team strength, development and engagement.

- Strategically coordinate and cost effectively assign labor force through dispatched personnel when necessary.
- Inspect work in progress to ensure quality control conforms to project specifications and schedules.
- Ensure job sites are organized to facilitate a safe and productive work environment.
- Promote, oversee and ensure field operations comply with company policies and OSHA safe practices.
- Identify potential safety and operational deficiencies; ensure and document corrective action.
- Operate excavator, loader and backhoe according to OSHA safe practices if required.
- Assist in the hiring/retention process by conducting field interview, training and developing field personnel.
- Engage with employees, vendors and clients to build trustworthy, long term and mutually profitable relationships.
- Perform pre- and post-job walks.
- Liaison to inspectors, subcontractors, suppliers and/or construction staff.
- Perform any other job related duties as assigned by General Superintendent.

Aspen Pipeline - *Apple Valley, CA* *(JULY 2002-APR 2008)*

Superintendent, Underground Construction

Responsibilities: Prepare, manage and coordinate the construction of underground pipeline operations, including water, sewer, storm drain, reclaimed water, Edison and other underground utilities. Duties include meeting all time, cost, spec book, blue prints, proposals, change orders, safety and/or inspector regulations and customer job requirements. Coordinator for the employee Safety and Drug program. Review job applications, interview, and hire/terminate jobsite personnel. Order tools/materials necessary to comply with all work and/or jobsite schedules, liaison for all job foremen, subcontractors, inspectors and material suppliers. Coordinate various phases of construction to ensure specifications and schedules are on track. Oversee the engineering staff responsible for pipeline installation, construction and repair projects. Work closely/ collaboratively with the estimator, mechanic and office personnel.

Cooley Construction - Hesperia, CA (NOV 2007 – JULY 2002)

Foreman/Operator, Underground Division

Responsibilities: Acting foreman for the pipeline construction division. Duties include ordering of materials, supplies and equipment as necessary. Coordinate jobsite

inspections. Heavy equipment operator. Report progress, materials used and jobsite cost information directly to the superintendent. Schedule jobsite personnel work schedules as necessary to comply with job timelines and requirements.

RCA & Associates - Victorville, CA (JUNE 1993-NOV 1997)

Foreman & Operator

Duties include oversee the completion of underground pipeline jobs. Operator of all heavy construction equipment. Acting supervisor to pipe layer and operator personnel.

EDUCATION

- **Mt. San Antonio College, Fullerton, CA** (1985-1986)
- **Ontario High School, Ontario, CA** - *High School Diploma, 1985*

EQUIPMENT EXPERIENCE:

Excavator, Backhoe, Loader, Skip-Loader, Trencher, Graders, Blades, Water Truck and Forklift.

CERTIFICATIONS

- General A Engineering License – CA 906981 (Inactive)
- Confined Spaces
- Trench Safety
- Competent Person
- Coordinator, Drug Program
- OSHA30
- SWEP Program
- CPR and First Aid

Professional references available upon request.

Clyde Edward Streeter IV

(760)404-2341
P.O. Box 292992, Phelan, CA, 92329

Professional profile Superintendent/foreman with 15 years' experience

- Waterline/sewer/storm drain
- Heavy equipment operator
- Sewer lift station/booster pumps
- Competent person/trench shoring and excavation/confined spaces/osha 30
- Project management
- Project scheduling
- Estimating
- Computer communications

Work accomplishment

Waterline Installed
- C900, Ductile Iron
- Booster pump stations
- A/c, & CMLC
- Copper & Poly

Sewer Line Installed
- Sdr35
- clay
- Sewer Lift station
- Pvc/Cpvc, ABS

Booster/lift stations
- Booster pump systems
- Sewer lift pump
- Site development
- Retention systems

Work History

2005 to present
Superintendent/foreman for Pyramid Building & Eng. Inc., 10975 G Ave., Hesperia, CA.
Site development/ scheduling our projects as well as equipment delivery's and sub-contractors. Started and completed various projects since becoming a superintendent in 2009
2003 to 2005
Cellular towers, net-com services, Valencia, CA
Ultimate framing, Hesperia, ca
Genesis construction, Hemet, ca

Education graduate

Serrano High School
Phelan, CA
June 22, 2013

References David Martinez, Pyramid Building, 760 508 0382
Phil Miller, Pyramid Building, 760 403 0944
John Garrison, Owner Pyramid Building, 760 949 9005

CALIFORNIA AIR RESOURCES BOARD (CARB) REQUIREMENT FOR CERTIFICATE OF REPORTED COMPLIANCE

Re: In-Use Off-Road Diesel-Fueled Fleets Regulation
(Cal Code Regs., Title 13 § 2449 et seq.) effective 1/1/2024

(To be submitted with bid)

1a) Check below if contractor or subcontractor will use on the project, any of the following off-road heavy duty diesel-powered vehicles subject to Cal Code Regs., Title 13 § 2449 et seq:

□ Work Over Rigs, as defined in Cal Code Regs., Title 13 §2449(c)(72),

□ Engines with two-engine cranes, which contain an auxiliary engine ≥ 50 bhp, as defined in Cal Code Regs., Title 13 §2449(c)(66),

□ Two engine water-well drilling rigs, which contain an auxiliary engine ≥ 50 bhp, as defined in Cal Code Regs., Title 13 §2449(c)(68), or

□ Engines of two-engine vehicles that are designed to be driven on/off road and contain an auxiliary engine ≥ 50 bhp, as defined in Cal Code Regs., Title 13 §2449(c)(67) – (e.g., Boom Trucks, Concrete Mixers, Concrete Pump Trucks, Vacuum Pump Trucks, Guardrail Fence Installers) (NOTE: Does not apply if vehicle is a two-engine vehicle: 1) Already subject to the Fleet Rule for Public Agencies and Utilities (Title 13, CCR, sections 2022 and 2022.1; 2) Is a two-engine sweeper, as defined in Truck and Bus regulation, Title 13, CCR, section 225; and 3) Does not have a Tier 0 auxiliary engine)

OR

b) □ No vehicles subject to Cal Code Regs., Title 13 § 2449 et seq. apply to the project. [Proceed to the end and Sign the Verification below.]

2a) If any box is checked in number 1(a), did you or your subcontractor register any vehicles that qualify as In-Use Off-road Diesel-fueled Fleets, with the California Air Resources Board (CARB)?

☑YES □NO

b) If you checked "No" to number 2, then explain reason:

Exempt: □ Emergency Operations

□ Renewable Diesel Exemptions
(based on fleet engine type or weather restrictions)

□ Unavailability of Renewable Diesel

□ Other: _____

3a) If you checked "Yes" to number 2, then submit with the bid response, a **CARB's Certificate of Reported Compliance (Certificate)** for the applicable vehicles owned or operated by you or your subcontractor to show compliance with Cal Code Regs., Title 13 § 2449 et seq.
[Visit the CARB website to get a CARB Certificate online: arb.ca.gov/offroadzone]:

CARB Certificate Attached with Bid: ☑YES ☐NO

3b) If you checked "No" to number 3, then explain reason:

_____

_____.

4) Non-Compliance is Non-responsive.

a. Unless otherwise exempt or not applicable as indicated above, the **bid proposal must include a CARB's Certificate of Reported Compliance (Certificate)** for vehicles subject to Cal. Code Regs., Title 13 § 2449 et seq., **and no later than prior to the time of the bid award, or the bid proposal may be deemed non-responsive**. Bid responder further understands that valid certificates will need to be resubmitted upon renewal of any contract.

b. Unless otherwise exempt or not applicable as indicated above, bid responder further agrees to comply with all the requirements of Cal. Code Regs., Title 13 § 2449(j), including but not limited to:
- Allowing only off-duty diesel vehicles with valid Certificates to be used at the contractor's job sites (Title 13 § 2449(j)(2)),
- Reporting noncompliant vehicles as required under Title 13 § 2449(j)(3)
- Displaying signage that complies with the requirements of Title 13 § 2449(j)(5).

Verification

1. The undersigned states that the statements made herein are true and correct and made under penalty of perjury.
2. The undersigned acknowledges that the undersigned is authorized to sign on behalf of the bid responder and the statement(s) made herein is/are legally binding on the bid responder, their representatives, agents, and successors.
3. A scanned, electronic, or other copy of a party's signature shall be legally valid as an original.

John Gamson	/		/ Pyramid Building & Engineering Inc.	10-9-24
(Print Name of Bid Responder)		(Signature)	(Business Name)	(Date)

California Environmental Protection Agency

Air Resources Board

January 1, 2024

CERTIFICATE OF REPORTED COMPLIANCE
OFF-ROAD DIESEL VEHICLE REGULATION

is issued to

PYRAMID BUILDING & ENGINEERING, INC.

This certificate indicates that the fleet listed above has reported off-road diesel vehicles to the California Air Resources Board and has certified they are in compliance with title 13 CCR, section 2449. All applicable vehicles owned by the individual, company, or agency must be reported and labeled, as specified in Section 2449, with all possible completeness, else this certificate is null and void. **Certificate expires 2/28/2025**

Jack Kitowski
Chief, Mobile Source Control Division
California Air Resources Board

Off-road Diesel Fleet Identification

5052

To verify the authenticity of this certificate, enter this number at
http://www.arb.ca.gov/doors/compliance_cert1.html

DESIGNATION OF SUBCONTRACTORS
[Public Contract Code Section 4104]

List all Subcontractors who will perform Work or labor or render service to the Contractor in or about the construction of the Work or improvement, or a Subcontractor licensed by the State of California who, under subcontract to the Contractor, specially fabricates and installs a portion of the Work or improvement according to detailed drawings contained in the Plans and Specifications, in an amount in excess of one-half percent (0.5%) of the Contractor's total Bid or, in the case of bids or offers for the construction of streets or highways, including bridges, in excess of one-half percent (0.5%) of the Contractor's total Bid or $10,000, whichever is greater. If all Subcontractors do not fit on this page, attach another page listing all information for all other Subcontractors.

Name under which Subcontractor is Licensed and Registered	CSLB License Number(s) and Class(es)	DIR Contractor Registration Number	Address and Phone Number	Type of Work (e.g., Electrical)	Total Amount	Percentage of Total Bid (e.g., 10%)*
Quality Rebar Inc	818573	1000000745	13275 Gregg St Poway CA 92064	Reinforcing Steel	$23,269.00	1/2 %

* The percentage of the total Bid shall represent the "portion of the work" for the purposes of Public Contract Code Section 4104(b).

California Environmental Protection Agency

Air Resources Board

January 1, 2024

CERTIFICATE OF REPORTED COMPLIANCE
OFF-ROAD DIESEL VEHICLE REGULATION

is issued to

QUALITY REINFORCING INC.

This certificate indicates that the fleet listed above has reported off-road diesel vehicles to the California Air Resources Board and has certified they are in compliance with title 13 CCR, section 2449. All applicable vehicles owned by the individual, company, or agency must be reported and labeled, as specified in Section 2449, with all possible completeness, else this certificate is null and void. **Certificate expires 2/28/2025**

Jack Kitowski
Chief, Mobile Source Control Division
California Air Resources Board

Off-road Diesel Fleet Identification

12331

To verify the authenticity of this certificate, enter this number at
http://www.arb.ca.gov/doors/compliance_cert1.html

CALIFORNIA AIR RESOURCES BOARD (CARB) REQUIREMENT FOR CERTIFICATE OF REPORTED COMPLIANCE

Re: In-Use Off-Road Diesel-Fueled Fleets Regulation
(Cal Code Regs., Title 13 § 2449 et seq.) effective 1/1/2024

(To be submitted with bid)

1a) Check below if contractor or subcontractor will use on the project, any of the following off-road heavy duty diesel-powered vehicles subject to Cal Code Regs., Title 13 § 2449 et seq:

□ Work Over Rigs, as defined in Cal Code Regs., Title 13 §2449(c)(72),

□ Engines with two-engine cranes, which contain an auxiliary engine ≥ 50 bhp, as defined in Cal Code Regs., Title 13 §2449(c)(66),

□ Two engine water-well drilling rigs, which contain an auxiliary engine ≥ 50 bhp, as defined in Cal Code Regs., Title 13 §2449(c)(68), or

□ Engines of two-engine vehicles that are designed to be driven on/off road and contain an auxiliary engine ≥ 50 bhp, as defined in Cal Code Regs., Title 13 §2449(c)(67) – (e.g., Boom Trucks, Concrete Mixers, Concrete Pump Trucks, Vacuum Pump Trucks, Guardrail Fence Installers) (NOTE: Does not apply if vehicle is a two-engine vehicle: 1) Already subject to the Fleet Rule for Public Agencies and Utilities (Title 13, CCR, sections 2022 and 2022.1; 2) Is a two-engine sweeper, as defined in Truck and Bus regulation, Title 13, CCR, section 225; and 3) Does not have a Tier 0 auxiliary engine)

OR

b) ☒ No vehicles subject to Cal Code Regs., Title 13 § 2449 et seq. apply to the project. [Proceed to the end and Sign the Verification below.]

2a) If any box is checked in number 1(a), did you or your subcontractor register any vehicles that qualify as In-Use Off-road Diesel-fueled Fleets, with the California Air Resources Board (CARB)?

☐ YES ☐ NO

b) If you checked "No" to number 2, then explain reason:

Exempt: □ Emergency Operations

□ Renewable Diesel Exemptions
(based on fleet engine type or weather restrictions)

□ Unavailability of Renewable Diesel

□ Other: _____

3a) If you checked "Yes" to number 2, then submit with the bid response, a **CARB's Certificate of Reported Compliance (Certificate)** for the applicable vehicles owned or operated by you or your subcontractor to show compliance with Cal Code Regs., Title 13 § 2449 et seq.
[Visit the CARB website to get a CARB Certificate online: arb.ca.gov/offroadzone]:

CARB Certificate Attached with Bid: ☒YES ☐NO

3b) If you checked "No" to number 3, then explain reason:

_____

_____.

4) Non-Compliance is Non-responsive.

a. Unless otherwise exempt or not applicable as indicated above, the **bid proposal must include a CARB's Certificate of Reported Compliance (Certificate)** for vehicles subject to Cal. Code Regs., Title 13 § 2449 et seq., **and no later than prior to the time of the bid award, or the bid proposal may be deemed non-responsive.** Bid responder further understands that valid certificates will need to be resubmitted upon renewal of any contract.

b. Unless otherwise exempt or not applicable as indicated above, bid responder further agrees to comply with all the requirements of Cal. Code Regs., Title 13 § 2449(j), including but not limited to:
- Allowing only off-duty diesel vehicles with valid Certificates to be used at the contractor's job sites (Title 13 § 2449(j)(2)),
- Reporting noncompliant vehicles as required under Title 13 § 2449(j)(3)
- Displaying signage that complies with the requirements of Title 13 § 2449(j)(5).

Verification

1. The undersigned states that the statements made herein are true and correct and made under penalty of perjury.
2. The undersigned acknowledges that the undersigned is authorized to sign on behalf of the bid responder and the statement(s) made herein is/are legally binding on the bid responder, their representatives, agents, and successors.
3. A scanned, electronic, or other copy of a party's signature shall be legally valid as an original.

Alyssa Jorden	/	/ Quality Rebar Inc	10/9/24
(Print Name of Bid Responder)	(Signature)	(Business Name)	(Date)

DESIGNATION OF SUBCONTRACTORS
[Public Contract Code Section 4104]

List all Subcontractors who will perform Work or labor or render service to the Contractor in or about the construction of the Work or improvement, or a Subcontractor licensed by the State of California who, under subcontract to the Contractor, specially fabricates and installs a portion of the Work or improvement according to detailed drawings contained in the Plans and Specifications, in an amount in excess of one-half percent (0.5%) of the Contractor's total Bid or, in the case of bids or offers for the construction of streets or highways, including bridges, in excess of one-half percent (0.5%) of the Contractor's total Bid or $10,000, whichever is greater. If all Subcontractors do not fit on this page, attach another page listing all information for all other Subcontractors.

Name under which Subcontractor is Licensed and Registered	CSLB License Number(s) and Class(es)	DIR Contractor Registration Number	Address and Phone Number	Type of Work (e.g., Electrical)	Total Amount	Percentage of Total Bid (e.g., 10%)*
Atlas sheet metal, inc.	742486	1000017265	11614 Martens River Cir, Fountain Valley, CA 92708	sheet metal	#24000.00	1/2%

* The percentage of the total Bid shall represent the "portion of the work" for the purposes of Public Contract Code Section 4104(b).

3a) If you checked "Yes" to number 2, then submit with the bid response, a **CARB's Certificate of Reported Compliance (Certificate)** for the applicable vehicles owned or operated by you or your subcontractor to show compliance with Cal Code Regs., Title 13 § 2449 et seq.
[Visit the CARB website to get a CARB Certificate online: arb.ca.gov/offroadzone]:

CARB Certificate Attached with Bid: □YES □NO

3b) If you checked "No" to number 3, then explain reason:

_____

_____.

4) Non-Compliance is Non-responsive.

a. Unless otherwise exempt or not applicable as indicated above, the **bid proposal must include a CARB's Certificate of Reported Compliance (Certificate)** for vehicles subject to Cal. Code Regs., Title 13 § 2449 et seq., **and no later than prior to the time of the bid award, or the bid proposal may be deemed non-responsive.** Bid responder further understands that valid certificates will need to be resubmitted upon renewal of any contract.

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- Allowing only off-duty diesel vehicles with valid Certificates to be used at the contractor's job sites (Title 13 § 2449(j)(2)),
- Reporting noncompliant vehicles as required under Title 13 § 2449(j)(3)
- Displaying signage that complies with the requirements of Title 13 § 2449(j)(5).

Verification

1. The undersigned states that the statements made herein are true and correct and made under penalty of perjury.
2. The undersigned acknowledges that the undersigned is authorized to sign on behalf of the bid responder and the statement(s) made herein is/are legally binding on the bid responder, their representatives, agents, and successors.
3. A scanned, electronic, or other copy of a party's signature shall be legally valid as an original.

Raelene Pace	Raelene Pace	Atlas Sheet Metal, Inc.	10/9/24
(Print Name of Bid Responder)	(Signature)	(Business Name)	(Date)

CALIFORNIA AIR RESOURCES BOARD (CARB) REQUIREMENT FOR CERTIFICATE OF REPORTED COMPLIANCE

Re: In-Use Off-Road Diesel-Fueled Fleets Regulation
(Cal Code Regs., Title 13 § 2449 et seq.) effective 1/1/2024

(To be submitted with bid)

1a) Check below if contractor or subcontractor will use on the project, any of the following off-road heavy duty diesel-powered vehicles subject to Cal Code Regs., Title 13 § 2449 et seq:

- ☐ Work Over Rigs, as defined in Cal Code Regs., Title 13 §2449(c)(72),
- ☐ Engines with two-engine cranes, which contain an auxiliary engine ≥ 50 bhp, as defined in Cal Code Regs., Title 13 §2449(c)(66),
- ☐ Two engine water-well drilling rigs, which contain an auxiliary engine ≥ 50 bhp, as defined in Cal Code Regs., Title 13 §2449(c)(68), or
- ☐ Engines of two-engine vehicles that are designed to be driven on/off road and contain an auxiliary engine ≥ 50 bhp, as defined in Cal Code Regs., Title 13 §2449(c)(67) – (e.g., Boom Trucks, Concrete Mixers, Concrete Pump Trucks, Vacuum Pump Trucks, Guardrail Fence Installers) (NOTE: Does not apply if vehicle is a two-engine vehicle: 1) Already subject to the Fleet Rule for Public Agencies and Utilities (Title 13, CCR, sections 2022 and 2022.1; 2) Is a two-engine sweeper, as defined in Truck and Bus regulation, Title 13, CCR, section 225; and 3) Does not have a Tier 0 auxiliary engine)

OR

b) ☒ No vehicles subject to Cal Code Regs., Title 13 § 2449 et seq. apply to the project. [Proceed to the end and Sign the Verification below.]

2a) If any box is checked in number 1(a), did you or your subcontractor register any vehicles that qualify as In-Use Off-road Diesel-fueled Fleets, with the California Air Resources Board (CARB)?

☐YES ☐NO

b) If you checked "No" to number 2, then explain reason:

Exempt:
- ☐ Emergency Operations
- ☐ Renewable Diesel Exemptions (based on fleet engine type or weather restrictions)
- ☐ Unavailability of Renewable Diesel
- ☐ Other: _____

DESIGNATION OF SUBCONTRACTORS
[Public Contract Code Section 4104]

List all Subcontractors who will perform Work or labor or render service to the Contractor in or about the construction of the Work or improvement, or a Subcontractor licensed by the State of California who, under subcontract to the Contractor, specially fabricates and installs a portion of the Work or improvement according to detailed drawings contained in the Plans and Specifications, in an amount in excess of one-half percent (0.5%) of the Contractor's total Bid or, in the case of bids or offers for the construction of streets or highways, including bridges, in excess of one-half percent (0.5%) of the Contractor's total Bid or $10,000, whichever is greater. If all Subcontractors do not fit on this page, attach another page listing all information for all other Subcontractors.

Name under which Subcontractor is Licensed and Registered	CSLB License Number(s) and Class(es)	DIR Contractor Registration Number	Address and Phone Number	Type of Work (e.g., Electrical)	Total Amount	Percentage of Total Bid (e.g., 10%)*
Anderson Air Conditioning, L.P.	1075333 C-20, B,	1000765095	2100 E. Walnut Avenue, Fullerton, CA 92831	Mechanical	$58,800.00	1 %
	C-10 & C-38		(714) 888-6800			

* The percentage of the total Bid shall represent the "portion of the work" for the purposes of Public Contract Code Section 4104(b).

3a) If you checked "Yes" to number 2, then submit with the bid response, a **CARB's Certificate of Reported Compliance (Certificate)** for the applicable vehicles owned or operated by you or your subcontractor to show compliance with Cal Code Regs., Title 13 § 2449 et seq.
[Visit the CARB website to get a CARB Certificate online: arb.ca.gov/offroadzone]:

CARB Certificate Attached with Bid: □YES □NO

3b) If you checked "No" to number 3, then explain reason:

_____

_____.

4) Non-Compliance is Non-responsive.

a. Unless otherwise exempt or not applicable as indicated above, the **bid proposal must include a CARB's Certificate of Reported Compliance (Certificate)** for vehicles subject to Cal. Code Regs., Title 13 § 2449 et seq., **and no later than prior to the time of the bid award, or the bid proposal may be deemed non-responsive**. Bid responder further understands that valid certificates will need to be resubmitted upon renewal of any contract.

b. Unless otherwise exempt or not applicable as indicated above, bid responder further agrees to comply with all the requirements of Cal. Code Regs., Title 13 § 2449(j), including but not limited to:
- Allowing only off-duty diesel vehicles with valid Certificates to be used at the contractor's job sites (Title 13 § 2449(j)(2)),
- Reporting noncompliant vehicles as required under Title 13 § 2449(j)(3)
- Displaying signage that complies with the requirements of Title 13 § 2449(j)(5).

Verification

1. The undersigned states that the statements made herein are true and correct and made under penalty of perjury.
2. The undersigned acknowledges that the undersigned is authorized to sign on behalf of the bid responder and the statement(s) made herein is/are legally binding on the bid responder, their representatives, agents, and successors.
3. A scanned, electronic, or other copy of a party's signature shall be legally valid as an original.

Mitch Haynam	Mitch Haynam	Anderson Air Conditioning LP	10-3-24
(Print Name of Bid Responder)	(Signature)	(Business Name)	(Date)

CALIFORNIA AIR RESOURCES BOARD (CARB) REQUIREMENT FOR CERTIFICATE OF REPORTED COMPLIANCE

Re: In-Use Off-Road Diesel-Fueled Fleets Regulation
(Cal Code Regs., Title 13 § 2449 et seq.) effective 1/1/2024

(To be submitted with bid)

1a) Check below if contractor or subcontractor will use on the project, any of the following off-road heavy duty diesel-powered vehicles subject to Cal Code Regs., Title 13 § 2449 et seq:

□ Work Over Rigs, as defined in Cal Code Regs., Title 13 §2449(c)(72),

□ Engines with two-engine cranes, which contain an auxiliary engine ≥ 50 bhp, as defined in Cal Code Regs., Title 13 §2449(c)(66),

□ Two engine water-well drilling rigs, which contain an auxiliary engine ≥ 50 bhp, as defined in Cal Code Regs., Title 13 §2449(c)(68), or

□ Engines of two-engine vehicles that are designed to be driven on/off road and contain an auxiliary engine ≥ 50 bhp, as defined in Cal Code Regs., Title 13 §2449(c)(67) – (e.g., Boom Trucks, Concrete Mixers, Concrete Pump Trucks, Vacuum Pump Trucks, Guardrail Fence Installers) (NOTE: Does not apply if vehicle is a two-engine vehicle: 1) Already subject to the Fleet Rule for Public Agencies and Utilities (Title 13, CCR, sections 2022 and 2022.1; 2) Is a two-engine sweeper, as defined in Truck and Bus regulation, Title 13, CCR, section 225; and 3) Does not have a Tier 0 auxiliary engine)

OR

b) ☒ No vehicles subject to Cal Code Regs., Title 13 § 2449 et seq. apply to the project. [Proceed to the end and Sign the Verification below.]

2a) If any box is checked in number 1(a), did you or your subcontractor register any vehicles that qualify as In-Use Off-road Diesel-fueled Fleets, with the California Air Resources Board (CARB)?

□YES □NO

b) If you checked "No" to number 2, then explain reason:

Exempt: □ Emergency Operations

□ Renewable Diesel Exemptions
(based on fleet engine type or weather restrictions)

□ Unavailability of Renewable Diesel

□ Other: _____

DESIGNATION OF SUBCONTRACTORS
[Public Contract Code Section 4104]

List all Subcontractors who will perform Work or labor or render service to the Contractor in or about the construction of the Work or improvement, or a Subcontractor licensed by the State of California who, under subcontract to the Contractor, specially fabricates and installs a portion of the Work or improvement according to detailed drawings contained in the Plans and Specifications, in an amount in excess of one-half percent (0.5%) of the Contractor's total Bid or, in the case of bids or offers for the construction of streets or highways, including bridges, in excess of one-half percent (0.5%) of the Contractor's total Bid or $10,000, whichever is greater. If all Subcontractors do not fit on this page, attach another page listing all information for all other Subcontractors.

Name under which Subcontractor is Licensed and Registered	CSLB License Number(s) and Class(es)	DIR Contractor Registration Number	Address and Phone Number	Type of Work (e.g., Electrical)	Total Amount	Percentage of Total Bid (e.g., 10%)*
HEMET FENCE CORP.	C-13 1000432	1000006953	25959 Juniper Flats Rd Homeland, CA 92548	Fence Installation	$154,425.00	2%

* The percentage of the total Bid shall represent the "portion of the work" for the purposes of Public Contract Code Section 4104(b).

CALIFORNIA AIR RESOURCES BOARD

CLEAN TRUCK CHECK

Affirmation of Fleetwide Compliance

Certification ID: 15855

This certificate affirms that

Hemet Fence Corp
25959 Juniper Flats Rd
Homeland, CA 92548

has attested in the Clean Truck Check electronic reporting system to report a complete list of vehicles subject to Heavy-Duty Inspection and Maintenance (HD I/M) Regulation and the California Air Resources Board (CARB) hereby verifies that as of 1/24/2024, all of the attested vehicles are compliant with the Clean Truck Check. *

A complete list of the attested vehicles is listed in the following page(s).

*This Affirmation of Fleet Wide Compliance shall be used for the fleet's purposes of proving their fleet compliance status with their freight contractors and brokers. This Affirmation of Fleet Wide Compliance shall not constitute proof of a vehicle compliance with the Clean Truck Check beyond the issued date.

S.No	VIN Numbers
1	1FDUF5GT8KEG10677
2	1FDUF5GT3KDA08548
3	1FDUF5GT5KDA08549
4	1FDUF5GT9GEB98938
5	1FDUF5GT1KDA08547
6	1FDUF5GT7LDA04035
7	1FDNF6DE5NDF01376

California Environmental Protection Agency

Air Resources Board

January 1, 2024

CERTIFICATE OF REPORTED COMPLIANCE
OFF-ROAD DIESEL VEHICLE REGULATION

is issued to

HEMET FENCE CORP

This certificate indicates that the fleet listed above has reported off-road diesel vehicles to the California Air Resources Board and has certified they are in compliance with title 13 CCR, section 2449. All applicable vehicles owned by the individual, company, or agency must be reported and labeled, as specified in Section 2449, with all possible completeness, else this certificate is null and void. **Certificate expires 2/28/2025**

Jack Kitowski
Chief, Mobile Source Control Division
California Air Resources Board

Off-road Diesel Fleet Identification

239592

To verify the authenticity of this certificate, enter this number at
http://www.arb.ca.gov/doors/compliance_cert1.html

CALIFORNIA AIR RESOURCES BOARD (CARB) REQUIREMENT FOR CERTIFICATE OF REPORTED COMPLIANCE

Re: In-Use Off-Road Diesel-Fueled Fleets Regulation
(Cal Code Regs., Title 13 § 2449 et seq.) effective 1/1/2024

(To be submitted with bid)

1a) Check below if contractor or subcontractor will use on the project, any of the following off-road heavy duty diesel-powered vehicles subject to Cal Code Regs., Title 13 § 2449 et seq:

- ☐ Work Over Rigs, as defined in Cal Code Regs., Title 13 §2449(c)(72),
- ☐ Engines with two-engine cranes, which contain an auxiliary engine ≥ 50 bhp, as defined in Cal Code Regs., Title 13 §2449(c)(66),
- ☐ Two engine water-well drilling rigs, which contain an auxiliary engine ≥ 50 bhp, as defined in Cal Code Regs., Title 13 §2449(c)(68), or
- ☒ Engines of two-engine vehicles that are designed to be driven on/off road and contain an auxiliary engine ≥ 50 bhp, as defined in Cal Code Regs., Title 13 §2449(c)(67) – (e.g., Boom Trucks, Concrete Mixers, Concrete Pump Trucks, Vacuum Pump Trucks, Guardrail Fence Installers) (NOTE: Does not apply if vehicle is a two-engine vehicle: 1) Already subject to the Fleet Rule for Public Agencies and Utilities (Title 13, CCR, sections 2022 and 2022.1; 2) Is a two-engine sweeper, as defined in Truck and Bus regulation, Title 13, CCR, section 225; and 3) Does not have a Tier 0 auxiliary engine)

OR

b) ☐ No vehicles subject to Cal Code Regs., Title 13 § 2449 et seq. apply to the project. [Proceed to the end and Sign the Verification below.]

2a) If any box is checked in number 1(a), did you or your subcontractor register any vehicles that qualify as In-Use Off-road Diesel-fueled Fleets, with the California Air Resources Board (CARB)?

☒YES ☐NO

b) If you checked "No" to number 2, then explain reason:

Exempt:
- ☐ Emergency Operations
- ☐ Renewable Diesel Exemptions (based on fleet engine type or weather restrictions)
- ☐ Unavailability of Renewable Diesel
- ☐ Other: _____

3a) If you checked "Yes" to number 2, then submit with the bid response, a **CARB's Certificate of Reported Compliance (Certificate)** for the applicable vehicles owned or operated by you or your subcontractor to show compliance with Cal Code Regs., Title 13 § 2449 et seq.
[Visit the CARB website to get a CARB Certificate online: arb.ca.gov/offroadzone]:

CARB Certificate Attached with Bid: ☒YES ☐NO

3b) If you checked "No" to number 3, then explain reason:

_____

_____.

4) Non-Compliance is Non-responsive.

a. Unless otherwise exempt or not applicable as indicated above, the **bid proposal must include a CARB's Certificate of Reported Compliance (Certificate)** for vehicles subject to Cal. Code Regs., Title 13 § 2449 et seq., **and no later than prior to the time of the bid award, or the bid proposal may be deemed non-responsive.** Bid responder further understands that valid certificates will need to be resubmitted upon renewal of any contract.

b. Unless otherwise exempt or not applicable as indicated above, bid responder further agrees to comply with all the requirements of Cal. Code Regs., Title 13 § 2449(j), including but not limited to:
- Allowing only off-duty diesel vehicles with valid Certificates to be used at the contractor's job sites (Title 13 § 2449(j)(2)),
- Reporting noncompliant vehicles as required under Title 13 § 2449(j)(3)
- Displaying signage that complies with the requirements of Title 13 § 2449(j)(5).

Verification

1. The undersigned states that the statements made herein are true and correct and made under penalty of perjury.
2. The undersigned acknowledges that the undersigned is authorized to sign on behalf of the bid responder and the statement(s) made herein is/are legally binding on the bid responder, their representatives, agents, and successors.
3. A scanned, electronic, or other copy of a party's signature shall be legally valid as an original.

Nolan Martin / [signature] / Hemet Fence / 10/1/24
(Print Name of Bid Responder) (Signature) (Business Name) (Date)

DESIGNATION OF SUBCONTRACTORS
[Public Contract Code Section 4104]

List all Subcontractors who will perform Work or labor or render service to the Contractor in or about the construction of the Work or improvement, or a Subcontractor licensed by the State of California who, under subcontract to the Contractor, specially fabricates and installs a portion of the Work or improvement according to detailed drawings contained in the Plans and Specifications, in an amount in excess of one-half percent (0.5%) of the Contractor's total Bid or, in the case of bids or offers for the construction of streets or highways, including bridges, in excess of one-half percent (0.5%) of the Contractor's total Bid or $10,000, whichever is greater. If all Subcontractors do not fit on this page, attach another page listing all information for all other Subcontractors.

Name under which Subcontractor is Licensed and Registered	CSLB License Number(s) and Class(es)	DIR Contractor Registration Number	Address and Phone Number	Type of Work (e.g., Electrical)	Total Amount	Percentage of Total Bid (e.g., 10%)*
American Hydroseed	C-27 D64	1000397799		Hydroseed	65,725.00	1 %
			41856 Ivy Street Suite 109 Murrieta, Ca 92562			

* The percentage of the total Bid shall represent the "portion of the work" for the purposes of Public Contract Code Section 4104(b).

CALIFORNIA AIR RESOURCES BOARD (CARB) REQUIREMENT FOR CERTIFICATE OF REPORTED COMPLIANCE

Re: In-Use Off-Road Diesel-Fueled Fleets Regulation
(Cal Code Regs., Title 13 § 2449 et seq.) effective 1/1/2024

(To be submitted with bid)

1a) Check below if contractor or subcontractor will use on the project, any of the following off-road heavy duty diesel-powered vehicles subject to Cal Code Regs., Title 13 § 2449 et seq:

□ Work Over Rigs, as defined in Cal Code Regs., Title 13 §2449(c)(72),

□ Engines with two-engine cranes, which contain an auxiliary engine ≥ 50 bhp, as defined in Cal Code Regs., Title 13 §2449(c)(66),

□ Two engine water-well drilling rigs, which contain an auxiliary engine ≥ 50 bhp, as defined in Cal Code Regs., Title 13 §2449(c)(68), or

□ Engines of two-engine vehicles that are designed to be driven on/off road and contain an auxiliary engine ≥ 50 bhp, as defined in Cal Code Regs., Title 13 §2449(c)(67) – (e.g., Boom Trucks, Concrete Mixers, Concrete Pump Trucks, Vacuum Pump Trucks, Guardrail Fence Installers) (NOTE: Does not apply if vehicle is a two-engine vehicle: 1) Already subject to the Fleet Rule for Public Agencies and Utilities (Title 13, CCR, sections 2022 and 2022.1; 2) Is a two-engine sweeper, as defined in Truck and Bus regulation, Title 13, CCR, section 225; and 3) Does not have a Tier 0 auxiliary engine)

OR

b) □ No vehicles subject to Cal Code Regs., Title 13 § 2449 et seq. apply to the project. [Proceed to the end and Sign the Verification below.]

2a) If any box is checked in number 1(a), did you or your subcontractor register any vehicles that qualify as In-Use Off-road Diesel-fueled Fleets, with the California Air Resources Board (CARB)?

☑YES □NO

b) If you checked "No" to number 2, then explain reason:

Exempt: □ Emergency Operations

□ Renewable Diesel Exemptions
(based on fleet engine type or weather restrictions)

□ Unavailability of Renewable Diesel

□ Other: _____

3a) If you checked "Yes" to number 2, then submit with the bid response, a **CARB's Certificate of Reported Compliance (Certificate)** for the applicable vehicles owned or operated by you or your subcontractor to show compliance with Cal Code Regs., Title 13 § 2449 et seq.
[Visit the CARB website to get a CARB Certificate online: arb.ca.gov/offroadzone]:

CARB Certificate Attached with Bid: □YES □NO

3b) If you checked "No" to number 3, then explain reason:

_____

_____.

4) Non-Compliance is Non-responsive.

a. Unless otherwise exempt or not applicable as indicated above, the **bid proposal must include a CARB's Certificate of Reported Compliance (Certificate)** for vehicles subject to Cal. Code Regs., Title 13 § 2449 et seq., **and no later than prior to the time of the bid award, or the bid proposal may be deemed non-responsive**. Bid responder further understands that valid certificates will need to be resubmitted upon renewal of any contract.

b. Unless otherwise exempt or not applicable as indicated above, bid responder further agrees to comply with all the requirements of Cal. Code Regs., Title 13 § 2449(j), including but not limited to:
- Allowing only off-duty diesel vehicles with valid Certificates to be used at the contractor's job sites (Title 13 § 2449(j)(2)),
- Reporting noncompliant vehicles as required under Title 13 § 2449(j)(3)
- Displaying signage that complies with the requirements of Title 13 § 2449(j)(5).

Verification

1. The undersigned states that the statements made herein are true and correct and made under penalty of perjury.
2. The undersigned acknowledges that the undersigned is authorized to sign on behalf of the bid responder and the statement(s) made herein is/are legally binding on the bid responder, their representatives, agents, and successors.
3. A scanned, electronic, or other copy of a party's signature shall be legally valid as an original.

Jacob Whall		American Hydroseed LLC	10/3/24
(Print Name of Bid Responder)	(Signature)	(Business Name)	(Date)

California Environmental Protection Agency

Air Resources Board

January 1, 2024

CERTIFICATE OF REPORTED COMPLIANCE
OFF-ROAD DIESEL VEHICLE REGULATION

is issued to

AMERICAN HYDROSEED LLC

This certificate indicates that the fleet listed above has reported off-road diesel vehicles to the California Air Resources Board and has certified they are in compliance with title 13 CCR, section 2449. All applicable vehicles owned by the individual, company, or agency must be reported and labeled, as specified in Section 2449, with all possible completeness, else this certificate is null and void. **Certificate expires** **2/28/2025**

Jack Kitowski
Chief, Mobile Source Control Division
California Air Resources Board

Off-road Diesel Fleet Identification

233806

To verify the authenticity of this certificate, enter this number at
http://www.arb.ca.gov/doors/compliance_cert1.html

ACCEPTED:	CONFIRMED:
The above prices, specifications and conditions are satisfactory and hereby accepted.	**American Hydroseed LLC**
Buyer: _____	
Signature: _____	**Authorized Signature:**
Date of Acceptance: _____	**Estimator:** John Moore (951) 677-4018 jmoore@americanhydroseed.com

DESIGNATION OF SUBCONTRACTORS
[Public Contract Code Section 4104]

List all Subcontractors who will perform Work or labor or render service to the Contractor in or about the construction of the Work or improvement, or a Subcontractor licensed by the State of California who, under subcontract to the Contractor, specially fabricates and installs a portion of the Work or improvement according to detailed drawings contained in the Plans and Specifications, in an amount in excess of one-half percent (0.5%) of the Contractor's total Bid or, in the case of bids or offers for the construction of streets or highways, including bridges, in excess of one-half percent (0.5%) of the Contractor's total Bid or $10,000, whichever is greater. If all Subcontractors do not fit on this page, attach another page listing all information for all other Subcontractors.

Name under which Subcontractor is Licensed and Registered	CSLB License Number(s) and Class(es)	DIR Contractor Registration Number	Address and Phone Number	Type of Work (e.g., Electrical)	Total Amount	Percentage of Total Bid (e.g., 10%)*
Sylvester Roofing Co., Inc	516696 C-39 C-43	1000006357	2255 barham dr suite A Escondido CA	Roofing	$47,800.00	1%

* The percentage of the total Bid shall represent the "portion of the work" for the purposes of Public Contract Code Section 4104(b).

California Environmental Protection Agency

Air Resources Board

January 1, 2024

CERTIFICATE OF REPORTED COMPLIANCE
OFF-ROAD DIESEL VEHICLE REGULATION

is issued to

SYLVESTER ROOFING

This certificate indicates that the fleet listed above has reported off-road diesel vehicles to the California Air Resources Board and has certified they are in compliance with title 13 CCR, section 2449. All applicable vehicles owned by the individual, company, or agency must be reported and labeled, as specified in Section 2449, with all possible completeness, else this certificate is null and void. **Certificate expires 2/28/2025**

Jack Kitowski
Chief, Mobile Source Control Division
California Air Resources Board

Off-road Diesel Fleet Identification

47714

To verify the authenticity of this certificate, enter this number at
http://www.arb.ca.gov/doors/compliance_cert1.html

CALIFORNIA AIR RESOURCES BOARD (CARB) REQUIREMENT FOR CERTIFICATE OF REPORTED COMPLIANCE

Re: In-Use Off-Road Diesel-Fueled Fleets Regulation
(Cal Code Regs., Title 13 § 2449 et seq.) effective 1/1/2024

(To be submitted with bid)

1a) Check below if contractor or subcontractor will use on the project, any of the following off-road heavy duty diesel-powered vehicles subject to Cal Code Regs., Title 13 § 2449 et seq:

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□ Two engine water-well drilling rigs, which contain an auxiliary engine ≥ 50 bhp, as defined in Cal Code Regs., Title 13 §2449(c)(68), or

□ Engines of two-engine vehicles that are designed to be driven on/off road and contain an auxiliary engine ≥ 50 bhp, as defined in Cal Code Regs., Title 13 §2449(c)(67) – (e.g., Boom Trucks, Concrete Mixers, Concrete Pump Trucks, Vacuum Pump Trucks, Guardrail Fence Installers) (NOTE: Does not apply if vehicle is a two-engine vehicle: 1) Already subject to the Fleet Rule for Public Agencies and Utilities (Title 13, CCR, sections 2022 and 2022.1; 2) Is a two-engine sweeper, as defined in Truck and Bus regulation, Title 13, CCR, section 225; and 3) Does not have a Tier 0 auxiliary engine)

OR

b) ☒ No vehicles subject to Cal Code Regs., Title 13 § 2449 et seq. apply to the project. [Proceed to the end and Sign the Verification below.]

2a) If any box is checked in number 1(a), did you or your subcontractor register any vehicles that qualify as In-Use Off-road Diesel-fueled Fleets, with the California Air Resources Board (CARB)?

□YES □NO

b) If you checked "No" to number 2, then explain reason:

Exempt: □ Emergency Operations

□ Renewable Diesel Exemptions
(based on fleet engine type or weather restrictions)

□ Unavailability of Renewable Diesel

□ Other: _____

3a) If you checked "Yes" to number 2, then submit with the bid response, a **CARB's Certificate of Reported Compliance (Certificate)** for the applicable vehicles owned or operated by you or your subcontractor to show compliance with Cal Code Regs., Title 13 § 2449 et seq.
[Visit the CARB website to get a CARB Certificate online: arb.ca.gov/offroadzone]:

CARB Certificate Attached with Bid: □YES □NO

3b) If you checked "No" to number 3, then explain reason:

_____

_____.

4) Non-Compliance is Non-responsive.

a. Unless otherwise exempt or not applicable as indicated above, the **bid proposal must include a CARB's Certificate of Reported Compliance (Certificate)** for vehicles subject to Cal. Code Regs., Title 13 § 2449 et seq., **and no later than prior to the time of the bid award, or the bid proposal may be deemed non-responsive**. Bid responder further understands that valid certificates will need to be resubmitted upon renewal of any contract.

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- Displaying signage that complies with the requirements of Title 13 § 2449(j)(5).

Verification

1. The undersigned states that the statements made herein are true and correct and made under penalty of perjury.
2. The undersigned acknowledges that the undersigned is authorized to sign on behalf of the bid responder and the statement(s) made herein is/are legally binding on the bid responder, their representatives, agents, and successors.
3. A scanned, electronic, or other copy of a party's signature shall be legally valid as an original.

Francisco Morales /	 /	Sylvester Roofing Co., Inc /	10.1.24
(Print Name of Bid Responder)	(Signature)	(Business Name)	(Date)

DESIGNATION OF SUBCONTRACTORS
[Public Contract Code Section 4104]

List all Subcontractors who will perform Work or labor or render service to the Contractor in or about the construction of the Work or improvement, or a Subcontractor licensed by the State of California who, under subcontract to the Contractor, specially fabricates and installs a portion of the Work or improvement according to detailed drawings contained in the Plans and Specifications, in an amount in excess of one-half percent (0.5%) of the Contractor's total Bid or, in the case of bids or offers for the construction of streets or highways, including bridges, in excess of one-half percent (0.5%) of the Contractor's total Bid or $10,000, whichever is greater. If all Subcontractors do not fit on this page, attach another page listing all information for all other Subcontractors.

Name under which Subcontractor is Licensed and Registered	CSLB License Number(s) and Class(es)	DIR Contractor Registration Number	Address and Phone Number	Type of Work (e.g., Electrical)	Total Amount	Percentage of Total Bid (e.g., 10%)*
Hardy & Harper, Inc.	A, C-8 & C12	1000000076	32 Rancho Cir, Lake Forest, CA (714) 444-1851	Asphalt Paving	$249,000.00	3%

* The percentage of the total Bid shall represent the "portion of the work" for the purposes of Public Contract Code Section 4104(b).

CALIFORNIA AIR RESOURCES BOARD (CARB) REQUIREMENT FOR CERTIFICATE OF REPORTED COMPLIANCE

Re: In-Use Off-Road Diesel-Fueled Fleets Regulation
(Cal Code Regs., Title 13 § 2449 et seq.) effective 1/1/2024

(To be submitted with bid)

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□ Work Over Rigs, as defined in Cal Code Regs., Title 13 §2449(c)(72),

□ Engines with two-engine cranes, which contain an auxiliary engine ≥ 50 bhp, as defined in Cal Code Regs., Title 13 §2449(c)(66),

□ Two engine water-well drilling rigs, which contain an auxiliary engine ≥ 50 bhp, as defined in Cal Code Regs., Title 13 §2449(c)(68), or

□ Engines of two-engine vehicles that are designed to be driven on/off road and contain an auxiliary engine ≥ 50 bhp, as defined in Cal Code Regs., Title 13 §2449(c)(67) – (e.g., Boom Trucks, Concrete Mixers, Concrete Pump Trucks, Vacuum Pump Trucks, Guardrail Fence Installers) (NOTE: Does not apply if vehicle is a two-engine vehicle: 1) Already subject to the Fleet Rule for Public Agencies and Utilities (Title 13, CCR, sections 2022 and 2022.1; 2) Is a two-engine sweeper, as defined in Truck and Bus regulation, Title 13, CCR, section 225; and 3) Does not have a Tier 0 auxiliary engine)

OR

b) ☒ No vehicles subject to Cal Code Regs., Title 13 § 2449 et seq. apply to the project. [Proceed to the end and Sign the Verification below.]

2a) If any box is checked in number 1(a), did you or your subcontractor register any vehicles that qualify as In-Use Off-road Diesel-fueled Fleets, with the California Air Resources Board (CARB)?

□YES □NO

b) If you checked "No" to number 2, then explain reason:

Exempt: □ Emergency Operations

□ Renewable Diesel Exemptions
(based on fleet engine type or weather restrictions)

□ Unavailability of Renewable Diesel

□ Other: _____

3a) If you checked "Yes" to number 2, then submit with the bid response, a **CARB's Certificate of Reported Compliance (Certificate)** for the applicable vehicles owned or operated by you or your subcontractor to show compliance with Cal Code Regs., Title 13 § 2449 et seq.
[Visit the CARB website to get a CARB Certificate online: arb.ca.gov/offroadzone]:

CARB Certificate Attached with Bid: ☒YES ☐NO

3b) If you checked "No" to number 3, then explain reason:

_____

_____.

4) Non-Compliance is Non-responsive.

a. Unless otherwise exempt or not applicable as indicated above, the **bid proposal must include a CARB's Certificate of Reported Compliance (Certificate)** for vehicles subject to Cal. Code Regs., Title 13 § 2449 et seq., **and no later than prior to the time of the bid award, or the bid proposal may be deemed non-responsive**. Bid responder further understands that valid certificates will need to be resubmitted upon renewal of any contract.

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- Allowing only off-duty diesel vehicles with valid Certificates to be used at the contractor's job sites (Title 13 § 2449(j)(2)),
- Reporting noncompliant vehicles as required under Title 13 § 2449(j)(3)
- Displaying signage that complies with the requirements of Title 13 § 2449(j)(5).

Verification

1. The undersigned states that the statements made herein are true and correct and made under penalty of perjury.
2. The undersigned acknowledges that the undersigned is authorized to sign on behalf of the bid responder and the statement(s) made herein is/are legally binding on the bid responder, their representatives, agents, and successors.
3. A scanned, electronic, or other copy of a party's signature shall be legally valid as an original.

Tanner Hambright, Vice President/ *Tanner Hambright* / Hardy & Harper, Inc./ 10/9/2024
(Print Name of Bid Responder) (Signature) (Business Name) (Date)

DESIGNATION OF SUBCONTRACTORS
[Public Contract Code Section 4104]

List all Subcontractors who will perform Work or labor or render service to the Contractor in or about the construction of the Work or improvement, or a Subcontractor licensed by the State of California who, under subcontract to the Contractor, specially fabricates and installs a portion of the Work or improvement according to detailed drawings contained in the Plans and Specifications, in an amount in excess of one-half percent (0.5%) of the Contractor's total Bid or, in the case of bids or offers for the construction of streets or highways, including bridges, in excess of one-half percent (0.5%) of the Contractor's total Bid or $10,000, whichever is greater. If all Subcontractors do not fit on this page, attach another page listing all information for all other Subcontractors.

Name under which Subcontractor is Licensed and Registered	CSLB License Number(s) and Class(es)	DIR Contractor Registration Number	Address and Phone Number	Type of Work (e.g., Electrical)	Total Amount	Percentage of Total Bid (e.g., 10%)*
Techno Coatings Inc.	C-33 296517	1000005841	785 E. Debra Lane Anaheim CA 92805	Industrial Coatings	$126,000.00	2%

* The percentage of the total Bid shall represent the "portion of the work" for the purposes of Public Contract Code Section 4104(b).

TECHNO
COATINGS

Project : Charles Street & Lincoln Street Pump Stations
Subject: CARB Compliance report,

The CARB Compliance report is not applicable to us for this project, we are not using any of that type of equipment or vehicles on this project.

Nick Cichirillo
Sales Manager

Techno Coatings, Inc. | 785 E Debra Lane | Anaheim, CA 92805 | (714) 635-1130
www.technocoatings.com

Printed on: 6/22/2023 2:15:28 PM

To verify most current certification status go to: https://www.caleprocure.ca.gov

DGS
GENERAL SERVICES

Office of Small Business & DVBE Services

Certification ID: 2033951

Legal Business Name:
Techno Coatings, Inc.

Doing Business As (DBA) Name 1:

Doing Business As (DBA) Name 2:

Address:
785 E. DEBRA LANE
Anaheim
CA 92805

Email Address:
shelley@technocoatings.com

Business Web Page:
TechnoCoatings.com

Business Phone Number:
714/635-1130

Business Fax Number:
714/635-6357

Business Types:
Construction , Service

Certification Type	Status	From	To
SB-PW	Approved	06/22/2023	06/30/2025

DESIGNATION OF SUBCONTRACTORS
[Public Contract Code Section 4104]

List all Subcontractors who will perform Work or labor or render service to the Contractor in or about the construction of the Work or improvement, or a Subcontractor licensed by the State of California who, under subcontract to the Contractor, specially fabricates and installs a portion of the Work or improvement according to detailed drawings contained in the Plans and Specifications, in an amount in excess of one-half percent (0.5%) of the Contractor's total Bid or, in the case of bids or offers for the construction of streets or highways, including bridges, in excess of one-half percent (0.5%) of the Contractor's total Bid or $10,000, whichever is greater. If all Subcontractors do not fit on this page, attach another page listing all information for all other Subcontractors.

Name under which Subcontractor is Licensed and Registered	CSLB License Number(s) and Class(es)	DIR Contractor Registration Number	Address and Phone Number	Type of Work (e.g., Electrical)	Total Amount	Percentage of Total Bid (e.g., 10%)*
Superior Tank Co., Inc.	472119 Class A	1000001847	9500 Lucas Ranch Road, Rancho Cucamonga CA	Bolted Steel Tank	$275,000.00	3%

* The percentage of the total Bid shall represent the "portion of the work" for the purposes of Public Contract Code Section 4104(b).

SUPERIOR TANK COMPANY INC.®

June 24, 2024

Re: CARB Certification for Diesel Off Road Vehicles

To Whom It May Concern:

Superior Tank Co. will be renting any equipment that may be required for the above referenced project. As such, the certification would be included and provided at time of rental.

Our light duty vehicle fleet is under the 14,000 GVWR requirement for CARB and Doors Certification.

If you have any questions or concerns I can be reached at (909) 912-0583

Sincerely,

George Marquez
Sales Manager / CSO-Secretary

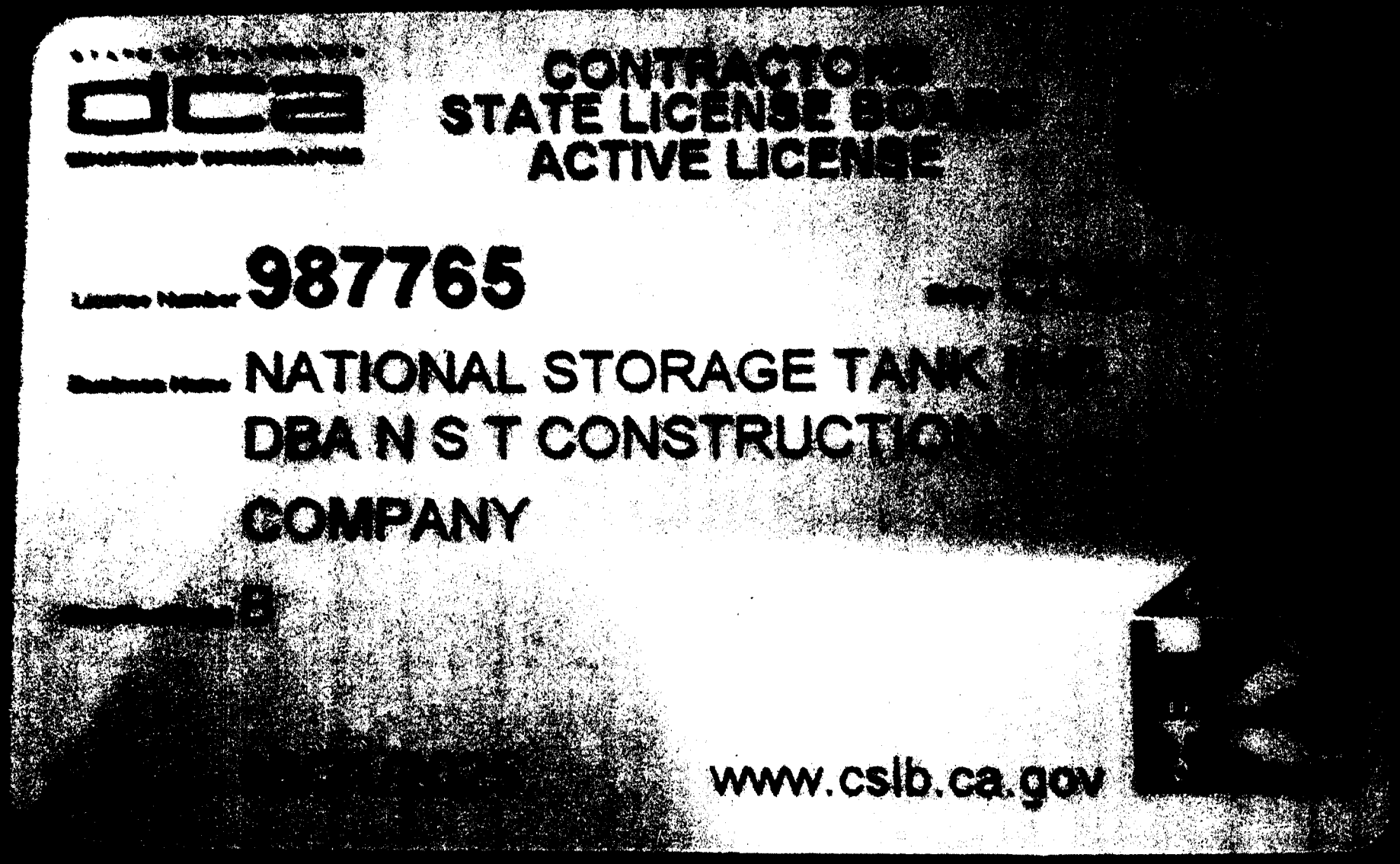
9500 Lucas Ranch Road
Rancho Cucamonga, CA 91730
P. 909.912.0580 |*F.* 909.912.0588 | *Toll Free.* 800.221.TANK
superiortank.com

DESIGNATION OF SUBCONTRACTORS
[Public Contract Code Section 4104]

List all Subcontractors who will perform Work or labor or render service to the Contractor in or about the construction of the Work or improvement, or a Subcontractor licensed by the State of California who, under subcontract to the Contractor, specially fabricates and installs a portion of the Work or improvement according to detailed drawings contained in the Plans and Specifications, in an amount in excess of one-half percent (0.5%) of the Contractor's total Bid or, in the case of bids or offers for the construction of streets or highways, including bridges, in excess of one-half percent (0.5%) of the Contractor's total Bid or $10,000, whichever is greater. If all Subcontractors do not fit on this page, attach another page listing all information for all other Subcontractors.

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PASO ROBLES TANK	784971	1000002079	3883 WENTWORTH DR HEMET CA 92545	TANK AND TANK PAINT	$821,671.00	9%

* The percentage of the total Bid shall represent the "portion of the work" for the purposes of Public Contract Code Section 4104(b).


CONTRACTORS
STATE LICENSE BOARD
ACTIVE LICENSE
987765
NATIONAL STORAGE TANK
DBA N S T CONSTRUCTION
COMPANY
B
www.cslb.ca.gov

CALIFORNIA AIR RESOURCES BOARD (CARB) REQUIREMENT FOR CERTIFICATE OF REPORTED COMPLIANCE

Re: In-Use Off-Road Diesel-Fueled Fleets Regulation
(Cal Code Regs., Title 13 § 2449 et seq.) effective 1/1/202

(To be submitted with

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OR

b) ☐ No vehicles subject to Cal Code Regs., Title 13 § 2449 et seq. apply to the project. [Proceed to the end and Sign the Verification below.]

2a) If any box is checked in number 1(a), did you or your subcontractor register any vehicles that qualify as In-Use Off-road Diesel-fueled Fleets, with the California Air Resources Board (CARB)?

☒YES ☐NO

b) If you checked "No" to number 2, then explain reason:

Exempt: ☐ Emergency Operations

☐ Renewable Diesel Exemptions
(based on fleet engine type or weather restrictions)

☐ Unavailability of Renewable Diesel

☐ Other: _____

3a) If you checked "Yes" to number 2, then submit with the bid response, a **CARB's Certificate of Reported Compliance (Certificate)** for the applicable vehicles owned or operated by you or your subcontractor to show compliance with Cal Code Regs., Title 13 § 2449 et seq.
[Visit the CARB website to get a CARB Certificate online: arb.ca.gov/offroadzone]

CARB Certificate Attached with Bid: ☒YES ☐NO

3b) If you checked "No" to number 3, then explain reason:

_____

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4) Non-Compliance is Non-responsive.

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Verification

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2. The undersigned acknowledges that the undersigned is authorized to sign on behalf of the bid responder and the statement(s) made herein is/are legally binding on the bid responder, their representatives, agents, and successors.
3. A scanned, electronic, or other copy of a party's signature shall be legally valid as an original.

Shane P. Wombles, President | Secretary/		/ Paso Robles Tank, Inc. /	10-01-2024
(Print Name of Bid Responder)	(Signature)	(Business Name)	(Date)

DESIGNATION OF SUBCONTRACTORS
[Public Contract Code Section 4104]

List all Subcontractors who will perform Work or labor or render service to the Contractor in or about the construction of the Work or improvement, or a Subcontractor licensed by the State of California who, under subcontract to the Contractor, specially fabricates and installs a portion of the Work or improvement according to detailed drawings contained in the Plans and Specifications, in an amount in excess of one-half percent (0.5%) of the Contractor's total Bid or, in the case of bids or offers for the construction of streets or highways, including bridges, in excess of one-half percent (0.5%) of the Contractor's total Bid or $10,000, whichever is greater. If all Subcontractors do not fit on this page, attach another page listing all information for all other Subcontractors.

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Herman and Charles	1086284	1000859957	461 E. Redlands Blvd, San Bernardino CA 92408	Electrical	$1,647,000.00	10%

* The percentage of the total Bid shall represent the "portion of the work" for the purposes of Public Contract Code Section 4104(b).

California Environmental Protection Agency

Air Resources Board

January 1, 2024

CERTIFICATE OF REPORTED COMPLIANCE
OFF-ROAD DIESEL VEHICLE REGULATION

is issued to

PASO ROBLES TANK, INC.

This certificate indicates that the fleet listed above has reported off-road diesel vehicles to the California Air Resources Board and has certified they are in compliance with title 13 CCR, section 2449. All applicable vehicles owned by the individual, company, or agency must be reported and labeled, as specified in Section 2449, with all possible completeness, else this certificate is null and void. **Certificate expires 2/28/2025**

Jack Kitowski
Chief, Mobile Source Control Division
California Air Resources Board

Off-road Diesel Fleet Identification

5751

To verify the authenticity of this certificate, enter this number at
http://www.arb.ca.gov/doors/compliance_cert1.html

Printed on: 2/29/2024 5:47:29 PM

To verify most current certification status go to: https://www.caleprocure.ca.gov

DGS
CALIFORNIA DEPARTMENT OF GENERAL SERVICES

Office of Small Business & DVBE Services

Certification ID: 2027055

Legal Business Name:
Herman and Charles Inc.

Doing Business As (DBA) Name 1:

Doing Business As (DBA) Name 2:

Address:
P.O. BOX 402047
California
HESPERIA
CA 92340

Email Address:
Darin@hermancharles.com

Business Web Page:

Business Phone Number:
951/990-6700

Business Fax Number:

Business Types:
Construction

Certification Type	Status	From	To
SB(Micro)	Approved	02/27/2024	02/28/2026
SB-PW	Approved	02/27/2024	02/28/2026

Stay informed! KEEP YOUR CERTIFICATION PROFILE UPDATED!
-LOG IN at CaleProcure.CA.GOV

Questions?
Email: OSDSHELP@DGS.CA.GOV
Call OSDS Main Number: 916-375-4940
707 3rd Street, 1-400, West Sacramento, CA 95605

HERMAN AND CHARLES INC.

TO WHOM TO MAY CONCERN:

Herman and Charles, Inc. does not own Diesel equipment and therefore does not have a carb certificate. When gas or diesel equipment is rented by Herman and Charles, the vender supplies the certificate.

Thanks,

CHARLIE COX
Business Development

PO BOX 402047
Hesperia, CA 92340

951-255-3271
760-239-6563

charlie@hermancharles.com

DESIGNATION OF SUBCONTRACTORS
[Public Contract Code Section 4104]

List all Subcontractors who will perform Work or labor or render service to the Contractor in or about the construction of the Work or improvement, or a Subcontractor licensed by the State of California who, under subcontract to the Contractor, specially fabricates and installs a portion of the Work or improvement according to detailed drawings contained in the Plans and Specifications, in an amount in excess of one-half percent (0.5%) of the Contractor's total Bid or, in the case of bids or offers for the construction of streets or highways, including bridges, in excess of one-half percent (0.5%) of the Contractor's total Bid or $10,000, whichever is greater. If all Subcontractors do not fit on this page, attach another page listing all information for all other Subcontractors.

Name under which Subcontractor is Licensed and Registered	CSLB License Number(s) and Class(es)	DIR Contractor Registration Number	Address and Phone Number	Type of Work (e.g., Electrical)	Total Amount	Percentage of Total Bid (e.g., 10%)*
NuWay, Inc.	665872 C-29	1000000598	8992 Jurupa Rd, Riverside, Ca 92509 951-681-9052	Masonry	$233,000.00	2.5%

* The percentage of the total Bid shall represent the "portion of the work" for the purposes of Public Contract Code Section 4104(b).

WBENC

WOMEN'S BUSINESS ENTERPRISE NATIONAL COUNCIL

JOIN FORCES. SUCCEED TOGETHER.

hereby grants

National Women's Business Enterprise Certification

to

National Storage Tank, Inc. DBA NST Construction Company

who has successfully met WBENC's standards as a Women's Business Enterprise (WBE).
This certification affirms the business is woman-owned, operated and controlled and is valid through the date herein.

Certification Granted: May 31, 2016
Expiration Date: May 31, 2025
WBENC National Certification Number: 2005128844

WBENC National WBE Certification was processed and validated by Women's Business Enterprise Council - Pacific, a WBENC Regional Partner Organization.

WBECPACIFIC
WOMEN'S BUSINESS ENTERPRISE COUNCIL
JOIN FORCES. SUCCEED TOGETHER.

Authorized by Janice Greene, PhD, President & CEO Women's Business Enterprise Council - Pacific

NAICS: 332420, 236210, 237110, 238910, 238990, 326199, 423510
UNSPSC: 20122215, 20122802, 20142900, 20142901, 20142902, 20142903, 20142904, 20142905, 23151825, 24111803, 24111805, 24111806, 24111807

Center for Women & Enterprise · Great Lakes Women's Business Council · Greater Women's Business Council · Women's Business Council Southwest · WBECMETRONY · WBECGREATERDMV · WBEA · WBECEAST · WBECFLORIDA · WBECORV · WBDC · WBECSOUTH · WBECWEST

California Environmental Protection Agency

Air Resources Board

January 1, 2024

CERTIFICATE OF REPORTED COMPLIANCE
OFF-ROAD DIESEL VEHICLE REGULATION

is issued to

NUWAY, INC.

This certificate indicates that the fleet listed above has reported off-road diesel vehicles to the California Air Resources Board and has certified they are in compliance with title 13 CCR, section 2449. All applicable vehicles owned by the individual, company, or agency must be reported and labeled, as specified in Section 2449, with all possible completeness, else this certificate is null and void. **Certificate expires 2/28/2025**

Jack Kitowski
Chief, Mobile Source Control Division
California Air Resources Board

Off-road Diesel Fleet Identification

13365

To verify the authenticity of this certificate, enter this number at
http://www.arb.ca.gov/doors/compliance_cert1.html

DESIGNATION OF SUBCONTRACTORS
[Public Contract Code Section 4104]

List all Subcontractors who will perform Work or labor or render service to the Contractor in or about the construction of the Work or improvement, or a Subcontractor licensed by the State of California who, under subcontract to the Contractor, specially fabricates and installs a portion of the Work or improvement according to detailed drawings contained in the Plans and Specifications, in an amount in excess of one-half percent (0.5%) of the Contractor's total Bid or, in the case of bids or offers for the construction of streets or highways, including bridges, in excess of one-half percent (0.5%) of the Contractor's total Bid or $10,000, whichever is greater. If all Subcontractors do not fit on this page, attach another page listing all information for all other Subcontractors.

Name under which Subcontractor is Licensed and Registered	CSLB License Number(s) and Class(es)	DIR Contractor Registration Number	Address and Phone Number	Type of Work (e.g., Electrical)	Total Amount	Percentage of Total Bid (e.g., 10%)*
TRLS ENG. Inc.	LS 6205	1000020920	10770 I Ave. Ste. 108, Hesperia, CA 92345 (760) 958-4900	Survey	$40,000.00	1/2 %

* The percentage of the total Bid shall represent the "portion of the work" for the purposes of Public Contract Code Section 4104(b).

TRLS Engineering, Inc.
10770 I Avenue, Suite 108, Hesperia, CA 92345
(760) 948-4900

TO WHOM IT MAY CONCERN:

TRLS Engineering Inc. does not own Diesel equipment and therefore does not have a carb certificate. When such equipment is rented by TRLS Engineering Inc., the vender will supply the certificate.

Thank you,

Thomas E. Ragen
LS 6205

INDUSTRIAL SAFETY RECORD FORM

Bidder's Name Pyramid Building + Enlineering Inc.

	Current Year of Record	2023	2022	2021	2020	2019	Total
Number of contracts	6	7	6	6	5	9	16
Total dollar amount of contracts (in thousands of dollars)	15,962	22,973	20,330	12,584	12,532	16,351	100,732
Number of fatalities	0	0	0	0	0	0	Ø
Number of lost workday cases	0	0	0	0	0	0	Ø
Number of lost workday cases involving permanent transfer to another job or termination of employment	N/A	N/A	N/A	N/A	N/A	N/A	N/A

The above information was compiled from the records that are available to me at this time and I declare under penalty of perjury under the laws of the State of California that the information is true and accurate within the limitations of those records.

Signature: _____
Title: President
Date: 10.2.24

Signature: Karen Yan
Title: Secretary
Date: 10.2.24

Bond No. N/A

BID BOND

KNOW ALL PERSONS BY THESE PRESENTS that:

WHEREAS the City of Banning ("City"), has issued an invitation for Bids for the Work described as follows: PROJECT NO. 2024-06W, CHARLES STREET AND LINCOLN STREET NON-POTABLE WATER BOOSTER PUMP STATIONS & RESERVOIR/TANK

WHEREAS Pyramid Building and Engineering, Inc. at 10975 G Avenue, Hesperia, CA 92345
(Name and address of Bidder)

("Principal"), desires to submit a Bid to City for the Work.

WHEREAS, Bidders are required to furnish a form of Bidder's security with their Bids.

NOW, THEREFORE, we, the undersigned Principal, and

The Ohio Casualty Insurance Company at 175 Berkeley Street, Boston, MA 02116
(Name and address of Surety)

("Surety"), a duly admitted surety insurer under the laws of the State of California, as Surety, are held and firmly bound unto the City in the penal sum of ----------
Ten Percent of the Total Amount Bid
Dollars ($ 10%), being not less than ten percent (10%) of the total Bid price, in lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if the hereby bounded Principal is awarded the Contract for the Work by the City and, within the time and in the manner required by the bidding specifications, enters into the written form of Contract included with the bidding specifications, furnishes the required Bonds (one to guarantee faithful performance and the other to guarantee payment for labor and materials), and furnishes the required insurance coverage, then this obligation shall become null and void; otherwise, it shall be and remain in full force and effect.

In case suit is brought upon this instrument, Surety further agrees to pay all court costs incurred by the City in the suit and reasonable attorneys' fees in an amount fixed by the court. Surety hereby waives the provisions of Civil Code Section 2845.

IN WITNESS WHEREOF, this instrument has been duly executed by Principal and Surety, on the date set forth below, the name of each corporate party being hereto affixed and these presents duly signed by its undersigned representative(s) pursuant to authority of its governing body.

Dated: September 24, 2024

"Principal"

Pyramid Building and Engineering, Inc.

By: [signature]
Its: KAREN GARRISON, Secretary

Please See Attached California Notary Acknowledgment

By: _____
Its: _____

"Surety"

The Ohio Casualty Insurance Company

By: [signature]
Its: Lisa Sayno, Attorney-In-Fact

By: _____
Its: _____

THE OHIO CASUALTY INSURANCE COMPANY INCORPORATED 1919 NEW HAMPSHIRE

Seal No. 8229

Note: This Bond must be dated, all signatures must be notarized, and evidence of the authority of any person signing as attorney-in-fact must be attached.

This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No: **8209562-024103**

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Jase Hamilton, Jeffrey W. Cavignac, Judith Samuel, Lisa Cruz, Lisa Sayno, Oliver Craig, James P. Schabarum, II

all of the city of San Diego state of CA each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 13th day of March, 2023.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By: _____
David M. Carey, Assistant Secretary

State of PENNSYLVANIA
County of MONTGOMERY ss

On this 13th day of March, 2023 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at Plymouth Meeting, Pennsylvania, on the day and year first above written.

Commonwealth of Pennsylvania - Notary Seal
Teresa Pastella, Notary Public
Montgomery County
My commission expires March 28, 2025
Commission number 1126044
Member, Pennsylvania Association of Notaries

By: _____
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV – OFFICERS: Section 12. Power of Attorney.
Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII – Execution of Contracts: Section 5. Surety Bonds and Undertakings.
Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation – The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization – By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 24th day of September, 2024.

By: _____
Renee C. Llewellyn, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

For bond and/or Power of Attorney (POA) verification inquiries, please call 610-832-8240 or email HOSUR@libertymutual.com.

LMS-12873 LMIC OCIC WAIC Multi Co 02/21

Liberty Mutual
SURETY

Liberty Mutual Surety
1001 4th Ave Ste 3800
Office: 206-473-3533

As part of its business continuity efforts during the pendency of the COVID-19 pandemic, Liberty Mutual Insurance Company ("LMIC") on behalf of itself and the companies listed below has authorized its Attorneys-in-Fact to affix its corporate seal for surety obligations in a digital format in lieu of its traditional raised seal to any bond issued on its behalf by any such Attorney-in-Fact:

Liberty Mutual Insurance Company
Liberty Mutual Fire Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company
Safeco Insurance Company of America
American States Insurance Company

Please note that the digital seal utilized by our authorized agents will also include their agency specific reference number.

LMIC agrees and affirms on behalf of itself and the other companies listed herein, that the digital corporate seal referenced above has the same binding effect when affixed to a bond or a Power of Attorney document as if it were a raised corporate seal.

Effective this 23rd day of March, 2020.

By: _____
Renee C. Llewellyn, Assistant Secretary

CALIFORNIA ALL- PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }

County of San Diego }

On SEP 24 2024 before me, Judith Samuel, Notary Public
(Here insert name and title of the officer),

personally appeared Lisa Sayno,
who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

JUDITH SAMUEL
Commission No. 2452311
NOTARY PUBLIC - CALIFORNIA
SAN DIEGO COUNTY
Commission Expires July 4, 2027

Notary Public Signature (Notary Public Seal)

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages ____ Document Date____

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
- ☐ Corporate Officer
  (Title)
- ☐ Partner(s)
- ☐ Attorney-in-Fact
- ☐ Trustee(s)
- ☐ Other

2015 Version www.NotaryClasses.com 800-873-9865

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgments from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he~~/she/~~they,~~ is /~~are~~) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - ❖ Indicate title or type of attached document, number of pages and date.
  - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

CA – NOTARIAL ACKNOWLEDGMENT

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of San Bernardino

On 27 (Day) day of September (Month), 2024 (Year) before me, David Nguyen, Notary Public (Name of Notary)

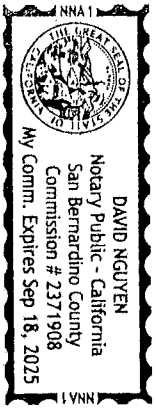
personally appeared Karen Garrison (Name of Individual)

who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Seal or Stamp Here



(Signature of Notary)

Notary Public for the State of California

My Appointment Expires: Sept 18, 2025

NONCOLLUSION DECLARATION FORM
TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID
[Public Contract Code Section 7106]

The undersigned declares:

I am the Secretary of Pyramid Building & Engineering Inc., the party making the foregoing Bid.

The Bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The Bid is genuine and not collusive or sham. The Bidder has not directly or indirectly induced or solicited any other Bidder to put in a false or sham Bid. The Bidder has not directly or indirectly colluded, conspired, connived, or agreed with any Bidder or anyone else to put in a sham Bid, or to refrain from bidding. The Bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the Bid price of the Bidder or any other Bidder, or to fix any overhead, profit, or cost element of the Bid price, or of that of any other Bidder. All statements contained in the Bid are true. The Bidder has not, directly or indirectly, submitted his or her Bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, Bid depository, or to any member or agent thereof, to effectuate a collusive or sham Bid, and has not paid, and will not pay, any Person or entity for such purpose.

Any person executing this declaration on behalf of a Bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the Bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on 10.2.24 [date], at Hesperia [city], California [state].

Signature:	Signature:
Printed Name: President	Printed Name: Secretary
Date: 10.2.24	Date: 10.2.24

MINUTES OF FIRST ORGANIZATIONAL MEETING OF INCORPORATOR(S) OF

PYRAMID BUILDING AND ENGINEERING, INC.
A California Corporation

The undersigned, being the Incorporator(s) named in the Articles of Incorporation of the above-named California corporation, duly formed by the filing of said Articles of Incorporation in the Office of the California Secretary of State on January 11, 2000, and desiring to hold the first organizational meeting for the purpose of completing the organization of its affairs, in accordance with the powers conferred upon Incorporator by Section 210 of the General Corporation Law, held such meeting at VICTORVILLE CA, on the 4TH day of MAY, at 5:00 P.m. of said day.

Present at this session of the meeting:

D. KEVIN PORTER, being the Incorporator(s) of said corporation named in its Articles of Incorporation.

Also present: JOHN GARRISON and KAREN GARRISON

On motion and by unanimous vote, JOHN GARRISON was elected temporary Chairman, and KAREN GARRISON was elected temporary Secretary of the meeting.

ARTICLES OF INCORPORATION FILED

The Temporary Chairman stated that the original Articles of Incorporation of the corporation had been filed in the Office of the California Secretary of State, and had been assigned the following filing date and State Corporation filing number: Official Filing Date: **January 11, 2000** Official Filing Number: **2154468** - Cert.*

He presented to the meeting a certified copy of said Articles of Incorporation, showing filings as stated, and the Temporary Secretary was directed to insert said copy in the Book of Minutes of the corporation.

BY-LAWS

The matter of the adoption of By-Laws for the regulation of the affairs of the corporation was next considered. The Temporary Secretary presented to the meeting a form of By-Laws which were duly considered and discussed. On motion duly made and unanimously carried, the following resolutions were adopted:

MINUTES OF ANNUAL SHAREHOLDERS/DIRECTORS
MEETINGS OF PYRAMID BUILDING AND ENGINEERING, INC.
A California Corporation

TIME AND PLACE

The annual meeting of the shareholders/directors of PYRAMID BUILDING AND ENGINEERING, INC., a California Corporation was held on May 1st, 2002 at 14423 Main Street, Hesperia , California at the hour of 4:30 p.m., the time and place prescribed by notice as given by the board of directors, for the purpose of electing the board of directors, considering reports of the affairs of the corporation, and transacting such other business within the power of the shareholders.

CALLED TO ORDER-CHAIRMAN AND SECRETARY

The meeting was called to order by JOHN GARRISON, the president of PYRAMID BUILDING AND ENGINEERING INC., a California Corporation. As authorized by the bylaws the president presides as chairman of the meeting and KAREN GARRISON, secretary of PYRAMID BUILDING AND ENGINEERING INC., records the minutes.

VALIDITY OF MEETING

Call and notice of the meeting having been made by notice of annual meeting giving the date time and place and purpose of the meeting, the chairman declared the meeting was lawfully and properly convened.

SHAREHOLDERS PRESENT

The following roll of shareholders of all of the outstanding shares of PYRAMID BUILDING AND CONSTRUCTION, INC., a California Corporation, was called, and the acting secretary declared that a quarum was present.

ROLL OF SHAREHOLDERS

Shareholder JOHN GARRISON was present
Shareholder KAREN GARRISON was present

APPROVAL OF PRIOR MINUTES

On motion duly made, seconded, and carried, the minutes of the prior annual meeting of the shareholders held on May 1, 2001, were unanimously approved after the reading of the minutes was dispensed without objection.

NOMINATION AND ELECTION OF DIRECTORS

The chairman then called for nominations for directors to serve for one year or until their successors are elected and qualified. The chairman nominated the following persons:

JOHN GARRISON
KAREN GARRISON

The chairman called for further nominations, but none were made. The above persons were unanimously elected Directors of the Corporation.

RATIFICATION OF DIRECTORS ACTIONS

The chairman then reported to the meeting the prior years activities of the Board of Directors and proposed that shareholders ratify those actions of the directors. Upon motion duly made, seconded, and unanimously carried, the following resolution was adopted:

RESOLVED, that all proceedings of the Board of Directors since the last meeting of the shareholders, and all acts taken by Members of the Board of Directors or by Officers of the Corporation, are hereby ratified and affirmed in all respects.

ADJOURNMENT OF SHAREHOLDERS MEETING

There being no further business for the shareholders to address, the shareholder meeting was adjourned.

CALL TO ORDER

The Board of Directors called the meeting to order and as authorized by the bylaws, the President presided as Chairman of the meeting and KAREN GARRISON, secretary of PYRAMID BUILDING AND ENGINEERING, INC., recorded the minutes.

VALIDITY OF MEETING

Call and notice of the meeting having been made by Notice of Annual Meeting giving the date, time, and place and purpose of the Meeting, the Chairman declare the meeting was lawfully and properly convened.

DIRECTORS PRESENT

JOHN GARRISON was present
KAREN GARRISON was present

ELECTION OF OFFICERS

RESOLVED that the following were unanimously elected to office:

JOHN GARRISON-President/CEO, Vice President, and Treasurer
KAREN GARRISON-Secretary

RATIFICATION OF OFFICERS ACTIONS

The Chairman then reported to the meeting the prior activities of the officers and proposed that the board of directors ratify those actions. Upon motion duly made, seconded, and unanimously carried, the following resolution was adopted:

RESOLVED, that all proceedings of the Board of Directors and all acts taken by officers of this Corporation, are hereby ratified and approved in all respects including equipment purchases and the depository of funds for the corporation shall be Sun Country Bank, 13792 Bear Valley Road, Victorville, Ca., 92392.

ADJOURNMENT

They're being no further business the meeting was adjourned.

Karen Garrison
Secretary

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Douglas Schulze, City Manager**
PREPARED BY:	**Jim Steffens, Deputy Director of Electric** **Art Vela, Public Works Director**
MEETING DATE:	**November 12, 2024**
SUBJECT:	**Consideration of Resolution 2024-175, Approving a Professional Services Agreement with NewGen Strategies and Solutions, LLC for the Banning Electric Utility Cost-of-Service Analysis and Rate Design Study in the Amount of $164,600**

RECOMMENDATION:

Adopt Resolution 2024-175.

BACKGROUND:

The City of Banning's Electric Utility ("Utility") is currently running a fiscal deficit and has negative cash on hand. One of the reasons for these financial issues is that the Utility has not implemented a true rate increase since 2013. The Utility is currently in the process of implementing an emergency rate increase to immediately address the inadequate revenue issues and mitigate the negative consequences of its current financial situation. However, the emergency rate increase is a stop-gap measure and is not a long-term solution. The proper long-term procedure is to have a Cost-of-Service Analysis and Rate Design Study ("Study") performed. The Study involves building a detailed financial model to determine the Utility's revenue requirements. Once the revenue requirements are determined, an analysis is performed to determine how the Utility's costs should be allocated amongst different customer classes based upon cost causation, thereby being in compliance with California regulations including Proposition 26. Different rate designs are then presented and analyzed. Once the optimal rate design is chosen, a model is developed to calculate the proper rates for each of the customer classes. Both the financial model and the rate model become the property of the Utility, allowing the Utility to utilize the models to update rates in the future.

A Request for Proposal ("RFP") for the Study was posted publicly on August 26, 2024 and sent to qualified consulting firms having experience in conducting a comprehensive Study. Two firms responded to the RFP and submitted proposals by the October 1, 2024 deadline. The consulting firms were evaluated based on the following factors: Qualifications (25%) Pricing (15%) Experience (20%) Professional References (10%) Approach and Methodology (25%) Value Added Services (5%).

Upon review of proposals, it was determined that NewGen Strategies and Solutions, LLC is the best qualified, as per the guidelines set forth in the RFP and based on the evaluation criteria as given in the aggregate scores below.

CONSULTANT	SCORE

NewGen Strategies and Solutions, LLC	86
Utility Financial Solutions, LLC	78

The proposed Study shall include, but not be limited to the following major tasks:

Task 1: Kickoff Meeting/Study Objectives
Task 2: Develop Utility Revenue Requirements
Task 3: Cost of Service
Task 4: Municipal Utility Rate Trends Review
Task 5: Rate Design Model and Recommendation
Task 6: Pro Forma Financial Model Development
Task 7: Public Participation/Stakeholder Engagement
Task 8: Policy/Resolution Review
Task 9: Final Report

JUSTIFICATION:

The Utility is facing fiscal challenges, and one of the reasons for these challenges is that there hasn't been a true rate increase since 2013. There have been several rate restructurings, but these restructurings were intended to be revenue neutral. Although the Utility is currently implementing an emergency rate increase to address the immediate revenue shortfalls and to meet the Utility's bond covenants, a long-term solution is needed. Performing an updated Cost-of-Service Analysis and Rate Design Study is a vital step in developing a long-term solution.

The Study will perform a detailed financial analysis to determine the Utility's revenue requirements moving forward. The Study also analyzes the cost causation factors of each of the different customer classes, to determine which costs should be allocated to each of the customer classes. This cost analysis ensures that the Utility's new rates are compliant with California regulations, including Proposition 26. Different rate designs are presented and analyzed, and the optimal rate design is developed. Lastly, a final model is developed to calculate the appropriate rates that will ensure that (1) the Utility's ongoing revenue requirements are met, therefore maintaining long-term financial stability; (2) the Utility's rates are fair and defensible; (3) stakeholder interests are addressed; and (4) the rates consider arising issues such as rooftop solar penetration, EV charging, and the Utility's changing load profile.

NewGen Strategies and Solutions, LLC submitted the highest ranked proposals as a response to the City's RFP.

FISCAL IMPACT:

If approved, the professional services agreement with NewGen Strategies and Solutions, LLC in the amount of $164,600 will be funded by Account No. 673-7000-473.33-11 (Professional Services), which has an available balance of $274,999.65 for the remainder of fiscal year 2024/2025.

ALTERNATIVES:

Do not approve Resolution 2024-175 and provide alternative direction to staff.

BUDGETED?:

Yes

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. Resolution 2024-175, Electric COSA.docx
2. Exhibit A - C01088- NewGen PSA for Cost of Service Analysis.pdf

3. rfp_24_073_cost_of_service_analysis_and_rate_design_study-2024-10-24-16-37-38.pdf
4. Banning_RFP-24-073_COSA_and_Rate_Design_Study_NewGen_Proposal_10.01.24 (9).pdf
5. Banning_RFP-24-073_COSA_and_Rate_Design_Study_NewGen_Price_Proposal_10.01.24 (9).pdf

RESOLUTION 2024-175

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH NEWGEN STRATEGIES AND SOLUTIONS, LLC FOR THE ELECTRIC UTILITY COST-OF-SERVICE ANALYSIS AND RATE DESIGN STUDY IN THE AMOUNT OF $164,600

WHEREAS, the City of Banning owns and operates its own Municipal Electric Utility ("Utility"); and

WHEREAS, the last time the Utility had a true rate increase was 2013; and

WHEREAS, the lack of timely rate increases has contributed to the Utility having fiscal issues, including operating deficits and cash shortfalls; and

WHEREAS, as a short-term solution to the Utility's fiscal issues, the Utility is in the process of implementing an emergency rate increase; and

WHEREAS, the Utility desires to have a Cost-of-Service Analysis and Rate Design Study ("Study") performed which would set the foundation for a rate structure that would provide long-term solutions to the Utility's revenue needs and which would be compliant with California regulations, including Proposition 26; and

WHEREAS, staff solicited proposals from qualified consultants on August 26, 2024 for a Study; and

WHEREAS, NewGen Strategies and Solutions, LLC was scored as the most qualified, responsible, and responsive consulting firm based upon the Request for Proposal for the project; and

WHEREAS, the Professional Services Agreement with NewGen Strategies and Solutions, LLC will be for an amount of $164,600. The expenditure is included as part of the Fiscal Year 2024/2025 approved budget and available in Account No. 673-7000-473.33-11 (Professional Services).

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The City Council approves the Professional Services Agreement with NewGen Strategies and Solutions, LLC for the Cost-of-Service Analysis and Rate Design Study in an amount of $164,600, attached hereto as Exhibit A.

SECTION 2. The City Council authorizes the City Manager to make non-substantive changes to the Professional Services Agreement and to execute the Agreement with NewGen Strategies and Solutions, LLC on behalf of the City Council.

SECTION 3. The City Council authorizes the City Manager, or his designee, to make necessary budget adjustments, appropriations, and transfers related to this resolution.

SECTION 4. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 12th day of November 2024.

Alberto Sanchez, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

Serita R. Young, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2024-175, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 12th day of November 2024 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

EXHIBIT A
Agreement for Cost-of-Service Analysis and Rate Design Study

AGREEMENT FOR PROFESSIONAL SERVICES (C01088) FOR ELECTRIC COST OF SERVICE ANALYSIS AND RATE DESIGN STUDY BY AND BETWEEN CITY OF BANNING AND NEWGEN STRATEGIES AND SOLUTIONS, LLC

THIS AGREEMENT FOR PROFESSIONAL SERVICES (herein "Agreement") is made and entered into this day: _____, ("Effective Date") by and between the **CITY OF BANNING,** a California municipal corporation ("City") and NewGen Strategies and Solutions, LLC, a Colorado Limited Liability Company ("Consultant"). City and Consultant are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties."

RECITALS

A. City has sought by a Request for a Proposal (RFP #24-073) for the performance of the services for Electric Cost of Service Analysis and Rate Design Study and as further defined and described particularly in Article 1 of this Agreement.

B. Consultant, following submission of a proposal for the performance of the services defined and described particularly in Article 1 of this Agreement, was selected by City to perform those services.

C. The Parties desire to formalize the selection of Consultant for performance of those services defined and described particularly in Article 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

D. Pursuant to the City of Banning's Municipal Code, City has authority to enter into this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1. SERVICES OF CONSULTANT

1.1 Scope of Services.

In compliance with all terms and conditions of this Agreement, Consultant shall provide those services specified in the "Scope of Services" attached hereto as **Exhibit A** and incorporated herein by this reference, which services may be referred to herein as the "Services" hereunder. As a material inducement to City entering into this Agreement, Consultant represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the Services required under this Agreement in a thorough, competent, and professional manner, and is experienced in performing the Services contemplated herein. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all Services described herein. Consultant covenants that it shall follow the highest professional standards in performing the Services required hereunder and that all materials will be of good quality, and fit

for the purpose intended. For purposes of this Agreement, the phrase "highest professional standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

1.2 Contract Documents and Exhibits.

This Agreement includes the Request for Proposal and Consultant's accepted proposal ("Contract Documents"), both of which are on file with the City and incorporated herein by this general reference as though fully set forth herein. **Exhibit A** (Scope of Services), **Exhibit B** (Special Requirements), **Exhibit C** (Schedule of Compensation), and **Exhibit D** (Schedule of Performance) also constitute a part of this Agreement and are incorporated into this Agreement by this reference. Except as set forth in Section 1.10 regarding **Exhibit B**, this Agreement controls over the Contract Documents and the provisions in **Exhibits A, B** and **C**.

1.3 Compliance with Law.

Consultant shall keep itself informed concerning all ordinances, resolutions, statutes, rules, and regulations of City and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered, and shall render all Services hereunder in accordance therewith.

1.4 Licenses, Permits, Fees and Assessments.

Consultant shall obtain and maintain during the term of this Agreement, at its sole cost and expense, all necessary licenses, permits, certificates and approvals required by law for the performance of Services under this Agreement, including a City business license. Consultant shall have the sole obligation to pay for all fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and which arise from or are necessary for Consultant's performance of the Services required by this Agreement. Consultant shall indemnify, defend and hold harmless City, its officers, employees or agents, against all such fees, assessments, taxes, penalties or interest levied, assessed or imposed against City hereunder.

1.5 Familiarity with Services.

By executing this Agreement, Consultant warrants that Consultant: (i) has thoroughly investigated and considered the Scope of Services to be performed, (ii) has carefully considered how the Services should be performed, and (iii) fully understands the facilities and any difficulties and restrictions attending performance of the Services under this Agreement. If the Services involve work upon any site, Consultant warrants that Consultant has or will investigate the site and is or will be fully acquainted with the conditions existing therein, prior to commencement of Services hereunder. Should Consultant discover any latent or unknown conditions, which will materially affect the performance of the Services hereunder, Consultant shall immediately inform City of such fact and shall not proceed except at Consultant's risk until written instructions are received from the Contract Officer (defined in Section 1.12. A).

1.6 Prevention of Loss and Damages.

Consultant shall adopt reasonable methods during the Term (defined in Section 3.4) to furnish continuous protection to the work product, and the equipment, materials, papers, documents, plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the Services by City, except such losses or damages as may be caused by City's own negligence.

1.7 Further Responsibilities of Parties.

Both Parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both Parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonable necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither Party shall be responsible to perform the Services of the other.

1.8 Additional Services.

City shall have the right at any time during the performance of the Services, without invalidating this Agreement, to order extra services beyond that specified in the Scope of Services or to make changes by altering, adding to or deducting from the Services. No such extra services may be undertaken unless a written order is first given by the Contract Officer to Consultant, which written order incorporates therein an adjustment in (i) the Contract Sum (as defined in Section 2.1), and/or (ii) the Schedule of Performance, (as defined in Section 3.2), and which written order is approved in writing by Consultant. Any increase in compensation of up to ten percent (10%) of the Contract Sum, or $25,000, whichever is less; or in the Schedule of Performance of up to one hundred eighty (180) days may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively, must be approved by City Council. It is expressly understood by Consultant that the provisions of this Section shall not apply to Services which are specifically set forth in the Scope of Services or which are reasonably contemplated therein. Consultant hereby acknowledges that it accepts the risk that the Services to be provided pursuant to the Scope of Services may be more costly or time consuming than Consultant anticipates and that Consultant shall not be entitled to additional compensation therefor.

1.9 Facilities and Equipment.

Except as otherwise provided, Consultant shall, at its own cost and expense, provide all facilities and equipment necessary to perform the Services required by this Agreement. City shall make available to Consultant only physical facilities such as desks, filing cabinets, and conference space ("City Facilities"), as City deems, in its sole discretion, to be reasonably necessary for Consultant's use while consulting with City employees and reviewing records and the information in possession of City. The location, quality, and time of furnishing City Facilities shall be in the sole discretion of City. In no event shall City be required to furnish any facilities that may involve incurring any direct expense, including but not limited to a computer, long distance telephone, network data, internet or other communication charges, vehicles and reproduction facilities.

1.10 Special Requirements.

Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as **Exhibit B** and incorporated herein by this reference. In the event of a conflict between the provisions of **Exhibit B** and any other provisions of this Agreement, the provisions of **Exhibit B** shall govern.

1.11 Corrections.

In addition to the indemnification obligations set forth in Article 4, and Sections 1.4, 1.13, 5.3, 5.4, and 6.3, Consultant shall correct, at its expense, all errors in the Services which may be disclosed during City's review of Consultant's report or plans. Should Consultant fail to make such correction(s) in a reasonably timely manner, such correction(s) may be made by City, and the cost thereof shall be charged to Consultant. In addition to all other available remedies, City may deduct the cost of such correction(s) from any retention amount held by City, or may withhold payment otherwise owed Consultant under this Agreement up to the amount of the cost of correction(s), as provided in Section 6.3.

1.12 Party Representatives.

A. Contract Officer: For the purposes of this Agreement, the Contract Officer shall be the City Manager, or such other person designated in writing by the City Manager ("Contract Officer"). Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of City required hereunder to carry out the terms of this Agreement.

B. Principals and Personnel of Consultant.

1) Consultant Representative: The following principal of Consultant is hereby designated as being the Consultant Representative authorized to act on Consultant's behalf regarding the Services specified herein and make all decisions in connection therewith:

Name	Title
Scott Burnham	Partner

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing Consultant Representative were a substantial inducement for City to enter into this Agreement. Therefore, the foregoing Consultant Representative shall be responsible during the term of this Agreement for directing all activities of Consultant and devoting sufficient time to personally supervise the Services hereunder. All personnel of Consultant, and any authorized agents, shall at all times be under the exclusive direction and control of the Consultant Representative. For purposes of this Agreement, the foregoing Consultant Representative may not be replaced nor may their responsibilities be substantially reduced or reassigned by Consultant without the express written approval of City. It shall be Consultant's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the Services, and Consultant shall refer any decisions which must be made by City to the Contract Officer.

2) Consultant's Personnel: Consultant has, or will secure at its own expense, all personnel required to perform the Services required under this Agreement. All of the Services required under this Agreement shall be performed by Consultant or under its supervision, and all personnel engaged in the Services shall be qualified to perform such Services. Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff and sub-contractors, if any, assigned to perform the Services required under this Agreement. Consultant shall notify City of all changes in Consultant's staff and sub-contractors, if any, assigned to perform the Services required under this Agreement, prior to and during any such performance. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires to reassign any staff or sub-contractor of Consultant, City shall give notice as set forth in Section 8.1. Consultant shall, immediately upon the receipt of the notice to re-assign staff from City, reassign such person or persons.

1.13 Independent Contractor.

A. Consultant is an independent contractor and not an employee of City. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City. All Services provided pursuant to this Agreement shall be performed by Consultant or under its supervision. Consultant will determine the means, methods, and details of performing the Services. Any additional personnel performing Services under this Agreement on behalf of Consultant shall also not be employees of City and shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

B. Consultant shall indemnify and hold harmless City and its elected officials, officers, employees, servants, designated volunteers, and agents serving as independent contractors in the role of City officials, from any and all liability, damages, claims, costs and expenses of any nature to the extent arising from Consultant's personnel practices. City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this Section.

1.14 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Consultant, the Consultant Representative and employees were a substantial inducement for City to enter into this Agreement. Therefore, Consultant shall not contract with any other entity to perform in whole or in part the Services required hereunder without the express written approval of City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty-five percent (25%) of the present ownership and/or control of Consultant, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this

Agreement shall be void. No approved transfer shall release Consultant or any surety of Consultant of any liability hereunder without the express consent of City.

1.15 Debarment or Suspension.

Consultant represents and warrants that, as of the Effective Date of this Agreement, Consultant is not debarred or suspended pursuant to any applicable Federal or State law providing for the debarment of contractors. Consultant shall not perform the Services with any subcontractor that has been debarred or suspended pursuant to any applicable Federal or State law providing for the debarment. Consultant and its subcontractors shall not be debarred or suspended throughout the Term of this Agreement pursuant to any applicable Federal or State law providing for the debarment of contractors. If Consultant or any subcontractor becomes debarred or suspended during the Term of this Agreement, Consultant shall immediately notify City.

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, as full compensation for Services satisfactorily rendered, City shall pay Consultant at the hourly rates set forth in the "Schedule of Compensation" attached hereto as **Exhibit C** and incorporated herein by this reference. In no event shall Consultant be paid more than One Hundred Sixty-Four Thousand Six Hundred Dollars ($164,600.00) (the "Contract Sum"). The Contract Sum shall include the attendance of Consultant at all project meetings reasonably deemed necessary by City. Coordination of the performance of the Services with City is a critical component of the Services. If Consultant is required to attend additional meetings to facilitate such coordination, Consultant shall not be entitled to any additional compensation for attending those meetings.

2.2 Method of Compensation.

The method of compensation may include: (i) a lump sum payment upon completion of the Services, (ii) payment in accordance with specified tasks or the percentage of completion of the Services, (iii) payment for time and materials based upon Consultant's rates as specified in the Schedule of Compensation, provided that time estimates are provided for the performance of sub tasks, but not exceeding the Contract Sum or (iv) such other methods as may be specified in the Schedule of Compensation.

2.3 Reimbursable Expenses.

City shall only reimburse Consultant for those actual and necessary expenses expressly set forth in **Exhibit C**. Reimbursable expenses may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expenses, and travel expenses approved by the Contract Officer in advance, or actual sub-contractor expenses of an approved sub-contractor pursuant to Section 1.14, and only if specified in the Schedule of Compensation.

2.4 Unauthorized Services and Expenses.

City will not pay for any Services or reimburse for any expenses incurred which are not specified in the Scope of Services, unless authorized in writing as set forth in Section 1.8 of this Agreement. City shall make payment for such authorized additional Services and expenses in accordance with Article 2 of this Agreement.

2.5 Invoices.

Each month Consultant shall furnish to City an original invoice for all Services performed and expenses incurred during the preceding month. Each such invoice shall contain all of the information set forth in Section III of **Exhibit C** to this Agreement. By submitting an invoice for payment under this Agreement, Consultant is certifying compliance with all provisions of the Agreement. Consultant shall not invoice City for any duplicate Services performed by more than one person.

City shall independently review each invoice submitted by Consultant to determine whether the Services performed and expenses incurred are in compliance with the provisions of this Agreement. City will use its best efforts to cause Consultant to be paid within thirty (30) days of receipt of Consultant's correct and undisputed invoice, except as to any charges for Services performed or expenses incurred by Consultant which are disputed by City, or as provided in Section 6.3. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Consultant for correction and resubmission. Review and payment by City of any invoice provided by Consultant shall not constitute waiver of any rights or remedies provided herein or any applicable law.

2.6 Waiver.

Payment to Consultant for Services performed pursuant to this Agreement shall not be deemed to waive any defects in Services performed by Consultant.

ARTICLE 3. PERFORMANCE SCHEDULE

3.1 Time of Essence.

Time is of the essence in the performance of this Agreement; provided, however, that the foregoing shall not be construed to limit or deprive a Party of the benefits of any grace or use period allowed in this Agreement.

3.2 Schedule of Performance.

Consultant shall commence the Services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all Services within the time period(s) established in the "Schedule of Performance" attached hereto as **Exhibit D** and incorporated herein by this reference.

3.3 Force Majeure.

The time period(s) specified in the Schedule of Performance for performance of the Services rendered pursuant to this Agreement may be extended because of any delays due to

unforeseeable causes beyond the control and without the fault or negligence of Consultant. Such unforeseeable consequences include, but are not restricted to, acts of God or public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including City, if Consultant shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the Services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified, subject to the provisions of Section 1.8. The Contract Officer's determination (or the City Council's determination, in the event the period of enforced delay exceeds the period specified in Section 1.8) shall be final and conclusive upon the Parties to this Agreement. In no event shall Consultant be entitled to recover damages against City for any delay in the performance of this Agreement, however caused; Consultant's sole remedy shall be the extension of the Agreement pursuant to this Section.

3.4 Term.

The Term of this Agreement shall be from the Effective Date through June 30, 2026, unless sooner terminated as provided in Article 6 of this Agreement or extended as provided in Sections 1.8 and 3.3 of this Agreement. Maximum term and any subsequent amendment or modification shall not exceed five (5) years.

ARTICLE 4. INSURANCE AND INDEMNIFICATION

4.1 Minimum Scope and Limits of Insurance.

Consultant shall procure and at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:

A. Commercial General Liability Insurance with a minimum limit of $1,000,000.00 per occurrence for bodily injury, personal injury and property damage and a general aggregate limit of $2,000,000.00 per project or location. If Consultant is a limited liability company, the commercial general liability coverage shall be amended so that Consultant and its managers, members, affiliates, employees, agents and other persons necessary or incidental to its operation are insureds.

B. Automobile Liability Insurance for any owned, non-owned or hired vehicle used in connection with the performance of this Agreement with a combined single limit of $1,000,000.00 per accident for bodily injury and property damage. If Consultant does not use any owned, non-owned or hired vehicles in the performance of Services under this Agreement, Consultant shall obtain a non-owned auto endorsement to the Commercial General Liability policy.

C. Workers' Compensation Insurance as required by the State of California and Employer's Liability Insurance with a minimum limit of $1,000,000.00 per accident for bodily injury or disease. If Consultant has no employees while performing Services under this Agreement, workers' compensation policy is not required; however, Consultant shall execute a declaration that it has no employees.

D. Professional Liability/Errors and Omissions Insurance with minimum limits of $1,000,000.00 per claim and in the aggregate.

4.2 Acceptability of Insurers.

The insurance policies required under this Article shall be issued by an insurer admitted to write insurance in the State of California with a rating of A:VII or better in the latest edition of the A.M. Best Insurance Rating Guide. Self-insurance shall not be considered to comply with the insurance requirements under this Article.

4.3 Additional Insured.

The commercial general and automobile liability policies shall contain an endorsement naming City, its officers, employees, agents and volunteers as additional insureds.

4.4 Primary and Non-Contributing.

The insurance policies required under this Article shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance available to City. Any insurance or self-insurance maintained by City, its officers, employees, agents or volunteers, shall be in excess of Consultant's insurance and shall not contribute with it.

4.5 Consultant's Waiver of Subrogation.

The insurance policies required under this Article shall not prohibit Consultant and Consultant's employees, agents or sub-contractors from waiving the right of subrogation prior to a loss. Consultant hereby waives all rights of subrogation against City.

4.6 Deductibles and Self-Insured Retentions.

Any deductibles or self-insured retentions must be declared to and approved by City. At City's option, Consultant shall either reduce or eliminate the deductibles or self-insured retentions with respect to City; or Consultant shall procure a bond guaranteeing payment of losses and expenses.

4.7 Cancellations or Modifications to Coverage.

Consultant shall not cancel, reduce or otherwise modify the insurance policies required by this Article during the term of this Agreement. The commercial general and automobile liability policies required under this Agreement shall be endorsed to state that should the issuing insurer cancel the policy before the expiration date, the issuing insurer will endeavor to mail 30 days' prior written notice to City. If any insurance policy required under this Article is canceled or reduced in coverage or limits, Consultant shall, within two (2) Business Days (as defined in Section 8.12) of notice from the insurer, phone, fax or notify City via certified mail, return receipt requested, of the cancellation of or changes to the policy.

4.8 City Remedy for Noncompliance.

If Consultant does not maintain the policies of insurance required under this Article in full force and effect during the term of this Agreement, or in the event any of Consultant's policies do not comply with the requirements under this Article, City may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, City may, but has no duty to, take out the necessary insurance and pay, at Consultant's expense, the premium thereon. Consultant shall promptly reimburse City for any premium paid by City, or City may withhold amounts sufficient to pay the premiums from payments due to Consultant.

4.9 Evidence of Insurance.

Prior to the performance of Services under this Agreement, Consultant shall furnish the City Clerk with a certificate or certificates of insurance and all original endorsements evidencing and effecting the coverages required under this Article. The endorsements are subject to City's approval. Consultant may provide complete, certified copies of all required insurance policies to City. Consultant shall maintain current endorsements on file with the City Clerk. Consultant shall provide proof to the City Clerk that insurance policies expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Consultant shall furnish such proof at least two (2) weeks prior to the expiration of the coverages.

4.10 Indemnity Requirements not Limiting.

Procurement of insurance by Consultant shall not be construed as a limitation of Consultant's liability or as full performance of Consultant's duty to indemnify City under this Agreement.

4.11 Sub-contractor Insurance Requirements.

Consultant shall require each of its sub-contractors that perform Services under this Agreement to maintain insurance coverage that meets all of the requirements of this Article.

4.12 Indemnification, Hold Harmless, and Duty to Defend.

A. Indemnification of City.

1) To the fullest extent permitted by law, Consultant shall, at its sole cost and expense, defend, hold harmless and indemnify City and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, assigns and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees"), from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith and the payment of all consequential damages (collectively "Liabilities"), at law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant, its officers, agents, servants, employees, sub-contractors, materialmen, consultants or their officers, agents, servants or employees (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities arising

from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties. Consultant shall defend the Indemnitees in any action or actions filed in connection with any Liabilities with counsel of the Indemnitees' choice, and shall pay all costs and expenses, including all attorneys' fees and experts' costs actually incurred in connection with such defense. Consultant shall reimburse the Indemnitees for any and all legal expenses and costs incurred by Indemnitees in connection therewith.

2) Consultant shall pay all required taxes on amounts paid to Consultant under this Agreement, and indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant shall fully comply with the workers' compensation law regarding Consultant and Consultant's employees. Consultant shall indemnify and hold City harmless from any failure of Consultant to comply with applicable workers' compensation laws. City may offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this subparagraph A.2.

3) Consultant shall obtain executed indemnity agreements with provisions identical to those in this Article from each and every sub-contractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. If Consultant fails to obtain such indemnity obligations, Consultant shall be fully responsible and indemnify, hold harmless and defend the Indemnitees from and against any and all Liabilities at law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant's sub-contractor, its officers, agents, servants, employees, sub-contractors, materialmen, consultants or their officers, agents, servants or employees (or any entity or individual that Consultant's sub-contractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties.

B. Workers' Compensation Acts not Limiting. Consultant's indemnifications and obligations under this Article, or any other provision of this Agreement, shall not be limited by the provisions of any workers' compensation act or similar act. Consultant expressly waives its statutory immunity under such statutes or laws as to City, its officers, agents, employees and volunteers.

C. Insurance Requirements not Limiting. City does not, and shall not, waive any rights that it may possess against Consultant because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. The indemnities in this Article shall apply regardless of whether or not any insurance policies are determined to be applicable to the Liabilities, tax, assessment, penalty or interest asserted against City.

D. Survival of Terms. Consultant's indemnifications and obligations under this Article shall survive the expiration or termination of this Agreement.

ARTICLE 5. RECORDS, REPORTS, AND RELEASE OF INFORMATION

5.1 Service Records.

Consultant shall keep, and require sub-contractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and Services performed hereunder (the "Service Records"), as shall be necessary to perform the Services required by this Agreement and enable the Contract Officer to evaluate the performance of such Services. Any and all such Service Records shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such Service Records at all times during normal business hours of City, including the right to inspect, copy, audit and make copies and transcripts from such Service Records. Such Service Records shall be maintained for a period of three (3) years following completion of the Services hereunder, and City shall have access to such Service Records in the event any audit is required. In the event of dissolution of Consultant's business, custody of the Service Records may be given to City, and access shall be provided by Consultant's successor in interest ("Consultant's Successor"). If custody of the Service Records is given to Consultant's Successor, Consultant shall give written notice to City of the transfer of the Service Records to Consultant's Successor. The notice shall include contact information (address and telephone number) for Consultant's Successor, and access shall be provided to City by Consultant's Successor.

5.2 Reports.

Consultant shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the Services required by this Agreement as the Contract Officer shall require. Consultant hereby acknowledges that City is greatly concerned about the cost of Services to be performed pursuant to this Agreement. For this reason, Consultant agrees that if Consultant becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the Services contemplated herein, Consultant shall promptly notify the Contract Officer of that fact, circumstance, technique or event and the estimated increased or decreased cost related thereto.

5.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the "Consultant Documents") prepared by Consultant, its employees, sub-contractors and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the termination of this Agreement. Consultant shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership use, reuse, or assignment of the Consultant Documents hereunder. Any use, reuse or assignment of such completed Consultant Documents for other projects and/or use of uncompleted Consultant Documents without specific written authorization by Consultant will be at City's sole risk and without liability to Consultant, and Consultant's guarantee and warranties shall not extend to such use or assignment. Consultant may retain copies of such Consultant Documents for its own use. Consultant shall have an unrestricted right to use the concepts embodied therein. All

sub-contractors shall provide for assignment to City of all Consultant Documents prepared by them; and in the event Consultant fails to secure such assignment, Consultant shall indemnify City for all damages resulting therefrom.

5.4 Confidentiality and Release of Information.

A. All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the Contract Officer.

B. Consultant, its officers, employees, agents or sub-contractors, shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the Services performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

C. If Consultant, or any officer, employee, agent or sub-contractor of Consultant, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorneys' fees, caused by or incurred as a result of Consultant's conduct.

D. Consultant shall promptly notify City should Consultant, its officers, employees, agents or sub-contractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any Party regarding this Agreement and the Services performed thereunder. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite the response.

ARTICLE 6. ENFORCEMENT OF AGREEMENT AND TERMINATION

6.1 California Law.

This Agreement, and any dispute arising from the relationship between the Parties to this Agreement, shall be interpreted, construed and governed both as to validity and to performance of the Parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Riverside, State of California, or any other appropriate court in such county, and Consultant covenants and agrees to submit to the personal jurisdiction of such court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in Riverside.

6.2 Disputes; Default.

A. In the event that City determines Consultant is in default under the terms of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any Services performed after the date of default. In addition to the provisions of Section 4.8, and the right to terminate pursuant to Section 6.7, if the City Manager determines that Consultant is in default in the performance of any of the terms or conditions of this Agreement, City may serve Consultant with written notice of the default. Consultant shall have ten (10) calendar days after service upon it of the notice in which to cure the default by rendering a satisfactory performance. In the event that Consultant fails to cure its default within such period of time, City may, notwithstanding any other provision of this Agreement, terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

B. In the event of termination pursuant to this Section, City may take over the Services and prosecute the same to completion by contract or otherwise, and Consultant shall be liable to the extent that the total cost for completion of the Services required hereunder exceeds the compensation herein stipulated (provided that City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to Consultant for the purpose of set-off or partial payment of the amounts owed City as provided in Section 6.3.

6.3 Retention of Funds.

Consultant hereby authorizes City to deduct from any amount payable to Consultant (whether or not arising out of this Agreement): (i) any payment amount of which may be in dispute hereunder or which is necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, (ii) all amounts retained pursuant to the provisions of Section 4.8, (iii) all amounts for which City may be liable to third parties, by reason of Consultant's acts or omissions in performing or failing to perform Consultant's obligation under this Agreement, and (iv) all payments due or that become due to Consultant during the period that Consultant or any of its sub-contractors fail to maintain any required insurance in full force and effect, until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to City, as provided in Section 4.9, above. In the event that any claim is made by a third party, the amount or validity of which is disputed by Consultant, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of Consultant to insure, indemnify, and protect City as elsewhere provided herein.

6.4 Waiver.

Waiver by any Party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any Party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any Services by Consultant shall not constitute a waiver of any of the

provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either Party of any default must be in writing, and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

6.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

6.6 Legal Action.

In addition to any other rights or remedies, either Party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Notwithstanding any contrary provision herein, Consultant must file a statutory claim pursuant to Government Code Sections 905 et seq. and 910 et seq., in order to pursue a legal action against City under this Agreement.

6.7 Termination Prior to Expiration of Term.

This Article 6 shall govern any termination of this Agreement except as specifically provided in Section 6.2 for termination for default of Consultant. City reserves the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days' written notice to Consultant, except that where termination is due to the fault of Consultant, the period of notice may be a shorter time as may be determined by the Contract Officer. In addition, Consultant reserves the right to terminate this Agreement at any time, with or without cause, upon sixty (60) days' written notice to City, except that where termination is due to the fault of City, the period of notice may be a shorter time as Consultant may determine. Upon receipt of any notice of termination, Consultant shall immediately cease all Services hereunder except such as may be specifically approved by the Contract Officer. Except where Consultant has initiated termination, Consultant shall be entitled to compensation for all Services rendered prior to the effective date of the notice of termination and for any Services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 6.3. In the event Consultant has initiated termination, Consultant shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder. In the event of termination without cause pursuant to this Section, the terminating Party need not provide the non-terminating Party with the opportunity to cure pursuant to Section 6.2.

6.8 Attorneys' Fees.

In any litigation or other proceeding by which a Party seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing Party in such action or proceeding, in addition to any other

relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorneys' fees. Attorneys' fees shall include attorney's fees on any appeal, and in addition the Party entitled to attorneys' fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

ARTICLE 7. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

7.1 Non-liability of City Officers and Employees.

No officer or employee of City shall be personally liable to Consultant, or Consultant's Successor, in the event of any default or breach by City or for any amount which may become due to Consultant or Consultant's Successor, or for breach of any obligation of the terms of this Agreement.

7.2 Conflict of Interest.

Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of Services under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or sub-contractor without the express written consent of the Contract Officer. Consultant agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

No officer or employee of City shall have any direct or indirect financial interest in this Agreement within the scope of Government Code section 1090, nor shall any such officer or employee make, participate in making, or use his or her official position to influence, any City decision relating to the Agreement which has a material financial effect on his or her financial interests or the financial interests of any corporation, partnership or association in which he or she is, directly or indirectly, interested, in violation of any State statute or regulation. Consultant warrants that it has not paid or given, and will not pay or give any third party any money or other consideration for obtaining this Agreement.

Consultant and its officers, employees, associates and sub-contractors, if any, shall comply with all conflict of interest statutes of the State of California applicable to Consultant's Services under this Agreement, including the Political Reform Act (Gov. Code § 81000, et seq.) and Government Code Section 1090. During the term of this Agreement, Consultant may perform similar services for other clients; but Consultant and its officers, employees, associates and sub-contractors shall not, without the Contract Officer's prior written approval, perform services for another person or entity for whom Consultant is not currently performing services that would require Consultant or one of its officers, employees, associates or sub-contractors to abstain from a decision under this Agreement pursuant to a conflict of interest statute. Consultant shall incorporate a clause substantially similar to this Section into any subcontract that Consultant executes in connection with the performance of this Agreement.

7.3 Covenant Against Discrimination.

Consultant covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, or ancestry in the performance of this Agreement. Consultant shall take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, religion, sex, marital status, national origin, or ancestry, or other protected class.

7.4 Unauthorized Aliens.

Consultant hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such unauthorized aliens for the performance of Services covered by this Agreement, and should the any liability or sanctions be imposed against City for such use of unauthorized aliens, Consultant hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

ARTICLE 8. MISCELLANEOUS PROVISIONS

8.1 Notices.

Any notice, demand, request, document, consent, approval, bill, invoice, report or other communication required or permitted under this Agreement shall be in writing and conclusively deemed effective: (a) on confirmed delivery by courier service or overnight delivery service during Consultant's and City's regular business hours; or (b) three (3) Business Days after deposit in the United States mail, by certified or registered mail, and addressed to the Party to be notified as set forth below:

If to City	Attn: Art Vela Director of Public Works City of Banning 99 East Ramsey Street Banning, California 92220 Email: avela@bannningca.gov
With a courtesy copy to:	Serita R. Young, City Attorney Richards, Watson & Gershon 350 South Grand Avenue, 37th Floor Los Angeles, California 90071 Email: SYoung@rwglaw.com

If to Consultant: Attn: Scott Burnham,
Partner
NewGen Strategies and Solutions, LLC
225 Union Boulevard, Suite 450
Denver, CO 80228
Email: sburnham!newgenstrategies.net

8.2 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either Party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

8.3 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

8.4 Integration; Amendment.

This Agreement, and all exhibits referred to in this Agreement, constitute the final, complete and exclusive statement of the terms of the agreement between the Parties pertaining to the subject matter of this Agreement and supersede all other and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the Parties, and none shall be used to interpret this Agreement. No Party has been induced to enter into this Agreement by, nor is any Party relying on, any representation or warranty except those expressly set forth in this Agreement. No amendment to or modification of this Agreement, nor any provision or breach hereof waived, shall be valid unless made in writing and approved by Consultant and by City Council. The Parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

8.5 Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the Parties hereunder unless the invalid provision is so material that its invalidity deprives either Party of the basic benefit of their bargain or renders this Agreement meaningless.

8.6 Mutual Cooperation.

A. City's Cooperation. City shall provide Consultant with all pertinent data, documents and other requested information as is reasonably available for Consultant's proper performance of the Services required under this Agreement.

B. Consultant's Cooperation. In the event any claim or action is brought against City relating to Consultant's performance of Services rendered under this Agreement, Consultant shall render any reasonable assistance that City requires.

8.7 No Third Party Beneficiaries Intended.

This Agreement is made solely for the benefit of the Parties to this Agreement and their respective successors and assigns, and no other person or entity may have or acquire a right by virtue of this Agreement.

8.8 Final Payment Acceptance Constitutes Release.

The acceptance by Consultant of the final payment made under this Agreement shall operate as and be a release of City from all claims and liabilities for compensation to Consultant for anything done, furnished or relating to Consultant's Services. Acceptance of payment shall be any negotiation of City's check or the failure to make a written extra compensation claim within ten (10) calendar days of the receipt of that check. However, approval or payment by City shall not constitute, nor be deemed, a release of the responsibility and liability of Consultant, its employees, sub-contractors and agents for the accuracy and competency of the information provided and/or Services performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by City for any defect or error in the Services prepared by Consultant, its employees, sub-contractors and agents.

8.9 Non-Appropriation of Funds.

Payments to be made to Consultant by City for Services performed within the current fiscal year which are within the current fiscal budget and within an available, unexhausted fund. In the event that City does not appropriate sufficient funds for payment of Consultant's Services beyond the current fiscal year, this Agreement shall cover payment for Consultant's Services only to the conclusion of the last fiscal year in which City appropriates sufficient funds and shall automatically terminate at the conclusion of such fiscal year.

8.10 Headings.

The headings in this Agreement are included solely for convenience of reference and shall not affect the interpretation of any provision of this Agreement or any of the rights or obligations of the Parties to this Agreement.

8.11 Word Usage.

Unless the context clearly requires otherwise, (a) the words "shall," "will" and "agrees" are mandatory and "may" is permissive; (b) "or" is not exclusive; and (c) "includes" or "including" are not limiting.

8.12 Business Days.

"Business Days" refers to days that the Banning City Hall is open for business.

8.13 Corporate Authority.

The persons executing this Agreement on behalf of the Parties hereto warrant that (i): such Party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of that Party, (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which that Party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the Parties.

8.14 Electronic Signatures.

Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Agreement and such other documents transmitted by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF the Parties hereto have executed this Agreement the day and year first hereinabove written.

CITY OF BANNING

Douglas Schulze, Date
City Manager

ATTEST:

Caroline Patton Date
Administrative City Clerk

APPROVED AS TO FORM:
Richards, Watson & Gershon

Serita R. Young Date
City Attorney

CONSULTANT

NAME: Date
TITLE:

NAME: Date
TITLE:

Tax ID No.

Address:

City Council Approval: _____

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

EXHIBIT "A"
SCOPE OF SERVICES

I. Consultant will perform the following Services in connection with providing Electric Cost of Service Analysis and Rate Design Study prepared in connection therewith:

II. As part of the Services, Consultant will prepare and deliver the following tangible work products and services to City:

PROPOSAL

Statement of Understanding and Approach

Banning Electric Utility (BEU) is seeking the development of a series of financial and economic models to develop a defensible basis for its retail rate offerings. The models will need to be designed to address changes in power supply costs and sources, including integrating renewable energy sources, as well as increasing operations and maintenance (O&M) costs, capital needs, stranded investments, sales and revenue projections, and customer needs. The rates developed for BEU's Cost of Service Analysis and Rate Design Study (Study) must adequately balance its short- and long-term financial sustainability.

Recommended rates and rate structures must meet BEU's ongoing operating expenditures, bond covenants, capital improvement needs, debt recovery, and fund reserve requirements, which may need to be reviewed and established for this Study. Additionally, the Study and its results must follow accepted industry standards, best practices, and California law, including Proposition 26. Further, BEU is seeking to understand the rate design and electric pricing trends occurring across the country, including how municipal utilities are approaching strategic rate design to recover costs, manage their load, and offer targeted programs to end-use customers. Specific retail rate elements to address in this Study include:

- Time of Use (TOU) rates
- Customer Self-Generation (Non-net energy metering [NEM], or NEM 2.0)
- Metered Rates for Electric Vehicle (EV) — Residential and Public
- Recovery Adjustments for new Renewable Energy and Purchase Power Agreements (PPA)
- Low-Income Assistance Program cost recovery

Models developed for this Study need to have the flexibility to support rate recommendations based on changing factors such as power supply resources, capital investment, and retail sales. Further, these models will become the property of BEU and the City of Banning (City) upon completion and will be provided along with the necessary training and documentation to allow for continued use after the Study is completed. NewGen Strategies and Solutions, LLC (NewGen) will summarize the recommended rate changes from the Study for BEU, the City, City Council Committee, and City Council consideration, as well as present the results to the community to solicit feedback.

NewGen is well equipped to provide the service and deliverables that BEU is requesting for this assignment. We have developed pro forma financial models for various clients and integrated the results with tailored cost of service analysis (COSA) models while working diligently with management and staff to develop comprehensive rate plans. We are well versed in developing electric rate recommendations for California municipalities, as well as utilities across the country, and in the various strategies regarding compliance with Proposition 26, as well as other mandates for power supply. We are active in the California regulatory arena as we are currently representing several of the Community Choice Aggregators (CCAs) as they challenge the big three investor-owned utilities (IOUs) in the state.

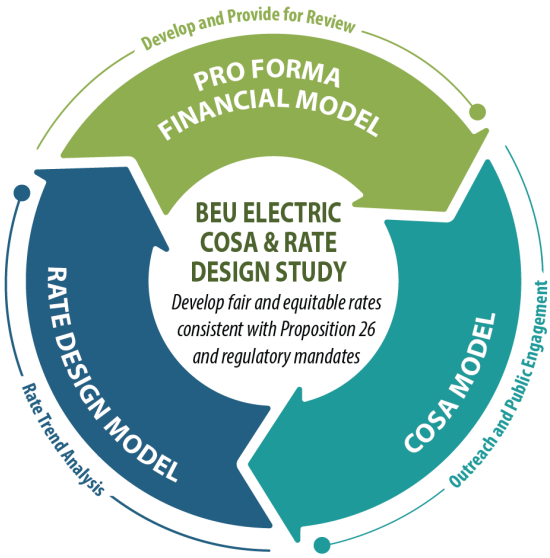
Our vision for the Study is to develop a collaborative response with BEU management and staff to create a multiyear pro forma financial model, develop a comprehensive COSA model to incorporate future test years, and develop a rate design model that quantifies the impacts of rate changes on each of BEU's

customer classes. This vision results in a series of deliverables, which will be developed in the following Implementation Plan:

- Create Strategic Rate Design document: a living document developed at the initial project meeting to establish the goals, objectives, and issues to be resolved during the Study.
- Develop BEU's multiyear pro forma financial model to incorporate data as appropriate into the COSA model to form the basis for the Test Year Revenue Requirement.
- Create a comprehensive, flexible, user-friendly COSA model. Include the development of dashboards and scenario management to facilitate communication of model results.
- Report on the Revenue Requirement analysis and associated allocated costs by customer class for review and comment.
- Conduct a rate trend analysis of how other municipal and other power entities are addressing electricity pricing, implementation challenges/strategies, and potential barriers/issues for customer adoption of rate designs.
- Create rate design recommendations based on feedback from rate trends analysis discussions as they apply to BEU's existing and future rate classes.
- Develop a user-friendly rate design model to incorporate BEU's billing database for analysis of all customers in all classes; this will include dashboards and a scenario development tool.
- Develop a written report detailing findings and recommendations from the Study, as well as presentations to Council and/or Council Committee and Community Stakeholder groups, as identified and requested.

Study Vision

NewGen's vision is to develop and integrate three primary planning models for BEU to optimize its rate setting processes, including a standalone pro forma financial model, a COSA model, and a rate design model. NewGen will be responsible for the development of all three models and will integrate the results of these models as appropriate. The following graphic illustrates our vision for the Study:



MULTI-YEAR PRO FORMA FINANCIAL MODEL
Develop and review with BEU
System Revenue Requirement | Load Forecast | Capital Improvement Plan | Annual Cash Flow Analysis | Percent Rate Change

COST OF SERVICE ANALYSIS MODEL
Develop specific BEU model
Class Revenue Requirement | Cost of Service Based Rates | Fully Allocated Embedded and Marginal Cost

RATE DESIGN MODEL
Develop a system-wide interactive model
Class Rate Structures | Rate Impacts by Usage | Test Year Revenue Projection | Customer Impact Rate Design

Multi-Year Pro Forma Financial Model

The multi-year pro forma financial standalone model will be designed to incorporate historical and projected financial and sales data to produce reliable and timely information on the health of the utility. **Our vision for this Study is to develop a multiyear financial model for BEU, the results of which will be incorporated into the COSA model, and to facilitate updates by BEU staff for future use.** We propose to work with BEU to review its model assumptions for energy sales forecasts, customer growth, operating and non-operating revenues and expenses, capital improvement program plans (and funding mechanisms), and debt service payments, as well as the resulting financial metrics (cash position) for the utility. These metrics include maintaining adequate and appropriate reserve levels and guidelines provided by BEU's Fiscal Policy and Cash Reserve Policy or working the BEU to develop appropriate guidelines. These metrics may include days cash on hand (DCOH), debt service coverage ratios, and others. NewGen will work with BEU to evaluate these metrics as they apply to the projected cash needs of the electric utility going forward. The results from the pro forma financial model will be incorporated into the COSA model as the annual projected revenue requirement, load forecast, and revenue forecast over the projected five-year rate period, as well as the multi-year forecast period. The pro forma financial model will become the property of BEU upon completion of the Study, and NewGen will be available to advise BEU staff on future updates and model functionality, as appropriate.

Cost of Service Analysis Model

The COSA model develops a Test Year Revenue Requirement that is functionally unbundled, classified, and allocated to customer classes to determine cost-based rates. **NewGen's vision for the BEU COSA model is to develop a standalone analysis that is comprehensive, detailed, and defensible.** This will include adding to the model capabilities to incorporate marginal costs and new proposed rate classes, as appropriate, based on the annual cash needs of the utility. We will design a series of dashboards for the COSA model and include the ability to save several scenario analyses for evaluation into the model. Further, our vision includes a seamless interface between the COSA model and the pro forma financial

model to transfer appropriate data and minimize opportunities for transcription errors. The COSA model review process will include analysis of the current cost allocation methodology to provide a defensible basis for the cost factors to be utilized for this Study, including those identified by California's Proposition 26. The cost allocation methods will be evaluated in light of changes in the utility's operations, usage characteristics, and other items, as appropriate and in coordination with the BEU Team. The results from the COSA model which will be incorporated into the rate design model will include the class revenue requirements, the percentage rate change (by class), and the unbundled and functionalized COS-based rates for each rate class.

Rate Design Model

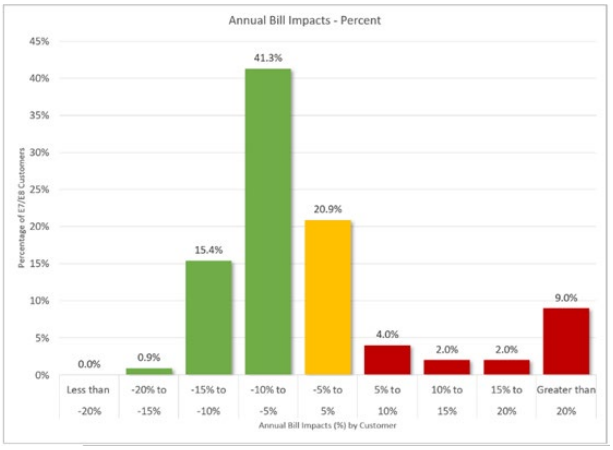
Rate Trend Analysis

BEU seeks to understand trends in the evolving national approach to electric rates, pricing, and program design and implementation. **NewGen's vision for the rate trend analysis is to provide an overview of innovative pricing and program design methodologies across the country, including a focus on California utilities.** Our vision includes descriptions of various pricing programs for both traditional electric service as well as those serving emerging technologies, such as EVs, TOU rates, and customer-sited generation and storage systems. We recognize that rate implementation challenges exist. Many rate offerings require system infrastructure upgrades, such as metering and billing systems, as well as expensive communications or meter data management systems. Utilities will also be reviewed for their low-income assistance programs and how those programs are funded as well as potential applications for BEU. Further, utilities are often limited in their rate offerings because of political pressure and resistance to change. Each implementation challenge is unique for each utility, and solutions must be tailored for the demographic for which the rate is designed. The rate trend analysis will provide a matrix summary of implementation challenges by rate class and their relative advantages and disadvantages.

Customer Impact Rate Design Model

Our vision for BEU's Customer Impact rate design model is to create a Microsoft Excel- (Excel) based interactive model for all customers served by BEU to evaluate the impacts from rate and rate structure changes as a result of the COSA process and rate recommendations developed for this Study. Our rate design model will be based on the rate design model that NewGen developed for BEU in a previous project but will be derived from BEU's full customer billing system, excluding specific customer names and addresses. The advantage of our Customer Impact rate design model is that it provides the entire range of impacts to customers as a result of changes in rates and rate structures rather than focusing on representative customers. By developing a histogram of the rate impacts for each customer within a rate class, the City can determine a course of action with a complete understanding of those impacts, either as a percentage of current bills or a monthly dollar change. Additionally, by identifying those accounts with significant changes, BEU can proactively reach out to specific customers to determine if a utility-led program may be appropriate for their premise.

The results of the Customer Impact rate design model will include an evaluation of the recommendations and their alternatives for various rate designs. The revenue generated by each rate design will be compared to the projected revenue needs of the utility to ensure revenue adequacy for the Test Year period. The resulting system revenues and rate changes will be combined into an exported spreadsheet for the purpose of integrating with the pro forma financial model. NewGen will provide instruction to BEU management and staff on the use of the Customer Impact rate design model to facilitate its use after completion of the Study.



Outreach and Public Engagement

A cornerstone of the purpose of public power is that the utility is connected to its customers and communities. All phases of the scope of work will be designed to showcase the advantages of BEU as a reliable and trusted community member. **Our vision for Outreach and Public Engagement is to establish an open and transparent dialogue for BEU's rate setting process.** NewGen will work with BEU to define its stakeholder groups, which may include the public, City staff, the City Council Committee, and City Council, as well as other groups and interested parties. This engagement is designed to facilitate consensus on the strategic direction for the Study's rate design recommendations. NewGen believes that starting the Outreach and Public Engagement process early in the development of the Study will benefit BEU by allowing it to communicate how rates are determined and the challenges BEU faces in providing reliable power to the community.

Scope of Work

NewGen proposes the following scope of work, which closely follows BEU's Request for Proposal (RFP) as well as approaches and methodologies utilized for all of our COSA and rate design studies. Therefore, BEU can be assured that the proposed work plan has been tested and proven in numerous studies across the state and nation. It is understood that if selected, the Project Team will refine, customize, and finalize the work plan with BEU upon award of the project. Further, we will adhere to and incorporate best practices as well as the governance and guidance of any California regulations pertaining to such studies and final recommendations, including Proposition 26. We also note that we will not need to use, lease, purchase, or rent any City-owned facilities or property for this project; with the exception of in-person meetings and presentations, our work will be conducted from our office in Colorado.

This scope of work follows BEU's RFP by developing a series of project phases:

- Phase I: This will include Task 1 (Kickoff), Task 2 (Revenue Requirement), and Task 3 (Cost of Service Analysis).
- Phase II: This will include Task 4 (Rate Trends Study), and Task 5 (Rate Design).
- Phase III: This will consist of Task 5 (Financial Planning Model).
- Phase IV: This will consist of Task 7 (Stakeholder Engagement/Public Participation), Task 8 (Policy/Resolution Review), and Task 9 (Draft and Final Report).

- Phase V: This will consist of enhancements to the Study as requested by BEU.

Phase I – Kickoff/Revenue Requirement/Cost of Service Analysis

Task 1 – Kickoff Meeting/Study Objectives

Within two weeks of notice to proceed, NewGen will provide a Data Request to BEU, which will include a list of requested utility-related data, reports, documents and schedules. Further, NewGen will schedule an on-site meeting with BEU to review data and establish objectives and milestones for the Study. The kickoff meeting will be attended by up to two members of the NewGen Project Team.

The purpose of the meeting will be to review the rate making process; establish communication protocols including biweekly status calls; and discuss BEU's financial and rate strategies, objectives, and goals. Additionally, we will discuss the Study timeframe and verify milestones for completion of the deliverables identified herein. The on-site meeting also includes discussions of the principles and methodologies developed in previous studies, as recommended changes will be based on legal requirements (Proposition 26, among others), industry rate setting practices, and BEU's unique rate setting objectives and customer usage characteristics.

NewGen will request the most recent update to the City's Electric System Master Plan (ESMP) and will incorporate the findings to date into the Study. During the kickoff meeting, NewGen will discuss key issues that impact BEU's fiscal health and available data, including City and customer demographics, rate values like equity and affordability, availability of Advanced Metering Infrastructure (AMI) data, funding for Public Benefit Programs (as mandated by the state, as well as others that the City may have developed), and other legal requirements. Based on this discussion, NewGen will advise BEU of the impact of the current COSA and provide strategic guidance on how to proceed with various degrees of uncertainty. The elements of the discussion from the kickoff meeting as well as the data received will be memorialized into a Strategic Rate Design Document.

The Strategic Rate Design Document will state the purpose of the Study, issues to address, and specific rates to be developed and/or evaluated, and will develop project controls (including financial updates on budget) and the proposed schedule. This is intended to be a "living document" that is updated on a biweekly basis to include the discussions and decisions made during the ongoing status conference calls between the NewGen and BEU project teams.

This document will also serve as a status report to identify outstanding issues to be addressed by either the NewGen or the BEU project team and the strategy and schedule for their resolution. We will keep and distribute meeting minutes which will summarize our discussions and include "action items" for NewGen and BEU team members to maintain project momentum and ensure timely responses. Ultimately, the Strategic Rate Design Document will also serve to inform the basis for the rate recommendations proposed by this Study.

Task 1 Deliverables

- Kickoff meeting attended by up to two members of the Project Team to review data received, discuss project milestones, and clarify Study objectives.
- Initial draft of Strategic Rate Design document.
- Updates to preliminary Data Request, as needed.

Task 2 – Develop BEU Revenue Requirement

Task 2 will include development of BEU's Test Year Revenue Requirement based on historical information and including appropriate known and measurable adjustments. The basis for the Test Year will be determined in consultation with BEU and will include actual expenses for the 12 months ending the most recent Fiscal Year (FY) (presumably FY 2024). The projected Test Year will include budgeted expenses for FY 2025 and projections for FY 2026 through FY 2030 (as appropriate and in discussions with BEU). The projected Test Year period will depend on the date of anticipated rate implementation and the period of time for which they will be designed. Such decisions will be determined in discussions with BEU during the kickoff meeting and will be included in the Strategic Rate Design document.

The Test Year will rely on the data gathered from the data requests, discussions with BEU staff and management, and the pro forma financial model (see Phase III). NewGen will review the Test Year Revenue Requirement with BEU to assess and quantify potential known and measurable adjustments that should be made to any accounts or utility operations. The Test Year Revenue Requirement will be the basis for the COSA and represents all costs that will be recovered through BEU's retail rates for the Study period.

NewGen will develop cash flow projections of revenues and revenue requirements for the electric utility, including those for power supply, transmission, distribution, and customer related expenses. This will include development of the total revenue required to adequately cover projected operations and maintenance (O&M) costs, debt service, debt recovery, capital outlays, and capital reserves. NewGen will evaluate revenues and expenses for BEU based on historical records and expected growth rates and will design the revenue requirement to have the ability to consider variations in power supply resources and electric usage patterns.

The cash flow analysis will incorporate BEU's budget and other financial documents, including but not limited to the capital budget from BEU's Capital Improvement Plan (CIP) as well as any specific reserve policies or financial metric requirements or objectives (such as increased DCOH). This will include identifying appropriate reserve requirements for O&M and capital programs and recommendations as appropriate to establish target reserve levels based on discussions with the BEU project team. The cash flow analysis will evaluate assignment and allocation of all the revenue sources to operating and capital expenses, as appropriate. NewGen will establish cash flow projections, which will include allocated costs from the COSA, as appropriate, and BEU-specific data provided through billing records, AMI data, and other BEU sources.

The revenue requirement and cash flow analysis will be included within the COSA analysis as the primary source of cash needs for the utility and those elements which need to be recovered in rates as a result of this Study. NewGen will develop a white paper explaining the elements of the revenue requirements and cash flow analysis, which will be provided to BEU management and staff for comment and review. Elements of this revenue requirements document will be incorporated as appropriate into the final report for this Study.

The COSA model will be developed to reflect revised revenue requirements for the Test Year (to be defined as the period for which rates will be designed), changes in customer usage characteristics and underlying cost allocations, proposed rate class changes, and other elements as described herein. The COSA model will be integrated with the pro forma financial model (Phase III) by means of the projected system revenue requirement, future billing determinants by customer class (load), and projected average rates and revenues by class. NewGen will coordinate integration of the models and provide BEU with a

detailed description of how these two models are designed to operate individually as well as collectively. These models are designed to provide insight into BEU's financial situation and to provide potential solutions to address financial concerns.



Example Financial Model Dashboard for Revenue Requirement (this is a combined utility)

Task 2 Deliverable

- Revenue requirement white paper explaining the cost elements to be recovered by rates for this Study, including appropriate cash flow metric requirements.

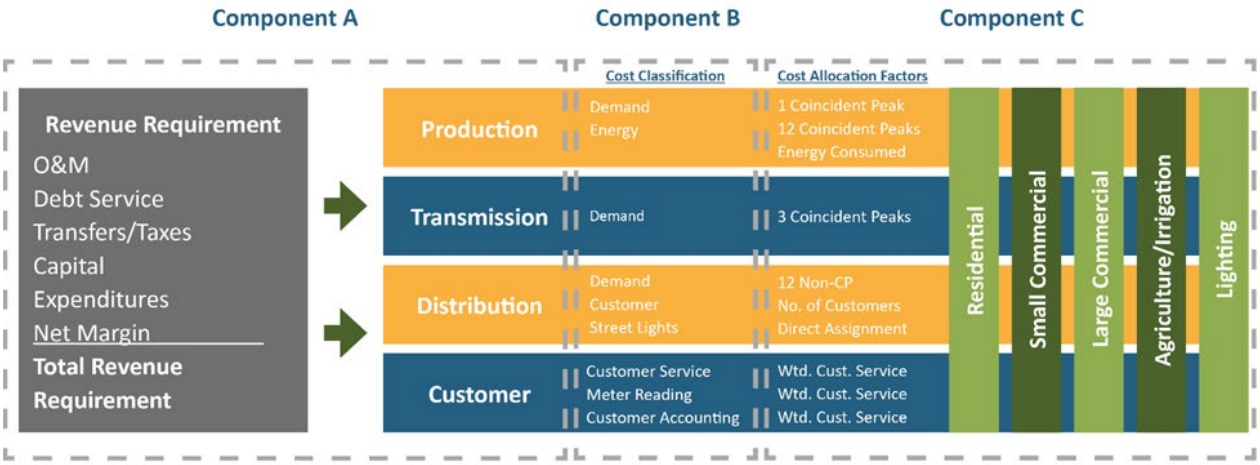
Task 3 – Cost of Service

There are three key steps to completing the COSA after completing the Test Year Revenue Requirement:

1. Unbundle or functionalize the revenue requirement into utility functions (i.e., purchased power or production, transmission, distribution, and customer);
2. Classify costs (e.g., energy, demand, customer); and
3. Allocate the costs to the customer classes.

Included in the three steps of the COSA is the creation of allocation factors to spread "shared" costs between different functions or classifications, and eventually across each customer class. NewGen will review the demand allocation factors developed for the previous study as well as develop unique allocation factors for BEU's consideration.

The model will use Excel tools such as reference tables, pull-down menus, and lists for inputs and adjusting selections such as allocation methodologies or specific allocators. The COSA model and three interconnected components are described in further detail below.

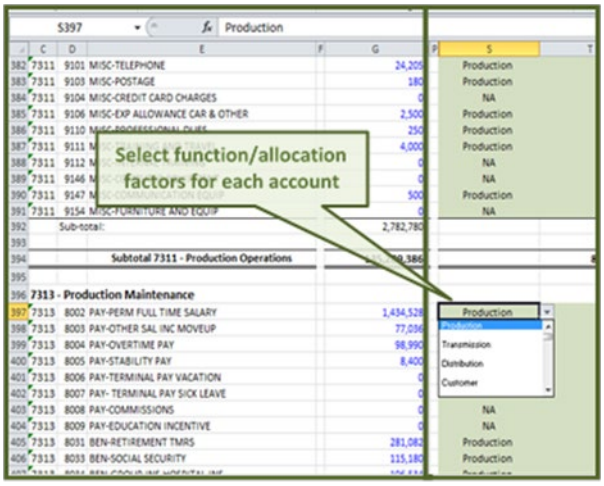


Cost of Service Model

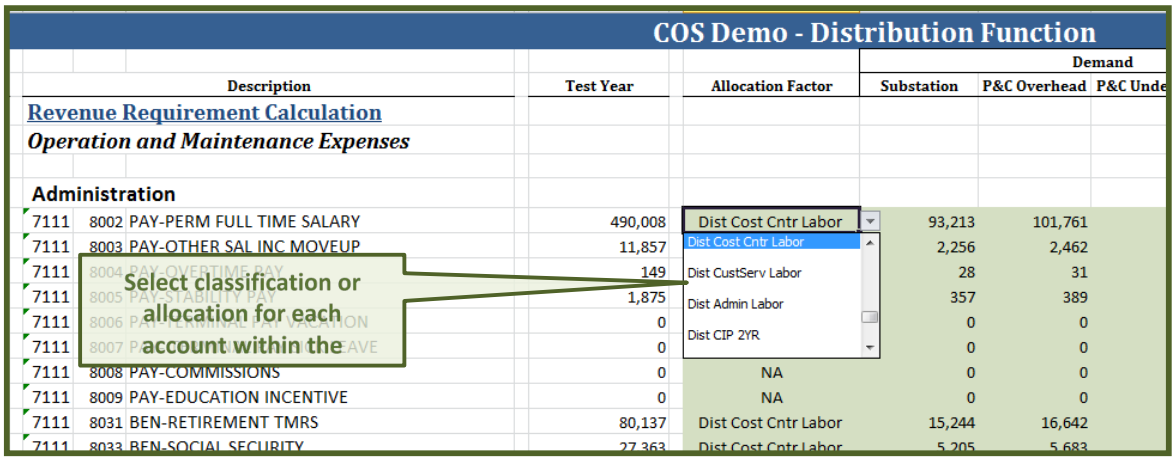
Component A – Functional Unbundling

Functional unbundling will provide detailed descriptions of BEU's Test Year Revenue Requirement by core utility function. For each item, if adjusted for known and measurable changes, the amount of the adjustment is identified with an associated workpaper. Once the detailed Test Year Revenue Requirement has been established, this amount is assigned to the production, transmission, distribution, and customer functions. Assignments are made either through direct assignments or other allocation methodology. The results of the analyses for each function of the Test Year Revenue Requirement are expressed on a functional basis. An illustration of the revenue requirement and functional unbundling is included in the Cost of Service Model graphic above.

Component B – Sub-functional Unbundling

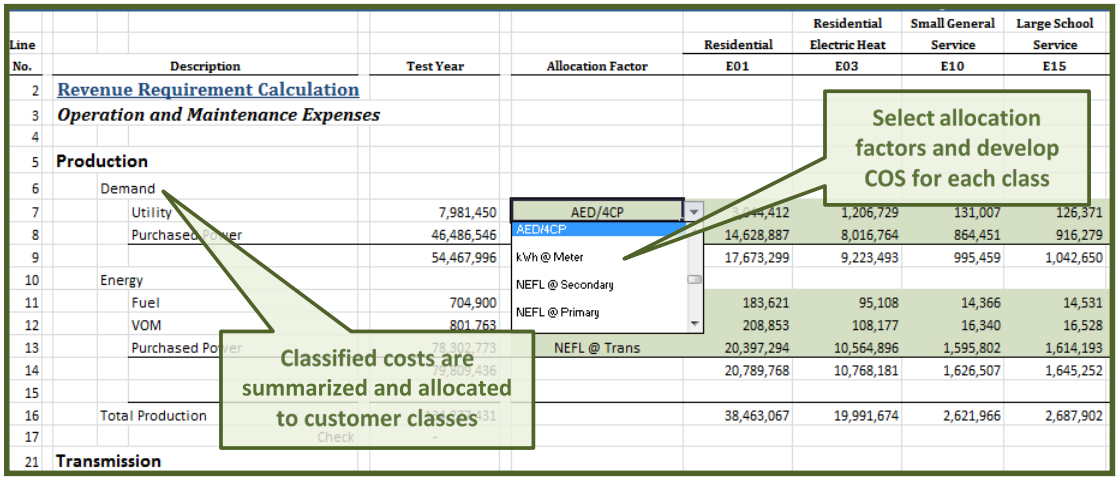


Sub-functionalizing the production, transmission, distribution, and customer functions provides additional detail and accuracy to BEU's costs. In this process, costs are classified as demand related, energy related, customer related, revenue related, or a direct assignment. Similar to functionalizing, sub-functionalization is accomplished either through direct assignments or other allocation methodology. Specific allocation factors are included at the bottom of each sub-function worksheet; NewGen will review and incorporate these allocation factors in the COSA model, as appropriate. These analyses result in the Test Year Revenue Requirement expressed on a sub-functional basis for each cost classification (e.g., Production Demand or Production Energy Costs). The graphics illustrate the COS sub-functionalization and classification of costs.



Component C – Allocated Cost of Service

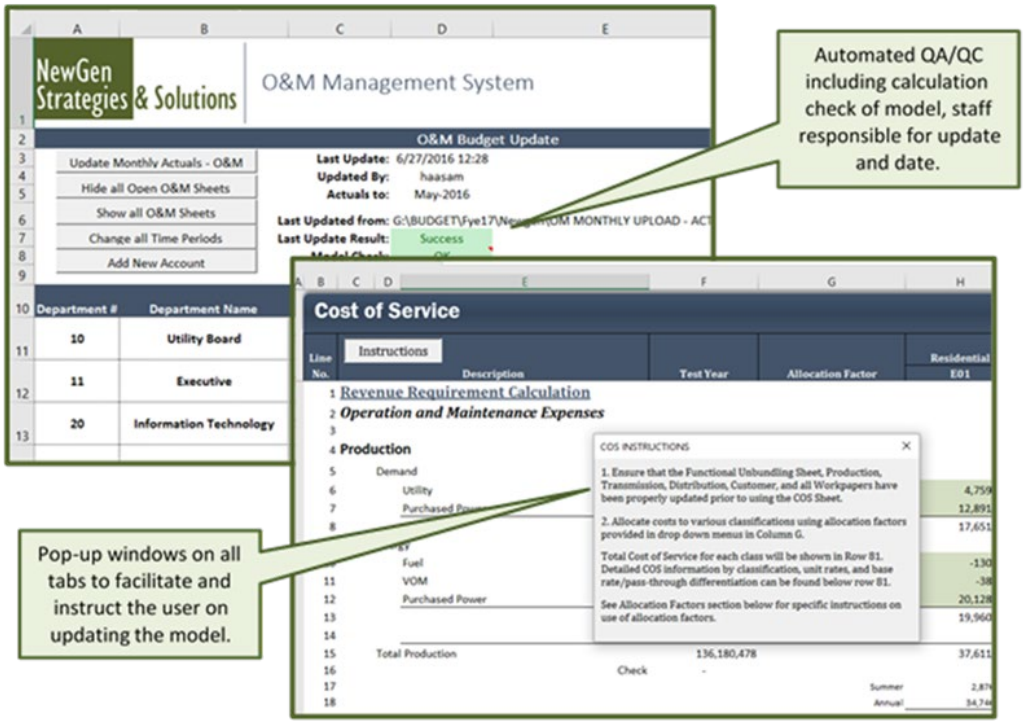
Next, the Test Year sub-functionalized and classified Revenue Requirement is allocated to each of the proposed rate classes using various customer class allocation methodologies. Where appropriate, costs may be directly assigned to a particular rate class. Allocations will be based on customer usage characteristics, such as contribution to peak demand, or weighted customer cost factors. All allocations will be defined and the rationale for their use will be explained in the COSA report. An illustration of the COSA model allocations to customer classes is included below.



The final COSA results are summarized on an aggregate basis for each customer class and compared to projected Test Year revenues to identify rate adjustments needed to meet the cost of service. Additionally, we will summarize more detailed analyses of an unbundled COSA such as the wires demand, wires customer, and power supply costs per customer class and by unit. All costs incurred by BEU will be classified as fixed or variable according to their underlying nature.

BEU's COSA will utilize an embedded or average cost of service approach to developing rates. The process described herein will include conducting analyses for data provided by BEU, and additional workpapers will be developed to analyze certain marginal costs to inform specific rate offerings. A more detailed discussion of marginal cost evaluation is provided in a subsection below.

NewGen has proven experience building models that are adopted and utilized long term by our clients. Our team will apply our experience developing embedded instructions and guidance that can be accessed within the model's customized menus for BEU staff to reference in updating and checking the data and calculation validity. Embedding the instructions and checking within the model enhances the user experience, improves accuracy, and helps ensure knowledge transfer for those working in the model. Custom ribbons in Excel will be created to provide functionality and instructions in addition to pop-up windows with additional capability to "drill down" into specific areas for instructions. Error checking will also include the ability for update notifications, user updates logs, and version control/dates. Examples of the instructions and automated checking of calculations are included in the following graphics.



Workpapers

Workpapers for supporting adjustments and allocations are included as additional Excel worksheets in the model for reference, and NewGen will create COSA model workpapers, as necessary. These workpapers generally include supporting calculations such as customer class contributions to system load and peak demands, minimum system calculations for customer and demand classifications of the distribution costs, asset-related data such as transformer inventory or miles of lines, and/or purchased power cost detail. We will develop new workpapers as appropriate to meet the needs of the Study.

NewGen will rely on available BEU customer usage data to generate the summary-level statistics for each customer class (i.e., total kilowatt-hour [kWh] sales, sum of maximum demands, monthly non-coincident peak [NCP], and monthly coincident peak [CP]). This analysis may include a review of historical sales, available AMI data, or potential feeder load analysis. To the extent that similar customer usage data can be obtained from Southern California Edison (SCE), NewGen will discuss its use in this Study with BEU.

The unbundled COSA and related workpapers will provide the data required to evaluate and compare the fixed and variable costs (i.e., customer-, demand-, and energy-related costs) with the fixed and variable

revenues by customer class. This comparison will provide valuable information and data to support and facilitate the development or adjustment of BEU's rate structures, including potential revisions to its NEM 2.0 rates, as appropriate.

NewGen will provide a draft COSA model to BEU for review, initial feedback, and approval prior to completing the final COSA. We will also facilitate a virtual meeting with BEU staff to review the draft results of the COSA model including individual customer class costs and related allocations. Feedback from the meeting and appropriate BEU requested modifications will be integrated into the final COSA results. Development of specific workpapers for this Study include an analysis and development of NEM 2.0 rate development, marginal cost analysis, and high voltage customer rates, as discussed below.

Net Energy Metering 2.0

Changes to NEM rate structures (NEM 2.0) are allowed by the State of California for utilities that have achieved greater than 5% of their load served under existing NEM rates. NewGen will create a workpaper (or series of workpapers) to develop NEM reform (NEM 2.0) rate offerings utilizing the Study's COSA analysis, including the recognition of marginal costs, as appropriate, and including the rate associated with compensating self-generating customers for net surplus generation and any other data informing a potential NEM 2.0 rate structure. These rate offerings will be consistent with the methodology and structures previously developed by BEU to ensure that the City is maintaining fair and equitable rates for all customers.

This workpaper will evaluate the potential impacts to future NEM 2.0 customers as result of the rate changes. Additionally, it will determine the potential change in cost recovery and quantify the change in the projected rate subsidy compared to existing NEM rates. NewGen will work with BEU to determine a projection for NEM customers in the service territory, which may be impacted as a result of the NEM 2.0 rate changes.

Marginal Cost Analysis

The COSA will utilize an embedded or average cost basis. However, it is possible that certain new rates and rate offerings could incorporate a marginal cost element, which can either be a marginal cost incurred for an incremental unit obtained or a marginal cost avoided, depending on the nature of the application. NewGen will develop a workpaper (or series of workpapers) as an expansion of the COSA model to address specific marginal costs for the utility. This will include the development of an estimated marginal cost of production, which may be time-differentiated and based on wholesale market electricity pricing (CAISO) for the region, as well as BEU's cost of production. Marginal production costs can serve as the basis for NEM 2.0 rates and can be applied to targeted and specific future load growth (such as EV rates, electrified space conditioning and/or water heating loads, and/or customer-sited energy storage, as appropriate).

Additionally, NewGen will work with BEU to evaluate applications for marginal costs for the transmission and distribution functions of the utility. Alternatively, depending on discussions with BEU to inform the Strategic Rate Design Document, the marginal costs may be incorporated into the general rate-making approach. NewGen will describe the relative advantages and disadvantages of a marginal cost approach for general rate making and will work with BEU to determine an appropriate approach for the use of marginal costs in this Study.

High Voltage Customers

Customers who receive service at high voltage (either through the primary distribution system or directly from the transmission system) should not incur costs associated with the secondary distribution system. This cost differential arises between customers in the same class (typically larger industrial customers) because of how they utilize various portions of the distribution system. NewGen will work with BEU to develop a defensible cost basis to create a discounted rate for those customers that take service at a higher voltage than other customers within their class. The COSA model structure that assigns costs to the various functions provides a sound economic basis for those customers that take service at the transmission level. A detailed analysis of the costs associated with the primary and secondary system (both capital and ongoing O&M) will serve as the basis for those customers taking service at the higher voltage within the distribution system.

COSA Training Workshop

NewGen will work with BEU management and staff to develop the COSA model. As such, NewGen will provide ongoing training on the model mechanics during its development. Additionally, NewGen will develop a half-day workshop specifically to review and provide insight into the COSA model for BEU staff. This workshop will include the development of a series of presentation materials as well as hands-on review of the various scenario development and analysis within the COSA. This will also include a review of the output from the pro forma financial model and how that information is integrated into the COSA. The intent of this training is to provide sufficient insight and guidance to allow BEU staff to update the COSA after completion of the Study. This workshop may be conducted online or in person, depending on how BEU would like to proceed.

NewGen will provide the Excel COSA model to BEU for its use upon finalization of the Study and will include a written report providing a description of the COSA methodology and the rationale for the cost allocation applications, as appropriate. The written report will summarize BEU's revenue requirements by customer class, the fixed and variable nature of the costs and the exiting cost recovery, and the projection of existing rates' ability to recover costs over the Test Year period. NewGen will provide a draft report and will solicit comments from BEU management and staff to be incorporated, as appropriate, into a final COSA report.

Task 3 Deliverables

- Summary of current fixed and variable costs in Test Year Revenue Requirement compared to fixed and variable revenues.
- Virtual meeting to discuss draft COS results with BEU staff.
- COSA model with workpapers for specific analyses regarding NEM 2.0, Marginal Cost Analysis, New Rate Classes, and High Voltage Customer rates, as appropriate.
- COSA Training workshop (online or in person).
- Written report summarizing BEU revenue requirement by class, classification process and rationale, and cost allocation.

Phase II – Municipal Utility Rate Trends Review/Rate Design

Phase II will include development of a review of municipal rate trends (Task 4) and creation of recommended rate designs for BEU (Task 5).

Task 4: Municipal Utility Rate Trends Review

NewGen will develop an evaluation and analysis of emerging or expected future rate structures and trends that may be considered by BEU for this Study. This analysis will include the evaluation of emerging municipal utility rate structures, technologies, and trends that impact the way electricity is priced for the industry and how those trends may apply to BEU. We will identify the advantages and disadvantages of various alternative rate structures, including the potential risks associated with each specifically for BEU's operations and finances.

NewGen will include descriptions of various pricing programs for both traditional electric service and those serving emerging technologies, such as EVs and customer-sited distribution systems (i.e., DER such as rooftop photovoltaic [PV]). This review will include both embedded and marginal cost pricing for rates and rate pricing, including market-based pricing seen in Real Time Pricing (RTP) and Critical Peak Pricing (CPP) programs. Our review will include an assessment of various solutions for pricing electricity to and from distributed energy resources (DERs) to mitigate cross-subsidies, as well as pricing for emerging technologies (i.e., EV rate and rate riders, net metering and NEM 2.0 rate structures, and solar rates).

Unbundled rate strategies, which may combine power supply and delivery services, are also a more prevalent trend and will be reviewed for this Study. Additionally, NewGen will review low-income rate programs and how these programs are funded by other jurisdictions in California, as well as across the country.

The rate trends analysis will focus on municipal and cooperative utilities (public power); however, we may include some elements from IOU rate structures and rate programs that are used to recover costs for operations and historical, current, and future capital investments. This includes reviewing trends in customer charges, the potential for residential demand changes, multi-family service options, best practices in commercial rate designs, and how classes are defined and categorized (small, medium, large, energy only, and energy and demand charges). Other trends under review will include the development of high-voltage discounts, static and dynamic TOU pricing, power factor recovery charges, and green pricing programs. We will discuss the rate trends to be included in this review and summarized in the Strategic Rate Design Document during the kickoff meeting.

This Study will focus on specific utilities identified in coordination with BEU management and staff, including up to eight municipal (or public power) entities and two IOUs (if requested). These utilities may vary by rate structure and the list of utilities may be expanded to adequately capture the trends occurring across the country. For this Study, we have identified three primary groups of rates and rate types that will be explored. These include rate types focused on non-traditional forms of cost recovery, new services, and optional rates. These groups are somewhat arbitrary as all rates are designed to recover costs and support utility operations. This assessment of various alternative rates will include a comparison of these rates and rate structures to BEU's current rates.

Traditional Forms of Cost Recovery	Non-Traditional Forms of Cost Recovery	New Services
▪ Cost adjustments / "pass-through" rate riders ▪ Increased / decreased fixed component charges ▪ Economic Development rates ▪ Standby Charges ▪ High Voltage Discounts ▪ Power Factor Recovery Charges ▪ Street lighting system cost allocation / LED light rates ▪ Seasonal rates ▪ Tiered Rates	▪ Residential / Small commercial demand charges ▪ Network Access Charges ▪ Reliability Charges ▪ TOU Pricing for all customers ▪ Unbundled Rates ▪ Real Time Pricing ▪ Critical Peak Pricing	▪ EV Rates using TOU / second meter ▪ EV Public Charging Rates ▪ Net Metering / Net Metering 2.0 (including Value of Solar Rates) ▪ Voluntary Renewable Energy Pricing ▪ Feed-In Tariffs ▪ Community Solar ▪ Energy Storage

Groups of Rates and Rate Types

NewGen recognizes that many innovative rates face implementation challenges both in terms of customer acceptance and technology requirements of the utility. As part of this analysis, NewGen will identify those challenges and potential solutions, such as device-centric rates (e.g., EV-Only rates) and trends regarding "opt-in" and "opt-out" rate program options for implementation. Further, customer elasticity of demand is an important consideration for rate design as some applications have a greater response to pricing differentials than others.

Technology implementation challenges also include the investments for both the utility and the customer to be able to fully optimize the rate structure, such as dynamic TOU pricing and the communication systems required to send the price signal. Our review will evaluate the costs of the requisite technologies and other potential barriers to offering the proposed rates. This will include a qualitative and quantitative assessment of the utility and customer costs at a planning level estimate to determine the extent to which rate structures and rate programs identified in this analysis would be applicable to BEU. NewGen will utilize the information obtained from the Rate Trends survey to develop a matrix of the results, which will evaluate the applicable nature of each rate to BEU and its list of criteria. This criteria list will be developed in coordination with the BEU project team and may include the following elements:

Criteria	Rate 1	Rate 2	Rate 3
Customer Acceptance			
Change in Customer Usage from Rate			
Technology Required for New Rate			
Costs to Customer for Technology Required			
Costs to Utility for Technology Required			
Barriers to New Rates			
Qualitative / Quantitative Risks for New Rates – Utility Perspective			
Qualitative / Quantitative Costs and Benefits – Utility Perspective			
Qualitative / Quantitative Costs and Benefits – Customer Perspective			

NewGen will work with BEU to develop a quantitative scoring system to apply each criterion to each new rate and or rate group. This may include a scaling factor (e.g., 1–10, with 1 being the lowest cost or lowest barrier and 10 being the highest cost or barrier). We will develop a standalone report that will include the results of the evaluation of the emerging alternative rate structures and how they would or potentially could apply to BEU. This report will include the evaluation matrix discussed and the development of the criteria. Further, this report will evaluate each rate or rate offering as to how it may be recommended for BEU over a short-term or long-term action. We will review the draft report with BEU, solicit comments and suggestion as appropriate from management and staff, and discuss next steps. NewGen will be available to present the findings of the rate trends analysis to the City Council Committee if requested.

Task 4 Deliverables

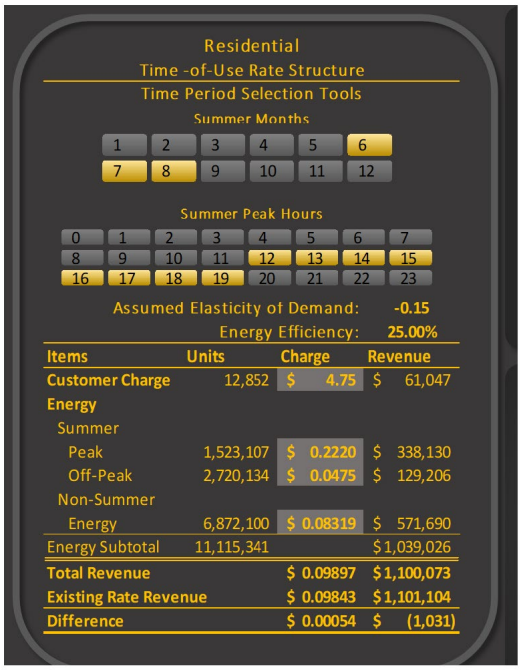
- Presentation of rate trend analysis findings and conclusions to BEU management and staff.
- Development of draft rate trend analysis report for comment and inclusion in final Study deliverable.
- Updated Strategic Rate Design Document, as appropriate.

Task 5 – Rate Design Model and Recommendation

Rates will be designed to follow the evolving Strategic Rate Design Document, support the BEU and City Council rate philosophy, and closely follow the COSA results with the categorization of customer-, demand-, and energy-related costs for each customer class. New innovative rate structures or policies (i.e., TOU, demand side management programs, and other innovative approaches to enhance customer choice and promote energy efficiency) identified in Phase II may be integrated into the rate design model, as appropriate and in consultation with BEU. This will include the rationale and assumptions for any recommendations for existing or new rates and/or rate structures for BEU. This will also include the development of an implementation path from current rates and allocations to the development and implementation of new rate alternatives for the proposed rates. As part of this task, NewGen will develop a list of viable alternative designs along with the costs and benefits of each rate design, including BEU's current rate design. The intent of the proposed rates is to provide for the annual revenue requirements over a five-year period (Rate Study Period).

The recommended rates will be used to forecast and calculate the annual rate revenue generated for each customer class; comparing it to the class and total system cost of service will prove the revenue adequacy of the new rates. We recommend the development of a Customer Impact rate design model (see Enhancements to the Study) that will augment the rate design model to include impacts to all customers utilizing BEU's billing database and more information as described below. All proposed rates will be evaluated for potential "rate shock" to individual customers, either as representative users from their class or across all customers. If the representative approach is preferred, NewGen will evaluate the proposed rates and rate differences for BEU customers as well as those served by neighboring and similar electric utilities in the region. This analysis will be used to develop a statistical analysis of bill impacts by each customer rate class for the entire range of usage patterns for the class.

The rate design model will be a user-friendly, Excel-based model that will be designed to provide BEU management and staff the ability to adjust rates as necessary after completion of the Study. This model will include calculations of the revenues expected from current rates as a comparison to the current revenues recorded in the audited FY records and will make adjustments as necessary to tie those values, in coordination with the BEU team. The rate design model will include the ability to develop and evaluate multiple rate scenarios, all of which will ensure that revenue requirements are met and BEU is aware of short-term and long-term risks to each rate design alternative along with the probability for each risk component to be realized. This will allow NewGen and BEU to assess the impacts of various rate designs and pricing structures on different customer classes, revenue stability, and the overall financial sustainability of the utility.



TOU Rate Structure Selections

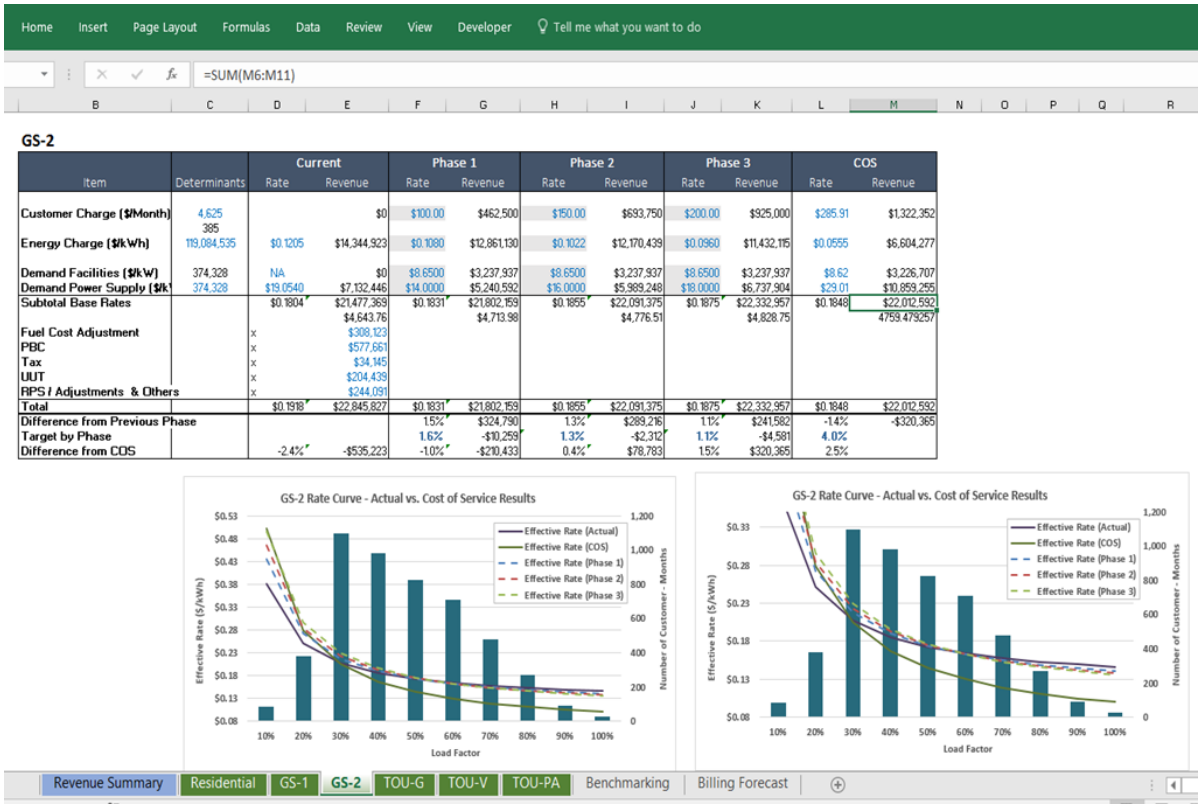
Proposed rates will recognize the social and economic factors of the community as well as the underlying expenses incurred to provide electric service to the different customer classes. All rates will be designed to be compliant with Proposition 26 regulations as well as the general policies and objectives of BEU. Rates will be designed to recover projected annual revenue requirements (with proposed rates and projected usage characteristics) and the model will have the ability to recalculate the latest year of historical revenues by customer class using current rates and historical customer usage. This information will be summarized in the model for each customer class and for the system total. An example of TOU rate structure options available in our rate design model is provide in the graphic to the left.

NewGen will evaluate the underlying fixed and variable nature of the cost of service compared to the fixed and variable nature of the cost recovery (rates). BEU, like many utilities across the country, has high fixed costs (investments, labor, etc.) and relatively low variable costs (energy); however, most rates are designed to recover costs on a variable basis. We will work with BEU to examine this relationship to better align its cost recovery with its costs.

We will conduct virtual meetings with BEU staff and management to review the draft rate model and the proposed rates. Based on feedback from this rate review, we will revise the proposed draft rates as

appropriate or provide an alternative rate design scenario such as a phase-in of rate changes or adjustments in customer/demand/energy rate components.

NewGen's modeling capabilities include the development of visual dashboards typically incorporated into our rate design models. These dashboards are designed to manage, manipulate, and evaluate large amounts of data for each customer within customer classes. The dashboards instantly and easily convey the key financial metrics, load profile changes, customer impacts, and rate structures to management and stakeholders. These dashboards also provide the capability to instantly evaluate scenarios and review the results and impacts of the scenarios for management, Council, and/or other stakeholders. The graphic below provides an illustration of the proposed rate changes that could be included in a rate model dashboard.



The rate design model will include scenarios that consider the phasing in of various rate plans (e.g., over a five-year period) based on the availability of data and customer impacts. Additionally, NewGen will work with the BEU team to evaluate how recommended rate designs will be compatible with its customer information (billing) system (or CIS) and BEU's business processes, and if change management processes need to be implemented. Specific rate design components from this Study may include the following:

- Solar Customer Rates
- TOU Rates
- EV Rates
- Recovery for Renewable Energy, such as PPA Rates, both Fixed and Variable
- Low-Income Assistance Rates

Task 5 Deliverables

- Review of existing BEU rates and any recommended structural modifications based on rate survey results.
- Revenue adequacy including phase-in of rates, if desired.
- Recommendations for new rate structures and service offerings.
- Virtual meeting to review recommended rates and revenue adequacy with BEU staff.
- Customer and system economic impact analysis
- Rate design model and training provided to BEU management and staff.

Phase III – Pro Forma Financial Model

Task 6 – Pro Forma Financial Model Development

NewGen will develop an Excel-based electric utility pro forma financial model based on BEU's budgeting system and accounts to support periodic updates and alignment with the COS and planning models, including its ESMP. The pro forma financial model will forecast revenues by customer class and expenses for 30 years to evaluate potential rate, debt, and capital related impacts. Additionally, the model will serve as an ongoing repository for historical data and financial information provided by BEU for a period of five years and will become the property of BEU upon completion of the Study. The model will include the development of a "dashboard" designed to manage, manipulate, and evaluate large amounts of data. The dashboard easily conveys the key financial metrics, load profile changes, customer impacts, and rate structures to stakeholders and staff. The dashboard is designed to quickly perform scenario analyses which provide BEU flexibility in determining the appropriate mix of rate changes, capital projects, and debt issuances to meet budgetary or capital constraints and to support utility decision making. The model will be fully documented and relatively simple for BEU staff to administer. The customized tools within the pro forma financial model allow for dynamic and complete analysis of the various aspects of the Study and produce easy-to-understand tables and graphs that aid in communication with various stakeholders. The model will be designed to automatically produce summary reports and visualizations with toggles for scenarios including but not limited to:

- Long-term cash position
- Demand forecast projections by customer type
- Sales forecast by customer type
- Consideration of capital financing plan and alternatives (pay-go, borrowing, or grants)
- Average bill by customers
- Cash reserves compared to targets or sub-fund reserve levels for management review
- Growth factors and one-time changes in any year

Additionally, the model will be designed for a single input worksheet to make changes and updates, to reduce confusion and opportunities for errors. Further, the model will include consideration of elasticity of demand (response from customers to pricing signals in rates) and allow for mid-year rate adjustments, including the ability for changes/additions to rate and surcharges. Based on discussions with BEU, the

model will include several scenarios designed to accommodate a "phased-in" rate plan, as developed in Task 3. The final model provided to BEU at the completion of the Study will provide the basis for electric rates for the proposed rate plan period and will be configured to accommodate evolving energy policy requirements.

During the model development process, designated BEU staff will be included in periodic progress updates and will provide feedback on draft versions of the model. The model will include a pro forma operating results worksheet, a balance sheet, the aforementioned dashboard, capital improvement plan sheet, debt service schedule, and up to six scenarios as defined in coordination with the BEU team. The results of the financial model will be summarized in a report and presented to BEU staff.

The financial planning model will include embedded instructions and guidance that can be accessed within the model's customized menus. The model will feature integrated error and data validity checking. This error checking feature will include the ability for update notifications, user updates logs, and version control/dates.

Task 6 Deliverables

- Draft pro forma financial model for review by BEU management and staff.
- Final pro forma financial model, including embedded documentation for model use and updating.
- Three two-hour training sessions for BEU management and staff on the use of the pro forma financial model (virtual).

Phase IV – Results Presentation

Phase 4 consists of Task 7 (Public Participation/Stakeholder Engagement), Task 8 (Policy/Resolution Review), and Task 9 (Final Report).

Task 7 – Public Participation/Stakeholder Engagement

NewGen will work closely with BEU staff to develop and implement a public participation plan to increase customer awareness and understanding of rate development and the Study results. The public participation plan will present successful and innovative communication strategies employed by similarly situated electric utilities based on our experience and potential discussions with previous successful client projects. As part of the plan, NewGen will prepare materials for and facilitate up to five public meetings (in person or virtually, depending on the direction of BEU. For purposes of budgeting, we have assumed three in-person meetings). Additionally, we will develop a variety of materials and content for website, social media, and other communication tools, which will be communicated by BEU. NewGen and BEU will focus on engaging hard-to-reach communities, such as disadvantaged and low-income communities, while working closely with the City's Public Information Officer. Materials will be provided in advance for staff review at least two weeks prior to any public event; however, NewGen understands that City Council schedule and posting requirements may accelerate the timelines needed.

Task 8 – Policy/Resolution Review

NewGen will work closely with BEU staff, the City Attorney's Office, and other City partners as needed to ensure that all language in the proposed rate resolution is consistent with the new rate design and with California Law, as appropriate. This may include consideration of future year revisions included in resolution submissions. NewGen will provide ongoing support as necessary to explain and defend BEU's

rates and charges, including before City Council. This support may include the preparation of schedules or other documents that detail the calculations and assumptions made in arriving at the rates and charges under examination.

Task 9 – Final Report

Upon completion of the analysis portion of the Study, NewGen will deliver the COSA and the Customer Impact rate design model(s) for BEU's future use, including all workpapers, spreadsheets, reports, and computations used in the analyses. We will provide final copies of the presentations developed for management and the City Council/Council Committee and the customer outreach efforts. Additionally, NewGen will provide a draft and final copy of a comprehensive written report, which will include a description of the analysis completed for the COSA/Rate Study for the five-year period and rate recommendations. We will collaborate with BEU to review comments provided by BEU legal counsel on the draft report to incorporate into the finalized work product. A Microsoft Word version of the report will be provided to facilitate edits and comments from the BEU project team.

NewGen will develop and provide presentations of the preliminary Study results to BEU's City Council and/or Council Committee to solicit feedback on the proposed rate structures and charges. It is anticipated that feedback from BEU staff and management, as well as the Council/Board, will be included in the final recommended rate plan. Our proposed budget includes three on-site visits for this presentation. However, if additional on-site meetings are required, we will work with BEU to accommodate its requests.

BEU will coordinate development of the Outreach and Public Engagement process, select the attendees, and host the meetings in coordination with NewGen. The intent of these events is to solicit input and provide transparency for representative customer groups regarding the rate-making process. NewGen will develop materials and will facilitate up to five of these events in coordination and combination with BEU management and staff. The updated Strategic Rate Design Document will include details of these events throughout the Study, as appropriate. NewGen will lead or support the presentation(s) of results directly to BEU customers or customer groups, as requested by BEU.

Tasks 7, 8, and 9 Deliverables

- Stakeholder Engagement documents and materials (such as agendas and facilitation plan), as well as collateral, social media schedule, and effective graphics for BEU's social media use.
- Redlined version of proposed rate resolutions (Word version) as well as white paper detailing significant proposed changes, restructures, rationale, and analysis (as well as presentation materials).
- Delivery of final work products including workpapers, spreadsheets, and models.
- Delivery of draft/final report for the Study.
- In-person presentation of preliminary/final Study results to City Council/Committee.
- Preparation and support for development of five (for purposes of budgeting, we have assumed three in-person meetings) presentation materials for customer (or customer groups) outreach efforts and presentation(s) by NewGen.

Phase V – Enhancements to the Study

NewGen proposes to develop enhancements to the Study in Phase IV. These enhancements include developing a Customer Impact rate design model along with the recommended rates and rate structures. We will design a robust and dynamic Customer Impact rate design model for the entire BEU billing database which conducts an analysis of rate impacts and provide a comprehensive and complete view of all rate impacts to all customers. This is an enhancement to the Phase III – Rate Design efforts which would be limited to representative customers within each rate class. The customer impact analysis will provide detailed information on rate impacts for all classes and individual customers, and will support the broader communication, understanding, and endorsement of Study results and potential rate changes. This billing database and impact analysis includes customer class rate curves based on load factor for each class and will show individual customer class bill impacts (i.e., histograms). Such impacts may be filtered to screen for specific customer groups (e.g., low-income customer impacts, if data is available), for entire classes, or for the full BEU system. The example graphic provides a summary of the output regarding customer load impact analysis available.

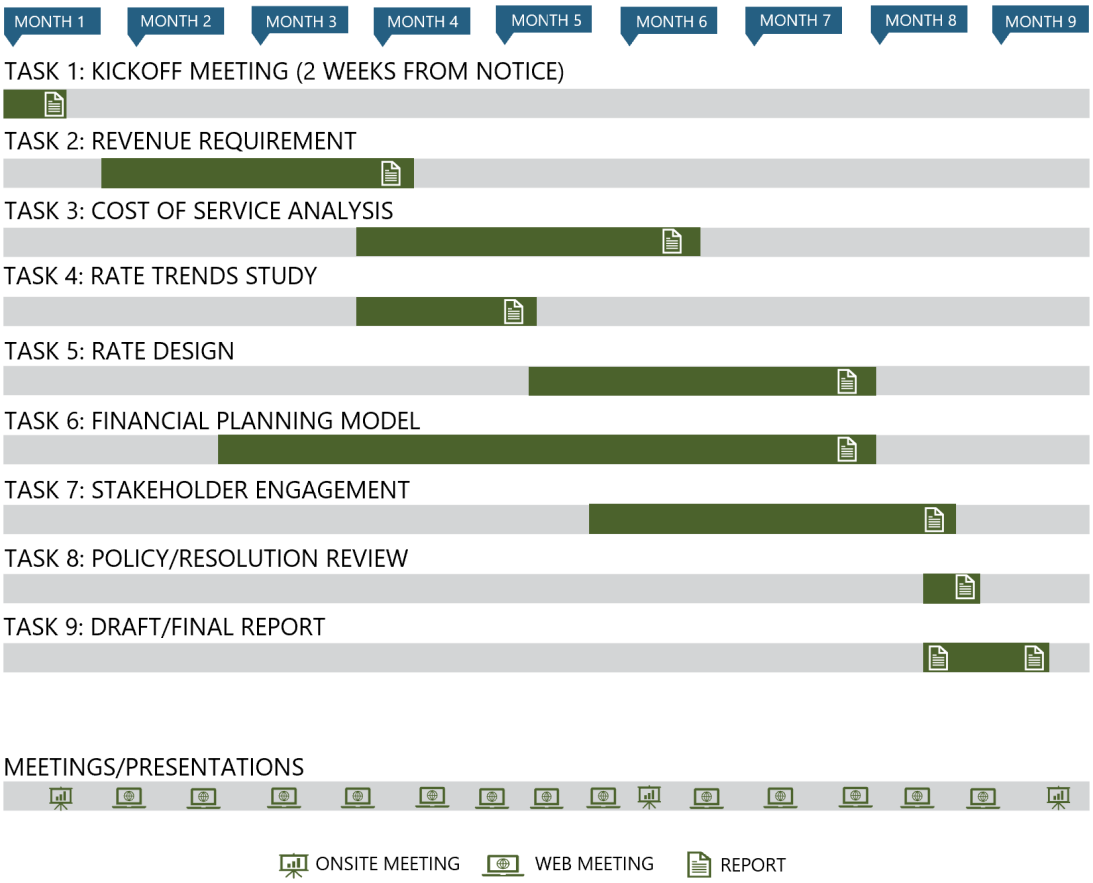


The Customer Impact rate design model will have the ability to design rates within current rate classes. NewGen will develop an export file to transfer revenue and customer class data to the pro forma financial model, as appropriate. We will incorporate a "rate calculator tool" into the rate design model that is designed to show the effects of rate design options on customers by similar groupings or sub-groupings, such as schools, government, etc. (as defined by BEU). The rate calculator tool will evaluate the rate impacts to these customers as well as the effect of those rate impacts on other classes to generate the same level of revenue requirement. Similar to the proposal for Phase III – Rate Design recommendations, this enhanced approach will serve as the basis for a statistical analysis of bill impacts by each customer for the entire range of usage patterns for the class.

NewGen understands that the proposed enhancements described above and recommendations to the project scope are not part of the originally requested scope and may be considered by the City and included in the Scope of Work at its discretion. NewGen will proceed with proposed enhancements only at the express written consent of BEU.

Proposed Study Schedule

NewGen proposes to complete the Study within a six-to-nine-month period, depending on availability of data, and in coordination with BEU and the City. The following graphic provides a summary of the proposed schedule by task.



Phase I includes Task 1 (Kickoff), Task 2 (Revenue Requirement), and Task 3 (Cost of Service Analysis). Task 1 is anticipated to be completed within two weeks of notice to proceed and contract authorization. Task 2 will require approximately one month to complete, depending on the availability of the data provided by BEU and the City. Task 3 is anticipated to require approximately two months to complete and will also depend on the availability and quality of data provided by BEU.

Phase II includes Task 4 (Rate Trends Study), and Task 5 (Rate Design). Task 4 will require approximately one month to complete (to draft) and will be conducted concurrently with Task 3. To the extent that any additional rate designs may be requested as a result of the Rate Trends Study, they may extend the timeframe for completion of the COSA model. Task 5 will require approximately two months to complete, as there will likely be significant discussions with BEU during the process and before the development of recommended rates.

Phase III consists of Task 5 (Financial Planning Model), which will begin concurrent with Task 2 (Revenue Requirement) and will require approximately four to five months to complete, as it will incorporate the results of the COSA and the rate design model.

Phase IV consists of Task 7 (Stakeholder Engagement/Public Participation), Task 8 (Policy/Resolution Review), and Task 9 (Draft and Final Report). We would recommend that Task 7 begin when the COSA model is nearing completion to allow for input from stakeholder groups into the cost allocation process and other considerations. The Stakeholder Engagement Process will require approximately 3 months to complete, depending on the objectives of the process. Task 8 will be dependent on the completion of Task 5 and is anticipated to require two weeks to complete. Task 9 will begin upon completion of the previous tasks and is expected to require approximately one month to complete from draft report to final report, and presentation of the results to BEU staff and City Committee or City Council, as appropriate.

NewGen proposes bi-weekly (every other week) on-line status calls with the BEU project team to maintain project momentum and address issues that arise during the course of the Study.

Quality Assurance Efforts

NewGen recognizes that the quality of our analysis and work product is paramount when serving as a trusted advisor to our clients. To ensure that our work is of the highest caliber, we have established a robust quality assurance/quality control (QA/QC) program that permeates every phase of our projects. NewGen's internal QA/QC program involves three levels of review and an implementation phase:



Level 1 – Personal

At the base level of our QA/QC program, consultants are personally responsible for their work product. Deliverables should be considered "client-ready" before being submitted to higher management levels for review. To aid our consultants in ensuring their work product meets these standards, NewGen utilizes our internally designed CHECK-UP process, as illustrated in the figure below. This acronym encourages NewGen's consultants to apply each listed standard to every analysis and deliverable.

Calculations
- Affirm that internal checks are in place and not producing errors.
- Review model formula links and named ranges and remove items that should not be included.
- Print out and spot-check final drafts to ensure accuracy.

Holistic
- Have you gotten out of the details and looked at the big picture?
- Look for changes in prior drafts. Do the changes in the model make sense?
- Compare model data with other available sources to ensure accuracy. Do our results make sense?

English
- Confirm that proper grammar is used.
- Spell-check deliverables.

Composition
- How does your product look?
- Is it formatted correctly?
- Is it organized and easy to follow? Remove unused data and side calculations.

Knowledge
- Does the deliverable reflect industry standards and represent a quality product?

Underlying Assumptions & Notes
- Clearly document and affirm assumptions.
- Include notes/methodology described in the analysis if calculations are complicated. This will help to explain why and how these calculations were done for future reference.

Print Ready
- Ensure the deliverable is print ready.

Level 2 – Peer

Level 2 of NewGen's process involves a peer review of all analyses and deliverables. As part of this effort, NewGen has designated experts in each subject matter area to serve as "qualified reviewers." Each analysis and deliverable undergoes a quailed review before transmission to the client.

Level 3 – Professional Product

The final level in our QA/QC review ensures that our final products reflect our firm's high standards. NewGen's administrative staff reviews all deliverables to ensure consistency, safeguard our brand, and deliver a consistent experience to our clients. Additionally, our models integrate automated calculation and formula checks to ensure they operate correctly and concisely. This automation also notifies users if the model has been updated or if errors exist.

Implementation

By adhering to strict quality control measures, NewGen can mitigate variations or deviations that could lead to inconsistencies in the final product or service. NewGen regularly reminds staff at meetings about the importance of QA/QC and the proper application of our CHECK-UP procedures. In the event of deviations, we take prompt and corrective actions. Our team is adept in implementing corrections, documenting actions taken, and verifying their effectiveness.

NewGen actively fosters a culture of continuous improvement, drawing on lessons learned and stakeholder feedback. This enables us to refine our processes, integrate best practices, and stay at the forefront of quality control.

III. In addition to the requirements of Parts I and II of this Scope of Services, during the performance of the Services, Consultant will keep City appraised through periodic status reports regarding the performance of the Services under this Agreement as set forth below and in Section 5.2, by the following means:

a. In-person meetings and/or teleconferences.

b. Email updates/questions to applicant team and City while reviews are underway.

c. Conference calls.

IV. All work product is subject to review and acceptance by City. If the City determines that any work product is unacceptable, for any reason, it must be revised by Consultant without additional charge to City until found satisfactory and accepted by City.

EXHIBIT "B"
SPECIAL REQUIREMENTS

TERMS FOR COMPLIANCE WITH CALIFORNIA LABOR LAW REQUIREMENTS

1. This Agreement calls for services that, in whole or in part, constitute "public works" as defined in Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code ("Chapter 1"). Further, Consultant acknowledges that this Agreement is subject to (a) Chapter 1 and (b) the rules and regulations established by the Department of Industrial Relations ("DIR") implementing such statutes. Therefore, as to those Services that are "public works," Consultant shall comply with and be bound by all the terms, rules and regulations described in 1(a) and 1(b) as though set forth in full herein.

2. California law requires the inclusion of specific Labor Code provisions in certain contracts. The inclusion of such specific provisions below, whether or not required by California law, does not alter the meaning or scope of Section 1 above.

3. Consultant shall be registered with the Department of Industrial Relations in accordance with California Labor Code Section 1725.5, and has provided proof of registration to City prior to the Effective Date of this Agreement. Consultant shall not perform work with any subcontractor that is not registered with DIR pursuant to Section 1725.5. Consultant and subcontractors shall maintain their registration with the DIR in effect throughout the duration of this Agreement. If the Consultant or any subcontractor ceases to be registered with DIR at any time during the duration of the project, Consultant shall immediately notify City.

4. Pursuant to Labor Code Section 1771.4, Consultant's Services are subject to compliance monitoring and enforcement by DIR. Consultant shall post job site notices, as prescribed by DIR regulations.

5. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file at City Hall and will be made available to any interested party on request. Consultant acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and Consultant shall post such rates at each job site covered by this Agreement.

6. Consultant shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. The Consultant shall, as a penalty to City, forfeit $200.00 for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the DIR for the work or craft in which the worker is employed for any public work done pursuant to this Agreement by Consultant or by any subcontractor.

7. Consultant shall comply with and be bound by the provisions of Labor Code Section 1776, which requires Consultant and each subcontractor to: keep accurate payroll records and verify such records in writing under penalty of perjury, as specified in Section 1776; certify and make such payroll records available for inspection as provided by Section 1776; and inform City of the location of the records.

8. Consultant shall comply with and be bound by the provisions of Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code Title 8, Section 200 et seq. concerning the employment of apprentices on public works projects. Consultant shall be responsible for compliance with these aforementioned Sections for all apprenticeable occupations. Prior to commencing work under this Agreement, Consultant shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within 60 days after concluding work pursuant to this Agreement, Consultant and each of its subcontractors shall submit to City a verified statement of the journeyman and apprentice hours performed under this Agreement.

9. The Consultant shall not perform Work with any Subcontractor that has been debarred or suspended pursuant to California Labor Code Section 1777.1 or any other federal or state law providing for the debarment of contractors from public works. The Consultant and Subcontractors shall not be debarred or suspended throughout the duration of this Agreement pursuant to Labor Code Section 1777.1 or any other federal or state law providing for the debarment of contractors from public works. If the Consultant or any subcontractor becomes debarred or suspended during the duration of the project, the Consultant shall immediately notify City.

10. Consultant acknowledges that eight hours labor constitutes a legal day's work. Consultant shall comply with and be bound by Labor Code Section 1810. Consultant shall comply with and be bound by the provisions of Labor Code Section 1813 concerning penalties for workers who work excess hours. The Consultant shall, as a penalty to City, forfeit $25.00 for each worker employed in the performance of this Agreement by the Consultant or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code section 1815, work performed by employees of Consultant in excess of eight hours per day, and 40 hours during any one week shall be permitted upon public work upon compensation for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay.

11. California Labor Code Sections 1860 and 3700 provide that every employer will be required to secure the payment of compensation to its employees. In accordance with the provisions of California Labor Code Section 1861, Consultant hereby certifies as follows:

> "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."
>
> **Date**_____ **Signature**_____

12. For every subcontractor who will perform work on the project, Consultant shall be responsible for such subcontractor's compliance with Chapter 1 and Labor Code Sections 1860 and 3700, and Consultant shall include in the written contract between it and each subcontractor a copy of those statutory provisions and a requirement that each subcontractor shall comply with those statutory provisions. Consultant shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractor's compliance, including, without limitation, conducting a periodic review of the certified payroll records of the subcontractor and upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages. Consultant shall diligently take corrective action to halt or rectify any failure.

EXHIBIT "C"
SCHEDULE OF COMPENSATION

I. Consultant shall perform the following tasks ("Tasks") at the following rates as attached as Exhibit C-1.

II. Within the budgeted amounts for each Task, and with the approval of the Contract Officer, funds may be shifted from one Task sub-budget to another so long as the Contract Sum is not exceeded per Section 2.1, unless Additional Services are approved per Section 1.8.

III. City will compensate Consultant for the Services performed upon submission of a valid invoice. Each invoice is to include:

A. Line items for all personnel describing the Services performed, the number of hours worked, and the hourly rate.

B. Line items for all materials and equipment properly charged to the Services.

C. Line items for all other approved reimbursable expenses claimed, with supporting documentation.

D. Line items for all approved sub-contractor labor, supplies, equipment, materials, and travel properly charged to the Services.

EXHIBIT "C-1"
CONSULTANT'S BILLING RATE AND TASK SCHEDULE

PRICE PROPOSAL

NewGen Strategies and Solutions, LLC (NewGen) proposes to conduct the Scope of Services for the City of Banning's (City) RFP-24-073 Cost of Service Analysis and Rate Design Study (Study) on a time and materials basis for an estimated not-to-exceed budget of $164,600 which includes all estimated labor and expenses, including reasonable travel-related expenses.

The following tables breaks down all the direct and indirect costs for this project. NewGen affirms that our charges invoiced to the City for travel, lodging, and subsistence shall not exceed the current IRS rates.

Phase	Labor Estimate	Travel Expense Estimate	Total
Phase I – KO, Strategic Plan, Rev Req, COS	$57,000	$1,500	$58,500
Phase II – Rate Design	$35,200	$0	$35,200
Phase III – Financial Model	$27,600	$0	$27,600
Phase IV – SE Engagement, Reports, Presentations	$36,100	$7,200	$43,300
Total Estimated Budget	**$155,900**	**$8,700**	**$164,600**

*Numbers may not add due to rounding.

Phase	Burnham $290	Schuepbach $280	Buckley $185	Carnes $190	Healy $175	Liebler $165	Admin $130	Travel Expenses	Total
Phase I	72	16	108	8	32	16	16	$1,500	**$58,500**
Phase II	32	8	56	8	40	24	8		**$35,200**
Phase III	16	12	60	4	24	16	8		**$27,600**
Phase IV	56	4	32	46	8	4	16	$7,200	**$43,300**
Estimated Hours/Budget	**176**	**40**	**256**	**66**	**104**	**60**	**48**		**$164,600**

*Numbers may not add due to rounding.

EXHIBIT "D"
SCHEDULE OF PERFORMANCE

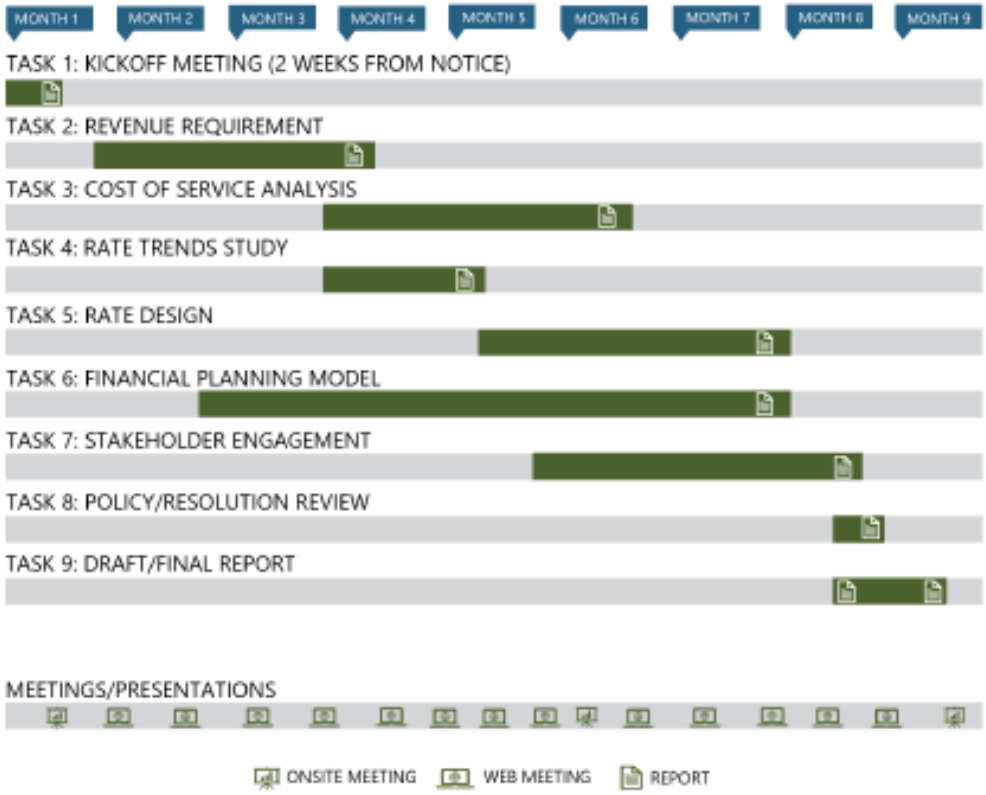
I. Consultant shall perform all Services timely, and deliver the specified tangible work products to City in accordance with the schedule attached as Exhibit D-1.

II. The Contract Officer may approve extensions for performance of the Services in accordance with Sections 1.8 and 3.3.

III. EXHIBIT "D-1"
PROPOSED PROJECT SCHEDULE

Proposed Study Schedule

NewGen proposes to complete the Study within a six-to-nine-month period, depending on availability of data, and in coordination with BEU and the City. The following graphic provides a summary of the proposed schedule by task.



Phase I includes Task 1 (Kickoff), Task 2 (Revenue Requirement), and Task 3 (Cost of Service Analysis). Task 1 is anticipated to be completed within two weeks of notice to proceed and contract authorization. Task 2 will require approximately one month to complete, depending on the availability of the data provided by BEU and the City. Task 3 is anticipated to require approximately two months to complete and will also depend on the availability and quality of data provided by BEU.

Phase II includes Task 4 (Rate Trends Study), and Task 5 (Rate Design). Task 4 will require approximately one month to complete (to draft) and will be conducted concurrently with Task 3. To the extent that any additional rate designs may be requested as a result of the Rate Trends Study, they may extend the timeframe for completion of the COSA model. Task 5 will require approximately two months to complete, as there will likely be significant discussions with BEU during the process and before the development of recommended rates.

Phase III consists of Task 5 (Financial Planning Model), which will begin concurrent with Task 2 (Revenue Requirement) and will require approximately four to five months to complete, as it will incorporate the results of the COSA and the rate design model.

Phase IV consists of Task 7 (Stakeholder Engagement/Public Participation), Task 8 (Policy/Resolution Review), and Task 9 (Draft and Final Report). We would recommend that Task 7 begin when the COSA model is nearing completion to allow for input from stakeholder groups into the cost allocation process and other considerations. The Stakeholder Engagement Process will require approximately 3 months to complete, depending on the objectives of the process. Task 8 will be dependent on the completion of Task 5 and is anticipated to require two weeks to complete. Task 9 will begin upon completion of the previous tasks and is expected to require approximately one month to complete from draft report to final report, and presentation of the results to BEU staff and City Committee or City Council, as appropriate.

NewGen proposes bi-weekly (every other week) on-line status calls with the BEU project team to maintain project momentum and address issues that arise during the course of the Study.

REQUEST FOR PROPOSAL

RFP-24-073 COST OF SERVICE ANALYSIS AND RATE DESIGN STUDY

RFP-24-073

CITY OF BANNING, CA

http://www.banningca.gov

RELEASE DATE: August 26, 2024
DEADLINE FOR QUESTIONS: September 17, 2024
RESPONSE DEADLINE: October 1, 2024, 11:59 pm

RESPONSES MAY BE SUBMITTED ELECTRONICALLY TO:
https://secure.procurenow.com/portal/banning-ca

City of Banning
REQUEST FOR PROPOSAL
RFP-24-073 COST OF SERVICE ANALYSIS AND RATE DESIGN STUDY

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Attachments:
A - Professional Services Agreement Template with Prevailing Wage - provided by RWG 4-24-23

I. Notice

REQUEST FOR PROPOSALS (RFP)

RFP-24-073 COST OF SERVICE ANALYSIS AND RATE DESIGN STUDY

Dear Proposers:

The City of Banning (hereinafter referred to as the "City") is requesting proposals from a qualified public entity or private firm, to establish a contract for the scope of services outlined in this request for proposals.

NOTICE IS HEREBY GIVEN that online price and document submittals must be uploaded to the online bidding system in accordance with the instructions included herein, on or before the time and date set forth in the schedule of events. It shall be the responsibility of the proposer to upload their proposal before the announced time. However, responses may be submitted at any time prior to the deadline. (Submitted proposals may be withdrawn and resubmitted at any time prior to the deadline, and cannot be viewed by City staff until the close date and time.)

SOLICITATION DOCUMENTS: To obtain a copy of the solicitation documents, please visit https://procurement.opengov.com/portal/banning-ca. If you are not currently registered with the City of Banning through OpenGov, please create an account and subscribe to this project for notifications. Proposals may only be submitted by companies who are listed as a prospective bidder on the electronic bidding website for each project that they wish to submit a response to. Firms must also check the web site periodically for addenda information as failure to download and acknowledge any and all addenda in the submittal will result in proposer disqualification.

RESPONSIVE PROPOSALS: Once listed on the prospective bidders list, companies may submit their proposals on the electronic bidding system. The City will not accept proposals submitted by companies who are not on the prospective bidders list, or from companies who have submitted a proposal via facsimile, email, mail, or any other format not permitted by this solicitation. Further instructions for submitting proposals are explained in this solicitation. Companies are to adhere to all of the submittal instructions and requirements outlined in this solicitation in order to be considered responsive to this request for proposals.

II. Introduction

II.A Summary

The City of Banning's Electric Department ("Banning Electric Utility" or "BEU") is conducting a search for an experienced technical/financial consulting firm ("Contractor," "Consultant," or "Proposer") to complete a Cost-of-Service Analysis ("COS") and develop and design a robust financial model and rate structure.

The purpose of this project is to develop a rate restructuring proposal that ensures revenue adequacy and fair and equitable allocation of costs while balancing customer affordability and impacts to customers. The resulting rate structure must comply with California Law.

The project is expected to result in a financial planning model that can be used for rate design under different scenarios. The financial model will also be developed to support future decision making for rates and structures as conditions change; the plan will reflect iterative design components that will provide BEU with resilient financial resources in order to support long-term sustainability. The project will also entail engagement with the public to garner understanding of and support for the chosen rate design.

Proposals are requested from Contractors that have a demonstrated ability to perform the tasks identified in the "Scope of Work" section contained within this Request for Proposal ("RFP").

II.B Background

The City of Banning is located in the northwestern portion of Riverside County, approximately 25 miles east of downtown Riverside and approximately 30 miles west of the City of Palm Springs. The City is bounded by the San Bernardino Mountains to the north; Cherry Valley to the northwest; the City of Beaumont to the west and southwest; unincorporated County area to the south; the San Jacinto Mountains to the southeast; and the Morongo Band of Mission Indians and unincorporated community of Cabazon to the east. The City's total land area is 14,848 acres or 23.2 square miles.

According to the Department of Finance (2023) the resident population of the City is 31,250. The City is currently experiencing a peak population and it continues to grow due to residential development activity. In 2020, the City was considered the fastest growing City in California, with a population of 30,000.

BEU

The City of Banning owns and operates its own electric utility. Originally established in 1913 as a private utility, the City of Banning purchased the utility in 1922 and has been providing electric service to its residents since that time. Banning's energy resource base includes portions of nuclear, geothermal, solar, landfill gas-to-energy, and hydro generating plants, that provide the majority of electricity required to meet its summer peak demand of 51 MW.

Through agreement with Southern California Edison Company, the BEU's electric system utilizes Edison's sub-transmission system in bringing power from the California Independent System Operator ("CAISO") controlled high voltage transmission grid to the BEU's distribution system at Banning Substation. BEU owns three 34.5kV sub-transmission circuits totaling approximately eighteen miles which feed each of the BEU's six substations.

These six substations have 27 circuits feeding approximately 147 miles of overhead and underground lines of 7,200/12,470 volts. Underground lines total approximately 63 miles or 43% of the total.

The following table sets forth information concerning voltages, capacities, and circuits for the Electric System's six substations.

Substation	Voltage	Capacity	Distribution	Circuit Capacity
34 - 12kV		(MW)	Feeders	(Amps)
22nd Street	34.5-7.2/12.47	15.00	3	600
Midway	34.5-7.2/12.47	15.00	4	400
San Gorgonio	34.5-7.2/12.47	20.00	4	600
Sunset	34.5-7.2/12.47	25.00	8	600
Ivy	34.5-7.2/12.47	25.00	4	600
Stagecoach	34.5-7.2/12.47	10.00	4	600

The City supports clean-energy and is committed to additional renewable energy resources to its already diverse portfolio. The utility met/exceeded the renewable energy requirements of Compliance Period #1, Compliance Period #2, and Compliance Period #3 of the State's RPS program. The Utility was 81 percent renewable in 2022, already exceeding the current State mandate of 60 percent by 2030.

The Banning Electric Utility is a member of the Southern California Public Power Authority (SCPPA) enjoying the benefits of joint action through cost effective planning, construction, management, and operations of electrical energy resources.

Power Revenues

BEU provides electric service to approximately 13,500 customers, consisting of around 12,200 residential and 1,300 commercial customers. All meters are typically read on a monthly cycle. Presently, BEU's meter reading processes utilize Automatic Meter Reading technologies. In Fiscal Year ("FY") 2023, power sales for BEU totaled approximately 150,000 MWh.

Revenues from power sales were $28 million in FY 2023.

In October 2018, BEU changed the residential rate design to a flat rate design due to customer unrest with extended utility billing time frames in relation to a tiered rate structure. This rate change was revenue neutral and well received by BEUs customers.

BEU restructured its rates again in October 2021. See the staff report, starting on page 30 (Link), Resolution 2021-102 (first attachment on the staff report) for BEU's for the current schedule of electric utility tariffs, charges, general provisions and rate riders effective January 1, 2022

Current Initiatives

Electric System Master Plan ("ESMP")

The City is currently in the process of hiring a consultant to develop an ESMP, which will likely be underway before the COS is kicked off. The ESMP will be a long-term planning document to ensure a safe, reliable and cost-effective power delivery system. The key focuses of the ESMP will include:

- Land Use and Population Projections
- Load Forecast
- Regulatory Impacts
- Demand/Capacity Analysis
- System Model Updates
- System Evaluation (Transmission/Substation/Distribution)
- Capital Improvement Plan (Existing and Future Facilities)

II.C Contact Information

Barbara Mason
Purchasing Manager
99 E. Ramsey Street
Banning, CA 92220
Email: bmason@banningca.gov
Phone: (951) 922-3121
Department:
Purchasing Division

II.D Timeline

This request for proposal will be governed by the following tentative schedule. All dates are subject to change at the discretion of the City.

Release Project Date	August 26, 2024

Pre-Proposal Meeting (Non-Mandatory)	September 10, 2024, 11:00am Teams Meeting https://teams.microsoft.com/l/meetup-join/19%3ameeting_MjdiM2FjZTgtMzg5NS00ODZmLWFmYjktYmI3N2I2OWZkYjMy%40thread.v2/0?context=%7b%22Tid%22%3a%2228cb6a6f-78fe-445d-acfd-cf07066168f7%22%2c%22Oid%22%3a%228e16e855-140b-4487-b7c7-19b383cbe4be%22%7d Meeting ID: 270 005 574 155 Passcode: WLzLtE
Question Submission Deadline	September 17, 2024, 11:59pm
Proposal Submission Deadline	October 1, 2024, 11:59pm
Anticipated Vendor Selection Date	October 22, 2024

III. Prerequisites

Proposals will only be considered from Companies that meet the following prerequisites:

III.A Years of experience

Have at least **five (5)** years' of experience, within the past **five (5)** years under a legally registered business name, in providing services of a similar type and scope as described in the Scope of Services. Have not filed for bankruptcy under any business name over the past five (5) years.

III.B OpenGov Registration

Have created an account on OpenGov. Companies can register at:
https://procurement.opengov.com/portal/banning-ca

Once registered, Companies must download this solicitation in order to appear on the Bidder's List as a "Prospective Bidder." Companies that fail to specifically download this solicitation will not appear on the Bidders' List and will be unable to participate or be considered for this RFP.

III.C Non-Mandatory Pre-Proposal Meeting

All prospective Companies are strongly encouraged to attend the non-mandatory pre-proposal meeting on Tuesday, September 10, 2024 at 11:00 am to be held at:

Teams Meeting https://teams.microsoft.com/l/meetup-join/19%3ameeting_MjdiM2FjZTgtMzg5NS00ODZmLWFmYjktYmI3N2I2OWZkYjMy%40thread.v2/0?context=%7b%22Tid%22%3a%2228cb6a6f-78fe-445d-acfd-cf07066168f7%22%2c%22Oid%22%3a%228e16e855-140b-4487-b7c7-19b383cbe4be%22%7d
Meeting ID: 270 005 574 155 Passcode: WLzLtE

III.D Licenses

If applicable, Company and/or its key personnel, shall hold an appropriate license for the Company's discipline and the Services on the date the Proposal is submitted.

III.E Department of Industrial Relations Registration

If applicable, Company shall have registered with the Department of Industrial Relations and any other required organizations.

IV. Scope of Work

IV.A 1. BEU COS & Rate Design - Objective

BEU COS & Rate Design - Objective

BEU's goal is to develop and adopt a series of electric rate designs that are based on cost-of-service principles.

The intent of the cost-of-service analysis and rate design evaluation is to:

A. Perform a comprehensive review of BEU's power system costs, allocations and categories;

B. Assess customer characteristics and classifications;

C. Design, then evaluate the impact of various rate structures and their impacts on customers, and

D. Develop and produce a flexible non-proprietary working model that will be conveyed to the City of Banning and the public.

The working model will be able to accommodate adjustments to factors such as integration of renewable energy sources; rising operating, maintenance and capital needs; stranded investments; normal to extreme weather patterns; overall sales, and customer demands.

Each rate structure option will adequately balance BEU's short and long-term financial sustainability. The proposed rate structure must meet the electric utility's ongoing operating expenditures, bond covenants, capital improvement needs, debt recovery, and fund reserve requirements. It must also follow accepted industry standards, best practices and California Law. The recommended rate design will align policy goals with pricing strategies to encourage customer behavior that benefits the utility system.

The findings of the analysis and the proposed rate designs should provide the basis for electric rates for a ten-year period, and should be configurable to accommodate evolving energy policy requirements. In developing and updating electric rates, Consultant will consider the following:

- Time of Use ("TOU")
- Customer Self-Generation (Non-NEM)
- Metered Rate for Electric Vehicle ("EV") — Residential and Public
- Recovery Adjustments for new Renewable Energy and Purchase Power Agreements ("PPA")
- Low-Income Assistance Programs

The following are some of the key factors Consultant will incorporate into its rate recommendations:

- Advanced Metering Infrastructure ("AMI") program implementation and data

- Solar Energy
- Energy Storage
- Compliance with California Constitution Proposition 26
- Capital Improvement Plan
- Other issues as appropriate

BEU staff and Consultant will present the findings of the analysis and proposed rate design to City Council Committee(s) and Banning City Council for review and approval.

IV.B 2. Summary

The City of Banning is seeking to select a consultant to perform an electric Cost-of-Service Analysis ("COS") and provide rate design services for the electric system at BEU. The goal of the COS and rate design is to review BEU's operations, capital investment plan, debt recovery, reserve requirements and customer characteristics to develop a cost-of-service analysis, which will provide adequate funding while managing customer rate impacts.

Consultant will perform the COS to determine the cost of providing electric service based on usage patterns by customer class. Consultant shall collect and analyze the necessary BEU data, including—but not limited to—current electricity rates by customer class; surcharges; fees; detailed customer characteristics and billing information; operating and capital revenue requirements; electric supply sources and electric use characteristics.

In addition, the COS will consider the current contractual relationship with Southern California Edison for power delivery.

Consultant will provide/develop a financial model that will capture and provide the basis for analysis of all relevant data related to revenue requirements, costs, customer characteristics and any other applicable information. The model will be flexible with the ability to support rate recommendations based upon changing factors such as power supply resources, capital investment and retail sales. The model will not be proprietary to Consultant and will be conveyed to BEU along with the necessary training and documentation to allow for its continued use after the COS and rate design are completed.

BEU and Consultant will develop proposed rates for relevant City Council Committee and City Council consideration. Consultant shall assist BEU with the approval process for the proposed rates including preparing presentations and providing support/comments during such meetings. Consultant will be integral to addressing community feedback. Consultant will also assist in any adjustments to the Rate Resolution as appropriate for the proposed rates.

IV.C Tasks and Enhancements

BEU has broken down the COS and rate design project into a list of nine (9) enumerated "Tasks." Consultant will be instrumental in devising and executing strategies to successfully complete or fulfill each Task, with tangible products in the form of technical memorandums ("TM"),

presentations, meetings (including agendas and minutes), community outreach, preparation materials, financial models (including staff training), and other deliverables. These efforts will culminate in a Final Report, with drafts available for BEU staff review and comment throughout the project duration, ultimately leading to potential Rate Resolution updates.

Consultant will undertake the following tasks:

- Task 1 – Review of previous rate adjustments and BEU Planning Documents and Key Issues Impacting BEU and Utility Rates.
- Task 2 – Revenue Requirements
- Task 3 – Cost-of-Service Analysis
- Task 4 – Research on Comparable Municipal Electric Utilities
- Task 5 – Rate Design
- Task 6 – Financial Planning Model
- Task 7 – Public Participation
- Task 8 – Policy/Resolution Review and Revisions and Testimony
- Task 9 – Final Report

At its discretion, BEU will additionally consider enhancements or other recommended services suggested by the Consultant but not otherwise captured by the enumerated Tasks.

Project Management

BEU will look to Consultant for project management responsibilities, including timeline and schedule management, identifying number of meetings for each Task and coordination of participation among subject matter experts within the utility and on the consulting team. Consultant's project management duties will be carried out in close consultation with BEU staff. Consultant will be responsible for submitting timely, detailed itemized invoices to BEU, so that BEU may evaluate the overall project progression and use of resources.

IV.D Task Details

Task 1 – Review of Previous Rate Adjustments and BEU Planning Documents and Key Issues Impacting Utility Rates

Within the first two weeks following the Notice to Proceed ("NTP"), the selected consultant shall submit a list of requested reports, documents, schedules and other data. Consultant shall review the principles and methodology in the prior study and recommend any changes to the approach based on current legal requirements, prevailing industry rate-setting practices, BEU's rate setting objectives, and changes in BEU customer usage patterns and demand profiles. Consultant will also consider active work on the ESMP.

In addition to existing planning documents and studies, Consultant should study key issues that impact BEU's fiscal health and data availability, including, but not limited to:

- City and customer base demographics
- Community rate values such as rate equity and affordability
- Advanced Metering Infrastructure ("AMI") available data
- Public benefit programs
- Compliance with California Constitution Proposition 26

Taking these and other factors into account, Consultant will advise BEU of the impact on the current COS, and will provide strategic guidance on how to proceed in the face of uncertainty.

Deliverables: White paper on findings and presentation to BEU staff.

Task 2 – Revenue Requirements

Consultant will develop cash flow projections of revenues and revenue requirements for the electric utility, incorporating BEU's budget and other financial documents, including but not limited to the capital budget. Consultant will evaluate assignment of all the revenue sources to operating and capital expenses, working with BEU staff to select a test year to be used for all financial, operating and customer data requirements and calculations. In establishing cash flow projections, as well as allocating costs in accordance with Task 3 below, Consultant will review BEU-specific data provided through billing records, AMI data, and other BEU sources.

Deliverables: TM on revenue requirements and preliminary findings to be expounded upon and incorporated into the final report (see Task 9).

Task 3 – Cost-of-Service Analysis

Consultant will perform a cost-of-service analysis, examining BEU-specific data, including data on current customer classes and evaluating time of use rates and the energy service charge. Consultant will explore potential alternative billing methodologies for feasibility and consistency with legal requirements and accepted industry methodologies.

The COS methodology employed should develop an equitable allocation of costs to the various classes of service, comprising the following sub-tasks or industry best practices as advised by the Consultant:

A. Determine the total revenue required to adequately cover projected operations and maintenance ("O&M") costs, debt service, debt recovery, capital outlays and capital reserves. Revenues and expenses may be based on historical records and expected growth rates, but projections should also consider variations in power supply resources and electric usage patterns.

B. Identify reserve requirements for O&M and capital programs and recommend appropriate target reserve levels.

C. Functionalize expenses by major and sub functions relating to the activities performed in the operation of the electric utility system.

D. Functionalize expenses to cost components: energy costs, and other direct costs.

E. Classify capital investment by categories: transmission, distribution, energy storage, power resource, automation and facilities and services.

F. Classify O&M costs, including administrative, engineering, power supply, power distribution, debt service, and reserve fund requirements.

G. Allocate costs to each customer class.

H. Derive marginal unit costs for designing class of service rates, taking into account peak demand for customer classes.

I. Identify revenues to be generated from fixed and variable charges.

Deliverables: TM and staff presentation.

Task 4 – Research on Comparable Municipal Electric Utilities

Consultant will gather detailed information on electric rates and rate structures of comparable, municipally- owned electric utilities. Areas of focus should include policy-level decisions related to previously-identified factors, as well as a comparison of the average monthly bill for various customer classes.

Research topics should cover a range of issues that allows BEU to make accurate comparisons between the sample of utilities, such as fixed charges versus volumetric consumption charges, customer classes, TOU rates, NEM, regulatory surcharges, and cost recovery for anticipated increased needs for power supply purchases. Consultant should review the specific research topics with BEU staff to ensure all priority issues are included.

Deliverables: TM on findings and staff presentation.

Task 5 – Rate Design

In collaboration with BEU staff, consultant will develop schedules of electric rates intended to recover the proportionate cost-of-service allocated to each customer class consistent with legal requirements and accepted industry methodologies. The consultant will explore innovative rate design strategies that align with evolving industry best practices to align pricing with customer behavior that benefits the utility system. This includes considering time-of-use pricing, demand-side management programs, and other innovative approaches to enhance customer choice and promote energy efficiency. These strategies will be developed in coordination with BEU's broader goals. The consultant will provide a list of viable alternative designs along with costs and benefits of each rate design, including BEU's current rate design. The study will involve the development of multiple rate models and the exploration of different scenarios. All scenarios must ensure revenue requirements are met and that the utility is aware of short-term and long-

term risks to each rate design alternative along with the probability for each risk component to be realized. This allows BEU to assess the impacts of various rate designs and pricing structures on different customer classes, revenue stability, and the overall financial sustainability of the utility. The consultant will also develop scenarios to consider the phasing (e.g. over a five year period) of implementation of rate designs based on the availability of data and customer impacts. The consultant will also provide how rate designs will be compatible with CIS and BEU's business processes or need change management processes implemented.

Some known rate design components may include:

- Solar Customer Rates
- Time of Use ("TOU") Rates
- Electric Vehicle ("EV") Rates
- Recovery for Renewable Energy, such as Purchase Power Agreement ("PPA") Rates, both Fixed and Variable
- Low-Income Assistance Programs

Deliverables: TM and staff presentation.

Task 6 – Financial Planning Model

As part of this project, Consultant will develop new financial planning models that are fully documented and relatively simple for BEU staff to administer. These models should require minimal, if any annual licensing fees and/or setup/updates from the consultant. Consultant's proposal shall document any proprietary issues or requirements concerning the models to be provided.

The financial planning models should address the following requirements, including but not limited to:

- Microsoft Excel-based (or alternative system must be explicitly proposed and approved by Staff)
- Financial planning horizon of 30 or more years with monthly resolution/data inputs for the current Fiscal Year and the preceding fiscal year.
- Historical data for 5 years
- Automatically produced summary reports and visualizations with toggles for scenarios including but not limited to:
    - Long-term cash position
    - Demand forecast projections by customer type
    - Sales forecast by customer type
    - Consider capital financing plan and alternative (pay-go, borrowing, or grants)

- Average bill by customers
- Cash reserves compared to targets
    - Sub-fund reserve levels for management review

- Only requires the user to enter data in a single input worksheet to make changes and updates
- Allows for growth factors and for one-time changes in any year
- Considers elasticity of demand
- Allows for mid-year rate adjustments
- Flexible enough to allow for changes/additions to rate and surcharges.
    - May include several versions to accommodate a phased in structure if that is what is decided

The model submitted for the final product should provide the basis for electric rates for a ten-year period and should be configurable to accommodate evolving energy policy requirements.

Deliverables: Draft financial model for review, final model, documentation for model use and updating procedures, and staff training assuming three, two-hour training sessions.

Task 7 – Public Participation

In close coordination with BEU staff, Consultant will develop and implement a public participation plan to increase customer awareness and understanding of rate development. The plan will present successful and innovative communication strategies employed by similarly-situated electric utilities. Consultant will prepare for, provide material for, attend and facilitate up to five (5) public meetings, in addition to which Consultant will also prepare a variety of materials for website, social media and other communication tools. Extra consideration should be given to engaging hard-to-reach communities, such as disadvantaged and low-income communities. Consultant will work closely with the City of Banning's Public Information Officer.

Deliverables: Meeting planning documents and materials (such as agendas and facilitation plan). All written collateral, social media schedule, and effective graphics. BEU expects Consultant to provide planning and meeting documents in advance for staff review at a minimum two weeks prior to any public event; however, Council schedule and posting requirements may accelerate the timelines needed.

Task 8 – Policy/Resolution Review and Revisions and Testimony

Consultant will work with BEU staff, City of Banning's City Attorney's Office and other City partners as needed to ensure that all language in the proposed resolution is consistent with the new rate design, and with California Law. If a recommendation results in resolution changes

being adopted in future years, all future year revisions will be written into the resolution submissions.

Consultant will provide ongoing support as necessary to explain and defend BEU's rates and charges, including before City Council. Such support may also involve the preparation of schedules or other documents that detail the calculations and assumptions made in arriving at the rates and charges under examination.

Deliverables: Microsoft Word version with redlined proposed changes for adoption, TM detailing significant proposed changes and restructures and rationale and analysis and staff presentation.

Task 9 – Final Report

The consultant shall prepare a final report which summarizes the work conducted in Tasks 1-8. The report will be used to support the adoption of rates. This includes the Consultant writing the related agenda report to be submitted to the City Council for rate adoptions. The final report will serve as the administrative record for the rates and charges.

Deliverables: Final report document in draft form, with three weeks for staff review. Final document and associated Microsoft Word and Excel Files and any other supporting schedules.

Enhancements or Other Related Services:

Consultant may include enhancements or recommendations for consideration to the project scope that the Consultant deems appropriate. Consultant will include descriptions and examples of the services, pricing for the services, and deliverables. Proposed enhancements and recommendations to the project scope may be considered by the City and included in the Scope of Work. The Consultant shall proceed with proposed enhancements only at the express written consent of BEU.

V. Vendor Questionnaire

Proposals should be prepared in such a way as to provide a straightforward, concise delineation of capabilities to satisfy the requirements of this RFP. Responses should emphasize the Company's demonstrated capability to perform work of this type. Emphasis should be concentrated on completeness and clarity of content. Proposals shall adhere to the following format for organization and content. Proposals must be typed and arranged/divided in the following sequence to facilitate evaluation.

V.A Cover Letter*

The cover letter shall include a brief general statement of intent to perform the services and confirm that all elements of the RFP have been reviewed and understood. The letter shall include a brief summary of Company's qualifications and Company's willingness to enter into a contract under the terms and conditions prescribed by this RFP and in the Sample Agreement. The letter must identify a single person for contact during the RFP review process.

*Response required

V.B Proposal*

A. Statement of Understanding and Approach

- This section must demonstrate an understanding of the Services. It should describe the general approach, organization and staffing required for the Services requested. If necessary, preliminary investigations, due diligence, and research shall be discussed in this section.
- This section should include the following:
  - An implementation plan that describes in detail (i) the methods, including controls by which your firm or entity manages projects of the type sought by this RFP; (ii) methodology for soliciting and documenting views of internal and external stakeholders; (iii) and any other project management or implementation strategies or techniques that the respondent intends to employ in carrying out the work.
  - Detailed description of efforts your firm or entity will undertake to achieve client satisfaction and to satisfy the requirements of the "Scope of Work" section.
  - Detailed project schedule, identifying all tasks and deliverables to be performed, durations for each task, and overall time of completion, including a complete transition plan. Include your plan to deal with fluctuation in service needs and any associated price adjustments.

- Detailed description of specific tasks you will require from City staff. Explain what the respective roles of City staff and your staff would be to complete the tasks specified in the Scope of Work.
- Proposers are encouraged to provide additional innovative and/or creative approaches for providing the service that will maximize efficient, cost-effective operations or increased performance capabilities. In addition, the City will consider proposals that offer alternative service delivery means and methods for the services desired.
- Proposers are also requested to identify any City owned facilities or property which Proposer would propose to use or lease, purchase, or rent from the City in connection with the services to be performed, including information about the terms of any proposed lease, purchase or use of such equipment and facilities, and how this proposed structure affects the overall cost proposal to the City, if applicable.

B. Company Information

- This section shall include contact person information, address and telephone number of the company main office and branch offices. Each Company shall identify itself as to the type of organizational entity (corporation, sole proprietorship, partnership, joint venture, etc.). Any supplemental information that Company believes may be pertinent to the selection process may be provided.
- The Proposal shall identify any litigation, mediation, or arbitration, regarding the performance of any services similar to the Services, in which the Company has been involved in the past five (5) years. If the Services require a license or certification, the Proposal shall include any claims or disciplinary action taken against Company or any of Company's key personnel within the past five years.

C. Company Personnel

- This section shall contain names, contact numbers and description of experience, including licenses and/or certifications, of all key personnel who would be assigned to perform the Services. Members of the Company's professional team (managers, contact person, etc.) should be identified by name, title, phone number, and description of the portion of work they will be assigned to perform under this Agreement. Also include major subcontractors (if any) and their degree of involvement in this program. If the Company is including any subcontractors, the Company shall identify how long the Company has worked with the subcontractor.
- An affirmative statement should be included that the proposer and all assigned key professional staff are properly licensed to practice in California.

D. Disclosure

- Please disclose any and all past or current business and personal relationships with any current Banning elected official, appointed official, City employee, or family

member of any current Banning elected official, appointed official, or City employee. Any past or current business relationship may not disqualify the firm from consideration.

E. Experience and References

- The Proposal must demonstrate that the Company, or its key personnel, meets the minimum experience requirement in #Prerequisites with a legally registered business name, that provides services of a similar type and scope as described in the Scope of Services. A Company shall not have filed for bankruptcy under any business name over the past five (5) years.
- Company shall provide at least 3 references, within the past 5 years, of clients for whom services have been performed that are comparable in quality and scope to that specified in this RFP. The references shall include client names, addresses, telephone numbers and e-mail addresses of the clients for whom prior work was performed and include an explanation of the services provided along with project start and end dates.

*Response required

V.C Price Proposal*

All proposals submitted shall have a stated dollar bid amount for providing the services outlined in the Scope of Services. The total shall be an all-inclusive maximum price and to contain all direct and indirect costs including all out-of-pocket expenses with a full and complete breakdown of all said costs, and proposed fees including but not limited to hourly rates, reimbursable expenses and/or rates, mileage and/or travel cost, miscellaneous fees, etc., for the first year's audit engagement.

In addition, a statement must be included in this section that if the proposer is charging travel costs, the proposer's charges invoiced to the City for travel, lodging and subsistence shall not exceed the current IRS rates.

*Response required

V.D Value Added Services

Please describe any value-added services your company offers that may be of use to the City

V.E Evidence of Insurance*

In addition, the Company shall provide evidence of possession of insurance in the coverage and amounts listed in the Sample Agreement.

City requires that licensees, lessees, and vendors have an approved Certificate of Insurance (not a declaration or policy) or proof of legal self-insurance on file with the City for the issuance of a permit or contract. Within ten (10) consecutive calendar days of award of contract, successful Proposer must furnish the City with the Certificates of Insurance proving coverage as specified in contract sample.

*Response required

V.F Vendor Forms

Please download the below documents, complete, and upload.

- New_Vendor_Packet.pdf

V.G Type of Business*

☐ C Corporation
☐ S Corporation
☐ Limited Liability C Corporation
☐ Partnership
☐ Limited Liability Partnership
☐ Sole Proprietor/Individual
☐ Other
*Response required

V.H Type your Legal Company Name Here*

State your Company's Name Here. This will be verified against the California Secretary of State's Website.

*Response required

V.I EX PARTE COMMUNICATIONS CERTIFICATION*

I certify that Bidder and Bidder's representatives have not had any communication with a City Councilmember concerning this IFB at any time after the date and time that this IFB was publicly advertised.

☐ Yes
☐ No
*Response required

V.J EX PARTE COMMUNICATIONS CERTIFICATION CONTINUED*

If stated "Yes" above, please explain the circumstances in the following space, or state "None."

*Response required

V.K DEBARRED, SUSPENDED, DISQUALIFIED QUESTIONNAIRE*

Has the Company, any officer of the Company, or any employee of the Company who has proprietary interest in the Company, ever been debarred, suspended, disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of a violation of law or safety regulation?

☐ Yes
☐ No

*Response required

V.L DEBARRED SUSPENDED DISQUALIFIED QUESTIONNAIRE CONTINUED*

If stated "Yes" above, please explain the circumstances in the following space, or state "None."

*Response required

V.M DISCLOSURE OF GOVERNMENT POSITIONS*

Each Bidder shall disclose below whether any owner or employee of the firm currently hold positions as elected or appointed officials, directors, officers, or employees of a governmental entity or held such positions in the past twelve months. List below or state "None."

*Response required

V.N CERTIFICATION COMPLIANCE*

Please download the below documents, complete, and upload.

- Certification-Compliance_wi...

*Response required

V.O CARB Compliance Form*

Please download the below documents, complete, and upload.

- CARB_Compliance_(NEW_01-01-...

*Response required

VI. Submission Instructions And Inquiries

VI.A Inquiries

If prior to the date fixed for submission of Proposals, a prospective Company discovers any ambiguity, conflict, discrepancy, omission or other errors in this RFP or any of its appendices, exhibits or attachments, the Company shall immediately notify the City of such error in writing and request modification or clarification of the document. Modifications shall be made by written Addenda to the RFP.

If a Company fails to notify the City, prior to the date fixed for submissions of Proposals, of an error in the RFP known to the Company, or an error that reasonably should have been known to the Company, the Company shall submit its Proposal at its own risk, and if the Company is awarded a Contract, it shall not be entitled to additional compensation or time by reason of the error or its later correction.

All communications regarding technical, scope, and/or project related questions and requests for clarifications, changes, exceptions, and deviations to the terms and conditions set forth in this RFP **shall be submitted via "Q&A"** through the City's Electronic Bidding System, OpenGov, before the deadline and according to these specifications herein. Any and all other bidding communications shall only be with **Barbara Mason, Purchasing Manager**, at (951) 922-3121.

The Final day for receipt of questions from the Proposer shall be on or before the due date indicated in the schedule of events section. To ensure fairness and avoid misunderstandings, **all communications must be in written format** and submitted only in the format set forth above. Any verbal communications will not be considered or responded to. All questions received by the due date will be logged and reviewed and if required, a response will be provided via an addendum to the RFP that will be posted on the City's website. **Any communications, whether written or verbal, with any City Councilmember, City staff, or RFP evaluation panel member other than the individual indicated above, prior to award of a contract by City Council, is strictly prohibited and the Proposer shall be disqualified from consideration.**

VI.B Completion Of Proposal

Proposals shall be completed in all respects as required by this RFP. A proposal may be rejected if conditional or incomplete, or if it contains any alterations or other irregularities of any kind, and will be rejected if any such defect or irregularity can materially affect the quality of the proposal. Proposals which contain false or misleading statements may be rejected. If, in the opinion of the City's Selection Committee, such information was intended to mislead the City in its evaluation of the proposal, and the attribute, condition, or capability is a requirement of this RFP, the proposal will be rejected. Statements made by a Company shall also be without ambiguity, and with adequate elaboration, where necessary, for clear understanding.

Unauthorized conditions, exemptions, limitations, qualifications, or provisions attached to a Proposal will render it non-responsive and will cause its rejection.

The Company, in responding to this RFP, must submit Proposals in the format identified in this RFP. The Proposal must address all requirements of the RFP even if a "no response" is appropriate.

Costs for developing Proposals are entirely the responsibility of the Company and shall not be chargeable to the City. The City shall not be liable for any costs incurred in response to this RFP, including but not limited to, costs for any interviews, presentations, or other follow-up information necessary as part of the selection process. All costs shall be borne by the Company responding to this RFP. The Company responding to this RFP shall hold the City harmless from any liability, claim, and expense whatsoever incurred by or on behalf of the Company.

VI.C Delivery / Submission Of Proposals

The Final day for submission of proposals shall be on or before the due date indicated in the schedule of events section.

Companies shall register on the City's Electronic Bidding System, https://www.banningca.gov/bids. Once registered, Companies must download the RFP while logged in under their own name and identification number to appear on the Current Prospective Bidders List as a "Prospective Bidder." Companies that fail to download the RFP will not appear on the Current Prospective Bidders List and their proposals will be considered non-responsive. If a Company is unable to register or download the RFP from the bidding website, a representative may contact ProcureNow.

All proposal documents and supplementary documents must be uploaded using the City's bidding website prior to event date and time as instructed in this solicitation. Once file(s) have been uploaded and the Submission Status shows as "Submitted" the submission is complete. At that point respondents will receive an email confirmation from the bidding website.

The City reserves the right to reject any and all proposals and to waive information and minor irregularities in any proposal received.

Acceptance of Terms and Conditions - Submission of a proposal pursuant to this RFP shall constitute acknowledgment and acceptance of all terms and conditions hereinafter set forth in this RFP.

The time and date are fixed, and extensions will not be granted unless specifically stated by the City in an addendum to this RFP. Proposals not received before the bid event time will not be accepted.

VI.D Alternative Proposals

Only one proposal is to be submitted by each Company for this RFP. Multiple simultaneous proposals will result in rejection of all Proposals submitted by Company. A Company may, prior to the proposal due date and time, withdraw a proposal and submit a new proposal, so long as the new proposal is submitted before the proposal due date and time.

VI.E Examination Of RFP And Sites Of Work

The Company shall carefully examine the RFP and all sites, if applicable, of the work contemplated. The submission of a Proposal shall be conclusive evidence that the Company has investigated and is satisfied as to the conditions to be encountered, as to the character, quality, and quantities of work to be performed and materials to be furnished, the difficulties to be encountered, and to the requirements of the Proposal, RFP, and other Contract Documents.

By submitting a Proposal, the Company hereby certifies that it has: examined the local conditions, read each and every clause of this RFP, included all costs necessary to complete the specified work in its proposed prices, and agrees that if it is awarded the Contract it will make no claim against the City based upon ignorance of local conditions or misunderstanding of any provision of the Contract. Should the conditions turn out otherwise than anticipated by it, the Company agrees to assume all risks incident thereto.

VI.F Addenda

Unless otherwise specified, any addenda issued during the time of bidding must be acknowledged electronically via the City's Bidding Website, which will be made part of the proposal. Addenda notifications will be provided to those listed on the Electronic Prospective Bidder's List via email.

VI.G Withdraw Of Proposals

All proposals shall be firm offers and may not be withdrawn for a period of one hundred twenty (120) days following the deadline date for submission of proposals noted herein. Submitted Proposals may be withdrawn at any time prior to the submission deadline.

VI.H Pre-Proposal Meeting

There will be a mandatory pre-proposal meeting on Tuesday, September 10, 2024 at 11:00 am. The meeting will be located at Teams Meeting https://teams.microsoft.com/l/meetup-join/19%3ameeting_MjdiM2FjZTgtMzg5NS00ODZmLWFmYjktYmI3N2I2OWZkYjMy%40thread.v2/0?context=%7b%22Tid%22%3a%2228cb6a6f-78fe-445d-acfd-cf07066168f7%22%2c%22Oid%22%3a%228e16e855-140b-4487-b7c7-19b383cbe4be%22%7d Meeting ID: 270 005 574 155 Passcode: WLzLtE. Attendance is required in order to submit a proposal.

VII. Evaluation Criteria

The City reserves the right to amend, withdraw, and cancel this RFP. The City also reserves the right to reject all responses to this RFP at any time prior to agreement execution. Furthermore, the City reserves the right to request additional information about any and all Proposals, that in City's opinion, is necessary to assure that the Company's competence, number of qualified employees, business organization, experience, and financial resources are adequate to perform the Services.

All Proposals shall be reviewed to verify that the Company has met the minimum requirements as stated in this RFP. Proposals that have not followed the rules, do not meet minimum content and quality standards, and/or do not provide references will be rejected as non-responsive.

Responsive proposals will be evaluated on the basis of the criteria below. **If needed, interviews will be scheduled during or after the week indicated in the "Schedule of Events" section.** If needed, interviews will be conducted by the same members on the proposal evaluation panel. Dates, times, and a location will be coordinated at that time if interviews are deemed necessary after the evaluation of responsive proposals. If interviews are deemed necessary, candidates who have submitted the highest scoring proposals within a competitive range as determined by the City will be invited to participate in the interview process.

The selected Company shall then enter into exclusive negotiations with the City to formalize the Scope of Service and Compensation. Recommendation for award is contingent upon the successful negotiation of final contract terms. Negotiations shall be confidential and not subject to disclosure to competing Proposers unless an agreement is reached. If the City is unable to obtain a fair and reasonable price or cannot reach agreement regarding the terms for the Scope of Services, then the City will end negotiations with that Company and begin negotiations with the next Company which best meets the needs of the City, and so on until a City and the Company reach agreement.
The City intends to select the Company that offers the best value to the City based on the criteria outlined above.

No.	Evaluation Criteria	Scoring Method	Weight (Points)
1.	**Qualifications**	Points Based	25 *(25% of Total)*
2.	**Pricing**	Points Based	15 *(15% of Total)*
3.	**Experience (Projects of similar size and scope)**	Points Based	20 *(20% of Total)*
4.	**Professional References**	Points Based	10 *(10% of Total)*

5.	**Approach and Methodology**	Points Based	25 *(25% of Total)*
6.	**Value Added Services**	Points Based	5 *(5% of Total)*

VIII. Resulting Contract

VIII.A CONTRACT TERM

The term of the Agreement is until the project is completed per the RFP requirements.

VIII.B CONTRACT DOCUMENTS

In submitting a Proposal, the Company agrees to enter into an Agreement with the City ***without exceptions to the City's standard agreement***. The City's standard agreement is **non-negotiable**, and a copy of the standard agreement is attached herein. **Any change to the standard agreement will deem the Proposal non-responsive**. In the event of a conflict exists between documents the following order of precedence shall apply:

- Agreement
- City of Banning's Request For Proposals
- Company's Response to the Request For Proposals

VIII.C EXECUTION OF AGREEMENT

After contract award, the following shall be signed and returned to the City within fourteen (14) calendar days from the date the City mails, or by other means delivers said documents to the Company:

- The Agreement in the form included herein, properly executed by the Company.
- Certificates of Insurance and Additional Insured Endorsement evidencing coverage as specified in the sample agreement.
- Confirmation of current business tax certificate.
- Bonds, if required.

In any event that day fourteen (14) of calendar days falls on Saturday, Sunday, a legal holiday for the State of California, or on days when the City is closed, the Contract Documents shall be delivered by the following working day.

No Agreement shall be binding upon the City until all documents are fully executed by the Company and the City.

VIII.D FAILURE TO EXECUTE THE AGREEMENT

Failure to execute the Agreement and furnish the required insurance and business tax certificate, within the required time period shall be just cause for the rescission of the award. If bonds are also required, failure to furnish sufficient bonds shall cause rescission of the award. If

the successful Company refuses or fails to execute the Agreement, the City may award the Agreement to the next qualified Company.

IX. Terms And Conditions

IX.A Contract Terms And Conditions

The successful company will be required to execute the City's standard agreement ("Agreement"). A sample is attached herein. The successful company must meet all insurance requirements in the Agreement. All terms and conditions of the Agreement are non-negotiable. Companies must possess valid City of Banning Business License throughout the term on the contract. Failure to execute the Agreement and furnish the required insurance within the required time period shall be just cause for the rescission of the award. If any of the successful Companies refuse or fail to execute the Agreement, the City may award the Agreement to the next most qualified Company.

IX.B Public Records

All Proposals submitted in response to this RFP become the property of the City and pursuant to the Public Records Act (Gov. Code, § 6250 et seq.) are public records, and as such may be subject to public review at least 10 days before selection.

The Company must notify the City in advance of any proprietary or confidential materials contained in the Proposal and provide justification for not making such material public. The City shall have sole discretion to disclose or not disclose such material subject to any protective order that the Company may obtain. Note that under California law, price proposal to a public agency is not a trade secret.

Submission of a proposal shall indicate that, if Proposer requests that the City withhold from disclosure information identified as confidential, and the City complies with the Proposer's request, Proposer shall assume all responsibility for any challenges resulting from the non-disclosure, indemnify and hold harmless the City from and against all damages (including but not limited to attorney's fees that may be awarded to the party requesting the Proposer information), and pay any and all costs and expenses related to the withholding of Proposer information. Proposer shall not make a claim, sue, or maintain any legal action against the City or its directors, officers, employees, or agents concerning the disclosure, or withholding from disclosure, of any Proposer information. If Proposer does not request that the City withhold from disclosure information identified as confidential, the City shall have no obligation to withhold the information from disclosure and may release the information sought without any liability to the City.

The City reserves the right to make use of any information or idea contained in the Proposal. All materials, ideas and formats submitted in response to this RFP will become the property of the City upon receipt.

IX.C Conflict Of Interest

The Proposer warrants and represents that it presently has no interest and agrees that it will not acquire any interest which would present a conflict of interest under California Government Code sections 1090 et seq., or sections 87100 et seq., during the performance of services under any Agreement awarded. The Proposer further covenants that it will not knowingly employ any person having such an interest in the performance of any Agreement awarded. Violation of this provision may result in any Agreement awarded being deemed void and unenforceable.

IX.D Rejection Of Proposals

The City may reject any/or all Proposals and may waive any immaterial deviation in a Proposal. The City's waiver of an immaterial defect shall in no way modify this RFP or excuse the Company from full compliance with this RFP and/or the Contract Documents if awarded the Contract. Proposals that include terms and conditions other than City's terms and conditions may be rejected as being non-responsive. The City may make investigations as deemed necessary to determine the ability of the Company to perform the work, and the Company shall furnish to the City all such information and data for this purpose as requested by the City. The City reserves the right to reject any proposal if the evidence submitted by, or investigation of, such Company fails to satisfy the City that such Company is properly qualified to carry out the obligations of the Agreement and to complete the work described herein.

IX.E Protest Procedures

Failure to comply with the rules set forth herein may result in rejection of the protest. Protests based upon restrictive specifications or alleged improprieties in the proposal procedure which are apparent or reasonably should have been discovered prior to receipt of proposals shall be filed in writing with the RFP Facilitator at least 10 calendar days prior to the deadline for receipt of proposals. The protest must clearly specify in writing the grounds and evidence on which the protest is based.

Protests based upon alleged improprieties that are not apparent or which could not reasonably have been discovered prior to submission date of the proposals, such as disputes over the staff recommendation for contract award, shall be submitted in writing to the RFP Facilitator, within forty-eight hours from receipt of the notice from the City advising of staff's recommendation for award of contract. The protest must clearly specify in writing the grounds and evidence on which the protest is based. The RFP Facilitator will respond to the protest in writing at least three days prior to the meeting at which staff's recommendation to the City Council will be considered. Should Proposer decide to appeal the response of the RFP Facilitator, and pursue its protest at the Council meeting, it will notify the RFP Facilitator of its intention at least two days prior to the scheduled meeting.

IX.F Cancellation

The City retains the right to cancel this RFP at any time, should it be deemed to be in the best interest of the City. No obligation either expressed or implied exists on the part of the City to make an award based on the submission of any proposals.

IN WITNESS WHEREOF the Parties hereto have executed this Agreement the day and year first hereinabove written.

CITY OF BANNING

Douglas Schulze, Date
City Manager

ATTEST:

Caroline Patton Date
Deputy City Clerk

APPROVED AS TO FORM:
Richards, Watson & Gershon

Kevin G. Ennis, Esq., Date
City Attorney

CONSULTANT

NAME: Date
TITLE:

NAME: Date
TITLE:

Tax ID No.

Address:

City Council Approval: _____

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

NewGen Strategies & Solutions

www.newgenstrategies.net



REQUEST FOR PROPOSAL 24-073

COST OF SERVICE ANALYSIS AND RATE DESIGN STUDY PROPOSAL

OCTOBER 1, 2024



Prepared for:
Ms. Barbara Mason - Purchasing Manager
Purchasing Division
99 E. Ramsey Street
Banning, CA 92220

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PROPOSAL

Statement of Understanding and Approach

Banning Electric Utility (BEU) is seeking the development of a series of financial and economic models to develop a defensible basis for its retail rate offerings. The models will need to be designed to address changes in power supply costs and sources, including integrating renewable energy sources, as well as increasing operations and maintenance (O&M) costs, capital needs, stranded investments, sales and revenue projections, and customer needs. The rates developed for BEU's Cost of Service Analysis and Rate Design Study (Study) must adequately balance its short- and long-term financial sustainability.

Recommended rates and rate structures must meet BEU's ongoing operating expenditures, bond covenants, capital improvement needs, debt recovery, and fund reserve requirements, which may need to be reviewed and established for this Study. Additionally, the Study and its results must follow accepted industry standards, best practices, and California law, including Proposition 26. Further, BEU is seeking to understand the rate design and electric pricing trends occurring across the country, including how municipal utilities are approaching strategic rate design to recover costs, manage their load, and offer targeted programs to end-use customers. Specific retail rate elements to address in this Study include:

- Time of Use (TOU) rates
- Customer Self-Generation (Non-net energy metering [NEM], or NEM 2.0)
- Metered Rates for Electric Vehicle (EV) — Residential and Public
- Recovery Adjustments for new Renewable Energy and Purchase Power Agreements (PPA)
- Low-Income Assistance Program cost recovery

Models developed for this Study need to have the flexibility to support rate recommendations based on changing factors such as power supply resources, capital investment, and retail sales. Further, these models will become the property of BEU and the City of Banning (City) upon completion and will be provided along with the necessary training and documentation to allow for continued use after the Study is completed. NewGen Strategies and Solutions, LLC (NewGen) will summarize the recommended rate changes from the Study for BEU, the City, City Council Committee, and City Council consideration, as well as present the results to the community to solicit feedback.

NewGen is well equipped to provide the service and deliverables that BEU is requesting for this assignment. We have developed pro forma financial models for various clients and integrated the results with tailored cost of service analysis (COSA) models while working diligently with management and staff to develop comprehensive rate plans. We are well versed in developing electric rate recommendations for California municipalities, as well as utilities across the country, and in the various strategies regarding compliance with Proposition 26, as well as other mandates for power supply. We are active in the California regulatory arena as we are currently representing several of the Community Choice Aggregators (CCAs) as they challenge the big three investor-owned utilities (IOUs) in the state.

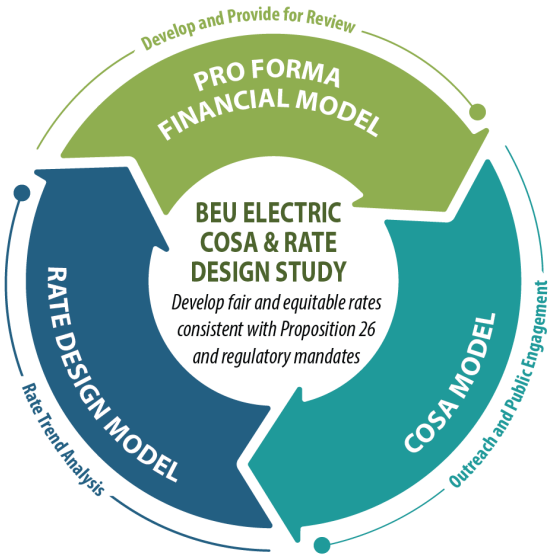
Our vision for the Study is to develop a collaborative response with BEU management and staff to create a multiyear pro forma financial model, develop a comprehensive COSA model to incorporate future test years, and develop a rate design model that quantifies the impacts of rate changes on each of BEU's

customer classes. This vision results in a series of deliverables, which will be developed in the following Implementation Plan:

- Create Strategic Rate Design document: a living document developed at the initial project meeting to establish the goals, objectives, and issues to be resolved during the Study.
- Develop BEU's multiyear pro forma financial model to incorporate data as appropriate into the COSA model to form the basis for the Test Year Revenue Requirement.
- Create a comprehensive, flexible, user-friendly COSA model. Include the development of dashboards and scenario management to facilitate communication of model results.
- Report on the Revenue Requirement analysis and associated allocated costs by customer class for review and comment.
- Conduct a rate trend analysis of how other municipal and other power entities are addressing electricity pricing, implementation challenges/strategies, and potential barriers/issues for customer adoption of rate designs.
- Create rate design recommendations based on feedback from rate trends analysis discussions as they apply to BEU's existing and future rate classes.
- Develop a user-friendly rate design model to incorporate BEU's billing database for analysis of all customers in all classes; this will include dashboards and a scenario development tool.
- Develop a written report detailing findings and recommendations from the Study, as well as presentations to Council and/or Council Committee and Community Stakeholder groups, as identified and requested.

Study Vision

NewGen's vision is to develop and integrate three primary planning models for BEU to optimize its rate setting processes, including a standalone pro forma financial model, a COSA model, and a rate design model. NewGen will be responsible for the development of all three models and will integrate the results of these models as appropriate. The following graphic illustrates our vision for the Study:



MULTI-YEAR PRO FORMA FINANCIAL MODEL
Develop and review with BEU
System Revenue Requirement | Load Forecast | Capital Improvement Plan | Annual Cash Flow Analysis | Percent Rate Change

COST OF SERVICE ANALYSIS MODEL
Develop specific BEU model
Class Revenue Requirement | Cost of Service Based Rates | Fully Allocated Embedded and Marginal Cost

RATE DESIGN MODEL
Develop a system-wide interactive model
Class Rate Structures | Rate Impacts by Usage | Test Year Revenue Projection | Customer Impact Rate Design

Multi-Year Pro Forma Financial Model

The multi-year pro forma financial standalone model will be designed to incorporate historical and projected financial and sales data to produce reliable and timely information on the health of the utility. **Our vision for this Study is to develop a multiyear financial model for BEU, the results of which will be incorporated into the COSA model, and to facilitate updates by BEU staff for future use.** We propose to work with BEU to review its model assumptions for energy sales forecasts, customer growth, operating and non-operating revenues and expenses, capital improvement program plans (and funding mechanisms), and debt service payments, as well as the resulting financial metrics (cash position) for the utility. These metrics include maintaining adequate and appropriate reserve levels and guidelines provided by BEU's Fiscal Policy and Cash Reserve Policy or working the BEU to develop appropriate guidelines. These metrics may include days cash on hand (DCOH), debt service coverage ratios, and others. NewGen will work with BEU to evaluate these metrics as they apply to the projected cash needs of the electric utility going forward. The results from the pro forma financial model will be incorporated into the COSA model as the annual projected revenue requirement, load forecast, and revenue forecast over the projected five-year rate period, as well as the multi-year forecast period. The pro forma financial model will become the property of BEU upon completion of the Study, and NewGen will be available to advise BEU staff on future updates and model functionality, as appropriate.

Cost of Service Analysis Model

The COSA model develops a Test Year Revenue Requirement that is functionally unbundled, classified, and allocated to customer classes to determine cost-based rates. **NewGen's vision for the BEU COSA model is to develop a standalone analysis that is comprehensive, detailed, and defensible.** This will include adding to the model capabilities to incorporate marginal costs and new proposed rate classes, as appropriate, based on the annual cash needs of the utility. We will design a series of dashboards for the COSA model and include the ability to save several scenario analyses for evaluation into the model. Further, our vision includes a seamless interface between the COSA model and the pro forma financial

model to transfer appropriate data and minimize opportunities for transcription errors. The COSA model review process will include analysis of the current cost allocation methodology to provide a defensible basis for the cost factors to be utilized for this Study, including those identified by California's Proposition 26. The cost allocation methods will be evaluated in light of changes in the utility's operations, usage characteristics, and other items, as appropriate and in coordination with the BEU Team. The results from the COSA model which will be incorporated into the rate design model will include the class revenue requirements, the percentage rate change (by class), and the unbundled and functionalized COS-based rates for each rate class.

Rate Design Model

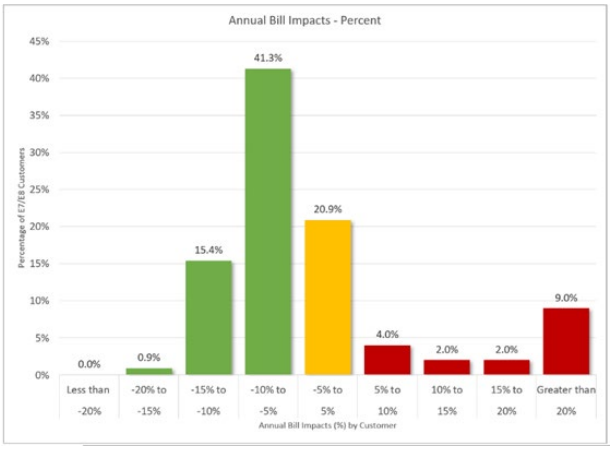
Rate Trend Analysis

BEU seeks to understand trends in the evolving national approach to electric rates, pricing, and program design and implementation. **NewGen's vision for the rate trend analysis is to provide an overview of innovative pricing and program design methodologies across the country, including a focus on California utilities.** Our vision includes descriptions of various pricing programs for both traditional electric service as well as those serving emerging technologies, such as EVs, TOU rates, and customer-sited generation and storage systems. We recognize that rate implementation challenges exist. Many rate offerings require system infrastructure upgrades, such as metering and billing systems, as well as expensive communications or meter data management systems. Utilities will also be reviewed for their low-income assistance programs and how those programs are funded as well as potential applications for BEU. Further, utilities are often limited in their rate offerings because of political pressure and resistance to change. Each implementation challenge is unique for each utility, and solutions must be tailored for the demographic for which the rate is designed. The rate trend analysis will provide a matrix summary of implementation challenges by rate class and their relative advantages and disadvantages.

Customer Impact Rate Design Model

Our vision for BEU's Customer Impact rate design model is to create a Microsoft Excel- (Excel) based interactive model for all customers served by BEU to evaluate the impacts from rate and rate structure changes as a result of the COSA process and rate recommendations developed for this Study. Our rate design model will be based on the rate design model that NewGen developed for BEU in a previous project but will be derived from BEU's full customer billing system, excluding specific customer names and addresses. The advantage of our Customer Impact rate design model is that it provides the entire range of impacts to customers as a result of changes in rates and rate structures rather than focusing on representative customers. By developing a histogram of the rate impacts for each customer within a rate class, the City can determine a course of action with a complete understanding of those impacts, either as a percentage of current bills or a monthly dollar change. Additionally, by identifying those accounts with significant changes, BEU can proactively reach out to specific customers to determine if a utility-led program may be appropriate for their premise.

The results of the Customer Impact rate design model will include an evaluation of the recommendations and their alternatives for various rate designs. The revenue generated by each rate design will be compared to the projected revenue needs of the utility to ensure revenue adequacy for the Test Year period. The resulting system revenues and rate changes will be combined into an exported spreadsheet for the purpose of integrating with the pro forma financial model. NewGen will provide instruction to BEU management and staff on the use of the Customer Impact rate design model to facilitate its use after completion of the Study.



Outreach and Public Engagement

A cornerstone of the purpose of public power is that the utility is connected to its customers and communities. All phases of the scope of work will be designed to showcase the advantages of BEU as a reliable and trusted community member. **Our vision for Outreach and Public Engagement is to establish an open and transparent dialogue for BEU's rate setting process.** NewGen will work with BEU to define its stakeholder groups, which may include the public, City staff, the City Council Committee, and City Council, as well as other groups and interested parties. This engagement is designed to facilitate consensus on the strategic direction for the Study's rate design recommendations. NewGen believes that starting the Outreach and Public Engagement process early in the development of the Study will benefit BEU by allowing it to communicate how rates are determined and the challenges BEU faces in providing reliable power to the community.

Scope of Work

NewGen proposes the following scope of work, which closely follows BEU's Request for Proposal (RFP) as well as approaches and methodologies utilized for all of our COSA and rate design studies. Therefore, BEU can be assured that the proposed work plan has been tested and proven in numerous studies across the state and nation. It is understood that if selected, the Project Team will refine, customize, and finalize the work plan with BEU upon award of the project. Further, we will adhere to and incorporate best practices as well as the governance and guidance of any California regulations pertaining to such studies and final recommendations, including Proposition 26. We also note that we will not need to use, lease, purchase, or rent any City-owned facilities or property for this project; with the exception of in-person meetings and presentations, our work will be conducted from our office in Colorado.

This scope of work follows BEU's RFP by developing a series of project phases:

- Phase I: This will include Task 1 (Kickoff), Task 2 (Revenue Requirement), and Task 3 (Cost of Service Analysis).
- Phase II: This will include Task 4 (Rate Trends Study), and Task 5 (Rate Design).
- Phase III: This will consist of Task 5 (Financial Planning Model).
- Phase IV: This will consist of Task 7 (Stakeholder Engagement/Public Participation), Task 8 (Policy/Resolution Review), and Task 9 (Draft and Final Report).

- Phase V: This will consist of enhancements to the Study as requested by BEU.

Phase I – Kickoff/Revenue Requirement/Cost of Service Analysis

Task 1 – Kickoff Meeting/Study Objectives

Within two weeks of notice to proceed, NewGen will provide a Data Request to BEU, which will include a list of requested utility-related data, reports, documents and schedules. Further, NewGen will schedule an on-site meeting with BEU to review data and establish objectives and milestones for the Study. The kickoff meeting will be attended by up to two members of the NewGen Project Team.

The purpose of the meeting will be to review the rate making process; establish communication protocols including biweekly status calls; and discuss BEU's financial and rate strategies, objectives, and goals. Additionally, we will discuss the Study timeframe and verify milestones for completion of the deliverables identified herein. The on-site meeting also includes discussions of the principles and methodologies developed in previous studies, as recommended changes will be based on legal requirements (Proposition 26, among others), industry rate setting practices, and BEU's unique rate setting objectives and customer usage characteristics.

NewGen will request the most recent update to the City's Electric System Master Plan (ESMP) and will incorporate the findings to date into the Study. During the kickoff meeting, NewGen will discuss key issues that impact BEU's fiscal health and available data, including City and customer demographics, rate values like equity and affordability, availability of Advanced Metering Infrastructure (AMI) data, funding for Public Benefit Programs (as mandated by the state, as well as others that the City may have developed), and other legal requirements. Based on this discussion, NewGen will advise BEU of the impact of the current COSA and provide strategic guidance on how to proceed with various degrees of uncertainty. The elements of the discussion from the kickoff meeting as well as the data received will be memorialized into a Strategic Rate Design Document.

The Strategic Rate Design Document will state the purpose of the Study, issues to address, and specific rates to be developed and/or evaluated, and will develop project controls (including financial updates on budget) and the proposed schedule. This is intended to be a "living document" that is updated on a biweekly basis to include the discussions and decisions made during the ongoing status conference calls between the NewGen and BEU project teams.

This document will also serve as a status report to identify outstanding issues to be addressed by either the NewGen or the BEU project team and the strategy and schedule for their resolution. We will keep and distribute meeting minutes which will summarize our discussions and include "action items" for NewGen and BEU team members to maintain project momentum and ensure timely responses. Ultimately, the Strategic Rate Design Document will also serve to inform the basis for the rate recommendations proposed by this Study.

Task 1 Deliverables

- Kickoff meeting attended by up to two members of the Project Team to review data received, discuss project milestones, and clarify Study objectives.
- Initial draft of Strategic Rate Design document.
- Updates to preliminary Data Request, as needed.

Task 2 – Develop BEU Revenue Requirement

Task 2 will include development of BEU's Test Year Revenue Requirement based on historical information and including appropriate known and measurable adjustments. The basis for the Test Year will be determined in consultation with BEU and will include actual expenses for the 12 months ending the most recent Fiscal Year (FY) (presumably FY 2024). The projected Test Year will include budgeted expenses for FY 2025 and projections for FY 2026 through FY 2030 (as appropriate and in discussions with BEU). The projected Test Year period will depend on the date of anticipated rate implementation and the period of time for which they will be designed. Such decisions will be determined in discussions with BEU during the kickoff meeting and will be included in the Strategic Rate Design document.

The Test Year will rely on the data gathered from the data requests, discussions with BEU staff and management, and the pro forma financial model (see Phase III). NewGen will review the Test Year Revenue Requirement with BEU to assess and quantify potential known and measurable adjustments that should be made to any accounts or utility operations. The Test Year Revenue Requirement will be the basis for the COSA and represents all costs that will be recovered through BEU's retail rates for the Study period.

NewGen will develop cash flow projections of revenues and revenue requirements for the electric utility, including those for power supply, transmission, distribution, and customer related expenses. This will include development of the total revenue required to adequately cover projected operations and maintenance (O&M) costs, debt service, debt recovery, capital outlays, and capital reserves. NewGen will evaluate revenues and expenses for BEU based on historical records and expected growth rates and will design the revenue requirement to have the ability to consider variations in power supply resources and electric usage patterns.

The cash flow analysis will incorporate BEU's budget and other financial documents, including but not limited to the capital budget from BEU's Capital Improvement Plan (CIP) as well as any specific reserve policies or financial metric requirements or objectives (such as increased DCOH). This will include identifying appropriate reserve requirements for O&M and capital programs and recommendations as appropriate to establish target reserve levels based on discussions with the BEU project team. The cash flow analysis will evaluate assignment and allocation of all the revenue sources to operating and capital expenses, as appropriate. NewGen will establish cash flow projections, which will include allocated costs from the COSA, as appropriate, and BEU-specific data provided through billing records, AMI data, and other BEU sources.

The revenue requirement and cash flow analysis will be included within the COSA analysis as the primary source of cash needs for the utility and those elements which need to be recovered in rates as a result of this Study. NewGen will develop a white paper explaining the elements of the revenue requirements and cash flow analysis, which will be provided to BEU management and staff for comment and review. Elements of this revenue requirements document will be incorporated as appropriate into the final report for this Study.

The COSA model will be developed to reflect revised revenue requirements for the Test Year (to be defined as the period for which rates will be designed), changes in customer usage characteristics and underlying cost allocations, proposed rate class changes, and other elements as described herein. The COSA model will be integrated with the pro forma financial model (Phase III) by means of the projected system revenue requirement, future billing determinants by customer class (load), and projected average rates and revenues by class. NewGen will coordinate integration of the models and provide BEU with a

detailed description of how these two models are designed to operate individually as well as collectively. These models are designed to provide insight into BEU's financial situation and to provide potential solutions to address financial concerns.



Example Financial Model Dashboard for Revenue Requirement (this is a combined utility)

Task 2 Deliverable

- Revenue requirement white paper explaining the cost elements to be recovered by rates for this Study, including appropriate cash flow metric requirements.

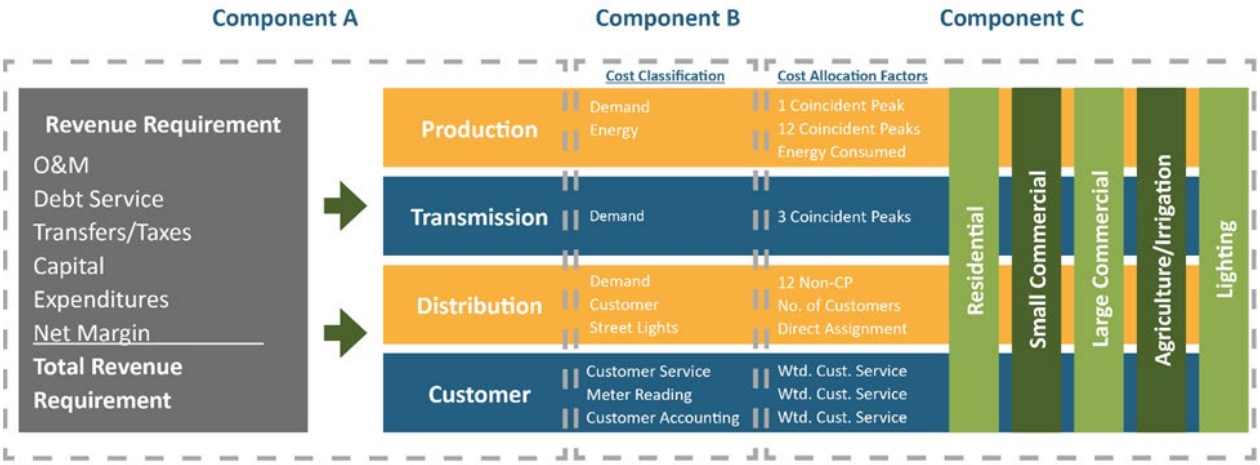
Task 3 – Cost of Service

There are three key steps to completing the COSA after completing the Test Year Revenue Requirement:

1. Unbundle or functionalize the revenue requirement into utility functions (i.e., purchased power or production, transmission, distribution, and customer);
2. Classify costs (e.g., energy, demand, customer); and
3. Allocate the costs to the customer classes.

Included in the three steps of the COSA is the creation of allocation factors to spread "shared" costs between different functions or classifications, and eventually across each customer class. NewGen will review the demand allocation factors developed for the previous study as well as develop unique allocation factors for BEU's consideration.

The model will use Excel tools such as reference tables, pull-down menus, and lists for inputs and adjusting selections such as allocation methodologies or specific allocators. The COSA model and three interconnected components are described in further detail below.

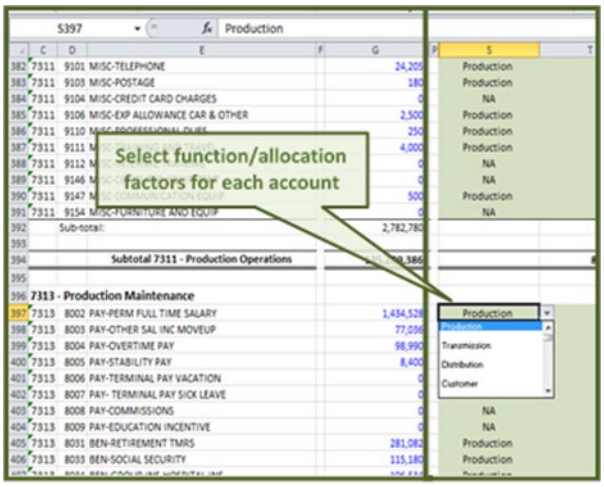


Cost of Service Model

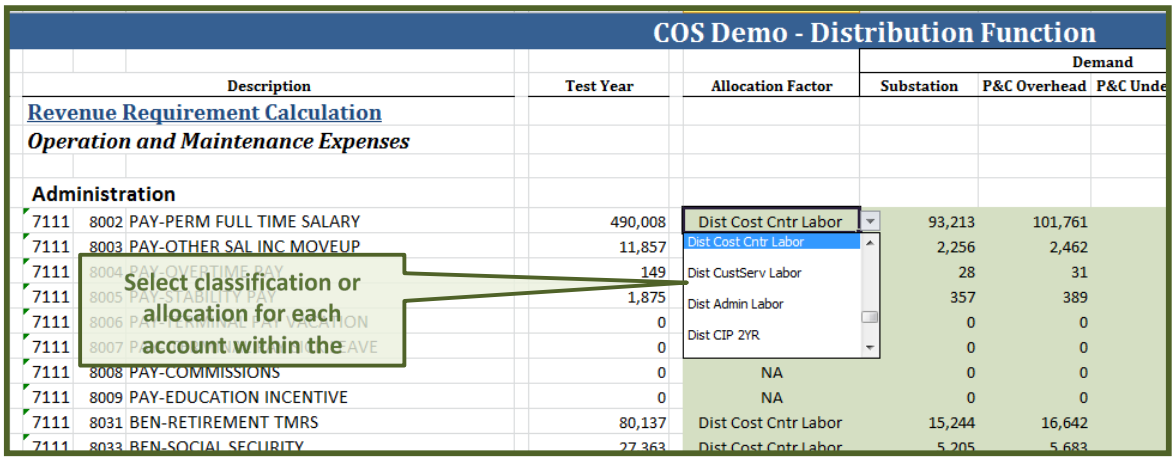
Component A – Functional Unbundling

Functional unbundling will provide detailed descriptions of BEU's Test Year Revenue Requirement by core utility function. For each item, if adjusted for known and measurable changes, the amount of the adjustment is identified with an associated workpaper. Once the detailed Test Year Revenue Requirement has been established, this amount is assigned to the production, transmission, distribution, and customer functions. Assignments are made either through direct assignments or other allocation methodology. The results of the analyses for each function of the Test Year Revenue Requirement are expressed on a functional basis. An illustration of the revenue requirement and functional unbundling is included in the Cost of Service Model graphic above.

Component B – Sub-functional Unbundling

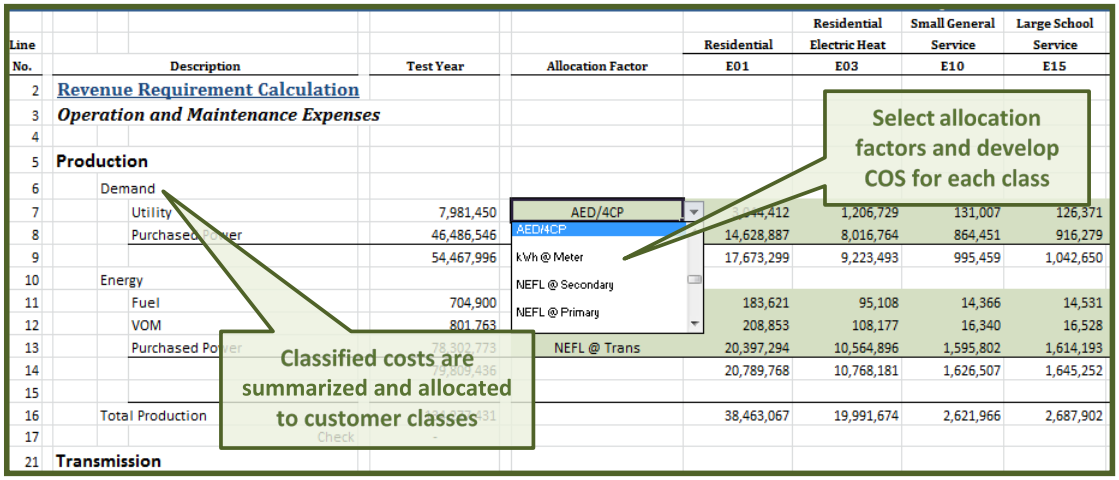


Sub-functionalizing the production, transmission, distribution, and customer functions provides additional detail and accuracy to BEU's costs. In this process, costs are classified as demand related, energy related, customer related, revenue related, or a direct assignment. Similar to functionalizing, sub-functionalization is accomplished either through direct assignments or other allocation methodology. Specific allocation factors are included at the bottom of each sub-function worksheet; NewGen will review and incorporate these allocation factors in the COSA model, as appropriate. These analyses result in the Test Year Revenue Requirement expressed on a sub-functional basis for each cost classification (e.g., Production Demand or Production Energy Costs). The graphics illustrate the COS sub-functionalization and classification of costs.



Component C – Allocated Cost of Service

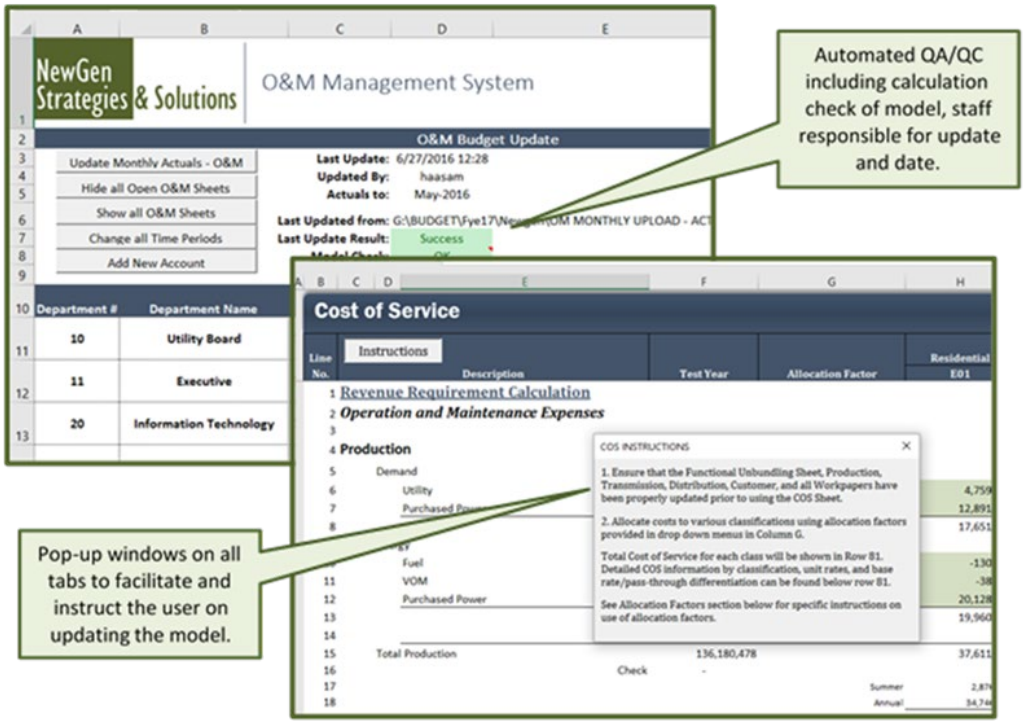
Next, the Test Year sub-functionalized and classified Revenue Requirement is allocated to each of the proposed rate classes using various customer class allocation methodologies. Where appropriate, costs may be directly assigned to a particular rate class. Allocations will be based on customer usage characteristics, such as contribution to peak demand, or weighted customer cost factors. All allocations will be defined and the rationale for their use will be explained in the COSA report. An illustration of the COSA model allocations to customer classes is included below.



The final COSA results are summarized on an aggregate basis for each customer class and compared to projected Test Year revenues to identify rate adjustments needed to meet the cost of service. Additionally, we will summarize more detailed analyses of an unbundled COSA such as the wires demand, wires customer, and power supply costs per customer class and by unit. All costs incurred by BEU will be classified as fixed or variable according to their underlying nature.

BEU's COSA will utilize an embedded or average cost of service approach to developing rates. The process described herein will include conducting analyses for data provided by BEU, and additional workpapers will be developed to analyze certain marginal costs to inform specific rate offerings. A more detailed discussion of marginal cost evaluation is provided in a subsection below.

NewGen has proven experience building models that are adopted and utilized long term by our clients. Our team will apply our experience developing embedded instructions and guidance that can be accessed within the model's customized menus for BEU staff to reference in updating and checking the data and calculation validity. Embedding the instructions and checking within the model enhances the user experience, improves accuracy, and helps ensure knowledge transfer for those working in the model. Custom ribbons in Excel will be created to provide functionality and instructions in addition to pop-up windows with additional capability to "drill down" into specific areas for instructions. Error checking will also include the ability for update notifications, user updates logs, and version control/dates. Examples of the instructions and automated checking of calculations are included in the following graphics.



Workpapers

Workpapers for supporting adjustments and allocations are included as additional Excel worksheets in the model for reference, and NewGen will create COSA model workpapers, as necessary. These workpapers generally include supporting calculations such as customer class contributions to system load and peak demands, minimum system calculations for customer and demand classifications of the distribution costs, asset-related data such as transformer inventory or miles of lines, and/or purchased power cost detail. We will develop new workpapers as appropriate to meet the needs of the Study.

NewGen will rely on available BEU customer usage data to generate the summary-level statistics for each customer class (i.e., total kilowatt-hour [kWh] sales, sum of maximum demands, monthly non-coincident peak [NCP], and monthly coincident peak [CP]). This analysis may include a review of historical sales, available AMI data, or potential feeder load analysis. To the extent that similar customer usage data can be obtained from Southern California Edison (SCE), NewGen will discuss its use in this Study with BEU.

The unbundled COSA and related workpapers will provide the data required to evaluate and compare the fixed and variable costs (i.e., customer-, demand-, and energy-related costs) with the fixed and variable

revenues by customer class. This comparison will provide valuable information and data to support and facilitate the development or adjustment of BEU's rate structures, including potential revisions to its NEM 2.0 rates, as appropriate.

NewGen will provide a draft COSA model to BEU for review, initial feedback, and approval prior to completing the final COSA. We will also facilitate a virtual meeting with BEU staff to review the draft results of the COSA model including individual customer class costs and related allocations. Feedback from the meeting and appropriate BEU requested modifications will be integrated into the final COSA results. Development of specific workpapers for this Study include an analysis and development of NEM 2.0 rate development, marginal cost analysis, and high voltage customer rates, as discussed below.

Net Energy Metering 2.0

Changes to NEM rate structures (NEM 2.0) are allowed by the State of California for utilities that have achieved greater than 5% of their load served under existing NEM rates. NewGen will create a workpaper (or series of workpapers) to develop NEM reform (NEM 2.0) rate offerings utilizing the Study's COSA analysis, including the recognition of marginal costs, as appropriate, and including the rate associated with compensating self-generating customers for net surplus generation and any other data informing a potential NEM 2.0 rate structure. These rate offerings will be consistent with the methodology and structures previously developed by BEU to ensure that the City is maintaining fair and equitable rates for all customers.

This workpaper will evaluate the potential impacts to future NEM 2.0 customers as result of the rate changes. Additionally, it will determine the potential change in cost recovery and quantify the change in the projected rate subsidy compared to existing NEM rates. NewGen will work with BEU to determine a projection for NEM customers in the service territory, which may be impacted as a result of the NEM 2.0 rate changes.

Marginal Cost Analysis

The COSA will utilize an embedded or average cost basis. However, it is possible that certain new rates and rate offerings could incorporate a marginal cost element, which can either be a marginal cost incurred for an incremental unit obtained or a marginal cost avoided, depending on the nature of the application. NewGen will develop a workpaper (or series of workpapers) as an expansion of the COSA model to address specific marginal costs for the utility. This will include the development of an estimated marginal cost of production, which may be time-differentiated and based on wholesale market electricity pricing (CAISO) for the region, as well as BEU's cost of production. Marginal production costs can serve as the basis for NEM 2.0 rates and can be applied to targeted and specific future load growth (such as EV rates, electrified space conditioning and/or water heating loads, and/or customer-sited energy storage, as appropriate).

Additionally, NewGen will work with BEU to evaluate applications for marginal costs for the transmission and distribution functions of the utility. Alternatively, depending on discussions with BEU to inform the Strategic Rate Design Document, the marginal costs may be incorporated into the general rate-making approach. NewGen will describe the relative advantages and disadvantages of a marginal cost approach for general rate making and will work with BEU to determine an appropriate approach for the use of marginal costs in this Study.

High Voltage Customers

Customers who receive service at high voltage (either through the primary distribution system or directly from the transmission system) should not incur costs associated with the secondary distribution system. This cost differential arises between customers in the same class (typically larger industrial customers) because of how they utilize various portions of the distribution system. NewGen will work with BEU to develop a defensible cost basis to create a discounted rate for those customers that take service at a higher voltage than other customers within their class. The COSA model structure that assigns costs to the various functions provides a sound economic basis for those customers that take service at the transmission level. A detailed analysis of the costs associated with the primary and secondary system (both capital and ongoing O&M) will serve as the basis for those customers taking service at the higher voltage within the distribution system.

COSA Training Workshop

NewGen will work with BEU management and staff to develop the COSA model. As such, NewGen will provide ongoing training on the model mechanics during its development. Additionally, NewGen will develop a half-day workshop specifically to review and provide insight into the COSA model for BEU staff. This workshop will include the development of a series of presentation materials as well as hands-on review of the various scenario development and analysis within the COSA. This will also include a review of the output from the pro forma financial model and how that information is integrated into the COSA. The intent of this training is to provide sufficient insight and guidance to allow BEU staff to update the COSA after completion of the Study. This workshop may be conducted online or in person, depending on how BEU would like to proceed.

NewGen will provide the Excel COSA model to BEU for its use upon finalization of the Study and will include a written report providing a description of the COSA methodology and the rationale for the cost allocation applications, as appropriate. The written report will summarize BEU's revenue requirements by customer class, the fixed and variable nature of the costs and the exiting cost recovery, and the projection of existing rates' ability to recover costs over the Test Year period. NewGen will provide a draft report and will solicit comments from BEU management and staff to be incorporated, as appropriate, into a final COSA report.

Task 3 Deliverables

- Summary of current fixed and variable costs in Test Year Revenue Requirement compared to fixed and variable revenues.
- Virtual meeting to discuss draft COS results with BEU staff.
- COSA model with workpapers for specific analyses regarding NEM 2.0, Marginal Cost Analysis, New Rate Classes, and High Voltage Customer rates, as appropriate.
- COSA Training workshop (online or in person).
- Written report summarizing BEU revenue requirement by class, classification process and rationale, and cost allocation.

Phase II – Municipal Utility Rate Trends Review/Rate Design

Phase II will include development of a review of municipal rate trends (Task 4) and creation of recommended rate designs for BEU (Task 5).

Task 4: Municipal Utility Rate Trends Review

NewGen will develop an evaluation and analysis of emerging or expected future rate structures and trends that may be considered by BEU for this Study. This analysis will include the evaluation of emerging municipal utility rate structures, technologies, and trends that impact the way electricity is priced for the industry and how those trends may apply to BEU. We will identify the advantages and disadvantages of various alternative rate structures, including the potential risks associated with each specifically for BEU's operations and finances.

NewGen will include descriptions of various pricing programs for both traditional electric service and those serving emerging technologies, such as EVs and customer-sited distribution systems (i.e., DER such as rooftop photovoltaic [PV]). This review will include both embedded and marginal cost pricing for rates and rate pricing, including market-based pricing seen in Real Time Pricing (RTP) and Critical Peak Pricing (CPP) programs. Our review will include an assessment of various solutions for pricing electricity to and from distributed energy resources (DERs) to mitigate cross-subsidies, as well as pricing for emerging technologies (i.e., EV rate and rate riders, net metering and NEM 2.0 rate structures, and solar rates).

Unbundled rate strategies, which may combine power supply and delivery services, are also a more prevalent trend and will be reviewed for this Study. Additionally, NewGen will review low-income rate programs and how these programs are funded by other jurisdictions in California, as well as across the country.

The rate trends analysis will focus on municipal and cooperative utilities (public power); however, we may include some elements from IOU rate structures and rate programs that are used to recover costs for operations and historical, current, and future capital investments. This includes reviewing trends in customer charges, the potential for residential demand changes, multi-family service options, best practices in commercial rate designs, and how classes are defined and categorized (small, medium, large, energy only, and energy and demand charges). Other trends under review will include the development of high-voltage discounts, static and dynamic TOU pricing, power factor recovery charges, and green pricing programs. We will discuss the rate trends to be included in this review and summarized in the Strategic Rate Design Document during the kickoff meeting.

This Study will focus on specific utilities identified in coordination with BEU management and staff, including up to eight municipal (or public power) entities and two IOUs (if requested). These utilities may vary by rate structure and the list of utilities may be expanded to adequately capture the trends occurring across the country. For this Study, we have identified three primary groups of rates and rate types that will be explored. These include rate types focused on non-traditional forms of cost recovery, new services, and optional rates. These groups are somewhat arbitrary as all rates are designed to recover costs and support utility operations. This assessment of various alternative rates will include a comparison of these rates and rate structures to BEU's current rates.

Traditional Forms of Cost Recovery	Non-Traditional Forms of Cost Recovery	New Services
▪ Cost adjustments / "pass-through" rate riders ▪ Increased / decreased fixed component charges ▪ Economic Development rates ▪ Standby Charges ▪ High Voltage Discounts ▪ Power Factor Recovery Charges ▪ Street lighting system cost allocation / LED light rates ▪ Seasonal rates ▪ Tiered Rates	▪ Residential / Small commercial demand charges ▪ Network Access Charges ▪ Reliability Charges ▪ TOU Pricing for all customers ▪ Unbundled Rates ▪ Real Time Pricing ▪ Critical Peak Pricing	▪ EV Rates using TOU / second meter ▪ EV Public Charging Rates ▪ Net Metering / Net Metering 2.0 (including Value of Solar Rates) ▪ Voluntary Renewable Energy Pricing ▪ Feed-In Tariffs ▪ Community Solar ▪ Energy Storage

Groups of Rates and Rate Types

NewGen recognizes that many innovative rates face implementation challenges both in terms of customer acceptance and technology requirements of the utility. As part of this analysis, NewGen will identify those challenges and potential solutions, such as device-centric rates (e.g., EV-Only rates) and trends regarding "opt-in" and "opt-out" rate program options for implementation. Further, customer elasticity of demand is an important consideration for rate design as some applications have a greater response to pricing differentials than others.

Technology implementation challenges also include the investments for both the utility and the customer to be able to fully optimize the rate structure, such as dynamic TOU pricing and the communication systems required to send the price signal. Our review will evaluate the costs of the requisite technologies and other potential barriers to offering the proposed rates. This will include a qualitative and quantitative assessment of the utility and customer costs at a planning level estimate to determine the extent to which rate structures and rate programs identified in this analysis would be applicable to BEU. NewGen will utilize the information obtained from the Rate Trends survey to develop a matrix of the results, which will evaluate the applicable nature of each rate to BEU and its list of criteria. This criteria list will be developed in coordination with the BEU project team and may include the following elements:

Criteria	Rate 1	Rate 2	Rate 3
Customer Acceptance			
Change in Customer Usage from Rate			
Technology Required for New Rate			
Costs to Customer for Technology Required			
Costs to Utility for Technology Required			
Barriers to New Rates			
Qualitative / Quantitative Risks for New Rates – Utility Perspective			
Qualitative / Quantitative Costs and Benefits – Utility Perspective			
Qualitative / Quantitative Costs and Benefits – Customer Perspective			

NewGen will work with BEU to develop a quantitative scoring system to apply each criterion to each new rate and or rate group. This may include a scaling factor (e.g., 1–10, with 1 being the lowest cost or lowest barrier and 10 being the highest cost or barrier). We will develop a standalone report that will include the results of the evaluation of the emerging alternative rate structures and how they would or potentially could apply to BEU. This report will include the evaluation matrix discussed and the development of the criteria. Further, this report will evaluate each rate or rate offering as to how it may be recommended for BEU over a short-term or long-term action. We will review the draft report with BEU, solicit comments and suggestion as appropriate from management and staff, and discuss next steps. NewGen will be available to present the findings of the rate trends analysis to the City Council Committee if requested.

Task 4 Deliverables

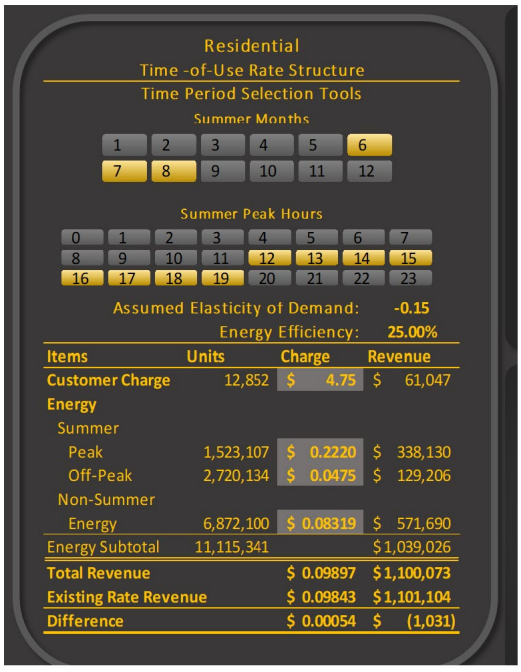
- Presentation of rate trend analysis findings and conclusions to BEU management and staff.
- Development of draft rate trend analysis report for comment and inclusion in final Study deliverable.
- Updated Strategic Rate Design Document, as appropriate.

Task 5 – Rate Design Model and Recommendation

Rates will be designed to follow the evolving Strategic Rate Design Document, support the BEU and City Council rate philosophy, and closely follow the COSA results with the categorization of customer-, demand-, and energy-related costs for each customer class. New innovative rate structures or policies (i.e., TOU, demand side management programs, and other innovative approaches to enhance customer choice and promote energy efficiency) identified in Phase II may be integrated into the rate design model, as appropriate and in consultation with BEU. This will include the rationale and assumptions for any recommendations for existing or new rates and/or rate structures for BEU. This will also include the development of an implementation path from current rates and allocations to the development and implementation of new rate alternatives for the proposed rates. As part of this task, NewGen will develop a list of viable alternative designs along with the costs and benefits of each rate design, including BEU's current rate design. The intent of the proposed rates is to provide for the annual revenue requirements over a five-year period (Rate Study Period).

The recommended rates will be used to forecast and calculate the annual rate revenue generated for each customer class; comparing it to the class and total system cost of service will prove the revenue adequacy of the new rates. We recommend the development of a Customer Impact rate design model (see Enhancements to the Study) that will augment the rate design model to include impacts to all customers utilizing BEU's billing database and more information as described below. All proposed rates will be evaluated for potential "rate shock" to individual customers, either as representative users from their class or across all customers. If the representative approach is preferred, NewGen will evaluate the proposed rates and rate differences for BEU customers as well as those served by neighboring and similar electric utilities in the region. This analysis will be used to develop a statistical analysis of bill impacts by each customer rate class for the entire range of usage patterns for the class.

The rate design model will be a user-friendly, Excel-based model that will be designed to provide BEU management and staff the ability to adjust rates as necessary after completion of the Study. This model will include calculations of the revenues expected from current rates as a comparison to the current revenues recorded in the audited FY records and will make adjustments as necessary to tie those values, in coordination with the BEU team. The rate design model will include the ability to develop and evaluate multiple rate scenarios, all of which will ensure that revenue requirements are met and BEU is aware of short-term and long-term risks to each rate design alternative along with the probability for each risk component to be realized. This will allow NewGen and BEU to assess the impacts of various rate designs and pricing structures on different customer classes, revenue stability, and the overall financial sustainability of the utility.



TOU Rate Structure Selections

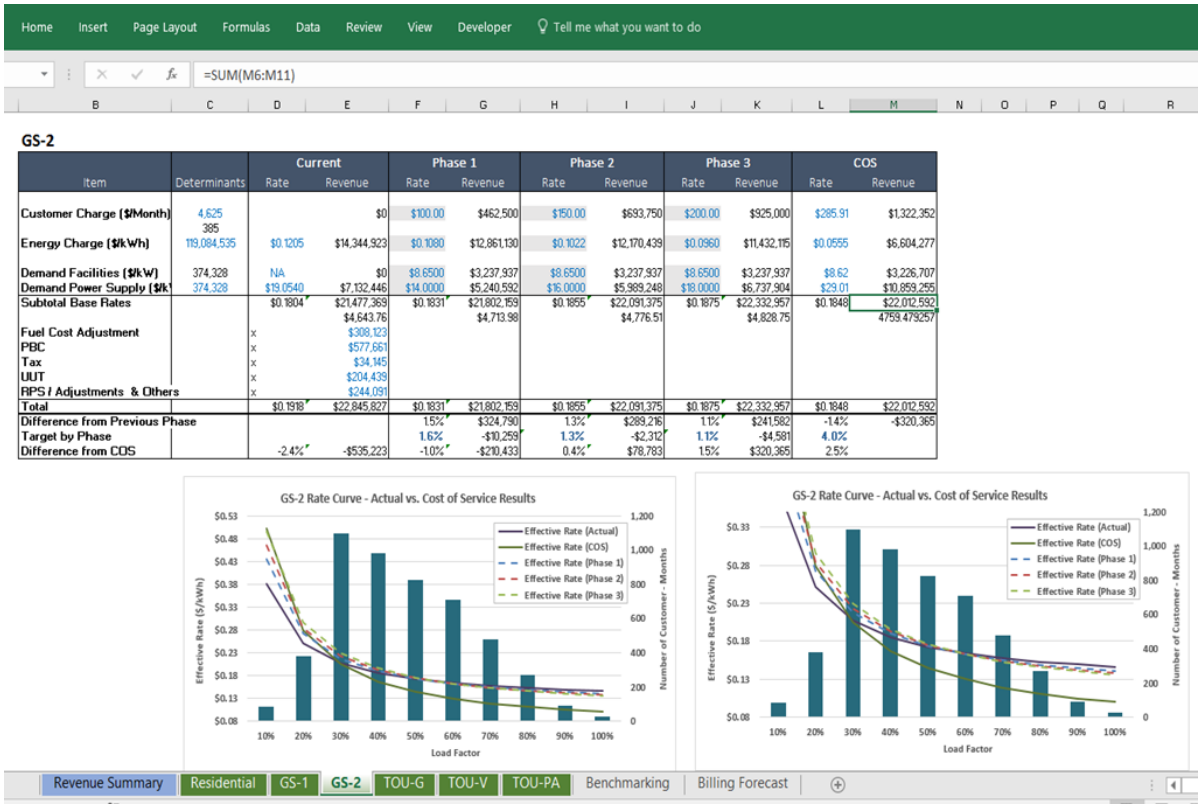
Proposed rates will recognize the social and economic factors of the community as well as the underlying expenses incurred to provide electric service to the different customer classes. All rates will be designed to be compliant with Proposition 26 regulations as well as the general policies and objectives of BEU. Rates will be designed to recover projected annual revenue requirements (with proposed rates and projected usage characteristics) and the model will have the ability to recalculate the latest year of historical revenues by customer class using current rates and historical customer usage. This information will be summarized in the model for each customer class and for the system total. An example of TOU rate structure options available in our rate design model is provide in the graphic to the left.

NewGen will evaluate the underlying fixed and variable nature of the cost of service compared to the fixed and variable nature of the cost recovery (rates). BEU, like many utilities across the country, has high fixed costs (investments, labor, etc.) and relatively low variable costs (energy); however, most rates are designed to recover costs on a variable basis. We will work with BEU to examine this relationship to better align its cost recovery with its costs.

We will conduct virtual meetings with BEU staff and management to review the draft rate model and the proposed rates. Based on feedback from this rate review, we will revise the proposed draft rates as

appropriate or provide an alternative rate design scenario such as a phase-in of rate changes or adjustments in customer/demand/energy rate components.

NewGen's modeling capabilities include the development of visual dashboards typically incorporated into our rate design models. These dashboards are designed to manage, manipulate, and evaluate large amounts of data for each customer within customer classes. The dashboards instantly and easily convey the key financial metrics, load profile changes, customer impacts, and rate structures to management and stakeholders. These dashboards also provide the capability to instantly evaluate scenarios and review the results and impacts of the scenarios for management, Council, and/or other stakeholders. The graphic below provides an illustration of the proposed rate changes that could be included in a rate model dashboard.



The rate design model will include scenarios that consider the phasing in of various rate plans (e.g., over a five-year period) based on the availability of data and customer impacts. Additionally, NewGen will work with the BEU team to evaluate how recommended rate designs will be compatible with its customer information (billing) system (or CIS) and BEU's business processes, and if change management processes need to be implemented. Specific rate design components from this Study may include the following:

- Solar Customer Rates
- TOU Rates
- EV Rates
- Recovery for Renewable Energy, such as PPA Rates, both Fixed and Variable
- Low-Income Assistance Rates

Task 5 Deliverables

- Review of existing BEU rates and any recommended structural modifications based on rate survey results.
- Revenue adequacy including phase-in of rates, if desired.
- Recommendations for new rate structures and service offerings.
- Virtual meeting to review recommended rates and revenue adequacy with BEU staff.
- Customer and system economic impact analysis
- Rate design model and training provided to BEU management and staff.

Phase III – Pro Forma Financial Model

Task 6 – Pro Forma Financial Model Development

NewGen will develop an Excel-based electric utility pro forma financial model based on BEU's budgeting system and accounts to support periodic updates and alignment with the COS and planning models, including its ESMP. The pro forma financial model will forecast revenues by customer class and expenses for 30 years to evaluate potential rate, debt, and capital related impacts. Additionally, the model will serve as an ongoing repository for historical data and financial information provided by BEU for a period of five years and will become the property of BEU upon completion of the Study. The model will include the development of a "dashboard" designed to manage, manipulate, and evaluate large amounts of data. The dashboard easily conveys the key financial metrics, load profile changes, customer impacts, and rate structures to stakeholders and staff. The dashboard is designed to quickly perform scenario analyses which provide BEU flexibility in determining the appropriate mix of rate changes, capital projects, and debt issuances to meet budgetary or capital constraints and to support utility decision making. The model will be fully documented and relatively simple for BEU staff to administer. The customized tools within the pro forma financial model allow for dynamic and complete analysis of the various aspects of the Study and produce easy-to-understand tables and graphs that aid in communication with various stakeholders. The model will be designed to automatically produce summary reports and visualizations with toggles for scenarios including but not limited to:

- Long-term cash position
- Demand forecast projections by customer type
- Sales forecast by customer type
- Consideration of capital financing plan and alternatives (pay-go, borrowing, or grants)
- Average bill by customers
- Cash reserves compared to targets or sub-fund reserve levels for management review
- Growth factors and one-time changes in any year

Additionally, the model will be designed for a single input worksheet to make changes and updates, to reduce confusion and opportunities for errors. Further, the model will include consideration of elasticity of demand (response from customers to pricing signals in rates) and allow for mid-year rate adjustments, including the ability for changes/additions to rate and surcharges. Based on discussions with BEU, the

model will include several scenarios designed to accommodate a "phased-in" rate plan, as developed in Task 3. The final model provided to BEU at the completion of the Study will provide the basis for electric rates for the proposed rate plan period and will be configured to accommodate evolving energy policy requirements.

During the model development process, designated BEU staff will be included in periodic progress updates and will provide feedback on draft versions of the model. The model will include a pro forma operating results worksheet, a balance sheet, the aforementioned dashboard, capital improvement plan sheet, debt service schedule, and up to six scenarios as defined in coordination with the BEU team. The results of the financial model will be summarized in a report and presented to BEU staff.

The financial planning model will include embedded instructions and guidance that can be accessed within the model's customized menus. The model will feature integrated error and data validity checking. This error checking feature will include the ability for update notifications, user updates logs, and version control/dates.

Task 6 Deliverables

- Draft pro forma financial model for review by BEU management and staff.
- Final pro forma financial model, including embedded documentation for model use and updating.
- Three two-hour training sessions for BEU management and staff on the use of the pro forma financial model (virtual).

Phase IV – Results Presentation

Phase 4 consists of Task 7 (Public Participation/Stakeholder Engagement), Task 8 (Policy/Resolution Review), and Task 9 (Final Report).

Task 7 – Public Participation/Stakeholder Engagement

NewGen will work closely with BEU staff to develop and implement a public participation plan to increase customer awareness and understanding of rate development and the Study results. The public participation plan will present successful and innovative communication strategies employed by similarly situated electric utilities based on our experience and potential discussions with previous successful client projects. As part of the plan, NewGen will prepare materials for and facilitate up to five public meetings (in person or virtually, depending on the direction of BEU. For purposes of budgeting, we have assumed three in-person meetings). Additionally, we will develop a variety of materials and content for website, social media, and other communication tools, which will be communicated by BEU. NewGen and BEU will focus on engaging hard-to-reach communities, such as disadvantaged and low-income communities, while working closely with the City's Public Information Officer. Materials will be provided in advance for staff review at least two weeks prior to any public event; however, NewGen understands that City Council schedule and posting requirements may accelerate the timelines needed.

Task 8 – Policy/Resolution Review

NewGen will work closely with BEU staff, the City Attorney's Office, and other City partners as needed to ensure that all language in the proposed rate resolution is consistent with the new rate design and with California Law, as appropriate. This may include consideration of future year revisions included in resolution submissions. NewGen will provide ongoing support as necessary to explain and defend BEU's

rates and charges, including before City Council. This support may include the preparation of schedules or other documents that detail the calculations and assumptions made in arriving at the rates and charges under examination.

Task 9 – Final Report

Upon completion of the analysis portion of the Study, NewGen will deliver the COSA and the Customer Impact rate design model(s) for BEU's future use, including all workpapers, spreadsheets, reports, and computations used in the analyses. We will provide final copies of the presentations developed for management and the City Council/Council Committee and the customer outreach efforts. Additionally, NewGen will provide a draft and final copy of a comprehensive written report, which will include a description of the analysis completed for the COSA/Rate Study for the five-year period and rate recommendations. We will collaborate with BEU to review comments provided by BEU legal counsel on the draft report to incorporate into the finalized work product. A Microsoft Word version of the report will be provided to facilitate edits and comments from the BEU project team.

NewGen will develop and provide presentations of the preliminary Study results to BEU's City Council and/or Council Committee to solicit feedback on the proposed rate structures and charges. It is anticipated that feedback from BEU staff and management, as well as the Council/Board, will be included in the final recommended rate plan. Our proposed budget includes three on-site visits for this presentation. However, if additional on-site meetings are required, we will work with BEU to accommodate its requests.

BEU will coordinate development of the Outreach and Public Engagement process, select the attendees, and host the meetings in coordination with NewGen. The intent of these events is to solicit input and provide transparency for representative customer groups regarding the rate-making process. NewGen will develop materials and will facilitate up to five of these events in coordination and combination with BEU management and staff. The updated Strategic Rate Design Document will include details of these events throughout the Study, as appropriate. NewGen will lead or support the presentation(s) of results directly to BEU customers or customer groups, as requested by BEU.

Tasks 7, 8, and 9 Deliverables

- Stakeholder Engagement documents and materials (such as agendas and facilitation plan), as well as collateral, social media schedule, and effective graphics for BEU's social media use.
- Redlined version of proposed rate resolutions (Word version) as well as white paper detailing significant proposed changes, restructures, rationale, and analysis (as well as presentation materials).
- Delivery of final work products including workpapers, spreadsheets, and models.
- Delivery of draft/final report for the Study.
- In-person presentation of preliminary/final Study results to City Council/Committee.
- Preparation and support for development of five (for purposes of budgeting, we have assumed three in-person meetings) presentation materials for customer (or customer groups) outreach efforts and presentation(s) by NewGen.

Phase V – Enhancements to the Study

NewGen proposes to develop enhancements to the Study in Phase IV. These enhancements include developing a Customer Impact rate design model along with the recommended rates and rate structures. We will design a robust and dynamic Customer Impact rate design model for the entire BEU billing database which conducts an analysis of rate impacts and provide a comprehensive and complete view of all rate impacts to all customers. This is an enhancement to the Phase III – Rate Design efforts which would be limited to representative customers within each rate class. The customer impact analysis will provide detailed information on rate impacts for all classes and individual customers, and will support the broader communication, understanding, and endorsement of Study results and potential rate changes. This billing database and impact analysis includes customer class rate curves based on load factor for each class and will show individual customer class bill impacts (i.e., histograms). Such impacts may be filtered to screen for specific customer groups (e.g., low-income customer impacts, if data is available), for entire classes, or for the full BEU system. The example graphic provides a summary of the output regarding customer load impact analysis available.

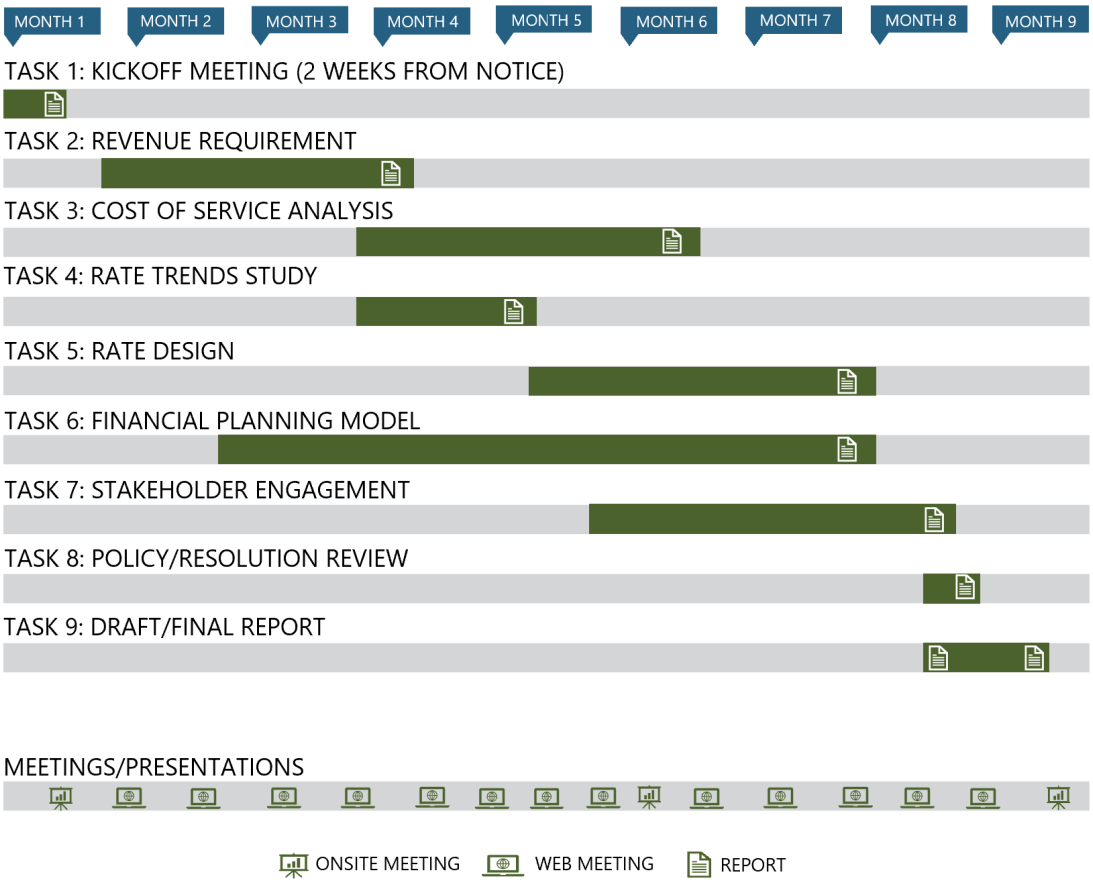


The Customer Impact rate design model will have the ability to design rates within current rate classes. NewGen will develop an export file to transfer revenue and customer class data to the pro forma financial model, as appropriate. We will incorporate a "rate calculator tool" into the rate design model that is designed to show the effects of rate design options on customers by similar groupings or sub-groupings, such as schools, government, etc. (as defined by BEU). The rate calculator tool will evaluate the rate impacts to these customers as well as the effect of those rate impacts on other classes to generate the same level of revenue requirement. Similar to the proposal for Phase III – Rate Design recommendations, this enhanced approach will serve as the basis for a statistical analysis of bill impacts by each customer for the entire range of usage patterns for the class.

NewGen understands that the proposed enhancements described above and recommendations to the project scope are not part of the originally requested scope and may be considered by the City and included in the Scope of Work at its discretion. NewGen will proceed with proposed enhancements only at the express written consent of BEU.

Proposed Study Schedule

NewGen proposes to complete the Study within a six-to-nine-month period, depending on availability of data, and in coordination with BEU and the City. The following graphic provides a summary of the proposed schedule by task.



Phase I includes Task 1 (Kickoff), Task 2 (Revenue Requirement), and Task 3 (Cost of Service Analysis). Task 1 is anticipated to be completed within two weeks of notice to proceed and contract authorization. Task 2 will require approximately one month to complete, depending on the availability of the data provided by BEU and the City. Task 3 is anticipated to require approximately two months to complete and will also depend on the availability and quality of data provided by BEU.

Phase II includes Task 4 (Rate Trends Study), and Task 5 (Rate Design). Task 4 will require approximately one month to complete (to draft) and will be conducted concurrently with Task 3. To the extent that any additional rate designs may be requested as a result of the Rate Trends Study, they may extend the timeframe for completion of the COSA model. Task 5 will require approximately two months to complete, as there will likely be significant discussions with BEU during the process and before the development of recommended rates.

Phase III consists of Task 5 (Financial Planning Model), which will begin concurrent with Task 2 (Revenue Requirement) and will require approximately four to five months to complete, as it will incorporate the results of the COSA and the rate design model.

Phase IV consists of Task 7 (Stakeholder Engagement/Public Participation), Task 8 (Policy/Resolution Review), and Task 9 (Draft and Final Report). We would recommend that Task 7 begin when the COSA model is nearing completion to allow for input from stakeholder groups into the cost allocation process and other considerations. The Stakeholder Engagement Process will require approximately 3 months to complete, depending on the objectives of the process. Task 8 will be dependent on the completion of Task 5 and is anticipated to require two weeks to complete. Task 9 will begin upon completion of the previous tasks and is expected to require approximately one month to complete from draft report to final report, and presentation of the results to BEU staff and City Committee or City Council, as appropriate.

NewGen proposes bi-weekly (every other week) on-line status calls with the BEU project team to maintain project momentum and address issues that arise during the course of the Study.

Quality Assurance Efforts

NewGen recognizes that the quality of our analysis and work product is paramount when serving as a trusted advisor to our clients. To ensure that our work is of the highest caliber, we have established a robust quality assurance/quality control (QA/QC) program that permeates every phase of our projects. NewGen's internal QA/QC program involves three levels of review and an implementation phase:



Level 1 – Personal

At the base level of our QA/QC program, consultants are personally responsible for their work product. Deliverables should be considered "client-ready" before being submitted to higher management levels for review. To aid our consultants in ensuring their work product meets these standards, NewGen utilizes our internally designed CHECK-UP process, as illustrated in the figure below. This acronym encourages NewGen's consultants to apply each listed standard to every analysis and deliverable.

Calculations
- Affirm that internal checks are in place and not producing errors.
- Review model formula links and named ranges and remove items that should not be included.
- Print out and spot-check final drafts to ensure accuracy.

Holistic
- Have you gotten out of the details and looked at the big picture?
- Look for changes in prior drafts. Do the changes in the model make sense?
- Compare model data with other available sources to ensure accuracy. Do our results make sense?

English
- Confirm that proper grammar is used.
- Spell-check deliverables.

Composition
- How does your product look?
- Is it formatted correctly?
- Is it organized and easy to follow? Remove unused data and side calculations.

Knowledge
- Does the deliverable reflect industry standards and represent a quality product?

Underlying Assumptions & Notes
- Clearly document and affirm assumptions.
- Include notes/methodology described in the analysis if calculations are complicated. This will help to explain why and how these calculations were done for future reference.

Print Ready
- Ensure the deliverable is print ready.

Level 2 – Peer

Level 2 of NewGen's process involves a peer review of all analyses and deliverables. As part of this effort, NewGen has designated experts in each subject matter area to serve as "qualified reviewers." Each analysis and deliverable undergoes a quailed review before transmission to the client.

Level 3 – Professional Product

The final level in our QA/QC review ensures that our final products reflect our firm's high standards. NewGen's administrative staff reviews all deliverables to ensure consistency, safeguard our brand, and deliver a consistent experience to our clients. Additionally, our models integrate automated calculation and formula checks to ensure they operate correctly and concisely. This automation also notifies users if the model has been updated or if errors exist.

Implementation

By adhering to strict quality control measures, NewGen can mitigate variations or deviations that could lead to inconsistencies in the final product or service. NewGen regularly reminds staff at meetings about the importance of QA/QC and the proper application of our CHECK-UP procedures. In the event of deviations, we take prompt and corrective actions. Our team is adept in implementing corrections, documenting actions taken, and verifying their effectiveness.

NewGen actively fosters a culture of continuous improvement, drawing on lessons learned and stakeholder feedback. This enables us to refine our processes, integrate best practices, and stay at the forefront of quality control.

For the Study, Jill Schuepbach will be primarily responsible for ensuring the QA/QC process is upheld.

Company Information

NewGen is a management and economic consulting firm specializing in serving the utility industry and market. Established as a Limited Liability Company in August 2012, NewGen primarily serves public sector utilities and provides nationally recognized expertise in load forecasting, utility cost of service and rate design studies, financial feasibility studies, municipalization efforts, depreciation and appraisal studies, litigation support for state and federal regulatory proceedings, utility financial planning, and stakeholder engagement for electric, water, wastewater, solid waste, and natural gas utilities.

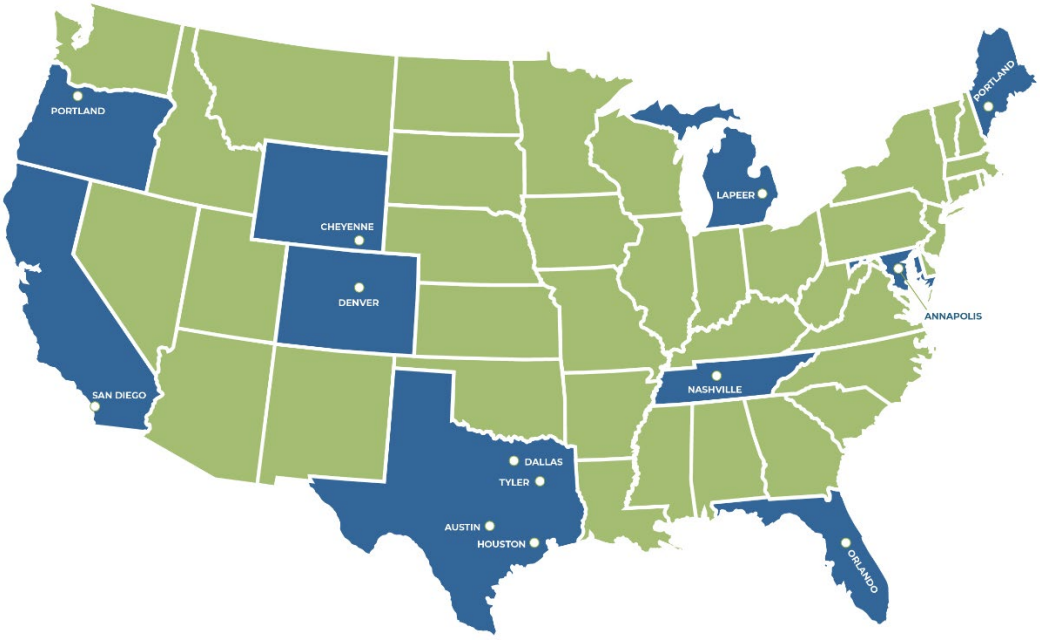
NewGen was created by consultants who are dedicated to our clients' missions and recognized as experts in our respective fields of service. ***"Thoughtful Decision Making for Uncertain Times"*** succinctly describes our capability to provide our clients solutions and recommendations tempered with our keen insight into the growing role of stakeholders, resource availability (including renewables), environmental concerns, cost of providing utility services, and economic conditions. This ensures an integrated approach to delivering our products and services.

We recognize the need for strategic intent behind our clients' actions by applying the latest market insights, technologies, and tactics to support our recommendations. Our results empower decision makers to implement sound public policy, incorporating community input, market direction, and regulatory mandates.

Understanding your community, your organization, and your data are the three essential elements to developing actionable strategies to maximize the future. NewGen believes that strategy dictates everything. Our approach utilizes your data, markets, and communities to provide an integrated view designed to make long-term decisions with confidence. We leverage our modeling technology and market expertise in energy, water, wastewater, stormwater, and solid waste to solve your most complicated issues. Through proactive collaboration, we upgrade or design strategies for you to ensure they are responsive, transparent, and reliable while paving the way for successful buy-in across all your stakeholders. Our approach has three important features:

1. **Client/Stakeholder Communications:** NewGen simplifies complex concepts by combining visual tools and our training expertise to ensure that clients have a deep understanding of how the issues and underlying data drive our recommendations. This directly impacts the evaluation of the scenarios we present, streamlines decision making, and successfully obtains buy-in from elected officials, customers, regulatory bodies, and senior management.
2. **Operational Insights:** NewGen makes data operational, resulting in actionable decisions with defensible results. We harness existing and untapped data to optimize operations, develop demand management strategies, estimate the impacts of distributed generation, and identify the rational nexus underlying pricing decisions. We help our clients recover costs, improve service delivery, and respond to changing market conditions.
3. **Expert Witness/Credentials:** We have served as expert witnesses in over 200 regulatory and civil proceedings, and we employ 26% of the ASA accredited public utility appraisers in the United States. Unlike other firms, NewGen integrates the insights of nationally recognized experts into our models, both of which have been pressure tested through the regulatory and civil process.

NewGen employs over 60 professional and administrative staff. Our current staff has the capability to work on simultaneous assignments, and we have the capacity to add staff and/or expand support from a network of teaming partners, if needed. NewGen has 13 offices located nationwide.



Mr. Scott Burnham will serve as the primary point of contact and Project Manager for this effort. Below is Scott's contact information along with the branch office locations and phone numbers. Please note: these are for our physical office locations; the other locations on the map are our remote employees working from their remote offices.

Primary Point of Contact
Scott Burnham, Partner 225 Union Boulevard, Suite 450 Denver, CO 80228 Office: (720) 259-1762 sburnham@newgenstrategies.net

Branch Office Locations and Telephones
Annapolis Office Phone: (410) 266-9101 Address: 900 Bestgate Rd., Ste. 402 Annapolis, Maryland 21401
Austin Office Phone: (512) 479-7900 Address: 8140 N Mopac Expy, Bldg. 1, Ste. 240 Austin, Texas 78759

Branch Office Locations and Telephones
Dallas Office Phone: (972) 680-2000 Address: 275 W Campbell Rd., Ste 440 Richardson, Texas 75080
Denver Office Phone: (720) 633-9514 Address: 225 Union Blvd., Ste. 450 Lakewood, Colorado 80228
Nashville Office Phone: (615) 922-5996 Address: 49 Music Square West, Ste. 505 Nashville, Tennessee 37203

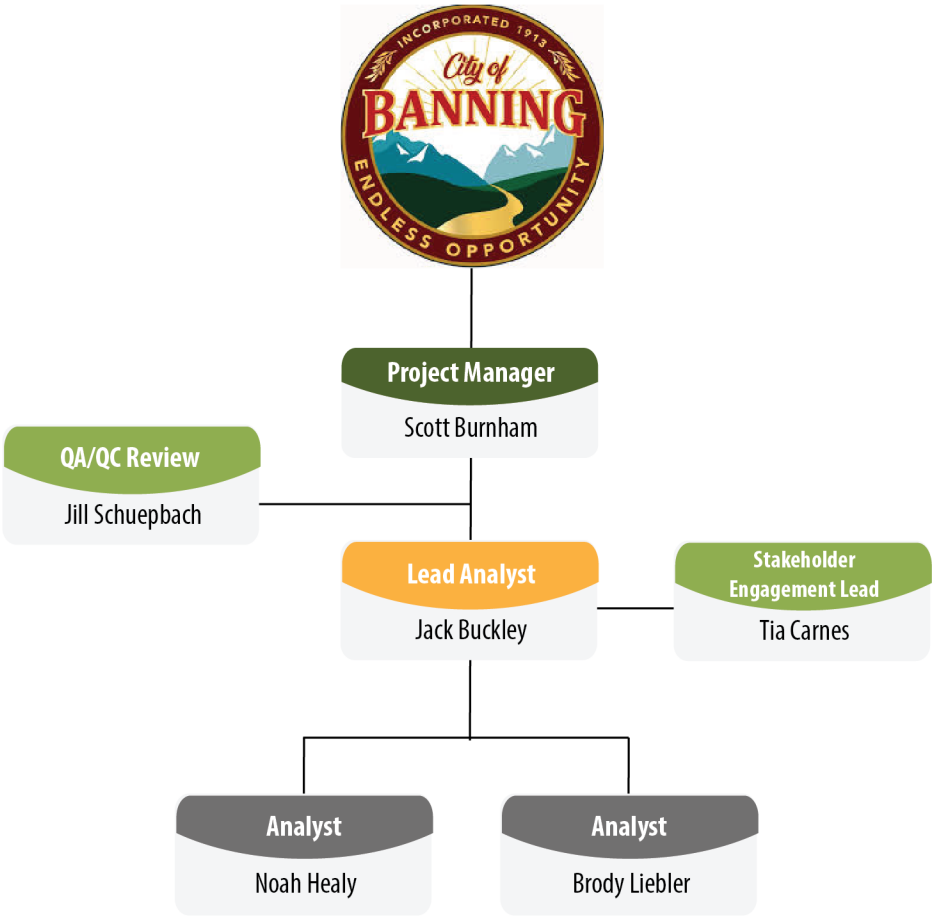
Litigation Statement

NewGen has not been involved with any litigation, mediation, or arbitration regarding performance of services within the past five years and has not had any claims/disciplinary action taken against NewGen or any of our key personnel within the past five years.

Company Personnel

NewGen evaluates the needs of each project and responds by assembling a Project Team of knowledgeable professionals who are uniquely qualified to provide the services needed. The Project Team includes widely recognized COSA, rate-making, and financial forecasting experts who possess unique knowledge of electric utility resources. This includes knowledge of industry trends as well as best practices for electric utilities.

The proposed Project Team organizational chart indicates the lines of communication and responsibility and is included below.



Brief summaries of the Project Team's experience and qualifications follow. In addition, full resumes for each of the proposed team members are included as Appendix A. NewGen does not propose to work with any subcontractors for this project. We affirm that the proposer and all assigned key professional staff are properly licensed to practice in California as the company is licensed to work in California; our DIR registration number is PW-LR-1000817140.

Scott Burnham, Partner | Project Role: Project Manager | Phone Number: (720) 259-1762



Scott Burnham, Partner at NewGen, offers over 20 years of experience in the areas of project management, cost of service and rate design, asset valuation, and financial feasibility analysis. Scott leads efforts to create financial models that develop revenue requirements, cost allocation, financing for strategic capital and operating objectives, and rate/rate structure alternatives, ensuring our clients have reliable and defensible results. Additionally, Scott routinely presents study findings and recommendations to utility management, boards, city councils, and other governing bodies. He has developed and reviewed pro forma financial models to determine projected revenue and costs associated with various projects and financing approaches for a variety of power generation facilities. Scott is well-versed in cost allocation theories and methodologies, rate design concepts, and approaches, and in providing summary analyses and recommendations to industry clients. Scott co-leads the semi-annual Cost of Service and Rate Design

class through EUCI, an industry conference organization, which is routinely attended by all types of utility stakeholders.

Jill Schuepbach, Principal | Project Role: QA/QC Review | Phone Number: (720) 924-7134



Jill Schuepbach has over 20 years of experience as a utility consultant to the public utility industry. Jill has provided project management and financial expertise in the areas of utility cost of service and rate design, financial planning, economic and financial analysis, engineer of record, and pole attachment fees. In addition, Jill has experience with feasibility studies, litigation support, and preparation of expert witness testimony. Her project experience includes work for municipal, investor-owned, and member-owned utility clients.

Tia Carnes, Senior Consultant | Project Role: Stakeholder Engagement Lead | Phone Number: (615) 800-8916



Tia Carnes joined the firm in February 2020. During her tenure, she has provided financial modeling, appraisal/valuation support, cost of service and rate design analyses, and, most notably, support to the organizational review and workshop development projects. Her experience includes leadership training and development, team assessment, and financial analysis. Ms. Carnes came to NewGen with a strong background in customer service, logistics, and high-volume task management.

Jack Buckley, Senior Consultant | Project Role: Lead Analyst | Phone Number: (303) 557-7700



Jack Buckley joined NewGen in December 2021. He assists on cost of service and rate design projects, with an emphasis on data driven analytics. Jack was responsible for the development of the rate trends study for the City of Riverside evaluation, as well as the COS and rate design modeling and the development of the draft and final reports. He conducted the rate research, developed an analytical method to apply evaluation criterion to the data, and proposed recommendations to the client, which were incorporated into the final reports.

Noah Healy, Consultant | Project Role: Analyst | Phone Number: (720) 452 0370



Noah Healy joined NewGen as a full-time consultant in November 2022. He assists on cost of service and rate design projects, emphasizing data-driven analytics and applying his financial modeling skills. Noah's experience includes investment analysis, R programming, and Microsoft Excel modeling.

Brody Liebler, Consultant | Project Role: Analyst | Phone Number: (720) 749-1205



Brody Liebler joined NewGen as a full-time consultant in July 2024. He assists on cost of service and rate design projects, emphasizing data-driven analytics and applying his econometric analysis skills. Brody's experience includes financial modeling, rate calculation, cost allocation analysis, and Microsoft Excel.

Disclosure

NewGen and our employees have no past or current business or personal relationships with any current Banning elected official, appointed official, City employee, or family member of any current Banning elected official, appointed official, or City employee to disclose.

Experience and References

California Experience

NewGen is well qualified to provide BEU with the services identified in the RFP. We have significant national and local California experience, including our previous work with the City of Riverside, and we have completed numerous cost of service analyses and electric rate studies, financial planning and analysis (FP&A) analyses, expert witness testimony filings, appraisals and depreciation studies, and strategic planning projects for electric utility clients in California as shown in the following graphic. We also understand the nuances of California's wholesale power market as we routinely provide financial and utility consulting services for the growing number of CCA entities.



Our team members have substantial experience navigating the dynamic electric market in the state of California, primarily with CCAs and public power clients who maintain diligent benchmarking against the state's IOUs. Our experience includes:

- A wide range of publicly owned power utilities in California such as CCAs, cities just beginning to offer service (e.g., Moreno Valley), established public power utilities (e.g., Alameda Municipal Utilities), and communities considering municipalization (e.g., San Francisco).
- Multiple COSA and rate studies completed for public power utilities in California, as well as strategic planning efforts, depreciation studies, and performance benchmarking studies.
- Evaluation of assets for possible acquisition from California IOUs. Our franchise, municipalization, and acquisition work includes the City of San Francisco, the City of San Diego, and South San Joaquin Irrigation District.
- Unique insight into CCA efforts and cost-related issues or concerns as we support CCAs' intervention in IOU regulatory proceedings before the California Public Utilities Commission (CPUC). We have assisted CCAs with their review and protest of Power Charge Indifference Adjustment (PCIA) rate applications for Pacific Gas & Electric (PG&E), Southern California Edison (SCE), and San Diego Gas & Electric (SDG&E). We have also evaluated PG&E's general rate case on behalf of CCA clients, focusing on the functionalization or unbundling of costs at PG&E and underlying issues that will further benefit the CCAs' cost structure and strategic goals.

NewGen's engagement with California public power clients often involves understanding the evolution of the California energy market as it pertains to increasing Renewable Portfolio Standards, DER impacts, NEM 2.0 successor tariffs, and end-use customers' desire for greater flexibility and control in choosing clean power resources for their energy consumption. We also are very aware of the issues surrounding Proposition 26 and have developed various strategies and solutions in coordination with internal and external counsel, including representatives from Colantuono, Highsmith & Whatley, P.C. We have supported our clients in navigating the convergence of multiple DERs including solar, fuel cells, energy storage, and electric vehicles as it pertains to their operations, financial condition, and planning efforts.

List of Companies for Whom NewGen has Provided Similar Services

NewGen has national expertise and local California experience, having completed numerous COSA and rate studies, appraisals and depreciation studies, and strategic planning projects for electric utility clients. We have had over 100 Municipal/Public Utility Clients in various utility areas.

Our specific electric experience includes:

- Completion of 50 projects in the past five years in California. Specifically, members of the NewGen team were involved in COS and/or rate-related studies for the following California entities (some of which are similar in size and scope as the City of Banning:
    - City of Alameda (2015–2020)
    - City of Anaheim (2016–2017 and 2019)
    - City of Glendale (2017–2018 and Ongoing)
    - City of Pasadena (2018–Ongoing)
    - City of Redding (2016–2017, 2020, and 2023)

- City of Riverside (2016–2018 and 2022–2023)
- City of Santa Clara (2020–2021)
- City of San Francisco (2020–2021)
- City of Vernon (2015, 2017–2019, and Ongoing)
- Confidential Client (2017–2019 and Ongoing)
- Imperial Irrigation District (2020–Ongoing)
- Merced Irrigation District (2015–2019)
- Turlock Irrigation District (2015)

- NewGen was retained in early 2019 by the Joint Community Choice Aggregators (Joint CCAs) to provide expert witness services in the PG&E General Rate Case. The Joint CCAs also engaged NewGen to review PG&E's ERRA filings, the projected PCIA rates, and compliance with the Portfolio Allocation Balancing Account (PABA).
- NewGen was engaged by San Diego Community Power to review the San Diego Gas & Electric forecast for ERRA, PCIA, and PABA.
- NewGen was retained by a confidential California CCA to assist with the development of initial analytics for AMI data.
- NewGen is working with California Community Choice Association (CalCCA) to build an analytical tool to dynamically project PCIA rates for multiple IOUs and to assist CCAs with their own financial planning and analysis, including potential impacts on customers' rates.

Project Descriptions

The Project Team is well qualified to provide BEU with the services identified in the RFP. As described above, we have worked with a large number of utilities and other entities in California. In addition, we have worked with other utilities and other entities around the country on cost of service and rate issues, as well as load and load shape forecasting, distributed generation economic feasibility and electric bill savings, and AMI data analytics.

Following are three project descriptions related to client engagements that NewGen has completed which we believe are relevant to the City's Study. We affirm that NewGen has not filed for bankruptcy under any business name over the past five years.

City of Riverside | Cost of Service and Utility Rate Design

Contact Information: Brian Seinturier, Utilities Fiscal Manager, Revenue/Rates | Address: 3750 University Avenue, Suite 300, Riverside, CA 92501 | Email: BSeinturier@riversideca.gov | Phone: (951) 826-2215 | Contract Duration: 2017, 2022–2023

Members of the NewGen Project Team completed an electric utility cost of service and rate design effort on behalf of the City of Riverside and Riverside Public Utilities (RPU) in 2018 and were engaged to provide a revised study for 2023. In 2016, RPU initiated efforts to greatly increase its technology and system investment under an ambitious plan referred to as "Utility 2.0." Under this strategic plan, RPU realized its rates and rate structures were not well suited for the pending changes to its system. Further, the investment needed to support the strategic plan exceeded the revenue generated from the existing rates

and rate structures. The NewGen Project Team created a Test Year Revenue Requirement and developed a defensible cost allocation methodology to apply the utility's costs equitably to its customer classes. This effort included analyzing the impacts of Proposition 26, California's so-called "Stop Hidden Taxes Initiative," and the Net Energy Metering (NEM) reform within the State of California. The study included an innovative fixed cost recovery mechanism based on energy usage known as the Network Access Charge (NAC). The NAC recovers costs on a fixed monthly basis, depending on the customer class, and is reflective of the distribution demand costs incurred by various levels of energy usage.

More recently, NewGen worked with RPU staff and management to update its revenue requirements and cost of service analysis, and developed updated rate schedules to be effective January 1, 2024, with annual updates over the next four years. Rates were approved by the Riverside City Council in September 2023.

Glendale Water & Power Department | Electric Cost of Service and Rate Design

Contact Information: Craig Kuennen, Assistant General Manager | Address: 141 No. Glendale Ave., 4th Floor, Glendale, CA 91206 | Phone: (818) 548-3369 | Email: ckuennen@glendaleca.gov | Contract Duration: 2021– 2024

Members of the NewGen team completed an electric utility COS and rate design study on behalf of Glendale Water and Power (GWP). GWP is considering a large capital project for the repowering of an existing power plant. The NewGen team created a dynamic and interactive five-year financial forecast to assist GWP in projecting revenues and expenses in addition to understanding the effects of the repowering project on rates, debt, and reserve balances. The forecast model includes dynamic and instantaneous scenario analysis and comparisons, dashboards, and financial statements/reporting to summarize performance, selected financial metrics, and key performance indicators (KPIs). A Test Year Revenue Requirement was developed based on the financial forecast and used in the COS. The COS process and model included functionalization, classification, and allocation of costs to each customer class. The resulting costs to serve each class were compared to projected revenues to recommend rate changes. Detailed AMI data for each class was analyzed and used to support more accurate and defensible customer class allocations of costs. This AMI data was also used in an innovative TOU rate design model that includes an interactive and dynamic dashboard to select the months and hours for the specific rate design while evaluating the expected shift in consumption and evaluating bill impacts.

City of Redding | Cost of Service and Utility Rate Design

Contact Information: Joseph Bowers, Electric Manager – Financial Services | Address: 3611 Avtech Parkway, Redding, CA 96002 | Phone: (530) 339-7377 | Email: jbowers@cityofredding.org | Contract Duration: 2023

The NewGen team led Redding Electric Utility's (REU) COS and rate design efforts in 2015 and 2017, and most recently in 2023. Members of the NewGen team created a Test Year Revenue Requirement and developed a defensible cost allocation methodology to apply the utility costs equitably to its customer classes. Factors impinging on the project included consideration of Proposition 26 (relative to the in-lieu-of-tax payment) and concerns over potential interclass subsidies. Additionally, REU sought guidance for potential rate design and rate structure alternatives. NewGen designed a detailed rate impact model for REU's Large Customers to evaluate the impact from rate structure changes. This model utilized the entirety of the Large Customer Class database and involved significant validation and modification efforts. In the 2023 study, members of the NewGen team were involved in a citizen's advisory group and stakeholder process designed to solicit input that was used to inform the design of the retail rates. The 2023 staff recommendations and final NewGen letter report were adopted by City Council in November 2023.

ADDITIONAL INFORMATION

- **Price Proposal:** Our price proposal is included as a separate upload on the bid site.
- **Value Added Services:** We have included our Value Added services in the Phase V – Enhancements to the Study, as well as in our proposed Scope of Services. Additional services may be requested by the City and would be considered in addition to the proposed estimated budget provided herein.
- **Insurance:** NewGen possesses insurance in the coverage and amounts listed in the Sample Agreement (Exhibit B). A copy of our Master Certificate of Insurance is included as a separate upload on the bid site. We affirm that if awarded the contract, we will obtain an approved Certificate of Insurance providing coverage as specified in the sample agreement and provide it to the City.
- **Vendor Forms:** NewGen's vendor forms are included as a separate upload on the bid site, and our additional forms (Certification Compliance and CARB Compliance Form) are uploaded individually there as well. NewGen will be performing our work from our Denver, Colorado office, and if on-site work is necessitated by the Study, we will obtain the City of Banning Business Tax Certificate if we are awarded the proposal. We affirm that if awarded the contract, we will obtain an approved Certificate of Insurance providing coverage as specified in the sample agreement and provide it to the City; a copy of our Master Certificate of Insurance is provided in the Evidence of Insurance upload.

  NewGen is licensed to do business in California; our DIR registration number is PW-LR-1000817140.

NewGen Strategies & Solutions



APPENDIX A: RESUMES

REQUEST FOR PROPOSAL 24-073

COST OF SERVICE ANALYSIS AND RATE DESIGN STUDY



SCOTT H. BURNHAM

Partner

CONTACT

225 Union Blvd., Ste 450
Lakewood, Colorado 80228
sburnham@newgenstrategies.net
www.newgenstrategies.net

EDUCATION

Master of Business Administration in Finance, University of Colorado

Master of Public Affairs and Master of Science, Indiana University

Bachelor of Science, Texas A&M University

KEY EXPERTISE

Economic Evaluation

Feasibility and Financial Analyses

Rates Negotiation

Retail Rate and Cost of Service

Unbundled Cost Analysis

Mr. Scott Burnham joined NewGen Strategies and Solutions, LLC (NewGen) in April 2016. He offers over 25 years of experience in cost of service (COS) and rate design analysis, financial feasibility, municipalization studies, and restructuring for electric utilities. Mr. Burnham leads the comprehensive and independent review of cost of service and retail rate design practices for various electric utilities, including analyzing the impacts of net metering, electric vehicle charging, and ways to enhance fixed cost recovery in the face of increasing levels of distributed generation on clients' systems. Additionally, he has taught numerous classes on cost of service and rate design methodology, including semi-annual courses for EUCI, an industry conference organization.

Mr. Burnham conducts acquisition, privatization, and competitive assessments, which include the development and evaluation of financial models that provide clients with an assessment of the impacts associated with several technical and financial feasibility alternatives. These analyses include impacts on projected net operating results from potential financings, investments, and other client actions. His efforts have involved assessing public versus private utility ownership, developing sales and revenue summaries, analyzing utility investment options, and reviewing power price trends.

RELEVANT EXPERIENCE

Cost of Service and Rate Design

Mr. Burnham participates in and leads the review of cost of service and retail rate design practices for numerous electric utilities. The services provided include the development of historical and projected revenue requirements and defensible cost allocation methodologies to apply to clients' customer classes. He has utilized COS methodologies, unbundling approaches, cost classification techniques, cost allocation methods, and rate design alternatives. He has provided the technical and financial analysis associated with the utility's distribution, transmission, and generation functions.

Mr. Burnham has led projects requiring re-classification of large energy users within the system from contract rates to tariff rates. Mr. Burnham has determined fixed cost allocation by customer class from detailed feeder analysis, provided testimony supporting revenue requirements in a litigated hearing process, and developed testimony to support utility cost allocation methodologies.

Mr. Burnham has provided the methodology and analysis to determine the value associated with various distributed solar technologies. He has also explored rate options designed to improve fixed cost recovery in the face of increasing levels of distributed generation on clients' systems. This has included working with clients on reforming existing net energy metering rates. He has also reviewed existing COS analysis associated with electric vehicle charging, street lighting and traffic lighting retail rate classes. He has developed specific rates and rate programs for the industrial customer base, including developing interruptible rate offerings that benefit both the industrial customer and the client.

Mr. Burnham has been responsible for leading the analysis and development of the presentations and reports and presenting results and recommendations, including proposed rates, before city councils and governing boards.

Cost of Service and Rate Design (cont.)

Additionally, he has facilitated citizen advisory groups and stakeholder processes to solicit input into rate design. Mr. Burnham's cost of service and rate design clients include:

- American Samoa Electric Utility, American Samoa
- Arizona Public Service Company, AZ
- Aurora, CO
- Austin Energy, TX
- Brenham, TX
- Brownfield, TX
- City of Longmont (CO) / Longmont Power and Communications (LPC)
- Colorado Springs Utilities, CO
- Dover Electric System, DE
- Farmington Electric Utility System, NM
- Fayetteville Public Works Commission (NC)_
- Fort Collins Utilities, CO
- Georgetown Electric Utility, TX
- Lafayette Consolidated Government, LA
- New England States Committee on Electricity (NESCOE)
- Peninsula Clean Energy, CA (CCA)
- Pedernales Electric Cooperative, Inc.
- Platte River Power Authority, CO
- Port of Oakland, CA
- Redding Electric Utility, CA
- Riverside Public Utilities, CA
- San Francisco Public Utility Commission, CA
- Silicon Valley Power, CA
- South Carolina Public Service Authority (Santee Cooper), SC
- Turlock Irrigation District, CA
- Vermont Public Service Department, VT
- Virgin Islands Water and Power Authority, U.S. Virgin Islands

Feasibility Studies and Financial Analyses

Mr. Burnham has developed financial models to inform clients' decisions regarding the associated impacts of multiple technical and financial feasibility scenarios. Mr. Burnham reviews clients' financial projections and structures. He also develops pro forma financial models to determine projected revenue and costs associated with various projects and financing approaches for power generation and distribution facilities. These financial models focus on developing operating results, debt service coverage ratios, and other applicable financial metrics within the terms of a proposed financing effort. His models and associated reports have been relied upon to assess investment decisions in capital markets.

Mr. Burnham has developed projected operating results for consulting engineering reports and associated financing certifications. Further, he provided financial models that included the technical, financial, and economic input parameters to optimize the value of multiple generation sitting alternatives. He also developed a pro forma financial model for portfolio financing over 7,500 megawatts of generation capacity. Clients include:

- Arizona Public Service, AZ
- Black Hills Energy, CO
- Brownsville Public Utilities Board, TX
- City of San Diego, CA
- City of Slayton, MN
- City of Valley Center, KS
- CORE Electric Company, CO
- Duke Energy, NC
- Lafayette Consolidated Government, LA
- Vistra Energy
- Wyoming Municipal Power Agency, WY

- Central Electric Cooperative, SC
- City of Ann Arbor, MI
- City of Chicago, IL
- City of Decorah, IA
- El Paso County, CO
- Ember Infrastructure LLC, NY
- Escalante H2 Power, TX
- Fortis Capital Corp., Santiago, Chile

WORKSHOPS AND PRESENTATIONS

Mr. Burnham has given numerous presentations and participated in training and workshops. These activities have focused on cost of service, ratemaking, and distributed energy resources. Host organizations and the topics Mr. Burnham presented are displayed below.

Electric Utility Consultants, Inc. (EUCI)

- *Introduction to Cost of Service Concepts and Techniques for Electric Utilities*
- *Distributed Energy – Cost / Benefit Analysis Summary / Methodology*
- *Introduction to Rate Design for Electric Utilities*

Indiana State Bar Association – Utility Law Section

- *Electric Ratemaking Workshop (CLE Credit Course)*

Municipal Electric System of Oklahoma (MESO)

- *Distributed Energy Resources Workshop*
- *Cost of Service / Rate Design Workshop*

American Public Power Association

- *Review of AMI Investment Decision (with LUS)*

RMEL (formerly Rocky Mountain Electrical League)

- *Cost of Service and Utility Rate Design*

Western Load Research Association

- *Integrating Load Analyses into the Cost of Service and Rate Design Process (with Redding Electric Utility)*

Northwest Public Power Association

- *Blue Sky Rates Facilitation Workshop*



JILL SCHUEPBACH

Principal

Ms. Jill Schuepbach has over 25 years of experience as a utility consultant in the public utility industry, working with electric municipal utilities, cooperatives, industrial customers, law firms, and regulatory bodies. Ms. Schuepbach has provided utility economic and financial analysis, financial planning, cost of service, rate design, customer billing impacts, distributed generation value of solar and avoided costs, engineer of record, revenue bond financing support, and pole attachment fees. In addition, Ms. Schuepbach has experience with feasibility studies, litigation support, and preparation of expert witness testimony. She has provided expert witness testimony in Florida and Texas regarding demand-side management programs, distribution line losses, and transmission revenue requirement compliance filings.

CONTACT

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EDUCATION

Master of Business Administration, University of Colorado

Bachelor of Science in Mechanical Engineering, University of Missouri

PROFESSIONAL REGISTRATIONS/ CERTIFICATIONS/COMMITTEES

Registered Professional Engineer (PE) Mechanical, Colorado

KEY EXPERTISE

Economic and Financial Analysis

Engineer of Record and Consulting Engineer

Expert Witness and Litigation Support

Financial Forecast, Cost of Service and Rate Design

Independent Review

Pole Attachment and Conduit Fees

Project Financing

Transmission Revenue Requirement Filings

RELEVANT EXPERIENCE

Financial Forecasts, Cost of Service, and Rate Design

With a wealth of experience, Ms. Schuepbach has successfully executed numerous utility financial forecasts, cost of service, and rate design projects. Her proficiency in financial forecasting includes developing models to balance capital spending, debt issuance, and rate increases. These efforts support compliance with debt covenants and assist with general short-term and long-term decision-making. Cost of service tasks include developing revenue requirements, functionalizing and classifying costs, and allocating costs to customer classes.

Ms. Schuepbach's rate design expertise includes a review of existing customer class criteria, design, billing impacts, tariff development, and transitioning models for the client's future use. Additionally, Ms. Schuepbach evaluates miscellaneous charges and fees based on the utility's costs and local and state policy. She has facilitated training and workshops on cost of service and rate design theory, industry practice, and rate strategies. Her presentations of rate study results and financial recommendations to governing bodies, boards, and city councils demonstrate her ability to communicate complex information effectively.

Ms. Schuepbach's knowledge spans various utility sectors, including electric, natural gas, and photovoltaic cost of service. She has also provided valuable support in contract negotiations, developing a rate to serve a large industrial load and unbundled transmission costs. Her diverse client base for financial forecast, cost of service, and rate design services include:

- Brownsville Public Utilities Board, TX
- Bryan Texas Utilities, TX
- Burbank Water & Power, CA
- Conway Corporation, AR
- Denton Municipal Electric, TX
- Farmington Electric Utilities System, NM
- Glendale Water and Power, CA
- Greenville Electric Utility System (GEUS), TX
- Lafayette Utilities System, LA
- Lafayette Public Power Authority, LA
- Loup Power District, NE
- Navajo Tribal Utility Authority, AZ

Financial Forecasts, Cost of Service, and Rate Design (cont.)

- Pedernales Electric Cooperative, TX
- Port of Oakland, CA
- Turlock Irrigation District

She has also evaluated General Service class energy consumption profiles using advanced metering infrastructure (AMI) data and checked billing accuracy, base operations, contract terms, and rate options. Additionally, Ms. Schuepbach has evaluated distributed generation options and asset/facility upgrades related to energy efficiency/demand response.

Specialty Rate Design

Ms. Schuepbach has designed specialty rates for municipal clients. These include electric vehicle rates, distributed generation rates, avoided costs and value of solar rates for distributed generation, industrial rates, and high-density load rates (data mining).

Miscellaneous Fee Development

Ms. Schuepbach has evaluated and updated miscellaneous charges and fees based on the utility's costs and local and state policy. Miscellaneous fees include line extensions, remote and on-site connect and disconnect, tampering, special trip, and other fees.

Her clients for Miscellaneous Fees include:

- Cleveland Public Power, OH
- Denton Municipal Electric, TX
- Farmington Electric Utility System, NM

Transmission Revenue Requirement Compliance Filings

Ms. Schuepbach has assisted with multiple transmission rate filings at the Regional Transmission Organization (RTO) level and at the Federal Energy Regulatory Commission (FERC) regarding Annual Transmission Revenue Requirements (ATRR) and methodologies for determining rates. Ms. Schuepbach's clients include:

- Bryan Texas Utilities, TX (ERCOT)
- City of College Station, TX (ERCOT)
- Denton Municipal Electric, TX (ERCOT)
- Garland Power and Light, TX (ERCOT)
- Greenville Electric Utility System (GEUS), TX (ERCOT)
- Independence Power & Light, MO (SPP)
- Lubbock Power and Light, TX (ERCOT)
- New Braunfels Utilities, TX
- Texas Municipal Power Agency, TX (ERCOT)

Engineer of Record and Consulting Engineer Reports

Ms. Schuepbach has assisted in developing Consulting Engineer Reports and associated ordinance-required reviews for municipal utilities. These reviews typically require an annual assessment of each utility's financial and physical operations for the bond period. The field review consists of determining the condition of the utility's physical assets, including a review of the utility's budgeting and planning process. As Engineer of Record, Ms. Schuepbach has prepared Consulting Engineer Reports for the Official Statements, annual Comprehensive Engineering Reports, and annual continuing disclosures. Her clients include:

- Lafayette Public Power Authority, LA
- Lafayette Utilities System, LA

JILL SCHUEPBACH
Principal

Economic and Financial Analysis

Ms. Schuepbach has provided economic analyses for municipal utilities involving generation projects. These evaluations included reviewing the costs and operation of new generation units added to the existing generation resources and financial analysis of the proposed generation on retail rates.

Independent Review

The New York State Legislative Commission retained Ms. Schuepbach on the Future of the Long Island Power Authority to (1) conduct an independent review of the reasonableness of the projected financial savings identified by the Commission as associated with transitioning Long Island Power Authority (LIPA) to a "true publicly owned" power authority from its current structure utilizing a third-party service contractor, PSEG Long Island LLC (PSEG-LI), and (2) analyze the transition's potential rate impact on LIPA's customers.

Pole Attachment Fees

Ms. Schuepbach has developed pole attachment fees for several clients. She employs various methodologies, including those recommended by the Federal Communications Commission (FCC), the American Public Power Association (APPA), the Arkansas Method, and the Tennessee Valley Authority (TVA). She has recommended rates for cable and communications companies based on the type of poles to which they are attached. Her work also includes a review of the contract or agreement between the utility and the customer. Ms. Schuepbach's clients include:

- Central Electric Power Cooperative, Inc., SC
- Denton Municipal Electric, TX
- El Paso County, CO (conduit fees)
- Farmington Electric Utilities System, NM
- Kerrville Public Utility Board, TX
- Keys Energy Services, FL
- Navajo Tribal Utility Authority, AZ
- Navopache Electric Cooperative, AZ and NM
- Pedernales Electric Cooperative, TX
- Santee Cooper, SC

Financing of Public and Private Projects

Ms. Schuepbach has provided pro forma analysis supporting revenue bond financing for utilities and commercial bank financing of privately developed projects. She developed and reviewed pro forma financial models for technical and economic feasibility. The investment community that provides funding for these projects relies upon these models. In addition, Ms. Schuepbach has experience with financial modeling for municipal clients and alternative expansion plans for industrial clients interested in self-generation. Ms. Schuepbach's responsibilities have included updating and reviewing budgets, financial statements, capital plans, and other financial inputs to the pro forma model. She has also reviewed technical and financial inputs to the pro forma model, including financial modeling of utility operations to determine rate adequacy, future capital funding sources, and compliance with bond covenants.

Expert Witness and Litigation Support

Ms. Schuepbach has assisted in litigation support and provided expert witness testimony in Texas, Louisiana, Missouri, Florida, and Indiana. Her testimony support is related to revenue requirements, cost of service, rate design, and the proper allocation of costs given a system's unique characteristics. Ms. Schuepbach's expert witness and litigation support experience include:

JILL SCHUEPBACH
Principal

Indiana Utility Regulatory Commission

- Indiana Michigan Power Company; Cause No. 45576, Cause No. 45546, and Cause No. 45235
- Northern Indiana Public Service Company; Cause No. 45159, Cause No. 44733-TDSIC, Cause No. 44688; Cause No. 45933

Federal Energy Regulatory Commission

- City of Independence (MO) Power and Light; Docket No. ER15-1499-001

Public Utility Commission of Texas

- Bryan Texas Utilities; Docket No. 54945, Docket No. 51623, Docket No. 48123, Docket No. 44467, and Docket No. 41920.
- Brownsville Public Utilities Board; Docket No. 38556.
- Denton Municipal Electric; Docket No. 52449, Docket No. 56102, Docket No 52715, and Docket No. 56102.
- GEUS; Docket No. 51556, Docket No. 42581, Docket No. 37180, Docket No. 27789, and Docket No. 56357.
- New Braunfels Utilities; Docket No. 56440.
- Southwestern Public Service Company Docket No. 54634.

Florida Public Service Commission

- Orlando Utilities Commission; Docket No. 010142

15th Judicial District Court, Parish of Lafayette, Louisiana

- Entergy Gulf States, Inc.; Docket No. 00994490

California Public Utilities Commission

- San Diego Gas and Electric (SDGE) 2021 ERRA Forecast
- Southern California Edison (SCE) 2023 ERRA Forecast
- Southern California Edison (SCE) 2024 ERRA Forecast

PRESENTATIONS AND WORKSHOPS

Electric Utility Consultants, Inc. (EUCI)

- *Introduction to Cost of Service Concepts and Techniques for Electric Utilities*
- *Introduction to Rate Design for Electric Utilities*

California Public Utilities Commission

- *Cost of Service Concepts for Electric Utilities*



Tia Carnes

Senior Consultant

CONTACT

225 Union Blvd., Ste 450
Lakewood, Colorado 80228
tcarnes@newgenstrategies.net
www.newgenstrategies.net

EDUCATION

Master of Business Administration, Belmont University

Bachelor of Science in Bible/Biblical Studies, Cairn University

KEY EXPERTISE

Appraisals and Valuation

Cost of Service and Rate Design

Financial Planning & Budgeting Model

Organizational Effectiveness

Rate Benchmarking & Analysis

Ms. Tia Carnes joined the firm as a Consultant in February 2020. During her tenure, she has provided financial modeling, appraisal/valuation support, cost of service and rate design analyses, and most notably, support to the organizational review and workshop development projects. Her experience includes leadership training and development, team assessment, and financial analysis. Ms. Carnes came to NewGen with a strong background in customer service, logistics, and high-volume task management.

RELEVANT EXPERIENCE

Cost of Service and Rate Design

Ms. Carnes performs cost of service and rate design studies for electric, wholesale, and retail water, reclaimed water, wastewater, drainage, and natural gas utilities. She assists clients in understanding their service offerings' financial and operational impacts and develops rates intended to fully recover operating costs. Her clients include:

- City of Austin, TX
- City of Brea, CA
- City of Charlottesville, VA
- City of Coachella Valley, CA
- City of Corpus Christi, TX
- City of Henderson, KY
- City of Lewisville, TX
- City of Maryville, MO
- City of Orland Park, IL
- City of Springfield, MO
- City of Waco, TX

Organizational Effectiveness

Ms. Carnes conducts a high-level review of an organization to determine best practices, areas for improvement, and recommend solutions. Her contributions include analysis of survey results determining the organizational health of the client and facilitating workshops to build team skills and organizational effectiveness. Her clients include:

- City of Austin, TX
- City of Denton, TX
- CPS Energy, TX
- DEMCO, LA

Appraisals and Valuation

Ms. Carnes performs appraisal analyses to develop value indicators using the income, cost, and market valuation approaches. Her appraisal projects include:

Power Generation Assets

- Somervell County Appraisal District, TX
- Robbins Schwartz

Power Distribution Assets

TIA CARNES
Senior Consultant

- City of Harrisonburg, VA

Water and Wastewater Systems

- Town of Lexington, SC

Power Supply Contracts

- Basic Management, Inc., NV

Other Projects

Public Power Feasibility

- City of San Diego, CA

Facilities Rates Study

- City of Phoenix, AZ

Community Engagement

- City of Redding, CA



JACK BUCKLEY

Senior Consultant

Mr. Jack Buckley joined NewGen as a full-time consultant in December 2021. He assists with cost of service and rate design projects, emphasizing data-driven analytics. Mr. Buckley has an M.S. and B.S. in Architectural Engineering. Prior to joining NewGen, Mr. Buckley provided professional design services, mechanical building calculations, and building models to assist project managers.

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EDUCATION

Master's Degree of Science in Architectural Engineering, University of Nebraska-Lincoln – Omaha, NE

Bachelor's Degree of Science in Architectural Engineering, University of Nebraska-Lincoln – Omaha, NE

Engineering Study Abroad Program, Luleå University of Technology – Luleå, Sweden

KEY EXPERTISE

Data Analysis

Cost of Service Analyses

Financial Forecast Modeling

Rate Design

RELEVANT EXPERIENCE

Cost of Service and Rate Design – Electric & Gas

Mr. Buckley assists with cost of service and rate design studies for electric utility clients. He conducts load analysis for solar and non-solar data, billing, and distributed generation analysis, as well as proforma development.

Mr. Buckley's cost of service and rate design clients include:

- Central Coast Community Energy
- City of Austin, TX
- City of Brenham, TX
- City of Denton, TX
- City of Glendale, CA
- City of Riverside, CA
- City of Vernon, CA
- City of Victorville, CA
- City of Weatherford, TX
- Clean Power Alliance
- Farmington Electric Utility System
- Fayetteville Public Works Commission
- Imperial Irrigation District
- Merced Irrigation District
- Port of Oakland
- Southern Minnesota Municipal Power Agency
- Turlock Irrigation District
- Tri-State Generation and Transmission Association, Inc.
- Wyoming Municipal Power Agency
- 3CE

Financial Modeling

Mr. Buckley assists with financial forecast modeling for electric utility clients. He conducts 5 and 10-year financial forecasts with detailed cash flow analysis and measurement of financial metrics.

Mr. Buckley's financial forecast modeling clients include:

- City of Riverside, CA
- City of Weatherford, TX
- Turlock Irrigation District
- Wyoming Municipal Power Agency

JACK BUCKLEY
Senior Consultant

Other Analysis

Mr. Buckley is currently conducting a variety of other analyses to assist organizations in litigation and FERC filings.

These clients include:

- Bose McKinney
- Ewell, Brown, Blanke & Knight, LLP
- Exponential Engineering Company
- HR Green Fiber & Broadband, LLC
- Keyes & Fox, LLP
- Peninsula Clean Energy
- Platte River Power Authority
- Tri-State Generation and Transmission Association, Inc.



NOAH HEALY

Consultant

Mr. Noah Healy joined NewGen as a full-time Consultant in November 2022. He assists on cost of service and rate design projects, emphasizing data-driven analytics and applying his financial modeling skills. Mr. Healy's experience includes investment analysis, R programming, and Microsoft Excel modeling.

RELEVANT EXPERIENCE

Cost of Service & Rate Design – Electric & Water

Mr. Healy assists with cost of service and rate design studies for electric utility clients. He conducts billing analysis, as well as proforma development.

Mr. Healy's cost of service and rate design clients include:

- City of Bryan, TX
- City of Garland, TX
- City of Greenville, TX
- City of Turlock, CA
- City of Vernon, CA
- City of Weatherford, TX
- City of Westlake, TX
- Lubbock Power & Light, TX
- Orange County Power Authority
- Pedernales Electric Cooperative
- Peninsula Clean Energy
- Silicon Valley Clean Energy
- 3CE

Other Analysis

Mr. Healy is currently conducting a variety of other analyses to assist organizations in litigation.

These clients include:

- Bose McKinney
- Office of Public Utility Counsel

CONTACT

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EDUCATION

Master of Science in Finance, University of Colorado Boulder, Leeds School of Business

Bachelor of Science in Psychology, Colorado State University, College of Natural Sciences

PROFESSIONAL REGISTRATIONS/ CERTIFICATIONS/ AWARDS

Series 65

KEY EXPERTISE

Financial Analysis

Microsoft Excel Modeling

R Programming



BRODY LIEBLER

Consultant

Mr. Brody Liebler joined NewGen as a Consultant in July 2024. He assists on cost of service and rate design projects, emphasizing data-driven analytics and applying his econometric analysis skills. Mr. Liebler's experience includes financial modeling, rate calculation, cost allocation analysis, and Microsoft Excel.

CONTACT

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www.newgenstrategies.net

EDUCATION

Bachelor of Science in Business Administration, Marquette University

International Business Immersion Program, Universidad Loyola

KEY EXPERTISE

Economic Analysis

Rate Studies

Financial Modeling

PRIOR RELEVANT EXPERIENCE

Honey Smoked Fish Co.

Sales and Marketing Coordinator

- Provided strategic direction to all outsourced partners including social, email, design, experiential, and public relations agencies. Ensured consumer-facing content aligned with the company's brand standards and positioning.
- Managed syndicated data platforms, including Nielsen Byzzer, Costco CRX, and 8451 OnDemand/Stratum (Kroger).
- Responsible for presenting KPI's, velocity lifts, and returns on marketing investments to leadership team.
- Coordinated all company events and experiential activations. Notable projects include Natural Product ExpoWest and Costco Roadshows.
- Supported launch and development of the first refrigerated seafood snack pack to market, Honey Smoked Salmon Stackers®, now sold nationwide.

The Martec Group

Market Analyst

- Executed 20+ commercial due diligence engagements for private equity clients across various industries including ESG utility management, renewable energy, building & construction, food & beverage, healthcare, chemical manufacturing, automotive, and professional associations.
- Conducted in-depth qualitative and quantitative research through 500+ in-depth interviews, focus groups, online discussion boards, and surveys, producing comprehensive data analyses and strategic recommendations tailored to client needs.
- Composed 20+ market research reports and PowerPoint presentations.

BRODY LIEBLER

Consultant

Huron Capital Partners

Private Equity Intern

- Examined CIMs for potential platform and add on acquisitions for Flagship and Flex Equity Funds.
- Engaged in calls with bankers regarding logistics of companies to better understand their investment thesis and value proposition.
- Conducted detailed diligence on prospective investments, including analysis of business model and assisted in financial modeling to value potential targets.

NewGen Strategies & Solutions

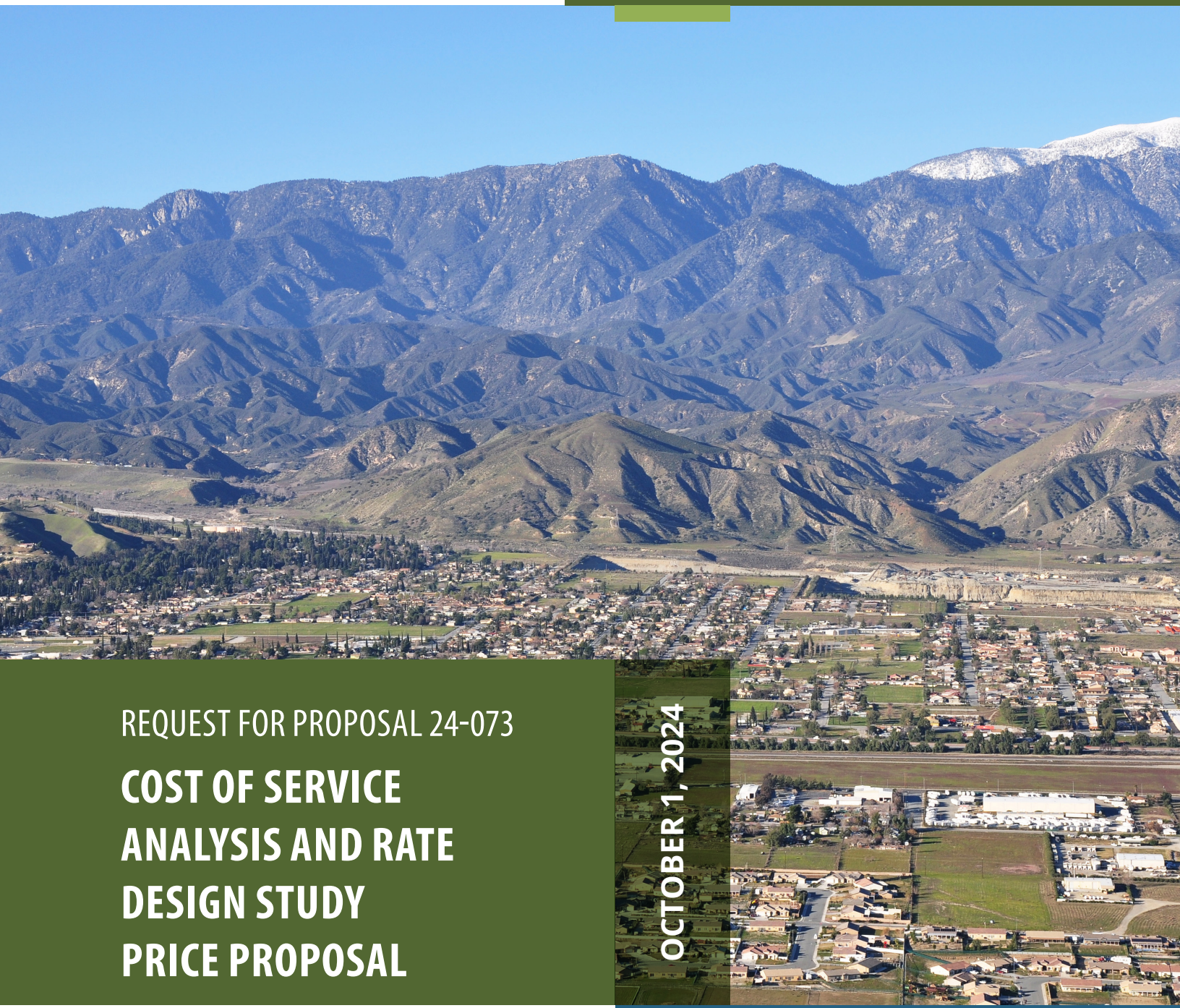


THANK YOU!

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NewGen Strategies & Solutions

www.newgenstrategies.net



REQUEST FOR PROPOSAL 24-073

COST OF SERVICE ANALYSIS AND RATE DESIGN STUDY PRICE PROPOSAL

OCTOBER 1, 2024

Prepared for:
Ms. Barbara Mason - Purchasing Manager
Purchasing Division
99 E. Ramsey Street
Banning, CA 92220

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PRICE PROPOSAL

NewGen Strategies and Solutions, LLC (NewGen) proposes to conduct the Scope of Services for the City of Banning's (City) RFP-24-073 Cost of Service Analysis and Rate Design Study (Study) on a time and materials basis for an estimated not-to-exceed budget of $164,600 which includes all estimated labor and expenses, including reasonable travel-related expenses.

The following tables breaks down all the direct and indirect costs for this project. NewGen affirms that our charges invoiced to the City for travel, lodging, and subsistence shall not exceed the current IRS rates.

Phase	Labor Estimate	Travel Expense Estimate	Total
Phase I – KO, Strategic Plan, Rev Req, COS	$57,000	$1,500	$58,500
Phase II – Rate Design	$35,200	$0	$35,200
Phase III – Financial Model	$27,600	$0	$27,600
Phase IV – SE Engagement, Reports, Presentations	$36,100	$7,200	$43,300
Total Estimated Budget	**$155,900**	**$8,700**	**$164,600**

*Numbers may not add due to rounding.

Phase	Burnham $290	Schuepbach **$280**	Buckley **$185**	Carnes **$190**	**Healy $175**	**Liebler $165**	Admin **$130**	**Travel Expenses**	**Total**
Phase I	72	16	108	8	32	16	16	$1,500	**$58,500**
Phase II	32	8	56	8	40	24	8		**$35,200**
Phase III	16	12	60	4	24	16	8		**$27,600**
Phase IV	56	4	32	46	8	4	16	$7,200	**$43,300**
Estimated Hours/Budget	**176**	**40**	**256**	**66**	**104**	**60**	**48**		**$164,600**

*Numbers may not add due to rounding.

NewGen Strategies & Solutions



THANK YOU!

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www.newgenstrategies.net

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Douglas Schulze, City Manager**
PREPARED BY:	**Laurie Sampson, Assistant City Manager**
MEETING DATE:	**November 12, 2024**
SUBJECT:	**Consideration of Resolution 2024-176, Accepting Community Development Block Grant (CDBG) Funds for Fiscal Year 2024/2025 in the Amount of $159,408 for the Banning Senior Center (5.BN.61-24) in the Amount of $43,144; Dysart Park Improvement Project (5.BN.62-24) in the Amount of $105,000; And the Banning Peace Center Food Program in the Amount of $11,264, and Rescinding Resolution 2024-159**

RECOMMENDATION:

Adopt Resolution 2024-176.

BACKGROUND:

On October 8, 2024, the City Council approved Resolution 2024-159, accepting the Supplemental Agreement for the Community Development Block Grant for FY 2024-2025.

On October 31, 2024, the Riverside County Housing and Workforce Solutions representative contacted the Assistant City Manager and requested the resolution be amended to include language that designates with agreement be executed by the Mayor.

JUSTIFICATION:

The updated language will allow the agreement to be executed by the Mayor.

FISCAL IMPACT:

None

ALTERNATIVES:

Reject Resolution 2024-176 and forfeit CDBG funds for FY 2024-25.

BUDGETED?:

No

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. Resolution 2024-176, CDBG Supplemental Agreement.docx
2. CDBG Supplemental Agreement 2024-2025.pdf

RESOLUTION 2024-176

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, ACCEPTING COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS FOR FISCAL YEAR 2024/2025 IN THE AMOUNT OF $159,408 FOR THE BANNING SENIOR CENTER (5.BN.61-24) IN THE AMOUNT OF $43,144; DYSART PARK IMPROVEMENT PROJECT (5.BN.62-24) IN THE AMOUNT OF $105,000; AND THE BANNING PEACE CENTER FOOD PROGRAM IN THE AMOUNT OF $11,264, AND RESCINDING RESOLUTION 2024-159

WHEREAS, THE City of Banning has been submitting applications for projects/activities under the Community Development Block Grant (CDBG) program to the Riverside County Housing and Workforce Solutions (HWS) annually; and

WHEREAS, the submittal of the approved project applications for CDBG 2024/2025 program funding was approved by the City Council on October 24, 2023 under Resolution 2023-171; and

WHEREAS, the projects submitted herein meet the CDBG program guidelines and/or requirements; and

WHEREAS, it is necessary that the supplemental agreement be approved by the City Council through resolution in order for the City and its residents to obtain and utilize the federally funded CDBG grant funds.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The City Council approves the Supplemental Agreement with Riverside County Housing and Workforce Solutions for the Community Development Block Grant FY 2024/2025 for a one-year term in an amount of $159,408.

SECTION 2. The City Council authorizes the mayor to execute the Supplemental Agreement with Riverside County Housing and Workforce Solutions on behalf of the City Council and the City Manager to make non-substantive changes to the Community Development Block Grant FY 2024/2025 if necessary, in the future.

SECTION 3. The City Council authorizes the City Manager, or designee, to make necessary budget adjustments, appropriations, and transfers related to this resolution.

SECTION 4. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 12th day of November 2024.

Alberto Sanchez, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

Serita R. Young, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2024-176, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 12th day of November 2024 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

EXHIBIT A
CDBG Supplemental Agreement for FY 2024-25

File No.: 5.BN.61-24, 5.BN.62-24, 5.BN.63-24

SUPPLEMENTAL AGREEMENT FOR THE USE OF 2024-2025 COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS

This Supplemental Agreement ("Agreement") is entered into by and between the COUNTY OF RIVERSIDE, a political subdivision of the State of California, herein called, "COUNTY," and the **CITY OF BANNING**, a political subdivision of the State of California, herein called "CITY." COUNTY and CITY are collectively referred to as "Parties" and individually as "Party."

The COUNTY and CITY mutually agree as follows:

1. GENERAL. COUNTY and CITY have executed a Cooperation Agreement, dated August 4, 2023 ("Cooperation Agreement"), whereby CITY elected to participate with COUNTY, which has qualified as an "Urban County" for purposes of receiving Community Development Block Grant (CDBG) funds ("CDBG"), and to assist and undertake essential community development and housing assistance activities pursuant to the Housing and Community Development Act of 1974, Title 1, as amended, Public Law 93-383 hereinafter referred to as "Act." Said Cooperation Agreement, dated August 4, 2023, is incorporated herein by reference and made a part of this Agreement as if each and every provision was set forth herein.

2. PURPOSE. CITY has been allocated **$159,408** in CDBG Entitlement funds for the 2024-2025 CDBG program year. CITY promises and agrees to undertake and assist with the community development activities, within its jurisdiction, by utilizing the sum of **$159,408** CDBG Entitlement Funds, as specifically identified in Exhibit(s) A, B, and C, attached hereto, and are incorporated herein by this reference, for the following project(s) (collectively, the "Projects"):

A) 5.BN.61-24 Banning Senior Center ADA Improvements Project, $43,144.

B) 5.BN.62-24 Dysart Park Improvement Project $105,000

C) 5.BN.63-24 Banning Peace Center Food Program $11,264

3. TERM OF AGREEMENT. The term of this Agreement for the implementation of the Project(s) shall be for a period of one (1) year from July 1, 2024, to termination on June 30, 2025.

4. COMPLETION SCHEDULE. CITY shall proceed consistent with the completion schedule set forth in Exhibit(s) A, B, and C, attached hereto and incorporated herein.

5. EXTENSION OF TIME. In the event the Project(s) are not substantially completed by the time set forth in the applicable completion schedule(s) due to a force majeure event (See Section 40 below), the COUNTY may consider extending the schedule for the completion of the project(s). Times of performance for other activities may also be extended in writing by COUNTY. If substantial progress toward completion in conformance with the completion schedule, as determined by COUNTY in its discretion, of the project(s) not made during the term of this Supplemental Agreement, COUNTY may suspend or terminate this Supplemental Agreement pursuant to the termination procedures set forth in the section titled "Termination," and the entitlement funds associated with the Project(s) may be reprogrammed by the COUNTY after appropriate notice is provided to the City.

6. LETTER TO PROCEED. CITY shall not initiate nor incur expenses for the CDBG-funded Projects or activities covered under the terms of this Supplemental Agreement as set forth in Exhibit(s) A, B, and C, attached hereto, prior to receiving written authorization from COUNTY to proceed.

7. NOTICES. Each notice, request, demand, consent, approval or other communication (hereinafter in this Section referred to collectively as "notices" and referred to singly as a "notice") which the CITY or COUNTY is required or permitted to give to the other party pursuant to this Agreement shall be in writing and shall be deemed to have been duly and sufficiently given if: (a) personally delivered with proof of delivery thereof (any notice so delivered shall be deemed to have been received at the time so delivered); or (b) sent by Federal Express (or other similar national overnight courier) designating early morning delivery (any notice so delivered shall be deemed to have been received on the next Business Day following receipt by the courier); or (c) sent by United States registered or certified mail, return receipt requested, postage prepaid, at a post office regularly maintained by the United States Postal Service (any notice so sent shall be deemed to have been received two days after mailing in the United States), addressed to the respective parties as follows:

COUNTY	CITY
Heidi Marshall, Director	Ralph Wright, Parks and Recreation Director
Riverside County HWS	City of Banning
P.O. Box 1528	PO Box 998
Riverside, CA 92502	Banning, CA 92220

8. DISBURSEMENT OF FUNDS.

A. COUNTY's Board of Supervisors shall determine the final disposition and distribution of all funds received by COUNTY under the Act consistent with Sections 2 and 3 of this Supplemental Agreement. COUNTY, through its Department of Housing, and Workforce Solutions, shall make payment of the CDBG funds to CITY as set forth in the attached Exhibit(s) A, B, and C. It is the CITY's responsibility to monitor all project activities set forth in the attached Exhibit(s) A, B, and C, and to ensure compliance with applicable federal regulations and the terms of this Supplemental Agreement.

B. CITY shall comply with timely drawdown of CDBG Entitlement funding by expeditiously implementing and completing the COUNTY-approved, CDBG-funded Projects. CITY acknowledges that CITY's drawdown performance directly impacts the COUNTY's overall program drawdown rate. If the CITY's unobligated CDBG fund balance, as of January 31, 2025, exceeds one hundred and seventy-five percent (175%) of the CITY's 2024-2025 CDBG allocation, the COUNTY may, in its sole discretion, take the necessary administrative actions to reduce the CITY's CDBG fund balance. Necessary actions include, but are not limited to, reprogramming the excess CDBG fund balance to other eligible activities as selected by COUNTY. COUNTY may, in its sole and absolute discretion, authorize CITY in writing, prior to January 31, 2025, to exceed the CDBG fund balance requirement.

C. CITY shall comply with timely drawdown of CDBG funds by submitting monthly requests for reimbursement or other COUNTY approved reimbursement schedules. All disbursements of CDBG funds will be on a reimbursement basis and made within thirty (30) days after the COUNTY has received the CITY's reimbursement request including documentation supporting expenditures.

D. All authorized obligations incurred in the performance of the Supplemental Agreement for projects eligible under the following CDBG regulations must be reported in writing to

COUNTY no later than June 1, 2025:

1. Acquisition [24 Code of Federal Regulations (CFR) 570.201 (a)]
2. Clearance Activities [24 CFR 570.201 (d)]
3. Interim Assistance [24 CFR 570.201 (f)]
4. Code Enforcement [24 CFR 570.202 (c)]

All public service activities [24 CFR 570.201 (e)] and other eligible activities under this Supplemental Agreement must be implemented, completed, and obligations reported in writing to the COUNTY by the CITY no later than the completion schedules set forth in the attached Exhibits to this Supplemental Agreement. "CFR" as used herein refers to the Code of Federal Regulations.

9. RECORDS AND INSPECTIONS.

A. CITY shall establish and maintain financial, programmatic, statistical, and other supporting records of its operations and financial activities in accordance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200), and 24 CFR Section 570.502 (a), as they relate to the acceptance and use of federal funds under this Agreement. Said records shall be retained for a period of four (4) years from the date that the activity or program funded with the CDBG Grant is closed out by the COUNTY and reported as complete in the Comprehensive Annual Performance and Evaluation Report (CAPER). Exceptions to the four (4) year retention period requirement, pursuant to 2 CFR 200.333 include, but not limited to, the following:

i. if any litigation, claim, or audit is started prior to the expiration of the four (4) year period;

ii. when the CITY is notified in writing by the COUNTY, HUD, or other Federal agency to extend the retention period;

iii. records for real property and equipment acquired with CDBG funds must be retained for four (4) years after final disposition;

iv. when the records are transferred by the CITY to the COUNTY, HUD, or other Federal agency, the four (4) year period is not applicable.

B. CITY shall obtain an external audit in accordance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR

Section 200.500). Audits shall usually be performed annually but not less frequently than every two years. Nonprofit institutions and government agencies that expend less than $750,000 a year in Federal awards are exempt from Federal audit requirements, but records must be available for review by appropriate officials of the Federal grantor agency or subgranting entity. The audit report shall be submitted to the COUNTY within 180 days after the end of the COUNTY'S fiscal year.

C. CITY shall maintain a separate account for the CITY'S CDBG Entitlement funds received as set forth in Exhibit(s) A, B, and C attached hereto.

D. Pursuant to 2 CFR 200.336, CITY shall, during the normal business hours, make available to COUNTY, the U.S. Department of Housing and Urban Development (HUD), or other authorized representative, for the examination and copying, all of its records and other materials with respect to matters covered by this Agreement and provide reasonable access to CITY staff for the purpose of interview and discussion related to the records and documents.

E. CITY shall not retain any program income as defined in 24 CFR 570.500. Said program income shall be used only for the activities that are the subject of this Agreement. Further, all provisions of this Agreement shall apply to such activities.

F. The CITY shall ensure that at least fifty-one percent (51%) of the persons benefiting from all CDBG-funded activities or projects designated as serving limited clientele [24 CFR 570.208(a)(2)(i)] are of low and moderate-income and meet the applicable household income guidelines. The CITY shall provide the required income certification and direct benefit documentation, in writing, to the COUNTY pursuant to the reporting requirement of each activity as set forth in Exhibit(s) A, B, and C, attached hereto. In the event that CITY engages the services of a sub-contractor to implement CDBG-funded activities, the CITY must collect, in writing, all required income certification and direct benefit documentation from subcontractors prior to submittal to the COUNTY pursuant to the reporting requirement of each activity as set forth in Exhibit(s) A, B, and C, attached hereto.

10. COMPLIANCE WITH LAWS. CITY shall comply with all applicable federal, state, and local laws, regulations, and ordinances and any amendments thereto and the federal regulations and guidelines now or hereafter enacted pursuant to the Act. More particularly, CITY is to comply with those regulations found in the Uniform Administrative Requirements, Cost Principles, and Audit

Requirements for Federal Awards (2 CFR Part 200), and 24 CFR Part 570. CITY is to abide by the provisions of the Community Development Block Grant Manual, prepared by COUNTY and cited in the above-mentioned Cooperation Agreement. CITY shall comply, if applicable, with Section 3 of the Housing & Urban Development Act of 1968 (12 U.S.C.A. Section 1701u), as amended, a copy of which is attached hereto as Exhibit "S", and incorporated herein by this reference. CITY shall adhere to the regulations as set forth in Exhibit "R", attached hereto and incorporated herein by this reference, pertaining to inherently religious activities. CITY shall comply with the Additional Federal Requirements, if applicable, attached hereto as Exhibit "AFR", and incorporated herein by this reference.

11. COOPERATION WITH HOUSING ACTIVITIES. CITY shall cooperate with COUNTY in undertaking essential community development and housing assistance activities, specifically urban renewal and public assistance housing, and shall assist COUNTY in implementing and undertaking the goals and strategies identified in the 2024-2029 Five Year Consolidated Plan, pursuant to 24 CFR Part 91 and other requirements of the Community Development Block Grant Program.

12. LEAD AGENCY FOR COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA). Pursuant to Title 14 CCR Section 1501(d), the CITY is designated as the lead agency for the projects that are the subject matter of this Supplemental Agreement.

13. HOLD HARMLESS AND INDEMNIFICATION. In contemplation of the provisions of Section 895.2 of the California Government Code imposing certain tort liability jointly upon public entities solely by reason of such entities being parties to an agreement as defined by Section 895 of the Code, the Parties hereto, pursuant to the authorization contained in Section 895.4 and 895.6 of the Code, agree that each Party shall be liable for any damages including, but not limited to, claims, demands, losses, liabilities, costs and expenses including reasonable attorneys' fees, resulting from the negligent or wrongful acts or omissions of their employees or agents in the performance of this Agreement, and each Party shall indemnify, defend and hold harmless the other Parties from such claims, demands, damages, losses or liabilities for their negligence.

The hold harmless and indemnification obligations set forth herein shall survive the termination

and expiration of this Agreement. In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve the CITY from indemnifying the Indemnitees to the fullest extent allowed by law.

14. INSURANCE. Without limiting or diminishing the CITY's obligation to indemnify or hold the COUNTY harmless, CITY shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverage's during the term of this Agreement. As respects to the insurance section only, the COUNTY herein refers to the County of Riverside, its Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of COUNTY OF RIVERSIDE Supervisors, employees, elected or appointed officials, agents, or representatives as Additional Insureds

a. Workers' Compensation:

If the CITY has employees as defined by the State of California, the CITY shall maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than $1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in favor of the County of Riverside.

b. Commercial General Liability:

Commercial General Liability insurance coverage, including but not limited to, premises liability, contractual liability, products and completed operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or out of CITY'S performance of its obligations hereunder. Policy shall name the County of Riverside as Additional Insured. Policy's limit of liability shall not be less than $2,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit.b.1

Sexual Abuse or Molestation (SAM) Liability:

If the work will include contact with minors, and the Commercial General Liability policy is not endorsed to include affirmative coverage for sexual abuse or molestation, Vendor/Contractor shall obtain and maintain a policy covering Sexual Abuse and Molestation with a limit no less than $2,000,000

per occurrence or claim.

c. Vehicle Liability:

If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then CITY shall maintain liability insurance for all owned, non-owned or hired vehicles so used in an amount not less than $1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit. Policy shall name the County of Riverside as Additional Insured.

d. General Insurance Provisions - All lines:

(i). Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A M BEST rating of not less than A: VIII (A:8) unless such requirements are waived, in writing, by the County Risk Manager. If the County's Risk Manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.

(ii). The CITY must declare its insurance self-insured retentions. If such self-insured retentions exceed $500,000 per occurrence such retentions shall have the prior written consent of the County Risk Manager before the commencement of operations under this Agreement. Upon notification of self-insured retention unacceptable to the COUNTY, and at the election of the Country's Risk Manager, CITY'S carriers shall either; 1) reduce or eliminate such self-insured retention as respects this Agreement with the COUNTY, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.

(iii). CITY shall cause CITY'S insurance carrier(s) to furnish the County of Riverside with either 1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein, and 2) if requested to do so orally or in writing by the County Risk Manager, provide original Certified copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that thirty (30) days written notice shall be given to the County of Riverside prior to any material

modification, cancellation, expiration or reduction in coverage of such insurance. In the event of a material modification, cancellation, expiration, or reduction in coverage, this Agreement shall terminate forthwith, unless the County of Riverside receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage's set forth herein and the insurance required herein is in full force and effect. CITY shall not commence operations until the COUNTY has been furnished original Certificate (s) of Insurance and certified original copies of endorsements and if requested, certified original policies of insurance including all endorsements and any and all other attachments as required in this Section. An individual authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the Certificate of Insurance.

(iv). It is understood and agreed to by the parties hereto that the CITY'S insurance shall be construed as primary insurance, and the COUNTY'S insurance and/or deductibles and/or self-insured retention's or self-insured programs shall not be construed as contributory.

(v). If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services; or, there is a material change in the equipment to be used in the performance of the scope of or, the term of this Agreement, including any extensions thereof, exceeds five (5) years, the COUNTY reserves the right to adjust the types of insurance required under this Agreement and the monetary limits of liability for the insurance coverage's currently required herein, if; in the County Risk Manager's reasonable judgment, the amount or type of insurance carried by the CITY has become inadequate.

(vi). CITY shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Agreement.

(vii). The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to the COUNTY.

(viii). CITY agrees to notify COUNTY of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.

15. INDEPENDENT CONTRACTOR. The CITY is, for purposes relating to this

Supplemental Agreement, an independent contractor and shall not be deemed an employee of the COUNTY. It is expressly understood and agreed that the CITY (including its employees, agents and subcontractor's) shall in no event be entitled to any benefits to which the COUNTY employees are entitled, including but not limited to overtime, any retirement benefits, worker's compensation benefits, and injury leave or other leave benefits. There shall be no employer-employee relationship between the parties; and the CITY shall hold the COUNTY harmless from any and all claims that may be made against the COUNTY based upon any contention by a third party that an employer-employee relationship exists by reason of this Supplemental Agreement. It is further understood and agreed by the parties that the CITY in the performance of this Supplemental Agreement is subject to the control or direction of the COUNTY merely as to the results to be accomplished and not as to the means and methods for accomplishing the results.

16. NONDISCRIMINATION. CITY shall abide by 24 CFR Sections 570.601 and 570.602 of Title 24 of the Code of Federal Regulations which requires that no person in the United States shall on the grounds of race, color, national origin, sex, sexual orientation, gender identity, or veterans status be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with Community Development funds.

CITY shall abide by and include in any subcontracts to perform work under this Supplemental Agreement, the following clause:

"During the performance of this Supplemental Agreement, CITY and its subcontractors shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical disability, medical condition, marital status, veterans status, sexual orientation, gender identity, age (over 40) or sex. CITY and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination. CITY and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (California Government Code Section 12900 et seq.). The applicable regulations of the Fair Employment and Housing Commission are implementing California Government Code Section 12990 et seq., set forth in Chapter 1 of Division 4.1 of Title 2 of the California Administrative Code are incorporated into this Agreement by reference and made a part hereof as if set forth in full. CITY and its subcontractors

shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement."

17. PROHIBITION AGAINST CONFLICTS OF INTEREST

A. CITY and its assigns, employees, agents, consultants, officers and elected and appointed officials shall become familiar with and shall comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200) and the CDBG regulations prohibiting conflicts of interest contained in 24 CFR 570.611.

B. The Subrecipient shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by Federal funds.

C. No employee, officer or agent of the Subrecipient shall participate in the selection, or in the award, or administration of, a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.

D. No covered persons who exercise or have exercised any functions or responsibilities with respect to CDBG-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the CDBG-assisted activity, or with respect to the proceeds from the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter. For purposes of this paragraph, a "covered person" includes any person who is an employee, agent, consultant, officer, or elected or appointed official of the Grantee, the Subrecipient, or any designated public agency.

E. CITY understands and agrees that no waiver of exception can be granted to the prohibition against conflict of interest except upon written approval of HUD pursuant to 24 CFR 570.611(d). Any request by CITY for an exception shall first be reviewed by COUNTY to determine whether such request is appropriate for submission to HUD in the COUNTY'S sole and absolute discretion. In determining whether such request is appropriate for submission to HUD, COUNTY will consider the factors listed in 24 CFR 570.611(d)(2).

F. Prior to the distribution of any CDBG funding under this Supplemental

Agreement, CITY shall provide COUNTY, in writing, a list of all employees, agents, consultants, officers and elected and appointed officials who are in a position to participate in a decision making process, exercise any functions or responsibilities, or gain inside information with respect to the CDBG activities funded under this Agreement. CITY shall also promptly disclose to COUNTY any potential conflict, including even the appearance of conflict that may arise with respect to the CDBG activities funded under this Supplemental Agreement.

G. Any violation of this Section 17 shall be deemed a material breach of this Supplemental Agreement, and the Supplemental Agreement shall be immediately terminated by the COUNTY.

18. LOBBYING. CITY certifies to the best of its knowledge and belief, that:

a. No federally-appropriated funds have been paid or will be paid, by or on behalf of the CITY, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

b. If any funds other than federally-appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the CITY shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

c. CITY shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into.

19. TERMINATION.

A. CITY. CITY may not terminate this Agreement except upon express written

consent of COUNTY, pursuant to 2 CFR 200.339 (a)(3).

B. COUNTY. Notwithstanding the provisions of Paragraph 19a above, COUNTY may suspend or terminate this Supplemental Agreement upon a ten (10) day written notice to CITY of action being taken and the reason for such action including, but not limited to, the following reasons:

(1) In the event CITY fails to perform the covenants herein contained at such times and in such manner as provided in this Supplemental Agreement; and

(2) In the event there is a conflict with any federal, state or local law, ordinance, regulation or rule rendering any of the provisions of this Supplemental Agreement invalid or untenable; or

(3) In the event the funding from the Department of Housing and Urban Development referred to in Sections 1 and 2 above is terminated or otherwise becomes unavailable.

C. This Agreement may be terminated and/or funding suspended, in whole or in part, for cause in accordance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR 200.339). Cause shall be based on the failure of the CITY to materially comply with either the terms or conditions of this Agreement. Upon suspension of funding, the CITY agrees not to incur any costs related thereto, or connected with, any area of conflict from which the COUNTY has determined that suspension of funds is necessary. CITY acknowledges that failure to comply with Federal statutes, regulations, or the terms and conditions of this Agreement may be considered by the COUNTY in evaluating future CDBG and non-CDBG funding applications submitted by CITY.

D. Upon suspension or termination of this Supplemental Agreement, CITY shall return any unencumbered funds which it has been provided by COUNTY. In accepting said funds, COUNTY does not waive any claim or cause of action it may have against CITY for breach of this Supplemental Agreement.

E. Reversion of Assets

1. Upon expiration or termination of this Supplemental Agreement, the CITY shall transfer to the COUNTY any CDBG funds on hand at the time of expiration of the Supplemental Agreement as well as any accounts receivable held by CITY which are attributable to the use of CDBG funds awarded pursuant to this Supplemental Agreement.

2. Any real property under the CITY'S control that was acquired or improved in whole or in part with CDBG funds (including CDBG funds provided to the CITY in the form of a loan) in excess of $25,000 is either:

(i) Used to meet one of the National Objectives pursuant to 24 CFR 570.208 until five years after expiration of this agreement, or for such longer period of time as determined to be appropriate by the COUNTY; or

(ii) Not used in accordance with Clause (i) above, in which event the CITY shall pay the COUNTY an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, or improvement to, the property.

20. PUBLICITY. Any publicity generated by CITY for the Projects funded pursuant to this Supplemental Agreement will make reference to the contribution of the COUNTY, the Department of Housing, and Workforce Solutions, and the Community Development Block Grant Program in making the project possible.

21. PROGRAM MONITORING AND EVALUATION. CITY and its subcontractors shall be monitored and evaluated in terms of its effectiveness and timely compliance with the provisions of this Supplemental Agreement and the effective and efficient achievement of the CDBG National Objectives as set forth in Exhibit(s)A, B, and C, attached hereto. Quarterly reports shall be due on the last day of the month immediately following the end of the quarter being reported. The quarterly written reports shall include, but shall not be limited to, the following data elements:

A. Title of program, listing of components, description of activities/operations.

B. The projected goals, indicated numerically, and also the goals achieved (for each report period). In addition, identify by percentage and description, the progress achieved towards meeting the specified goals and identify any problems encountered in meeting goals.

C. If the CDBG-funded activity meets a National Objective under 24 CFR 570.208 (a)(2)(i), CITY will report the following:

1) Total number of direct beneficiaries (clientele served) with median household incomes (MHI) at:

- Above 80% MHI

- Between 50% and 80% MHI (Low-Income)
- Between 30% and 50% MHI (Very Low-Income)
- Less than 30% MHI (Extremely Low-Income)

2) Total number and percent (%) of the clientele served that have household incomes at or below 80% MHI

3) Racial ethnicity of clientele

4) Number of Female-Headed Households

D. CITY shall report, in writing, and cause its subcontractors to report, in writing, beneficiary statistics monthly to Housing and Workforce Solutions (HWS) on the pre-approved *Direct Benefit Form* and *Self-Certification Form* (certifying income, family size, and racial ethnicity) as required by HUD. Updated forms are to be provided to CITY by HWS should HUD implement changes during the term of this Supplemental Agreement. CITY and subcontractors will collect and provide all necessary data required by HUD pertaining to the Specific Outcome Indicators as identified in HUD's Community Planning and Development (CPD) Outcome Performance Measurement System.

22. PRIOR AUTHORIZATION. CITY shall obtain COUNTY's written approval from HWS prior to implementing the following "high risk" activities funded with CDBG assistance:

A. Construction of public facilities (project plans and specifications);

B. Acquisition of real property;

C. Historic Preservation;

D. Relocation; and

F. Economic Development

23. PRIOR COUNTY APPROVAL (CONSTRUCTION ACTIVITIES). CITY shall obtain COUNTY's written approval, through its HWS, of the project plans, specifications, and construction documents prior to CITY'S construction of same for all projects consisting of CDBG-funded construction activities. The COUNTY neither undertakes nor assumes nor will have any responsibility or duty to CITY or to any third party to review, inspect, supervise, pass judgment upon or inform CITY or any third party of any matter in connection with the development or construction of the improvements, whether regarding the quality, adequacy or suitability of the plans, any labor, service,

equipment or material furnished to the property, any person furnishing the same, or otherwise. CITY and all third parties shall rely upon its or their own judgment regarding such matters, and any review, inspection, supervision, exercise of judgment or information supplied to CITY or to any third party by the COUNTY in connection with such matter is for the public purpose of assisting with a community development and housing activity pursuant to the Act, and neither CITY (except for the purposes set forth in this Agreement) nor any third party is entitled to rely thereon. The COUNTY shall not be responsible for any of the work of construction, improvement, or development of the property.

It is the responsibility of CITY, without cost to COUNTY, to ensure that all applicable local jurisdiction land use requirements will permit development of the property and construction of the improvements and the use, operation, and maintenance of such Improvements in accordance with the provisions of this Agreement. Nothing contained herein shall be deemed to entitle Sponsor to any local jurisdiction or County permit or other local jurisdiction or County approval necessary for the development of the Property, or waive any applicable local jurisdiction or County requirements relating thereto. This Agreement does not (a) grant any land use entitlement to CITY, (b) supersede, nullify, or amend any condition which may be imposed by the local jurisdiction in connection with approval of the development described herein, (c) guarantee to CITY or any other party any profits from the development of the Property, or (d) amend any local jurisdiction or County laws, codes or rules.

City agrees and acknowledges that it is the responsibility of City to obtain a legal determination at City's sole cost and expense, as to whether prevailing wages must be paid during construction of the Project. If the Project is subject to prevailing wages, then City shall be solely responsible to pay its contractors and subcontractors the required prevailing wage rate. City agrees to indemnify, defend, and hold County harmless from and against any liability arising out of and related to City's failure to comply with any and all Davis Bacon and or prevailing wage requirements.

24. PRIOR COUNTY APPROVAL (AQUISITION ACTIVITIES). CITY shall obtain COUNTY's written approval and authorization to proceed, through HWS, of all CDBG-funded real

property acquisition activities.

25. REAL PROPERTY ACQUIRED OR PUBLIC FACILITY CONSTRUCTED WITH CDBG FUNDS. When CDBG funds are used, in whole or in part, by CITY to acquire real property or to construct a public facility, CITY will comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Section 200.311); National Environmental Policy Act of 1969 (42 U.S.C.A. §4321, et seq.); the California Environmental Quality Act (Cal. Pub. Resources Code §21000, et seq.); the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C.A. §4630, et seq.); and the COUNTY's Five Year Consolidated Plan. In addition, the following is to occur:

a. Title to the real property shall vest in CITY;

b. The real property will be held by CITY, or the constructed facility will be maintained by the CITY, for a minimum period of five (5) years from the date the CDBG-funded activity is closed-out and reported as complete by the COUNTY through the Comprehensive Annual Performance and Evaluation Report (CAPER);

c. While held by CITY, the real property or the constructed facility is to be used exclusively for the purposes for which acquisition or construction was originally approved by COUNTY;

d. Written approval from COUNTY must be secured if the property or the facility is to be put to an alternate use that is consistent with the COUNTY'S Five-Year Consolidated Plan or the applicable federal regulations governing CDBG funds;

e. Should CITY desire to use the real property or the constructed facility, prior to the completion of the mandatory five-year period, for a purpose not consistent with applicable federal regulations governing CDBG funds or to sell the real property or facility, then:

(1) If CITY desires to retain title, CITY will reimburse COUNTY the amount that represents the percentage of current fair market value that is identical to the percentage that CDBG funds initially comprised of monies paid to acquire the property or construct the facility; or

(2) If CITY sells the property or facility or is required to sell the property or

facility, CITY shall reimburse COUNTY the amount that represents the percentage of proceeds realized by the sale that is identical to the percentage that CDBG funds initially comprised of monies paid to acquire the property or construct the facility. This percentage amount will be calculated after deducting all actual and reasonable cost of sale from the sale proceeds.

26. ENTIRE AGREEMENT. This Supplemental Agreement, including any attachments or exhibits hereto constitutes the entire Supplemental Agreement of the parties with respect to its subject matter and supersedes all prior and contemporaneous representations, proposals, discussions and communications, whether oral or in writing. No oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto. Each of the attachments and exhibits attached hereto is incorporated herein by this reference.

27. SEVERABILITY. Each section, paragraph and provision of this Supplemental Agreement is severable from each other provision, and if any provision or part thereof is declared invalid, the remaining provisions shall remain in full force and effect.

28. EMPLOYMENT OPPORTUNITIES TO BE CAUSED BY PROJECT. CITY agrees to notify in writing, and to cause any subcontractor implementing CDBG-funded Projects to notify, in writing, the Riverside County Workforce Development Center of any and all job openings that are caused by the CDBG-funded Projects under this Supplemental Agreement.

29. MINISTERIAL ACTS. The Director of Housing and Workforce Solutions or designee(s) are authorized to take such ministerial actions as may be necessary or appropriate to implement the terms, provisions, and conditions of this Supplemental Agreement as it may be amended from time-to-time by COUNTY.

30. PROJECT ELIGIBILITY. As to CITY or its claimants, COUNTY shall bear no liability for any later determination by the United States Government, the U.S. Department of Housing and Urban Development, or any other person or entity that CITY is or is not eligible under 24 CFR Part 570 to receive CDBG entitlement funds from the COUNTY.

31. SOURCE OF FUNDING. CITY acknowledges that the source of funding pursuant to this Supplemental Agreement is Community Development Block Grant funds (CFDA 14.218), and the Grant Award Number is B-24-UC-06-0506.

32. ASSIGNMENT. The CITY shall not make any assignment or transfer in any form with respect to this Supplemental Agreement, without prior written approval of the COUNTY.

33. INTERPRETATION AND GOVERNING LAW. This Supplemental Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California. This Supplemental Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Supplemental Agreement, all parties having been represented by counsel in the negotiation and preparation hereof.

34. WAIVER. Failure by a party to insist upon the strict performance of any of the provisions of this Supplemental Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's rights to insist and demand strict compliance by the other party with the terms of this Supplemental Agreement thereafter.

35. JURISDICTION AND VENUE: Any action at law or in equity arising under this Supplemental Agreement or brought by a party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Supplemental Agreement shall be filed only in the Superior Court of the State of California, located in Riverside, California, and the parties hereto waive all provisions of law providing for the filing, removal or change of venue to any other court or jurisdiction

36. USE OF PROPERTY. Whenever federal CDBG funds or program income are used, in whole or in part, for the purchase of equipment or personal property, the property shall not be transferred from its originally funded use, by CITY or the CITY'S subcontractor implementing the CDBG-funded activity, for a period of five (5) years from the close-out date of the grant from which CDBG assistance was provided. The CITY shall maintain a current inventory for COUNTY monitoring and review.

37. AUTHORITY TO EXECUTE. The persons executing this Supplemental Agreement or exhibits attached hereto on behalf of the parties to this Supplemental Agreement hereby warrant and represent that they have the authority to execute this Supplemental Agreement and warrant and represent that they have the authority to bind the respective parties to this Supplemental Agreement to the performance of its obligations hereunder.

38. EFFECTIVE DATE. The effective date of this Supplemental Agreement is the date the

parties sign the Supplemental Agreement. If the parties sign the Supplemental Agreement on more than one date, then the last date the Supplemental Agreement is signed by a party shall be the effective date.

39. COUNTERPARTS. This Supplemental Agreement may be signed by the different parties hereto in counterparts, each of which shall be an original but all of which together shall constitute one and the same agreement.

40. FORCE MAJEURE.

A. Performance by either party hereunder shall not be deemed to be in default where delays or defaults are due to war, insurrection, strikes, lock-outs, riots, floods, earthquakes, fires, casualties, acts of God, acts of the public enemy, epidemics, pandemic, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions or priority, litigation, unusually severe weather, inability to secure necessary labor, material or tools, delays of any contractor, sub-contractor or supplier, acts of the other party, acts or failure to act of a public or governmental agency or entity, or any causes beyond the control or without the fault of the party claiming an extension of time to perform.

B. An extension of time for any such cause (a "Force Majeure Delay") shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other party within thirty (30) calendar days of knowledge of the commencement of the cause. Notwithstanding the foregoing, none of the foregoing events shall constitute a Force Majeure Delay unless and until the party claiming such delay and interference delivers to the other party written notice describing the event, its cause, when and how such party obtained knowledge, the date the event commenced, and the estimated delay resulting therefrom. Any party claiming a Force Majeure Delay shall deliver such written notice within thirty (30) calendar days after it obtains knowledge of the event.

41. MODIFICATION OF AGREEMENT. This Supplemental Agreement may be modified or amended only by a writing signed by the duly authorized and empowered representative of COUNTY and CITY respectively.

42. DIGITAL AND ELECTRONIC SIGNATURES. The parties agrees to the use of electronic signatures, such as digital signatures that meet the requirements of the California Uniform Electronic Transactions Act (("CUETA") Cal. Civ. Code §§ 1633.1 to 1633.17). The parties further agree that the

electronic signatures of the parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic signature means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record pursuant to CUETA as amended from time to time. Digital signature means an electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature, and shall be reasonably relied upon by the parties. For purposes of this section, a digital signature is a type of "electronic signature" as defined in subdivision (i) of Section 1633.2 of the Civil Code.

[Remainder of Page Intentionally Blank]

[Signatures on Following Page]

IN WITNESS WHEREOF, the COUNTY and the CITY have executed this Agreement as of the dates set forth below.

COUNTY OF RIVERSIDE,
a political subdivision of the
State of California

BY: _____
Juan Garcia,
Deputy Director

Date: _____

APPROVED AS TO FORM:

MINH C. TRAN

COUNTY COUNSEL

By: _____
Paula S. Salcido,
Deputy County Counsel

CITY OF BANNING,
A general law city

BY: _____
Name:

Title:

Date: _____

ATTEST:

BY: _____
City Clerk

APPROVED AS TO FORM:

BY: _____
City Attorney

EXHIBIT A
File No.: 5.BN.61-24

SUPPLEMENTAL AGREEMENT
SCOPE OF WORK
(NON-PUBLIC SERVICE)

I. GENERAL INFORMATION

CITY NAME: City of Banning UEI #: F996EVLCRCG3

ADDRESS: PO Box 998

Banning, CA 92220

PROGRAM CONTACTS: Ralph Wright, Parks and Recreation Director

PHONE: 951-922-3242 FAX:

E-MAIL: rwright@banningca.gov

PROJECT NAME: Banning Senior Center ADA Improvements Project

PROJECT LOCATION: 769 North San Gorgonio, Banning, CA 92220

LEVEL OF ENVIRONMENTAL CLEARANCE: §58.35(a)(2)

CDBG ELIGIBILITY CODE: 570.201 (c)

PROJECT FUNDING SUMMARY: **$43,144**

Project to be administered by County (HWS) on behalf of City: YES ☐ NO ☒

II. SCOPE OF SERVICE

A. Activities

City will be responsible for administering a **2024-2025** Community Development Block Grant for the **Banning Senior Center ADA Improvements Project** in a manner satisfactory to the County of Riverside and consistent with any standards required as a condition of providing these funds. Such program will include the following activities eligible under the Community Development Block Grant program:

Activity #1 *The City of Banning will use CDBG funding for costs associated with ADA improvements to the Senior Center, outlined in a CASP Report. Improvements include but are not limited to rehabilitating existing restrooms for ADA compliance. CDBG funds will be used for design, construction, project management, compliance monitoring, inspection, and other related costs. Banning Senior Center ADA Improvements Project*

B. National Objective

All activities funded with CDBG funds must comply with one of more of the CDBG program's National Objective Criteria as required under 24 CFR 570.200(a)(2). City certifies that the activity(ies) carried out under this Agreement will meet the following National Objective:

National Objective Criteria: 570.208 (a)(2)(i)(A)

CFR Reference: Low Mod Limited Clientele Presumed

C. Levels of Accomplishment – Goals and Performance Measures

The City agrees to implement and complete the following activity(ies):

Activity #1: *Complete ADA improvements*

Activity #2: *Design, construction, project management, compliance monitoring, inspection, and other related expenses.*

CPD OUTCOME PERFORMANCE MEASUREMENT

Objectives (select one):
- ☒ Creating Suitable Living Environments
- ☐ Providing Decent Affordable Housing
- ☐ Creating Economic Opportunities

Outcome (select one):
- ☒ Availability/Accessibility
- ☐ Affordability
- ☐ Sustainability (promoting livable or viable communities)

D. City Capacity

By executing this Supplemental Agreement, the City certifies that it has the appropriate number of trained and knowledgeable staff, adequate facilities, proper equipment, required licensing and permitting, and sufficient amount of financial resources necessary to implement and carry out the activities funded with CDBG funds.

City will immediately notify County of any significant changes in organizational management, assigned staff, change in facilities, loss or change in matching funds, or any other event that could potentially impact the City or subrecipient's performance under this Agreement.

Any changes in the above items are subject to the prior approval of the County.

E. Performance Monitoring

The County of Riverside will monitor the performance of the City and its subrecipients against goals and performance standards as stated above. Substandard performance as determined by the

County will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by the City within a reasonable period of time after being notified by the County, contract suspension or termination procedures will be initiated.

F. Program Budget

It is expressly agreed and understood that the total amount to be paid by the County under this Agreement shall not exceed **$43,144** Drawdowns for the payment of eligible expenses shall be made against the line item budgets specified in this Section and in accordance with performance. Payments may be contingent upon certification of the Subrecipient's financial management system in accordance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200).

The County may require a more detailed budget breakdown than the one contained herein, and the City shall provide such supplementary budget information in a timely fashion in the form and content prescribed by the County. Any amendments to the budget must be approved in writing by both the County and City.

Line Item	CDBG Granted Funds	Total of Non-CDBG Funds	Total Activity/Project Budget	Notes
Design/Engineering Costs	X			
Project Administration Costs	X			
Construction Costs	X			
Acquisition Costs				
Relocations Costs				
Capital Equipment Costs				
Code Enforcement				
Clearance				
Interim Assistance				
Indirect Costs:				
TOTAL CDBG BUDGET	**$43,144**		$43,144	

G. Total Amount of Non- CDBG Leveraging

TYPE	SOURCE	AMOUNT	SOURCE	AMOUNT	SOURCE	AMOUNT	TOTAL
FEDERAL							
STATE/LOCAL							
PRIVATE							
OTHER							

TOTAL: $0

III. ADMINISTRATIVE REQUIREMENTS

A. Accounting Standards

The City agrees to comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200) and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

B. Cost Principles

The City shall administer its program in conformance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200). These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

C. Documentation and Record Keeping

1. Records to be Maintained

The Subrecipient shall maintain all records required by the Federal regulations specified in 24 CFR 570.506 that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

I Records providing a full description of each activity undertaken;
ii. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;
iii. Records required to determine the eligibility of activities;
iv. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
v. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
vi. Financial records as required by 24 CFR 570.502, and 2 CFR 200; and
vii. Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

2. Records Retention

The City shall retain all CDBG-related financial records, supporting documents, contracts, and agreements for a period of four (4) years. The retention period begins on the date of the submission of the County's annual performance and evaluation report to HUD in which the activities assisted under the Agreement are reported for the final time. The City will retain all National Objective documentation, including low-moderate income certification, ethnicity, and other pertinent data for a period of four (4) years after submission of the County's annual performance and evaluation report to HUD. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the four-year period, then such records must be retained until completion of the actions and resolution of all issues.

3. Client Data

The City shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to County monitors or their designees for review upon request.

4. Disclosure

The City understands that client information collected under this contract is private and the use or disclosure of such information, when not directly connected with the administration of the County's or City's responsibilities with respect to services provided under this contract, is prohibited by applicable federal and State law unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

5. Close-outs

The City's obligation to the County shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the County), and determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the City has control over CDBG funds, including program income.

6. Audits & Inspections

All City records with respect to any matters covered by this Agreement shall be made available to the County, HUD, and the Controller General of the United States or any of their authorized representatives, at any time during normal business hours, as often as deemed necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the City within 30 days after receipt by the City. Failure of the City to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments. The City hereby agrees to have an annual agency audit conducted in accordance with current County policy concerning subrecipient audits the Single Audit Act, and the Office of Management and Budget (OMB) Title 2 U.S. Code of Federal Regulations (CFR) Part 200, Uniform Administrative Requirements, Costs Principles, and Audit Requirements for Federal Awards (Uniform Guidance).

IV. PROJECT IMPLEMENTATION AND SCHEDULE

Unless pre-approved by County, City will perform and complete the activities described in Section II in conformance with the schedule of tasks and milestones listed below:

Tasks / Milestone	**Start Date**	**Completion Date**
Complete CDBG Training	September 2024	September 2024
Implement Project Activities	Upon Notification from HWS	
Execute Supplemental Agreement & Notice to Incur Cost	September 2024	January 2025
Tasks / Milestone	**Start Date**	**Completion Date**
Submit Quarterly Performance Reports to County	October 2024 Through	June 2025
County Monitoring of City Program/Performance	To be determined by Program Manager	

Specific Project Activities

1. City executes Supplemental Agreement; receives Authorization to Incur Cost letter
2. City prepares final construction documents (incorporating Special Federal Provisions) for HWS review and approval
3. HWS authorizes City to advertise for bids
4. HWS reviews and approves bidding process
5. City awards construction contract
6. City and HWS conduct "pre-construction meeting"
7. HWS authorizes City to issue "Notice to Proceed"

City Submits Reimbursement Requests Monthly Submittal ☐ Other Schedule ☒ **To be determined by CDBG Program manager**

CDBG-funded Project Complete June 30, 2025

V. SPECIAL CONDITIONS /PERFORMANCE REQUIREMENTS

The City must follow proper procurement and construction policies and procedures of the City and CDBG regulations. Construction shall commence using CDBG funding with a Notice to Proceed. A pre-bid and pre-construction meeting are required. The City must contact the CDBG Program Manager for review before submitting RFP, construction activity, or cost without prior written approval. The County must be contacted 10 (ten) days in advance for attendance of the Pre-Construction meeting. Original signed Certified payrolls are to be submitted on a weekly basis to the HWS-CDBG program manager once construction starts.

EXHIBIT B
File No.: 5.BN.62-24

SUPPLEMENTAL AGREEMENT
SCOPE OF WORK
(NON-PUBLIC SERVICE)

I. GENERAL INFORMATION

CITY NAME: City of Banning UEI #: F996EVLCRCG3

ADDRESS: PO Box 998

Banning, CA 92220

PROGRAM CONTACTS: Ralph Wright, Parks and Recreation Director

PHONE: 951-922-3242 FAX:

E-MAIL: rwright@banningca.gov

PROJECT NAME: Dysart Park Improvement Project

PROJECT LOCATION: 2101 West Victory Avenue, Banning, CA 92220

LEVEL OF ENVIRONMENTAL CLEARANCE: §58.35(3)(iii)(A)

CDBG ELIGIBILITY CODE: 570.201 (c)

PROJECT FUNDING SUMMARY: **$105,000**

Project to be administered by County (HWS) on behalf of City: YES ☐ NO ☒

II. SCOPE OF SERVICE

A. Activities

City will be responsible for administering a **2024-2025** Community Development Block Grant for the **Dysart Park Improvement Project** in a manner satisfactory to the County of Riverside and consistent with any standards required as a condition of providing these funds. Such program will include the following activities eligible under the Community Development Block Grant program:

Activity #1 *The City of Banning will use CDBG funding for design and construction of improvements at Dysart Park. Improvements will include, restrooms but are not limited to replacing temporary bleachers with permanent bleachers and constructing meeting rooms, restrooms, and concessions. CDBG funds will be used for design, construction, project management, compliance monitoring, inspection, and other related costs.*

B. National Objective

All activities funded with CDBG funds must comply with one of more of the CDBG program's National Objective Criteria as required under 24 CFR 570.200(a)(2). City certifies that the activity(ies) carried out under this Agreement will meet the following National Objective:

National Objective Criteria: 570.208 (a)(1)(i)

CFR Reference: Low Mod Area

C. Levels of Accomplishment – Goals and Performance Measures

The City agrees to implement and complete the following activity(ies):

Activity #1: *Complete park improvements*

Activity #2: *Design, construction, project management, compliance monitoring, inspection, and other related expenses.*

CPD OUTCOME PERFORMANCE MEASUREMENT

Objectives (select one):
- ☒ Creating Suitable Living Environments
- ☐ Providing Decent Affordable Housing
- ☐ Creating Economic Opportunities

Outcome (select one):
- ☐ Availability/Accessibility
- ☐ Affordability
- ☒ Sustainability (promoting livable or viable communities)

D. City Capacity

By executing this Supplemental Agreement, the City certifies that it has the appropriate number of trained and knowledgeable staff, adequate facilities, proper equipment, required licensing and permitting, and sufficient amount of financial resources necessary to implement and carry out the activities funded with CDBG funds.

City will immediately notify County of any significant changes in organizational management, assigned staff, change in facilities, loss or change in matching funds, or any other event that could potentially impact the City or subrecipient's performance under this Agreement.

Any changes in the above items are subject to the prior approval of the County.

E. Performance Monitoring

The County of Riverside will monitor the performance of the City and its subrecipients against goals and performance standards as stated above. Substandard performance as determined by the

County will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by the City within a reasonable period of time after being notified by the County, contract suspension or termination procedures will be initiated.

F. Program Budget

It is expressly agreed and understood that the total amount to be paid by the County under this Agreement shall not exceed **$105,000** Drawdowns for the payment of eligible expenses shall be made against the line item budgets specified in this Section and in accordance with performance. Payments may be contingent upon certification of the Subrecipient's financial management system in accordance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200).

The County may require a more detailed budget breakdown than the one contained herein, and the City shall provide such supplementary budget information in a timely fashion in the form and content prescribed by the County. Any amendments to the budget must be approved in writing by both the County and City.

Line Item	CDBG Granted Funds	Total of Non-CDBG Funds	Total Activity/Project Budget	Notes
Design/Engineering Costs	X	$0		
Project Administration Costs	X			
Construction Costs	X			
Acquisition Costs				
Relocations Costs				
Capital Equipment Costs				
Code Enforcement				
Clearance				
Interim Assistance				
Indirect Costs:				
TOTAL CDBG BUDGET	**$105,000**	**$0**	**$105,000**	

G. Total Amount of Non- CDBG Leveraging

TYPE	SOURCE	AMOUNT	SOURCE	AMOUNT	SOURCE	AMOUNT	TOTAL
FEDERAL							
STATE/LOCAL							
PRIVATE							
OTHER							

TOTAL: $0

III. ADMINISTRATIVE REQUIREMENTS

A. Accounting Standards

The City agrees to comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200) and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

B. Cost Principles

The City shall administer its program in conformance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200). These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

C. Documentation and Record Keeping

1. Records to be Maintained

The Subrecipient shall maintain all records required by the Federal regulations specified in 24 CFR 570.506 that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

I Records providing a full description of each activity undertaken;
ii. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;
iii. Records required to determine the eligibility of activities;
iv. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
v. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
vi. Financial records as required by 24 CFR 570.502, and 2 CFR 200; and
vii. Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

2. Records Retention

The City shall retain all CDBG-related financial records, supporting documents, contracts, and agreements for a period of four (4) years. The retention period begins on the date of the submission of the County's annual performance and evaluation report to HUD in which the activities assisted under the Agreement are reported for the final time. The City will retain all National Objective documentation, including low-moderate income certification, ethnicity, and other pertinent data for a period of four (4) years after submission of the County's annual performance and evaluation report to HUD. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the four-year period, then such records must be retained until completion of the actions and resolution of all issues.

3. Client Data

The City shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to County monitors or their designees for review upon request.

4. Disclosure

The City understands that client information collected under this contract is private and the use or disclosure of such information, when not directly connected with the administration of the County's or City's responsibilities with respect to services provided under this contract, is prohibited by applicable federal and State law unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

5. Close-outs

The City's obligation to the County shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the County), and determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the City has control over CDBG funds, including program income.

6. Audits & Inspections

All City records with respect to any matters covered by this Agreement shall be made available to the County, HUD, and the Controller General of the United States or any of their authorized representatives, at any time during normal business hours, as often as deemed necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the City within 30 days after receipt by the City. Failure of the City to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments. The City hereby agrees to have an annual agency audit conducted in accordance with current County policy concerning subrecipient audits the Single Audit Act, and the Office of Management and Budget (OMB) Title 2 U.S. Code of Federal Regulations (CFR) Part 200, Uniform Administrative Requirements, Costs Principles, and Audit Requirements for Federal Awards (Uniform Guidance).

EXHIBIT B
File No.: 5.BN.62-24

IV. PROJECT IMPLEMENTATION AND SCHEDULE

Unless pre-approved by County, City will perform and complete the activities described in Section II in conformance with the schedule of tasks and milestones listed below:

Tasks / Milestone	**Start Date**	**Completion Date**
Complete CDBG Training	September 2024	September 2024
Implement Project Activities	Upon Notification from HWS	
Execute Supplemental Agreement & Notice to Incur Cost	September 2024	January 2025
Tasks / Milestone	**Start Date**	**Completion Date**
Submit Quarterly Performance Reports to County	October 2024 Through	June 2025
County Monitoring of City Program/Performance	To be determined by Program Manager	

Specific Project Activities

1. City executes Supplemental Agreement; receives Authorization to Incur Cost letter
2. City prepares final construction documents (incorporating Special Federal Provisions) for HWS review and approval
3. HWS authorizes City to advertise for bids
4. HWS reviews and approves bidding process
5. City awards construction contract
6. City and HWS conduct "pre-construction meeting"
7. HWS authorizes City to issue "Notice to Proceed"

City Submits Reimbursement Requests Monthly Submittal ☐ Other Schedule ☒ **To be determined by CDBG Program manager**

CDBG-funded Project Complete June 30, 2025

V. SPECIAL CONDITIONS /PERFORMANCE REQUIREMENTS

The City must follow proper procurement and construction policies and procedures of the City and CDBG regulations. Construction shall commence using CDBG funding with a Notice to Proceed. A pre-bid and pre-construction meeting are required. The City must contact the CDBG Program Manager for review before submitting RFP, construction activity, or cost without prior written approval. The County must be contacted 10 (ten) days in advance for attendance of the Pre-Construction meeting. Original signed Certified payrolls are to be submitted on a weekly basis to the HWS-CDBG program manager once construction starts.

SUPPLEMENTAL AGREEMENT
SCOPE OF WORK
(PUBLIC SERVICE)

I. GENERAL INFORMATION

CITY NAME: City of Banning UEI#: F996EVLCRCG3

ADDRESS: PO Box 998

Banning, CA 92220

CITY PROGRAM CONTACTS: Mike Story, Executive Director

SUBRECIPIENT NAME: Sunrise Life Development

ADDRESS: PO Box 998, Banning, CA 92220

PHONE: 909-875-5566 FAX :

E-MAIL: mstory@sunrisechurch.org

PROJECT NAME: Banning Peace Center Food Program

PROJECT LOCATION: 4024 West Wilson Street, Banning, CA 92220

LEVEL OF ENVIRONMENTAL CLEARANCE: **EXEMPT [24 CFR 58.34 (a)(4)]**

CDBG ELIGIBILITY CODE: **24 CFR 570.201 (e) Public Services**

PROJECT FUNDING SUMMARY: $11,264

Project to be administered by County (HWS) on behalf of CITY: YES ☐ NO ☒

II. SCOPE OF SERVICE

A. Activities

City will be responsible for administering a **2024-2025** Community Development Block Grant for the **Banning Peace Center Food Program** in a manner satisfactory to the County of Riverside and consistent with any standards required as a condition of providing these funds. Such program will include the following activities eligible under the Community Development Block Grant program:

Activity #1 *Banning Peace Food Center provides emergency assistance to low to moderate-income clients. Clients are assisted with emergency relief food boxes, baby items, and senior products. CDBG funds will be used to purchase food, supplies, and other program-related expenses.*

B. National Objective

All activities funded with CDBG funds must comply with one of more of the CDBG program's National Objective Criteria as required under 24 CFR 570.200(a)(2). CITY certifies that the activity (ies) carried out under this Agreement will meet the following National Objective:

National Objective Criteria: 570.208 (a)(2)(i)(B)

CFR Reference: Low Mod Limited Clientele Income Certification

C. Levels of Accomplishment – Goals and Performance Measures

The City agrees to provide the following levels of program services:

Activity	Units per Month	Total Units/Year	Total *Unduplicated Persons*
		600	*600*

Unit of Service is defined as: *Persons Served*

CPD OUTCOME PERFORMANCE MEASUREMENT

Objectives (select one):
- ☒ Creating Suitable Living Environments
- ☐ Providing Decent Affordable Housing
- ☐ Creating Economic Opportunities

Outcome (select one):
- ☒ Availability/Accessibility
- ☐ Affordability
- ☐ Sustainability (promoting livable or viable communities)

D. City Capacity

By executing this Supplemental Agreement, the City certifies that it and its subrecipients have the appropriate number of trained and knowledgeable staff, adequate facilities, proper equipment, required licensing and permitting, and sufficient amount of financial resources necessary to implement and carry out the activities funded with CDBG funds.

City will immediately notify County of any significant changes in organizational management, assigned staff, change in facilities, loss or change in matching funds, or any other event that could potentially impact City's performance under this Agreement. Any changes in the above items are subject to the prior approval of the County.

E. Performance Monitoring

The County of Riverside will monitor the performance of the City and its subrecipients against goals and performance standards as stated above. Substandard performance as determined by the County will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by the City within a reasonable period of time after being notified by the County, contract suspension or termination procedures will be initiated.

F. Program Budget

It is expressly agreed and understood that the total amount to be paid by the County under this Agreement shall not exceed **$11,264**. Drawdowns for the payment of eligible expenses shall be made against the line item budgets specified in this Section and in accordance with performance. Payments may be contingent upon certification of the Subrecipient's financial management system in accordance with the standards specified in Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200).

The County may require a more detailed budget breakdown than the one contained herein, and the City shall provide such supplementary budget information in a timely fashion in the form and content prescribed by the County. Any amendments to the budget must be approved in writing by both the County and City.

Line Item	CDBG Granted Funds	Total Non-CDBG Funds	Total Activity/Project Budget	Notes
Total Direct Program Expenses Salaries Fringe Office Space (Program Only) Utilities Communications Reproduction/Printing Supplies and Materials Mileage Equipment (Program Only) Audit Transportation Other:	**$ 11,264**		*$11,264*	
Total Indirect Program Expenses Indirect Costs (Specify)*	**$**			
TOTAL CDBG BUDGET	**$11,264**		$11,264	

* **All indirect costs must be pre-approved by the County. City must submit an Indirect Cost Allocation Plan to County, in a form specified by County, demonstrating the appropriate share of general and administrative costs.**

G. Total Amount of Non- CDBG Leveraging

TYPE	SOURCE	AMOUNT	SOURCE	AMOUNT	SOURCE	AMOUNT	TOTAL
FEDERAL							
STATE/LOCAL							
PRIVATE							
OTHER							

TOTAL: $0

III. ADMINISTRATIVE REQUIREMENTS

A. Accounting Standards

The City agrees to comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200), and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

B. Cost Principles

The City shall administer its program in conformance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200). These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

C. Documentation and Record Keeping

1. Records to be Maintained.

The City and its subrecipients will maintain all records required by the Federal regulations specified in 24 CFR 570.506, that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

i Records providing a full description of each activity undertaken;
ii. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;
iii. Records required to determine the eligibility of activities;
iv. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
v. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
vi. Financial records as required by 24 CFR 570.502, and 2 CFR 200; and
vii. Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

2. Records Retention:

The City shall retain all CDBG-related financial records, supporting documents, contracts, and agreements for a period of four (4) years. The retention period begins on the date of the submission of the County's annual performance and evaluation report to HUD in which the activities assisted under the Agreement are reported for the final time. The City will retain all National Objective documentation, including low-moderate income certification, ethnicity, and other pertinent data for a period of four (4) years after submission of the County's annual performance and evaluation report to HUD. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the four-year period, then such records must be retained until completion of the actions and resolution of all issues.

3. Client Data:

The City shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to County monitors or their designees for review upon request.

4. Disclosure:

The City understands that client information collected under this contract is private and the use or disclosure of such information, when not directly connected with the administration of the County's or City's responsibilities with respect to services provided under this contract, is prohibited by applicable federal and State law unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

5. Close-outs:

The City's obligation to the County shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the County), and determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the City has control over CDBG funds, including program income.

6. Audits & Inspections:

All City records with respect to any matters covered by this Agreement shall be made available to the County, HUD, and the Controller General of the United States or any of their authorized representatives, at any time during normal business hours, as often as deemed necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the City within 30 days after receipt by the City. Failure of the City to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments. The City hereby agrees to have an annual agency audit conducted in accordance with current County policy concerning subrecipient audits, the Single Audit Act, and the Office of Management and Budget (OMB) Title 2 U.S. Code of Federal Regulations (CFR) Part 200, Uniform Administrative Requirements, Costs Principles, and Audit Requirements for Federal Awards (Uniform Guidance).

IV. PROJECT IMPLEMENTATION AND SCHEDULE

Unless pre-approved by County, CITY will perform and complete the activities described in Section II in conformance with the schedule of tasks and milestones listed below:

Tasks / Milestone	Start Date	Completion Date
Complete Sponsor Training	September 2024	September 2024
Implement Program Activities	August 1, 2024	March 28, 2025
Execute Sponsor's Agreement & Notice to Incur Cost [1]	September 2024	December 2024
Sponsor Submits Quarterly Performance Reports to County	October 2024	March 28, 2025[2]
Sponsor Submits Monthly Direct Benefit Reports	October 2024	March 28, 2025 [3]
Sponsor Submits Reimbursement Requests	October 2024	March 28, 2025[4]

[1] **The Notice to Incur Cost Letter will provide the specific program implementation date for this CDBG-funded activity.**

[2, 3, 4] **Submittal of required documentation is determined by the specific benefit period of the CDBG-funded activity. Confirm performance requirements with CDBG Program Manager.**

CDBG Program Services Complete March 28, 2025

V. SPECIAL CONDITIONS /PERFORMANCE REQUIREMENTS

Sponsor must collect Self-Certifications with supporting income documents and demographic information from **EVERY individual or family participating in CDBG-funded activities or the parent/legal guardian of every child participating in CDBG-funded activities.** This includes family income, family size, and race. Sponsor is required to submit the 1st 200 Self- Certifications forms with supporting documentation, and 25% thereafter to HWS along with the Direct Benefit Reports on a monthly basis unless otherwise authorized in writing by CDBG program staff.

Once the Notice to Incur Cost letter is received, sponsor must submit monthly reimbursement requests unless another schedule is approved, in writing, by HWS. Further, at least 75% of all 2024-25 CDBG funds must be drawn down by January 10, 2025, and 100% of all 2024-25 CDBG funds must be drawn down by March 28, 2025.

EXHIBIT "S"

Economic Opportunities for Low- and Very Low-Income Persons
CONTRACT REQUIREMENTS
24 CFR Part 75

RIVERSIDE COUNTY

Section 75.1 Purpose

This part establishes the requirements to be followed to ensure the objectives of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Section 3) are met. The purpose of Section 3 is to ensure that economic opportunities, most importantly employment, generated by certain HUD financial assistance shall be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing or residents of the community in which the Federal assistance is spent.

Section 75.3 Applicability

(a) General applicability. Section 3 applies to public housing financial assistance and Section 3 projects, as follows:

(1) Public housing financial assistance. Public housing financial assistance means:

(i) Development assistance provided pursuant to section 5 of the United States Housing Act of 1937 (the 1937 Act);

(ii) Operations and management assistance provided pursuant to section 9(e) of the 1937 Act;

(iii) Development, modernization, and management assistance provided pursuant to section 9(d) of the 1937 Act; and

(iv) The entirety of a mixed-finance development project as described in 24 CFR 905.604, regardless of whether the project is fully or partially assisted with public housing financial assistance as defined in paragraphs (a)(1)(i) through (iii) of this section.

(2) Section 3 projects. (i) Section 3 projects means housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance when the total amount of assistance to the project exceeds a threshold of $200,000. The threshold is $100,000 where the assistance is from the Lead Hazard Control and Healthy Homes programs, as authorized by Sections 501 or 502 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z-1 or 1701z-2), the Lead-Based Paint Poisoning Prevention Act (42 U.S.C 4801 et seq.); and the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851 et seq.). The project is the site or sites together with any building(s) and improvements located on the site(s) that are under common ownership, management, and financing.

(ii) The Secretary must update the thresholds provided in paragraph (a)(2)(i) of this section not less than once every 5 years based on a national construction cost inflation factor through Federal Register notice not subject to public comment. When the Secretary finds it is warranted to ensure compliance with Section 3, the Secretary may adjust, regardless of the national construction cost factor, such thresholds through Federal Register notice, subject to public comment.

(iii) The requirements in this part apply to an entire Section 3 project, regardless of whether the project is fully or partially assisted under HUD programs that provide housing and community development financial assistance.

(b) Contracts for materials. Section 3 requirements do not apply to material supply contracts.

(c) Indian and Tribal preferences. Contracts, subcontracts, grants, or subgrants subject to Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5307(b)) or subject to tribal preference requirements as authorized under 101(k) of the Native American Housing Assistance and Self-Determination Act (25 U.S.C. 4111(k)) must provide preferences in employment, training, and business opportunities to Indians and Indian organizations, and are therefore not subject to the requirements of this part.

(d) Other HUD assistance and other Federal assistance. Recipients that are not subject to Section 3 are encouraged to consider ways to support the purpose of Section 3.

Section 75. 5 Definitions.

The terms HUD, Public housing, and Public Housing Agency (PHA) are defined in 24 CFR part 5. The following definitions also apply to this part:

1937 Act means the United States Housing Act of 1937, 42 U.S.C. 1437 et seq.

Contractor means any entity entering into a contract with:

(1) A recipient to perform work in connection with the expenditure of public housing financial assistance or for work in connection with a Section 3 project; or

(2) A subrecipient for work in connection with a Section 3 project.

Labor hours means the number of paid hours worked by persons on a Section 3 project or by persons employed with funds that include public housing financial assistance.

Low-income person means a person as defined in Section 3(b)(2) of the 1937 Act.

Material supply contracts means contracts for the purchase of products and materials, including, but not limited to, lumber, drywall, wiring, concrete, pipes, toilets, sinks, carpets, and office supplies.

Professional services means non-construction services that require an advanced degree or professional licensing, including, but not limited to, contracts for legal services, financial

consulting, accounting services, environmental assessment, architectural services, and civil engineering services.

Public housing financial assistance means assistance as defined in §75.3(a)(1).

Public housing project is defined in 24 CFR 905.108.

Recipient means any entity that receives directly from HUD public housing financial assistance or housing and community development assistance that funds Section 3 projects, including, but not limited to, any State, local government, instrumentality, PHA, or other public agency, public or private nonprofit organization.

Section 3 means Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).

Section 3 business concern means:

(1) A business concern meeting at least one of the following criteria, documented within the last six-month period:

(i) It is at least 51 percent owned and controlled by low- or very low-income persons;

(ii) Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or

(iii) It is a business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.

(2) The status of a Section 3 business concern shall not be negatively affected by a prior arrest or conviction of its owner(s) or employees.

(3) Nothing in this part shall be construed to require the contracting or subcontracting of a Section 3 business concern. Section 3 business concerns are not exempt from meeting the specifications of the contract.

Section 3 project means a project defined in §75.3(a)(2).

Section 3 worker means:

(1) Any worker who currently fits or when hired within the past five years fit at least one of the following categories, as documented:

(i) The worker's income for the previous or annualized calendar year is below the income limit established by HUD.

(ii) The worker is employed by a Section 3 business concern.

(iii) The worker is a YouthBuild participant.

(2) The status of a Section 3 worker shall not be negatively affected by a prior arrest or conviction.

(3) Nothing in this part shall be construed to require the employment of someone who meets this definition of a Section 3 worker. Section 3 workers are not exempt from meeting the qualifications of the position to be filled.

Section 8-assisted housing refers to housing receiving project-based rental assistance or tenant-based assistance under Section 8 of the 1937 Act.

Service area or the neighborhood of the project means an area within one mile of the Section 3 project or, if fewer than 5,000 people live within one mile of a Section 3 project, within a circle centered on the Section 3 project that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census.

Small PHA means a public housing authority that manages or operates fewer than 250 public housing units.

Subcontractor means any entity that has a contract with a contractor to undertake a portion of the contractor's obligation to perform work in connection with the expenditure of public housing financial assistance or for a Section 3 project.

Subrecipient has the meaning provided in the applicable program regulations or in 2 CFR 200.93.

Targeted Section 3 worker has the meanings provided in §§75.11, 75.21, or 75.29, and does not exclude an individual that has a prior arrest or conviction.

Very low-income person means the definition for this term set forth in section 3(b)(2) of the 1937 Act.

YouthBuild programs refers to YouthBuild programs receiving assistance under the Workforce Innovation and Opportunity Act (29 U.S.C. 3226).

Subpart C—Additional Provisions for Housing and Community Development Financial Assistance

§75.19 Requirements.

(a) *Employment and training.* (1) To the greatest extent feasible, and consistent with existing Federal, state, and local laws and regulations, recipients covered by this subpart shall ensure that employment and training opportunities arising in connection with Section 3 projects are provided to Section 3 workers within the metropolitan area (or nonmetropolitan county) in which the project is located.

(2) Where feasible, priority for opportunities and training described in paragraph (a)(1) of this section should be given to:

(i) Section 3 workers residing within the service area or the neighborhood of the project, and

(ii) Participants in YouthBuild programs.

(b) *Contracting.* (1) To the greatest extent feasible, and consistent with existing Federal, state, and local laws and regulations, recipients covered by this subpart shall ensure contracts for work awarded in connection with Section 3 projects are provided to business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or nonmetropolitan county) in which the project is located.

(2) Where feasible, priority for contracting opportunities described in paragraph (b)(1) of this section should be given to:

(i) Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the service area or the neighborhood of the project, and

(ii) YouthBuild programs.

§75.21 Targeted Section 3 worker for housing and community development financial assistance.

(a) *Targeted Section 3 worker.* A Targeted Section 3 worker for housing and community development financial assistance means a Section 3 worker who is:

(1) A worker employed by a Section 3 business concern; or

(2) A worker who currently fits or when hired fit at least one of the following categories, as documented within the past five years:

(i) Living within the service area or the neighborhood of the project, as defined in §75.5; or

(ii) A YouthBuild participant.

(b) [Reserved]

§75.23 Section 3 safe harbor.

(a) *General.* Recipients will be considered to have complied with requirements in this part, in the absence of evidence to the contrary if they:

(1) Certify that they have followed the prioritization of effort in §75.19; and

(2) Meet or exceed the applicable Section 3 benchmark as described in paragraph (b) of this section.

(b) *Establishing benchmarks.* (1) HUD will establish Section 3 benchmarks for Section 3 workers or Targeted Section 3 workers or both through a document published in the FEDERAL REGISTER. HUD may establish a single nationwide benchmark for Section 3 workers and a single nationwide

benchmark for Targeted Section 3 workers, or may establish multiple benchmarks based on geography, the nature of the Section 3 project, or other variables. HUD will update the benchmarks through a document published in the FEDERAL REGISTER, subject to public comment, not less frequently than once every 3 years. Such notice shall include aggregate data on labor hours and the proportion of recipients meeting benchmarks, as well as other metrics reported pursuant to §75.25 as deemed appropriate by HUD, for the 3 most recent reporting years.

(2) In establishing the Section 3 benchmarks, HUD may consider the industry averages for labor hours worked by specific categories of workers or in different localities or regions; averages for labor hours worked by Section 3 workers and Targeted Section 3 workers as reported by recipients pursuant to this section; and any other factors HUD deems important. In establishing the Section 3 benchmarks, HUD will exclude professional services from the total number of labor hours as such hours are excluded from the total number of labor hours to be reported per §75.25(a)(4).

(3) Section 3 benchmarks will consist of the following two ratios:

(i) The number of labor hours worked by Section 3 workers divided by the total number of labor hours worked by all workers on a Section 3 project in the recipient's program year.

(ii) The number of labor hours worked by Targeted Section 3 workers as defined in §75.21(a), divided by the total number of labor hours worked by all workers on a Section 3 project in the recipient's program year.

§75.25 Reporting.

(a) *Reporting of labor hours.* (1) For Section 3 projects, recipients must report in a manner prescribed by HUD:

(i) The total number of labor hours worked;

(ii) The total number of labor hours worked by Section 3 workers; and

(iii) The total number of labor hours worked by Targeted Section 3 workers.

(2) Section 3 workers' and Targeted Section 3 workers' labor hours may be counted for five years from when their status as a Section 3 worker or Targeted Section 3 worker is established pursuant to §75.31.

(3) The labor hours reported under paragraph (a)(1) of this section must include the total number of labor hours worked on a Section 3 project, including labor hours worked by any subrecipients, contractors and subcontractors that the recipient is required, or elects pursuant to paragraph (a)(4) of this section, to report.

(4) Recipients reporting under this section, as well as subrecipients, contractors and subcontractors who report to recipients, may report labor hours by Section 3 workers, under paragraph (a)(1)(ii) of this section, and labor hours by Targeted Section 3 workers, under paragraph (a)(1)(iii) of this section, from professional services without including labor hours from professional services in the

total number of labor hours worked under paragraph (a)(1)(i) of this section. If a contract covers both professional services and other work and the recipient or contractor or subcontractor chooses not to report labor hours from professional services, the labor hours under the contract that are not from professional services must still be reported.

(5) Recipients may report their own labor hours or that of a subrecipient, contractor, or subcontractor based on the employer's good faith assessment of the labor hours of a full-time or part-time employee informed by the employer's existing salary or time and attendance based payroll systems, unless the project or activity is otherwise subject to requirements specifying time and attendance reporting.

(b) *Additional reporting if Section 3 benchmarks are not met.* If the recipient's reporting under paragraph (a) of this section indicates that the recipient has not met the Section 3 benchmarks described in §75.23, the recipient must report in a form prescribed by HUD on the qualitative nature of its activities and those its contractors and subcontractors pursued. Such qualitative efforts may, for example, include but are not limited to the following:

(1) Engaged in outreach efforts to generate job applicants who are Targeted Section 3 workers.

(2) Provided training or apprenticeship opportunities.

(3) Provided technical assistance to help Section 3 workers compete for jobs (*e.g.,* resume assistance, coaching).

(4) Provided or connected Section 3 workers with assistance in seeking employment including: drafting resumes, preparing for interviews, and finding job opportunities connecting residents to job placement services.

(5) Held one or more job fairs.

(6) Provided or referred Section 3 workers to services supporting work readiness and retention (*e.g.,* work readiness activities, interview clothing, test fees, transportation, child care).

(7) Provided assistance to apply for/or attend community college, a four-year educational institution, or vocational/technical training.

(8) Assisted Section 3 workers to obtain financial literacy training and/or coaching.

(9) Engaged in outreach efforts to identify and secure bids from Section 3 business concerns.

(10) Provided technical assistance to help Section 3 business concerns understand and bid on contracts.

(11) Divided contracts into smaller jobs to facilitate participation by Section 3 business concerns.

(12) Provided bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.

(13) Promoted use of business registries designed to create opportunities for disadvantaged and small businesses.

(14) Outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act.

(c) *Reporting frequency.* Unless otherwise provided, recipients must report annually to HUD under paragraph (a) of this section, and, where required, under paragraph (b) of this section, on all projects completed within the reporting year in a manner consistent with reporting requirements for the applicable HUD program.

§75.27 Contract provisions.

(a) Recipients must include language applying Section 3 requirements in any subrecipient agreement or contract for a Section 3 project.

(b) Recipients of Section 3 funding must require subrecipients, contractors, and subcontractors to meet the requirements of §75.19, regardless of whether Section 3 language is included in recipient or subrecipient agreements, program regulatory agreements, or contracts.

Subpart D—Provisions for Multiple Funding Sources, Recordkeeping, and Compliance

§75.29 Multiple funding sources.

(a) If a housing rehabilitation, housing construction or other public construction project is subject to Section 3 pursuant to §75.3(a)(1) and (2), the recipient must follow subpart B of this part for the public housing financial assistance and may follow either subpart B or C of this part for the housing and community development financial assistance. For such a project, the following applies:

(1) For housing and community development financial assistance, a Targeted Section 3 worker is any worker who meets the definition of a Targeted Section 3 worker in either subpart B or C of this part; and

(2) The recipients of both sources of funding shall report on the housing rehabilitation, housing construction, or other public construction project as a whole and shall identify the multiple associated recipients. PHAs and other recipients must report the following information:

(i) The total number of labor hours worked on the project;

(ii) The total number of labor hours worked by Section 3 workers on the project; and

(iii) The total number of labor hours worked by Targeted Section 3 workers on the project.

(b) If a housing rehabilitation, housing construction, or other public construction project is subject to Section 3 because the project is assisted with funding from multiple sources of housing and community development assistance that exceed the thresholds in §75.3(a)(2), the recipient or recipients

must follow subpart C of this part, and must report to the applicable HUD program office, as prescribed by HUD.

§75.31 Recordkeeping.

(a) HUD shall have access to all records, reports, and other documents or items of the recipient that are maintained to demonstrate compliance with the requirements of this part, or that are maintained in accordance with the regulations governing the specific HUD program by which the Section 3 project is governed, or the public housing financial assistance is provided or otherwise made available to the recipient, subrecipient, contractor, or subcontractor.

(b) Recipients must maintain documentation, or ensure that a subrecipient, contractor, or subcontractor that employs the worker maintains documentation, to ensure that workers meet the definition of a Section 3 worker or Targeted Section 3 worker, at the time of hire or the first reporting period, as follows:

(1) For a worker to qualify as a Section 3 worker, one of the following must be maintained:

(i) A worker's self-certification that their income is below the income limit from the prior calendar year;

(ii) A worker's self-certification of participation in a means-tested program such as public housing or Section 8-assisted housing;

(iii) Certification from a PHA, or the owner or property manager of project-based Section 8-assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs;

(iv) An employer's certification that the worker's income from that employer is below the income limit when based on an employer's calculation of what the worker's wage rate would translate to if annualized on a full-time basis; or

(v) An employer's certification that the worker is employed by a Section 3 business concern.

(2) For a worker to qualify as a Targeted Section 3 worker, one of the following must be maintained:

(i) For a worker to qualify as a Targeted Section 3 worker under subpart B of this part:

(A) A worker's self-certification of participation in public housing or Section 8-assisted housing programs;

(B) Certification from a PHA, or the owner or property manager of project-based Section 8-assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs;

(C) An employer's certification that the worker is employed by a Section 3 business concern; or

(D) A worker's certification that the worker is a YouthBuild participant.

(ii) For a worker to qualify as a Targeted Section 3 worker under subpart C of this part:

(A) An employer's confirmation that a worker's residence is within one mile of the work site or, if fewer than 5,000 people live within one mile of a work site, within a circle centered on the work site that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census;

(B) An employer's certification that the worker is employed by a Section 3 business concern; or

(C) A worker's self-certification that the worker is a YouthBuild participant.

(c) The documentation described in paragraph (b) of this section must be maintained for the time period required for record retentions in accordance with applicable program regulations or, in the absence of applicable program regulations, in accordance with 2 CFR part 200.

(d) A PHA or recipient may report on Section 3 workers and Targeted Section 3 workers for five years from when their certification as a Section 3 worker or Targeted Section 3 worker is established.

§75.33 Compliance.

(a) *Records of compliance.* Each recipient shall maintain adequate records demonstrating compliance with this part, consistent with other recordkeeping requirements in 2 CFR part 200.

(b) *Complaints.* Complaints alleging failure of compliance with this part may be reported to the HUD program office responsible for the public housing financial assistance or the Section 3 project, or to the local HUD field office.

(c) *Monitoring.* HUD will monitor compliance with the requirements of this part. The applicable HUD program office will determine appropriate methods by which to oversee Section 3 compliance. HUD may impose appropriate remedies and sanctions in accordance with the laws and regulations for the program under which the violation was found

EXHIBIT "R"

24 C.F.R. § 5.109

Equal participation of faith-based organizations in HUD programs and activities.

Effective: May 4, 2016

(a) Purpose.

Consistent with Executive Order 13279 (issued on December 12, 2002, 67 FR 77141), entitled "Equal Protection of the Laws for Faith–Based and Community Organizations," as amended by Executive Order 13559 (issued on November 17, 2010, 75 FR 71319), entitled "Fundamental Principles and Policymaking Criteria for Partnerships With Faith–Based and Other Neighborhood Organizations,", and further amended by Executive Order 13831 (issued on May 3, 2018, 83 FR 20715) entitled "Establishment of a White House Faith and Opportunity Initiative," this section describes requirements for ensuring the equal participation of faith-based organizations in HUD programs and activities. These requirements apply to all HUD programs and activities, including all of HUD's Native American Programs, except as may be otherwise noted in the respective program regulations in title 24 of the Code of Federal Regulations (CFR), or unless inconsistent with certain HUD program authorizing statutes.

b) Definitions. The following definitions apply to this section:

Direct Federal financial assistance means Federal financial assistance provided when a Federal Government agency or an intermediary, as defined in this section, selects the provider and either purchases services from that provider (i.e., via a contract) or awards funds to that provider to carry out an activity (e.g., via grant, sub-grant, sub-award, or cooperative agreement). The recipients of sub-grants or sub-awards that receive Federal financial assistance through State-administered programs (e.g., flow-through programs) are considered recipients of direct Federal financial assistance. In general, Federal financial assistance shall be treated as direct, unless it meets the definition of indirect Federal financial assistance.

Federal financial assistance means assistance that non–Federal entities receive or administer in the forms of grants, contracts, loans, loan guarantees, property, cooperative agreements, food commodities, direct appropriations, or other assistance, but does not include a tax credit, deduction, or exemption.

Indirect Federal financial assistance means Federal financial assistance provided when the choice of the provider is placed in the hands of the beneficiary, and the cost of that service is paid through a voucher, certificate, or other similar means of Government-funded payment. Federal financial assistance provided to an organization is considered indirect when the Government program through which the beneficiary receives the voucher, certificate, or other similar means of Government-funded payment is neutral toward religion meaning that it is available to providers without regard to the religious or non-religious nature of the institution and there are no program incentives that deliberately skew for or against religious or secular providers; and the organization receives the assistance as a result of a genuine, independent choice of the beneficiary.

Intermediary means an entity, including a nongovernmental organization, acting under a contract, grant, or other agreement with the Federal Government or with a State, tribal or local government that accepts Federal financial assistance and distributes that assistance to other entities that, in turn, carry out activities under HUD programs.

(c) Equal participation of faith-based organizations in HUD programs and activities.

Faith-based organizations are eligible, on the same basis as any other organization, to participate in any HUD program or activity, considering any permissible accommodations, particulary under the Religious Freedome Restoration Act. Neither the Federal Government, nor a State, tribal or local government, nor any other entity that administers any HUD program or activity, shall discriminate against an organization on the basis of the organization's religious character, affiliation, or lack thereof, or on the basis of the organization's religious exercise. For purposes of this part, to discriminate against an organization on the basis of the organization's religious exercise means to disfavor an organization, including by failing to select an organization, disqualifying an organization, or imposing any condition or selection criterion that otherwise disfavors or penalizes an organization in the selection process or has such an effect:

(1) Because of conduct that would not be considered grounds to disfavor a secular organization;
(2) Because of conduct that must or could be granted an appropriate accommodation in a manner consistent with RFRA (42 U.S.C. 2000bb through 2000bb-4) or the Religion Clauses of the First Amendment to the Constitution; or
(3) Because of the actual or suspected religious motivation of the organization's religious exercise.
(4) In addition, decisions about awards of Federal financial assistance must be free from political interference or even the appearance of such interference and must be made on the basis of merit, not based on the organization's religious character, affiliation, or lack thereof, or based on the organization's religious exercise. Notices of funding availability, grant agreements, and cooperative agreements shall include language substantially similar to that in appendix A to this subpart, where faith-based organizations are eligible for such opportunities.

(d) Independence and identity of faith-based organizations.

(1) A faith-based organization that applies for, or participates in, a HUD program or activity supported with Federal financial assistance retains its autonomy, right of expression, religious character, authority over its governance, and independence, and may continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs. A faith-based organization that receives Federal financial assistance from HUD does not lose the protections of law.

(2) A faith-based organization that receives direct Federal financial assistance may use space (including a sanctuary, chapel, prayer hall, or other space) in its facilities (including a temple, synagogue, church, mosque, or other place of worship) to carry out activities under a HUD program without concealing, altering, or removing religious art, icons, scriptures, or other religious symbols. In addition, a faith-based organization participating in a HUD program or activity retains its authority over its internal governance, and may retain religious terms in its organization's name, select its board members and employees on the basis of their acceptance of or adherence to the religious tenets of the organization consistent with paragraph (i) of this section), and include religious references in its organization's mission statements and other governing documents.

(e) Explicitly religious activities.

If an organization engages in explicitly religious activities (including activities that involve overt religious content such as worship, religious instruction, or proselytization), the explicitly religious activities must be offered separately, in time or location, from the programs or activities supported by direct Federal financial assistance and participation must be voluntary for the beneficiaries of the programs or activities that receive direct Federal financial assistance. The use of indirect Federal financial assistance is not subject to this restriction. Nothing in this part restricts HUD's authority under applicable Federal law to fund activities, that can be directly funded by the Government consistent with the Establishment Clause of the U.S. Constitution.

(f) Intermediary responsibilities to ensure equal participation of faith-based organizations in HUD programs.

If an intermediary - acting under a contract, grant, or other agreement with the Federal Government or with a State, tribal or local government that is administering a program supported by Federal financial assistance - is

given the authority to select a nongovernmental organization to receive Federal financial assistance under a contract, grant, sub-grant, sub-award, or cooperative agreement, the intermediary must ensure that such organization complies with the requirements of this section. If the intermediary is a nongovernmental organization, it retains all other rights of a nongovernmental organization under the program's statutory and regulatory provisions.

(g) Nondiscrimination requirements.

Any organization that receives Federal financial assistance under a HUD program or activity shall not, in providing services with such assistance or carrying out activities with such assistance, discriminate against a beneficiary or prospective beneficiary on the basis of religion, religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice. However, an organization that participates in a program funded by indirect Federal financial assistance need not modify its program or activities to accommodate a beneficiary who chooses to expend the indirect aid on the organization's program and may require attendance at all activities that are fundamental to the program.

(h) No additional assurances from faith-based organizations.

A faith-based organization is not rendered ineligible by its religious nature to access and participate in HUD programs. Absent regulatory or statutory authority, no notice of funding availability, grant agreement, cooperative agreement, covenant, memorandum of understanding, policy, or regulation that is used by HUD or a recipient or intermediary in administering Federal financial assistance from HUD shall require otherwise eligible faith-based organizations to provide assurances or notices where they are not required of similarly situated secular organizations. All organizations that participate in HUD programs or activities, including organizations with religious character or affiliations, must carry out eligible activities in accordance with all program requirements, subject to any required or appropriate accommodation, particularly under the Religious Freedom Restoration Act, and other applicable requirements governing the conduct of HUD-funded activities, including those prohibiting the use of direct financial assistance to engage in explicitly religious activities. No notice of funding availability, grant agreement, cooperative agreement, covenant, memorandum of understanding, policy, or regulation that is used by HUD or a recipient or intermediary in administering financial assistance from HUD shall disqualify otherwise eligible faith-based organizations from participating in HUD's programs or activities because such organization is motivated or influenced by religious faith to provide such programs and activities, or because of its religious character or affiliation, or on grounds that discriminate against an organization on the basis of the organization's religious exercise, as defined in this part.

(i) Exemption from Title VII employment discrimination requirements.

A religious organization's exemption from the Federal prohibition on employment discrimination on the basis of religion, set forth in section 702(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–1), is not forfeited when the organization participates in a HUD program. Some HUD programs, however, contain independent statutory provisions that impose certain nondiscrimination requirements on all grantees. Accordingly, grantees should consult with the appropriate HUD program office to determine the scope of applicable requirements.

(j) Acquisition, construction, and rehabilitation of structures.

Direct Federal financial assistance may be used for the acquisition, construction, or rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under a HUD program or activity. Where a structure is used for both eligible and explicitly religious activities (including activities that involve overt religious content such as worship, religious instruction, or proselytization), direct Federal financial assistance may not exceed the cost of the share of acquisition, construction, or rehabilitation attributable to eligible activities in accordance with the cost accounting requirements applicable to the HUD program or activity. However,

acquisition, construction, or rehabilitation of sanctuaries, chapels, or other rooms that a HUD–funded faith-based organization uses as its principal place of worship, may not be paid with direct Federal financial assistance. Disposition of real property by a faith-based organization after its use for an authorized purpose, or any change in use of the property from an authorized purpose, is subject to Government-wide regulations governing real property disposition (2 CFR part 200, subpart D) and the HUD program regulations, as directed by HUD.

(k) Commingling of Federal and State, tribal, and local funds.

If a State, tribal, or local government voluntarily contributes its own funds to supplement direct Federal financial assistance for an activity, the State, tribal or local government has the option to segregate those funds or commingle them with the direct Federal financial assistance. However, if the funds are commingled, the requirements of this section apply to all of the commingled funds. Further, if a State, tribal, or local government is required to contribute matching funds to supplement direct Federal financial assistance for an activity, the matching funds are considered commingled with the direct Federal financial assistance and, therefore, subject to the requirements of this section. Some HUD programs' requirements govern any activity assisted under those programs. Accordingly, recipients should consult with the appropriate HUD program office to determine the scope of applicable requirements.

(l) Tax exempt organizations.

In general, HUD does not require that a recipient, including a faith-based organization, obtain tax-exempt status under section 501(c)(3) of the Internal Revenue Code to be eligible for funding under HUD programs. Many grant programs, however, do require an organization to be a nonprofit organization in order to be eligible for funding. Notices of funding availability that require organizations to have nonprofit status will specifically so indicate in the eligibility section of the notice of funding availability. In addition, if any notice of funding availability requires an organization to maintain tax-exempt status, it will expressly state the statutory authority for requiring such status. Applicants should consult with the appropriate HUD program office to determine the scope of any applicable requirements. In HUD programs in which an applicant must show that it is a nonprofit organization but this is not statutorily defined, the applicant may do so by any of the following means:

(1) Proof that the Internal Revenue Service currently recognizes the applicant as an organization to which contributions are tax deductible under section 501(c)(3) of the Internal Revenue Code;
(2) A statement from a State or other governmental taxing body or the State secretary of State certifying that -
(i) The organization is a nonprofit organization operating within the State; and
(ii) No part of its net earnings may benefit any private shareholder or individual;

(3) A certified copy of the applicant's certificate of incorporation or similar document that clearly establishes the nonprofit status of the applicant;
(4) Any item described in paragraphs (l)(1) through (3) of this section, if that item applies to a State of national parents organization, together with a statement by the State of parent organization that the applicant is a local nonprofit affiliate; or
(5) For an entity that holds a sincerely held religious belief that it cannot apply for a determination as an entity that is tax-exempt under section 501(c)(3) of the Internal Revenue Code, evidence sufficient to establish that the entity would otherwise qualify as a nonprofit organization under paragraphs (l)(1) through (4) of this section.

(m) Rule of construction.

Neither HUD nor any recipient or other intermediary receiving funds under any HUD program or activity shall construe these provisions in such a way as to advantage or disadvantage faith-based organizations affiliated with historic or well-established religions or sects in comparison with other religions or sects.

Credits

[69 FR 41717, July 9, 2004; 80 FR 75934, Dec. 7, 2015; 81 FR 19416, April 4, 2016; 85 FR 82315, Dec 17, 2020]

SOURCE: 61 FR 5202, Feb. 9, 1996; 61 FR 9041, March 6, 1996; 61 FR 9537, March 8, 1996; 61 FR 11113, March 18, 1996; 61 FR 13616, March 27, 1996; 61 FR 54498, Oct. 18, 1996; 70 FR 77743, Dec. 30, 2005; 73 FR 72340, Nov. 28, 2008; 75 FR 66258, Oct. 27, 2010; 77 FR 5674, Feb. 3, 2012; 80 FR 42352, July 16, 2015; 81 FR 19416, April 4, 2016; 81 FR 80798, Nov. 16, 2016; 81 FR 90657, Dec. 14, 2016, unless otherwise noted.

AUTHORITY: 12 U.S.C. 1701x; 42 U.S.C. 1437a, 1437c, 1437d, 1437f, 1437n, 3535(d); Sec. 327, Pub.L. 109–115, 119 Stat. 2936; Sec. 607, Pub.L. 109–162, 119 Stat. 3051 (42 U.S.C. 14043e et seq.); E.O. 13279, 67 FR 77141, 3 CFR, 2002 Comp., p. 258; and E.O. 13559, 75 FR 71319, 3 CFR, 2010 Comp., p. 273.; 29 U.S.C. 794, 42 U.S.C. 1437a, 1437c, 1437c–1(d), 1437d, 1437f, 1437n, 3535(d), and Sec. 327, Pub.L. 109–115, 119 Stat. 2936; 42 U.S.C. 3600–3620; 42 U.S.C. 5304(b); 42 U.S.C. 12101 et seq.; 42 U.S.C. 12704–12708; E.O. 11063, 27 FR 11527, 3 CFR, 1958–1963 Comp., p. 652; E.O. 12892, 59 FR 2939, 3 CFR, 1994 Comp., p. 849.

Additional Federal Requirements

Whereas the work under this Agreement is subject to applicable Federal, State, and local laws and regulations, including but not limited to the regulations pertaining to the Community Development Block Grant program (24 CFR *Part 570)* and the Uniform Administrative Requirement, Cost Principles, and Audit Requirements for Federal Awards *(2 CFR Part 200)*. Contractor, sub-contractors, Consultants, and sub-consultants agree to comply with, and are subject to, all applicable requirements as follows:

1. ***Equal Employment Opportunity*** - Compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity", as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR Part 60). The Contractor/Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, general identity, or national origin. Contractor/Consultant will ensure that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex sexual orientation, general identity, or national origin. The Contractor/Consultant will take affirmative action to ensure that applicants are employed, and the employees are treated during employment, without regard to their race color, religion, sex, sexual orientation, general identity, or national origin. Such actions shall include, but are not limited to, the following: employment, up-grading, demotion, or transfer; recruitment or recruitment advertising; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor/Consultant agrees to post in a conspicuous place, available to employees and applicants for employment, notices to be provided by the County setting forth the provisions of this non-discriminating clause.

2. ***Copeland "Anti-Kickback" Act*** *(18 U.S.C. 874 and 40 U.S.C.A. Section 3145):* All contracts and subgrants in excess of $2,000 for construction or repair awarded by recipients and subrecipients shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to HUD.

3. ***Davis-Bacon Act, as amended*** *(40 U.S.C.A. Section 3141-3148):* When required by Federal program legislation, all construction contracts awarded by the recipients and subrecipients of more than $2000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. *A. Section 3141-3148*) and as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction"). Under the Davis Bacon Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the U.S. Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the U.S. Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to HUD.

4. ***Contract Work Hours and Safety Standards Act*** *(40 U.S.CA.. 32701 through 3708):* Where applicable, all contracts awarded by recipients in excess of $2,000 for construction contracts and in excess of $2,500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with the Contract Work Hours and Safety Standards (40 U.S.C.A. 32701–3708), as supplemented by Department of Labor Regulations (29 CFR Part 5). Under Section 40 U.S.C.A. 3702, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard workweek of 40 hours. Work in excess of the standard workweek is permissible provided that the worker is compensated at a rate of not less than 1 1/2 times the basic rate of pay for all hours worked in excess of 40 hours in the workweek. 40 U.S.C.A. 3704of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or

materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

5. ***Rights to Inventions Made Under a Contract or Agreement***— Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by HUD.

6. ***Rights to Data and Copyrights*** – Contractors and consultants agree to comply with all applicable provisions pertaining to the use of data and copyrights pursuant to 48 CFR Part 27.404-3, Federal Acquisition Regulations (FAR).

7. ***Air Pollution Prevention and Control (formally known as the Clean Air Act) (42 U.S.C.A. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C.A. Section 1251 et seq.), as amended:***— Contracts and subgrants of amounts in excess of $100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 *et seq.*) and the Federal Water Pollution Control Act as amended (33 U.S.C.A. 1251 *et seq.*). Violations shall be reported to HUD and the Regional Office of the Environmental Protection Agency (EPA).

8. ***Byrd Anti-Lobbying Amendment*** *(31 U.S.C.A. 1352)*— Contractors who apply or bid for an award of $100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

9. ***Debarment and Suspension*** *(Executive Orders (E.O. s) 12549 and 12689)*—No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension," as set forth at 24 CFR part 2424. This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

10. ***Drug-Free Workplace Requirements***— The Anti-Drug Abuse Act of 1988 (41 U.S.C.A. Section 8101-8103) requires grantees (including individuals) of federal agencies, as a prior condition of being awarded a grant, to certify that they will provide drug-free workplaces. Each potential recipient must certify that it will comply with drug-free workplace requirements in accordance with the Act and with HUD's rules at 24 CFR part 2425.

11. ***Access to Records and Records Retention***: The Consultant or Contractor, and any sub-consultants or sub-contractors, shall allow all duly authorized Federal, State, and/or County officials or authorized representatives access to the work area, as well as all books, documents, materials, papers, and records of the Consultant or Contractor, and any sub-consultants or sub-contractors, that are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts, and transcriptions. The Consultant or Contractor, and any sub-consultants or sub-contractors, further agree to maintain and keep such books, documents, materials, papers, and records, on a current basis, recording all transactions pertaining to this agreement in a form in accordance with generally acceptable accounting principles. All such books and records shall be retained for such periods of time as required by law, provided, however, notwithstanding any shorter periods of retention, all books, records, and supporting detail shall be retained for a period of at least four (4) years after the expiration of the term of this Agreement.

12. ***Federal Employee Benefit Clause:*** No member of or delegate to the congress of the United States, and no Resident Commissioner shall be admitted to any share or part of this agreement or to any benefit to arise from the same.

13. ***Energy Efficiency*:** Mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94A 163, Dec. 22, 1975; 42 U.S.C.A. Section 6201, et. seq., 89 Stat. 871).

14. ***Procurement of Recovered Materials (2 CFR 200.322.)*** A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with 42 U.S.C. Section 6962 of the Solid Waste Disposal Act (42 U.S.C.A. Section 6901, et seq.), as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired by the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

15. ***Build America, Buy America (BABA) Act:*** The Grantee must comply with the requirements of the Build America, Buy America (BABA) Act, 41 USC 8301 note, and all applicable rules and notices, as may be amended, if applicable to the Grantee's infrastructure project. Pursuant to HUD's Notice, "Public Interest Phased Implementation Waiver for FY 2022 and 2023 of Build America, Buy America Provisions as Applied to Recipients of HUD Federal Financial Assistance" (88 FR 17001), any funds obligated by HUD on or after the applicable listed effective dates, are subject to BABA requirements, unless excepted by a waiver.

16. Violence Against Women Act (VAWA): VAWA provides housing protections for survivors of domestic and dating violence, sexual assault and stalking ('domestic violence"). VAWA 2022 reauthorizes, amends, and strengthens the VAWA of 1994, as amended (Pub. L. 103-322, tit. IV, sec. 40001-40703; 34 U.S.C. 12291 et seq.) HUD's implementing regulations for VAWA'S protections, rights, and responsibilities are codified in 24 CFR part 5, subpart L, and related provisions in HUD's program regulations (HUD's VAWA regulations). VAWA 2022 amendments took effect on October 1, 2022, and 2022 VAWA's reauthorization includes new implementation requirements. Grantees, subrecipients and developers shall ensure compliance with all requirements of VAWA including but not limited to: (a) Assure domestic violence survivors are not denied assistance as an applicant, or evicted, or have assistance terminated as a tenant because applicant or tenant is or has been a victim of domestic violence; (b) Implement an emergency transfer plan allowing domestic violence survivor to move to another safe and available unit; (c) Provide protections against denial, terminations, and evictions that directly result from being a victim of domestic violence; (d) Implement a low barrier certification process and allow self-certification of domestic violence.

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Douglas Schulze, City Manager**
PREPARED BY:	**Lincoln Bogard, Administrative Services Director**
MEETING DATE:	**November 12, 2024**
SUBJECT:	**Consideration of Resolution 2024-177, Approving a Successor Memorandum of Understanding (MOU) with the International Brotherhood of Electrical Workers (IBEW) Local 47 Representing the Utility Unit Employees, Effective July 1, 2024 through December 31, 2026, and Authorizing the City Manager to Finalize and Execute a Successor Agreement**

RECOMMENDATION:

Adopt Resolution 2024-177.

BACKGROUND:

City Council has previously approved a Tentative Agreement (TA) with IBEW Utility Unit for the bargaining period of July 1, 2024, through December 31, 2026 in closed session. The Utility Unit met and ratified that successor Tentative Agreement and now Council is requested to accept the resulting Memorandum of Understanding (MOU).

JUSTIFICATION:

The City Council must ratify the MOU to allow for execution by the City Manager. The signature page of the Union signed MOU will be provided to Council and the public at the City Council Meeting.

FISCAL IMPACT:

The fiscal impact was discussed with City Council in closed session.

ALTERNATIVES:

Do not adopt Resolution 2024-177 and provide staff alternate direction.

BUDGETED?:

No

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. Resolution 2024-177, IBEW Utility MOU.docx
2. 10.29.24 IBEW UTILITY MOU 2024-2026 (PDF).pdf

RESOLUTION 2024-177

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING A SUCCESSOR MEMORANDUM OF UNDERSTANDING (MOU) WITH THE INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS (IBEW) LOCAL 47 REPRESENTING THE UTILITY UNIT EMPLOYEES, EFFECTIVE JULY 1, 2024 THROUGH DECEMBER 31, 2026, AND AUTHORIZING THE CITY MANAGER TO FINALIZE AND EXECUTE A SUCCESSOR AGREEMENT

WHEREAS, the City of Banning ("City") has formally recognized the International Brotherhood of Electrical Workers Local 47 ("IBEW') as the exclusive employee organization for the Utility Unit employees bargaining unit; and

WHEREAS, the prior Memorandum of Understanding ("MOU") between the City and the IBEW expired on June 30, 2024; and

WHEREAS, the City labor representatives and IBEW representatives have successfully met, conferred and signed a Tentative Agreement on the deal points for a successor MOU for the period of July 1, 2024, through December 31, 2026, pursuant to the Meyers-Milias-Brown Act (MMBA) (Gov. Code §§ 3500-3511) and the City's Employer-Employee Relations Resolution 2010-45; and

WHEREAS, MMBA Section 3505.1 states: "If a tentative agreement is reached by the authorized representatives of the public agency and a recognized employee organization or recognized employee organizations, the governing body shall vote to accept or reject the tentative agreement within 30 days of the date it is first considered at a duly noticed public meeting. A decision by the governing body to reject the tentative agreement shall not bar the filing of a charge of unfair practice for failure to meet and confer in good faith. If the governing body adopts the tentative agreement, the parties shall jointly prepare a written memorandum of understanding."; and

WHEREAS, the IBEW membership has ratified the Tentative Agreement for a successor MOU, where once approved by the governing body and the resulting final MOU is signed by the City Manager and IBEW representatives becomes a binding agreement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The City Council hereby approves the Successor MOU between the City and IBEW (Local 47) representing the Utility Unit Employees, for the period of July 1, 2024, through December 31, 2026, attached hereto as Exhibit A.

SECTION 2. The City Council hereby authorizes and directs the City Manager, or his designee, to finalize and execute the Successor MOU, based on the approved Tentative Agreements, on behalf of the City Council.

SECTION 3. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 12th day of November 2024.

Alberto Sanchez, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

Serita R. Young, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2024-177, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 12th day of November 2024 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

EXHIBIT A
IBEW-Utility Unit MOU for 2024-2026

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS LOCAL 47 UTILITY UNIT (IBEW – UTILITY)

MEMORANDUM OF UNDERSTANDING

July 1, 2024 – December 31, 2026

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MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF BANNING AND THE INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS - LOCAL 47 REPRESENTING THE METER READING, ELECTRIC AND WATER UTILITY EMPLOYEES UNIT FOR THE PERIOD JULY 1, 2024 THROUGH DECEMBER 31, 2026

ARTICLE 1 – PREAMBLE

1.1 This Memorandum of Understanding (hereinafter the "MOU") is entered into between the City of Banning, a Municipal Corporation (hereinafter known as the "CITY"), and the authorized representatives of the International Brotherhood of Electrical Workers - Local 47 (hereinafter "IBEW-Local 47"), as the recognized employee organization for the Meter Reading, Electric and Water Utility Employees Unit of representation (hereinafter the "Unit"), relative to wages, hours, and other terms and conditions of employment as provided by Sections 3500 - 3510 of the California Government Code, otherwise known as the Meyers Milias-Brown Act.

1.2 Recognition. The City continues to recognize IBEW-Local 47 as the only Recognized Employee Organization representing full time, permanent employees presently in the Unit or hereafter employed by the City and eligible for inclusion in the Unit. All included provisions of this MOU apply only to employees who are covered by the MOU. It is understood that this MOU shall constitute a bar to any petition or request for recognition of any representational unit which includes classifications of employees covered by this MOU or such petitions to represent such employees at any time during the term hereof. This provision shall not preclude employees from exercising their rights as may be provided by the Meyers-Milias-Brown Act or the Employer-Employee Relations Resolution of the City.

1.3 Term. Except as otherwise provided herein, this MOU between the City and IBEW-Local 47 relative to wages, hours, and other terms and conditions of employment shall become effective upon approval by City Council and thereafter shall remain in full force until its term expires at close of business on December 31, 2026, except that if no successor MOU has been negotiated and approved by December 31, 2026, then this MOU shall extend and not be terminated until such time as a successor MOU is approved by City Council or City Council unilaterally implements its last, best and final offer after impasse procedures have been followed, whichever occurs first.

1.4 Represented Classifications. This MOU covers employees in the following classifications:

Apprentice Meter Test Technician
Assistant Water Superintendent
Auto Cad/GIS Technician
Certified Powerline Technician

Electrical Service Planner
Electric Planning Supervisor
Electric Services Worker
Field Service Representative
Lead Field Service Representative
Meter Test Technician
Operations System Technician
Powerline Apprentice
Powerline Crew Superintendent
Powerline Crew Supervisor
Powerline Technician
Public Benefits Coordinator
Senior Electric Distribution System Designer
Senior Electric Services Planner
Substation Test Technician
Utility Service Assistant
Utility Engineering Services Assistant
Warehouse Services Specialist
Warehouse Specialist Water/Wastewater
Wastewater Collection Systems Specialist/Lead
Wastewater Collection Systems Technician I
Wastewater Collection Systems Technician II
Wastewater Collection Systems Technician III
Wastewater Collection Systems Supervisor
Water Crew Supervisor - Production
Water Crew Supervisor - Distribution
Water Production Operator I
Water Production Operator II
Water Production Operator III
Water Production Operator Lead
Water Service Worker I
Water Service Worker II
Water Service Worker III
Water Services Crew Lead

ARTICLE 2 - CONTINUATION OF RULES & POLICIES

2.1 Other Written Policies. It is understood and agreed that all such written ordinances, policies, resolutions, rules and regulations, including, but not limited to, the Personnel Rules and Regulations of the City, the Employer-Employee Relations Resolution (Resolution No. 2010-45); and the Administrative Manual of the City shall remain in effect during the course of this MOU, subject to amendment or deletions as otherwise provided herein.

2.2 Past Practice. For purposes of this MOU, "past practice" shall be defined as an unwritten policy, procedure or work rule of the City affecting wages, hours or conditions

of employment, upon which the City and members of the Unit have come to rely through a course of conduct and which is not inconsistent with the express terms and conditions of this MOU. As of the effective date of this MOU, all past practices preexisting this MOU shall be deemed to be void and of no further force and effect.

2.3 Meet and Confer. The City and IBEW-Local 47 agree to meet and confer during the term of this MOU over the adoption, amendment or revision, including repeal, of City ordinances, resolutions, rules and regulations, including but not limited. to, the City's Personnel Rules and Regulations, the Employer-Employee Relations Resolution (Resolution No. 2010-45) and the Administrative Policies of the City, to the extent that such documents contain mandatory subjects of bargaining pursuant to the Meyers-Milias-Brown Act. Should an impasse be reached following such meet and confer sessions, the provisions of the Employer- Employee Relations Resolution (Resolution No. 2010-45) and state law will apply.

ARTICLE 3 - EMPLOYEE RIGHTS

3.1 Non-Discrimination. The provisions of this MOU shall apply to all persons covered by this MOU without discrimination on account of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, pregnancy, childbirth, gender, gender identity, gender expression, age, sexual orientation, citizenship status or any other basis protected by applicable law, nor will there be any discrimination with respect to hiring, retention or any condition of employment because of membership or activities on behalf of the IBEW-Local 47.

3.2 Employee Organization Membership. IBEW-Local 47 will accept into membership all eligible persons of the bargaining unit without regard to race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, pregnancy, childbirth, gender, gender identity, gender expression, age, sexual orientation, citizenship status or any other basis protected by applicable.

3.3 Rights Granted By State and Federal Law. Except as otherwise provided in this MOU, the employees covered by this MOU shall have all rights which may be exercised in accordance with state and federal law, and applicable ordinances, resolutions, rules and regulations. However, employees covered by this MOU shall not have the right to file a grievance for violation of any such law, ordinance, resolution or rule, except as specifically set forth herein at Article 28.

3.4 Additional Employee Rights. Employees shall also have:

(a) The right to form, join, and participate in activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations.

(b) The right to refuse to join or participate in the activities of employee organizations.

(c) The right to be free from interference, intimidation, restraint, coercion, discrimination, or reprisal by other employees, employee organizations, management or supervisors, as a result of their exercise of rights indicated in (a) and (b) above.

ARTICLE 4 - MANAGEMENT RIGHTS

4.1 City Authority & Management Prerogative. IBEW-Local 47 recognizes and agrees that, except as limited by this MOU, the City and its representatives have the responsibility and the authority to manage and direct all operations and activities of the City including, but not limited to, the exclusive right to determine the mission of its constituent departments, commissions and boards and the processes and the materials to be employed; the right to subcontract any work or operation; to expand or diminish services; to determine the procedures and standards of selection for employment and promotion; determine classifications; direct its employees; take disciplinary action; relieve its employees of duty because of lack of work or for other legitimate reasons; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted and to assign work to employees and to establish and change work schedules and assignments and to determine the days and hours when the employees shall work; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and work performance technology.

4.1.1 When the decision to make the change is non-negotiable, but the effects of the decision are negotiable, the duty to provide notice and an opportunity to bargain arises at the time the decision is made and prior to taking action to implement the decision.

4.2 Subcontracting. At no time shall the City subcontract work that was previously completed by IBEW-Local 47 Represented employees whose services have been terminated without prior notification to meet and confer with the IBEW-Local 47 representative.

4.3 Volunteers. The City agrees that volunteers shall not be used to fill positions or replace work previously performed by terminated or laid off Unit members except on a temporary basis during the recruitment process for a Unit classification for which the Unit member resigned or was terminated for reasons other than layoff.

ARTICLE 5 - PROBATIONARY PERIOD

5.1 Probation Period. All employees appointed to a position represented by IBEW Local 47 shall serve a twelve (12) month probationary period. The probationary period shall be considered a part of the examination and selection process and shall not include any

time served under any limited service or provisional appointment but shall start from the time of appointment to a regular position. After serving six (6) months in the probationary period, the employee shall be eligible for a six-month merit increase based upon a satisfactory performance evaluation. This will be the employee's new anniversary date for future performance evaluations/merit increases. Employees will pass probation at the end of the probation period upon a satisfactory performance evaluation, or shall pass probation if employee's supervisor does not provide the performance evaluation on time.

5.2 Probation Period for Promotions. Represented employees who have previously successfully completed a probationary period and who are subsequently promoted, shall serve a six (6) month probationary period in the new position. At the conclusion of the probationary period, upon a satisfactory performance evaluation, employees shall pass probation and receive a salary increase of two (2) steps, or shall pass probation and receive the pay increase if employee's supervisor does not provide the performance evaluation on time. This will be the employee's new anniversary date for future performance evaluations/merit increases.

5.3 Probation Period Extension. Probation Period on an employee's initial probation can be extended if necessary, for a period not to exceed six (6) months. If extended, such action must be extended during initial probation period. Any extended period of absence from duty of four continuous weeks (2 pay periods) or more for any reason except scheduled vacation, will automatically cause a probation period to be extended equal to the period of absence.

ARTICLE 6 - DUES DEDUCTION; AGENCY SHOP

6.1 Dues Deduction. The Union may have the regular dues of its bargaining unit members deducted from paychecks under the following procedures:

6.2 Sufficient Earnings. The employee's earnings must be sufficient after other legal and required deductions are made to cover the amount of the IBEW – Local 47 dues deduction authorized. When an employee is in a non-pay status for an entire pay period, no withholding will be made to cover that pay period from future earnings.

6.3 Non-Pay Status. In the case of an employee who is in a non-pay status during only part of the pay period, and the salary is not sufficient to cover the full withholding, no deduction shall be made. In this connection, all other legal and required deductions have priority over IBEW – Local 47 dues.

6.4 Dues Authorization. The Union is solely responsible for distributing to, and collection from, employees the dues deduction authorization forms. Union shall notify the City in writing of any employee who hereinafter comes into the bargaining unit and who has provided appropriate written authorization to the Union. The City shall deduct the approved bi-weekly membership dues and voluntary deductions in the pay period following receiving written notification from the Union.

6.5 Dues Cancellation. An employee's authorization for payroll deduction of IBEW – Local 47 dues may be cancelled at any time by written notice from the employee to IBEW-Local 47, and employee may pay dues directly to IBEW-Local 47. An employee's deduction authorization shall automatically be cancelled if the employee leaves the employ of the City or is transferred to a position not within the Unit. Union shall advise the City in writing of the membership dues and voluntary deductions to be deducted for each member. Union shall notify the City in writing of any changes to employee deductions thirty (30) days prior to the effective date of such change. The Union shall, as soon as possible, notify the City in writing if any member of the bargaining unit revokes a membership dues and voluntary deduction authorization.

6.6 Funds Transmission. The aggregate amount of IBEW – Local 47 dues deductions by the City shall be transmitted monthly to the Business Manager/Financial Secretary of IBEW – Local 47. The City shall provide the Business Manager/Financial Secretary with a list each month indicating the dues deducted from the pay of any Unit member and those employees for whom no deduction was made pursuant to the provisions of Sections 6.2 and 6.3.

6.7 Indemnification. IBEW – Local 47 shall indemnify, defend, and hold the City harmless against any claims made, and against any suit instituted against the City arising from this Article, including on account of employee authorizations, revocations, deductions made, cancelled, or changed in reliance on the Union's representations regarding employee dues and voluntary deduction authorizations. In addition, Union shall refund to the City any amounts paid to it in error upon presentation of supporting evidence.

ARTICLE 7 -UNION REPRESENTATIVES

7.1 Meetings. Two (2) employees selected by IBEW – Local 47 may attend scheduled meetings with City management during regular hours without loss of pay, provided that such employees shall not leave their work station or assignment without first securing approval of their Department Head twenty-four (24) hours in advance. Such meetings shall be scheduled in a manner consistent with the City's operating requirements and work schedules. Nothing herein shall be deemed to preclude the scheduling of such meetings at hours other than such employee's regular working hours, in which event attendance shall be without pay.

7.2 Leave For IBEW – Local 47 Business. Upon not less than seven (7) calendar days' notice, City may grant a leave of absence for IBEW – Local 47 business to not more than three (3) employee(s) designated by IBEW – Local 47. Such leave shall not be denied without legitimate reason. Such leave shall be without pay, but will not be considered a break in continuous service with the City. The total amount of all such leaves taken pursuant to this section shall not exceed ten (10) days in any calendar year, per employee.

7.3 Notification of Representatives. IBEW – Local 47 shall notify the Human Resources Department of the name(s) of Stewards as such individuals are appointed by IBEW – Local 47 from time to time.

ARTICLE 8 -BULLETIN BOARDS

8.1 Authorized Postings. The City will continue to provide adequate bulletin board space where currently available. Only areas designated by the Department Head may be used for posting notices. Bulletin boards may be used for the following notices:

(a) scheduled IBEW – Local 47 meetings, agenda and minutes.

(b) information on IBEW – Local 47 elections and the results.

(c) IBEW – Local 47 special, recreational, credit union and related bulletins.

(d) reports of IBEW – Local 47 official business including reports of committees or the executive board of IBEW – Local 47.

(e) MOU, pay scales, job announcements, promotion lists, etc.

(f) such other items as may be approved by the Department Head or his/her designee upon request of IBEW – Local 47.

8.2 Posted Notices. Posted notices shall not be defamatory or violate any of the City's policies, nor shall they advocate election or defeat of candidates for public office. All notices to be posted shall be dated and signed by an authorized representative of IBEW – Local 47. IBEW – Local 47 may give notices to the represented employees through use of the City mail system and/or the City computer e-mail system.

ARTICLE 9 - MEMORANDUM OF UNDERSTANDING COPIES

9.1 After it has been executed by the parties, the City shall provide IBEW – Local 47 with seven (7) originals and one (1) copy of an electronic (PDF) version of this MOU. IBEW – Local 47 shall be responsible for providing copies of this MOU to represented employees at IBEW – Local 47 expense. City shall also provide a copy of the executed MOU to any represented employee hired or promoted into the represented Unit after the effective date of the MOU. The City may charge for any additional copies.

ARTICLE 10 - MEETINGS

10.1 Items of Mutual Concern. Upon mutual agreement of both the City and IBEW – Local 47, the parties may meet to discuss items of mutual concern. A meeting conducted under this section shall not constitute a meet and confer or hearing under any grievance procedure.

10.2 Use of City Facilities. IBEW – Local 47 may be granted permission to use City facilities for the purpose of meeting with employees to conduct its internal affairs provided space for such meetings can be made available without interfering with City needs. Permission to use facilities must be obtained by IBEW – Local 47 from the Department Head. IBEW – Local 47 shall be held fully responsible for any damages to and security of any facility that is used by IBEW – Local 47.

10.3 Budget Oversight Committee. The City agrees to continue the Budget Oversight Committee, with IBEW – Local 47 entitled to appoint one (1) member. Said Committee shall have an equal number of members appointed by the City's recognized employee organizations. Said Committee shall be advisory only to the City Manager. The City shall determine the necessity of such meetings, and shall notify the appointed member of the scheduled Budget and Finance Committee meeting held to discuss the annual proposed budget and the mid-year proposed budget adjustments.

ARTICLE 11 -HOURS OF WORK

11.1 Work Schedules. The parties agree that the City has the right to return to its traditional five day eight hour per work day (5/8) work week schedule, maintain its current four day ten hour per work day (4/10) work week schedule, or implement a nine day every two work week eighty hour (9/80) work schedule for some or all IBEW – Local 47 represented employees as appropriate in the sole discretion of the City as determined by each Department Head and with City Manager approval. IBEW – Local 47 represented employees employed by the City as of January 1, 2025 working alternative work schedules as of January 1, 2025 who are required to return to working the traditional five day eight hour per work day (5/8) work week schedule shall receive an additional three percent (3%) base salary wage increase for the time period that they are required to work that particular traditional work schedule.

For Employees working a (9/80) work schedule, the work period shall begin four hours after the start time of his or her eight hour shift on the day that corresponds with the employee’s alternating regular day off such that the employee works four, nine-hour shifts and one four-hour shift each seven-day work period. Employees working a traditional five day eight hour per work day (5/8) work week schedule or four day ten hour per work day (4/10) work week schedule will continue to maintain a week ending time of 11:59 pm on Sundays.

11.2 Notice of Changes. The City shall provide at least two weeks (14 calendar days) notice of a change in work schedules.

ARTICLE 12 -LIGHT DUTY

12.1 Accommodation. The parties agree that the City may assign employees who are unable to perform the full scope of their current job to temporary modified work consistent with the employee's functional limitations as described by his/her doctor when and where such work is available as determined by the City and where it may be

accommodated without adverse consequences to the City or disruption in services or operations. This Article does not create in any employee entitlement to assignment in a light duty position.

12.2 Eligibility. Temporary modified work will be considered on a case-by-case basis. Temporary modified work may involve modification of an employee's current job or assignment to work outside of an employee's current position. The Human Resources Department, in consultation with the Department Head, will determine eligibility for participation in the Temporary Modified Assignment Program and will coordinate temporary work positions/assignments.

12.3 Employee Cooperation. It shall be the duty of every employee to cooperate fully and promptly with the coordination of temporary/modified work assignments. Notification of changes in restrictions/limitation shall be promptly communicated to the Human Resources Department along with supportive documentation, acceptable to the City. In administering the Temporary Modified Assignment Program, the Human Resources Department may communicate directly with the employee's physician(s) regarding the employee's medical limitations, functional restrictions, job requirements in the employee's regular assignment, job requirements in any modified duty assignment under consideration and return to work status. Such communication will only be done with the employee's written authorization. Human Resources Department will consult with the employee's Department Head regarding possible modified duty assignments under consideration.

12.4 Retention of Benefits. Employees participating in the Temporary Modified Assignment Program shall retain all contractual benefits, except pay scale, not inconsistent with the objectives of the Temporary Modified Assignment Program. The City may change regular days off and work hours while the employee is in the Temporary Modified Assignment Program.

12.5 Right to Decline. However, employees retain the right to decline any initial or subsequent assignment provided by the Temporary Modified Assignment Program.

ARTICLE 13 - REST PERIOD

13.1 Rest Period. Represented employees who work 16 (sixteen) consecutive hours shall earn a ten (10) hour rest period.

(a) A rest period of ten (10) consecutive hours or more shall be considered an interruption of consecutive hours worked.

(b) A rest period of less than ten (10) consecutive hours shall be counted as time worked but not paid.

(c) Represented employees shall be compensated at their regular rate of pay for all regularly scheduled work time that falls while that employee is on his/her earned rest period.

(d) Represented employees required to return to work during an earned rest period, shall be compensated at the overtime rate of pay for all time worked. This overtime pay shall be in lieu of, and not in addition to, the regular rate of pay. Employees not required by management to return to work, but who choose to take less than a ten (10) hour rest period, shall be paid their regular hourly rate of pay for all regularly scheduled work hours.

(e) Time paid for meals not taken shall not count toward earning a rest period. A paid meal time taken shall count toward earning a rest period.

(f) When the rest period extends into a regularly scheduled work day, the employee may elect to use vacation time, compensatory time, floating holiday time or leave without pay for the rest of the day.

(g) For the purpose of rest period eligibility, on any day that is not a regularly scheduled workday (including holidays) the hours that fall within the times of the employees' normally scheduled work shift, had it been a regular work day, will be counted as time worked.

ARTICLE 14- SALARIES, PERFORMANCE EVALUATIONS

14.1 Wage Increases/Performance Evaluations.

(a) Effective upon the first full pay period following City Council approval of the new MOU, there shall be a cost of living adjustment increase of salary of 2%.

(b) Effective the first full pay period following January 1, 2025, there shall be a cost of living adjustment increase of salary that would be equal to the percentage change in CPI year over year from November 2023 to November 2024 for the Riverside-San Bernardino-Ontario CPI-U region as published by the U.S. Bureau of Labor Statistics up to a maximum of 4.0% (i.e. CPI percentage up to 4.0%) should the percentage change in CPI be above 2.0%. Should the percentage change in CPI be below 2.0%, then the cost of living adjustment increase of salary would be 2.0%.

(c) Effective the first full pay period following January 1, 2026, there shall be a cost of living adjustment increase of salary that would be equal to the percentage change in CPI year over year from November 2024 to November 2025 for the Riverside-San Bernardino-Ontario CPI-U region as published by the U.S. Bureau of Labor Statistics up to a maximum of 4.0% (i.e. CPI percentage up to 4.0%) should the percentage change in CPI be above 2.0%. Should the percentage change in CPI be below 2.0%, then the cost of living adjustment increase of salary would be 2.0%.

Ranges with defined steps are shown on the salary schedules provided herewith. The salary tables are calibrated in approximate 2.5% increments. Annual increase for satisfactory performance will be two (2) steps or approximately 5%. Department Heads will have the option of granting a higher salary increase based on exceptional performance, with approval of the City Manager. Unit members are evaluated using an employee performance evaluation form.

(a) Employee shall be granted a step increase upon receiving a satisfactory overall evaluation on the City approved employee evaluation form OR such step increase will be automatically implemented if employee's supervisor is thirty (30) days late on giving such evaluation, retroactive to the due date of the evaluation.

(b) A first denial of a step increase shall not be an allowable subject of the exercise of employee rights under the grievance procedure outlined herein. However, an employee may upon request have such first denial reviewed by the Employee Relations Officer. Employee shall have the right to request a hearing with the Employee Relations Officer and to have a representative of his/her choice present. The decision of the Employee Relations Officer shall be final at this stage.

(c) An employee denied a step increase shall thereafter have monthly meetings to review his/her performance with his/her supervisor and shall have the City approved employee evaluation form completed no later than six months after the date of the performance evaluation which led to the denial of the step increase. If the employee’s overall performance is rated satisfactory, then the employee shall be granted the appropriate step increase effective the first pay period following the six month re-evaluation period. Such step increase shall not be retroactive.

(d) If the employee’s performance continues to be unsatisfactory after the six month re-evaluation period, the employee shall be given a final denial of step increase for the remainder of the regular evaluation period. After this final denial the monthly meetings to review his/her performance with his/her supervisor shall continue until the employee’s next annual review. Denial of a step increase under this subsection shall be subject to review by an Evaluation Review Committee. The Evaluation Review Committee shall be comprised of the Employee Relations Officer, a non-evaluating Department Head selected by the employee, and an IBEW – Local 47 business representative. The Evaluation Review Committee shall make any adjustment to the evaluation that it deems justified by majority vote and its decision shall be final with no other right of appeal or grievance on the matter.

(e) An employee at the top of his or her range shall have his or her performance evaluated at least annually within thirty (30) days of her/her anniversary date.

ELECTRIC:

CLASSIFICATION	ADJUSTED SALARY RANGE	LADDER/STRUCTURE
Powerline Crew Superintendent	U90	2 ranges or 5% above Powerline Crew Supervisor
Electric Planning Supervisor	U88	2 ranges or 5% above Senior Electric Service Planner
Powerline Crew Supervisor	U88 / Step 13	4 ranges or 10% above Certified Powerline Technician
Operations System Technician	U86 / Step 13	4 ranges or 10% above Substation Test Technician
Senior Electric Service Planner	U86	2 ranges or 5% above Electric Service Planner
Electric Service Planner	U84	2 ranges or 5% above Powerline Technician
Certified Powerline Technician	U84 / Step 13	Rubber Glove Certified
Powerline Technician	U82 / Step 13	Benchmark Position
Electric Meter Test Technician	U82 / Step 13	Equal to Powerline Technician
Substation Test Technician	U82 / Step 13	Equal to Powerline Technician
Powerline/Meter Test Tech Apprentice	Percentage of U82 / Step 13	See Apprentice Salary Schedule
Powerline Tech (RG Certified) Apprentice	Percentage of U84 / Step 13	See Apprentice Salary Schedule
Assistant Electric Service Planner	U74	10 ranges or 25% below Electric Service Planner
Public Benefits Analyst	U72	4 ranges or 10% above Public Benefits Coordinator
Public Benefits Coordinator	U68	
Lead Field Service Representative	U60	4 ranges or 10% above Field Service Representative
Warehouse Services Specialist – Electric	U58	
Electric Service Worker	U58	
Field Service Representative	U56	

Utility Services/Engineering Services Assistant	U54	
Auto Cad/GIS Technician	U68	
Senior Electric Distribution System Designer	N/A	

WATER/WASTEWATER:

CLASSIFICATION	ADJUSTED SALARY RANGE	LADDER/STRUCTURE
Assistant Water Superintendent	U78	4 ranges or 10% above Dist/Prod/WW Supervisor
Distribution/Production/Wastewater Supervisor	U74	4 ranges or 10% above Lead
Water Services Lead*/Water Production Operator Lead/ Wastewater Collection Systems Technician Lead	U70	4 ranges or 10% above Service Worker III/Prod III/ Wastewater III
Water Production Operator III/ Water Services Worker III/ Wastewater Collection Systems Technician III	U66	4 ranges or 10% above Dist/Prod Operator II/ Wastewater Collection Systems Technician II
Water Production Operator II/ Water Services Worker II/ Wastewater Collection Systems Technician II	U62	4 ranges or 10% above Worker I
Water Services Worker I/ Wastewater Collection System Technician I/ Water Production Operator I/ Warehouse Specialist - Water	U58	Benchmark

*Water Services Lead includes the Water Meter Crew Lead, Water Valve Flushing Crew Lead, and Water Construction Crew Lead.

14.2 Apprentice Salaries and Certificate Pay.

(a) All incumbents who have completed their one-year probationary period in the classifications of Powerline Technician and Powerline Crew Supervisor shall be placed at maximum amount of the allocated range. Incumbents who have not completed their one-year probationary period in such classifications shall be placed on the allocated range at a point which is 95% of the maximum amount of such range.

(b) City will create a new Class and a new Grade that incorporates the 6% received upon training completion and commencement, within the base salary; and City has the ability to do 0, 1, or 2 step increases at reviews.

(c) All incumbents in Electric Utility Apprenticeships shall be placed at a point on the allocated range which reflects the corresponding phase, upon commencement, pursuant to ratios a. through g. listed below. Upon successful completion of each phase, apprentice will promote to the next phase and receive the stated range increase, pursuant to ratios a. through g. listed below, upon commencement of that next phase. The Apprenticeship phasing shall be in accordance with their Apprentice Agreement with future wage increases pursuant to the following ratios:

a. Phase 1 - 65% of Powerline Technician at Top Step (Currently Step 13)

b. Phase 2 - 70% of Powerline Technician at Top Step (Currently Step 13)

c. Phase 3 - 75% of Powerline Technician at Top Step (Currently Step 13)

d. Phase 4 - 80% of Powerline Technician at Top Step (Currently Step 13)

e. Phase 5 - 85% of Powerline Technician at Top Step (Currently Step 13)

f. Phase 6 - 90% of Powerline Technician at Top Step (Currently Step 13)

g. Phase 7 - Probationary Powerline Technician - 95% of Powerline Technician at Top Step (Currently Step 13)

(d) All incumbents who have completed the Apprenticeship program shall be promoted to Technician at the start of the next pay period as defined in the Apprenticeship Agreement.

(e) All incumbents in represented classifications for the Water or Wastewater Utility shall receive education incentive pay for non-expired certifications conferred by State of California water regulatory agencies in excess of the minimum job requirements. Employee shall be paid a 5% incentive for the first certificate obtained above the minimum job requirements and an additional 2.5% incentive for each additional certificate obtained up to a total of 12.5%. Under no circumstances shall the cumulative total for incentives exceed 12.5%. No incentives are paid for the classification minimum requirements.

(f) The City will provide reimbursement for CDL training and the testing cost for an employee upon their completion of probation, and subject to the City pre-approving the training company and cost in advance at its discretion.

In addition, should the employee who receives the reimbursement separate from City employment within two years of receipt of reimbursement, then the employee agrees to reimburse the City for the entirety of the reimbursement.

14.3 Bilingual Premium Pay. Employees who have been certified as being fluent in a language other than English, or sign language, shall receive five percent (5%) premium pay, if the need for fluency is: (1) necessary for the current position, and (2) use of the language for compensation has been previously approved by the employee's supervisor and the Human Resources Department. Qualifications shall be based upon certification of a certifying authority selected by the City. Each employee shall be reviewed annually for bilingual pay as part of the annual evaluation. Authorization and continuation of premium pay shall be at the sole discretion of the City. Nothing contained herein shall preclude the City from requiring proficiency in a second language as a minimum job qualification for any future employee or position.

14.4 Retention Bonus. Represented Unit members in the classifications of Operations System Technician, Probation Meter Test Technician, Probation Powerline Technician, Powerline Technician, Powerline Crew Superintendent, Powerline Crew Supervisor, Substation Test Technician, Meter Test Technician, Electric Planning Supervisor, Electric Service Planner, Senior Electric Service Planner and Certified Powerline Technician shall receive a retention bonus of $5,000 in the first full payroll following July 1, 2025, and $2,500 in the first full payroll following July 1, 2026 as long as they are still employed with the City on the date they are to be paid. The following classifications shall receive $2,500 in the first full payroll following July 1, 2025, and $1,250 in the first full payroll following July 1, 2026 as long as they are still employed with the City on the date they are to be paid:

Assistant Water/Wastewater Superintendent
Wastewater Collection Systems Specialist/LEAD
Wastewater Collection Systems Technician I
Wastewater Collection Systems Technician II
Wastewater Collection Systems Technician III
Wastewater Collection Systems Supervisor
Water Crew Supervisor – Production
Water Crew Supervisor – Distribution
Water Service Worker I
Water Service Worker II
Water Service Worker III
Water Service Crew Lead
Water Production Operator I
Water Production Operator II
Water Production Operator III
Water Production Operator Lead
Warehouse Specialist Water/Wastewater

After the retention bonus payments as described above for the first full payroll following July 1, 2026 are paid, the retention bonus shall no longer be provided and shall sunset.

14.5 Y-Rating. When a Unit member is reclassified to a new or existing class with a lower maximum salary rate, he or she may be assigned a "Y-Rate" designation under which the Unit member will remain at his or her current salary. Unit members with "Y-Ratings" will be frozen at their current prevailing pay rate and will not participate in salary range adjustment until salary schedules related to their new assignment exceed the Y-rated pay rate. Establishment of a "Y-Rate" salary for a Unit member is an administrative determination and requires the approval of the Unit member's department head, the Human Resources Director, and the City Manager. The practice is not to be confused with involuntary demotion, salary range adjustments, or other normal personnel procedures including administrative actions that result in bumping rights.

14.6 Salary Survey. The City agreed to fund a salary survey with an approved consultant that was completed in October 2022. The survey included benchmarked positions as follows: Powerline Technician for Electric, Water Service Worker or Pipefitter for Water; Wastewater Systems Technician/Specialist for Wastewater.

Targeted Equity Adjustments – Implement PSPC 2022 Total Compensation survey recommendations for IBEW Utility classifications, excluding where apprenticeship agreement specifies otherwise.

It was agreed upon that all future salary comparison data shall be gathered from the agencies identified as follows:

ELECTRIC UTILITY	**WATER UTILITY**	**WASTEWATER UTILITY**
Anaheim	Anaheim	Riverside
Riverside	Azusa	Redlands
Colton	Colton	Colton
Azusa	Riverside	Ontario
Southern California Edison	Eastern Municipal Water District	Chino
Pasadena	East Valley Water District	Coachella Valley
Burbank	Redlands	Eastern Municipal Water District

14.7 Longevity Pay. Effective the first full pay period following City Council adoption of the new MOU, Employees shall receive additional compensation, effective on the employee's employment anniversary date, for Longevity as follows:

(a) Upon completion of ten (10) years of continuous service, employees will receive additional pay of one percent (1.0%) of base salary;
(b) Upon completion of fifteen (15) years of continuous service, employees will receive additional pay of one and one-half percent (total 1.5%) of base salary;
(c) Upon completion of twenty (20) years of continuous service employees will receive additional pay of two percent (total 2.0%) of base salary.

The longevity pay described above is not “stacked,” e.g. an employee who has 20 years of continuous service or more would receive a total of 2.0% additional pay as longevity pay.

ARTICLE 15 -OVERTIME, ON-CALL PAY

15.1 Maximum Comp Time Accrual. All work performed by Unit members in excess of forty (40) hours in one (1) week, where such hours are required and approved by management, shall be paid at the rate of two (2) times the employee's regular hourly base rate of pay, unless the premium rate is higher at the rate of one and one half (1.5) times the employee’s regular premium hourly rate of pay. Overtime may be accrued as compensatory time to a maximum of one hundred sixty (160) hours. All overtime worked in excess of one hundred sixty (160) hours shall be paid for in the pay period in which it is earned.

15.1a Irrevocable Compensatory Time Leave Cash-Out. Compensatory time off cap is 160 hours, of which a maximum compensatory time amount of up to eighty (80) hours is eligible for an irrevocable cash-out option of up to twice per calendar year to be paid on the last pay check of May and/or November. Completed irrevocable election forms are due no later than December 31 of the calendar year prior to the calendar year in which the employee receives the cash-out. Employees will state the amount of hours to be cashed out for the May and November cash-out in their submitted irrevocable election form. Only CTO already accrued in the calendar year for which an election is made may be cashed out. If the employee does not accrue the CTO in the amount elected on form, the cash-out amount will be reduced accordingly to the amount accrued. Cash-outs for CTO accrued in the prior calendar year are not allowed. Employees may choose to have cash-out amount made as an employee contribution to the employee’s 457 deferred compensation plan or retiree health savings plan, subject to any applicable contribution limits imposed by IRS regulations.

15.2 Hours Worked. For purposes of overtime calculation, "hours worked" shall include time spent in required court appearances as set forth in Article 17. Hours worked shall also include approved vacation, holiday and compensatory time off. All other hours paid for but not worked, including sick leave shall not be counted as hours worked for overtime calculation.

15.3 Call Out Minimum Compensation.

(a) The City agrees to pay to the Unit member a minimum of two (2) hours pay for any time worked during the first hour when called-out for emergencies, and double time for each hour worked thereafter, unless the premium rate is higher at the rate of time and one half (1½). Call out minimum compensation does not apply to answering phone calls or emails off-site or off-duty, though employees are still entitled to pay for actual time worked in responding to such calls. When a call out exceeds one hour and

the employee has returned to the yard, and subsequently receives another call out, the employee shall begin a 2nd call out and not a continuance from the 1st call out (conversely, if the employee has not yet returned to the yard, it is a continuance from the 1st call out).

If in the future the City provides portable internet capable devices, then call out minimum pay will not apply to use of those devices off duty and/or off site to check and/or respond to calls or clear messages and/or alarms, though employees are still entitled to pay for actual time worked responding to such calls.

(b) All certified electrical and water employees (excluding the Electrical Services Worker and Apprentice employees) of this Unit are required to be placed on a Standby List by the Department Head, or his/her designee, on a rotational basis which includes alternating between both Primary and Secondary standby. The employee designated as the Primary is authorized to call the employee designated as the Secondary when the Primary determines that it is necessary to do so for safety or other legitimate reasons. The reason for the call-out of the Secondary employee shall be documented in writing and submitted to the Department Head and attached to the timecard for any callout hours worked by the Secondary on-call person.

15.4 <u>On-Call Pay.</u>

(a) Compensation for all employees placed on-call for a period of one (1) week (defined as one-hundred sixty eight (168) hours less forty (40) hour work week) shall receive additional compensation of twenty (20) hours at the regular rate of pay.

(b) When a holiday falls during a regularly scheduled on-call period, the employee will receive an additional four (4) hours of pay at the basic rate of pay per City Paid Holiday.

(c) On-call pay shall not be paid for an employee's scheduled work shift.

(d) Employees shall be entitled to receive the pro rata equivalent for any partial week.

(e) On-call assignments shall only be made by the Department Head or his/her authorized representative.

(f) On-call duty shall be served pursuant to a schedule prepared by the Department Head or his/her designee.

(g) Due to the implementation of the Alternative Work Schedule in City's Administrative Policy No. 30, Utility Department's on-call pay begins and ends eleven (11) a.m. Thursday to Thursday.

15.5 On-Call Status. For purposes of this Article, an employee shall be deemed to be on On-Call status only when all of the following conditions are met:

(a) The appropriate manager has placed the employee in on-call status by a notice in writing and said notice must be attached to the employee's timecard; and

(b) The employee is required to respond to the City yard or other designated location within a specified time not to exceed forty-five (45); and

(c) While on-call, the employee is prohibited from engaging in any activity which may interfere with the employee's ability to respond to a call and immediately commence the required job performance.

15.6 Communication Devices. An employee in on-call status may be required to wear a communication device. The requirement to wear a communication device shall not, absent the requirements set forth in section 15.5 constitute the placing of the employee in an on call status.

ARTICLE 16 - TEMPORARY UPGRADE PAY AND PROMOTION PAY

16.1 Temporary Upgrade (Out of Class). Unit members temporarily assigned by management to work in a higher classification, including classifications outside of the Unit for which they are qualified, shall receive compensation equivalent to a step on the higher classification salary range which provides a minimum of five percent (5%) above the employee's current salary or the bottom step of the range of the position to which he/she is temporarily upgraded, whichever is greater. Temporary upgrade pay shall be effective the day the assignment is made. At such time as an employee is no longer performing work out of his or her permanent classification, compensation shall be at the regular rate of pay for the permanent classification.

When assigning temporary upgrades, it is the intent of the City that such assignments shall be made in a fair and equitable manner so that all qualified employees are given an opportunity to work such assignments.

The parties agree to continue to meet and confer on this provision 16.1 only, and any such agreement through the continued meet and confer process would replace the language of this provision.

16.2 Promotions. Unit members promoted to work in a higher classification shall be placed in the new salary range of the higher classification that pays at least five percent (5%) more than the employee received in the lower classification.

16.3 Limited Assignments. Temporary assignments to perform work out of an employee's permanent classification shall be limited in duration to 960-hours in any twelve (12) month period. A time extension to the temporary assignment beyond the initial 960 hours may be made with the written concurrence of IBEW – Local 47.

ARTICLE 17 - PAY FOR JURY DUTY & COURT APPEARANCES

Any employee summoned for attendance to any court for jury duty during his/her normal working hours shall be deemed to be on duty and there shall be no loss of salary, but any jury fees received by him/her shall be paid into the City treasury. Any employee, who shall be called as a witness arising out of and in the course of his/her City employment, shall be deemed to be on duty and there shall be no loss of salary, but any witness fees received by him/her shall be paid into the City treasury. An employee absent as a witness in a private matter shall not be entitled to be paid during such absence, he/she may, however, use vacation time for such absence.

ARTICLE 18 - SAFETY, EQUIPMENT AND TRAINING

18.1 Safety Equipment. The City will provide employees safety equipment in accordance with California State Law.

18.2 Uniforms. The City shall provide uniforms for employees who are required by the City to wear a uniform.

18.3 Boot/Safety Shoe Allowance. The City shall provide a yearly boot /safety shoe allowance of $300 to each employee who is required, by the nature of his/her work to wear a specific type/style of shoe or boot. An approved shoe/boot is one which meets the minimum standards as determined by the Department Head and approved by the Joint Safety and Training Committee. Departmental standards shall not be less than those which may be required by CAL/OSHA. Employees shall wear approved shoes/boots during working hours where required by work conditions.

18.4 Damaged Property. The City shall reimburse unit employees the reasonable replacement value of personal property destroyed in the course and scope of their employment. The employee shall make application for reimbursement by presenting to the Department Head the damaged or destroyed article. Personal property subject to this provision consists of personal property necessary to fulfill the employee's job duties and that is approved in advance for use on the job. Replacement for prescription eyewear is limited to $200 per year. Replacement for watches is limited to $100 per year. Excluded from this definition are items of clothing used by the employee in the exercise of his/her discretion in lieu of City issued uniform apparel. Replacement of items will be secondary to any applicable insurance.

18.5 Inclement Weather. Whenever management decides not to send employees into the field during normal work hours due to inclement weather, those employees shall not suffer any loss of regular pay. When employees are not assigned to the field under this

provision, they may be given other duties, assigned to training, or be held to respond to emergency calls.

18.6 Joint Safety and Training Committee. The City hereby agrees to create a Joint Safety and Training Committee. The Committee shall consist of an equal number of members appointed by the City and IBEW – Local 47. The Committee shall be advisory only. The Committee shall meet on a regular basis, but not less than once per quarter. The City and IBEW – Local 47 may agree to meet more frequently on a regular or special basis. The Committee may review work practices, training, procedures and rules and may recommend changes in the interest of health and safety. The Committee may review all serious accidents, injuries or fatalities, and include recommendations resulting from its review in the Committee's minutes. The Committee will also draft a safety manual for each department.

18.6.1 Reporting. Minutes of all Committee meetings shall be posted on IBEW – Local 47 bulletin boards, with copies to the City Manager, Human Resources Department, and to the Business Manager of IBEW – Local 47, within five (5) working days after the Committee meeting. Specific questions submitted either to the Committees or by the Committees to Management will be responded to within a reasonable time and the answers posted on IBEW – Local 47 bulletin boards.

18.6.2 Discipline. Proceedings of the Committee shall be completely independent of any disciplinary action and the Committee's findings shall not be entered into the record of any such disciplinary proceedings.

ARTICLE 19 - MILEAGE, MEALS AND OTHER REIMBURSEMENT

19.1 Personal Vehicle. Employees shall be reimbursed for use of their own vehicle for authorized City business pursuant to the administrative policies of the City. (Refer to Administrative Policy E-1 for guidelines.) Union has tentatively agreed to an updated citywide vehicle use policy.

19.2 Meal Periods. Employees shall earn meals at fixed intervals during periods of call-out overtime, and during an extension of the regular or planned overtime day.

(a) Employees called back within two hours after the end of their shift shall earn one thirty minute paid meal period and one meal period compensation of $20.00.

(b) During call-out overtime, one thirty minute meal period and one meal compensation of $20.00 will be earned for each consecutive four hours of paid overtime completed.

(c) During extension of the regular workday, one paid thirty minute meal period and one meal compensation of $20.00 will be earned after two

consecutive hours paid overtime completed; thereafter, meals will be earned after completion of each four consecutive hour intervals as described above.

(d) Employees that work two consecutive hours or more immediately prior to the beginning of a regular shift will earn one thirty minute meal period and one meal compensation of $20.00.

(e) Planned overtime – If planned overtime extends beyond the length of a regular workday, one paid thirty minute meal period and one meal compensation of $20.00 will be earned after two consecutive hours worked beyond the number of hours in employee's regular schedule completed; thereafter, meals will be earned after completion of each four consecutive hour intervals of planned overtime. For example, employee's regular schedule in 4/10's; when planned overtime exceeds 10 hours in one day this section applies.

(f) If "called out" while on planned overtime, Section 19.2(b) goes into effect during the call out.

(g) Paid meal periods will not count as time worked.

(h) It is recognized that employees may not be able to leave an emergency situation and that the final determination of this fact shall be made by the supervisor in charge of the particular activity.

(i) Employees shall receive pay for earned meal periods and meal compensation regardless of whether the meal period or meal is actually utilized. All meal periods will be paid at the applicable overtime rate.

ARTICLE 20 - TUITION REIMBURSEMENT: EDUCATION INCENTIVE

20.1 Qualifications.

(a) Reimbursement under this section shall be made for employee participation in an educational program which provides broad knowledge with respect to a subject, consistent with the requirements of subsection B immediately below. This is distinguished from "training." which relates to education in the performance of a limited task or tasks which the employee is required to perform as part of their current employment.

(b) Maximum reimbursement shall be $4,500 per fiscal year. Tuition actually paid will be reimbursed to all permanent employees for courses and required books related to classes qualified for tuition reimbursement approved by the Department Head and taken in an accredited educational institution provided that:

(i) The subject matter of the course relates to obtaining a degree, including prerequisites, or relates directly to and contributes toward the employee's position with the City.

(ii) The employee has received at least a competent proficiency rating on the last evaluation report.

(iii) The employee has furnished evidence that the course has been completed with at least a 'C' or “pass” grade, verified by Human Resources.

20.2 Reimbursement Requirements.

(a) Requests for reimbursement must be completed and returned to the Human Resources Department with proof of satisfactory completion within thirty (30) days after employee’s receipt of course completion documentation. (No reimbursement will be made without bona fide receipts or documentation.)

(b) Reimbursements will be made only after proof of completion of course with minimum ‘C’ average or “pass” and satisfactory receipts of payment for tuition are approved by the Human Resources Department.

20.3 Hours Worked. The City shall pay represented employees for working hours spent in City required and approved training or conferences. Travel time shall be included as time worked in accordance with FLSA standards. The City shall not pay for the costs incurred to meet minimum job requirements.

20.4 Education Incentive. A one (1) time Education Incentive shall be paid to represented employees upon successful completion of certain educational programs under the following conditions:

(a) $500.00 (five hundred dollars) shall be payable for successful completion of a certificate program requiring 80 hours or more for completion, from an accredited college or university in an area of specialization related to the duties of the position currently held by the employee as previously approved by the Human Resources Department. An additional $500.00 (five hundred dollars) shall be paid if the certificate is in the area of supervision of personnel

(b) $2,000.00 (two thousand dollars) shall payable for successful completion of an AA or AS Degree from an accredited college in an area of specialization related to the duties of the position held by the employee at the time the employee completes the program as previously approved by the Human Resources Department.

(c) $3,000.00 (three thousand dollars) shall be payable for successful completion of a BA or BS Degree from an accredited college or university in any subject after three (3) years of employment with the City. An additional $1,000.00 shall be paid if the degree is in the area of public or business administration, human resources, accounting, information management, or adult education.

(d) $4,000.00 (four thousand dollars) shall be payable for successful completion of a Master's Degree from an accredited college or university in any subject after three (3) years of employment with the City.

(e) Programs shall be accredited by the California State Board of Education or equivalent authority. The incentive payments shall be otherwise subject to such rules and procedures as established by the City. Receipt of education incentive payments shall not be precluded by the fact that the employee may or may not have obtained tuition reimbursement by the City for all or part of the units required for the certificate or degree.

(f) Education incentive payments shall be made according to the following schedule:

Employees completing certain education programs will receive 100% of the incentive pay with satisfactory proof.

It shall be the employees' sole responsibility to provide all necessary documentation, to obtain prior approval and to make the request for education incentive payment.

ARTICLE 21 - SICK AND BEREAVEMENT LEAVE

21.1 Sick Leave Accrual. Unit members shall accrue three and sixty-nine hundredth (3.69) hours of sick leave per pay period. Sick leave shall accrue up to a cap of four hundred (400) hours. Leave banks can be utilized for time off or for conversions per provisions in the MOU. Employees with remaining "Old Sick Leave" accounts must utilize these hours prior to using their regular sick leave hours.

21.2 Use of Sick Leave. Sick leave shall be granted only where consistent with the City's Sick Leave Policy (currently AP-1). Except as otherwise provided in the Family Medical Leave Act and Pregnancy Leave policies of the City (currently AP-02) not more than one half (1/2) of the employee's annual accrual of sick leave within any calendar year may be granted to an employee for the care or attendance of members of his/her immediate family.

21.3 Irrevocable Sick Leave Cash-Out

Sick leave accrues at 3.69 hours per pay period up to 400 hours cap, of which a maximum amount of up to fifty (50) hours is eligible for an irrevocable cash-out option each calendar year to be paid on the last pay check of November only if: the cash-out does not reduce the employee's available sick leave bank below one hundred twenty (120) hours. Completed irrevocable election forms are due no later than December 31 of the calendar year prior to the calendar year in which the employee receives the cash-out. Employees will state the amount of hours to be cashed out for the November cash-out in their submitted irrevocable election form. Only sick leave already accrued in the calendar year for which an election is made may be cashed out. If the employee does not accrue the sick leave in the amount elected on form, the cash-out amount will be reduced accordingly to the amount accrued. Cash-outs for sick leave accrued in the prior calendar year are not allowed. Employees may choose to have cash-out amount made as an employee contribution to the employee's 457 deferred compensation plan or retiree health savings plan, subject to any applicable contribution limits imposed by IRS regulations.

One cleanup buyout may occur upon Tentative Agreement ratification by IBEW – Local 47 and approval by Council. Irrevocable election for each leave bank to occur by May 1, 2023, to be paid out in the pay period including June 1, 2023, based on the criteria outlined above.

Any cash-out may be converted pre-tax to the Unit member's 457 Deferred Compensation account (subject to IRS maximum contributions provided by law).

21.4 Sick leave upon separation. Upon separation, service retirement or termination, after ten (10) years of continuous City service, the employee shall be eligible to convert to cash an amount equivalent to thirty percent (30%) of all unused sick leave or contribute the entire remaining balance of sick leave to the employee's 457 Deferred Compensation Account (subject to IRS maximum contributions provided by law) or City's Retiree medical Savings Account, if available. Such reimbursement is to be computed based upon the employee's final compensation rate and to be paid within one payroll period of the effective date of separation.

21.5 Sick leave Conversion. After ten (10) years of continuous City service, the employee shall be eligible to irrevocably elect to convert one hundred percent (100%) of unused sick leave minus forty (40) hours to the City's Retiree Medical Savings Plan or to the employee's 457 Deferred Compensation Account (subject to IRS maximum contributions provided by law). Conversion forms are due no later than November 1st of the tenth year of continuous service. The irrevocable option will be converted the following calendar year in the pay period that includes January 1st.

21.6 Bereavement. Unit members shall be allowed five days of bereavement, thirty (30) hours of which are with pay, for bereavement leave upon the death of a member of their family. For this section, family includes the following persons: spouse, domestic partner, mother, father, brother, sister, child, stepchild, grandchild, or grandparent of the employee or any one of the same relatives of the employee's spouse or domestic

partner. The thirty (30) hours of bereavement shall be allowed for each death of a family member. For the unpaid time between the 30 hours and five days, an employee may use vacation, compensatory time, sick leave, or any other paid leave that would otherwise be available. An employee shall be allowed a maximum of forty (40) hours bereavement leave under this section for multiple family deaths occurring during the same twenty-four (24) hour period.

21.7 Salary Continuation. For any work-related injury, an employee shall have sixteen (16) weeks of Salary Continuation Pay for time off work authorized by the treating physician, including time for scheduled appointments with the treating physician.

21.8 Work Related Injuries. All other aspects of employees work related injuries will be governed by the City Administrative Policy No. RM-03, Return to Work/Temporary Modified/Work Assignment Program.

ARTICLE 22 - VACATION AND HOLIDAY ACCRUALS

22.1 Vacation Leave Accruals. For employees of the City as of date of this MOU, Vacation benefits shall accrue in accordance with the following schedules:

One (1) through four (4) years service
Ten (10) days per year =three and eight one-hundredth (3.08) hours per pay period

Beginning the fifth (5th) year through the 9th year:
Fifteen (15) days per year =four and sixty-two hundredth (4.62) hours per pay period

Beginning the tenth (10th) year & thereafter:
Twenty (20) days per year =six and fifteen one-hundredth (6.15) hours per pay period

22.2 Maximum Vacation Leave Accrual. An employee may accrue vacation leave to a maximum of three-hundred twenty (320) hours. If an employee has accumulated the maximum allowed under this Article, said employee will receive no further vacation leave accruals until said employee uses a portion of his/her vacation leave and his/her vacation leave accruals have been reduced below the maximum. There shall be no retroactive receipt of any vacation leave lost as a result of this Article.

22.2a Irrevocable Vacation Leave Cash-Out. Vacation leave cap is 320 hours, of which a maximum amount of up to eighty (80) hours is eligible for an irrevocable cash-out option each calendar year to be paid on the last pay check of November only if the cash-out does not reduce the employee's available vacation leave bank below eighty (80) hours. Completed irrevocable election forms are due no later than December 31 of the calendar year prior to the calendar year in which the employee receives the cash-out. Employees will state the amount of hours to be cashed out for the November cash-out in their submitted irrevocable election form. Only vacation leave already accrued in the

calendar year for which an election is made may be cashed out. If the employee does not accrue the vacation leave in the amount elected on form, the cash-out amount will be reduced accordingly to the amount accrued. Cash-outs for vacation leave accrued in the prior calendar year are not allowed. Employees may choose to have cash-out amount made as an employee contribution to the employee's 457 deferred compensation plan or retiree health savings plan, subject to any applicable contribution limits imposed by IRS regulations.

22.3 Vacation Leave Approval Required. Vacations shall begin accruing upon employment and may be taken with approval of the Department Head at any time following the completion of six (6) months of employment within the one (1) year probationary period, but the vacation leave taken shall not be in excess of that actually accrued at the time such vacation is taken. Vacations must be approved a minimum of fourteen (14) days in advance of the first day of such vacation. Exceptions may be made to the fourteen (14) day notice requirement for emergencies or at the discretion of the City as determined by the Department Head or Division Supervisor.

22.4 Vacation Leave Payment Upon Termination. Any employee who has been in continuous full-time service of the City for a period of six (6) months or more, who is about to terminate his/her employment, and has earned vacation to his credit, shall be paid for such vacation time within one payroll period of the effective date of such termination.

22.5 Vacation Leave Payment In Lieu. No more than once every three (3) years, at the request of the employee and with the approval of the Department Head and the Human Resources Department, in order to meet unusual or emergency conditions, an employee may irrevocably elect to be paid the straight time daily equivalent of forty (40) hours of his/her salary in lieu of vacation time off. Such payment shall be determined by the Human Resources Department. The balance of accrued vacation shall not be allowed to go below forty (40) hours as the result of a payment under this subsection. Buyout forms are due no later than November 1st of the third year. The irrevocable option will be payable the following calendar year in the pay period that includes September 1st.

22.6 Holidays. Holidays for employees covered by this section shall be as follows:

New Year's Day
Martin Luther King Day
President's Day
Memorial Day
Juneteenth
Fourth of July
Labor Day
Veteran's Day
Thanksgiving
Day after Thanksgiving

Christmas Eve
Christmas
New Year's Eve
One (1) floating holiday

As indicated in Administrative Policy A-30, Alternative Work Week – A "Holiday bank will be created for each employee to accrue flexible holiday hours. Hours accrued in the bank are subject to a mandatory annual buy-out with the payroll closest to June 1st of each year".

Any buy-out may be converted pre-tax to the Unit member's 457 Deferred Compensation account (subject to IRS maximum contributions provided by law).

22.7 Holidays Falling on Weekend Days. If the scheduled holiday falls on a Friday (regular day off) or Saturday, it may be observed on a Thursday or accrued to the Holiday leave bank as determined by the holiday schedule posted on the City's Intranet. If the holiday falls on a Sunday, the holiday will be taken on the following Monday.

22.8 Flex Schedule. Employees working a flex schedule shall be paid holiday time in accordance with the City's Administrative Policy No. A-30.

22.9 Floating Holiday. The floating holiday set forth in Article 22.6 above, shall be credited as ten (10) hours to each represented employee's account effective with the first payroll in each fiscal year. Floating holiday leave balances must be used during the fiscal year or they will be cashed out according to Administrative Policy A-30.

22.10 Added Holidays. If, during the term of this MOU, the City Council recognizes an additional holiday for City employees, said holiday shall be extended to this Unit.

22.11 Holiday Leave. When holiday leave is taken, the employee will be paid at the standard ten (10) hours per day, regardless of the assignment of a ten (10), or twelve (12) hour scheduled workday. When holiday leave is taken, anyone working less than a ten (10) hour workday schedule shall receive leave time as compensation for the difference between their regular work day on the holiday and ten (10) hours. An employee may utilize any accrued leave bank except sick leave to supplement the twelve (12) hour scheduled day.

22.12 Holiday Leave Payment Upon Termination. Any Unit employee, who is about to terminate his/her employment, and has earned Holiday leave to his/her credit, shall be paid for such holiday leave within one payroll period of the effective date of such termination at the employee's then current rate of pay.

22.13 Promotional Pay Out of Leave. When employees transfer/promotions occur between bargaining groups, the leave hours will be transferred and maintained by the employee, not cashed out.

ARTICLE 23 - MEDICAL AND DENTAL INSURANCE

23.1.1 Pre-January 1, 2024 Benefits.

Effective July 1, 2019, the cafeteria plan contribution will be increased by $50 to $1,400 per month, or $16,800 annually to each Unit member for the cafeteria benefits plan detailed in this section.

(a) Said contribution shall first be used to provide for Health Insurance for employee. Employee shall be covered by Health Insurance with a City approved Health Plan unless the employee provides proof to the City that employee is covered by another acceptable health plan as determined by the Human Resources Department.

(b) The balance may be used for any of the following or any combination thereof:

(i) Health insurance for employee's spouse and/or dependents.
(ii) Dental insurance for employee, spouse and/or dependents.
(iii) Life insurance for employee, excluding voluntary life insurance.
(iv) Deferred compensation program.
(v) Eye care plan for employee, spouse and/or dependents.
(vi) Supplemental insurance options.

(c) Unit members may elect to receive ninety-two and five-tenths percent (92.5%) of the balance in cash as CalPERS non-includable taxable income, or a portion as cash and a portion to a 457 plan. This election may only occur at time of hire or during open enrollment.

During the term of the MOU, upon written notice by the City, parties agree to reopen this Article and begin meeting and conferring no later than two weeks following such written notice.

23.1.2 Benefits Effective January 1, 2024.

The parties have completed the above re-opener negotiations of this Article. The following is effective January 1, 2024. Accordingly, the above Pre-January 1, 2024 Benefits under 23.1.1 shall no longer be in effect as of January 1, 2024.

(a) Health Benefit Contributions and Benefit Money.

i. Healthcare Plan Contributions – Effective January 1, 2024, the City shall contribute for each employee who participates in a City Healthcare Plan a maximum amount up to the 2024 rates for mid-tier HMO Healthcare Plan (Blue Shield Access+), which are stated below.

BS ACCESS+	
Single Employee	$756.65
2 Party	$1,513.30
Family	$1,967.29

Beginning January 1, 2025 and annually thereafter on January 1, the maximum annual inflator for the City contribution increase is up to 2.5% above the maximum contribution amount for rates for mid-tier HMO Healthcare Plan (Blue Shield Access+ in 2024) of the prior year.

ii. In addition to the healthcare plan contribution, employees participating in the City Healthcare Plan shall receive the following amounts as cafeteria plan Benefit Money.

Single Employee	$600
2 Party	$250
Family	$250

Employees may use the Benefit Money stated above for any combination of the following cafeteria plan benefits: (1) dental insurance for employee, spouse, and/or dependents; (2) vision insurance for employee, spouse, and/or dependents; (3) health flexible spending account (health FSA); and/or (4) additional City offered health benefits. Any leftover unused Benefit Money is forfeited.

*Because of requirements related to the 457 plan election, those employees who are currently contributing to their 457 plan amounts for 2024 from their cafeteria plan contribution would continue to maintain their current level of contribution using the cafeteria plan contribution through the end of 2024 only.

Employees shall be responsible for paying any cost for the employee's selected cafeteria plan benefits that exceed the City's contribution described above.

(b) Option to Opt-Out with Proof of Alternative Minimum Essential Coverage.

Employees who provide the City with reasonable evidence of alternative minimum essential coverage can decline, in writing, coverage under the City's Healthcare Plans and will not receive any cafeteria plan contribution from the City.

i. Employees hired before July 1, 2024 may opt out and choose to receive a maximum cash out of $1,000 per month as taxable income that is not includable as compensation earnable or pensionable compensation for CalPERS purposes if they meet the conditions of the eligible opt out arrangement described below. Such employees would also receive $150 per month as Non-Medical Benefit Money that may be used for (1) dental

insurance for employee, spouse, and/or dependents; (2) vision insurance for employee, spouse, and/or dependents; (3) health flexible spending account (health FSA); and/or (4) additional City offered health benefits. Any leftover unused Non-Medical Benefit Money is forfeited.

ii. Employees hired after July 1, 2024 may opt out and choose to receive a maximum cash out of $500 per month as taxable income that is not includable as compensation earnable or pensionable compensation for CalPERS purposes if they meet the conditions of the eligible opt out arrangement described below. Such employees would also receive $150 per month as Non-Medical Benefit Money that may be used for (1) dental insurance for employee, spouse, and/or dependents; (2) vision insurance for employee, spouse, and/or dependents; (3) health flexible spending account (health FSA); and/or (4) additional City offered health benefits. Any leftover unused Non-Medical Benefit Money is forfeited.

*Because of requirements related to the 457 plan election, those employees who are currently contributing to their 457 plan amounts for 2024 from their cafeteria plan contribution would continue to maintain their current level of contribution using the cafeteria plan contribution through the end of 2024 only.

iii. Eligible Opt Out Arrangement – The eligible opt out arrangement conditions that must be satisfied in order for an employee to receive cash for opting out of the City's Healthcare Plan coverage are as follows:

a. The employee and the employee's Tax Family must have (or will have) minimum essential coverage through another source (other than coverage in the individual market, whether or not obtained through Covered California);
b. A Tax Family means all individuals for whom the employee reasonably expects to claim a personal exemption deduction for the taxable year(s) that cover the employee's plan year for which the eligible opt out arrangement applies;
c. The employee must provide reasonable evidence of the alternative minimum essential coverage for the employee and their Tax Family for applicable period. Reasonable evidence may include an attestation by the employee;
d. The employee must provide the evidence/attestation every plan year;
e. The employee must provide the evidence/attestation no earlier than a reasonable time before coverage starts (e.g., open enrollment). The evidence/attestation may also be provided within a reasonable time after the plan year starts; and
f. The cash for opting out cannot be made if the City knows or has reason to know that the employee or the employee's tax family member does not have alternative minimum essential coverage.

23.2 IRS 125 Flexible Spending Plan (Cafeteria Plan). During the term of this MOU, the City shall maintain an Internal Revenue Service (IRS) 125 plan which will allow employees to allocate specified amounts of monthly pre-tax salary or wages for the reimbursement of medical care expenses or dependent care expenses or both as defined by the IRS.

23.3 Eye Wear Reimbursement. City will also reimburse a maximum total annual (per fiscal year) amount of $200 for protective eye wear for an employee.

23.4 Insurance Advisory Committee. The City shall maintain the Benefit Advisory Committee to which IBEW – Local 47 may appoint a representative.

23.4.1 Purpose. The purpose of the Benefit Advisory Committee shall be to advise the City relative to health, life, and related insurance plans which may be provided to employees of the City including the type of plans, scope of coverage, and the selection of insurance carriers.

23.4.2 Voting. The Benefit Committee shall determine issues by a majority vote of the members, each member having one (1) vote.

23.4.3 Selection of Members. Benefit Committee Members shall be selected as follows:

(a) Representatives of bargaining units shall be selected in a manner to be determined by each respective unit.

(b) The City's Representatives shall be the Human Resources & Risk Manager and the Administrative Services Director.

23.4.4 Meetings. The Benefit Committee shall meet as may be necessary to conduct the business of the committee.

23.4.5 Status. The Benefit Advisory Committee will be advisory only, with no power or prerogative to decide on behalf of the City on issues pertaining to employee insurance coverage.

ARTICLE 24 - RETIREMENT AND MEDICARE

24.1 California Public Employees Retirement System (CalPERS) Formulas.

(a) All IBEW – Local 47 represented miscellaneous employees hired prior to December 11, 2012 remain eligible to receive the CalPERS retirement plan known as “two and one-half at fifty-five” retirement (2.5% @ 55) formula for Miscellaneous Employees.

(b) Beginning on or after December 11, 2012, the City implemented the 2% @ 60 retirement formula for miscellaneous new hires with average three years for calculation of final retirement benefit, which after January 1, 2013 shall only apply to new hires defined by CalPERS as "classic members." (Approved by City Council through side letter December 11, 2012.)

(c) Beginning January 1, 2013, new hires defined by CalPERS as "new members" receive the newly created 2% @ 62 retirement formula with average of three years for calculation of final retirement benefit. (Mandated by the Public Employees' Pension Reform Act of 2013.)

24.2 CalPERS Member Contributions. All IBEW – Local 47 represented employees shall pay their full member contribution rate to their respective retirement plan with CalPERS. CalPERS will determine the employee member contribution rates for each retirement formula. The City does not provide any Employer Paid Member Contributions for Unit members.

24.3 F.I.C.A. Represented employees shall pay the employee's portion of FICA and the City shall be responsible for payment of the employer's portion.

For information about pensionable compensation, refer to CalPERS, whose current link is at https://www.calpers.ca.gov/page/about/laws-legislation-regulations/public-employees-pension-reformact#:~:text=In%20addition%2C%20for%20the%202020.in%20the%20Consumer%20Price%20 Index (Public Employees' Pension Reform Act).

ARTICLE 25 - MISCELLANEOUS BENEFITS

25.1 Disability Insurance.

(a) Each employee shall pay the cost of membership in the City's long term disability insurance selected by the City. City agrees to offer a short term disability program at the employee's expense provided that such short term disability program can be offered in conjunction with the City's existing long term disability insurance and the Short Term Disability waiting period will reduce from 30 days to 7 days. The City will notify IBEW – Local 47 of this option at the City's Annual Benefit Advisory Meeting.

(b) An employee with sick leave accruals available may use their accruals in conjunction with STD/LTD benefits until exhausted. When sick leave is exhausted, an employee may use accumulated vacation leave and may also elect to use compensatory time to extend full pay as long as possible except when exempted by City policy and the Family Medical Policy. An employee is prohibited from receiving more than 100% of salary in combined sick/vacation leave and City's STD/LTD/Paid Family Leave benefits.

Employees who are eligible for the Donated Leave Policy, may not receive more than 100% of salary when combined with STD/LTD/Family Leave Benefits.

25.2 Computer Loan. Every Unit member who has completed the initial probationary period as an employee of the City shall be entitled to participate in an interest free loan program for the purchase of a computer. The maximum amount of any individual loan shall be equal to one (1) month of an employee's salary. The cumulative amount of loans outstanding hereunder shall not exceed $40,000. The loan shall be upon the terms and conditions established by the City.

25.3 Direct Deposit. All employees shall be paid by direct deposit of their payroll check into an account of their choice, except those who either do not hold an account with a financial institution that offers direct deposit or who do not hold any account of any type, and such employees will be required to pay a $10 administration fee per payroll. It shall be the responsibility of the employee to establish and maintain such account.

25.4 Utility Allowance. Any represented employee(s) who reside within the City shall receive $150 per month per employee as a discount against the cost of electric and water service during the period of such residency.

ARTICLE 26 - IBEW – Local 47 RETIREE MEDICAL FUND

All represented employees agree to pay one percent (1%) of salary into the IBEW – Local #47 Retiree Medical Fund.

ARTICLE 27 - LAYOFFS AND RE-EMPLOYMENT

27.1 Purpose. The purpose of this Article is to provide a fair and equitable basis for the reduction of full-time classified personnel due to insufficient work or funds.

27.2 Reasons For Lay Off. The City retains the right to determine when a lack of work or lack of funds condition exists. Lack of work means that a category of work effort within the City can be fulfilled with fewer employees at an acceptable level of service. Lack of funds means that the City cannot sustain operations at the current level of employment within the funding available.

27.3 Notice Of Lay Off. Any layoff initiated under the provisions of this document can take place at any time during the year. The City shall notify the affected employees in writing at least fourteen (14) calendar days prior to the employee’s last day of work. The City reserves the right to pay the employee for such fourteen (14) day period or any remaining portion thereof, and to require the employee to immediately vacate City property. A copy of any notice will be forwarded to IBEW – Local 47. Any notice of layoff shall specify the reason for the lay off and effective date. The form and timing of such notice shall be subject to the established Grievance Procedure provided, however, that

the City's decision to lay off is not subject to the grievance procedure. The date of layoff shall not be delayed by the pendency of a grievance.

27.4 Order Of Lay Off. The classifications of employees to be affected by any layoff shall be as determined by the City in its sole discretion. The order of layoff shall be based upon continuous seniority within the affected classification, except as provided in Section 27.4(a). With respect to the classifications which have been retitled by the City, "continuous seniority within the affected classification" shall not be limited to time in the newly titled classification but shall mean all current continuous time in full-time permanent employment with the City in whatever classification.

(a) Critical Position Function. There are various job functions set forth in the position description for each classification. Certain of these functions may be determined by the City Manager to be vital to the ongoing operations of the City. By way of further definition, a function is "critical" if the City Manager, in the exercise of his/her sole discretion, determines that the City cannot best provide necessary services with the reduced work force without employees capable of performing the "critical" function. A senior employee may be selected for layoff over a more junior employee if the junior employee has demonstrated the ability to perform these critical position functions and the more senior employee has not. No person shall be deprived of the opportunity to develop his/her skills in a critical position function.

(b) For purposes of this section, "critical position function" shall be based on the skills necessary to perform the function and not on the performance of specific tasks performed by the incumbent in any position. "Skill" refers to the basic knowledge and ability necessary to perform a job function e.g. typing, welding, accounting or any recognized subcategory of such function, e.g. pipe welding, welding specialized metals, etc., or cost accounting vs. general accounting. "Tasks" refers to the elements of a position within a department e.g., typing form-A.

27.5 Reduction Of Class. The establishment of a Class Series List was established as indicated on the attached Attachment “C”.

(a) Any employee who has been given a written notice of layoff may choose to be reduced in classification and compensation, to a classification in which the employee has previously established seniority while in the employ of the City, if the employee has greater continuous seniority with the City than at least one (1) person in the lower classification.

(b) Seniority for purposes of layoff shall be determined by the total continuous time served by an employee in his/her current position in addition to any time served by the employee in a position in the same job series with a pay range equal to or higher than the employee's current position. If an

employee leaves the service of the City for any period of time the employee's prior service shall
not be considered as service for the purpose of calculating the employee's seniority for any purpose.

(c) Alternatively, and exclusive of an election under the previous paragraph 27.5(a), an employee may choose to be reduced in classification and compensation to an existing position in a class series, if the employee has greater continuous length of service with the City than the incumbent in the lower classification in the class series. Class series is defined as a vertical succession of positions that encompass the same general set of job duties that increase in complexity and responsibility as one moves upward through the class series.

(d) Relative class standing for subparagraphs (a) and (b) shall be as determined by the salary ranges for the classifications under consideration. The classification with the highest compensated step in the salary range shall be the higher classification

(e) Anything contained herein to the contrary notwithstanding, any employee may choose to be reduced in an entry level position if the employee meets the minimum qualifications for the position and has more seniority with the City than an incumbent in the position. For purposes of this subsection, an "entry level position" is a position requiring no prior experience.

27.6 Equal Seniority. If two (2) or more employees subject to lay off have equal class seniority, then the determination as to who has seniority shall be based upon total length of uninterrupted service with the City. If both employees were hired on same day, the employee with the lower City Employee number assigned on the date of hire shall be considered to have seniority.

27.7 Reemployment Rights. Laid off employees will be eligible for reemployment up to eighteen (18) months from date of layoff notice.

ARTICLE 28 - GRIEVANCE PROCEDURE

28.1 Items Subject To Grievance Procedure. Any permanent employee in the competitive service who has a grievance based upon his/her demotion, dismissal, reduction in pay, violation of the personnel ordinance, salary resolution or this MOU, or violation of commonly accepted safety practices not resolved by the Safety Committee, shall be entitled to have the matter reviewed through the following grievance procedure outlined in this
Article.

28.2 Informal Step. An attempt shall be made to ascertain all facts and adjust such grievance on an informal basis between the employee and, if he desires, his/her

steward, and the immediate supervisor. Presentation of such grievance shall be made within fourteen (14) calendar days of the incident causing the grievance, or the date on which the employee first became aware of it.

28.3 Step One. If the grievance is not adjusted to the satisfaction of the employee within fourteen (14) calendar days after presentation of the grievance to the immediate supervisor, then the grievance shall be submitted in writing by the employee or his/her steward to the Department Head, within the next fourteen (14) calendar days. The Department Head and a representative of the Human Resource Department shall meet with the employee, his/her steward or both within fourteen (14) calendar days of receipt of such written grievance and the Department Head shall deliver his decision in writing to the employee, along with his reasons for such decision, within fourteen (14) calendar days after the meeting.

28.4 Step Two. If the grievance is not adjusted to the satisfaction of the employee under the procedures set forth in Sections 28.2 and 28.3 above, then the employee or his/her steward may submit the grievance, in writing, to the City Manager, within fourteen (14) calendar days after the completion of the last step under paragraph 28.3 above. The City Manager shall meet with the employee, and his/her steward, if applicable, within fourteen (14) calendar days of receipt of such written grievance, and shall deliver his decision in writing, to the employee, along with the reasons for such decision, within fourteen (14) calendar days after the meeting.

28.5 Step Three. If the grievance is not adjusted to the satisfaction of the employee under the procedures set forth in Sections 28.2, 28.3 and 28.4 above, the employee or his/her representative may submit written notice to the City Manager within fourteen (14) calendar days after the completion of the last step under paragraph 28.4 above of his/her intent to submit the matter to arbitration. In matters of interpretation of this MOU, IBEW – Local 47 shall have the exclusive authority to determine whether a grievance shall be taken to arbitration. In disciplinary cases where IBEW – Local 47 may be required to pay for any part of the cost of such arbitration, IBEW – Local 47 may elect to proceed to arbitration. If IBEW – Local 47 does not elect to do so, then the employee may elect arbitration in disciplinary case and the City shall pay all expenses. The procedures set forth below shall be followed for arbitrations.

(a) Within seven (7) calendar days of receipt of the written notice, the parties shall request a list of seven (7) arbitrators from the Federal Mediation and Conciliation Service or any other mutually agreeable mediation service.

(b) Within fourteen (14) calendar days of receipt of the list of arbitrators the City and IBEW – Local 47 (or the employee if not represented by IBEW – Local 47 in a discipline case) shall attempt to reach an agreement on an arbitrator. Failing to agree on an arbitrator, the parties shall take turns striking the names or arbitrators from the FMCS list until one (1) name remains. IBEW – Local 47 (or the employee if not represented by IBEW – Local 47 in a discipline case) shall strike the first name.

(c) The parties shall contact the arbitrator to arrange for a mutually convenient time and date for the arbitration hearing.

(d) The cost of the arbitrator shall be split equally by the City and the Union save that if the grievance arises from the administration of discipline, the City shall bear the cost.

28.7 Step Four. Within fourteen (14) calendar days after the parties receive the arbitrator's recommendation, the opinion of the arbitrator will be final on matters relating to the interpretation or administration of this MOU. Arbitration on discipline is advisory only. If a decision relates to discipline, within fourteen (14) calendar days after the parties receive the arbitrator's recommendation, the City Manager shall advise the parties whether the City Manager is accepting, rejecting, or modifying the recommended decision. The decision of the City Manager shall be the final decision of the City.

28.8. Change of Time Limits. The above time limits may be changed by mutual agreement.

28.9 Mutual Agreement For Additional Mediation/Arbitration. Upon mutual agreement of the parties, a grievance may be submitted to a representative of a mutually agreeable arbitration service for mediation and/or arbitration. Unless agreed otherwise by the parties in writing, the role of the arbitrator shall be advisory only and it shall have no power or authority to impose a result or resolution upon any of the parties.

ARTICLE 29 – ADMINISTRATIVE LEAVE

29.1 Administrative Leave Provision. Employees will be granted paid time off based on their regular work schedule. Employee will be compensated for holidays while they are on paid administrative leave.

ARTICLE 30 - SEVERABILITY CLAUSE

30.1 Severability Clause. If any of the provisions contained in this MOU are determined to be unlawful, then only such provision(s) shall be deleted from this MOU with the remainder of this MOU remaining in full force and effect. Upon the issuance of a decision by a Court of Competent Jurisdiction declaring any section of this MOU be unlawful, unenforceable, unconstitutional, or not applicable, the parties agree to meet and confer as soon as possible concerning only those sections.

ARTICLE 31 - COMPLETE AGREEMENT

31.1 Entire Agreement: This MOU is the entire agreement between the parties, terminating all prior agreements, whether written or oral, arrangements and practices, and, except as otherwise provided herein, shall conclude all meetings and conferences during the term of this MOU.

31.2 Items not covered: All terms and conditions of employment not covered by this MOU shall continue to be subject to the City's direction and control.

ARTICLE 32 - POSTING JOB VACANCIES

32.1 City agrees to post on City's website and IBEW – Local 47 bulletin boards all vacant positions in the Unit.

ARTICLE 33 - RE-OPENERS

33.1 During the term of this MOU, unless otherwise provided, the parties shall not meet and confer with respect to any subject or matter whether or not referred to in this MOU, unless mutually agreed to otherwise.

ARTICLE 34 – RATIFICATION AND EXECUTION

This MOU has been developed as a result of meet and confer sessions between authorized representatives of the City and IBEW – Local 47 regarding issues related to wages, hours and other terms and conditions of employment. The City's representative and IBEW – Local 47 have reached an understanding as to certain recommendations to be made to the City Council for the City of Banning and have agreed that the parties hereto will jointly urge said Council to adopt a new wage and benefit resolution which will provide for the changes contained in said joint recommendation. The parties hereto acknowledge that this MOU shall not be in full force and effect until adoption by the Banning City Council.

In witness whereof, the parties have caused their signatures to be affixed this ___th day of _____ 2024.

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS – LOCAL 47
UTILITY UNIT REPRESENTATIVES

Date: _____, 20___

By: _____

Colin Lavin, Business Manager

Ben Coffey, Employee Representative

John Baca, Assistant Business Manager

Caleb Naasz, Employee Representative

Devin McClune, Employee Representative

CITY OF BANNING REPRESENTATIVES

Date: _____, 20___

By: _____

Doug Schulze, City Manager

Art Vela, Public Works Director

Nicole Jews, Human Resources Manager

Lincoln Bogard, Administrative Services Director

Attest:
By: _____
City Clerk

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Douglas Schulze, City Manager**
PREPARED BY:	**Kristine Gutierrez, Community Development Operations Manager** **David Newell, Community Development Director**
MEETING DATE:	**November 12, 2024**
SUBJECT:	**Consideration of Resolution 2024-178, Approving Amendment No. 1 to the Professional Services Agreement (C00991) with Aragon Geotechnical, Inc. for Surface Mining Inspection Services to Extend the Contract for an Additional Year and Increase the Contract by $6,082.50 for a Total Not to Exceed $12,165**

RECOMMENDATION:

Adopt Resolution 2024-178.

BACKGROUND:

In 2020, the City of Banning issued a Request for Proposals (RFP No. 20-029) to provide the City's Community Development Department with surface mining inspection services. The City selected and contracted with Aragon Geotechnical, Inc., a Nevada Corporation, to provide this service as follows:

- On January 25, 2021, the City and Aragon Geotechnical, Inc. entered into a contract (C00677) for Professional Services for $6,082.50 for up to 5 years.
- In 2022, the City amended the contract (C00677) agreement to increase the contract sum by $6,082.50 to a total contract sum of $12,165.00 (“Amendment No. 1”), expiring January 24, 2023.
- In 2023, the City amended the contract (C00677) agreement to increase the contract sum by $6,082.50 to a total contract sum of $18,247.50 (“Amendment No. 2”), which expired on January 24, 2024.
- In 2024, the City and Aragon Geotechnical, Inc. entered into a new contract (C00991) for a sum of $6,082.50 with a total sum not to exceed $24,330.00, expiring January 24, 2025.

The City now seeks to increase the new contract (C00991) by $6,082.50 for a total contracted sum not to exceed $30,412.50, to continue this service as contemplated by the total 5 years in the RFP. If Amendment No. 1 to C00991 is approved, the contract would expire on January 24, 2026.

JUSTIFICATION:

The current contract is set to expire on January 24, 2025, and extending this agreement will ensure ongoing compliance with safety standards and regulatory requirements. Aragon Geotechnical, Inc. has been providing mining inspection services since 2017. Their expertise has been critical in ensuring compliance with local, state, and federal regulations; conducting thorough inspections of mining operations to identify potential hazards; and providing recommendations for improvements to enhance safety and operational efficiency. Extending the term of the contract will ensure that inspections are conducted regularly and that the City remains compliant with all relevant regulations.

FISCAL IMPACT:

Approval of the this amendment to the contract (C00991) would increase the contracted amount by $6,082.50. However, this cost is paid by the mine operator.

ALTERNATIVES:

Do not adopt Resolution 2024-178 and provide alternative direction to staff.

BUDGETED?:

Yes

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. CC Resolution 2024-178 Amendment No. 1 to PSA with Aragon Geotechnical Inc
2. Exhibit A - C00991 - Aragon PSA Amend No.1 Surface Mining Insp Svcs.pdf
3. 2024 Contract - C00991 - Aragon PSA for Mine Inspections.pdf
4. 2021 Contract - C00677_-_ARAGON_GEOTECHNICAL_INC.pdf

RESOLUTION 2024-178

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT (C00991) WITH ARAGON GEOTECHNICAL, INC. FOR SURFACE MINING INSPECTION SERVICES TO EXTEND THE CONTRACT FOR AN ADDITIONAL YEAR AND INCREASE THE CONTRACT BY $6,082.50 FOR A TOTAL NOT TO EXCEED $12,165

WHEREAS, on March 6, 2024, the City entered into a Contract (C00991) with Aragon Geotechnical, Inc. for the purpose of providing Surface Mining Inspection Services ("Agreement") following a Request for Proposal (RFP No.20-029), after complying with procurement laws and policies which include Chapter 3.24 (Purchasing System) of the Banning Municipal Code and Policy No. B-30 (Procurement Policies and Procedures) of the City of Banning's Administrative Procedures; and

WHEREAS, the Agreement authorized an amount not to exceed $6,082.50, for providing Surface Mining Inspection Services through January 24, 2025, within the City of Banning; and

WHEREAS, Aragon Geotechnical, Inc. has provided this service in accordance with the Agreement and in years prior to assist the City in complying with local, state and federal laws with its surface mining inspections annually; and

WHEREAS, the City desires to amend the Agreement to extend the Term of the Agreement to January 24, 2026 and increase the Agreement (C00991) by $6,082.50 to Twelve Thousand One Hundred Sixty-Five Dollars ($12,165.00), resulting in a total contracted sum with Aragon Geotechnical under RFP 20-029 to not exceed $30,412.50.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The City Council approves Amendment No. 1 to Professional Services Agreement C00991, authorizing an increase of $6,082.50 for the total amount not to exceed $12,165 and extending the Agreement through January 24, 2026. The total contracted sum with Aragon Geotechnical under RFP No. 20-029 to not exceed the amount of $30,412.50.

SECTION 2. The City Council authorizes the City Manager to make non-substantive changes and execute Amendment No.1 with Aragon Geotechnical on behalf of the City Council.

SECTION 3. The City Council authorizes the City Manager, or designee, to make necessary budget adjustments, appropriations, and transfers related to this resolution.

SECTION 4. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 12th day of November 2024.

Alberto Sanchez, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

Serita R. Young, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2024-178, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 12th day of November 2024 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

EXHIBIT A

Amendment No. 1 to the Professional Services Agreement with Aragon Geotechnical, Inc.

AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT (C00991) FOR SURFACE MINING INSPECTION SERVICES BY AND BETWEEN CITY OF BANNING AND ARAGON GEOTECHNICAL, INC.

THIS AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT FOR SERVICES ("Amendment No. 1") by and between the **CITY OF BANNING** ("City") and **ARAGON GEOTECHNICAL, INC.** a Nevada Corporation ("Consultant") is effective as of this day: _____.

RECITALS

A. City and Consultant entered into that certain Contract dated March 6, 2024 for the purpose of providing Surface Mining Inspection Services ("Agreement") following a Request for Proposal (RFP No.20-029).

B. City and Consultant now desire to amend the Agreement to extend the Term of the Agreement to March 31, 2026 and increase the Contract Sum to Twelve Thousand One Hundred Sixty-Five Dollars ($12,165.00).

The Parties therefore agree follows:

1. Amended Terms. The Agreement is hereby amended as follows:

   1.1 The maximum compensation for the Services performed pursuant to this Amendment No. 1 shall not exceed Six Thousand Eighty-Two Dollars and Fifty Cents ($6,082.50) thereby increasing the Contract Sum, as set forth in Section 2.1 of the Agreement, to Twelve Thousand One Hundred Sixty-Five Dollars ($12,165.00).

   1.2 The Term of the Agreement, as set forth in Section 3.4 of the Agreement, is hereby extended through March 31, 2026, unless sooner terminated or extended as provided in the Agreement.

2. Miscellaneous Provisions

   2.1 Continued Effect of Agreement. Except as amended by this Amendment No. 1, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment No. 1, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by Amendment No. 1. In the event of a conflict between the provisions

of this Amendment No. 1 and the provisions of the Agreement, the provisions of this Amendment No. 1 shall control.

2.2 Consideration for Amendment. The parties hereby agree that they have each received adequate and independent consideration for the modifications to the Agreement set forth in this Amendment No. 1.

2.3 Authority. The persons executing this Amendment No. 1 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 1 on behalf of said party, (iii) by so executing this Amendment No. 1, such party is formally bound to the provisions of this Amendment No. 1, and (iv) entering into this Amendment No. 1 does not violate any provision of any other agreement to which said party is bound.

2.4 Counterparts. This Amendment No. 1 may be signed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument.

2.5 Electronic Signatures. Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Agreement and such other documents transmitted by the Parties.

[*SIGNATURE PAGE FOLLOWS*]

The Parties are signing this Amendment No. 1 on the date stated in the introductory clause.

CITY OF BANNING	CONSULTANT
Douglas Schulze, City Manager	NAME: TITLE:
City Council Approval: _____	NAME: TITLE:
ATTEST:	
Caroline Patton Administrative City Clerk	
APPROVED AS TO FORM: Richards, Watson & Gershon	
Serita R. Young City Attorney	

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

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AGREEMENT FOR PROFESSIONAL SERVICES (C00991) FOR SURFACE SURFACE MINING INSPECTION SERVICES BY AND BETWEEN CITY OF BANNING AND ARAGON GEOTECHNICAL, INC.

THIS AGREEMENT FOR PROFESSIONAL SERVICES (herein "Agreement") is made and entered into this day: 3/6/2024, ("Effective Date") by and between the **CITY OF BANNING,** a California municipal corporation ("City") and **ARAGON GEOTECHNICAL, INC.,** a Nevada Corporation ("Consultant"). City and Consultant are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties."

RECITALS

A. City has sought by issuance of a Request for Proposal (RFP No.20-029), the performance of the services for the Surface Mining Inspections and as further defined and described particularly in Article 1 of this Agreement.

B. Consultant, following submission of a proposal for the performance of the services defined and described particularly in Article 1 of this Agreement, was selected by City to perform those services.

C. The Parties desire to formalize the selection of Consultant for performance of those services defined and described particularly in Article 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

D. Pursuant to the City of Banning's Municipal Code, City has authority to enter into this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1. SERVICES OF CONSULTANT

1.1 Scope of Services.

In compliance with all terms and conditions of this Agreement, Consultant shall provide those services specified in the "Scope of Services" attached hereto as **Exhibit A** and incorporated herein by this reference, which services may be referred to herein as the "Services" hereunder. As a material inducement to City entering into this Agreement, Consultant represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the Services required under this Agreement in a thorough, competent, and professional manner, and is experienced in performing the Services contemplated herein. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all Services described herein. Consultant covenants that it shall follow the highest professional standards in performing the Services required hereunder and that all materials will be of good quality, and fit for the purpose intended. For purposes of this Agreement, the phrase "highest professional

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standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

1.2 Contract Documents and Exhibits.

This Agreement includes the Request for Proposal and Consultant's accepted proposal ("Contract Documents"), both of which are on file with the City and incorporated herein by this general reference as though fully set forth herein. **Exhibit A** (Scope of Services), **Exhibit B** (Special Requirements), **Exhibit C** (Schedule of Compensation), and **Exhibit D** (Schedule of Performance) also constitute a part of this Agreement and are incorporated into this Agreement by this reference. Except as set forth in Section 1.10 regarding **Exhibit B**, this Agreement controls over the Contract Documents and the provisions in **Exhibits A, B** and **C**.

1.3 Compliance with Law.

Consultant shall keep itself informed concerning all ordinances, resolutions, statutes, rules, and regulations of City and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered, and shall render all Services hereunder in accordance therewith.

1.4 Licenses, Permits, Fees and Assessments.

Consultant shall obtain and maintain during the term of this Agreement, at its sole cost and expense, all necessary licenses, permits, certificates and approvals required by law for the performance of Services under this Agreement, including a City business license. Consultant shall have the sole obligation to pay for all fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and which arise from or are necessary for Consultant's performance of the Services required by this Agreement. Consultant shall indemnify, defend and hold harmless City, its officers, employees or agents, against all such fees, assessments, taxes, penalties or interest levied, assessed or imposed against City hereunder.

1.5 Familiarity with Services.

By executing this Agreement, Consultant warrants that Consultant: (i) has thoroughly investigated and considered the Scope of Services to be performed, (ii) has carefully considered how the Services should be performed, and (iii) fully understands the facilities and any difficulties and restrictions attending performance of the Services under this Agreement. If the Services involve work upon any site, Consultant warrants that Consultant has or will investigate the site and is or will be fully acquainted with the conditions existing therein, prior to commencement of Services hereunder. Should Consultant discover any latent or unknown conditions, which will materially affect the performance of the Services hereunder, Consultant shall immediately inform City of such fact and shall not proceed except at Consultant's risk until written instructions are received from the Contract Officer (defined in Section 1.12. A).

1.6 Prevention of Loss and Damages.

Consultant shall adopt reasonable methods during the Term (defined in Section 3.4) to furnish continuous protection to the work product, and the equipment, materials, papers,

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documents, plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the Services by City, except such losses or damages as may be caused by City's own negligence.

1.7 Further Responsibilities of Parties.

Both Parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both Parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonable necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither Party shall be responsible to perform the Services of the other.

1.8 Additional Services.

City shall have the right at any time during the performance of the Services, without invalidating this Agreement, to order extra services beyond that specified in the Scope of Services or to make changes by altering, adding to or deducting from the Services. No such extra services may be undertaken unless a written order is first given by the Contract Officer to Consultant, which written order incorporates therein an adjustment in (i) the Contract Sum (as defined in Section 2.1), and/or (ii) the Schedule of Performance, (as defined in Section 3.2), and which written order is approved in writing by Consultant. Any increase in compensation of up to ten percent (10%) of the Contract Sum, or $25,000, whichever is less; or in the Schedule of Performance of up to one hundred eighty (180) days may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively, must be approved by City Council. It is expressly understood by Consultant that the provisions of this Section shall not apply to Services which are specifically set forth in the Scope of Services or which are reasonably contemplated therein. Consultant hereby acknowledges that it accepts the risk that the Services to be provided pursuant to the Scope of Services may be more costly or time consuming than Consultant anticipates and that Consultant shall not be entitled to additional compensation therefor.

1.9 Facilities and Equipment.

Except as otherwise provided, Consultant shall, at its own cost and expense, provide all facilities and equipment necessary to perform the Services required by this Agreement. City shall make available to Consultant only physical facilities such as desks, filing cabinets, and conference space ("City Facilities"), as City deems, in its sole discretion, to be reasonably necessary for Consultant's use while consulting with City employees and reviewing records and the information in possession of City. The location, quality, and time of furnishing City Facilities shall be in the sole discretion of City. In no event shall City be required to furnish any facilities that may involve incurring any direct expense, including but not limited to a computer, long distance telephone, network data, internet or other communication charges, vehicles and reproduction facilities.

1.10 Special Requirements.

Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as **Exhibit B** and incorporated herein by this reference. In the event of a conflict between the provisions of **Exhibit B** and any other provisions of this Agreement, the provisions of **Exhibit B** shall govern.

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1.11 Corrections.

In addition to the indemnification obligations set forth in Article 4, and Sections 1.4, 1.13, 5.3, 5.4, and 6.3, Consultant shall correct, at its expense, all errors in the Services which may be disclosed during City's review of Consultant's report or plans. Should Consultant fail to make such correction(s) in a reasonably timely manner, such correction(s) may be made by City, and the cost thereof shall be charged to Consultant. In addition to all other available remedies, City may deduct the cost of such correction(s) from any retention amount held by City, or may withhold payment otherwise owed Consultant under this Agreement up to the amount of the cost of correction(s), as provided in Section 6.3.

1.12 Party Representatives.

A. Contract Officer: For the purposes of this Agreement, the Contract Officer shall be the City Manager, or such other person designated in writing by the City Manager ("Contract Officer"). Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of City required hereunder to carry out the terms of this Agreement.

B. Principals and Personnel of Consultant.

1) Consultant Representative: The following principal of Consultant is hereby designated as being the Consultant Representative authorized to act on Consultant's behalf regarding the Services specified herein and make all decisions in connection therewith:

Name	Title
Fernando Aragon	President

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing Consultant Representative were a substantial inducement for City to enter into this Agreement. Therefore, the foregoing Consultant Representative shall be responsible during the term of this Agreement for directing all activities of Consultant and devoting sufficient time to personally supervise the Services hereunder. All personnel of Consultant, and any authorized agents, shall at all times be under the exclusive direction and control of the Consultant Representative. For purposes of this Agreement, the foregoing Consultant Representative may not be replaced nor may their responsibilities be substantially reduced or reassigned by Consultant without the express written approval of City. It shall be Consultant's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the Services, and Consultant shall refer any decisions which must be made by City to the Contract Officer.

2) Consultant's Personnel: Consultant has, or will secure at its own expense, all personnel required to perform the Services required under this Agreement. All of the Services required under this Agreement shall be performed by Consultant or under its supervision, and all personnel engaged in the Services shall be qualified to perform such Services. Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff and sub-contractors, if any, assigned to perform the Services required under this Agreement.

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Consultant shall notify City of all changes in Consultant's staff and sub-contractors, if any, assigned to perform the Services required under this Agreement, prior to and during any such performance. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires to reassign any staff or sub-contractor of Consultant, City shall give notice as set forth in Section 8.1. Consultant shall, immediately upon the receipt of the notice to re-assign staff from City, reassign such person or persons.

1.13 Independent Contractor.

A. Consultant is an independent contractor and not an employee of City. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City. All Services provided pursuant to this Agreement shall be performed by Consultant or under its supervision. Consultant will determine the means, methods, and details of performing the Services. Any additional personnel performing Services under this Agreement on behalf of Consultant shall also not be employees of City and shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

B. Consultant shall indemnify and hold harmless City and its elected officials, officers, employees, servants, designated volunteers, and agents serving as independent contractors in the role of City officials, from any and all liability, damages, claims, costs and expenses of any nature to the extent arising from Consultant's personnel practices. City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this Section.

1.14 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Consultant, the Consultant Representative and employees were a substantial inducement for City to enter into this Agreement. Therefore, Consultant shall not contract with any other entity to perform in whole or in part the Services required hereunder without the express written approval of City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty-five percent (25%) of the present ownership and/or control of Consultant, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this

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Agreement shall be void. No approved transfer shall release Consultant or any surety of Consultant of any liability hereunder without the express consent of City.

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, as full compensation for Services satisfactorily rendered, City shall pay Consultant at the hourly rates set forth in the "Schedule of Compensation" attached hereto as **Exhibit C** and incorporated herein by this reference. In no event shall Consultant be paid more than Six Thousand Eighty-Two Dollars and 50 Cents ($6,082.50) (the "Contract Sum"). The Contract Sum shall include the attendance of Consultant at all project meetings reasonably deemed necessary by City. Coordination of the performance of the Services with City is a critical component of the Services. If Consultant is required to attend additional meetings to facilitate such coordination, Consultant shall not be entitled to any additional compensation for attending those meetings.

2.2 Method of Compensation.

The method of compensation may include: (i) a lump sum payment upon completion of the Services, (ii) payment in accordance with specified tasks or the percentage of completion of the Services, (iii) payment for time and materials based upon Consultant's rates as specified in the Schedule of Compensation, provided that time estimates are provided for the performance of sub tasks, but not exceeding the Contract Sum or (iv) such other methods as may be specified in the Schedule of Compensation.

2.3 Reimbursable Expenses.

City shall only reimburse Consultant for those actual and necessary expenses expressly set forth in **Exhibit C**. Reimbursable expenses may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expenses, and travel expenses approved by the Contract Officer in advance, or actual sub-contractor expenses of an approved sub-contractor pursuant to Section 1.14, and only if specified in the Schedule of Compensation.

2.4 Unauthorized Services and Expenses.

City will not pay for any Services or reimburse for any expenses incurred which are not specified in the Scope of Services, unless authorized in writing as set forth in Section 1.8 of this Agreement. City shall make payment for such authorized additional Services and expenses in accordance with Article 2 of this Agreement.

2.5 Invoices.

Each month Consultant shall furnish to City an original invoice for all Services performed and expenses incurred during the preceding month. Each such invoice shall contain all of the information set forth in Section III of **Exhibit C** to this Agreement. By submitting an invoice for payment under this Agreement, Consultant is certifying compliance with all provisions of the

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Agreement. Consultant shall not invoice City for any duplicate Services performed by more than one person.

City shall independently review each invoice submitted by Consultant to determine whether the Services performed and expenses incurred are in compliance with the provisions of this Agreement. City will use its best efforts to cause Consultant to be paid within thirty (30) days of receipt of Consultant's correct and undisputed invoice, except as to any charges for Services performed or expenses incurred by Consultant which are disputed by City, or as provided in Section 6.3. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Consultant for correction and resubmission. Review and payment by City of any invoice provided by Consultant shall not constitute waiver of any rights or remedies provided herein or any applicable law.

2.6 Waiver.

Payment to Consultant for Services performed pursuant to this Agreement shall not be deemed to waive any defects in Services performed by Consultant.

ARTICLE 3. PERFORMANCE SCHEDULE

3.1 Time of Essence.

Time is of the essence in the performance of this Agreement; provided, however, that the foregoing shall not be construed to limit or deprive a Party of the benefits of any grace or use period allowed in this Agreement.

3.2 Schedule of Performance.

Consultant shall commence the Services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all Services within the time period(s) established in the "Schedule of Performance" attached hereto as **Exhibit D** and incorporated herein by this reference.

3.3 Force Majeure.

The time period(s) specified in the Schedule of Performance for performance of the Services rendered pursuant to this Agreement may be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of Consultant. Such unforeseeable consequences include, but are not restricted to, acts of God or public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including City, if Consultant shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the Services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified, subject to the provisions of Section 1.8. The Contract Officer's determination (or the City Council's determination, in the event the period of enforced delay exceeds the period specified in Section 1.8) shall be final and conclusive upon the Parties to this Agreement. In no event shall Consultant

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be entitled to recover damages against City for any delay in the performance of this Agreement, however caused; Consultant's sole remedy shall be the extension of the Agreement pursuant to this Section.

3.4 Term.

The Term of this Agreement shall be from the Effective Date March 31, 2024, unless sooner terminated as provided in Article 6 of this Agreement or extended as provided in Sections 1.8 and 3.3 of this Agreement. Maximum term and any subsequent amendment or modification shall not exceed two (2) years.

ARTICLE 4. INSURANCE AND INDEMNIFICATION

4.1 Minimum Scope and Limits of Insurance.

Consultant shall procure and at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:

A. Commercial General Liability Insurance with a minimum limit of $1,000,000.00 per occurrence for bodily injury, personal injury and property damage and a general aggregate limit of $2,000,000.00 per project or location. If Consultant is a limited liability company, the commercial general liability coverage shall be amended so that Consultant and its managers, members, affiliates, employees, agents and other persons necessary or incidental to its operation are insureds.

B. Automobile Liability Insurance for any owned, non-owned or hired vehicle used in connection with the performance of this Agreement with a combined single limit of $1,000,000.00 per accident for bodily injury and property damage. If Consultant does not use any owned, non-owned or hired vehicles in the performance of Services under this Agreement, Consultant shall obtain a non-owned auto endorsement to the Commercial General Liability policy.

C. Workers' Compensation Insurance as required by the State of California and Employer's Liability Insurance with a minimum limit of $1,000,000.00 per accident for bodily injury or disease. If Consultant has no employees while performing Services under this Agreement, workers' compensation policy is not required; however, Consultant shall execute a declaration that it has no employees.

D. Professional Liability/Errors and Omissions Insurance with minimum limits of $1,000,000.00 per claim and in the aggregate.

4.2 Acceptability of Insurers.

The insurance policies required under this Article shall be issued by an insurer admitted to write insurance in the State of California with a rating of A:VII or better in the latest

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edition of the A.M. Best Insurance Rating Guide. Self-insurance shall not be considered to comply with the insurance requirements under this Article.

4.3 Additional Insured.

The commercial general and automobile liability policies shall contain an endorsement naming City, its officers, employees, agents and volunteers as additional insureds.

4.4 Primary and Non-Contributing.

The insurance policies required under this Article shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance available to City. Any insurance or self-insurance maintained by City, its officers, employees, agents or volunteers, shall be in excess of Consultant's insurance and shall not contribute with it.

4.5 Consultant's Waiver of Subrogation.

The insurance policies required under this Article shall not prohibit Consultant and Consultant's employees, agents or sub-contractors from waiving the right of subrogation prior to a loss. Consultant hereby waives all rights of subrogation against City.

4.6 Deductibles and Self-Insured Retentions.

Any deductibles or self-insured retentions must be declared to and approved by City. At City's option, Consultant shall either reduce or eliminate the deductibles or self-insured retentions with respect to City; or Consultant shall procure a bond guaranteeing payment of losses and expenses.

4.7 Cancellations or Modifications to Coverage.

Consultant shall not cancel, reduce or otherwise modify the insurance policies required by this Article during the term of this Agreement. The commercial general and automobile liability policies required under this Agreement shall be endorsed to state that should the issuing insurer cancel the policy before the expiration date, the issuing insurer will endeavor to mail 30 days' prior written notice to City. If any insurance policy required under this Article is canceled or reduced in coverage or limits, Consultant shall, within two (2) Business Days (as defined in Section 8.12) of notice from the insurer, phone, fax or notify City via certified mail, return receipt requested, of the cancellation of or changes to the policy.

4.8 City Remedy for Noncompliance.

If Consultant does not maintain the policies of insurance required under this Article in full force and effect during the term of this Agreement, or in the event any of Consultant's policies do not comply with the requirements under this Article, City may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, City may, but has no duty to, take out the necessary insurance and pay, at Consultant's expense, the premium thereon. Consultant shall promptly reimburse City for any premium paid by City, or City may withhold amounts sufficient to pay the premiums from payments due to Consultant.

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4.9 Evidence of Insurance.

Prior to the performance of Services under this Agreement, Consultant shall furnish the City Clerk with a certificate or certificates of insurance and all original endorsements evidencing and effecting the coverages required under this Article. The endorsements are subject to City's approval. Consultant may provide complete, certified copies of all required insurance policies to City. Consultant shall maintain current endorsements on file with the City Clerk. Consultant shall provide proof to the City Clerk that insurance policies expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Consultant shall furnish such proof at least two (2) weeks prior to the expiration of the coverages.

4.10 Indemnity Requirements not Limiting.

Procurement of insurance by Consultant shall not be construed as a limitation of Consultant's liability or as full performance of Consultant's duty to indemnify City under this Agreement.

4.11 Sub-contractor Insurance Requirements.

Consultant shall require each of its sub-contractors that perform Services under this Agreement to maintain insurance coverage that meets all of the requirements of this Article.

4.12 Indemnification, Hold Harmless, and Duty to Defend.

A. Indemnification of City.

1) To the fullest extent permitted by law, Consultant shall, at its sole cost and expense, defend, hold harmless and indemnify City and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, assigns and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees"), from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith and the payment of all consequential damages (collectively "Liabilities"), at law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant, its officers, agents, servants, employees, sub-contractors, materialmen, consultants or their officers, agents, servants or employees (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties. Consultant shall defend the Indemnitees in any action or actions filed in connection with any Liabilities with counsel of the Indemnitees' choice, and shall pay all costs and expenses, including all attorneys' fees and experts' costs actually incurred in connection with such defense. Consultant shall reimburse the Indemnitees for any and all legal expenses and costs incurred by Indemnitees in connection therewith.

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2) Consultant shall pay all required taxes on amounts paid to Consultant under this Agreement, and indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant shall fully comply with the workers' compensation law regarding Consultant and Consultant's employees. Consultant shall indemnify and hold City harmless from any failure of Consultant to comply with applicable workers' compensation laws. City may offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this subparagraph A.2.

3) Consultant shall obtain executed indemnity agreements with provisions identical to those in this Article from each and every sub-contractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. If Consultant fails to obtain such indemnity obligations, Consultant shall be fully responsible and indemnify, hold harmless and defend the Indemnitees from and against any and all Liabilities at law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant's sub-contractor, its officers, agents, servants, employees, sub-contractors, materialmen, consultants or their officers, agents, servants or employees (or any entity or individual that Consultant's sub-contractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties.

B. Workers' Compensation Acts not Limiting. Consultant's indemnifications and obligations under this Article, or any other provision of this Agreement, shall not be limited by the provisions of any workers' compensation act or similar act. Consultant expressly waives its statutory immunity under such statutes or laws as to City, its officers, agents, employees and volunteers.

C. Insurance Requirements not Limiting. City does not, and shall not, waive any rights that it may possess against Consultant because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. The indemnities in this Article shall apply regardless of whether or not any insurance policies are determined to be applicable to the Liabilities, tax, assessment, penalty or interest asserted against City.

D. Survival of Terms. Consultant's indemnifications and obligations under this Article shall survive the expiration or termination of this Agreement.

ARTICLE 5. RECORDS, REPORTS, AND RELEASE OF INFORMATION

5.1 Service Records.

Consultant shall keep, and require sub-contractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and Services performed hereunder (the "Service Records"), as shall be necessary to perform the Services required by this Agreement and enable the Contract Officer

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to evaluate the performance of such Services. Any and all such Service Records shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such Service Records at all times during normal business hours of City, including the right to inspect, copy, audit and make copies and transcripts from such Service Records. Such Service Records shall be maintained for a period of three (3) years following completion of the Services hereunder, and City shall have access to such Service Records in the event any audit is required. In the event of dissolution of Consultant's business, custody of the Service Records may be given to City, and access shall be provided by Consultant's successor in interest ("Consultant's Successor"). If custody of the Service Records is given to Consultant's Successor, Consultant shall give written notice to City of the transfer of the Service Records to Consultant's Successor. The notice shall include contact information (address and telephone number) for Consultant's Successor, and access shall be provided to City by Consultant's Successor.

5.2 Reports.

Consultant shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the Services required by this Agreement as the Contract Officer shall require. Consultant hereby acknowledges that City is greatly concerned about the cost of Services to be performed pursuant to this Agreement. For this reason, Consultant agrees that if Consultant becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the Services contemplated herein, Consultant shall promptly notify the Contract Officer of that fact, circumstance, technique or event and the estimated increased or decreased cost related thereto.

5.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the "Consultant Documents") prepared by Consultant, its employees, sub-contractors and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the termination of this Agreement. Consultant shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership use, reuse, or assignment of the Consultant Documents hereunder. Any use, reuse or assignment of such completed Consultant Documents for other projects and/or use of uncompleted Consultant Documents without specific written authorization by Consultant will be at City's sole risk and without liability to Consultant, and Consultant's guarantee and warranties shall not extend to such use or assignment. Consultant may retain copies of such Consultant Documents for its own use. Consultant shall have an unrestricted right to use the concepts embodied therein. All sub-contractors shall provide for assignment to City of all Consultant Documents prepared by them; and in the event Consultant fails to secure such assignment, Consultant shall indemnify City for all damages resulting therefrom.

5.4 Confidentiality and Release of Information.

A. All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the

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public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the Contract Officer.

B. Consultant, its officers, employees, agents or sub-contractors, shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the Services performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

C. If Consultant, or any officer, employee, agent or sub-contractor of Consultant, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorneys' fees, caused by or incurred as a result of Consultant's conduct.

D. Consultant shall promptly notify City should Consultant, its officers, employees, agents or sub-contractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any Party regarding this Agreement and the Services performed thereunder. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite the response.

ARTICLE 6. ENFORCEMENT OF AGREEMENT AND TERMINATION

6.1 California Law.

This Agreement, and any dispute arising from the relationship between the Parties to this Agreement, shall be interpreted, construed and governed both as to validity and to performance of the Parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Riverside, State of California, or any other appropriate court in such county, and Consultant covenants and agrees to submit to the personal jurisdiction of such court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in Riverside.

6.2 Disputes; Default.

A. In the event that City determines Consultant is in default under the terms of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any Services performed after the date of default. In addition to the provisions of Section 4.8, and the right to terminate pursuant to Section 6.7, if the City Manager determines that Consultant is in default in the performance of any of the terms or conditions of this Agreement, City may serve Consultant with written notice of the default. Consultant shall have ten (10) calendar days after service upon it of the notice in which to cure the default by rendering a satisfactory performance.

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In the event that Consultant fails to cure its default within such period of time, City may, notwithstanding any other provision of this Agreement, terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

B. In the event of termination pursuant to this Section, City may take over the Services and prosecute the same to completion by contract or otherwise, and Consultant shall be liable to the extent that the total cost for completion of the Services required hereunder exceeds the compensation herein stipulated (provided that City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to Consultant for the purpose of set-off or partial payment of the amounts owed City as provided in Section 6.3.

6.3 Retention of Funds.

Consultant hereby authorizes City to deduct from any amount payable to Consultant (whether or not arising out of this Agreement): (i) any payment amount of which may be in dispute hereunder or which is necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, (ii) all amounts retained pursuant to the provisions of Section 4.8, (iii) all amounts for which City may be liable to third parties, by reason of Consultant's acts or omissions in performing or failing to perform Consultant's obligation under this Agreement, and (iv) all payments due or that become due to Consultant during the period that Consultant or any of its sub-contractors fail to maintain any required insurance in full force and effect, until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to City, as provided in Section 4.9, above. In the event that any claim is made by a third party, the amount or validity of which is disputed by Consultant, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of Consultant to insure, indemnify, and protect City as elsewhere provided herein.

6.4 Waiver.

Waiver by any Party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any Party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any Services by Consultant shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either Party of any default must be in writing, and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

6.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party

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of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

6.6 Legal Action.

In addition to any other rights or remedies, either Party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Notwithstanding any contrary provision herein, Consultant must file a statutory claim pursuant to Government Code Sections 905 et seq. and 910 et seq., in order to pursue a legal action against City under this Agreement.

6.7 Termination Prior to Expiration of Term.

This Article 6 shall govern any termination of this Agreement except as specifically provided in Section 6.2 for termination for default of Consultant. City reserves the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days' written notice to Consultant, except that where termination is due to the fault of Consultant, the period of notice may be a shorter time as may be determined by the Contract Officer. In addition, Consultant reserves the right to terminate this Agreement at any time, with or without cause, upon sixty (60) days' written notice to City, except that where termination is due to the fault of City, the period of notice may be a shorter time as Consultant may determine. Upon receipt of any notice of termination, Consultant shall immediately cease all Services hereunder except such as may be specifically approved by the Contract Officer. Except where Consultant has initiated termination, Consultant shall be entitled to compensation for all Services rendered prior to the effective date of the notice of termination and for any Services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 6.3. In the event Consultant has initiated termination, Consultant shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder. In the event of termination without cause pursuant to this Section, the terminating Party need not provide the non-terminating Party with the opportunity to cure pursuant to Section 6.2.

6.8 Attorneys' Fees.

In any litigation or other proceeding by which a Party seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing Party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorneys' fees. Attorneys' fees shall include attorney's fees on any appeal, and in addition the Party entitled to attorneys' fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

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ARTICLE 7. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

7.1 Non-liability of City Officers and Employees.

No officer or employee of City shall be personally liable to Consultant, or Consultant's Successor, in the event of any default or breach by City or for any amount which may become due to Consultant or Consultant's Successor, or for breach of any obligation of the terms of this Agreement.

7.2 Conflict of Interest.

Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of Services under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or sub-contractor without the express written consent of the Contract Officer. Consultant agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

No officer or employee of City shall have any direct or indirect financial interest in this Agreement within the scope of Government Code section 1090, nor shall any such officer or employee make, participate in making, or use his or her official position to influence, any City decision relating to the Agreement which has a material financial effect on his or her financial interests or the financial interests of any corporation, partnership or association in which he or she is, directly or indirectly, interested, in violation of any State statute or regulation. Consultant warrants that it has not paid or given, and will not pay or give any third party any money or other consideration for obtaining this Agreement.

Consultant and its officers, employees, associates and sub-contractors, if any, shall comply with all conflict of interest statutes of the State of California applicable to Consultant's Services under this Agreement, including the Political Reform Act (Gov. Code § 81000, et seq.) and Government Code Section 1090. During the term of this Agreement, Consultant may perform similar services for other clients; but Consultant and its officers, employees, associates and sub-contractors shall not, without the Contract Officer's prior written approval, perform services for another person or entity for whom Consultant is not currently performing services that would require Consultant or one of its officers, employees, associates or sub-contractors to abstain from a decision under this Agreement pursuant to a conflict of interest statute. Consultant shall incorporate a clause substantially similar to this Section into any subcontract that Consultant executes in connection with the performance of this Agreement.

7.3 Covenant Against Discrimination.

Consultant covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, or ancestry in the performance of this Agreement. Consultant shall take affirmative action to insure that applicants are employed, and that employees

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are treated during employment, without regard to their race, color, creed, religion, sex, marital status, national origin, or ancestry, or other protected class.

7.4 Unauthorized Aliens.

Consultant hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such unauthorized aliens for the performance of Services covered by this Agreement, and should the any liability or sanctions be imposed against City for such use of unauthorized aliens, Consultant hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

ARTICLE 8. MISCELLANEOUS PROVISIONS

8.1 Notices.

Any notice, demand, request, document, consent, approval, bill, invoice, report or other communication required or permitted under this Agreement shall be in writing and conclusively deemed effective: (a) on confirmed delivery by courier service or overnight delivery service during Consultant's and City's regular business hours; or (b) three (3) Business Days after deposit in the United States mail, by certified or registered mail, and addressed to the Party to be notified as set forth below:

If to City	Attn: Adam Rush Community Development Director City of Banning 99 East Ramsey Street Banning, California 92220 Email: arush@banningca.gov
With a courtesy copy to:	Serita R. Young, City Attorney Richards, Watson & Gershon 350 South Grand Avenue, 37th Floor Los Angeles, California 90071 Email: SYoung@rwglaw.com
If to Consultant:	Attn: Fernando Aragon President Aragon Geotechnical, Inc. 16801 Van Buren Blvd, Bldg. B Riverside, CA 92504 Email: fernando@aragongeo.com

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8.2 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either Party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

8.3 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

8.4 Integration; Amendment.

This Agreement, and all exhibits referred to in this Agreement, constitute the final, complete and exclusive statement of the terms of the agreement between the Parties pertaining to the subject matter of this Agreement and supersede all other and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the Parties, and none shall be used to interpret this Agreement. No Party has been induced to enter into this Agreement by, nor is any Party relying on, any representation or warranty except those expressly set forth in this Agreement. No amendment to or modification of this Agreement, nor any provision or breach hereof waived, shall be valid unless made in writing and approved by Consultant and by City Council. The Parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

8.5 Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the Parties hereunder unless the invalid provision is so material that its invalidity deprives either Party of the basic benefit of their bargain or renders this Agreement meaningless.

8.6 Mutual Cooperation.

A. City's Cooperation. City shall provide Consultant with all pertinent data, documents and other requested information as is reasonably available for Consultant's proper performance of the Services required under this Agreement.

B. Consultant's Cooperation. In the event any claim or action is brought against City relating to Consultant's performance of Services rendered under this Agreement, Consultant shall render any reasonable assistance that City requires.

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8.7 No Third Party Beneficiaries Intended.

This Agreement is made solely for the benefit of the Parties to this Agreement and their respective successors and assigns, and no other person or entity may have or acquire a right by virtue of this Agreement.

8.8 Final Payment Acceptance Constitutes Release.

The acceptance by Consultant of the final payment made under this Agreement shall operate as and be a release of City from all claims and liabilities for compensation to Consultant for anything done, furnished or relating to Consultant's Services. Acceptance of payment shall be any negotiation of City's check or the failure to make a written extra compensation claim within ten (10) calendar days of the receipt of that check. However, approval or payment by City shall not constitute, nor be deemed, a release of the responsibility and liability of Consultant, its employees, sub-contractors and agents for the accuracy and competency of the information provided and/or Services performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by City for any defect or error in the Services prepared by Consultant, its employees, sub-contractors and agents.

8.9 Non-Appropriation of Funds.

Payments to be made to Consultant by City for Services performed within the current fiscal year which are within the current fiscal budget and within an available, unexhausted fund. In the event that City does not appropriate sufficient funds for payment of Consultant's Services beyond the current fiscal year, this Agreement shall cover payment for Consultant's Services only to the conclusion of the last fiscal year in which City appropriates sufficient funds and shall automatically terminate at the conclusion of such fiscal year.

8.10 Headings.

The headings in this Agreement are included solely for convenience of reference and shall not affect the interpretation of any provision of this Agreement or any of the rights or obligations of the Parties to this Agreement.

8.11 Word Usage.

Unless the context clearly requires otherwise, (a) the words "shall," "will" and "agrees" are mandatory and "may" is permissive; (b) "or" is not exclusive; and (c) "includes" or "including" are not limiting.

8.12 Business Days.

"Business Days" refers to days that the Banning City Hall is open for business.

8.13 Corporate Authority.

The persons executing this Agreement on behalf of the Parties hereto warrant that (i): such Party is duly organized and existing, (ii) they are duly authorized to execute and deliver

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this Agreement on behalf of that Party, (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which that Party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the Parties.

8.14 Electronic Signatures.

Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Agreement and such other documents transmitted by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

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IN WITNESS WHEREOF the Parties hereto have executed this Agreement the day and year first hereinabove written.

CITY OF BANNING

3/6/2024

Douglas Schulze, Date
City Manager

ATTEST:

3/6/2024

Caroline Patton Date
Administrative City Clerk

CONSULTANT

Fernando Aragon 3/6/2024

NAME: Fernando Aragon Date
TITLE: President

NAME: Date
TITLE:

88

Tax ID No.

Address:
16801 Van Buren Blvd, Bldg. B
Riverside, CA 92504

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

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EXHIBIT "A"
SCOPE OF SERVICES

I. Consultant will perform the following Services in connection with providing an Annual Surface Mining Inspection prepared in connection therewith.

II. As part of the Services, Consultant shall complete the following tasks:

A. Prepare and deliver the following tangible work products and services to City:

(i) Perform both general and special inspections, in accordance with Section 1 of the 2002 SMBG Surface Mine Inspection Guide (2002 Guide), which includes, but is not limited to, the review of the financial assurance cost estimate of bond calculation approvals and review of the reclamation plan and conditions of approval.

(ii) Perform general and special mine inspections in accordance with Section 2 of the 2002 Guide.

(iii) Prepare an inspection report on form MRRC-1, including all recent amendments and revisions and in compliance with Section 3 of the 2002 Guide.

B. Provide the following services in support of the tasks enumerated in Section A:

1. Serve as project manager of the inspection process to ensure that the required inspection(s) and submission of all required communications and reports are completed and submitted to City prior to December 1st of the inspection year.

2. Conduct the City's annual inspection as required by the Banning Municipal Code and SMARA, which shall review, analyze, and evaluate whether the surface mining operation is in compliance with the (1) approved site and/or reclamation plan, (2) approved financial assurances, and (3) state regulations.

3. Ensure all inspection(s) are made by a professional geologist or geotechnical engineer who retains all appropriate licenses and certifications and holds experience in land reclamation and surface mining activities.

4. Ensure the Consultant and their employees, contractors, or affiliates are not, and have not been, employed by the mining operation in any capacity during the previous twelve (12) months.

5. Conduct all inspection(s) using a form approved and provided by the Division of Mine Reclamation Department of Conservation, as amended and revised.

6. Prepare a comprehensive report ("Report"), addressed to the attention of the City's Community Development Director or his/her designee, that summarizes the annual inspection. This report shall incorporate all relevant findings, supported by technical analysis, field notes, and site photographs as necessary

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to support the findings provided. The Consultant is responsible for preparing all applicable forms required under SMARA and the Department of Conservation, inclusive of all amendments thereto to the City in written form on compliance issues, and prepare a written report for the City Council and the Planning Commission and submittal to the State.

7. Attend a total of four (4) meetings with staff and City stakeholders, as needed.

8. Attend at-least one (1) Planning Commission meeting for presentation of report.

9. Submit the inspection report to the Department of Conservation (the "DOC") on behalf of the City and provide the City with documentation that the report has been submitted and received by the DOC.

C. Incorporate the following project performance milestones in support of the tasks enumerated in Section A:

1. Conduct at-least one (1) comprehensive surface mine inspection on or prior to December 31, 2020. The Consultant shall be responsible for organizing all logistics necessary to conduct this inspection. The Consultant shall communicate to the Community Development Department, and all parties involved, the anticipated time, date, and location in which the inspection will occur. The Community Development Department can provide organizational support and guidance in order to complete this task.

2. No less than ninety (90) days from the completion of the annual surface mine inspection, the Consultant shall submit a complete Screencheck Draft of the Annual Mine Inspection Report to the City for review and comment. The report must be electronically submitted to the City in both Microsoft Word and Adobe PDF formats. Hard copies of the report shall be provided only upon the City's request and shall be furnished within forty-eight (48) hours of the Consultant's receipt of this request.

3. Upon receipt of the City's redline comments and review recommendations, the Consultant shall incorporate all of the City's comments or provide a written response providing justification for comments not included within the Screencheck Draft report.

4. The Consultant shall resubmit the corrected report, as a Final Administrative Draft, no less than thirty (30) days from the date Consultant received the City's comments and redlines. A time extension on this deadline shall not be permitted without the express, written justification provided by the City.

5. Consultant shall respond within 24 hours to all communication inquiries, including, but not limited to, voicemails, emails, or other common and acceptable forms of communication.

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III. In addition to the requirements of Parts I and II of this Scope of Services, during the performance of the Services, Consultant will keep City appraised through periodic status reports regarding the performance of the Services under this Agreement as set forth below and in Section 5.2, by the following means:

a. In-person meetings and/or teleconferences.

b. Email updates/questions to applicant team and City while reviews are underway.

c. Conference calls.

IV. All work product is subject to review and acceptance by City. If the City determines that any work product is unacceptable, for any reason, it must be revised by Consultant without additional charge to City until found satisfactory and accepted by City.

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EXHIBIT "B"
SPECIAL REQUIREMENTS

TERMS FOR COMPLIANCE WITH CALIFORNIA LABOR LAW REQUIREMENTS

1. This Agreement calls for services that, in whole or in part, constitute "public works" as defined in Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code ("Chapter 1"). Further, Consultant acknowledges that this Agreement is subject to (a) Chapter 1 and (b) the rules and regulations established by the Department of Industrial Relations ("DIR") implementing such statutes. Therefore, as to those Services that are "public works," Consultant shall comply with and be bound by all the terms, rules and regulations described in 1(a) and 1(b) as though set forth in full herein.

2. California law requires the inclusion of specific Labor Code provisions in certain contracts. The inclusion of such specific provisions below, whether or not required by California law, does not alter the meaning or scope of Section 1 above.

3. Consultant shall be registered with the Department of Industrial Relations in accordance with California Labor Code Section 1725.5, and has provided proof of registration to City prior to the Effective Date of this Agreement. Consultant shall not perform work with any subcontractor that is not registered with DIR pursuant to Section 1725.5. Consultant and subcontractors shall maintain their registration with the DIR in effect throughout the duration of this Agreement. If the Consultant or any subcontractor ceases to be registered with DIR at any time during the duration of the project, Consultant shall immediately notify City.

4. Pursuant to Labor Code Section 1771.4, Consultant's Services are subject to compliance monitoring and enforcement by DIR. Consultant shall post job site notices, as prescribed by DIR regulations.

5. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file at City Hall and will be made available to any interested party on request. Consultant acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and Consultant shall post such rates at each job site covered by this Agreement.

6. Consultant shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. The Consultant shall, as a penalty to City, forfeit $200.00 for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the DIR for the work or craft in which the worker is employed for any public work done pursuant to this Agreement by Consultant or by any subcontractor.

7. Consultant shall comply with and be bound by the provisions of Labor Code Section 1776, which requires Consultant and each subcontractor to: keep accurate payroll records and verify such records in writing under penalty of perjury, as specified in Section 1776; certify and make such payroll records available for inspection as provided by Section 1776; and inform City of the location of the records.

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8. Consultant shall comply with and be bound by the provisions of Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code Title 8, Section 200 et seq. concerning the employment of apprentices on public works projects. Consultant shall be responsible for compliance with these aforementioned Sections for all apprenticeable occupations. Prior to commencing work under this Agreement, Consultant shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within 60 days after concluding work pursuant to this Agreement, Consultant and each of its subcontractors shall submit to City a verified statement of the journeyman and apprentice hours performed under this Agreement.

9. The Consultant shall not perform Work with any Subcontractor that has been debarred or suspended pursuant to California Labor Code Section 1777.1 or any other federal or state law providing for the debarment of contractors from public works. The Consultant and Subcontractors shall not be debarred or suspended throughout the duration of this Agreement pursuant to Labor Code Section 1777.1 or any other federal or state law providing for the debarment of contractors from public works. If the Consultant or any subcontractor becomes debarred or suspended during the duration of the project, the Consultant shall immediately notify City.

10. Consultant acknowledges that eight hours labor constitutes a legal day's work. Consultant shall comply with and be bound by Labor Code Section 1810. Consultant shall comply with and be bound by the provisions of Labor Code Section 1813 concerning penalties for workers who work excess hours. The Consultant shall, as a penalty to City, forfeit $25.00 for each worker employed in the performance of this Agreement by the Consultant or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code section 1815, work performed by employees of Consultant in excess of eight hours per day, and 40 hours during any one week shall be permitted upon public work upon compensation for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay.

11. California Labor Code Sections 1860 and 3700 provide that every employer will be required to secure the payment of compensation to its employees. In accordance with the provisions of California Labor Code Section 1861, Consultant hereby certifies as follows:

> "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."
>
> **Date_____ Signature_____**

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12. For every subcontractor who will perform work on the project, Consultant shall be responsible for such subcontractor's compliance with Chapter 1 and Labor Code Sections 1860 and 3700, and Consultant shall include in the written contract between it and each subcontractor a copy of those statutory provisions and a requirement that each subcontractor shall comply with those statutory provisions. Consultant shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractor's compliance, including, without limitation, conducting a periodic review of the certified payroll records of the subcontractor and upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages. Consultant shall diligently take corrective action to halt or rectify any failure.

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EXHIBIT "C"
SCHEDULE OF COMPENSATION

I. Consultant shall perform the following tasks ("Tasks") at the following rates:

TASK	DESCRIPTION	SUB-BUDGET
	Annual Surface Mining Inspection	
1.	**Data Acquisition, Field Inspection & Operator Meeting**	**$2,362.50**
2.	**Report & Exhibits Preparation/Office Support**	**$3,180.00**
	Meeting Budget PER ANNUM (not pre-inspection)	**$540.00**
	TOTAL (1 year)	**$6,082.50**

II. Within the budgeted amounts for each Task, and with the approval of the Contract Officer, funds may be shifted from one Task sub-budget to another so long as the Contract Sum is not exceeded per Section 2.1, unless Additional Services are approved per Section 1.8.

III. City will compensate Consultant for the Services performed upon submission of a valid invoice. Each invoice is to include:

A. Line items for all personnel describing the Services performed, the number of hours worked, and the hourly rate.

B. Line items for all materials and equipment properly charged to the Services.

C. Line items for all other approved reimbursable expenses claimed, with supporting documentation.

D. Line items for all approved sub-contractor labor, supplies, equipment, materials, and travel properly charged to the Services.

IV. Consultant's billing rates for all personnel are attached as Exhibit C-1, with the exception of the Meeting Budget PER ANNUM costs which is superseded by the above-referenced amount.

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EXHIBIT "C-1"
CONSULTANT'S BILLING RATE AND TASK SCHEDULE

FEE EXHIBIT
ANNUAL SURFACE MINE INSPECTIONS
CALENDAR YEAR 2020 WITH 4-YEAR RENEWAL OPTION
BANNING QUARRY

Field Services, Per Annum			Unit Costs (per pay grade)
(1)	Data Acquisition, Field Inspection & Operator Meeting		
	(a)	Pre-inspection operators records requests, Sr. Geologist 4 hrs. @ $135/hr.	$540.00
	(b)	Pre-inspection meeting with Banning CDD, Sr. Geologist 4 hrs. @ $135/hr	540.00
	(c)	Aerial image interpretation & file update, Sr. Geologist 2.0 hrs. @ $135/hr	270.00
	(d)	Travel, R/T to mine, Sr. Geologist 1.5 hrs. @ $135/hr	202.50
	(e)	Site inspection, Sr. Geologist 6 hrs. @ $135/hr	810.00
		Field Total	**$2,362.50**
(2)	Report & Exhibits Preparation, Office Support		
	(a)	Prior-year Inspection Report Reviews, Sr. Geologist 2.0 hrs. @ $135/hr	$270.00
	(b)	Operator annual FACE review, Sr. Geologist 4.0 hrs. @ $135/hr	540.00
	(c)	Report preparation, Sr. Geologist 12 hrs. @ $135/hr	$1,620.00
	(d)	Photo exhibits & site plan, Draftsman 4 hrs.@ $75/hr.)	300.00
	(e)	Geotechnical Assistant 4 hrs. @ $45/hr.	180.00
	(f)	Report reproduction, copies, supplies	270.00
		Office Subtotal	**$3,180.00**
		****AGI Inspection Cost PER ANNUM, Base year**	**$5,542.50**
		Meeting Budget PER ANNUM [not pre-inspection per 1(b) above]	**$1,620.00**
		Requested 4-Year Contract Renewal	**x 5**
		*****5-Year Total Inspection + Meeting Costs**	**$35,812.50**

**** Based on 2019 report model with required updated photographic exhibits, operations information, and revised Form MRRC-1. Lead Agency officials should be advised that the new MRRC-1 specifically requests information outside of AGI geotechnical or geologic expertise. Professionals in other technical disciplines may need to be consulted. We will fill out the form as completely as possible under revised DMR guidelines and with the noted limitations. The listed annual inspection cost may be used by the City in determining deposit amounts to be recovered from the mine operator.**

***** Per RFP, but with allowed annual cost escalators to be negotiated.**

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EXHIBIT "D"
SCHEDULE OF PERFORMANCE

I. Consultant shall perform all Services timely, and deliver the specified tangible work products to City in accordance with the schedule attached as Exhibit D-1.

II. The Contract Officer may approve extensions for performance of the Services in accordance with Sections 1.8 and 3.3.

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AGREEMENT FOR PROFESSIONAL SERVICES (C00677) FOR ANNUAL SURFACE MINING INSPECTION BY AND BETWEEN CITY OF BANNING AND ARAGON GEOTECHNICAL, INC.

THIS AGREEMENT FOR PROFESSIONAL SERVICES (herein "Agreement") is made and entered into this day: 1/25/2021, ("Effective Date") by and between the **CITY OF BANNING, a California municipal corporation** ("City") and **ARAGON GEOTECHNICAL, INC., a** Nevada corporation ("Consultant"). City and Consultant are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties."

RECITALS

A. City has sought, by issuance of a Request for Proposal (RFP No. 20-029), the performance of the services for the Annual Surface Mining Inspection prepared in connection therewith, and as further defined and described particularly in Article 1 of this Agreement.

B. Consultant, following submission of a proposal or bid for the performance of the services defined and described particularly in Article 1 of this Agreement, was selected by City to perform those services.

C. The Parties desire to formalize the selection of Consultant for performance of those services defined and described particularly in Article 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

D. Pursuant to the City of Banning's Municipal Code, City has authority to enter into this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1. SERVICES OF CONSULTANT

1.1 Scope of Services.

In compliance with all terms and conditions of this Agreement, Consultant shall provide those services specified in the "Scope of Services" attached hereto as **Exhibit A** and incorporated herein by this reference, which services may be referred to herein as the "Services" hereunder. As a material inducement to City entering into this Agreement, Consultant represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the Services required under this Agreement in a thorough, competent, and professional manner, and is experienced in performing the Services contemplated herein. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all Services described herein. Consultant covenants that it shall follow the highest professional standards in performing the Services required hereunder and that all materials will be of good quality, and fit for the purpose intended. For purposes of this Agreement, the phrase "highest professional

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standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

1.2 Contract Documents and Exhibits.

This Agreement includes the Request for Proposal and Consultant's accepted proposal ("Contract Documents"), both of which are on file with the City and incorporated herein by this general reference as though fully set forth herein. **Exhibit A** (Scope of Services), **Exhibit B** (Special Requirements), **Exhibit C** (Schedule of Compensation), and **Exhibit D** (Schedule of Performance) also constitute a part of this Agreement and are incorporated into this Agreement by this reference. Except as set forth in Section 1.10 regarding **Exhibit B**, this Agreement controls over the Contract Documents and the provisions in **Exhibits A, B** and **C**.

1.3 Compliance with Law.

Consultant shall keep itself informed concerning all ordinances, resolutions, statutes, rules, and regulations of City and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered, and shall render all Services hereunder in accordance therewith.

1.4 Licenses, Permits, Fees and Assessments.

Consultant shall obtain and maintain during the term of this Agreement, at its sole cost and expense, all necessary licenses, permits, certificates and approvals required by law for the performance of Services under this Agreement, including a City business license. Consultant shall have the sole obligation to pay for all fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and which arise from or are necessary for Consultant's performance of the Services required by this Agreement. Consultant shall indemnify, defend and hold harmless City, its officers, employees or agents, against all such fees, assessments, taxes, penalties or interest levied, assessed or imposed against City hereunder.

1.5 Familiarity with Services.

By executing this Agreement, Consultant warrants that Consultant: (i) has thoroughly investigated and considered the Scope of Services to be performed, (ii) has carefully considered how the Services should be performed, and (iii) fully understands the facilities and any difficulties and restrictions attending performance of the Services under this Agreement. If the Services involve work upon any site, Consultant warrants that Consultant has or will investigate the site and is or will be fully acquainted with the conditions existing therein, prior to commencement of Services hereunder. Should Consultant discover any latent or unknown conditions, which will materially affect the performance of the Services hereunder, Consultant shall immediately inform City of such fact and shall not proceed except at Consultant's risk until written instructions are received from the Contract Officer (defined in Section 1.12. A).

1.6 Prevention of Loss and Damages.

Consultant shall adopt reasonable methods during the Term (defined in Section 3.4) to furnish continuous protection to the work product, and the equipment, materials, papers,

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documents, plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the Services by City, except such losses or damages as may be caused by City's own negligence.

1.7 Further Responsibilities of Parties.

Both Parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both Parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonable necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither Party shall be responsible to perform the Services of the other.

1.8 Additional Services.

City shall have the right at any time during the performance of the Services, without invalidating this Agreement, to order extra services beyond that specified in the Scope of Services or to make changes by altering, adding to or deducting from the Services. No such extra services may be undertaken unless a written order is first given by the Contract Officer to Consultant, which written order incorporates therein an adjustment in (i) the Contract Sum (as defined in Section 2.1), and/or (ii) the Schedule of Performance, (as defined in Section 3.2), and which written order is approved in writing by Consultant. Any increase in compensation of up to ten percent (10%) of the Contract Sum, or $25,000, whichever is less; or in the Schedule of Performance of up to one hundred eighty (180) days may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively, must be approved by City Council. It is expressly understood by Consultant that the provisions of this Section shall not apply to Services which are specifically set forth in the Scope of Services or which are reasonably contemplated therein. Consultant hereby acknowledges that it accepts the risk that the Services to be provided pursuant to the Scope of Services may be more costly or time consuming than Consultant anticipates and that Consultant shall not be entitled to additional compensation therefor.

1.9 Facilities and Equipment.

Except as otherwise provided, Consultant shall, at its own cost and expense, provide all facilities and equipment necessary to perform the Services required by this Agreement. City shall make available to Consultant only physical facilities such as desks, filing cabinets, and conference space ("City Facilities"), as City deems, in its sole discretion, to be reasonably necessary for Consultant's use while consulting with City employees and reviewing records and the information in possession of City. The location, quality, and time of furnishing City Facilities shall be in the sole discretion of City. In no event shall City be required to furnish any facilities that may involve incurring any direct expense, including but not limited to a computer, long distance telephone, network data, internet or other communication charges, vehicles and reproduction facilities.

1.10 Special Requirements.

Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as **Exhibit B** and incorporated herein by this reference. In the event of a conflict between the provisions of **Exhibit B** and any other provisions of this Agreement, the provisions of **Exhibit B** shall govern.

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1.11 Corrections.

In addition to the indemnification obligations set forth in Article 4, and Sections 1.4, 1.13, 5.3, 5.4, and 6.3, Consultant shall correct, at its expense, all errors in the Services which may be disclosed during City's review of Consultant's report or plans. Should Consultant fail to make such correction(s) in a reasonably timely manner, such correction(s) may be made by City, and the cost thereof shall be charged to Consultant. In addition to all other available remedies, City may deduct the cost of such correction(s) from any retention amount held by City, or may withhold payment otherwise owed Consultant under this Agreement up to the amount of the cost of correction(s), as provided in Section 6.3.

1.12 Party Representatives.

A. Contract Officer: For the purposes of this Agreement, the Contract Officer shall be the City Manager, or such other person designated in writing by the City Manager ("Contract Officer"). Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of City required hereunder to carry out the terms of this Agreement.

B. Principals and Personnel of Consultant.

1) Consultant Representative: The following principal of Consultant is hereby designated as being the Consultant Representative authorized to act on Consultant's behalf regarding the Services specified herein and make all decisions in connection therewith:

Name	Title
Fernando Aragon	President

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing Consultant Representative were a substantial inducement for City to enter into this Agreement. Therefore, the foregoing Consultant Representative shall be responsible during the term of this Agreement for directing all activities of Consultant and devoting sufficient time to personally supervise the Services hereunder. All personnel of Consultant, and any authorized agents, shall at all times be under the exclusive direction and control of the Consultant Representative. For purposes of this Agreement, the foregoing Consultant Representative may not be replaced nor may their responsibilities be substantially reduced or reassigned by Consultant without the express written approval of City. It shall be Consultant's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the Services, and Consultant shall refer any decisions which must be made by City to the Contract Officer.

2) Consultant's Personnel: Consultant has, or will secure at its own expense, all personnel required to perform the Services required under this Agreement. All of the Services required under this Agreement shall be performed by Consultant or under its supervision, and all personnel engaged in the Services shall be qualified to perform such Services. Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff and sub-contractors, if any, assigned to perform the Services required under this Agreement.

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Consultant shall notify City of all changes in Consultant's staff and sub-contractors, if any, assigned to perform the Services required under this Agreement, prior to and during any such performance. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires to reassign any staff or sub-contractor of Consultant, City shall give notice as set forth in Section 8.1. Consultant shall, immediately upon the receipt of the notice to re-assign staff from City, reassign such person or persons.

1.13 Independent Contractor.

A. Consultant is an independent contractor and not an employee of City. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City. All Services provided pursuant to this Agreement shall be performed by Consultant or under its supervision. Consultant will determine the means, methods, and details of performing the Services. Any additional personnel performing Services under this Agreement on behalf of Consultant shall also not be employees of City and shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

B. Consultant shall indemnify and hold harmless City and its elected officials, officers, employees, servants, designated volunteers, and agents serving as independent contractors in the role of City officials, from any and all liability, damages, claims, costs and expenses of any nature to the extent arising from Consultant's personnel practices. City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this Section.

1.14 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Consultant, the Consultant Representative and employees were a substantial inducement for City to enter into this Agreement. Therefore, Consultant shall not contract with any other entity to perform in whole or in part the Services required hereunder without the express written approval of City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty-five percent (25%) of the present ownership and/or control of Consultant, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this

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Agreement shall be void. No approved transfer shall release Consultant or any surety of Consultant of any liability hereunder without the express consent of City.

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, as full compensation for Services satisfactorily rendered, City shall pay Consultant at the hourly rates set forth in the "Schedule of Compensation" attached hereto as **Exhibit C** and incorporated herein by this reference. In no event shall Consultant be paid more than $6,082.50 (the "Contract Sum"). The Contract Sum shall include the attendance of Consultant at all project meetings reasonably deemed necessary by City. Coordination of the performance of the Services with City is a critical component of the Services. If Consultant is required to attend additional meetings to facilitate such coordination, Consultant shall not be entitled to any additional compensation for attending those meetings.

2.2 Method of Compensation.

The method of compensation may include: (i) a lump sum payment upon completion of the Services, (ii) payment in accordance with specified tasks or the percentage of completion of the Services, (iii) payment for time and materials based upon Consultant's rates as specified in the Schedule of Compensation, provided that time estimates are provided for the performance of sub tasks, but not exceeding the Contract Sum or (iv) such other methods as may be specified in the Schedule of Compensation.

2.3 Reimbursable Expenses.

City shall only reimburse Consultant for those actual and necessary expenses expressly set forth in **Exhibit C**. Reimbursable expenses may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expenses, and travel expenses approved by the Contract Officer in advance, or actual sub-contractor expenses of an approved sub-contractor pursuant to Section 1.14, and only if specified in the Schedule of Compensation.

2.4 Unauthorized Services and Expenses.

City will not pay for any Services or reimburse for any expenses incurred which are not specified in the Scope of Services, unless authorized in writing as set forth in Section 1.8 of this Agreement. City shall make payment for such authorized additional Services and expenses in accordance with Article 2 of this Agreement.

2.5 Invoices.

Each month Consultant shall furnish to City an original invoice for all Services performed and expenses incurred during the preceding month. Each such invoice shall contain all of the information set forth in Section III of **Exhibit C** to this Agreement. By submitting an invoice for payment under this Agreement, Consultant is certifying compliance with all provisions of the Agreement. Consultant shall not invoice City for any duplicate Services performed by more than one person.

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City shall independently review each invoice submitted by Consultant to determine whether the Services performed and expenses incurred are in compliance with the provisions of this Agreement. City will use its best efforts to cause Consultant to be paid within thirty (30) days of receipt of Consultant's correct and undisputed invoice, except as to any charges for Services performed or expenses incurred by Consultant which are disputed by City, or as provided in Section 6.3. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Consultant for correction and resubmission. Review and payment by City of any invoice provided by Consultant shall not constitute waiver of any rights or remedies provided herein or any applicable law.

2.6 Waiver.

Payment to Consultant for Services performed pursuant to this Agreement shall not be deemed to waive any defects in Services performed by Consultant.

ARTICLE 3. PERFORMANCE SCHEDULE

3.1 Time of Essence.

Time is of the essence in the performance of this Agreement; provided, however, that the foregoing shall not be construed to limit or deprive a Party of the benefits of any grace or use period allowed in this Agreement.

3.2 Schedule of Performance.

Consultant shall commence the Services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all Services within the time period(s) established in the "Schedule of Performance" attached hereto as **Exhibit D** and incorporated herein by this reference.

3.3 Force Majeure.

The time period(s) specified in the Schedule of Performance for performance of the Services rendered pursuant to this Agreement may be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of Consultant. Such unforeseeable consequences include, but are not restricted to, acts of God or public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including City, if Consultant shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the Services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified, subject to the provisions of Section 1.8. The Contract Officer's determination (or the City Council's determination, in the event the period of enforced delay exceeds the period specified in Section 1.8) shall be final and conclusive upon the Parties to this Agreement. In no event shall Consultant be entitled to recover damages against City for any delay in the performance of this Agreement, however caused; Consultant's sole remedy shall be the extension of the Agreement pursuant to this Section.

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3.4 Term.

The Term of this Agreement shall last one (1) year from the Effective Date unless sooner terminated as provided in Article 6 of this Agreement or extended as provided in Sections 1.8 and 3.3 of this Agreement. The maximum term and any subsequent amendment or modification to this Agreement shall not exceed five (5) years.

ARTICLE 4. INSURANCE AND INDEMNIFICATION

4.1 Minimum Scope and Limits of Insurance.

Consultant shall procure and at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:

A. Commercial General Liability Insurance with a minimum limit of $1,000,000.00 per occurrence for bodily injury, personal injury and property damage and a general aggregate limit of $2,000,000.00 per project or location. If Consultant is a limited liability company, the commercial general liability coverage shall be amended so that Consultant and its managers, members, affiliates, employees, agents and other persons necessary or incidental to its operation are insureds.

B. Automobile Liability Insurance for any owned, non-owned or hired vehicle used in connection with the performance of this Agreement with a combined single limit of $1,000,000.00 per accident for bodily injury and property damage. If Consultant does not use any owned, non-owned or hired vehicles in the performance of Services under this Agreement, Consultant shall obtain a non-owned auto endorsement to the Commercial General Liability policy.

C. Workers' Compensation Insurance as required by the State of California and Employer's Liability Insurance with a minimum limit of $1,000,000.00 per accident for bodily injury or disease. If Consultant has no employees while performing Services under this Agreement, workers' compensation policy is not required; however, Consultant shall execute a declaration that it has no employees.

D. Professional Liability/Errors and Omissions Insurance with minimum limits of $1,000,000.00 per claim and in the aggregate.

4.2 Acceptability of Insurers.

The insurance policies required under this Article shall be issued by an insurer admitted to write insurance in the State of California with a rating of A:VII or better in the latest

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edition of the A.M. Best Insurance Rating Guide. Self-insurance shall not be considered to comply with the insurance requirements under this Article.

4.3 Additional Insured.

The commercial general and automobile liability policies shall contain an endorsement naming City, its officers, employees, agents and volunteers as additional insureds.

4.4 Primary and Non-Contributing.

The insurance policies required under this Article shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance available to City. Any insurance or self-insurance maintained by City, its officers, employees, agents or volunteers, shall be in excess of Consultant's insurance and shall not contribute with it.

4.5 Consultant's Waiver of Subrogation.

The insurance policies required under this Article shall not prohibit Consultant and Consultant's employees, agents or sub-contractors from waiving the right of subrogation prior to a loss. Consultant hereby waives all rights of subrogation against City.

4.6 Deductibles and Self-Insured Retentions.

Any deductibles or self-insured retentions must be declared to and approved by City. At City's option, Consultant shall either reduce or eliminate the deductibles or self-insured retentions with respect to City; or Consultant shall procure a bond guaranteeing payment of losses and expenses.

4.7 Cancellations or Modifications to Coverage.

Consultant shall not cancel, reduce or otherwise modify the insurance policies required by this Article during the term of this Agreement. The commercial general and automobile liability policies required under this Agreement shall be endorsed to state that should the issuing insurer cancel the policy before the expiration date, the issuing insurer will endeavor to mail 30 days' prior written notice to City. If any insurance policy required under this Article is canceled or reduced in coverage or limits, Consultant shall, within two (2) Business Days (as defined in Section 8.12) of notice from the insurer, phone, fax or notify City via certified mail, return receipt requested, of the cancellation of or changes to the policy.

4.8 City Remedy for Noncompliance.

If Consultant does not maintain the policies of insurance required under this Article in full force and effect during the term of this Agreement, or in the event any of Consultant's policies do not comply with the requirements under this Article, City may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, City may, but has no duty to, take out the necessary insurance and pay, at Consultant's expense, the premium thereon. Consultant shall promptly reimburse City for any premium paid by City, or City may withhold amounts sufficient to pay the premiums from payments due to Consultant.

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4.9 Evidence of Insurance.

Prior to the performance of Services under this Agreement, Consultant shall furnish the City Clerk with a certificate or certificates of insurance and all original endorsements evidencing and effecting the coverages required under this Article. The endorsements are subject to City's approval. Consultant may provide complete, certified copies of all required insurance policies to City. Consultant shall maintain current endorsements on file with the City Clerk. Consultant shall provide proof to the City Clerk that insurance policies expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Consultant shall furnish such proof at least two (2) weeks prior to the expiration of the coverages.

4.10 Indemnity Requirements not Limiting.

Procurement of insurance by Consultant shall not be construed as a limitation of Consultant's liability or as full performance of Consultant's duty to indemnify City under this Agreement.

4.11 Sub-contractor Insurance Requirements.

Consultant shall require each of its sub-contractors that perform Services under this Agreement to maintain insurance coverage that meets all of the requirements of this Article.

4.12 Indemnification, Hold Harmless, and Duty to Defend.

A. Indemnification of City.

1) To the fullest extent permitted by law, Consultant shall, at its sole cost and expense, defend, hold harmless and indemnify City and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, assigns and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees"), from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith and the payment of all consequential damages (collectively "Liabilities"), at law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant, its officers, agents, servants, employees, sub-contractors, materialmen, consultants or their officers, agents, servants or employees (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties. Consultant shall defend the Indemnitees in any action or actions filed in connection with any Liabilities with counsel of the Indemnitees' choice, and shall pay all costs and expenses, including all attorneys' fees and experts' costs actually incurred in connection with such defense. Consultant shall reimburse the Indemnitees for any and all legal expenses and costs incurred by Indemnitees in connection therewith.

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2) Consultant shall pay all required taxes on amounts paid to Consultant under this Agreement, and indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant shall fully comply with the workers' compensation law regarding Consultant and Consultant's employees. Consultant shall indemnify and hold City harmless from any failure of Consultant to comply with applicable workers' compensation laws. City may offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this subparagraph A.2.

3) Consultant shall obtain executed indemnity agreements with provisions identical to those in this Article from each and every sub-contractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. If Consultant fails to obtain such indemnity obligations, Consultant shall be fully responsible and indemnify, hold harmless and defend the Indemnitees from and against any and all Liabilities at law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant's sub-contractor, its officers, agents, servants, employees, sub-contractors, materialmen, consultants or their officers, agents, servants or employees (or any entity or individual that Consultant's sub-contractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties.

B. Workers' Compensation Acts not Limiting. Consultant's indemnifications and obligations under this Article, or any other provision of this Agreement, shall not be limited by the provisions of any workers' compensation act or similar act. Consultant expressly waives its statutory immunity under such statutes or laws as to City, its officers, agents, employees and volunteers.

C. Insurance Requirements not Limiting. City does not, and shall not, waive any rights that it may possess against Consultant because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. The indemnities in this Article shall apply regardless of whether or not any insurance policies are determined to be applicable to the Liabilities, tax, assessment, penalty or interest asserted against City.

D. Survival of Terms. Consultant's indemnifications and obligations under this Article shall survive the expiration or termination of this Agreement.

ARTICLE 5. RECORDS, REPORTS, AND RELEASE OF INFORMATION

5.1 Service Records.

Consultant shall keep, and require sub-contractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and Services performed hereunder (the "Service Records"), as shall be necessary to perform the Services required by this Agreement and enable the Contract Officer

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to evaluate the performance of such Services. Any and all such Service Records shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such Service Records at all times during normal business hours of City, including the right to inspect, copy, audit and make copies and transcripts from such Service Records. Such Service Records shall be maintained for a period of three (3) years following completion of the Services hereunder, and City shall have access to such Service Records in the event any audit is required. In the event of dissolution of Consultant's business, custody of the Service Records may be given to City, and access shall be provided by Consultant's successor in interest ("Consultant's Successor"). If custody of the Service Records is given to Consultant's Successor, Consultant shall give written notice to City of the transfer of the Service Records to Consultant's Successor. The notice shall include contact information (address and telephone number) for Consultant's Successor, and access shall be provided to City by Consultant's Successor.

5.2 Reports.

Consultant shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the Services required by this Agreement as the Contract Officer shall require. Consultant hereby acknowledges that City is greatly concerned about the cost of Services to be performed pursuant to this Agreement. For this reason, Consultant agrees that if Consultant becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the Services contemplated herein, Consultant shall promptly notify the Contract Officer of that fact, circumstance, technique or event and the estimated increased or decreased cost related thereto.

5.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the "Consultant Documents") prepared by Consultant, its employees, sub-contractors and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the termination of this Agreement. Consultant shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership use, reuse, or assignment of the Consultant Documents hereunder. Any use, reuse or assignment of such completed Consultant Documents for other projects and/or use of uncompleted Consultant Documents without specific written authorization by Consultant will be at City's sole risk and without liability to Consultant, and Consultant's guarantee and warranties shall not extend to such use or assignment. Consultant may retain copies of such Consultant Documents for its own use. Consultant shall have an unrestricted right to use the concepts embodied therein. All sub-contractors shall provide for assignment to City of all Consultant Documents prepared by them; and in the event Consultant fails to secure such assignment, Consultant shall indemnify City for all damages resulting therefrom.

5.4 Confidentiality and Release of Information.

A. All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the

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public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the Contract Officer.

B. Consultant, its officers, employees, agents or sub-contractors, shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the Services performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

C. If Consultant, or any officer, employee, agent or sub-contractor of Consultant, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorneys' fees, caused by or incurred as a result of Consultant's conduct.

D. Consultant shall promptly notify City should Consultant, its officers, employees, agents or sub-contractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any Party regarding this Agreement and the Services performed thereunder. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite the response.

ARTICLE 6. ENFORCEMENT OF AGREEMENT AND TERMINATION

6.1 California Law.

This Agreement, and any dispute arising from the relationship between the Parties to this Agreement, shall be interpreted, construed and governed both as to validity and to performance of the Parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Riverside, State of California, or any other appropriate court in such county, and Consultant covenants and agrees to submit to the personal jurisdiction of such court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in Riverside.

6.2 Disputes; Default.

A. In the event that City determines Consultant is in default under the terms of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any Services performed after the date of default. In addition to the provisions of Section 4.8, and the right to terminate pursuant to Section 6.7, if the City Manager determines that Consultant is in default in the performance of any of the terms or conditions of this Agreement, City may serve Consultant with written notice of the default. Consultant shall have ten (10) calendar days after service upon it of the notice in which to cure the default by rendering a satisfactory performance.

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In the event that Consultant fails to cure its default within such period of time, City may, notwithstanding any other provision of this Agreement, terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

B. In the event of termination pursuant to this Section, City may take over the Services and prosecute the same to completion by contract or otherwise, and Consultant shall be liable to the extent that the total cost for completion of the Services required hereunder exceeds the compensation herein stipulated (provided that City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to Consultant for the purpose of set-off or partial payment of the amounts owed City as provided in Section 6.3.

6.3 Retention of Funds.

Consultant hereby authorizes City to deduct from any amount payable to Consultant (whether or not arising out of this Agreement): (i) any payment amount of which may be in dispute hereunder or which is necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, (ii) all amounts retained pursuant to the provisions of Section 4.8, (iii) all amounts for which City may be liable to third parties, by reason of Consultant's acts or omissions in performing or failing to perform Consultant's obligation under this Agreement, and (iv) all payments due or that become due to Consultant during the period that Consultant or any of its sub-contractors fail to maintain any required insurance in full force and effect, until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to City, as provided in Section 4.9, above. In the event that any claim is made by a third party, the amount or validity of which is disputed by Consultant, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of Consultant to insure, indemnify, and protect City as elsewhere provided herein.

6.4 Waiver.

Waiver by any Party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any Party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any Services by Consultant shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either Party of any default must be in writing, and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

6.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party

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of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

6.6 Legal Action.

In addition to any other rights or remedies, either Party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Notwithstanding any contrary provision herein, Consultant must file a statutory claim pursuant to Government Code Sections 905 et seq. and 910 et seq., in order to pursue a legal action against City under this Agreement.

6.7 Termination Prior to Expiration of Term.

This Article 6 shall govern any termination of this Agreement except as specifically provided in Section 6.2 for termination for default of Consultant. City reserves the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days' written notice to Consultant, except that where termination is due to the fault of Consultant, the period of notice may be a shorter time as may be determined by the Contract Officer. In addition, Consultant reserves the right to terminate this Agreement at any time, with or without cause, upon sixty (60) days' written notice to City, except that where termination is due to the fault of City, the period of notice may be a shorter time as Consultant may determine. Upon receipt of any notice of termination, Consultant shall immediately cease all Services hereunder except such as may be specifically approved by the Contract Officer. Except where Consultant has initiated termination, Consultant shall be entitled to compensation for all Services rendered prior to the effective date of the notice of termination and for any Services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 6.3. In the event Consultant has initiated termination, Consultant shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder. In the event of termination without cause pursuant to this Section, the terminating Party need not provide the non-terminating Party with the opportunity to cure pursuant to Section 6.2.

6.8 Attorneys' Fees.

In any litigation or other proceeding by which a Party seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing Party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorneys' fees. Attorneys' fees shall include attorney's fees on any appeal, and in addition the Party entitled to attorneys' fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

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ARTICLE 7. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

7.1 Non-liability of City Officers and Employees.

No officer or employee of City shall be personally liable to Consultant, or Consultant's Successor, in the event of any default or breach by City or for any amount which may become due to Consultant or Consultant's Successor, or for breach of any obligation of the terms of this Agreement.

7.2 Conflict of Interest.

Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of Services under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or sub-contractor without the express written consent of the Contract Officer. Consultant agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

No officer or employee of City shall have any direct or indirect financial interest in this Agreement within the scope of Government Code section 1090, nor shall any such officer or employee make, participate in making, or use his or her official position to influence, any City decision relating to the Agreement which has a material financial effect on his or her financial interests or the financial interests of any corporation, partnership or association in which he or she is, directly or indirectly, interested, in violation of any State statute or regulation. Consultant warrants that it has not paid or given, and will not pay or give any third party any money or other consideration for obtaining this Agreement.

Consultant and its officers, employees, associates and sub-contractors, if any, shall comply with all conflict of interest statutes of the State of California applicable to Consultant's Services under this Agreement, including the Political Reform Act (Gov. Code § 81000, et seq.) and Government Code Section 1090. During the term of this Agreement, Consultant may perform similar services for other clients; but Consultant and its officers, employees, associates and sub-contractors shall not, without the Contract Officer's prior written approval, perform services for another person or entity for whom Consultant is not currently performing services that would require Consultant or one of its officers, employees, associates or sub-contractors to abstain from a decision under this Agreement pursuant to a conflict of interest statute. Consultant shall incorporate a clause substantially similar to this Section into any subcontract that Consultant executes in connection with the performance of this Agreement.

7.3 Covenant Against Discrimination.

Consultant covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, or ancestry in the performance of this Agreement. Consultant shall take affirmative action to insure that applicants are employed, and that employees

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are treated during employment, without regard to their race, color, creed, religion, sex, marital status, national origin, or ancestry, or other protected class.

7.4 Unauthorized Aliens.

Consultant hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such unauthorized aliens for the performance of Services covered by this Agreement, and should the any liability or sanctions be imposed against City for such use of unauthorized aliens, Consultant hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

ARTICLE 8. MISCELLANEOUS PROVISIONS

8.1 Notices.

Any notice, demand, request, document, consent, approval, bill, invoice, report or other communication required or permitted under this Agreement shall be in writing and conclusively deemed effective: (a) on confirmed delivery by courier service or overnight delivery service during Consultant's and City's regular business hours; or (b) three (3) Business Days after deposit in the United States mail, by certified or registered mail, and addressed to the Party to be notified as set forth below:

If to City	Adam B. Rush, M.A. AICP Community Development Director City of Banning 99 East Ramsey Street Banning, California 92220 Email: arush@banningca.gov
With a courtesy copy to:	Kevin G. Ennis, City Attorney Richards, Watson & Gershon 350 South Grand Avenue, 37th Floor Los Angeles, California 90071 Email: kennis@rwglaw.com
If to Consultant:	Fernando Aragon President Aragon Geotechnical, Inc. 16801 Van Buren Blvd. Bldg. B Riverside, CA 92504 Email: fernando@aragongeo.com

8.2 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either Party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

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8.3 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

8.4 Integration; Amendment.

This Agreement, and all exhibits referred to in this Agreement, constitute the final, complete and exclusive statement of the terms of the agreement between the Parties pertaining to the subject matter of this Agreement and supersede all other and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the Parties, and none shall be used to interpret this Agreement. No Party has been induced to enter into this Agreement by, nor is any Party relying on, any representation or warranty except those expressly set forth in this Agreement. No amendment to or modification of this Agreement, nor any provision or breach hereof waived, shall be valid unless made in writing and approved by Consultant and by City Council. The Parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

8.5 Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the Parties hereunder unless the invalid provision is so material that its invalidity deprives either Party of the basic benefit of their bargain or renders this Agreement meaningless.

8.6 Mutual Cooperation.

A. City's Cooperation. City shall provide Consultant with all pertinent data, documents and other requested information as is reasonably available for Consultant's proper performance of the Services required under this Agreement.

B. Consultant's Cooperation. In the event any claim or action is brought against City relating to Consultant's performance of Services rendered under this Agreement, Consultant shall render any reasonable assistance that City requires.

8.7 No Third Party Beneficiaries Intended.

This Agreement is made solely for the benefit of the Parties to this Agreement and their respective successors and assigns, and no other person or entity may have or acquire a right by virtue of this Agreement.

8.8 Final Payment Acceptance Constitutes Release.

The acceptance by Consultant of the final payment made under this Agreement shall operate as and be a release of City from all claims and liabilities for compensation to

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Consultant for anything done, furnished or relating to Consultant's Services. Acceptance of payment shall be any negotiation of City's check or the failure to make a written extra compensation claim within ten (10) calendar days of the receipt of that check. However, approval or payment by City shall not constitute, nor be deemed, a release of the responsibility and liability of Consultant, its employees, sub-contractors and agents for the accuracy and competency of the information provided and/or Services performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by City for any defect or error in the Services prepared by Consultant, its employees, sub-contractors and agents.

8.9 Non-Appropriation of Funds.

Payments to be made to Consultant by City for Services performed within the current fiscal year which are within the current fiscal budget and within an available, unexhausted fund. In the event that City does not appropriate sufficient funds for payment of Consultant's Services beyond the current fiscal year, this Agreement shall cover payment for Consultant's Services only to the conclusion of the last fiscal year in which City appropriates sufficient funds and shall automatically terminate at the conclusion of such fiscal year.

8.10 Headings.

The headings in this Agreement are included solely for convenience of reference and shall not affect the interpretation of any provision of this Agreement or any of the rights or obligations of the Parties to this Agreement.

8.11 Word Usage.

Unless the context clearly requires otherwise, (a) the words "shall," "will" and "agrees" are mandatory and "may" is permissive; (b) "or" is not exclusive; and (c) "includes" or "including" are not limiting.

8.12 Business Days.

"Business Days" refers to days that the Banning City Hall is open for business.

8.13 Corporate Authority.

The persons executing this Agreement on behalf of the Parties hereto warrant that (i): such Party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of that Party, (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which that Party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the Parties.

[SIGNATURES ON FOLLOWING PAGE]

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IN WITNESS WHEREOF the Parties hereto have executed this Agreement the day and year first hereinabove written.

CITY OF BANNING

DocuSigned by:
Doug Schulze 1/25/2021
0AD14BA217CE497...

Douglas Schulze, Date
City Manager

ATTEST:

DocuSigned by:
Sonja De La Fuente 1/25/2021
9C9C3E6DD5AB49B...

Sonja De La Fuente Date
Deputy City Clerk

APPROVED AS TO FORM:
Richards, Watson & Gershon

DocuSigned by:
Kevin G Ennis 1/23/2021
940BF72E964348C...

Kevin G. Ennis, Esq., Date
City Attorney

CONSULTANT

DocuSigned by:
Fernando Aragon 1/21/2021
E62F8889F8BB463...

NAME: Fernando Aragon Date
TITLE: President

NAME: Date
TITLE:

88-0376464
Tax ID No.

Address:
16801 Van Buren Blvd. Building B
Riverside, CA 92504

City Council Approval: NA

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

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EXHIBIT "A"
SCOPE OF SERVICES

I. Consultant will perform the following Services in connection with providing an Annual Surface Mining Inspection.

II. As part of the Services, Consultant shall complete the following tasks:

A. Prepare and deliver the following tangible work products and services to City:

(i) Perform both general and special inspections, in accordance with Section 1 of the 2002 SMBG Surface Mine Inspection Guide (2002 Guide), which includes, but is not limited to, the review of the financial assurance cost estimate of bond calculation approvals and review of the reclamation plan and conditions of approval.

(ii) Perform general and special mine inspections in accordance with Section 2 of the 2002 Guide.

(iii) Prepare an inspection report on form MRRC-1, including all recent amendments and revisions and in compliance with Section 3 of the 2002 Guide.

B. Provide the following services in support of the tasks enumerated in Section A:

1. Serve as project manager of the inspection process to ensure that the required inspection(s) and submission of all required communications and reports are completed and submitted to City prior to December 1st of the inspection year.

2. Conduct the City's annual inspection as required by the Banning Municipal Code and SMARA, which shall review, analyze, and evaluate whether the surface mining operation is in compliance with the (1) approved site and/or reclamation plan, (2) approved financial assurances, and (3) state regulations.

3. Ensure all inspection(s) are made by a professional geologist or geotechnical engineer who retains all appropriate licenses and certifications and holds experience in land reclamation and surface mining activities.

4. Ensure the Consultant and their employees, contractors, or affiliates are not, and have not been, employed by the mining operation in any capacity during the previous twelve (12) months.

5. Conduct all inspection(s) using a form approved and provided by the Division of Mine Reclamation Department of Conservation, as amended and revised.

6. Prepare a comprehensive report ("Report"), addressed to the attention of the City's Community Development Director or his/her designee, that summarizes the annual inspection. This report shall incorporate all relevant findings, supported by technical analysis, field notes, and site photographs as necessary

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to support the findings provided. The Consultant is responsible for preparing all applicable forms required under SMARA and the Department of Conservation, inclusive of all amendments thereto to the City in written form on compliance issues, and prepare a written report for the City Council and the Planning Commission and submittal to the State.

7. Attend a total of four (4) meetings with staff and City stakeholders, as needed.

8. Attend at-least one (1) Planning Commission meeting for presentation of report.

9. Submit the inspection report to the Department of Conservation (the "DOC") on behalf of the City and provide the City with documentation that the report has been submitted and received by the DOC.

C. Incorporate the following project performance milestones in support of the tasks enumerated in Section A:

1. Conduct at-least one (1) comprehensive surface mine inspection on or prior to December 31, 2020. The Consultant shall be responsible for organizing all logistics necessary to conduct this inspection. The Consultant shall communicate to the Community Development Department, and all parties involved, the anticipated time, date, and location in which the inspection will occur. The Community Development Department can provide organizational support and guidance in order to complete this task.

2. No less than ninety (90) days from the completion of the annual surface mine inspection, the Consultant shall submit a complete Screencheck Draft of the Annual Mine Inspection Report to the City for review and comment. The report must be electronically submitted to the City in both Microsoft Word and Adobe PDF formats. Hard copies of the report shall be provided only upon the City's request and shall be furnished within forty-eight (48) hours of the Consultant's receipt of this request.

3. Upon receipt of the City's redline comments and review recommendations, the Consultant shall incorporate all of the City's comments or provide a written response providing justification for comments not included within the Screencheck Draft report.

4. The Consultant shall resubmit the corrected report, as a Final Administrative Draft, no less than thirty (30) days from the date Consultant received the City's comments and redlines. A time extension on this deadline shall not be permitted without the express, written justification provided by the City.

5. Consultant shall respond within 24 hours to all communication inquiries, including, but not limited to, voicemails, emails, or other common and acceptable forms of communication.

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III. In addition to the requirements of Parts I and II of this Scope of Services, during the performance of the Services, Consultant will keep City appraised through periodic status reports regarding the performance of the Services under this Agreement as set forth below and in Section 5.2, by the following means:

a. In-person meetings, videoconferences and/or teleconferences.

b. Email updates/questions between the applicant team and City while reviews are underway.

c. Conference calls.

IV. As provided in Section 1.11 (Corrections) of the Agreement, all work product is subject to review and acceptance by City. If the City determines that any work product is unacceptable, for any reason, it must be revised by Consultant without additional charge to City until found satisfactory and accepted by City.

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EXHIBIT "B"
SPECIAL REQUIREMENTS

None

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EXHIBIT "C"
SCHEDULE OF COMPENSATION

I. Consultant shall perform the following tasks ("Tasks") at the following rates:

TASK	DESCRIPTION	SUB-BUDGET
	Annual Surface Mining Inspection	
1.	**Data Acquisition, Field Inspection & Operator Meeting**	**$2,362.50**
2.	**Report & Exhibits Preparation/Office Support**	**$3,180.00**
	Meeting Budget PER ANNUM (not pre-inspection)	**$540.00**
	TOTAL (1 year)	**$6,082.50**
	TOTAL (Projected 5 year)	**$30,412.50**

II. Within the budgeted amounts for each Task, and with the approval of the Contract Officer, funds may be shifted from one Task sub-budget to another so long as the Contract Sum is not exceeded per Section 2.1, unless Additional Services are approved per Section 1.8.

III. City will compensate Consultant for the Services performed upon submission of a valid invoice. Each invoice is to include the following:

A. Line items for all personnel describing the Services performed, the number of hours worked, and the hourly rate.

B. Line items for all materials and equipment properly charged for the Services.

C. Line items for all other approved reimbursable expenses claimed, with supporting documentation.

D. Line items for all approved sub-contractor labor, supplies, equipment, materials, and travel properly charged for the Services.

IV. The total compensation for Services shall not exceed $6,082.50 as provided in Section 2.1 of this Agreement.

V. Consultant's billing rates for all personnel are attached as Exhibit C-1, with the exception of the Meeting Budget PER ANNUM costs which is superseded by the above-referenced amount.

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EXHIBIT "C-1"
CONSULTANT'S BILLING RATE AND TASK SCHEDULE

FEE EXHIBIT
ANNUAL SURFACE MINE INSPECTIONS
CALENDAR YEAR 2020 WITH 4-YEAR RENEWAL OPTION
BANNING QUARRY

Field Services, Per Annum			Unit Costs (per pay grade)
(1)	Data Acquisition, Field Inspection & Operator Meeting		
	(a)	Pre-inspection operators records requests, Sr. Geologist 4 hrs. @ $135/hr.	$540.00
	(b)	Pre-inspection meeting with Banning CDD, Sr. Geologist 4 hrs. @ $135/hr	540.00
	(c)	Aerial image interpretation & file update, Sr. Geologist 2.0 hrs. @ $135/hr	270.00
	(d)	Travel, R/T to mine, Sr. Geologist 1.5 hrs. @ $135/hr	202.50
	(e)	Site inspection, Sr. Geologist 6 hrs. @ $135/hr	810.00
		Field Total	**$2,362.50**
(2)	Report & Exhibits Preparation, Office Support		
	(a)	Prior-year Inspection Report Reviews, Sr. Geologist 2.0 hrs. @ $135/hr	$270.00
	(b)	Operator annual FACE review, Sr. Geologist 4.0 hrs. @ $135/hr	540.00
	(c)	Report preparation, Sr. Geologist 12 hrs. @ $135/hr	$1,620.00
	(d)	Photo exhibits & site plan, Draftsman 4 hrs.@ $75/hr.)	300.00
	(e)	Geotechnical Assistant 4 hrs. @ $45/hr.	180.00
	(f)	Report reproduction, copies, supplies	270.00
		Office Subtotal	**$3,180.00**
		****AGI Inspection Cost PER ANNUM, Base year**	**$5,542.50**
		Meeting Budget PER ANNUM [not pre-inspection per 1(b) above]	**$1,620.00**
		Requested 4-Year Contract Renewal	**x 5**
		*****5-Year Total Inspection + Meeting Costs**	**$35,812.50**

**** Based on 2019 report model with required updated photographic exhibits, operations information, and revised Form MRRC-1. Lead Agency officials should be advised that the new MRRC-1 specifically requests information outside of AGI geotechnical or geologic expertise. Professionals in other technical disciplines may need to be consulted. We will fill out the form as completely as possible under revised DMR guidelines and with the noted limitations. The listed annual inspection cost may be used by the City in determining deposit amounts to be recovered from the mine operator.**

***** Per RFP, but with allowed annual cost escalators to be negotiated.**

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EXHIBIT "D"
SCHEDULE OF PERFORMANCE

I. Consultant shall perform all Services timely, and deliver the specified tangible work products to City in accordance with the schedule attached as Exhibit D-1.

II. **The Contract Officer may approve extensions for performance of the Services in accordance with Sections 1.8 and 3.3.**

CITY OF BANNING
STAFF REPORT

TO: **CITY COUNCIL**

FROM: **Douglas Schulze, City Manager**

PREPARED BY: **Nate Smith, Deputy Director of Public Works/City Engineer**
Art Vela, Director of Public Works

MEETING DATE: **November 12, 2024**

SUBJECT: **Consideration of Resolution 2024-179, Approving a Subdivision Improvement Agreement with RSI Development Banning, LLC for Tract 36939 and Accepting Performance and Labor and Material Bonds for Public Improvements and Exonerate Existing Bonds Submitted by the Previous Property Owner**

RECOMMENDATION:

Adopt Resolution 2024-179.

BACKGROUND:

The City of Banning requires that project owners of subdivisions enter into a Subdivision Improvement Agreement and provide bonds to the City to guarantee the improvements of the associated public improvements required through the project Conditions of Approval. These items are brought to City Council when approval of the Final Maps are considered for recordation.

On October 22, 2019, City Council approved Resolution 2019-133 approving final Tract Map 36939, releasing the map for recordation, authorizing staff to sign the Subdivision Improvement Agreement and Final Tract Map, and accept performance and labor and material bonds for public improvements. With the adoption of the resolution, the map was signed and recorded with the County of Riverside, and the City signed the Subdivision Improvement Agreement and accepted the required bonds. The Subdivision Improvement Agreement with this action has expired.

In the intervening years, the ownership of the property has changed hands to a new entity, RSI Development Banning, LLC. To remain compliant with City of Banning policy, WJK has submitted a new Subdivision Improvement Agreement and associated Performance, Labor and Material Bonds. This subdivision agreement will replace the existing agreement with the previous owner. The new bonds will also replace the current bonds for the project based on updated construction costs.

As of the publishing date of this report, the new developer did not have an anticipated construction start date. The term of the Subdivision Improvement Agreement is valid for 2 years, and may be extended if work in good faith is underway. If work has not started by the expiration of the agreement, a new agreement and updated bonds would be required.

JUSTIFICATION:

The Public Works Department will require that an updated Subdivision Improvement Agreement and related bonds are in place prior to the issuance of any Encroachment Permit on the required public improvements with the project's Conditions of Approval.

It is not necessary to have two sets of bonds for the same required public improvement. This action would also release the previous bonds that remain held by the City of Banning.

FISCAL IMPACT:

None. The Subdivision Improvement Agreement and related bonds assure that when the developer begins work on the public improvements, and if the private developer suspends work prior to its completion, the City has a mechanism to complete the work to protect the public interests and safety at the developers expense.

ALTERNATIVES:

Do not adopt Resolution 2024-179 and provide alternate direction to staff.

BUDGETED?:

No

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. Resolution 2024-179.docx
2. WJK Homes SIA.pdf
3. TR 36939 Improvement Bonds.pdf
4. CC Resolution No. 2019-133.pdf

RESOLUTION 2024-179

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING A SUBDIVISION IMPROVEMENT AGREEMENT WITH RSI DEVELOPMENT BANNING, LLC FOR TRACT 36939 AND ACCEPTING PERFORMANCE AND LABOR AND MATERIAL BONDS FOR PUBLIC IMPROVEMENTS AND EXONERATING BONDS SUBMITTED BY PREVIOUS PROPERTY OWNER

WHEREAS, the City of Banning requires subdividers to enter into a Subdivision Improvement Agreement between the Subdivider and the City establishing terms for development and guarantee and security for proposed public improvements; and

WHEREAS, City Council approved Resolution 2019-133 on October 22, 2019 authorizing staff to record the final map, execute the Subdivision Improvement Agreement, and accept performance and labor and material bonds for public improvements; and

WHEREAS, Ownership of the property has transferred since the approval of Resolution 2019-133, requiring a new Subdivision Improvement Agreement and Performance and Labor and Material Bonds to reflect current ownership; and

WHEREAS, the existing Performance and Labor and Material bonds held by the City of Banning are not necessary as new bonds are provided to reflect current ownership and can be exonerated in full.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The City Council approves the Subdivision Improvement Agreement with RSI Development, Banning, LLC, and authorizes the Mayor to execute said agreement.

SECTION 2. The City Council authorizes staff to accept replacement Performance and Labor and Material Bonds, and fully releases the current bonds.

PASSED, APPROVED AND ADOPTED this 12th day of November 2024.

Alberto Sanchez, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

Serita R. Young, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2024-179, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 12th day of November 2024 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

EXHIBIT A
Subdivision Improvement Agreement

CITY OF BANNING

SUBDIVISION IMPROVEMENT AGREEMENT

* * * * * * SUBDIVISION REFERENCE DATA * * * * * *

[X] FINAL TRACT MAP NO. 36939 ("Final Map" herein)

[ ] PARCEL MAP NO. _____ ("Parcel Map" herein)

NAME OR TRACT NUMBER OF SUBDIVISION: 36939
("Subdivision" herein)
NAME AND ADDRESS OF SUBDIVIDER(S):

RSI DEVELOPMENT BANNING, LLC
c/o RSI EQUITY PARTNERS LLC
620 Newport Center Drive, Suite 1200
Newport Beach, California 92660

CITY COUNCIL RESOLUTION OF APPROVAL NO. 2019-133 ("Resolution of Approval" herein)

DATE THAT IMPROVEMENT PLANS WERE APPROVED BY THE CITY ENGINEER: September 13, 2017

IMPROVEMENT/PLAN NO.: Tract Map No. 36939

ESTIMATED TOTAL COSTS:

STREET IMPROVEMENTS	$ 2,895,500.00
STORM DRAIN	$ 1,270,000.00
PRECISE GRADING	$ 15,000.00
TRAFFIC	$ 18,000.00
POTABLE WATER	$ 814,500.00
SEWER	$ 1,041,000.00
EROSION	$ 198,500.00
LANDSCAPING	$ 185,500.00
TOTAL	$ 6,438,000.40

FORM OF IMPROVEMENT SECURITY:	[X] AAA Corporate surety bonds [ ] Deposit of money
NAME AND ADDRESS OF CORPORATE SURETY (if applicable):	Lexon Insurance Company (Name of Corporate Entity) 12890 Lebanon Road (Street Address) Mount Juliet Tennessee 37122 (City) (State) (Zip)
SURETY BOND NUMBERS (if applicable):	LICX1983097, LICX1983098, LICX1983099, LICX1983100, LICX1983101, LICX1983102, LICX1983103, LICX1983104
EFFECTIVE DATE OF AGREEMENT:	(to be inserted by City)

COMPLETION PERIOD: All improvements of Tract 36939 as shown on the approved plans for said tract map shall be completed within two (2) years from the Effective Date of the Agreement.

* *

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SUBDIVISION IMPROVEMENT AGREEMENT

THIS SUBDIVISION IMPROVEMENT AGREEMENT ("Agreement") is made and entered into by and between the City of Banning, a municipal corporation ("City"), and the Subdivider whose name and address is set forth above in the Subdivision Reference Data.

RECITALS

A. Subdivider has presented to the City for approval and recordation a Final Map, identified above in the Subdivision Reference Data, of a proposed subdivision pursuant to the Subdivision Map Act of the State of California and the City's ordinances and regulations relating to the filing, approval and recordation of subdivision maps (collectively referred to herein as the "Subdivision Laws").

B. A tentative map of the Subdivision was previously approved by City, subject to the Subdivision Laws and to the City's standard requirements and conditions of approval contained in the City Council's Resolution of Approval, a copy of which is on file in the Office of the City Clerk and which is incorporated herein by this reference.

C. The Subdivision Laws establish, as a condition precedent to the approval of a Final Map, that the Subdivider comply with the City Council's Resolution of Approval and either (i) complete, in compliance with City standards, all of the improvements and land development work required by the Subdivision Laws and the City Council's Resolution of Approval; or (ii) enter into a secured agreement with the City to complete the improvements and land development work within a period of time specified by the City.

D. In consideration of approval of the Final Map for the Subdivision by the City Council, Subdivider desires to enter into this Agreement whereby Subdivider promises to install and complete, at its sole expense, all public improvement work required by the City for the proposed Subdivision. Subdivider has secured this Agreement by improvement security required by the Subdivision Laws and approved by the City.

E. Improvement Plans, and related specifications, numbered as designated above in the Subdivision Reference Data, for the construction, installation and completion of the Improvements identified in Schedule A hereto, have been prepared by the Subdivider, approved by the City Engineer, and are on file in the office of the City Engineer. Said Improvement Plans, and related specifications, subsequently modified by the mutual written agreement of the parties, are hereby referred to as the "Improvement Plans" and are incorporated herein by this reference. Any improvement to be constructed pursuant to the Improvement Plan is hereby referred to individually as an "**Improvement**" and collectively as the "**Improvements.**"

NOW, THEREFORE, in consideration of the approval and recordation by the City Council of the Final Map of the Subdivision, Subdivider and City agree as follows:

1. SUBDIVIDER'S OBLIGATION TO CONSTRUCT IMPROVEMENTS

A. Subdivider shall, at its sole expense, and in compliance with the provisions of the Subdivision Laws, the Improvement Plans, conditions of approval of the Tentative Map, and all applicable City standards and fees, and in a good and workmanlike fashion, furnish, construct, install and guarantee (as set forth in Section 3) the Improvements, Grading, and Monumentation described on the tentative map and in the City Council's Resolution of Approval relating thereto (collectively, the "Improvements").

B. To the extent necessary to construct the Improvements, as determined by the City Engineer, the Subdivider shall acquire and dedicate, or pay the cost of acquisition by City of, all rights-of-way, easements and other interests in real property for the construction or installation of the Improvements, free and clear of all liens and encumbrances. The Subdivider's obligations with regard to the acquisition by City of off-site rights-of-way, easements and other interests in real property, if any, shall be subject to a separate agreement between Subdivider and City.

C. Subject to any time extensions granted in accordance with Section 4, Subdivider shall complete all Improvements within its respective "Completion Period" specified in the Subdivision Reference Data; provided, however, that if the City Engineer reasonably determines in good faith that accelerated construction of the Improvements is essential in order to protect the public health, welfare and safety, the City Engineer shall give Subdivider not less than fifteen (15) business days' prior written notice to commence or accelerate installation and construction of such Improvements, or any portion thereof. The notice shall be in writing, and shall describe the work to be done by Subdivider, the time within which the work will commence, the period within which the work will be completed and identify the reasons that such early commencement is essential in order to protect the public health, welfare and safety. All or any portions of said Improvements may be required to be constructed or completed at a specified time, providing the foregoing criteria is met. If the Subdivider objects to the commencement or acceleration of the Improvements as specified by the City Engineer, Subdivider may appeal the decision of the City Engineer to the City Council. Any such appeal shall be filed with the City Clerk within 10 days after receipt by Subdivider of the written notice from the City Engineer.

D. If the Improvements to be constructed by Subdivider include monumentation, such monumentation shall be installed not later than thirty (30) days after the City's acceptance of all other Improvements pursuant to Section 2. As used herein, "monumentation" shall mean the setting of survey monuments and tie points in accordance with the Subdivision Laws, and the delivery to the City Engineer of tie notes for said points.

E. Subdivider shall, at its sole expense, replace or repair all public improvements, public utility facilities, and surveying or subdivision monuments which are destroyed or damaged as a result of any work under this Agreement. Any such replacement or repair shall be subject to the approval of the City Engineer.

F. In addition to, and separate from, the indemnity obligations contained in Section 9 of this Agreement, and without limiting the City's remedies under general construction defect law, Subdivider shall be responsible for the care, repair and maintenance of the Improvements until the latter of the following time periods: (i) the category of Improvements is accepted in writing by the City; or (ii) the expiration of the required one-year guarantee and warranty period as specified herein; or (iii) the expiration of any applicable period of time specified in a Development Agreement (not including the term of any Development Agreement) involving the Subdivision or other agreement or obligation imposed on the Subdivider, regarding the Subdivider's obligation to maintain the Improvements. Neither City, nor its officers, agents and employees, shall have any liability for any accident, loss or damage to the Improvements and that may result from the construction of the Improvements prior to their completion and written acceptance by the City.

G. In addition to, and separate from: (1) the indemnity obligations contained in Section 7 of this Agreement, (2) the care, repair and maintenance provisions under paragraph E of this Section 1 of this Agreement; and (3) the warranty and guarantee provisions of Section 3 of this Agreement, Subdivider shall repair and correct, or be liable to the City for any cost to repair and correct, any defect in the construction of the Improvements that is identified by City within ten (10) years after City's acceptance of the Improvement, provided the City provides notice to Subdivider of the existence of the defect within that time period, and the defect is caused directly or indirectly by the design, construction, functionality, installation, assembly or workmanship of Subdivider. Nothing contained in this paragraph is intended to limit or otherwise waive any right or cause of action under applicable construction defect law that City may assert against Subdivider.

H. Subdivider shall, at its sole expense, obtain all necessary permits and licenses for the construction and installation of the Improvements, give all necessary notices, and pay all fees required by City ordinance or resolution and all taxes required by law.

I. Not less than seven (7) days prior to commencement of work on the Improvements, Subdivider shall give written notice to the City Engineer of the date fixed for such commencement of work in order that the City Engineer shall have adequate time to schedule all necessary inspections.

J. SUBDIVIDER shall pay all City fees and costs stipulated in the latest fee resolution as adopted by the City Council from time to time as required for the development of the SUBDIVISION including but not limited to the following:

1. Building Permit Fees --- to be paid at the time of building permit issuance;

2. Final Map Plan Check Fees --- to be paid at time of submittal of final map for plan check and resubmittal of revised final map for plan check;

3. Final Map Moratorium Fees --- to be paid from cash deposit established at time of filing final map;

4. Plan Check and Review Fees --- to be paid from cash deposit established at time of filing improvement plans for plan check;

5. Encroachment Permit Fees --- to be paid at time of application for encroachment permit;

6. Inspection Fees --- to be paid from cash deposit established at time of construction permit issuance; and

7. Grading Permit Fee --- to be paid from cash deposit established at time of grading permit issuance.

K. Subdivider shall provide City with final Record Drawings of all plans developed for the Subdivision, showing all changes and as built conditions as specified in the Tentative Tract Map Conditions of Approval, and shall provide electronic image files of those final Record Drawings consistent with electronic image file size and type specifications of the City prior to the acceptance of improvements and release of bonds or other security.

2. INSPECTION OF WORK AND FINAL ACCEPTANCE

A. Subdivider shall at all times maintain proper facilities and safe access for inspection of the Improvements by the City Engineer and other City personnel and inspection consultants.

B. Upon completion of the work on all or any category of the Improvements, the Subdivider may request a final inspection by the City Engineer. Within forty-five (45) days of receipt of the written letter request, the City Engineer shall inspect the Improvements and provide written notice to Subdivider of the list of items which have been found to be incomplete and the list of items which have been found to be complete. If the City Engineer determines that all or any specified category of the Improvements have been completed in accordance with this Agreement and in compliance with the Improvement Plans and all applicable City standards, then the City Engineer shall acknowledge that determination in a report to the City Council. If the Improvements that are completed are to be dedicated to or owned by the City (Improvements within City right of way and property for public use), the City Engineer's determination shall be submitted to the City Council for final acceptance by the City, unless such power to accept has been delegated by the City Council to the City Engineer or some other officer of the City, in which case the final acceptance shall be subject to the approval of that specified official. If the Improvements that are completed are to be dedicated to or owned by a public entity other than the City, the Subdivider's written request shall be submitted to the applicable public entity or other owner, for final acceptance. Subdivider shall bear all costs of inspection and determination of completeness in accordance with City's formally adopted fees and rates.

C. Acceptance of all or any specified category of the Improvements by the City Council shall be made upon recommendation and certification of the City Engineer following inspection of said Improvements pursuant to subparagraph B above. The City Council shall act upon the City Engineer's recommendation that such public Improvements have been completed. Acceptance by the City Council or by the governing body of the entity that is to

accept dedication or ownership of the public improvements shall not constitute a waiver by the City or such other public entity of any defects in the public Improvements.

3. GUARANTEE AND WARRANTY OF THE IMPROVEMENTS

A. If, within a period of one year following acceptance by the City Council of the last of the Improvements specified in Schedule A, any Improvements or part of any Improvements furnished, installed or constructed by the Subdivider, or any of the work performed under this Agreement, fails to comply with any requirements of this Agreement, or the Subdivision Laws, or the Improvement Plans and related specifications, the Subdivider shall, without delay and without cost to the City, repair, replace or reconstruct any defective or otherwise unsatisfactory part or parts of the Improvements. Subdivider's obligations hereunder shall include the repair, replacement or reconstruction of all irrigation systems and all trees, shrubs, ground cover and landscaping for such one year.

B. Should the Subdivider fail or refuse to act promptly or in accordance with subparagraph A above, or should the exigencies of the situation require repair, replacement, or reconstruction to be undertaken before the Subdivider can be notified and can perform the necessary work, then the City may, in its discretion, make the necessary repairs or replacements or perform the necessary reconstruction and draw upon the Subdivider's improvement security to reimburse itself for the costs incurred. If the Subdivider's improvement security does not cover the total cost of such repair, replacement, or reconstruction, the Subdivider shall reimburse the City for any excess costs incurred.

C. The security furnished for the faithful performance of the Subdivider's obligation to construct and install the Improvements described herein shall include the Subdivider's liability and obligation hereunder to provide the one-year guarantee and warranty of the Improvements.

4. TIME EXTENSIONS

A. Upon a showing by the Subdivider of good cause therefor, the duration of the Completion Period for the Improvements (or any of them) may be extended by the City Engineer in writing. As used herein, "good cause" may include, without limitation, delay resulting from an act of the City; acts of God or force majeure, strikes, boycotts or similar job actions by employees or labor organizations which prevent the conduct of the work; findings made by a governmental entity that the site of a particular Improvement is of archeological significance; and/or actions or failure to act of native American monitor(s); and, the order of any court.

B. A time extension may be granted without notice to any surety or sureties of the Subdivider and shall not affect the validity of this Agreement nor release the surety or sureties on any bond given as an improvement security pursuant to this Agreement.

C. As a condition of any time extension provided for herein, the City Engineer, may require the Subdivider to furnish new or modified improvement security guaranteeing performance of this Agreement, as extended, in an increased amount as necessary

to compensate for any projected increase in the Estimated Total Cost of Improvements, as determined by the City Engineer.

5. IMPROVEMENT SECURITY

A. Prior to City's execution of this Agreement, Subdivider shall provide as security to the City:

1. For Performance and Guarantee: Security in an amount equal to one hundred percent (100%) of the Estimated Total Cost of the Improvements, including Grading, as set forth above in the Subdivision Reference Data. The security shall be issued by a bonding company licensed to issue bonds in the State of California and having a Best rating of AAA or better. With this security, the form of which shall be subject to City Attorney's prior approval, the Subdivider assures faithful performance under this Agreement and guarantees the Improvements for one year after the completion and acceptance of the last of such Improvements, against any defective workmanship or materials or any unsatisfactory performance, pursuant to Section 3 hereof.

2. For Payment: Security in an amount equal to one hundred percent (100%) of the Estimated Total Cost of the Improvements, excluding Grading, as set forth above in the Subdivision Reference Data. The security shall be issued by a bonding company licensed to issue bonds in the State of California and having a Best rating of AAA or better. With this security, the form of which shall be subject to City Attorney's prior approval, the Subdivider guarantees payment to contractors, subcontractors, and persons renting equipment or furnishing labor or materials to them or to the Subdivider.

B. If the improvement security is a corporate surety bond and, in the opinion of the City, any surety or sureties thereon become insufficient, because (i) the surety becomes insolvent; (ii) the surety's bond rating is downgraded; (iii) the surety declares bankruptcy; or (iv) the surety is no longer deemed to be an admitted surety in California by the California Department of Insurance, or the form of the surety or the amount is found by City to be in error or insufficient, the Subdivider shall renew or replace any such surety bond with good and sufficient surety or sureties within thirty (30) days after receiving from City written demand therefor.

C. The amount of security for performance, payment and warranty obligations provided by this section shall not include the cost of monumentation, as required by Government Code Section 66497 so long as a separate cash deposit for the estimated cost of monumentation has been submitted to the City.

D. Improvement security consisting of corporate surety bonds, in a form accepted by the City Attorney, shall be filed with the City Engineer and then kept on file with the City Clerk. If a corporate surety bond is replaced by another approved bond, the replacement shall be submitted to the City Engineer and, upon filing with the City Clerk, shall be deemed to have been made a part of and incorporated into this Agreement. Upon submission to the City

Engineer and then filing with the City Clerk of a replacement bond, the former improvement security shall be released following written approval of the City Engineer.

E. Modifications of the Improvement Plans and related specifications, and modifications of the Improvements, not exceeding ten percent (10%) of the original Estimated Total Cost of the Improvements, shall not relieve or release any improvement security furnished by Subdivider pursuant to this Agreement. If any such modifications exceed ten percent (10%) of the Estimated Total Cost of the Improvements, Subdivider shall furnish additional improvement security for performance and guarantee, and for payment, as required by subparagraph A above, for one hundred percent (100%) of the revised Estimated Total Cost of the Improvements.

F. Subject to any time extensions granted in accordance with Section 4 herein, the Subdivider shall be in default if the Subdivider has not completed all improvements within two years from the Execution Date of the Agreement and has not repaired any defects in the completed Improvements within the one-year guarantee and warranty period.

Alternatively, in the event of a default by the Subdivider pursuant to Section 10, and after written notice to Subdivider and reasonable opportunity to cure, City, at its sole option, shall have the right, without limiting any other rights and/or remedies available to City at law or in equity, to draw upon or utilize the improvement security furnished herewith to construct and install the Improvements itself. If City exercises this right, the release of any unused portion of such improvement security shall be in accordance with the procedures outlined in Section 6 herein, including any retention necessary for the one-year guarantee period.

6. REDUCTION OR RELEASE OF IMPROVEMENT SECURITY

A. All public Improvements (Improvements that are to be owned or dedicated to the City or other public entity as distinguished from those owned by individual property owners or a private community association) shall be first completed, deemed completed by the City Engineer and then accepted as complete by the City Council prior to release of sureties. All private Improvements (Improvements that are to be owned by individual property owners or a private community association and not dedicated or owned by the City or other public entity) shall be first completed and then accepted as complete in writing by the City Engineer.

B. Partial releases or reductions in the Subdivider's improvement (performance) security may be authorized prior to the City's acceptance of all Improvements required hereunder, as follows:

1. At the time that the Subdivider believes that the obligation to perform the work for which security was required is complete, the Subdivider may notify the City in writing of the completed work, including a list of work completed. Upon receipt of the written notice, the City shall review and comment or approve the completion of the required work within forty-five (45) days. If the City does not agree that all work has been completed in accordance with the plans and specifications for the improvements, it shall supply a list of all remaining work to be completed within this 45-day period.

2. Within forty-five (45) days of receipt of the list of remaining work from the local agency, the Subdivider may then provide cost estimates for all remaining work for review and approval by the City. Upon receipt of the cost estimates, the City shall then have forty-five (45) days to review, comment, and approve, modify, or disapprove those cost estimates. The City shall not be required to engage in this process of partial release more than once between the start of work and completion and acceptance of all work; however, nothing in this section prohibits the City from allowing for multiple and phased partial releases as it otherwise deems appropriate.

3. If the City approves the cost estimate, the City shall release all performance security except for security in an amount up to two hundred percent (200%) of the cost estimate of the remaining work. The process allowing for a partial release of performance security shall occur when the cost estimate of the remaining work does not exceed twenty percent (20%) of the total original performance security unless the City allows for a release at an earlier time. Substitute bonds or other security may be used as a replacement for the performance security, subject to the approval of the City. If substitute bonds or other security is used as a replacement for the performance security released, the release shall not be effective unless and until the City receives and approves that form of replacement security. A reduction in the performance security, authorized under this section, is not, and shall not be deemed to be, an acceptance by the City of the completed improvements, and the risk of loss or damage to the improvements and the obligation to maintain the improvements shall remain the sole responsibility of the Subdivider until all required public improvements have been accepted by the City in writing and all other required improvements have been fully completed in accordance with the plans and specifications for the improvements.

4. The Subdivider shall complete the works of improvement until all remaining items are accepted by the City.

5. Upon the completion of the Improvements, the Subdivider, or his or her assigns, shall be notified in writing by the City within forty-five (45) days.

6. Within sixty (60) days of the issuance of the notification by the City Engineer, any remaining performance security, except ten percent (10%) of the original amount of the security to guarantee and warrant the Improvements for the one-year guarantee and warranty period, shall be released within sixty (60) days of the issuance of the written statement of completion.

C. Security securing the payment to the contractor, his or her subcontractors and to persons furnishing labor, materials or equipment shall, after passage of the time within which claims of lien are required to be recorded pursuant to Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code and after acceptance of the work, be reduced to an amount equal to the total claimed by all stop notice claimants for whom stop notices have been filed with the City, and if no claims have been filed, the security shall be released in full.

D. The partial release provisions of this Section 6 shall not apply to any required guarantee and warranty period required by Section 66499.9 for the guarantee or warranty nor to the amount of the security deemed necessary by the local agency for the guarantee and warranty period nor to costs and reasonable expenses and fees, including reasonable attorneys' fees. Security furnished to guarantee and warrant the Improvements against any defective work or labor done or defective materials furnished, shall be released within thirty (30) days after the completion of the one-year period following completion and acceptance of all Improvements.

E. If Subdivider's obligations relating to any Improvements are subject to the approval of another governmental agency, the City shall not release the improvement (performance) security therefor until the obligations are performed to the satisfaction of such other governmental agency. Such agency shall have sixty (60) days after receipt of written notice from the Subdivider of the Subdivider's performance of the obligation to register its satisfaction or dissatisfaction. If at the end of that period it has not registered its satisfaction or dissatisfaction, it shall be conclusively deemed that the Subdivider's performance of the obligation was done to its satisfaction, and such improvement security shall be promptly released.

F. In the event the time periods for action by the City specified in this Section conflict with a shorter or longer time period for such actions as provided in Government Code Section 66499.7, the time periods in Government Code Section 66499.7 shall control.

7. INDEMNIFICATION OF CITY BY SUBDIVIDER

A. Neither the City, nor its officers, agents and employees, shall be liable or responsible for any accident, injury, loss or damage to either property or person attributable to or arising out of the defective design, construction, functionality, installation assembly or improper maintenance including, without limitation, the use of defective methods, materials or workmanship (collectively "Subdivider's Faults") of the Improvements by Subdivider, its officers, employees and agents. Subdivider shall indemnify, hold harmless and defend the City, its officers, agents and employees, from and against any and all losses, claims, costs, expenses, liabilities, damages, actions, causes of action and judgments, including attorneys' fees, arising directly or indirectly out of or attributable to Subdivider's Faults.

B. Subdivider's obligations under this Section 7 are not conditioned or dependent upon whether the City, or its officers, agents and employees, prepared, supplied or reviewed any Improvement Plans or related specifications in connection with the Subdivision or the Improvements, or has insurance or other indemnification covering any of these matters.

C. Subdivider's obligation to indemnify, hold harmless and defend the City shall extend to injuries to persons and damages to or alleged taking of property resulting from the Subdivider's Faults, and the Improvements required herein, and shall likewise extend to claims asserted by adjacent property owners based upon the diversion of waters caused by the Subdivider's defective design or defective construction of public drainage systems, streets, and other public facilities or improvements. Except for a City Directive as defined below, the City's

acceptance of the Improvements shall not constitute an assumption by the City of any responsibility or liability for any damage or alleged taking of property referenced herein. City shall not be responsible or liable for the design or construction of the Subdivision or the Improvements constructed or installed pursuant to the approved Improvement Plans or the Final Map, regardless of any act or omission by the City in approving the Improvement Plans or the Final Map, unless the particular Improvement design was required by the City over the written objection of the Subdivider, which objection stated that the Improvement design was potentially dangerous or defective and set forth an alternative design (a "City Directive"). After City's acceptance of the Improvements, the Subdivider shall remain obligated to correct or eliminate all dangerous conditions created by defects in design, construction or Subdivider's Faults (other than those required by a City Directive); provided, however, that Subdivider shall not be responsible for routine maintenance as specified in Section 1(F) of this Agreement. Subdivider's indemnity obligations hereunder shall remain in effect for ten (10) years following acceptance of the respective Improvement(s) by the City Council. Subdivider acknowledges and agrees that Subdivider shall be responsible and liable for the Subdivider's Faults with respect to the Improvements and other work done pursuant to this Agreement, unless same is due to a City Directive. City shall not be liable for any acts or omissions in approving, reviewing, checking, correcting or modifying any Improvement Plans or related specifications, or in inspecting, reviewing or approving any work or construction of Improvements, unless same is due to a City Directive. The Subdivider's improvement security shall not be required to secure the Subdivider's obligations under this subparagraph C beyond the one-year guarantee and warranty period, unless the City Engineer provides notice to Subdivider prior to the expiration of the one-year period of the existence of, or continued existence of, defects in the improvements, in which case the portion of the improvement security to guarantee and warranty the improvements against defective work shall not be released and shall remain in place until the City Engineer provides written confirmation that the defects have been cured and corrected. The indemnity shall be effective retroactively to the earliest recordation date of the Final Map.

D. Subdivider shall pay and satisfy any judgment, award or decree that may be rendered against City, its officers, officials, employees, agents, representatives and volunteers (collectively hereinafter "City and City Personnel") to the extent of the indemnity provided above, in any such suit, action, or other legal proceeding, provided City gives Subdivider prompt written notice of such claim and allows Subdivider to undertake the defense thereof.

E. Subdivider's obligation to indemnify shall not be restricted to Insurance proceeds, if any, received by the City and City Personnel.

F. Subdivider, on behalf of itself and all parties claiming under or through it, hereby waives all rights of subrogation and contribution against City and City Personnel to the extent of the indemnity above provided.

8. INSURANCE

The following coverages will be provided by Subdivider and maintained on behalf of City and in accordance with the requirements set forth herein. If Subdivider performs construction activities through a general contractor, some or all of these insurance requirements

for the period of construction may be satisfied by the general contractor's insurance coverages. In such case, Subdivider shall maintain during this same construction period, and after the construction period, the coverages shown below as "Insurance After Construction." In addition, Subdivider may elect to obtain, for all or any portion of the Project, an "Owner-Controlled Wrap Up" insurance policy in satisfaction of the insurance requirements for general contractors and subcontractors provided it satisfies all of the insurance requirements below for general contractors and subcontractors. Throughout these specifications, the word "Subdivider" refers to the Party responsible to provide the coverages as specified and, depending on context, may refer either to Subdivider or to a separate General Contractor.

A. Insurance During Construction. Subdivider shall provide the following insurance during construction of the Improvements. Insurance requirements may be met through insurance provided by Subdivider's General Contractor:

1. Commercial General Liability Insurance. Commercial General Liability Insurance (primary) shall be provided on ISO-CGL Form No. CG 00 01 or equivalent coverage, including provisions for defense of additional insureds. Policy limits shall be no less than two million dollars ($2,000,000) per occurrence for all coverages and five million dollars ($5,000,000) general aggregate. City and its officers, employees and agents shall be added as additional insureds using ISO Form CG 20 10 11 85 or other revision of the CG 20 10 form if available from the insurer and reasonably acceptable to the City, not limiting coverage for the additional insured to "ongoing operations" or in any way excluding coverage for completed operations. Coverage shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance, primary or excess, available to City or any officer, employee or agent of City. Coverage shall not be limited to the vicarious liability or supervisory role of any additional insured. Coverage shall contain no contractors' limitation or other endorsement limiting the scope of coverage for liability arising from pollution, explosion, collapse, or underground property damage.

2. Umbrella Liability Insurance. Umbrella Liability Insurance (or, at Subdivider's election, Excess Liability Insurance) (over primary) shall apply to bodily injury/property damage, personal injury/advertising injury, at a minimum. Coverage shall be at least as broad as any underlying coverage. Coverage shall be provided on a "pay on behalf" basis. There shall be no cross liability exclusion and no contractor's limitation endorsement. Policy limits shall be not less than five million dollars ($5,000,000) per occurrence and in the aggregate, including any limits required in the underlying policies. The policy shall have a starting date no later than and an ending date no earlier than those of the underlying coverages. The Named Insured (Subdivider or General Contractor as appropriate) may determine the layering of primary and excess liability insurance provided that if such layering differs from that described here, the actual coverage program meets the minimum total required limits and complies with all other requirements listed here.

3. Business Auto Coverage. Business Auto Coverage shall be written on ISO Business Auto Coverage Form CA 00 01 or the equivalent, including symbol (1)

(any Auto). If Subdivider (or Contractor) does not own any vehicles, this requirement may be satisfied by a non-owned vehicle endorsement to the general and umbrella liability policies. Limits shall be no less than one million dollars ($1,000,000) per accident. This policy shall be scheduled as underlying insurance to the umbrella policy required above for a total limit of no less than five million dollars ($5,000,000) each accident.

4. Workers' Compensation/Employer's Liability. Workers' Compensation/Employer's Liability shall provide workers' compensation statutory benefits as required by law. Employer's liability limits shall be no less than one million dollars ($1,000,000) per accident or disease. Employer's liability coverage shall be scheduled under the umbrella or excess liability policy described above. This policy shall be endorsed to waive any right of subrogation with respect to City, its officers, employees or agents.

5. Builder's Risk Insurance. Builder's Risk Insurance covering all real and personal property for "all risks" of loss or "comprehensive perils" coverage including but not limited to the perils of earth movement, including earthquake (if required by Subdivider's lender or if available at commercially reasonable rates) and flood for all Improvements.

B. Insurance After Construction. Upon completion of construction of the Improvements, and for the required one-year guarantee and warranty period for Improvements and the required 10-year indemnification period, Subdivider at Subdivider's expense shall maintain or cause to be maintained the following insurance:

1. Commercial Property Insurance. Commercial Property Insurance covering the Improvements. Coverage shall be at least as broad as the Insurance Services Offices broad causes of loss form CP 10 20, and reasonably approved of in writing by the City. Coverage shall be sufficient to insure 100% of the replacement value and there shall be no coinsurance provisions. The policy shall include an inflation guard endorsement, 100% rents coverage, contents coverage, coverage for personal property of others, ordinance or law and increased cost of construction coverage. Subdivider also agrees to provide builder's all-risk insurance using an inland marine form during the period of any major alteration or improvement, using the broadest form available.

The insurance coverage for the peril of earthquake required for this project is subject to availability on the open market at commercially reasonable premium cost, as determined by mutual agreement between Subdivider and City. If such earthquake insurance coverage should, after diligent effort by Subdivider, be unobtainable at such mutually determined commercially reasonable premium cost, then Subdivider shall obtain the maximum insurance reasonably obtainable at commercially reasonable premium cost (if any) and give notice to City of the extent of Subdivider's inability to obtain, in full, the required insurance, and in such event, Subdivider's obligation to procure and maintain such insurance may be excused, subject to City's verification of inability to obtain the required insurance. Subdivider and City agree that a

premium cost of earthquake insurance coverage of up to 150% of the premium cost paid by Subdivider for such coverage on the Effective Date (to be adjusted over time based on the Consumer Price Index,) shall constitute a commercially reasonable premium cost. Non-availability at commercially reasonable premium cost must be documented by a letter from Subdivider's insurance broker or agent indicating a good faith effort to place the required insurance and showing, at a minimum, the names of the insurance carriers and the declinations or quotations received from each.

2. Commercial General Liability Insurance. Commercial General Liability Insurance (primary) shall be provided on ISO-CGL form No. CG 00 01 or equivalent coverage, including provisions for defense of additional insureds. Policy limits shall be no less than two million dollars ($2,000,000) per occurrence for all coverages and five million dollars ($5,000,000) general aggregate. City and its officers, employees and agents shall be added as additional insureds using ISO form CG 20 10 or equivalent if available from the insurer and reasonably acceptable to the City. Coverage shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance, primary or excess, available to City or any officer, employee or agent of City until the warranty period specified in this Agreement expires.

3. Umbrella Liability Insurance. Umbrella Liability Insurance (or, at Subdivider's election, Excess Liability Insurance) (over primary) shall apply to bodily injury/property damage, personal injury/advertising injury, at a minimum. Coverage shall be at least as broad as any underlying coverage. Coverage shall be provided on a "pay on behalf" basis. There shall be no cross liability exclusion. Policy limits shall be not less than five million dollars ($5,000,000) per occurrence and in the aggregate, including any limits required in the underlying policies. The policy shall have a starting date no later than and an ending date no earlier than those of the underlying coverages. Subdivider may determine the layering of primary and excess liability insurance provided that if such layering differs from that described here, the actual coverage program meets the minimum total required limits.

4. Workers Compensation Insurance. Workers' Compensation/Employer's Liability shall provide workers' compensation statutory benefits as required by law. Employer's liability limits shall be no less than one million dollars per accident or disease. Employer's liability coverage shall be scheduled under any umbrella or excess liability policy described above. Unless otherwise agreed, this policy shall be endorsed to waive any right of subrogation as respects City, its employees or agents.

5. Business Auto Coverage. Business Auto Coverage for vehicles owned, operated or maintained in any way connected with the project, shall be written on ISO Business Auto Coverage form CA 00 01 or the equivalent, including symbol (1) (any Auto). If Subdivider (or Contractor) does not own any vehicles, this requirement may be satisfied by a non-owned vehicle endorsement to the general and umbrella liability policies. Limits shall be no less than one million dollars ($1,000,000) per accident. This policy shall be scheduled as underlying insurance to the umbrella or excess liability

policy required above for a total limit of no less than five million dollars ($5,000,000) each accident.

C. Provisions Pertaining to Insurance Provided by Subdivider

1. All insurance coverage and limits provided pursuant to this Agreement shall apply to the full extent of the policies involved, available or applicable. Nothing contained in this Agreement or any other agreement relating to City or its operations limits the application of such insurance coverage.

2. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only and is not intended by any Party to be all inclusive, or to the exclusion of other coverage, or a waiver of any type.

3. All general or auto liability insurance coverage provided pursuant to this Agreement, or any other agreements pertaining to the performance of this Agreement, shall not prohibit Subdivider, and Subdivider's employees, or agents, from waiving the right of subrogation prior to a loss. Subdivider waives its right of subrogation against City.

4. None of the policies required herein shall be in compliance with these requirements if they include any limiting endorsement that has not been first submitted to City and approved in writing by the City.

5. Unless otherwise approved by City, Subdivider's insurance and insurance provided by any contractor or subcontractor relating to the construction of the Improvements shall be written by insurers authorized to do business in the State of California and with a minimum "Best's" Insurance Guide rating of at least "A-:VII." Self-insurance will not comply with these insurance specifications unless expressly approved in writing by the City.

6. In the event any policy of insurance required under this Agreement does not comply with these requirements and Subdivider does not cure the non-compliance within thirty (30) days after written notice from City (or Subdivider does not provide reasonable evidence of such cure within such period), or if the insurance is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by City will be promptly reimbursed by Subdivider.

7. Subdivider agrees to provide evidence of the insurance required herein, satisfactory to City, consisting of certificate(s) of insurance evidencing all of the coverages required and an additional insured endorsement to Subdivider's general liability and umbrella liability policies using ISO Form CG 20 10 11 85. Certificate(s) are to reflect that the insurer will provide 30 days' notice of any cancellation of coverage and policies are to have a "cancellation endorsement" to the same effect. Subdivider agrees to

provide copies of any endorsements modifying coverage in any way upon request from City.

8. Subdivider shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage.

9. Any actual or alleged failure on the part of City or any other additional insured under these requirements to obtain proof of insurance required under this Agreement in no way waives any right or remedy of City or any additional insured, in this or any other regard.

10. Subdivider agrees to require all subcontractors or other parties (but not including a general contractor) hired for this project to construct the Improvements to purchase and maintain insurance for general liability (minimum limit $1,000,000 per occurrence), automobile liability ($1,000,000 per accident) and workers' compensation (statutory benefits). Prior to the issuance of the Certificate of Completion for each Phase, Subdivider shall, upon request by City, provide the City with copies of all insurance policies, certificates and endorsements related to such Phase.

11. Subdivider agrees to monitor and review all coverage required by this Section and assumes all responsibility for ensuring that such coverage is provided as required here. Subdivider agrees to obtain certificates evidencing such coverage. Subdivider agrees that upon request, all agreements with subcontractors or others with whom Subdivider contracts with on behalf of City, and all certificates of insurance obtained in compliance with this paragraph will be submitted to City for review upon request by City. Failure of City to request copies of such documents will not impose any liability on City, or its employees.

12. Subdivider agrees to require that no contract used by any general contractor or subcontractor in connection with construction of the Improvements, or contracts Subdivider enters into on behalf of City, will reserve the right to charge back to City the cost of insurance required by this Agreement.

13. Where appropriate (such as in the case of automobile insurance coverages), coverage will not be limited to the specific location designated as the Property.

14. Subdivider agrees to provide notice to City of any claim or loss against Subdivider that includes City as a defendant promptly after Subdivider receives written notice or obtains knowledge thereof. City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve City. City agrees to provide similar notice to Subdivider of any such claims it is notified of respecting the Property.

15. Subdivider agrees not to attempt to avoid its defense and indemnity obligations to City, and its officers, employees, agents by using as a defense Subdivider's statutory immunity under workers' compensation and similar statutes.

16. Subdivider agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and that there will be no cross liability exclusions that preclude coverage for suits between Subdivider and City or between City and any other insured or Named Insured under the policy, or between City and any Party associated with City or its employees.

17. If Subdivider or any contractor or subcontractor is a Limited Liability Company, general liability coverage must apply so that the Limited Liability Company and its Managers, Members, Affiliates, and their employees are insureds.

18. Subdivider shall require General Contractor to maintain commercial general liability, and if necessary, commercial umbrella liability insurance with a limit of not less than $15,000,000 for each occurrence, until the warranty period specified in this Agreement expires.

19. Subdivider agrees to obtain and provide to City evidence of professional liability coverage for Architects, Engineers or other design professionals working on the Improvements. The limit of liability required is subject to City approval, but in no event to be less than $1,000,000 per claim and in the aggregate, and Subdivider shall use reasonable efforts to require and cause such professionals to maintain coverage with respect to each occurrence for at least three years following substantial completion of the work and, in the event Subdivider is unable to do so, Subdivider shall promptly inform the City of the scope of such efforts and the reasons that it was unable to do so. If Subdivider requests that the City approve a lower limit for any particular design professional Subdivider seeks to employ on the Improvements, City will evaluate each such request based on City's perception of liability exposure associated with the work that would be performed by that design professional.

20. To the extent a particular coverage or policy form or specification is not reasonably available from Subdivider's insurer or would result in an additional premium that is extraordinary or unreasonably disproportionate to the premium for the policy as a whole, then Subdivider shall provide substantially similar coverage reasonably acceptable to City for which the cost is not extraordinary or unreasonably disproportionate.

9. OWNERSHIP OF THE IMPROVEMENTS

A. Ownership of all or any category of the Improvements constructed and installed by the Subdivider pursuant to this Agreement and shown on the Map to be dedicated to the public shall vest, as applicable, in the City (or other specified governmental agency) upon acceptance of said Improvements by the City Council. The acceptance of the Improvements shall either be shown by a certificate on the Final Map or by subsequent resolution accepting the

Improvements adopted by the City Council pursuant to Government Code Section 66477.2 and recorded with the County Recorder.

B. The Subdivider shall at all times prior to the acceptance of the Improvements by the City, give good and adequate warning to the public of each and every dangerous and defective condition caused by the construction of the Improvements and shall take all steps necessary to protect the public from such dangerous or defective conditions. The Subdivider agrees and understands that until acceptance of the Improvements by the City in writing, each Improvement and Improvement area that is offered for dedication shall be under the charge of the Subdivider, and the Subdivider may close all or a portion of any street or area whenever necessary to protect the public during the construction of the Improvements.

10. PREPARATION AND RECORDATION OF CC&RS.

A. If the Subdivider establishes a Homeowners Association for the residential areas of the Project, Subdivider shall pay all costs associated with the creation of the associations.

B. If a Homeowners Association is created, the Subdivider shall prepare and record Covenants, Conditions, and Restrictions (CC&Rs) which obligate each homeowners association to provide for maintenance of the shared facilities, improvements, and landscaping within the boundaries of the associations in perpetuity. The CC&Rs shall describe the homeowners' association and the City's responsibilities and rights, and shall be subject to the approval of the City prior to recordation. The CC&Rs for each homeowners association shall require the homeowners associations to prepare and submit to the City Manager or his or her designee every three years, a copy of a capital assessment and reserve study, comparable to that required for a condominium association under state law, showing the amount of money reserved for future anticipated maintenance and replacement expenses of the Association, so as to allow the City to monitor the financial viability of the homeowners association and its ability to properly fund and maintain the improvements owned by that homeowners association. The CC&Rs shall include provisions that if the City determines that the association has ceased to exist, has ceased to maintain the association's property at a level acceptable to the City, as determined by the City's Engineer, or has failed to maintain the property consistent with the terms of the CC&Rs or these Project Conditions, that the City shall have the right to fund the necessary maintenance activities through the formation of an assessment district or by the forfeiture of association funds to the City.

C. The Subdivider shall implement applicable provisions of the Mitigation Monitoring and Reporting Program.

11. DEFAULT AND BREACH BY THE SUBDIVIDER AND REMEDIES OF THE CITY

A. Upon the occurrence of any of the following events, the Subdivider shall be deemed to be in default under this Agreement:

1. Subject to any time extensions granted in accordance with Section 4, failure to complete construction and installation of the Improvements or any of them by the completion date set forth above in the Subdivision Reference Data;

2. Failure to promptly correct or cure any defect in the Improvements or any of them (other than a City Directive) during the one-year guarantee and warranty period as required by Section 3.A or failure to commence correction or cure of any such defect or failure to diligently prosecute same to completion, in each instance following receipt by Subdivider of written notice that such defect exists;

3. Subject to any time extensions granted in accordance with Section 4, failure to perform substantial construction work of the Improvements or any of them, after commencement of work on same, for a period of thirty (30) days after Subdivider's receipt of written notice thereof from the City;

4. Insolvency, appointment of a receiver, or the filing of any petition in bankruptcy, whether voluntary or involuntary, and such is not cured or discharged within a period of thirty (30) days;

5. Commencement of a foreclosure action against the Subdivision or any portion thereof, or any conveyance by the Subdivider in lieu or in avoidance of foreclosure, within thirty (30) days after receipt by Subdivider of written notice thereof from the City; or

6. Failure to perform any other obligations in accordance with the terms and provisions of this Agreement within thirty (30) days after receipt by Subdivider of written notice thereof from the City.

B. City reserves to itself all remedies available to it at law or in equity for any breach of Subdivider's obligations under this Agreement. City shall have the right, without limitation of other rights or remedies, after written notice to Subdivider and a reasonable opportunity for Subdivider to cure any such alleged default, to draw upon or utilize any improvement security furnished hereunder to complete the Improvements or otherwise mitigate City's damages in the event of Subdivider's default.

C. Following Subdivider's receipt of written notice of alleged default and failure by Subdivider to promptly commence the cure of any alleged default and to diligently prosecute such cure to completion, the City may serve written notice of any such default upon the surety on any corporate surety bond furnished as improvement security hereunder, and request that said surety take over and complete the Improvements herein specified. If such surety, within thirty (30) days after service of such notice of default, does not give the City written notice of its intention to perform this Agreement, or does not commence such performance within thirty (30) days after notice to the City of such intention to perform, the City may take over the work and prosecute the same to completion, by contract or by any other method the City deems advisable, for the account and at the expense of the Subdivider and its surety.

D. Subdivider acknowledges that the Estimated Total Costs and Improvement Security amounts set forth herein may not reflect the actual cost of construction or installation of the Improvements, and, consequently, City's damages for Subdivider's default shall be measured by the actual cost of completing the required Improvements. If the damages incurred by the City in taking over and completing the Improvements exceeds the principal amount of the improvement security, then the Subdivider shall reimburse the City in the amount of such excess damages.

E. Following Subdivider's receipt of written notice of alleged default and failure by Subdivider to promptly commence the cure of any alleged default and to diligently prosecute such cure to completion, City may, without liability for so doing, take possession of, and utilize in completing the Improvements, such materials, appliances, plant and other property belonging to Subdivider as may be on the site of the work and necessary for the performance of the work. Subdivider hereby consents to such entry by the City and its representatives, including contractors, upon any real property in the Subdivision owned by Subdivider or by any assignee of this Agreement, in the event the City elects to maintain or complete the work on the Improvements following Subdivider's default.

F. Subdivider acknowledges and agrees that approval of the Final Map for the Subdivision conferred substantial rights upon the Subdivider, including the right to sell, lease or finance lots within the Subdivision, and that such approval constitutes the final act necessary to permit the division of land within the Subdivision. As a result, City will be damaged to the extent of the cost of construction or installation of the Improvements upon Subdivider's failure to perform its obligations under this Agreement, which failure is not promptly remedied by sureties or by Subdivider.

G. The City's failure to take an enforcement action with respect to a default, or to declare a default or breach, shall not be construed as a waiver of that default or breach or any subsequent default or breach of the Subdivider.

H. If City sues to compel Subdivider's performance of this Agreement, or to recover damages or costs incurred in completing or maintaining the work on the Improvements, Subdivider agrees to pay all attorneys' fees and other costs and expenses of litigation incurred by the City in connection therewith, even if Subdivider subsequently resumes and completes the work.

12. RELATIONSHIP OF THE PARTIES

Neither Subdivider, nor any of Subdivider's contractors, employees or agents, are or shall be deemed to be, agents of the City in connection with the performance of Subdivider's obligations under this Agreement.

13. ASSIGNMENT

A. Subdivider shall not assign this Agreement, or any portion thereof without the prior written consent of the City. Any attempted or purported assignment in violation of this subparagraph A shall be null and void and shall have no force or effect.

B. The sale or other disposition of the Subdivision shall not relieve Subdivider of its obligations hereunder. If Subdivider intends to sell the Subdivision, or any portion thereof (except for the sale of individual lots with homes to individual purchasers), to any other person or entity, the Subdivider may request a novation of this Agreement and a substitution of improvement security. Upon the City's approval of the novation and substitution of improvement security, the Subdivider may request a release or reduction of the improvement security furnished pursuant to this Agreement.

14. NOTICES

All notices required or provided for in this Agreement shall be in writing and delivered in person or by mail, postage prepaid, and addressed as follows:

If to the City:	Art Vela Director of Public Works/City Engineer City of Banning 99 E. Ramsey Drive Banning, California 92220
If to the Subdivider:	To the address set forth above in the Subdivision Reference Data, or to such other address as may subsequently be designated in written notice to the City.

Notice shall be effective on the date that it is delivered in person, or, if mailed, three (3) days after the date of deposit in the United States Mail.

15. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement of the parties with respect to its subject matter. All modifications, amendments, or waivers of any terms of this Agreement shall be in writing and signed by the duly authorized representatives of the parties. In the case of the City, the duly authorized representative, unless otherwise specified herein, shall be the City Engineer.

16. SEVERABILITY

The provisions of this Agreement are severable. If any portion of this Agreement is held invalid by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect.

17. INCORPORATION OF SUBDIVISION REFERENCE DATA AND RECITALS

The Subdivision Reference Data and the Recitals are incorporated into this Agreement.

18. GOVERNING LAW

This Agreement shall be governed by the laws of the State of California.

19. EFFECTIVE DATE OF THE AGREEMENT

This Agreement shall be and become effective as of the date that it is executed by a duly authorized officer or employee of the City, it being the intention of the parties that the Subdivider shall first execute this Agreement and thereafter submit it to the City. The City shall insert the effective date in the Subdivision Reference Data in all counterparts of this Agreement and shall transmit a fully executed counterpart to the Subdivider.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers, thereunto duly authorized, as of the dates set forth below their respective signatures.

[Note: All signatures must be acknowledged by a notary public and the acknowledgement must be attached. If signed by a Corporation, the signatures of two Corporate officers are required, unless a resolution of the Corporation's Board of Directors is provided indicating that the signature of the one signatory is sufficient to bind the Corporation.]

SUBDIVIDER

RSI DEVELOPMENT BANNING LLC, a Nevada limited liability company

BY: RSI HOMES LLC, a Nevada limited liability company

By: _____

Print Name: David Lowrie

Title: Executive Vice President and Chief Financial Officer

Date: October 30, 2024

(Signatures Continued on Following Page.)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Orange)

On October 30, 2024 before me, Cynthia L. Beck, Notary Public
(insert name and title of the officer)

personally appeared David Lowrie,
who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

CYNTHIA L. BECK
Notary Public - California
Orange County
Commission # 2447704
My Comm. Expires Jun 5, 2027

Signature Cynthia L. Beck (Seal)

(Signatures Continued From Preceding Page.)

CITY

CITY OF BANNING

_____
MAYOR

ATTEST:

_____ (SEAL)
CITY CLERK

Approved as to form:

_____
CITY ATTORNEY

[This page for acknowledgments.]

ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)

COUNTY OF _____)

On _____ ____, 2024, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that such person executed the same in such person's authorized capacity, and that by such person's signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

Bond No: LICX1983097

CITY OF BANNING

FAITHFUL PERFORMANCE BOND

FINAL TRACT MAP NO. 36939
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS,__ RSI DEVELOPMENT BANNING, LLC, a Nevada limited liability company (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install, complete and guarantee for one year after acceptance thereof, certain designated public improvements generally identified as follows: STREET IMPROVEMENTS _____ _____; and

WHEREAS, said Agreement is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement to furnish a corporate surety bond or other approved improvement security to guarantee the faithful performance of said Agreement;

NOW, THEREFORE, the Principal designated above, and Lexon Insurance Company, 12890 Lebanon Road, Mt. Juliet, TN 37122 _____, as Surety, are held and firmly bound unto the City in the penal sum of Two Million Eight Hundred Ninety Five Thousand and Five Hundred and 00/100 ($ 2,895,500.00), lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above-bounded Principal, his or its heirs, executors, administrators, successors, or assigns, shall in all things stand to, abide by, well and truly keep and perform the covenants, conditions and provisions in said Agreement and any modification thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City, its officers, agents and employees, as therein stipulated; then this obligation shall become void; otherwise, this obligation shall be and remain in full force and effect.

As a part of the obligation secured hereby, and in addition to the face amount specified, costs and reasonable expenses and fees shall be included, including reasonable

specified, costs and reasonable expenses and fees shall be included, including reasonable attorneys' fees, incurred by the City in successfully enforcing the obligation, all to be taxed as costs and included in any judgment rendered.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Agreement, the work to be performed thereunder, or the Improvement Plans and related specifications accompanying the Agreement shall in any manner affect its obligations on this bond. The Surety hereby waives notice of any such change, extension of time, alteration or addition to the terms of the Agreement, the work, or the Improvement Plans and related specifications.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

RSI DEVELOPMENT BANNING, LLC
c/o RSI EQUITY PARTNERS LLC
620 Newport Center Drive, Suite 1200
Newport Beach, California 92660

RSI DEVELOPMENT BANNING LLC,
a Nevada limited liability company

BY: RSI HOMES LLC, a Nevada limited liability company

By:_____
Print Name: David Lowrie
Title: Executive Vice President and Chief Financial Officer

Date: October 29, 2024

(Signatures Continued on Following Page.)

(Signatures Continued From Preceding Page.)

"SURETY"

Lexon Insurance Company
(Type name of Surety)

12890 Lebanon Road
(Street Address)

Mt. Juliet, TN 37122
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

James I. Moore, Attorney-In-Fact
(Title of officer)

Date: October 29, 2024

APPROVED:

_____
City Attorney

CITY OF BANNING

Bond No: LICX1983097

LABOR AND MATERIAL BOND

FINAL TRACT MAP NO. 36939
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, RSI DEVELOPMENT BANNING, LLC, (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install and complete certain designated public improvements generally identified as follows: STREET IMPROVEMENTS _____; and

WHEREAS, said Agreement is dated _____, 2024 and is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement, before entering upon the performance of the work, to file with the City a good and sufficient payment bond, or other approved security, to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the California Civil Code and in Government Code Section 66497;

NOW, THEREFORE, the Principal designated above, and Lexon Insurance Company, as Surety, are held firmly bound unto the City and all contractors, subcontractors, laborers, materialmen and other persons employed in the performance of said Agreement and referred to in the above-referenced Civil Code and Government Code in the sum of Two Million Eight Hundred Ninety Five Thousand and Five Hundred and 00/100 Dollars ($ 2,895,500.00), for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor; that said Surety will pay the same in an amount not exceeding the amount hereinabove set forth; and in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by the City in successfully enforcing such obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code, and under Government Code Section 66497, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of said Agreement or the Improvement Plans or related specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration or addition.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

RSI DEVELOPMENT BANNING, LLC
c/o RSI EQUITY PARTNERS LLC
620 Newport Center Drive, Suite 1200
Newport Beach, California 92660

RSI DEVELOPMENT BANNING LLC,
a Nevada limited liability company

BY: RSI HOMES LLC, a Nevada limited liability company

By:_____
Print Name: David Lowrie
Title: Executive Vice President and Chief Financial Officer

Date: October 29, 2024

(Signatures Continued on Following Page.)

(Signatures Continued From Preceding Page.)

"SURETY"

Lexon Insurance Company
(Type name of Surety)

12890 Lebanon Road
(Street Address)

Mt. Juliet, TN 37122
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

James I. Moore, Attorney-In-Fact
(Title of officer)

Date: October 29, 2024

APPROVED:

_____
City Attorney

STATE OF ILLINOIS

COUNTY OF DUPAGE

On October 29th, 2024, before me, Lisa Marotta, a Notary Public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared, James I. Moore known to me to be Attorney-in-Fact of Lexon Insurance Company the corporation described in and that executed the within and foregoing instrument, and known to me to be the person who executed the said instrument in behalf of the said corporation, and duly acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year stated in this certificate above.

My Commission Expires, February 7, 2026 _____

Lisa Marotta, Notary Public

Commission No. 946275

SOMPO INTERNATIONAL
INSURANCE

POWER OF ATTORNEY

KNOW ALL BY THESE PRESENTS, that **Endurance Assurance Corporation**, a Delaware corporation ("EAC"), **Endurance American Insurance Company**, a Delaware corporation ("EAIC"), **Lexon Insurance Company**, a Texas corporation ("LIC"), and/or **Bond Safeguard Insurance Company**, a South Dakota corporation ("BSIC"), each, a "Company" and collectively, "**Sompo International**," do hereby constitute and appoint: **James I. Moore**

as true and lawful Attorney(s)-In-Fact to make, execute, seal, and deliver for, and on its behalf as surety or co-surety; bonds and undertakings given for any and all purposes, also to execute and deliver on its behalf as aforesaid renewals, extensions, agreements, waivers, consents or stipulations relating to such bonds or undertakings provided, however, that no single bond or undertaking so made, executed and delivered shall obligate the Company for any portion of the penal sum thereof in excess of the sum of **One Hundred Million Dollars ($100,000,000.00).**

Bond No.: LICX1983097
Principal: RSI Development Banning LLC
Obligee: City of Banning

Such bonds and undertakings for said purposes, when duly executed by said attorney(s)-in-fact, shall be binding upon the Company as fully and to the same extent as if signed by the President of the Company under its corporate seal attested by its Corporate Secretary.

This appointment is made under and by authority of certain resolutions adopted by the board of directors of each Company by unanimous written consent effective the 30th day of March, 2023 for BSIC and LIC and the 17th day of May, 2023 for EAC and EAIC, a copy of which appears below under the heading entitled "Certificate".

This Power of Attorney is signed and sealed by facsimile under and by authority of the following resolution adopted by the board of directors of each Company by unanimous written consent effective the 30th day of March, 2023 for BSIC and LIC and the 17th day of May, 2023 for EAC and EAIC and said resolution has not since been revoked, amended or repealed:

RESOLVED, that the signature of an individual named above and the seal of the Company may be affixed to any such power of attorney or any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signature or seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

IN WITNESS WHEREOF, each Company has caused this instrument to be signed by the following officers, and its corporate seal to be affixed this 25th day of May, 2023.

Endurance Assurance Corporation
By: Richard M Appel
Richard Appel; SVP & Senior Counsel

Endurance American Insurance Company
By: Richard M Appel
Richard Appel; SVP & Senior Counsel

Lexon Insurance Company
By: Richard M Appel
Richard Appel; SVP & Senior Counsel

Bond Safeguard Insurance Company
By: Richard M Appel
Richard Appel; SVP & Senior Counsel

ACKNOWLEDGEMENT

On this 25th day of May, 2023, before me, personally came the above signatories known to me, who being duly sworn, did depose and say that he/they is/are officer of each of the Companies; and that he executed said instrument on behalf of each Company by authority of his office under the by-laws of each Company.

By: Amy Taylor
Amy Taylor, Notary Public - My Commission Expires 3/9/27

CERTIFICATE

I, the undersigned Officer of each Company, DO HEREBY CERTIFY that:

1. That the original power of attorney of which the foregoing is a copy was duly executed on behalf of each Company and has not since been revoked, amended or modified; that the undersigned has compared the foregoing copy thereof with the original power of attorney, and that the same is a true and correct copy of the original power of attorney and of the whole thereof;
2. The following are resolutions which were adopted by the board of directors of each Company by unanimous written consent effective 30th day of March, 2023 for BSIC and LIC and the 17th day of May, 2023 for EAC and EAIC and said resolutions have not since been revoked, amended or modified:

   "RESOLVED, that each of the individuals named below is authorized to make, execute, seal and deliver for and on behalf of the Company any and all bonds, undertakings or obligations in surety or co-surety with others: RICHARD M. APPEL, MATTHEW E. CURRAN, MARGARET HYLAND, SHARON L. SIMS, CHRISTOPHER L. SPARRO,

   and be it further

   RESOLVED, that each of the individuals named above is authorized to appoint attorneys-in-fact for the purpose of making, executing, sealing and delivering bonds, undertakings or obligations in surety or co-surety for and on behalf of the Company."
3. The undersigned further certifies that the above resolutions are true and correct copies of the resolutions as so recorded and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal this 29th day of October, 2024.

By:
Daniel S. Lune, Secretary

NOTICE: U. S. TREASURY DEPARTMENT'S OFFICE OF FOREIGN ASSETS CONTROL (OFAC)

No coverage is provided by this Notice nor can it be construed to replace any provisions of any surety bond or other surety coverage provided. This Notice provides information concerning possible impact on your surety coverage due to directives issued by OFAC. **Please read this Notice carefully.**

The Office of Foreign Assets Control (OFAC) administers and enforces sanctions policy, based on Presidential declarations of "national emergency". OFAC has identified and listed numerous foreign agents, front organizations, terrorists, terrorist organizations, and narcotics traffickers as "Specially Designated Nationals and Blocked Persons". This list can be located on the United States Treasury's website – https://www.treasury.gov/resource-center/sanctions/SDN-List.

In accordance with OFAC regulations, if it is determined that you or any other person or entity claiming the benefits of any coverage has violated U.S. sanctions law or is a Specially Designated National and Blocked Person, as identified by OFAC, any coverage will be considered a blocked or frozen contract and all provisions of any coverage provided are immediately subject to OFAC. When a surety bond or other form of surety coverage is considered to be such a blocked or frozen contract, no payments nor premium refunds may be made without authorization from OFAC. Other limitations on the premiums and payments may also apply.

Any reproductions are void.

Surety Claims Submission: LexonClaimAdministration@sompo-intl.com
Telephone: 615-553-9500 Mailing Address: Sompo International; 12890 Lebanon Road; Mount Juliet, TN 37122-2870

Bond No: LICX1983098

CITY OF BANNING

FAITHFUL PERFORMANCE BOND

FINAL TRACT MAP NO. 36939
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS,__ RSI DEVELOPMENT BANNING, LLC, a Nevada limited liability company (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install, complete and guarantee for one year after acceptance thereof, certain designated public improvements generally identified as follows: STORM DRAIN _____ _____; and

WHEREAS, said Agreement is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement to furnish a corporate surety bond or other approved improvement security to guarantee the faithful performance of said Agreement;

NOW, THEREFORE, the Principal designated above, and Lexon Insurance Company, 12890 Lebanon Road, Mt. Juliet, TN 37122 _____, as Surety, are held and firmly bound unto the City in the penal sum of One Million Two Hundred Seventy Thousand and 00/100 ($ 1,270,000.00), lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above-bounded Principal, his or its heirs, executors, administrators, successors, or assigns, shall in all things stand to, abide by, well and truly keep and perform the covenants, conditions and provisions in said Agreement and any modification thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City, its officers, agents and employees, as therein stipulated; then this obligation shall become void; otherwise, this obligation shall be and remain in full force and effect.

As a part of the obligation secured hereby, and in addition to the face amount specified, costs and reasonable expenses and fees shall be included, including reasonable

specified, costs and reasonable expenses and fees shall be included, including reasonable attorneys' fees, incurred by the City in successfully enforcing the obligation, all to be taxed as costs and included in any judgment rendered.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Agreement, the work to be performed thereunder, or the Improvement Plans and related specifications accompanying the Agreement shall in any manner affect its obligations on this bond. The Surety hereby waives notice of any such change, extension of time, alteration or addition to the terms of the Agreement, the work, or the Improvement Plans and related specifications.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

RSI DEVELOPMENT BANNING, LLC
c/o RSI EQUITY PARTNERS LLC
620 Newport Center Drive, Suite 1200
Newport Beach, California 92660

RSI DEVELOPMENT BANNING LLC,
a Nevada limited liability company

BY: RSI HOMES LLC, a Nevada limited liability company

By:_____
Print Name: David Lowrie
Title: Executive Vice President and Chief Financial Officer

Date: October 29, 2024

(Signatures Continued on Following Page.)

(Signatures Continued From Preceding Page.)

"SURETY"

Lexon Insurance Company
(Type name of Surety)

12890 Lebanon Road
(Street Address)

Mt. Juliet, TN 37122
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

James I. Moore, Attorney-In-Fact
(Title of officer)

Date: October 29, 2024

APPROVED:

_____
City Attorney

CITY OF BANNING

Bond No: LICX1983098

LABOR AND MATERIAL BOND

FINAL TRACT MAP NO. 36939
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, RSI DEVELOPMENT BANNING, LLC, (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install and complete certain designated public improvements generally identified as follows: STORM DRAIN _____; and

WHEREAS, said Agreement is dated _____, 2024 and is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement, before entering upon the performance of the work, to file with the City a good and sufficient payment bond, or other approved security, to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the California Civil Code and in Government Code Section 66497;

NOW, THEREFORE, the Principal designated above, and Lexon Insurance Company, as Surety, are held firmly bound unto the City and all contractors, subcontractors, laborers, materialmen and other persons employed in the performance of said Agreement and referred to in the above-referenced Civil Code and Government Code in the sum of One Million Two Hundred Seventy Thousand and 00/100 Dollars ($ 1,270,000.00), for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor; that said Surety will pay the same in an amount not exceeding the amount hereinabove set forth; and in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by the City in successfully enforcing such obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code, and under Government Code Section 66497, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of said Agreement or the Improvement Plans or related specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration or addition.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

RSI DEVELOPMENT BANNING, LLC
c/o RSI EQUITY PARTNERS LLC
620 Newport Center Drive, Suite 1200
Newport Beach, California 92660

RSI DEVELOPMENT BANNING LLC,
a Nevada limited liability company

BY: RSI HOMES LLC, a Nevada limited liability company

By:_____
Print Name: David Lowrie
Title: Executive Vice President and Chief Financial Officer

Date: October 29, 2024

(Signatures Continued on Following Page.)

(Signatures Continued From Preceding Page.)

"SURETY"

Lexon Insurance Company
(Type name of Surety)

12890 Lebanon Road
(Street Address)

Mt. Juliet, TN 37122
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

James I. Moore, Attorney-In-Fact
(Title of officer)

Date: October 29, 2024

APPROVED:

_____
City Attorney

STATE OF ILLINOIS

COUNTY OF DUPAGE

On October 29th, 2024, before me, Lisa Marotta, a Notary Public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared, James I. Moore known to me to be Attorney-in-Fact of Lexon Insurance Company the corporation described in and that executed the within and foregoing instrument, and known to me to be the person who executed the said instrument in behalf of the said corporation, and duly acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year stated in this certificate above.

My Commission Expires, February 7, 2026 _____

Lisa Marotta, Notary Public

Commission No. 946275

SOMPO INTERNATIONAL
INSURANCE

POWER OF ATTORNEY

KNOW ALL BY THESE PRESENTS, that **Endurance Assurance Corporation**, a Delaware corporation ("EAC"), **Endurance American Insurance Company**, a Delaware corporation ("EAIC"), **Lexon Insurance Company**, a Texas corporation ("LIC"), and/or **Bond Safeguard Insurance Company**, a South Dakota corporation ("BSIC"), each, a "Company" and collectively, "**Sompo International**," do hereby constitute and appoint: **James I. Moore**

as true and lawful Attorney(s)-In-Fact to make, execute, seal, and deliver for, and on its behalf as surety or co-surety; bonds and undertakings given for any and all purposes, also to execute and deliver on its behalf as aforesaid renewals, extensions, agreements, waivers, consents or stipulations relating to such bonds or undertakings provided, however, that no single bond or undertaking so made, executed and delivered shall obligate the Company for any portion of the penal sum thereof in excess of the sum of **One Hundred Million Dollars ($100,000,000.00).**

Bond No.: LICX1983098
Principal: RSI Development Banning LLC
Obligee: City of Banning

Such bonds and undertakings for said purposes, when duly executed by said attorney(s)-in-fact, shall be binding upon the Company as fully and to the same extent as if signed by the President of the Company under its corporate seal attested by its Corporate Secretary.

This appointment is made under and by authority of certain resolutions adopted by the board of directors of each Company by unanimous written consent effective the 30th day of March, 2023 for BSIC and LIC and the 17th day of May, 2023 for EAC and EAIC, a copy of which appears below under the heading entitled "Certificate".

This Power of Attorney is signed and sealed by facsimile under and by authority of the following resolution adopted by the board of directors of each Company by unanimous written consent effective the 30th day of March, 2023 for BSIC and LIC and the 17th day of May, 2023 for EAC and EAIC and said resolution has not since been revoked, amended or repealed:

RESOLVED, that the signature of an individual named above and the seal of the Company may be affixed to any such power of attorney or any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signature or seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

IN WITNESS WHEREOF, each Company has caused this instrument to be signed by the following officers, and its corporate seal to be affixed this 25th day of May, 2023.

Endurance Assurance Corporation
By: Richard Appel
Richard Appel; SVP & Senior Counsel

Endurance American Insurance Company
By: Richard Appel
Richard Appel; SVP & Senior Counsel

Lexon Insurance Company
By: Richard Appel
Richard Appel; SVP & Senior Counsel

Bond Safeguard Insurance Company
By: Richard Appel
Richard Appel; SVP & Senior Counsel

ACKNOWLEDGEMENT

On this 25th day of May, 2023, before me, personally came the above signatories known to me, who being duly sworn, did depose and say that he/they is/all officer of each of the Companies; and that he executed said instrument on behalf of each Company by authority of his office under the by-laws of each Company.

By: Amy Taylor
Amy Taylor, Notary Public - My Commission Expires 3/9/27

CERTIFICATE

I, the undersigned Officer of each Company, DO HEREBY CERTIFY that:

1. That the original power of attorney of which the foregoing is a copy was duly executed on behalf of each Company and has not since been revoked, amended or modified; that the undersigned has compared the foregoing copy thereof with the original power of attorney, and that the same is a true and correct copy of the original power of attorney and of the whole thereof;
2. The following are resolutions which were adopted by the board of directors of each Company by unanimous written consent effective 30th day of March, 2023 for BSIC and LIC and the 17th day of May, 2023 for EAC and EAIC and said resolutions have not since been revoked, amended or modified:

   "RESOLVED, that each of the individuals named below is authorized to make, execute, seal and deliver for and on behalf of the Company any and all bonds, undertakings or obligations in surety or co-surety with others: RICHARD M. APPEL, MATTHEW E. CURRAN, MARGARET HYLAND, SHARON L. SIMS, CHRISTOPHER L. SPARRO,

   and be it further

   RESOLVED, that each of the individuals named above is authorized to appoint attorneys-in-fact for the purpose of making, executing, sealing and delivering bonds, undertakings or obligations in surety or co-surety for and on behalf of the Company."
3. The undersigned further certifies that the above resolutions are true and correct copies of the resolutions as so recorded and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal this 29th day of October, 2024.

By:
Daniel S. Lune, Secretary

NOTICE: U. S. TREASURY DEPARTMENT'S OFFICE OF FOREIGN ASSETS CONTROL (OFAC)

No coverage is provided by this Notice nor can it be construed to replace any provisions of any surety bond or other surety coverage provided. This Notice provides information concerning possible impact on your surety coverage due to directives issued by OFAC. **Please read this Notice carefully.**

The Office of Foreign Assets Control (OFAC) administers and enforces sanctions policy, based on Presidential declarations of "national emergency". OFAC has identified and listed numerous foreign agents, front organizations, terrorists, terrorist organizations, and narcotics traffickers as "Specially Designated Nationals and Blocked Persons". This list can be located on the United States Treasury's website – https://www.treasury.gov/resource-center/sanctions/SDN-List.

In accordance with OFAC regulations, if it is determined that you or any other person or entity claiming the benefits of any coverage has violated U.S. sanctions law or is a Specially Designated National and Blocked Person, as identified by OFAC, any coverage will be considered a blocked or frozen contract and all provisions of any coverage provided are immediately subject to OFAC. When a surety bond or other form of surety coverage is considered to be such a blocked or frozen contract, no payments nor premium refunds may be made without authorization from OFAC. Other limitations on the premiums and payments may also apply.

Any reproductions are void.

Surety Claims Submission: LexonClaimAdministration@sompo-intl.com
Telephone: 615-553-9500 Mailing Address: Sompo International; 12890 Lebanon Road; Mount Juliet, TN 37122-2870

Bond No: LICX1983099

CITY OF BANNING

FAITHFUL PERFORMANCE BOND

FINAL TRACT MAP NO. 36939
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS,__ RSI DEVELOPMENT BANNING, LLC, a Nevada limited liability company (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install, complete and guarantee for one year after acceptance thereof, certain designated public improvements generally identified as follows: PRECISE GRADING
_____
_____; and

WHEREAS, said Agreement is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement to furnish a corporate surety bond or other approved improvement security to guarantee the faithful performance of said Agreement;

NOW, THEREFORE, the Principal designated above, and
Lexon Insurance Company, 12890 Lebanon Road, Mt. Juliet, TN 37122 _____, as

Surety, are held and firmly bound unto the City in the penal sum of Fifteen Thousand and 00/100 ($ 15,000.00), lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above-bounded Principal, his or its heirs, executors, administrators, successors, or assigns, shall in all things stand to, abide by, well and truly keep and perform the covenants, conditions and provisions in said Agreement and any modification thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City, its officers, agents and employees, as therein stipulated; then this obligation shall become void; otherwise, this obligation shall be and remain in full force and effect.

As a part of the obligation secured hereby, and in addition to the face amount specified, costs and reasonable expenses and fees shall be included, including reasonable

specified, costs and reasonable expenses and fees shall be included, including reasonable attorneys' fees, incurred by the City in successfully enforcing the obligation, all to be taxed as costs and included in any judgment rendered.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Agreement, the work to be performed thereunder, or the Improvement Plans and related specifications accompanying the Agreement shall in any manner affect its obligations on this bond. The Surety hereby waives notice of any such change, extension of time, alteration or addition to the terms of the Agreement, the work, or the Improvement Plans and related specifications.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

RSI DEVELOPMENT BANNING, LLC
c/o RSI EQUITY PARTNERS LLC
620 Newport Center Drive, Suite 1200
Newport Beach, California 92660

RSI DEVELOPMENT BANNING LLC,
a Nevada limited liability company

BY: RSI HOMES LLC, a Nevada limited liability company

By:_____
Print Name: David Lowrie
Title: Executive Vice President and Chief Financial Officer

Date: October 29, 2024

(Signatures Continued on Following Page.)

(Signatures Continued From Preceding Page.)

"SURETY"

Lexon Insurance Company
(Type name of Surety)

12890 Lebanon Road
(Street Address)

Mt. Juliet, TN 37122
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

James I. Moore, Attorney-In-Fact
(Title of officer)

Date: October 29, 2024

APPROVED:

_____
City Attorney

CITY OF BANNING

Bond No: LICX1983099

LABOR AND MATERIAL BOND

FINAL TRACT MAP NO. 36939
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, RSI DEVELOPMENT BANNING, LLC, (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install and complete certain designated public improvements generally identified as follows: PRECISE GRADING _____; and

WHEREAS, said Agreement is dated _____, 2024 and is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement, before entering upon the performance of the work, to file with the City a good and sufficient payment bond, or other approved security, to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the California Civil Code and in Government Code Section 66497;

NOW, THEREFORE, the Principal designated above, and Lexon Insurance Company, as Surety, are held firmly bound unto the City and all contractors, subcontractors, laborers, materialmen and other persons employed in the performance of said Agreement and referred to in the above-referenced Civil Code and Government Code in the sum of Fifteen Thousand and 00/100 Dollars ($ 15,000.00), for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor; that said Surety will pay the same in an amount not exceeding the amount hereinabove set forth; and in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by the City in successfully enforcing such obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code, and under Government Code Section 66497, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of said Agreement or the Improvement Plans or related specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration or addition.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

RSI DEVELOPMENT BANNING, LLC
c/o RSI EQUITY PARTNERS LLC
620 Newport Center Drive, Suite 1200
Newport Beach, California 92660

RSI DEVELOPMENT BANNING LLC,
a Nevada limited liability company

BY: RSI HOMES LLC, a Nevada limited liability company

By:_____
Print Name: David Lowrie
Title: Executive Vice President and Chief Financial Officer

Date: October 29, 2024

(Signatures Continued on Following Page.)

(Signatures Continued From Preceding Page.)

"SURETY"

Lexon Insurance Company
(Type name of Surety)

12890 Lebanon Road
(Street Address)

Mt. Juliet, TN 37122
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

James I. Moore, Attorney-In-Fact
(Title of officer)

Date: October 29, 2024

APPROVED:

_____
City Attorney

STATE OF ILLINOIS

COUNTY OF DUPAGE

On October 29th, 2024, before me, Lisa Marotta, a Notary Public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared, James I. Moore known to me to be Attorney-in-Fact of Lexon Insurance Company the corporation described in and that executed the within and foregoing instrument, and known to me to be the person who executed the said instrument in behalf of the said corporation, and duly acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year stated in this certificate above.

My Commission Expires, February 7, 2026 _____

Lisa Marotta, Notary Public

Commission No. 946275

SOMPO INTERNATIONAL
INSURANCE

POWER OF ATTORNEY

KNOW ALL BY THESE PRESENTS, that **Endurance Assurance Corporation**, a Delaware corporation ("EAC"), **Endurance American Insurance Company**, a Delaware corporation ("EAIC"), **Lexon Insurance Company**, a Texas corporation ("LIC"), and/or **Bond Safeguard Insurance Company**, a South Dakota corporation ("BSIC"), each, a "Company" and collectively, "**Sompo International**," do hereby constitute and appoint: **James I. Moore**

as true and lawful Attorney(s)-In-Fact to make, execute, seal, and deliver for, and on its behalf as surety or co-surety; bonds and undertakings given for any and all purposes, also to execute and deliver on its behalf as aforesaid renewals, extensions, agreements, waivers, consents or stipulations relating to such bonds or undertakings provided, however, that no single bond or undertaking so made, executed and delivered shall obligate the Company for any portion of the penal sum thereof in excess of the sum of **One Hundred Million Dollars ($100,000,000.00).**

Bond No.: LICX1983099
Principal: RSI Development Banning LLC
Obligee: City of Banning

Such bonds and undertakings for said purposes, when duly executed by said attorney(s)-in-fact, shall be binding upon the Company as fully and to the same extent as if signed by the President of the Company under its corporate seal attested by its Corporate Secretary.

This appointment is made under and by authority of certain resolutions adopted by the board of directors of each Company by unanimous written consent effective the 30th day of March, 2023 for BSIC and LIC and the 17th day of May, 2023 for EAC and EAIC, a copy of which appears below under the heading entitled "Certificate".

This Power of Attorney is signed and sealed by facsimile under and by authority of the following resolution adopted by the board of directors of each Company by unanimous written consent effective the 30th day of March, 2023 for BSIC and LIC and the 17th day of May, 2023 for EAC and EAIC and said resolution has not since been revoked, amended or repealed:

RESOLVED, that the signature of an individual named above and the seal of the Company may be affixed to any such power of attorney or any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signature or seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

IN WITNESS WHEREOF, each Company has caused this instrument to be signed by the following officers, and its corporate seal to be affixed this 25th day of May, 2023.

Endurance Assurance Corporation
By: Richard M Appel
Richard Appel; SVP & Senior Counsel

Endurance American Insurance Company
By: Richard M Appel
Richard Appel; SVP & Senior Counsel

Lexon Insurance Company
By: Richard M Appel
Richard Appel; SVP & Senior Counsel

Bond Safeguard Insurance Company
By: Richard M Appel
Richard Appel; SVP & Senior Counsel

ACKNOWLEDGEMENT

On this 25th day of May, 2023, before me, personally came the above signatories known to me, who being duly sworn, did depose and say that he/they is/all officer of each of the Companies; and that he executed said instrument on behalf of each Company by authority of his office under the by-laws of each Company.

By: Amy Taylor
Amy Taylor, Notary Public - My Commission Expires 3/9/27

CERTIFICATE

I, the undersigned Officer of each Company, DO HEREBY CERTIFY that:

1. That the original power of attorney of which the foregoing is a copy was duly executed on behalf of each Company and has not since been revoked, amended or modified; that the undersigned has compared the foregoing copy thereof with the original power of attorney, and that the same is a true and correct copy of the original power of attorney and of the whole thereof;
2. The following are resolutions which were adopted by the board of directors of each Company by unanimous written consent effective 30th day of March, 2023 for BSIC and LIC and the 17th day of May, 2023 for EAC and EAIC and said resolutions have not since been revoked, amended or modified:

   "RESOLVED, that each of the individuals named below is authorized to make, execute, seal and deliver for and on behalf of the Company any and all bonds, undertakings or obligations in surety or co-surety with others: RICHARD M. APPEL, MATTHEW E. CURRAN, MARGARET HYLAND, SHARON L. SIMS, CHRISTOPHER L. SPARRO,

   and be it further

   RESOLVED, that each of the individuals named above is authorized to appoint attorneys-in-fact for the purpose of making, executing, sealing and delivering bonds, undertakings or obligations in surety or co-surety for and on behalf of the Company."
3. The undersigned further certifies that the above resolutions are true and correct copies of the resolutions as so recorded and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal this 29th day of October, 20 24.

By:
Daniel S. Lune, Secretary

NOTICE: U. S. TREASURY DEPARTMENT'S OFFICE OF FOREIGN ASSETS CONTROL (OFAC)

No coverage is provided by this Notice nor can it be construed to replace any provisions of any surety bond or other surety coverage provided. This Notice provides information concerning possible impact on your surety coverage due to directives issued by OFAC. **Please read this Notice carefully.**

The Office of Foreign Assets Control (OFAC) administers and enforces sanctions policy, based on Presidential declarations of "national emergency". OFAC has identified and listed numerous foreign agents, front organizations, terrorists, terrorist organizations, and narcotics traffickers as "Specially Designated Nationals and Blocked Persons". This list can be located on the United States Treasury's website – https://www.treasury.gov/resource-center/sanctions/SDN-List.

In accordance with OFAC regulations, if it is determined that you or any other person or entity claiming the benefits of any coverage has violated U.S. sanctions law or is a Specially Designated National and Blocked Person, as identified by OFAC, any coverage will be considered a blocked or frozen contract and all provisions of any coverage provided are immediately subject to OFAC. When a surety bond or other form of surety coverage is considered to be such a blocked or frozen contract, no payments nor premium refunds may be made without authorization from OFAC. Other limitations on the premiums and payments may also apply.

Any reproductions are void.

Surety Claims Submission: LexonClaimAdministration@sompo-intl.com
Telephone: 615-553-9500 Mailing Address: Sompo International; 12890 Lebanon Road; Mount Juliet, TN 37122-2870

Bond No: LICX1983100

CITY OF BANNING

FAITHFUL PERFORMANCE BOND

FINAL TRACT MAP NO. 36939
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS,__ RSI DEVELOPMENT BANNING, LLC, a Nevada limited liability company (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install, complete and guarantee for one year after acceptance thereof, certain designated public improvements generally identified as follows: TRAFFIC _____ _____ _____; and

WHEREAS, said Agreement is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement to furnish a corporate surety bond or other approved improvement security to guarantee the faithful performance of said Agreement;

NOW, THEREFORE, the Principal designated above, and Lexon Insurance Company, 12890 Lebanon Road, Mt. Juliet, TN 37122 _____, as Surety, are held and firmly bound unto the City in the penal sum of Eighteen Thousand and 00/100 ($ 18,000.00), lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above-bounded Principal, his or its heirs, executors, administrators, successors, or assigns, shall in all things stand to, abide by, well and truly keep and perform the covenants, conditions and provisions in said Agreement and any modification thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City, its officers, agents and employees, as therein stipulated; then this obligation shall become void; otherwise, this obligation shall be and remain in full force and effect.

As a part of the obligation secured hereby, and in addition to the face amount specified, costs and reasonable expenses and fees shall be included, including reasonable

specified, costs and reasonable expenses and fees shall be included, including reasonable attorneys' fees, incurred by the City in successfully enforcing the obligation, all to be taxed as costs and included in any judgment rendered.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Agreement, the work to be performed thereunder, or the Improvement Plans and related specifications accompanying the Agreement shall in any manner affect its obligations on this bond. The Surety hereby waives notice of any such change, extension of time, alteration or addition to the terms of the Agreement, the work, or the Improvement Plans and related specifications.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

RSI DEVELOPMENT BANNING, LLC
c/o RSI EQUITY PARTNERS LLC
620 Newport Center Drive, Suite 1200
Newport Beach, California 92660

RSI DEVELOPMENT BANNING LLC,
a Nevada limited liability company

BY: RSI HOMES LLC, a Nevada limited liability company

By:_____
Print Name: David Lowrie
Title: Executive Vice President and Chief Financial Officer

Date: October 29, 2024

(Signatures Continued on Following Page.)

(Signatures Continued From Preceding Page.)

"SURETY"

Lexon Insurance Company
(Type name of Surety)

12890 Lebanon Road
(Street Address)

Mt. Juliet, TN 37122
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

James I. Moore, Attorney-In-Fact
(Title of officer)

Date: October 29, 2024

APPROVED:

_____
City Attorney

CITY OF BANNING

Bond No: LICX1983100

LABOR AND MATERIAL BOND

FINAL TRACT MAP NO. 36939
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, RSI DEVELOPMENT BANNING, LLC, (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install and complete certain designated public improvements generally identified as follows: TRAFFIC _____; and

WHEREAS, said Agreement is dated _____, 2024 and is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement, before entering upon the performance of the work, to file with the City a good and sufficient payment bond, or other approved security, to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the California Civil Code and in Government Code Section 66497;

NOW, THEREFORE, the Principal designated above, and Lexon Insurance Company, as Surety, are held firmly bound unto the City and all contractors, subcontractors, laborers, materialmen and other persons employed in the performance of said Agreement and referred to in the above-referenced Civil Code and Government Code in the sum of Eighteen Thousand and 00/100 Dollars ($ 18,000.00), for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor; that said Surety will pay the same in an amount not exceeding the amount hereinabove set forth; and in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by the City in successfully enforcing such obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code, and under Government Code Section 66497, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of said Agreement or the Improvement Plans or related specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration or addition.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

RSI DEVELOPMENT BANNING, LLC
c/o RSI EQUITY PARTNERS LLC
620 Newport Center Drive, Suite 1200
Newport Beach, California 92660

RSI DEVELOPMENT BANNING LLC,
a Nevada limited liability company

BY: RSI HOMES LLC, a Nevada limited liability company

By:_____
Print Name: David Lowrie
Title: Executive Vice President and Chief Financial Officer

Date: October 29, 2024

(Signatures Continued on Following Page.)

(Signatures Continued From Preceding Page.)

"SURETY"

Lexon Insurance Company
(Type name of Surety)

12890 Lebanon Road
(Street Address)

Mt. Juliet, TN 37122
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

James I. Moore, Attorney-In-Fact
(Title of officer)

Date: October 29, 2024

APPROVED:

_____
City Attorney

STATE OF ILLINOIS

COUNTY OF DUPAGE

On October 29th, 2024, before me, Lisa Marotta, a Notary Public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared, James I. Moore known to me to be Attorney-in-Fact of Lexon Insurance Company the corporation described in and that executed the within and foregoing instrument, and known to me to be the person who executed the said instrument in behalf of the said corporation, and duly acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year stated in this certificate above.

My Commission Expires, February 7, 2026 _____

Lisa Marotta, Notary Public

Commission No. 946275

SOMPO INTERNATIONAL
INSURANCE

POWER OF ATTORNEY

KNOW ALL BY THESE PRESENTS, that **Endurance Assurance Corporation**, a Delaware corporation ("EAC"), **Endurance American Insurance Company**, a Delaware corporation ("EAIC"), **Lexon Insurance Company**, a Texas corporation ("LIC"), and/or **Bond Safeguard Insurance Company**, a South Dakota corporation ("BSIC"), each, a "Company" and collectively, "**Sompo International**," do hereby constitute and appoint: **James I. Moore**

as true and lawful Attorney(s)-In-Fact to make, execute, seal, and deliver for, and on its behalf as surety or co-surety; bonds and undertakings given for any and all purposes, also to execute and deliver on its behalf as aforesaid renewals, extensions, agreements, waivers, consents or stipulations relating to such bonds or undertakings provided, however, that no single bond or undertaking so made, executed and delivered shall obligate the Company for any portion of the penal sum thereof in excess of the sum of **One Hundred Million Dollars ($100,000,000.00).**

Bond No.: LICX1983100
Principal: RSI Development Banning LLC
Obligee: City of Banning

Such bonds and undertakings for said purposes, when duly executed by said attorney(s)-in-fact, shall be binding upon the Company as fully and to the same extent as if signed by the President of the Company under its corporate seal attested by its Corporate Secretary.

This appointment is made under and by authority of certain resolutions adopted by the board of directors of each Company by unanimous written consent effective the 30th day of March, 2023 for BSIC and LIC and the 17th day of May, 2023 for EAC and EAIC, a copy of which appears below under the heading entitled "Certificate".

This Power of Attorney is signed and sealed by facsimile under and by authority of the following resolution adopted by the board of directors of each Company by unanimous written consent effective the 30th day of March, 2023 for BSIC and LIC and the 17th day of May, 2023 for EAC and EAIC and said resolution has not since been revoked, amended or repealed:

RESOLVED, that the signature of an individual named above and the seal of the Company may be affixed to any such power of attorney or any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signature or seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

IN WITNESS WHEREOF, each Company has caused this instrument to be signed by the following officers, and its corporate seal to be affixed this 25th day of May, 2023.

Endurance Assurance Corporation
By: Richard M Appel
Richard Appel; SVP & Senior Counsel

Endurance American Insurance Company
By: Richard M Appel
Richard Appel; SVP & Senior Counsel

Lexon Insurance Company
By: Richard M Appel
Richard Appel; SVP & Senior Counsel

Bond Safeguard Insurance Company
By: Richard M Appel
Richard Appel; SVP & Senior Counsel

ACKNOWLEDGEMENT

On this 25th day of May, 2023, before me, personally came the above signatories known to me, who being duly sworn, did depose and say that he/they is/all officer of each of the Companies; and that he executed said instrument on behalf of each Company by authority of his office under the by-laws of each Company.

By: Amy Taylor
Amy Taylor, Notary Public - My Commission Expires 3/9/27

CERTIFICATE

I, the undersigned Officer of each Company, DO HEREBY CERTIFY that:

1. That the original power of attorney of which the foregoing is a copy was duly executed on behalf of each Company and has not since been revoked, amended or modified; that the undersigned has compared the foregoing copy thereof with the original power of attorney, and that the same is a true and correct copy of the original power of attorney and of the whole thereof;
2. The following are resolutions which were adopted by the board of directors of each Company by unanimous written consent effective 30th day of March, 2023 for BSIC and LIC and the 17th day of May, 2023 for EAC and EAIC and said resolutions have not since been revoked, amended or modified:

   "RESOLVED, that each of the individuals named below is authorized to make, execute, seal and deliver for and on behalf of the Company any and all bonds, undertakings or obligations in surety or co-surety with others: RICHARD M. APPEL, MATTHEW E. CURRAN, MARGARET HYLAND, SHARON L. SIMS, CHRISTOPHER L. SPARRO,

   and be it further

   RESOLVED, that each of the individuals named above is authorized to appoint attorneys-in-fact for the purpose of making, executing, sealing and delivering bonds, undertakings or obligations in surety or co-surety for and on behalf of the Company."
3. The undersigned further certifies that the above resolutions are true and correct copies of the resolutions as so recorded and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal this 29th day of October, 20 24.

By:
Daniel S. Lune, Secretary

NOTICE: U. S. TREASURY DEPARTMENT'S OFFICE OF FOREIGN ASSETS CONTROL (OFAC)

No coverage is provided by this Notice nor can it be construed to replace any provisions of any surety bond or other surety coverage provided. This Notice provides information concerning possible impact on your surety coverage due to directives issued by OFAC. **Please read this Notice carefully.**

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In accordance with OFAC regulations, if it is determined that you or any other person or entity claiming the benefits of any coverage has violated U.S. sanctions law or is a Specially Designated National and Blocked Person, as identified by OFAC, any coverage will be considered a blocked or frozen contract and all provisions of any coverage provided are immediately subject to OFAC. When a surety bond or other form of surety coverage is considered to be such a blocked or frozen contract, no payments nor premium refunds may be made without authorization from OFAC. Other limitations on the premiums and payments may also apply.

Any reproductions are void.

Surety Claims Submission: LexonClaimAdministration@sompo-intl.com
Telephone: 615-553-9500 Mailing Address: Sompo International; 12890 Lebanon Road; Mount Juliet, TN 37122-2870

Bond No: LICX1983101

CITY OF BANNING

FAITHFUL PERFORMANCE BOND

FINAL TRACT MAP NO. 36939
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS,__ RSI DEVELOPMENT BANNING, LLC, a Nevada limited liability company (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install, complete and guarantee for one year after acceptance thereof, certain designated public improvements generally identified as follows: POTABLE WATER _____; and

WHEREAS, said Agreement is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement to furnish a corporate surety bond or other approved improvement security to guarantee the faithful performance of said Agreement;

NOW, THEREFORE, the Principal designated above, and Lexon Insurance Company, 12890 Lebanon Road, Mt. Juliet, TN 37122 _____, as Surety, are held and firmly bound unto the City in the penal sum of Eight Hundred Fourteen Thousand Five Hundred and 00/100 ($ 814,500.00), lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above-bounded Principal, his or its heirs, executors, administrators, successors, or assigns, shall in all things stand to, abide by, well and truly keep and perform the covenants, conditions and provisions in said Agreement and any modification thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City, its officers, agents and employees, as therein stipulated; then this obligation shall become void; otherwise, this obligation shall be and remain in full force and effect.

As a part of the obligation secured hereby, and in addition to the face amount specified, costs and reasonable expenses and fees shall be included, including reasonable

specified, costs and reasonable expenses and fees shall be included, including reasonable attorneys' fees, incurred by the City in successfully enforcing the obligation, all to be taxed as costs and included in any judgment rendered.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Agreement, the work to be performed thereunder, or the Improvement Plans and related specifications accompanying the Agreement shall in any manner affect its obligations on this bond. The Surety hereby waives notice of any such change, extension of time, alteration or addition to the terms of the Agreement, the work, or the Improvement Plans and related specifications.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

RSI DEVELOPMENT BANNING, LLC
c/o RSI EQUITY PARTNERS LLC
620 Newport Center Drive, Suite 1200
Newport Beach, California 92660

RSI DEVELOPMENT BANNING LLC,
a Nevada limited liability company

BY: RSI HOMES LLC, a Nevada limited liability company

By:_____
Print Name: David Lowrie
Title: Executive Vice President and Chief Financial Officer

Date: October 29, 2024

(Signatures Continued on Following Page.)

(Signatures Continued From Preceding Page.)

"SURETY"

Lexon Insurance Company
(Type name of Surety)

12890 Lebanon Road
(Street Address)

Mt. Juliet, TN 37122
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

James I. Moore, Attorney-In-Fact
(Title of officer)

Date: October 29, 2024

APPROVED:

_____
City Attorney

CITY OF BANNING

Bond No: LICX1983101

LABOR AND MATERIAL BOND

FINAL TRACT MAP NO. 36939
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, RSI DEVELOPMENT BANNING, LLC, (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install and complete certain designated public improvements generally identified as follows: POTABLE WATER _____; and

WHEREAS, said Agreement is dated _____, 2024 and is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement, before entering upon the performance of the work, to file with the City a good and sufficient payment bond, or other approved security, to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the California Civil Code and in Government Code Section 66497;

NOW, THEREFORE, the Principal designated above, and Lexon Insurance Company, as Surety, are held firmly bound unto the City and all contractors, subcontractors, laborers, materialmen and other persons employed in the performance of said Agreement and referred to in the above-referenced Civil Code and Government Code in the sum of Eight Hundred Fourteen Thousand Five Hundred and 00/100 Dollars ($ 814,500.00), for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor; that said Surety will pay the same in an amount not exceeding the amount hereinabove set forth; and in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by the City in successfully enforcing such obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code, and under Government Code Section 66497, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of said Agreement or the Improvement Plans or related specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration or addition.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

RSI DEVELOPMENT BANNING, LLC
c/o RSI EQUITY PARTNERS LLC
620 Newport Center Drive, Suite 1200
Newport Beach, California 92660

RSI DEVELOPMENT BANNING LLC,
a Nevada limited liability company

BY: RSI HOMES LLC, a Nevada limited liability company

By:_____
Print Name: David Lowrie
Title: Executive Vice President and Chief Financial Officer

Date: October 29, 2024

(Signatures Continued on Following Page.)

(Signatures Continued From Preceding Page.)

"SURETY"

Lexon Insurance Company
(Type name of Surety)

12890 Lebanon Road
(Street Address)

Mt. Juliet, TN 37122
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

James I. Moore, Attorney-In-Fact
(Title of officer)

Date: October 29, 2024

APPROVED:

_____
City Attorney

STATE OF ILLINOIS

COUNTY OF DUPAGE

On October 29th, 2024, before me, Lisa Marotta, a Notary Public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared, James I. Moore known to me to be Attorney-in-Fact of Lexon Insurance Company the corporation described in and that executed the within and foregoing instrument, and known to me to be the person who executed the said instrument in behalf of the said corporation, and duly acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year stated in this certificate above.

My Commission Expires, February 7, 2026 _____

Lisa Marotta, Notary Public

Commission No. 946275

SOMPO INTERNATIONAL
INSURANCE

POWER OF ATTORNEY

KNOW ALL BY THESE PRESENTS, that **Endurance Assurance Corporation**, a Delaware corporation ("EAC"), **Endurance American Insurance Company**, a Delaware corporation ("EAIC"), **Lexon Insurance Company**, a Texas corporation ("LIC"), and/or **Bond Safeguard Insurance Company**, a South Dakota corporation ("BSIC"), each, a "Company" and collectively, "**Sompo International**," do hereby constitute and appoint: **James I. Moore**

as true and lawful Attorney(s)-In-Fact to make, execute, seal, and deliver for, and on its behalf as surety or co-surety; bonds and undertakings given for any and all purposes, also to execute and deliver on its behalf as aforesaid renewals, extensions, agreements, waivers, consents or stipulations relating to such bonds or undertakings provided, however, that no single bond or undertaking so made, executed and delivered shall obligate the Company for any portion of the penal sum thereof in excess of the sum of **One Hundred Million Dollars ($100,000,000.00).**

Bond No.: LICX1983101
Principal: RSI Development Banning LLC
Obligee: City of Banning

Such bonds and undertakings for said purposes, when duly executed by said attorney(s)-in-fact, shall be binding upon the Company as fully and to the same extent as if signed by the President of the Company under its corporate seal attested by its Corporate Secretary.

This appointment is made under and by authority of certain resolutions adopted by the board of directors of each Company by unanimous written consent effective the 30th day of March, 2023 for BSIC and LIC and the 17th day of May, 2023 for EAC and EAIC, a copy of which appears below under the heading entitled "Certificate".

This Power of Attorney is signed and sealed by facsimile under and by authority of the following resolution adopted by the board of directors of each Company by unanimous written consent effective the 30th day of March, 2023 for BSIC and LIC and the 17th day of May, 2023 for EAC and EAIC and said resolution has not since been revoked, amended or repealed:

RESOLVED, that the signature of an individual named above and the seal of the Company may be affixed to any such power of attorney or any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signature or seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

IN WITNESS WHEREOF, each Company has caused this instrument to be signed by the following officers, and its corporate seal to be affixed this 25th day of May, 2023.

Endurance Assurance Corporation
By: Richard M Appel
Richard Appel; SVP & Senior Counsel

Endurance American Insurance Company
By: Richard M Appel
Richard Appel; SVP & Senior Counsel

Lexon Insurance Company
By: Richard M Appel
Richard Appel; SVP & Senior Counsel

Bond Safeguard Insurance Company
By: Richard M Appel
Richard Appel; SVP & Senior Counsel

ACKNOWLEDGEMENT

On this 25th day of May, 2023, before me, personally came the above signatories known to me, who being duly sworn, did depose and say that he/they is/all officer of each of the Companies; and that he executed said instrument on behalf of each Company by authority of his office under the by-laws of each Company.

By: Amy Taylor
Amy Taylor, Notary Public - My Commission Expires 3/9/27

CERTIFICATE

I, the undersigned Officer of each Company, DO HEREBY CERTIFY that:

1. That the original power of attorney of which the foregoing is a copy was duly executed on behalf of each Company and has not since been revoked, amended or modified; that the undersigned has compared the foregoing copy thereof with the original power of attorney, and that the same is a true and correct copy of the original power of attorney and of the whole thereof;
2. The following are resolutions which were adopted by the board of directors of each Company by unanimous written consent effective 30th day of March, 2023 for BSIC and LIC and the 17th day of May, 2023 for EAC and EAIC and said resolutions have not since been revoked, amended or modified:

   "RESOLVED, that each of the individuals named below is authorized to make, execute, seal and deliver for and on behalf of the Company any and all bonds, undertakings or obligations in surety or co-surety with others: RICHARD M. APPEL, MATTHEW E. CURRAN, MARGARET HYLAND, SHARON L. SIMS, CHRISTOPHER L. SPARRO,

   and be it further

   RESOLVED, that each of the individuals named above is authorized to appoint attorneys-in-fact for the purpose of making, executing, sealing and delivering bonds, undertakings or obligations in surety or co-surety for and on behalf of the Company."
3. The undersigned further certifies that the above resolutions are true and correct copies of the resolutions as so recorded and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal this 29th day of October, 20 24.

By:
Daniel S. Lune, Secretary

NOTICE: U. S. TREASURY DEPARTMENT'S OFFICE OF FOREIGN ASSETS CONTROL (OFAC)

No coverage is provided by this Notice nor can it be construed to replace any provisions of any surety bond or other surety coverage provided. This Notice provides information concerning possible impact on your surety coverage due to directives issued by OFAC. **Please read this Notice carefully.**

The Office of Foreign Assets Control (OFAC) administers and enforces sanctions policy, based on Presidential declarations of "national emergency". OFAC has identified and listed numerous foreign agents, front organizations, terrorists, terrorist organizations, and narcotics traffickers as "Specially Designated Nationals and Blocked Persons". This list can be located on the United States Treasury's website – https://www.treasury.gov/resource-center/sanctions/SDN-List.

In accordance with OFAC regulations, if it is determined that you or any other person or entity claiming the benefits of any coverage has violated U.S. sanctions law or is a Specially Designated National and Blocked Person, as identified by OFAC, any coverage will be considered a blocked or frozen contract and all provisions of any coverage provided are immediately subject to OFAC. When a surety bond or other form of surety coverage is considered to be such a blocked or frozen contract, no payments nor premium refunds may be made without authorization from OFAC. Other limitations on the premiums and payments may also apply.

Any reproductions are void.

Surety Claims Submission: LexonClaimAdministration@sompo-intl.com
Telephone: 615-553-9500 Mailing Address: Sompo International; 12890 Lebanon Road; Mount Juliet, TN 37122-2870

Bond No: LICX1983102

CITY OF BANNING

FAITHFUL PERFORMANCE BOND

FINAL TRACT MAP NO. 36939
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS,__ RSI DEVELOPMENT BANNING, LLC, a Nevada limited liability company (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install, complete and guarantee for one year after acceptance thereof, certain designated public improvements generally identified as follows: SEWER _____
_____
_____; and

WHEREAS, said Agreement is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement to furnish a corporate surety bond or other approved improvement security to guarantee the faithful performance of said Agreement;

NOW, THEREFORE, the Principal designated above, and
Lexon Insurance Company, 12890 Lebanon Road, Mt. Juliet, TN 37122 _____, as

Surety, are held and firmly bound unto the City in the penal sum of One Million Forty One Thousand and 00/100 ($ 1,041,000.00), lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above-bounded Principal, his or its heirs, executors, administrators, successors, or assigns, shall in all things stand to, abide by, well and truly keep and perform the covenants, conditions and provisions in said Agreement and any modification thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City, its officers, agents and employees, as therein stipulated; then this obligation shall become void; otherwise, this obligation shall be and remain in full force and effect.

As a part of the obligation secured hereby, and in addition to the face amount specified, costs and reasonable expenses and fees shall be included, including reasonabl

specified, costs and reasonable expenses and fees shall be included, including reasonable attorneys' fees, incurred by the City in successfully enforcing the obligation, all to be taxed as costs and included in any judgment rendered.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Agreement, the work to be performed thereunder, or the Improvement Plans and related specifications accompanying the Agreement shall in any manner affect its obligations on this bond. The Surety hereby waives notice of any such change, extension of time, alteration or addition to the terms of the Agreement, the work, or the Improvement Plans and related specifications.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

RSI DEVELOPMENT BANNING, LLC
c/o RSI EQUITY PARTNERS LLC
620 Newport Center Drive, Suite 1200
Newport Beach, California 92660

RSI DEVELOPMENT BANNING LLC,
a Nevada limited liability company

BY: RSI HOMES LLC, a Nevada limited liability company

By:_____
Print Name: David Lowrie
Title: Executive Vice President and Chief Financial Officer

Date: October 29, 2024

(Signatures Continued on Following Page.)

(Signatures Continued From Preceding Page.)

"SURETY"

Lexon Insurance Company
(Type name of Surety)

12890 Lebanon Road
(Street Address)

Mt. Juliet, TN 37122
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

James I. Moore, Attorney-In-Fact
(Title of officer)

Date: October 29, 2024

APPROVED:

_____
City Attorney

CITY OF BANNING

Bond No: LICX1983102

LABOR AND MATERIAL BOND

FINAL TRACT MAP NO. 36939
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, RSI DEVELOPMENT BANNING, LLC, (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install and complete certain designated public improvements generally identified as follows: SEWER _____; and

WHEREAS, said Agreement is dated _____, 2024 and is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement, before entering upon the performance of the work, to file with the City a good and sufficient payment bond, or other approved security, to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the California Civil Code and in Government Code Section 66497;

NOW, THEREFORE, the Principal designated above, and Lexon Insurance Company, as Surety, are held firmly bound unto the City and all contractors, subcontractors, laborers, materialmen and other persons employed in the performance of said Agreement and referred to in the above-referenced Civil Code and Government Code in the sum of One Million Forty One Thousand and 00/100 Dollars ($ 1,041,000.00), for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor; that said Surety will pay the same in an amount not exceeding the amount hereinabove set forth; and in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by the City in successfully enforcing such obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code, and under Government Code Section 66497, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of said Agreement or the Improvement Plans or related specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration or addition.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

RSI DEVELOPMENT BANNING, LLC
c/o RSI EQUITY PARTNERS LLC
620 Newport Center Drive, Suite 1200
Newport Beach, California 92660

RSI DEVELOPMENT BANNING LLC,
a Nevada limited liability company

BY: RSI HOMES LLC, a Nevada limited liability company

By:_____
Print Name: David Lowrie
Title: Executive Vice President and Chief Financial Officer

Date: October 29, 2024

(Signatures Continued on Following Page.)

(Signatures Continued From Preceding Page.)

"SURETY"

Lexon Insurance Company
(Type name of Surety)

12890 Lebanon Road
(Street Address)

Mt. Juliet, TN 37122
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

James I. Moore, Attorney-In-Fact
(Title of officer)

Date: October 29, 2024

APPROVED:

_____
City Attorney

STATE OF ILLINOIS

COUNTY OF DUPAGE

On October 29th, 2024, before me, Lisa Marotta, a Notary Public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared, James I. Moore known to me to be Attorney-in-Fact of Lexon Insurance Company the corporation described in and that executed the within and foregoing instrument, and known to me to be the person who executed the said instrument in behalf of the said corporation, and duly acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year stated in this certificate above.

My Commission Expires, February 7, 2026 _____

Lisa Marotta, Notary Public

Commission No. 946275

SOMPO INTERNATIONAL
INSURANCE

POWER OF ATTORNEY

KNOW ALL BY THESE PRESENTS, that **Endurance Assurance Corporation**, a Delaware corporation ("EAC"), **Endurance American Insurance Company**, a Delaware corporation ("EAIC"), **Lexon Insurance Company**, a Texas corporation ("LIC"), and/or **Bond Safeguard Insurance Company**, a South Dakota corporation ("BSIC"), each, a "Company" and collectively, "**Sompo International**," do hereby constitute and appoint: **James I. Moore**

as true and lawful Attorney(s)-In-Fact to make, execute, seal, and deliver for, and on its behalf as surety or co-surety; bonds and undertakings given for any and all purposes, also to execute and deliver on its behalf as aforesaid renewals, extensions, agreements, waivers, consents or stipulations relating to such bonds or undertakings provided, however, that no single bond or undertaking so made, executed and delivered shall obligate the Company for any portion of the penal sum thereof in excess of the sum of **One Hundred Million Dollars ($100,000,000.00).**

Bond No.: LICX1983102
Principal:
Obligee: RSI Development Banning LLC
City of Banning

Such bonds and undertakings for said purposes, when duly executed by said attorney(s)-in-fact, shall be binding upon the Company as fully and to the same extent as if signed by the President of the Company under its corporate seal attested by its Corporate Secretary.

This appointment is made under and by authority of certain resolutions adopted by the board of directors of each Company by unanimous written consent effective the 30th day of March, 2023 for BSIC and LIC and the 17th day of May, 2023 for EAC and EAIC, a copy of which appears below under the heading entitled "Certificate".

This Power of Attorney is signed and sealed by facsimile under and by authority of the following resolution adopted by the board of directors of each Company by unanimous written consent effective the 30th day of March, 2023 for BSIC and LIC and the 17th day of May, 2023 for EAC and EAIC and said resolution has not since been revoked, amended or repealed:

RESOLVED, that the signature of an individual named above and the seal of the Company may be affixed to any such power of attorney or any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signature or seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

IN WITNESS WHEREOF, each Company has caused this instrument to be signed by the following officers, and its corporate seal to be affixed this 25th day of May, 2023.

Endurance Assurance Corporation
By: Richard M Appel
Richard Appel; SVP & Senior Counsel

Endurance American Insurance Company
By: Richard M Appel
Richard Appel; SVP & Senior Counsel

Lexon Insurance Company
By: Richard M Appel
Richard Appel; SVP & Senior Counsel

Bond Safeguard Insurance Company
By: Richard M Appel
Richard Appel; SVP & Senior Counsel

ACKNOWLEDGEMENT

On this 25th day of May, 2023, before me, personally came the above signatories known to me, who being duly sworn, did depose and say that he/they is/are officer of each of the Companies; and that he executed said instrument on behalf of each Company by authority of his office under the by-laws of each Company.

By: Amy Taylor
Amy Taylor, Notary Public - My Commission Expires 3/9/27

CERTIFICATE

I, the undersigned Officer of each Company, DO HEREBY CERTIFY that:

1. That the original power of attorney of which the foregoing is a copy was duly executed on behalf of each Company and has not since been revoked, amended or modified; that the undersigned has compared the foregoing copy thereof with the original power of attorney, and that the same is a true and correct copy of the original power of attorney and of the whole thereof;
2. The following are resolutions which were adopted by the board of directors of each Company by unanimous written consent effective 30th day of March, 2023 for BSIC and LIC and the 17th day of May, 2023 for EAC and EAIC and said resolutions have not since been revoked, amended or modified:

   "RESOLVED, that each of the individuals named below is authorized to make, execute, seal and deliver for and on behalf of the Company any and all bonds, undertakings or obligations in surety or co-surety with others: RICHARD M. APPEL, MATTHEW E. CURRAN, MARGARET HYLAND, SHARON L. SIMS, CHRISTOPHER L. SPARRO,

   and be it further

   RESOLVED, that each of the individuals named above is authorized to appoint attorneys-in-fact for the purpose of making, executing, sealing and delivering bonds, undertakings or obligations in surety or co-surety for and on behalf of the Company."
3. The undersigned further certifies that the above resolutions are true and correct copies of the resolutions as so recorded and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal this 29th day of October, 20 24.

By:
Daniel S. Lurie, Secretary

NOTICE: U. S. TREASURY DEPARTMENT'S OFFICE OF FOREIGN ASSETS CONTROL (OFAC)

No coverage is provided by this Notice nor can it be construed to replace any provisions of any surety bond or other surety coverage provided. This Notice provides information concerning possible impact on your surety coverage due to directives issued by OFAC. **Please read this Notice carefully.**

The Office of Foreign Assets Control (OFAC) administers and enforces sanctions policy, based on Presidential declarations of "national emergency". OFAC has identified and listed numerous foreign agents, front organizations, terrorists, terrorist organizations, and narcotics traffickers as "Specially Designated Nationals and Blocked Persons". This list can be located on the United States Treasury's website – https://www.treasury.gov/resource-center/sanctions/SDN-List.

In accordance with OFAC regulations, if it is determined that you or any other person or entity claiming the benefits of any coverage has violated U.S. sanctions law or is a Specially Designated National and Blocked Person, as identified by OFAC, any coverage will be considered a blocked or frozen contract and all provisions of any coverage provided are immediately subject to OFAC. When a surety bond or other form of surety coverage is considered to be such a blocked or frozen contract, no payments nor premium refunds may be made without authorization from OFAC. Other limitations on the premiums and payments may also apply.

Any reproductions are void.

Surety Claims Submission: LexonClaimAdministration@sompo-intl.com
Telephone: 615-553-9500 Mailing Address: Sompo International; 12890 Lebanon Road; Mount Juliet, TN 37122-2870

Bond No: LICX1983103

CITY OF BANNING

FAITHFUL PERFORMANCE BOND

FINAL TRACT MAP NO. 36939
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS,__ RSI DEVELOPMENT BANNING, LLC, a Nevada limited liability company (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install, complete and guarantee for one year after acceptance thereof, certain designated public improvements generally identified as follows: EROSION _____; and

WHEREAS, said Agreement is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement to furnish a corporate surety bond or other approved improvement security to guarantee the faithful performance of said Agreement;

NOW, THEREFORE, the Principal designated above, and Lexon Insurance Company, 12890 Lebanon Road, Mt. Juliet, TN 37122 _____, as Surety, are held and firmly bound unto the City in the penal sum of One Hundred Ninety Eight Thousand Five Hundred and 00/100 ($ 198,500.00), lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above-bounded Principal, his or its heirs, executors, administrators, successors, or assigns, shall in all things stand to, abide by, well and truly keep and perform the covenants, conditions and provisions in said Agreement and any modification thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City, its officers, agents and employees, as therein stipulated; then this obligation shall become void; otherwise, this obligation shall be and remain in full force and effect.

As a part of the obligation secured hereby, and in addition to the face amount

specified, costs and reasonable expenses and fees shall be included, including reasonable specified, costs and reasonable expenses and fees shall be included, including reasonable attorneys' fees, incurred by the City in successfully enforcing the obligation, all to be taxed as costs and included in any judgment rendered.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Agreement, the work to be performed thereunder, or the Improvement Plans and related specifications accompanying the Agreement shall in any manner affect its obligations on this bond. The Surety hereby waives notice of any such change, extension of time, alteration or addition to the terms of the Agreement, the work, or the Improvement Plans and related specifications.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

RSI DEVELOPMENT BANNING, LLC
c/o RSI EQUITY PARTNERS LLC
620 Newport Center Drive, Suite 1200
Newport Beach, California 92660

RSI DEVELOPMENT BANNING LLC,
a Nevada limited liability company

BY: RSI HOMES LLC, a Nevada limited liability company

By:_____
Print Name: David Lowrie
Title: Executive Vice President and Chief Financial Officer

Date: October 29, 2024

(Signatures Continued on Following Page.)

(Signatures Continued From Preceding Page.)

"SURETY"

Lexon Insurance Company
(Type name of Surety)

12890 Lebanon Road
(Street Address)

Mt. Juliet, TN 37122
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

James I. Moore, Attorney-In-Fact
(Title of officer)

Date: October 29, 2024

APPROVED:

_____
City Attorney

STATE OF ILLINOIS

COUNTY OF DUPAGE

On October 29th, 2024, before me, Lisa Marotta, a Notary Public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared, James I. Moore known to me to be Attorney-in-Fact of Lexon Insurance Company the corporation described in and that executed the within and foregoing instrument, and known to me to be the person who executed the said instrument in behalf of the said corporation, and duly acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year stated in this certificate above.

My Commission Expires, February 7, 2026 _____

Lisa Marotta, Notary Public

Commission No. 946275

SOMPO INTERNATIONAL
INSURANCE

POWER OF ATTORNEY

KNOW ALL BY THESE PRESENTS, that **Endurance Assurance Corporation**, a Delaware corporation ("EAC"), **Endurance American Insurance Company**, a Delaware corporation ("EAIC"), **Lexon Insurance Company**, a Texas corporation ("LIC"), and/or **Bond Safeguard Insurance Company**, a South Dakota corporation ("BSIC"), each, a "Company" and collectively, "**Sompo International**," do hereby constitute and appoint: **James I. Moore**

as true and lawful Attorney(s)-In-Fact to make, execute, seal, and deliver for, and on its behalf as surety or co-surety; bonds and undertakings given for any and all purposes, also to execute and deliver on its behalf as aforesaid renewals, extensions, agreements, waivers, consents or stipulations relating to such bonds or undertakings provided, however, that no single bond or undertaking so made, executed and delivered shall obligate the Company for any portion of the penal sum thereof in excess of the sum of **One Hundred Million Dollars ($100,000,000.00).**

Bond No.: LICX1983103
Principal: RSI Development Banning LLC
Obligee: City of Banning

Such bonds and undertakings for said purposes, when duly executed by said attorney(s)-in-fact, shall be binding upon the Company as fully and to the same extent as if signed by the President of the Company under its corporate seal attested by its Corporate Secretary.

This appointment is made under and by authority of certain resolutions adopted by the board of directors of each Company by unanimous written consent effective the 30th day of March, 2023 for BSIC and LIC and the 17th day of May, 2023 for EAC and EAIC, a copy of which appears below under the heading entitled "Certificate".

This Power of Attorney is signed and sealed by facsimile under and by authority of the following resolution adopted by the board of directors of each Company by unanimous written consent effective the 30th day of March, 2023 for BSIC and LIC and the 17th day of May, 2023 for EAC and EAIC and said resolution has not since been revoked, amended or repealed:

RESOLVED, that the signature of an individual named above and the seal of the Company may be affixed to any such power of attorney or any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signature or seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

IN WITNESS WHEREOF, each Company has caused this instrument to be signed by the following officers, and its corporate seal to be affixed this 25th day of May, 2023.

Endurance Assurance Corporation
By: Richard M Appel
Richard Appel; SVP & Senior Counsel

Endurance American Insurance Company
By: Richard M Appel
Richard Appel; SVP & Senior Counsel

Lexon Insurance Company
By: Richard M Appel
Richard Appel; SVP & Senior Counsel

Bond Safeguard Insurance Company
By: Richard M Appel
Richard Appel; SVP & Senior Counsel

ACKNOWLEDGEMENT

On this 25th day of May, 2023, before me, personally came the above signatories known to me, who being duly sworn, did depose and say that he/they is/are officer of each of the Companies; and that he executed said instrument on behalf of each Company by authority of his office under the by-laws of each Company.

By: Amy Taylor
Amy Taylor, Notary Public - My Commission Expires 3/9/27

CERTIFICATE

I, the undersigned Officer of each Company, DO HEREBY CERTIFY that:

1. That the original power of attorney of which the foregoing is a copy was duly executed on behalf of each Company and has not since been revoked, amended or modified; that the undersigned has compared the foregoing copy thereof with the original power of attorney, and that the same is a true and correct copy of the original power of attorney and of the whole thereof;
2. The following are resolutions which were adopted by the board of directors of each Company by unanimous written consent effective 30th day of March, 2023 for BSIC and LIC and the 17th day of May, 2023 for EAC and EAIC and said resolutions have not since been revoked, amended or modified:

   "RESOLVED, that each of the individuals named below is authorized to make, execute, seal and deliver for and on behalf of the Company any and all bonds, undertakings or obligations in surety or co-surety with others: RICHARD M. APPEL, MATTHEW E. CURRAN, MARGARET HYLAND, SHARON L. SIMS, CHRISTOPHER L. SPARRO,

   and be it further

   RESOLVED, that each of the individuals named above is authorized to appoint attorneys-in-fact for the purpose of making, executing, sealing and delivering bonds, undertakings or obligations in surety or co-surety for and on behalf of the Company."
3. The undersigned further certifies that the above resolutions are true and correct copies of the resolutions as so recorded and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal this 29th day of October, 20 24.

By:
Daniel S. Ebne, Secretary

NOTICE: U. S. TREASURY DEPARTMENT'S OFFICE OF FOREIGN ASSETS CONTROL (OFAC)

No coverage is provided by this Notice nor can it be construed to replace any provisions of any surety bond or other surety coverage provided. This Notice provides information concerning possible impact on your surety coverage due to directives issued by OFAC. **Please read this Notice carefully.**

The Office of Foreign Assets Control (OFAC) administers and enforces sanctions policy, based on Presidential declarations of "national emergency". OFAC has identified and listed numerous foreign agents, front organizations, terrorists, terrorist organizations, and narcotics traffickers as "Specially Designated Nationals and Blocked Persons". This list can be located on the United States Treasury's website – https://www.treasury.gov/resource-center/sanctions/SDN-List.

In accordance with OFAC regulations, if it is determined that you or any other person or entity claiming the benefits of any coverage has violated U.S. sanctions law or is a Specially Designated National and Blocked Person, as identified by OFAC, any coverage will be considered a blocked or frozen contract and all provisions of any coverage provided are immediately subject to OFAC. When a surety bond or other form of surety coverage is considered to be such a blocked or frozen contract, no payments nor premium refunds may be made without authorization from OFAC. Other limitations on the premiums and payments may also apply.

Any reproductions are void.

Surety Claims Submission: LexonClaimAdministration@sompo-intl.com
Telephone: 615-553-9500 Mailing Address: Sompo International; 12890 Lebanon Road; Mount Juliet, TN 37122-2870

Bond No: LICX1983104

CITY OF BANNING

FAITHFUL PERFORMANCE BOND

FINAL TRACT MAP NO. 36939
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS,__ RSI DEVELOPMENT BANNING, LLC, a Nevada limited liability company (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install, complete and guarantee for one year after acceptance thereof, certain designated public improvements generally identified as follows: LANDSCAPING _____ _____ _____; and

WHEREAS, said Agreement is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement to furnish a corporate surety bond or other approved improvement security to guarantee the faithful performance of said Agreement;

NOW, THEREFORE, the Principal designated above, and Lexon Insurance Company, 12890 Lebanon Road, Mt. Juliet, TN 37122 _____, as Surety, are held and firmly bound unto the City in the penal sum of One Hundred Eighty Five Thousand Five Hundred and 00/100 ($ 185,500.00), lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above-bounded Principal, his or its heirs, executors, administrators, successors, or assigns, shall in all things stand to, abide by, well and truly keep and perform the covenants, conditions and provisions in said Agreement and any modification thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City, its officers, agents and employees, as therein stipulated; then this obligation shall become void; otherwise, this obligation shall be and remain in full force and effect.

As a part of the obligation secured hereby, and in addition to the face amount

specified, costs and reasonable expenses and fees shall be included, including reasonable specified, costs and reasonable expenses and fees shall be included, including reasonable attorneys' fees, incurred by the City in successfully enforcing the obligation, all to be taxed as costs and included in any judgment rendered.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Agreement, the work to be performed thereunder, or the Improvement Plans and related specifications accompanying the Agreement shall in any manner affect its obligations on this bond. The Surety hereby waives notice of any such change, extension of time, alteration or addition to the terms of the Agreement, the work, or the Improvement Plans and related specifications.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

RSI DEVELOPMENT BANNING, LLC
c/o RSI EQUITY PARTNERS LLC
620 Newport Center Drive, Suite 1200
Newport Beach, California 92660

RSI DEVELOPMENT BANNING LLC,
a Nevada limited liability company

BY: RSI HOMES LLC, a Nevada limited liability company

By:_____
Print Name: David Lowrie
Title: Executive Vice President and Chief Financial Officer

Date: October 29, 2024

(Signatures Continued on Following Page.)

(Signatures Continued From Preceding Page.)

"SURETY"

Lexon Insurance Company
(Type name of Surety)

12890 Lebanon Road
(Street Address)

Mt. Juliet, TN 37122
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

James I. Moore, Attorney-In-Fact
(Title of officer)

Date: October 29, 2024

APPROVED:

_____
City Attorney

STATE OF ILLINOIS

COUNTY OF DUPAGE

On October 29th, 2024, before me, Lisa Marotta, a Notary Public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared, James I. Moore known to me to be Attorney-in-Fact of Lexon Insurance Company the corporation described in and that executed the within and foregoing instrument, and known to me to be the person who executed the said instrument in behalf of the said corporation, and duly acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year stated in this certificate above.

My Commission Expires, February 7, 2026 _____

Lisa Marotta, Notary Public

Commission No. 946275

SOMPO INTERNATIONAL
INSURANCE

POWER OF ATTORNEY

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as true and lawful Attorney(s)-In-Fact to make, execute, seal, and deliver for, and on its behalf as surety or co-surety; bonds and undertakings given for any and all purposes, also to execute and deliver on its behalf as aforesaid renewals, extensions, agreements, waivers, consents or stipulations relating to such bonds or undertakings provided, however, that no single bond or undertaking so made, executed and delivered shall obligate the Company for any portion of the penal sum thereof in excess of the sum of **One Hundred Million Dollars ($100,000,000.00).**

Bond No.: LICX1983104
Principal: RSI Development Banning LLC
Obligee: City of Banning

Such bonds and undertakings for said purposes, when duly executed by said attorney(s)-in-fact, shall be binding upon the Company as fully and to the same extent as if signed by the President of the Company under its corporate seal attested by its Corporate Secretary.

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Endurance Assurance Corporation
By: Richard M Appel
Richard Appel; SVP & Senior Counsel

Endurance American Insurance Company
By: Richard M Appel
Richard Appel; SVP & Senior Counsel

Lexon Insurance Company
By: Richard M Appel
Richard Appel; SVP & Senior Counsel

Bond Safeguard Insurance Company
By: Richard M Appel
Richard Appel; SVP & Senior Counsel

ACKNOWLEDGEMENT

On this 25th day of May, 2023, before me, personally came the above signatories known to me, who being duly sworn, did depose and say that he/they is/are officer of each of the Companies; and that he executed said instrument on behalf of each Company by authority of his office under the by-laws of each Company.

By: Amy Taylor
Amy Taylor, Notary Public - My Commission Expires 3/9/27

CERTIFICATE

I, the undersigned Officer of each Company, DO HEREBY CERTIFY that:

1. That the original power of attorney of which the foregoing is a copy was duly executed on behalf of each Company and has not since been revoked, amended or modified; that the undersigned has compared the foregoing copy thereof with the original power of attorney, and that the same is a true and correct copy of the original power of attorney and of the whole thereof;
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   and be it further

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By:
Daniel S. Ebne, Secretary

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Any reproductions are void.

Surety Claims Submission: LexonClaimAdministration@sompo-intl.com
Telephone: 615-553-9500 Mailing Address: Sompo International; 12890 Lebanon Road; Mount Juliet, TN 37122-2870

RESOLUTION 2019-133

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING FINAL TRACT MAP NO. 36939 AND RELEASE THE MAP FOR RECORDATION; AND AUTHORIZE STAFF TO SIGN THE SUBDIVISION AGREEMENT AND FINAL TRACT MAP; AND ACCEPT PERFORMANCE AND LABOR AND MATERIAL BONDS FOR PUBLIC IMPROVEMENTS

WHEREAS, Tentative Tract Map 36939, approved by Planning Commission on January 6, 2016, includes the subdivision of a 34.6-acre vacant site into 98 single-family residential lots for development purposes located north of Wilson Street between Sunrise Avenue and Sunset Avenue; and

WHEREAS, Final Tract Map 36939 will create 98 single family residential lots and several lettered lots including Lots "A" through "F", which will be dedicated to the City for street and public utility purposes and creates the City's public right-of-way; Lot "G" which includes an area that functions as a setback area for the earthquake fault located along the northerly boundary of the tract. No structures are permitted to be constructed within Lot "G" and will be dedicated to the City for open space; and Lots "H" and "I" which are lots for the development of water quality basins to mitigate developed condition storm water runoff as required by City Ordinance and which will be dedicated to the City for storm drain purposes; and

WHEREAS, the property owner has signed a Subdivision Improvement Agreement and has submitted bonds to assure that the required improvements including street, sewer, water and storm drain improvements are constructed; and

WHEREAS, the Final Map has been deemed technically correct and that it conforms to the requirements of the Subdivision Map Act; and

WHEREAS, the Final Map has been deemed technically correct and that it conforms to the requirements of the Subdivision Map Act and the City Engineer has verified that the Final Tract Map is in substantial conformance with the approved Tentative Track Map.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

Section 1: City Council adopts Resolution 2019-133 approving the Final Tract Map 36939, a copy of which is hereby attached as Exhibit "A" and made part of this Resolution.

Section 2: Approves the execution of the Subdivision Improvement Agreement to be signed by the Mayor and directs the Deputy City Clerk to transmit Final Map 36939 to the County Recorder of the County of Riverside for filing.

PASSED, APPROVED AND ADOPTED this 22th day of October 2019.

Arthur L. Welch, Mayor
City of Banning

ATTEST:

Sonja De La Fuente, Deputy City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

Kevin G. Ennis, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Sonja De La Fuente, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2019-133, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 22nd day of October 2019, by the following vote, to wit:

AYES: Councilmembers Andrade, Happe, Peterson, Wallace, and Mayor Welch

NOES: None

ABSENT: None

ABSTAIN: None

Sonja De La Fuente, Deputy City Clerk
City of Banning, California

Exhibit "A"
Final Tract Map 36939

IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, CALIFORNIA

TRACT MAP No. 36939

BEING A SUBDIVISION OF A PORTION OF THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN

DAWSON SURVEYING, Inc. JULY 2016

OWNER'S STATEMENT

WE HEREBY STATE THAT WE ARE THE OWNERS OF THE LAND INCLUDED WITHIN THE SUBDIVISION SHOWN HEREON. THAT WE ARE ONLY PERSONS WHOSE CONSENT IS NECESSARY TO PASS CLEAR TITLE TO SAID LAND: THAT WE CONSENT TO MAKING AND RECORDING OF THIS SUBDIVISION AS SHOWN WITHIN THE DISTINCTIVE BORDER LINE. WE HEREBY DEDICATE TO PUBLIC USE FOR STREET AND PUBLIC UTILITY PURPOSES LOTS "A" THROUGH "F", INCLUSIVE, AND THE PUBLIC UTILITY EASEMENTS SHOWN HEREON. WE HEREBY DEDICATE TO CITY USE FOR STORM DRAIN PURPOSES LOTS " H" AND "I" TOGETHER WITH THE STORM DRAIN EASEMENTS AND THE LANDSCAPE EASEMENTS SHOWN HEREON ALSO TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS FOR CONSTRUCTION AND MAINTENANCE. WE HEREBY DEDICATE TO CITY USE FOR OPEN SPACE PURPOSES LOT "G".

WE HEREBY RESERVE THE PRIVATE DRAINAGE EASEMENTS AS SHOWN HEREON FOR THE SOLE BENEFIT OF OURSELVES, OUR SUCCESSORS, ASSIGNEES, AND LOT OWNERS WITHIN THIS TRACT.

BANNING WILSON 97, LLC, A DELAWARE LIMITED LIABILITY COMPANY
BY: DIVERSIFIED PACIFIC DEVELOPMENT GROUP, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY
ITS: MANAGER

NAME: MATTHEW A JORDAN
TITLE: CO-MANAGING MEMBER

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

NOTARY ACKNOWLEDGMENT

STATE OF California
COUNTY OF San Bernardino

ON October 8, 2019 BEFORE ME Simone Basso, A NOTARY PUBLIC, PERSONALLY APPEARED Matthew A. Jordan, WHO 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.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND AND OFFICIAL SEAL MY COMMISSION EXPIRES Oct 9. 2020

Simone Basso
PRINT NAME

SIGNATURE

MY PRINCIPAL PLACE OF BUSINESS IS IN San Bernardino COUNTY.

BENEFICIARY

GOLDEN STATE BANK

AS BENEFICIARY UNDER DEED OF TRUST RECORDED JUNE 28, 2017 AS DOCUMENT No. 2017-0263277, AND AMENDED AUGUST 31, 2018 AS INSTRUMENT No. 2018-0350990, OFFICIAL RECORDS OF SAN BERNARDINO COUNTY.

NAME: JOSEPH FRANK KARBUM
TITLE: SVP / CREDIT SERVICES ADMINISTRATOR

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

NOTARY ACKNOWLEDGMENT

STATE OF California
COUNTY OF San Bernardino

ON September 27, 2019 BEFORE ME Kim A. Noenza, A NOTARY PUBLIC, PERSONALLY APPEARED Joseph Frank Karbum, WHO 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.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND AND OFFICIAL SEAL MY COMMISSION EXPIRES 4/22/2021

Kim A. Noenza
PRINT NAME

SIGNATURE

MY PRINCIPAL PLACE OF BUSINESS IS IN San Bernardino COUNTY.

TAX BOND CERTIFICATE

I HEREBY CERTIFY THAT A BOND IN THE SUM OF $_____ HAS BEEN EXECUTED AND FILED WITH THE BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE, CALIFORNIA, CONDITIONED UPON THE PAYMENT OF ALL TAXES, STATE, COUNTY, MUNICIPAL OR LOCAL AND ALL SPECIAL ASSESSMENTS COLLECTED AS TAXES WHICH AT THE TIME OF THE FILING OF THIS MAP WITH THE COUNTY RECORDER ARE A LIEN AGAINST SAID PROPERTY BUT NOT YET PAYABLE AND SAID BOND HAS BEEN DULY APPROVED BY SAID BOARD OF SUPERVISORS.

TAX BOND DATED: _____

KECIA HARPER
CLERK OF THE BOARD OF SUPERVISORS

BY: _____ DEPUTY

JON CHRISTENSEN
COUNTY TAX COLLECTOR
COUNTY OF RIVERSIDE

BY: _____ DEPUTY

TAX COLLECTOR'S CERTIFICATE

I HEREBY CERTIFY THAT ACCORDING TO THE RECORDS OF THIS OFFICE, AS OF THIS DATE, THERE ARE NO LIENS AGAINST THE PROPERTY SHOWN ON THE WITHIN MAP FOR UNPAID STATE, COUNTY, MUNICIPAL, OR LOCAL TAXES, OR SPECIAL ASSESSMENTS COLLECTED AS TAXES, EXCEPT TAXES OR SPECIAL ASSESSMENTS COLLECTED AS TAXES, NOW A LIEN BUT NOT YET PAYABLE, WHICH ARE ESTIMATED TO BE $ _____

DATED: _____

JON CHRISTENSEN
COUNTY TAX COLLECTOR
COUNTY OF RIVERSIDE

BY: _____ DEPUTY

CITY TREASURER'S CERTIFICATE

I HEREBY CERTIFY THAT ACCORDING TO THE RECORDS OF THIS OFFICE, AS OF THIS DATE, THE PROPERTY SHOWN ON THIS MAP IS NOT SUBJECT TO ANY SPECIAL ASSESSMENTS, BONDS, AND/OR LIENS WHICH HAVE NOT BEEN PAID IN FULL. THIS CERTIFICATE DOES NOT INCLUDE ANDY SPECIAL ASSESSMENTS THE BONDS OF WHICH HAVE NOT BECOME A LIEN AGAINST SAID PROPERTY.

DATED: _____

TREASURER, CITY OF BANNING

ABANDONMENT NOTE

PURSUANT TO SECTIONS 66499.20.2 AND 66434(g) OF THE SUBDIVISION MAP ACT, THE FILING OF THIS MAP SHALL CONSTITUTE ABANDONMENT OF PORTIONS OF THE EASEMENTS GRANTED TO THE CITY OF BANNING FOR PUBLIC STREET, UTILITIES, STORM DRAIN, AND INCIDENTAL PURPOSES PER TRACT NO. 30642 RECORDED IN BOOK 415, PAGES 96-101, OF MAPS, RECORDS OF THE COUNTY OF RIVERSIDE STATE OF CALIFORNIA.

SIGNATURE OMISSIONS

PURSUANT TO THE PROVISIONS OF SECTION 66436 OF THE SUBDIVISION MAP ACT, THE SIGNATURES OF THE FOLLOWING OWNERS OF EASEMENTS AND/OR OTHER INTERESTS HAVE BEEN OMITTED THEIR INTERESTS BEING SUCH THAT IT CAN NOT RIPEN INTO A FEE.

SOUTHERN SIERRAS POWER COMPANY, THE RECORD OWNER OF AN EASEMENT FOR POLE LINES AND INCIDENTAL PURPOSES, AS DISCLOSED BY A DOCUMENT RECORDED MAY 16, 1914 IN BOOK 391, PAGE 370, OF DEEDS, RECORDS OF RIVERSIDE COUNTY.

LOUIS EDSON, THE RECORD OWNER OF AN EASEMENT FOR PIPELINES AND INCIDENTAL PURPOSES AS DISCLOSED BY A DOCUMENT RECORDED MAY 18, 1914 IN BOOK 397, PAGE 372, OF DEEDS, RECORDS OF RIVERSIDE COUNTY. THE EASEMENT CANNOT BE LOCATED FROM RECORD.

HUGH MONTGOMERY, ET AL, THE RECORD OWNER OF AN EASEMENT FOR DRIVEWAY AND INCIDENTAL PURPOSES, AS DISCLOSED BY A DOCUMENT RECORDED FEBRUARY 4, 1921, IN BOOK 542, PAGE 84, OF DEEDS, RECORDS OF RIVERSIDE COUNTY. THE EASEMENT CANNOT BE LOCATED FROM RECORD.

SOUTHERN CALIFORNIA GAS COMPANY, THE RECORD OWNER OF AN EASEMENT FOR PIPELINES AND INCIDENTAL PURPOSES, AS DISCLOSED BY A DOCUMENT RECORDED NOVEMBER 13, 2006 AS INSTRUMENT NUMBER 835820, RECORDS OF RIVERSIDE COUNTY.

RECORDER'S STATEMENT

FILED THIS _____ DAY OF _____, 201__ AT ____ M. IN BOOK _____ OF TRACT MAPS AT PAGE _____, AT THE REQUEST OF THE CITY CLERK.

No. _____

FEE: _____

PETER ALDANA
ASSESSOR-COUNTY CLERK -RECORDER
COUNTY OF RIVERSIDE

BY: _____ DEPUTY

SUBDIVISION GUARANTEE BY: TICOR TITLE COMPANY OF CALIFORNIA

PLANNING COMMISSION'S STATEMENT

THE TENTATIVE MAP WAS APPROVED BY THE PLANNING COMMISSION ON JANUARY 6, 2016.

DATED: _____

BY: _____
SECRETARY, PLANNING COMMISSION

CITY ACCEPTANCE CERTIFICATE

I, MARIE A. CALDERON, CITY CLERK OF THE CITY COUNCIL OF THE CITY OF BANNING, STATE OF CALIFORNIA, DO HEREBY CERTIFY THAT SAID CITY COUNCIL AT ITS REGULAR MEETING HELD ON THE _____ DAY OF _____ 201__, DULY APPROVED THE WITHIN SUBDIVISION AND ACCEPTED ON BEHALF OF THE PUBLIC LOTS "A" THROUGH "F" INCLUSIVE FOR STREET AND PUBLIC UTILITY PURPOSES, LOT "G" FOR OPEN SPACE PURPOSES, AND LOTS "H" AND "I" FOR STORM DRAIN PURPOSES, THE PUBLIC UTILITIES EASEMENTS, THE PUBLIC DRAINAGE EASEMENTS, AND THE PUBLIC LANDSCAPE EASEMENTS SHOWN HEREON AND HEREBY CERTIFY THE ABANDONMENT AS STATED IN THE ABANDONMENT NOTE SHOWN HEREON.

DATED: _____

MARIE A. CALDERON
CITY CLERK, CITY OF BANNING

CITY ENGINEER'S STATEMENT

BY: _____

I HEREBY CERTIFY THAT I HAVE EXAMINED THIS MAP, AND THAT THE SUBDIVISION SHOWN THEREON IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP AND ANY APPROVED ALTERATIONS THERETO, AND THAT ALL THE PROVISIONS OF THE SUBDIVISION MAP ACT AND CHAPTER 22 OF THE BANNING MUNICIPAL CODE HAVE BEEN COMPLIED WITH.

ARTURO VELA, RCE 75696
CITY ENGINEER

DATE

CITY SURVEYOR'S STATEMENT

I HEREBY CERTIFY THAT I HAVE EXAMINED THIS MAP AND HAVE FOUND THAT IT CONFORMS TO THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND I AM SATISFIED THAT IT IS TECHNICALLY CORRECT.

AMELIA PAULA PEREIRA, PLS 8493
CITY SURVEYOR

DATE

SURVEYOR'S STATEMENT

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF BANNING 97, LLC ON APRIL 30, 2015. I HEREBY STATE THAT ALL THE MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED OR THAT THEY WILL BE SET IN THOSE POSITIONS BEFORE MARCH 23, 2020 AND THAT THE MONUMENTS ARE, OR WILL BE, SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED, AND THAT THIS FINAL MAP SUBSTANTIALLY CONFORMS TO THE CONDITIONALLY APPROVED MAP.

ROBERT JOHN DAWSON, PLS 6932
EXPIRATION DATE 09/30/21

9-23-19
DATE

LICENSED LAND SURVEYOR
ROBERT JOHN DAWSON
No. 6932
Exp.9-30-21
STATE OF CALIFORNIA

IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, CALIFORNIA

TRACT MAP No. 36939

BEING A SUBDIVISION OF A PORTION OF THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN

DAWSON SURVEYING, Inc. JULY 2016

SCALE: 1" = 100'

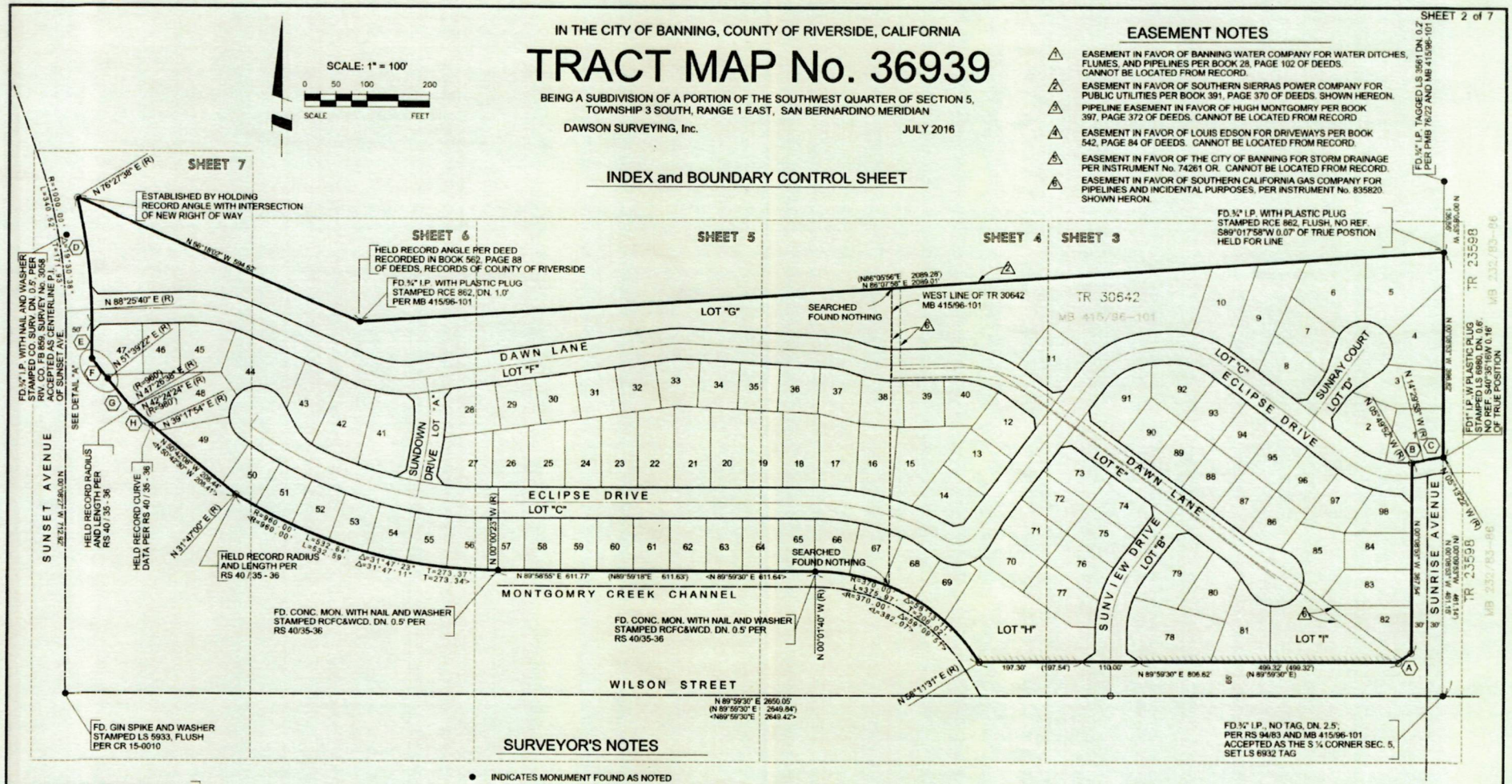
0 50 100 200

SCALE FEET

INDEX and BOUNDARY CONTROL SHEET

EASEMENT NOTES

1. EASEMENT IN FAVOR OF BANNING WATER COMPANY FOR WATER DITCHES, FLUMES, AND PIPELINES PER BOOK 28, PAGE 102 OF DEEDS. CANNOT BE LOCATED FROM RECORD.
2. EASEMENT IN FAVOR OF SOUTHERN SIERRAS POWER COMPANY FOR PUBLIC UTILITIES PER BOOK 391, PAGE 370 OF DEEDS. SHOWN HEREON.
3. PIPELINE EASEMENT IN FAVOR OF HUGH MONTGOMRY PER BOOK 397, PAGE 372 OF DEEDS. CANNOT BE LOCATED FROM RECORD.
4. EASEMENT IN FAVOR OF LOUIS EDSON FOR DRIVEWAYS PER BOOK 542, PAGE 84 OF DEEDS. CANNOT BE LOCATED FROM RECORD.
5. EASEMENT IN FAVOR OF THE CITY OF BANNING FOR STORM DRAINAGE PER INSTRUMENT No. 74261 OR. CANNOT BE LOCATED FROM RECORD.
6. EASEMENT IN FAVOR OF SOUTHERN CALIFORNIA GAS COMPANY FOR PIPELINES AND INCIDENTAL PURPOSES, PER INSTRUMENT No. 835820. SHOWN HERON.

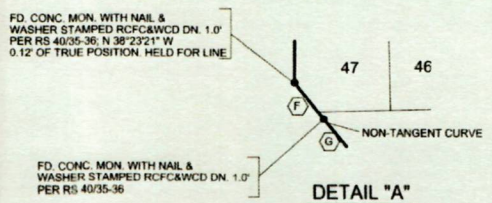


SURVEYOR'S NOTES

- ● INDICATES MONUMENT FOUND AS NOTED
- ○ INDICATES SET 1" IRON PIPE, 18" IN LENGTH, TAGGED "LS 6932" FLUSH, UNLESS OTHERWISE NOTED. CENTERLINE MONUMENTS TO BE SET ¼" BELOW FINISHED SURFACE.
- ( ) INDICATES RECORD DATA PER TRACT MAP 30642, MB 415/96-101
- [ ] INDICATES RECORD DATA PER TRACT MAP 23598, MB 232/83-86
- < > INDICATES RECORD DATA PER RS 40/35-36
- (R) INDICATES RADIAL BEARING
- ——— INDICATES NON-VEHICULAR ACCESS

BASIS OF BEARINGS TAKEN AS N89°59'30" E AS SHOWN ON CENTERLINE OF WILSON STREET PER TRACT MAP 30642, MB 415/96-101

NAIL & TAG STAMPED "LS 6932" TO BE SET IN CURB ON PROLONGATED LOT LINES FOR ALL FRONT LOT CORNERS. REAR LOT CORNERS SHALL BE SET USING 1" IRON PIPE, 18" IN LENGTH, w/ PLASTIC CAP STAMPED "LS 6932" UP 3"-5" ABOVE FINISHED GRADE.



DETAIL "A"

CURVE / LINE TABLE

	Δ / Bearing	Radius	Length	Tangent	Δ / Bearing	Radius	Length	Tangent
A	N 54°08'55" E	30.84'			(N 54°08'55" E	30.84')		
B	08°40'01"	151.48'	22.91'	11.48'	(08°40'01")	(151.48')	(22.91')	(11.48')
C	09°16'31"	235.00'	38.04'	19.06'	(09°16'32")	(235.00')	(38.04')	(19.06')
D	13°24'05"	1050.00'	245.59'	123.36'				
E	N 00°08'17" W	70.38'						
F	N 38°23'21" W	48.86'			< N 38°21'05" W>	<48.97>		
G	04°12'44"	960.00'	70.58'	35.30'	<04°12'41">	<960.00'>	<70.56'>	<35.30'>
H	03°06'30"	960.00'	53.17'	26.59'	<03°06'30">	<960.00'>	<53.16'>	<26.59'>

IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, CALIFORNIA

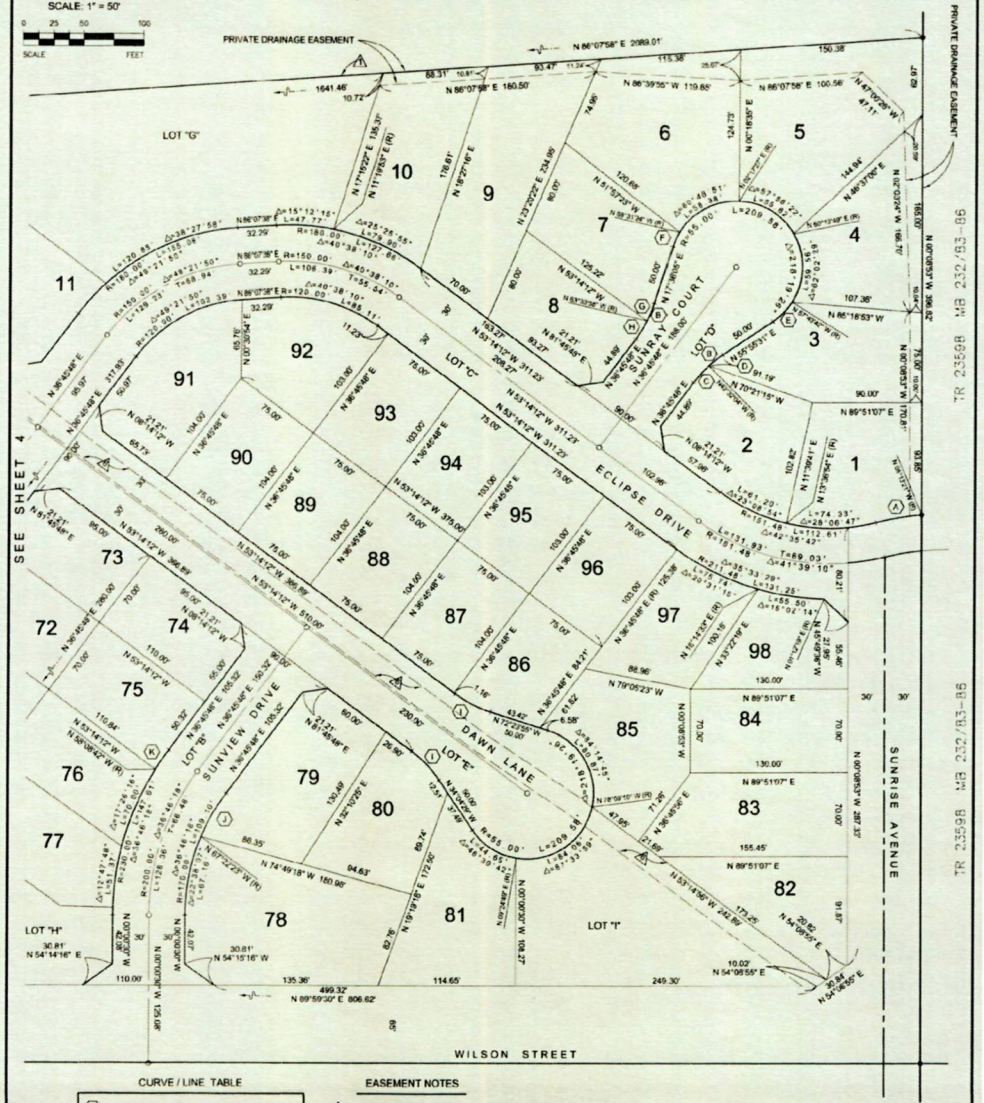
SHEET 3 of 7

TRACT MAP No. 36939

BEING A SUBDIVISION OF A PORTION OF THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN

DAWSON SURVEYING, Inc.

JULY 2016



CURVE / LINE TABLE

	Δ / Bearing	Radius	Length	Tangent
A	(99°16'32")	(235.00')	(38.84')	(19.06')
B	19°09'43"	100.00'	33.44'	16.88'
C	10°42'46"	100.00'	18.69'	9.37'
D	08°27'35"	100.00'	14.77'	7.40'
E	23°39'13"	55.00'	22.71'	11.52'
F	13°52'31"	55.00'	13.32'	6.69'
G	08°50'17"	100.00'	15.43'	7.73'
H	10°19'26"	100.00'	18.02'	9.03'
I	19°09'43"	100.00'	33.44'	16.88'
J	14°08'11"	170.00'	41.94'	21.08'
K	94°54'30"	230.00'	19.70'	9.86'

EASEMENT NOTES

1. INDICATES THE CENTERLINE OF AN EASEMENT OF UNDISCLOSED WIDTH OF SOUTHERN SIERRAS POWER COMPANY FOR PUBLIC UTILITY PURPOSES, RECORDED MAY 16, 1914 IN BOOK 391, PAGE 370 OF DEEDS, RECORDS OF THE COUNTY OF RIVERSIDE.
2. INDICATES A 16.5' WIDE EASEMENT OF SOUTHERN CALIFORNIA GAS COMPANY FOR PIPELINES AND INCIDENTAL PURPOSES, RECORDED NOVEMBER 13, 2006 AS INSTRUMENT No. 835820, RECORDS OF THE COUNTY OF RIVERSIDE.

IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, CALIFORNIA

TRACT MAP No. 36939

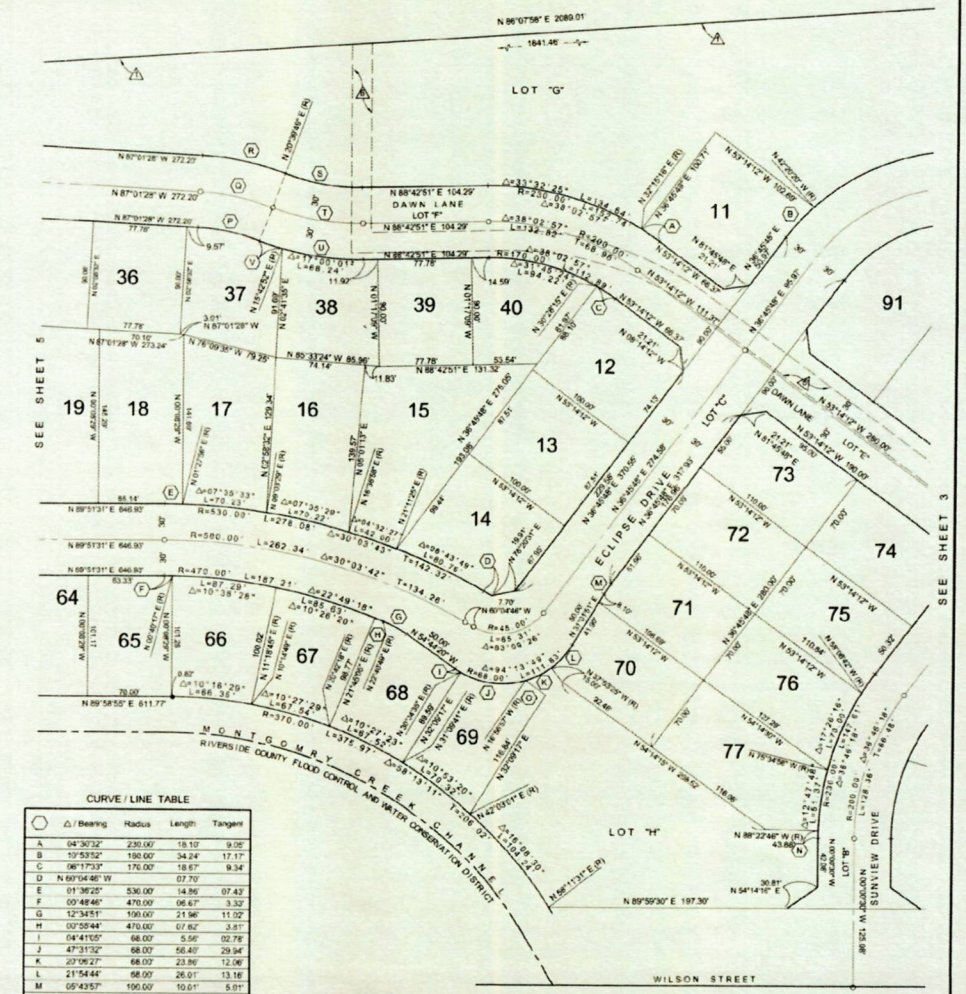
BEING A SUBDIVISION OF A PORTION OF THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN

DAWSON SURVEYING, Inc. JULY 2016

SCALE: 1" = 50'

0 25 50 100

SCALE FEET



CURVE / LINE TABLE

	Δ / Bearing	Radius	Length	Tangent
A	04°30'32"	230.00'	18.10'	9.05'
B	10°53'52"	180.00'	34.24'	17.17'
C	06°17'33"	170.00'	18.67'	9.34'
D	N 60°04'46" W		07.70'	
E	01°36'25"	530.00'	14.86'	07.43'
F	00°48'46"	470.00'	06.67'	3.33'
G	12°34'51"	190.00'	21.96'	11.02'
H	00°55'44"	470.00'	07.82'	3.81'
I	04°41'05"	68.00'	5.56'	02.78'
J	47°31'32"	68.00'	56.40'	29.94'
K	20°06'27"	68.00'	23.86'	12.06'
L	21°54'44"	68.00'	26.01'	13.16'
M	05°43'57"	190.00'	10.01'	5.01'
N	01°37'44"	230.00'	6.54'	3.27'
O	N 53°14'12" W		20.54'	
P	17°41'17"	170.00'	52.48'	26.45'
Q	17°41'17"	200.00'	61.47'	31.12'
R	17°41'17"	230.00'	71.00'	35.79'
S	21°56'56"	170.00'	65.13'	32.97'
T	21°56'56"	200.00'	76.62'	38.78'
U	21°56'56"	230.00'	88.11'	44.60'
V	04°56'37"	230.00'	19.87'	9.94'

EASEMENT NOTES

A INDICATES THE CENTERLINE OF AN EASEMENT OF UNDISCLOSED WIDTH OF SOUTHERN SIERRAS POWER COMPANY FOR PUBLIC UTILITY PURPOSES, RECORDED MAY 16, 1914 IN BOOK 391, PAGE 370 OF DEEDS, RECORDS OF THE COUNTY OF RIVERSIDE.

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IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, CALIFORNIA

TRACT MAP No. 36939

BEING A SUBDIVISION OF A PORTION OF THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN

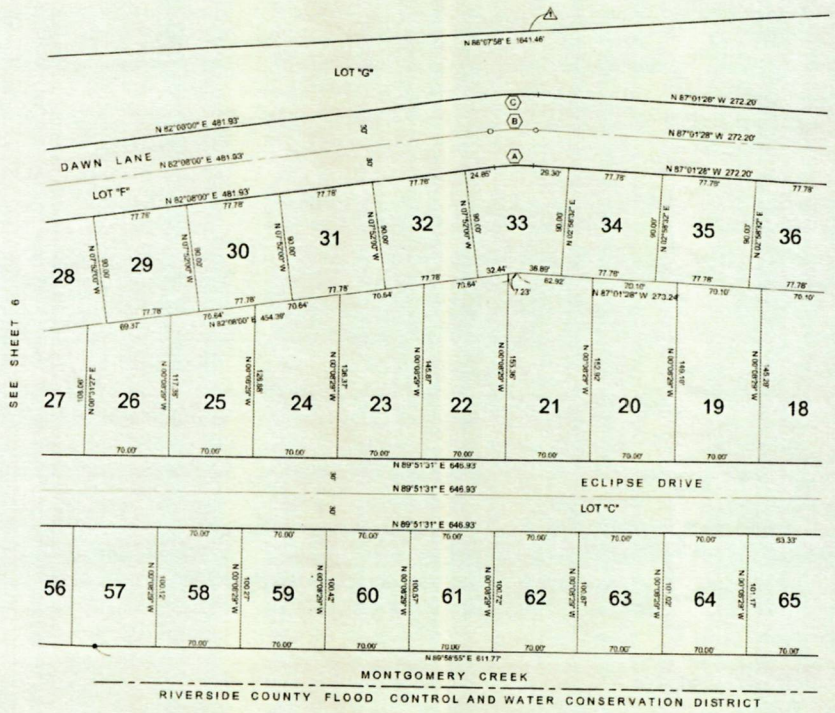
DAWSON SURVEYING, Inc.

JULY 2016

SCALE: 1" = 50'

0 25 50 100

SCALE FEET



CURVE / LINE TABLE

	Δ / Bearing	Radius	Length	Tangent
A	10°50'32"	170.00'	32.17'	16.13'
B	10°50'32"	200.00'	37.85'	18.98'
C	10°50'32"	230.00'	43.52'	21.83'

EASEMENT NOTES

⚠ INDICATES THE CENTERLINE OF AN EASEMENT OF UNDISCLOSED WIDTH OF SOUTHERN SIERRAS POWER COMPANY FOR PUBLIC UTILITY PURPOSES, RECORDED MAY 16, 1914 IN BOOK 391, PAGE 370 OF DEEDS, RECORDS OF THE COUNTY OF RIVERSIDE.

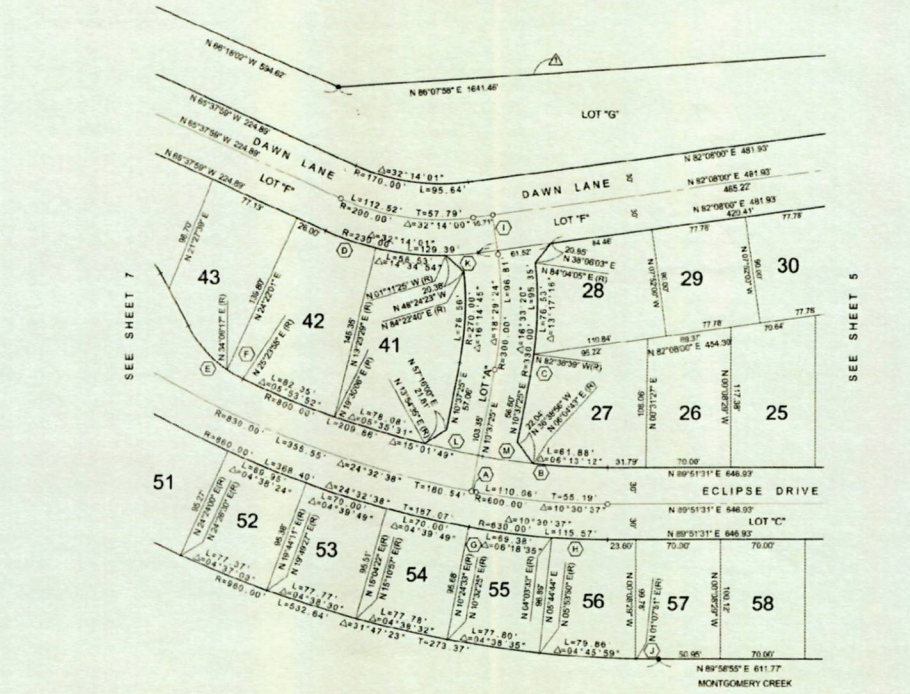
IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, CALIFORNIA

TRACT MAP No. 36939

BEING A SUBDIVISION OF A PORTION OF THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN

DAWSON SURVEYING, Inc. JULY 2016

SCALE: 1" = 50'



EASEMENT NOTES

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CURVE / LINE TABLE

◯	Δ / Bearing	Radius	Length	Tangent
A	00°15'16"	830.00'	03.69'	01.84'
B	10°30'37"	570.00'	104.56'	52.43'
C	03°16'04"	330.00'	18.82'	09.41'
D	10°58'32"	230.00'	44.06'	22.10'
E	36°54'02"	100.00'	64.40'	33.36'
F	08°45'19"	100.00'	15.28'	07.66'
G	00°02'25"	850.00'	00.60'	00.30'
H	04°12'02"	630.00'	46.19'	23.10'
I	N 67°52'00" W		33.35'	
J	01°05'14"	960.00'	19.05'	9.53'
K	06°40'35"	230.00'	26.80'	13.42'
L	03°32'27"	800.00'	49.44'	24.73'
M	04°17'25"	570.00'	42.68'	21.35'

IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, CALIFORNIA

SHEET 7 of 7

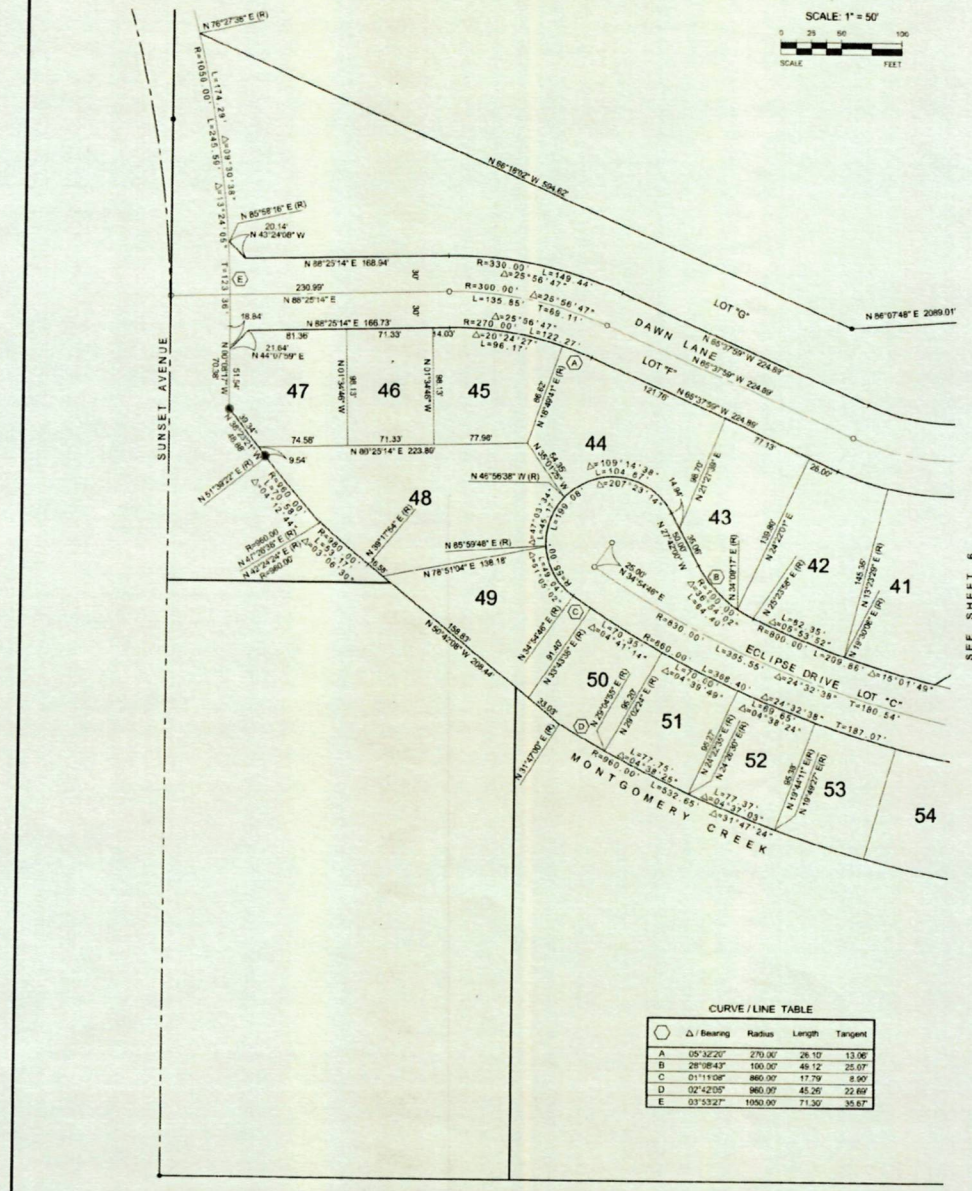
TRACT MAP No. 36939

BEING A SUBDIVISION OF A PORTION OF THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN

DAWSON SURVEYING, Inc.

JULY 2016

SCALE: 1" = 50'



CURVE / LINE TABLE

	Δ / Bearing	Radius	Length	Tangent
A	05°32'20"	270.00'	26.10'	13.06'
B	28°08'43"	100.00'	49.12'	25.07'
C	01°15'08"	860.00'	17.79'	8.90'
D	02°42'05"	960.00'	45.26'	22.69'
E	03°53'27"	1050.00'	71.30'	35.67'

CITY OF BANNING
STAFF REPORT

TO: **CITY COUNCIL**

FROM: **Douglas Schulze, City Manager**

PREPARED BY: **Art Vela, Public Works Director**

MEETING DATE: **November 12, 2024**

SUBJECT: **Consideration of Resolution 2024-180, Approving an Easement Purchase and Sale Agreement with Southern California Edison for an Easement in the City of Banning Water Canyon**

RECOMMENDATION:

Adopt Resolution 2024-180.

BACKGROUND:

Southern California Edison (SCE) owns and maintains an electrical distribution system in the City of Banning Water Canyon located along the northern boundary of the City and within an existing easement. The distribution system was damaged during the Apple Fire, which started on July 31, 2020. As part of the repair of the damaged system SCE relocated approximately 1,800 feet of overhead lines and associated power poles along an existing maintenance road on the City's property (see "Proposed Easement Aerial Image"). The relocated alignment allows for a more protected distribution system and for ease of access and maintenance by SCE. SCE has requested the issuance of a permanent easement by the City for these facilities.

JUSTIFICATION:

In order to maintain permanent access to the relocated facilities, SCE must obtain a permanent easement by the City. The City's attorney's office has reviewed the Grant of Easement prepared by SCE and has prepared the attached Easement Purchase and Sale Agreement.

FISCAL IMPACT:

SCE will pay the City $4,700, which is an amount established by an appraisal conducted in compliance with Uniform Standards of Professional Appraisal Practice.

ALTERNATIVES:

Do not approve Resolution 2024-180 and provide staff with alternative direction, if any.

BUDGETED?:

No

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. Resolution 2024-180 Easement Purchase and Sale Agreement.docx

2. Exhibit A PSA SCE Water Canyon Easement.pdf
3. Banning Apple Fire Appraisal.pdf
4. Proposed Easement Location.pdf
5. Proposed Easement Aerial Image.pdf

RESOLUTION 2024-180

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING AN EASEMENT PURCHASE AND SALE AGREEMENT WITH SOUTHERN CALIFORNIA EDISON FOR AN EASEMENT IN THE CITY OF BANNING WATER CANYON

WHEREAS, Southern California Edison (SCE) owns and maintains an electrical distribution system in the City of Banning Water Canyon located along the northern boundary of the City and within an existing easement; and

WHEREAS, SCE's electrical distribution system was damaged during the Apple Fire which started on July 31, 2020 and as part of the repair of the damaged system SCE relocated approximately 1,800 feet of overhead lines and associated power poles along an existing maintenance road on the City's property; and

WHEREAS, in order to maintain permanent access to the relocated facilities, SCE must obtain a permanent easement by the City; and

WHEREAS, SCE will pay the City an appraised amount of $4,700 prior to the issuance of a Grant of Easement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The City Council approves the Easement Purchase and Sale Agreement, attached hereto as Exhibit A, and authorizes the City Manager to make non-substantive changes to the Easement Purchase and Sale Agreement and to execute the Easement Purchase and Sale Agreement on behalf of the City Council.

SECTION 2. The City Council approves the Grant of Easement attached as Exhibit "A" to the Easement Purchase and Sale Agreement, and authorizes the City Manager to make non-substantive changes to the Grant of Easement and to execute the Grant of Easement on behalf of the City Council upon payment by Southern California Edison.

SECTION 3. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 12th day of November 2024.

Alberto Sanchez, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

Serita R. Young, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2024-180, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 12th day of November 2024 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

EXHIBIT A

Easement Purchase and Sale Agreement

(Grant of Easement is an Attachment to the Easement Purchase and Sale Agreement)

EASEMENT PURCHASE AND SALE AGREEMENT

THIS EASEMENT PURCHASE AND SALE AGREEMENT ("**Agreement**") is entered into as of _____, 2024 ("**Effective Date**"), by and between the CITY OF BANNING, a California municipal corporation ("**Grantor**") and SOUTHERN CALIFORNIA EDISON COMPANY ("**Grantee**").

RECITALS:

A. Grantor believes it owns that certain real property (the "**Property**") located in Riverside County, California, as more particularly described in the form of easement attached hereto as Exhibit "A" (the "**Easement**").

B. Grantor desires to sell the Easement to Grantee, and Grantee desires to purchase the Easement from Grantor, at the price and upon the terms and conditions hereinafter set forth.

TERMS:

NOW, THEREFORE, in consideration of the mutual covenants of the parties and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantee agree as follows:

1. **Purchase and Sale; Purchase Price**. In consideration for payment of Four Thousand Seven Hundred Dollars ($4,700.00.) (the "**Purchase Price**"), Grantor hereby agrees to execute and deliver the Easement (duly acknowledged by a notary) to Grantee for recording, subject to the terms and conditions hereinafter set forth.

2. **Closing**. Grantor shall execute and deliver the Easement (duly acknowledged) to Grantee within 30 days after Grantee's payment of the Purchase Price to Grantor. Grantee shall pay any transfer taxes, filing or recording fees, or other costs, if any, associated with the Easement.

3. **"AS IS" Sale**. Grantor makes no representations or warranties, express or implied, to Grantee regarding the Property or title thereto or any other matter. Grantee acknowledges that it may obtain a title report and title insurance, and has had an opportunity to inspect the Property.

4. **No Brokers**. Grantor represents and warrants to Grantee that Grantor has not dealt with any broker or finder in connection with the transaction contemplated by this Agreement, and Grantor agrees to indemnify, defend and save Grantee harmless from any claims made by any brokers or finders claiming to have dealt with Grantor. Grantee represents and warrants to Grantor that Grantee has not dealt with any broker or finder in connection with the transaction contemplated by this Agreement, and Grantee agrees to indemnify, defend and save Grantor harmless from any claims made by any brokers or finders claiming to have dealt with Grantee. The terms of this Section shall survive the Closing.

5. **Entire Agreement**. This Agreement, together with the exhibits attached hereto and thereto, contain the entire agreement between the parties hereto with respect to the subject matter hereof, and any prior agreements, written or oral, are superseded by this Agreement and shall be of no force or effect. No addition or modification of any term or provision of this

Agreement shall be effective unless set forth in writing and signed by the authorized representatives of the parties.

6. **Partial Invalidity**. If any term or provision of this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and enforceable.

7. **Construction; Successors and Assigns**. The parties acknowledge that each party has reviewed, commented on and approved this Agreement, and the rule of construction that provides ambiguities within this Agreement are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement. The terms of this Agreement shall be binding on and inure to the benefit of the permitted successors and assigns of each party hereto.

8. **Counterparts; Signatures**. This Agreement may be executed in counterparts. All executed counterparts shall constitute one agreement, and each counterpart shall be deemed an original, Grantor and Grantee each hereby acknowledges and agrees that such party (i) intends to be bound by the signatures on any document sent by electronic mail, (ii) is aware that the other party will rely on such signatures, and (iii) hereby waives any defenses to the enforcement of the terms of this Agreement based on the foregoing forms of signature.

9. **Counsel**. Grantor and Grantee each hereby acknowledge and represent to the other that they have had sufficient opportunity to consult with independent legal counsel selected in their sole discretion and have either consulted or chosen, in their sole discretion, not to consult with such legal counsel.

10. **Governing Law**. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Any dispute arising hereunder that the parties are unable to resolve shall be resolved in the Superior Court of California, County of Riverside.

11. **Time of Essence**. Time is of the essence for the payment and performance of all obligations under this Agreement.

12. **Notices**. All notices and demands which any party hereto may be required or desires to serve upon any other party under the terms of this Agreement shall be in writing and shall be addressed as follows:

If delivered to Grantee:

Southern California Edison Company
2 Innovationway, 2nd Floor
Pomona, CA 91768
Attn: Title & Real Estate Services

If delivered to Grantor:

City of Banning

99 E. Ramsey St.
Banning, CA 92220
Attn: City Manager

Notices must be delivered by certified mail or by reputable overnight messenger (such as Federal Express).

IN WITNESS WHEREOF, Grantor and Grantee have executed this Agreement on the respective dates set forth below, to be effective as of the Effective Date.

GRANTOR:

CITY OF BANNING

By: _____
Name: Doug Schulze
Title: City Manager

GRANTEE:

SOUTHERN CALIFORNIA EDISON COMPANY

By: _____
Name: _____
Title: _____

EXHIBIT "A"

FORM OF EASEMENT

[Attached.]

RECORDING REQUESTED BY

SOUTHERN CALIFORNIA EDISON

An *EDISON INTERNATIONAL* Company

WHEN RECORDED MAIL TO

SOUTHERN CALIFORNIA EDISON COMPANY

2 INNOVATIONWAY, 2ND FLOOR
POMONA, CA 91768

ATTN: TITLE & REAL ESTATE SERVICES

With a copy to:

CITY OF BANNING
99 E. RAMSEY STREET
BANNING, CA 92220
ATTN: CITY MANAGER

SPACE ABOVE THIS LINE FOR RECORDER'S USE

GRANT OF EASEMENT

SCE Doc No.:522085
V&LM File No.: ACQ203857835

DOCUMENTARY TRANSFER TAX $ NONE (VALUE AND CONSIDERATION LESS THAN $100.00) SCE Company SIG. OF DECLARANT OR AGENT DETERMINING TAX FIRM NAME	DISTRICT REDLANDS	SERVICE ORDER 801989664	SERIAL NO. 72814A	MAP SIZE 053-110, 052-100
	FIM: 676-1800-2, 676-1806-2 & 672-1800-2 APN: 531-310-006	APPROVED: VEGETATION & LAND MANAGEMENT	BY SF	DATE 10/15/2024

THE CITY OF BANNING, a municipal corporation, (hereinafter referred to as "Grantor"), hereby grants to SOUTHERN CALIFORNIA EDISON COMPANY, a corporation, (hereinafter referred to as "Grantee"), without representation or warranty, express or implied, and subject to all matters of record and which could be discovered upon diligent inspection, an easement and right of way to do the following in compliance with all applicable laws and permits: construct, use, maintain, operate, alter, add to, repair, replace, reconstruct, inspect and remove at any time and from time to time overhead electrical supply systems and communication systems (hereinafter referred to as "systems"), consisting of poles, guy wires and anchors, crossarms, wires and other appurtenant fixtures and/or equipment necessary or useful, for distributing electrical energy and for transmitting intelligence, data and/or communications (e.g. through fiber optic cable), in, on, over, along and across that certain real property in the City of Banning, County of Riverside, State of California, described as follows:

That portion of the Southwest quarter of Section 4, Township 2 South, Range 1 East, San Bernardino Base and Meridian, according to the Official Plat thereof, in the City of Banning, County of San Bernardino, State of California, in the Office of the County Recorder of said County.

Described on Exhibit "A" and depicted on Exhibit "B", both attached hereto and by this reference made a part hereof.

Grantee accepts such property in its AS IS condition. Grantee shall not assign this easement or permit others to use the easement without the prior express written consent of Grantor. In connection with any construction, replacement, repair, Grantee shall diligently prosecute the work to completion.

Grantor hereby also grants to Grantee, the right of free access to said systems and every part thereof, at all times, for the purpose of exercising the rights herein granted, and the right to clear and to keep clear the above described real property, free from explosives, buildings, equipment, brush, combustible material and any and all other obstructions of any kind, and the right to trim or remove any tree or shrub adjacent to such real property on land owned by Grantor which could be reasonable determined to materially endanger said systems, or any part thereof, or materially interfere with the exercise of the rights herein granted.

Grantee shall defend, indemnify and hold Grantee harmless from and against any and all claims, liabilities, damages, losses, costs and expenses (including attorneys' fees and costs) arising from or relating to or caused by this grant of easement, or any acts or omissions of Grantee or its contractors, employees or agents in, on or about the real property described herein or access areas, or from the existence, storage, release or transportation of any hazardous substances or materials.

Grant of Easement
City of Banning to
S. C. E. Co., a corp.
Serial No. 72814A
V&LM File No.: ACQ203857835

EXECUTED as of the date shown in the attached notary acknowledgment

CITY OF BANNING, a municipal corporation

By:_____

Name: Douglas Schulze

Title: City Manager

Grant of Easement
City of Banning to
S. C. E. Co., a corp.
Serial No. 72814A
V&LM File No.: ACQ203857835

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of _____)

On _____ before me, _____, a Notary Public, personally appeared _____, who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

EXHIBIT "A"
LEGAL DESCRIPTION
SERIAL: 72814A
APN: 531-310-006

THAT PORTION OF REAL PROPERTY SITUATED IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, BEING A STRIP OF LAND 30.00 FEET WIDE, 15.00 FEET ON EACH SIDE, BEING A PORTION OF THAT CERTAIN PARCEL 8 IN THE SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 2 SOUTH, RANGE 1 EAST, SAN BERNARDINO BASE AND MERIDIAN, PER COURT CASE RECORDED FEBRUARY 28, 1967 AS INSTRUMENT NO. 1967-16687, OFFICIAL RECORDS OF RIVERSIDE COUNTY, THE CENTERLINE OF SAID STRIP DESCRIBED AS FOLLOWS:

30.00 FOOT WIDE 33kV DISTRIBUTION EASEMENT:

COMMENCING AT A 2 INCH IRON PIPE WITH "STOCKHAM" CAST CAP, STAMPED "USIS" MARKING THE SOUTHEAST CORNER OF SAID SECTION 4; THENCE NORTH 81°39'16" WEST, 5415.19 FEET TO THE **TRUE POINT OF BEGINNING,** HAVING A GRID COORDINATE OF 2316243.61 NORTH AND 6366452.15 EAST; THENCE NORTH 03°33'26" EAST, 286.06 FEET TO A POINT HAVING A GRID COORDINATE OF 2316529.12 NORTH AND 6366469.90 EAST, THENCE NORTH 30°03'42" EAST, 238.38 FEET TO A POINT HAVING A GRID COORDINATE OF 2316735.44 NORTH AND 6366589.31 EAST, THENCE NORTH, 84°51'54" EAST, 247.59 FEET TO A POINT HAVING A GRID COORDINATE OF 2316757.60 NORTH AND 6366835.91 EAST, THENCE NORTH 86°25'30" EAST, 264.66 FEET TO A POINT HAVING A GRID COORDINATE OF 2316774.10 NORTH AND 6367100.05 EAST, THENCE NORTH 85°58'15" EAST, 234.44 FEET TO A POINT HAVING A GRID COORDINATE OF 2316790.57 NORTH AND 6367333.92 EAST, THENCE SOUTH 55°17'52" EAST, 245.20 FEET TO A POINT HAVING A GRID COORDINATE OF 2316650.98 NORTH AND 6367535.50 EAST, THENCE SOUTH 58°24'36" EAST, 293.00 FEET TO A POINT IN THE NORTHWESTERLY LINE OF THAT CERTAIN 50.00 FOOT WIDE EASEMENT TO SOUTHERN CALIFORNIA EDISON COMPANY FOR ELECTRICAL SUPPLY SYSTEMS, PER DOCUMENT RECORDED AUGUST 16, 1984 AS INSTRUMENT NO. 1984-179720 OF OFFICIAL RECORDS, SAID POINT ALSO BEING THE **POINT OF TERMINATION,** HAVING A GRID COORDINATE OF 2316497.49 NORTH AND 6367785.08 EAST.

CONTAINING 54,280 SQUARE FEET OR 1.25 ACRES, MORE OR LESS.

THE SIDELINES OF SAID STRIP SHALL BE LENGTHENED OR SHORTENED TO ORIGINATE IN THE WESTERLY LINE OF PARCEL 8 PER COURT CASE RECORDED FEBRUARY 28, 1967 AS INSTRUMENT NO. 1967-16687, OFFICIAL RECORDS OF RIVERSIDE COUNTY, AND TERMINATE IN THE NORTHWESTERLY LINE OF THAT CERTAIN 50.00 FOOT WIDE EASEMENT TO SOUTHERN CALIFORNIA EDISON

EXHIBIT "A"
LEGAL DESCRIPTION
SERIAL: 72814A
APN: 531-310-006

COMPANY FOR ELECTRICAL SUPPLY SYSTEMS, PER DOCUMENT RECORDED AUGUST 16, 1984 AS INSTRUMENT NO. 1984-179720 OF OFFICIAL RECORDS.

ALL FOUND MONUMENT DESCRIPTIONS AND BASIS OF BEARINGS ARE AS SHOWN ON EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF.

THIS DESCRIPTION IS NOT INTENDED FOR USE IN THE CONVEYANCE OF LAND IN VIOLATION OF THE SUBDIVISION MAP ACT OF THE STATE OF CALIFORNIA.
THIS LEGAL DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECTION.



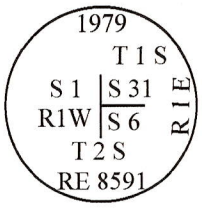
2/4/2021

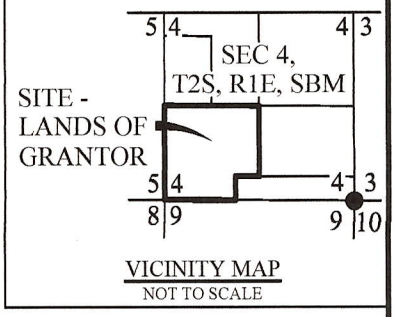
DENNIS W. ROSE, P.L.S. 9045 DATE
EXPIRES: 09/30/2021

EXHIBIT "B"

PLAT TO ACCOMPANY LEGAL DESCRIPTION
SERIAL: 72814A
APN: 531-310-006

PORTION OF PARCEL 8, PER COURT CASE RECORDED FEBRUARY 28, 1967 AS INSTRUMENT NO. 1967-16687, OFFICIAL RECORDS OF RIVERSIDE COUNTY



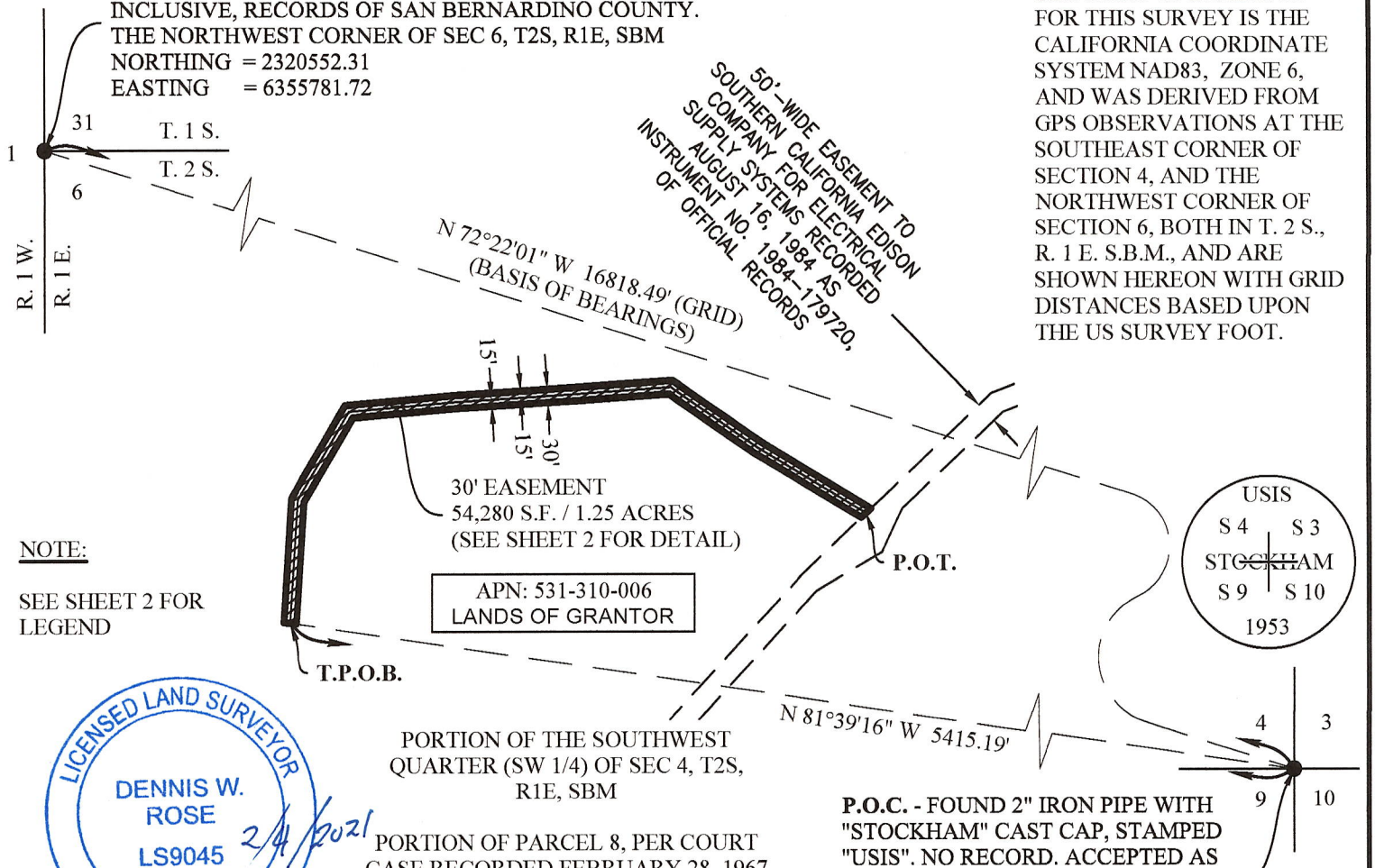


VICINITY MAP
NOT TO SCALE

FOUND 2" IRON PIPE WITH BRASS CAP, STAMPED "RE 8591" PER PARCEL MAP 19164, BOOK 241, PAGES 87-89, INCLUSIVE, RECORDS OF SAN BERNARDINO COUNTY. THE NORTHWEST CORNER OF SEC 6, T2S, R1E, SBM
NORTHING = 2320552.31
EASTING = 6355781.72

BASIS OF BEARINGS:

THE BASIS OF BEARINGS FOR THIS SURVEY IS THE CALIFORNIA COORDINATE SYSTEM NAD83, ZONE 6, AND WAS DERIVED FROM GPS OBSERVATIONS AT THE SOUTHEAST CORNER OF SECTION 4, AND THE NORTHWEST CORNER OF SECTION 6, BOTH IN T. 2 S., R. 1 E. S.B.M., AND ARE SHOWN HEREON WITH GRID DISTANCES BASED UPON THE US SURVEY FOOT.



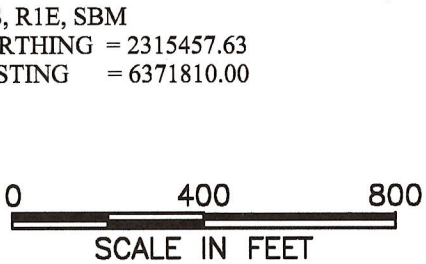
NOTE:

SEE SHEET 2 FOR LEGEND

PORTION OF THE SOUTHWEST QUARTER (SW 1/4) OF SEC 4, T2S, R1E, SBM

PORTION OF PARCEL 8, PER COURT CASE RECORDED FEBRUARY 28, 1967 AS INSTRUMENT NO. 1967-16687, OFFICIAL RECORDS OF RIVERSIDE COUNTY

P.O.C. - FOUND 2" IRON PIPE WITH "STOCKHAM" CAST CAP, STAMPED "USIS". NO RECORD. ACCEPTED AS THE SOUTHEAST CORNER OF SEC 4, T2S, R1E, SBM
NORTHING = 2315457.63
EASTING = 6371810.00





DENNIS W. ROSE, PLS 9045 — 02/04/2021 DATE

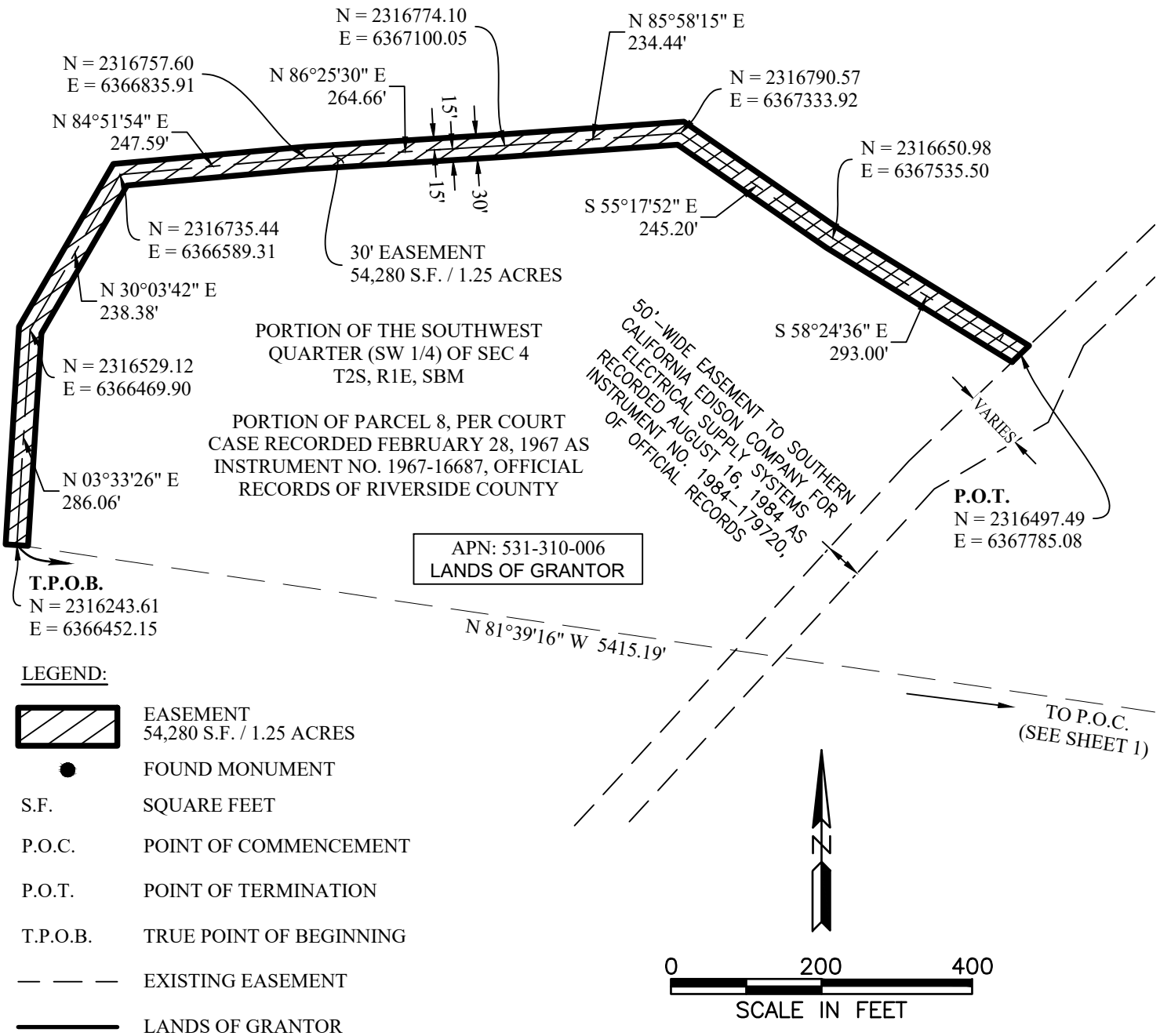
SHEET 1 OF 2

PROJECT NAME: APPLE FIRE RESTORATION				M.S.: 052-110 & 053-110
ORDER NO.: 801989664	NOT. NO.: 203857835	CITY: BANNING	COUNTY: RIVERSIDE	STATE: CA
SURVEYED BY: G. McKELLAR (GSI)	SCE F.B. REF.: N/A	DATE: 02/04/2021	SOUTHERN CALIFORNIA EDISON® An EDISON INTERNATIONAL® Company	
DRAWN BY: R. FOREST	MAP REF.: N/A			
CHECKED BY: D. ROSE	TRES: S. FLORES	SERIAL NO.: 72814A	FILE NAME: SCE20129-EASEMENT EXHIBIT B.DWG	

EXHIBIT "B"

PLAT TO ACCOMPANY LEGAL DESCRIPTION
SERIAL: 72814A
APN: 531-310-006

PORTION OF PARCEL 8, PER COURT CASE RECORDED FEBRUARY 28, 1967 AS INSTRUMENT NO. 1967-16687, OFFICIAL RECORDS OF RIVERSIDE COUNTY



LEGEND:

	EASEMENT 54,280 S.F. / 1.25 ACRES
●	FOUND MONUMENT
S.F.	SQUARE FEET
P.O.C.	POINT OF COMMENCEMENT
P.O.T.	POINT OF TERMINATION
T.P.O.B.	TRUE POINT OF BEGINNING
— — —	EXISTING EASEMENT
———	LANDS OF GRANTOR
———	SECTION LINE
— —	TIE LINE

SHEET 2 OF 2

PROJECT NAME: APPLE FIRE RESTORATION				M.S.: 052-110 & 053-110
ORDER NO.: 801989664	NOT. NO.: 203857835	CITY: BANNING	COUNTY: RIVERSIDE	STATE: CA
SURVEYED BY: G. McKELLAR (GSI)		SCE F.B. REF.: N/A	DATE: 02/04/2021	SOUTHERN CALIFORNIA EDISON An EDISON INTERNATIONAL Company
DRAWN BY: R. FOREST		MAP REF.: N/A		
CHECKED BY: D. ROSE	TRES: S. FLORES	SERIAL NO.: 72814A	FILE NAME: SCE20129-EASEMENT EXHIBIT B.DWG	

SOUTHERN CALIFORNIA EDISON
An EDISON INTERNATIONAL Company

Vegetation & Land Management *August 23, 2024*
Real Estate Valuation

Monica Contreras
Right-of-Way Agent
V&LM, Eastern Land Management
Cell: 626-607-7563

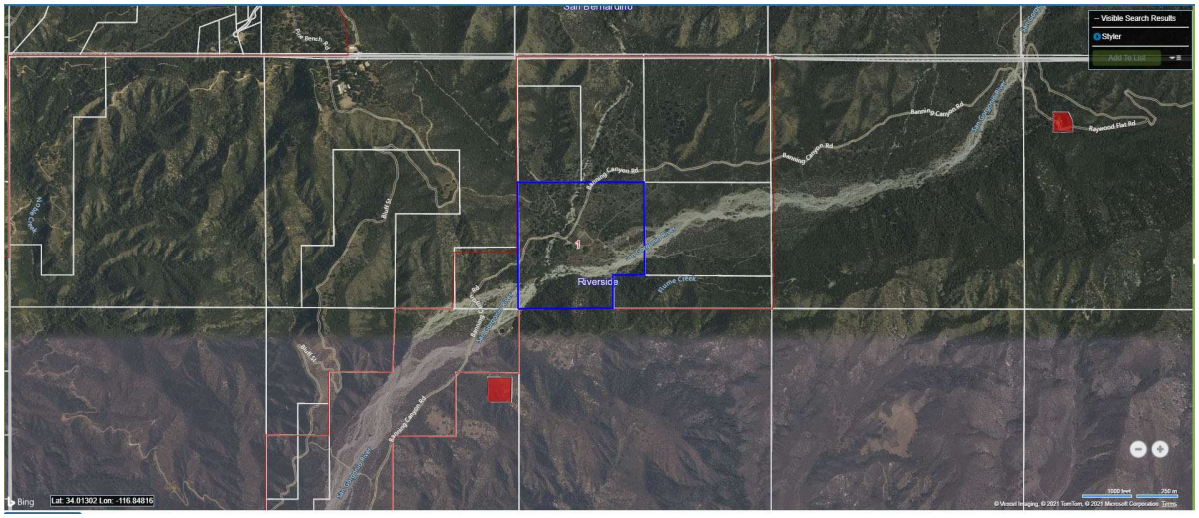
Restricted Appraisal Report

SUBJECT: Apple Fire Relocation, Owner: City of Banning; Parcel No. 531-310-006, Banning, Riverside County California 92220; Lat: 34.01302 Lon: -116.84816 File # 24-055, Not# 204017355, WO# 802125303

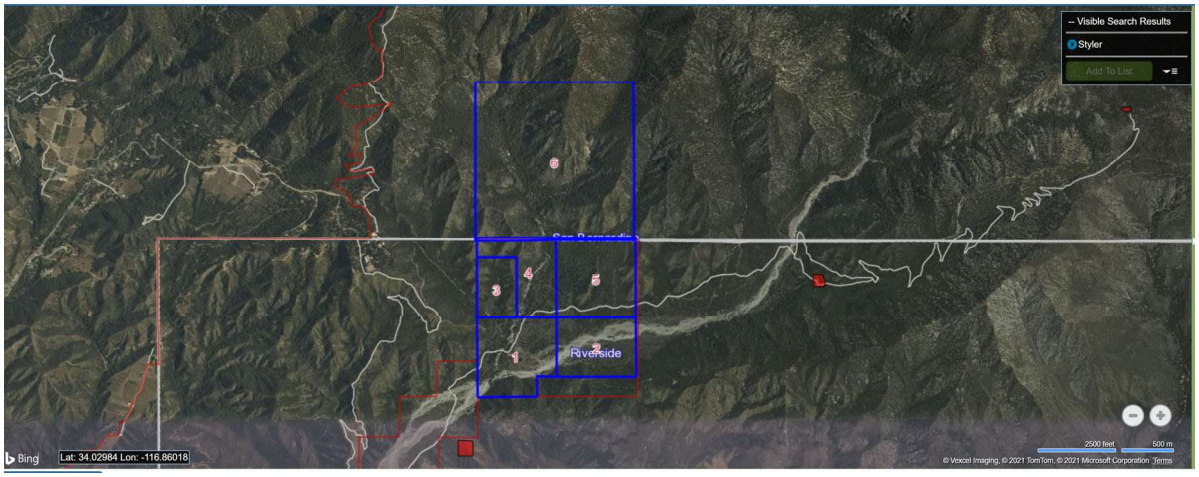
The following appraisal is reported in a restricted format for the valuation of a utility easement for a segment of the Apple Fire Distribution Relocation Effort. As a result of the recent Apple Fire, restoration of distribution facilities requires the acquisition of easements for relocation of facilities from previous distribution line locations. The following report is intended to comply with the reporting requirements set forth under Standard Rule 2-2(b) of the Uniform Standards of Professional Appraisal Practice (USPAP) for the specific type of appraisal and report. This Restricted Appraisal Report limits the use of the report to the client (The Southern California Edison Company) only and the report may not contain supporting rationale for all the opinions and conclusions set forth in the report. The appraiser is not responsible for unauthorized use of this report.

Southern California Edison (SCE) is currently seeking to relocate previous distribution facilities that were destroyed by the Apple Fire; and as a result, are negotiating the acquisition of easement rights in a proposed area north of the current distribution easement location. The subject larger parcel is vacant, open-space, resource-zoned land that includes portions of the San Gorgonio River which is currently a dry riverbed, as well as portions of Banning Canyon Road, with residential uses to the north of the larger parcel, and similar open-space, Resource Conservation use land to the north and south of the subject larger parcel.

<u>Subject Parcel:</u> (531-310-006) – 150 Acres



<u>Subject Larger Parcel:</u> (531-310-006; 531-310-005; 531-310-007; 531-310-019; 531-310-020; 0324-291-01) – 621.27 Acres



The subject larger parcel is in the San Gorgonio Riverbed area of the City of Banning, Riverside County, California. The subject larger parcel includes portions of the San Gorgonio Riverbed as well as portions of Banning Canyon Road which provides regional access to the subject.

The current utility easement which the previous facilities traverses begins at the southwest corner of the subject parcel, on the southern side of the San Gorgonio Riverbed, traversing northeast and bisecting the subject parcel over the Riverbed. The proposed easement is situated at the northern portion of the San Gorgonio Riverbed, beginning at the western boarder of the subject parcel, traversing through the northern corner of the subject parcel. The proposed strip of land will be 30 feet wide with a total land area of 54,280 square feet. Please note that final easement maps are provided in the addenda of this report. We reserve the right to change our opinions should the scope of the proposed easement area materially change.

Please refer to the RW Map within the Addenda section of this report for the dimensions and location of the easement strip of land.

The purpose of the easement is to allow SCE "construct, use, maintain, operate, alter, add to, repair, replace, reconstruct, inspect and remove at any time and from time to time overhead electrical supply systems and communication systems (hereinafter referred to as "systems"), consisting of poles, guy wires and anchors, crossarms, wires and other appurtenant fixtures and/or equipment necessary or useful, for distributing electrical energy and for transmitting intelligence, data and/or communications (eg. through fiber optic cable), in, on, over, along and across that certain real property in the City of Banning, County of Riverside, State of California."

"Grantor further grants, bargains, sells and conveys unto the Grantee the right of assignment, in whole or in part, to others, without limitation, and the right to apportion or divide in whatever manner Grantee deems desirable, any one or more, or all, of the easements and rights, including but not limited to all rights of access and ingress and egress granted to the Grantee by this Grant of Easement."

"Grantor hereby also grants to Grantee, its successors and assigns, and its and their contractors, agents and employees, the right of free access to said systems and every part thereof, at all times, for the purpose of exercising the rights herein granted, and the right to clear and to keep clear the above described real property, free from explosives, buildings, equipment, brush, combustible material and any and all other obstructions of any kind, and the right to trim or remove any tree or shrub which, in the opinion of Grantee, may endanger said systems, or any part thereof, or interfere with the exercise of the rights herein granted."

This distribution easement restricts aerial, surface, and partial sub-surface property rights. The easement will not be situated near any building structures, only a landscaping area. All site improvements, if any, will be replaced in kind or protected in place as part of the project.

A copy of the Grant of Easement deed is in the addenda.

BASIS OF VALUATION

"Fair Market Value", as defined pursuant to California Code of Civil Procedure in Article 4, is as follows:

Measure of Compensation for Property Taken.

1263.320 (a) The fair market value of the property taken is the highest price on the date of valuation that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for so doing, nor obliged to sell, and a buyer, being ready, willing and able to buy but under no particular necessity for so doing, each dealing with the other with full knowledge of all the uses and purposes for which the property is reasonably adaptable and available.

(b) The fair market value of the property taken for which there is no relevant market is its value on the date of valuation as determined by any method of valuation that is just and equitable.

1263.330 The fair market value of the property taken shall not include any increase or decrease in the value of the property that is attributable to any of the following:
(a) The project for which the property is taken;
(b) The eminent domain proceeding in which the property is taken;
(c) Any preliminary actions of the plaintiff relating to the taking of the property.

1263.420 Damage to the remainder is the damage, if any, caused to the remainder by either or both of the following:
(a) The severance of the remainder from the part taken;
(b) The construction and use of the project for which the property is taken in the manner proposed by the plaintiff whether or not damage is caused by a portion of the project located on the part taken.

1263.430 Benefit to the remainder is the benefit, if any, caused by the construction and use of the project for which the property is taken in the manner proposed by the plaintiff whether or not the benefit is caused by a portion of the project located on the part taken.

"Easement", as defined in the Dictionary of Real Estate Appraisal (7th Edition), Appraisal Institute, page 58, is as follows: The right to use another's land for a stated purpose.

"Partial Taking", as defined in the Dictionary of Real Estate Appraisal (7th Edition), Appraisal Institute, page 140, is as follows: The taking of part of a property for public use under the power of eminent domain; requires the payment of compensation.

SUBJECT DATA

Land Owner and Property History: According to public records, the owner of record of the subject larger parcel is the City of Banning. No title report was provided for review. Ownership is assumed to be accurate but may be otherwise.

Property Sales History: According to public records, the property has not been transferred in the past five years. There are no known apparent current agreements, options, or listing of the subject larger parcel for sale.

Location: The subject larger parcel is located includes portions of the San Gorgonio Riverbed as well as portions of Banning Canyon Road . More specifically, the site is located north of the city of Banning, Riverside County California.

Larger Parcel: Larger parcel is defined as "In governmental land acquisitions, the tract or tracts of land that are under the beneficial control of a single individual or entity and have the same, or an integrated, highest and best use. Elements for consideration by the appraiser in making a determination in this regard are contiguity, or proximity, as it bears on the highest and best use of the property, unity of ownership, and unity of highest and best use."[1]

The larger parcel may be all of the parcels, part of a parcel, or several parcels, depending on the unity of legal ownership, unity of use, and contiguity. For there to be unity of title, the parcel(s) must be owned or controlled by the same individual or group of individuals. Unity of use requires that the parcel(s) possess the same use, or an integrated use, with the land. It is controlled by the highest and best use of the parcel(s). Although contiguity is not always required, normally parcels sharing this unity are physically contiguous to one another. If two parcels, for instance, are separate and devoted to different uses, the taking of one parcel will not damage the other parcel.

In this appraisal, the proposed acquisition area is located on a single legal parcel, Assessor Parcel Numbers ("APN's") 531-310-006.

According to Public Records, the subject owner owns multiple properties within the City of Banning including the adjacent parcel to the east, and four additional parcels northeast of the subject parcel. As these properties are adjacent to the subject, are contiguous in ownership, and have an integrated land use; the subject's larger parcel includes the following parcels which total 621.27 acres:

[1] *Dictionary of Real Estate Appraisal* (Seventh Edition, 2022), Appraisal Institute, page 105.

	531-310-006; 531-310-005; 531-310-007; 531-310-019; 531-310-020; 0324-291-01 all together represent the subject larger parcel for the purposes of this analysis.
APN(s):	531-310-006; 531-310-005; 531-310-007; 531-310-019; 531-310-020; 0324-291-01
Ownership:	City of Banning
Size and shape:	Per the plat map, the subject larger parcel is irregular in shape and contains a land area of 621.27± acres or 27,062,521± square feet.
Interest Appraised:	Proposed permanent utility easement over assumed fee simple land.
Property Type:	Vacant Open Space - Resource
Present Use:	Vacant Open Space – Resource
Encumbrances:	Unknown – title report not provided.
Topography/ Drainage:	Topography of the subject larger parcel is generally rolling to steep hillside terrain land with a natural drainage creek traversing subject site. The most northern portion of the subject larger parcel consists of steep mountainous areas. The natural drainage is the San Gorgonio Riverbed, which is noted as a "blue line" stream. Blue line stream notations indicated that this area is subject to seasonal flooding and could impede future development. No development is usually allowed in a blue line stream. According to FEMA Map Number 06065C0144G; effective on 8/28/2008; the subject larger parcel is in Zone A. Flood Zone A is considered a special flood hazard area subject to inundations by the 1% annual chance of flood. Flood insurance is required.
Utility services:	Limited, few utilities.
Environmental:	Unknown: no Environmental Impact Report documentation was provided for review. However, according to the City of Banning General Plan, the subject larger parcel is Open Space – Resource zoned land. Prior to approval of any development, a habitat assessment may need to be completed to assess and determine if any mitigation would be required.
Soils and Geology:	Neither a soil nor a geotechnical report was made available to review. However, according to Riverside County General Plan, the subject larger parcel is in an Alquist-Priolo Special Study Zone. Site specific geologic reports are required for development within these zones to determine the precise location of and any required setbacks from any

active faults. Human occupancy structures are prohibited within 50 feet of either side of an active fault trace. In addition, the subject is located within or proximate in an area of high liquefaction susceptibility. Any development project may require a liquefaction report and mitigation measures.

Hazardous Materials: None known – appraisal assumes no hazardous materials.

Zoning: The subject larger parcel is governed by the Zoning and General Plan established and enforced by the City of Banning. The subject is zoned Open Space - Resources. According to the municipal code, the purpose of this zone is for open-resource conservation uses.

General Plan: The General Plan Land Use designation is Open Space and conforms to zoning.

Highest and Best Use as-vacant: "Highest and Best Use", as defined in the Dictionary of Real Estate Appraisal (7th Edition), Appraisal Institute, page 88, is as follows: "the reasonably probable use of property that results in the highest value. The four criteria that the highest and best use must meet are legal permissible, physical possibility, financial feasibility, and maximum productivity."

The subject larger parcel is traversed by the San Gorgonio Riverbed, which is noted as a blue line stream and the entire subject is located in a Flood Zone A, which is a special flood hazard area. The subject is also traversed by an Alquist-Priolo Special Study Zone and an area of high liquefaction susceptibility and may be in an area of potential protective environmental species. Therefore, the Highest and Best Use as vacant of the site is to continue to utilize the site for resource conservation use.

Purpose and Intended Use: This appraisal is provided for internal Edison valuation purpose of developing an opinion of the Market Value of fee simple interest for the potential disposition of the subject larger parcel. The intended users of this report are the SCE Land Management staff.

Effective Date: The effective date of the report is August 5, 2024.

Date of Inspection: No visual inspection was performed. Improvements noted on the subject larger parcel was gathered from aerial imagery from Google Earth Pro and LandVision.

Date of Report: The date of report is August 23, 2024.

Methodology:

In this appraisal, the most applicable approach is the Sales Comparison Approach. The Cost and Income Approach were not included as the subject property's portions of land right to be acquired is only improved with landscaping.

Sales Comparison Approach – The Sales Comparison Approach is based on the consideration of comparable land sales and is applicable to the valuation of the land rights to be acquired. Since only a portion of the land rights are proposed to be acquired (and valued), only the land will be analyzed.

Cost Approach – The Cost Approach is based in part on a replacement cost new of improvements less depreciation. Since the property right being appraised is an easement and does not impact any improvements (if present), the Cost Approach is considered not applicable or appropriate.

Income Capitalization Approach – The Income Approach is based on an analysis of income produced from the property and expenses to the property. Since only the underlying land value is considered, the Income Capitalization Approach is not applicable.

Therefore, the only applicable and appropriate method to estimate the value of the unencumbered fee land is the Sales Comparison Approach.

It is assumed that the easement being acquired is a permanent easement and the proposed electrical facilities would be in a location that is minimally disruptive to the land, while being necessary to the electrical system.

For the purposes of this appraisal, the unit of comparison used is price per acre. Considering the subject's size, this unit is a common unit of comparison used by buyers and sellers of land in this area.

ACQUISITION DATA

Area to be acquired: Permanent Easement, containing a strip of land measuring 54,280 square feet per SCE sources. (Please see the proposed easement location map in the Addenda of this report)

Location of acquisition
Within parcel: The proposed relocation area the strip of land for utility easement is situated along the northern portion of the subject larger parcel.

Severance damages: I have concluded that there is no severance damages as a result of the part acquired or the construction in the manner proposed. In the before and after analysis, there is no market evidence that the easement will negatively influence the current use of the land. Thus, the highest and best use of the remainder remains the same in the after condition as in the before condition.

Benefits: None noted.

VALUATION DATA

Scope of Work: The scope of this assignment is limited to:

- Aerial photos provided by LandVision. **No visual inspection was performed.**
- Consulted relevant public records for the subject larger parcel and sales and relevant portion of zoning ordinance with planning department representatives.
- Researched local real estate market activity for recent sales of vacant land of similar zoning to the subject. Where possible, comparable sales were verified when possible with a party to or a real estate broker involved in the transaction.
- Secondary sources such as CoStar, LoopNet, Realist, MLS, and brokers.
- Internet websites were relied upon for data. Supporting data is retained in the appraiser's work file.
- Interviewed realtors who are active in the subject's area and surrounding markets.
- Analyzed the most comparable sales data to determine an appropriate unitary value estimate for the "unencumbered fee land."
- The appraisal is for land only and does not include any improvements or structures.

SUMMARY OF LAND SALE COMPARABLES						
Sale No.	Property Identification	Sale Date Document No.	Grantor Grantee	Zoning	Land Area (Acre) Land Area (SF) Topography	Sale Price Sale Price/Acre Sale Price/SF
1	Mile High Ranch Rd. & Edgar Canyon Rd. Cherry Valley, CA APN: 0325-131-01, multiple	May-23 103528	Oak Glen Group, LLC Avocado Grove 1228, LLC	OG/RL-5 & RL-20	313.52 13,656,931 Level to Hilly	$800,000 $2,552 **$0.06**
2	Fern Ln. Colton, CA APN: 1178-371-18, multiple	Dec-22 402691	Ann L. Kenny Living Trust Riverside-Corona Resource Conservation District	RS-1	244.76 10,661,746 Steeply Sloping	$500,000 $2,043 **$0.05**
3	24374 California Ave. Hemet, CA APN: 455-090-024	Jan-22 16495	KD Reinhart Investors, LLC Rolanda Mendoza & Jennifer Vasquez	R-A-20/W-2	63.81 2,779,564 Level to Steeply Sloping	$160,000 $2,507 **$0.06**
4	24575 California Ave. Hemet, CA APN: 455-080-004, multiple	Jan-22 7104	KD Reinhart Investors, LLC Manuel Maldonado Urbina & Francisco Maldonado	R-5/W-2	300.89 13,106,768 Level to Steeply Sloping	$1,220,000 $4,055 **$0.09**
5	Reche Canyon Rd. Colton, CA APN: 259-100-029, multiple	Sep-21 571559	Reche Canyon Estates Donkeyland	R-A-5/R-A-20	600.56 26,160,394 Level to Steeply Sloping	$4,000,000 $6,660 **$0.15**
Subject Property	**San Gorgonio Riverbed** **Banning, CA** **APN: 531-310-005 thru -007, -019, -020 & 0324-291-01**	**---** **---**	**---** **---**	**OS-R**	**621.27** **27,062,521** **Rolling/Steep Hillside**	**---** **---**

Market Data discussion:

I researched the subject's market area, which included low-density/open-space land sales. Comparable land sales that cover a marketing time from September 2021 through May 2023 were reviewed in the market. These were the most recent and competitive sales in the subject market. The comparable sales range from $2,043 to $6,660 per acre. The sales range from 63.81 to 600.56 acres compared to the larger parcel size of 621.27 acres.

The comparables are located in the Inland Empire similar to the larger parcel. Each of the comparables have generally similar topography ranging from level to steeply sloping.

All of the comparables are reasonable value indicators for the larger parcel. However, Comparable No. 5 is considered superior due to its development potential, although this comparable was purchased for conservancy purposes.

Considering the subject's size, location, and site utility, it is my opinion that an appropriate value indicator for the subject larger parcel is $5,000 per acre, which is within the range of the market data.

Easement:

The typical appraisal method for valuing partial interests (as this easement), is the *before and after* method. In this method, the appraiser values the larger parcel before the taking (or easement) is implied, and then again after the easement is assumed to be in place. The difference (if any) is the amount attributed to the easement and is the value due to the owner. However, when lesser takings, or grants, are involved where such a before and after value would likely be nominal (due to impact, location, etc…) another approach and formula is often applied.

This formula basically estimates the value of the part taken (as a part of the whole), adds damages to the larger parcel (if any), subtracts special benefits (if any), and the difference is the value of the property interest in question. This method is based on the knowledge that property ownership is known as a "bundle of rights," where an ownership can be divided into separate sticks that comprise the "bundle." For example, certain sticks or rights represent the right to use the surface of the land, or the air rights around an airport, or the subsurface rights to acquire the right to run a pipeline. This latter method has been deemed appropriate and is used in this report. There were no damages or special benefits as a result of this easement.

Easement percentage of fee: Based on the use to which the easement will be put and the property rights imposed by the taking of the proposed easement, an appropriate percentage deduction to the previously concluded fee simple value of the property will be estimated. The loss in value has been quantified based on an apportionment of the impact on the subsurface, surface and air right estates of the property. The contributory value of the easement is roughly 75% of the concluded per unit value of the fee value for the property. Reasoning is provided as follows:

75% of fee: The "bundle of rights" of any ownership can be roughly divided into 3 areas: subsurface rights, surface rights and aerial rights. The percentages of fee commonly attributed to the areas are 25% subsurface, 50% surface, and 25% aerial. The proposed utility easement is for the relocation of a current distribution easement and will be located at the northern portion of the subject larger parcel. It is assumed this easement will restricts aerial, surface, and partial sub-surface property rights. The area is currently vacant conservation areas. Site improvements, if any, will be replaced in kind or protected in place. Given the foregoing, it is my opinion that the rights to be acquired equate to 75% of the underlying fee rights within the proposed easement area.

Reconciliation: The information presented here exhibit recent market activity and valid research for comparable land uses around the subject. Taking these factors into consideration, and weighing the appropriateness, quantity and quality of the data to support a value, it is my conclusion that the data is determined to be applicable comparable unit values of the unencumbered land.

Considering the information provided along with subject's location and physical characteristics, it is my opinion that the unit value indicator for the unencumbered interest (market value) is $5,000 per acre.

Easement areas: The easement area (dedication area) to be acquired consists of 54,280 square feet for the relocation of a current utility easement for distribution facilities. The basic components of the easement are configured for overhead power, distribution, and communication lines. The land rights granted can be adjusted to a lower percentage of fee in comparison to granting the entire bundle of rights. Typically, this easement would prohibit most of the uses of the property owner and

would constitute the majority of the bundle of rights. However, the location of the easement is adjacent to existing SCE facilities. Assuming that SCE will reserve the rights in the proposed document, the easement is believed to represent 75% of the value of the unencumbered fee.

Calculations:

							Per Sq.Ft.	Per Acre
Concluded Fee Simple Value Per Unit:							$ 0.11	$ 5,000
Easement Area to be acquired:							54,280	1.2461
Percent of Fee Simple Value:	75%						$ 0.08	$ 3,750
Concluded Just Compensation:	**1.2461**	**acre X**	**$5,000**	**X**	**75%**	**=**	**$4,673**	
Rounded:				**$4,700**				

Just Compensation: It is my opinion that the value of the easement, as of August 5, 2024, is:

$4,700
(FOUR THOUSAND SEVEN HUNDRED DOLLARS)

Kind Regards,



Paul J. Kim
CA Appraisal License #AG3000504
Expires December 2, 2024

Assumptions and Limiting Conditions

Standards Rule (S.R.) 2-1 of the *Standards of Professional Appraisal Practice of the Appraisal Institute* requires the appraiser to "clearly and accurately disclose any extraordinary assumption or limiting condition that directly affect" the report and indicate its impact on the value range. In compliance with S.R. 2-1 and to assist the reader in interpreting this report, such assumptions and limiting conditions are set forth as follows:

1. The term "Market Value," as used in this report, is defined as
   (a) The fair market value of the property taken is the highest price on the date of valuation that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for so doing, nor obliged to sell, and a buyer, being ready, willing, and able to buy but under no particular necessity for so doing, each dealing with the other with full knowledge of all the uses and purposes for which the property is reasonably adaptable and available.
   (b) The fair market value of property taken for which there is no relevant, comparable market is its value on the date of valuation as determined by any method of valuation that is just and equitable."[2]

2. The conclusions and opinions expressed in this report apply to the date of value set forth in this report. The dollar amount of any value opinion or conclusion rendered or expressed in this report is based upon the purchasing power of the American dollar existing on the date of value.

3. The appraiser assumes no responsibility for economic, physical, or demographic factors that may affect or alter the opinions in this report if said economic, physical, or demographic factors were not present as of the date of the letter of transmittal accompanying this report. The appraiser is not obligated to predict future political, economic, or social trends.

4. In preparing this report, the appraiser was required to rely on information furnished by other individuals or found in previously existing records and/or documents. Unless otherwise indicated, such information is presumed to be reliable. However, no warranty, either expressed or implied, is given by the appraiser for the accuracy of such information and the appraiser assumes no responsibility for information relied upon later found to have been inaccurate. The appraiser reserves the right to make such adjustments to the analyses, opinions, and conclusions set forth in this report as may be required by consideration of additional data or more reliable data that may become available.

5. No opinion as to the title of the subject properties is rendered. Data related to ownership and legal description was provided by SCE sources and is considered reliable. Title is assumed marketable, free, and clear of all liens, encumbrances, easements, and restrictions except those specifically discussed in the report. The properties are valued assuming them to be under responsible ownership and competent management and available for their highest and best use.

6. The appraiser assumes no responsibility for hidden or unapparent conditions of the properties, subsoil, ground water, or structures that render the subject properties more or less valuable. No responsibility is assumed for arranging for engineering, geologic, or environmental studies that may be required to discover such hidden or unapparent conditions.

[2] California Code of Civil Procedure §1263.320.

7. The appraiser has not been provided any information regarding the presence of any material or substance on or in any portion of the subject properties or improvements thereon, which material or substance possesses or may possess toxic, hazardous, and/or other harmful and/or dangerous characteristics. Unless otherwise stated in the report, the appraiser did not become aware of the presence of any such material or substance during the appraiser's inspection of the subject properties. However, the appraiser is not qualified to investigate or test for the presence of such materials or substances. The presence of such materials or substances may adversely affect the value range of the subject properties. The value estimated in this report is predicated on the assumption that no such material or substance is present on or in the subject properties on in such proximity; thereto that it would cause a loss in value. The appraiser assumes no responsibility for the presence of any such substance or material on or in the subject properties, nor for any expertise or engineering knowledge required to discover the presence of such substance or material. Unless otherwise stated, this report assumes the subject properties are in compliance with all federal, state, and local environmental laws, regulations, and rules.

8. Unless otherwise stated, the subject properties are valued assuming them to be in full compliance with all applicable zoning and land use regulations and restrictions.

9. Unless otherwise stated, the properties are valued assuming that all required licenses, permits, certificates, consents or other legislative and/or administrative authority from any local, state, or national government or private entity or organization have been or can be obtained or renewed for any use on which the value estimate contained in this report is based.

10. No engineering survey was made by the appraiser. Except as specifically stated, data relative to size and area of the subject properties was taken from sources considered reliable and no encroachment of the subject properties are considered to exist.

11. No opinion is expressed as to the value of subsurface oil, gas, or mineral rights or whether the properties are subject to surface entry for the exploration or removal of such materials, except as is expressly stated.

12. Maps, plats, and exhibits included in this report are for illustration only to serve as an aid in visualizing matters discussed within the report. They should not be considered as surveys or relied upon for any other purpose, nor should they be removed from, reproduced, or used apart from this report.

13. No opinion is intended to be expressed for matters that require legal expertise or specialized investigation or knowledge beyond that customarily employed by real estate appraisers.

14. The distribution, if any, of the total valuation in this report between land and improvements applies only under the stated program of utilization. The separate allocations for land and improvements must not be used in conjunction with any other report and are invalid if so used.

15. Possession of this report, or a copy of it, does not carry with it the right of publication. Without the written consent of the appraiser, this report may not be used for any purpose by any person other than the party to whom it is addressed. In any event, this report may be used only with proper written qualification and only in its entirety for its stated purpose.

16. Testimony or attendance in court or at any other hearing is not required by reason of rendering this appraisal unless such arrangements are made a reasonable time in advance of said hearing. Further, unless otherwise indicated, separate arrangements shall be made concerning compensation for the appraiser's time to prepare for and attend any such hearing.

17. In the event that appraiser is subpoenaed for a deposition or judicial or administrative proceeding and is ordered to produce the appraisal report and files, appraiser shall immediately notify the client. Appraiser shall appear at the deposition or judicial or administrative hearing with the appraisal report and files and answer all questions unless client provides appraiser with legal

counsel who instructs appraiser not to appear, instructs appraiser not to produce certain documents, or instructs appraiser not to answer certain questions. It shall be the responsibility of client to obtain a protective order.

18. The Americans with Disabilities Act (ADA) became effective on January 26, 1992. I have not made a specific compliance survey and analysis of the properties to determine whether or not they are in conformity with the various detailed requirements of the ADA. It is possible that a compliance survey of the properties, together with a detailed analysis of the requirements of the ADA, could reveal that the properties are not in compliance with one or more of the requirements of the Act. If so, this could have a negative effect on the properties' value.

19. Where the value of the various components of the property are shown separately, the value of each is segregated only as an aid to better estimating the value of the whole; the independent value of the various components may, or may not, be the market value of the component.

20. The appraiser is not qualified to detect the presence of any threatened or endangered species. The client is urged to retain an expert in this field if there is any question as to the existence of any threatened or endangered species. The value estimated in the report assumes that no threatened or endangered species is present on the property.

21. A Limited Environmental Review was not provided to the appraiser by the client. The appraiser is not an expert in biological or environmental matters and strongly suggests that the client and or future user of the subject site obtain a biological and environmental assessment prior to any activity on the property. The value conclusion assumes that property in compliance with all local, regional, and State environmental approvals, including those required by CEQA through California Public Utilities Code 851. The appraiser assumes no responsibility for any failure of obtaining proper environmental clearances.

CERTIFICATION

I certify that, to the best of my knowledge and belief:

The statements of fact contained in this report are true and correct.

The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.

I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.

I have performed no services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.

I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.

My engagement in this assignment was not contingent upon developing or reporting predetermined results.

My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.

My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice*.

I have not made a personal inspection of the property that is the subject of this report.

No one provided significant real property assistance to the persons signing this report.

The reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute.

The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.

As of the date of this report, I have completed the requirements of the Continuing Education Program of the Bureau of Real Estate Appraisers.

Kind Regards,



Paul J. Kim
CA Appraisal License #AG3000504
Expires December 2, 2024

Date
August 23, 2024

Addenda

RECORDING REQUESTED BY

SOUTHERN CALIFORNIA EDISON

An *EDISON INTERNATIONAL* Company

WHEN RECORDED MAIL TO

SOUTHERN CALIFORNIA EDISON COMPANY

2 INNOVATIONWAY, 2ND FLOOR
POMONA, CA 91768

ATTN: TITLE & REAL ESTATE SERVICES

SPACE ABOVE THIS LINE FOR RECORDER'S USE

GRANT OF EASEMENT

SCE Doc No.:522085
V&LM File No.: ACQ203857835

DOCUMENTARY TRANSFER TAX $ NONE (VALUE AND CONSIDERATION LESS THAN $100.00)	DISTRICT	SERVICE ORDER	SERIAL NO.	MAP SIZE
	REDLANDS	801989664	72814A	053-110, 052-100
_____ SCE Company SIG. OF DECLARANT OR AGENT DETERMINING TAX FIRM NAME	FIM: 676-1800-2, 676-1806-2 & 672-1800-2 APN: 531-310-006	APPROVED: VEGETATION & LAND MANAGEMENT	BY SF	DATE 10/20/2020

THE CITY OF BANNING, a municipal corporation, (hereinafter referred to as "Grantor"), hereby grants to SOUTHERN CALIFORNIA EDISON COMPANY, a corporation, its successors and assigns (hereinafter referred to as "Grantee"), an easement and right of way to construct, use, maintain, operate, alter, add to, repair, replace, reconstruct, inspect and remove at any time and from time to time overhead electrical supply systems and communication systems (hereinafter referred to as "systems"), consisting of poles, guy wires and anchors, crossarms, wires and other appurtenant fixtures and/or equipment necessary or useful, for distributing electrical energy and for transmitting intelligence, data and/or communications (eg. through fiber optic cable), in, on, over, along and across that certain real property in the City of Banning, County of Riverside, State of California, described as follows:

That portion of the Southwest quarter of Section 4, Township 2 South, Range 1 East, San Bernardino Base and Meridian, according to the Official Plat thereof, in the City of Banning, County of San Bernardino, State of California, in the Office of the County Recorder of said County.

The said right of way strip is more particularly described on the Exhibit "A" and more particularly depicted on the Exhibit "B", both attached hereto and by this reference made a part hereof.

Grantor further grants, bargains, sells and conveys unto the Grantee the right of assignment, in whole or in part, to others, without limitation, and the right to apportion or divide in whatever manner Grantee deems desirable, any one or more, or all, of the easements and rights, including but not limited to all rights of access and ingress and egress granted to the Grantee by this Grant of Easement.

Grantor hereby also grants to Grantee, its successors and assigns, and its and their contractors, agents and employees, the right of free access to said systems and every part thereof, at all times, for the purpose of exercising the rights herein granted, and the right to clear and to keep clear the above described real property, free from explosives, buildings, equipment, brush, combustible material and any and all other obstructions of any kind, and the right to trim or remove any tree or shrub which, in the opinion of Grantee, may endanger said systems, or any part thereof, or interfere with the exercise of the rights herein granted.

(THIS SPACE LEFT INTENTIONALLY BLANK; SIGNATURE PAGE TO FOLLOW)

Grant of Easement
City of Banning to
S. C. E. Co., a corp.
Serial No. 72814A
V&LM File No.: ACQ203857835

EXECUTED this _____ day of _____, 20____.

CITY OF BANNING, a municipal corporation

By:_____

Name:_____

Title:_____

By:_____

Name:_____

Title:_____

Grant of Easement
City of Banning to
S. C. E. Co., a corp.
Serial No. 72814A
V&LM File No.: ACQ203857835

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of _____)

On _____ before me, _____, a Notary Public, personally appeared _____, who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

Grant of Easement
City of Banning to
S. C. E. Co., a corp.
Serial No. 72814A
V&LM File No.: ACQ203857835

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of _____)

On _____ before me, _____, a Notary Public, personally appeared _____, who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

EXHIBIT "A"
LEGAL DESCRIPTION
SERIAL: 72814A
APN: 531-310-006

THAT PORTION OF REAL PROPERTY SITUATED IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, BEING A STRIP OF LAND 30.00 FEET WIDE, 15.00 FEET ON EACH SIDE, BEING A PORTION OF THAT CERTAIN PARCEL 8 IN THE SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 2 SOUTH, RANGE 1 EAST, SAN BERNARDINO BASE AND MERIDIAN, PER COURT CASE RECORDED FEBRUARY 28, 1967 AS INSTRUMENT NO. 1967-16687, OFFICIAL RECORDS OF RIVERSIDE COUNTY, THE CENTERLINE OF SAID STRIP DESCRIBED AS FOLLOWS:

30.00 FOOT WIDE 33kV DISTRIBUTION EASEMENT:

COMMENCING AT A 2 INCH IRON PIPE WITH "STOCKHAM" CAST CAP, STAMPED "USIS" MARKING THE SOUTHEAST CORNER OF SAID SECTION 4; THENCE NORTH 81°39'16" WEST, 5415.19 FEET TO THE **TRUE POINT OF BEGINNING,** HAVING A GRID COORDINATE OF 2316243.61 NORTH AND 6366452.15 EAST; THENCE NORTH 03°33'26" EAST, 286.06 FEET TO A POINT HAVING A GRID COORDINATE OF 2316529.12 NORTH AND 6366469.90 EAST, THENCE NORTH 30°03'42" EAST, 238.38 FEET TO A POINT HAVING A GRID COORDINATE OF 2316735.44 NORTH AND 6366589.31 EAST, THENCE NORTH, 84°51'54" EAST, 247.59 FEET TO A POINT HAVING A GRID COORDINATE OF 2316757.60 NORTH AND 6366835.91 EAST, THENCE NORTH 86°25'30" EAST, 264.66 FEET TO A POINT HAVING A GRID COORDINATE OF 2316774.10 NORTH AND 6367100.05 EAST, THENCE NORTH 85°58'15" EAST, 234.44 FEET TO A POINT HAVING A GRID COORDINATE OF 2316790.57 NORTH AND 6367333.92 EAST, THENCE SOUTH 55°17'52" EAST, 245.20 FEET TO A POINT HAVING A GRID COORDINATE OF 2316650.98 NORTH AND 6367535.50 EAST, THENCE SOUTH 58°24'36" EAST, 293.00 FEET TO A POINT IN THE NORTHWESTERLY LINE OF THAT CERTAIN 50.00 FOOT WIDE EASEMENT TO SOUTHERN CALIFORNIA EDISON COMPANY FOR ELECTRICAL SUPPLY SYSTEMS, PER DOCUMENT RECORDED AUGUST 16, 1984 AS INSTRUMENT NO. 1984-179720 OF OFFICIAL RECORDS, SAID POINT ALSO BEING THE **POINT OF TERMINATION,** HAVING A GRID COORDINATE OF 2316497.49 NORTH AND 6367785.08 EAST.

CONTAINING 54,280 SQUARE FEET OR 1.25 ACRES, MORE OR LESS.

THE SIDELINES OF SAID STRIP SHALL BE LENGTHENED OR SHORTENED TO ORIGINATE IN THE WESTERLY LINE OF PARCEL 8 PER COURT CASE RECORDED FEBRUARY 28, 1967 AS INSTRUMENT NO. 1967-16687, OFFICIAL RECORDS OF RIVERSIDE COUNTY, AND TERMINATE IN THE NORTHWESTERLY LINE OF THAT CERTAIN 50.00 FOOT WIDE EASEMENT TO SOUTHERN CALIFORNIA EDISON

EXHIBIT "A"
LEGAL DESCRIPTION
SERIAL: 72814A
APN: 531-310-006

COMPANY FOR ELECTRICAL SUPPLY SYSTEMS, PER DOCUMENT RECORDED AUGUST 16, 1984 AS INSTRUMENT NO. 1984-179720 OF OFFICIAL RECORDS.

ALL FOUND MONUMENT DESCRIPTIONS AND BASIS OF BEARINGS ARE AS SHOWN ON EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF.

THIS DESCRIPTION IS NOT INTENDED FOR USE IN THE CONVEYANCE OF LAND IN VIOLATION OF THE SUBDIVISION MAP ACT OF THE STATE OF CALIFORNIA.
THIS LEGAL DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECTION.



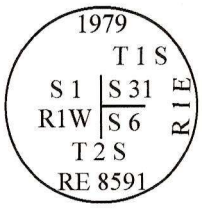
2/4/2021

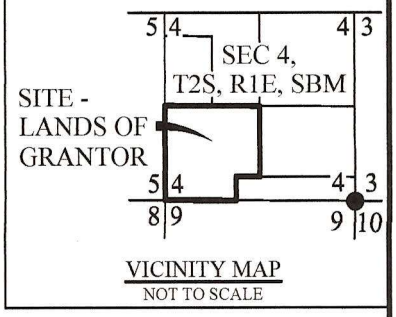
DENNIS W. ROSE, P.L.S. 9045 DATE
EXPIRES: 09/30/2021

EXHIBIT "B"

PLAT TO ACCOMPANY LEGAL DESCRIPTION
SERIAL: 72814A
APN: 531-310-006

PORTION OF PARCEL 8, PER COURT CASE RECORDED FEBRUARY 28, 1967 AS INSTRUMENT NO. 1967-16687, OFFICIAL RECORDS OF RIVERSIDE COUNTY



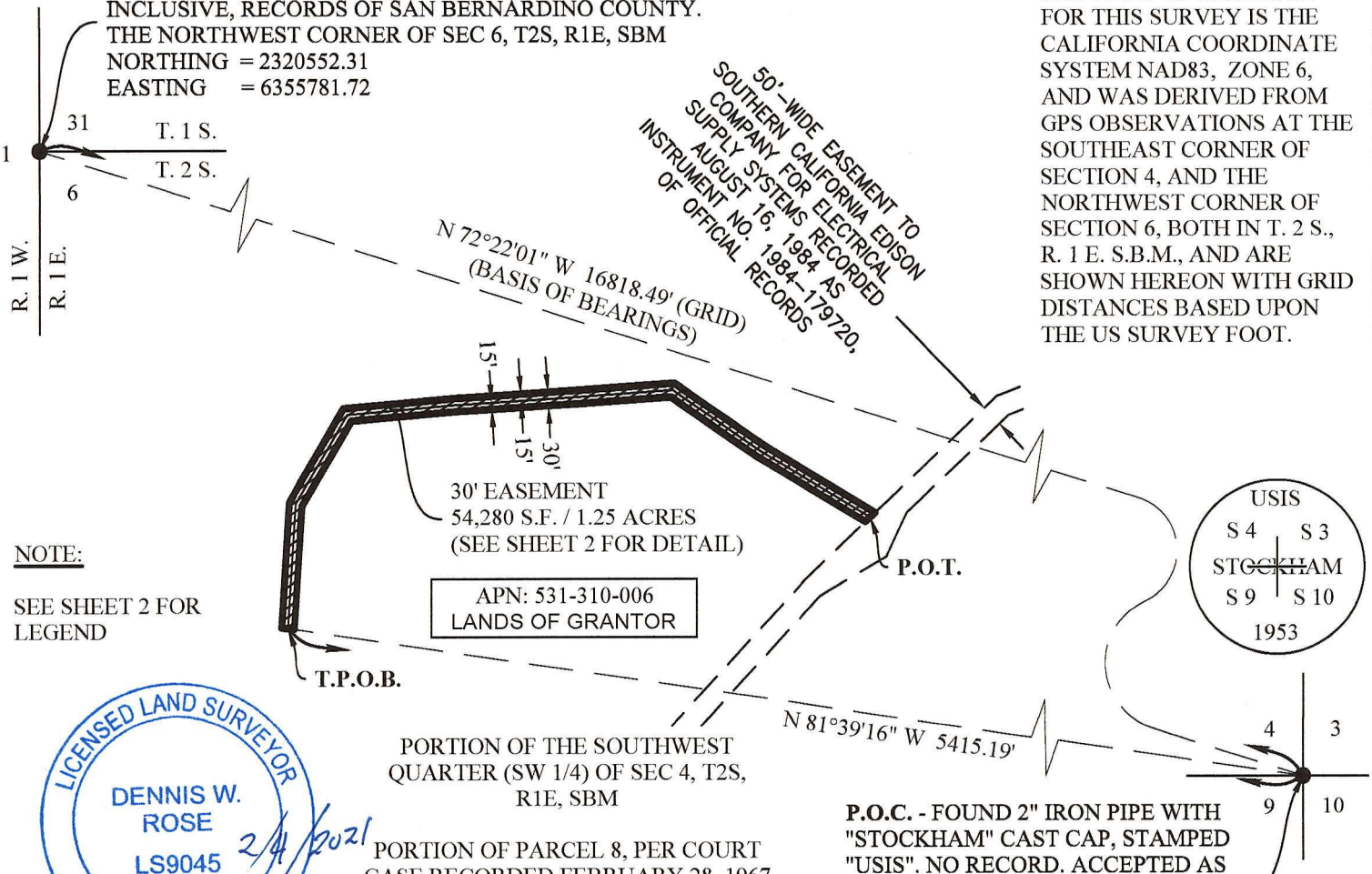


VICINITY MAP
NOT TO SCALE

FOUND 2" IRON PIPE WITH BRASS CAP, STAMPED "RE 8591" PER PARCEL MAP 19164, BOOK 241, PAGES 87-89, INCLUSIVE, RECORDS OF SAN BERNARDINO COUNTY.
THE NORTHWEST CORNER OF SEC 6, T2S, R1E, SBM
NORTHING = 2320552.31
EASTING = 6355781.72

BASIS OF BEARINGS:

THE BASIS OF BEARINGS FOR THIS SURVEY IS THE CALIFORNIA COORDINATE SYSTEM NAD83, ZONE 6, AND WAS DERIVED FROM GPS OBSERVATIONS AT THE SOUTHEAST CORNER OF SECTION 4, AND THE NORTHWEST CORNER OF SECTION 6, BOTH IN T. 2 S., R. 1 E. S.B.M., AND ARE SHOWN HEREON WITH GRID DISTANCES BASED UPON THE US SURVEY FOOT.



NOTE:

SEE SHEET 2 FOR LEGEND

PORTION OF THE SOUTHWEST QUARTER (SW 1/4) OF SEC 4, T2S, R1E, SBM

PORTION OF PARCEL 8, PER COURT CASE RECORDED FEBRUARY 28, 1967 AS INSTRUMENT NO. 1967-16687, OFFICIAL RECORDS OF RIVERSIDE COUNTY

P.O.C. - FOUND 2" IRON PIPE WITH "STOCKHAM" CAST CAP, STAMPED "USIS". NO RECORD. ACCEPTED AS THE SOUTHEAST CORNER OF SEC 4, T2S, R1E, SBM
NORTHING = 2315457.63
EASTING = 6371810.00

LICENSED LAND SURVEYOR
DENNIS W. ROSE
LS9045
2/4/2021
STATE OF CALIFORNIA

02/04/2021
DENNIS W. ROSE, PLS 9045 DATE

0 400 800
SCALE IN FEET

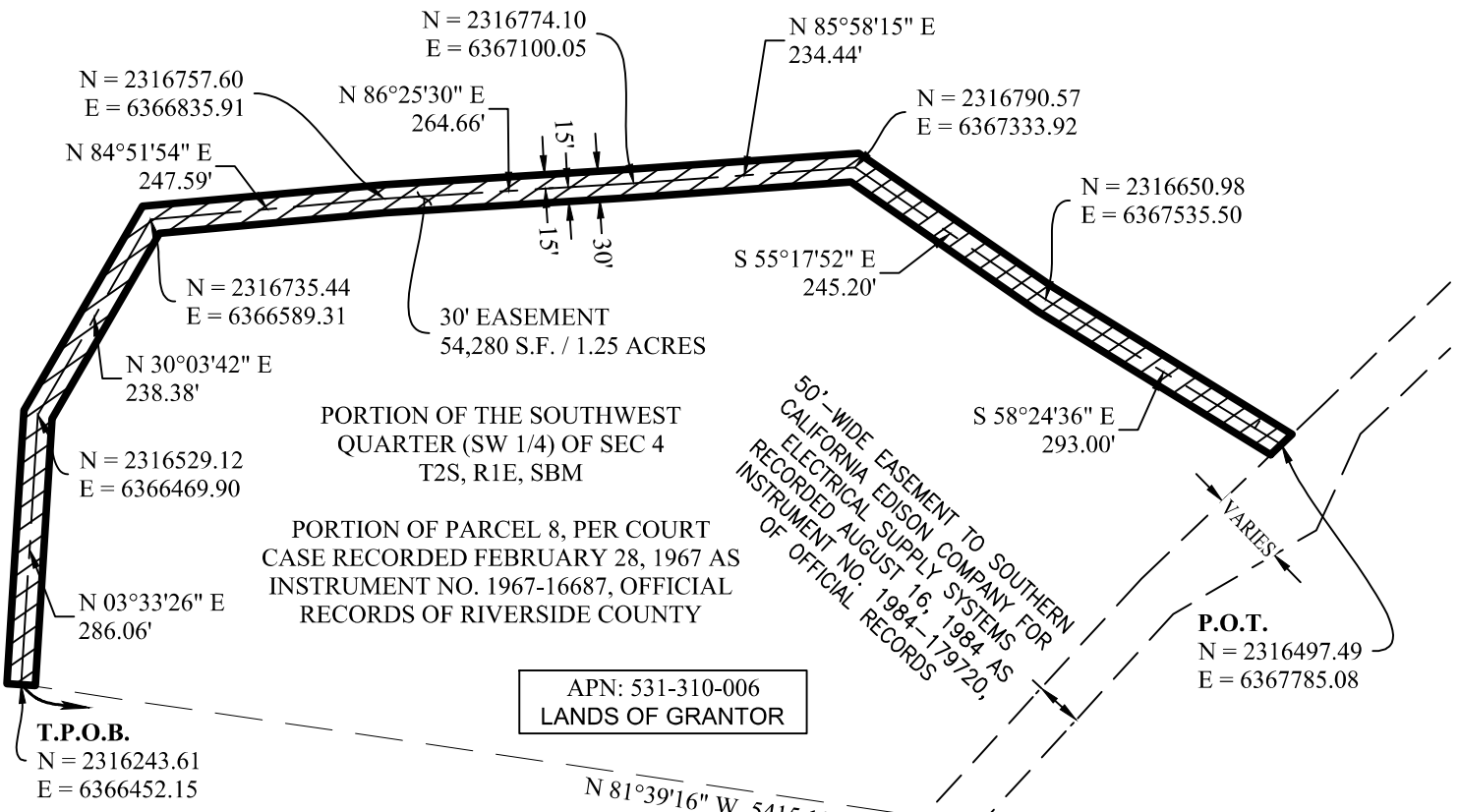
SHEET 1 OF 2

PROJECT NAME: APPLE FIRE RESTORATION				M.S.: 052-110 & 053-110
ORDER NO.: 801989664	NOT. NO.: 203857835	CITY: BANNING	COUNTY: RIVERSIDE	STATE: CA
SURVEYED BY: G. McKELLAR (GSI)		SCE F.B. REF.: N/A	DATE: 02/04/2021	SOUTHERN CALIFORNIA EDISON® An EDISON INTERNATIONAL® Company
DRAWN BY: R. FOREST		MAP REF.: N/A		
CHECKED BY: D. ROSE	TRES: S. FLORES	SERIAL NO.: 72814A	FILE NAME: SCE20129-EASEMENT EXHIBIT B.DWG	

EXHIBIT "B"

PLAT TO ACCOMPANY LEGAL DESCRIPTION
SERIAL: 72814A
APN: 531-310-006

PORTION OF PARCEL 8, PER COURT CASE RECORDED FEBRUARY 28, 1967 AS INSTRUMENT NO. 1967-16687, OFFICIAL RECORDS OF RIVERSIDE COUNTY



LEGEND:

	EASEMENT 54,280 S.F. / 1.25 ACRES
●	FOUND MONUMENT
S.F.	SQUARE FEET
P.O.C.	POINT OF COMMENCEMENT
P.O.T.	POINT OF TERMINATION
T.P.O.B.	TRUE POINT OF BEGINNING
— — —	EXISTING EASEMENT
———	LANDS OF GRANTOR
———	SECTION LINE
—— ——	TIE LINE

SHEET 2 OF 2

PROJECT NAME: APPLE FIRE RESTORATION				M.S.: 052-110 & 053-110
ORDER NO.: 801989664	NOT. NO.: 203857835	CITY: BANNING	COUNTY: RIVERSIDE	STATE: CA
SURVEYED BY: G. McKELLAR (GSI)		SCE F.B. REF.: N/A	DATE: 02/04/2021	SOUTHERN CALIFORNIA EDISON An EDISON INTERNATIONAL Company
DRAWN BY: R. FOREST		MAP REF.: N/A		
CHECKED BY: D. ROSE	TRES: S. FLORES	SERIAL NO.: 72814A	FILE NAME: SCE20129-EASEMENT EXHIBIT E	

Proposed SCE Easement Location



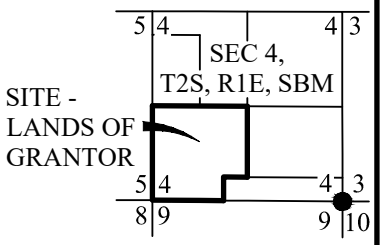
1" = 4608 ft	Sub Title	10/31/2024	City of BANNING

This map may represents a visual display of related geographic information. Data provided here on is not guarantee of actual field conditions. To be sure of complete accuracy, please contact the responsible staff for most up-to-date information.

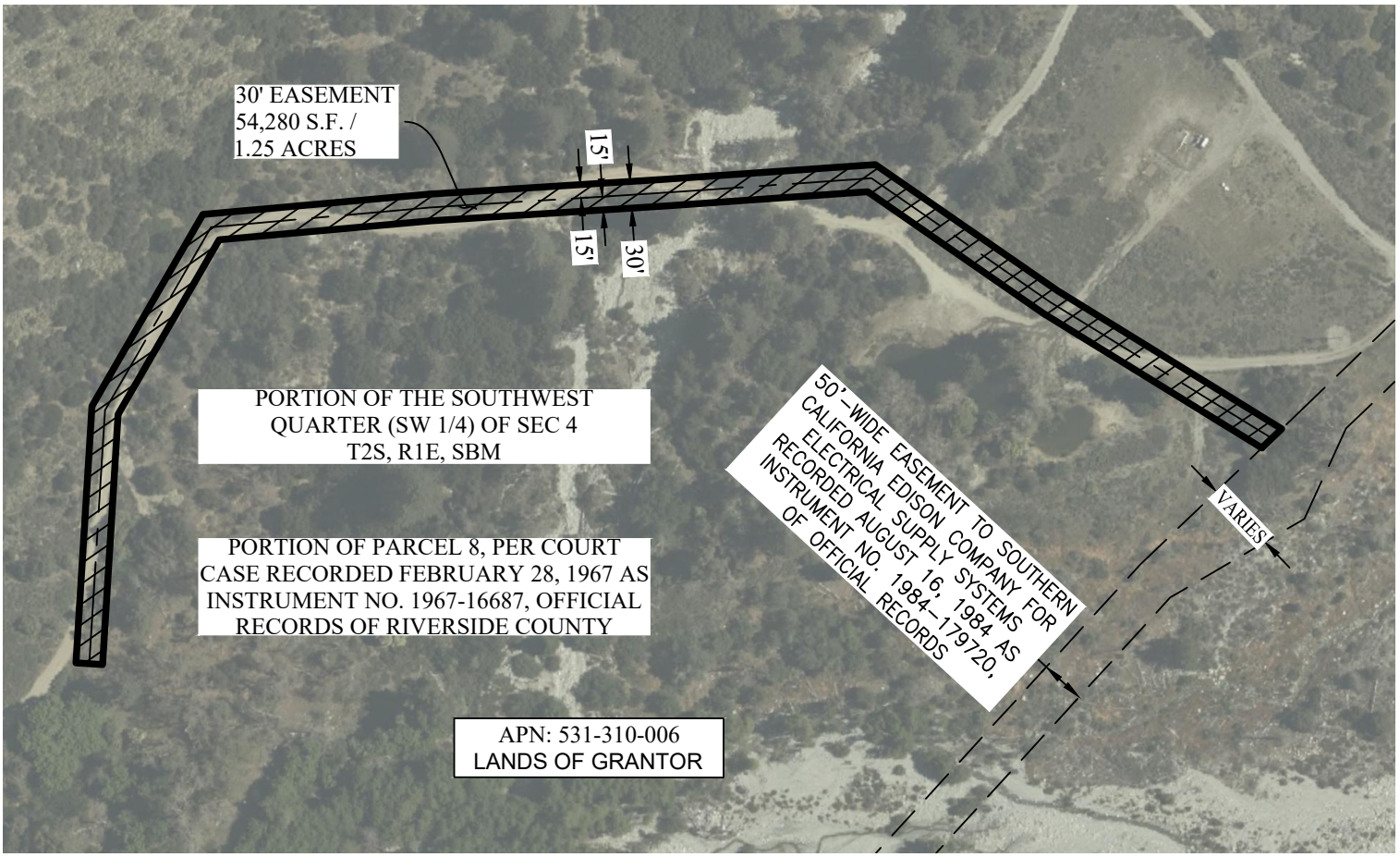
EXHIBIT MAP

SERIAL: 72814A
APN: 531-310-006

PORTION OF PARCEL 8, PER COURT CASE RECORDED FEBRUARY 28, 1967 AS INSTRUMENT NO. 1967-16687, OFFICIAL RECORDS OF RIVERSIDE COUNTY



VICINITY MAP
NOT TO SCALE



LEGEND:

- EASEMENT 54,280 S.F. / 1.25 ACRES
- S.F. SQUARE FEET
- EXISTING EASEMENT
- LANDS OF GRANTOR
- SECTION LINE

N

0 200 400
SCALE IN FEET

SHEET 1 OF 1

PROJECT NAME: APPLE FIRE RESTORATION				M.S.: 052-110 & 053-110
ORDER NO.: 801989664	NOT. NO.: 203857835	CITY: BANNING	COUNTY: RIVERSIDE	STATE: CA
SURVEYED BY: G. McKELLAR (GSI)		SCE F.B. REF.: N/A	DATE: 10/23/2020	SOUTHERN CALIFORNIA EDISON An EDISON INTERNATIONAL Company
DRAWN BY: R. FOREST		MAP REF.: N/A		
CHECKED BY: D. ROSE	TRES: S. FLORES	SERIAL NO.: 72814A	FILE NAME: SCE20129-EASEMENT IMAGE EXHIBIT.DWG	

CITY OF BANNING
STAFF REPORT

TO: **CITY COUNCIL**

FROM: **Douglas Schulze, City Manager**

PREPARED BY: **A'ja Wallace,**
Lincoln Bogard, Administrative Services Director

MEETING DATE: **November 12, 2024**

SUBJECT: **Consideration of Resolution 2024-181, Amending the Classification and Compensation Plan**

RECOMMENDATION:

Adopt Resolution 2024-181.

BACKGROUND:

It is necessary to amend the City's Classification & Compensation Plan from time to time to maintain a current plan that reflects budget amendments, organizational structure, and department needs.

Past City Council resolutions have identified the necessity to maintain a current Classification & Compensation Plan that reflects the nature of work and organizational structure, that the plan is updated to reflect both market changes and appropriate compensation for work performed.

JUSTIFICATION:

Proposed changes to the Classification and Compensation plan include:

Administrative Services-Finance

Un-fund and Reclassify the Budget and Financial Analyst (Job Code 2009) Range T79 to a Sr. Accountant (Job Code 2051) Range G68. This will add a technical position within the Finance Department. The reclassification will create a cost savings within the general fund.

Administrative Services-Purchasing

Reclassify the Purchasing Manager (Job Code 2047) Range T85 to a Chief Procurement Officer (Job Code 2058) Range T85. The Municipal Code 3.24 in addition to the B-30 Procurement Policy makes mention to a the "Purchasing Officer" throughout the Code and Policy. Staff is requesting Council to update the title to match what is documented.

FISCAL IMPACT:

Position/Range	Proposed Salary Range	Current Salary Range	Proposed Based Wage Difference
Budget and Financial Analyst/T79	$ 0.00	$ 112,125	$ 112,125.00
Sr. Accountant/G68	$ 81,711.00	$ 0.00	$ -87,711.00

Purchasing Manager/T85	$ 0.00	$ 136,747.00	$ 136,747.00
Chief Procurement Officer/T85	$ 136,747.00	$ 0.00	$ -136,747.00
Total Annual Fiscal Impact			**$ 24,414 Savings**

ALTERNATIVES:

Do not adopt Resolution 2024-181 and provide alternative direction to staff.

BUDGETED?:

Yes

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. Resolution 2024-181, Class and Comp.docx
2. Exhibit A - Senior Accountant_2024.pdf
3. Exhibit B - Chief Procurement Officer_2024.pdf

RESOLUTION 2024-181

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AMENDING THE CLASSIFICATION & COMPENSATION PLAN FOR THE CITY OF BANNING

WHEREAS, it is necessary to amend the City's Classification & Compensation Plan from time to time to maintain a current plan that reflects the nature of work, organizational structure, or otherwise; and

WHEREAS, the proposed reclassification of the Budget and Financial Analyst to a Sr. Accountant will provide a cost savings and add a technical position to the Finance Department; and

WHEREAS, the proposed reclassification of the Purchasing Manager to a Chief Procurement Officer per mention throughout the Municipal Code and B-30 Policy; and

WHEREAS, changes to job descriptions, job titles, and/or pay ranges require City Council approval.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The City Council approves the following updated position control for Fiscal Year 2024-25: (1) reclassification of the Budget and Financial Analyst (unfund) to Sr. Accountant (G68). (2) reclassification of the Purchasing Manager (T85) to the Chief Procurement Officer (T85)

SECTION 2. The City Council authorizes the City Manager, or designee, to make necessary budget adjustments, appropriations, and transfers related to this resolution.

SECTION 3. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 12th day of November 2024.

Alberto Sanchez, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

Serita R. Young, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2024-181, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 12th day of November 2024 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

Exhibit A
Sr. Accountant Job Description

Exhibit B
Chief Procurement Officer Job Description

JOB DESCRIPTION

TITLE: Senior Accountant	**JOB CODE:** 2051
DEPARTMENT: Finance Department	**EFFECTIVE DATE:** 11/12/2024
REPORTS TO: Deputy Finance Director	**FLSA STATUS:** Non-Exempt
SUPERVISES: n/a	**UNION STATUS:** Represented
SALARY RANGE: G68 ($70,250.69-$95,040.58)	

JOB PURPOSE/SUMMARY

Under the general direction of the Deputy Finance Director, performs a full range of complex, professional accounting and financial analysis in the preparation and maintenance of the City's financial records, reports and systems; provides a basis for sound operational and financial planning through financial review, analysis, monitoring, reconciliation and maintenance of assigned financial accounts, programs and activities; and performs related duties as assigned.

ABOUT THE CITY OF BANNING

The City of Banning is located in the San Gorgonio Pass area of Southern California. The community of over 30,000 people is diverse with income levels slightly lower than other areas of Riverside County. However, growth and development is occurring rapidly, which will create new jobs, increase the population and raise income levels. Our employees are the most important asset in preserving our Proud History, Creating a Prosperous Tomorrow, and in responding to the community's needs. The City provides competitive salaries, outstanding benefits and professional growth opportunities.

CITY VISION

The City of Banning promotes and supports a high quality of life that ensures a safe and friendly environment, fosters new opportunities and provides responsible, fair treatment to all and is the pride of its citizens.

Core Values - R.E.A.D.Y.

- Respectful
- Enthusiastic
- Accountable
- Dedication
- Yes Minded

PERFORMANCE EXPECTATIONS

- **Leadership:** Contributes to a positive work culture consistent with the City of Banning Leadership Philosophy, actively welcomes new approaches to public service and supports change and process improvements at all levels within the organization.
- **Teamwork:** Demonstrates ability and willingness to work collaboratively with a team.
- **Communication:** Communicates effectively with peers, supervisors, subordinates, and individuals to who service is provided.

ESSENTIAL FUNCTIONS

The following duties ARE NOT intended to serve as a comprehensive list of all duties performed by all employees in this classification. Shown are duties intended to provide a representative summary of the major duties and responsibilities. Incumbent(s) may not be required to perform all duties listed and may be required to perform additional, position-specific duties.

- Performs complex and technical accounting work in the maintenance and analysis of records of revenues, expenditures and special program/project funds; prepares analyses, schedules, summaries, journal entries and reconciliations to produce accurate periodic financial reports in accordance with GAAP.
- Performs warrant review activities; ensures proper accounting for purchase requisitions, invoices, claims, fixed assets and sales tax accruals.
- Performs grant financial administration, monitoring, and reporting; coordinates with other department program managers and the grant manager to gather grant information, update grant records, research information, and provide financial data to aid program managers in managing their grants. Prepares the Schedule of Expenditures of Federal Awards (SEFA) for annual Single Audit.
- Serves as liaison with accounting and fiscal personnel from other departments by responding to questions and issues; monitors department's budgets and expenditures.
- Participates in the development of the City's annual comprehensive budget; ensures that the development of the City's annual budget adheres to established accounting procedures.
- Reconciles a variety of financial ledgers and records; participate in the compilation and preparation of financial statements, general and subsidiary ledgers and supporting schedules; researches and resolves discrepancies.
- Prepares a variety of financial statistical reports related to various City accounts, fixed assets and spending practices; conducts month and year end closing duties.
- Reviews and reconciles monthly bank statements and cash receipts to the general ledger. Maintains a variety of City accounts including subsidiary accounts, investment accounts and grant accounts; prepare cash transfers and loans between funds and accounts; ensures all activities are in compliance with accounting principles and standards
- Maintains a variety of City accounts including subsidiary accounts, investment accounts and grant accounts; prepare cash transfers and loans between funds and accounts; ensures all activities are in compliance with accounting principles and standards.
- Participates in the development of the City's biennial comprehensive budget; ensures that the development of the City's budget adheres to established accounting procedures. Performs duties in monitoring the City budget; ensures proper authorization and journaled transactions; tracks expenditures and resolves discrepancies; provides assistance to City departments in budget preparation
- Participate in the inventory of the City's electric, water, wastewater, and fleet divisions and operations.
- Oversee the submission of financial and accounting reports required by outside agencies; answer related questions as needed.
- Coordinates and assists with annual and special audits; prepares audit schedules; analyzes, reconciles and prepares revenue and expenditure accounts and prepares year-end adjusting entries, accruals and closing entries. May act as a lead accountant in the audit of City financial records, statements and reports.
- Provides guidance to other accounting support staff in performing accounting entries; works directly with staff from other departments to resolve technical accounting issues and problems.
- Monitor program compliance with laws, rules and regulations governing municipal accounting and public finance services.
- Maintain awareness of new development in the fields of municipal accounting and public finance; incorporate new development as appropriate into programs.
- Performs other duties as assigned or required.

KNOWLEDGE OF:

- Generally accepted accounting principles
- Theory, principles and practices of municipal finance, budgeting, auditing, and accounting, including audit principles and practices
- Principles and practices of public finance and financial reporting.
- Recent development, current literature and information related to municipal accounting and public finance.
- Modern office equipment including computers and supporting work processing and spreadsheet applications.
- Pertinent Federal, State and local laws, codes and ordinances.
- Various types of grants and related compliance requirements.
- Laws regulating public finance, fiscal operations, and governmental financial reporting at the federal, state, and/or local level.
- City policies and procedures for cash control, accounts payable processing, and payroll reporting.
- Accounting Standards and requirements applicable to City operations and funding sources.
- The uses of spreadsheets and other standard financial and business software.
- Standard office procedures and practices.
- Safe driving principles and practices

Ability to:

- Perform professional level accounting duties.
- Coordinate municipal accounting and public finance programs.
- Analyze, post, balance and reconcile financial data ledgers and accounts.
- Work independently and/or with a team.
- Analyze data and draw logical conclusions
- Interpret and apply related laws, ordinances, rules, regulations, policies, and procedures.
- Generate journal entries and inter-departmental transfers.
- Review and interpret financial reports and transactions.
- Prepare a variety of financial reports.
- Maintain a detailed budget for assigned divisions and programs.
- Interpret and explain City policies and procedures.
- Communicate clearly and concisely, both orally and in writing.
- Operate office equipment including computers and supporting word processing and spreadsheet applications.
- Establish and maintain effective working relationships with those contacted in the course of work.
- Maintain physical condition appropriate to the performance of assigned duties and responsibilities.

MINIMUM QUALIFICATIONS: Equivalent to a Bachelor's degree from an accredited college or university with major course-work in accounting, finance, business administration or a related field. Three years of professional level accounting experience. Experience in governmental accounting is highly desirable.

ADDITIONAL REQUIREMENTS: May be required to work outside the traditional work schedule.

WORKING CONDITIONS: May require maintaining physical condition necessary for sitting; occasional walking and standing. May be required to lift and/or carry materials, equipment and/or items weighing up to 15 pounds.

PHYSICAL AND ENVIRONMENTAL WORKING CONDITIONS

While performing the duties of this job, the employee is frequently required to walk, sit, talk, and hear. The employee is frequently required to use hands to finger, handle, feel or operate objects, tools, or controls and reach with hands and arms. The employee is frequently required to climb, balance, stoop, kneel, crouch, or crawl.

The employee must regularly lift and/or move up to one hundred (100) pounds. Specific vision abilities required by this job include close vision, color vision, and the ability to adjust focus

The City of Banning is an equal opportunity employer. All employees and candidates for employment will be recruited, selected, trained, promoted, compensated and, if necessary, disciplined or terminated without regard to sex/gender, race, national origin, religion, creed, color, marital status, veteran status, age, national origin, pregnancy, sexual orientation, gender identity, disability, genetic information or any other basis prohibited by law.

While requirements may be representative of minimum levels of knowledge, skills and abilities to perform this job successfully, the incumbent will possess the abilities or aptitudes to perform each duty proficiently. This job description does not constitute an employment agreement between the Employer and Employee and is subject to change as the needs of the Employer and requirements of the job change.

Previous position Accountant II

JOB DESCRIPTION

TITLE: Chief Procurement Officer	**JOB CODE: 2058**
DEPARTMENT: Administrative Services Department	**FLSA STATUS:** Exempt
REPORTS TO: ADMINISTRATIVE SERVICES DIRECTOR	**UNION STATUS:** Represented
SUPERVISES: PURCHASING STAFF	**EFFECTIVE DATE: 03/08/2005**
SALARY RANGE: T85 ($109,012.19-$147,480.13)	**REVISED DATE: 11/12/2025**

JOB PURPOSE/SUMMARY

Under general direction of the Administrative Services Director, responsible for the leadership, strategic planning, and management, supervises, plans, and coordinates the activities and operations of the City's centralized Purchasing functions. This position provides lead supervision to professional, technical, and/or clerical staff.

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PERFORMANCE EXPECTATIONS

- **Leadership:** Contributes to a positive work culture consistent with the City of Banning Leadership Philosophy, actively welcomes new approaches to public service and supports change and process improvements at all levels within the organization.
- **Teamwork:** Demonstrates ability and willingness to work collaboratively with a team.
- **Communication:** Communicates effectively with peers, supervisors, subordinates, and individuals to who service is provided.

ESSENTIAL FUNCTIONS

*This is a single position class that functions as a division head and is accountable for managing and supervising the day-to-day operations and activities of procurement for the City. The following duties **ARE NOT** intended to serve as*

a comprehensive list of all duties performed by all employees in this classification. Shown are duties intended to provide a representative summary of the major duties and responsibilities. Incumbent(s) may not be required to perform all duties listed and may be required to perform additional, position-specific duties.

REPRESENTATIVE DUTIES:

- Supervise the City's centralized purchasing activities. Plan, coordinate, prioritize, monitor and participate in the purchasing of commonly used materials, supplies, equipment and services by the City.
- Participate in the development and implementation of goals, objectives, policies, and priorities for the Purchasing Division; identify resource needs, recommend and implement policies, procedures, rules, regulations and ordinances. Assist in the development of City policies and procedures involving the acquisition of supplies or services.
- Administer applicable contracts; review and approve purchase requests for completeness, accuracy and compliance with purchasing and budgetary policies and procedures, and issue purchase orders accordingly.
- Direct, coordinate and review the work plan for the Purchasing Division; meet with staff to identify and resolve problems; assign work activities and projects; monitor workflow; review and evaluate work products, methods and procedures.
- Supervise and train division personnel; assume responsibility for motivating and evaluating assigned personnel and initiating disciplinary procedures as appropriate.
- Maintain appropriate work records and documents which may include purchase orders, purchase reports, proposals and other documentation; prepare statistical and/or analytical reports on operations as necessary.
- Research, analyze and develop diversified and reliable sources of supplies. Establish and maintain contracts and negotiate with vendors; keep informed of new products; and evaluate vendor performance.
- Responsible for the development of value-added business processes, including enabling an efficient procure to pay process flow, optimizing cost savings on purchases, managing procurement card programs, and facilitating the business contract program
- Develop and implement formal and informal bidding policies; develop bid documents and competitive solicitations; conduct public bid openings; analyze bids against specifications and prepare bid analysis; compose and prepare staff reports; recommend award of contracts and/or purchase orders in accordance with all laws, City ordinances, and policies; develop other documents as necessary.
- Stay abreast of current and long-range trends in the field of purchasing and supply; attend seminar and professional meetings as necessary.
- Develop and implement insurance compliance and processes for Procurement.
- Develop and administer the budget for the Purchasing Division; monitor and approve expenditures; recommend adjustments as necessary.
- Coordinate purchasing services with other City departments, divisions, and outside agencies. Serve as a technical resource to other departments; assist departments with budget estimates for the purchase of materials and equipment. Assume responsibility as liaison between vendors and City departments relative to procurement activities.
- Develop, administer and maintain travel policies and procedures. Approve travel authorizations within the policy parameters.
- Conduct staff training for procurement, insurance, Procurement card (P-Card), travel, surplus, and other training as necessary.
-

KNOWLEDGE OF:

- City, County, State and Federal statutes, rules, regulations, ordinances, codes, administrative policies and other operational guidelines and directives for purchasing for a municipality.
- Modern and complex principles and practices of governmental purchasing, and methods and techniques of statistics.
- Methods and techniques for report preparation, writing, and record keeping.
- Assisting City staff with procurement needs by providing professional and technical guidance on obtaining materials and services; ensure that procurement activities meet legal and professional

standards by enforcing pertinent codes, policies and regulations and professional ethics regarding purchasing operations.
- Reviewing and processing purchase orders, verifying proper account numbers/funds for ordered items; sign and approve purchase orders as authorized; and coordinate and monitor open/blanket purchase orders.
- Principles of supervision, training, and performance evaluation.
- Principles of contract negotiation and administration.
- Safe driving principles and practices.
- Modern office practices, methods, and computer equipment.

ABILITY TO:
- Read, understand, interpret, and apply relevant City, County, State and Federal statutes, rules, regulations, ordinances, codes, administrative orders, policies and procedures and other operational guidelines and directives.
- Develop specifications, contracts, bonding requirements, purchase orders and other documents as necessary
- Manage and coordinate the work of technical and administrative support personnel.
- Select, train, supervise, and evaluate staff.
- Effectively handle a variety of assignment simultaneously.
- Analyze and evaluate data and prepare comprehensive reports and studies.
- Communicate clearly and concisely.
- Act as liaison to advise and/or resolve differences between departments and outside agencies.
- Initiate, plan and complete work assignments with a minimum of direction and control.
- Interact with personnel at all organizational levels and on occasion function in stressful situations requiring persuasion and negotiation.
- Plan, organize, and coordinate the City's purchasing operations.
- Prepare oral presentations and written reports.
- Work independently.
- Establish and maintain effective working relationships.

SKILL TO:
- Operate a computer and applicable software.
- Effectively operate a motor vehicle on city streets.
- Monitor market conditions, current prices, trade names, and brands related to purchasing for a municipality.

MINIMUM QUALIFICATIONS:
- A Bachelor's degree in Business Administration, Marketing, Accounting or a related field from a regionally accredited college or university.
- Three (3) years of professional purchasing experience including one (1) year in a supervisory capacity.
- A valid California Class C Driver License (If currently in possession of a valid driver's license from another state, a valid California Class C Driver License must be obtained within 30 days of employment).

PREFERRED QUALIFICATIONS:
- Possession of a Certified Professional Purchasing Manager (CPPM) certification or a Certified Purchasing Professional (CPP) certification.
- Professional work experience in purchasing within a municipality or related public agency.

WORKING ENVIRONMENT:
Indoor office environment with moderate noise level and subject to constant interruptions.

PHYSICAL DEMANDS:
This position requires prolonged sitting, standing, walking, reaching, twisting, and turning, kneeling, bending, squatting, and stooping in the performance of daily activities. The position also requires grasping, repetitive hand movement, and fine coordination in preparing documents and reports and data using a computer keyboard. Additionally, the position requires near vision in reading correspondence, statistical data and using a computer, and acute hearing is required when providing phone service and communicating in person.

The City of Banning is an equal opportunity employer. All employees and candidates for employment will be recruited, selected, trained, promoted, compensated and, if necessary, disciplined or terminated without regard to sex/gender, race, national origin, religion, creed, color, marital status, veteran status, age, national origin, pregnancy, sexual orientation, gender identity, disability, genetic information, or any other basis prohibited by law.

While requirements may be representative of minimum levels of knowledge, skills, and abilities to perform this job successfully, the incumbent will possess the abilities or aptitudes to perform each duty proficiently. This job description does not constitute an employment agreement between the Employer and Employee and is subject to change as the needs of the Employer and requirements of the job change.

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Douglas Schulze, City Manager**
PREPARED BY:	**Laurie Sampson, Assistant City Manager**
MEETING DATE:	**November 12, 2024**
SUBJECT:	**Consideration of Resolution 2024-182, Approving Community Development Block Grants (CDBG) for FY 2025-2026**

RECOMMENDATION:

Adopt Resolution 2024-182.

BACKGROUND:

The City of Banning, through the Riverside County Housing and Workforce Solutions, has submitted various projects annually for funding under the CDBG program. Notifications of the application period in English and Spanish were published on the City's website and press releases were transmitted to the Record Gazette, Facebook, and Instagram. Applications were due to the city for consideration on or before October 31, 2024, at 4:00 pm.

As part of the CDBG guidelines, the proposed projects/activities must meet the following criteria:

1. The project or activity must primarily benefit the low and moderate-income community.
2. The project or activity must aid in the prevention or elimination of slums and blight areas.
3. The project or activity must be designed to meet the Community's development needs and have a particular urgency.

JUSTIFICATION:

In response to the 2025/2026 grant cycle, five applications for service-related projects were submitted by non-profit organizations, one facility improvement project application from the City. As set forth in the guidelines for utilization of the CDBG funding, the City Council may designate up to 15% of the City's allocation to service oriented non-profit agencies for public services projects but is not required. The FY 2025/2026 estimated allocation is $159,000 of which $23,850.00 can be awarded to non-profit service-related organizations.

The applications are summarized below.

Applications Received	Requested Funding	Ad-Hoc Recommended
Community Projects		
Sunrise Life Development	$35,000.00	$ 5,000.00
Habitat for Humanity	$50,000.00	$ 5,000.00
Faith in Action	$47,500.00	$ 5,000.00
Voices for Children	$10,000,00	$ 5,000.00
Boys and Girls Club	$35,000.00	$ 3,850.00
City of Banning Projects		
Senior Center Restrooms	$149,356.00	$ 135,150.00

Total $326,856.00 $159,000

On September 24, 2024, the City Council appointed an Ad-hoc Committee comprised of two Council members, Sheri Flynn and David Happe and the Economic Development Manager, Marisol Lopez, to review and recommend approval of Community Development Block Grant ("CDBG") Funding Cycle 2025/2026.

The committee met on November 6, 2024, Council Member Happe absent, and recommended the City's CDBG entitlement be allocated to Sunrise Life Development in the amount of $5,000; Habitat for Humanity in the amount of $5,000; Faith in Action in the amount of $5,000; Voices for Children int eh amount of $5,000; Boys and Girls Club in the amount of $3,850; and the City of Banning Senior Center Restroom Improvements in the amount of $135,150.

FISCAL IMPACT:

The estimated funding under the CDBG Fiscal Year 2025/2026 program is approximately $159,000. Upon approval of the City Council, the City approved projects will be submitted to the HWS for review and consideration. It is anticipated that final funding approval will be provided to the City by October of 2025.

ALTERNATIVES:

If the City Council chooses not to approve any CDBG applications the City will forfeit approximately $159,000 in funding. It may also affect future CDBG funds for the City.

BUDGETED?:

Yes

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. Resolution 2024-182, CDBG for FY25-26.docx
2. CDBG 2025-2026 Proof of Publication English.pdf
3. CDBG 2025-2026 Proof of Publication Spanish.pdf
4. CDBG 2025-2026 Facebook.pdf
5. CDBG 2025-2026 Instagram.pdf

RESOLUTION 2024-182

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM PROJECTS FOR FISCAL YEAR 2025-2026

WHEREAS, THE City of Banning has submitted applications for projects/activities under the Community Development Block Grant ("CDBG") program tot eh County of Riverside Department of Housing and Workforce Solutions annually; and

WHEREAS, during the month of October, notifications of application availability were provided to non-profit organizations, City Departments, and the general public through various media, including legal notice, City website, and the City's social media outlets; and

WHEREAS, on September 24, 2024, at its regular meeting, the City Council appointed an Ad-Hoc Committee to review applications received. The applications were provided to the committee for review on November 1, 2024, and recommendation as shown as Exhibit "A"; and

WHEREAS, the CDBG Ad-hoc Committee reviewed applications and recommended the following projects be funded:

WHEREAS, the projects submitted herein meet the CDBG program guidelines and/or requirements; and

WHEREAS, it is necessary that the project be approved by the City Council through resolution in order for the City and its residents to obtain and utilize the federally funded CDBG grant funds.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The City Council approves Resolution 2024-182, approving the projects submitted for funding under the Community Development Block Grant programs for Fiscal Year 2025-2026; and

SECTION 2. The City Council authorizes the Administrative Services Director or his designee to make necessary budget adjustments, appropriations and transfers related to this resolution; and

SECTION 3. The City Manager is authorized to submit projects for Fiscal Year 2025/2026 Community Development Block Grant program to County of Riverside Housing and Workforce Solutions for approval by their Board

SECTION 4. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 12th day of November 2024.

Alberto Sanchez, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

Serita R. Young, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Caroline Patton, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2024-182, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 12th day of November 2024 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

EXHIBIT A
Description of Exhibit A

2025/2026 CDBG Applications Submitted

Applications Received	Requested Funding	Ad-Hoc Recommended
Community Projects		
Sunrise Life Development	$35,000.00	$ 5,000.00
Habitat for Humanity	$50,000.00	$ 5,000.00
Faith in Action	$47,500.00	$ 5,000.00
Voices for Children	$10,000.00	$ 5,000.00
Boys and Girls Club	$35,000.00	$ 3,850.00
City of Banning Projects		
Senior Center Restroom Improvements	$149,356.00	$135,150.00
Total	**$326,856.00**	**$ 159,000.00**

Public Notices

For Immediate Release

Contact: Laurie Sampson
(951) 922-4860

Applications Now Available for Community Development Block Grants

The deadline to submit applications for the City of Banning's Fiscal Year 2025-2026 Community Development Block Grants is Thursday, October 31, 2024, by 4:00 P.M.

Banning, CA – On September 16, 2024, the City of Banning received a Notice of Funding Available for the County of Riverside's 2025-2026 Urban County Community Development Block grant program for Cooperating Cities and is now accepting applications.

The U.S. Department of Housing and Urban Development (HUD), through Riverside County Housing and Workforce Solutions administers the CDBG funding. The funding will allow the community the opportunity to provide services within the City of Banning.

Eligible public services include but are not limited to:

- Healthcare
- Job training
- Childcare
- Services for the homeless
- Recreation programs
- Services for seniors
- Public safety services

A description of guidelines and program eligibility criteria for individual programs is located online at https://riversidecoeda.gosmart.org/. Organizations must apply to the City of Banning in hard copy only, to be considered for a sub-recipient award. Applications can be found on the city's website at www.banningca.gov and are available at City Hall at the Information desk. Applications will be reviewed by an appointed ad-hoc committee and submitted to City Council for approval on November 12, 2024, at the Regular Meeting scheduled for 5:00 pm at 99 East Ramsey Street, Banning, CA 92220.

Applications are due no later than 4:00 p.m. on Thursday, October 31, 2024. Applications will be accepted at Banning City Hall – Economic Development Department.

Please contact Laurie Sampson, Assistant City Manager at (951) 922-4860 or via email at lsampson@banningca.gov with any questions.

HWS HOUSING AND WORKFORCE SOLUTIONS

Para su publicación inmediata

Contact: Laurie Sampson
(951) 922-4860

Aplicaciones ahora disponibles para Donativos en Bloque para el Desarrollo Comunitario (Community Development Block Grants) *El plazo para someter aplicaciones para el año fiscal 2025-2026 de la ciudad de Banning Donativos en Bloque para el Desarrollo Comunitario es el jueves, 31 de octubre del 2024 a las 4:00 P.M.*

Banning, CA – El 16 de septiembre de 2024, la ciudad de Banning recibió una notificación de fondos disponibles para el condado de Riverside 2025-2026 condado urbano Donativos en Bloque para el Desarrollo Comunitario para ciudades cooperantes y ahora están aceptando aplicaciones.

Los fondos son administrados por el Departamento de Vivienda y Desarrollo Urbano de EE.UU. (HUD), a través de Housing and Workforce Solutions del condado de Riverside. La cuidad de Banning podría recibir fondos que le darían la oportunidad de proveer servicios a la comunidad de Banning.

Servicios públicos elegibles incluyen, pero no son limitados a:

- Servicios médicos
- formación laboral
- servicios de guardería o cuidado de niños
- servicios para personas con falta de vivienda
- Programas de recreación
- Servicios para personas de la tercera edad
- Servicios para la seguridad publica

Las organizaciones interesadas deben someter la aplicación en forma física para ser considerados y calificar para la beca. El criterio de elegibilidad para programas individuales está localizado en https://riversidecoeda.gosmart.org/. La aplicación puede ser encontrada en el sitio web de la ciudad en www.banningca.gov y también están disponibles en el escritorio de información en el ayuntamiento (City Hall). Las aplicaciones serán revisadas por un Comité ad-hoc designado y se someterán para la aprobación del concejo municipal en la junta regular agendada para el 12 de noviembre del 2024 a las 5:00 pm en 99 East Ramsey Street, Banning, CA 92220.

Las aplicaciones deben someterse el jueves, 31 de octubre del 2024 antes de las 4:00 pm. Las aplicaciones serán aceptadas en el ayuntamiento de Banning por el departamento de desarrollo económico.

Preguntas se pueden dirigir a Laurie Sampson asistente del administrador de la ciudad (951) 922-4860 o por correo electrónico a lsampson@banningca.gov.

8:35

city of banning

All Posts People Reels Gr

10+ posts in the last 2 weeks

Following

City of Banning
3h ·

Attention: The County of Riverside has opened the CDBG Application Period fo... See more



1 1 comment 1 share

Like Comment Send Share

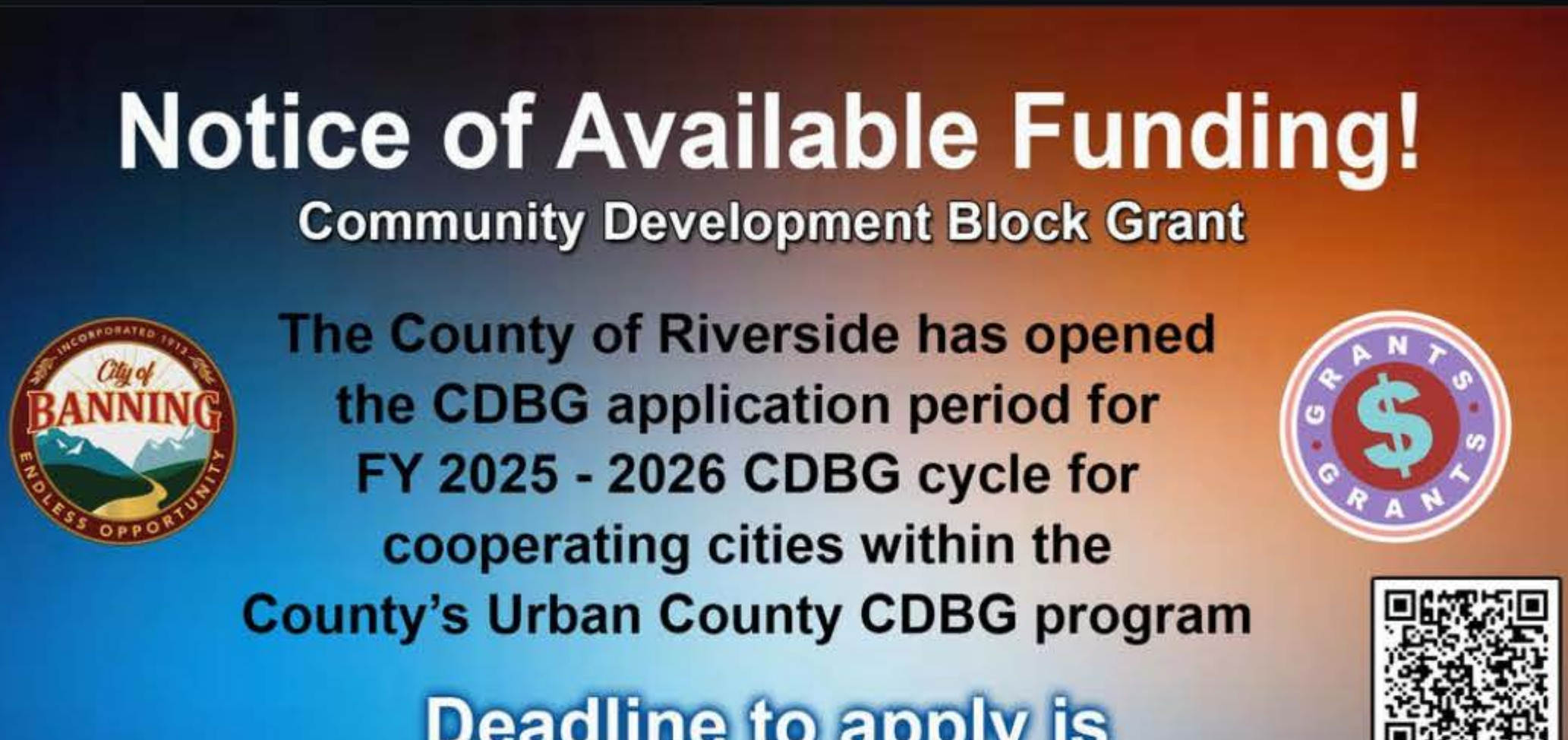
City of Banning

Home Video Friends Marketplace Notifications Menu

8:34

oliviajewelryco It's not a bracelet, it's a daily reminder 💪 Let... more

cityofbanning ...



16 6

cityofbanning Attention: The County of Riverside has opened the CDBG Application Period for the FY 2025-2026 CDBG Cycle for cooperating cities.

Please Scan the QR code attached or visit: http://banning.ca.us/662/Community-Development-Block-Grant for additional information on this year's application process.

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Douglas Schulze, City Manager**
PREPARED BY:	**A'ja Wallace,** **Lincoln Bogard, Administrative Services Director**
MEETING DATE:	**November 12, 2024**
SUBJECT:	**Update on Cost Recovery Services for First Responder (EMS/Fire) Medical Billing Fees Collected by Wittman Enterprises LLC for the City of Banning**

RECOMMENDATION:

Receive and file.

BACKGROUND:

On March 24, 2020, the City Council directed staff to return with a resolution to implement an Emergency Medical Services Billing Program Fee and Related Write Off Policy modeled after the Cities of Indian Wells, Rancho Mirage and Palm Desert. The emergency medical services billing program fee is paid by insurance. Insurance will be billed directly whenever possible. If insurance information isn't available, the statement will clearly indicate that the bill should be submitted to insurance for payment. No collection activities are proposed in the event a bill is not paid.

On May 26, 2020 City Council authorized the Agreement with Wittman Enterprises LLC to begin the Emergency Medical Services Billing Program which allows Wittman Enterprises LLC to bill medical insurance companies (at no cost to the public) for medical Fire/EMS response fees. This program is intended to recover costs and generate revenue for the City.

Staff will continue to evaluate, on an annual basis, the services provided to the City by Wittman Enterprises LLC to confirm that it is appropriate to continue receiving said services.

JUSTIFICATION:

Staff is reporting the fees and revenues received from inception (second quarter of FY2021) through the first quarter of FY2025. Finance staff meets quarterly with Wittman staff for a status update and to address any concerns that may need clarification. The City would like to emphasize that as a resident of the City, you are protected from out-of-pocket costs related to emergency medical services. It is important to understand as a resident, you will not be held financially responsible for any balances for these services beyond what is paid by the insurance. However, the City will bill (for the resident to contact their insurance directly, if the insurance is not previously provided) to recover costs related to the medical emergency. Recovered funds support the City's emergency responses to critical life and health situations within the community.

FISCAL IMPACT:

Please see Attachment 1 for the administrative costs (cost to administer and revenues associated with the program).

ALTERNATIVES:

N/A

BUDGETED?:

Yes

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. Attachment 1-Costs versus Revenue Wittman Enterprises LLC.pdf

City of Banning Wittman Cost Recovery

Fiscal Year 2021	1st Quarter FY2021	2nd Quarter FY2021	3rd Quarter FY2021	Fourth Quarter FY2021	Total FY 2021
Medical Response Payments	-	2,000.00	7,720.00	7,590.00	17,310.00
Wittman Costs	-	15,900.00	15,870.00	17,145.00	48,915.00
Net Amount	-	(13,900.00)	(8,150.00)	(9,555.00)	(31,605.00)

Fiscal Year 2022	1st Quarter FY2022	2nd Quarter FY2022	3rd Quarter FY2022	Fourth Quarter FY2022	Total FY 2022
Medical Response Payments	17,567.07	20,572.98	16,205.15	49,221.40	103,566.60
Wittman Costs	14,385.00	13,920.00	14,700.00	15,300.00	58,305.00
Net Amount	3,182.07	6,652.98	1,505.15	33,921.40	45,261.60

Fiscal Year 2023	1st Quarter FY2023	2nd Quarter FY2023	3rd Quarter FY2023	Fourth Quarter FY2023	Total FY 2023
Medical Response Payments	41,453.64	28,147.72	23,859.35	26,822.51	120,283.22
Wittman Costs	14,701.00	17,110.50	14,045.25	13,969.00	59,825.75
Net Amount	26,752.64	11,037.22	9,814.10	12,853.51	60,457.47

Fiscal Year 2024	1st Quarter FY2024	2nd Quarter FY2024	3rd Quarter FY2024	Fourth Quarter FY2024	Total FY 2024
Medical Response Payments	26,821.88	28,777.27	22,074.05	25,638.00	103,311.20
Wittman Costs	14,833.50	10,385.00	14,045.25	9,749.50	49,013.25
Net Amount	11,988.38	18,392.27	8,028.80	15,888.50	54,297.95

Fiscal Year 2025	1st Quarter FY2025	2nd Quarter FY2025	3rd Quarter FY2025	Fourth Quarter FY2025	Total FY 2025
Medical Response Payments	16,904.48	-	-	-	-
Wittman Costs	9,103.50	-	-	-	-
Net Amount	7,800.98	-	-	-	-

Total from Inception of Program					
Medical Response Payments	102,747.07	79,497.97	69,858.55	109,271.91	344,471.02
Wittman Costs	53,023.00	57,315.50	58,660.50	56,163.50	216,059.00
Net Amount	49,724.07	22,182.47	11,198.05	53,108.41	128,412.02

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Douglas Schulze, City Manager**
PREPARED BY:	**Kristine Gutierrez, Community Development Operations Manager** **David Newell, Community Development Director**
MEETING DATE:	**November 12, 2024**
SUBJECT:	**Receive and File Annual Fire Inspection Report of Certain Occupancies for Fiscal Year 2023/2024 Pursuant to California Health and Safety Code Section 13146.4**

RECOMMENDATION:

Receive and File.

BACKGROUND:

In 2018, California Health and Safety Code (HSC) Section 13146.4 was added by Senate Bill 1205 (SB1205) and became effective January 1, 2019. Section 13146.4 requires all fire departments, that provide fire protection services, to report annually to their administering authority on their compliance with Health and Safety Code Sections 13146.2 and 13146.3. Theses sections cover the required annual inspections of every building used as a public or private school (used by more than 6 persons for educational purposes through the 12th grade), hotel, motel, lodging house, apartment house (3 units or more) and certain residential care facilities for compliance with building standards.

During the time period of July 1, 2023, to June 30, 2024, the Fire Department identified nine Group E and sixty-five Group R-1, R-2, R2.1 occupancies, buildings, structures and/or facilities in the City of Banning and completed 100% of the annual inspections at the identified occupancies, buildings, structures and/or facilities. The Fire Department will continue to assess, with the assistance of City Staff, the existing building stock and new development within the City in an effort to ensure that all applicable Group E and R buildings, structures and/or facilities receive an annual inspection in accordance with SB1205.

JUSTIFICATION:

Annual activity report provided for informational purposes.

FISCAL IMPACT:

None. Fees are collected to conduct fire inspections in accordance with HSC Section 13146.3(b).

ALTERNATIVES:

Direct staff to prepare additional information on the inspection reporting.

BUDGETED?:

Yes

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. FY 23-24 SB 1205 Inspections Streadsheet Totals.docx
2. SB 1205 Text.pdf
3. 131464 Annual inspection reports receipt of report administering authority.pdf
4. 131462 Inspection of structures other than dwellings subject to subdivision (b) .pdf
5. 131463 Annual inspection of school buildings.pdf

FY 2023/2024 HSC 13146.4 ANNUAL INSPECTION LIST
CITY OF BANNING

R-1 OCCUPANCIES

NAME	HOUSE_NO	DIR	STREET	SUFFIX	CITY	ZIP
COUNTRY INN	932	E	RAMSEY	ST	BANNING	92220
HP. HOSPITALITY, LLC DBA DAYS INN	2320	W	RAMSEY	ST	BANNING	92220
HOLIDAY INN EXPRESS	3020	W	RAMSEY	ST	BANNING	92220
MARGARITA MOTEL	1551	W	RAMSEY	ST	BANNING	92220
QUALITY INN	1690	W	RAMSEY	ST	BANNING	92220
HAMPTON INN AND SUITES (SAGEMONT-BANNING, LLC)	6071		JOSHUA PALMER	WAY	BANNING	92220
STAGECOACH MOTOR INN	1363	E	RAMSEY	ST	BANNING	92220
SUNSET MOTEL	2475	W	RAMSEY	ST	BANNING	92220
THE BANNING MANOR	3911	W	RAMSEY	ST	BANNING	92220
BHO, DBA THE LAKES	5801		SUN LAKES	BLVD	BANNING	92220
TRAVELODGE	1700	W	RAMSEY	ST	BANNING	92220

R-2 OCCUPANCIES

NAME	HOUSE_NO	DIR	STREET	SUFFIX	CITY	ZIP
MULTIPLEX	86	N	3RD	ST	BANNING	92220
MULTIPLEX	92	N	22ND	ST	BANNING	92220
MULTIPLEX	98	N	22ND	ST	BANNING	92220
MULTIPLEX	125	N	PHILLIPS	AVE	BANNING	92220
MULTIPLEX	165	N	16TH	ST	BANNING	92220
MULTIPLEX	185	W	WESTWARD	AVE	BANNING	92220
MULTIPLEX	216	W	GEORGE	ST	BANNING	92220
MULTIPLEX	220	N	HARGRAVE	ST	BANNING	92220
MULTIPLEX	225	W	RAMSEY	ST	BANNING	92220
MULTIPLEX	231	E	NICOLET	ST	BANNING	92220
MULTIPLEX	233	W	NICOLET	ST	BANNING	92220
MULTIPLEX	238	W	HAYS	ST	BANNING	92220
MULTIPLEX	250	N	HARGRAVE	ST	BANNING	92220
MULTIPLEX	258	N	ALESSANDRO	RD	BANNING	92220
MULTIPLEX	263	N	EVANS	ST	BANNING	92220
MULTIPLEX	280	N	HARGRAVE	ST	BANNING	92220
MULTIPLEX	287	W	WESTWARD	AVE	BANNING	92220
MULTIPLEX	333	N	MURRAY	ST	BANNING	92220
MULTIPLEX	376	N	4TH	ST	BANNING	92220
WINSCAPE VILLAGE	380	W	BARBOUR	ST	BANNING	92220
PEPPERTREE APARTMENTS	456	E	NICOLET	ST	BANNING	92220
MULTIPLEX	462	N	ALESSANDRO	ST	BANNING	92220
PLAZA VILAS	477	W	RAMSEY	ST	BANNING	92220
MULTIPLEX	515	N	2ND	ST	BANNING	92220
MULTIPLEX	536	N	5TH	ST	BANNING	92220
MULTIPLEX	544	N	6TH	ST	BANNING	92220
MULTIPLEX	546	N	5TH	ST	BANNING	92220
SUMMIT RIDGE APARTMENTS	555	N	HATHAWAY	ST	BANNING	92220
MULTIPLEX	584	E	HOFFER	ST	BANNING	92220
BONITA APARTMENT	675	W	WILLIAMS	ST	BANNING	92220
MULTIPLEX	726	W	NICOLET	ST	BANNING	92220
MULTIPLEX	765	E	WILLIAMS	ST	BANNING	92220
MULTIPLEX	955	W	HAYS	ST	BANNING	92220
MULTIPLEX	962	W	RAMSEY	ST	BANNING	92220
MUTIPLEX	975	E	WILLIAMS	ST	BANNING	92220
MULTIPLEX	1329	W	WILLIAMS	ST	BANNING	92220
VISTA SERENA	1372		VISTA SERENA	AVE	BANNING	92220
MULTIPLEX	1420	E	WILLIAMS	ST	BANNING	92220
MULTIPLEX	1424	E	WILLIAMS	ST	BANNING	92220

MULTIPLEX	1646	W	WILLIAMS	ST	BANNING	92220
MULTIPLEX	1837	W	HAYS	ST	BANNING	92220
TOWNE APARTMENTS	2692	W	WILLIAMS	ST	BANNING	92220
MULTIPLEX	3131	W	GEORGE	ST	BANNING	92220
MULTIPLEX	3171	W	GEORGE	ST	BANNING	92220
MULITPLEX	3171	W	WILLIAMS	ST	BANNING	92220
LITTLE EUROPE	3820	W	JACINTO VIEW	RD	BANNING	92220
MULTIPLEX	3988	W	RAMSEY	ST	BANNING	92220
WILSON GARDEN APARTMENTS	5059	W	WILSON	ST	BANNING	92220
MULTIPLEX	5183	W	WILSON	ST	BANNING	92220
MULTIPLEX	5223	W	WILSON	ST	BANNING	92220
MULTIPLEX	5231	W	WILSON	ST	BANNING	92220
MULTIPLEX	267, 273	N	ALESSANDRO	RD	BANNING	92220

R2.1 OCCUPANCIES

NAME	HOUSE_NO	DIR	STREET	SUFFIX	CITY	ZIP
THE LAKES	5801		SUNALKES	BLVD	BANNING	92220
SUNDANCE POST ACUTE	5800	W	WILSON	ST	BANNING	92220

E OCCUPANCIES

NAME	HOUSE_NO	DIR	STREET	SUFFIX	CITY	ZIP
CALVARY CHRISTIAN SCHOOL	135		MOUNTAIN	AVE	BANNING	92220
FLORIDA STREET DISCOVERY CENTER	671	N	FLORIDA	ST	BANNING	92220
BANNING HIGH SCHOOL	100	W	WESTWARD	AVE	BANNING	92220
CENTRAL ELEMENTARY	295	N	SAN GORGONIO	DR	BANNING	92220
HEMMERLING ELEMENTARY SCHOOL	1928	W	NICOLET	ST	BANNING	92220
HOFFER ELEMENTARY SCHOOL	1115	E	HOFFER	ST	BANNING	92220
SUSAN B. COOMBS	1151	W	WILSON	ST	BANNING	92220
NICOLET MIDDLE SCHOOL	101	E	NICOLET	ST	BANNING	92220
YOUNG SCHOLAR EDUCATION CENTER	4029	W	GEORGE	ST	BANNING	92220

STATE OF CALIFORNIA
AUTHENTICATED
ELECTRONIC LEGAL MATERIAL

Senate Bill No. 1205

CHAPTER 854

An act to add Section 13146.4 to the Health and Safety Code, relating to fire protection.

[Approved by Governor September 27, 2018. Filed with Secretary of State September 27, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1205, Hill. Fire protection services: inspections: compliance reporting.

Existing law requires the chief of any city or county fire department or district providing fire protection services and his or her authorized representatives to inspect every building used as a public or private school within his or her jurisdiction, for the purpose of enforcing specified building standards, not less than once each year, as provided. Existing law requires every city or county fire department or district providing fire protection services that is required to enforce specified building standards to annually inspect certain structures, including hotels, motels, lodging houses, and apartment houses, for compliance with building standards, as provided.

This bill would require every city or county fire department, city and county fire department, or district required to perform the above-described inspections to report annually to its administering authority, as defined, on the department's or district's compliance with the above-described inspection requirements, as provided. The bill would require the administering authority to acknowledge receipt of the report in a resolution or a similar formal document. To the extent this bill would expand the responsibility of a local agency, the bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

The people of the State of California do enact as follows:

SECTION 1. Section 13146.4 is added to the Health and Safety Code, to read:

13146.4. (a) Every city or county fire department, city and county fire department, or district required to perform an annual inspection pursuant

to Sections 13146.2 and 13146.3 shall report annually to its administering authority on its compliance with Sections 13146.2 and 13146.3.

(b) The report made pursuant to subdivision (a) shall occur when the administering authority discusses its annual budget, or at another time determined by the administering authority.

(c) The administering authority shall acknowledge receipt of the report made pursuant to subdivision (a) in a resolution or a similar formal document.

(d) For purposes of this section, "administering authority" means a city council, county board of supervisors, or district board, as the case may be.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

O

West's Annotated California Codes
Health and Safety Code (Refs & Annos)
Division 12. Fires and Fire Protection (Refs & Annos)
Part 2. Fire Protection
Chapter 1. State Fire Marshal
Article 2. The State Board of Fire Services (Refs & Annos)

West's Ann.Cal.Health & Safety Code § 13146.4

§ 13146.4. Annual inspection reports; receipt of report; administering authority

Effective: January 1, 2019
Currentness

(a) Every city or county fire department, city and county fire department, or district required to perform an annual inspection pursuant to Sections 13146.2 and 13146.3 shall report annually to its administering authority on its compliance with Sections 13146.2 and 13146.3.

(b) The report made pursuant to subdivision (a) shall occur when the administering authority discusses its annual budget, or at another time determined by the administering authority.

(c) The administering authority shall acknowledge receipt of the report made pursuant to subdivision (a) in a resolution or a similar formal document.

(d) For purposes of this section, “administering authority” means a city council, county board of supervisors, or district board, as the case may be.

Credits
(Added by Stats.2018, c. 854 (S.B.1205), § 1, eff. Jan. 1, 2019.)

West's Ann. Cal. Health & Safety Code § 13146.4, CA HLTH & S § 13146.4
Current with urgency legislation through Ch. 1002 of 2024 Reg.Sess. Some statute sections may be more current, see credits for details.

End of Document

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West's Annotated California Codes
Health and Safety Code (Refs & Annos)
Division 12. Fires and Fire Protection (Refs & Annos)
Part 2. Fire Protection
Chapter 1. State Fire Marshal
Article 2. The State Board of Fire Services (Refs & Annos)

West's Ann.Cal.Health & Safety Code § 13146.2

§ 13146.2. Inspection of structures, other than dwellings, subject to subdivision (b) of § 17921; fee

Effective: June 27, 2019
Currentness

(a) Every city, county, or city and county fire department or district providing fire protection services required by Sections 13145 and 13146 to enforce building standards adopted by the State Fire Marshal and other regulations of the State Fire Marshal shall, annually, inspect all structures subject to subdivision (b) of Section 17921, except dwellings, for compliance with building standards and other regulations of the State Fire Marshal.

(b) A city, county, or city and county fire department or district providing fire protection services that inspects a structure pursuant to subdivision (a) may charge and collect a fee for the inspection from the owner of the structure in an amount, as determined by the city, county, or city and county fire department or district providing fire protection services, sufficient to pay the costs of that inspection.

(c) A city, county, or city and county fire department or district providing fire protection services that provides related fire and life safety activities for structures subject to subdivision (b) of Section 17921, such as plan review, construction consulting, fire watch, and investigation, may charge and collect a fee from the owner of the structure in an amount, as determined by the city, county, city and county, or district, sufficient to pay the costs of those related fire and life safety activities.

(d) The State Fire Marshal, or the State Fire Marshal's authorized representative, who inspects a structure subject to subdivision (b) of Section 17921, except dwellings, for compliance with building standards and other regulations of the State Fire Marshal, may charge and collect a fee for the inspection from the owner of the structure. The State Fire Marshal may also charge and collect a fee from the owner of the structure for related fire and life safety activities, such as plan review, construction consulting, fire watch, and investigation. Any fee collected pursuant to this subdivision shall be in an amount, as determined by the State Fire Marshal, sufficient to pay the costs of that inspection or those related fire and life safety activities.

Credits

(Added by Stats.1984, c. 268, § 27.57, eff. June 30, 1984. Amended by Stats.2008, c. 760 (A.B.1338), § 6, eff. Sept. 30, 2008; Stats.2019, c. 31 (S.B.85), § 9, eff. June 27, 2019.)

West's Ann. Cal. Health & Safety Code § 13146.2, CA HLTH & S § 13146.2

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End of Document

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West's Annotated California Codes
Health and Safety Code (Refs & Annos)
Division 12. Fires and Fire Protection (Refs & Annos)
Part 2. Fire Protection
Chapter 1. State Fire Marshal
Article 2. The State Board of Fire Services (Refs & Annos)

West's Ann.Cal.Health & Safety Code § 13146.3

§ 13146.3. Annual inspection of school buildings

Effective: June 27, 2019
Currentness

(a) A city, county, or city and county fire department or district providing fire protection services shall inspect every building used as a public or private school within its jurisdiction, for the purpose of enforcing regulations promulgated pursuant to Section 13143, not less than once each year. The State Fire Marshal and the State Fire Marshal's authorized representatives shall make these inspections not less than once each year in areas outside of corporate cities and districts providing fire protection services.

(b) A city, county, or city and county fire department or district that, or the State Fire Marshal or the State Fire Marshal's authorized representative who, inspects a structure pursuant to subdivision (a) may charge and collect a fee for the inspection in an amount sufficient to pay the costs of that inspection.

Credits

(Added by Stats.1959, c. 1891, p. 4458, § 3. Amended by Stats.1965, c. 526, p. 1845, § 3; Stats.1980, c. 118, p. 280, § 8; Stats.1996, c. 332 (A.B.3080), § 30; Stats.2019, c. 31 (S.B.85), § 10, eff. June 27, 2019.)

West's Ann. Cal. Health & Safety Code § 13146.3, CA HLTH & S § 13146.3
Current with urgency legislation through Ch. 1002 of 2024 Reg.Sess. Some statute sections may be more current, see credits for details.

End of Document

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CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Douglas Schulze, City Manager**
PREPARED BY:	**Holly Stuart, Public Works Program Manager** **Arturo Vela, Director of Public Works**
MEETING DATE:	**November 12, 2024**
SUBJECT:	**Community Cleanup and Compost Giveaway Event Update**

RECOMMENDATION:

This is informational only; receive and file report.

BACKGROUND:

The City of Banning has partnered with Waste Management as part of the solid waste franchise agreement to provide three free bulky item collection events for residential accounts per calendar year. The City held the third of the three bulky item collection events for this year on Saturday, October 19, 2024, at Dysart Park offering residents the opportunity to dispose of unwanted items including, but not limited to, appliances, mattresses, green waste, e-waste and so forth. This event also offers residents paper shredding and the collection of household batteries.

This latest event welcomed 493 vehicles. An accumulation of 44.49 tons of municipal solid waste, 3.5 tons of green waste, 14.77 tons of white goods/metal, 3.3 tons of paper shredding, 3.284 tons of E-waste, and 0.99 tons of mattresses were collected over the duration of 5 hours. Waste Management collected a grand total of 70.33 tons of waste of which 25.84 tons were successfully diverted from the landfill. Furthermore, five barrels of household batteries were collected during the event.

According to Waste Management's calculations, these recycling efforts resulted in the following benefits:

- Saved 146,532 kWh of electricity. Enough electricity to power 11 households for one year.
- Reduced GHG emissions by 5 metric tons. Equivalent to taking 3 passenger cars off the road for one year.
- Kept 6,568 lbs of solid Waste out of the landfill. The amount of trash generated by 4 households in one year.
- Kept 1,610 lbs of hazardous materials out of the environment.

In addition to the collection of bulky waste at Dysart Park, the City included a compost station, giving away free compost to the community. Fifty-two (52) residents obtained compost the day of the event. Any unused compost that was not given away will be disbursed and utilized on City properties throughout the community. Incorporating the free compost giveaway supports the City's compliance goals in achieving targets identified by the State and SB 1383 requirements to purchase and utilize organic waste materials. In all, Waste Management provided 18 tons of compost for the giveaway.

JUSTIFICATION:

The City's Bulky Item Collection and Compost Giveaway events continue to be a success and provide a great service to our community. The events aid in keeping the community clean through reducing the

amount of waste that may otherwise be illegally dumped throughout the City and its rights-of-ways. Events for calendar year 2025 are scheduled for the third Saturdays of January, April and October.

FISCAL IMPACT:

Event staff and material costs were funded by the Refuse fund.

ALTERNATIVES:

None.

BUDGETED?:

Yes

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. Event Images_10.19.2024.pdf


A.C. DYSART EQUESTRIAN PARK
HOME OF
STAGECOACH DAYS
City of BANNING
Together, PUTTING WASTE IN ITS Place
ASK ABOUT A FREE SHARPS AND OIL CONTAINER
STOP
FOR PUBLIC WORKS




MATTRESSES


22759B2
BANNING STREETS


MATTRESSES


WM
WASTE MANAGEMENT
800 423 9986
wm.com
WM COLLECTION
& RECYCLING, INC.
CA38990
2




CASE
621G
GALAXY


CAT
420


October 19, 2024


BATTERIES
COSTCO






RAIN SNOW
SLEET OR HAIL


STAFF

CITY OF BANNING
STAFF REPORT

TO: **CITY COUNCIL**

FROM: **Douglas Schulze, City Manager**

PREPARED BY: **Nate Smith, Deputy Director of Public Works/City Engineer**
Art Vela, Director of Public Works

MEETING DATE: **November 12, 2024**

SUBJECT: **Accept as Complete Various Improvements Related to the Atwell Specific Plan Development and Authorize 90% Reduction of the Improvement Bonds**

RECOMMENDATION:

City Council accepts as complete various improvements related to the Atwell Specific Plan Development and authorize the 90% reduction of the improvement bonds.

BACKGROUND:

City Council adopted Resolution 2019-151 on December 10, 2019 that approved Final Tract Map 37298-1 for recordation, authorized staff to sign the Subdivision Improvement Agreement, and accept Labor and Material Bonds for public improvements. These improvements were required under project conditions of approval. The improvements are related to the backbone infrastructure in Atwell Development Phase 1A, supporting Development Areas 1A, 1B, 2A, 3, 17 and 20. The residential development areas are nearly built out.

JUSTIFICATION:

Staff has verified through inspections that the required public improvements were completed per City standards and specifications and recommends that City Council accept the improvements as complete and authorize the 90% bond exoneration for the following bonds:

BOND NUMBER	IMPROVEMENT
CMS331796	Ph. 1A Landmark Way Non Potable Water
CMS331792	Ph. 1A Landmark Way Domestic Water
CMS331795	Ph. 1A Landmark Way Storm Drain
CMS331794	Ph. 1A Landmark Way Sewer
CMS331793	Ph. 1A Landmark Way Street
CMS331804	Ph. 1A Meadowline Way Non Potable Water
CMS331805	Ph. 1A Meadowline Way Storm Drain
CMS331806	Ph. 1A Meadowline Way Sewer
CMS331802	Ph. 1A Meadowline Way Street
CMS331803	Ph. 1A Meadowline Way Domestic Water
CMS339961	Ph. 1B Meadowline Way Non-Potable Water
CMS339969	Ph. 1B Meadowline Way Domestic Water

CMS339972	Ph. 1B Meadowline Way Street

The remaining 10% of the bond amounts will remain for a period of 12 months (maintenance period) at which point the 10% balance will be released and the improvements will become City owned and maintained improvements.

FISCAL IMPACT:

Not Applicable

ALTERNATIVES:

Do not accept staff's recommendation and provide staff with alternative direction.

BUDGETED?:

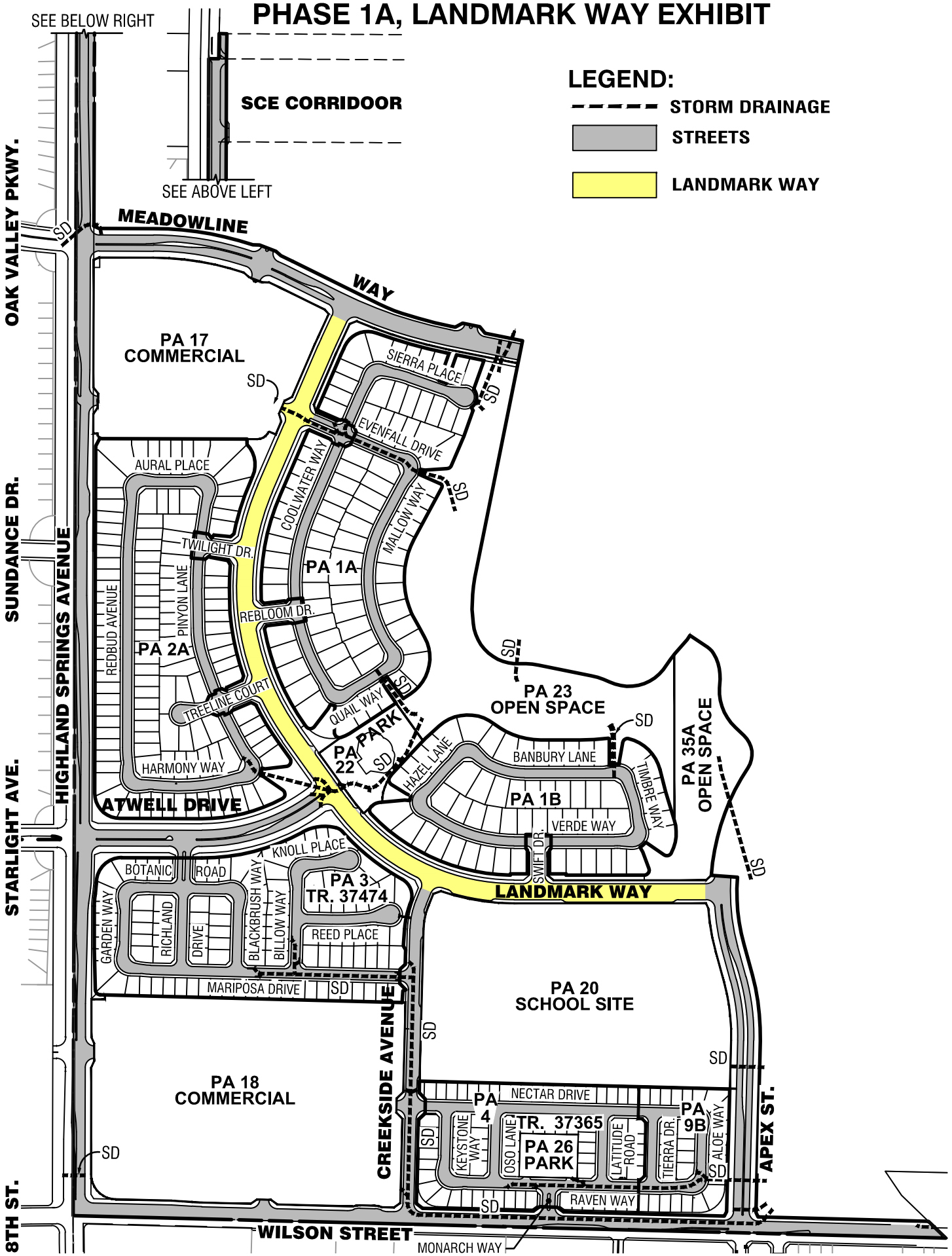
No

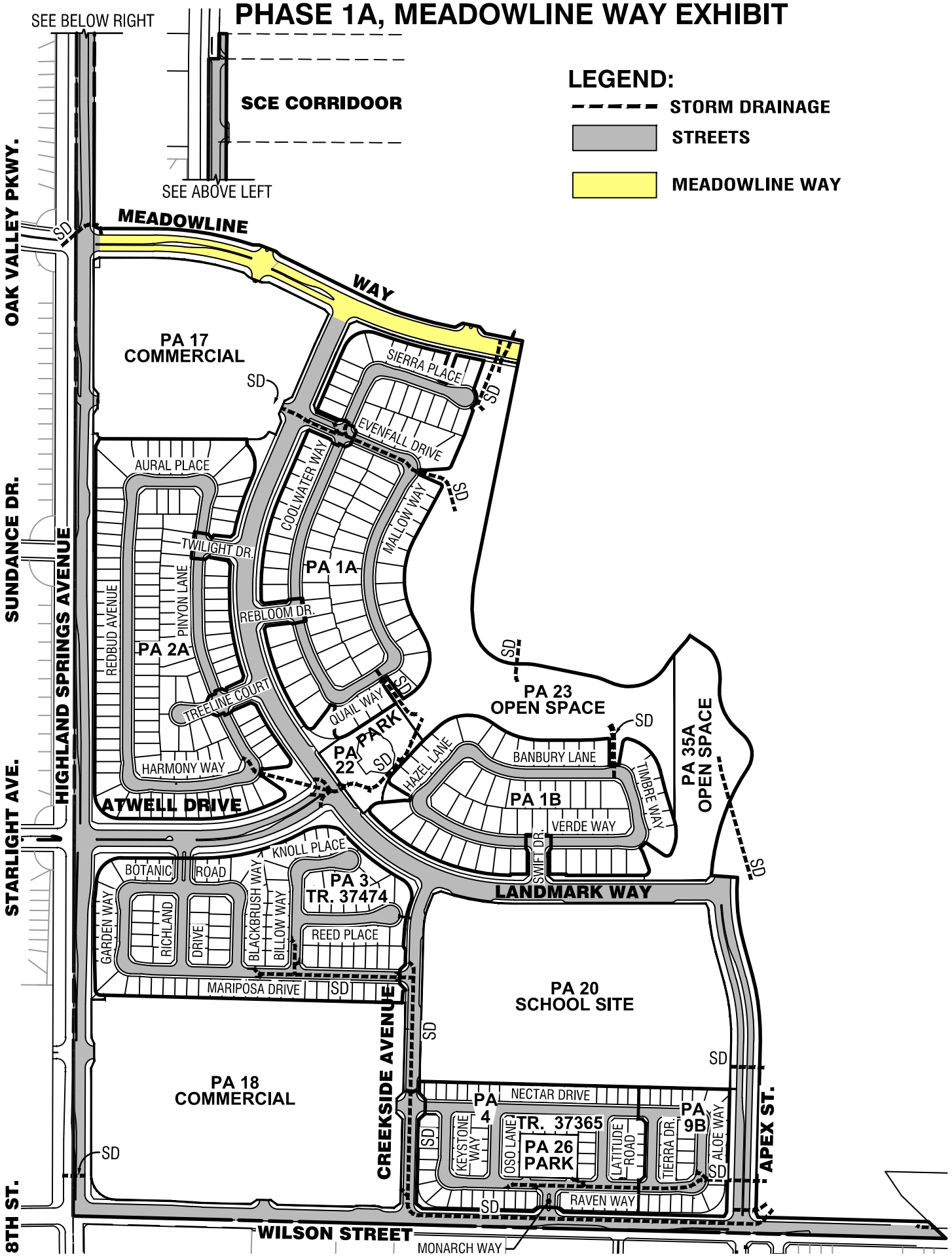
CONTRACT/AGREEMENT:

No

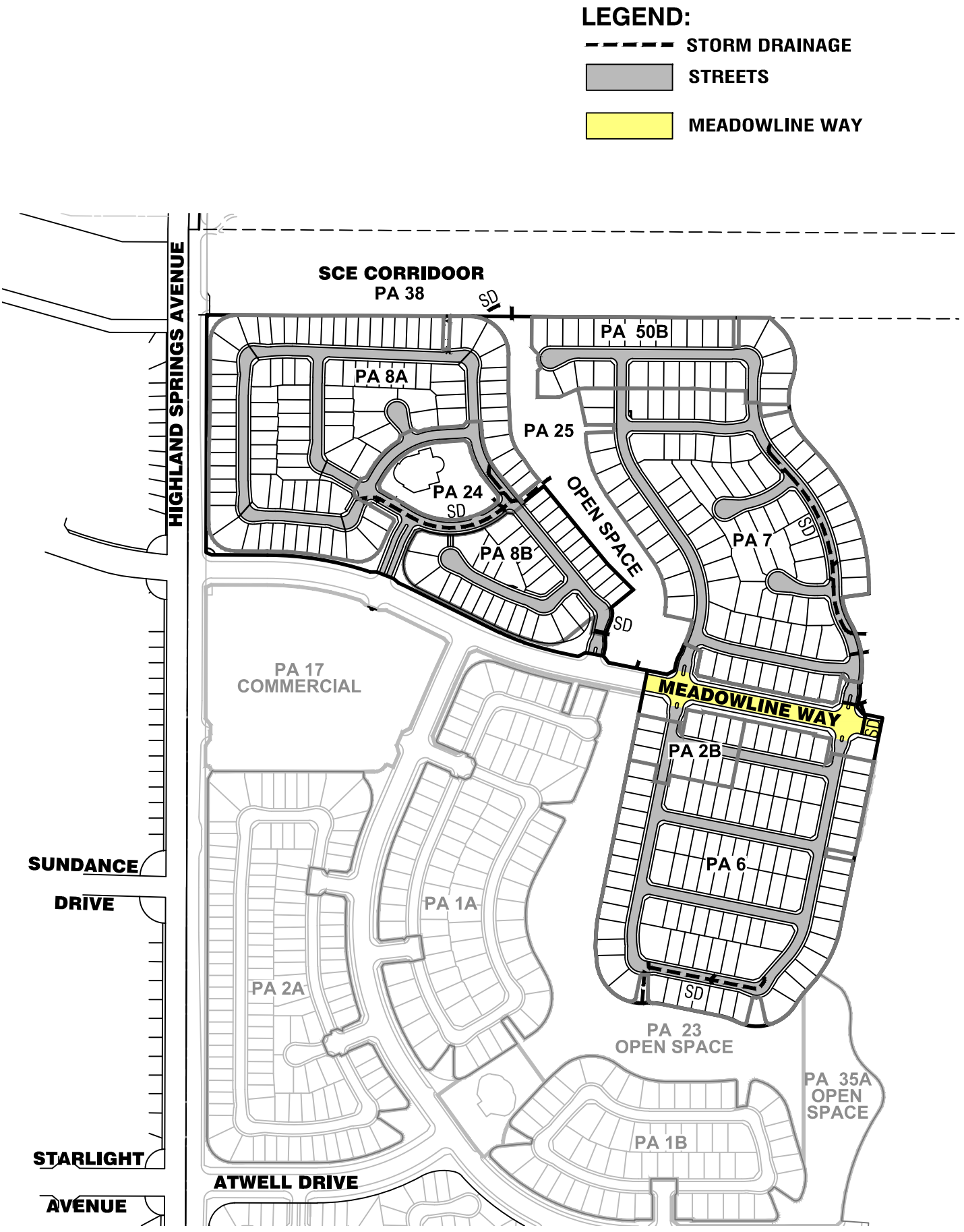
ATTACHMENTS:

1. Att. 1 Landmark (Ph1A).pdf
2. Att. 2 Meadowline (Ph1A).pdf
3. Att. 3 Meadowline (Ph1B).pdf


PHASE 1A, LANDMARK WAY EXHIBIT
LEGEND:
STORM DRAINAGE
STREETS
LANDMARK WAY
SCE CORRIDOOR
SEE BELOW RIGHT
SEE ABOVE LEFT
OAK VALLEY PKWY.
SUNDANCE DR.
STARLIGHT AVE.
8TH ST.
HIGHLAND SPRINGS AVENUE
CREEKSIDE AVENUE
APEX ST.
MEADOWLINE WAY
WILSON STREET
MONARCH WAY
PA 17 COMMERCIAL
PA 18 COMMERCIAL
PA 20 SCHOOL SITE
PA 23 OPEN SPACE
PA 35A OPEN SPACE
PA 1A
PA 1B
PA 2A
PA 3 TR. 37474
PA 4 TR. 37365
PA 9B
PA 22 PARK
PA 26 PARK
SIERRA PLACE
EVENFALL DRIVE
AURAL PLACE
COOLWATER WAY
MALLOW WAY
TWILIGHT DR.
REBLOOM DR.
PINYON LANE
REDBUD AVENUE
TREELINE COURT
HARMONY WAY
ATWELL DRIVE
QUAIL WAY
HAZEL LANE
BANBURY LANE
TIMBRE WAY
VERDE WAY
SWIFT DR.
KNOLL PLACE
BOTANIC ROAD
GARDEN WAY
RICHLAND DRIVE
BLACKBRUSH WAY
BILLOW WAY
REED PLACE
MARIPOSA DRIVE
NECTAR DRIVE
KEYSTONE WAY
OSO LANE
LATITUDE ROAD
TIERRA DR.
ALOE WAY
RAVEN WAY
SD


PHASE 1A, MEADOWLINE WAY EXHIBIT
LEGEND:
STORM DRAINAGE
STREETS
MEADOWLINE WAY
SCE CORRIDOOR
SEE BELOW RIGHT
SEE ABOVE LEFT
OAK VALLEY PKWY.
SUNDANCE DR.
STARLIGHT AVE.
8TH ST.
HIGHLAND SPRINGS AVENUE
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PA 20 SCHOOL SITE
PA 22 PARK
PA 23 OPEN SPACE
PA 26 PARK
PA 35A OPEN SPACE
PA 9B
SIERRA PLACE
EVENFALL DRIVE
AURAL PLACE
COOLWATER WAY
MALLOW WAY
TWILIGHT DR.
PINYON LANE
REDBUD AVENUE
REBLOOM DR.
TREELINE COURT
HARMONY WAY
ATWELL DRIVE
QUAIL WAY
HAZEL LANE
BANBURY LANE
TIMBRE WAY
VERDE WAY
SWIFT DR.
LANDMARK WAY
KNOLL PLACE
BOTANIC
ROAD
GARDEN WAY
RICHLAND
DRIVE
BLACKBRUSH WAY
BILLOW WAY
REED PLACE
MARIPOSA DRIVE
NECTAR DRIVE
KEYSTONE WAY
OSO LANE
LATITUDE ROAD
TIERRA DR.
ALOE WAY
RAVEN WAY
WILSON STREET
MONARCH WAY
SD

PHASE 1B, MEADOWLINE WAY EXHIBIT



CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Douglas Schulze, City Manager**
PREPARED BY:	**Stephanie Sirls, Transit Manager** **Art Vela, Director of Public Works**
MEETING DATE:	**November 12, 2024**
SUBJECT:	**Consideration of Approving Amendment No. 1 to the Renewable Natural Gas Supply Agreement with AmpRenew Offtake I, LLC**

RECOMMENDATION:

Approve Amendment No. 1 to the Renewable Natural Gas Supply Agreement with AmpRenew Offtake I LLC (AmpRenew) and authorize the City Manager, or designee, to execute Amendment No.1 to the Renewable Natural Gas Supply Agreement.

BACKGROUND:

The Low Carbon Fuel Standard (LCFS) is a key part of a comprehensive set of programs in California to cut Green House Gas emissions and other smog-forming and toxic air pollutants by improving vehicle technology, reducing fuel consumption, and increasing transportation mobility options. The LCFS is designed to decrease the carbon intensity (CI) of California's transportation fuel pool and provide an increasing range of low-carbon and renewable alternatives, which reduce petroleum dependency and achieve air quality benefits.

Fuels in the California transportation fuel pool that have a CI lower than the target established by the California Air Resource Board (CARB) generate LCFS credits. Those fuels in the transportation fuel pool with CIs higher than the target generate fuel deficits. A fuel producer with deficits must have enough credits through generation and acquisition to be in annual compliance with LCFS. Credit owners have the option of selling or trading their credits with other deficit holders.

Amp Americas II, LLC (“Amp”) is the parent company of AmpRenew. Founded in 2011, Amp is an American-owned developer, owner, and operator of facilities that convert dairy waste into carbon negative Renewable Natural Gas (RNG). Amp registered the first several dairy RNG projects certified by the U.S. Environmental Protection Agency’s Renewable Fuel Standard Program (“RFS”) to generate D3 RINs and the first several dairy RNG projects certified by CARB’s LCFS.

Amp currently manages one of the largest portfolios of dairy RNG projects in the U.S. and supplies RNG to heavy duty truck and bus fleets throughout California.

AmpRenew, a marketing entity of Amp, provides environmental attributes and gas marketing services for biogas operations across the country.

JUSTIFICATION:

The City of Banning (“City”) owns and operates a compressed natural gas (CNG) fueling facility, which delivers RNG.

City Council authorized the City to enter into an agreement with AmpRenew January 12, 2021. In its current partnership with AmpRenew, both entities mutually benefit from RIN and LCFS credits generated by reducing California's GHG emissions.

If approved, the amendment to the RNG Supply Agreement with AmpRenew will further increase the City's share of RIN and LCFS credits, which w*ill help offset the City's current cost of purchasing natural gas.

FISCAL IMPACT:

Over the past three fiscal years the City received $51,694 in RIN/LCFS credits related to the AmpRenew Agreement, which covered approximately 14% of the City's natural gas purchases for it's CNG fueling facility during that same period. Staff estimates that the Amendment No. 1 could approximately double the City credits.

ALTERNATIVES:

Do not approve the amendment to the Renewable Natural Gas Agreement with AmpRenew and provide alternative direction to staff.

BUDGETED?:

No

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. City of Banning RNG Supply Agreement vF (Fully Executed).pdf
2. Amp-Banning 1st Amend to RNG Supply Agreement (003) (002).docx

RNG SUPPLY AGREEMENT

This RNG Supply Agreement (this "***Agreement***") is made and entered into as of March 15, 2021 (the "***Execution Date***") by and between **ampRenew Offtake I LLC**, a Delaware limited liability company ("***Provider***") and the **City of Banning**, a city in Riverside County, California ("***Dispenser***"). Dispenser and Provider may each be referred to herein individually as a "***Party***" and collectively as the "***Parties***."

RECITALS

WHEREAS, Provider is in the business of producing and procuring RNG (and associated Green Attributes) for sale and distribution;

WHEREAS, Dispenser desires to purchase RNG from Provider for delivery and use as vehicle fuel at its gas fueling station located at 176 E. Lincoln Street, Banning, California 92220 (the "***CNG Facility***"), which has a CNG dispensing capacity of greater than [**XXXX**] GGE per day;

WHEREAS, each of Provider's supply sources providing RNG hereunder has enrolled or will enroll in a voluntary Quality Assurance Program ("***QAP***") for the generation of RINs; and

WHEREAS, each of Provider's supply sources providing RNG hereunder has enrolled or will enroll in a voluntary Carbon Intensity Program ("***CI***") for the generation of LCFS Credits.

NOW THEREFORE, in consideration of the premises and of the agreements set forth hereafter, the sufficiency of such consideration being acknowledged by the Parties, the Parties hereby agree as follows:

ARTICLE 1 - DEFINITIONS

1.1 Definitions. The following terms when used herein will have the meanings set forth below.

"*Advanced Biofuel*" means a renewable fuel as defined in the RFS program (40 C.F.R. § 80.1401 (2012)).

"*Agreement*" shall have the meaning set forth in the preamble.

"*CARB*" means the California Air Resources Board or its successor agency and policies established under the California Low Carbon Fuel Standard Regulation (Cal. Code Regs. tit. 17 §§ 95480-90 (2010).) (collectively, the "***LCFS***"), applying to any fuel that is sold, supplied, or offered for sale in California.

"*Cellulosic Biofuel*" means a renewable fuel derived from any cellulose, hemi-cellulose or lignin that has lifecycle greenhouse gas emissions that are at least sixty percent (60%) less than the Baseline Lifecycle Greenhouse Gas Emissions (as defined in the RFS program (40 C.F.R. § 80.1401 (2012)).

"*CI*" shall have the meaning set forth in the foregoing recitals.

"*Claims*" shall have the meaning set forth in Article 3.12 herein.

"*CNG Facility*" shall have the meaning set forth in the foregoing recitals.

"*Deliver*," "*Delivered*," and **"*Delivery*"** shall refer to the action and result of the RNG originating from or procured by Provider being or having been transported to the Delivery Point for use by Dispenser during the Delivery Period.

"*Delivery Period*" shall have the meaning set forth in Article 3.1 herein.

"*Delivery Point*" means the CNG Facility's point of interconnection with the local distribution company SoCalGas, meter number **14166153**.

"*Dispenser*" shall have the meaning set forth in the preamble.

"*Dispenser's RIN Share*" shall have the meaning set forth in Article 3.7 herein.

"*Dispenser's LCFS Share*" shall have the meaning set forth in Article 3.8 herein.

"*Effective Date*" means the earliest date after the Execution Date upon which all conditions precedent, as set forth in Article 2 herein, have been completed.

"*EMTS*" means the EPA Moderated Transaction System or any replacement or successor system designated by the EPA.

"*EPA*" means the United States Environmental Protection Agency or successive agency overseeing the RFS.

"*Execution Date*" shall have the meaning set forth in the preamble.

"*Force Majeure*" means any event beyond the Parties' reasonable control, including but not limited to flood, drought, earthquake, hurricane, unusually severe weather or storms, fire, lightning or other Acts of God; epidemic or pandemic; war; riot; civil disturbance; sabotage; restraint by a Governmental Authority; a failure to obtain required permits or approvals or renewal of same, *provided* that diligent action was taken to obtain them; or failure or breakdown of machinery, equipment or lines of pipe that was not due to a failure of the affected Party to operate and maintain it in accordance with prudent industry practices.

"*Gasoline Gallon Equivalent*" or **"*GGE*"** means the amount of RNG it takes to equal the energy content of one liquid gallon of gasoline.

"*Green Attributes*" means any and all environmental attributes associated with the use of RNG as an Advanced Biofuel, Cellulosic Biofuel, low carbon fuel or Alternative Fuel including, without limitation, RINs and LCFS Credits.

"*Governmental Authority*" means any federal, state, local, or other governmental, regulatory or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority.

"*Invalidation Event*" shall have the meaning set forth in Article 3.16 herein.

"*LCFS Credit(s)*" means credits generated and traded under the LCFS, with each credit equal to one metric tonne of Carbon Dioxide reductions as compared to the baseline CO_2 emissions under the Low Carbon Fuel Standard.

"*LCFS Existing Credits*" means the number of LCFS Credits generated using the CI value of Pathway Code CNGF205 for compressed Gas (i.e., not compressed RNG), which is currently 79.46.

"*LCFS Incremental Credits*" means the difference in the number of LCFS Credits generated using a CI value of forty-two (42) and the LCFS Existing Credits.

"*LRT-CBTS*" means "LCFS Reporting Tool and Credit Bank and Transfer System".

"*Maximum Dispensing Commitment*" means the total volume of CNG dispensed from the CNG Facility as Vehicle Fuel in any given month.

"*OPIS Price*" means, with respect to RINs, ninety-eight percent (98%) the simple average of the daily price published in the Oil Price Information Service's (OPIS) Carbon Market Report for D3 RINs (under the "Mean" column) during the applicable calendar month of Delivery and, with respect to LCFS Credits, ninety-eight percent (98%) the simple average of the mid-point of the "Low" and "High" daily prices published in the OPIS Carbon Market Report for LCFS Credits during the applicable calendar quarter of Delivery.

"*Party(ies)*" shall have the meaning set forth in the preamble.

"*Provider*" shall have the meaning set forth in the preamble.

"*QAP*" shall have the meaning set forth in the foregoing recitals.

"*Renewable Fuel Standard*" or **"*RFS*"** means the renewable energy program and policies established by the Environmental Protection Agency and published on March 26, 2010 (at 75 Fed. Reg. 14670) and effective July 1, 2010, codified at 40 C.F.R. § 80.1401 *et seq*.

"*Renewable Identification Number (RIN)*" is a number generated to represent a volume of renewable fuel as defined in Regulation of Fuels and Fuel Additives: Changes to Renewable Fuel Standard Program, 75 Fed. Reg. 16484 (March 26, 2010) (codified at 40 C.F.R. § 80.1425 (2011); 40 C.F.R. § 80.1426 (2012)).

"*RNG*" means renewable natural gas, also known as pipeline quality natural gas derived from the decomposition of organic matter that meets the RFS eligibility requirements as either an Advanced Biofuel or Cellulosic Biofuel.

"*Vehicle Fuel*" means compressed natural gas ("***CNG***") or liquefied natural gas ("***LNG***"), which can be derived from RNG, used as transportation fuel, as defined in 40 C.F.R. 80.1401.

"*Year*" shall mean a period of 365-consecutive days, starting on the Effective Date, with subsequent Years commencing on the anniversary of the Effective Date, except that in leap years, such as 2016 and 2020, a Year will have 366 consecutive days

ARTICLE 2 - CONDITIONS PRECEDENT

The following are conditions precedent to the obligations of Provider pursuant to this Agreement. The appropriate Party will use its best efforts to fulfill the conditions precedent as soon as commercially practicable. Upon completion of each condition precedent (or upon waiver thereof by Provider in its sole discretion as provided by law), Provider will provide notice to Dispenser, pursuant to Section 5.10 herein, that the condition has been satisfied.

2.1 Provider's completion of reasonably satisfactory due diligence on Dispenser and the CNG Facility, as determined in Provider's sole discretion. Such due diligence shall include verification that the CNG Facility is compliant with the requirements necessary to generate valid Green Attributes.

2.2 Dispenser providing Provider with true and accurate dispensing data demonstrating a minimum mean average of 500 MMBtu per month dispensed from the CNG Facility over the immediately prior twelve (12) months.

2.3 Provider's modification of existing agreements with its gas marketers or formation of new agreements, as necessary, to Deliver RNG to the Delivery Point.

2.4 Provider's successful completion of RFS registration with the EPA to allow for the generation of RINs from the RNG Delivered under this Agreement.

2.5 Provider's ability to successfully complete the Carbon Intensity registration with CARB to allow for the generation of LCFS Credits from the RNG Delivered under this Agreement.

ARTICLE 3 - SPECIFIC TERMS OF PURCHASE AND SALE

The following terms, conditions and performance standards will govern the obligations of the Parties pursuant to this Agreement:

3.1 Delivery Period. This Agreement will remain in place for five (5) Years from the Effective Date (the "***Delivery Period***") unless otherwise terminated on the conditions as provided herein.

3.2 Quantity of RNG; Dispenser's Termination Right; Monthly Nominations.

3.2.1 Dispenser shall have a firm obligation to dispense RNG from Provider at its CNG Facility on a monthly basis up to the Maximum Dispensing Commitment for such month.

3.2.2 Provider will Deliver RNG as available up to the Maximum Dispensing Commitment but has no firm Delivery obligation.

3.2.3 At least ten (10) days in advance of each month, Dispenser will provide a non-binding indication of anticipated daily CNG dispensing volumes from its CNG Facility for the upcoming month. No later than twenty (20) days after the end of each month, Dispenser will provide the CNG Facility's actual dispensed CNG volumes for such month together with the applicable gas utility invoice.

3.3 No Natural Gas Deliveries. Dispenser will continue to obtain its supply of natural gas for converting into CNG under its current and/or amended gas marketing agreement(s) with third-party suppliers, it being understood that Deliveries hereunder do not include physical gas delivery. Accordingly, the purchase price for such natural gas shall not be part of this Agreement.

3.4 Provider Performance Obligations. Provider shall provide to Dispenser all information reasonably required and available to Provider in connection with Dispenser's performance of its obligations under Section 3.5 of this Agreement.

3.5 Dispenser's Performance Obligations.

3.5.1 Dispenser shall utilize and directly dispense all RNG Delivered by Provider into the tank of a vehicle as Vehicle Fuel and for no other purpose.

3.5.2 Dispenser's obligation to utilize and dispense RNG Delivered by Provider shall have priority over any other obligation of Dispenser to utilize and dispense RNG from third parties.

3.5.3 Dispenser shall maintain any and all local, state and federal permits, licenses and certifications necessary to operate a CNG station at the Delivery Point in compliance with applicable laws, rules and regulations, whether in existence on the Execution Date or promulgated thereafter at any time and from time to time during the Delivery Period.

3.5.4 Dispenser shall provide affidavits (in such periodic intervals as may be required for compliance with the RFS and LCFS), in the form and substance of Exhibit A attached hereto. Such affidavits may be used by Provider in connection with its initial pathway registrations and subsequent quarterly EPA and CARB compliance filings in support of reporting relative to the respective RINs and LCFS Credits generated from the utilization of the RNG as Vehicle Fuel.

3.5.5 No later than ten (10) business days after a request from Provider, Dispenser will provide any support that Provider may reasonably require under the RFS or LCFS for the generation, separation and sale of RINs or LCFS Credits, including without limitation: utility bills, affidavits, station tax filings, transaction (including vehicle split) records, and other supporting documentation to ascertain the end use of the RNG Delivered by Provider.

3.6 Green Attributes Associated with RNG. For all RNG Delivered pursuant to this Agreement, Provider represents and warrants to Dispenser that: (i) it has the rights to all Green Attributes associated with such RNG, (ii) such RNG is received from a production facility that produces pipeline quality natural gas, and (iii) such RNG is Delivered to Dispenser in accordance with the requirements of the RFS and the LCFS in order to preserve the Green Attributes.

3.7 RIN Allocations between Dispenser and Provider. Provider or its designated affiliate or upstream supplier shall have the sole right to generate all Green Attributes, including but not limited to RINs and all financial and other benefits associated therewith, for all RNG Delivered to Dispenser. For all RINs generated from RNG Deliveries to Dispenser under this Agreement, Dispenser shall be entitled to receive from Provider two percent (2%) of the OPIS Price for all RINs so generated ("***Dispenser's RIN Share***"). Provider shall pay Dispenser's RIN Share to Dispenser on a monthly basis within twenty (20) business days of delivery of such RINs into Provider's EMTS account.

3.8 LCFS Allocations between Dispenser and Provider. Provider or its designated affiliate or upstream supplier shall be the Fuel Pathway Holder (as that term is defined in the LCFS) with respect to all RNG delivered hereunder and shall have the sole right to generate all LCFS Credits and all financial and other benefits associated therewith, for all RNG Delivered to Dispenser. For all LCFS Credits generated from RNG Deliveries to Dispenser under this Agreement, (a) Dispenser shall be entitled to receive from Provider one hundred percent (100%) of the LCFS Existing Credits so generated, and (b) Dispenser shall be entitled to receive from Provider twenty-five percent (25%) of the OPIS Price for all LCFS Incremental Credits so generated ((a) and (b) collectively, "***Dispenser's LCFS Share***"). Provider shall pay Dispenser's LCFS Share to Dispenser on a monthly basis within twenty (20) business days of delivery of such LCFS Credits into Provider's LRT-CBTS account.

3.9 LCFS Existing Credits for Dispensed Natural Gas. Provider shall have no rights or any financial or other benefits to LCFS Existing Credits generated from natural gas dispensed by Dispenser that is not RNG Delivered by Provider at the Delivery Point. Provider shall not be responsible for generating or marketing any such LCFS Existing Credits. If Dispenser, at its sole option, determines to generate any such LCFS Existing Credits, it shall first obtain Provider's specific written approval for all CARB filings affiliated therewith, the delivery of which shall not be conditioned, delayed or unreasonably withheld, to ensure alignment of all LCFS Credit filings for the CNG Facility.

3.10 RNG Registration.

3.10.1 Prior to Delivery of the RNG to Dispenser, Provider or its designee shall submit to the EPA and provide to Dispenser, as necessary, copies of any and all documentation required by the EPA to certify that the RNG is an Advanced Biofuel or Cellulosic Biofuel that can generate D Code 3 or D Code 5 RINs. Provider shall Deliver QAP RNG to Dispenser during the Delivery Period; *provided*, that Provider may Deliver non-QAP RNG to the extent that its RNG supply source is currently undergoing certification under a QAP with a reasonable likelihood of success.

3.10.2 Prior to Delivery of the RNG to Dispenser, Provider or its designee shall submit to CARB and provide to Dispenser, as necessary, copies of any and all documentation required by CARB to certify that the RNG does qualify for LCFS Credits.

3.11 Further Assurances. Each Party will provide the other Party such cooperation, additional documentation, certifications or other information as may be reasonably necessary to carry out the purposes of this Agreement (including pursuant to any audit of this Agreement by a third party) and in order for title to the conveyed Green Attributes to vest as appropriate.

3.12 Indemnification.

3.12.1 *Dispenser Indemnities*. Notwithstanding any other provisions in this Agreement, Dispenser agrees to indemnify Provider and save it harmless from all losses, liabilities, penalties, fines, charges or claims, including, without limitation, reasonable attorneys' fees and costs of court, arising out of any third-party claim (collectively, "***Claims***") based on: (i) personal injury (including death) to the third-party claimant or damage to the property of such third-party claimant directly resulting from the RNG that occur after title passes to Dispenser or other charges thereon that attach after title passes to Dispenser to the extent such Claims are not based upon any breach by or fault of Provider hereunder; (ii) Dispenser-provided falsehoods, misrepresentations, material inaccuracies or misleading statement in any supporting documentation, including, without limitation, registrations or any attestation related to RIN or LCFS Credit generation; (iii) Dispenser's gross negligence or willful misconduct or (iv) Dispenser's material breach of this Agreement.

3.12.2 *Provider Indemnities*. Notwithstanding any other provisions in this Agreement, Provider agrees to indemnify Dispenser and save it harmless from all Claims based on: (i) personal injury (including death) to the third-party claimant or damage to the property of such third-party claimant directly resulting from the RNG that occur before

title passes to Dispenser or other charges thereon that attach before title passes to Dispenser to the extent such Claims are not based upon any breach by or fault of Dispenser hereunder; (ii) Provider-provided falsehoods, misrepresentations, material inaccuracies or misleading statement in any supporting documentation, including, without limitation, registrations or any attestation related to RIN or LCFS Credit generation; (iii) Provider's gross negligence or willful misconduct or (iv) Provider's material breach of this Agreement.

3.13 Notice of Changes. Dispenser shall notify Provider, as soon as commercially practicable, in the event of actual or anticipated loss of total CNG fuel demand in a material amount (i.e., demand loss greater than twenty-five percent (25%) of the prior 12-month dispensing average).

3.14 Events of Default. Any material breach of the obligations and covenants in Articles 3 or 5 of this Agreement by either Party, or any breach by either Party of any representation or warranty in this Agreement (which breach, if capable of being cured, remains uncured for a period of thirty (30) days following written notice by the non-defaulting Party to the other), shall constitute an "***Event of Default***" for which the non-defaulting Party shall be entitled to terminate this Agreement and to exercise all rights and remedies available under applicable law; *provided*, however, that if either Party fails to pay any undisputed amount when due and payable to the other Party or to its gas suppliers, or to transfer any Green Attributes when due and transferable to the other Party, under this Agreement and such failure is not corrected or cured within five (5) business days after receipt of notice, then such failure shall constitute an "Event of Default" hereunder. It shall also be deemed an "Event of Default" immediately upon either Party becoming insolvent or seeking the protection from its creditors (or having such petition filed or proceeding commenced against it) under the United States Bankruptcy Code (or under any similar laws).

3.15 Disqualified RNG. Either Party will promptly notify the other Party if (i) any RNG Delivered under this Agreement is determined to be "disqualified" by the EPA or CARB, or (ii) any Green Attributes generated from any RNG Delivered under this Agreement is determined to be "invalidated" by the EPA or CARB (in either case, an "***Invalidation Event***"). If an Invalidation Event occurs without the fault of Provider, Dispenser shall promptly return any Dispenser's RIN Share or Dispenser's LCFS Share, as applicable, related to the associated RNG so invalidated. If an Invalidation Event occurs at the direct or indirect fault of Dispenser: (a) Dispenser shall deliver to Provider qualified replacements of any Green Attributes invalidated or the cash value thereof, with such value calculated based on the respective OPIS Price for the same calendar month or quarter, respectively, in which the invalidated RINs and/or LCFS Credits were or would have been generated; and (b) Provider shall have the right to (y) cease Delivery of RNG to Dispenser and (z) terminate this Agreement (and any such termination shall be considered to be an Event of Default with the Provider being the non-defaulting Party).

3.16 Title and Risk of Loss. Title to the RNG and risk of loss shall remain with Provider until the RNG is Delivered to the Delivery Point, at which point the title to the RNG and the risk of loss shall pass to Dispenser. Title to conform with the RFS.

ARTICLE 4 - FORCE MAJEURE

4.1 In an event of Force Majeure, the affected Party is excused from performance for a period of time as is reasonably necessary to resume normal operations, *provided* such affected Party continuously makes commercially reasonable efforts to mitigate and resolve such event.

4.2 The Parties are under an obligation to promptly provide notice, pursuant to Section 5.10 herein, of any Force Majeure event and keep the other Party reasonably informed regarding the status of its efforts to resume normal operations.

4.3 The existence of a condition or event of Force Majeure will not relieve the impacted Party from: (i) other obligations under this Agreement to the extent that performance is not precluded by the condition or event of Force Majeure and (ii) obligations to make payments under this Agreement.

4.4 If an event of Force Majeure prevents a Party from delivering or receiving RNG under this Agreement and such event continues (i) for more than ninety (90) consecutive days or (ii) for more than one hundred and eighty (180) cumulative days during any Year, the Party not claiming the event of Force Majeure may terminate this Agreement.

ARTICLE 5 - MISCELLANEOUS

5.1 Audit. Provider shall have the right, at its own expense, upon reasonable notice and at reasonable times, to: examine and audit, and to obtain copies of, the relevant portion of the books and records of Dispenser; access natural gas utility meters at the CNG Facility; and contact natural gas utility and service providers on Dispenser's behalf, all of which may occur only to the extent reasonably necessary to verify the accuracy of any statement, charge, payment, or computation made under this Agreement. This right to examine, audit, and to obtain copies shall not be available with respect to confidential or proprietary information not directly relevant to transactions under this Agreement. All invoices and billings shall be conclusively presumed final and accurate and all associated claims for under- or overpayments shall be deemed waived unless such invoices or billings are objected to in writing, with adequate explanation and/or documentation, within two years after the month of RNG delivery. All retroactive adjustments to any such invoices or billings shall be paid in full by the Party owing payment within thirty (30) days of notice and substantiation of such inaccuracy.

5.2 Tax Treatment.

5.2.1 The Parties agree that a RIN certificate is not tangible personal property. The RIN certificate represents only the intangible rights and benefits accruing to a blender of a renewable fuel into petroleum-based fuel or blendstocks as conferred by federal environmental authorities. The Parties further agree that these intangible rights and benefits are fully transferable and are severed from the physical act of blending or producing renewable fuels.

5.2.2 The Parties agree that a LCFS Credit is not tangible personal property. The LCFS Credit represents only the intangible rights and benefits accruing to a Regulated Party (as defined in the LCFS) based upon the carbon intensity of transportation fuel sold, supplied or offered for sale in California by the Regulated Party as conferred by CARB.

The Parties further agree that these intangible rights and benefits are fully transferable and are severed from the physical act of blending or producing transportation fuels.

5.2.3 Unless otherwise specifically provided elsewhere in the Agreement or required by law, any federal, state, or local tax, duty or fee, or the amount equivalent thereto, now or hereafter imposed, levied or assessed by any governmental agency, authority or subdivision, upon, measured by, incident to, or as a result of, Dispenser's RIN Share or Dispenser's LCFS Share must, if collectible or payable by Provider, be paid or reimbursed by Dispenser on demand by Provider. Dispenser specifically agrees to hold harmless and indemnify Provider from and against any such tax, duty or fee. Notwithstanding the foregoing, it is understood and agreed that this provision will not apply to income, franchise, or like taxes levied on, or measured by, a Party's net income; nor will this provision apply to business, occupation, license or similar taxes required for the maintenance of corporate existence. If Dispenser claims exemption from any of the aforesaid taxes, then Dispenser will furnish Provider with a properly completed and executed exemption certificate in the form and within the time limits prescribed by, and acceptable to, the appropriate taxing authority in lieu of payment of such taxes or reimbursement of such taxes to delivering Party. Consistent with Section 5.2.1 or 5.2.2., as applicable, Provider will not charge sales or use tax on the allocation of Dispenser's RIN Share or Dispenser's LCFS Share.

5.2.4 The Parties agree to cooperate with each other in defending non-taxable RIN and LCFS Credit transfers (including transfers of Dispenser's RIN Share and Dispenser's LCFS Share) pursuant to the Agreement if a Party is audited by or on behalf of a taxing jurisdiction for ad valorem, sales, use, motor fuels, excise, or similar taxes, including, but not limited to producing existing documentation, generating new reports from existing electronic reporting systems and making employees available at no cost, other than reasonable out-of-pocket expenses, to the other Party. Both Parties further agree to retain applicable records for a period of not less than the applicable statute of limitations, including any waivers thereof, executed by either Party for any taxes collected by or reimbursed to that Party.

5.3 Representations and Warranties. Each of the Parties to this Agreement represents and warrants that, as of the Execution Date: (i) it has full and complete authority to enter into and perform this Agreement; (ii) the person who executes this Agreement on its behalf has full and complete authority to do so and is empowered to bind it thereby; and (iii) it is not insolvent and has not sought protection from its creditors under the United States Bankruptcy Code, or under any similar laws. Dispenser further represents and warrants to Provider that: (a) it has applied for and obtained all local, state and federal permits, licenses and certifications necessary to operate a CNG station at the Delivery Point in compliance with applicable laws, rules and regulations in effect on the Execution Date, and (b) it has not sold or otherwise pledged (and will not sell or otherwise pledge during the Delivery Period) the rights to any RINs or LCFS Incremental Credits to be generated from RNG Delivered hereunder.

5.4 Counterparts/Headings/Construction. This Agreement may be executed in multiple counterparts, each of which will constitute an original and all of which together will constitute one and the same instrument. The headings and subheadings contained in this Agreement are used solely for convenience and shall not be used to construe or interpret the provisions of this

Agreement. The language used in this Agreement is the product of both Parties' efforts and each Party irrevocably waives the benefit of any rule of contract construction which disfavors the drafter of a contract or the drafter of specific language in a contract.

5.5 Entire Agreement Modification. This Agreement constitutes the entire agreement between the Parties regarding the purchase by Dispenser and sale by Provider of RNG, and supersedes and replaces any prior and contemporaneous communications, understandings and agreements between Provider and Dispenser related to such subject matter, whether written or verbal, express or implied. No modification, amendment, supplementation or alteration of the terms and provisions of this Agreement will be or become effective except by written amendment executed by the duly authorized representative of both Parties.

5.6 Assignment. Neither Party may assign this Agreement without the prior written consent of the other Party (which consent shall not be unreasonably withheld, conditioned or delayed), except that Provider may assign this Agreement to an affiliate or bona fide purchaser of Provider's RNG supply without consent of Dispenser (to be noticed to Dispenser within thirty (30) days of any such assignment).

5.7 Survival of Terms. Upon expiration or earlier termination of this Agreement, the Parties agree that any and all terms and conditions of this Agreement that are necessary to effectuate the Parties' rights and remedies will survive the termination of this Agreement until such time as the rights and remedies and all disputes related thereto are fully and finally resolved. This Article 5.7 shall apply with respect to RNG Delivered hereunder prior to the date of termination to ensure that RINs (and the associated Dispenser's RIN Share) and LCFS Credits (and the associated Dispenser's LCFS Share) are generated, sold and transferred to the respective Party as though this Agreement were still in full force and effect.

5.8 Governing Law. The laws of the State of California shall govern this Agreement without regard to its conflict of laws provisions, except to the extent that the Renewable Fuel Standard, together with decisions promulgated thereunder, are applicable to the purchase and sale of RNG. Any action to enforce this Agreement will be brought in a court of competent jurisdiction within the Riverside County, California, and the Parties consent to personal jurisdiction in such courts.

5.9 Forward Contract. The Parties intend that each transaction hereunder shall constitute a "forward contract" under §101(25) of Title 11 of the United States Code, 11 U.S.C. §§ 101 et seq., as amended from time to time (the "***Bankruptcy Code***"), and that each Party shall be a "forward contract merchant" under §101(26) for purposes of the Bankruptcy Code.

5.10 Notices. Any notice required hereunder shall be deemed given if in writing and delivered to the other Party at its last known address, either by transmitting via facsimile at its facsimile telephone number, or 3 days after deposit in the U.S. mail, postage prepaid and addressed to the Party; *provided*, *however*, that any notice of termination hereunder shall be deemed given only if in writing and delivered to the Party entitled to notice, either by personal delivery, Federal Express or other nationally recognized courier service or certified or registered mail, postage prepaid, return receipt requested and addressed to:

If to Provider, to:

ampRenew Offtake I LLC
2001 N. Clybourn Ave., Suite 400
Chicago, Illinois 60614
Attn: Senior Counsel
Email: legal@ampamericas.com

or

if to Dispenser, to:
City of Banning
PO Box 998
Banning, California 92220
Attn: Sergio Rubio, Fleet Manager
Email: srubio@banningca.gov

5.11 Confidential Information.

5.11.1 The Parties shall treat as strictly confidential all information they obtain in connection with this Agreement which (i) is confidential or proprietary to either Party; (ii) relates to the operations, policies, procedures, techniques, accounts and personnel of either Party; or (iii) is confidential or proprietary to a third party and is in the possession, custody or control of either Party. Without the other Party's written permission, neither Party shall disclose information pertaining to this Agreement or any information obtained through the performance of this Agreement unless required to be disclosed pursuant to applicable law, regulation or legal process (including without limitation the RFS or LCFS).

5.11.2 Notwithstanding the terms of subsection 5.11.1., Provider may share the commercial information contained in this Agreement with third-party biogas project developers, *provided* Provider ensures that such developers are bound by the same or similar confidentiality provisions as provided in this Section 5.11. This provision shall survive the termination of this Agreement.

5.11.3 Notwithstanding the terms of subsection 5.11.1., each Party agrees to allow the other Party: (i) the use of its company names, logos, and trademarks solely for the purpose of business development and publicizing and promoting the green energy marketing effort, *provided* that other uses of such company names, logos and trademarks are not authorized without written consent of the other Party, and (ii) the right to issue press releases and to make public statements regarding the general aspects of this Agreement (e.g., Parties to the agreement, the purchase and sale of RNG, and the environmental benefits associated with this Agreement), *provided* that any public statement by a Party hereto concerning this Agreement shall be reviewed and approved by the other Party before release to the public, which approval shall not be unreasonably withheld, conditioned, or delayed.

5.12 Non-Solicitation of Employees and Introduced Parties. Dispenser agrees that, upon execution of this Agreement and for a period of one (1) year following termination hereof, it will not solicit, induce, recruit or otherwise encourage, or take any other action which is intended to solicit, induce, recruit or otherwise encourage (or could reasonably be expected to have the effect of the foregoing), any employee of Provider to leave his or her employment, and will not hire,

engage or retain or attempt to hire, engage or retain any such employee without Provider's prior written consent; *provided*, that the foregoing shall not prevent Dispenser from hiring, engaging or retaining an employee of Provider who responds to a general solicitation for employment conducted by Dispenser which does not directly target such employee. Dispenser further agrees that, upon execution of this Agreement and for a period of one (1) year following the termination hereof, it will not, for the purpose of avoiding the payment to Provider of profits, fees or otherwise, directly or indirectly contact, deal with or otherwise become involved with any party who is a supplier of RNG to Provider or who is a prospective supplier of RNG to Provider, without the specific written approval of Provider, the delivery of which shall not be unreasonably withheld.

[*Signature page follows*]

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement as of the Execution Date written above.

"*Provider*":

ampRenew Offtake I LLC

By: _____

Name: Grant Zimmerman

Its: CEO

"*Dispenser*":

City of Banning

By: _____

Name: Douglas Schulze

Its: City Manager

[*Appendix pages follow*]

EXHIBIT A

COMPLIANCE AFFIDAVITS

REGISTRATION AFFIDAVIT

The City of Banning, a California city ("***Affiant***"), hereby states and certifies as follows:

1. That Affiant and AmpRenew Offtake I LLC ("***Amp***"), a Delaware limited liability corporation and wholly owned subsidiary of Amp Americas II, LLC, executed a RNG Supply Agreement on _____, 201__ (the "***Agreement***"), pursuant to which Affiant would purchase biogas from Amp for use as transportation fuel in the form of compressed natural gas;
2. That, pursuant to the Agreement, Amp will nominate on a monthly basis the quantity of biogas to be sold to Affiant;
3. That Affiant will receive possession of such biogas from Amp via a commercial distribution system sales point located at _____, _____, California
   [station address] **[city]**
   ("***CNG Station***");
4. That Affiant will only dispense the biogas purchased under the Agreement at the CNG Station;
5. That Affiant will only dispense the biogas purchased pursuant to the Agreement as a transportation fuel and for no other purpose;
6. That Affiant has not and will not rely upon the volume of biogas purchased pursuant to the Agreement for the creation of any Renewable Identification Numbers ("***RINs***"), as such term is defined by 40 C.F.R. 80.1101(o); and
7. That the undersigned, as _____ of Affiant, has all requisite knowledge and
   [title]
   authority to make this affidavit on behalf of Affiant.

DATED THIS ___ DAY OF _____, 20__

By: _____
Name: _____
Title: _____
Company: _____

[***See attached notarial certificate***]

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Riverside

On _____, before me, _____, Notary Public,

personally appeared _____

who 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.

I certify under PENALTY OF PERJURY under the laws of State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

SIGNATURE_____

PLACE NOTARY SEAL ABOVE

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: _____

_____

_____

Document Date:_____Number of Pages:_____

Signer(s) Other than Named Above:_____

CNG DISPENSER AFFIDAVIT

STATE OF _____

COUNTY OF _____

I the undersigned, _____, _____ of the City of Banning, California
[name] **[title]**
("***Dispenser***"), acting on behalf of Dispenser, hereby attest to the following statements to the best of my knowledge and belief:

1. I oversee the supply and distribution of CNG for vehicle fuel use at Dispenser.
2. Dispenser owns and operates the following station that produces CNG for use as a transportation fuel ("***Qualified CNG Facilities***"):

   Table 1: Qualified CNG Facilities

Site Name	Street Address	City	State	Postal Code	Meter ID	LDC Supplying Gas

3. Dispenser has entered into a purchase and sale agreement with AmpRenew Offtake I LLC ("***Amp***") for the supply of pipeline quality gas that is used at the Qualified CNG Facilities, such agreement as follows:

The delivery period is _____, 20___ to _____, 20___;

   a. The Maximum Daily Quantity ("***Max DQ***") of the agreement is _____ **MMBtu/day** at each Qualified CNG Facility; and
   b. The delivery points ("***Delivery Points***") include the Qualified CNG Facilities.

4. Pipeline quality gas purchased at the Delivery Points noted above is converted at the Qualified CNG Facilities into CNG for use as a transportation fuel.
5. At each of the Qualified CNG Facilities, the volume of biogas withdrawn from the commercial distribution system to produce CNG for use as a transportation fuel is measured by continuous metering, and after such meter, the CNG is used as transportation fuel and for no other purpose.
6. Dispenser has not and will not generate RINs nor represent the fuel for sale as biogas with the ability to generate RINs to any other party.
7. The capacity of the Qualified CNG Facilities to produce and dispense CNG as transportation fuel is greater than _____ MMBtu/day.

DATED THIS ___ DAY OF _____, 20__

By: _____
Name: _____
Title: _____
Company: _____

[***See attached notarial certificate***]

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Riverside

On _____, before me, _____, Notary Public,

personally appeared _____

who 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.

I certify under PENALTY OF PERJURY under the laws of State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

SIGNATURE_____

PLACE NOTARY SEAL ABOVE

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: _____

_____

_____

Document Date:_____Number of Pages:_____

Signer(s) Other than Named Above:_____

QUARTERLY AFFIDAVIT

STATE OF _____

COUNTY OF _____

The undersigned, under penalty of perjury, attests to the following:

I, _____, currently serve as _____ of _____ ("***Dispenser***"),
[name] **[title]** **]Dispenser]**

a(n) _____ _____, located at _____.
[state incorporated] **[entity type]** **[principal business address]**

In this capacity I oversee the purchase and transportation of natural gas and biogas for Dispenser; Dispenser took title to biogas as defined in 40 CFR 80.1401 from AmpRenew Offtake I LLC ("***Amp***") in the period between _____ and _____;
[quarter begin date] **[quarter end date]**

The biogas described above was dispensed for use as transportation fuel by Dispenser in accordance with the schedule below:

Biogas Activities by Dispenser	**MMBtu (HHV)**
Biogas Purchased from Amp:	
Dispensed for Use as Transportation Fuel as CNG:	

DATED THIS ___ DAY OF _____, 20__

By: _____
Name: _____
Title: _____
Company: _____

[***See attached notarial certificate***]

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Riverside

On _____, before me, _____, Notary Public,

personally appeared _____

who 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.

I certify under PENALTY OF PERJURY under the laws of State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

SIGNATURE_____

PLACE NOTARY SEAL ABOVE

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: _____

_____

_____

Document Date:_____Number of Pages:_____

Signer(s) Other than Named Above:_____

NO. 1 FIRST AMENDMENT TO
RNG SUPPLY AGREEMENT

This First Amendment to RNG Supply Agreement ("***First Amendment***") is effective as November ___, 2024 ("***Effective Date***"), by and between AmpRenew Offtake I LLC ("***Provider***") and City of Banning ("***Dispenser***"). Provider and Dispenser are individually referred to herein as a "***Party***" and collectively as the "***Parties***."

RECITALS

WHEREAS, Provider and Dispenser are parties to that certain RNG Supply Agreement dated March 15, 2021 (the "***Agreement***");

WHEREAS, capitalized terms used herein and not otherwise defined herein or in the Agreement shall have the meaning attributed to the same in the Biogas Regulatory Reform Rule, 40 CFR §80; and

WHEREAS, the Parties desire to amend the Agreement upon the terms and conditions herein set forth.

AMENDMENT AND AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties do hereby agree to amend the Agreement as follows:

1. **Article 1.1, Definitions**. The definition of "Delivery Point" is hereby amended by replacing "**14166153**" with "**16248679**."

2. **Article 1.1, Definitions**. Article 1.1 is hereby further amended by deleting the definitions of "LCFS Existing Credits" and "LCFS Incremental Credits."

3. **Article 3, Specific Terms of Purchase and Sale**. The following shall be added as a new Article 3.0 at the beginning of Article 3:

> "The Renewable Fuel Standard (RFS) set rule for 2023-2025 introduced the Biogas Regulatory Reform Rule (as may be amended from time to time, "BRRR") for the RFS program (See. 40 CFR §80). The Parties understand, acknowledge and agree that, effective as of November ___, 2024, compliance with BRRR is required for purposes of satisfying the terms and conditions of this Agreement. To that end, the Parties agree to cooperate in good faith to comply with BRRR, including without limitation, taking any and all actions and executing any and all documents necessary to ensure compliance.
>
> For purposes of BRRR:
>
> 3.0.1 Provider shall be deemed to be the: (i) Biogas Producer, (ii) RNG Producer, (iii) RNG Marketer, and strictly for regulatory compliance (iv) a Delegated User (as such term is defined by the EPA) of Dispenser.

3.0.2 Dispenser shall be deemed to be the RNG RIN Separator.

3.0.3 All references in the Agreement to RINs shall, as context permits, include K2 Credits.

As the Biogas Producer, Provider generates biogas tokens associated with the RNG produced by its supply sources and later retires the biogas tokens. Provider then, as the RNG Producer, converts the biogas tokens to generate RNG RINs. Provider will confirm quantity of RNG that will be used for transportation use for the delivery month. By the twentieth (20^{th}) day of the month following delivery month, Provider, acting as the RNG Marketer, transfers the RNG RINs to Dispenser, who will act as the RNG RIN Separator. As the RNG RIN Separator, Dispenser is responsible for separating the RNG RINs into K2 Credits and transferring Provider's share of the K2 Credits to Provider, as outlined in Article 3 of the Agreement, within three (3) business days of receiving the RNG RINs from RNG Marketer.

By the 15^{th} day of the month following the delivery month, RNG RIN Separator shall provide Provider all dispensing information and data required by BRRR, including any changes to Dispenser's registered dispensing stations, including such as any changes to ownership, meter numbers, station location, or station name. For purposes of this section, "RNG Marketer" means any person allowed to receive, market, and/or transfer RNG RINs under 40 CFR § 80.

Dispenser and Provider are deemed "Associates," as such term is used for EPA/RFS compliance, and Dispenser hereby appoints and authorizes Provider to act as a Delegated User of Dispenser, including, without limitation, (i) registering to be a Delegated User of Dispenser in OTAQREG (ii) completing all period reporting. Dispenser and Provider agree to work in good faith to maintain EPA/RFS compliance and meet all periodic reporting requirements."

4. **Article 3.7, RIN Allocations between Dispenser and Provider**. Article 3.7 is hereby deleted in its entirety and replaced with the following:

"3.7 RIN Allocations between Dispenser and Provider. Provider or its designated affiliate or upstream supplier shall have the sole right to generate all Green Attributes, including but not limited to RINs and all financial and other benefits associated therewith, for all RNG Delivered to Dispenser. For all RINs generated from RNG Deliveries to Dispenser under this Agreement, Dispenser shall be entitled to receive from Provider six percent (6%) of the OPIS Price for all RINs so generated ("***Dispenser's RIN Share***"). Provider shall pay Dispenser's RIN Share to Dispenser on a monthly basis within twenty (20) business days of delivery of such RINs into Provider's EMTS account."

5. **Article 3.8, LCFS Allocations between Dispenser and Provider**. Article 3.8 is hereby deleted in its entirety and replaced with the following:

"3.8 LCFS Allocations between Dispenser and Provider. Provider or its designated affiliate or upstream supplier shall have the sole right to generate all Green Attributes, including but not limited to LCFS Credits and all financial and other benefits associated

therewith, for all RNG Delivered to Dispenser. For all LCFS Credits generated from RNG Deliveries to Dispenser under this Agreement, Dispenser shall be entitled to receive from Provider six percent (6%) of the OPIS Price for all LCFS Credits so generated ("***Dispenser's LCFS Share***"). Provider shall pay Dispenser's LCFS Share to Dispenser on a monthly basis within twenty (20) business days of delivery of such LCFS Credits into Provider's LRT-CBTS account.

6. **Article 3.9, LCFS Existing Credits for Dispensed Natural Gas**. Article 3.9 is deleted in its entirety and replaced with the following:

"3.9 Dispenser Incentive Payment. Provider has requested that Dispenser assist in finding additional downstream demand for RNG offtake in California. In the event Provider executes an offtake agreement for RNG offtake in California with a third-party introduced by Dispenser, the percentage of Dispenser's RIN Share and Dispenser's LCFS Share shall automatically be amended based on the volume of such executed third-party offtake agreement in accordance with the Incentive Payment Schedule attached hereto as **Exhibit B** and incorporated herein by reference. The execution of any third-party offtake agreement shall be solely at Provider's discretion and Provider shall have no obligation to execute any offtake agreement with a third-party introduced by Dispenser."

7. **Miscellaneous**. This First Amendment and the Agreement contains all of the representations, understandings and agreements of the Parties with respect to matters contained herein. To the extent that the terms and conditions of this First Amendment modify or conflict with any provisions of the Agreement, including prior addenda, schedules and exhibits, the terms of this First Amendment shall control. All other terms of the Agreement, including all prior addenda, schedules and exhibits, not modified by this First Amendment shall remain the same. Each Party represents that the individual executing this First Amendment on behalf of such Party is duly authorized to execute this First Amendment on behalf of such Party as the case may be; that all corporate, partnership, trust or other action necessary for such Party to execute and perform the terms of this First Amendment have been duly taken by such Party; and that no other signature and/or authorization is necessary for such Party to enter into and perform the terms of this First Amendment. The Parties acknowledge the truthfulness of the foregoing Recitals, which are hereby incorporated into this First Amendment. This First Amendment may be executed in one or more counterparts, each of which counterparts shall constitute an original and all of which counterparts together shall constitute one and the same First Amendment. A copy of a signature shall be deemed an original signature for all purposes.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this First Amendment as of the date first written above.

ampRenew Offtake I LLC	**City of Banning**
By: _____	By: _____
Name:	Name:
Title:	Title:

EXHIBIT B

Incentive Payment Schedule

Illustrative Financial Benefit for City of Banning[1]									
		Existing Agreement	Current Proposal	Incentive Proposal					
COB Originated Volume	*MMBtu/day*	N/A	N/A	100	200	400	600	800	1,000
% of RIN & LCFS[2] Value to COB	*%*	2% / 3%[1]	6%	12%	14%	16%	18%	20%	22%
$/MMBtu to COB[3]	*$/MMBtu*	$1.28	$3.37	$6.75	$7.87	$9.00	$10.12	$11.25	$12.37
Annual Revenue to COB[4]	*MM $/Year*	$15,376	$40,643	$81,287	$94,835	$108,382	$121,930	$135,478	$149,026
Annual Revenue Increase to COB	***MM $/Year***	**N/A**	**$25,267**	**$65,911**	**$79,458**	**$93,006**	**$106,554**	**$120,102**	**$133,650**

[1] Abbreviated as COB

[2] LCFS % sharing based on CI of -250 gCO2e/MJ

[3] Assumes D3 RIN price of $3.34 and LCFS price of $55 (actual prices on August 16, 2024)

[4] Assumes City of Banning demand of 33 MMBtu per day

CITY OF BANNING
STAFF REPORT

TO: **CITY COUNCIL**

FROM: **Douglas Schulze, City Manager**

PREPARED BY: **Brandon Robinson, Electrical Engineering Supervisor**
Art Vela, Director of Public Works

MEETING DATE: **November 12, 2024**

SUBJECT: **Accept an Easement from Tri Pointe Homes for Electric Utility Purposes on Accessor's Tract Map No. 37388-3, within the Atwell Development for the Maintenance of the City-Owned Electric Distribution System**

RECOMMENDATION:

Staff recommends that City Council accepts an easement from Tri Pointe Homes for electric utility purposes for Tract Map No. 37388-3, Lots 12, 18, and 24 within the Atwell Development for the maintenance of the City-owned electric distribution system.

BACKGROUND:

Final Tract Map No. 37388-3 within the Atwell Development Specific Plan was approved by City Council by Resolution No. 2024-29 on February 27, 2024. Banning Electric Utility has constructed electrical improvements within these tracts that were required to serve the housing development. As part of the Conditions of Approval for the project, the owner is required to provide the City with necessary easements for the maintenance of the City-owned electric distribution system.

This easement will cover electric facilities that were constructed within Planning Area (PA) 15A, Lots 1, 7, 42, 43, 48, 54, 55, 60, and 61 which is included in Tract Map 37388-3. The facilities within the proposed easement consist of primary underground electric infrastructure required for utility service within PA 15A of the Atwell development.

JUSTIFICATION:

It is necessary to obtain the easements for the City to access and provide maintenance for the City-owned electric distribution equipment which may include utility poles, conduit with conductors, transformers, switchgear, equipment pads, and meters.

FISCAL IMPACT:

There is no fiscal impact associated with the acceptance of the easement.

ALTERNATIVES:

Do not accept the easement and provide alternative direction.

BUDGETED?:

No

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. Easement Tract 37388-3, PA 15A-2.pdf
2. Att_1_Certificate_of_Acceptance_-_Easement_for_37388-3__PA_15A-2.pdf

EXEMPT RECORDING REQUESTED BY

City of Banning

PER GOV'T CODE 6103

AND WHEN RECORDED MAIL TO:

City of Banning – City Clerk
P.O. Box 998
Banning, CA 92220

SPACE ABOVE THIS LINE FOR RECORDER'S USE

APN: 408-570-002

EASEMENT – PUBLIC ELECTRIC UTILITY PURPOSES

The undersigned, being the present title owner(s) of record of the herein described parcel of land (Grantor(s), do hereby grant to the City of Banning, a California municipal corporation, and its successors or assigns (Grantee), an easement for public electric utility purposes, as more fully described herein, over, under and across the real property situated in the City of Banning, County of Riverside, State of California, described in Exhibit "A" (Public Electric Easement Legal Description) and shown on Exhibit "B" (Public Electric Easement Boundary Plat Map) attached hereto and incorporated herein by this reference as though set forth in full.

This easement for public electric utility purposes is for Grantee's construction, maintenance, reconstruction, and use of overhead and underground electrical lines, together with any and all appurtenances thereto, including, but not limited to, conduits, poles, vaults and wires, and the right, from time to time, to trim or cut down any and all trees, bushes and brush now or hereafter within the easement area or along each side of the easement area which now or hereafter in the opinion of Grantee may interfere with or be a hazard to the facilities installed hereunder or that Grantee deems necessary to comply with applicable City, state and federal laws and regulations. Grantor further agrees not to erect, place or maintain, nor permit the erection, placement or maintenance of any building, planter box or boxes, structure or fill soil in the easement area described in Exhibit "A" and shown on Exhibit "B".

It is understood and agreed that the City of Banning and its successors or assigns shall incur no liability with respect to such easement, and shall not assume any responsibility for the offered parcel of land or any improvements thereon or therein, until such offer has been accepted by appropriate action of the City Council, or of the local governing bodies or its successors or assigns.

The provisions hereof shall inure to the benefit of and be binding upon heirs, successors, assigns, and personal representatives of the respective parties hereto.

IN WITNESS THEREOF, these presents have executed this instrument this 24th day of October, 2024.

Tri Pointe Homes IE-SD, Inc.
Individual/Corporation (Type Name)

Signature

Brian Ortwein, Vice President of Project Management
Name and Title (Type)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Riverside)

On 10/24/2024 before me, Edelmira Gonzales / Notary Public
(insert name and title of the officer)

personally appeared Brian Ortwein,
who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

FRS01 EDELMIRA GONZALES NOTARY PUBLIC - CALIFORNIA COMMISSION # 2466323 RIVERSIDE COUNTY My Comm. Exp. October 12, 2027 FRS01

Signature Edelmira Gonzales (Seal)

EXHIBIT "A"

PUBLIC ELECTRIC EASEMENT
CITY OF BANNING PROJECT ID NO. RW 24-0017
LEGAL DESCRIPTION

VARIOUS STRIPS OF LAND LYING WITHIN LOTS 1, 7, 42, 43, 48, 54, 55, 60, 61 AND 'Y' OF TRACT NO. 37388-3, IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS FILED IN MAP BOOK 495, PAGES 14 THROUGH 21, INCLUSIVE, RECORDS OF SAID COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

STRIP 1:

A STRIP OF LAND LYING WITHIN SAID LOT 1 OF TRACT NO. 37388-3, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTERLINE INTERSECTION OF BALSAM PLACE, HAVING A HALF WIDTH OF 28.00 FEET, AND REDWOOD LANE, HAVING A HALF WIDTH OF 28.00 FEET AS SHOWN ON SAID TRACT NO. 37388-3;

THENCE LEAVING SAID CENTERLINE INTERSECTION NORTH 69°07'55" EAST 39.14 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF 66.00 FEET, A RADIAL TO THE BEGINNING OF SAID NON-TANGENT CURVE BEARS SOUTH 77°36'20" EAST, SAID POINT ALSO BEING ON THE EASTERLY RIGHT OF WAY LINE OF SAID REDWOOD LANE AND ON THE WEST LINE OF SAID LOT 1, SAID POINT ON A CURVE ALSO BEING THE **TRUE POINT OF BEGINNING**;

THENCE NORTHERLY ALONG SAID NON-TANGENT CURVE, SAID EASTERLY RIGHT OF WAY LINE OF REDWOOD LANE AND SAID WEST LINE OF LOT 1, THROUGH A CENTRAL ANGLE OF 14°45'29", AN ARC LENGTH OF 17.00 FEET;

THENCE LEAVING SAID EASTERLY RIGHT OF WAY LINE OF REDWOOD LANE AND SAID WEST LINE OF LOT 1 NORTH 87°38'11" EAST 4.50 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF 70.50 FEET, SAID LINE IS RADIAL TO SAID NON-TANGENT CURVE;

THENCE SOUTHERLY ALONG SAID NON-TANGENT CURVE, THROUGH A CENTRAL ANGLE OF 14°45'29", AN ARC LENGTH OF 18.16 FEET;

THENCE NORTH 77°36'20" WEST 4.50 FEET TO THE **TRUE POINT OF BEGINNING**.

SAID PUBLIC ELECTRIC EASEMENT CONTAINS 79 SQUARE FEET, MORE OR LESS.

STRIP 2:

A 28.00 FOOT WIDE STRIP OF LAND LYING WITHIN SAID LOT 7 OF THE AFOREMENTIONED TRACT NO. 37388-3, LYING 14.00 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT THE CENTERLINE INTERSECTION OF APPLE WAY, HAVING A HALF WIDTH OF 35.00 FEET, AND REDWOOD LANE, HAVING A HALF WIDTH OF 28.00 FEET AS SHOWN ON SAID TRACT NO. 37388-3;

THENCE ALONG THE CENTERLINE OF SAID REDWOOD LANE SOUTH 0°13'14" WEST 76.53 FEET;

EXHIBIT "A"

PUBLIC ELECTRIC EASEMENT
CITY OF BANNING PROJECT ID NO. RW 24-0017
LEGAL DESCRIPTION

THENCE PERPENDICULAR TO SAID CENTERLINE OF REDWOOD LANE SOUTH 89°46'46" EAST 28.00 FEET TO THE EAST RIGHT OF WAY LINE OF SAID REDWOOD LANE, SAID POINT ALSO BEING ON THE WEST LINE OF SAID LOT 7 AND THE **TRUE POINT OF BEGINNING**;

THENCE CONTINUING SOUTH 89°46'46" EAST 4.50 FEET TO THE **POINT OF TERMINUS.**

SAID PUBLIC ELECTRIC EASEMENT CONTAINS 126 SQUARE FEET, MORE OR LESS.

STRIP 3:

A 16.00 FOOT WIDE STRIP OF LAND LYING WITHIN SAID LOT 'Y' OF THE AFOREMENTIONED TRACT NO. 37388-3, LYING 8.00 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT THE CENTERLINE INTERSECTION OF APPLE WAY, HAVING A HALF WIDTH OF 35.00 FEET, AND REDWOOD LANE, HAVING A HALF WIDTH OF 28.00 FEET AS SHOWN ON SAID TRACT NO. 37388-3;

THENCE ALONG THE CENTERLINE OF SAID APPLE WAY SOUTH 89°46'46" EAST 132.95 FEET;

THENCE PERPENDICULAR TO SAID CENTERLINE OF APPLE WAY SOUTH 0°13'14" WEST 35.00 FEET TO THE SOUTH RIGHT OF WAY LINE OF SAID APPLE WAY, SAID POINT ALSO BEING ON THE NORTH LINE OF SAID LOT 'Y' AND THE **TRUE POINT OF BEGINNING**;

THENCE CONTINUING SOUTH 0°13'14" WEST 10.00 FEET TO THE **POINT OF TERMINUS.**

SAID PUBLIC ELECTRIC EASEMENT CONTAINS 160 SQUARE FEET, MORE OR LESS.

STRIP 4:

A STRIP OF LAND LYING WITHIN SAID LOT 42 OF TRACT NO. 37388-3, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTERLINE INTERSECTION OF LOT 'J', HAVING A HALF WIDTH OF 13.00 FEET, AND LINDEN LANE, HAVING A HALF WIDTH OF 28.00 FEET AS SHOWN ON SAID TRACT NO. 37388-3;

THENCE ALONG THE CENTERLINE OF SAID LINDEN LANE NORTH 0°13'14" EAST 34.79 FEET;

THENCE PERPENDICULAR TO SAID CENTERLINE OF LINDEN LANE NORTH 89°46'46" WEST 37.95 FEET TO A POINT ON A CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 66.00 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 88°03'53" WEST, SAID POINT ALSO BEING ON THE WESTERLY RIGHT OF WAY LINE OF SAID LINDEN LANE AND ON THE EAST LINE OF SAID LOT 42, SAID POINT ON A CURVE ALSO BEING THE **TRUE POINT OF BEGINNING**;

THENCE LEAVING SAID WESTERLY RIGHT OF WAY LINE OF LINDEN LANE AND SAID EAST LINE OF LOT 42 SOUTH 88°03'53" WEST 5.50 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 71.50 FEET, SAID LINE IS RADIAL TO SAID NON-TANGENT CURVE;

EXHIBIT "A"

PUBLIC ELECTRIC EASEMENT
CITY OF BANNING PROJECT ID NO. RW 24-0017
LEGAL DESCRIPTION

THENCE NORTHEASTERLY ALONG SAID NON-TANGENT CURVE, THROUGH A CENTRAL ANGLE OF 25°10'32", AN ARC LENGTH OF 31.42 FEET;

THENCE SOUTH 66°45'35" EAST 5.50 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 66.00 FEET, SAID LINE IS RADIAL TO SAID NON-TANGENT CURVE, SAID POINT ALSO BEING ON THE WESTERLY RIGHT OF WAY OF LINDEN LANE AND EAST LINE OF LOT 42;

THENCE SOUTHWESTERLY ALONG SAID NON-TANGENT CURVE, SAID WESTERLY LINE OF LINDEN LANE AND SAID EAST LINE OF LOT 42, THROUGH A CENTRAL ANGLE OF 25°10'32", AN ARC LENGTH OF 29.00 FEET TO THE **TRUE POINT OF BEGINNING**.

SAID PUBLIC ELECTRIC EASEMENT CONTAINS 166 SQUARE FEET, MORE OR LESS.

STRIP 5:

A 16.00 FOOT WIDE STRIP OF LAND LYING WITHIN SAID LOT 43 OF THE AFOREMENTIONED TRACT NO. 37388-3, LYING 8.00 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT THE CENTERLINE INTERSECTION OF LOT 'Q', HAVING A HALF WIDTH OF 13.00 FEET, AND LINDEN LANE, HAVING A HALF WIDTH OF 28.00 FEET AS SHOWN ON SAID TRACT NO. 37388-3;

THENCE ALONG THE CENTERLINE OF SAID LINDEN LANE NORTH 0°13'14" EAST 52.87 FEET;

THENCE PERPENDICULAR TO SAID CENTERLINE OF LINDEN LANE NORTH 89°46'46" WEST 28.00 FEET TO THE WEST RIGHT OF WAY LINE OF SAID LINDEN LANE, SAID POINT ALSO BEING ON THE EAST LINE OF SAID LOT 43 AND THE **TRUE POINT OF BEGINNING**;

THENCE CONTINUING NORTH 89°46'46" WEST 5.00 FEET TO THE **POINT OF TERMINUS**.

SAID PUBLIC ELECTRIC EASEMENT CONTAINS 80 SQUARE FEET, MORE OR LESS.

STRIP 6:

A 34.00 FOOT WIDE STRIP OF LAND LYING WITHIN SAID LOT 48 OF THE AFOREMENTIONED TRACT NO. 37388-3, LYING 17.00 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT THE CENTERLINE INTERSECTION OF LOT 'Q', HAVING A HALF WIDTH OF 13.00 FEET, AND LINDEN LANE, HAVING A HALF WIDTH OF 28.00 FEET AS SHOWN ON SAID TRACT NO. 37388-3;

THENCE ALONG THE CENTERLINE OF SAID LINDEN LANE SOUTH 0°13'14" WEST 0.60 FEET;

THENCE PERPENDICULAR TO SAID CENTERLINE OF LINDEN LANE NORTH 89°46'46" WEST 28.00 FEET TO THE WEST RIGHT OF WAY LINE OF SAID LINDEN LANE, SAID POINT ALSO BEING ON THE EAST LINE OF SAID LOT 48 AND THE **TRUE POINT OF BEGINNING**;

THENCE CONTINUING NORTH 89°46'46" WEST 5.00 FEET TO THE **POINT OF TERMINUS.**

EXHIBIT "A"

PUBLIC ELECTRIC EASEMENT
CITY OF BANNING PROJECT ID NO. RW 24-0017
LEGAL DESCRIPTION

SAID PUBLIC ELECTRIC EASEMENT CONTAINS 170 SQUARE FEET, MORE OR LESS.

STRIP 7:

A 39.00 FOOT WIDE STRIP OF LAND LYING WITHIN SAID LOT 54 OF THE AFOREMENTIONED TRACT NO. 37388-3, LYING 19.50 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT THE CENTERLINE INTERSECTION OF VIRGINIA DRIVE, HAVING A HALF WIDTH OF 13.00 FEET, AND LINDEN LANE, HAVING A HALF WIDTH OF 28.00 FEET AS SHOWN ON SAID TRACT NO. 37388-3;

THENCE ALONG THE CENTERLINE OF SAID LINDEN LANE NORTH 0°13'14" EAST 50.30 FEET;

THENCE PERPENDICULAR TO SAID CENTERLINE OF LINDEN LANE NORTH 89°46'46" WEST 28.00 FEET TO THE WEST RIGHT OF WAY LINE OF SAID LINDEN LANE, SAID POINT ALSO BEING ON THE EAST LINE OF SAID LOT 54 AND THE **TRUE POINT OF BEGINNING**;

THENCE CONTINUING NORTH 89°46'46" WEST 5.50 FEET TO THE **POINT OF TERMINUS.**

SAID PUBLIC ELECTRIC EASEMENT CONTAINS 215 SQUARE FEET, MORE OR LESS.

STRIP 8:

A 16.00 FOOT WIDE STRIP OF LAND LYING WITHIN SAID LOT 55 OF THE AFOREMENTIONED TRACT NO. 37388-3, LYING 8.00 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT THE CENTERLINE INTERSECTION OF VIRGINIA DRIVE, HAVING A HALF WIDTH OF 13.00 FEET, AND LINDEN LANE, HAVING A HALF WIDTH OF 28.00 FEET AS SHOWN ON SAID TRACT NO. 37388-3;

THENCE ALONG THE CENTERLINE OF SAID LINDEN LANE SOUTH 0°13'14" WEST 67.70 FEET;

THENCE PERPENDICULAR TO SAID CENTERLINE OF LINDEN LANE NORTH 89°46'46" WEST 28.00 FEET TO THE WEST RIGHT OF WAY LINE OF SAID LINDEN LANE, SAID POINT ALSO BEING ON THE EAST LINE OF SAID LOT 55 AND THE **TRUE POINT OF BEGINNING**;

THENCE CONTINUING NORTH 89°46'46" WEST 4.50 FEET TO THE **POINT OF TERMINUS.**

SAID PUBLIC ELECTRIC EASEMENT CONTAINS 72 SQUARE FEET, MORE OR LESS.

STRIP 9:

A 31.00 FOOT WIDE STRIP OF LAND LYING WITHIN SAID LOT 60 OF THE AFOREMENTIONED TRACT NO. 37388-3, LYING 15.50 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT THE CENTERLINE INTERSECTION OF LOT 'M', HAVING A HALF WIDTH OF 13.00 FEET, AND LINDEN LANE, HAVING A HALF WIDTH OF 28.00 FEET AS SHOWN ON SAID TRACT NO. 37388-3;

THENCE ALONG THE CENTERLINE OF SAID LINDEN LANE NORTH 0°13'14" EAST 46.75 FEET;

EXHIBIT "A"

PUBLIC ELECTRIC EASEMENT
CITY OF BANNING PROJECT ID NO. RW 24-0017
LEGAL DESCRIPTION

THENCE PERPENDICULAR TO SAID CENTERLINE OF LINDEN LANE NORTH 89°46'46" WEST 28.00 FEET TO THE WEST RIGHT OF WAY LINE OF SAID LINDEN LANE, SAID POINT ALSO BEING ON THE EAST LINE OF SAID LOT 60 AND THE **TRUE POINT OF BEGINNING**;

THENCE CONTINUING NORTH 89°46'46" WEST 5.00 FEET TO THE **POINT OF TERMINUS.**

SAID PUBLIC ELECTRIC EASEMENT CONTAINS 155 SQUARE FEET, MORE OR LESS.

STRIP 10:

A STRIP OF LAND LYING WITHIN SAID LOT 61 OF TRACT NO. 37388-3, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTERLINE INTERSECTION OF LOT 'M', HAVING A HALF WIDTH OF 13.00 FEET, AND LINDEN LANE, HAVING A HALF WIDTH OF 28.00 FEET AS SHOWN ON SAID TRACT NO. 37388-3;

THENCE ALONG THE CENTERLINE OF SAID LINDEN LANE SOUTH 0°13'14" WEST 51.99 FEET;

THENCE PERPENDICULAR TO SAID CENTERLINE OF LINDEN LANE NORTH 89°46'46" WEST 28.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF 100.00 FEET, A RADIAL TO THE BEGINNING OF SAID NON-TANGENT CURVE BEARS SOUTH 89°12'53" EAST, SAID POINT ALSO BEING ON THE WEST RIGHT OF WAY LINE OF SAID LINDEN LANE AND ON THE EAST LINE OF SAID LOT 61, SAID POINT ON A CURVE ALSO BEING THE **TRUE POINT OF BEGINNING**;

THENCE SOUTHWESTERLY ALONG SAID NON-TANGENT CURVE, SAID WEST RIGHT OF WAY LINE OF LINDEN LANE AND SAID EAST LINE OF LOT 61, THROUGH A CENTRAL ANGLE OF 9°10'02", AN ARC LENGTH OF 16.00 FEET;

THENCE LEAVING SAID WEST RIGHT OF WAY LINE OF LINDEN LANE AND SAID EAST LINE OF LOT 61 NORTH 80°02'51" WEST 5.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF 95.00 FEET, SAID LINE IS RADIAL TO SAID NON-TANGENT CURVE;

THENCE NORTHEASTERLY ALONG SAID NON-TANGENT CURVE, THROUGH A CENTRAL ANGLE OF 9°10'02", AN ARC LENGTH OF 15.20 FEET;

THENCE SOUTH 89°12'53" EAST 5.00 FEET TO THE **TRUE POINT OF BEGINNING**.

SAID PUBLIC ELECTRIC EASEMENT CONTAINS 78 SQUARE FEET, MORE OR LESS.

EXHIBIT "A"

PUBLIC ELECTRIC EASEMENT
CITY OF BANNING PROJECT ID NO. RW 24-0017
LEGAL DESCRIPTION

SUBJECT TO ALL CONDITIONS, RESERVATIONS, EASEMENTS AND RIGHTS OF RECORDS, IF ANY.

SEE EXHIBIT "B" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

PREPARED UNDER THE SUPERVISION OF:



10-23-24

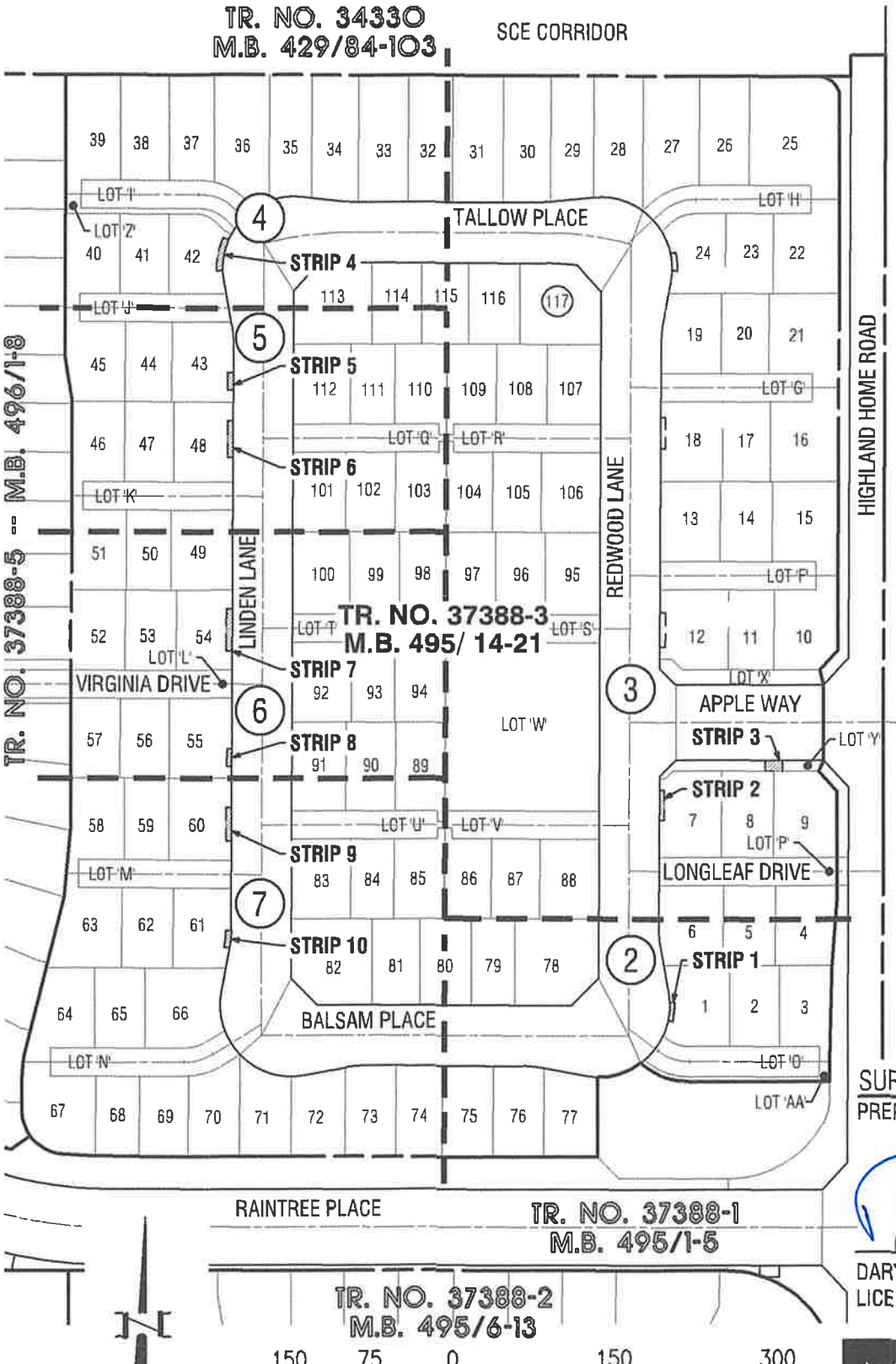
DARYL J. CHRISTIAN, PLS 8554 DATE

RECOMMENDED FOR ACCEPTANCE BY:

ROBERT C. OLLERTON, RLS, DATE
ENGINEERING RESOURCES OF SOUTHERN CALIFORNIA, INC.

EXHIBIT "B"

PUBLIC ELECTRIC EASEMENT
CITY OF BANNING PROJECT ID NO. RW 24-0017
PLAT TO ACCOMPANY LEGAL DESCRIPTION
INDEX MAP



INDEX MAP

(7) INDICATES SHEET NUMBER/ EASEMENT STRIP NUMBER

LEGEND:

PUBLIC ELECTRIC EASEMENT

PROFESSIONAL LAND SURVEYOR
DARYL J. CHRISTIAN
LS 8554
STATE OF CALIFORNIA

SURVEYOR'S CERTIFICATE

PREPARED UNDER THE SUPERVISION OF:

10-23-24

DARYL J. CHRISTIAN DATE
LICENSED LAND SURVEYOR NO. 8554

SCALE: 1" = 150'

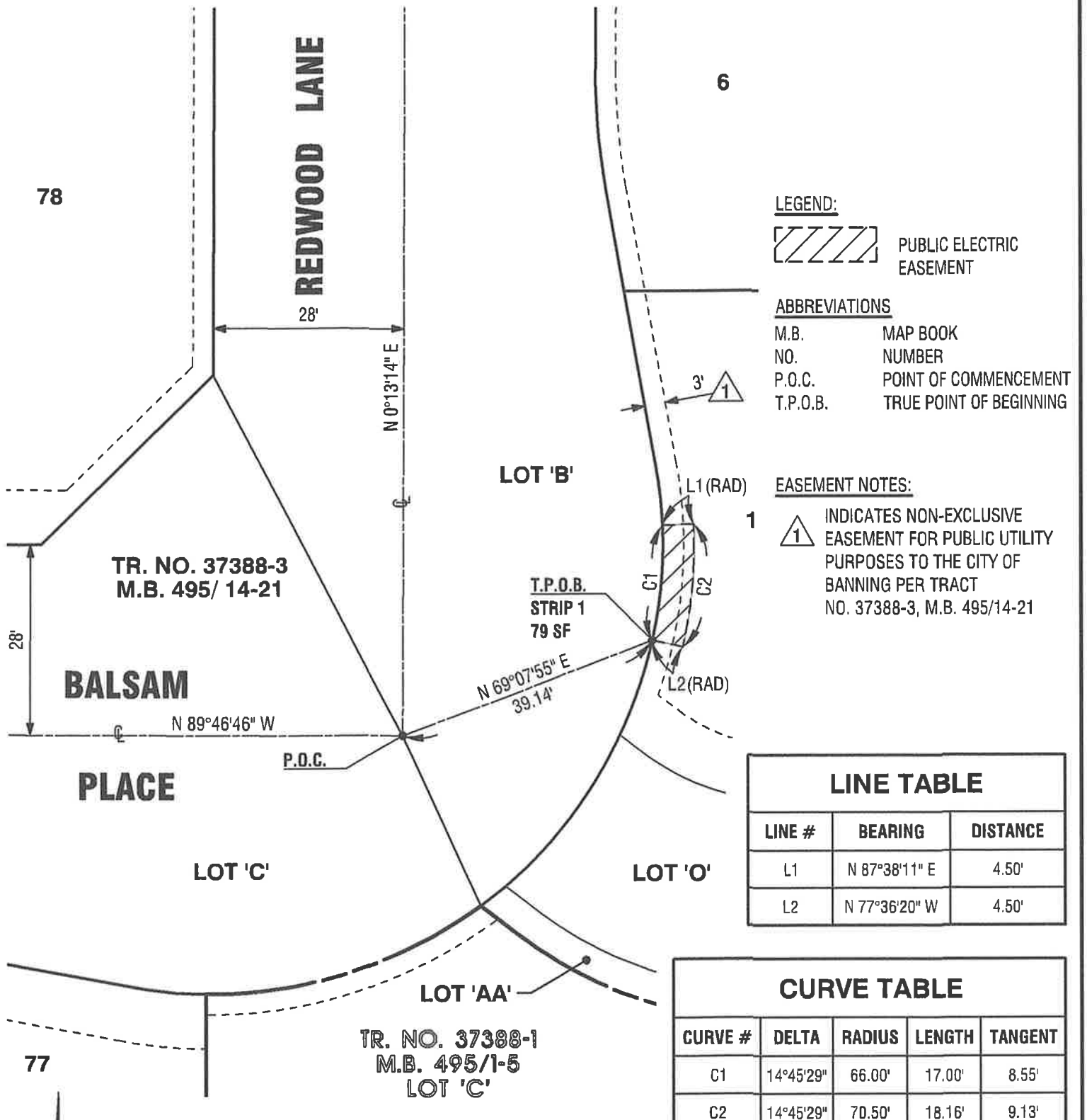
150 75 0 150 300

GRAPHIC SCALE

MDS CONSULTING
5 PETERS CANYON ROAD
SUITE 305
IRVINE, CA 92606
(949) 251-8821
WWW.MDSCONSULTING.NET
PLANNERS ENGINEERS SURVEYORS

EXHIBIT "B"

PUBLIC ELECTRIC EASEMENT, CITY OF BANNING PROJECT ID NO. RW 24-0017
PLAT TO ACCOMPANY LEGAL DESCRIPTION



LEGEND:

PUBLIC ELECTRIC EASEMENT

ABBREVIATIONS

M.B.	MAP BOOK
NO.	NUMBER
P.O.C.	POINT OF COMMENCEMENT
T.P.O.B.	TRUE POINT OF BEGINNING

EASEMENT NOTES:

1. INDICATES NON-EXCLUSIVE EASEMENT FOR PUBLIC UTILITY PURPOSES TO THE CITY OF BANNING PER TRACT NO. 37388-3, M.B. 495/14-21

LINE TABLE

LINE #	BEARING	DISTANCE
L1	N 87°38'11" E	4.50'
L2	N 77°36'20" W	4.50'

CURVE TABLE

CURVE #	DELTA	RADIUS	LENGTH	TANGENT
C1	14°45'29"	66.00'	17.00'	8.55'
C2	14°45'29"	70.50'	18.16'	9.13'

SCALE: 1" = 20'

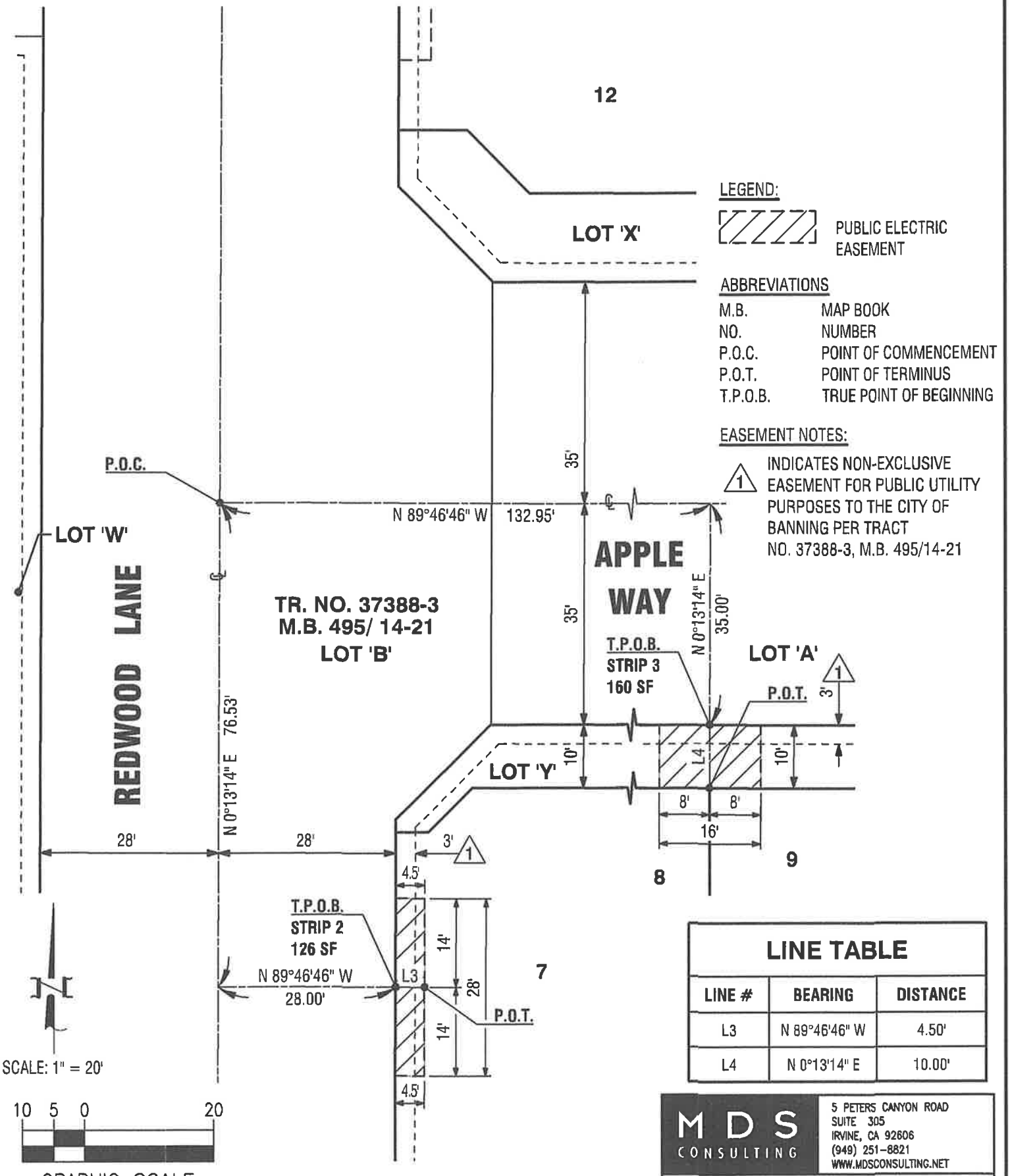
10 5 0 20

GRAPHIC SCALE

MDS CONSULTING
5 PETERS CANYON ROAD
SUITE 305
IRVINE, CA 92606
(949) 251-8821
WWW.MDSCONSULTING.NET
PLANNERS ENGINEERS SURVEYOR

EXHIBIT "B"

PUBLIC ELECTRIC EASEMENT, CITY OF BANNING PROJECT ID NO. RW 24-0017
PLAT TO ACCOMPANY LEGAL DESCRIPTION



LEGEND:

PUBLIC ELECTRIC EASEMENT

ABBREVIATIONS

M.B.	MAP BOOK
NO.	NUMBER
P.O.C.	POINT OF COMMENCEMENT
P.O.T.	POINT OF TERMINUS
T.P.O.B.	TRUE POINT OF BEGINNING

EASEMENT NOTES:

1 INDICATES NON-EXCLUSIVE EASEMENT FOR PUBLIC UTILITY PURPOSES TO THE CITY OF BANNING PER TRACT NO. 37388-3, M.B. 495/14-21

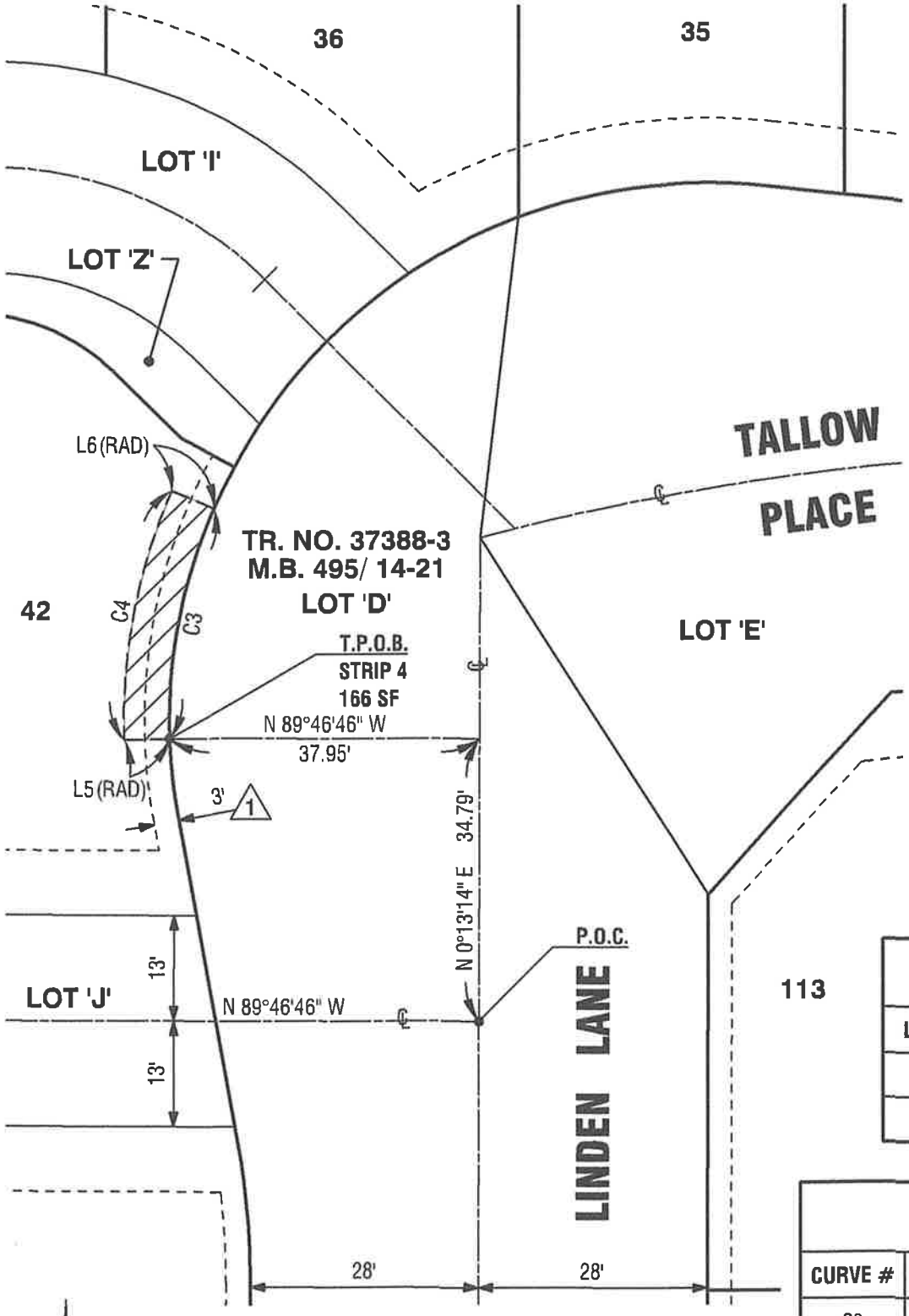
LINE TABLE

LINE #	BEARING	DISTANCE
L3	N 89°46'46" W	4.50'
L4	N 0°13'14" E	10.00'

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LINE TABLE

LINE #	BEARING	DISTANCE
L5	N 88°03'53" E	5.50'
L6	N 66°45'35" W	5.50'

CURVE TABLE

CURVE #	DELTA	RADIUS	LENGTH	TANGENT
C3	25°10'32"	66.00'	29.00'	14.74'
C4	25°10'32"	71.50'	31.42'	15.97'

SCALE: 1" = 20'

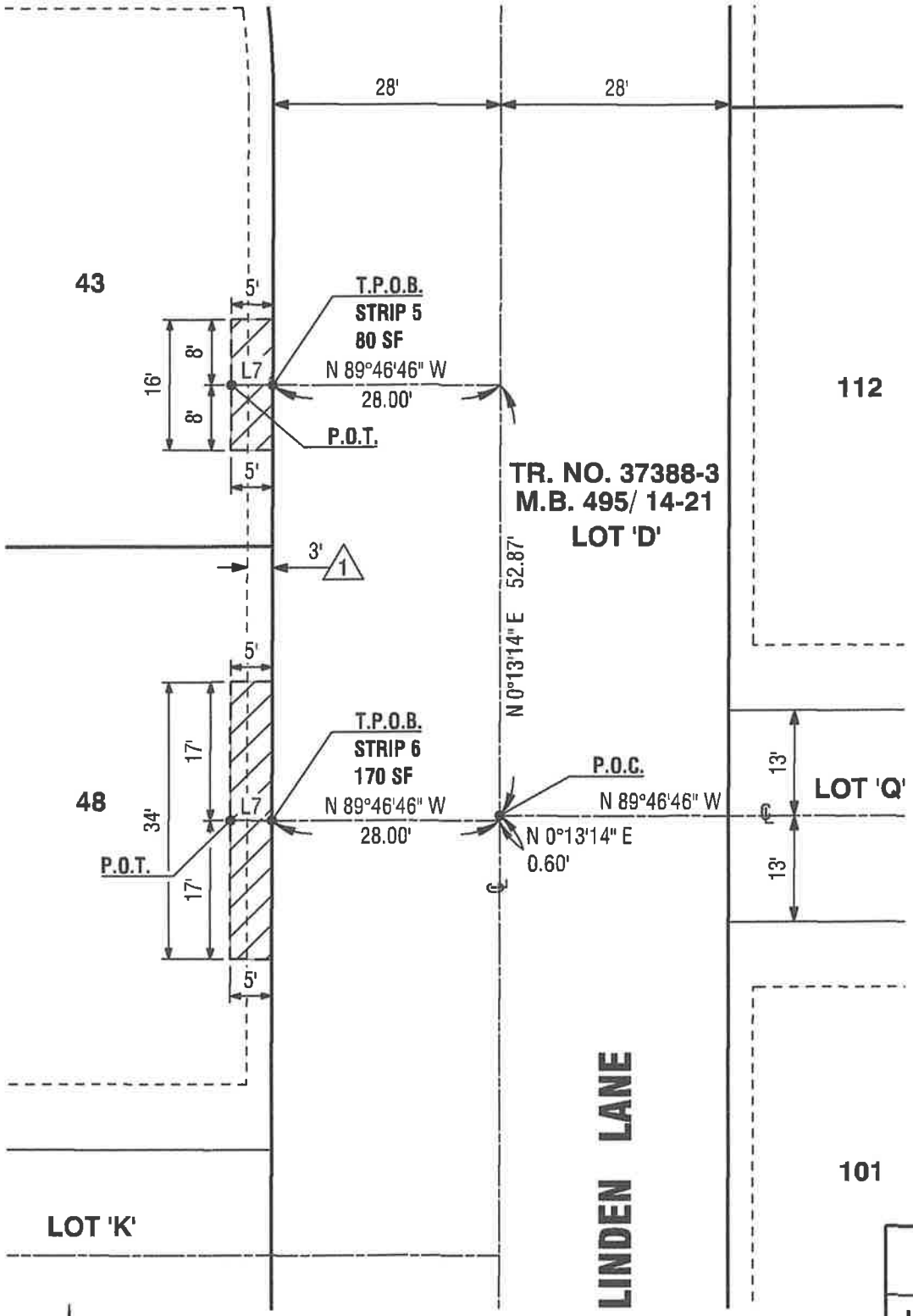
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GRAPHIC SCALE

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LINE TABLE

LINE #	BEARING	DISTANCE
L7	N 89°46'46" W	5.00'

SCALE: 1" = 20'

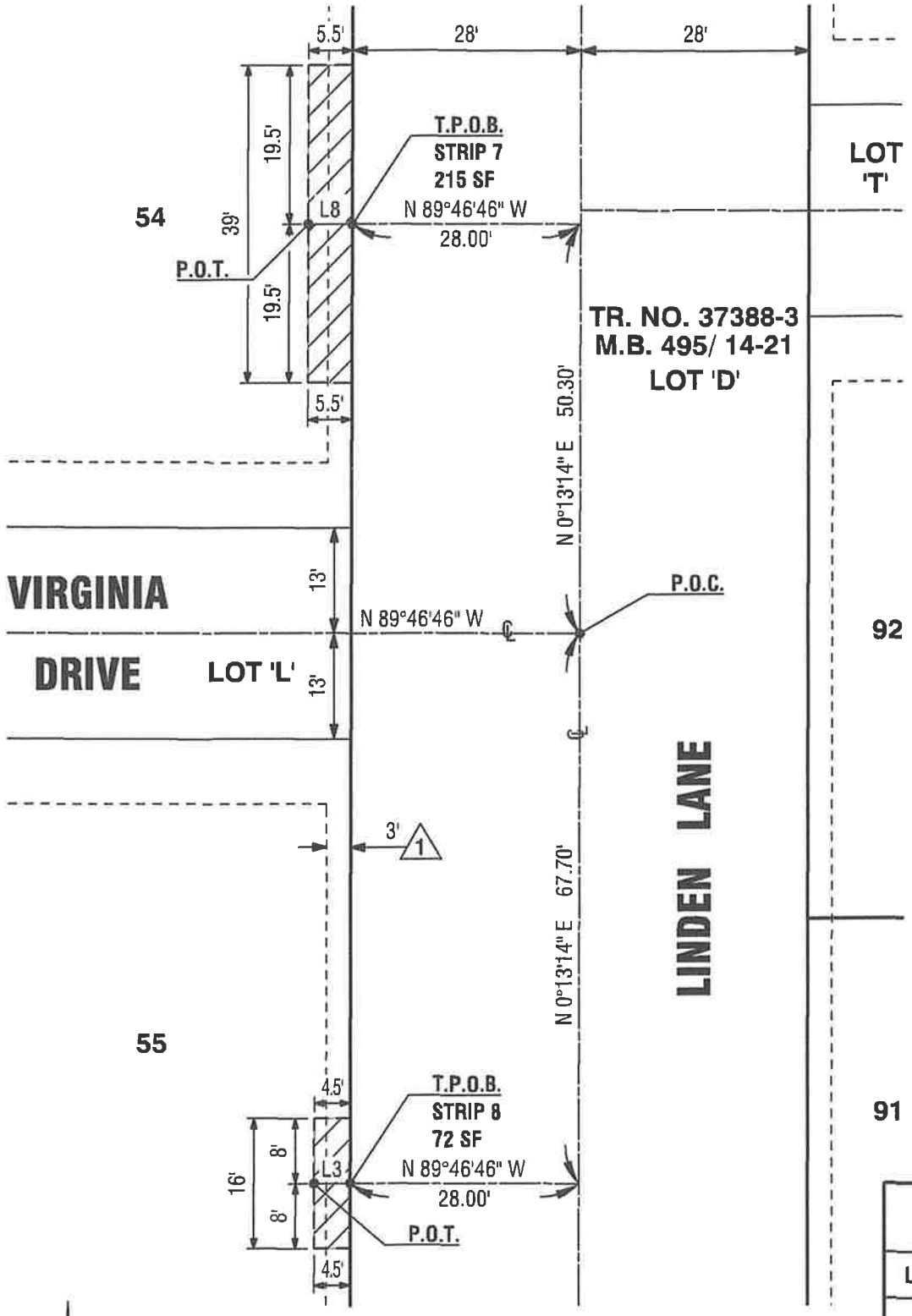
10 5 0 20

GRAPHIC SCALE

MDS CONSULTING
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IRVINE, CA 92606
(949) 251-8821
WWW.MDSCONSULTING.NET
PLANNERS ENGINEERS SURVEYORS

EXHIBIT " B"

PUBLIC ELECTRIC EASEMENT, CITY OF BANNING PROJECT ID NO. RW 24-0017
PLAT TO ACCOMPANY LEGAL DESCRIPTION



LEGEND:

PUBLIC ELECTRIC EASEMENT

ABBREVIATIONS

M.B.	MAP BOOK
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LINE TABLE

LINE #	BEARING	DISTANCE
L3	N 89°46'46" W	4.50'
L8	N 89°46'46" W	5.50'

SCALE: 1" = 20'

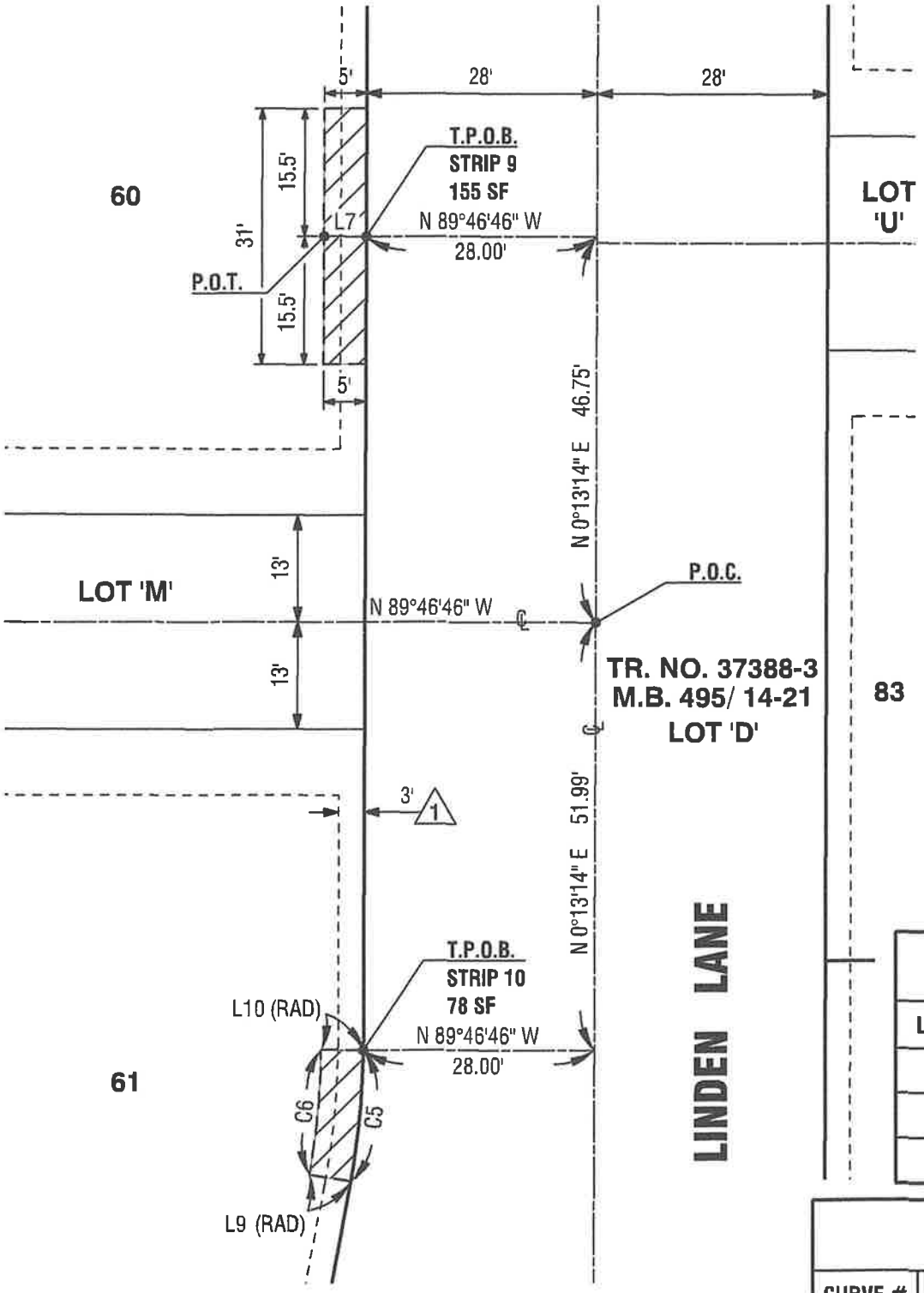
10 5 0 20

GRAPHIC SCALE

MDS CONSULTING
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EXHIBIT "B"

PUBLIC ELECTRIC EASEMENT, CITY OF BANNING PROJECT ID NO. RW 24-0017
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LEGEND:

PUBLIC ELECTRIC EASEMENT

ABBREVIATIONS

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1. INDICATES NON-EXCLUSIVE EASEMENT FOR PUBLIC UTILITY PURPOSES TO THE CITY OF BANNING PER TRACT NO. 37388-3, M.B. 495/14-21

LINE TABLE

LINE #	BEARING	DISTANCE
L7	N 89°46'46" W	5.00'
L9	N 80°02'51" W	5.00'
L10	N 89°12'53" W	5.00'

CURVE TABLE

CURVE #	DELTA	RADIUS	LENGTH	TANGENT
C5	9°10'02"	100.00'	16.00'	8.02'
C6	9°10'02"	95.00'	15.20'	7.62'

SCALE: 1" = 20'

10 5 0 20

GRAPHIC SCALE

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5 PETERS CANYON ROAD
SUITE 305
IRVINE, CA 92606
(949) 251-8821
WWW.MDSCONSULTING.NET
PLANNERS ENGINEERS SURVEYOR

Recording Requested by:

City Clerk
City of Banning
P.O. Box 998
Banning, CA 92220

NO RECORDING FEE PER SECTION 6103 OF THE GOVERNMENT CODE

CERTIFICATE OF ACCEPTANCE

This is to certify that the EASEMENT – PUBLIC ELECTRIC UTILITY PURPOSES from **Tri Pointe Homes IE-SD, Inc.,** dated 10/24/2024, is hereby accepted by THE CITY OF BANNING pursuant to authority conferred by the City Council this 12th day of November, 2024, and the grantees consent to recordation thereof by its duly authorized agent.

Dated: November 12, 2024

CITY OF BANNING

_____
Caroline Patton, Administrative City Clerk

CITY OF BANNING
STAFF REPORT

TO: **CITY COUNCIL**

FROM: **Douglas Schulze, City Manager**

PREPARED BY: **David Newell, Community Development Director**

MEETING DATE: **November 12, 2024**

SUBJECT: **Consideration of Resolution 2024-183, Making a Determination of Exemption under CEQA Guidelines Section 15301 and Further Making a Determination that the Public Convenience or Necessity Would be Served by the Issuance of Alcoholic Beverage Control License Type 21 (Off-Sale General) for a Market and Deli Located at 263 West Ramsey Street, within the Downtown Commercial Zone and Census Tract 441.01**

RECOMMENDATION:

Adopt Resolution 2024-183.

BACKGROUND:

On July 13, 2022, the Planning Commission granted a Conditional Use Permit (CUP) to allow a market and deli store selling beer, wine and distilled spirits within an existing building located at 263 W Ramsey Street. Since that time, the City has issued permits to allow improvements and initiate the proposed use. More recently, the Applicant, Grapevine Liquor, initiated the application process with the California Department of Alcoholic Beverage Control (ABC) for a Type 21 (Off-Sale General - Beer, Wine and Distilled Spirits) liquor license, which allows the sale of beer, wine, and distilled spirits for off-site consumption.

The issuance of a liquor license by the ABC is governed by the Business and Professions Code (BPC). Under BPC Section 23958, the ABC is required to investigate and consider certain matters and deny a license if its issuance would result in or add to an undue concentration of licenses, except as provided in BPC Section 23958.4. BPC Section 23958.4(a)(3) identifies an "undue concentration" exists if the following occurs:

> *As to off-sale retail license applications, the ratio of off-sale retail licenses to population in the census tract or census division in which the applicant premises are located exceeds the ratio of off-sale retail licenses to population in the county in which the applicant premises are located.*

Because the subject property is located within a census tract that is identified by the ABC as an area of undue concentration of liquor licenses, the Applicant is requesting that the City Council make a determination that the addition of the new liquor license will serve the public convenience or necessity, as permitted under BPC Section 23958.4(b). The Applicant has provided additional information on page 2 of the attached ABC Form 245. If the Council makes the determination that the public convenience or necessity will be served, then the license may be issued by the ABC.

JUSTIFICATION:

The subject site is located within Census Tract number 441.01, which is encompassed by Sunset Avenue to the west, San Gorgonio Avenue to the east, Nicolet Street to the north and Interstate 10 to the south. According to the ABC, one off-sale liquor license is allowed in this census tract based on its population. Currently, there are twelve licenses, including Type 20 (Off-Sale General - Beer and Wine) and Type 21 (Off-Sale General - Beer, Wine and Distilled Spirits), that are active within this Census Tract:

Business Name	Address	License Type
Chevron/G&M Oil	827 W. Ramsey St.	20
Smart & Final	2971 W. Ramsey St.	21
Rite Aid	806 W. Ramsey St.	21
Shopping Basket	2217 W. Ramsey St.	20
Cheers Liquor & Market	572 W. Ramsey St.	21
Shell	2192 W. Ramsey St.	20
Sunset Liquor	3181 W. Ramsey St.	21
4 Bros Liquor	2185 W. Ramsey St.	21
Dollar General	1323 W. Ramsey St.	20
Banning Liquor	62 N. 8th St.	21
Arco AM/PM	2228 W. Ramsey St.	20
Eddie's Liquor	1449 W. Ramsey St.	21

The ABC can only issue the proposed liquor license if the Council determines that the public convenience or necessity would be served. Hence, the applicant is requesting a determination of public convenience or necessity from the City Council to allow a thirteenth liquor license, which is proposed to take place in conjunction with the operation of the proposed store. The following supports the determination that the proposed license will serve the public convenience or necessity:

- The subject site is zoned Downtown Commercial, an area where typically more liquor licenses are concentrated to attract residents and tourists visiting retail, service, and entertainment uses. The proposed business will provide market and deli food, in addition to liquor sales, and increase retail options in the City. Therefore, the use is consistent with the following General Plan policies and programs from Chapter III, Community Development:
    - Policy 4: Attract a greater number of commercial retail businesses to the Downtown Core area to develop a safe, vital and consumer-friendly downtown shopping area.
    - Program 4.A: Provisions for the Downtown Commercial Zoning District shall encourage specialty retail uses, live-work uses, and other uses which support and expand the pedestrian and tourist-related shopping experience
- The Planning Commission issued a Conditional Use Permit for the proposed use on July 13, 2022, which included findings that the use is consistent with criteria in Section 17.52.050 of the Zoning Code (see attached CUP Resolution). The Commission found the use was consistent with the General Plan and Zoning Code; the use would not impair the integrity and character of the land use district; the site is physically suitable for the type and intensity of land use being proposed, among other findings necessary for approval of the CUP.

Based on the foregoing, staff has prepared the attached draft resolution for City Council consideration to find that the proposed license will serve the public convenience or necessity.

FISCAL IMPACT:

None.

ALTERNATIVES:

Do not adopt the recommended resolution and direct staff to prepare an resolution denying the request.

BUDGETED?:
Yes

CONTRACT/AGREEMENT:
No

ATTACHMENTS:
1. Resolution 2024-183 - Grapevine Liquor Determination of Necessity or Convenience
2. CUP - PC Resolution No. 2022-10.pdf
3. ABC Form 245.pdf
4. 23958 Investigation denial of application grounds.pdf
5. 239584 Undue concentration licensure for public convenience or necessity definit.pdf

RESOLUTION 2024-183

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, MAKING A DETERMINATION OF EXEMPTION UNDER CEQA GUIDELINES SECTION 15301 AND FURTHER MAKING A DETERMINATION THAT THE PUBLIC CONVENIENCE OR NECESSITY WOULD BE SERVED BY THE ISSUANCE OF ALCOHOLIC BEVERAGE CONTROL LICENSE TYPE 21 (OFF-SALE GENERAL) FOR A MARKET AND DELI LOCATED AT 263 WEST RAMSEY STREET, WITHIN THE DOWNTOWN COMMERCIAL ZONE AND CENSUS TRACT 441.01

WHEREAS, Grapevine Liquor (Applicant) has applied for a California Department of Alcoholic Beverage Control (ABC) Type 21 (Off-Sale General) license to sell beer, wine and distilled spirits at a market and deli store proposed within an existing building located at 263 West Ramsey Street within Census Tract 441.01; and

WHEREAS, on July 13, 2022, the Planning Commission adopted Resolution 2022-10 approving a Conditional Use Permit (Case 22-8009) authorizing the sale of beer wine and distilled spirits in conjunction with a market and deli store proposed at 263 West Ramsey Street; and

WHEREAS, the ABC has determined that there are twelve existing Off-Sale Licenses within census tract 441.01, while one Off-Sale License would be allowed based on Off-Sale retail licenses to population in the County in which the Applicant's premise is located; and

WHEREAS, pursuant to California Business and Professions Code Section 23958.4(b)(2), the City Council may determine that the public convenience or necessity would be served by the issuance of the requested license.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. Pursuant to the California Environmental Quality Act ("CEQA") (Cal. Pub. Resources Code, § 21000 *et seq.*) and the State CEQA Guidelines (the "Guidelines") (14 Cal. Code Regs. § 15000 *et seq.*), City staff has considered the potential environmental impacts of the proposed Determination of Public Convenience or Necessity in support of a Type 21 (Off-Sale General) license to sell beer, wine, and distilled spirits at a market and deli store proposed within an existing building located at 263 West Ramsey Street within Census Tract 441.01 (the "Project"). City staff has also reviewed the Planning Commission's prior determination of exemption from CEQA pursuant to CEQA Guidelines Section 15301, made on July 13, 2022, for approval of Conditional Use Permit (CUP) 22-8009, authorizing the off-site sales of beer, wine, and distilled spirits (Type 21) for a future market and deli located at 263 West Ramsey Street. Based on that review, the City of Banning Planning Division has determined that the Project remains categorically exempt from the requirements of CEQA and the Guidelines pursuant to CEQA Guidelines Section 15301 because the Project continues to consist of the operation, permitting, and licensing or a private structure involving negligible or no expansion of existing or former use. The City Council has reviewed the administrative record concerning the proposed Determination of Public Convenience or Necessity and the proposed CEQA determination, and based on its own independent judgment, finds that the Determination of Public Convenience or Necessity is not subject to, or exempt from, the requirements of CEQA and the State CEQA Guidelines pursuant to CEQA Guidelines Section 15301.

SECTION 2. The City Council makes the following findings in support of a determination that the proposed Type 21 (Off-Sale License) will serve the public convenience or necessity at 263 West Ramsey Street:

A. The subject site is zoned Downtown Commercial, an area where typically more liquor licenses are concentrated to attract residents and tourists visiting retail, service and entertainment uses. The proposed business will provide market and deli food, in addition to liquor sales, and increase retail options in the City. Therefore, the use is consistent with the following General Plan policies and programs from Chapter III, Community Development:

   (1) Policy 4: Attract a greater number of commercial retail businesses to the Downtown Core area to develop a safe, vital and consumer-friendly downtown shopping area.

   (2) Program 4.A: Provisions for the Downtown Commercial Zoning District shall encourage specialty retail uses, live-work uses, and other uses which support and expand the pedestrian and tourist-related shopping experience

B. The Planning Commission approved Conditional Use Permit 22-8009 on July 13, 2022, authorizing the off-site sales of beer, wine, and distilled spirits (Type 21) for the proposed market and deli store use located at 263 West Ramsey Street, which included findings that the use is consistent with criteria set forth in Banning Municipal Code Section 17.52.050. Further, the Planning Commission also found the use was consistent with the General Plan and Zoning Code, the use would not impair the integrity and character of the land use district, and the site is physically suitable for the type and intensity of land use being proposed, among other findings necessary for approval of the CUP.

SECTION 3. Based on the foregoing, the City Council determines that the public convenience or necessity would be served by the issuance of a Type 21 (Off-Sale General) license by the ABC to Grapevine Liquor for the market and deli store proposed at 263 West Ramsey Street, Banning, within Census Tract 441.01.

SECTION 4. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 12th day of November 2024.

Alberto Sanchez, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

Serita R. Young, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2024-183, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 12th day of November 2024 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

RESOLUTION 2022-10

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BANNING, CALIFORNIA, MAKING A DETERMINATION OF EXEMPTION UNDER CEQA GUIDELINES SECTION 15301 (EXISTING FACILITIES), AND CONSIDERATION OF CONDITIONAL USE PERMIT 22-8009 TO AUTHORIZE THE OFF-SITE SALES OF BEER, WINE, AND DISTILLED SPIRITS (TYPE 21) FOR A FUTURE MARKET AND DELI LOCATED AT 263 W. RAMSEY ST. (APN: 540-166-004)

WHEREAS, an application for Conditional Use Permit 22-8009 to allow for the offsite sale of beer, wine, and distilled spirits in conjunction with a permitted, but future, market, and deli, has been duly filed by:

Project Location:	263 W. Ramsey St.
APN Information:	540-166-004
Project Applicant:	Morada, LLC 1131 Santorino Rd. Riverside, CA 92508
Property Owner:	Morada, LLC 1131 Santorino Rd. Riverside, CA 92508

WHEREAS, the Planning Commission is authorized under Chapter 17.44 of the Banning Municipal Code ("BMC") to approve proposed Conditional Use Permit 22-8009, to add the of offsite sale of beer, wine, and distilled spirts associated with a market and deli is currently authorized for this location under separate permit. More specifically, the Project is located at 263
W. Ramsey St. (APN: 540-166-004) at the northeasterly corner of West Ramsey St. and Third St., in the Downtown Commercial District (the "Project"); and

WHEREAS, on July 1, 2022 the City gave public notice by advertising in the Record Gazette, a newspaper of general circulation within the City of Banning, and by mailing notices to property owners within 300-feet of the Project, of the holding of a public hearing at which the Project would be considered; and

WHEREAS, on July 13, 2022, the Planning Commission held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, proposed Conditional Use Permit 22-8009.

NOW THEREFORE, the Planning Commission of the City of Banning does hereby find and determine as follows:

SECTION 1: California Environmental Quality Act and Multiple Species Habitat Conservation Plan Findings.

CEQA. Planning Division staff has determined that the Project is categorically exempt from the requirements of the California Environmental Quality Act ("CEQA") (Cal. Pub. Res. Code, § 21000 et seq.) and the State CEQA Guidelines (the "Guidelines")

(14 Cal. Code Regs. § 15000 et seq.). The Project qualifies under the Class 1 categorical exemption set forth in CEQA Guidelines Section 15301 because: Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing private structure, involving negligible or no expansion of existing or former use. The Project is consistent with type of "existing facilities" itemized as subsection (a), of Section 15301, which involves alteration to the interior of the facility, including such things as interior partitions, plumbing, and electrical conveyances.

B. Multiple Species Habitat Conservation Plan (MSHCP). The project is located outside of any MSHCP criteria cell areas and plan compliance is provided through payment of a MSHCP Mitigation Fee at the time of building permit issuance.

SECTION 3: REQUIRED FINDINGS: CONDITIONAL USE PERMIT 22-8009

Section 17.52.050 of the City of Banning Zoning Ordinance requires that Conditional Use Permit applications meet certain findings prior to the approval by the Planning Commission. The following findings are provided in support of the approval of Conditional Use Permit 22-8009:

Finding 1: The proposed use is consistent with the General Plan;

Finding of Fact: Proposed Conditional Use Permit 22-8009 is consistent with the General Plan Land Use Element Policy, which states: "The land–use map shall provide for sufficient lands to provide a large range of products and services to the City and the region while carefully considering compatibility with adjacent residential lands." The subject property is designated Downtown Commercial on the General Plan land use map. The proposed use is consistent with the Downtown Commercial land-use designation. Small scale commercial retail and office uses, services, restaurants, entertainment retail are the primary uses in this designation. A corner market is highly consistent with the comprehensive theme of the Downtown Commercial District. Further, Conditional Use Permit 22-8009 is consistent with General Plan Economic Development Policy, which states: "The City shall take a proactive role in the retention of existing businesses and the recruitment of new businesses, particularly those that generate and broaden employment opportunities, increase discretionary incomes, and contribute to City General Fund revenues." Approval of proposed Conditional Use Permit 22-8009 would allow the applicant to promote business diversity, while providing an economic benefit to the City.

Finding 2: The proposed use is conditionally permitted within the subject land use district and complies with all other applicable provisions of Title 17 of the Banning Municipal Code.

Finding of Fact: The proposed offsite sale of beer, wine, and distilled spirts is conditionally permitted in the Downtown Commercial zoning district. The project meets or exceeds all minimum development standards provided in Table 17.12.030 ("Commercial and Industrial Development Standards") of Chapter 17.12 of Title 17

of the BMC. Further, the Project a food- related use, which is consistent with all other applicable provisions of Title 17 of the BMC.

Finding 3: The proposed use would not impair the integrity and character of the land use district in which it is to be located.

Finding of Fact: The proposed use would be located on West Ramsey Street and Third Street, which is an intersection within the City's downtown area.

Finding 4: The subject site is physically suitable for the type and intensity of land use being proposed.

Finding of Fact: The Project is within an existing commercial building. The site is located in an area surrounded by general commercial uses, furthermore, the site will have adequate parking, landscaping, lighting, and security.

Finding 5: There are adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety.

Finding of Fact: The subject site is served by the public and private utilities, including the City's water, sewer, and electrical utilities. The subject site has access and is served from West Ramsey Street, and Third Street, which is an existing developed roadway with existing utilities.

Finding 6: There will not be significant harmful effects upon environmental quality; natural resources; or neighborhood characteristics.

Finding of Fact: The Project is not located within a Compatibility Zone as identified by the CLUP, as approved by the Riverside Airport Land Use Commission. The facility will not interfere with the Banning Municipal Airport operation. The facility will not create significant harmful effects to the environment, natural resources, or neighborhood characteristics.

Finding 7: The proposed location, size, design, and operating characteristics of the proposed use will not be detrimental to the public interests, health, safety, convenience, or welfare of the City.

Finding of Fact: The proposed location, design, and operating characteristics of the proposed market and deli will not be detrimental to the public interests, health, safety, convenience, or welfare of the City and will complement adjacent businesses.

SECTION 4: PLANNING COMMISSION ACTION:

Based on the foregoing, the Planning Commission of the City of Banning hereby approves Conditional Use Permit 22-8009, subject to the recommended Conditions of Approval attached hereto, as "Exhibit A".

PASSED, APPROVED, AND ADOPTED this 13th day of July 2022.

Scott Brosious, Chairman
Banning Planning Commission

APPROVED AS TO
FORM AND LEGAL
CONTENT:

Serita R. Young, Assistant City Attorney
Richards, Watson & Gershon

ATTEST:

Sandra Calderon, Recording
Secretary City of Banning, California

CERTIFICATION:

I, Sandra Calderon, Recording Secretary of the Planning Commission of the City of Banning, California, do hereby certify that the foregoing Resolution 2022-10, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 13th day of July 2022, by the following vote, to wit:

AYES: Brosious, Krick, Shaw

NOES: None

ABSENT: None

ABSTAIN: Figueroa

RECUSE: Lopez

Sandra Calderon

Sandra Calderon, Recording Secretary
City of Banning, California

City of Banning

Community Development Department

Conditions of Approval

PROJECT: Conditional Use Permit 22-8009

SUBJECT: Conditions of Approval (Planning Commission Resolution 2022-10)

APPLICANT: Morada, LLC

LOCATION: 263 W. Ramsey Street, Banning, CA 92220 (APN's 540-166-004)

EXHIBIT A
To Planning Commission Resolution 2022-10

*** All fair share agreements, covenant agreements and agreements subject to recordation will be subject to review and approval by the City Attorney and will include appropriate enforcement provisions by the City and be properly securitized.**

Community Development Department (General Conditions)

The following conditions shall be considered General Conditions and reflect standard code compliance measures applicable to most occupancy types and commercial buildings within the City of Banning. (NOTE: Conditions shall not be implemented unless directed by the Banning Fire Marshal, Building Official, and/or Community Development Director):

1. The Project is permitted under Conditional Use Permit 22-8009 ("Project") shall always comply with all federal, state, County and City laws, codes, regulations, and standards, including those that relate to hazardous materials.

2. 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 (CEQA), State Planning and Zoning Law, the Subdivisions Map Act, Code of Civil Procedure Sections 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.

3. Approval of this entitlement shall not waive compliance with any sections of the Banning Municipal Code (BMC), other applicable City ordinances, in effect at the time of building permit issuance.

4. A copy of the signed Resolution of approval and these conditions of approval imposed on CUP 22-8009 shall be reproduced in legible form on the improvement plans submitted for review and approval as required by the reviewing department.

5. Exterior lighting shall be shielded or recessed so that light is contained within the boundaries of the Project parcel on which the lighting is located. All lighting shall be directed downward and away from adjoining properties and public rights-of-way.

6. The Project shall provide anti-graffiti coating on all walls around the perimeter of the project site and all walls shall match in color, texture, and design. All graffiti shall be removed within 24 hours.

7. Existing parking stalls shall be retained to ensure adequate parking.

8. The landscape plan shall demonstrate compliance with Zoning Ordinance requirements related to minimum dimensions and percentages of landscaping in parking areas, including required front yard setback landscaping.

9. The Project proposes the off-site sale of Beer, Wine, and Distilled Spirits (Type 21) in conjunction with a market and deli, currently authorized for this location under separate permit. All required licensing (i.e., Alcohol Beverage Control (ABC), Environmental Health, etc.) shall always be maintained in good order. Lapse or revocation of any required license shall result in the voiding of the CUP 22-8009 approval.

10. The subject property shall be developed and maintained in accordance with the site plans stamped approved by the City and on file in the Planning Division, the conditions contained herein, and the applicable regulations within the BMC.

Building Department:

The following conditions shall be considered General Conditions and reflect standard code compliance measures applicable to most occupancy types and commercial buildings within the City of Banning. (NOTE: Conditions shall not be implemented unless directed by the Banning Fire Marshal, Building Official, and/or Community Development Director):

11. All structures shall be designed in accordance with the current version of the California Building Codes, including the California Green Building Standards Code. Design all structures to comply with Seismic Design Category D, basic wind speed should be site specific and determined from ATC at www.atcouncil.org/windspeed with exposure type "C", and Energy Calculations shall be designed per Climate Zone 10.

12. Banning Electric does not release electric meters until final approvals are obtained from all agencies and departments.

13. Construction projects, requiring temporary electrical power, shall obtain an electrical permit from Banning Electric.

14. Identify if a new gas meter service is to be installed or connection to the existing service meter.

15. Construction projects requiring fire permits must apply and submit fire plans prior to the issuance of the building permit, including fire sprinkler submittals.

16. The Developer/Owner is responsible for the coordination of releasing any Deferral of Development Impact Fees or Bonds after such fees have been paid. The Developer/Owner should be aware, once the deferral notice is sent to the Riverside County Recorder's Office; the release process takes two to three weeks. This process will delay final Certificates of Occupancy.

17. The Developer/Owner is responsible for the coordination of the final occupancy. The Developer/Owner shall request clearances from each department and/or agency at least two weeks prior to requesting a final building inspection from Building and Safety. Each agency may sign the Building and Safety Job Card, or provide agency approved signed documentation, and provide a copy of the signatures to Building and Safety at the time the final inspection is requested.

18. All construction materials, which are not used, shall be recycled pursuant to the requirements per the California Green Building Standards Code. Receipts from the recycle company responsible for picking up the materials shall be kept in the construction office. After the construction is complete and before final occupancy, all trash receipts shall be forwarded to the City.

19. The Applicant shall maintain the onsite water service, coordinate installation, and achieve approval by the responsible agency/agencies. On site fire hydrants shall be approved by the Riverside County Fire Department.

20. No flammable materials will be allowed on the site until the fire hydrants are established and approved. No flammable construction materials shall be placed on the site without approvals by the Fire Department. All street and access roadways around the project shall be paved for emergency response vehicles before flammable materials are placed on the project.

21. All construction projects shall comply with the NPDES Stormwater Best Management Program. Prior to building permit issuance submit copy of the Water Quality Management Program Report.

22. All deferred plan items are to be identified on the cover sheet of the drawing plans.

23. The structure's sewer is to be connected to the public sewer system when provided. When the public system is not available, an onsite septic system is to be installed. Obtain a septic system handout at the permit counter for requirement information. Percolation test is required with report provided at time of septic system application.

24. Site development and grading shall be designed to provide access to all entrances and exterior ground floor exits and access to normal paths of travel. The accessible route(s) of travel shall be the most practical direct route.

25. The City enforces the State of California provisions of the California Building Code disabled access requirements. The Federal Americans with Disabilities Act (ADA) standards may differ in some cases from the California State requirements; therefore, it is the building owner's responsibility to be aware of those differences and comply accordingly.

26. Building and Safety inspection requests must be made by 4:00 pm. on the previous City working day to receive a next day inspection. Please contact (951) 922-4820

27. Plan review application approval is valid for a period of 180 days after application date (plan check submittal date) if the permit is not obtained within that time period the approval expires and becomes null and void. The Building Official may extend the time for action by the applicant for a period of 90 days upon written request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. In order to renew action on an application after expiration the applicant shall resubmit plans and pay a new plan review fee.

Banning Electric Utility (BEU):

28. The developer/applicant will be responsible for dedicating an easement for areas of onsite electric utility infrastructure.

29. The developer will be responsible for all costs of onsite/offsite electric utility infrastructure needed to supply power to this project.

30. The developer is responsible for cost associated with any relocations of utility poles or supporting apparatus due to street improvements, grading or lot line adjustments that might be required.

31. Prior to the issuance of any grading, construction, or public works permit by the City, the Applicant shall obtain any necessary clearances and/or permits from the following agencies. Permits will not be unreasonably withheld if the developer has met all typical standards for a permit and satisfied all relevant conditions of approval for the appropriate permit:

- City of Banning Fire Marshall
- City of Banning Police Department
- City of Banning Community Development Department
- City of Banning Public Works Department
- City of Banning Water/Wastewater Department

- City of Banning Electric Department
- California Regional Water Quality Control Board Colorado River Basin
- South Coast Air Quality Management District
- Army Corps of Engineers
- California Department of Fish and Wildlife
- US Fish and Wildlife Service
- Riverside County Airport Land Use Commission

32. The applicant is responsible for meeting all requirements of permits and/or clearances from the agencies from the non-inclusive list above. When the requirements include approval of approved plans, the applicant shall furnish such proof of approvals when submitting improvement plans to the City. The applicant shall comply with all conditions and mitigation measures and submit copies of all correspondence with the agencies to the Engineering Division.

33. All required plans and studies shall be prepared by a Registered Professional Engineer, Registered Professional Geologist. Registered Professional Landscape Architect or Registered Professional Surveyor in the State of California and submitted to the Public Works Department for review and approval.

34. The design of public infrastructure elements shall conform to the requirements of these Conditions of Approval, City General Plan, City/Regional Master Plans, City of Banning Grading Manual, City of Banning codes/standards, Standard Specifications for Public Works Construction (current edition), and Caltrans Standards and Specifications at no cost to any governmental agency as required by the City Engineer.

35. The design of private grading and improvements outside of public right of way shall comply with the City of Banning Grading Manual, Title 18 of the City of Banning Municipal Code, California Building Code, State Water Resources Control Board orders, rules, and regulations, and City of Banning standards and practices.

36. The following is a non-inclusive list of items that may be required by the Public Works Department. Unless otherwise authorized in writing by the City Engineer, plans shall utilize the minimum scale specified and shall be drawn on 24"x36" Mylar film. Plans should be drawn at a larger scale if additional detail and/or clarity is desired (Note: The applicant may be required to prepare other improvement plans not listed here pursuant to improvement required by other agencies and utility purveyors):

Public Works Department Plan Submittal Guidelines	
Precise Grading Plan	1"=20' Horizontal
Retaining Wall Plan	1"=40' Horizontal
Haul Route Plan	1"=40' Horizontal
Clearing Plan	1"=40' Horizontal
Demolition Plan	1"=40' Horizontal
Erosion and Sediment Control Plan	1"=40' Horizontal
Street Improvement Plans	1"=40 Horizontal and 1"=4' Vert

Traffic Signing and Striping Plan	1"=40 Horizontal
Traffic Control Plan	1"=40' Horizontal

37. Other engineered improvement plans prepared for City approval that are not listed herein shall be prepared in formats approved by the City Engineer prior to commencing plan preparation.

38. All off-site plan and profile, street improvement plans, and signing and striping plans shall show all existing improvements for a minimum distance of 200-feet beyond the project limits, and to a distance sufficient to show any required design transitions.

39. An index map shall be provided on the title sheet of all plan sets showing the overall view of the entire work area.

40. If applicable, the Applicant shall submit a construction access plan and schedule for the development of all facilities for Community Development Director and City Engineer approval; including, but not limited to, public notice requirements, special street posting, phone listing for community concerns, hours of construction activity, dust control measures, and security fencing.

41. The applicant is responsible for resolving any conflicts with existing or proposed easements. All easement(s) of record and proposed easements shall be shown on the final map, grading plan, and improvement plans where applicable.

42. Where survey monuments exist, such monuments shall be protected or shall be referenced and reset, pursuant to the Business and Professions Code, Sections 8700 to 8805 (Land Surveyors Act).

43. All future utility systems including gas, electric, telephone, water, sewer, and cable TV, shall be provided for underground, with easements provided as required, and designed and constructed in accordance with City codes and the utility provider. Telephone, cable TV, and/or security systems shall be pre-wired.

44. Any existing public improvements, or public improvements not accepted by the City that are damaged during construction shall be removed and replaced as determined by the City Engineer or his/her representative.

45. All precautions shall be taken to prevent washouts, undermining and subsurface ponding, caused by rain or runoff to all surface structures (curbs, gutters, sidewalks, paving, etc.). The Engineering Division may order repair, removal and replacement, extra compaction tests, load tests, etc. or any combination thereof for any such structure that was damaged or appears to have been damaged. All of the additional work, testing, etc., shall be at the expense of the Applicant.

46. Prior to the release of surety and upon completion of construction, the Applicant shall furnish the City with reproducible record drawings on Mylar film of all improvement plans that were approved by the City Engineer. Each sheet shall be clearly marked "As-Built" or "As-Constructed" and shall be stamped and signed by the engineer or surveyor certifying the accuracy and

completeness of the drawings. The applicant shall have all AutoCAD files submitted to the City, revised to reflect the "As-Built" conditions. The Applicant shall be responsible for research on private utility lines (Gas, Edison, Telephone, Cable, Internet, etc.) to ensure there are no conflicts with site development. All existing on-site utility lines that conflict with this project shall be relocated, removed, or sealed to the satisfaction of the City Engineer.

47. The applicant shall verify and/or set all property corners, r/w corners, and centerline monuments. Subsequently, the applicant shall cause the surveyor to file the appropriate documents and records to the County of Riverside.

48. No water quality devices, structures, or BMPs are permitted within the ultimate right of way

49. In accordance with the California Building Code, Title 24, and the requirements of the Americans with Disabilities Act (ADA), facilities for disabled persons shall be constructed in locations specified by the City Engineer (i.e., accessible paths of travel, curb ramps, etc.).

50. All streets shall have a maximum grade of 15 percent. Wherever feasible street grades should be kept to 10 percent or less.

51. Access drives to the public right-of-way shall be restricted to those approved by the City Engineer as shown on the approved plans.

52. Commercial/Industrial driveway grades shall not exceed eight percent unless approved by the City Engineer.

53. Development Impact Fees shall be paid in accordance with the fee schedule in effect at the time that the fees are paid.

54. Public Works Inspection fees shall be paid prior to the issuance of any permits in accordance with the fee schedule in effect at the time of scheduling.

Fire Department

The following conditions shall be considered General Conditions and reflect standard code compliance measures applicable to most occupancy types and commercial buildings within the City of Banning. (NOTE: Conditions shall not be implemented unless directed by the Banning Fire Marshal under a specific or routine inspection):

55. Fire Hydrants and Fire Flow: Prior to the issuance of building permits, plans for the water system shall be submitted to the fire department for review and approval. The water system shall be capable of delivering the required fire flow. Fire hydrant(s) location and spacing shall comply with the fire code. An approved water supply for fire protection during construction shall be made available prior to the arrival of combustible materials on site. [Reference 2019 California Fire Code (CFC) 507.5.1, 3312, Appendices B and C]

56. Access for Fire Department: Access roads shall be retained to within 150 feet to all portions of the exterior building walls and shall have an unobstructed width of not less than 24 feet. Access roads shall be all weather and capable of sustaining 40,000 lbs. over two axles for areas of

residential development and 60,000 lbs. over two axels for commercial developments. Approved vehicle access, either permanent or temporary, shall be provided during construction. [Ref. CFC 503.1.1, 3310.1 and 503.2.1]

57. Requests for installation of traffic calming designs/devices on fire apparatus access roads shall be submitted and approved by the Office of the Fire Marshal. [Ref. CFC 503.4.1]

58. Construction Permits Fire Department Review: Submittal of any future tenant improvement plans/construction plans shall require review by the Office of the Fire Marshal for development, construction, installation, and operational use permitting. Final fire and life safety conditions will be addressed when the Office of the Fire Marshal reviews these plans. These conditions will be based on occupancy, use, California Building Code (CBC), California Fire Code, and related codes, which are in effect at the time of building plan submittal.

59. Fire Sprinkler System: All new commercial structures 3,600 square feet or larger shall be protected with a fire sprinkler system. Ref CFC 903.2 as amended by the City of Banning. The requirement for a Fire Sprinkler System also includes canopies over 3,600 square feet or larger or a combination of new building area and canopy area that equal or exceeds 3,600 square feet.

60. Fire Alarm and Detection System: A water flow monitoring system and/or fire alarm system may be required and determined at time of building plan review. Ref. CFC 903.4, CFC 907.2 and NFPA 72.

61. Knox Box and Gate Access: New and substantially renovated Buildings shall be provided with a Knox Box. The Knox Box shall be installed in an accessible location approved by the Office of the Fire Marshal. All electronically operated gates shall be provided with Knox key switches and automatic sensors for access. Ref. CFC 506.1 (NOTE: "Substantially renovated" shall be determined – at their sole discretion – by the City of Banning Building Official and Office of the Fire Marshal).

62. Addressing: All commercial buildings shall display street numbers in a prominent location on the address side and additional locations as required. Ref. CFC 505.1 and County of Riverside Office of the Fire Marshal Standard #07-01

- Deferred Submittals (as applicable to Business License requirements):
- Fire Suppression Systems
- Fire Alarm System

63. Newly constructed, or substantially renovated, outdoor lighting installed shall be hooded or shielded to prevent either the spillage of lumens or reflection into the sky. Outdoor lighting shall be downward facing. (***NOTE: "Substantially renovated" shall be determined – at their sole discretion – by the City of Banning Building Official and Office of the Fire Marshal***).

END

CITY OF BANNING

PROJECT NUMBER: CUP 22-8009

AERIAL BASE MAP

ADDRESS/APN: 263 W. Ramsey St./540-166-004

ZONE: Downtown Commercial (DC)

T/6/2022

0 100 200 300 Feet

WILLDAN Engineering

PROJECT LOCATION

8TH ST
5TH ST
4TH ST
3RD ST
2ND ST
WILLIAMS ST
SAN GORGONIO AVE
ALESSANDRO RD
FAY AVE
MARTIN ST
HAYS ST
1ST ST
RAMSEY ST
6TH ST
LIVINGSTON ST
10
BRYANT ST
UNION PACIFIC RAILROAD

Source: Esri, Maxar, Earthstar Geographics, and the GIS User Comm

CITY OF BANNING

PROJECT NUMBER: CUP 22-8009

DEVELOPMENT OPPORTUNITIES

ADDRESS/APN: 263 W. Ramsey St./540-166-004

ZONE: Downtown Commercial (DC)

7/7/2022

WILLDAN Engineering

PROJECT LOCATION

WILLIAMS ST
HAYS ST
RAMSEY ST
LIVINGSTON ST
BRYANT ST
UNION PACIFIC RAILROAD
SAN GORGONIO AVE
ALESSANDRO RD
FAY AVE
MARTIN ST
8TH ST
6TH ST
5TH ST
4TH ST
3RD ST
2ND ST
1ST ST

Legend

- California Geological Survey Liquefaction Hazard Zone
- FEMA 1% (100-Year) Annual Chance Flood Hazard
- FEMA 0.2% (500-Year) Annual Chance Flood Hazard
- USGS Blue Line Streams

No *Western Riverside County Multiple Species Habitat Conservation Plan* (MSHCP) Criteria Cells within 1 mile of the project location.

No *CalFire* Fire Hazard Severity Zones within 1 mile of the project location.

No *California Department of Conservation* Earthquake Fault Zones within 3/4 mile of the project location.

Source: Esri, Maxar, Earthstar Geographics, and the GIS User Comm

CITY OF BANNING

PROJECT NUMBER: CUP 22-8009

PROJECT VICINITY

ADDRESS/APN: 263 W. Ramsey St./540-166-004

ZONE: Downtown Commercial (DC)

PROJECT LOCATION

NICOLET ST
WILLIAMS ST
HAYS ST
RAMSEY ST
LIVINGSTON ST
BRYANT ST
UNION PACIFIC RAILROAD
JACINTO VIEW RD
SAN GORGONIO AVE
ALESSANDRO RD
FAY AVE
MARTIN ST
DEURR LN
8TH ST
6TH ST
5TH ST
4TH ST
3RD ST
2ND ST
1ST ST

Source: Esri, Maxar, Earthstar Geographics, and the GIS User Comm

CITY OF BANNING

PROJECT NUMBER: CUP 22-8009

GENERAL PLAN/ZONING

ADDRESS/APN: 263 W. Ramsey St./540-166-004

ZONE: Downtown Commercial (DC)

0 100 200 300 400 Feet

WILLDAN Engineering

Government

- School

DRURY LN

NICOLET ST

Medium Density Residential (0-10 du/ac)

High Density Residential (11-18 du/ac)

Public Facilities - School

SAN GORGONIO AVE

ALESSANDRO RD

FAY AVE

High Density Residential (11-18 du/ac)

Low Density Residential (0-5 du/ac)

High Density Residential (11-18 du/ac)

JACINTO VIEW RD

Low Density Residential (0-5 du/ac)

6TH ST

5TH ST

4TH ST

3RD ST

2ND ST

WILLIAMS ST

Medium Density Residential (0-10 du/ac)

Downtown Commercial

PROJECT LOCATION

Public Facilities - Government

8TH ST

Mobile Home Parks

HAYS ST

MARTIN ST

Highway Serving Commercial

3RD ST

1ST ST

RAMSEY ST

6TH ST

2ND ST

LIVINGSTON ST

10

BRYANT ST

UNION PACIFIC RAILROAD

General Commercial

Industrial

General Commercial

Industrial

GALLEHER WAY

820

Department of Alcoholic Beverage Control

State of California
Gavin Newsom, Governor

821

INFORMATION AND INSTRUCTIONS - SECTION 23958.4 B&P

Instructions
- This form is to be used for all applications for original issuance or premises to premises transfer of licenses.
- Part 1 is to be completed by an ABC employee, given to applicant with pre-application package, with copy retained in holding file or applicant's district file.
- Part 2 is to be completed by the applicant, and returned to ABC.
- Part 3 is to be completed by the local governing body or its designated subordinate officer or body, and returned to ABC.

PART 1 - TO BE COMPLETED BY ABC

1. APPLICANT'S NAME

GRAPEVINE LIQUOR

2. PREMISES ADDRESS (Street number and name, city, zip code)

263 W RAMSEY ST., BANNING, CA 92220-4820

3. LICENSE TYPE

21

4. TYPE OF BUSINESS

Full Service Restaurant	Hofbrau/Cafeteria	Cocktail Lounge	Private Club
Deli or Specialty Restaurant	Comedy Club	Night Club	Veterans Club
Cafe/Coffee Shop	Brew Pub	Tavern: Beer	Fraternal Club
Bed & Breakfast:	Theater	Tavern: Beer & Wine	Wine Tasting Room
Wine only / All			
Supermarket	Membership Store	Service Station	Swap Meet/Flea Market
Liquor Store	Department Store	Convenience Market	Drive-in Dairy
Drug/Variety Store	Florist/Gift Shop	Convenience Market w/Gasoline	
X Other - describe: MEAT MARKET			

5. COUNTY POPULATION	6. TOTAL NUMBER OF LICENSES IN COUNTY		7. RATIO OF LICENSES TO POPULATION IN COUNTY	
	On-Sale	Off-Sale	On-Sale	Off-Sale
8. CENSUS TRACT NUMBER	9. NO. OF LICENSES ALLOWED IN CENSUS TRACT		10. NO. OF LICENSES EXISTING IN CENSUS TRACT	
448.07	1 On-Sale	X Off-Sale	12 On-Sale	X Off-Sale

11. IS THE ABOVE CENSUS TRACT OVERCONCENTRATED WITH LICENSES? (i.e., does the ratio of licenses to population in the census tract exceed the ratio of licenses to population for the entire county?)

X Yes, the number of existing licenses exceeds the number allowed

No, the number of existing licenses is lower than the number allowed

12. DOES LAW ENFORCEMENT AGENCY MAINTAIN CRIME STATISTICS?

Yes (Go to Item #13) No (Go to Item #20)

13. CRIME REPORTING DISTRICT NUMBER	14. TOTAL NUMBER OF REPORTING DISTRICTS	15. TOTAL NUMBER OF OFFENSES IN ALL REPORTING DISTRICTS
16. AVERAGE NO. OF OFFENSES PER DISTRICT	17. 120% OF AVERAGE NUMBER OF OFFENSES	18. TOTAL NUMBER OF OFFENSES IN REPORTING DISTRICT

19. IS THE PREMISES LOCATED IN A HIGH CRIME REPORTING DISTRICT? (i.e., has a 20% greater number of reported crimes than the average number of reported crimes as determined from all crime reporting districts within the jurisdiction of the local law enforcement agency)

Yes, the total number of offenses in the reporting district equals or exceeds the total number in item #17

No, the total number of offenses in the reporting district is lower than the total number in item #17

20. CHECK THE BOX THAT APPLIES (check only one box)

a. If "*No*" is checked in both item #11 *and* item #19, *Section 23958.4 B&P does not apply* to this application, and no additional information will be needed on this issue. Advise the applicant to bring this completed form to ABC when filing the application.

b. If "*Yes*" is checked in either item #11 *or* item #19, *and* the applicant is applying for a non-retail license, a retail bona fide public eating place license, a retail license issued for a hotel, motel or other lodging establishment as defined in Section 25503.16(b) B&P, or a retail license issued in conjuction with a beer manufacturer's license, or winegrower's license, advise the *applicant to complete Section 2* and bring the completed form to ABC when filing the application or as soon as possible thereafter.

X c. If "*Yes*" is checked in either item #11 *or* item #19, *and* the applicant is applying for an off-sale beer and wine license, an off-sale general license, an on-sale beer license, an on-sale beer and wine (public premises) license, an on-sale general (public premises) license, or an on-sale general music venue license, advise the *applicant to take this form to the local governing body, or its designated subordinate officer or body to have them complete Section 3*. The completed form will need to be provided to ABC in order to process the application.

Governing Body/Designated Subordinate Name:

FOR DEPARTMENT USE ONLY

PREPARED BY (Name of Department Employee)

MARICELA MATA

822

PART 2 - TO BE COMPLETED BY THE APPLICANT (If box #20b is checked)

21. Based on the information on the reverse, the Department may approve your application if you can show that public convenience or necessity would be served by the issuance of the license. Please describe below the reasons why issuance of another license is justified in this area. You may attach a separate sheet or additional documention, if desired. Do *not* proceed to Part 3.

The area has grown & we feel a need market in the area would be very beneficial especially for individuals who would be able to walk to our location - We will also be able to supply them with various grocery items again making it very convenient for residents in the area.

22. APPLICANT SIGNATURE

23. DATE SIGNED 10/12/24

PART 3 - TO BE COMPLETED BY LOCAL OFFICIALS (If box #20c is checked)

The applicant named on the reverse is applying for a license to sell alcoholic beverages at a premises where undue concentration exists (i.e., an over-concentration of licenses and/or a higher than average crime rate as defined in Section 23958.4 of the Business and Professions Code). Sections 23958 and 23958.4 of the Business and Professions Code requires the Department to deny the application unless the local governing body of the area in which the applicant premises are located, or its designated subordinate officer or body, determines within 90 days of notification of a completed application that public convenience or necessity would be served by the issuance.

Please complete items #24 to #30 below and certify or affix an official seal, or attach a copy of the Council or Board resolution or a signed letter on official letterhead stating whether or not the issuance of the applied for license would serve as a public convenience or necessity.

24. WILL PUBLIC CONVENIENCE OR NECESSITY BE SERVED BY ISSUANCE OF THIS ALCOHOLIC BEVERAGE LICENSE?

Yes No See Attached (i.e., letter, resolution, etc.)

25. ADDITIONAL COMMENTS, IF DESIRED (may include reasons for approval or denial of public convenience or necessity):

26. CITY/COUNTY OFFICIAL NAME

27. CITY/COUNTY OFFICIAL TITLE

28. CITY/COUNTY OFFICIAL PHONE NUMBER

29. CITY/COUNTY OFFICIAL SIGNATURE

30. DATE SIGNED

West's Annotated California Codes
Business and Professions Code (Refs & Annos)
Division 9. Alcoholic Beverages (Refs & Annos)
Chapter 6. Issuance and Transfer of Licenses (Refs & Annos)
Article 1. Applications for Licenses (Refs & Annos)

West's Ann.Cal.Bus. & Prof.Code § 23958

§ 23958. Investigation; denial of application; grounds

Currentness

Upon receipt of an application for a license or for a transfer of a license and the applicable fee, the department shall make a thorough investigation to determine whether the applicant and the premises for which a license is applied qualify for a license and whether the provisions of this division have been complied with, and shall investigate all matters connected therewith which may affect the public welfare and morals. The department shall deny an application for a license or for a transfer of a license if either the applicant or the premises for which a license is applied do not qualify for a license under this division.

The department further shall deny an application for a license if issuance of that license would tend to create a law enforcement problem, or if issuance would result in or add to an undue concentration of licenses, except as provided in Section 23958.4.

Credits

(Added by Stats.1980, c. 1194, p. 4033, § 2, operative Jan. 1, 1983. Amended by Stats.1982, c. 1189, p. 4244, § 2, operative Jan. 1, 1984; Stats.1994, c. 630 (A.B.2897), § 1.)

West's Ann. Cal. Bus. & Prof. Code § 23958, CA BUS & PROF § 23958
Current with urgency legislation through Ch. 1002 of 2024 Reg.Sess. Some statute sections may be more current, see credits for details.

End of Document

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West's Annotated California Codes
Business and Professions Code (Refs & Annos)
Division 9. Alcoholic Beverages (Refs & Annos)
Chapter 6. Issuance and Transfer of Licenses (Refs & Annos)
Article 1. Applications for Licenses (Refs & Annos)

West's Ann.Cal.Bus. & Prof.Code § 23958.4

§ 23958.4. Undue concentration; licensure for public convenience or necessity; definitions; exclusions; Los Angeles premises destroyed by civil disturbances

Effective: June 27, 2019
Currentness

(a) For purposes of Section 23958, "undue concentration" means the case in which the applicant premises for an original or premises-to-premises transfer of any retail license are located in an area where any of the following conditions exist:

(1) The applicant premises are located in a crime reporting district that has a 20 percent greater number of reported crimes, as defined in subdivision (c), than the average number of reported crimes as determined from all crime reporting districts within the jurisdiction of the local law enforcement agency.

(2) As to on-sale retail license applications, the ratio of on-sale retail licenses to population in the census tract or census division in which the applicant premises are located exceeds the ratio of on-sale retail licenses to population in the county in which the applicant premises are located.

(3) As to off-sale retail license applications, the ratio of off-sale retail licenses to population in the census tract or census division in which the applicant premises are located exceeds the ratio of off-sale retail licenses to population in the county in which the applicant premises are located.

(b) Notwithstanding Section 23958, the department may issue a license as follows:

(1) With respect to a nonretail license, a retail on-sale bona fide eating place license, a retail license issued for a hotel, motel, or other lodging establishment, as defined in subdivision (b) of Section 25503.16, a retail license issued in conjunction with a beer manufacturer's license, or a winegrower's license, if the applicant shows that public convenience or necessity would be served by the issuance.

(2) With respect to any other license, if the local governing body of the area in which the applicant premises are located, or its designated subordinate officer or body, determines within 90 days of notification of a completed application that public convenience or necessity would be served by the issuance. The 90-day period shall commence upon receipt by the local governing body of (A) notification by the department of an application for licensure, or (B) a completed application according to local requirements, if any, whichever is later.

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If the local governing body, or its designated subordinate officer or body, does not make a determination within the 90-day period, then the department may issue a license if the applicant shows the department that public convenience or necessity would be served by the issuance. In making its determination, the department shall not attribute any weight to the failure of the local governing body, or its designated subordinate officer or body, to make a determination regarding public convenience or necessity within the 90-day period.

(c) For purposes of this section, the following definitions shall apply:

(1) "Reporting districts" means geographical areas within the boundaries of a single governmental entity (city or the unincorporated area of a county) that are identified by the local law enforcement agency in the compilation and maintenance of statistical information on reported crimes and arrests.

(2) "Reported crimes" means the most recent yearly compilation by the local law enforcement agency of reported offenses of criminal homicide, forcible rape, robbery, aggravated assault, burglary, larceny, theft, and motor vehicle theft, combined with all arrests for other crimes, both felonies and misdemeanors, except traffic citations.

(3) "Population within the census tract or census division" means the population as determined by the most recent United States decennial or special census. The population determination shall not operate to prevent an applicant from establishing that an increase of resident population has occurred within the census tract or census division.

(4) "Population in the county" shall be determined by the annual population estimate for California counties published by the Demographic Research Unit of the Department of Finance.

(5) "Retail licenses" shall include the following:

(A) Off-sale retail licenses: Type 20 (off-sale beer and wine) and Type 21 (off-sale general).

(B) On-sale retail licenses: All retail on-sale licenses, except Type 43 (on-sale beer and wine for train), Type 44 (on-sale beer and wine for fishing party boat), Type 45 (on-sale beer and wine for boat), Type 46 (on-sale beer and wine for airplane), Type 53 (on-sale general for train and sleeping car), Type 54 (on-sale general for boat), Type 55 (on-sale general for airplane), Type 56 (on-sale general for vessels of more than 1,000 tons burden), and Type 62 (on-sale general bona fide public eating place intermittent dockside license for vessels of more than 15,000 tons displacement).

(6) A "premises-to-premises transfer" refers to each license being separate and distinct, and transferable upon approval of the department.

(d) For purposes of this section, the number of retail licenses in the county shall be established by the department on an annual basis.

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(e) The enactment of this section shall not affect any existing rights of any holder of a retail license issued before April 29, 1992, whose premises were destroyed or rendered unusable as a result of the civil disturbances occurring in Los Angeles from April 29 to May 2, 1992, to reopen and operate those licensed premises.

(f) This section shall not apply if the premises have been licensed and operated with the same type license within 90 days of the application.

Credits

(Added by Stats.1994, c. 630 (A.B.2897), § 2. Amended by Stats.1995, c. 91 (S.B.975), § 12; Stats.1996, c. 811 (A.B.2218), § 1; Stats.1996, c. 869 (A.B.2841), § 2; Stats.2012, c. 327 (S.B.937), § 9; Stats.2013, c. 76 (A.B.383), § 6; Stats.2019, c. 29 (S.B.82), § 46, eff. June 27, 2019.)

West's Ann. Cal. Bus. & Prof. Code § 23958.4, CA BUS & PROF § 23958.4
Current with urgency legislation through Ch. 1002 of 2024 Reg.Sess. Some statute sections may be more current, see credits for details.

End of Document

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CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Douglas Schulze, City Manager**
PREPARED BY:	**Nate Smith, Deputy Director of Public Works/City Engineer** **Art Vela, Director of Public Works**
MEETING DATE:	**November 12, 2024**
SUBJECT:	**Update on the Sun Lakes Boulevard Extension Project and Consideration of Resolution 2024-184, Approving EA 24-0051, An Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program Pursuant to the California Environmental Quality Act for the Sun Lakes Boulevard Extension Project**

RECOMMENDATION:

Adopt Resolution 2024-184.

BACKGROUND:

The proposed Sun Lakes Boulevard Extension Project ("SLB Extension Project") is identified on the Council approved Capital Improvement Program and, once constructed, would complete a gap in the roadway and circulation network along Sun Lakes Boulevard between Highland Home Road and Sunset Avenue. This unfinished portion of Sun Lakes Boulevard has been identified on the City's circulation element dating back to at least 1994. This staff report (1) provides an update to City Council on the progress of the SLB Extension Project including a summary of important and necessary steps to continue to move the SLB Extension Project to the construction phase, and (2) discusses the Final Initial Study ("IS"), Mitigated Negative Declaration ("MND"), and Mitigation Monitoring and Reporting Program ("MMRP") prepared for the SLB Extension Project, which staff is recommending the Council's adoption of.

SLB Extension Project Initiation

The SLB Extension Project has been a vision for the City since the construction of the Sun Lakes Country Club starting in the mid 1980's to provide an important secondary access point from the Sun Lakes County Club community to Sunset Avenue, relieving pressure of Highland Springs Avenue. Initial steps were taken with a Right of Way dedication to the City of Banning on Parcel Map 25541 in February of 1990. In 2020, the City Council revived efforts to complete the SLB Extension Project with the following actions:

- Resolution 2020-21 (adopted on 2/11/20): Accepting the lots dedicated to the City on Parcel Map 25541;
- Resolution 2020-48 (adopted on 4/14/20): Awarding a Professional Services Agreement for the design of the SLB Extension Project to Albert A Webb Associates; and
- Resolution 2020-97 (adopted on 7/14/20): Approving A TUMF Reimbursement Agreement with the Western Riverside Council Of Governments for $1,000,000 in TUMF funds City expenditures related to the SLB Extension Project.

The City Council's adoption of the resolutions listed above in 2020 started the City's efforts to design the proposed SLB Extension Project and, once designed, prepare the environmental review documents for the SLB Extension Project based on the project scope identified in the design documents.

SLB Extension Project Status

In the time since the initiation of the design contract in 2020, City staff and the City's consultant, Albert A. Webb Associated, have engaged continuously to get the SLB Extension Project to an environmentally cleared and shovel ready condition. A redesign effort was necessitated when comments were received from (1) the U.S. Fish and Wildlife Service ("USFWS"), (2) the California Department of Fish and Wildlife ("CDFW"), and (3) utility holders within the existing utility corridor. These comments required the City to revise the initial project design and negotiate with the stakeholders mentioned above on an acceptable design solution. Once those efforts were completed, City staff and the City's Consultant revised the necessary studies, reports, and plans.

On September 5, 2024, the City received notice from the USFWS and the CDFW of clearance of the SLB Extension Project's Determination of Biologically Equivalent of Superior Preservation (DBESP), which documents the SLB Extension Project's consistency with the Multiple Species Habitat Conservation Plan ("MSHCP"), allowing the City to circulate the SLB Extension Project's IS/MND for public review and comment, thereby completing a significant hurdle in getting the SLB Extension Project shovel ready.

The construction plans are now 100%, and bid documents are being prepared in order to issue a Notice Inviting Bids. There are three (3) private utilities that have easements in the corridor that are still in process:

- Williams Pipeline - The City has received a Letter of Non Interference from this entity and they will allow the Project to proceed with the roadwork in compliance with their encroachment permit conditions.
- Lumen - The City has met with the easement holder and provided necessary information to initiate the encroachment permit process. Initial responses have been received that would require the City to show that the pipeline can be protected in place to continue forward.
- Kinder Morgan - On October 24th, 2024, the City Council approved a Reimbursement Agreement with SFPP, L.P., (Resolution 2024-170) the successor in interest to Kinder Morgan for costs associated with the design and relocation of pipeline facilities owned and operated by SFPP, L.P., in related to the SLB Extension Project. Staff is processing the necessary paperwork to advance this item.

Environmental Review of the SLB Extension Project (IS/MND)

The City, as lead agency for the SLB Extension Project, prepared an Initial Study for the SLB Extension Project in accordance with the requirements of the California Environmental Quality Act. Based on the findings of the IS, a Mitigated Negative Declaration (“MND”) with a Mitigation Monitoring and Reporting Program (“MMRP”) was prepared by Albert A. Webb Associates, the City’s consultant, pursuant to the scope of services of the Professional Services Agreement awarded by the City Council by adoption of Resolution 2020-48. The IS/MND concludes that the Project, with proposed mitigation measures, would not have a significant effect on the environment. The mitigation measures within the MMRP conclude that the proposed Project will have a less than significant effect on the environment with their implementation.

The IS/MND, Technical Appendices for the IS/MND, MMRP, and the Notice of Intent to Adopt the IS/MND ("NOI") were published on the City of Banning website (https://www.banningca.gov/928/Sun-Lakes-Blvd-Extension) under the Public Works Department/Engineering Division page on September 6, 2024 and published to the State Clearinghouse on the State of California's CEQAnet website (https://ceqanet.opr.ca.gov/2024090237/2) on September 9, 2024. The IS, MND, and MMRP were also made available for public review and inspection at City Hall and the Banning Public Library. The NOI was also sent to interested parties, Responsible Agencies, Trustee Agencies, and Riverside County Clerk-

Recorded pursuant to section 15703 of the State CEQA Guidelines. A total of 31 notices were mailed via FedEx and U.S. Postal Service. The 30-day public review and comment period concluded at 5:00 p.m. on Tuesday, October 8, 2024.

The City of Banning received timely comments from 1 public agency and 1 private citizen during the public review period and one late comment after the public review period ended. All three comment letters were reviewed and addressed in the "Response to Comments" section of the Final Draft IS/MND included with this document. Copies of the comment letters received are also included as part of the Final Draft IS/MND. Based on review of the comments received and clarification and amplification of the analysis in the IS/MND, no new, unavoidable significant environmental effects were identified and therefore, pursuant to Section 15703.5 of the State CEQA Guidelines, recirculation of the environmental documents for this Project is not required.

The IS identifies the SLB Extension Project's environmental effects by use of an Environmental Factors Checklist, with a brief explanation or reference to indicate the evidence supporting the checklist entries (such as the certified EIR for the General Plan or the technical studies completed for the SLB Extension Project). The Checklist contains a list of questions about potential environmental effects organized by subject area. Each question asks whether a particular effect would result from the SMB Extension Project and is answered by checking a box for "potentially significant impact," "less than significant impact with mitigation incorporated," "less than significant impact," and "no impact." If one or more answers are "less than significant impact with mitigation incorporated" and all other answers are "no impact" or "less than significant impact" and the necessary mitigation measures are incorporated into a project, then an MND should be prepared. There were no answers found in the IS conducted for the SLB Extension Project to have "potentially significant effects." One or more answers were "no impact," "less than significant impact," and "less than significant impact with mitigation incorporated." Answers indicating "less than significant impact with mitigation incorporated "summarized below. Full details on the "no impacts," "less than significant impacts," "less than significant impacts with mitigation incorporated," and mitigation measures are available in the attached IS/MND and MMRP.

1) Biological Resources: The IS identified that there are "less than significant impacts with mitigation incorporated" for species identified as a candidate, sensitive, or special status. Mitigation for this impact are addressed with MM BIO-1; Vegetation Clearance and Preconstruction Nesting Bird Survey, MM BIO-2: Burrowing Owl Survey; MM BIO-3: Crotch's Bumble Bee Survey and Construction Monitoring; and MM BIO-4: Biological Worker's Environmental Awareness Program (WEAP).

2) Biological Resources: The IS identified that there are "less than significant impacts with mitigation incorporated" for riparian habitat or other sensitive natural community. Mitigation for this impact is addressed with MM BIO-5: Mitigation for Riparian/Riverine and Jurisdictional Impacts. This will mitigate 0.37 acres of permanent project impact and 0.09 acres of temporary project impacts with the conservation and enhancement of City owned land within Smith Creek at the eastern City Limits and participation with a Smith Creek Working group, led by the City, to review and address regional impacts to Smith Creek.

3) Biological Resources: The IS identified that there are "less than significant impacts with mitigation incorporated" for conflict with provisions of an adopted habitat conservation plan. Mitigations for this impact are addressed through compliance and implementation of provisions of the MSHCP, and with MM BIO-1, and MM BIO-5.

4) Cultural Resources: The IS identified that there are "less than significant impacts with mitigation incorporated" for inadvertent discovery of cultural artifacts. Mitigation for this impact is addressed with MM CR-1: Inadvertent Discovery.

5) Geology and Soils: The IS identified that there are "less than significant impacts with mitigation incorporated" for impacts to a unique paleontological or geologic feature. Mitigation for this impact are

addressed with MM GEO-1: Paleontological Worker Awareness Program (WEAP); MM GEO-2: Paleontological Resources Impact Mitigation Program (PRIMP); and MM GEO-3: Fossil Discoveries.

6) Tribal Cultural Resources: Based on consultation with Native American Tribes, the IS identified that there are "less than significant impacts with mitigation incorporated" for tribal cultural resources. Mitigation for this impact is addressed with MM CR-1.

Staff recommends that City Council adopt the attached resolution adopting the IS/MND and MMRP for the SLB Extension Project and authorize staff to file a Notice of Determination (NOD) with the Riverside County Clerk-Recorder and the State Clearinghouse within 5 days, which begins a 30-day statute of limitations for legal challenges on the environmental review of the Project.

Next Steps

After the City files the NOD, City staff will file formal applications with the Regional Water Quality Control Board and the CDFW to obtain approval of the Dredge and Fill Permit and Streambed Alteration Agreement, respectively, which are necessary approvals to begin construction of the SLB Extension Project. It is anticipated that the approval of the necessary permits from the Regional Water Quality Control Board and the CDFW would be completed in as soon as 6 to 9 months.

City staff are also working to have encroachment permits in hand from the private utility holders (Williams, Kinder Morgan, Lumen) within that same 6-9 month period.

The City will also solicit bids for construction of the SLB Extension Project during this same period, anticipating a construction start date between April and June of 2025.

SLB Extension Project Funding

The current SLB Extension Project cost estimate, which includes environmental mitigations and endowments, is estimated at $38,000,000. The SLB Extension Project has benefitted from the following funding commitments from the City's regional funding partners:

- $13,500,000 - Riverside County Transportation Commission Measure A Regional Arterials program (RCTC MARA)
- $12,000,000 - Western Riverside County Council of Governments Transportation Uniform Fee Mitigation (WRCOG TUMF)
- $2,320,000 - RCTC Measure A Road Funds
- $2,500,000 - City of Banning Development Impact Fee (DIF)

In light of recent actions with WRCOG adjusting the TUMF impact fee schedules and increasing Project costs considered for reimbursement, Staff will pursue further adjustments and funding commitments from our regional partners.

Future City Council Actions

There are several City Council actions that remain necessary to move the SLB Extension Project forward, and Public Works staff will bring those items back to Council as required to move the SLB Extension Project forward through construction. These items may include the following:

- Acceptance of Rights of Way and Easements necessary for SLB Extension Project construction and operation;
- Items related to encroachment permits for Lumen and Williams Pipelines;
- Construction contract awards;
- Items related to mitigation as described in the IS/MND; and
- Approval of additional funding.

Dates on these items and the exact form of these items are unknown at this time.

JUSTIFICATION:

The adoption of Resolution 2024-184 will allow for the filing of the NOD for the SLB Extension Project, which is an implementing step for the construction of the Project. A NOD is required to apply for

construction applications from the CDFW and the Regional Water Quality Control Board. Permits from these agencies are a requirement prior to initiation of construction of the Project.

FISCAL IMPACT:

$50 recordation fee with the Riverside County Clerk-Recorder and a $2,916.75 filing fee with the California Department of Fish and Wildlife.

ALTERNATIVES:

Do not adopt Resolution 2024-184 and provide alternative direction to staff.

BUDGETED?:

Yes

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. Resolution 2024-184 Exhibit A SLB Final IS-MND.pdf
2. Att. 1 SLB Extension - NOI Mailing.pdf
3. Att. 2 CC Resolution No. 2020-021.pdf
4. Att. 3 CC Resolution No. 2020-048.pdf
5. Att. 4 CC Resolution No. 2020-097.pdf
6. Att. 5 Agreement TUMF Sun Lakes Blvd.pdf
7. Att 6. IS Appendix A - AQ-GHG Impact Memo.pdf
8. Att 7. IS Appendix B.1 - MSHCP Consistency Analysis.pdf
9. Att 8. IS Appendix B.2 - LA Pocket Mouse Survey Report.pdf
10. Att 9. IS Appendix B.3 - Burrowing Owl Survey Report.pdf
11. Att 10. ISAppendix B.4 - Narrow Endemic Plant Survey Report.pdf
12. Att 11. IS Appendix B.5 - Wet Dry Season Fairy Shrimp Survey Memo.pdf
13. Att 12. IS Appendix B.6 - Jurisdictional Delineation.pdf
14. Att 13. IS Appendix B.7 - DBESP Report.pdf
15. Att 14. IS Appendix C - Phase 1 Cultural Resources Assessment.pdf
16. Att 15. IS Appendix D - Energy Tables.pdf
17. Att. 16 IS Appendix E.1 - Geotechnical Investigation.pdf
18. Att. 17 IS Appendix E.2 - Paleo Memo.pdf
19. Att. 18 IS Appendix F - High Level Assessment of Potential Sediment Transport Impacts.pdf
20. Att. 19 IS Appendix G - Noise Analysis Report.pdf
21. Att. 20 IS Appendix H - VMT Screening Analysis.pdf
22. Resolution 2024-184, MND.docx

ALBERT A. WEBB ASSOCIATES



Final Initial Study/Mitigated Negative Declaration, Responses to Comments, and Mitigation Monitoring and Reporting Program

Sun Lakes Boulevard Extension Project

State Clearinghouse No. 2024090237

Prepared for:

November 12, 2024

www.webbassociates.com

Introduction to the Final IS/MND, Responses to Comments, and MMRP

This document contains the following three items for the Sun Lakes Boulevard Extension Project:

1. **Final Initial Study/Mitigated Negative Declaration** (IS/MND), which shows text added as a result of comments received during the public comment period for the IS/MND with double underscoring as follows: example text. Deleted text is shown with strikethrough as follows: ~~example text~~.

2. **Responses to Comments**, which contains copies of the comments received during the public comment period and responses to those comments from the CEQA Lead Agency, City of Banning (City). Section 15074 of the State *CEQA Guidelines* requires the Banning City Council to consider the proposed IS/MND together with any comments received during the public review process. The Responses to Comments have been prepared to provide the Banning City Council with additional information upon which to base their decision to adopt the IS/MND.

3. **Mitigation Monitoring and Reporting Program** (MMRP), which has been compiled to verify implementation of adopted mitigation measures as required by State *CEQA Guidelines* section 15097.

I. Final Initial Study/Mitigated Negative Declaration

Text added as a result of comments received for the IS/MND during the public comment period (see Section II) has double underscoring as follows: example text. Deleted text is shown with strikethrough as follows: ~~example text~~.

INITIAL STUDY/MITIGATED NEGATIVE DECLARATION

FOR

Sun Lakes Boulevard Extension Project

State Clearinghouse No. 2024090237

Prepared for:

City of Banning
99 E. Ramsey Street
Banning, CA 92220
Contact: Emery Papp, Senior Planner
(951) 922-3152

Prepared by:

Albert A. Webb Associates
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Riverside, CA 92506
(951) 686-1070
W.O. 2020-0126

November 12, 2024

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Appendix B.6 Jurisdictional Delineation

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Appendix C Phase 1 Cultural Resource Constraints Assessment

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Appendix F High Level Assessment of Potential Sediment Transport Impacts

Appendix G Noise Analysis Report

Appendix H Vehicle Miles Traveled Screening Analysis

ACRONYMS LIST

Acronym	Definition
AB52	Assembly Bill 52
AE	Applied Earthworks
AF	Acre Feet
Afu	Undocumented fill
ALUC	Airport Land Use Commission
APN	Assessor Parcel Number
AQ/GHG	Air Quality/Greenhouse Gas Analysis
AQMP	Air Quality Management Plan
BMC	Banning Municipal Code
BMPs	Best Management Practices
CARB	California Air Resources Board
CCR	California Code of Regulations
CDFW	California Department of Fish and Wildlife
CEC	California Energy Commission
CEQA	California Environmental Quality Act
Cfs	Cubic feet per second
CFR	Code of Federal Regulations
CGP	Construction General Stormwater Permit
CHSC	California Health and Safety Code
City	City of Banning
CMP	Congestion Management Program
CNDDB	California Natural Diversity Data Base
CNEL	Community Noise Equivalent Level
CNPS	California Native Plant Society
CRHR	California Register Historical Resources
dB	Decibels
FdBA	A-Weighted Decibels
DBESP	Determination of Biologically Equivalent or Superior Preservation
DTSC	California Department of Toxic Substances Control
EIC	Eastern Information Center
DEIR	Draft Environmental Impact Report
FEMA	Federal Emergency Management Agency
FHSZ	Fire Hazard Severity Zone
FHWA	Federal Highway Administration
FIRM	Flood Insurance Rate Map
FMMP	Farmland Mapping Management Program
GHG	Greenhouse Gas
GP	City of Banning Comprehensive General Plan and Zoning Ordinance
GPA	General Plan Amendment

Acronym	Definition
GSA	Groundwater Sustainability Agencies
GSP	Groundwater Sustainability Plan
Ha	High A
HANS	Habitat Evaluation and Acquisition Negotiation Strategy
Hb	High B
HDR-20	High Density Residential 20
I-MR	Industrial-Mineral Resources
IS/MND	Initial Study Mitigated Negative Declaration
ISO	Insurance Service Office
JPR	Joint Project Review
LAPM	Los Angeles Pocket Mouse
LDR	Low Density Residential
L_{eq}	Equivalent Sound Level
LST	Localized Significance Threshold
LRA	Local Responsibility Area
LRTP	Long Range Transportation Plan
MBTA	Migratory Bird Treaty Act
MDP	Master Drainage Plan
MDR	Medium Density Residential
MLD	Most Likely Descendant
MRZ	Mineral Resources Zone
MS4	Municipal Separate Storm Water Sewer System
MSHCP	Western Riverside County Multiple Species Habitat Conservation Plan
$MTCO_2e$	Metric Tons Carbon Dioxide Equivalent
NCCP	Natural Communities Conservation Plan
NAHC	Native American Heritage Commission
NEPSSA	Narrow Endemic Plant Species Survey Area
NHC	Northwest Hydraulic Consultants
NO_2	Nitrogen Dioxide
NO_x	Nitrogen Oxides
Non-RPW	Non-relatively permanent waterways
NPDES	National Pollutant Discharge Elimination System
NRHP	National Register of Historical Places
OHWM	Ordinary High Water Mark
OS-Pk	Open Space – Parks
OS-R	Open Space – Resources
PM-2.5	Particulate Matter Less Than 2.5 Microns in Diameter
PM-10	Particulate Matter Less Than 10 Microns in Diameter
PQP	Public quasi-public lands
Qa	Holocene-age alluvium

Acronym	Definition
Qf	Pleistocene-age Alluvial fan of the San Gorgonio Pass
RCB	Reinforced Concrete Boxes
RCFD	Riverside County Fire Department
RCTC	Riverside County Transportation Commission
RTA	Riverside Transit Agency
RTP/SCS	Regional Transportation Plan/Sustainable Communities Strategy
RWQCB	Regional Water Quality Control Board
SB 743	Senate Bill 743
SF	Square Feet
SCAG	Southern California Association of Governments
SCAQMD	South Coast Air Quality Management District
SCE	Southern California Edison
SLF	Sacred Lands File
SMARA	Surface Mining and Reclamation Act
SRA	State Responsibility Area
SWPPP	Storm Water Pollution Prevention Plan
SWRCB	State Water Resources Control Board
TAZ	Traffic Analysis Zone
TNM	Traffic Noise Model
TNW	Traditional navigable Waterways
USACE	U.S. Army Corps of Engineers
USFWS	U.S. Fish and Wildlife Service
USGS	U.S. Geological Survey
UWMP	Urban Water Management Plan
VHFHSZ	Very High Fire Severity Zone
VLDR	Very Low Density Residential
VMT	Vehicle Miles Traveled
WEAP	Workers Environmental Awareness Program

ENVIRONMENTAL CHECKLIST FORM

1. **Project title**
   Sun Lakes Boulevard Extension

2. **Lead agency name and address**
   City of Banning
   99 E. Ramsey Street
   Banning, CA 92220
   (951) 922-3131

3. **Contact person email address and phone number**
   Emery Papp, Senior Planner
   City of Banning Community Development Department
   epapp@banningca.gov
   (951) 922-3152

4. **Project location**
   The majority of the project is located within the City of Banning (City), although a small portion is located within the unincorporated territory of Riverside County. The alignment of the proposed Sun Lakes Extension (hereinafter referred to as the "Project Site") is in the western portion of the City, south of Interstate 10 (I-10) in between the intersections of South Highland Home Road to the west and Sunset Avenue to the east**.** The Project Site also extends north and south in Sunset Avenue. (Refer to **Figure 1 – Vicinity Map** and **Figure 2 – Project Location.**)[1]

5. **Project sponsor's name and address**
   Public Works Department
   City of Banning
   99 E. Ramsey Street
   Banning, CA 92220
   (951) 922-3130

6. **General Plan Land Use and Zoning Designations**
   As shown on **Figure 3 – General Plan Land Use and Zoning Designations**, the portion of the Project within the City traverses through areas in which the General Plan and Zoning Designations are (from west to east): Specific Plan Overlay, Medium Density Residential (0-10 units/acre) (MDR), Open Space-Parks (OS-P), Open Space–Resources (OS-R), Low Density Residential (0-5 units/acre) (LDR), High Density Residential 20/Affordable Housing Opportunity (20-24 units/acre) (HDR-20), and Very Low Density Residential (0-2 units/acre) (VLDR).

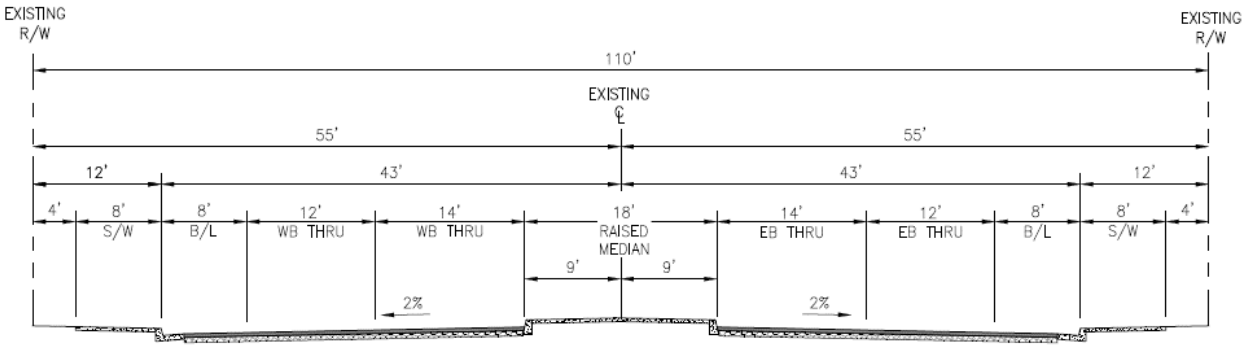
   The portion of the Project Site within the unincorporated territory of the jurisdiction of the County of Riverside has a General Plan land use designation of Low Density Residential (0.5 acre/unit) (LDR) and a zoning designation of Light Agriculture 10-acre/unit (A-1-10.)

[1] Figures commence on page 9.

7. Project Description:

The proposed Sun Lakes Boulevard Extension project ("Project") is a transportation project including construction of a new section of Sun Lakes Boulevard from Highland Home Road to Sunset Avenue and intersection improvements (**Figure 2 – Project Location**). The Project is consistent with the City's Circulation Element that was amended in January 2020 through General Plan Amendment (GPA) 19-2502. This GPA modified the previous Circulation Element (GPA 16-2501) by changing the previous Sun Lakes Boulevard alignment that connected South Highland Home Road to West Lincoln to the existing alignment that connects South Highland Home Road to Sunset Avenue. The road remained an east-west Arterial Highway. The Project is approximately 5,400 linear feet (1.02 mile) and 110-feet wide, encompassing approximately 19.4 acres of direct footprint and another 9.1 acres of temporary construction disturbance area (see **Figure 4 – USGS Map**). The site is at an elevation of approximately 2,500 feet above mean sea level. Project staging and stockpiling will occur within the City's ROW. The following typical section shall be constructed according to the City's General Plan:

Typical Section – Arterial Highway



Sun Lakes Boulevard will be constructed as an Arterial Highway with two eastbound and two westbound lanes each containing a 12-feet wide lane and a 14-feet wide lane; a raised 18-foot wide median; eastbound and westbound 8-foot-wide bike lanes; 8-foot-wide sidewalks; associated road striping, drainage and street light improvements. The Project crosses over three creeks, from west to east: Highland Wash, Smith Creek, and Pershing Creek. The Project will include the construction of three sets of culverts (i.e., Proposed Lines J, I, and K)[2] to cross said creeks. The culverts are multi-cell reinforced concrete box (RCB) channels running under the proposed Sun Lakes Boulevard roadway extension. Straight wing walls with concrete and riprap aprons will be constructed at the upstream end of each channel while vertical wing walls and concrete aprons will be provided at the downstream end of channels. Concrete ramps will be constructed at the south end of the channels to provide maintenance access. Concrete swales and trapezoidal channels will be provided to intercept stormwater run-on from north of the Project and discharge it to the proposed channels, which is consistent with the City's Master Drainage Plan (MDP).

Left turn pockets are proposed at the intersection of South Highland Home Road, a future intersecting street, and at Sunset Avenue. Stop signals will be located at the intersection of South Highland Home Road and

[2] "Proposed Lines J, I, and K" correspond to the naming convention used in the Project storm drain plans and engineering hydraulic analysis. They should not be confused with the existing MDP Lines J, I and K that cross under I-10.

Sunset Avenue. The Project will also adjust and relocate various utilities to grade (such as sewer manhole, storm drain manhole, telecommunication manhole, power poles, air vacuums, fire hydrants, electrical risers, and electrical vault).

Currently, Westward Avenue is an east-west unpaved dirt road between Highland Home Road and Sunset Avenue. The proposed Sun Lakes Blvd. alignment will shift to the north between the intersections, as shown on **Figure 2**, to avoid utility lines. The existing Westward Avenue includes two culverted concrete Arizona crossings, one at Highland Wash and Smith Creek and another at Pershing Creek. Each creek currently has at least one existing pipe culvert to convey flows under Westward Avenue, specifically three pipe culverts for Highland Wash, one pipe culvert at Smith Creek and one pipe culvert at Pershing Creek. During storm events that exceed the capacities of the existing pipe culverts, the flows will overtop the pipes and flow over Westward Avenue continuing south and back into the Smith and Pershing Creek channels. The existing Westward Avenue pipe culverts are outside of the Sun Lakes Blvd. ROW and will be abandoned in place when the Project is completed. No other constructed drainage facilities are present in the Project area. Plans for the proposed Project are included in Exhibit A, which follows the List of Initial Study Preparers on page 125.

Right-of-Way and Easement Acquisition

The Project includes the acquisition by the City of approximately 621,000 square feet (SF) of ROW, and approximately 143,000 SF of drainage easements, and approximately 44,000 SF of pipeline easements (see **Figure 5 – Proposed Project Easements and Rights-of-Way**). Also, Project construction will require the relocation of approximately 13 City of Banning power poles along Sun Lakes Boulevard (see **Figure 5**). The maximum depth of excavation is approximately 13 feet.

Proposed Creek Crossing Details

As shown on **Figure 2**, there are three major drainage channels which intersect with the proposed roadway alignment. The drainage design for the Project consists of three sets of multiple/in series reinforced concrete boxes (RCBs), concrete swales, loose riprap, v-gutters, and concrete trapezoidal channels. The design of the proposed RCB culverts has been developed in discussions with California Department Fish and Wildlife (CDFW) and the US Fish and Wildlife Service so that the Project will not substantially decrease the amount of sediment transport currently occurring in the creeks. The in-road storm drain system (e.g., portions of proposed swales, V-gutters, trapezoidal channels) are in uplands and not in the jurisdictional areas. The RCB culverts will be in jurisdictional limits and have been designed to convey flows meeting as close to existing conditions as feasible. The proposed drainage crossings are as follows (from west to east) (refer to **Figure 6a – Project Components West Extent 1, Figure 6b – Project Components West Extent 2, Figure 6c - Project Components East Extent 1, Figure 6d – Project Components East Extent 2**):[3]

- Swale No.1 at west bank of Highland Wash (west of proposed Line J)[4]
    - 983 linear feet of concrete swale, 4 feet wide that will capture and convey offsite flows from north of the swale into the proposed Line J RCB culvert via proposed connection to westerly wingwall of Line J.

[3] Values are approximate. Exact quantities are known at final design stage.

[4] "Proposed Lines J, I and K" correspond to the naming convention used in the Project storm drain plans and engineering hydraulic analysis. They should not be confused with the existing MDP Lines J, I and K that cross under I-10.

- Pads of ungrouted Backing No. 2 (aka, Rock Slope Protection Class II rock size) of approximately 466 SF are proposed at existing flowlines to convey flows into proposed swale and prevent erosion.
- Design flow rate: 27.5 cubic feet per second (cfs)

- Creek Crossing No.1: Highland Wash (aka Proposed Line J)
  - Six (6) reinforced concrete boxes (RCBs) that are 14-feet wide, 10-feet high, and 269-feet long placed within the bed of Highland Wash extending across the full width of creek, with pier nose extensions.
  - Upstream of RCBs, there will be 3,483 SF of concrete apron with headwall and wingwalls. Additionally, 2,185 SF of ¼-ton ungrouted riprap is being proposed for slope protection.
  - Downstream of RCBs, there will be 4,000 SF of concrete apron with headwall and wingwalls and cut off walls.
  - The access maintenance ramp will be approximately 470 SF of concrete.
  - 2,150 SF of asphalt-concrete pavement will be installed to join existing pavement access road and maintenance ramps for Line J and Line I.
  - Design flow rate: 1,715 cfs

- Swale No. 2 at east bank of Highland Wash; (east of Line J)
  - 332 linear feet of concrete swale that is 4 feet wide to capture and convey offsite flows north of the swale into Line J RCB culvert via proposed connection to easterly wingwall of Line J.
  - A 233 SF pad of ungrouted Backing No. 2 is proposed to convey flows into the swale and prevent erosion.
  - Design flow rate: 35.0 cfs

- Creek Crossing No. 2: Smith Creek (aka Proposed Line I)
  - Seven (7) RCBs that are 14-feet wide, 10-feet high, and 140.1-feet long placed within the bed of Smith Creek extending across the full width of the creek, with pier nose extensions.
  - Upstream of RCBs, there will be 2,466 SF of concrete apron with headwall and wingwalls. Additionally, 1,209 SF of ¼-ton ungrouted rip rap is being proposed for slope protection.
  - Downstream of RCBs, there will be 2,765 SF of concrete apron with headwall and wingwalls and cut off walls.
  - The access maintenance ramp will be approximately 384 SF of concrete.
  - No removal of an existing impervious area.
  - Design flow rate(s): 3,500 cfs

- Swale No. 3 at east bank of Smith Creek; (east of Line I)
  - 176 linear feet of concrete swale that is 4 feet wide to capture and convey offsite flows north of the swale into Line I RCB culvert via proposed connection to easterly wingwall of Line I.
  - Design flow rate(s): 1.80 cfs

- Swale No. 4 on west bank of Pershing Creek; (west of Line K)

- 1,680 linear feet of concrete trapezoidal channel approximately 10 feet wide that will capture and convey offsite flows from north of the swale into Line K RCB culvert via proposed connection to westerly wingwall of Line K.
- Design flow rate: 112.5 cfs

- Creek Crossing No. 3: Pershing Creek (aka Proposed Line K)
  - Seven (7) RCBs that are 14-feet wide, 10-feet high, and 120-feet long placed within the bed of Pershing Creek extending across the full width of the creek, with pier nose extensions.
  - Upstream of RCBs, there will be 4,555 SF of concrete apron with headwall, wingwalls, and cut off walls. Additionally, 2463 SF of ¼-ton ungrouted riprap is proposed for slope protection.
  - Downstream of RCBs, there will be 3,315 SF of concrete apron with headwall, wingwalls, and cut off walls.
  - The concrete access maintenance ramp will be approximately 257 SF.
  - No removal of existing impervious area.
  - Design flow rate: 3,800 cfs

- Swale No. 5 East of Pershing Creek
  - 707 LF of concrete swale that is approximately 2 feet wide that will capture and convey offsite flows coming from north of the swale into an underground 36-inch diameter reinforced concrete pipe ("Lateral K-2") that will connect to proposed Line K.
  - Design flow rate(s): 4.3 cfs
- There are four storm drain laterals in the Project. Laterals K-1 and K-2 drain to Pershing Creek and Laterals I-1 and I-2 drain to Smith Creek. Laterals K-2, I-1, and I-2 collect street runoff via catch basins in the street. Lateral K-2 differs in that it collects run-on from north of the Project and conveys it to Line K.

Operation and maintenance inspections of the proposed RCB culverts would occur regularly, at a minimum annually prior to flood season and after any significant runoff event. Accumulated debris and sediment at the RCB opening and support piers would be monitored and removed if necessary, per the City's engineer staff's discretion.

Pipeline Realignments

The Project includes a partial realignment of three pipelines within the areas noted on **Figures 6a** and **Figure 6d**. The first pipeline is a 20-inch diameter steel pipeline conveying petroleum that is owned by Kinder Morgan, Inc. which is located generally within the alignment of existing Westward Avenue and within the area of the future Sun Lakes Blvd. expansion. Approximately 1,500 linear feet of the Kinder Morgan petroleum pipeline will be relocated because of the Project so that the petroleum pipeline is not located under the new Sun Lakes Blvd extension.

The second pipeline is a 16-inch diameter steel pipeline that is owned by Williams Companies and conveys natural gas. The current alignment generally follows the existing Westward Avenue alignment, and approximately 1,500 feet of this natural gas pipeline will have to be relocated so that it does not interfere

with the Sun Lakes Blvd. extension alignment. Figure 6a and Figure 6d show the relocation area for the Williams natural gas pipeline that will occur as a result of this Project.

The third pipeline is a 12-inch diameter steel pipeline owned by Kinder Morgan but currently leased for telecommunications. Approximately 1,500 linear feet of the Kinder Morgan telecommunications pipeline may be relocated as well with the Project.

All three of these existing utility pipelines parallel each other and separated by a width of approximately 20-feet within the general area of existing Westward Avenue.

The pipeline owners have indicated to the City that the proposed Project cannot lie on top of the pipelines, nor can the Project cross over the pipelines at less than a 45-degree angle, or add more than a negligible depth of fill on top of the pipelines. Therefore, the extents of the realignments analyzed herein are the City's best and most conservative assumption of what each pipeline owner will want and accept. The relocations are located at the east and west edges of the Project alignment (shown on Figure 6a and 6d), where the Project connects to the Highland Home Road and Sunset Avenue intersections and veers north from the existing Westward Avenue dirt road. The majority of these three pipelines will remain in place along the existing Westward Avenue alignment.

Construction

Project construction is anticipated to occur within a two-year time span. The Project will require approximately 98,180 cubic yards of soil import. Typical construction equipment and vehicle usage is anticipated and may include, but not be limited to excavators, rubber-tired dozers/loaders, scrapers, and other material-delivery vehicles. A typical construction work schedule of weekdays during daylight hours is expected. See Section III for further details on construction-related assumptions evaluated within this IS/MND.

8. **Surrounding land uses and setting:**

As shown in **Figure 2 – Project Location**, the area to the north and south of the Project Site are currently vacant and undeveloped. However, proposed development projects for industrial/commercial is proposed on either side of Sun Lakes Blvd which are currently being processed and considered by the City of Banning separate from this Project. Adjacent to existing Westward Avenue are existing utilities that include three well sites and one wastewater lift station. West of Highland Home Road are single-family homes (primarily a retirement community). East of Sunset Avenue are single-family homes, a small number of commercial shops, the Mt. San Jacinto College San Gorgonio Pass Campus, and vacant land.

Adjacent to the north and south of the proposed Project Site are approximately 533 acres of undeveloped land for which development applications have been submitted to the City for the Sunset Crossroads project. The proposed Conceptual Land Use plan for the Sunset Crossroads Project at the time of the NOP is shown on **Figure 8 – Proposed Sunset Crossroads Conceptual Plan**. On February 2, 2021, the City issued a Notice of Preparation (NOP) of an Environmental Impact Report (EIR) for the Sunset Crossroads Specific Plan and related entitlements. A public scoping meeting was held for the Sunset Crossroads Specific Plan EIR on February 18, 2022. The Notice of Availability of the Draft EIR was issued December 15, 2023 to commence

the 45-day public review period that ended on January 30, 2024. A public hearing with the Planning Commission and City Council is pending.

The Sunset Crossroads project is not a part of the Project evaluated in this Initial Study and is mentioned for informational purposes. The following proposed actions are collectively referred to as the Sunset Crossroads project: a GPA, Pre-Zoning and Zoning Amendment, and Adoption of the Specific Plan; Annexation; approval of Tract Maps; Development Agreement and other requested approvals as may be required from time to time for the project. The Sunset Crossroads project proposes the development of industrial and commercial uses on a 533.8-acre site through adoption of the Sunset Crossroads Specific Plan, including up to 268,400 square feet of medical office, professional office, education, recreation, and commercial uses, a travel center with refueling uses, and a 125-room hotel on 47.9-acres; and up to 5,545,000 square feet of industrial uses (including up 330,000 square feet of cold storage uses) on 392.0 acres. The Specific Plan text identifies the permitted land uses; development standards, design guidelines; and implementation provisions. The Development Project includes a GPA and Zone Changes amending the existing land use designations to General Commercial, Industrial, Open Space – Parks, and Open Space – Resources. Approximately 65.6 acres of the Project site would be retained as Open Space - Resources and/or Open Space – Parks use, including a five-acre passive park. Approximately 253.7 acres of the site are located outside the current City boundary within the City's sphere of influence (SOI); therefore, the Project envisions annexation of this area into the city. The Project would result in the reduction of the City's residential capacity by a maximum of 1,146 units on the site; therefore, the City's requirement to identify and rezone other land in the city to ensure no net loss of residential capacity is also evaluated as part of the project. The City has identified an approximately 49.2-acre site located east of Sunset Avenue and south of Westward Avenue owned by the Mt. San Jacinto Community College District (MSJCCD) to accept the transfer of residential capacity from the Sunset Crossroads project site. The City has initiated a GPA and rezoning of the MSJCCD site to Very High Density Residential allowing a maximum capacity of not less than 1,146 residential units. No residential development is envisioned on the MSJCCD Site at this time according to the December 15, 2023 Notice of Availability for the Draft EIR.

9. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement):

- California Department of Fish and Wildlife - Section 1602 Lake and Streambed Alteration Agreement
- County of Riverside, American Rescue Plan Act (ARPA) – funding allocation through the Coronavirus State and Local Fiscal Recovery Funds Final Rule.
- Regional Water Quality Control Board Colorado River Region - Clean Water Section 401 Water Quality Certifications or Porter-Cologne Water Quality Control Act waste discharge permit

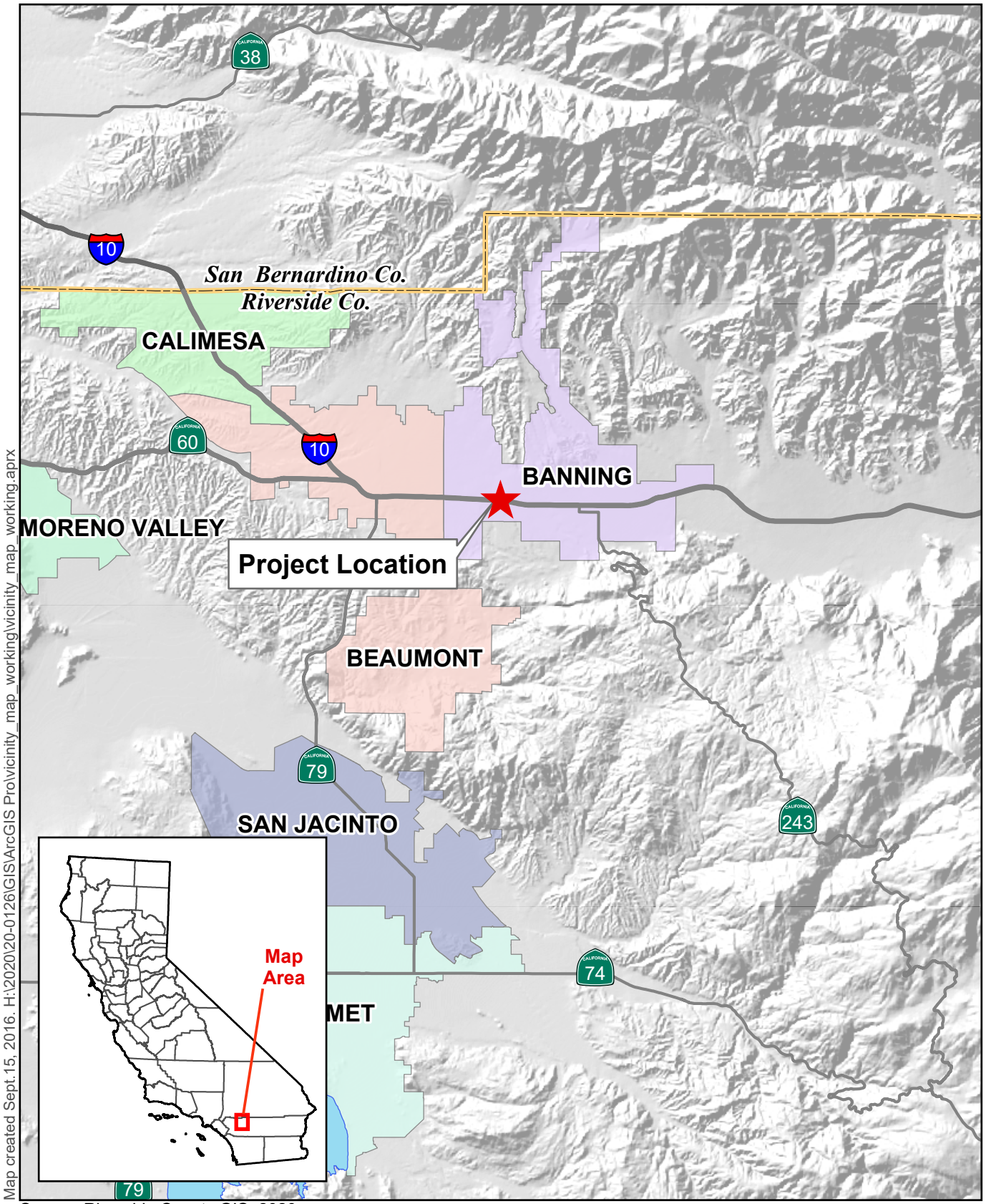
10. Have California Native American tribes traditionally and culturally affiliated with the project area requested consultation pursuant to Public Resource Code section 21080.3.1?

If so, is there a plan for consultation that includes, for example, the determination of significance to tribal cultural resources, procedures regarding confidentiality, etc.?

As part of GPA 19-2502, the City conducted consultation per Senate Bill (SB) 18 and Assembly Bill (AB 52). This consultation was concluded in August 2019. The following Tribes responded to the consultation request

for GPA 19-2502: Agua Caliente Band of Cahuilla Indians, Augustine Band of Cahuilla Indians, Morongo Band of Mission Indians, Rincon Band of Luiseño Indians, San Manuel Band of Mission Indians, and Twenty- Nine Palms Band of Mission Indians. Agua Caliente Band of Cahuilla Indians noted that the Project area is located within their traditional use area and as a result would like copies of cultural resource documentation generated in connection with the Project. Augustine Band of Cahuilla Indians noted that they are unaware of specific cultural resources that might be affected however, wish to be contacted if cultural resources were discovered. Morongo Band of Missions Indians noted that the Project area is located within the ancestral territory and traditional use area of the Cahuilla and Serrano people of Morongo Band of Mission Indians as such they are requesting copies of the records search, and Phase I study or other cultural assessments. Rincon Band of Luiseno Indians noted that there were concerns regarding disturbing and destroying culturally significant resources for the Luiseno people as a result they requested to be notified and consulted at the time of any discoveries. The San Manuel Band of Mission Indians stated the Project area was located outside of the Serrano ancestral territory and would not request additional consultation. Twenty-Nine Palms Band of Mission Indians responded noting that they are not aware of any additional cultural resources within the Project area.

On October 15, 2020, representatives of the City and WEBB (as the City's consultant) met virtually with the Morongo Band of Mission Indians Tribal Historic Preservation Officer (Anne Brierty) to introduce the Project and provide background regarding the prior consultation efforts. The Project cultural resources report was also provided. No response from the tribe was received by the City after this meeting over the course of eight months (October 2020 to June 2021) of efforts to communicate. The City deemed the consultation process complete as of November 15, 2021. The consultation process is discussed further in Section XVIII of this Initial Study.



Map created Sept.15, 2016. H:\2020\20-0126\GIS\ArcGIS Pro\vicinity_map_working\vicinity_map_working.aprx

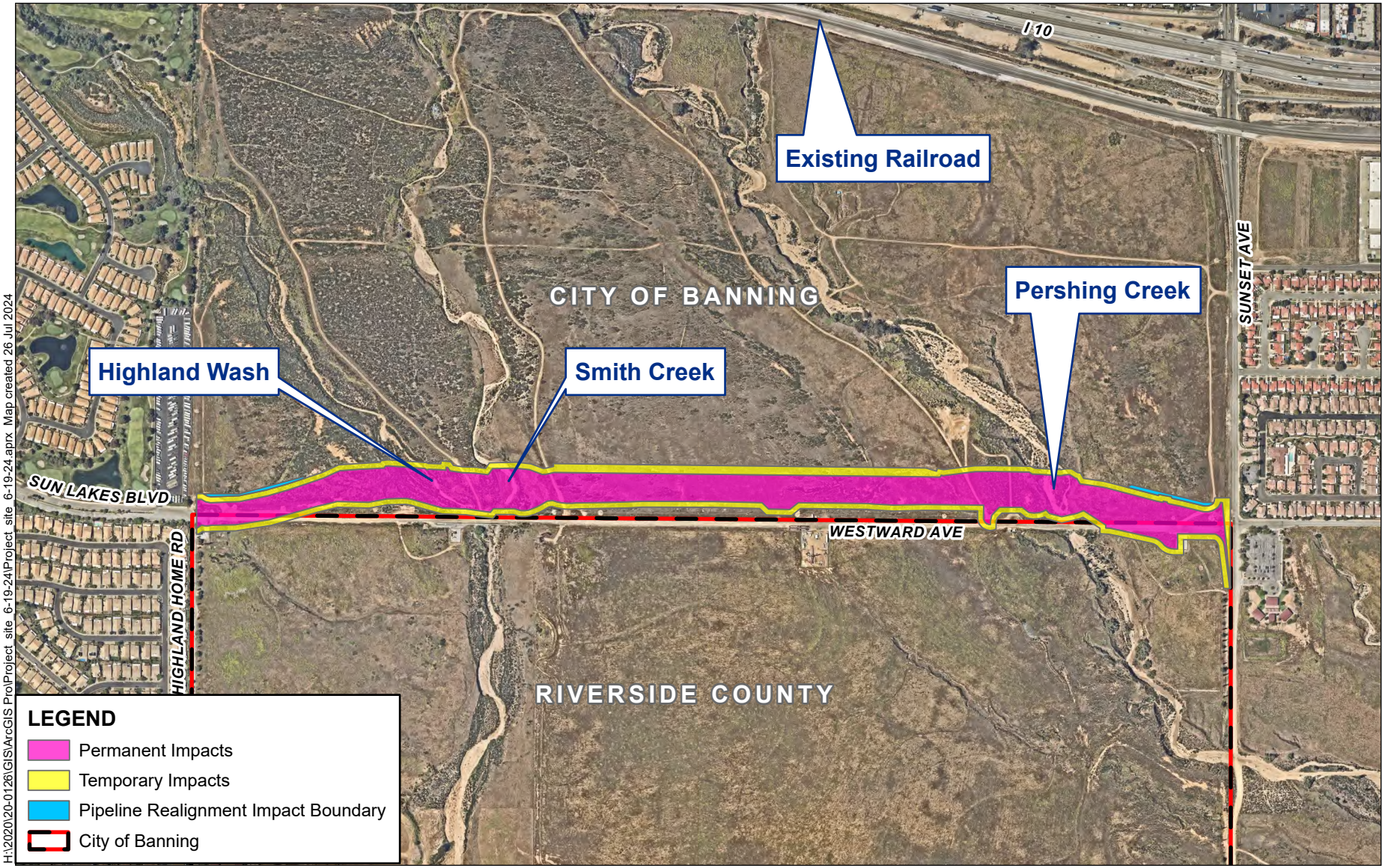
Source: Riverside County GIS, 2020

Figure 1 – Vicinity Map

Sun Lakes Boulevard Extension Project

0 2 4 6 Miles

ALBERT A. WEBB ASSOCIATES

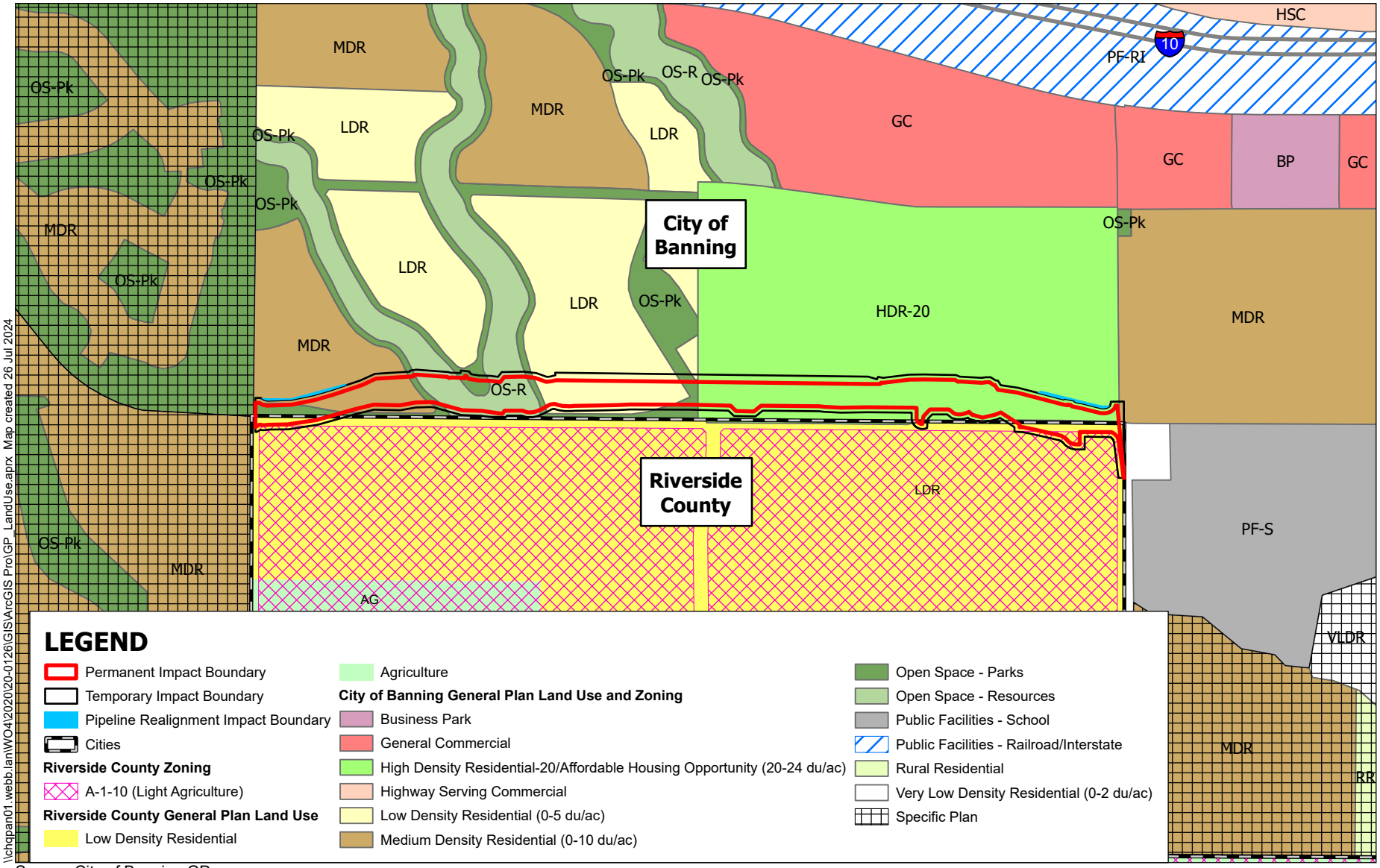


Source: Nearmap, 2024.

Figure 2 - Project Location

Sun Lakes Boulevard Extension Project

ALBERT A. WEBB ASSOCIATES



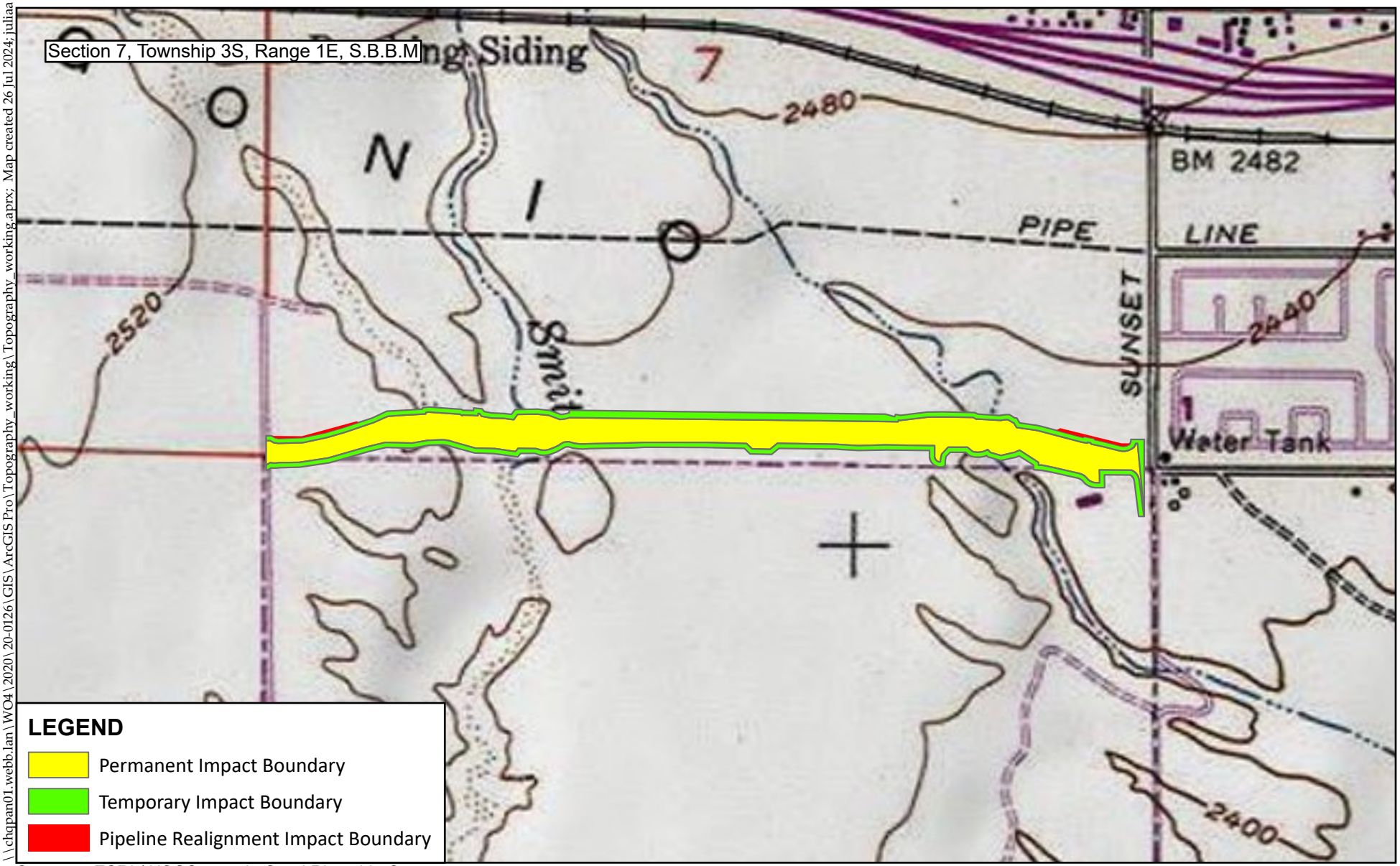
\chqpan01.webb.lan\WO4\2020\20-0126\GIS\ArcGIS Pro\GP_LandUse.aprx Map created 26 Jul 2024

Source: City of Banning GP
Land Use and Zoning (June 2021);
Riverside County Land Use and Zoning, 2023.

Figure 3 – General Plan Land Use and Zoning Designations

Sun Lakes Boulevard Extension Project

0 500 1,000 1,500 Feet



\\chqpan01.webb.lan\WO4\2020\20-0126\GIS\ArcGIS Pro\Topography_working\Topography_working.aprx; Map created 26 Jul 2024; juliaa

Sources: ESRI / USGS 7.5 min Quad Riverside Co.

0 400 800 1,200 Feet

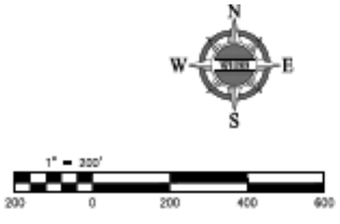
Figure 4 - USGS Map

Sun Lakes Boulevard Extension Project

ALBERT A. WEBB ASSOCIATES

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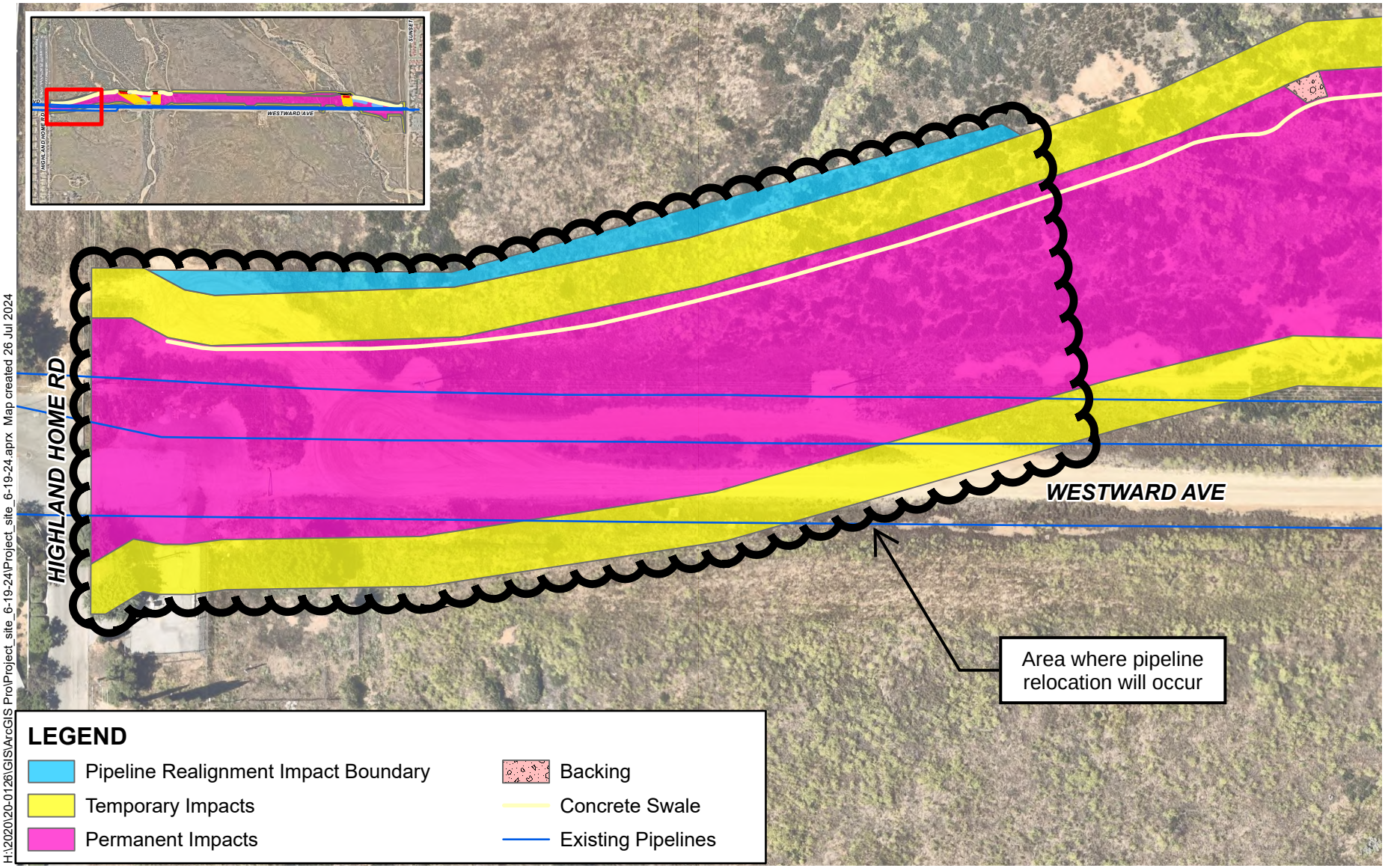
LEGEND

- ADDITIONAL RIGHT OF WAY NEEDING TO BE ACQUIRED, 550,823 SF
- ACCESS EASEMENT
- DRAINAGE EASEMENT
- SLOPE EASEMENT
- PIPELINE EASEMENT

Sources: WEBB

Figure 5 - Proposed Project Easements and Rights-Of-Way
Sun Lakes Boulevard Extension Project

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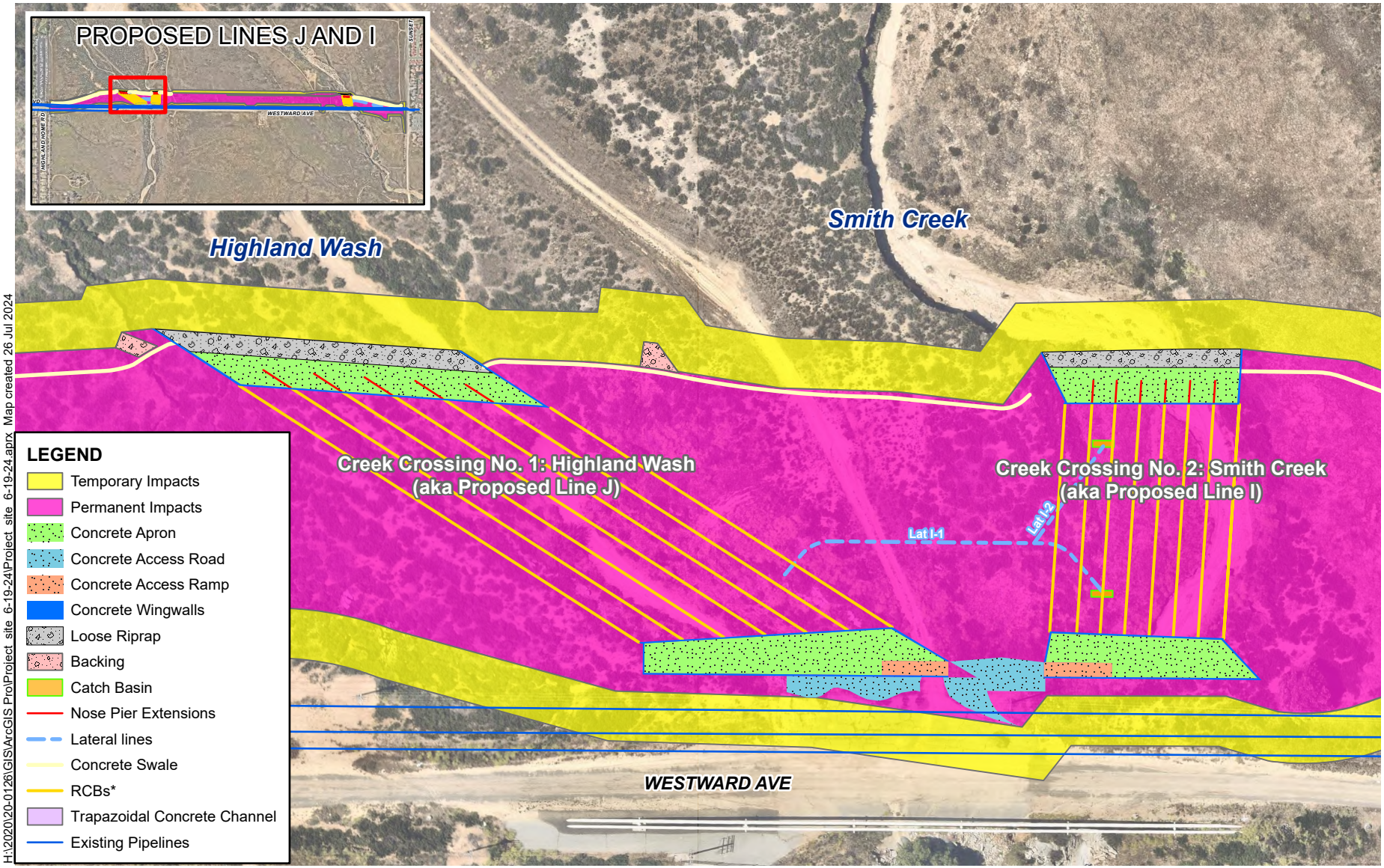


Source: Nearmap, 2024.

Figure 6a - Project Components West Extent 1

Sun Lakes Boulevard Extension Project

ALBERT A. WEBB ASSOCIATES



Source: Nearmap, 2024.

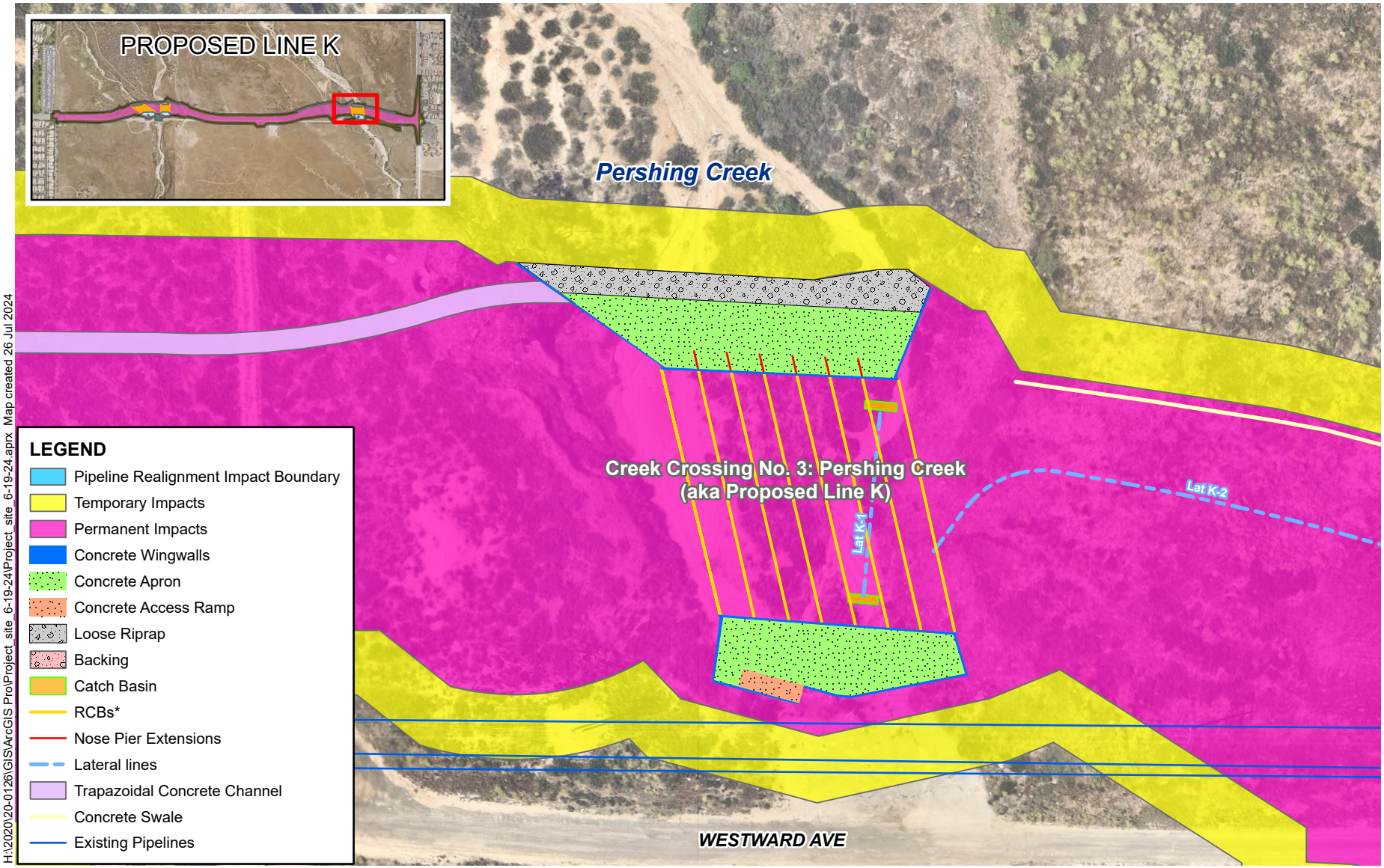
*Reinforced Concrete Box

0 50 100 150 US Feet

Figure 6b - Project Components West Extent 2

Sun Lakes Boulevard Extension Project

ALBERT A. WEBB ASSOCIATES



Source: Nearmap, 2024.

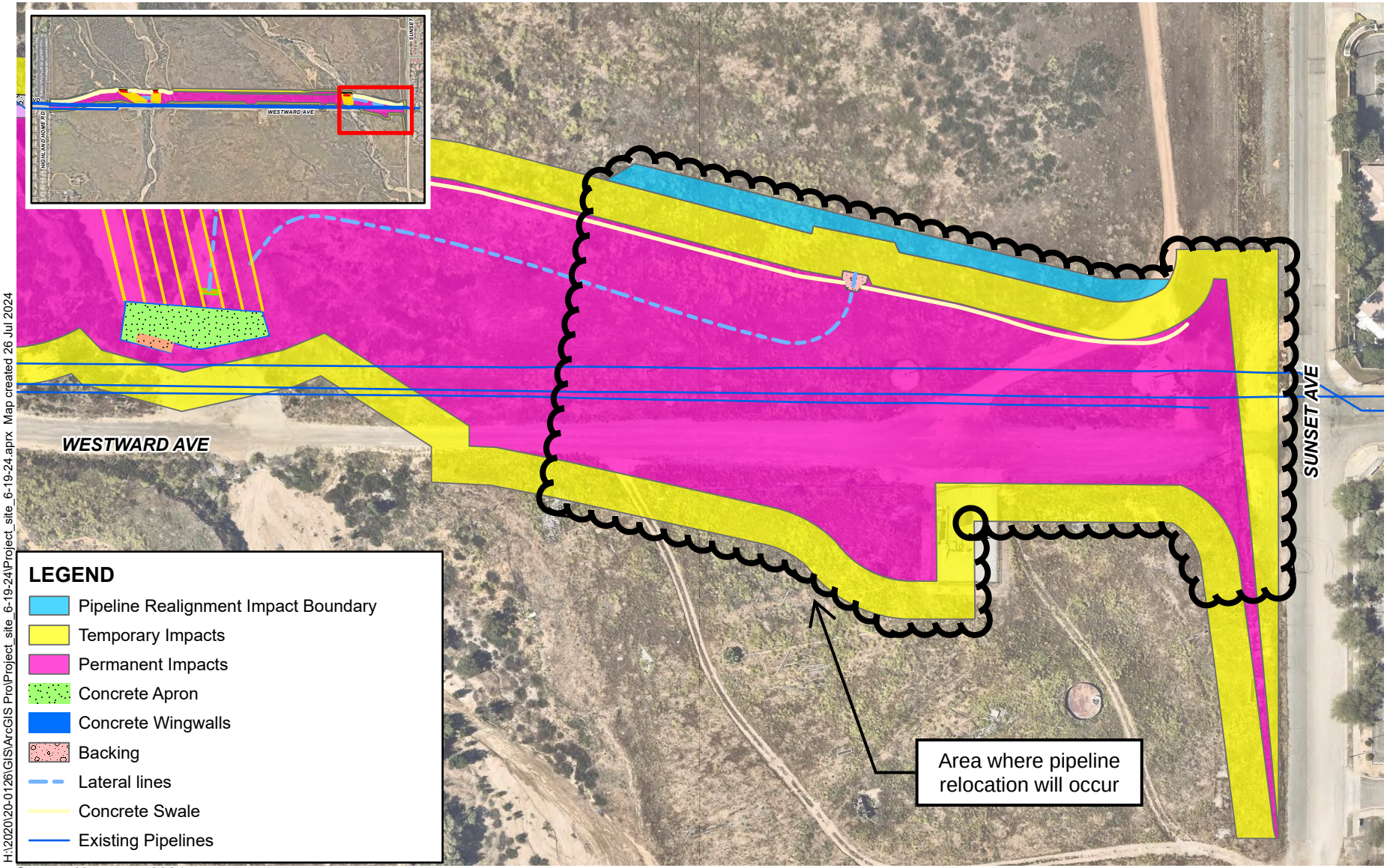
*Reinforced Concrete Boxes

0 50 100 150 US Feet

Figure 6c - Project Components East Extent

Sun Lakes Boulevard Extension Project

ALBERT A. WEBB ASSOCIATES



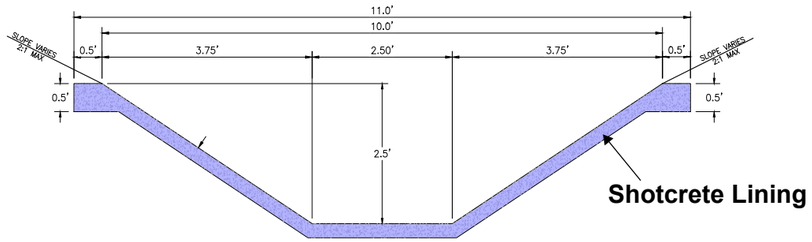
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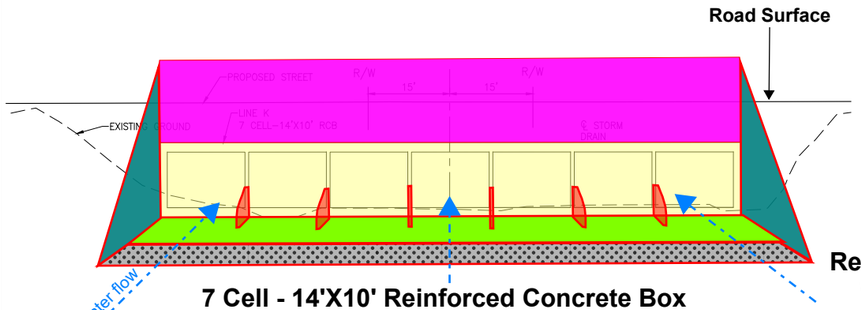
Figure 6d - Project Components East Extent 2

Sun Lakes Boulevard Extension Project

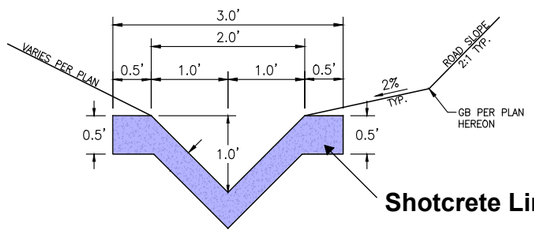
ALBERT A. WEBB ASSOCIATES



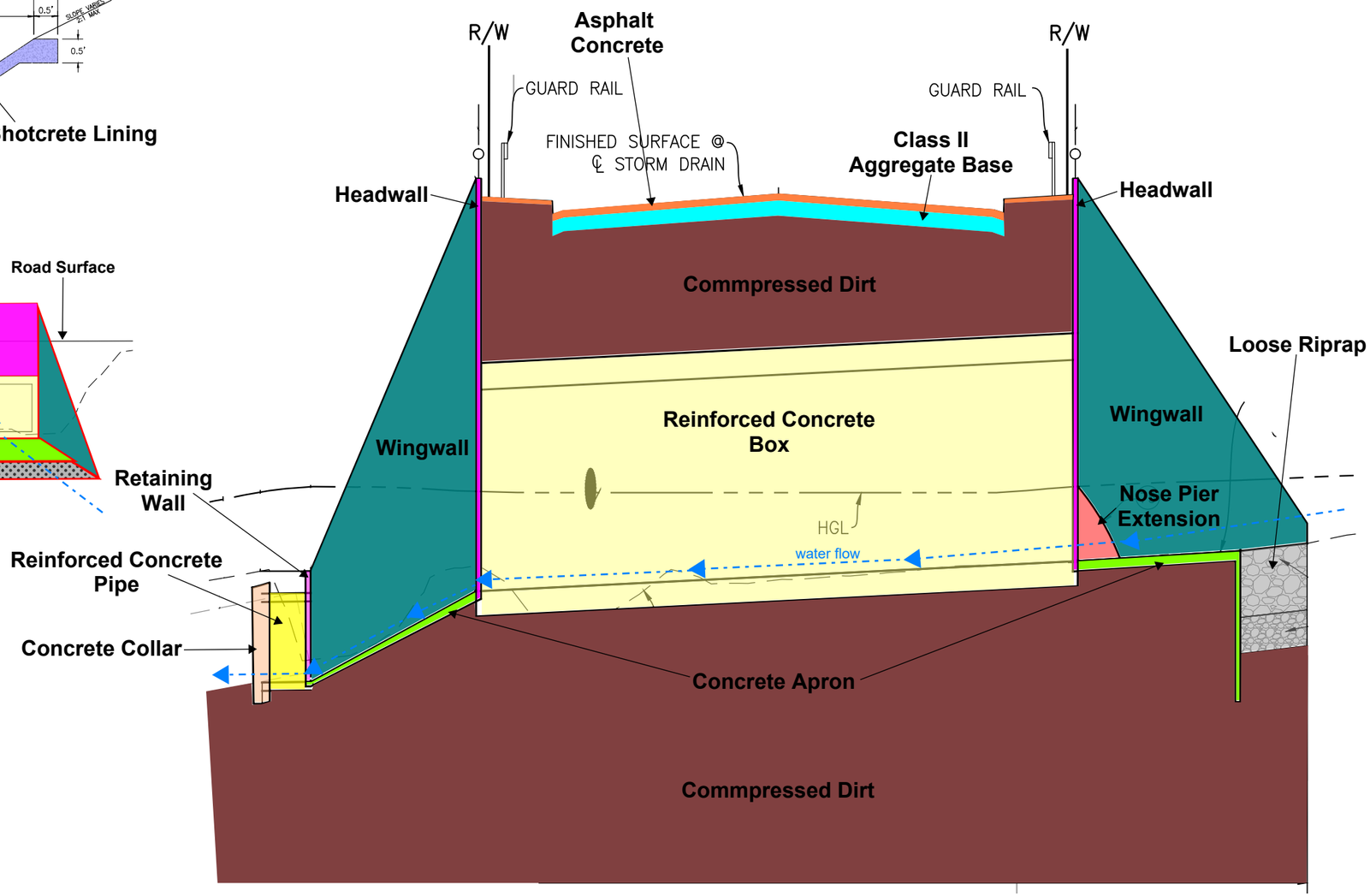
Trapezoidal Channel



7 Cell - 14'X10' Reinforced Concrete Box



Swale



Representative Creek Crossing Profile

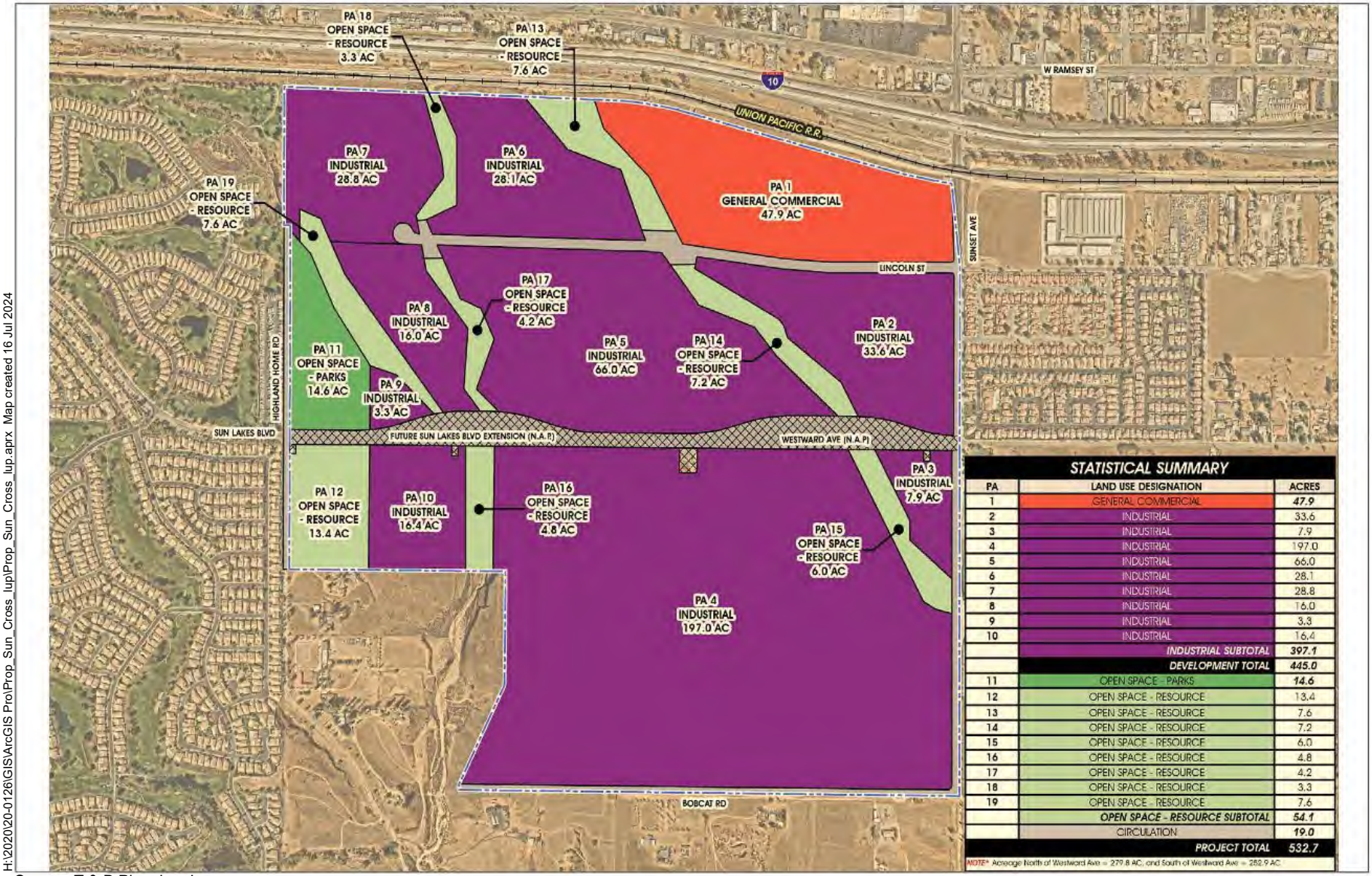
H:\2020\20-0126\GIS\ArcGIS Pro\Project_site_6-19-24\Project_site_6-19-24.aprx Map created 09 Jul 2024

Source: Sun Lakes Blvd Extension, Storm Drain Improvement, June, 2024.

NTS

Figure 7 - Project Components Cross Sections
Sun Lakes Boulevard Extension Project

ALBERT A. WEBB ASSOCIATES



STATISTICAL SUMMARY

PA	LAND USE DESIGNATION	ACRES
1	GENERAL COMMERCIAL	47.9
2	INDUSTRIAL	33.6
3	INDUSTRIAL	7.9
4	INDUSTRIAL	197.0
5	INDUSTRIAL	66.0
6	INDUSTRIAL	28.1
7	INDUSTRIAL	28.8
8	INDUSTRIAL	16.0
9	INDUSTRIAL	3.3
10	INDUSTRIAL	16.4
	INDUSTRIAL SUBTOTAL	*397.1*
	DEVELOPMENT TOTAL	*445.0*
11	OPEN SPACE - PARKS	14.6
12	OPEN SPACE - RESOURCE	13.4
13	OPEN SPACE - RESOURCE	7.6
14	OPEN SPACE - RESOURCE	7.2
15	OPEN SPACE - RESOURCE	6.0
16	OPEN SPACE - RESOURCE	4.8
17	OPEN SPACE - RESOURCE	4.2
18	OPEN SPACE - RESOURCE	3.3
19	OPEN SPACE - RESOURCE	7.6
	OPEN SPACE - RESOURCE SUBTOTAL	*54.1*
	CIRCULATION	*19.0*
	PROJECT TOTAL	*532.7*

NOTE* Acreage North of Westward Ave = 279.8 AC. and South of Westward Ave = 252.9 AC.

H:\2020\20-0126\GIS\ArcGIS Pro\Prop_Sun_Cross_lup\Prop_Sun_Cross_lup.aprx Map created 16 Jul 2024

Source: T & B Planning, Inc.

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Figure 8 - Proposed Sunset Crossroads Conceptual Land Use Plan

Sun Lakes Boulevard Extension Project

ALBERT A. WEBB ASSOCIATES

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages:

☐ Aesthetics	☐ Agriculture and Forestry Resources	☐ Air Quality
☐ Biological Resources	☐ Cultural Resources	☐ Energy
☐ Geology / Soils	☐ Greenhouse Gas Emissions	☐ Hazards & Hazardous Materials
☐ Hydrology / Water Quality	☐ Land Use / Planning	☐ Mineral Resources
☐ Noise	☐ Population / Housing	☐ Public Services
☐ Recreation	☐ Transportation	☐ Tribal Cultural Resources
☐ Utilities / Service Systems	☐ Wildfire	☐ Mandatory Findings of Significance

DETERMINATION

(To be completed by the Lead Agency)

On the basis of this initial evaluation:

☐ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

☒ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature Patrick Safari Date 3/1/2023

Patrick Safari, Associate Engineer
Printed Name

EVALUATION OF ENVIRONMENTAL IMPACTS:

1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved *(e.g., the project falls outside a fault rupture zone)*. A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards *(e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis)*.

2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.

3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.

4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from "Earlier Analyses," as described in (5) below, may be cross-referenced).

5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063©(3)(D). In this case, a brief discussion should identify the following:

    a. **Earlier Analysis Used.** Identify and state where they are available for review.
    b. **Impacts Adequately Addressed.** Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
    c. **Mitigation Measures.** For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts *(e.g., general plans, zoning ordinances)*. Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.

7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.

9) The explanation of each issue should identify:

a. the significance criteria or threshold, if any, used to evaluate each question; and
b. the mitigation measure identified, if any, to reduce the impact to less than significant.

ENVIRONMENTAL FACTORS: ENVIRONMENTAL CHECKLIST	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
I. AESTHETICS Except as provided in Public Resources Code Section 21099, would the project:				
a. Have a substantial adverse effect on a scenic vista?	☐	☐	☒	☐
b. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒
c. Substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	☐	☐	☒	☐
d. Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☒	☐

Aesthetics Discussion:

a) Have a substantial adverse effect on a scenic vista?

Less than significant impact. The City of Banning (City) defines visual resources as those physical features that enhance the City's aesthetic and scenic character. The majority of the City is located within the narrow east-west trending valley of the San Gorgonio Pass, which is dominated by the San Bernardino Mountains along the northern end of the valley and the San Jacinto Mountains along the southern end of the valley. (GP DEIR, p. III-189.) These mountain ranges present impressive viewsheds and dramatic scenery, including frequently snow-covered mountain peaks and ranges with rugged slopes. The San Bernardino Mountains which can be seen from the Project Site towards the northern horizon have a peak elevation of approximately 11,499 feet above sea level. The San Jacinto Mountains seen from the Project Site towards the southern horizon have a peak at an approximate elevation of 10,804 feet above sea level. (GP DEIR, p. III-189.)

The Project Site is located at an elevation of approximately 2,500 feet above sea level. Given the differences in elevation between the Project Site and the mountains, the proposed Project does not include any sizeable above-grade features that would have the potential to obscure views of the San Bernardino Mountains or the San Jacinto Mountains. Construction equipment and related construction activity along the Project Site may result in limited, short term, and undesirable visuals; however, this will be a temporary condition, which will cease after construction is completed. Therefore, impacts will be less than significant.

Sources: GP DEIR; Project Description

b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

No impact. A portion of State Highway 243 (Figure 1) is designated as a state scenic highway where it occurs in the City's southern Sphere of Influence; however, the City's GP Draft Environmental Impact Report (DEIR)

determined that development pursuant to the City's GP would have a limited impact to viewsheds along this corridor. (GP DEIR, p. III-190.) Moreover, the portion of Highway 243 designated as a state scenic highway is more than 2 miles east from the Project site. As such, the Project will not physically affect scenic resources within a state scenic highway. Therefore, no impact will occur.

Source: GP DEIR

c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

Less than significant impact. CEQA Section 21071(a) defines an incorporated city as being an urbanized area if it meets either of the following criteria:

(1) Has a population of at least 100,000 persons.
(2) Has a population of less than 100,000 persons if the population of that city and not more than two contiguous incorporated cities combined equals at least 100,000 persons.

The City is not categorized as an urbanized area because (i) the City's population is not at least 100,000 persons and (ii) the combined population of both the City and the City of Beaumont (the only contiguous city) is less than 100,000 persons. Based on July 1, 2023 United States Census Bureau data, Banning has a population of approximately 31,680 persons and Beaumont has a population of 58,463 persons, totaling to a population of approximately 90,143 persons (USCB). The January 1, 2024, California Department of Finance population estimate for Banning and Beaumont is approximately 31,213 and 57,416, respectively (DOF). Since the City is not an urbanized area, this analysis is based on whether Project implementation would substantially degrade the existing visual character or quality of public views of the Project Site and its surroundings.

Public views of the Project Site are possible from four locations: (i) the intersection of Sun Lakes Boulevard/Bay Hills Road, (ii) Highland Home Road (between Sun Lakes Boulevard and Death Valley Road), (iii) Sunset Avenue (between Interstate 10 (I-10) and Bob Cat Road), and (iv) the intersection of Westward Avenue/Sunset Avenue. The Project Site may also be briefly visible from motorists traveling in the westbound lanes of I-10, which is approximately one-half mile north of and parallel to the Project Site.

Although the Project Site will be visible from public access points and will change the view of the Project Site from vacant land to vacant land with an improved road, this will not substantially degrade the visual character or quality of public views of the site or its surroundings. Because existing Westward Avenue and above ground utilities are already present in proximity to the Project Site and there are no unique items or visual interest present on the Project Site. Additionally, the Project does not include any above-grade features of significant mass that would alter or interfere with the dramatic and valuable viewsheds provided by the mountains. (GP, p. II-1.) For these reasons, Project implementation would not substantially degrade the existing visual character or quality of public views of the site or its surroundings and impacts would be less than significant.

Sources: Project Description; USCB; DOF

d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

Less than significant impact. Light pollution may result due to the introduction of new artificial light sources. The International Dark-Sky Association defines light pollution as any adverse effect of artificial light including sky glow, glare, light trespass, light clutter, decreased visibility at night and energy waste. (IDA.) Night lighting and glare can affect human vision, navigation, and other activities; however, it can also affect nocturnal wildlife particularly night-hunting or foraging animals, such as owls, rodents, and others. Glare is typically associated with installation of windows and other reflective surfaces.

The only lighting currently sourced from the general Project area is from the Sun Lakes development to the west of the Project Site and the existing commercial and residential development east of the Project Site; thus, the Project Site is generally dark at night. The streetlights proposed as part of the Project will create a new source of light within the Project Site. However, the streetlights will be shielded and directed downwards on the street surface to minimize spillage and light pollution in accordance with the City's standards. Project implementation will not introduce a source of substantial glare to the surrounding area. Therefore, the impact will be less than significant.

Sources: Project Description; IDA

ENVIRONMENTAL FACTORS:	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
II. AGRICULTURAL AND FORESTRY RESOURCES In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:				
a. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒
b. Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒
c. Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	☐	☐	☒	☐
d. Result in the loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒
e. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☒	☐

Agricultural Resources Discussion:

a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?

No impact. The proposed Project Site is not located within areas designated as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland). According to the California Department of Conservation *Farmland Mapping and Monitoring Program* (FMMP), the Project Site consists of, and is adjacent to, Farmland of Local Importance and Grazing Land, and has Urban and Built-Up Land directly adjacent on the east and west. Thus, implementation of the proposed Project will not convert any Prime Farmland, Unique Farmland, or Farmland of Statewide Importance. Therefore, no impact will occur.

Source: FMMP

b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?

No impact. The proposed Project is not located within a Williamson Act contract; the land south of Westward Avenue near the Project Site that is under a Williamson Act contract is either in non-renewal status or is not considered prime agricultural farmland. As of 2004, there were three Williamson Act contracts in effect over approximately 3,500 acres within the City's GP planning area. These include lands located in the City limits near the Banning Bench, in the northwest portion of the planning area between Highland Springs Avenue and Highland Home Road, and in the City's southerly sphere of influence south of Westward Avenue/Sun Lakes Boulevard. (GP, p. IV-22.) These lands are being phased out due to urbanization, although residential land uses that allow for agricultural and ranching activities are provided for under the GP. (GP DEIR, p. III-11.) As shown on **Figure 3 – General Plan Land Use and Zoning Designations,** Riverside County zones the land south of the Project Site as A-1-10, which is defined as Light Agriculture. (RCZO, p. XIII-1.) However, the City land use and zoning designation for that area is LDR, and there are no agricultural zoning/land use designations adjacent to the Project Site (see **Figure 3**). The Project will not encroach Williamson Act land or change a land use in the vicinity of a Williamson Act contract. Therefore, no impacts will occur**.**

Sources: GP; GP DEIR; RCZO

c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?

Forest land, as defined in Public Resources Code (PRC) section 12220(g) is land that can support 10 percent of native tree cover of any species under natural conditions and that allows for the management of one or more forest resources. Timberland, as defined in PRC section 4526, means land other than land owned by the federal government and land designated as experimental forest land, which is capable of growing a crop of trees for any commercial species, including Christmas trees.

Less than significant impact. The Project does not propose or require rezoning. As shown on **Figure 3 – General Plan Land Use and Zoning Designations,** the majority of the proposed Project Site is within the City with a portion located in the unincorporated territory of Riverside County. Banning does not have a zoning designation for forest land, timberland, or timberland zoned Timberland Production within City limits. Further, according to Table 17.08.020 of Banning's Zoning Ordinance, farming uses are prohibited in the City's LDR, MDR, and HDR-20 zones. Community gardens are a permitted use in the City's OS-R, zone; however, a community garden would not allow commercial tree production as defined in PRC section 12220(g).

Regarding the portion of the Project Site within Riverside County, forest land, timberland, and timberland production occurs at a much higher elevation, typically 5,000 feet. The Project Site is located at an elevation of approximately 2,500 feet above mean sea level. Per Riverside County's A-1-10 Light Agriculture Zone permits tree crops. However, as shown on **Figure 3**, only a small portion of the Project Site is within the A-1-10 Zone, which does allow for production of tree crops. Given the small area of the Project Site within Riverside County, and that the Project Site does not traverse through or adjacent to areas zoned for forest land, or Timberland Production, impacts would be less than significant.

Sources: GP; PRC 12220; PRC 4526; BMC; Ord. 348

d) Result in the loss of forest land or conversion of forest land to non-forest use?

No impact. There is no forest land in proximity to the Project Site. Implementation of the Project would not result in the loss or conversion of forest land; thus, there would be no impact in this regard.

Sources: GP; Site Visit

e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?

Less than significant impact. As discussed in Response IIa, there is no designated Farmland on or in proximity to the Project Site. As stated in Response IId, there is no forest land within or adjacent to the Project Site. As such, implementation of the proposed Project, will not result in the conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use**.** Therefore, impacts are less than significant.

Sources: FMMP; GP

ENVIRONMENTAL FACTORS:	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
III. AIR QUALITY Where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to make the following determinations. Would the project:				
a. Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☒	☐
b. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?	☐	☐	☒	☐
c. Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☒	☐
d. Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?	☐	☐	☒	☐

Air Quality Discussion:

The focus of the air quality analysis is to evaluate the impacts of regulated air pollutants, which are the amounts of foreign and/or natural substances occurring in the atmosphere that may result in human health impacts due to their release from numerous sources. Health-based ambient air quality standards have been established for seven air pollutants: ozone (O_3), carbon monoxide (CO), nitrogen dioxide (NO_2), sulfur dioxide (SO_2), particulate matter less than 10 microns in size (PM-10), particulate matter less than 2.5 microns in size (PM-2.5), and lead (Pb).

a) Conflict with or obstruct implementation of the applicable air quality plan?

Less than significant impact. The City of Banning is in the South Coast Air Basin (Basin). The South Coast Air Quality Management District (SCAQMD) prepares the Air Quality Management Plan (AQMP) for the Basin. The AQMD sets forth a comprehensive program that will lead the Basin into compliance with all federal and state air quality standards. (SCAQMD 2022, pp. 1-1 and 1-4.) The control measures and related emission reduction estimates included in the AQMP are based on emissions projections for a future development scenario derived from land use, population, and employment estimates defined in consultation with local governments. To do this, the AQMP utilizes the population and growth estimates compiled by the Southern California Association of Governments (SCAG) in their 2020 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS) also known as Connect SoCal. (SCAQMD 2022, pp. 4-51 – 4-52.) SCAG's population and employment projections for the City are based on the City's growth projections (SCAG RTP/SCS, p. 76.), which are outlined in the GP. Thus, since the 2022 AQMP is consistent with the Connect SoCal, the Connect SoCal is also consistent with the growth assumptions in the GP. Accordingly, if a project demonstrates compliance with local land use plans and/or population projections, then the AQMP would have taken into account such uses when it was developed, and the project would not conflict with implementation of such a plan.

The proposed Project will design, construct, and operate the Sun Lakes Boulevard, a planned roadway designated an Arterial Highway, in accordance with the City's GP Circulation Element. As a planned roadway,

no increase in population is expected as it is meant to facilitate mobility within the City. Therefore, impacts will be less than significant.

Sources: SCAG RTP/SCS; SCAQMD 2022

b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality?

Less than significant impact. The portion of the Basin within which the proposed Project is located is designated as a non-attainment area for ozone, particulate matter less than 10 microns in diameter (PM-10), and particulate matter less than 2.5 microns in diameter (PM-2.5) under the State standards and for ozone and PM-2.5 under Federal standards. (CARB 2022) The SCAQMD considers the thresholds for project-specific impacts and cumulative impacts to be the same. (SCAQMD 2003.) Therefore, projects that exceed project-specific significance thresholds are considered by SCAQMD to be cumulatively considerable. Based on SCAQMD's regulatory jurisdiction over regional air quality, it is reasonable to rely on its thresholds to determine whether there is a cumulative air quality impact.

Air quality impacts can be described in a short- and long-term perspective. Short-term impacts occur during site grading and Project construction and consist of fugitive dust and other particulate matter, as well as exhaust emissions generated by construction-related vehicles. Long-term impacts occur once the Project is in operation. Operational emissions would primarily be from infrequent visits by vehicles driven by maintenance personnel and are considered negligible; therefore, only short-term impacts were quantified.

The Project will be required to comply with existing SCAQMD rules for the reduction of fugitive dust emissions. SCAQMD Rule 403 establishes these procedures. Compliance with this rule is achieved through application of standard best management practices in construction and operation activities, such as application of water or chemical stabilizers to disturbed soils, managing haul road dust by application of water, covering haul vehicles, restricting vehicle speeds on unpaved roads to 15 mph, sweeping loose dirt from paved site access roadways, cessation of construction activity when winds exceed 25 mph and establishing a permanent, stabilizing ground cover on finished sites. In addition, projects that disturb 50 or more acres or more of soil or move 5,000 cubic yards of materials per day are required to submit a Fugitive Dust Control Plan or a Large Operation Notification Form to SCAQMD. Based on the size of this Project's disturbance area (approximately 23.47 acres) a Fugitive Dust Control Plan or a Large Operation Notification Form would not be required.

An Air Quality/Greenhouse Gas analysis (AQ/GHG Analysis) was prepared for the Project by Albert A. Webb Associates dated November 2, 2021 (WEBB(a)) and is included in Appendix A to this Initial Study. Short-term emissions from Project construction were evaluated using the California Emissions Estimator Model (CalEEMod) version 2020.4.0. The estimated construction period for the proposed Project is approximately 18 to 24 months, beginning no sooner than February 2023. A duration of 24 months was evaluated to provide a worst-case analysis. The default parameters within CalEEMod were used and these default values reflect a worst-case scenario, which means that Project emissions are expected to be equal to or less than the estimated emissions. In addition to the default values used, assumptions relevant to model inputs for short-term construction emission estimates used are: (WEBB(a), p. 2)

- Construction is anticipated to begin in February 2023, which will include construction activities such as utility relocation, installation of drainage improvements, roadway improvements, and traffic signal installation and paving. Because the schedule is unknown, the grading and paving activities were assumed to occur concurrently throughout the estimated construction duration to provide a conservative analysis. The estimated construction schedule is shown below: (WEBB(a), p. 2)

Construction Activity	Start Date	End Date	Total Working Days
Grading	February 01, 2023	January 31, 2025	523
Paving	February 01, 2023	January 31, 2025	523

- The off-road equipment to be used for each activity is shown below and represents program defaults. Each piece of equipment is assumed to operate 8 hours per day: (WEBB(a), pp. 2-3)

Construction Activity	Off-Road Equipment	Unit Amount
Grading	Excavators	2
	Grader	1
	Rubber Tired Dozer	1
	Tractors/Loaders/Backhoes	2
	Scrapers	2
Paving	Pavers	2
	Paving Equipment	2
	Rollers	2

- To evaluate Project compliance with SCAQMD Rule 403 for fugitive dust control, the Project utilized the mitigation option of watering the Project site three times daily which achieves a control efficiency of 61 percent for PM-10 and PM-2.5 emissions. Two (2) one-way vendor trips per day were added to the grading and paving activity to account for water truck trips. (WEBB(a), p. 3)
- Eight (8) one-way hauling truck trips per day were included during paving to account for material delivery. (WEBB(a), p. 3)
- Approximately 98,180 cubic yards of soil import is required for the Project. The import site is currently unknown. Therefore, the CalEEMod default was utilized which assumes a hauling trip length of 20 miles per trip. Based on the CalEEMod default truck capacity of 16 cubic yards, approximately 6,136 truckloads of soil would be imported. (WEBB(a), p. 3) This results in approximately 12 truckloads of soil delivered per day (approximately 24 one-way truck trips per day) during construction.

The results of this analysis are summarized in **Table A –Estimated Maximum Daily Construction Emissions**, below.

Table A – Estimated Maximum Daily Construction Emissions

Activity	Peak Daily Emissions (lb/day)					
	VOC	NO_x	CO	SO_2	PM-10	PM-2.5
SCAQMD Daily Construction Thresholds	**75**	**100**	**550**	**150**	**150**	**55**
Grading 2023	**3.45**	**37.11**	**29.45**	**0.08**	**5.70**	**2.94**
Grading 2024	3.34	34.98	29.09	0.08	5.61	2.86
Grading 2025	3.02	30.52	27.65	0.08	5.41	2.67
Paving 2023	**1.16**	**11.14**	**15.38**	**0.03**	**0.84**	**0.57**
Paving 2024	1.11	10.47	15.39	0.03	0.80	0.53
Paving 2025	1.03	9.52	15.31	0.03	0.75	0.48
Maximum[1]	**4.61**	**48.25**	**44.83**	**0.11**	**6.54**	**3.51**
Exceeds Threshold?	**No**	**No**	**No**	**No**	**No**	**No**

Source: WEBB(a), Table 2 – Estimated Maximum Daily Construction Emissions
Note: [1] Maximum emissions are either the greater of grading and paving in 2023, 2024, or 2025 as these activities overlap. Maximum emissions are shown in bold.

As shown in **Table A** above, the emissions from construction of the Project are below the SCAQMD daily construction thresholds for all criteria pollutants. In addition, the short-term emissions do not exceed SCAQMD's localized significance thresholds (LST). (WEBB(a), Table 2.) As such, the Project will not result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is in non-attainment and the impacts will be less than significant. No mitigation is required.

Sources: CARB 2022; SCAQMD 2003; WEBB(a); Project Description

c) Expose sensitive receptors to substantial pollutant concentrations?

Less than significant impact. A sensitive receptor is a person in the population who is particularly susceptible to health effects due to exposure to an air contaminant including children, the elderly, and persons with pre-existing respiratory and/or cardiovascular illness. SCAQMD defines a "sensitive receptor" as a land use or facility such as residences, schools, childcare centers, athletic facilities, playgrounds, retirement homes, and convalescent homes where these persons are typically located. (SCAQMD 1993.)

The proposed Project is located adjacent to existing residences. The closest sensitive receptors are the residences adjacent to each end of the Project alignment. (WEBB(a), p. 4.)

According to the LST methodology, only on-site emissions need to be analyzed. Emissions associated with vendor and worker trips are mobile source emissions that occur off site. The emissions analyzed under the LST methodology are NO_2, CO, PM-10, and PM-2.5. SCAQMD has provided LST lookup tables[5] to allow users to readily determine if the daily emissions for proposed construction or operational activities could result in significant localized air quality impacts for projects five acres or smaller. The Project's total disturbance area is approximately 23.47 acres. However, based on SCAQMD guidance, the daily disturbance area is

[5] http://www.aqmd.gov/home/regulations/ceqa/air-quality-analysis-handbook/localized-significance-thresholds

approximately 3 acres.[6] Therefore, the two-acre LST Look-Up Table was compared with the on-site emissions estimated by CalEEMod to provide a conservative analysis.

The LST thresholds are estimated using the maximum daily disturbed area (in acres) and the distance of the Project to the nearest sensitive receptors (in meters). The closest receptor distance on the LST look-up tables is 25 meters. According to LST methodology, projects with boundaries closer than 25 meters to the nearest receptor should use the LSTs for receptors located at 25 meters. Therefore, a receptor distance of 25 meters (82 feet) was used to ensure a conservative analysis. The results are summarized below.

Table B – LST Results for Daily Construction Emissions

Activity	Peak Daily Emissions (lb/day)			
	NO_X	CO	PM-10	PM-2.5
LST for 2 acres at 25 meters	**149**	**1,541**	**10**	**6**
Grading 2023	**34.52**	**28.05**	**5.02**	**2.74**
Grading 2024	32.38	27.72	4.93	2.65
Grading 2025	27.94	26.33	4.73	2.47
Paving 2023	**10.19**	**14.58**	**0.51**	**0.47**
Paving 2024	9.52	14.63	0.47	0.43
Paving 2025	8.58	14.58	0.42	0.39
Maximum[1]	**44.71**	**42.63**	**5.53**	**3.21**
Exceeds Threshold?	**No**	**No**	**No**	**No**

Source: WEBB(a), Table 3 – LST Results for Daily Construction Emissions.
Note: [1] Maximum emissions are either the greater of grading and paving in 2023, 2024, or 2025 as these activities overlap. Maximum emissions are shown in bold.

Emissions from construction of the Project will be below the LST established by SCAQMD for the Project.

Short-term emissions will only be generated in the Project area during construction of the Project and have been found to be less than significant (see Response IIIb). The operational emissions are negligible as they consist of roadway maintenance; hence, the Project will not expose sensitive receptors to substantial pollutant concentrations. Therefore, impacts are considered less than significant.

Sources: SCAQMD 1993; WEBB(a); Project Description

d) Result in other emissions (such as those leading to odors) affecting a substantial number of people?

Less than significant impact. The Project presents the potential for generation of other emissions such as odors in the form of diesel exhaust during construction in the immediate vicinity of the Project Site. Odors generated during construction will be short-term and will not result in a long-term odorous impact to the surrounding area. After completion of the proposed improvements, only infrequent maintenance will be required.

[6] http://www.aqmd.gov/docs/default-source/ceqa/handbook/localized-significance-thresholds/caleemod-guidance.pdf?sfvrsn=2

The California Air Resources Board (CARB) has developed an Air Quality and Land Use Handbook to outline common sources of odor complaints, including: sewage treatment plants, landfills, recycling facilities, and petroleum refineries. (CARB 2005, p 2-2.) The Project proposes a roadway which is not included on CARB's list of uses that are known to be prone to generate odors. Therefore, impacts are less than significant.

Source: CARB 2005

ENVIRONMENTAL FACTORS:	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
IV. BIOLOGICAL RESOURCES Would the project:				
a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☒	☐	☐
b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☒	☐	☐
c. Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☒	☐
d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	☒	☐
e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☒
f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☒	☐	☐

Biological Resource Discussion:

The analysis in this section is based on the findings of several technical studies prepared by WSP USA, Inc. for the Project, which are located in **Appendix B.1 through B.7**:

- *Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) Consistency Analysis,* June 2024 (hereinafter, "MSHCP Consistency Report")*;*
- *Los Angeles Pocket Mouse Focused Survey,* June 2024 (hereinafter the LAPM Survey Report);
- *Burrowing Owl Focused Survey*, June 2024 (hereinafter, "Burrowing Owl Focused Survey Report");
- *Narrow Endemic Plant Species Survey*, June 2024, (hereinafter, "NEPSSA Report");
- *2020-2021 Wet and Dry Season Fairy Shrimp Focused Surveys Technical Memorandum*, June 2024 (hereinafter, "Fairy Shrimp Technical Memo");
- *Determination of Biologically Equivalent or Superior Preservation Report*, June 2024 (hereinafter, "DBESP"); and
- *Jurisdictional Delineation Report*, June 2024 (hereinafter, "JD Report")

The aforementioned reports included literature reviews and database searches of the California Department of Fish and Wildlife's (CDFW's) California Natural Diversity Data Base (CNDDB), the California Native Plant Society's (CNPS) Inventory of Rare and Endangered Plants of California, Soil Survey data, vegetation mapping, United States Fish and Wildlife Services' (USFWS) National Wetlands Inventory, and the USFWS Critical Habitat mapper. Historic aerial photographs and soils maps from the United States Department of Agriculture (USDA) and Natural Resources Conservation Services (NRCS) were also reviewed. In addition to the literature review and database searches, pedestrian surveys were conducted of the Project Site and surrounding area. The City of Banning is a permittee to the MSHCP.

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

Less than significant with mitigation incorporated. According to the *MSHCP Consistency Report*, the Project Site is currently undeveloped, with no existing structures and is composed of the following six vegetation communities: buckwheat scrub, non-native grassland, riparian scrub/woodland, Riversidean alluvial fan sage scrub, unvegetated streambed, and disturbed/developed as shown on **Figure 9 – Vegetation Communities**.[7] Implementation of the proposed Project will result in permanent and temporary impacts to these vegetation communities, as shown below in **Table C – Vegetation Communities Present on the Project Site**. (WSP(a), p. 10.) Permanent impacts include the direct footprint of the Project and temporary impacts include the adjacent temporary construction disturbance buffer around the Project footprint.

Table C – –Vegetation Communities Present on the Project Site

Vegetation Community	Permanent Impacts (acres)	Temporary Impacts (acres)	Grand Total (acres)
Buckwheat Scrub	10.08	3.63	13.69
Disturbed/Developed	1.62	0.91	2.534
Non-native Grassland	6.97	4.34	11.31
Non-vegetated Streambed	0.39	0.13	0.52
Riversidean alluvial fan sage scrub	0.28	0.04	0.32
Riparian Scrub Woodland	0.05	0.03	0.08
Total	**19.39**	**9.08**	**28.47**

Source: WSP(a), Table 1. *Land Use Acreage by Habitat (Vegetation Community/Land Cover)*.

According to MSHCP Consistency Report Table 1 (*Special Status Plant Species Potential for Occurrence*), a total of 13 special status plant species were identified from state and federal databases that have the potential to occur within the Project site. One plant species, Mojave tarplant (*Deinandra mohavensis*) listed as state endangered and CRPR Rank of 1B.3 (rare, threatened, or endangered in California and elsewhere but not very threatened in California) has a "low" potential to occur because marginal habitat is present on the Project site

[7] Figures for the Biological Resources section are located at the end of this section.

but it was not observed onsite during biological surveys conducted for the Project. The nearest known occurrence of Mojave tarplant is 1.6 miles southeast dating from 2012. A second plant species, smooth tarplant (*Centromadia pungens ssp. laevis*) listed as CRPR Rank 1B.1 (rare, threatened, or endangered in California and elsewhere but seriously threatened in California), has a "moderate" potential to occur because suitable habitat is present on the Project site but it was not observed during surveys conducted for the Project. The nearest known occurrence of smooth tarplant is approximately 10 miles west in San Timoteo Canyon. The remaining 11 special status plant species are considered "absent" due to lack of suitable habitat and lack of recorded observations (WSP(a)). Both Mojave tarplant and smooth tarplant are Covered Species under the MSHCP. Because the Project is not within a MSHCP-survey area for these species, and none have been found, the Project will not significantly affect the species and no additional surveys or measures are required for these two species.

In addition, one special status vegetation community was identified by state databases to potentially occur onsite, which is Southern Cottonwood Willow Riparian Forest. This vegetation community is listed by the State as CRPR rank of S3.2 (Vulnerable and threatened). According to the MSHCP Consistency Report, this vegetation community is absent from the Project (Table 2, *Special Status Vegetation Community Potential for Occurrence*).

Lastly, according to the MSHCP Consistency Report, Table 3 (*Special Status Animals*), a total of 20 special status animal species were identified from state and federal databases that have potential to occur within the Project site. The following nine species have "low" potential to occur due to lack of habitat and/or were not observed onsite: Crotch's bumble bee (*Bombus crotchii)*, American bumble bee (*Bombus pensylvanicus)*, monarch butterfly (*Danaus Plexippus)*, orange-throated whiptail (*Aspidoscelis hyperythra)*, coast horned lizard (*Phrynosoma blainvillii)*, purple martin (*Progne subis)*, least Bell's vireo (*Vireo bellii pusillus)*, yellow warbler (*Setophaga petechia)*, and American badger (*Taxidea taxus)*. The following four species have "moderate" potential to occur due to suitable habitat present onsite: Southern California legless lizard (*Anniella stebbinsi)*, loggerhead shrike (*Lanius ludovicianus)*, Southern California rufus-crowned sparrow (*Aimophila ruficeps canescens)*, and San Diego desert woodrat (*Neotoma lepida intermedia)*. One reptile species was observed on the Project site, coastal whiptail lizard (*Aspidoscelis tigris stejnegeri)*. The coastal whiptail lizard is listed as a CDFW Species of Special Concern (SSC) with a CRPR rank of "S3" (vulnerable). The remaining six special status species are considered "absent" from the Project site. The coastal whiptail is locally common throughout most of western Riverside County. Although observed during biological surveys on the Project site, adverse impacts to the species are not expected as a result of the Project because the drainage features will remain intact to provide wildlife corridors and allow any coastal whiptails that may be present to freely move through the site. Therefore, no further action is required for the coastal whiptail lizard.

The Project Site contains suitable nesting habitat for bird species protected under the federal Migratory Bird Treaty Act (MBTA). Impacts to nesting birds, both direct and indirect, can be minimized or eliminated during Project-related activities by conducting work outside of the breeding season. Although nesting can occur year-round in southern California for some species, the typical avian breeding season is from approximately February 1st through August 31st. To reduce impacts to nesting birds, the Project shall implement mitigation measure **MM BIO-1**, which requires preconstruction nesting bird surveys prior to any Project-related ground disturbing activities between September 1st and January 31st.

MM BIO-1: Vegetation Clearance and Preconstruction Nesting Bird Survey. *To avoid direct and indirect impacts to nesting birds, any Project-related ground disturbance/vegetation clearance must take place between September 1 and February 1. For preconstruction nesting bird surveys, if vegetation clearance does not occur within the September 1 to February 1 timeframe, then a preconstruction nesting bird survey would be required. A qualified biologist shall conduct a nesting bird survey(s) no more than three (3) days prior to initiation of construction to document the presence or absence of nesting birds within or directly adjacent (100 feet) to the Project Site. The nesting bird survey(s) would focus on identifying any passerine or raptor nests that would be directly or indirectly affected by construction activities. If active bird nests are documented, species-specific measures shall be prepared by a qualified biologist and implemented to prevent abandonment of the active bird nest. At a minimum, grading in the vicinity of a nest shall be deterred until the young birds have fledged. A minimum exclusion buffer of 100 feet shall be maintained during construction, depending on the species and location. The perimeter of the nest setback zone shall be fenced or adequately demarcated with stakes and flagging at 20-foot intervals, and construction personnel and activities restricted from the area. A survey report by a qualified biologist verifying that no active nests are present, or that the young have fledged, shall be submitted to the City of Banning for review and approval prior to initiation of construction in the nest-setback zone. The qualified biologist shall serve as a construction monitor during those periods when construction activities occur near active nest areas to ensure that no inadvertent impacts on these nests occur. A report of the findings prepared by a qualified biologist shall be submitted to the City of Banning for approval prior to initiating construction activities.*

The Project Site is located within survey areas designated by the Western Riverside County MSHCP for the following species: Los Angeles pocket mouse (*Perognathus longimembris brevinasus*), burrowing owl (*Athene cunicularia*), and two narrow endemic plant species, Marvin's (also known as Yucaipa) onion (*Allium marvinii*), and many-stemmed dudleya (*Dudleya multicaulis*). The Project Site also contained non-vernal pool depressions that could support fairy shrimp habitat. Thus, focused surveys for Los Angeles pocket mouse (LAPM), burrowing owl, Marvin's onion, many-stemmed dudleya, and fairy shrimp were conducted as discussed in the following paragraphs.

Los Angeles Pocket Mouse (*Perognathus longimembris brevinasus*)

LAPM is designated a species of special concern by CDFW and is not federally or state listed as threatened or endangered. Since portions of the Project Site are within the MSHCP Mammal Survey Area for the LAPM and potential habitat for this species is present, WSP conducted focused surveys as required by the MSHCP. The survey results are documented in the *LAPM Survey Report* in **Appendix B.2** to this Initial Study.

As part of the *LAPM Survey Report*, WSP biologists conducted operations over five nights from September 13-18, 2020. These nights were forecasted to have suitable conditions for surveying. A total of six grids of 25 traps were placed within those portions of the Project Site with suitable habitat that are also within the MSHCP designated survey area for LAPM (refer to **Figure 10 – Los Angeles Pocket Mouse Survey Results**). As shown below in **Table D – Los Angeles Pocket Mouse Survey Results**, a total of 583 mammals were trapped over the course of 750 trap-nights, which represents a trapping success rate of 77.7 percent. (WSP(b), p. 3.)

Table D – Los Angeles Pocket Mouse Survey Results

Species Trapped	Number of Species Trapped Each Night					
	Sept 13–14	Sept 14–15	Sept 15–16	Sept 16–17	Sept 17–18	Totals
Northwestern San Diego Pocket Mouse *Chaetodipus fallax*	13	30	38	38	40	**159**
Dulzura Kangaroo Rat *Dipodomys simulans*	4	9	8	4	10	**35**
Dulzura Kangaroo Rat *Dipodomys simulans*	1	2	0	1	2	**6**
Bryant's (San Diego Desert) Woodrat *Neotoma bryanti* (*lepida*) *intermedia*	1	1	0	1	1	**4**
Baja Mouse *Peromyscus fraterculus*	1	0	0	0	0	**1**
Deer Mouse *Peromyscus maniculatus*	59	68	83	86	69	**365**
Western Harvest Mouse *Reithrodontomys megalotis*	2	3	1	4	3	**13**
Totals	**81**	**113**	**130**	**134**	**125**	**583**

Source: WSP(b), Table 2. Survey Results

As shown in the above table, seven species of mammals were captured, none of which were the LAPM. Two other species status species were captured: the northwestern San Diego pocket mouse (*Chaetodipus fallax fallax*) and the Bryant's Woodrat (*Neotoma bryanti intermedia*), formally known as the San Diego desert woodrat. Both of these species are CDFW species of special concern, and both are covered under the MSHCP. (WSP(b), p. 3.)

Burrowing Owl (*Athene cunicularia*)

The burrowing owl is currently designated a "California Species of Concern" by the CDFW, a "Bird of Conservation Concern" by the USFWS, and "Sensitive" by the U. S. Bureau of Land Management. Burrowing owls are protected by the federal Migratory Bird Treaty Act, California Fish and Game Code Sections 3503, 3503.5, 3513, and 3800, and the MSHCP. (WSP(c), p. 4.) Since the Project Site is within the MSHCP survey area for burrowing owl, WSP conducted focused surveys as required by the MSHCP and documented in the *Burrowing Owl Focused Survey Report,* which is included as **Appendix B.3** to this Initial Study.

The burrowing owl focused surveys were conducted in accordance with the two-step protocol provided by the Riverside County Transportation and Land Management Agency. Step 1 and Step 2, Part A of the protocol

were conducted on July 17, 2020. Step 1 consisted of assessing suitable habitat on the Project Site and Step 2, Part A consisted of mapping locations of burrows that would be suitable for burrowing owls. Step II, Part B consisted of focused burrow surveys conducted on four occasions, July 24, July 31, August 6, and August 12, 2020. (WSP(c), p. 4.)

As shown on **Figure 11 – Burrowing Owl Survey Results**, a total of approximately 30 burrows suitable for burrowing owl use were detected within the Project boundary and the Project's 500-foot buffer zone survey area. No evidence of burrowing owls being present at any of the burrows were detected and no owls were observed on the Project Site or within the adjacent 500-foot buffer zone survey area. It should be noted that an occupied burrow, with at least two burrowing owls was observed approximately 0.35-mile south of the eastern Project buffer zone. (WSP(c), p. 5.) Since there was suitable unoccupied habitat for burrowing owl reported within the Project Site, there is potential for burrowing owls to colonize the Project Site at any time. Therefore, prior to any Project-related ground disturbing activity, mitigation measure **MM BIO-2** shall be implemented.

> ***MM BIO-2: Burrowing Owl Survey.*** *To avoid direct and indirect impacts to burrowing owls, a qualified biologist shall conduct a minimum one visit 30-day burrowing owl preconstruction survey of all suitable habitat that is slated for any vegetation removal, grading, or other disturbance in the Project site. The burrowing owl survey shall be conducted to ensure protection for this species and compliance with the conservation goals as outlined in the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) and according to the MSHCP "Burrowing Owl Survey Instructions" dated 2006. A report of the survey findings prepared by a qualified biologist shall be submitted to the City of Banning and County of Riverside Environmental Programs Division (Riverside County EPD) for review and approval prior to any ground disturbing activities. If burrowing owls are detected on the Project Site during the 30-day preconstruction survey, and during the breeding season (February 1st to August 31st), then construction activities shall be limited to beyond 300 feet of the active burrows until a qualified biologist has confirmed that nesting efforts are competed or not initiated. In addition to monitoring breeding activity, if construction is proposed to be initiated during the breeding season or active relocation is proposed, a burrowing owl mitigation plan will be developed based on the Riverside County EPD, CDFW, and United States Fish and Wildlife Service (USFWS) requirements for the relocation of individuals. Passive relocation may occur when owls are found onsite during preconstruction surveys conducted outside of the breeding season. If no owls are found onsite during the preconstruction survey, then construction may commence within 30 days without another survey.*

<u>Narrow Endemic Plant Species – Marvin's Onion (*Allium marvinii*) and Many-stemmed Dudleya (*Dudleya multicaulis*)</u>

Nearly the entire Project Site is within the MSHCP narrow endemic plant species survey area (NEPSSA) for Marvin's onion and many-stemmed dudleya (**Figure 12 – MSHCP Narrow Endemic Plan Survey Area**); thus, WSP conducted a focused survey for these species as required by the MSHCP and documented in the *NEPSSA Report,* which is included as **Appendix B.4** to this Initial Study. Marvin's onion is designated by the State as critically imperiled and by the CNPS as moderately threatened in California. Many-stemmed dudleya is

designated by the State as imperiled and by the CNPS as moderately threatened in California. (WSP(d), Table 1.)

The focused surveys were conducted on May 26 and 27, 2020, which was the appropriate time of year for the detection of Marvin's onion and many-stemmed dudleya. The surveys were conducted following a period of above average rainfall for the 2019-2020 winter season; thus, survey timing was ideal for the detection of these two target plant species. Since neither Marvin's onion nor many-stemmed dudleya were detected, both species are considered absent from the Project Site and no further surveys are required. (WSP(d), p. 4.)

Fairy Shrimp

Several species of fairy shrimp are considered sensitive by the USFWS and CDFW because of their rarity and/or association with sensitive aquatic habitats such as vernal pools. Two federally listed fairy shrimp species are known to occur within Riverside County: vernal pool fairy shrimp (*Branchinecta lynchi*) and Riverside fairy shrimp (*Streptocephalus woottoni*). No federally-designated Critical Habitat has been designated for these species in western Riverside County. A third species, Santa Rosa Plateau fairy shrimp *(Linderiella santarosae*), is an unlisted sensitive species that occurs only on the Santa Rosa Plateau of Riverside County, which is not in the Project study area.

Nine inundated depressions were identified on the Project Site as meeting the protocol criteria for pooling sufficient to support listed fairy shrimp species. Due to the presence of these depressions, wet and dry fairy shrimp focused surveys were conducted and the results documented in the Fairy Shrimp Technical Memo included as **Appendix B.5** to this Initial Study.

As documented in the *Fairy Shrimp Technical Memo*, each of the ten ponded areas shown on **Figure 13 – Fairy Shrimp Habitat** were systematically sampled by an USFWS permitted biologist per the USFWS protocol *Survey Guidelines for the Listed Large Branchiopods.* Wet season surveying began after the first storm on November 8, 2021 until the rainy season ended and the last inundated pool reached 120 days of continuous inundation on April 28, 2021. (WSP(e), p. 1.)

Dry season surveys took place on December 24, 2020 and June 8, 2021 while there were dry soils. All fairy shrimp cysts collected during the dry season were hatched in isolated environmental chambers, a total of three hatching attempts were performed, and all hatchlings were grown until mature enough to be identified. As shown below in **Table E – Fairy Shrimp Survey Results** the common, unlisted versatile fairy shrimp was detected in two pools. Because the wet and dry season surveys did not detect any special-status species of fairy shrimp, special-status fairy shrimp are considered absent from the Project Site and will not be impacted by implementation of the proposed Project. (WSP(e), p. 2.)

Table E – Fairy Shrimp Survey Results

Pool Number (see Figure 12)	Wet Season Fairy Shrimp Detected?	Dry Season Fairy Shrimp Detected?	Special Status Fairy Shrimp Detected?
3	No	No	No
9	**Yes**	**Yes**	No
14	No	No	No
15	No	No	No
16	No	No	No
21	No	No	No
33	No	No	No
40	No	No	No
41	No	No	
46	No	No	No

Source: WSP(e), Table 1. Fairy Shrimp Ponded Areas

Crotch's Bumble Bee

Crotch's bumble bee (*Bombus crotchii*) has been designated as an endangered species under the International Union for the Conservation of Nature Red List since 2014 (IUCN 2024) and is recently considered a Candidate endangered species under the California Endangered Species Act since 2019 (CDFW 2021; Hatfield and Jepsen 2021). It has not been listed as threatened or endangered by either the USFWS or CDFW.

Crotch's bumble bee primarily occurs in California's pacific coast, western desert, and adjacent foothills throughout most of the state's southwestern region, where it inhabits grasslands and shrublands and requires a hotter and drier environment than other bumble bee species. Overwintering occurs in soil or under leaf litter/debris. The bees nest in various cavities and forage on a number of annual flowers, including plants in the following floristic families: Fabaceae, Apocynaceae, Asteraceae, Lamiaceae, Boraginaceae, and Hydrophyllaceae. Genera include Antirrhinum, Asclepias, Chaenactis, Clarkia, Dendromecon, Eschscholzia, Eriogonum, Lupinus, Medicago, Phacelia, and Salvia (Hatfield et al. 2018).

Worker bees are typically active from April to August and queen bees are generally active for only two months, from February through March. Once the queen selects the hive location, the active colony is detectable between April and August. Notably, bumble bees move nests sites each year. Crotch's bumble bees require flowering plants for the entire activity period to be considered suitable for an active hive.

Because the Crotch's bumble bee is a candidate endangered species according to the California Endangered Species Act and can potentially occur in the Project area especially if there are suitable flowering plants available, the Project has the potential to adversely impact said species. Therefore, focused surveys and records searches shall be conducted according to mitigation measure **MM BIO-3** and a worker's environmental awareness program (WEAP) shall be provided according to **MM BIO-4.**

MM BIO-3: Crotch's Bumble Bee Preconstruction Survey and Construction Monitoring. *In order to avoid direct and indirect impacts to Crotch's bumble bee (CBB), which could establish themselves on the Project site before construction starts ~~be present in flowering habitat or in burrows along the creek embankments~~, a qualified CBB biologist (i.e., 1-2 years of experience performing CBB surveys, or, has a Memorandum of Understanding [MOU] with CDFW), shall perform the records searches and site surveys according to the Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species (CDFW 2023) prior to the start of ground-disturbing project activities. The literature review and records search shall identify occurrences at the Project site and within a 5-mile buffer. The literature review and records search shall include: a report from the CDFW California Natural Diversity Data Base for a 10-mile radius of the project site; aerial photographs; and iNaturalist for bee sightings and nectar sources. Then, the qualified biologist shall conduct on-site surveys for foraging and nesting bees. The surveys shall begin with a habitat assessment to evaluate the likelihood of bumble bees occurring within and adjacent to the project area. Then, foraging bumble bee and nesting surveys shall be conducted during the peak nectar blooming period (April through June 30). Habitat assessment and survey results shall be submitted to CDFW prior to the start of ground-disturbing project activities. Vegetation removal is allowable from November to January (note seasonal limitations for nesting birds in **MM BIO-1**). No monitoring is required if removal of vegetation occurs during this time period. However, vegetation removal/ground disturbances during the CBB flight season, which is February to October, will require preemptive focused CBB surveys and full-time biological monitoring for CBB to take place within the project limits. Construction monitoring for CBB may cease based on the professional judgement of the qualified CBB biologist that construction activities have already impacted the extent of the planned impact footprint. If an active CBB nest is detected during focused surveys conducted between April and June, or during the construction monitoring, then the qualified biologist shall establish a no-disturbance buffer zone (including foraging resources and flight corridors essential for supporting the colony) around the CBB nest. The qualified biologist and City shall notify CDFW and if needed, process an Incidental Take Permit (ITP) with CDFW. If a single CBB is observed during construction, CDFW shall be notified, and work shall be halted in that area until the qualified biologist deems the CBB has left the site. It is expected that if an ITP is needed, that the offsite mitigation site along Smith Creek proposed by **MM BIO-5**, which has similar habitat types and embankments, could support CBB. If offsite mitigation for CBB is needed, then a CBB permitted land manager shall be hired by the City to ensure CBB habitat is intact on the offsite mitigation property.*

MM BIO-4: Biological Worker's Environmental Awareness Program (WEAP): *The City of Banning shall enlist a qualified biologist to conduct a mandatory training for all construction contractors and their employees on project-related environmental concerns, including Crotch's bumble bee, burrowing owl, pertinent rare plant species, and riparian/riverine features. To the extent feasible, the biologist conducting the WEAP shall be the same one enlisted by the City for **MM BIO-1** (nesting bird surveys), **MM BIO-2** (burrowing owl surveys), and **MM BIO-3** (Crotch's bumble bee surveys). This WEAP can occur during the same meeting as the paleontological WEAP described in **MM GEO-1**. No individual shall be permitted to work at the Project Site until they have completed*

WEAP training. The City's Project biologist will conduct additional trainings, as needed for different construction crews that come onboard throughout the ground-disturbing activities of the Project. In lieu of in-person training, the WEAP may be recorded and presented to any contractor or crew member not present at the initial in-person training.

Thus, with implementation of **MM BIO-1, MM BIO-2**, **MM BIO-3**, and **MM BIO-4** the proposed Project will not have a substantial adverse effect, either directly or through habitat modification, on any species identified as a candidate, sensitive or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS. Therefore, impacts will be less than significant with mitigation.

Sources: WSP(a); WSP(b); WSP(c); WSP(d); WSP(e)

b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

Less than significant impact with mitigation. According to the *MSHCP Consistency Report*, no vernal pools were detected on the Project Site; however, riparian/riverine areas were detected on the Project Site consisting of three existing ephemeral drainages: Highland Wash, Smith Creek, and Pershing Creek, as well as six existing pipe culverts under Westward Avenue (pipes of varying diameters) as riverine resources (WSP(a), p. 13). So that the proposed road can pass over the ephemeral drainages, the Project will utilize series of 6 to 7 reinforced concrete boxes (RCBs) that are each 14-feet wide and 10-feet tall in each drainage to maintain the flow passing through these drainages.

Highland Wash

Highland Wash is an ephemeral drainage containing riparian and riverine resources that flows from north to south and crosses perpendicular to the Project Site. Flow originates from north of Interstate 10 and from the Sun Lakes community immediately northwest of the Project. Within Project boundaries, Highland Wash contains an active low flow channel with an adjacent active floodplain that is bordered on the west with low terraces and on the east with incised channel walls that are both bordered by uplands. The active low-flow channel is 12 inches wide with a silty/sandy bed and no vegetation within the Project area. Evidence of flows were identified by benches and drift. The adjacent active floodplains varies from roughly 3-feet to 15-feet wide and evidenced by a more pebbly substrate then the low flow channel as well as ripples, older drift, presence of bed and bank, benches and no vegetation. The ordinary high-water mark (OHWM) is approximately 8-inches and indicated by a break in slope and change in vegetative cover from active floodplain to low terrace. The low terrace borders the floodplain on the west with midstage upland vegetation consisting of California buckwheat that uniformly dominates the drainage area from the low terrace to the nearby hill tops. The outer limit of the low terrace is characterized by a higher vegetative density of buckwheat and marks the limit of potential CDFW jurisdiction.

Highland Wash likely flows for less than 3 months per year and therefore does not have permanent flow and would not be considered USACE jurisdictional. Highland Wash joins with Smith Creek at Westward Avenue. (WSP(a), p. 11.)

Smith Creek

Smith Creek is an ephemeral drainage containing riparian and riverine resources that flows north to south and crosses perpendicular to the proposed Project. Smith Creek is east of Highland Wash. Flow to Smith Creek originates from a large watershed north of I-10. Within the Project boundaries, Smith Creek contains an active low flow channel with adjacent active floodplain that is bordered with low terraces. The active low-flow channel is approximately 8 inches wide with a silty/sandy bed and no vegetation. Evidence of flows were identified by benches and drift. The adjacent active floodplain is on average 20-feet wide and the limits of which evidenced by a more pebbly substrate then the low flow channel, as well as ripples, older drift, presence of bed and bank, benches, and limited pockets of early-stage vegetation. OHWM is approximately 6-inches and indicated by a break in slope and changes in vegetative cover and sediment texture from active floodplain to low terrace. The low terrace borders the floodplain on the west with late-stage upland vegetation consisting mostly of California buckwheat that uniformly dominates the drainage area from the low terrace to the nearby hill tops. The outer limit of the low terrace is characterized by change in slope and a higher vegetative density of California buckwheat and marks the limit of potential CDFW jurisdiction.

Smith Creek likely flows for less than 3 months per year and therefore does not have permanent flow and would not be considered USACE jurisdictional. Highland Wash joins with Smith Creek at Westward Avenue. Smith Creek is tributary to San Gorgonio Creek, which is tributary to the Whitewater River.

Pershing Creek

Pershing Creek is a wide ephemeral drainage located east of Smith Creek that contains riparian and riverine resources and flows from north to south to cross perpendicular to the Project Site. Flows to Pershing Creek originate from north of I-10. In the area of the Project, Pershing Creek splits around an island approximately 0.24-acre in size of Riversidean alluvial fan sage scrub into two sets of active low flow channels with adjacent active floodplains. The Riversidean alluvial fan sage scrub is dominated by scale broom. The active low flow channels are approximately 10-inches wide in the Project area with a fine sandy bed and no vegetation. Evidence of flows were identified by benches and ripples present in the project area. The active floodplain is on average 38-feet wide and bordered by short low terraces that are bordered by steep embankments that are roughly 20-feet high to the east and west of the creek. One mature eucalyptus tree (*Eucalyptus species*) on the far westerly bank is also within the Project area. The active floodplain is evidenced by a more sandy/pebbly substrate then the low flow channel, as well as older drift, mud cracks, and early-stage vegetation of buckwheat and annual filarees (*Erodium* species). OHWM is approximately 10-inches and indicated by break in slope and changes in vegetative cover and sediment texture from active floodplain to low terrace. The low terrace borders the floodplain on the west with silty soil and 95% cover of late-stage upland vegetation consisting of California buckwheat that uniformly dominates the drainage area from the low terrace to the nearby hill tops. The outer limit of the low terrace on the east side of the creek is characterized by a change in slope and higher vegetative density of buckwheat and marks the limit of potential CDFW jurisdiction. The outer limit on the west side of the creek is characterized by a near-vertical incised channel bank.

Pershing Creek likely flows for less than 3 months per year and therefore does not have permanent flow and would not be considered USACE jurisdictional. Pershing Creek merges with Smith Creek far downstream of the Project limits.

Existing Pipe Culverts under Westward Avenue

A total of six pipe culverts are currently located under Westward Avenue where Smith Creek, Pershing Creek and Highland Wash cross Westward Avenue. The culverts are metal pipes of varying diameters ranging from 18-inches to 54-inches. The collective footprint of the pipes account for approximately 0.02 acre of the Project site. They are considered riverine resources. The existing pipe culverts will be left in place and remain functional after the Project is completed to continue conveying low flows. They were not included in the hydraulic modeling conducted for the Project (Appendix F) as a conservative measure. Therefore, these pipe culverts are not considered to be impacted by Project implementation.

MSHCP riverine resources of this Project are inclusive of areas that are also potentially jurisdictional (regulable) by the RWQCB as Waters of the State according to Porter-Cologne Water Quality Control Act, and the CDFW as streambed according to California Fish and Game Code Section 1600 *et seq*. . According to the *JD Report* that is provided in **Appendix B.8** of this Initial Study, the Project will result in direct, permanent impacts to 0.37-acre of CDFW/RWQCB jurisdiction and 0.09-acre of temporary impacts to CDFW/RWQCB jurisdiction (p. 6-1). Impacted resources consist of only non-wetland waters. CDFW/RWQCB jurisdiction represents Waters of the State and CDFW Streambed, which are coterminous in the Project area. Impacts to CDFW and RWQCB jurisdiction will require permits from these agencies; specifically, a Streambed Alteration Agreement from CDFW and a Waste Discharge Requirement permit from RWQCB. Based on the current definition of Waters of the U.S., the Project will not impact Waters of the U.S. and will therefore not require a Section 404 permit from U.S. Army Corps of Engineers. No riparian vegetation is present.

Permanent impacts to jurisdictional resources and MSHCP Riparian/Riverine resources would result from the direct, permanent footprint of the Project that cannot be returned to pre-existing conditions and areas that must be maintained on an ongoing basis as well as temporary impacts within the temporary construction buffer which can be returned to pre-existing conditions around the permanent impact footprint.

The MSHCP Riverine features function as conveyance for storm water flows mostly during high storm events. The historical importance of the Project drainages has been to convey sediment as well downstream into the Whitewater watershed. The sediment flows into the desert areas is an important source of sediment and sand needed for the aeolian and other natural processes that support sensitive species. Over time, the sediment conveyance in Pershing, Smith and Highland Creeks has been diminished due many compounding factors. Therefore, when looking at the impacts of the Project and the proposed RCB crossings, care was taken to consider the need to not significantly affect the sediment transfer along with flood flows with implementation of the Project. The functions and values of the Project drainage crossings and the surrounding upland areas include absorption and the gradual release of water into downstream areas. The topography and vegetation in the Project Site drainages also provide cover and corridors for the shelter and movement of wildlife.

Regarding sediment transport, the proposed RCBs and retention of existing pipe culverts within Westward Avenue will be such that sediment transport and wildlife movement functions and values will be retained. To arrive at the proposed RCB design, an iterative process was undertaken to achieve a design that would have an insignificant change in the water surface elevation and velocity upstream and downstream of the proposed RCB culverts as compared to the pre-project condition. The design will not improve nor worsen the existing

flow of sediment occurring in the Project area (NHC, p. 7). Therefore, if a rainfall event occurs that is large enough to transport sediment, the Project will not inhibit that from happening in the future post-construction condition. Where impacts are unavoidable, the design maintains the existing hydrologic regime including flood flows, and sediment transport. Based on the analysis by NHC, the Project effects on downstream functions will be insignificant and they will continue as they currently do, meaning, erosion or accretion that occurs outside of the Project within Highland Wash, Smith Creek, or Pershing Creek will not change as a result of the Project. Offsite erosion or accretions in said creeks are the result of other actions unrelated to the Project for which the City plans to address separately from this Project.

Impacts to jurisdictional resources resulting from Project implementation are presented below in **Table F – Riparian/Riverine and Jurisdictional Impacts.**

Table F– Riparian/Riverine and Jurisdictional Impacts

Name of Potentially Jurisdictional Feature	Riparian/Riverine and CDFW/RWQCB		
	Permanent Impacts (acres)	Temporary Impacts (acres)	Length (feet)
Highland Wash (Creek Crossing No. 1)	0.1	0.01	394 / 61
Smith Creek (Creek Crossing No. 2)	0.08	0.04	128 / 65
Pershing Creek (Creek Crossing No. 3)	0.2	0.03	230 / 72
Total	**0.37**	**0.09**	**748 / 187**

Source: WSP(a), Table 2. Project site Riparian/Riverine Impacts

CDFW/RWQCB jurisdiction and the Riparian/Riverine area are coterminus.

As shown in **Table F,** potentially jurisdictional features and MSHCP Riparian/Riverine features would be impacted with Project implementation. According to the *DBESP Report* prepared for impacts to Riparian/Riverine resources that is in **Appendix B.7** of this Initial Study, mitigation is required for impacts to Riparian/Riverine resources. Because jurisdictional resources are within the Riparian/Riverine, mitigation for one resource can also mitigate for the other. Thus, the Project will implement mitigation measure **MM BIO-5** and place land into permanent conservation as mitigation for riparian/riverine and jurisdictional impacts. The City intends to purchase land or conserve and enhance existing city land within the Whitewater Watershed, along Smith Creek which would be placed into a conservation easement or have a deed restriction and protected in perpetuity with a non-wasting endowment. The land will be managed by a third-party land manager such as Western Riverside County Regional Conservation Authority (RCA), Rivers and Lands Conservancy (RLC) or Inland Empire Resource Conservation District (IERCD). The conservation land will contain similar habitat to the Project site and provide similar or superior function and habitat value. Currently, the Project site has relatively unvegetated, sandy bottom, riverine habitat. Any mitigation areas that contain riparian habitat would be considered superior habitat.

Permanent impacts will be mitigated at a 3:1 ratio (3 x 0.37 acre = 1.11 acres) and temporary impacts will be mitigated at a 2:1 ratio (2 x 0.09 acre = 0.18 acre). The total mitigation acreage should equal or surpass 1.3 acres. The primary method of mitigation will be offsite conservation and enhancement of City owned property located along Smith Creek. The City will place at least 1.3 acres into a Conservation Easement with an approved third-party conservation holder such as RCA, RLC or IERCD. Additionally, the City has committed to participating in a regional solution of the sediment transport function of the Smith Creek watershed. The intended outcome of this regional solution is to bring the various stakeholders in this watershed together to work on a sediment management strategy to ensure sediment is transported efficiently and effectively to support ecological resources. The City's commitment to this regional solution will serve as providing rehabilitation mitigation for the overall impacts from this Project.
The project will also return temporary impact areas to their pre-existing contours and revegetate them with appropriate native species. The project will also mitigate and/or minimize impacts by following MSHCP Section 6.1.4 Urban Wildlands Interface Guidelines and MSHCP Volume I, Appendix C Standard Best Management Practices (BMPs) (WSP(f), p. 14).

Through the conservation of biologically equivalent or superior land and the City's participation in a regional solution to Smith Creek sediment transport functions, the Project would have a less than significant impact on riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by CDFW or USFWS.

> ***MM BIO-5: Mitigation for Riparian/Riverine and Jurisdictional Impacts.*** *In order to mitigate 0.37 acre of permanent impacts and 0.09 acre of temporary impacts to riparian/riverine waters and jurisdictional impacts to Waters of the State and CDFW Streambed, the City of Banning shall purchase land or conserve and enhance existing City-owned land that is within the Whitewater Watershed along Smith Creek, which would be placed in a conservation easement or deed restriction and protected in perpetuity with a non-wasting endowment. The land shall be managed by a third-party land manager such as Rivers and Lands Conservancy, Inland Empire Resource Conservation District, or Regional Conservation Authority. The amount of land preserved for permanent impacts will be based on a 3:1 ratio (3 x 0.37 acre = 1.11 acres) and for temporary impacts at a 2:1 ratio (2 x 0.09 acre = 0.18 acre) for a total mitigation area of no less than 1.3-acres. In addition, the City has committed to participating in a regional solution of the sediment transport function of the Smith Creek watershed. The intended outcome of this regional solution is to bring the various stakeholders in this watershed together to work on a sediment management strategy to ensure sediment is transported efficiently and effectively to support ecological resources. The City's commitment to this regional solution will serve as providing rehabilitation mitigation for the overall impacts from this Project. The Project shall also return temporary impact areas to their pre-existing contours and revegetate them with appropriate native species. Project construction shall also follow MSHCP Volume I, Appendix C Standard Best Management Practices and MSHCP Section 6.1.4 Urban Wildlands Interface Guidelines.*

With implementation of the design of the RCB culverts to provide consistency in the duration and volume of water and sediment being transported after Project implement to existing conditions, as well as through

implementation of **MM BIO-5** to provide land conservation in exchange for the permanent and temporary impacts, along with the restoration of temporary impact areas, impacts are considered less than significant with mitigation incorporated.

Sources: WSP(a); WSP(c); WSP(f)

c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

Less than significant impact. The site investigations conducted as part of the *JD Report* found no evidence of wetlands, as reported on Table C above. (WSP(g), p. 3-2). The aforementioned fairy shrimp sampling points are isolated depressional features that are not hydrologically connected to a jurisdictional drainage feature and are likely only ponded for a short duration of time. In addition, because none of the aforementioned fairy shrimp sampling points were observed to develop vernal pool vegetation parameters over the 2020-2021 survey period, no vernal pools are present in the Project (WSP(a), p. 21). Thus, the fairy shrimp sampling points were considered but not included in the delineation and are therefore not considered within potentially jurisdictional areas.

As discussed in Response IVb. and shown in **Table F – Riparian/Riverine Impacts**, Project implementation will result in temporary and permanent impacts to potentially jurisdictional features located in Highland Wash, Smith Creek, and Pershing Creek that would be considered potentially jurisdictional by the RWQCB and CDFW, but do not support wetlands. Therefore, in addition to compliance with mitigation measure **MM BIO-3** to address impacts to riverine and non-wetland jurisdictional impacts, the Project shall obtain regulatory permits from the RWQCB and CDFW prior to starting construction within any potentially jurisdictional areas. However, since no wetlands were identified in the Project footprint, impacts to wetlands is considered less than significant and no mitigation is needed.

Source: WSP(g)

d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

Less than significant impact. The Project Site is located within The Pass Area Plan of the MSHCP. The Project Site is not located within a MSHCP criteria area cell, group, or linkage area. Therefore, no Habitat Evaluation and Acquisition Negotiation Strategy (HANS) or Joint Project Review (JPR) is required. (WSP(a), p. i.) There are no native wildlife nursery sites within proximity to the Project site. THere is no contemplated MSHCP Conservaiton areas near or adjacent to the Project alignment. The use of the extremely incised drainage channels makes it difficult for wildlife to move from upland areas into the drainages, but the Project's RCB culvert design allows for multiple options for wildlife in the drainages to move through them to the other side. Therefore, since there are no designed or planned areas for movement of wildlife, wildlife corridors, or the use of native wildlife nursery sites on Site, and since the Project does include multiple box culverts so that wildlife can pass under the roadway, impacts to wildlife movement is considered less than significant.

Source: WSP(a)

e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

Less than significant impact. As shown in **Table C – Vegetation Communities Present on the Project Site** and on **Figure 9 – Vegetation Communities,** the Project Site includes vegetation communities that could potentially contain tree species. Additionally, one mature eucalyptus tree (*Eucalyptus species*) was observed on the far westerly bank of Pershing Creek that would be removed as part of Project implementation. (WSP(a), p. 12.)

City of Banning Municipal Code Section 17.32.060, "Removal or destruction of trees" is not applicable to capital projects. Therefore, Project implementation would not conflict with any local policies or ordinances protecting biological resources such as a tree preservation policy or ordinance and therefore, impacts are less than significant.

Sources: Project Description; BMC; WSP(a)

f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

Less than significant impact with mitigation incorporated. Because the City is a Permittee to the MSHCP, it must therefore ensure that all projects comply with MSHCP Sections 6.1.2 (Protection of Species within Riparian/Riverine Areas and Vernal Pools), 6.1.3 (Protection of Narrow Endemic Plant Species), 6.1.4 (Urban Wildlands Interface), 6.3.2 (Additional Survey Needs and Procedures), Appendix C (Standard Best Management Practices), and 7.5.3 (Construction Guidelines). To measure the Project's consistency with the MSHCP, the *MSHCP Consistency Report* was prepared along with focused surveys for burrowing owl, native endemic plants, and LAPM, which determined impacts would occur to Section 6.1.2 resources (Riparian/Riverine) and thus triggered the need for the *DBESP Report* to describe mitigation for said impacts. The Project Site is not located within, nor adjacent to a MSHCP Conservation Area, which means the MSHCP did not plan for the Project Site to be placed into conservation in the future.

According to the *DBESP Report*, impacts to Section 6.1.2 of the MSHCP Riverine resources as shown in **Table F – Jurisdictional and Riparian/Riverine Impacts.** No surface water or sufficiently sized tracts of habitat are present, and therefore no riparian bird surveys were conducted, and they are not expected to occur (WSP(f), p. 7). The Riverine impacts from the Project will be mitigated pursuant to **MM BIO-5** with the purchase and conservation of land that is within the Whitewater Watershed along Smith Creek, which would be placed in a conservation easement or deed restriction and protected in perpetuity with a non-wasting endowment. The land shall be managed by a third-party land manager such as RLC, IERCD, or RCA. The amount of land preserved for permanent impacts will be based on a 3:1 ratio (3 x 0.37 acre = 1.11 acres) and for temporary impacts at a 2:1 ratio (2 x 0.09 acre = 0.18 acre) for a total mitigation area of no less than 1.3-acres. In addition, the City has committed to participating in a regional solution of the sediment transport function of the Smith Creek watershed. The intended outcome of this regional solution is to bring the various stakeholders in this watershed together to work on a sediment management strategy to ensure sediment is transported efficiently and effectively to support ecological resources. The City's commitment to this regional solution will serve as providing rehabilitation mitigation for the overall impacts from this Project. The Project shall also return temporary impact areas to their pre-existing contours and revegetate them with appropriate native species.

Project construction shall also follow MSHCP Volume I, Appendix C Standard Best Management Practices and MSHCP Section 6.1.4 Urban Wildlands Interface Guidelines. Through implementation of mitigation, impacts to Section 6.1.2 MSHCP riverine resources will be less than significant.

As discussed in Response IVa, wet and dry fairy shrimp focused surveys were conducted in 10 inundated depressions on the Project Site (WSP(e)). As shown in **Table E – Fairy Shrimp Survey Results** and **on Figure 13 – Fairy Shrimp Habitat**, the common, unlisted versatile fairy shrimp was detected in one pool (Pool No. 9). Because listed fairy shrimp of special concern were not found in any sampled ponds, no further action including mitigation is required for fairy shrimp. In addition, the fairy shrimp habitat was barren or dominated by non-native weedy plants and occurred in compacted soil in road ruts and other human alterations of the environment, which impeded drainage (WSP(f), p. 7). Over the course of the fairy shrimp surveys, no vernal pool indicators were observed to develop in the fairy shrimp sampling ponds (WSP(a), p. 21).

Section 6.1.3 of the MSHCP requires assessments of sites that are in the designated survey area for narrow endemic plant species to be completed. As discussed in Response IVa and shown on **Figure 12 – MSHCP Narrow Endemic Plan Survey Area**, nearly the entire Project Site is within the MSHCP NEPSSA for Marvin's onion and many-stemmed dudleya. Focused surveys were conducted for these species, which determined they are not present on the Project Site and no further action is required. Therefore, the proposed Project will not conflict with MSHCP Section 6.1.3.

Section 6.1.4 of the MSHCP outlines the minimization of indirect effects associated with locating development in proximity to a MSHCP Conservation Area. Because the Project Site is not located in proximity to a MSHCP Conservation Area, the Project will not conflict with MSHCP Section 6.1.4.

Section 6.3.2 of the MSHCP requires additional surveys for certain species depending upon the location of a given project. The Project Site is not located within an MSHCP-designated criteria area species survey area for plants or amphibians; therefore, no surveys are needed for these species. As discussed in Response IVa, the Project Site is within a mammal survey area for LAPM (refer to **Figure 10 – LAPM Survey Results**) and burrowing owl survey area (refer to **Figure 11 – Burrowing Owl Survey Results**); thus, focused surveys were conducted for these species (WSP(b), p. 2 and WSP(c), p. 4). The results of the surveys were negative for LAPM and burrowing owl and no additional surveys are necessary for LAPM; however, a pre-construction survey for burrowing owl will be required as stated in **MM BIO-2**. Through implementation of mitigation measures, the Project will not conflict with MSHCP Section 6.3.2.

The MSHCP lists standard best management practices (Appendix C) and guidelines to be implemented during project construction (Section 7.5.3) that will minimize potential impacts to sensitive habitats in the vicinity of a project. The guidelines relate to water pollution and erosion control, equipment storage, fueling, staging, dust control, exotic plant control, and timing of construction. The Project applicant is required to implement measures from Appendix C and Section 7.5.3 of the MSHCP. will address potential construction impacts to nesting birds and burrowing owl. Thus, with mitigation the proposed Project is consistent with MSHCP Appendix C and Section 7.5.3.

Therefore, through implementation of Appendix C and Section 7.5.3 of the MSHCP as well as mitigation measures **MM BIO-1** through **MM BIO-5,** the proposed Project will not conflict with the provisions of an adopted conservation plan and impacts will be less than significant with mitigation.

Sources: WSP(a); WSP(b), WSP(c), WSP(d), WSP(e), WSP(f), WSP(g)



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Source: WSP MSHCP Report

Figure 9a - Vegetation Communities

Sun Lakes Boulevard Extension Project

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Source: WSP MSHCP Report

Figure 9b - Vegetation Communities

Sun Lakes Boulevard Extension Project

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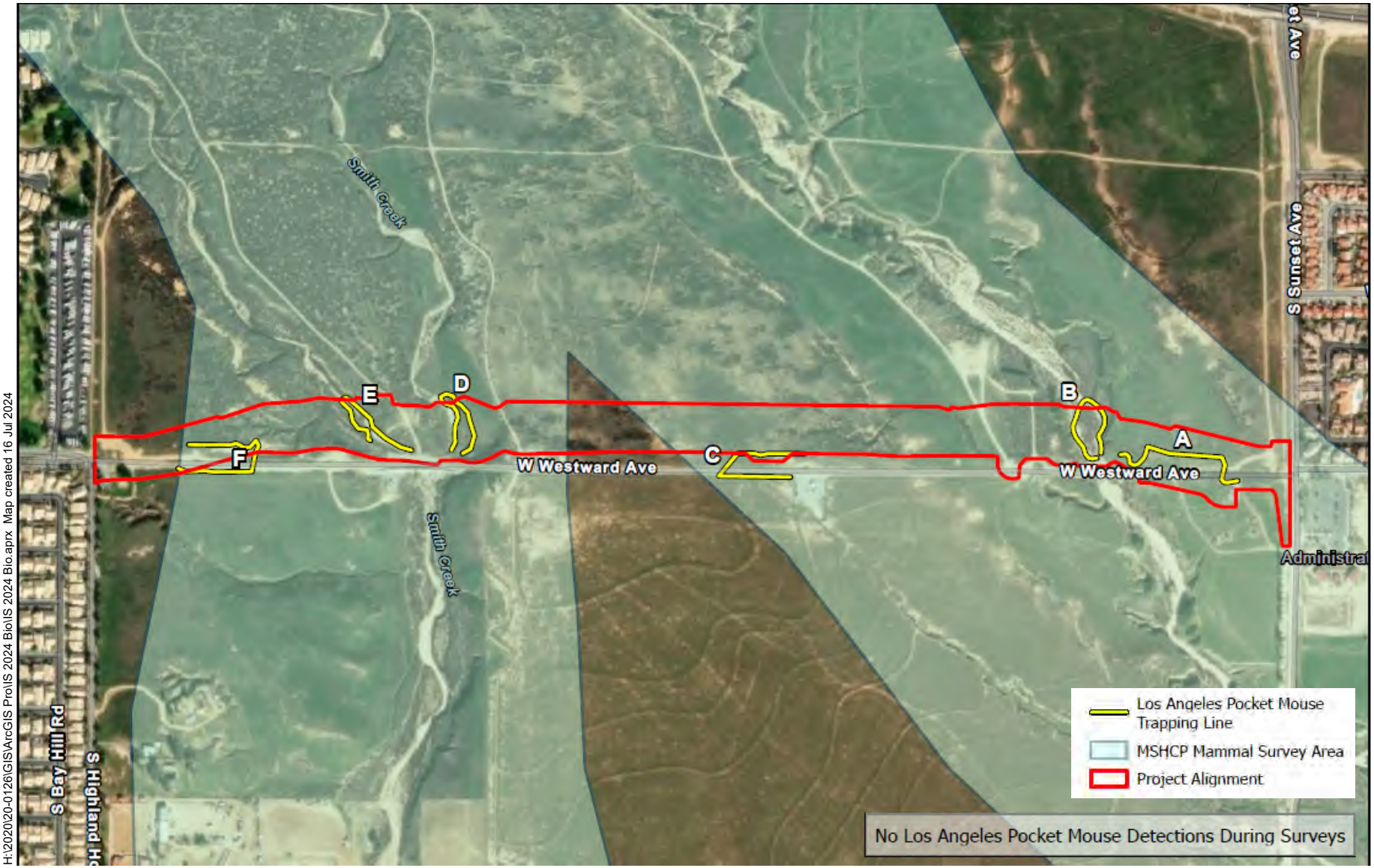
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Source: WSP MSHCP Report

Figure 9c - Vegetation Communities

Sun Lakes Boulevard Extension Project

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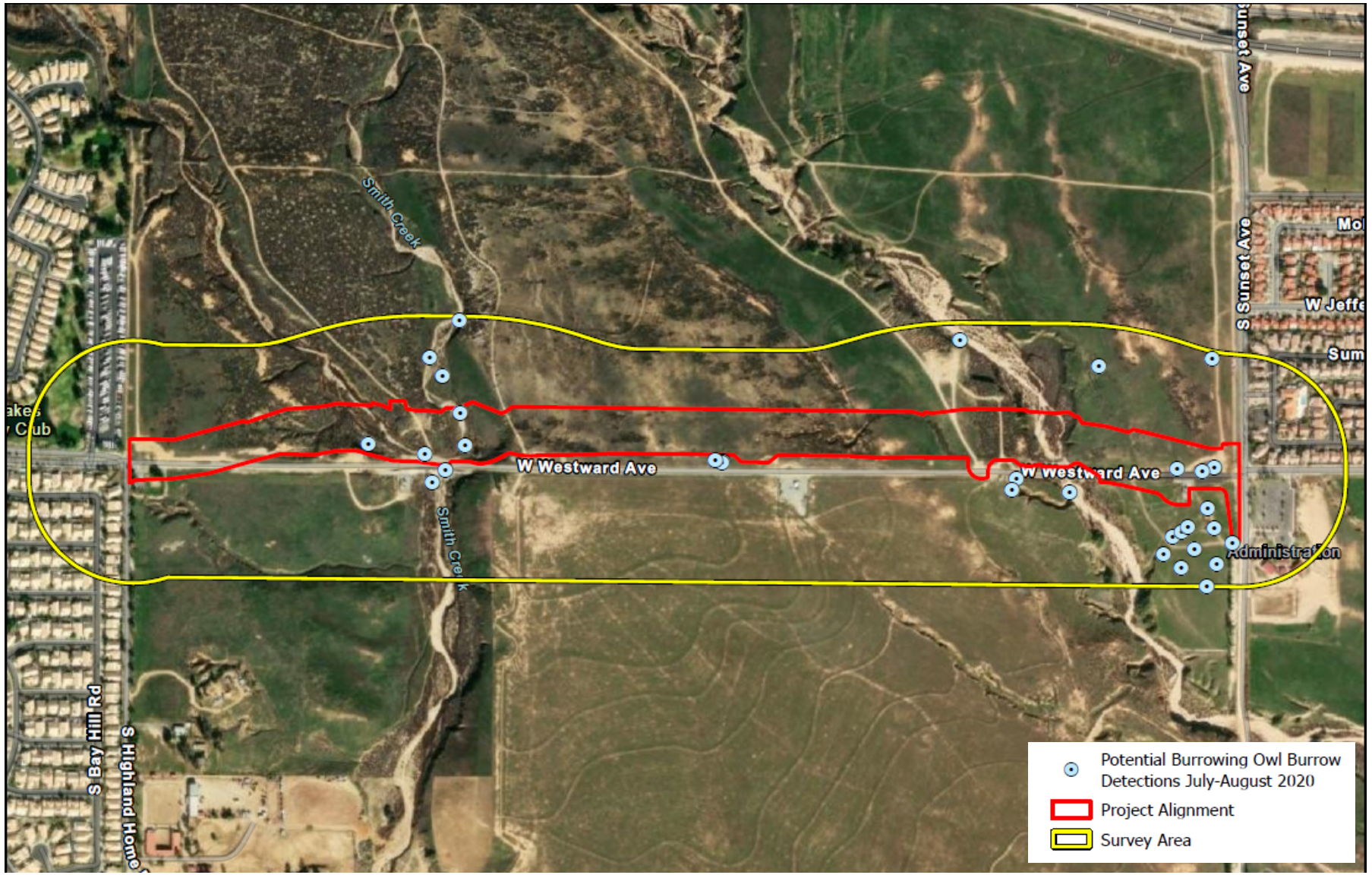


Source: WSP LAPM

Figure 10 - Los Angeles Pocket Mouse Survey Results

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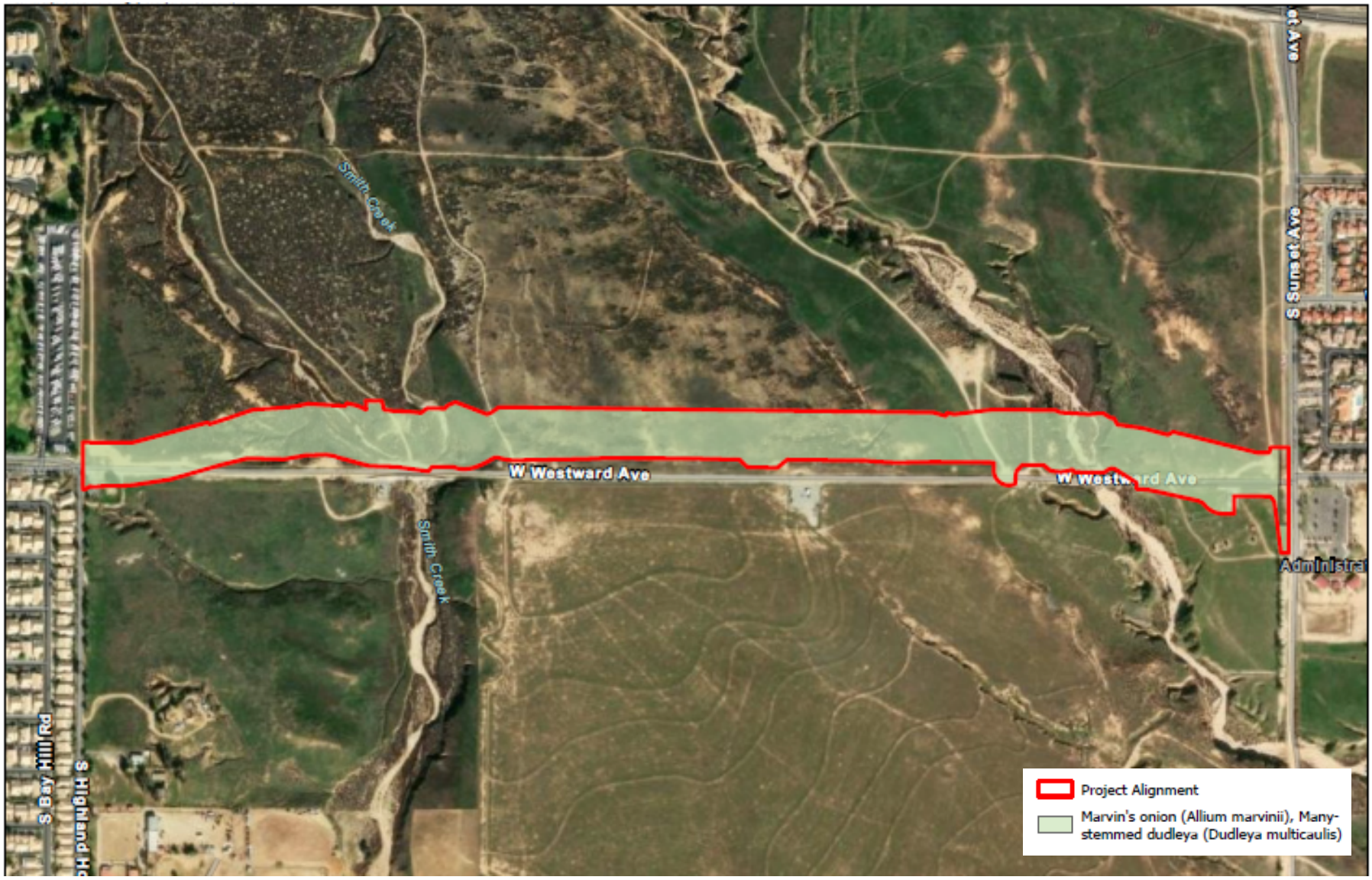
Source: WSP BUOW Report

1 inch =650 feet
0 325 650
Feet

Figure 11 - Burrowing Owl Survey Results

Sun Lakes Boulevard Extension Project

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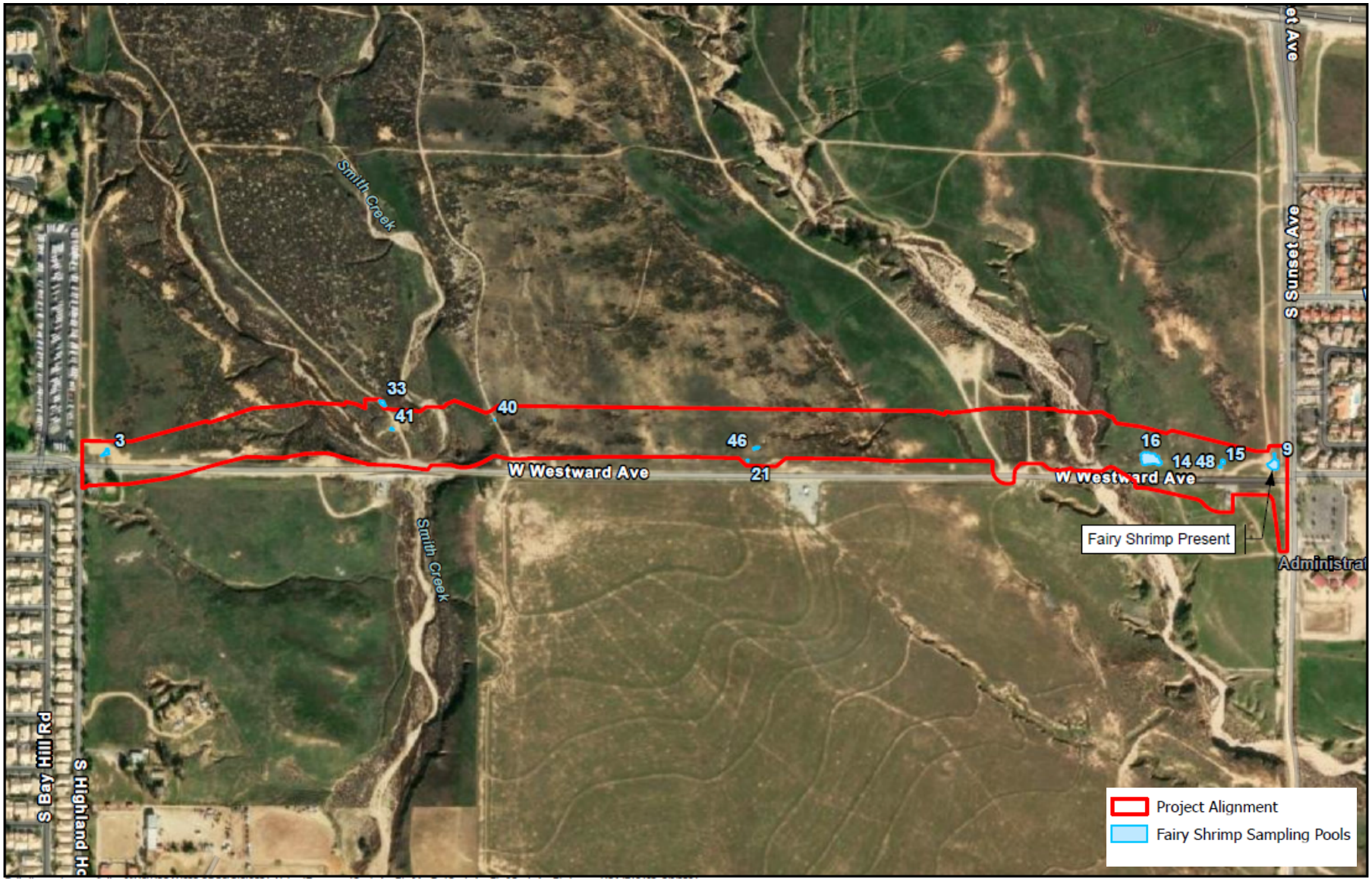
Source: WSP Rare Plant Report

1 inch =600 feet
0 300 600 Feet

Figure 12 - MSHCP Narrow Endemic Plants Survey Area

Sun Lakes Boulevard Extension Project

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Source: WSP Fairy Shrimp Report

1 inch =600 feet
0 300 600
Feet

Figure 13 - Fairy Shrimp Habitat

Sun Lakes Boulevard Extension Project

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ENVIRONMENTAL FACTORS:	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
V. CULTURAL RESOURCES Would the project:				
a. Cause a substantial adverse change in the significance of a historical resource pursuant to §15064.5?	☐	☐	☒	☐
b. Cause a substantial adverse change in the significance of an archeological resource pursuant to §15064.5?	☐	☒	☐	☐
c. Disturb any human remains, including those interred outside of dedicated cemeteries?	☐	☐	☐	☒

Cultural Resource Discussion:

The analysis in this section is based on the findings in the *Phase I Cultural Resource Assessment for the Sun Lakes Boulevard Realignment Project in the City of Banning, Riverside County, California*, which was prepared by Applied EarthWorks Inc. (AE) and is included as Appendix C of this Initial Study (hereinafter referred to as "Phase I CRA"). As part of the Phase I CRA, AE conducted archaeological literature and records searches on September 16, 2019 at the Eastern Information Center (EIC) of the California Historical Resources Information System (CHRIS), located at the University of California, Riverside. The EIC is the official cultural resource records repository for Riverside County. AE reviewed maps and records on file at the EIC for previously identified cultural resources and existing cultural resources reports pertaining to the vicinity within a one mile radius around the Project Site (the Study Area). AE archaeologists conducted an intensive pedestrian survey of the area of potential effect (APE) to observe and note the condition of the Project Site on September 4, 2020, March 31, 2022, and April 3, 2024. The APE for the Project is limited to the Project footprint in which direct effects may occur, as shown on *Figure 1-2, Project location on USGS Beaumont 7.5-minute topographic quadrangle* on page 3 of the Phase I CRA (located in Appendix C). The survey was completed with 15-meter east-west parallel pedestrian transects moving northward through the APE. (AE(a), pp. 28, 30, 31.)

The EIC records indicated 16 previous investigations have been conducted and documented in the Project Study Area. Four of these studies specifically involved portions of the APE, as such, 100 percent of the APE has been previously studied. Additionally, one of the previous investigations conducted a sensitivity assessment for archaeological resources and concluded the Project Site is within an area of low archaeological sensitivity. (AE(a), p. 22.)

The previous cultural resources investigations conducted within the Study Area identified a total of 44 cultural resources have been identified; eight archaeological resources that all date to the historic period and 36 built-environment resources. The eight archaeological resources that date to the historic period include: one isolated concrete chute remnant, three water-conveyance systems, two refuse scatters, foundations, and a segment of the old Banning Trade Route/6th Street. The 36 built environment resources consist of historical houses, commercial buildings, and a segment of the Union Pacific Railroad. (AE(a), p. 23.) Two historic period resources, Sites 33-013779 (CA-RIV-7544) and 33-013778 are located within the Project's APE. (AE(a), p. 23.)

a) Cause a substantial adverse change in the significance of a historical resource pursuant to §15064.5?

Less than significant impact. The determination of National Register of Historic Property (NRHP) eligibility for cultural resources is made if a historic property meets one or more of the four NRHP criteria of historical significant; possess integrity of location, design, setting, materials, workmanship, feeling, association (36 CFR 60.4); and, in general, it must be at least 50 years old and:

A. that are associated with events that have made a significant contribution to the broad patterns of our history;

B. that are associated with the lives of persons significant in our past;

C. that embody the distinctive characteristics of a type, period, method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack distinction; or

D. that have yielded, or may be likely to yield, information important to prehistory or history.

If a cultural resource is at least 50 years old, meets one or more of these specific criteria of historical significance, and is considered a good representative of a significant historical theme or pattern, the historic property is eligible for nomination to the NRHP. (AE(a), p. 5.)

For purposes of CEQA, lead agencies determine whether a project will have a significant impact on historical resources. Historical resources in CEQA terminology are analogous to historic properties in NHPA terminology. That is, a cultural resource shall be considered "historically significant" if it meets the requirements for listing on the California Register of Historical Resources (CRHR) under any one of the following criteria (Title 14, California Code of Regulations [CCR], § 15064.5):

1. Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;
2. Is associated with the lives of persons important in our past;
3. Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or,
4. Has yielded, or may be likely to yield, information important in prehistory or history.

One historic-period archeological resource, Site 33-013779 (CA-RIV-7544) and one built environment resource, 33-013778, are within the Project's APE. Site 33-013779 (CA-RIV-7544) is a large historic water-control complex consisting of 39 features, some of which are mapped within the Project's APE. Site 33-013779 (CA-RIV-7544) was formally evaluated in a prior cultural resource investigation and recommended as ineligible for listing on the NRHP and CRHR (AE(a), p. 25). Built environment resource Site 33-013778 was a large farm/ranch complex, which included five foundations, two Craftsman structures and a barn in 2004. As documented in a prior cultural resource investigation, the five foundations are located on the western-most portion of Site 33-013778, which according to the records search, is within the Project's APE. The remaining

resources, including the Craftsman structures and the barn, are located outside of the Project's APE and have been replaced by the Mt. San Jacinto College campus at the southeast corner of Sun Lakes Boulevard. and Sunset Avenue. The portion of Site 33-013778 within the Project's APE site has been evaluated formally for listing on the CRHR and NRHP and recommended ineligible for nomination to the NRHP and CRHR in a prior cultural resource investigation. AE's field archaeologist reidentified Site 33-013778 and Site 33-013779 (CA-RIV-7544) during the 2024 survey. No other cultural resources were identified during the survey (AE(a), p. 31.)

In addition to the EIC research, AE also reviewed historical maps. Specifically, AE consulted the 1901 San Jacinto 30-minute United States Geological Survey (USGS) topographic quadrangle map, the 1943 and 1956 Banning 15-minute USGS topographic quadrangle maps, and the 1953 Beaumont 7.5-minute USGS topographic quadrangle map to assess historical land uses within the Study Area. The 1953 Beaumont 7.5-minute USGS topographic quadrangle map exhibits two houses and outbuildings outside and to the south of the APE on the corner of Sunset Avenue and Westward Avenue/Sun Lakes Boulevard. The same structures are also on the 1956 Banning 15-minute USGS topographic quadrangle map. No structures, roads, or other features of historical interest are shown within, or in the vicinity of, the APE on any of the reviewed historical maps. (AE(a), p. 25.)

The Phase 1 CRA noted that ground surface throughout portions of the APE has been disturbed by road grading, gas pipelines, and historic ranch activity. Most of the APE is overgrown with weeds and annual vegetation resulting in poor ground visibility (0–25 percent). The existing unpaved segment of Westward Avenue, and multiple buried pipelines within the APE as well as land use for ranching are all indicative of significant previous ground disturbance. Although the maximum depth of previous subsurface disturbance is unknown, the lack of known prehistoric resources within 1 mile of the APE has led other investigators to assign a low archaeological sensitivity to the APE (AE(a), p. 8).

Because the two historical archaeological sites documented within the Project's APE (i.e., 33-013779 (CA-RIV-7544) and 33-013788) were previously evaluated and recommended as ineligible for listing on the NRHP and CRHR, it is concluded that intact and significant unknown historic properties (NRHP-eligible) or historical resources (CRHR-eligible) are unlikely to be present. Additionally, since the Project site has been previously disturbed by road grading, gas pipelines and/or historic ranch activity there is a low likelihood that intact significant historical resources are buried. (AE(a), p. 32.) Thus, implementation of the proposed Project will not cause any adverse change in the significance of a historical resource pursuant to §15064.5. Therefore, impacts would be less than significant and no mitigation is required.

Sources: AE(a); GP

b) Cause a substantial adverse change in the significance of an archeological resource pursuant to §15064.5?

Less than significant with mitigation incorporated. The historic-period archaeological Site 33-013779 (CA-RIV-7544) and Site 33-013788 are discussed above in Response Va.

Geologic data indicate a mixture of alluvial soils within the APE with some potential for buried archaeological deposits. However, all other archaeological sensitivity indicators reflect low potential for buried archaeological resources. Past disturbances from buried pipelines, road grading, and ranching/farming have disturbed the APE. The records search conducted as part of the Phase I CRA did not identify any documented prehistoric resources within a one-mile radius of the Project's APE. Additionally, one of the previous cultural resources investigations (i.e., Tang et al. 2004) that involved the Project's APE conducted a sensitivity assessment for archaeological resources and concluded the Project's APE is within an area of low archaeological sensitivity (AE(a), p. 23). Although the potential to encounter intact and significant buried archaeological deposits is unlikely, the Project shall implement mitigation measure **MM CR-1** to reduce impacts to unknown archaeological resources to a less than significant level. Therefore, impacts would be less than significant with mitigation incorporated.

> ***MM CR-1: Monitoring and Inadvertent Discovery****. Prior to the start of construction, the City shall enlist a qualified archaeologist to monitor all ground disturbing activities. The City shall also work with the Morongo Band of Mission Indians to develop an agreement for a Tribal Monitor prior to the start of construction. In the event archaeological resources are discovered during Project construction that are not part of Site 33-013779 (CA-RIV-7544) and Site 33-013788, all ground disturbance activities within 100 feet of the discovered archaeological resource shall be halted until a qualified archaeologist (meeting the Secretary of the Interior Standards) can visit the site of discovery, assess the significance and integrity of the find, and determine the appropriate treatment (documentation, recovery, avoidance, etc.) and disposition of the cultural resource. Further ground disturbance shall not resume within the area of discovery until the appropriate treatment has been accomplished. Work on the other portions of the Project outside of the buffered area may continue. Any such discoveries and subsequent evaluation and treatment shall be documented and submitted to the EIC for archival purposes.*

Source: AE(a)

c) Disturb any human remains, including those interred outside of dedicated cemeteries?

Less than significant impact. The proposed Project Site is not located in any known cemetery and human remains are not expected to be disturbed during Project construction. However, if human remains are encountered during Project construction, the steps and procedures specified in the California Health and Safety Code § 7050.5, State CEQA Guidelines § 15064.5(d), and California Public Resource Code § 5097.98, in accordance with PRC § 5097.98, must be implemented. In accordance with PRC § 5097.98, the Riverside County Coroner must be notified within 24 hours of the discovery of potentially human remains. The Coroner must then determine within two working days of being notified if the remains are subject to his or her authority. If the Coroner recognizes the remains to be Native American, he or she must contact the California Native American Heritage Commission (NAHC) by phone within 24 hours, in accordance with PRC § 5097.98. The NAHC then designates a Most Likely Descendant (MLD) with respect to the human remains within 48 hours of notification. The MLD will then have the opportunity to recommend to the Project proponent, in this instance the City Public Works Department, means for treating or disposing of, with appropriate dignity, the human remains and associated grave goods within 24 hours of notification. Therefore, through regulatory compliance impacts will be less than significant.

Sources: HSC 7050.5; PRC 5097.98

ENVIRONMENTAL FACTORS:	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
VI. ENERGY Would the project:				
a. Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	☐	☐	☒	☐
b. Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	☐	☐	☐	☒

Energy Discussion:

a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?

Less than significant impact. The proposed Project, which is the construction and operation of Sun Lakes Boulevard, is an infrastructure project. As an infrastructure project, the majority of impacts will be short-term with only infrequent, routine maintenance occurring post-construction. As described in the AQ/GHG Analysis prepared (WEBB(a)) and included as **Appendix A** of this Initial Study, the Project's short-term construction would last approximately 24 months. Project construction would require the use of construction equipment for grading, paving, as well as construction workers and vendors traveling to and from the Project Site. Construction equipment requires diesel as the fuel source and construction worker and vendor trips use both gasoline and diesel fuel. Project-related fuel consumption was estimated in Energy Tables (WEBB(c)), which are included as **Appendix D** to this Initial Study. Construction of the Project is estimated to use approximately 251,270 gallons of diesel fuel and 8,985 gallons of gasoline.

Fuel energy consumed during construction would be temporary in nature and would not represent a significant demand on energy resources. Construction equipment is also required to comply with regulations limiting idling to five minutes or less (13 CCR § 2449(d)(3)). Furthermore, there are no unusual Project Site characteristics that would necessitate the use of construction equipment that would be less energy-efficient than at comparable construction sites in other parts of the state. For comparison, the State of California consumed 13.6 billion gallons of gasoline and 3.0 billion gallons of diesel fuel in 2023, which is the most recent published data. (CAL-A.) Thus, the fuel usage during Project construction would account for a negligible percent of the existing gasoline and diesel fuel related energy consumption in the State of California. Furthermore, it is expected that construction-related fuel consumption associated with the Project would not be any more inefficient, wasteful, or unnecessary than at other construction sites in the region.

Energy used during operation of the Project would primarily result from electricity usage from the proposed street lighting and from infrequent maintenance vehicles. The proposed street light electricity consumption was estimated in CalEEMod using the default electricity rate for parking lot lighting of 0.35 Kilowatt-hours/square feet per year. Based on the street light electricity use from CalEEMod, the estimated electricity consumption is 154 kilowatt-hours (kWh) per year. This represents a negligible demand on City of Banning

Electric Utility energy resources and would not operate in a manner that is wasteful or inefficient. Based on the latest data available from the California Energy Commission (CEC), City of Banning produced approximately 151.55 million kWh in 2022.

For these reasons, the Project would not result in a potentially significant impact due to wasteful, inefficient, or unnecessary consumption of energy during Project construction or operation. Impacts will be less than significant.

Sources: WEBB(a);WEBB(c); CAL-A; CEC; Project Description

b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

No impact. As discussed above in Response VIa, the Project is an infrastructure improvement project and as such, the Project would not conflict with or obstruct implementation of a state or local plan for renewable energy or energy efficiency. No impact will occur.

Source: Project Description

ENVIRONMENTAL FACTORS:	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
VII. GEOLOGY AND SOILS Would the project:				
a. Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	☐	☐	☒	☐
ii. Strong seismic ground shaking?	☐	☐	☒	☐
iii. Seismic-related ground failure, including liquefaction?	☐	☐	☒	☐
iv. Landslides?	☐	☐	☒	☐
b. Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐
c. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☒	☐
d. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?	☐	☐	☒	☐
e. Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	☐	☐	☐	☒
f. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☒	☐	☐

Geology and Soils Discussion:

a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:

The analysis in this section is based on findings and recommendations from the *Geotechnical Pavement Investigation, Sun Lakes Boulevard Realignment, South Highland Home Road to Sunset Avenue, Banning California* which was prepared by Geocon West, Inc. and is included as **Appendix E.1** of this Initial Study (hereinafter referred to as "Geotechnical Investigation"). The Geotechnical Investigation includes the results of: subsurface investigation with borings to depths of 6.5 and 26.5 feet below existing ground surface in areas of the planned improvements and laboratory tests; scour evaluation; seismic evaluation; and recommendations for new pavements, earthwork, utility trench backfill, foundation recommendations for RCB culverts, and additional field work and laboratory testing. (Geocon, pp. 3, 5–21.)

i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.

Less than significant impact. The Project Site is located approximately 1.2 miles southwest of the nearest Alquist-Priolo Earthquake Fault, known as the San Gorgonio Pass Fault, according to the California Department of Conservation. The Project Site is also approximately 1 mile northeast of a Riverside County Fault Zone. Because the Project Site is not located within or adjacent to a State of California Earthquake Fault Zone or a Riverside County Fault Hazard Zone, and it is not located on any known active earthquake fault trace, the potential for ground rupture due to active faulting on the Project Site is considered to be low. (Geocon, p. 6.)

Additionally, due to the nature of the proposed Project it does not pose a substantial risk of loss, injury, or death because the Project does not propose any habitable structures and will be designed and constructed in accordance with Caltrans, City standard specifications, and the recommendations of the Geotechnical Investigation, potential substantial adverse impacts resulting from the rupture of a known earthquake fault are considered less than significant.

Sources: GP; GP DEIR; Geocon; DOC

ii) Strong seismic ground shaking?

Less than significant impact. Given its physical and geologic location, the Banning area, like most regions in Southern California, is susceptible to potential intense seismic ground shaking that could affect the safety and welfare of the general community. (GP DEIR, p. III-74.) Because the Project is not located within a fault zone, a fault rupture hazard analysis is not required. A seismic evaluation was conducted as part of the Project's Geotechnical Investigation using Caltrans' *Acceleration Response Spectrum (ARS) Online* web tool (V3.1.0). The results of the *ARS Online* provide recommended design response spectrum for use in the Project's seismic design recommendations. Because the Project will be designed and constructed in accordance with applicable Caltrans and City standards and incorporate the recommendations of the Geotechnical Investigation, potential substantial adverse impacts resulting from strong seismic ground-shaking will be less than significant.

Source: GP DEIR; Geocon

iii) Seismic-related ground failure, including liquefaction?

Less than significant impact. Liquefaction occurs when shallow, fine to medium-grained sediments saturated with water are subjected to strong seismic ground shaking. It generally occurs when the underlying water table is 50 feet or less below the surface. According to the City's GP, the Project Site is located in an area with low liquefaction susceptibility (GP, Exhibit V-4; GP DEIR, Exhibit III-14.).

The subsurface investigation conducted as part of the Project's Geotechnical Investigation did not encounter groundwater during the investigation. Historical well data immediately in the vicinity of the Project Site indicated that the shallowest groundwater levels were measured at depth ranging from 243

and 271 feet below ground surface. (Geocon, p. 4.) Moreover, the nature of the Project will not expose people to substantial risk from seismic-related ground failure including liquefaction, since there are no habitable structures proposed. Further, the Project will incorporate and implement the recommendations from the Project's Geotechnical Investigation in addition to standard engineering and construction protocols from Caltrans and the City to address ground failure/liquefaction. Therefore, Project impacts will be less than significant.

Sources: Geocon; GP; GP DEIR

iv) Landslides?

No impact. The proposed Project Site is not located adjacent to any areas with low, moderate, or high risk of seismically induced settlement and slope instability and no known landslides have occurred in the Project vicinity. (GP, Exhibit V-2; GP DEIR, Exhibit III-15.) No topographical features that could potentially create landslides are located within the immediate vicinity of the Project Site. Therefore, no impact will occur.

Sources: GP; GP DEIR; Geocon

b) Result in substantial soil erosion or the loss of topsoil?

Less than significant impact. Construction of the proposed Project will entail grading, excavation, and construction in unpaved areas, may lead to localized erosion as wind and water carry loose soil offsite. Compliance with current regulations and implementation of a State-required Storm Water Pollution Prevention Plan (SWPPP) that incorporates effective erosion and sediment control measures would reduce these impacts to less than significant.

Source: Project Description

c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?

Less than significant impact. Impacts related to landslides are addressed in Response VIa.iv, above; impacts related to liquefaction are addressed in Response VIa.iii, above; both were found to have less than significant impacts. The following analysis addresses impacts related to unstable soils, as a result of lateral spreading, subsidence, or collapse.

Lateral spreading refers to the lateral movement of gently to steeply sloping saturated soil deposits caused by earthquake-induced liquefaction. As discussed in Response VIa.iii, above, the Project Site is located in an area of low liquefaction susceptibility; thus, during an earthquake lateral spreading could occur. Subsidence in the Banning area is closely associated with groundwater levels and the most populated part of the City occurs in an area with geologic conditions vulnerable to ground subsidence. In particular, the alluvial sediments within the groundwater basins from which the City's water is withdrawn are subject to subsidence if rapid groundwater extraction occurs in response to increased water demands as a result of population growth or prolonged drought. (GP DEIR, p. III-69.) Structures sensitive to slight changes in elevation, such as

canals, sewers and drainage improvements are generally sensitive to the effects of subsidence and may be damaged if subsidence occurs. As discussed in Response VIa.iii, the shallowest groundwater in the Project area is 243 to 271 feet below ground surface. (Geocon, p. 4.)

A substantial portion of the City's valley and canyon areas are underlain by potentially compressible and/or collapsible soils consisting of young sediments with low density that will settle under the added weight of fill embankments or buildings. (GP DEIR, p. III-81.) The Project will be designed and constructed in accordance with applicable City standards and incorporate the recommendations of the Geotechnical Investigation, and will incorporate engineering and construction protocols to address, among other things, lateral spreading and collapse, Therefore, Project impacts will be less than significant.

Sources: Geocon; GP DEIR

d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?

Less than significant impact. Expansive soils are those that contain significant amount of clay particles that have a high shrink (dry) and swell (wet) potential. The upward pressures induced by the swelling of expansive soils under moist conditions can have harmful effects upon structures. In the City, expansive soils are primarily associated with areas underlain by older fan deposits containing argillic (clay-rich) soil profiles, which are in the moderately expansive range. Since the low-lying areas of the City are underlain by alluvial fan sediments that are composed primarily of granular soils, the expansion potential ranges from very low to moderately low. (GP DEIR, p. III-69.)

The Geotechnical Investigation found that the geologic material within the Project area consists of undocumented fill (afu), Holocene-age alluvium (Qa), and Pleistocene-age alluvial fan of the San Gorgonio Pass (Qf) deposits. (Geocon, p. 4.) These are granular soils and, as indicated in the GP DEIR, the potential for expansion ranges from very low to moderately low. Since the Project will be designed and constructed in accordance with applicable Caltrans and City standards and incorporate the recommendations of the Geotechnical Investigation, potential substantial direct or indirect risks from expansive soil will be less than significant.

Sources: Geocon; GP DEIR

e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?

No impact. The Project does not include wastewater or tying into existing infrastructure for disposal of wastewater and no septic tanks or alternative wastewater disposal systems will be required. Therefore, no impact will occur.

Source: Project Description

f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

The analysis in this section is based on findings and recommendations from the *Paleontological Memorandum: Constraints Analysis for Sun Lakes Boulevard Realignment, Riverside County, California,* (hereinafter referred to as "Paleontological Memorandum") prepared by AE, which is included as Appendix E.2 of this Initial Study. The Paleontological Memorandum was prepared by AE paleontology staff who meet the Society of Vertebrate Paleontology qualification standards following guidelines developed by the County of Riverside to determine the likelihood of the presence of paleontological resources at the Project Site.

The County has developed its own guidelines that establish detailed protocols for the assessment of the paleontological sensitivity of a project area and outline measures to follow in order to mitigate adverse impacts to known or unknown fossil resources during project development (i.e., Riverside County General Plan, Multipurpose Open Space Element, Policies OS 19.6 – 19.9). The County assigns the paleontological sensitivity of a geologic unit(s) (or members thereof) to one of four categories—Low, Undetermined, High A (Ha), and High B (Hb) potential. Geologic units are "sensitive" for paleontological resources and have a High paleontological resource potential if they are known to contain significant fossils anywhere in their extent, even if outside the Project Site. High A (Ha) sensitivity is based on the occurrence of fossils that may be present at the ground surface of the Project Site, while High B (Hb) sensitivity is based on the occurrence of fossils at or below 4 feet of depth, which may be impacted during construction activities. (AE(b), pp. 1-3.)

Less than significant with mitigation incorporated. Geology at the Project Site is characterized by Holocene-age alluvial deposits across the ground surface. Holocene-age deposits, particularly those less than 5,000 years old, are typically too young for the fossilization process to occur. Therefore, the Holocene-age alluvial deposits across the ground surface of the Project Site are unlikely to preserve fossils. However, these deposits are underlain by older Holocene- and Pleistocene-age alluvial deposits, which have yielded significant fossils throughout Southern California from the coastal areas to the inland valleys. (AE(b), pp. 3-4.)

AE conducted a record search of paleontological resources at the Project Site. No specimens or localities are listed on the Project Site; however numerous localities are within 10 miles of the Project Site which include subsurface geologic units likely found in the Project Site at unknown depths. There is a high likelihood of fossil preservation underlying the Project Site. This finding supports the Project Site's mapping as High A (Ha), as the surficial Holocene-age alluvial deposits overlie very shallow Pleistocene deposits with recorded vertebrate fossils throughout Southern California. (AE(b), pp. 4-5.) Since the proposed Project will entail excavations to depths greater than three feet, and especially at the dry gully crossings, there is a high likelihood of encountering paleontological resources in previously undisturbed sediments of Middle to Late Pleistocene ages. Therefore, in order to reduce potential direct or indirect impacts to unique paleontological resources or sites or unique geologic features, mitigation measure **MM GEO-1,** which requires construction crews to receive Paleontological Worker Environmental Awareness Program (WEAP) training, mitigation measure **MM GEO-2**, which requires preparation of a paleontological resource impact mitigation program (PRIMP), and mitigation measure **MM GEO-3**, which sets forth the process to follow in the event of a fossil discovery, shall be implemented. Therefore, the Project will have less than significant impacts with mitigation incorporated.

MM GEO-1: Paleontological Worker Environmental Awareness Program (WEAP). *To educate construction crews about the types of paleontological resources that may be encountered along*

the Sun Lakes Boulevard Extension Project, prior to the start of the construction, the City of Banning shall retain a professional paleontologist (the "Project Paleontologist") to prepare a Paleontological Worker Environmental Awareness Program (WEAP). The Paleontological WEAP shall provide a description of the laws and ordinances protecting fossil resources, the types of fossil resources that may be encountered in the area, the role of the paleontological monitor, outline steps to follow in the event that a fossil discovery is made and provide contact information for the Project Paleontologist. The Project Paleontologist or designee(s) shall present the Paleontological WEAP to the construction contractor and each of the construction crews working on the Sun Lakes Boulevard Extension Project during a preconstruction meeting. The Paleontological WEAP shall be taped and presented to any construction crew members not present at the preconstruction meeting during which it was initially presented prior to such crew members working on the Sun Lakes Boulevard Extension Project. This training may be conducted concurrent with other preconstruction training (e.g., biological resources, safety).

MM GEO-2: Paleontological Resource Impact Mitigation Program (PRIMP). *Prior to the commencement of ground-disturbing activities, the Project Paleontologist (retained under **MM GEO-1**) shall prepare and implement a Paleontological Resource Impact Mitigation Program (PRIMP) for the Project. The PRIMP shall describe the monitoring required during excavations that extend into locations of areas deemed to have a high paleontological resource potential, which include older Holocene-age and Pleistocene-age alluvial deposits. Monitoring shall entail the visual inspection of excavated or graded areas and trench sidewalls. If the Project Paleontologist determines full-time monitoring is no longer warranted, based on the geologic conditions at depth, the Project Paleontologist may recommend monitoring be reduced or ceased entirely.*

MM GEO-3: Fossil Discoveries. *In the event that a paleontological resource is discovered, the Project Paleontologist shall have the authority to temporarily divert the construction equipment around the find until it is assessed for scientific significance and, if appropriate, collected. If the resource is determined to be of scientific significance, the Project Paleontologist shall complete the following:*

1. *Salvage of Fossils. If fossils are discovered, all work in the immediate vicinity should be halted to allow the paleontological monitor, and/or Project Paleontologist to evaluate the discovery and determine if the fossil may be considered significant. If the fossils are determined to be potentially significant, the Project Paleontologist (or paleontological monitor) should recover them following standard field procedures for collecting paleontological as outlined in the PRIMP prepared per **MM GEO-2**. Typically, fossils can be safely salvaged quickly by a single paleontologist and not disrupt construction activity. In some cases, larger fossils (such as complete skeletons or large mammal fossils) require more extensive excavation and longer salvage periods. In this case the Project Paleontologist shall have the authority to temporarily direct, divert or halt construction activity to ensure that the fossil(s) can be removed in a safe and timely manner.*

2. *Fossil Preparation and Curation. The PRIMP (**MM GEO-2**) shall identify the museum that has agreed to accept fossils that may be discovered during project-related excavations. Upon completion of fieldwork, all significant fossils collected shall be prepared in a properly equipped laboratory to a point ready for curation. Preparation may include the removal of excess matrix from fossil materials and stabilizing or repairing specimens. During preparation and inventory, the fossil specimens will be identified to the lowest taxonomic level practical prior to curation at an accredited museum. The fossil specimens must be delivered to the accredited museum or repository no later than 90 days after all fieldwork is completed. The cost of curation will be assessed by the repository and will be the responsibility of the City of Banning.*

3. *Final Paleontological Mitigation Report. Upon completion of ground disturbing activities (and curation of fossils if necessary) for the Sun Lakes Extension Project, the Project Paleontologist shall prepare a final report documenting the WEAP (**MM GEO-1**) and outlining the results of the PRIMP (**MM GEO-2**). The report shall include discussion of the location, duration, and methods of monitoring, stratigraphic sections, any recovered fossils, and the scientific significance of those fossils, and where fossils were curated.*

Source: AE(b)

ENVIRONMENTAL FACTORS:	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
VIII. GREENHOUSE GAS EMISSIONS Would the project:				
a. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☒	☐
b. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☒	☐

Greenhouse Gas Emissions Discussion:

The focus of the Greenhouse Gas (GHG) analysis is to evaluate the impacts of GHG. GHG like carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O), and fluorinated gases are responsible for trapping heat in the Earth's atmosphere, leading to global warming and climate change. For analysis purposes, emissions of CO_2, CH_4, and N_2O were evaluated because these gases are the primary contributors to GHG from development.

GHGs are not presented in lbs/day like criteria pollutants; they are typically evaluated on an annual basis using the metric system. Additionally, unlike the criteria pollutants, GHG do not have adopted significance thresholds associated with them at this time. Several agencies, at various levels, have proposed draft GHG significance thresholds for use in CEQA documents. SCAQMD has been working on GHG thresholds for development projects. The most recent draft proposal was in September 2010 and included significance thresholds for residential, commercial, and mixed-use projects at 3,500, 1,400, and 3,000 metric tonnes per year of carbon dioxide equivalents ($MTCO_2E/yr$), respectively. Alternatively, a lead agency has the option to use 3,000 $MTCO_2E/yr$ as a threshold for all non-industrial projects. Although both options are recommended by SCAQMD, a lead agency is advised to use only one option and to use it consistently. In December 2008, the SCAQMD adopted a threshold of 10,000 $MTCO_2E/yr$ for stationary source projects where SCAQMD is the lead agency. The SCAQMD significance thresholds evaluate construction emissions by amortizing them over an expected project life of 30 years. The analysis herein uses the threshold of 3,000 $MTCO_2E/yr$.

a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?

Less than significant impact. The AQ/GHG Analysis prepared for the Project (WEBB(a)) estimated GHG emissions from fuel usage by construction equipment and construction-related activities, such as construction worker trips, for the Project. The CalEEMod estimate does not analyze emissions from construction-related electricity or natural gas. Construction-related electricity and natural gas emissions vary based on the amount of electric power used during construction and other unknown factors which make them too speculative to quantify. The results of the GHG analysis for construction equipment are shown in **Table G – Project Construction Equipment GHG Emissions**.

Table G – Project Construction Equipment GHG Emissions

Year	Metric Tons per year (MT/yr)			
	Total CO_2	Total CH_4	Total N_2O	Total CO_2E
2023	1,129.57	0.29	0.03	1,146.84
2024	1,238.34	0.32	0.04	1,257.15
2023	108.18	0.03	0.00	109.81
Total	2,476.09	0.64	0.07	2,513.80
			Amortized[1]	**83.79**

Source: WEBB(a), Table 4 - Project Construction Equipment GHG Emissions

Note: [1] Construction emissions were amortized over a 30-year period, as recommended by SCAQMD.

Table G indicates that an estimated 2,513.80 $MTCO_2E$ will occur from Project construction equipment over the course of the estimated 24-month construction period. The draft SCAQMD GHG threshold guidance document released in October 2008 recommends that construction emissions be amortized for a project lifetime of 30 years to ensure that GHG reduction measures address construction GHG emissions as part of the operational reduction strategies. Therefore, the total GHG emissions from Project construction were amortized and are included in **Table G**.

CalEEMod estimates the operational GHG emissions associated with building electricity and natural gas usage for each land use type. Electricity and natural gas used in buildings is typically generated at an off-site power plant which indirectly generates GHG emissions. As a roadway infrastructure project, the Project's energy use results in indirect GHG emissions from the proposed street lighting and those GHG emissions were estimated in CalEEMod using the default electricity rate for parking lot lighting. Utility-specific carbon intensity information from the City of Banning Electric Utility was used. As shown on **Table H – Total Project-Related GHG Emissions**, using the emissions quantified above, the total GHG emissions generated from the Project is approximately 105.66 $MTCO_2E/yr$, which includes construction-related emissions amortized over a typical project life of 30 years.

Table H – Total Project-Related GHG Emissions

Source	Metric Tons per year (MT/yr)			
	CO_2	CH_4	N_2O	Total CO_2E
Amortized Construction (30 years)	--	--	--	83.79
Operational Energy (lighting)	21.73	0.00	0.00	21.87
Total GHG Emissions	**21.73**	**0.00**	**0.00**	**105.66**

Source: WEBB(a), Table 5 – Total Project-Related GHG Emissions

Note: Emissions reported as zero are rounded and not necessarily equal to zero.

The total GHG emissions from the Project do not exceed the SCAQMD threshold of level of 3,000 $MTCO_2E/yr$ for non-industrial projects. Due to the estimated amount of emissions from Project construction and the proposed street light electricity usage as well as the negligible operational emissions from infrequent maintenance vehicles, the proposed Project will not generate GHG emissions that exceed the screening threshold.

Therefore, the Project will not generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment, and therefore the Project impacts will be less than significant.

Sources: WEBB(a); Project Description

b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

Less than significant impact. As the proposed Project involves the construction of roadway and drainage improvements, it is not considered a significant source of operational GHG emissions. The roadway improvements are consistent with the City's Circulation Element in the General Plan. There are no applicable plans, policies, or regulations for smaller infrastructure improvements such as the proposed Project. The Project will not result in any changes to the existing land use patterns within the Project area and its construction and operation does not generate significant amounts of GHG; therefore, the Project will not conflict with any applicable plan, policy, or regulation for the reduction in GHG emissions. Impacts will be less than significant.

Source: WEBB(a)

ENVIRONMENTAL FACTORS:	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
IX. HAZARDS AND HAZARDOUS MATERIALS Would the project:				
a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☒	☐
b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☒	☐
c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☒	☐
d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☒	☐
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?	☐	☐	☒	☐
f. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☒	☐
g. Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	☐	☐	☐	☒

Hazards and Hazardous Materials Discussion:

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

Less than significant impact. Project construction will include the transport of fuels, lubricants, and various other liquids for operation of construction equipment. These materials will be transported to the Project Site by equipment service trucks. In addition, workers will commute to the Project via private vehicles and will operate construction vehicles and equipment on the Project Site and public streets. A number of federal and state agencies prescribe strict regulations for the safe transportation of hazardous materials. Hazardous material transport, storage and response to upsets or accidents are primarily subject to federal regulation by the U.S. Department of Transportation, Office of Hazardous Materials Safety in accordance with Title 49 of the Code of Federal Regulations (CFR). California regulations applicable to hazardous material transport, storage, and response to upsets or accidents are codified in Title 13 (Motor Vehicles), Title 8 (Cal/OSHA), Title 22 (Management of Hazardous Waste), Title 26 (Toxics) of the California Code of Regulations (CCR), and the Chapter 6.95 of the Health and Safety Code (Hazardous Materials Release Response Plans and Inventory).

These hazardous materials regulations were established at the state level to ensure compliance with federal regulations intended to reduce the risk to human health and the environment from the routine use of hazardous substances. Compliance with the measures is intended to significantly reduce a project's risk to the environment. To ensure that workers and others at the Project Site and surrounding area are not exposed to unacceptable levels of risk associated with the use and handling of hazardous materials, the City is required to implement existing hazardous materials regulations, with compliance monitored by state (e.g., OSHA in the workplace or DTSC for hazardous waste) and local jurisdictions. Compliance with existing safety standards related to the handling, use, and storage of hazardous materials, and compliance with the safety procedures mandated by applicable federal, state, and local laws and regulations (as noted above) would be required for the proposed Project. Compliance with all applicable laws and regulations regarding the transportation, use, storage, and response to upsets or accidents that may involve hazardous materials would reduce the likelihood and severity of upsets and accidents during transit and storage. Therefore, potential impacts in this regard would be less than significant. No mitigation is required.

Sources: Project Description; CCR 8; CCR 13; CCR 22; CCR 26; CFR; CHSC 6.95, BMC

b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

Less than significant impact. As discussed in Response IXa above, there is a potential for hazardous materials and chemicals to be stored at the site for short periods of time prior to transport and distribution which could cause a release. However, the storage and transport of these products would be regulated by Federal, State, and local policies regarding storage and transportation of hazardous waste. Post construction, only infrequent and routine maintenance activities would occur, which would also be regulated by Federal, State, and local policies. Nonetheless, the Department of Toxic Substances Control EnviroStor Database identified a hazards material cleanup site, Community Day School No. 1 site (ID: 33010034), located approximately three-quarter of a mile to the north of the Project Site. As of February 14, 2002, DTSC determined that there is no further action. (DTSC-A.) Therefore, impacts would be less than significant, and no mitigation is required.

Sources: Project Description; DTSC-A

c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

Less than significant impact. Across the southeast corner of the proposed Project Site is home to the San Gorgonio Pass Campus, which is one of the four Mt. San Jacinto College campuses. (MSJC). As previously discussed in Response IXa, during Project construction hazardous materials and substances would be introduced to the Project Site. Hazardous materials and substances that could be found on the Project Site would consist of; fuels, lubricants, and other liquids required for operation of construction equipment. Nonetheless, these materials would be limited to the Project Site. Therefore, students of the San Gorgonio Pass Campus would not be exposed hazardous materials found at the Project Site during construction. Additionally, Project construction would comply with state and federal regulations governing the use and transport of hazardous materials. Therefore, the proposed Project will not expose nearby schools to hazardous materials, substances, or waste, and impacts would be less than significant.

Source: MSJC

d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

No impact. The Project Site, and adjacent areas are not listed on the Department of Toxic Substance Control's Cortese List, compiled pursuant to Government Code Section 65962.5. (DTSC-B.) Thus, because the proposed Project Site and it's adjacent areas are not on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5, the Project will not create a significant hazard to the public or the environment. Therefore, no impacts will occur.

Source: DTSC-B

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?

Less than significant impact. The Banning Municipal Airport is located approximately four miles to the east of the Project Site. Land use designations within the City have been arranged to accommodate for continued safe operation of the Banning Municipal Airport. (GP DEIR, p. III-62.) The Project Site is not within the Banning Municipal Airport Land Use Compatibility Plan (ALUC). Additionally, the proposed project is a roadway and does not propose housing or job centers. Thus, the proposed Project will not result in a safety hazard for people working or residing in the Project area. Therefore, impacts will be less than significant.

Sources: ALUC; GP DEIR

f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

Less than significant impact. The City adopted the Multi-Hazard Functional Planning Guidance document in 1996. The document is organized into three-parts, which include: 1) the Banning Emergency Plan; 2) twelve functional Annexes that describe the emergency response organization; and 3) a listing of operational data such as resources, key personnel, and essential facilities and contacts. (GP, p. VI-42.) According to the City's GP, the City does not have established evacuation routes, although depending on the location and extent of emergency, major surface streets could be utilized to route traffic through the City. (GP, p. VI-45.)

The Project Site is currently an undeveloped dirt road between South Highland Home Road and Sunset Avenue. In its current condition, the Project Site is gated and does not provide vehicular access from South Highland Home Road to Sunset Avenue. Construction and operation of the Project, a planned roadway, would provide vehicular connectivity and access. Additionally Sun Lakes Boulevard, a designated Arterial Highway, could reasonably be expected to be used as part of an evacuation route in the event of an emergency. Therefore, Project impacts will be less than significant.

Source: GP

g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?

No impact. The Project Site is located north of the City's High Fire Hazard Zone, within which relief is minimal and hardscape (e.g., concrete, asphalt, and structures) and landscaping vegetation predominate. (GP, Exhibit V-10.) The proposed Project is the construction and operation of Sun Lakes Boulevard, which would not likely aid the spread of wildland fires and could serve as a fire break in the event of a fire. Further, since the Project does not include habitable structures, Project implementation would not expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires. Therefore, the Project has no impact.

Source: GP

ENVIRONMENTAL FACTORS:	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
X. HYDROLOGY AND WATER QUALITY Would the project:				
a. Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	☐	☐	☒	☐
b. Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	☐	☐	☒	☐
c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:				
i. Result in substantial erosion or siltation on- or off-site;	☐	☐	☒	☐
ii. Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on or off site;	☐	☐	☒	☐
iii. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or	☐	☐	☒	☐
iv. Impede or redirect flood flows?	☐	☐	☒	☐
d. In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	☐	☐	☒	☐
e. Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	☐	☐	☐	☒

Hydrology and Water Quality Discussion:

a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?

Less than significant impact. Construction of the Project may result in the discharge of sediment and other construction by-products to surface waters. Since the Project will disturb more than one acre of land, a Storm Water Pollution Prevention Plan (SWPPP) is required to comply with the statewide Construction General Permit (CGP) issued by the State Water Resources Control Board (SWRCB) (Order No. 2012-0006-DWQ, NPDES No. CAS000002). The SWPPP must be developed by a Qualified SWPPP Developer (QSD) and implemented onsite for the duration of the Project by a Qualified SWPPP Practitioner (QSP). The focus of a construction SWPPP is to minimize soil disturbance, non-stormwater discharges, construction materials, and construction wastes during the construction phase of the Project to prevent discharge of polluted runoff from the construction site. Coverage under the CGP requires submittal of a Notice of Intent (NOI) and payment of fees and annual reporting to the State Water Resources Control Board (SWRCB). Staff from the RWQCB may inspect the construction site periodically to ensure compliance with the SWPPP.

The Project will provide drainage improvements currently not provided by the existing roadway. Said improvements will convey storm water runoff to catch basins that will be fitted with City-approved filters to capture debris and treat post-construction runoff generated by the roadway. The storm drain catch basins with filters in and of themselves will not contribute to a violation of water quality standards or waste discharge requirements, but rather they are expected to improve downstream water quality because of Project implementation. Through Project design and compliance with existing regulations related to water quality standards and waste discharge requirements, impacts will be less than significant.

Sources: Project Description; CGP; NHC

b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?

Less than significant impact. Groundwater basins are naturally recharged through the infiltration of runoff, direct precipitation, subsurface inflow, and artificial recharge. The Banning Canyon area receives water from percolation of canyon flows through the gravelly soils of the canyon bottom. In addition, a stone ditch running southerly though the Banning Canyon provides intake areas to distribute water to spreading ditches, which interconnect with spreading ponds to enhance percolation. The San Gorgonio Subbasin is also recharged naturally with runoff from the adjacent San Jacinto and San Bernardino Mountain. (GP, p. IV-2.)

The Project Site is not a groundwater recharge site. Because the Project is a transportation improvement, implementation of the proposed Project will not result in an increase in the use or production of groundwater. For these reasons, the Project will not affect existing groundwater supplies or interfere with recharge in a manner that would impede management of the groundwater basin. Therefore, Project impacts will be less than significant.

Sources: Project Description; GP

c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:

This discussions in Responses Xc)i through Xc)iv are based, in part, on the *Technical Memorandum – High Level Assessment of Potential Sediment Transport Impacts Associated with the Updated Sun Lakes Boulevard Improvement Project* (included as **Appendix F** to this Initial Study). The Project Site is located within the Banning MDP and existing drainage patterns generally occur in a north-west to south-east direction. The Project Site is subjected to large tributary areas north of I-10 draining via MDP facilities to several existing culverts under I-10 and subsequently under the railroad. Specifically MDP Line J – Highland Springs Channel, Line I – Smith Creek Channel, and Line K – West Pershing Channel as shown on **Figure 14 – Existing MDP Facilities**.[8] (WEBB(d.).) As discussed in the Project Description and shown on **Figure 6a – Project Components West Extent** and **Figure 6b – Project Components East Extent**, the Project crosses Highland Wash, Smith Creek, and Pershing Creek. The Project's drainage facilities at these crossings have been sized to mimic existing

[8] Figure is on page 56.

flow conditions (i.e., existing water surface elevation) and to not exacerbate the existing, i.e. without Project, sediment transport condition.

i) Result in substantial erosion or siltation on- or off-site?

Less than significant impact.

During construction, the Project has the potential to result in downstream erosion impacts. The creeks and substrates in the Banning area do not lend to siltation concerns, therefore siltation impacts would not be a concern and are not discussed further. Rather, the analysis below focuses on the hydrologic regime changes related to the Project and resultant impacts to sediment transport (i.e. sand sources) and erosion impacts.

During construction, the Project will implement and comply with existing regulations for the minimization of erosion as outlined in the Statewide CGP through implementation of a SWPPP. Therefore, short-term erosion impacts from construction activities are less than significant due to compliance with the existing water quality regulations.

The operation of the Project as a roadway crossing over the creeks/drainages could result in erosion impacts and negatively affect sediment transport. However the design of the Project has been to limit the amount of these impacts over the long term by ensuring that the design of the culvert crossings are wide enough and set at the correct grades to not trigger further erosional impacts in the local drainage systems affected by the Project.

As previously discussed in Threshold IV, Biological Resources, sediment transport through the Project creeks east towards Coachella Valley is an important component to maintaining sand dune habitat for sensitive desert species. Because of concerns related to sediment transport effects, a technical memorandum was prepared by Northwest Hydraulic Consultants (NHC) for the Project entitled, *High Level Assessment of Potential Sediment Transport Impacts Associated with the Updated Sun Lakes Boulevard Improvement Project* (included as **Appendix F** to this Initial Study). The purpose of the technical memorandum was to perform a qualitative assessment of changes in sediment transport potential of a given creek segment through comparison of computed flow velocities, pre-and post-project, under a given flow condition. The intent of the NHC analysis (Appendix F) was to determine if velocities in the various creek segments upstream of the proposed Project are relatively unchanged in the post project condition compared to the existing condition, and if that change was negligible, then the likelihood is that the Project-related impacts to sediment transport (and downstream scour and incising) are minimal.

As documented in the NHC technical memorandum, the existing Westward Avenue has two concrete-lined dip crossings (or, Arizona low-flow crossings) located at the confluence of Smith Creek and Highland Wash and at Pershing Creek, which currently act as grade controls to the Smith Creek/Highland Wash and Pershing Creek. Downstream of existing Westward Avenue, Smith Creek/Highland Wash and Pershing Creek are incised and demonstrate scour effects under current conditions. Scour can occur during high flow events due to sediment trapping upstream of flow barriers such as undersized culverts located upstream. The NHC analysis determined that the scour situation currently occurring downstream of Westward Avenue would worsen if the Project resulted in slower flows (i.e. decreased velocities) than the existing condition.

The Project includes the construction and operation of three separate sets of multiple RCBs in order to allow flows to continue underneath the proposed roadway through Highland Wash, Smith Creek, and Pershing Creek. As documented in the NHC analysis, the design of the RCBs allows for the velocities not to slow down to the point where sediment is deposited above the RCBs, and keep the velocities consistent with existing conditions so that downstream scour/erosion will also not be exacerbated.

Flows within the Project creeks, which are termed alluvial channels, typically carry sediment in concentrations that increase with flow rate. The ability of flow to move sediment as it passes downstream is termed its sediment transport capacity. Hydraulic properties, particularly flow velocity, and bed material properties, such as median grain size, determine the sediment transport capacity of a given river reach. (NHC, pp. 6-7).

Results of the NHC qualitative analysis suggest that the proposed design of the three sets of RCBs will result in minimal changes to existing upstream flow velocities in each of the creeks. There would be a local increase in velocity within the RCBs themselves; however, that is to be expected since the RCBs are concrete-lined and the increased speed will assist in keeping the crossings clear of deposition during flood events (NHC, p. 8). The analysis concludes: "Comparison of the provided hydraulic modeling results indicates that there would likely be minimal sediment transport impacts associated with the current crossing improvement plans. Hydraulic conditions upstream of all three of the proposed crossings are very comparable under pre- and post-project scenarios" (NHC, p. 13). Because the upstream conditions are very comparable between the existing and proposed conditions, downstream conditions will also be comparable.

Therefore, through the design of the RCBs to minimize post-construction effects to existing sediment transport rates as demonstrated in the technical memorandum (Appendix F), and implementation of existing regulations for construction-phase activities, the Project's impacts to downstream erosion and siltation on- or off-site will be less than significant and no mitigation is necessary.

Sources: Project Description; CGP; NHC

ii) Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on or off site?

Less than significant impact. Stormwater runoff on the Project Site currently flows into existing drainages or percolates into the undeveloped dirt area. The Project's proposed crossings at Highland Wash, Smith Creek, and Pershing Creek will ultimately be sized, shaped, and designed to mimic the existing downstream flow conditions (velocity and durations) and the size of the planned RCB culverts have taken into consideration the need to allow for sediment transport as well. The current design does not exacerbate the existing sediment transport condition (NHC, p. 13). The roadway will introduce new impervious areas including the travel lanes, sidewalks, bicycle lanes, and curb and gutters. Once the Project is complete, all runoff on the roadway would be conveyed into catch basins with City-approved filters to capture debris and treat post-construction runoff generated by the roadway. Therefore, through Project design and compliance with the water quality regulations discussed in Response Xa, Project impacts regarding erosion or siltation or an increase in surface runoff that would result in on- or off-site flooding will be less than significant.

Sources: Project Description; CGP; NHC

iii) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?

Less than significant impact. The proposed drainage system consists of storm drain lines located under the sidewalks on both north and south sides of the Sun Lakes Boulevard extension. The storm drains disconnect at the major utility crossings and at the street intersections. Catch basins will be placed at the low points of the street and at the downstream end of each storm drain to collect and convey the street

flow to the underground pipe for storage and infiltration. Therefore, through Project design, the proposed Project would not create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff. Project impacts will be less than significant.

Sources: Project Description; NHC

iv) Impede or redirect flood flows?

Less than significant impact. The Project area is within Federal Emergency Management Agency Flood Insurance Rate Map (FIRM) Panel 06065C0816G, which indicates that the Project Site is not within the 100-year flood hazard area. (FEMA.) According to the *Hydraulic Analysis for Sun Lakes Blvd. Extension, City of Banning, Technical Memorandum*, the Project's proposed improvements to the Highland Wash, Smith Creek, and Pershing Creek drainage crossings have sufficient capacity to convey both interim and ultimate stormwater flows in the Project Area. (NHC.) The Project's curb, gutters, and catch basins have been designed to handle up to a 100-year, 24-hour storm event. Because the Project incorporates adequately-sized drainage facilities that will mimic the existing drainage patterns, flood flows would not be impeded or redirected. Therefore, Project impacts would be less than significant.

Sources: Project Description; FEMA;NHC

d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?

Less than significant impact. Regarding the release of pollutants, in the post-Project condition, pollutants that could be released from the Project in the event the roadway is inundated are gasoline, oil, grease, dirt, and trash/debris. Regarding flooding, as discussed in Response Xc)iv, the Project Site is not within a 100-year flood hazard area. (FEMA). The GP identifies three flood hazards in the City's area: flash flooding through natural channels; ponding, with flows impeded by man-made obstructions; and sheet flooding across the alluvial fans upon which most of the City's development is currently located. (GP, p. V-27.) Although the proposed Sun Lakes Boulevard extension will cross Highland Wash, Smith Creek, and Pershing Creek, which have the potential to flash flood, flash floods are not expected to release pollutants because the *Hydraulic Analysis for Sun Lakes Blvd. Extension, City of Banning, Technical Memorandum*, concluded that the Project's proposed drainage crossings have sufficient capacity to convey both interim and ultimate stormwater flows in the Project Area. Further, the Project includes catch basins with RWQCB-approved inserts to trap pollutants generated by the proposed roadway prior to them entering the watershed. Therefore, Project implementation would not result in an increased risk for the release of pollutants due to inundation.

Tsunamis are large waves that occur in coastal areas. The City of Banning is not located in a coastal area; therefore there is no risk for the release of pollutants due to Project inundation by tsunami.

Seiches are seismically-induced oscillations or sloshing of water contained in enclosed bodies including lakes, ponds, reservoirs, and swimming pools. This hazard is dependent upon the frequency of seismic waves, distance and direction from the epicenter, and site-specific design criteria of the enclosed body of water. There are no such bodies of water in the immediate Project Site vicinity; therefore, there is no risk for the release of pollutants due to Project inundation by seiche would occur.

For the reasons set forth in the preceding paragraphs, Project impacts regarding the release of pollutants due to inundation would be less than significant.

Sources: Project Description; GP; NHC

e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

Less than significant impact. The Project Site is located within the boundaries of the water quality control plan (Basin Plan) for the Colorado River RWQCB. The Basin Plan is the primary document supporting the RWQCB's regulatory efforts. As previously described, the Project will implement the requirements of an effective SWPPP during construction pursuant to the CGP. The Project will include catch basins with City-approved filters to capture debris and treat post-construction runoff generated by the roadway. Through implementation of a SWPPP during construction and [Project design features], Project implementation is consistent with the requirements of the Basin Plan and will not conflict with or obstruct its implementation.

The Project Site is located within the ~~boundaries of the Cabazon Storage Unit within the~~ San Gorgonio Pass Groundwater Subbasin (Basin No. 7-021.04). Pursuant to the Sustainable Groundwater Management Act of 2014 (SGMA), the San Gorgonio Pass Subbasin Groundwater Sustainability Agency (GSA) has formed and prepared a Groundwater Sustainability Plan (GSP) <u>for the entire subbasin</u> ~~that includes the Cabazon Storage Unit~~. The GSP was approved by California Department of Water Resources on October 26, 2023. The goal of GSPs is to achieve sustainable groundwater basins by 2042. ~~The GSP describes two future projects to benefit the Cabazon Storage Unit. Specifically, *Project #4 New Pipeline with Additional Imported Water Spreading in the Cabazon Storage Unit* in the vicinity north of I-10 and the existing Robertson's Ready Mix Quarry site in Banning and *Project #6 New Imported Colorado River Aqueduct Spreading in the Cabazon Storage Unit (Phase 2)* in the vicinity of the San Jacinto Tunnel east portal, just south of Cabazon. (GSP, pp. 6-9, 6-15.)~~ Because the GSP does not identify the Project Site as <u>the location</u> ~~part~~ of future <u>GSP</u> projects, impacts to a sustainable groundwater plan are less than significant.

Sources: Project Description, GSP

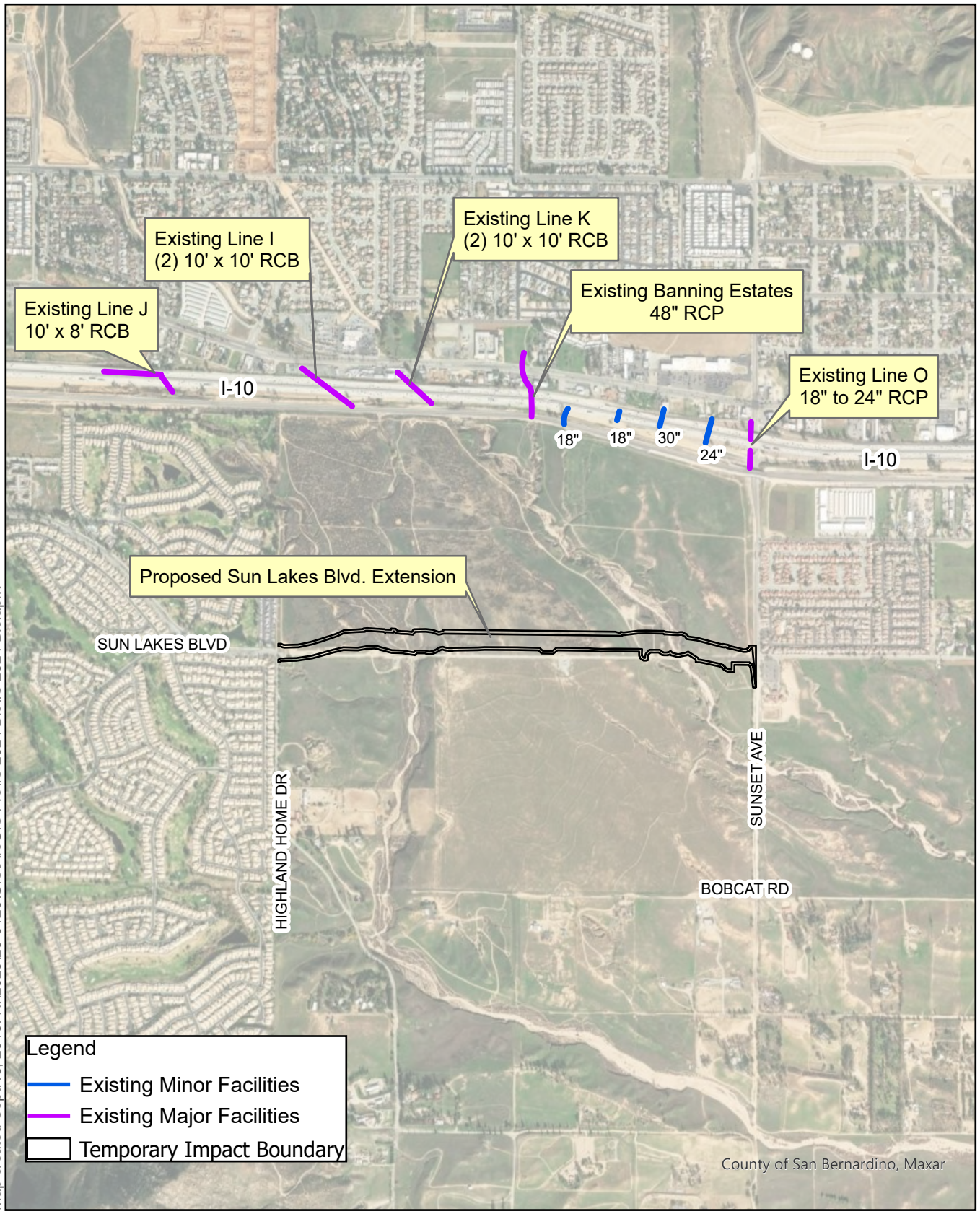


Figure 14 - Existing MDP Facilities

Sun Lakes Boulevard Extension Project

ALBERT A. WEBB ASSOCIATES

ENVIRONMENTAL FACTORS:	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
XI. LAND USE AND PLANNING Would the project:				
a. Physically divide an established community?	☐	☐	☐	☒
b. Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☒

Land Use and Planning Discussion:

a) Physically divide an established community?

No impact. The physical division of an established community typically refers to the construction of a physical feature (such as a wall, interstate, highway, or railroad tracks) or the removal of a means of access (such as a local road or bridge) that would impair mobility. The proposed Project is construction of a Circulation Element Arterial Roadway.

The Project Site and the areas to its north and south are vacant and undeveloped; there are two established residential neighborhoods at its west and east ends. Due to the Project Site's existing undeveloped condition and the presence of gates, there is no direct connection between these neighborhoods. Implementation of the proposed Project will provide access to nearby areas including the two established residential communities. Therefore, the Project has no impact.

Source: Project Description

b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

Less than significant impact. The proposed Project involves the expansion of Sun Lakes Boulevard between Highland Home Road and Sunset Avenue. This roadway is a planned Arterial Highway and is designed in conformance with the City's Circulation Element. Thus, the Project, which is implementing a portion of the City's Circulation Element, will not conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. Therefore, impacts will be less than significant.

Source: Project Description

ENVIRONMENTAL FACTORS:	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
XII. MINERAL RESOURCES Would the project:				
a. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☒	☐
b. Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	☐	☐	☐	☒

Mineral Resources Discussion:

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?

Less than significant impact. Sand and gravel, collectively referred to as aggregate, is the primary mineral resource that is actively being developed in the eastern portion of the City. Weathering, erosion, and other geologic processes have deposited materials from the surrounding mountains and hills, forming an alluvial fan with significant deposits of these mineral resources. The Surface Mining and Reclamation Act (SMARA) was developed to assure the preservation of mineral resources while concurrently addressing the need for protecting the environment. Under the direction of SMARA, the State of California Department of Conservation, Division of Mines and Geology, released a report identifying regionally significant mineral deposits in an effort to conserve and develop them; and to help in anticipating aggregate production needs of the region. (GP, p. IV-82.)

Although the Project Site is located within Mineral Resource Zone 3, which is an area that contains mineral deposits, the significance of these deposits cannot be evaluated from available data (GP, Exhibit IV-8 and p. IV-83). The City has specific areas designated as Industrial-Mineral Resources (I-MR) land uses in the City's GP to allow for surface mining operations on lands designated by the City or State as having significant potential for mineral resources. (GP DEIR, Table I-18.) As shown on **Figure 3 – General Plan Land Use and Zoning Designations**, the Project Site is not within one of these zones, and is therefore not targeted for mineral resources mining by either the City or the State. Additionally, due to the existing residential development to the west and east of the Project Site, it is unlikely that a mining operation could operate at the Project Site. Therefore, Project impacts regarding the loss of availability of a known mineral resource that would be of value to the region and the residents of the state will be less than significant.

Sources: GP; GP DEIR

b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?

No impact. An approximately 6.5-acre area of Mineral Resource Zone (MRZ) 2, where adequate information indicates that significant mineral deposits are present or that a high likelihood for their presence exists, is located in the eastern portion of the City along the alluvial fan of the San Gorgonio River that lies southeast

of the Banning Bench, north and south of Interstate 10. (GP Exhibit IV-8 and p. IV-83.) The Banning Quarry, operated by Robertson's Ready Mix, was the only aggregate producer within the MRZ-2 designated area of the City. (GP, p. IV-83.)

The proposed Project is not located within or adjacent to the Banning Quarry or any other locally-important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan. Further, as described in Response XIa, above, the Project Site is not within the Industrial-Mineral Resources land use designation in the City's GP. Therefore, Project implementation will not result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan and there will be no impact in this regard.

Source: GP

ENVIRONMENTAL FACTORS:	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
XIII. NOISE Would the project result in:				
a. Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	☒	☐
b. Generation of excessive groundborne vibration or groundborne noise levels?	☐	☐	☒	☐
c. For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒

Noise Discussion:

The analysis in this section is based on the findings of the Noise Analysis Report, Sun Lakes Boulevard Extension, Banning, CA, prepared by dBF Associates, Inc., which is included as **Appendix G** of this Initial Study (hereinafter referred to as "Noise Study"). The Noise Study uses the Federal Highway Administration (FHWA) Traffic Noise Model (TNM) Version 2.5 to estimate traffic noise levels, based on peak-hour traffic volume, average estimated vehicle speed, and estimated vehicle mix, i.e., percentage of cars, medium trucks, heavy trucks, buses and motorcycles.

Noise is generally defined as loud, unpleasant, unexpected, or undesired sound typically associated with human activity, which interferes with or disrupts normal activities. Constant noise levels are called ambient noise. Human response to noise events is influenced by the type of noise, perceived importance of the noise, and its appropriateness in the setting, time of day and type of activity during which the noise occurs and the sensitivity of the individual. The intensity of a sound's loudness is measured in decibels (dB). Studies have shown that the smallest perceptible change in sound level for a person with normal hearing sensitivity is approximately 3 dBA. A change of at least 5 dBA would be noticeable and would likely evoke a community reaction. A 10 dBA increase is subjectively heard as a doubling in loudness and would cause a community response. (dBF, p. 7.) Since community noise fluctuates over time, a single measure called Equivalent Sound Level (Leq) is used to describe time-varying character of community noise. The Leq is the energy-averaged A-weighted sound level during a measured time interval and is equal to the level of a continuous steady sound containing the same total acoustical energy over the averaging time period as the actual time varying sound. The Community Noise Equivalent Level (CNEL) is a descriptor representing a 24-hour, time-weighted annual average noise level based on the "A-weighted" decibel. (dBF, p. 8.)

Sound levels caused by line sources (i.e., variable or moving sound sources such as traffic) generally decrease at a rate of 3 to 4.5 dBA when the distance from the road is doubled, depending on the ground

surface hardness between the source and receiving property. The model assumed "hard soil" propagation conditions, which corresponds to a drop off rate of approximately 3 dBA per doubling distance. The actual sound level at any receptor location is dependent upon such factors as the source-to-receptor distance and the presence of intervening structures (walls and buildings), barriers, and topography. The noise attenuating effects of changes in elevation, topography, and intervening structures were not included in the model. Therefore, the modeling effort is considered a worst-case representation of the roadway noise. (dBF, p. 12.)

a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

Less than significant impact. Temporary increases to ambient noise levels would occur during Project construction. Noise would derive from the use of various types of construction equipment such as, excavators, graders, rubber tired dozers, scrapers, pavers and rollers, and from a worker-related increase in traffic in the vicinity of the Project Site. Maximum noise levels (L_{max}) associated the construction equipment expected to be used ranges from 80 dBA L_{max} at 50 feet to 85 dBA L_{max} at 50 feet. Once construction is complete, the Project would produce noise from vehicles using the roadway. Sensitive receptors are residences at the west and east ends of the Project Site and the Mt. San Jacinto College San Gorgonio Pass Campus at the southeast end of the Project Site.

The Project Site is located within Banning and the unincorporated territory of Riverside County, and is adjacent to the City of Beaumont (to the southwest). Construction noise standards for these jurisdictions are summarized below.

- Banning Code of Ordinances Chapter 8.44 Noise. According to Section 8.44.085, sound emanating from capital improvement projects of a governmental agency or maintenance; and repair of public properties by a governmental agency are exempt. (BMC.)

- Riverside County Ordinance No. 847 Regulating Noise. According to Section 2, sound emanating from facilities owned or operated by or for a governmental agency; capital improvement projects of a governmental agency; or maintenance; and repair of public properties are among the noise sources exempt from the provisions of Ordinance No. 847. (Ord. 847.)

- Beaumont Code of Ordinances Chapter 9.02 Noise. According to Section 9.2.100, sound emanating from capital improvement projects of a governmental agency; maintenance and repair of public properties by a governmental agency; utility and street repairs, street sweepers, garbage services, emergency response warning noises, emergency generators and fire alarm systems; and other public/governmental services or operations including, but not limited to trains and railway or airplanes and helicopter machinery, equipment or vehicles are exempt. (BCO.)

Because the proposed Project is a capital improvement project and sound emanating from capital improvement projects is exempt in all three agencies in which Project-generated construction noise is likely to be heard, Project construction will not exceed the noise standards established by Banning, Riverside County, or Beaumont.

Regarding operational noise impacts from the Project, (i.e., noise generated once construction is complete), the City's GP Plan Noise Element land use compatibility thresholds for community noise environments is shown in **Table I - City of Banning Noise Thresholds**, below. The Banning Noise Element does not provide guidance for undeveloped or vacant land.

Table I – City of Banning Noise Thresholds

Land Use	Highest Normally Acceptable Noise Level	Highest Conditionally Acceptable Noise Level
Single-Family Residential	55 dBA CNEL	65 dBA CNEL
Commercial	65 dBA CNEL	72.5 dBA CNEL
School	65 dBA CNEL	65 dBA CNEL
Industrial/Manufacturing	70 dBA CNEL	75 dBA CNEL

Source: Appendix G, Table 2

The Riverside County General Plan Noise Element identifies noise levels of 75 dBA CNEL as Normally Acceptable for industrial land uses and noise levels up to 80 dBA CNEL as Conditionally Acceptable. Likewise, the Riverside County Noise Element has not provided guidance for undeveloped or vacant land. (dBF, pp. 9-10.)

The Beaumont General Plan Safety Element identifies the noise thresholds for single family residential and commercial land uses shown below in **Table J- City of Beaumont Noise Threshold**.

Table J – City of Beaumont Noise Threshold

Land Use	Desirable Maximum Noise Level	Maximum Acceptable Noise Level
Single-Family Residential	55 dBA CNEL	65 dBA CNEL
Commercial	65 dBA CNEL	75 dBA CNEL

Source: Appendix G, Table 3

The Project Site is located primarily along the existing unpaved roadway ROW, with existing residences to the west and east, and a community-college campus at the southeastern intersection of Sun Lakes Boulevard/Sunset Avenue. Land to the north and south of the Project Site are currently vacant and undeveloped. As shown on **Figure 3 – General Plan Land Use and Zoning Designations**, these areas are currently designated for future residential, open space, and agricultural uses. However, as discussed in the Surrounding Land Uses and Setting section on page 6 of this Initial Study, the City has received development applications and released the Draft EIR for the Sunset Crossroads Specific Plan and related entitlements for public review, which, if approved, would ultimately designate this area for industrial and commercial uses as

shown on **Figure 8 – Proposed Sunset Crossroads Specific Plan**. Since this development application is pending with the City, the Noise Report evaluated the areas north and south of the Project Site as non-residential land uses. (dBF, p. 12.)

Since the majority of the existing land use surrounding the Project Site is vacant land, the primary noise source in the vicinity of the Project Site is natural activity and vehicular traffic on nearby roadways. An ambient sound level measurement was conducted along the Project Site to estimate the existing acoustical environment. A RION Model NL-31 American National Standards Institute (ANSI) Type 2 Integrating Sound Level Meter (SLM) was used as the data-collection device. The meter was mounted on a tripod roughly 5 feet above ground to simulate the average height of the human ear. The microphone was fitted with a windscreen. Weather conditions during the measurements were approximately 85°F, 35% relative humidity, 0-2 mph wind speed, and clear skies. The measurement was performed on Wednesday, September 18, 2019 between 11:15 am–11:25 am. The sound level meter was calibrated before the measurement period. The measured results are: Leq is 42.1, Lmin is 38.4, and Lmax is 49.4. Because there has not been any new development or new noise producers in proximity to the Project Site, the noise measurement taken in 2019 represents the existing noise environment. As such, the ambient sound level along the Project Site is approximately 42 dBA L_{eq}. (dBF, p. 11.)

Implementation of the Project would result in redistribution of traffic on segments in the existing and future roadway network. (dBF, p. 12.) *Table 4. Project Roadways* (located in **Appendix G**) shows the estimated traffic volumes, that were used to determine noise levels.

In order to calculate noise levels the following information and assumptions were used (dBF, p. 12.):

- Traffic mixes on Sunset Ave and Sun Lakes Boulevard were obtained from Translutions, Inc., resulting in the assumption that other roadway segments traffic mixes would be similar.
- The peak hour traffic noise level was considered equivalent to the CNEL.
- For the horizon year (2050) Project traffic volumes calculated assumed that Highland Home Road would be extended to 4 lanes from Sun Lakes Boulevard to a new interchange at I-10, based on the City of Banning General Plan.

The Project's contribution to traffic noise for the following scenarios was calculated for existing noise levels, Without Project in 2050, and With Project in 2050. The traffic volumes, which are reported in Noise Study Table 4, Project Roadways, are based on PM Peak hour trips derived from the RivTam traffic model used in preparation of the *Realignment of Sun Lakes Boulevard – Westward Transportation Impact Analysis*, February 2022, prepared by Albert A. Webb Associates, which is available for review at the City Public Works department. Turning movements are from the same document. PM Peak traffic volumes were selected because noise resulting from PM Peak traffic is a proxy for the Community Noise Equivalent Level (CNEL). The results of these calculations are presented in **Table K – Noise Levels Along Roadways in Proximity to the Project Site.** The Without Project in 2050 scenario assumed the Sunset Crossroads project site would be developed with approximately 5.87 million square feet of industrial and commercial uses and approximately 7,300 employees.

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Table K– Noise Levels Along Roadways in Proximity to the Project Site

Roadway	Segment	Closest Adjacent Land Use	Noise Levels			Project Effect on 2050 Noise Levels	Noise Thresholds*	Impact
			Existing	Without Project (2050)	With Project (2050)			
East 1st Street	West of Highland Springs Avenue	Single-family residential; 57 feet from CL, 6 foot tall wall	60.3	63.3	64.0	+ 0.7 dBA CNEL	55/65 dBA CNEL	None
Sun Lakes Boulevard	East of Highland Spring Avenue	Single-family residential; 53 feet from CL, 6 foot tall wall	56.5	59.6	62.1	+2.5 dBA CNEL	55/65 dBA CNEL	None
	West of Highland Home Road	Single-family residential; 53 feet from CL, 6 foot tall wall	49.1	51.7	62.7	+11.0 dBA CNEL	55/65 dBA CNEL	Noise level increases to Conditionally Acceptable
	East of Highland Home Road	Currently vacant, industrial land use planned	N/A	N/A	69.4	N/A	70/75 dBA CNEL (Banning) 75/80 dBA CNEL (Riverside)	None
	West of Sunset Avenue	Currently vacant, industrial land use planned	N/A	68.6	70.0	+1.4 dBA CNEL	70/75 dBA CNEL (Banning) 75/80 dBA CNEL (Riverside)	None
Westward Avenue	East of Sunset Avenue	Single-family residential; 30 feet from CL, 6 foot tall wall	50.5	56.6	60.6	+4.0 dBA CNEL	55/65 dBA CNEL	None
Lincoln Street	East of Sunset Avenue	Single-family residential; 32 feet from CL, 6 foot tall wall	52.8	62.8	63.7	+0.9 dBA CNEL	55/65 dBA CNEL	None
Highland Springs Avenue	South of I-10 Eastbound Ramps	Commercial; 80 feet from CL	66.5	68.5	68.4	-0.1 dBA CNEL	65/75 dBA CNEL (Beaumont) 65/72.5 dBA CNEL (Banning)	None
	North of Sun Lakes Boulevard	Commercial; 75 feet from CL	64.6	67.4	67.4	0 dBA CNEL	65/75 dBA CNEL (Beaumont) 65/72.5 dBA CNEL (Banning)	None
	South of Sun Lakes Boulevard	Single-family residential; 50 feet from CL, 6 foot wall	57.7	62.0	62.7	+0.7 dBA CNEL	55/65 dBA CNEL (Beaumont) 55/65 dBA CNEL (Banning)	None

Table K– Noise Levels Along Roadways in Proximity to the Project Site

Roadway	Segment	Closest Adjacent Land Use	Noise Levels			Project Effect on 2050 Noise Levels	Noise Thresholds*	Impact
			Existing	Without Project (2050)	With Project (2050)			
Highland Home Road	North of Sun Lakes Boulevard	Vehicle storage	N/A	62.6	67.6	+5.0 dBA CNEL	N/A	None
	South of Sun Lakes Boulevard	Single-family residential; 30 feet from CL, 6 foot wall	49.3	51.7	54.8	+3.1 dBA CNEL	55/65 dBA CNEL (Banning) 75/80 dBA CNEL (Riverside)	None
Sunset Avenue	1-10 Eastbound Ramps-Lincoln Street	Vacant	60.1	69.9	67.7	-2.2 dBA CNEL	N/A	None
	South of Lincoln	Single-family residential; 30 feet from CL, 6 foot wall	54.1	63.7	63.5	-0.2 dBA CNEL	55/65 dBA CNEL	None
	North of Westward Avenue	Single-family residential; 40 feet from CL, 6 foot wall	50.1	62.2	61.3	-0.9 dBA CNEL	55/65 dBA CNEL	None
	South of Westward Avenue	Educational; 70 feet form CL	50.9	57.2	58.2	+1.0 dBA CNEL	65 dBA CNEL (Banning) 75/80 dBA CNEL (Riverside)	None
802 Bay Hill Road (Sun Lakes Boulevard & Highland Home Road)			49.9	52.9	62.4	+9.5 dBA CNEL	55/65 dBA CNEL	Noise level increases to Conditional Acceptable
783 Sunshine Street(Westward Avenue and Sunset Avenue)			51.3	61.4	62.4	+1.0 dBA CNEL	55/65 dBA CNEL	None
447 Soboba Drive (Lincoln Street & Sunset Avenue)			54.6	64.5	64.6	+0.1 dBA CNEL	55/65 dBA CNEL	None

Source: Appendix G, Table 5.

Notes:

- At vacant or non-noise sensitive land uses, noise level reported at 50 feet from centerline.
- *Normally/Conditionally Acceptable or Desirable Maximum/Maximum Acceptable

Based on the results shown in **Table K**, there are two locations on two separate roadways, Sun Lakes Boulevard at West Highland Home Road and Bay Hill Road (Sun Lakes Boulevard & Highland Home Road), that affect the noise levels at nearby receptors closest to the intersection. Along the Sun Lakes Boulevard at West and Highland Home the noise levels would increase from Normally Acceptable to Conditionally Acceptable, and at Bay Hill Road noise levels would increase from below Normally Acceptable to Conditionally Acceptable. Along all other segments, the noise environment descriptor would not change as a result of the Project. (dBF, p. 12.)

The City of Banning General Plan states that Conditionally Acceptable noise environments, "New construction of development should be undertaken only after detailed analysis of the noise reduction requirement is made and needed noise insulation features included in the design. It is assumed the Conditionally Acceptable noise environments are not incompatible with residential land uses. (dBF, pp. 12-13.). As such it is determined that Project would not substantially increase ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies. For these reasons, impacts regarding a substantial temporary or permanent increase in ambient noise levels in excess of applicable agency standards are less than significant.

Sources: Project Description; dBF; BMC; BOC; Ord. 847

b) Generation of excessive groundborne vibration or groundborne noise levels?

Less than significant impact. Typically, ground-borne vibration generated by man-made activities attenuates rapidly with distance from the source of vibration. Man-made vibration issues are therefore, usually confined to short distances (i.e., 500 feet or less) from the source. Sensitive receptors for vibration include structures (especially older masonry structures), people (especially the elderly and the sick), and vibration-sensitive equipment. Ground vibrations from construction activities do not often reach the levels that can damage structures, but they can achieve the audible and feelable ranges in buildings very close to the site.

Various types of construction equipment have been measured under a wide variety of construction activities with an average of source levels reported in terms of velocity as shown in **Table L – Vibration Source Levels for Construction Equipment**. Although the table gives one level for each piece of equipment, it should be noted that there is a considerable variation in reported ground vibration levels from construction activities. The data provide a reasonable estimate for a wide range of soil conditions.

Table L – Vibration Source Levels for Construction Equipment

Equipment	Peak Particle Velocity (PPV) at 25 feet (inch/second)	Root Mean Square (RMS) Velocity at 25 feet (micro-inch/second)
Large Bulldozer	0.089	87
Loaded Truck	0.076	86
Small Bulldozer	0.003	58

Source: FTA, Table 7-4

Notes: Root Mean Square (RMS) velocity in decibels (VdB) are 1 micro-inch/second.

Regarding impacts from ground-borne vibration, the City does not have significance thresholds;[9] thus, this analysis is based on guidance published by the Federal Transit Administration (FTA) in its document titled *Transit Noise and Vibration Impact Assessment*. According to the FTA, although the perceptibility threshold for humans is approximately 65 VdB, human response to vibration is not usually significant unless the vibration exceeds 70 VdB. If the vibration level at a residence reaches 85 VdB, most people would be strongly annoyed by the vibration.

Table M– Typical Human Reaction and Effect on Buildings Due to Groundborne Vibration, displays some of the common human reactions to various levels of groundborne vibration (expressed in PPV) and its effect on buildings.

Table M – Typical Human Reaction and Effect on Buildings Due to Groundborne Vibration

Vibration Level (PPV) (inches/second)	Human Reaction	Effect on Buildings
0.006-0.019	Threshold of perception	Vibrations unlikely to cause damage of any type
0.08	Vibration readily perceptible	Recommended upper level of vibration to which ruins ancient monuments should be subjected
0.10	Level at which continuous vibration begins to annoy people	Virtually no risk of "architectural" (i.e., not structural) damage to normal buildings
0.20	Vibrations annoying to people in buildings	Threshold at which there is a risk to "architectural" damage to normal dwelling – houses with plastered walls and ceilings
0.4-0.6	Vibrations considered unpleasant by people subjected to continuous vibrations and unacceptable to some people walking on bridges	Vibrations at a greater level than normally expected from traffic, but would cause "architectural" damage and possibly minor structural damage

Source: Caltrans, compiled from Table 5 (p. 22) and Table 12 (p. 24).
Note: PPV = Peak Particle Velocity.

Project construction would require standard construction equipment and methods that could produce ground-borne vibrations as shown in **Table L**. There are some residences, but no historic structures within 25 feet of the Project Site. At approximately 25 feet from the Project Site, ground-borne vibration generated during Project construction from a large bulldozer would be approximately 0.89 PPV which, based on the

[9] The Banning GP Noise Element Policy 6 states, *All development proposals within the noise impact area of the Interstate and the railroad shall mitigate both noise levels and vibration to acceptable levels through the preparation of focused studies and analysis in the development review and environmental review process*.(GP, p. V-56.) The Project is not a development proposal and the Project Site is not within the noise impact area of the interstate or railroad; therefore, this policy is not applicable to the proposed Project.

information in **Table M**, would be considered readily perceptible, but would not reach the threshold of beginning to annoy people.

Regarding vibration once the Project is complete, vehicles traveling on roadways are supported on flexible suspension systems and pneumatic tires and as such are not an efficient source of ground vibration. They can, however, impart vibration into the ground when they roll over pavement that is not smooth. Continuous traffic traveling on a smooth highway creates a fairly continuous but relatively low level of vibration. (Caltrans, p. 10.) According to *Exhibit III-10 Banning General Plan Proposed General Plan Truck Routes*, the Project Site is not a designated truck route. (GP DEIR, p. III-51.) Therefore, vibrations would arise from smaller vehicles.

For these reasons set forth in the preceding paragraphs, impacts regarding the exposure and generation of excessive ground-borne vibration or ground-borne noise levels would be less than significant.

Sources: Project Description; BMC; Caltrans; GP; GP DEIR

c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

No impact. The nearest airport to the Project Site is the Banning Municipal Airport, which is located approximately three miles east of the Project Site. The Project Site is located outside of the Airport Influence Boundary and the Airport Compatibility Zones of the Banning Municipal Airport Land Use Compatibility Plan. (ALUC.) The Project does not propose any habitable structures. Therefore, Project implementation will not result in the exposure of people to excessive noise levels sourced from airports and no impacts will occur in this regard.

Sources: ALUC; GP DEIR

ENVIRONMENTAL FACTORS:	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
XIV. POPULATION AND HOUSING Would the project:				
a. Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☒	☐
b. Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒

Population and Housing Discussion:

CEQA Guidelines Section 15126.2(d) describes what to consider when analyzing whether a project has a growth-inducing impact, such as fostering economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment. Included in this are projects which would remove obstacles to population growth. The analysis must not assume that growth in any area is necessarily beneficial, detrimental, or of little significance to the environment.

a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

Less than significant impact. The proposed Project involves the construction and operation of Sun Lakes Boulevard, a planned roadway (Arterial Highway) in the City's GP. This Project is in response to the population growth planned for and envisioned in the GP. The Project does not include new homes, businesses, or other infrastructure, which would remove an impediment to growth. Although the Sunset Crossroads project (**Figure 8**) is proposed in proximity to the Project Site, the Sun Lakes Boulevard Expansion was contemplated prior to the submittal of the entitlement applications for Sunset Crossroads and the City would proceed with implementation of the proposed Project regardless. Since the Project is implementing a portion of the City's Circulation Element and not removing an impediment to growth, the Project will not substantially induce direct or indirect unplanned population growth that was not previously analyzed and disclosed in the City's GP EIR. Therefore, impacts are considered less than significant.

Source: Project Description, GP, GP DEIR

b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

No impact. The proposed Project Site is a vacant undeveloped dirt road with no existing housing. Therefore, implementing the proposed Project, will not displace existing people or housing, nor necessitate the construction of replacement housing elsewhere. Therefore, no impacts are anticipated.

Source: Project Description

ENVIRONMENTAL FACTORS:	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
XV. PUBLIC SERVICES				
a. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
i. Fire protection?	☐	☐	☐	☒
ii. Police protection?	☐	☐	☐	☒
iii. Schools?	☐	☐	☐	☒
iv. Parks?	☐	☐	☐	☒
v. Other public facilities?	☐	☐	☐	☒

Public Service Discussion:

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services?

i) Fire protection?

No impact. Fire protection services are provided to the City of Banning through a contractual agreement with the Riverside County Fire Department, which in turn contracts with California Department of Forestry and Fire Protection (CalFire). The contract provides various fire related services, including emergency medical services, fire prevention, disaster preparedness, fire safety inspections, hazardous materials business plan programs and plan reviews. When an emergency call is received, the station that is physically closest to the emergency will respond, even if the emergency is located outside the station's official "jurisdiction." (GP, p. VI-35.)

Per the Riverside County Fire Department, there are two fire stations located in the City: Fire Station 63, located at 49575 Orchard Road, and Fire Station 89, located at 172 North Murray Road (RCFD). Fire Station 20, located in the City of Beaumont at 1550 E. 6th Street, also responds to fire emergencies that occur in the City. Fire Station 20 is approximately 1.5 miles to the northwest of the Project Site and would likely provide emergency response services to the Project Site (the closest fire station in the City is Fire Station 89, approximately 2.2 miles to the northeast of the Project). The Riverside County Fire Department is rated as Class 4 by the Insurance Service Office (ISO), a private company, which rates fire departments throughout the country based on a scale of 1 to 10, with Class 1 being the highest possible score. The City aims for a ratio of more than 0.70 fire personnel per 1,000 residents, which would be 58 firefighters at GP buildout. (GP DEIR, p. III-202.)

As discussed in Response XIV, the Project will not increase population. As such, implementation of the Project will not necessitate additional fire services and would not adversely impact service ratios, response times, or performance objectives. Additionally, the construction of Sun Lakes Boulevard would add another access route for firefighters to nearby residents. Therefore, the Project has no impact.

Sources: GP; GP DEIR; RCFD

vi. Police protection?

No impact. Police protection services within City limits are provided by the Banning Police Department (GP, p. VI-32). The Banning Police Department has 35 sworn officers and maintains a ratio of 1.4 sworn officers for every 1,000 residents. (GP DEIR, p. III-200.) The City's police station is located at 125 East Ramsey Street, approximately 2.2 miles east of the Project Site.

As discussed in Response XIV, the Project will not increase population. As such, implementation of the Project will not necessitate additional police services and would not adversely impact service ratios, response times, or performance objectives. Additionally, the construction of Sun Lakes Boulevard would add another access route for police to nearby residents. Therefore, the Project has no impact.

Sources: GP; GP DEIR

vii. Schools?

No impact. Most of the City is served by the Banning Unified School District, with a small area in the western portion of the City served by the Beaumont Unified School District. (GP, pp. VI-24 – VI-25.)

As discussed in Response XIV, the Project will not increase population. As such, implementation of the Project will not necessitate additional school services and would not adversely performance objectives. Additionally, the construction of Sun Lakes Boulevard would add another access route for nearby residents. Therefore, the Project has no impact.

Source: GP

viii. Parks?

No impact. Parks and recreation services within the City are provided by the City Community Services Department. The Riverside County Regional Park and Open Space District also provides recreational facilities and services at County owned parks facilities within the City. (GP, p. III-83.)

As discussed in Response XIV, the Project will not increase population. As such, implementation of the Project will not necessitate additional park services. Therefore, the Project has no impact.

Source: GP

ix. Other public facilities?

No impact. Other public facilities in the City include one U.S. Post Office, the Banning Municipal Airport, San Gorgonio Memorial Hospital, and several public utility facilities operated by the City Public Works Department.

As discussed in Response XIV, the Project will not increase population. As such, implementation of the Project will not necessitate other public facilities. Therefore, the Project has no impact.

Source: GP

ENVIRONMENTAL FACTORS:	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
XVI. RECREATION				
a. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☐	☒
b. Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☐	☒

Recreation Discussion:

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

No impact. Parks and recreation services within the City are provided by the City Community Services Department. The Riverside County Regional Park and Open Space District also provides recreational facilities and services at County owned parks facilities within the City. (GP, p. III-83.) The Project involves the construction and operation of Sun Lakes Boulevard, a planned roadway, between South Highland Home Road and Sunset Avenue. As discussed in Response XIV, the Project will not increase population. As such, the Project would not necessitate additional park facilities. Therefore, no impacts are anticipated.

Sources: GP; Project Description

b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

No impact. The proposed Project involves the construction of Sun Lakes Boulevard, a planned roadway. As discussed in Response XIV, the Project will not increase population. As such, additional park facilities will not be required. Therefore, no impacts are anticipated.

Source: Project Description

ENVIRONMENTAL FACTORS:	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
XVII. TRANSPORTATION Would the project:				
a. Conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?	☐	☐	☐	☒
b. Would the project conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?	☐	☐	☒	☐
c. Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☒	☐
d. Result in inadequate emergency access?	☐	☐	☐	☒

Transportation and Traffic Discussion:

a) Conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?

No impact. Each county in California is required to develop a Congestion Management Program (CMP) that analyzes the links between land use, transportation, and air quality. The Riverside County Transportation Commission (RCTC) is the County of Riverside's Congestion Management Agency. The RCTC prepares and periodically updates the County's CMP to meet federal Congestion Management System guidelines and state CMP legislation. The most recent CMP is included within RCTC's Long Range Transportation Plan (LRTP), which was completed in December 2019. According to Appendix A of the LRTP, in the 2011 Riverside County Congestion Management Program, Interstate 10 and Highway 243 are the only roads in proximity to the Project Site listed as part of the CMP System of Highways and Roadways. These roads are not directly adjacent to the Project Site. Thus, the Project will not conflict with a CMP due to the distance between the Project Site and these covered roadways and the trips using the proposed Project have been accounted for in the GP.

The GP identifies that sidewalks, bike lanes, off-street trails, and golf cart routes are especially important along major roadways in the community. The PASS Transit System has local routes in and serves Banning, Beaumont, Cabazon, and Cherry Valley and is considered part of the City's local transit network. Regional bus service is provided by the Riverside Transit Agency (RTA), with service to Hemet/San Jacinto (Route 31), Moreno Valley (Route 35), and Calimesa/Redlands (Route 36). The Project is implementing GPA 19-2502, by constructing Sun Lakes Boulevard, a designated Arterial Highway, that would be designed and constructed in conformance with City's GP Circulation Element with four lanes, left turn pockets, sidewalks, one bicycle lane, and stop signs. As such, the Project is implementing the City's Circulation Element. For these reasons implementation of the proposed Project will not conflict with any program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities; therefore, there would be no impacts in this regard.

Sources: GP; LRTP; PASS; RTA

b) Conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?

Less than significant impact. The City adopted the *Traffic Impact Analysis Guidelines for Local Transportation Analysis and Vehicle Miles Traveled (VMT) Analysis for the City of Banning*, hereinafter referred to as the Guidelines. According to the Guidelines, vehicle miles traveled (VMT) attributable to the project (including induced demand) are to be calculated by evaluating the No Project and With Project conditions under the horizon scenario using the RIVTAM or RIVCOM traffic model. (LSA, p. 22.) Based on the Guidelines, a significant impact would occur if a proposed transportation project results in a net increase in VMT during the horizon year. The increase in VMT is calculated by comparing the horizon year No Project VMT with the horizon year With Project VMT. The Guidelines indicate model adjustment may be necessary to account for induced growth and potential increases in future land use as a result of a capacity enhancing transportation project. (Translutions, p, 1.)

Translutions, Inc prepared a VMT Screening Analysis for the proposed Project using the Riverside Transportation Analysis Model (RIVTAM) in compliance with the City's Guidelines to ascertain if further VMT analysis is required. (The VMT screening analysis is included as **Appendix H** to this Initial Study.) Due to the small size of the proposed Project, from a transportation project perspective, The VMT Screening Analysis compared the Project's effect on VMT at a 5-mile, a 10-mile, and Countywide levels.

As shown in **Table N**, the With Project condition results in a substantial reduction of VMT within a 5-mile and 10-mile radius of the Project Site. As also shown in **Table N**, the modeling results shows the With Project condition is likely to increase Countywide VMT by approximately 0.0005%. This increase is well within the margin of error for transportation models, and as such might not be indicative of a significant adverse impact, and could be a result of rounding at various stages of the modeling process. (Translutions, p. 2.)

Table N – Change in Horizon Year (2040) VMT

	No Project VMT	With Project VMT	Change (in VMT)	Change in VMT (percentage)
5-Mile Radius	3,596,100	3,581,022	(15,078)	(0.4193)
10-Mile Radius	8,374,519	8,359,646	(14,873)	(0.1776)
Riverside County	92,860,800	92,861,278	478	0.0005

Source: Translutions, Table A
VMT = Vehicle Miles Traveled

To verify whether the Project would indeed result in an increase in VMT, the base year model was also run to identify if the With Project VMT increase results are similar to the horizon year VMT results. **Table O – Change in Base Year (2012) VMT** shows the results of the Base Year model runs. (Translutions, p. 2.)

Table O – Change in Base Year (2012) VMT

	No Project VMT	With Project VMT	Change (in VMT)	Change in VMT (percentage)
5-Mile Radius	1,980,031	1,979,158	(872)	(0.0441)
10-Mile Radius	4,457,790	4,456,431	(1,359)	(0.0305)
Riverside County	53,677,825	53,657,144	(20,681)	(90.0020)

Source: Translutions, Table B
VMT = Vehicle Miles TraveledT

As shown in **Table O,** the Project results in decreased VMT under all analysis geographic limits, validating the argument that the increase in future County-wide VMT is within the margin of error of the model and not the result of the proposed Project. (Translutions, p. 2.) For these reasons, impacts with regard to an increase in VMT are less than significant.

Sources: SB 743; LSA; Translutions

c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

Less than significant impact. The proposed Project does not include any design features that would increase traffic hazards, as the Project is designed and will be constructed in accordance with the amended City's GP Circulation Element (GP Amendment No. 19-2502, Resolution No. 2020-37) and the City's standards for Arterial Roadways. The Project is not introducing a substantially different land use to the area and will be compatible with adjacent uses. As such, the Project will not increase hazards due to a design feature or incompatible use. Therefore, the Project has no impact.

Sources: Project Description; Resolution No. 2020-37

d) Result in inadequate emergency access?

No impact. In its existing condition, the Sun Lakes Boulevard is a gated unimproved dirt road that does not provide through vehicular access from South Highland Home Road to Sunset Avenue. Construction and operation of Sun Lakes Boulevard, a designated Arterial Highway in the City's GP circulation element, would improve vehicular connectivity and access to the land uses with the surrounding area. Therefore, implementation of the Project will beneficially impact emergency access.

Sources: Project Description; GP

ENVIRONMENTAL FACTORS:	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
XVIII. TRIBAL CULTURAL RESOURCES Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resource Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				
a. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resource Code section 5020.1(k), or	☐	☐	☒	☐
b. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	☐	☒	☐	☐

Tribal Cultural Resources Discussion:

a. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resource Code section 5020.1(k)

b. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

Less than significant with mitigation incorporated.

As part of the Phase 1 CRA, a request was sent on September 13, 2019 to the Native American Heritage Commission (NAHC) to search the Sacred Lands File (SLF). The SLF is a repository of Native American cultural properties (e.g., traditional use or gathering areas, places of religious or sacred activity, etc.). Results of the SLF search received on September 24, 2019 suggest no known Native American cultural resources within the APE (AE(a), p. 26).

On October 15, 2020, representatives of the City and WEBB (as the City's consultant) met virtually with the Morongo Band of Mission Indians' (MBMI) Tribal Historic Preservation Officer (THPO) (Ann Brierty) to introduce the Project and provide background regarding the prior consultation efforts conducted by the City regarding GPA 19-2502. On that same date, the results of the Project's Phase 1 CRA records search were provided to the MBMI THPO. On December 3, 2021, the Phase I CRA was provided to the MBMI THPO. WEBB, on the City's behalf, made follow-up phone calls to the MBMI THPO in January and February 2021 and received no return calls. City staff followed up with the MBMI THPO in September 2021 and concluded consultation on November 15, 2021. No tribal cultural resources were identified during this consultation process.

As discussed in Response Va Cultural Resources, the Phase I CRA (included as **Appendix C**) concluded there are no CRHR-eligible or NRHP-eligible resources present on the Project Site and since much of the Project Site has been previously disturbed by road grading, gas pipelines, and historic ranch activity, there is a low likelihood that intact significant historical resources are buried. (AE(a), p. 32.) Furthermore, the results of the NAHC SLF search did not indicate the presence of any sacred sites or locations or religious or ceremonial importance within the Project's APE.

Regarding inclusion on a local register of historical resources, there are six local historical sites in the central core of the City that are designated as Riverside County Landmarks (GP DEIR, p. III-137). These historical resources are not within, or in proximity to, the Project Site.

Although no tribal cultural resources were identified during the Project's AB 52 process, the Project will implement mitigation measure **MM CR-1**, which requires construction in the vicinity of the find to halt until a qualified archaeologist makes a determination as to the significance of the find. For these reasons, Project implementation would not result in a substantial adverse change to tribal cultural resources and impacts would be reduced to less than significant.

Sources: AE(a); GP DEIR

ENVIRONMENTAL FACTORS:	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
XIX. UTILITIES AND SERVICE SYSTEMS Would the project:				
a. Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications, the construction or relocation of which could cause significant environmental effects?	☐	☐	☒	☐
b. Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years?	☐	☐	☒	☐
c. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☒
d. Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	☐	☐	☒	☐
e. Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?	☐	☐	☐	☒

Utilities and Service Systems Discussion:

a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?

Less than significant impact. As discussed in the Project Description, the Project crosses three major drainage channels. Thus, the Project includes three sets of multiple RCBs, concrete swales, un-grouted riprap, v-gutters, storm drain laterals and catch basins, and trapezoidal channels. These drainage designs would conform to local, state, and federal regulations. The Project also includes catch basins and will discharge into existing Line J, Line I or Line K located north of the Project Site. As discussed in Responses Xc)i through Xc)iv, the *High Level Assessment of Potential Sediment Transport Impacts Associates with the Updated Sun Lakes Boulevard Improvement Project, Technical Memorandum* (("NHC") included as **Appendix F** to this Initial Study) determined that the size and placement of the Project's RCB culverts will have minimal sediment transport impacts because the hydraulic conditions upstream of all three of the proposed crossings are very comparable under pre- and post-project scenarios (NHC, p. 31). The Project would also adjust and relocate various utilities to grade (such as sewer manhole, storm drain manhole, telecommunication manhole, power poles, and electrical vault).

In order to irrigate the proposed landscaping along the median and on the slope easements, the Project would connect to existing water lines; thus the Project would not result in the construction of new water facilities.

Electricity is provided to the City by the Banning Department of Public Works, which buys its electricity from Southern California Edison (SCE). SCE facilities include an existing substation located on east Ramsey Street, and high-voltage transmission lines, which range from 12 kilovolts (KV) to 115 KV. Currently the Project Site has existing power poles that may be relocated as part of the Project; thus, the Project would not result in the construction of new or expanded electric lines. Rather, as mentioned above, the Project would adjust existing utility lines to grade.

The Gas Company (formerly Southern California Gas) provides natural gas services and facilities to the City. (GP DEIR, pp. III-205.) However, the proposed Project, a roadway extension, would not require natural gas services. As such, the proposed Project would not result in the in expansion of natural gas lines. Kinder Morgan owns and operates a high pressure gas line in Westward Avenue. At the request of Kinder Morgan, the project's drainage crossings at Highland Wash, Smith Creek, and Pershing Creek will be designed and constructed to avoid conflict with that facility.

Telephone services are provided by Verizon, while cable is provided by Time Warner to the City of Banning residents. (GP DEIR, p. III-207.) While the Project would not require any telecommunication services, as part of the Project footprint, as mentioned above, the Project would adjust existing telecommunication man hole to grade.

For the reasons set forth in the preceding paragraphs, impacts regarding the relocation or construction of new or expanded water, wastewater treatment, storm water drainage, electric power, natural gas, or telecommunications facilities would be less than significant.

Sources: Project Description; GP DEIR; NHC

b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years?

Less than significant impact. The City Public Works Department provides domestic water services to the City of Banning and unincorporated County of Riverside lands located southwesterly of the City limits. The City owns and operates wells, reservoirs, and a distribution line system to deliver domestic water within their service area. The City has water lines ranging from 2 inches to 30 inches in diameter. (GP PSF, p. VI-1.) According to the City's 2020 Urban Water Management Plan (UWMP), the City will be able to meet future demands through 2045. The UWMP shows that recent water use in 2020, landscaping irrigation for both non-potable and potable range between 301 Acre-Feet (AF) and 599 AF, respectively. Previous year's show that water consumption within the landscaping irrigation sector fluctuate between 267 AF and 306 AF for non-potable water and 505 AF and 579 AF for potable water. In general, landscape irrigation for both potable and non-potable water uses combined account for approximately 10.3 percent of the City's water use. (UWMP, p. 6-7.) The UWMP has projected water demand in 2045 for landscape irrigation for non-potable and potable water range from 484 AF and 900 AF. (UWMP, p. 6-15.)

As mentioned above, the proposed Project is implementing GPA 19-2502 by constructing a Circulation Element Arterial Highway. The Project includes landscaping within roadway median and hydroseeding for

slope protection along the slope easement. This quantity of landscaping would not consume significant quantities of water.

Therefore, since the Project would not require extensive amounts of water use and the UWMP has concluded it will be able to meet future development demands, the proposed Project would have sufficient water supply during normal, dry, and multiple dry years. Thus, implementation of the Project would less than significant impacts.

Source: GP; UWMP

c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

No impact. The City of Banning Public Works Department provides sanitary wastewater services to the City of Banning, including the Project Site. (GP, p. VI-2.) The Project consists of a roadway extension and there is no Project component that would produce wastewater requiring treatment. Therefore, the Project has no impact.

Source: Project Description; GP

d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

Less than significant impact. The proposed Project is a roadway extension and after construction is complete would not generate solid waste. Solid waste would be generated during Project construction; however, since the Project Site is vacant no structures are anticipated to be demolished and construction waste is expected to be minimal. As discussed in the Project Description, the Project may include the removal of approximately 14 existing power poles.

Solid waste collection and disposal services are provided by Waste Management Inland Empire and trash collected from the City is disposed at the Lamb Canyon Sanitary Landfill, El Sobrante Landfill, and the Badlands Landfill. (GP DEIR, p. III-211.) According to CalRecycle databases, the Badlands Landfill will remain operational until 2026, Lamb Canyon Landfill until 2032, and El Sobrante Landfill until 2051 (CAL-R). Given the number of landfills to which the solid waste could be redirected and their estimated closure dates, sufficient capacity is expected for the temporary increase of solid waste produced during construction as a result of Project implementation.

Thus, since the Project will only produce minimal construction waste and there are three landfills that could potentially accept construction generated solid waste, the Project will have a less than significant impact.

Source: CAL-R; GP DEIR

e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

No impact. The collection and disposal of solid waste would conform to applicable federal, state, and local plans and regulations, including AB 939 (Integrated Waste Management Act) that require local jurisdictions divert at least 50% of all solid waste. Implementation of the Project would adhere to all federal, state and local regulations related to solid waste during construction and operation. Therefore, the proposed Project would have no impact in terms of complying with federal, state, and local statutes and regulations related to solid waste.

Source: AB 939

ENVIRONMENTAL FACTORS:	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
XX. WILDFIRE If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:				
a. Substantially impair an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒
b. Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	☐	☐	☐	☒
c. Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	☐	☐	☐	☒
d. Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	☐	☐	☐	☒

Wildfire Discussion:

a) Substantially impair an adopted emergency response plan or emergency evacuation plan?

No impact. CalFire adopted Fire Hazard Severity Zone (FHSZ) maps for State Responsibility Areas (SRA) and Local Responsibility Areas (LRA) in November 2007. According to CalFire's most recent FHSZ maps, the Project Site is not within or immediately adjacent to an SRA or LRA classified very high fire hazard severity zone (VHFHSZ). (CalFire.) According to the City GP, the proposed Project is within an area classified as high fire threat zone, with a small portion of the right-of-way within a very high fire threat zone and is adjacent to an area of very high fire threat zone to the south within the City's sphere of influence (GP, Exhibit V-10).

The City adopted the Multi-Hazard Functional Planning Guidance document in 1996. The document is organized into three-parts, which include: 1) the Banning Emergency Plan; 2) twelve functional Annexes that describe the emergency response organization; and 3) a listing of operational data such as resources, key personnel, and essential facilities and contacts. (GP, p. VI-42.) According to the City's GP, the City does not have established evacuation routes, although depending on the location and extent of emergency, major surface streets could be utilized to route traffic through the City. (GP, p. VI-45.) The Project Site is currently an undeveloped dirt road between South Highland Home Road and Sunset Avenue. The Project Site is gated and does not provide vehicular access from South Highland Home Road to Sunset Avenue. Construction and operation of the Project, a planned arterial highway, would provide vehicular connectivity and access and could be used as an evacuation route in the event of an emergency. Therefore, the Project has no impact.

Sources: GP; CalFire

b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?

No impact. As discussed in the previous Response XXa, the Project Site is not within or immediately adjacent to a SRA or LRA classified very high fire hazard severity zone (VHFHSZ). (CalFire.) The Project involves the construction and operation of Sun Lakes Boulevard, a planned roadway, between South Highland Home Road and Sunset Avenue. This proposed roadway would be constructed in a relatively flat area and no component of the Project, would contribute to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire. Therefore, the Project has no impact.

Source: CalFire

c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?

No impact. As noted above in Response XXa, the Project Site is not within or immediately adjacent to a SRA or LRA classified very high fire hazard severity zone (VHFHSZ). (CalFire.) The Project involves the construction and operation of Sun Lakes Boulevard, a planned roadway, between South Highland Home Road and Sunset Avenue. This proposed roadway would not include fuel breaks, the use of emergency water sources, new power lines, or new utilities. No impact is anticipated.

Source: CalFire

d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

No impact. As noted above in Response XXa, the Project Site is not within or immediately adjacent to a SRA or LRA classified very high fire hazard severity zone (VHFHSZ). (CalFire.) The Project involves the construction and operation of Sun Lakes Boulevard, a planned roadway, between South Highland Home Road and Sunset Avenue. This proposed roadway would be constructed in a relatively flat area and no component of the Project, would contribute to a result of runoff, post-fire slope instability, or drainage changes. No impact is anticipated.

Source: CalFire

ENVIRONMENTAL FACTORS:	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
XXI. MANDATORY FINDINGS OF SIGNIFICANCE				
a. Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or an endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☒	☐	☐
b. Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☐	☒	☐
c. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☒	☐

Mandatory Findings of Significance Discussion:

a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or an endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

Less than significant with mitigation incorporated.

Potential to Substantially Degrade the Quality of the Environment: Implementation of the proposed Project would not have the potential to degrade the quality of the environment. As indicated in the foregoing analysis, either no impacts, less than significant impacts, or less than significant impacts with mitigation incorporated would occur with regard to each to the environmental issues analyzed in this Initial Study.

Potential to Impact Biological Resources: As discussed in Section IV Biological Resources, implementation of the proposed Project would not:

- substantially reduce the habitat of a fish or wildlife species;
- cause a fish or wildlife population to drop below self-sustaining levels;
- threaten to eliminate a plant or animal community; or
- substantially reduce the number or restrict the range of a rare or an endangered plant or animal.

The results of the MSHCP Consistency Report, LAPM Survey Report, Burrowing Owl Focused Survey Report, NEPSSA Report, Fairy Shrimp Technical Memo, and the JD Report (included in **Appendix B** of this Initial Study), and the analysis in Section IV Biological Resources indicate that with implementation of existing regulations,

mitigation measures **MM BIO-1 through MM BIO-5** and compliance with the condition of any regulatory permits issued by the RWQCB and/or CDFW, impacts to biological resources would be less than significant.

Potential to Eliminate Important Examples of the Major Periods of California History or Prehistory: As discussed in the response to Section V Cultural Resources, according to the Phase I CRA, there are no historic period built-environment resources present on the Project Site. Although the potential to encounter intact and significant buried archaeological deposits are unlikely, with implementation of mitigation measure **MM CR-1**, potential impacts regarding the elimination of important examples of California History or Prehistory would be less than significant.

Source: Above Environmental Checklist; AE(a); WSP(a); WSP(b); WSP(c); WSP(d); WSP(e); WSP(f)

b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

Less than significant impact. The proposed Project is implementing GPA 19-2502 and is therefore consistent with local and regional transportation plans. The Project's air quality emissions do not exceed established thresholds of significance (Table A and Table B). The Project adheres to all other City and County land use plans and policies, and would not increase VMTs within a 5-mile radius, 10-mile radius, or Riverside County, service area (Table O). The Project is not considered growth-inducing as defined by CEQA Guidelines Section 15126.2(d) and would not induce, either directly or indirectly, population and/or housing growth beyond what is envisioned by the Banning GP. Therefore, impacts would be less than significant.

Source: Above Environmental Checklist; WEBB(a); Translutions

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

Less than significant. Effects on human beings were evaluated as part of the aesthetics, air quality, cultural resources as it relates to human remains, geology and soils, GHGs, hazards and hazardous materials, hydrology and water quality, noise, population and housing, public services, recreation, transportation, and utilities and service systems sections in this Initial Study. All impacts would be less than significant.

Source: Above Environmental Checklist; AE(a); dBF; Geocon; WEBB(a); NHC

Note: Authority cited: Sections 21083 and 21083.05, Public Resources Code. Reference: Sections 65088.4, Gov. Code; Sections 210808(c), 21080.1, 21080.3, 21083, 21083.05, 21083.3, 21093, 21094, 21095, and 21151, Public Resources Code; *Sundstrom v. County of Mendocino,* (1988) 202 Cal.App.3d 296; *Leonoff v. Monterey Board of Supervisors,* (1990) 222 Cal.App.3d 1337; *Eureka Citizens for Responsible Govt. v. City of Eureka* (2007) 147 Cal.App.4th 357; P*rotect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th at 1109*; San Francisco Upholding the Downtown Plan v. City and County of San Francisco* (2002) 102 Cal.App.4th 656

EARLIER ANALYSES

Earlier analysis may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration as per California Code of Regulations section 1503 (c) (3) (D).

Earlier Analysis Used, if any: *Initial Study/Negative Declaration for Sun Lakes Boulevard Circulation Element, General Plan Amendment GPA 19-2502;* January 2020; *Draft Environmental Impact Report for the City of Banning Comprehensive General Plan and Zoning Ordinance, SCH Number 2005011039,* June 2005. Both documents are available at the City of Banning.

REFERENCES

The following documents were referred to as information sources during preparation of this document. They are available for public review at the locations abbreviated after each listing and spelled out at the end of this section.

Cited As:	Reference:
AB 52	California State Legislature, *Assembly Bill No. 52*, September 25, 2014. (Available at https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB52, accessed December 23, 2019).
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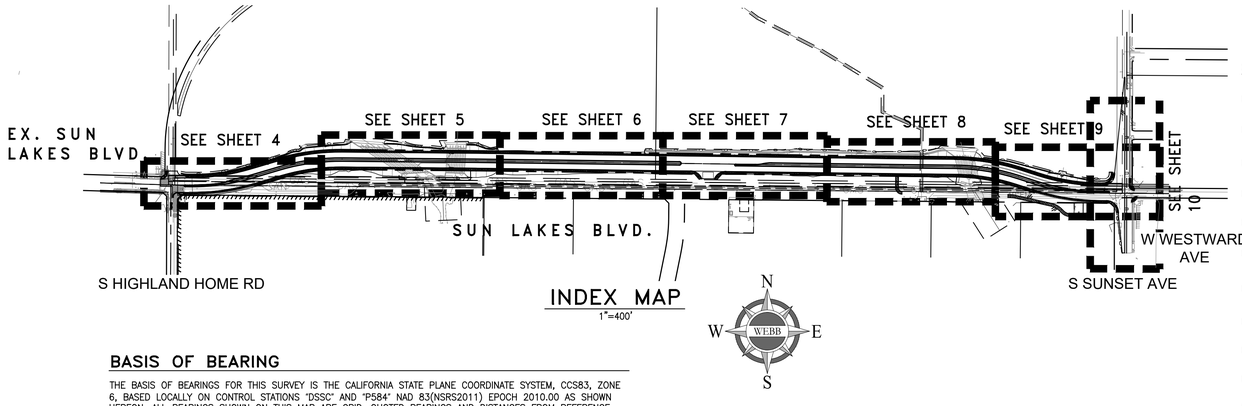
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Riverside, CA 92506
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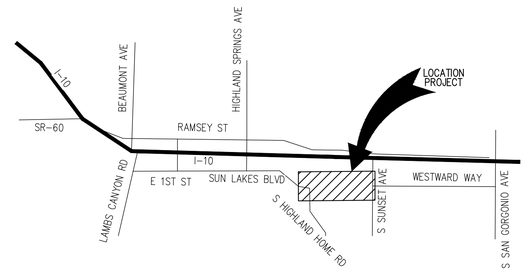
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Quality Control: Stephanie Standerfer, Vice President
Cheryl DeGano, Environmental Services Practice Area Leader
Eliza Laws, Senior Environmental Analyst
Monica Tobias, Associate Environmental Analyst
Noemi Avila, Assistant Environmental Analyst
Jacqueline Gamboa, Assistant Environmental Analyst
Virginia Waters, Assistant Environmental Analyst

EXHIBIT A

STREET IMPROVEMENT PLANS FOR
SUN LAKES BLVD. EXTENSION
CITY OF BANNING, CALIFORNIA



INDEX MAP
1"=400'



VICINITY MAP
N.T.S

GENERAL NOTES

1. ALL WORK SHALL BE IN ACCORDANCE WITH THESE PLANS, THE CITY OF BANNING STANDARD PLANS, THE CONTRACT PROVISIONS AND THE STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION ("GREEN BOOK"). ALL REFERENCE SPECIFICATIONS AND STANDARDS SHALL BE THE LATEST EDITION UNLESS OTHERWISE NOTED.
2. WHEN TECHNICAL CONFLICT IS FOUND TO EXIST IN THE CONTRACT DOCUMENTS THAT CAN NOT BE RESOLVED BY REFERENCE TO PRECEDENCE PROVISIONS IN THE "GREEN BOOK", THE CONTRACTORS SHALL IMMEDIATELY REPORT SAID CONFLICT TO THE CITY ENGINEERS FOR RESOLUTION.
3. ALL MATERIALS AND METHODS ARE SUBJECT TO THE APPROVAL OF THE CITY ENGINEER.
4. CONSTRUCTION PERMITS SHALL BE OBTAINED FROM THE CITY OF BANNING, ENGINEERING DEPARTMENT PRIOR TO THE START OF ANY WORK. INSPECTION COORDINATION SHALL BE REQUESTED AT LEAST TWO WORKING DAYS PRIOR TO THE START OF ANY WORK IN THE PUBLIC RIGHT-OF-WAY WITHIN THE CITY LIMITS. CALL (951) 922-3130 FOR ANY INSPECTION REQUESTS.
5. THE CONTRACTOR SHALL CONFORM TO ALL TRAFFIC CONTROL POLICIES, METHODS AND PROCEDURES DESCRIBED IN STATE OF CALIFORNIA MANUAL OR TRAFFIC CONTROLS, LATEST NON-METRIC EDITION UNLESS OTHERWISE DIRECTED BY THE ENGINEER.
6. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO MAINTAIN BARRICADES, DELINEATORS OR OTHER TRAFFIC CONTROL DEVICES AT ALL TIMES.
7. THE CONTRACTORS SHALL OBTAIN A PERMIT TO PERFORM EXCAVATION OR TRENCH WORK FOR TRENCHES 5 FEET OR GREATER IN DEPTH FROM THE CALIFORNIA STATE DIVISION OF INDUSTRIAL SAFETY.
8. THE WALLS AND FACES OF ALL EXCAVATIONS GREATER THAN FIVE (5) FEET IN DEPTH SHALL BE GUARDED BY SHORING, SLOPING OF THE GROUND OR OTHER APPROVED MEANS PURSUANT TO THE REQUIREMENTS OF THE DIVISION OF INDUSTRIAL SAFETY OF THE STATE OF CALIFORNIA. TRENCHES LESS THAN FIVE (5) FEET SHALL ALSO BE GUARDED WHEN THE POTENTIAL EXISTS FOR GROUND MOVEMENT.
9. NO MATERIAL OR EQUIPMENT SHALL BE STORED IN THE PUBLIC RIGHT OF WAY WITHOUT OBTAINING A SEPARATE PERMIT FOR THAT PURPOSE.
10. THE LOCATIONS OF UTILITIES SHOWN HAVE BEEN DETERMINED FROM AVAILABLE INFORMATION, HOWEVER, IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO DETERMINE, IN THE FIELD, THE TRUE LOCATION AND ELEVATION OF ANY EXISTING UTILITIES, AND TO EXERCISE PROPER PRECAUTION TO AVOID DAMAGE THERETO. THE CONTRACTOR SHALL CONTACT UNDERGROUND SERVICE ALERT AT 1-800-277-2600 TWO WORKING DAYS BEFORE EXCAVATION.
11. THE CONTRACTOR SHALL COORDINATE CONSTRUCTION WITH ALL UTILITY COMPANIES INCLUDING, BUT NO LIMITED TO, GAS, TELEPHONE, ELECTRIC, CABLE TELEVISION, LANDSCAPING, LANDSCAPE IRRIGATION, DOMESTIC WATER, RECLAIMED WATER, SEWER, STORM DRAIN, FLOOD CONTROL, AND CALTRANS. ALL UTILITY COMPANIES SHALL BE GIVEN TWO WORKING DAYS NOTICE PRIOR TO WORK AROUND THEIR FACILITIES.
12. THE CONTRACTOR SHALL NOT OPERATE ANY FIRE HYDRANT OR WATER MAIN VALVES WITHOUT APPROPRIATE AGENCY AUTHORIZATION. CONTRACTOR SHALL COORDINATE WITH THE WATER DEPARTMENT, CITY OF BANNING FOR VALVE OPERATION AND WATER REQUIREMENTS.
13. CURVE DATA REFERS TO THE FACE OF CURB, UNLESS OTHERWISE NOTED.
14. STATIONING REFERS TO THE CENTERLINE OF STREETS EXCEPT WHERE OTHERWISE NOTED.
15. ADEQUATE CONSTRUCTION CONTROL STAKES SHALL BE SET BY THE ENGINEER TO ENABLE THE CONTRACTOR TO CONSTRUCT THE WORK TO THE PLAN GRADE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PRESERVATION OF BENCHMARKS AND CONSTRUCTION CONTROL STAKING DURING CONSTRUCTION.
16. THE CONTRACTOR SHALL NOT DISTURB EXISTING SURVEY MONUMENTS, MONUMENT TIES OR BENCH MARKS WITHOUT PRIOR NOTIFICATION TO THE CITY ENGINEER.
17. REMOVAL AND REPLACEMENT OF EXISTING SURVEY CONTROL, INCLUDING SURVEY MONUMENTS, MONUMENT TIES AND BENCH MARKS, SHALL BE DONE BY A REGISTERED CIVIL ENGINEER OR LICENSED LAND SURVEYOR. SURVEY MONUMENTS THAT WILL BE DESTROYED AS A RESULT OF THIS CONSTRUCTION SHALL BE REPLACED. THE CONTRACTOR SHALL NOTIFY THE ENGINEER ONE WEEK PRIOR TO CONSTRUCTION SO THAT TIES TO MONUMENTS CAN BE ESTABLISHED FOR LATER REPLACEMENT OF THE MONUMENT.
18. THE CONTRACTOR SHALL MAINTAIN ACCESS FOR LOCAL RESIDENTS AND BUSINESS' AT ALL TIMES. A MINIMUM 12 FOOT LANE SHALL BE MAINTAINED AT ALL TIME IN THE CONSTRUCTION AREA FOR RESIDENTS AND EMERGENCY VEHICLES.
19. THE CONTRACTOR SHALL PROVIDE AND MAINTAIN AN EFFECTIVE MEANS OF DUST CONTROL, INCLUDING ADEQUATE WATERING, AT ALL TIMES.
20. ALL GRADING OPERATIONS SHALL BE DISCONTINUED WHEN SUSTAINED WIND VELOCITIES EXCEED 25 MILES PER HOUR.
21. THE CONTRACTOR SHALL NOT CAUSE ANY EXCAVATED MATERIAL, MUD, SILT, OR DEBRIS TO BE DEPOSITED ONTO PUBLIC OR PRIVATE PROPERTY ADJACENT TO THE RIGHT OF WAY DURING CONSTRUCTION WITHOUT PRIOR WRITTEN APPROVAL.
22. NO TRENCH BACKFILL SHALL TAKE PLACE WITHOUT PRIOR APPROVAL OF THE CITY INSPECTOR.
23. A GEOTECHNICAL ENGINEER SHALL CERTIFY ALL BACKFILL COMPACTION, FAILURE TO OBTAIN THE REQUIRED DENSITY SHALL REQUIRE RE-WORKING OF THAT PORTION OF THE WORK UNTIL THE SPECIFIED DENSITY IS OBTAINED.
24. CARE SHOULD BE TAKEN TO PREVENT GRADES, DITCHES, AND SWALES FROM UNDERMINING STREET IMPROVEMENTS. UPON INSPECTION OF THE SITE, THE CITY ENGINEER MAY REQUIRE TEMPORARY NON-ERODEABLE SWALES ENTERING OR LEAVING IMPROVEMENTS.
25. THE FINAL LOCATION AND WIDTH OF DRIVEWAY APPROACH APRONS SHALL BE APPROVED AT THE TIME OF CONSTRUCTION AND SHALL CONFORM TO THE CITY OF BANNING STANDARD DETAILS.
26. ALL EXPOSED CONCRETE SURFACES SHALL CONFORM IN GRADE, COLOR, AND FINISH TO MATCH EXISTING CONCRETE.
27. THE CONTRACTOR SHALL STAMP AN "S" IN THE FACE OF THE CURB AT THE LOCATION OF THE SEWER LATERAL.
28. NO CONCRETE SHALL BE PLACED UNTIL THE FORMS AND REINFORCING STEEL HAVE BEEN PLACED, INSPECTED, AND APPROVED.
29. ALL UNDERGROUND UTILITIES SHALL BE INSTALLED, TESTED, AND APPROVED PRIOR TO PAVING OF STREETS.
30. PAVEMENT STRUCTURAL SECTIONS SHOWN ARE MINIMUM AND SUBJECT TO REVISION AND APPROVAL OF THE CITY ENGINEER AS DETERMINED BY SOILS TESTS TAKEN AFTER COMPLETION OF ROUGH GRADING AND IN CONSIDERATION OF THE APPROPRIATE R-VALUE.
31. ACTUAL THICKNESS OF A.C. PAVEMENT AND/OR BASE COURSE MATERIAL FOR STRUCTURAL STREET SECTIONS SHALL BE RECOMMENDED BY A GEOTECHNICAL REPORT AND SUBMITTED TO THE CITY OF BANNING FOR APPROVAL UPON COMPLETION OF ROUGH GRADING.
32. ALL MANHOLES, CLEAN OUT FRAMES, COVERS AND VALVE BOXES SHALL BE RAISED TO FINISHED GRADE BY THE PAVING CONTRACTOR UPON COMPLETION OF PAVING AND PER THE CITY OF BANNING'S REQUIREMENTS.
33. UPON COMPLETION OF CONSTRUCTION, CONTRACTORS SHALL RESTORE ALL SIGNING, STRIPING, BARRICADES, AND OTHER TRAFFIC CONTROL DEVICES TO THE SATISFACTION OF THE CITY ENGINEER.
34. CONTRACTOR SHALL RELOCATE AND/OR REPLACE LANDSCAPING, SPRINKLERS, AND SIDEWALKS AFFECTED BY THE CONSTRUCTION TO THE SATISFACTION OF THE CITY ENGINEER.
35. AS-BUILT DRAWINGS SHALL BE PROVIDED BY THE CONTRACTOR TO THE ENGINEER OF RECORD, WHO SHALL PROVIDE RECORD DRAWINGS TO THE CITY ENGINEER.
36. IF AND WHEN TRAFFIC LOOP DETECTORS ARE DISTURBED THEY SHALL BE REPLACED AS SOON AS POSSIBLE, PER THE CITY ENGINEER'S DIRECTION.
37. STREET NAME AND DIRECTIONAL SIGNS SHALL MEET ALL MUTCD AND CITY REQUIREMENTS.

BASIS OF BEARING

THE BASIS OF BEARINGS FOR THIS SURVEY IS THE CALIFORNIA STATE PLANE COORDINATE SYSTEM, CCS83, ZONE 6, BASED LOCALLY ON CONTROL STATIONS "DSSC" AND "P584" NAD 83(NSRS2011) EPOCH 2010.00 AS SHOWN HEREON. ALL BEARINGS SHOWN ON THIS MAP ARE GRID. QUOTED BEARINGS AND DISTANCES FROM REFERENCE MAPS OR DEEDS ARE AS SHOWN PER THAT RECORD REFERENCE. ALL DISTANCES SHOWN ARE GROUND DISTANCES UNLESS SPECIFIED OTHERWISE. GRID DISTANCES, MAY BE OBTAINED BY MULTIPLYING THE GROUND DISTANCE BY A COMBINATION FACTOR OF 0.9998916237458055. CALCULATIONS ARE MADE AT PT. NO. 1 WITH COORDINATES OF: N: 2278443.474 , E: 6355683.517, USING AN ELEVATION OF 2495.868.

BENCHMARK

DESIGNATION – L448
PID – DX1100
COUNTY,STATE – RIVERSIDE, CA
DATUM – NAVD 88
ELEV – 2420.82

ENGINEER OF RECORD NOTE

WEBB ASSOCIATES WAS RETAINED AS THE ENGINEER OF RECORD FOR THE DEVELOPMENT AND PROCESSING OF THESE PLANS FOR CONSTRUCTION PURPOSES. SAID PLANS HAVE BEEN REVIEWED AND APPROVED BY THE LOCAL GOVERNING AGENCY TO BE CONSTRUCTIBLE BASED ON LOCAL INDUSTRY STANDARDS. THIS DOES NOT MEAN, HOWEVER, THAT EVERY HORIZONTAL DIMENSION OR VERTICAL ELEVATION NECESSARY FOR CONSTRUCTION IS DELINEATED ON SAID DRAWINGS. ANY PART OF THESE DRAWINGS THAT IS TO BE USED IN STAKING THE PROPERTY HAS BEEN PREPARED BY WEBB WITH THE EXPECTATION AND ASSUMPTION THAT ANY STAKING, WHETHER BY WEBB, OWNER, OR A THIRD PARTY, WILL BE PERFORMED UNDER THE SUPERVISION AND CONTROL OF A LICENSED LAND SURVEYOR AND WILL INCLUDE ON-SITE INTERPRETATION, VERIFICATION, CROSS-CHECKING AND FIELD CORRECTIONS OF PLANS, DRAWINGS, SURVEY INFORMATION AND ELECTRONIC DATA AT THE TIME OF ACTUAL STAKING OF THE PROPERTY PRIOR TO CONSTRUCTION.

NOTICE TO CONTRACTORS

CONTRACTOR AGREES THAT HE SHALL ASSUME COMPLETE AND SOLE RESPONSIBILITY FOR JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY; THAT THIS REQUIREMENT SHALL CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS; AND THAT THE CONTRACTOR SHALL DEFEND, INDEMNIFY AND HOLD THE OWNER AND ENGINEER HARMLESS FROM ANY AND ALL LIABILITY, REAL OR ALLEGED, IN CONNECTION WITH THE PERFORMANCE OF WORK ON THIS PROJECT, EXCEPTING FROM LIABILITY ARISING FROM THE SOLE NEGLIGENCE OF THE OWNER OR ENGINEER.

ABBREVIATIONS

AB	AGGREGATE BASE	FG	FINISHED GRADE	OC	ON CENTER	SL	STREET LIGHT
AC	ASPHALT CONCRETE	FL	FLOW LINE	PI	POINT OF INTERSECTION	S/W	SIDEWALK
AP	ANGLE POINT	FS	FINISH SURFACE	P/L	PROPERTY LINE	STA.	STATION
BCR	BEGIN CURB RETURN	GB	GRADE BREAK	PP	POWER POLE	SWR	SEWER
CB	CATCH BASIN	HP	HIGH POINT	PVI	POINT OF VERTICAL	TC	TOP OF CURB
C&G	CURB & GUTTER	INV	INVERT	PVMT	PAVEMENT	TELE	TELEPHONE LINE
CHLK	CHAIN LINK	LOC	LENGTH OF CURVE	R/W	RIGHT OF WAY	TS	TRAFFIC SIGNAL
D/W	DRIVEWAY	LP	LOW POINT	SD	STORM DRAIN	TYP	TYPICAL
ECR	END CURB RETURN	MH	MANHOLE			VC	VERTICAL CURVE
EX.	EXISTING	MTC	MEDIAN TOP OF CURB			WTR	WATER LINE
						UNKN	UNKNOWN

UNDERGROUND STRUCTURES

ALL UNDERGROUND STRUCTURES OR UTILITIES REPORTED BY THE OWNER OR OTHERS AND THOSE SHOWN ON THE RECORDS EXAMINED ARE INDICATED WITH THEIR APPROXIMATE LOCATION AND EXTENT.

THE OWNER, BY ACCEPTING THESE PLANS OR PROCEEDING WITH THE IMPROVEMENTS PURSUANT THERETO AGREES TO ASSUME LIABILITY AND TO HOLD THE UNDERSIGNED HARMLESS FOR ANY DAMAGES RESULTING FROM THE EXISTENCE OF UNDERGROUND UTILITIES OR STRUCTURES NOT REPORTED TO THE UNDERSIGNED, NOT INDICATED ON THE PUBLIC RECORDS EXAMINED, OR LOCATED AT VARIANCE WITH THAT REPORTED OR SHOWN ON THE RECORDS EXAMINED.

THE CONTRACTOR IS REQUIRED TO TAKE DUE PRECAUTIONARY MEASURES TO PROTECT THE UTILITIES OR STRUCTURES SHOWN AND ANY OTHER UTILITIES OR STRUCTURES FOUND AT THE SITE. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO NOTIFY THE OWNERS OF THE UTILITIES OR STRUCTURES CONCERNED BEFORE STARTING WORK.

LEGEND

EXISTING RIGHT-OF-WAY
PROPOSED RIGHT-OF-WAY
PROPOSED STORM DRAIN EASEMENT
EXISTING CENTERLINE
PROPOSED CURB & GUTTER
PROPOSED EDGE OF PAVEMENT
SAWCUT
DAYLIGHT LINE
EXISTING CURB & GUTTER
EXISTING EDGE OF PAVEMENT
465 — PROPOSED ELEVATION
(465) — EXISTING ELEVATION
POC — PORTION OF CURVE
GRIND AND OVERLAY
REMOVE EXISTING PAVEMENT SECTION
PROPOSED CONCRETE SIDEWALK
PROPOSED AC PAVEMENT SECTION

SHEET INDEX

SHEET 1	TITLE SHEET AND INDEX MAP
SHEET 2-3	TYPICAL SECTIONS AND DETAILS
SHEET 4-9	SUN LAKES BLVD. PLAN & PROFILE
SHEET 10	SUNSET AVE. PLAN & PROFILE
SHEET 11-31	STORM DRAINAGE PLAN & PROFILE

CONSTRUCTION NOTES

(1) CONSTRUCT 0.5' A.C. OVER 1.0' CLASS II AGGREGATE BASE.
(2) CONSTRUCT TYPE "B" (8") CURB AND GUTTER PER CITY OF BANNING STD. NO. 201.
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(6) CONSTRUCT ACCESS RAMP TYPE II PER CITY OF BANNING STD. NO. 215.
(7) CONSTRUCT CURB RAMP PER CALTRANS 2018 STD. PLAN NO. RSP A88B, CASE CM, MODIFIED.
(8) CONSTRUCT 4" PCC SIDEWALK PER CITY OF BANNING STD. NO. 213. (W=8').
(9) CONSTRUCT COMMERCIAL DRIVEWAY PER CITY OF BANNING STD. NO. 209.
(10) CONSTRUCT RESIDENTIAL DRIVEWAY PER CITY OF BANNING STD. NO. 207.
(13) CONSTRUCT DRAINAGE SWALE PER DRAINAGE SWALE DETAIL ON SHEET 25.
(15) PROTECT IN PLACE (ITEM NOTED ON PLAN).
(16) SAWCUT EXISTING PAVEMENT PER JOINT DETAIL ON SHEET 3.
(17) GRIND EXISTING PAVEMENT (0.17' AND INSTALL 0.17' A.C. OVERLAY PER JOINT DETAIL ON SHEET 3).
(18) SAWCUT EXISTING SIDEWALK.
(19) ADJUST EXISTING WATER VALVE TO GRADE PER CITY OF BANNING STD. NO. W-20.
(22) ADJUST EXISTING SEWER MANHOLE TO GRADE PER CITY OF BANNING STD. NO. S-5.
(23) ADJUST EXISTING STORM DRAIN MANHOLE TO GRADE PER RCFC STD. DWG. NO. MH256.
(25) ADJUST EXISTING GAS ELECTRONINC STATION TO GRADE.
(27) CONSTRUCT CROSS GUTTER PER CITY OF BANNING STD. NO. C-211
(28) RELOCATE EXISTING POWER POLE BY CITY OF BANNING.
(29) RELOCATE EXISTING GUY ANCHOR BY CITY OF BANNING.
(30) RELOCATE EXISTING ELECTRICAL RISER BY CITY OF BANNING.
(31) RELOCATE EXISTING AIR VACUUM PER CITY OF BANNING STD. NO. W-15.
(33) RELOCATE EXISTING MAIL BOX.
(34) REMOVE/RELOCATE EXISTING ROAD SIGN PER SIGNING & STRIPING PLAN.
(35) REMOVE AND DISPOSE OF EXISTING A.C. PAVEMENT AND BASE.
(36) REMOVE AND DISPOSE OF EXISTING CURB AND GUTTER.
(37) REMOVE AND DISPOSE OF EXISTING SIDEWALK.
(38) REMOVE AND DISPOSE OF EXISTING CHAINLINK FENCE.
(39) REMOVE AND DISPOSE OF EXISTING BOLLARDS.
(40) REMOVE AND DISPOSE OF EXISTING GUARD RAIL.
(41) REMOVE AND DISPOSE OF EXISTING PCC PAD.
(42) ADJUST EXISTING TELECOMMUNICATIONS MANHOLE TO GRADE
(48) CONSTRUCT CHAIN LINK FENCE PER SPPWC STD. PLAN NO. 600-3
(49) CONSTRUCT PROPOSED CATCH BASIN AND LOCAL DEPRESSION PER SD SHEETS

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RECOMMENDED FOR APPROVAL BY:
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SENIOR CIVIL ENGINEER
APPROVED BY:
NATHAN C. SMITH, RCE #74754 EXP 12/31/2025 — DATE
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SEAL – ENGINEER
REGISTERED PROFESSIONAL ENGINEER
DILESH R. SHETH
No. C65078
CIVIL
STATE OF CALIFORNIA

PREPARED UNDER THE SUPERVISION OF: DILESH R. SHETH
REGISTERED CIVIL ENGINEER NO. C73987 DATE:

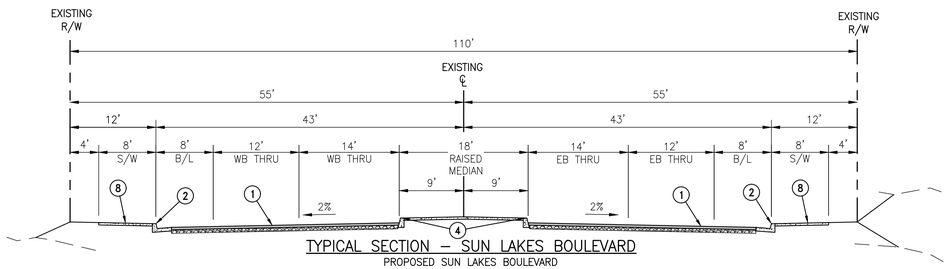
ALBERT A. WEBB ASSOCIATES
ENGINEERING CONSULTANTS
3788 McCRAY STREET
RIVERSIDE, CA. 92506
PH. (951) 686-1070

SCALE: HORIZ: 1" = 40' VERT: 1" = 4'
DATE: 6/23/2022
DRAWN BY: JB
DESIGNED BY: JB
CHECKED BY: EJA

PREPARED FOR:
CITY OF BANNING
COUNTY OF RIVERSIDE
CALIFORNIA

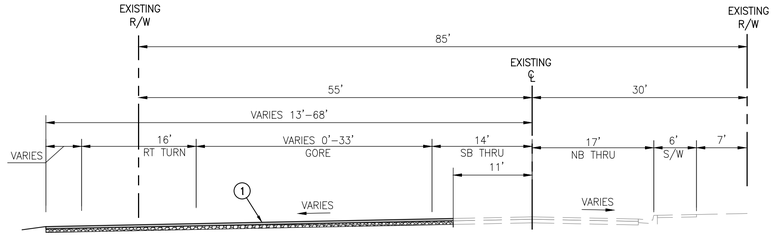
SUN LAKES BLVD EXTENSION
STREET IMPROVEMENT PLAN
TITLE SHEET

W.O. NO. 2020-0126
SHEET 1 OF 26
MAP FILE NO.



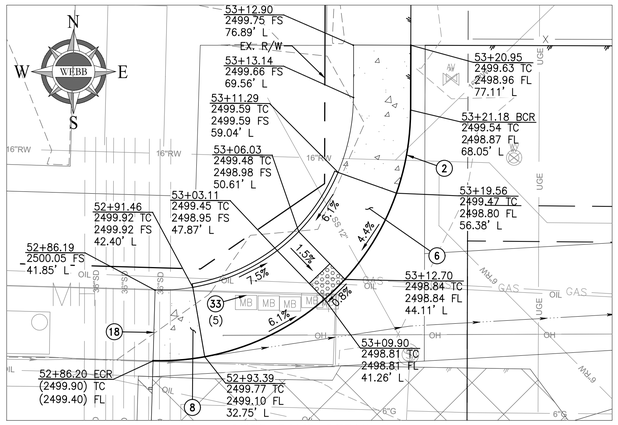
TYPICAL SECTION – SUN LAKES BOULEVARD

PROPOSED SUN LAKES BOULEVARD
(BETWEEN HIGHLAND HOME BOULEVARD AND SUNSET AVENUE)
ARTERIAL HIGHWAY
SCALE: N.T.S.
T.I.=8.5
R=25



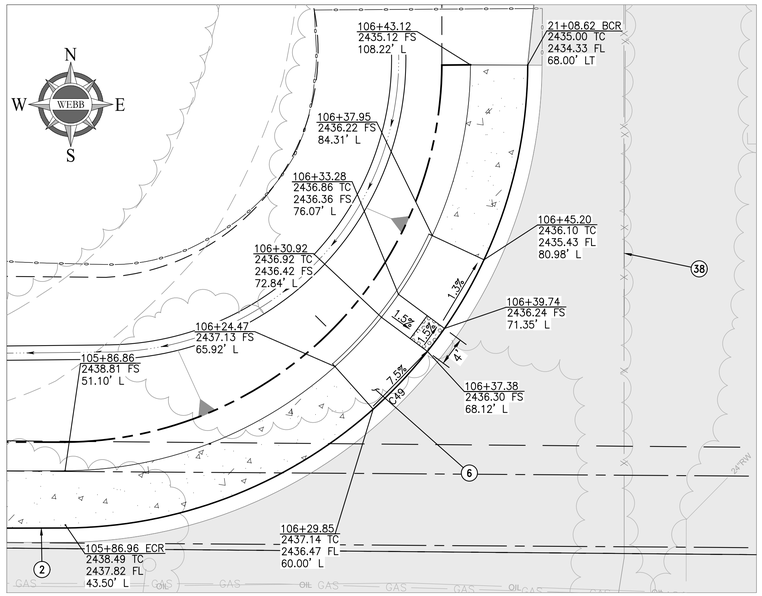
TYPICAL SECTION – SUNSET AVENUE

ARTERIAL HIGHWAY
SCALE: N.T.S.
T.I.=8.5
R=25



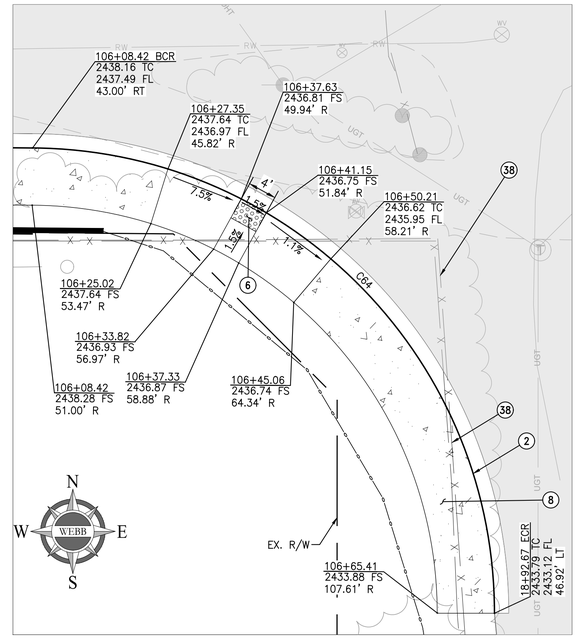
CURB RAMP DETAIL 1

1"=10'



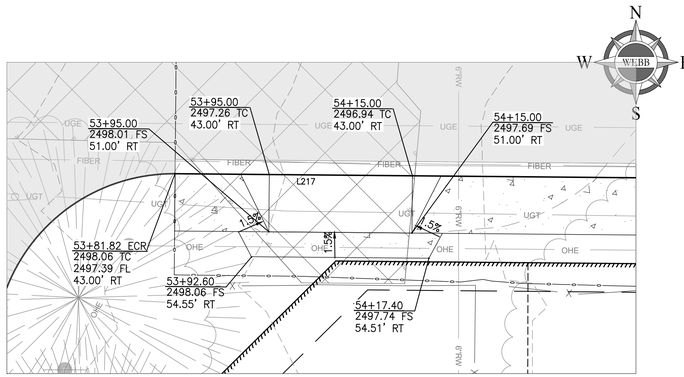
CURB RAMP DETAIL 15

1"=10'



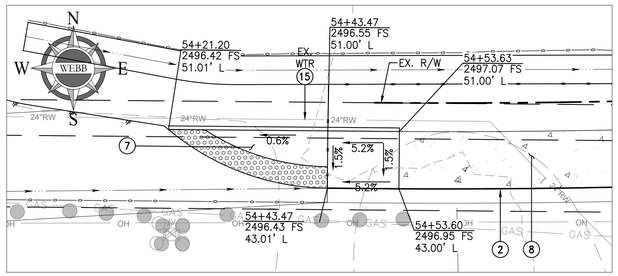
CURB RAMP DETAIL 16

1"=10'



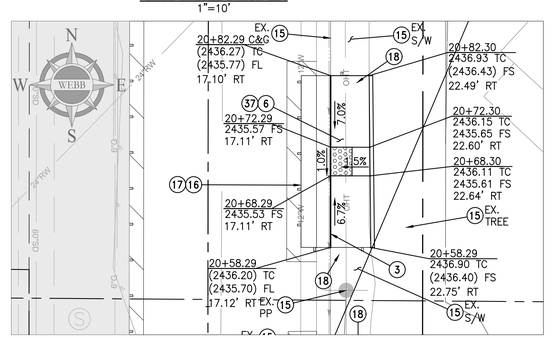
DRIVEWAY DETAIL 5

1"=10'



CURB RAMP DETAIL 2

1"=10'



CURB RAMP DETAIL 17

1"=10'

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SENIOR CIVIL ENGINEER

APPROVED BY:

NATHAN C. SMITH, RCE #74754 EXP 12/31/2025 — DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

SEAL – ENGINEER

REGISTERED PROFESSIONAL ENGINEER — DILESH R. SHETH — No. C65078 — CIVIL — STATE OF CALIFORNIA

PREPARED UNDER THE SUPERVISION OF: DILESH R. SHETH

REGISTERED CIVIL ENGINEER NO. C73987 DATE:

ALBERT A. WEBB ASSOCIATES
ENGINEERING CONSULTANTS
3788 McCRAY STREET
RIVERSIDE CA. 92506
PH. (951) 686-1070

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DESIGNED BY:	JB
CHECKED BY:	EJA

PREPARED FOR:

CITY OF BANNING
COUNTY OF RIVERSIDE
CALIFORNIA

SUN LAKES BLVD EXTENSION

STREET IMPROVEMENT PLAN

TYPICAL SECTIONS & DETAILS

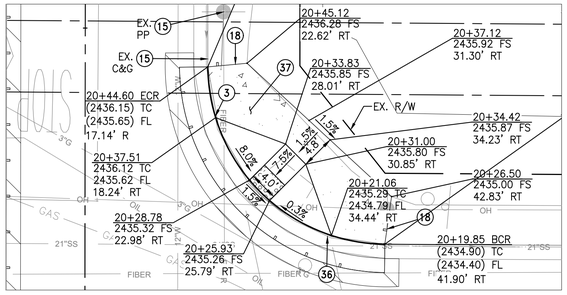
W.O. NO. 2020-0126

SHEET 2 OF 26

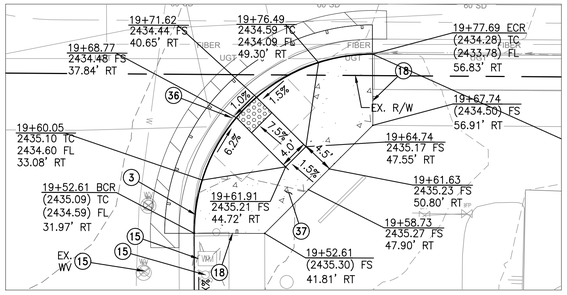
MAP FILE NO.

FOR PLAN REVIEW ONLY

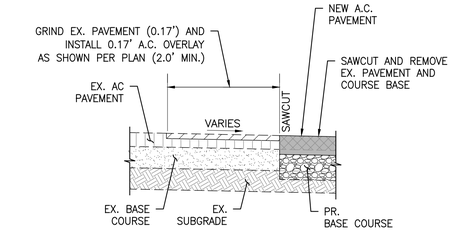
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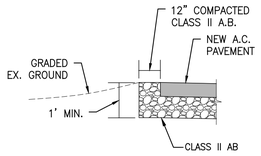
CURB RAMP DETAIL 13
1"=10'



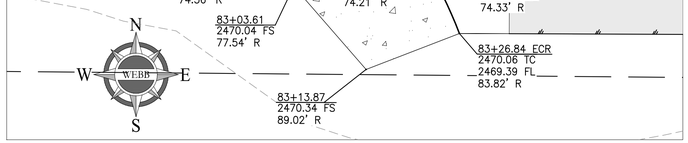
CURB RAMP DETAIL 14
1"=10'



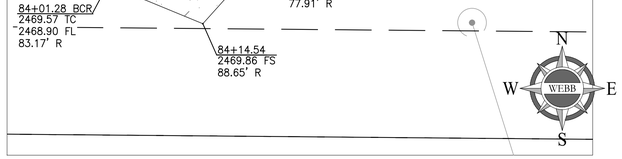
(17)(16) SAWCUT/OVERLAY JOINT DETAIL
N.T.S.



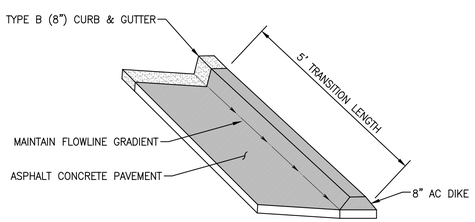
(11) EDGE OF PAVEMENT DETAIL
N.T.S.



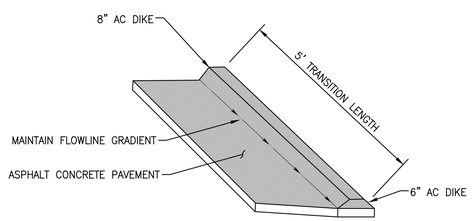
CURB RAMP DETAIL 11
1"=10'



CURB RAMP DETAIL 12
1"=10'



(46) CURB TRANSITION DETAIL
NOT TO SCALE



(47) DIKE TRANSITION DETAIL
NOT TO SCALE

CONSTRUCTION NOTES

(2) CONSTRUCT TYPE "B" (8") CURB AND GUTTER PER CITY OF BANNING STD. NO. 201.
(3) CONSTRUCT TYPE "A" (6") CURB AND GUTTER PER CITY OF BANNING STD. NO. 200.
(5) CONSTRUCT ACCESS RAMP TYPE I PER CITY OF BANNING STD. NO. 214.
(11) CONSTRUCT EDGE OF PAVEMENT PER EDGE OF PAVEMENT DETAIL ON SHEET 3.
(15) PROTECT IN PLACE (ITEM NOTED ON PLAN).
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(18) SAWCUT EXISTING SIDEWALK.
(36) REMOVE AND DISPOSE OF EXISTING CURB AND GUTTER.
(37) REMOVE AND DISPOSE OF EXISTING SIDEWALK.
(46) CONSTRUCT CURB TRANSITION PER CURB TRANSITION DETAIL ON SHEET 3
(47) CONSTRUCT DIKE TRANSITION PER DIKE TRANSITION DETAIL ON SHEET 3

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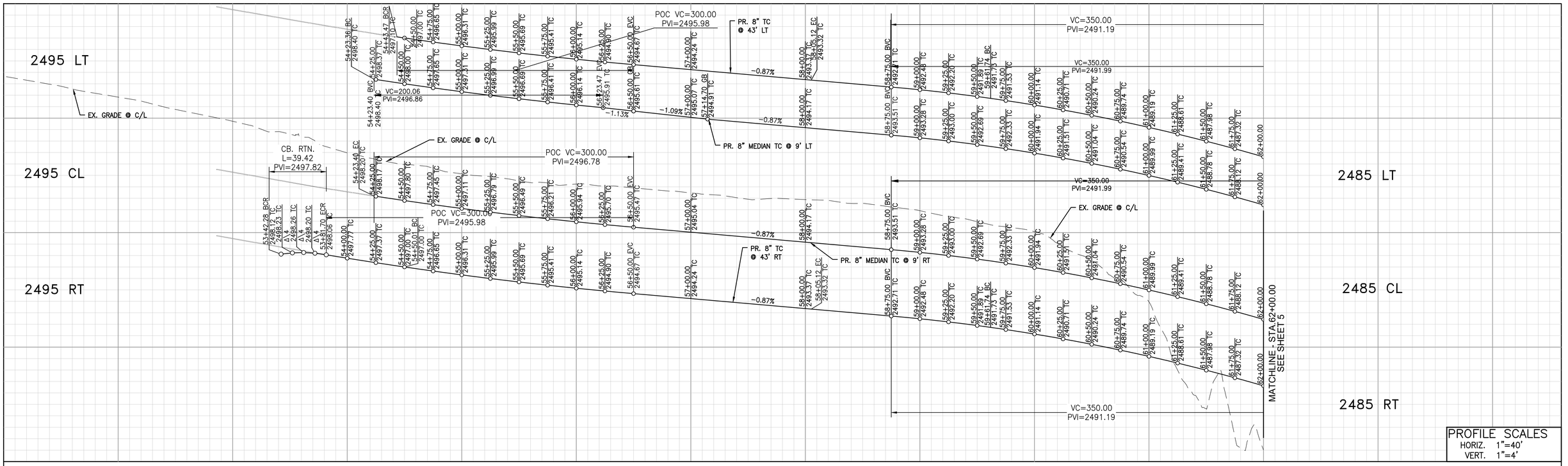
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SUN LAKES BLVD EXTENSION
STREET IMPROVEMENT PLAN
TYPICAL SECTIONS & DETAILS

W.O. NO. 2020-0126
SHEET 3 OF 26
MAP FILE NO.

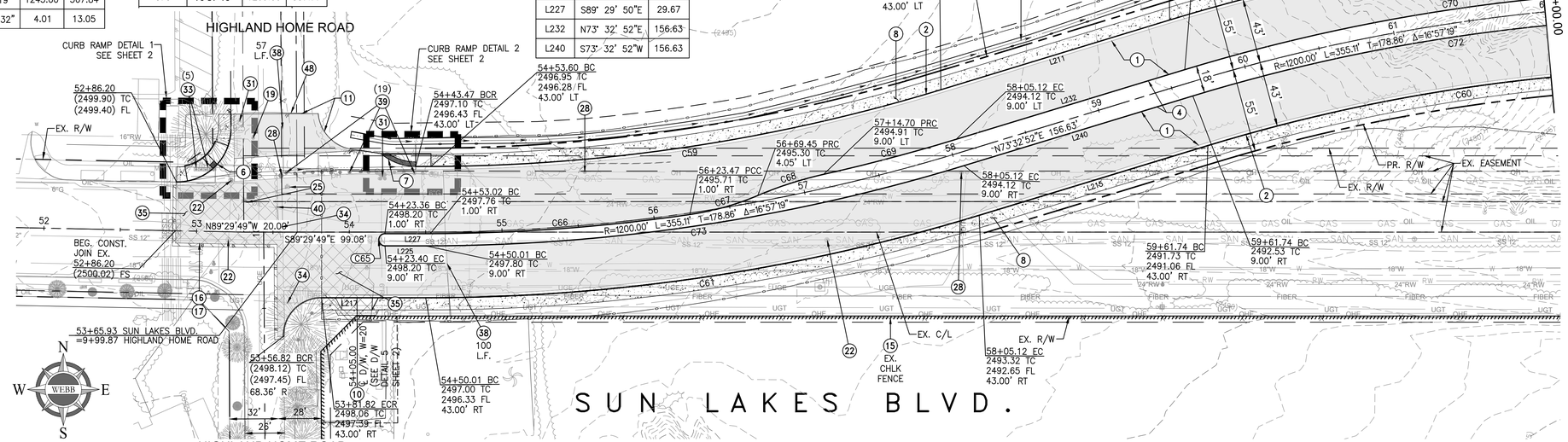
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PROFILE SCALES
HORIZ. 1"=40'
VERT. 1"=4'

CURVE TABLE			
CURVE #	DELTA	RADIUS	LENGTH
C57	16°57'19"	1243.00	367.84
C59	16°47'01"	1157.00	338.92
C60	16°57'19"	1157.00	342.39
C61	16°57'19"	1243.00	367.84
C65	186°39'32"	4.01	13.05
C66	8°07'59"	1201.77	170.59
C67	14°44'46"	180.00	46.33
C68	10°23'24"	250.00	45.33
C69	4°19'02"	1191.00	89.74
C70	16°57'19"	1209.00	357.77
C72	16°57'19"	1191.00	352.45
C73	16°57'19"	1209.00	357.77

LINE TABLE		
LINE #	DIRECTION	LENGTH
L211	S73° 32' 52"W	156.63
L215	S73° 32' 52"W	156.63
L217	N89° 29' 49"W	68.17
L225	N89° 29' 49"W	26.61
L227	S89° 29' 50"E	29.67
L232	N73° 32' 52"E	156.63
L240	S73° 32' 52"W	156.63



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34. REMOVE/RELOCATE EXISTING ROAD SIGN PER SIGNING & STRIPING PLAN.
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38. REMOVE AND DISPOSE OF EXISTING CHAINLINK FENCE.
39. REMOVE AND DISPOSE OF EXISTING BOLLARDS.
40. REMOVE AND DISPOSE OF EXISTING GUARD RAIL.
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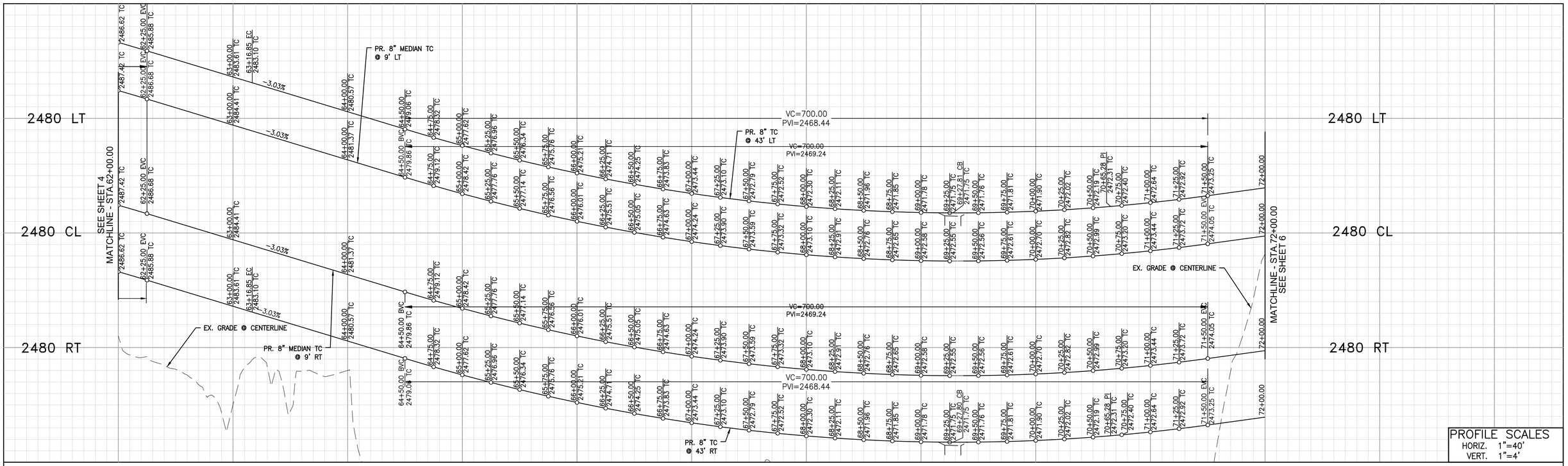
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CHECKED BY: EJA

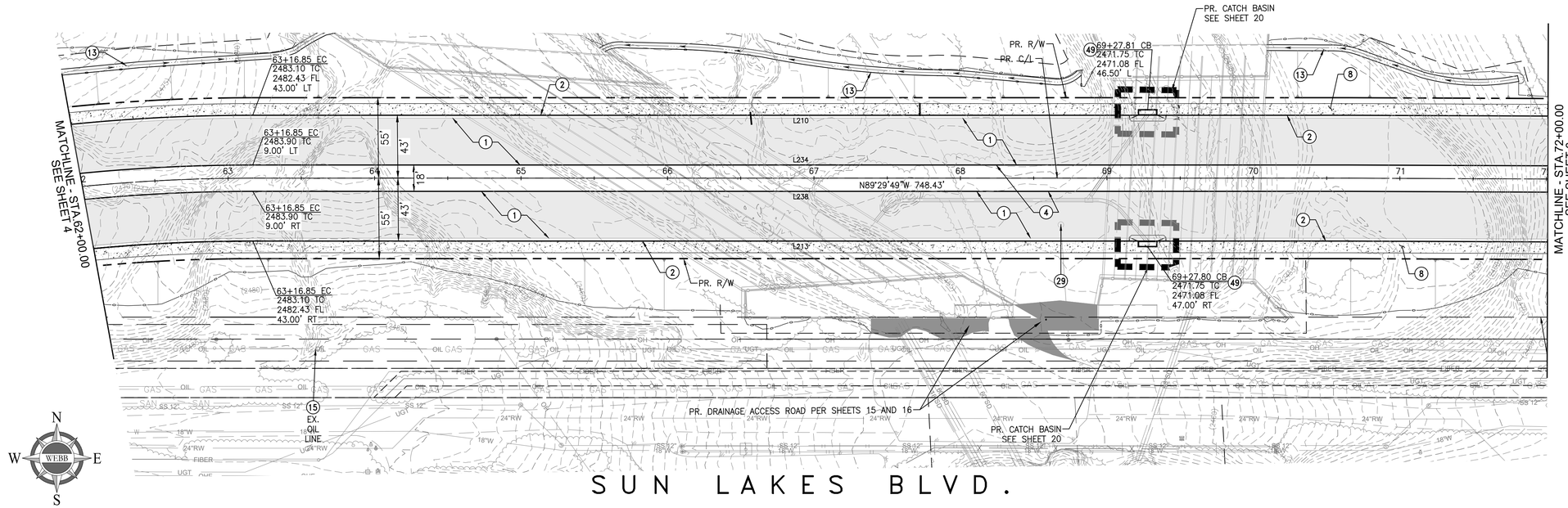
PREPARED FOR:
CITY OF BANNING
COUNTY OF RIVERSIDE
CALIFORNIA

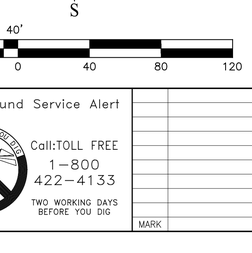
SUN LAKES BLVD EXTENSION
STREET IMPROVEMENT PLAN
SUN LAKES BLVD. PLAN & PROFILE
STA. 52+86.20 TO 62+00

W.O. NO. 2020-0126
SHEET 4 OF 26
MAP FILE NO.

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SUN LAKES BLVD.

1" = 40'

40 0 40 80 120

PROFILE SCALES
HORIZ. 1"=40'
VERT. 1"=4'

LINE TABLE

LINE #	DIRECTION	LENGTH
L210	N89° 29' 49"W	748.52
L213	N89° 29' 49"W	748.34
L234	S89° 29' 49"E	748.45
L238	N89° 29' 49"W	748.41

CONSTRUCTION NOTES

1. CONSTRUCT 0.5' A.C. OVER 1.0' CLASS II AGGREGATE BASE.
2. CONSTRUCT TYPE "B" (8") CURB AND GUTTER PER CITY OF BANNING STD. NO. 201.
4. CONSTRUCT TYPE "D" (8") CURB PER CITY OF BANNING STD. NO. 203.
8. CONSTRUCT 4" PCC SIDEWALK PER CITY OF BANNING STD. NO. 213. (W=8').
13. CONSTRUCT DRAINAGE SWALE PER DRAINAGE SWALE DETAIL ON SHEET 25.
15. PROTECT IN PLACE (ITEM NOTED ON PLAN).
29. RELOCATE EXISTING GUY ANCHOR BY CITY OF BANNING.
49. CONSTRUCT PROPOSED CATCH BASIN AND LOCAL DEPRESSION PER SD SHEETS

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MARK	REVISIONS	APPR.	DATE

CITY OF BANNING

RECOMMENDED FOR APPROVAL BY:

KEVIN SIN, RCE #71299 EXP 12/31/2025 DATE
SENIOR CIVIL ENGINEER

APPROVED BY:

NATHAN C. SMITH, RCE #74754 EXP 12/31/2025 DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

SEAL – ENGINEER

REGISTERED PROFESSIONAL ENGINEER
DILESH R. SHETH
No. C65078
CIVIL
STATE OF CALIFORNIA

PREPARED UNDER THE SUPERVISION OF: DILESH R. SHETH

REGISTERED CIVIL ENGINEER NO. C73987 DATE:

ALBERT A. WEBB ASSOCIATES
ENGINEERING CONSULTANTS
3788 McCRAY STREET
RIVERSIDE, CA. 92506
PH. (951) 686-1070

SCALE:	HORIZ: 1" = 40' VERT: 1" = 4'
DATE:	6/23/2022
DRAWN BY:	JB
DESIGNED BY:	JB
CHECKED BY:	EJA

PREPARED FOR:

CITY OF BANNING
COUNTY OF RIVERSIDE
CALIFORNIA

SUN LAKES BLVD EXTENSION

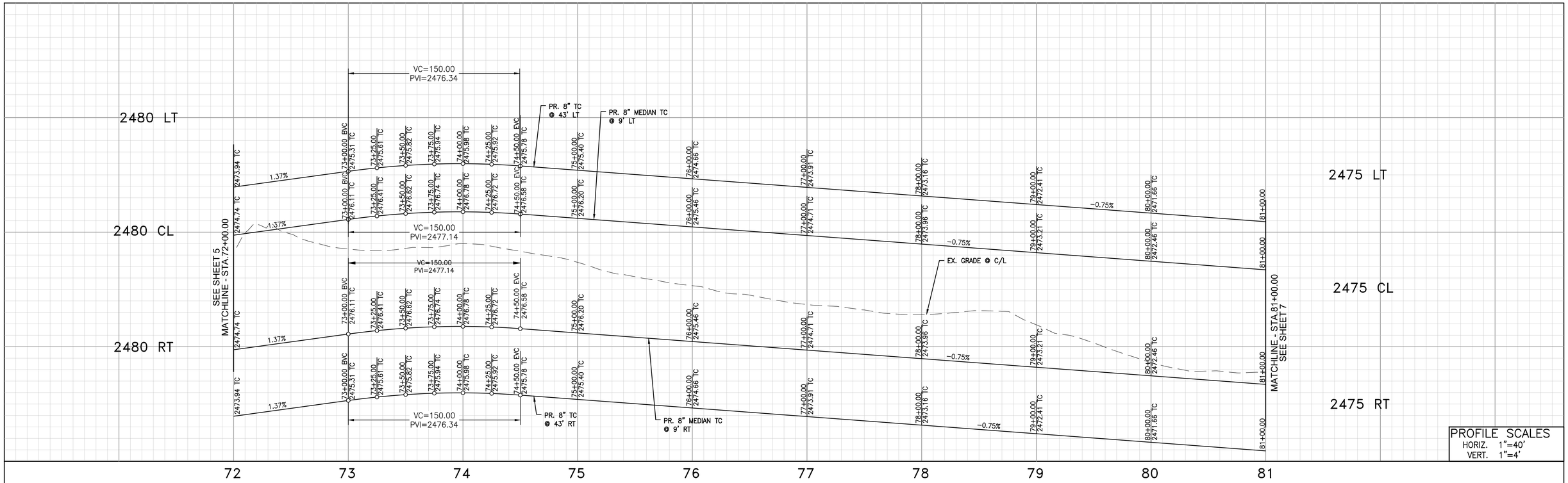
STREET IMPROVEMENT PLAN

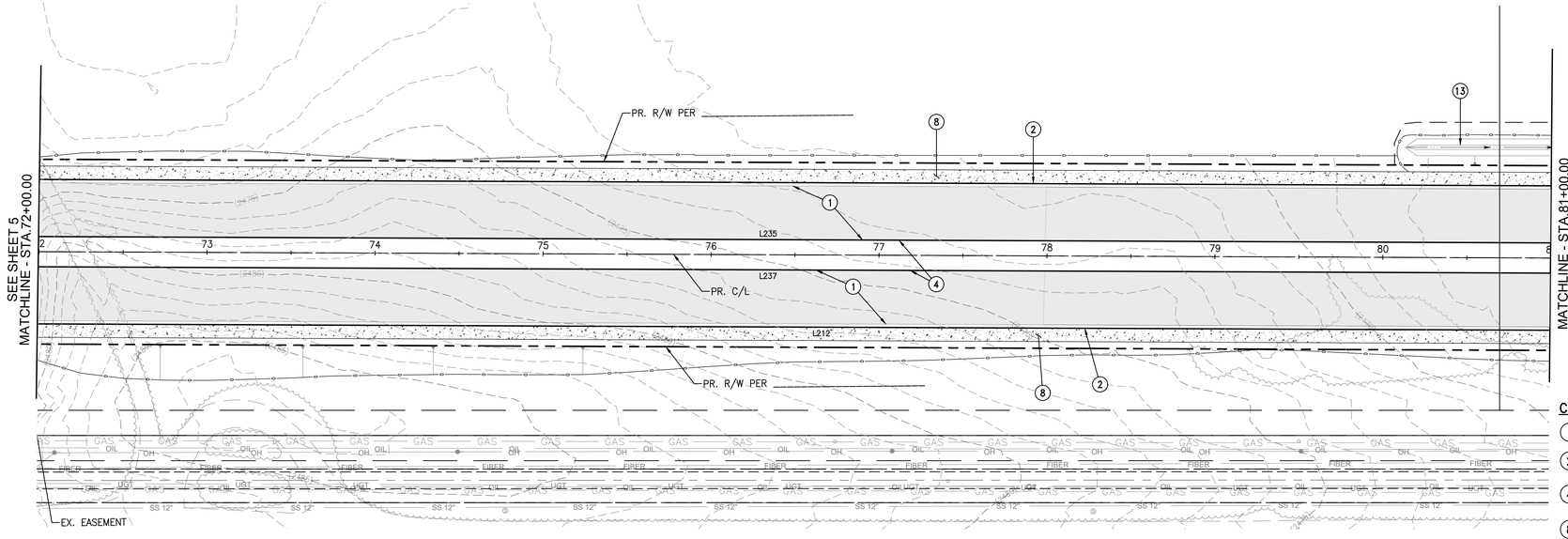
SUN LAKES BLVD. PLAN & PROFILE
STA. 62+00 TO 72+00

W.O. NO. 2020-0126

SHEET 5 OF 26

MAP FILE NO.





LINE TABLE		
LINE #	DIRECTION	LENGTH
L212	N89° 15' 21"W	1201.14
L235	S89° 15' 21"E	1137.58
L237	N89° 15' 21"W	1137.54

CONSTRUCTION NOTES

1. CONSTRUCT 0.5' A.C. OVER 1.0' CLASS II AGGREGATE BASE.
2. CONSTRUCT TYPE "B" (8") CURB AND GUTTER PER CITY OF BANNING STD. NO. 201.
4. CONSTRUCT TYPE "D" (8") CURB PER CITY OF BANNING STD. NO. 203.
8. CONSTRUCT 4" PCC SIDEWALK PER CITY OF BANNING STD. NO. 213. (W=8').
13. CONSTRUCT DRAINAGE SWALE PER DRAINAGE SWALE DETAIL ON SHEET 25.

PROFILE SCALES
HORIZ. 1"=40'
VERT. 1"=4'

N W E S WEBB

1" = 40'
40 0 40 80 120

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KEVIN SIN, RCE #71299 EXP 12/31/2025 DATE
SENIOR CIVIL ENGINEER

APPROVED BY:

NATHAN C. SMITH, RCE #74754 EXP 12/31/2025 DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

SEAL – ENGINEER

REGISTERED PROFESSIONAL ENGINEER DILESH R. SHETH No. C65078 CIVIL STATE OF CALIFORNIA

PREPARED UNDER THE SUPERVISION OF: DILESH R. SHETH

REGISTERED CIVIL ENGINEER NO. C73987 DATE:

ALBERT A. WEBB ASSOCIATES
ENGINEERING CONSULTANTS
3788 McCRAY STREET
RIVERSIDE CA. 92506
PH. (951) 686-1070

SCALE: HORIZ: 1" = 40' VERT: 1" = 4'	
DATE: 6/23/2022	
DRAWN BY:	JB
DESIGNED BY:	JB
CHECKED BY:	EJA

PREPARED FOR:

CITY OF BANNING
COUNTY OF RIVERSIDE
CALIFORNIA

SUN LAKES BLVD EXTENSION

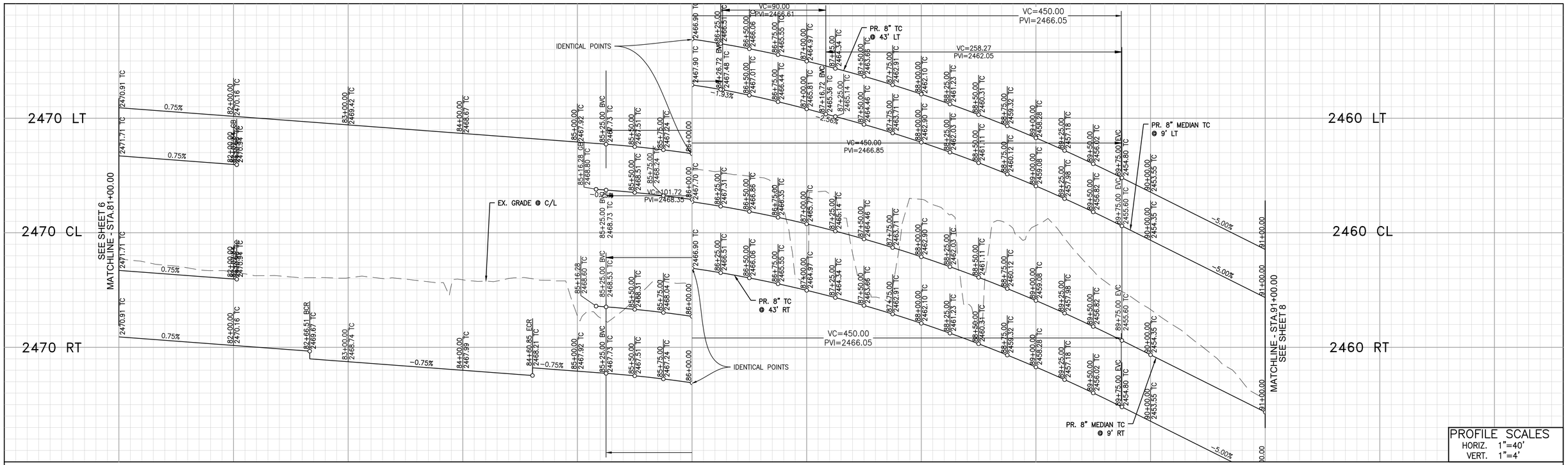
STREET IMPROVEMENT PLAN

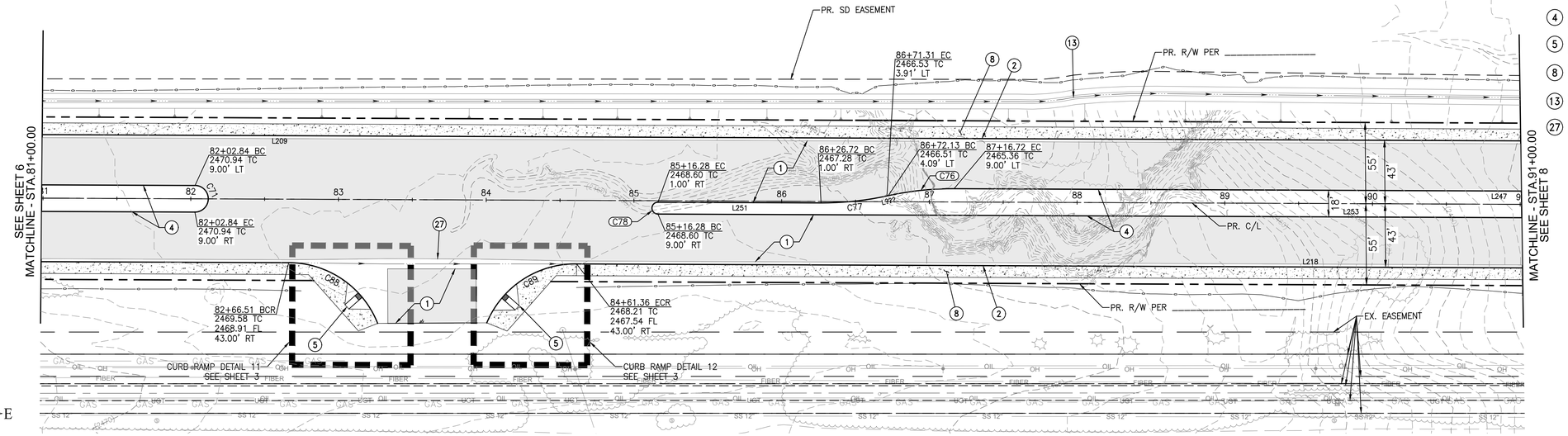
SUN LAKES BLVD. PLAN & PROFILE
STA. 72+00 TO 81+00

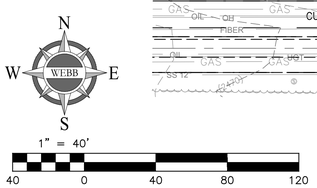
W.O. NO. 2020-0126

SHEET 6 OF 26

MAP FILE NO.







CONSTRUCTION NOTES

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2. CONSTRUCT TYPE "B" (8") CURB AND GUTTER PER CITY OF BANNING STD. NO. 201.
4. CONSTRUCT TYPE "D" (8") CURB PER CITY OF BANNING STD. NO. 203.
5. CONSTRUCT ACCESS RAMP TYPE I PER CITY OF BANNING STD. NO. 214.
8. CONSTRUCT 4" PCC SIDEWALK PER CITY OF BANNING STD. NO. 213. (W=8').
13. CONSTRUCT DRAINAGE SWALE PER DRAINAGE SWALE DETAIL ON SHEET 25.
27. CONSTRUCT CROSS GUTTER PER CITY OF BANNING STD. NO. C-211

LINE TABLE

LINE #	DIRECTION	LENGTH
L???	S78° 10' 52"W	0.84
L209	N89° 15' 21"W	2389.59
L218	S89° 15' 21"E	993.71
L247	N89° 15' 21"W	738.13
L251	N89° 15' 21"W	110.44
L253	S89° 15' 21"E	938.62

CURVE TABLE

CURVE #	DELTA	RADIUS	LENGTH
C71	180°00'00"	9.00	28.27
C76	12°33'46"	205.00	44.95
C77	12°33'46"	205.00	44.95
C78	180°00'00"	4.00	12.57
C88	68°09'54"	65.00	77.33
C89	67°32'50"	65.00	76.63

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SENIOR CIVIL ENGINEER

APPROVED BY:

NATHAN C. SMITH, RCE #74754 EXP 12/31/2025 — DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

SEAL - ENGINEER

REGISTERED PROFESSIONAL ENGINEER
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No. C65078
CIVIL
STATE OF CALIFORNIA

PREPARED UNDER THE SUPERVISION OF: DILESH R. SHETH

REGISTERED CIVIL ENGINEER NO. C73987 DATE:

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ENGINEERING CONSULTANTS
3788 McCRAY STREET
RIVERSIDE CA. 92506
PH. (951) 686-1070

SCALE: HORIZ: 1" = 40' VERT: 1" = 4'
DATE: 6/23/2022
DRAWN BY: JB
DESIGNED BY: JB
CHECKED BY: EJA

PREPARED FOR:

CITY OF BANNING
COUNTY OF RIVERSIDE
CALIFORNIA

SUN LAKES BLVD EXTENSION

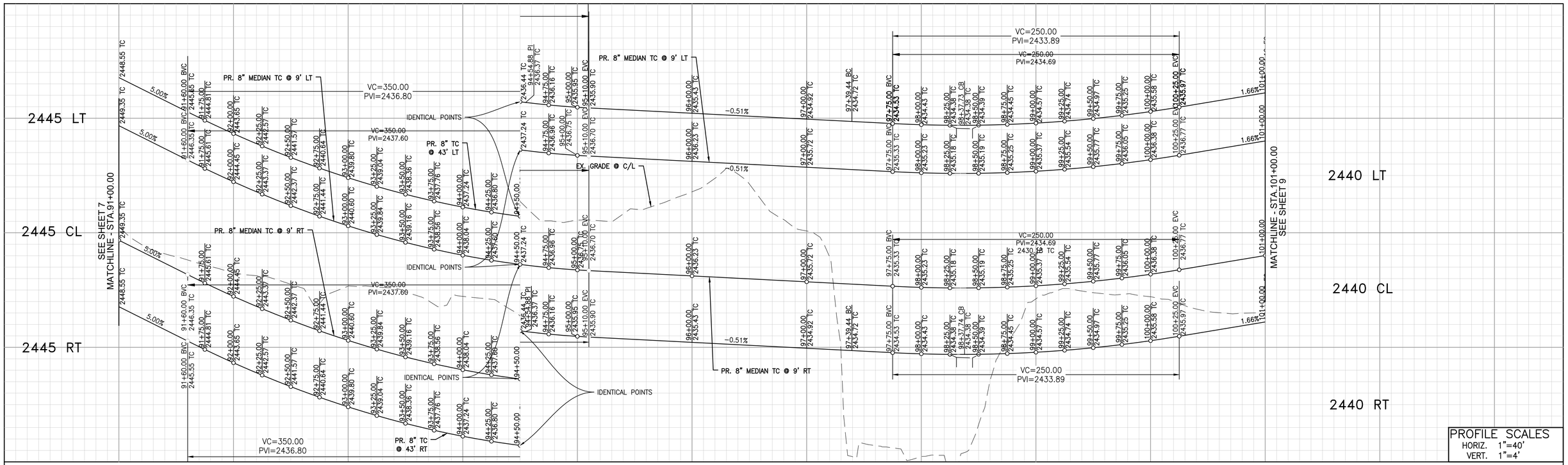
STREET IMPROVEMENT PLAN

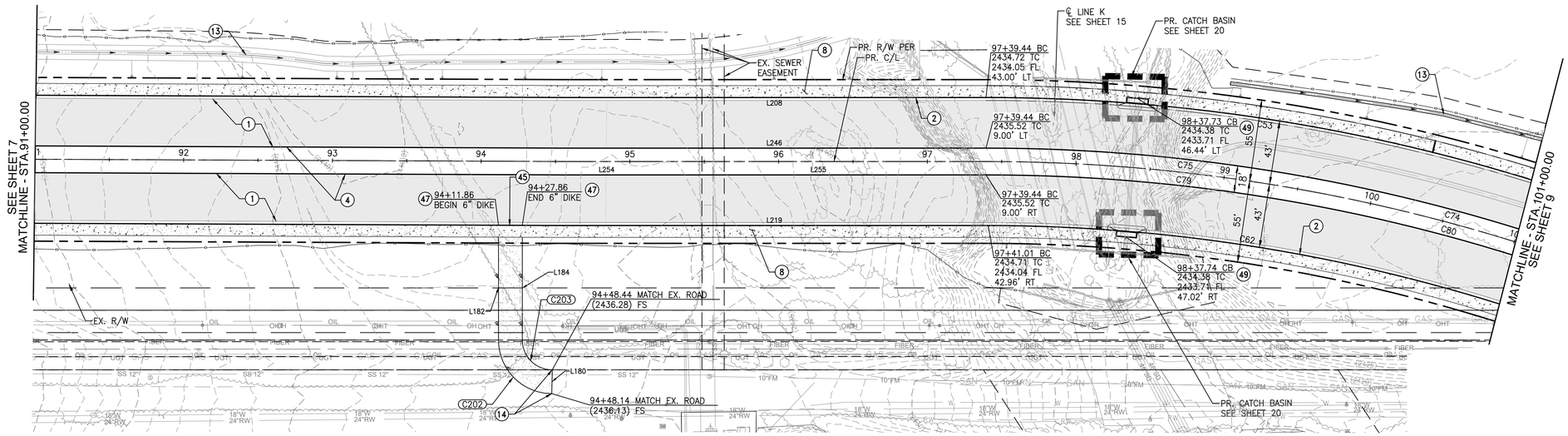
SUN LAKES BLVD. PLAN & PROFILE
STA. 81+00 TO 91+00

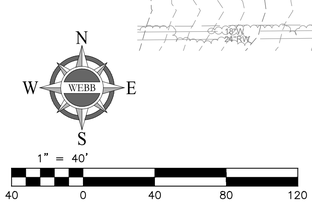
W.O. NO. 2020-0126

SHEET 7 OF 26

MAP FILE NO.







CONSTRUCTION NOTES

1. CONSTRUCT 0.5' A.C. OVER 1.0' CLASS II AGGREGATE BASE.
2. CONSTRUCT TYPE "B" (8") CURB AND GUTTER PER CITY OF BANNING STD. NO. 201.
4. CONSTRUCT TYPE "D" (8") CURB PER CITY OF BANNING STD. NO. 203.
8. CONSTRUCT 4" PCC SIDEWALK PER CITY OF BANNING STD. NO. 213. (W=8').
13. CONSTRUCT DRAINAGE SWALE PER DRAINAGE SWALE DETAIL ON SHEET 25.
14. INSTALL 6" DECOMPOSED GRANITE OVER NATIVE. (W=12').
45. CONSTRUCT 6" AC DIKE PER CITY OF BANNING STD. NO. C-204
47. CONSTRUCT DIKE TRANSITION PER DIKE TRANSITION DETAIL ON SHEET 3
49. CONSTRUCT PROPOSED CATCH BASIN AND LOCAL DEPRESSION PER SD SHEETS

PROFILE SCALES
HORIZ. 1"=40'
VERT. 1"=4'

LINE TABLE

LINE #	DIRECTION	LENGTH
L208	N89° 29' 49"W	284.47
L219	S89° 29' 49"E	284.56
L242	N72° 05' 05"W	40.99
L243	N72° 05' 05"W	59.96
L246	N89° 29' 49"W	284.54
L254	S89° 29' 49"E	59.34
L255	S89° 29' 49"E	225.24
L258	S72° 05' 05"E	59.96
L259	S72° 05' 05"E	40.99
L264	S89° 36' 27"E	47.97
L266	N89° 36' 27"W	47.66

CURVE TABLE

CURVE #	DELTA	RADIUS	LENGTH
C53	17°24'44"	1243.00	377.75
C62	17°24'44"	1157.00	351.61
C74	4°38'20"	1209.00	97.89
C75	12°46'24"	1209.00	269.53
C79	12°46'24"	1191.00	265.52
C80	4°38'20"	1191.00	96.43
C81	5°23'47"	1209.00	113.87
C82	17°20'07"	150.00	45.38
C83	13°03'15"	200.00	45.57
C84	7°50'43"	1197.00	163.90
C85	185°05'58"	3.01	9.71
C86	17°31'22"	1191.00	364.24

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CITY OF BANNING

RECOMMENDED FOR APPROVAL BY:

KEVIN SIN, RCE #71299 EXP 12/31/2025 — DATE
SENIOR CIVIL ENGINEER

APPROVED BY:

NATHAN C. SMITH, RCE #74754 EXP 12/31/2025 — DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

SEAL – ENGINEER

REGISTERED PROFESSIONAL ENGINEER — DILESH R. SHETH — No. C65078 — CIVIL — STATE OF CALIFORNIA

PREPARED UNDER THE SUPERVISION OF: DILESH R. SHETH

REGISTERED CIVIL ENGINEER NO. C73987 DATE:

ALBERT A. WEBB ASSOCIATES
ENGINEERING CONSULTANTS
3788 McCRAY STREET
RIVERSIDE, CA. 92506
PH. (951) 686-1070

SCALE: HORIZ: 1" = 40' VERT: 1" = 4'
DATE: 6/23/2022
DRAWN BY: JB
DESIGNED BY: JB
CHECKED BY: EJA

PREPARED FOR:
CITY OF BANNING
COUNTY OF RIVERSIDE
CALIFORNIA

SUN LAKES BLVD EXTENSION

STREET IMPROVEMENT PLAN

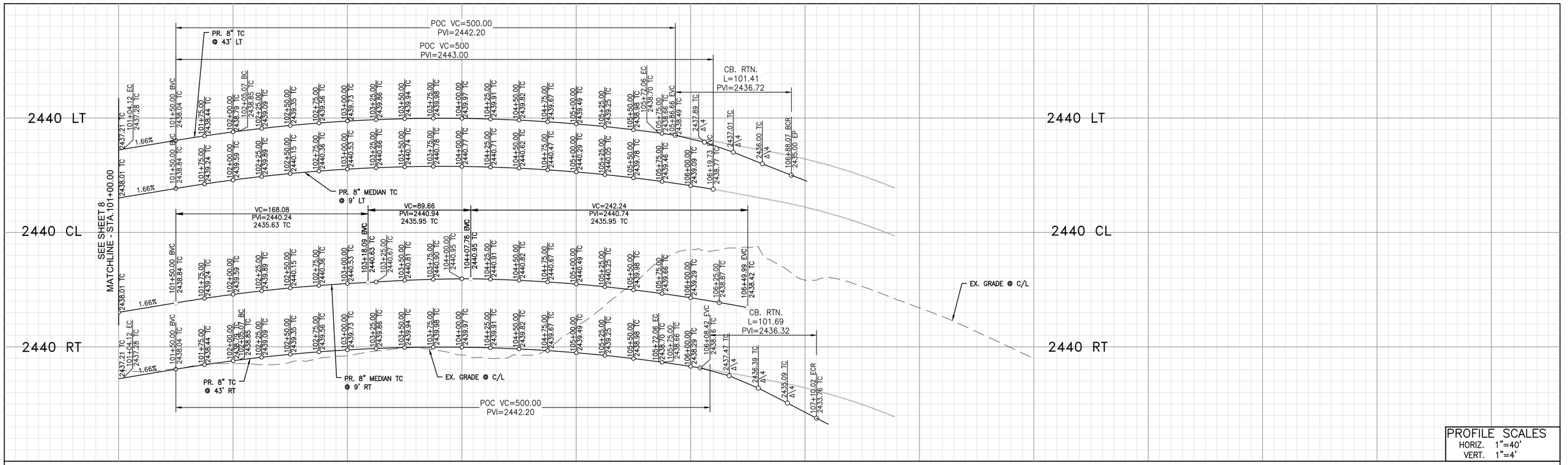
SUN LAKES BLVD. PLAN & PROFILE
STA. 91+00 TO 101+00

W.O. NO. 2020-0126

SHEET 8 OF 26

MAP FILE NO.

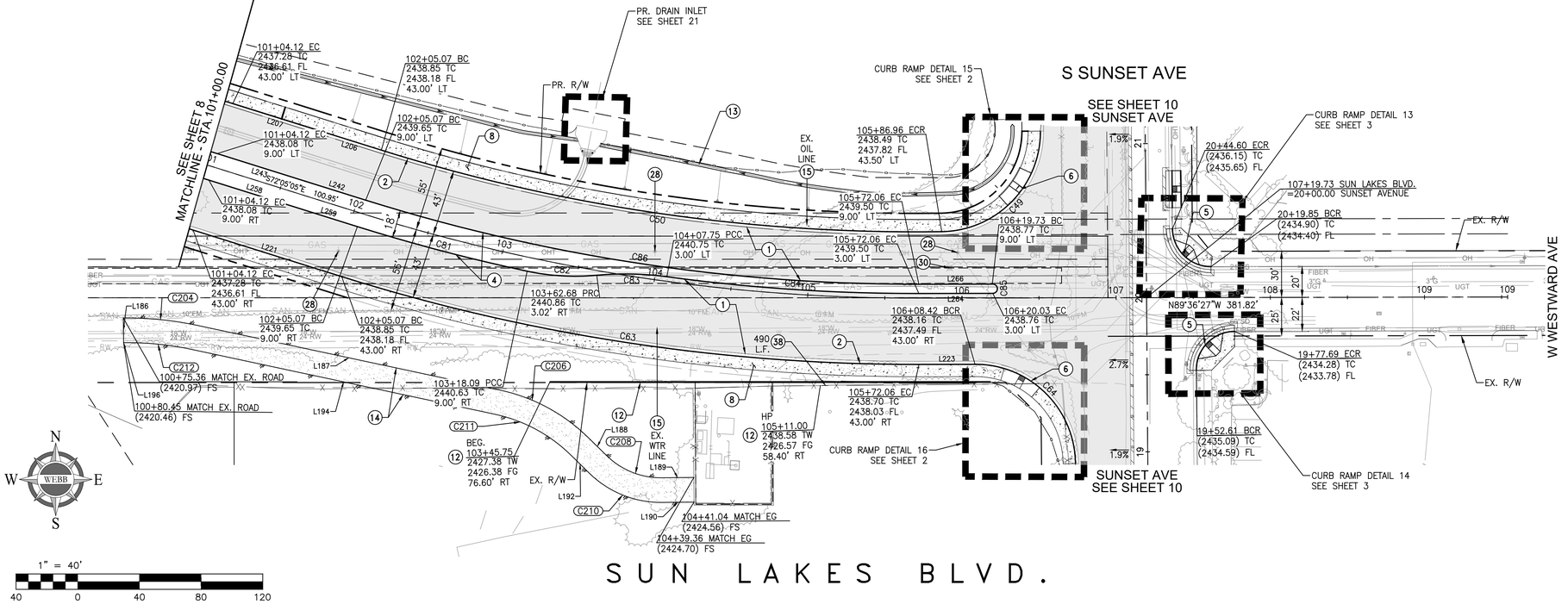
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PROFILE SCALES
HORIZ. 1"=40'
VERT. 1"=4'

LINE TABLE		
LINE #	DIRECTION	LENGTH
L186	S00° 00' 00"E	16.00
L187	S77° 25' 03"E	200.89
L188	S45° 01' 25"E	16.93
L189	N89° 58' 35"E	21.01
L190	S89° 58' 35"W	21.01
L192	N45° 01' 25"W	16.93
L194	N77° 25' 03"W	200.89
L196	S89° 46' 48"W	0.06
L206	N72° 05' 05"W	40.99
L207	N72° 05' 05"W	59.96
L221	S72° 05' 05"E	100.95
L223	S89° 36' 27"E	36.35

CURVE TABLE			
CURVE #	DELTA	RADIUS	LENGTH
C50	18°15'38"	1157.00	368.74
C63	17°31'22"	1243.00	380.15
C204	12°48'09"	216.00	48.26
C206	32°23'38"	116.00	65.58
C208	45°00'00"	50.00	39.27
C210	45°00'00"	66.00	51.84
C211	32°23'38"	100.00	56.54
C212	12°48'09"	200.00	44.69



N
W WEBB E
S

1" = 40'
40 0 40 80 120

CONSTRUCTION NOTES

1. CONSTRUCT 0.5' A.C. OVER 1.0' CLASS II AGGREGATE BASE.
2. CONSTRUCT TYPE "B" (8") CURB AND GUTTER PER CITY OF BANNING STD. NO. 201.
4. CONSTRUCT TYPE "D" (8") CURB PER CITY OF BANNING STD. NO. 203.
5. CONSTRUCT ACCESS RAMP TYPE I PER CITY OF BANNING STD. NO. 214.
6. CONSTRUCT ACCESS RAMP TYPE II PER CITY OF BANNING STD. NO. 215.
8. CONSTRUCT 4" PCC SIDEWALK PER CITY OF BANNING STD. NO. 213. (W=8').
12. CONSTRUCT RETAINING WALL PER SPPWC STD. PLAN 601-4 TYPE #.
13. CONSTRUCT DRAINAGE SWALE PER DRAINAGE SWALE DETAIL ON SHEET 25.
14. INSTALL 6" DECOMPOSED GRANITE OVER NATIVE. (W=12').
15. PROTECT IN PLACE (ITEM NOTED ON PLAN).
28. RELOCATE EXISTING POWER POLE BY CITY OF BANNING.
30. RELOCATE EXISTING ELECTRICAL RISER BY CITY OF BANNING.
38. REMOVE AND DISPOSE OF EXISTING CHAINLINK FENCE.

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PUBLIC WORKS DIRECTOR/CITY ENGINEER

SEAL – ENGINEER
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REGISTERED CIVIL ENGINEER NO. C73987 DATE:

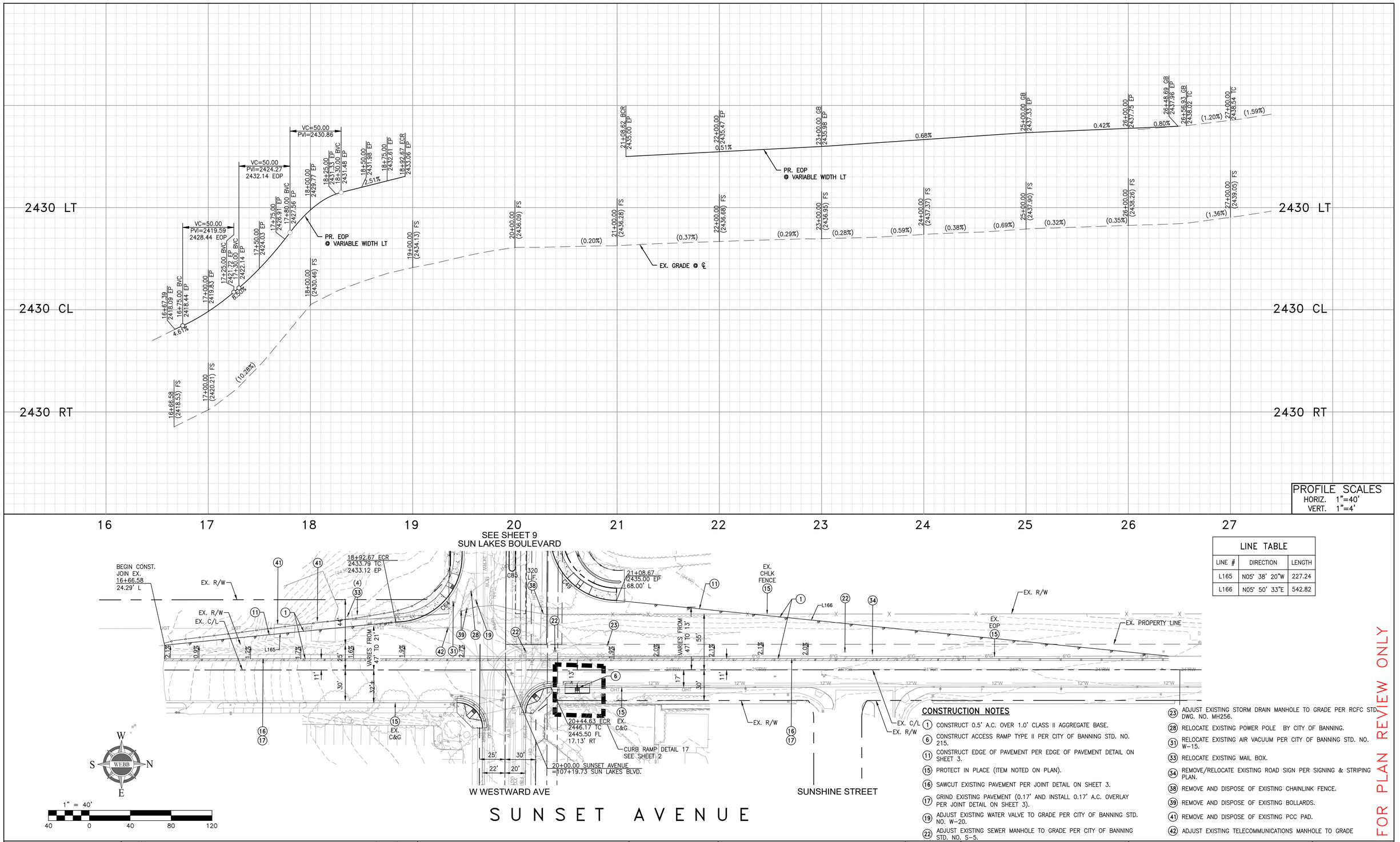
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COUNTY OF RIVERSIDE
CALIFORNIA

SUN LAKES BLVD EXTENSION
STREET IMPROVEMENT PLAN
SUN LAKES BLVD. PLAN & PROFILE
STA. 101+00 TO 109+00

W.O. NO. 2020-0126
SHEET 9 OF 26
MAP FILE NO.



LINE TABLE		
LINE #	DIRECTION	LENGTH
L165	N05° 38' 20"W	227.24
L166	N05° 50' 33"E	542.82

CONSTRUCTION NOTES

1. CONSTRUCT 0.5' A.C. OVER 1.0' CLASS II AGGREGATE BASE.
6. CONSTRUCT ACCESS RAMP TYPE II PER CITY OF BANNING STD. NO. 215.
11. CONSTRUCT EDGE OF PAVEMENT PER EDGE OF PAVEMENT DETAIL ON SHEET 3.
15. PROTECT IN PLACE (ITEM NOTED ON PLAN).
16. SAWCUT EXISTING PAVEMENT PER JOINT DETAIL ON SHEET 3.
17. GRIND EXISTING PAVEMENT (0.17' AND INSTALL 0.17' A.C. OVERLAY PER JOINT DETAIL ON SHEET 3).
19. ADJUST EXISTING WATER VALVE TO GRADE PER CITY OF BANNING STD. NO. W-20.
22. ADJUST EXISTING SEWER MANHOLE TO GRADE PER CITY OF BANNING STD. NO. S-5.
23. ADJUST EXISTING STORM DRAIN MANHOLE TO GRADE PER RCFC STD. DWG. NO. MH256.
28. RELOCATE EXISTING POWER POLE BY CITY OF BANNING.
31. RELOCATE EXISTING AIR VACUUM PER CITY OF BANNING STD. NO. W-15.
33. RELOCATE EXISTING MAIL BOX.
34. REMOVE/RELOCATE EXISTING ROAD SIGN PER SIGNING & STRIPING PLAN.
38. REMOVE AND DISPOSE OF EXISTING CHAINLINK FENCE.
39. REMOVE AND DISPOSE OF EXISTING BOLLARDS.
41. REMOVE AND DISPOSE OF EXISTING PCC PAD.
42. ADJUST EXISTING TELECOMMUNICATIONS MANHOLE TO GRADE

PROFILE SCALES
HORIZ. 1"=40'
VERT. 1"=4'

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COUNTY OF RIVERSIDE
CALIFORNIA

SUN LAKES BLVD EXTENSION

STREET IMPROVEMENT PLAN

SUNSET AVE. PLAN & PROFILE

W.O. NO. 2020-0126

SHEET 10 OF 26

MAP FILE NO.

II. Responses to Comment Letters

The City of Banning (City) as Lead Agency circulated for public review and comment an Initial Study/Mitigated Negative Declaration (IS/MND) for the Sun Lakes Boulevard Extension Project ("Project"), pursuant to State CEQA Guidelines Section 15072. The purpose of circulating the IS/MND was to receive input on the City's determination that with imposition of mitigation measures, the Project will not have a significant effect on the environment.

The IS/MND was circulated for a 30-day period beginning September 5, 2024 to October 8, 2024 to interested parties, Responsible Agencies, Trustee Agencies, and Riverside County Clerk for review and comment, pursuant to Section 15073 of the State CEQA Guidelines. The IS/MND was also submitted to the State Clearinghouse for a 30-day review period from September 9, 2024 to October 8, 2024. Additionally, the Notice of Intent to Adopt the IS/MND was published in *The Record Gazette* newspaper on September 6, 2024. Copies of the comments received during the public comment period and responses to those comments from the City are included herein.

Based on review of the comments received, no new, unavoidable significant environmental effects were identified and therefore, pursuant to Section 15073.5 of the State *CEQA Guidelines*, recirculation of the environmental documents for this Project is not required.

Section 15074 of the State *CEQA Guidelines* requires the Banning City Council to consider the proposed IS/MND together with any comments received during the public review process. There is no requirement for a formal response to each of the comments received (unlike the requirement for a Final Environmental Impact Report). However, in order to provide the Banning City Council with additional information upon which to base their decision to adopt the IS/MND, the following Responses to Comments have been prepared. Copies of each comment letter received and the City's responses are enclosed. Each comment letter is labeled alphabetically, and each individual comment identified by a number.

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1. COMMENTS RECEIVED

Two timely comment letters and one late comment letter were received regarding the IS/MND:

Letter	Date of Letter	Commenter/Agency
A	September 10, 2024	Edith Lohmann, Acting Branch Chief Floodplain Management and Insurance Branch Federal Emergency Management Agency
B	October 8, 2024	Kathleen Dale
Last Day of Public Review Period: October 8, 2024		
C	October 11, 2024	Bernadette Ann Brierty, Tribal Historic Preservation Officer Morongo Band of Mission Indians

2. COMMENT LETTERS AND RESPONSES

Comment Letter A – Federal Emergency Management Agency

U.S. Department of Homeland Security
FEMA Region IX
1111 Broadway, Suite 1200
Oakland, CA. 94607-4052

FEMA

September 10, 2024

Emery J. Papp, Senior Planner
99 E. Ramsey Street
Banning, California 92220

Dear Mr. Papp:

This is in response to your request for comments regarding a Notice of Intent to Adopt a Mitigated Negative Declaration, Project Title: Sun Lakes Boulevard Extension Project, City of Banning, California.

Please review the current effective Flood Insurance Rate Maps (FIRMs) for County of Riverside (Community Number 060245), Maps revised March 6, 2018, and City of Banning (Community Number 060246), Maps revised August 28, 2008. To locate FIRMs online, visit the Map Service Center (MSC) at https://msc.fema.gov. Please note that the City of Banning, Riverside County, California is a participant in the National Flood Insurance Program (NFIP). The minimum, basic NFIP floodplain management building requirements are described in Vol. 44 Code of Federal Regulations (44 CFR), Sections 59 through 65.

A-1

A summary of these NFIP floodplain management building requirements are as follows:

- All buildings constructed within a riverine floodplain, (i.e., Flood Zones A, AO, AH, AE, and A1 through A30 as delineated on the FIRM), must be elevated so that the lowest floor is at or above the Base Flood Elevation level in accordance with the effective Flood Insurance Rate Map.
- If the area of construction is located within a Regulatory Floodway as delineated on the FIRM, any ***development*** must not increase base flood elevation levels. **The term *development* means any man-made change to improved or unimproved real estate, including but not limited to buildings, other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, and storage of equipment or materials.** A hydrologic and hydraulic analysis must be performed *prior* to the start of development, and must demonstrate that the development would not cause any rise in base flood levels. No rise is permitted within regulatory floodways.

www.fema.gov

- Upon completion of any development that changes existing Special Flood Hazard Areas, the NFIP directs all participating communities to submit the appropriate hydrologic and hydraulic data to FEMA for a FIRM revision. In accordance with 44 CFR, Section 65.3, as soon as practicable, but not later than six months after such data becomes available, a community shall notify FEMA of the changes by submitting technical data for a flood map revision. To obtain copies of FEMA's Flood Map Revision Application Packages, please refer to the FEMA website at http://www.fema.gov/business/nfip/forms.shtm.

A-1 Cont.

Please Note:

Many NFIP participating communities have adopted floodplain management building requirements which are more restrictive than the minimum federal standards described in 44 CFR. Please contact the local community's floodplain manager for more information on local floodplain management building requirements. The Banning floodplain manager can be reached by calling Doug Schulze, City Manager at (951) 922-4860. The Riverside County floodplain manager can be reached by calling Jason Uhley, General Manager and Chief Engineer, at (951) 955-1265.

If you have any questions or concerns, please do not hesitate to contact Carlos Rendo at carlos.rendo@fema.dhs.gov of the Mitigation staff.

Sincerely,

EDITH C LOHMANN

Digitally signed by EDITH C LOHMANN
Date: 2024.09.10 16:01:30 -07'00'

Edie Lohmann, Acting Branch Chief
Floodplain Management and Insurance Branch

Emery J. Papp, Senior Planner
Page 3
September 10, 2024

cc:
Doug Schulze, City Manager, City of Banning
Jason Uhley, General Manager and Chief Engineer, Riverside County
Garret Tam Sing, State of California, Department of Water Resources, Southern Region Office
Kelly Soule, State of California, Department of Water Resources, Sacramento Headquarters Office
Carlos Rendo, NFIP Planner, DHS/FEMA Region IX
Jeffrey Smyly, Regional Environmental Officer, DHS/FEMA Region IX

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Response to Comment Letter A – Federal Emergency Management Agency

Response to Comment A-1

This comment directs the City to review the current effective Flood Insurance Rate Maps (FIRMs) for Riverside County and the City of Banning. It also notes the City is a participant in the National Flood Insurance Program (NFIP) and therefore certain NFIP building requirements may apply to the project. The comment also notes that many NFIP participating communities have adopted building requirements that are in addition to, and may be stricter than, the federal requirements for constructing within a flood hazard zone.

As stated on page 83 of the IS/MND circulated for public review, per Federal Emergency Management Agency Flood Insurance Rate Map (FIRM) Panel 06065C0816G, the Project site is not within a flood hazard area. Therefore, the NFIP building requirements identified in Comment A-1 are not applicable to the Project and therefore no changes to the Project are needed. This comment does not change any of the significance determinations made in the MND and it does not raise a new environmental issue.

Comment Letter B – Kathleen Dale

Comment Letter B

Comments on Sun Lakes Boulevard Extension IS/MND (Public Review Draft 9/6/24)
Submitted by Kathleen Dale
10/8/24
Page 1 of 7

I am a property owner and resident of Banning. My home is near Sunset Avenue and Wilson Street. I regularly drive between my home and the commercial district at Highland Springs and Interstate 10 and am personally familiar with the immediate project area.

The following comments focus on a limited number of key issues that came up in review of the initial study and associated technical reports as made available on the City's website. Revision of the initial study and supporting technical documents to resolve these issues is necessary to ensure that the environmental analysis for this project fulfills the basic purposes of disclosure and informed decision making.

Based upon the existing record, the project appears to present the potential for significant impacts related to aesthetics, air quality, biological resources, cultural resources, hydrology/water quality, noise, and transportation. Until additional information and analysis is provided, it is not possible to conclude whether a mitigated negative declaration or an environmental impact report is the appropriate level of California Environmental Quality Act documentation for this project.

B-1

1. Project Description, Construction Phase – the documents posted for public review are devoid of any plans depicting the proposed improvements or any concise explanation/quantification of the construction phase. A 24-month construction project involving fills up to 10-feet in depth (Geotechnical Appendix, page 2) and excavations up to 13-feet in depth (Initial Study page 3) accessible only by driving through/past established residential neighborhoods clearly presents the potential for significant impacts related to noise and air emissions.

   The only mention I could find to characterize the scope and nature of construction activity is an assumption of a maximum 10 trucks per day for construction-period air impacts, which on its face is a ridiculous underestimation for a project of this nature and scale. The initial study must be revised to disclose the anticipated schedule and phasing, and to quantify anticipated activity levels throughout the construction period so that the public and decision makers may draw conclusions regarding the construction-period impacts as presented. Information to be disclosed should allow reviewers and decision makers to understand salient aspects of the construction scenario including pipeline relocation, clearing/grubbing, grading, any extraordinary stormwater pollution prevention measures (considering extensive drainage improvements in major natural drainage features), debris/unsuitable material hauling, construction material quantities, and maximum number of trucks per day.

B-2

2. Project Description, Pipeline Relocations – the initial study includes two conceptual exhibits (Figures 6a and 6d) depicting the existing pipeline alignments and general areas for relocation. It does not seem feasible that the three pipelines could be relocated in accordance with the stated criteria (initial study page 6) within the limited pipeline relocation limits depicted in these exhibits. Additional information depicting the proposed pipeline realignments is necessary to conclude whether the depicted project disturbance limits are reasonable. B-3

3. Project Description, Operation Phase, Physical Improvements – the initial study does not include even preliminary plans for the proposed improvements. Considering the magnitude of anticipated excavations and fills, the extensive drainage improvements, the power pole relocations, and the new street lights, the project clearly presents the potential for significant changes in the existing character of the project setting. Absent plans, reviewers and decision makers are deprived of an understanding of finished grades, slope conditions, landscaping, location and nature of relocated power poles, location and nature of streetlights, planned pavement/base conditions, and intersection improvements at Sun Lakes Boulevard/Westward and Highland Home. Absent this information, reviewers and decision makers are deprived of essential information to confirm that the depicted project footprint is reasonable and to evaluate the impact analysis as presented. B-4

4. Project Description, Operation Phase, Local Traffic Patterns – the initial study does not acknowledge the local traffic pattern changes that are reasonably expected with this project. Based upon my knowledge of the existing setting, it is obvious that locally-originating traffic volumes on Sunset Avenue are sure to increase in the near-term as residents living in a large area north of I-10 are certain to use Sunset Avenue to reach the Highland Springs commercial district (instead of Highland Springs Avenue, which is the as the only option under existing conditions). The initial study must be revised to describe and assess near-term and long-range changes in local traffic patterns as a result of the project. B-5

5. Future Land Use Assumptions – for purposes of the noise analysis, the initial study assumes that future land uses along the new section of Sun Lakes Boulevard will be industrial (reflecting the proposed change under the pending Sunset Crossroads Plan, see initial study pages 91 and 92). While this approach is permissible as an alternate future scenario, impact analysis must also consider scenarios with the existing land use and future land use under the currently-adopted General Plan. Consideration of only future industrial use for lands adjacent to the extension limits is inappropriate. B-6

In contrast, in the traffic analysis, the projected 2050 traffic conditions appear to exclude future industrial uses as the projected traffic mix for all areas roadways is characterized as 94% to 97% passenger vehicles, with only 1% to 2% heavy trucks (see Table 4 in the Noise Analysis technical report).

The initial study must be updated to reflect realistic scenarios for future land use within the project impact area and to provide substantive documentation for assumed traffic volumes and traffic mix on area roadways.

B-6 Cont.

6. Aesthetics – the project limits are visible from I-10 in both directions, from Highland Home Road to the south, from Sunset Avenue, and from distant areas at higher elevations north of the freeway. The proposed finished grade changes, surface condition changes, drainage improvements, power pole relocations, and new street lights clearly present the potential for significant changes in the visual character or quality of public views of the site and surroundings and will clearly introduce a new source of light and glare to the project limits. The initial study makes conclusory impacts as to the significance of impacts, without any visual representations of the proposed improvements or post-project conditions available to the reviewer or the decision maker to confirm that these conclusions are reasonable. The initial study must be revised to include plans and graphics to allow the reviewer and decision makers to understand finished conditions with the proposed improvements.

B-7

7. Air Quality, Operation Phase Impacts – the impact analysis appears to be limited to consideration of operation phase impacts from energy consumption for new street lights and vehicle emissions from infrequent maintenance trips. While the VMT analysis reasonably concludes that adding this new circulation system element decreases overall vehicle miles travelled, the change in local traffic patterns will mean more emissions from vehicular sources impacting the existing residential uses along Sunset Avenue and the existing section of Sun Lakes Boulevard. The initial study must be revised to address operation phase air quality impacts due to altered circulation patterns. The updated analysis must also consider existing conditions as to Highland Home Road north of Sun Lakes Boulevard.

B-8

8. Biological Resources, MSHCP Consistency – the initial study technical appendices for focused biological resources surveys have all been updated to reflect preparation dates in 2024; however, for burrowing owl, narrow endemic plant species, fairy shrimp, and Los Angeles Pocket Mouse, the cited field work was conducted in 2020 and 2021. Also, Figure 5-5 in the

B-9

cultural resources technical report depicts substantial changes in study area limits from 2020 (13.7 acres) to 2022 (25.7 acres) to 2024 (36.3 acres).

The biological resources technical reports must be updated to clearly disclose updated content and to address any project study area changes from the time the field work was completed. The initial study must be updated to address the use of aged field surveys for the MSHCP consistency determination (in contrast to implementation guidance that stipulates surveys should not be more than one year old, see Western Riverside County Regional Conservation Authority (WRCRCA) Permittee Implementation Guidance Manual available at https://www.wrc-rca.org/archivecdn/Implementation_Manual/Permittee_Implementation_Manual_Aug_2007.pdf)

B-9 Cont.

9. Biological Resources, Crotch's Bumble Bee - the initial study appears to address this species without the benefit of any evaluation of the project impact area by a qualified biologist. Mitigation Measure BIO 3 lays out conditional mitigation in the event the species is identified in the future, noting possible requirement for an incidental take permit under the California Endangered Species Act and potential unspecified off-site mitigation. The analysis as presented inappropriately defers analysis of the potential impact. Based on the information presented, the appropriate conclusion is that the impact is potentially significant and that an Environmental Impact Report is required.

B-10

10. Biological Resources, Mitigation Measure BIO 4 – this measure reads as if there will be a single pre-construction training session at initiation of project construction. Given the complexity and duration of the proposed construction, it seems reasonable that multiple session would be required as different specialty crews move onto the site. This measure should be revised to reflect the need for ongoing training throughout the construction period.

B-11

11. Cultural Resources, Mitigation Measure CR-1 – this mitigation measure reads as if an inadvertent discovery of buried resources related to the two known historical sites is exempt from the obligation to stop work and evaluate. It is hard to understand how it could be determined that an inadvertent find is associated with one of these sites without evaluation by a qualified monitor. The mitigation measure should be revised to require cessation of ground disturbance and evaluation for any inadvertent discovery of archaeological resources.

B-12

12. Hydrology and Water Quality – discussion of sustainable groundwater plans (page 84) appears to incorrectly identify the project site within the Cabazon Storage Unit, when it is within the Banning Storage Unit. The initial study disclosure of this fact and associated analysis and conclusions should be corrected as appropriate. B-13

13. Noise, Future Traffic Assumptions – the noise analysis evaluates impacts for receptors on the new section of Sun Lakes Boulevard based on future industrial use, but does not consider the consequences of future industrial land use to traffic volumes and vehicle mixes on other area roadways. Assumed traffic conditions for area roadways are stated in a table hidden in the noise technical study (Table 5), with no data to substantiate derivation of the proposed volumes and mix. Comparison of the 2050 traffic volumes and traffic mixes in Table 5 to build-out assumption for the Sunset Crossroads EIR show the volumes assumed in the initial study analysis are substantially lower B-14

    The analysis of noise impacts must be revised to disclose the method of projecting future traffic conditions based upon reasonable assumptions for near-term with project conditions and build-out conditions, considering both the existing and proposed general plan land use designation. Scenarios must consider local traffic pattern changes upon completion of the proposed improvements and existing and future road patterns as to Highland Home Road.

14. Noise, Existing Levels – either the initial study or the Noise Analysis Report disclose the method for deriving the assumed existing noise levels. Comparison to the existing noise levels from the Sunset Crossroads EIR (Sunset Crossroads DEIR, December 2023, Table 4.13,c) reveals substantial differences in the reported existing noise levels. The project record must be updated to disclose the method of deriving the reported existing noise levels, to address the discrepancies relative to the Sunset Crossroads EIR, and to disclose any updates to the assumptions, impacts analysis, and significance conclusions. B-15

15. Noise, Projected Levels – as with existing noise levels above, the assumptions and projected noise levels for project roadways vary substantially from those disclosed in the December 2023 Sunset Crossroads EIR (see Table 4.13.S for a summary of noise impacts to area roadways for that project). As an example, the project initial study reports future noise levels of approximately 61 to 64 dBA CNEL on Sunset Avenue north of Westward, compared to 71 dBA CNEL in the Sunset Crossroads EIR. The project record must be updated to disclose the method of deriving the reported existing noise levels, to address the discrepancies relative to the Sunset Crossroads EIR (as to applicable City policy, thresholds, and projected traffic volumes and noise B-16

levels on area roadways), and to disclose any updates to the assumptions, impacts analysis, and significance conclusions.

B-16 Cont.

16. Transportation, Trip/Traffic Mix Assumptions – the trip and traffic mix assumptions as presented in the initial study and supporting technical studies do not appear to be reasonable. The initial study assumes 2050 traffic volumes on Sunset Avenue not exceeding 2,703 vehicles per day, with 94% passenger cars, 4 % medium trucks and 2% heavy trucks (Table 4, Appendix G Noise Study). In comparison, the Health Risk Assessment technical study for the Sunset Crossroads project (Table 4.A) reports assumed incremental traffic volumes from that project alone of 17,706 passenger cars and 3,250 trucks, with a substantial percentage distributed to Sunset Avenue, south of Lincoln Street. The project record must be updated to disclose the method of deriving the assumed future traffic volumes and mix for project roadways, to address the discrepancies relative to the Sunset Crossroads EIR, and to disclose any updates to the assumptions, impacts analysis, and significance conclusions for air quality, noise, and traffic impacts.

B-17

17. Transportation, Hazards – the proposed project will alter existing conditions at two key locations that present the potential for traffic hazards due to geometric design or incompatible uses. The first location is the intersection of Sun Lakes Boulevard and Highland Home Road. Considering the existing conditions at this location and absent preliminary plans to understand the proposed intersection configuration (both initial and future), road grades, road curves approaching the intersection, and traffic controls, it is not possible for reviewers or decision makers to understand the proposed improvements or draw a conclusion as to potential impacts in this regard. The initial study must be revised to accurately disclose future improvements at this location, to evaluate any resultant traffic safety impacts. and to identify any necessary project modifications or mitigation measures.

    The second location is on Sunset Avenue at the entrance to the Serrano Del Vista development. Serrano del Vista is accessed by a gated access point on the east side of Sunset Avenue, between Westward Avenue and Jefferson Street. The current condition allows for unrestricted movement and does not involve dodging substantial volumes of traffic on Sunset Avenue. The initial study must be revised to accurately disclose future traffic volumes on Sunset Avenue at this location, to evaluate any resultant traffic safety impacts, and to identify any necessary project modifications or mitigation measures.

B-18

The proposed project will also create an undesirable situation at the east end of the project alignment as to street names. The initial study must be revised to disclose safety considerations related to the street name where Sun Lakes Boulevard meets Westward Avenue and to identify any necessary project modifications or mitigation measures.

B-18 Cont.

18. Mandatory Findings – with the above-noted outstanding concerns regarding understanding of the project and potential impacts related to aesthetics, air quality, biological resources, cultural resources, hydrology/water quality, noise, and transportation, it is not possible to make conclusive determinations regarding significance levels for many potential impacts based upon the existing record. Without the noted additional disclosures and analysis, it must be concluded that the project may have potentially significant impacts. In this case, an EIR is required.

B-19

Response to Comment Letter B – Kathleen Dale

Response to Comment B-1
This comment states the commentor is a resident in the City and suggests the IS does not fully disclose all the information that CEQA requires.

Comment noted. As evidenced by the Responses to Comments B-2 through B-18, the IS/MND contains all the information and analysis consistent with Section 15603(d) of the State CEQA Guidelines. This comment does not change any of the significance determinations made in the MND and it does not raise any new environmental issues. Any clarifications and amplifications made to the publicly circulated IS/MND in Responses to Comments B-2 through B-18, do not constitute new information that would require recirculation pursuant to Section 15073.5 of the CEQA Guidelines.

Response to Comment B-2
This comment suggests that the Project Description in the IS/MND lacks a description of the construction phase activities.

The required contents of an Initial Study are set forth in State CEQA Guidelines Section 15063(d). This section does not require the inclusion of plans in an initial study. Construction plans were on file with the City and available for review at the time the IS/MND was circulated for public review. Nonetheless, the following text will be added on page 3 of the Final IS/MND before the subheading Right-of-Way and Easement Acquisition:

> Plans for the proposed Project are included in Exhibit A, which follows the List of Initial Study Preparers on page 121.

The Project's air quality analysis, included as Appendix A to the IS/MND, characterizes the scope of the construction activity and assumptions utilized in the analysis. The commenter's assertion that 10 trucks per day for construction-period air impacts is a "ridiculous underestimation" is unsubstantiated opinion. Evidence of environmental impacts cannot be founded on "[a]rgument, speculation, unsubstantiated opinion or narrative (*Pocket Protectors v. City of Sacramento* (2004) 124 Cal. App. 4th 903, 927.

As substantiated within Section III – Air Quality of the IS/MND and within these responses, the Project would result in less than significant air pollutant emissions impacts. (IS/MND, pp. 30-32.) The Project Description on page 6 of the Final IS/MND will be amplified to describe the anticipated construction activity as follows:

> **Construction**
> Project construction is anticipated to occur within a two-year time span. The Project will require approximately 98,180 cubic yards of soil import. Typical construction equipment and vehicle usage is anticipated and may include, but not be limited to excavators, rubber-tired dozers/loaders, scrapers, and other material-delivery

vehicles. A typical construction work schedule of weekdays during daylight hours is expected. See Section III for further details on construction-related assumptions evaluated within this IS/MND.

Additionally, the last paragraph in Section III – Air Quality, commencing on page 30 of the Final IS/MND will be amplified to describe the construction assumptions evaluated in the Air Quality/Greenhouse Gas Analysis as follows:

An Air Quality/Greenhouse Gas analysis (AQ/GHG Analysis) was prepared for the Project by Albert A. Webb Associates dated November 2, 2021 (WEBB(a)) and is included in Appendix A to this Initial Study. Short-term emissions from Project construction were evaluated using the California Emissions Estimator Model (CalEEMod) version 2020.4.0. The estimated construction period for the proposed Project is approximately 18 to 24 months, beginning no sooner than February 2023. A duration of 24 months was evaluated to provide a worst-case analysis. The default parameters within CalEEMod were used and these default values reflect a worst-case scenario, which means that Project emissions are expected to be equal to or less than the estimated emissions. In addition to the default values used, assumptions relevant to model inputs for short-term construction emission estimates used are: (WEBB(a), p. 2)

- Construction is anticipated to begin in February 2023, which will include construction activities such as utility relocation, installation of drainage improvements, roadway improvements, and traffic signal installation and paving. Because the schedule is unknown, the grading and paving activities were assumed to occur concurrently throughout the estimated construction duration to provide a conservative analysis. The estimated construction schedule is shown below: (WEBB(a), p. 2)

Construction Activity	Start Date	End Date	Total Working Days
Grading	February 01, 2023	January 31, 2025	523
Paving	February 01, 2023	January 31, 2025	523

- The off-road equipment to be used for each activity is shown below and represents program defaults. Each piece of equipment is assumed to operate eight (8) hours per day: (WEBB(a), pp. 2-3)

Construction Activity	Off-Road Equipment	Unit Amount
Grading	Excavators	2
	Grader	1
	Rubber Tired Dozer	1
	Tractors/Loaders/Backhoes	2
	Scrapers	2
Paving	Pavers	2
	Paving Equipment	2
	Rollers	2

- To evaluate Project compliance with SCAQMD Rule 403 for fugitive dust control, the Project utilized the mitigation option of watering the Project site three times daily which achieves a control efficiency of 61 percent for PM-10 and PM-2.5 emissions. Two (2) one-way vendor trips per day were added to the grading and paving activity to account for water truck trips. (WEBB(a), p. 3)
- Eight (8) one-way hauling truck trips per day were included during paving to account for material delivery. (WEBB(a), p. 3)
- Approximately 98,180 cubic yards of soil import is required for the Project. The import site is currently unknown. Therefore, the CalEEMod default was utilized which assumes a hauling trip length of 20 miles per trip. Based on the CalEEMod default truck capacity of 16 cubic yards, approximately 6,136 truckloads of soil would be imported. (WEBB(a), p. 3) This results in approximately 12 truckloads of soil delivered per day (approximately 24 one-way truck trips per day) during construction.

Amplification of the discussion of the Project's construction activity in the IS/MND does not change the analysis or conclusions of Project impacts and does not constitute new information that would require recirculation pursuant to Section 15073.5 of the CEQA Guidelines.

Response to Comment B-3

This comment questions whether the proposed pipeline relocations could fit within the area slated for relocation given the criteria from the pipeline owners.

This comment, which does not raise an environmental issue, is noted. Because the pipeline alignments are not yet finalized, the City Department of Public Works has been in coordination with the pipeline owners in order for the Project engineers to delineate a healthy impact buffer around the area expected for relocation of the pipelines.

The third full paragraph on page 6 of the IS/MND identifies the criteria the pipeline owners provided to the City. Based on that criteria, the Pipeline Realignment Boundary shown on **Figure 6a – Project Components West Extent 1** and **Figure 6b – Project Components East Extent 2** were identified. The pipelines could be relocated in either the yellow temporary impact areas or the blue pipeline realignment impact boundary as shown on these figures. Combined, these two areas provide approximately 60-feet in which the pipelines could be relocated. It is important to note that in some locations the existing pipelines are only two feet

apart and do, in fact, cross each other. Thus, there is sufficient area to accommodate relocation of the pipelines.

In the event pipeline relocations, once finalized, impact the area outside of the permanent and temporary impact boundaries currently shown on figures in the IS/MND (e.g., Figure 2, Figure 6a, Figure 6b), then subsequent CEQA analysis and studies for the additional impact area may be required. This comment does not change any of the significance determinations made in the MND and it does not raise a new environmental issue.

Response to Comment B-4
This comment requests more visual information on the finished, operational phase of the Project.

As noted in Comment B-2, CEQA does not require the inclusion of preliminary plans with an IS/MND. Engineering plans were on file with the City and available for review at the time the IS/MND was circulated for public review. Additional graphics that are based on the Project engineering plans are enclosed as Attachment 1 to further amplify how the project will appear and how visible the Project will be from surrounding viewpoints.

Attachment 1 begins with two plan-view renderings of the proposed intersections at Sunset Avenue and Highland Home Road (Images 1 and 2). Then, side-by-side comparisons of photographs taken October 16, 2024 and renderings that are based on the engineering plans to demonstrate how the project might look from a height of 6-feet from roughly the same locations and same viewpoints (Images 3-9). The renderings suggest the proposed road will not be a significant addition to the viewshed and it will not obscure the views of the surrounding hills and mountains. Lastly, Attachment 1 contains two Google Earth street views taken from east-bound Interstate 10 facing south (Images 10 and 11). The first street view is located just past the northeast corner of the Sun Lakes Country Club Golf Course, from which the Project will not be visible due to the berm along the highway and because the project will be lower in elevation than the highway. The second street view is from atop the I-10 bridge over Sunset Avenue, from which the project would be visible as an arterial highway approximately 0.4-mile to the south. Regardless of where the viewer stands, the distant views of the hills and mountains, which is the scenic resource in the area, will remain intact. Lastly, Attachment 1 includes two plan-view renderings of the entire roadway from altitude (Images 12 and 13). Inclusion of Attachment 1 to clarify the Project's appearance does not change the analysis or conclusions of Project impacts and does not constitute new information that would require recirculation pursuant to Section 15073.5 of the CEQA Guidelines. This comment does not change any of the significance determinations made in the MND and it does not raise a new environmental issue.

Response to Comment B-5
This comment questions whether the IS/MND analyzed potential changes to local traffic patterns after project construction is complete.

The commenter does not provide context for the request that the IS/MND assess changes in local traffic patterns. It appears the comment may be alluding to congestion resulting from a change in traffic patterns. Congestion is measured by levels of service (LOS). Although LOS was once a CEQA metric for traffic/transportation impacts, as of July 1, 2020, the metric for traffic/transportation impacts changed to vehicle miles traveled (VMT).[1] CEQA Guidelines Section 15064.3 mandates that CEQA review of transportation impacts be modified by eliminating consideration of delay- and capacity-based metrics such as LOS. Since LOS is no longer a CEQA threshold, a discussion of this topic in the IS/MND is not appropriate. The IS/MND appropriately discloses the results of the VMT analysis on pages 104–105 of the publicly circulated IS/MND.

This comment does not change any of the significance determinations made in the MND and it does not raise any new environmental issues. No additional analysis is required.

Response to Comment B-6
This comment suggests that the noise analysis did not consider scenarios with existing and future land use designations according to the currently-adopted General Plan.

CEQA requires an analysis of the reasonably foreseeable impacts resulting from a project. Given that a Notice of Preparation (NOP) for an Environmental Impact Report (EIR) for the Sunset Crossroads Specific Plan and related entitlements was issued on February 21, 2021; a public scoping meeting was held for the Sunset Crossroads Specific Plan EIR on February 18, 2022; and the City's design team for the proposed Project coordinated with the Sunset Crossroads design team during the design process, the change in the general plan land use designation from residential to industrial is reasonably foreseeable and no analysis assuming the future land uses along the Project site is required. Thus, the Project's noise analysis in the *Noise Analysis Report, Sun Lakes Boulevard Extension* (the Noise Study), appropriately evaluated and disclosed Project-related noise impacts.

Nonetheless, the following discussion is provided to disclose Project-related noise impacts assuming the vacant land north and south of the Project site remains designated for residential uses. IS/MND **Table K – Noise Levels Along Roadways in Proximity to the Project Site** reports With Project (2050) Noise Levels at two vacant property locations within the Sunset Crossroads project; east of Highland Home Road (at the west end of the Project) and west of Sunset Avenue (at the east end of the Project). As shown on IS/MND **Figure 3 – General Plan Land Use Designation** and **Figure 4 – Zoning Designations**, land use and zoning designations for property north of the Project site are predominately residential (medium, low, and high density). Property south of the Project site is within unincorporated County territory with a general plan land use designation of Low Density Residential (LDR) and a zoning designation of A-1-10. Because Sun Lakes Boulevard is designated an Arterial Highway, no residential driveways would be permitted direct driveway access. The existing residential neighborhoods in proximity to the Project site have block walls between the residential uses and Sun Lakes Boulevard. Thus, it is reasonably foreseeable that any future residences

[1] CEQA Guidelines Section 15064.3

adjacent to Sun Lakes Boulevard would similarly be required to install a block wall. A solid barrier, such as a block wall, provides 8 dBA of noise shielding.[2] The following table shows, for each residential land use designation for the vacant land along the Project alignment, the With Project 2050 Noise Levels, the With Project 2050 Noise Levels With Shielding, and the Noise Thresholds.

Land Use Designation / Zoning[a]	With Project 2050 Noise Levels[b] (dBA)	With Project 2050 Noise Levels with Shielding[c] (dBA)	Noise Threshold[d] (dBA)	Impact
North of the Proposed Sun Lakes Boulevard Extension (Banning) (from west to east)				
MDR / MDR	70.0	62.0	55/65	Less than significant
LDR / LDR	70.0	62.0	55/65	Less than significant
HDR / HDR	70.0	62.0	55/65	Less than significant
North of the Proposed Sun Lakes Boulevard Extension (unincorporated County)				
LDR / A-1-10	70.0	62.0	55/65	Less than significant

Notes:

a General Plan Land Use and Zoning Designations as shown on IS/MND **Figure 3 – General Plan Land Use Designation and Figure 4 – Zoning Designations**.

b With Project 2050 Noise Levels at Sun Lanes Boulevard for the segment west of Sunset Avenue is the noise level at the east end of the Project and was selected because it is the highest With Project 2050 Noise Level along the Sun Lakes Boulevard extension and provides the most conservative result.

c With Project 2050 Noise Levels with Shielding assumes 8 dBA noise reduction, per Appendix A of the *FHWA Roadway Construction Noise Model User's Guide*, due to the presence of a solid barrier between any future residential use and Sun Lakes Boulevard. The *FHWA Roadway Construction Noise Model User's Guide* is available at: https://www.fhwa.dot.gov/environment/noise/construction_noise/rcnm/rcnm.pdf.

d For property within Banning, the lower number represents the Highest Normally Acceptable Noise Level and the higher number represents the Highest Conditionally Acceptable Noise Levels from the Banning General Plan Noise Element for Residential – Single Family Dwellings, Duplex, Mobile Homes as shown on page V-50. (Available at https://www.banningca.gov/DocumentCenter/View/665/GP-Ch-V-Environmental-Hazards?bidId=.) For property within Riverside County the lower number represents the Highest Normally Acceptable Noise Level and the higher number represents the Highest Conditionally Acceptable Noise Levels from the Riverside County General Plan Noise Element as shown on page N-7. (Available at https://planning.rctlma.org/sites/g/files/aldnop416/files/migrated/Portals-14-genplan-general-plan-2015-GPA-20960-General-20Plan-20Elements-Ch07-Noise.pdf.)

[2] Source: *FHWA Roadway Construction Noise Model User's Guide,* Final Report January 2006, Appendix A; Best Practices for Calculating Estimated Shielding for Use in the RCMN, Available at: https://www.fhwa.dot.gov/environment/noise/construction_noise/rcnm/rcnm.pdf.

As shown in the above table, the With Project 2050 Noise Levels with Shielding are less than the Highest Conditionally Acceptable Noise Levels for both Banning and Riverside County.

Amplification of the discussion of the With Project 2050 Noise Levels does not change the analysis or conclusions of Project impacts and does not constitute new information that would require recirculation pursuant to Section 15073.5 of the CEQA Guidelines. No further analysis is required in this regard.

Regarding the traffic volumes and traffic mix on area roadways, refer to Response to Comment B-14.

Response to Comment B-7
Similar to Comment B-4, this comment requests more visual information on the finished, operational phase of the Project.

Refer to Response to Comment B-4 and Attachment 1 of this response for additional visual representations of the post-Project improvements. Regarding new sources of light and glare, as stated on page 25 of the publicly circulated IS/MND, the Project will introduce streetlights along the Project site. However, there are streetlights on the roadways surrounding the Project site. Although the Project will introduce additional streetlights, these new streetlights will be shielded and directed downwards onto the Project site to minimize spillage and light pollution in accordance with the City's standards. This comment does not change any of the significance determinations made in the MND and it does not raise a new environmental issue.

Response to Comment B-8
This comment questions the sufficiency of the air quality impact analysis of operational-phase impacts due to altered circulation patterns.

As explained in the publicly circulated IS/MND Section III – Air Quality, operational emissions would primarily be from infrequent visits by vehicles driven by maintenance personnel and are considered negligible; therefore, only short-term impacts were quantified. (IS/MND, p. 30.)

The proposed Project would not result in a change in land use or introduce new vehicle trips and would be consistent with the roadway classification in the City of Banning (an Arterial Highway).

As discussed in Section XVII of the publicly circulated IS/MND, based on the traffic data provided by Translutions, Inc., included as Appendix H of the IS/MND, the proposed Project would not result in an increase in Vehicle Miles Traveled (VMT). Additionally, the Project includes bike lane and sidewalk improvements along the roadway which accommodate non-vehicular modes of travel that can reduce VMT. As such, the implementation of the Project would not result in long-term increases in air pollutant emissions and no revisions to the IS/MND are required.

Moreover, as discussed herein, the localized air pollutant emissions from vehicles traveling on the roadway post-construction were considered. As analyzed in the Air Quality Analysis included as Appendix A of the publicly circulated IS/MND, Localized Significant Thresholds

(LSTs) apply to the operational phase of a project, if a project includes stationary sources (e.g. flares and turbines) and/or on-site mobile equipment or attracts mobile sources that may spend long periods of time idling at the site, such as warehouse/transfer facilities. The proposed Project does not include such uses. Therefore, due to the lack of stationary source emissions or on-site mobile equipment, no long-term LST analysis is needed. As such, the Project would not expose sensitive receptors to substantial pollutant concentrations and no revisions to the IS/MND are required.

Additionally, localized high levels of carbon monoxide (CO) are not anticipated to result from this Project because localized high levels of CO are associated with traffic congestion and idling or slow-moving vehicles. A CO "hot spot" is a localized concentration of CO that is above the state or federal 1-hour or 8-hour ambient air quality standards (AAQS). Based on the information presented below, a CO "hot spot" analysis is not needed to determine whether the addition of Project related traffic will contribute to an exceedance of either the state or federal AAQS for CO emissions in the Project area.

The South Coast Air Quality Management District's (SCAQMD's) analysis for CO attainment in the South Coast Air Basin, detailed in the 2003 Air Quality Management Plan (AQMP), show that peak CO levels are due to unique meteorological and topographical conditions, not specific intersections.[3]

The busiest intersection evaluated in the 2003 AQMP was that at Wilshire Blvd. and Veteran Ave., which had a daily traffic volume of approximately 100,000 vehicles per day. This hot spot analysis was conducted at intersections subject to extremes in vehicle volumes and vehicle congestion and did not predict any violation of CO standards. The highest average daily traffic volumes on study roadway segments with the Project would be 24,370 trips on Sun Lakes Boulevard between Highland Springs Avenue and Highland Homes Road, which is lower than the values studied by SCAQMD.[4] It can reasonably be concluded that traffic on Project-related roadways would not have daily traffic volumes exceeding those at the intersections modeled in the 2003 AQMP, nor would there be any reason unique to the meteorology to conclude that intersections or segments affected by the Project would yield higher CO concentrations if modeled in detail. As such, the Project would not result in a CO hot spot and no revisions to the IS/MND are required.

Regarding Highland Home Road north of Sun Lakes Boulevard, the comment is unclear because the roadway north of Sun Lakes Boulevard is unimproved.

Clarification of the discussion of the Project's operation activity does not change the analysis or conclusions of Project impacts in the IS/MND and does not constitute new information that would require recirculation pursuant to Section 15073.5 of the CEQA Guidelines.

[3] South Coast Air Quality Management District. *2003 Air Quality Management Plan*. August 2003. (Available at https://www.aqmd.gov/home/air-quality/air-quality-management-plans/air-quality-mgt-plan/2003-aqmp, accessed October 17, 2024)

[4] Albert A Webb Associates. *Realignment of Sun Lakes Boulevard – Westward Avenue Transportation Impact Analysis.* February 2022, updated March 2024. (Available at City of Banning)

Response to Comment B-9
This comment suggests that some of the biological surveys dates are too old to be informative.

The commentor is correct in noting that all of the biological studies in Appendix B of the publicly circulated IS/MND have report dates of 2024. However, the commentor's suggestion that the reports are too old to be informative is incorrect. The Project's biological reports (IS/MND Appendices B.1 through B.5 and Appendix B.7), except the *Jurisdictional Delineation Report* (IS/MND Appendix B.6), inadvertently omitted that a Project site visit was conducted on March 25, 2024 by a WSP senior biologist. The purpose of this site visit was to confirm there have been no changes to the biological setting since the original surveys were conducted. Because the biological setting had not changed, no changes to the biological reports were required as a result of the 2024 site visit.

Regarding the assertion that the field surveys must be updated to be consistent with the Western Riverside County Regional Conservation Authority Permittee Implementation Guidance Manual, on September 5, 2024 the City received an email from California Department of Fish and Wildlife and U.S. Fish and Wildlife Service (jointly referred to as the Wildlife Agencies) confirming approval of the *Determination of Biologically Equivalent or Superior Preservation (DBESP) Report* (IS/MND Appendix B.7). The Wildlife Agencies were provided all of the biological reports in Appendix B of the IS/MND as part of their review of the DBESP Report. The Wildlife Agencies' approval of the DBESP Report on September 5, 2024 indicates the City's proposed biological mitigation makes the Project consistent with the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) and no further surveys, other than those identified in IS/MND mitigation measures **MM BIO-1**, **MM BIO-2**, and **MM BIO-3**, are required. This comment does not change any of the significance determinations made in the MND and it does not raise a new environmental issue. No further analysis is required.

Response to Comment B-10
This comment suggests the analysis of impacts to Crotch's Bumble Bee is insufficient.

As stated on page 36 of the IS/MND, the Project's MSHCP Consistency Analysis determined Crotch's bumble bee (CBB) has a low potential to occur due to lack of habitat and/or were not observed onsite. However, as indicated on page 41 of the IS/MND, CBB can potentially occur in the Project area especially if there are suitable flowering plants available. The MSHCP Consistency Analysis referenced site visits conducted for biological resources by qualified biologists on September 4, 2020, March 31, 2022, and April 3, 2024. As such, the Project area was evaluated repeatedly over several years by a qualified biologist, and no evidence of CBB was observed during those visits. Therefore, the analysis of impacts to CBB has not been deferred. Similar to other standard mitigation measures (e.g., burrowing owl preconstruction surveys), mitigation measure **MM BIO-3** on page 42 of the publicly circulated IS/MND establishes performance standards and a methodology to follow in the event the species becomes present. To clarify why mitigation measure **MM BIO-3** is included despite the CBB not found on the Project site over roughly four years of site visits, **MM BIO-3** will be revised as follows:

MM BIO-3: Crotch's Bumble Bee <u>Preconstruction</u> Survey and Construction Monitoring. *In order to avoid direct and indirect impacts to Crotch's bumble bee (CBB), <u>which could establish themselves on the Project site before construction starts</u> ~~be present in flowering habitat or in burrows along the creek embankments~~, a qualified CBB biologist (i.e., 1-2 years of experience performing CBB surveys, or, has a Memorandum of Understanding [MOU] with CDFW), shall perform the records searches and site surveys according to the <u>Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species</u> (CDFW 2023) prior to the start of ground-disturbing project activities. The literature review and records search shall identify occurrences at the Project site and within a 5-mile buffer. The literature review and records search shall include: a report from the CDFW California Natural Diversity Data Base for a 10-mile radius of the project site; aerial photographs; and iNaturalist for bee sightings and nectar sources. Then, the qualified biologist shall conduct on-site surveys for foraging and nesting bees. The surveys shall begin with a habitat assessment to evaluate the likelihood of bumble bees occurring within and adjacent to the project area. Then, foraging bumble bee and nesting surveys shall be conducted during the peak nectar blooming period (April through June 30). Habitat assessment and survey results shall be submitted to CDFW prior to the start of ground-disturbing project activities. Vegetation removal is allowable from November to January (note seasonal limitations for nesting birds in **MM BIO-1**). No monitoring is required if removal of vegetation occurs during this time period. However, vegetation removal/ground disturbances during the CBB flight season, which is February to October, will require preemptive focused CBB surveys and full-time biological monitoring for CBB to take place within the project limits. Construction monitoring for CBB may cease based on the professional judgement of the qualified CBB biologist that construction activities have already impacted the extent of the planned impact footprint. If an active CBB nest is detected during focused surveys conducted between April and June, or during the construction monitoring, then the qualified biologist shall establish a no-disturbance buffer zone (including foraging resources and flight corridors essential for supporting the colony) around the CBB nest. The qualified biologist and City shall notify CDFW and if needed, process an Incidental Take Permit (ITP) with CDFW. If a single CBB is observed during construction, CDFW shall be notified, and work shall be halted in that area until the qualified biologist deems the CBB has left the site. It is expected that if an ITP is needed, that the offsite mitigation site along Smith Creek proposed by **MM BIO-5**, which has similar habitat types and embankments, could support CBB. If offsite mitigation for CBB is needed, then a CBB permitted land manager shall be hired by the City to ensure CBB habitat is intact on the offsite mitigation property.*

This comment does not change any of the significance determinations made in the MND and it does not raise a new environmental issue. The clarification of mitigation measure **MM BIO-3** in

the Final IS/MND regarding CBB preconstruction surveys does not constitute new information that would require recirculation pursuant to Section 15073.5 of the CEQA Guidelines. No further analysis is required.

Response to Comment B-11
This comment suggests a revision to mitigation measure **MM BIO-4** of the IS/MND for "ongoing training throughout the construction period."

To clarify the intent of the mitigation measure, the mitigation measure **MM BIO-4** will be revised in the Final IS/MND as follows:

> ***MM BIO-4: Biological Worker's Environmental Awareness Program (WEAP).*** *The City of Banning shall enlist a qualified biologist to conduct a mandatory training for all construction contractors and their employees on project-related environmental concerns, including Crotch's bumble bee, burrowing owl, pertinent rare plant species, and riparian/riverine features. To the extent feasible, the biologist conducting the WEAP shall be the same one enlisted by the City for* ***MM BIO-1*** *(nesting bird surveys),* ***MM BIO-2*** *(burrowing owl surveys), and* ***MM BIO-3*** *(Crotch's bumble bee surveys). This WEAP can occur during the same meeting as the paleontological WEAP described in mitigation measure* ***MM GEO-1****. No individual shall be permitted to work at the Project Site until they have completed WEAP training. The City's Project biologist will conduct additional trainings, as needed for different construction crews that come onboard throughout the ground-disturbing activities of the Project. In lieu of in-person training, the WEAP may be recorded and presented to any contractor or crew member not present at the initial in-person training.*

This comment does not change any of the significance determinations made in the MND and it does not raise a new environmental issue. The clarification in mitigation measure **MM BIO-4** of the Final IS/MND regarding the frequency of WEAP trainings does not constitute new information that would require recirculation pursuant to Section 15073.5 of the CEQA Guidelines. No further analysis is required.

Response to Comment B-12
This comment requests a revision to mitigation measure **MM CR-1** to "require cessation of ground disturbance and evaluation for any inadvertent discovery of archaeological resources."

To clarify the intent of the mitigation measure, mitigation measure **MM CR-1** will be revised in the Final IS/MND as follows:

> ***MM CR-1:*** ***Monitoring and*** ***Inadvertent Discovery****. Prior to the start of construction, the City shall enlist a qualified archaeologist to monitor all ground disturbing activities. The City shall also work with the Morongo Band of Mission Indians to develop an agreement for a Tribal Monitor prior to the start of construction. In the event archaeological resources are discovered during Project*

> *construction that are not part of Site 33-013779 (CA-RIV-7544) and Site 33-013788, all ground disturbance activities within 100 feet of the discovered archaeological resource shall be halted until a qualified archaeologist (meeting the Secretary of the Interior Standards) can visit the site of discovery, assess the significance and integrity of the find, and determine the appropriate treatment (documentation, recovery, avoidance, etc.) and disposition of the cultural resource. Further ground disturbance shall not resume within the area of discovery until the appropriate treatment has been accomplished. Work on the other portions of the Project outside of the buffered area may continue. Any such discoveries and subsequent evaluation and treatment shall be documented and submitted to the Eastern Information Center (EIC) for archival purposes.*

Regarding the exclusion of historic resources *Site 33-013779 (CA-RIV-7544) and Site 33-013788* from mitigation measure **MM CR**-1**,** as documented in IS/MND Section V – Cultural Resources and the *Phase I Cultural Resource Assessment for the Sun Lakes Boulevard Realignment Project in the City Of Banning ,Riverside County, California,* revised April 2024 (included as Appendix C to the publicly circulated IS/MND, were previously evaluated and determined to be ineligible for listing on both the National Register of Historic Property and the California Register of Historical Resources. (IS/MND, pp. 60–61; IS/MND Appendix C, pp. 25, 34.)

This comment does not change any of the significance determinations made in the MND and it does not raise a new environmental issue. The clarification of mitigation measure **MM CR-1** regarding archaeological and tribal construction monitoring in the Final IS/MND does not constitute new information that would require recirculation pursuant to Section 15073.5 of the CEQA Guidelines. No further analysis is required.

Response to Comment B-13
This comment suggests the Project was incorrectly identified within the Cabazon Storage Unit.

On page 84 of the publicly circulated IS/MND, the Project was inadvertently identified as being within the Cabazon Storage Unit. According to Figure 3.8 of the City's 2020 Urban Water Management Plan (located at http://banning.ca.us/DocumentCenter/View/9110/2020-Urban-Water-Management-Plan-UWMP), the Project is located mostly within the Banning Storage Unit. Said Figure 3.8 suggests a small westerly segment of the project is within the Beaumont Storage Unit, which is also known as the Beaumont Basin. Regardless of which storage unit it overlies, the Project is fully within the San Gorgonio Pass Groundwater Subbasin, which has an approved Groundwater Sustainability Plan. Therefore, Threshold X.e. the Final IS/MND will be clarified as follows:

> The Project Site is located within the ~~boundaries of the Cabazon Storage Unit within~~ ~~the~~ San Gorgonio Pass Groundwater Subbasin (Basin No. 7-021.04). Pursuant to the Sustainable Groundwater Management Act of 2014 (SGMA), the San Gorgonio Pass Subbasin Groundwater Sustainability Agency (GSA) has

formed and prepared a Groundwater Sustainability Plan (GSP) for the entire subbasin ~~that includes the Cabazon Storage Unit~~. The GSP was approved by California Department of Water Resources on October 26, 2023. The goal of GSPs is to achieve sustainable groundwater basins by 2042. ~~The GSP describes two future projects to benefit the Cabazon Storage Unit. Specifically, *Project #4 New Pipeline with Additional Imported Water Spreading in the Cabazon Storage Unit* in the vicinity north of I-10 and the existing Robertson's Ready Mix Quarry site in Banning and *Project #6 New Imported Colorado River Aqueduct Spreading in the Cabazon Storage Unit (Phase 2)* in the vicinity of the San Jacinto Tunnel east portal, just south of Cabazon. (GSP, pp. 6-9, 6-15.)~~ Because the GSP does not identify the Project Site as the location ~~part~~ of future GSP projects, impacts to a sustainable groundwater plan are less than significant.

This comment does not change any of the significance determinations made in the MND and it does not raise a new environmental issue. The clarification in the Final IS/MND regarding the subbasin in which the Project is located does not constitute new information that would require recirculation pursuant to Section 15073.5 of the CEQA Guidelines. No further analysis is required.

Response to Comment B-14
This comment requests additional noise analysis for receptors on non-Project roadways near to the Project.

The analysis contained in the Noise Study, which is included as Appendix G to the IS/MND, and IS/MND Section IX – Noise, did not evaluate traffic noise resulting from future industrial land use because the Project does not propose any land use changes. As described in detail in the IS/MND, the Project is the extension of Sun Lakes Boulevard.

The commenter's assertion that "Assumed traffic conditions for area roads are stated in a table hidden in the noise technical study (Table 5), with no data to substantiate derivation of the proposed volumes and mix" is not accurate. Table 5 of the Noise Study does not contain traffic mix or volume data. Table 5 of the Noise Study presents the Noise Levels Along Project Roadways. Further, the data in Table 5 is not hidden in the Noise Study, this data is presented in **Table K – Noise Levels Along Roadways in Proximity to the Project Site** on pages 93–94 of the IS/MND. **Table K** cites Table 5 of Appendix G as its source.

Although Comment B-14 references Noise Study Table 5, it appears the commenter is referring to information contained in Noise Study Table 4, Project Roadways. This table includes vehicle mix and traffic volume data, which are the items discussed in the comment. Vehicle mix data is not buried, as alleged by the commenter. It is easily found within the Noise Study, which is Appendix G of the IS/MND. CEQA does not require all of the information contained within supporting appendices to be repeated within the body of an IS/MND or an EIR. Nonetheless, in response to this comment, the discussion in the last paragraph on page 92 of the publicly circulated IS/MND will be amplified as follows:

> The Project's contribution to traffic noise for the following scenarios was calculated for existing noise levels, Without Project in 2050, and With Project in 2050. The traffic volumes, which are reported in Noise Study Table 4, Project Roadways, are based on PM Peak hour trips derived from the RivTam traffic model used in preparation of the *Realignment of Sun Lakes Boulevard – Westward Transportation Impact* Analysis, February 2022, prepared by Albert A. Webb Associates, which is available for review at the City Public Works department. Turning movements are from the same document. PM Peak traffic volumes were selected because noise resulting from PM Peak traffic is a proxy for the Community Noise Equivalent Level (CNEL). The results of these calculations are presented in **Table K – Noise Levels Along Roadways in Proximity to the Project Site**.

Regarding the commenter's assertion that there are discrepancies between the IS/MND and the Sunset Crossroads EIR, "evidence of environmental impacts must be founded upon facts in the administrative record" for the particular project being approved. CEQA Guidelines, § 15384(a); *Pocket Protectors v. City of Sacramento* (2004) 124 Cal. App. 4th 903, 927. CEQA does not require that an IS/MND compare its analysis with analysis from a different uncertified environmental document, analyzing a different project altogether.

The amplification in the Final IS/MND regarding the derivation of traffic volumes does not constitute new information that would require recirculation pursuant to Section 15073.5 of the CEQA Guidelines.

Response to Comment B-15

This comment requests the method used to establish the existing noise levels, and requests that the project record be updated to disclose the method of establishing the existing noise levels, to address the discrepancies relative to the Sunset Crossroads EIR, and to disclose any updates to the assumptions, impacts analysis, and significance conclusions.

The source of the ambient sound level reported in the Noise Study and IS/MND is a measurement conducted along the Project Site at the location shown as ML 1 on the figure below.



The discussion on page 92 of the publicly circulated IS/MND will be amplified as follows:

> Since the majority of the existing land use surrounding the Project Site is vacant land, the primary noise source in the vicinity of the Project Site is natural activity and vehicular traffic on nearby roadways. An ambient sound level measurement was conducted along the Project Site to estimate the existing acoustical environment. A RION Model NL-31 American National Standards Institute (ANSI) Type 2 Integrating Sound Level Meter (SLM) was used as the data-collection device. The meter was mounted on a tripod roughly 5 feet above ground to simulate the average height of the human ear. The microphone was fitted with a windscreen. Weather conditions during the measurements were approximately 85°F, 35% relative humidity, 0-2 mph wind speed, and clear skies. The measurement was performed on Wednesday, September 18, 2019 between 11:15 am–11:25 am. The sound level meter was calibrated before the measurement period. The measured results are: L_{eq} is 42.1, L_{min} is 38.4, and L_{max} is 49.4. Because there has not been any new development or new noise producers in proximity to the Project Site, the noise measurement taken in 2019 represents the existing noise environment. As such, the ambient sound level along the Project Site is approximately 42 dBA L_{eq}. (dBF, p. 11.)

The amplification in the Final IS/MND regarding how the ambient noise level was established does not constitute new information that would require recirculation pursuant to Section 15073.5 of the CEQA Guidelines. Regarding the commenter's assertion that there are discrepancies between the IS/MND and the Sunset Crossroads EIR, "evidence of

environmental impacts must be founded upon facts in the administrative record" for the particular project being approved. CEQA Guidelines, § 15384(a); *Pocket Protectors v. City of Sacramento* (2004) 124 Cal. App. 4th 903, 927. CEQA does not require that an IS/MND compare its analysis with analysis from a different uncertified environmental document, analyzing a different project altogether. No further analysis is required.

Response to Comment B-16
This comment is concerned with differences between the projected noise used in the IS/MND and the adjacent project, Sunset Crossroads.

Response to Comment B-15, describes the ambient noise measurements taken for the proposed Project.

Regarding existing traffic noise levels, the Noise Study used the Federal Highway Administration (FHWA) Traffic Noise Model (TMN) Version 2.5 to estimate traffic noise levels. Existing traffic noise levels reported in IS/MND **Table K – Noise Levels Along Roadways in Proximity to the Project Site** are based on traffic counts as reported in Noise Study Table 3, Project Roadways. As is standard practice, the existing noise levels were input into the TMN to calculate the existing noise levels along the analyzed roadways. The Without Project 2050 condition is based on results from the traffic model, which assumed the Sunset Crossroads project would be developed with approximately 5.87 million square feet (SF) of industrial and commercial uses[5] generating approximately 7,300 employees. This assumption is consistent with the 5.81 SF of general commercial and industrial development reported in Table A: Specific Plan Land Use Summary on page 4 of the *Noise and Vibration Analysis, Sunset Crossroads Project*, September 2023.[6] To amplify that the Without Project in 2050 included development assumptions for the Sunset Crossings project, the last paragraph on page 92 of the publicly circulated IS/MND will be revised as follows:

> The Project's contribution to traffic noise for the following scenarios was calculated for existing noise levels, Without Project in 2050, and With Project in 2050. The results of these calculations are presented in **Table K – Noise Levels Along Roadways in Proximity to the Project Site**. The Without Project in 2050 scenario assumed the Sunset Crossroads project site would be developed with approximately 5.87 million square feet of industrial and commercial uses and approximately 7,300 employees.

Regarding the commenter's assertion that there are discrepancies between the IS/MND and the Sunset Crossroads EIR, "evidence of environmental impacts must be founded upon facts in the administrative record" for the particular project being approved. CEQA Guidelines, § 15384(a); *Pocket Protectors v. City of Sacramento* (2004) 124 Cal. App. 4th 903, 927. CEQA

[5] Specifically the modeling assumptions were 328,400 square feet of general commercial and 5,545,000 square feet of industrial uses.
[6] The *Noise and Vibration Analysis, Sunset Crossroads Project* is available at https://www.banningca.gov/DocumentCenter/View/13826/App-I-Noise-Tech-Rpt_9-2023

does not require that an IS/MND compare its analysis with analysis from a different uncertified environmental document, analyzing a different project altogether.

This clarification of how the existing and Without Project 2050 traffic noise levels were modeled and its amplification in the Final IS/MND does not constitute new information that would require recirculation pursuant to Section 15073.5 of the CEQA Guidelines. No further analysis is required.

Response to Comment B-17
This comment questions whether the future traffic volumes and mix for Project roadways are reasonable.

The commentor references Table 4 of the Noise Study located in Appendix G of the IS/MND to point out the Without Project (2050) traffic volume is estimated at no more than 2,703 vehicles with a traffic mix that is 94% passenger cars, 4% medium trucks, and 2% heavy trucks. Table 4 also identifies the With Project (2050) traffic volume is no more than 1,604 vehicles; a reduction of 1,099 vehicles. Page 12 of the Noise Study states, "The land uses along both sides of the Project are expected to be developed with industrial land uses as part of the Sunset Crossroads project." The buildout assumptions of the Noise Analysis Report are based on the same buildout assumptions as the Vehicle Miles Traveled Screening Analysis located in Appendix H of the IS/MND, which shares the same buildout assumptions as the Traffic Impact Analysis (TIA) prepared for the Project (IS/MND Appendix page 14 of the Noise Analysis Report).[7] The VMT Analysis and TIA assumed the Sunset Crossroads project would have approximately 5.87 million square feet of industrial uses and 7,293 employees. The trip mix used is based on both intersection and roadway classification counts that were conducted in 2021 for the TIA. Because there has not been any new development in proximity to the Project Site, the traffic counts from 2021 are representative of the trip mix in the Project area.

Regarding the commenter's assertion that there are discrepancies between the IS/MND and the Sunset Crossroads EIR, "evidence of environmental impacts must be founded upon facts in the administrative record" for the particular project being approved. CEQA Guidelines, § 15384(a); *Pocket Protectors v. City of Sacramento* (2004) 124 Cal. App. 4th 903, 927. CEQA does not require that an IS/MND compare its analysis with analysis from a different uncertified environmental document, analyzing a different project altogether.

This comment does not change any of the significance determinations made in the MND and it does not raise any new environmental issues. No further analysis is required.

Response to Comment B-18
This comment suggests the IS/MND does not describe the future intersection improvements fully enough.

[7] Albert A Webb Associates. *Realignment of Sun Lakes Boulevard – Westward Avenue Transportation Impact Analysis.* February 2022, updated March 2024. (Available at City of Banning)

A plan-view image of the proposed intersections at Highland Home Road and Sunset Avenue based on the engineering plans for the project is enclosed on pages 1 and 2 of Attachment 1 (Images 1 and 2). The design of the Project, which includes the intersections, is consistent with the City standards, County of Riverside standards, and California Department of Transportation (Caltrans) standards for roadway design and safety. Roadway design standards for safety are generally based on the driver's ability to have sufficient site distance along roads and at turning points/intersections/driveways. Because the Project has been engineered according to the accepted standards and vetted through City staff and their professional consultants through several reviews, which is the normal process for all roadway improvements in the City, there should be no reason to suggest the design is inherently flawed in regard to safety at the intersections.

Image 1 of Attachment 1 identifies Whirlwind Circle, which is an entrance to the Serrano Del Vista development, to which the commentor refers. The proposed road improvements of the Project along Sunset Avenue were also designed consistent with the aforementioned design standards. Presumably Whirlwind Circle was also designed and constructed consistent with design standards. With-Project traffic volumes on Sunset Avenue are measured by levels of service (LOS). LOS was calculated in a Traffic Impact Analysis for the project to inform the City on needed roadway improvements, to inform the Noise Impact Analysis, and to inform the Air Quality/Greenhouse Gas Analysis for the Project. Although LOS was once a CEQA metric for traffic/transportation impacts, as of July 1, 2020, the metric for CEQA traffic/transportation impacts changed to vehicle miles traveled (VMT).[8] CEQA Guidelines Section 15064.3 mandates that CEQA review of transportation impacts be modified by eliminating consideration of delay- and capacity-based metrics such as LOS. Since LOS is no longer a CEQA threshold, a discussion of this topic in the IS/MND is not appropriate. The publicly circulated IS/MND appropriately discloses the results of the VMT analysis on pages 104–105.

The commentor suggests there could be a risk to safety where Sun Lakes Boulevard meets Westward Avenue at Sunset Avenue. No risk to safety has been identified as a result of the street name changing. Although this is not a comment pertaining to an environmental concern, the Project will be named Sun Lakes Boulevard and changes to Westward Avenue east of Sunset Avenue.

This comment does not change any of the significance determinations made in the MND and it does not raise any new environmental issues. No additional analysis is required.

Response to Comment B-19
This comment questions the determination in the Mandatory Findings thresholds of the IS/MND that all potentially significant impacts have been identified.

Despite the changes made to the IS/MND as described in the responses to Comments B-1 – B-18 that amplify and clarify the analysis, no new potentially significant impacts were identified and the IS/MND continues to conclude that all potentially significant impacts have been

[8] CEQA Guidelines Section 15064.3

identified and mitigated to a level that is less than significant and therefore, an EIR is not required. This comment does not change any of the significance determinations made in the MND and it does not raise a new environmental issue.

Comment Letter C – Morongo Band of Mission Indians

Comment Letter C

TRIBAL HISTORIC PRESERVATION OFFICE

VIA ELECTRONIC MAIL

epapp@banningca.gov

MORONGO BAND OF MISSION INDIANS
A SOVEREIGN NATION

October 11, 2024

Emery J. Papp
City of Banning Community Development Dept.
99 E. Ramsey Street
Banning, CA

Re: AB-52 Consultation for Sun Lakes Boulevard Extension Project

Dear Mr. Emery J. Papp:

The Morongo Band of Mission Indians (Tribe/MBMI) Tribal Historic Preservation Office is in receipt of the Initial Study/ Mitigated Negative Declaration (MND) regarding the above referenced project. The proposed Sun Lakes Boulevard Extension Project (Project) is located within the ancestral territory and traditional use area of the Cahuilla and Serrano people of the Morongo Band of Mission Indians. C-1

Tribal cultural resources are non-renewable resources and therefore of high importance to the Morongo Tribe, therefore, tribal participation (a.k.a. tribal monitors) is recommended during all ground disturbing activities. We look forward to working with your agency to protect these irreplaceable resources out of respect for the ancestors of the Morongo people who left them there, and for the people of today and for generations to come.

Projects within this area are potentially sensitive for cultural resources regardless of the presence or absence of remaining surface artifacts and features. Our office requests to initiate government-to-government consultation under Senate Bill (SB) 18 (Public Resources Code §65352.3) and Assembly Bill (AB) 52 (California Public Resources Code § 21080.3.1) and requests the following from your agency to ensure meaningful consultation: C-2

- Currently proposed Project design and Mass Grading Maps
- Tribal participation (a.k.a. tribal monitors) during the pedestrian survey and testing, if this fieldwork has not already taken place. In the event that archaeological crews have completed this work, our office requests a copy of the current Phase I study or other cultural assessments (including the cultural resources inventory).
- Shapefiles of the Projects area of effect (APE)

Thank you for providing the Phase I Cultural Resource Assessment for this project, authored by Evan Mills, Jessica Cochrane, and Joan George of Applied Earthworks, Inc. and the Geotechnical Report produced by Albert A. Webb Associates and Geocon West, Inc.

Furthermore, we acknowledge the federal nexus of this project, therefore involving Section 106 consultation with the Lead Agency, the U.S Army Corp of Engineers (USACE).C C-3

This letter does not conclude consultation. Upon receipt of the requested documents the MBMI THPO may further provide recommendations and/or mitigation measures. C-4

The lead contact for this Project is Bernadette Ann Brierty, Tribal Historic Preservation Officer (THPO).

12700 Pumarra Road – Banning, CA 92220 – (951) 755-5259 – Fax (951) 572-6004 – THPO@morongo-nsn.gov

MBMI Tribal Archaeologist, Sarah Bertman will be assisting the Tribe in the review of this project. Please do not hesitate to contact us at ABrierty@morongo-nsn.gov, THPO@morongo-nsn.gov, sbertman@morongo-nsn.gov or (951) 663-2842, should you have any questions. The Tribe looks forward to meaningful government-to-government consultation with the Eastern Municipal Water Department.

C-4 Cont.

Respectfully,



Bernadette Ann Brierty

Tribal Historic Preservation Officer

Morongo Band of Mission Indians

CC: Morongo THPO

12700 Pumarra Road – Banning, CA 92220 – (951) 755-5259 – Fax (951) 572-6004 – THPO@morongo-nsn.gov

Response to Comment Letter C – Morongo Band of Mission Indians

This comment letter was received after the end of the public review period.

Response to Comment C-1

This comment acknowledges the Tribe's receipt of the IS/MND and noted the Project is located "within the ancestral territory and traditional use area of the Cahuilla and Serrano people of the Morongo Band of Mission Indians." This comment also recommends "tribal participation (aka tribal monitors)" during all ground disturbing activities.

As stated on pages 106-107 of the publicly circulated IS/MND, no tribal cultural resources were identified during the Project's AB 52 process; nonetheless in response to the Morongo Band of Mission Indians' (MBMI) request mitigation measure **MM CR-1** will be modified in the Final IS/MND as follows:

> ***MM CR-1: Monitoring and Inadvertent Discovery****. Prior to the start of construction, the City shall retain a qualified archaeologist to monitor all ground disturbing activities. The City shall also work with the Morongo Band of Mission Indians to enter into an agreement for a Tribal Monitor prior to the start of construction. In the event archaeological resources are discovered during Project construction that are not part of Site 33-013779 (CA-RIV-7544) and Site 33-013788, all ground disturbance activities within 100 feet of the discovered archaeological resource shall be halted until a qualified archaeologist (meeting the Secretary of the Interior Standards) can visit the site of discovery, assess the significance and integrity of the find, and determine the appropriate treatment (documentation, recovery, avoidance, etc.) and disposition of the cultural resource. Further ground disturbance shall not resume within the area of discovery until the appropriate treatment has been accomplished. Work on the other portions of the Project outside of the buffered area may continue. Any such discoveries and subsequent evaluation and treatment shall be documented and submitted to the Eastern Information Center (EIC) for archival purposes.*

The modification of mitigation measure **MM CR-1** does not change any of the significance determinations made in the MND and it does not raise a new environmental issue. Modification of mitigation measure **MM CR-1** does not constitute new information that would require recirculation pursuant to Section 15073.5 of the CEQA Guidelines. No further analysis is required.

Response to Comment C-2

This comment requests to initiate government-to-government consultation under SB 18 and AB 52. This comment also requests a copy of the current Project design and Mass Grading Maps, and tribal participation (aka tribal monitors) during the pedestrian survey unless it has been completed already. If the pedestrian survey has been completed, then the Morongo Band of Mission Indians (MBMI) requests a copy of the current Phase 1 cultural resources study and shapefiles of the Project's Area of Potential Effect (APE).

Senate Bill (SB) 18, requires local governments to notify and consult with California Native American tribes when the local government is considering adoption or amendment of a general or specific plan. The proposed Project does not include adoption or amendment of the City's General Plan of any specific plan; therefore, SB 18 is not applicable.

Regarding Assembly Bill (AB) 52 consultation, this process includes specific timeframes by which any Native American Tribe interested in consultation must respond to a Lead Agency's request and when consultation must commence. Per Public Resources Code (PRC) § 21080.3.1(b), the Native American Tribe has 30 days to respond (in writing) to a Lead Agency's notification of consultation opportunity and the CEQA Lead Agency has 30 days after receiving the request for consultation to begin the consultation process. If a Native American Tribe does not respond within the 30-day period, there are no further consultation requirements. In part, the purpose of the 30-day period is to provide certainty, so that a lead agency may proceed with the CEQA process once the 30-day period runs if no consultation request is made.

As discussed on page 106 of the publicly circulated IS/MND, representatives of the City and WEBB (as the City's consultant) met virtually with the Morongo Band of Mission Indians' (MBMI) Tribal Historic Preservation Officer (THPO) (Bernadette Ann Brierty) on October 15, 2020 to introduce the Project and provide background regarding the prior SB 18 and AB 52 consultation efforts conducted and completed by the City and MBMI for General Plan Amendment No. 19-2502. On that same date, the results of the Project's Phase 1 Cultural Resource Assessment (CRA) records search were provided to the MBMI THPO. On December 3, 2021, the Phase I CRA was provided to the MBMI THPO. WEBB, on the City's behalf, made follow-up phone calls to the MBMI THPO in January and February 2021 and received no return calls. City staff followed up with the MBMI THPO in September 2021 and since there was no response from MBMI, the City appropriately concluded consultation on November 15, 2021, over one year after meeting with the MBMI THPO. No tribal cultural resources were identified during the AB 52 consultation process.

Regarding the request to participate in pedestrian surveys, these surveys have been completed. Pedestrian surveys of the Project site were conducted on September 4, 2020, March 31, 2022, and April 3, 2024. The Project's Phase 1 CRA (included as IS/MND Appendix C) was updated in April 2024 to include a larger survey area. No cultural resources were found during the 2024 survey of the additional impact area. Regarding the request for a copy of the current Phase I CRA, that document was included as Appendix C of the IS/MND. Further, since Comment C-2 states the Tribe has a copy of the Phase 1 CRA, the City will not send another copy. Regarding the request for the current engineering plans and shapefiles of the Project footprint/Area of Potential Effect (APE), the City will transmit those to the MBMI THPO. The Project does not involve mass grading. The amplification of the Project description by providing MBMI the engineering plans and shapefiles of the APE does not constitute new information that would require recirculation pursuant to Section 15073.5 of the CEQA Guidelines.

This comment does not change any of the significance determinations made in the MND and it does not raise a new environmental issue.

Response to Comment C-3
This comment acknowledges a federal nexus with U.S. Army Corps of Engineers and therefore a Section 106 consultation is a component of the Project.

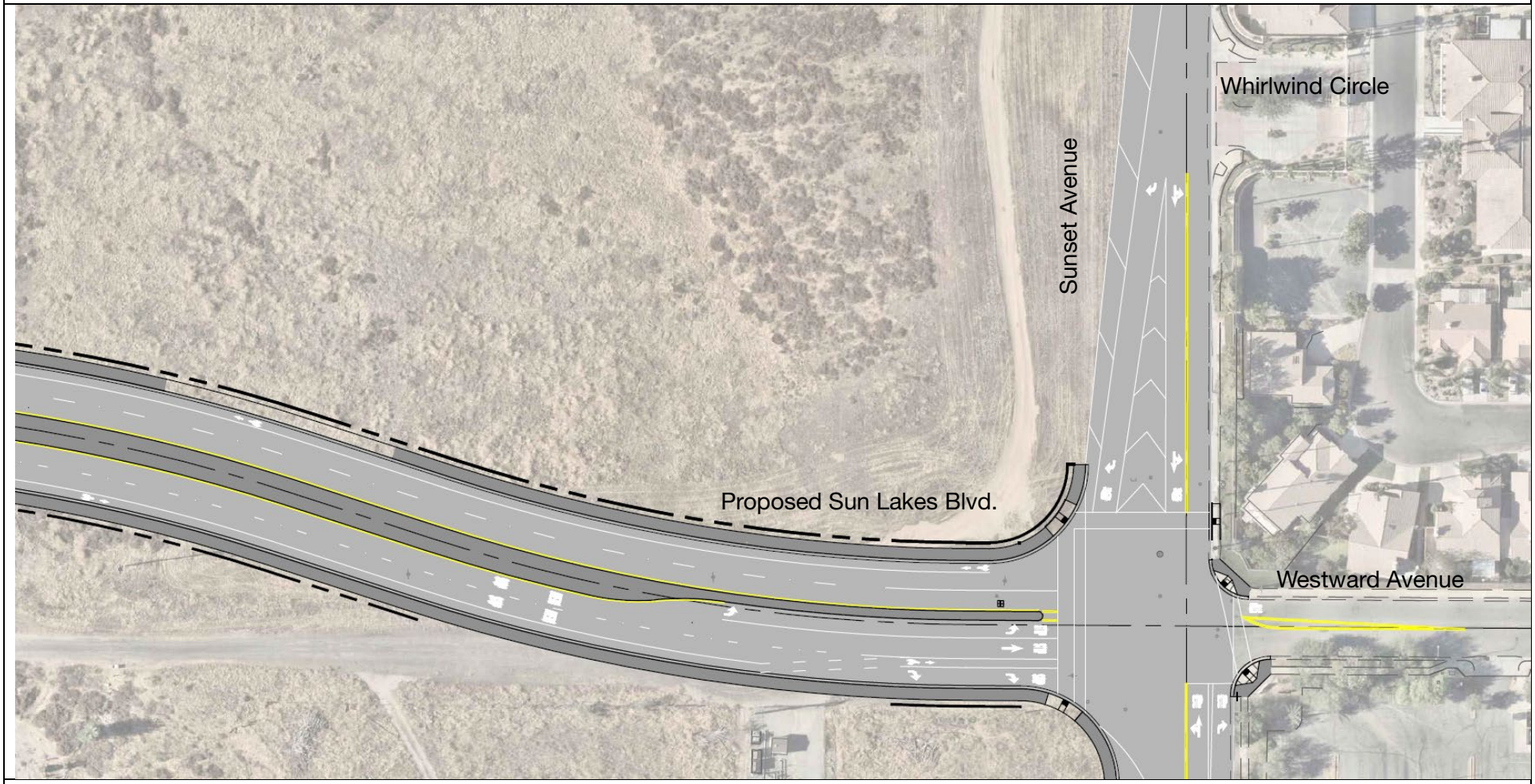
The comment regarding a federal nexus with the U.S. Army Corps of Engineers (USACE) is incorrect. In August 2023 the definition of Waters of the U.S. changed and no longer includes ephemeral creeks like the creeks impacted by the Project. As discussed in IS/MND Response IV.b Biological Resources, the Project Site includes three existing ephemeral drainages, Highland Wash, Smith Creek, and Pershing Creek. None of these drainages have permanent flow and are therefore not considered USACE jurisdictional. (IS/MND, pp. 43–44.) That the Project will not impact USACE jurisdictional waters is stated again on page 45 of the IS/MND, "Based on the current definition of Waters of the U.S., the Project will not impact Waters of the U.S. and will therefore not require a Section 404 permit from the U.S. Army Corps of Engineers." This comment does not change any of the significance determinations made in the IS/MND and it does not raise a new environmental issue.

Response to Comment C-4
This comment indicates the Tribe does not consider AB 52 consultation concluded and may provide further recommendations and/or mitigation measures after receiving the requested documents. Communications can be sent to the individuals noted.

As discussed in Response to Comment C-2 and on page 106 of the publicly circulated IS/MND, the City concluded AB 52 consultation. Nonetheless, the City will provide copies of the requested documents to the individuals noted. This comment does not change any of the significance determinations made in the MND and it does not raise a new environmental issue.

Image 1

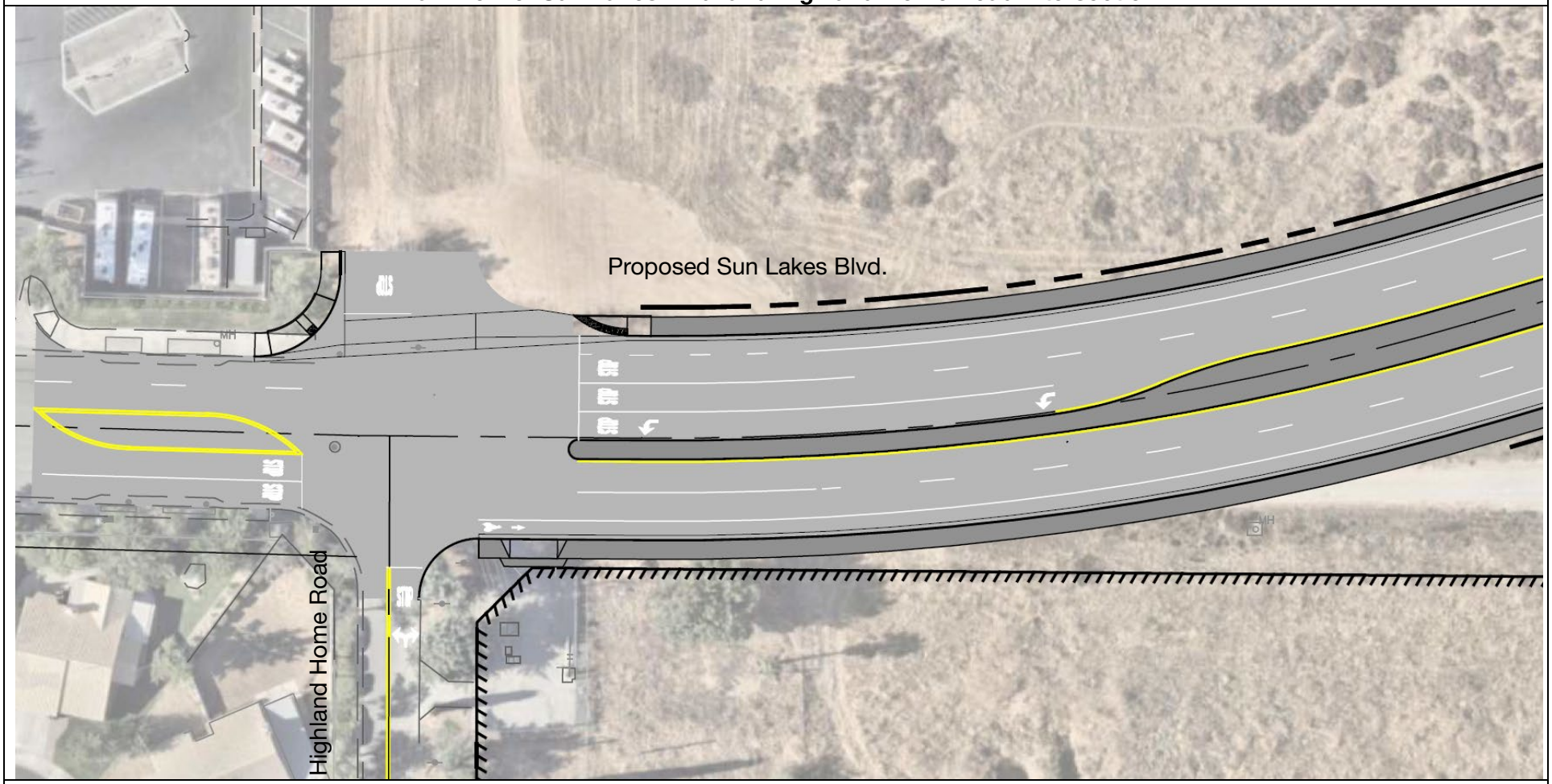
Plan-view of Sun Lakes Blvd. and Sunset Avenue Intersection



North is top of image

Image 2

Plan-view of Sun Lakes Blvd. and Highland Home Road Intersection



North is top of image

Image 3
Photo Log



Image 4	
Photo 29, Photo Date: October 16, 2024	**Rendering at Photo 29 location by Infraworks Software using AutoCAD plans at 6-feet high**
	
Facing west at intersection of Westward Avenue/future Sun Lakes Blvd. and Sunset Avenue.	

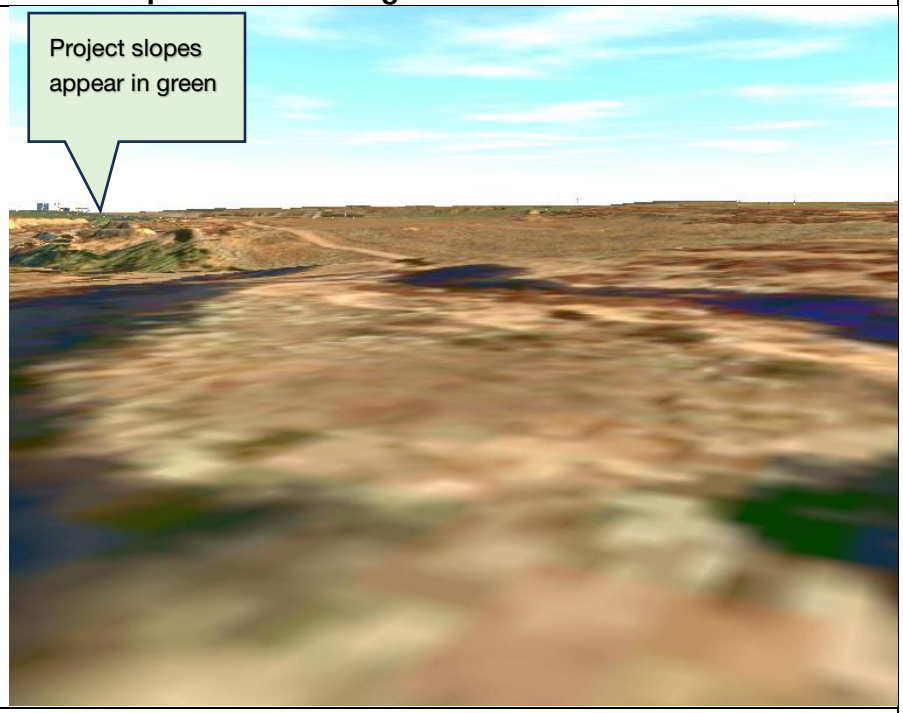
Image 5	
Photo 31, Photo Date: October 16, 2024	**Rendering at Photo 31 location by Infraworks Software using AutoCAD plans at 6-feet high**
	
Facing south approx. 0.3-mile (1,700 feet) north of Westward Avenue.	

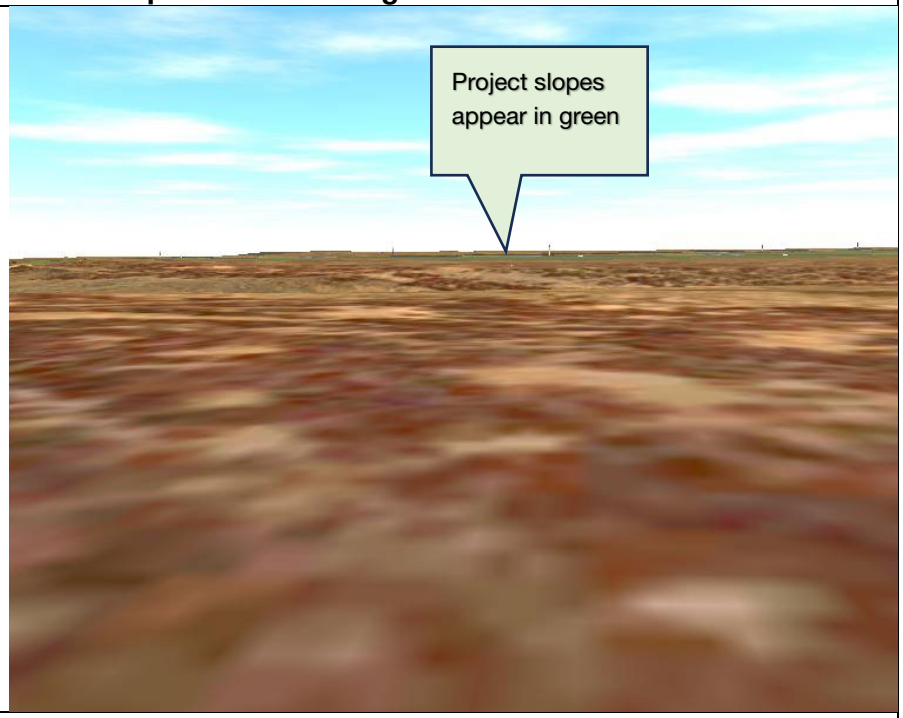
Image 6	
Photo 32, Photo Date: October 16, 2024	**Rendering at Photo 32 location, Infraworks Software using AutoCAD plans at 6-feet high**
	
Facing southwest approx. 0.3-mile (1,700 feet) north of Westward Avenue.	

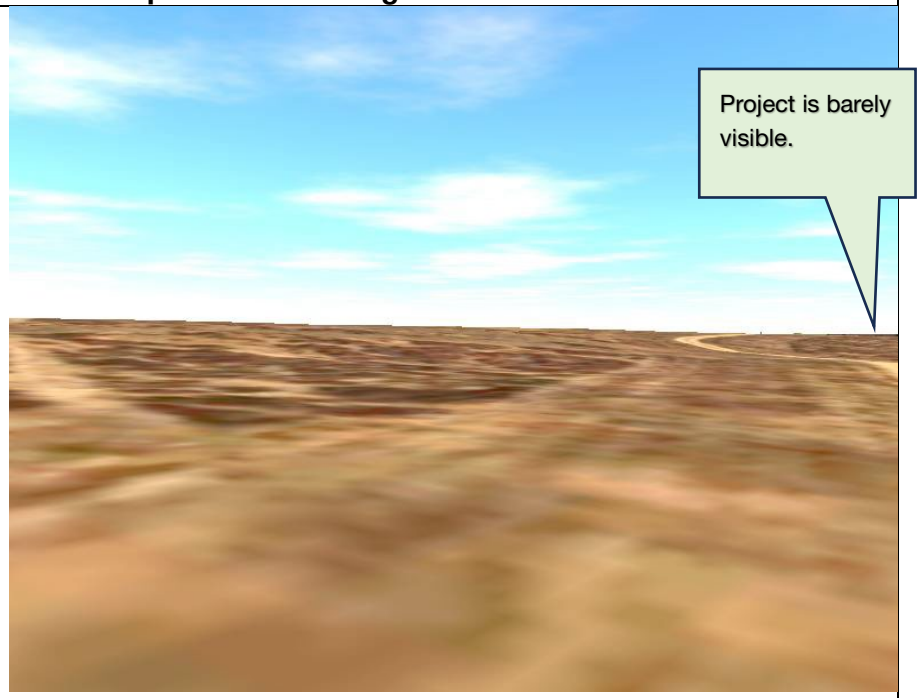
Image 7	
Photo 36, Photo Date: October 16, 2024	**Rendering at Photo 36 location by Infraworks Software using AutoCAD plans at 6-feet high**
	
Facing south from railroad/I-10 approx. 0.5-mile north of Westward Avenue.	

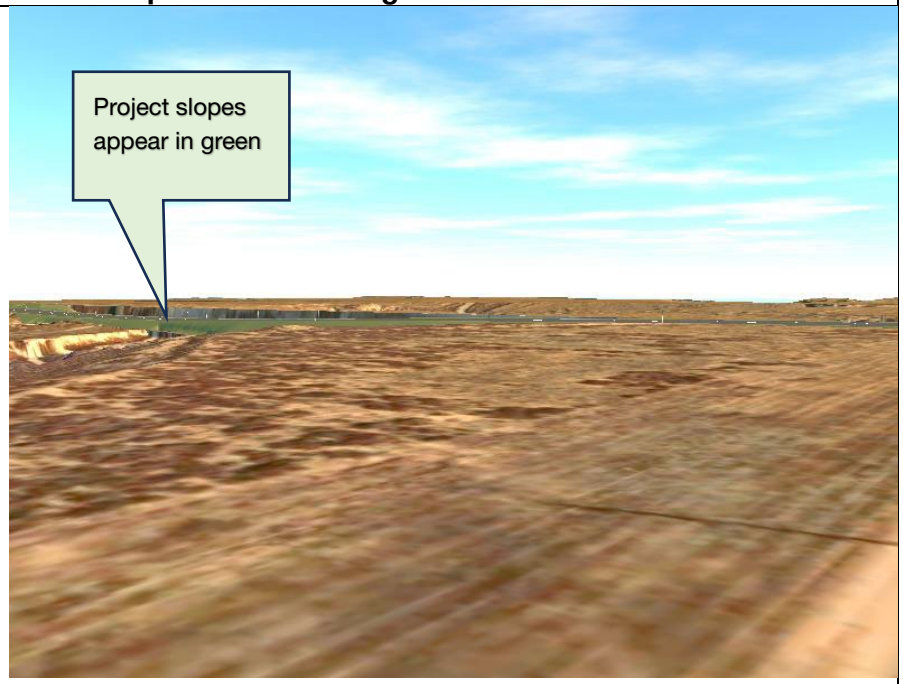
Image 8	
Photo 37, Photo Date: October 16, 2024	**Rendering at Photo 37 location, Infraworks Software using AutoCAD plans at 6-feet high**
	
Facing southeast from 0.2-mile north of Westward Avenue/Highland Home Road intersection.	

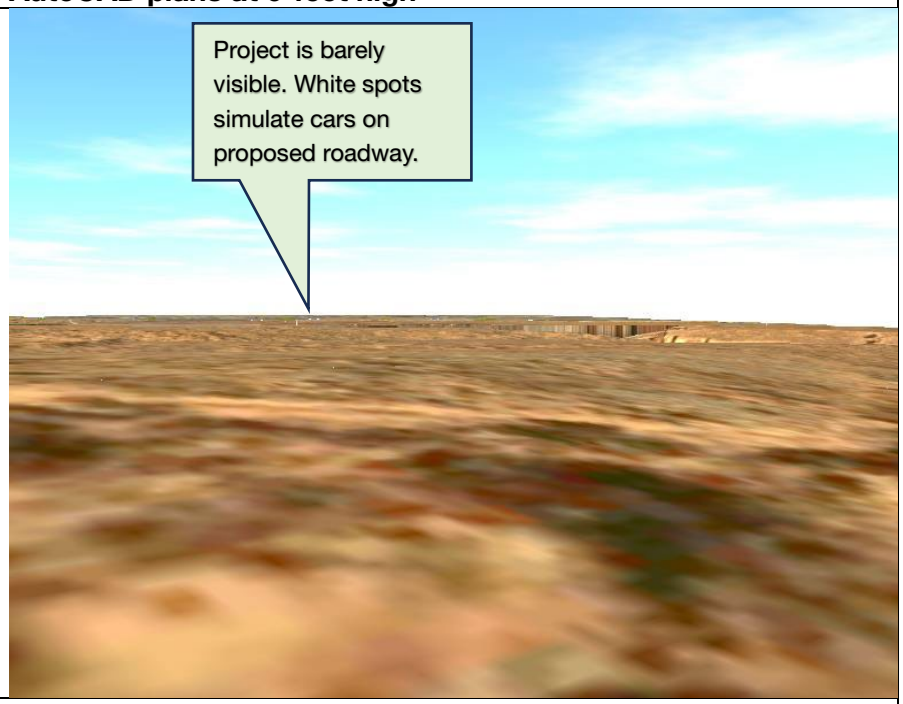
Image 9	
Photo 38, Photo Date: October 16, 2024	**Rendering at Photo 38 Location by Infraworks Software using AutoCAD plans at 6-feet high**
	
Facing northeast from Highland Home Road, 0.2-mile south of Westward Avenue.	

Image 10	
Google Earth Street View, approx.. 8-feet high, imagery date 2/2024	



Facing southeast from east-bound I-10 at 33.926077, -116.929126 (just north of the northeast corner of the Sun Lakes Country Club Golf Course)

Image 11

Google Earth Street View, approx.. 8-feet high, imagery date 2/2024



Facing south from I-10 bridge over Sunset Avenue

Image 12	
Plan-View rendering using Infraworks software	



North is top of page.

Image 13	
Plan-View from southwest using Infraworks software	



Project in the foreground and I-10 Freeway at the top.

III. Mitigation Monitoring and Reporting Program

Mitigation Monitoring and Reporting Program

for

Sun Lakes Boulevard Extension Project

SCH#: 2024090237

Lead Agency:
City of Banning
99 E. Ramsey Street
Banning, CA 92220
(951) 922-3100
Contact: Emery Papp, Senior Planner

Prepared by:
Albert A. Webb Associates
3788 McCray Street
Riverside, CA 92506
(951) 686-1070
W.O. 2020-0126

November 12, 2024

Project Description

The Project is located within the City adjacent to unincorporated territory of Riverside County. The alignment of the Project is in the western portion of the City, south of Interstate 10 (I-10), between the intersections of South Highland Home Road to the west and Sunset Avenue to the east.

The Project will construct a new section of Sun Lakes Boulevard from South Highland Home Road to Sunset Avenue and intersection improvements consistent with General Plan Amendment (GPA) 19-2502. The Project is approximately 5,400 linear feet (1.02 mile) long and 110-feet wide, encompassing approximately 19.4 acres of direct footprint and an additional approximately 9.1 acres of temporary construction disturbance area. Project staging and stockpiling will occur within the City's rights-of-way (ROW). Sun Lakes Boulevard will be constructed according to the City's General Plan Typical Section for an Arterial Highway, with two eastbound and two westbound lanes, each containing a 12-feet wide lane and a 14-feet wide lane; a raised 18-foot wide median; eastbound and westbound 8-foot-wide bike lanes; 8-foot-wide sidewalks; associated road striping, drainage, and street light improvements. The Project also includes drainage improvements and the City's acquisition of approximately 621,000 square-feet (SF) of ROW, approximately 143,000 SF of drainage easements, and approximately 44,000 SF of pipeline easements.

Mitigation Monitoring and Reporting Program

The enclosed Mitigation Monitoring and Reporting Program (MMRP) has been compiled to verify implementation of adopted mitigation measures. The following table provides a summary format based on the written report, including all mitigation measures, the timing of mitigation implementation, identification of the responsible monitoring party, and verification of implementation of each mitigation measure.

The following clarifies the meaning of each column in the following table:

Impact Category:	Identifies potentially affected resource/ environmental condition.
Mitigation Measure:	Those measures that will be implemented to minimize possible significant environmental impacts.
Implementing Timing:	The phase of the project in which implementation and compliance will be monitored.
Responsible Monitoring Party:	Entity responsible for monitoring implementation of the mitigation measure.
Monitoring/Reporting Method:	Identifies mechanism by which implementation will be verified.
Compliance Verification:	To be signed and dated by the City upon receipt of written verification of each mitigation measure.

Impact Category	Mitigation Measure	Implementation Timing	Responsible Monitoring Party	Monitoring / Reporting Method	Compliance Verification
Biological Resources	**MM BIO-1: Vegetation Clearance and Preconstruction Nesting Bird Survey.** To avoid direct and indirect impacts to nesting birds, any Project-related ground disturbance/vegetation clearance must take place between September 1 and February 1. For preconstruction nesting bird surveys, if vegetation clearance does not occur within the September 1 to February 1 timeframe, then a preconstruction nesting bird survey would be required. A qualified biologist shall conduct a nesting bird survey(s) no more than three (3) days prior to initiation of construction to document the presence or absence of nesting birds within or directly adjacent (100 feet) to the Project Site. The nesting bird survey(s) would focus on identifying any passerine or raptor nests that would be directly or indirectly affected by construction activities. If active bird nests are documented, species-specific measures shall be prepared by a qualified biologist and implemented to prevent abandonment of the active bird nest. At a minimum, grading in the vicinity of a nest shall be deterred until the young birds have fledged. A minimum exclusion buffer of 100 feet shall be maintained during construction, depending on the species and location. The perimeter of the nest setback zone shall be fenced or adequately demarcated with stakes and flagging at 20-foot intervals, and construction personnel and activities restricted from the area. A survey report by a qualified biologist verifying that no active nests are present, or that the young have fledged, shall be submitted to the City of Banning for review and approval prior to initiation of construction in the nest-setback zone. The qualified biologist shall serve as a construction monitor during those periods when construction activities occur near active nest areas to ensure that no inadvertent impacts on these nests occur. A report of the findings prepared by	If vegetation clearance occurs outside of Sept.1-Feb.1, then survey within three (3) days of clearance activities.	City and Qualified Biologist	Survey results provided to City prior to start of construction	

Impact Category	Mitigation Measure	Implementation Timing	Responsible Monitoring Party	Monitoring / Reporting Method	Compliance Verification
	a qualified biologist shall be submitted to the City of Banning for approval prior to initiating construction activities.				
Biological Resources (cont'd)	**MM BIO-2: Burrowing Owl Survey.** To avoid direct and indirect impacts to burrowing owls, a qualified biologist shall conduct a minimum one visit 30-day burrowing owl preconstruction survey of all suitable habitat that is slated for any vegetation removal, grading, or other disturbance in the Project site. The burrowing owl survey shall be conducted to ensure protection for this species and compliance with the conservation goals as outlined in the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) and according to the MSHCP "Burrowing Owl Survey Instructions" dated 2006. A report of the survey findings prepared by a qualified biologist shall be submitted to the City of Banning and County of Riverside Environmental Programs Division (Riverside County EPD) for review and approval prior to any ground disturbing activities. If burrowing owls are detected on the Project Site during the 30-day preconstruction survey, and during the breeding season (February 1st to August 31st), then construction activities shall be limited to beyond 300 feet of the active burrows until a qualified biologist has confirmed that nesting efforts are competed or not initiated. In addition to monitoring breeding activity, if construction is proposed to be initiated during the breeding season or active relocation is proposed, a burrowing owl mitigation plan will be developed based on the Riverside County EPD, CDFW, and United States Fish and Wildlife Service (USFWS) requirements for the relocation of individuals. Passive relocation may occur when owls are found onsite during preconstruction surveys conducted outside of the breeding season. If no owls are found onsite during the	Survey within 30 days of start of construction activities.	City and Qualified Biologist	Survey results provided to City and Riverside County Environmental Programs Division	

Impact Category	Mitigation Measure	Implementation Timing	Responsible Monitoring Party	Monitoring / Reporting Method	Compliance Verification
	preconstruction survey, then construction may commence within 30 days without another survey.				
Biological Resources (cont'd)	**MM BIO-3: Crotch's Bumble Bee Survey and Construction Monitoring.** In order to avoid direct and indirect impacts to Crotch's bumble bee (CBB) which could establish themselves on the Project site before construction starts, a qualified CBB biologist (i.e., 1-2 years of experience performing CBB surveys, or, has a Memorandum of Understanding [MOU] with CDFW), shall perform the records searches and site surveys according to the Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species (CDFW 2023) prior to the start of ground-disturbing project activities. The literature review and records search shall identify occurrences at the Project site and within a 5-mile buffer. The literature review and records search shall include: a report from the CDFW California Natural Diversity Data Base for a 10-mile radius of the project site; aerial photographs; and iNaturalist for bee sightings and nectar sources. Then, the qualified biologist shall conduct on-site surveys for foraging and nesting bees. The surveys shall begin with a habitat assessment to evaluate the likelihood of bumble bees occurring within and adjacent to the project area. Then, foraging bumble bee and nesting surveys shall be conducted during the peak nectar blooming period (April through June 30). Habitat assessment and survey results shall be submitted to CDFW prior to the start of ground-disturbing project activities. Vegetation removal is allowable from November to January (note seasonal limitations for nesting birds in **MM BIO-1**). No monitoring is required if removal of vegetation occurs during this time period. However, vegetation removal/ground	Habitat Assessment prior to construction start regardless of time of year. Foraging/nesting surveys during blooming period (April – June). Construction monitoring is required for vegetation removal between February and October.	City and Qualified CBB Biologist	Survey results provided to City and CDFW	

Impact Category	Mitigation Measure	Implementation Timing	Responsible Monitoring Party	Monitoring / Reporting Method	Compliance Verification
	disturbances during the CBB flight season, which is February to October, will require preemptive focused CBB surveys and full-time biological monitoring for CBB to take place within the project limits. Construction monitoring for CBB may cease based on the professional judgement of the qualified CBB biologist that construction activities have already impacted the extent of the planned impact footprint. If an active CBB nest is detected during focused surveys conducted between April and June, or during the construction monitoring, then the qualified biologist shall establish a no-disturbance buffer zone (including foraging resources and flight corridors essential for supporting the colony) around the CBB nest. The qualified biologist and City shall notify CDFW and if needed, process an Incidental Take Permit (ITP) with CDFW. If a single CBB is observed during construction, CDFW shall be notified, and work shall be halted in that area until the qualified biologist deems the CBB has left the site. It is expected that if an ITP is needed, that the offsite mitigation site along Smith Creek proposed by **MM BIO-5**, which has similar habitat types and embankments, could support CBB. If offsite mitigation for CBB is needed, then a CBB permitted land manager shall be hired by the City to ensure CBB habitat is intact on the offsite mitigation property.				
Biological Resources (cont'd)	**MM BIO-4: Biological Worker's Environmental Awareness Program (WEAP).** The City of Banning shall enlist a qualified biologist to conduct a mandatory training for all construction contractors and their employees on project-related environmental concerns, including Crotch's bumble bee, burrowing owl, pertinent rare plant species, and riparian/riverine features. To the extent feasible, the biologist conducting the WEAP shall be the same one	Prior to start of construction	City, Qualified Biologists(s), Qualified Paleontologist	Attendance sheet provided to City	

Impact Category	Mitigation Measure	Implementation Timing	Responsible Monitoring Party	Monitoring / Reporting Method	Compliance Verification
	enlisted by the City for **MM BIO-1** (nesting bird surveys), **MM BIO-2** (burrowing owl surveys), and **MM BIO-3** (Crotch's bumble bee surveys). This WEAP can occur during the same meeting as the paleontological WEAP described in **MM GEO-1**. No individual shall be permitted to work at the Project Site until they have completed WEAP training. The City's Project biologist will conduct additional trainings, as needed for different construction crews that come onboard throughout the ground-disturbing activities of the Project. In lieu of in-person training, the WEAP may be recorded and presented to any contractor or crew member not present at the initial in-person training.				
Biological Resources (cont'd)	**MM BIO-5: Mitigation for Riparian/Riverine and Jurisdictional Impacts.** In order to mitigate 0.37 acre of permanent impacts and 0.09 acre of temporary impacts to riparian/riverine waters and jurisdictional impacts to Waters of the State and CDFW Streambed, the City of Banning shall purchase land or conserve and enhance existing City-owned land that is within the Whitewater Watershed along Smith Creek, which would be placed in a conservation easement or deed restriction and protected in perpetuity with a non-wasting endowment. The land shall be managed by a third-party land manager such as Rivers and Lands Conservancy, Inland Empire Resource Conservation District, or Regional Conservation Authority. The amount of land preserved for permanent impacts will be based on a 3:1 ratio (3 x 0.37 acre = 1.11 acres) and for temporary impacts at a 2:1 ratio (2 x 0.09 acre = 0.18 acre) for a total mitigation area of no less than 1.3-acres. In addition, the City has committed to participating in a regional solution of the sediment transport function of the Smith Creek watershed. The intended outcome of this regional solution is to bring the various stakeholders in this	Prior to the start of construction	City	Completed transfer of 1.3-acres to third-party conservation holder provided to Wildlife Agencies (CDFW and USFWS). Documentation of City's ongoing commitment to sediment transport function of the	

Impact Category	Mitigation Measure	Implementation Timing	Responsible Monitoring Party	Monitoring / Reporting Method	Compliance Verification
	watershed together to work on a sediment management strategy to ensure sediment is transported efficiently and effectively to support ecological resources. The City's commitment to this regional solution will serve as providing rehabilitation mitigation for the overall impacts from this Project. The Project shall also return temporary impact areas to their pre-existing contours and revegetate them with appropriate native species. Project construction shall also follow MSHCP Volume I, Appendix C Standard Best Management Practices and MSHCP Section 6.1.4 Urban Wildlands Interface Guidelines.			Smith Creek Watershed provided to Wildlife Agencies (CDFW and USFWS).	
Cultural Resources	**MM CR-1: Monitoring and Inadvertent Discovery.** Prior to the start of construction, the City shall enlist a qualified archaeologist to monitor all ground disturbing activities. The City shall also work with the Morongo Band of Mission Indians to develop an agreement for a Tribal Monitor prior to the start of construction. In the event archaeological resources are discovered during Project construction that are not part of Site 33-013779 (CA-RIV-7544) and Site 33-013788, all ground disturbance activities within 100 feet of the discovered archaeological resource shall be halted until a qualified archaeologist (meeting the Secretary of the Interior Standards) can visit the site of discovery, assess the significance and integrity of the find, and determine the appropriate treatment (documentation, recovery, avoidance, etc.) and disposition of the cultural resource. Further ground disturbance shall not resume within the area of discovery until the appropriate treatment has been accomplished. Work on the other portions of the Project outside of the buffered area may continue. Any such discoveries and subsequent evaluation	During construction	City, City's Contractor, Qualified Archaeologist	Findings provided to City and Eastern Information Center	

Impact Category	Mitigation Measure	Implementation Timing	Responsible Monitoring Party	Monitoring / Reporting Method	Compliance Verification
	and treatment shall be documented and submitted to the Eastern Information Center (EIC) for archival purposes.				
Geology and Soils	**MM GEO-1: Paleontological Worker Environmental Awareness Program (WEAP).** To educate construction crews about the types of paleontological resources that may be encountered along the Sun Lakes Boulevard Extension Project, prior to the start of the construction, the City of Banning shall retain a professional paleontologist (the "Project Paleontologist") to prepare a Paleontological Worker Environmental Awareness Program (WEAP). The Paleontological WEAP shall provide a description of the laws and ordinances protecting fossil resources, the types of fossil resources that may be encountered in the area, the role of the paleontological monitor, outline steps to follow in the event that a fossil discovery is made and provide contact information for the Project Paleontologist. The Project Paleontologist or designee(s) shall present the Paleontological WEAP to the construction contractor and each of the construction crews working on the Sun Lakes Boulevard Extension Project during a preconstruction meeting. The Paleontological WEAP shall be taped and presented to any construction crew members not present at the preconstruction meeting during which it was initially presented prior to such crew members working on the Sun Lakes Boulevard Extension Project. This training may be conducted concurrent with other preconstruction training (e.g., biological resources, safety).	Prior to start of construction	Qualified Paleontologist	Attendance list provided to City	
Geology and Soils (cont'd)	**MM GEO-2: Paleontological Resource Impact Mitigation Program (PRIMP).** Prior to the commencement of ground-disturbing activities, the Project Paleontologist (retained under **MM GEO-1**) shall prepare and implement a Paleontological Resource	Prior to the start of construction	City and Qualified Paleontologist	PRIMP provided to City	

Impact Category	Mitigation Measure	Implementation Timing	Responsible Monitoring Party	Monitoring / Reporting Method	Compliance Verification
	Impact Mitigation Program (PRIMP) for the Project. The PRIMP shall describe the monitoring required during excavations that extend into locations of areas deemed to have a high paleontological resource potential, which include older Holocene-age and Pleistocene-age alluvial deposits. Monitoring shall entail the visual inspection of excavated or graded areas and trench sidewalls. If the Project Paleontologist determines full-time monitoring is no longer warranted, based on the geologic conditions at depth, the Project Paleontologist may recommend monitoring be reduced or ceased entirely.				
Geology and Soils (cont'd)	**MM GEO-3: Fossil Discoveries.** In the event that a paleontological resource is discovered, the Project Paleontologist shall have the authority to temporarily divert the construction equipment around the find until it is assessed for scientific significance and, if appropriate, collected. If the resource is determined to be of scientific significance, the Project Paleontologist shall complete the following: 1. Salvage of Fossils. If fossils are discovered, all work in the immediate vicinity should be halted to allow the paleontological monitor, and/or Project Paleontologist to evaluate the discovery and determine if the fossil may be considered significant. If the fossils are determined to be potentially significant, the Project Paleontologist (or paleontological monitor) should recover them following standard field procedures for collecting paleontological as outlined in the PRIMP prepared per **MM GEO-2**. Typically, fossils can be safely salvaged quickly by a single paleontologist and not disrupt construction activity. In some cases, larger fossils (such as complete skeletons or large mammal fossils) require more extensive	During construction	City and Qualified Paleontologist	Findings provided to City	

Impact Category	Mitigation Measure	Implementation Timing	Responsible Monitoring Party	Monitoring / Reporting Method	Compliance Verification
	excavation and longer salvage periods. In this case the Project Paleontologist shall have the authority to temporarily direct, divert or halt construction activity to ensure that the fossil(s) can be removed in a safe and timely manner. 2. Fossil Preparation and Curation. The PRIMP (**MM GEO-2**) shall identify the museum that has agreed to accept fossils that may be discovered during project-related excavations. Upon completion of fieldwork, all significant fossils collected shall be prepared in a properly equipped laboratory to a point ready for curation. Preparation may include the removal of excess matrix from fossil materials and stabilizing or repairing specimens. During preparation and inventory, the fossil specimens will be identified to the lowest taxonomic level practical prior to curation at an accredited museum. The fossil specimens must be delivered to the accredited museum or repository no later than 90 days after all fieldwork is completed. The cost of curation will be assessed by the repository and will be the responsibility of the City of Banning. 3. Final Paleontological Mitigation Report. Upon completion of ground disturbing activities (and curation of fossils if necessary) for the Sun Lakes Extension Project, the Project Paleontologist shall prepare a final report documenting the WEAP (**MM GEO-1**) and outlining the results of the PRIMP (**MM GEO-2**). The report shall include discussion of the location, duration, and methods of monitoring, stratigraphic sections, any recovered fossils, and the scientific significance of those fossils, and where fossils were curated.				

City of Banning

Community Development Department

NOTICE OF INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION
Project Title: Sun Lakes Boulevard Extension Project

NOTICE IS HEREBY GIVEN that the City of Banning (City), as Lead Agency under the California Environmental Quality Act (CEQA), has prepared a Notice of Intent (NOI) to adopt a Mitigated Negative Declaration (MND) for the proposed Sun Lakes Boulevard Extension Project ("Project"). The MND has been prepared pursuant to CEQA and the CEQA Guidelines. Copies of available materials may be reviewed or obtained from 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. The documents will also be available electronically through the State Clearinghouse (https://ceqanet.opr.ca.gov/).

Project Location: The Project is located within the City adjacent to unincorporated territory of Riverside County. The alignment of the Project is in the western portion of the City, south of Interstate 10 (I-10), between the intersections of South Highland Home Road to the west and Sunset Avenue to the east. Refer to **Figure 1**.

Project Description: The Project will construct a new section of Sun Lakes Boulevard from South Highland Home Road to Sunset Avenue and intersection improvements consistent with General Plan Amendment (GPA) 19-2502. The Project is approximately 5,400 linear feet (1.02 mile) long and 110-feet wide, encompassing approximately 19.4 acres of direct footprint and an additional approximately 9.1 acres of temporary construction disturbance area. Project staging and stockpiling will occur within the City's rights-of-way (ROW). Sun Lakes Boulevard will be constructed according to the City's General Plan Typical Section for an Arterial Highway, with two eastbound and two westbound lanes, each containing a 12-feet wide lane and a 14-feet wide lane; a raised 18-foot wide median; eastbound and westbound 8-foot-wide bike lanes; 8-foot-wide sidewalks; associated road striping, drainage, and street light improvements. The Project also includes drainage improvements and the City's acquisition of approximately 621,000 square-feet (SF) of ROW, approximately 143,000 SF of drainage easements, and approximately 44,000 SF of pipeline easements.

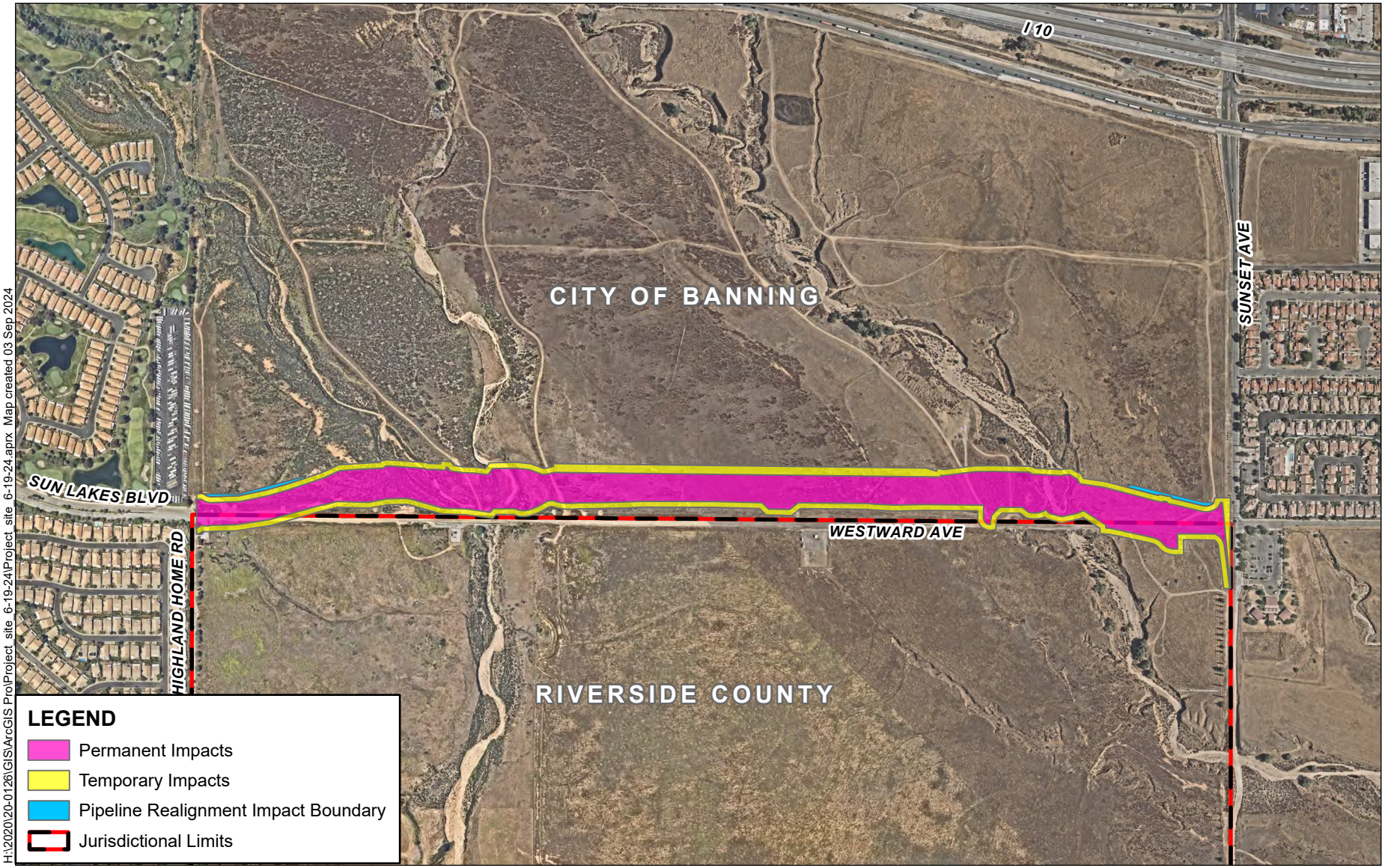
Environmental Issues: Environmental issues addressed in the MND include aesthetics; agricultural and forestry resources; air quality; biological resources; cultural resources; energy; geology and soils, greenhouse gas emissions; hazards and hazardous materials; hydrology and water quality; land use and planning; mineral resources; noise; population and housing; public services; recreation; transportation; tribal cultural resources; utilities and service systems; and wildfire.

Environmental Effects: The Initial Study Checklist determined that the Project would result in potentially significant effects, but with implementation of recommended mitigation measures that would avoid or mitigate effects to a point where clearly no significant environmental impacts on the environment will occur. Mitigation has been included to address Biological Resources, Cultural Resources, and Geology/Soils (Paleontological) Resources.

Public Review Period: The MND will be available for a 30-day public review period from Friday, **September 6, 2024 to Monday October 7, 2024**. **All comments must be received in writing at the address or email below no later than 5 p.m. on Monday, October 7, 2024.** Comments received will be included as part of the record and evaluated to determine if the proposed mitigation has adequately addressed the concerns. **Written comments on this MND should be addressed to:** Emery Papp, Senior Planner, City of Banning Community Development Dept., 99 E. Ramsey Street, Banning, CA 92220
epapp@banningca.gov

BY ORDER OF THE COMMUNITY DEVELOPMENT DIRECTOR OF THE CITY OF BANNING, CALIFORNIA.
Emery J. Papp, Senior Planner

Dated: September 5, 2024
Published: September 6, 2024



Source: Nearmap, 2024.

Figure 1 - Project Location

Sun Lakes Boulevard Extension Project
Notice of Intent to Adopt an MND

ALBERT A. WEBB ASSOCIATES

RESOLUTION 2020-21

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, ACCEPTING LOTS A, D, E, F, AND G AS OFFERED ON PARCEL MAP 25541 FOR STREET, PUBLIC UTILITIES AND LANDSCAPE PURPOSES

WHEREAS, on August 28, 1990 the City Council approved Parcel Map 25541, which subdivided 294.73 acres into four (4) parcels and ten (10) lettered lots. Parcel Map 25541 is bordered on the north and south by Interstate 10 and the prolongation of Westward Avenue to the south, respectively; and bordered on the west and east by the prolongation of Highland Home Road and Sunset Avenue, respectively; and

WHEREAS, at the time of City Council's approval of Parcel Map 25541, the owner offered for dedication to the City of Banning Lots A through E for public use specifically for street and public utility purpose and City Council elected to not accept the offers of dedication but reserved the right to accept the dedications on behalf of the public at a later date; and

WHEREAS, the acceptance of Lots A, D, E, F and G will provide the necessary right-of-way for the extension of Sun Lakes Boulevard from Highland Home Road to Sunset Avenue.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

Section 1: City Council adopts Resolution 2020-21 accepting Lots A, D, E, F and G as offered on Parcel Map 25541 for Street, Public Utilities and Landscape Purposes.

Section 2: Authorizing the City Clerk to execute and submit the Certificate of Occupancy to the Riverside County Recorder's Office certifying that City Council has accepted the dedication of Lots A, D, E, F and G.

PASSED, APPROVED AND ADOPTED this 11th day of February 2020.

Daniela Andrade

Daniela Andrade, Mayor
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

Kevin G. Ennis, Esq. City Attorney
Richards, Watson & Gershon

ATTEST:

Sonja De La Fuente, Deputy City Clerk
City of Banning

RESOLUTION 2020-48

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AWARDING A PROFESSIONAL SERVICES AGREEMENT FOR THE DESIGN OF THE SUN LAKES BOULEVARD EXTENSION FROM HIGHLAND HOME ROAD TO SUNSET AVENUE, TO ALBERT A. WEBB ASSOCIATES IN THE AMOUNT OF $548,416.05 AND APPROVING A 10% CONTINGENCY FOR A TOTAL PROJECT BUDGET OF "NOT-TO-EXCEED" $603,258.05

WHEREAS, there is a current need for a new road on the south side of Interstate 10 to close a gap in the City's street network from Highland Home Road to Sunset Avenue to reduce existing congestion at the Highland Springs Avenue interchange and to accommodate expected growth within the City; and

WHEREAS, on February 11, 2020, under Resolution 2020-21 the City Council accepted Lots A, D, E, F and G for the necessary right-of-way for the extension of Sun Lakes Boulevard from Highland Home Road to Sunset Avenue. The lots were originally offered to the City on Parcel Map 25541 approved on August 28, 1990, at which time the City deferred the approval of the right-of-way to a future date; and

WHEREAS, on March 24, 2020, under Resolution 2020-37, the City Council approved General Plan Amendment 19-2502 and Environmental Assessment 19-1503, a proposed amendment to the Circulation Element of the General Plan to modify the alignment of Sun Lakes Boulevard from its existing General Plan alignment with Lincoln Street to the proposed alignment with Westward Avenue following closely the right-of-way offered on Parcel Map 25541; and

WHEREAS, on February 18, 2020, staff released an Invitation for Bid for the Design of the Sun Lakes Boulevard Extension to five (5) consultants on the on-call engineering list approved by City Council on September 10, 2019 under Resolution 2019-116 and received three (3) proposals ranging in costs from $508,678 to $849,674; and

WHEREAS, staff evaluated the proposals based on qualifications, cost, experience with the request scope of services and response to the request for proposals. As a result, staff recommends the award of a professional services agreement to Albert A. Webb Associates, in the amount of $548,416.05; and

WHEREAS, the total project budget of $603,258.05, which includes a 10% contingency, will be funded by Measure A funds. The project costs are eligible and expected to be reimbursed by the Western Riverside Council of Governments (WRCOG) via the Transportation Uniform Mitigation Fee (TUMF) program.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The City of Banning City Council adopts Resolution No. 2020-48 Professional Services Agreement for the Design of the Sun Lakes Boulevard Extension from Highland Home Road to Sunset Avenue, to Albert A. Webb Associates in the amount of $548,416.05 and approves a 10% contingency for a total project budget of "not-to-exceed" $603,258.05.

SECTION 2. City Council authorizes the City Manager or his designee to make necessary budget adjustments, appropriations and transfers related to the Professional Services Agreement with Albert A. Webb Associates and to approve change orders within the 10% contingency.

SECTION 3. The City Manager is authorized to execute the Professional Services Agreement with Albert A. Webb Associates.

SECTION 4. The City Clerk is authorized to certify the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions

PASSED, APPROVED and ADOPTED this 14th day of April, 2020.

Daniela Andrade

Daniela Andrade, Mayor
City of Banning

ATTEST:

Sonja De La Fuente, Deputy City Clerk

APPROVED AS TO FORM AND LEGAL CONTENT:

Kevin G. Ennis, Esq., City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Sonja De La Fuente, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2020-48 was duly adopted by the City Council of the City of Banning at a Regular Meeting thereof held on the 14th of April, 2020.

AYES: Councilmembers Happe, Pingree, Wallace, Welch & Mayor Andrade

NOES: None

ABSTAIN: None

ABSENT: None

Sonja De La Fuente, Deputy City Clerk
City of Banning, California

RESOLUTION 2020-97

ADOPT RESOLUTION 2020-97, AUTHORIZING THE CITY MANAGER TO EXECUTE A TUMF REIMBURSEMENT AGREEMENT WITH WRCOG FOR UP TO $1,000,000 IN TUMF FUNDS FOR THE SUN LAKES BOULEVARD EXTENSION PROJECT

WHEREAS, Western Riverside Council of Government (WRCOG) has developed and administers the Transportation Uniform Mitigation Fee (TUMF) program, a regional fee program designed to provide transportation infrastructure to mitigate the impact of new growth in western Riverside County. The City of Banning is an active member in WRCOG; and

WHEREAS, as the program administrator, WRCOG allocates TUMF funds to a variety of agencies, including the Riverside County Transportation Commission (RCTC), Riverside Transit Agency (RTA), Western Riverside Regional Conservation Authority (RCA) and western Riverside cities and Riverside County areas through applicable TUMF Zones; and

WHEREAS, the City of Banning is part of the Pass Zone along with the City of Calimesa, City of Beaumont and Riverside County (District 5); and

WHEREAS, the Pass Zone Transportation Improvement Program (TIP), which included the Sun Lakes Boulevard Extension project, was approved by the WRCOG Executive Committee at its May 4, 2020 meeting; and

WHEREAS, the TUMF Reimbursement Agreement will provide up to $1,000,000 in TUMF funds in the form of a reimbursement to the City of Banning for expenditures related to the Sun Lakes Boulevard Extension project; and

WHEREAS, the WRCOG Executive Committee approved the TUMF Reimbursement Agreement at its June 1, 2020 meeting.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

Section 1. The Banning City Council adopts Resolution 2020-97 authorizing the City Manager to execute the TUMF Reimbursement Agreement with WRCOG for up to $1,000,000 in TUMF funds for the Sun Lakes Boulevard Extension project.

Section 2. The City Manager or his designee is authorized to record the reimbursement funds and to make all necessary budget adjustments, appropriations and transfers related to the TUMF Reimbursement Agreement for the Sun Lakes Boulevard Extension project.

PASSED, APPROVED AND ADOPTED this 14th day of July, 2020.

Daniela Andrade, Mayor
City of Banning

ATTEST:

Sonja De La Fuente, Deputy City Clerk
City of Banning

APPROVED AS TO FORM
AND LEGAL CONTENT:

Kevin G. Ennis, Esq., City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Sonja De La Fuente, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2020-97, was adopted by the City Council of the City of Banning at a Regular Meeting thereof held on the 14th day of July, 2020, by the following vote, to wit:

AYES: Councilmembers Happe, Pingree, Wallace, Welch and Mayor Andrade

NOES: None

ABSTAIN: None

ABSENT: None



Sonja De La Fuente, Deputy City Clerk
City of Banning

[#06-PS-BAN-1206]

TRANSPORTATION UNIFORM MITIGATION FEE PROGRAM
AGREEMENT TO REIMBURSE TUMF FUNDS
SUN LAKES BOULEVARD EXTENSION PROJECT
PA&ED AND PS&E PHASES

THIS REIMBURSEMENT AGREEMENT ("Agreement") is entered into as of this day of ____, 2020, by and between the Western Riverside Council of Governments ("WRCOG"), a California joint powers authority and City of Banning, a California municipal corporation ("AGENCY"). WRCOG and AGENCY are sometimes hereinafter referred to individually as "Party" and collectively as "Parties".

RECITALS

A. WRCOG is the Administrator of the Transportation Uniform Mitigation Fee Program of Western Riverside County ("TUMF Program").

B. WRCOG has identified and designated certain transportation improvement projects throughout Western Riverside County as projects of regional importance ("Qualifying Projects" or "Projects"). The Qualifying Projects are more specifically described in that certain WRCOG study titled "TUMF Nexus Study", as may be amended from time to time. Qualifying Projects can have Regional or Zonal significance as further described in the TUMF Nexus Study.

C. The TUMF Program is funded by TUMF fees paid by new development in Western Riverside County (collectively, "TUMF Program Funds"). TUMF Program Funds are held in trust by WRCOG for the purpose of funding the Qualifying Projects.

D. The AGENCY proposes to implement a Qualifying Project, and it is the purpose of this Agreement to identify the project and to set forth the terms and conditions by which WRCOG will release TUMF Program Funds.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and subject to the conditions contained herein, the Parties hereby agree as follows:

1. Description of the Qualifying Project. This Agreement is intended to distribute TUMF Program Funds to the AGENCY for the PA&ED and PS&E phases of the Sun Lakes Boulevard Extension project (the "Project"), a Qualifying Project. The Work, including a timetable and a detailed scope of work, is more fully described in Exhibit "A" attached hereto and incorporated herein by reference and, pursuant to Section 20 below, is subject to modification if requested by the AGENCY and approved by WRCOG. The work shall be consistent with one or more of the defined WRCOG Call for Projects phases detailed herein as follows:

1) PA&ED – Project Approvals & Environmental Document
2) PS&E – Plans, Specifications and Estimates

3) R/W – Right of Way Acquisition and Utility Relocation
4) CON – Construction

2. WRCOG Funding Amount. WRCOG hereby agrees to distribute to AGENCY, on the terms and conditions set forth herein, a sum not to exceed **$1,000,000 (ONE MILLION DOLLARS)** to be used for reimbursing the AGENCY for eligible Project expenses as described in Section 3 herein ("Funding Amount"). The Parties acknowledge and agree that the Funding Amount may be less than the actual cost of the Project. Nevertheless, the Parties acknowledge and agree that WRCOG shall not be obligated to contribute TUMF Program Funds in excess of the maximum TUMF share identified in the TUMF Nexus Study ("Maximum TUMF Share"), as may be amended from time to time.

3. Project Costs Eligible for Advance/Reimbursement. The total Project costs ("Total Project Cost") may include the following items, provided that such items are included in the scope of work attached hereto as Exhibit "A" ("Scope of Work"): (1) AGENCY and/or consultant costs associated with direct Project coordination and support; (2) funds expended in preparation of preliminary engineering studies; (3) funds expended for preparation of environmental review documentation for the Project; (4) all costs associated with right-of-way acquisition, including right-of-way engineering, appraisal, acquisition, legal costs for condemnation procedures if authorized by the AGENCY, and costs of reviewing appraisals and offers for property acquisition; (5) costs reasonably incurred if condemnation proceeds; (6) costs incurred in the preparation of plans, specifications, and estimates by AGENCY or consultants; (7) AGENCY costs associated with bidding, advertising and awarding of the Project contracts; (8) construction costs, including change orders to construction contract approved by the AGENCY; (9) construction management, field inspection and material testing costs; and (10) any AGENCY administrative cost to deliver the Project.

4. Ineligible Project Costs. The Total Project Cost shall not include the following items which shall be borne solely by the AGENCY without reimbursement: (1) any AGENCY administrative fees attributed to the reviewing and processing of the Project; and (2) expenses for items of work not included within the Scope of Work in Exhibit "A".

5. Procedures for Distribution of TUMF Program Funds to AGENCY.

(a) Initial Payment by the AGENCY. The AGENCY shall be responsible for initial payment of all the Project costs as they are incurred. Following payment of such Project costs, the AGENCY shall submit invoices to WRCOG requesting reimbursement of eligible Project costs. Each invoice shall be accompanied by detailed contractor invoices, or other demands for payment addressed to the AGENCY, and documents evidencing the AGENCY's payment of the invoices or demands for payment. Documents evidencing the AGENCY'S payment of the invoices shall be retained for four (4) years and shall be made available for review by WRCOG. The AGENCY shall submit invoices not more often than monthly and not less often than quarterly.

(b) Review and Reimbursement by WRCOG. Upon receipt of an invoice from the AGENCY, WRCOG may request additional documentation or explanation of the Project costs for which reimbursement is sought. Undisputed amounts shall be paid by WRCOG

to the AGENCY within thirty (30) days. In the event that WRCOG disputes the eligibility of the AGENCY for reimbursement of all or a portion of an invoiced amount, the Parties shall meet and confer in an attempt to resolve the dispute. If the meet and confer process is unsuccessful in resolving the dispute, the AGENCY may appeal WRCOG's decision as to the eligibility of one or more invoices to WRCOG's Executive Director. The WRCOG Executive Director shall provide his/her decision in writing. If the AGENCY disagrees with the Executive Director's decision, the AGENCY may appeal the decision of the Executive Director to the full WRCOG Executive Committee, provided the AGENCY submits its request for appeal to WRCOG within ten (10) days of the Executive Director's written decision. The decision of the WRCOG Executive Committee shall be final. Additional details concerning the procedure for the AGENCY's submittal of invoices to WRCOG and WRCOG's consideration and payment of submitted invoices are set forth in Exhibit "B", attached hereto and incorporated herein by reference.

(c) Funding Amount/Adjustment. If a post Project audit or review indicates that WRCOG has provided reimbursement to the AGENCY in an amount in excess of the Maximum TUMF Share of the Project, or has provided reimbursement of ineligible Project costs, the AGENCY shall reimburse WRCOG for the excess or ineligible payments within 30 days of notification by WRCOG.

6. Increases in Project Funding. The Funding Amount may, in WRCOG's sole discretion, be augmented with additional TUMF Program Funds if the TUMF Nexus Study is amended to increase the maximum eligible TUMF share for the Project. Any such increase in the Funding Amount must be approved in writing by WRCOG's Executive Director. In no case shall the amount of TUMF Program Funds allocated to the AGENCY exceed the then-current maximum eligible TUMF share for the Project. No such increased funding shall be expended to pay for any Project already completed. For purposes of this Agreement, the Project or any portion thereof shall be deemed complete upon its acceptance by WRCOG's Executive Director which shall be communicated to the AGENCY in writing.

7. No Funding for Temporary Improvements. Only segments or components of the construction that are intended to form part of or be integrated into the Project may be funded by TUMF Program Funds. No improvement which is temporary in nature, including but not limited to temporary roads, curbs, tapers or drainage facilities, shall be funded with TUMF Program Funds, except as needed for staged construction of the Project.

8. AGENCY's Funding Obligation to Complete the Project. In the event that the TUMF Program Funds allocated to the Project represent less than the total cost of the Project, the AGENCY shall provide such additional funds as may be required to complete the Project.

9. AGENCY's Obligation to Repay TUMF Program Funds to WRCOG; Exception For PA&ED Phase Work. Except as otherwise expressly excepted within this paragraph, in the event that: (i) the AGENCY, for any reason, determines not to proceed with or complete the Project; or (ii) the Project is not timely completed, subject to any extension of time granted by WRCOG pursuant to the terms of this Agreement; the AGENCY agrees that any TUMF Program Funds that were distributed to the AGENCY for the Project shall be repaid in full to WRCOG, and the Parties shall enter into good faith negotiations to establish a reasonable repayment

schedule and repayment mechanism. If the Project involves work pursuant to a PA&ED phase, AGENCY shall not be obligated to repay TUMF Program Funds to WRCOG relating solely to PA&ED phase work performed for the Project.

10. AGENCY's Local Match Contribution. AGENCY local match funding is not required, as shown in Exhibit "A" and as called out in the AGENCY's Project Nomination Form submitted to WRCOG in response to its Call for Projects.

11. Term/Notice of Completion. The term of this Agreement shall be from the date first herein above written until the earlier of the following: (i) the date WRCOG formally accepts the Project as complete, pursuant to Section 6; (ii) termination of this Agreement pursuant to Section 15; or (iii) the AGENCY has fully satisfied its obligations under this Agreement. All applicable indemnification provisions of this Agreement shall remain in effect following the termination of this Agreement.

12. Representatives of the Parties. WRCOG's Executive Director, or his or her designee, shall serve as WRCOG's representative and shall have the authority to act on behalf of WRCOG for all purposes under this Agreement. The AGENCY hereby designates **Arturo Vela, Director of Public Works**, or his or her designee, as the AGENCY's representative to WRCOG. The AGENCY's representative shall have the authority to act on behalf of the AGENCY for all purposes under this Agreement and shall coordinate all activities of the Project under the AGENCY's responsibility. The AGENCY shall work closely and cooperate fully with WRCOG's representative and any other agencies which may have jurisdiction over or an interest in the Project.

13. Expenditure of Funds by AGENCY Prior to Execution of Agreement. Nothing in this Agreement shall be construed to prevent or preclude the AGENCY from expending funds on the Project prior to the execution of the Agreement, or from being reimbursed by WRCOG for such expenditures. However, the AGENCY understands and acknowledges that any expenditure of funds on the Project prior to the execution of the Agreement is made at the AGENCY's sole risk, and that some expenditures by the AGENCY may not be eligible for reimbursement under this Agreement.

14. Review of Services. The AGENCY shall allow WRCOG's Representative to inspect or review the progress of the Project at any reasonable time in order to determine whether the terms of this Agreement are being met.

15. Termination.

(a) Notice. Either WRCOG or AGENCY may, by written notice to the other party, terminate this Agreement, in whole or in part, in response to a material breach hereof by the other Party, by giving written notice to the other party of such termination and specifying the effective date thereof. The written notice shall provide a 30 day period to cure any alleged breach. During the 30 day cure period, the Parties shall discuss, in good faith, the manner in which the breach can be cured.

(b) Effect of Termination. In the event that the AGENCY terminates this Agreement, the AGENCY shall, within 180 days, repay to WRCOG any unexpended TUMF Program Funds provided to the AGENCY under this Agreement and shall complete any portion or segment of work for the Project for which TUMF Program Funds have been provided. In the event that WRCOG terminates this Agreement, WRCOG shall, within 90 days, distribute to the AGENCY TUMF Program Funds in an amount equal to the aggregate total of all unpaid invoices which have been received from the AGENCY regarding the Project at the time of the notice of termination; provided, however, that WRCOG shall be entitled to exercise its rights under Section 5(b), including but not limited to conducting a review of the invoices and requesting additional information. Upon such termination, the AGENCY shall, within 180 days, complete any portion or segment of work for the Project for which TUMF Program Funds have been provided. This Agreement shall terminate upon receipt by the non-terminating Party of the amounts due to it hereunder and upon completion of the segment or portion of Project work for which TUMF Program Funds have been provided.

(c) Cumulative Remedies. The rights and remedies of the Parties provided in this Section are in addition to any other rights and remedies provided by law or under this Agreement.

16. Prevailing Wages. The AGENCY and any other person or entity hired to perform services on the Project are alerted to the requirements of California Labor Code Sections 1770 et seq., which would require the payment of prevailing wages were the services or any portion thereof determined to be a public work, as defined therein. The AGENCY shall ensure compliance with these prevailing wage requirements by any person or entity hired to perform the Project. The AGENCY shall defend, indemnify, and hold harmless WRCOG, its officers, employees, consultants, and agents from any claim or liability, including without limitation attorneys, fees, arising from its failure or alleged failure to comply with California Labor Code Sections 1770 et seq.

17. Progress Reports. WRCOG may request the AGENCY to provide WRCOG with progress reports concerning the status of the Project.

18. Indemnification.

(a) AGENCY Responsibilities. In addition to the indemnification required under Section 16, the AGENCY agrees to indemnify and hold harmless WRCOG, its officers, agents, consultants, and employees from any and all claims, demands, costs or liability arising from or connected with all activities governed by this Agreement including all design and construction activities, due to negligent acts, errors or omissions or willful misconduct of the AGENCY or its subcontractors. The AGENCY will reimburse WRCOG for any expenditures, including reasonable attorneys' fees, incurred by WRCOG, in defending against claims ultimately determined to be due to negligent acts, errors or omissions or willful misconduct of the AGENCY.

(b) WRCOG Responsibilities. WRCOG agrees to indemnify and hold harmless the AGENCY, its officers, agents, consultants, and employees from any and all claims, demands, costs or liability arising from or connected with all activities governed by this

Agreement including all design and construction activities, due to negligent acts, errors or omissions or willful misconduct of WRCOG or its sub-consultants. WRCOG will reimburse the AGENCY for any expenditures, including reasonable attorneys' fees, incurred by the AGENCY, in defending against claims ultimately determined to be due to negligent acts, errors or omissions or willful misconduct of WRCOG.

(c) Effect of Acceptance. The AGENCY shall be responsible for the professional quality, technical accuracy and the coordination of any services provided to complete the Project. WRCOG's review, acceptance or funding of any services performed by the AGENCY or any other person or entity under this Agreement shall not be construed to operate as a waiver of any rights WRCOG may hold under this Agreement or of any cause of action arising out of this Agreement. Further, the AGENCY shall be and remain liable to WRCOG, in accordance with applicable law, for all damages to WRCOG caused by the AGENCY's negligent performance of this Agreement or supervision of any services provided to complete the Project.

19. Insurance. The AGENCY shall require, at a minimum, all persons or entities hired to perform the Project to obtain, and require their subcontractors to obtain, insurance of the types and in the amounts described below and satisfactory to the AGENCY and WRCOG. Such insurance shall be maintained throughout the term of this Agreement, or until completion of the Project, whichever occurs last.

(a) Commercial General Liability Insurance. Occurrence version commercial general liability insurance or equivalent form with a combined single limit of not less than $1,000,000.00 per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to the Project or be no less than two times the occurrence limit. Such insurance shall:

(i) Name WRCOG and AGENCY, and their respective officials, officers, employees, agents, and consultants as insured with respect to performance of the services on the Project and shall contain no special limitations on the scope of coverage or the protection afforded to these insured;

(ii) Be primary with respect to any insurance or self-insurance programs covering WRCOG and AGENCY, and/or their respective officials, officers, employees, agents, and consultants; and

(iii) Contain standard separation of insured provisions.

(b) Business Automobile Liability Insurance. Business automobile liability insurance or equivalent form with a combined single limit of not less than $1,000,000.00 per occurrence. Such insurance shall include coverage for owned, hired and non-owned automobiles.

(c) Professional Liability Insurance. Errors and omissions liability insurance with a limit of not less than $1,000,000.00 Professional liability insurance shall only be required of design or engineering professionals.

(d) Workers' Compensation Insurance. Workers' compensation insurance with statutory limits and employers' liability insurance with limits of not less than $1,000,000.00 each accident.

20. Project Amendments. Changes to the characteristics of the Project, including the deadline for Project completion, and any responsibilities of the AGENCY or WRCOG may be requested in writing by the AGENCY and are subject to the approval of WRCOG's Representative, which approval will not be unreasonably withheld, provided that extensions of time for completion of the Project shall be approved in the sole discretion of WRCOG's Representative. Nothing in this Agreement shall be construed to require or allow completion of the Project without full compliance with the California Environmental Quality Act (Public Resources Code Section 21000 *et seq.;* "CEQA") and the National Environmental Policy Act of 1969 (42 USC 4231 *et seq.*), if applicable, but the necessity of compliance with CEQA and/or NEPA shall not justify, excuse, or permit a delay in completion of the Project.

21. Conflict of Interest. For the term of this Agreement, no member, officer or employee of the AGENCY or WRCOG, during the term of his or her service with the AGENCY or WRCOG, as the case may be, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

22. Limited Scope of Duties. WRCOG's and the AGENCY's duties and obligations under this Agreement are limited to those described herein. WRCOG has no obligation with respect to the safety of any Project performed at a job site. In addition, WRCOG shall not be liable for any action of AGENCY or its contractors relating to the condemnation of property undertaken by AGENCY or construction related to the Project.

23. Books and Records. Each party shall maintain complete, accurate, and clearly identifiable records with respect to costs incurred for the Project under this Agreement. They shall make available for examination by the other party, its authorized agents, officers or employees any and all ledgers and books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or related to the expenditures and disbursements charged to the other party pursuant to this Agreement. Further, each party shall furnish to the other party, its agents or employees such other evidence or information as they may require with respect to any such expense or disbursement charged by them. All such information shall be retained by the Parties for at least four (4) years following termination of this Agreement, and they shall have access to such information during the four-year period for the purposes of examination or audit.

24. Equal Opportunity Employment. The Parties represent that they are equal opportunity employers and they shall not discriminate against any employee or applicant of reemployment because of race, religion, color, national origin, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

25. Governing Law. This Agreement shall be governed by and construed with the laws of the State of California.

26. Attorneys' Fees. If either party commences an action against the other party arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorneys' fees and costs of suit.

27. Time of Essence. Time is of the essence for each and every provision of this Agreement.

28. Headings. Article and Section Headings, paragraph captions or marginal headings contained in this Agreement are for convenience only and shall have no effect in the construction or interpretation of any provision herein.

29. Public Acknowledgement. The AGENCY agrees that all public notices, news releases, information signs and other forms of communication shall indicate that the Project is being cooperatively funded by the AGENCY and WRCOG TUMF Program Funds.

30. No Joint Venture. This Agreement is for funding purposes only and nothing herein shall be construed to make WRCOG a party to the construction of the Project or to make it a partner or joint venture with the AGENCY for such purpose.

31. Compliance With the Law. The AGENCY shall comply with all applicable laws, rules and regulations governing the implementation of the Qualifying Project, including, where applicable, the rules and regulations pertaining to the participation of businesses owned or controlled by minorities and women promulgated by the Federal Highway Administration and the Federal Department of Transportation.

32. Notices. All notices hereunder and communications regarding interpretation of the terms of this Agreement or changes thereto shall be provided by the mailing thereof by registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

If to AGENCY:
City of Banning
99 E. Ramsey Street
Banning, CA 92220
Attention: Arturo Vela, Director of Public Works
Telephone: (951) 922-3130
Facsimile: (951) 922-3141

If to WRCOG:
Western Riverside Council of Governments
3390 University Avenue; Suite 200
Riverside, California 92501
Attention: Christopher Gray, Director of Transportation
Telephone: (951) 405-6710
Facsimile: (951) 223-9720

Any notice so given shall be considered served on the other party three (3) days after deposit in the U.S. mail, first class postage prepaid, return receipt requested, and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred regardless of the method of service.

33. Integration; Amendment. This Agreement contains the entire agreement between the PARTIES. Any agreement or representation respecting matters addressed herein that are not expressly set forth in this Agreement is null and void. This Agreement may be amended only by mutual written agreement of the PARTIES.

34. Severability. If any term, provision, condition or covenant of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby.

35. Conflicting Provisions. In the event that provisions of any attached appendices or exhibits conflict in any way with the provisions set forth in this Agreement, the language, terms and conditions contained in this Agreement shall control the actions and obligations of the Parties and the interpretation of the Parties' understanding concerning the Agreement.

36. Independent Contractors. Any person or entities retained by the AGENCY or any contractor shall be retained on an independent contractor basis and shall not be employees of WRCOG. Any personnel performing services on the Project shall at all times be under the exclusive direction and control of the AGENCY or contractor, whichever is applicable. The AGENCY or contractor shall pay all wages, salaries and other amounts due such personnel in connection with their performance of services on the Project and as required by law. The AGENCY or consultant shall be responsible for all reports and obligations respecting such personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance and workers' compensation insurance.

37. Effective Date. This Agreement shall not be effective until executed by both Parties. The failure of one party to execute this Agreement within forty-five (45) days of the other party executing this Agreement shall render any execution of this Agreement ineffective.

38. No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives to be effective on the day and year first above-written.

WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS

By: Rick Bishop Date: 6/12/20

Rick Bishop
Executive Director

CITY OF BANNING

By: Date: 7/14/20

Doug Schulze
City Manager

Approved to Form:

By: Date: 6/12/20

Steven C. DeBaun
General Counsel

EXHIBIT "A"

SCOPE OF WORK

SCOPE OF WORK:

In short this reimbursement agreement will fund expenditures related to the City's consultant completing the following scope of work:

Task 1. Project Management

The City's consultant shall attend regular status meetings with the City throughout the duration of the project as well as prepare monthly progress reports. The consultant shall develop and maintain a detailed work program and schedule the development of a project specific Work Plan. The Work Plan will include, at a minimum, details of methodology, sequence of tasks, lists of deliverables, milestone submittal schedule, summary of organizational responsibilities and contacts, as well as reporting and invoicing procedures. The consultant will meet face to face with the Project Design Team (PDT) monthly. The consultant will be responsible to facilitate other meetings as necessary with City Departments and other key stakeholders, creating meeting agendas with input from the City and prepare and distribute meeting minutes.

Deliverables: Work Plan, Monthly Progress Reports, Meeting Agendas and Meeting Minutes

Task 2. Project Development

2.1 Data Collection and Site Reconnaissance

Consultant shall collect and review available existing reports, data, as-built plans, and information relevant to the project from the City, County and any other agency necessary to complete the work, including assessor's information and any utilities that exist in the area. Consultant shall conduct a field investigation to familiarize the project team with the drainage conditions, flow patterns, existing design constraints and existing/ongoing improvements in the project area.

Deliverables: Field Review Notes, Photo Logs, Copies of Existing Data

2.2 Survey and Aerial Topographic Mapping

Consultant shall research available record information pertaining to the project including: Tract Maps, Records of Survey, Parcel Maps and Right-of-Way Maps.

Consultant shall provide topographical mapping at 1-foot contour intervals and field surveying to identify existing topographical features. Tie out any and all

survey monuments that may be disturbed by the work. Establish street centerline and centerline stationing to an accuracy of one-tenth foot (0.10'). Establish temporary benchmarks required for the work and provide all elevations, dimensions and other measurements necessary to establish proper line and grade.

Deliverables: AutoCAD drawing file of the survey points

2.3 Utility Research and Base Mapping

Consultant shall act on behalf of the City of Banning and contact all utility purveyors to determine if existing facilities are present in the area. Utility data shall be base mapped and include appropriate identification by their respective owner, location and size.

2.4 Public Outreach

Due to the number of residences and existing developments located adjacent to the project site, the Consultant shall include the necessary public outreach. At a minimum, this shall be conducted in an "Open house" fashion to give the adjacent neighbors a chance to learn about the project and note any potential concerns.

Deliverables: Letters to Utility Owners, Utility As-Built Maps, Utility Base Map

Task 3. Preliminary Engineering Design

3.1 Roadway Geometric Approval Drawings (GAD's)

Consultant shall analyze and prepare a proposed alignment consistent with the existing right-of-way and in accordance with the Caltrans Highway Design Manual for geometric features. It is anticipated that right-of-way will not be required as a part of this project; however, construction easements, slope easements, etc. may still be required. The GAD shall include typical cross sections as well as the identification of existing rights-of-way and property lines to determine any need for right-of-way or easements.

Deliverables: Geometric Approval Drawings (30% Complete Plans), Preliminary Cost Estimate, Preliminary Right-of-Way Requirements Map

3.2 Preliminary Roadway Drainage Plans

Consultant shall prepare drainage design for the proposed improvements in accordance with the Riverside County Flood Control and Water Conservation District (RCFC&WCD) design standards. The consultant shall review any

available hydrology reports and prepare necessary analysis in accordance with RCFC&WCD as well as City requirements to determine the amount of drainage tributary to the project area and to review the capacity of existing drainage facilities.

Consultant shall review public agency's available hydrology/hydraulic and storm drain plan records for existing drainage facilities within and adjacent to the project site. Existing drainage patterns and runoff tributary areas to the site shall be determined. Consultant shall perform necessary analysis to determine hydraulic function and size of necessary facilities.

Deliverables: Drainage Design Report, 30% Drainage Plans

Task 4. Environmental Documentation

Consultant shall identify environmental impacts under California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) if necessary. Environmental services shall include identification and preparation of an Initial Study Assessment, technical studies and environmental document for City review and approval as necessary for CEQA clearance. The City currently anticipates an IS/MND as the appropriate CEQA document for the project.

The Consultant shall evaluate the City's recommendation and determine if the IS/MND is the appropriate document for this project. Based on this assumption, the proposal should include timing and cost breakdowns for the initial assessment, as well as costs associated with potential focused surveys. At a minimum, the consultant shall address:

4.1 Traffic Impact Analysis

Consultant shall prepare a TIA for the proposed improvements for CEQA documentation. The study will address the changes in traffic volumes and patterns in the immediate vicinity. At a minimum, the study shall look at adjacent intersections to determine if traffic controls (stop control, traffic signals, etc.) are required. The consultant shall assume that Vehicle Miles Traveled (VMT) analysis will be required in conformance with SB 743.

4.2 Air Quality and Greenhouse Gas

These studies will be used in the CEQA review. The studies should include a written report (with photos of the site) discussing air quality and greenhouse gas impacts.

4.3 Biological Study

Based on the recent Negative Declaration for the modification to the City's General Plan Circulation Element, at a minimum this shall include a burrowing owl survey and Los Angeles Pocket Mouse Survey. An MSHCP consistency analysis will need to be completed as a part of this study. The necessary habitat assessments shall include written reports (with photos of the site) indicating whether or not the site contains suitable habitat.

4.4 Cultural Study and Paleontological Resources Report

The Cultural Study and Paleontological Resources Report should include a written report following the guidelines for Archaeological Resource Management Reports prepared by the California Office of Historical Preservation, Preservation Planning Bulletin 4(a), December 1989. AB52 compliance shall also be included in the scope of services.

4.5 Noise Study

The Noise Study shall include a written report (with photos of the site) identifying short- and long-term noise impacts, and any mitigation measures required to reduce these impacts to less than significant.

Deliverables: CEQA IS/MND, Responses to Comments, Copies of Studies, Correspondence

Task 5. Final Design Reports and Studies

Consultant shall provide final Design Reports and Studies necessary to complete the project. The following recommendations may be necessary:

5.1 Utility Coordination

Review and verification of facilities that may be in conflict based on results of potholing; relocation of any existing utilities determined to be in conflict; liability for all utility conflicts; agreements as necessary; issuance of notices to relocate as necessary.

5.2 Geotechnical Design Report

Structural conditions and recommendations that may include over excavation and recompaction areas or surcharges; all necessary analysis for proper design of the project objectives, R-values of subgrade material and the structural section of the roadway using the latest traffic index.

5.3 Supplemental Design Surveys

Provide potholing map as necessary for utility surveying in the field; establish potholing location and record elevations of any utilities located.

5.4 Storm Water Pollution Prevention Plan (SWPPP)

In compliance with National Pollution Discharge Elimination system (NPDES) requirements as well as Construction General Permits; address project's risk level; provide Notice of Intent (NOI) and assist with uploading NOI & SWPPP into the "SMARTs" system.

Deliverables: Utility Correspondences (i.e. Relocation Claim Letters, Agreements, Notice to Relocate, etc.), Final Studies/Reports.

Task 6. Final Design Plans, Specifications and Estimates

Consultant shall prepare a complete set of improvement plans compatible with AutoCAD 2019. PS&E submittals will be required at the 60%, 90% and 100% design intervals. The plans shall include a cover sheet with all sheets using the City title block and prepared in accordance with the regulations and standards of the City of Banning. At a minimum, the plans shall include the following new, modification or relocation of existing improvements:

- Street Improvements
- Grading
- Easement Documents
- Sidewalk, Curb & Gutter
- Retaining Walls and/or Structures
- Storm Drain
- Landscape & Irrigation
- Signing & Striping
- Erosion Control and Storm Water Pollution Prevention Plan (if necessary)
- Construction Options, Phasing and Detour Plans
- Street Lighting, Traffic Signals and Modifications
- Utilities
- Intersecting Street Designs
- Driveway Approaches
- Record of Existing Survey Monuments
- Other Related Work

Consultant shall address all plan check comments, to the satisfaction of the City Engineer. Final Plans shall be submitted on 24" X 36" mylars.

Deliverables: 60%, 90%, 100% PS&E Submittals, Final PS&E, Electronic Versions of each Submittal.

Task 7. Permitting

Consultant shall investigate and process all required permits if necessary, including, but not limited to the following: Riverside County Flood Control & Water Conservation District, National Pollution Discharge Elimination System, U.S. Army Corps of Engineers, California Department of Fish and Wildlife, State of California Water Resources Control Board, and Regional Conservation Authority.

Deliverables: Correspondence with Various Agencies, Permit Applications and Final Permits

Task 8. Bidding/Construction Support

Consultant shall be available during the advertisement and construction of the project to answer RFI's as well as prepare necessary addenda. The consultant shall plan to attend, at a minimum, the following meetings: pre-bid meeting and pre-construction meeting. The consultant shall review shop drawings and submittals from the contractor for conformance with the contract plans and specifications, and make recommendations for acceptance, denial or re-submittal within reasonable time of receipt. Upon written authorization from the City, consultant shall provide engineering design services for revisions to construction documents resulting from changed or unforeseen conditions, or other change order work required due to actions of the City. The consultant shall assume a minimum of eight (8) site visits during construction as requested by the City. Upon completion of the project, the consultant shall use information based on redlined information provided by the Contractor and the City to prepare as-built plans. As-built plans shall be submitted to the City within one (1) month of receipt of as-built plans.

Deliverables: Meeting Attendance, Response to Bidder's/Contractor's RFIs, Design Addenda, Submittal Reviews, As-Built Plans

EXHIBIT "A-1"

ESTIMATE OF COST

Phase	TUMF	LOCAL	TOTAL
PA&ED	$500,000		$500,000
PS&E	$500,000		$500,000
RIGHT OF WAY*			
CONSTRUCTION*			
TOTAL	$1,000,000		$1,000,000

The right-of-way and construction phases are currently not included as part of this agreement.

EXHIBIT "A-2"

PROJECT SCHEDULE

TIMETABLE:

Phase	Estimated Completion Date	Estimated Cost	Comments
PA&ED	6/1/20 – 2/1/22	$500,000	
PS&E	12/1/20 – 6/10/22	$500,000	
RIGHT OF WAY*			
CONSTRUCTION*			
TOTAL	6/1/20 – 6/10/22	$1,000,000	

The right-of-way and construction phases are currently not included as part of this agreement

Appendix A

ALBERT A. WEBB ASSOCIATES

Technical Memorandum

To: Art Vela, City of Banning

From: Eliza Laws, Senior Environmental Analyst
Noemi Avila, Assistant Environmental Analyst

Date: November 2, 2021

Re: Air Quality/Greenhouse Gas Analysis for Sun Lakes Boulevard Extension Project in the City of Banning, County of Riverside, California

The following air quality assessment was prepared to evaluate whether the expected criteria air pollutant emissions generated as a result of construction and operation of the proposed Project would cause exceedances of the South Coast Air Quality Management District (SCAQMD) thresholds for air quality in the Project area. The greenhouse gas (GHG) assessment was prepared to evaluate whether the expected GHG emissions generated as a result of construction and operation of the proposed Project would exceed the SCAQMD draft screening significance thresholds. This assessment was conducted within the context of the California Environmental Quality Act (CEQA, California Public Resources Code Sections 21000 et seq.). The methodology follows the *CEQA Air Quality Handbook* prepared by the SCAQMD for quantification of emissions and evaluation of potential impacts to air resources. As recommended by SCAQMD staff, the **Cal**ifornia **E**missions **E**stimator **Mod**el® version 2020.4.0 (CalEEMod) was used to quantify Project-related emissions.

The proposed Sun Lakes Boulevard Extension Project (Project) will improve the existing Sun Lakes Boulevard, an unpaved road running in an east-west direction between the intersections of South Highland Home Road to the west and Sunset Avenue to the east, in the City of Banning. The Project alignment is approximately one mile long, and the existing right-of-way is 110-feet wide. The Project will be constructed with 4-lanes (two lanes in each direction), 8-foot bike lanes, 8-foot sidewalks, associated road striping, street light improvements, two traffic signals, intersection improvements, and existing power pole relocation. The Project also proposes drainage improvements that are consistent with the City's Master Drainage Plan (MDP). The total construction footprint, inclusive of drainage improvements, proposed right-of-way, temporary grading, and staging area is approximately 23 acres.

▪ Regional Significance Thresholds

The thresholds contained in the *SCAQMD CEQA Air Quality Handbook*[1] (SCAQMD 1993) are considered regional thresholds and are shown in **Table 1 – SCAQMD CEQA Daily Regional Significance Thresholds**, below. These regional thresholds were developed based on the SCAQMD's treatment of a major stationary source.

[1] South Coast Air Quality Management District, *CEQA Air Quality Handbook*, November 1993. (Available at SCAQMD.)

Table 1 – SCAQMD CEQA Daily Regional Significance Thresholds

Emission Threshold	Units	VOC	NO_X	CO	SO_X	PM-10	PM-2.5
Construction	lbs/day	75	100	550	150	150	55
Operation[1]	lbs/day	55	55	550	150	150	55

Air quality impacts can be described in a short- and long-term perspective. Short-term impacts occur during site grading and Project construction and consist of fugitive dust and other particulate matter, as well as exhaust emissions generated by construction-related vehicles. Long-term impacts occur once the Project is in operation. Operational emissions would primarily be from infrequent visits by vehicles driven by maintenance personnel and are considered negligible; therefore, only short-term impacts were quantified.

The Project will be required to comply with existing SCAQMD rules for the reduction of fugitive dust emissions. SCAQMD Rule 403 establishes these procedures. Compliance with this rule is achieved through application of standard best management practices in construction and operation activities, such as application of water or chemical stabilizers to disturbed soils, managing haul road dust by application of water, covering haul vehicles, restricting vehicle speeds on unpaved roads to 15 mph, sweeping loose dirt from paved site access roadways, cessation of construction activity when winds exceed 25 mph and establishing a permanent, stabilizing ground cover on finished sites. In addition, projects that disturb 50 or more acres or more of soil or move 5,000 cubic yards of materials per day are required to submit a Fugitive Dust Control Plan or a Large Operation Notification Form to SCAQMD. Based on the size of this Project's disturbance area (approximately 23.47 acres) a Fugitive Dust Control Plan or a Large Operation Notification Form would not be required.

Short-Term Analysis

Short-term emissions from Project construction were evaluated using the CalEEMod version 2020.4.0 program. The estimated construction period for the proposed Project is approximately 18 to 24 months, beginning no sooner than February 2023. A duration of 24 months was evaluated to provide a worst-case analysis. The default parameters within CalEEMod were used and these default values reflect a worst-case scenario, which means that Project emissions are expected to be equal to or less than the estimated emissions. In addition to the default values used, assumptions relevant to model inputs for short-term construction emission estimates used are:

- Construction is anticipated to begin in February 2023, which will include construction activities such as utility relocation, installation of drainage improvements, roadway improvements, and traffic signal installation and paving. Because the schedule is unknown, the grading and paving activities were assumed to occur concurrently throughout the estimated construction duration to provide a conservative analysis. The estimated construction schedule is shown below:

Construction Activity	Start Date	End Date	Total Working Days
Grading	February 01, 2023	January 31, 2025	523
Paving	February 01, 2023	January 31, 2025	523

- The off-road equipment to be used for each activity is shown below and represents program defaults. Each piece of equipment is assumed to operate 8 hours per day:

Construction Activity	Off-Road Equipment	Unit Amount
Grading	Excavators	2
	Grader	1
	Rubber Tired Dozer	1
	Tractors/Loaders/Backhoes	2
	Scrapers	2
Paving	Pavers	2
	Paving Equipment	2
	Rollers	2

- To evaluate Project compliance with SCAQMD Rule 403 for fugitive dust control, the Project utilized the mitigation option of watering the Project site three times daily which achieves a control efficiency of 61 percent for PM-10 and PM-2.5 emissions. Two (2) one-way vendor trips per day were added to the grading and paving activity to account for water truck trips.

- Eight (8) one-way hauling truck trips per day were included during paving to account for material delivery.

- Approximately 98,180 cubic yards of soil import is required for the Project. The import site is currently unknown. Therefore, the CalEEMod default was utilized with assumes a hauling trip length of 20 miles per trip. Based on the CalEEMod default truck capacity of 16 cubic yards, approximately 6,136 truckloads of soil would be imported.

The results of this analysis are summarized below.

Table 2 – Estimated Maximum Daily Construction Emissions

Activity	Peak Daily Emissions (lb/day)					
	VOC	NO_X	CO	SO_2	PM-10	PM-2.5
SCAQMD Daily Construction Thresholds	**75**	**100**	**550**	**150**	**150**	**55**
Grading 2023	**3.45**	**37.11**	**29.45**	**0.08**	**5.70**	**2.94**
Grading 2024	3.34	34.98	29.09	0.08	5.61	2.86
Grading 2025	3.02	30.52	27.65	0.08	5.41	2.67
Paving 2023	**1.16**	**11.14**	**15.38**	**0.03**	**0.84**	**0.57**
Paving 2024	1.11	10.47	15.39	0.03	0.80	0.53
Paving 2025	1.03	9.52	15.31	0.03	0.75	0.48
Maximum[1]	**4.61**	**48.25**	**44.83**	**0.11**	**6.54**	**3.51**
Exceeds Threshold?	**No**	**No**	**No**	**No**	**No**	**No**

Note: [1] Maximum emissions are either the greater of grading and paving in 2023, 2024, or 2025 as these activities overlap. Maximum emissions are shown in bold.

As shown in the table above, the emissions from construction of the Project are below the SCAQMD daily construction thresholds for all the criteria pollutants.

▪ Localized Significance Threshold Analysis

Background

As part of the SCAQMD's environmental justice program, attention has been focused on localized effects of air quality. Staff at SCAQMD has developed localized significance threshold (LST) methodology[2] that can be used by public agencies to determine whether or not a project may generate significant adverse localized air quality impacts (both short- and long-term) to sensitive receptors. SCAQMD considers a sensitive receptor to be a location where a sensitive individual could remain for 24 hours, such as residences, hospitals, or convalescent facilities. LSTs represent the maximum emissions from a project that will not cause or contribute to an exceedance of the state ambient air quality standard, and are developed based on the ambient concentrations of that pollutant for each source receptor area (SRA). The Project site is located in SRA 29.

Short-Term Analysis

According to the LST methodology, only on-site emissions need to be analyzed. Emissions associated with vendor and worker trips are mobile source emissions that occur off site. The emissions analyzed under the LST methodology are NO_2, CO, PM-10, and PM-2.5. SCAQMD has provided LST lookup tables[3] to allow users to readily determine if the daily emissions for proposed construction or operational activities could result in significant localized air quality impacts for projects five acres or smaller. The Project's total disturbance area is approximately 23.47 acres. However, based on SCAQMD guidance, the daily disturbance area is approximately 3 acres.[4] Therefore, the two-acre LST Look-Up Table was compared with the on-site emissions estimated by CalEEMod to provide a conservative analysis.

The LST thresholds are estimated using the maximum daily disturbed area (in acres) and the distance of the Project to the nearest sensitive receptors (in meters). The closest sensitive receptors are residential houses adjacent to each end of the Project alignment. The closest receptor distance on the LST look-up tables is 25 meters. According to LST methodology, projects with boundaries closer than 25 meters to the nearest receptor should use the LSTs for receptors located at 25 meters. Therefore, a receptor distance of 25 meters (82 feet) was used to ensure a conservative analysis. The results are summarized below.

Table 3 – LST Results for Daily Construction Emissions

Activity	Peak Daily Emissions (lb/day)			
	NO_X	CO	PM-10	PM-2.5
LST for 2 acres at 25 meters	**149**	**1,541**	**10**	**6**
Grading 2023	**34.52**	**28.05**	**5.02**	**2.74**
Grading 2024	32.38	27.72	4.93	2.65
Grading 2025	27.94	26.33	4.73	2.47
Paving 2023	**10.19**	**14.58**	**0.51**	**0.47**
Paving 2024	9.52	14.63	0.47	0.43
Paving 2025	8.58	14.58	0.42	0.39

[2] South Coast Air Quality Management District, *Final Localized Significance Threshold Methodology*, Revised July 2008. (Available at http://www.aqmd.gov/home/regulations/ceqa/air-quality-analysis-handbook/localized-significance-thresholds, accessed November 2, 2021.)

[3] http://www.aqmd.gov/home/regulations/ceqa/air-quality-analysis-handbook/localized-significance-thresholds

[4] http://www.aqmd.gov/docs/default-source/ceqa/handbook/localized-significance-thresholds/caleemod-guidance.pdf?sfvrsn=2

Activity	Peak Daily Emissions (lb/day)			
	NO_X	CO	PM-10	PM-2.5
Maximum[1]	**44.71**	**42.63**	**5.53**	**3.21**
Exceeds Threshold?	**No**	**No**	**No**	**No**

Note: [1] Maximum emissions are either the greater of grading and paving in 2023, 2024, or 2025 as these activities overlap. Maximum emissions are shown in bold.

Emissions from construction of the Project will be below the LST established by SCAQMD for the Project.

Long-Term Analysis

This Project involves the construction of roadway and drainage improvements. According to SCAQMD LST methodology, LSTs would apply to the operational phase of a project, if the project includes stationary sources (e.g., flares and turbines) and/or on-site mobile equipment or attracts mobile sources that may spend long periods of time idling at the site, such as warehouse/transfer facilities. The proposed Project does not include such uses. Therefore, due to the lack of stationary source emissions or on-site mobile equipment, no long-term LST analysis is needed.

▪ Greenhouse Gas Analysis

Greenhouse gases (GHG) are not presented in lbs/day like criteria pollutants; they are typically evaluated on an annual basis using the metric system. Additionally, unlike the criteria pollutants, GHG do not have adopted significance thresholds associated with them at this time. Several agencies, at various levels, have proposed draft GHG significance thresholds for use in CEQA documents. SCAQMD has been working on GHG thresholds for development projects. The most recent draft proposal was in September 2010[5] and included significance thresholds for residential, commercial, and mixed-use projects at 3,500, 1,400, and 3,000 metric tonnes per year of carbon dioxide equivalents ($MTCO_2E$/yr), respectively. Alternatively, a lead agency has the option to use 3,000 $MTCO_2E$/yr as a threshold for all non-industrial projects. Although both options are recommended by SCAQMD, a lead agency is advised to use only one option and to use it consistently. In December 2008, the SCAQMD adopted a threshold of 10,000 $MTCO_2E$/yr for stationary source projects where SCAQMD is the lead agency. The SCAQMD significance thresholds evaluate construction emissions by amortizing them over an expected project life of 30 years. The analysis herein uses the threshold of 3,000 $MTCO_2E$/yr.

The CalEEMod output results for construction-related GHG emissions present the GHG emissions estimates for the Project for CO_2, methane (CH_4), nitrous oxide (N_2O), and CO_2E.[6]

Short-Term Analysis

Construction-Related Emissions

The CalEEMod model calculates GHG emissions from fuel usage by construction equipment and construction-related activities, like construction worker trips, for the Project. The CalEEMod estimate does not analyze emissions from construction-related electricity or natural gas. Construction-related electricity and natural gas emissions vary based on the amount of electric power used during construction and other unknown factors which make them too speculative to quantify.

[5] http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-(ghg)-ceqa-significance-thresholds/year-2008-2009/ghg-meeting-15/ghg-meeting-15-main-presentation.pdf?sfvrsn=2

[6] CO_2E is the sum of CO_2 emissions estimated plus the sum of CH_4 and N_2O emissions estimated multiplied by their respective global warming potential (GWP).

Table 4 – Project Construction Equipment GHG Emissions

Year	Metric Tons per year (MT/yr)			
	Total CO_2	Total CH_4	Total N_2O	Total CO_2E
2023	1,129.57	0.29	0.03	1,146.84
2024	1,238.34	0.32	0.04	1,257.15
2023	108.18	0.03	0.00	109.81
Total	2,476.09	0.64	0.07	2,513.80
			Amortized[1]	**83.79**

Note: [1] Construction emissions were amortized over a 30-year period, as recommended by SCAQMD.

Evaluation of the table above indicates that an estimated 2,513.80 $MTCO_2E$ will occur from Project construction equipment over the course of the estimated construction period. The draft SCAQMD GHG threshold guidance document released in October 2008[7] recommends that construction emissions be amortized for a project lifetime of 30 years to ensure that GHG reduction measures address construction GHG emissions as part of the operational reduction strategies. Therefore, the total GHG emissions from Project construction were amortized and are included in **Table 5**, below.

Long-Term Analysis

Energy-Related Emissions

CalEEMod estimates the GHG emissions associated with building electricity and natural gas usage for each land use type. Electricity and natural gas used in buildings is typically generated at an off-site power plant which indirectly generates GHG emissions. The indirect GHG emissions from the proposed street lighting were estimated in CalEEMod using the default electricity rate for parking lot lighting. Utility-specific carbon intensity information from the City of Banning Electric Utility was used.[8] **Table 5** summarizes the Project's annual electricity emissions, which were reported as 21.87 $MTCO_2E$ per year.

Total Project GHG Emissions

As shown on **Table 5 – Total Project-Related GHG Emissions**, using the emissions quantified above, the total GHG emissions generated from the Project is approximately 105.66 $MTCO_2E$/yr which includes construction-related emissions amortized over a typical project life of 30 years.

Table 5 – Total Project-Related GHG Emissions

Source	Metric Tons per year (MT/yr)			
	CO_2	CH_4	N_2O	Total CO_2E
Amortized Construction	--	--	--	83.79
Energy	21.73	0.00	0.00	21.87
Total	**21.73**	**0.00**	**0.00**	**105.66**

Note: Emissions reported as zero are rounded and not necessarily equal to zero.

The total GHG emissions from the Project do not exceed the SCAQMD threshold of level of 3,000 $MTCO_2E$/yr for non-industrial projects. Due to the estimated amount of emissions from Project construction and the proposed street light electricity usage as well as the negligible operational emissions from infrequent maintenance vehicles, the proposed Project will not generate GHG emissions that exceed the screening threshold.

[7] http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-(ghg)-ceqa-significance-thresholds/year-2008-2009/ghg-meeting-6/ghg-meeting-6-guidance-document-discussion.pdf?sfvrsn=2

[8] The total GHG intensity factor (in CO_2E) was obtained from the 2020 Power Content Label, available at http://www.banning.ca.us/DocumentCenter/View/224/PowerContentLabel_2015_Annual?bidId=. The individual intensity factor for CO_2, CH_4, and N_2O was derived based on data in the CalEEMod User's Guide.

Conclusion

The conclusion of this analysis indicates that construction and operation of the proposed Project will not exceed criteria pollutant thresholds established by SCAQMD on a regional or localized level. The Project will also not exceed the SCAQMD screening threshold. No mitigation is required.

Should you have any questions, please contact me at (951) 686-1070.

CALEEMOD OUTPUT FILES

Sunlakes Boulevard - Riverside-South Coast County, Summer

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

Sunlakes Boulevard

Riverside-South Coast County, Summer

1.0 Project Characteristics

1.1 Land Usage

Land Uses	Size	Metric	Lot Acreage	Floor Surface Area	Population
Other Asphalt Surfaces	440.15	1000sqft	10.10	440,152.00	0
Other Non-Asphalt Surfaces	582.36	1000sqft	13.37	582,364.00	0

1.2 Other Project Characteristics

Urbanization	Urban	**Wind Speed (m/s)**	2.4	**Precipitation Freq (Days)**	28
Climate Zone	10			**Operational Year**	2025
Utility Company	User Defined				
CO2 Intensity (lb/MWhr)	310.98	**CH4 Intensity (lb/MWhr)**	0.033	**N2O Intensity (lb/MWhr)**	0.004

1.3 User Entered Comments & Non-Default Data

Project Characteristics - City of Banning Electric Co.

Land Use - Per Project Engineers

Construction Phase - Per Project Engineers

Trips and VMT - 2 daily water truck trips added as vendor trips for grading and paving phases. 8 hauling truck trips per day were added to paving.

Grading - Per Project Engineers

Energy Use - Account for street lighting.

Construction Off-road Equipment Mitigation - Per Rule 403

Table Name	Column Name	Default Value	New Value
tblConstructionPhase	NumDays	35.00	523.00

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

tblConstructionPhase	NumDays	20.00	523.00
tblEnergyUse	LightingElect	0.00	0.35
tblGrading	MaterialImported	0.00	98,180.00
tblLandUse	LandUseSquareFeet	440,150.00	440,152.00
tblLandUse	LandUseSquareFeet	582,360.00	582,364.00
tblProjectCharacteristics	CH4IntensityFactor	0	0.033
tblProjectCharacteristics	CO2IntensityFactor	0	310.98
tblProjectCharacteristics	N2OIntensityFactor	0	0.004
tblTripsAndVMT	HaulingTripNumber	0.00	4,184.00
tblTripsAndVMT	VendorTripNumber	0.00	2.00
tblTripsAndVMT	VendorTripNumber	0.00	2.00

2.0 Emissions Summary

Sunlakes Boulevard - Riverside-South Coast County, Summer

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

2.1 Overall Construction (Maximum Daily Emission)

Unmitigated Construction

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Year	lb/day										lb/day					
2023	4.6062	48.0593	44.8338	0.1063	10.1949	1.9756	12.1705	3.9195	1.8190	5.7384	0.0000	10,487.4223	10,487.4223	2.6932	0.3101	10,647.1662
2024	4.4491	45.2538	44.4725	0.1059	10.1949	1.8445	12.0394	3.9195	1.6984	5.6178	0.0000	10,443.2776	10,443.2776	2.6934	0.3047	10,601.3989
2025	4.0512	39.8379	42.9546	0.1054	10.1949	1.5898	11.7847	3.9195	1.4641	5.3835	0.0000	10,391.9599	10,391.9599	2.6935	0.2983	10,548.1845
Maximum	**4.6062**	**48.0593**	**44.8338**	**0.1063**	**10.1949**	**1.9756**	**12.1705**	**3.9195**	**1.8190**	**5.7384**	**0.0000**	**10,487.4223**	**10,487.4223**	**2.6935**	**0.3101**	**10,647.1662**

Mitigated Construction

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Year	lb/day										lb/day					
2023	4.6062	48.0593	44.8338	0.1063	4.5662	1.9756	6.5418	1.6885	1.8190	3.5075	0.0000	10,487.4223	10,487.4223	2.6932	0.3101	10,647.1661
2024	4.4491	45.2538	44.4725	0.1059	4.5662	1.8445	6.4107	1.6885	1.6984	3.3868	0.0000	10,443.2776	10,443.2776	2.6934	0.3047	10,601.3988
2025	4.0512	39.8379	42.9546	0.1054	4.5662	1.5898	6.1560	1.6885	1.4641	3.1526	0.0000	10,391.9599	10,391.9599	2.6935	0.2983	10,548.1844
Maximum	**4.6062**	**48.0593**	**44.8338**	**0.1063**	**4.5662**	**1.9756**	**6.5418**	**1.6885**	**1.8190**	**3.5075**	**0.0000**	**10,487.4223**	**10,487.4223**	**2.6935**	**0.3101**	**10,647.1661**

Sunlakes Boulevard - Riverside-South Coast County, Summer

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio-CO2	Total CO2	CH4	N20	CO2e
Percent Reduction	0.00	0.00	0.00	0.00	55.21	0.00	46.91	56.92	0.00	39.98	0.00	0.00	0.00	0.00	0.00	0.00

Sunlakes Boulevard - Riverside-South Coast County, Summer

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

2.2 Overall Operational

Unmitigated Operational

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Area	0.4497	9.4000e-004	0.1041	1.0000e-005		3.7000e-004	3.7000e-004		3.7000e-004	3.7000e-004		0.2238	0.2238	5.8000e-004		0.2383
Energy	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000
Mobile	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000
Total	**0.4497**	**9.4000e-004**	**0.1041**	**1.0000e-005**	**0.0000**	**3.7000e-004**	**3.7000e-004**	**0.0000**	**3.7000e-004**	**3.7000e-004**		**0.2238**	**0.2238**	**5.8000e-004**	**0.0000**	**0.2383**

Mitigated Operational

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Area	0.4497	9.4000e-004	0.1041	1.0000e-005		3.7000e-004	3.7000e-004		3.7000e-004	3.7000e-004		0.2238	0.2238	5.8000e-004		0.2383
Energy	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000
Mobile	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000
Total	**0.4497**	**9.4000e-004**	**0.1041**	**1.0000e-005**	**0.0000**	**3.7000e-004**	**3.7000e-004**	**0.0000**	**3.7000e-004**	**3.7000e-004**		**0.2238**	**0.2238**	**5.8000e-004**	**0.0000**	**0.2383**

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio-CO2	Total CO2	CH4	N20	CO2e
Percent Reduction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

3.0 Construction Detail

Construction Phase

Phase Number	Phase Name	Phase Type	Start Date	End Date	Num Days Week	Num Days	Phase Description
1	Grading	Grading	2/1/2023	1/31/2025	5	523	
2	Paving	Paving	2/1/2023	1/31/2025	5	523	

Acres of Grading (Site Preparation Phase): 0

Acres of Grading (Grading Phase): 1569

Acres of Paving: 23.47

Residential Indoor: 0; Residential Outdoor: 0; Non-Residential Indoor: 0; Non-Residential Outdoor: 0; Striped Parking Area: 0 (Architectural Coating – sqft)

OffRoad Equipment

Phase Name	Offroad Equipment Type	Amount	Usage Hours	Horse Power	Load Factor
Grading	Excavators	2	8.00	158	0.38
Grading	Graders	1	8.00	187	0.41
Grading	Rubber Tired Dozers	1	8.00	247	0.40
Grading	Scrapers	2	8.00	367	0.48
Grading	Tractors/Loaders/Backhoes	2	8.00	97	0.37
Paving	Pavers	2	8.00	130	0.42
Paving	Paving Equipment	2	8.00	132	0.36
Paving	Rollers	2	8.00	80	0.38

Trips and VMT

Sunlakes Boulevard - Riverside-South Coast County, Summer

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

Phase Name	Offroad Equipment Count	Worker Trip Number	Vendor Trip Number	Hauling Trip Number	Worker Trip Length	Vendor Trip Length	Hauling Trip Length	Worker Vehicle Class	Vendor Vehicle Class	Hauling Vehicle Class
Grading	8	20.00	2.00	12,273.00	14.70	6.90	20.00	LD_Mix	HDT_Mix	HHDT
Paving	6	15.00	2.00	4,184.00	14.70	6.90	20.00	LD_Mix	HDT_Mix	HHDT

3.1 Mitigation Measures Construction

Water Exposed Area

3.2 Grading - 2023

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					9.2274	0.0000	9.2274	3.6574	0.0000	3.6574			0.0000			0.0000
Off-Road	3.3217	34.5156	28.0512	0.0621		1.4245	1.4245		1.3105	1.3105		6,011.4777	6,011.4777	1.9442		6,060.0836
Total	**3.3217**	**34.5156**	**28.0512**	**0.0621**	**9.2274**	**1.4245**	**10.6519**	**3.6574**	**1.3105**	**4.9679**		**6,011.4777**	**6,011.4777**	**1.9442**		**6,060.0836**

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

3.2 Grading - 2023

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0514	2.3435	0.6444	0.0129	0.4107	0.0283	0.4390	0.1126	0.0271	0.1397		1,377.0064	1,377.0064	0.0195	0.2170	1,442.1549
Vendor	2.2500e-003	0.0653	0.0269	3.5000e-004	0.0128	5.7000e-004	0.0134	3.6900e-003	5.4000e-004	4.2300e-003		37.0542	37.0542	3.8000e-004	5.4800e-003	38.6954
Worker	0.0730	0.0451	0.7317	1.9700e-003	0.2236	1.0500e-003	0.2246	0.0593	9.6000e-004	0.0603		198.7481	198.7481	4.5900e-003	4.6900e-003	200.2612
Total	**0.1266**	**2.4539**	**1.4031**	**0.0152**	**0.6471**	**0.0299**	**0.6770**	**0.1756**	**0.0286**	**0.2041**		**1,612.8087**	**1,612.8087**	**0.0245**	**0.2272**	**1,681.1114**

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					3.5987	0.0000	3.5987	1.4264	0.0000	1.4264			0.0000			0.0000
Off-Road	3.3217	34.5156	28.0512	0.0621		1.4245	1.4245		1.3105	1.3105	0.0000	6,011.4777	6,011.4777	1.9442		6,060.0836
Total	**3.3217**	**34.5156**	**28.0512**	**0.0621**	**3.5987**	**1.4245**	**5.0232**	**1.4264**	**1.3105**	**2.7369**	**0.0000**	**6,011.4777**	**6,011.4777**	**1.9442**		**6,060.0836**

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

3.2 Grading - 2023

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0514	2.3435	0.6444	0.0129	0.4107	0.0283	0.4390	0.1126	0.0271	0.1397		1,377.0064	1,377.0064	0.0195	0.2170	1,442.1549
Vendor	2.2500e-003	0.0653	0.0269	3.5000e-004	0.0128	5.7000e-004	0.0134	3.6900e-003	5.4000e-004	4.2300e-003		37.0542	37.0542	3.8000e-004	5.4800e-003	38.6954
Worker	0.0730	0.0451	0.7317	1.9700e-003	0.2236	1.0500e-003	0.2246	0.0593	9.6000e-004	0.0603		198.7481	198.7481	4.5900e-003	4.6900e-003	200.2612
Total	**0.1266**	**2.4539**	**1.4031**	**0.0152**	**0.6471**	**0.0299**	**0.6770**	**0.1756**	**0.0286**	**0.2041**		**1,612.8087**	**1,612.8087**	**0.0245**	**0.2272**	**1,681.1114**

3.2 Grading - 2024

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					9.2274	0.0000	9.2274	3.6574	0.0000	3.6574			0.0000			0.0000
Off-Road	3.2181	32.3770	27.7228	0.0621		1.3354	1.3354		1.2286	1.2286		6,009.7487	6,009.7487	1.9437		6,058.3405
Total	**3.2181**	**32.3770**	**27.7228**	**0.0621**	**9.2274**	**1.3354**	**10.5628**	**3.6574**	**1.2286**	**4.8859**		**6,009.7487**	**6,009.7487**	**1.9437**		**6,058.3405**

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

3.2 Grading - 2024

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0512	2.3501	0.6516	0.0127	0.4107	0.0281	0.4388	0.1126	0.0269	0.1395		1,354.5106	1,354.5106	0.0206	0.2135	1,418.6440
Vendor	2.2200e-003	0.0654	0.0266	3.4000e-004	0.0128	5.7000e-004	0.0134	3.6900e-003	5.4000e-004	4.2300e-003		36.4831	36.4831	3.9000e-004	5.3800e-003	38.0970
Worker	0.0681	0.0402	0.6840	1.9000e-003	0.2236	1.0000e-003	0.2246	0.0593	9.2000e-004	0.0602		192.4214	192.4214	4.1600e-003	4.3600e-003	193.8244
Total	**0.1215**	**2.4556**	**1.3622**	**0.0149**	**0.6471**	**0.0297**	**0.6767**	**0.1756**	**0.0284**	**0.2039**		**1,583.4151**	**1,583.4151**	**0.0252**	**0.2232**	**1,650.5654**

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					3.5987	0.0000	3.5987	1.4264	0.0000	1.4264			0.0000			0.0000
Off-Road	3.2181	32.3770	27.7228	0.0621		1.3354	1.3354		1.2286	1.2286	0.0000	6,009.7487	6,009.7487	1.9437		6,058.3405
Total	**3.2181**	**32.3770**	**27.7228**	**0.0621**	**3.5987**	**1.3354**	**4.9341**	**1.4264**	**1.2286**	**2.6549**	**0.0000**	**6,009.7487**	**6,009.7487**	**1.9437**		**6,058.3405**

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

3.2 Grading - 2024

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0512	2.3501	0.6516	0.0127	0.4107	0.0281	0.4388	0.1126	0.0269	0.1395		1,354.5106	1,354.5106	0.0206	0.2135	1,418.6440
Vendor	2.2200e-003	0.0654	0.0266	3.4000e-004	0.0128	5.7000e-004	0.0134	3.6900e-003	5.4000e-004	4.2300e-003		36.4831	36.4831	3.9000e-004	5.3800e-003	38.0970
Worker	0.0681	0.0402	0.6840	1.9000e-003	0.2236	1.0000e-003	0.2246	0.0593	9.2000e-004	0.0602		192.4214	192.4214	4.1600e-003	4.3600e-003	193.8244
Total	**0.1215**	**2.4556**	**1.3622**	**0.0149**	**0.6471**	**0.0297**	**0.6767**	**0.1756**	**0.0284**	**0.2039**		**1,583.4151**	**1,583.4151**	**0.0252**	**0.2232**	**1,650.5654**

3.2 Grading - 2025

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					9.2274	0.0000	9.2274	3.6574	0.0000	3.6574			0.0000			0.0000
Off-Road	2.9012	27.9429	26.3311	0.0621		1.1309	1.1309		1.0404	1.0404		6,008.2814	6,008.2814	1.9432		6,056.8614
Total	**2.9012**	**27.9429**	**26.3311**	**0.0621**	**9.2274**	**1.1309**	**10.3583**	**3.6574**	**1.0404**	**4.6978**		**6,008.2814**	**6,008.2814**	**1.9432**		**6,056.8614**

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

3.2 Grading - 2025

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0511	2.3273	0.6561	0.0124	0.4107	0.0281	0.4388	0.1126	0.0269	0.1394		1,327.4550	1,327.4550	0.0218	0.2093	1,390.3605
Vendor	2.1900e-003	0.0648	0.0263	3.4000e-004	0.0128	5.7000e-004	0.0134	3.6900e-003	5.4000e-004	4.2300e-003		35.8400	35.8400	4.1000e-004	5.2800e-003	37.4229
Worker	0.0636	0.0360	0.6361	1.8400e-003	0.2236	9.5000e-004	0.2245	0.0593	8.7000e-004	0.0602		185.8596	185.8596	3.7500e-003	4.0700e-003	187.1656
Total	**0.1169**	**2.4282**	**1.3185**	**0.0146**	**0.6470**	**0.0296**	**0.6766**	**0.1756**	**0.0283**	**0.2038**		**1,549.1547**	**1,549.1547**	**0.0259**	**0.2186**	**1,614.9490**

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					3.5987	0.0000	3.5987	1.4264	0.0000	1.4264			0.0000			0.0000
Off-Road	2.9012	27.9429	26.3311	0.0621		1.1309	1.1309		1.0404	1.0404	0.0000	6,008.2814	6,008.2814	1.9432		6,056.8614
Total	**2.9012**	**27.9429**	**26.3311**	**0.0621**	**3.5987**	**1.1309**	**4.7296**	**1.4264**	**1.0404**	**2.4668**	**0.0000**	**6,008.2814**	**6,008.2814**	**1.9432**		**6,056.8614**

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

3.2 Grading - 2025

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0511	2.3273	0.6561	0.0124	0.4107	0.0281	0.4388	0.1126	0.0269	0.1394		1,327.4550	1,327.4550	0.0218	0.2093	1,390.3605
Vendor	2.1900e-003	0.0648	0.0263	3.4000e-004	0.0128	5.7000e-004	0.0134	3.6900e-003	5.4000e-004	4.2300e-003		35.8400	35.8400	4.1000e-004	5.2800e-003	37.4229
Worker	0.0636	0.0360	0.6361	1.8400e-003	0.2236	9.5000e-004	0.2245	0.0593	8.7000e-004	0.0602		185.8596	185.8596	3.7500e-003	4.0700e-003	187.1656
Total	**0.1169**	**2.4282**	**1.3185**	**0.0146**	**0.6470**	**0.0296**	**0.6766**	**0.1756**	**0.0283**	**0.2038**		**1,549.1547**	**1,549.1547**	**0.0259**	**0.2186**	**1,614.9490**

3.3 Paving - 2023

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	1.0327	10.1917	14.5842	0.0228		0.5102	0.5102		0.4694	0.4694		2,207.5841	2,207.5841	0.7140		2,225.4336
Paving	0.0506					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Total	**1.0833**	**10.1917**	**14.5842**	**0.0228**		**0.5102**	**0.5102**		**0.4694**	**0.4694**		**2,207.5841**	**2,207.5841**	**0.7140**		**2,225.4336**

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

3.3 Paving - 2023

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0175	0.7989	0.2197	4.4000e-003	0.1400	9.6400e-003	0.1497	0.0384	9.2300e-003	0.0476		469.4366	469.4366	6.6600e-003	0.0740	491.6464
Vendor	2.2500e-003	0.0653	0.0269	3.5000e-004	0.0128	5.7000e-004	0.0134	3.6900e-003	5.4000e-004	4.2300e-003		37.0542	37.0542	3.8000e-004	5.4800e-003	38.6954
Worker	0.0548	0.0338	0.5488	1.4700e-003	0.1677	7.8000e-004	0.1685	0.0445	7.2000e-004	0.0452		149.0611	149.0611	3.4500e-003	3.5200e-003	150.1959
Total	**0.0745**	**0.8981**	**0.7954**	**6.2200e-003**	**0.3205**	**0.0110**	**0.3315**	**0.0866**	**0.0105**	**0.0970**		**655.5518**	**655.5518**	**0.0105**	**0.0830**	**680.5376**

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	1.0327	10.1917	14.5842	0.0228		0.5102	0.5102		0.4694	0.4694	0.0000	2,207.5841	2,207.5841	0.7140		2,225.4336
Paving	0.0506					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Total	**1.0833**	**10.1917**	**14.5842**	**0.0228**		**0.5102**	**0.5102**		**0.4694**	**0.4694**	**0.0000**	**2,207.5841**	**2,207.5841**	**0.7140**		**2,225.4336**

Sunlakes Boulevard - Riverside-South Coast County, Summer

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

3.3 Paving - 2023

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0175	0.7989	0.2197	4.4000e-003	0.1400	9.6400e-003	0.1497	0.0384	9.2300e-003	0.0476		469.4366	469.4366	6.6600e-003	0.0740	491.6464
Vendor	2.2500e-003	0.0653	0.0269	3.5000e-004	0.0128	5.7000e-004	0.0134	3.6900e-003	5.4000e-004	4.2300e-003		37.0542	37.0542	3.8000e-004	5.4800e-003	38.6954
Worker	0.0548	0.0338	0.5488	1.4700e-003	0.1677	7.8000e-004	0.1685	0.0445	7.2000e-004	0.0452		149.0611	149.0611	3.4500e-003	3.5200e-003	150.1959
Total	**0.0745**	**0.8981**	**0.7954**	**6.2200e-003**	**0.3205**	**0.0110**	**0.3315**	**0.0866**	**0.0105**	**0.0970**		**655.5518**	**655.5518**	**0.0105**	**0.0830**	**680.5376**

3.3 Paving - 2024

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	0.9882	9.5246	14.6258	0.0228		0.4685	0.4685		0.4310	0.4310		2,207.5472	2,207.5472	0.7140		2,225.3963
Paving	0.0506					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Total	**1.0388**	**9.5246**	**14.6258**	**0.0228**		**0.4685**	**0.4685**		**0.4310**	**0.4310**		**2,207.5472**	**2,207.5472**	**0.7140**		**2,225.3963**

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

3.3 Paving - 2024

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0175	0.8012	0.2221	4.3200e-003	0.1400	9.5900e-003	0.1496	0.0384	9.1700e-003	0.0476		461.7675	461.7675	7.0300e-003	0.0728	483.6312
Vendor	2.2200e-003	0.0654	0.0266	3.4000e-004	0.0128	5.7000e-004	0.0134	3.6900e-003	5.4000e-004	4.2300e-003		36.4831	36.4831	3.9000e-004	5.3800e-003	38.0970
Worker	0.0510	0.0301	0.5130	1.4300e-003	0.1677	7.5000e-004	0.1684	0.0445	6.9000e-004	0.0452		144.3160	144.3160	3.1200e-003	3.2700e-003	145.3683
Total	**0.0707**	**0.8967**	**0.7617**	**6.0900e-003**	**0.3205**	**0.0109**	**0.3314**	**0.0865**	**0.0104**	**0.0969**		**642.5666**	**642.5666**	**0.0105**	**0.0814**	**667.0966**

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	0.9882	9.5246	14.6258	0.0228		0.4685	0.4685		0.4310	0.4310	0.0000	2,207.5472	2,207.5472	0.7140		2,225.3963
Paving	0.0506					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Total	**1.0388**	**9.5246**	**14.6258**	**0.0228**		**0.4685**	**0.4685**		**0.4310**	**0.4310**	**0.0000**	**2,207.5472**	**2,207.5472**	**0.7140**		**2,225.3963**

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

3.3 Paving - 2024

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0175	0.8012	0.2221	4.3200e-003	0.1400	9.5900e-003	0.1496	0.0384	9.1700e-003	0.0476		461.7675	461.7675	7.0300e-003	0.0728	483.6312
Vendor	2.2200e-003	0.0654	0.0266	3.4000e-004	0.0128	5.7000e-004	0.0134	3.6900e-003	5.4000e-004	4.2300e-003		36.4831	36.4831	3.9000e-004	5.3800e-003	38.0970
Worker	0.0510	0.0301	0.5130	1.4300e-003	0.1677	7.5000e-004	0.1684	0.0445	6.9000e-004	0.0452		144.3160	144.3160	3.1200e-003	3.2700e-003	145.3683
Total	**0.0707**	**0.8967**	**0.7617**	**6.0900e-003**	**0.3205**	**0.0109**	**0.3314**	**0.0865**	**0.0104**	**0.0969**		**642.5666**	**642.5666**	**0.0105**	**0.0814**	**667.0966**

3.3 Paving - 2025

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	0.9152	8.5816	14.5780	0.0228		0.4185	0.4185		0.3850	0.3850		2,206.7452	2,206.7452	0.7137		2,224.5878
Paving	0.0506					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Total	**0.9658**	**8.5816**	**14.5780**	**0.0228**		**0.4185**	**0.4185**		**0.3850**	**0.3850**		**2,206.7452**	**2,206.7452**	**0.7137**		**2,224.5878**

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

3.3 Paving - 2025

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0174	0.7934	0.2237	4.2300e-003	0.1400	9.5700e-003	0.1496	0.0384	9.1600e-003	0.0475		452.5439	452.5439	7.4100e-003	0.0713	473.9891
Vendor	2.1900e-003	0.0648	0.0263	3.4000e-004	0.0128	5.7000e-004	0.0134	3.6900e-003	5.4000e-004	4.2300e-003		35.8400	35.8400	4.1000e-004	5.2800e-003	37.4229
Worker	0.0477	0.0270	0.4771	1.3800e-003	0.1677	7.1000e-004	0.1684	0.0445	6.5000e-004	0.0451		139.3947	139.3947	2.8100e-003	3.0500e-003	140.3742
Total	**0.0673**	**0.8852**	**0.7271**	**5.9500e-003**	**0.3205**	**0.0109**	**0.3313**	**0.0865**	**0.0104**	**0.0969**		**627.7787**	**627.7787**	**0.0106**	**0.0797**	**651.7862**

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	0.9152	8.5816	14.5780	0.0228		0.4185	0.4185		0.3850	0.3850	0.0000	2,206.7452	2,206.7452	0.7137		2,224.5878
Paving	0.0506					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Total	**0.9658**	**8.5816**	**14.5780**	**0.0228**		**0.4185**	**0.4185**		**0.3850**	**0.3850**	**0.0000**	**2,206.7452**	**2,206.7452**	**0.7137**		**2,224.5878**

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

3.3 Paving - 2025

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0174	0.7934	0.2237	4.2300e-003	0.1400	9.5700e-003	0.1496	0.0384	9.1600e-003	0.0475		452.5439	452.5439	7.4100e-003	0.0713	473.9891
Vendor	2.1900e-003	0.0648	0.0263	3.4000e-004	0.0128	5.7000e-004	0.0134	3.6900e-003	5.4000e-004	4.2300e-003		35.8400	35.8400	4.1000e-004	5.2800e-003	37.4229
Worker	0.0477	0.0270	0.4771	1.3800e-003	0.1677	7.1000e-004	0.1684	0.0445	6.5000e-004	0.0451		139.3947	139.3947	2.8100e-003	3.0500e-003	140.3742
Total	**0.0673**	**0.8852**	**0.7271**	**5.9500e-003**	**0.3205**	**0.0109**	**0.3313**	**0.0865**	**0.0104**	**0.0969**		**627.7787**	**627.7787**	**0.0106**	**0.0797**	**651.7862**

4.0 Operational Detail - Mobile

4.1 Mitigation Measures Mobile

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Mitigated	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000
Unmitigated	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000

4.2 Trip Summary Information

	Average Daily Trip Rate			Unmitigated	Mitigated
Land Use	Weekday	Saturday	Sunday	Annual VMT	Annual VMT
Other Asphalt Surfaces	0.00	0.00	0.00		
Other Non-Asphalt Surfaces	0.00	0.00	0.00		
Total	0.00	0.00	0.00		

4.3 Trip Type Information

	Miles			Trip %			Trip Purpose %		
Land Use	H-W or C-W	H-S or C-C	H-O or C-NW	H-W or C-W	H-S or C-C	H-O or C-NW	Primary	Diverted	Pass-by
Other Asphalt Surfaces	16.60	8.40	6.90	0.00	0.00	0.00	0	0	0
Other Non-Asphalt Surfaces	16.60	8.40	6.90	0.00	0.00	0.00	0	0	0

4.4 Fleet Mix

Land Use	LDA	LDT1	LDT2	MDV	LHD1	LHD2	MHD	HHD	OBUS	UBUS	MCY	SBUS	MH
Other Asphalt Surfaces	0.540541	0.056458	0.173793	0.136090	0.025268	0.007074	0.011525	0.018705	0.000610	0.000304	0.023606	0.001094	0.004932
Other Non-Asphalt Surfaces	0.540541	0.056458	0.173793	0.136090	0.025268	0.007074	0.011525	0.018705	0.000610	0.000304	0.023606	0.001094	0.004932

5.0 Energy Detail

Sunlakes Boulevard - Riverside-South Coast County, Summer

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

Historical Energy Use: N

5.1 Mitigation Measures Energy

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
NaturalGas Mitigated	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000
NaturalGas Unmitigated	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000

5.2 Energy by Land Use - NaturalGas

Unmitigated

	NaturalGas Use	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Land Use	kBTU/yr	lb/day										lb/day					
Other Asphalt Surfaces	0	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000
Other Non-Asphalt Surfaces	0	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000
Total		**0.0000**	**0.0000**	**0.0000**	**0.0000**		**0.0000**	**0.0000**		**0.0000**	**0.0000**		**0.0000**	**0.0000**	**0.0000**	**0.0000**	**0.0000**

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

5.2 Energy by Land Use - NaturalGas

Mitigated

	NaturalGas Use	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Land Use	kBTU/yr	lb/day										lb/day					
Other Asphalt Surfaces	0	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000
Other Non-Asphalt Surfaces	0	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000
Total		**0.0000**	**0.0000**	**0.0000**	**0.0000**		**0.0000**	**0.0000**		**0.0000**	**0.0000**		**0.0000**	**0.0000**	**0.0000**	**0.0000**	**0.0000**

6.0 Area Detail

6.1 Mitigation Measures Area

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Mitigated	0.4497	9.4000e-004	0.1041	1.0000e-005		3.7000e-004	3.7000e-004		3.7000e-004	3.7000e-004		0.2238	0.2238	5.8000e-004		0.2383
Unmitigated	0.4497	9.4000e-004	0.1041	1.0000e-005		3.7000e-004	3.7000e-004		3.7000e-004	3.7000e-004		0.2238	0.2238	5.8000e-004		0.2383

Sunlakes Boulevard - Riverside-South Coast County, Summer

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

6.2 Area by SubCategory

Unmitigated

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
SubCategory	lb/day										lb/day					
Architectural Coating	0.0779					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Consumer Products	0.3622					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Landscaping	9.5900e-003	9.4000e-004	0.1041	1.0000e-005		3.7000e-004	3.7000e-004		3.7000e-004	3.7000e-004		0.2238	0.2238	5.8000e-004		0.2383
Total	**0.4497**	**9.4000e-004**	**0.1041**	**1.0000e-005**		**3.7000e-004**	**3.7000e-004**		**3.7000e-004**	**3.7000e-004**		**0.2238**	**0.2238**	**5.8000e-004**		**0.2383**

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

6.2 Area by SubCategory

Mitigated

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
SubCategory	lb/day										lb/day					
Architectural Coating	0.0779					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Consumer Products	0.3622					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Landscaping	9.5900e-003	9.4000e-004	0.1041	1.0000e-005		3.7000e-004	3.7000e-004		3.7000e-004	3.7000e-004		0.2238	0.2238	5.8000e-004		0.2383
Total	**0.4497**	**9.4000e-004**	**0.1041**	**1.0000e-005**		**3.7000e-004**	**3.7000e-004**		**3.7000e-004**	**3.7000e-004**		**0.2238**	**0.2238**	**5.8000e-004**		**0.2383**

7.0 Water Detail

7.1 Mitigation Measures Water

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

8.0 Waste Detail

8.1 Mitigation Measures Waste

9.0 Operational Offroad

Equipment Type	Number	Hours/Day	Days/Year	Horse Power	Load Factor	Fuel Type

10.0 Stationary Equipment

Fire Pumps and Emergency Generators

Equipment Type	Number	Hours/Day	Hours/Year	Horse Power	Load Factor	Fuel Type

Boilers

Equipment Type	Number	Heat Input/Day	Heat Input/Year	Boiler Rating	Fuel Type

User Defined Equipment

Equipment Type	Number

11.0 Vegetation

Sunlakes Boulevard - Riverside-South Coast County, Winter

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

Sunlakes Boulevard

Riverside-South Coast County, Winter

1.0 Project Characteristics

1.1 Land Usage

Land Uses	Size	Metric	Lot Acreage	Floor Surface Area	Population
Other Asphalt Surfaces	440.15	1000sqft	10.10	440,152.00	0
Other Non-Asphalt Surfaces	582.36	1000sqft	13.37	582,364.00	0

1.2 Other Project Characteristics

Urbanization	Urban	**Wind Speed (m/s)**	2.4	**Precipitation Freq (Days)**	28
Climate Zone	10			**Operational Year**	2025
Utility Company	User Defined				
CO2 Intensity (lb/MWhr)	310.98	**CH4 Intensity (lb/MWhr)**	0.033	**N2O Intensity (lb/MWhr)**	0.004

1.3 User Entered Comments & Non-Default Data

Project Characteristics - City of Banning Electric Co.

Land Use - Per Project Engineers

Construction Phase - Per Project Engineers

Trips and VMT - 2 daily water truck trips added as vendor trips for grading and paving phases. 8 hauling truck trips per day were added to paving.

Grading - Per Project Engineers

Energy Use - Account for street lighting.

Construction Off-road Equipment Mitigation - Per Rule 403

Table Name	Column Name	Default Value	New Value
tblConstructionPhase	NumDays	35.00	523.00

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

tblConstructionPhase	NumDays	20.00	523.00
tblEnergyUse	LightingElect	0.00	0.35
tblGrading	MaterialImported	0.00	98,180.00
tblLandUse	LandUseSquareFeet	440,150.00	440,152.00
tblLandUse	LandUseSquareFeet	582,360.00	582,364.00
tblProjectCharacteristics	CH4IntensityFactor	0	0.033
tblProjectCharacteristics	CO2IntensityFactor	0	310.98
tblProjectCharacteristics	N2OIntensityFactor	0	0.004
tblTripsAndVMT	HaulingTripNumber	0.00	4,184.00
tblTripsAndVMT	VendorTripNumber	0.00	2.00
tblTripsAndVMT	VendorTripNumber	0.00	2.00

2.0 Emissions Summary

Sunlakes Boulevard - Riverside-South Coast County, Winter

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

2.1 Overall Construction (Maximum Daily Emission)

Unmitigated Construction

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Year	lb/day										lb/day					
2023	4.5923	48.2574	44.6131	0.1060	10.1949	1.9756	12.1706	3.9195	1.8190	5.7385	0.0000	10,457.8330	10,457.8330	2.6929	0.3108	10,617.7734
2024	4.4361	45.4523	44.2678	0.1056	10.1949	1.8446	12.0395	3.9195	1.6984	5.6179	0.0000	10,414.7477	10,414.7477	2.6931	0.3053	10,573.0594
2025	4.0389	40.0344	42.7668	0.1051	10.1949	1.5899	11.7848	3.9195	1.4641	5.3836	0.0000	10,364.5379	10,364.5379	2.6932	0.2989	10,520.9470
Maximum	**4.5923**	**48.2574**	**44.6131**	**0.1060**	**10.1949**	**1.9756**	**12.1706**	**3.9195**	**1.8190**	**5.7385**	**0.0000**	**10,457.8330**	**10,457.8330**	**2.6932**	**0.3108**	**10,617.7734**

Mitigated Construction

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Year	lb/day										lb/day					
2023	4.5923	48.2574	44.6131	0.1060	4.5662	1.9756	6.5419	1.6885	1.8190	3.5075	0.0000	10,457.8330	10,457.8330	2.6929	0.3108	10,617.7734
2024	4.4361	45.4523	44.2678	0.1056	4.5662	1.8446	6.4108	1.6885	1.6984	3.3869	0.0000	10,414.7477	10,414.7477	2.6931	0.3053	10,573.0593
2025	4.0389	40.0344	42.7668	0.1051	4.5662	1.5899	6.1561	1.6885	1.4641	3.1526	0.0000	10,364.5379	10,364.5379	2.6932	0.2989	10,520.9470
Maximum	**4.5923**	**48.2574**	**44.6131**	**0.1060**	**4.5662**	**1.9756**	**6.5419**	**1.6885**	**1.8190**	**3.5075**	**0.0000**	**10,457.8330**	**10,457.8330**	**2.6932**	**0.3108**	**10,617.7734**

Sunlakes Boulevard - Riverside-South Coast County, Winter

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio-CO2	Total CO2	CH4	N20	CO2e
Percent Reduction	0.00	0.00	0.00	0.00	55.21	0.00	46.91	56.92	0.00	39.98	0.00	0.00	0.00	0.00	0.00	0.00

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

2.2 Overall Operational

Unmitigated Operational

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Area	0.4497	9.4000e-004	0.1041	1.0000e-005		3.7000e-004	3.7000e-004		3.7000e-004	3.7000e-004		0.2238	0.2238	5.8000e-004		0.2383
Energy	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000
Mobile	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000
Total	**0.4497**	**9.4000e-004**	**0.1041**	**1.0000e-005**	**0.0000**	**3.7000e-004**	**3.7000e-004**	**0.0000**	**3.7000e-004**	**3.7000e-004**		**0.2238**	**0.2238**	**5.8000e-004**	**0.0000**	**0.2383**

Mitigated Operational

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Area	0.4497	9.4000e-004	0.1041	1.0000e-005		3.7000e-004	3.7000e-004		3.7000e-004	3.7000e-004		0.2238	0.2238	5.8000e-004		0.2383
Energy	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000
Mobile	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000
Total	**0.4497**	**9.4000e-004**	**0.1041**	**1.0000e-005**	**0.0000**	**3.7000e-004**	**3.7000e-004**	**0.0000**	**3.7000e-004**	**3.7000e-004**		**0.2238**	**0.2238**	**5.8000e-004**	**0.0000**	**0.2383**

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio-CO2	Total CO2	CH4	N20	CO2e
Percent Reduction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

3.0 Construction Detail

Construction Phase

Phase Number	Phase Name	Phase Type	Start Date	End Date	Num Days Week	Num Days	Phase Description
1	Grading	Grading	2/1/2023	1/31/2025	5	523	
2	Paving	Paving	2/1/2023	1/31/2025	5	523	

Acres of Grading (Site Preparation Phase): 0

Acres of Grading (Grading Phase): 1569

Acres of Paving: 23.47

Residential Indoor: 0; Residential Outdoor: 0; Non-Residential Indoor: 0; Non-Residential Outdoor: 0; Striped Parking Area: 0 (Architectural Coating – sqft)

OffRoad Equipment

Phase Name	Offroad Equipment Type	Amount	Usage Hours	Horse Power	Load Factor
Grading	Excavators	2	8.00	158	0.38
Grading	Graders	1	8.00	187	0.41
Grading	Rubber Tired Dozers	1	8.00	247	0.40
Grading	Scrapers	2	8.00	367	0.48
Grading	Tractors/Loaders/Backhoes	2	8.00	97	0.37
Paving	Pavers	2	8.00	130	0.42
Paving	Paving Equipment	2	8.00	132	0.36
Paving	Rollers	2	8.00	80	0.38

Trips and VMT

Sunlakes Boulevard - Riverside-South Coast County, Winter

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

Phase Name	Offroad Equipment Count	Worker Trip Number	Vendor Trip Number	Hauling Trip Number	Worker Trip Length	Vendor Trip Length	Hauling Trip Length	Worker Vehicle Class	Vendor Vehicle Class	Hauling Vehicle Class
Grading	8	20.00	2.00	12,273.00	14.70	6.90	20.00	LD_Mix	HDT_Mix	HHDT
Paving	6	15.00	2.00	4,184.00	14.70	6.90	20.00	LD_Mix	HDT_Mix	HHDT

3.1 Mitigation Measures Construction

Water Exposed Area

3.2 Grading - 2023

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					9.2274	0.0000	9.2274	3.6574	0.0000	3.6574			0.0000			0.0000
Off-Road	3.3217	34.5156	28.0512	0.0621		1.4245	1.4245		1.3105	1.3105		6,011.4777	6,011.4777	1.9442		6,060.0836
Total	**3.3217**	**34.5156**	**28.0512**	**0.0621**	**9.2274**	**1.4245**	**10.6519**	**3.6574**	**1.3105**	**4.9679**		**6,011.4777**	**6,011.4777**	**1.9442**		**6,060.0836**

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

3.2 Grading - 2023

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0472	2.4831	0.6580	0.0129	0.4107	0.0283	0.4390	0.1126	0.0271	0.1397		1,379.1599	1,379.1599	0.0193	0.2173	1,444.4049
Vendor	2.0900e-003	0.0693	0.0278	3.5000e-004	0.0128	5.7000e-004	0.0134	3.6900e-003	5.5000e-004	4.2300e-003		37.1462	37.1462	3.7000e-004	5.4900e-003	38.7926
Worker	0.0684	0.0468	0.5942	1.7800e-003	0.2236	1.0500e-003	0.2246	0.0593	9.6000e-004	0.0603		180.0847	180.0847	4.5800e-003	4.8000e-003	181.6302
Total	**0.1177**	**2.5992**	**1.2800**	**0.0150**	**0.6471**	**0.0299**	**0.6770**	**0.1756**	**0.0286**	**0.2042**		**1,596.3908**	**1,596.3908**	**0.0243**	**0.2276**	**1,664.8276**

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					3.5987	0.0000	3.5987	1.4264	0.0000	1.4264			0.0000			0.0000
Off-Road	3.3217	34.5156	28.0512	0.0621		1.4245	1.4245		1.3105	1.3105	0.0000	6,011.4777	6,011.4777	1.9442		6,060.0836
Total	**3.3217**	**34.5156**	**28.0512**	**0.0621**	**3.5987**	**1.4245**	**5.0232**	**1.4264**	**1.3105**	**2.7369**	**0.0000**	**6,011.4777**	**6,011.4777**	**1.9442**		**6,060.0836**

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

3.2 Grading - 2023

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0472	2.4831	0.6580	0.0129	0.4107	0.0283	0.4390	0.1126	0.0271	0.1397		1,379.1599	1,379.1599	0.0193	0.2173	1,444.4049
Vendor	2.0900e-003	0.0693	0.0278	3.5000e-004	0.0128	5.7000e-004	0.0134	3.6900e-003	5.5000e-004	4.2300e-003		37.1462	37.1462	3.7000e-004	5.4900e-003	38.7926
Worker	0.0684	0.0468	0.5942	1.7800e-003	0.2236	1.0500e-003	0.2246	0.0593	9.6000e-004	0.0603		180.0847	180.0847	4.5800e-003	4.8000e-003	181.6302
Total	**0.1177**	**2.5992**	**1.2800**	**0.0150**	**0.6471**	**0.0299**	**0.6770**	**0.1756**	**0.0286**	**0.2042**		**1,596.3908**	**1,596.3908**	**0.0243**	**0.2276**	**1,664.8276**

3.2 Grading - 2024

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					9.2274	0.0000	9.2274	3.6574	0.0000	3.6574			0.0000			0.0000
Off-Road	3.2181	32.3770	27.7228	0.0621		1.3354	1.3354		1.2286	1.2286		6,009.7487	6,009.7487	1.9437		6,058.3405
Total	**3.2181**	**32.3770**	**27.7228**	**0.0621**	**9.2274**	**1.3354**	**10.5628**	**3.6574**	**1.2286**	**4.8859**		**6,009.7487**	**6,009.7487**	**1.9437**		**6,058.3405**

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

3.2 Grading - 2024

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0471	2.4903	0.6651	0.0127	0.4107	0.0282	0.4389	0.1126	0.0269	0.1395		1,356.6367	1,356.6367	0.0204	0.2138	1,420.8652
Vendor	2.0500e-003	0.0693	0.0275	3.4000e-004	0.0128	5.7000e-004	0.0134	3.6900e-003	5.4000e-004	4.2300e-003		36.5743	36.5743	3.8000e-004	5.4000e-003	38.1933
Worker	0.0640	0.0417	0.5557	1.7300e-003	0.2236	1.0000e-003	0.2246	0.0593	9.2000e-004	0.0602		174.3853	174.3853	4.1600e-003	4.4600e-003	175.8183
Total	**0.1131**	**2.6013**	**1.2483**	**0.0148**	**0.6471**	**0.0297**	**0.6768**	**0.1756**	**0.0284**	**0.2040**		**1,567.5963**	**1,567.5963**	**0.0250**	**0.2237**	**1,634.8769**

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					3.5987	0.0000	3.5987	1.4264	0.0000	1.4264			0.0000			0.0000
Off-Road	3.2181	32.3770	27.7228	0.0621		1.3354	1.3354		1.2286	1.2286	0.0000	6,009.7487	6,009.7487	1.9437		6,058.3405
Total	**3.2181**	**32.3770**	**27.7228**	**0.0621**	**3.5987**	**1.3354**	**4.9341**	**1.4264**	**1.2286**	**2.6549**	**0.0000**	**6,009.7487**	**6,009.7487**	**1.9437**		**6,058.3405**

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

3.2 Grading - 2024

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0471	2.4903	0.6651	0.0127	0.4107	0.0282	0.4389	0.1126	0.0269	0.1395		1,356.6367	1,356.6367	0.0204	0.2138	1,420.8652
Vendor	2.0500e-003	0.0693	0.0275	3.4000e-004	0.0128	5.7000e-004	0.0134	3.6900e-003	5.4000e-004	4.2300e-003		36.5743	36.5743	3.8000e-004	5.4000e-003	38.1933
Worker	0.0640	0.0417	0.5557	1.7300e-003	0.2236	1.0000e-003	0.2246	0.0593	9.2000e-004	0.0602		174.3853	174.3853	4.1600e-003	4.4600e-003	175.8183
Total	**0.1131**	**2.6013**	**1.2483**	**0.0148**	**0.6471**	**0.0297**	**0.6768**	**0.1756**	**0.0284**	**0.2040**		**1,567.5963**	**1,567.5963**	**0.0250**	**0.2237**	**1,634.8769**

3.2 Grading - 2025

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					9.2274	0.0000	9.2274	3.6574	0.0000	3.6574			0.0000			0.0000
Off-Road	2.9012	27.9429	26.3311	0.0621		1.1309	1.1309		1.0404	1.0404		6,008.2814	6,008.2814	1.9432		6,056.8614
Total	**2.9012**	**27.9429**	**26.3311**	**0.0621**	**9.2274**	**1.1309**	**10.3583**	**3.6574**	**1.0404**	**4.6978**		**6,008.2814**	**6,008.2814**	**1.9432**		**6,056.8614**

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

3.2 Grading - 2025

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0470	2.4662	0.6695	0.0124	0.4107	0.0281	0.4388	0.1126	0.0269	0.1395		1,329.5478	1,329.5478	0.0216	0.2096	1,392.5470
Vendor	2.0200e-003	0.0687	0.0272	3.4000e-004	0.0128	5.7000e-004	0.0134	3.6900e-003	5.4000e-004	4.2300e-003		35.9301	35.9301	4.0000e-004	5.2900e-003	37.5180
Worker	0.0600	0.0374	0.5175	1.6700e-003	0.2236	9.5000e-004	0.2245	0.0593	8.7000e-004	0.0602		168.4834	168.4834	3.7600e-003	4.1600e-003	169.8174
Total	**0.1089**	**2.5723**	**1.2142**	**0.0144**	**0.6470**	**0.0296**	**0.6767**	**0.1756**	**0.0283**	**0.2039**		**1,533.9613**	**1,533.9613**	**0.0257**	**0.2191**	**1,599.8823**

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					3.5987	0.0000	3.5987	1.4264	0.0000	1.4264			0.0000			0.0000
Off-Road	2.9012	27.9429	26.3311	0.0621		1.1309	1.1309		1.0404	1.0404	0.0000	6,008.2814	6,008.2814	1.9432		6,056.8614
Total	**2.9012**	**27.9429**	**26.3311**	**0.0621**	**3.5987**	**1.1309**	**4.7296**	**1.4264**	**1.0404**	**2.4668**	**0.0000**	**6,008.2814**	**6,008.2814**	**1.9432**		**6,056.8614**

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

3.2 Grading - 2025

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0470	2.4662	0.6695	0.0124	0.4107	0.0281	0.4388	0.1126	0.0269	0.1395		1,329.5478	1,329.5478	0.0216	0.2096	1,392.5470
Vendor	2.0200e-003	0.0687	0.0272	3.4000e-004	0.0128	5.7000e-004	0.0134	3.6900e-003	5.4000e-004	4.2300e-003		35.9301	35.9301	4.0000e-004	5.2900e-003	37.5180
Worker	0.0600	0.0374	0.5175	1.6700e-003	0.2236	9.5000e-004	0.2245	0.0593	8.7000e-004	0.0602		168.4834	168.4834	3.7600e-003	4.1600e-003	169.8174
Total	**0.1089**	**2.5723**	**1.2142**	**0.0144**	**0.6470**	**0.0296**	**0.6767**	**0.1756**	**0.0283**	**0.2039**		**1,533.9613**	**1,533.9613**	**0.0257**	**0.2191**	**1,599.8823**

3.3 Paving - 2023

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	1.0327	10.1917	14.5842	0.0228		0.5102	0.5102		0.4694	0.4694		2,207.5841	2,207.5841	0.7140		2,225.4336
Paving	0.0506					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Total	**1.0833**	**10.1917**	**14.5842**	**0.0228**		**0.5102**	**0.5102**		**0.4694**	**0.4694**		**2,207.5841**	**2,207.5841**	**0.7140**		**2,225.4336**

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

3.3 Paving - 2023

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0161	0.8465	0.2243	4.4000e-003	0.1400	9.6600e-003	0.1497	0.0384	9.2400e-003	0.0476		470.1707	470.1707	6.5900e-003	0.0741	492.4134
Vendor	2.0900e-003	0.0693	0.0278	3.5000e-004	0.0128	5.7000e-004	0.0134	3.6900e-003	5.5000e-004	4.2300e-003		37.1462	37.1462	3.7000e-004	5.4900e-003	38.7926
Worker	0.0513	0.0351	0.4456	1.3400e-003	0.1677	7.8000e-004	0.1685	0.0445	7.2000e-004	0.0452		135.0635	135.0635	3.4300e-003	3.6000e-003	136.2226
Total	**0.0695**	**0.9509**	**0.6978**	**6.0900e-003**	**0.3205**	**0.0110**	**0.3315**	**0.0866**	**0.0105**	**0.0970**		**642.3804**	**642.3804**	**0.0104**	**0.0832**	**667.4286**

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	1.0327	10.1917	14.5842	0.0228		0.5102	0.5102		0.4694	0.4694	0.0000	2,207.5841	2,207.5841	0.7140		2,225.4336
Paving	0.0506					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Total	**1.0833**	**10.1917**	**14.5842**	**0.0228**		**0.5102**	**0.5102**		**0.4694**	**0.4694**	**0.0000**	**2,207.5841**	**2,207.5841**	**0.7140**		**2,225.4336**

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

3.3 Paving - 2023

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0161	0.8465	0.2243	4.4000e-003	0.1400	9.6600e-003	0.1497	0.0384	9.2400e-003	0.0476		470.1707	470.1707	6.5900e-003	0.0741	492.4134
Vendor	2.0900e-003	0.0693	0.0278	3.5000e-004	0.0128	5.7000e-004	0.0134	3.6900e-003	5.5000e-004	4.2300e-003		37.1462	37.1462	3.7000e-004	5.4900e-003	38.7926
Worker	0.0513	0.0351	0.4456	1.3400e-003	0.1677	7.8000e-004	0.1685	0.0445	7.2000e-004	0.0452		135.0635	135.0635	3.4300e-003	3.6000e-003	136.2226
Total	**0.0695**	**0.9509**	**0.6978**	**6.0900e-003**	**0.3205**	**0.0110**	**0.3315**	**0.0866**	**0.0105**	**0.0970**		**642.3804**	**642.3804**	**0.0104**	**0.0832**	**667.4286**

3.3 Paving - 2024

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	0.9882	9.5246	14.6258	0.0228		0.4685	0.4685		0.4310	0.4310		2,207.5472	2,207.5472	0.7140		2,225.3963
Paving	0.0506					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Total	**1.0388**	**9.5246**	**14.6258**	**0.0228**		**0.4685**	**0.4685**		**0.4310**	**0.4310**		**2,207.5472**	**2,207.5472**	**0.7140**		**2,225.3963**

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

3.3 Paving - 2024

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0161	0.8490	0.2267	4.3300e-003	0.1400	9.6000e-003	0.1496	0.0384	9.1800e-003	0.0476		462.4923	462.4923	6.9600e-003	0.0729	484.3885
Vendor	2.0500e-003	0.0693	0.0275	3.4000e-004	0.0128	5.7000e-004	0.0134	3.6900e-003	5.4000e-004	4.2300e-003		36.5743	36.5743	3.8000e-004	5.4000e-003	38.1933
Worker	0.0480	0.0313	0.4168	1.2900e-003	0.1677	7.5000e-004	0.1684	0.0445	6.9000e-004	0.0452		130.7890	130.7890	3.1200e-003	3.3500e-003	131.8638
Total	**0.0661**	**0.9495**	**0.6710**	**5.9600e-003**	**0.3205**	**0.0109**	**0.3314**	**0.0865**	**0.0104**	**0.0970**		**629.8556**	**629.8556**	**0.0105**	**0.0816**	**654.4456**

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	0.9882	9.5246	14.6258	0.0228		0.4685	0.4685		0.4310	0.4310	0.0000	2,207.5472	2,207.5472	0.7140		2,225.3963
Paving	0.0506					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Total	**1.0388**	**9.5246**	**14.6258**	**0.0228**		**0.4685**	**0.4685**		**0.4310**	**0.4310**	**0.0000**	**2,207.5472**	**2,207.5472**	**0.7140**		**2,225.3963**

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

3.3 Paving - 2024

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0161	0.8490	0.2267	4.3300e-003	0.1400	9.6000e-003	0.1496	0.0384	9.1800e-003	0.0476		462.4923	462.4923	6.9600e-003	0.0729	484.3885
Vendor	2.0500e-003	0.0693	0.0275	3.4000e-004	0.0128	5.7000e-004	0.0134	3.6900e-003	5.4000e-004	4.2300e-003		36.5743	36.5743	3.8000e-004	5.4000e-003	38.1933
Worker	0.0480	0.0313	0.4168	1.2900e-003	0.1677	7.5000e-004	0.1684	0.0445	6.9000e-004	0.0452		130.7890	130.7890	3.1200e-003	3.3500e-003	131.8638
Total	**0.0661**	**0.9495**	**0.6710**	**5.9600e-003**	**0.3205**	**0.0109**	**0.3314**	**0.0865**	**0.0104**	**0.0970**		**629.8556**	**629.8556**	**0.0105**	**0.0816**	**654.4456**

3.3 Paving - 2025

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	0.9152	8.5816	14.5780	0.0228		0.4185	0.4185		0.3850	0.3850		2,206.7452	2,206.7452	0.7137		2,224.5878
Paving	0.0506					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Total	**0.9658**	**8.5816**	**14.5780**	**0.0228**		**0.4185**	**0.4185**		**0.3850**	**0.3850**		**2,206.7452**	**2,206.7452**	**0.7137**		**2,224.5878**

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

3.3 Paving - 2025

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0160	0.8408	0.2283	4.2400e-003	0.1400	9.5800e-003	0.1496	0.0384	9.1700e-003	0.0476		453.2574	453.2574	7.3500e-003	0.0715	474.7345
Vendor	2.0200e-003	0.0687	0.0272	3.4000e-004	0.0128	5.7000e-004	0.0134	3.6900e-003	5.4000e-004	4.2300e-003		35.9301	35.9301	4.0000e-004	5.2900e-003	37.5180
Worker	0.0450	0.0280	0.3881	1.2500e-003	0.1677	7.1000e-004	0.1684	0.0445	6.5000e-004	0.0451		126.3625	126.3625	2.8200e-003	3.1200e-003	127.3630
Total	**0.0630**	**0.9375**	**0.6435**	**5.8300e-003**	**0.3205**	**0.0109**	**0.3313**	**0.0865**	**0.0104**	**0.0969**		**615.5500**	**615.5500**	**0.0106**	**0.0799**	**639.6155**

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	0.9152	8.5816	14.5780	0.0228		0.4185	0.4185		0.3850	0.3850	0.0000	2,206.7452	2,206.7452	0.7137		2,224.5878
Paving	0.0506					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Total	**0.9658**	**8.5816**	**14.5780**	**0.0228**		**0.4185**	**0.4185**		**0.3850**	**0.3850**	**0.0000**	**2,206.7452**	**2,206.7452**	**0.7137**		**2,224.5878**

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

3.3 Paving - 2025

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0160	0.8408	0.2283	4.2400e-003	0.1400	9.5800e-003	0.1496	0.0384	9.1700e-003	0.0476		453.2574	453.2574	7.3500e-003	0.0715	474.7345
Vendor	2.0200e-003	0.0687	0.0272	3.4000e-004	0.0128	5.7000e-004	0.0134	3.6900e-003	5.4000e-004	4.2300e-003		35.9301	35.9301	4.0000e-004	5.2900e-003	37.5180
Worker	0.0450	0.0280	0.3881	1.2500e-003	0.1677	7.1000e-004	0.1684	0.0445	6.5000e-004	0.0451		126.3625	126.3625	2.8200e-003	3.1200e-003	127.3630
Total	**0.0630**	**0.9375**	**0.6435**	**5.8300e-003**	**0.3205**	**0.0109**	**0.3313**	**0.0865**	**0.0104**	**0.0969**		**615.5500**	**615.5500**	**0.0106**	**0.0799**	**639.6155**

4.0 Operational Detail - Mobile

4.1 Mitigation Measures Mobile

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Mitigated	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000
Unmitigated	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000

4.2 Trip Summary Information

	Average Daily Trip Rate			Unmitigated	Mitigated
Land Use	Weekday	Saturday	Sunday	Annual VMT	Annual VMT
Other Asphalt Surfaces	0.00	0.00	0.00		
Other Non-Asphalt Surfaces	0.00	0.00	0.00		
Total	0.00	0.00	0.00		

4.3 Trip Type Information

	Miles			Trip %			Trip Purpose %		
Land Use	H-W or C-W	H-S or C-C	H-O or C-NW	H-W or C-W	H-S or C-C	H-O or C-NW	Primary	Diverted	Pass-by
Other Asphalt Surfaces	16.60	8.40	6.90	0.00	0.00	0.00	0	0	0
Other Non-Asphalt Surfaces	16.60	8.40	6.90	0.00	0.00	0.00	0	0	0

4.4 Fleet Mix

Land Use	LDA	LDT1	LDT2	MDV	LHD1	LHD2	MHD	HHD	OBUS	UBUS	MCY	SBUS	MH
Other Asphalt Surfaces	0.540541	0.056458	0.173793	0.136090	0.025268	0.007074	0.011525	0.018705	0.000610	0.000304	0.023606	0.001094	0.004932
Other Non-Asphalt Surfaces	0.540541	0.056458	0.173793	0.136090	0.025268	0.007074	0.011525	0.018705	0.000610	0.000304	0.023606	0.001094	0.004932

5.0 Energy Detail

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

Historical Energy Use: N

5.1 Mitigation Measures Energy

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
NaturalGas Mitigated	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000
NaturalGas Unmitigated	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000

5.2 Energy by Land Use - NaturalGas

Unmitigated

	NaturalGas Use	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Land Use	kBTU/yr	lb/day										lb/day					
Other Asphalt Surfaces	0	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000
Other Non-Asphalt Surfaces	0	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000
Total		**0.0000**	**0.0000**	**0.0000**	**0.0000**		**0.0000**	**0.0000**		**0.0000**	**0.0000**		**0.0000**	**0.0000**	**0.0000**	**0.0000**	**0.0000**

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

5.2 Energy by Land Use - NaturalGas

Mitigated

	NaturalGas Use	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Land Use	kBTU/yr	lb/day										lb/day					
Other Asphalt Surfaces	0	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000
Other Non-Asphalt Surfaces	0	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000
Total		**0.0000**	**0.0000**	**0.0000**	**0.0000**		**0.0000**	**0.0000**		**0.0000**	**0.0000**		**0.0000**	**0.0000**	**0.0000**	**0.0000**	**0.0000**

6.0 Area Detail

6.1 Mitigation Measures Area

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Mitigated	0.4497	9.4000e-004	0.1041	1.0000e-005		3.7000e-004	3.7000e-004		3.7000e-004	3.7000e-004		0.2238	0.2238	5.8000e-004		0.2383
Unmitigated	0.4497	9.4000e-004	0.1041	1.0000e-005		3.7000e-004	3.7000e-004		3.7000e-004	3.7000e-004		0.2238	0.2238	5.8000e-004		0.2383

Sunlakes Boulevard - Riverside-South Coast County, Winter

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

6.2 Area by SubCategory

Unmitigated

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
SubCategory	lb/day										lb/day					
Architectural Coating	0.0779					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Consumer Products	0.3622					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Landscaping	9.5900e-003	9.4000e-004	0.1041	1.0000e-005		3.7000e-004	3.7000e-004		3.7000e-004	3.7000e-004		0.2238	0.2238	5.8000e-004		0.2383
Total	**0.4497**	**9.4000e-004**	**0.1041**	**1.0000e-005**		**3.7000e-004**	**3.7000e-004**		**3.7000e-004**	**3.7000e-004**		**0.2238**	**0.2238**	**5.8000e-004**		**0.2383**

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

6.2 Area by SubCategory

Mitigated

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
SubCategory	lb/day										lb/day					
Architectural Coating	0.0779					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Consumer Products	0.3622					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Landscaping	9.5900e-003	9.4000e-004	0.1041	1.0000e-005		3.7000e-004	3.7000e-004		3.7000e-004	3.7000e-004		0.2238	0.2238	5.8000e-004		0.2383
Total	**0.4497**	**9.4000e-004**	**0.1041**	**1.0000e-005**		**3.7000e-004**	**3.7000e-004**		**3.7000e-004**	**3.7000e-004**		**0.2238**	**0.2238**	**5.8000e-004**		**0.2383**

7.0 Water Detail

7.1 Mitigation Measures Water

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

8.0 Waste Detail

8.1 Mitigation Measures Waste

9.0 Operational Offroad

Equipment Type	Number	Hours/Day	Days/Year	Horse Power	Load Factor	Fuel Type

10.0 Stationary Equipment

Fire Pumps and Emergency Generators

Equipment Type	Number	Hours/Day	Hours/Year	Horse Power	Load Factor	Fuel Type

Boilers

Equipment Type	Number	Heat Input/Day	Heat Input/Year	Boiler Rating	Fuel Type

User Defined Equipment

Equipment Type	Number

11.0 Vegetation

Sunlakes Boulevard - Riverside-South Coast County, Annual

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

Sunlakes Boulevard

Riverside-South Coast County, Annual

1.0 Project Characteristics

1.1 Land Usage

Land Uses	Size	Metric	Lot Acreage	Floor Surface Area	Population
Other Asphalt Surfaces	440.15	1000sqft	10.10	440,152.00	0
Other Non-Asphalt Surfaces	582.36	1000sqft	13.37	582,364.00	0

1.2 Other Project Characteristics

Urbanization	Urban	**Wind Speed (m/s)**	2.4	**Precipitation Freq (Days)**	28
Climate Zone	10			**Operational Year**	2025
Utility Company	User Defined				
CO2 Intensity (lb/MWhr)	310.98	**CH4 Intensity (lb/MWhr)**	0.033	**N2O Intensity (lb/MWhr)**	0.004

1.3 User Entered Comments & Non-Default Data

Project Characteristics - City of Banning Electric Co.

Land Use - Per Project Engineers

Construction Phase - Per Project Engineers

Trips and VMT - 2 daily water truck trips added as vendor trips for grading and paving phases. 8 hauling truck trips per day were added to paving.

Grading - Per Project Engineers

Energy Use - Account for street lighting.

Construction Off-road Equipment Mitigation - Per Rule 403

Table Name	Column Name	Default Value	New Value
tblConstructionPhase	NumDays	35.00	523.00

Sunlakes Boulevard - Riverside-South Coast County, Annual

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

tblConstructionPhase	NumDays	20.00	523.00
tblEnergyUse	LightingElect	0.00	0.35
tblGrading	MaterialImported	0.00	98,180.00
tblLandUse	LandUseSquareFeet	440,150.00	440,152.00
tblLandUse	LandUseSquareFeet	582,360.00	582,364.00
tblProjectCharacteristics	CH4IntensityFactor	0	0.033
tblProjectCharacteristics	CO2IntensityFactor	0	310.98
tblProjectCharacteristics	N2OIntensityFactor	0	0.004
tblTripsAndVMT	HaulingTripNumber	0.00	4,184.00
tblTripsAndVMT	VendorTripNumber	0.00	2.00
tblTripsAndVMT	VendorTripNumber	0.00	2.00

2.0 Emissions Summary

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

2.1 Overall Construction

Unmitigated Construction

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Year	tons/yr										MT/yr					
2023	0.5462	5.7410	5.3143	0.0126	1.6682	0.2351	1.9033	0.5155	0.2165	0.7319	0.0000	1,129.5743	1,129.5743	0.2907	0.0335	1,146.8373
2024	0.5808	5.9524	5.8044	0.0138	1.7519	0.2416	1.9935	0.5583	0.2225	0.7808	0.0000	1,238.3352	1,238.3352	0.3201	0.0363	1,257.1451
2025	0.0464	0.4602	0.4922	1.2100e-003	0.9184	0.0183	0.9367	0.1318	0.0168	0.1487	0.0000	108.1825	108.1825	0.0281	3.1200e-003	109.8139
Maximum	**0.5808**	**5.9524**	**5.8044**	**0.0138**	**1.7519**	**0.2416**	**1.9935**	**0.5583**	**0.2225**	**0.7808**	**0.0000**	**1,238.3352**	**1,238.3352**	**0.3201**	**0.0363**	**1,257.1451**

Mitigated Construction

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Year	tons/yr										MT/yr					
2023	0.5462	5.7410	5.3142	0.0126	0.7198	0.2351	0.9548	0.2198	0.2165	0.4363	0.0000	1,129.5733	1,129.5733	0.2907	0.0335	1,146.8363
2024	0.5808	5.9524	5.8044	0.0138	0.7594	0.2416	1.0010	0.2384	0.2225	0.4609	0.0000	1,238.3340	1,238.3340	0.3201	0.0363	1,257.1439
2025	0.0464	0.4602	0.4922	1.2100e-003	0.3649	0.0183	0.3831	0.0532	0.0168	0.0701	0.0000	108.1824	108.1824	0.0281	3.1200e-003	109.8138
Maximum	**0.5808**	**5.9524**	**5.8044**	**0.0138**	**0.7594**	**0.2416**	**1.0010**	**0.2384**	**0.2225**	**0.4609**	**0.0000**	**1,238.3340**	**1,238.3340**	**0.3201**	**0.0363**	**1,257.1439**

Sunlakes Boulevard - Riverside-South Coast County, Annual

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio-CO2	Total CO2	CH4	N20	CO2e
Percent Reduction	**0.00**	**0.00**	**0.00**	**0.00**	**57.50**	**0.00**	**51.61**	**57.58**	**0.00**	**41.78**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**

Quarter	Start Date	End Date	Maximum Unmitigated ROG + NOX (tons/quarter)	Maximum Mitigated ROG + NOX (tons/quarter)
1	**1-31-2023**	**4-29-2023**	1.6591	1.6591
2	**4-30-2023**	**7-30-2023**	1.7304	1.7304
3	**7-31-2023**	**10-30-2023**	1.7324	1.7324
4	**10-31-2023**	**1-30-2024**	1.7048	1.7048
5	**1-31-2024**	**4-29-2024**	1.6016	1.6016
6	**4-30-2024**	**7-30-2024**	1.6331	1.6331
7	**7-31-2024**	**10-30-2024**	1.6351	1.6351
8	**10-31-2024**	**1-30-2025**	1.5769	1.5769
9	**1-31-2025**	**4-29-2025**	0.0157	0.0157
		Highest	1.7324	1.7324

Sunlakes Boulevard - Riverside-South Coast County, Annual

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

2.2 Overall Operational

Unmitigated Operational

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Area	0.0815	1.2000e-004	0.0130	0.0000		5.0000e-005	5.0000e-005		5.0000e-005	5.0000e-005	0.0000	0.0254	0.0254	7.0000e-005	0.0000	0.0270
Energy	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	21.7305	21.7305	2.3100e-003	2.8000e-004	21.8714
Mobile	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Waste						0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Water						0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Total	**0.0815**	**1.2000e-004**	**0.0130**	**0.0000**	**0.0000**	**5.0000e-005**	**5.0000e-005**	**0.0000**	**5.0000e-005**	**5.0000e-005**	**0.0000**	**21.7558**	**21.7558**	**2.3800e-003**	**2.8000e-004**	**21.8984**

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

2.2 Overall Operational

Mitigated Operational

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Area	0.0815	1.2000e-004	0.0130	0.0000		5.0000e-005	5.0000e-005		5.0000e-005	5.0000e-005	0.0000	0.0254	0.0254	7.0000e-005	0.0000	0.0270
Energy	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	21.7305	21.7305	2.3100e-003	2.8000e-004	21.8714
Mobile	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Waste						0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Water						0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Total	**0.0815**	**1.2000e-004**	**0.0130**	**0.0000**	**0.0000**	**5.0000e-005**	**5.0000e-005**	**0.0000**	**5.0000e-005**	**5.0000e-005**	**0.0000**	**21.7558**	**21.7558**	**2.3800e-003**	**2.8000e-004**	**21.8984**

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio-CO2	Total CO2	CH4	N20	CO2e
Percent Reduction	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**

3.0 Construction Detail

Construction Phase

Phase Number	Phase Name	Phase Type	Start Date	End Date	Num Days Week	Num Days	Phase Description
1	Grading	Grading	2/1/2023	1/31/2025	5	523	
2	Paving	Paving	2/1/2023	1/31/2025	5	523	

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

Acres of Grading (Site Preparation Phase): 0

Acres of Grading (Grading Phase): 1569

Acres of Paving: 23.47

Residential Indoor: 0; Residential Outdoor: 0; Non-Residential Indoor: 0; Non-Residential Outdoor: 0; Striped Parking Area: 0 (Architectural Coating – sqft)

OffRoad Equipment

Phase Name	Offroad Equipment Type	Amount	Usage Hours	Horse Power	Load Factor
Grading	Excavators	2	8.00	158	0.38
Grading	Graders	1	8.00	187	0.41
Grading	Rubber Tired Dozers	1	8.00	247	0.40
Grading	Scrapers	2	8.00	367	0.48
Grading	Tractors/Loaders/Backhoes	2	8.00	97	0.37
Paving	Pavers	2	8.00	130	0.42
Paving	Paving Equipment	2	8.00	132	0.36
Paving	Rollers	2	8.00	80	0.38

Trips and VMT

Phase Name	Offroad Equipment Count	Worker Trip Number	Vendor Trip Number	Hauling Trip Number	Worker Trip Length	Vendor Trip Length	Hauling Trip Length	Worker Vehicle Class	Vendor Vehicle Class	Hauling Vehicle Class
Grading	8	20.00	2.00	12,273.00	14.70	6.90	20.00	LD_Mix	HDT_Mix	HHDT
Paving	6	15.00	2.00	4,184.00	14.70	6.90	20.00	LD_Mix	HDT_Mix	HHDT

3.1 Mitigation Measures Construction

Water Exposed Area

Sunlakes Boulevard - Riverside-South Coast County, Annual

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

3.2 Grading - 2023

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Fugitive Dust					1.5548	0.0000	1.5548	0.4847	0.0000	0.4847	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	0.3953	4.1074	3.3381	7.3900e-003		0.1695	0.1695		0.1560	0.1560	0.0000	648.9690	648.9690	0.2099	0.0000	654.2162
Total	**0.3953**	**4.1074**	**3.3381**	**7.3900e-003**	**1.5548**	**0.1695**	**1.7243**	**0.4847**	**0.1560**	**0.6406**	**0.0000**	**648.9690**	**648.9690**	**0.2099**	**0.0000**	**654.2162**

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	5.9000e-003	0.2942	0.0774	1.5400e-003	0.0482	3.3700e-003	0.0515	0.0132	3.2200e-003	0.0165	0.0000	148.7523	148.7523	2.1000e-003	0.0234	155.7899
Vendor	2.6000e-004	8.1600e-003	3.2500e-003	4.0000e-005	1.5000e-003	7.0000e-005	1.5700e-003	4.3000e-004	6.0000e-005	5.0000e-004	0.0000	4.0044	4.0044	4.0000e-005	5.9000e-004	4.1818
Worker	7.7200e-003	5.7200e-003	0.0745	2.2000e-004	0.0262	1.2000e-004	0.0263	6.9500e-003	1.1000e-004	7.0600e-003	0.0000	19.8933	19.8933	5.0000e-004	5.3000e-004	20.0631
Total	**0.0139**	**0.3081**	**0.1551**	**1.8000e-003**	**0.0758**	**3.5600e-003**	**0.0794**	**0.0206**	**3.3900e-003**	**0.0240**	**0.0000**	**172.6500**	**172.6500**	**2.6400e-003**	**0.0246**	**180.0348**

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EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

3.2 Grading - 2023

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Fugitive Dust					0.6064	0.0000	0.6064	0.1890	0.0000	0.1890	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	0.3953	4.1074	3.3381	7.3900e-003		0.1695	0.1695		0.1560	0.1560	0.0000	648.9682	648.9682	0.2099	0.0000	654.2155
Total	**0.3953**	**4.1074**	**3.3381**	**7.3900e-003**	**0.6064**	**0.1695**	**0.7759**	**0.1890**	**0.1560**	**0.3450**	**0.0000**	**648.9682**	**648.9682**	**0.2099**	**0.0000**	**654.2155**

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	5.9000e-003	0.2942	0.0774	1.5400e-003	0.0482	3.3700e-003	0.0515	0.0132	3.2200e-003	0.0165	0.0000	148.7523	148.7523	2.1000e-003	0.0234	155.7899
Vendor	2.6000e-004	8.1600e-003	3.2500e-003	4.0000e-005	1.5000e-003	7.0000e-005	1.5700e-003	4.3000e-004	6.0000e-005	5.0000e-004	0.0000	4.0044	4.0044	4.0000e-005	5.9000e-004	4.1818
Worker	7.7200e-003	5.7200e-003	0.0745	2.2000e-004	0.0262	1.2000e-004	0.0263	6.9500e-003	1.1000e-004	7.0600e-003	0.0000	19.8933	19.8933	5.0000e-004	5.3000e-004	20.0631
Total	**0.0139**	**0.3081**	**0.1551**	**1.8000e-003**	**0.0758**	**3.5600e-003**	**0.0794**	**0.0206**	**3.3900e-003**	**0.0240**	**0.0000**	**172.6500**	**172.6500**	**2.6400e-003**	**0.0246**	**180.0348**

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

3.2 Grading - 2024

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Fugitive Dust					1.6271	0.0000	1.6271	0.5244	0.0000	0.5244	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	0.4216	4.2414	3.6317	8.1300e-003		0.1749	0.1749		0.1609	0.1609	0.0000	714.2058	714.2058	0.2310	0.0000	719.9805
Total	**0.4216**	**4.2414**	**3.6317**	**8.1300e-003**	**1.6271**	**0.1749**	**1.8020**	**0.5244**	**0.1609**	**0.6854**	**0.0000**	**714.2058**	**714.2058**	**0.2310**	**0.0000**	**719.9805**

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	6.4800e-003	0.3248	0.0861	1.6600e-003	0.0530	3.6900e-003	0.0567	0.0146	3.5300e-003	0.0181	0.0000	161.0778	161.0778	2.4400e-003	0.0254	168.7043
Vendor	2.8000e-004	8.9800e-003	3.5400e-003	5.0000e-005	1.6600e-003	7.0000e-005	1.7300e-003	4.8000e-004	7.0000e-005	5.5000e-004	0.0000	4.3403	4.3403	5.0000e-005	6.4000e-004	4.5324
Worker	7.9300e-003	5.6000e-003	0.0767	2.3000e-004	0.0288	1.3000e-004	0.0289	7.6500e-003	1.2000e-004	7.7700e-003	0.0000	21.2060	21.2060	5.0000e-004	5.4000e-004	21.3793
Total	**0.0147**	**0.3394**	**0.1664**	**1.9400e-003**	**0.0835**	**3.8900e-003**	**0.0874**	**0.0227**	**3.7200e-003**	**0.0264**	**0.0000**	**186.6240**	**186.6240**	**2.9900e-003**	**0.0266**	**194.6159**

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

3.2 Grading - 2024

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Fugitive Dust					0.6346	0.0000	0.6346	0.2045	0.0000	0.2045	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	0.4216	4.2414	3.6317	8.1300e-003		0.1749	0.1749		0.1609	0.1609	0.0000	714.2049	714.2049	0.2310	0.0000	719.9796
Total	**0.4216**	**4.2414**	**3.6317**	**8.1300e-003**	**0.6346**	**0.1749**	**0.8095**	**0.2045**	**0.1609**	**0.3655**	**0.0000**	**714.2049**	**714.2049**	**0.2310**	**0.0000**	**719.9796**

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	6.4800e-003	0.3248	0.0861	1.6600e-003	0.0530	3.6900e-003	0.0567	0.0146	3.5300e-003	0.0181	0.0000	161.0778	161.0778	2.4400e-003	0.0254	168.7043
Vendor	2.8000e-004	8.9800e-003	3.5400e-003	5.0000e-005	1.6600e-003	7.0000e-005	1.7300e-003	4.8000e-004	7.0000e-005	5.5000e-004	0.0000	4.3403	4.3403	5.0000e-005	6.4000e-004	4.5324
Worker	7.9300e-003	5.6000e-003	0.0767	2.3000e-004	0.0288	1.3000e-004	0.0289	7.6500e-003	1.2000e-004	7.7700e-003	0.0000	21.2060	21.2060	5.0000e-004	5.4000e-004	21.3793
Total	**0.0147**	**0.3394**	**0.1664**	**1.9400e-003**	**0.0835**	**3.8900e-003**	**0.0874**	**0.0227**	**3.7200e-003**	**0.0264**	**0.0000**	**186.6240**	**186.6240**	**2.9900e-003**	**0.0266**	**194.6159**

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

3.2 Grading - 2025

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Fugitive Dust					0.9074	0.0000	0.9074	0.1288	0.0000	0.1288	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	0.0334	0.3213	0.3028	7.1000e-004		0.0130	0.0130		0.0120	0.0120	0.0000	62.6821	62.6821	0.0203	0.0000	63.1890
Total	**0.0334**	**0.3213**	**0.3028**	**7.1000e-004**	**0.9074**	**0.0130**	**0.9204**	**0.1288**	**0.0120**	**0.1408**	**0.0000**	**62.6821**	**62.6821**	**0.0203**	**0.0000**	**63.1890**

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	5.7000e-004	0.0282	7.6100e-003	1.4000e-004	4.6500e-003	3.2000e-004	4.9800e-003	1.2800e-003	3.1000e-004	1.5900e-003	0.0000	13.8580	13.8580	2.3000e-004	2.1800e-003	14.5147
Vendor	2.0000e-005	7.8000e-004	3.1000e-004	0.0000	1.5000e-004	1.0000e-005	1.5000e-004	4.0000e-005	1.0000e-005	5.0000e-005	0.0000	0.3743	0.3743	0.0000	6.0000e-005	0.3908
Worker	6.5000e-004	4.4000e-004	6.2700e-003	2.0000e-005	2.5300e-003	1.0000e-005	2.5400e-003	6.7000e-004	1.0000e-005	6.8000e-004	0.0000	1.7985	1.7985	4.0000e-005	4.0000e-005	1.8126
Total	**1.2400e-003**	**0.0295**	**0.0142**	**1.6000e-004**	**7.3300e-003**	**3.4000e-004**	**7.6700e-003**	**1.9900e-003**	**3.3000e-004**	**2.3200e-003**	**0.0000**	**16.0308**	**16.0308**	**2.7000e-004**	**2.2800e-003**	**16.7182**

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

3.2 Grading - 2025

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Fugitive Dust					0.3539	0.0000	0.3539	0.0503	0.0000	0.0503	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	0.0334	0.3213	0.3028	7.1000e-004		0.0130	0.0130		0.0120	0.0120	0.0000	62.6821	62.6821	0.0203	0.0000	63.1889
Total	**0.0334**	**0.3213**	**0.3028**	**7.1000e-004**	**0.3539**	**0.0130**	**0.3669**	**0.0503**	**0.0120**	**0.0622**	**0.0000**	**62.6821**	**62.6821**	**0.0203**	**0.0000**	**63.1889**

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	5.7000e-004	0.0282	7.6100e-003	1.4000e-004	4.6500e-003	3.2000e-004	4.9800e-003	1.2800e-003	3.1000e-004	1.5900e-003	0.0000	13.8580	13.8580	2.3000e-004	2.1800e-003	14.5147
Vendor	2.0000e-005	7.8000e-004	3.1000e-004	0.0000	1.5000e-004	1.0000e-005	1.5000e-004	4.0000e-005	1.0000e-005	5.0000e-005	0.0000	0.3743	0.3743	0.0000	6.0000e-005	0.3908
Worker	6.5000e-004	4.4000e-004	6.2700e-003	2.0000e-005	2.5300e-003	1.0000e-005	2.5400e-003	6.7000e-004	1.0000e-005	6.8000e-004	0.0000	1.7985	1.7985	4.0000e-005	4.0000e-005	1.8126
Total	**1.2400e-003**	**0.0295**	**0.0142**	**1.6000e-004**	**7.3300e-003**	**3.4000e-004**	**7.6700e-003**	**1.9900e-003**	**3.3000e-004**	**2.3200e-003**	**0.0000**	**16.0308**	**16.0308**	**2.7000e-004**	**2.2800e-003**	**16.7182**

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EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

3.3 Paving - 2023

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Off-Road	0.1229	1.2128	1.7355	2.7100e-003		0.0607	0.0607		0.0559	0.0559	0.0000	238.3197	238.3197	0.0771	0.0000	240.2467
Paving	6.0200e-003					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Total	**0.1289**	**1.2128**	**1.7355**	**2.7100e-003**		**0.0607**	**0.0607**		**0.0559**	**0.0559**	**0.0000**	**238.3197**	**238.3197**	**0.0771**	**0.0000**	**240.2467**

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	2.0100e-003	0.1003	0.0264	5.2000e-004	0.0164	1.1500e-003	0.0176	4.5100e-003	1.1000e-003	5.6100e-003	0.0000	50.7113	50.7113	7.2000e-004	7.9900e-003	53.1105
Vendor	2.6000e-004	8.1600e-003	3.2500e-003	4.0000e-005	1.5000e-003	7.0000e-005	1.5700e-003	4.3000e-004	6.0000e-005	5.0000e-004	0.0000	4.0044	4.0044	4.0000e-005	5.9000e-004	4.1818
Worker	5.7900e-003	4.2900e-003	0.0559	1.6000e-004	0.0196	9.0000e-005	0.0197	5.2100e-003	9.0000e-005	5.3000e-003	0.0000	14.9200	14.9200	3.7000e-004	4.0000e-004	15.0473
Total	**8.0600e-003**	**0.1128**	**0.0855**	**7.2000e-004**	**0.0375**	**1.3100e-003**	**0.0389**	**0.0102**	**1.2500e-003**	**0.0114**	**0.0000**	**69.6356**	**69.6356**	**1.1300e-003**	**8.9800e-003**	**72.3396**

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Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Off-Road	0.1229	1.2128	1.7355	2.7100e-003		0.0607	0.0607		0.0559	0.0559	0.0000	238.3194	238.3194	0.0771	0.0000	240.2464
Paving	6.0200e-003					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Total	**0.1289**	**1.2128**	**1.7355**	**2.7100e-003**		**0.0607**	**0.0607**		**0.0559**	**0.0559**	**0.0000**	**238.3194**	**238.3194**	**0.0771**	**0.0000**	**240.2464**

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	2.0100e-003	0.1003	0.0264	5.2000e-004	0.0164	1.1500e-003	0.0176	4.5100e-003	1.1000e-003	5.6100e-003	0.0000	50.7113	50.7113	7.2000e-004	7.9900e-003	53.1105
Vendor	2.6000e-004	8.1600e-003	3.2500e-003	4.0000e-005	1.5000e-003	7.0000e-005	1.5700e-003	4.3000e-004	6.0000e-005	5.0000e-004	0.0000	4.0044	4.0044	4.0000e-005	5.9000e-004	4.1818
Worker	5.7900e-003	4.2900e-003	0.0559	1.6000e-004	0.0196	9.0000e-005	0.0197	5.2100e-003	9.0000e-005	5.3000e-003	0.0000	14.9200	14.9200	3.7000e-004	4.0000e-004	15.0473
Total	**8.0600e-003**	**0.1128**	**0.0855**	**7.2000e-004**	**0.0375**	**1.3100e-003**	**0.0389**	**0.0102**	**1.2500e-003**	**0.0114**	**0.0000**	**69.6356**	**69.6356**	**1.1300e-003**	**8.9800e-003**	**72.3396**

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EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

3.3 Paving - 2024

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Off-Road	0.1295	1.2477	1.9160	2.9900e-003		0.0614	0.0614		0.0565	0.0565	0.0000	262.3476	262.3476	0.0849	0.0000	264.4688
Paving	6.6300e-003					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Total	**0.1361**	**1.2477**	**1.9160**	**2.9900e-003**		**0.0614**	**0.0614**		**0.0565**	**0.0565**	**0.0000**	**262.3476**	**262.3476**	**0.0849**	**0.0000**	**264.4688**

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	2.2100e-003	0.1107	0.0294	5.7000e-004	0.0181	1.2600e-003	0.0193	4.9600e-003	1.2000e-003	6.1700e-003	0.0000	54.9132	54.9132	8.3000e-004	8.6500e-003	57.5131
Vendor	2.8000e-004	8.9800e-003	3.5400e-003	5.0000e-005	1.6600e-003	7.0000e-005	1.7300e-003	4.8000e-004	7.0000e-005	5.5000e-004	0.0000	4.3403	4.3403	5.0000e-005	6.4000e-004	4.5324
Worker	5.9500e-003	4.2000e-003	0.0575	1.7000e-004	0.0216	1.0000e-004	0.0217	5.7400e-003	9.0000e-005	5.8300e-003	0.0000	15.9045	15.9045	3.7000e-004	4.1000e-004	16.0345
Total	**8.4400e-003**	**0.1239**	**0.0904**	**7.9000e-004**	**0.0413**	**1.4300e-003**	**0.0428**	**0.0112**	**1.3600e-003**	**0.0126**	**0.0000**	**75.1579**	**75.1579**	**1.2500e-003**	**9.7000e-003**	**78.0799**

Sunlakes Boulevard - Riverside-South Coast County, Annual

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

3.3 Paving - 2024

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Off-Road	0.1295	1.2477	1.9160	2.9900e-003		0.0614	0.0614		0.0565	0.0565	0.0000	262.3473	262.3473	0.0849	0.0000	264.4685
Paving	6.6300e-003					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Total	**0.1361**	**1.2477**	**1.9160**	**2.9900e-003**		**0.0614**	**0.0614**		**0.0565**	**0.0565**	**0.0000**	**262.3473**	**262.3473**	**0.0849**	**0.0000**	**264.4685**

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	2.2100e-003	0.1107	0.0294	5.7000e-004	0.0181	1.2600e-003	0.0193	4.9600e-003	1.2000e-003	6.1700e-003	0.0000	54.9132	54.9132	8.3000e-004	8.6500e-003	57.5131
Vendor	2.8000e-004	8.9800e-003	3.5400e-003	5.0000e-005	1.6600e-003	7.0000e-005	1.7300e-003	4.8000e-004	7.0000e-005	5.5000e-004	0.0000	4.3403	4.3403	5.0000e-005	6.4000e-004	4.5324
Worker	5.9500e-003	4.2000e-003	0.0575	1.7000e-004	0.0216	1.0000e-004	0.0217	5.7400e-003	9.0000e-005	5.8300e-003	0.0000	15.9045	15.9045	3.7000e-004	4.1000e-004	16.0345
Total	**8.4400e-003**	**0.1239**	**0.0904**	**7.9000e-004**	**0.0413**	**1.4300e-003**	**0.0428**	**0.0112**	**1.3600e-003**	**0.0126**	**0.0000**	**75.1579**	**75.1579**	**1.2500e-003**	**9.7000e-003**	**78.0799**

Sunlakes Boulevard - Riverside-South Coast County, Annual

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

3.3 Paving - 2025

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Off-Road	0.0105	0.0987	0.1677	2.6000e-004		4.8100e-003	4.8100e-003		4.4300e-003	4.4300e-003	0.0000	23.0221	23.0221	7.4500e-003	0.0000	23.2083
Paving	5.8000e-004					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Total	**0.0111**	**0.0987**	**0.1677**	**2.6000e-004**		**4.8100e-003**	**4.8100e-003**		**4.4300e-003**	**4.4300e-003**	**0.0000**	**23.0221**	**23.0221**	**7.4500e-003**	**0.0000**	**23.2083**

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	1.9000e-004	9.6300e-003	2.5900e-003	5.0000e-005	1.5900e-003	1.1000e-004	1.7000e-003	4.4000e-004	1.1000e-004	5.4000e-004	0.0000	4.7244	4.7244	8.0000e-005	7.4000e-004	4.9482
Vendor	2.0000e-005	7.8000e-004	3.1000e-004	0.0000	1.5000e-004	1.0000e-005	1.5000e-004	4.0000e-005	1.0000e-005	5.0000e-005	0.0000	0.3743	0.3743	0.0000	6.0000e-005	0.3908
Worker	4.9000e-004	3.3000e-004	4.7000e-003	1.0000e-005	1.9000e-003	1.0000e-005	1.9000e-003	5.0000e-004	1.0000e-005	5.1000e-004	0.0000	1.3488	1.3488	3.0000e-005	3.0000e-005	1.3595
Total	**7.0000e-004**	**0.0107**	**7.6000e-003**	**6.0000e-005**	**3.6400e-003**	**1.3000e-004**	**3.7500e-003**	**9.8000e-004**	**1.3000e-004**	**1.1000e-003**	**0.0000**	**6.4475**	**6.4475**	**1.1000e-004**	**8.3000e-004**	**6.6985**

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

3.3 Paving - 2025

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Off-Road	0.0105	0.0987	0.1677	2.6000e-004		4.8100e-003	4.8100e-003		4.4300e-003	4.4300e-003	0.0000	23.0221	23.0221	7.4500e-003	0.0000	23.2083
Paving	5.8000e-004					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Total	**0.0111**	**0.0987**	**0.1677**	**2.6000e-004**		**4.8100e-003**	**4.8100e-003**		**4.4300e-003**	**4.4300e-003**	**0.0000**	**23.0221**	**23.0221**	**7.4500e-003**	**0.0000**	**23.2083**

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	1.9000e-004	9.6300e-003	2.5900e-003	5.0000e-005	1.5900e-003	1.1000e-004	1.7000e-003	4.4000e-004	1.1000e-004	5.4000e-004	0.0000	4.7244	4.7244	8.0000e-005	7.4000e-004	4.9482
Vendor	2.0000e-005	7.8000e-004	3.1000e-004	0.0000	1.5000e-004	1.0000e-005	1.5000e-004	4.0000e-005	1.0000e-005	5.0000e-005	0.0000	0.3743	0.3743	0.0000	6.0000e-005	0.3908
Worker	4.9000e-004	3.3000e-004	4.7000e-003	1.0000e-005	1.9000e-003	1.0000e-005	1.9000e-003	5.0000e-004	1.0000e-005	5.1000e-004	0.0000	1.3488	1.3488	3.0000e-005	3.0000e-005	1.3595
Total	**7.0000e-004**	**0.0107**	**7.6000e-003**	**6.0000e-005**	**3.6400e-003**	**1.3000e-004**	**3.7500e-003**	**9.8000e-004**	**1.3000e-004**	**1.1000e-003**	**0.0000**	**6.4475**	**6.4475**	**1.1000e-004**	**8.3000e-004**	**6.6985**

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

4.0 Operational Detail - Mobile

4.1 Mitigation Measures Mobile

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Mitigated	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Unmitigated	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

4.2 Trip Summary Information

	Average Daily Trip Rate			Unmitigated	Mitigated
Land Use	Weekday	Saturday	Sunday	Annual VMT	Annual VMT
Other Asphalt Surfaces	0.00	0.00	0.00		
Other Non-Asphalt Surfaces	0.00	0.00	0.00		
Total	0.00	0.00	0.00		

4.3 Trip Type Information

	Miles			Trip %			Trip Purpose %		
Land Use	H-W or C-W	H-S or C-C	H-O or C-NW	H-W or C-W	H-S or C-C	H-O or C-NW	Primary	Diverted	Pass-by
Other Asphalt Surfaces	16.60	8.40	6.90	0.00	0.00	0.00	0	0	0
Other Non-Asphalt Surfaces	16.60	8.40	6.90	0.00	0.00	0.00	0	0	0

4.4 Fleet Mix

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

Land Use	LDA	LDT1	LDT2	MDV	LHD1	LHD2	MHD	HHD	OBUS	UBUS	MCY	SBUS	MH
Other Asphalt Surfaces	0.540541	0.056458	0.173793	0.136090	0.025268	0.007074	0.011525	0.018705	0.000610	0.000304	0.023606	0.001094	0.004932
Other Non-Asphalt Surfaces	0.540541	0.056458	0.173793	0.136090	0.025268	0.007074	0.011525	0.018705	0.000610	0.000304	0.023606	0.001094	0.004932

5.0 Energy Detail

Historical Energy Use: N

5.1 Mitigation Measures Energy

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Electricity Mitigated						0.0000	0.0000		0.0000	0.0000	0.0000	21.7305	21.7305	2.3100e-003	2.8000e-004	21.8714
Electricity Unmitigated						0.0000	0.0000		0.0000	0.0000	0.0000	21.7305	21.7305	2.3100e-003	2.8000e-004	21.8714
NaturalGas Mitigated	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
NaturalGas Unmitigated	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

5.2 Energy by Land Use - NaturalGas

Unmitigated

	NaturalGas Use	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Land Use	kBTU/yr	tons/yr										MT/yr					
Other Asphalt Surfaces	0	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Other Non-Asphalt Surfaces	0	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Total		**0.0000**	**0.0000**	**0.0000**	**0.0000**		**0.0000**	**0.0000**		**0.0000**	**0.0000**	**0.0000**	**0.0000**	**0.0000**	**0.0000**	**0.0000**	**0.0000**

Mitigated

	NaturalGas Use	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Land Use	kBTU/yr	tons/yr										MT/yr					
Other Asphalt Surfaces	0	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Other Non-Asphalt Surfaces	0	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Total		**0.0000**	**0.0000**	**0.0000**	**0.0000**		**0.0000**	**0.0000**		**0.0000**	**0.0000**	**0.0000**	**0.0000**	**0.0000**	**0.0000**	**0.0000**	**0.0000**

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

5.3 Energy by Land Use - Electricity

Unmitigated

	Electricity Use	Total CO2	CH4	N2O	CO2e
Land Use	kWh/yr	MT/yr			
Other Asphalt Surfaces	154053	21.7305	2.3100e-003	2.8000e-004	21.8714
Other Non-Asphalt Surfaces	0	0.0000	0.0000	0.0000	0.0000
Total		**21.7305**	**2.3100e-003**	**2.8000e-004**	**21.8714**

Mitigated

	Electricity Use	Total CO2	CH4	N2O	CO2e
Land Use	kWh/yr	MT/yr			
Other Asphalt Surfaces	154053	21.7305	2.3100e-003	2.8000e-004	21.8714
Other Non-Asphalt Surfaces	0	0.0000	0.0000	0.0000	0.0000
Total		**21.7305**	**2.3100e-003**	**2.8000e-004**	**21.8714**

6.0 Area Detail

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

6.1 Mitigation Measures Area

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Mitigated	0.0815	1.2000e-004	0.0130	0.0000		5.0000e-005	5.0000e-005		5.0000e-005	5.0000e-005	0.0000	0.0254	0.0254	7.0000e-005	0.0000	0.0270
Unmitigated	0.0815	1.2000e-004	0.0130	0.0000		5.0000e-005	5.0000e-005		5.0000e-005	5.0000e-005	0.0000	0.0254	0.0254	7.0000e-005	0.0000	0.0270

6.2 Area by SubCategory

Unmitigated

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
SubCategory	tons/yr										MT/yr					
Architectural Coating	0.0142					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Consumer Products	0.0661					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Landscaping	1.2000e-003	1.2000e-004	0.0130	0.0000		5.0000e-005	5.0000e-005		5.0000e-005	5.0000e-005	0.0000	0.0254	0.0254	7.0000e-005	0.0000	0.0270
Total	**0.0815**	**1.2000e-004**	**0.0130**	**0.0000**		**5.0000e-005**	**5.0000e-005**		**5.0000e-005**	**5.0000e-005**	**0.0000**	**0.0254**	**0.0254**	**7.0000e-005**	**0.0000**	**0.0270**

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

6.2 Area by SubCategory

Mitigated

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
SubCategory	tons/yr										MT/yr					
Architectural Coating	0.0142					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Consumer Products	0.0661					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Landscaping	1.2000e-003	1.2000e-004	0.0130	0.0000		5.0000e-005	5.0000e-005		5.0000e-005	5.0000e-005	0.0000	0.0254	0.0254	7.0000e-005	0.0000	0.0270
Total	**0.0815**	**1.2000e-004**	**0.0130**	**0.0000**		**5.0000e-005**	**5.0000e-005**		**5.0000e-005**	**5.0000e-005**	**0.0000**	**0.0254**	**0.0254**	**7.0000e-005**	**0.0000**	**0.0270**

7.0 Water Detail

7.1 Mitigation Measures Water

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

	Total CO2	CH4	N2O	CO2e
Category	MT/yr			
Mitigated	0.0000	0.0000	0.0000	0.0000
Unmitigated	0.0000	0.0000	0.0000	0.0000

7.2 Water by Land Use

Unmitigated

	Indoor/Outdoor Use	Total CO2	CH4	N2O	CO2e
Land Use	Mgal	MT/yr			
Other Asphalt Surfaces	0 / 0	0.0000	0.0000	0.0000	0.0000
Other Non-Asphalt Surfaces	0 / 0	0.0000	0.0000	0.0000	0.0000
Total		**0.0000**	**0.0000**	**0.0000**	**0.0000**

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

7.2 Water by Land Use

Mitigated

	Indoor/Outdoor Use	Total CO2	CH4	N2O	CO2e
Land Use	Mgal	MT/yr			
Other Asphalt Surfaces	0 / 0	0.0000	0.0000	0.0000	0.0000
Other Non-Asphalt Surfaces	0 / 0	0.0000	0.0000	0.0000	0.0000
Total		**0.0000**	**0.0000**	**0.0000**	**0.0000**

8.0 Waste Detail

8.1 Mitigation Measures Waste

Category/Year

	Total CO2	CH4	N2O	CO2e
	MT/yr			
Mitigated	0.0000	0.0000	0.0000	0.0000
Unmitigated	0.0000	0.0000	0.0000	0.0000

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

8.2 Waste by Land Use

Unmitigated

	Waste Disposed	Total CO2	CH4	N2O	CO2e
Land Use	tons	MT/yr			
Other Asphalt Surfaces	0	0.0000	0.0000	0.0000	0.0000
Other Non-Asphalt Surfaces	0	0.0000	0.0000	0.0000	0.0000
Total		**0.0000**	**0.0000**	**0.0000**	**0.0000**

Mitigated

	Waste Disposed	Total CO2	CH4	N2O	CO2e
Land Use	tons	MT/yr			
Other Asphalt Surfaces	0	0.0000	0.0000	0.0000	0.0000
Other Non-Asphalt Surfaces	0	0.0000	0.0000	0.0000	0.0000
Total		**0.0000**	**0.0000**	**0.0000**	**0.0000**

9.0 Operational Offroad

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

Equipment Type	Number	Hours/Day	Days/Year	Horse Power	Load Factor	Fuel Type

10.0 Stationary Equipment

Fire Pumps and Emergency Generators

Equipment Type	Number	Hours/Day	Hours/Year	Horse Power	Load Factor	Fuel Type

Boilers

Equipment Type	Number	Heat Input/Day	Heat Input/Year	Boiler Rating	Fuel Type

User Defined Equipment

Equipment Type	Number

11.0 Vegetation

Appendix B.1

WESTERN RIVERSIDE COUNTY
MULTIPLE SPECIES HABITAT CONSERVATION PLAN
CONSISTENCY ANALYSIS

SUN LAKES BOULEVARD EXTENSION PROJECT



City of Banning and Unincorporated Riverside County, California

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Principal Investigator: John F. Green, Senior Biologist

Updated August 2024

1 EXECUTIVE SUMMARY

The proposed Sun Lakes Boulevard Extension Project (project) is a transportation project including construction of a new section of Sun Lakes Boulevard from Highland Home Road to Sunset Avenue (Figure 3) and intersection improvements within the city of Banning's existing road right-of-way (ROW). The project encompasses approximately 19.4 acres of direct footprint (permanent impacts) and another 9.1 acres of temporary construction disturbance area (temporary impacts). Project staging and stockpiling will occur within the city's ROW. The project site is located within the boundaries of the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) and this consistency analysis was performed in accordance with the requirements of the MSHCP.

The project site is not within any MSHCP Criteria Cells, Cell Groups, Cores, or Linkages. Studies required by the MSHCP include assessment for riparian/riverine/vernal pool resources, including a focused survey for fairy shrimp; a survey for the Narrow Endemic Plant Species (NEPS) Marvin's (Yucaipa) onion (*Allium marvinii*) and many stemmed dudleya (*Dudleya multicaulis*); a survey for the burrowing owl (*Athene cunicularia*); a survey for the Los Angeles pocket mouse (*Perognathus longimembris brevinasus*); and an assessment of whether the Delhi Sands flower loving fly (*Rhaphiomidas terminatus abdominalis*) or any of twenty-eight (28) species which were not adequately conserved at the time of MSHCP implementation may be present on the project site.

To date, results of those studies include:

- Riparian/riverine habitat is present on the project site, including potential habitat for Cooper's hawk (*Accipiter cooperii*) and possibly white-tailed kite (*Elanus leucurus*).
- Vernal pools are not present on the project site.
- Fairy shrimp habitat is present on the project site. Fairy shrimp focused surveys were completed on the project site during the 2020-2021 wet season and the 2021 dry season. The common versatile fairy shrimp (*Branchinecta lindahli*), which is not a special status species, was the only fairy shrimp species detected.
- Plant focused surveys were completed on the project site in 2020. No NEPS, riparian/riverine plant species, or plant species "not adequately conserved" were detected on the project site.
- Burrowing owl surveys were completed on the project site in 2020. Burrowing owls were not detected on the project site.
- Los Angeles pocket mouse surveys sufficient to sample project site habitats, but not to delineate all occupied habitat, were conducted in 2020. Los Angeles pocket mice were not detected on the project site.

- No soils suitable for Delhi Sands flower loving fly are present on the project site and the project area is well beyond the known range of the species.
- The only wildlife species "not adequately conserved" which may occur as a breeding species on the project site is grasshopper sparrow (*Ammodramus savannarum*). It was not observed, but some suitable habitat is present.

The city intends to purchase land or preserve existing city land within the Whitewater Watershed, ideally along Smith Creek which would be placed in a conservation easement or have a deed restriction and protected in perpetuity with a non-wasting endowment. The land will be managed by a third-party land manager, such as Western Riverside County Regional Conservation Authority (RCA), Rivers and Lands Conservancy or Inland Empire Resource Conservation District. The purchased conservation land should contain similar habitat to the project site and provide similar or superior function and habitat value. Currently, the project site has relatively unvegetated, sandy bottom, riverine habitat. Any mitigation areas that contain riparian habitat would be considered superior habitat.

Permanent impacts will be mitigated at a 3:1 (3 x 0.37 = 1.11 acres) ratio and temporary impacts will be mitigated at a 2:1 ratio (2 x 0.09 = 0.18 acres). The total mitigation acreage should equal or surpass 1.3 acres. The primary method of mitigation will be offsite conservation and enhancement of City owned property located along Smith Creek. The City will place at least 1.3 acres into a Conservation Easement with an approved third party conservation holder such as Western Riverside County Regional Conservation Authority (RCA), Rivers and Lands Conservancy (RLC) or Inland Empire Resource Conservation District (IERCD). Additionally, the City has committed to participating in a regional solution of the sediment transport function of the Smith Creek watershed. The intended outcome of this regional solution is to bring the various stakeholders in this watershed together to work on a sediment management strategy to ensure sediment is transported efficiently and effectively to support ecological resources. The City's commitment to this regional solution will serve as providing rehabilitation mitigation for the overall impacts from this Project.

The project will also return temporary impact areas to their pre-existing contours and revegetate them with appropriate native species. The project will also mitigate and/or minimize impacts by following MSHCP Section 6.1.4 Urban Wildlands Interface Guidelines and MSHCP Volume I, Appendix C Standard Best Management Practices (BMPs). Because burrowing owl habitat and potential burrows are present, a preconstruction survey will be conducted. Should burrowing owls be detected at that time, an updated DBESP report will be prepared and mitigation will be achieved through the project following all MSHCP guidelines and the direction of the Environmental Programs

Department, Western Riverside County Regional Conservation Authority, and/or the Wildlife Agencies.

The project will also mitigate and/or minimize impacts by following MSHCP Section 6.1.4 Urban Wildlands Interface Guidelines and MSHCP Volume I, Appendix C Standard Best Management Practices (BMPs).

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Jurisdictional delineation report

NHC 2024 High Level Assessment of Potential Sediment Transport Impacts Associated with the Updated Sun Lakes Boulevard Improvement Project

2 INTRODUCTION

At the request of the Albert A. Webb Associates (Webb), WSP USA Inc. (WSP) prepared this Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) Consistency Analysis report for the proposed Sun Lakes Boulevard Extension Project (project). The purpose of this analysis is to summarize the biological data for the project and to document the project's consistency with the goals and objectives of the MSHCP.

2.1 Project Area

The project is in the city of Banning, Riverside County, California and It is generally located south of Interstate 10, west of State Route 243 and east of Lambs Canyon Road (Figure 1). It can be found in Sections 7 and 18 of Township 3 South, Range 1 East of the *Beaumont, California,* United States Geological Survey (1978) 7.5-minute topographic quadrangle map (Figure 2). The elevation of the project site ranges from approximately 2,383 to 2,525 feet above sea level. The geographic coordinates near the middle of the site are 33.5512.85° North latitude and -116.5516.29° West longitude. The project occurs within portions of the following Assessor's Parcel Numbers (APN): 419140039, 537110013, 537110014, 537120023, 537120024, 537120025, 537120027, 537120028, 537120029, 537120030, 537120031, 537120033, 537120034, 537140001, 537140002, 538323024, and 538323029.

No off-site staging areas or off-site improvements are planned. No weed abatement or fuel modification zones have been identified. However, if unforeseen circumstances were to arise that required hazard reduction within an area considered environmentally sensitive or a part of the MSHCP Conservation Area, such as lands proposed for conservation on the adjacent project site, it would require approval from the appropriate agencies prior to any vegetation management activities. These could include but are not limited to the Western Riverside County Regional Conservation Authority (WRCRCA), California Department of Fish and Wildlife (CDFW), Regional Water Quality Control Board (RWQCB), United States Fish and Wildlife Service (USFWS), and the United States Army Corps of Engineers (USACE).

2.2 Project Description

The proposed project is a transportation project including construction of a new section of Sun Lakes Boulevard from Highland Home Road to Sunset Avenue (Figure 3) and intersection improvements within the City of Banning's existing and future road right-of-way (ROW). This report and associated figures have been updated to reflect the change in the area of the proposed impacts related to alignment revisions which have occurred so that the new roadway could be redesigned to avoid existing high pressure gas lines within the project area. The updated projects impacts include 19.4 acres of permanent impacts, 9.1 acres of temporary impacts. Project staging and stockpiling will occur within the City's ROW. Currently, Westward Avenue is a straight east-west

unpaved dirt road between Highland Home Road and Sunset Avenue. The project crosses over three creeks, from west to east: Highland Wash, Smith Creek, and Pershing Creek. The project will include the construction of three sets of culverts to cross said creeks.

Surrounding land uses include residential subdivisions, public facilities, and open space. The approximately five-acres is currently undeveloped. Historically the project site was graded for agricultural purposes in the 1960's. It has remained vacant for the past 2 to 3 decades. Vegetation within the proposed project site consists of non-native grassland, California buckwheat scrub, and Riversidean alluvial fan sage scrub. Three deeply incised drainages and associated tributaries are present within the proposed project site. Structures within the general vicinity include city-owned wells, an agricultural storage shelter, and several easements for streets, utilities, gas and oil pipelines, landscaping, and communications systems are all located within the general proposed project alignment.

2.3 General Setting

Adjacent to and south of the Sun Lakes Boulevard ROW are existing utilities that include three well sites and one wastewater lift station. Within Westward Avenue, there are many existing utility lines including, a potable water line, sanitary sewer line, recycled water line, fiber optics line, three oil lines, and an underground telephone line. Single-family homes are west of Highland Home Road. East of Sunset Avenue are single-family homes, a small number of commercial businesses, the Mt. San Jacinto College San Gorgonio Pass Campus, and undeveloped open space, including habitat for biological elements of concern to the MSHCP. The project footprint outside of the facilities detailed above is currently undeveloped open space, including habitat for biological elements of concern to the MSHCP, as are areas to the north and south of the project.

3 RESERVE ASSEMBLY ANALYSIS

3.1 Criteria Cells

No part of the project site lies within or adjacent to any MSHCP Criteria Cells. Therefore, the project will have no effect on the planned assembly of the MSHCP reserve.

3.2 Public Quasi-Public Lands

No part of the project site lies within or adjacent to any existing public quasi-public lands (PQP). Therefore, the project will have no effect on existing PQP lands. However, conservation is being proposed by an adjoining project immediately adjacent to proposed Sun Lakes Boulevard in Highland Wash, Smith Creek, Pershing Creek and in

a buffer around them. Land conserved in those areas will become a part of the MSHCP Conservation Area; therefore, MSHCP Section 6.1.4 Urban Wildlands Interface Guidelines should be implemented.

4 VEGETATION MAPPING

The project site contains six vegetation communities / land cover categories: buckwheat scrub, non-native grassland, riparian scrub/woodland, Riversidean alluvial fan sage scrub, non-vegetated streambed, and disturbed/developed (Figure 4). *Disturbed/developed* areas are the direct result of current or past human activity (buildings, roads, et cetera). The following are somewhat more natural land cover categories, although non-native grasslands are comprised largely of naturalized non-native plant species introduced by humans:

Buckwheat Scrub

This habitat is dominated by California buckwheat (*Eriogonum fasciculatum*). Additionally, vegetation includes California sagebrush (*Artemisia californica*), brittlebush (*Encelia californica*), pinebush (*Ericameria pinifolia*), deerweed (*Acmispon glaber*), common sand aster (*Corethrogyne filaginifolia*), turkey mullein (*Eremocarpus setigerus*), shortpod mustard (*Hirschfeldia incana*), and horseweed (*Erigeron canadensis*). Areas within the eroded dry stream areas adjacent to the active channel also contain rough cocklebur (*Xanthium strumarium*), Johnson grass (*Sorghum halepense*), and mugwort (*Artemisia douglasiana*).

Non-native Grassland

This habitat is dominated by non-native annual grasses. Some species of grasses that are observed within the grassland include wild oats (*Avena fatua*), cheatgrass (*Bromus tectorum*), and red brome (*Bromus rubens*). Dominant broad-leaved species within this habitat include shortpod mustard, red-stemmed filaree (*Erodium cicutarium*), and annual ragweed (*Ambrosia acanthicarpa*). Late summer dominants include turkey-mullein and vinegarweed (*Trichostema lanceolatum*).

Non-vegetated Streambed

Although, not a vegetation community, it is a significant landscape feature found within the project site. The majority of the drainages within the project site contain mostly bare coarse sand with only isolated patches of vegetation including mule fat (*Baccharis salicifolia*), annual ragweed, shortpod mustard, and Johnson grass.

Riparian Scrub Woodland

This habitat is commonly dominated by young willow trees and shrubs. Within the project site, the riparian scrub woodland areas are small patches dominated by Fremont cottonwood (*Populus fremontii*), Goodding's black willow (*Salix gooddingii*), red willow (*Salix lasiolepis*), or mule fat.

Riversidean Alluvial Fan Sage Scrub

This is a 'soft chaparral' habitat found on south-facing upland slopes, and along sandy ephemeral streams. It occurs below 3,000 feet elevation and occupies generally drier sites than chaparral. Within the project site, scale broom (*Lepidospartum squamatum*) dominates. Other species observed include mugwort and tarragon (*Artemisia dracunculus*). Table 1 provides acreage and land usage by habitat.

Table 1. Land Use Impacts by Habitat (Vegetation Community / Land Cover) (Acres)

Vegetation Community	Permanent	Temporary	Grand Total
Buckwheat scrub	10.08	3.63	13.71
Disturbed/Developed	1.62	0.91	2.53
Non-native Grassland	6.97	4.34	11.31
Non-vegetated streambed	0.39	0.13	0.52
Riversidean alluvial fan sage scrub	0.28	0.04	0.32
Riparian Scrub/woodland	0.05	0.03	0.08
Grand Total	19.39	9.08	28.47

5 PROTECTION OF SPECIES ASSOCIATED WITH RIPARIAN/RIVERINE AREAS AND VERNAL POOLS (SECTION 6.1.2)

According to Section 6.1.2 of the MSHCP:

"Riparian/Riverine Areas are lands which contain habitat dominated by trees, shrubs, persistent emergents, or emergent mosses and lichens, which occur close to or which depend upon soil moisture from a nearby fresh water source; or areas with fresh water flow during all or a portion of the year." and

"Vernal pools are seasonal wetlands that occur in depression areas that have wetlands indicators of all three parameters (soils, vegetation and hydrology) during the wetter portion of the growing season but normally lack wetlands indicators of hydrology and/or vegetation during the drier portion of the growing season. Obligate hydrophytes and facultative wetlands plant species are normally dominant during the wetter portion of the growing season, while upland species (annuals) may be dominant during the drier portion of the growing season."

"With the exception of wetlands created for the purpose of providing wetlands habitat or resulting from human actions to create open waters or from the alteration of natural stream courses, areas demonstrating characteristics as

described above which are artificially created are not included in these definitions."

5.1 Riparian/Riverine

5.1.1 Methods

On 29 July and 4 and 6 August 2020 and 25 March 2024, WSP senior biologist conducted a jurisdictional waters delineation (JD) of the project site. On 25 June 2024 WSP updated the JD report for the project site. The JD report is attached to this analysis as an appendix. Drainages were evaluated for wetland/riparian associated vegetation, clearly defined bed and bank features, wetland soils, and/or evidence of an ordinary high watermark that would potentially be considered jurisdictional by the U.S. Army Corps of Engineers, Regional Water Quality Control Board, CDFW, and/or MSHCP.

5.1.2 Existing Conditions and Results

The following riparian/riverine resources were identified on-site:

Highland Wash is an ephemeral drainage containing riparian and riverine resources that flows from north to south and crosses perpendicular to the proposed project. Flow originates from north of Interstate 10 and from the Sun Lakes community immediately northwest of the project. In the area of the project, Highland Wash contains an active low flow channel with adjacent active floodplain that is bordered on the west with low terraces and on the east are incised channel walls that are both bordered by uplands. The active low-flow channel is approximately 12-inches wide in the project area with a silty/sandy bed and no vegetation. Evidence of flows were identified by benches and drift present in the project area. The adjacent active floodplain varies from roughly 3-feet to 15-feet wide and evidenced by a more pebbly substrate then the low flow channel, as well as ripples, older drift, presence of bed and bank, benches and no vegetation. The ordinary high water mark (OHWM) is approximately 8-inches and indicated by break in slope and change in vegetative cover from active floodplain to low terrace. The low terrace borders the floodplain on the west with midstage upland vegetation consisting of California buckwheat that uniformly dominates the drainage area from the low terrace to the nearby hill tops. The outer limit of the low terrace is characterized by a higher vegetative density of buckwheat and marks the limit of potential CDFW jurisdiction.

Highland Wash likely flows for less than 3 months months per year and is therefore does not have permanent flow and would not be considered USACE jurisdictional. Highland Wash joins with Smith Creek at Westward Avenue.

Smith Creek is an ephemeral drainage containing riparian and riverine resources that flows from north to south and crosses perpendicular to the proposed project and east of Highland Wash. Flow to Smith Creek originates from a large watershed area north of Interstate 10. In the area of the project, Smith Creek contains an active low flow channel with adjacent active floodplain that is bordered with low terraces. The active low-flow channel is approximately 8-inches wide with a silty/sandy bed and no vegetation. Evidence of flows were identified by benches and drift present in the project area. The adjacent active floodplain was on average 20-feet wide and the limits of which evidenced by a more pebbly substrate then the low flow channel, as well as ripples, older drift, presence of bed and bank, benches and limited pockets of early-stage vegetation. OHWM is approximately 6-inches and indicated by break in slope and changes in vegetative cover and sediment texture from active floodplain to low terrace. The low terrace borders the floodplain on the west with late-stage upland vegetation consisting mostly of California buckwheat that uniformly dominates the drainage area from the low terrace to the nearby hill tops. The outer limit of the low terrace is characterized by change in slope and a higher vegetative density of California buckwheat and marks the limit of potential CDFW jurisdiction.

Smith Creek likely flows for less than 3 months per year and is therefore does not have permanent flow and would not be considered USACE jurisdictional. Highland Wash joins with Smith Creek at Westward Avenue. Smith Creek is tributary to San Gorgonio Creek, which is tributary to the Whitewater River. The Whitewater River is tributary to the Salton Sea located approximately 50 river miles to the southeast from the project area.

Pershing Creek is a wide ephemeral drainage containing riparian and riverine resources that flows from north to south and crosses perpendicular to the proposed project. It is located east of Smith Creek. Flows to Pershing Creek originate from north of Interstate 10. In the area of the project, Pershing Creek splits around an island approximately 0.24-acre in size of Riversidean alluvial fan sage scrub into two sets of active low flow channels with adjacent active floodplains. The Riversidean alluvial fan sage scrub is dominated by scale broom. The active low flow channels are approximately 10-inches wide in the project area with a fine sandy bed and no vegetation. Evidence of flows were identified by benches and ripples present in the project area. The active floodplain is on average 38-feet wide and bordered by short low terraces that are bordered by steep embankments that are roughly 20-feet high to the east and west of the creek. One mature eucalyptus tree (*Eucalyptus* species) on the far westerly bank is also within the project area. The active floodplain is evidenced by a more sandy/pebbly substrate then the low flow channel, as well as older drift, mud cracks, and earlystage vegetation of buckwheat and annual filarees (*Erodium* species). OHWM is approximately 10-inches and

indicated by break in slope and changes in vegetative cover and sediment texture from active floodplain to low terrace. The low terrace borders the floodplain on the west with silty soil and 95% cover of late-stage upland vegetation consisting of California buckwheat that uniformly dominates the drainage area from the low terrace to the nearby hill tops. The outer limit of the low terrace on the east side of the creek is characterized by a change in slope and higher vegetative density of buckwheat and marks the limit of potential CDFW jurisdiction. The outer limit on the west side of the creek is characterized by a near-vertical incised channel bank.

Pershing Creek likely flows for less than 3 months per year and is therefore does not have permanent flow and would not be considered USACE jurisdictional. Pershing Creek merges with Smith Creek far downstream of the project limits.

Existing Culverts under Westward Avenue are riverine resources and potentially USACE jurisdictional waters because although they are confined and man-made, they convey flow from the three preceding drainages across Westward Avenue. There are a total of 6 culverts of varying diameters and lengths for a total footprint of approximately 0.02 acre within the project limits.

Highland Wash

- 18-inch diameter, 24 feet long
- 54-inch diameter, 27 feet long
- 54-inch diameter, 10 feet long Smith Creek
- 48-inch diameter, 35 feet long Pershing Creek
- 48-inch diameter, 45 feet long
- 48-inch diameter, 44 feet long

Table 2 lists the potentially jurisdictional features within the project footprint with additional details on each pursuant to USACE criteria. Figure 5 identifies all observed project site jurisdictional areas.

Flow from the project site drainages enters the MSHCP Conservation Area approximately 4.5 miles downstream in the San Gorgonio Pass Special Linkage Area.

The functions and values of the project site drainages and the surrounding upland loams include absorption and the gradual release of water into the downstream MSHCP Conservation Area. The drainages also provide sediment transport to downstream areas. The topography and vegetation in the project site drainages also provide cover and corridors for the shelter and movement of wildlife. The Project will include the construction of three sets of culverts to cross said creeks. The culverts are multi-cell reinforced concrete box (RCB)

channels running under the proposed Sun Lakes Boulevard roadway extension. Straight wing walls with concrete and riprap aprons will be constructed at the upstream end of each channel while vertical wing walls and concrete aprons will be provided at the downstream end of channels. Concrete ramps will be constructed at the south end of the channels to provide maintenance access. Swales and trapezoidal channels will be provided to intercept stormwater run-on from north of the Project and discharge it to the proposed channels. The culverts were designed so that sediment transport and wildlife movement functions and values will be retained.

Table 2. Project Site Riparian/Riverine Acreage

Name of Potential Aquatic Feature	Cowardin Type	Area, Length, Width	Summary of OHWM Presence	Summary of Wetland Presence	Dominant Vegetation / Listing Status	Location	Potentially Jurisdictional?
Highland Wash	R4SBJ [a]	0.12 acre 403 feet 15 feet [b]	Change in vegetation, break in slope	None	*Eriogonum fasciculatum* / Not Listed[c]	33.918220, -116.924808	Yes; non-Section 10, non-wetland
Smith Creek	R4SBJ [a]	0.12 acre 256 feet 20 feet [b]	Change in average sediment texture, change in vegetation cover, break in slope	None	*Eriogonum fasciculatum* / Not Listed[c]	33.918290, -116.923923	Yes; non-Section 10, non-wetland
Pershing Creek	R4SBJ [a]	0.23 acre 286feet 38 feet [b]	Change in average sediment texture, change in vegetation species and cover, break in slope	None	Riversidean alluvial fan sage scrub dominated by *Lepidospartum squamatum* / a facultative upland plant species [c] and *Eriogonum fasciculatum* / Not Listed[c]	33.918245, -116.914588	Yes; non-Section 10, non-wetland
Existing Culverts Under Westward Avenue	Not Applicable	6 pipes of varying sizes for combined length of 185 feet and area of 0.02 acre (700 square feet)	Not Applicable	None	None	Varies	Yes; non-Section 10, non-wetland

[a] = R4SBJ: "Riverine, Intermittent, Streambed, Intermittently Flooded" based on Cowardin et al, (1979)
[b] = Widths are average widths in the Project limits.
[c] = Listing status refers to the National Wetland Plant List.

Other species discussed in Section 6.1.2 of the MSHCP include:

Plants

- California muhly (*Muhlenbergia californica*): WRCRCA (2019a) reports that this species does not occur in the MSHCP area.
- California Orcutt grass (*Orcuttia californica*): Narrow Endemic Plant Species Survey Area (NEPSSA) species for which surveys are not required on this project site. Not incidentally detected by focused plant surveys.
- Coulter's goldfields (*Lasthenia glabrata* ssp. *coulteri*): Criteria Area Species Survey Area (CASSA) species for which surveys are not required on this project site because the project site is not in any CASSA . Not incidentally detected by focused plant surveys.
- Davidson's saltscale (*Atriplex serenana* var. *davidsonii*): CASSA species for which surveys are not required on this project site. Not incidentally detected by focused plant surveys.
- little mousetail (*Myosurus minimus* ssp. *apus*): CASSA species for which surveys are not required on this project site. Not incidentally detected by focused plant surveys.
- Orcutt's brodiaea (*Brodiaea orcuttii*): NEPSSA species for which surveys are not required on this project site. Not incidentally detected by focused plant surveys.
- Parish's brittlescale (*Atriplex parishii*): CASSA species for which surveys are not required on this project site. Not incidentally detected by focused plant surveys.
- Parish's meadowfoam (*Limnanthes gracilis* var. *parishii*): Parish's meadowfoam is limited to ephemeral wetlands in the mountains of southern California between 600 and 1,700 meters. Within the MSHCP area, it is known only from ephemeral wetlands on the Santa Rosa Plateau. The project site is outside the known geographical range of the species. Not incidentally detected by focused plant surveys.
- San Diego button-celery (*Eryngium aristulatum* var. *parishii*): This species occurs only in vernal pools with clay soils. Within the MSHCP area, it is known only from the Santa Rosa Plateau. The project site lacks suitable habitat and is outside the known range of the species. Not incidentally detected by focused plant surveys.
- San Jacinto Valley crownscale (*Atriplex coronata* var. *notatior*): CASSA species for which surveys are not required on this project site. Not incidentally detected by focused plant surveys.
- spreading navarretia (*Navarretia fossalis*): NEPSSA species for which surveys are not required on this project site. Not incidentally detected by focused plant surveys.

- thread-leaved brodiaea (*Brodiaea filifolia*): CASSA species for which surveys are not required on this project site. Not incidentally detected by focused plant surveys.
- vernal barley (*Hordeum intercedens*): Suitable habitat for this species includes alkali annual grasslands and vernal pools and, to a lesser extent, alkali scrub and alkali playa in association with Domino, Willows, and Traver soils. The project site lacks suitable habitat. Not incidentally detected by focused plant surveys.
- Wright's trichocoronis (*Trichocoronis wrightii* var. *wrightii*): NEPSSA species for which surveys are not required on this project site. Not incidentally detected by focused plant surveys.

Fish, Amphibians, Reptile

All these species require aquatic habitat that is not present on the project site:

- arroyo chub (*Gila orcutti*)
- Santa Ana sucker (*Catastomus santaanae*)
- arroyo toad (*Anaxyrus [Bufo] californicus*)
- coast range newt (*Taricha tarosa tarosa*)
- mountain (southern) yellow-legged frog (*Rana muscosa*)
- western pond turtle (*Clemmys marmorata pallida*)

Birds

- American bittern (*Botaurus lentiginosus*): American bitterns in California are found almost exclusively in the emergent habitat of freshwater marshes and vegetated borders of ponds and lakes. There is no suitable habitat on the project site.
- bald eagle (*Haliaeetus leucocephalus*): Considered a bird of aquatic ecosystems, it occurs primarily at or near seacoasts, rivers, swamps, and large lakes. There is no suitable habitat on the project site.
- black-crowned night heron (*Nycticorax nycticorax*): Habitat requirements are varied, including all types of wetland areas including swamps, streams, rivers, margins of pools, ponds, lakes, lagoons, tidal mudflats, fresh, brackish, and saltwater ecosystems and even using man-made ditches, canals, reservoirs, and wet agricultural fields. In inland areas, most colonies are associated with large wetlands. There is no suitable habitat on the project site.
- black swift (*Cypseloides niger*): It nests in moist crevices or caves on sea cliffs above the surf, or on cliffs behind, or adjacent to, waterfalls in deep canyons. It forages widely over many habitats. Unlikely to occur on the project site, even as a foraging bird and there is no nesting habitat on the project site.

- Cooper's hawk (*Accipiter cooperii*): This species is usually found in areas with dense tree stands or patchy woodland habitat. Recorded on the project site and there are trees suitable for nesting. Will be protected by "Protection of Nesting Birds" measures below.
- double-crested cormorant (*Phalacrocorax auritus*): Require lakes, rivers, reservoirs, estuaries, or the ocean. Possible only as a flyover species. There is no suitable breeding or foraging habitat on the project site.
- downy woodpecker: Within southern California, the species generally nests in deciduous (often willow) woodlands, deciduous growth/oak woodlands, orchards, suburban plantings, and occasionally in conifers. Lowland stream-bottoms constitute the main theaters of activity for this woodpecker. Available water may be a factor for the presence of the species. There is no suitable habitat on the project site.
- Lincoln's sparrow (*Melospiza lincolnii*): Breeding in southern California occurs in wet montane meadows of corn lily, sedges, and low willows. During the winter and spring and fall migration, the species requires thickets of shrubs or tall forbs interspersed with grassy areas, usually on damp ground or near water. It uses lowlands that are avoided during the breeding season. It likely occurs on the project site in winter and during spring and fall migration, but there is no breeding habitat.
- MacGillivray's warbler (*Geothlypis* [*Oporornis*] *tolmiei*): Breeding pairs of MacGillivray's warbler typically are found in moist brushy areas within coniferous forests between 2,000-2,800 meters but may also be found in clear-cuts or mixed deciduous forests up to 3,000 meters. It may occur on the project site during migration, but there is no breeding habitat.
- Nashville warbler (*Leiothlypis* [*Vermivora*] *ruficapilla*): This species most commonly breeds in montane chaparral habitats in southern California. It may occur on the project site during migration, but there is no breeding habitat on the project site.
- osprey (*Pandion haliaetus*): This species uses rivers, lakes, and reservoirs for foraging and rocky pinnacles, and large trees and snags in open forest for cover and nesting. There is no suitable habitat on the project site.
- peregrine falcon (*Falco peregrinus*): Within southern California, peregrine falcons are primarily found at coastal estuaries and inland oases. It nests on cliffs, generally 200 to 300 feet in height that tend to dominate the surrounding landscape. It may forage on the project site, but there is no breeding habitat on the project site.
- purple martin (*Progne subis*): The species nests in cavities constructed by other bird species in tall, old trees near a body of water. It forages over riparian areas, forests, and woodland. It may be found virtually anywhere in aerial habitat during migration but is quite rare. It may occur on the project site during migration but breeding on the project site is not

expected because of low population size and currently known breeding distribution.

- tree swallow (*Tachycineta bicolor*): The species forages primarily over and around ponds, marshes, rivers, lakes, and estuaries. Tree swallows nest almost exclusively in cavitycontaining trees or snags with cavities that are near, or preferably in, water. It may be found virtually anywhere in aerial habitat during migration and winter, so may occur while foraging or during migration. Breeding is not expected because there is no suitable habitat on the project site.
- tricolored blackbird (*Agelaius tricolor*): Breeding colonies require nearby water, a suitable nesting substrate, and open-range foraging habitat composed of grassland, woodland, or agricultural cropland. In winter, they often form single-species, and sometimes singlesex, flocks, but they also flock with other blackbird species. It is unlikely to forage on the project site, and there is no breeding habitat.
- white-faced ibis (*Plegadis chihi*): In southern California, extensive marshes are required for nesting. The species prefers shallow, grassy marshes and nests in dense, fresh emergent wetland. Migrant and wintering birds forage in shallow lacustrine waters, muddy ground of wet meadows, marshes, ponds, lakes, rivers, flooded fields, and estuaries. There is no project site habitat.
- white-tailed kite (*Elanus leucurus*): This species inhabits low elevation, open grasslands, savannah-like habitats, agricultural areas, wetlands, and oak woodlands. Riparian areas adjacent to open areas are used for nesting. The project site could be used for foraging, but nesting habitat is marginal to absent. Will be protected by “Protection of Nesting Birds” measures below.
- Wilson's warbler (*Cardellina* [*Wilsonia*] *pusilla*): Breeding habitats for this species include montane meadows and low, dense willow thickets as well as other shrubs and scrub, often on steep slopes. During migration, these birds can be seen passing through many habitats. It may occur on the project site during migration, but there is no breeding habitat on the project site.
- yellow-breasted chat: In Southern California primarily found in dense, relatively wide riparian woodlands and thickets of willows, vine tangles, and dense brush with welldeveloped understories. Nesting areas are associated with streams, swampy ground, and the borders of small ponds. The species is seldom seen in migration but may occur on the project site at that time. There is no breeding habitat on the project site.
- yellow warbler: In Southern California, this species breeds in lowland and foothill riparian woodlands dominated by cottonwoods, alders, or willows and other small trees and shrubs. During migration, they occur in many

habitats. It may occur on the project site at that time, but there is no breeding habitat on the project site.

5.1.3 Impacts

The existing culverts located under Westward Avenue will remain in place and remain functional. Therefore, they are not included in the impact areas. Otherwise, all identified project site riparian/riverine drainages and areas will be permanently or temporarily impacted (Table 3).

Table 3. Project Site Riparian/Riverine Impacts

Name of Potentially Jurisdictional Feature	USACE/RWQCB		CDFW/Riverine/Riparian		Length (feet)
	Permanent Impacts (acres)	Temporary Impacts (acres)	Permanent Impacts (acres)	Temporary Impacts (acres) (feet)	
Highland Wash (Creek Crossing No. 1)	0.1	0.01 (61)	0.1	0.01 (61)	403
Smith Creek (Creek Crossing No. 2)	0.08	0.04 (65)	0.08	0.04 (65)	256
Pershing Creek (Creek Crossing No. 3)	0.2	0.03 (72)	0.2	0.03 (72)	286
Total	0.38	0.09	0.38	0.09	945

5.1.4 Mitigation

The city intends to purchase land or preserve existing city land within the Whitewater Watershed, ideally along Smith Creek which would be placed in a conservation easement or have a deed restriction and protected in perpetuity with a non-wasting endowment. The land will be managed by a third-party land manager such as Western Riverside County Regional Conservation Authority (RCA), RLC or IERCD. . The purchased conservation land will contain similar habitat to the project site and provide similar or superior function and habitat value. Currently, the project site has relatively unvegetated, sandy bottom, riverine habitat. Any mitigation areas that contain riparian habitat would be considered superior habitat.

Permanent impacts will be mitigated at a 3:1 (3 x 0.37 = 1.11 acres) ratio and temporary impacts will be mitigated at a 2:1 ratio (2 x 0.09 = 0.18 acres). The total mitigation acreage should equal or surpass 1.3 acres. The primary method of mitigation will be offsite conservation and enhancement of City owned property located along Smith Creek. The City will place at least 1.3 acres into a Conservation Easement with an approved third-party conservation holder such as Western Riverside County Regional Conservation Authority (RCA), Rivers and Lands Conservancy (RLC) or Inland Empire Resource Conservation District (IERCD). Additionally, the City has committed to participating in a regional solution of the sediment transport function of the Smith Creek watershed. The intended outcome of this regional solution is to bring the various stakeholders in this watershed together to work on a sediment management strategy to ensure sediment is transported efficiently and effectively to support ecological resources. The City's commitment to this regional solution will serve as providing re rehabilitation mitigation for the overall impacts from this Project.

The project will also return temporary impact areas to their pre-existing contours and revegetate them with appropriate native species. Further details on how the project will achieve mitigation and equivalency and ensure the long-term conservation, sustainability, and maintenance of the functions and values of the riparian/riverine resource(s) will be addressed in the project's Determination of Biological Equivalent or Superior Preservation (DBESP) report (WSP 2024e).

5.2 Vernal Pools

Vernal pools are seasonal wetlands that occur in depression areas. They have all three wetland indicators (soils, vegetation, and hydrology) during the wetter portion of the growing season but normally lack wetlands indicators of hydrology and/or vegetation during the drier portion of the growing season. Obligate hydrophytes and facultative wetlands plant species are normally dominant during the wetter portion of the growing season, while upland species (annuals) may be dominant during the drier portion of the growing season.

5.2.1 Methods

During all 2020-2021 project site surveys, pooled areas were watched for vernal pool indicators. The entire project site was transected numerous times in all seasons.

5.2.2 Existing Conditions and Results

No pools meeting the vegetation parameters of a vernal pool were identified on the project site during any 2020 – 2021 project site surveys.

5.2.3 Impacts

No vernal pools were detected, so there will be no impacts.

5.2.4 Mitigation

No vernal pools were detected, so no mitigation will be required.

5.3 Fairy Shrimp

Three species of fairy shrimp are covered by the MSHCP: Riverside fairy shrimp (*Streptocephalus woottoni*), Santa Rosa Plateau fairy shrimp (*Linderiella santarosae*), and vernal pool fairy shrimp (*Branchinecta lynchi*). The MSHCP states that suitable fairy shrimp habitat is "defined as vernal pools, stock ponds, ephemeral ponds, or other human-modified depressions." Although these species are covered by the MSHCP, surveys are required for them in appropriate habitat.

5.3.1 Methods

Although no clay soils are mapped on the project site (Figure 6), non-vernal pool potential fairy shrimp habitat is present on the project site including stock ponds, ephemeral pools, road ruts, and human-made depressions. Such pools have been noted during various 2020 field surveys (Figure 7). A protocol-level fairy shrimp survey was conducted in the wet and dry seasons of 2020 – 2021 (WSP 2024a).

5.3.2 Existing Conditions and Results

Multiple pools or potential pools have been identified as fairy shrimp habitat or potential fairy shrimp habitat from review of historic aerial photography and during 2020 – 2021 surveys. Only the common versatile fairy shrimp was detected by 2020 – 2021 focused surveys, both in the wet and dry seasons.

5.3.3 Impacts

All fairy shrimp habitat and potential fairy shrimp habitat on the project site will be impacted.

5.3.4 Mitigation

No special status fairy shrimp were detected so no mitigation and avoidance are required.

5.4 Riparian Birds

The project site and adjacent vegetation is unsuitable habitat for state and federally listed riparian bird species such as the least Bell's vireo (*Vireo bellii pusillus*), southwestern willow flycatcher (*Empidonax traillii extimus*), or western yellow-billed cuckoo (*Coccyzus americanus occidentalis*). Stands are too small and lack the necessary structure and density to support these species. No mitigation is required.

6 PROTECTION OF NARROW ENDEMIC PLANT SPECIES (SECTION 6.1.3)

The project site is within the Narrow Endemic Plant Species Survey Area (NEPSSA) for Marvin's onion (*Allium marvinii*) and many stemmed dudleya (*Dudleya multicaulis*) (Figure 8). Suitable habitat is present on site for those species. Therefore, focused surveys were conducted for these narrow endemic plants (NEPS).

6.1 Methods

The focused survey (WSP 2024b) was conducted on 26 and 27 May 2020 by WSP biologists Dale Hameister and Nathan T. Moorhatch. The survey was conducted during the appropriate time of year (blooming period) for the detection of the NEPSSA species and followed a period of above average rainfall for the 2019-2020 season. Areas of suitable habitat were surveyed utilizing transects which were adjusted based on topography and habitat coverage so that all potential NEPSSA habitat was surveyed.

6.2 Existing Conditions and Results

Marvin's onion and many stemmed dudleya were not observed or otherwise detected during the focused survey. There are no historic records of these species on the project site, including during surveys conducted from 2002 - 2005. These plant species are considered absent from the project site.

6.3 Mitigation

Because no NEPS were detected, no impacts will occur. For these reasons, mitigation for NEPS is not required for the project.

7 ADDITIONAL SURVEY NEEDS AND PROCEDURES (SECTION 6.3.2)

7.1 Criteria Area Plant Species

The WRCRCA MSHCP Information Tool indicates the project site is not located within a CASSA for plants, therefore no actions are needed.

7.2 Amphibians

The WRCRCA MSHCP Information Tool indicates that the project site is not within a MSHCP designated amphibian survey area, therefore no actions are needed.

7.3 Burrowing Owl

Burrowing owl habitat is present and the project site is within the MSHCP designated burrowing owl survey area (Figure 9) so focused surveys were conducted (WSP 2024c).

7.3.1 Methods

All burrowing owl surveys were conducted in accordance with protocol provided by the Riverside County Transportation and Land Management Agency (Environmental Programs Department "RCTLMA EPD" 2006a). Step I habitat assessment and Step II, Part A focused burrow surveys were conducted on 17 July 2020 by WSP senior biologist Nathan Moorhatch and biologist Alec Williams. The non-native grassland vegetation and portions of the various drainages with California ground squirrel and other manmade "burrow surrogates" on and immediately adjacent to the project site provide suitable habitat for burrowing owls. The site was surveyed on foot, mapping the locations of California ground squirrel burrows and/or manmade "burrow surrogates" that were suitable for burrowing owl use. Step II, Part B focused burrowing owl surveys were then conducted by Moorhatch or Williams on 24 & 31 July and 6 & 12 August 2020. Surveys were completed via pre-dawn/early morning pedestrian transects over 100% of those areas of the site identified in the burrow search as having burrows or structures capable of supporting burrowing owls. Binoculars were used to visually inspect potential perching locations (i.e., rocks, debris, dirt mounds) as well as the entrances to all onsite mammal burrows and debris providing potential shelter (i.e., piles of concrete slabs, cement drainpipes). Potential burrows were carefully examined for evidence of burrowing owl occupation (i.e., animal dung, feathers, whitewash, pellets, debris, etc.). Where buffer areas were not accessible, they were visually inspected using binoculars in accordance with protocol.

7.3.2 Existing Conditions and Results

Potential burrow sites were present, but no burrowing owls or their sign were detected. Therefore, no impacts to burrowing owls are anticipated at this time.

7.3.3 Impacts

Most, if not all, potential burrows on the project site will be permanently impacted by the project.

7.3.4 *Mitigation*

Because no burrowing owls were detected, no impacts will occur. For this reason, mitigation and/or equivalency requirements relative to burrowing owls are not anticipated to be required for the project.

Note, however, that because the project site contains suitable, but currently unoccupied habitat, burrowing owls have the potential to colonize and occupy the project site at any time in the future. MSHCP guidelines require a one-visit pre-construction presence/absence surveys for burrowing owls within the survey area where suitable habitat is present, even where protocol level surveys were negative. Surveys will be conducted within 30 days prior to disturbance. If burrowing owls are found at that time, refer to the following guidelines below.

The project site is not located within a Criteria Area, so the following MSHCP guidelines apply:

- "If the site contains, or is part of, an area supporting less than 35-acres of suitable habitat or the survey reveals that the site and the surrounding area supports fewer than 3 pairs of burrowing owls, then the project site burrowing owls will be passively or actively relocated following accepted protocols."

- "If the site (including adjacent areas) supports three or more pairs of burrowing owls, supports greater than 35 acres of suitable Habitat and is non-contiguous with MSHCP Conservation Area lands, at least 90 percent of the area with long-term conservation value and burrowing owl pairs will be conserved onsite."

- "RCTLMA EPD (2006b) states: "In the event owls are observed on the project site, please contact the EPD immediately to discuss potential mitigation measures such as passive or active relocation." Further WRCRCA guidelines (2019b) include:

- Coordinate with WRCRCA and the CDFW on all evictions (passive or active relocation).
- Eviction may be acceptable if suitable conserved habitat and natural or artificial burrows are within 75–100 meters. Note that eviction during the nesting season is generally prohibited.
- If adjacent or nearby suitable habitat is not conserved, eviction may still be acceptable at the discretion of WRCRCA and/or CDFW.
- A *Burrowing Owl Protection and Relocation Plan* will be prepared and must be reviewed, approved, and coordinated with WRCRCA and Wildlife Agencies, including the state banding permit office and federal Migratory Bird Treaty Act office if active relocation is needed.

Should burrowing owls be detected, an updated DBESP report will be prepared and mitigation will be achieved through the project following all MSHCP guidelines and the direction of the Environmental Programs Department, Western Riverside County Regional Conservation Authority, and/or the Wildlife Agencies.

7.4 Mammals

Los Angeles pocket mouse (LAPM) habitat is present and approximately 19.6-acres of the project site are within the MSHCP designated LAPM survey area (Figure 10), so focused surveys were conducted for the LAPM (WSP 2024d).

7.4.1 Methods

Trapping operations were conducted by WSP biologist John F. Green under the authority of CDFW Scientific Collecting Permit (SCP) #SC-190360007. A total of six grids of 25 traps each were placed (Grids A through F). One grid was placed in each drainage and the remaining three grids were placed in upland habitats. All grids were within the MSHCP-designated survey area for the Los Angeles pocket mouse.

To ensure that weather conditions were suitable to conduct the survey with minimal stress to captured animals, National Weather Service forecasts were monitored for the weather stations nearest the trapping areas. Trapping is not conducted unless five consecutive nights with temperatures above 50 degrees Fahrenheit are forecasted. At this time of year, no temperatures approached that threshold.

All traps were 12" long folding Sherman® live traps, modified by the manufacturer for the prevention of tail lacerations when trapping long-tailed animals (such as kangaroo rats). Traps were placed approximately ten meters apart and baited with white proso millet. Traps were opened at dusk daily, checked for captures at mid-night and dawn, and closed for the day following each dawn check. Trapping at each grid was conducted for five consecutive nights. Captured animals were identified and released at the point of capture. Capture data and weather variables were recorded on standardized data forms. Weather variables were recorded with a handheld Kestrel anemometer.

7.4.2 Existing Conditions and Results

Within the LAPM survey area on the project site, potential habitat ranges from high quality in the drainages and from low-moderate quality in the uplands. No LAPM were detected during the focused survey, however.

7.4.3 Impacts

LAPM appears to be absent from the project site. Therefore, impacts to LAPM will not occur as a result of project implementation.

7.4.4 Mitigation

No LAPM are present, thus no impacts will occur and no mitigation for LAPM is required.

8 INFORMATION ON OTHER SPECIES

8.1 Delhi Sands Flower Loving Fly

The project does not fall within an area with mapped Delhi soils (Figure 6) and is outside of the range of the Delhi Sands flower loving fly (*Rhaphiomidas terminatus abdominalis*).

8.2 Species Not Adequately Conserved

Table 9-3 of the MSHCP lists twenty-eight (28) species for which certain conservation requirements must be achieved in order for them to be considered adequately conserved. Table 4 below lists those species, their current MSHCP status (adequately conserved or not), and their potential for occurrence on the project site if they have not been adequately conserved.

Table 4. Species Not Adequately Conserved under MSHCP Table 9-3 in 2004

Species	Habitat and Distribution	Site & Current MSHCP Status (WRCRCA 2019a)
Plants		
Arctostaphylos rainbowensis rainbow manzanita	Perennial evergreen shrub found in chaparral vegetation and known to occur in northwestern San Diego and southwestern Riverside Counties, from 100 to 870 meters elevation.	ABSENT. project site is well outside of the known range of the species. Table 9-3 requirements for conservation have been met. Not found on the project site by focused plant surveys, but this species was not a specific survey target.
Calochortus plummerae Plummer's mariposa lily	Found in sandy or rocky sites of (usually) granitic or alluvial material in valley and foothill grassland, coastal scrub, chaparral, cismontane woodland, and lower montane coniferous forest at 100 to 1,700 meters (300 to 5,600 feet) elevation.	VERY LOW POTENTIAL TO OCCUR. Table 9-3 requirements for conservation have been met. Not found on the project site by focused plant surveys, but this species was not a specific survey target.
Chorizanthe leptotheca peninsular spineflower	Annual herb found on coastal and alluvial fans at 300 to 1,900 meters (984 to 6,235 feet elevation) in chaparral, yellow pine forest, coastal sage scrub habitats.	VERY LOW POTENTIAL TO OCCUR. Table 9-3 requirements for conservation have been met. Not found on the project site by focused plant surveys, but this species was not a specific survey target.
Chorizanthe parryi var. *parryi* Parry's spineflower	Found in dry sandy soils in chaparral or coastal scrub at 40 to 1,750 meters (100 to 5,700 feet) elevation. Known only from Riverside and San Bernardino Counties and possibly extending into Los Angeles County.	VERY LOW POTENTIAL TO OCCUR. Table 9-3 requirements for conservation have been met. Not found on the project site by focused plant surveys, but this species was not a specific survey target.
Deinandra mohavensis Mojave tarplant	Found in low sand bars in riverbeds, mostly in riparian areas or in ephemeral grassy areas, in riparian scrub and mesic chaparral at 640 to 1,645 meters elevation.	VERY LOW POTENTIAL TO OCCUR. Table 9-3 requirements for conservation have not been met. Not found on the project site by focused plant surveys, but this species was not a specific survey target.

Species	Habitat and Distribution	Site & Current MSHCP Status (WRCRCA 2019a)
Dudleya viscida sticky (-leaved) dudleya	Perennial herb found in rocky areas in coastal bluff scrub, chaparral, coastal sage scrub; 10-870 meters elevation.	ABSENT. project site is well outside of the known range of the species. Table 9-3 requirements for conservation have been met or partially met, but a Memorandum of Understanding (MOU) with the US Forest Service (USFS) is needed. Not found on the project site by focused plant surveys, but this species was not a specific survey target.
Gallium californicum ssp. *primum* Alvin Meadow (California) bedstraw	Perennial herb found in granitic soils in chaparral and lower montane coniferous forest; 1,350 to 1,830 meters elevation.	ABSENT. project site is below known elevational range. Table 9-3 requirements for conservation have been met or partially met, but MOU with the USFS is needed. Not found on the project site by focused plant surveys, but this species was not a specific survey target.
Heuchera hirsutissima shaggy-haired alumroot	Found in rocky areas in upper montane and subalpine coniferous forest 1,065 to 3,500 meters elevation.	ABSENT. project site is below known elevational range. Table 9-3 requirements for conservation have not been met. Not found on the project site by focused plant surveys, but this species was not a specific survey target.
Holocarpha virgata ssp. *elongata* graceful (curving) tarplant	Annual herb found in chaparral, valley and foothill grassland, foothill woodland, and coastal sage scrub habitats at 60 to 1,100 meters elevation.	ABSENT. project site is well outside of the known range of the species. Table 9-3 requirements for conservation have been met. Not found on the project site by focused plant surveys, but this species was not a specific survey target.
Hulsea vestita ssp. *callicarpha* beautiful hulsea	Perennial herb found in rocky or gravelly, granitic soils at 915 to 3,050 meters elevation in chaparral or lower montane coniferous forest habitat.	ABSENT. project site is below known elevational range. Table 9-3 requirements for conservation have been met. Not found on the project site by focused plant surveys, but this species was not a specific survey target.

Species	Habitat and Distribution	Site & Current MSHCP Status (WRCRCA 2019a)
Lilium humboldtii ssp. *ocellatum* ocellated Humboldt lily	Found in openings within chaparral, cismontane woodland, coastal scrub, yellow pine forest, and riparian woodland at 30-1,800 meters elevation.	ABSENT. project site is outside of the expected range of the species. Table 9-3 requirements for conservation have not been met. Not found on the project site by focused plant surveys, but this species was not a specific survey target.
Lilium parryi lemon lily	Bulbiferous perennial herb of wet areas in meadows and riparian and montane coniferous forests at 625 to 2,930 meters elevation.	ABSENT. Table 9-3 requirements for conservation have not been met. Not found on the project site by focused plant surveys, but this species was not a specific survey target.
Microseris douglasii ssp. *platycarpha* small-flowered microseris	Found in valley grassland, coastal prairie, cismontane woodland, coastal sage scrub habitats and vernal pools at 15 to 1,070 meters.	ABSENT. project site is well outside of the known range of the species. Table 9-3 requirements for conservation have been met. Not found on the project site by focused plant surveys, but this species was not a specific survey target.
Mimulus (*Diplacus*) *clevelandii* Cleveland's bush monkeyflower	Found in chaparral, lower montane coniferous forest, and yellow pine forest habitats at 450 to 2000 meters elevation.	ABSENT. project site is well outside of the known range of the species. Table 9-3 requirements for conservation have not been met. Not found on the project site by focused plant surveys, but this species was not a specific survey target.
Muhlenbergia californica California muhly	Streambanks, canyons, and other moist sites in chaparral, coastal sage scrub, coniferous forest, and meadows; 100 to 2,000 meters elevation; San Gabriel, San Bernardino, and San Jacinto Mountains.	ABSENT. WRCRCA reports that Table 9-3 requirements for conservation have not been met because this species is not present in MSHCP area. Not found on the project site by focused plant surveys, but this species was not a specific survey target.
Sidotheca (Oxytheca) caryophylloides chickweed oxytheca	Annual herb found in lower montane coniferous forest (sandy) habitats at 1,114 to 2,600 meters.	ABSENT. project site below known elevational range. Table 9-3 requirements for conservation have not been met. Not found on the project site by focused plant surveys, but this species was not a specific survey target.

Species	Habitat and Distribution	Site & Current MSHCP Status (WRCRCA 2019a)
Polygala cornuta var. *fishiae* Fish's milkwort	Chaparral, riparian woodland, cismontane woodland, 100 to 1,000 meters elevation.	ABSENT. project site is well outside of the known range of the species. Table 9-3 requirements for conservation have been met. Not found on the project site by focused plant surveys, but this species was not a specific survey target.
Potentilla rimicola cliff cinquefoil	Granitic crevices and rocky slopes in subalpine coniferous forest and upper montane coniferous forest at 2,400 to 3,050 meters elevation.	ABSENT. project site below known elevational range. Table 9-3 requirements for conservation have not been met. Not found on the project site by focused plant surveys, but this species was not a specific survey target.
Romneya coulteri Coulter's Matilija poppy	Dry washes and canyons 20 to 1,220 meters elevation. Coastal sage scrub and chaparral away from the immediate coast.	VERY LOW POTENTIAL TO OCCUR. Table 9-3 requirements for conservation have been met. Not found on the project site by focused plant surveys, but this species was not a specific survey target.
Reptiles		
Charina umbratica Southern rubber boa	Found in montane coniferous forest; near rock outcrops and woody debris in the San Bernardino and San Jacinto Mountains.	ABSENT. project site is not in the range or habitat of this species. Table 9-3 requirements for conservation have been met or partially met, but MOU with the USFS is needed.
Lampropeltis multifasciata (zonata parvirubra) coast mountain kingsnake (San Bernardino mountain kingsnake)	"San Bernardino Mountain Kingsnake" is found in southern California in the San Jacinto, Santa Rosa, San Bernardino, Santa Susana, and San Gabriel Mountains, and the Verdugo Hills. It occurs in diverse habitats including coniferous forest, oak-pine woodlands, riparian woodland, chaparral, manzanita, and coastal sage scrub.	ABSENT. project site is not in the range of this former subspecies. Table 9-3 requirements for conservation have been met or partially met, but MOU with the USFS is needed.
Lampropeltis multifasciata (zonata pulchra) coast mountain kingsnake (San Diego mountain kingsnake)	"San Diego Mountain Kingsnake" is found in three areas in southern California: in the central San Diego County peninsular ranges - the Laguna, Palomar, Volcan, and Hot Springs Mountains; in the Santa Ana Mountains; and in the Hollywood Hills and the Santa Monica mountains. It is a habitat generalist, found in diverse habitats including coniferous forest, oak-pine woodlands, riparian woodland, chaparral, manzanita, and coastal sage scrub.	ABSENT. project site is not in the range of this former subspecies. Table 9-3 requirements for conservation have not been met.

Species	Habitat and Distribution	Site & Current MSHCP Status (WRCRCA 2019a)
Sceloporus graciosus vandenburgianus southern sagebrush lizard	Lives in shrublands such as chaparral, manzanita and ceanothus, as well as open pine and Douglas Fir forests, mainly in the mountains. This subspecies (or species) is found in the Transverse and Peninsular mountains of southern California, and in the Sierra San Pedro Martir of northern Baja California. Known from elevations above 2,900 meters.	ABSENT. project site is not in the elevational range of this former subspecies. Table 9-3 requirements for conservation have not been met.
Birds		
Ammodramus savannarum grasshopper sparrow	Grasslands, agricultural fields, prairie, old fields and open savanna. Uncommon and local summer resident on grassy slopes and mesas west of the deserts. Only rarely in migration and in winter.	MODERATE POTENTIAL TO OCCUR. Table 9-3 requirements for conservation have been partially met. Not reported from project area, but suitable habitat is present.
Melospiza lincolnii Lincoln's sparrow	Occurs in bogs, wet meadows, and riparian thickets, mostly in northern and montane areas. Winters in brushy areas, thickets, hedgerows, understory of open woodlands, forest edges, clearings, and scrubby areas.	POTENTIALLY OCCURS (WINTERING ONLY). Table 9-3 requirements for conservation have not been partially met. Breeding habitat is not present, but species may winter or occur in migration.
Sphyrapicus thyroideus Williamson's sapsucker	Occurs primarily in conifer forests (spruce, fir, and lodge pole pine). Winters in mostly pine and pine-oak woodlands in the mountains. Cavity nesters.	ABSENT. Table 9-3 requirements for conservation have not been met.
Strix occidentalis California spotted owl	Sparsely distributed in the MSHCP area in oak woodland and forest and montane coniferous forest and within canyons in chaparral covered hillsides where oak woodland is present within the Santa Ana Mountains, San Bernardino Mountains, and San Jacinto Mountains.	ABSENT. Suitable habitat is not present on the project site. Table 9-3 requirements for conservation have not been met. Suitable habitat is not present on the project site.
Mammals		
Glaucomys sabrinus californicus San Bernardino flying squirrel	In the MSHCP area, known only from the San Jacinto Mountains in broad-leaved upland forest, mixed evergreen forest, montane riparian forest, and coniferous forest mapping units (Jeffrey pine, lodgepole pine, lower montane coniferous forest, southern California white fir, and subalpine coniferous).	ABSENT. Suitable habitat is not present on the project site. Table 9-3 requirements for conservation have not been met.

The WRCRCA (2019a) also notes that take is very limited or unavailable for the Santa Rosa Plateau fairy shrimp, bald eagle, golden eagle, peregrine falcon, and white-tailed kite. The Santa Rosa Plateau fairy shrimp occurs only on the Santa Rosa Plateau. The bald eagle, golden eagle, peregrine falcon, and white-tailed kite are all raptors, and any of them could potentially forage on, or fly over the project site, but nesting habitat is not present for any, with the possible exception of white-tailed kite. The kite and grasshopper sparrow which are noted as being of potential occurrence in the table above will be protected by the following measures.

8.3 Protection of Nesting Birds

The MSHCP does not ever provide take for impacts to nesting birds (WRCRCA 2019b). The project site contains suitable nesting habitat for several bird species discussed in this document as well as many additional bird species protected under state code (California Legislative Information 2021) and the federal Migratory Bird Treaty Act (MBTA) (USFWS 2021). These include most native bird species. Impacts to nesting birds, both direct and indirect, can be minimized or eliminated during project activities by conducting work outside of the breeding season. Although nesting can occur year-round in southern California for some species, the typical avian breeding season is from approximately February 1 through August 31, so it is recommended to schedule initial clearing and grubbing work between September 1 and January 31 to avoid nesting activity. The project site and adjacent areas should be examined by a qualified biologist prior to disturbance, especially where there could be any direct impacts. If active nests are found, the nests should be avoided and a "no disturbance" buffer zone established and observed until young have fledged. While there is no established protocol for nest avoidance and buffer zones, when consulted, the CDFW generally recommends avoidance buffers of 500 feet for raptors and listed species and 100–300 feet for other unlisted birds.

9 GUIDELINES PERTAINING TO THE URBAN/WILDLANDS INTERFACE (MSHCP SECTION 6.1.4)

Although the project site is not currently in or adjacent to the MSHCP Conservation Area, conservation is being proposed by an adjoining project immediately adjacent to proposed Sun Lakes Boulevard in Highland Wash, Smith Creek, Pershing Creek and in a buffer around them. Land conserved in those areas will become a part of the MSHCP Conservation Area. To preserve the integrity of areas described as existing or future parts of the MSHCP Conservation Area, the guidelines contained in the MSHCP Section 6.1.4 Urban Wildlands Interface Guidelines below should be implemented. The intent is to control the potential adverse effects of development on adjacent existing and future parts of the MSHCP Conservation Area.

- Measures will be incorporated to control the quantity and quality of runoff from the site entering the MSHCP Conservation Area, either directly or indirectly. Standard best management practices (BMPs) from MSHCP Volume I, Appendix C will be included as applicable to ensure that siltation and erosion are minimized during construction, and also incorporated into the final design in order to ensure that future water quality is not degraded. In particular, measures shall be put in place to avoid the discharge of untreated surface runoff from developed and paved areas into existing natural drainage courses and/or the MSHCP Conservation Area. Any water quality or other drainage discharges must be reviewed by WRCRCA prior to conveyance into the MSHCP Conservation Area.
- Land uses in proximity to the proposed conserved areas that use chemicals or generate bio-products, such as manure; that are potentially toxic; or that may

adversely affect wildlife species, habitat, or water quality will incorporate measures to ensure that application of such chemicals does not result in discharge to the MSHCP Conservation Area. The greatest risk is from landscaping fertilization overspray and runoff.

- The siting and design of fencing will not impede wildlife movement. Design features may include, but not be limited to, jump-outs, pass-through gates and/or one-way gates. Fencing plans will include a commitment to routine maintenance.
- Proposed land uses adjacent to the conserved areas will incorporate barriers, where appropriate, to minimize unauthorized public access, domestic animal predation, illegal trespass, or dumping. Such barriers may include native landscaping, rocks/boulders, fencing, walls, signage, and/or other appropriate mechanisms.
- Night lighting will be directed away from the conserved areas to protect species within the conserved areas from direct night lighting. Shielding shall be incorporated in project designs to ensure ambient lighting in the conserved areas is not increased.
- Proposed noise-generating land uses affecting the conserved areas will incorporate setbacks, berms, or walls to minimize the effects of noise on conserved areas pursuant to applicable rules, regulations, and guidelines related to land use noise standards.
- Invasive species will not be used in development or restoration plan activities, such as landscaping:

<u>Plants That Should Be Avoided Adjacent to the Conservation Area (MSHCP Table 6-2)</u>
Acacia spp. (all species) acacia
Achillea millefolium var. *millefolium* common yarrow
Ailanthus altissima tree of heaven
Aptenia cordifolia red apple
Arctotheca calendula cape weed
Arctotis spp. (all species & hybrids) African daisy
Arundo donax giant reed or arundo grass
Asphodelus fistulosus asphodel
Atriplex glauca white saltbush
Atriplex semibaccata Australian saltbush
Carex spp. (all species*) sedge
Carpobrotus chilensis ice plant
Carpobrotus edulis sea fig
Centranthus ruber red valerian
Chrysanthemum coronarium annual chrysanthemum
Cistus ladanifer (incl. hybrids/varieties) gum rockrose
Cortaderia jubata [*syn.C. Atacamensis*] jubata grass, pampas grass
Cortaderia dioica [syn. *C. sellowana*] pampas grass
Cotoneaster spp. (all species) cotoneaster
Cynodon dactylon (incl. hybrids, varieties) Bermuda grass
Cyperus spp. (all species*) nutsedge, umbrella plant
Cytisus spp. (all species) broom
Delosperma 'Alba' white trailing ice plant
Dimorphotheca spp. (all species) African daisy, Cape marigold
Drosanthemum floribundum rosea ice plant
Drosanthemum hispidum purple ice plant
Eichhornia crassipes water hyacinth

Elaegnus angustifolia Russian olive
Eucalyptus spp. (all species) eucalyptus or gum tree
Eupatorium coelestinum [syn. *Ageratina* sp.] mist flower
Festuca arundinacea tall fescue
Festuca rubra creeping red fescue
Foeniculum vulgare sweet fennel
Fraxinus uhdei (and cultivars) evergreen ash, shamel ash
Gaura (spp.) (all species) gaura
Gazania spp. (all species & hybrids) gazania
Genista spp. (all species) broom
Hedera canariensis Algerian ivy
Hedera helix English ivy
Hypericum spp. (all species) St. John's Wort
Ipomoea acuminata Mexican morning glory
Lampranthus spectabilis trailing ice plant
Lantana camara common garden lantana
Lantana montevidensis [syn. *L. sellowiana*] lantana
Limonium perezii sea lavender
Linaria bipartita toadflax
Lolium multiflorum Italian ryegrass
Lolium perenne perennial ryegrass
Lonicera japonica (incl. 'Halliana') Japanese honeysuckle
Lotus corniculatus birdsfoot trefoil
Lupinus arboreus yellow bush lupine
Lupinus texanus Texas blue bonnets
Malephora crocea ice plant
Malephora luteola ice plant
Mesembryanthemum nodiflorum little ice plant
Myoporum laetum myoporum
Myoporum pacificum shiny myoproum
Myoporum parvifolium (incl. 'Prostratum') ground cover myoporum
Oenothera berlandieri Mexican evening primrose
Olea europea European olive tree
Opuntia ficus-indica Indian fig
Osteospermum spp. (all species) trailing African daisy, African daisy,
Oxalis pes-caprae Bermuda buttercup
Parkinsonia aculeata Mexican palo verde
Pennisetum clandestinum Kikuyu grass
Pennisetum setaceum fountain grass
Phoenix canariensis Canary Island date palm
Phoenix dactylifera date palm
Plumbago auriculata cape plumbago
Polygonum spp. (all species) knotweed
Populus nigra 'italica' Lombardy poplar
Prosopis spp. (all species*) mesquite
Ricinus communis castorbean
Robinia pseudoacacia black locust
Rubus procerus Himalayan blackberry
Sapium sebiferum Chinese tallow tree
Saponaria officinalis bouncing bet, soapwart
Schinus molle Peruvian pepper tree, California pepper
Schinus terebinthifolius Brazilian pepper tree
Spartium junceum Spanish broom

Tamarix spp. (all species) tamarisk, salt cedar
Trifolium tragiferum strawberry clover
Tropaelolum majus garden nasturtium
Ulex europaeus prickly broom
Vinca major periwinkle
Yucca gloriosa Spanish dagger

An asterisk (*) indicates some native species of the genera exist that may be appropriate.

- Manufactured slopes will not extend into existing or planned conserved areas.
- Weed abatement and fuel modification zones may not encroach into existing or planned Conservation Areas or avoidance areas.

10 BEST MANAGEMENT PRACTICES (MSHCP VOLUME I, APPENDIX C)

The project will implement the following MSHCP Volume I, Appendix C Standard BMPs, as applicable:

- A condition shall be placed on grading permits requiring a qualified biologist to conduct a training session for project personnel prior to grading. The training shall include a description of the species of concern and its habitats, the general provisions of the Endangered Species Act (Act) and the MSHCP, the need to adhere to the provisions of the Act and the MSHCP, the penalties associated with violating the provisions of the Act, the general measures that are being implemented to conserve the species of concern as they relate to the project, and the access routes to and project site boundaries within which the project activities must be accomplished.
- The qualified project biologist shall monitor construction activities for the duration of the project to ensure that practicable measures are being employed to avoid incidental disturbance of habitat and species of concern outside the project footprint, particularly during any activity that could directly or indirectly impact MSHCP resources.
- Water pollution and erosion control plans shall be developed and implemented in accordance with RWQCB requirements.
- The footprint of disturbance shall be minimized to the maximum extent feasible. Access to sites shall be via pre-existing access routes to the greatest extent possible.
- The upstream and downstream limits of project disturbance plus lateral limits of disturbance on either side of the stream shall be clearly defined and marked in the field and reviewed by the biologist prior to initiation of work.
- Projects should be designed to avoid the placement of equipment and personnel within the stream channel or on sand and gravel bars, banks, and adjacent upland habitats used by target species of concern.
- Projects that cannot be conducted without placing equipment or personnel in sensitive habitats should be timed to avoid the breeding season of riparian species identified in MSHCP Global Species Objective No. 7.
- When stream flows must be diverted, the diversions shall be conducted using sandbags or other methods requiring minimal instream impacts. Silt fencing or other sediment trapping materials shall be installed at the downstream end of construction activity to minimize the transport of sediments offsite. Settling

ponds where sediment is collected shall be cleaned out in a manner that prevents the sediment from reentering the stream. Care shall be exercised when removing silt fences, as feasible, to prevent debris or sediment from returning to the stream.

- Equipment storage, fueling, and staging areas shall be located on upland sites with minimal risks of direct drainage into riparian areas or other sensitive habitats. These designated areas shall be located in such a manner as to prevent any runoff from entering sensitive habitats. Necessary precautions shall be taken to prevent the release of cement or other toxic substances into surface waters. project related spills of hazardous materials shall be reported to appropriate entities including but not limited to applicable jurisdictional city, US Fish and Wildlife Service, and CDFW, RWQCB and shall be cleaned up immediately and contaminated soils removed to approved disposal areas.
- Erodible fill material shall not be deposited into water courses. Brush, loose soils, or other similar debris material shall not be stockpiled within the stream channel or on its banks.
- The removal of native vegetation shall be avoided and minimized to the maximum extent practicable. Temporary impacts shall be returned to pre-existing contours and revegetated with appropriate native species.
- Exotic species that prey upon or displace target species of concern should be permanently removed from the site to the extent feasible.
- To avoid attracting predators of the species of concern, the project site shall be kept as clean of debris as possible. All food related trash items shall be enclosed in sealed containers and regularly removed from the site(s).
- Construction employees shall strictly limit their activities, vehicles, equipment, and construction materials to the project footprint and designated staging areas and routes of travel. The construction area(s) shall be the minimal area necessary to complete the project and shall be specified in the construction plans. Construction limits will be fenced with orange snow screen. Exclusion fencing should be maintained until the completion of all construction activities. Employees shall be instructed that their activities are restricted to the construction areas.
- The Permittee shall have the right to access and inspect the project site including any restoration/enhancement area for compliance with project approval conditions including these BMPs (“The Permittee in this context is a signatory agency to the MSHCP).

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Appendix A – Figures



Project Alignment

FIGURE 1

Project Vicinity and Location
MSHCP Consistency Report
Sun Lakes Blvd. Realignment Project
Banning, CA

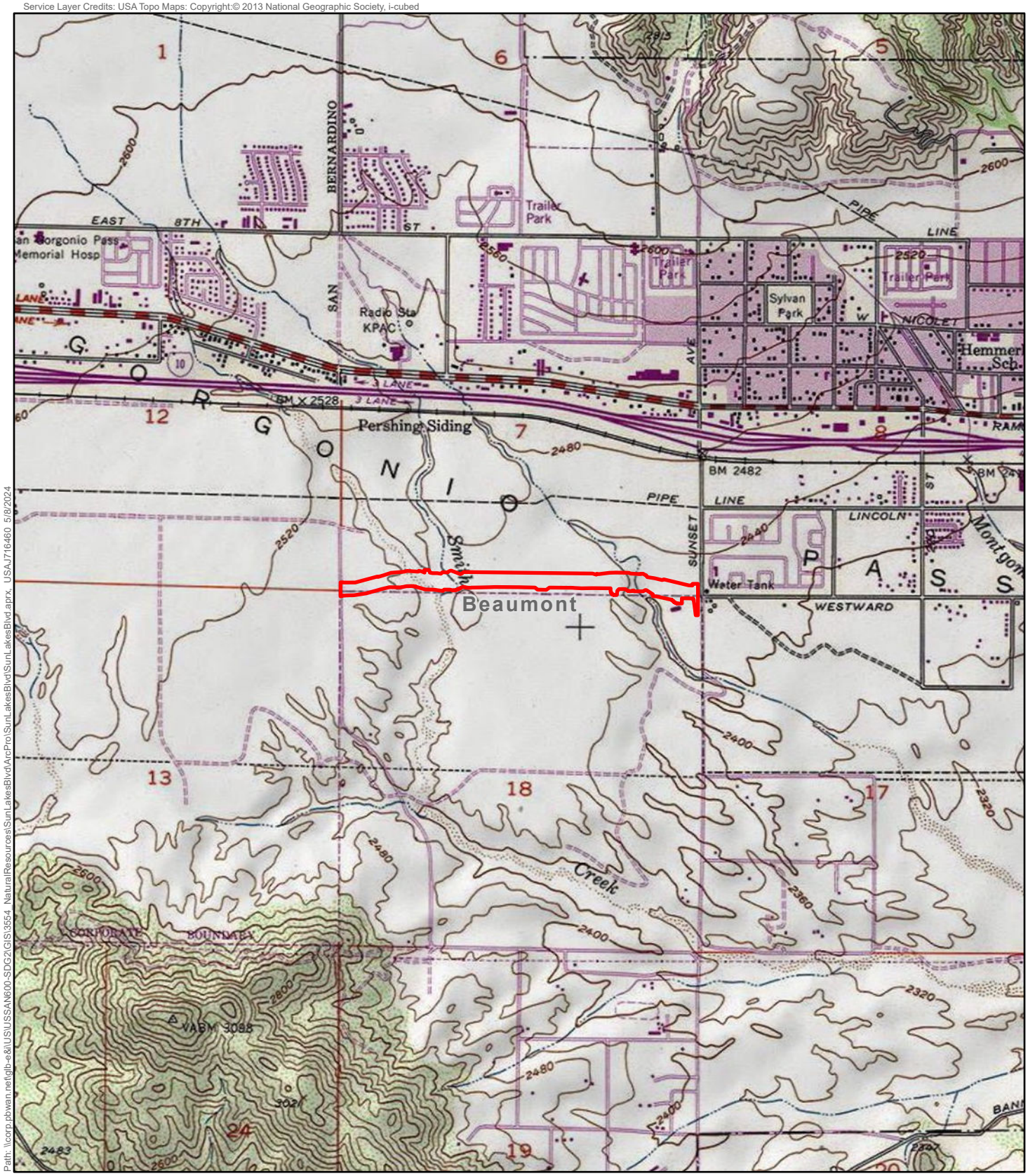


FIGURE 2
USGS 7.5' Topo Quad: Beaumont
MSHCP Consistency Report
Sun Lakes Blvd. Realignment Project
Banning, CA

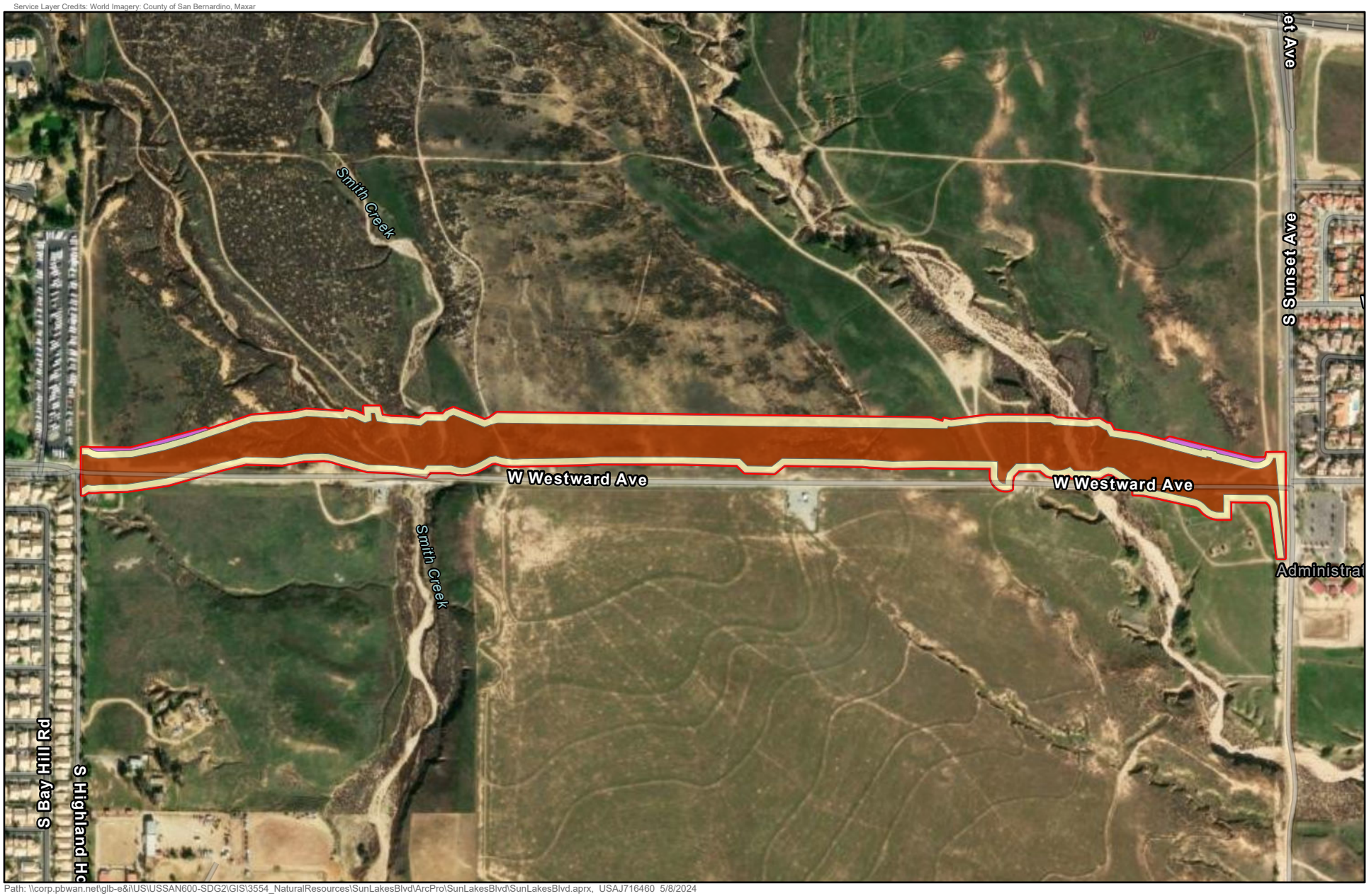


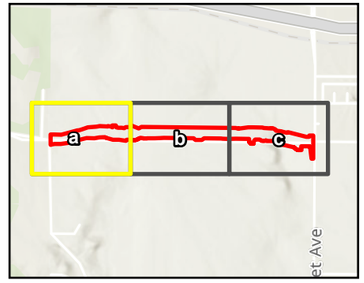
FIGURE 3

Project Impacts
MSHCP Consistency Report
Sun Lakes Blvd. Realignment Project
Banning, CA



Vegetation Communities

- Buckwheat scrub
- Disturbed/Developed
- Non-native Grassland
- Non-vegetated streambed
- Project Alignment



1 inch =150 feet

0 150 Feet

FIGURE 4a

Vegetation Communities
MSHCP Consistency Report
Sun Lakes Blvd. Realignment Project
Banning, CA

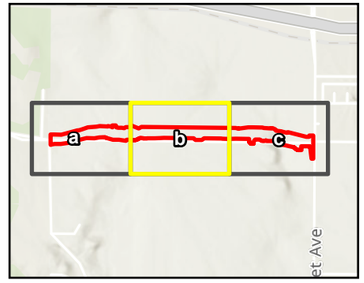
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Vegetation Communities

- Buckwheat scrub
- Disturbed/Developed
- Non-native Grassland
- Project Alignment



1 inch =150 feet

0 150 Feet

FIGURE 4b

Vegetation Communities
MSHCP Consistency Report
Sun Lakes Blvd. Realignment Project
Banning, CA

wsp

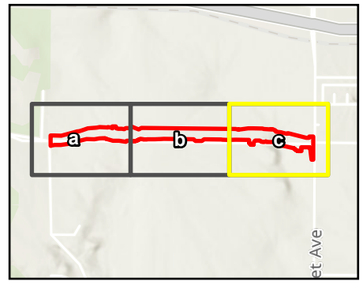
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Vegetation Communities

- Buckwheat scrub
- Disturbed/Developed
- Non-native Grassland
- Non-vegetated streambed
- Riparian Scrub/woodland
- Riversidean alluvial sage scrub
- Project Alignment



1 inch =150 feet

0 150 Feet

FIGURE 4c

Vegetation Communities
MSHCP Consistency Report
Sun Lakes Blvd. Realignment Project
Banning, CA

wsp

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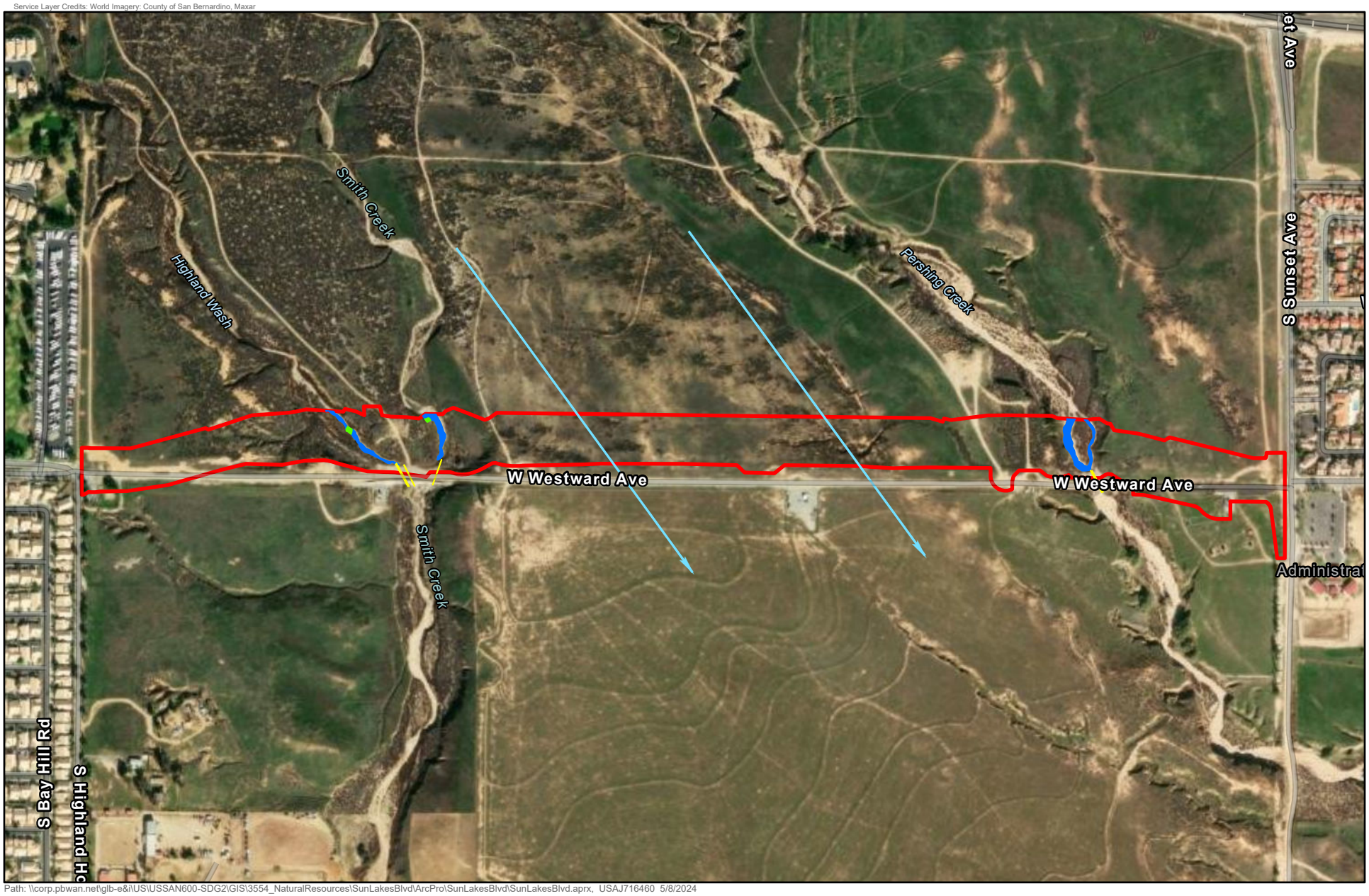


FIGURE 5

Riverine/Riparian Areas
MSHCP Consistency Report
Sun Lakes Blvd. Realignment Project
Banning, CA



GyD2: Greenfield sandy loam, 8 to 15 percent slopes, eroded

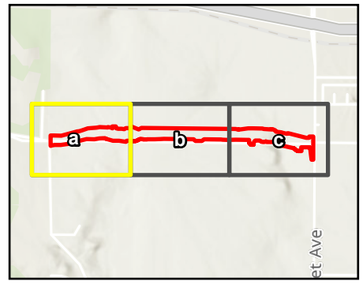
RaB2: Ramona sandy loam, 2 to 5 percent slopes, eroded

RaD3: Ramona sandy loam, 8 to 15 percent slopes, severely eroded

RsC: Riverwash

TeG: Terrace escarpments

Project Alignment



1 inch =150 feet

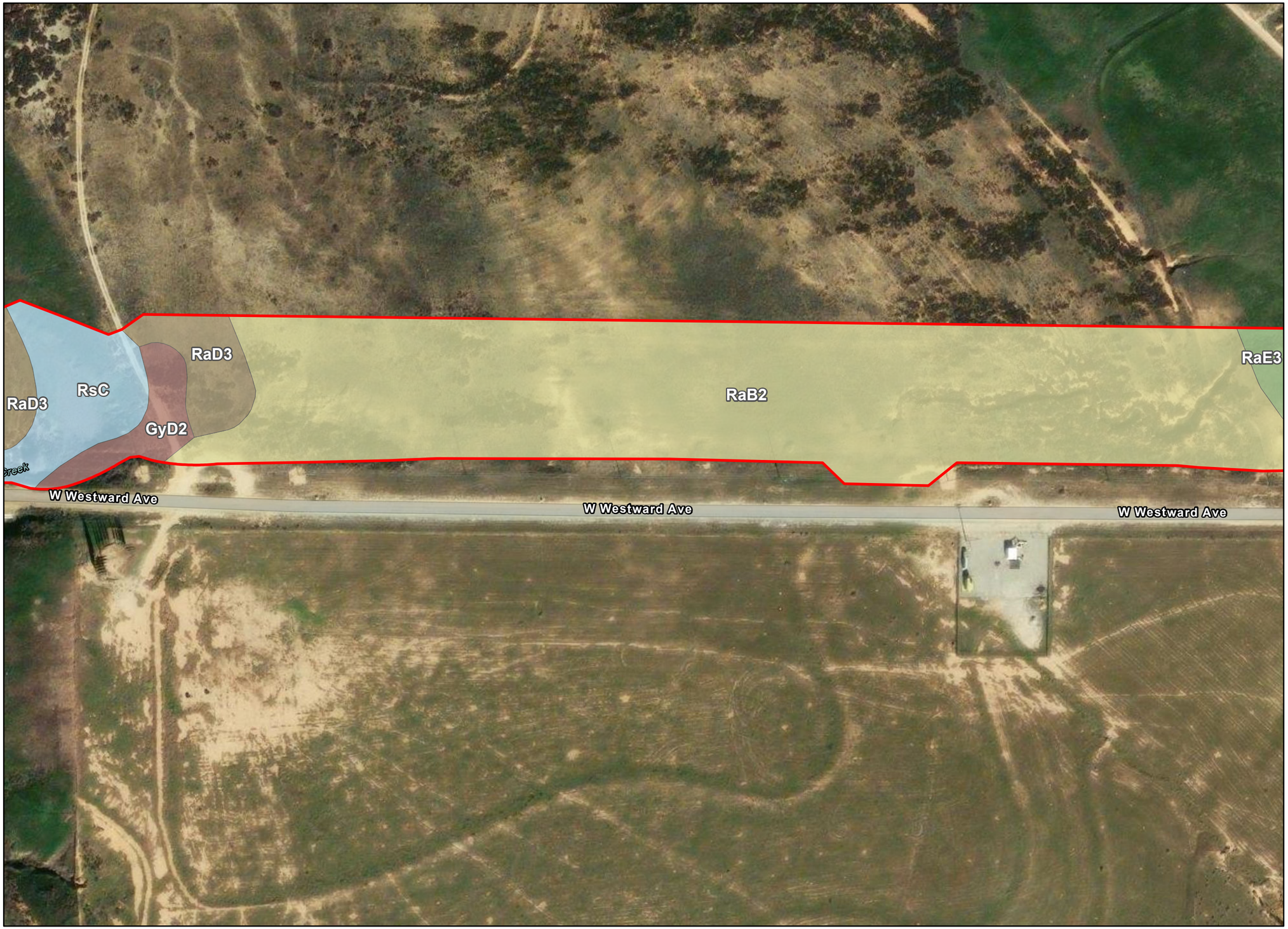
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FIGURE 6a

Soil Types
MSHCP Consistency Report
Sun Lakes Blvd. Realignment Project
Banning, CA

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GyD2: Greenfield sandy loam, 8 to 15 percent slopes, eroded

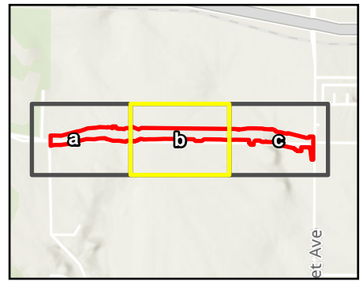
RaB2: Ramona sandy loam, 2 to 5 percent slopes, eroded

RaD3: Ramona sandy loam, 8 to 15 percent slopes, severely eroded

RaE3: Ramona sandy loam, 15 to 25 percent slopes, severely eroded

RsC: Riverwash

Project Alignment



1 inch =150 feet

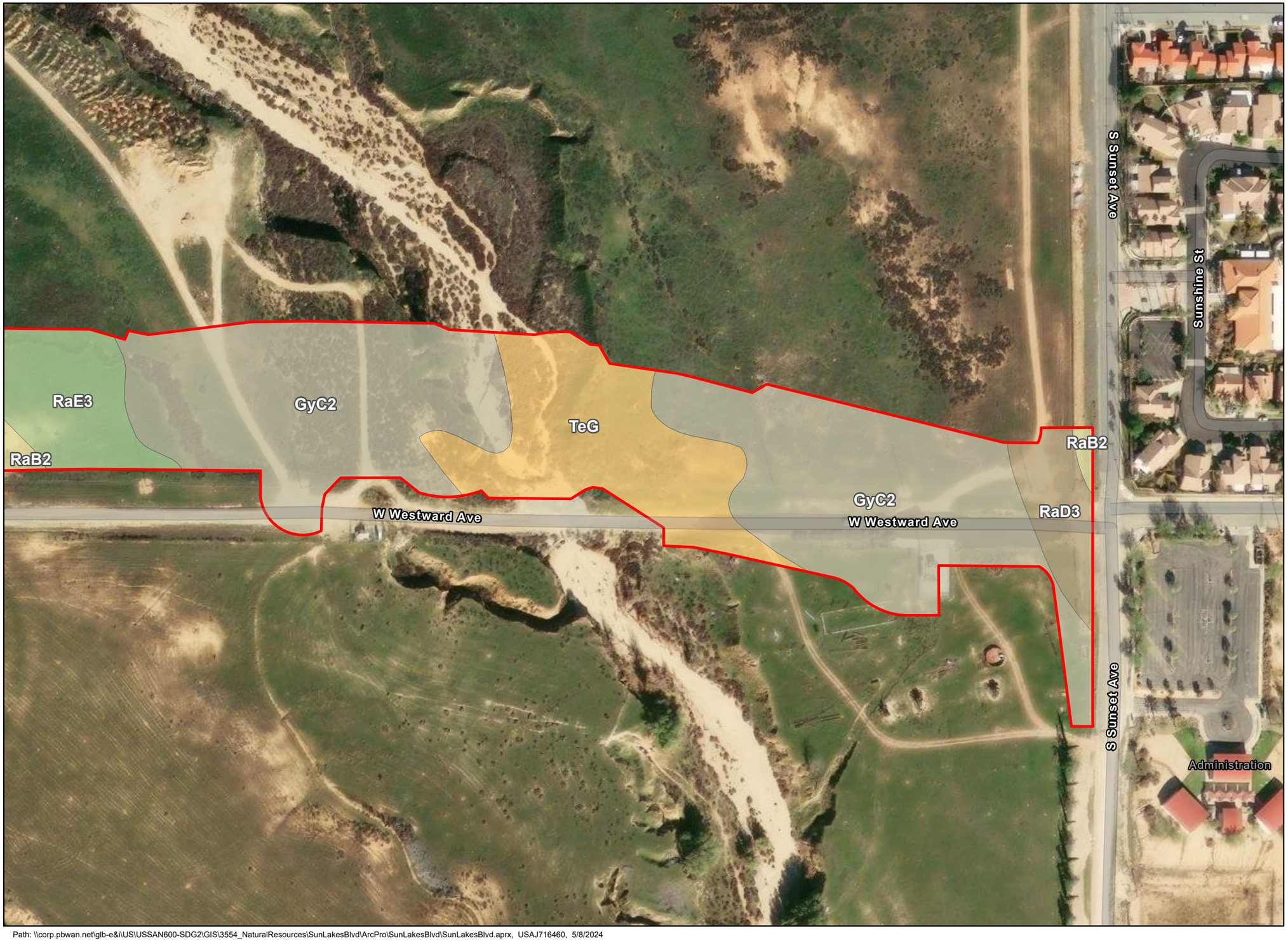
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FIGURE 6b

Soil Types
MSHCP Consistency Report
Sun Lakes Blvd. Realignment Project
Banning, CA

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GyC2: Greenfield sandy loam, 2 to 8 percent slopes, eroded

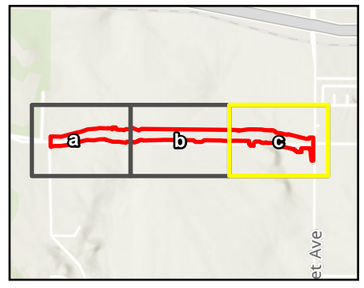
RaB2: Ramona sandy loam, 2 to 5 percent slopes, eroded

RaD3: Ramona sandy loam, 8 to 15 percent slopes, severely eroded

RaE3: Ramona sandy loam, 15 to 25 percent slopes, severely eroded

TeG: Terrace escarpments

Project Alignment



1 inch =150 feet

0 150 Feet

FIGURE 6c

Soil Types
MSHCP Consistency Report
Sun Lakes Blvd. Realignment Project
Banning, CA

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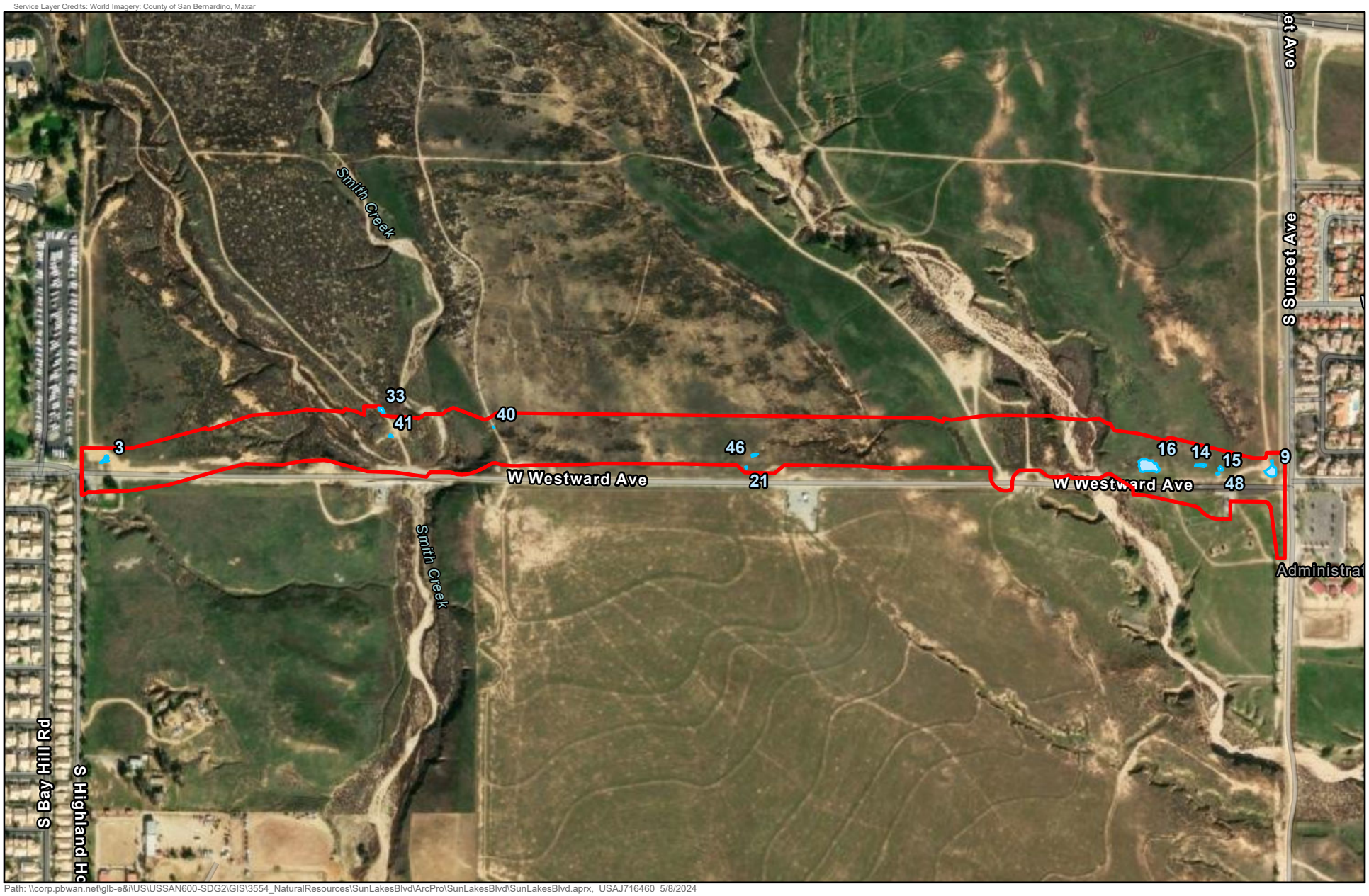


FIGURE 7

Fairy Shrimp Habitat
MSHCP Consistency Report
Sun Lakes Blvd. Realignment Project
Banning, CA

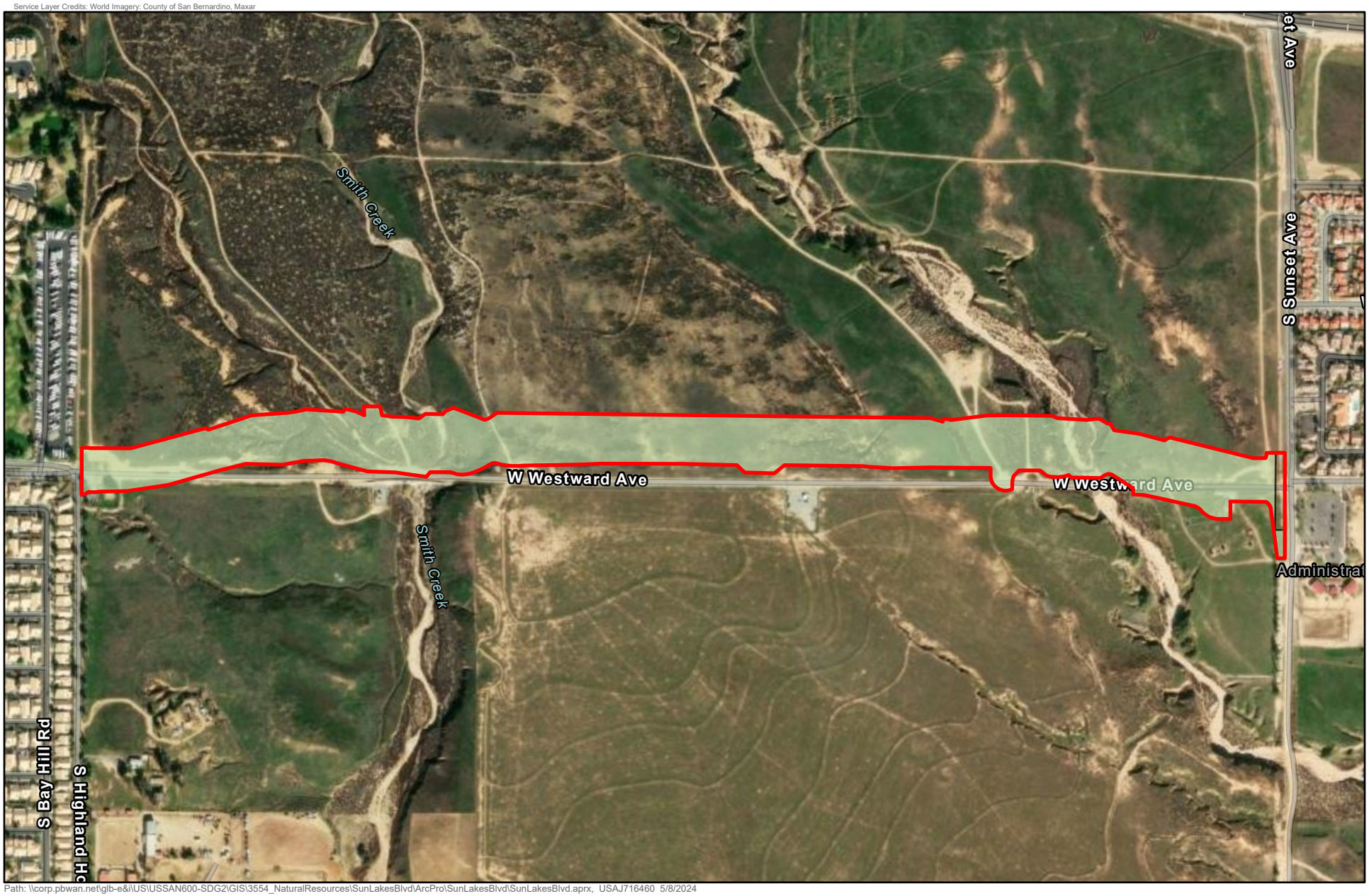


FIGURE 8

Narrow Endemic Plant Species Survey Area
MSHCP Consistency Report
Sun Lakes Blvd. Realignment Project
Banning, CA

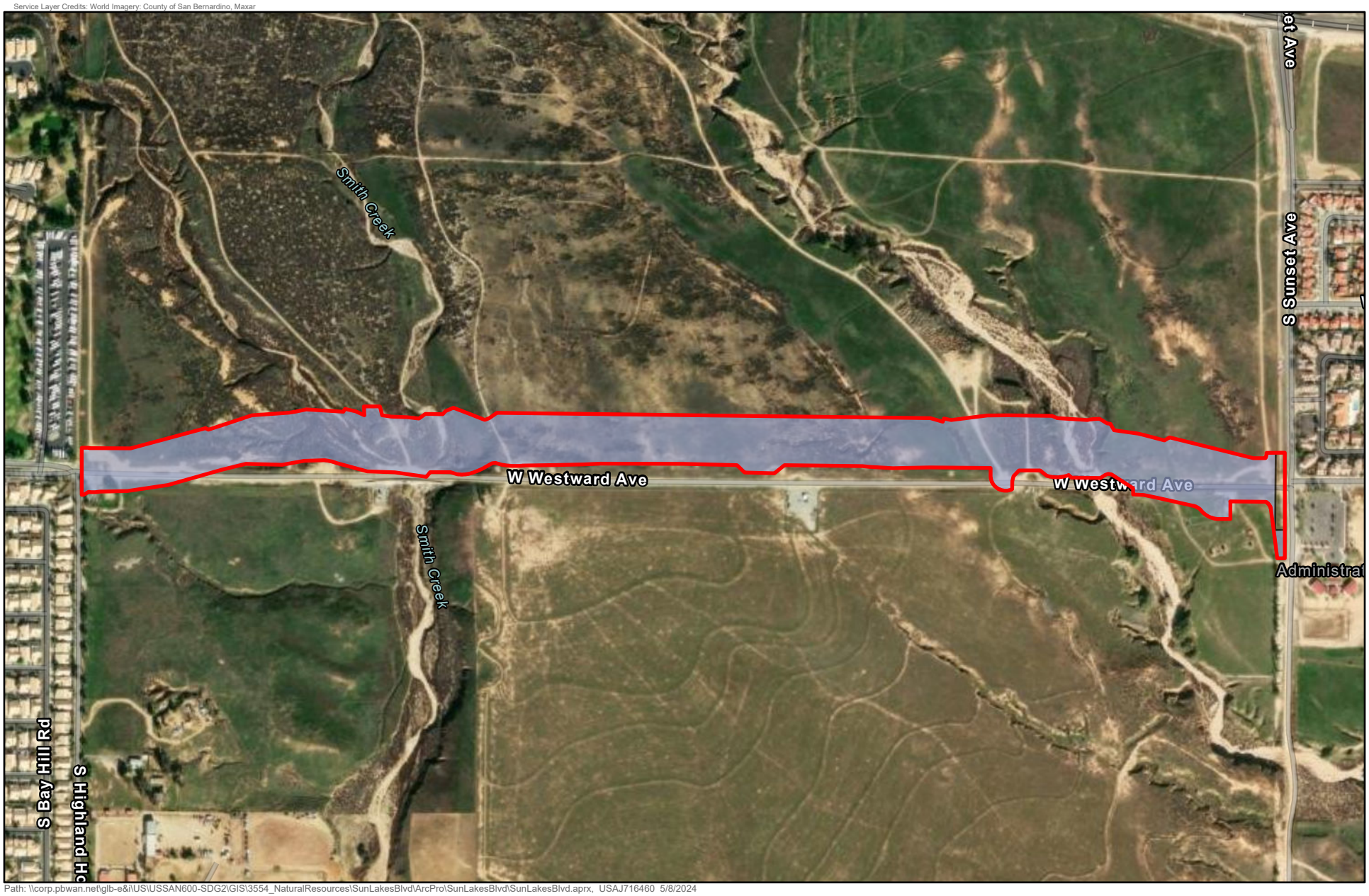


FIGURE 9

MSHCP BUOW Survey Area
MSHCP Consistency Report
Sun Lakes Blvd. Realignment Project
Banning, CA

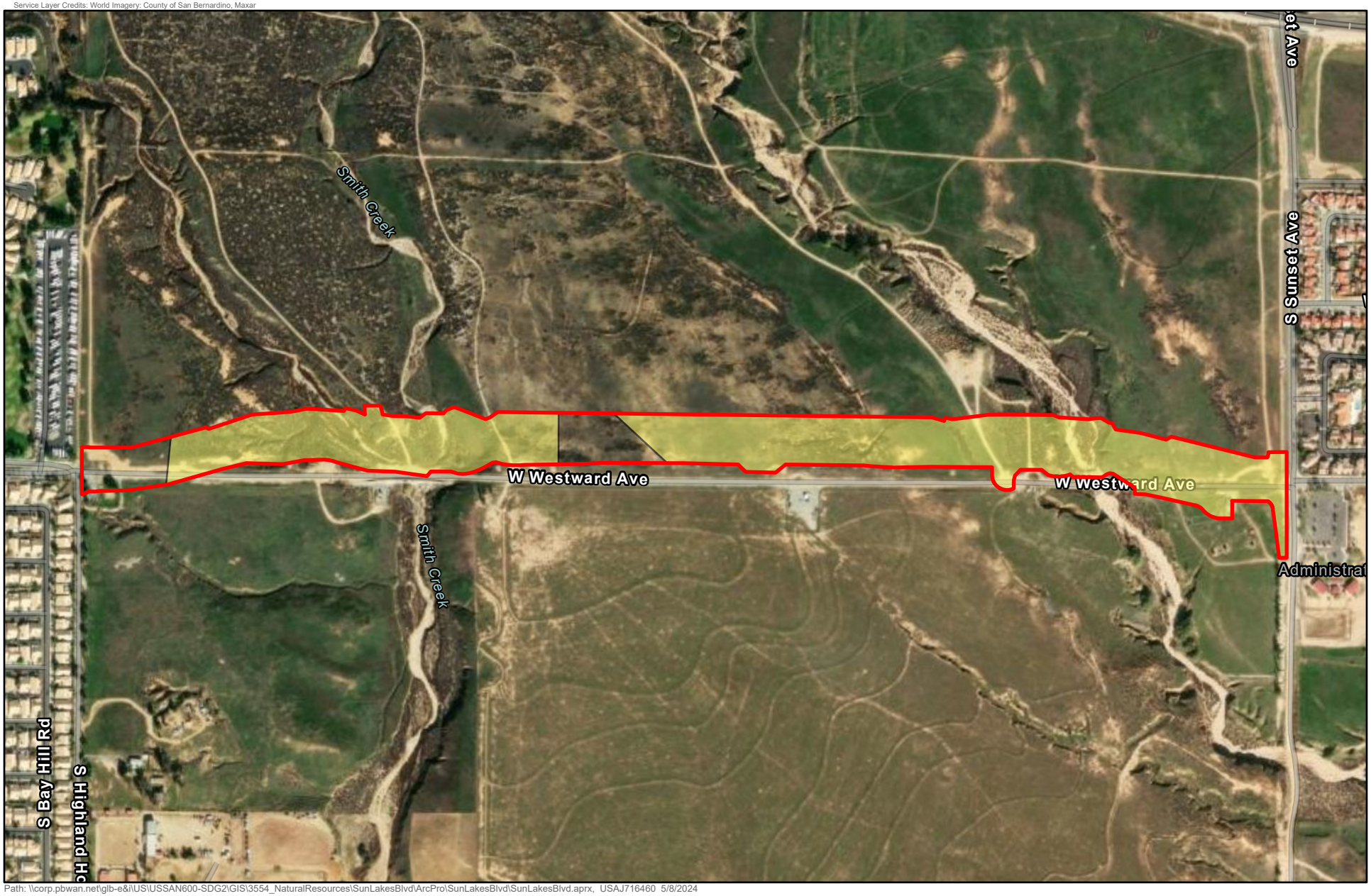


FIGURE 10

Los Angeles Pocket Mouse Survey Area
MSHCP Consistency Report
Sun Lakes Blvd. Realignment Project
Banning, CA

Appendix B.2

SUN LAKES BOULEVARD REALIGNMENT PROJECT
LOS ANGELES POCKET MOUSE FOCUSED SURVEY



City of Banning and Unincorporated Riverside County, California

Submitted to:
Albert A. Webb Associates
3788 McCray Street
Riverside, CA. 92506

Submitted by:
WSP USA Inc.
11870 Pierce St #160
Riverside, CA 92505
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Contact: John F. Green, Senior Biologist

Updated July 2024
WSP Job # 20-554-00809

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Appendix B Site Photographs

1.0 INTRODUCTION

At the request of the Albert A. Webb and Associates (Webb), WSP USA Inc. (WSP) conducted a focused survey for the Los Angeles pocket mouse (*Perognathus longimembris brevinasus*) on the Sun Lakes Boulevard Realignment Project site (project). The project is in the city of Banning, Riverside County, California (Figure 1) and includes the extension of Sun Lakes Boulevard eastward from its current termination point at Highland Home Road to the anticipated connection at West Lincoln Street.

Portions of the project site lie within the Western Riverside County Multiple-Species Habitat Conservation Area (MSHCP) survey area for the Los Angeles pocket mouse and potential habitat for the species is present.

2.0 PROJECT BACKGROUND/SITE DESCRIPTION

The project is generally located south of Interstate 10, west of Sunset Avenue and east of Highland Home Road between the terminus of Sun Lakes Boulevard on the west and the terminus of paved Westward Avenue on the east. It can be found in Section 7 of Township 3 South, Range 1 East of the *Beaumont*, California, United States Geological Survey (1978) 7.5-minute topographic quadrangle map (Figure 2). The elevation of the project site ranges from approximately 2,400 to 2,500 feet above sea level. The geographic coordinates near the middle of the site are 33.5512.85˚ North latitude and -116.5516.29˚ West longitude. Vegetation communities on site consist primarily of grassland and scrubs.

The proposed project is a transportation project including construction of a new section of Sun Lakes Boulevard from Highland Home Road to Sunset Avenue (Figure 3) and intersection improvements within the City of Banning's existing road right-of-way (ROW). This report has been updated due to a change is the outline of the proposed impacts and to update all related figures. The project is approximately 5,400 linear feet (1.02 mile) and 110-feet wide, encompassing approximately 19.4 acres of direct footprint and another 9.1 acres of temporary construction disturbance area. Project staging and stockpiling will occur within the City's ROW. Currently, Westward Avenue is a straight east-west unpaved dirt road between Highland Home Road and Sunset Avenue. The project crosses over three creeks, from west to east: Highland Wash, Smith Creek, and Pershing Creek. The project will include the construction of three sets of culverts to cross said creeks.

3.0 BACKGROUND ON THE LOS ANGELES POCKET MOUSE

The Los Angeles pocket mouse is a small rodent of the inland valleys and foothills of southern California, one of eight subspecies of the widespread little pocket mouse (*P. longimembris*) and is not well-studied. It is nocturnal, spending daylight hours in underground burrows or under surface debris and is essentially undetectable except by trapping surveys. It is one of few rodents to enter torpor during winter, a dormant state in which the metabolism is greatly lowered in order to cope with cold and the resulting lack of food.

The Los Angeles pocket mouse is associated with annual grassland, coastal sage scrub, desert scrub, and alluvial sage scrub at lower elevations and usually in sandy soils, but there is much left to learn of its specific habitat requirements. Small mammal biologists in western Riverside County have often found the highest concentrations of this subspecies along or near prominent drainages. Its historic range extended as far west as Burbank and San Fernando in Los Angeles County. Urbanization and agriculture have eliminated much of its historic habitat (Williams 1986), resulting in a current estimated range bordered on the west by Rancho Cucamonga in San Bernardino County, on the east by the San Gorgonio Pass in Riverside County, and extending south to the vicinity of Aguanga and Oak Grove in San Diego County (Patten et al. 1998).

This subspecies is not federally, or state listed as threatened or endangered. It is, however, designated a species of special concern by the California Department of Fish and Wildlife (CDFW) (2020) and has been assigned a state rank of S1S2 meaning that the subspecies is considered to be between "critically imperiled" and "imperiled" and "at very high risk of extinction due to extreme rarity" (between 5 or fewer and < than 20 populations), subject to "very steep" to "steep declines, or other factors."

Portions of the project site lie within the Western Riverside County Multiple-Species Habitat Conservation Area (MSHCP) survey area for the Los Angeles pocket mouse (Figure 3) and potential habitat for the species is present. Under the MSHCP, surveys for the Los Angeles pocket mouse are required in appropriate habitat within the designated survey areas in order to achieve coverage for the species.

4.0 METHODOLOGY

A total of six grids of 25 traps each were placed (Grids A through F) See Figure 3 and photos below. One grid was placed in each drainage and the remaining three grids were placed in upland habitats.

All grids were within the MSHCP-designated survey area for the Los Angeles pocket mouse.

Trapping operations were conducted by WSP biologist John F. Green under the authority of CDFW Scientific Collecting Permit (SCP) #SC-190360007. Because the federally listed as endangered, state listed as threatened Stephens' kangaroo rat (*Dipodomys stephensi*) is known to have occurred onsite, Stephens' kangaroo rat permit holder Phil Brylski was also present for all trapping. Brylski worked under authority of federal permit TE14855-2, a CDFW MOU, and authorizations attached to CDFW SCP 314.

To ensure that weather conditions were suitable to conduct the survey with minimal stress to captured animals, National Weather Service forecasts were monitored for the weather stations nearest the trapping areas. Trapping is not conducted unless five consecutive nights with temperatures above 50 degrees Fahrenheit are forecasted. At this time of year, no temperatures approached that threshold. Traps were set on consecutive nights from September 13-18, 2020.

All traps were 12" long folding Sherman® live traps, modified by the manufacturer for the prevention of tail lacerations when trapping long-tailed animals (such as kangaroo rats). Traps were placed approximately ten meters apart and baited with white proso millet. Traps were opened at dusk daily, checked for captures at dawn, and closed for the day following each dawn check. To comply with Stephens' kangaroo rat trapping guidelines traps were also checked each night. Trapping at each grid was conducted for five consecutive nights. Captured animals were identified and released at the point of capture. Capture data and weather variables were recorded on standardized data forms. The Collector app on an iPhone 8 was used to place and record grids and points for special-status species. Weather variables were recorded with a handheld Kestrel anemometer. Table 1 summarizes the number of traps, weather variables, and moon phases during the survey.

Table 1. Survey Data. Total trap-nights = 750 (150 traps for five nights)

Date (2020)	Night ˚F	Night Sky	Dawn ˚F	Dawn Sky	Moon Phase
13-14 September	67.4	Partly cloudy	58.7	100% cover	Waning Crescent
14-15 September	70.3	Partly cloudy	63.3	Partly cloudy	Waning Crescent
15-16 September	69.5	Partly cloudy	63.1	Partly cloudy	Waning Crescent
16-17 September	73.8	Partly cloudy	68.0	Partly cloudy	Waning Crescent
17-18 September	68.1	Partly cloudy	65.5	Partly cloudy	New

˚F = degrees Fahrenheit

5.0 RESULTS

Overall, 583 mammal captures were made of seven species for a trapping success rate of 77.7%. Although known to occur in the area, no Los Angeles pocket mice were captured. Two other specials tatus species was captured: the northwestern San Diego pocket mouse (*Chaetodipus fallax fallax*) and the Bryant's Woodrat (*Neotoma bryanti intermedia*) which was formerly known as San Diego desert woodrat. Both are CDFW species of special concern, and both are covered under the MSHCP.

Table 2 presents the complete results of the trapping survey.

Two other special-status species were also incidentally detected during the trapping effort: loggerhead shrike (*Lanius ludovicianus*) and California horned lark (*Eremophila alpestris actia*). The status of these animals will be discussed in other supporting project documents.

Table 2. Survey Results

Species	13-14 September	14-15 September	15-16 September	16-17 September	17-18 September	TOTALS
Northwestern San Diego Pocket Mouse *Chaetodipus fallax fallax*	13	30	38	38	40	**159**
Dulzura Kangaroo Rat *Dipodomys simulans*	4	9	8	4	10	**35**
House Mouse *Mus musculus*	1	2	-	1	2	**6**
Bryant's (San Diego Desert) Woodrat *Neotoma bryanti* (*lepida*) *intermedia*	1	1	-	1	1	**4**
Baja Mouse *Peromyscus fraterculus*	1	-	-	-	-	**1**
Deer Mouse *Peromyscus maniculatus*	59	68	83	86	69	**365**
Western Harvest Mouse *Reithrodontomys megalotis*	2	3	1	4	3	**13**
TOTALS	**81**	**113**	**130**	**134**	**125**	**583**

Total trapping success = 77.7% (583 captures in 750 trap-nights).

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Appendix A – Figures



Project Alignment

FIGURE 1

Project Vicinity and Location
Los Angeles Pocket Mouse Survey Report
Sun Lakes Blvd. Realignment Project
Banning, CA

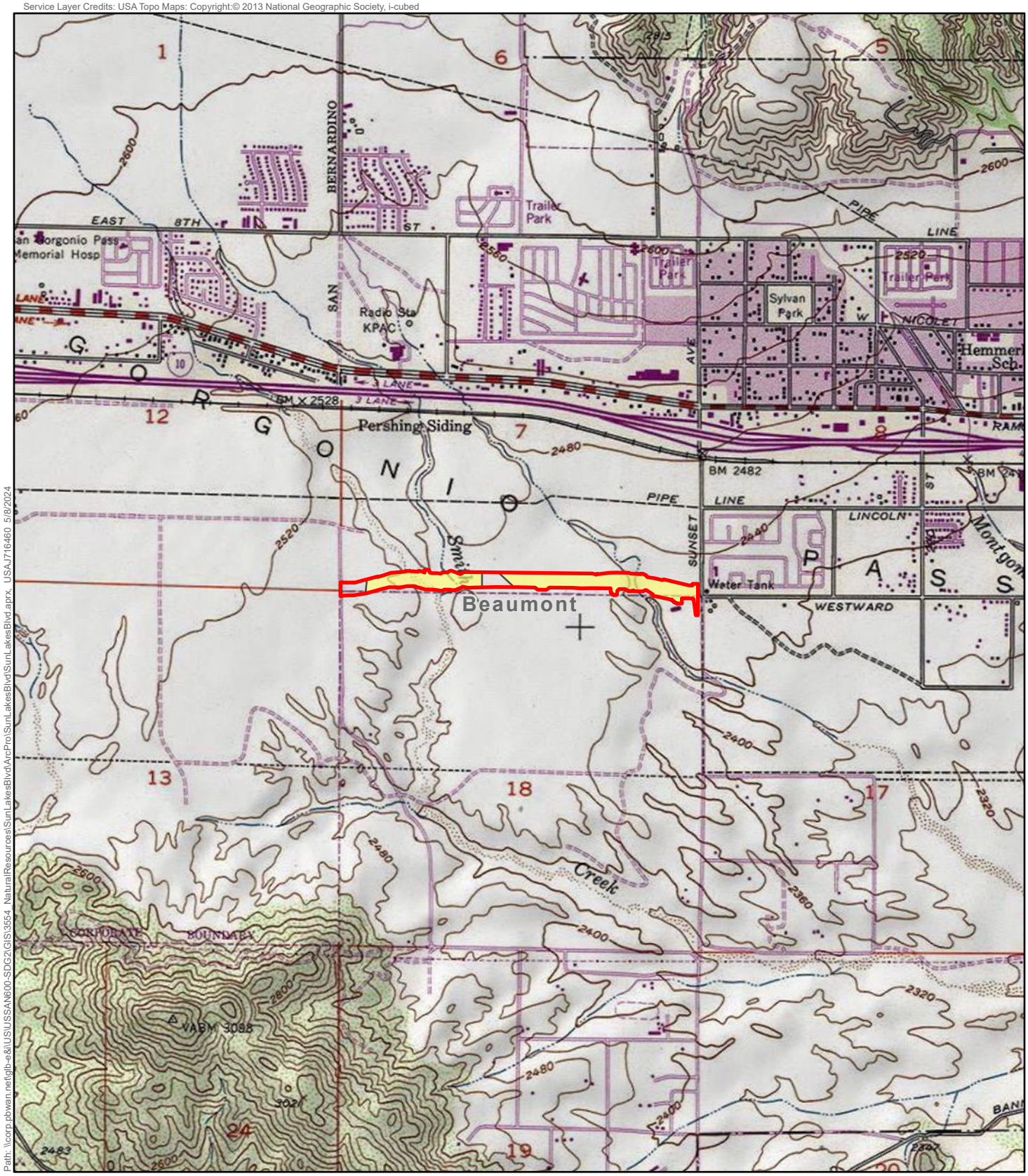
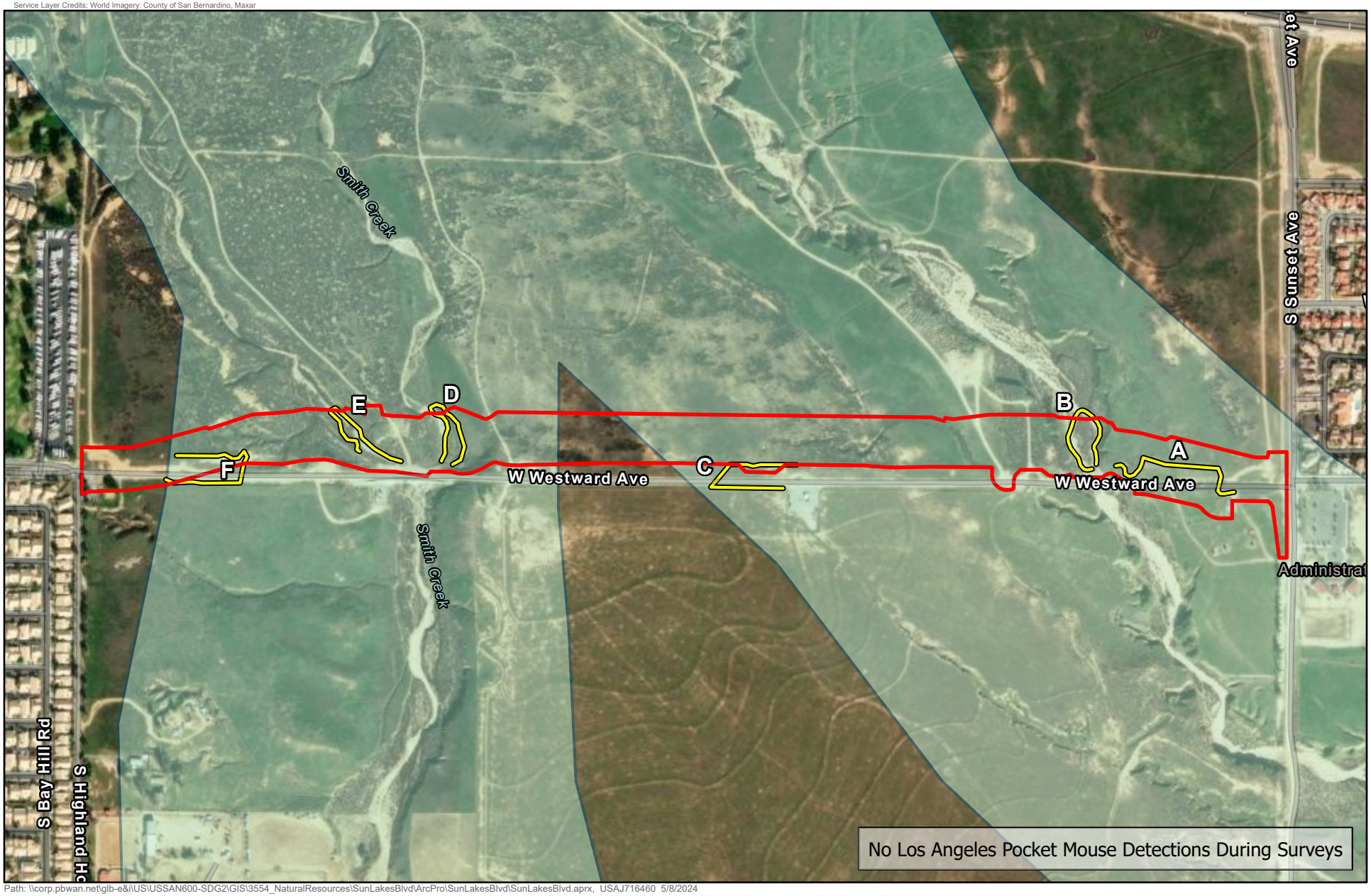


FIGURE 2

USGS 7.5' Topo Quad: Beaumont
Los Angeles Pocket Mouse Survey Report
Sun Lakes Blvd. Realignment Project
Banning, CA



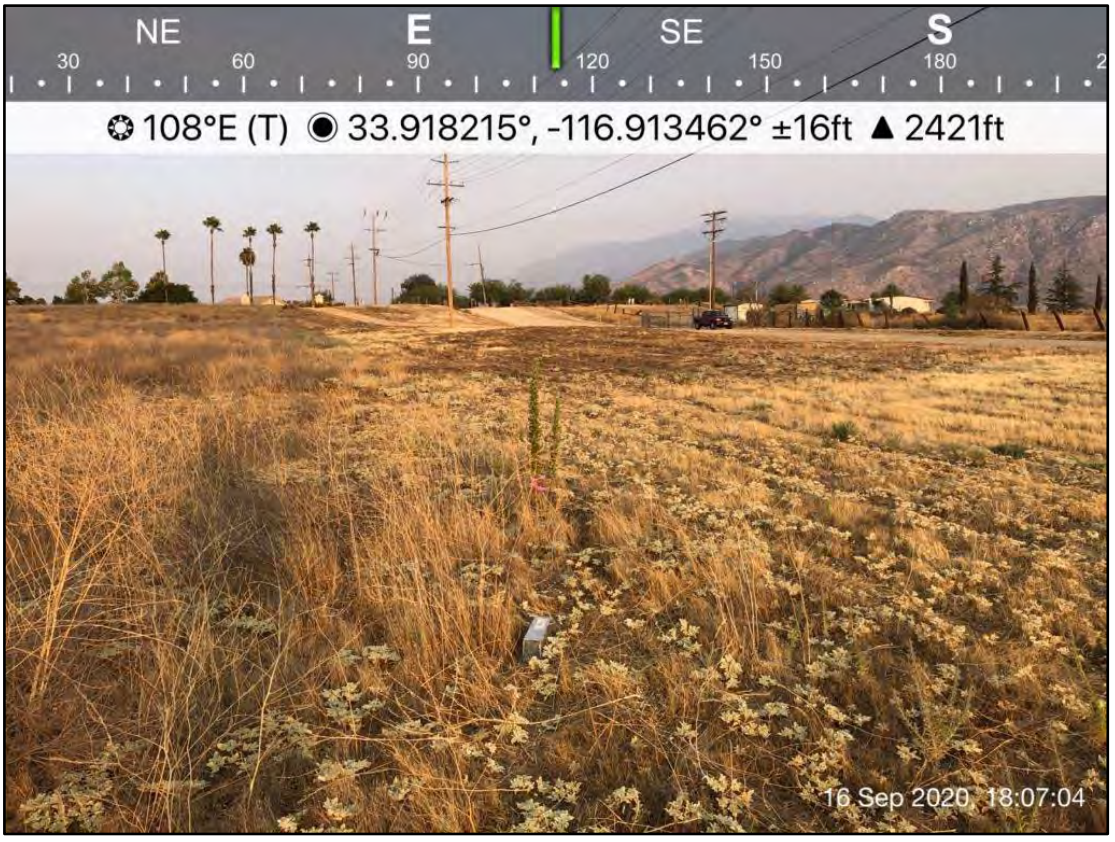
Los Angeles Pocket Mouse Trapping Line
MSHCP Mammal Survey Area
Project Alignment

1 inch =600 feet
0 300 600
Feet

FIGURE 3

Local Vicinity
Los Angeles Pocket Mouse Survey Report
Sun Lakes Blvd. Realignment Project
Banning, CA

Appendix B – Site Photographs



Trap Grid A in eastern project upland.



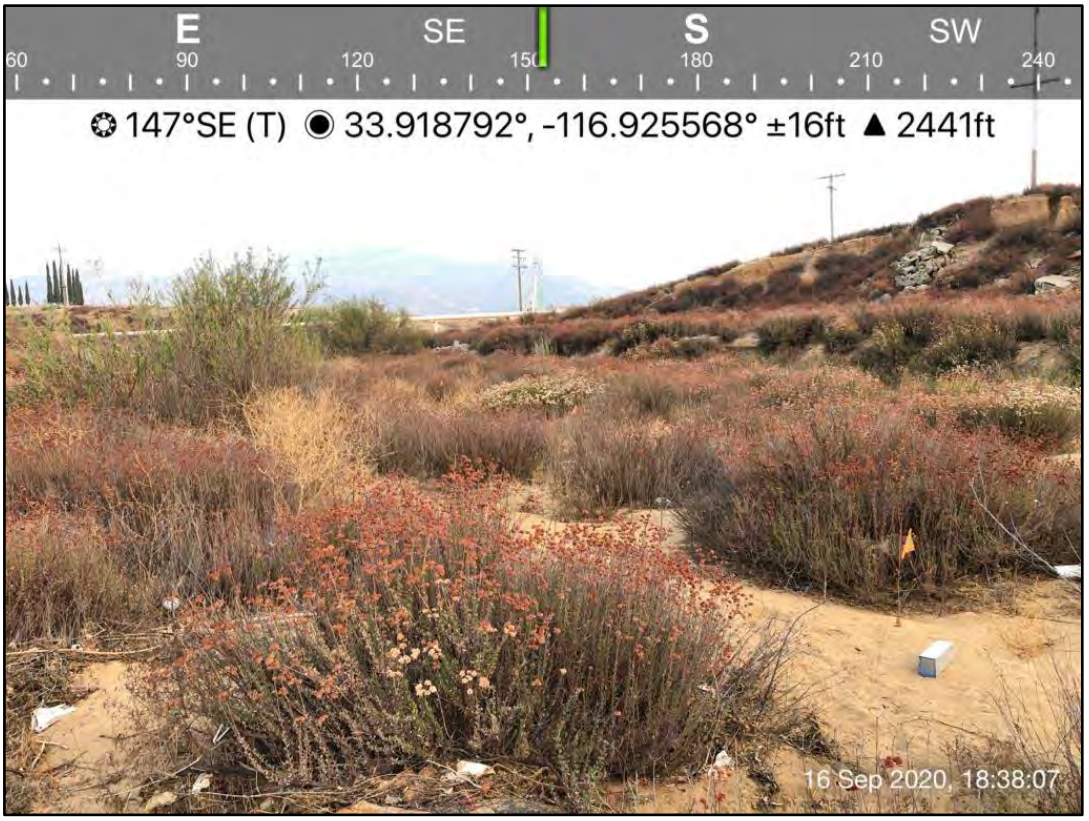
Trap Grid B in easternmost drainage, Pershing Wash.



Trap Grid C in central project upland. Horse-grazed land immediately to south.



Trap Grid D in central drainage, Smith Creek.



Trap Grid E in western drainage, Highland Wash. Cover photo is also from this drainage.



Trap Grid F in western project upland.

Appendix B.3

SUN LAKES BOULEVARD EXTENSION PROJECT
BURROWING OWL FOCUSED SURVEY



City of Banning and Unincorporated Riverside County, California

Submitted to:
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3788 McCray Street
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Submitted by:
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Phone: (951) 299-4160

Contact: John F. Green, Senior Biologist
Updated May 2024

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Appendix A Figures

Appendix B Site Photographs

Appendix C Plant and Vertebrate Species List

1.0 INTRODUCTION

At the request of the Albert A. Webb and Associates (Webb), WSP USA Inc. (WSP) conducted a focused survey for the burrowing owl (*Athene cunicularia*) on the site of the Sun Lakes Boulevard Extension project (project). The project is in the city of Banning, Riverside County, California (Figure 1) and includes the extension of Sun Lakes Boulevard eastward from its current termination point at Highland Home Road to the anticipated connection at Sunset Avenue.

2.0 PROJECT / SITE DESCRIPTION

The project is generally located south of Interstate 10, west of Sunset Avenue and east of Highland Home Road between the terminus of Sun Lakes Boulevard on the west and the terminus of paved Westward Avenue on the east. It can be found in Section 7 of Township 3 South, Range 1 East of the *Beaumont, California,* United States Geological Survey (USGS) 7.5-minute topographic quadrangle map (Figure 2). The elevation of the project site ranges from approximately 2,383 to 2,525 feet above sea level. The geographic coordinates near the middle of the site are 33.5512.85˚ North latitude and -116.5516.29˚ West longitude. Vegetation communities on site consist of primarily grassland and scrubs.

The proposed project is a transportation project including construction of a new section of Sun Lakes Boulevard from Highland Home Road to Sunset Avenue (Figure 3) and intersection improvements within the City of Banning's existing and future road right-of-way (ROW). The project encompasses approximately 19.4 acres of direct footprint (permanent impacts) and another 9.1 acres of temporary construction disturbance area (temporary impacts). Project staging and stockpiling will occur within the City's ROW. Currently, Westward Avenue is a straight east-west unpaved dirt road between Highland Home Road and Sunset Avenue. The proposed Sun Lakes Blvd. alignment will include two curves to the north. The project crosses over three creeks, from west to east: Highland Wash, Smith Creek, and Pershing Creek. The project will include the construction of three sets of culverts to cross said creeks.

3.0 BACKGROUND ON THE BURROWING OWL

The burrowing owl is a small, tan, short-tailed, ground-dwelling owl that occupies underground burrows. A member of the Strigidae (typical owls' family), this species is associated with grasslands and other arid open terrain throughout much of the western United States. Burrowing owls are opportunistic in their selection of burrows, typically utilizing the burrows of small mammal burrows, drainpipes, culverts, and other suitable natural or manmade cavities at or below ground level. In California, the species often occurs in association with colonies of the California ground squirrel (*Otospermophilus beecheyii*), where it makes use of the squirrel's burrows. The entrance of the burrow is often adorned with animal dung, feathers, debris, and other small objects. The species is active both day and night and may be seen perching conspicuously on fence posts or standing at the entrance of their burrows. Due to the characteristic fossorial habits of burrowing owls, nest burrows are a critical component of their habitat.

In southern California, burrowing owls are not only found in undisturbed natural areas, but also fallow agricultural fields, margins of active agricultural areas, livestock farms, airports, and vacant lots. The declines in burrowing owl populations are attributed to loss and degradation of habitat, to ongoing residential and commercial development, and to rodent control programs. The California Department of Fish and Wildlife's (CDFW) Special Animals List (2020) shows that burrowing owl is currently designated a "California Species of Concern" by the CDFW, a "Bird of Conservation Concern" by the United States Fish and Wildlife Service (USFWS), and "Sensitive" by the U. S. Bureau of Land Management. Burrowing owl is protected by the federal Migratory Bird Treaty Act (USFWS 2021), California Fish and Game Code Sections 3503, 3503.5, 3513, and 3800 (California Legislative Information 2021), and the MSHCP.

4.0 METHODS

The project site lies within the Western Riverside County Multiple-Species Habitat Conservation Plan (MSHCP) survey area for the burrowing owl (Figure 4). All burrowing owl surveys were conducted in accordance with protocol provided by the Riverside County Transportation and Land Management Agency (Environmental Programs Department "RCTLMA EPD" 2006a). Step I habitat assessment and Step II, Part A focused burrow surveys were conducted on 17 July 2020 by WSP senior biologist Nathan Moorhatch and WSP biologist Alec Williams. The non-native grassland vegetation and portions of the various drainages with California ground squirrel and other manmade "burrow surrogates" on and immediately adjacent to the project site provide suitable habitat for burrowing owls. The site was surveyed on foot, mapping the locations of California ground squirrel burrows and/or manmade "burrow surrogates" that were suitable for burrowing owl use. Step II, Part B focused burrowing owl surveys were then conducted by Moorhatch or Williams on 24 & 31 July, and 6 & 12 August 2020. Surveys were completed via pre-dawn/early morning pedestrian transects spaced at 10 meters apart over 100% of those areas of the site identified in the burrow search as having burrows or structures capable of supporting burrowing owls. Areas with tall shrubs or tall mustard were not surveyed as they are not suitable for burrowing owls. Binoculars were used to visually inspect potential perching locations (i.e., rocks, debris, dirt mounds) as well as the entrances to all on-site mammal burrows and debris providing potential shelter (i.e., piles of concrete slabs, cement drainpipes). Potential burrows were carefully examined

for evidence of burrowing owl occupation (i.e., animal dung, feathers, whitewash, pellets, debris, etc.). Permission to survey adjacent properties on foot within the protocol 500-foot buffer was not obtained. Therefore, buffer areas were visually inspected using binoculars in accordance with protocol. Table 1 presents information on all burrowing owl survey visits (i.e., date, surveyor, survey duration, and weather variables). All vertebrate wildlife detected was recorded in field notes and a list is included in Appendix A. Photos included in Appendix B are representative of the general site conditions at the time of the focused surveys.

Table 1. Burrowing Owl Survey Data & Results

Date (2020)	Surveyor*	Time	Cloud Cover, Wind in miles per hour	Temperature ˚Fahrenheit	Burrowing Owl Observed?
Habitat Assessment & Burrow Survey 17 July	NM, AW				No
Focused Survey 1 24 July	AW	0445-0754	Clear (0% cloud cover), winds ~ 0-2 mph	57-81˚F	No
Focused Survey 2 31 July	NM	0510-0728	Clear (0% cloud cover), winds ~ 0-4 mph	79-83˚F	No
Focused Survey 3 6August	NM	0545-0805	Clear (0% cloud cover), winds ~ 2-8 mph	71-72˚F	No
Focused Survey 4 12 August	NM	0547-0752	Partly cloudy (0-50% cloud cover), winds ~0-4 mph	63-78˚F	No

*AW – Alec Williams, NM – Nathan Moorhatch

5.0 RESULTS

No burrowing owls, or evidence thereof, were observed on the project site or within the adjacent 500-foot buffer zone area during the focused surveys. It should be noted, however, that an occupied burrow with at least two burrowing owls was observed approximately 0.35 miles south of the eastern project buffer.
Approximately thirty burrows suitable for burrowing owl use were detected (Figure 5).

The project site contains suitable unoccupied habitat. Therefore, burrowing owls may colonize the site at any time. Therefore, additional focused surveys may be required since construction has not initiated within one year of completion of this survey. In addition, the MSHCP requires, at a minimum, a one visit preconstruction survey of all suitable habitat within 30-days prior to any proposed vegetation removal, grading, or any other disturbance to the project site (RCTLMA EPD 2006a and 2006b).

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APPENDIX A
FIGURES



Project Alignment

FIGURE 1

Project Vicinity and Location
Burrowing Owl Survey Report
Sun Lakes Blvd. Realignment Project
Banning, CA

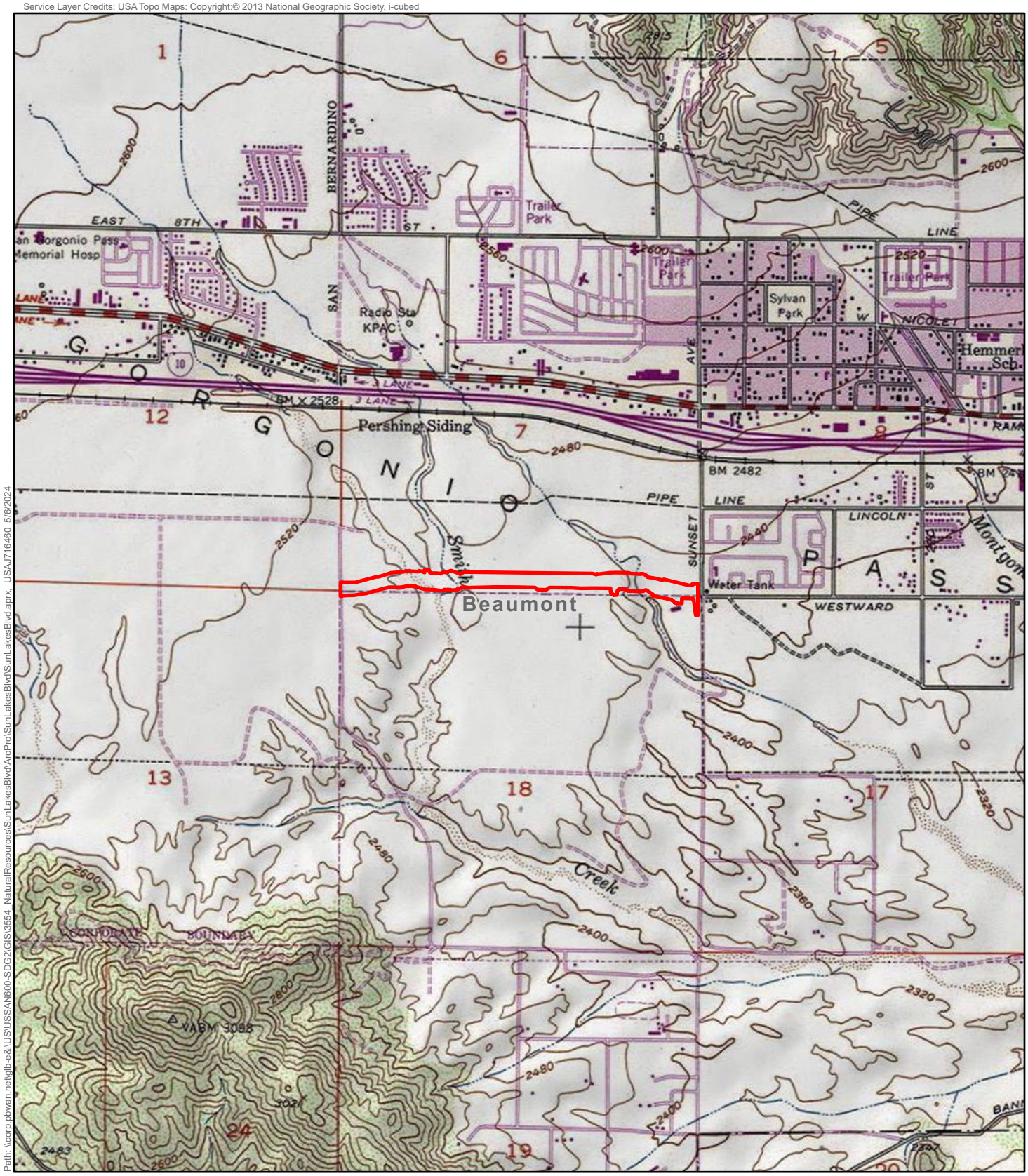


FIGURE 2

USGS 7.5' Topo Quad: Beaumont
Burrowing Owl Survey Report
Sun Lakes Blvd. Realignment Project
Banning, CA

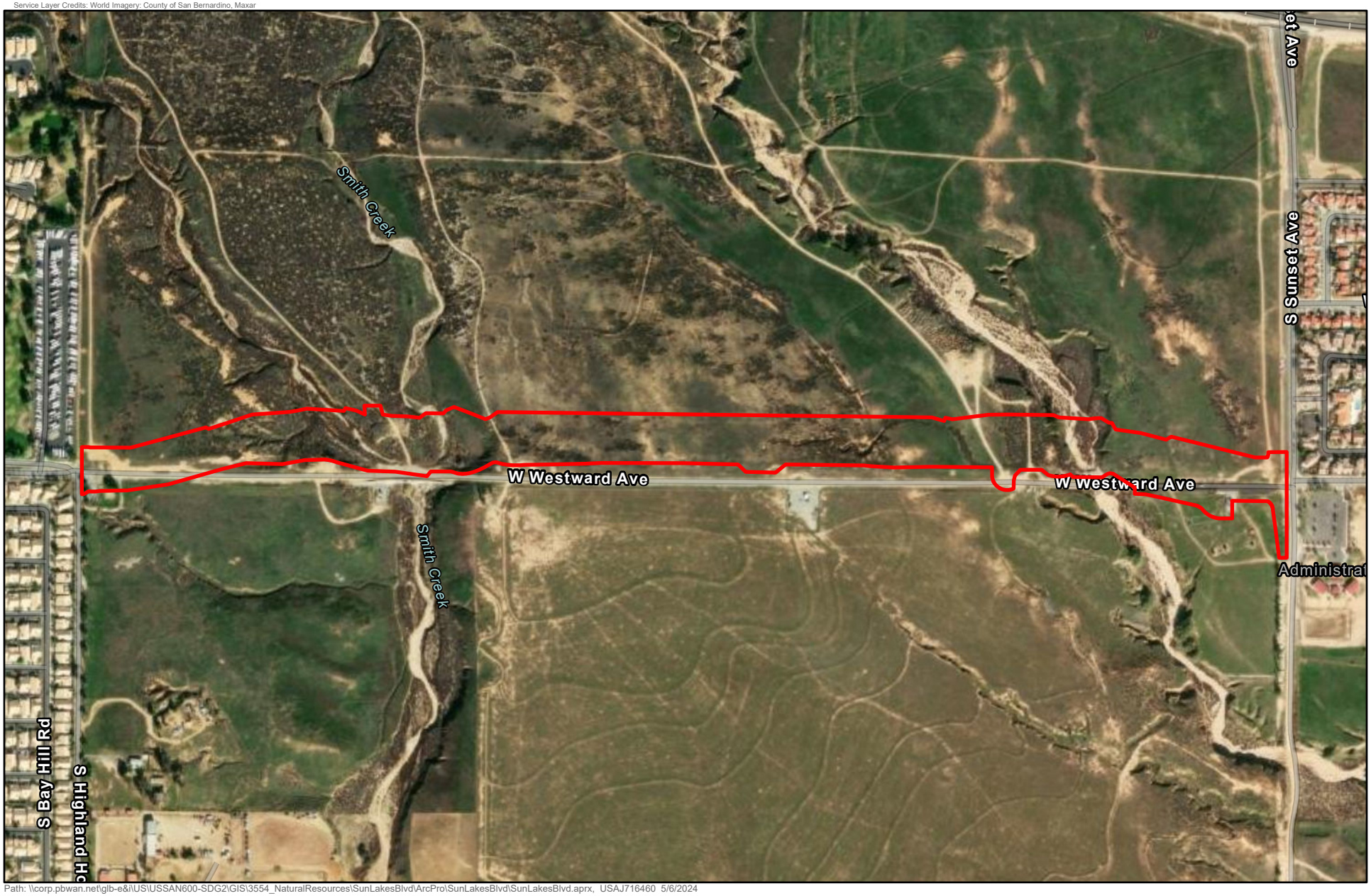


FIGURE 3

Local Vicinity
Burrowing Owl Survey Report
Sun Lakes Blvd. Realignment Project
Banning, CA

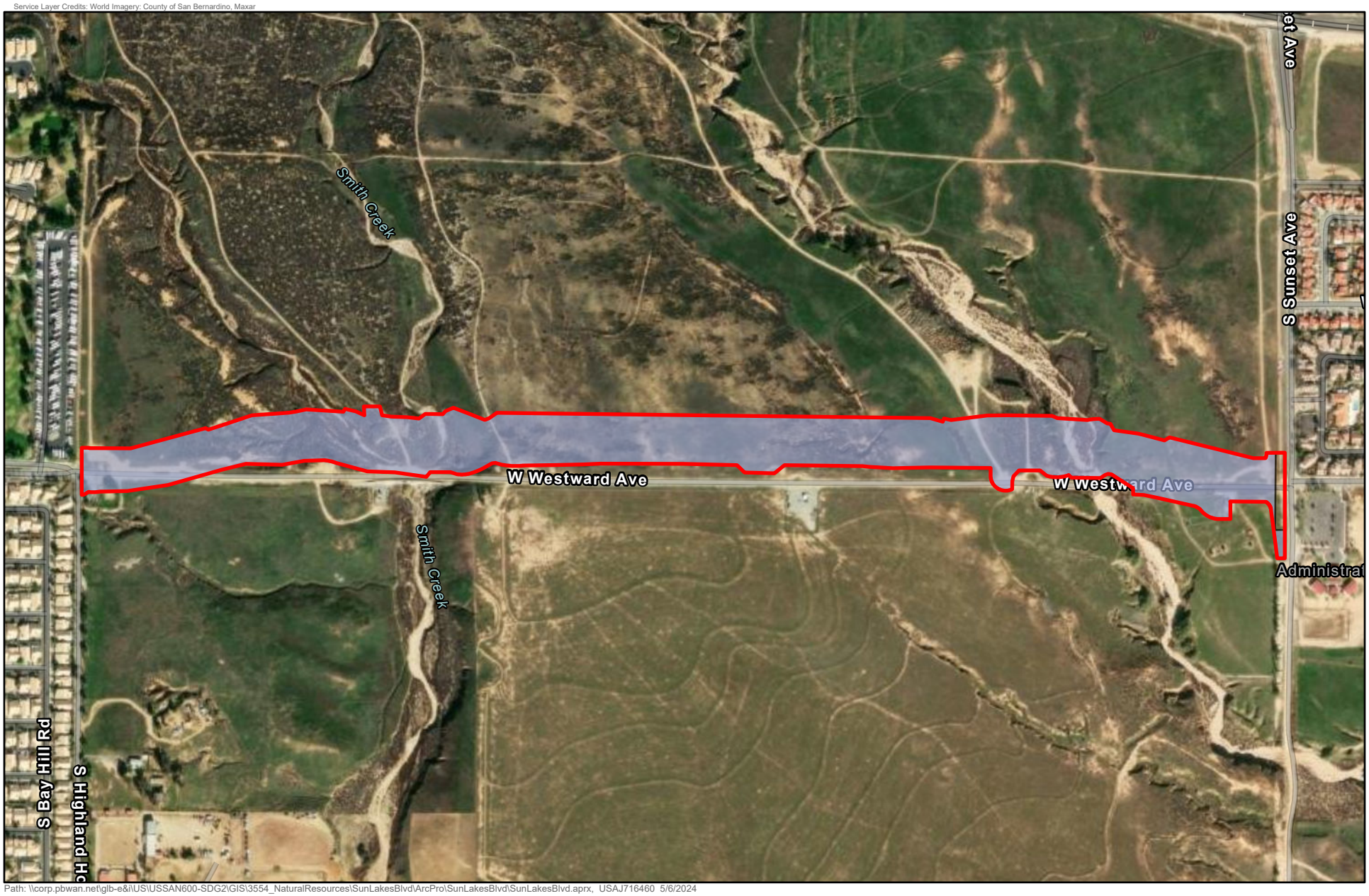
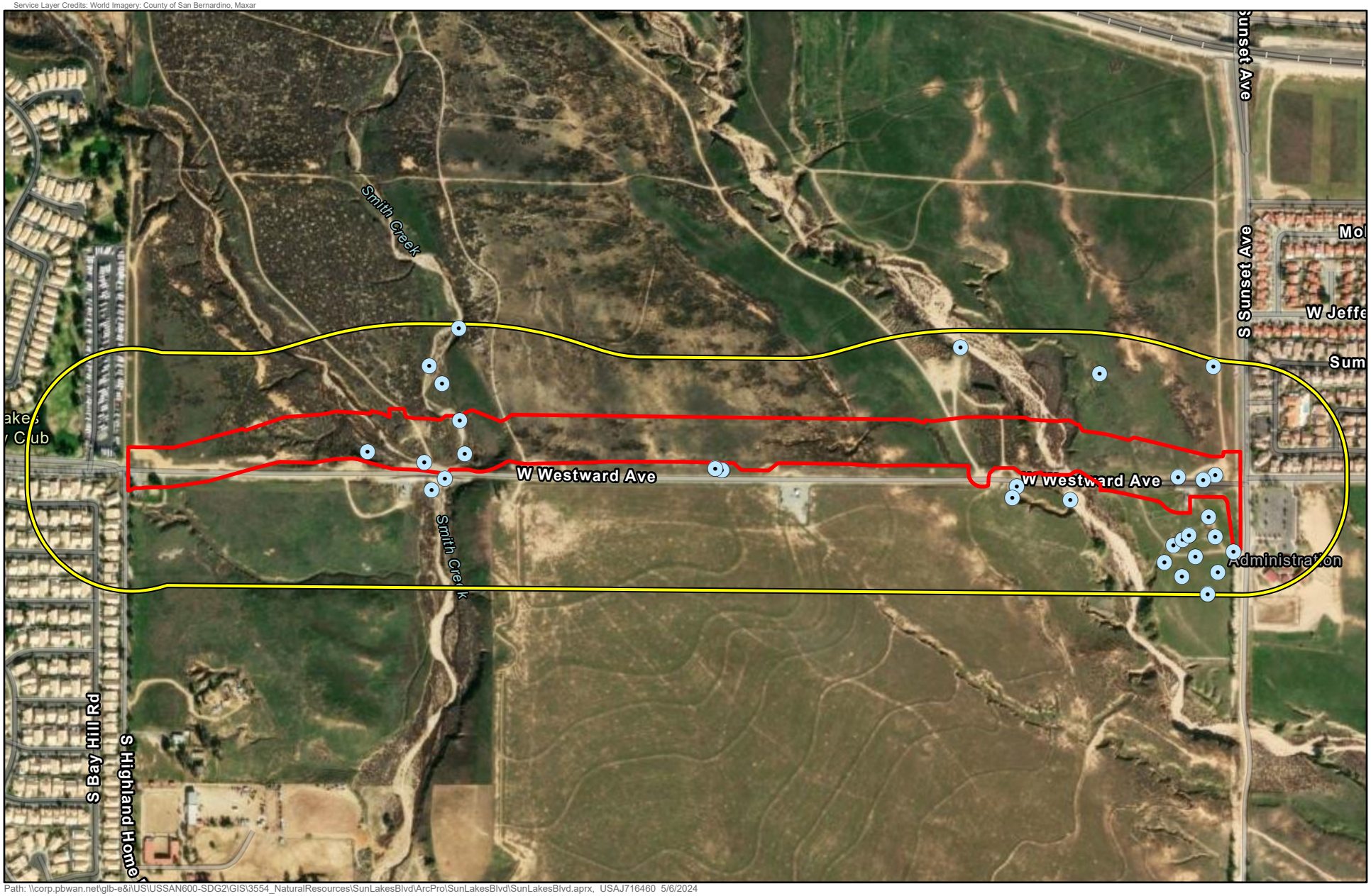


FIGURE 4

MSHCP BUOW Survey Area
Burrowing Owl Survey Report
Sun Lakes Blvd. Realignment Project
Banning, CA



Potential Burrowing Owl Burrow Detections July-August 2020

Project Alignment

Survey Area

1 inch =650 feet

0 325 650 Feet

FIGURE 5

Survey Results
Burrowing Owl Survey Report
Sun Lakes Blvd. Realignment Project
Banning, CA

APPENDIX B
SITE PHOTOGRAPHS



Photo 1. View of the existing dirt road alignment. View facing east.

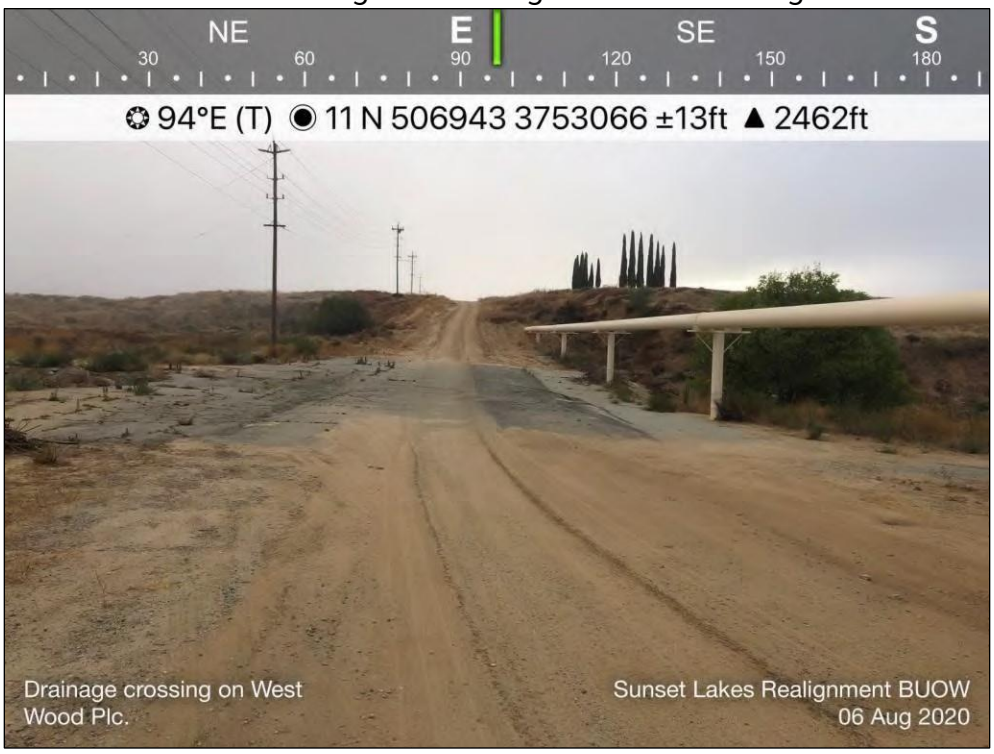


Photo 2. View of the road alignment passing through the western drainage crossing. View facing east.

2022

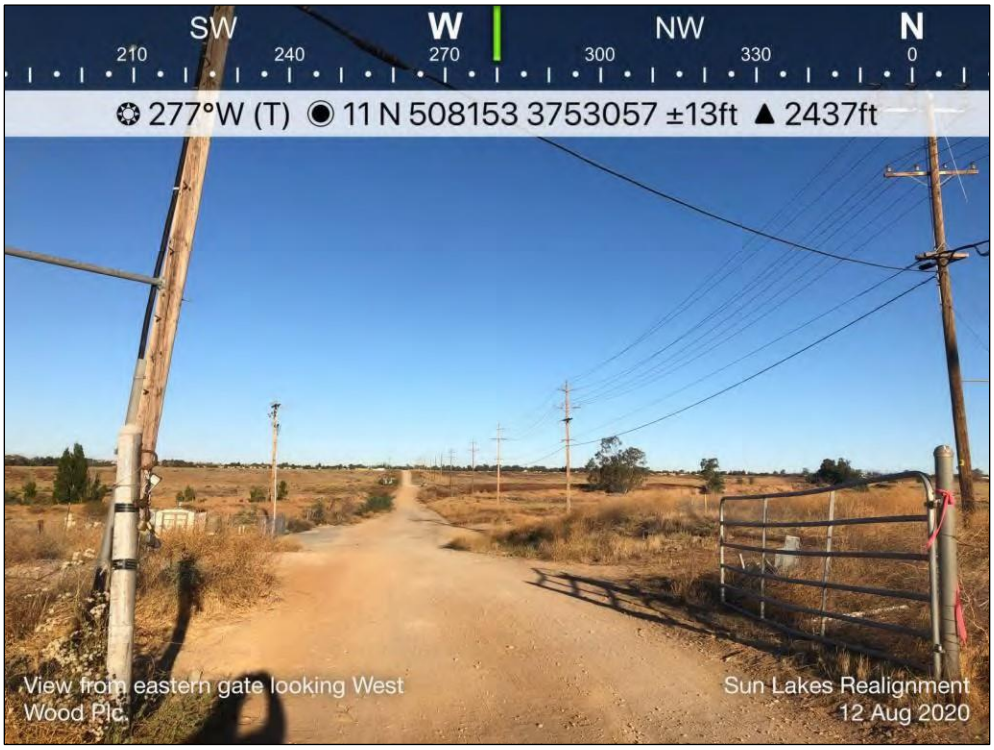


Photo 3. Eastern gate (entrance) to road alignment.

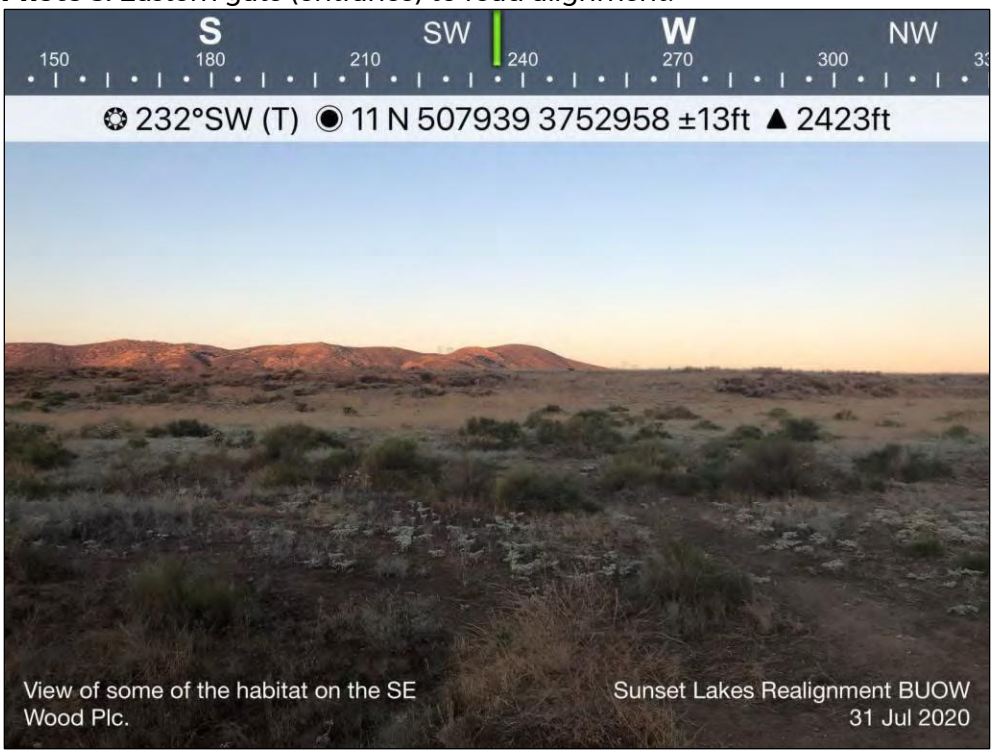


Photo 4. View of the habitat on the southeastern buffer area of the survey.



Photo 5. Abandoned farm equipment on the southeast buffer area.



Photo 6. One of several concrete rubble piles surveyed for potential burrowing owl presence (none of which were occupied).



Photo 7. Representative view of the one of the potential burrows found on the buffer area of the site (in the large western drainage), none proved to be occupied by burrowing owls.



Photo 8. Another California ground squirrel burrow near the edge of the existing road way.

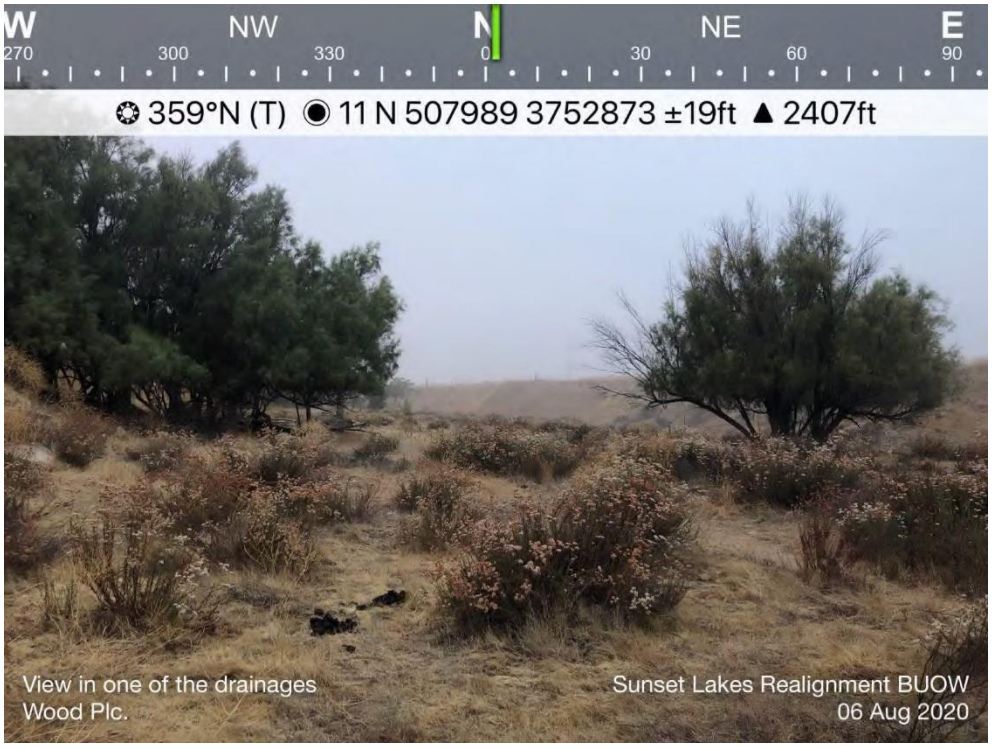


Photo 9. View inside the easternmost large drainage, south of the roadway, in the buffer area of the survey.

APPENDIX C
WILDLIFE SPECIES LIST

This list reports only the wildlife observed on and/or immediately adjacent to the project site by this study. Other species may have been overlooked or undetectable due to their activity seasons. In general, nomenclature and systematics follow California Bird Records Committee (2020) for avifauna, and CDFW (2016) for herpetofauna and mammals.

HERPETOFAUNA	**REPTILES & AMPHIBIANS**
Phrynosomatidae	**Spiny Lizards & Relatives**
Sceloporus occidentalis longipes	Great Basin fence lizard
Uta stansburiana	side-blotched lizard
Teiidae	**Whiptails & Relatives**
Aspidoscelis tigris stejnegeri	coastal western whiptail
AVIFAUNA	**BIRDS**
Columbidae	**Pigeons and Doves**
**Columba livia*	rock pigeon
Zenaida macroura	mourning dove
Cuculidae	**Cuckoos, Roadrunners and Anis**
Geococcyx californianus	greater roadrunner
Trochilidae	**Hummingbirds**
Calypte anna	Anna's hummingbird
Laridae	**Gulls, Terns, and Skimmers**
Larus delawarensis	ring-billed gull (flyover)
Accipitridae	**Hawks, Kites, and Eagles**
Circus hudsonius	northern harrier
Buteo jamaicensis	red-tailed hawk
Tytonidae	**Barn and Grass Owls**
Tyto alba	barn owl
Falconidae	**Caracaras and Falcons**
Falco sparverius	American kestrel
Tyrannidae	**Tyrant Flycatchers**
Sayornis nigricans	black phoebe
Sayornis saya	Say's phoebe
Tyrannus vociferans	Cassin's kingbird
Tyrannus verticalis	western kingbird
Laniidae	**Shrikes**
Lanius ludovicianus	loggerhead shrike
Corvidae	**Jays, Magpies, and Crows**
Corvus brachyrhynchos	American crow
Corvus corax	common raven
Alaudidae	**Larks**
Eremophila alpestis actia	California horned lark
Hirundinidae	Swallows
Petrochelidon pyrrhonota	cliff swallow
Aegithalidae	**Long-tailed Tits and Bushtits**
Psaltriparus minimus	American bushtit

Troglodytidae	**Wrens**
Salpinctes obsoletus	rock wren
Thryomanes bewickii	Bewick's wren
Mimidae	**Mockingbirds and Thrashers**
Mimus polyglottos	northern mockingbird
Sturnidae	**Starlings**
**Sturnus vulgaris*	European starling
Passeridae	**Old World Sparrows**
**Passer domesticus*	house sparrow
Fringillidae	**Fringilline and Cardueline Finches**
Haemorhous mexicanus	house finch
Passerellidae	**New World Sparrows**
Chondestes grammacus	lark sparrow
Melozone crissalis	California towhee
Icteridae	**Blackbirds & Relatives**
Sturnella neglecta	western meadowlark
Icterus cucullatus	hooded oriole
Euphagus cyanocephalus	Brewer's blackbird
Cardinalidae	**Cardinals and Allies**
Passerina caerulea	blue grosbeak

MAMMALS	
Leporidae	**Rabbits**
Lepus californicus	black-tailed jackrabbit
Sylvilagus audubonii	Audubon's (Desert) Cottontail
Sciuridae	**Squirrels**
Otospermophilus beecheyi	California ground squirrel
Geomyidae	**Pocket Gophers**
Thomomys bottae	Botta's pocket gopher
Canidae	**Foxes, Wolves, and Relatives**
Canis latrans	Coyote (scat)

SYMBOLS AND ABBREVIATIONS:
* Non-native species
** Special-status species

Appendix B.4

SUNLAKES BOULEVARD REALIGNMENT PROJECT WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT CONSERVATION AREA - NARROW ENDEMIC PLANT SPECIES SURVEY REPORT



City of Banning and Unincorporated Riverside County, California
Updated June 2024

Submitted to:
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3788 McCray Street
Riverside, CA. 92506

Submitted by:
WSP USA Inc.
11870 Pierce St #160
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Principal Investigators: Dale Hameister, Senior Biologist
and Nathan Moorhatch, Senior Biologist
WSP Job # 20-554-00800

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1.0 INTRODUCTION

At the request of the Albert A. Webb and Associates (Webb), WSP USA Inc. (WSP) (Formerly Wood) conducted a focused survey for narrow endemic plant species on the Sun Lakes Boulevard (Blvd.) The project site is in the city of Banning, Riverside County, California; and includes the extension of Sun Lakes Boulevard, from its current termination point at Highland Home Road to the anticipated connection at West Lincoln Street.

The project site lies within the Western Riverside County Multiple-Species Habitat Conservation Area (WRCMSHCP) for Narrow Endemic Plant Species. Habitat for NEPSSA was found to be present during a biological assessment of the site in MONTH, YEAR and therefore the city of Banning requires a focused survey for narrow endemic plant species in compliance with the WRCMSHCP as part of the California Environmental Quality Act (CEQA) requirements.

This emphasis of the survey included locating and documenting the occurrence of special status (rare)narrow endemic plant species (NEPSSA) (if any) on the study site.

2.0 PROJECT BACKGROUND/SITE DESCRIPTION

The project is generally located south of Interstate 10, west of Sunset Avenue and east of Highland Home Road between the terminus of Sun Lakes Boulevard on the west and the terminus of paved Westward Avenue on the east. It can be found in Section 7 of Township 3 South, Range 1 East of the *Beaumont*, California, United States Geological Survey (1978) 7.5-minute topographic quadrangle map (Figure 2). The elevation of the project site ranges from approximately 2,400 to 2,500 feet above sea level. The geographic coordinates near the middle of the site are 33.5512.85˚ North latitude and -116.5516.29˚ West longitude. Vegetation communities on site consist primarily of grassland and scrubs.

The proposed project is a transportation project including construction of a new section of Sun Lakes Boulevard from Highland Home Road to Sunset Avenue (Figure 3) and intersection improvements within the City of Banning's existing road right-of-way (ROW). This report and associated figures have been updated to reflect the change in the area of the proposed impacts related to alignment revisions which have occurred so that the new roadway could be redesigned to avoid existing high pressure gas lines within the project area. The project is approximately 5,400 linear feet (1.02 mile). This report and associated figures have been updated to reflect the change in the area of the proposed impacts related to alignment revisions which have occurred so that the new roadway could be redesigned to avoid existing high pressure gas lines within the project area. The updated projects impacts include 19.4 acres of permanent impacts, 9.1 acres of temporary impacts. Project staging and stockpiling will occur within the City's ROW. Currently, Westward Avenue is a straight east-west unpaved dirt road between Highland Home Road and Sunset Avenue. The project crosses over three creeks, from

west to east: Highland Wash, Smith Creek, and Pershing Creek. The project will include the construction of three sets of culverts to cross said creeks.

Surrounding land uses include residential subdivisions, public facilities, and open space. The approximately five-acres is currently undeveloped. Historically the project site was graded for agricultural purposes in the 1960's. It has remained vacant for the past 2 to 3 decades. Vegetation within the proposed project site consists of non-native grassland, California buckwheat scrub, and Riversidean alluvial fan sage scrub. Three deeply incised drainages and associated tributaries are present within the proposed project site. Structures within the general vicinity include city-owned wells, an agricultural storage shelter, and several easements for streets, utilities, gas and oil pipelines, landscaping, and communications systems are all located within the general proposed project alignment.

3.0 METHODS

3.1 Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP)

The Western Riverside County Regional Conservation Authority (RCA) RCA MSHCP Information Map (Western Riverside County RCA 2020) was consulted to determine whether the project site was in any MSHCP plant survey areas. California Department of Fish and Wildlife (2020) was consulted for plant species records in the project area (within five miles).

3.2 Soils

The United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS) Web Soil Survey was consulted for soils mapped on the project site.

3.3 Focused Survey

The survey was conducted during the appropriate time of year (blooming period) for the detection of the NEPSSA species and followed a period of above average rainfall for the 2019-2020 season. The focused survey for rare plants was conducted on 26th and 27th May 2020 by WSP biologists Dale Hameister and Nathan T. Moorhatch. Habitat on the site was assessed for suitability (Figure 4). Thick buckwheat stands, areas of tall mustard within grasslands, and areas heavily grazed by horses were considered unsuitable and were not surveyed. Areas of suitable habitat were surveyed utilizing transects which were adjusted based on topography and habitat coverage so that all potential NEPSSA habitat was surveyed. All flora detected were recorded in field notes and plant species of uncertain identity were collected for identification by University of California Herbarium Collections Manager Andrew Sanders.

4.0 RESULTS

4.1 MSHCP

Virtually the entire project site lies within the MSHCP narrow endemic plant species survey area (NEPSSA) for two plant species (Figure 5): Marvin's (also known as Yucaipa) onion (*Allium marvinii*) and many stemmed dudleya (*Dudleya multicaulis*). Both of these plant species have an affinity for clay soils; however, they are not clay obligates. Historic records for the Marvin's onion occur less than a mile from the project site on soils not mapped as clay. No historic records for many stemmed dudleya were found in the project area, but habitat was suitable. Table 1 below provides the list of the NEPSSA plants that were the targets of this survey as well as a summary of their associated legal status.

Table 1. Narrow Endemic Plant Species

Species	Status	Habitat
Marvin's onion (*Allium marvinii*)	Federal: None State: S1 CNPS: 1B.2	A perennial bulbiferous herb often found on clay substrates within chaparral habitats. It occurs from 2,490 to 3,495 feet elevation. Blooms April to May.
Many stemmed dudleya (*Dudleya multicaulis*)	Federal: None State: S2 CNPS: 1B.2	A perennial herb often found on clay substrates within chaparral, coastal scrub, and valley and foothill grasslands. It occurs from 49 to 2,592 feet elevation. Blooms April through July.

Definitions of status designations for Table 1

***State designations*:**

S1 : Critically Imperiled — Critically imperiled in the state because of extreme rarity (often 5 or fewer occurrences) or because of some factor(s) such as very steep declines making it especially vulnerable to extirpation from the state.

S2: Imperiled — Imperiled in the state because of rarity due to very restricted range, very few populations (often 20 or fewer), steep declines, or other factors making it very vulnerable to extirpation from the nation or state.

C***alifornia Native Plant Society (CNPS) designations:***

LIST 1B: Plants rare, threatened, or endangered in California and elsewhere.

0.2: Moderately threatened in California — 20-80% of occurrences threatened / moderate degree and immediacy of threat.

4.2 Soils

Soils mapped on the project site are shown on Figure 6. None of these soils are specifically associated with the target NEPSSA species but may still support them or contain lenses of suitable soils.

4.3 Field Surveys

The focused survey was conducted on 26th and 27th May 2020 by Wood biologists Dale Hameister (DH) and Nathan T. Moorhatch (NM). Table 2 below provides complete timing and weather conditions. No Marvin's onion or many-stemmed dudleya were detected. A list of plant species which were detected is attached as Appendix A. Representative digital photographs were taken (Appendix B).

Table 2. Survey Data

Date (2020)	Observers	Time	Wind (mph)	Temperature (˚F)	Sky (~% cover)
26 May	DH, NM	1000 – 1330	0-3	91 - 101	Clear skies
27 May	DH, NM	0558 – 1200	0-3	63 - 93	Clear skies

5.0 CONCLUSION

The survey was conducted during the appropriate time of year for the detection of the two NEPSSA species and following a period of above average rainfall for the 2019-2020 winter season. Survey timing was ideal for the detection of the target plant species. Marvin's onion and many stemmed dudleya were not detected, however, therefore both are considered absent from the project site. No additional surveys are required.

6.0 LITERATURE CITED AND REFERENCES

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Appendix A – Figures



Project Alignment

FIGURE 1

Project Vicinity and Location
Narrow Endemic Plant Species Survey Report
Sun Lakes Blvd. Realignment Project
Banning, CA

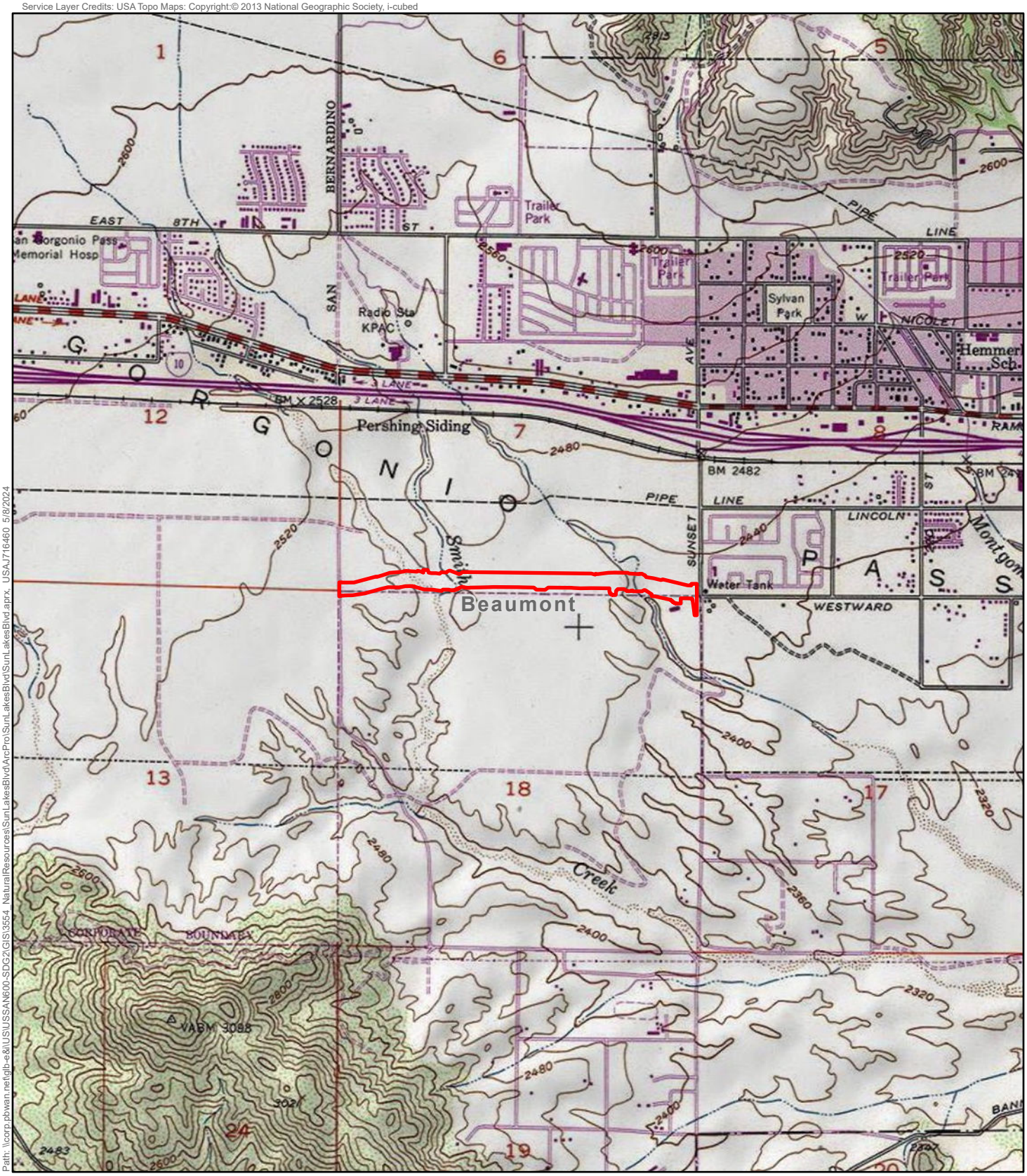


FIGURE 2
USGS 7.5' Topo Quad: Beaumont
Narrow Endemic Plant Species Survey Report
Sun Lakes Blvd. Realignment Project
Banning, CA

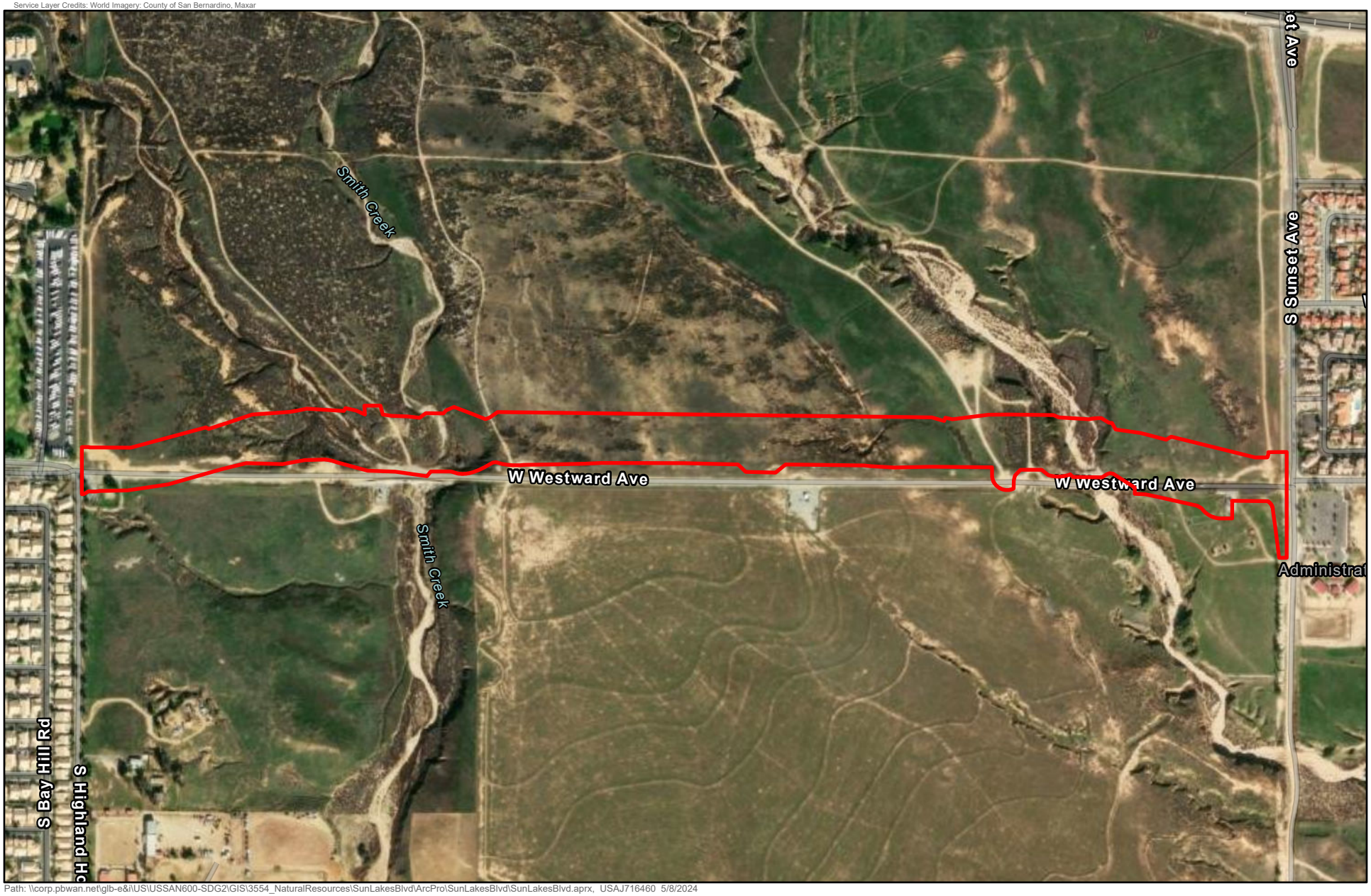


FIGURE 3

Local Vicinity
Narrow Endemic Plant Species Survey Report
Sun Lakes Blvd. Realignment Project
Banning, CA

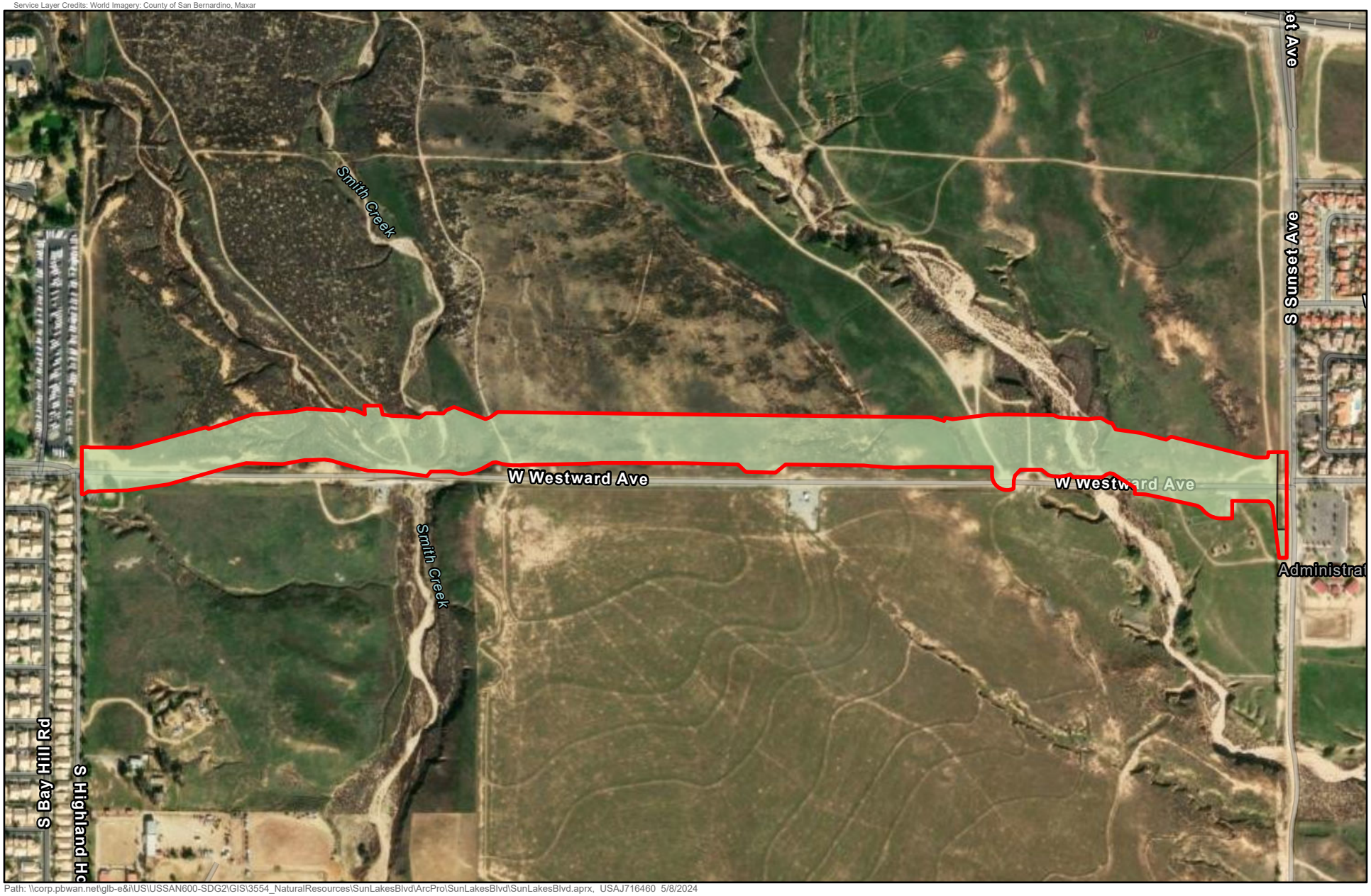


FIGURE 4

Narrow Endemic Plant Species Survey Area
Narrow Endemic Plant Species Survey Report
Sun Lakes Blvd. Realignment Project
Banning, CA



GyD2: Greenfield sandy loam, 8 to 15 percent slopes, eroded

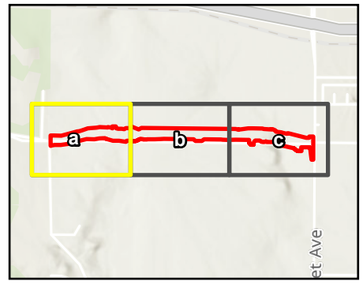
RaB2: Ramona sandy loam, 2 to 5 percent slopes, eroded

RaD3: Ramona sandy loam, 8 to 15 percent slopes, severely eroded

RsC: Riverwash

TeG: Terrace escarpments

Project Alignment



1 inch =150 feet

0 150 Feet

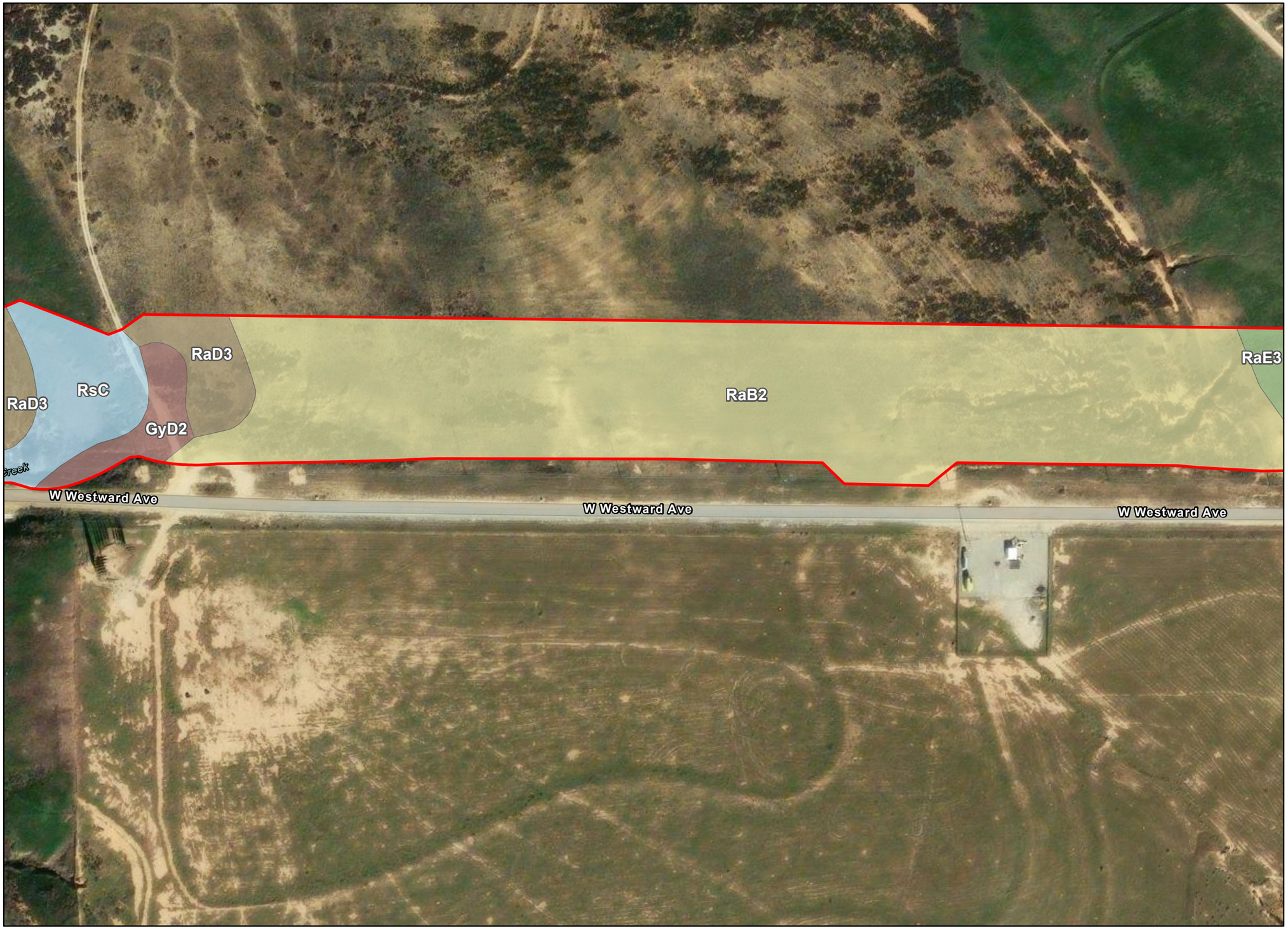
FIGURE 5a

Soil Types
Narrow Endemic Plant Species
Survey Report
Sun Lakes Blvd. Realignment Project
Banning, CA

wsp

Service Layer Credits: World Imagery: County of San Bernardino, Maxar World Topographic Map: UC Riverside, County of Riverside, California State Parks, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, USDA,

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GyD2: Greenfield sandy loam, 8 to 15 percent slopes, eroded

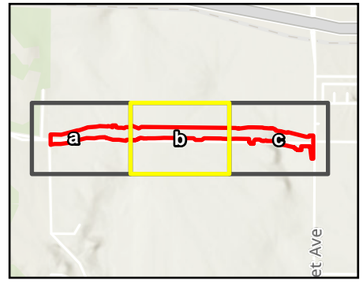
RaB2: Ramona sandy loam, 2 to 5 percent slopes, eroded

RaD3: Ramona sandy loam, 8 to 15 percent slopes, severely eroded

RaE3: Ramona sandy loam, 15 to 25 percent slopes, severely eroded

RsC: Riverwash

Project Alignment



1 inch =150 feet

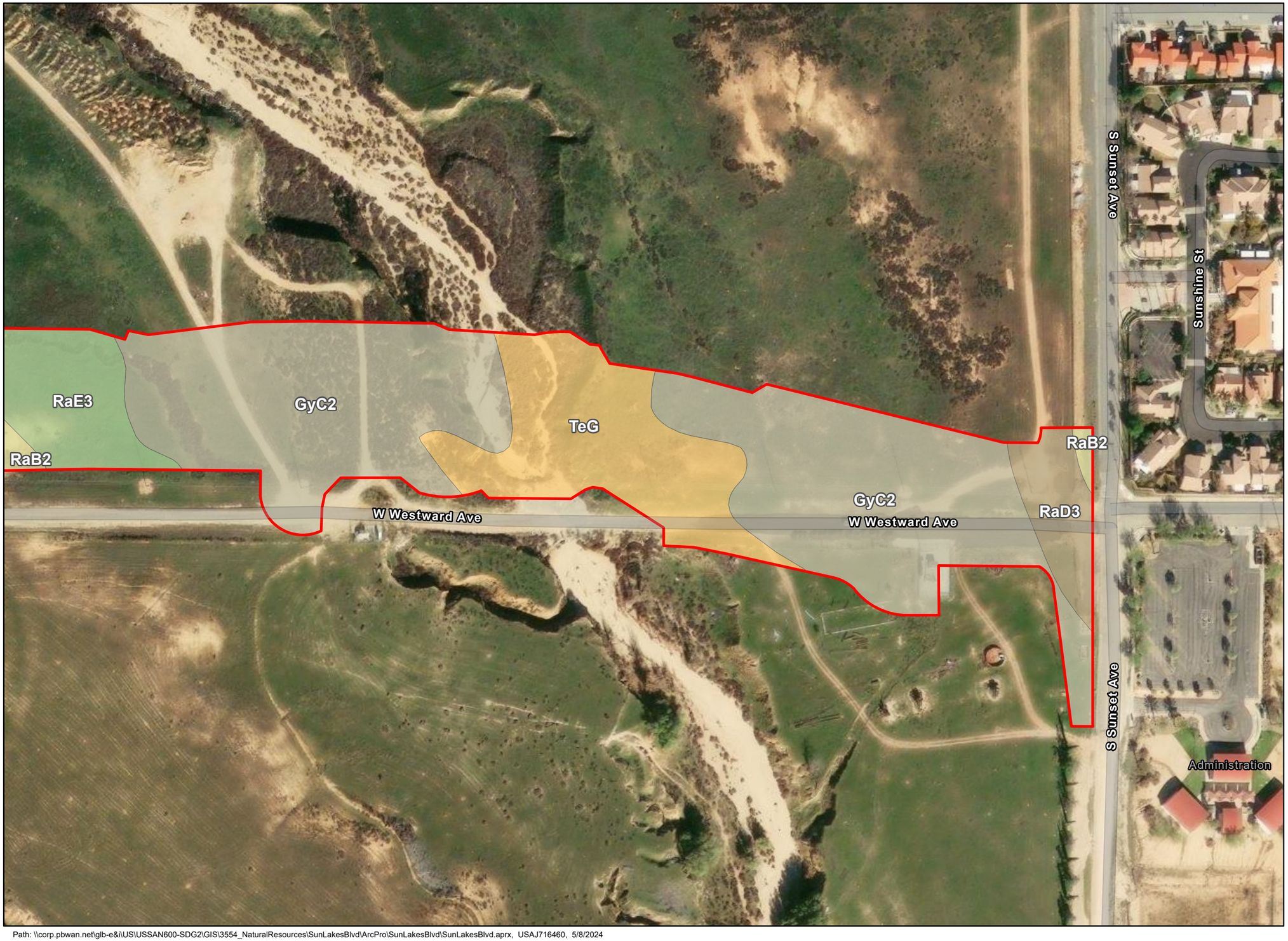
0 150 Feet

FIGURE 5b

Soil Types
Narrow Endemic Plant Species
Survey Report
Sun Lakes Blvd. Realignment Project
Banning, CA

Service Layer Credits: World Imagery: County of San Bernardino, Maxar World Topographic Map: UC Riverside, County of Riverside, California State Parks, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, USDA,

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GyC2: Greenfield sandy loam, 2 to 8 percent slopes, eroded

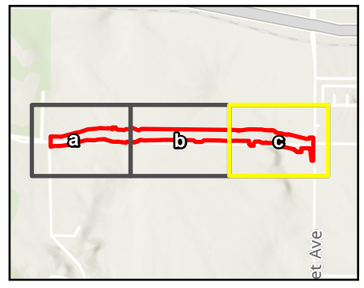
RaB2: Ramona sandy loam, 2 to 5 percent slopes, eroded

RaD3: Ramona sandy loam, 8 to 15 percent slopes, severely eroded

RaE3: Ramona sandy loam, 15 to 25 percent slopes, severely eroded

TeG: Terrace escarpments

Project Alignment



1 inch =150 feet

0 150 Feet

FIGURE 5c

Soil Types
Narrow Endemic Plant Species
Survey Report
Sun Lakes Blvd. Realignment Project
Banning, CA

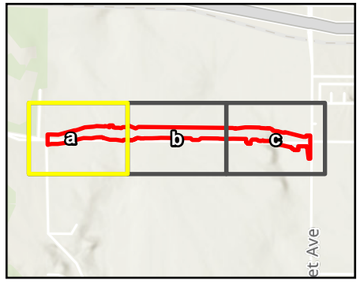
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Vegetation Communities

- Buckwheat scrub
- Disturbed/Developed
- Non-native Grassland
- Non-vegetated streambed
- Project Alignment



1 inch =150 feet

0 150 Feet

FIGURE 6a

Vegetation Communities
Narrow Endemic Plant Species
Survey Report
Sun Lakes Blvd. Realignment Project
Banning, CA

wsp

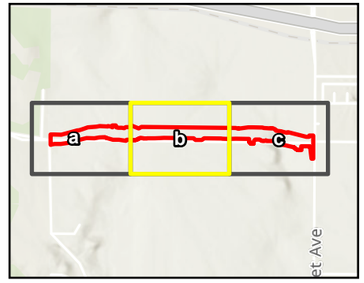
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Vegetation Communities

- Buckwheat scrub
- Disturbed/Developed
- Non-native Grassland
- Project Alignment



1 inch =150 feet

0 150 Feet

FIGURE 6b

Vegetation Communities
Narrow Endemic Plant Species
Survey Report
Sun Lakes Blvd. Realignment Project
Banning, CA

wsp

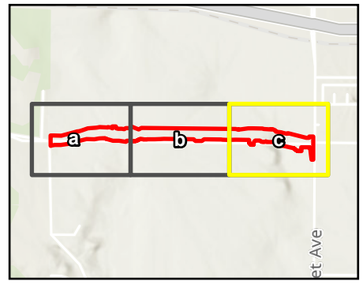
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Vegetation Communities

- Buckwheat scrub
- Disturbed/Developed
- Non-native Grassland
- Non-vegetated streambed
- Riparian Scrub/woodland
- Riversidean alluvial sage scrub
- Project Alignment



1 inch =150 feet

0 150 Feet

FIGURE 6c

Vegetation Communities
Narrow Endemic Plant Species
Survey Report
Sun Lakes Blvd. Realignment Project
Banning, CA

wsp

Service Layer Credits: World Imagery: County of San Bernardino, Maxar World Topographic Map: UC Riverside, County of Riverside, California State Parks, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, USDA,

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Appendix B – Site Photographs



Photo 1. Looking west from the eastern edge of the survey area showing the existing dirt road.



Photo 2. Looking south showing non-native grassland and mustard area south of the road.



Photo 3. Looking southeast showing an ephemeral drainage and California buckwheat habitat.



Photo 4. Looking north showing the eastern drainage and scalebroom (RAFSS) habitat.



Photo 5. Looking east showing buckwheat scrub on the north side of the road.



Photo 6. Fleabane observed with butterflies and a crab spider.

Appendix C - Plant and Vertebrate Species List

PLANT SPECIES LIST

This list reports plant species observed on the project site during the WSP's reconnaissance-level survey for this project. Other species may have been overlooked or undetectable due to their seasonal growth patterns. Nomenclature and taxonomy for fauna observed on site follows the Jepson eFlora (2020). If no common name is listed in Jepson, the United States Department of Agriculture PLANTS database (2020) is followed.

FLOWERING PLANTS	
Apocynaceae	**Dogbane family**
*Nerium oleander**	Common oleander
Asteraceae	**Sunflower family**
Ambrosia acanthicarpa	Annual ragweed
Ambrosia psilostachya	Western ragweed
Artemisia californica	California sagebrush
Artemisia douglasiana	Mugwort
Artemisia dracunculus	Tarragon
Baccharis salicifolia	Mule fat
*Centaurea melitensis**	Tocalote
Chaenactis glabriuscula	Yellow pincushion
Corethrogyne filaginifolia	Common sand aster
Ericameria pinifolia	pinebush
Erigeron canadensis	Horseweed
Erigeron foliosus	Leafy fleabane
Eriophyllum confertiflorum	Golden yarrow
Helianthus annuus	Common sunflower
Heterotheca grandiflora	Telegraph weed
*Hypochaeris glabra**	Smooth cat's ear
*Lactuca serriola**	Prickly lettuce
Lepidospartum squamatum	Scale-broom
*Logfia gallica**	Narrowleaf cottonrose
Malacothrix saxatilis	Cliff aster
*Oncosiphon piluliferum**	Stinknet
Pseudognaphalium californicum	Ladies' tobacco
Senecio flaccidus	Shrubby ragwort
Stephanomeria exigua	Small wirelettuce
Tetradymia comosa	Cotton thorn
Xanthium strumarium	Rough cockleburr
Boraginaceae	**Borage family**
Amsinckia sp.	Fiddleneck
Cryptantha sp.	Cryptantha
Heliotropium curassavicum	Heliotrope

Pectocarya sp.	Pectocarya
Phacelia cicutaria	Caterpillar phacelia
Brassicaceae	**Mustard family**
*Brassica tournefortii**	Sahara mustard
*Hirschfeldia incana**	Shortpodded mustard
*Sisymbrium altissimum**	Tall tumble mustard
*Sisymbrium irio**	London rocket
Caprifoliaceae	**Honeysuckle family**
Sambucus nigra ssp. caerulea	Blue elderberry
Chenopodiaceae	**Goosefoot Family**
*Bassia hyssopifolia**	Five horn bassia
Chenopodium alba*	Goosefoot
*Salsola tragus**	Russian thistle
Convolvulaceae	**Morning glory family**
*Convolvulus arvensis**	Field bindweed
Crassulaceae	**Stonecrop family**
Crassula connata	Sand pygmyweed
Cucurbitaceae	**Gourd family**
Cucurbita foetidissima	Calabazilla
Cupressaceae	**Cypress family**
*Cupressus sempervirens**	Italian cypress
Euphorbiaceae	**Spurge family**
Euphorbia albomarginata	Rattlesnake sandmat
*Euphorbia maculate**	Spotted spurge
Fabaceae	**Pea family**
Acmispon glaber	Deerweed
Acmispon heermannii	Heermann's lotus
Lupinus bicolor	Miniature lupine
*Medicago polymorpha**	Burclover
*Medicago sativa**	Alfalfa
*Parkinsonia aculeata**	Mexican palo verde
*Spartium junceum**	Spanish broom
*Vicia villosa**	Hairy vetch
Geraniaceae	**Geranium family**
*Erodium botrys**	Longbeak stork's bill
*Erodium cicutarium**	Redstem filaree
Juglandaceae	**Walnut family**
Juglans californica – CNPS-4.2	Southern California black walnut
Lamiaceae	**Mint family**
*Marrubium vulgare**	horehound
Salvia apiana	White sage
Salvia columbariae	Chia
Salvia mellifera	Black sage
Trichostema lanceolatum	Vinegarweed

Malvaceae	**Mallow family**
*Malva parviflora**	Cheeseweed
Myrtaceae	**Myrtle family**
Eucalyptus sp.*	Gum tree
Nyctaginaceae	**Four o'clock family**
Mirabilis laevis	Wishbone
Onagraceae	**Evening primrose family**
Camissoniopsis bistorta	California sun cup
Camissonia strigulosa	Sandysoil suncup
Clarkia purpurea	Winecup clarkia
Papaveraceae	**Poppy family**
Eschscholzia californica	California poppy
Plantaginaceae	**Plantain family**
Penstemon spectabilis	Showy penstemon
Plantago erecta	Dotseed plantain
Polemoniaceae	**Phlox family**
Gilia angelensis	Chaparral gilia
Navarretia hamata	Hooked navarretia
Polygonaceae	**Buckwheat family**
Eriogonum fasciculatum	California buckwheat
Eriogonum gracile	Slender woolly buckwheat
*Polygonum aviculare**	Prostrate knotweed
Rumex crispus	Curly dock
Portulacaceae	**Purslane family**
Calandrinia menziesii	Redmaids
Claytonia sp.	Miner's lettuce
*Portulaca oleracea**	Common purslane
Salicaceae	**Willow family**
Populus fremontii	Fremont cottonwood
Salix gooddingii	Goodding's black willow
Salix lasiolepis	Arroyo willow
Salix laevigata	Red willow
*Ailanthus altissima**	Tree of heaven
Solanaceae	**Nightshade family**
Datura wrightii	Jimsonweed
*Nicotiana glauca**	Tree tobacco
Tamaricaceae	**Tamarisk family**
Tamarix aphylla *	Athel tamarisk
*Tamarix ramosissima *	Salt cedar
Cyperaceae	**Sedges family**
Cyperus eragrostis	Tall flatsedge
Poaceae	**Grass family**
*Bromus diandrus**	Ripgut brome
Bromus madritensis ssp. *madritensis**	Foxtail chess

Bromus tectorum	Cheatgrass
*Hordeum murinum**	Wall barley
Polypogon monspeliensis	Rabbitsfoot grass
*Schismus barbatus**	Common Mediterranean schismus
Stipa pulchra	Purple needle grass

SYMBOLS AND ABBREVIATIONS:

* Non-native species

sp. Identified only to genus; species unknown (plural = spp.)

CNPS-4.2 – California Native Plant Society Rare Plant Rank 4.2

Appendix B.5

Technical Memorandum

To **Stephanie Standerfer, Vice President**
Albert. A. Webb Associates

Project No. **2055400809**

From **Scott Crawford, Vice President, Biology**
WSP USA, Inc.

Office **(951) 299-4160**
Mobile **(714) 742-5316**

Date **14 May 2024**

Subject **Sun Lakes Boulevard Results of 2020-2021 Wet and Dry Season Fairy Shrimp Focused Surveys**

At the request of Albert A. Webb Associates (Webb), this memo serves as the results of 2020-2021 wet and dry season fairy shrimp focused surveys. It is the understanding of WSP USA Inc. (WSP, fka Wood) Wood that the Sun Lakes Boulevard project is in the city of Banning, Riverside County, California and includes the extension of Sun Lakes Boulevard eastward from its current termination point at Highland Home Road to the anticipated connection at Sunset Avenue. This memorandum has been updated due to a change is the outline of the proposed impacts and to update all related figures. The updated projects impacts include 19.4 acres of permanent impacts, 9.1 acres of temporary impacts. Surrounding land uses include residential development to the east and west, public facilities along the existing unpaved road, and undeveloped open space to the north and south. Vegetation communities on site consist of grassland and scrubs.

Methods

Following the first storm of the season on 8 November 2021, WSP Senior Biologist John F. Green conducted a survey for inundated pools on 9 November 2021. Surveys were conducted under the authority of USFWS 10a permit number TE054011-8, according to the USFWS protocol: Survey Guidelines for the Listed Large Branchiopods (USFWS 2017). During that survey nine inundated depressions were identified within the project area as meeting the protocol criteria for pooling sufficient to support listed fairy shrimp species. Each ponded area was systematically sampled to account for all areas around the pond and within the entire water column. Dip nets were used to skim the surface, bottom and middle of the ponds. Table 1 lists pools inundated during the 2020-2021 wet season. Surveys were conducted until the rainy season ended and the last inundated pool reached 120 days of continuous inundation on 28 April 2021.

Dry soils were collected on December 24, 2020, and June 8, 2021 by John F. Green of WSP as authorized by USFWS under permit number TE-054011-8 of Section 10(a)(1)(A) of the federal Endangered Species Act (ESA), 16 U.S.C. 1531 et seq., and its implementing regulations. The collected soils were delivered to Helm Biological Consulting for subsequent processing and

analysis. Soils were processed and analyzed by Dr. Brent Helm by on standard practices in order to collect any fairy shrimp cysts. All collected cysts were hatched in isolated environmental chambers to mimic the winter conditions of the project site. A total of three hatching attempts were performed on each soil sample. All fairy shrimp hatchlings were grown until mature enough to be identified.

Results

The common, unlisted versatile fairy shrimp was detected in one pool (9) during the wet season sampling (see Table 1). No other fairy shrimp species were detected.

Table 1. Fairy Shrimp Ponded Areas

Pool Number	Maximum Pool Surface Area (Meters²)	UTM East	UTM North	Wet Season Fairy Shrimp Detected?	Dry Season Fairy Shrimp Detected?
3	46.99	506577.00	3753080.00	No	No
9	163.40	508144.00	3753080.00	Yes	Yes
14	36.86	508050.00	3753090.00	No	No
15	8.68	508072.00	3753080.00	No	No
16	355.91	507978.00	3753090.00	No	No
21	2.58	507438.00	3753080.00	No	No
33	32.66	506948.00	3753150.00	No	No
40	0.19	507098.00	3753130.00	No	No
41	9.74	506960.00	3753120.00	No	No
46	17.14	507449.00	3753100.00	No	No

Discussion

The wet and dry season surveys did not detect any special-status species of fairy shrimp. Therefore, based on the survey effort, special-status fairy shrimp species are considered absent from the project site and will not be impacted by project related activities.

If you have any questions regarding this update, or require additional information, please contact me at (951) 369-8060 ext. 102 or at scott.crawford@wsp.com.

Sincerely,



Scott Crawford
Vice President, Biology
WSP USA, Inc.

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WSP USA, Inc. 2021. Sunset Crossroads Project, Results of 2020-2021 Wet Season Fairy Shrimp Focused Surveys, Banning, California.



Project Alignment

FIGURE 1

Project Vicinity and Location
2020-2021 Wet Season Fairy Shrimp Surveys
Sun Lakes Blvd. Realignment Project
Banning, CA

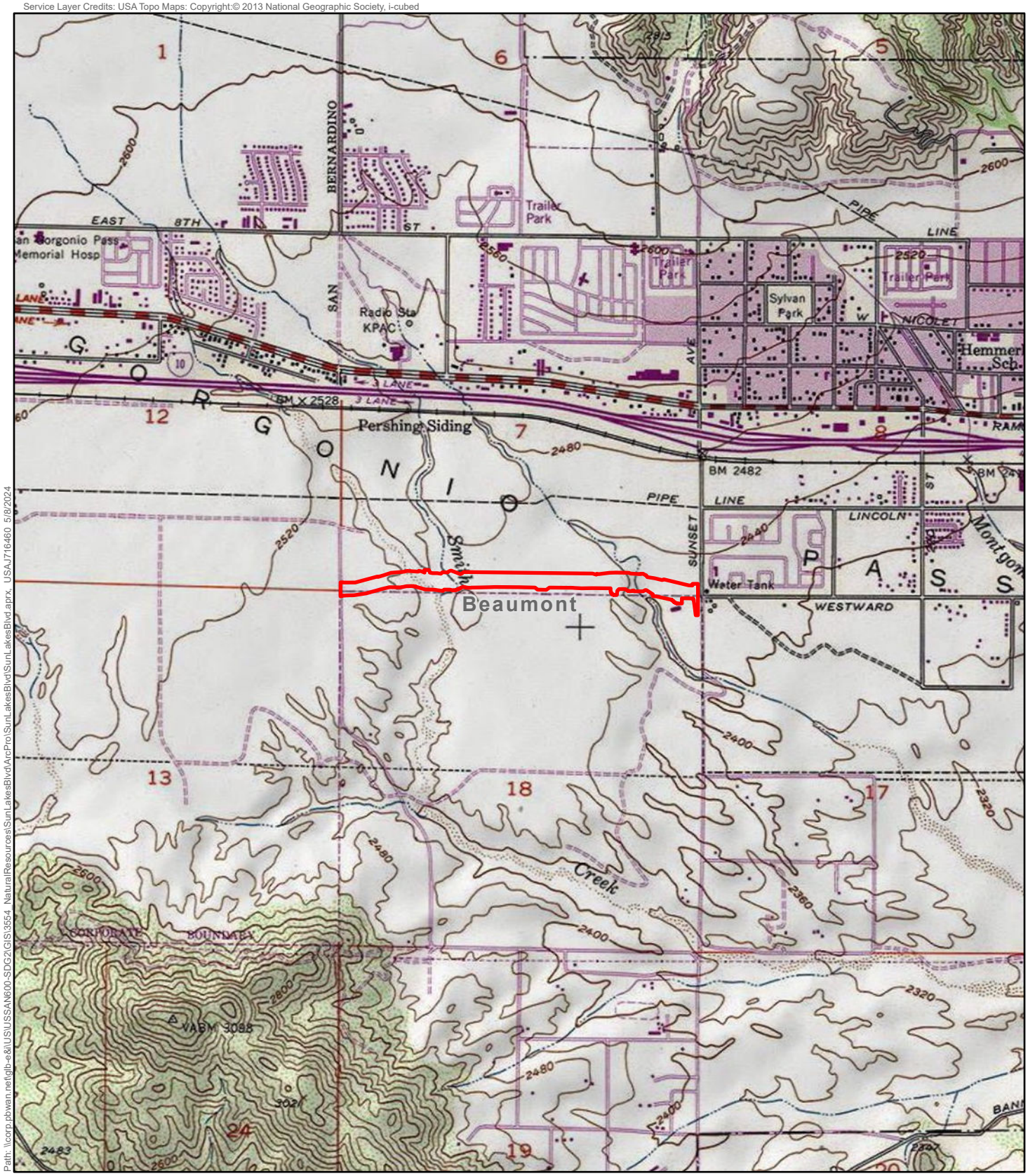


FIGURE 2
USGS 7.5' Topo Quad: Beaumont
2020-2021 Wet Season Fairy Shrimp Surveys
Sun Lakes Blvd. Realignment Project
Banning, CA

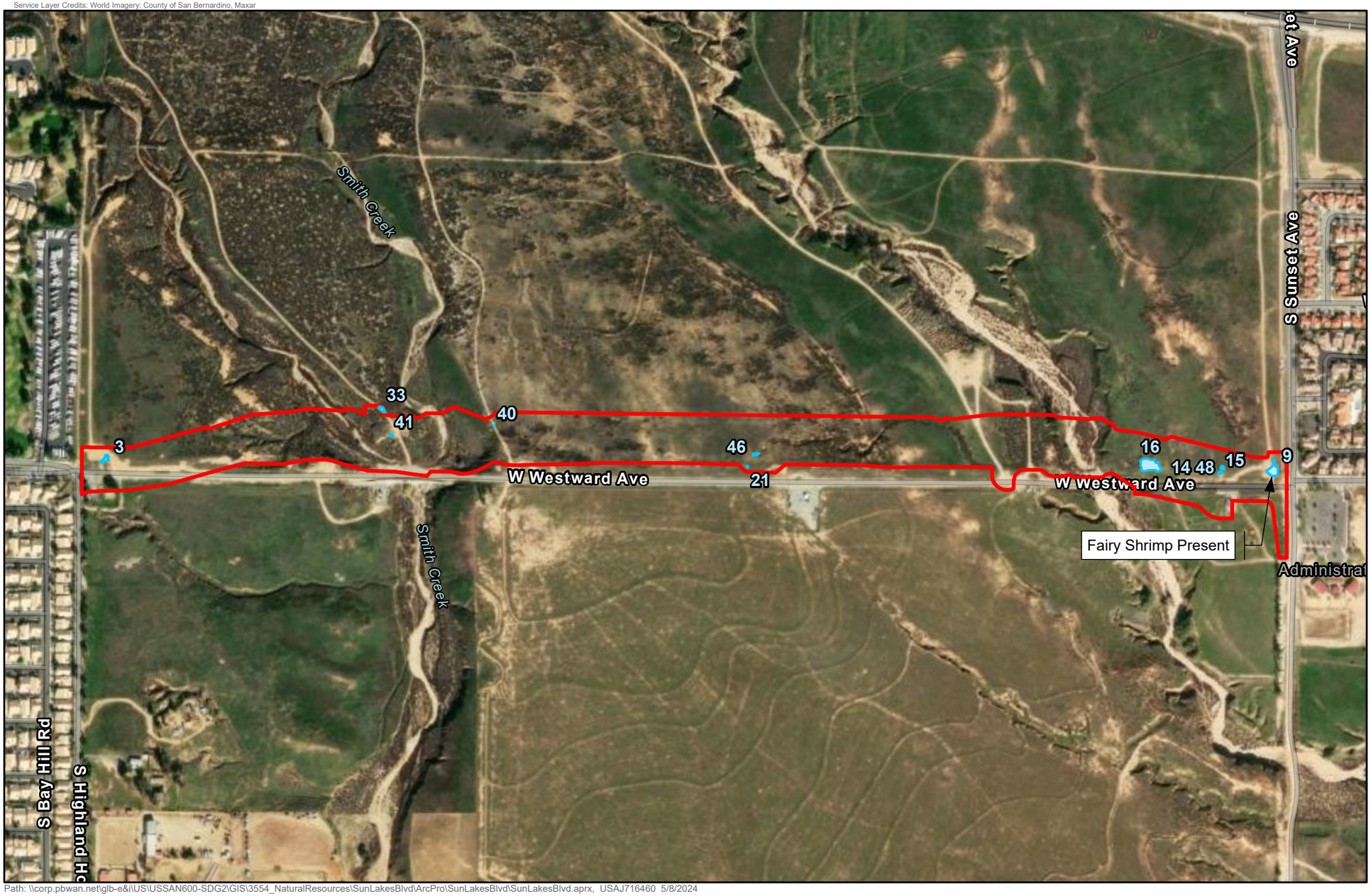


FIGURE 3

Local Vicinity
2020-2021 Wet Season Fairy Shrimp Surveys
Sun Lakes Blvd. Realignment Project
Banning, CA

Appendix B.6

SUN LAKES BLVD PROJECT

DELINEATION OF JURISDICTIONAL WATERS



City of Banning
Riverside County, California

Submitted to:
Albert A. Webb Associates
3788 McCray Street
Riverside, CA. 92506
Project No. # 20-554-00800

Prepared By:
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July 2024

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ACRONYMS AND ABBREVIATIONS

AMSL	above mean sea level
BSA	Biological Survey Area
CEQA	California Environmental Quality Act
CDFW	California Department of Fish and Wildlife
CWA	Clean Water Act
EPA	Environmental Protection Agency
FAC	facultative
FACU	facultative upland
FACW	facultative wetland
ft.	Feet
GIS	Geographic Information System
HUC	Hydrologic Cataloging Unit
I-10	Interstate 10
IP	Individual Permit
M	Meters
NL	not listed
NOAA	National Oceanic and Atmospheric Administration
NWI	National Wetlands Inventory
NWP	Nationwide Permit
OBL	obligate
OHWM	ordinary high-water mark
Rapanos	Rapanos v. U.S. and Carabell v. U.S.
RPW	relatively permanent waterway
RWQCB	Regional Water Quality Control Board
SWANCC	Solid Waste Agency of Northern Cook County v. USACE
TNW	traditionally navigable waterway
UPL	upland
USACE	U.S. Army Corps of Engineers
USDA	United States Department of Agriculture, Natural Resources Conservation Service
USFWS	United States Fish and Wildlife Service
USGS	U.S. Geological Survey
WSC	Waters of the State of California
WUS	Waters of the United States

1.0 INTRODUCTION

At the request of Albert A. Webb Associates (Webb), WSP USA Inc. (WSP) conducted a jurisdictional delineation and report for Sun Lakes Boulevard (Blvd.) Realignment Project site located in the city of Banning and unincorporated portions of Riverside County, California. This report presents regulatory framework, methods, and results of a delineation of jurisdictional waters, wetlands, and associated riparian habitat potentially impacted by the proposed project.

1.1 Purpose

The purpose of the delineation is to determine the extent of state and federal jurisdiction within the project area potentially subject to regulation by the U.S. Army Corps of Engineers (USACE) under Section 404 of the Clean Water Act (CWA), Regional Water Quality Control Board (RWQCB) under Section 401 of the CWA and Porter Cologne Water Quality Control Act, and California Department of Fish and Wildlife (CDFW) under Section 1602 of the California Fish and Game Code.

1.2 Project Description

The proposed project is a transportation project including construction of a new section of Sun Lakes Boulevard from Highland Home Road to Sunset Avenue (Figure 3) and intersection improvements within the City of Banning's existing road right-of-way (ROW). The project is approximately 5,400 linear feet (1.02 mile). This report has been updated due to a change is the outline of the proposed impacts and to update all related figures. The updated projects impacts include 19.4 acres of permanent impacts, 9.1 acres of temporary impacts. Project staging and stockpiling will occur within the City's ROW. Currently, Westward Avenue is a straight east-west unpaved dirt road between Highland Home Road and Sunset Avenue. The project crosses over three creeks, from west to east: Highland Wash, Smith Creek, and Pershing Creek. The project will include the construction of three sets of culverts to cross said creeks.

1.3 Project Location

The project is generally located south of Interstate 10, west of Sunset Avenue and east of Highland Home Road between the terminus of Sun Lakes Boulevard on the west and the terminus of paved Westward Avenue on the east. It can be found in Section 7 of Township 3 South, Range 1 East of the *Beaumont*, California, United States Geological Survey (1978) 7.5-minute topographic quadrangle map (Figure 2). The elevation of the project site ranges from approximately 2,400 to 2,500 feet above sea level. The geographic coordinates near the middle of the site are 33.5512.85° North latitude and -116.5516.29° West longitude. Vegetation communities on site consist primarily of grassland and scrubs.

2.0 REGULATORY FRAMEWORK

2.1 U.S. Army Corps of Engineers

The USACE regulates the discharge of dredged or fill material in waters of the United States (WUS) pursuant to Section 404 of the CWA.

Waters of the U.S.

Categories of Jurisdictional Waters

Under the final rule, the following waters are jurisdictional:

(1) Waters which are: (i) **traditional navigable waters** (TNWs), *i.e.*, all waters currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; (ii) **territorial seas**; or (iii) **interstate waters**, including interstate wetlands.

(2) **Impoundments** of waters otherwise defined as WOTUS under this definition, other than impoundments of waters identified under paragraph (5).

(3) **Tributaries** of waters identified in (1) or (2) of this section that:

i. Are relatively permanent, standing or continuously flowing; or

ii. Either alone or in combination with similarly situated waters in the region, significantly affect the chemical, physical, or biological integrity of waters identified in paragraph (1).

- *Tributary is not defined in the regulatory text, but the preamble clarifies that this category includes rivers, streams, lakes, ponds, and impoundments, regardless of their flow regime, that flow directly or indirectly through another water or waters to a TNW, territorial sea, or interstate water.*
- *Tributaries can be natural, modified, or constructed waters and thus, can include ditches and canals.*

(4) **Wetlands adjacent** to:

i. Waters identified in (1); or Relatively permanent, standing, or continuously flowing bodies of water identified in (2) or (3)(i) and with a continuous surface connection to those waters;

ii. Waters identified in (2) or (3) when the wetlands either alone or in combination with similarly situated waters in the region, significantly affect the chemical, physical, or biological integrity of waters identified in paragraph (1).

- *Adjacent is defined as "bordering, contiguous, or neighboring." Wetlands separated from other WOTUS by man-made dikes or barriers, natural river berms, beach dunes, and the like are adjacent wetlands. Shallow subsurface hydrologic connections can establish adjacency.*

- *The preamble says that in a substantial number of cases, adjacent wetlands abut other WOTUS and that, on the whole, nationwide, adjacent wetlands are within a few hundred feet from other WOTUS. In arid areas, adjacent wetlands are likely to be much closer than a few hundred feet, but in larger floodplains and riparian areas where rainfall is higher, wetlands can be a few hundred feet away and still be "adjacent."*

(5) **Intrastate lakes and ponds, streams, or wetlands** not identified in paragraphs (1) through (4) that:

i. Are relatively permanent, standing or continuously flowing bodies of water with a continuous surface connection to the waters identified in paragraph (1) or (3)(i) of this section; or

ii. That either alone or in combination with similarly situated waters in the region, significantly affect the chemical, physical, or biological integrity of waters identified in paragraph (1).

- *This is the former (a)(3) "other waters" category. As in the proposed rule, the preamble to the final rule again acknowledges that the agencies have not asserted jurisdiction over (a)(3) waters since 2003. And because this category was not discussed in the 2008* Rapanos *Guidance, the application of the relatively permanent and significant nexus tests to this category represents a clear expansion of the pre-2015 regulatory regime.*

- *The preamble commits both EPA and Corps headquarters to review all draft AJDs for waters assessed under (a)(5) based on the significant nexus standard.*

Relatively permanent standard

- The final rule does not define or quantify what constitutes "relatively permanent" flow. The preamble merely says relatively permanent includes features that have flowing or standing water year-round or continuously during certain times of the year.

- The Agencies are no longer using the term "seasonal" and appear to be backing away from the "typically three months" language in the 2008 *Rapnanos* Guidance. Moreover, the preamble could be interpreted to say that "relatively permanent" means flow for more than a short duration in direct response to precipitation, *i.e.*, anything more than ephemeral flow. And the preamble suggests that multiple storm events in succession could be enough to create relatively permanent flow.

  The Agencies interpret "continuous surface connection" to be a physical connection requirement, which does not require a continuous surface water connection. Even linear features (e.g., pipes, swales, ditches) can satisfy the physical connection requirement regardless of how often they carry flow. The preamble does not make it clear whether jurisdiction is dependent on the length/distance of a linear physical connection between an adjacent wetland and a relatively permanent WOTUS.

Significantly affect (significant nexus) standard

• The final rule defines "significantly affect" to mean "a material influence on the chemical, physical, or biological integrity of waters identified in paragraph (a)(1) of this section. To determine whether waters, either alone or in combination with similarly situated waters in the region, have a material influence on the chemical, physical, or biological integrity of waters identified in paragraph (a)(1) of this section," the Agencies will assess the following functions and factors:

o Functions

- Contribution of flow
- Trapping, transformation, filtering, and transport of materials (including nutrients, sediment, and other pollutants
- Retention and attenuation of floodwaters and runoff
- Modulation of temperature in waters identified in paragraph (a)(1) of this section
- Provision of habitat and food resources for aquatic species located in waters identified in paragraph (a)(1) of this section

o Factors

- The distance from a water identified in paragraph (a)(1) of this section
- Hydrologic factors, such as the frequency, duration, magnitude, timing, and rate of hydrologic connections, including shallow subsurface flow
- The size, density, or number of waters that have been determined to be similarly situated
- Landscape position and geomorphology
- Climatological variables such as temperature, rainfall, and snowpack

Exclusions

The final rule codifies many more exclusions than the proposed rule (and the 1986 regulations). Most of the exclusions resemble those in the 2015 Rule:

- Waste treatment systems, including treatment ponds or lagoons, designed to meet the requirements of the Clean Water Act.
- *The preamble clarifies that Wastewater Treatment Systems (WTS) constructed prior to the enactment of the CWA can still be excluded and that WTS are not limited to manmade bodies of water consistent with longstanding practice.*

Prior converted cropland designated by USDA. The exclusion would cease upon a change of use, which means that the area is no longer available for the production of agricultural commodities. For CWA purposes, the final authority regarding CWA jurisdiction remains with EPA.

- *The preamble implies, but does not clearly state, that lands remain excluded as PCC even if they change to a non-agricultural use so long as wetland characteristics do not return.*

- Ditches (including roadside ditches) excavated wholly in and draining only dry land and that do not carry a relatively permanent flow of water.

  - *Excluded ditches would not become jurisdictional solely by virtue of connecting to a downstream WOTUS or because wetland characteristics develop within the confines of the ditch.*

- Artificially irrigated areas that would revert to dry land if the irrigation ceased.

- Artificial lakes or ponds created by excavating or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.

  - *The preamble says this exclusion applies only to lakes/ponds that satisfy the terms of the exclusion, so apparently other types of ponds (e.g., log cleaning ponds) would not qualify.*

- Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating or diking dry land to retain water for primarily aesthetic reasons.

- Waterfilled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States.

iii. Swales and erosional features (*e.g.*, gullies, small washes) characterized by low volume, infrequent, or short duration flow

Supreme Court Decisions

Solid Waste Agency of Northern Cook County

On January 9, 2001, the Supreme Court of the United States issued a decision on Solid Waste Agency of Northern Cook County v. United States Army Corps of Engineers, et al. with respect to whether the USACE could assert jurisdiction over isolated waters. The Solid Waste Agency of North Cook County (SWANCC) ruling stated that the USACE does not have jurisdiction over “non-navigable, isolated, intrastate” waters.

Rapanos/Carabell

In the Supreme Court cases of Rapanos v. United States and Carabell v. United States (herein referred to as Rapanos), the court attempted to clarify the extent of USACE jurisdiction under the CWA. The nine Supreme Court justices issued five separate opinions (one plurality opinion, two concurring opinions, and two dissenting opinions) with no single opinion commanding a majority of the Court. In light of the Rapanos decision, the USACE will assert jurisdiction over a traditional navigable waterway (TNW), wetlands adjacent to TNWs, non-navigable tributaries of TNWs that are a relatively permanent waterway (RPW) where the tributaries typically flow year-round or have continuous flow at least seasonally (e.g., typically three months) and wetlands that directly abut such tributaries. The USACE will decide jurisdiction over the following waters based on a fact-specific analysis to determine whether they have a significant nexus with a TNW: non-navigable tributaries that are not relatively permanent, wetlands adjacent to non-navigable tributaries that are not RPWs, and wetlands adjacent to but that do not directly abut a non-navigable RPW.

Flow characteristics and functions of the tributary itself and the functions performed by all wetlands adjacent to the tributary indicate whether they significantly affect the chemical, physical and biological integrity of downstream TNWs. Analysis of potentially jurisdictional streams includes consideration of hydrologic and ecologic factors. The consideration of hydrological factors includes volume, duration, and frequency of flow, proximity to traditional navigable waters, size of watershed, average annual rainfall, and average annual winter snowpack. The consideration of ecological factors also includes the ability for tributaries to carry pollutants and flood waters to a TNW, the ability of a tributary to provide aquatic habitat that supports a TNW, the ability of wetlands to trap and filter pollutants or store flood waters, and maintenance of water quality.

Sackett v. EPA Supreme Court

Sackett began backfilling an Idaho lot with dirt to build a home. The Environmental Protection Agency informed Sackett that the property contained wetlands and that the backfilling violated the Clean Water Act, which prohibits discharging pollutants into “the waters of the United States,” 33 U.S.C. 1362(7). The EPA ordered Sackett to restore the site, threatening penalties of over $40,000 per day. The EPA classified the Sacket wetlands as “waters of the United States” because they were near a ditch that fed into a creek, which fed into Priest Lake, a navigable, intrastate lake. The Ninth Circuit affirmed summary judgment in favor of the EPA.

The Supreme Court reversed. CWA jurisdiction over an adjacent wetland requires that the adjacent body of water constitutes waters of the United States (a relatively permanent body of water connected to traditional interstate navigable waters) and a continuous surface connection between the wetland and that water, making it difficult to determine where the ‘water’ ends and the ‘wetland’ begins.”

The Court reviewed the history of judicial interpretation of “the waters of the United States” and enforcement by federal agencies, which argued that the significant-nexus test was sufficient to establish jurisdiction over “adjacent” wetlands. Under that test, nearly all waters and wetlands are potentially susceptible to regulation, “putting a staggering array of landowners at

risk of criminal prosecution for such mundane activities as moving dirt." The CWA's use of "waters" encompasses only relatively permanent, standing, or continuously flowing bodies, ordinarily called streams, oceans, rivers, and lakes. Wetlands qualify as "waters of the United States" only if "indistinguishable from waters of the United States," having a continuous surface connection to bodies that are waters of the United States in their own right, with no clear demarcation between waters and wetlands.

On August 29, 2023, the EPA and USACE announced a final rule amending the 2023 definition of "waters of the United States" to conform with the recent Supreme Court decision in Sackett v. EPA. The ruling removes the significant nexus test and confirms that only drainages with relatively permanent flows will fall under USACE jurisdiction.

2.2 Regional Water Quality Control Board

The RWQCB regulates activities pursuant to Section 401(a)(1) of the CWA. Section 401 of the CWA specifies that certification from the State is required for any applicant requesting a federal license or permit including a Section 404 permit. Through the Porter Cologne Water Quality Control Act, the RWQCB asserts jurisdiction over Waters of the State of California (WSC) which is generally the same as WUS but may also include waters not in federal jurisdiction.

The State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State was adopted in April 2020 and put into effect statewide on May 28, 2020 (State Water Resources Control Board, 2020).

The Water Boards define an area as wetland as follows:

An area is wetland if, under normal circumstances, (1) the area has continuous or recurrent saturation of the upper substrate caused by groundwater, or shallow surface water, or both; (2) the duration of such saturation is sufficient to cause anaerobic conditions in the upper substrate; and (3) the area's vegetation is dominated by hydrophytes or the area lacks vegetation.

The Water Code defines WSC broadly to include "any surface water or groundwater, including saline waters, within the boundaries of the state." WSC include all WUS but also includes waters not in federal jurisdiction.

The following wetlands are waters of the state:

1. Natural wetlands,
2. Wetlands created by modification of a surface water of the state, and
3. Artificial wetlands that meet any of the following criteria:

a. Approved by an agency as compensatory mitigation for impacts to other waters of the state, except where the approving agency explicitly identifies the mitigation as being of limited duration;

b. Specifically identified in a water quality control plan as a wetland or other water of the state;

c. Resulted from historic human activity, is not subject to ongoing operation and maintenance, and has become a relatively permanent part of the natural landscape; or

d. Greater than or equal to one acre in size, unless the artificial wetland was constructed, and is currently used and maintained, primarily for one or more of the following purposes (i.e., the following artificial wetlands are not waters of the state unless they also satisfy the criteria set forth in 2, 3a, or 3b):

i. Industrial or municipal wastewater treatment or disposal,

ii. Settling of sediment,

iii. Detention, retention, infiltration, or treatment of stormwater runoff and other pollutants or runoff subject to regulation under a municipal, construction, or industrial stormwater permitting program,

iv. Treatment of surface waters,

v. Agricultural crop irrigation or stock watering,

vi. Fire suppression,

vii. Industrial processing or cooling,

viii. Active surface mining – even if the site is managed for interim wetlands functions and values,

ix. Log storage,

x. Treatment, storage, or distribution of recycled water, or

xi. Maximizing groundwater recharge (this does not include wetlands that have incidental groundwater recharge benefits); or

xii. Fields flooded for rice growing.

All artificial wetlands that are less than an acre in size and do not satisfy the criteria set forth in 2, 3.a, 3.b, or 3.c are not WSC.

The CDFW regulates water resources under Section 1600-1616 of the California Fish and Game Code. Section 1602 states:

“An entity may not substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake (CDFW, 2015).”

Evaluation of CDFW jurisdiction followed guidance in the Fish and Game Code and A Review of Stream Processes and Forms in Dryland Watersheds. In general, under 1602 of the Fish and Game Code, CDFW jurisdiction extends to the maximum extent or expression of a stream on the landscape (CDFW, 2010). It has been the practice of CDFW to define a stream as “a body of water that flows perennially or episodically and that is defined by the area in a channel which water currently flows or has flowed over a given course during the historic hydrologic course regime, and where the width of its course can reasonably be identified by physical or biological indicators” (Brady and Vyverberg, 2013). Thus, a channel is not defined by a specific flow event, nor by the path of surface water as this path might vary seasonally. Rather, it is CDFW's practice to define the channel based on the topography or elevations of land that confine the water to a definite course when the waters of a creek rise to their highest point.

3.0 METHODS

Prior to conducting delineation fieldwork, the following literature and materials were reviewed:

- Aerial photographs of the survey area at a scale of 1:1800 to determine the potential locations of jurisdictional waters or wetlands;
- USGS topographic map (Appendix A - Figure 2) to determine the presence of any "blue line" drainages or other mapped water features.
- USDA soil mapping data (Appendix A - Figure 3); and
- USFWS National Wetlands Inventory map to identify areas mapped as wetland features (Appendix A - Figure 4).

A field survey of the project site was conducted by WSP senior biologist Dale Hameister on 18 April 2024. The survey consisted of walking the entire survey area and identifying potentially jurisdictional water features. All accessible portions of the survey areas were walked to determine if any topographic low-spots meet the minimum criteria to be considered under the jurisdiction of USACE, RWQCB, and CDFW. Visual observations of vegetation types and changes in hydrology and soil texture, and culvert locations were used to locate areas for evaluation. Weather conditions during delineation fieldwork was conducive for surveying with clear skies.

USACE regulated WUS, including wetlands, and RWQCB WSC were delineated according to the methods outlined in *A Field Guide to the Identification of the Ordinary High-Water Mark (OHWM) in the Arid West Region of the Western United States* (USACE, 2008a). The extent of WUS was determined based on indicators of an OHWM. The OHWM width was measured at points wherever clear changes in width occurred.

Potential federally regulated wetlands were identified based on the *Wetlands Delineation Manual* (USACE, 1987) and *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region* (USACE, 2008b). Additional data was recorded to determine if an area fulfilled the wetland criteria parameters. Three criteria must be fulfilled in order to classify an area as a wetland under the jurisdiction of the USACE: 1) a predominance of hydrophytic vegetation, 2) the presence of hydric soils, and 3) the presence of wetland hydrology.

CDFW jurisdiction is delineated by measuring the elevations of land that confine a stream to a definite course when its waters rise to their highest level and to the extent of associated riparian vegetation. WSC/CDFW jurisdictional areas were determined by the bankfull channel edge and RWQCB jurisdictional areas were determined by

the edge of the OHWM. In some areas the eroded banks were vertical, so these areas shared the same jurisdictional boundary lines.

All washes identified were typical of dryland fluvial systems with unvegetated, sand bottom channels. Therefore, no soil pits were dug, and no wetland data forms were used to collect information.

To determine jurisdictional boundaries, the surveyor walked the length of the drainage within the project area and recorded the centerline with a Trimble GeoXH global positioning system. The width of the drainage was determined by the OHWM and bankfull width measurements at locations where transitions were apparent. Other data recorded included bank height and morphology, substrate type, and all vegetation within the streambed and riparian vegetation adjacent to the streambed. Areas that lacked evidence of hydrophytic vegetation, lacked evidence of wetland hydrology, and had no recent disturbance, did not require a soil pit since the other wetland indicators were not present. Upon completion of fieldwork, all data collected in the field were incorporated into a Geographic Information System (GIS) along with basemap data. The GIS was then used to quantify the extent of jurisdictional waters and prepare graphical representations of that data.

4.0 ENVIRONMENTAL SETTING

4.1 Existing Conditions

Adjacent to and south of the Sun Lakes Boulevard ROW are existing utilities that include three well sites and one wastewater lift station. Within Westward Avenue, there are many existing utility lines including, a potable water line, sanitary sewer line, recycled water line, fiber optics line, three oil lines, and an underground telephone line. Single-family homes are west of Highland Home Road. East of Sunset Avenue are single-family homes, a small number of commercial businesses, the Mt. San Jacinto College San Gorgonio Pass Campus, and undeveloped open space, including habitat for biological elements of concern to the MSHCP. The project footprint outside of the facilities detailed above is currently undeveloped open space, including habitat for biological elements of concern to the MSHCP, as are areas to the north and south of the project. Three named, deeply incised drainages (i.e., Pershing Creek, Smith Creek and Highland Wash) and their tributaries are present within the proposed project site. Existing structures located on-site include city-owned wells, an agricultural storage shelter, and a number of easements for streets, utilities, gas and oil pipelines, landscaping, and communications systems.

4.2 Hydrology

The project is located within the Whitewater Watershed. Onsite drainages flow generally to the southeast and eventually connect the Whitewater River to the east and under years of heavy rain may eventually flow into the Salton Sea. The average rainfall for the area is 12.98 inches per year (NOAA Regional Climate Center). Weather data was recorded in the City of Beaumont. The delineation survey was conducted following a year of above average rainfall in the 2019-2020 rain season. The annual rainfall for the 2018-2019 season was 26.94 inches. The total thus far for the 2019-2020 season is 11.56 inches which is higher than the usual average. (NOAA Regional Climate Center).

The drainages were all dry during the surveys and no surface waters flowing were observed.

4.3 Vegetation

4.3.1 Vegetation Communities

The project site contains six vegetation communities / land cover categories: buckwheat scrub, non-native grassland, riparian scrub/woodland, Riversidean alluvial fan sage scrub, non-vegetated streambed, and disturbed/developed. ***Disturbed/developed*** areas are the direct result of current or past human activity (buildings, roads, et cetera). The following are somewhat more natural land cover categories, although non-native grasslands are comprised largely of naturalized non-native plant species introduced by humans:

- Wetland indicator status denotes the probability of individual species of vascular plants occurring in freshwater, brackish and saltwater wetlands in the United States. The wetland status of 7,000 plants is determined upon information contained in a list compiled in the National Wetland Inventory undertaken by the U.S. Fish and Wildlife Service and developed in cooperation with a federal inter-agency review panel.
- **Obligate wetland** (OBL) - Almost always occurs in wetlands under natural conditions (estimated probability > 99%).
- **Facultative wetland** (FACW) - Usually occurs in wetlands (estimated probability 67% – 99%), but occasionally found in non-wetlands (estimated probability 1% – 33%).
- **Facultative** (FAC) - Equally likely to occur in wetlands and non-wetlands (estimated probability 34% – 66%).
- **Facultative upland** (FACU) - Usually occurs in non-wetlands (estimated probability 67% – 99%), but occasionally found in wetlands (estimated probability 1% – 33%).
- **Obligate upland** (UPL) - Almost always occurs in non-wetlands under natural conditions (estimated probability > 99%).

4.3.2 Athel tamarisk

This category is mapped in areas dominated by non-native Athel tamarisk (*Tamarix aphylla*) trees or shrubs. These areas are adjacent to the dry streambed but are not considered part of riparian vegetation. Other understory species observed include shortpod mustard (*Hirschfeldia incana*), red-brome (*Bromus rubens*), and turkey-mullein (*Croton setiger*).

4.3.3 Buckwheat Scrub

This category represents buckwheat scrub. This habitat is dominated by California buckwheat (*Eriogonum fasciculatum*). Other plant species within this community include California sagebrush (*Artemisia californica*), brittlebush (*Encelia californica*), pinebush (*Ericameria pinifolia*), deerweed (*Lotus scoparius*), common sand aster (*Corethrogyne filaginifolia*), turkey mullein, shortpod mustard, and horseweed (*Erigeron canadensis*). The majority of plants observed are all upland plant that do not occur in wetland conditions. Areas within the eroded dry stream areas adjacent to the active channel also contain rough cocklebur (*Xanthium strumarium*)(FAC), Johnsongrass (*Sorghum halepense*), and mugwort (*Artemisia douglasiana*)(FAC). A few isolated tree of heaven (*Ailanthus altissima*), blue elderberry (*Sambucus nigra* ssp. *caerulea*) (FACU), and southern California black walnut (*Juglans californica*) (FACU) were observed within the buckwheat scrub. The few wetland indicator plants and the lack of FACW or OBL status plants demonstrate that the vegetation would not meet the criterion to be considered a wetland.

4.3.4 Riversidean Alluvial Fan Sage Scrub

Riversidean alluvial fan sage scrub is also known as 'soft chaparral' habitat and is found on south-facing upland slopes, and along sandy ephemeral streams. This vegeation community typically occurs below 3,000 feet elevation and occupies generally drier sites than standard chaparral habitat. Within the project site, scale broom (*Lepidospartum squamatum*) is an indicator species of Riversidean alluvial fan sage scrub. Other species observed include mugwort and tarragon (*Artemisia dracunculus*).

4.3.5 Riparian Scrub Woodland

This habitat is commonly dominated by young willow trees and shrubs. Within the project area the riparian scrub woodland areas are small patches dominated by Fremont cottonwood (*Populus* fremontii) (FAC), Goodding's black willow (*Salix gooddingii*)(FACW), red willow (*Salix lasiolepis*)(FACW), or mule fat (*Baccharis salicifolia*) (FAC). This habitat is only found within selective portions of the on-site drainage features and is limited to the central portion of the project site.

4.3.6 Grassland

This habitat is commonly used for agricultural use and is dominated by non-native annual grasses (*Poaceae*) in the spring. Some species of grasses that are observed within the grassland areas include wild oats (*Avena fatua*), cheatgrass (*Bromus tectorum*), red brome (*Bromus madritensis* ssp. *rubens*). Other dominate species include shortpod mustard, red-stemmed filaree (*Erodium cicutarium*), and annual

ragweed (*Ambrosia acanthicarpa*). Late summer dominate plants include turkey-mullein and vinegarweed (*Trichostema lanceolatum*).

4.3.7 Non-vegetated Streambed

The majority of the drainages within the project site are classified as non-vegetated streambed. These areas contain mostly bare coarse sand with only some isolated patches of vegetation including mule fat, ragweed, mustard, and Johnson grass, however these patches were very small and not large enough to be mapped as separate habitat areas. In general areas with less than 0.01 acres are not mapped as separate habitat.

4.4 Soils

Soil mapping (Appendix A - Figure 3) indicates that areas of the northwestern site were used as borrow pits in the past but there is little or no evidence of that now. The remainder of the site contains sandy loam soils. No hydric soils were observed on-site.

4.5 National Wetlands Inventory

The United States Fish and Wildlife Service (USFWS) is the principal Federal agency that provides information to the public on the extent and status of the Nation's wetlands. The USFWS has developed a series of maps, known as the National Wetlands Inventory (NWI) to show wetlands and deep-water habitat. This geospatial information is used by Federal, State, and local agencies, academic institutions, and private industry for management, research, policy development, education, and planning activities. The NWI program was neither designed nor intended to produce legal or regulatory products; therefore, wetlands identified by the NWI program are not the same as wetlands defined by the USACE.

The NWI Mapper (USFWS, 2020) was accessed on-line to review mapped wetlands within the project study areas. The NWI mapper (Figure 4, Appendix A) shows three drainages flowing through the survey area classified as Riverine, Intermittent, Streambed, Temporary Flooded (R4SBJ) (Cowardin, et. al., 1979). The NWI data was mapped from aerial photographs from 1985. The drainages have changed course and had additional erosion since then.

5.0 RESULTS

Three main washes were identified within the project survey area that contained both bed and bank and OHWM including Highland Wash, Pershing Wash, and Smith Creek. The Jurisdictional Delineation Maps (Appendix A – Figure 5) identify all observed on-site jurisdictional drainages. Table 1-3 includes a list of waterways identified in the project area, their jurisdictional status and area of jurisdiction, and Cowardin classification.

The soils within the washes are coarse sand with no signs of redox or any other wetland soil indicator.

Due to the limited hydric vegetation and total lack of hydric soils observed within the washes, the drainages are considered ephemeral and only have flowing water during and immediately after storm events.

The USACE, in combination with the EPA, when necessary, reserves the ultimate authority in making the final jurisdictional determination of WUS and the RWQCB reserves the ultimate authority in making the final jurisdictional determination of WSC. Additionally, CDFW has ultimate discretion in the determination of their jurisdiction. Based on our delineation, all 5 features identified meet the requirements for USACE, CDFW and RWQCB jurisdiction.

Table 1. Survey Site Information

Drainage	Latitude	Longitude	Quad	Township	Range	Section
Highland Wash	34.128009	-116.055896	Beaumont	3S	1E	7 and 18
Smith Creek	34.126261	-116.056539	Beaumont	3S	1E	12 and 18
Pershing Creek	34.126254	-116.056002	Beaumont	3S	1E	12 and 18

Table 3. Summary of Jurisdictional Areas

Drainage ID /Survey Area	Watershed	Waters of the US Length (feet)	Waters of the US (acre)	RWQCB Length (Feet)	RWQCB (acre)	CDFW Length (Feet)	CDFW (acre)	Latitude	Longitude	Cowardin Class	Class of Aquatic Resource
Highland Wash	Whitewater	0	0	403	0.12	403	0.12	33.922444	-116.928651	R4SBJ	non-section10-non wetland
Smith Creek	Whitewater	0	0	256	0.12	256	0.12	33.922884	-116.925072	R4SBJ	non-section10-non wetland
Pershing Creek	Whitewater	0	0	286	0.23	286	0.23	33.922570	-116.919933	R4SBJ	non-section10-non wetland

R4SBJ – Riverine, Intermittent, Streambed, Intermittently Flooded based on Classification of Wetlands and Deepwater Habitats of the United States (Cowardin, et. al., 1979).

6.0 IMPACTS TO JURISDICTIONAL AREAS

Highland Wash is an ephemeral drainage containing riparian and riverine resources that flows from north to south and crosses perpendicular to the proposed project. Flow originates from north of Interstate 10 and from the Sun Lakes community immediately northwest of the project.

In the area of the project, Highland Wash contains an active low flow channel with adjacent active floodplain that is bordered on the west with low terraces and on the east are incised channel walls that are both bordered by uplands. The active low-flow channel is approximately 12-inches wide in the project area with a silty/sandy bed and no vegetation. Evidence of flows were identified by benches and drift present in the project area. The adjacent active floodplain varies from roughly 3-feet to 15-feet wide and evidenced by a more pebbly substrate then the low flow channel, as well as ripples, older drift, presence of bed and bank, benches and no vegetation. The ordinary high-water mark (OHWM) is approximately 8inches and indicated by break in slope and change in vegetative cover from active floodplain to low terrace. The low terrace borders the floodplain on the west with mid-stage upland vegetation consisting of California buckwheat that uniformly dominates the drainage area from the low terrace to the nearby hill tops. The outer limit of the low terrace is characterized by a higher vegetative density of buckwheat and marks the limit of potential CDFW jurisdiction.

Highland Wash likely flows for less than 3 months per year and is therefore does not have permanent flow and would not be considered USACE jurisdictional. Highland Wash joins with Smith Creek at Westward Avenue.

Smith Creek is an ephemeral drainage containing riparian and riverine resources that flows from north to south and crosses perpendicular to the proposed project and east of Highland Wash. Flow to Smith Creek originates from a large watershed area north of Interstate 10. In the area of the project, Smith Creek contains an active low flow channel with adjacent active floodplain that is bordered with low terraces. The active low-flow channel is approximately 8inches wide with a silty/sandy bed and no vegetation. Evidence of flows were identified by benches and drift present in the project area. The adjacent active floodplain was on average 20feet wide and the limits of which evidenced by a more pebbly substrate then the low flow channel, as well as ripples, older drift, presence of bed and bank, benches and limited pockets of earlystage vegetation. OHWM is approximately 6-inches and indicated by break in slope and changes in vegetative cover and sediment texture from active floodplain to low terrace. The low terrace borders the floodplain on the west with late-stage upland vegetation consisting mostly of California buckwheat that uniformly dominates the drainage area from the low terrace to the nearby hill tops. The outer

limit of the low terrace is characterized by change in slope and a higher vegetative density of California buckwheat and marks the limit of potential CDFW jurisdiction. Smith Creek likely flows for less than 3 months per year and is therefore does not have permanent flow and would not be considered USACE jurisdictional. Highland Wash joins with Smith Creek at Westward Avenue. Smith Creek is tributary to San Gorgonio Creek, which is tributary to the Whitewater River.

Pershing Creek is a wide ephemeral drainage containing riparian and riverine resources that flows from north to south and crosses perpendicular to the proposed project. It is located east of Smith Creek. Flows to Pershing Creek originate from north of Interstate 10. In the area of the project, Pershing Creek splits around an island approximately 0.24-acre in size of Riversidean alluvial fan sage scrub into two sets of active low flow channels with adjacent active floodplains. The Riversidean alluvial fan sage scrub is dominated by scale broom. The active low flow channels are approximately 10-inches wide in the project area with a fine sandy bed and no vegetation. Evidence of flows were identified by benches and ripples present in the project area. The active floodplain is on average 38-feet wide and bordered by short low terraces that are bordered by steep embankments that are roughly 20-feet high to the east and west of the creek. One mature eucalyptus tree (*Eucalyptus* species) on the far westerly bank is also within the project area. The active floodplain is evidenced by a more sandy/pebbly substrate then the low flow channel, as well as older drift, mud cracks, and early-stage vegetation of buckwheat and annual filarees (*Erodium* species). OHWM is approximately 10-inches and indicated by break in slope and changes in vegetative cover and sediment texture from active floodplain to low terrace. The low terrace borders the floodplain on the west with silty soil and 95% cover of latestage upland vegetation consisting of California buckwheat that uniformly dominates the drainage area from the low terrace to the nearby hill tops. The outer limit of the low terrace on the east side of the creek is characterized by a change in slope and higher vegetative density of buckwheat and marks the limit of potential CDFW jurisdiction. The outer limit on the west side of the creek is characterized by a near-vertical incised channel bank.

Pershing Creek likely flows for less than 3 months per year and is therefore does not have permanent flow and would not be considered USACE jurisdictional. Pershing Creek merges with Smith Creek far downstream of the project limits.

Existing Culverts under Westward Avenue are riverine resources and potentially CDFW and RWQCB jurisdictional waters because although they are confined and man-made, they convey flow from the three preceding drainages across Westward Avenue. There are a total of 6 culverts of varying diameters and lengths for a total footprint of approximately 0.02 acre within the project limits.

Highland Wash

- 18-inch diameter, 24 feet long
- 54-inch diameter, 27 feet long
- 54-inch diameter, 10 feet long

Smith Creek

- 48-inch diameter, 35 feet long

Pershing Creek

- 48-inch diameter, 45 feet long 48-inch diameter, 44 feet long

Table 1 lists the riparian/riverine and potentially jurisdictional features within the project footprint with additional details on each pursuant to USACE criteria. Figure 4 identifies all observed project site riparian/riverine resources and highlights the resources that require mitigation and therefore triggered the need for this DBESP. Flow from the project site drainages enters the MSHCP Conservation Area approximately 4.5 miles downstream in the San Gorgonio Pass Special Linkage Area. The functions and values of the project site drainages and the surrounding upland loams include absorption and the gradual release of water into the downstream MSHCP Conservation Area. The drainages also provide sediment transport to downstream areas.

The conclusion of the Northwest Hydrological Consultants technical memorandum (NCH 2024) on the project site indicates that there would likely be minimal sediment transport impacts associated with the current crossing improvement plans. Hydraulic conditions upstream of all three of the proposed crossings are very comparable under pre- and post-project scenarios. Note that the with-project hydraulic simulation results reflect proposed as-built conditions and assume the crossing openings are clear of accumulations and the support piers are clear of debris at the time of the peak flow event. It is recommended that regular inspections and clearing (as needed) of the crossings be conducted to maintain these conditions. Maintenance inspections should occur, at minimum, annually prior to flood season and after any significant runoff event. Pier nose extensions (debris fins) or debris sweepers are recommended at the front end of the support piers if vegetative debris loading is of concern, to minimize the impact of pier debris accumulation on upstream hydraulics during flood events.

The topography and vegetation in the project site drainages also provide cover and corridors for the shelter and movement of wildlife. The Project will include the construction of three sets of culverts to cross said creeks. The culverts are multi-cell reinforced concrete box (RCB) channels running under the proposed Sun Lakes Boulevard roadway extension. Straight wing walls with concrete and riprap aprons will be constructed at the upstream end of each channel while vertical wing walls and concrete aprons will be provided at the downstream end of channels. Concrete

ramps will be constructed at the south end of the channels to provide maintenance access. Swales and trapezoidal channels will be provided to intercept stormwater run-on from north of the Project and discharge it to the proposed channels. The project will retain existing culverts such that sediment transport and wildlife movement functions and values will be retained.

Table 4 Summary of Jurisdictional Impact Areas

Drainage	Lat	Long	Watershed	USACE perm impact (Acres)	USACE perm impact (feet)	CDFW/ RWQCB perm impact (acres)	CDFW/ RWQCB perm impact (feet)	CDFW/ RWQCB temp impact (acres)	CDFW/ RWQCB Temp impact (feet)	Cowardin Class	Class of Aquatic Resource
Highland Wash	33.922444	-116.928651	Whitewater	0	0	0.1	394	0.01	61	R4SBA	non-section10-non wetland
Smith Creek	33.922884	-116.925072	Whitewater	0	0	0.08	128	0.04	65	R4SBA	non-section10-non wetland
Pershing Creek	33.922570	-116.919933	Whitewater	0	0	0.2	230	0.03	72	R4SBA	non-section10-non wetland
Total				**0**	**0**	**0.37**	**748**	**0.09**	**187**		

R4SBJ – Riverine, Intermittent, Streambed, Intermittently Flooded based on Classification of Wetlands and Deepwater Habitats of the United States (Cowardin, et. al., 1979).
PUSAh - Palustrine, Unconsolidated Shore, Temporary Flooded, Diked/Impounded (h)
No Rock Slope Protection within waters

6.1 Permitting Requirements

The proposed project requires temporary and permanent impacts to jurisdictional drainages and therefore, authorizations from the RWQCB and CDFW are required as described below.

6.1.1 U.S. Army Corps of Engineers

The drainages on-site have a discontinuous connection to the Whitewater River through multiple golf courses within the Coachella Valley, which are within the floodplain. The flow path eventually connects to the Whitewater River and then to the Salton Sea. USACE could assert jurisdiction as the Salton Sea is a traditional navigable water. A individual or preliminary jurisdictional permit under Section 404 is required.

The drainages onsite do not contain permanent flows and in accordance with the EPS vs Sackett ruling are not considered to be USACE jurisdictional.

6.1.2 Regional Water Quality Control Board

The project areas occur in the Colorado River RWQCB (Region 6). Under Section 401 of the CWA, the RWQCB must certify that the discharge of dredged or fill material into WUS does not violate state water quality standards.

The RWQCB also regulates impacts to WSC under the Porter Cologne Water Quality Control Act through issuance of a Construction General Permit, State General Waste Discharge Order, or Waste Discharge Requirements, depending upon the level of impact and the properties of the waterway.

Where the project has the potential to impacts WUS or WSC, the project proponent would need to obtain a Water Quality Certification. In addition to the formal application materials and fee (based on area of impact), a copy of the appropriate California Environmental Quality Act (CEQA) documentation must be included with the application.

Mitigation measures typically include replacement of, or mitigation for temporary or permanent impacts. Mitigation can be implemented through on-site restoration, the purchase of mitigation credits through an approved in-lieu fee program or similar mitigation bank. Other options can include the purchase of off-site habitat and placed into a conservation easement. It should be noted that mitigation ratios are based on in-kind habitat replacement/restoration, and ratios may be reduced if higher quality habitat is secured or created. As noted, because the impacts to the

channel are expected to be temporary, the project may mitigate on-site through restoration efforts, which would require monitoring and maintenance of the habitat.

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6.1.3 California Department of Fish and Wildlife

A 1602 Streambed Alteration Agreement is required for all activities that alter streams and lakes and their associated riparian habitat, regardless of the extent of impacts. In addition to the formal application materials and fee (based on cost of the project), a copy of the appropriate CEQA documentation must be included with the application.

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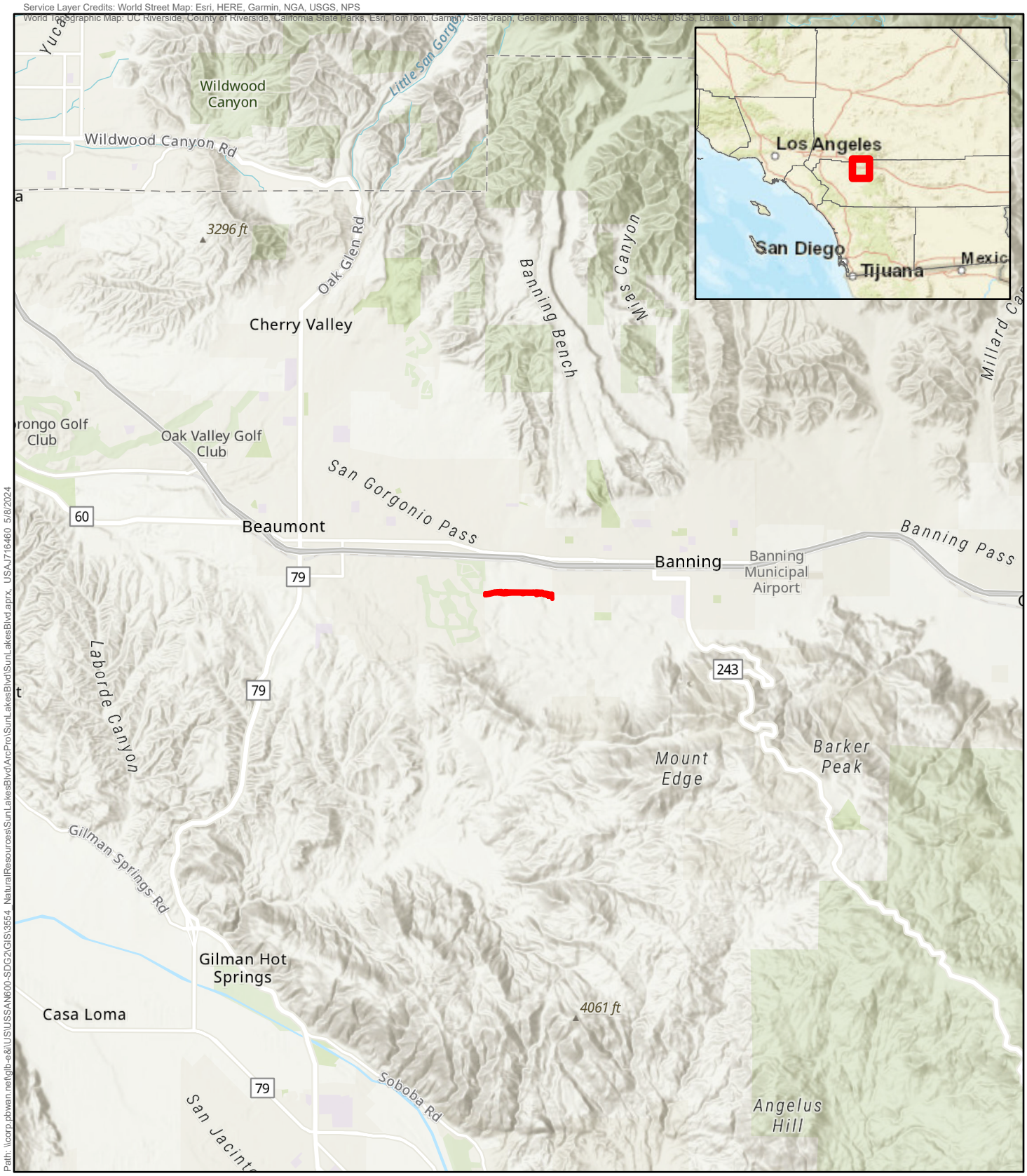
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U.S. Fish and Wildlife Service. 2020. National Wetlands Inventory Mapper. Available online at: http://www.fws.gov/wetlands/Data/Mapper.html. Accessed March 2020.

United States Geological Survey (USGS). 1996. 7.5-Minute Series, *Beaumont*, California, Topographic Quadrangle. Reston, VA.

APPENDIX A

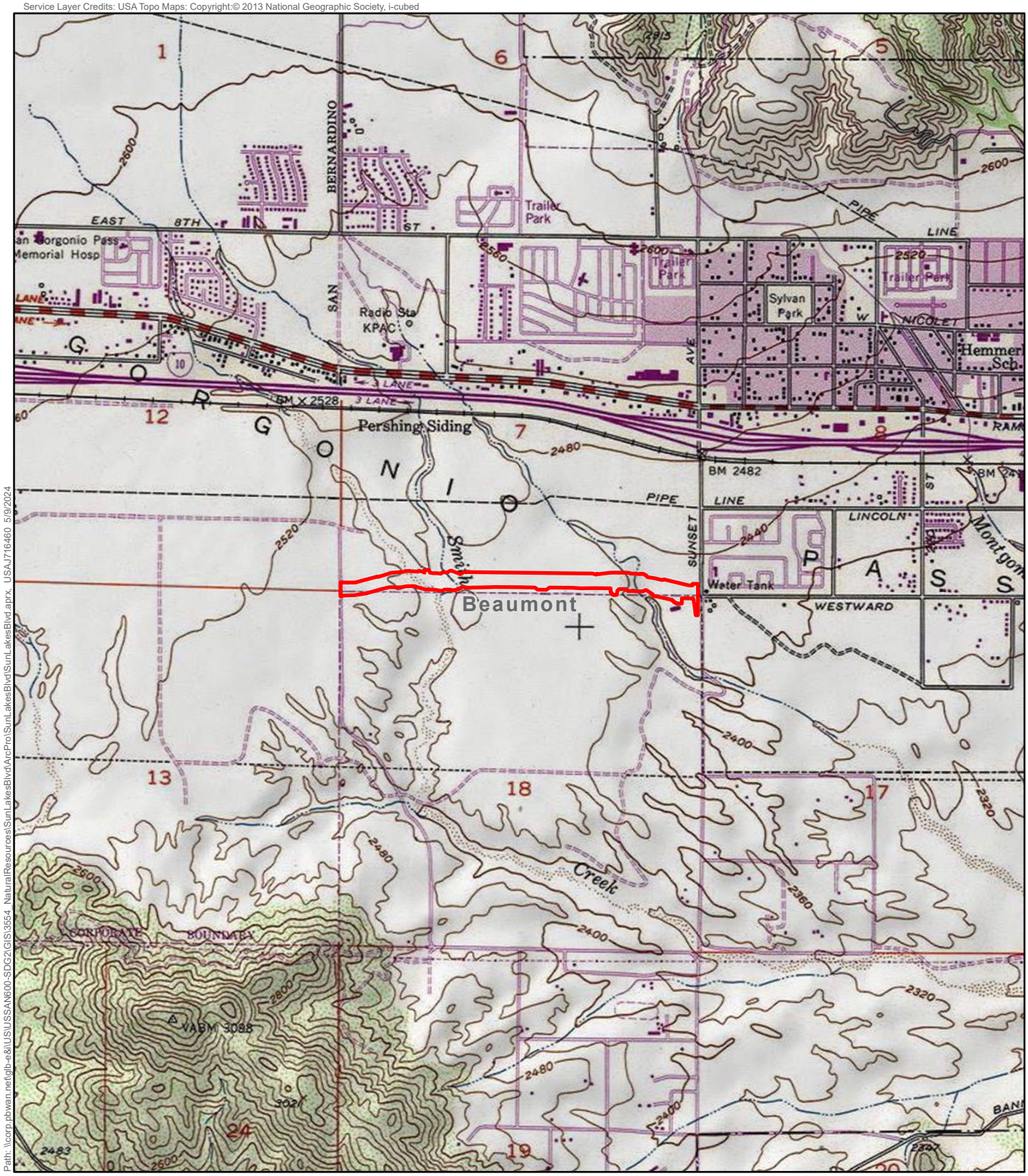
JURISDICTIONAL MAPS



Project Alignment

FIGURE 1

Project Vicinity and Location
Jurisdictional Delineation Report
Sun Lakes Blvd. Realignment Project
Banning, CA



Project Alignment

FIGURE 2

USGS 7.5' Topo Quad: Beaumont
Jurisdictional Delineation Report
Sun Lakes Blvd. Realignment Project
Banning, CA



GyD2: Greenfield sandy loam, 8 to 15 percent slopes, eroded

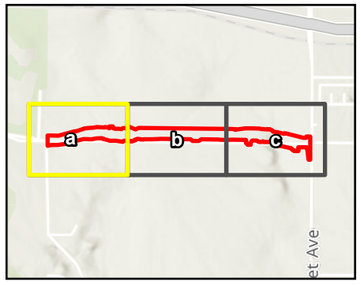
RaB2: Ramona sandy loam, 2 to 5 percent slopes, eroded

RaD3: Ramona sandy loam, 8 to 15 percent slopes, severely eroded

RsC: Riverwash

TeG: Terrace escarpments

Project Alignment



1 inch =150 feet

0 150 Feet

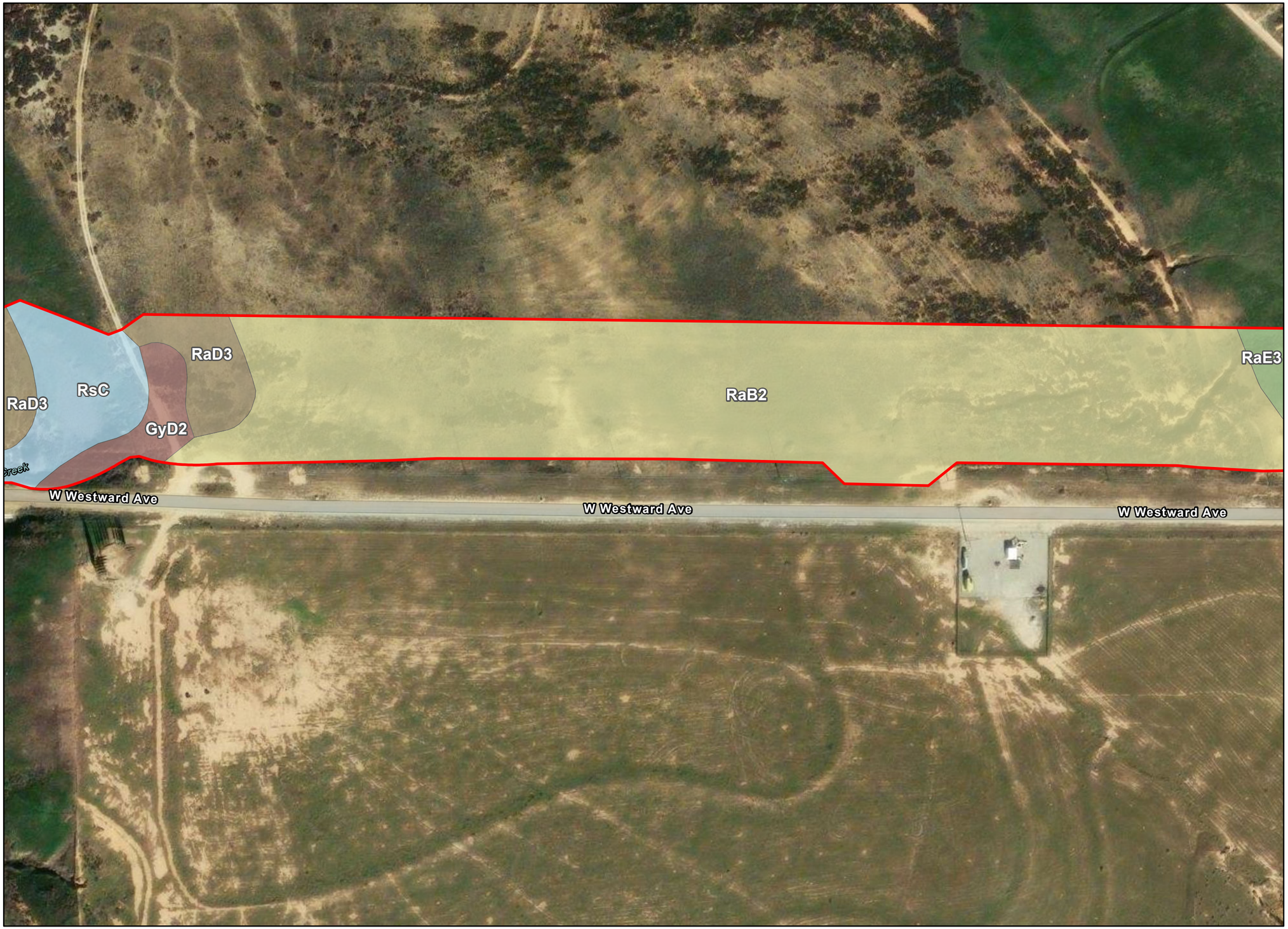
FIGURE 3a

Soil Types
Jurisdictional Delineation Report
Sun Lakes Blvd. Realignment Project
Banning, CA

wsp

Service Layer Credits: World Imagery: County of San Bernardino, Maxar World Topographic Map: UC Riverside, County of Riverside, California State Parks, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, USDA,

Path: \\corp.pbwan.net\glb-e&i\US\USSAN600-SDG2\GIS\3554_NaturalResources\SunLakesBlvd\ArcPro\SunLakesBlvd\SunLakesBlvd.aprx, USAJ716460, 5/9/2024



GyD2: Greenfield sandy loam, 8 to 15 percent slopes, eroded

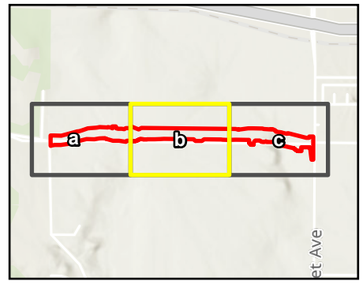
RaB2: Ramona sandy loam, 2 to 5 percent slopes, eroded

RaD3: Ramona sandy loam, 8 to 15 percent slopes, severely eroded

RaE3: Ramona sandy loam, 15 to 25 percent slopes, severely eroded

RsC: Riverwash

Project Alignment



1 inch =150 feet

0 150 Feet

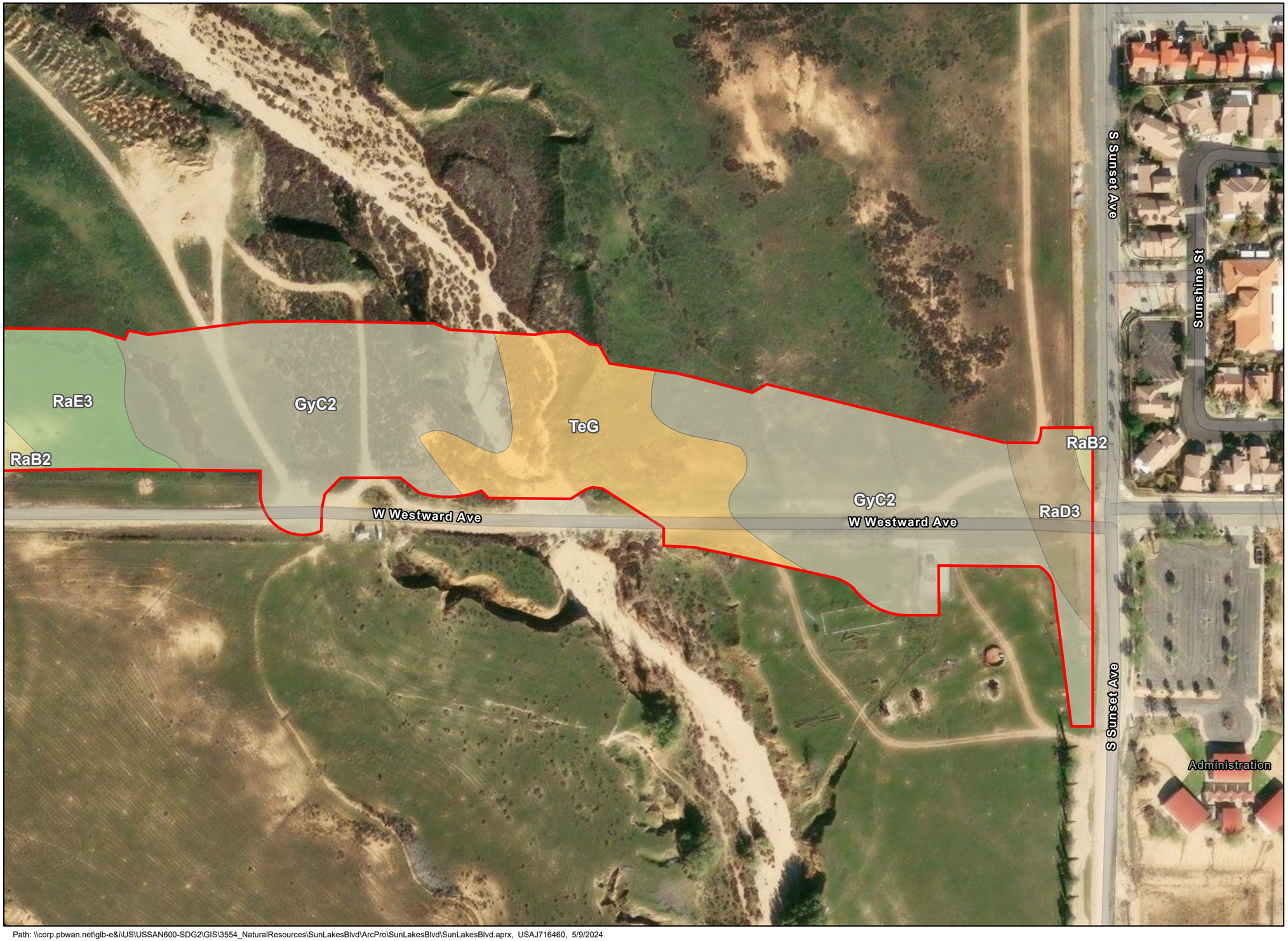
FIGURE 3b

Soil Types
Jurisdictional Delineation Report
Sun Lakes Blvd. Realignment Project
Banning, CA

wsp

Service Layer Credits: World Imagery: County of San Bernardino, Maxar World Topographic Map: UC Riverside, County of Riverside, California State Parks, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, USDA,

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GyC2: Greenfield sandy loam, 2 to 8 percent slopes, eroded

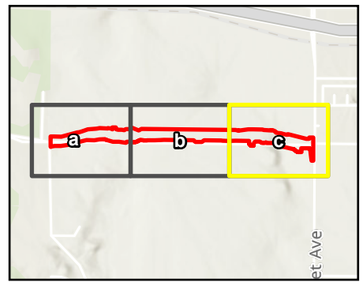
RaB2: Ramona sandy loam, 2 to 5 percent slopes, eroded

RaD3: Ramona sandy loam, 8 to 15 percent slopes, severely eroded

RaE3: Ramona sandy loam, 15 to 25 percent slopes, severely eroded

TeG: Terrace escarpments

Project Alignment



1 inch =150 feet

0 150 Feet

FIGURE 3c

Soil Types
Jurisdictional Delineation Report
Sun Lakes Blvd. Realignment Project
Banning, CA

Service Layer Credits: World Imagery: County of San Bernardino, Maxar World Topographic Map: UC Riverside, County of Riverside, California State Parks, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, USDA,

Path: \\corp.pbwan.net\glb-e&i\US\USSAN600-SDG2\GIS\3554_NaturalResources\SunLakesBlvd\ArcPro\SunLakesBlvd\SunLakesBlvd.aprx, USAJ716460, 5/9/2024

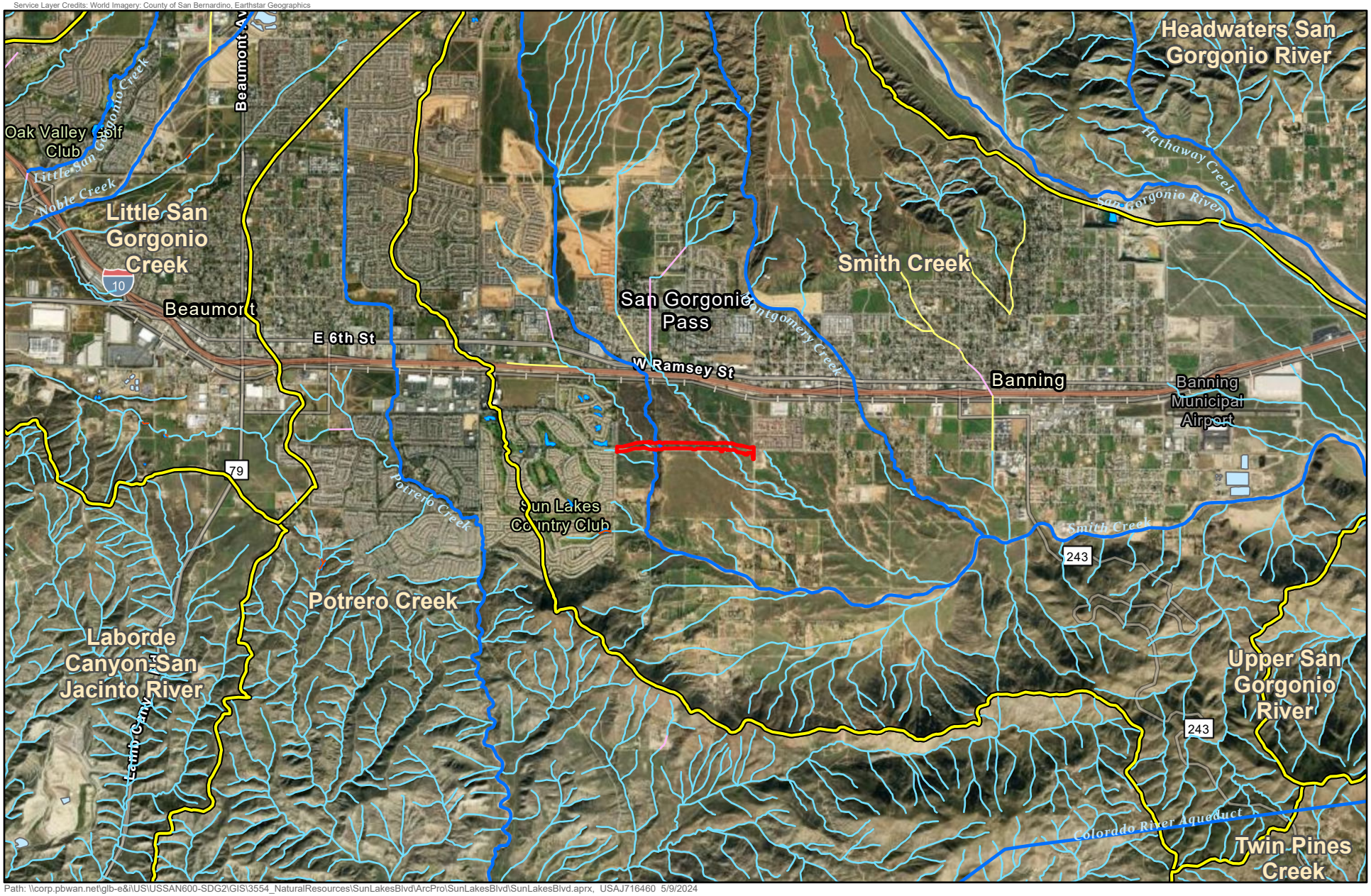
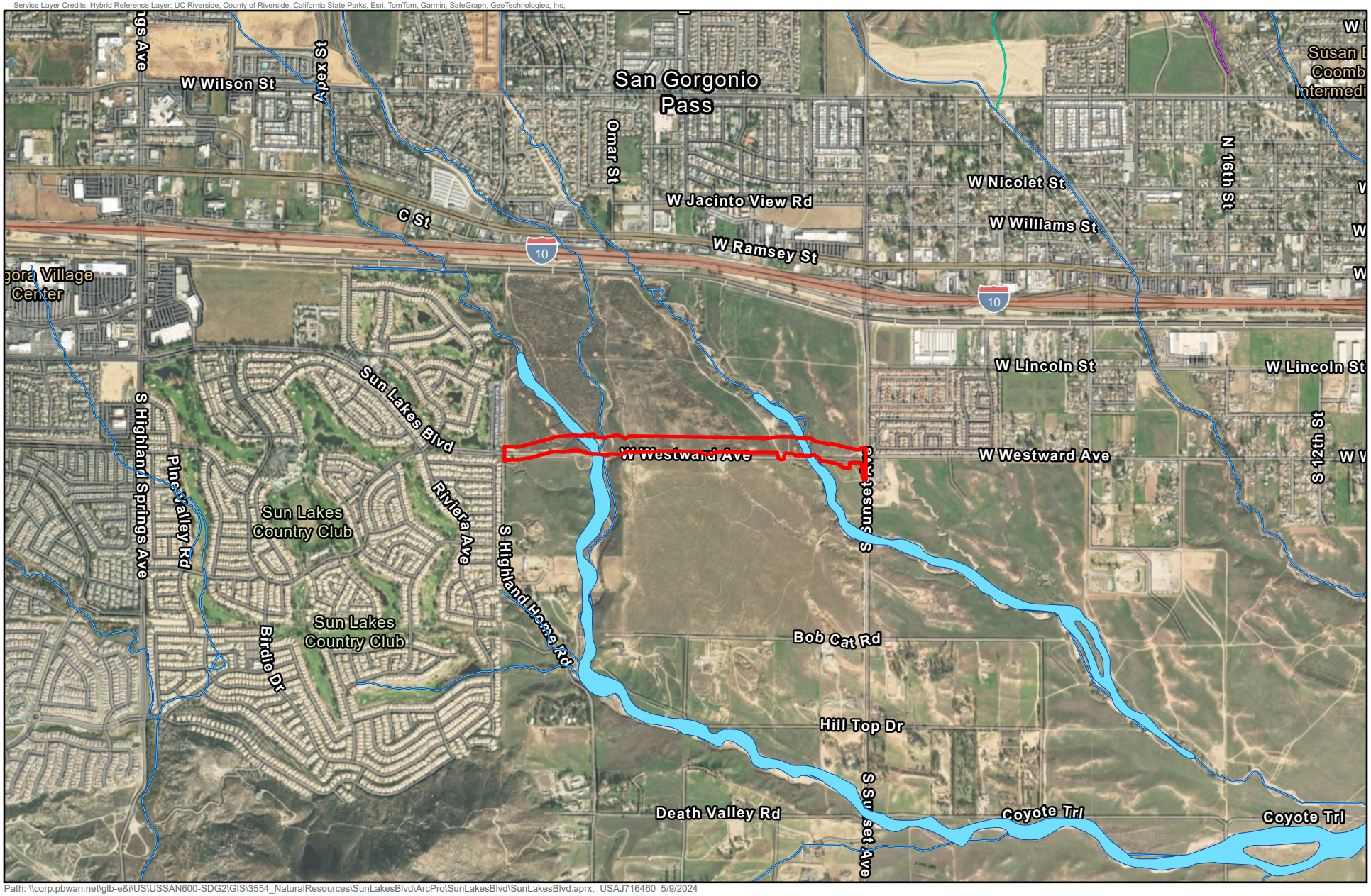


FIGURE 4

Hydrology
Jurisdictional Delineation Report
Sun Lakes Blvd. Realignment Project
Banning, CA



wsp

FIGURE 5

NWI
Jurisdictional Delineation Report
Sun Lakes Blvd. Realignment Project
Banning, CA

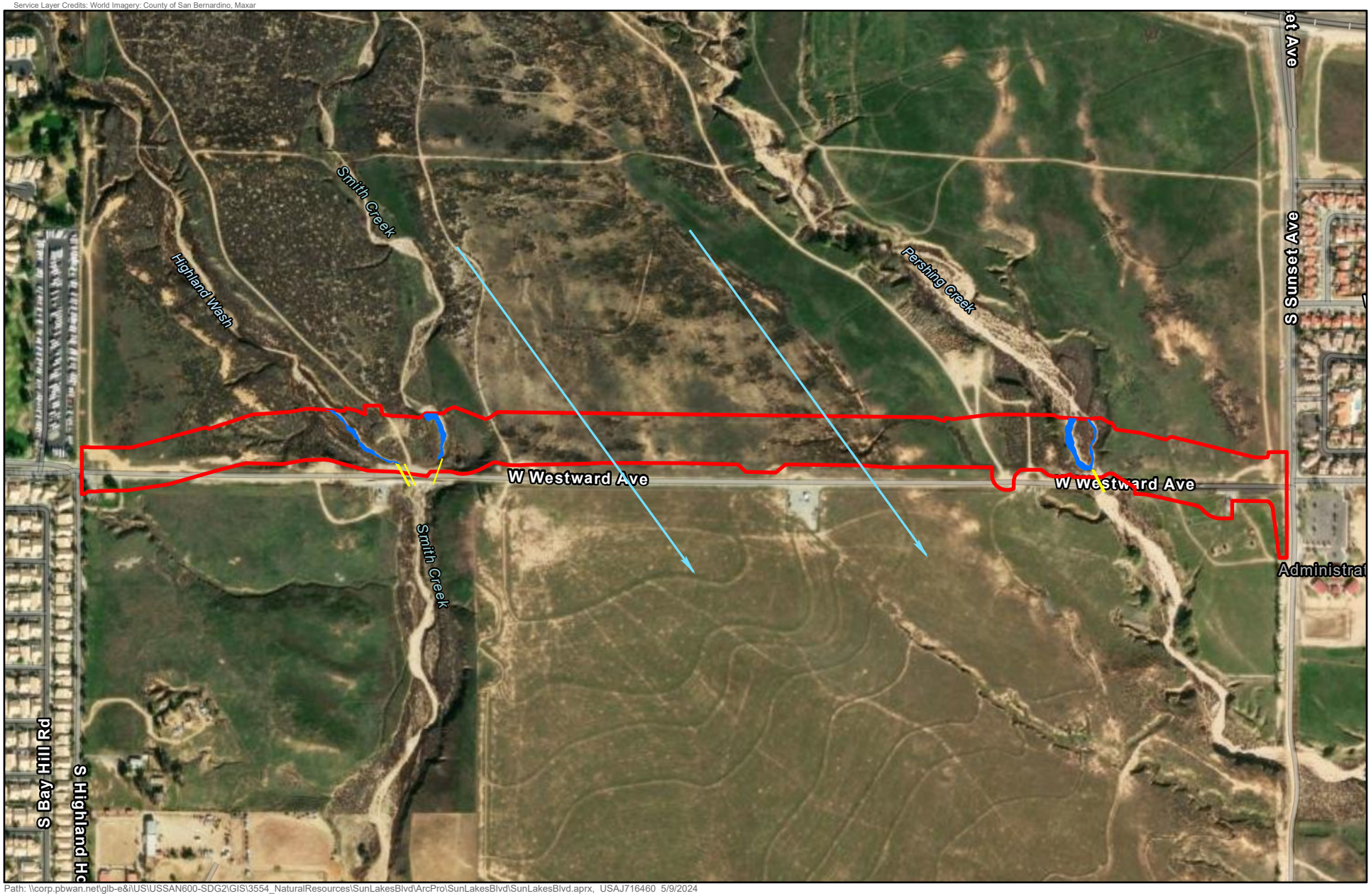


FIGURE 6

Jurisdictional Delineation
Jurisdictional Delineation Report
Sun Lakes Blvd. Realignment Project
Banning, CA

APPENDIX B

SITE PHOTOGRAPHS

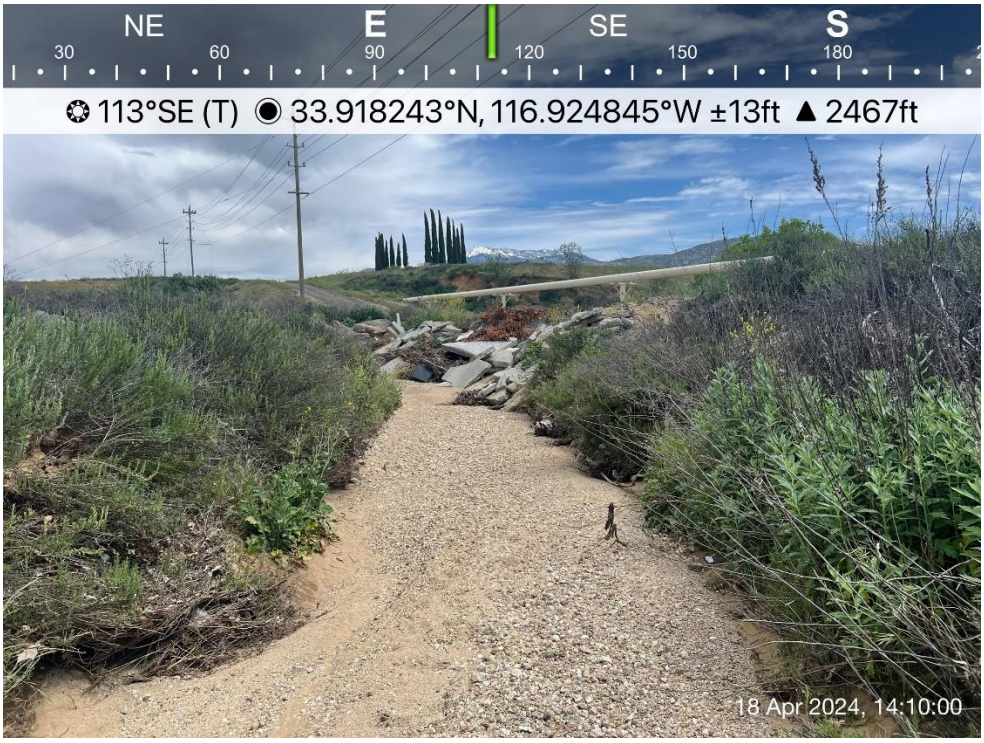


Photo 1: Looking downstream Highland Creek showing the existing road crossing and culverts.



Photo 2: Looking up stream Highland Creek.



Photo 3: Looking down stream Smith Creek



Photo 4: Looking up stream Smith Creek



Photo 5: Looking down stream Pershing Creek.



Photo 6: Looking up stream Pershing Creek.

APPENDIX C

JURISDICTIONAL DELINEATION FORMS

WETLAND DETERMINATION DATA FORM – Arid West Region

Project/Site: Pierce Street Sewer & Water Extension Project City/County: Banning, Riverside Sampling Date: 4/18/2024

Applicant/Owner: City of Banning State: CA Sampling Point: Highland Ck

Investigator(s): Dale Hameister Section, Township, Range: S 3; T 3 South; R 1 East

Landform (hillslope, terrace, etc.): Valley floor Local relief (concave, convex, none): None Slope (%): _____

Subregion (LRR): _____ Lat: 34.128009 Long: --116.055896 Datum: _____

Soil Map Unit Name: _____ NWI classification: R4SBJ

Are climatic / hydrologic conditions on the site typical for this time of year? Yes ✔ No _____ (If no, explain in Remarks.)

Are Vegetation _____, Soil _____, or Hydrology _____ significantly disturbed? Are "Normal Circumstances" present? Yes ✔ No _____

Are Vegetation _____, Soil _____, or Hydrology _____ naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present?	Yes ✔	No _____	**Is the Sampled Area within a Wetland?** Yes _____ No ✔
Hydric Soil Present?	Yes _____	No ✔	
Wetland Hydrology Present?	Yes ✔	No _____	

Remarks:

VEGETATION – Use scientific names of plants.

Tree Stratum (Plot size: _____)	Absolute % Cover	Dominant Species?	Indicator Status
1. Salix lasiolepis	5		
2.			
3.			
4.			
	_____ = Total Cover		
Sapling/Shrub Stratum (Plot size: _____)			
1. Eriogonum fasciculatum	20		UPL
2. Corethrogyne filaginifolia	5		UPL
3. Ericameria pinifolia	3		UPL
4. Sambucus nigra ssp. caerulea	1		FACU
5.			
	_____ = Total Cover		
Herb Stratum (Plot size: _____)			
1. Bromus madritensis ssp. rubens	5		UPL
2.			
3.			
4.			
5.			
6.			
7.			
8.			
	_____ = Total Cover		
Woody Vine Stratum (Plot size: _____)			
1.			
2.			
	_____ = Total Cover		

% Bare Ground in Herb Stratum 60 % Cover of Biotic Crust 0

Dominance Test worksheet:

Number of Dominant Species That Are OBL, FACW, or FAC: 1 (A)

Total Number of Dominant Species Across All Strata: _____ (B)

Percent of Dominant Species That Are OBL, FACW, or FAC: 5 (A/B)

Prevalence Index worksheet:

Total % Cover of:	Multiply by:
OBL species _____	x 1 = _____
FACW species 2	x 2 = 4
FAC species _____	x 3 = _____
FACU species _____	x 4 = _____
UPL species _____	x 5 = _____
Column Totals: 2 (A)	4 (B)

Prevalence Index = B/A = .5

Hydrophytic Vegetation Indicators:

___ Dominance Test is >50%

___ Prevalence Index is ≤3.0[1]

___ Morphological Adaptations[1] (Provide supporting data in Remarks or on a separate sheet)

___ Problematic Hydrophytic Vegetation[1] (Explain)

[1]Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

Hydrophytic Vegetation Present? Yes ✔ No _____

Remarks:

Drainage banks contain upland species with mostly unvegetated streambed

SOIL

Sampling Point: Highland Cl

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth (inches)	Matrix Color (moist)	%	Redox Features Color (moist)	%	Type[1]	Loc[2]	Texture	Remarks

[1]Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains. [2]Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)

- ___ Histosol (A1)
- ___ Histic Epipedon (A2)
- ___ Black Histic (A3)
- ___ Hydrogen Sulfide (A4)
- ___ Stratified Layers (A5) (**LRR C**)
- ___ 1 cm Muck (A9) (**LRR D**)
- ___ Depleted Below Dark Surface (A11)
- ___ Thick Dark Surface (A12)
- ___ Sandy Mucky Mineral (S1)
- ___ Sandy Gleyed Matrix (S4)
- ___ Sandy Redox (S5)
- ___ Stripped Matrix (S6)
- ___ Loamy Mucky Mineral (F1)
- ___ Loamy Gleyed Matrix (F2)
- ___ Depleted Matrix (F3)
- ___ Redox Dark Surface (F6)
- ___ Depleted Dark Surface (F7)
- ___ Redox Depressions (F8)
- ___ Vernal Pools (F9)

Indicators for Problematic Hydric Soils[3]:

- ___ 1 cm Muck (A9) (**LRR C**)
- ___ 2 cm Muck (A10) (**LRR B**)
- ___ Reduced Vertic (F18)
- ___ Red Parent Material (TF2)
- ___ Other (Explain in Remarks)

[3]Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if present):

Type: _____

Depth (inches): _____

Hydric Soil Present? Yes _____ No ✔

Remarks:

Soils were dry and consist of coarse sandy loam

HYDROLOGY

Wetland Hydrology Indicators:

Primary Indicators (minimum of one required; check all that apply)

- ___ Surface Water (A1)
- ___ High Water Table (A2)
- ___ Saturation (A3)
- ___ Water Marks (B1) (**Nonriverine**)
- ___ Sediment Deposits (B2) (**Nonriverine**)
- ___ Drift Deposits (B3) (**Nonriverine**)
- ___ Surface Soil Cracks (B6)
- ___ Inundation Visible on Aerial Imagery (B7)
- ___ Water-Stained Leaves (B9)
- ___ Salt Crust (B11)
- ___ Biotic Crust (B12)
- ___ Aquatic Invertebrates (B13)
- ___ Hydrogen Sulfide Odor (C1)
- ___ Oxidized Rhizospheres along Living Roots (C3)
- ___ Presence of Reduced Iron (C4)
- ___ Recent Iron Reduction in Tilled Soils (C6)
- ___ Thin Muck Surface (C7)
- ___ Other (Explain in Remarks)

Secondary Indicators (2 or more required)

- ✔ Water Marks (B1) (**Riverine**)
- ✔ Sediment Deposits (B2) (**Riverine**)
- ✔ Drift Deposits (B3) (**Riverine**)
- ✔ Drainage Patterns (B10)
- ___ Dry-Season Water Table (C2)
- ___ Crayfish Burrows (C8)
- ___ Saturation Visible on Aerial Imagery (C9)
- ___ Shallow Aquitard (D3)
- ___ FAC-Neutral Test (D5)

Field Observations:

Surface Water Present? Yes _____ No ✔ Depth (inches): _____

Water Table Present? Yes _____ No ✔ Depth (inches): _____

Saturation Present? (includes capillary fringe) Yes _____ No ✔ Depth (inches): _____

Wetland Hydrology Present? Yes ✔ No _____

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:

WETLAND DETERMINATION DATA FORM – Arid West Region

Project/Site: Pierce Street Sewer & Water Extension Project City/County: Banning, Riverside Sampling Date: 4/18/2024

Applicant/Owner: City of Banning State: CA Sampling Point: Persing Creek

Investigator(s): Dale Hameister Section, Township, Range: S 3; T 3 South; R 1 East

Landform (hillslope, terrace, etc.): Valley floor Local relief (concave, convex, none): None Slope (%): _____

Subregion (LRR): _____ Lat: 33.922444 Long: -116.928651 Datum: _____

Soil Map Unit Name: _____ NWI classification: R4SBJ

Are climatic / hydrologic conditions on the site typical for this time of year? Yes ✔ No _____ (If no, explain in Remarks.)

Are Vegetation _____, Soil _____, or Hydrology _____ significantly disturbed? Are "Normal Circumstances" present? Yes ✔ No _____

Are Vegetation _____, Soil _____, or Hydrology _____ naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present?	Yes _____	No ✔	**Is the Sampled Area within a Wetland?** Yes _____ No ✔
Hydric Soil Present?	Yes _____	No ✔	
Wetland Hydrology Present?	Yes ✔	No _____	

Remarks:

VEGETATION – Use scientific names of plants.

Tree Stratum (Plot size: _____)	Absolute % Cover	Dominant Species?	Indicator Status
1.			
2.			
3.			
4.			
	_____ = Total Cover		
Sapling/Shrub Stratum (Plot size: _____)			
1. Eriogonum fasciculatum	15		UPL
2. Corethrogyne filaginifolia	10		UPL
3. Ericameria pinifolia	5		UPL
4.			
5.			
	_____ = Total Cover		
Herb Stratum (Plot size: _____)			
1. Bromus madritensis ssp. rubens	5		UPL
2.			
3.			
4.			
5.			
6.			
7.			
8.			
	_____ = Total Cover		
Woody Vine Stratum (Plot size: _____)			
1.			
2.			
	_____ = Total Cover		

% Bare Ground in Herb Stratum 60 % Cover of Biotic Crust 0

Dominance Test worksheet:

Number of Dominant Species That Are OBL, FACW, or FAC: _____ (A)

Total Number of Dominant Species Across All Strata: _____ (B)

Percent of Dominant Species That Are OBL, FACW, or FAC: _____ (A/B)

Prevalence Index worksheet:

Total % Cover of:	Multiply by:
OBL species _____	x 1 = _____
FACW species _____	x 2 = _____
FAC species _____	x 3 = _____
FACU species _____	x 4 = _____
UPL species _____	x 5 = _____
Column Totals: _____ (A)	_____ (B)

Prevalence Index = B/A = _____

Hydrophytic Vegetation Indicators:

___ Dominance Test is >50%

___ Prevalence Index is ≤3.0[1]

___ Morphological Adaptations[1] (Provide supporting data in Remarks or on a separate sheet)

___ Problematic Hydrophytic Vegetation[1] (Explain)

[1]Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

Hydrophytic Vegetation Present? Yes _____ No ✔

Remarks:

Drainage banks contain upland species with mostly unvegetated streambed

SOIL

Sampling Point: Persing Cre

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth (inches)	Matrix Color (moist)	%	Redox Features Color (moist)	%	Type[1]	Loc[2]	Texture	Remarks

[1]Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains. [2]Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)

- ___ Histosol (A1)
- ___ Histic Epipedon (A2)
- ___ Black Histic (A3)
- ___ Hydrogen Sulfide (A4)
- ___ Stratified Layers (A5) (**LRR C**)
- ___ 1 cm Muck (A9) (**LRR D**)
- ___ Depleted Below Dark Surface (A11)
- ___ Thick Dark Surface (A12)
- ___ Sandy Mucky Mineral (S1)
- ___ Sandy Gleyed Matrix (S4)
- ___ Sandy Redox (S5)
- ___ Stripped Matrix (S6)
- ___ Loamy Mucky Mineral (F1)
- ___ Loamy Gleyed Matrix (F2)
- ___ Depleted Matrix (F3)
- ___ Redox Dark Surface (F6)
- ___ Depleted Dark Surface (F7)
- ___ Redox Depressions (F8)
- ___ Vernal Pools (F9)

Indicators for Problematic Hydric Soils[3]:

- ___ 1 cm Muck (A9) (**LRR C**)
- ___ 2 cm Muck (A10) (**LRR B**)
- ___ Reduced Vertic (F18)
- ___ Red Parent Material (TF2)
- ___ Other (Explain in Remarks)

[3]Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if present):

Type: _____

Depth (inches): _____

Hydric Soil Present? Yes _____ **No** ✔

Remarks:

Soils were dry and consist of coarse sandy loam

HYDROLOGY

Wetland Hydrology Indicators:

Primary Indicators (minimum of one required; check all that apply)

- ___ Surface Water (A1)
- ___ High Water Table (A2)
- ___ Saturation (A3)
- ___ Water Marks (B1) (**Nonriverine**)
- ___ Sediment Deposits (B2) (**Nonriverine**)
- ___ Drift Deposits (B3) (**Nonriverine**)
- ___ Surface Soil Cracks (B6)
- ___ Inundation Visible on Aerial Imagery (B7)
- ___ Water-Stained Leaves (B9)
- ___ Salt Crust (B11)
- ___ Biotic Crust (B12)
- ___ Aquatic Invertebrates (B13)
- ___ Hydrogen Sulfide Odor (C1)
- ___ Oxidized Rhizospheres along Living Roots (C3)
- ___ Presence of Reduced Iron (C4)
- ___ Recent Iron Reduction in Tilled Soils (C6)
- ___ Thin Muck Surface (C7)
- ___ Other (Explain in Remarks)

Secondary Indicators (2 or more required)

- ✔ Water Marks (B1) (**Riverine**)
- ✔ Sediment Deposits (B2) (**Riverine**)
- ✔ Drift Deposits (B3) (**Riverine**)
- ✔ Drainage Patterns (B10)
- ___ Dry-Season Water Table (C2)
- ___ Crayfish Burrows (C8)
- ___ Saturation Visible on Aerial Imagery (C9)
- ___ Shallow Aquitard (D3)
- ___ FAC-Neutral Test (D5)

Field Observations:

Surface Water Present? Yes _____ No ✔ Depth (inches): _____

Water Table Present? Yes _____ No ✔ Depth (inches): _____

Saturation Present? (includes capillary fringe) Yes _____ No ✔ Depth (inches): _____

Wetland Hydrology Present? Yes ✔ **No** _____

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:

WETLAND DETERMINATION DATA FORM – Arid West Region

Project/Site: Pierce Street Sewer & Water Extension Project City/County: Banning, Riverside Sampling Date: 4/18/2024

Applicant/Owner: City of Banning State: CA Sampling Point: Smith Creek

Investigator(s): Dale Hameister Section, Township, Range: S 3; T 3 South; R 1 East

Landform (hillslope, terrace, etc.): Valley floor Local relief (concave, convex, none): None Slope (%): _____

Subregion (LRR): _____ Lat: 33.922444 Long: -116.928651 Datum: _____

Soil Map Unit Name: _____ NWI classification: R4SBJ

Are climatic / hydrologic conditions on the site typical for this time of year? Yes ✔ No _____ (If no, explain in Remarks.)

Are Vegetation _____, Soil _____, or Hydrology _____ significantly disturbed? Are "Normal Circumstances" present? Yes ✔ No _____

Are Vegetation _____, Soil _____, or Hydrology _____ naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present?	Yes _____	No ✔	**Is the Sampled Area within a Wetland?** Yes _____ No ✔
Hydric Soil Present?	Yes _____	No ✔	
Wetland Hydrology Present?	Yes ✔	No _____	

Remarks:

VEGETATION – Use scientific names of plants.

Tree Stratum (Plot size: _____)	Absolute % Cover	Dominant Species?	Indicator Status
1.			
2.			
3.			
4.			
	_____ = Total Cover		
Sapling/Shrub Stratum (Plot size: _____)			
1. Eriogonum fasciculatum	20		UPL
2. Corethrogyne filaginifolia	5		UPL
3. Ericameria pinifolia	3		UPL
4. Sambucus nigra ssp. caerulea	1		FACU
5.			
	_____ = Total Cover		
Herb Stratum (Plot size: _____)			
1. Bromus madritensis ssp. rubens	5		UPL
2.			
3.			
4.			
5.			
6.			
7.			
8.			
	_____ = Total Cover		
Woody Vine Stratum (Plot size: _____)			
1.			
2.			
	_____ = Total Cover		

% Bare Ground in Herb Stratum 60 % Cover of Biotic Crust 0

Dominance Test worksheet:

Number of Dominant Species That Are OBL, FACW, or FAC: _____ (A)

Total Number of Dominant Species Across All Strata: _____ (B)

Percent of Dominant Species That Are OBL, FACW, or FAC: _____ (A/B)

Prevalence Index worksheet:

Total % Cover of:	Multiply by:
OBL species _____	x 1 = _____
FACW species _____	x 2 = _____
FAC species _____	x 3 = _____
FACU species _____	x 4 = _____
UPL species _____	x 5 = _____
Column Totals: _____ (A)	_____ (B)

Prevalence Index = B/A = _____

Hydrophytic Vegetation Indicators:

___ Dominance Test is >50%

___ Prevalence Index is ≤3.0[1]

___ Morphological Adaptations[1] (Provide supporting data in Remarks or on a separate sheet)

___ Problematic Hydrophytic Vegetation[1] (Explain)

[1]Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

Hydrophytic Vegetation Present? Yes _____ No ✔

Remarks:

Drainage banks contain upland species with mostly unvegetated streambed

SOIL

Sampling Point: Smith Creel

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth (inches)	Matrix Color (moist)	%	Redox Features Color (moist)	%	Type[1]	Loc[2]	Texture	Remarks

[1]Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains. [2]Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)

- ___ Histosol (A1)
- ___ Histic Epipedon (A2)
- ___ Black Histic (A3)
- ___ Hydrogen Sulfide (A4)
- ___ Stratified Layers (A5) (**LRR C**)
- ___ 1 cm Muck (A9) (**LRR D**)
- ___ Depleted Below Dark Surface (A11)
- ___ Thick Dark Surface (A12)
- ___ Sandy Mucky Mineral (S1)
- ___ Sandy Gleyed Matrix (S4)
- ___ Sandy Redox (S5)
- ___ Stripped Matrix (S6)
- ___ Loamy Mucky Mineral (F1)
- ___ Loamy Gleyed Matrix (F2)
- ___ Depleted Matrix (F3)
- ___ Redox Dark Surface (F6)
- ___ Depleted Dark Surface (F7)
- ___ Redox Depressions (F8)
- ___ Vernal Pools (F9)

Indicators for Problematic Hydric Soils[3]:

- ___ 1 cm Muck (A9) (**LRR C**)
- ___ 2 cm Muck (A10) (**LRR B**)
- ___ Reduced Vertic (F18)
- ___ Red Parent Material (TF2)
- ___ Other (Explain in Remarks)

[3]Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if present):

Type: _____

Depth (inches): _____

Hydric Soil Present? Yes _____ **No** ✔

Remarks:

Soils were dry and consist of coarse sandy loam

HYDROLOGY

Wetland Hydrology Indicators:

Primary Indicators (minimum of one required; check all that apply)

- ___ Surface Water (A1)
- ___ High Water Table (A2)
- ___ Saturation (A3)
- ___ Water Marks (B1) (**Nonriverine**)
- ___ Sediment Deposits (B2) (**Nonriverine**)
- ___ Drift Deposits (B3) (**Nonriverine**)
- ___ Surface Soil Cracks (B6)
- ___ Inundation Visible on Aerial Imagery (B7)
- ___ Water-Stained Leaves (B9)
- ___ Salt Crust (B11)
- ___ Biotic Crust (B12)
- ___ Aquatic Invertebrates (B13)
- ___ Hydrogen Sulfide Odor (C1)
- ___ Oxidized Rhizospheres along Living Roots (C3)
- ___ Presence of Reduced Iron (C4)
- ___ Recent Iron Reduction in Tilled Soils (C6)
- ___ Thin Muck Surface (C7)
- ___ Other (Explain in Remarks)

Secondary Indicators (2 or more required)

- ✔ Water Marks (B1) (**Riverine**)
- ✔ Sediment Deposits (B2) (**Riverine**)
- ✔ Drift Deposits (B3) (**Riverine**)
- ✔ Drainage Patterns (B10)
- ___ Dry-Season Water Table (C2)
- ___ Crayfish Burrows (C8)
- ___ Saturation Visible on Aerial Imagery (C9)
- ___ Shallow Aquitard (D3)
- ___ FAC-Neutral Test (D5)

Field Observations:

Surface Water Present? Yes _____ No ✔ Depth (inches): _____

Water Table Present? Yes _____ No ✔ Depth (inches): _____

Saturation Present? (includes capillary fringe) Yes _____ No ✔ Depth (inches): _____

Wetland Hydrology Present? Yes ✔ **No** _____

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:

Appendix B.7

WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT CONSERVATION PLAN DETERMINATION OF BIOLOGICALLY EQUIVALENT OR SUPERIOR PRESERVATION REPORT

SUN LAKES BOULEVARD EXTENSION PROJECT



City of Banning and Unincorporated Riverside County, California

Submitted to:
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Principal Investigator: John Green
WSP Job # 20-554-00800

Updated August 2024

1 EXECUTIVE SUMMARY

The proposed Sun Lakes Boulevard Extension Project (project) is a transportation project including construction of a new section of Sun Lakes Boulevard from Highland Home Road to Sunset Avenue (Figure 3) and intersection improvements within the city of Banning's existing and future road right of-way (ROW). The project encompasses approximately 19.4 acres of direct footprint (permanent impacts) and another 9.1 acres of temporary construction disturbance area (temporary impacts). Project staging and stockpiling will occur within the city's ROW. The project site is located within the boundaries of the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP). Surveys were performed for biological resources including riparian/riverine, narrow endemic plant species, special status fairy shrimp species, burrowing owl (*Athene cunicularia*), and Los Angeles pocket mouse (*Perognathus longimembris brevinasus*). No narrow endemic plant species, special status fairy shrimp species, burrowing owls, or Los Angeles pocket mice were detected, so they are not being mitigated for. Riparian/riverine resources were detected on the project site. There will be 0.37-acre of permanent impacts and 0.09-acre of temporary impacts to riverine/riparian resources.

The city intends to purchase land or conserve and enhance existing city land within the Whitewater Watershed, along Smith Creek which would be placed into a conservation easement or have a deed restriction and protected in perpetuity with a non-wasting endowment. The land will be managed by a third-party land manager such as Western Riverside County Regional Conservation Authority (RCA), Rivers and Lands Conservancy (RLC) or Inland Empire Resource Conservation District (IERCD). The purchased conservation land will contain similar habitat to the project site and provide similar or superior function and habitat value. Currently, the project site has relatively unvegetated, sandy bottom, riverine habitat. Any mitigation areas that contain riparian habitat would be considered superior habitat.

Permanent impacts will be mitigated at a 3:1 (3 x 0.37 = 1.11 acres) ratio and temporary impacts will be mitigated at a 2:1 ratio (2 x 0.09 = 0.18 acres). The total mitigation acreage should equal or surpass 1.3 acres. The primary method of mitigation will be offsite conservation and enhancement of City owned property located along Smith Creek. The City will place at least 1.3 acres into a Conservation Easement with an approved third-party conservation holder such as Western Riverside County Regional Conservation Authority (RCA), Rivers and Lands Conservancy (RLC) or Inland Empire Resource Conservation District (IERCD). Additionally, the City has committed to participating in a regional

solution of the sediment transport function of the Smith Creek watershed. The intended outcome of this regional solution is to bring the various stakeholders in this watershed together to work on a sediment management strategy to ensure sediment is transported efficiently and effectively to support ecological resources. The City's commitment to this regional solution will serve as providing rehabilitation mitigation for the overall impacts from this Project.

The project will also return temporary impact areas to their pre-existing contours and revegetate them with appropriate native species. The project will also mitigate and/or minimize impacts by following MSHCP Section 6.1.4 Urban Wildlands Interface Guidelines and MSHCP Volume I, Appendix C Standard Best Management Practices (BMPs).

Although no burrowing owls were found during the focused survey, because habitat and potential burrows are present, a preconstruction survey will be conducted. Should burrowing owls be detected at that time, an updated DBESP report will be prepared, and mitigation will be achieved through the project following all MSHCP guidelines and the direction of the Environmental Programs Department, Western Riverside County Regional Conservation Authority, and/or the Wildlife Agencies.

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2 INTRODUCTION

At the request of the Albert A. Webb Associates (Webb), WSP USA Inc. (WSP) prepared this Determination of Biologically Equivalent or Superior Preservation (DBESP) report for the proposed Sun Lakes Boulevard Extension project (project). The purpose of the DBESP report is to propose mitigation for impacts to Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) riparian/riverine resources present on the project site and to demonstrate that the proposed mitigation will provide an equivalent or superior preservation of habitat functions and values for these resources. The report also discusses MSHCP DBESP-requiring species, which were surveyed for and found to not be present on-site.

2.1 Project Area

The project is in the city of Banning, Riverside County, California (Figure 1) and includes the extension of Sun Lakes Boulevard eastward from its current termination point at Highland Home Road to the anticipated connection at Sunset Avenue. It is generally located south of Interstate 10, west of Sunset Avenue and east of Highland Home Road. It can be found in Section 7 of Township 3 South, Range 1 East of the *Beaumont, California,* United States Geological Survey (1978) 7.5-minute topographic quadrangle map (Figure 2). The elevation of the project site ranges from approximately 2,400 to 2,500 feet above sea level. The geographic coordinates near the middle of the site are 33.5512.85° North latitude and -116.5516.29° West longitude. The project occurs within portions of the following Assessor's Parcel Numbers (APN): 419140039, 537110013, 537110014, 537120023, 537120024, 537120025, 537120027, 537120028, 537120029, 537120030, 537120031, 537120033, 537120034, 537140001, 537140002, 538323024, and 538323029.

No off-site staging areas or off-site improvements are planned. No weed abatement or fuel modification zones have been identified. However, if unforeseen circumstances were to arise that required hazard reduction within an area considered environmentally sensitive or a part of the MSHCP Conservation Area, such as lands proposed for conservation on the adjacent project site, it would require approval from the appropriate agencies prior to any vegetation management activities. These could include but are not limited to the Western Riverside County Regional Conservation Authority (WRCRCA), California Department of Fish and Wildlife (CDFW), Regional Water Quality Control Board (RWQCB), United States Fish and Wildlife Service (USFWS), and the United States Army Corps of Engineers (USACE).

2.2 Project Description

The proposed project is a transportation project including construction of a new section of Sun Lakes Boulevard from Highland Home Road to Sunset Avenue (Figure 3) and

intersection improvements within the City of Banning's existing road right-of-way (ROW). The project is approximately 5,400 linear feet (1.02 mile). This report has been updated due to a change is the outline of the proposed impacts and to update all related figures. The updated projects impacts include 19.4 acres of permanent impacts, 9.1 acres of temporary impacts. Project staging and stockpiling will occur within the City's ROW. Currently, Westward Avenue is a straight east-west unpaved dirt road between Highland Home Road and Sunset Avenue. The project crosses over three creeks, from west to east: Highland Wash, Smith Creek, and Pershing Creek. The project will include the construction of three sets of culverts to cross said creeks.

Surrounding land uses include residential subdivisions, public facilities, and open space. The approximately five-acres is currently undeveloped. Historically the project site was graded for agricultural purposes in the 1960's. It has remained vacant for the past 2 to 3 decades. Vegetation within the proposed project site consists of non-native grassland, California buckwheat scrub, and Riversidean alluvial fan sage scrub. Three deeply incised drainages and associated tributaries are present within the proposed project site. Structures within the general vicinity include city-owned wells, an agricultural storage shelter, and several easements for streets, utilities, gas and oil pipelines, landscaping, and communications systems are all located within the general proposed project alignment.

2.3 Existing Conditions

Adjacent to and south of the Sun Lakes Boulevard ROW are existing utilities that include three well sites and one wastewater lift station. Within Westward Avenue, there are many existing utility lines including, a potable water line, sanitary sewer line, recycled water line, fiber optics line, three oil lines, and an underground telephone line. Single-family homes are west of Highland Home Road. East of Sunset Avenue are single-family homes, a small number of commercial businesses, the Mt. San Jacinto College San Gorgonio Pass Campus, and undeveloped open space, including habitat for biological elements of concern to the MSHCP. The project footprint outside of the facilities detailed above is currently undeveloped open space, including habitat for biological elements of concern to the MSHCP, as are areas to the north and south of the project.

2.3.1 Fairy Shrimp and Vernal Pools

Seasonal pooling that is suitable as fairy shrimp habitat was present, so wet and dry season focused surveys were conducted for listed fairy shrimp species in 2020 and 2021. (A copy of the Wet and Dry Season Fairy Shrimp Focused Survey Memo (WSP, May 14, 2024) is appended to this report.) Surveys were conducted in accordance with the USFWS protocol: *Survey Guidelines for the Listed Large Branchiopods* (USFWS 2015).

During the fairy shrimp surveys, jurisdictional delineation, focused plant surveys, and other project site visits, fairy shrimp habitat was observed for signs of vernal pool ecosystems. From the MSHCP (WRCRCA 2021a): "Vernal pools are ephemeral wetlands that form in shallow depressions underlain by a substrate near the surface that restricts the downward percolation of water. Depressions in the landscape fill with rainwater and runoff from adjacent areas during the winter and may remain inundated until spring or early summer, sometimes drying more than once during the wet season. Smaller pools can fill, and dry, and larger pools can hold water longer and may in the deeper portions support species that are more representative of freshwater marshes. Vernal pools are well-known for their high level of endemism and abundance of rare, threatened, or endangered species. Many vernal pools are characterized by concentric rings of plants that flower sequentially as the pools dry. Vernal pools are dominated by native annual plants, with low to moderate levels of perennial herbaceous cover."

2.3.2 Jurisdictional Delineation Methods

On 18 April 2024, WSP senior biologist Dale Hameister conducted a jurisdictional survey of the project site (a copy of the Jurisdictional Delineation Report dated May 2024 is appended to this document, WSP 2024f). Drainages were evaluated for wetland/riparian-associated vegetation, clearly defined bed and bank features, wetland soils, and/or evidence of an ordinary high watermark that would potentially be considered jurisdictional by the U.S. Army Corps of Engineers, Regional Water Quality Control Board, CDFW, and/or MSHCP.

2.4 Results/Impacts

2.4.1 Results/Impacts to MSHCP Section 6.1.2 Riparian Bird Species

MSHCP Section 6.1.2 riparian bird species least Bell's vireo, southwestern willow flycatcher, and western yellow-billed cuckoo require tracts of riparian woodland, and/or forest sufficient in size to support breeding territories. Surface water is often a component of suitable habitats. No surface water or sufficiently sized tracts of habitat are present on the project site, so no focused surveys were conducted for these species, and they are not expected to occur. Therefore, no impacts will occur to these species.

2.4.2 Results/Impacts to Vernal Pools

None of the project site fairy shrimp habitat was determined to also be a vernal pool ecosystem as defined in Section 2.3.1 above. The project site fairy shrimp habitat was barren or dominated by non-native weedy plants and occurred in compacted soil in road ruts and other human alterations of the environment, which impeded drainage. Therefore, no vernal pools are present so no impacts will occur to vernal pools.

2.4.3 Results/Impacts to Fairy Shrimp

Wet and dry season focused surveys (WSP 2024a) for special status fairy shrimp species detected only the common versatile fairy shrimp (*Branchinecta lindahli*), which is not federally, or state listed as an endangered or threatened species or as a special status species. Therefore, no special status fairy shrimp species are present so no impacts will occur to special status fairy shrimp species.

2.4.4 Results/Impacts to Riparian/Riverine Waters

A copy of the Jurisdictional Delineation report (JD Report) prepared for this project by WSP in June 2024 is appended to this report (WSP 2024f). The following riparian/riverine resources were identified on-site and based on the observations made for the JD Report:

Highland Wash is an ephemeral drainage containing riparian and riverine resources that flows from north to south and crosses perpendicular to the proposed project. Flow originates from north of Interstate 10 and from the Sun Lakes community immediately northwest of the project.

In the area of the project, Highland Wash contains an active low flow channel with adjacent active floodplain that is bordered on the west with low terraces and on the east are incised channel walls that are both bordered by uplands. The active low-flow channel is approximately 12-inches wide in the project area with a silty/sandy bed and no vegetation. Evidence of flows were identified by benches and drift present in the project area. The adjacent active floodplain varies from roughly 3-feet to 15-feet wide and evidenced by a more pebbly substrate then the low flow channel, as well as ripples, older drift, presence of bed and bank, benches and no vegetation. The ordinary high-water mark (OHWM) is approximately 8inches and indicated by break in slope and change in vegetative cover from active floodplain to low terrace. The low terrace borders the floodplain on the west with mid-stage upland vegetation consisting of California buckwheat that uniformly dominates the drainage area from the low terrace to the nearby hill tops. The outer limit of the low terrace is characterized by a higher vegetative density of buckwheat and marks the limit of potential CDFW jurisdiction.

Highland Wash likely flows for less than 3 months per year and is therefore does not have permanent flow and would not be considered USACE jurisdictional. Highland Wash joins with Smith Creek at Westward Avenue.

Smith Creek is an ephemeral drainage containing riparian and riverine resources that flows from north to south and crosses perpendicular to the proposed project and east of Highland Wash. Flow to Smith Creek originates from a large watershed area north of Interstate 10. In the area of the project, Smith Creek contains an active low flow channel with adjacent active floodplain that is bordered with low terraces. The active low-flow channel is approximately 8inches wide with a silty/sandy bed and no vegetation. Evidence of flows were identified by benches and drift present in the project area. The adjacent active floodplain was on average 20feet wide and the limits of which evidenced by a more pebbly substrate then the low flow channel, as well as ripples, older drift, presence of bed and bank, benches and limited pockets of earlystage vegetation. OHWM is approximately 6-inches and indicated by break in slope and changes in vegetative cover and sediment texture from active floodplain to low terrace. The low terrace borders the floodplain on the west with late-stage upland vegetation consisting mostly of California buckwheat that uniformly dominates the drainage area from the low terrace to the nearby hill tops. The outer limit of the low terrace is characterized by change in slope and a higher vegetative density of California buckwheat and marks the limit of potential CDFW jurisdiction.

Smith Creek likely flows for less than 3 months per year and is therefore does not have permanent flow and would not be considered USACE jurisdictional. Highland Wash joins with Smith Creek at Westward Avenue. Smith Creek is tributary to San Gorgonio Creek, which is tributary to the Whitewater River.

Pershing Creek is a wide ephemeral drainage containing riparian and riverine resources that flows from north to south and crosses perpendicular to the proposed project. It is located east of Smith Creek. Flows to Pershing Creek originate from north of Interstate 10. In the area of the project, Pershing Creek splits around an island approximately 0.24-acre in size of Riversidean alluvial fan sage scrub into two sets of active low flow channels with adjacent active floodplains. The Riversidean alluvial fan sage scrub is dominated by scale broom. The active low flow channels are approximately 10-inches wide in the project area with a fine sandy bed and no vegetation. Evidence of flows were identified by benches and ripples present in the project area. The active floodplain is on average 38-feet wide and bordered by short low terraces that are bordered by steep embankments that are roughly 20-feet high to the east and west of the creek. One mature eucalyptus tree (*Eucalyptus* species) on the far westerly bank is also within the project area. The active floodplain is evidenced by a more sandy/pebbly substrate then the low flow channel, as well as older drift, mud cracks, and early-stage vegetation of buckwheat and annual filarees (*Erodium*

species). OHWM is approximately 10-inches and indicated by break in slope and changes in vegetative cover and sediment texture from active floodplain to low terrace. The low terrace borders the floodplain on the west with silty soil and 95% cover of latestage upland vegetation consisting of California buckwheat that uniformly dominates the drainage area from the low terrace to the nearby hill tops. The outer limit of the low terrace on the east side of the creek is characterized by a change in slope and higher vegetative density of buckwheat and marks the limit of potential CDFW jurisdiction. The outer limit on the west side of the creek is characterized by a near-vertical incised channel bank.

Pershing Creek likely flows for less than 3 months per year and is therefore does not have permanent flow and would not be considered USACE jurisdictional. Pershing Creek merges with Smith Creek far downstream of the project limits.

Existing Culverts under Westward Avenue are riverine resources and potentially CDFW and RWQCB jurisdictional waters because although they are confined and man-made, they convey flow from the three preceding drainages across Westward Avenue. There are a total of 6 culverts of varying diameters and lengths for a total footprint of approximately 0.02 acre within the project limits.

Highland Wash

- 18-inch diameter, 24 feet long
- 54-inch diameter, 27 feet long
- 54-inch diameter, 10 feet long
- Smith Creek
- 48-inch diameter, 35 feet long
- Pershing Creek
- 48-inch diameter, 45 feet long 48-inch diameter, 44 feet long

Table 1 lists the riparian/riverine and potentially jurisdictional features within the project footprint with additional details on each pursuant to USACE criteria. Figure 4 identifies all observed project site riparian/riverine resources and highlights the resources that require mitigation and therefore triggered the need for this DBESP.

Flow from the project site drainages enters the MSHCP Conservation Area approximately 4.5 miles downstream in the San Gorgonio Pass Special Linkage Area.

The functions and values of the project site drainages and the surrounding upland loams include absorption and the gradual release of water into the downstream MSHCP Conservation Area. The drainages also provide sediment transport to downstream areas.

The conclusion of the Northwest Hydrological Consultants technical memorandum (NCH 2024) on the project site indicates that there would likely be minimal sediment transport impacts associated with the current crossing improvement plans. Hydraulic conditions upstream of all three of the proposed crossings are very comparable under pre- and post-project scenarios. To arrive at the proposed culvert design, an iterative process was undertaken to achieve a design that would have an insignificant change in the water surface elevation and velocity upstream and downstream of the proposed culverts as compared to the pre-project condition. The design will not improve nor worsen the existing flow of sediment occurring in the Project area. Therefore, if a rainfall event occurs that is large enough to transport sediment, the Project will not inhibit that from happening in the future post-construction condition. Where impacts are unavoidable, the design maintains the existing hydrologic regime including flood flows, and sediment transport. Based on the analysis by NHC, the Project effects on downstream functions will be insignificant and they will continue as they currently do, meaning, erosion or accretion that occurs outside of the Project within Smith Creek or Pershing Creek will not change as a result of the Project. Offsite erosion or accretions in said creeks are the result of other actions unrelated to the Project for which the City plans to address separately from this Project. Note that the with-project hydraulic simulation results reflect proposed as-built conditions and assume the crossing openings are clear of accumulations and the support piers are clear of debris at the time of the peak flow event. It is recommended that regular inspections and clearing (as needed) of the crossings be conducted to maintain these conditions. Maintenance inspections should occur, at minimum, annually prior to flood season and after any significant runoff event. Pier nose extensions (debris fins) are at the front end of the support piers, to minimize the impact of pier debris accumulation on upstream hydraulics during flood events.

The topography and vegetation in the project site drainages also provide cover and corridors for the shelter and movement of wildlife. The Project will include the construction of three sets of culverts to cross said creeks. The culverts are multi-cell reinforced concrete box (RCB) channels running under the proposed Sun Lakes Boulevard roadway extension. Straight wing walls with concrete and riprap aprons will be constructed at the upstream end of each channel while vertical wing walls and concrete aprons will be provided at the downstream end of channels. Concrete ramps will be constructed at the south end of the channels to provide maintenance access. Swales and trapezoidal channels will be provided to intercept stormwater run-on from north of the Project and discharge it to the proposed channels. The project will retain existing culverts

such that sediment transport and wildlife movement functions and values will be retained.

Table 1. Project Site Riparian/Riverine Acreage

Name of Potential Aquatic Feature	Cowardin Type	Area, Length, Width	Summary of OHWM Presence	Summary of Wetland Presence	Dominant Vegetation / Listing Status	Location	Potentially Jurisdictional?
Highland Wash (Creek Crossing No. 1; Proposed Line J)	R4SBJ [a]	0.12 acre 403 feet 15 feet [b]	Change in vegetation, break in slope	None	*Eriogonum fasciculatum* / Not Listed[c]	33.918220, -116.924808	Yes; CDFW and RWQCB non-wetland
Smith Creek (Creek Crossing No. 2; Proposed Line I)	R4SBJ [a]	0.12 acre 256 feet 20 feet [b]	Change in average sediment texture, change in vegetation cover, break in slope	None	*Eriogonum fasciculatum* / Not Listed[c]	33.918290, -116.923923	Yes; CDFW and RWQCB non-wetland
Pershing Creek (Creek Crossing No. 3; Proposed Line K)	R4SBJ [a]	0.23 acre 286feet 38 feet [b]	Change in average sediment texture, change in vegetation species and cover, break in slope	None	Riversidean alluvial fan sage scrub dominated by *Lepidospartum squamatum* / a facultative upland plant species [c] and *Eriogonum fasciculatum* / Not Listed[c]	33.918245, -116.914588	Yes; CDFW and RWQCB, non-wetland
Existing Culverts Under Westward Avenue	Not Applicable	6 pipes of varying sizes for combined length of 185 feet and area of 0.02 acre (700 square feet)	Not Applicable	None	None	Varies	Yes; CDFW and RWQCB, non-wetland

[a] = R4SBJ: "Riverine, Intermittent, Streambed, Intermittently Flooded" based on Cowardin et al. (1979)
[b] = Widths are average widths in the Project limits.
[c] = Listing status refers to the National Wetland Plant List.

The existing culverts located under Westward Avenue will be abandoned in place but remain functional. Therefore, they are not included in the impact areas. Otherwise, all identified project site riparian/riverine drainages and areas will be permanently or temporarily impacted (Table 2).

Table 2. Project Site Riparian/Riverine Impacts

Name of Potentially Jurisdictional Feature	Riverine/Riparian		Length (feet)
	Permanent Impacts (acres)	Temporary Impacts (acres)(feet)	
Highland Wash (Creek Crossing No. 1)	0.1	0.01 (61)	403
Smith Creek (Creek Crossing No. 2)	0.08	0.04 (65)	256
Pershing Creek (Creek Crossing No. 3)	0.2	0.03 (72)	286
Total	0.38	0.09	945

2.5 Mitigation and Equivalency

No listed or special-status fairy shrimp species or vernal pool ecosystems were detected, and no habitat is present for least Bell's vireo, southwestern willow flycatcher, and western yellow-billed cuckoo. Therefore, no mitigation or equivalency will be required for these riparian/riverine resources as a result of project implementation, and they will not be discussed further. There will be effects to riparian/riverine waters, and those are discussed below.

2.5.1 Direct Effects to Riparian/Riverine Waters

All riparian/riverine waters on the project site will be directly affected. The city intends to conserve and enhance existing city land within the Whitewater Watershed, along Smith Creek which would be placed in a conservation easement or have a deed restriction and protected in perpetuity with a non-wasting endowment. The land will be managed by a third-party land manager such as Western Riverside County Regional Conservation Authority (RCA), Rivers and Lands Conservancy (RLC) or Inland Empire Resource Conservation District (IERCD). The conservation land contains similar habitat to the project site and provides similar or superior function and habitat value. Currently, the project site

has relatively unvegetated, sandy bottom, riverine habitat. Any mitigation areas that contain riparian habitat would be considered superior habitat.

Permanent impacts will be mitigated at a 3:1 (3 x 0.37 = 1.11 acres) ratio and temporary impacts will be mitigated at a 2:1 ratio (2 x 0.09 = 0.18 acres). The total mitigation acreage should equal or surpass 1.3 acres. The primary method of mitigation will be offsite conservation and enhancement of City owned property located along Smith Creek. The City will place at least 1.3 acres into a Conservation Easement with an approved third-party conservation holder such as Western Riverside County Regional Conservation Authority (RCA), Rivers and Lands Conservancy (RLC) or Inland Empire Resource Conservation District (IERCD). Additionally, the City has committed to participation in a regional solution of the sediment transport function of the Smith Creek watershed. The intended outcome of this regional solution is to bring the various stakeholders in this watershed together to work on a sediment management strategy to ensure sediment is transported efficiently and effectively to support ecological resources. The City's commitment to this regional solution will serve as providing rehabilitation mitigation for the overall impacts from this Project.

The project will also return temporary impact areas to their pre-existing contours and revegetate them with appropriate native species. The project will follow MSHCP Volume I, Appendix C Standard Best Management Practices and MSHCP Section 6.1.4 Urban Wildlands Interface Guidelines (WSP 2024e).

With implementation of the above measures, the project would achieve mitigation and equivalency and ensure the long-term maintenance of the wildlife movement and sediment transport functions and values of the riparian/riverine resource(s).

2.5.2 Indirect Effects

A potential indirect effect of concern to the MSHCP is the replacement of permeable soils surrounding riparian/riverine with impermeable surfaces such as road pavement and sidewalks. This can cause increased short-term flow volume, pollution, and erosion during rain events. The project will mitigate this issue by installing drainage improvements which will include catch basin filters and the retention of stormwater runoff in underground infiltration chambers. These improvements will capture the short-term increased flow and slowly release it, thus avoiding erosional pulses and gives debris and pollutants time to settle and filter out. Otherwise, these or any other indirect effects will be mitigated through the measures and mitigation identified in the previous section (2.5.1). These actions will achieve mitigation and equivalency and ensure

the long-term maintenance of the wildlife movement and sediment transport functions and values of the riparian/riverine resource(s).

3 NARROW ENDEMIC PLANT SPECIES MITIGATION (MSHCP SECTION 6.1.3)

The project site is within the Narrow Endemic Plant Species Survey Area (NEPSSA) for Marvin's onion (*Allium marvinii*) and many stemmed dudleya (Dudleya multicaulis) and suitable habitat is present on site for those species. Therefore, focused surveys were conducted for these narrow endemic plants (NEPS).

3.1 Methods

The focused survey (WSP 2024b) was conducted on 26 and 27 May 2020 by WSP biologists Dale Hameister and Nathan T. Moorhatch (A copy of the NEPSSA survey report dated May 2024 is appended to this report). The survey was conducted during the appropriate time of year (blooming period) for the detection of the NEPSSA species and followed a period of above average rainfall for the 2019-2020 season. Areas of suitable habitat were surveyed utilizing transects which were adjusted based on topography and habitat coverage so that all potential NEPSSA habitat was surveyed.

3.2 Results/Impacts

Marvin's onion and many stemmed dudleya were not observed or otherwise detected during the focused survey. As a result, impacts to NEPS will not occur as a result of project implementation.

3.3 Mitigation and Equivalency

Because no NEPS were detected, no impacts will occur. For these reasons, mitigation and/or equivalency requirements relative to NEPS are not anticipated to be required for the project.

3.3.1 Direct Effects

Because no NEPS were detected, direct effects to them are not anticipated.

3.3.2 Indirect Effects

Because no NEPS were detected, indirect effects to these plant species are not anticipated.

4 ADDITIONAL SURVEY NEEDS (MSHCP SECTION 6.3.2)

4.1 Criteria Area Species Survey Area - Plants

The project site is not within a Criteria Area Species Survey Area (CASSA) for Criteria Area plant species (CAPS).

4.1.1 Methods

Because the project site is not located within a CASSA for plants, focused surveys for CAPS are not required for MSHCP compliance and therefore were not conducted for the project.

4.1.2 Results/Impacts

No focused surveys for CAPS were required and none were found during focused surveys conducted for NEPS.

4.1.3 Mitigation and Equivalency

Because no surveys are required for CAPS on the project site, mitigation and/or equivalency requirements relative to CAPS are not required for the project.

4.1.3.1 Direct Effects

No direct effects to MSHCP-designated CAPS are anticipated to occur as a result of project implementation.

4.1.3.2 Indirect Effects

No indirect effects to MSHCP-designated CAPS are anticipated to occur as a result of project implementation.

4.2 Burrowing Owl

Burrowing owl habitat is present and the project site is within the MSHCP designated burrowing owl survey area so focused surveys were conducted (a copy of the Burrowing Owl Focused Survey dated May 2024 is appended to this report, WSP 2024c).

4.2.1 Methods

All burrowing owl surveys were conducted in accordance with protocol provided by the Riverside County Transportation and Land Management Agency (Environmental Programs Department "RCTLMA EPD" 2006a). Step I habitat assessment and Step II, Part A focused burrow surveys were conducted on 17 July 2020 by WSP senior biologist Nathan Moorhatch and WSP biologist Alec Williams. The non-native grassland vegetation and portions of the various drainages with California ground squirrel and other manmade "burrow surrogates" on and immediately adjacent to the project site provide suitable habitat for burrowing owls. The site was surveyed on foot, mapping the locations of California ground squirrel burrows and/or manmade "burrow surrogates" that were suitable for burrowing owl use. Step II, Part B focused burrowing owl surveys were then conducted by Moorhatch or Williams on 24 & 31 July and 6 & 12 August 2020. Surveys were completed via pre-dawn/early morning pedestrian transects spaced at 10 meters apart over 100% of those areas of the site identified in the burrow search as having burrows or structures capable of supporting burrowing owls. Binoculars were used to visually inspect potential perching locations (i.e., rocks, debris, dirt mounds) as well as the entrances to all on-site mammal burrows and debris providing potential shelter (i.e., piles of concrete slabs, cement drainpipes). Potential burrows were carefully examined for evidence of burrowing owl occupation (i.e., animal dung, feathers, whitewash, pellets, debris, etc.). Where buffer areas were not accessible, they were visually inspected using binoculars in accordance with protocol.

4.2.2 Results/Impacts

Potential burrow sites were present, but no burrowing owls or their sign were detected. Therefore, no impacts to burrowing owls are anticipated at this time.

4.2.3 Mitigation and Equivalency

Because no burrowing owls were detected, no impacts will occur. For this reason, mitigation and/or equivalency requirements relative to burrowing owls are not anticipated to be required for the project.

Note, however, that because the project site contains suitable, but currently unoccupied habitat (Figure 5), burrowing owls have the potential to colonize and occupy the project site at any time in the future. MSHCP guidelines require a one-visit pre-construction presence/absence surveys for burrowing owls within the survey area where suitable habitat is present, even where protocol level surveys were negative. Surveys will be conducted within 30 days prior to

disturbance. If burrowing owls are found at that time, refer to the following guidelines below.

The project site is not located within a Criteria Area, so the following MSHCP guidelines apply:

- "If the site contains, or is part of, an area supporting less than 35-acres of suitable habitat or the survey reveals that the site and the surrounding area supports fewer than 3 pairs of burrowing owls, then the project site burrowing owls will be passively or actively relocated following accepted protocols."

- "If the site (including adjacent areas) supports three or more pairs of burrowing owls, supports greater than 35 acres of suitable Habitat and is non-contiguous with MSHCP Conservation Area lands, at least 90 percent of the area with long-term conservation value and burrowing owl pairs will be conserved onsite."

- "RCTLMA EPD (2006b) states: "In the event owls are observed on the project site, please contact the EPD immediately to discuss potential mitigation measures such as passive or active relocation." Further WRCRCA guidelines (2019a) include:

- Coordinate with WRCRCA and the CDFW on all evictions (passive or active relocation).
- Eviction may be acceptable if suitable conserved habitat and natural or artificial burrows are within 75–100 meters. Note that eviction during the nesting season is generally prohibited.
- If adjacent or nearby suitable habitat is not conserved, eviction may still be acceptable at the discretion of WRCRCA and/or CDFW.
- A *Burrowing Owl Protection and Relocation Plan* will be prepared if burrowing owls are detected during the preconstruction survey within 500 feet of the project footprint. The plan must be reviewed, approved, and coordinated with WRCRCA and Wildlife Agencies, including the state banding permit office and federal Migratory Bird Treaty Act office if active relocation is needed.

Should burrowing owls be detected, mitigation and equivalency will be achieved through the project following all MSHCP guidelines and the direction of the Environmental Programs Department, Western Riverside County Regional Conservation Authority, and/or the Wildlife Agencies.

4.2.3.1 Direct Effects

Because no burrowing owls were detected, direct effects to them are not anticipated. See the Mitigation and Equivalency section above, however.

4.2.3.2 Indirect Effects

Because no burrowing owls were detected, indirect effects to them are not anticipated. See the Mitigation and Equivalency section above, however.

4.3 Mammals

Los Angeles pocket mouse (LAPM) habitat is present and approximately 19.6-acres of the project site are within the MSHCP designated LAPM survey area, so focused surveys were conducted for the LAPM on consecutive nights from September 13-18, 2020 (a copy of the LAPM Focused Survey updated July 2024 is appended to this report, WSP 2024d).

4.3.1 Methods

Trapping operations were conducted by WSP senior biologist John F. Green under the authority of CDFW Scientific Collecting Permit (SCP) #SC-190360007. A total of six grids of 25 traps each were placed (Grids A through F) See Figure 3 and photos below. One grid was placed in each drainage and the remaining three grids were placed in upland habitats. All grids were within the MSHCP-designated survey area for the Los Angeles pocket mouse.

To ensure that weather conditions were suitable to conduct the survey with minimal stress to captured animals, National Weather Service forecasts were monitored for the weather stations nearest the trapping areas. Trapping is not conducted unless five consecutive nights with temperatures above 50 degrees Fahrenheit are forecasted. At this time of year, no temperatures approached that threshold.

All traps were 12” long folding Sherman® live traps, modified by the manufacturer for the prevention of tail lacerations when trapping long-tailed animals (such as kangaroo rats). Traps were placed approximately ten meters apart and baited with white proso millet. Traps were opened at dusk daily, checked for captures at mid-night and dawn, and closed for the day following each dawn check. Trapping at each grid was conducted for five consecutive nights. Captured animals were identified and released at the point of capture. Capture data and weather variables were recorded on standardized data forms. Weather variables were recorded with a handheld Kestrel anemometer.

4.4 Results/Impacts

No LAPM were detected during the focused survey. As a result, impacts to LAPM will not occur as a result of project implementation.

4.5 Mitigation and Equivalency

Because no LAPM were detected, no impacts will occur. For these reasons, mitigation and/or equivalency requirements relative to LAPM are not anticipated to be required for the project.

4.5.1 Direct Effects

Because no LAPM were detected, direct effects to them are not anticipated.

4.5.2 Indirect Effects

Because no LAPM were detected, indirect effects to them are not anticipated.

4.6 Amphibians

The project site is not within a MSHCP designated amphibian survey area.

4.6.1 Methods

Because the project site is not located within an MSHCP-designated survey area for amphibians, focused surveys for special status amphibians are not required for MSHCP compliance. For these reasons, focused surveys for special status amphibians were not conducted for the project.

4.6.2 Results/Impacts

Focused surveys for amphibians were not conducted for the project. Impacts to amphibian species with MSHCP designated survey areas are not anticipated to occur as a result of project implementation.

4.6.3 Mitigation and Equivalency

4.6.3.1 Direct Effects

No direct effects to amphibian species with MSHCP designated survey areas are anticipated to occur as a result of project implementation.

4.6.3.2 Indirect Effects

No indirect effects to amphibian species with MSHCP designated survey areas are anticipated to occur as a result of project implementation.

4.7 Delhi Sands Flower-Loving Fly (MSHCP SECTION 9.3)

The project site is not within the range of the Delhi Sands flower-loving fly (*Rhaphiomidas terminatus abdominalis*) and does not contain any mapped or observed Delhi fine sand soils. For these reasons, focused surveys for the Delhi Sands flower-loving fly and mitigation for this species are unwarranted.

4.7.1 Methods

Because the project site does not contain habitat suitable for the Delhi Sands flower-loving fly and is not within the known range of the species, focused surveys for this species are not required for MSHCP compliance. For these reasons, focused surveys for the Delhi Sands flower-loving fly were not conducted for the project.

4.7.2 Results/Impacts

Focused surveys for the Delhi Sands flower-loving fly were not conducted for the project, as there is no habitat for the species. Impacts to the Delhi Sands flower-loving fly are not anticipated to occur as a result of project implementation.

4.7.3 Mitigation and Equivalency

4.7.3.1 Direct Effects

No direct effects to the Delhi Sands flower-loving fly are anticipated to occur as a result of project implementation.

4.7.3.2 Indirect Effects

No indirect effects to the Delhi Sands flower-loving fly are anticipated to occur as a result of project implementation.

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Figure 1. Project Vicinity and Location

Figure 2. Project Location on USGS Topographic Map

Figure 3. Project Impacts

Figure 4. Riparian/Riverine Areas

Figure 5. Burrowing Owl Survey Area

WSP 2024a Wet and Dry Season Fairy Shrimp Survey Report

WSP 2024b Narrow Endemic Plant Species Survey Report

WSP 2024c Burrowing Owl Survey Report

WSP 2024d Los Angeles Pocket Mouse Survey Report

WSP 2024e MSHCP Consistency Analysis

WSP 2024f Jurisdictional Delineation Report

NHC 2024 High Level Assessment of Potential Sediment Transport Impacts Associated with the Updated Sun Lakes Boulevard Improvement Project



Project Alignment

FIGURE 1

Project Vicinity and Location
DBESP
Sun Lakes Blvd. Realignment Project
Banning, CA

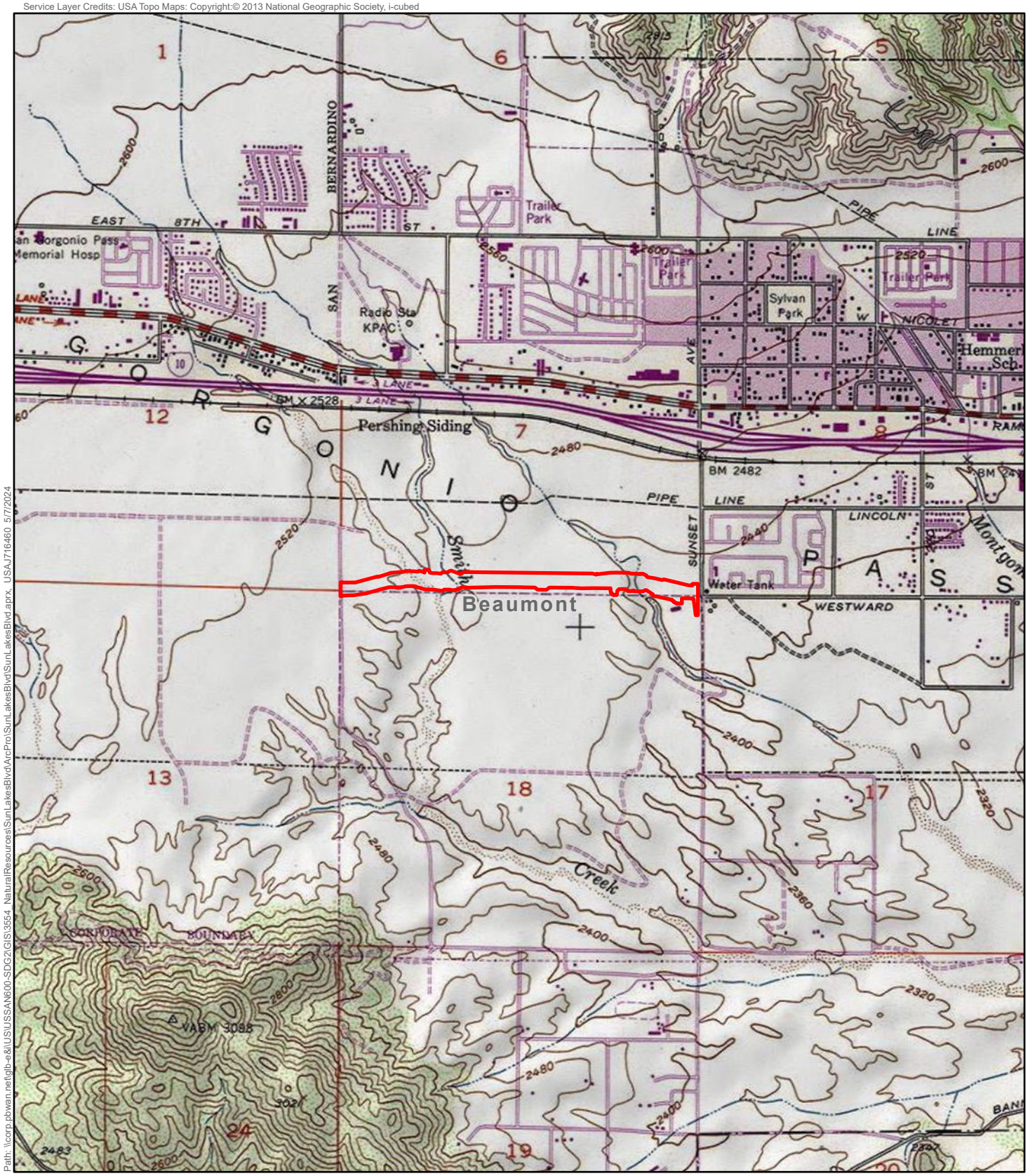
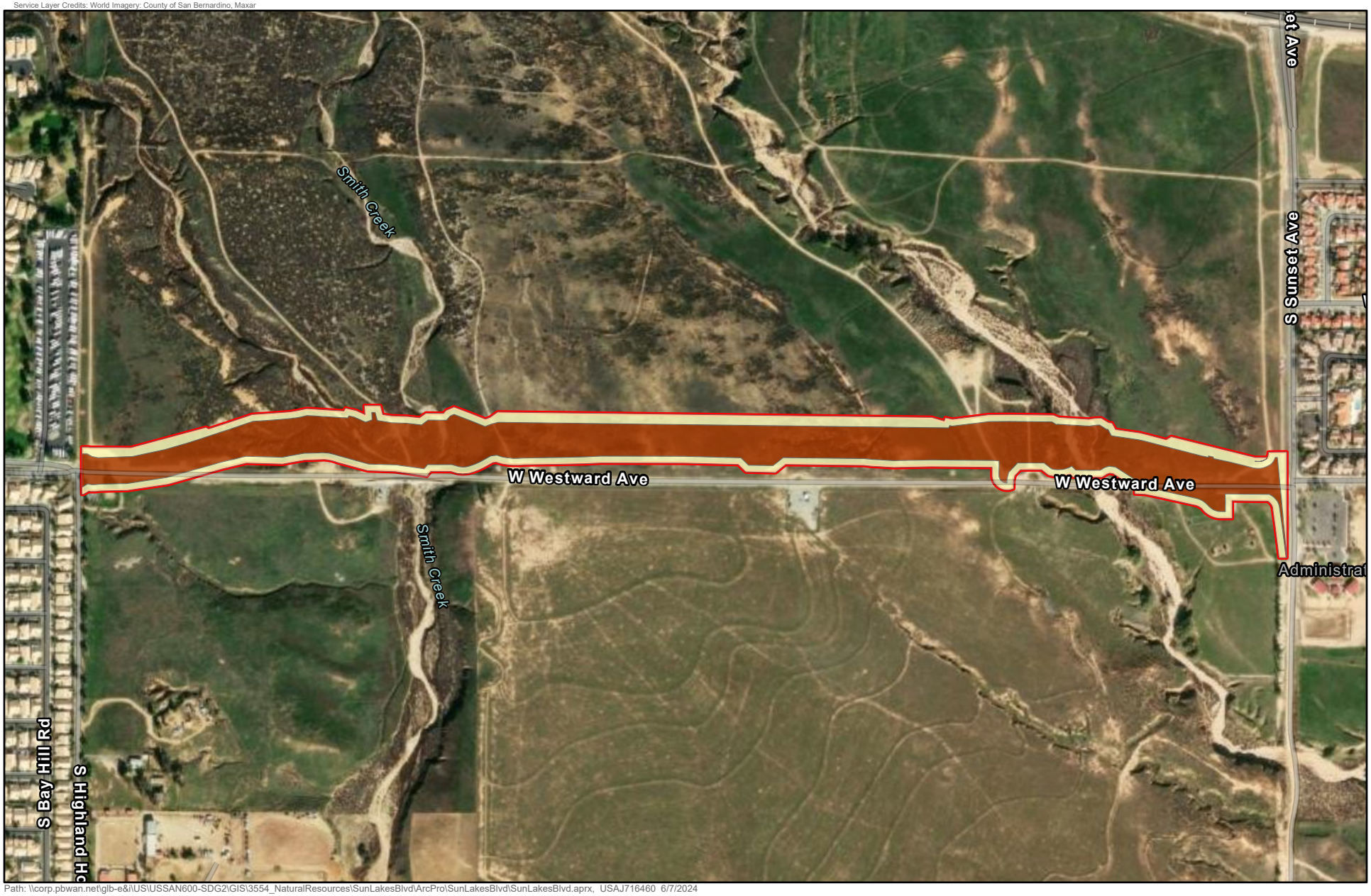


FIGURE 2

USGS 7.5' Topo Quad: Beaumont
DBESP
Sun Lakes Blvd. Realignment Project
Banning, CA

Service Layer Credits: World Imagery: County of San Bernardino, Maxar



Path: \\corp.pbwan.net\glb-e&i\US\USSAN600-SDG2\GIS\3554_NaturalResources\SunLakesBlvd\ArcPro\SunLakesBlvd\SunLakesBlvd.aprx, USAJ716460 6/7/2024

Project Alignment
Permanent Impacts (19.39 Acres)
Temporary Impacts (9.06 Acres)

1 inch =600 feet
0 300 600
Feet

FIGURE 3

Project Impacts
DBESP
Sun Lakes Blvd. Realignment Project
Banning, CA

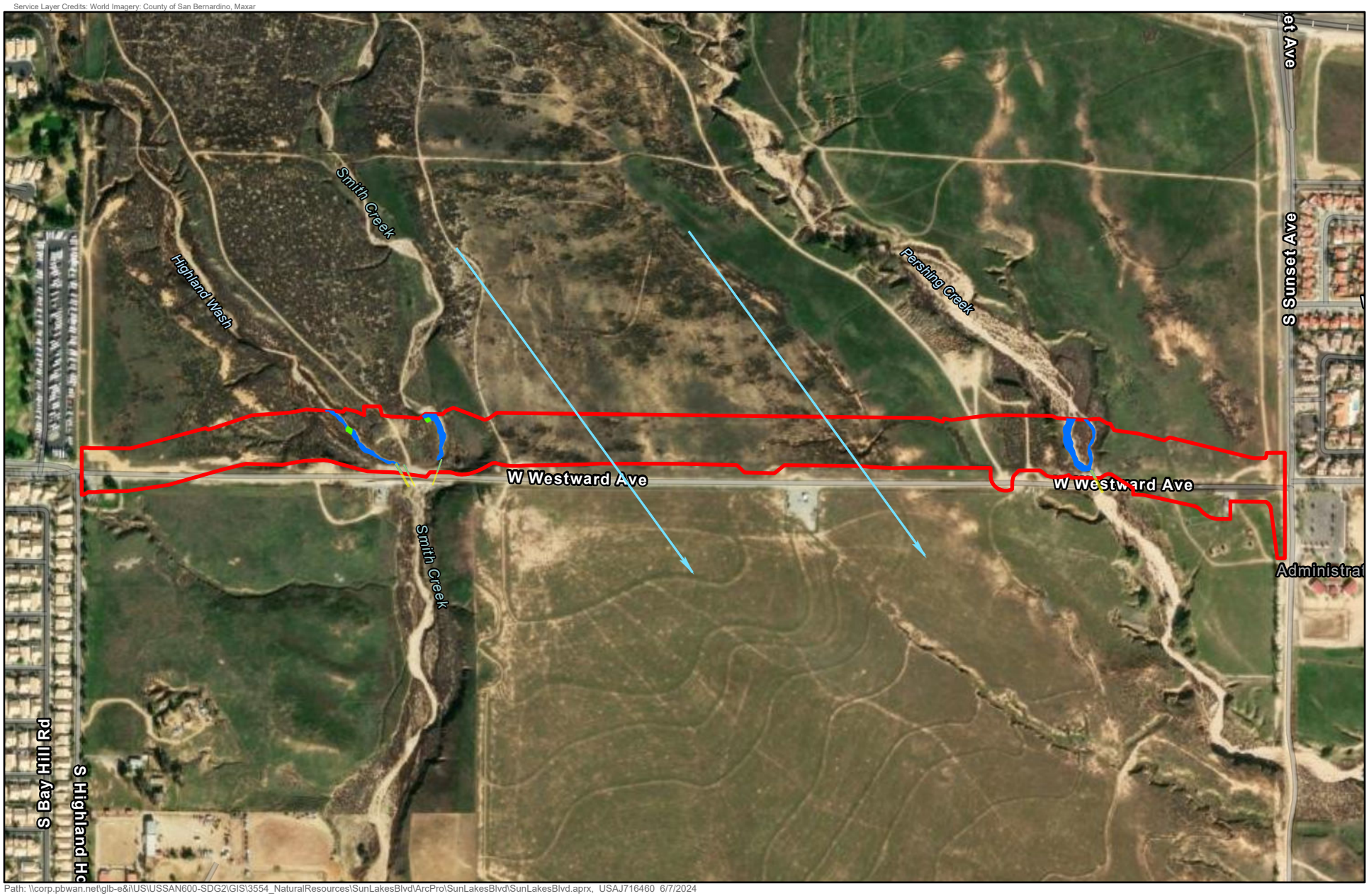


FIGURE 4

Riverine/Riparian Areas
DBESP
Sun Lakes Blvd. Realignment Project
Banning, CA

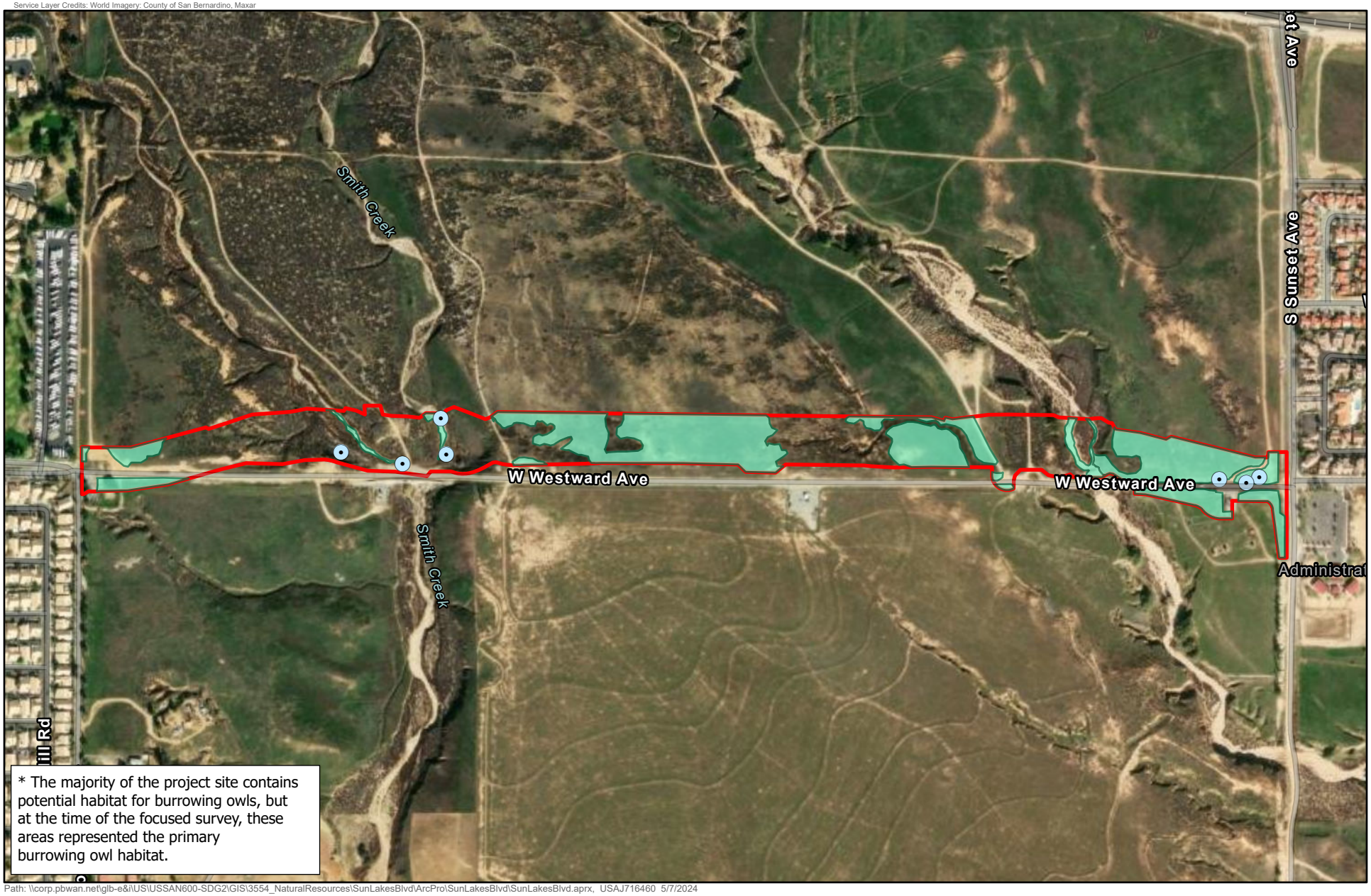


FIGURE 5

Burrowing Owl Survey Area
DBESP
Sun Lakes Blvd. Realignment Project
Banning, CA

Appendix C

Phase I Cultural Resource Assessment for the Sun Lakes Boulevard Realignment Project in the City of Banning, Riverside County, California

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April 2024
Revised

USGS 7.5′ Topographic Quadrangle: Beaumont, CA
Level of Investigation: Section 106; CEQA Phase I
Key Words: Riverside County; City of Banning; USACE; CEQA;
Two previously documented resources (CA-RIV-7544 and 33-013778)

MANAGEMENT SUMMARY

The Sun Lakes Boulevard Realignment Project involves the eastward extension of Sun Lakes Boulevard across Smith Creek from its current eastern termination point at the intersection of Westward Avenue and South Highland Home Road to the proposed eastern termination point of Westward Avenue at Sunset Avenue in the City of Banning, Riverside County, California (Project). Under contract to Albert A. Webb Associates, Applied EarthWorks, Inc. (Æ) conducted a Phase I cultural resource investigation of the Area of Potential Effects (APE).

As a result of both federal and City permitting requirements, the Project must comply with Section 106 of the National Historic Preservation Act and the California Environmental Quality Act (CEQA). The U.S. Army Corp of Engineers (USACE) is the lead agency for Section 106 compliance and the City of Banning is the lead agency for the purposes of CEQA. The APE was limited by the USACE to the 28.4-acre Project footprint in which direct effects may occur. Ground disturbance may reach a maximum depth of 8 feet below the current grade within the APE.

The purpose of the investigation was to determine whether the Project would affect historic properties or historical resources in the APE eligible for nomination to or listed on the National Register of Historic Places (NRHP) or the California Register of Historical Resources (CRHR), respectively. This report summarizes the methods and results of the Phase I cultural resource investigation of the APE. Æ's assessment includes a records search and literature review, communication with Native American tribal representatives, and an archaeological survey of the APE.

The literature and records search at the Eastern Information Center (EIC) of the California Historical Resources Information System indicates 44 cultural resources are documented within the Study Area, which includes a 1-mile-wide buffer off each side of the APE. Two of these previously documented cultural resources are large and overlap with the APE and include remnants of water conveyance features (CA-RIV-7544) and homestead structural remains (33-013778).

As part of the cultural resource investigation, Æ sent a request to the Native American Heritage Commission for a search of their Sacred Lands File (SLF). Results of the SLF search indicate no known Native American cultural resources within the APE. Æ contacted Native American individuals and organizations to elicit information on Native American resources within the APE. Of the 13 groups and/or individuals contacted, Æ received responses from representatives of four tribes—the San Manuel Band of Mission Indians, the Santa Rosa Band of Cahuilla Indians, the Agua Caliente Band of Cahuilla Indians, and the Cabazon Band of Mission Indians.

Æ Archaeologist Evan Mills, M.A., completed an intensive pedestrian surface survey of the approximately 13.7 acres on September 4, 2020. A supplemental survey of an additional 12 acres was conducted by Æ Archaeologist Pat Moloney on March 31, 2022. The APE was realigned and a supplemental survey of 10.6 acres was conducted by Æ Archaeologist Andrew DeLeon on

April 3, 2024. Æ's fieldwork visually confirmed that none of the structures or remnants associated with CA-RIV-7544 and 33-013778 are within the APE. NRHP and CRHR criteria for historical significance were used by previous investigators to evaluate these archaeological sites; both sites were recommended ineligible for listing. Æ concurs with the previous investigators' eligibility recommendations and no further management of CA-RIV-7544 and 33-013778 is recommended. No additional cultural resources were encountered within the APE during Æ's Phase I surveys.

The terrain throughout the entire APE has been disturbed by past ranching, while more recent disturbance consists of underground pipelines and road grading. During Æ's field survey, ground visibility was poor throughout most of the APE due to overgrown vegetation. Although the mapped soils do not include buried A (Ab) horizons, they are Alfisols with well-developed A and B horizons. If intact within the APE, particularly at the creek crossings, these soils have a potential for buried archaeological deposits. Nevertheless, Æ concurs with previous investigators' recommendations for assigning low archaeological sensitivity to the APE because of the known resource types present, the widespread evidence of prior surface and subsurface disturbance, and the lack of previously recorded prehistoric resources within a mile of the APE. Therefore, intact and significant buried archaeological deposits are considered unlikely, and Æ recommends a finding of No Historic Properties Affected for the Project. Consequently, no further cultural resource management of the APE is recommended.

Field notes documenting the current investigation are on file at Æ's Hemet office. A copy of this report also will be submitted to the EIC.

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1
INTRODUCTION

The Sun Lakes Boulevard Realignment Project involves the eastward extension of Sun Lakes Boulevard across Smith Creek from its current eastern termination point at the intersection of Westward Avenue and South Highland Home Road to the proposed eastern termination point of Westward Avenue at Sunset Avenue in the City of Banning (City), Riverside County, California (Project). Applied EarthWorks, Inc. (*Æ*) completed a cultural resource constraints analysis for the Project in October 2019. The analysis included a records search at the Eastern Information Center (EIC) and a Sacred Lands File (SLF) search by the Native American Heritage Commission (NAHC). Albert A. Webb Associates subsequently retained *Æ* to conduct a Phase I cultural resource investigation of the Project's Area of Potential Effects (APE). The Project is within a U.S. Army Corps of Engineers (USACE) jurisdictional wetland; therefore, a USACE permit under Section 404 of the Clean Water Act is anticipated and compliance with the requirements of Section 106 of the National Historic Preservation Act (NHPA) will be needed. The USACE is the lead agency for compliance with Section 106 of the NHPA.

Because the Project also requires discretionary approval from the City, the requirements of the California Environmental Quality Act (CEQA) also pertain. The City is the lead agency for compliance with CEQA. *Æ* Managing Principal, Amy L. Ollendorf, Ph.D., M.S., Registered Professional Archaeologist (RPA 12588), served as *Æ*'s principal investigator and was responsible for overall quality control, including report review and editing. *Æ* Senior Archaeologist Joan George, B.S., Registered Archaeologist (RA 28093) served as *Æ*'s project manager. *Æ* Archaeologists Evan Mills, M.A., (RPA 18026), Pat Moloney, B.A., and Andrew DeLeon M.A. (RPA 17087) conducted the fieldwork for the investigation.

For the purposes of this study, the Area of Potential Effects (NHPA terminology) encompasses the Project Area (CEQA terminology). Consequently, "APE" is utilized throughout the remainder of this report.

1.1 PROJECT LOCATION AND DESCRIPTION

The Project is in the western portion of Riverside County near the base of the San Bernardino Mountains (Figure 1-1). The Project is within Sections 7 and 18, Township 3 South, Range 1 East, San Bernardino Baseline and Meridian, as shown on the Beaumont, California 7.5-minute U.S. Geological Survey (USGS) topographic quadrangle map (Figure 1-2). Elevation ranges from approximately 2,430 and 2,500 feet above mean sea level (amsl), and the APE crosses Smith Creek in several locations.

Consistent with the City's Circulation Element that was recently amended in January 2020 through General Plan Amendment (GPA) 19-2502, the Project will improve the existing Sun Lakes Boulevard, presently an unpaved road running in an east-west direction between the intersections of South Highland Home Road to the west and Sunset Avenue to the east.



Figure 1-1 Project vicinity in Riverside County, California.

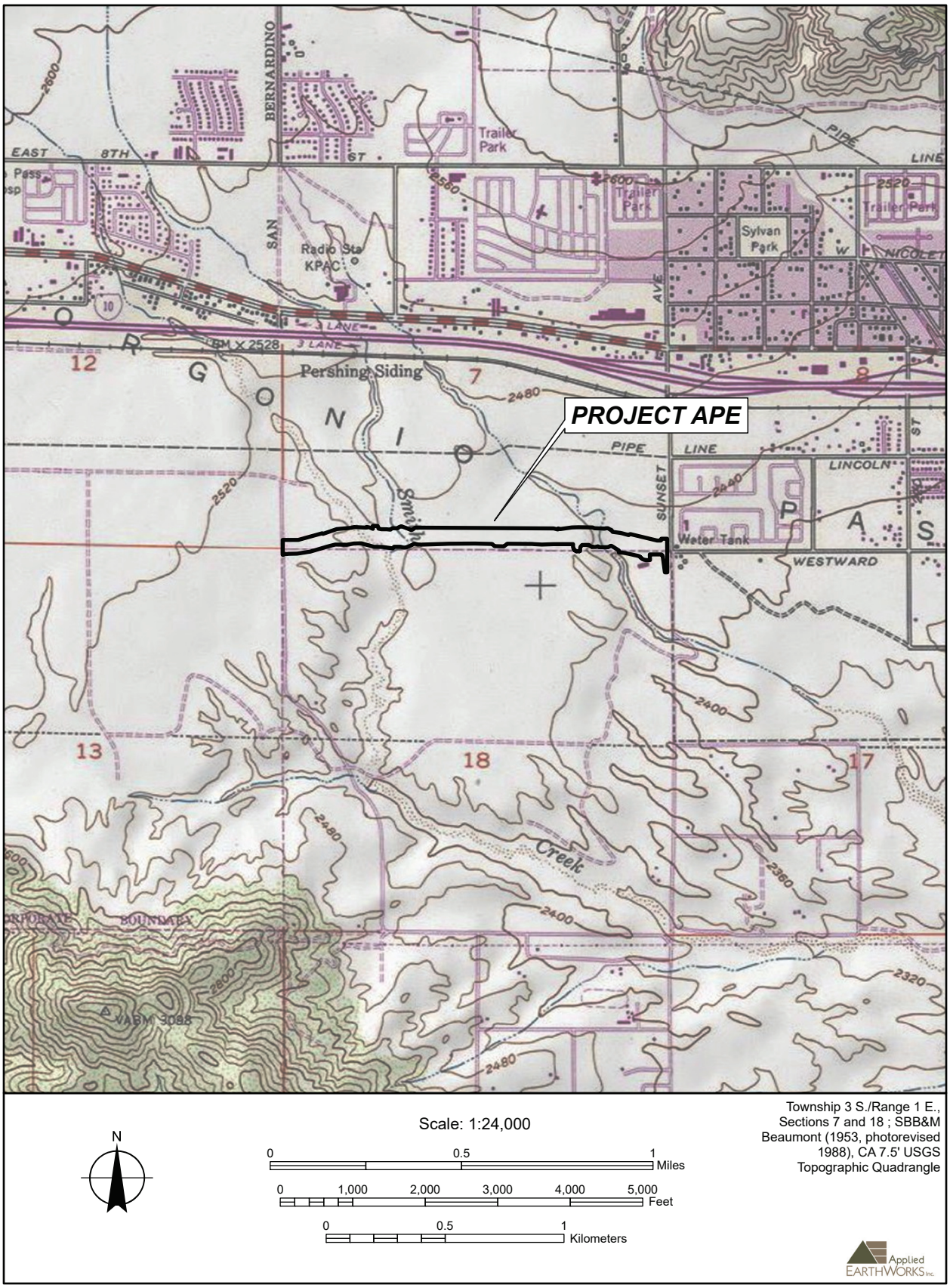


Figure 1-2 Project location on USGS Beaumont 7.5-minute topographic quadrangle.

The proposed Project is approximately 1 mile long with a direct footprint width of approximately 200-feet and an additional 50 feet of temporary construction disturbance buffer around the footprint for a maximum disturbance width of approximately 300-feet wide. The Project encompasses approximately 20 acres of direct footprint and an additional approximately 9 acres of temporary construction disturbance area. Project staging and stockpiling will occur within the City's rights-of-way (ROW).

Sun Lakes Boulevard will be constructed according to the City's General Plan Typical Section for an Arterial Highway. Sun Lakes Boulevard will have two eastbound and two westbound lanes, a raised median, bike lanes, sidewalks, associated road striping, drainage, and street light improvements.

The existing Westward Avenue that is located in roughly the same location as the proposed Project, is a dirt road with two culverted concrete Arizona crossings, one at the confluence of Highland Wash and Smith Creek and another at Pershing Creek. The Project will cross over the three creeks through the construction of three multi-cell reinforced concrete boxes (RCB) (i.e., Proposed Lines J, I, and K).

1.2 AREA OF POTENTIAL EFFECTS

The APE was defined by the USACE and investigated by *Æ* for compliance with Section 106 of the NHPA. According to 36 CFR § 800.16(d), the APE is the geographic area within which a federal undertaking may directly or indirectly cause alterations to the character or use of historic properties. The Project qualifies as a federal undertaking under 36 CFR § 800.16[y] because of the anticipated Section 404 permit anticipated from the USACE.

The APE is limited to the 28.4 acres in which direct effects may occur as a result of this Project (see Figure 1-2). Ground disturbance may reach a maximum depth of 8 feet below the current grade for the power poles and traffic stop signals within the APE.

1.3 REGULATORY CONTEXT

As described above, construction of the Project requires a Section 404 permit from the USACE. As a result of this permit requirement, the Project is a federal undertaking and is subject to the full authority of federal historic preservation laws and regulations, namely Section 106 of the NHPA and its implementing regulations (36 CFR Part 800).

Several state laws also guide actions that concern cultural resources. These include the CEQA (Public Resources Code [PRC] 21000 et seq.), Public Health and Safety Code, and PRC.

1.3.1 Federal Laws and Regulations

Section 106 of the NHPA requires federal agencies to take into account the effects of their undertakings on historic properties. A historic property as defined in 36 CFR 800.16(l)(1) means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places (NRHP). Undertakings include any federally funded, licensed, or permitted project (36 CFR 800.16[y]).

In the context of a federally permitted undertaking, such as this Project, a historic property must meet one or more of the four NRHP criteria of historical significance; possess integrity of location, design, setting, materials, workmanship, feeling, association (36 CFR 60.4); and, in general, it must be at least 50 years old and:

A. that are associated with events that have made a significant contribution to the broad patterns of our history;

B. that are associated with the lives of persons significant in our past;

C. that embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

D. that have yielded, or may be likely to yield, information important to prehistory or history.

If a cultural resource is at least 50 years old, meets one or more of these specific criteria of historical significance, and is considered a good representative of a significant historical theme or pattern, the historic property is eligible for nomination to the NRHP. A consultant's role is to render a professional recommendation rather than an administrative determination of NRHP eligibility. In the case of this Project, the USACE in consultation with the SHPO and tribes will determine NRHP eligibility. If the SHPO, tribes, and USACE disagree about a resource's NRHP eligibility, the Advisory Council on Historic Preservation or the Keeper of the NRHP may become involved in the eligibility determination process if requested.

1.3.2 State Laws and Regulations

Since the Project also requires discretionary City approval, the CEQA also is applicable. The CEQA Statute and Guidelines direct lead agencies to determine whether a project will have a significant impact on historical resources. Historical resources in CEQA terminology are analogous to historic properties in NHPA terminology. That is, a cultural resource shall be considered "historically significant" if it meets the requirements for listing on the California Register of Historical Resources (CRHR) under any one of the following criteria (Title 14, California Code of Regulations [CCR], § 15064.5):

1. Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;
2. Is associated with the lives of persons important in our past;
3. Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or,
4. Has yielded, or may be likely to yield, information important in prehistory or history.

Compliance with CEQA's cultural resource provisions typically involves several steps. Briefly, archival research and field surveys are conducted, and identified cultural resources are inventoried and evaluated in prescribed ways. Prehistoric and historical archaeological sites, as well as standing structures, buildings, and objects deemed historically significant and sufficiently intact (i.e., historical resources), must be considered in project planning and development.

A project with an effect that may cause a substantial adverse change in the significance of a historical resource is a project that may have a significant effect on the environment (14 CCR § 15064.5[b]). The lead agency is responsible for identifying potentially feasible measures to mitigate significant adverse changes in the significance of a historical resource (14 CCR § 15064.5[b]4).

1.4 REPORT ORGANIZATION

This report documents the results of a cultural resource investigation of the Project. Chapter 1 has described the Project and its location, defined the scope of the cultural resource studies, defined the APE, and stated the regulatory context. Chapter 2 summarizes the natural and cultural setting of the Project and surrounding region. Chapter 3 presents the results of the archaeological literature review and records search. Chapter 4 summarizes the SLF search with the NAHC and Native American communications. The cultural resource survey methods and results are discussed in Chapter 5. Cultural resource management recommendations are provided in Chapter 6 and bibliographic references are cited in Chapter 7. California Department of Parks and Recreation (DPR) 523 recording forms are included in Appendix A. The results of the SLF search and correspondence with Native American groups are included in Appendix B.

2
SETTING

This chapter describes the prehistoric, ethnographic, and historical setting of the Project to provide a context for understanding the nature and significance of cultural resources identified throughout the region. Prehistorically, ethnographically, and historically, the nature and distribution of human activities in the region have been affected by such factors as topography and the availability of water and natural resources. Therefore, prior to a discussion of the cultural setting, the environmental setting of the area is summarized below.

2.1 ENVIRONMENTAL SETTING

The Project is in western Riverside County and is situated largely on an interfluvial plain with Smith Creek crossings. Annual precipitation in the area ranges from 18 to 20 inches. Surrounding sediments are composed of older Quaternary Alluvium deposits, derived as fan deposits from the San Bernardino Mountains to the north and possibly from the San Jacinto Mountains to the south. The Project lies within the South Coast Bioregion and is sparsely vegetated with scrub brush and grasses. A variety of reptiles, small mammals, birds, and insects coexist within the Project region.

The natural setting of the Project has been summarized by McLean et al. (2006). The Project is located in the San Gorgonio Pass (elevation 2,616 feet), which forms a natural break between the San Bernardino Mountains to the north and the San Jacinto Mountains to the south. It is an east-west trending lowland between the two mountain ranges. The surface of the lowland is composed of alluvial fan deposits, mainly from the San Bernardino Mountains. The northern foothills are underlain by upper Cenozoic nonmarine and marine sedimentary deposits (Morton 1999).

The San Bernardino Mountains are in the Transverse Ranges geomorphic province (Norris and Webb 1990:330). The Transverse Ranges are an east-west trending mountain range at the northeast end of the Los Angeles Basin. This range has some of the highest peaks south of the Sierra Nevada range (Norris and Webb 1990:330). The San Bernardino Mountains are about 65 miles long and 30 miles wide at their widest point. The San Jacinto Mountains are the northernmost of the Peninsular Ranges, which run 900 miles from Southern California to the southern tip of the Baja California Peninsula. At an elevation of 10,834 feet, San Jacinto Peak is the highest peak in the range.

The majority of the APE (~ 82 percent) is mapped by the U.S. Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) as Ramona and Greenfield sandy loams (Soil Survey Staff 2020). Both soil series belong to the Alfisols order, which typically forms under a hardwood forest cover. Terrace escarpments and riverwash are also mapped along the creeks within the APE.

The Ramona soil series formed in alluvium derived mostly from granitic and related rock sources on nearly level to moderately steep slopes of fans and terraces at elevations of 250 to 3,500 feet. The typical pedon includes a 23-inch-thick stratified A horizon consisting of brown (10YR 5/3) sandy loam (Ap) underlain by brown (10YR 5/3) fine sandy loam (A12). The stratified B horizon consists of brown (7.5YR 5/4) loam (B1) underlain by reddish-brown (5YR 4/4) sandy clay loam (B21t), yellowish-red (5YR 5/6) sandy clay loams separated by gradual smooth boundaries (B22t, B23t, B3). Encountered at a depth of 68 inches, the strong brown fine sandy loam (7.5YR 5/6) C horizon extends to the base of the described pedon at 74 inches depth (Soil Survey Staff 2003). Intact Ramona soils within the APE, if any, particularly near the creek crossings, have a potential for buried archaeological deposits.

The Greenfield series consists of deep, well-drained soils that formed in moderately coarse and coarse-textured alluvium derived from granitic and mixed rock sources on slopes of 0 to 30 percent on alluvial fans and terraces (Soil Survey Staff 2019). The official series description states the typical pedon consists of a pale brown (10YR 6/3) coarse sandy loam A1 horizon (8 to 30 inches thick) over a light yellowish-brown (10YR 6/4) sandy loam B1 horizon (10 to 20 inches thick), which transitions through a gradual smooth boundary to a light yellowish-brown (10YR 6/4) fine sandy loam B2t horizon (10 to 20 inches thick) brownish-yellow (10YR 6/6) and yellow (10YR 7/6) stratified loamy sand, sandy loam, fine sandy loam C horizon (Soil Survey Staff 2019). Intact Greenfield soils, if any on alluvial fans and stream terraces within the APE, have high potential for buried archaeological sites.

The maximum depth of proposed disturbance (8 feet) will penetrate the typical pedons of all soils mapped in the APE. None of the mapped soil series has a buried A (Ab) horizon; however, buried cultural deposits are possible within intact Ramona and Greenfield soils, especially at the creek crossings. In contrast, the subareas within the APE mapped as terrace escarpments and riverwash have low sensitivity for intact and significant buried cultural deposits. Terrace escarpments are characterized by steep slopes inhospitable to long or repeated human land use or occupation, whereas riverwash was deposited in a high-energy depositional environment not conducive to long-term or repeated land use or preservation. The existing unpaved segment of Westward Avenue, and multiple buried pipelines within the APE as well as land use for ranching are all indicative of significant previous ground disturbance. Although the maximum depth of previous subsurface disturbance is unknown, the lack of known prehistoric resources within 1 mile of the APE have led other investigators to assign a low archaeological sensitivity to the APE.

2.2 PREHISTORIC SETTING

The prehistory of inland Southern California is less thoroughly understood than in the adjacent desert and coastal regions. This is partially a result of historical circumstances, such as ease of access, the location of universities, and public versus private land ownership, and partly due to the nature of archaeological research in these interior valleys and mountains of Southern California (Goldberg and Arnold 1988). In the absence of absolute chronological indicators for inland sites, researchers generally employ typological cross-dating from either coastal or desert sequences, often as the sole means for assigning age to archaeological sites within the interior valleys, including the APE.

Two large reservoir projects, Perris Reservoir (O'Connell et al. 1974) and Eastside Reservoir Project (ESRP) (Goldberg et al. 2001), generated large data sets to provide a basis for resolving some of these regional problems. It is difficult to extrapolate the geographic extent of the prehistoric cultural patterns discerned from excavations at these two reservoirs, which are 12 miles apart in central western Riverside County. The ESRP is 16 miles southeast of the Project, and it is almost certain that prehistoric patterns are similar to those discerned for the ESRP studies.

This discussion of the Project's prehistoric cultural setting is drawn from the cultural sequence developed for the ESRP. This chronology was based first on artifact cross-dating, and then refined with radiocarbon and obsidian hydration dates (Horne and Onken 2001; Robinson 1998, 2001); however, the ESRP chronology draws heavily on a cultural sequence defined by Warren (1984) for Southern California, which is based largely on archaeological work conducted in the Colorado and Mojave deserts. Because Warren's chronology used period names that suggest links to the Mojave, these were replaced in the ESRP chronology by value-neutral terms. Because no sites dating to the Paleoindian Period (ca. 12,000–9500 before present [B.P.]) have been documented within the region, the discussion below begins with the Early Archaic Period.

2.2.1 Early Archaic Period (ca. 9500–7000 B.P.)

The environmental transition from the Pleistocene to the Early Holocene (10,000 to 7500 B.P.) appears to have been gradual, with modern vegetation communities appearing to have been established in the region sometime after 8000 B.P. (Sutton 1996). During this period, the environment of the interior deserts was more favorable for human occupation than the cismontane valleys of Southern California, where the Project is located. Populations in the interior valleys would have been tethered to the few reliable, drought-resistant water sources such as Lake Elsinore, Mystic Lake, and possibly the Cajalco Basin. In general, small highly mobile groups traveled widely, utilizing highly portable tool kits to procure and process critical resources, with brief and anticipated intervals of seasonal sedentism near predictable water locations. Due to isolated locations where the conditions for occupation were met, Early Archaic sites are rare compared to later periods of prehistory (Goldberg et al. 2001; Grenda 1997; Horne and McDougall 2008; McDougall 1995).

2.2.2 Middle Archaic Period (ca. 7000–4000 B.P.)

A gradual transition from pluvial conditions to desert conditions during the Early Holocene marks the transition to the Middle Archaic Period. Middle Archaic sites in Southern California include two in the ESRP, one at Lake Elsinore, the Stahl Site in Owens Valley, desert sites in Death Valley, Salt Springs, and in Pinto Basin in Joshua Tree National Park. Middle Archaic sites are associated with the margins of pluvial lakes and with now-extinct springs. Pinto-series projectile points, a type of basally notched or bifurcate base dart point, are the most distinctive artifact type of this period (Justice 2002). Other artifacts found at Middle Archaic sites include leaf-shaped bifacial knives; split cobble choppers and scrapers; scraper-planes; and small milling slabs and manos. With a few exceptions in the ESRP area and the Stahl Site, most sites of this age are small surface deposits of lithic artifacts, suggestive of temporary and perhaps seasonal occupation by small groups of people.

2.2.3 Late Archaic Period (ca. 4000–1500 B.P.)

In the Late Holocene (after 4000 B.P.), the climate was generally somewhat cooler and wetter than modern times, although a series of wet and dry episodes occurred, particularly within the last 2,000 years in at least the western portion of the Mojave Desert (Sutton 1996). This period of climatic variability includes a Neoglacial episode yielding more surface water in the Mojave (Sutton 1996). Sedentism likely increased during this period, with large occupation sites located adjacent to permanent water sources such as perennial springs and streams. Projectile points diagnostic of this period includes Humboldt, Gypsum, and Elko-series dart points (Warren 1984), though Rose Spring arrow points appeared late within this period in the deserts. The mortar and pestle, used for processing acorns and hard seeds, also first appeared. A warming and drying trend began around 2100 B.P., leading to intensification of use of certain resources (Goldberg et al. 2001).

2.2.4 Saratoga Springs Period (ca. 1500–750 B.P.)

Occupants of the region continued to adapt to the arid environment in the deserts (Warren 1984). Lake Cahuilla likely refilled the Coachella Valley around 1450 B.P. and was the focus of exploitation of fish and wetland resources. Occupation around large local water sources declined as these dried, however, and people became tethered to springs (Goldberg et al. 2001). Cultural trends continued from the Late Archaic Period, as Saratoga Springs projectile points, also associated with early use of the bow and arrow, appeared. The sparse assemblages found within the region, however, obscure the timing of local adoption of the bow and arrow (Goldberg et al. 2001). Shoshonean language speakers likely moved into Southern California at this time. Brownware and buffware pottery first appeared on the lower Colorado River at about 1200 B.P. and started to diffuse across the California deserts by about 1100 B.P. (Moratto 1984). The warmer and drier Medieval Warm Period set in throughout the Southwest by about 1060 B.P. (Stine 1994; Warren 1984) and led to the withdrawal of Native American populations from marginal desert areas.

2.2.5 Protohistoric Period (ca. 410–180 B.P.)

Sedentism intensified during the Protohistoric Period. Increased hunting with bow and arrow and widespread exploitation of acorns, other hard nuts, and berries (indicated by the abundance of mortars and pestles) provided reliable and storable food resources. Reliable food sources likely prompted the establishment of small, completely sedentary villages with resource catchment areas around them (True 1966, 1970). Ceramic technology first appeared in the region around 350 B.P. Cottonwood Triangular points were supplemented by Desert Side-notched points. This period ended in 1769 A.D. when Spanish settlement began in Upper California.

2.3 ETHNOGRAPHIC SETTING

The Project lies immediately west and north of the Morongo Indian Reservation. The Morongo Band of Mission Indians are a mixture of several different groups of California Native Americans, including Cahuilla, Serrano, and Cupeño. The native languages spoken by these groups are all part of the larger Takic family of Uto-Aztecan languages. An ethnographic overview of each of these groups is provided below.

2.3.1 Cahuilla

Ethnographically, the Project lies within the traditional territory of the Pass (or *Wanakik*) Cahuilla. A wealth of information exists regarding traditional and historic Cahuilla society and culture (Bean 1978; Bean and Toenjes 2011). The Cahuilla language, divided into Desert, Pass, and Mountain dialects, has been assigned to the Cupan subfamily of the Takic branch of the Uto-Aztecan linguistic family. Territory traditionally claimed by the Cahuilla was topographically complex, including mountain ranges, passes, canyons, valleys, and desert. Bean (1978:375) described it as, "…from the summit of the San Bernardino Mountains in the north to Borrego Springs and the Chocolate Mountains in the south, a portion of the Colorado Desert west of Orocopia Mountain to the east, and the San Jacinto Plain near Riverside and the eastern slopes of Palomar Mountain to the west."

The Cahuilla in precontact times had nonpolitical, nonterritorial patrimoieties that governed marriage patterns, as well as patrilineal clans and lineages. The Cahuilla words for these moieties mean "Coyote" and "Wildcat." The Cahuilla had "political-ritual-corporate units (clans) composed of 3 to 10 lineages, dialectically different, named, claiming a common genitor, with one lineage recognized as the founding one" (Bean 1978:580). Clans owned a large territory in which each lineage owned a village site with specific resource areas. Clan lineages cooperated in defense, in large communal subsistence activities, and in performing rituals. Founding lineages often owned the office of ceremonial leader, the ceremonial house, and a ceremonial bundle (Bean 1978:580). Settlements, occupied by one or more lineages, could be politically autonomous or allied with several villages under one chief. The hereditary chiefs had religious, economic, and military power and were role models for their people. They were aided in their duties by one or more assistants. The chiefs and their families, along with the very wealthy, were the elites of the society. The acquisition of wealth was important, but the acquisition of extreme material wealth was prevented by the custom of burning or burying the possessions of the deceased.

The Cahuilla were, for the most part, hunting, collecting, harvesting, and proto-agricultural peoples. Clans were apt to own land in valley, foothill, and mountain areas, providing them with the resources of many different ecological niches. Individual lineages or families owned specific resource areas within the clan territory. Although any given village had access to a wide array of necessary resources, briskly flourishing systems of trade and exchange gave them access to the resources of their neighboring villages and of distant peoples. Rules that forbade marriage to anyone related within five generations or belonging to the same moiety ensured that everyone had relatives living in many ecozones, an important arrangement because relatives were invited to ceremonies. The ceremonial exchange of gifts between hosts and guests under the direction of the chiefs and shamans at such events provided a way for drought-stricken groups to get food in exchange for treasure goods. Thus, oscillations in the subsistence goods supply were dampened by "banking" human effort in the production of treasure goods.

As in most of California, acorns were a major staple, but the roots, leaves, seeds, and fruit of many other plants also were used. Fish, birds, insects, and large and small mammals were available. Mountain sheep, deer, and antelope were some of the large mammals hunted. When filled, Lake Cahuilla was on the Pacific Flyway for migratory birds; hence, ducks, geese, and

other migratory birds would have been caught. Mountain lion, black bear, grizzly bear, deer, and wild boar also were hunted in prehistoric times.

To gather and prepare various food resources, the Cahuilla had an extensive inventory of equipment. Bows and arrows were the most important hunting tools, but traps, nets, disguises, blinds, throwing sticks, and slings were also part of the hunting technology. For fishing, nets, traps, spears, hooks and lines, and fish poisons were used. Gathering required few tools: poles for shaking down pine nuts and acorns, cactus pickers, chia hooks, seed beaters, digging sticks, weights for digging sticks, and pry bars. Materials associated with transportation mainly were used to move food and include burden baskets, carrying nets, game bags, and saddle pads. Some food was stored in large baskets. Pottery ollas and baskets treated with asphaltum were used to store and carry water and seeds. Wood, clay, and steatite were used to make jars, bowls, and trays. Skin and woven grass were used to make bags. Food processing required hammers and anvils for cracking nuts; mortars and pestles for grinding acorns; manos and metates for grinding seeds and berries; winnowing shells and baskets; strainers; leaching baskets and bowls; knives of stone, bone, wood, and carrizo cane; bone saws; and drying racks made of wooden poles to dry fish. Basket mortars, with asphaltum or pine pitch used to attach an open-bottomed basket to a mortar, were important for food processing. Food was served in wooden and gourd dishes and cups and in basket bowls that were sometimes tarred. Wood, shell, and horn were used for spoons.

Cahuilla shelters were often made of brush, fan palm fronds, or arrow weed. In prehistoric times they were dome-shaped; later they tended to be rectangular. Near such dwellings usually stood brush-covered ramadas under which domestic chores were done. Earth-covered sweathouses for purification and curing rituals and ceremonial houses with fenced areas for ceremonial use were found in most villages. The chief's house was the largest and was usually next to the ceremonial house. Each village also had several granaries (Bean 1978:578).

The Cahuilla, like other California Indians, understand the universe in terms of power. They assume power to be the principal causative agent for all phenomena. Power is believed to be sentient and to have will. Unusual natural phenomena are viewed as especially sacred, being the repositories of concentrations of power. Mountaintops, and especially particular mountaintops, are held sacred, as are unusual rock formations, springs, and streams. Rock art sites are sacred, having been the sites of ceremonies. Burial and cremation sites are also sacred, as are many other places of residual power. Various birds, especially eagles, condors, hawks, and other birds of prey are revered as sacred beings of great power and sometimes were killed ritually and mourned in mortuary ceremonies similar to those for important individuals. For this reason, bird cremation sites are sacred.

As part of his doctoral research, Wilke (1976) examined Cahuilla oral tradition as it related to the prehistoric lakeside adaptation of Lake Cahuilla. Ethnographic sources indicate that during the 1853 Pacific Railroad Survey expedition, W. P. Blake, while encamped at a Cahuilla village about 10 miles south of the present City of Indio, inquired if the Indians had any knowledge of the lake that formerly stood in the Salton Basin. The head man of the village related to Blake a tradition of a great water which filled the basin and abounded in fish and waterfowl (Wilke 1976:7). The head man stated that his people's ancestors then lived in the mountains (presumably the Santa Rosa Mountains to the west) and came down to the lake to fish and hunt.

After a time, the water receded, and they moved their villages down from the mountains onto the exposed lakebed (Wilke 1976:8). Later, the Cahuillas told ethnographer Stephen Bowers that their ancestors had formerly caught fish in the lake with "stone fish traps" along the foot of the San Jacinto and Santa Rosa mountains (Wilke 1976:8). As well, Bowers was informed that when the lake receded, Coyote (a mythical character to many Native American groups) came down from the mountains and planted mesquite beans on the lakebed so that mesquite thickets would grow and help feed the people (Wilke 1976:9). These fragments of oral literature, coupled with archaeological data collected over the years, attest to the economically rich resource base that Lake Cahuilla offered to the local inhabitants of the region.

European contact with the Cahuilla was by the Juan Bautista de Anza expedition, which passed through the region in 1774. Initially, the Indians were hostile to the Europeans. Subsequently, the Europeans used sea routes to populate California because the land route had been closed by the Quechan Indians in 1781. The Cahuilla, therefore, had little direct contact with Europeans except for those baptized at missions in San Gabriel, San Luis Rey, and San Diego and, thus, integrated into the mission system. In 1819, several *asistencias* were established near the Cahuilla area; Cahuillas became partially involved with the Spanish and adopted some Spanish economic practices such as cattle raising, agriculture, trade, and wage labor, as well as cultural traits such as clothing styles, language, and religion. Some Cahuilla worked seasonally for the Spaniards and lived for the remainder of the year in their villages. At the time of the American invasion of California, the Cahuilla still maintained their political and economic autonomy.

2.3.2 Serrano

The Project lies within the ethnographic territory of the Serrano. The name Serrano comes from a Spanish word meaning "mountaineer" or "highlander." The Serrano language is considered part of the Takic subfamily of the larger Uto-Aztecan language family that includes a number of language groups. Other Takic speakers include the Gabrielino, Luiseño, and Cahuilla, whose territories share borders with the Serrano. The Serrano culture area extends from the San Bernardino Mountains, south to Yucaipa Valley, east to the Mojave River watershed, and north to the Twentynine Palms region (Bean and Smith 1978b:570). Most Serrano village sites were located in the foothills of the upper Sonoran zone with a few outliers located near permanent water sources on the desert floor, or in the forest transition zone.

Traditional Serrano territory includes areas occupied by three clan groups—the Kitanemuk, Allikik, and the Vanyume. The Kitanemuk were located on the upper Tejon and Paso creeks near the Tehachapis and extended into the western portion of the Mojave Desert. The Allikik were located on the upper Santa Clara River and the Vanyume were located along the Mojave River (Johnson 1965). These politically independent clan groups also belonged to one of two basic subdivisions or exogamous moieties, the Coyotes and Wildcats. The clans were divided into land holding lineages. Each of these lineages had a chief determined by heredity called the *kika*. The chief's assistant was the *paha*, who assisted him in ceremonial, political and economic affairs (Bean and Smith 1978b:572).

The Serrano traded with the Mojave to the east and the Gabrielino to the west. They also traded with their close neighbors, the Cahuilla and Chemehuevi. Obsidian source analysis has shown that traders traveled from the California coast to Arizona, probably reaching Nevada, and areas

north of the Mojave Desert. Family members usually exchanged goods at trade feasts, social events, and ceremonial occasions (Bean and Vane 2002:14).

Prior to European contact, the Serrano were primarily hunters and gatherers. Women were responsible for most of the gathering and acorns, piñon nuts, and mesquite beans were collected as staple foods. Other resources included roots, bulbs, shoots, and seeds. Digging sticks were frequently used to dig for plants and roots for subsistence and medicinal purposes (Johnson 1965:8). One main seed resource was chia. Stands of chia were periodically burned in order to increase yield. Desert groups moved seasonally from the desert into the foothills to collect nuts and trade for resources that were not available in the desert (Bean and Smith 1978b:570; Bean and Vane 2002:13). The Serrano also hunted large game animals such as deer, mountain sheep, and antelope. Hunting was usually done by men using bows and arrows, although smaller game like rabbits, rodents, and various birds, were hunted with throwing sticks, nets, and snares.

When the Spanish arrived in 1769, Serrano population levels were fairly high. By 1790, the westernmost Serrano groups began to enter Mission San Gabriel. After an attempted revolt in 1810, most of the San Bernardino Mountains and the western Mojave Desert Native groups were brought into the mission. The Serrano in the easternmost desert, beyond the San Bernardino Mountains and Little San Bernardino Mountains, were beyond the reach of the mission, and absorbed a number of those who fled the missions (Bean and Vane 2002:18). It has been suggested that the Serrano left the area in the early 1860s when a smallpox epidemic struck the Indians of Southern California, although the isolation of the area should have protected them.

The Maringa were the most important Serrano clan, and they occupied a large area in the Morongo Valley. The Maringa exerted a powerful ceremonial influence in the region (Johnson 1965:4). The Maringa were presumably living in the Mission Creek area before the 1870s. According to Cahuilla traditions, the Maringa replaced the Cahuilla who had been living there. Members of the Maringa clan intermarried with the Gabriel family (the ceremonial leader of the Wanikik Cahuilla), and had moved to the Potrero, or Malki, by the 1870s. John Morongo, a leader of the group, played a leading role in the affairs of the newly established Morongo Indian Reservation. It is believed that the Serrano left the Mara (Twentynine Palms) area because of pressure from settlers and miners. Many Serrano settled in Mission Creek and Potrero on what is now the Morongo Indian Reservation. These areas were relatively richer in plant and animal resources than areas farther east in the desert. They were also closer to job opportunities with Anglo employers (Bean and Vane 2002:18).

2.3.3 Cupeño

The Cupeño are considered one of the smallest linguistic groups in Southern California (Bean and Smith 1978a). The traditional territory of the Cupeño is located near the headwaters of the San Luis Rey River in northern San Diego County. Today, there are several Native American groups (Pala Band of Luiseño Indians, the Morongo Band of Mission Indians, and the Los Coyotes Band of Cahuilla and Cupeño Indians) that include Cupeño members. As discussed by Bean and Smith (1978b:588), Cupeño social organization reflects an amalgamation of several different groups that dates back at least 800 years. Cahuilla elements of social organization found among the Cupeño include exogamous moieties, patrilineal clans, and ceremonial exchange

parties. The Cupeño also practice some Chingichngish religious rituals that were acquired from the Luiseño, with additional ceremonies adopted from the Ipai.

Ethnographic information on the Cupeño indicates that clans owned the most productive food-gathering spots with communal ownership of intervening areas for hunting and gathering. The head of each clan lived in the clan's ceremonial dance house and was responsible for keeping the clan bundle. A hereditary office that usually passed from father to eldest son, the duties of the clan leader included controlling trade with non-Cupeño groups, overseeing the production and distribution of goods, regulating intra- and interclan relationships, and organizing ceremonies (Bean and Smith 1978a:588-589). Clan leaders could also be shamans.

In terms of ritual, the most significant ceremonies for the Cupeño were those held in connection with deaths in the clan. Immediately following the death of an individual, the body was burned. This was followed by the burning of the deceased's possession a few weeks to several months later. An annual or biannual image-burning ceremony was held at a later point in which images of all those who had died since the last ceremony were burned (Bean and Smith 1978a:589). Another ceremony held in memory of the dead was the eagle-killing ritual, which was held once a year.

2.4 HISTORICAL SETTING

The history of the Project vicinity and surrounding region provides a context for understanding local settlement from the time that Spanish explorers first laid claim to the territory, to the development of the modern landscape. Context is the basis for the identification of the historic site types constructed, and the evaluation of their significance as historical resources. Today, as it was in the past, the City of Banning, located in the San Gorgonio Pass, is important in Southern California for its geographical position as an important travel corridor and resource procurement area including still-open land. The following historic contexts for the Spanish, Mexican, and early American occupations of the region were developed by *Æ* and is taken primarily from George and Chasteen (2017).

2.4.1 Spanish Exploration and Mission Period: 1769 to 1821

Exploration of the California coastline by ship during the sixteenth and seventeenth centuries was the basis for the Spanish claim to most of Alta and Baja California at that time. While a number of explorers and their men came ashore periodically, they did not venture a great distance inland. In the eighteenth century, Spain recognized that to strengthen its claim to the region, it would have to establish settlements along the northern coastline of Alta California to preclude encroachment by the Russian and British fur traders entering the region from the north. Therefore, in the latter half of the eighteenth century, Spain and the Franciscan Order founded a series of presidios, or military camps, and missions along the California coast, beginning with the founding of Mission San Diego de Alcala in 1769. They proceeded to establish a military presidio at Monte Rey (present-day Monterey) in Northern California in 1770, their fourth mission at San Gabriel in 1771, and a fifth mission at San Luis Obispo by 1772. However, providing supplies, animals, and colonists to the Spanish missions and presidios by way of ship was difficult, time-consuming, expensive, and dangerous. Thus, an overland route was necessary to initiate a strong colonizing effort in Alta California.

In 1774, Captain Juan Bautista de Anza crossed the San Jacinto plains with a small party of soldiers and servants. Anza's expeditionary force crossed the Cahuilla Valley, skirted the Santa Rosa Mountains, made their way up through Coyote Canyon, descended into the San Jacinto Valley via Bautista Creek, and trekked northwest across the San Jacinto Valley into Moreno Valley. From there, the expedition passed through the Riverside area and crossed the Santa Ana River near present-day Jurupa, then continued northwest to reach the mission at San Gabriel.

Riverside County lacked a mission proper but remained connected to the California presidio and mission system through Franciscan outposts known as ranchos and *asistencias*. The Riverside area was considered to be a part of the San Diego District, a military designation associated with the San Diego presidio; most of the territory fell under the authority of the Mission San Luis Rey. Founded in 1798, Mission San Luis Rey was the eighteenth of California's 21 missions. During much of the Spanish Exploration and Mission Period, European settlement in Riverside County was slow and sporadic. By the end of the Spanish Exploration and Mission Period, few Europeans had settled permanently within the region. The cattle grazing lands associated with Mission San Luis Rey encompassed most of the San Jacinto Valley. The broad grasslands of these areas were used to graze the Mission's livestock.

The San Timoteo Canyon and San Gorgonio Pass were once under the jurisdiction of the Mission San Gabriel's San Bernardino Rancho (Gunther 1984:458, 487-488). The Canyon and Pass areas provided fresh water and grassland ideal for cattle grazing. An outpost, or *estancia*, for cattle grazing activities was established near the mouth of San Timoteo Canyon in 1819. Native American labor was used to dig an irrigation ditch, or *zanja*, to divert water from Mill Creek to the outpost to support farming and horticulture. The majordomo, Juan Alvarado, relocated the *estancia* to a new site approximately one mile to the east in 1830, where he constructed a 14-room complex of adobe and timber.

2.4.2 Mexican Ranchos: 1821 to 1848

In 1821, after 10 years of intermittent rebellion and warfare, Mexico and the territory of California won independence from Spain. On December 15 of that same year, the Mexican *Cortes* (the legislative body of the Mexican government) ended the older regime's strict isolationist policies that were designed to protect the traditional Spanish monopoly on trade and decreed that California ports (namely San Diego and Monterey) be open to foreign merchants (Dallas 1955:14).

Following the Secularization Act of 1833, which called for the immediate privatization of Franciscan lands, the Mexican government secularized all of the California missions. During the two-year period of 1834 to 1836, this radical process quickly and effectively reduced the missions to parish churches. Although the original secularization schemes called for redistribution of mission lands to those Native Americans who were responsible for the physical construction of the mission empire, the vast mission land and livestock holdings were redistributed by the Mexican government into several hundred land grants privately owned by Mexican citizens (Langum 1987:15-18). These landowners subsequently released their Native American "workers" to fend for themselves. The Mexican Ranchos spread and characterized the landscape between 1834 and1848. Livestock and horticulture dominated the economics of

Southern California. Ranchos were predominantly devoted to the cattle industry and these vast tracts of land were used for grazing.

Banning was never part of any Mexican Rancho; the nearest occurrence of these Rancho lands was at nearby San Timoteo Canyon and in the San Jacinto Valley. The vast grazing lands of the Mission San Luis Rey, comprising over 133,000 acres covering the San Jacinto Valley and beyond, were divided among members of the Estudillo family into three Mexican Ranchos: Rancho San Jacinto Viejo was granted to José Antonio Estudillo in 1842; Rancho San Jacinto Sobrante to his daughter, María del Rosario Estudillo, in 1846; and Rancho San Jacinto Nuevo y Potrero to his son-in-law, Miguel Pedrorena, in 1846 (Robinson 1997:143-161).

Jose del Carmen Lugo, Jose Maria Lugo, Vincente Lugo, and Diego Sepulveda were granted title to the Mission San Gabriel's San Bernardino Rancho by the Mexican Governor of California in 1842. Jose del Carmen Lugo repaired the abandoned *estancia* near Redlands, which included the adobe and timber residence, a grist mill, a tile kiln, and a lime kiln, and resided there until 1851 (San Bernardino County Museum 2014). James "Santiago" Johnson, an Englishman, requested and received the grant of the lands in San Timoteo Canyon from Mexican Governor Manuel Micheltorena in 1843 (Gunther 1984:488). The 4,440-acre area was known as the Rancho San Timoteo or "Rancho San Jacinto y San Gorgonio." Johnson sold the land two years later to Louis Rubidoux, although local cattle ranchers Isaac "Julian" Williams and Powell "Paulino" Weaver argued to Governor Pio Pico in 1845 that Johnson was not making proper use of the land, never occupying it, and never improving it (Gunther 1984:459).

2.4.3 American Exploration and Development

With the signing of the Treaty of Guadalupe Hidalgo in 1848, which ended the Mexican-American War, California experienced an intrusion of American fur trappers and settlers. In 1850, California became a state. During the late 1840–1860s, there began a gradual decline of old California's cattle ranching industry, which for over half a century represented the currency and staple of the rancho system. The ranchos changed ownership regularly. Through the years, settlement continued to develop across the inland valleys of what would eventually become western Riverside County. With the influx of new settlers and decline of the cattle industry, some of the larger ranchos were subsequently subdivided into smaller parcels. In 1852, San Diego organized into a county; in 1853, San Bernardino followed suit. Riverside County would be formed in 1893, carved out of portions of San Bernardino and San Diego counties.

The completion of the Southern Pacific Railroad's transcontinental railroad in 1869 opened California to agricultural settlement and brought the previous era of large-scale ranching to a close. The arrival of the Southern Pacific across the San Gorgonio Pass and into the San Bernardino Valley resulted in a dramatic influx of new settlers into what is now western Riverside County. The Riverside Colony was founded in 1870, and agricultural lands in the region quickly began to be settled by homesteaders. The Riverside Land and Irrigating Company soon established a series of canal systems, tapping water from the Santa Ana River. With a much-needed, reliable water supply, the settlers could focus on irrigation and agriculture. Perhaps one of the most influential early settlers in western Riverside County during this period was Eliza Tibbets who planted the first two navel orange trees, acquired from Brazil, in the Riverside Colony. Mrs. Tibbets' oranges flourished and provided the bud grafts for the

Washington Navel Orange, setting the foundation for western Riverside County's highly successful citrus industry.

During the 1880s and 1890s, similar to the phenomena occurring in the area surrounding the Riverside Colony, irrigation canals were built, and the regional citrus industry took root in the fertile valleys of the surrounding region. The arrival of reliable water sources coincided with the arrival of a second transcontinental railroad; in 1882, construction of a competing rail line into Southern California was underway, financed by the Atchison, Topeka, and Santa Fe Railway Company. The line of a Santa Fe subsidiary, the California Southern, was built from San Diego to the site of Perris and on to Riverside and San Bernardino in 1882. A second Santa Fe subsidiary, the Atlantic and Pacific Railroad, extended a line west from Albuquerque, then connected San Bernardino and Los Angeles; this connection was opened as of May 1887. The eastern United States was now readily accessible via Los Angeles. The establishment of a second competing railroad line from the Midwest to Los Angeles in 1886 triggered a land boom in Southern California during the late 1880s, which finally brought substantial settlement to the region.

Population rose dramatically as railroads, citriculture, ranching, and readily available land enticed more Americans and Europeans to settle in Southern California. By the late 1880s and early 1890s, conflicts and discontent between the cities of Riverside and San Bernardino led to the establishment of a new county. Portions of the Temecula and San Jacinto valleys, then in San Diego County, joined with the residents of Riverside to form a new county seat in May 1893, leading to the formation of Riverside County (Greenwood et al. 1993:34).

During the years from about 1908 through American entry into World War I in 1917, there was renewed interest in farm settlement and farming in California and elsewhere in the western U.S. This was reflected in a sharp surge in Homestead filings on remaining public lands in rural California at that time. There was an increase in the turnover of property during that time, including the purchase of farms by individuals making a move from the city to the country. Two factors that helped contribute to this kind of move were the increased use of the automobile, which decreased the isolation of rural living, and the brighter financial prospects for farming during the World War I years. The outbreak of war in Europe in 1914 drove international commodity prices sharply upward, providing a bonanza for grain farmers.

The decade of the 1920s offered regional urban growth in Southern California that was helpful to many farmers in the region. However, it also brought sustained national declines in the prices of many agricultural commodities due to major increases in agricultural production in the U.S. and elsewhere. Turnover in land ownership during the 1930s and the eventual recovery of agricultural prices by the eve of World War II was followed by the disruptions of the exodus of younger people into military service or leaving to work in urban areas. Water from the Colorado River Aqueduct was piped to the region beginning in the early 1940s. Alfalfa, potatoes, watermelons, and sugar beets soon after became the mainstay of farming in many parts of the region.

The post-World War II era ushered in a boom in commercial, industrial, and residential development in and near the region's urban centers, followed by the construction of several freeways linking urban areas to one another. As urban areas were spread outward by

development, once-rural areas took on a more semi-rural character, dotted by small "mini-ranch" subdivisions. In more recent years, housing and urban development have spread outward from urban areas and swallowed up former agricultural land at an exponential rate, forever changing the character of the region. Substantial growth over the last few decades has necessitated the construction of numerous artificial lakes, reservoirs, and other forms of municipal water storage. During the first decade of 2000, inexpensive land and housing transformed many of the towns in southwestern Riverside County into "bedroom" communities for those working in Los Angeles and San Diego counties. Increased population and automobile traffic has resulted in the need for construction of new roads, as well as expansion and improved safety of many of the pre-existing roads throughout the region. The over-expansion of the housing market, and ultimate crash in 2007, led to a shift in the region's development trend in recent years to increase infrastructure projects to support the population growth.

2.4.4 City of Banning

Banning is located in the San Gorgonio Pass, the principal opening between the San Bernardino Mountains to the north and the San Jacinto Mountains to the south that allows east-west travel between the coast and desert regions. As such, it was the route of early trails and stage roads, as well as the Southern Pacific Railroad and Interstate 10 (I-10).

The Land Office survey map from 1855 depicts no settlement in the area, but a wagon road is shown traversing Sections 9 and 10 and joins an "Old Indian Trail" in the southwest corner of Section 12, just north of what is now Smith Creek. One habitation, labeled as Holt's House, was located to the northwest of the area where Banning would later be located (General Land Office [GLO] 1880).

In the 1870s, the construction of the Southern Pacific Railroad through the San Gorgonio Pass drew further settlement to the area. In 1875, Milton Sanders Hall contracted with the Southern Pacific to grade the railroad route through the San Gorgonio Pass. In the same year, he agreed to provide the wood needed for the railroad ties, and also to power the steam engines used by the construction crews. Timber was available in the San Jacinto Mountains. Hall found a location for a lumber camp (Hall's Camp) near what is now called Hurley Flats. He laid out a road from the camp to the base of the mountain, which became Hall's Grade. It was a steep, narrow road with several switchbacks. A small town, Hall's City, was established at the base of the road. The lumber operation was initially successful, but the road was extremely dangerous for the men and teams hauling the logs down the mountain:

> Several teamsters hauled lumber down the grade to the railroad. This was rather a daredevil job, for besides the regular brakes and roughlocks they had to tie logs and trees on behind loads to drag in the dirt and thus keep the loads off the rumps of the horses. Yet even then there were accidents. At least two men lost their lives on the downward trip, and several teams and wagons were dashed to destruction [Hughes, in (Lech 2004:252)].

Ultimately the operation failed. The costs to harvest and transport the timber were too high for any profits to be made. Hall then began a second venture, the San Gorgonio Fluming Company, to bring lumber to the railroad from Moore Canyon, approximately 12 miles north of the railroad

grade. A “massive, eighteen-inch V-shaped flume” was constructed to bring the lumber to the railroad (Lech 2004:253).

Banning, originally Moore City, was founded in early 1877, near the “confluence” of the railroad and the flume (Lech 2004:254). By July of the same year, the name was changed to Banning. The 1886 Land Office map clearly shows Banning located north of the Southern Pacific Railroad, as a town of about four blocks east-west and three blocks north-south. The Banning Land and Water Company flume is depicted traveling north from town along what is now San Gorgonio Avenue. Grain fields and isolated cabins and houses are depicted around Banning, particularly southwest of town. The Bradshaw Stage Route, which was located north of Banning, is no longer shown on the map (GLO 1886). The first commercial grain crop was barley; subsequently both oats and wheat were also successful cash crops (Hughes 1938:205). At the same time that farmers and ranchers settled in Banning, it also became known as a health resort. In 1888, the town was described as “unsurpassed” as a resort, with water “as pure as ever flowed from Nature’s fountain” (quoted in Lech 2004:259). In 1890, the Sisters of St. Joseph founded the St. Boniface Indian School near Banning (Deferrari 1942:541).

Incorporated in 1913, Banning was similar to many other small towns throughout Southern California and the country, proud of every achievement, eager for further growth and development in a positive way, and full of hope for the future. Banning continued to grow both as an agricultural area and as a resort. In the 1920s, Banning’s population was around 3,000 (Banning Chamber of Commerce 1927). In that decade, almond trees, at the peak of their success in California, were grown on approximately 1,000 acres in and around Banning; the area was considered the largest almond-growing region in Southern California (Holtzclaw 2005:25, 41). At the same time, Banning had maintained its reputation as a “health haven…as attested by the sanitariums and private rest homes in and near the city” (Hughes 1938:205).

In 1931, the news of the construction of the Colorado River Aqueduct (CRA) by the Metropolitan Water District of Southern California (MWD) was well received in Banning. In anticipation of the economic boost the city would receive, “Banning staged a victory jubilee in celebration of the voting of bonds for aqueduct construction” (Hughes 1938:59). The MWD field headquarters were located at the intersection of San Gorgonio Avenue and the Union Pacific Railroad. Construction work for MWD headquarters began in 1932.

Through the years of the Great Depression, Banning was home to the MWD engineer’s field office. In addition, the concrete testing laboratory was located in Banning. Boring the San Jacinto Tunnel began in 1933 and continued until the “holing through” on November 18, 1938. The tunnel was then lined with concrete; on October 14, 1939, a ceremony marking the official completion of the aqueduct was held at the West Portal of the San Jacinto Tunnel (Gruen 1998). During these seven years, the headquarters provided a boost to the local economy, as did the construction workers who lived in the town and commuted to work.

At the beginning of World War II, General George C. Patton established the Desert Training Center in the Mojave Desert in eastern Riverside and San Bernardino counties. In Banning, a 1,000-bed hospital, aid station, and artillery range contributed to the training effort. During the war, 1.6 million people moved to California to work in war industries, and many of the servicemen trained in the state settled in Banning after the war was over (Starr 2005:237). By

1962, California had the highest population of any state. The region experienced a boom in housing subdivisions, commerce, and industry. The City of Banning, positioned along the Southern Pacific Railroad and U.S. Highway 60/70/99, grew substantially during the post-war boom period (USGS 1956). Banning also appealed to the elderly and became known as a retirement community during the 1960s. Sun Lakes Country Club, a large retirement village, is home to about 6,000 residents (Holtzclaw 2005:8).

Banning's growth continues to rise into the present day due to investments in capital improvements projects which include over 4,000 new housing units (City of Banning 2019). Currently, the City of Banning is home to an estimated population of 31,253 according to the United States Census Bureau (2018).

3
SOURCES CONSULTED

The following section detail the sources consulted during the pre-field research portion of the Project. These include a cultural resource literature and records search and historical map review of the APE.

3.1 CULTURAL RESOURCE LITERATURE AND RECORDS SEARCH

As part of the cultural resource constraints analysis for the Project, Æ conducted an archaeological literature and records search at the Eastern Information Center (EIC) of the California Historical Resource Information System (CHRIS), housed at the University of California, Riverside on September 16, 2019. The objective of this records search was to determine whether any prehistoric or historical cultural resources have been recorded previously within an area encompassing a 1-mile-wide radius of the APE (Study Area). The records search indicated 16 cultural resource studies have been conducted previously within the Study Area (Table 3-1). Four of these studies specifically involved portions of the APE. As a result, 100 percent of the APE has been previously studied. In addition, one of the previous investigations (Table 3-1; RI-08449) conducted a sensitivity assessment for archaeological resources, which concluded the Project is within an area of low archaeological sensitivity (Tang et al. 2004).

Table 3-1
Previous Cultural Resource Investigations in the Study Area

Author(s)	Date	EIC Reference #	Title
Greenwood, Roberta S.	1975	RI-00161	Paleontological, Archaeological, Historical, and Cultural Resources, West Coast-Midwest Pipeline Project, Long Beach to Colorado River
Chace, Paul G. and Don Laylander	1980	RI-00816	An Archaeological and Historical Assessment of Areas 1 and 4 of Amendment Number 1 to the Banning Downtown Redevelopment Project
Scientific Resource Surveys, Inc.	1986	RI-01432	Archaeological Report on Grading Monitoring Activities at Stewart Ranch, Riverside County, California
Scientific Resource Surveys, Inc.	1985	RI-01433	An Historical Study of Stewart Ranch in Riverside County, California
Scientific Resource Surveys, Inc.	1981	RI-01434	Cultural Resources Report on 900 Acres Parcel (Portion of the Old Stewart Ranch) Located in the Banning/ Beaumont Area, Riverside County, California
Apple, Rebecca McCorkle, and Jan E. Wooley	1988	RI-02350	MCI Rialto to El Paso Fiber Optics Project - Intensive Cultural Resource Survey - San Bernardino and Riverside Counties, California
White, Robert S.	1990	RI-03039	An Archaeological Assessment of the "Sunset Crossing" Project, A 294.8 Acre Parcel as Shown on TPM 25541, Located Immediately South of the I-10 Freeway at Sunset Avenue in Banning, Riverside County, California.

Table 3-1
Previous Cultural Resource Investigations in the Study Area

Author(s)	Date	EIC Reference #	Title
Michael Brandman Associates	2004	RI-04720*	Phase I Cultural Resource Survey and Historic Site Significance Evaluations for the Sunset Crossing Project Footprint, South Banning Area, County of Riverside, California
Tang, Bai "Tom," Josh Smallwood, and Melissa Hernandez	2007	RI-07339*	Identification and Evaluation of Historic Properties: Wastewater Treatment Plant Expansion and Recycled Water System, City of Banning, Riverside, California
McLean, Roderic, Shannon Carmack, Jay Michalsky, and Judith Marvin	2006	RI-07970*	A Study of the Past in San Timoteo Canyon and San Gorgonio Pass: Cultural Resource Assessment Oak Valley Substation Project, Riverside County
McLean, Robert, Shannon Carmack, Jay Michalsky, and Judith Marvin	2008	RI-08011	Final Cultural Resources Assessment, Study of the Past in San Timoteo Canyon and San Gorgonio Pass: Oak Valley Substation Project Riverside County
McLean, Roderic, Shannon Carmack, Phil Fulton, Maria Aron, Jay Michalsky, Daniel Ewers, Casey Tibbet, and Brook Smith	2008	RI-08012	Supplemental Cultural Resource Assessment, Oak Valley Substation Project, San Bernardino and Riverside Counties
Bonner, Wayne H., and Arabesque Said	2009	RI-08315	Letter Report: Cultural Resource Records Search and Site Visit Results for T-Mobile USA Candidate IE04452A, 2909 West Lincoln Street, Banning, Riverside County, California
Tang, Bai "Tom," Michael Hogan, Josh Smallwood, and Terri Jacquemain	2004	RI-08449*	Cultural Resources Technical Report: City of Banning General Plan
Brunzell, David	2013	RI-09540	Cultural Resources Assessment Rancho San Gorgonio Planned Community Project City of Banning, Riverside County, Riverside County, California
McKenna, Jeanette A.	2018	RI-10478	A Phase I CEQA/Class III NEPA (NHPA Section 106) Investigation for the 6th/Maple Septic Conversion Project in the City of Beaumont, Riverside Co., California

*Investigations that involved portions of the APE

These studies resulted in the identification of a total of 44 cultural resources within the Study Area (Table 3-2). Eight of the resources are archaeological and 36 are built-environment resources. The archaeological resources all date to the historic period—one isolated concrete chute remnant, three water-conveyance systems, two refuse scatters, foundations, and a segment of the old Banning Trade Route/6th Street. The 36 built-environment resources include historical houses, commercial buildings, and a segment of the Union Pacific Railroad. Portions of two of these resources are documented within the APE. These resources are briefly described below and in more detail in Appendix A.

Table 3-2
Cultural Resources in the Study Area

Primary	Trinomial	Description
Historic Archaeological Sites		
33-013779*	CA-RIV-7544	Water-control system
33-014366	CA-RIV-7815	Water-diversion system
33-014367	CA-RIV-7816	Foundations and structural pads
33-014368	CA-RIV-7817	Refuse scatter
33-025805		Refuse scatter
33-025806		Remnants of a water-conveyance system
33-028614		Segment of old Banning Trade Route/6th Street
Isolated Historic Finds		
33-025808		Remnants of a concrete chute
Built-Environment Resources		
33-009100		1933 Log house
33-009176		1920 Craftsman bungalow (this resource is within 33-13778)
33-009498	CA-RIV-6381	Union Pacific Railroad
33-013778*		Ranch house and barn complex
33-015818		California Ranch style house
33-015819		California Ranch style house
33-015820		1920 Craftsman bungalow
33-015821		California Ranch style house
33-015822		California Ranch style house
33-015823		California Ranch style house
33-015825		California Ranch style house
33-015826		California Ranch style house
33-015827		California Ranch style house
33-015828		California Ranch style house
33-015829		California Ranch style house
33-015830		California Ranch style house
33-015831		California Ranch style house
33-015833		Minimal Traditional duplex family property
33-015835		California Ranch style house
33-015837		California Ranch style house
33-015838		California Ranch style house
33-015839		Vernacular style commercial building
33-015840		Vernacular style house
33-015841		California Ranch style house
33-015842		California Ranch style house
33-017729		Vernacular style single house
33-017735		Vernacular style single house
33-017736		1950s Single family property
33-017737		Vernacular style farm property

Table 3-2
Cultural Resources in the Study Area

Primary	Trinomial	Description
33-017738		1960s L-shaped commercial building
33-017739		1950s commercial building
33-017742		1950s cinder block commercial building
33-017743		1950s commercial building complex
33-017744		1960s commercial building complex
33-017745		1960s commercial building complex
33-017748		Late 1950s commercial building complex

* Cultural resources within the APE.

3.2 CULTURAL RESOURCES WITHIN THE APE

3.2.1 33-013778

Site 33-013778 is a large farm/ranch complex, which included five foundations, two Craftsman structures and a barn at the time of the last professional site visit in 2004. As documented by Michael Brandman Associates (Taniguchi and Dice 2004), the five foundations are located on the west side of 33-013778 within the APE. The Craftsman structures and the barn are located on the east side of the site and outside of the APE. Only the west half of this site has been evaluated formally for listing on the CRHR and the NRHP. The portion of the site within the APE was recommended ineligible for listing on the NRHP and CRHR (Taniguchi and Dice 2004).

3.2.2 33-013779 (CA-RIV-7544)

Site 33-013779 (CA-RIV-7544) is a large historic water-control complex consisting of 39 features. Some of these features are mapped within the APE. Also documented and evaluated by Michael Brandman Associates, this site was recommended as ineligible for listing on the NRHP and CRHR (Messick and Dice 2004).

3.3 HISTORICAL MAP REVIEW

In addition to the EIC research, *Æ* also consulted the 1901 San Jacinto 30-minute USGS topographic quadrangle map, the 1943 and 1956 Banning 15-minute USGS topographic quadrangle maps, and the 1953 Beaumont 7.5-minute USGS topographic quadrangle map to assess historical land uses in the Study Area. The 1953 Beaumont 7.5-minute USGS topographic quadrangle map exhibits two houses and outbuildings outside and to the south of the APE, on the corner of Sunset Avenue and Westward Avenue. The same structures are also on the 1956 Banning 15-minute USGS topographic quadrangle map. No structures, roads, or other features of historical interest are shown within, or in the vicinity of, the APE on any of the reviewed historical maps.

4
NATIVE AMERICAN COMMUNICATIONS

Æ contacted the NAHC on September 13, 2019 for a review of the SLF to determine if any known Native American cultural properties (e.g., traditional use or gathering areas, places of religious or sacred activity) are present within or adjacent to the APE. The NAHC responded on September 24, 2019, stating the SLF search was completed with negative results. The NAHC requested *Æ* contact Native American individuals and organizations to elicit information regarding cultural resource issues related to the Project, if any.

Upon review of the Native American contact list and after removing redundancies, *Æ* narrowed the list to 13 individuals and organizations traditionally and culturally affiliated with the geographic area where the Project is located. *Æ* sent a letter via electronic mail on September 7, 2020 describing the Project and asking these individuals and organizations for their input. Copies of the letters, the list of contacts, and received responses are included in Appendix B. *Æ* sent follow-up email correspondence on September 30, 2020 to the organizations who had not responded to the initial request on September 7, 2020.

Individuals/organizations contacted include:

- Patricia Garcia-Plotkin, Director of the Tribal Historic Preservation Office for the Agua Caliente Band of Cahuilla Indians
- Amanda Vance, Chairperson of the Augustine Band of Cahuilla Mission Indians
- Doug Welmas, Chairperson of the Cabazon Band of Mission Indians
- Daniel Salgado, Chairperson of the Cahuilla Band of Indians
- Shane Chapparosa, Chairperson of the Los Coyotes Band of Cahuilla and Cupeño Indians
- Ann Brierty, Tribal Historic Preservation Officer for the Morongo Band of Mission Indians
- Donna Yocum, Chairperson of the San Fernando Band of Mission Indians
- Joseph Hamilton, Chairman of the Ramona Band of Cahuilla
- Ryan Nordness, Cultural Resources Analyst for the San Manuel Band of Mission Indians
- Steven Estrada, Chairman of the Santa Rosa Band of Cahuilla Indians
- Mark Cochrane/Wayne Walker, Co-Chairperson of the Serrano Nation of Mission Indians
- Joseph Ontiveros, Tribal Historic Preservation Officer/Cultural Resource Department for the Soboba Band of Luiseño Indians
- Michael Mirelez, Cultural Resource Coordinator for the Torres-Martinez Desert Cahuilla Indians

As of the date of this report, *Æ* had received four responses. Ryan Nordness, Cultural Resource Analyst for the San Manuel Band of Mission Indians, responded stating the Tribe does not have any knowledge of cultural resources within the Project. Linda Flaxbeard, Chief Financial Officer

for the Santa Rosa Band of Cahuilla Indians, responded stating the Project is outside their Traditional Use Area and reservations and the Tribe will not be commenting on the Project. Patricia Garcia-Plotkin, Director of the Tribal Historic Preservation Office for the Agua Caliente Band of Cahuilla Indians, responded stating the Tribe requests all documentation related to the Project (site records and report). Judy Stapp, Director of Cultural Affairs for the Cabazon Band of Mission Indians, responded stating the Tribe does not have any knowledge of site information for the Project.

5
CULTURAL RESOURCE SURVEY METHODS AND RESULTS

The following sections detail the methods and results of the cultural resource surveys for the Project. The information provided below represents the means by which conclusions regarding archaeological sensitivity of the APE were reached.

5.1 2020 SURVEY METHODS AND RESULTS

Æ Associate Archaeologist Evan Mills performed an intensive pedestrian field survey of the 13.7-acre APE on September 4, 2020. The survey was completed in two transects spaced 10 meters apart, beginning on the east end moving west and back to the east. All portions of the APE were accessible and surveyed systematically.

The APE is situated immediately north of the currently unpaved segment of Westward Avenue. The area is primarily ranch land with CA-RIV-7544 and 33-013788 associated with ranching/farming activities. Most of the APE is overgrown with weeds and annual vegetation resulting in poor ground visibility (0–25 percent) (Figure 5-1 and 5-2). Evidence of widespread subsurface disturbance within the APE and immediate vicinity was observed during the survey. For instance, two buried, high-volume gas pipelines (Figure 5-3) are within portions or immediately adjacent to the APE. Also, grading equipment is presently used to regularly maintain the unpaved condition of Westward Avenue. Large amounts of modern refuse and evidence of homeless encampments exist within Smith Creek and the unnamed tributary to the east within the APE.

Soils observed within the APE are consistent with the mapped soils of the area (see Section 2.1). If intact, the soils do have potential for buried archaeological deposits; however, all other archaeological sensitivity indicators reflect low potential for buried archaeological resources. Previous cultural reporting suggests low to moderate archaeological sensitivity (Tang et al. 2004). There are no documented prehistoric resources within 1-mile of the APE. Previous reporting indicates known prehistoric sites in the San Gorgonio Pass region are located at the base of foothills of the two large mountain ranges (San Jacinto and San Bernardino) that bracket the pass (George et al. 2017). These factors, in addition to the surface (grading) and sub-surface (pipelines, ranching) disturbances, indicate a low likelihood of discovering and disturbing intact and significant cultural resources during Project construction.

Æ's field archaeologist did not encounter any archaeological deposits or features during the survey, including any associated with either of the two previously recorded cultural resources. CA-RIV-7544 and 33-013778 were observed from a distance (multiple features from both sites were visible from the APE, some 20–30 meters away); however, none of the features of these sites are within the APE (Figure 5-4). Both sites have been evaluated previously and recommended as ineligible for listing on the NRHP or CRHR (Messick and Dice 2004; Taniguchi and Dice 2004). Site record updates were prepared as part of the current investigation and can be found in Appendix A.



Figure 5-1 Overview from the east side of the APE looking west.



Figure 5-2 Overview from the west side of the APE looking east.



Figure 5-3 Overview of Smith Creek showing Gas Pipelines (facing east).

5.2 2022 SUPPLEMENTAL SURVEY METHODS AND RESULTS

A supplemental survey of 12 additional acres added to the APE was conducted by Æ Archaeologist Pat Moloney on March 31, 2022. The survey was completed employing an east-west parallel pedestrian transect through the center of each tract, with deviations to account for expansions and pop outs of the APE.

The general APE is a less than 3 degree sloping section of undeveloped land of north-south aspect. The topography changes from somewhat level terraces, deeply incised by narrow, north-south oriented gullies in the western half of the APE, to larger, broader washes in the eastern section. Soils are sandy loams throughout; the sands of the terraces being coarser than the finer sands of the washes. Smaller granitic cobbles, rocks, and gravels of high quartz content are scattered throughout. Somewhat difficult terrain and dense groundcover placed visibility between 0–40 percent. Whereas the area north of Westward Avenue appears mostly intact, the section south of Westward Avenue has been utilized for cattle ranching and much of the vegetation has been reduced or replaced by grazing.

Various structures, both modern and historic, are present in the vicinity of the APE. CA-RIV-7544 and 33-013778 were observed from a distance; however, none of the features of these sites are within the APE. Modern structures relating to power production and distribution, including high pressure gas pipelines, utility power lines and attendant infrastructure were also observed in the vicinity of the APE. Modern refuse, vehicle tires and parts, and large concrete piles of rubble are scattered throughout APE. No previously unrecorded cultural resources were noted during the supplemental survey of the APE.

5.3 2024 SUPPLEMENTAL SURVEY METHODS AND RESULTS

The APE was realigned and a supplemental survey of 10.6 acres was conducted by Æ Archaeologist Andrew DeLeon on April 3, 2024. The survey was completed employing 15-meter east-west parallel pedestrian transects moving northward through the APE. While surveying, DeLeon photographed the APE at various locations to document its current condition. Any newly identified resources were to be photographed and mapped with an Arrow 100 global navigation satellite system receiving unit and iPad. DeLeon also visited the locations of the previously recorded cultural resource mapped within the APE.

The entire APE ground visibility was poor throughout most of the survey due to overgrown vegetation consisting of broadleaf filaree, hairy vetch, and California buckwheat (Figure 5-4). Within the northern boundary of the APE, DeLeon reidentified site CA-RIV-7544 and encountered sparse concrete debris but was uncertain if the debris was modern or associated with the site. Additionally, DeLeon reidentified site 33-013778 and observed no changes to the site. No other cultural resources were identified during the survey (Figure 5-5).



Figure 5-4 Overview of the APE from west side of drainage channel facing east.

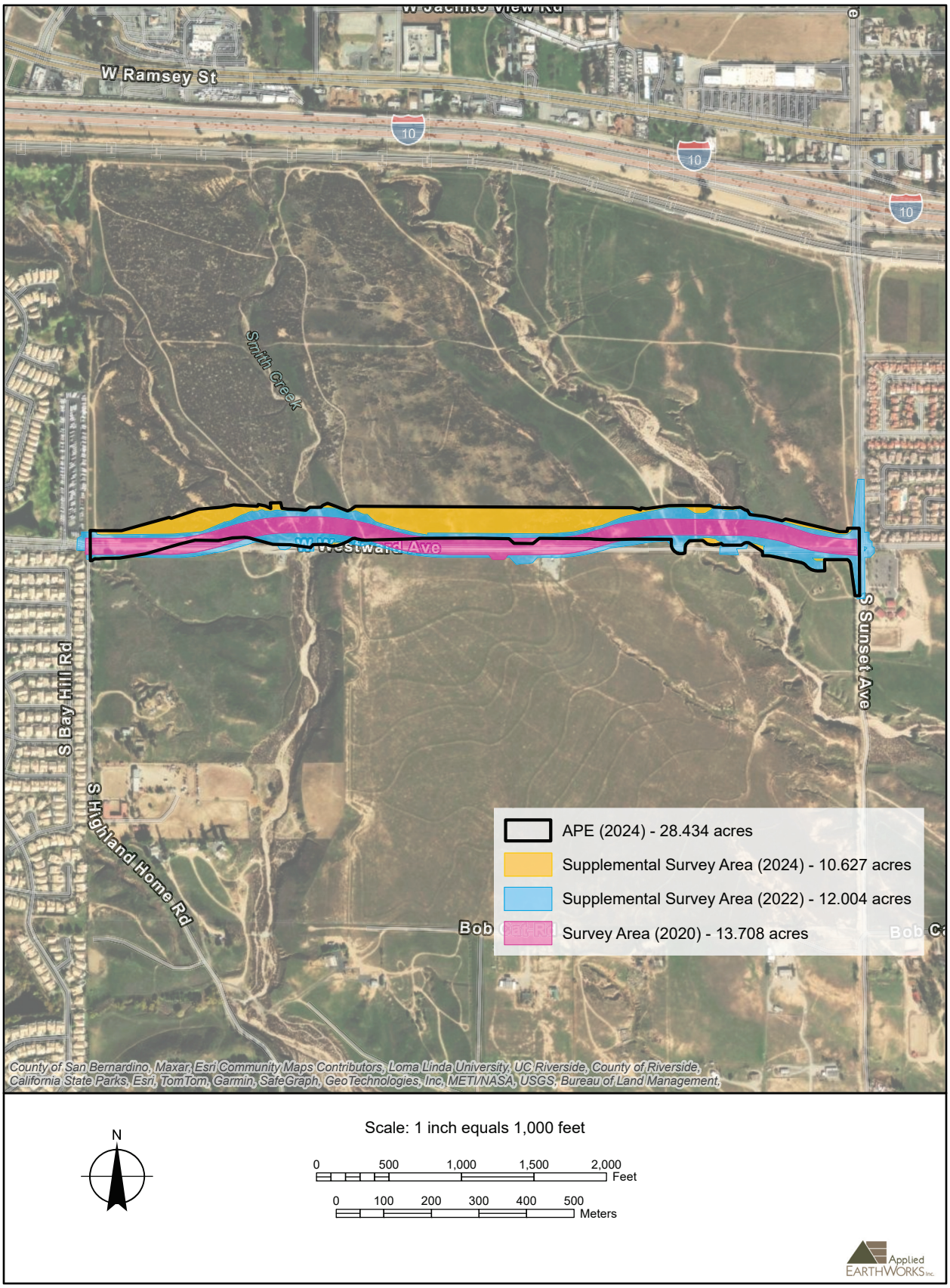


Figure 5-5 Survey coverage.

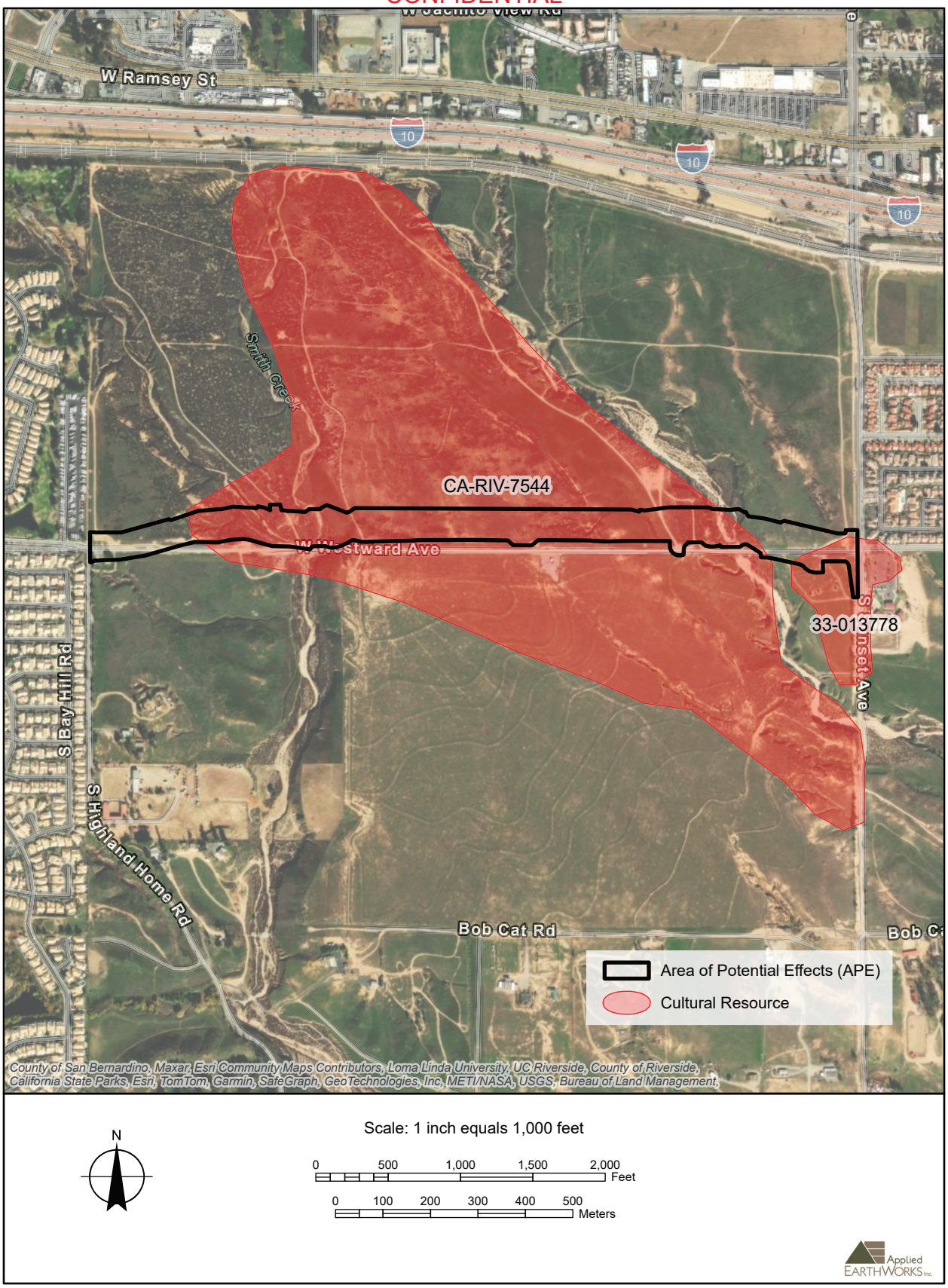


Figure 5-6 Cultural resources within the APE.

6
MANAGEMENT RECOMMENDATIONS

The desktop analysis portion of the Phase I cultural resource assessment identified two previously documented historical archaeological sites (33-13788 and 33-13789) within the APE. A previous evaluation of the historical archaeological sites recommended neither resource as eligible for listing on the NRHP or CRHR. Æ concurs with the previous investigators' eligibility recommendations and no further management of CA-RIV-7544 and 33-013778 is recommended. No additional cultural resources were encountered within the APE during Æ's Phase I surveys.

The ground surface throughout portions of the APE has been disturbed by road grading, gas pipelines, and historic ranch activity. Geological data indicate a mixture of alluvial soils with some potential to contain buried archaeological material. However, no Ab (buried) horizon is described for the soil series within the APE. In addition, buried pipelines, road grading, and ranching/farming have disturbed the APE. There are no documented prehistoric resources within a 1-mile radius of the APE. Finally, one of the previous investigations that involved the APE conducted a sensitivity assessment for archaeological resources and concluded the APE is within an area of low archaeological sensitivity. Therefore, intact and significant buried archaeological deposits are unlikely, and Æ recommends a finding of No Historic Properties Affected for the Project. Consequently, no further cultural resource management of the APE is recommended.

It should be noted that the Agua Caliente Band of Cahuilla Indians requested a project description, a copy of the records search with associated reports and records from the EIC, and copies of cultural resource documentation (report and site records) produced by Æ. The San Manuel Band of Mission Indians will not be requesting consulting party status or participation in the scoping, development, and/or review of documents since the Project is outside of their ancestral territory. The Cabazon Band of Mission Indians does not have any information of resources in the APE and will not provide further comment on the Project. The Santa Rosa Band of Cahuilla Indians stated the Project is outside their Traditional Use Area and Reservation, and they will not be consulting.

In the event that potentially significant archaeological materials or possible human remains are encountered during construction, all work must be halted in the vicinity of the discovery until a qualified archaeologist can visit the site of discovery and assess the significance and integrity of the find. If intact and significant archaeological remains are encountered, the impacts of the Project must be mitigated appropriately. Any such discoveries, and subsequent evaluation and treatment, should be documented in a cultural resource report, which would be submitted to the EIC for archival purposes. Additionally, Health and Safety Code Section 7050.5, CEQA Guidelines Section 15064.5(e), and PRC Section 5097.98 mandate the process to be followed in the unlikely event of an accidental discovery of human remains in a location other than a dedicated cemetery.

Finally, if the APE is expanded to include areas not covered by this survey or other recent cultural resource studies, additional cultural resource investigations may be required.

7
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APPENDIX A

Confidential DPR Forms

This Continuation Sheet provides supplemental information to the existing site record. It does not replace the previous record generated for this site.

***P2. d. UTM:** NAD 83, **Zone** 11; 508179 **mE** / 3752800 **mN**

***P3a. Description:** Applied EarthWorks, Inc. (Æ) revisited site 33-013778 and found it consistent with the description in the original record from December 2009 and again in September 2020: a large farm/ranch complex, which included five foundations, two Craftsman structures, and a barn. The five foundations are located within the APE on the west side of 33-013778. The Craftsman structures and the barn are located on the site's east side and outside of the APE. Only the west half of this site has been evaluated formally for listing on the CRHR and the NRHP. The portion of the site within the APE was recommended as ineligible for listing on the NRHP and CRHR. No additional resources were identified when Æ staff revisited the site location, and the 2009 and 2020 records were unaffected.

***P8. Recorded By:** A. DeLeon, Applied EarthWorks Inc., 3550 E. Florida Ave., Ste. H, Hemet, CA 92544

***P9. Date Recorded:** 04/03/2024

***P10. Survey Type:** ☒ Intensive ☐ Reconnaissance ☐ Other
Describe: Phase I Pedestrian Survey

***P11. Report Citation:**
Jessica Cochrane
2024 Phase I Cultural Resource Assessment for the Sun Lakes Boulevard Realignment Project in the City of Banning, Riverside County, California. Report on file at the Eastern Information Center, University of California, Riverside.

***Attachments:** ☒ NONE ☐ Location Map ☐ Sketch Map ☐ Continuation Sheet
☐ Building, Structure, and Object Record ☐ Archaeological Record ☐ District Record ☐ Linear Feature Record
☐ Milling Station Record ☐ Rock Art Record ☐ Artifact Record
☐ Photograph Record ☐ Other (list):

This resource was visited on September 4, 2020 as part of the survey for the ***Sun Lakes Boulevard Realignment Project*** (Mills 2020). Although this Project traverses the western boundary of the site, none of the mapped features are present within the current Area of Potential Effects (APE). Some of the features were visible to the south from the current APE and appeared in the same condition as the most previous update. The site has been previously evaluated (Taniguchi and Dice 2004) and found in-eligible for inclusion in either the NRHP or CRHR. No further management is required for this resource.

Taniguchi C. and M. Dice
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33-13778

None

ALSO SEE

33-9176

EIC FORMS\SeeAlso.frm.wpd
March 11, 2004

State of California — The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
PRIMARY RECORD

Primary # 33-13778
HRI #
Trinomial: none
NRHP Status Code 6Z

Other Listings | Review Code | Reviewer | Date

*Resource Name or #: SC #1

P1. Other Identifier: partly 3176 and 3190 Westward Street, Banning. Also P#33-9176.

***P2. Location:** ☐ **Not for Publication** ☒ **Unrestricted** ***a. County:** Riverside

***b. USGS 7.5' Quad:** Beaumont, CA **Date:** 1988photorev **T.**3S ; **R.**1E ; NW¼ of NW¼ of Section 17 and the NE ¼ of the NE ¼ of Section 18; S.B.B.M.

c. **Address:** partly 3176 and 3190 Westward Street **City:** Banning **Zip:** 92220

d. **UTM:** Zone: 11; 508179 mE/ 3752800 mN (G.P.S.) (centerpoint, NAD 1927)

e. **Other Locational Data:** The site includes three structures located at the southeast corner of Westward and Sunset in APN #532160012, along with historic foundations west of that intersection in APN #543090008. **Elevation:** 2420 feet

***P3a. Description:** Five structure foundations are located within Sage project footprint. Three additional buildings (A, B, C) are located outside the project footprint. The site is located near the corner of Sunset Avenue and Windward Street, and represents a large farm/ranching complex. Sunset Avenue south of the railroad tracks once represented a simple dirt driveway to this site. Half of the site is located within the project footprint, while the other half is located east of Sunset. The Riverside County Historical Survey Commission recorded site P #33-9176, a 1920's house located at 3190 Westward Avenue, in 1988. This structure is part of the old homestead site SC #1. The structures lying outside the Sage project footprint have not been officially recorded, but reconnaissance-level descriptions of the off-site properties are offered herein. Feature 1-5 are located within the potential area of direct effect for the Sage project, while structures A, B and C are located east of Sunset Avenue. The latter features will not be directly affected by construction within the Sage footprint.

Feature 1. Structure foundation

The feature consists of the remains of a poured concrete floor/foundation with dimensions of 30' NS by 20' EW. The feature has a smooth finished floor surface incised with 6' by 6'8" squares, mostly intact, with roughly 1/3 of the total floor area (in the NW) covered with soil overburden. The SW corner is exposed to a depth of 17" below the floor surface. Several ½-inch diameter bolts imbedded on the surface of the feature's south end perimeter suggest a superstructure of some kind. The rectangular shaped feature is located alongside Sunset Avenue and lies south about 125 feet from the private dirt and gravel road that represents a western continuation of Westward Avenue. A wooden post, slat and barbwire fence, that runs parallel to Sunset Avenue, is adjacent to the feature. The fence runs about 7'from the west side of the foundation, continuing north to the private road. Inside the fence, about 20' north of Feature 1, lies a cylindrical shaped metal tank on its side with dimensions of 12' long by 4' in diameter. Made of thick metal panels riveted together, the tank has two circular cutouts on one end. Because it is possible that the margins of Sunset Avenue shall be changed as a result of the development, this feature may be impacted by construction.

Feature 2. Structure foundation

This feature consists of the remains of a concrete and stone foundation with dimensions of 22' NS by 13' EW. Located on a small hill, sloping downward north to south, the rectangular shaped feature is 16 feet south of Feature 1 and adjacent to the eastern margin of the project area. The foundation walls average about 10" thick on top, becoming thicker with depth and taper out on the inside bottom. The surface of the inside walls of the feature are somewhat "finished," with a whitish-gray colored rough mortar layer of unknown thickness. Conversely, the outside walls reveal a rough concrete and stone surface and show, in several places, imprints from the original wooden forms utilized in the construction of the foundation. Damage has occurred in the form of an irregular shaped hole in the feature's south wall near the bottom. The feature's inside depth measures about 5' and, because of the missing floor and superstructure, has become a repository of trash including several discarded chairs and corrugated tin sheets. Debris also surrounds the feature: chunks of concrete lie on the surface adjacent to the south foundation wall; several rusted metal "stove pipe" sections about 20" in diameter (one over 20' long), lie on the surface about 25' to the west. Because it is possible that the margins of Sunset Avenue shall be changed because of the development, this feature may be impacted by construction.

Feature 3. Structure Foundations.

Feature 3 consists of the remains of two poured concrete floor/foundations with dimensions of 12' square each. Partially covered with soil, their depth unknown, both foundations are parallel with one another and 12' apart and would appear to have been in association. Both are located in a relatively flat, level area adjacent to a barbwire fence, with the north foundation about 50' downhill (south) of Feature 2. Sunset Avenue lies about 50' to the east. The modern ground surface surrounding the feature has been recently plowed or disked. Inside the fence is a pile of discarded wood with several pieces in the form of constructed wall and/or roof sections that may represent part of the features superstructure. The south foundation is roughly 25' north of a gravel access road that intersects with Sunset Avenue and provides entrance onto the property through a gate in the barbwire fence.

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Feature 4. Barn foundation

This feature consists of a large concrete slab footer, telephone poles, telephone pole-size holes, and discarded woodpiles. The main portion of the feature is a large 3-sided, U-shaped slab footing with outside dimensions of 114' long by 34½' wide. With an open "front" facing to the east, the feature is located in a flat, sparsely grassy/weed covered area about 150' east of one of the intermittent stream channels that bisect the Sage project footprint. It is also located about 275' west of Features 1 and 2. Presently enclosed on the east, west and north sides by a barbwire fence, postholes are located on the south side indicating the feature was once entirely enclosed. The footer is 2' wide and 9" in depth (observed in two areas) and has wooden 2-by-4's bolted to the perimeter of the footing. Telephone pole-size holes are observed on the surface, spaced about 14' apart, both inside and outside the perimeter of the feature. The telephone pole-size holes are roughly 12' from the outside perimeter of the footing that suggest a large structure with overall dimensions of ~60' wide by 126' long.

On the modern ground surface adjacent to the north and south side of the feature lie telephone poles, singly and in piles, most between 10 and 20' in length. Several have metal (iron) hardware still attached at or near their ends. A pile of discarded wood and several sheets of aluminum siding lie on the surface just west of the pole pile. Another second pile of telephone poles, several over 50' long, are observed on the ground surface about 125' to the SW. Several sizable woodpiles are observed around the foundation slab, one is about 75' to the NE, another about 175' to the NW, and a third pile about 200' to the NE. Comprised of discarded weathered and gray wood, of numerous lengths widths and sizes, the piles and poles likely represent the demolished remains of Feature 4's superstructure. A section of corrugated tin roof gable (probably part of the feature's superstructure), 28' wide by 8' high, was found on the surface west of the feature.

A rectangular concrete water trough, about 80' south of the feature, measures 12' long by 33" wide. The trough's sides measure 5½" in thickness with an inside depth of 16", and an outside depth of 28". The remains of a metal water (?) tank is located about 150' east of the Feature 4 slab. The circular-riveted panel bottom and corrugated-sided tank has an open top, and measures 29' in diameter and is 4' high. Rusted with bent sides in several places, a discarded hot tub and bicycle were observed lying inside. Scattered surface trash in the form of discarded tires, rusted paint cans, and automotive parts were observed about 100' SW of Feature 4. Additionally, to the south and SE, three faded green and yellow colored combines (John Deere), in various states of disrepair, lay abandoned.

The superstructure atop the primary feature was a hay barn, which appears on the 2002 and 1953 aerials, and was intact when the project area was visited by MBA staff in 2002 (Dice 2002).

Feature 5. Cattke feeding or trough foundation complex

This feature represents the remains of a poured concrete platform/foundation, attached metal and wood board or plank siding located in a flat area above a stream channel and about 750' south of Feature 4. This feature is likely associated with the old farm/ranch complex to the north. The feature measures about 230' long (EW) by 11' wide (NS). The feature was once much longer, which is evidenced by the abrupt break at the west end due to the steep channel sides, as well as the east end, where the feature is truncated at the barbwire fence. The footer appears to have been poured in 10' sections. The wood board siding, 18" high, is comprised of two pieces on their sides, one atop the other, and runs the entire 230' length on the south side of the feature. The boards are bolted to metal brackets that are set into the concrete and the individual board lengths exceed 20'. The board or plank siding forms the south side of a narrow "trough," with the north side constructed of concrete. Only 12" in height, the concrete is 6" thick at the top and tapers as it goes into the ground, creating a trough width of 28" on top, and 24" at the bottom. A 3½" diameter metal pipe is imbedded in the concrete every 10' and has been cut, making the pipe level with the top of the concrete. The "trough" may have been used for feeding cattle. The 1953 aerial photograph reveals a faint outline that probably represents Feature 5.

Not evaluated for significance, but part of this site:

Feature A. 3190 Westward Street (P#33-9176)

This Craftsman style building was likely constructed some time between 1905 and 1930, and is located at 3190 Westward Street. The house is rectangular in plan with an asymmetrical façade. The house has a double front-gabled roof. The roof is clad with asphalt shingles; and has unenclosed overhanging eaves. Just under each gable, both at the façade and rear elevation, is a triangular section with horizontal wood slats spaced to create vented openings. The gables at the façade have protruding beams. The secondary gabled roof at the façade shelters the front porch, which is at grade level and has a concrete floor. The porch itself is supported by piers with slanted sides, often found with Craftsman style designs. The exterior walls are clad with non-original stucco, installed some time after 1983; the house would have originally had horizontal wood boards. The windows are not original; most appear to be vinyl double hung sash. The original casing surrounding the windows, however, are intact. The structure will not be directly impacted by the Sage project.

Feature B. 3176 Westward Street
This Craftsman style building at 3176 Westward Street was likely constructed some time between 1905 and 1930. The house is rectangular in plan with a nearly symmetrical façade. The house has a side gabled roof clad with asphalt shingles; there are exposed roof rafters under the unenclosed overhanging eaves. The exterior walls are clad with non-original stucco; the house would have originally had horizontal wood boards. The front porch is inset into the façade, and is at grade level with a concrete floor. The windows have been replaced with what appear to be aluminum sash sliders. There is a shed dormer at the façade, which has retained its original shape, but is now clad with stucco and has a replacement window. It is likely that the windows would have original had casing surrounding them, but these are no longer intact. The structure will not be directly impacted by the Sage project.

Feature C: Small barn south of 3176 and 3190 Westward Street
This rural vernacular style building was likely constructed some time during the first half of the twentieth century. The building is rectangular in plan and has a side-gabled roof clad with corrugated metal roofing material. There is what is likely a shed roof addition at the rear elevation of the building constructed some time after 1953. The exterior walls are made of a mix of wood board and corrugated metal. At the façade, which faces north, there are two large openings with what appear to be sliding doors. The feature represents a barn or large storage shed and lies south and between Feature 6 and 7.

The site represents an active ranching complex more than 50 years old, but which has been subdivided. Records do not exist that allow clear tracking of chain of ownership.

Integrity Statement

In regard to the seven aspects of integrity (location, design, setting, materials, workmanship, feel and association), the features on this property have maintained their original location, setting and association. The period of significance is associated with the use of the property as a ranching and grazing complex. More than half of the buildings are now gone, and the remaining structures are utilized as non-ranching residences. Unfortunately, the original Stewart Ranch buildings to the west were demolished in the late 1980's and it is simply uncertain whether the ranch buildings at this eastern end of the Stewart property were in direct association. **Thus, the integrity level of the site is poor.**

The 1953 aerial photograph clearly shows the extent of the site as of that date. There have been substantive changes since that date. **Thus, the overall condition of the site is poor.**

Eligibility Statement, Sage Portion Only

The Sage project footprint portion of the site was assessed under National Register Criterion A for its potential significance as part of a historic trend that may have made a significant contribution to the broad patterns of our history. The site might have once been part of the San Gorgonio pass area Stewart Ranch complex developed before 1950. A 1953 photograph of the project area shows a complete ranching operation that may have been linked to the Stewarts place to the west.

No significant historic trend contributing to the broad patterns of our history could be associated with the site during the period of significance (1920s-1950s). **Therefore, the site does not appear to qualify for the National Register of Historic Places (NRHP) under Criterion A.**

The site was considered under Criterion B for its association with the lives of persons significant in our past. The Stewart Ranch was evaluated previously and found to be not significant at the National Level, but this family should be considered of local significance. **Therefore, the site does not appear to qualify for the National Register of Historic Places (NRHP) under Criterion B.**

The site was evaluated for Criterion C for embodying the distinctive characteristics of a type, period, or method of construction, or representing the work of a master, or possessing high artistic values, or representing a significant and distinguishable entity whose components may lack individual distinction. No aspects of the site exhibit such qualities. **Therefore, the site does not appear to qualify for the National Register of Historic Places (NRHP) under Criterion C.**

The site was considered for Criterion D for the potential to yield, or may be likely to yield, information important to prehistory or history. In order for buildings, structures, and objects to be eligible under this criterion, they would need to "be, or must have been, the principal source of important information." It is possible that the site could exhibit buried dumps and privies that might hold a substantial amount of information, yet the review of the data suggests this is rather unlikely. **Therefore, the site does not appear to qualify for the National Register of Historic Places (NRHP) under Criterion D.**

In summary, the site does not appear to qualify for the NRHP under these criteria. Therefore, the site complex is not a historic resource for the purposes of the NHPA.

California Register Eligibility Evaluation

The Sage portion of the site was also evaluated in accordance with Section 15064.5(a)(2)-(3) of the California Environmental Quality Act (CEQA) guidelines, using the following criteria outlined in Section 5024.1 of the California Public Resources Code:

1) It is associated with events that have made a significant contribution to the broad patterns of local or regional history, or the cultural heritage of California or the United States.
2) It is associated with the lives of persons important to local, California, or national history.
3) It embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of a master or possesses high artistic values.
4) It has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California, or the nation.

The site does not meet Criterion A, B and D for California Register eligibility, for the reasons described above under the NRHP evaluation. Criterion B asks whether the Stewart family is important to California history, but previous researchers have shown that the Stewarts are locally significant only. The integrity level of the Sage portion of the site has already been determined under the NRHP evaluation statements above; this was found to be poor. Although the site has retained its original location, it no longer retains high or moderate levels of design, setting, materials, workmanship, feeling and association, associated with its period of significance. The site does not qualify for the California Register under these criteria. Therefore, the site is not considered a historic resource for the purposes of CEQA.

***P3b. Resource Attributes:** HP33. Farm/ranch, HP2. Single family property
***P4. Resources Present:** ☒Building ☒Structure ☐Object ☐Site ☐District ☐Element of District ☐Other

P5a. Photo or Drawing (Photo required for buildings, structures, and objects.)



P5b. Description of Photo: 1953 aerial photograph of the site property. (*Note:* the identifying feature numbers are shown. North is up.)

***P6. Date Constructed/Age and Sources:** ☒Historic ☐Prehistoric ☐Both
Before 1953 (see *P3a. Description* for further detail)

***P7. Owner and Address:**
APN 543090008:
Douglas Finnie
10410 Live Oak Avenue
Beaumont, CA 92223

APN 532160012:
David Law
PO Box 956
Banning, CA 92220

****P8. Recorded by:**
C. Taniguchi and M. Dice
Michael Brandman Associates
220 Commerce, Suite #200
Irvine, CA 92602

***P9. Date Recorded:**
July 20, 2004

***P10. Survey Type**: CEQA and NHPA level compliance

***P11. Report Citation:** Dice, M.H., C.Y. Taniguchi, P. Messick and D. Kay (2004). *Phase 1 Cultural Resource Survey and Historic Site Significance Evaluations for the Sunset Crossing Project Footprint, South Banning Area County of Riverside, California.* On-file, Michael Brandman Associates

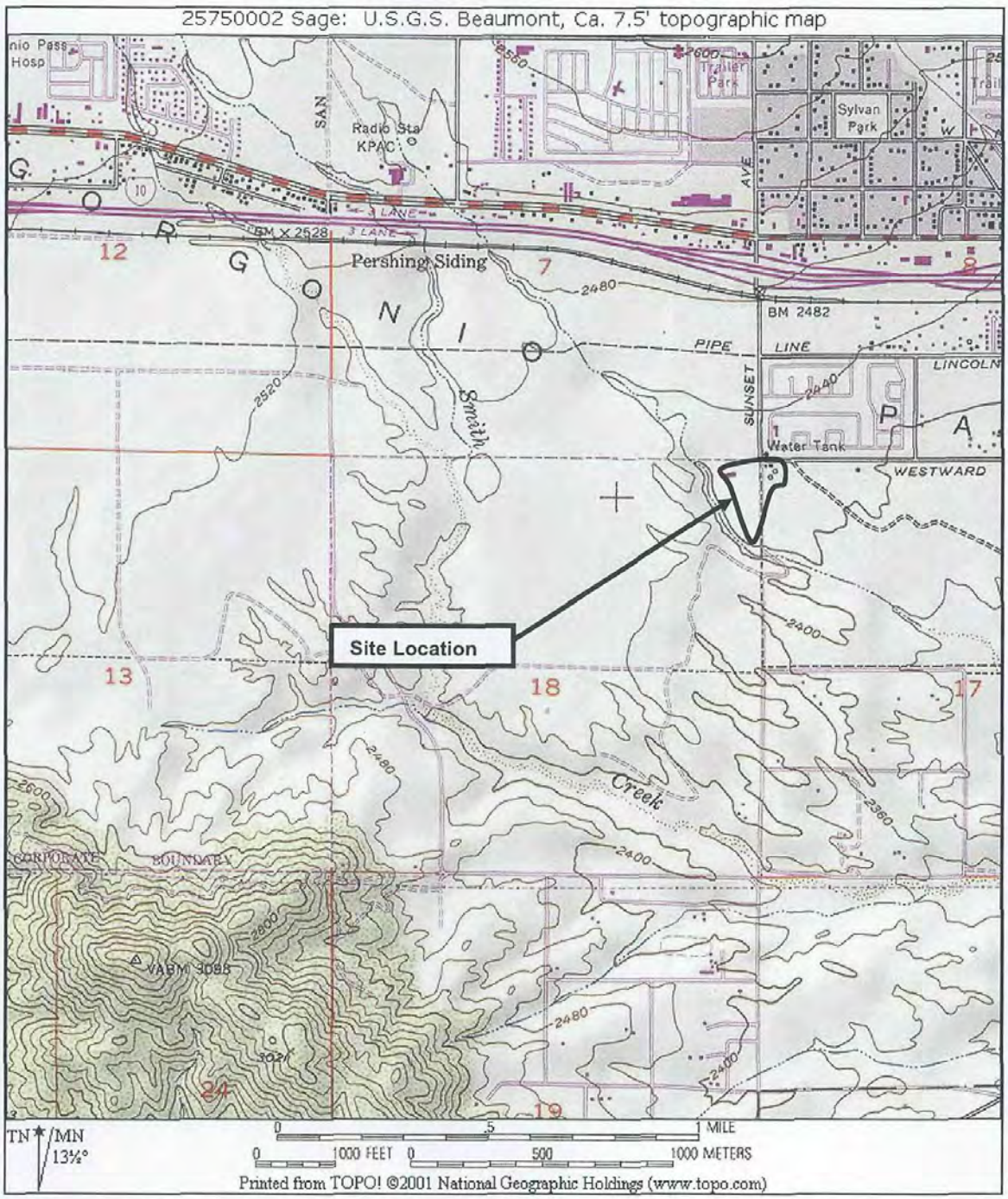
***Attachments:** ☐NONE ☒Location Map ☐Sketch Map ☒Continuation Sheets ☐Building, Structure, and Object Record ☐Archaeological Record ☐District Record ☐Linear Feature Record ☐Milling Station Record ☐Rock Art Record ☐Artifact Record ☒Photograph Record ☐ Other (List):

State of California — The Resources Agency
DEPARTMENT OF PARKS AND RECREATION

LOCATION MAP

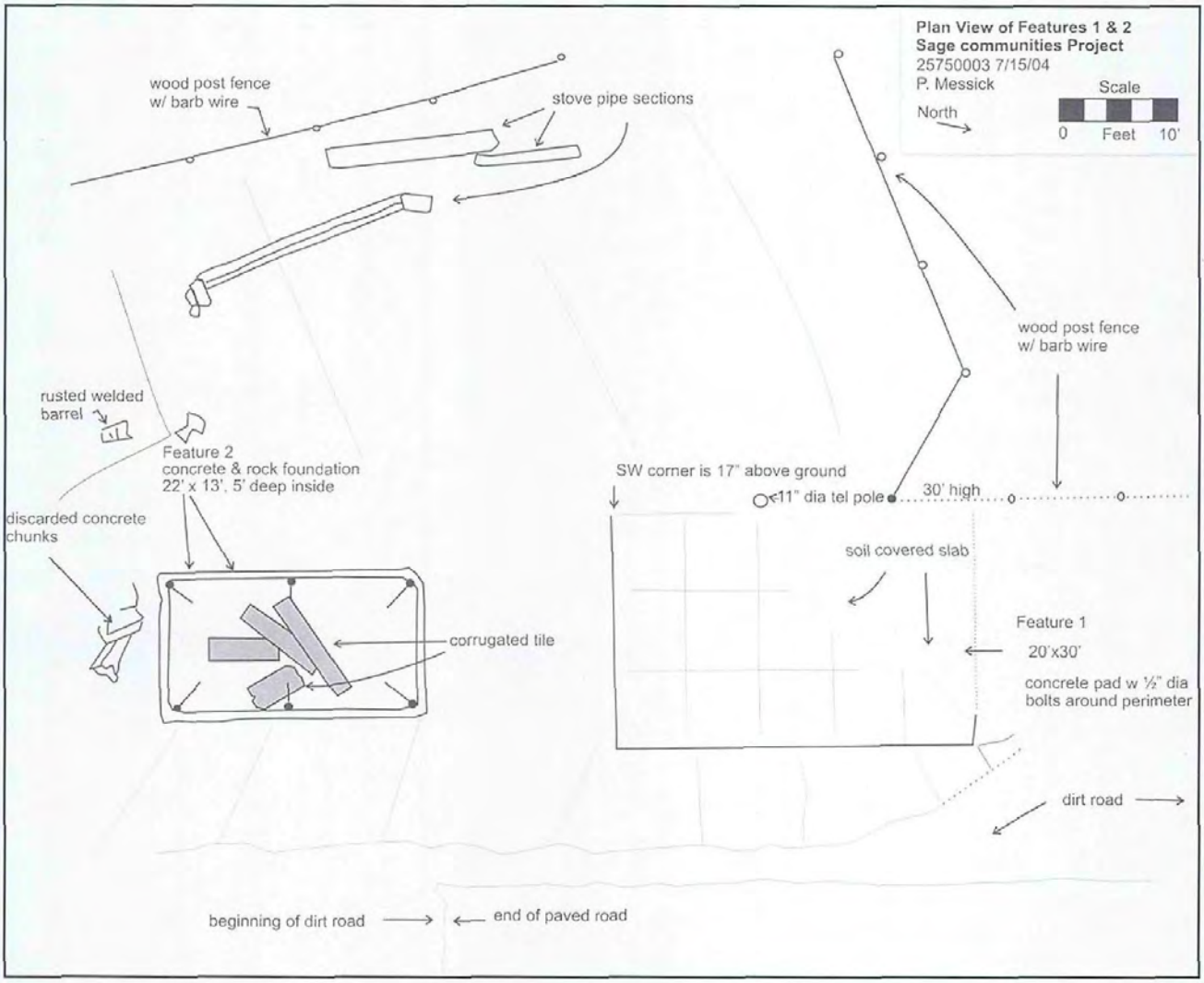
Primary # 33-13778
HRI#
Trinomial none

*Resource Name or #: SC #1

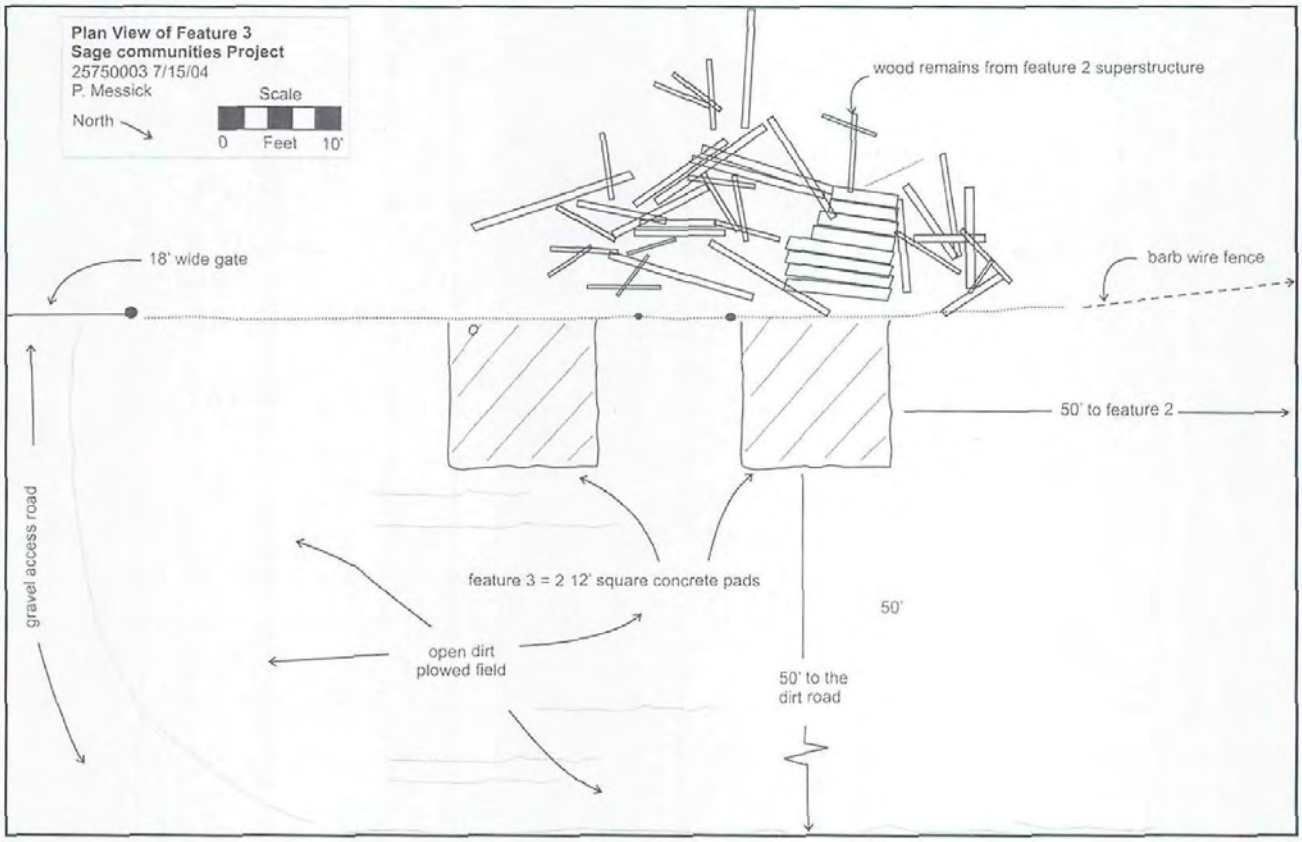


Note: map to scale. Site boundary shown

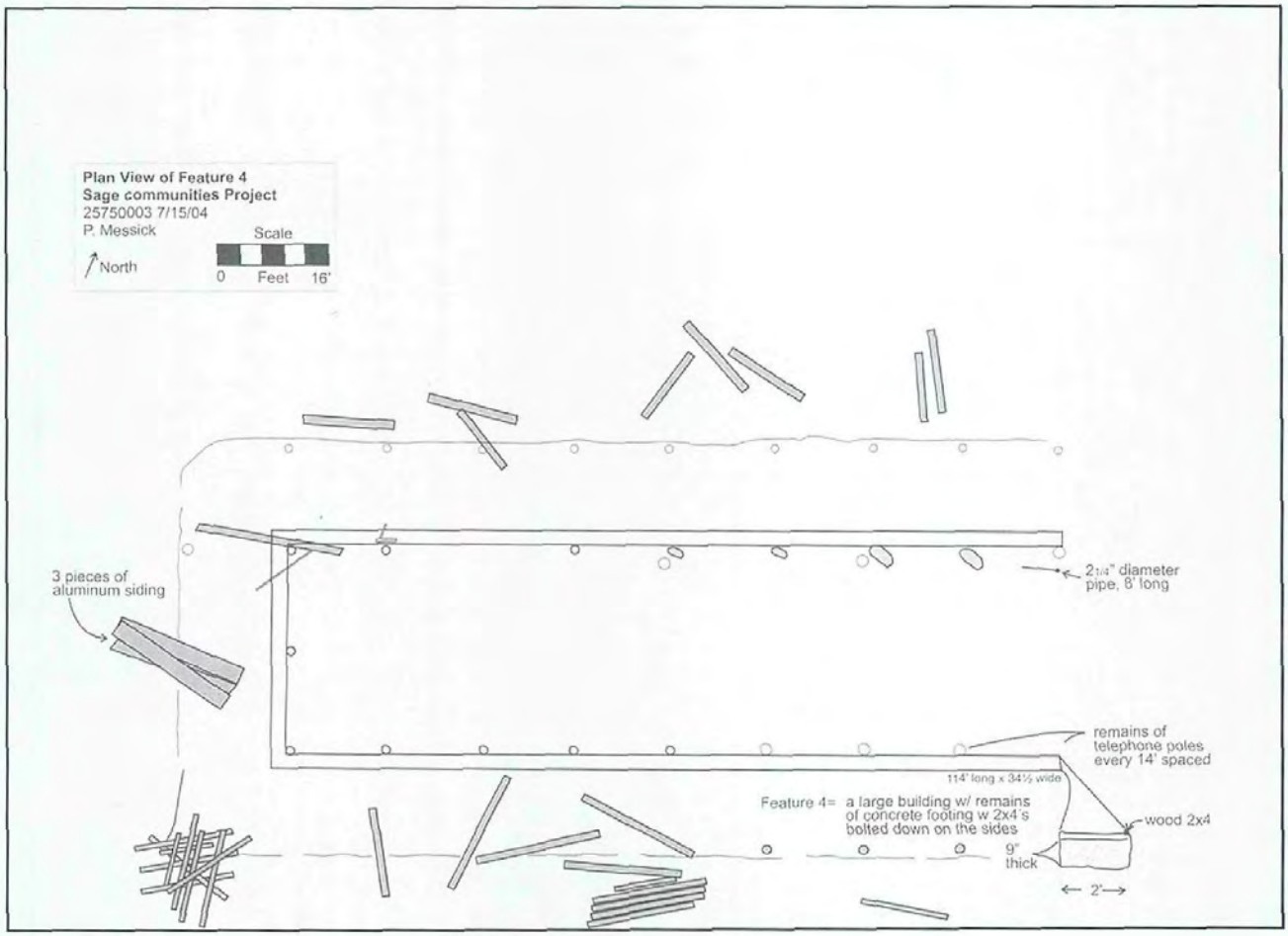
Feature 1 and 2 plan view



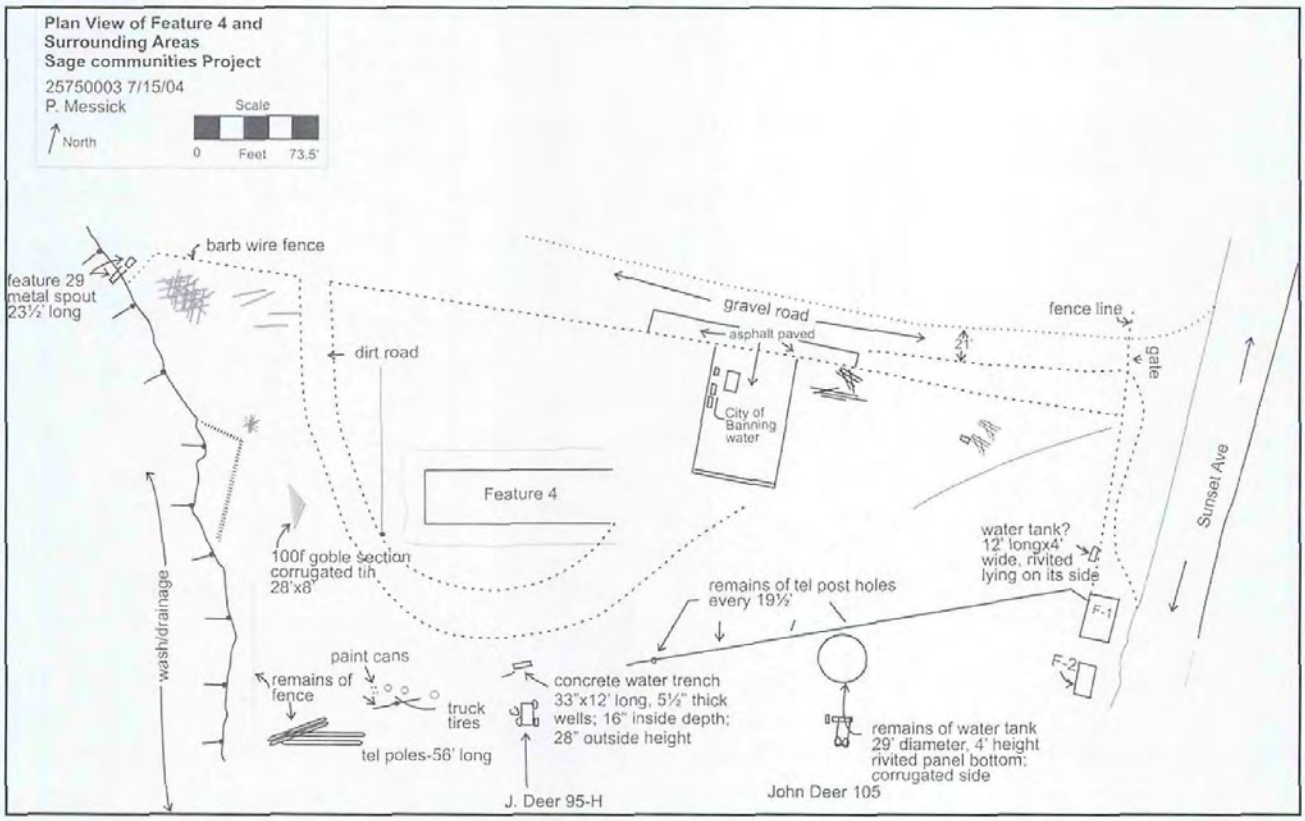
Feature 3 plan view



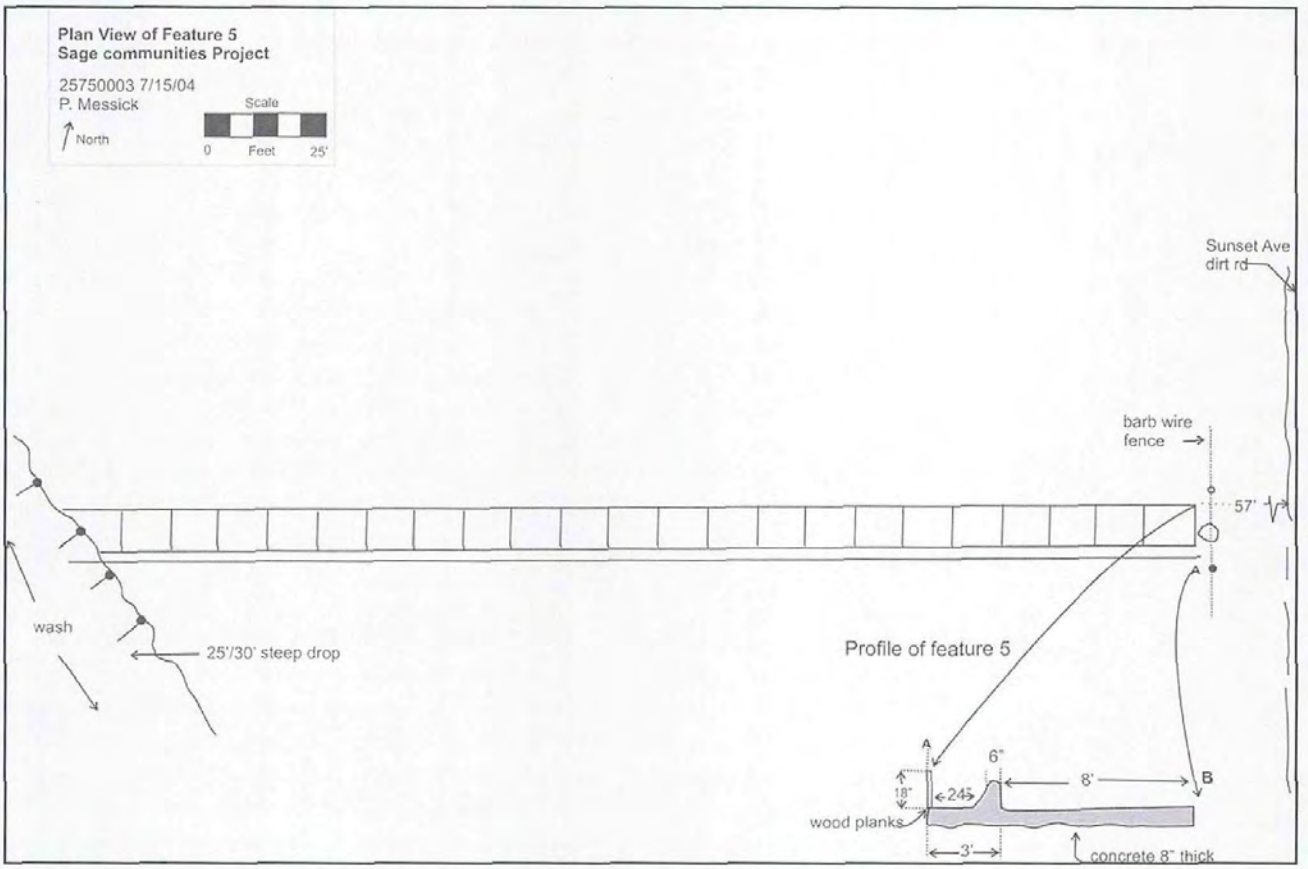
Feature 4 close up plan view



Feature 4 expanded plan view



Feature 5 plan view



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DEPARTMENT OF PARKS AND RECREATION
PHOTOGRAPHIC RECORD

Primary # 33-13778
HRI#
Trinomial none

*Resource Name or #: SC #1

Camera format: Disposable converted to digital
Film type and speed: _____

Lens size: _____
Negative on file at: _____

Photographs and photograph list.

Mo.	Day	Time	Exposure	Subject/Description	View Toward	Accession#
7	10	12am		Feature 1 and 2 overview	South	None
6	29	8am		Feature 3 overview	West	None
6	29	9am		Feature 4 overview	North/Southwest	None
6	29	10am		Feature 5 overview	Southwest	None
7	6	11:30am		Structure A overview	East	
7	6	11:30am		Structure B overview	North	
7	6	11:30am		Structure C overview	East	



View to the south of Feature 1 (foreground) and Feature 2 (foundation background).



View of Feature 3 toward the west-southwest.



Panoramic view of Feature 4 to the south.



View to the west of Feature 5.



View to the south of Structure A located at 3190 Westward Street (P#33-9176)

State of California — The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
PHOTOGRAPHIC RECORD

Primary # 33-13778
HRI#
Trinomial none

*Resource Name or #:



View of Structure B at 3176 Windward Street



View of Structure C, a barn behind 3176 and 3190 Windward Street.

This Continuation Sheet provides supplemental information to the existing site record. It does not replace the previous record generated for this site.

***P2. d. UTM:** NAD 83, **Zone** 11; 507112 **mE** / 3753780 **mN** (northernmost point)
506829 **mE** / 3752830 **mN** (westernmost point)
508163 **mE** / 3752436 **mN** (south-easternmost point)
507984 **mE** / 3753074 **mN** (north-easternmost point)

***P3a. Description:** Applied EarthWorks, Inc. (Æ) revisited site 33-013779 and found it consistent with the description in the original record from December 2009 and again in September 2020: a large historic water-control complex consisting of 39 features. Some of these features are mapped within the APE. This site was recommended as ineligible for listing on the NRHP and CRHR. No additional resources were identified when Æ staff revisited the site location, and the 2009 and 2020 records were unaffected.

***P8. Recorded By:** A. DeLeon, Applied EarthWorks Inc., 3550 E. Florida Ave., Ste. H, Hemet, CA 92544

***P9. Date Recorded:** 04/03/2024

***P10. Survey Type:** ☒ Intensive ☐ Reconnaissance ☐ Other
Describe: Phase I Pedestrian Survey

***P11. Report Citation:**
Jessica Cochrane
2024 *Phase I Cultural Resource Assessment for the Sun Lakes Boulevard Realignment Project in the City of Banning, Riverside County, California.* Report on file at the Eastern Information Center, University of California, Riverside.

***Attachments:** ☒ NONE ☐ Location Map ☐ Sketch Map ☐ Continuation Sheet
☐ Building, Structure, and Object Record ☐ Archaeological Record ☐ District Record ☐ Linear Feature Record
☒ Milling Station Record ☐ Rock Art Record ☐ Artifact Record
☐ Photograph Record ☐ Other (list):

This resource was visited on September 4, 2020 as part of the survey for the ***Sun Lakes Boulevard Realignment Project*** (Mills 2020). Although this Project traverses the boundary of the site, none of the mapped features are present within the current Area of Potential Effects. Some of the features were visible from the current APE and appeared in the same condition as the most previous update. The site has been previously evaluated (Messick and Dice 2004) and found in-eligible for inclusion in either the NRHP or CRHR. No further management is required for this resource.

Messick P. and M. Dice
2004 California Department of Parks and Recreation Primary Record for 33-013779 (CA-RIV-7544). Record on file at the Eastern Information Center, University of California, Riverside.

Mills, Evan
2020 *Phase I Cultural Resource Assessment for the Sun Lakes Boulevard Realignment Project in the City of Banning, Riverside County, California.* Report on file at the Eastern Information Center, University of California, Riverside.

State of California — The Resources Agency
DEPARTMENT OF PARKS AND RECREATION

PRIMARY RECORD

Primary # 33-13779
HRI #
Trinomial: CA-RIV-7544
NRHP Status Code 6Z

Other Listings | Review Code | Reviewer | Date

Resource Name or #: SC #2

P1. Other Identifier: none

***P2. Location:** ☐ Not for Publication ☒ Unrestricted ***a. County:** Riverside

***b. USGS 7.5' Quad:** Beaumont, CA **Date:** 1988photorev T.3S ; R .1E N½ of Sec. 18 and S½ of Sec. 7; SBBM.

c. **Address:** none **City:** Banning **Zip:** 92220

d. **UTM:** Zone: 11; 507112 mE/ 3753780 (northernmost point). All plots via GPS, NAD 1983
506829 mE/ 3752830 mN (westernmost point)
508163 mE/ 3752436 mN (south-easternmost point)
507984 mE / 3753074 mN (north-easternmost point)

e. **Other Locational Data:** None. **Elevation:** 2420 feet

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DEC 09 2004
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***P3a. Description:**

The site consists of a series of small and large water control features utilized to control runoff through the main intermittent stream channels and the erosion of pasture. Some of the features are probably associated with flood control of waters running beneath the SP railroad tracks along the north margin of the property, but most of the features were built by the rancher. There are two main types: a "pour-off" type that sent waters into drainages with spouts, and a weir-type that slowed waters down in the larger drainages. Many of the pour-off features are linked to a set of ditches or berms likely cut by bulldozers across the Sage project area. The associated ditches and berms can be observed in the 1953 aerial photo above. The purpose of the earthworks is clear: the intent was to channel runoff the existing drainages through a linked series of devices. These were likely built because cattle grazing had removed vegetative groundcovers that once held topsoils in place and the lack of groundcover had sped the process of erosion.

It is possible that additional water control features built on or about the same time will be found on lands outside the study area. If future researchers find such features downstream (in Smith Creek), they should be described and attached to the form sets generated as a result of this study. The estimated years of construction of the features in the site are based on visual inspection of the features themselves, an unscientific analysis of erosion rates in the footprint, and analysis of the 1953 aerial photograph. The features were not built to last without intervention: regular repair and maintenance of the system would be required to reduce erosion on the topsoil and disperse natural runoff onto the pasturelands effectively. It appears that all of these features were built after World War II and were in place before 1953. Features 1 through 5 are unused numbers.

Integrity Statement

In regard to the seven aspects of integrity (location, design, setting, materials, workmanship, feel and association), the features on this property have maintained their original location, setting and association. The period of significance is associated with the use of the property as pasturelands. Most, if not all, of the water control features in existence today within the project footprint is associated with attempts to control erosion, which probably resulted from overgrazing. Many of the berms and hand-built control features are effective, but some have eroded such that they can no-longer work. Unfortunately, the original Stewart Ranch buildings were demolished in the late 1980's. **Thus, the integrity level of the site is fair.**

The 1953 aerial photograph clearly shows the construction-related attempts to slow soil erosion. The bulldozed berms, ditches still shunt runoff into creeks, but many of the built features have been undermined by soil erosion where they meet the drainages. **Thus, the overall condition of the site is fair.**

Eligibility Statement

The site was assessed under National Register Criterion A for its potential significance as part of a historic trend that may have made a significant contribution to the broad patterns of our history. The site might have once been part of the San Gorgonio pass area Stewart Ranch complex developed before 1950, and the site represents (for the most part). A 1953 photograph of the project area shows a complete ranching operation and changes to the landscape for erosion control. These features and changes to the landscape represent an effort to control water flows and erosion specific to a particular parcel, and are not associated with broader changes in the history of the area.

No significant historic trend contributing to the broad patterns of our history could be associated with the site during the period of significance (1920s-1950s). **Therefore, the site does not appear to qualify for the National Register of Historic Places (NRHP) under Criterion A.**

P1. Other Identifier: none

The site was considered under Criterion B for its association with the lives of persons significant in our past. The Stewart Ranch was evaluated previously and found to be not significant at the National Level, but this family should be considered of *local significance.* **Therefore, the site does not appear to qualify for the National Register of Historic Places (NRHP) under Criterion B.**

The site was evaluated for Criterion C for embodying the distinctive characteristics of a type, period, or method of construction, or representing the work of a master, or possessing high artistic values, or representing a significant and distinguishable entity whose components may lack individual distinction. Although the architecture associated with local erosion control is of historic interest, no aspects of the site exhibit the above qualities. **Therefore, the site does not appear to qualify for the National Register of Historic Places (NRHP) under Criterion C.**

The site was considered for Criterion D for the potential to yield, or may be likely to yield, information important to prehistory or history. *In order for buildings, structures, and objects to be eligible under this criterion, they would need to "be, or must have been, the principal source of important information."* It is possible that additional features will be detected, but all of the features are superficial and will likely not contain important information hidden from view. The study herein is likely to have yielded all possible historic data. **Therefore, the site does not appear to qualify for the National Register of Historic Places (NRHP) under Criterion D.**

In summary, the site does not appear to qualify for the NRHP under these criteria. Therefore, the site complex is not a historic resource for the purposes of the NHPA.

California Register Eligibility Evaluation

The Sage portion of the site was also evaluated in accordance with Section 15064.5(a)(2)-(3) of the California Environmental Quality Act (CEQA) guidelines, using the following criteria outlined in Section 5024.1 of the California Public Resources Code:

> 1) It is associated with events that have made a significant contribution to the broad patterns of local or regional history, or the cultural heritage of California or the United States.
> 2) It is associated with the lives of persons important to local, California, or national history.
> 3) It embodies the distinctive characteristics of a type, period, region, or method of construction, or *represents the work of a master or possesses high artistic values.*
> 4) It has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California, or the nation.

The site does not meet Criterion A, B and D for California Register eligibility, for the reasons described above under the NRHP evaluation. Criterion B asks whether the Stewart family is important to California history, but previous researchers have shown that the Stewarts are locally significant only. The integrity level has already been determined under the NRHP evaluation statements above; this was found to be fair. Although the site has retained its original location, it no longer retains high or moderate levels of design, setting, materials, workmanship, feeling and association, associated with its period of significance. The site does not qualify for the California Register under these criteria. Therefore, the site is not considered a historic resource for the purposes of CEQA.

***P3b. Resource Attributes:** HP33. Farm/ranch, HP2. Single family property

***P4. Resources Present:** ☒Building ☒Structure ☐Object ☐Site ☐District ☐Element of District ☐Other

P5b. Description of Photo:
None. See photo log for complete views

***P6. Date Constructed/Age and Sources:** ☒Historic ☐Prehistoric ☐Both Before 1953 (see *P3a. Description* for further detail)

***P7. Owner and Address:**
various, including: Sage-Banning, 3 Corporate Plaza #102, Newport Beach, CA 92660

****P8. Recorded by:**
P. Messick and M. Dice
Michael Brandman Associates
220 Commerce, Suite #200
Irvine, CA 92602

***P9. Date Recorded:**
July 30, 2004

***P10. Survey Type**: CEQA and NHPA level reconnaissance

***P11. Report Citation:** Dice, M.H., C.Y. Taniguchi, P. Messick and D. Kay (2004). *Phase 1 Cultural Resource Survey and Historic Site Significance Evaluations for the Sunset Crossing Project Footprint, South Banning Area County of Riverside, California.* On-file, Michael Brandman Associates

P5a. Photo or Drawing (Photo required for buildings, structures, and objects.)
see Photo log and Sketch maps

***Attachments:** ☐NONE ☒Location Map ☒Sketch Map ☒Continuation Sheets ☐Building, Structure, and Object Record ☒Archaeological Record ☐District Record ☐Linear Feature Record ☐Milling Station Record ☐Rock Art Record ☐Artifact Record ☒Photograph Record ☐ Other (List):

***A1. Dimensions: a. Length** 390 feet (E-W) × **b. Width** 210 feet (N-S).
Method of Measurement: ☐ Paced ☐ Taped ☐ Visual estimate ☑ Other: Referenced to site plan view attached.
Method of Determination (Check any that apply.): ☐ Artifacts ☑ Features ☑ Soil ☑ Vegetation ☐ Topography
☐ Cut bank ☐ Animal burrow ☐ Excavation ☐ Property boundary ☑ Other (Explain): Inspection of 1938 photo.
Reliability of Determination: ☑ High ☐ Low **Explain:**
Limitations (Check any that apply): ☐ Restricted access ☐ Paved/built over ☐ Site limits incompletely defined
☑ Disturbances ☐ Vegetation ☑ Other (Explain): Site remnants (quantity unknown) burned by 2003 Grand Prix

A2. Depth: ☐ None ☑ Unknown Method of Determination:

***A3. Human Remains:** ☐ Present ☑ Absent ☐ Possible ☐ Unknown (Explain):

***A4. Features**: (Number, briefly describe, indicate size, list associated cultural constituents, and show location of each feature on sketch map.)

Feature 6
This feature consists of a concrete and stone water catchment/drainage assembly with attached metal spout. Located about ¼ mile south of Feature 5 and 65' west of Sunset Avenue, the feature was built on a small slope that runs down into a shallow gully about 3' in depth. The feature is somewhat crudely constructed of sheet metal panels riveted together, that in turn are bent, forming a U-shaped pour-off spout. It is possible that the spout was made from sections of stovepipe, with diameters in excess of 20" or more, with the top of the pipe cut and formed into the U-shape. Several sections of discarded stovepipe were observed on the ground near Feature 2 of site SC #1. The spout is attached to a base or anchor, constructed of concrete and stone, which serves as the mouth where water would enter the spout. The masonry anchor partly extends underground giving the entire assemblage strength and stability, so as to perform even under maximum water flow conditions such as periodic flooding. Upon entering at the mouth, water flows down the slightly tapered, downward sloping spout and pours into the gully. Feature 6 measures about 10½' long, from the mouth to the end of the spout, is 2'8" wide at the mouth and 21" wide at the end of the spout. In fairly good condition, the feature faces in a NE direction (water flow) and is located about 12½' from the barbwire fence that runs parallel with Sunset Avenue.

Feature 7
This feature consists of a concrete and stone water catchment/drainage assembly with attached metal spout. Located roughly 190' NW of Feature 6, the construction and dimensions of the feature are virtually identical. A small pile of stones and/or sub-rounded cobbles (similar to the stones used in the concrete and stone base/anchor) lie on the surface just to the west of the feature. In fairly good condition, Feature 7 also faces in a NE direction (water flow) and runs down into a shallow gully about 4' in depth.

Feature 8
The feature consists of the partial remains of a weir made with poured concrete walls. Located in a small and shallow secondary drainage about 125' SW of Feature 7, this feature was constructed using wooden forms and poured concrete. Damaged and covered over with eroded soil after years of disuse, the feature measures about 8' NS by about 3' EW and was certainly larger before eroding. The 8' NS wall, located roughly 15' east from where the drainage begins, is 5" thickness and 21" high and protrudes out from the north side of the drainage. When originally built, the NS wall probably extended into the south side of the drainage as well (covering the whole width) but comes up short due to a breach in the damaged wall. An opening in the wall, measuring 3' wide by 21" high sent water eastward, serving to function somewhat like a dam. Seen in plan view, the width of the feature widens to 4' NS, extending another 3' to the east along the drainage bottom until obscured by eroded soil.

Feature 9
The feature consists of the partial remains of a weir made with poured concrete walls. Located in a small secondary drainage, about 200 feet NW of Feature 8, the construction and dimensions are very similar to Feature 8. The feature is damaged and covered over with thick weedy vegetation and eroded soil. The feature measures about 7' NS by about 3' EW and may have been larger before eroding. The NS wall is 4¾" thick by 22" high and extends into both the north and south sides of the drainage. An opening in the wall 4' wide by 22" high accommodated water that flowed eastward and have served a function somewhat like a dam. As seen in plan view, the width of the feature widens to 5' NS and extends 3' to the east along the drainage bottom; the drainage lies about 6' below the rim. Feature 6, 7 8 and 9 are all located within a small unnamed drainage about 500 feet long, which is located in the SW quadrant of the Sage project area.

Feature 10
This feature consists of a concrete and stone water catchment/drainage assembly with attached metal spout. Located about 400' north of Feature 6 and about 75' west of Sunset Avenue, the feature was built on the north embankment of a dry wash which is 4' in depth and about 75' wide. The wash is located north of the drainage where Features 6 through 9 were found, and parallels that larger drainage. Similar in construction to Features 6 and 7, in addition to the concrete and stone anchor at the mouth of the feature, a concrete and stone anchor-like support is observed near the end of the spout. Feature 10 is about 7' long, from the mouth to the end of the spout, is 4½' wide at the mouth, and 26" wide at the end of the spout.

Feature 11
This feature consists of a concrete and stone water catchment/drainage assembly with attached metal spout. Located about 175' SW of Feature 10, the feature is almost completely covered in thick vegetation. Facing toward the NW, it measures a lengthy 13'6", and was built on top of a steep-sided narrow wash. This wash is about 5½ feet in depth and the feature lies south of a confluence with a larger drainage. Erosion has exposed a concrete and stone support lying beneath the spout, which is about 4½' from the end of the spout.

Feature 12
This feature consists of a partial concrete and stone water catchment/drainage assembly with attached metal spout. Located 10' SW of Feature 11, the Feature 12 assembly lies in the bottom of the wash, suggesting that it was dumped into the wash from elsewhere. A partially buried section about 4' long includes the metal spout and the associated concrete and stone masonry seen elsewhere. The features original dimensions and location are unknown.

Feature 13
This feature consists of a partial concrete and stone water catchment/drainage assembly with attached metal spout. Located 175' W of Feature 11, the Feature 13 assembly lies in the bottom of a wash. A partially buried section about 5½ ' long includes the metal spout and the associated concrete and stone masonry seen elsewhere. The features original dimensions are unknown.

Feature 14
This feature is located about 200' NW of Feature 11. It consists of a large, cylindrical-shaped rusted metal tank is located on the north side of the wide embankment of a wash. Measuring 12' long by 3'8" in diameter, the tank is thick-walled and appears to have been welded together in three-4' sections. A metal elbow fitting, 3" in diameter, was observed welded in place on the top, 3' from the end of the tank. Another hole about 4½" in diameter was cut into the tank wall. A hinge is connected to the "cutout" piece that is attached to the exterior side, covering the hole. Likely not *in situ,* and its original function unknown, the sturdy construction suggests it was a container for holding gas or oil.

Feature 15
This feature exhibits a water catchment/drainage assemblage consisting of a concrete/stone masonry base, walls with an attached metal spout, and a large earthen berm. Located just west of a dirt access road and about 200' west of Feature 14, the feature was built on the south side of a shallow wash about 4½' deep and over 100' wide. Several discarded truck tires, two corrugated metal tanks, and several dead tree trunks lay in the wash north and NW of the feature. The construction of this feature is similar to that of Features 6,7,10, and 11. Facing north, this feature measures 11'6" long from the mouth to the end of the bent spout. However, the anchor at the mouth of this section of the feature is enlarged compared to the others, with additional concrete and stone that formed low-lying "wing" walls extending out from each side. The wing walls are 4½' long, 6" thick and 26" in height.

Looking at the feature in plan view, the walls fan out from the mouth creating wings with a 10' wide expanse, measured from the ends of each wall tip. Within the expanse, a mound of soil is located on the east side incorporates the concrete and stone wing wall and is level with it. This represents an intact earthen berm, probably constructed at the same time as the walls. The berm appears to have eroded over time but its outline is clearly observed, extending south from the feature. This enlarged area of the feature's mouth, the masonry wing walls and the berm, represents a part a holistic system meant to carry large amounts of sudden runoff.

This feature shows that the berm section of the feature functioned as a conduit or earthen weir, conveying water from ditches cut into the open field, into the spouts that were placed high above the floor of the drainage. This feature represents a well-preserved representative of the original features on-site With this system, the water would flow into the existing drainages by pouring through the mouths and off the metal spouts of each feature. During the pedestrian survey, earthen berms (possibly representing the downslope side of a ditch probably cut with a bulldozer) were observed on the surface in the open fields, criss-crossing a large portion of the project area, particularly in the southern half. The 1953 aerial photograph clearly reveals the outlines of numerous bermed ditches that end at the drainages.

Feature 16
This feature probably represents the eroded remnant of a partial concrete and stone water catchment/drainage assembly with attached metal spout. Located about 125' west of Feature 15, the 4½' long by 17" wide remnant of a rusted metal spout lies almost entirely buried in the shallow drainage bottom. Possibly tossed or eroded into the wash, the feature's original placement is unknown.

Feature 17
This feature probably represents the eroded remnant of a partial concrete and stone water catchment/drainage assembly with attached metal spout. Located about 300' west of Feature 16, the feature is a rusted metal spout buried in the shallow drainage bottom, with the tip sticking up and out of the ground to 10'6". The spout is cut and shaped into a point. North of and adjacent to the feature, buried in the drainage bottom, is a large chunk of concrete and stone masonry. A berm is observed on top of the drainage rim. The feature represents a collapsed and eroded section of the water control site. Possibly tossed or eroded into the wash, the feature's original placement is unknown.

Feature 18
Located about 150'west of Feature 17, on the south side of the drainage facing NW, the feature is similar in construction and dimensions to Feature 15. The wash is deeper here, with the spout exiting the flats about 10½' above the drainage bottom. Measuring 11'6" long from the mouth to the end of the pointed spout, the feature has concrete and stone masonry wing walls about 6" in thickness. The walls rise about 28" above the rim surface. The east wing wall is 4½' in length and appears intact, but the west wing wall is 2' long and likely missing some of the original masonry. The ditch/berm does not directly interface with the wing walls (as seen in Feature 15) but the outline of a low mound is observed about 25' south from the masonry.

Feature 19
This feature exhibits the partial remains of another stone and masonry structure, possibly a weir, with poured concrete walls and concrete/stone masonry wing walls. Badly damaged, with perhaps only the south half still in existence, the feature is located about 195' NW of Feature 18, where the drainage narrows. The drainage is 13' deep and about 35' in width. When originally built, the feature probably extended totally across the width of the drainage but a large breach has occurred in the lost section. The feature appears to have been built in two stages: a lower, substantial and massive poured concrete structure is located at the bottom and, built on top of this, concrete and stone masonry walls. A wall running north-to-south protrudes from the south bank of the drainage. This is about 10" wide and fairly level for about 8', where it then drops 4' in height. The wall continues north for another 4' and drops again, where it ends, having collapsed and leaving the large gap about 14' from the north side of the drainage. Much of the wall is lying in fragments and small sections in the bottom of the drainage.

The EW dimensions measure about 20' in width. The bottom part of the feature, comprised mostly of poured concrete, appears to have been designed to facilitate and divert a flow of water delivered to the feature from the west. The poured section served to function something like a dam. The partial remains of several rectangular-shaped 'chambers' or poured box-like structures were observed among lots of loose stones and fragments of concrete and rock masonry. It is uncertain just what these might have been used for. A connecting wall, constructed of both poured concrete and concrete/stone masonry, and measuring about 10" wide by 3½' high, runs EW for almost 20' in the middle of the drainage. A section of metal spout about 7' in length, lay buried in the bottom of the drainage next to the wall. A date of 1946, engraved by hand in the concrete, is observed in the surface on the top of the NS wall of the feature.

Feature 20
This feature exhibits a water catchment/drainage assemblage consisting of a concrete/stone masonry base, walls with an attached metal spout, and a large earthen berm. Located about 220' west of Feature 19, the construction and dimensions of the feature are virtually identical to Features 15 and 18. Facing north and built on the south side of a 75' wide drainage, the pointed metal spout is positioned about 9 feet above the bottom of the wash. The wing walls have suffered considerable damage with gaps and are missing numerous stones. A berm extends out from the feature on the east side and continues south across the flats for an undetermined length.

Feature 21
This feature exhibits the partial remains of another stone and masonry structure, possibly a weir, with poured concrete walls and concrete/stone masonry wing walls. Similar in construction and size to Feature 19, and in better condition, the feature is located about 200' west of Feature 20. The feature measures about 25' NS by 19' EW and runs 11½' from the top of the feature to the drainage bottom. A concrete and stone masonry wall about 10" thick runs NS across the entire drainage and is level with the flats. An opening in the wall measures about 10' wide by 22" in height: the purpose of this opening is to accommodate an eastward flow of water. Here at the opening, the feature drops 9½' to a poured concrete base that is about 6' wide between the two sidewalls of the feature. The concrete bottom continues east (following the drainage) for about 19' where it ends, widening from about 6' to about 8', as noted in the plan view of the feature. The feature's wing walls, connected to the NS wall on each side of the drainage, are composed of concrete and stone masonry that taper inward was the walls fall deeper into the wash. Both walls also extend eastward roughly 15' and decrease in height to about 3' above the bottom of the feature's concrete bottom.

The concrete base of the feature was built to facilitate and divert the flow of water. A 6" thick by 3½'long low-lying wall, made of concrete and stone masonry, extends out perpendicularly from the center of the NS wall. Slightly curved, the wall runs east about 3½ feet. In addition, an 8" thick by 12" high by 7½' wide concrete and stone masonry dam was constructed about 10' east of the NS wall. The concrete base continues another 8' and ends where there is a drop off into the natural dirt bottom of the drainage.

Feature 22
This feature exhibits another weir-like masonry structure, with stone/concrete walls, and concrete/stone masonry wing walls connected to a earthen berm running on the flats. Located roughly 70' west of Feature 21, the feature lies in a shallow depression (possibly man-made?) that has been totally denuded of vegetation by grazing cattle. Facing eastward, the feature exhibits two stone/masonry wing walls spread about 7' apart, connected by a small concrete/stone dam. The wing walls are 6" thick by roughly 13' in length and the top is located about 30" above the ground surface. The dam, which runs NS and connects both wing walls, has incurred some damage. The north end has some cracked and missing masonry, but otherwise, is in somewhat good condition. Soil mounded on the outside of each of the wing walls, which is associated with construction of the ditches/berms, has incurred some erosion. The remnants of the berms extend west from both walls continuing for an undetermined length. Features 10 through 22 are all located within and near a drainage about 2100' feet in length, which exists from the SE quadrant of the project area toward Smith Creek.

Feature 23
This feature exhibits a water catchment/drainage assemblage consisting of a concrete/stone masonry base with an attached metal spout, and a large earthen berm nearby. Located about 250' north of Feature 10, the feature is built on the south side of the deep and wide channel near the intersection with Sunset Avenue. Similar in materials and construction as Features 6, 7, 10, and 11, the feature faces north and measures about 8' long, from the mouth to the end of the spout. Located at the rim steep sided drainage, the spout hangs roughly 45' feet above the sandy bottom.

Feature 24
The feature consists of a large water catchment/drainage structure with concrete and stone masonry walls, metal drainpipe and nearby earthen berms. Located about 100' west of Feature 23, the large, imposing feature is in remarkably good condition. Facing north and built on a slope leading to a steep-sided and deep intermittent stream channel, a slight outline of this particular feature can be seen on the 1953 aerial photograph. The overall dimensions of the feature are roughly 200+' NS by roughly 60' EW: the size of the feature suggests that it was built to handle huge amounts of water. By way of a substantial bermed ditch (measuring 4' high by 60'wide by 150+' long) that is now filled with scrub and sage vegetation, water was conveyed to the large concrete and stone masonry wing walled dam. Measuring 6' high from the bottom of the drainage to the wall top, it is 33½' wide, measured from the ends of each wall, side to side. Built into the sides of the bermed ditch, the structure is broadly U- or V-shaped. The walls are tapered up-drainage and in the center, at the base of the ditch itself, is a roughly 4' diameter concrete and stone lined hole. The hole is about 3½' deep (below the drainage bottom) and connects to a 30-inch diameter drainpipe that traverses underground about 100' to the north. The water exits the end of the pipe and into the large drainage channel. The ditch is about 13' feet in width and drops down about 6½' feet as the feature continues down slope and north toward the channel.

Below the dam, a weed-covered area here is relatively flat for about 20' feet, whereupon another earthen berm was placed. This second berm is about 20' feet wide. This berm drops down another 6' toward the channel, ending about 5' from the channel rim. The metal drainpipe that runs underground protrudes out of the channel wall at this spot, and hangs over the edge for about 10'. Runoff flowing out from Feature 10 through 22 took place upslope from Feature 24, and the runoff was connected to Feature 24 through a series of ditches and berms. Feature 24 was likely the main conduit for water flowing between two separated drainages in this area. The 1953 aerial photograph likely confirms this. The photo shows the location of a bermed ditch associated with Feature 24 on the north side of wash, approximately across from where Feature 15 is located on the south side of the wash.

Feature 25
Located on top of a relatively flat rise and about 150' west of Feature 24, two 30-inch rusted metal pipes were found during the survey, lying side by side on the ground surface. The pipes are 26' and 29' in length. The pipes exhibited several welded seams, one is bent at its end, and a thick, light tan residue (dry and cracked) was observed on the inside ends of the pipes. The pipes are quite similar form to the large pipe drain observed in Feature 24.

Feature 26
This feature exhibits a water catchment/drainage assemblage consisting of a concrete/stone masonry base with an attached metal spout. Built on the south side of the steep sided channel, and located almost directly across the channel from Feature 5 of SC#1, the feature is similar in materials and construction as Feature 23. Measuring roughly 6½' from the mouth to the end of the spout, and 28" wide at the end of the spout, the feature faces NE. At this point, the channel is roughly 150' wide and 30' deep.

Feature 27
This feature exhibits a water catchment/drainage assemblage consisting of a concrete/stone masonry base with an attached metal spout. Located about 125' NW of Feature 26, the feature is built on the south side of a secondary drainage and faces NE. Similar in materials and construction to Features 23 and 26, the spout measures roughly 8 feet long, from the mouth to the tip. Water flowing off the spout would have emptied into a 12' deep, steep-sided gully. A small pile of stones and/or subrounded cobbles lie on the surface on each side of the feature and, about 40' to the west, is a pile of dumped concrete.

Feature 28
This feature consists of the decomposed remains of a stone/masonry wall remnant and concrete dumps meant to reduce water flows. Located roughly 150' NW of Feature 27, the feature is located on the north side of a secondary wash. Damaged by erosion, what remains is a 5" thick by 30" high by 7' wall concrete and stone masonry wall that protrudes out from the side of the drainage. Concrete and stone masonry also extends from the wall east into the channel for several dozen feet. When originally built, the feature may have extended totally across the width of the small drainage, which has subsequently enlaged quite substantially. Concrete may have been dumped into the drainage adjacent to the wall, accumulating in piles. This appears to be modern, and probably represents a collection of sidewalk fragments placed there to slow erosion. Numerous piles of both concrete and asphalt are observed on the surface in the immediate area surrounding the feature and random piles are dumped into the drainage.

Feature 29
This feature exhibits a water catchment/drainage assemblage consisting of a concrete/stone masonry base with an attached metal spout. Located about 200' west of Feature 4, and adjacent to an EW dirt and gravel road, the feature is located on the modern ground surface near the rim of a large drainage. A portion of a riveted metal spout, about 6½' long, lies just above the surface and runs in an NS direction. The feature becomes buried underneath the surface about 10½' from the channel rim and subsequently protrudes out about 7½' from the east wall of the channel. Measuring 24" in diameter the spout pipe has a total length of roughly 23½' and is filled partially with soil. Its association with Feature 4 is unknown. The pipe likely ran from the end of a bermed ditch to the channel.

Feature 30
The feature consists of the remains of channel/streambed erosion control structure including a welded metal groin, and two metal fences with fence posts. The feature is located on the eastern side of a large wash located in Section 7 of the project area, roughly ½ mile west of Sunset Avenue and 1/3 mile south of Pershing Siding along the railroad tracks. The channel here is steep sided and about 30 feet deep, and almost all of both features were positioned north of the gas pipeline. On the western side of the channel, erosion has occurred, resulting in a wide gradual slope. Scrub and sage vegetation is thick and vigorous here. A high-pressure gas line runs over the feature in an EW direction and the feature complex was built to prevent erosion. It is uncertain just when this feature was constructed. The groin is a solid, massive structure, roughly 180' feet length and curves outward, toward the center of the wash. The feature is constructed of various lengths of 30-inch diameter metal pipe, rammed into the ground to as as posts. Between each pipe end are 7'high vertical 'footings' of the same type of pipe that are welded together with the horizontal pipe posts. A metal post fence with wire fencing, 6 feet high and about 40 feet long, is located at the north end of the groin.

A second metal post fence and wire fence, averaging about 5' high and roughly 70' long, runs in a NW/SE direction opposite the groin, on the opposite side of the stream. It too curves inward toward the floor of the wash, and the fence runs toward the NW. At its SE end the fence is about 25' from the groin and positioned directly below the gas pipeline. At the NW end, the fence is about 50' from the groin. In disrepair, missing posts and wire, the fence was almost completely obscured by dense scrub and sage vegetation. Most certainly longer when originally built, it appears that the fence was built in one line, but a second fence line placed parallel with the first was also built. A total of only 13 metal posts were standing for both of the rows combined.

Feature 31
This feature consists of the remains of a weir-type (?) structure composed of collapsed, poured concrete walls and concrete/stone masonry wall fragments. The feature is located about 1000' NW of Feature 30 and perhaps 300' south of the railroad tracks. This feature and Feature 33, and located inside a wash that that is heavily eroded and the feature is heavily decomposed. Based on its poor condition, this may not have been the feature's original location. A section of poured concrete wall lies leaning somewhat haphazardly in the drainage about 12' below the rim of the wash. Probably the remnants of a wing wall, this measures about 11' in length, is 4-6" in thickness, and the ends are broken. A segment of concrete and stone masonry about 3½' long lies on the ground surface about 4' south of the wing wall remnant. Two other segments of concrete and stone masonry lie another 10' feet further south, in the gully bottom. Each chunk measures roughly 6' in length by 1½' in width.

Feature 32
This feature consists of the remains of a weir-type (?) structure composed of collapsed, poured concrete fragments, some of whichappear to be *in situ*. Located about 150' north of Feature 31 and perhaps 250' south of the railroad tracks, the graffiti covered feature is badly damaged. The remnants of a poured concrete wing wall running from EW measures about 24' feet long by 7' high on the west end and 4' high on the east end. The top of the wall is about 2' below the rim of the wash. There is no indication that this feature extended completely across the width of the drainage when originally built. An additional segment of concrete and stone masonry is observed about 5' below the *in situ* portion, running in a NS direction. Due to its proximity, there may be a possible association with Feature 31. Feature 31 may, in fact, represent the remains of the east side of Feature 32, which was washed down-canyon during a storm.

Feature 33
The feature represents the partial remains of a pipe and poured concrete down spout. Located roughly 300' west of Feature 32 and about 200' south of the railroad tracks, the feature is almost totally buried in the ground. The feature lies about 10' from the rim of the wash: the rim is about 45' above the wash floor in this area. The feature appears to represent a flume that sent water emanating from a culvert beneath the railroad tracks into the nearby wash.

Feature 34
The feature consists of a flume composed of a poured concrete and earthen berm sides. Located on the west side of the drainage running south from Pershing Siding and about 250' SE of Feature 33, the feature consists of a poured concrete flume paralleling the rim of the wash. Erosion has undermined the soil on the steep sided drainage leaving the concrete pour-off protruding out over the edge by several feet. The concrete channel, averaging ~40 inches in width, and about 10" deep, is covered with thick scrub and sage vegetation. Water flowed through the concrete flume channel in a NW direction. The channel and its associated earthen berm extends in a southerly direction for an indeterminate length.

Feature 35
The feature consists of the partial remains of a poured concrete pipe support. Located about 400' NW of Feature 30, on the west side of the Pershing wash, the feature lies partially collapsed in a steep sided secondary drainage, facing in a NE direction. Due to its location down in this dangerous drainage, exact measurements of the feature were impossible. An imprint of the pipe it once supported, was visible on the top of the concrete support, and was estimated to be about 20' inches in diameter. Features 23 through 35 are all located in the large wash, which is slightly over one miles in length.

Feature 36
The feature is located in denuded pasture about 500 feet east of the Smith Creek drainage and 110' south of the dirt and gravel road that bisects the project area. The cow pasture is flat with a fenced in corral and the feature is located about 300' feet east of the corral. Stripped of vegetation, the loose soil is best described as a medium brown friable loam with numerous cow dung piles on the surface, fresh and otherwise. A light scatter of marine shell was observed on the modern ground surface. Small fragments of clam, oyster and scallop were observed, most the size of a dime or smaller. A few fragments were the size of a quarter. None were collected. The area was flagged for fragments and the feature limits were delineated: the feature is roughly 90' EW by 65' NS. The ground surface was troweled down to a depth of a few inches in a few places but no shell was found subsurface. The origin of the shell is questionable because prehistoric groups are known to have traded such foodstuff inland. We concluded, based on the lack of stone flakes, milling stones, and the thinness of the deposit, that the shell scatter represents recent or historic midden. This feature is not significant.

Feature 37
The feature represents a dump area associated with water-control structural debris. Located at the intersection of Smith Creek and the dirt and gravel road that bisects the project area (the road is paved in this section), the dump consists of piles of concrete and concrete/stone masonry structural debris that appears similar to that described in other features in the project area. The area just north alongside a paved portion of the road measures about 200' EW by 30' NS. One large section of concrete has a broken brick imbedded with the "SIMONS" makers mark. Other debris include metal pipes of various diameters, rebar, and several truck tires.

Feature 38
The feature consists of the partial remains of a concrete and stone masonry flume with associated earthen berms. Located in the western side of the Sage project area, about 800' west of Feature 37, the feature is located in a wash that runs EW, emptying into Smith Creek. The feature is constructed of concrete and stone masonry and measures 93' long EW by 5' wide NS. The feature was probably longer but has been undermined by erosion occurring in the drainage and the leading edge is broken off. Concrete and stone masonry fragments lie in thick scrub and sage vegetation at the drainage bottom, roughly 100' feet to the east, which suggests that the feature probably extended that far. The west end widens to accommodate normal water flow and a set of earthen berms probably representing a ditch can be observed in this area.

Feature 39
The feature consists of the decomposed remains of poured concrete walls, concrete and stone masonry walls. Located in the Smith Creek drainage in the NW corner of the parcel and several hundred feet south of the railroad tracks, the feature is badly damaged due to erosion. Originally, the feature crossed the shallow drainage entirely, a distance of about 32 feet. What remains are two wing walls on each side of the drainage, both in states of disrepair. The eastern wing wall is about 25' long by 6' high, while the west wall is about 15' feet long and 4' high. Both broken on their ends, the walls were certainly much longer. A low concrete and stone masonry wall continues south from a concrete wall on the western side for roughly 20 feet. In the middle of the sandy and gravelly wash, between the two wing walls, are the remains of a stone and concrete masonry foundation, barely sticking up out of the surface. L-shaped and joining the wing walls, the foundation may represent structural remains of some kind that were utilized for controlling water flow between the wing walls.

***A5. Cultural Constituents:** (Describe and quantify artifacts, ecofacts, cultural residues, etc., not associated with features.) Water control features and a few histsoric deposits: no artifacts associated with these were noted.

***A6. Were Specimens Collected?** ☑ No ☐ Yes (If yes, attach Artifact Record/catalog & identify where artifacts are curated.)

***A7. Site Condition:** ☑ Good ☐ Fair ☐ Poor (Describe disturbances.):

***A8. Nearest Water:** (Type, distance, and direction.) Smith Creek intermittent, on-site.

***A9. Elevation:** 2510-2400 ft above sea level.

A10. Environmental Setting: (Describe culturally relevant variables such as vegetation, fauna, soils, geology, landform, slope, aspect, exposure, etc.)

The site is located on dissected flats within the Smith Creek watershed. Most vegetation has been grazed and was very dry at the time of recording. Slope is gradual and to the southeast. The north, west and east sides of the project area and site boundary are developed.

A11. Historical Information:
See continuation sheet.

***A12. Age:** ☐ Prehistoric ☐ Protohistoric ☐ 1542-1769 ☐ 1769-1848 ☐ 1848-1880 ☐ 1880-1914 ☑ 1914-1945 ☑ Post 1945 ☐ Undetermined (Describe position in regional prehistoric chronology or factual historic dates if known)

A13. Interpretations: (Discuss data potential, function[s], ethnic affiliation, and other interpretations)

The water control features are associated with ranching and were probably constructed once grazing had stripped the land of natural vegetation and caused soil erosion. Construction likely took place more than 50 years ago, perhaps in the late 1940's.

A14. Remarks:

A15. References: (Documents, informants, maps, and other references).

Dice, M.H., C.Y. Taniguchi, P. Messick and D. Kay (2004). *Phase 1 Cultural Resource Survey and Historic Site Significance Evaluations for the Sunset Crossing Project Footprint, South Banning Area County of Riverside, California.* On-file, Michael Brandman Associates

A16. Photographs (List subjects, direction of view, and accession numbers or attach a Photograph Record.): See Photograph Continuation Page

Original Media/Negatives Kept at: None: digital.

***A17. Form Prepared by:** Michael Dice **Date:** July 30, 2004

Affiliation and Address:

Michael Brandman Associates
220 Commerce, Suite 200
Irvine, Cal. 92602

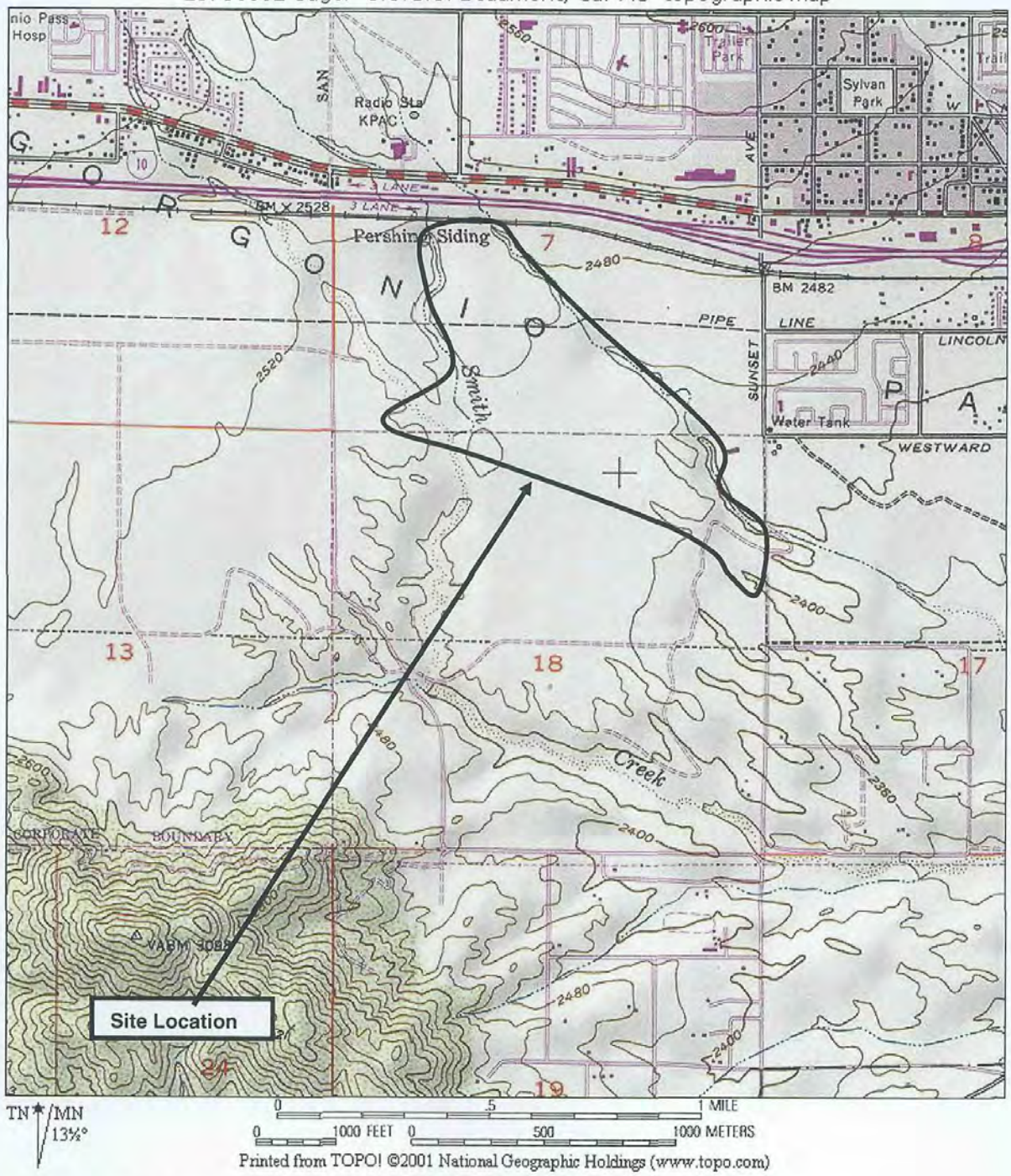
State of California — The Resources Agency
DEPARTMENT OF PARKS AND RECREATION

LOCATION MAP

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HRI#
Trinomial CA-RIV-7544

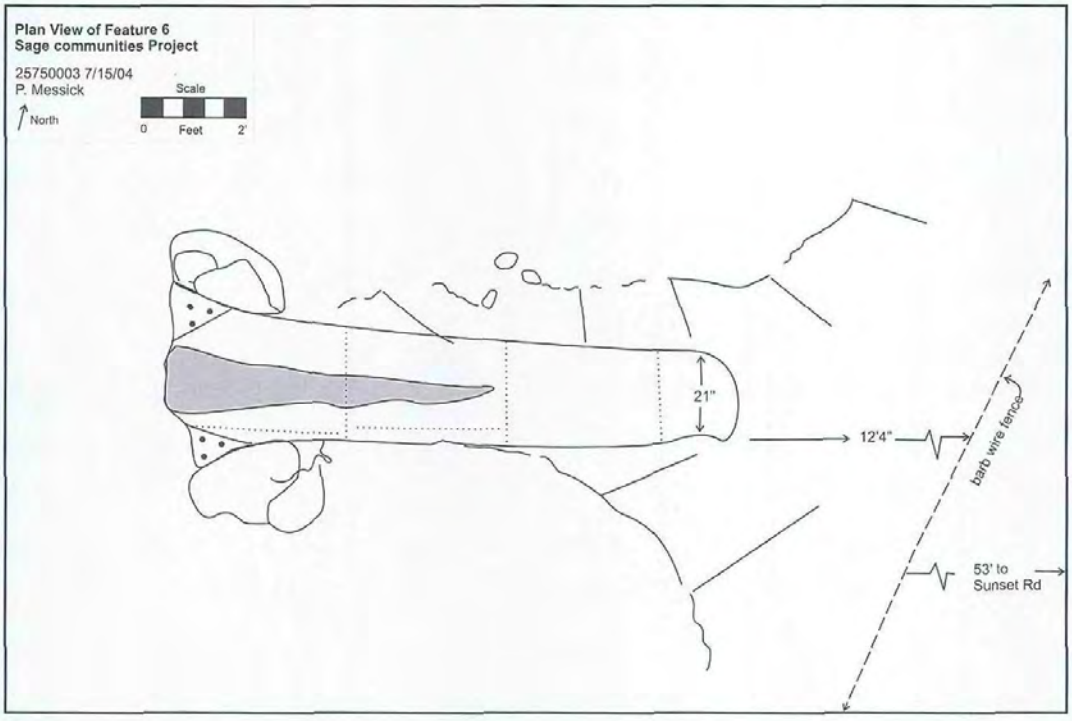
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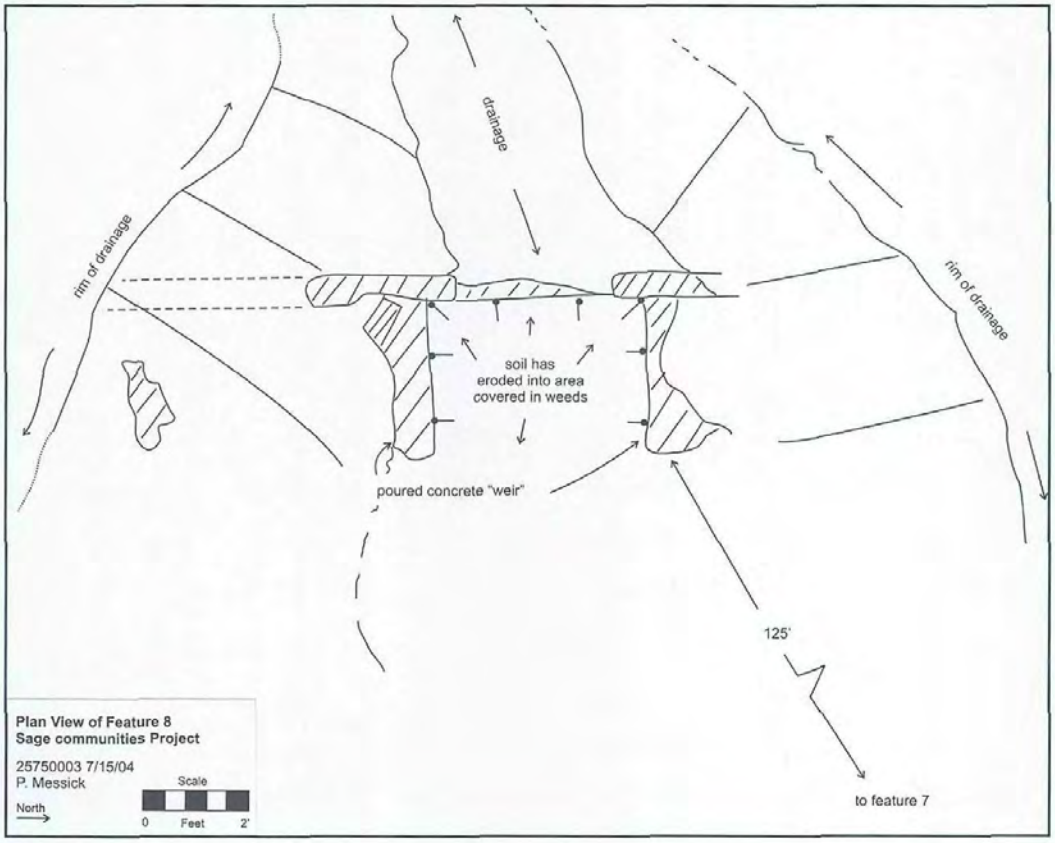


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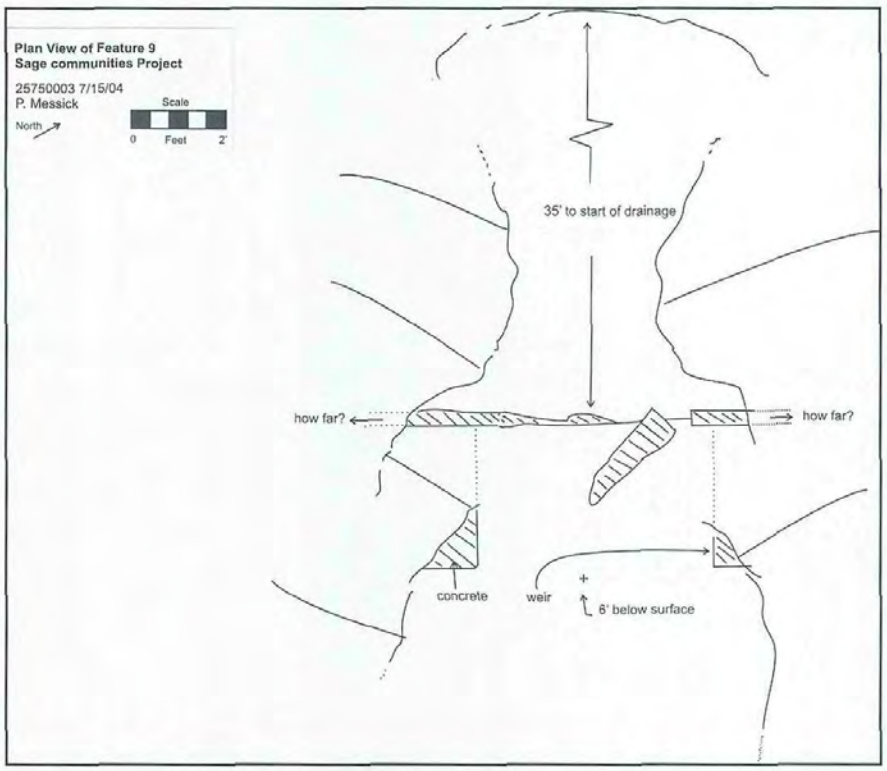
Note: map to scale. Site boundary shown



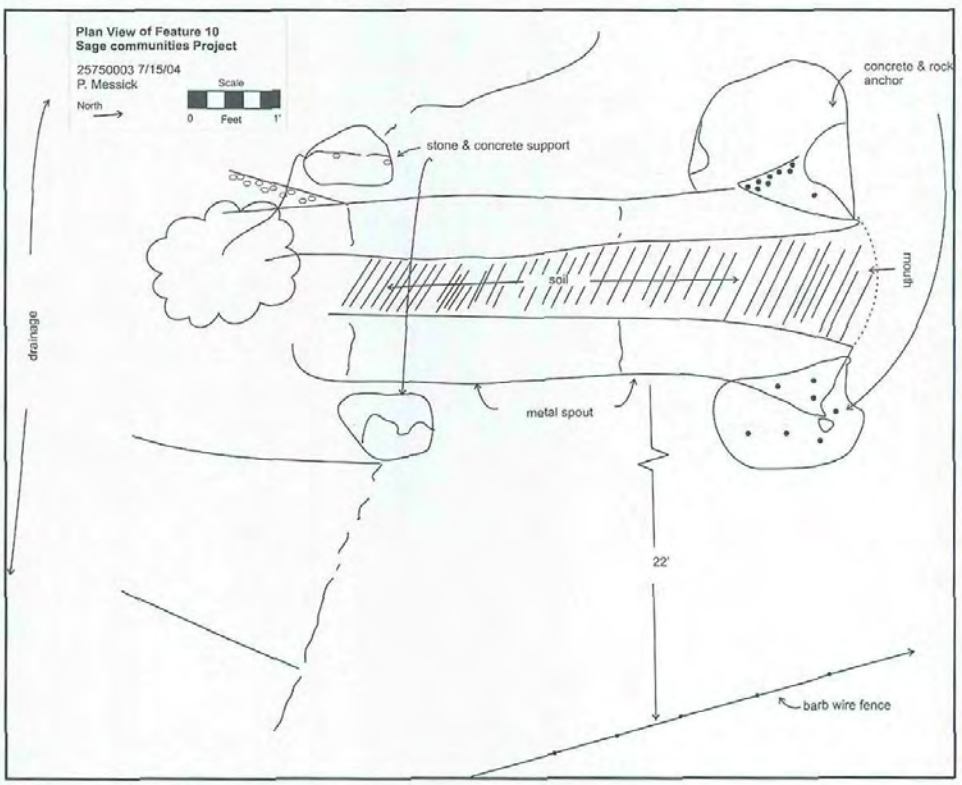
Feature 6 plan view.



Feature 8 plan view

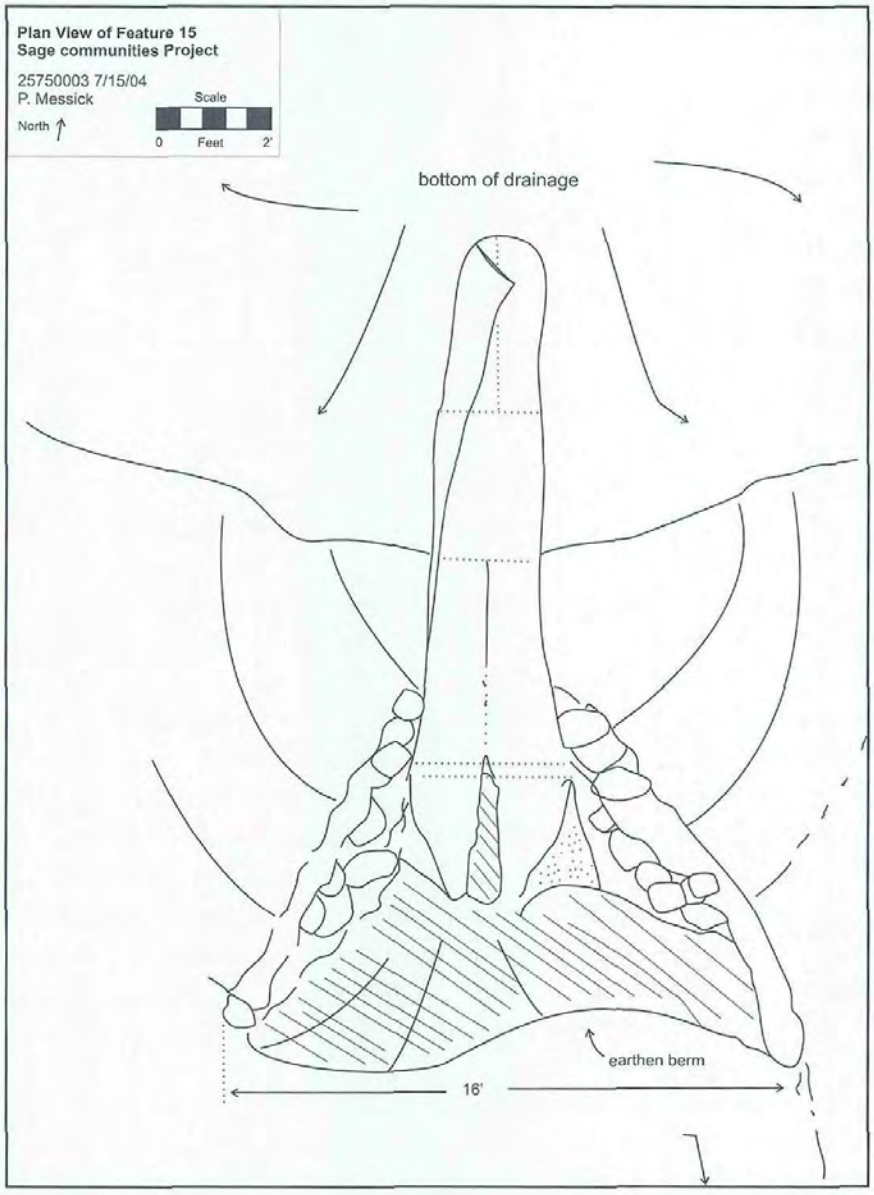


Feature 9 plan view

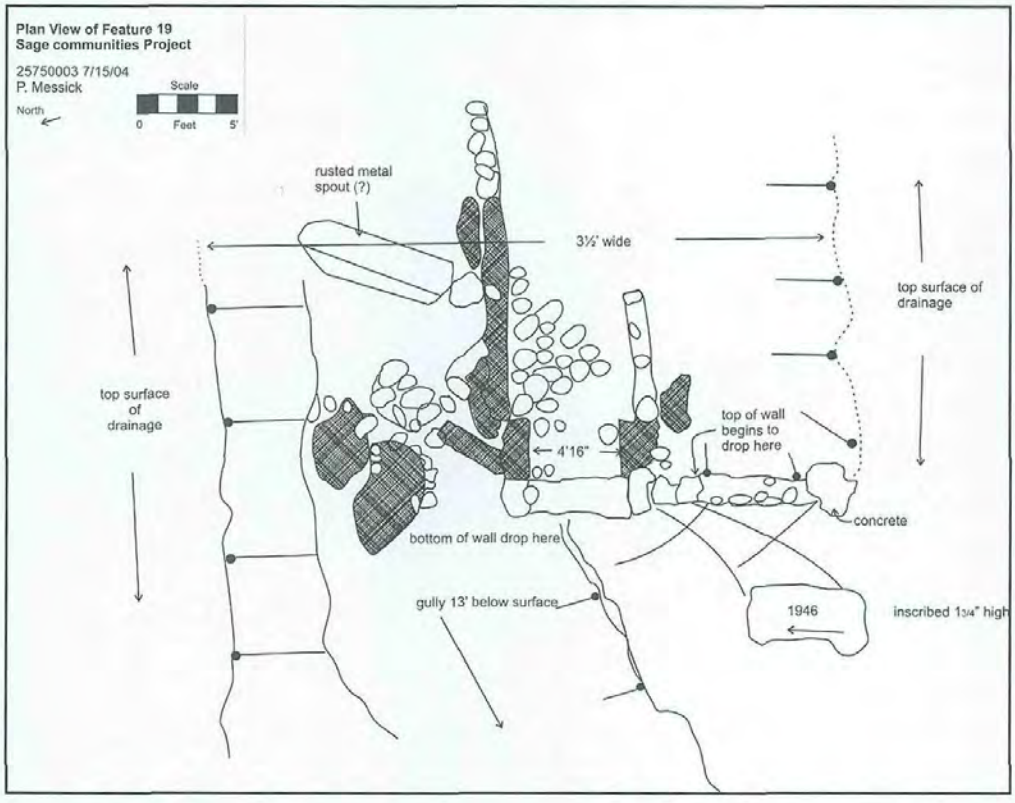


Feature 10 plan view

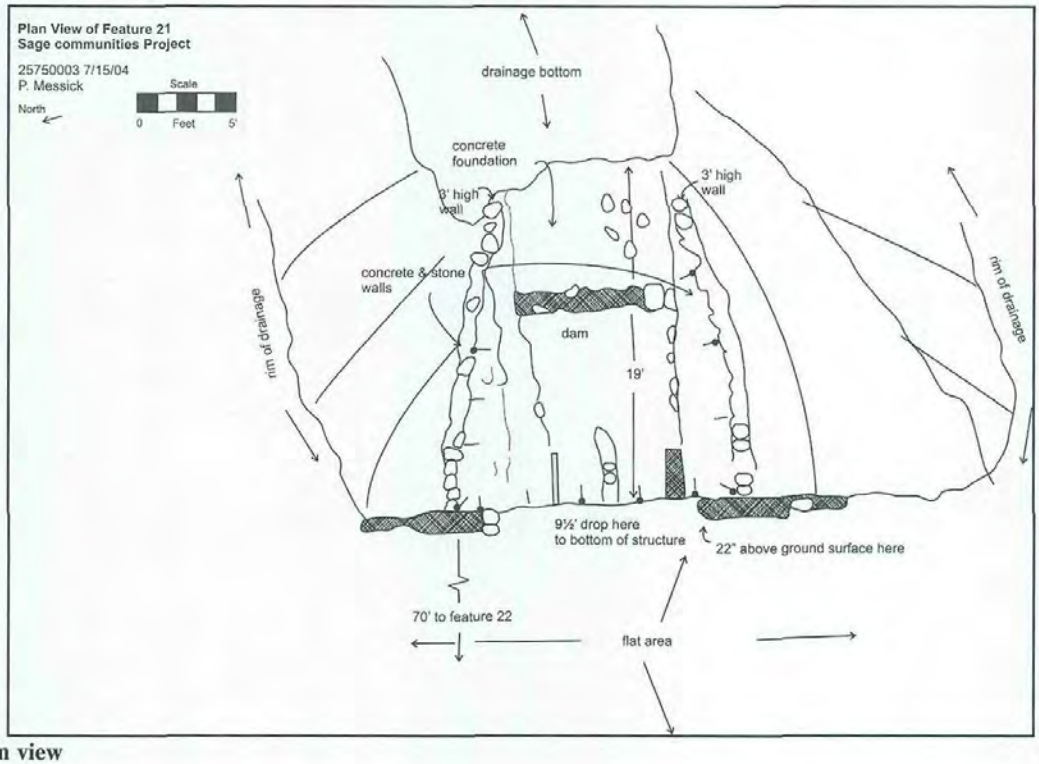
Primary # 33-13779
HRI#
Trinomial CA-RIV-7544
*Resource Name or #: SC #2



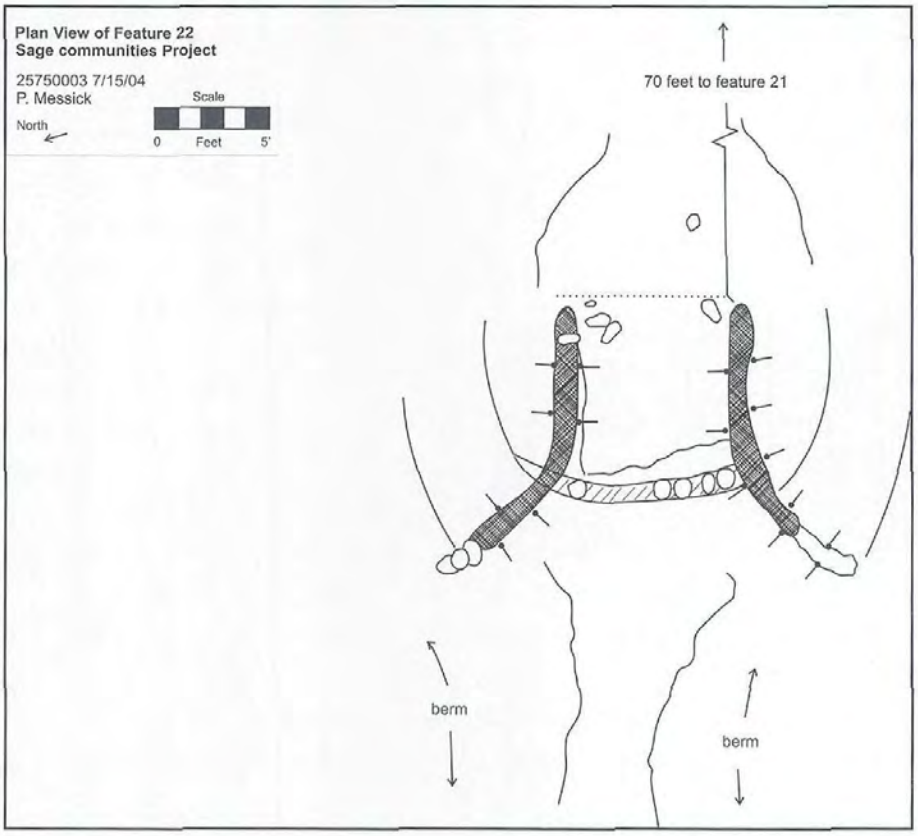
Feature 15 plan view.



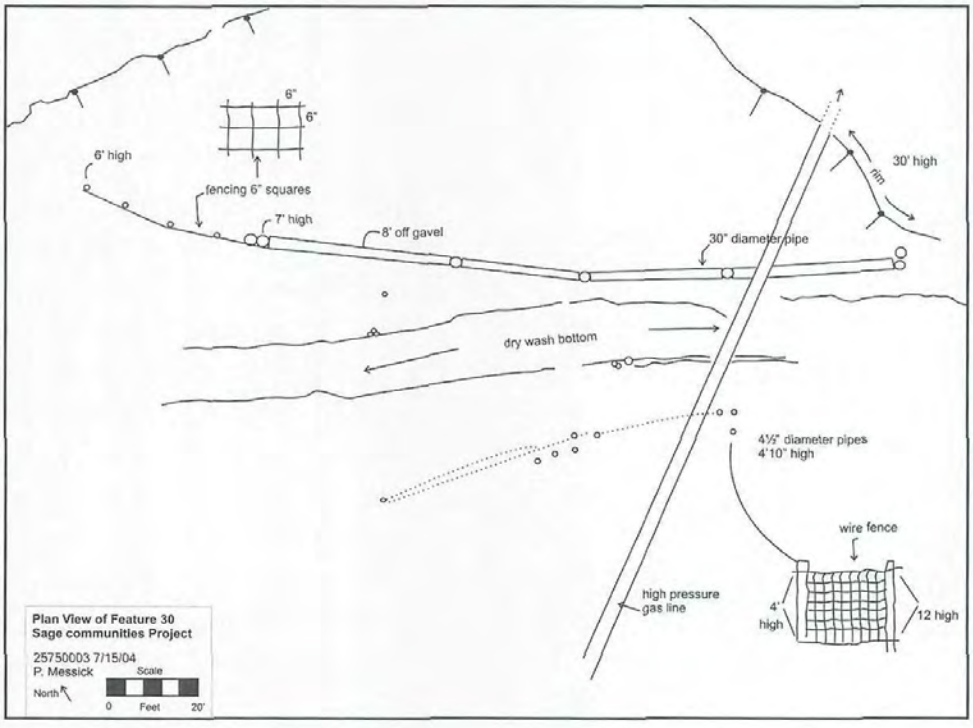
Feature 19 plan view



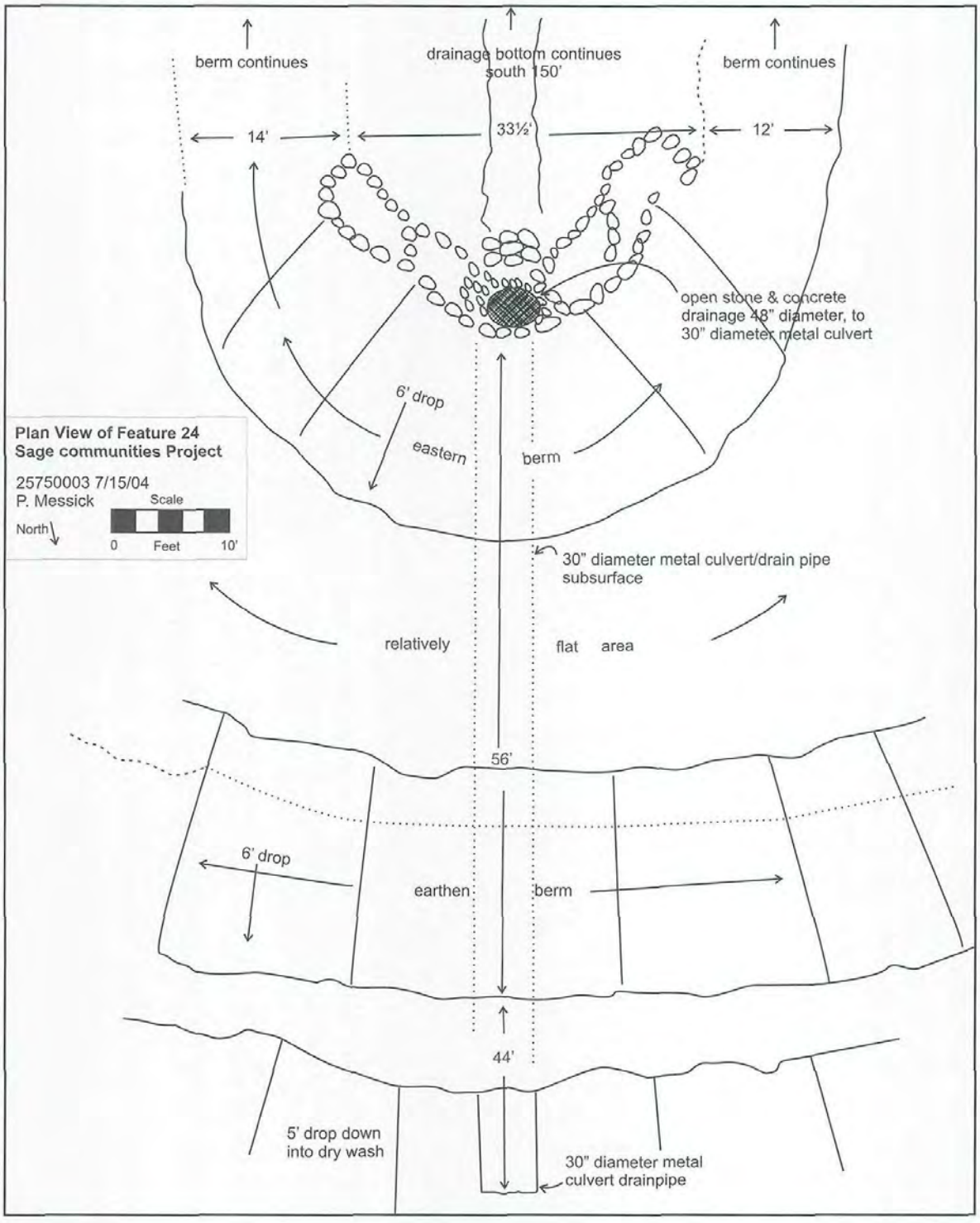
Feature 21 plan view



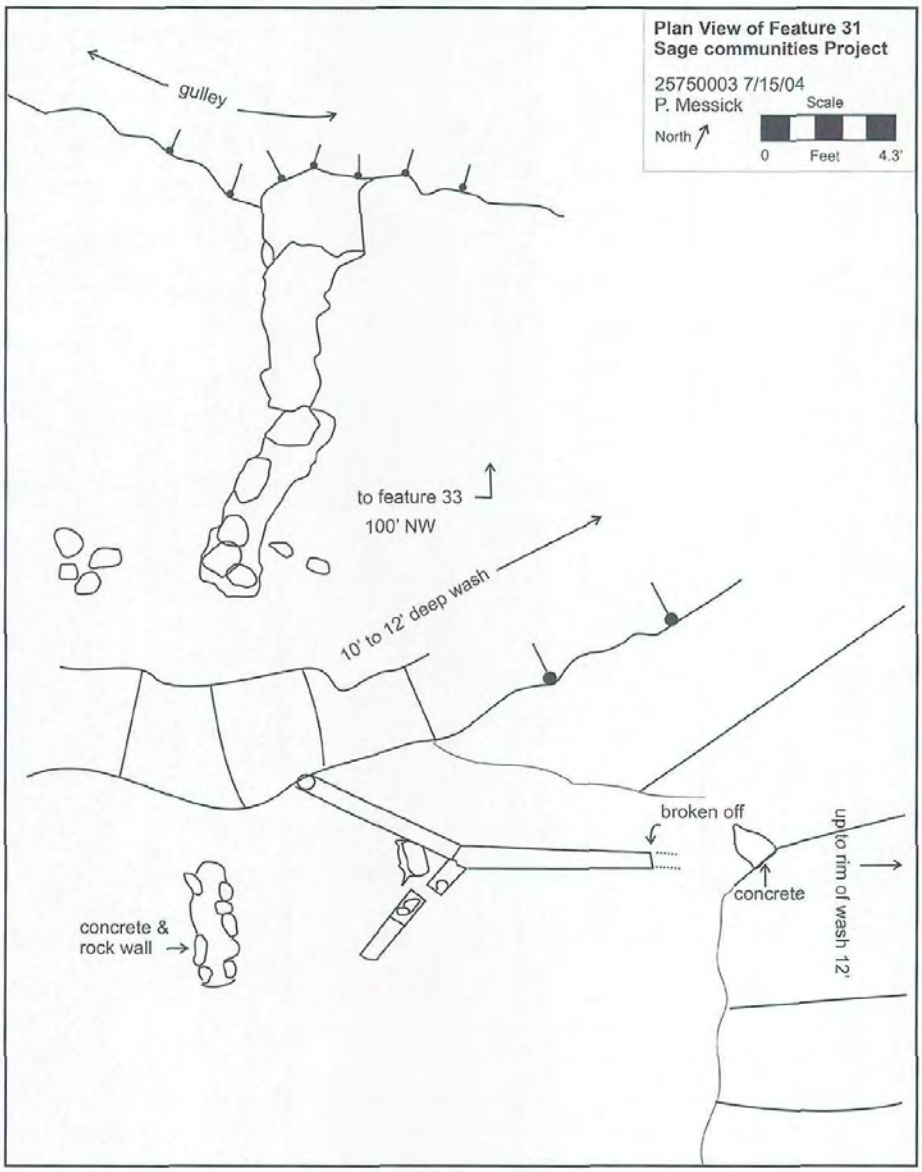
Feature 22 plan view



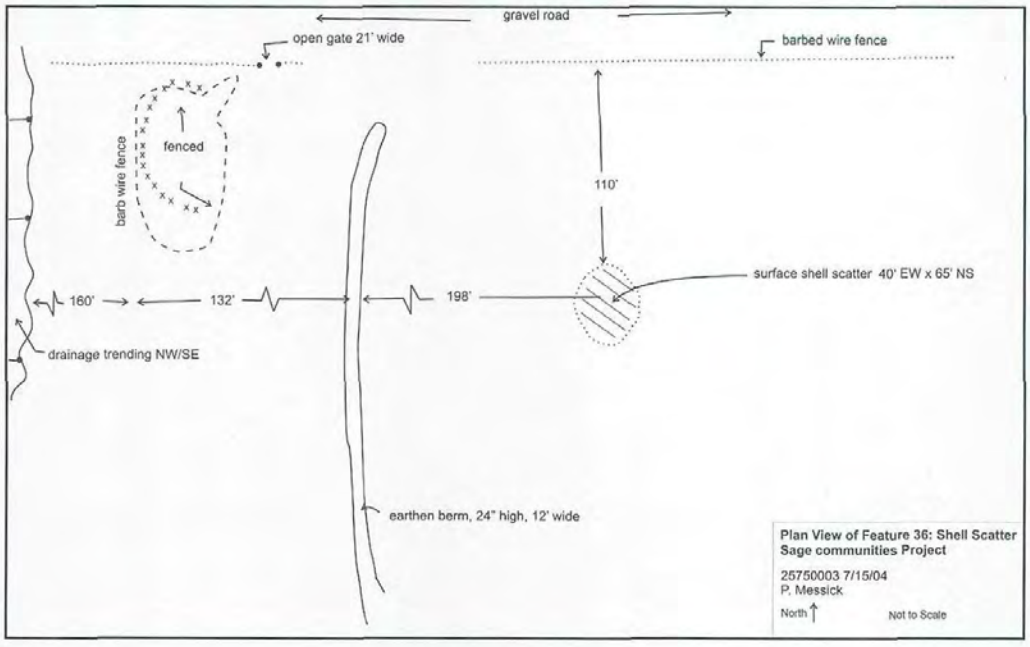
Feature 30 plan view



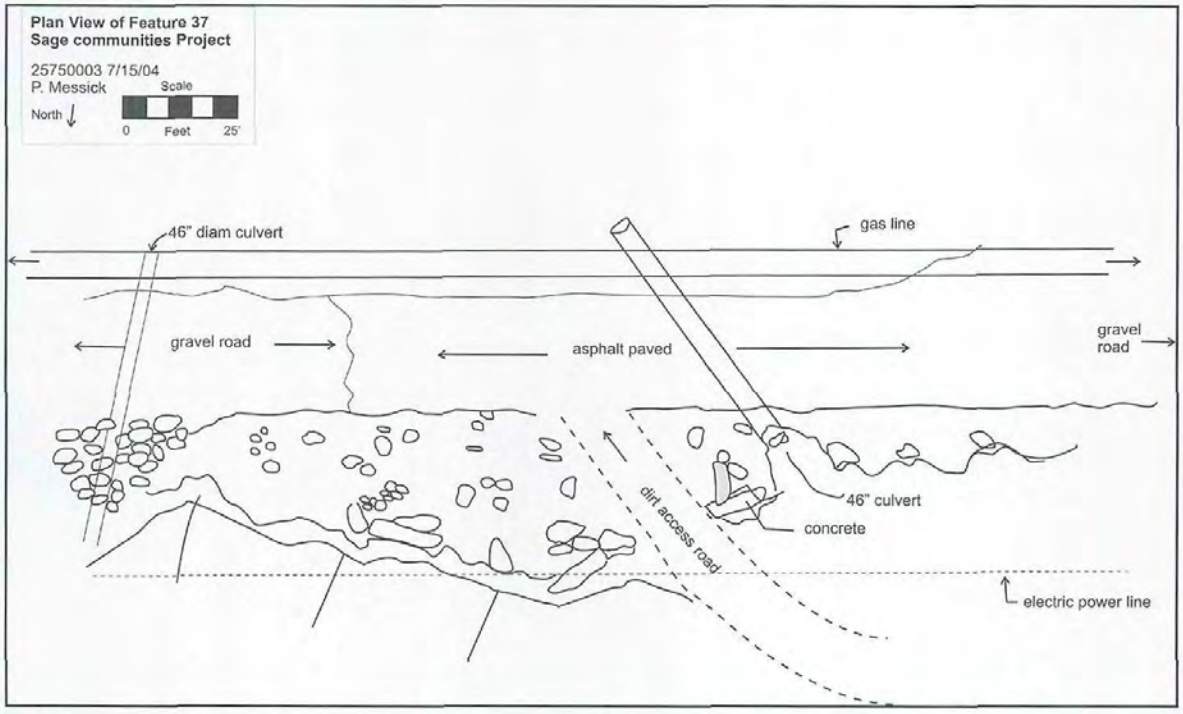
Feature 24 plan view.



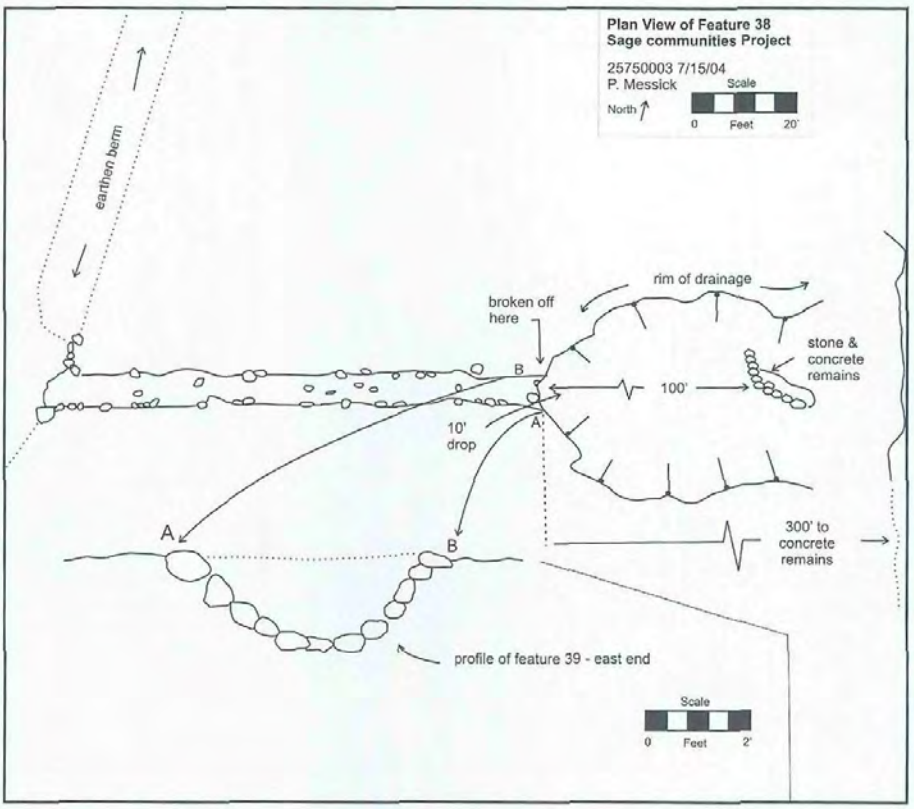
Feature 31 plan view



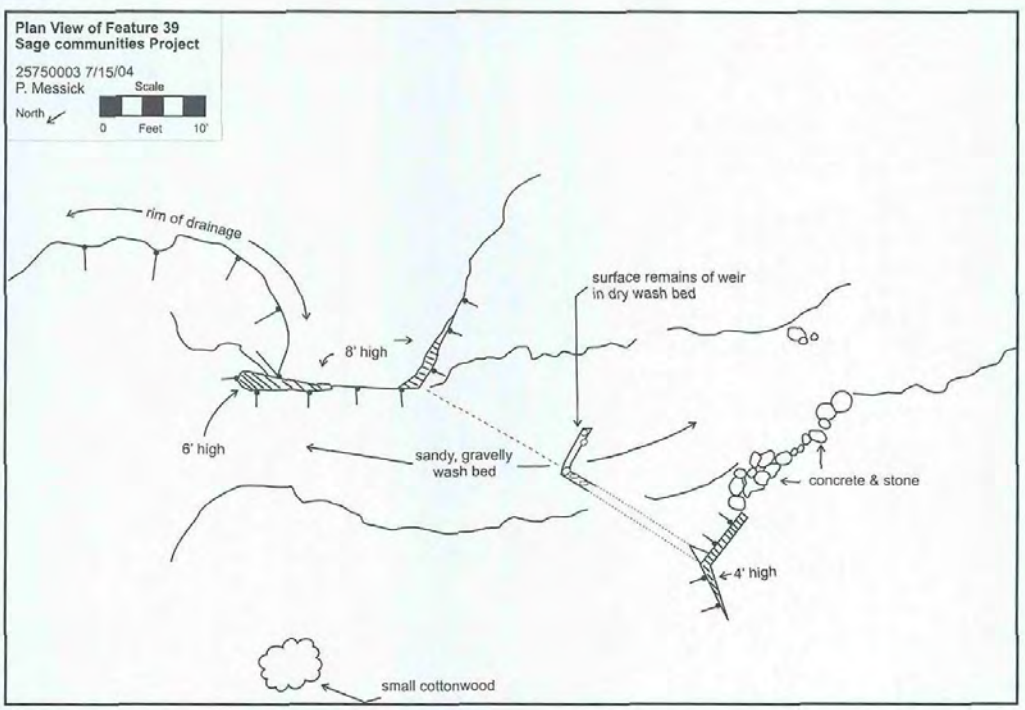
Feature 36 plan view



Feature 37 plan view



Feature 38 plan view



Feature 39 plan view

State of California — The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
PHOTOGRAPHIC RECORD

Primary # 33-13779
HRI#
Trinomial CA-RIV-7544

*Resource Name or #: SC #2

Camera format: Disposable converted to digital
Film type and speed: _____

Lens size: _____
Negative on file at: _____

Photographs and photograph list.

Mo.	Day	Time	Exposure	Subject/Description	View Toward	Accession#
7	25			Feature 6 overview	NW	None
7	25			Feature 7 overview	NW	None
7	25			Feature 8 overview	W	None
7	25			Feature 10 shunt opening view	downstream	None
7	25			Feature 11 canyon rim view	W	
7	25			Feature 12 gully view	N	
7	25			Feature 13 upstream view	-	
7	25			Feature 14 water tank		
7	25			Feature 15 overview	NW	
7	25			Feature 16 exposed shunt opening	W	
7	25			Feature 17 collapsed on drainage edge	NE	
7	25			Feature 18 overview	N	
7	26			Feature 19 view from gully	E	
7	26			Feature 20 overview	N	
7	26			Feature 21 gully view	W	
7	26			Feature 22 overview	W	
7	26			Feature 23 overview	W	
7	26			Feature 24 overview	W	
7	26			Detailed view of Feature 24 rock work	-	
7	26			Feature 25 overview	SE	
7	26			Feature 26 overview	W	
7	26			Feature 27 overview	N	
7	26			Feature 28 overview	E	
7	26			Feature 29 overview	SE	
7	26			Feature 30 overview	S	
7	26			Feature 31 overview	NW	
7	26			Feature 32 overview	W	
7	26			Feature 32 overview	N	
7	26			Feature 33 overview	N	
7	26			Feature 34 overview	SE	
7	26			Feature 35 overview	Downstream	
7	26			Feature 37 overview	SE	
7	26			Feature 38 overview	SE	

State of California — The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
PHOTOGRAPHIC RECORD

Primary # 33-13779
HRI#
Trinomial CA-RIV-7544

*Resource Name or #: SC #2



View of Feature 6 toward the northwest.



View of Feature 7 toward the northwest.



View of Feature 8 toward the west.



View to the south of Feature 10 shunt opening.



View to the west of Feature 11.



View to the north of Feature 12.



View upstream of Feature 13.



View of Feature 14 water tank



View to the northwest of Feature 15.



View to the north of Feature 16.



View to the northeast of Feature 17.



View to the north of Feature 18.



View to the east from the gully bottom of Feature 19.



View to the north of Feature 20



View to the west from the gully at Feature 21



View to the west at Feature 22.



View to the west of Feature 23.

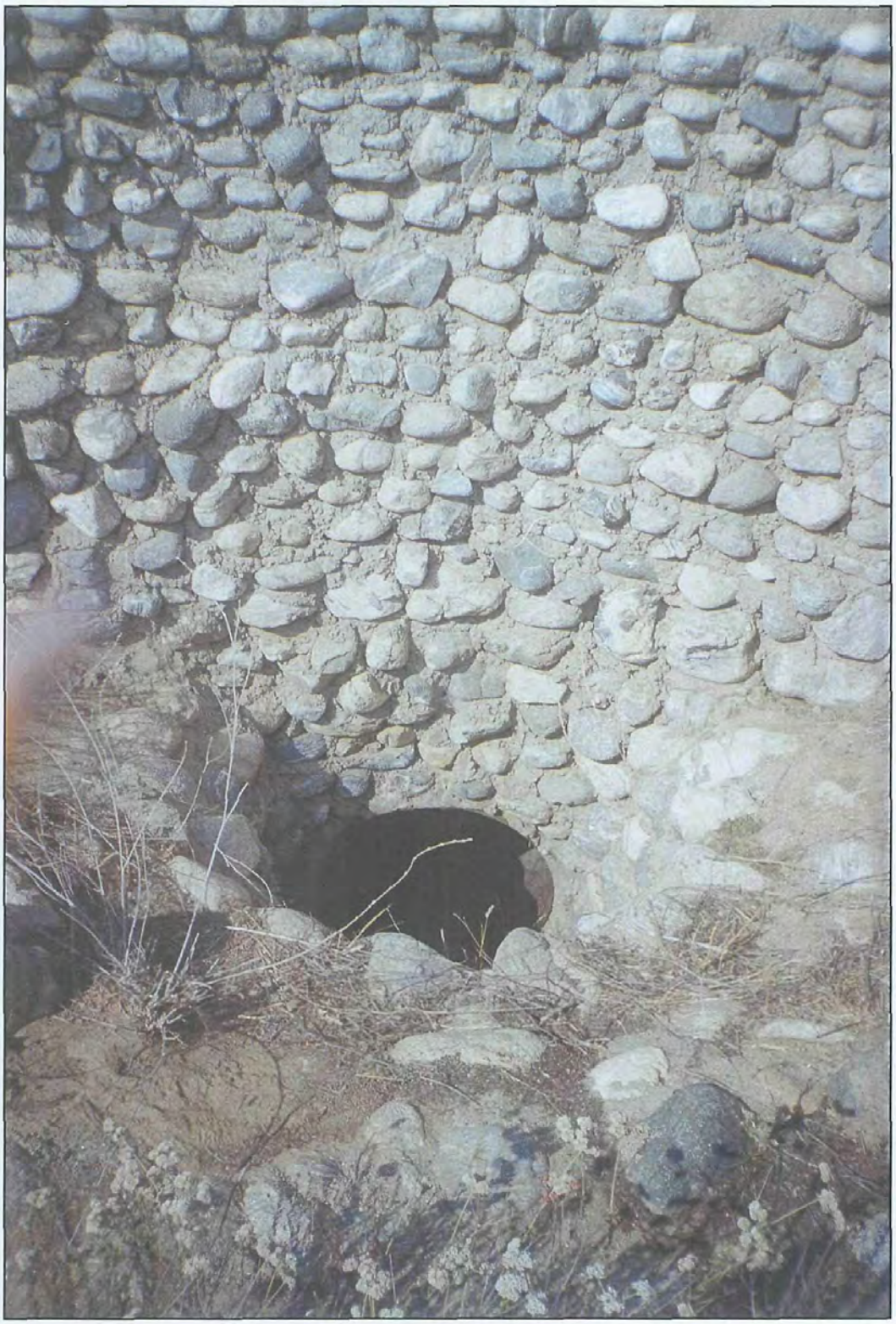


View to the west of Feature 24

State of California — The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
PHOTOGRAPHIC RECORD

Primary # 33-13779
HRI#
Trinomial CA-RIV-7544

*Resource Name or #: SC #2



Detailed view of Feature 24.

State of California — The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
PHOTOGRAPHIC RECORD

Primary # 33-13779
HRI#
Trinomial CA-RIV-7544

*Resource Name or #: SC #2



View to the southeast of Feature 25.



View to the west of Feature 26.



View to the north of Feature 27.



View to the east of Feature 28.

State of California — The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
PHOTOGRAPHIC RECORD

Primary # 33-13779
HRI#
Trinomial CA-RIV-7544

*Resource Name or #: SC #2



View to the southeast of Feature 29.



View to the south of Feature 30

State of California — The Resources Agency
DEPARTMENT OF PARKS AND RECREATION

PHOTOGRAPHIC RECORD

Primary # 33-13779
HRI#
Trinomial CA-RIV-7544

*Resource Name or #: SC #2



View to the northwest of Feature 31.



View to the west of Feature 32.



View to the north of Feature 32.

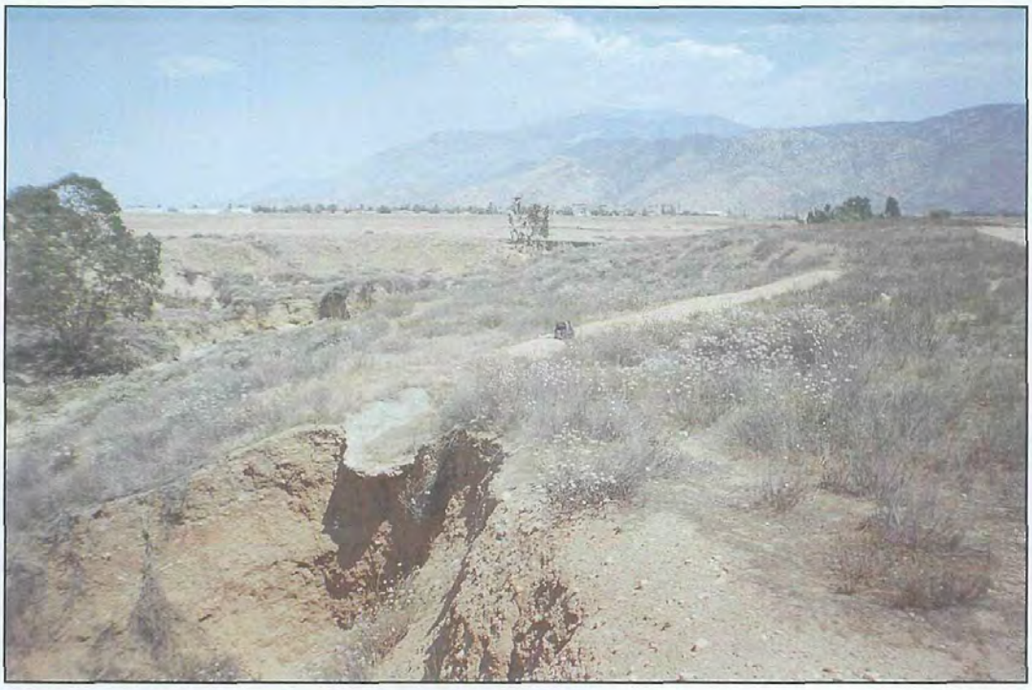


View to the north of Feature 33.

State of California — The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
PHOTOGRAPHIC RECORD

Primary # 33-13779
HRI#
Trinomial CA-RIV-7544

*Resource Name or #: SC #2



View to the southeast of Feature 34.



View of Feature 35.

State of California — The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
PHOTOGRAPHIC RECORD

Primary # 33-13779
HRI#
Trinomial CA-RIV-7544

*Resource Name or #: SC #2



View to the southeast of Feature 37.



View to the southeast of Feature 38.

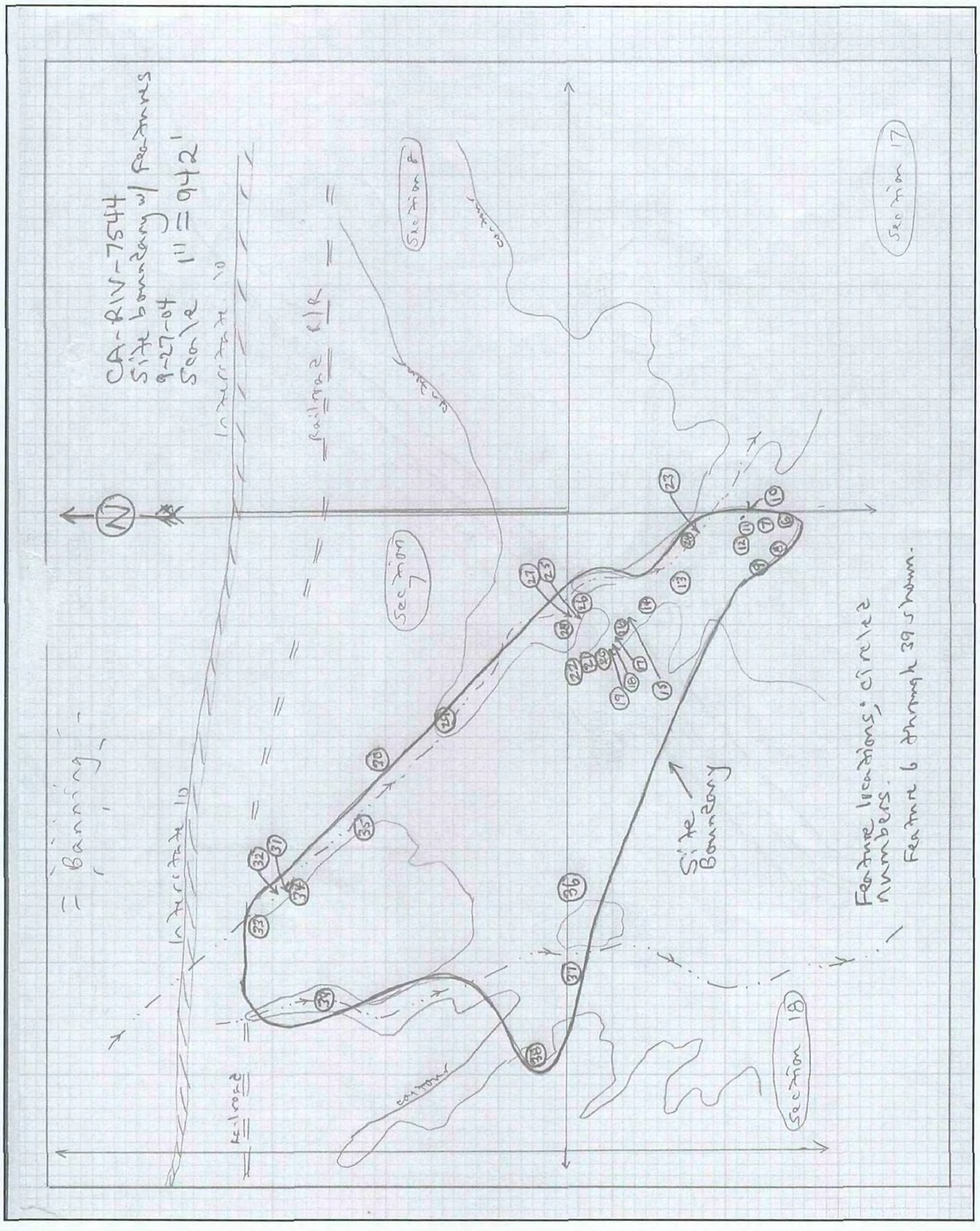
State of California — The Resources Agency
DEPARTMENT OF PARKS AND RECREATION

SKETCH MAP

Primary # 33-13779
HRI#
Trinomial CA-RIV-7544

*Resource Name or #: SC #2

Drawn by: Michael Dice. North is to the left. Scale: note map is reduced to fit on this page, new scale is 1 inch = 1162 feet



APPENDIX B

Native American Communication

LIST OF NATIVE AMERICAN CONTACTS AND RECORD OF RESPONSES

Name	Date	Responses
Patricia Garcia-Plotkin THPO Agua Caliente Band of Cahuilla Indians	September 11, 2020 September 17, 2020	Scoping letter sent via email. Response letter received from Pattie Garcia-Plotkin stating the Tribe request all the documentation related to the Project (site records and report).
Amanda Vance Chairperson Augustine Band of Cahuilla Mission Indians	September 11, 2020 September 30, 2020	Scoping letter sent via email. Follow up sent via email. No Response received.
Judy Stapp Director of Cultural Affairs Cabazon Band of Mission Indians	September 11, 2020 September 30, 2020	Scoping letter sent via email. Follow up sent via email. Response received from Judy Stapp stating, the Tribe does not have any knowledge of site information for the Project.
Daniel Salgado Chairperson Cahuilla Band of Indians	September 11, 2020 September 30, 2020	Scoping letter sent via email. Follow up sent via email. No Response received.
Shane Chapparosa Chairperson Los Coyotes Band of Cahuilla and Cupeno Indians	September 11, 2020 September 30, 2020	Scoping letter sent via email. Follow up sent via email. No Response received.
Ann Brierty Tribal Historic Preservation Officer Morongo Band of Mission Indians	September 11, 2020 September 30, 2020	Scoping letter sent via email. Follow up sent via email. No Response received.
Donna Yocum Chairperson San Fernando Band of Mission Indians	September 11, 2020 September 30, 2020	Scoping letter sent via email. Follow up sent via email. No response received.
Joseph Hamilton Chairperson Ramona Band of Cahuilla	September 11, 2020 September 30, 2020	Scoping letter sent via email. Follow up sent via email. No response received.
Jessica Mauck Cultural Resources San Manuel Band of Mission Indians	September 11, 2020 September 14, 2020	Scoping letter sent via email. Response received from Ryan Nordness, Cultural Resource Analyst. The Tribe stated, they do not have any resources within the PA or buffer area however, that does not mean low potential for buried cultural resources.

Name	Date	Responses
Steven Estrada Chairperson Santa Rosa Band of Cahuilla Indians	September 11, 2020 September 14, 2020	Scoping letter sent via email. Response received from Linda Flaxbeard stating the Project is outside their Traditional Use Area and Reservation and they will not be consulting on the Project.
Mark Cochrane Co-Chairperson Wayne Walker Co-Chairperson Serrano Nation of Mission Indians	September 11, 2020 September 30, 2020	Scoping letter sent via email. Follow up sent via email. No response received.
Joseph Ontiveros Tribal Historic Preservation Officer Soboba Band of Luiseno Indians	September 11, 2020 September 30, 2020	Scoping letter sent via email. Follow up sent via email. No response received.
Michael Mirelez Cultural Resource Coordinator Torres-Martinez Desert Cahuilla Indians	September 11, 2020 September 30, 2020	Scoping letter sent via email. Follow up sent via email. No response received.

Sacred Lands File & Native American Contacts List Request

Native American Heritage Commission
1550 Harbor Boulevard, Suite 100
West Sacramento, CA 95691
916-373-3710
916-657-5390 – Fax
nahc@nahc.ca.gov

Information Below is Required for a Sacred Lands File Search

Date: 9/13/2019

Project: Sun Lakes Boulevard Realignment Project (AE# 4093)

County: Riverside County

USGS Quadrangle Name: Beaumont

Township: 3 South **Range:** 1 East **Section(s):** 7 & 18

Company/Firm/Agency: Applied EarthWorks, Inc.

Contact Person: Kholood Abdo

Street Address: 3550 East Florida Avenue, Suite H

City: Hemet **Zip:** 92544

Phone: (951) 766-2000

Fax: (951) 766-0020

Email: kahintzman@appliedearthworks.com

Project Description:

The proposed Sun Lakes Boulevard extension Project in the City of Banning, CA will result in ground disturbance. Applied EarthWorks, Inc. has been contracted to conduct a cultural resource study of the Project area for compliance with the California Environmental Quality Act (CEQA).

NATIVE AMERICAN HERITAGE COMMISSION
Cultural and Environmental Department
1550 Harbor Blvd., Suite 100
West Sacramento, CA 95691
Phone: (916) 373-3710
Email: nahc@nahc.ca.gov
Website: http://www.nahc.ca.gov
Twitter: @CA_NAHC

September 24, 2019

Kholood Abdo
Applied EarthWorks

VIA Email to: kahintzman@appliedearthworks.com

RE: Sun Lakes Boulevard Realignment Project, Riverside County

Dear Ms. Abdo:

A record search of the Native American Heritage Commission (NAHC) Sacred Lands File (SLF) was completed for the information you have submitted for the above referenced project. The results were negative. However, the absence of specific site information in the SLF does not indicate the absence of cultural resources in any project area. Other sources of cultural resources should also be contacted for information regarding known and recorded sites.

Attached is a list of Native American tribes who may also have knowledge of cultural resources in the project area. This list should provide a starting place in locating areas of potential adverse impact within the proposed project area. I suggest you contact all of those indicated; if they cannot supply information, they might recommend others with specific knowledge. By contacting all those listed, your organization will be better able to respond to claims of failure to consult with the appropriate tribe. If a response has not been received within two weeks of notification, the Commission requests that you follow-up with a telephone call or email to ensure that the project information has been received.

If you receive notification of change of addresses and phone numbers from tribes, please notify the NAHC. With your assistance, we can assure that our lists contain current information. If you have any questions or need additional information, please contact me at my email address: steven.quinn@nahc.ca.gov.

Sincerely,

Steven Quinn
Associate Governmental Program Analyst

Attachment

Native American Heritage Commission
Native American Contact List
Riverside County
9/24/2019

Agua Caliente Band of Cahuilla Indians
Jeff Grubbe, Chairperson
5401 Dinah Shore Drive — Cahuilla
Palm Springs, CA, 92264
Phone: (760) 699 - 6800
Fax: (760) 699-6919

Agua Caliente Band of Cahuilla Indians
Patricia Garcia-Plotkin, Director
5401 Dinah Shore Drive — Cahuilla
Palm Springs, CA, 92264
Phone: (760) 699 - 6907
Fax: (760) 699-6924
ACBCI-THPO@aguacaliente.net

Augustine Band of Cahuilla Mission Indians
Amanda Vance, Chairperson
P.O. Box 846 — Cahuilla
Coachella, CA, 92236
Phone: (760) 398 - 4722
Fax: (760) 369-7161
hhaines@augustinetribe.com

Cabazon Band of Mission Indians
Doug Welmas, Chairperson
84-245 Indio Springs Parkway — Cahuilla
Indio, CA, 92203
Phone: (760) 342 - 2593
Fax: (760) 347-7880
jstapp@cabazonindians-nsn.gov

Cahuilla Band of Indians
Daniel Salgado, Chairperson
52701 U.S. Highway 371 — Cahuilla
Anza, CA, 92539
Phone: (951) 763 - 5549
Fax: (951) 763-2808
Chairman@cahuilla.net

Los Coyotes Band of Cahuilla and Cupeño Indians
Shane Chapparosa, Chairperson
P.O. Box 189 — Cahuilla
Warner Springs, CA, 92086-0189
Phone: (760) 782 - 0711
Fax: (760) 782-0712

Morongo Band of Mission Indians
Denisa Torres, Cultural Resources Manager
12700 Pumarra Rroad — Cahuilla
Banning, CA, 92220 — Serrano
Phone: (951) 849 - 8807
Fax: (951) 922-8146
dtorres@morongo-nsn.gov

Morongo Band of Mission Indians
Robert Martin, Chairperson
12700 Pumarra Rroad — Cahuilla
Banning, CA, 92220 — Serrano
Phone: (951) 849 - 8807
Fax: (951) 922-8146
dtorres@morongo-nsn.gov

Ramona Band of Cahuilla
Joseph Hamilton, Chairperson
P.O. Box 391670 — Cahuilla
Anza, CA, 92539
Phone: (951) 763 - 4105
Fax: (951) 763-4325
admin@ramona-nsn.gov

Ramona Band of Cahuilla
John Gomez, Environmental Coordinator
P. O. Box 391670 — Cahuilla
Anza, CA, 92539
Phone: (951) 763 - 4105
Fax: (951) 763-4325
jgomez@ramona-nsn.gov

This list is current only as of the date of this document. Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resource Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources assessment for the proposed Sun Lakes Boulevard Realignment Project, Riverside County.

San Fernando Band of Mission Indians
Donna Yocum, Chairperson
P.O. Box 221838 — Kitanemuk
Newhall, CA, 91322 — Vanyume
Phone: (503) 539 - 0933 — Tataviam
Fax: (503) 574-3308
ddyocum@comcast.net

San Manuel Band of Mission Indians
Lee Clauss, Director of Cultural Resources
26569 Community Center Drive — Serrano
Highland, CA, 92346
Phone: (909) 864 - 8933
Fax: (909) 864-3370
lclauss@sanmanuel-nsn.gov

Santa Rosa Band of Cahuilla Indians
Mercedes Estrada,
P. O. Box 391820 — Cahuilla
Anza, CA, 92539
Phone: (951) 659 - 2700
Fax: (951) 659-2228
mercedes.estrada@santarosacahuilla-nsn.gov

Santa Rosa Band of Cahuilla Indians
Steven Estrada, Chairperson
P.O. Box 391820 — Cahuilla
Anza, CA, 92539
Phone: (951) 659 - 2700
Fax: (951) 659-2228
mflaxbeard@santarosacahuilla-nsn.gov

Serrano Nation of Mission Indians
Mark Cochrane, Co-Chairperson
P. O. Box 343 — Serrano
Patton, CA, 92369
Phone: (909) 528 - 9032
serranonation1@gmail.com

Serrano Nation of Mission Indians
Wayne Walker, Co-Chairperson
P. O. Box 343 — Serrano
Patton, CA, 92369
Phone: (253) 370 - 0167
serranonation1@gmail.com

Soboba Band of Luiseno Indians
Joseph Ontiveros, Cultural Resource Department
P.O. BOX 487 — Cahuilla
San Jacinto, CA, 92581 — Luiseno
Phone: (951) 663 - 5279
Fax: (951) 654-4198
jontiveros@soboba-nsn.gov

Soboba Band of Luiseno Indians
Scott Cozart, Chairperson
P. O. Box 487 — Cahuilla
San Jacinto, CA, 92583 — Luiseno
Phone: (951) 654 - 2765
Fax: (951) 654-4198
jontiveros@soboba-nsn.gov

Torres-Martinez Desert Cahuilla Indians
Michael Mirelez, Cultural Resource Coordinator
P.O. Box 1160 — Cahuilla
Thermal, CA, 92274
Phone: (760) 399 - 0022
Fax: (760) 397-8146
mmirelez@tmdci.org

This list is current only as of the date of this document. Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resource Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources assessment for the proposed Sun Lakes Boulevard Realignment Project, Riverside County.

Applied EARTHWORKS Inc.

3550 E. Florida Ave., Suite H
Hemet, CA 92544-4937
O: (951) 766-2000 | F: (951) 766-0020

September 11, 2020

Ann Brierty
Tribal Historic Preservation Officer
Morongo Band of Mission Indians
12700 Pumarra Road
Banning, CA, 92220

Re: Cultural Resource Assessment for the Sun lakes Boulevard Realignment Project, in the City of Banning Riverside County, California.

Dear THPO Brierty:

On behalf of Albert A. Webb Associates, Applied EarthWorks, Inc. (Æ) is conducting a cultural resource study for the Sun lakes Boulevard Realignment Project, Project (Project). The Project involves the realignment and construction of an extension of Sun Lake Boulevard in the City of Banning, Riverside County. The Project is subject to the Section 106 of the National Historic Preservation Act (NHPA) and the California Environmental Quality Act (CEQA). The United States Army Corp of Engineers (USACE) is the lead Section 106 agency. As indicated on the attached map, the Project is located on the Beaumont, CA 7.5' USGS quadrangle map within Township 3S / Range 1W, Section 7, San Bernardino Baseline and Meridian (S.B.B.M.).

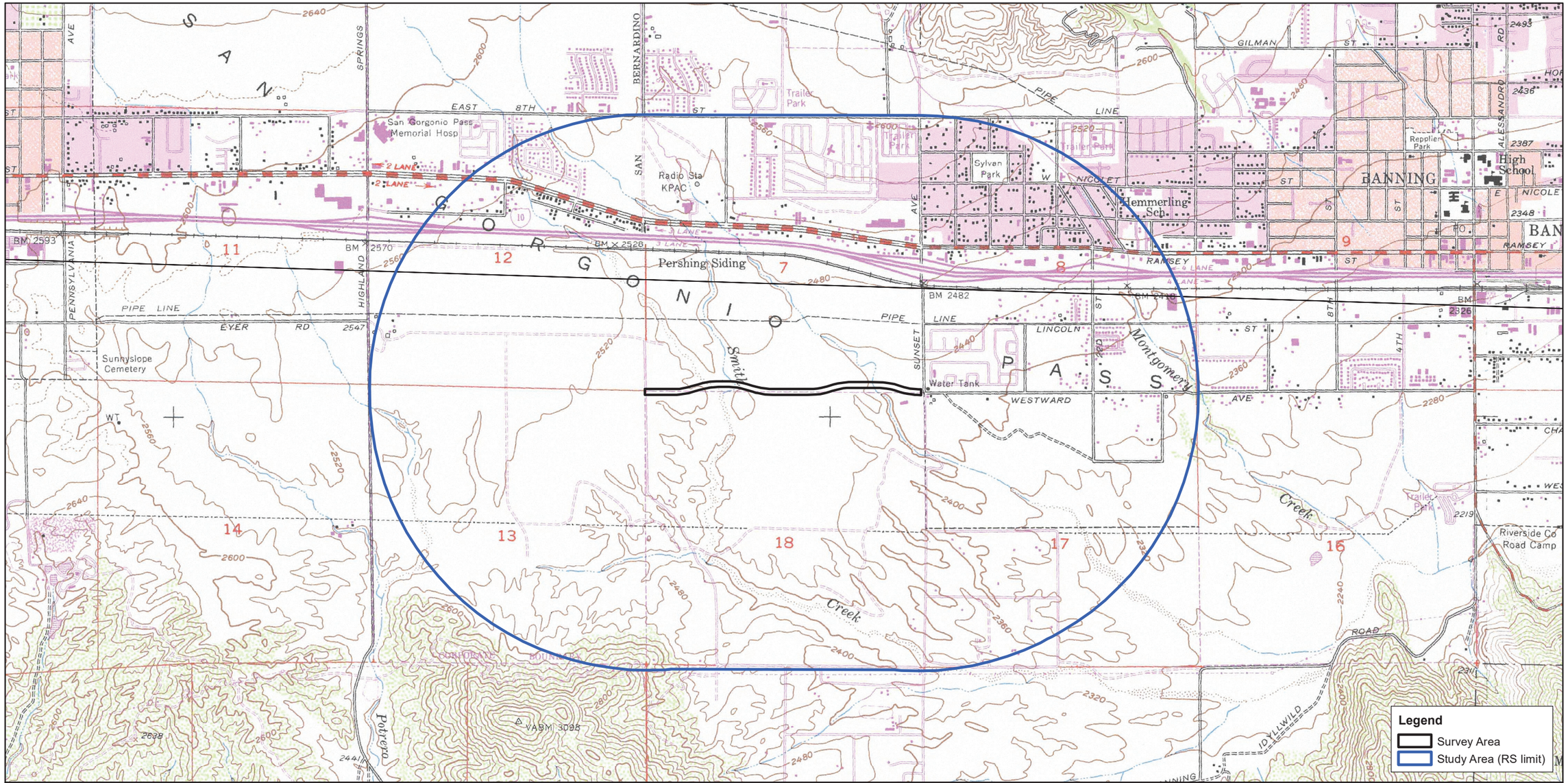
Æ submitted an archaeological literature and records search request to the Eastern Information Center housed at the University of California, Riverside on September 16, 2019. The records search indicated 16 cultural resource studies have been conducted within a 1-mile buffer of the Project's Area of Potential Effects (APE), and 100 percent of the APE has been previously surveyed. These studies resulted in the documentation of 44 cultural resources within the 1-mile buffer area, two of which are within the APE. Æ was contracted to perform an archaeological survey of the Project APE. The survey was completed on September 4, 2020. Transects spacing ranged from 10 to 15 meters. No prehistoric cultural resources were observed during the survey but the two historic resources within the APE were observed although none of the features are within the APE.

As part of the cultural resource assessment of the Project area, Æ requested a search of the *Sacred Lands File* by the Native American Heritage Commission (NAHC) on June 29, 2020. The NAHC responded on June 30, 2020 noting that *Sacred Lands File* search was completed with negative results. Should your records show that cultural properties exist within or near the Project area shown on the enclosed map, or if you have any concerns regarding Native American issues related to the overall Project, please contact me at (951) 766-2000 or via letter expressing your concerns. You may also e-mail me at emills@appliedearthworks.com. If I do not hear from you within the next two weeks, I will contact you with a follow-up phone call or email.

Please be aware that your comments and concerns are very important to us, as well as to the successful completion of this Project. I look forward to hearing from you in the near future. Thank you, in advance, for taking the time to review this request.

Respectfully yours,

Evan Mills, MA, RPA
Associate Archaeologist
Applied EarthWorks, Inc.



T3S/R1W, Sections 1, 12, 13, 14, and 24; T3S/R1E, Sections 5, 6, 7, 8, 9, 16, 17, 18, 19, and 20; SBB&M
Beaumont (1953, photorevised 1988) and Cabazon (1956, photorevised 1988), CA 7.5' USGS Topographic Quadrangles

Records search map for the *Webb - Sun Lakes Blvd. Realignment Project - AE#4093*.

Applied EARTHWORKS Inc.

3550 E. Florida Ave., Suite H
Hemet, CA 92544-4937
O: (951) 766-2000 | F: (951) 766-0020

September 11, 2020

Shane Chapparosa
Chairperson
Los Coyotes Band of Cahuilla and Cupeno Indians
P.O. Box 189
Warner Springs, CA, 92086

Re: Cultural Resource Assessment for the Sun lakes Boulevard Realignment Project, in the City of Banning Riverside County, California.

Dear Chairperson Chapparosa:

On behalf of Albert A. Webb Associates, Applied EarthWorks, Inc. (Æ) is conducting a cultural resource study for the Sun lakes Boulevard Realignment Project, Project (Project). The Project involves the realignment and construction of an extension of Sun Lake Boulevard in the City of Banning, Riverside County. The Project is subject to the Section 106 of the National Historic Preservation Act (NHPA) and the California Environmental Quality Act (CEQA). The United States Army Corp of Engineers (USACE) is the lead Section 106 agency. As indicated on the attached map, the Project is located on the Beaumont, CA 7.5' USGS quadrangle map within Township 3S / Range 1W, Section 7, San Bernardino Baseline and Meridian (S.B.B.M.).

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Please be aware that your comments and concerns are very important to us, as well as to the successful completion of this Project. I look forward to hearing from you in the near future. Thank you, in advance, for taking the time to review this request.

Respectfully yours,

Evan Mills, MA, RPA
Associate Archaeologist
Applied EarthWorks, Inc.

Applied EARTHWORKS Inc.

3550 E. Florida Ave., Suite H
Hemet, CA 92544-4937
O: (951) 766-2000 | F: (951) 766-0020

September 11, 2020

Mark Cochrane and Wayne Walker
Co-Chairpersons
Serrano Nation of Mission Indians
P. O. Box 1160
Patton, CA 92274

Re: Cultural Resource Assessment for the Sun lakes Boulevard Realignment Project, in the City of Banning Riverside County, California.

Dear Co-Chairpersons:

On behalf of Albert A. Webb Associates, Applied EarthWorks, Inc. (Æ) is conducting a cultural resource study for the Sun lakes Boulevard Realignment Project, Project (Project). The Project involves the realignment and construction of an extension of Sun Lake Boulevard in the City of Banning, Riverside County. The Project is subject to the Section 106 of the National Historic Preservation Act (NHPA) and the California Environmental Quality Act (CEQA). The United States Army Corp of Engineers (USACE) is the lead Section 106 agency. As indicated on the attached map, the Project is located on the Beaumont, CA 7.5' USGS quadrangle map within Township 3S / Range 1W, Section 7, San Bernardino Baseline and Meridian (S.B.B.M.).

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Associate Archaeologist
Applied EarthWorks, Inc.

Applied EARTHWORKS Inc.

3550 E. Florida Ave., Suite H
Hemet, CA 92544-4937
O: (951) 766-2000 | F: (951) 766-0020

September 11, 2020

Steven Estrada
Chairperson
Santa Rosa Band of Mission Indians
P.O. Box 391820
Anza, CA 92539

Re: Cultural Resource Assessment for the Sun lakes Boulevard Realignment Project, in the City of Banning Riverside County, California.

Dear Chairperson Estrada:

On behalf of Albert A. Webb Associates, Applied EarthWorks, Inc. (Æ) is conducting a cultural resource study for the Sun lakes Boulevard Realignment Project, Project (Project). The Project involves the realignment and construction of an extension of Sun Lake Boulevard in the City of Banning, Riverside County. The Project is subject to the Section 106 of the National Historic Preservation Act (NHPA) and the California Environmental Quality Act (CEQA). The United States Army Corp of Engineers (USACE) is the lead Section 106 agency. As indicated on the attached map, the Project is located on the Beaumont, CA 7.5' USGS quadrangle map within Township 3S / Range 1W, Section 7, San Bernardino Baseline and Meridian (S.B.B.M.).

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Applied EarthWorks, Inc.

Applied EARTHWORKS Inc.

3550 E. Florida Ave., Suite H
Hemet, CA 92544-4937
O: (951) 766-2000 | F: (951) 766-0020

September 11, 2020

Patricia Garcia-Plotkin
Director
Agua Caliente Band of Cahuilla Indians
5401 Dinah Shore Drive
Palm Springs, CA, 92264

Re: Cultural Resource Assessment for the Sun lakes Boulevard Realignment Project, in the City of Banning Riverside County, California.

Dear Director Garcia-Plotkin:

On behalf of Albert A. Webb Associates, Applied EarthWorks, Inc. (Æ) is conducting a cultural resource study for the Sun lakes Boulevard Realignment Project, Project (Project). The Project involves the realignment and construction of an extension of Sun Lake Boulevard in the City of Banning, Riverside County. The Project is subject to the Section 106 of the National Historic Preservation Act (NHPA) and the California Environmental Quality Act (CEQA). The United States Army Corp of Engineers (USACE) is the lead Section 106 agency. As indicated on the attached map, the Project is located on the Beaumont, CA 7.5' USGS quadrangle map within Township 3S / Range 1W, Section 7, San Bernardino Baseline and Meridian (S.B.B.M.).

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Associate Archaeologist
Applied EarthWorks, Inc.

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Hemet, CA 92544-4937
O: (951) 766-2000 | F: (951) 766-0020

September 11, 2020

Joseph Hamilton
Chairman
Ramona Band of Cahuilla
P.O. Box 391670
Anza, CA 92539

Re: Cultural Resource Assessment for the Sun lakes Boulevard Realignment Project, in the City of Banning Riverside County, California.

Dear Chairman Hamilton:

On behalf of Albert A. Webb Associates, Applied EarthWorks, Inc. (Æ) is conducting a cultural resource study for the Sun lakes Boulevard Realignment Project, Project (Project). The Project involves the realignment and construction of an extension of Sun Lake Boulevard in the City of Banning, Riverside County. The Project is subject to the Section 106 of the National Historic Preservation Act (NHPA) and the California Environmental Quality Act (CEQA). The United States Army Corp of Engineers (USACE) is the lead Section 106 agency. As indicated on the attached map, the Project is located on the Beaumont, CA 7.5' USGS quadrangle map within Township 3S / Range 1W, Section 7, San Bernardino Baseline and Meridian (S.B.B.M.).

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Applied EarthWorks, Inc.

Applied EARTHWORKS Inc.

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Hemet, CA 92544-4937
O: (951) 766-2000 | F: (951) 766-0020

September 11, 2020

Jessica Mauck
Cultural Resources
San Manuel Band of Mission Indians
P.O. Box 391670,
Anza, CA, 92539

Re: Cultural Resource Assessment for the Sun lakes Boulevard Realignment Project, in the City of Banning Riverside County, California.

Dear Ms. Mauck:

On behalf of Albert A. Webb Associates, Applied EarthWorks, Inc. (Æ) is conducting a cultural resource study for the Sun lakes Boulevard Realignment Project, Project (Project). The Project involves the realignment and construction of an extension of Sun Lake Boulevard in the City of Banning, Riverside County. The Project is subject to the Section 106 of the National Historic Preservation Act (NHPA) and the California Environmental Quality Act (CEQA). The United States Army Corp of Engineers (USACE) is the lead Section 106 agency. As indicated on the attached map, the Project is located on the Beaumont, CA 7.5' USGS quadrangle map within Township 3S / Range 1W, Section 7, San Bernardino Baseline and Meridian (S.B.B.M.).

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Applied EarthWorks, Inc.

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O: (951) 766-2000 | F: (951) 766-0020

September 11, 2020

Michael Mirelez
Cultural Resource Coordinator
Torres-Martinez Desert Cahuilla Indians
P. O. Box 1160
Thermal, CA 92274

Re: Cultural Resource Assessment for the Sun lakes Boulevard Realignment Project, in the City of Banning Riverside County, California.

Dear Mr. Mirelez:

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Associate Archaeologist
Applied EarthWorks, Inc.

Applied EARTHWORKS Inc.

3550 E. Florida Ave., Suite H
Hemet, CA 92544-4937
O: (951) 766-2000 | F: (951) 766-0020

September 11, 2020

Joseph Ontiveros
Cultural Resource Department
Soboba Band of Luiseno Indians
P.O. Box 487
San Jacinto, CA 92581

Re: Cultural Resource Assessment for the Sun lakes Boulevard Realignment Project, in the City of Banning Riverside County, California.

Dear Mr. Ontiveros:

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O: (951) 766-2000 | F: (951) 766-0020

September 11, 2020

Daniel Salgado
Chairperson
Cahuilla Band of Indians
52701 U.S. Highway 371
Anza, CA, 92539

Re: Cultural Resource Assessment for the Sun lakes Boulevard Realignment Project, in the City of Banning Riverside County, California.

Dear Chairperson Salgado:

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Applied EarthWorks, Inc.

Applied EARTHWORKS Inc.

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O: (951) 766-2000 | F: (951) 766-0020

September 11, 2020

Judy Stapp
Director of Cultural Affairs
Cabazon Band of Cahuilla Indians
84-245 Indio Springs Parkway
Indio, CA, 92203

Re: Cultural Resource Assessment for the Sun lakes Boulevard Realignment Project, in the City of Banning Riverside County, California.

Dear Director Stapp:

On behalf of Albert A. Webb Associates, Applied EarthWorks, Inc. (Æ) is conducting a cultural resource study for the Sun lakes Boulevard Realignment Project, Project (Project). The Project involves the realignment and construction of an extension of Sun Lake Boulevard in the City of Banning, Riverside County. The Project is subject to the Section 106 of the National Historic Preservation Act (NHPA) and the California Environmental Quality Act (CEQA). The United States Army Corp of Engineers (USACE) is the lead Section 106 agency. As indicated on the attached map, the Project is located on the Beaumont, CA 7.5' USGS quadrangle map within Township 3S / Range 1W, Section 7, San Bernardino Baseline and Meridian (S.B.B.M.).

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Applied EarthWorks, Inc.

Applied EARTHWORKS Inc.

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O: (951) 766-2000 | F: (951) 766-0020

September 11, 2020

Amanda Vance
Chairperson
Augustine Band of Cahuilla Mission Indians
P.O. Box 846
Coachella, CA, 92236

Re: Cultural Resource Assessment for the Sun lakes Boulevard Realignment Project, in the City of Banning Riverside County, California.

Dear Chairperson Vance:

On behalf of Albert A. Webb Associates, Applied EarthWorks, Inc. (Æ) is conducting a cultural resource study for the Sun lakes Boulevard Realignment Project, Project (Project). The Project involves the realignment and construction of an extension of Sun Lake Boulevard in the City of Banning, Riverside County. The Project is subject to the Section 106 of the National Historic Preservation Act (NHPA) and the California Environmental Quality Act (CEQA). The United States Army Corp of Engineers (USACE) is the lead Section 106 agency. As indicated on the attached map, the Project is located on the Beaumont, CA 7.5' USGS quadrangle map within Township 3S / Range 1W, Section 7, San Bernardino Baseline and Meridian (S.B.B.M.).

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Applied EarthWorks, Inc.

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O: (951) 766-2000 | F: (951) 766-0020

September 11, 2020

Donna Yocum,
Chairperson
San Fernando Band Mission Indians
P.O. Box 221838
Newhall, CA, 91322

Re: Cultural Resource Assessment for the Sun lakes Boulevard Realignment Project, in the City of Banning Riverside County, California.

Dear Chairperson Yocum:

On behalf of Albert A. Webb Associates, Applied EarthWorks, Inc. (Æ) is conducting a cultural resource study for the Sun lakes Boulevard Realignment Project, Project (Project). The Project involves the realignment and construction of an extension of Sun Lake Boulevard in the City of Banning, Riverside County. The Project is subject to the Section 106 of the National Historic Preservation Act (NHPA) and the California Environmental Quality Act (CEQA). The United States Army Corp of Engineers (USACE) is the lead Section 106 agency. As indicated on the attached map, the Project is located on the Beaumont, CA 7.5' USGS quadrangle map within Township 3S / Range 1W, Section 7, San Bernardino Baseline and Meridian (S.B.B.M.).

Æ submitted an archaeological literature and records search request to the Eastern Information Center housed at the University of California, Riverside on September 16, 2019. The records search indicated 16 cultural resource studies have been conducted within a 1-mile buffer of the Project's Area of Potential Effects (APE), and 100 percent of the APE has been previously surveyed. These studies resulted in the documentation of 44 cultural resources within the 1-mile buffer area, two of which are within the APE. Æ was contracted to perform an archaeological survey of the Project APE. The survey was completed on September 4, 2020. Transects spacing ranged from 10 to 15 meters. No prehistoric cultural resources were observed during the survey but the two historic resources within the APE were observed although none of the features are within the APE.

As part of the cultural resource assessment of the Project area, Æ requested a search of the *Sacred Lands File* by the Native American Heritage Commission (NAHC) on June 29, 2020. The NAHC responded on June 30, 2020 noting that *Sacred Lands File* search was completed with negative results. Should your records show that cultural properties exist within or near the Project area shown on the enclosed map, or if you have any concerns regarding Native American issues related to the overall Project, please contact me at (951) 766-2000 or via letter expressing your concerns. You may also e-mail me at emills@appliedearthworks.com. If I do not hear from you within the next two weeks, I will contact you with a follow-up phone call or email.

Please be aware that your comments and concerns are very important to us, as well as to the successful completion of this Project. I look forward to hearing from you in the near future. Thank you, in advance, for taking the time to review this request.

Respectfully yours,

Evan Mills, MA, RPA
Associate Archaeologist
Applied EarthWorks, Inc.

AGUA CALIENTE BAND OF CAHUILLA INDIANS
TRIBAL HISTORIC PRESERVATION

03-020-2019-004

September 17, 2020

[VIA EMAIL TO:emills@appliedearthworks.com]
Applied Earthworks
Mr. Evan Mills
3550 E Florida Ave., Suite H
Hemet, CA 92544-4937

Re: Sun Lakes Boulevard Realignment Project

Dear Mr. Evan Mills,

The Agua Caliente Band of Cahuilla Indians (ACBCI) appreciates your efforts to include the Tribal Historic Preservation Office (THPO) in the Realignment of Sun Lakes Boulevard project. The project area is not located within the boundaries of the ACBCI Reservation. However, it is within the Tribe's Traditional Use Area. For this reason, the ACBCI THPO requests the following:

> *Copies of any cultural resource documentation (report and site records) generated in connection with this project.

Again, the Agua Caliente appreciates your interest in our cultural heritage. If you have questions or require additional information, please call me at (760)699-6907. You may also email me at ACBCI-THPO@aguacaliente.net.

Cordially,

Patricia Garcia-Plotkin

Pattie Garcia-Plotkin
Director
Tribal Historic Preservation Office
AGUA CALIENTE BAND
OF CAHUILLA INDIANS

Gmail **Evan Mills <emills@appliedearthworks.com>**

Scoping Letter for the Sun Lakes Boulevard Realignment Project

3 messages

Evan Mills <emills@appliedearthworks.com> Fri, Sep 11, 2020 at 2:34 PM
To: jstapp@cabazonindians-nsn.gov

Good afternoon,

Attached please find a scoping letter and map for the Sun Lakes Boulevard Realignment Project in the City of Banning, Riverside County, California.

Thank you,

Evan

--

Evan Mills **| Applied EarthWorks, Inc.**

Associate Archaeologist

3350 E Florida Ave. suite H

AE 20th.jpg Hemet, CA 92544

951-766-2000 office

www.appliedearthworks.com

3 attachments

image002.jpg
2K

Stapp_Webb_Sun Lakes Blvd Extension_4093.pdf
146K

SunLakes_RS_Arch_2020_.pdf
4468K

Evan Mills <emills@appliedearthworks.com> Wed, Sep 30, 2020 at 11:51 AM
To: jstapp@cabazonindians-nsn.gov

Good morning,

Just a quick follow up on the Sun Lakes Boulevard Realignment Project, in the City of Banning, Riverside County. To

1500

summarize, the Project involves the realignment and construction of an extension of Sun Lakes Boulevard in the City of Banning. A literature and records search was conducted and 16 cultural resource studies have been conducted within a 1-mile buffer of the Project's Area of Potential Effects (APE), and 100 percent of the APE has been previously surveyed. The records search indicated 44 cultural resources are documented within the 1-mile buffer area, two of which are within the APE. The two resources within the APE are historic ranch properties and none of the features of these sites are within the current APE. No prehistoric resources were documented during the field survey.

Thank you,

Evan

[Quoted text hidden]



image002.jpg
2K

Stapp, Judy <jstapp@cabazonindians-nsn.gov> Wed, Sep 30, 2020 at 12:49 PM
To: Evan Mills <emills@appliedearthworks.com>

Dear Mr. Mills,
The Cabazon Band of Mission Indians has no archival information on the above referenced project indicating that it may be a site of Native American traditional cultural value.
Best regards,
Judy Stapp
Director of Cultural Affairs

Sent from my iPad

On Sep 30, 2020, at 11:52 AM, Evan Mills <emills@appliedearthworks.com> wrote:

Good morning,
Just a quick follow up on the Sun Lakes Boulevard Realignment Project, in the City of Banning, Riverside County. To summarize, the Project involves the realignment and construction of an extension of Sun Lakes Boulevard in the City of Banning. A literature and records search was conducted and 16 cultural resource studies have been conducted within a 1-mile buffer of the Project's Area of Potential Effects (APE), and 100 percent of the APE has been previously surveyed. The records search indicated 44 cultural resources are documented within the 1-mile buffer area, two of which are within the APE. The two resources within the APE are historic ranch properties and none of the features of these sites are within the current APE. No prehistoric resources were documented during the field survey.

Thank you,
Evan

On Fri, Sep 11, 2020 at 2:34 PM Evan Mills <emills@appliedearthworks.com<mailto:emills@appliedearthworks.com>> wrote:
Good afternoon,
Attached please find a scoping letter and map for the Sun Lakes Boulevard Realignment Project in the City of Banning, Riverside County, California.

Thank you,
Evan

--

1501

Evan Mills | Applied EarthWorks, Inc.

Associate Archaeologist

[AE 20th.jpg]

3350 E Florida Ave. suite H

Hemet, CA 92544

951-766-2000

office

https://urldefense.proofpoint.com/v2/url?u=http-3A__www.appliedearthworks.com&d=DwIGaQ&c=euGZstcaTDllvimEN8b7jXrwqOf-v5A_CdpgnVfiiMM&r=PIrUKItrUlqYlakS_nEHszDwZ4DLle0t_bwS8fKxZaE&m=092WP9Opw1XqyQoxb1GySbQiwfSaAYz1RvG12zJ9iCo&s=bY0fw0QQiM3_zbaxoOQhOJgW0sLzjctZSRLr6EYIGCs&e=<https://urldefense.proofpoint.com/v2/url?u=http-3A__www.appliedearthworks.com_&d=DwIGaQ&c=euGZstcaTDllvimEN8b7jXrwqOf-v5A_CdpgnVfiiMM&r=PIrUKItrUlqYlakS_nEHszDwZ4DLle0t_bwS8fKxZaE&m=092WP9Opw1XqyQoxb1GySbQiwfSaAYz1RvG12zJ9iCo&s=9JLdAHgsBmxgO6IhpOWhnsPFAV7vgn3kECGxrrSGfGs&e=>

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Evan Mills | Applied EarthWorks, Inc.

Associate Archaeologist

[AE 20th.jpg]

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office

https://urldefense.proofpoint.com/v2/url?u=http-3A__www.appliedearthworks.com&d=DwIGaQ&c=euGZstcaTDllvimEN8b7jXrwqOf-v5A_CdpgnVfiiMM&r=PIrUKItrUlqYlakS_nEHszDwZ4DLle0t_bwS8fKxZaE&m=092WP9Opw1XqyQoxb1GySbQiwfSaAYz1RvG12zJ9iCo&s=bY0fw0QQiM3_zbaxoOQhOJgW0sLzjctZSRLr6EYIGCs&e=<https://urldefense.proofpoint.com/v2/url?u=http-3A__www.appliedearthworks.com_&d=DwIGaQ&c=euGZstcaTDllvimEN8b7jXrwqOf-v5A_CdpgnVfiiMM&r=PIrUKItrUlqYlakS_nEHszDwZ4DLle0t_bwS8fKxZaE&m=092WP9Opw1XqyQoxb1GySbQiwfSaAYz1RvG12zJ9iCo&s=9JLdAHgsBmxgO6IhpOWhnsPFAV7vgn3kECGxrrSGfGs&e=>

1502

Gmail

Evan Mills <emills@appliedearthworks.com>

RE: Sun Lakes Boulevard Realignment Project, City of Banning, Riverside County, California

1 message

Ryan Nordness <Ryan.Nordness@sanmanuel-nsn.gov> Mon, Sep 14, 2020 at 9:26 AM
To: "emills@appliedearthworks.com" <emills@appliedearthworks.com>
Cc: Jessica Mauck <JMauck@sanmanuel-nsn.gov>

Hello Andrew Mills,

We want to thank you for reaching out to San Manuel in regards to the Sun Lakes Boulevard project. After reviewing resources in the APE buffer area, we do not have any sites in proximity or within the proposed location. That is not to say that there is a low potential for such resources, the site, only that we do not have such data in our files.

If you have any questions or comments for San Manuel Band of Mission Indians please reach out to me at your earliest convenience as I will be your Point of Contact going forward. I'd also like to add that is a pleasure to work with you again. It's good to be working on something that isn't Athos Solar haha.

Respectfully,

Ryan Nordness

Ryan Nordness
CULTURAL RESOURCE ANALYST
O: (909) 864-5050 x50-2022
Internal: 50-2022
M: 909-838-4053
26569 Community Center Dr Highland CA 92346
SAN MANUEL
BAND OF MISSION INDIANS

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. If the reader of this message is not the intended recipient or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination or copying of this communication is strictly prohibited. If you have received this electronic transmission in error, please delete it from your system without copying it and notify the sender by reply e-mail so that the email address record can be corrected. Thank You

Gmail

Evan Mills <emills@appliedearthworks.com>

Scoping Letter for the Sun Lakes Boulevard Realignment Project

Marina Hendon <AdminAssist@santarosa-nsn.gov> Mon, Sep 14, 2020 at 11:24 AM
To: "emills@appliedearthworks.com" <emills@appliedearthworks.com>

No response needed as this is out of our area.

From: Melinda Flaxbeard <mflaxbeard@santarosa-nsn.gov>
Sent: Friday, September 11, 2020 3:33 PM
To: Marina Hendon <AdminAssist@santarosa-nsn.gov>
Subject: FW: Scoping Letter for the Sun Lakes Boulevard Realignment Project

Respectfully,

Please note my email address has changed to mflaxbeard@santarosa-nsn.gov

Linda Flaxbeard, CFO

PO Box 391820

Anza, CA 92539

951-659-2700

951-447-1933 cell

From: Evan Mills <emills@appliedearthworks.com>
Sent: Friday, September 11, 2020 2:41 PM
To: Melinda Flaxbeard <mflaxbeard@santarosa-nsn.gov>
Subject: Scoping Letter for the Sun Lakes Boulevard Realignment Project

Good afternoon,

Attached please find a scoping letter and map for the Sun Lakes Boulevard Realignment Project in the City of Banning, Riverside County, California.

Thank you,

Evan

--

Evan Mills **| Applied EarthWorks, Inc.**

Associate Archaeologist

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Appendix D

Table 1 – Total Construction-Related Fuel Consumption

Sun Lakes Boulevard Extension Project

Fuel	Consumption	
Diesel		
On-Road Construction Trips[1]	45,273	Gallons
Off-Road Construction Equipment[2]	205,997	Gallons
Diesel Total	**251,270**	**Gallons**
Gasoline		
On-Road Construction Trips[1]	8,985	Gallons
Off-Road Construction Equipment[3]	-	Gallons
Gasoline Total	**8,985**	**Gallons**

Notes:

1. On-road mobile source fuel use based on vehicle miles traveled (VMT) from CalEEMod for construction in 2023 and fleet-average fuel consumption in gallons per mile from EMFAC2017 web based data for Riverside County. See Table 2 for calculation details.
2. Off-road mobile source fuel usage based on a fuel usage rate of 0.05 gallons of diesel per horsepower (HP)-hour, based on SCAQMD CEQA Air Quality Handbook, Table A9-3E.
3. All emissions from off-road construction equipment were assumed to be diesel.

Table 2 – On-Road Construction Trip Estimates

Sun Lakes Boulevard Extension Project

Trip Type	Trips	Trip length	Vehicle Miles Traveled (VMT)	Fuel Efficiency	Annual Fuel Usage[1]	
	(trips)	(miles)	(miles)	(mpg)	(Fuel)	(gallon)
Worker[2,3]	18,305	14.7	269,084	29.3	Gasoline	8,985
Vendor[4]	2,092	6.9	14,435	9.6	Diesel	1,577
Hauling[5]	16,457	20	329,140	7.5	Diesel	43,695

Notes:

1. On-road mobile source fuel use based on vehicle miles traveled (VMT) from CalEEMod output (See Air Quality/GHG Memo) for construction and fleet-average fuel consumption in gallons per mile from EMFAC2017 web based data for 2023 in Riverside County.
2. Worker trips were assumed to be 100% gasoline powered vehicles.
3. Per CalEEMod, worker Trips were assumed to be 50% LDA, 25% LDT1, and 25% LDT2.
4. Vendor trips were assumed to be 50% MHDT and 50% HHDT, split evenly between the MHDT and HHDT construction categories.
5. Per CalEEMod, hauling trips were assumed to be 100% HHDT.

Table 3 – Annual Energy Consumption from Operation

Sun Lakes Boulevard Extension Project

Fuel Type	Energy Consumption	Units
Electricity		
Street Lights[1]	154,053	kWh/year
Total Electricity	**154,053**	kWh/year

Notes:

1. Street light electricity use from CalEEMod output (See Air Quality/GHG Memo).

Appendix E.1

Project No. T2881-22-02
October 14, 2019
REVISED June 5, 2024

Eric Hays
Albert A. Webb Associates
3788 McCray Street
Riverside, California 92506

Subject: GEOTECHNICAL PAVEMENT INVESTIGATION
SUN LAKES BOULEVARD REALIGNMENT
SOUTH HIGHLAND HOME ROAD TO SUNSET AVENUE
BANNING, CALIFORNIA

Mr. Hays,

In accordance with the *Subconsultant Agreement*, dated August 29, 2019, between Albert A. Webb Associates and Geocon West, Inc. (Geocon), we have prepared this report of our geotechnical investigation for the Sun Lakes Boulevard realignment circulation element update project, located in the City of Banning, California. The approximate limits of the project are depicted on the attached *Vicinity Map* (Figure 1). This report presents a summary of the methods used to explore the subsurface geologic conditions, results of our laboratory testing, and geotechnical recommendations for design and construction of the proposed improvements. Based on the results of this study, it is our opinion that the site is suitable for the proposed roadway improvements, provided the recommendations of this report are followed.

Geocon should be afforded the opportunity to review the final project design and plans, and to revise this report and provide additional geotechnical recommendations as needed.

PROJECT UNDERSTANDING

We understand that Sun Lakes Boulevard will be realigned from South Highland Home Road to Sunset Avenue, along a section of road that currently exists as Westward Avenue, from Sun Lakes Boulevard's current planned S-curve alignment that extends from South Highland Home Road to West Lincoln Street. The City of Banning will update their General Plan Circulation Element to reflect the proposed alignment change. The site currently exists as a dirt roadway in most areas with a few utility substations along the south side of the road. Multiple utilities are located within and adjacent to the roadway. A locked gate was observed at the South Highland Home Road intersection with Sunset Avenue. Smith Creek crosses the western portion of the road near a utility substation and Montgomery Creek crosses the eastern portion of the road. Corrugated steel pipe culverts exist at the creek crossings and are buried in cemented riprap consisting of boulders and demolished construction debris. The creek crossings are paved over the culverts and riprap. Two white pipes were observed daylighting through the western and eastern hillsides on the south side of the road at the Smith Creek crossing.

Project plans were not available for our review at the time of our field investigation; project information provided in May 2024 indicates the proposed improvements will consist of a new conventional asphalt concrete paved roadway and new box culverts at three drainage crossings. Additional site improvements are expected to include concrete flatwork and storm water catch basins and piping. We expect site earthwork to consist of cuts and fills of up to 10 feet to meet finish grade elevations, with approximately 10 feet of fill placed over the proposed box culverts. The proposed roadway alignment will be immediately north of the dirt road extending through the site.

Based on project -specific topographic information, the elevation at the west end of the proposed roadway is approximately 2,499 feet and at the east end approximately 2,436 feet. Low elevations at the proposed culvert locations are approximately 2,451 feet at the I Line, 2,452 feet at the J Line, and 2,412 feet at the K Line. Site topography at the culvert locations is shown on Figures 2-1 and 2-2, Site Maps.

The recommendations presented herein are based on analysis of the data obtained during this investigation and our experience with similar soil and geologic conditions. If project details vary significantly from those described herein, Geocon should be contacted to determine the necessity for review and possible revision of this report.

SCOPE OF SERVICES

The general purpose of this investigation was to drill eight geotechnical borings to observe and document the subsurface geologic conditions, collect soil samples for laboratory testing, and provide geotechnical recommendations for construction of the proposed improvements. Our scope of services included the following:

- Marking the proposed boring locations and notifying Underground Service Alert (USA) to locate and mark utilities within the proposed investigation area.
- Acquiring an encroachment permit from the City of Banning.
- Drilling eight geotechnical borings to observe the subsurface geologic conditions, collect relatively undisturbed in-situ and disturbed bulk samples for laboratory testing.
- Performing laboratory testing of select soils samples which included maximum dry density and optimum moisture content, soil resistance value (R-value), grain size distribution, in-situ direct shear, and in-situ density and moisture content.
- Preparing this geotechnical pavement report presenting our findings, conclusions and recommendations as it pertains to the proposed improvements.

FIELD EXPLORATION AND LABORATORY TESTING

Our subsurface investigation was conducted on September 17, 2019 by drilling eight 8-inch diameter geotechnical borings utilizing a truck mounted CME-75 drilling machine. The borings were drilled to depths of 6½ and 26½ feet below the existing ground surface in areas of the planned improvements to observe the subsurface geologic conditions, and to collect relatively undisturbed in-situ and disturbed bulk samples for laboratory testing. The approximate locations of the exploratory borings are depicted on the *Geologic Map* (Figure 2).

Laboratory tests were performed on selected soil samples obtained during the investigation in accordance with current, generally accepted test methods of ASTM International (ASTM). We analyzed selected soil samples for maximum dry density and optimum moisture content, soil resistance value (R-value), grain size distribution, in-situ direct shear, and in-situ density and moisture content. The results of the laboratory tests are presented on Figures B-1 through B-8 in Appendix B.

GEOLOGIC SETTING

The project site is located in the San Gorgonio Pass at the northern margin of the Peninsular Ranges Geomorphic Province. The Peninsular Ranges are bounded on the north by the Transverse Ranges (San Gabriel and San Bernardino Mountains) and on the east by the San Andreas fault. The Peninsular Ranges Province extends southward into Mexico and westward past the Channel Islands. Geologic units within the Peninsular Ranges consist of granitic and metamorphic bedrock highlands and deep and broad alluvial valleys.

Locally, the site lies within the valley between the San Jacinto and San Bernardino Mountains, west of the San Gorgonio River. Active drainages such as Smith Creek and Montgomery Creek flow southeast from the north, through the site, before merging along the base of the San Jacinto Mountains, and continuing east to join the San Gorgonio River. This broad valley is filled with older alluvial fan materials consisting of sand, gravel and granitic detritus shed from the San Jacinto Mountains dissected by active stream channels with sand and gravel deposits.

GEOLOGIC MATERIALS

Geologic units encountered during our investigation include undocumented fill (afu), Holocene-age alluvium (Qa), and Pleistocene-age Alluvial fan of the San Gorgonio Pass (Qf) deposits. The descriptions of the soil and geologic conditions are shown on the boring logs located in Appendix A and described below in order of increasing age. Geologic nomenclature of this report follows that of Dibblee (2003).

Undocumented Fill (afu)

Undocumented fill was encountered within borings B-7 and B-8 below the surface and asphalt concrete pavement to depths of approximately 5 feet. This unit generally consists of locally derived silty sand and poorly-graded sand with silt that is loose to medium dense, dry to moist, and yellowish brown and olive brown. Rusted metal debris were encountered within B-8 at approximately 4½ of depth.

Alluvium (Qa)

Alluvium was encountered at the surface and below the undocumented fill, near and within the active channel areas where borings B-2 and B-7 were drilled. The alluvium was encountered to depths of approximately 15 feet below the ground surface. The soils consist of silty sand, poorly-graded sand, and poorly-graded sand with silt that is loose to dense, damp to moist, and brown with hues of red, yellow, and olive.

Alluvial Fan of the San Gorgonio Pass (Qf)

Alluvial fan deposits were encountered at the ground surface in the areas of higher elevation outside, and below the alluvium and undocumented fill to the maximum depths explored within the borings. This unit consists of clayey sand, silty sand, poorly-graded sand, poorly-graded sand with silt, well-graded sand, and to a lesser extent sandy clay that is loose to very dense or stiff, dry to wet, and yellowish to reddish brown.

GROUNDWATER

Groundwater was not encountered during this investigation. Historic well data acquired from the California Department of Water Resources Water Data Library indicates the shallowest groundwater levels were measured at depths ranging between 243 and 271 feet below the ground surface within observation wells in the immediate vicinity of the site. During the wet weather season, localized perched water conditions may develop above less permeable units that may require special consideration during grading operations. Groundwater elevations and seepage are dependent on seasonal precipitation, irrigation, and land use, among other factors, and vary as a result.

SCOUR EVALUATION

Foundations should be properly protected against the potential scour or extended below the zone affected by scour. We obtained samples at various depths and performed grain size distribution analysis on the samples to provide information for a future scour analysis. The particle size at which 30, 50, and 90 percent is passing (D_{30}, D_{50}, D_{90}) is presented in Table 1 below. Geocon should be contacted for additional parameters if needed.

TABLE 1
SOIL GRAIN SIZE DISTRIBUTION D_{50} TEST RESULTS

Sample ID (Boring Number & Sample Depth)	D_{90} (mm)	D_{50} (mm)	D_{30} (mm)
B-2 @ 7.5’	1.2	0.14	
B-2 @ 15’	0.95	0.76	0.34
B-7 @ 10’	1.3	0.31	0.18
B-7 @ 20’	2.1	0.17	0.092

SEISMIC EVALUATION

Ground Motion Evaluation

The design response spectrum for the Safety Evaluation Earthquake (SEE), as specified in Caltrans *Seismic Design Criteria* with October 2019 interim revisions (v2.0), is the probabilistic response spectrum representing the horizontal ground motion at the site with a 5% probability of exceedance in 50 years (return period of 975 years). The United States Geological Survey (USGS) *2014 National Seismic Hazard Map* is used as the basis to determine the design Acceleration Response Spectrum (ARS). The ARS for the site was estimated using Caltrans’ *ARS Online* web tool (V3.1.0, accessed May 29, 2024). Table 2 summarizes the site-specific information used for the analysis and the *ARS Online* results.

TABLE 2
ARS ONLINE SUMMARY

Approx. Latitude, °	Approx. Longitude, °	Estimated Shear Wave Velocity (VS30)[1], feet/second	Design Peak Ground Acceleration (PGA)[2], g	Deaggregated Mean Earthquake Moment Magnitude (M)	Mean Site-to-Source Distance (R)[3], miles	Site Soils Class[4]
33.9179	-116.9197	656	0.69	6.84	7.3	S2

Notes:
1. Estimated time-average shear wave velocity for the upper 100 feet of soil at the site.
2. Where “g” represents the acceleration due to gravity.
3. Mean site-to-source distance for 1.0 second period spectral acceleration.
4. Based on the subsurface soil conditions encountered within the foundation’s zone of influence and Caltrans *Seismic Design Criteria* Sections 6.1 and 6.2.3

The culverts are not located within a deep sedimentary basin per Caltrans *ARS Online*. Based on the subsurface materials encountered during our investigation, the site is generally underlain by loose to very dense relatively clean to silty/clayey sand and stiff sandy clay alluvial soils, which most closely reflects a Caltrans Soil Profile Type D. The shear wave velocity, V_{S30}, was calculated from the average shear wave velocity of the four deeper borings along the project alignment using the shear wave correlations provided in Caltrans' *Methodology for Developing Design Response Spectrum for Use in Seismic Design Recommendations*.

The recommended design response spectrum is presented as Figure 4 (Recommended Design Response Spectrum).

Fault Rupture

The site is not located within an Alquist-Priolo Earthquake Fault Zone as established by the State Geologist around known active faults or within a Riverside County Fault Hazard Zone. Local field reconnaissance revealed no indications of an active fault trace at the site. Review of available literature indicates there are no active fault traces within 1,000 feet of the project location. The USGS Quaternary Fault and Fold Database maps the nearest active ("Historical" and "Latest Quaternary") fault as the San Gorgonio Pass Fault Zone located over 1 mile miles northeast of the project location. Given the above, no fault rupture hazard analysis is required for this project per Caltrans' *Memo to Designers 20-10, Fault Rupture*.

Embankment Slope Stability

Assuming that new fill slopes and embankments are designed and properly constructed in accordance with Caltrans guidelines, typical slope inclinations 2:1 (horizontal:vertical) or flatter, and with appropriate slope protection installed, global slope instability should not be a hazard for new embankments on the project.

CONCLUSIONS AND RECOMMENDATIONS

We did not encounter soil or geologic conditions that would preclude the construction of the proposed improvements, provided the recommendations presented herein are followed and implemented during construction.

New Pavements – Conventional Pavement

The final pavement design should be based on R-value testing of soils at the subgrade following grading at the site. Paved areas at the site should be designed in accordance with the City of Banning *Street Standards* when final Traffic Indices and R-Value test results of subgrade soil are completed. Roadway classifications and traffic indices are based on the County of Riverside *Ordinance 461*. The civil engineer should evaluate the final traffic indices for the pavements and determine their applicability to the site. Based on laboratory testing, we used an R-value of 25 for the preliminary pavement design recommendations. Preliminary flexible pavement sections are presented in Table 3 based on the County of Riverside *Ordinance 461* and the Caltrans *Highway Design Manual*.

TABLE 3
PRELIMINARY FLEXIBLE PAVEMENT SECTIONS

Road Classification/Use	Traffic Index	Subgrade R-Value	Asphalt Concrete (Inches)	Aggregate Base Materials (Inches)
Local Street	5.5	25	4	7
Enhanced Local Street	6.5		4	9
Collector	7.0		5	10
Industrial Collector	8.0		6	11
Secondary Highway	8.5		6	12

The upper 12 inches of the subgrade soil should be compacted to a dry density of at least 95 percent of the laboratory maximum dry density at 0 to 2 percent above optimum moisture content.

The aggregate base materials and asphalt concrete materials should conform to Section 200-2.2 and Section 203-6, respectively, of the Greenbook. Base materials should be compacted to a dry density of at least 95 percent of the laboratory maximum dry density near to slightly above optimum moisture content. Asphalt concrete should be compacted to a density of 95 percent of the laboratory Hveem density in accordance with ASTM D 2726.

A rigid Portland cement concrete (PCC) pavement section should be placed in driveway aprons and cross gutters. We calculated the rigid pavement section in general conformance with the procedure recommended by the American Concrete Institute report ACI 330R *Guide for Design and Construction of Concrete Parking Lots* using the parameters presented in Table 4.

TABLE 4
RIGID PAVEMENT DESIGN PARAMETERS

Design Parameter	Design Value
Modulus of subgrade reaction, k	120 pci
Modulus of rupture for concrete, M_R	500 psi
Traffic Category, TC	B, C, and D
Average daily truck traffic, ADTT	25, 300, and 700

Based on the criteria presented herein, the PCC pavement sections should have a minimum thickness as presented in Table 5.

TABLE 5
RIGID PAVEMENT RECOMMENDATIONS

Location	Portland Cement Concrete (inches)
Light Truck Traffic (TC = C)	6.0
Entrance / Driveway Aprons; Moderate Truck Traffic (TC = C)	7.5
Entrance / Driveway Aprons; Heavy Truck Traffic (TC = D)	8.0

The PCC pavement should be placed over subgrade soil that is compacted to a dry density of at least 95 percent of the laboratory maximum dry density at 0 to 2 percent above optimum moisture. This pavement section is based on a minimum concrete compressive strength of approximately 3,000 psi (pounds per square inch). Base material will not be required beneath concrete improvements.

A thickened edge or integral curb should be constructed on the outside of concrete slabs subjected to wheel loads. The thickened edge should be 1.2 times the slab thickness or a minimum thickness of 2 inches, whichever results in a thicker edge, and taper back to the recommended slab thickness 4 feet behind the face of the slab (e.g., a 9-inch-thick slab would have an 11-inch-thick edge). Reinforcing steel will not be necessary within the concrete for geotechnical purposes except for dowels at construction joints as discussed herein.

In order to control the location and spread of concrete shrinkage cracks, crack-control joints (weakened plane joints) should be included in the design of the concrete pavement slab in accordance with the referenced ACI report.

Performance of the pavements is highly dependent on providing positive surface drainage away from the edge of the pavement. Ponding of water on or adjacent to the pavement surfaces will likely result in pavement distress and subgrade failure. Drainage from landscaped areas should be directed to controlled drainage structures. Landscape areas adjacent to the edge of asphalt pavements are not recommended due to the potential for surface or irrigation water to infiltrate the underlying permeable aggregate base and cause distress. Where such a condition cannot be avoided, consideration should be given to incorporating measures that will significantly reduce the potential for subsurface water migration into the aggregate base. If planter islands are planned, the perimeter curb should extend at least 6 inches below the level of the base materials.

Earthwork

Earthwork for the proposed improvements should be performed in accordance with Caltrans guidelines, the grading ordinances of the City of Banning, and the recommended grading specifications attached.

Prior to commencing earthwork, a preconstruction conference should be held at the site with the City inspector, City engineer, earthwork contractor, civil engineer, and geotechnical engineer in attendance. Special soil handling and/or the improvement plans can be discussed at that time.

Site preparation should begin with the removal of deleterious material, debris and vegetation. The depth of removal should be such that material exposed in cut areas or soil to be used as fill is relatively free of organic matter. Material generated during stripping and/or site demolition should be exported from the site.

For grading of new roadways in areas outside of the creek channels, the previously placed undocumented fill (where encountered) and upper portion of alluvial fan material should be removed to expose competent alluvial fan material. Removals within creek channels is addressed in the section titled “Foundation Recommendations for Culverts.” Areas of loose, dry, or compressible soils, if encountered, will require deeper excavation and processing prior to fill placement. Removals should extend at least 3 feet below subgrade and into competent alluvial soils. The engineering geologist should evaluate the actual depth of removal during grading operations. The bottom of excavations should be proof-rolled with heavy equipment to observe yielding of the excavation bottom. The firm, unyielding bottom of the over excavation should then scarified to a depth of at least 1 foot, moisture conditioned at 0 to 2 percent above optimum moisture content, and compacted to 90 percent of the maximum dry density as determined by ASTM D1557.

The site should be brought to finish grade elevations with fill compacted in layers. Layers of fill should be no thicker than will allow for adequate bonding and compaction. Fill, including backfill and scarified ground surfaces, should be compacted to a dry density of at least 90 percent of the laboratory maximum dry density, at 0 to 2 percent above optimum moisture content, as determined by ASTM D1557. The upper 12 inches of subgrade in areas of vehicular traffic should be compacted to a dry density of at least 95 percent of the laboratory maximum dry density, at 0 to 2 percent above optimum moisture content, as determined by ASTM D1557. Fill materials placed below the recommended moisture content may require additional moisture conditioning prior to placing additional fill.

If perched groundwater, wet, or saturated materials are encountered, extensive drying and mixing with dryer soil will be required. The excavated materials should then be moisture conditioned as necessary to the recommended optimum moisture content prior to placement as compacted fill.

Where relatively loose, soft, or wet soils are encountered in the site excavations, subgrade stabilization may be required prior to placing fill or installing utilities. Where required, subgrade stabilization can be achieved by over excavating the loose or soft materials and replacing with compacted fill, placing 3-inch diameter rock in the soft bottom and working it into soil until it is stabilized, use of aggregate base fill with geogrid interlayers, or placing gravel wrapped in filter fabric at the bottom of the excavation. Recommendations for stabilizing excavation bottoms should be based on an evaluation in the field by Geocon at the time of construction.

If needed, import fill should consist of granular materials with “low” expansion potential (EI of 50 or less), should not be corrosive, generally free of deleterious material and rock fragments larger than 6 inches, and should be compacted as recommended herein. Geocon should be notified of the import soil source and should perform laboratory testing of import soil prior to its arrival at the site to evaluate its suitability as fill material.

Utility Trench Backfill

Utility trenches should be properly backfilled in accordance with the requirements of the City of Banning and the latest edition of the *Standard Specifications for Public Works Construction* (Greenbook). The pipes should be bedded with well-graded crushed rock or clean sand (Sand Equivalent greater than 30) to a depth of at least one foot over the pipe. The use of well-graded crushed rock is only acceptable if used in conjunction with filter fabric to prevent the gravel from having direct contact with soil. The remainder of the trench backfill may be derived from onsite soil or approved import soil. Backfill of utility trenches should not contain rocks greater than 3 inches in diameter. The use of 2-sack slurry and controlled low strength material (CLSM) are also acceptable as backfill. However, consideration should be given to the possibility of differential settlement where the slurry ends and earthen backfill begins. These transitions should be minimized, and additional stabilization should be considered at these transitions.

Trench excavation bottoms must be observed and approved in writing by the Geotechnical Engineer, prior to placing bedding materials, fill, gravel, or concrete.

Utility trench backfill should be placed in layers no thicker than will allow for adequate bonding and compaction. Utility backfill should be compacted to a dry density of at least 90 percent of the laboratory maximum dry density and moisture conditioned at 0 to 2 percent above optimum moisture content as determined by ASTM D 1557. Backfill at the finish subgrade elevation of new pavements should be compacted to at least 95 percent of the maximum dry density. Backfill materials placed below the recommended moisture content may require additional moisture conditioning prior to placing additional fill.

FOUNDATION RECOMMENDATIONS FOR CULVERTS

The following foundation recommendations for culverts are based on the encountered subsurface conditions and our experience with similar projects/structures in similar geotechnical and geological conditions.

The proposed structures are expected to consist of cast-in-place (CIP) reinforced concrete box (RCB) culverts with structure details and loading conditions per Caltrans *2023 Standard Plan D81*. Box culvert details are provided in Table 6. Box culvert alignments are shown in Figures 2-2 and 2-3, Site Map.

TABLE 6
BOX CULVERT INFORMATION

Culvert ID	Culvert Type	Culvert Location (Sun Lakes Blvd Stationing)	Culvert Length, ft	Culvert Normal Width, ft	Culvert Bottom Average Elevation, ft
I Line	7 cell, 10' high by 14' span, CIP RCB	69+60.23	140.1	104.3	2,448.8
J Line	6 cell, 10' high by 14' span, CIP RCB	66+12.83	269.0	89.6	2,451.3
K Line	7 cell, 10' high by 14' span, CIP RCB	97+90.11	119.6	104.3	2,409.6

Some remedial grading in the form of removal and re-compaction below the culvert bottoms should be anticipated to achieve competent and consistent bearing conditions. Previously placed undocumented fill (where encountered) and upper portion of alluvium material should be removed to expose competent alluvium. We anticipate that such remedial grading below the culverts would be on the order of at least 5 feet, and extend laterally 5 feet beyond the foundation footprint, or for a lateral distance equal to the depth of removal, whichever is greater. The engineering geologist will evaluate the limits of remedial grading in the field during grading operations.

Foundation excavations should be observed by the engineering geologist prior to the placement of reinforcing steel and concrete to verify that the excavations and exposed soil conditions are consistent with those anticipated.

Special subgrade presaturation is not deemed necessary prior to placing concrete; however, the exposed foundation subgrade soil should be moisturized to maintain a moist condition prior to placement of concrete.

Our analysis indicates that the soil conditions are suitable to support the proposed box culverts using the provided *Standard Plan* bearing pressures for a 10-foot earth cover with estimated total settlements ranging from approximately ½ inch to 2 inches. Table 7 summarizes the estimated total settlement for each box culvert structure.

TABLE 7
ESTIMATED BOX CULVERT TOTAL SETTLEMENT

Culvert ID	Culvert Type	Estimated Total Settlement, in.
I Line	7 cell, 10' high by 14' span, CIP RCB	1/2 inch
J Line	6 cell, 10' high by 14' span, CIP RCB	2/3 inch
K Line	7 cell, 10' high by 14' span, CIP RCB	2 1/4 inches

Differential settlement is generally assumed to be approximately ½ the estimated total settlement. Given the generally granular soil conditions, settlement should be generally realized during the construction period. A one-week waiting period should be observed after final fill placement prior to pavement construction.

Headwalls

This section provides geotechnical recommendations for proposed headwalls up to 24 feet in height. Associated ramp walls that are proposed at Culverts J (southeast headwall) and I (southwest headwall) are governed in design by their respective headwalls.

Retaining walls not restrained at the top and having a level backfill surface should be designed for an active soil pressure equivalent to the pressure exerted by a fluid density of 30 pounds per cubic foot (pcf). Where the backfill will be inclined at no steeper than 2:1 (horizontal to vertical), an active soil pressure of 50 pcf is recommended. These soil pressures assume that the backfill materials within an area bounded by the wall and a 1:1 plane extending upward from the base of the wall possess an EI of 50 or less. For walls where backfill materials do not conform to the criteria herein, Geocon should be consulted for additional recommendations.

Unrestrained walls are those that are allowed to rotate more than 0.001H (where H equals the height of the retaining portion of the wall in feet) at the top of the wall. Where walls are restrained from movement at the top, the walls should be designed for a soil pressure equivalent to the pressure exerted by a fluid density of 50 pcf.

Unrestrained walls will move laterally when backfilled and loading is applied. The amount of lateral deflection is dependent on the wall height, the type of soil used for backfill, and loads acting on the wall. The retaining walls and improvements above the retaining walls should be designed to incorporate an appropriate amount of lateral deflection as determined by the structural engineer.

Retaining walls should be provided with a drainage system adequate to prevent the buildup of hydrostatic forces and waterproofed as required by the project architect. The soil immediately adjacent to the backfilled retaining wall should be composed of free draining material completely wrapped in Mirafi 140N (or equivalent) filter fabric for a lateral distance of 1 foot for the bottom two-thirds of the height of the retaining wall. The upper one-third should be backfilled with less permeable compacted fill to reduce water infiltration. Alternatively, a drainage panel, such as a Miradrain 6000 or equivalent, can be placed along the back of the wall. The use of drainage openings through the base of the wall (weep holes) is not recommended where the seepage could be a nuisance or otherwise adversely affect the property adjacent to the base of the wall. The recommendations herein assume a properly compacted backfill (EI of 50 or less) with no hydrostatic forces or imposed surcharge load. If conditions different than those described are expected or if specific drainage details are desired, Geocon should be contacted for additional recommendations.

We understand the CIP RCB culverts will have headwalls per Caltrans *2023 Standard Plan B3-1A*. Table 8 summarizes the proposed headwall details.

TABLE 8
SUMMARY OF PROPOSED HEADWALLS

Structure	Wall Type	Foundation Type	Bottom of Footing Elevation (feet)	Length (feet)	Maximum Design Height (feet)
I Line NE	Type 1	Spread Footing	2,448.8	23	16
I Line NW				29	16
I Line SE				32	16
I Line SW				33	16
J Line NE			2,451.3	54	16
J Line NW				59	16
J Line SE				18	16
J Line SW				56	16
K Line NE			2,409.6	83	20
K Line NW				45	20
K Line SE				24	24
K Line SW				22	24

Notes:
Type 1 = Retaining Wall Type 1 (Case 1), Caltrans 2023 Standard Plan Sheet B3-1A

Tables 9 through 12 summarize the Service, Strength, and Extreme Limit State analysis results for the headwall structures.

TABLE 9
SERVICE LIMIT STATE FOUNDATION DATA

Structure	Design Height (feet)	Bottom of Footing Elevation (feet)	Footing Width (feet)	Minimum Footing Embedment Depth (feet)	Effective Footing Width for Service Limit State (feet)	Service Limit State Net Bearing Stress (ksf)	Calculated Settlement at Net Bearing Pressure (inches)	Total Permissible Settlement (inches)
I Line NE	16	2,448.8	9.75	3.2	7.1	0.7	< 0.25	1.0
I Line NW								
I Line SE								
I Line SW								
J Line NE		2,451.3				1.0		
J Line NW								
J Line SE								
J Line SW								
K Line NE	20	2,409.6	11.67	3.3	8.4	2.2	0.3	
K Line NW								
K Line SE	24		13.75	3.7	9.7	2.9	0.4	
K Line SW								

Note: 1) Calculated Net Uniform Bearing Stresses are negative due to overburden soil removed given the existing ground surface elevation, proposed bottom of footing elevations, and the design net bearing stresses provided in the project plans.

TABLE 10
STRENGTH LIMIT STATE FOUNDATION DATA

Structure	Design Height (feet)	Bottom of Footing Elevation (feet)	Footing Width (feet)	Minimum Footing Embedment Depth (feet)	Effective Footing Width for Strength Ia Limit State (feet)	Strength Limit State Gross Uniform Bearing Stress (ksf)	Strength Limit State Factored Bearing Resistance (ksf) ϕ_b (q_n) ϕ_b = 0.45
I Line NE	16	2,448.8	9.75	3.2	3.5	5.2	16.4
I Line NW							
I Line SE							
I Line SW							
J Line NE		2,451.3					7.1
J Line NW							
J Line SE							
J Line SW							
K Line NE	20	2,409.6	11.67	3.3	4.4	5.8	9.2
K Line NW							
K Line SE	24		13.75	3.7	5.2	7.0	10.8
K Line SW							10.9

TABLE 11
EXTREME LIMIT STATE FOUNDATION DATA

Structure	Design Height (feet)	Bottom of Footing Elevation (feet)	Footing Width (feet)	Minimum Footing Embedment Depth (feet)	Effective Footing Width for Extreme I Limit State (feet)	Extreme I Limit State Gross Uniform Bearing Stress (ksf)	Extreme I Limit State Factored Bearing Resistance (ksf) ϕ_b (q_n) ϕ_b = 1.0	Effective Footing Width for Extreme II Limit State (feet)	Extreme II Limit State Gross Uniform Bearing Stress (ksf)	Extreme II Limit State Factored Bearing Resistance (ksf) ϕ_b (q_n) ϕ_b = 0.8
I Line NE	16	2,448.8	9.75	3.2	4.8	5.6	44.2	7.2	3.8	55.0
I Line NW							42.9			54.9
I Line SE										
I Line SW										
J Line NE		2,451.3					18.3			22.8
J Line NW										
J Line SE							18.9			23.0
J Line SW							18.3			22.8
K Line NE	20	2,409.6	11.67	3.3	5.6	6.8	23.0	9.8	4.0	32.3
K Line NW										31.9
K Line SE	24		13.75	3.7	6.3	8.7	26.5	12.4	4.5	37.7
K Line SW										37.6

TABLE 12
SPREAD FOOTING DATA

Structure	Design Height (feet)	Service Limit State Permissible Net Contact Stress (ksf)	Strength Factored Gross Nominal Bearing Resistance for Controlling Load Case ϕ_b = 0.45 (ksf)	Extreme Event Factored Gross Nominal Bearing Resistance for Controlling Load Case ϕ_b = 0.8 (ksf)
I Line NE	16	20.4	16.4	44.2
I Line NW		18.3		42.9
I Line SE		17.4		
I Line SW		17.1		
J Line NE		12.9	7.1	18.3
J Line NW				
J Line SE		14.6		18.9
J Line SW		12.9		18.3
K Line NE	20	6.6	9.2	23.0
K Line NW				
K Line SE	24	7.4	10.8	26.5
K Line SW		7.5	10.9	

Based on the results of our analyses and assuming that wall foundations are founded in compacted engineered fill founded on undisturbed native soils as recommended in this report, the spread footing details shown in the project plans are considered appropriate for the support of the proposed headwalls.

Miscellaneous Structures

Within the creek channel areas, foundations for structures such as landscape or retaining walls may be supported on conventional foundations following remedial grading and bearing on a minimum of 4 feet of newly placed engineered fill that extend laterally 4 feet beyond the foundation footprint, or for a lateral distance equal to the depth of removal, whichever is greater. For separate structures outside of creek channel areas, the foundations should bear on a minimum of 2 feet of newly placed engineered fill that extend laterally 2 feet beyond the foundation footprint, or for a lateral distance equal to the depth of removal, whichever is greater. Where excavation and compaction cannot be performed or is undesirable, such as adjacent to utilities or property lines, foundations may derive support in the undisturbed alluvium or alluvial fan material found at or below a depth of 5 feet and 3 feet, respectively, and should be deepened as necessary to maintain a minimum 12-inch embedment into undisturbed alluvium or alluvial fan material. Foundation excavations must be observed and approved by a Geocon representative.

Miscellaneous foundations deriving support in newly placed engineered fill may be designed for a bearing value of 2,500 pounds per square foot (psf) and should be a minimum of 18 inches in width, a minimum of 12 inches in depth below the lowest adjacent grade, and a minimum of 12 inches into the recommended bearing material. The allowable bearing pressure may be increased by up to one-third for transient loads due to wind or seismic forces. Steel reinforcement for the spread footings should be designed by the project structural engineer.

Lateral Design

Resistance to lateral loading may be provided by friction acting at the base of foundations, slabs and by passive earth pressure. A passive pressure exerted by an equivalent fluid weight of 300 pcf with a maximum earth pressure of 3,000 psf should be used for the design of footings or shear keys poured neat against newly compacted fill. The allowable passive pressure assumes a horizontal surface extending at least 5 feet, or three times the surface generating the passive pressure, whichever is greater. The upper 12 inches of material in areas not protected by floor slabs or pavement should not be included in design for passive resistance.

If friction is to be used to resist lateral loads, an allowable coefficient of friction between newly compacted fill soil and concrete of 0.35 should be used for design. When combining passive pressure and friction for lateral resistance, the passive component should be reduced by one-third.

Concrete Flatwork

Exterior concrete flatwork not subject to vehicular traffic should be constructed in accordance with the recommendations herein assuming the subgrade materials possess an Expansion Index of 50 or less. Subgrade soils should be compacted to 90 percent relative compaction at a moisture content 0 to 2 percent above optimum as determined by ASTM D1557. Slab panels should be a minimum of 4 inches thick and when in excess of 8 feet square should be reinforced with No. 3 reinforcing bars spaced 24 inches on in both directions to reduce the potential for cracking. In addition, concrete flatwork should be provided with crack control joints to reduce and/or control shrinkage cracking. Crack control spacing should be determined by the project structural engineer based upon the slab thickness and intended usage. Criteria of the American Concrete Institute (ACI) should be taken into consideration when establishing crack control spacing. Subgrade soil for exterior slabs not subjected to vehicle loads should be compacted in accordance with criteria presented in the earthwork section prior to concrete placement. Subgrade soil should be properly compacted and the moisture content of subgrade soil should be verified prior to placing concrete. Base materials will not be required below concrete improvements.

Even with the incorporation of the recommendations of this report, the exterior concrete flatwork has a potential to experience some uplift due to expansive soil beneath grade or differential settlement.

The steel reinforcement should overlap continuously in flatwork to reduce the potential for vertical offsets within flatwork.

The recommendations presented herein are intended to reduce the potential for cracking of exterior slabs as a result of differential movement. However, even with the incorporation of the recommendations presented herein, concrete slabs will still crack. The occurrence of concrete shrinkage cracks is independent of the soil supporting characteristics. Their occurrence may be reduced and/or controlled by limiting the slump of the concrete, the use of crack control joints and proper concrete placement and curing. Crack control joints should be spaced at intervals no greater than 12 feet. Literature provided by the Portland Concrete Association (PCA) and American Concrete Institute (ACI) present recommendations for proper concrete mix, construction, and curing practices, and should be incorporated into project construction.

Temporary Excavations

The recommendations included herein are provided for stable excavations. It is the responsibility of the contractor to provide a safe excavation during the construction of the proposed project.

Temporary excavations should be made in conformance with OSHA requirements and as directed by the assigned competent person in the field (contractor). In general, special shoring requirements may not be necessary if temporary excavations will be less than 4 feet in height. Temporary excavations greater than 4 feet in height, however, should be sloped back at an appropriate inclination based on the material type, and as determined by the contractor during construction. These excavations should not be allowed to become saturated or to dry out. Surcharge loads should not be permitted to a distance equal to the height of the excavation from the top of the excavation. The top of the excavation should be a minimum of 15 feet from the edge of existing improvements. Excavations steeper than those recommended or closer than 15 feet from an existing surface improvement should be shored in accordance with applicable OSHA codes and regulations.

Where there is insufficient space for sloped excavations, shoring or trench shields should be used to support excavations. Shoring may also be necessary where sloped excavation could remove vertical or lateral support of existing improvements, including existing utilities and adjacent structures.

Where sloped embankments are utilized, the top of the slope should be barricaded to prevent vehicles and storage loads at the top of the slope within a horizontal distance equal to the height of the slope. If the temporary construction embankments are to be maintained during the rainy season, berms are suggested along the tops of the slopes where necessary to prevent runoff water from entering the excavation and eroding the slope faces. The contractor's competent person should inspect the soils exposed in the cut slopes during excavation in accordance with OSHA regulations so that modifications of the slopes can be made if variations in the soil conditions occur.

Site Drainage and Moisture Protection

Proper site drainage is critical to reduce the potential for differential soil movement, erosion and subsurface seepage. The site should be graded and maintained such that surface drainage is directed away from structures in accordance with 2016 CBC 1804.4 and the Caltrans *Highway Design Manual*. In addition, surface drainage should be directed away from the top of slopes into swales or other controlled drainage devices.

Underground utilities should be leak free. Utility and irrigation lines should be checked periodically for leaks, and detected leaks should be repaired promptly. Detrimental soil movement could occur if water is allowed to infiltrate the soil for prolonged periods of time.

Landscaping planters adjacent to paved areas have the potential for surface or irrigation water to infiltrate the pavement's subgrade and base course. Where landscaping is planned adjacent to the pavement, we recommend construction of a cutoff wall along the edge of the pavement that extends at least 6 inches below the bottom of the base material.

If not properly constructed, there is a potential for distress to improvements and properties located hydrologically down gradient or adjacent to infiltration areas. Factors such as the amount of water to be detained, its residence time, and soil permeability have an important effect on seepage transmission and the potential adverse impacts that may occur if the storm water management features are not properly designed and constructed. We have not performed a hydrogeology study at the site. Down-gradient and adjacent structures may be subjected to seeps, movement of foundations and slabs, or other impacts as a result of water infiltration.

Plan Review

Geocon should be afforded the opportunity review the improvement plans for the project prior to final submittal, to verify that the plans have been prepared in substantial conformance with the recommendations of this report. Additional analyses may be required after review of the project plans.

Should you have any questions regarding this report, or if we may be of further service, please contact the undersigned at your convenience.

Very truly yours,

GEOCON WEST, INC.



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PE 93940



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CEG 2316



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GE 2865

ATS:LAB:REL:hd

Attachments: LIMITATIONS AND UNIFORMITY OF CONDITIONS
LIST OF REFERENCES

FIGURES
- Figure 1, Vicinity Map
- Figures 2-1 through 2-3, Site Map
- Figure 3, Geologic Map
- Figure 4, Recommended Design Response Spectrum

APPENDIX A
- Figures A-1 through A-8, Logs of Borings

APPENDIX B
- Figures B-1 & B-2, Modified Compaction Test of Soils
- Figures B-3 & B-4, Direct Shear Test
- Figures B-5 through B-8, Grain Size Distribution

APPENDIX C
- Recommended Grading Specifications

Distribution: Addressee (Email)

LIMITATIONS AND UNIFORMITY OF CONDITIONS

The recommendations of this report pertain only to the site investigated and are based upon the assumption that the soil conditions do not deviate from those disclosed in the investigation. If any variations or undesirable conditions are encountered during construction, or if the proposed construction will differ from that anticipated herein, Geocon West, Inc. should be notified so that supplemental recommendations can be given. The evaluation or identification of the potential presence of hazardous or corrosive materials was not part of the scope of services provided by Geocon West, Inc.

This report is issued with the understanding that it is the responsibility of the owner, or of their representative, to ensure that the information and recommendations contained herein are brought to the attention of the engineer and contractor for the project and incorporated into the plans, and the necessary steps are taken to see that the contractor and subcontractors carry out such recommendations in the field.

The findings of this report are valid as of the date of this report. However, changes in the conditions of a property can occur with the passage of time, whether they are due to natural processes or the works of man on this or adjacent properties. In addition, changes in applicable or appropriate standards may occur, whether they result from legislation or the broadening of knowledge. Accordingly, the findings of this report may be invalidated wholly or partially by changes outside our control. Therefore, this report is subject to review and should not be relied upon after a period of three years.

The firm that performed the geotechnical investigation for the project should be retained to provide testing and observation services during construction to provide continuity of geotechnical interpretation and to check that the recommendations presented for geotechnical aspects of site development are incorporated during site grading, construction of improvements, and excavation of foundations. If another geotechnical firm is selected to perform the testing and observation services during construction operations, that firm should prepare a letter indicating their intent to assume the responsibilities of project geotechnical engineer of record. A copy of the letter should be provided to the regulatory agency for their records. In addition, that firm should provide revised recommendations concerning the geotechnical aspects of the proposed development, or a written acknowledgement of their concurrence with the recommendations presented in our report. They should also perform additional analyses deemed necessary to assume the role of Geotechnical Engineer of Record.

REFERENCES

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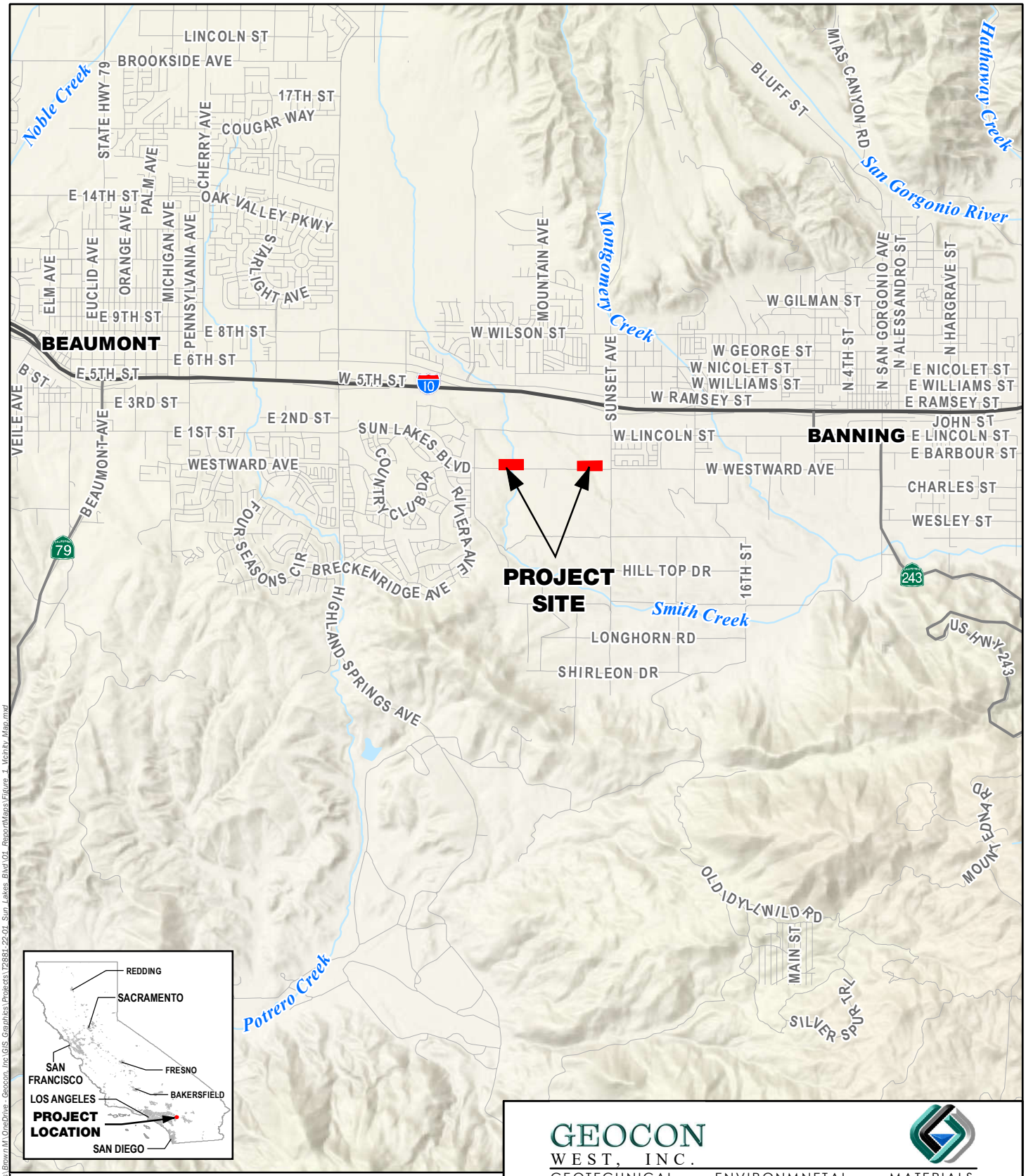
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11. Public Works Standards, Inc., 2015, *"Greenbook" Standard Specifications for Public Works Construction*, Published by BNI Building News.



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Sun Lakes Boulevard Realignment

South Highland Home Road to Sunset Avenue
Banning, California

VICNITY MAP

T2881-22-02	JUNE 2024	Figure 1

GEOCON 5/20/2024 USER Brown M PATH C:\Users\Brown M OneDrive - Geocon, Inc\GIS Graphics\Projects\T2881-22-01 Sun Lakes Blvd 01 Report\Maps\Figure 1 Vicinity Map.mxd



Legend

B-8 ⊗ Approximate Boring Location

Approximate Site Boundary

N

0 400

Scale in Feet

GEOCON WEST, INC.

GEOTECHNICAL ENVIRONMNETAL MATERIALS

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Sun Lakes Boulevard Realignment

South Highland Home Road to Sunset Avenue
Banning, California

OVERALL SITE MAP

T2881-22-02	JUNE 2024	Figure 2-1

GEOCON 5/21/2024 USER:Brown,M:\OneDrive - Geocon, Inc\GIS_Graphics\Projects\T2881-22-01_Sun_Lakes_Blvd\01_ReportMaps\Figure_2-1_Overall_Site_Map.mxd

J LINE

I LINE

B-2

B-3

WESTWARD AVE

60+00.00 61+00.00 62+00.00 63+00.00 64+00.00 65+00.00 66+00.00 67+00.00 68+00.00 69+00.00 70+00.00 71+00.00 72+00.00 73+00.00 74+00.00 75+00.00

Legend

B-3 ⊗ Approximate Boring Location

1-Foot Elevation Contours

Approximate Site Boundary

N

0 100

Scale in Feet

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4157 CORNING PLACE - SUITE 101 - MURRIETA, CA 92562
PHONE 951.304.2300 - FAX 651.304.2392

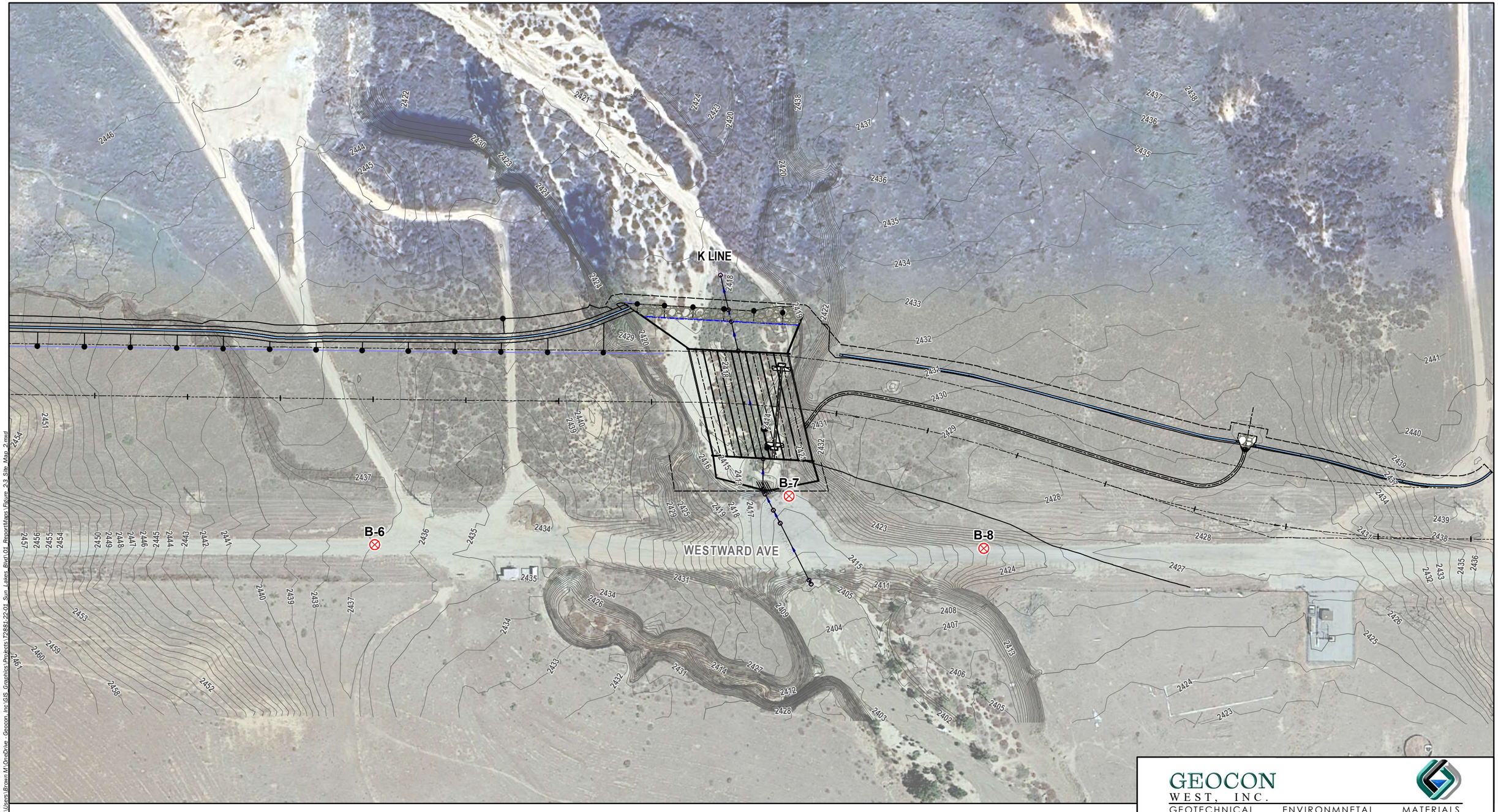
Sun Lakes Boulevard Realignment

South Highland Home Road to Sunset Avenue
Banning, California

SITE MAP - AREA 1

T2881-22-02	JUNE 2024	Figure 2-2

GEOCON 5/29/2024 USER Brown M PATH C:\Users\Brown M\OneDrive - Geocon, Inc\GIS Graphics\Projects\T2881-22-01 Sun Lakes Blvd\01 Report\Maps\Figure 2-2 Site Map_1.mxd



Legend

B-8 ⊗ Approximate Boring Location

1-Foot Elevation Contours

Approximate Site Boundary

N

0 100

Scale in Feet

GEOCON WEST, INC.

GEOTECHNICAL ENVIRONMNETAL MATERIALS

4157 CORNING PLACE - SUITE 101 - MURRIETA, CA 92562

PHONE 951.304.2300 - FAX 651.304.2392

Sun Lakes Boulevard Realignment

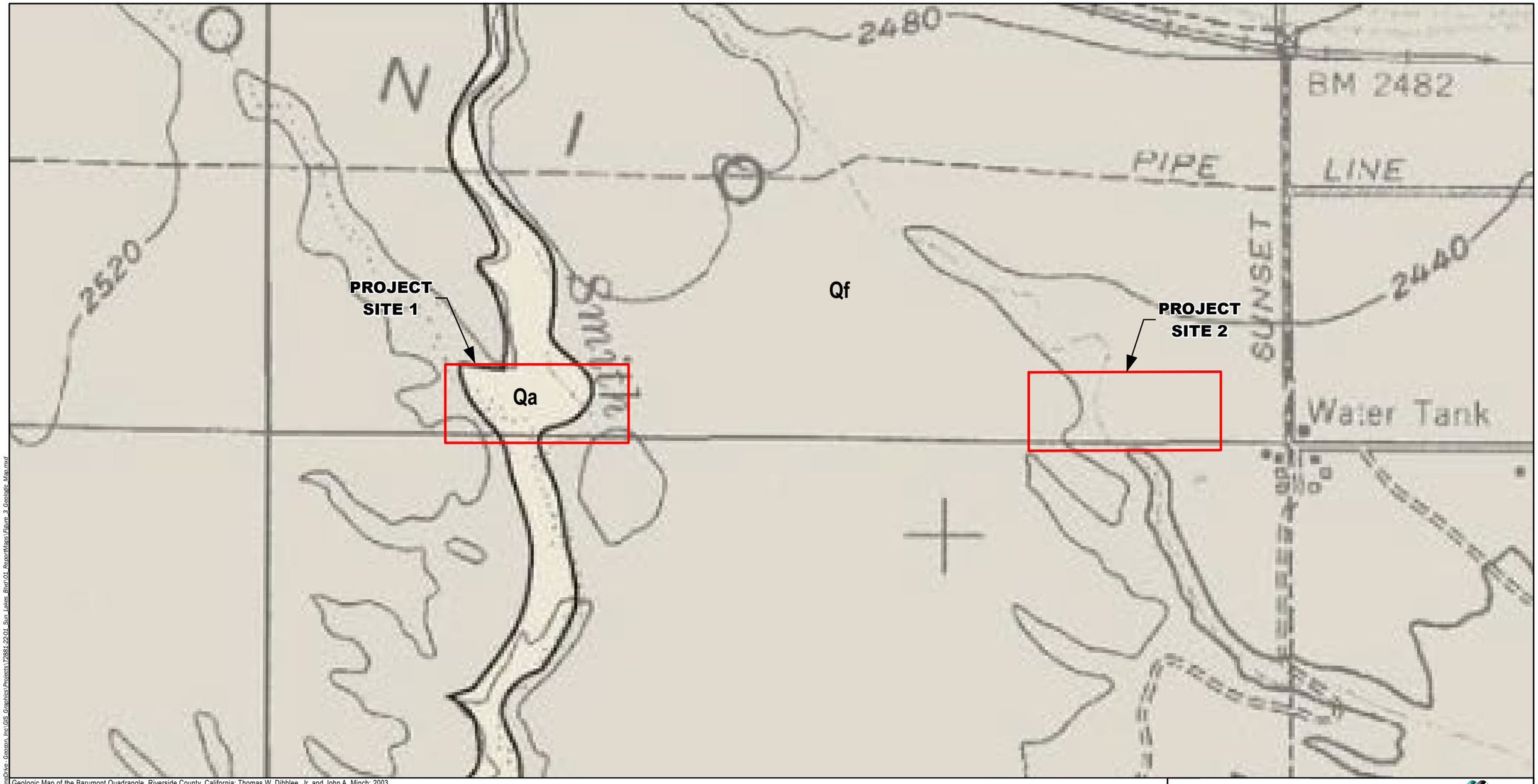
South Highland Home Road to Sunset Avenue

Banning, California

SITE MAP - AREA 2

T2881-22-02	JUNE 2024	Figure 2-3

GEOCON 5/29/2024 USER Brown.M PATH C:\Users\Brown.M\OneDrive - Geocon, Inc\GIS Graphics\Projects\T2881-22-01 Sun Lakes Blvd\01_ReportMaps\Figure 2-3_Site Map_2.mxd



Geologic Map of the Barumont Quadrangle, Riverside County, California; Thomas W. Dibblee, Jr. and John A. Minch; 2003

Unit Explantion

Qa	Surficial Sediments
Qf	Alluvial fan San Gorgonio Pass

N

0 500

Scale in Feet

GEOCON WEST, INC.
GEOTECHNICAL ENVIRONMNETAL MATERIALS
4157 CORNING PLACE - SUITE 101 - MURRIETA, CA 92562
PHONE 951.304.2300 - FAX 651.304.2392

Sun Lakes Boulevard Realignment

South Highland Home Road to Sunset Avenue
Banning, California

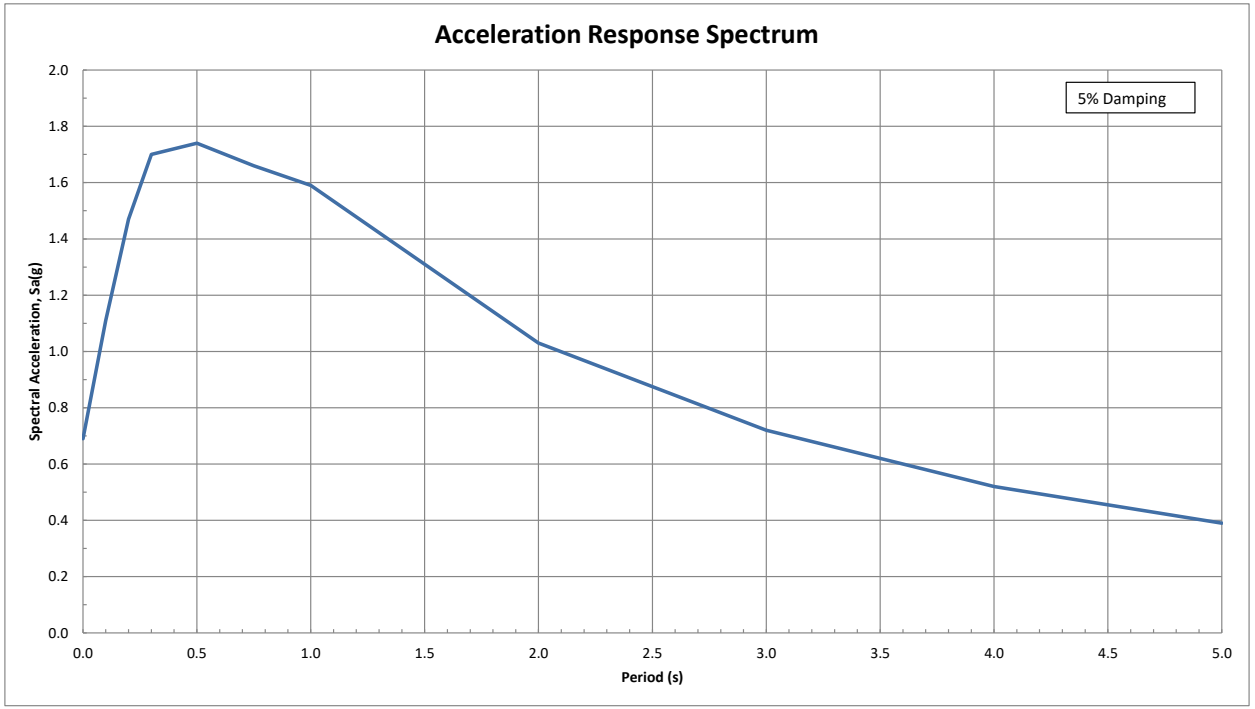
GEOLOGIC MAP

T2881-22-01	May 2024	Figure 3

GEOCON 3/27/2024 USER Brown M PATH C:\Users\Brown M\OneDrive - Geocon, Inc\GIS Graphics\Projects\T2881-22-01 Sun Lakes Blvd\01_Report\Maps\Figure 3 Geologic Map.mxd

ARS Data for: ***Sun Lakes Boulevard Realignment***

Period, T (s)	Spectral Acceleration, S_a (g)
0.00	0.69
0.10	1.11
0.20	1.47
0.30	1.70
0.50	1.74
0.75	1.66
1.00	1.59
2.00	1.03
3.00	0.72
4.00	0.52
5.00	0.39



Latitude, degrees
33.917900
Longitude, degrees
-116.919700

Seismic Loading Table		
Soil Profile (V_{S30}):	200	m/s
or:	656	ft/s
PGA Mean Moment Magnitude (M) for PGA:	6.84	
Rupture Distance: R:	11.8	km
or:	7.3	mi
PGA (HPGA):	**0.69**	**g**

The ARS curve was developed based on the USGS 2014 national Seismic Hazard Map for a 975 year return period (Hazard Model/Edition Dynamic Conterminous U.S. 2014 (Update) (V4.2.0) hazard data obtained by using ARS Online v3.1.0). Modifications for basin effects and/or near fault effects were applied, where applicable, per Appendix B of SDC v2.0 with October 2019 Interim Revisions.

SEE Design - Ground Motion Data Sheet

GEOCON CONSULTANTS, INC.
3160 GOLD VALLEY DR – SUITE 800 – RANCHO CORDOVA, CA 95742
PHONE 916.852.9118 – FAX 916.852.9132

Sun Lakes Boulevard Realignment

Banning,
California

RECOMMENDED DESIGN RESPONSE SPECTRUM

T2881-22-01	May 2024	Figure 4

APPENDIX A

APPENDIX A

EXPLORATORY EXCAVATIONS

We performed the field investigation on September 17, 2019. Our subsurface exploration consisted of excavating eight geotechnical borings utilizing a truck-mounted, hollow-stem auger drill rig. The borings were drilled to depths of 6½ and 26½ feet below the existing ground surface in areas of the planned improvements. We collected bulk and relatively undisturbed samples from the borings by driving a 3-inch O. D., California Modified Sampler into the "undisturbed" soil mass with blows from a 140-pound hammer falling 30 inches or a slide hammer. The California Modified Sampler was equipped with 1-inch high by $2^{3}/_{8}$-inch inside diameter brass sampler rings to facilitate removal and testing. Bulk and relatively undisturbed samples of soils were transported to our laboratory for testing.

The soil conditions encountered in the borings were visually examined, classified and logged in general accordance with the Unified Soil Classification System (USCS). Logs of the borings are presented on Figures A-1 through A-8. The logs depict the soil and geologic conditions encountered and the depth at which samples were obtained. The approximate locations of the borings are indicated the *Geologic Map* (Figure 2).

PROJECT NO. **T2881-22-01** PROJECT NAME **Sun Lakes Boulevard Realignment**

BORING B-1

ELEV. (MSL.) **2490.5** DATE COMPLETED **9/17/19**

ENG./GEO. **A.Shoashekan** DRILLER **2R Drilling**

EQUIPMENT **HOLLOW STEM AUGER** HAMMER TYPE **Autohammer**

DEPTH IN FEET	SAMPLE INTERVAL & RECOVERY	LITHOLOGY	GROUNDWATER	SOIL CLASS (USCS)	MATERIAL DESCRIPTION	PENETRATION RESISTANCE (BLOWS/FT.)	DRY DENSITY (P.C.F.)	MOISTURE CONTENT (%)	ADDITIONAL TESTS
0	B-1@0-5			SM	**ALLUVIAL FAN OF THE SAN GORGONIO PASS (Qf)** Silty SAND, dense, damp, reddish brown; fine to medium sand with few coarse sand				
1									
2									
3	B-1@2.5			SC	Clayey SAND, dense, moist, light reddish brown; fine to medium sand; calcium carbonate deposits; porous	75		9.3	
4									
5	B-1@5				- becomes very dense	96		8.5	
6									
					Total Depth = 6'-6" Groundwater not encountered Backfilled with cuttings 9/17/2019				

Figure A1, Log of Boring, page 1 of 1

IN PROGRESS T2881-22-01 BORING LOGS.GPJ 05/29/24

GEOCON

SAMPLE SYMBOLS

☐ ... SAMPLING UNSUCCESSFUL ◧ ... STANDARD PENETRATION TEST ■ ... DRIVE SAMPLE (UNDISTURBED)

⊠ ... DISTURBED OR BAG SAMPLE ◥ ... CHUNK SAMPLE ▼ ... WATER TABLE OR SEEPAGE

NOTE: THE LOG OF SUBSURFACE CONDITIONS SHOWN HEREON APPLIES ONLY AT THE SPECIFIC BORING OR TRENCH LOCATION AND AT THE DATE INDICATED. IT IS NOT WARRANTED TO BE REPRESENTATIVE OF SUBSURFACE CONDITIONS AT OTHER LOCATIONS AND TIMES.

PROJECT NO. **T2881-22-01** PROJECT NAME **Sun Lakes Boulevard Realignment**

BORING B-2

ELEV. (MSL.) **2463** DATE COMPLETED **9/17/19**

ENG./GEO. **A.Shoashekan** DRILLER **2R Drilling**

EQUIPMENT **HOLLOW STEM AUGER** HAMMER TYPE **Autohammer**

DEPTH IN FEET	SAMPLE INTERVAL & RECOVERY	SOIL CLASS (USCS)	MATERIAL DESCRIPTION	PENETRATION RESISTANCE (BLOWS/FT.)	DRY DENSITY (P.C.F.)	MOISTURE CONTENT (%)	ADDITIONAL TESTS
0		SP-SM	**UNDOCUMENTED FILL (afu)** Poorly-graded SAND with silt and some gravel, dense, damp, reddish brown; fine to medium sand with few coarse sand				
3	B-2@2.5	SM	**ALLUVIUM (Qa)** Silty SAND, medium dense, moist, brown; fine sand; porous	24			
5	B-2@5	SP-SM	Poorly-graded SAND with silt, medium dense, moist, yellowish brown; fine to medium sand	17			
8	B-2@7.5	SM	Silty SAND, medium dense, moist, yellowish brown; fine sand; porous	17			
10	B-2@10 B-2@10-15		-becomes damp; porous; increase in sand content	25		6.9	
15	B-2@15	SP-SM	**ALLUVIAL FAN OF THE SAN GORGONIO PASS (Qf)** Poorly-graded SAND with silt and little gravel, dense, wet, yellowish brown; fine to coarse sand	73			
20	B-2@20			66		7.5	
25	B-2@25		-becomes medium dense	36			
26		CL	Sandy CLAY, stiff, moist, red; fine to coarse sand; porous; manganese staining				

Total Depth = 26'-6"
Groundwater not encountered
Backfilled with cuttings 9/17/2019

Figure A2, Log of Boring, page 1 of 1

IN PROGRESS T2881-22-01 BORING LOGS.GPJ 05/29/24

GEOCON

SAMPLE SYMBOLS: ☐ ... SAMPLING UNSUCCESSFUL; ◧ ... STANDARD PENETRATION TEST; ■ ... DRIVE SAMPLE (UNDISTURBED); ⊠ ... DISTURBED OR BAG SAMPLE; ◪ ... CHUNK SAMPLE; ▼ ... WATER TABLE OR SEEPAGE

NOTE: THE LOG OF SUBSURFACE CONDITIONS SHOWN HEREON APPLIES ONLY AT THE SPECIFIC BORING OR TRENCH LOCATION AND AT THE DATE INDICATED. IT IS NOT WARRANTED TO BE REPRESENTATIVE OF SUBSURFACE CONDITIONS AT OTHER LOCATIONS AND TIMES.

PROJECT NO. **T2881-22-01** PROJECT NAME **Sun Lakes Boulevard Realignment**

BORING B-3

ELEV. (MSL.) **2483.5** DATE COMPLETED **9/17/19**

ENG./GEO. **A.Shoashekan** DRILLER **2R Drilling**

EQUIPMENT **HOLLOW STEM AUGER** HAMMER TYPE **Autohammer**

DEPTH IN FEET	SAMPLE INTERVAL & RECOVERY	LITHOLOGY	GROUNDWATER	SOIL CLASS (USCS)	MATERIAL DESCRIPTION	PENETRATION RESISTANCE (BLOWS/FT.)	DRY DENSITY (P.C.F.)	MOISTURE CONTENT (%)	ADDITIONAL TESTS
0				SC	**ALLUVIAL FAN OF THE SAN GORGONIO PASS (Qf)** Clayey SAND, very dense, damp, reddish brown; fine to medium sand				
1									
2									
3	B-3@2.5				-becomes moist	50/5"		10.3	
4									
5	B-3@5			SP	Poorly-graded SAND, very dense, moist, olive; fine to medium sand; manganese staining, granitic clast	50/6"		6.8	
6									
7									
8	B-3@7.5			SP-SM	Poorly-graded SAND with silt, very dense, moist, light olive brown; fine to medium sand; granitic clast	98/11"			
9									
10	B-3@10			SM	Silty SAND, dense, moist, reddish brown; fine sand	64			
11									
12									
13									
14									
15	B-3@15			SP	Poorly-graded SAND, very dense, moist, yellowish brown; medium sand; granictic clast	88/10"			
16									
17									
18									
19									
20	B-3@20				- fine to coarse sand; granitic clast	50/6"			
21									
22									
23									
24									
25	B-3@25				- becomes olive yellow	95			
26									
					Total Depth = 26'-6" Groundwater not encountered Backfilled with cuttings 9/17/2019				

Figure A3, Log of Boring, page 1 of 1

IN PROGRESS T2881-22-01 BORING LOGS.GPJ 05/29/24

GEOCON

SAMPLE SYMBOLS

☐ ... SAMPLING UNSUCCESSFUL ◧ ... STANDARD PENETRATION TEST ■ ... DRIVE SAMPLE (UNDISTURBED)

▩ ... DISTURBED OR BAG SAMPLE ◥ ... CHUNK SAMPLE ▼ ... WATER TABLE OR SEEPAGE

NOTE: THE LOG OF SUBSURFACE CONDITIONS SHOWN HEREON APPLIES ONLY AT THE SPECIFIC BORING OR TRENCH LOCATION AND AT THE DATE INDICATED. IT IS NOT WARRANTED TO BE REPRESENTATIVE OF SUBSURFACE CONDITIONS AT OTHER LOCATIONS AND TIMES.

PROJECT NO. **T2881-22-01** PROJECT NAME **Sun Lakes Boulevard Realignment**

BORING B-4

ELEV. (MSL.) **2480** DATE COMPLETED **9/17/19**

ENG./GEO. **A.Shoashekan** DRILLER **2R Drilling**

EQUIPMENT **HOLLOW STEM AUGER** HAMMER TYPE **Autohammer**

DEPTH IN FEET	SAMPLE INTERVAL & RECOVERY	LITHOLOGY	GROUNDWATER	SOIL CLASS (USCS)	MATERIAL DESCRIPTION	PENETRATION RESISTANCE (BLOWS/FT.)	DRY DENSITY (P.C.F.)	MOISTURE CONTENT (%)	ADDITIONAL TESTS
0	B-4@0-5			SM	**ALLUVIAL FAN OF THE SAN GORGONIO PASS (Qf)** Silty SAND with few gravel, medium dense, damp, reddish brown; fine to medium sand				
1									
2									
3	B-4@2.5			SC	Clayey SAND, medium dense, damp, reddish brown; fine to medium sand; calcium carbonate stringers	26		6.8	
4									
5	B-4@5				-becomes moist	28		8.5	
6									
					Total Depth = 6'-6" Groundwater not encountered Backfilled with cuttings 9/17/2019				

Figure A4, Log of Boring, page 1 of 1

IN PROGRESS T2881-22-01 BORING LOGS.GPJ 05/29/24

GEOCON

SAMPLE SYMBOLS

- ☐ ... SAMPLING UNSUCCESSFUL
- ◧ ... STANDARD PENETRATION TEST
- ■ ... DRIVE SAMPLE (UNDISTURBED)
- ⊠ ... DISTURBED OR BAG SAMPLE
- ◪ ... CHUNK SAMPLE
- ▼ ... WATER TABLE OR SEEPAGE

NOTE: THE LOG OF SUBSURFACE CONDITIONS SHOWN HEREON APPLIES ONLY AT THE SPECIFIC BORING OR TRENCH LOCATION AND AT THE DATE INDICATED. IT IS NOT WARRANTED TO BE REPRESENTATIVE OF SUBSURFACE CONDITIONS AT OTHER LOCATIONS AND TIMES.

PROJECT NO. **T2881-22-01** PROJECT NAME **Sun Lakes Boulevard Realignment**

BORING B-5

ELEV. (MSL.) **2465** DATE COMPLETED **9/17/19**

ENG./GEO. **A.Shoashekan** DRILLER **2R Drilling**

EQUIPMENT **HOLLOW STEM AUGER** HAMMER TYPE **Autohammer**

DEPTH IN FEET	SAMPLE INTERVAL & RECOVERY	LITHOLOGY	GROUNDWATER	SOIL CLASS (USCS)	MATERIAL DESCRIPTION	PENETRATION RESISTANCE (BLOWS/FT.)	DRY DENSITY (P.C.F.)	MOISTURE CONTENT (%)	ADDITIONAL TESTS
0	B-5@0-5			SC	**ALLUVIAL FAN OF THE SAN GORGONIO PASS (Qf)** Clayey SAND, dense, damp, brown; fine to medium sand with few coarse sand				
1									
2									
3	B-5@2.5				-becomes medium dense, moist; calcium carbonate stringers; porous	38		8.0	
4									
5	B-5@5			SM	Silty SAND, dense, moist, yellowish brown; fine to medium sand; porous; trace calcium carbonate stringers	50		10.3	
6									
					Total Depth = 6'-6" Groundwater not encountered Backfilled with cuttings 9/17/2019				

Figure A5, Log of Boring, page 1 of 1

IN PROGRESS T2881-22-01 BORING LOGS.GPJ 05/29/24

GEOCON

SAMPLE SYMBOLS

- ☐ ... SAMPLING UNSUCCESSFUL
- ◧ ... STANDARD PENETRATION TEST
- ■ ... DRIVE SAMPLE (UNDISTURBED)
- ⊠ ... DISTURBED OR BAG SAMPLE
- ◥ ... CHUNK SAMPLE
- ▼ ... WATER TABLE OR SEEPAGE

NOTE: THE LOG OF SUBSURFACE CONDITIONS SHOWN HEREON APPLIES ONLY AT THE SPECIFIC BORING OR TRENCH LOCATION AND AT THE DATE INDICATED. IT IS NOT WARRANTED TO BE REPRESENTATIVE OF SUBSURFACE CONDITIONS AT OTHER LOCATIONS AND TIMES.

PROJECT NO. **T2881-22-01** PROJECT NAME **Sun Lakes Boulevard Realignment**

BORING B-6

ELEV. (MSL.) **2437** DATE COMPLETED **9/17/19**

ENG./GEO. **A.Shoashekan** DRILLER **2R Drilling**

EQUIPMENT **HOLLOW STEM AUGER** HAMMER TYPE **Autohammer**

DEPTH IN FEET	SAMPLE INTERVAL & RECOVERY	LITHOLOGY	GROUNDWATER	SOIL CLASS (USCS)	MATERIAL DESCRIPTION	PENETRATION RESISTANCE (BLOWS/FT.)	DRY DENSITY (P.C.F.)	MOISTURE CONTENT (%)	ADDITIONAL TESTS
0				SM	**ALLUVIAL FAN OF THE SAN GORGONIO PASS (Qf)** Silty SAND, loose, dry, light brownish gray; fine sand				
1									
2									
3	B-6@2.5				-becomes damp; trace porosity	15		6.0	
4									
5	B-6@5				-increase in porosity	14		6.6	
6									
7									
8	B-6@7.5					16			
9									
10	B-6@10				-becomes medium dense	20			
11									
12									
13									
14									
15	B-6@15			SP	Poorly-graded SAND, medium dense, moist, light yellowish brown; fine to coarse sand	18			
16									
17									
18									
19									
20	B-6@20			SW	Well-graded SAND, medium dense, moist, light yellowish brown; fine to coarse sand	43			
21									
22									
23									
24									
25	B-6@25			SP-SM	Poorly-graded SAND with silt, medium dense, moist, yellowish brown; fine sand; trace calcium carbonate stringers	29			
26									
					Total Depth = 26'-6" Groundwater not encountered Backfilled with cuttings 9/17/2019				

Figure A6, Log of Boring, page 1 of 1

IN PROGRESS T2881-22-01 BORING LOGS.GPJ 05/29/24

GEOCON

SAMPLE SYMBOLS: ☐ ... SAMPLING UNSUCCESSFUL; ◧ ... STANDARD PENETRATION TEST; ■ ... DRIVE SAMPLE (UNDISTURBED); ⊠ ... DISTURBED OR BAG SAMPLE; ◪ ... CHUNK SAMPLE; ▼ ... WATER TABLE OR SEEPAGE

NOTE: THE LOG OF SUBSURFACE CONDITIONS SHOWN HEREON APPLIES ONLY AT THE SPECIFIC BORING OR TRENCH LOCATION AND AT THE DATE INDICATED. IT IS NOT WARRANTED TO BE REPRESENTATIVE OF SUBSURFACE CONDITIONS AT OTHER LOCATIONS AND TIMES.

PROJECT NO. **T2881-22-01** PROJECT NAME **Sun Lakes Boulevard Realignment**

BORING B-7

ELEV. (MSL.) **2416** DATE COMPLETED **9/17/19**

ENG./GEO. **A.Shoashekan** DRILLER **2R Drilling**

EQUIPMENT **HOLLOW STEM AUGER** HAMMER TYPE **Autohammer**

DEPTH IN FEET	SAMPLE INTERVAL & RECOVERY	SOIL CLASS (USCS)	MATERIAL DESCRIPTION	PENETRATION RESISTANCE (BLOWS/FT.)	DRY DENSITY (P.C.F.)	MOISTURE CONTENT (%)	ADDITIONAL TESTS
0							
1		SP-SM	**PAVEMENT** 4" asphalt concrete section				
2			**UNDOCUMENTED FILL (afu)** Poorly-graded SAND with silt, loose, dry, yellowish brown;fine to coarse sand				
3	B-7@2.5	SM		12			
4			Silty SAND, loose, moist, olive brown; fine sand				
5	B-7@5	SP-SM	**ALLUVIUM (Qa)** Poorly-graded SAND with silt, loose, moist, olive brown; fine sand	14		5.3	
6							
7							
8	B-7@7.5 B-7@8-13	SM	Silty SAND, medium dense, moist, yellowish brown; fine to medium sand with few coarse; trace calcium carbonate stringers	28		12.2	
9		SP					
10	B-7@10	SP-SM	Poorly-graded SAND, medium dense, moist, yellowish brown; fine to coarse sand	12		3.1	
11			Poorly-graded SAND with silt, loose, damp, yellowish brown; fine to medium sand; trace calcium carbonate stringers; trace porosity				
12							
13							
14							
15	B-7@15	SM	**ALLUVIAL FAN OF THE SAN GORGONIO PASS (Qf)** Silty SAND, medium dense, moist, olive brown; fine to medium sand; trace calcium carbonate stringers; trace porosity	35			
16							
17							
18							
19							
20	B-7@20		-becomes yellowish brown; fine to coarse sand	31		8.3	
21							
22							
23							
24							
25	B-7@25		-fine to medium sand	34			
26							
			Total Depth = 26'-6" Groundwater not encountered Backfilled with cuttings 9/17/2019				

Figure A7, Log of Boring, page 1 of 1

IN PROGRESS T2881-22-01 BORING LOGS.GPJ 05/29/24

GEOCON

SAMPLE SYMBOLS: ☐ ... SAMPLING UNSUCCESSFUL; ◧ ... STANDARD PENETRATION TEST; ■ ... DRIVE SAMPLE (UNDISTURBED); ⊠ ... DISTURBED OR BAG SAMPLE; ◪ ... CHUNK SAMPLE; ▼ ... WATER TABLE OR SEEPAGE

NOTE: THE LOG OF SUBSURFACE CONDITIONS SHOWN HEREON APPLIES ONLY AT THE SPECIFIC BORING OR TRENCH LOCATION AND AT THE DATE INDICATED. IT IS NOT WARRANTED TO BE REPRESENTATIVE OF SUBSURFACE CONDITIONS AT OTHER LOCATIONS AND TIMES.

PROJECT NO. **T2881-22-01** PROJECT NAME **Sun Lakes Boulevard Realignment**

BORING B-8

ELEV. (MSL.) **2422** DATE COMPLETED **9/17/19**

ENG./GEO. **A.Shoashekan** DRILLER **2R Drilling**

EQUIPMENT **HOLLOW STEM AUGER** HAMMER TYPE **Autohammer**

DEPTH IN FEET	SAMPLE INTERVAL & RECOVERY	LITHOLOGY	GROUNDWATER	SOIL CLASS (USCS)	MATERIAL DESCRIPTION	PENETRATION RESISTANCE (BLOWS/FT.)	DRY DENSITY (P.C.F.)	MOISTURE CONTENT (%)	ADDITIONAL TESTS
0	B-8@0-5			SM	**UNDOCUMENTED FILL (afu)** Silty SAND, medium dense, dry, light yellowish brown; fine sand with few medium and coarse sand				
1									
2									
3	B-8@2.5				- becomes damp	39		6.0	
4									
5	B-8@5			SM	- debris **ALLUVIAL FAN OF THE SAN GORGONIO PASS (Qf)** Silty SAND, loose, damp, light yellowish brown; fine to medium sand	12		5.3	
6									
7									
8	B-8@7.5				- becomes medium dense; porous; calcium carbonate stringers	22			
9									
10	B-8@10					27			
11									
12									
13									
14									
15	B-8@15					31			
16									
17									
18									
19									
20	B-8@20					46			
21									
22									
23									
24									
25	B-8@25			SW	Well-graded SAND, very dense, moist, light yellowish brown; fine to coarse sand	90			
26									
					Total Depth = 26' -6" Groundwater not encountered Backfilled with cuttings 9/17/2019				

Figure A8, Log of Boring, page 1 of 1

IN PROGRESS T2881-22-01 BORING LOGS.GPJ 05/29/24

GEOCON

SAMPLE SYMBOLS: ☐ ... SAMPLING UNSUCCESSFUL; ◧ ... STANDARD PENETRATION TEST; ■ ... DRIVE SAMPLE (UNDISTURBED); ⊠ ... DISTURBED OR BAG SAMPLE; ◪ ... CHUNK SAMPLE; ▼ ... WATER TABLE OR SEEPAGE

NOTE: THE LOG OF SUBSURFACE CONDITIONS SHOWN HEREON APPLIES ONLY AT THE SPECIFIC BORING OR TRENCH LOCATION AND AT THE DATE INDICATED. IT IS NOT WARRANTED TO BE REPRESENTATIVE OF SUBSURFACE CONDITIONS AT OTHER LOCATIONS AND TIMES.

APPENDIX B

APPENDIX B

LABORATORY TESTING

We performed laboratory tests in accordance with current generally accepted test methods of ASTM International (ASTM) or other suggested procedures. We analyzed selected soil samples for maximum dry density and optimum moisture content, grain size distribution, soil resistance value (R-value), and direct shear strength. The results of the laboratory tests are presented on Figures B-1 through B-8. The in-place dry density and moisture content of the samples tested are presented on the boring logs in Appendix A.

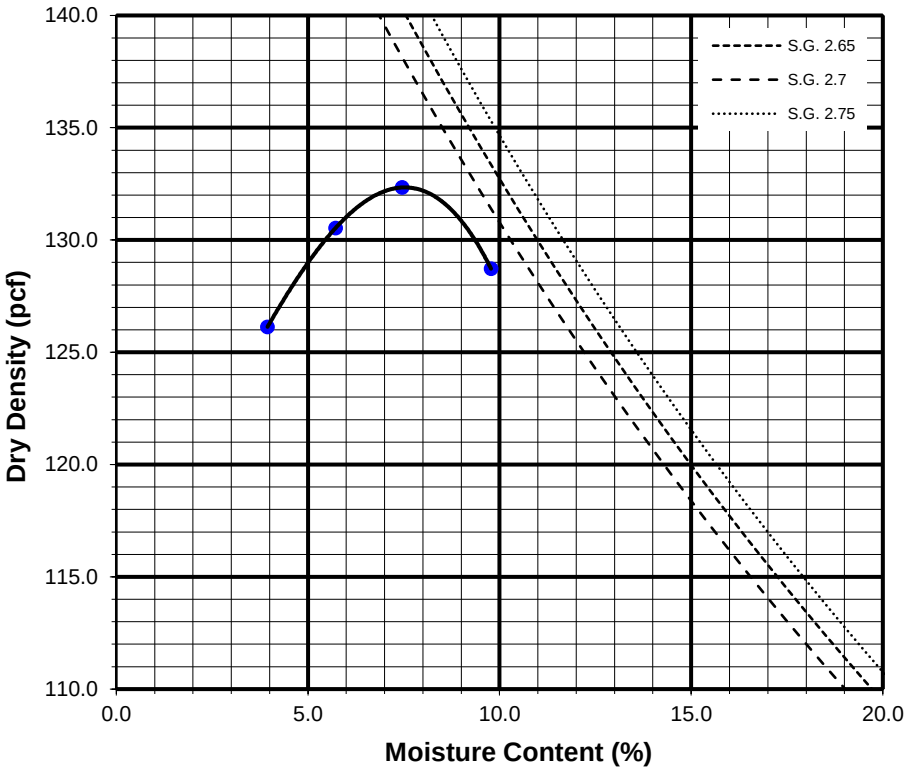
Sample No:

B-7@8-13'	silty SAND (SM), yellowish brown

TEST NO.		1	2	3	4	5	6
Wt. Compacted Soil + Mold	(g)	6367	6430	6417	6262		
Weight of Mold	(g)	4282	4282	4282	4282		
Net Weight of Soil	(g)	2085	2148	2135	1980		
Wet Weight of Soil + Cont.	(g)	760.7	790.2	788.5	763.9		
Dry Weight of Soil + Cont.	(g)	733.5	753.1	741.3	744.7		
Weight of Container	(g)	258.2	255.5	258.5	258.1		
Moisture Content	(%)	5.7	7.5	9.8	3.9		
Wet Density	(pcf)	138.0	142.2	141.3	131.1		
Dry Density	(pcf)	130.5	132.3	128.7	126.1		

Maximum Dry Density (pcf)	**132.5**

Optimum Moisture Content (%)	**8.0**



Preparation Method: B

GEOCON

MODIFIED COMPACTION TEST OF SOILS

ASTM D-1557

Checked by: ATS

Project No.: T2881-22-01

Sun Lakes Boulevard Realignment
South Highland Home Road to Sunset Aveune
Banning, California

October 2019 Figure B-1

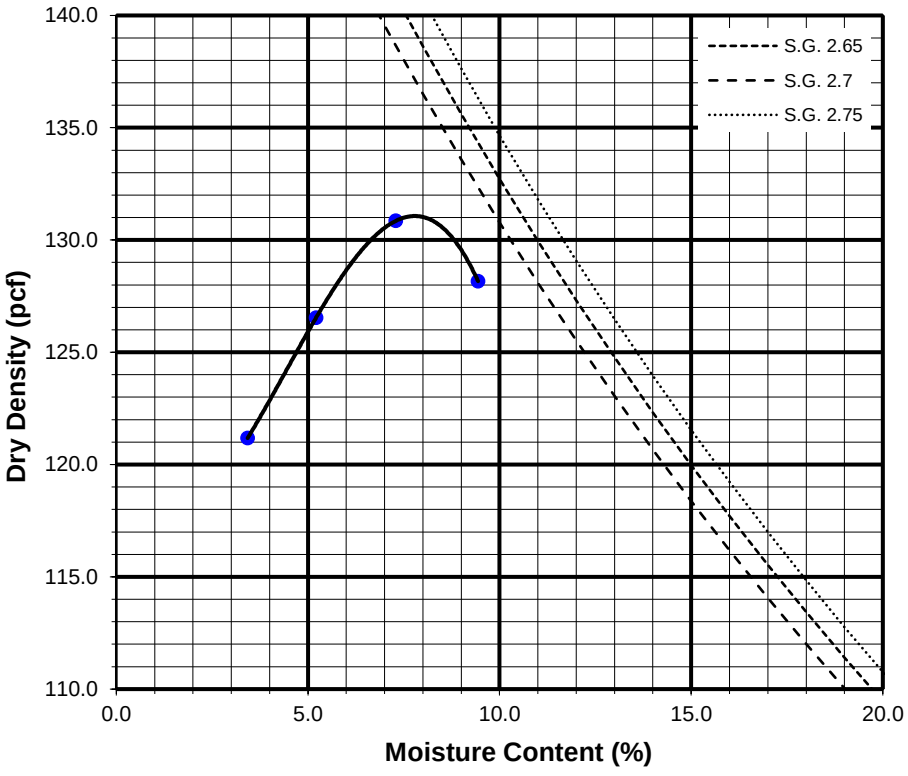
Sample No:

B-4 & B-5 @0-5' MIX	clayey SAND (SC), reddish brown

TEST NO.		1	2	3	4	5	6
Wt. Compacted Soil + Mold	(g)	6287	6396	6394	6169		
Weight of Mold	(g)	4282	4282	4282	4282		
Net Weight of Soil	(g)	2005	2114	2112	1887		
Wet Weight of Soil + Cont.	(g)	755.4	773.1	757.2	752.7		
Dry Weight of Soil + Cont.	(g)	730.7	738.0	713.9	736.3		
Weight of Container	(g)	256.9	256.7	255.2	257.6		
Moisture Content	(%)	5.2	7.3	9.4	3.4		
Wet Density	(pcf)	133.1	140.4	140.3	125.3		
Dry Density	(pcf)	126.5	130.9	128.2	121.2		

Maximum Dry Density (pcf)	**131.5**
Bulk Specific Gravity (dry)	**2.62**
Corrected Maximum Dry Density (pcf)	**133.5**

Optimum Moisture Content (%)	**8.0**
Oversized Fraction (%)	**7.0**
Corrected Moisture Content (%)	**7.5**



Preparation Method: A

GEOCON

MODIFIED COMPACTION TEST OF SOILS

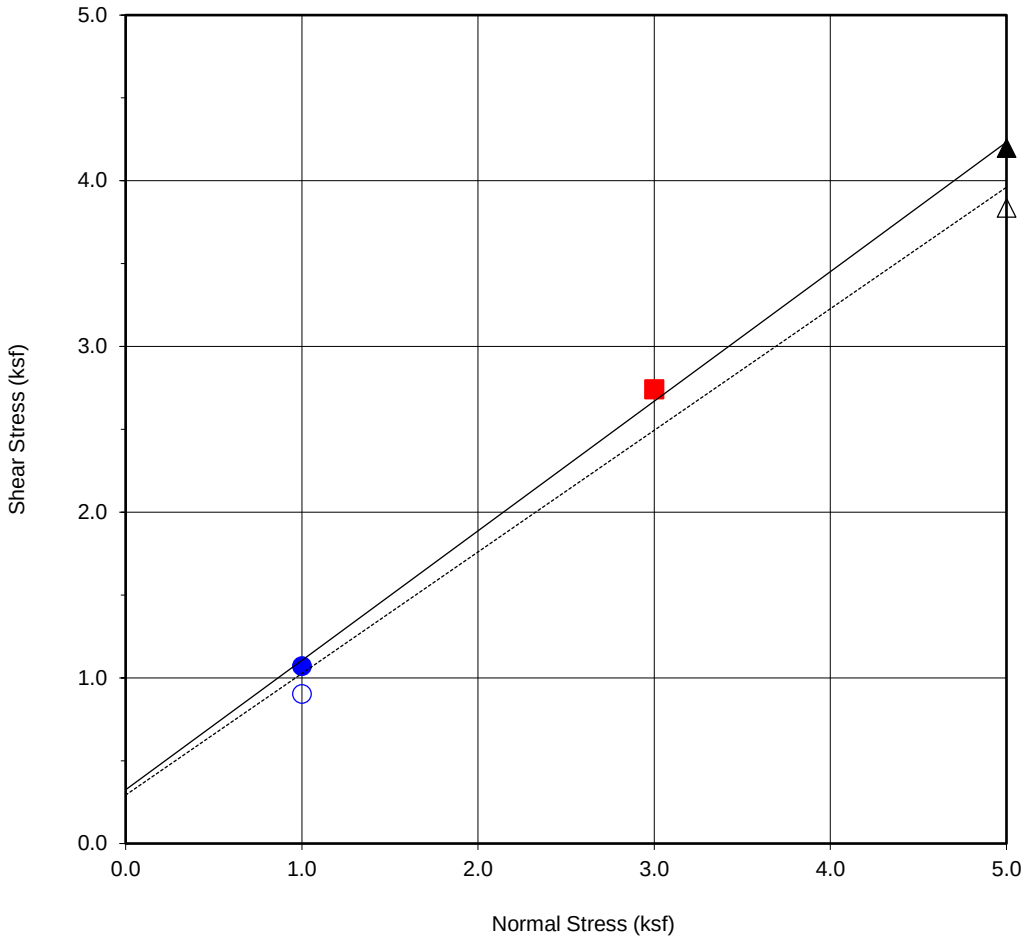
ASTM D-1557

Checked by: ATS

Project No.: T2881-22-01

Sun Lakes Boulevard Realignment
South Highland Home Road to Sunset Aveune
Banning, California

October 2019 Figure B-2



Boring No.	**B-2**
Sample No.	**B-2@10'**
Depth (ft)	**10**
Sample Type:	Ring

Soil Identification:
silty SAND (SM), yellowish brown

Strength Parameters

	C (psf)	ϕ (°)
Peak	324	38.0
Ultimate	292	36.3

Normal Strest (kip/ft2)	1	3	5
Peak Shear Stress (kip/ft²)	● 1.07	■ 2.74	▲ 4.20
Shear Stress @ End of Test (ksf)	○ 0.90	□ 2.74	△ 3.84
Deformation Rate (in./min.)	0.05	0.05	0.05
Initial Sample Height (in.)	1.0	1.0	1.0
Ring Inside Diameter (in.)	2.375	2.375	2.375
Initial Moisture Content (%)	10.2	11.5	9.9
Initial Dry Density (pcf)	114.3	99.3	115.2
Initial Degree of Saturation (%)	58.0	44.7	57.8
Soil Height Before Shearing (in.)	1.2	1.2	1.2
Final Moisture Content (%)	15.5	14.3	20.3

GEOCON

DIRECT SHEAR TEST RESULTS

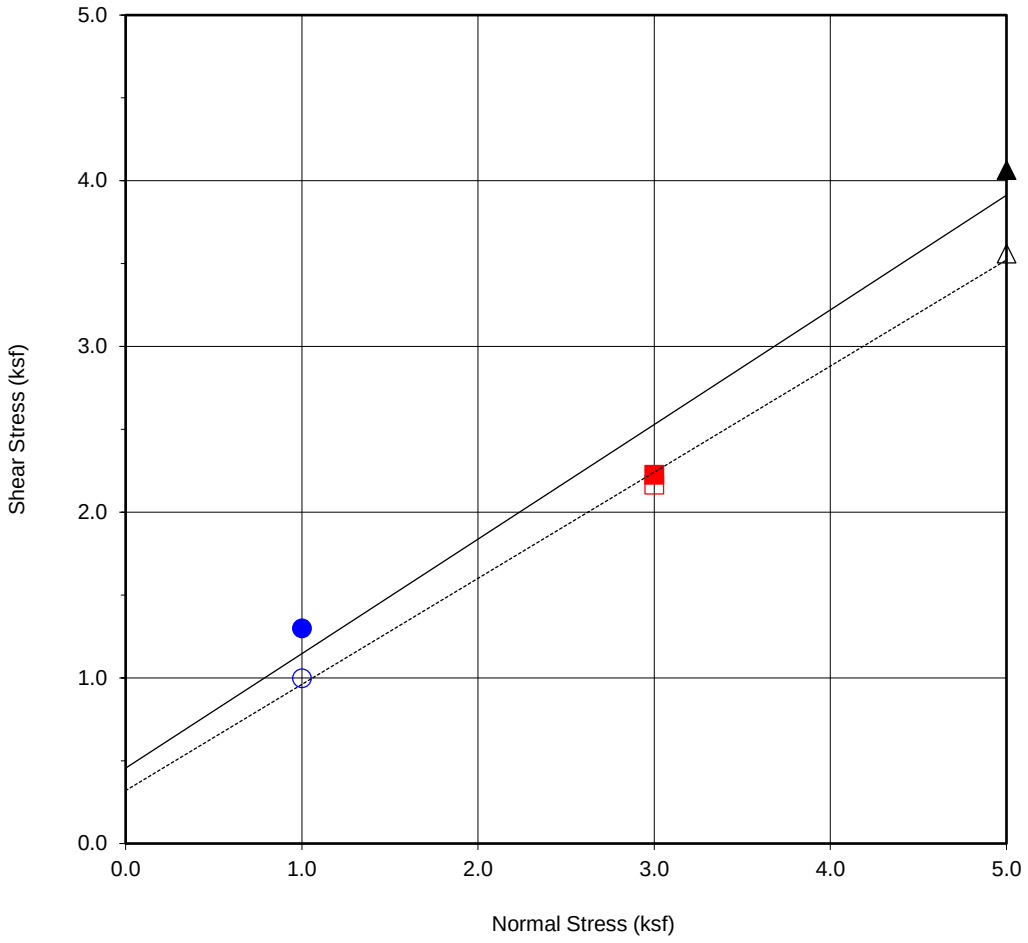
Consolidated Drained ASTM D-3080

Checked by: ATS

Project No.: T2881-22-01

Sun Lakes Boulevard Realignment
South Highland Home Road to Sunset Aveune
Banning, California

October 2019 Figure B-3



Boring No.	**B-7**
Sample No.	**B-7@7.5**
Depth (ft)	**7.5**
Sample Type:	Ring

Soil Identification:

Silty SAND (SM), yellowish brown

Strength Parameters

	C (psf)	ϕ (^{o})
Peak	455	34.7
Ultimate	320	32.6

Normal Strest (kip/ft2)	1	3	5
Peak Shear Stress (kip/ft²)	● 1.30	■ 2.23	▲ 4.07
Shear Stress @ End of Test (ksf)	○ 1.00	□ 2.17	△ 3.56
Deformation Rate (in./min.)	0.05	0.05	0.05
Initial Sample Height (in.)	1.0	1.0	1.0
Ring Inside Diameter (in.)	2.375	2.375	2.375
Initial Moisture Content (%)	13.0	13.2	10.3
Initial Dry Density (pcf)	115.3	109.8	115.4
Initial Degree of Saturation (%)	76.2	66.3	60.4
Soil Height Before Shearing (in.)	1.2	1.2	1.2
Final Moisture Content (%)	16.7	16.9	15.6

GEOCON

DIRECT SHEAR TEST RESULTS

Consolidated Drained ASTM D-3080

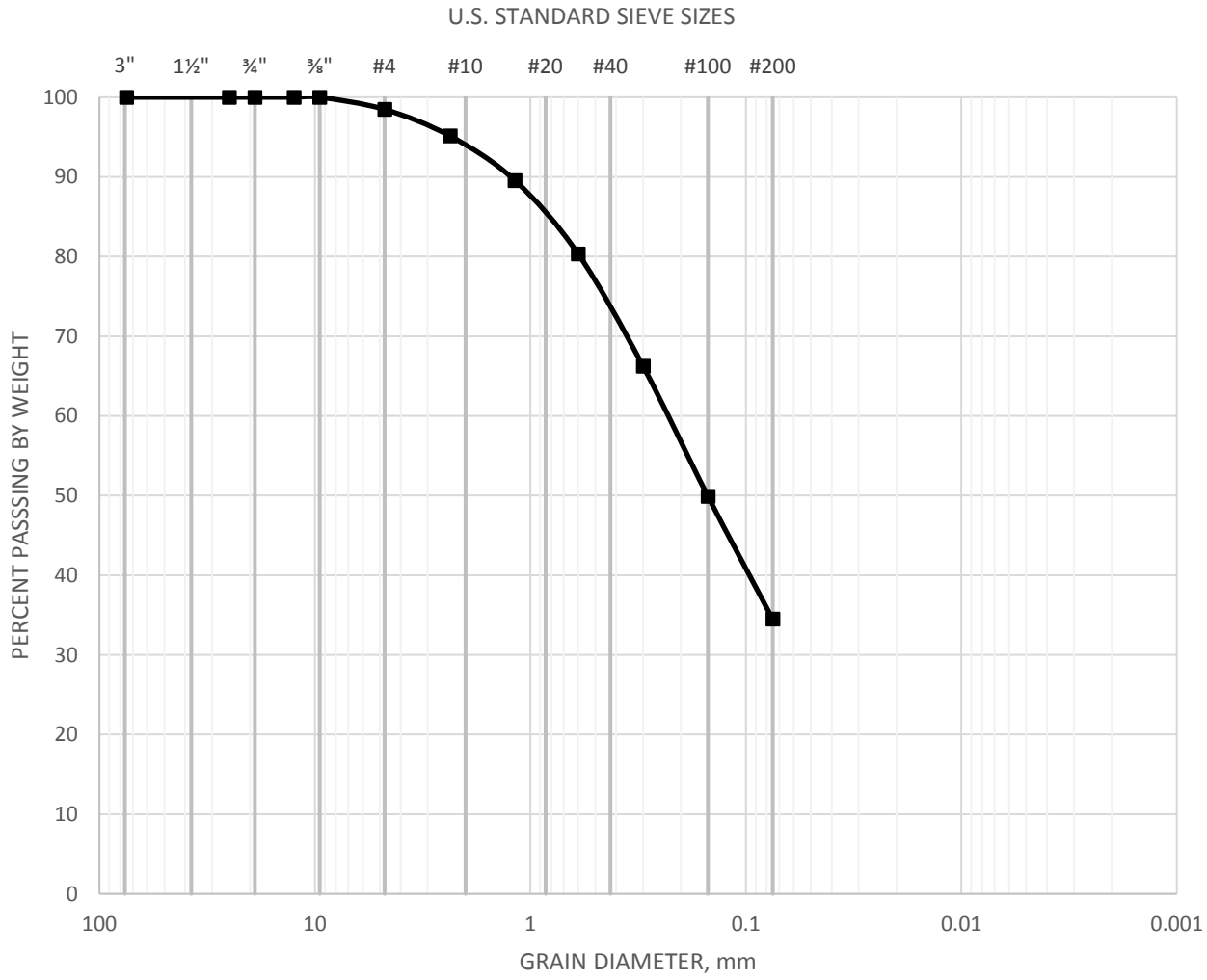
Checked by: ATS

Project No.: T2881-22-01

Sun Lakes Boulevard Realignment
South Highland Home Road to Sunset Aveune
Banning, California

October 2019 Figure B-4

GRAVEL		SAND			SILT AND CLAY
COARSE	FINE	COARSE	MEDIUM	FINE	



SAMPLE	CLASSIFICATION	D60	D30	D10
B-2 @ 7.5	silty SAND (SM), yellowish brown	0.22		

GEOCON

GRAIN SIZE DISTRIBUTION

ASTM D-422

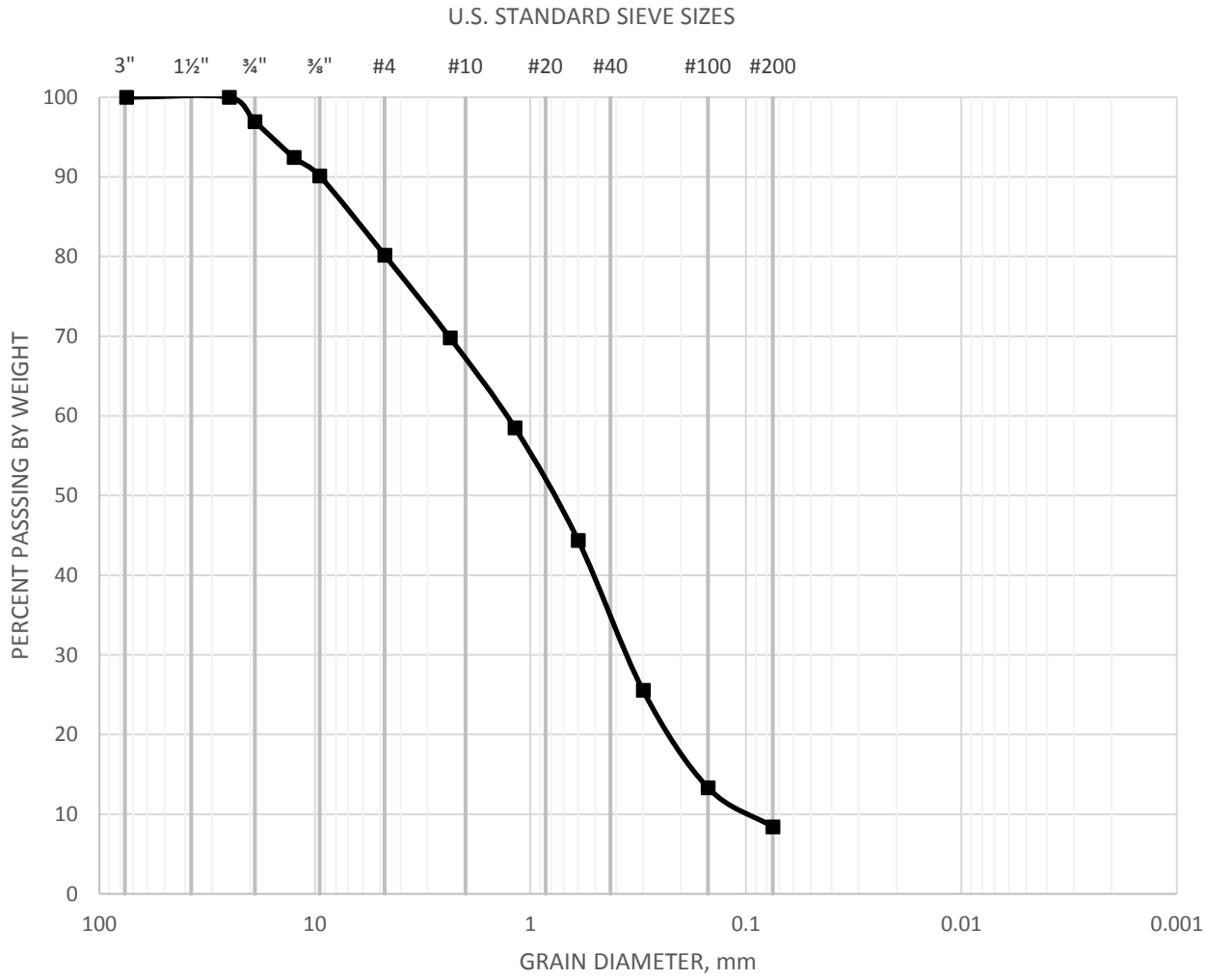
Checked by: ATS

Project No.: T2881-22-01

Sun Lakes Boulevard Realignment
South Highland Home Road to Sunset Aveune
Banning, California

October 2019 Figure B-5

GRAVEL		SAND			SILT AND CLAY
COARSE	FINE	COARSE	MEDIUM	FINE	



SAMPLE	CLASSIFICATION	D60	D30	D10
B-2 @ 15'	poorly-graded SAND with silt and little gravel (SP-SM), yellowish brown	1.2	0.34	0.097

GEOCON

GRAIN SIZE DISTRIBUTION

ASTM D-422

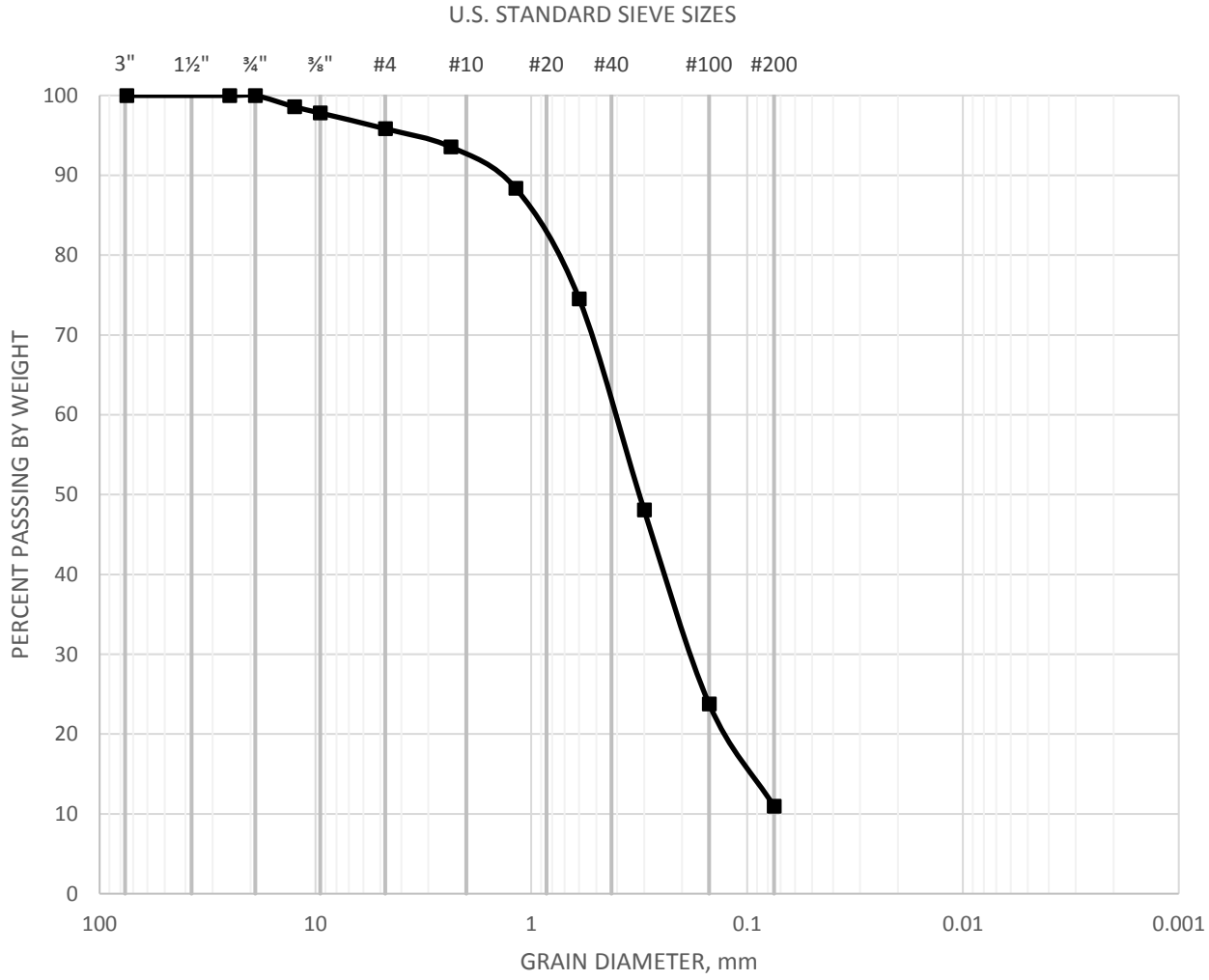
Checked by: ATS

Project No.: T2881-22-01

Sun Lakes Boulevard Realignment
South Highland Home Road to Sunset Aveune
Banning, California

October 2019 Figure B-6

GRAVEL		SAND			SILT AND CLAY
COARSE	FINE	COARSE	MEDIUM	FINE	



SAMPLE	CLASSIFICATION	D60	D30	D10
B-7 @ 10'	poorly-graded SAND with silt (SP-SM), yellowish brown	0.41	0.18	0.12

GEOCON

GRAIN SIZE DISTRIBUTION

ASTM D-422

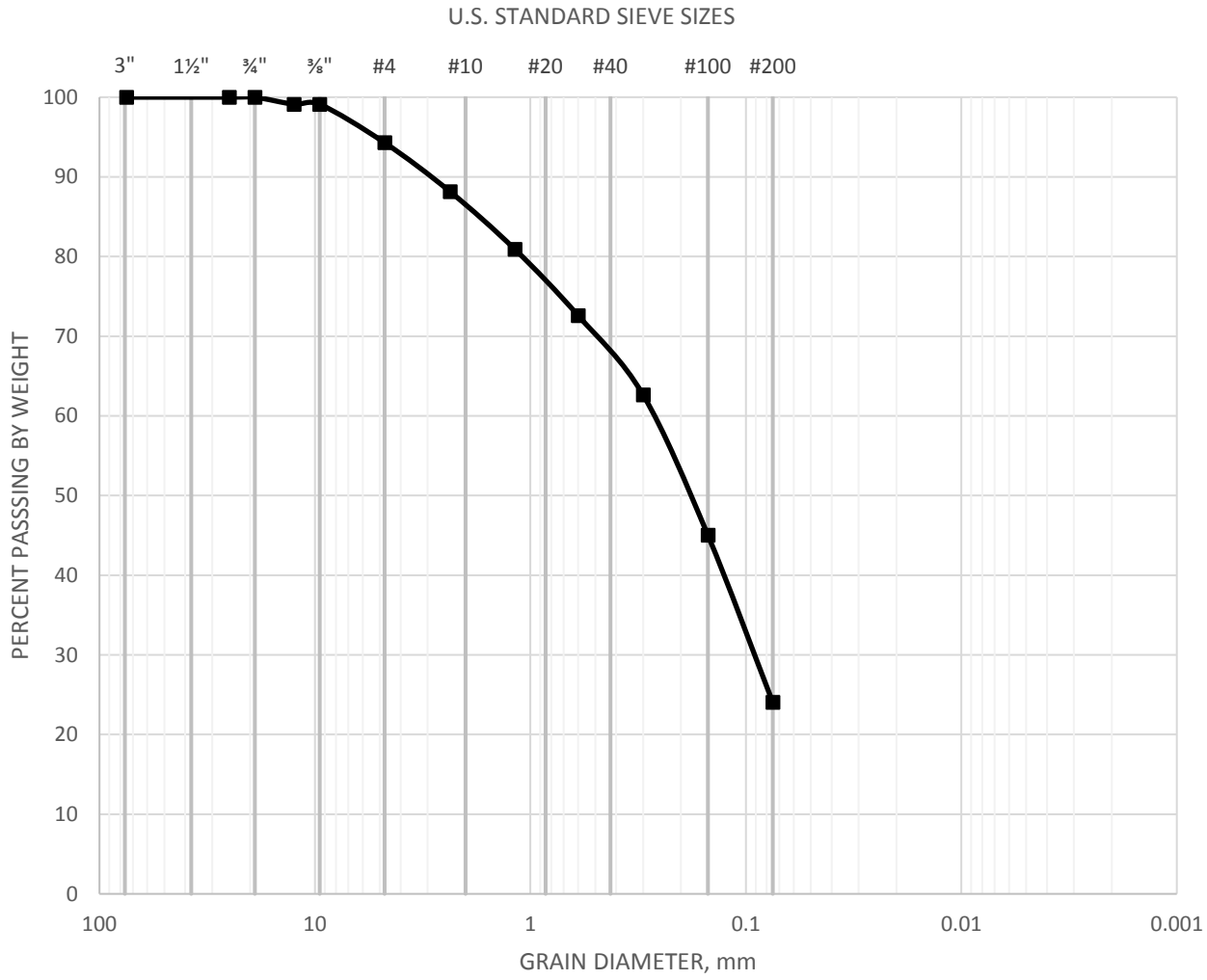
Checked by: ATS

Project No.: T2881-22-01

Sun Lakes Boulevard Realignment
South Highland Home Road to Sunset Aveune
Banning, California

October 2019 Figure B-7

GRAVEL		SAND			SILT AND CLAY
COARSE	FINE	COARSE	MEDIUM	FINE	



SAMPLE	CLASSIFICATION	D60	D30	D10
B-7 @ 20'	silty SAND (SM), yellowish brown	0.25	0.092	

GEOCON

GRAIN SIZE DISTRIBUTION

ASTM D-422

Checked by: ATS

Project No.: T2881-22-01

Sun Lakes Boulevard Realignment
South Highland Home Road to Sunset Aveune
Banning, California

October 2019 Figure B-8

APPENDIX C

APPENDIX C

RECOMMENDED GRADING SPECIFICATIONS

FOR

SUN LAKES BOULEVARD REALIGNMENT
SOUTH HIGHLAND HOME ROAD TO SUNSET AVENUE
BANNING, CALIFORNIA

PROJECT NO. T2881-22-02

RECOMMENDED GRADING SPECIFICATIONS

1. GENERAL

1.1 These Recommended Grading Specifications shall be used in conjunction with the Geotechnical Report for the project prepared by Geocon. The recommendations contained in the text of the Geotechnical Report are a part of the earthwork and grading specifications and shall supersede the provisions contained hereinafter in the case of conflict.

1.2 Prior to the commencement of grading, a geotechnical consultant (Consultant) shall be employed for the purpose of observing earthwork procedures and testing the fills for substantial conformance with the recommendations of the Geotechnical Report and these specifications. The Consultant should provide adequate testing and observation services so that they may assess whether, in their opinion, the work was performed in substantial conformance with these specifications. It shall be the responsibility of the Contractor to assist the Consultant and keep them apprised of work schedules and changes so that personnel may be scheduled accordingly.

1.3 It shall be the sole responsibility of the Contractor to provide adequate equipment and methods to accomplish the work in accordance with applicable grading codes or agency ordinances, these specifications and the approved grading plans. If, in the opinion of the Consultant, unsatisfactory conditions such as questionable soil materials, poor moisture condition, inadequate compaction, and/or adverse weather result in a quality of work not in conformance with these specifications, the Consultant will be empowered to reject the work and recommend to the Owner that grading be stopped until the unacceptable conditions are corrected.

2. DEFINITIONS

2.1 **Owner** shall refer to the owner of the property or the entity on whose behalf the grading work is being performed and who has contracted with the Contractor to have grading performed.

2.2 **Contractor** shall refer to the Contractor performing the site grading work.

2.3 **Civil Engineer** or **Engineer of Work** shall refer to the California licensed Civil Engineer or consulting firm responsible for preparation of the grading plans, surveying and verifying as-graded topography.

2.4 **Consultant** shall refer to the soil engineering and engineering geology consulting firm retained to provide geotechnical services for the project.

2.5 **Soil Engineer** shall refer to a California licensed Civil Engineer retained by the Owner, who is experienced in the practice of geotechnical engineering. The Soil Engineer shall be responsible for having qualified representatives on-site to observe and test the Contractor's work for conformance with these specifications.

2.6 **Engineering Geologist** shall refer to a California licensed Engineering Geologist retained by the Owner to provide geologic observations and recommendations during the site grading.

2.7 **Geotechnical Report** shall refer to a soil report (including all addenda) which may include a geologic reconnaissance or geologic investigation that was prepared specifically for the development of the project for which these Recommended Grading Specifications are intended to apply.

3. MATERIALS

3.1 Materials for compacted fill shall consist of any soil excavated from the cut areas or imported to the site that, in the opinion of the Consultant, is suitable for use in construction of fills. In general, fill materials can be classified as *soil* fills, *soil-rock* fills or *rock* fills, as defined below.

3.1.1 **Soil fills** are defined as fills containing no rocks or hard lumps greater than 12 inches in maximum dimension and containing at least 40 percent by weight of material smaller than ¾ inch in size.

3.1.2 **Soil-rock fills** are defined as fills containing no rocks or hard lumps larger than 4 feet in maximum dimension and containing a sufficient matrix of soil fill to allow for proper compaction of soil fill around the rock fragments or hard lumps as specified in Paragraph 6.2. **Oversize rock** is defined as material greater than 12 inches.

3.1.3 **Rock fills** are defined as fills containing no rocks or hard lumps larger than 3 feet in maximum dimension and containing little or no fines. Fines are defined as material smaller than ¾ inch in maximum dimension. The quantity of fines shall be less than approximately 20 percent of the rock fill quantity.

3.2 Material of a perishable, spongy, or otherwise unsuitable nature as determined by the Consultant shall not be used in fills.

3.3 Materials used for fill, either imported or on-site, shall not contain hazardous materials as defined by the California Code of Regulations, Title 22, Division 4, Chapter 30, Articles 9

and 10; 40CFR; and any other applicable local, state or federal laws. The Consultant shall not be responsible for the identification or analysis of the potential presence of hazardous materials. However, if observations, odors or soil discoloration cause Consultant to suspect the presence of hazardous materials, the Consultant may request from the Owner the termination of grading operations within the affected area. Prior to resuming grading operations, the Owner shall provide a written report to the Consultant indicating that the suspected materials are not hazardous as defined by applicable laws and regulations.

3.4 The outer 15 feet of *soil-rock* fill slopes, measured horizontally, should be composed of properly compacted *soil* fill materials approved by the Consultant. *Rock* fill may extend to the slope face, provided that the slope is not steeper than 2:1 (horizontal:vertical) and a soil layer no thicker than 12 inches is track-walked onto the face for landscaping purposes. This procedure may be utilized provided it is acceptable to the governing agency, Owner and Consultant.

3.5 Samples of soil materials to be used for fill should be tested in the laboratory by the Consultant to determine the maximum density, optimum moisture content, and, where appropriate, shear strength, expansion, and gradation characteristics of the soil.

3.6 During grading, soil or groundwater conditions other than those identified in the Geotechnical Report may be encountered by the Contractor. The Consultant shall be notified immediately to evaluate the significance of the unanticipated condition

4. CLEARING AND PREPARING AREAS TO BE FILLED

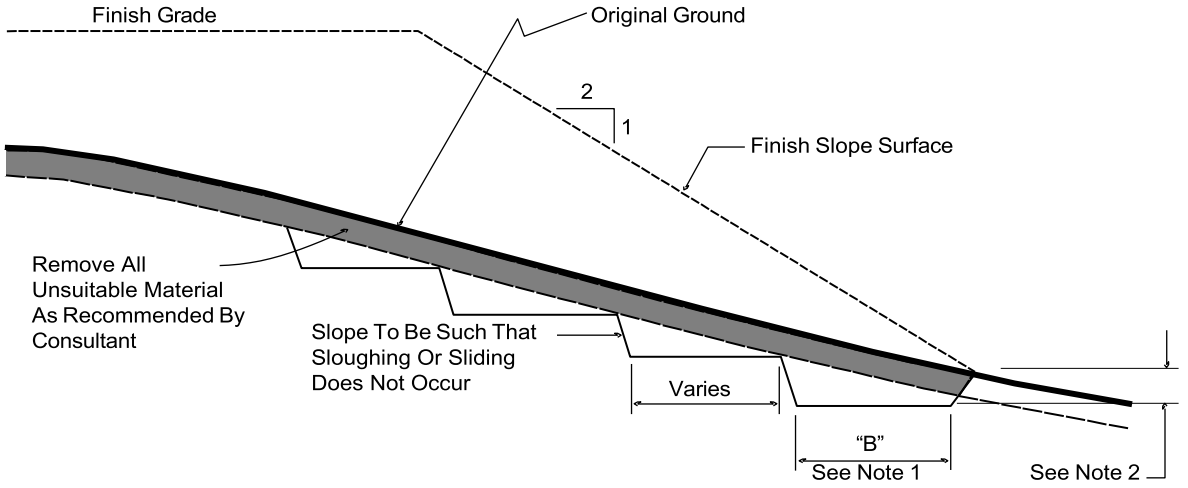
4.1 Areas to be excavated and filled shall be cleared and grubbed. Clearing shall consist of complete removal above the ground surface of trees, stumps, brush, vegetation, man-made structures, and similar debris. Grubbing shall consist of removal of stumps, roots, buried logs and other unsuitable material and shall be performed in areas to be graded. Roots and other projections exceeding 1½ inches in diameter shall be removed to a depth of 3 feet below the surface of the ground. Borrow areas shall be grubbed to the extent necessary to provide suitable fill materials.

4.2 Asphalt pavement material removed during clearing operations should be properly disposed at an approved off-site facility or in an acceptable area of the project evaluated by Geocon and the property owner. Concrete fragments that are free of reinforcing steel may be placed in fills, provided they are placed in accordance with Section 6.2 or 6.3 of this document.

4.3 After clearing and grubbing of organic matter and other unsuitable material, loose or porous soils shall be removed to the depth recommended in the Geotechnical Report. The depth of removal and compaction should be observed and approved by a representative of the Consultant. The exposed surface shall then be plowed or scarified to a minimum depth of 6 inches and until the surface is free from uneven features that would tend to prevent uniform compaction by the equipment to be used.

4.4 Where the slope ratio of the original ground is steeper than 5:1 (horizontal:vertical), or where recommended by the Consultant, the original ground should be benched in accordance with the following illustration.

TYPICAL BENCHING DETAIL



No Scale

DETAIL NOTES: (1) Key width "B" should be a minimum of 10 feet, or sufficiently wide to permit complete coverage with the compaction equipment used. The base of the key should be graded horizontal, or inclined slightly into the natural slope.

(2) The outside of the key should be below the topsoil or unsuitable surficial material and at least 2 feet into dense formational material. Where hard rock is exposed in the bottom of the key, the depth and configuration of the key may be modified as approved by the Consultant.

4.5 After areas to receive fill have been cleared and scarified, the surface should be moisture conditioned to achieve the proper moisture content, and compacted as recommended in Section 6 of these specifications.

5. COMPACTION EQUIPMENT

5.1 Compaction of *soil* or *soil-rock* fill shall be accomplished by sheepsfoot or segmented-steel wheeled rollers, vibratory rollers, multiple-wheel pneumatic-tired rollers, or other types of acceptable compaction equipment. Equipment shall be of such a design that it will be capable of compacting the *soil* or *soil-rock* fill to the specified relative compaction at the specified moisture content.

5.2 Compaction of *rock* fills shall be performed in accordance with Section 6.3.

6. PLACING, SPREADING AND COMPACTION OF FILL MATERIAL

6.1 *Soil* fill, as defined in Paragraph 3.1.1, shall be placed by the Contractor in accordance with the following recommendations:

6.1.1 *Soil* fill shall be placed by the Contractor in layers that, when compacted, should generally not exceed 8 inches. Each layer shall be spread evenly and shall be thoroughly mixed during spreading to obtain uniformity of material and moisture in each layer. The entire fill shall be constructed as a unit in nearly level lifts. Rock materials greater than 12 inches in maximum dimension shall be placed in accordance with Section 6.2 or 6.3 of these specifications.

6.1.2 In general, the *soil* fill shall be compacted at a moisture content at or above the optimum moisture content as determined by ASTM D 1557.

6.1.3 When the moisture content of *soil* fill is below that specified by the Consultant, water shall be added by the Contractor until the moisture content is in the range specified.

6.1.4 When the moisture content of the *soil* fill is above the range specified by the Consultant or too wet to achieve proper compaction, the *soil* fill shall be aerated by the Contractor by blading/mixing, or other satisfactory methods until the moisture content is within the range specified.

6.1.5 After each layer has been placed, mixed, and spread evenly, it shall be thoroughly compacted by the Contractor to a relative compaction of at least 90 percent. Relative compaction is defined as the ratio (expressed in percent) of the in-place dry density of the compacted fill to the maximum laboratory dry density as determined in accordance with ASTM D 1557. Compaction shall be continuous over the entire area, and compaction equipment shall make sufficient passes so that the specified minimum relative compaction has been achieved throughout the entire fill.

6.1.6 Where practical, soils having an Expansion Index greater than 50 should be placed at least 3 feet below finish pad grade and should be compacted at a moisture content generally 2 to 4 percent greater than the optimum moisture content for the material.

6.1.7 Properly compacted *soil* fill shall extend to the design surface of fill slopes. To achieve proper compaction, it is recommended that fill slopes be over-built by at least 3 feet and then cut to the design grade. This procedure is considered preferable to track-walking of slopes, as described in the following paragraph.

6.1.8 As an alternative to over-building of slopes, slope faces may be back-rolled with a heavy-duty loaded sheepsfoot or vibratory roller at maximum 4-foot fill height intervals. Upon completion, slopes should then be track-walked with a D-8 dozer or similar equipment, such that a dozer track covers all slope surfaces at least twice.

6.2 *Soil-rock* fill, as defined in Paragraph 3.1.2, shall be placed by the Contractor in accordance with the following recommendations:

6.2.1 Rocks larger than 12 inches but less than 4 feet in maximum dimension may be incorporated into the compacted *soil* fill, but shall be limited to the area measured 15 feet minimum horizontally from the slope face and 5 feet below finish grade or 3 feet below the deepest utility, whichever is deeper.

6.2.2 Rocks or rock fragments up to 4 feet in maximum dimension may either be individually placed or placed in windrows. Under certain conditions, rocks or rock fragments up to 10 feet in maximum dimension may be placed using similar methods. The acceptability of placing rock materials greater than 4 feet in maximum dimension shall be evaluated during grading as specific cases arise and shall be approved by the Consultant prior to placement.

6.2.3 For individual placement, sufficient space shall be provided between rocks to allow for passage of compaction equipment.

6.2.4 For windrow placement, the rocks should be placed in trenches excavated in properly compacted *soil* fill. Trenches should be approximately 5 feet wide and 4 feet deep in maximum dimension. The voids around and beneath rocks should be filled with approved granular soil having a Sand Equivalent of 30 or greater and should be compacted by flooding. Windrows may also be placed utilizing an "open-face" method in lieu of the trench procedure, however, this method should first be approved by the Consultant.

6.2.5 Windrows should generally be parallel to each other and may be placed either parallel to or perpendicular to the face of the slope depending on the site geometry. The minimum horizontal spacing for windrows shall be 12 feet center-to-center with a 5-foot stagger or offset from lower courses to next overlying course. The minimum vertical spacing between windrow courses shall be 2 feet from the top of a lower windrow to the bottom of the next higher windrow.

6.2.6 Rock placement, fill placement and flooding of approved granular soil in the windrows should be continuously observed by the Consultant.

6.3 *Rock* fills, as defined in Section 3.1.3, shall be placed by the Contractor in accordance with the following recommendations:

6.3.1 The base of the *rock* fill shall be placed on a sloping surface (minimum slope of 2 percent). The surface shall slope toward suitable subdrainage outlet facilities. The *rock* fills shall be provided with subdrains during construction so that a hydrostatic pressure buildup does not develop. The subdrains shall be permanently connected to controlled drainage facilities to control post-construction infiltration of water.

6.3.2 *Rock* fills shall be placed in lifts not exceeding 3 feet. Placement shall be by rock trucks traversing previously placed lifts and dumping at the edge of the currently placed lift. Spreading of the *rock* fill shall be by dozer to facilitate *seating* of the rock. The *rock* fill shall be watered heavily during placement. Watering shall consist of water trucks traversing in front of the current rock lift face and spraying water continuously during rock placement. Compaction equipment with compactive energy comparable to or greater than that of a 20-ton steel vibratory roller or other compaction equipment providing suitable energy to achieve the required compaction or deflection as recommended in Paragraph 6.3.3 shall be utilized. The number of passes to be made should be determined as described in Paragraph 6.3.3. Once a *rock* fill lift has been covered with *soil* fill, no additional *rock* fill lifts will be permitted over the *soil* fill.

6.3.3 Plate bearing tests, in accordance with ASTM D 1196, may be performed in both the compacted *soil* fill and in the *rock* fill to aid in determining the required minimum number of passes of the compaction equipment. If performed, a minimum of three plate bearing tests should be performed in the properly compacted *soil* fill (minimum relative compaction of 90 percent). Plate bearing tests shall then be performed on areas of *rock* fill having two passes, four passes and six passes of the compaction equipment, respectively. The number of passes required for the *rock* fill shall be determined by comparing the results of the plate bearing tests for the *soil* fill and the *rock* fill and by evaluating the deflection

variation with number of passes. The required number of passes of the compaction equipment will be performed as necessary until the plate bearing deflections are equal to or less than that determined for the properly compacted *soil* fill. In no case will the required number of passes be less than two.

6.3.4 A representative of the Consultant should be present during *rock* fill operations to observe that the minimum number of "passes" have been obtained, that water is being properly applied and that specified procedures are being followed. The actual number of plate bearing tests will be determined by the Consultant during grading.

6.3.5 Test pits shall be excavated by the Contractor so that the Consultant can state that, in their opinion, sufficient water is present and that voids between large rocks are properly filled with smaller rock material. In-place density testing will not be required in the *rock* fills.

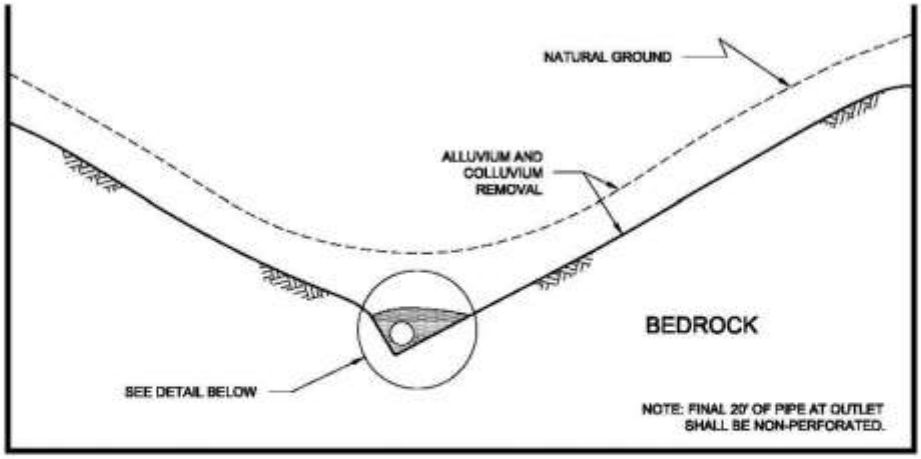
6.3.6 To reduce the potential for "piping" of fines into the *rock* fill from overlying *soil* fill material, a 2-foot layer of graded filter material shall be placed above the uppermost lift of *rock* fill. The need to place graded filter material below the *rock* should be determined by the Consultant prior to commencing grading. The gradation of the graded filter material will be determined at the time the *rock* fill is being excavated. Materials typical of the *rock* fill should be submitted to the Consultant in a timely manner, to allow design of the graded filter prior to the commencement of *rock* fill placement.

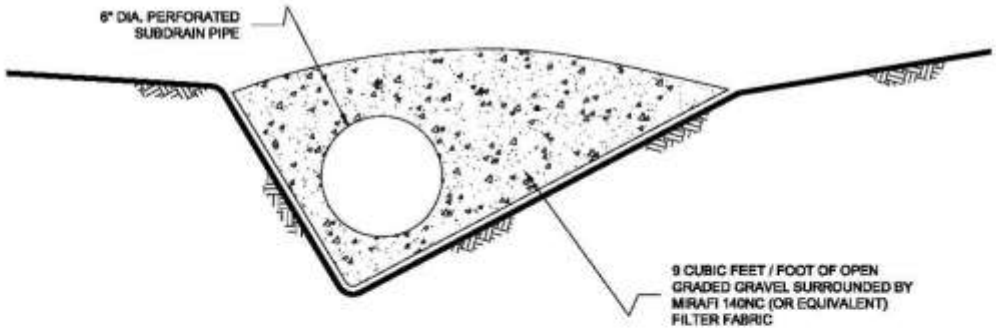
6.3.7 *Rock* fill placement should be continuously observed during placement by the Consultant.

7. SUBDRAINS

7.1 The geologic units on the site may have permeability characteristics and/or fracture systems that could be susceptible under certain conditions to seepage. The use of canyon subdrains may be necessary to mitigate the potential for adverse impacts associated with seepage conditions. Canyon subdrains with lengths in excess of 500 feet or extensions of existing offsite subdrains should use 8-inch-diameter pipes. Canyon subdrains less than 500 feet in length should use 6-inch-diameter pipes.

TYPICAL CANYON DRAIN DETAIL





NOTES:

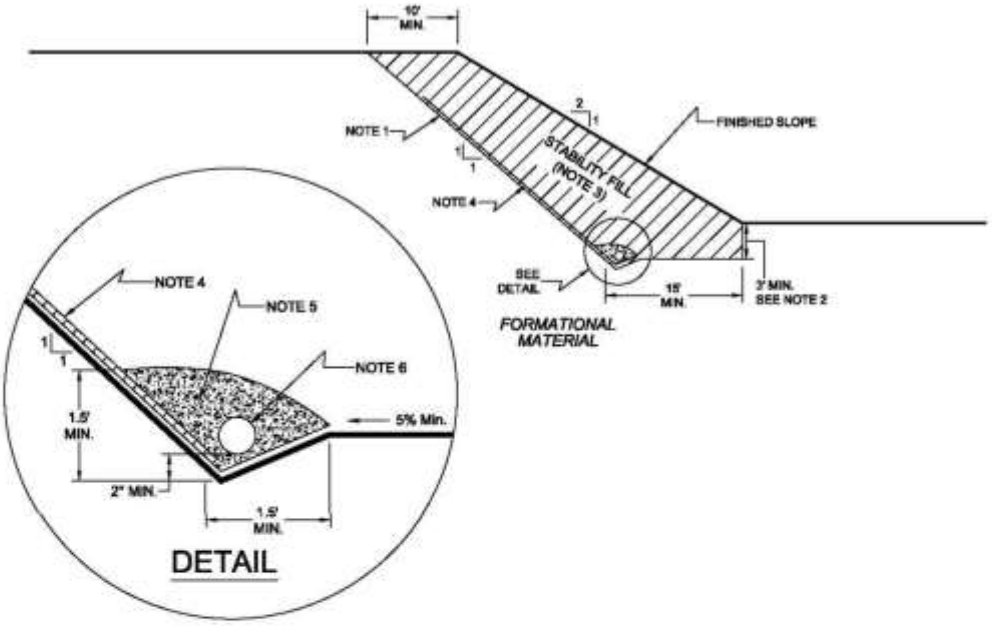
1.....8-INCH DIAMETER, SCHEDULE 80 PVC PERFORATED PIPE FOR FILLS IN EXCESS OF 100-FEET IN DEPTH OR A PIPE LENGTH OF LONGER THAN 500 FEET.

2.....6-INCH DIAMETER, SCHEDULE 40 PVC PERFORATED PIPE FOR FILLS LESS THAN 100-FEET IN DEPTH OR A PIPE LENGTH SHORTER THAN 500 FEET.

NO SCALE

7.2 Slope drains within stability fill keyways should use 4-inch-diameter (or lager) pipes.

TYPICAL STABILITY FILL DETAIL



NOTES:

1....EXCAVATE BACKCUT AT 1:1 INCLINATION (UNLESS OTHERWISE NOTED).

2....BASE OF STABILITY FILL TO BE 3 FEET INTO FORMATIONAL MATERIAL, SLOPING A MINIMUM 5% INTO SLOPE.

3....STABILITY FILL TO BE COMPOSED OF PROPERLY COMPACTED GRANULAR SOIL.

4....CHIMNEY DRAINS TO BE APPROVED PREFABRICATED CHIMNEY DRAIN PANELS (MIRADRAIN G200N OR EQUIVALENT) SPACED APPROXIMATELY 20 FEET CENTER TO CENTER AND 4 FEET WIDE. CLOSER SPACING MAY BE REQUIRED IF SEEPAGE IS ENCOUNTERED.

5....FILTER MATERIAL TO BE 3/4-INCH, OPEN-GRADED CRUSHED ROCK ENCLOSED IN APPROVED FILTER FABRIC (MIRAFI 140NC).

6....COLLECTOR PIPE TO BE 4-INCH MINIMUM DIAMETER, PERFORATED, THICK-WALLED PVC SCHEDULE 40 OR EQUIVALENT, AND SLOPED TO DRAIN AT 1 PERCENT MINIMUM TO APPROVED OUTLET.

NO SCALE

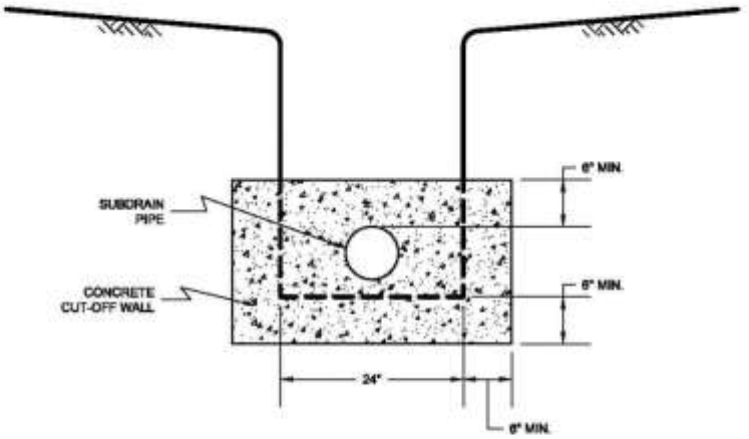
7.3 The actual subdrain locations will be evaluated in the field during the remedial grading operations. Additional drains may be necessary depending on the conditions observed and the requirements of the local regulatory agencies. Appropriate subdrain outlets should be evaluated prior to finalizing 40-scale grading plans.

7.4 *Rock* fill or *soil-rock* fill areas may require subdrains along their down-slope perimeters to mitigate the potential for buildup of water from construction or landscape irrigation. The subdrains should be at least 6-inch-diameter pipes encapsulated in gravel and filter fabric. *Rock* fill drains should be constructed using the same requirements as canyon subdrains.

7.5 Prior to outletting, the final 20-foot segment of a subdrain that will not be extended during future development should consist of non-perforated drainpipe. At the non-perforated/ perforated interface, a seepage cutoff wall should be constructed on the downslope side of the pipe.

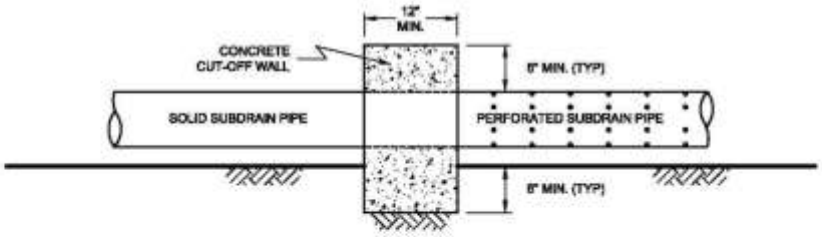
TYPICAL CUT OFF WALL DETAIL

FRONT VIEW



NO SCALE

SIDE VIEW

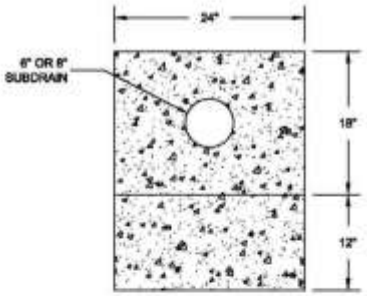


NO SCALE

7.6 Subdrains that discharge into a natural drainage course or open space area should be provided with a permanent headwall structure.

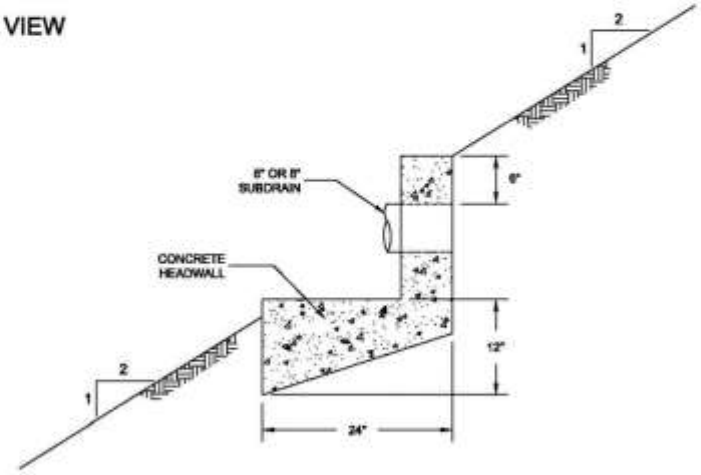
TYPICAL HEADWALL DETAIL

FRONT VIEW



NO SCALE

SIDE VIEW



NOTE: HEADWALL SHOULD OUTLET AT TOE OF FILL SLOPE OR INTO CONTROLLED SURFACE DRAINAGE

NO SCALE

7.7 The final grading plans should show the location of the proposed subdrains. After completion of remedial excavations and subdrain installation, the project civil engineer should survey the drain locations and prepare an “as-built” map showing the drain locations. The final outlet and connection locations should be determined during grading operations. Subdrains that will be extended on adjacent projects after grading can be placed on formational material and a vertical riser should be placed at the end of the subdrain. The grading contractor should consider videoing the subdrains shortly after burial to check proper installation and functionality. The contractor is responsible for the performance of the drains.

8. OBSERVATION AND TESTING

8.1 The Consultant shall be the Owner's representative to observe and perform tests during clearing, grubbing, filling, and compaction operations. In general, no more than 2 feet in vertical elevation of *soil* or *soil-rock* fill should be placed without at least one field density test being performed within that interval. In addition, a minimum of one field density test should be performed for every 2,000 cubic yards of *soil* or *soil-rock* fill placed and compacted.

8.2 The Consultant should perform a sufficient distribution of field density tests of the compacted *soil* or *soil-rock* fill to provide a basis for expressing an opinion whether the fill material is compacted as specified. Density tests shall be performed in the compacted materials below any disturbed surface. When these tests indicate that the density of any layer of fill or portion thereof is below that specified, the particular layer or areas represented by the test shall be reworked until the specified density has been achieved.

8.3 During placement of *rock* fill, the Consultant should observe that the minimum number of passes have been obtained per the criteria discussed in Section 6.3.3. The Consultant should request the excavation of observation pits and may perform plate bearing tests on the placed *rock* fills. The observation pits will be excavated to provide a basis for expressing an opinion as to whether the *rock* fill is properly seated and sufficient moisture has been applied to the material. When observations indicate that a layer of *rock* fill or any portion thereof is below that specified, the affected layer or area shall be reworked until the *rock* fill has been adequately seated and sufficient moisture applied.

8.4 A settlement monitoring program designed by the Consultant may be conducted in areas of *rock* fill placement. The specific design of the monitoring program shall be as recommended in the Conclusions and Recommendations section of the project Geotechnical Report or in the final report of testing and observation services performed during grading.

8.5 We should observe the placement of subdrains, to check that the drainage devices have been placed and constructed in substantial conformance with project specifications.

8.6 Testing procedures shall conform to the following Standards as appropriate:

8.6.1 **Soil and Soil-Rock Fills:**

8.6.1.1 Field Density Test, ASTM D 1556, *Density of Soil In-Place By the Sand-Cone Method.*

8.6.1.2 Field Density Test, Nuclear Method, ASTM D 6938, *Density of Soil and Soil-Aggregate In-Place by Nuclear Methods (Shallow Depth).*

8.6.1.3 Laboratory Compaction Test, ASTM D 1557, *Moisture-Density Relations of Soils and Soil-Aggregate Mixtures Using 10-Pound Hammer and 18-Inch Drop*.

8.6.1.4 Expansion Index Test, ASTM D 4829, *Expansion Index Test*.

9. PROTECTION OF WORK

9.1 During construction, the Contractor shall properly grade all excavated surfaces to provide positive drainage and prevent ponding of water. Drainage of surface water shall be controlled to avoid damage to adjoining properties or to finished work on the site. The Contractor shall take remedial measures to prevent erosion of freshly graded areas until such time as permanent drainage and erosion control features have been installed. Areas subjected to erosion or sedimentation shall be properly prepared in accordance with the Specifications prior to placing additional fill or structures.

9.2 After completion of grading as observed and tested by the Consultant, no further excavation or filling shall be conducted except in conjunction with the services of the Consultant.

10. CERTIFICATIONS AND FINAL REPORTS

10.1 Upon completion of the work, Contractor shall furnish Owner a certification by the Civil Engineer stating that the lots and/or building pads are graded to within 0.1 foot vertically of elevations shown on the grading plan and that all tops and toes of slopes are within 0.5 foot horizontally of the positions shown on the grading plans. After installation of a section of subdrain, the project Civil Engineer should survey its location and prepare an *as-built* plan of the subdrain location. The project Civil Engineer should verify the proper outlet for the subdrains and the Contractor should ensure that the drain system is free of obstructions.

10.2 The Owner is responsible for furnishing a final as-graded soil and geologic report satisfactory to the appropriate governing or accepting agencies. The as-graded report should be prepared and signed by a California licensed Civil Engineer experienced in geotechnical engineering and by a California Certified Engineering Geologist, indicating that the geotechnical aspects of the grading were performed in substantial conformance with the Specifications or approved changes to the Specifications.

Appendix E.2

Applied EARTHWORKS Inc.

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Revised
April 30, 2024

Ms. Stephanie Standerfer
Vice President
Albert A. Webb Associates
3788 McCray Street
Riverside, CA 92506
Transmitted via email to stephanie.standerfer@webbassociates.com

RE: **Paleontological Memorandum: Constraints Analysis for Sun Lakes Boulevard Realignment Project in the City of Banning, Riverside County, California**

Dear Ms. Standerfer,

At the request of Webb Associates, Applied EarthWorks, Inc. (Æ) completed a paleontological constraints analysis for the Sun Lakes Boulevard Realignment Project (Project), City of Banning (City), Riverside County (County), California. The City proposes to extend Sun Lakes Boulevard eastward from its current eastern termination point at South Highland Home Road along the existing Right-of-Way of Westward Avenue to the anticipated connection point at Sunset Avenue.

Written by Æ's paleontology staff who meet Society of Vertebrate Paleontology (SVP, 2010) qualifications standards, this memo follows guidelines set forth by the County of Riverside (2015a, 2015b). Æ's scope of work included desktop review of geologic maps, paleontological literature, museum record searches, and preparation of this technical memorandum (memo), and, as such, this memo satisfies the requirements of the California Environmental Quality Act (CEQA). The Project may impact a U.S. Army Corps of Engineers (USACE) jurisdictional aquatic feature and/or utilize funds with a federal nexus; and if so, the Project or portions of the Project, may be considered a federal undertaking. The City is the lead agency for compliance with CEQA and the USACE is the lead agency under National Environmental Policy Act (NEPA).

PROJECT DESCRIPTION AND BACKGROUND

The Project area is south of Interstate 10 along Westward Avenue in Sections 7 and 18 of Township 3 South, Range 1 East, as shown on the Beaumont, California 7.5' U.S. Geological Survey (USGS) topographic quadrangle maps.

The proposed Project is approximately 1 mile long with a direct footprint width of approximately 200-feet and an additional 50 feet of temporary construction disturbance buffer around the footprint for a maximum disturbance width of approximately 300-feet wide. The Project encompasses approximately 20 acres of direct footprint and an additional approximately 9 acres of temporary construction disturbance area. Project staging and stockpiling will occur within the City's rights-of-way (ROW). Sun Lakes Boulevard will be constructed according to the City's General Plan Typical Section for an

Arterial Highway. Sun Lakes Boulevard will have two eastbound and two westbound lanes, a raised median, bike lanes, sidewalks, associated road striping, drainage, and street light improvements. The proposed maximum depth of ground disturbance for roadway construction is 8 feet below ground surface (bgs).

REGULATORY CONTEXT

Federal laws and regulations apply only when projects are located on federal lands or federally managed lands, or when they are federally funded. Paleontological resources are protected under numerous federal laws and regulations, including the NEPA of 1969, the Federal Land Policy and Management Act of 1976, Statute 23 USC 305 Archaeological and Paleontological Salvage, and the Antiquities Act of 1906. Additionally, the Paleontological Resources Protection Act (PRPA) was recently enacted as a result of the passage of the Omnibus Public Lands Management Act of 2009. The PRPA requires federal land management agencies to manage and protect paleontological resources and affirms the authority of existing policies already in place. This Project is also subject to state laws and regulations in addition to local goals and policies. The City follows the County's regulations and does not have additional city-level codes that reference paleontological resources. The following sections provide an overview of the laws and regulations relevant to the Project.

State

Paleontological resources are protected under CEQA, which requires detailed studies that analyze the environmental effects of a proposed project. If a project is determined to have a potential significant environmental effect, the act requires that alternative plans and mitigation measures be considered. Specifically, in Section VII(f) of Appendix G of the CEQA Guidelines, the Environmental Checklist Form, the question is posed, "Will the project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?" If paleontological resources are identified as being within the proposed project area, the sponsoring agency must take those resources into consideration when evaluating project effects. The level of consideration may vary with the importance of the resource.

Local

There are several policies covering paleontological resources within the County's *General Plan*, *Multipurpose Open Space (OS) Element* (County of Riverside, 2015a:OS-51):

- **OS 19.6:** Whenever existing information indicates that a site proposed for development has high paleontological sensitivity as shown on Figure OS-8, paleontological resource impact mitigation program (PRIMP) shall be filed with the Riverside County Geologist prior to site grading. The PRIMP shall specify the steps to be taken to mitigate impacts to paleontological resources.

- **OS 19.7:** Whenever existing information indicates that a site proposed for development has low paleontological sensitivity as shown on Figure OS-8, no direct mitigation is required unless a fossil is encountered during site development. Should a fossil be encountered, the Riverside County Geologist shall be notified and a paleontologist shall be retained by the project proponent. The paleontologist shall document the extent and potential significance of the paleontological resources on the site and establish appropriate mitigation measures for further site development.

- **OS 19.8:** Whenever existing information indicates that a site proposed for development has undetermined paleontological sensitivity as shown on Figure OS-8, a report shall be filed with the Riverside County Geologist documenting the extent and potential significance of the paleontological resources on site and identifying mitigation measures for the fossil and for impacts to significant paleontological resources prior to approval of that department.

- **OS 19.9:** Whenever paleontological resources are found, the County Geologist shall direct them to a facility within Riverside County for their curation, including the Western Science Center in the City of Hemet.

PALEONTOLOGICAL RESOURCE POTENTIAL

Most professional paleontologists in California adhere to the guidelines set forth by the Society of Vertebrate Paleontology (SVP, 2010) to determine the course of paleontological mitigation for a given project unless specific city, county, state, or federal guidelines are available. The County has developed its own guidelines that establish detailed protocols for the assessment of the paleontological sensitivity of a project area and outline measures to follow in order to mitigate adverse impacts to known or unknown fossil resources during project development (County of Riverside, 2015b).

Following the County's established process, baseline information is used to assign the paleontological sensitivity of a geologic unit(s) (or members thereof) to one of four categories—Low, Undetermined, High A (Ha), and High B (Hb) potential (County of Riverside, 2015b). Geologic units are considered to be "sensitive" for paleontological resources and have a High paleontological resource potential if they are known to contain significant fossils anywhere in their extent, even if outside the Project area. High A (Ha) sensitivity is based on the occurrence of fossils that may be present at the ground surface of the Project area, while High B (Hb) sensitivity is based on the occurrence of fossils at or below 4 feet of depth, which may be impacted during construction activities (County of Riverside, 2015b). A coarse-grained paleontological sensitivity map of Riverside County indicates the sensitivity rankings across the ground surface based on the County's established process (County of Riverside, 2015a: Figure OS-8, OS-55).

Methodology

Æ's scope of work required only desktop research and no fieldwork. The desktop investigation began by Æ overlaying the Project area on the County's (2015a) paleontological sensitivity map, which shows the project area as "Undetermined" and surrounded by areas of "High A (Ha)" ranking. To refine the paleontological sensitivity presented in the countywide map, Æ reviewed published geologic maps and paleontological literature for geologic units exposed at the ground surface and those likely to occur in the subsurface of the Project area. Æ also retained the Western Science Center of Hemet (WSC) to conduct a record search for fossil localities recorded in their collections (Radford, 2019). To augment these results, Æ also conducted searches of the University of California Museum of Paleontology (UCMP) and the Raymond Alf Paleontological Museum (ALF) online databases.

RESOURCE CONTEXT

The Project area is in the San Gorgonio Pass, an area of semi-arid badlands and alluvial plains (Rewis et al., 2006) at the boundary between the Transverse Ranges and Peninsular Ranges Geomorphic Provinces

(California Geological Survey, 2002). A geomorphic province is a region of unique topography and geology that is distinguished from other regions based on its landforms and tectonic history (American Geological Institute, 1976). The San Gorgonio Pass is bordered by the San Bernardino Mountains of the Transverse Ranges to the north, the San Jacinto Mountains of the Peninsular Ranges to the south, the San Timoteo Badlands to the southwest, and the Salton Trough to the east. The Transverse Ranges shape the local topography of roughly east-west trending mountain ranges and basins (Rewis et al., 2006). The San Bernardino Mountains are being displaced south along one trace of the San Andreas Fault in this geomorphic province, resulting in a high rate of uplift and a thickening of the crust (California Geological Survey, 2002).

Extensive previous work was conducted during surveys of the geology of the San Gorgonio Pass, starting with paleontological exploration of the Cenozoic valley fill units by Frick (1921) in the late 1910s to early 1920s, who concentrated on the Timoteo Badlands southwest of the Project area. Vaughan (1922) was the first to map the Banning Fault, an important trace of the San Andreas just south of the Project area. The most recent extensive geologic mapping was conducted by Dibblee (1982) based on earlier work, with Cenozoic stratigraphy, geochronology, and paleontology most recently updated by Albright (1999).

The entire valley base forming the San Gorgonio Pass is composed of Late Cenozoic sedimentary rocks unconformably overlying crystalline basement rocks (Rewis et al., 2006). The crystalline basement rocks are composed primarily of Mesozoic granites and some older metasedimentary rocks, and are presumed to completely underlie the basin. However, as the Banning Fault runs roughly east-west, many units are only exposed on a single side of the fault zone (Rewis et al., 2006). Previous studies found some parts of the San Gorgonio Pass to have upwards of 4,500 feet of Cenozoic sedimentary fill above the older basement rocks (Langenheim et al., 2005); however, only younger sedimentary sequences play a role in the geology within the City of Banning.

The Cenozoic geologic units can be separated into Late Miocene-Pliocene, Pleistocene, and Holocene deposits (Rewis et al., 2006). These geologic units are all terrestrial, and record local history of uplift along the fault zone, which resulted in erosion of the basins. Ongoing uplift and rotation along the Banning Fault have deformed the Miocene-Pleistocene sedimentary sequences into a broad anticline, plunging gently toward the northwest (Morton, 1999). The structural geology in the area also places the older sedimentary rocks of the Mt. Eden Formation and the San Timoteo beds (Frick, 1921) at a shallow subsurface depth under much of Banning, and exposed at the surface just north of the City on the Banning Shelf (Rewis et al., 2006). Both the Mt. Eden Formation and San Timoteo Formation are fossiliferous (Albright, 1999, 2000; Reynolds and Reeder, 1986).

The younger sedimentary rocks (Qsu, Qsl) are represented by the upper parts of the San Timoteo beds. Unit Qsl is only exposed farther north on the Banning Shelf; however, unit Qsu is locally exposed throughout much of Banning, with shallow overlying alluvial deposits of Holocene age (Rewis et al., 2006). Many of the younger deposits from the Middle Pleistocene and later are exposed within a one-mile-long radius of the Project area, and are capped only by the thinnest of the Holocene deposits (Rewis et al., 2006).

Holocene-age deposits, particularly those less than 5,000 years old, are typically too young for the fossilization process to occur (SVP, 2010). Therefore, the Holocene-age alluvial deposits across the ground surface of the Project area are unlikely to preserve fossils. These deposits are underlain by older

Holocene- and Pleistocene-age alluvial deposits. The older deposits have yielded significant fossils throughout Southern California from the coastal areas to the inland valleys (Reynolds and Reynolds, 1991; Springer et al., 2009).

RECORDS SEARCH RESULTS

Radford (2019) reports no fossil localities from the WSC collections within the Project area or within a 1-mile-wide buffer zone. However numerous localities are within 10 miles of the Project area. Such localities include subsurface geologic units likely in the Project area at unknown depths. According to Radford, the subsurface lithology of the Project area likely consists of Middle to Late Pleistocene alluvial deposits with high fossil preservation value. For instance, the El Casco Project, which is within 10 miles of the Project area and mapped with the same surficial geology, produced over 16,000 fossils from numerous localities, demonstrating the high likelihood of fossil preservation in the units underlying the Project area. As such, Radford (2019) notes development for the Project even a few feet in depth may encounter Pleistocene deposits with scientifically significant fossils. The vertebrate taxa represented by fossils from these localities include:

- The genus *Equus*, widespread in the Pleistocene and extinct by 10,000 years ago.
- The scimitar-toothed cat *Homotherium* sp., possibly extinct by the Middle Pleistocene in the Western Hemisphere.
- One of the largest Pleistocene giant ground sloths, *Paramylodon* sp., which became extinct about 11,000 years ago.

Æ's search of the UCMP online paleontological database search resulted in over 2,000 fossil specimen listings in Riverside County. However, there are no specimens or localities listed within 10 miles of the Project area (UCMP, 2019). Likewise, the ALF online database also does not include fossil specimen listings within 10 miles of the Project area, although several hundred are within 25 miles (ALF, 2019).

FINDINGS AND RECOMMENDATIONS

Æ used the County's (2015b) sensitivity criteria to determine the paleontological potential of the Project area. When placed over the County's (2015a) paleontological sensitivity map, the entire surface area of the Project area is mapped as High A (Ha). Æ's desktop efforts and the museum record searches support this ranking, as the surficial Holocene-age alluvial deposits overlie very shallow Pleistocene deposits with recorded vertebrate fossils.

Excavations to a maximum depth of 8 feet bgs for the Project, especially at the dry gully crossings, have a high likelihood of encountering these resources in previously undisturbed sediments (i.e., native sediments) of Middle to Late Pleistocene ages. In accordance with the County's (2015a) guidelines for an area with "Ha" ranking, further paleontological resource management, including construction monitoring and Worker Environmental Awareness Program (WEAP) training, will be required prior to issuance of the grading permits.

It has been a pleasure assisting you with this Project. If you have any questions, please do not hesitate to contact me at (541) 852-0150.

Sincerely,



Win McLaughlin
Senior Paleontologist
Applied EarthWorks, Inc.



Chris Shi
Paleontology Supervisor
Applied EarthWorks, Inc.

Edited and Approved By:



Amy Ollendorf, Ph.D., M.S., RPA 12588
Paleontology Program Manager
Applied EarthWorks, Inc.

Encl. References

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Appendix F

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nhc
northwest hydraulic consultants

TECHNICAL MEMORANDUM

Date: May 30, 2024

To: Joseph Caldwell, Ranjit Singh, Albert A. Webb Associates
From: Hank Fehlman, Northwest Hydraulic Consultants
Subject: High Level Assessment of Potential Sediment Transport Impacts Associated with the Updated Sun Lakes Boulevard Improvement Project

1 INTRODUCTION

The study summarized in this memorandum was conducted to assess the potential sediment transport impacts associated with the improvement of Sun Lakes Boulevard (Westward Avenue) east of the Sun Lakes golf course, near Banning, California. The proposed road improvements involve the addition of several new tributary crossings that are to be constructed upstream of two existing dry weather crossings. The existing dry weather crossings are to remain in place with the proposed re-aligned road improvement plan.

Impacts on sediment transport will be very dependent on the configuration proposed for the new crossings to be located upstream of the existing dry weather crossings. A high-level assessment of potential impacts was completed through comparison of hydraulic characteristics pre- and post-project.

This study is an update of a similar analysis conducted in 2021 for the project site. The proposed crossing configurations at the project site have been recently revised, and this study was conducted to analyze the updated crossing geometries.

2 DATA SOURCES

Albert A. Webb Associates provided: (1) 2D model hydraulic models (HEC-RAS) of existing conditions in the project vicinity and the proposed improvement plan (dated May 22, 2024) to be evaluated, which included flow rates that are being used in design of the proposed crossings; and, (2) a geotechnical report (Ref. 2) that included sediment size distributions of the local bed material on each reach. No information was available regarding the erosion protection measures incorporated in the existing dry weather crossings.

References are listed at the end of this report.

3 PROJECT LOCATION AND CONDITIONS

The study area is shown in Figure 1. A plan view showing the proposed Sun Lakes Boulevard alignment is shown in Figure 2. Topographic variation and cross-sections of the study streams at the existing dip crossings and at a location immediately downstream of each crossing are shown in Figure 3 and 4 (West crossing) and Figures 5 and 6 (East crossing). As may be noted in Figures 4 and 6, the existing channel cross-sections downstream of the existing crossings are significantly lower that the profile through each dip crossing. The existing crossings act as grade controls in the existing stream reaches. Scour downstream of these structures can occur during high flow events due to sediment trapping upstream of these flow barriers, and due to local scour associated with the grade breaks.

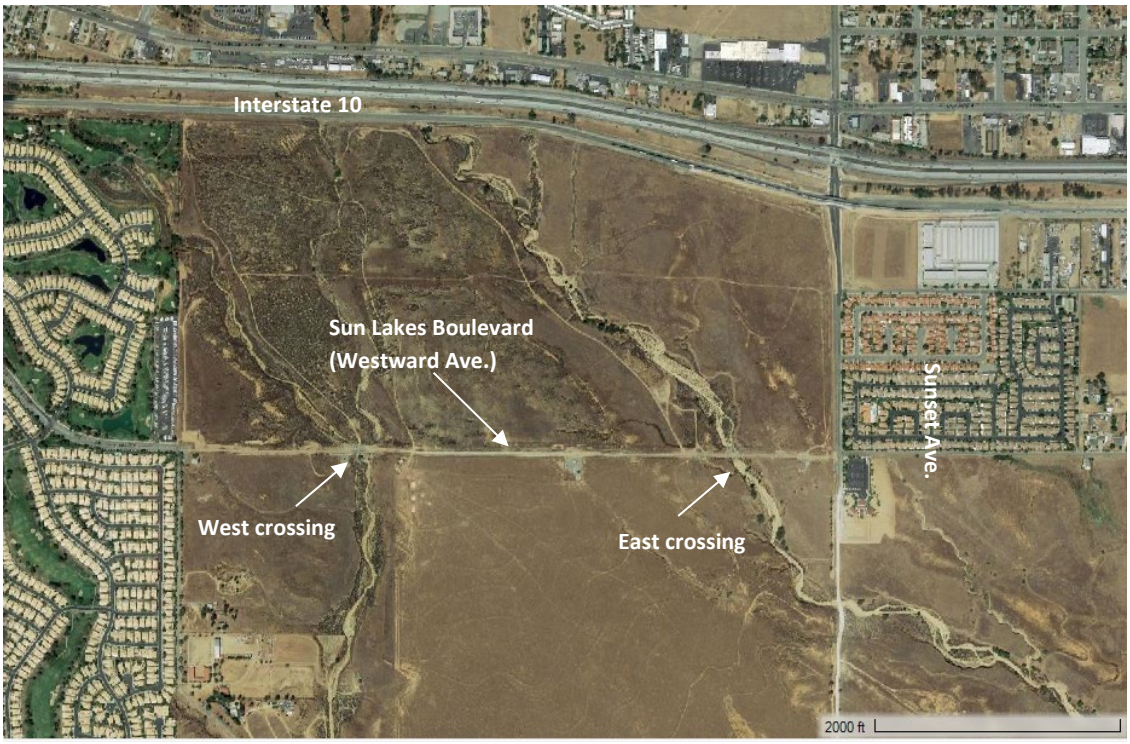


Figure 1. Study area

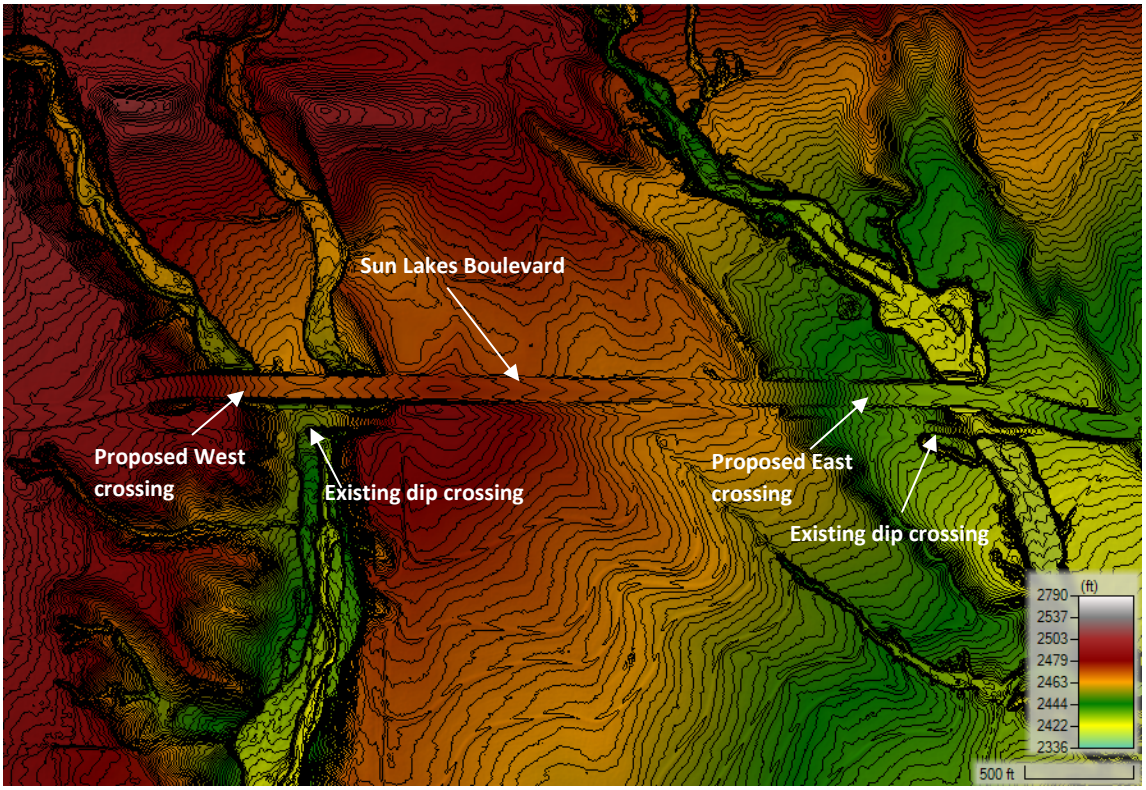


Figure 2. Local view of proposed Sun Lakes Boulevard realignment plan

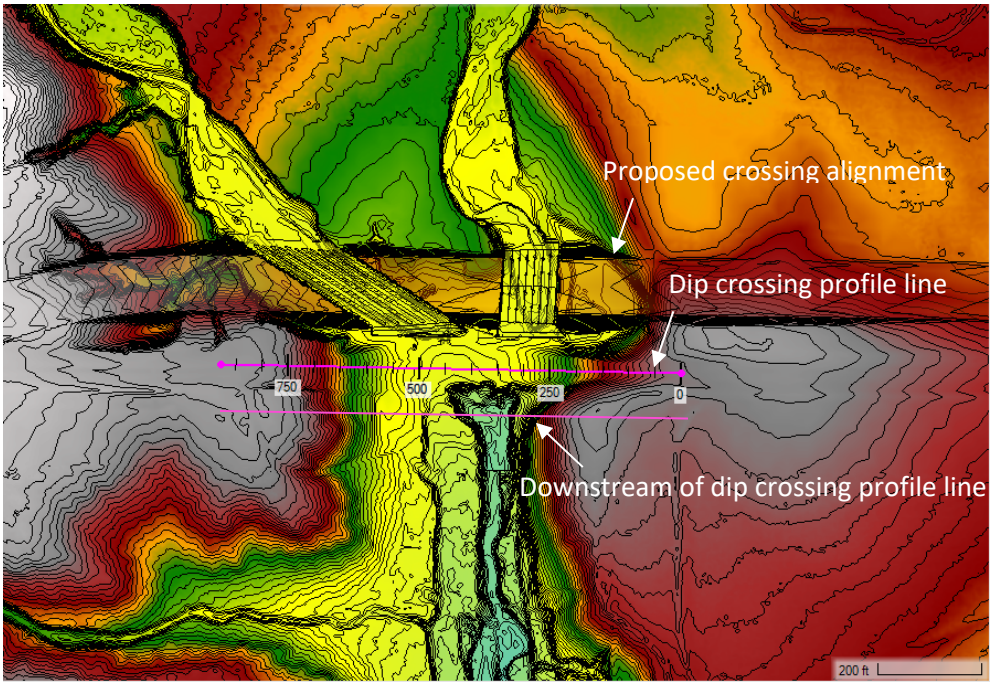


Figure 3. Profile line locations for cross-sectional comparison shown in Figure 4, West crossing

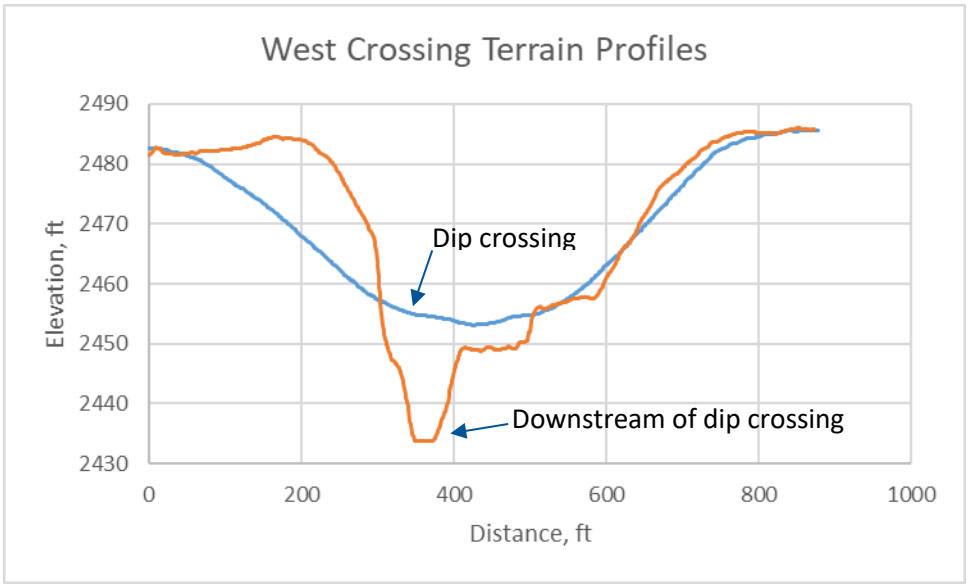


Figure 4. Cross-sectional comparison at the West crossing, at the existing dip crossing and immediately downstream

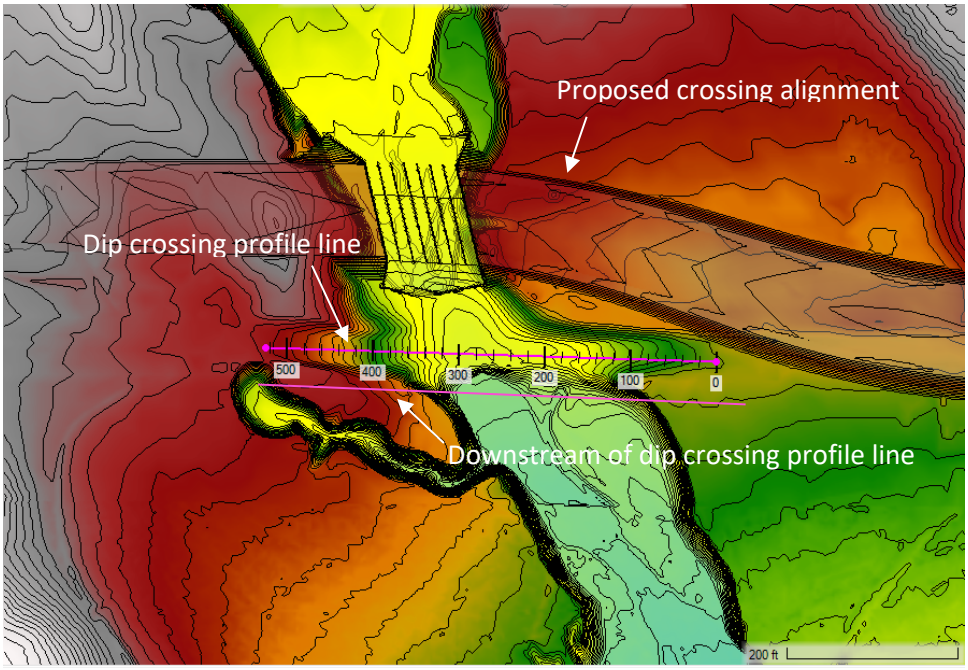


Figure 5. Profile line locations for cross-sectional comparison shown in Figure 6, East crossing

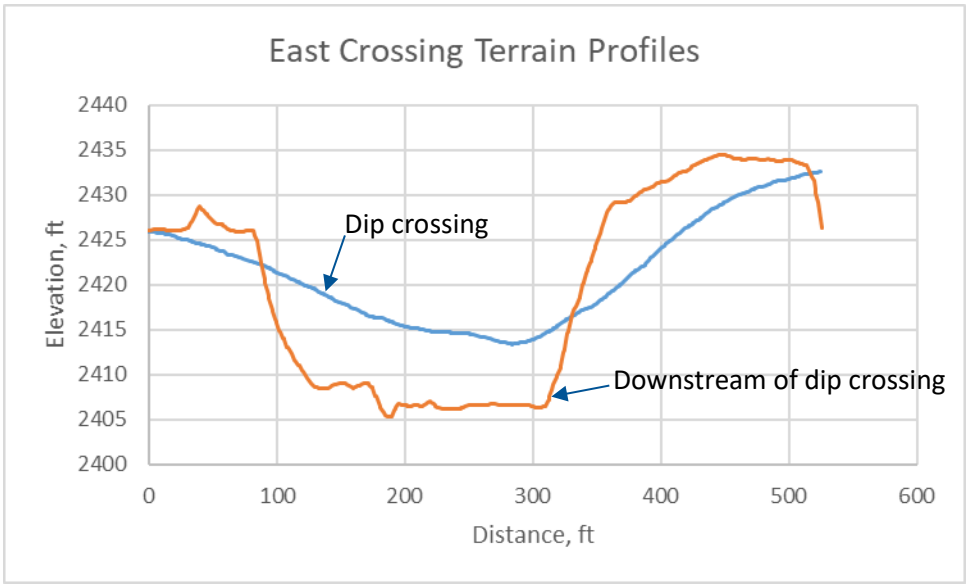


Figure 6. Cross-sectional comparison at the East crossing, at the existing dip crossing and immediately downstream

Size distribution of the local bed material of the subject streams is unavailable. Gradation information is available for borings taken along the alignment of the existing Sun Lakes Boulevard, including two

located near the west and east channel crossing locations (Samples B-2 and B-7 in Ref. 1, respectively). For this assessment, it assumed that the available gradations from the boring data represents the size distribution of the sub-surface material in the study area, and any 'armor' layer of coarser material present along the study reaches is insufficient to prevent mobilization of bed material during design flood events.

Size distributions from the available boring data are presented in Figure 7. Median grain sizes (D50) of the relevant samples are 0.16 and 0.31 mm (fine to medium sand). Grain sizes in this range are mobilized with flow velocities of less than 1 ft/s.

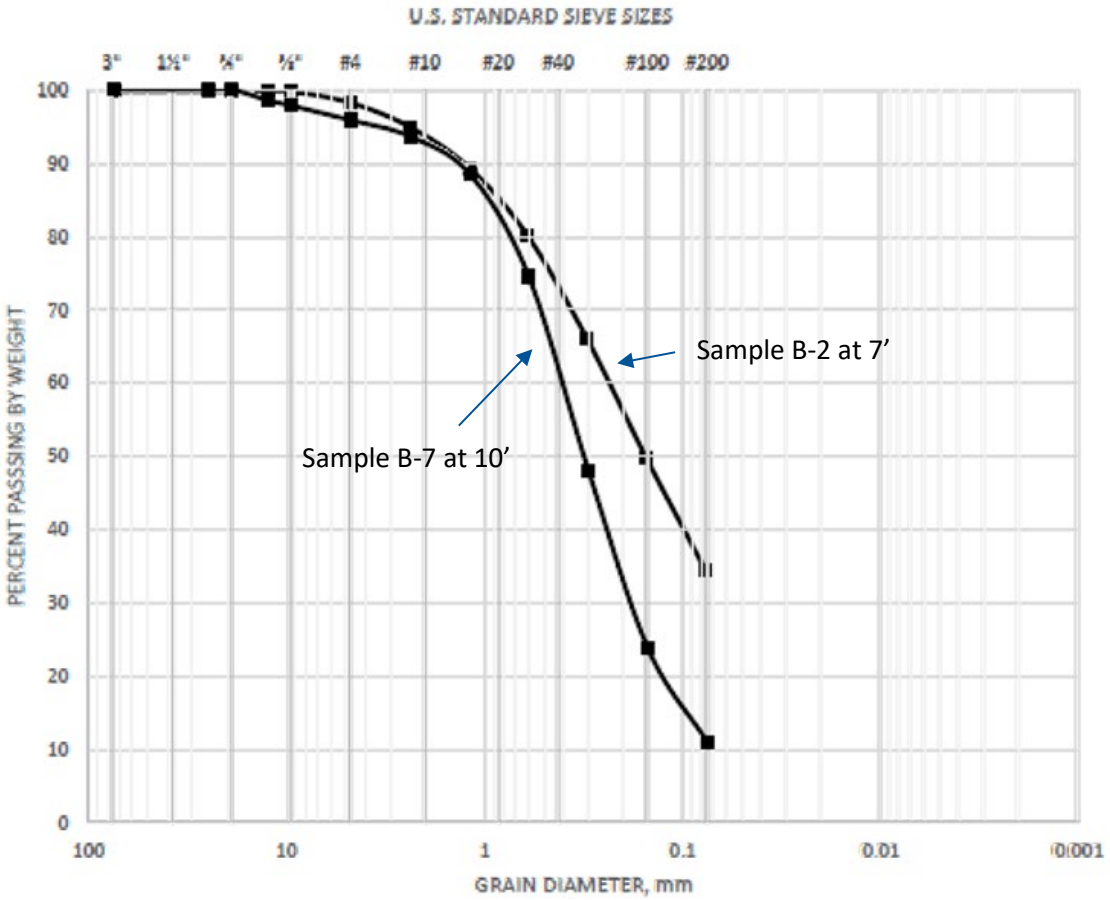


Figure 7. Grain size distributions in the project vicinity (shallowest samples at B-2 and B-7 from Ref. 2)

4 SEDIMENT TRANSPORT POTENTIAL

Flows within alluvial channels typically carry sediment, with concentrations that tend to increase with flow rate. The ability of flow to move sediment as it passes downstream is termed its sediment

transport capacity. Hydraulic properties, particularly flow velocity, and bed material properties, such as median grain size, determine the sediment transport capacity of a given river reach.

The capacity of a flow to transport particles of a given diameter is exponentially related to the flow velocity (above a given incipient or threshold velocity). In channels with similar bed material composition, higher velocities result in increased sediment transport capability. A qualitative assessment of changes in sediment transport potential of a given river reach can be made though comparison of computed flow velocities, pre-and post-project, under a given flow condition. If velocities in the reach upstream of the proposed improvements are relatively unchanged post project, the likelihood is that the project-related impacts to sediment transport (and downstream scour) are minimal.

5 HYDRAULICS

Hydraulic modeling results for existing and with-project conditions were compared for assessment of potential sediment transport impacts associated with the proposed crossing improvement plan. The model configurations, loss assumptions, design flow rates and results are as provided in the HEC-RAS model project delivered by Albert A. Webb via email dated May 22, 2024. The with-project model includes conveyance structures at the West crossing consisting of six 13.9-ft wide openings with 8-inch support piers on the west branch and seven 13.9-ft wide openings with 8-inch support piers on the east branch (middle crossing). The with-project model also includes conveyance structures at the East crossing consisting of seven 13.9-ft wide openings with 8-inch support piers. Flows in the model are 1715 cfs on the west branch of the West crossing, 2540 cfs on the east branch of the West crossing (the Middle crossing), and 2690 cfs in the East crossing.

West Crossing Results:

Pre- and post-project velocity maps for the vicinity of the West crossing are presented in Figure 8. This figure compares computed velocities under design flow conditions. Existing and with-project velocities are sufficient to mobilize the assumed channel bed material in both reaches.

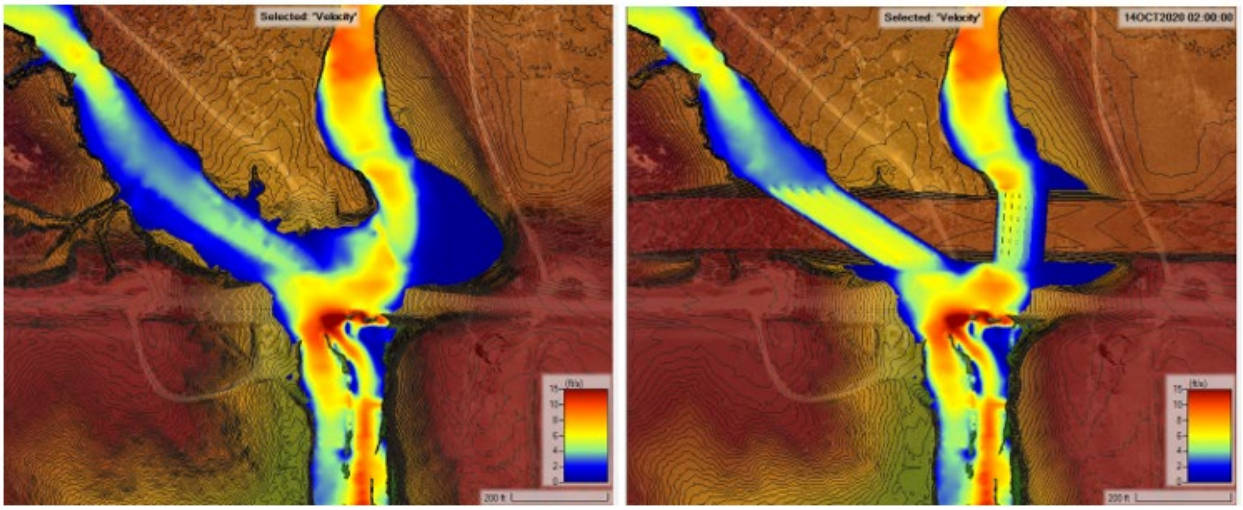


Figure 8. Existing velocities, ft/s (left) compared to proposed velocities and grading (right), west crossing

Both the west and middle branch velocities upstream of the new crossing locations appear to be only minimally altered with the proposed improvement plan. Computed velocities are contrasted at the west branch location shown in Figure 9 in the plot presented in Figure 10. Computed velocities are contrasted at the east branch location shown in Figure 11 in the plot presented in Figure 12. Velocities across the sections shown are slightly increased with-project along the east branch, and slightly decreased with-project along the middle branch. In both cases, the velocity changes are very local – hydraulic conditions in the with-project conditions upstream of the sections shown are nearly identical to the existing case, as indicated in Figure 8. Locally higher velocities through the crossings themselves (as most clearly indicated for the west crossing in Figure 8) are not of concern, since the crossings are to be lined. Locally higher velocities through the structures will assist in keeping the crossings clear of deposition during flood events.

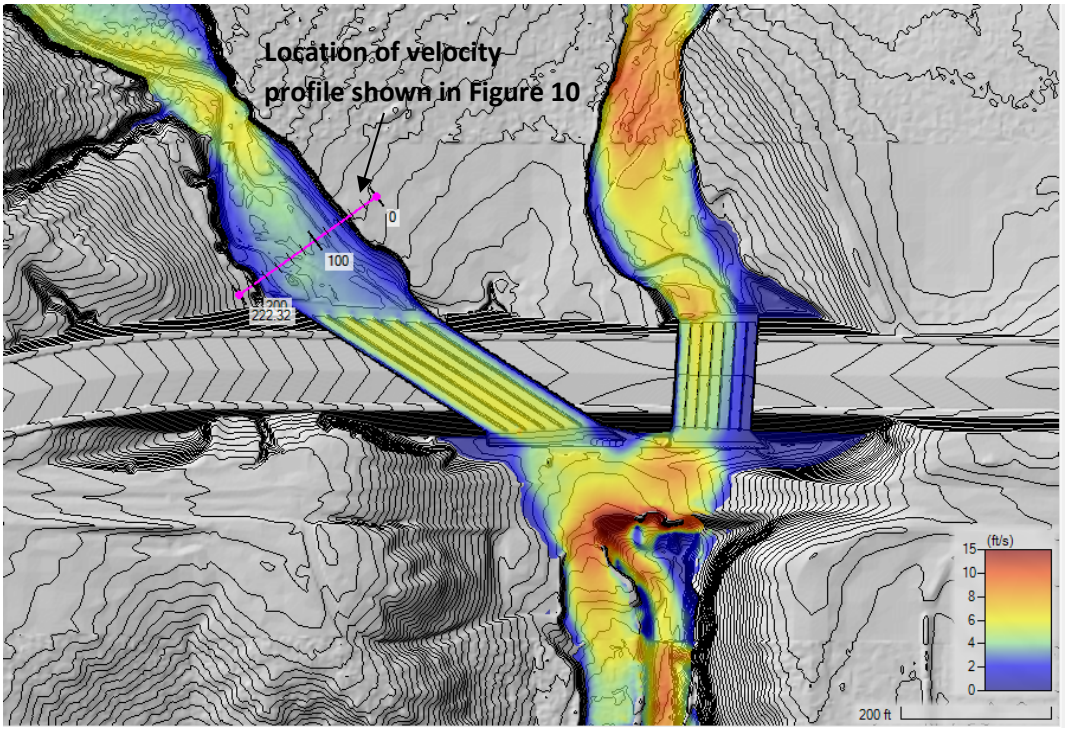


Figure 9. Location map for velocity profile comparison shown in Figure 10

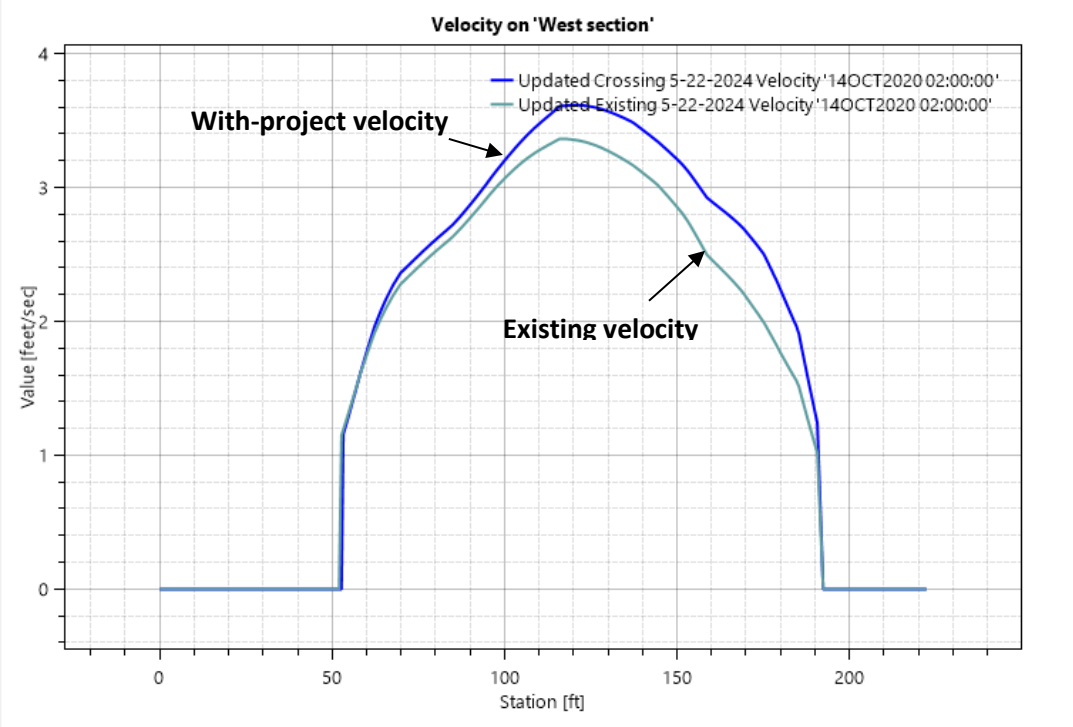


Figure 10. Design flow velocity comparison at section location shown in Figure 9, west branch of West crossing

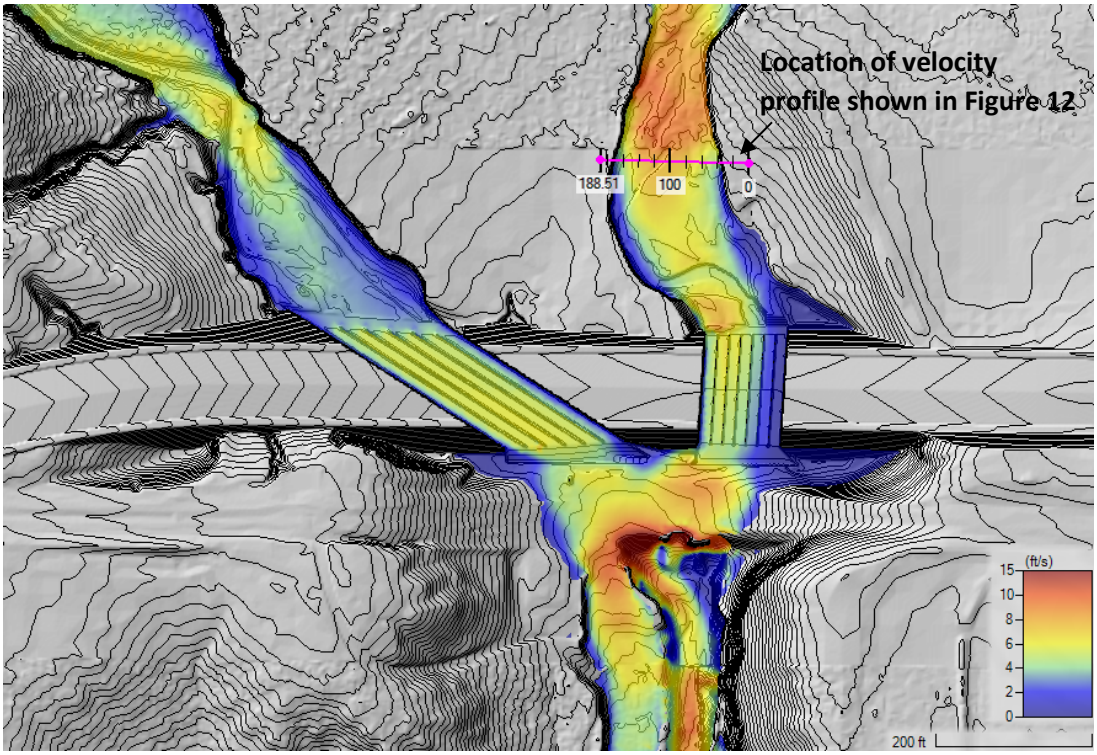


Figure 11. Location map for velocity profile comparison shown in Figure 12

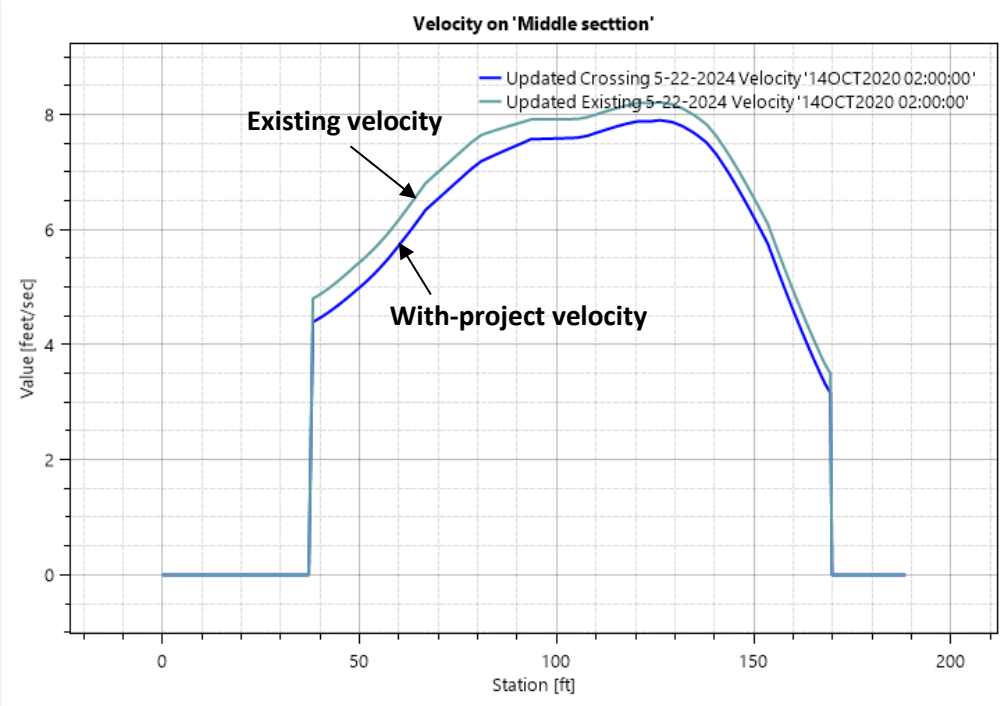


Figure 12. Design flow velocity comparison at section location shown in Figure 11, east branch of West crossing (also termed the Middle crossing)

East Crossing Results:

Pre- and post-project velocity maps for the vicinity of the East crossing are presented in Figure 13. This figure compares computed velocities under design flow conditions. As was the case for the West crossing, existing and with-project velocities are sufficient to mobilize the assumed channel bed material in both reaches.

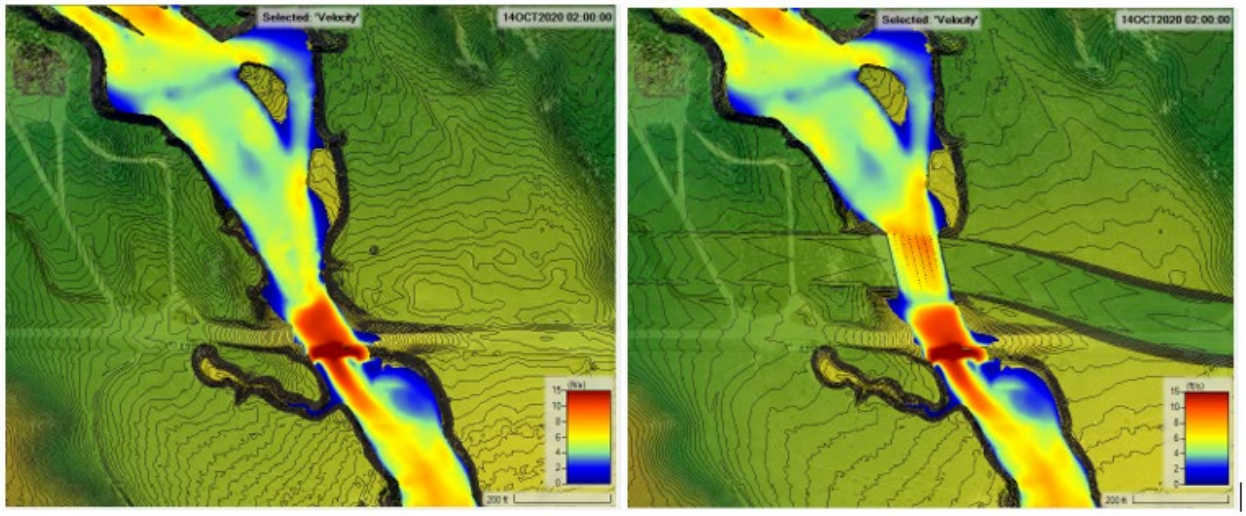


Figure 13. Existing velocities, ft/s (left) compared to proposed velocities and grading (right), east crossing

Velocities local to the upstream end of the proposed east crossing structure are slightly increased with-project, but not appreciably so. Hydraulic changes are again very local – upstream conditions are nearly identical in both with-project and existing cases, as shown in Figure 13. Computed velocities are contrasted at the East crossing location shown in Figure 14 in the plot presented in Figure 15. The results indicate that sediment transport capacities upstream of the crossing location would be expected to be only minimally affected by the proposed structures. Higher local velocities through the crossing itself (as may be noted in Figure 13) will aid in keeping the crossing clear of deposition during flood events.

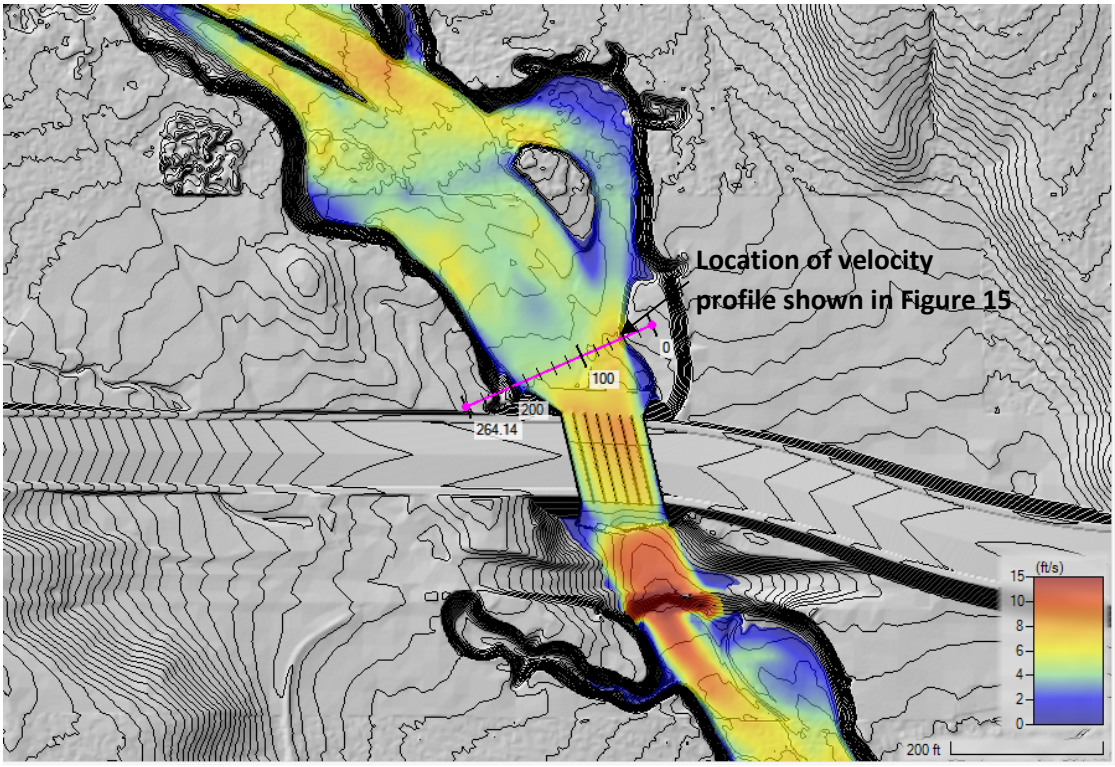


Figure 14. Location map for velocity profile comparison shown in Figure 15

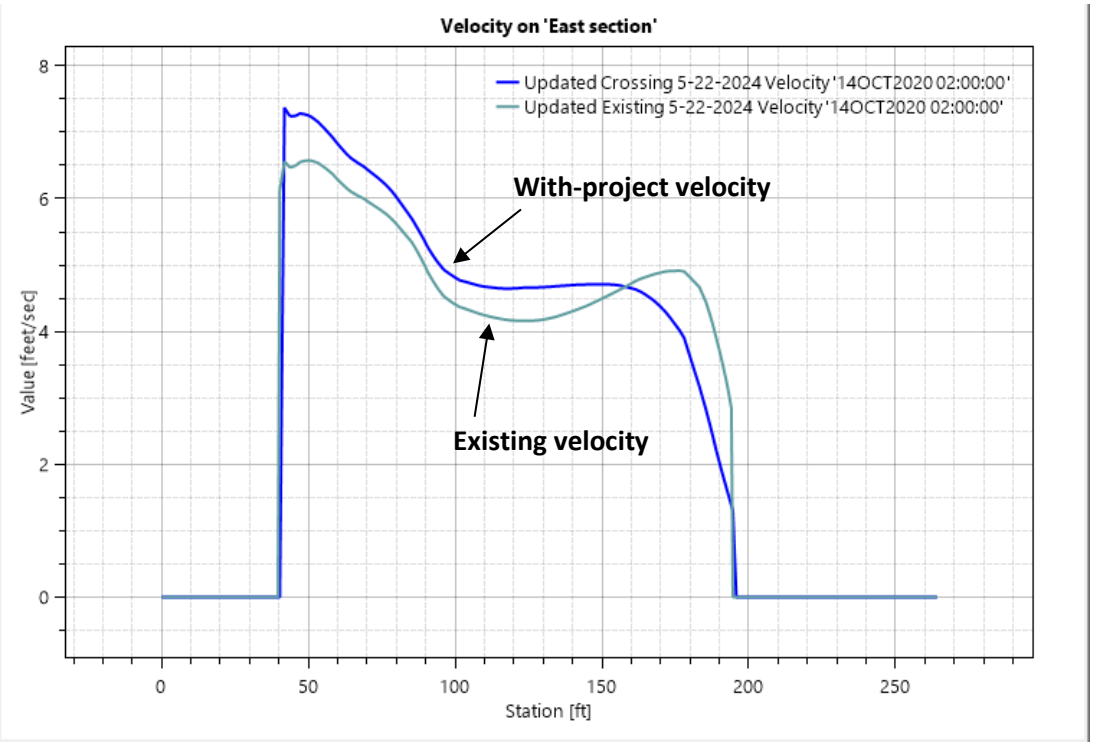


Figure 15. Design flow velocity comparison at the section location shown in Figure 14, East crossing

6 SUMMARY AND RECOMMENDATIONS

Minimizing disruption to sediment transport potential is of particular importance at the subject crossings due to the presence of the existing dip crossings, which are to remain downstream of the proposed new culverts. The existing dip crossings act as grade controls within the existing stream profiles. The stability of these existing crossings has not been assessed in this study; however, it can be concluded that reduction of sediment throughput in the project reaches upstream would increase scour potential downstream of these existing structures, which would increase their likelihood of failure. Should failure of these existing crossings occur after completion of the road improvement plan, the stability of the with-project structures would be jeopardized.

Comparison of the provided hydraulic modeling results indicates that there would likely be minimal sediment transport impacts associated with the current crossing improvement plans. Hydraulic conditions upstream of all three of the proposed crossings are very comparable under pre- and post-project scenarios.

Note that the with-project hydraulic simulation results reflect proposed as-built conditions, and assume the crossing openings are clear of accumulations and the support piers are clear of debris at the time of the peak flow event. It is recommended that regular inspections and clearing (as-needed) of the crossings be conducted to maintain these conditions. Maintenance inspections should occur, at minimum, annually prior to flood season and after any significant runoff event. Pier nose extensions (debris fins) or debris sweepers are recommended at the front end of the support piers if vegetative debris loading is of concern, to minimize the impact of pier debris accumulation on upstream hydraulics during flood events.

It is highly recommended that the stability of the existing dip crossings under design flood events be assessed.

7 REFERENCES

(1) Albert A. Webb Associates, 2024. HEC-RAS model of existing conditions and proposed improvements to Sun Lakes Boulevard crossings east of the Sun Lakes golf course, dated 5-22-24.

(2) Geocon West, Inc., 2019. Preliminary Geotechnical Pavement Investigation Sun Lakes Boulevard Realignment South Highland Home Road To Sunset Avenue, Banning, California.

Appendix G

NOISE ANALYSIS REPORT

SUN LAKES BOULEVARD EXTENSION

Banning, CA

April 8, 2022 DRAFT

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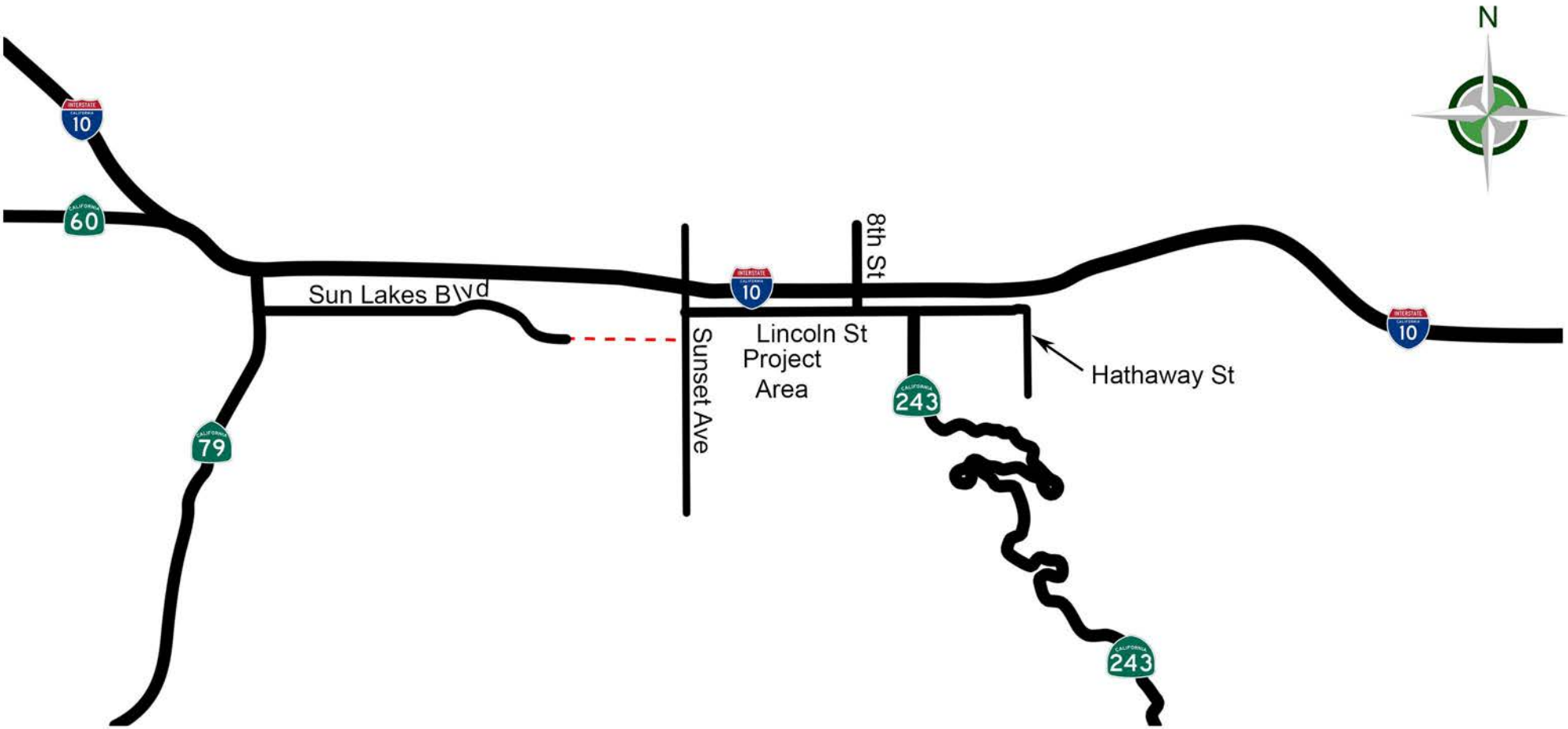
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EXECUTIVE SUMMARY

This analysis evaluates noise associated with the proposed extension of Sun Lakes Boulevard between Highland Home Road and Sunset Avenue in the City of Banning, California (Figure 1).

Along one roadway segment in the City of Banning, the project would result in noise levels increasing from Normally Acceptable to Conditionally Acceptable. Along all other segments, the noise environment descriptor would not change as a result of the project.

The impact of project-generated traffic noise would be less than significant.

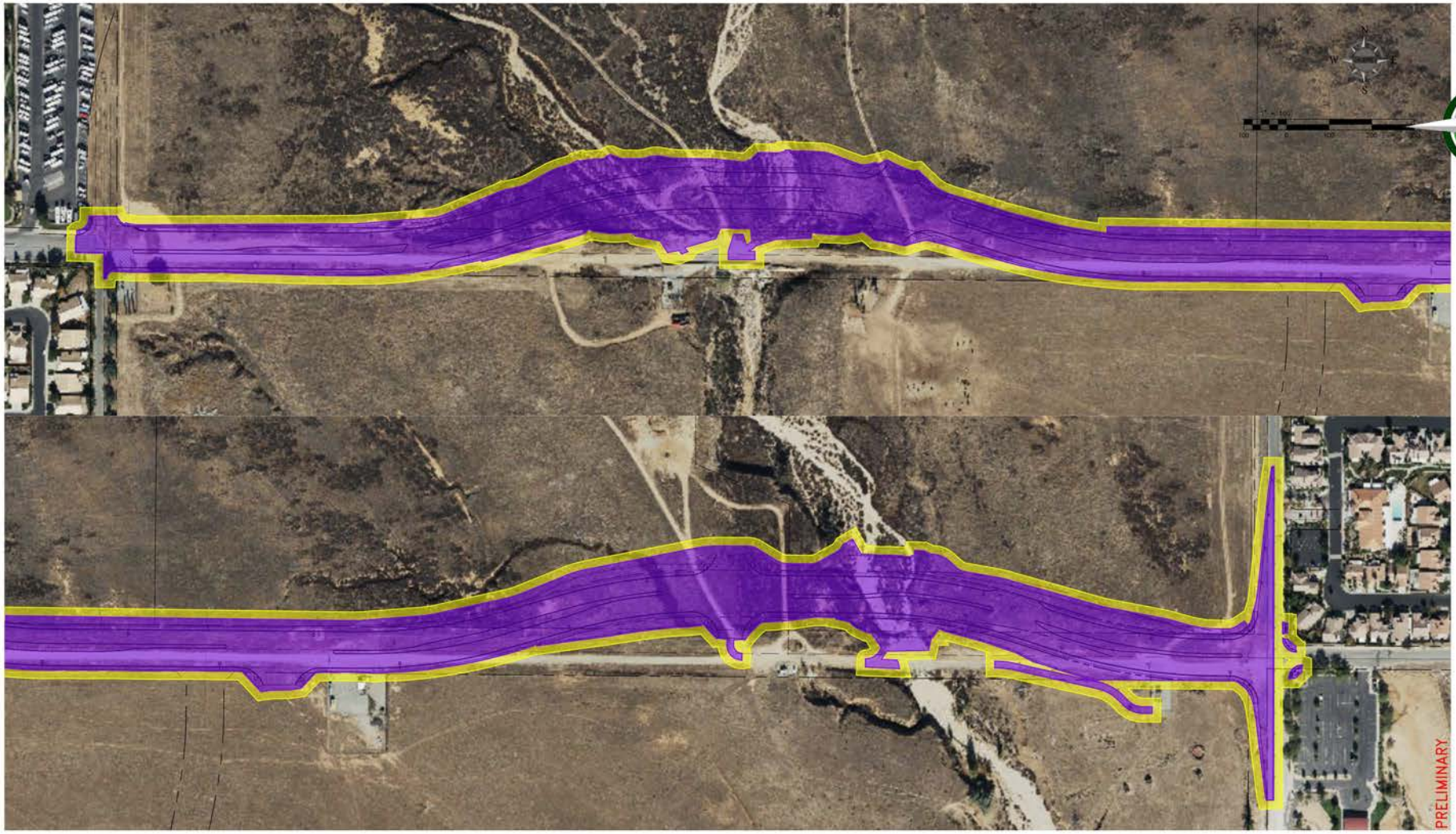


dBF Associates, Inc.

FIGURE 1
Vicinity Map

1.0 PROJECT DESCRIPTION

The project proposes to construct an extension to Sun Lakes Boulevard between Highland Home Road and Sunset Avenue in the City of Banning, California. The proposed roadway segment would connect the existing portion of Sun Lakes Boulevard to align with Westward Avenue at Sunset Avenue. Refer to Figure 2.



dBF Associates, Inc.

FIGURE 2
Sun Lakes Boulevard Extension

2.0 ENVIRONMENTAL NOISE BACKGROUND

Noise is generally defined as loud, unpleasant, unexpected, or undesired sound typically associated with human activity and that interferes with or disrupts normal activities. The human environment is characterized by a certain consistent noise level which varies with each area. This is called ambient noise. Although exposure to high noise levels has been demonstrated to cause hearing loss, the principal human response to environmental noise is annoyance. The response of individuals to similar noise events is diverse and influenced by the type of noise, perceived importance of the noise and its appropriateness in the setting, time of day and type of activity during which the noise occurs, and sensitivity of the individual.

Sound is a physical phenomenon consisting of minute vibrations that travel through a medium, such as air, and are sensed by the human ear. Sound is generally characterized by several variables, including frequency and intensity. Frequency describes the sound's pitch and is measured in cycles per second, or hertz (Hz), whereas intensity describes the sound's loudness and is measured in decibels (dB). Decibels are measured using a logarithmic scale. A sound level of 0 dB is approximately the threshold of human hearing and is barely audible under extremely quiet listening conditions. Normal speech has a sound level of approximately 60 dB. Sound levels above about 120 dB begin to be felt inside the human ear as discomfort and eventually as pain at still higher levels. Studies have shown that the smallest perceptible change in sound level for a person with normal hearing sensitivity is approximately 3 dBA. A change of at least 5 dBA would be noticeable and would likely evoke a community reaction. A 10-dBA increase is subjectively heard as a doubling in loudness and would cause a community response [Caltrans 2013a]. Sound levels of typical noise sources and environments are provided in Table 2.

Because of the logarithmic nature of the decibel unit, sound levels cannot be added or subtracted directly and are somewhat cumbersome to handle mathematically. A simple rule is useful, however, in dealing with sound levels. If a sound's intensity is doubled, the sound level increases by 3 dB, regardless of the initial sound level. Thus, for example, 60 dB + 60 dB = 63 dB, and 80 dB + 80 dB = 83 dB. The normal human ear can detect sounds that range in frequency from about 20 Hz to 20,000 Hz.

However, all sounds in this wide range of frequencies are not heard equally well by the human ear, which is most sensitive to frequencies in the range of 1,000 Hz to 4,000 Hz. This frequency dependence can be taken into account by applying a correction to each frequency range to approximate the human ear's sensitivity within each range. This is called A-weighting and is commonly used in measurements of community environmental noise. The A-weighted sound pressure level (abbreviated as dBA) is the sound level with the "A-weighting" frequency correction. In practice, the level of a noise source is conveniently measured using a sound level meter that includes a filter corresponding to the dBA curve.

Table 1. Sound Levels of Typical Noise Sources and Noise Environments

Noise Source (at Given Distance)	Noise Environment	A-Weighted Sound Level	Human Judgment of Noise Loudness (Relative to Reference Loudness of 70 Decibels*)
Military Jet Takeoff with Afterburner (50 ft)	Carrier Flight Deck	140 Decibels	128 times as loud
Civil Defense Siren (100 ft)		130	64 times as loud
Commercial Jet Take-off (200 ft)		120	32 times as loud **Threshold of Pain**
Pile Driver (50 ft)	Rock Music Concert Inside Subway Station (New York)	110	16 times as loud
Ambulance Siren (100 ft) Newspaper Press (5 ft) Gas Lawn Mower (3 ft)		100	8 times as loud **Very Loud**
Food Blender (3 ft) Propeller Plane Flyover (1,000 ft) Diesel Truck (150 ft)	Boiler Room Printing Press Plant	90	4 times as loud
Garbage Disposal (3 ft)	Noisy Urban Daytime	80	2 times as loud
Passenger Car, 65 mph (25 ft) Living Room Stereo (15 ft) Vacuum Cleaner (10 ft)	Commercial Areas	70	Reference Loudness **Moderately Loud**
Normal Speech (5 ft) Air Conditioning Unit (100 ft)	Data Processing Center Department Store	60	1/2 as loud
Light Traffic (100 ft)	Large Business Office Quiet Urban Daytime	50	1/4 as loud
Bird Calls (distant)	Quiet Urban Nighttime	40	1/8 as loud **Quiet**
Soft Whisper (5 ft)	Library and Bedroom at Night Quiet Rural Nighttime	30	1/16 as loud
	Broadcast and Recording Studio	20	1/32 as loud Just Audible
		0	1/64 as loud Threshold of Hearing

Source: Compiled by dBF Associates, Inc.

Because community noise fluctuates over time, a single measure called the Equivalent Sound Level (Leq) is often used to describe the time-varying character of community noise. The Leq is the energy-averaged A-weighted sound level during a measured time interval, and is equal to the level of a continuous steady sound containing the same total acoustical energy over the averaging time period as the actual time-varying sound. Additionally, it is often desirable to know the acoustic range of the noise source being measured. This is accomplished through the Lmax and Lmin indicators, which represent the root-mean-square maximum and minimum noise levels obtained during the measurement interval. The Lmin value obtained for a particular monitoring location is often called the "acoustic floor" for that location.

To describe the time-varying character of environmental noise, the statistical noise descriptors L10, L50, and L90 are commonly used. They are the noise levels equaled or exceeded during 10, 50, and 90 percent of a stated time, respectively. Sound levels associated with L10 typically describe transient or short-term events, whereas levels associated with L90 describe the steady-state (or most prevalent) noise conditions.

The Community Noise Equivalent Level (CNEL) is a descriptor representing a 24-hour, time-weighted, annual average noise level based on the "A-weighted" decibel. In the calculation process, noise occurring in the evening time period (7 p.m. to 10 p.m.) is penalized by adding 5 dB, while noise occurring in the nighttime period (10 p.m. to 7 a.m.) is penalized by adding 10 dB. These time periods and decibel increases were selected to reflect a typical person's increased sensitivity to noise during late-night and early morning hours. This descriptor is used by the City of Banning, City of Beaumont, and County of Riverside to evaluate land-use compatibility with regard to noise.

3.0 REGULATORY FRAMEWORK

To limit exposure to physically and/or psychologically damaging as well as intrusive noise levels, the federal government, state of California, and local governments have established standards and ordinances to control noise and vibration. In most areas, automobile and truck traffic is the major source of environmental noise. Traffic activity generally produces an average sound level that remains fairly constant with time. Air and rail traffic, and commercial and industrial activities are also major sources of noise in some areas. Federal, state, and local agencies regulate different aspects of environmental noise. Federal and state agencies generally set noise standards for mobile sources such as aircraft and motor vehicles, while regulation of stationary sources and noise / land use compatibility is left to local agencies.

No federal regulations are applicable to this project.

3.1 City of Banning

The Noise Element of the City of Banning General Plan [2006] indicates land use compatibility for community noise environments. Applicable thresholds are summarized in Table 2. No guidance is provided for undeveloped or vacant land.

Table 2. City of Banning Noise Thresholds

Land Use	Highest Normally Acceptable Noise Level	Highest Conditionally Acceptable Noise Level
Single-Family Residential	55 dBA CNEL	65 dBA CNEL
Commercial	65 dBA CNEL	72.5 dBA CNEL
School	65 dBA CNEL	65 dBA CNEL
Industrial / Manufacturing	70 dBA CNEL	75 dBA CNEL

3.2 City of Beaumont

The Safety Element of the City of Beaumont General Plan [2007] indicates land use compatibility for community noise environments. Applicable thresholds are summarized in Table 3. No guidance is provided for undeveloped or vacant land.

Table 3. City of Beaumont Noise Thresholds

Land Use	Desirable Maximum Noise Level	Maximum Acceptable Noise Level
Single-Family Residential	55 dBA CNEL	65 dBA CNEL
Commercial	65 dBA CNEL	75 dBA CNEL

3.3 County of Riverside

The Noise Element of the Riverside County General Plan [2013] indicates land use compatibility for community noise environments. Noise levels up to 75 dBA CNEL are Normally Acceptable at industrial land uses, and noise levels up to 80 dBA CNEL are Conditionally Acceptable. No guidance is provided for undeveloped or vacant land.

4.0 ENVIRONMENTAL SETTING AND EXISTING CONDITIONS

Noise-sensitive land uses are locations where people reside or where the presence of unwanted sound could adversely affect the use of the land. Residences, schools, hospitals, guest lodging, libraries, and some passive recreation areas would each be considered noise-sensitive and may warrant unique measures for protection from intruding noise.

4.1 Surrounding Land Uses and Environmental Setting

The project site is along the unpaved western extension of Westward Avenue, between the eastern end of Sun Lakes Boulevard at its intersection with Highland Home Road to the western end of paved Western Avenue at its intersection with Sunset Avenue. It is access-controlled with gates at both ends, and serves as a service road for the water infrastructure along it.

The primary existing noise source in the vicinity of the project is natural activity and vehicular traffic on nearby roadways. The ambient sound level along the project alignment is approximately 42 dBA Leq [dBFA 2019].

5.0 POTENTIAL NOISE IMPACTS

The project would result in a redistribution of traffic on segments in the existing and future roadway network [WEBB 2022]. Refer to Table 4. To evaluate the effect of the project on noise levels along adjacent land uses, the horizon year (2050) conditions, with and without the project, were compared. Refer to Table 5.

The Federal Highway Administration (FHWA) Traffic Noise Model (TNM) version 2.5 was used to estimate traffic noise levels. The modeling effort considered the peak-hour traffic volume, average estimated vehicle speed, and estimated vehicle mix, i.e., percentage of cars, medium trucks, heavy trucks, buses, and motorcycles. The peak hour traffic noise level was considered equivalent to the CNEL [24 CFR §51.106]. Vehicular traffic calculations are summarized in Appendix A.

Sound levels caused by line sources (i.e., variable or moving sound sources such as traffic) generally decrease at a rate of 3 to 4.5 dBA when the distance from the road is doubled, depending on the ground surface hardness between the source and the receiving property [Caltrans 2013]. The model assumed "hard soil" propagation conditions, which corresponds to a drop-off rate of approximately 3 dBA per doubling of distance. The actual sound level at any receptor location is dependent upon such factors as the source-to-receptor distance and the presence of intervening structures (walls and buildings), barriers, and topography. The noise attenuating effects of changes in elevation, topography, and intervening structures were not included in the model. Therefore, the modeling effort is considered a worst-case representation of the roadway noise.

The I-10 ramps and segments between were not analyzed, as the noise environment at adjacent land uses is and would continue to be dominated by traffic on I-10. The project would have an inconsequential effect on noise levels in these areas.

Traffic mixes on Sunset Avenue and Sun Lakes Boulevard were obtained from Translutions. Traffic mixed on other roadway segments were assumed to be similar.

The land uses along both sides of the project are expected to be developed with industrial land uses as part of the Sunset Crossroads project.

The City of Banning General Plan indicates that Highland Home Road is planned to extend north, as a 4- or 6-lane Major Highway, from Sun Lakes Boulevard to a new interchange at I-10. Based on the 2050 with-project traffic volumes, it was assumed that it would be 4 lanes. The exact alignment, and distance to the nearby receptors in the Sun Lakes Country Club neighborhood is unknown. It was assumed that all other existing roadway geometry would remain the same in the future.

There are three locations at which two roadways affect the noise level at the receptor closest to the intersection. These were analyzed independently; the results are presented in Table 5.

Along one roadway segment in the City of Banning, the project would result in noise levels increasing from Normally Acceptable to Conditionally Acceptable. Along all other segments, the noise environment descriptor would not change as a result of the project.

The City of Banning General Plan states that, at Conditionally Acceptable noise environments, “New construction or development should be undertaken only after a detailed analysis of the noise reduction requirement is made and needed noise insulation features included in the design.” Existing construction is not addressed. It is assumed that Conditionally Acceptable noise environments are not incompatible with residential land uses.

The impact of project-generated traffic noise would be less than significant.

Table 4. Project Roadways

Roadway	Segment	Traffic Mix (%)	Speed Limit	Traffic Volume		
				Existing	Without Project (2050)	With Project (2050)
East 1st Street	West of Highland Springs Avenue	95.5 / 3 / 1.5	45 mph	810	1,645	2,022
Sun Lakes Boulevard	East of Highland Springs Avenue	95.5 / 3 / 1.5	35 mph	570	1,266	2,358
	West of Highland Home Road	95.5 / 3 / 1.5	35 mph	30	147	2,721
	East of Highland Home Road	95.5 / 3 / 1.5	35 mph *	0	0	2,898
	West of Sunset Avenue	95.5 / 3 / 1.5	35 mph *	0	1,712	2,390
Westward Avenue	East of Sunset Avenue	97 / 2 / 1	35 mph *	62	340	1,032
Lincoln Street	East of Sunset Avenue	97 / 2 / 1	40 mph	131	1,562	1,960
Highland Springs Avenue	South of I-10 Eastbound Ramps	95.5 / 3 / 1.5	30 mph	2,894	4,422	4,364
	North of Sun Lakes Boulevard	95.5 / 3 / 1.5	30 mph	1,275	2,688	2,580
	South of Sun Lakes Boulevard	95.5 / 3 / 1.5	35 mph	641	1,878	2,159
Highland Home Road	North of Sun Lakes Boulevard	95.5 / 3 / 1.5	45 mph *	0	219	654
	South of Sun Lakes Boulevard	97 / 2 / 1	30 mph *	30	136	54
Sunset Avenue	I-10 Eastbound Ramps – Lincoln Street	94 / 4 / 2	35 mph	272	2,703	1,604
	South of Lincoln Street	94 / 4 / 2	35 mph	164	1,641	1,594
	North of Westward Avenue	94 / 4 / 2	35 mph	85	1,641	1,595
	South of Westward Avenue	97 / 2 / 1	30 mph *	29	87	78

* estimated

Table 5. Noise Levels Along Project Roadways

Roadway	Segment	Closest Adjacent Land Use	Noise Level			Project Effect on 2050 Noise Levels	Noise Thresholds *	Impact / Effect
			Existing	Without Project (2050)	With Project (2050)			
East 1st Street	West of Highland Springs Avenue	Single-family residential; 57' from CL, 6' wall	60.3	63.3	64.0	+ 0.7 dBA CNEL	55 / 65 dBA CNEL	None
Sun Lakes Boulevard	East of Highland Springs Avenue	Single-family residential; 53' from CL, 6' wall	56.5	59.6	62.1	+ 2.5 dBA CNEL	55 / 65 dBA CNEL	None
	West of Highland Home Road	Single-family residential; 53' from CL, 6' wall	49.1	51.7	62.7	+ 11.0 dBA CNEL	55 / 65 dBA CNEL	Noise level increases to Conditionally Acceptable
	East of Highland Home Road	Currently vacant; industrial land use planned	N/A	N/A	69.4	N/A	70 / 75 dBA CNEL (Banning) 75 / 80 dBA CNEL (Riverside)	None
	West of Sunset Avenue	Currently vacant; industrial land use planned	N/A	68.6	70.0	+ 1.4 dBA CNEL	70 / 75 dBA CNEL (Banning) 75 / 80 dBA CNEL (Riverside)	None
Westward Avenue	East of Sunset Avenue	Single-family residential; 30' from CL, 6' wall	50.5	56.6	60.6	+ 4.0 dBA CNEL	55 / 65 dBA CNEL	None
Lincoln Street	East of Sunset Avenue	Single-family residential; 32' from CL, 6' wall	52.8	62.8	63.7	+ 0.9 dBA CNEL	55 / 65 dBA CNEL	None
Highland Springs Avenue	South of I-10 Eastbound Ramps	Commercial; 80' from CL	66.5	68.5	68.4	- 0.1 dBA CNEL	65 / 75 dBA CNEL (Beaumont) 65 / 72.5 dBA CNEL (Banning)	None
	North of Sun Lakes Boulevard	Commercial; 75' from CL	64.6	67.4	67.4	0 dBA CNEL	65 / 75 dBA CNEL (Beaumont) 65 / 72.5 dBA CNEL (Banning)	None
	South of Sun Lakes Boulevard	Single-family residential; 50' from CL, 6' wall	57.7	62.0	62.7	+ 0.7 dBA CNEL	55 / 65 dBA CNEL (Beaumont) 55 / 65 dBA CNEL (Banning)	None
Highland Home Road	North of Sun Lakes Boulevard	Vehicle storage	N/A	62.6	67.6	+ 5.0 dBA CNEL	N/A	None
	South of Sun Lakes Boulevard	Single-family residential; 30' from CL, 6' wall	49.3	51.7	54.8	+ 3.1 dBA CNEL	55 / 65 dBA CNEL (Banning) 75 / 80 dBA CNEL (Riverside)	None
Sunset Avenue	I-10 Eastbound Ramps – Lincoln Street	Vacant	60.1	69.9	67.7	- 2.2 dBA CNEL	N/A	None
	South of Lincoln Street	Single-family residential; 30' from CL, 6' wall	54.1	63.7	63.5	- 0.2 dBA CNEL	55 / 65 dBA CNEL	None
	North of Westward Avenue	Single-family residential; 40' from CL, 6' wall	50.1	62.2	61.3	- 0.9 dBA CNEL	55 / 65 dBA CNEL	None
	South of Westward Avenue	Educational; 70' from CL	50.9	57.2	58.2	+ 1.0 dBA CNEL	65 dBA CNEL (Banning) 75 / 80 dBA CNEL (Riverside)	None
802 Bay Hill Road (Sun Lakes Boulevard & Highland Home Road)			49.9	52.9	62.4	+ 9.5 dBA CNEL	55 / 65 dBA CNEL	Noise level increases to Conditionally Acceptable
783 Sunshine Street (Westward Avenue & Sunset Avenue)			51.3	61.4	62.4	+ 1.0 dBA CNEL	55 / 65 dBA CNEL	None
447 Soboba Drive (Lincoln Street & Sunset Avenue)			54.7	64.5	64.6	+ 0.1 dBA CNEL	55 / 65 dBA CNEL	None

At vacant or non-noise sensitive land uses, noise level reported at 50 feet from centerline.
* Normally / Conditionally Acceptable or Desirable Maximum / Maximum Acceptable

6.0 RECOMMENDATIONS

No significant impacts were identified. Therefore, no recommendations are required.

7.0 REFERENCES

City of Banning. 2006. General Plan. Adopted January 31.

City of Beaumont. 2007. General Plan. Approved March.

Harris, Cyril M. 1998. Handbook of Acoustical Measurements and Noise Control, Third Edition. Acoustical Society of America. Woodbury, NY.

International Organization for Standardization (ISO). 1996a. ISO 1996/1. Acoustics – Description and Measurement of Environmental Noise – Part 1: Basic Quantities and Procedures.

1996b. ISO 1996-2. Acoustics – Description and Measurement of Environmental Noise – Part 2: Acquisition of Data Pertinent to Land Use.

1996c. ISO 1996-3. Acoustics – Description and Measurement of Environmental Noise – Part 3: Application to Noise Limits.

Riverside County. 2015. General Plan. Noise Element. December 8.

Albert A. Webb Associates. 2022. Realignment of Sun Lakes Boulevard – Westward Avenue Transportation Impact Analysis. February 24.

8.0 LIST OF PREPARERS

_____

Steven Fiedler, INCE
Principal, dBF Associates, Inc.

Appendix H

translutions, inc.
17632 Irvine Boulevard, Suite 200,
Tustin, California 92780
Phone (949)656-3131 Fax (949)445-3131
solutions@translutions.com

June 17, 2022

Mr. Nicholas R. Lowe, MS, PE, Senior Engineer
Albert A. Webb Associates
3788 McCray Street,
Riverside, California 92506

Subject: Sun Lakes Boulevard Extension, City of Banning, California – VMT Screening Analysis

Dear Nick:

Translutions, Inc. (Translutions) is pleased to provide this letter discussing the Vehicle Miles Traveled (VMT) for the proposed Extension of Sun Lakes Boulevard in the City of Banning.

PROJECT DESCRIPTION

The Sun Lakes Boulevard Extension is proposing to construct the segment of Sun Lakes Boulevard between Highland Home Road and Sunset Avenue. This roadway is part of the City's General Plan, and as such is consistent with the Southern California Association of Governments (SCAG) Regional Transportation Plan (RTP)/Sustainable Communities Strategies (SCS). The project will include 4-lanes (two lanes in each direction) with required turn lanes, is approximately one-mile long, and also adds a bike lane and sidewalk along the roadway.

VMT DISCUSSION

Background and Guidance. Senate Bill 743 (SB-743), which was codified in Public Resources Code section 21099, was signed by the Governor in 2013 and directed the Governor's Office of Planning and Research (OPR) to identify alternative metrics for evaluating transportation impacts under CEQA. Pursuant to Section 21099, the criteria for determining the significance of transportation impacts must "promote the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses." Recently adopted changes to the CEQA Guidelines in response to Section 21099 include a new section (15064.3) that specifies that Vehicle Miles Traveled (VMT) is the most appropriate measure of transportation impacts. A separate Technical Advisory issued by OPR provides additional technical details on calculating VMT and assessing transportation impacts for various types of projects. The City of Banning is in the process of preparing and adopting guidelines or thresholds under VMT. Therefore, this analysis is based on the Draft *Traffic Impact Analysis Guidelines For Local Transportation Analysis And Vehicle Miles Traveled Analysis* for the City of Banning.

VMT Analysis Methodology. The Guidelines state that the VMT attributable to the project (including induced demand) needs to be calculated by evaluating no project and with project conditions under the horizon scenario using RIVTAM or RIVCOM.

Impact Threshold. Based on the City's Guidelines, a net increase in induced VMT will result in a significant impact for a proposed transportation project. The increase in VMT needs to be calculated by comparing the **horizon year no-build VMT with the horizon year build VMT**. Model adjustment may be necessary to account for induced growth and potential increases in future land use as a result of the capacity enhancing transportation project.

Model VMT. The Riverside Transportation Analysis Model (RIVTAM) was run to evaluate the change in VMT for the project. The model was run for the base and future conditions and for the without and with project conditions. In addition, the socio-economic data for the Sunset Crossroads was included in the Horizon Year model since it is located adjacent to the proposed project. The model runs and data extraction process followed are consistent with standard modeling practice.

Due to the small size of the project, the project effect on VMT was compared at a 5-mile, 10-mile, and Countywide levels. Table A shows the change in VMT due to the project for the three geographic boundaries under Horizon Year (2040) conditions.

Table A: Change in Horizon Year (2040) VMT

	No Project	With Project	Change
5-Mile Radius	3,596,100	3,581,022	**(15,078)**
10-Mile Radius	8,374,519	8,359,646	**(14,873)**
Riverside County	92,860,800	92,861,278	**478**

As seen on Table A, the project substantially reduces VMT within a 5-mile and 10-mile radius from the project. However, as shown on Table A, the model shows that the project is likely to increase Countywide VMT by 0.0005%. This is well within the margin of error for transportation models[1], and might not result in a significant impact, and could be a result of rounding at various stages of the modeling process.

To verify if the project would indeed result in an increase in VMT, the base year model was also run to identify if the project related findings are similar. Table B shows the results of the Base Year model runs.

Table B: Change in Base Year (2012) VMT

	No Project	With Project	Change
5-Mile Radius	1,980,031	1,979,158	**(872)**
10-Mile Radius	4,457,790	4,456,431	**(1,359)**
Riverside County	53,677,825	53,657,144	**(20,681)**

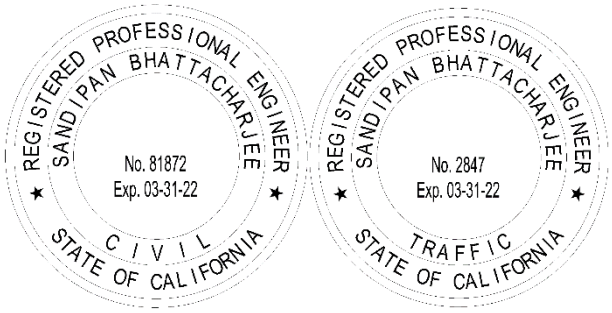
As seen on Table B, the project results in decreases in VMT under all analysis geographic limits, validating the argument that the increase in future regional VMT is within the margin of error of the model.

As seen from the above discussion, it is our professional opinion that the project will have a less than significant impact on VMT. We hope you will find this information helpful. Should you have any questions, please don't hesitate to call me at (949) 656-3131.

Sincerely,

translutions, Inc.

Sandipan Bhattacharjee, P.E., T.E., AICP, ENV SP
Principal



[1] For example, the SCAG model validation report shows that the change in VMT was in the range of -4% to +5% at a county level (within the 5-county region) for a regional VMT validation of approximately 1.7%. Therefore, the difference of 0.0005% is within acceptable model errors.

RESOLUTION 2024-184

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA APPROVING EA 24-0051 AND ADOPTING AN INITIAL STUDY/MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING AND REPORTING PROGRAM PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FOR THE SUN LAKES BOULEVARD EXTENSION PROJECT

WHEREAS, the City of Banning desires to construct Sun Lakes Boulevard between Highland Home Road and Sunset Ave (the "Project") as identified in the City's General Plan Circulation Element and the approved Capital Improvement Program. The new roadway connection will provide for a connection south of Interstate 10 that does not exist today, providing additional access to the Sun Lakes Country Club and Sun Lakes Village Shopping Center and connection to the rest of the City of Banning, improving emergency response time, and providing alternative for City of Banning Transit routes; and

WHEREAS, on February 11, 2020, the City Council adopted Resolution 2020-21, accepting Lots A, D, E, F, and G, as offered on Parcel Map 25541, for street, public utilities, and landscape purposes. The acceptance of Lots A, D, E, F, and G provided the necessary right-of-way for the Project; and

WHEREAS, on April 14, 2020, the City Council adopted Resolution 2020-48, awarding a Professional Services Agreement for the design of the Project to Albert A. Webb Associates; and

WHEREAS, on July 14, 2020, the City Council adopted Resolution 202-97, authorizing the City Manager to execute a TUMF Reimbursement Agreement with the Western Riverside Council of Governments for up to $1,000,000 in TUMF funds for the Project; and

WHEREAS, the construction plans for the Project are now 100% complete and the City anticipates filing formal applications with the Regional Water Quality Board and the California Department of Fish and Wildlife for approval of a Streambed Alteration Agreement and issuing a Notice Inviting Bids to award a contract for the construction of the Project;

WHEREAS, pursuant to the California Environmental Quality Act (CEQA), the City, as the lead agency for the Project, caused the preparation of an Initial Study (IS) for the Project in accordance with the requirements of CEQA and, based on the findings of the IS, a Mitigated Negative Declaration (MND) with a Mitigation Monitoring and Reporting Program (MMRP) was prepared by Albert A. Webb Associates, the City's consultant, pursuant to the scope of services of the Professional Services Agreement awarded by the City Council by adoption of Resolution 2020-48. The IS/MND concludes that the Project, with proposed mitigation measures, would not have a significant effect on the environment. The mitigation measures within the MMRP conclude that the proposed Project will have a less than significant effect on the environment with their implementation (see Appendix III of the Draft IS/MND); and

WHEREAS, the IS, MND, and MMRP (Environmental Document) were released for a 30-day public review and comment period that began on Friday, September 6, 2024, and concluded on Tuesday, October 8, 2024, and were posted with the State Clearinghouse and the Riverside County Clerk's Office, were available for public review and inspection at City Hall (99 E. Ramsey Street, Banning, California 92220) and the Banning Public Library (21 West Nicolet Street,

Banning, California 92220), and were also posted on the City's website under the Engineering Division of the Public Works Department (https://ceqanet.opr.ca.gov/2024090237/2); and

WHEREAS, a copy of the Final IS/MND and the related documents are included as attachments 6-20 to the November 12, 2024 City Council staff report for the Project and are incorporated into this Resolution by this reference; and

WHEREAS, pursuant to CEQA, whenever a lead agency approves a project requiring the implementation of measures to mitigate or avoid potentially significant effects on the environment, CEQA also requires a lead agency to adopt an MMRP to ensure compliance with the mitigation measures during project implementation. A copy of the MMRP for the Project, which defines the measures that would be imposed on the Project to mitigate or avoid potentially significant environmental impacts, is attached hereto as Exhibit A, and incorporated herein by this reference; and

WHEREAS, at a public meeting on November 12, 2024, the City Council considered the Final IS/MND, including the MMRP, prepared for the Project, and took and considered any public testimony provided.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The City Council hereby finds that all facts stated in the recitals of this Resolution are true and correct, are incorporated into this Resolution by this reference, and constitute a material part of this Resolution.

SECTION 2. The City Council hereby finds, in its independent judgment after considering all the evidence in the record of proceedings for the Project, including, without limitation, the Final IS/MND and testimony, if any, presented at the public meeting, that: (1) the Final IS/MND was prepared in compliance with CEQA; (2) the Project will not result in a significant effect on the environment because the mitigation measures described in the MMRP are incorporated as part of the Project; and (3) there is no substantial evidence supporting a fair argument that the Project would result in any significant environmental impacts that cannot be mitigated to a less than significant level through implementation of those mitigation measures identified in the Final IS/MND and included in the MMRP. Therefore, the City Council finds that the Project will not cause a significant unmitigated environmental effect. Based on these findings, the City Council hereby adopts the Final IS/MND for the Project

SECTION 3. The City Council has also reviewed and considered the MMRP for the Project that has been prepared pursuant to the requirements of CEQA and finds that such program is designed to ensure compliance with the mitigation measures during Project implementation. Accordingly, the City Council hereby adopts the MMRP for the Project, attached as Exhibit A to this Resolution.

SECTION 4. The City Council designates the custodian of the documents for the IS, MND, MMRP, staff report, technical studies, appendices and all other materials which constitute the record of proceedings upon which the City Council's decision is based, to be the Public Works Department of the City of Banning. Those documents are available for public review in the Public Works Department located at 99 E. Ramsey Street, Banning, California 92220, telephone number: (951) 922-3130.

SECTION 5. The City Council directs the City Manager, or his designee, to prepare a Notice of Determination for the Final IS/MND (EA 24-0051) in accordance with CEQA, and file that Notice with the State Clearinghouse and the Riverside County Clerk's Office.

SECTION 6. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 12th day of November 2024.

Alberto Sanchez, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

Serita R. Young, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2024-148, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 12th day of November 2024 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

Exhibit A
Final IS/MND and Mitigation Monitoring and Reporting Program

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Douglas Schulze, City Manager**
PREPARED BY:	**Nate Smith, Deputy Director of Public Works/City Engineer** **Art Vela, Director of Public Works**
MEETING DATE:	**November 12, 2024**
SUBJECT:	**Consideration of Resolution 2024-185, Authorizing the City Manager to Execute Amendment No. 1 to the Transportation Uniform Mitigation Fee Reimbursement Agreement with Western Riverside Council of Governments for up to $13,000,000 for the Sun Lakes Boulevard Extension Project**

RECOMMENDATION:

Approve Resolution 2024-185.

BACKGROUND:

City Council approved Resolution No. 2020-97 on July 14, 2020 that allowed the execution of an agreement between the City of Banning and the Western Riverside Council of Governments (WRCOG) for a Transportation Uniform Mitigation Fee (TUMF) reimbursement for costs related to the planning and design of the Sun Lake Boulevard Extension Project. The original agreement was for a total of $1,000,000.

WRCOG has developed and administers the TUMF program, a regional fee program designed to provide transportation infrastructure to mitigate the impact of new growth in western Riverside County. Each of WRCOG's members, including the City of Banning (City), participate in the TUMF program through an adopted ordinance.

As the program administrator, WRCOG allocates TUMF funds to a variety of agencies, including the Riverside County Transportation Commission (RCTC), Riverside Transit Agency (RTA), Western Riverside Regional Conservation Authority (RCA) and western Riverside cities and Riverside County areas through applicable TUMF Zones. Eligible projects funded by TUMF revenues are those that have been identified as being part of the Regional System of Highway Arterials (also known as the "TUMF Network") in the TUMF Nexus Study. Typically, each TUMF Zone receives 45.7% of TUMF revenues collected within their respective zone. The remainder of the funds are distributed to RTA (3.13%), RCTC (45.7%), RCA (1.47%) and WRCOG (4%).

TUMF funds are programmed through a collaborative exercise involving each of WRCOG's member agencies. The WRCOG sub region is divided into five TUMF Zones, which allows member jurisdictions to coordinate with neighboring ones to discuss project allocations.

The Pass Zone is comprised of the following: Banning, Beaumont, Calimesa, and Riverside County (District 5). Staff and elected officials representing each jurisdiction within its respective Zone meet regularly to discuss funding allocations for individual projects. The result of these meetings is a 5-year

Zone-specific Transportation Improvement Program (TIP), which must be approved by the WRCOG Executive Committee. The current Pass Zone TIP, which includes the Sun Lakes Boulevard Extension project, was approved by the WRCOG Executive Committee at its June 21, 2024 meeting.

JUSTIFICATION:

Sun Lakes Boulevard is identified on the City of Banning General Plan Circulation Element as an Arterial Highway. City Council has previously authorized action related to the design of the roadway including:

- Acceptance of Offered Right of Way
- Authorization of a Professional Design Contract
- TUMF Reimbursement Agreement
- Reimbursement Agreement with pipeline easement holders

Approval of Resolution No. 2024-185 will allocate additional TUMF funds and will allow the City to be reimbursed up to $13,000,000 in TUMF funding for the Project.

FISCAL IMPACT:

The current Pass Zone TIP includes a new allocation of $12,000,000 for construction activities for the Sun Lakes Boulevard Extension Project. This action would make those funds available for reimbursement for eligible construction related costs of the Sun Lakes Boulevard Extension Project.

The City is also in receipt of a separate $13,500,000 grant from the Riverside County Transportation Commission (RCTC) Measure A Regional Arterials Program (MARA), bringing a total of $25,500,000 of construction funding available for the roadway project.

WRCOG recently approved a new TUMF Nexus Study which included a revised and increased maximum TUMF obligation of $44,422,000 to the project. As a result, staff anticipates a possible future amendment to the TUMF Reimbursement Agreement. It should be noted that although the TUMF Nexus Study includes an increased estimate of the project it does not indicate that the cash is available in the Pass Zone to cover the full maximum TUMF obligation.

ALTERNATIVES:

Do not approve the recommendation and provide staff with alternative direction.

BUDGETED?:

No

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. Resolution_2024-185
2. Reso 2024-185 Exhibit A Amendment No. 1 WRCOG TUMF Reimbursement Agreement.pdf
3. CC Resolution No. 2020-097.pdf
4. WRCOG Reimbursement Agreement.pdf
5. Fiscal Year 2024-2025 Pass Zone 5-Year Transportation Improvement Program.pdf

RESOLUTION 2024-185

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENT NO. 1 TO THE TRANSPORTATION UNIFORM MITIGATION FEE REIMBURSEMENT AGREEMENT WITH WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS FOR UP TO $13,000,000 FOR THE SUN LAKES BOULEVARD EXTENSION PROJECT

WHEREAS, Western Riverside Council of Government (WRCOG) has developed and administers the Transportation Uniform Mitigation Fee (TUMF) program, a regional fee program designed to provide transportation infrastructure to mitigate the impact of new growth in western Riverside County. The City of Banning is an active member in WRCOG; and

WHEREAS, as the program administrator, WRCOG allocates TUMF funds to a variety of agencies, including the Riverside County Transportation Commission (RCTC), Riverside Transit Agency (RTA), Western Riverside Regional Conservation Authority (RCA), western Riverside cities and Riverside County areas through applicable TUMF Zones; and

WHEREAS, the City of Banning is part of the Pass Zone along with the City of Calimesa, City of Beaumont and Riverside County (District 5); and

WHEREAS, the Pass Zone Transportation Improvement Program (TIP), which included the Sun Lakes Boulevard Extension project, was approved by the WRCOG Executive Committee at its June 21, 2024 meeting; and

WHEREAS, Amendment No. 1 to the TUMF Reimbursement Agreement will provide up to $13,000,000 in TUMF funds in the form of a reimbursement to the City of Banning for expenditures related to the Sun Lakes Boulevard Extension project.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The City Council approves Amendment No. 1 to Transportation Uniform Mitigation Fee Program Agreement with the Western Riverside Council of Governments for the Sun Lakes Boulevard Extension Project.

SECTION 2. The City Council authorizes the City Manager to make non-substantive changes to the Amendment No. 1 to Transportation Uniform Mitigation Fee Program Agreement and to execute the Amendment No. 1 to Transportation Uniform Mitigation Fee Program Agreement with Western Riverside Council of Governments on behalf of the City Council.

SECTION 3. The City Council authorizes the City Manager, or designee, to make necessary budget adjustments, appropriations, and transfers related to this resolution.

SECTION 4. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 12th day of November 2024.

Alberto Sanchez, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

Serita R. Young, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2024-185, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 12th day of November 2024 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

EXHIBIT A
Amendment No.1
Transportation Uniform Mitigation Fee Program Agreement

AMENDMENT NO. 1 TO TRANSPORTATION UNIFORM MITIGATION FEE PROGRAM AGREEMENT

SUN LAKES BOULEVARD EXTENSION PROJECT

PA&AD, PS&E AND CONSTRUCTION PHASES

This Amendment No.1 to Transportation Uniform Mitigation Fee Program Agreement ("Amendment No. 1") is entered into this _____day of _____, 202_, by and between the WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS ("WRCOG") and City of Banning, a California municipal corporation ("AGENCY"). WRCOG and the AGENCY are sometimes referred to individually as "Party" and collectively as "Parties."

RECITALS

A. WRCOG and AGENCY have entered into an agreement titled "Transportation Uniform Mitigation Fee Program Agreement" that is dated June 12, 2020 ("Agreement"). The Agreement provides the terms and conditions, scope of work, schedule and funding amount for the construction of the Sun Lakes Boulevard Extension (hereinafter the "Project").

C. The Parties desire to amend the Agreement, as amended by Amendment No. 1 by increasing the funding amount pursuant to Sections 6 and 33 of the Agreement.

D. Funds are being increased for this Project because new funding has become available.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and subject to the conditions contained herein, the Parties hereby agree as follows:

1. The Funding Amount contained in Section 2 of the Agreement as amended by Amendment No.1 is hereby increased by **$12,000,000 (TWELVE MILLION DOLLARS)** from **$1,000,000 (ONE MILLION DOLLARS)** to an amount not to exceed **$13,000,000 (THIRTEEN MILLION DOLLARS)**.

2. The foregoing increase in the Funding Amount is within the Maximum TUMF Share.

3. Section 10 of the Agreement, as amended, is hereby deleted in its entirety and replaced with the following provision:

> AGENCY's Local Match Contribution. AGENCY funding is not required, as shown in Exhibit "A" attached hereto.

4. Exhibits "A", "A-1", and "A-2" of the Agreement, as amended by Amendment No. 1 are hereby replaced in their entirety by Exhibits "A", "A-1", and "A-2" of this Amendment No. 1, which are attached hereto and incorporated by reference.

5. The above-stated Recitals are hereby fully incorporated into this Amendment No. 1.

6. Except to the extent specifically modified or amended hereunder, all of the terms, covenants and conditions of the Agreement as amended, shall remain in full force and effect between the Parties hereto.

IN WITNESS WHEREOF, the Parties have caused this Amendment No. 1 to be executed by their duly authorized representatives to be effective on the day and year first written above.

WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS

By: _____
Dr. Kurt Wilson, Executive Director

Approved to Form:

By: _____
Steven C. DeBaun
General Counsel

CITY OF BANNING

By: _____
Doug Schulze, City Manager

Approved to Form:

By: _____
Serita Young, City Attorney

Attest:

By: _____
Caroline Patton, Administrative City Clerk

Exhibit A

SCOPE OF SERVICES

1. **SCOPE OF WORK:**

PA&ED and PSE Phases

- Project Management
- Project Development
- Preliminary Engineering Design
- Environmental Documentation
- Final Design Reports and Studies
- Final Design Plans, Specifications, and Estimates
- Permitting
- Bidding/Construction Support

CON Phase

- Construction Management
- Field Inspection
- Materials Testing
- Construction costs, including change order to construction contract
    - Improvement of 1.01 miles of roadway between Highland Home Road and Sunset Ave
    - 4 vehicle lanes (2 in each direction) within a 110 right of way. Scope includes road base, asphalt, concrete median curb, curb and gutter, sidewalk, street lights, signage, and striping
    - Drainage improvements to collect and convey stormwater on the roadway to project culverts
    - Relocation of non-agency owned utilities
- Construction Inspection

EXHIBIT "A-1"

ESTIMATE OF COST

Phase	TUMF	LOCAL	TOTAL
PA&ED	$500,000	0	$500,000
PS&E	$500,000	0	$500,000
RIGHT OF WAY	0	0	0
CONSTRUCTION	$12,000,000	0	$12,000,000
TOTAL	$13,000,000	0	$13,000,000

EXHIBIT "A-2"

PROJECT SCHEDULE

TIMETABLE:

Phase	Estimated Completion Date	Estimated Cost	Comments
PA&ED	12/31/24	$500,000	95% Plans Complete
PS&E	12/31/24	$500,000	95% Plans Complete
RIGHT OF WAY	N/A	N/A	
CONSTRUCTION	12/31/27	$30,000,000	Include RCTC Mara Funding
TOTAL		$31,000,000	

RESOLUTION 2020-97

ADOPT RESOLUTION 2020-97, AUTHORIZING THE CITY MANAGER TO EXECUTE A TUMF REIMBURSEMENT AGREEMENT WITH WRCOG FOR UP TO $1,000,000 IN TUMF FUNDS FOR THE SUN LAKES BOULEVARD EXTENSION PROJECT

WHEREAS, Western Riverside Council of Government (WRCOG) has developed and administers the Transportation Uniform Mitigation Fee (TUMF) program, a regional fee program designed to provide transportation infrastructure to mitigate the impact of new growth in western Riverside County. The City of Banning is an active member in WRCOG; and

WHEREAS, as the program administrator, WRCOG allocates TUMF funds to a variety of agencies, including the Riverside County Transportation Commission (RCTC), Riverside Transit Agency (RTA), Western Riverside Regional Conservation Authority (RCA) and western Riverside cities and Riverside County areas through applicable TUMF Zones; and

WHEREAS, the City of Banning is part of the Pass Zone along with the City of Calimesa, City of Beaumont and Riverside County (District 5); and

WHEREAS, the Pass Zone Transportation Improvement Program (TIP), which included the Sun Lakes Boulevard Extension project, was approved by the WRCOG Executive Committee at its May 4, 2020 meeting; and

WHEREAS, the TUMF Reimbursement Agreement will provide up to $1,000,000 in TUMF funds in the form of a reimbursement to the City of Banning for expenditures related to the Sun Lakes Boulevard Extension project; and

WHEREAS, the WRCOG Executive Committee approved the TUMF Reimbursement Agreement at its June 1, 2020 meeting.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

Section 1. The Banning City Council adopts Resolution 2020-97 authorizing the City Manager to execute the TUMF Reimbursement Agreement with WRCOG for up to $1,000,000 in TUMF funds for the Sun Lakes Boulevard Extension project.

Section 2. The City Manager or his designee is authorized to record the reimbursement funds and to make all necessary budget adjustments, appropriations and transfers related to the TUMF Reimbursement Agreement for the Sun Lakes Boulevard Extension project.

PASSED, APPROVED AND ADOPTED this 14th day of July, 2020.

Daniela Andrade, Mayor
City of Banning

ATTEST:

Sonja De La Fuente, Deputy City Clerk
City of Banning

APPROVED AS TO FORM
AND LEGAL CONTENT:

Kevin G. Ennis, Esq., City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Sonja De La Fuente, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2020-97, was adopted by the City Council of the City of Banning at a Regular Meeting thereof held on the 14th day of July, 2020, by the following vote, to wit:

AYES: Councilmembers Happe, Pingree, Wallace, Welch and Mayor Andrade

NOES: None

ABSTAIN: None

ABSENT: None



Sonja De La Fuente, Deputy City Clerk
City of Banning

[#06-PS-BAN-1206]

TRANSPORTATION UNIFORM MITIGATION FEE PROGRAM AGREEMENT TO REIMBURSE TUMF FUNDS SUN LAKES BOULEVARD EXTENSION PROJECT PA&ED AND PS&E PHASES

THIS REIMBURSEMENT AGREEMENT ("Agreement") is entered into as of this day of ____, 2020, by and between the Western Riverside Council of Governments ("WRCOG"), a California joint powers authority and City of Banning, a California municipal corporation ("AGENCY"). WRCOG and AGENCY are sometimes hereinafter referred to individually as "Party" and collectively as "Parties".

RECITALS

A. WRCOG is the Administrator of the Transportation Uniform Mitigation Fee Program of Western Riverside County ("TUMF Program").

B. WRCOG has identified and designated certain transportation improvement projects throughout Western Riverside County as projects of regional importance ("Qualifying Projects" or "Projects"). The Qualifying Projects are more specifically described in that certain WRCOG study titled "TUMF Nexus Study", as may be amended from time to time. Qualifying Projects can have Regional or Zonal significance as further described in the TUMF Nexus Study.

C. The TUMF Program is funded by TUMF fees paid by new development in Western Riverside County (collectively, "TUMF Program Funds"). TUMF Program Funds are held in trust by WRCOG for the purpose of funding the Qualifying Projects.

D. The AGENCY proposes to implement a Qualifying Project, and it is the purpose of this Agreement to identify the project and to set forth the terms and conditions by which WRCOG will release TUMF Program Funds.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and subject to the conditions contained herein, the Parties hereby agree as follows:

1. Description of the Qualifying Project. This Agreement is intended to distribute TUMF Program Funds to the AGENCY for the PA&ED and PS&E phases of the Sun Lakes Boulevard Extension project (the "Project"), a Qualifying Project. The Work, including a timetable and a detailed scope of work, is more fully described in Exhibit "A" attached hereto and incorporated herein by reference and, pursuant to Section 20 below, is subject to modification if requested by the AGENCY and approved by WRCOG. The work shall be consistent with one or more of the defined WRCOG Call for Projects phases detailed herein as follows:

1) PA&ED – Project Approvals & Environmental Document
2) PS&E – Plans, Specifications and Estimates

3) R/W – Right of Way Acquisition and Utility Relocation
4) CON – Construction

2. WRCOG Funding Amount. WRCOG hereby agrees to distribute to AGENCY, on the terms and conditions set forth herein, a sum not to exceed **$1,000,000 (ONE MILLION DOLLARS)** to be used for reimbursing the AGENCY for eligible Project expenses as described in Section 3 herein ("Funding Amount"). The Parties acknowledge and agree that the Funding Amount may be less than the actual cost of the Project. Nevertheless, the Parties acknowledge and agree that WRCOG shall not be obligated to contribute TUMF Program Funds in excess of the maximum TUMF share identified in the TUMF Nexus Study ("Maximum TUMF Share"), as may be amended from time to time.

3. Project Costs Eligible for Advance/Reimbursement. The total Project costs ("Total Project Cost") may include the following items, provided that such items are included in the scope of work attached hereto as Exhibit "A" ("Scope of Work"): (1) AGENCY and/or consultant costs associated with direct Project coordination and support; (2) funds expended in preparation of preliminary engineering studies; (3) funds expended for preparation of environmental review documentation for the Project; (4) all costs associated with right-of-way acquisition, including right-of-way engineering, appraisal, acquisition, legal costs for condemnation procedures if authorized by the AGENCY, and costs of reviewing appraisals and offers for property acquisition; (5) costs reasonably incurred if condemnation proceeds; (6) costs incurred in the preparation of plans, specifications, and estimates by AGENCY or consultants; (7) AGENCY costs associated with bidding, advertising and awarding of the Project contracts; (8) construction costs, including change orders to construction contract approved by the AGENCY; (9) construction management, field inspection and material testing costs; and (10) any AGENCY administrative cost to deliver the Project.

4. Ineligible Project Costs. The Total Project Cost shall not include the following items which shall be borne solely by the AGENCY without reimbursement: (1) any AGENCY administrative fees attributed to the reviewing and processing of the Project; and (2) expenses for items of work not included within the Scope of Work in Exhibit "A".

5. Procedures for Distribution of TUMF Program Funds to AGENCY.

(a) Initial Payment by the AGENCY. The AGENCY shall be responsible for initial payment of all the Project costs as they are incurred. Following payment of such Project costs, the AGENCY shall submit invoices to WRCOG requesting reimbursement of eligible Project costs. Each invoice shall be accompanied by detailed contractor invoices, or other demands for payment addressed to the AGENCY, and documents evidencing the AGENCY's payment of the invoices or demands for payment. Documents evidencing the AGENCY'S payment of the invoices shall be retained for four (4) years and shall be made available for review by WRCOG. The AGENCY shall submit invoices not more often than monthly and not less often than quarterly.

(b) Review and Reimbursement by WRCOG. Upon receipt of an invoice from the AGENCY, WRCOG may request additional documentation or explanation of the Project costs for which reimbursement is sought. Undisputed amounts shall be paid by WRCOG

to the AGENCY within thirty (30) days. In the event that WRCOG disputes the eligibility of the AGENCY for reimbursement of all or a portion of an invoiced amount, the Parties shall meet and confer in an attempt to resolve the dispute. If the meet and confer process is unsuccessful in resolving the dispute, the AGENCY may appeal WRCOG's decision as to the eligibility of one or more invoices to WRCOG's Executive Director. The WRCOG Executive Director shall provide his/her decision in writing. If the AGENCY disagrees with the Executive Director's decision, the AGENCY may appeal the decision of the Executive Director to the full WRCOG Executive Committee, provided the AGENCY submits its request for appeal to WRCOG within ten (10) days of the Executive Director's written decision. The decision of the WRCOG Executive Committee shall be final. Additional details concerning the procedure for the AGENCY's submittal of invoices to WRCOG and WRCOG's consideration and payment of submitted invoices are set forth in Exhibit "B", attached hereto and incorporated herein by reference.

(c) Funding Amount/Adjustment. If a post Project audit or review indicates that WRCOG has provided reimbursement to the AGENCY in an amount in excess of the Maximum TUMF Share of the Project, or has provided reimbursement of ineligible Project costs, the AGENCY shall reimburse WRCOG for the excess or ineligible payments within 30 days of notification by WRCOG.

6. Increases in Project Funding. The Funding Amount may, in WRCOG's sole discretion, be augmented with additional TUMF Program Funds if the TUMF Nexus Study is amended to increase the maximum eligible TUMF share for the Project. Any such increase in the Funding Amount must be approved in writing by WRCOG's Executive Director. In no case shall the amount of TUMF Program Funds allocated to the AGENCY exceed the then-current maximum eligible TUMF share for the Project. No such increased funding shall be expended to pay for any Project already completed. For purposes of this Agreement, the Project or any portion thereof shall be deemed complete upon its acceptance by WRCOG's Executive Director which shall be communicated to the AGENCY in writing.

7. No Funding for Temporary Improvements. Only segments or components of the construction that are intended to form part of or be integrated into the Project may be funded by TUMF Program Funds. No improvement which is temporary in nature, including but not limited to temporary roads, curbs, tapers or drainage facilities, shall be funded with TUMF Program Funds, except as needed for staged construction of the Project.

8. AGENCY's Funding Obligation to Complete the Project. In the event that the TUMF Program Funds allocated to the Project represent less than the total cost of the Project, the AGENCY shall provide such additional funds as may be required to complete the Project.

9. AGENCY's Obligation to Repay TUMF Program Funds to WRCOG; Exception For PA&ED Phase Work. Except as otherwise expressly excepted within this paragraph, in the event that: (i) the AGENCY, for any reason, determines not to proceed with or complete the Project; or (ii) the Project is not timely completed, subject to any extension of time granted by WRCOG pursuant to the terms of this Agreement; the AGENCY agrees that any TUMF Program Funds that were distributed to the AGENCY for the Project shall be repaid in full to WRCOG, and the Parties shall enter into good faith negotiations to establish a reasonable repayment

schedule and repayment mechanism. If the Project involves work pursuant to a PA&ED phase, AGENCY shall not be obligated to repay TUMF Program Funds to WRCOG relating solely to PA&ED phase work performed for the Project.

10. AGENCY's Local Match Contribution. AGENCY local match funding is not required, as shown in Exhibit "A" and as called out in the AGENCY's Project Nomination Form submitted to WRCOG in response to its Call for Projects.

11. Term/Notice of Completion. The term of this Agreement shall be from the date first herein above written until the earlier of the following: (i) the date WRCOG formally accepts the Project as complete, pursuant to Section 6; (ii) termination of this Agreement pursuant to Section 15; or (iii) the AGENCY has fully satisfied its obligations under this Agreement. All applicable indemnification provisions of this Agreement shall remain in effect following the termination of this Agreement.

12. Representatives of the Parties. WRCOG's Executive Director, or his or her designee, shall serve as WRCOG's representative and shall have the authority to act on behalf of WRCOG for all purposes under this Agreement. The AGENCY hereby designates **Arturo Vela, Director of Public Works**, or his or her designee, as the AGENCY's representative to WRCOG. The AGENCY's representative shall have the authority to act on behalf of the AGENCY for all purposes under this Agreement and shall coordinate all activities of the Project under the AGENCY's responsibility. The AGENCY shall work closely and cooperate fully with WRCOG's representative and any other agencies which may have jurisdiction over or an interest in the Project.

13. Expenditure of Funds by AGENCY Prior to Execution of Agreement. Nothing in this Agreement shall be construed to prevent or preclude the AGENCY from expending funds on the Project prior to the execution of the Agreement, or from being reimbursed by WRCOG for such expenditures. However, the AGENCY understands and acknowledges that any expenditure of funds on the Project prior to the execution of the Agreement is made at the AGENCY's sole risk, and that some expenditures by the AGENCY may not be eligible for reimbursement under this Agreement.

14. Review of Services. The AGENCY shall allow WRCOG's Representative to inspect or review the progress of the Project at any reasonable time in order to determine whether the terms of this Agreement are being met.

15. Termination.

(a) Notice. Either WRCOG or AGENCY may, by written notice to the other party, terminate this Agreement, in whole or in part, in response to a material breach hereof by the other Party, by giving written notice to the other party of such termination and specifying the effective date thereof. The written notice shall provide a 30 day period to cure any alleged breach. During the 30 day cure period, the Parties shall discuss, in good faith, the manner in which the breach can be cured.

(b) Effect of Termination. In the event that the AGENCY terminates this Agreement, the AGENCY shall, within 180 days, repay to WRCOG any unexpended TUMF Program Funds provided to the AGENCY under this Agreement and shall complete any portion or segment of work for the Project for which TUMF Program Funds have been provided. In the event that WRCOG terminates this Agreement, WRCOG shall, within 90 days, distribute to the AGENCY TUMF Program Funds in an amount equal to the aggregate total of all unpaid invoices which have been received from the AGENCY regarding the Project at the time of the notice of termination; provided, however, that WRCOG shall be entitled to exercise its rights under Section 5(b), including but not limited to conducting a review of the invoices and requesting additional information. Upon such termination, the AGENCY shall, within 180 days, complete any portion or segment of work for the Project for which TUMF Program Funds have been provided. This Agreement shall terminate upon receipt by the non-terminating Party of the amounts due to it hereunder and upon completion of the segment or portion of Project work for which TUMF Program Funds have been provided.

(c) Cumulative Remedies. The rights and remedies of the Parties provided in this Section are in addition to any other rights and remedies provided by law or under this Agreement.

16. Prevailing Wages. The AGENCY and any other person or entity hired to perform services on the Project are alerted to the requirements of California Labor Code Sections 1770 et seq., which would require the payment of prevailing wages were the services or any portion thereof determined to be a public work, as defined therein. The AGENCY shall ensure compliance with these prevailing wage requirements by any person or entity hired to perform the Project. The AGENCY shall defend, indemnify, and hold harmless WRCOG, its officers, employees, consultants, and agents from any claim or liability, including without limitation attorneys, fees, arising from its failure or alleged failure to comply with California Labor Code Sections 1770 et seq.

17. Progress Reports. WRCOG may request the AGENCY to provide WRCOG with progress reports concerning the status of the Project.

18. Indemnification.

(a) AGENCY Responsibilities. In addition to the indemnification required under Section 16, the AGENCY agrees to indemnify and hold harmless WRCOG, its officers, agents, consultants, and employees from any and all claims, demands, costs or liability arising from or connected with all activities governed by this Agreement including all design and construction activities, due to negligent acts, errors or omissions or willful misconduct of the AGENCY or its subcontractors. The AGENCY will reimburse WRCOG for any expenditures, including reasonable attorneys' fees, incurred by WRCOG, in defending against claims ultimately determined to be due to negligent acts, errors or omissions or willful misconduct of the AGENCY.

(b) WRCOG Responsibilities. WRCOG agrees to indemnify and hold harmless the AGENCY, its officers, agents, consultants, and employees from any and all claims, demands, costs or liability arising from or connected with all activities governed by this

Agreement including all design and construction activities, due to negligent acts, errors or omissions or willful misconduct of WRCOG or its sub-consultants. WRCOG will reimburse the AGENCY for any expenditures, including reasonable attorneys' fees, incurred by the AGENCY, in defending against claims ultimately determined to be due to negligent acts, errors or omissions or willful misconduct of WRCOG.

(c) Effect of Acceptance. The AGENCY shall be responsible for the professional quality, technical accuracy and the coordination of any services provided to complete the Project. WRCOG's review, acceptance or funding of any services performed by the AGENCY or any other person or entity under this Agreement shall not be construed to operate as a waiver of any rights WRCOG may hold under this Agreement or of any cause of action arising out of this Agreement. Further, the AGENCY shall be and remain liable to WRCOG, in accordance with applicable law, for all damages to WRCOG caused by the AGENCY's negligent performance of this Agreement or supervision of any services provided to complete the Project.

19. Insurance. The AGENCY shall require, at a minimum, all persons or entities hired to perform the Project to obtain, and require their subcontractors to obtain, insurance of the types and in the amounts described below and satisfactory to the AGENCY and WRCOG. Such insurance shall be maintained throughout the term of this Agreement, or until completion of the Project, whichever occurs last.

(a) Commercial General Liability Insurance. Occurrence version commercial general liability insurance or equivalent form with a combined single limit of not less than $1,000,000.00 per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to the Project or be no less than two times the occurrence limit. Such insurance shall:

(i) Name WRCOG and AGENCY, and their respective officials, officers, employees, agents, and consultants as insured with respect to performance of the services on the Project and shall contain no special limitations on the scope of coverage or the protection afforded to these insured;

(ii) Be primary with respect to any insurance or self-insurance programs covering WRCOG and AGENCY, and/or their respective officials, officers, employees, agents, and consultants; and

(iii) Contain standard separation of insured provisions.

(b) Business Automobile Liability Insurance. Business automobile liability insurance or equivalent form with a combined single limit of not less than $1,000,000.00 per occurrence. Such insurance shall include coverage for owned, hired and non-owned automobiles.

(c) Professional Liability Insurance. Errors and omissions liability insurance with a limit of not less than $1,000,000.00 Professional liability insurance shall only be required of design or engineering professionals.

(d) Workers' Compensation Insurance. Workers' compensation insurance with statutory limits and employers' liability insurance with limits of not less than $1,000,000.00 each accident.

20. Project Amendments. Changes to the characteristics of the Project, including the deadline for Project completion, and any responsibilities of the AGENCY or WRCOG may be requested in writing by the AGENCY and are subject to the approval of WRCOG's Representative, which approval will not be unreasonably withheld, provided that extensions of time for completion of the Project shall be approved in the sole discretion of WRCOG's Representative. Nothing in this Agreement shall be construed to require or allow completion of the Project without full compliance with the California Environmental Quality Act (Public Resources Code Section 21000 *et seq.;* "CEQA") and the National Environmental Policy Act of 1969 (42 USC 4231 *et seq.*), if applicable, but the necessity of compliance with CEQA and/or NEPA shall not justify, excuse, or permit a delay in completion of the Project.

21. Conflict of Interest. For the term of this Agreement, no member, officer or employee of the AGENCY or WRCOG, during the term of his or her service with the AGENCY or WRCOG, as the case may be, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

22. Limited Scope of Duties. WRCOG's and the AGENCY's duties and obligations under this Agreement are limited to those described herein. WRCOG has no obligation with respect to the safety of any Project performed at a job site. In addition, WRCOG shall not be liable for any action of AGENCY or its contractors relating to the condemnation of property undertaken by AGENCY or construction related to the Project.

23. Books and Records. Each party shall maintain complete, accurate, and clearly identifiable records with respect to costs incurred for the Project under this Agreement. They shall make available for examination by the other party, its authorized agents, officers or employees any and all ledgers and books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or related to the expenditures and disbursements charged to the other party pursuant to this Agreement. Further, each party shall furnish to the other party, its agents or employees such other evidence or information as they may require with respect to any such expense or disbursement charged by them. All such information shall be retained by the Parties for at least four (4) years following termination of this Agreement, and they shall have access to such information during the four-year period for the purposes of examination or audit.

24. Equal Opportunity Employment. The Parties represent that they are equal opportunity employers and they shall not discriminate against any employee or applicant of reemployment because of race, religion, color, national origin, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

25. Governing Law. This Agreement shall be governed by and construed with the laws of the State of California.

26. Attorneys' Fees. If either party commences an action against the other party arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorneys' fees and costs of suit.

27. Time of Essence. Time is of the essence for each and every provision of this Agreement.

28. Headings. Article and Section Headings, paragraph captions or marginal headings contained in this Agreement are for convenience only and shall have no effect in the construction or interpretation of any provision herein.

29. Public Acknowledgement. The AGENCY agrees that all public notices, news releases, information signs and other forms of communication shall indicate that the Project is being cooperatively funded by the AGENCY and WRCOG TUMF Program Funds.

30. No Joint Venture. This Agreement is for funding purposes only and nothing herein shall be construed to make WRCOG a party to the construction of the Project or to make it a partner or joint venture with the AGENCY for such purpose.

31. Compliance With the Law. The AGENCY shall comply with all applicable laws, rules and regulations governing the implementation of the Qualifying Project, including, where applicable, the rules and regulations pertaining to the participation of businesses owned or controlled by minorities and women promulgated by the Federal Highway Administration and the Federal Department of Transportation.

32. Notices. All notices hereunder and communications regarding interpretation of the terms of this Agreement or changes thereto shall be provided by the mailing thereof by registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

If to AGENCY:
City of Banning
99 E. Ramsey Street
Banning, CA 92220
Attention: Arturo Vela, Director of Public Works
Telephone: (951) 922-3130
Facsimile: (951) 922-3141

If to WRCOG:
Western Riverside Council of Governments
3390 University Avenue; Suite 200
Riverside, California 92501
Attention: Christopher Gray, Director of Transportation
Telephone: (951) 405-6710
Facsimile: (951) 223-9720

Any notice so given shall be considered served on the other party three (3) days after deposit in the U.S. mail, first class postage prepaid, return receipt requested, and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred regardless of the method of service.

33. Integration; Amendment. This Agreement contains the entire agreement between the PARTIES. Any agreement or representation respecting matters addressed herein that are not expressly set forth in this Agreement is null and void. This Agreement may be amended only by mutual written agreement of the PARTIES.

34. Severability. If any term, provision, condition or covenant of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby.

35. Conflicting Provisions. In the event that provisions of any attached appendices or exhibits conflict in any way with the provisions set forth in this Agreement, the language, terms and conditions contained in this Agreement shall control the actions and obligations of the Parties and the interpretation of the Parties' understanding concerning the Agreement.

36. Independent Contractors. Any person or entities retained by the AGENCY or any contractor shall be retained on an independent contractor basis and shall not be employees of WRCOG. Any personnel performing services on the Project shall at all times be under the exclusive direction and control of the AGENCY or contractor, whichever is applicable. The AGENCY or contractor shall pay all wages, salaries and other amounts due such personnel in connection with their performance of services on the Project and as required by law. The AGENCY or consultant shall be responsible for all reports and obligations respecting such personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance and workers' compensation insurance.

37. Effective Date. This Agreement shall not be effective until executed by both Parties. The failure of one party to execute this Agreement within forty-five (45) days of the other party executing this Agreement shall render any execution of this Agreement ineffective.

38. No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives to be effective on the day and year first above-written.

WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS

By: Rick Bishop Date: 6/12/20

Rick Bishop
Executive Director

CITY OF BANNING

By: Date: 7/14/20

Doug Schulze
City Manager

Approved to Form:

By: Date: 6/12/20

Steven C. DeBaun
General Counsel

EXHIBIT "A"

SCOPE OF WORK

SCOPE OF WORK:

In short this reimbursement agreement will fund expenditures related to the City's consultant completing the following scope of work:

Task 1. Project Management

The City's consultant shall attend regular status meetings with the City throughout the duration of the project as well as prepare monthly progress reports. The consultant shall develop and maintain a detailed work program and schedule the development of a project specific Work Plan. The Work Plan will include, at a minimum, details of methodology, sequence of tasks, lists of deliverables, milestone submittal schedule, summary of organizational responsibilities and contacts, as well as reporting and invoicing procedures. The consultant will meet face to face with the Project Design Team (PDT) monthly. The consultant will be responsible to facilitate other meetings as necessary with City Departments and other key stakeholders, creating meeting agendas with input from the City and prepare and distribute meeting minutes.

Deliverables: Work Plan, Monthly Progress Reports, Meeting Agendas and Meeting Minutes

Task 2. Project Development

2.1 Data Collection and Site Reconnaissance

Consultant shall collect and review available existing reports, data, as-built plans, and information relevant to the project from the City, County and any other agency necessary to complete the work, including assessor's information and any utilities that exist in the area. Consultant shall conduct a field investigation to familiarize the project team with the drainage conditions, flow patterns, existing design constraints and existing/ongoing improvements in the project area.

Deliverables: Field Review Notes, Photo Logs, Copies of Existing Data

2.2 Survey and Aerial Topographic Mapping

Consultant shall research available record information pertaining to the project including: Tract Maps, Records of Survey, Parcel Maps and Right-of-Way Maps.

Consultant shall provide topographical mapping at 1-foot contour intervals and field surveying to identify existing topographical features. Tie out any and all

survey monuments that may be disturbed by the work. Establish street centerline and centerline stationing to an accuracy of one-tenth foot (0.10'). Establish temporary benchmarks required for the work and provide all elevations, dimensions and other measurements necessary to establish proper line and grade.

Deliverables: AutoCAD drawing file of the survey points

2.3 Utility Research and Base Mapping

Consultant shall act on behalf of the City of Banning and contact all utility purveyors to determine if existing facilities are present in the area. Utility data shall be base mapped and include appropriate identification by their respective owner, location and size.

2.4 Public Outreach

Due to the number of residences and existing developments located adjacent to the project site, the Consultant shall include the necessary public outreach. At a minimum, this shall be conducted in an "Open house" fashion to give the adjacent neighbors a chance to learn about the project and note any potential concerns.

Deliverables: Letters to Utility Owners, Utility As-Built Maps, Utility Base Map

Task 3. Preliminary Engineering Design

3.1 Roadway Geometric Approval Drawings (GAD's)

Consultant shall analyze and prepare a proposed alignment consistent with the existing right-of-way and in accordance with the Caltrans Highway Design Manual for geometric features. It is anticipated that right-of-way will not be required as a part of this project; however, construction easements, slope easements, etc. may still be required. The GAD shall include typical cross sections as well as the identification of existing rights-of-way and property lines to determine any need for right-of-way or easements.

Deliverables: Geometric Approval Drawings (30% Complete Plans), Preliminary Cost Estimate, Preliminary Right-of-Way Requirements Map

3.2 Preliminary Roadway Drainage Plans

Consultant shall prepare drainage design for the proposed improvements in accordance with the Riverside County Flood Control and Water Conservation District (RCFC&WCD) design standards. The consultant shall review any

available hydrology reports and prepare necessary analysis in accordance with RCFC&WCD as well as City requirements to determine the amount of drainage tributary to the project area and to review the capacity of existing drainage facilities.

Consultant shall review public agency's available hydrology/hydraulic and storm drain plan records for existing drainage facilities within and adjacent to the project site. Existing drainage patterns and runoff tributary areas to the site shall be determined. Consultant shall perform necessary analysis to determine hydraulic function and size of necessary facilities.

Deliverables: Drainage Design Report, 30% Drainage Plans

Task 4. Environmental Documentation

Consultant shall identify environmental impacts under California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) if necessary. Environmental services shall include identification and preparation of an Initial Study Assessment, technical studies and environmental document for City review and approval as necessary for CEQA clearance. The City currently anticipates an IS/MND as the appropriate CEQA document for the project.

The Consultant shall evaluate the City's recommendation and determine if the IS/MND is the appropriate document for this project. Based on this assumption, the proposal should include timing and cost breakdowns for the initial assessment, as well as costs associated with potential focused surveys. At a minimum, the consultant shall address:

4.1 Traffic Impact Analysis

Consultant shall prepare a TIA for the proposed improvements for CEQA documentation. The study will address the changes in traffic volumes and patterns in the immediate vicinity. At a minimum, the study shall look at adjacent intersections to determine if traffic controls (stop control, traffic signals, etc.) are required. The consultant shall assume that Vehicle Miles Traveled (VMT) analysis will be required in conformance with SB 743.

4.2 Air Quality and Greenhouse Gas

These studies will be used in the CEQA review. The studies should include a written report (with photos of the site) discussing air quality and greenhouse gas impacts.

4.3 Biological Study

Based on the recent Negative Declaration for the modification to the City's General Plan Circulation Element, at a minimum this shall include a burrowing owl survey and Los Angeles Pocket Mouse Survey. An MSHCP consistency analysis will need to be completed as a part of this study. The necessary habitat assessments shall include written reports (with photos of the site) indicating whether or not the site contains suitable habitat.

4.4 Cultural Study and Paleontological Resources Report

The Cultural Study and Paleontological Resources Report should include a written report following the guidelines for Archaeological Resource Management Reports prepared by the California Office of Historical Preservation, Preservation Planning Bulletin 4(a), December 1989. AB52 compliance shall also be included in the scope of services.

4.5 Noise Study

The Noise Study shall include a written report (with photos of the site) identifying short- and long-term noise impacts, and any mitigation measures required to reduce these impacts to less than significant.

Deliverables: CEQA IS/MND, Responses to Comments, Copies of Studies, Correspondence

Task 5. Final Design Reports and Studies

Consultant shall provide final Design Reports and Studies necessary to complete the project. The following recommendations may be necessary:

5.1 Utility Coordination

Review and verification of facilities that may be in conflict based on results of potholing; relocation of any existing utilities determined to be in conflict; liability for all utility conflicts; agreements as necessary; issuance of notices to relocate as necessary.

5.2 Geotechnical Design Report

Structural conditions and recommendations that may include over excavation and recompaction areas or surcharges; all necessary analysis for proper design of the project objectives, R-values of subgrade material and the structural section of the roadway using the latest traffic index.

5.3 Supplemental Design Surveys

Provide potholing map as necessary for utility surveying in the field; establish potholing location and record elevations of any utilities located.

5.4 Storm Water Pollution Prevention Plan (SWPPP)

In compliance with National Pollution Discharge Elimination system (NPDES) requirements as well as Construction General Permits; address project's risk level; provide Notice of Intent (NOI) and assist with uploading NOI & SWPPP into the "SMARTs" system.

Deliverables: Utility Correspondences (i.e. Relocation Claim Letters, Agreements, Notice to Relocate, etc.), Final Studies/Reports.

Task 6. Final Design Plans, Specifications and Estimates

Consultant shall prepare a complete set of improvement plans compatible with AutoCAD 2019. PS&E submittals will be required at the 60%, 90% and 100% design intervals. The plans shall include a cover sheet with all sheets using the City title block and prepared in accordance with the regulations and standards of the City of Banning. At a minimum, the plans shall include the following new, modification or relocation of existing improvements:

- Street Improvements
- Grading
- Easement Documents
- Sidewalk, Curb & Gutter
- Retaining Walls and/or Structures
- Storm Drain
- Landscape & Irrigation
- Signing & Striping
- Erosion Control and Storm Water Pollution Prevention Plan (if necessary)
- Construction Options, Phasing and Detour Plans
- Street Lighting, Traffic Signals and Modifications
- Utilities
- Intersecting Street Designs
- Driveway Approaches
- Record of Existing Survey Monuments
- Other Related Work

Consultant shall address all plan check comments, to the satisfaction of the City Engineer. Final Plans shall be submitted on 24" X 36" mylars.

Deliverables: 60%, 90%, 100% PS&E Submittals, Final PS&E, Electronic Versions of each Submittal.

Task 7. Permitting

Consultant shall investigate and process all required permits if necessary, including, but not limited to the following: Riverside County Flood Control & Water Conservation District, National Pollution Discharge Elimination System, U.S. Army Corps of Engineers, California Department of Fish and Wildlife, State of California Water Resources Control Board, and Regional Conservation Authority.

Deliverables: Correspondence with Various Agencies, Permit Applications and Final Permits

Task 8. Bidding/Construction Support

Consultant shall be available during the advertisement and construction of the project to answer RFI's as well as prepare necessary addenda. The consultant shall plan to attend, at a minimum, the following meetings: pre-bid meeting and pre-construction meeting. The consultant shall review shop drawings and submittals from the contractor for conformance with the contract plans and specifications, and make recommendations for acceptance, denial or re-submittal within reasonable time of receipt. Upon written authorization from the City, consultant shall provide engineering design services for revisions to construction documents resulting from changed or unforeseen conditions, or other change order work required due to actions of the City. The consultant shall assume a minimum of eight (8) site visits during construction as requested by the City. Upon completion of the project, the consultant shall use information based on redlined information provided by the Contractor and the City to prepare as-built plans. As-built plans shall be submitted to the City within one (1) month of receipt of as-built plans.

Deliverables: Meeting Attendance, Response to Bidder's/Contractor's RFIs, Design Addenda, Submittal Reviews, As-Built Plans

EXHIBIT "A-1"

ESTIMATE OF COST

Phase	TUMF	LOCAL	TOTAL
PA&ED	$500,000		$500,000
PS&E	$500,000		$500,000
RIGHT OF WAY*			
CONSTRUCTION*			
TOTAL	$1,000,000		$1,000,000

The right-of-way and construction phases are currently not included as part of this agreement.

EXHIBIT "A-2"

PROJECT SCHEDULE

TIMETABLE:

Phase	Estimated Completion Date	Estimated Cost	Comments
PA&ED	6/1/20 – 2/1/22	$500,000	
PS&E	12/1/20 – 6/10/22	$500,000	
RIGHT OF WAY*			
CONSTRUCTION*			
TOTAL	6/1/20 – 6/10/22	$1,000,000	

The right-of-way and construction phases are currently not included as part of this agreement

Fiscal Year 2024/2025 Pass Zone 5-Year Transportation Improvement Program

	Fiscal Year		FY 24-25	FY25-26	FY26-27	FY27-28	FY28-29	Current Programmed Phase Balance	Total Phase Payments/ Expenditures	Original Programmed Phase Cost	Last Invoice	Reimbursement Agreement Values	Max Share (2021)
	Forecast Revenues		$3,000,000	$ 3,090,000	$ 3,182,700	$ 3,278,181	$ 3,376,526	$ 39,450,456	$ (2,270,007)	$ 44,599,976			
	Carryover Revenues (As of 4/4/23)		$ 19,630,277	$7,279,820	$ (7,630,180)	$ (8,547,480)	$ (6,269,299)						
	Available Revenues		$22,630,277	$ 10,369,820	$ (4,447,480)	$ (5,269,299)	$ (2,892,772)						
Programmed/Expenditures		***Phase***											
Cities of Banning and Beaumont													
17-PS-BAN-1191	Highland Springs Avenue Interchange	PLN	$ 2,043,316	$ -	$ -	$ -	$ -	$ 2,043,316	$ (1,456,684)	$ 3,500,000	11/17/2023	$ 3,500,000	$17,897,000
		ENG	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -		$ -	
		ROW	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ 200,000		$ 200,000	
		CON	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ 1,800,000		$ 1,800,000	
City of Banning													
06-PS-BAN-1206	Sun Lakes Blvd Extension (Highland Home to Sunset)	PLN	$ 124,240	$ -	$ -	$ -	$ -	$ 124,240	$ (375,760)	$ 500,000	6/21/2023	$ 500,000	$14,679,000
		ENG	$ 182,900	$ -	$ -	$ -	$ -	$ 182,900	$ (317,076)	$ 499,976		$ 500,000	
		ROW	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -			
		CON	$ 1,000,000	$ 7,000,000	$ 2,000,000	$ 1,000,000	$ 1,000,000	$ 12,000,000	$ -	$12,000,000			
City of Beaumont													
19-PS-BEA-1204	Potrero Boulevard Interchange (Phase II)	PLN	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	11/26/2023	$ -	$25,123,000
		ENG	$ -	$ -	$ -	$ -	$ -	$ -	$ (120,487)	$ 250,000		$ 3,000,000	
		ROW	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -		$ -	
		CON	$ 6,500,000	$ 7,000,000	$ -	$ -	$ -	$ 13,500,000	$ -	$13,500,000		$ 3,000,000	
City of Calimesa													
19-PS-CAL-1205	County Line Road Interchange	PLN	$ 500,000	$ 1,000,000	$ -	$ -	$ -	$ 1,500,000	$ -	$ 1,500,000	N/A	N/A	$18,556,000
		ENG	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ 750,000			
		ROW	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -			
		CON	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -			
16-PS-CAL-1189	Cherry Valley Boulevard Interchange	PLN	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	N/A	N/A	$36,617,000
		ENG	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -			
		ROW	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -			
		CON	$ -	$ -	$ 2,100,000	$ -	$ -	$ 2,100,000	$ -	$ 2,100,000			
20-PS-CAL-1208	Singleton Rd/I-10 Interchange	PLN	$ 300,000	$ -	$ -	$ -	$ -	$ 300,000	$ -	$ 300,000	N/A		$ 38,423,000
		ENG	$ 600,000	$ -	$ -	$ -	$ -	$ 600,000	$ -	$ 600,000			
		ROW	$ 2,100,000	$ -	$ -	$ -	$ -	$ 2,100,000	$ -	$ 2,100,000			
		CON	$ 2,000,000	$ 3,000,000	$ -	$ -	$ -	$ 5,000,000	$ -	$ 5,000,000		$ 2,000,000	
	Total Programmed Capital Expenditures		***$ 15,350,456***	***$18,000,000***	***$ 4,100,000***	***$ 1,000,000***	***$ 1,000,000***	***$ 39,450,456***		***$ 44,599,976***			
	Total Programmed Carryover Balance*		***$7,279,820***	***$ (7,630,180)***	***$ (8,547,480)***	***$ (6,269,299)***	***$ (3,892,772)***						

Summary Table

Fiscal Year	FY 24-25	FY25-26	FY26-27	FY27-28	FY28-29	*5-Year Total Available Forecast/Cash*	*5-Year Total Programmed*	*5-Year Balance*
Available Revenues	$ 22,630,277	$ 10,369,820	$ (4,447,480)	$ (5,269,299)	$ (2,892,772)			
Funded Programmed	$ 15,350,456	$ 18,000,000	$ 4,100,000	$ 1,000,000	$ 1,000,000	$ 35,557,683.94	$ 39,450,456	$ (3,892,772)
Carryover Balance	$ 7,279,820	$ (7,630,180)	$ (8,547,480)	$ (6,269,299)	$ (3,892,772)			

NOTES:

Total Funded Carryover Balance does not reflect actual available cash.
Cherry Valley Interchange & Highland Springs Interchange funding shown above from part of Beaumont Settlement.
*** Phase: planning=PLN, engineering=ENG, right-of-way=ROW,construction=CON.*

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Douglas Schulze, City Manager**
PREPARED BY:	**Doug Schulze, City Manager**
MEETING DATE:	**November 12, 2024**
SUBJECT:	**Consideration of Resolution 2024-186, Approving a Police Chief Employment Agreement & Swearing In**

RECOMMENDATION:

Adopt Resolution 2024-186.

BACKGROUND:

Following an internal selection process, which included an external police chief panel, internal management panel, community meet and greet, and City Manager interviews, a decision was made to appoint Lt. Vincent Avila to the position of Police Chief for the City of Banning Police Department. The City Council action is to either approve the attached Employment Agreement or reject the attached Employment Agreement.

The terms of the Employment Agreement are consistent with Resolution 2019-41, approving compensation and benefits in Department Director employment contracts with a few exceptions, including:

- Vacation accrual is based on the current BPMA Memorandum of Understanding;
- Bereavement leave is based on current law;
- Retirement is based on employee's current status;
- Automobile allowance is not provided since the Police Chief is assigned a take-home vehicle;
- Uniform allowance is based on the current BPMA Memorandum of Understanding;
- Education incentives are based on the current BPMA Memorandum of Understanding.

JUSTIFICATION:

The Police Chief position is a Department Director and serves as an at-will employee. Employment Agreements are used to establish compensation and benefits for Department Directors.

FISCAL IMPACT:

The 2024/2025 budget includes funding for the Police Chief position. Fiscal year Estimated Total Compensation (including all Employer contributions for benefits and retirement) 2024/2025 $393,878.69 (annual, not prorated) 2025/2026 $404,552.64 2026/2027 $415,546.82 2027/2028 $ 426,870.82 2028/2029 $438,534.54. The fiscal impact will be minimized by an internal promotion and cost offset by a Lieutenant (which will be unfunded). The savings on an annual basis for a five year projection (by unfunded the Lieutenant, including overtime) is 2024/2025 $463,075.03 (savings of $69,196.34) 2025/2026 $470,770.68 (savings of $66,218.04) 2026/2027 $478,697.21 (savings of $63,150.39) 2027/2028 $486,861.53 (savings of $59,990.71) 2028/2029 $495,270.79 (savings of $56,736.25).

ALTERNATIVES:

Do not adopt Resolution 2024-186 and provide staff with alternate direction.

BUDGETED?:
Yes

CONTRACT/AGREEMENT:
Yes

ATTACHMENTS:
1. Resolution 2024-186, Police Chief Employment Agreement.docx
2. Exhibit A - Employment Agreement - Police Chief - Avila 2024-2029.pdf
3. Reso No. 2019-41 Executive Compensation and Benefits.pdf

RESOLUTION 2024-186

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING A POLICE CHIEF EMPLOYMENT AGREEMENT

WHEREAS, the City Manager selected Vincent Avila for the permanent position of Police Chief of the City of Banning; and

WHEREAS, at the City Council regular meeting on November 12, 2024, the Council considered a Police Chief Employment Agreement between the City of Banning and Vincent Avila; and

WHEREAS, Vincent Avila has confirmed his desire to serve as Police Chief for the City of Banning; and

WHEREAS, the parties agree that Vincent Avila has the necessary qualifications and experience to perform as the Police Chief for the City.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The City Council approves the Police Chief Employment Agreement between the City of Banning and Vincent Avila, attached hereto as Exhibit A, effective November 12, 2024, and authorizes the City Manager to make the necessary non-substantive changes to and execute the Employment Agreement.

SECTION 2. The City Council authorizes the City Manager, or designee, to make necessary budget adjustments, appropriations, and transfers related to this resolution.

SECTION 3. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 12th day of November 2024.

Alberto Sanchez, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

Serita R. Young, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2024-186, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 12th day of November 2024 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

EXHIBIT A
Police Chief Employment Agreement

CITY OF BANNING

POLICE CHIEF EMPLOYMENT AGREEMENT

This POLICE CHIEF EMPLOYMENT AGREEMENT (hereinafter referred to as the "AGREEMENT") is entered into and made effective the 13th day of November, 2024, by and between the CITY OF BANNING, a general law city and municipal corporation (hereinafter referred to as the "CITY") and **VINCENT V. AVILA**, an individual (hereinafter referred to as "EMPLOYEE"), who is qualified to serve as Police Chief in the State of California. For purposes of this AGREEMENT, CITY and EMPLOYEE may be collectively referred to as the "Parties" or individually as a "Party."

RECITALS

WHEREAS, California Government Code Section 34851 authorizes a city manager form of government, which position is prescribed by state law and the CITY's Municipal Code; and WHEREAS, California Government Code Section 34856 provides that the City Manager, in cities operating under the City Manager form of government, may appoint and dismiss the chief of police and other subordinate appointive offices and employees; and

WHEREAS, the duties of the Police Chief are set forth in Exhibit "A" to this AGREEMENT; and

WHEREAS, the CITY requires the services of a Police Chief; and

WHEREAS, based on EMPLOYEE's executive and administrative qualifications and ability, the City Manager desires to appoint EMPLOYEE to serve as the Police Chief for the CITY; and

WHEREAS, the Parties agree that EMPLOYEE has the necessary qualifications and experience to perform as the Police Chief for the CITY, including State of California Police Officer Standards and Training (POST) management certification and POST Executive certification; and

WHEREAS, EMPLOYEE has served in the roles of Lieutenant, Acting Police Chief, and Acting Captain of the CITY's Police Department since 2017 and desires to continue to perform and assume responsibility for the provision of Police Chief services to the CITY and the Banning Police Department; and

WHEREAS, the Parties wish to establish the terms and conditions of EMPLOYEE's employment through this AGREEMENT; NOW, THEREFORE, in consideration of the mutual covenants contained herein, the CITY and EMPLOYEE hereby agree as follows:

1.0 EMPLOYMENT & DUTIES

1.1 Duties. The City Manager hereby appoints EMPLOYEE as Police Chief for the CITY to perform the functions and duties of that position, as described in Exhibit "A" to this AGREEMENT, the California Government Code, and such other legally permissible and proper duties and functions as the City Manager shall, from time to time, direct or assign to EMPLOYEE. The CITY reserves the right to amend the Banning Municipal Code, as it deems necessary and appropriate, without requiring EMPLOYEE's acquiescence or an amendment of this AGREEMENT. EMPLOYEE agrees to perform all such functions and duties to the best of his ability and in an efficient, competent, and ethical manner.

1.2 Work Schedule. It is recognized that the Police Chief is expected to engage in the hours of work that are necessary to fulfill the obligations of the position, must be available at all times, and must devote a great deal of time outside the normal office hours to the business of the CITY. EMPLOYEE acknowledges that proper performance of the duties of Police Chief will require EMPLOYEE to generally observe normal business hours, Monday through Friday, as set by the CITY and as may be duly revised from time to time by the CITY, and will also often require the performance of necessary services outside of normal business hours. EMPLOYEE's compensation is not based on hours worked. Furthermore, the Police Chief position remains an "exempt" classification under the overtime provisions of the federal Fair Labor Standards Act ("FLSA") and EMPLOYEE shall not be entitled to any compensation for overtime nor subject to such overtime provisions of the FLSA.

1.3 FLSA Exempt Status. EMPLOYEE acknowledges and agrees that the Police Chief position is that of an exempt employee of the CITY for the purposes of the FLSA.

1.4 Other Activities. EMPLOYEE shall focus his professional time, ability, and attention to the CITY's business during the term of this AGREEMENT. EMPLOYEE shall not engage, without the express prior written consent of the City Manager, in any other business duties or pursuits whatsoever, or directly or indirectly render any services of a business, commercial, or professional nature to any other person or organization, whether for compensation or otherwise, that is or may be competitive with the CITY, that might cause a conflict of interest with the CITY, or that otherwise might interfere with the business or operation of the CITY or the satisfactory performance of the functions and duties of the Police Chief.

1.5 Employment Status. Upon appointment to the Police Chief position, EMPLOYEE shall serve at the will and pleasure of the City Manager and understands that by accepting the Police Chief appointment, he shall be an "at-will" employee and shall be subject to summary dismissal without any right of notice or pre-disciplinary hearing. The CITY may terminate EMPLOYEE at any time in accordance with Section 3.4 below, and as permitted by all applicable laws, including, but not limited to, the Public Safety Officers Procedural Bill of Rights Act (Government Code sections 3300-3313).

1.6 Exemption from Personnel System. BMC §2.68.020(E) expressly exempts the Police Chief position from the CITY's Personnel System established in BMC Chapter 2.68. EMPLOYEE understands, acknowledges and agrees that EMPLOYEE is exempt from the CITY's Personnel System.

CITY Documents. All data, studies, reports and other documents prepared by EMPLOYEE while performing his duties during the term of this AGREEMENT shall be furnished to and become the property of the CITY, without restriction or limitation on their use. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other materials either created by or provided to EMPLOYEE in connection with the performance of this AGREEMENT shall be held confidential by EMPLOYEE to the extent permitted by applicable law, except as may be required by any governmental agency or court of competent jurisdiction. Such materials shall not be used by EMPLOYEE, without the prior written consent of the City Manager, for any purposes other than the performance of EMPLOYEE's duties. Additionally, no such materials may be disclosed to any person or entity not

connected with the performance of services under this AGREEMENT, except as required by (a) law, (b) any governmental agency, (c) subpoena, or (d) an order issued by a court of competent jurisdiction.

2.0 COMPENSATION AND REIMBURSEMENT

2.1 Salary. For the services rendered pursuant to this AGREEMENT, EMPLOYEE shall be placed at **Range D103, Step 11 which at the time of executing this agreement is annually Two Hundred Thirty Thousand Five Hundred-fifty-four Dollars and Thirty-one Cents ($230,534.31) per year** ("Salary"), which shall be paid on a pro-rated basis bi-weekly at the same time as other employees of the CITY are paid, effective on the day EMPLOYEE commences work for the CITY. Such Salary shall be subject to all permissible and required withholdings as determined by state and federal law and as determined appropriate by the City Council.

2.2 Salary Review. EMPLOYEE salary will be reviewed upon completion of a six-month probation period and on the annual anniversary date of appointment to position of Police Chief. It is understood that the cost-of-living salary adjustments will be those based upon the Consumer Price Index (CPI), unless a future Compensation Study is approved by the City Council.

2.3 Salary Adjustment. EMPLOYEE's base salary and benefits package have been established by the AGREEMENT. Annual adjustments in the base salary will be consistent with those provided to all Department Directors.

2.4 Business Expense Reimbursements. The CITY shall reimburse EMPLOYEE for reasonable and necessary travel, and other CITY-related business expenses incurred by EMPLOYEE in the performance of his duties. All reimbursements shall be subject to and in accordance with California law, the CITY's adopted policies, and IRS rules for reporting compensation through payroll or reimbursement through accounts payable.

3.0 TERM

3.1 Commencement & Effective Date. EMPLOYEE shall commence service hereunder at 8:00 a.m. Pacific Daylight Time on **Wednesday, November 13, 2024**.

3.2 Term. The CITY hereby employs EMPLOYEE for an initial term of five (5) calendar years commencing on the AGREEMENT's Effective Date and continuing to and including **November 12, 2029**, subject to termination by the City Manager or by EMPLOYEE, with or without cause, as hereinafter provided in Sections 3.3 and 3.4, at the conclusion of which this AGREEMENT shall automatically terminate. Prior to such automatic termination, the CITY shall have the option to extend the Term of this AGREEMENT for an additional three (3) years, subject to termination by the City Manager or by EMPLOYEE, with or without cause, as hereinafter provided in Sections 3.3 and 3.4. Additionally, the Term of this AGREEMENT may be extended upon mutual concurrence from the City Manager and EMPLOYEE, as evidenced by a writing signed by both parties. The CITY agrees that in the last year of the initial five-year Term of the AGREEMENT, and in the last year of the Term of the AGREEMENT should the Term of the AGREEMENT be extended beyond its initial five years, the annual evaluation will be performed at least six

(6) months prior to the expiration of the term.

3.3 Termination by EMPLOYEE. EMPLOYEE may terminate this AGREEMENT at any time, provided EMPLOYEE provides the City Manager with at least sixty (60) days' advance written notice. In the event EMPLOYEE terminates this AGREEMENT, EMPLOYEE expressly agrees that EMPLOYEE shall not be entitled to any severance pay.

3.4 Termination by CITY. The City Manager may terminate this AGREEMENT at any time with or without cause, by providing written notice of the reason(s). The City Manager's right to terminate EMPLOYEE pursuant to this Section 3.4 shall not be subject to or in any way limited by the CITY's Rules and Regulations of the Personnel System (Resolution No. 1974-22), or any subsequent related resolutions, or past CITY practices related to the employment, discipline or termination of the CITY's employees. EMPLOYEE expressly waives any rights provided for the Police Chief under the CITY's Rules and Regulations of the Personnel System (Resolution No. 1974-22), Municipal Code, or under other local, state or federal law to any other form of pre- or post-termination hearing, appeal, or other administrative process pertaining to termination, except as to rights that by law cannot be waived, including, but not limited to, EMPLOYEE's rights under the Public Safety Officers Procedural Bill of Rights Act (Government Code sections 3300-3313). Nothing herein shall be construed to create a property interest, where one does not exist by rule of law in the position of Police Chief. Notwithstanding this Section 3.4, upon appointment to the Police Chief position, EMPLOYEE remains an at-will employee serving at the pleasure of the City Manager.

(a) Termination by the CITY for Cause. The City Manager may terminate this AGREEMENT at any time by providing EMPLOYEE with five (5) business days' written notice of the termination for cause and the facts and grounds constituting such cause. The term "cause" shall be defined to include any misconduct materially related to performance of official duties, including but not limited to any of the following: 1) breach of this AGREEMENT, 2) willful or persistent material breach of duties, 3) resume fraud or other acts of material dishonesty, 4) unauthorized absence or leave, 5) conviction of a misdemeanor involving moral turpitude (i.e., offenses contrary to justice, honesty, or morality), conviction of a misdemeanor DUI, or conviction of a felony (the CITY may, in its discretion, place EMPLOYEE on paid or unpaid administrative leave until resolution of charges brought against EMPLOYEE), 6) violation of the CITY's anti-harassment policies and/or a finding that legally prohibited personal acts of harassment against a CITY official or employee or legally prohibited personal acts of discrimination or retaliation against a CITY official or employee has occurred, 7) violation of the CITY's Municipal Code, ordinances, rules, and regulations, including but not limited to the CITY's Rules and Regulations of the Personnel System (Resolution No. 1974-22) and Administrative Policies, 8) use or possession of illegal drugs, 9) engaging in conduct tending to bring embarrassment or disrepute to the CITY, 10) any illegal or unethical act involving personal gain, 11) pattern of repeated, willful and intentional failure to carry out materially significant and legally constituted directions or policy decisions of the City Manager, and 12) gross misfeasance or gross malfeasance. If the City Manager terminates for cause this AGREEMENT and the services of EMPLOYEE hereunder, EMPLOYEE shall not be entitled to any severance.

(b) Termination by City Manager Without Cause. By providing EMPLOYEE at least thirty (30) days' prior written notice thereof, the City Manager may terminate EMPLOYEE without cause but rather based upon management reasons such as implementing the CITY's goals or policies, including but not limited to: i) change of administration, or ii) incompatibility of management styles. In the event EMPLOYEE is terminated without cause, EMPLOYEE expressly agrees that EMPLOYEE shall not be entitled to any severance pay as the result of the termination of this AGREEMENT except as provided in Section 4.1 below. In the event employee is terminated without cause, Employee will be placed in the position of Captain, and Employee's terms of employment shall be governed by the applicable Memorandum of Understanding, Personnel Rules, and any other document in effect at the time governing the terms of employment for Police Captains.

4.0 PERFORMANCE EVALUATIONS

4.1 Purpose. The performance review and evaluation process set forth herein is intended to provide review and feedback to EMPLOYEE so as to facilitate a more effective management of the CITY. Nothing herein shall be deemed to alter or change the at-will employment status of EMPLOYEE as Police Chief (as set forth in Section 1.5 above), nor shall this Section 5.0 be construed as requiring "cause" to terminate this AGREEMENT, or the services of EMPLOYEE hereunder.

4.2 Annual Evaluation. The City Manager shall conduct a formal or informal review and evaluate the performance of EMPLOYEE on an annual basis. Such review shall be conducted on or within four (4) weeks of the anniversary date of EMPLOYEE's appointment to the position of Police Chief, using an evaluation form to be approved by City Manager.

5.0 BENEFITS AND OTHER COMPENSATION

5.1 Professional Development.

(a) The CITY recognizes its obligation to the professional development of its Police Chief, and agrees that EMPLOYEE shall be given adequate opportunities to develop and maintain skills and abilities as a public administrator. EMPLOYEE is expected and encouraged to and does agree to participate in professional organizations and to attend area and regional meetings and conferences related to matters of interest to the CITY consistent with the time required for such attendance in relationship to EMPLOYEE's other responsibilities as determined by the City Manager. As budget permits, the CITY hereby agrees to budget an amount to be determined in the exercise of its sole discretion to pay the cost, travel and subsistence expense of EMPLOYEE for professional and/or official travel, meetings, and occasions adequate to continue professional development of EMPLOYEE and to adequately pursue necessary official functions for the CITY. These activities shall include membership in at least two professional associations (i.e., the International Association of Chiefs of Police, the California Police Chiefs Association), and attendance of at least two annual professional development conferences. EMPLOYEE shall be responsible for maintaining any professional certifications recognized as necessary or desirable in the performance of the duties hereunder. Tuition will be reimbursed to EMPLOYEE for professional and technical courses approved by the City Manager and taken in an accredited educational institution provided that: i) the subject matter of the course relates directly to and contributes toward the Police Chief position with the CITY; ii) EMPLOYEE has received at least a competent proficiency rating on the last performance evaluation report;

and iii) EMPLOYEE has furnished evidence that the course has been completed with at least a "C" or "pass" grade.

(b) As permitted by the budget, and in an amount to be determined at the sole discretion of the CITY, the CITY agrees to budget and pay for travel and subsistence expenses of EMPLOYEE for short courses, institutes, and seminars that are necessary for EMPLOYEE's professional development and for the good of the CITY. As provided for in the budget, the CITY agrees to pay for professional dues and subscriptions of EMPLOYEE reasonably related to the professional growth, development, education and training of EMPLOYEE.

(c) All reimbursable expenses under this Section must be approved in advance by the City Manager.

5.2 Paid Leave.

(d) Sick Leave. EMPLOYEE shall be entitled to ninety-six (96) hours of sick leave annually, with the right to cash in a maximum of ninety-six (96) hours annually. A minimum of forty (40) sick leave hours must be left in the bank at time of cash out. Sick leave shall accrue at the rate of 3.69 hours per pay period. Any sick leave cash out request must be made no later than November 1st of each year, and payment of the cash out shall be made in the last check issued in November. Sick leave may only be accrued to a maximum of four hundred eighty (480) hours at which point sick leave accrual will cease until the accrued hours fall below the maximum of four hundred eighty (480) hours. Sick leave must be used and deducted from accruals on an hourly basis for time missed from normal work hours which for purposes of this section are deemed to be normal CITY operating hours. Upon termination for any reason, EMPLOYEE shall be entitled to one hundred percent (100%) of the unused sick leave on the books then existing.

(e) Vacation Leave. EMPLOYEE shall be entitled to two hundred (200) hours of vacation leave annually, with the right to cash in a combined maximum of eighty (80) vacation leave hours annually from any vacation leave bank. A minimum of eighty (80) vacation leave hours must be left in the regular vacation bank at time of cash out. If EMPLOYEE accrues greater than three hundred (300) hours of vacation time, then he may request an annual cash out of fifty percent (50%) of the total available vacation hours to be paid at his current pay rate. Vacation leave shall accrue at the rate of 7.69 hours per pay period. Vacation leave may only be accrued to a maximum of four hundred eighty (480) hours at which point vacation leave accrual will cease until the accrued hours fall below the maximum of four hundred eighty (480) hours. Vacation leave must be used and deducted from accruals on a hourly basis for time missed from normal work hours which for purposes of this section are deemed to be normal CITY operating hours. Upon termination, for any reason, EMPLOYEE shall be entitled to one hundred percent (100%) of the unused vacation leave on the books then existing.

(f) Executive Leave. EMPLOYEE shall be entitled to ninety-eight (98) hours annual accrual with a maximum accrual cap of two-hundred (200) hours. Leave will be earned at a rate of 3.77 hours per pay period. A maximum of ninety-eight (98) hours of Executive Leave may be cashed out annually.

(g) Holiday Leave. EMPLOYEE shall be granted the following holidays: New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Juneteenth, Fourth of July,

Labor Day, Veteran's Day, Thanksgiving, Day after Thanksgiving, Christmas Eve, Christmas and New Year's Eve. In addition, one (1) floating holiday will be credited to EMPLOYEE's Holiday Leave bank July 1st each year. Leave balances must be used during the fiscal year or they may be cashed out with City Manager approval. If the City Council recognizes an additional holiday for CITY employees, said holiday shall be extended to EMPLOYEE. Holiday leave must be used and deducted from accruals in increments of no less than one hour for time missed from normal work hours which for purposes of this section are deemed to be normal CITY operating hours.

(h) Bereavement Leave. In the event of the death of a member of EMPLOYEE's family, including EMPLOYEE's spouse, domestic partner, parent, sibling, child, grandchild, or grandparent or any one of the same relatives of EMPLOYEE's spouse or domestic partner, EMPLOYEE shall be allowed with pay forty (40) hours of bereavement leave for each death of a family member. Bereavement leave must be used and deducted from the total allowed hours in increments of no less than five hours for time missed from normal work hours which for purposes of this section are deemed to be normal CITY operating hours.

5.3 Cafeteria/Health & Welfare Benefits. EMPLOYEE shall be entitled to receive from the CITY an annual cafeteria benefit in an annual amount capped at Twenty Thousand Dollars ($20,000.00), for the purchase of health and welfare benefits under any approved plan provided by the CITY. Said contribution shall first be used to provide for health insurance for EMPLOYEE. EMPLOYEE may use funds for any of the CITY's medical plans or, upon proof of coverage under another acceptable health plan as determined by the CITY's Human Resource Department, this amount may be taken as taxable income or converted to a 457 Plan or CITY-sponsored Medical Savings Account. EMPLOYEE may increase the benefit annually using CPI or the average of all CITY health insurance premium increases as long as it stays within the maximum parameters established by City Council for department heads. EMPLOYEE may elect to receive ninety-two and five-tenths percent (92.5%) of the balance in cash as CalPERS non- includable taxable income or converted to a 457 plan or CITY-sponsored Medical Savings Account.

5.4 Retirement.

(a) Retirement Plan. EMPLOYEE will be enrolled in the CITY's retirement plan with the California Public Employees' Retirement System (CalPERS), subject to the applicable benefit formula, terms and conditions provided in the contract between the CITY and CalPERS and also subject to applicable state law and regulations. It is the understanding of the Parties that Employee is an "Existing Classic Employee" under the Public Employees' Pension Reform Act of 2013 and will be covered by the 3% at 50. In the event of any conflict between this Agreement and the CITY's CalPERS contract or the applicable laws and regulations, the latter shall prevail.

(b) Employee Contribution. The CITY will continue to contribute 4% to the CalPERS employer paid member contributions for the retirement plan.

5.5 Automobile. EMPLOYEE's duties require that the Chief of Police shall have the exclusive and unrestricted use at all times during employment of a CITY vehicle for municipal purposes. The CITY shall provide all attendant operating and maintenance

expenses and insurance. EMPLOYEE shall be governed by any and all CITY policies regarding the use of CITY vehicles. In the event the CITY vehicle provided to EMPLOYEE is unavailable or its use restricted from take-home use, EMPLOYEE shall receive a Two Hundred Fifty Dollar ($250.000) per month car allowance for use of a personal vehicle in pursuit of recognized official duties.

5.6 CITY Flexible Spending Plan. EMPLOYEE is entitled to participate in the CITY's Flexible Spending Plan to the same extent as enjoyed by any other employee.

5.7 Life Insurance. In addition to the annual cafeteria benefit, the CITY will pay annual premiums for life insurance for EMPLOYEE with a benefit/coverage amount of One Hundred Fifty Thousand Dollars ($150,000.00) during EMPLOYEE's employment.

5.8 Business Equipment. The CITY will finance at no interest to EMPLOYEE the purchase of any job-related personal tools or equipment, such as a computer, cell phone, etc., that serve the professional development of EMPLOYEE. Such tools or equipment shall be approved in advance by the City Council at its sole discretion and the amount financed shall not exceed the value of one month's base salary of EMPLOYEE. Repayment to the CITY shall be made by payroll deductions until the amount loaned is completely repaid. The maximum period for repayment shall be two (2) years. Should EMPLOYEE terminate employment, then the remaining loan amount repayment shall be accelerated and become fully due and owing as of the termination date.

5.9 Bonding. The CITY shall bear the full cost of any fidelity or other bonds required for EMPLOYEE under any law or CITY ordinance.

5.10 Education Pay. The CITY agrees to pay to EMPLOYEE the sum of Two Hundred and Seventy-Five Dollars ($275.00) per month as supplemental pay for having a Master's Degree. Education pay will increase to a sum of Five Hundred and Twenty-five Dollars ($525.00) per month as and for an education incentive for possessing a P.O.S.T. Management Certification. Upon obtaining P.O.S.T. Executive Certification, education pay will increase to Six Hundred Dollars ($600.00) per month as and for an education incentive

5.11 Uniform Allowance. EMPLOYEE shall receive a Two Hundred Dollars ($200.00) per month uniform allowance for purchase of uniforms. The CITY shall provide EMPLOYEE with standard uniform items (5 shirts, 3 pants, tie, belt, jacket, shoes, duty belt & accessories) and an initial dress uniform, including pants, shirt, jacket, tie, hat, etc.

5.12 Utility Allowance. Should EMPLOYEE reside within the CITY limits, then EMPLOYEE shall be entitled to receive a utility credit in the amount of One Hundred Fifty Dollars ($150.00) per month against the cost of electric and water service during the period of such residency. In the event EMPLOYEE's spouse or a member of EMPLOYEE's household also is employed by the CITY and is eligible for this utility allowance, only one of either EMPLOYEE or EMPLOYEE's spouse or member of EMPLOYEE's household shall be eligible for such utility allowance.

5.13 Disability Program. EMPLOYEE agrees to pay the cost of membership in the CITY-approved short-term/ long-term disability insurance program. EMPLOYEE agrees that such premiums will be paid with after-tax dollars in order to maintain the tax-free benefit status to both the CITY and EMPLOYEE in the event benefits are paid.

6.0 INDEMNIFICATION

To the extent mandated by the California Government Code, the CITY shall defend, hold harmless, and indemnify EMPLOYEE against any tort, professional liability, claim or demand, or other legal action arising out of an alleged act or omission occurring in the performance of EMPLOYEE's services under this AGREEMENT. This section shall not apply to any intentional tort or crime committed by EMPLOYEE, to any action outside the course and scope of EMPLOYEE's employment, or any other intentional or malicious conduct or gross negligence of EMPLOYEE.

7.0 OTHER TERMS - CONDITIONS OF EMPLOYMENT

7.1 The City Manager, in consultation with EMPLOYEE, shall establish any such other terms and conditions of employment as it may determine from time to time, provided such terms do not exceed the maximum salary and benefits approved by the City Council and are reduced to writing and signed by EMPLOYEE and the City Manager.

7.2 EMPLOYEE shall complete the California Police Officer Standards and Training (POST) management certification within eighteen (18) months after the first date of employment.

7.3 [RESERVED]

8.0 GENERAL PROVISIONS

8.1 Entire AGREEMENT. This AGREEMENT represents the entire AGREEMENT and understanding between the Parties and supersedes any and all other agreements and understandings, either oral or in writing, between the Parties with respect to EMPLOYEE's employment by the CITY and contains all of the covenants and agreements between the Parties with respect to such employment. No ordinances or resolutions of the CITY governing employment, including the Personnel System, shall apply unless specified herein. Each Party to this AGREEMENT acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by either Party, or anyone acting on behalf of either Party, which are not embodied herein, and that no other agreement, statement or promises not contained in this AGREEMENT shall be valid or binding upon either Party.

8.2 Amendment. This AGREEMENT may be amended at any time by the mutual consent of the Parties by an instrument in writing, which amendment shall require City Council approval.

8.3 Notices. Any notice required or permitted by this AGREEMENT shall be in writing and shall be personally served or shall be sufficiently given when served upon the other Party as sent by United States Postal Service, postage prepaid and addressed as follows:

To CITY:

City Manager City of Banning
P.O. Box 998
Banning, California 92220

To EMPLOYEE:

Vincent V. Avila
[On file with Human Resources Dept.]

Notices shall be deemed given as of the date of personal service or upon the date of deposit in the course of transmission with the United States Postal Service.

8.4 Conflicts Prohibited. During the term of this AGREEMENT, EMPLOYEE shall not engage in any business or transaction or maintain a financial interest which conflicts, or reasonably might be expected to conflict, with the proper discharge of EMPLOYEE's duties under this AGREEMENT. EMPLOYEE shall comply with all requirements of law, including but not limited to, Sections 87100 et seq., Section 1090 and Section 1126 of the Government Code, and all other similar statutory and administrative rules.

8.5 Effect of Waiver. The failure of either Party to insist on strict compliance with any of the terms, covenants, or conditions of this AGREEMENT by the other Party shall not be deemed a waiver of that term, covenant, or condition, nor shall any waiver or relinquishment of any right or power at any one time or times be deemed a waiver or relinquishment of that right or power for all or any other times.

8.6 Partial Invalidity. If any provision in this AGREEMENT is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

8.7 Governing Law. This AGREEMENT shall be governed by and construed in accordance with the laws of the State of California, which are in full force and effect as of the date of execution and delivery by each Party hereto.

8.8 Government Code §§ 53243 - 53243.4. Assembly Bill 1344, which was subsequently enacted as Government Code §§ 53243 - 53243.4, sought to provide greater transparency in local government and institute certain limitations on compensation paid to local government executives. These statutes also require that contracts between local agencies and its employees include provisions requiring an employee who is convicted of a crime involving an abuse of his office or position to provide reimbursement to the local agency. These statutes are incorporated herein by reference. Accordingly, the Parties agree that it is their mutual intent to fully comply with these Government Code sections and all other applicable law as it exists as of the date of execution of this AGREEMENT and as such laws may be amended from time to time thereafter. Specifically, the following Government Code sections are called out and hereby incorporated by this AGREEMENT:

§53243. Reimbursement of paid leave salary required upon conviction of crime involving office or position.

§53243.1. Reimbursement of legal criminal defense upon conviction of crime involving office or position.

§53243.2. Reimbursement of cash settlement upon conviction of crime involving office or position.

§53243.3. Reimbursement of non-contractual payments upon conviction or crime involving office or position.

§53243.4. "Abuse of office or position" defined.

EMPLOYEE represents that EMPLOYEE has reviewed, is familiar with, and agrees to comply fully with each of these provisions if any of these provisions are applicable to EMPLOYEE, including that EMPLOYEE agrees that any cash settlement or severance related to a termination that EMPLOYEE may receive from the CITY shall be fully reimbursed to the local agency if EMPLOYEE is convicted of a crime involving an abuse of EMPLOYEE's office or position.

8.9 Independent Legal Advice. The CITY and EMPLOYEE represent and warrant to each other that each has received legal advice from independent and separate legal counsel with respect to the legal effect of this AGREEMENT, or had the opportunity to do so, and the CITY and EMPLOYEE further represent and warrant that each has carefully reviewed this entire AGREEMENT and that each and every term thereof is understood and that the terms of this AGREEMENT are contractual and not a mere recital. This AGREEMENT shall not be construed against the Party or its representatives who drafted it or who drafted any portion thereof.

IN WITNESS WHEREOF, the CITY has caused this AGREEMENT to be signed and executed on its behalf by its Mayor, and duly attested by its officers thereunto duly authorized, and EMPLOYEE has signed and executed this AGREEMENT, all in triplicate.

[*SIGNATURE PAGE FOLLOWS*]

CITY OF BANNING

Douglas Schulze, City Manager

APPROVED AS TO FORM:

Serita Young, City Attorney

POLICE CHIEF

Vincent V. Avila

RESOLUTION 2019-41

A RESOLUTION OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE MAXIMUM COMPENSATION AND BENEFITS IN CERTAIN CITY DEPARTMENT DIRECTOR EMPLOYMENT CONTRACTS, PURSUANT TO SECTIONS 2.08.070(A) AND 2.08.090(C) OF THE BANNING MUNICIPAL CODE

WHEREAS, City of Banning Executive employees have updates to their compensation and benefits from time to time, in alignment with other City employees; including the Administrative Services Director/Deputy City Manager, Community Development Director, Community Services Director, Electric Utility Director, and Public Works Director (hereinafter collectively referred to as "Directors"); and

WHEREAS, the City Council has authority to enter into a Contract with the City Manager, pursuant to Banning Municipal Code § 2.08.070; and

WHEREAS, the City Manager has authority to enter into the Contracts with City Department Directors on behalf of the City, pursuant to Banning Municipal Code § 2.08.090; and

WHEREAS, Banning Municipal Code Sections § 2.08.070(A) and § 2.08.090(C) requires that the City Council approve, by resolution for City Manager and resolution or ordinance for directors, the maximum compensation and benefits expressly or impliedly included in the Contracts prior to their taking effect; and

WHEREAS, on or about January 9, 2018 the City Council of the City of Banning passed Resolution 2017-101, replacing Resolution 2016-112 and changing the maximum level of benefits and other compensation for Directors; and

WHEREAS, the City Council wishes to reclassify the Police Chief salary grade from grade one hundred (100) to salary grade one hundred and three (103), an annual salary increase of approximately thirteen thousand six hundred and thirty dollars ($13,630) as of the approval of the most recent Police Chief Contract effective January 9, 2019; and

WHEREAS, the City Council wishes to grant an annual cost of living adjustment (COLA) to Director salaries equivalent to the annual consumer price index for urban wage earners (CPI-W) from March to March of each year, with a minimum increase of one percent (1%) and a maximum increase of three percent (3%) each year, effective July 1st; and

WHEREAS, the City Council now desires to adopt an amended and restated resolution of salaries, compensation and benefits for Directors, which restates and replaces any and all pre-existing salary and compensation resolutions for the Directors, including, but not limited to, Council Resolution 2017-101.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The City Council hereby approves an annual COLA increase for Directors, as defined previously, in the amount equal to the March to March CPI-W with a minimum of one percent (1%) and a maximum of three percent (3%) of base salary, effective annually on July 1st with adoption of this resolution.

SECTION 2. The City Council hereby approves the Executive Department Director Compensation Table attached as Exhibit "A".

SECTION 3. The City Council hereby approves the maximum level of benefits and other compensation, not including salary, expressly or implied set forth in the Contracts, provided that such level of benefits and other compensation for each Executive Department Director shall not exceed the following levels:

A. Professional Development. Training as determined appropriate by the City Manager.

B. Paid Leave. Implementation of accrual caps will not result in loss of existing or vested leave balances as of the date of adoption of this resolution.

i. Sick Leave. 96 hours accrued annually with maximum accrual cap of 480 hours.

ii. Sick Leave Cash Out. 96 hours may be cashed out annually, provided a minimum balance of 40 hours remains in the sick leave bank at time of cash out. Any sick leave cash out request must be made no later than November 1st of each year, and payment of the cash out shall be made in the last check issued in November. Upon termination for any reason, employee shall be entitled to one hundred percent (100%) of the unused sick leave in the leave bank.

iii. Vacation Leave. 160 hours accrued annually with maximum accrual cap of 480 hours.

iv. Vacation Leave Cash Out. 80 hours may be cashed out annually provided a minimum balance of 80 hours remains in the vacation leave bank at time of cash out. Upon termination for any reason, employee shall be entitled to one hundred percent (100%) of the unused vacation leave in the leave bank.

v. Holiday Leave. Effective July 1st, 2017, Directors shall be entitled to the following holidays and paid 10 hours for each holiday :

New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Fourth of July, Labor Day, Veteran's Day,

Thanksgiving, Day after Thanksgiving, Christmas Eve, Christmas, New Year's Eve, and One (1) floating holiday

vi. Holiday Leave Cash Out. Leave balances must be used during the fiscal year or they will be cashed out at the end of the fiscal year in June, or at termination for any reason.

vii. Executive Leave. 98 hours annual accrual with maximum accrual cap of 200 hours.

viii. Executive Leave Cash Out. 98 hours may be cashed out annually. Upon termination for any reason, employee shall be entitled to one hundred percent (100%) of the unused executive leave in the leave bank.

ix. Bereavement Leave. 30 hours annually with no accrual or carryover.

x. Promotional Payouts of Leave. Prior to implementation of a promotion to a higher ranking position, the City shall be entitled to cash out, at the Director's current pay rate at the time of said promotion, all vacation, holiday, comp time and executive leave in excess of 100 hours respectively .

C. Cafeteria/Health & Welfare Benefits. Effective the first pay period after July 1, 2018, this benefit for Director's shall be capped at $20,000 annually. However, the City Manager may increase the benefit annually using CPI or the average of all City health insurance premium increases. Directors may use funds for any of the City's medical plans or, upon proof of coverage under spouse's plan, this amount may be taken as taxable income or converted to a 457 Plan or City sponsored Medical Savings Account.

D. Retirement.

i. Miscellaneous and safety employees hired prior to January 1, 2013, remain at 2.5% @55 and 3% @ 50 CalPERS formulas respectively, with single highest year benefit.

ii. Beginning December 2012, the City implemented the 2% @ 60 formula for miscellaneous new hires and 2% @ 50 formula for safety new hires with average three years for calculation of final retirement benefit, which after January 1, 2013 shall only apply to new hires defined and determined by CalPERS to be "classic members."

iii. Beginning January 1, 2013, new hires defined by CalPERS as "new members" shall receive the newly created 2% @ 62 formula for miscellaneous employees and 2.7% @ 57 for safety employees,

with average of three years for calculation of final retirement benefit. (Mandated by the Public Employees' Pension Reform Act of 2013.)

iv. The Directors shall pay their full member contribution for their CalPERS retirement plan, from employee's pre-tax compensation.

E. Management Incentive. There shall be no salary management incentive.

F. Automobile Allowance. Directors shall receive $250.00 per month or the use of a take home City Vehicle as determined by the City Manager.

G. City Flexible Spending Plan. Directors may participate in same program made available to other employees.

H. Life Insurance. Directors shall be entitled to a $150,000.00 life insurance policy.

I. Uniforms. $0. The Police Chief shall receive $110 per month uniform allowance.

J. Business Equipment. The City hereby agrees to finance at no interest the purchase of any job-related tools or equipment that serve the professional development of the Director. Such tools and equipment shall be approved in advance by the City Manager. Repayment to the City by the Director shall be made by payroll deductions until the amount loaned is completely repaid. The maximum period for repayment shall be two (2 years). The amount shall be capped at the value of one month's salary. Should the Director terminate employment, then the remaining loan amount repayment shall be accelerated and become fully due and owing as of the termination date.

K. Bonding. The City shall bear the full cost of any fidelity or other bonds required for an employee under any law or ordinance.

L. Education Incentives. Directors may receive $275.00 maximum per month. The Police Chief may receive $450.00 per month.

M. Eyewear/Eye Care Reimbursement. Directors may receive $300.00 maximum every two fiscal years.

N. Disability Insurance. Directors shall pay the cost of membership in the short term and long term disability insurance programs selected by the City and Insurance/Benefits Advisory Committee.

O. FICA. Directors shall pay the employee's portion of the Federal Insurance Contributions Act tax and the City shall be responsible for payment of the employer's portion.

P. Other benefits. Directors shall be eligible to participate in employee paid benefit programs that may be offered from time to time.

Q. Performance Evaluations. Upon an annual satisfactory performance evaluation, Directors shall be granted an increase of a minimum of two steps or approximately five percent (5%), or such increase will be automatically implemented retroactive to the due date if employee's supervisor is thirty (30) days late on giving the evaluation to employee.

SECTION 4. Directors are entitled only to the level of salary and benefits contained in their respective Contract or this resolution if no contract exists.

SECTION 5. The position of Police Chief remains entitled to all protections and rights afforded under California law, including but not limited to those set forth in the Public Safety Officers Procedural Bill of Rights Act (Gov't Code 3300-3313).

SECTION 6. The Administrative Services Director is authorized to make the necessary budget adjustments as applicable.

SECTION 7. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 9th day of April 2019.

Arthur L. Welch, Mayor

ATTEST:

Daryl Betancur, Deputy City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

Kevin G. Ennis, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Daryl Betancur, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2019-41, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 9th day of April, 2019, by the following vote, to wit:

AYES: Happe, Peterson, Wallace, Andrade & Welch

NOES: None

ABSTAIN: None

ABSENT: None

Daryl Betancur, Deputy City Clerk
City of Banning, California

Exhibit "A"

Compensation Table

POSITION	SALARY GRADE
Administrative Services Director/Deputy City Manager	101
City Manager	113
Community Development Director	92
Community Services Director	92
Electric Utility Director	100
Police Chief	103
Public Works Director	100

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Douglas Schulze, City Manager**
PREPARED BY:	**Art Vela, Public Works Director**
MEETING DATE:	**November 12, 2024**
SUBJECT:	**Consideration of Resolution 2024-07 UA, Approving a Reimbursement in the Amount of $127,613.58 to the Banning Heights Mutual Water Company for Consultant Expenses Related to the San Gorgonio Flume Project**

RECOMMENDATION:

Adopt Resolution 2024-07 UA.

BACKGROUND:

In the early 1900s, Consolidated Reservoir and Power Company, a Southern California Edison ("SCE") predecessor, initiated construction of a hydroelectric project, including water conveyance facilities, which eventually consisted of two diversion dams on the East and South forks of the Whitewater River, concrete lined canals, two steel forebay tanks, two penstocks, two powerhouses, and associated transmission lines ("San Gorgonio Hydroelectric Project No. 344 Water Conveyance Facilities" or "San Gorgonio Flume" or "Project").

Use of the Project by SCE was discontinued in 1998 after storms destroyed one of the powerhouse forebay tanks. Subsequently, SCE decided to not restore the power generation components of the project and to surrender its Federal Energy Regulatory Commission ("FERC") power license. Discussion soon followed between SCE, the City of Banning, Banning Heights Mutual Water Company ("BHMWC"), and San Gorgonio Pass Water Agency (collectively referred to as "Parties") on the transfer of ownership of the Project. In June of 2010, the Parties entered an "Agreement for Transfer of San Gorgonio Hydroelectric Project No. 344 Water Conveyance Facilities", the agreement is also known as the "Four Party Transfer Agreement", which recognizes the City, BHMWC and the San Gorgonio Pass Water Agency as the Participating Entities. As part of the Four Party Transfer Agreement, it was determined that SCE would restore and repair the facilities and transfer ownership to the City of Banning and BHMWC. Additionally, Section 4.b "Regulatory Approvals - Use Permit, Long Term Easement or Power License" obligates the Participating Entities of acquiring all necessary approvals for the continued operation of the Project.

On March 26, 2013, City Council approved Resolution 2013-07UA, approving an "Agreement for the Rehabilitation and Maintenance Allocation of Responsibilities and Rights for San Gorgonio Hydroelectric Project No. 344 Water Conveyance Facilities" ("Flume Maintenance Agreement"). The Flume Maintenance Agreement defines the terms by which the City of Banning and BHMWC will continue to operate the San Gorgonio Flume once it is transferred to the Parties.

Specifically, and pertaining to Resolution 2024-XXUA, Article 4.0 "Design, Alternative Restoration Plan and Power Generation", Section 4.1 "Design and Permitting Team" of the Flume Maintenance

Agreement obligates the City of Banning to contract, pay for, and direct the consultants, with BHMWC having unrestricted access to these consultants. Additionally, Section 4.1 recognizes Mr. Steve Stockton as member of the "Permitting Team".

Aspen Environmental Group

The San Gorgonio Flume is located in part on National Forest System lands managed by the United States Forest Service (USFS), and in part on City-owned lands. In and around 2014 the USFS took a firm position that in order for the San Gorgonio Flume to remain on National Forest System lands, the Parties would have to prepare and submit a Special Use Permit application and eventually acquire a Special Use Permit from the USFS.

Recognizing that the City would require assistance in negotiating with the USFS and eventually preparing an SUP application, City Council approved Resolution 2015-68, "Approving a Professional Services Agreement with Aspen ("Aspen") Environmental Group to Provide Environmental and Permitting Services Related to the Flume". The agreement with Aspen was amended on May 24, 2016 by City Council's approval of Resolution 2016-07UA to increase the contract amount.

On September 13, 2016 SCE received a letter from Christine A. Hill, USFS District Ranger, stating that a SUP would have to be received by January 3, 2017 or the temporary use permit would be revoked and the temporary pipeline which delivered water to the communities of the City of Banning and BHMWC would cease to operate. The responsibility of preparing the SUP application fell on the City and BHMWC as stated in the Four Party Transfer, Section 4.b, as mentioned above.

Soon after receiving the letter from Christine Hill, it was identified that the City's contract with Aspen was nearly exhausted. It was also noted that the level of effort to accomplish completing the SUP application and back up documentation would require that the work commence as soon as possible. At that time it was determined that due to scheduling constraints in getting an amendment to the Aspen contract on a City Council agenda for approval, the quickest way to begin the work would be to have BHMWC enter into a contract with Aspen to commence the work in order to the meet the January 3, 2017 deadline. BHMWC entered into a contract with Aspen with the understanding that the City would reimburse BHMWC due to the City's responsibility to pay for consulting expenses as required in Section 4.1 of the Flume Maintenance Agreement as described above. The amount spent by BHMWC for work on the SUP application amounted to $94,394.50.

Steve Stockton

Mr. Steve Stockton has been an active participant (e.g. meeting attendance, design review, etc.) in the Flume negotiations since the execution of the Flume Maintenance Agreement. BHMWC was paying for Mr. Stockton's consultant services, which should have been an expense paid for by the City per Section 4.1 of the Flume Maintenance Agreement. The expense from February, 2016 to November, 2021 amounts to $31,816.44.

JUSTIFICATION:

Per Section 4.1 of the Flume Maintenance Agreement, the City is obligated to pay for all consultant expenses related to the design review and permitting efforts. BHMWC has covered costs associated with these activities that should have been paid for by the City.

FISCAL IMPACT:

If approved, the City would reimburse BHMWC a total of $127,613.58, which will first be credited to BHMWC to cover any outstanding balances and the remainder, if any, will be paid from Account No. 660-6300-471.33-11.

ALTERNATIVES:

Do not approve Resolution 2024-07 UA and provide staff with alternative direction, if any.

BUDGETED?:

No

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. Resolution 2024-07 UA.docx
2. 2010 Transfer Agreement between SCE and PEs - 4 party .pdf
3. 2013 Agreement Banning BHMWC Rehab and Maint Responsibilities COB Signed.pdf
4. 9-13-16 C_Hill Letter.pdf
5. CC Resolution No. 2015-068 Aspen Award 7.14.15.pdf
6. Resolution No. 2016-07 UA Aspen Amendment.pdf
7. Resolution No. 2017-07 UA-Aspen Environmental.pdf
8. UA Resolution No. 2018-19.pdf
9. Banning Heights Bill Payments Aspen Enviro.pdf
10. Banning Heights Bill Payment Stephen Stockton.pdf

RESOLUTION 2024-07 UA

A RESOLUTION OF THE UTILITY AUTHORITY OF THE CITY OF BANNING, CALIFORNIA, APPROVING A REIMBURSEMENT IN THE AMOUNT OF $127,613.58 TO BANNING HEIGHTS MUTUAL WATER COMPANY FOR CONSULTANT EXPENSES RELATED TO THE SAN GORGONIO FLUME PROJECT

WHEREAS, since the early 2000's Southern California Edison ("SCE") has been in the process of surrendering its Federal Energy Regulatory Commission ("FERC") power license to operate and maintain San Gorgonio Hydroelectric Project No. 344 Water Conveyance Facilities, which said water conveyance facilities ("Project") provide the communities of the City of Banning and Banning Heights Mutual Water District ("BHMWC") with a local vital supply of water; and

WHEREAS, in June of 2010, the City of Banning, BHMWC, SCE and the San Gorgonio Pass Water Agency ("SGPWA"), entered into an "Agreement for Transfer of San Gorgonio Hydroelectric Project No. 344 Water Conveyance Facilities", the agreement is also known as the "Four Party Transfer Agreement", which recognizes the City, BHMWC and the Pass Water Agency as the "Participating Entities"; and

WHEREAS, the Four Party Transfer Agreement obligates the Participating Entities of acquiring all necessary approvals (e.g. regulatory permitting, etc.) for the continued operation of the Project; and

WHEREAS, on March 26, 2013, City Council approved Resolution 2013-07UA, approving an "Agreement for the Rehabilitation and Maintenance Allocation of Responsibilities and Rights for San Gorgonio Hydroelectric Project No. 344 Water Conveyance Facilities", ("Flume Maintenance Agreement"); and

WHEREAS, the Flume Maintenance Agreement obligates the City of Banning to contract, pay for, and direct the consultants, with BHMWC having unrestricted access to these consultants more whereas statements as needed; and

WHEREAS, BHMWC incurred consultant costs in the amount of $127,613.58 related to the planning/design oversight and regulatory permitting that should have been paid for by the City of Banning associated with Aspen Environmental Group and Steve Stockton.

NOW, THEREFORE, BE IT RESOLVED by the Banning Utility Authority of the City of Banning as follows:

SECTION 1. The Banning Utility Authority approves the reimbursement in the amount of $127,613.58 to Banning Heights Mutual Water Company for consultant expenses related to the San Gorgonio Flume Project.

SECTION 2. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 12th day of November 2024.

Alberto Sanchez, Chairperson
Banning Utility Authority

ATTEST:

Caroline Patton, Secretary
Banning Utility Authority

APPROVED AS TO FORM:

Serita R. Young, Authority Counsel
Richards, Watson & Gershon

CERTIFICATION:

I, Caroline Patton, Secretary of the Banning Utility Authority, do hereby certify that the foregoing Resolution 2024-07 UA, was duly adopted by the Utility Authority of the City of Banning, California, at a regular meeting thereof held on the 12th day of November 2024 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Secretary
Banning Utility Authority

4-3010

AGREEMENT FOR TRANSFER OF SAN GORGONIO HYDROELECTRIC PROJECT NO. 344 WATER CONVEYANCE FACILITIES

This Agreement for Transfer of San Gorgonio Hydroelectric Project No. 344 Water Conveyance Facilities ("Agreement") is effective as of February 1, 2008 by and between Southern California Edison Company, a California corporation ("SCE"), San Gorgonio Pass Water Agency, a California special district ("San Gorgonio"), Banning Heights Mutual Water Company, a California mutual benefit corporation ("Banning Heights"), and City of Banning, a California municipal corporation ("Banning"). San Gorgonio, Banning Heights and Banning shall be collectively referred to as "Participating Entities." All of the Agreement signatories may be referred to as the "Parties."

RECITALS

A. In the early 1900s, Consolidated Reservoir and Power Company ("Consolidated"), a SCE predecessor, initiated construction of a hydroelectric project, including water conveyance facilities, which eventually consisted of two diversion dams on the East and South Forks of the Whitewater River, concrete lined canals, two steel forebay tanks (one of which has been removed), two penstocks, two powerhouses, and associated transmission lines ("Project").

B. On January 13, 1913, Consolidated entered into an agreement with the Banning Water Company, a Banning predecessor, to provide Banning Water Company with water from the Project after Consolidated used the water for generating power. Banning planned to use the water for domestic and irrigation purposes (the 1913 Banning Agreement").

C. Thereafter, on December 30, 1913, Consolidated entered into a conveyance to Banning Heights granting Banning Heights certain water conveyance facilities and Consolidated's water rights, subject to use of the water by Consolidated for its Project and to the terms of the Banning Water Company contract (the "1913 Banning Heights Conveyance").

D. On July 1, 1933, San Gorgonio Electric Corporation, another SCE predecessor, entered into an agreement with Banning Heights on allocating the costs of maintaining the Project water conveyance facilities from the White Water River to the second power plant (the "1933 Maintenance Agreement"). The 1913 Banning Agreement, the 1913 Banning Heights Conveyance and the 1933 Maintenance Agreement shall be referred to collectively as the "Flume Agreements."

E. By order entered April 23, 1928, in Book 1 of Orders of Determination, Page 426 of the State of California, Department of Public Works, Division of Water Rights, Banning Heights, San Gorgonio Power Company, another SCE predecessor, and Banning Water Company are jointly entitled to divert 13.26 cubic feet per second of the natural flows of the Whitewater River into the Project water conveyance facilities subject to provisions of the Flume Agreements, among other things. This Agreement is not

intended to change that Order or otherwise alter the allocation among the Parties of the rights to the waters of the Whitewater River under the Flume Agreements.

F. SCE's predecessor obtained a license from the Federal Energy Regulatory Commission ("FERC"), which agency was at that time named the Federal Power Commission, to operate the Project in 1923. The Project is designated on the FERC license as San Gorgonio Hydroelectric Project No. 344. SCE obtained a new license from FERC in 1983, which license expired on April 26, 2003. FERC has issued annual licenses to SCE for the Project until the ultimate disposition of the Project is determined.

G. SCE has not operated the Project to generate electricity since 1998 due to failure of the 900,000 gallon steel forebay tank (Tank No. 1) located above Powerhouse No. 1 and due to failure of the Project canal below Raywood Flat. SCE does not plan to restore Project power generation and no longer considers the Project to be a power generating facility.

H. With assistance from San Gorgonio as lead representative, Banning Heights and SCE entered into an "Agreement for the Construction and Operation of an Emergency Water Diversion and Pipeline" effective June 20, 2002 pursuant to which SCE agreed to construct, operate and maintain temporary facilities, including a diversion structure and a pipeline from Burnt Canyon to the Powerhouse No. 1 tailrace, and to operate the Project water conveyance facilities at SCE's cost pursuant to SCE's prior contractual obligations.

I. On October 8, 2003, FERC issued an order affirming the validity of an annual license for the Project and requiring the filing of a surrender application.

J. The Project's current water conveyance facilities include the water diversion structures on the East and South Forks of the Whitewater River and Black Wheel Creek in the San Bernardino National Forest in San Bernardino County, which are connected to a concrete flume and pipe system that proceeds in a southerly direction through the San Bernardino National Forest to an area called Raywood Flat. The conveyance system ends shortly after Raywood Flat and the water is released in a westerly direction down the Burnt Canyon natural channel. Near the confluence of Burnt Canyon and Sawmill Creek, the water is diverted through a diversion structure and temporary pipeline that crosses Banning Canyon and eventually back into the Project concrete flume at the tail race of Powerhouse No. 1. The water proceeds through the flowline, the penstocks for Powerhouse No. 2, the Powerhouse No. 2 structure, and from there to the terminus at the Banning Heights storage tank. The pipeline from Powerhouse No. 2 to the Banning Heights storage tank is owned and operated by Banning Heights. The Project facilities to be transferred from SCE to the Participating Entities include the water conveyance system described above and Powerhouse No. 2, which are together referred to as the "Facilities", and are more particularly described in Exhibit "A" and shown on Attachment "1" to Exhibit "A." SCE will also transfer to the Participating Entities any easements for the Facilities to the extent that SCE owns the property or holds an existing easement that may be transferred to the Participating Entities, as set forth in

Exhibit "B." SCE will also transfer a one-acre parcel of land in the Raywood Flat area that is not part of the Project and which land is more particularly described in Exhibit "C."

K. Portions of the water conveyance system that traverse an unstable area on the mountainside above the southerly side of Burnt Canyon south of Raywood Flat, which portions will not constitute part of the Facilities, had been out of service due to frequent landslides and slope failures that damaged the conveyance system. Water from the flowline is now released to Burnt Canyon due to the damage to the conveyance system. A diversion dam and temporary pipeline are in place to capture the water flowing out of the flume down into Burnt Canyon. The Participating Entities replaced the initial Burnt Canyon diversion dam, which was damaged in severe storms during 2005. As described in the Statement of Work, SCE will replace and relocate the existing temporary pipeline from the Burnt Canyon Diversion dam to the water conveyance flowline down gradient of the Powerhouse No. 1 site. The Burnt Canyon Diversion dam and pipeline from that dam constitute part of the Facilities.

L. San Gorgonio has been acting as lead representative for the Participating Entities with regard to the transfer and improvement of the Facilities since the year 2000.

M. SCE currently operates and maintains the Facilities and continues to assume responsibility for repairs. SCE wishes to decommission the power generation components of the Project and divest the Facilities and related real properties. SCE needs approval from FERC and possibly other responsible agencies for decommissioning and divestiture.

N. Participating Entities seek title to the Facilities once they are restored or otherwise repaired by SCE to an acceptable condition. Participating Entities will need approval from the United States Forest Service and other responsible agencies to operate and maintain the Facilities for continued water diversion and delivery to the extent the Facilities are on Forest Service land and otherwise under the jurisdiction of other responsible agencies. Participating Entities will take title to the Facilities pursuant to this Agreement in the name of a public entity consisting of one or any combination of the three Participating Entities, which title shall be determined prior to closing as set forth in this Agreement.

O. Participating Entities desire to obtain title to the Facilities and SCE desires to convey title to the Facilities on the terms and conditions in this Agreement.

NOW THEREFORE, in consideration of the promises set forth in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

1. Conveyance of Facilities and Real Property.

a. Facilities Condition Upon Conveyance. SCE shall convey the Facilities in the condition described in Section 3 below.

b. Facilities and Real Property to be Conveyed. Subject to all of the conditions set forth in this Agreement, SCE shall convey to Participating Entities and Participating Entities shall accept: (i) ownership of the Facilities as evidenced by a Bill of Sale for the Facilities, which shall be in the form attached as Exhibit "A"; (ii) easements held by SCE for the Facilities if SCE has the authority to transfer those easements, free and clear of all recorded and unrecorded (but known to and under the control of SCE prior to the Close of Escrow) liens, options, leases, and taxes, except for the 1914 Trust Indenture encumbrance, for which SCE will have one year from the date of transfer to remove the Trust Indenture lien, and in the form set forth in the "Assignment" attached as Exhibit "B"; (iii) ownership of the one-acre parcel in the form of the Grant Deed attached hereto as Exhibit "C."

c. Payment of Purchase Price for One Acre Parcel. Participating Entities shall deposit into Escrow within five days before Close of Escrow the amount of $12,000.00 as the purchase price for the one acre parcel. The parties agree that the $12,000.00 purchase price is the fair market value of the one acre parcel. The appraisal prepared for the parcel is attached to this Agreement as Exhibit "E".

2. Escrow. Within 10 days after the date of this Agreement, SCE and Participating Entities shall establish escrow with Fidelity National Title ("Escrow Holder"). This Agreement constitutes the joint escrow instructions of SCE and Participating Entities, and the Escrow Holder to whom these instructions are delivered is hereby empowered to act under this Agreement. The Parties agree to do all reasonable acts necessary to close this escrow in the shortest feasible time. As soon as feasible after the opening of the escrow, SCE will deposit the executed Bill of Sale in the form of the attached Exhibit "A", the executed Assignment in the form of the attached Exhibit "B" with the Escrow Holder on the Participating Entities' behalf, and the Grant Deed in the form of the attached Exhibit "C". SCE and Participating Entities agree to deposit with the Escrow Holder any additional instruments as may be necessary to complete this transaction and close escrow. Escrow Holder shall immediately order a Preliminary Report together with copies of all exceptions shown on it from Fidelity National Title for any real property to be transferred from SCE to the Participating Entities. Escrow Holder shall obtain evidence of title in the form of an ALTA 2006 Owner's Policy of title insurance, subject only to those exceptions approved by Participating Entities ("Title Policy"). Escrow shall provide for closing 30 days after the completion of all the contingencies to the close of Escrow, as set forth in Section 6 of this Agreement. Close of Escrow shall mean the date the Bill of Sale, Assignment and Grant Deed are recorded in the office of the Riverside County Recorder.

3. Condition of Facilities.

a. SCE Restoration and Warranty of Facilities. SCE shall restore and repair the Facilities as set forth in the Statement of Work attached as Exhibit "D". SCE warrants that at the time of Facilities transfer to Participating Entities, the Facilities have been restored/repaired and are operating according to the Statement of Work, including any specifications developed by the Joint Design Review Team, except to the extent that

the Facilities do not meet the specifications due to Participating Entities' failure to meet their maintenance obligations after SCE restoration/repair. The Parties expect that the work will be performed between June and October due to inaccessibility to the Facilities between November and May. The Parties anticipate that SCE will complete the work during one summer construction season, assuming that all regulatory approvals are received by June 1st of the year of construction. If approvals are not received until after June 1st of any year, construction is not expected to begin until the next construction season. The Participating Agencies acknowledge and accept that water diversion and delivery may not be able to occur during construction. SCE will request proposals from contractors to perform the work such that water deliveries are not completely interrupted for more than one construction season. SCE shall provide for contractor penalties if construction goes beyond the contracted for construction period and shall pass through to the Participating Entities any delay-related penalties payable by the contractor to SCE. The SCE contractor penalty provisions shall be conform to industry standard as documented by the Participating Entities. SCE shall provide to the Participating Entities the documentation of the cost of performing the Statement of Work activities that occurred on Facilities beginning with the Project diversion structures to the Raywood Flat area.

b. Participating Entities Option to Restore Facilities. The Participating Entities may choose to take full responsibility for the repairs/replacements described in Conditions Nos. 1, 4, 5, and 6 in Exhibit "D," Statement of Work, by giving written notice thereof to SCE within 45 days after SCE receives at least three qualified bids for completing those conditions in the Statement of Work. If so, SCE will pay the Participating Entities ninety percent of the bid price plus reasonable construction management costs for those items. The bid price will be the average cost estimate in response to at least three responsible bids for the work by qualified contractors. The bid descriptions and construction management cost estimate will be developed under the JDRT design review process. The bid process is anticipated to take place in 2008. SCE will make payment in full directly to the Participating Entities, outside of escrow, within forty-five (45) days following approval by the California Public Utilities Commission ("CPUC"). If CPUC approval is not obtained within one year of receipt of the bids, or if SCE decides not to seek specific CPUC approval, then the Participating Entities may at their discretion either (1) revoke their exercise of their option pursuant to this Section 3(b) by written notice to SCE, or (2) request SCE to pay, and SCE shall pay, for the bid price and construction management costs by making monthly payments for reasonable costs incurred, all payments to be complete within six months after completion of construction. In the event that SCE makes monthly payments rather than payment in full, Participating Entities shall not be required to take full responsibility for particular repairs or replacements until payment for each particular repair or replacement is received by Participating Entities from SCE.

c. SCE Option to Pay Participating Entities. Should the Forest Service, or any other agency with jurisdiction, not provide the Participating Entities with a necessary approval for the Facilities operation, repair, or maintenance, or if the Participating Entities do not obtain Forest Service, or any other agency, necessary

regulatory approval within 39 months of this Agreement's execution date or 18 months after SCE receives FERC approval for the surrender of the Project license, whichever is later, then SCE shall have the option of providing the Participating Entities ninety percent of the amount of money required to complete the work in the Statement of Work as estimated by a new round of bids in accordance with the bid process set forth in Section 3(b) plus reasonable construction management costs for that work; prior responsible bids may be used if the contractors' bids are still valid. In turn, upon receipt of all of the monies, the Participating Entities shall, except as otherwise stated in Section 3(e), (i) be fully responsible for conducting all operation, repair, maintenance, and decommissioning of the Facilities, and (ii) indemnify SCE for any costs, losses, expenses, or damages incurred due to the operation, repair, maintenance, or decommissioning of the Facilities. The Participating Entities obligations under this section do not include any responsibility or indemnity regarding the Project works that are not considered "Facilities" and are not to be transferred to the Participating Entities.

d. Maintenance of Facilities. Except as the Participating Entities take responsibility for repairs/replacements pursuant to Section 3(b) or as SCE makes full payment of monies pursuant to Section 3(c), until the completion of each repair item listed on the Statement of Work, SCE shall maintain the Facilities in good working condition. If no work is required under the Statement of Work for a part of the Facilities to be transferred, then the Participating Entities shall have maintenance responsibilities for those Facilities from the effective date of this Agreement. Participating Entities shall take maintenance responsibility for each item listed on the Statement of Work after SCE satisfactorily performs the required work associated with that item according to the Scope of Work and JDRT specifications or pays for that item pursuant to Section 3(b) or Section 3(c).

e. SCE Contribution Upon Catastrophic Event. Notwithstanding anything to the contrary in Sections 3(b), 3(c) or 3(d), if a storm or other cause of damage under Civil Code Section 1511(2) occurs that causes damage to the Facilities requiring funding in excess of the amount provided by SCE to complete the Statement of Work prior to the Close of Escrow, then, upon receipt of documentation of the actual cost of the repair, SCE will reimburse the Participating Entities for (1) 90 percent of the reasonable incremental price for the repair resulting from that specific event occurring after SCE payment under Section 3(b) but before Close of Escrow or (2) 50 percent of the reasonable incremental price for the repair resulting from that specific event if the event occurs within two years after SCE payment under Section 3(c) but before Close of Escrow. The Participating Entities may provide such documentation to SCE on a monthly basis, but no later than one year after such expenses are incurred. If the Participating Entities are eligible for Federal Emergency Management Agency (FEMA) and/or Office of Emergency Services (OES) funding, they must apply for and diligently pursue such funds. If FEMA or OES funds are received, SCE will pay the difference between those funds and the actual cost of repair, up to (1) 40 percent of the incremental cost of repairs for that specific event after SCE payment for the cost of repairs under Section 3(b) or (2) 10 percent of the incremental cost of repairs for that specific event after SCE payment for the cost of repairs under Section 3(c).

f. Environmental Condition of Powerhouses. SCE shall have the sole responsibility for the identification, investigation, monitoring and remediation and cleanup of any substance, chemical or waste due to or arising from SCE operations or use of the Facilities or related property that is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation (collectively "Hazardous Substance") present on or affecting the real property transferred in this agreement prior to the date of the transfer. SCE shall indemnify, defend and hold harmless Participating Entities from any and all costs, damages, claims of liability and losses (collectively "Claims") relating to the mercury switch for Tank No. 1. SCE's obligations pursuant to this Section 3(f) shall survive the Close of Escrow.

4. Regulatory Approvals.

a. License Surrender and Transfer. SCE shall proceed with due diligence in seeking approval from FERC for surrender of the license for the San Gorgonio Hydroelectric Project No. 344. SCE shall proceed with due diligence to obtain all other approvals related to the license surrender from federal, state, and local agencies with jurisdiction over the Project or the Facilities. However, if the Participating Entities file with FERC an application for a new license, then SCE shall take appropriate steps to facilitate the transfer of the Project to the Participating Entities. For example, SCE may need to withdraw its surrender application and file an application to transfer the existing license to the Participating Entities.

b. Use Permit, Long-Term Easement, or Power License. Participating Entities shall proceed with due diligence in seeking approval from the FERC, Forest Service, and any other appropriate agency for the right to locate, operate and maintain the Facilities in the repaired/restored condition set forth in the Statement of Work for water supply and, at their option, possibly also for power generation. Participating Entities shall proceed with due diligence to obtain all other approvals related to the operation of the Facilities from federal, state, and local agencies with jurisdiction over the Facilities.

5. Escrow Holder Duties. The duties of the Escrow Holder in connection with the escrow shall be as follows:

a. To retain and safely keep any funds, documents and instructions deposited with it;

b. Following Close of Escrow, to deliver to the Parties entitled thereto any funds, documents, and instruments to be delivered through Escrow;

c. To cause the recordation in the Offices of the County Recorders of Riverside and San Bernardino County, California, of all documents to be recorded pursuant to this Agreement;

d. To comply with the terms of this Agreement and any additional instructions jointly executed by SCE and the Participating Entities;

e. Pay any amount necessary to place title in the condition necessary to satisfy Section 2 of this Agreement and charge SCE upon SCE's written approval;

f. Pay any escrow fees, charges and costs payable and charge the Participating Entities;

g. Disburse any funds and deliver the Bill of Sale, Assignment, Grant Deed and Title Policy when conditions of this escrow have been fulfilled by SCE and the Participating Entities.

h. Calculate the amount of funds to be disbursed taking into consideration any prepayment of funds or expenditures made by SCE pursuant to other provisions of this Agreement.

6. Conditions to Close of Escrow. Close of Escrow is subject to the following conditions precedent:

a. SCE's satisfactory performance of the Statement of Work set forth in Exhibit "D," Participating Entities' written waiver thereof and SCE payment therefore pursuant to Section 3(b) or SCE payment therefore pursuant to Section 3(c). SCE will expeditiously complete the Statement of Work once all regulatory approvals are received, including any agency approvals of construction plans. At its sole discretion, SCE may elect to implement individual elements of the Statement of Work prior to receiving all approvals for the license surrender and/or license transfer and prior to the Participating Entities receipt of the Forest Service easement, when and if any necessary regulatory approvals are received for individual work elements.

b. Participating Entities' acceptance in writing, or written waiver thereof, of the condition of the Facilities as meeting the criteria set forth in the Statement of Work, subject to the reasonableness of any disapproval. Participating Entities shall have the right, at their expense, to conduct inspections, investigations, tests, surveys, and other studies of the Facilities ("Inspections"). SCE shall make the Facilities available for all Inspections during business hours after 48 hours notice to SCE. Participating Entities shall complete these Inspections and notify SCE within 14 days after SCE's completion of the improvements in the Statement of Work of any items reasonably disapproved. Participating Entities' disapproval shall be considered reasonable if the work or facility disapproved is not in substantial compliance with the specifications set forth in the Statement of Work. Should Participating Entities give written notice of disapproval, SCE shall make repairs to, or correct, any items reasonably disapproved by Participating Entities.

c. SCE's obtaining FERC approval of the surrender of SCE's FERC license or the transfer of SCE's FERC license to Participating Entities for the Project, and CPUC approval of the transfer, if required.

d. Participating Entities' obtaining regulatory approvals from the U.S. Forest Service for a long-term easement or equivalent use permit for operating the Facilities for water supply purposes, or from the FERC for operating the Facilities for continued power generation and water supply.

e. Compliance with the California Environmental Quality Act associated with the execution of this Agreement.

f. SCE's performance of all its obligations under this Agreement.

g. Escrow Holder being prepared to issue the Title Policy subject only to exceptions approved by Participating Entities.

h. Upon receipt of all regulatory approvals, per Section 4(a) above, Banning shall deposit ten percent of the documented SCE cost to perform the activities in the Statement of work on the flowline and diversion structures from the Whitewater River to Raywood Flat, unless such amount is already deducted from SCE payments pursuant to Sections 3(b) or 3(c) above. Escrow Holder shall provide these funds to SCE upon close of Escrow.

i. Participating Entities' deposit into Escrow of the purchase price for the one acre parcel.

j. Determination among the Participating Entities as to the entity or entities that will take title of the real and personal property to be transferred herein.

7. General Provisions.

a. Entire Agreement. This Agreement, together with the Exhibits attached hereto, constitutes the entire agreement between the Parties with respect to the transfer of the Facilities and the conditions precedent. All rights and obligations of SCE under the Flume Contracts referenced in the Agreement and any other agreements among SCE, its predecessors, and the Participating Entities and their predecessors with regard to the Facilities will be deemed terminated upon the Close of Escrow. However, the Flume Contracts shall remain in full force and effect as between Banning and Banning Heights, including any allocation among them of the rights to the waters of the Whitewater River.

b. Governing Law and Venue. This Agreement, including (without limitation) its existence, validity, construction, interpretation, and operation, and the rights of each of the Parties, shall be determined in accordance with the laws of the State of California. Any state action commenced relating to this Agreement shall be filed in the Riverside County Superior Court.

c. Construction. Each of the Parties has contributed to the drafting of this Agreement, and no provision thereof shall be construed against any Party on account of being the draftsperson of that provision. This Agreement shall be construed without regard to any presumption or other rule requiring construction against the party causing this Agreement to be drafted. Nothing herein is intended to create any third party beneficiaries to this Agreement, and no person other than the Parties and their permitted successors and assigns shall be authorized to enforce the provisions of this Agreement.

d. Notices. Unless otherwise provided herein, all communications and notices given under this Agreement shall be in writing and shall be given by certified mail, facsimile, or other means by which delivery to the Parties' designated representatives provided (or their successors) below can be confirmed. Notice shall be deemed effective upon the delivery of such notice to the party for whom it is intended at the address set forth below:

SCE:
Southern California Edison Co.
Manager Eastern Hydro
300 North Lone Hill Avenue
San Dimas, CA 91773
Telephone: (909) 394-8720
Facsimile: (909) 394-8967

San Gorgonio:
San Gorgonio Pass Water Agency
General Manager
1210 Beaumont Avenue
Beaumont, CA 92223
Telephone (951) 845-2577
Facsimile: (951) 845-0181

Banning Heights:
Banning Heights Mutual Water Co.
President, Board of Directors
7901 Bluff Street
Banning, CA 92220
Telephone: (951) 849-8420
Facsimile: (951) 849-6068

Banning:
City of Banning
Director of Utilities
99 East Ramsey
Banning, CA 92220
Telephone: (951) 922-3105
Facsimile: (951) 922-3128

e. Authority. Each of the undersigned signatories represents and warrants that he/she is authorized to execute this Agreement on behalf of the Party to the

Agreement that he/she represents and that this Agreement, when executed by those Parties, shall become a valid and binding obligation, enforceable in accordance with its terms.

f. Alternative Dispute Resolution. Any dispute as to the construction, interpretation or implementation of this Agreement or any matter in any way relating to this Agreement shall be heard as a reference, pursuant to California Code of Civil Procedure Section 638 et seq., with venue set in the Riverside County Superior Court. If the parties cannot agree on a referee, then either party may request such court to appoint a referee. The parties initially will divide the cost of the references, including the referee's fee, equally, but the prevailing party in the reference shall be entitled to recover its half of the cost of the reference as an item of costs.

g. Attorney's Fees. If any legal action, including a reference under Section 7(f), is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees from the other party. These fees, which may be set by the court in the same action or in a separate action brought for that purpose, are in addition to any other relief to which the prevailing party may be entitled.

h. Modification. Notwithstanding the above conditions, this agreement, or portions of this agreement, may be modified or terminated at any time upon written consent of all parties to the agreement.

i. Implementing Agreement. The Participating Entities agree that Banning and Banning Heights will meet and confer in good faith to negotiate the terms of an agreement governing the implementation of this Agreement ("Implementing Agreement"). The Implementing Agreement shall, at a minimum, provide for how title to the Facilities and one acre parcel shall be taken and how collective decisions of the Participating Entities shall be made. Banning and Banning Heights shall make a good faith effort to enter into an Implementing Agreement prior to the Close of Escrow. In the absence of an Implementing Agreement, decisions of the Participating Entities shall be made unanimously.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the dates set forth below.

June 30, 2008 2010 Revised

SOUTHERN CALIFORNIA EDISON COMPANY

By: _____
Russ Krieger, Vice President

Banning Heights Mutual Water Company Signature Page for Agreement for Transfer of San Gorgonio Hydroelectric Project No. 344 Water Conveyance Facilities

6/14, 2010

BANNING HEIGHTS MUTUAL WATER COMPANY

By: Richard Simmons

Richard Simmons,
President, Board of Directors

6/14, 2010

BANNING HEIGHTS MUTUAL WATER COMPANY

By:

Donald Ayers
Secretary, Board of Directors

_____, 2008

SAN GORGONIO PASS WATER AGENCY

By:_____
John Jeter
President, Board of Directors

_____, 2008

BANNING HEIGHTS MUTUAL WATER COMPANY

By:_____
Charles Perkins,
President, Board of Directors

_____, 2008

CITY OF BANNING

By:_____
Brenda Salas
Mayor

EXHIBIT A

BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS:

That Southern California Edison Company, a California corporation (SCE), in consideration of the execution of that "Agreement for Transfer of San Gorgonio Hydroelectric Project No. 344 Hydroelectric Facilities" among SCE, the San Gorgonio Pass Water Agency (San Gorgonio), the Banning Heights Mutual Water Company (Banning Heights), and the City of Banning (Banning) (San Gorgonio, Banning Heights, and Banning shall be collectively referred as "Participating Entities"), does hereby GRANT, BARGAIN, CONVEY, TRANSFER AND DELIVER unto the Participating Entities on an "as is, where is" basis, without warranties of any kind whatsoever, all of its right, title and interest in the following described facilities, the locations of which are depicted on the "Map of Transferred Facilities" attached hereto as Attachment "1":

1. East Fork Diversion and sandbox
2. Flowline No. 1 between East Fork Diversion and South Fork Diversion
3. South Fork Diversion and flowline connecting to a sandbox at Flowline No. 1
4. Road grate on the access road near the South Fork Diversion
5. Black Wheel Creek Diversion
6. Flowline No. 1 between South Fork Diversion and Raywood Flat
7. Flowline No. 2 between Powerhouse No. 1 and Forebay Tank No. 2
8. Wooden planks associated with the non-operational section of Flowline No. 1 between Raywood Flat and Powerhouse No. 1.

9. Powerhouse No. 1 structure and its associated fence, structure, garage, storage bunker, and perimeter fencing
10. Penstock No. 2 between Tank No. 2 and Powerhouse No. 2
11. Powerhouse No. 2 structure, Powerhouse No. 2 electrical generation equipment, and fence immediately surrounding the powerhouse
12. Burnt Canyon Diversion
13. Existing Burnt Canyon pipeline and a proposed Burnt Canyon Diversion pipeline from the diversion to Powerhouse No. 1 tailrace

SCE agrees to have and to hold the said facilities unto the Participating Entities, and their successors and assigns forever.

IN WITNESS WHEREOF, SCE has caused this Bill of Sale to be executed by its duly authorized officer this 30th day of June, 2008.

Russ W. Krieger
Vice President, Power Production
Southern California Edison Company

The Participating Entities agree to accept title and ownership to the above listed facilities.

SAN GORGONIO PASS WATER AGENCY

By: John Jeter
John Jeter
President, Board of Directors

BANNING HEIGHTS MUTUAL WATER COMPANY

By: Richard Simmons 6/14/10

Richard Simmons
President, Board of Directors

BANNING HEIGHTS MUTUAL WATER COMPANY

By: _____

Donald Ayers
Secretary, Board of Directors 6/14/10

BANNING HEIGHTS MUTUAL WATER CO.

By:_____
Charles Perkins,
President, Board of Directors

CITY OF BANNING

By:_____
Brenda Salas
Mayor

ATTACHMENT 1 TO EXHIBIT A
MAP OF TRANSFERRED FACILITIES

EXHIBIT "B"

ASSIGNMENT

EXHIBIT "C"

GRANT DEED

EXHIBIT "D"

STATEMENT OF WORK

1. SCE will repair or replace the flowline from the East Fork Dam to the turnout at Raywood Flat. The repair will allow for the continued diversion of water at Black Wheel Creek.

2. SCE will repair and restore the diversion dams and sand boxes as follows:

   a. Where it would not harm the integrity of the dam, remove vegetation from dams (e.g. alders growing out of the face of the East Fork Diversion Dam);
   b. Repair the undercut portion of the toe of the East Fork Diversion Dam that is exposing the dam structure to ensure dam stability;
   c. Repair the foundation of the sand box at the East Fork Diversion Dam damaged by erosion, and to the extent practicable repair the leaks; and
   d. Replace/repair the sand box at the South Fork Dam.
   e. Replace/repair the pipe leading from South Fork Dam to the sandbox.

3. SCE will install break away gates at the South Fork Dam. The gates will be designed to give way when large flows of water are present at South Fork Dam.

4. SCE will improve the Burnt Canyon pipeline by removing the temporary pipeline and installing a permanent underground pipe. The pipe will be designed with the capacity to convey approximately 11 cubic feet per second (cfs), or the capacity to carry the volume of flows authorized to be diverted from Project diversions by the FERC and/or the San Bernardino National Forest, whichever is less, at velocities of not greater than ten cubic feet per second.

5. If determined necessary, SCE will install a well or other recovery mechanism to recover project water documented to be lost to surface diversion or groundwater extraction by the Participating Entities due to seepage in Burnt Canyon. The need for the well or other recovery device will be reasonably determined by the Joint Design Review Team (JDRT), described below.

6. SCE will repair or replace damaged sections of the canal between Powerhouse No. 1 and Tank 2. This will include approximately 416 feet of outer wall, 469 feet of inner wall, and 21 feet of canal floor. In addition, SCE will replace the unusable or missing covering boards with redwood, cedar, or other suitable wood, as appropriate and available.

7. SCE will construct an electric distribution line to the site of the recovery mechanism, to be located near San Gorgonio No. 1 Powerhouse, at no cost to San Gorgonio, Banning Heights and Banning.

8. Within 30 days after the effective date of the Agreement, the Participating Entities and SCE will form a Joint Design Review Team (JDRT) to carry out a Joint Design Review Process to review the engineering design of the Work Statement elements described above. The design review will be based on, and incorporate, the following principles:

    a. The Participating Entities will have design approval of the facilities to be constructed by SCE for purposes of determining that, in their reasonable discretion, such facilities will comply with sections 1 through 6, above and will not adversely affect the safety, operation, maintenance or any applicable regulatory requirements of the San Gorgonio project as a viable water supply project.

    b. The JDRT will be composed of one representative from the Participating Entities and one representative from SCE. Once the JDRT has reached consensus on a design, the proposal will be shared with all parties. Both representatives will utilize licensed engineers for design review.

    c. The JDRT will meet as frequently as necessary for the duration of the planning, design and construction of the elements described in Sections 1 through 6, above.

9. The Joint Design Review Process will include the following.

    a. Schedule. The JDRT shall develop project planning and design schedules of key design-phase milestones, deliverables and meeting dates to support construction schedules. A draft summary schedule will be prepared by the JDRT and distributed to all parties for review. Comments from the parties will be incorporated into a final schedule.

        - Review of Design Basis. The JDRT will review and evaluate the basis for the design for each of the Statement of Work's elements identified in the above Sections 1 through 6. The Basis of Design will document the relevant design criteria, present the conceptual design, and summarize the plan for implementation. This review will consist of an evaluation of the design basis upon operational, safety, and long-term maintenance performance considerations. The buildability, bidability, efficiency of design, and choice of components suitable for project purpose and addressing the potential environment impacts of project operation will also be considered. Except as otherwise provided herein or as subsequently agreed to by the parties, SCE shall not be required to repair the Facilities based on a design more advanced than the Project's original infrastructure and equipment.

b. Review of Preliminary Design. The JDRT will conduct a review of the preliminary design. The preliminary design submittal will consist of an updated Basis of Design, preliminary design drawings, and supporting documentation. The preliminary design shall provide sufficient detail for a thorough evaluation of the suitability of the design to meet the established Statement of Work elements and to identify any potential constraints to implementation. Further detail or documentation may be requested by the JDRT to facilitate the completion of its preliminary design review.

c. Review of Final Design. JDRT review of final design will consist of review of the construction plans and specifications for compliance with the Statement of Work elements. Subsequent to the Final Design Review, any changes to the design other than those recommended by the JDRT's shall be submitted for review by the JDRT.

10. Construction Review. In addition to the technical review during design development, the JDRT will assist with the development of a plan for monitoring of the execution of the approved design package during construction. The plan will also address final inspection, testing and commissioning.

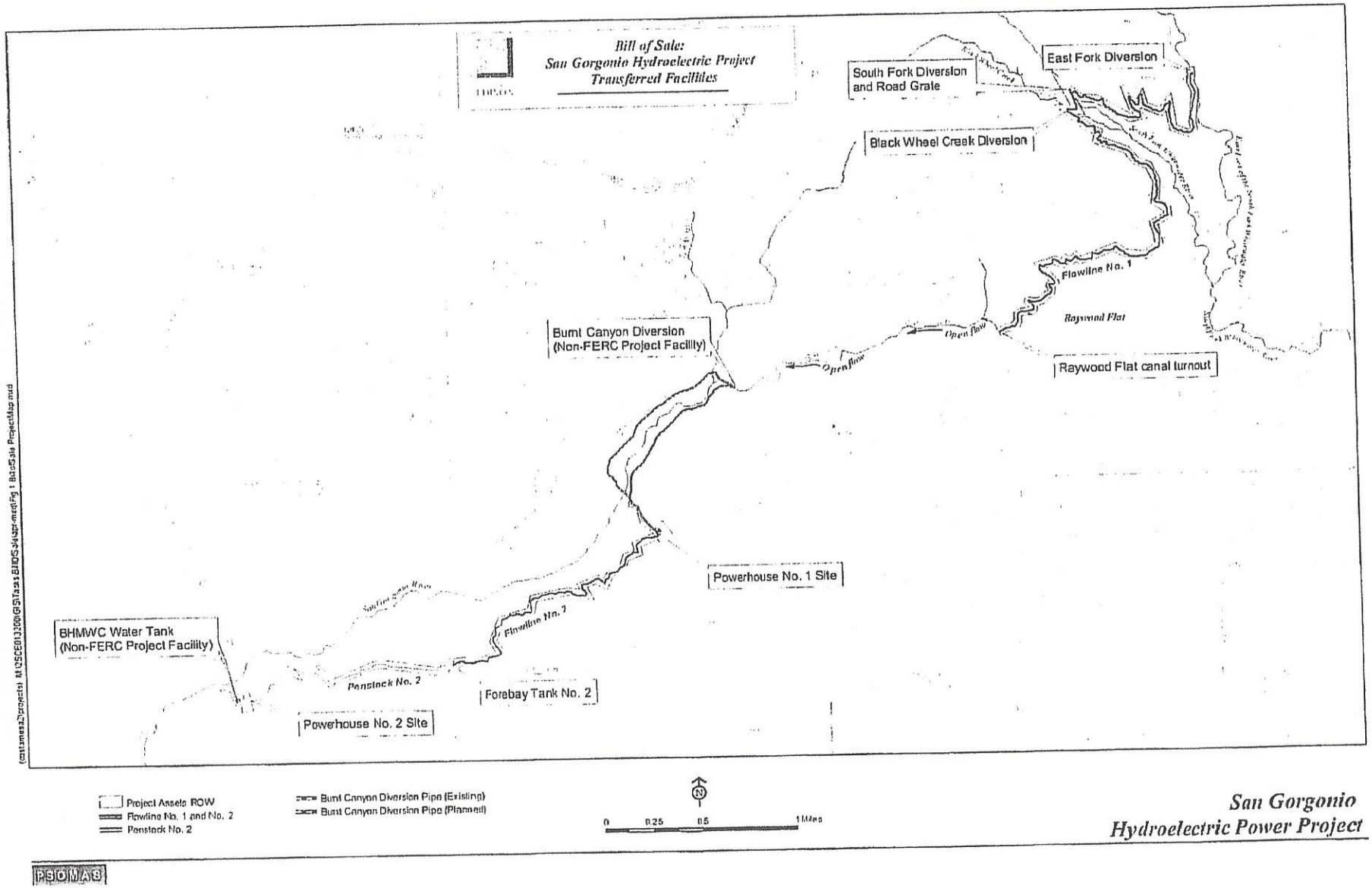
11. Guidelines. In working cooperatively to develop a bid package and a final constructed product of high quality, the Joint Design Review Team will consider the following design guidelines to the extent feasible and consistent with the other sections of this Statement of Work.
    a. Soil shall be stable before any new reinforced concrete walls and/or floors are installed or placed on the soil. Saturated soil will be evaluated and addressed as needed.
    b. To the extent needed, walls and floor of the flume shall be reinforced with gunite or other suitable material, including concrete or concrete block. The liner material shall provide a relatively smooth and watertight surface along the entire length of the improved flowline. The flowline shall be designed for a hydraulic capacity that is the lesser of (i) the amount allowed by the US Forest Service Special Use Permit, or (ii) approximately 5 cfs between the East Fork and South Fork diversions and approximately 11 cfs between the South Fork diversion and Raywood Flat.
    c. Where pipe sections are used for improvements, the transition from rectangular flowline to the round pipeline shall be smooth and watertight as practical.
    d. Material used for lining of the flume shall be suitable for freezing temperatures for extended periods of time during a winter season.
    e. Any pipe material used shall be non-corrosive, such as polyethylene, polyvinyl chloride (PVC), or concrete.
    f. Sufficient pieces of wood planking shall be provided to cover the flowline where it is an open channel and where wood planking is replaced, full cut

planking similar to the existing planks shall be used. The wood shall be redwood, cedar, or other material that resists decay and is suitable for outdoor service.

g. When reconstruction of the flowline is required, the finished flowline shall have a constant grade and be free of low and/or high spots to the extent practical.

EXHIBIT E

APPRAISAL FOR RAYWOOD FLAT PARCEL


Bill of Sale:
San Gorgonio Hydroelectric Project
Transferred Facilities
South Fork Diversion and Road Grate
East Fork Diversion
Black Wheel Creek Diversion
Burnt Canyon Diversion (Non-FERC Project Facility)
Flowline No. 1
Raywood Flat
Open flow
Raywood Flat canal turnout
Powerhouse No. 1 Site
Flowline No. 2
Penstock No. 2
Forebay Tank No. 2
Powerhouse No. 2 Site
BHMWC Water Tank (Non-FERC Project Facility)
Project Assets ROW
Flowline No. 1 and No. 2
Penstock No. 2
Burnt Canyon Diversion Pipe (Existing)
Burnt Canyon Diversion Pipe (Planned)
N
0 0.25 0.5 1 Miles
San Gorgonio
Hydroelectric Power Project
PSOMAS

1720

RECORDING REQUESTED BY

SOUTHERN CALIFORNIA EDISON COMPANY

WHEN RECORDED MAIL TO

SOUTHERN CALIFORNIA EDISON COMPANY
14799 CHESTNUT STREET
WESTMINSTER, CA. 92683

ATTN: TITLE & REAL ESTATE SERVICES

SPACE ABOVE THIS LINE FOR RECORDER'S USE

ASSIGNMENT

Location: Unincorporated

A.P.N. 0580-011-07
0580-041-01

DOCUMENTARY TRANSFER TAX $_____
_____ COMPUTED ON FULL VALUE OF PROPERTY CONVEYED
_____ OR COMPUTED ON FULL VALUE LESS LIENS AND ENCUMBRANCES REMAINING AT TIME OF SALE
SO. CALIF. EDISON CO.
SIGNATURE OF DECLARANT OR AGENT DETERMINING TAX FIRM NAME

SER. 67307A J.O.

Approved
CORPORATE REAL ESTATE
BY JG DATE 11/19/07

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, SOUTHERN CALIFORNIA EDISON COMPANY, a corporation, successor in interest to the Consolidated Reservoir & Power Company, does hereby assign, transfer and convey to _____, all of its right, title and interest in and to that certain twenty-foot wide Right of Way for Canal from Southern Pacific Land Company to Consolidated Reservoir & Power Company, by Deed No. 1826-R, recorded on March 23, 1923 in Book 580, page 33 of Deeds, in the office of the County Recorder of Riverside County, State of California.

IN WITNESS WHEREOF, this instrument is executed this _____ day of _____, 20____.

SOUTHERN CALIFORNIA EDISON COMPANY
a corporation

By _____
Laura Verdugo
Right of Way Agent
Corporate Real Estate Dept.
Real Estate Operations Division

State of California)
County of _____)

On _____ before me, _____, a Notary Public, personally appeared _____, who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

RECORDING REQUESTED BY
SOUTHERN CALIFORNIA EDISON
COMPANY

WHEN RECORDED MAIL TO
SOUTHERN CALIFORNIA EDISON
COMPANY
14799 Chestnut Street,
Westminster, Ca. 92683
Attn: Title & Real Estate Services

SPACE ABOVE THIS LINE FOR RECORDER'S USE

GRANT DEED

Location: Unincorporated
A.P.N. 0580-011-08

Affects SCE Document:
242977

DOCUMENTARY TRANSFER TAX $ -0-
____ COMPUTED ON FULL VALUE OF PROPERTY CONVEYED
____ OR COMPUTED ON FULL VALUE LESS LIENS AND ENCUMBRANCES REMAINING AT TIME OF SALE
SO. CALIF. EDISON CO.
SIGNATURE OF DECLARANT OR AGENT DETERMINING TAX FIRM NAME

SER. 67307A
APPROVED
CORPORATE REAL
ESTATE DEPARTMENT
GWO:
BY JG DATE 11/06/07

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, SOUTHERN CALIFORNIA EDISON COMPANY, a corporation, successor in interest to California Electric Power Company by merger (hereinafter referred to as "Grantor") hereby GRANTS to_____,
(hereinafter referred to as "Grantee") that certain real property in the County of San Bernardino, State of California, described within that certain Deed and Assignment between San Gorgonio Electric Corporation and California Electric Power Company, recorded November 2, 1949 in Book 1121, page 1 of Official Records in the Office of the County recorder of Riverside County and recorded November 20, 1949 in Book 2492, page 482, of Official Records in the Office of the County recorder of San Bernardino County, described as follows:

"...(m) Approximately one acre of land located in Sec. 31. T.1. S., R. 2. E., S. B. B. & M., as conveyed to San Gorgonio Electric Corporation by deed from Edward W. Bertram and Eva H. Bertram, his wife , dated November 30, 1936 and recorded December 15, 1936, in Book 1177, page 266, Official Records of San Bernardino County, California"

Said deed from Edward W. Bertram and Eva H. Bertram, his wife, dated November 30, 1936 and recorded December 15, 1936, in Book 1177, page 266, Official Records of San Bernardino County, California, is described as follow:

"That portion of Section 31, Township 1 South, Range 2 East, S. B. B. & M, described as follows:

Beginning at a point which bears S 30° 07' 30" E., a distance of 983.64 feet from the Northwest corner of said Section 31; thence N. 87° 55" 30" W., a distance of 14.23 feet; thence S 51° 15' 30" W., a distance of 90.55 feet; thence S. 0° 55' W., a distance of 44.41 feet, thence S. 71° 02' E., a distance of 182.00 feet; thence N. 86° 07' E., a distance of 138.00 feet; thence NW. 1° 13' E., a

MAIL TAX STATEMENTS TO:

distance of 73.76 feet; thence S. 78° 55' W., a distance of 139.90 ft.; thence N. 87° 55' 30" W., a distance of 93.37 ft. to the point of beginning, containing 1 acre, more or less."

The real property hereby conveyed is not necessary or useful in the performance of the duties of said Southern California Edison Company to the public.

SUBJECT TO current real property taxes and to covenants, conditions, restrictions, reservations, exceptions, rights and easements of record.

IN WITNESS WHEREOF, said Southern California Edison Company has caused this instrument to be executed this _____ day of _____, 20____.

SOUTHERN CALIFORNIA EDISON COMPANY,
a corporation

By _____
Laura Verdugo
Operations Support
Real Estate Operations Division
Corporate Real Estate Department

State of California)

County of _____)

On _____ before me, _____, a Notary Public, personally appeared _____, who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

SOUTHERN CALIFORNIA EDISON®

An EDISON INTERNATIONAL® Company

August 14, 2007

Nino Mascolo
Law Department

Candace Irelan
Hydro

Subject: SCE Project 344 Conveyance of Water Facilities
San Gorgonio area

In response to your request, I have researched the information provided and have also completed an appraisal of the land rights proposed to be acquired. The following appraisal is reported in a Summary Appraisal Report for the valuation of land in the San Bernardino National Forest for sale purposes to Banning Heights Mutual Water Company.

The following report is intended to comply with the reporting requirements set forth in the Uniform Standards of Professional Appraisal Practice (USPAP) for the specific type of appraisal and report. This report incorporates, by reference, the data and valuation analysis contained in the office file. The information contained in this report is specific and confidential to the needs of The Southern California Edison Company (the client); the appraiser is not responsible for unauthorized use of this report. Additional supporting information is contained in the appraiser/company work file and may be provided upon request.

Client/Intended User:	SCE Corporate Real Estate Dept., and other SCE personnel as required.
Intended Use:	To establish a value for sale purposes.
Identification of Real Estate:	The subject property consists of a one-acre parcel located approximately 10 miles northeast of the City of Banning, CA. The site is located within the San Bernardino National Forest at an elevation of approximately 7,000 feet. The Assessors Parcel Number is 0580-011-08 (San Bernardino County).
Type of value appraised:	Fair market value.
Effective date of appraisal & date of report:	Both as of August 14, 2007
Ownership:	Southern California Edison (SCE) Company. The property was originally granted to California Electric Power, a SCE predecessor company, in October 1949.

Current Use:	Vacant land excess to utility needs
Zoning:	Resource Conservation (County of San Bernardino)
Highest and Best Use:	Resource Conservation, Preservation, or Mitigation uses. Limited access with no to limited utilities.
Real Property Interest Valued:	Fee simple[i]
Purpose of the Assignment:	To develop an opinion of the market value of the subject property for sale purposes as outlined in the draft "Agreement for Transfer of San Gorgonio Hydroelectric Project No. 344 Water Conveyance Facilities".
Effective Date of Value Opinion:	August 14, 2007
Date of Report:	August 14, 2007
Use of real estate at Date of value:	Vacant land
Scope of Work:	The appraisal process used in this report consisted of searching comparable sales of similar use land near the subject property, analyzing the data and performing a valuation analysis using appropriate appraisal procedure for the valuation of easements. Zoning and use restrictions were verified with County of San Bernardino sources. Where possible, comparable sales were verified with a party to or a real estate broker involved in the transaction. Secondary sources such as First American Real Estate Services, CoStar Comps, and brokers Internet websites were relied upon for data. Supporting data is retained in the appraiser's work file. The Sales Comparison Approach to value was used to determine an unencumbered fee unit value of the land. The subject property is vacant forest land and does not generate income as is required in the Income Capitalization approach. Therefore, the Income approach is not applicable or appropriate to value the unencumbered fee. The Cost Approach is typically used in the valuation of improved properties. Since the subject property being appraised is vacant land, the Cost Approach is considered not applicable or appropriate. Therefore, the only applicable and appropriate method to estimate the value of the unencumbered fee land is the Sales Comparison Approach.

For the purposes of this appraisal, the unit of comparison used is the price per square foot or price per acre. These units are common units of comparison used by buyers and sellers of land in this area.

Valuation:

The subject property is a one-acre parcel that was included in the sale of hydroelectric facilities from the San Gorgonio Electric Corporation to the California Electric Power Company in 1949. The sale included hydroelectric power plants, transmission lines, water rights, federal power licenses, rights of way, operating leases, and other miscellaneous documents and rights. The current agreement conveys these same facilities from SCE to a group of "Participating Entities" that consist of the San Gorgonio Pass Water Agency, Banning Heights Mutual Water Company and the City of Banning, CA. **It is prominently noted that this appraisal only values the one-acre parcel of real property defined in the agreement and no other real or personal or other intangible property interests.**

A search was conducted for sales of vacant acreage in the area that was devoted to open space or mitigation uses. There were very few of these type sales in the Southern California area. The following chart illustrates the best available sales:

Location and Grantor/Grantee	APN	Acres	Sale Date	Price	Price/Per Acre	Use
1) Mountain Center, near Idyllwild, CA	635-440-001	640	12/8/2006	$3,024,000	$4,725	Conservation
George M Valeur to Friends of the Desert Mountains						
2) Cabazon area, CA	514-250-004, etal	731.4	9/23/2005	$6,000,000	$8,203	Conservation
Lazar Tr. To Friends of the Desert Mountains						
3) La Verne area, CA	8678-015-010, etal	126.6	2/6/2006	$1,500,000	$11,850	Conservation
Sandra LaHaye to City of LaVerne						
4) Lake Forest area, CA	856-011-22	23.38	2/22/2005	$1,900,000	$81,266	Conservation
Live Oak Plaza, LLC to Foothill/Eastern Transportation Corridor Agency						

Extraordinary Assumptions:

It is assumed that the right being sold is the full fee interest. The appraiser reserves the right to revise the valuation based on any changes to the interest being sold.

It is also assumed that the property is vacant. Due to the extreme location, a physical inspection was not possible and instead was analyzed with aerial photography. The appraiser reserves the right to revise the valuation if any improvements are on the property.

Hypothetical Conditions: None

Indicated Exposure Time: Since this is considered a special use property – within a National Forest with limited access and developability, there is not data from which to derive an exposure time.

Reconciliation/Conclusion:

The sales noted above represent recent sales of land for conservation uses in the Riverside, San Bernardino, Los Angeles and Orange County areas.

Although the sales noted above are all larger in size, small parcels as the subject rarely transact in the market. The higher valued data above have some development potential (good access, possibility of zoning change, etc…) and thus warrant a higher value. The subject property has virtually no likelihood of development, has topographical challenges, limited access (no access in winter) and therefore should not be considered in the upper part of the range of data.

Taking these factors into consideration, and weighing the appropriateness, quantity and quality of the data to support a value, it is my conclusion that the sales were determined to be applicable comparable unit values of the subject property. Considering the information provided above as well as my professional judgment and experience as an appraiser, it is my opinion that a reasonable unit value for the subject property is **$12,000.00 per acre.**

Property Calculations: The subject property is one acre in size. Therefore, the appraised value of the subject property is:

$12,000 (Twelve Thousand Dollars)

CERTIFICATION:

I certify that, to the best of my knowledge and belief:

- The statements of fact contained in this report are true and correct.
- The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- The reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics & Standards of Professional Appraisal Practice of the Appraisal Institute, which include the *Uniform Standards of Professional Appraisal Practice*.
- The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
- I have not made a personal inspection of the property that is the subject of this report.
- No one provided significant real property appraisal assistance to the person signing this certification.
- I have the knowledge and experience required to complete this assignment competently.
- This appraisal assignment was not based on a requested minimum value, valuation, a specific valuation, nor provides a value estimate for the approval of a loan (federally or privately funded).

David L. Guder, CCIM
Project Manager
Corporate Real Estate
#AG019544

[i] *The Dictionary of Real Estate Appraisal*, The Appraisal Institute, 4th Ed., p. 113.

(375)

AGREEMENT FOR REHABILITATION AND MAINTENANCE ALLOCATION OF RESPONSIBILITIES AND RIGHTS FOR SAN GORGONIO HYDROELECTRIC PROJECT NO. 344 WATER CONVEYANCE FACILITIES

THIS AGREEMENT FOR REHABILITATION AND MAINTENANCE OF SAN GORGONIO HYDROELECTRIC PROJECT NO. 344 WATER CONVEYANCE FACILITIES ("Agreement") is effective as of 3-26-13 by and between the CITY OF BANNING, a municipal corporation ("Banning"), and, BANNING HEIGHTS MUTUAL WATER COMPANY, a California corporation ("Banning Heights"), both of which may be collectively referred to herein as "Parties" and individually referred to herein as "Party."

RECITALS

A. **Recitals and Capitalized Terms.** The recitals in this Agreement constitute part of this Agreement and each Party shall be entitled to rely on the truth and accuracy of each recital as an inducement to enter into this Agreement. The capitalized terms used in these Recitals and throughout this Agreement shall have the meaning assigned to them in Article 1. Any capitalized terms not defined in Article 1 shall have the meaning otherwise assigned to them in this Agreement, or apparent from the context in which they are used.

B. **Previous Agreements.** Historical events and previous agreements relating to this Agreement include, but are not limited to, the following:

1. In the early 1900s, Consolidated Reservoir and Power Company ("Consolidated"), a Southern California Edison ("SCE") predecessor, initiated construction of a hydroelectric project, including water conveyance facilities, which eventually consisted of two diversion dams on the East and South forks of the Whitewater River, concrete lined canals, two steel forebay tanks (one of which has been removed), two penstocks, two powerhouses, and associated transmission lines ("Project").

2. On January 13, 1913, Consolidated entered into an agreement with the Banning Water Company, a Banning predecessor, to provide Banning Water Company with water from the Project after Consolidated used the water for generating power. Banning planned to use the water for domestic and irrigation purposes (the "1913 Banning Agreement").

3. On December 30, 1913, Consolidated entered into a conveyance to Banning Heights granting Banning Heights certain water conveyance facilities and Consolidated's water rights, subject to use of the water by Consolidated for its Project and to the terms of the 1913 Banning Agreement (the "1913 Banning Heights Conveyance").

4. On July 1, 1933, San Gorgonio Electric Corporation, another SCE predecessor, entered into an agreement with Banning Heights on allocating the costs of maintaining the Project water conveyance facilities from the Whitewater River to the second power plant (the "1933 Maintenance Agreement"). The 1913 Banning Agreement, the 1913 Banning Heights Conveyance and the 1933 Maintenance Agreement shall be referred to collectively as the "Flume Agreements."

5. By order entered on April 23, 1928, in Book 1 of Orders of Determination, Page 426 of the State of California, Department of Public Works, Division of Water Rights, the predecessor to the State Water Resources Control Board, Banning Heights, San Gorgonio Power Company, another SCE predecessor, and Banning Water Company, a Banning predecessor, are jointly entitled to divert 13.26 cubic feet per second of the natural flows of the Whitewater River (the "Whitewater River Adjudication") into the Project, subject to provisions of the Flume Agreements, among other things, as referenced in the Agreement for Transfer of San Gorgonio Hydroelectric Project No. 344 Water Conveyance Facilities, dated February 1, 2008 ("Transfer Agreement").

6. In 1926, the San Gorgonio Power Company, a predecessor to SCE, was issued License 550 by the then Department of Public Works, Division of Water Rights for 13.26 cubic feet per second (which is understood to be approximately 9,600 acre feet per year) the amount Banning, Banning Heights and SCE are entitled to divert from the Whitewater River pursuant to the Whitewater River Adjudication.

7. SCE's predecessor obtained a license from the Federal Energy Regulatory Commission ("FERC"), which agency was at that time named the Federal Power Commission, to operate the Project in 1923. The Project is designated on the FERC license as San Gorgonio Hydroelectric Project No. 344.

8. SCE obtained a new license from FERC in 1983, which license expired on April 26, 2003. FERC has issued annual licenses to SCE for the Project until the ultimate disposition of the Project is determined, which is pending as SCE's September 28, 2010 Application for Surrender of License for the San Gorgonio Nos. 1 and 2 Hydroelectric Project (FERC No. 344)("Application to Surrender").

C. **Intent of the Parties.**

1. SCE has not operated the Project to generate electricity since 1998 due to failure of the 900,000 gallon steel forebay tank (Tank No. 1) located above Powerhouse No. 1 and due to failure of the Project canal below Raywood Flat.

2. Banning and Banning Heights desire to obtain title to the water conveyance facilities associated with the Project, which are more fully described and defined herein as the "Facilities" under Article 1 (Definitions), and SCE desires to convey title to the Facilities on the terms and conditions set forth in the Transfer Agreement.

3. Banning and Banning Heights shall be parties to any agreement with SCE regarding repair and disposition of the Facilities, if different from the current form of the Statement of Work attached as Exhibit "D" to the Transfer Agreement.

4. It is the intent of Banning and Banning Heights to work cooperatively to insure that their respective citizens have a plentiful supply of clean potable water. To that end, each Party will support all efforts undertaken by the other Party to carryout the provisions of this Agreement and the Transfer Agreement.

5. The Facilities' capacity, as restored and repaired by SCE, shall not be less than 13.26 cubic feet per second, though the Parties recognize that said quantity may downsize over its course through and toward the end of the Facilities, which is located in or near Banning and Banning Heights.

6. Though the San Gorgonio Pass Water Agency ("Pass Agency") was a party to the four-party Transfer Agreement, the Pass Agency is not a party to this Agreement nor does the Pass Agency have any ownership or other rights with regard to the Facilities, however, the Parties seek to maintain a good working relationship with the Pass Agency.

7. There is an unquantified value associated with the Facilities, including its rights-of-way and water conveyance capability. There is an unquantified cost to developing hydro-electric power in the Facilities as well as an unknown value to such power generation. There is an unquantified cost associated with the maintenance of the Facilities to ensure the maximum conveyance of water to Banning Heights and Banning. There is an unquantified value associated with Banning providing a secondary water supply to Banning Heights from Banning's underground water supply in Banning Canyon. Finally, Banning Heights with a small customer base has limited ability to pay for large-scale costs. Quantifying these costs and values is probably speculative, and thus an exchange based upon the Parties' differing interests is a reasonable approach.

D. <u>SCE Transfer Agreement.</u>

1. The Transfer Agreement (which is attached as Exhibit 1 to this agreement) requires SCE to: (i) restore the Facilities to an acceptable condition as set forth below in Recital D.3; and (ii) proceed with its pending Application to Surrender or to take other appropriate steps to facilitate the transfer of the Project and title to the Facilities to the Parties, which could include SCE withdrawing its Application to Surrender to file an application to transfer its existing license to Banning or the Parties (Transfer Agreement, Section 4.a (License Surrender and Transfer)).

2. The Transfer Agreement requires Banning and Banning Heights to proceed with due diligence in seeking approval from the Federal Energy Regulatory Commission ("FERC"), the United States Forest Service, and any other appropriate agency for the right to locate, operate, and maintain the Facilities in the repaired/restored condition to be completed by SCE (Transfer Agreement, Section 4.b (Use Permit, Long-Term Easement, or Power License)).

3. Pursuant to the Transfer Agreement, SCE is required to undertake the work to restore and repair the Facilities as set forth in the Statement of Work attached as Exhibit "D" to the Transfer Agreement, such that Banning and Banning Heights shall not become responsible for undertaking completing restoration or repair of the Facilities, nor shall SCE simply provide Banning or Banning Heights with a payment or other consideration for Banning or Banning Heights to undertake such repairs prior to conveyance of the Facilities.

4. Although the Transfer Agreement requires SCE to rehabilitate the facilities and transfer them in their rehabilitated condition to Banning Heights, it does not resolve the issue of their long term maintenance but provides that this would be resolved through a

subsequent agreement between Banning and Banning Heights and this Agreement is such agreement.

E. **This Agreement.** This Agreement establishes the terms by which Banning and Banning Heights will operate and maintain the Facilities after SCE restores/repairs the Facilities as set forth in this Agreement and the Transfer Agreement.

F. **Mutual Agreement.** It is in the best interests of the Parties to execute this Agreement because the Facilities will be restored/repaired by SCE, allowing the Parties to receive water delivered through and by the Facilities. Banning Heights owns certain facilities but does not have the resources to deal with the natural and challenging terrain on which much of the Facilities are located nor does Banning Heights have the resources for future on-going and significant maintenance that may arise. Banning is a major entity in the San Gorgonio Pass area with facilities in five groundwater basins. Banning is entitled to overflow from water not used by Banning Heights, which provides great value to Banning.

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises and covenants herein contained, and having determined that the forgoing recitals are true and correct and should be and hereby are incorporated into this Agreement, the Parties agree as follows:

ARTICLE 1.0
DEFINITIONS

In the event of conflict between the definition of a term as found in State law or regulations or Banning ordinances, and this Agreement, the definition in this Agreement shall, unless otherwise mutually agreed to in writing by the Parties, supersede the definition found elsewhere.

1.1 **1913 Banning Agreement.** "1913 Banning Agreement" means the agreement entered into on January 13, 1913 between Consolidated and the Banning Water Company to provide Banning Water Company with water from the Project after Consolidated used the water for generating power.

1.2 **1913 Banning Heights Conveyance.** "1913 Banning Heights Conveyance" means the agreement entered into on December 30, 1913 between Consolidated and Banning Heights which granted Banning Heights certain water conveyance facilities and Consolidated's water rights, subject to use of the water by Consolidated for its Project and to the terms of the Banning Water Company contract.

1.3 **1933 Maintenance Agreement.** "1933 Maintenance Agreement" means the agreement entered into on July 1, 1933 between San Gorgonio Electric Corporation and Banning Heights on allocating the costs of maintaining the Project water conveyance facilities from the Whitewater river to the second power plant.

1.4 **Agreement**. "Agreement" means this Agreement, including all exhibits and attachments which are incorporated herein by reference, as this Agreement may be amended. The exhibits include the following:

Exhibit "A": Map of the Facilities

Exhibit "B": Map of Banning Heights Territory

Exhibit "C": Agreement for Transfer of San Gorgonio Hydroelectric Project No. 344 Water Conveyance Facilities and Exhibits (Transfer Agreement)

Exhibit "D": Water Rate Charges to Banning Heights

1.5 **Agreements**. "Agreements" means, in addition to this Agreement, the agreements identified above in Recital B.

1.6 **Alternative Restoration Plan**. "Alternative Restoration Plan" shall have the meaning as set forth below in Section 4.2.

1.7 **Applicable Law**. "Applicable Law" means all statutes, case authorities, rules, regulations, guidelines, actions, determinations, permits, orders, or requirements of the United States, State, County, City and local and regional government authorities and agencies having applicable jurisdiction, that apply to or govern the Facilities, the Project or the performance of the Parties' respective obligations hereunder, including any of the foregoing which concern health, safety, fire, environmental protection, labor relations and prevailing wages, if applicable,, mitigation monitoring plans, building codes, zoning, and licensing and permitting of the Facilities for ownership, transfer, maintenance, or operation.

1.8 **Application to Surrender**. "Application to Surrender" means SCE's application pending before the FERC entitled "Application for Surrender of License for the San Gorgonio Nos. 1 and 2 Hydroelectric Project (FERC No. 344)."

1.9 **Assignment**. "Assignment" shall have the meaning as set forth below in Article 13. All forms of use of the verb "assign" and the nouns "assignment" and "assignee" shall include all contexts of hypothecations, sales, conveyances, transfers, leases, and assignments.

1.10 **Banning**. "Banning" means the City of Banning, a municipal corporation.

1.11 **Banning Heights**. "Banning Heights" means Banning Heights Mutual Water Company, a California mutual benefit corporation.

1.12 **Banning Water Company**. "Banning Water Company" means the predecessor to Banning that entered into the 1913 Banning Agreement, as identified above in Recital B.

1.13 **Best Management Practices ("BMP")**. "Best Management Practices," "BMP," or "BMPs," means structural, nonstructural, and managerial techniques recognized to be the most effective and practical means to repair, maintain, and operate the Facilities.

1.14 **CEQA**. "CEQA" means the California Environmental Quality Act (California Public Resources Code §§ 21000 *et seq.*) and its implementing regulations and guidelines (California Code of Regulations, Title 14, §§ 21000 *et seq.*) including future amendments to or re-codification thereof.

1.15 **City Council**. "City Council" means the governing body of Banning.

1.16 **City Manager**. "City Manager" means the City Manager of Banning.

1.17 **Claims or Liabilities**. "Claims or Liabilities" means any challenge by water customers of either Party or any other third party (i) to the legality, validity or adequacy of the Transfer Agreement or this Agreement, (ii) concerning the repair, maintenance or operation of the Facilities, whether an act or omission by either Party or other regulatory agencies pertaining to the repair, maintenance, or operation of the Facilities, or (iii) for personal injury, liability, damages or loss arising from or consequential to repair, maintenance, or operation of the Facilities.

1.18 **Consolidated Reservoir and Power Company**. "Consolidated Reservoir and Power Company" means the SCE predecessor that initiated construction of the Project, and entered into the 1913 Banning Agreement and the 1913 Banning Heights Conveyance as identified above in Recital B.

1.19 **Consolidated**. "Consolidated" means Consolidated Reservoir and Power Company.

1.20 **Design and Permitting Team**. "Design and Permitting Team" or "Team" shall have the meaning as set forth below in Section 4.1.

1.21 **Developed Acre**. "Developed Acre" means any acre or legally divided portion thereof that is developed for residential use or agricultural production, but excludes all other land until such time as it is so developed.

1.22 **Director**. "Director" means a member of the Board of Directors of Banning Heights.

1.23 **Director of Public Works**. "Director of Public Works" means Banning's Director of Public Works or the Director of Public Works' designee.

1.24 **Drought Conditions**. "Drought Conditions" means an extended period of months or years when a region sustains a deficiency in its water supply whether surface or underground water, which may occur when a region receives consistently below average precipitation, and may be established by a declaration of drought from an authorized representative of a State, County, or local entity for that region.

1.25 **Effective Date**. "Effective Date" means the date this Agreement becomes effective as set forth above on page 1, after being fully executed and duly approved by Banning Heights and Banning.

1.26 **Environmental Law.** "Environmental Law" means any federal, state or local statute, ordinance, rule, regulation, order, consent decree, judgment or common-law doctrine, and provisions and conditions of permits, licenses and other operating authorizations relating to: (i) pollution or protection of the environment, including natural resources; (ii) exposure of persons, including employees, to Hazardous Materials or other products, raw materials, chemicals or other substances; (iii) protection of the public health or welfare from the effects of by-products, wastes, emissions, discharges or releases of chemical substances from industrial or commercial activities; or, (iv) regulation of the manufacture, use or introduction into commerce of chemical substances, including, without limitation, their manufacture, formulation, labeling, distribution, transportation, handling, storage and disposal.

1.27 **Facilities.** "Facilities" shall refer to and mean the current water conveyance facilities, including the flume, depicted in Exhibit "A" attached to this Agreement and as described in Recitals "J" and "K" of the Transfer Agreement, which are fully incorporated herein by reference. A copy of the Transfer Agreement is attached to this Agreement as Exhibit "C".

1.28 **Federal Energy Regulatory Commission.** "Federal Energy Regulatory Commission" means the federal agency that regulates, monitors, and investigates, among other things, electricity and hydropower for licensing of non-federal hydroelectric projects, overseeing related environmental matters, and inspecting non-federal hydropower projects for safety conditions and compliance with terms and conditions in a FERC License.

1.29 **FERC.** "FERC" means the Federal Energy Regulatory Commission.

1.30 **FERC License.** "FERC License" means a license from FERC to operate a non-federal hydroelectric project.

1.31 **FERC No. 344.** "FERC No. 344" means the license that FERC first granted to Consolidated in the early 1900s, reissued to SCE in 1983, and which is now the subject of the pending Application to Surrender.

1.32 **First Tier Rates.** "First Tier Rates" shall have the meaning as set forth below in Section 8.2.

1.33 **Force Majeure.** "Force Majeure" shall have the meaning as set forth below in Section 17.8.

1.34 **Flume Agreements.** "Flume Agreements" means the 1913 Banning Agreement, the 1913 Banning Heights Conveyance, and the 1933 Maintenance Agreement, as identified above in Recital B.

1.35 **Inter-Tie.** "Inter-Tie" means a water supply connection between the water systems of Banning and Banning Heights.

1.36 **License.** "License" means a license, and the process related to acquisition of the license, for a Use Permit from the United States Forest Service, as identified below in Section 5.2.

1.37 **License #550**. "License #550" means the license granted to the predecessor of SCE by the State Water Resources Control Board for the joint right to divert 13.26 cubic feet per second from the Whitewater River, as part of the Whitewater River Adjudication.

1.38 **Local Agency**. "Local Agency" means any public agency authorized to levy, create, or issue any form of land-secured financing over all or any part of the Project, including, but not limited to, Banning.

1.39 **Mascaro Litigation**. "Mascaro Litigation" means the pending litigation initiated on April 7, 2011 by Stephen J. Mascaro and Betty D. Mascaro entitled *Mascaro v. Banning Heights Mutual Water Company, Southern California Edison Company, City of Banning, Larry Walborn, Robert Poland, Michael Sichta, Charles Perkins, and Does 1 through 100, Inclusive*, San Bernardino Superior Court Case No. CIVDS110447.

1.40 **NEPA**. "NEPA" means the means the National Environmental Policy Act (42 United States Code, §§ 21000 *et seq.*) and its implementing regulations and guidelines including future amendments to or re-codification thereof.

1.41 **Overflow**. "Overflow" means water that is not used by Banning and Banning Heights for direct domestic, stock watering, and irrigation purposes, and that which Banning is entitled to under the Whitewater River Adjudication to spread and store underground in San Gorgonio Canyon to be used at a later time for beneficial purposes.

1.42 **Pass Agency**. "Pass Agency" means the San Gorgonio Pass Water Agency which is a California special district and also a party to the Transfer Agreement.

1.43 **Project**. "Project" means the hydroelectric project, including water conveyance facilities, as set forth above in Recital B.

1.44 **Reasonable Amount of Water**. "Reasonable Amount of Water" means four (4) acre-feet of water per year for each Developed Acre.

1.45 **Reduced Water Threshold**. "Reduced Water Threshold" shall have the meaning as set forth below in Sections 8.2.

1.46 **Rehabilitation**. "Rehabilitation" shall have the meaning as set forth below in Section 5.1.

1.47 **Report of Licensee**. "Report of Licensee" means the triennial reports required by the State Water Resources Control Board for licenses it has issued.

1.48 **Restoration Plan**. "Restoration Plan" means restoration of the Facilities, as set forth below in Article 5 and more fully in the Transfer Agreement.

1.49 **San Gorgonio Electric Corporation**. "San Gorgonio Electric Corporation" means the predecessor to SCE that entered into the 1933 Maintenance Agreement, as set forth above in Recital B.

1.50 **SCE**. "SCE" means Southern California Edison.

1.51 **Southern California Edison**. "Southern California Edison" is an investor-owned public utility company that provides electricity throughout Southern California, and is the current owner of the Project, FERC License No. 344, and SWRCB License #550, and also is a party to the Transfer Agreement.

1.52 **State Water Resources Control Board**. "State Water Resources Control Board" is a public agency within the California Environmental Protection Agency, which, among other things, regulates surface water diversions in the State of California.

1.53 **SWRCB**. "SWRCB" means the State Water Resources Control Board.

1.54 **Tiered Rates**. "Tiered Rates" shall have the meaning as set forth below in Section 9.2.

1.55 **Transfer Agreement**. "Transfer Agreement" means the Agreement for Transfer of San Gorgonio Hydroelectric Project No. 344 Water Conveyance Facilities, dated February 1, 2008, by and between Banning, Banning Heights, SCE, and the Pass Agency.

1.56 **Use Permit**. "Use Permit" means a permit granted by the United States Forest Service ("USFS") to use Forest Service land in a way that provides a benefit to the general public, including protection of natural resources.

1.57 **Water Emergency**. "Water Emergency" or "Water Emergencies" means a condition or circumstance in which an insufficient amount of potable water is available to meet the needs of a community, and such Emergency may be declared by Banning pursuant to Water Code §§ 350 *et seq.*

1.58 **Water Rights**. "Water Rights" in this Agreement means the rights that Banning, Banning Heights, and SCE are entitled to in the Whitewater River under the Flume Agreements and the Whitewater River Adjudication.

1.59 **Whitewater River Adjudication**. "Whitewater River Adjudication" means the statutory adjudication of the Whitewater River system that culminated in the Order of Determination entered on April 23, 1928 and entered in Book 1 of Orders of Determination, Page 426 of the State of California, Department of Public Works, Division of Water Rights.

ARTICLE 2.0
TERM

2.1 **Term**. The covenants, conditions and restrictions contained in this Agreement shall remain in effect for a period of forty (40) years from the date this Agreement was executed. At the expiration of said forty (40) year period the term of this Agreement shall be automatically renewed for successive five (5) year periods, unless one of the Parties provides the other Party written notice of its intent not to extend the term within one hundred twenty (120) days prior to the expiration of the initial term or any extended term.

2.2 **Survival of Certain Provisions**. All indemnifications, representations and warranties of the Parties herein, and any other rights and obligations of the Parties expressly stated to survive the termination of this Agreement, shall survive such termination.

2.3 **Effective Date.** The Effective Date is the date set forth above under Section 1.25.

2.4 **Termination for Breach**. This Agreement may be terminated due to the occurrence of a breach in accordance with the procedures set forth below in Article 14.

ARTICLE 3.0
OWNERSHIP AND CONSIDERATION

3.1 **Conveyance.** The Facilities and related obligations as set forth in the Transfer Agreement and in this Agreement shall be conveyed from SCE to Banning Heights and immediately, if not concurrently, from Banning Heights to Banning for the consideration provided in this Agreement; however, there should be no upfront monetary consideration from either Party.

3.2 **Consideration.** As consideration for this Agreement, and except for: (i) Drought Conditions or Water Emergencies; (ii) regulatory changes beyond the control of Banning that adversely impact the Facilities, water supplies or delivery of water from the Facilities; or, (iii) Acts of God impacting the Facilities' water delivery and as otherwise as qualify as Force Majeure, Banning will operate and maintain the Facilities so as to convey to Banning Heights a portion of its historic Water Rights as described herein, without cost to Banning Heights, which for purposes of this Agreement shall be deemed to be a Reasonable Amount of Water for each Developed Acre among its total existing 850 acres.

3.3 **Payment of Rehabilitation of the Facilities.** Pursuant to the Transfer Agreement, SCE will pay ninety percent (90%) and Banning will pay ten percent (10%) of the actual cost for completing repairs as set forth in Exhibit "D" of the Transfer Agreement. Notwithstanding the foregoing, nothing herein shall require Banning to pay more than One Million Two Hundred Thousand Dollars ($1,200,000.00) unless otherwise approved by Banning explicitly in writing. Banning Heights is not responsible for any cost of said work.

ARTICLE 4.0
DESIGN, ALTERNATIVE RESTORATION PLAN, AND POWER GENERATION

4.1 **Design and Permitting Team.** The Parties shall establish a Design and Permitting Team ("Team") for the rehabilitation of the Facilities (the "Rehabilitation"), with the Parties' goal being to develop a system which will minimize future maintenance expense. The Permitting Team will consist of the following, who will perform the designated responsibilities: (i) Steve Stockton, (rehabilitation design and construction management); (ii) Roy McDonald, (permitting processes and costs of the consultants associated with seeking the License); (iii) an SCE Representative, and (iv) the City Director of Public Works (Chair and Team Leader). The Team shall also consist of a representative from SCE. Banning will contract, pay for, and direct the consultants, with Banning Heights having unrestricted access to these consultants.

4.2 **Alternative Restoration Plan.** Restoration of the Facilities within the existing FERC footprint, anticipated to be via tunneling or a trestle system, is the Parties' preferred method but this method may not be feasible. If such method is determined not to be feasible by the Parties' Design and Permitting Team as identified above at Section 4.1, diversion at Raywood Flats through Burnt Creek may be the most likely direction for the Facilities, in which case third-party easement and/or property acquisition from a private landowner may become necessary.

4.3 **Power Generation.** Banning may explore generation of power from the Facilities as required by, and within the time stated in, the FERC License. Such power generation shall be at Banning's sole discretion subject only to the requirements of the FERC license. If Banning decides to proceed with power generation from the Facilities, Banning shall offer to Banning Heights the opportunity to participate as follows:

(a) Banning will provide Banning Heights with written notice along with cost estimates and a sixty-day (60) period to determine if Banning Heights will participate;

(b) Banning Heights may elect a percentage participation in the power generation project, but not less than a ten percent (10%) share;

(c) In exercising its election, Banning Heights must pay Banning a deposit based off its elected percentage share of the estimated cost (including contingencies);

(d) Banning Heights shall be responsible for its elected percentage share of the ultimate actual cost, and shall pay any such shortfall over the deposit, or receive reimbursement within sixty (60) days of the Notice of Completion of the project; and

(e) Although any construction shall be undertaken through contracts led by Banning, Banning Heights shall be entitled to fully monitor construction.

If Banning Heights elects not to participate in installing and maintaining power generation and distribution equipment, or if Banning Heights fails to make the deposit or pay its percentage costs when such becomes due and payable, Banning Heights shall not have a right to receive power or to receive a share in any revenue generated from such operations.

ARTICLE 5.0
LICENSING AND PERMITTING

5.1 **New Use Permit License.** A new license should be pursued by Banning as the applicant and licensee for the operation of the Facilities, at some undetermined later point in time. The license process is the Use Permit process through the United State Forest Service ("USFS") (the "License"). Banning would be the permit applicant, due in part to the Parties' understanding that a joint permit is unacceptable to USFS. Banning reserves the exclusive right to control decisions in seeking the License, and, if pursued, Banning shall pay for retaining the necessary consultant and permitting costs to process the this application and to obtain the

License, which is estimated to be One Million Dollars ($1,000,000.00). Banning Heights shall support all efforts by Banning to obtain the License.

5.2 **SWRCB License**. SCE holds a license granted by the SWRCB (License #550) for the jointly held diversion right that was granted pursuant to the Whitewater River Adjudication to SCE, Banning and Banning Heights. Banning Heights shall support all efforts by Banning to have License #550 transferred from SCE to Banning.

5.3 **CEQA and NEPA**. In accordance with the requirements of CEQA and NEPA, appropriate studies, analyses, reports and documents will be prepared by Banning, as the lead agency, and considered by the City Council, in the event that compliance with Environmental Law is required due to (i) the initial project for repair as set forth in Exhibit D attached to the Transfer Agreement, (ii) actions undertaken by Banning including without limitation consultation or support regarding the Facilities, or (iii) repair, maintenance, or operation of the Facilities. Banning Heights shall support all efforts by Banning to obtain necessary regulatory and Environmental Law approvals. Banning shall implement any mitigation monitoring program developed as part of Environmental law.

5.4 **Other Licensing and Permitting.** To the extent Banning bears the obligation or deems it necessary to obtain regulatory approvals, including licensing or permitting, in addition to those set forth above, Banning shall apply in a timely manner for such other permits and approvals as may be required from other governmental or quasi-governmental agencies having jurisdiction as may be required for the repair, maintenance, or operation of the Facilities, and Banning Heights shall cooperate with Banning in its efforts to obtain such permits and approvals and Banning Heights shall also use reasonable efforts, to the extent possible, in coordinating the implementation of the Transfer Agreement and this Agreement with other public agencies, if any, having jurisdiction over repair, maintenance, or operation of the Facilities.

ARTICLE 6.0
OWNERSHIP: WATER RIGHTS AND FACILITIES

6.1 **Water Rights.** Nothing in the Transfer Agreement or this Agreement shall affect the Whitewater River Adjudication, including the water rights granted to Banning and Banning Heights. Specifically, the Parties agree that nothing herein shall be deemed to be inconsistent with the Parties' Water Rights or the Agreements, and that nothing in this Agreement alters, changes, or modifies in any way the Water Rights of Banning Heights or Banning as set forth in the Agreements and reaffirmed in the Whitewater River Adjudication, nor shall any event subsequent to this Agreement becoming effective alter, change, or modify the Water Rights, unless at some future time both Parties unequivocally do so explicitly in writing.

6.2 **Facilities.** Notwithstanding Section 6.1 set forth above, it is expressly understood title to all water facilities shall transfer to Banning which shall thereafter have the right to operate, manage, maintain, alter, pledge, transfer, hypothecate, such facilities, subject to performing its obligations as provided herein.

6.3 **No Storage or Transferring Water Rights.** Banning Heights shall not bank, store, or transfer, permanently or temporarily, any surplus water delivered to Banning Heights pursuant to this Agreement, nor shall Banning Heights transfer its Water Rights, except as provided for in this Agreement. Banning Heights warrants that it will not market to sell, lease, or otherwise transfer, temporarily or permanently, water from the Facilities, including water delivered from Banning, beyond its existing service area, or shareholders' area as depicted in the "Map of Banning Heights Territory" (attached to this Agreement as Exhibit "B"), though additional development to the maximum provided herein may occur within said area. Notwithstanding the foregoing, Banning may approve within its sole discretion for Banning Heights to serve other parcels which Banning is not capable of serving so long as Banning Heights maintains at least a ratio of not less than one (1) water meter per acre, preceded by Banning providing notice to Banning Heights pursuant to Section 16.9 (Notices) as set forth below for a hearing to be scheduled as an open public hearing item at a regularly-scheduled City Council meeting within thirty (30) days notice, subject to any legal requirements including but not limited to the Ralph M. Brown Act (Government Code §§ 54950 *et seq.*) and Proposition 218 (Constitution Article XIII C and D), as applicable. Banning Heights may, within its sole discretion, decline to provide such service if to do so would adversely impact its status as a mutual water company exempt from regulation by the California Public Utility Commission.

ARTICLE 7.0
WATER SERVICE

7.1 **Delivery.** Banning will deliver a Reasonable Amount of Water to Banning Heights at a Banning/Banning Heights system Inter-Tie, with Banning Heights to pay for the costs of constructing the system Inter-Tie. Maximum development within Banning Heights' existing service area is projected to be not more than double the current units.

7.2 **Delivery Schedule.** Banning will deliver a Reasonable Amount of Water based on the usual and customary industry practice for retail delivery of water.

7.3 **Reductions.** Drought Conditions, Water Emergencies, acts of God, regulatory restrictions, and other conditions beyond Banning's control, including those set forth below in Section 17.8 (Force Majeure), may adversely impact Banning's ability to deliver water to its customers. In such circumstances, Banning's obligation to provide Banning Heights with a Reasonable Amount of Water may be suspended during the term of such conditions, and Banning's obligation to provide Banning Heights a Reasonable Amount of Water at no cost to Banning Heights may be reduced by the same percentage as the percentage reduction in Banning's ability to serve water to its own customers, consistent with Water Code §§ 350 through 359, which governs the standards for a public water supplier to declare and implement Water Emergencies and shortages.

ARTICLE 8.0
WATER RATES

8.1 **Rates.** Banning Heights shall not be subsidized by other Banning customers for water delivered to Banning Heights. Banning will provide water to Banning Heights at customary rates, consistent with the rates reflected in Exhibit D attached to this Agreement and as set forth herein.

8.2 **Tiered Rates.** Banning shall provide Tiered Rates for water delivered through the Facilities. First Tier rates will be at no charge to Banning Heights for a Reasonable Amount of Water for a Developed Acre so long as the water comes from the Facilities. If in any year: (i) Banning provides Banning Heights with more than a Reasonable Amount of Water; (ii) the circumstances provided above in Section 7.3 apply to a Reduced Water Threshold; or (iii) circumstances as otherwise provided in this Agreement apply for water delivered to Banning Heights other than through the Facilities, then Second Tier rates will be the Banning's customary rate(s) to Banning Heights. The calculation will be made allowing credit for each meter served by Banning Heights, in accordance with Exhibit D.

8.3 **Modification To Banning Water Rates.** Banning reserves the right to modify its water rates for Second Tier rates as those rates are currently reflected in Exhibit D, as deemed necessary by Banning and pursuant to applicable procedural and substantive legal requirements under State law and as may otherwise exist, namely through compliance with the procedural and the substantive standards set forth in Proposition 218 codified in Articles XIIIC and XIIID of the California Constitution following statewide voter approval in 1996.

ARTICLE 9.0
ANNUAL INSPECTION, REPORTS & RECORDS

9.1 **Annual Inspection.** Each Spring, Banning or its designee will perform an annual inspection of the Facilities, and prepare a report that lists all of the recommended repairs and maintenance needed on the Facilities. A representative of Banning Heights may accompany the Banning representative on the inspection.

9.2 **Emergency Repairs.** Notwithstanding the inclusion of recommended repairs for the coming year in the Annual Report, Banning may undertake any necessary emergency repairs for the preparation and efficient operation of the Facilities, giving Banning Heights such notice as may be appropriate under the circumstances, and under any such circumstances, Banning shall include any such work in its report set forth below in Section 9.3.

9.3 **Annual Repair Reports.** Banning will prepare a written annual report consisting of a list of repairs and maintenance undertaken during the previous year, and the list of recommended repairs and maintenance needed after the Annual Inspection. The Annual Report should also project necessary projects in the coming year, and within the next five (5) years. A copy of the report will be provided timely to Banning Heights upon written request from Banning Heights for the report, which shall be submitted to the City as set forth below in Section 16.9 (Notices).

9.4 **Water Delivery Records**. Banning shall maintain for a period of thirty-six (36) months complete and accurate records of the water delivered to Banning Heights.

9.5 **Water Meter Records.** Banning Heights shall maintain for a period of thirty-six (36) months complete and accurate records for all of Banning Heights' water meters in order to ensure a Reasonable Amount of Water is delivered and the appropriate rate is charged. Upon reasonable notice to Banning Heights, Banning or its designee may examine Banning Heights' records pertaining to the water meters, which may include power/electricity invoices or other information that may be used to determine water usage.

9.6 **SWRCB Reports**. Banning will prepare and submit to the SWRCB, the Reports of Licensee that are required once License #550 has been transferred from SCE to Banning.

ARTICLE 10.0
OPERATION

10.1 **Inter-Tie.** Banning Heights will benefit from an Inter-Tie given that the Inter-Tie, as set forth above in Section 8.1, with Banning's water system provides security for when the Facilities cannot deliver water, whether due to the initial Rehabilitation, future maintenance, or other circumstances including those set forth above in Section 9.2 significantly limiting Banning's ability to deliver water through the Facilities to Banning Heights.

10.2 **General Performance Standards.** Banning shall comply with performance standards throughout the Term of this Agreement, with those standards being consistent with accepted practice(s) for comparable facilities, sound management, and operations practice, as well as any applicable standards provided for in the Transfer Agreement, and applicable law pertaining to the Facilities.

10.3 **Environmental Performance Standards.** Banning shall comply with applicable environmental laws and regulations in performance of Banning's obligations set forth in this Agreement.

(a) Air Quality. Banning shall operate the Facilities in compliance with all requirements, recommendations, and BMPs for minimization and mitigation of air quality impacts, including but not limited to, compliance with all California Air Resources Board ("CARB") and SCAQMD standards, rules, and regulations.

(b) Hazardous Materials Standards. Banning shall operate, maintain, and repair, when necessary, the Facilities in compliance with all applicable requirements, recommendations, and BMPs for minimization and mitigation of hazards and hazardous materials impacts.

(c) Biological Resources Standards. Banning shall operate, maintain, and repair, when necessary, the Facilities in such a manner as to minimize impacts to biological resources.

(d) Cultural Resources Standards. Banning shall operate, maintain, and repair, when necessary, the Facilities in such a manner as to minimize impacts to cultural resources.

(e) Water Quality Standards. Banning shall operate the Facilities in compliance with all requirements and BMPs for minimization of water quality impacts.

10.4 Operations Obligations. Banning shall maintain the Facilities in good working order and repair.

(a) Banning shall engage qualified and competent personnel, whether Banning employees or an independent contractor retained by Banning, in numbers for safe and efficient Facilities operation.

(b) Banning may utilize independent contractors at its sole cost to perform the work for which Banning retained the independent contractor. All independent contractors shall be licensed as required under Applicable Law, including, if required, acquisition and maintenance of a business license from Banning.

(c) Banning shall employ all equipment necessary for the effective operation of the Facilities substantially in accordance with reasonable care according to industry standards and any Applicable Laws.

10.5 Limitation. Banning shall not use or permit the use of the Facilities for any purposes other than those contemplated by this Agreement, the Transfer Agreement, or the Flume Agreements.

ARTICLE 11.0
MAINTENANCE

11.1 Maintenance. Banning, as owner of the Facilities, shall be responsible for all of the maintenance of the Facilities, and Banning shall have exclusive discretion for identifying potential repairs, replacements, and improvements of the Facilities, and determining which of are importance. All maintenance and repair should follow Best Management Practices, though the Parties recognize specific circumstances may arise that allow other measures to be taken.

11.2 Best Management Practices. Within a reasonable time after the Parties execute this Agreement, Banning shall form a committee formulated at its sole discretion for formulating Best Management Practices to be utilized for maintaining the Facilities, without any obligation of having a Banning Heights representative on the committee. Banning Heights shall be given the opportunity to comment on draft BMPs, but Banning is not obligated to incorporate any such comments.

11.3 Repairs. Banning shall diligently repair, replace, or restore the Facilities as Banning determines necessary to remedy damage to, or destruction of, any part of the Facilities that impedes delivery of the Water Rights, which may occur as determined necessary by Banning

from time to time or as part of the Annual Inspection as set forth above in Section 9.1. The completed work of compliance, maintenance, repair, replacement, or restoration shall be equal in quality and use to the condition of the Facilities before the event giving rise to the work, except as expressly provided to the contrary herein.

11.4 **Performance Standards.** Banning shall maintain the Facilities consistent with the performance standards provided above in this Article.

11.5 **Access.** Authorized representatives of Banning Heights, as approved by Banning, shall be provided access for inspection of the Facilities, but if and only Banning Heights agrees to indemnify and hold harmless Banning from any loss or liability resulting, directly or indirectly, from such entry, as set forth below in Article 15.

ARTICLE 12.0
TRANSFER

12.1 **Transfers Require Approval.** Banning shall not Transfer this Agreement, or any interest in the Facilities, directly or indirectly, except as provided for under State law, including Public Utilities Code §§ 10051 *et seq.*, which identifies the processes and standards governing the sale or disposal of a public utility that is owned by an incorporated municipal corporation, such as Banning, which may include public notice pursuant to Government Code § 6066 and a public hearing pursuant to Public Utilities Code § 10061(e) for evaluating proposals for acquisition of the public utility.

12.2 **Exceptions.** The requirement for approval shall not apply to any of the following:

(a) The granting of easements or dedications to any appropriate governmental entity or utility or permits to facilitate the operation, repair, or maintenance of the Facilities.

(b) A sale or transfer of the Facilities to a subsidiary of Banning.

(c) As permissible pursuant to Public Utilities Code §§ 10051 *et seq.*, as described above in Section 12.1, or other applicable law, as the case may be.

12.3 **Assumption of Obligations.** No attempted transfer or any of Banning's obligations hereunder shall be effective unless and until the successor party executes and delivers to Banning Heights an assumption agreement in a form approved by Banning Heights assuming such obligations. Following any such assignment or transfer of any of the rights and interests of Banning under this Agreement, the exercise, use, and enjoyment shall continue to be subject to the terms of this Agreement to the same extent as if the assignee or transferee were Banning.

12.4 **Release of Banning.** Upon delivery to Banning Heights of the assumption agreement referenced above in Section 12.3, Banning is released and relieved from all obligations under this Agreement.

12.5 **No Assignment of Claims or Causes of Action**. The Parties warrant that they have made no assignment, and will make no assignment, of any claim, cause of action, right of action or any right of any kind whatsoever, embodied in any of the provisions referred to herein.

12.6 **Successors and Assigns.** This Agreement, and all the terms and provisions hereof, shall be binding upon and shall inure to the benefit of the Parties and their respective heirs, legal representatives, successors and assigns.

ARTICLE 13.0
AMENDMENTS

13.1 **Initiation of Amendment**. Either Party may propose an amendment to this Agreement.

13.2 **Procedure.** Except as set forth in this Article, the procedure for proposing and adopting an amendment to this Agreement shall be the same as the procedure required for entering into this Agreement in the first instance, consisting of communications between and approvals by authorized representatives of Banning and Banning Heights.

13.3 **Consent.** Except as expressly provided in this Agreement, no amendment to all or any provision of this Agreement shall be effective unless set forth in writing and signed by duly authorized representatives of each of the Parties hereto.

13.4 **Minor Modifications.** Implementation of Facilities operations, repairs, or maintenance may require minor modifications of the details of the Parties under this Agreement. The Parties desire to retain a certain degree of flexibility with respect to those items covered in general terms under this Agreement. Therefore, non-substantive and procedural modifications of the Facilities operations, repairs, or maintenance shall not require modification of this Agreement.

(a) Modification will be deemed non-substantive and/or procedural if it does not result in a material change in water deliveries or payment of Water Rates.

(b) Notwithstanding the foregoing, Banning will process any change to this Agreement consistent with State law and will hold public hearings therein if so required by State law.

13.5 **Effect of Amendment to this Agreement.** The Parties agree that except as expressly set forth in any such amendment, an amendment to this Agreement will not alter, affect, impair, modify, waive, or otherwise impact any other rights, duties, or obligations of either Party under this Agreement, nor will the Parties' Water Rights be affected.

ARTICLE 14.0
INSURANCE, INDEMNIFICATION AND HOLD HARMLESS

14.1 **Indemnification and Hold Harmless.** Banning agrees to indemnify and hold harmless Banning Heights, its agents, employees and officials against any and all claims, demands, damages, liabilities, costs, suits, or expenses arising out of any act or omission of any officer, agent or employee of Banning arising from performance or non-performance pursuant to this Agreement including those set forth above in Section 1.17 (Claims or Liabilities). Banning Heights agrees to indemnify and hold harmless Banning, its agents, employees and officials against any and all claims, demands, damages, liabilities, costs, suits or expenses arising out of any act or omission of any officer or employee of Banning Heights arising from performance or non-performance pursuant to this Agreement including those set forth above in Section 1.17 (Claims or Liabilities). It is also understood and agreed that Banning shall indemnify, defend, and hold Banning Heights harmless from any liability imposed for injury (as defined by Government Code § 810.8) occurring by reason of any acts or omissions on the part of Banning under or in connection with any work, authority, or obligations delegated to Banning under this Agreement, and Banning Heights shall indemnify, defend, and hold Banning harmless from any liability imposed for injury (as defined by Government Code§ 810.8) occurring by reason of any acts or omissions on the part of Banning Heights under or in connection with any work, authority, or obligations delegated to Banning Heights under this Agreement.

14.2 **Survival.** All indemnity obligations set forth herein shall survive termination of this Agreement.

14.3 **Insurance.**

(a) **Insurance Requirements.** Each Party shall, at its sole cost and expense, secure and maintain the insurance provided for herein in full force and effect throughout the term of this Agreement, against claims for injuries to persons or damages to property, which may arise from or in connection with the performance and/or obligations of each Party, their respective agents, employees and officials. Each Party shall maintain the types and amounts of insurance coverage, together with related specified deductibles, listed below or required by applicable law, whichever is greater.

(b) **Minimum Limits of Insurance.**

(1) General Liability: $1,000,000 per occurrence, $2,000,000 for bodily injury, personal injury and property damage. If Comprehensive General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the activities related to this Agreement or the general aggregate limit shall be twice the required occurrence limit.

(2) Commercial Auto Liability: $1,000,000 per accident for bodily injury, including accidental death, and property damage that may arise from operations pursuant to this agreement.

(3) Workers' Compensation and Employers' Liability Insurance: Workers' Compensation as required by the Labor Code of the State of California and Employers Liability limits of at minimum $ 1,000,000 per accident.

(4) Insurer's Rating: The insurance required by this Agreement shall be with insurers that are A.M. Best A- rated or better.

(5) Adjustment in Amount of Insurance. The Parties acknowledge that the market for insurance is subject to unforeseeable events which can affect the amount of coverage needed and pricing therefor. Accordingly, in the event that either Party determines that the services under this Agreement create an increased or decreased risk of loss to that Party, that Party agrees that the minimum limits of the insurance policies required by this Article may be changed accordingly upon receipt of written notice from the other Party.

ARTICLE 15.0
ENFORCEMENT

15.1 Legal and Equitable Remedies. The Parties acknowledge that both Parties shall have all legal and equitable remedies as provided by law following the occurrence of a breach. The Parties acknowledge and agree that any material violation of this Agreement is likely to result in immediate and irreparable harm for which monetary damages may be inadequate, difficult or impossible to determine. Accordingly, the Parties consent to injunctive and other appropriate equitable relief including the remedy of specific performance, upon the institution of proceedings by any of the Parties to protect the rights of the Parties under this Agreement in the event of any violation or threatened violation of any provision.

15.2 Other Rights of the Parties. In the event of any violation or threatened violation of any of the provisions of this Agreement, then in addition to, but not in lieu of, any of the rights or remedies the Parties may have to enforce the provisions hereof, the Parties shall have the right to seek additional relief to which the Parties may be entitled at law or in equity.

15.3 Cumulative Remedies. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by any Party of one or more of such rights or remedies shall not preclude the exercise by it whether seeking equitable or monetary relief, at the same or different times, of any other rights or remedies for the same default or any other default by any other Party.

15.4 Waiver. Failure to insist on compliance with any term, covenant or condition contained in this Agreement shall not be deemed a waiver of that term, covenant or condition, nor shall any waiver or relinquishment of any right or power contained in this Agreement at any one time or more times be deemed a waiver or relinquishment of any right or power at any other time or times.

15.5 Governing Law and Venue. This Agreement is made and entered into in the State of California, and shall in all respects be interpreted, enforced and governed under the laws of said State without giving effect to conflicts of laws principles. Any action at law or in equity arising under this Agreement or brought by any Party for the purpose of enforcing, construing, or

determining the validity of any provision of this Agreement shall be filed and tried in the Superior Court of the County of Riverside, State of California, or the United States District Court for the Central District of California. The Parties waive all provisions of law providing for the removal or change of venue to any other court.

15.6 **Right to Terminate.** No breach of this Agreement shall entitle any Party to cancel, rescind or otherwise terminate this Agreement, or excuse the performance of such Party's obligations hereunder; except as provided herein. Notwithstanding the obligations and provisions of this Agreement, and as may otherwise exist between the Parties, (i) should a license, permit, application, or other approval sought from a regulatory agency associated with maintenance or operation of the Facilities not be approved or granted, or (ii) if approved or granted but is made subject to conditions that in either Party's sole discretion makes it unlikely that the water deliveries they have historically received will continue through the Facilities (e.g., environmental mitigation could make future flows insufficient), or (iii) if Banning determines that it is unable to fund its obligations hereunder, in its sole, absolute discretion, or (iv) for SIMILAR OR any other reason either Party wishes to terminate this Agreement then: the Parties shall meet and confer as set forth below in Section 15.7 to seek agreement on modifications to this Agreement. Accordingly, before this Agreement may be terminated or action may be taken to obtain judicial relief the Party seeking relief for a breach ("Nonbreaching Party") shall comply with the meet and confer, and notice and cure, provisions set forth in this Article.

15.7 **Meet and Confer.** Following the effective date of this Agreement, if a Party develops a concern with a Party's obligations in, or the provisions of, this Agreement, that Party shall make good-faith efforts to meet and discuss that concern with the other Party at a mutually-agreeable time and location, by giving notice to the other Party as set forth below in Sections 15.8 and 16.9 of the concern and proposed time and location. Should the Parties meet and confer, such discussions shall occur, whether in multiple meetings as the case and circumstances may be, for a minimum of one month at the end of which either Party may terminate the meet and confer process and a Party, at its sole discretion, may pursue remedies as set forth in this Agreement including mediation, without the obligation to so mediate with the right to walk away, prior to pursuing other remedies including claims or litigation. Failure by either Party to exercise good faith efforts to meet and to discuss such a concern may be offered for consideration in any subsequent administrative or legal proceeding relating to resolution of that concern.

15.8 **Notice of Breach and Opportunity to Cure.** A Nonbreaching Party in its discretion may elect to declare a breach under this Agreement in accordance with the procedures hereinafter set forth for any failure or breach of the other Party ("Breaching Party") in its performance of a material duty or obligation of said Breaching Party under the terms of this Agreement. However, the Nonbreaching Party must provide written notice to the Breaching Party setting forth the nature of the breach or failure and the actions, if any, required by Breaching Party to cure such breach or failure ("Default Notice"). The Breaching Party shall be deemed in "default" under this Agreement, where: (i) said breach or failure can be cured, but the Breaching Party has failed to fully cure within thirty (30) days after the date of the Default Notice (subject to the provisions below), or (ii) a monetary default remains uncured for ten (10) days (or such lesser time as may be specifically provided in this Agreement).

15.9 Non-Monetary Defaults; Longer Cure Period. The Breaching Party on a non-monetary breach shall not be deemed in breach of this Agreement, and such breach shall be waived, if such non-monetary breach cannot reasonably be cured within the above-prescribed thirty (30) day period, so long as the purported Breaching Party does each of the following:

(a) Notifies the Nonbreaching Party in writing with a reasonable explanation as to the reasons the asserted breach is not curable within the thirty (30) day period;

(b) Notifies the Nonbreaching Party of the Breaching Party's proposed cause of action to cure the breach;

(c) Commences action to cure the breach within the thirty (30) day period.

(d) Makes periodic reports to the Nonbreaching Party as to the progress of the program of cure; and

(e) Diligently prosecutes such cure to completion.

15.10 Termination Upon Breach. Upon receiving a Default Notice, should the Breaching Party fail to timely cure a breach, or fail to diligently pursue such cure as prescribed above, and should the Meet and Confer process have failed pursuant to Section 15.7, the Nonbreaching Party may, in its discretion, provide the Breaching Party with a written notice of intent to terminate this Agreement and other Agreements ("Termination Notice"). The Termination Notice shall state that the Nonbreaching Party will elect to terminate the Agreement within thirty (30) days and state the reasons therefore (including a copy of any specific charges of breach) and a description of the evidence upon which the decision to terminate is based.

15.11 Right of Reversion. If Banning fails to perform any of its obligations set forth in this Agreement relating to operation, repair, or maintenance of the Facilities, or if Banning fails to provide water to Banning Heights as set forth in this Agreement, then Banning Heights, without paying any compensation or incurring any liability for damages or losses of any kind, shall have the right to terminate all right, title, and interest held by Banning in the Facilities in the manner provided by law for the exercise and enforcement of this power of termination, with the exception of Banning's Water Rights, which shall not be subject to reversion, forfeiture, or any other loss due to failure to perform an obligation pursuant to this Agreement. Upon proper completion of such termination or reversion, Banning shall provide and deliver to Banning Heights a deed reflecting the same. If reversion of the Facilities were to occur, then the acquiring person or entity bears full responsibility to deliver to Banning its Water Rights. Under no circumstance are Banning's Water Rights subject to reversion.

15.12 Attorneys' Fees and Costs. If any Party to this Agreement is required to initiate or defend any action or proceeding in any way arising out of the Parties' agreement to, or performance of this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees from the other. As used herein, the "prevailing party" shall be the party determined as such by a court of law pursuant to the definition in Code of Civil Procedure § 1032(a)(4), as it may be subsequently amended. Attorney's fees shall include attorney's fees

on any appeal, and in addition a party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

ARTICLE 16.0
MISCELLANEOUS

16.1 **Assistance of Counsel.** The Parties each specifically represent that they have consulted to their satisfaction with and received independent advice from their respective legal counsel prior to executing this Agreement concerning the terms and conditions of this Agreement, and each Party acknowledges and represents that its execution of this Agreement is free and voluntary.

16.2 **Severability.** Should any portion, word, clause, phrase, sentence or paragraph of this Agreement be declared void or unenforceable, such portion shall be considered independent and severable from the remainder, the validity of which shall remain unaffected.

16.3 **Ambiguity.** The Parties acknowledge that this Agreement was jointly prepared by them, by and through their respective legal counsel, and any uncertainty or ambiguity existing herein shall not be interpreted against any of the Parties, but otherwise shall be interpreted according to the application of the rules on interpretation of contracts.

16.4 **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties and supersedes any and all other agreements, understandings, negotiations, or discussions, either oral or in writing, express or implied between the Parties to this Agreement. The Parties to this Agreement each acknowledge that no representations, inducements, promises, agreements, or warranties, oral or otherwise, have been made by them, or anyone acting on their behalf, which are not embodied in this Agreement, that they have not executed this Agreement in reliance on any such representation, inducement, promise, agreement or warranty, and that no representation, inducement, promise, agreement or warranty not contained in this Agreement, including, but not limited to, any purported supplements, modifications, waivers, or terminations of this Agreement shall be valid or binding, unless executed in writing by all of the Parties to this Agreement.

16.5 **Waivers.** Failure by a Party to insist upon the strict performance of any of the provisions of this Agreement by the other Party, or the failure by a Party to exercise its rights upon the default of the other Party, shall not constitute a waiver of such Party's right to insist and demand strict compliance by the other Party with the terms of this Agreement thereafter. Once Banning and Banning Heights have approved all of the Agreements, Banning Heights shall be deemed to have waived any claim that any condition of the development approvals is improper or that the approval constitutes a breach of the provisions of this Agreement.

16.6 **Construction of This Agreement.** The language of this Agreement shall be construed as a whole and given its fair meaning with liberal construction and interpretation. The captions of the sections and subsections are for convenience only and shall not influence construction. This Agreement shall be governed by the laws of the State of California. This Agreement shall not be deemed to constitute the surrender or abrogation of any of Banning's governmental powers.

16.7 **Time of Essence.** Time is of the essence in the performance of the provisions of this Agreement as to which time is an element, and the resolution of any dispute which may arise concerning the obligations of Banning and Banning Heights as set forth in this Agreement.

16.8 **Force Majeure.** The time within which Banning or Banning Heights shall be required to perform any act under this Agreement shall be extended by a period of time equal to the number of days during which performance of such act is delayed due to an uncontrollable circumstance, including circumstances described in this Agreement and by reason of acts of God, earthquakes, droughts, floods, storms, explosion, fires, labor troubles, strikes, insurrection, riots, acts of the public enemy, or federal, state, or local law, order, rule, or regulation, that prevents, in whole or in part, Banning or Banning Heights may perform their respective obligations under this Agreement. An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the uncontrollable circumstance, if written notice by the Party claiming such extension is sent to the other Party within thirty (30) days of knowledge of the commencement of the uncontrollable circumstance. Any act or failure to act on the part of a Party shall not excuse performance by that Party.

16.9 **Notices.** Any notice, demand, request, document, consent, approval, or communication that any Party to this Agreement desires or is required to give to the other Party, or any other person or entity regarding this Agreement, shall be in writing and either served personally or sent by prepaid, certified first-class mail, facsimile, or other means by which delivery to the Parties' designated representatives provided (or their successors) below can be confirmed. Notice shall be deemed effective upon the delivery of such notice to the party for whom it is intended at the address set forth below:

To Banning Heights:

Banning Heights Mutual Water Company
President, Board of Directors
7901 Bluff Street
Banning, California 92220
Telephone: (951) 849-8420
Facsimile: (951) 849-6068

With a copy to:

John G. McClendon, General Counsel
Leibold McClendon & Mann, P.C.
23422 Mill Creek Drive, Suite 105
Laguna Hills, California 92653
Telephone: (949) 457-6317
Facsimile: (949) 457-6305

To Banning:	City of Banning Director of Utilities 99 East Ramsey Banning, California 92220 Telephone: (951) 922-3105 Facsimile: (951) 922-3128
With a copy to:	David J. Aleshire, City Attorney Aleshire & Wynder, LLP 18881 Von Karman Avenue, Suite 1700 Irvine, California 92612

16.10 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be considered an original but all of which shall constitute one agreement.

16.11 No Third Party Beneficiaries. The only Parties to this Agreement are Banning and Banning Heights. There are no third party beneficiaries, and this Agreement is not intended, and shall not be construed, to benefit or be enforceable by any other person whatsoever.

16.12 Further Actions and Instruments. Each of the Parties shall cooperate with and provide reasonable assistance to the other to the extent necessary to implement this Agreement. Upon the request of either Party at any time, the other Party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary to implement this Agreement or to evidence or consummate the transactions contemplated by this Agreement.

16.13 Authority To Sign. The persons executing this Agreement on behalf of the Parties hereto represent and warrant that: (i) such Party is duly organized and existing; (ii) they are duly authorized to execute and deliver this Agreement on behalf of said Party and to bind that Party, including its members, agents and assigns; (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement; and, (iv) the entering into this Agreement does not violate any provision of any other agreement to which said Party is bound.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned have executed this Agreement, consisting of a total of 26 pages, on the dates set forth below.

"BANNING HEIGHTS"

Dated: _____, 2013

BANNING HEIGHTS MUTUAL WATER COMPANY

By: _____
Its: _____

ATTEST:

By: _____
Its: _____

APPROVED AS TO FORM:
Dated: _____, 2013

JOHN G. McCLENDON, ESQ.
LEIBOLD McCLENDON & MANN, P.C.

By: _____
Its: _____

"BANNING"

Dated: _____, 2013

CITY OF BANNING

By: Deborah Franklin
Its: Mayor

ATTEST:

By: Marie A. Calderon
Its: City Clerk

APPROVED AS TO FORM:
Dated: 4/21, 2017

JENKINS & HOGIN, LLP

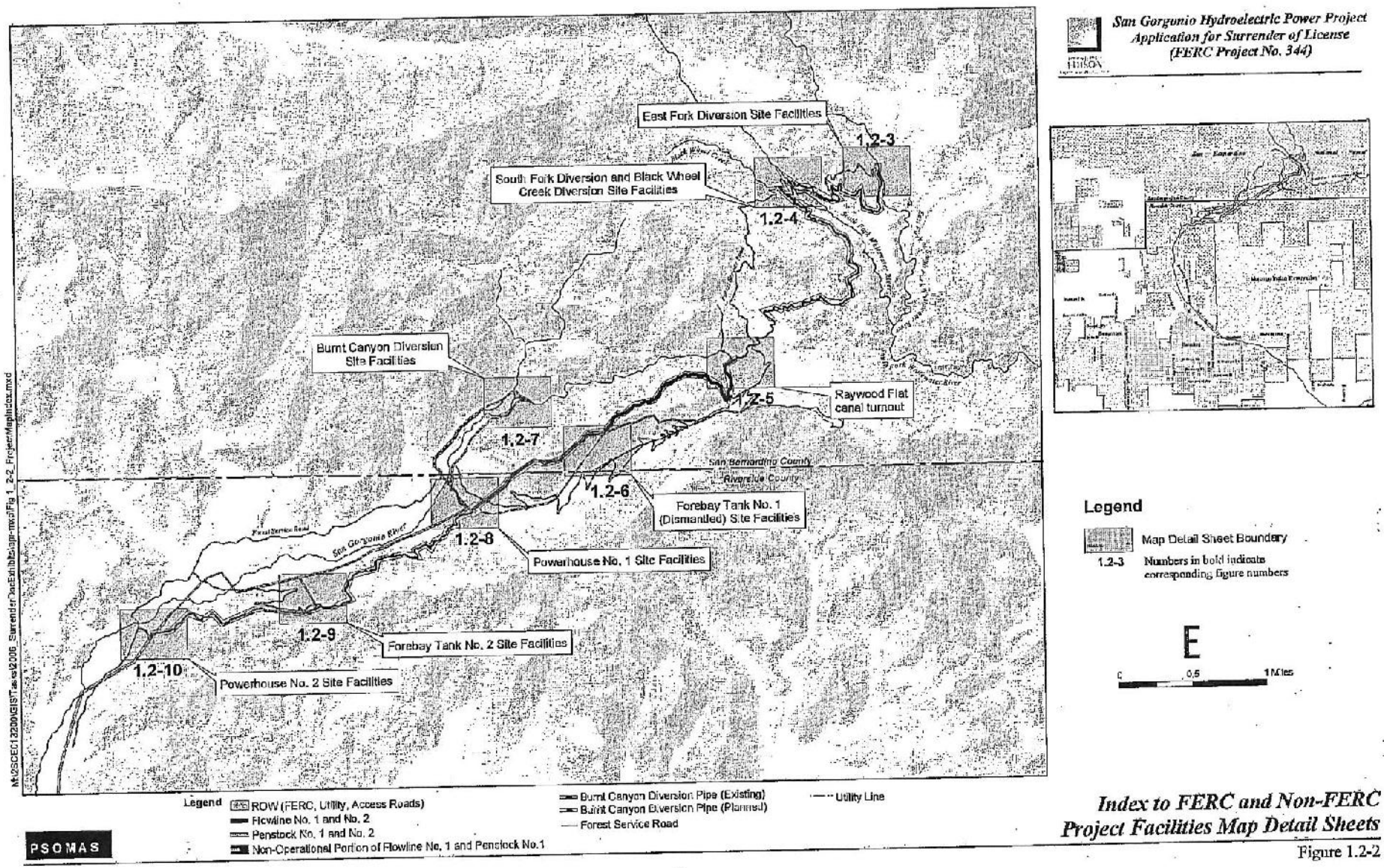
By: _____
Its: Interim City Attorney

Exhibit "A"
Map of the Facilities

EXHIBIT "A"

1756

San Gorgonio Hydroelectric Power Project
Application for Surrender of License
(FERC Project No. 344)



Legend

Map Detail Sheet Boundary

1.2-3 Numbers in bold indicate corresponding figure numbers

E

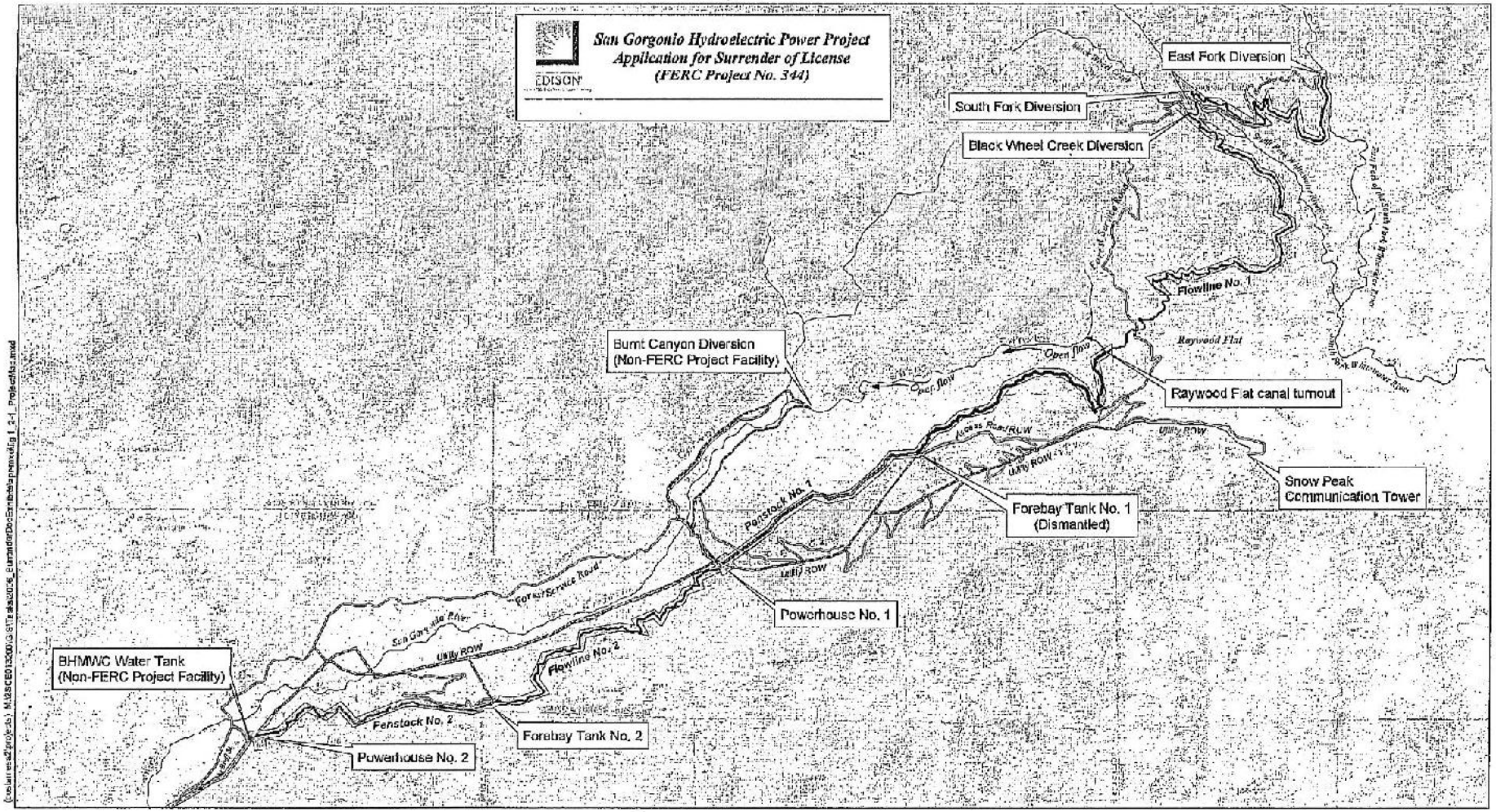
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Index to FERC and Non-FERC Project Facilities Map Detail Sheets

Figure 1.2-2

EXHIBIT "A"

1757



San Gorgonio Hydroelectric Power Project

PSOMAS

Figure 1.2-1

Exhibit "B"
Map of Banning Heights Territory

Exhibit "B"

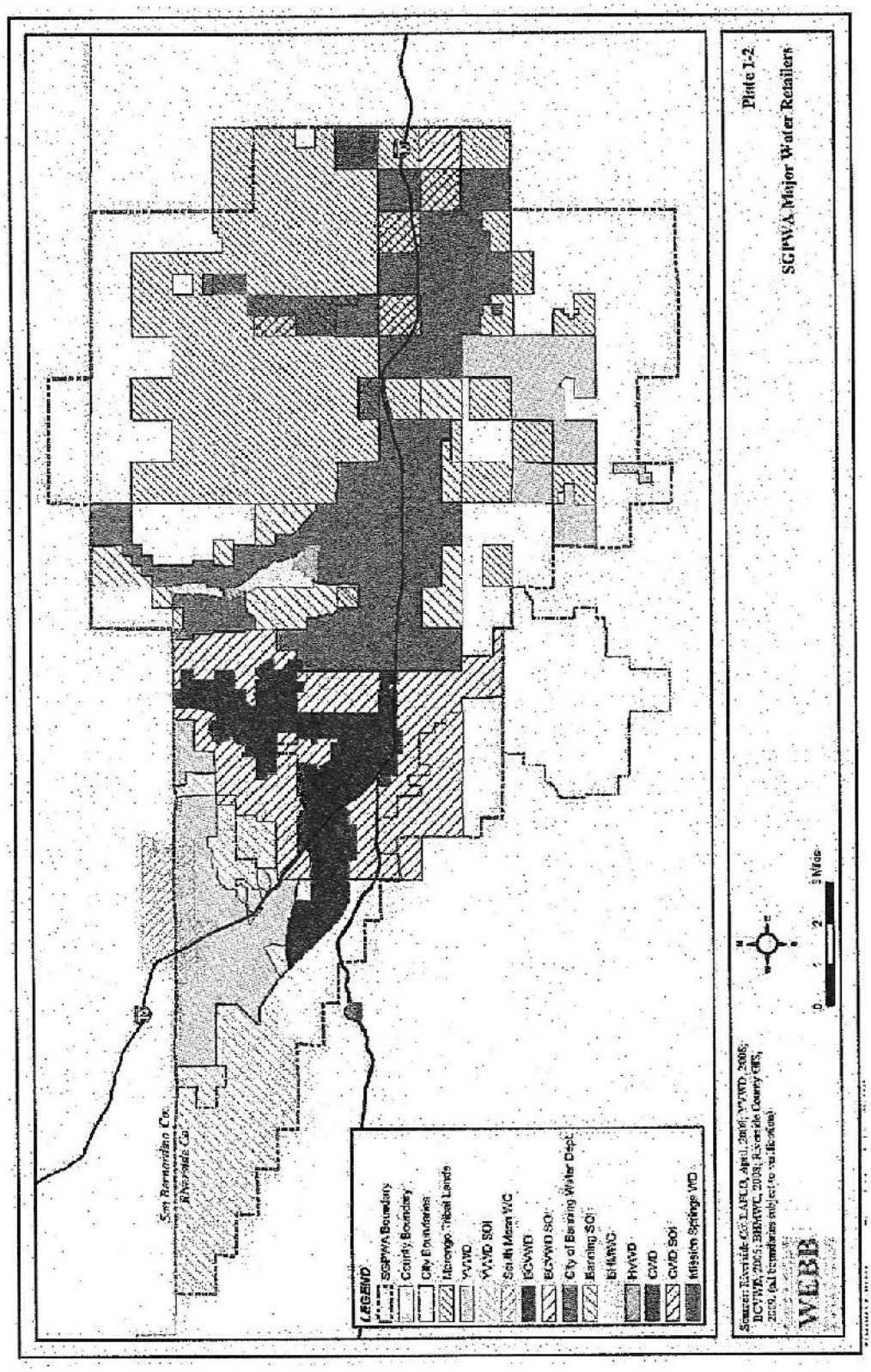

San Bernardino Co.
Riverside Co.
LEGEND
SGPWA Boundary
County Boundary
City Boundaries
Morongo Tribal Lands
YVWD
YVWD SOI
South Mesa WC
BCVWD
BCVWD SOI
City of Banning Water Dept.
Banning SOI
BHWD
HVWD
CVWD
CVWD SOI
Mission Springs WD
Plate 1-2
SGPWA Major Water Retailers
0
2
Miles
WEBB

Exhibit "C"

Agreement for Transfer of San Gorgonio Hydroelectric Project No. 344 Water Conveyance Facilities and Exhibits (Transfer Agreement)

Exhibit "C"

6-3010

AGREEMENT FOR TRANSFER OF SAN GORGONIO HYDROELECTRIC PROJECT NO. 344 WATER CONVEYANCE FACILITIES

This Agreement for Transfer of San Gorgonio Hydroelectric Project No. 344 Water Conveyance Facilities ("Agreement") is effective as of February 1, 2008 by and between Southern California Edison Company, a California corporation ("SCE"), San Gorgonio Pass Water Agency, a California special district ("San Gorgonio"), Banning Heights Mutual Water Company, a California mutual benefit corporation ("Banning Heights"), and City of Banning, a California municipal corporation ("Banning"). San Gorgonio, Banning Heights and Banning shall be collectively referred to as "Participating Entities." All of the Agreement signatories may be referred to as the "Parties."

RECITALS

A. In the early 1900s, Consolidated Reservoir and Power Company ("Consolidated"), a SCE predecessor, initiated construction of a hydroelectric project, including water conveyance facilities, which eventually consisted of two diversion dams on the East and South Forks of the Whitewater River, concrete lined canals, two steel forebay tanks (one of which has been removed), two penstocks, two powerhouses, and associated transmission lines ("Project").

B. On January 13, 1913, Consolidated entered into an agreement with the Banning Water Company, a Banning predecessor, to provide Banning Water Company with water from the Project after Consolidated used the water for generating power. Banning planned to use the water for domestic and irrigation purposes (the 1913 Banning Agreement").

C. Thereafter, on December 30, 1913, Consolidated entered into a conveyance to Banning Heights granting Banning Heights certain water conveyance facilities and Consolidated's water rights, subject to use of the water by Consolidated for its Project and to the terms of the Banning Water Company contract (the "1913 Banning Heights Conveyance").

D. On July 1, 1933, San Gorgonio Electric Corporation, another SCE predecessor, entered into an agreement with Banning Heights on allocating the costs of maintaining the Project water conveyance facilities from the White Water River to the second power plant (the "1933 Maintenance Agreement"). The 1913 Banning Agreement, the 1913 Banning Heights Conveyance and the 1933 Maintenance Agreement shall be referred to collectively as the "Flume Agreements."

E. By order entered April 23, 1928, in Book 1 of Orders of Determination, Page 426 of the State of California, Department of Public Works, Division of Water Rights, Banning Heights, San Gorgonio Power Company, another SCE predecessor, and Banning Water Company are jointly entitled to divert 13.26 cubic feet per second of the natural flows of the Whitewater River into the Project water conveyance facilities subject to provisions of the Flume Agreements, among other things. This Agreement is not

intended to change that Order or otherwise alter the allocation among the Parties of the rights to the waters of the Whitewater River under the Flume Agreements.

F. SCE's predecessor obtained a license from the Federal Energy Regulatory Commission ("FERC"), which agency was at that time named the Federal Power Commission, to operate the Project in 1923. The Project is designated on the FERC license as San Gorgonio Hydroelectric Project No. 344. SCE obtained a new license from FERC in 1983, which license expired on April 26, 2003. FERC has issued annual licenses to SCE for the Project until the ultimate disposition of the Project is determined.

G. SCE has not operated the Project to generate electricity since 1998 due to failure of the 900,000 gallon steel forebay tank (Tank No. 1) located above Powerhouse No. 1 and due to failure of the Project canal below Raywood Flat. SCE does not plan to restore Project power generation and no longer considers the Project to be a power generating facility.

H. With assistance from San Gorgonio as lead representative, Banning Heights and SCE entered into an "Agreement for the Construction and Operation of an Emergency Water Diversion and Pipeline" effective June 20, 2002 pursuant to which SCE agreed to construct, operate and maintain temporary facilities, including a diversion structure and a pipeline from Burnt Canyon to the Powerhouse No. 1 tailrace, and to operate the Project water conveyance facilities at SCE's cost pursuant to SCE's prior contractual obligations.

I. On October 8, 2003, FERC issued an order affirming the validity of an annual license for the Project and requiring the filing of a surrender application.

J. The Project's current water conveyance facilities include the water diversion structures on the East and South Forks of the Whitewater River and Black Wheel Creek in the San Bernardino National Forest in San Bernardino County, which are connected to a concrete flume and pipe system that proceeds in a southerly direction through the San Bernardino National Forest to an area called Raywood Flat. The conveyance system ends shortly after Raywood Flat and the water is released in a westerly direction down the Burnt Canyon natural channel. Near the confluence of Burnt Canyon and Sawmill Creek, the water is diverted through a diversion structure and temporary pipeline that crosses Banning Canyon and eventually back into the Project concrete flume at the tail race of Powerhouse No. 1. The water proceeds through the flowline, the penstocks for Powerhouse No. 2, the Powerhouse No. 2 structure, and from there to the terminus at the Banning Heights storage tank. The pipeline from Powerhouse No. 2 to the Banning Heights storage tank is owned and operated by Banning Heights. The Project facilities to be transferred from SCE to the Participating Entities include the water conveyance system described above and Powerhouse No. 2, which are together referred to as the "Facilities", and are more particularly described in Exhibit "A" and shown on Attachment "1" to Exhibit "A." SCE will also transfer to the Participating Entities any easements for the Facilities to the extent that SCE owns the property or holds an existing easement that may be transferred to the Participating Entities, as set forth in

Exhibit "B." SCE will also transfer a one-acre parcel of land in the Raywood Flat area that is not part of the Project and which land is more particularly described in Exhibit "C."

K. Portions of the water conveyance system that traverse an unstable area on the mountainside above the southerly side of Burnt Canyon south of Raywood Flat, which portions will not constitute part of the Facilities, had been out of service due to frequent landslides and slope failures that damaged the conveyance system. Water from the flowline is now released to Burnt Canyon due to the damage to the conveyance system. A diversion dam and temporary pipeline are in place to capture the water flowing out of the flume down into Burnt Canyon. The Participating Entities replaced the initial Burnt Canyon diversion dam, which was damaged in severe storms during 2005. As described in the Statement of Work, SCE will replace and relocate the existing temporary pipeline from the Burnt Canyon Diversion dam to the water conveyance flowline down gradient of the Powerhouse No. 1 site. The Burnt Canyon Diversion dam and pipeline from that dam constitute part of the Facilities.

L. San Gorgonio has been acting as lead representative for the Participating Entities with regard to the transfer and improvement of the Facilities since the year 2000.

M. SCE currently operates and maintains the Facilities and continues to assume responsibility for repairs. SCE wishes to decommission the power generation components of the Project and divest the Facilities and related real properties. SCE needs approval from FERC and possibly other responsible agencies for decommissioning and divestiture.

N. Participating Entities seek title to the Facilities once they are restored or otherwise repaired by SCE to an acceptable condition. Participating Entities will need approval from the United States Forest Service and other responsible agencies to operate and maintain the Facilities for continued water diversion and delivery to the extent the Facilities are on Forest Service land and otherwise under the jurisdiction of other responsible agencies. Participating Entities will take title to the Facilities pursuant to this Agreement in the name of a public entity consisting of one or any combination of the three Participating Entities, which title shall be determined prior to closing as set forth in this Agreement.

O. Participating Entities desire to obtain title to the Facilities and SCE desires to convey title to the Facilities on the terms and conditions in this Agreement.

NOW THEREFORE, in consideration of the promises set forth in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

1. Conveyance of Facilities and Real Property.

a. Facilities Condition Upon Conveyance. SCE shall convey the Facilities in the condition described in Section 3 below.

b. Facilities and Real Property to be Conveyed. Subject to all of the conditions set forth in this Agreement, SCE shall convey to Participating Entities and Participating Entities shall accept: (i) ownership of the Facilities as evidenced by a Bill of Sale for the Facilities, which shall be in the form attached as Exhibit "A"; (ii) easements held by SCE for the Facilities if SCE has the authority to transfer those easements, free and clear of all recorded and unrecorded (but known to and under the control of SCE prior to the Close of Escrow) liens, options, leases, and taxes, except for the 1914 Trust Indenture encumbrance, for which SCE will have one year from the date of transfer to remove the Trust Indenture lien, and in the form set forth in the "Assignment" attached as Exhibit "B"; (iii) ownership of the one-acre parcel in the form of the Grant Deed attached hereto as Exhibit "C."

c. Payment of Purchase Price for One Acre Parcel. Participating Entities shall deposit into Escrow within five days before Close of Escrow the amount of $12,000.00 as the purchase price for the one acre parcel. The parties agree that the $12,000.00 purchase price is the fair market value of the one acre parcel. The appraisal prepared for the parcel is attached to this Agreement as Exhibit "E".

2. Escrow. Within 10 days after the date of this Agreement, SCE and Participating Entities shall establish escrow with Fidelity National Title ("Escrow Holder"). This Agreement constitutes the joint escrow instructions of SCE and Participating Entities, and the Escrow Holder to whom these instructions are delivered is hereby empowered to act under this Agreement. The Parties agree to do all reasonable acts necessary to close this escrow in the shortest feasible time. As soon as feasible after the opening of the escrow, SCE will deposit the executed Bill of Sale in the form of the attached Exhibit "A", the executed Assignment in the form of the attached Exhibit "B" with the Escrow Holder on the Participating Entities' behalf, and the Grant Deed in the form of the attached Exhibit "C". SCE and Participating Entities agree to deposit with the Escrow Holder any additional instruments as may be necessary to complete this transaction and close escrow. Escrow Holder shall immediately order a Preliminary Report together with copies of all exceptions shown on it from Fidelity National Title for any real property to be transferred from SCE to the Participating Entities. Escrow Holder shall obtain evidence of title in the form of an ALTA 2006 Owner's Policy of title insurance, subject only to those exceptions approved by Participating Entities ("Title Policy"). Escrow shall provide for closing 30 days after the completion of all the contingencies to the close of Escrow, as set forth in Section 6 of this Agreement. Close of Escrow shall mean the date the Bill of Sale, Assignment and Grant Deed are recorded in the office of the Riverside County Recorder.

3. Condition of Facilities.

a. SCE Restoration and Warranty of Facilities. SCE shall restore and repair the Facilities as set forth in the Statement of Work attached as Exhibit "D". SCE warrants that at the time of Facilities transfer to Participating Entities, the Facilities have been restored/repaired and are operating according to the Statement of Work, including any specifications developed by the Joint Design Review Team, except to the extent that

the Facilities do not meet the specifications due to Participating Entities' failure to meet their maintenance obligations after SCE restoration/repair. The Parties expect that the work will be performed between June and October due to inaccessibility to the Facilities between November and May. The Parties anticipate that SCE will complete the work during one summer construction season, assuming that all regulatory approvals are received by June 1st of the year of construction. If approvals are not received until after June 1st of any year, construction is not expected to begin until the next construction season. The Participating Agencies acknowledge and accept that water diversion and delivery may not be able to occur during construction. SCE will request proposals from contractors to perform the work such that water deliveries are not completely interrupted for more than one construction season. SCE shall provide for contractor penalties if construction goes beyond the contracted for construction period and shall pass through to the Participating Entities any delay-related penalties payable by the contractor to SCE. The SCE contractor penalty provisions shall be conform to industry standard as documented by the Participating Entities. SCE shall provide to the Participating Entities the documentation of the cost of performing the Statement of Work activities that occurred on Facilities beginning with the Project diversion structures to the Raywood Flat area.

b. Participating Entities Option to Restore Facilities. The Participating Entities may choose to take full responsibility for the repairs/replacements described in Conditions Nos. 1, 4, 5, and 6 in Exhibit "D," Statement of Work, by giving written notice thereof to SCE within 45 days after SCE receives at least three qualified bids for completing those conditions in the Statement of Work. If so, SCE will pay the Participating Entities ninety percent of the bid price plus reasonable construction management costs for those items. The bid price will be the average cost estimate in response to at least three responsible bids for the work by qualified contractors. The bid descriptions and construction management cost estimate will be developed under the JDRT design review process. The bid process is anticipated to take place in 2008. SCE will make payment in full directly to the Participating Entities, outside of escrow, within forty-five (45) days following approval by the California Public Utilities Commission ("CPUC"). If CPUC approval is not obtained within one year of receipt of the bids, or if SCE decides not to seek specific CPUC approval, then the Participating Entities may at their discretion either (1) revoke their exercise of their option pursuant to this Section 3(b) by written notice to SCE, or (2) request SCE to pay, and SCE shall pay, for the bid price and construction management costs by making monthly payments for reasonable costs incurred, all payments to be complete within six months after completion of construction. In the event that SCE makes monthly payments rather than payment in full, Participating Entities shall not be required to take full responsibility for particular repairs or replacements until payment for each particular repair or replacement is received by Participating Entities from SCE.

c. SCE Option to Pay Participating Entities. Should the Forest Service, or any other agency with jurisdiction, not provide the Participating Entities with a necessary approval for the Facilities operation, repair, or maintenance, or if the Participating Entities do not obtain Forest Service, or any other agency, necessary

regulatory approval within 39 months of this Agreement's execution date or 18 months after SCE receives FERC approval for the surrender of the Project license, whichever is later, then SCE shall have the option of providing the Participating Entities ninety percent of the amount of money required to complete the work in the Statement of Work as estimated by a new round of bids in accordance with the bid process set forth in Section 3(b) plus reasonable construction management costs for that work; prior responsible bids may be used if the contractors' bids are still valid. In turn, upon receipt of all of the monies, the Participating Entities shall, except as otherwise stated in Section 3(e), (i) be fully responsible for conducting all operation, repair, maintenance, and decommissioning of the Facilities, and (ii) indemnify SCE for any costs, losses, expenses, or damages incurred due to the operation, repair, maintenance, or decommissioning of the Facilities. The Participating Entities obligations under this section do not include any responsibility or indemnity regarding the Project works that are not considered "Facilities" and are not to be transferred to the Participating Entities.

d. Maintenance of Facilities. Except as the Participating Entities take responsibility for repairs/replacements pursuant to Section 3(b) or as SCE makes full payment of monies pursuant to Section 3(c), until the completion of each repair item listed on the Statement of Work, SCE shall maintain the Facilities in good working condition. If no work is required under the Statement of Work for a part of the Facilities to be transferred, then the Participating Entities shall have maintenance responsibilities for those Facilities from the effective date of this Agreement. Participating Entities shall take maintenance responsibility for each item listed on the Statement of Work after SCE satisfactorily performs the required work associated with that item according to the Scope of Work and JDRT specifications or pays for that item pursuant to Section 3(b) or Section 3(c).

e. SCE Contribution Upon Catastrophic Event. Notwithstanding anything to the contrary in Sections 3(b), 3(c) or 3(d), if a storm or other cause of damage under Civil Code Section 1511(2) occurs that causes damage to the Facilities requiring funding in excess of the amount provided by SCE to complete the Statement of Work prior to the Close of Escrow, then, upon receipt of documentation of the actual cost of the repair, SCE will reimburse the Participating Entities for (1) 90 percent of the reasonable incremental price for the repair resulting from that specific event occurring after SCE payment under Section 3(b) but before Close of Escrow or (2) 50 percent of the reasonable incremental price for the repair resulting from that specific event if the event occurs within two years after SCE payment under Section 3(c) but before Close of Escrow. The Participating Entities may provide such documentation to SCE on a monthly basis, but no later than one year after such expenses are incurred. If the Participating Entities are eligible for Federal Emergency Management Agency (FEMA) and/or Office of Emergency Services (OES) funding, they must apply for and diligently pursue such funds. If FEMA or OES funds are received, SCE will pay the difference between those funds and the actual cost of repair, up to (1) 40 percent of the incremental cost of repairs for that specific event after SCE payment for the cost of repairs under Section 3(b) or (2) 10 percent of the incremental cost of repairs for that specific event after SCE payment for the cost of repairs under Section 3(c).

f. Environmental Condition of Powerhouses. SCE shall have the sole responsibility for the identification, investigation, monitoring and remediation and cleanup of any substance, chemical or waste due to or arising from SCE operations or use of the Facilities or related property that is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation (collectively "Hazardous Substance") present on or affecting the real property transferred in this agreement prior to the date of the transfer. SCE shall indemnify, defend and hold harmless Participating Entities from any and all costs, damages, claims of liability and losses (collectively "Claims") relating to the mercury switch for Tank No. 1. SCE's obligations pursuant to this Section 3(f) shall survive the Close of Escrow.

4. Regulatory Approvals.

a. License Surrender and Transfer. SCE shall proceed with due diligence in seeking approval from FERC for surrender of the license for the San Gorgonio Hydroelectric Project No. 344. SCE shall proceed with due diligence to obtain all other approvals related to the license surrender from federal, state, and local agencies with jurisdiction over the Project or the Facilities. However, if the Participating Entities file with FERC an application for a new license, then SCE shall take appropriate steps to facilitate the transfer of the Project to the Participating Entities. For example, SCE may need to withdraw its surrender application and file an application to transfer the existing license to the Participating Entities.

b. Use Permit, Long-Term Easement, or Power License. Participating Entities shall proceed with due diligence in seeking approval from the FERC, Forest Service, and any other appropriate agency for the right to locate, operate and maintain the Facilities in the repaired/restored condition set forth in the Statement of Work for water supply and, at their option, possibly also for power generation. Participating Entities shall proceed with due diligence to obtain all other approvals related to the operation of the Facilities from federal, state, and local agencies with jurisdiction over the Facilities.

5. Escrow Holder Duties. The duties of the Escrow Holder in connection with the escrow shall be as follows:

a. To retain and safely keep any funds, documents and instructions deposited with it;

b. Following Close of Escrow, to deliver to the Parties entitled thereto any funds, documents, and instruments to be delivered through Escrow;

c. To cause the recordation in the Offices of the County Recorders of Riverside and San Bernardino County, California, of all documents to be recorded pursuant to this Agreement;

d. To comply with the terms of this Agreement and any additional instructions jointly executed by SCE and the Participating Entities;

e. Pay any amount necessary to place title in the condition necessary to satisfy Section 2 of this Agreement and charge SCE upon SCE's written approval;

f. Pay any escrow fees, charges and costs payable and charge the Participating Entities;

g. Disburse any funds and deliver the Bill of Sale, Assignment, Grant Deed and Title Policy when conditions of this escrow have been fulfilled by SCE and the Participating Entities.

h. Calculate the amount of funds to be disbursed taking into consideration any prepayment of funds or expenditures made by SCE pursuant to other provisions of this Agreement.

6. Conditions to Close of Escrow. Close of Escrow is subject to the following conditions precedent:

a. SCE's satisfactory performance of the Statement of Work set forth in Exhibit "D," Participating Entities' written waiver thereof and SCE payment therefore pursuant to Section 3(b) or SCE payment therefore pursuant to Section 3(c). SCE will expeditiously complete the Statement of Work once all regulatory approvals are received, including any agency approvals of construction plans. At its sole discretion, SCE may elect to implement individual elements of the Statement of Work prior to receiving all approvals for the license surrender and/or license transfer and prior to the Participating Entities receipt of the Forest Service easement, when and if any necessary regulatory approvals are received for individual work elements.

b. Participating Entities' acceptance in writing, or written waiver thereof, of the condition of the Facilities as meeting the criteria set forth in the Statement of Work, subject to the reasonableness of any disapproval. Participating Entities shall have the right, at their expense, to conduct inspections, investigations, tests, surveys, and other studies of the Facilities ("Inspections"). SCE shall make the Facilities available for all Inspections during business hours after 48 hours notice to SCE. Participating Entities shall complete these Inspections and notify SCE within 14 days after SCE's completion of the improvements in the Statement of Work of any items reasonably disapproved. Participating Entities' disapproval shall be considered reasonable if the work or facility disapproved is not in substantial compliance with the specifications set forth in the Statement of Work. Should Participating Entities give written notice of disapproval, SCE shall make repairs to, or correct, any items reasonably disapproved by Participating Entities.

c. SCE's obtaining FERC approval of the surrender of SCE's FERC license or the transfer of SCE's FERC license to Participating Entities for the Project, and CPUC approval of the transfer, if required.

d. Participating Entities' obtaining regulatory approvals from the U.S. Forest Service for a long-term easement or equivalent use permit for operating the Facilities for water supply purposes, or from the FERC for operating the Facilities for continued power generation and water supply.

e. Compliance with the California Environmental Quality Act associated with the execution of this Agreement.

f. SCE's performance of all its obligations under this Agreement.

g. Escrow Holder being prepared to issue the Title Policy subject only to exceptions approved by Participating Entities.

h. Upon receipt of all regulatory approvals, per Section 4(a) above, Banning shall deposit ten percent of the documented SCE cost to perform the activities in the Statement of work on the flowline and diversion structures from the Whitewater River to Raywood Flat, unless such amount is already deducted from SCE payments pursuant to Sections 3(b) or 3(c) above. Escrow Holder shall provide these funds to SCE upon close of Escrow.

i. Participating Entities' deposit into Escrow of the purchase price for the one acre parcel.

j. Determination among the Participating Entities as to the entity or entities that will take title of the real and personal property to be transferred herein.

7. General Provisions.

a. Entire Agreement. This Agreement, together with the Exhibits attached hereto, constitutes the entire agreement between the Parties with respect to the transfer of the Facilities and the conditions precedent. All rights and obligations of SCE under the Flume Contracts referenced in the Agreement and any other agreements among SCE, its predecessors, and the Participating Entities and their predecessors with regard to the Facilities will be deemed terminated upon the Close of Escrow. However, the Flume Contracts shall remain in full force and effect as between Banning and Banning Heights, including any allocation among them of the rights to the waters of the Whitewater River.

b. Governing Law and Venue. This Agreement, including (without limitation) its existence, validity, construction, interpretation, and operation, and the rights of each of the Parties, shall be determined in accordance with the laws of the State of California. Any state action commenced relating to this Agreement shall be filed in the Riverside County Superior Court.

c. Construction. Each of the Parties has contributed to the drafting of this Agreement, and no provision thereof shall be construed against any Party on account of being the draftsperson of that provision. This Agreement shall be construed without regard to any presumption or other rule requiring construction against the party causing this Agreement to be drafted. Nothing herein is intended to create any third party beneficiaries to this Agreement, and no person other than the Parties and their permitted successors and assigns shall be authorized to enforce the provisions of this Agreement.

d. Notices. Unless otherwise provided herein, all communications and notices given under this Agreement shall be in writing and shall be given by certified mail, facsimile, or other means by which delivery to the Parties' designated representatives provided (or their successors) below can be confirmed. Notice shall be deemed effective upon the delivery of such notice to the party for whom it is intended at the address set forth below:

SCE:
Southern California Edison Co.
Manager Eastern Hydro
300 North Lone Hill Avenue
San Dimas, CA 91773
Telephone: (909) 394-8720
Facsimile: (909) 394-8967

San Gorgonio:
San Gorgonio Pass Water Agency
General Manager
1210 Beaumont Avenue
Beaumont, CA 92223
Telephone (951) 845-2577
Facsimile: (951) 845-0181

Banning Heights:
Banning Heights Mutual Water Co.
President, Board of Directors
7901 Bluff Street
Banning, CA 92220
Telephone: (951) 849-8420
Facsimile: (951) 849-6068

Banning:
City of Banning
Director of Utilities
99 East Ramsey
Banning, CA 92220
Telephone: (951) 922-3105
Facsimile: (951) 922-3128

e. Authority. Each of the undersigned signatories represents and warrants that he/she is authorized to execute this Agreement on behalf of the Party to the

Agreement that he/she represents and that this Agreement, when executed by those Parties, shall become a valid and binding obligation, enforceable in accordance with its terms.

f. Alternative Dispute Resolution. Any dispute as to the construction, interpretation or implementation of this Agreement or any matter in any way relating to this Agreement shall be heard as a reference, pursuant to California Code of Civil Procedure Section 638 et seq., with venue set in the Riverside County Superior Court. If the parties cannot agree on a referee, then either party may request such court to appoint a referee. The parties initially will divide the cost of the references, including the referee's fee, equally, but the prevailing party in the reference shall be entitled to recover its half of the cost of the reference as an item of costs.

g. Attorney's Fees. If any legal action, including a reference under Section 7(f), is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees from the other party. These fees, which may be set by the court in the same action or in a separate action brought for that purpose, are in addition to any other relief to which the prevailing party may be entitled.

h. Modification. Notwithstanding the above conditions, this agreement, or portions of this agreement, may be modified or terminated at any time upon written consent of all parties to the agreement.

i. Implementing Agreement. The Participating Entities agree that Banning and Banning Heights will meet and confer in good faith to negotiate the terms of an agreement governing the implementation of this Agreement ("Implementing Agreement"). The Implementing Agreement shall, at a minimum, provide for how title to the Facilities and one acre parcel shall be taken and how collective decisions of the Participating Entities shall be made. Banning and Banning Heights shall make a good faith effort to enter into an Implementing Agreement prior to the Close of Escrow. In the absence of an Implementing Agreement, decisions of the Participating Entities shall be made unanimously.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the dates set forth below.

June 30, 2008 2010 RLK

SOUTHERN CALIFORNIA EDISON COMPANY

By: _____
Russ Krieger, Vice President

Banning Heights Mutual Water Company Signature Page for Agreement for Transfer of San Gorgonio Hydroelectric Project No. 344 Water Conveyance Facilities

6/14, 2010

BANNING HEIGHTS MUTUAL WATER COMPANY

By: Richard Simmons

Richard Simmons,
President, Board of Directors

6/14, 2010

BANNING HEIGHTS MUTUAL WATER COMPANY

By:

Donald Ayers
Secretary, Board of Directors

_____, 2008

SAN GORGONIO PASS WATER AGENCY

By:_____
John Jeter
President, Board of Directors

_____, 2008

BANNING HEIGHTS MUTUAL WATER COMPANY

By:_____
Charles Perkins,
President, Board of Directors

_____, 2008

CITY OF BANNING

By:_____
Brenda Salas
Mayor

9. Powerhouse No. 1 structure and its associated fence, structure, garage, storage bunker, and perimeter fencing
10. Penstock No. 2 between Tank No. 2 and Powerhouse No. 2
11. Powerhouse No. 2 structure, Powerhouse No. 2 electrical generation equipment, and fence immediately surrounding the powerhouse
12. Burnt Canyon Diversion
13. Existing Burnt Canyon pipeline and a proposed Burnt Canyon Diversion pipeline from the diversion to Powerhouse No. 1 tailrace

SCE agrees to have and to hold the said facilities unto the Participating Entities, and their successors and assigns forever.

IN WITNESS WHEREOF, SCE has caused this Bill of Sale to be executed by its duly authorized officer this 30th day of June, ~~2008~~ 2009.

Russ W. Krieger
Vice President, Power Production
Southern California Edison Company

The Participating Entities agree to accept title and ownership to the above listed facilities.

SAN GORGONIO PASS WATER AGENCY

By: John Jeter
John Jeter
President, Board of Directors

BANNING HEIGHTS MUTUAL WATER COMPANY

By: Richard Simmons 6/14/10
Richard Simmons
President, Board of Directors

BANNING HEIGHTS MUTUAL WATER COMPANY

By: _____
Donald Ayers
Secretary, Board of Directors 6/14/10

BANNING HEIGHTS MUTUAL WATER CO.

By:_____
Charles Perkins,
President, Board of Directors

CITY OF BANNING

By:_____
Brenda Salas
Mayor

ATTACHMENT 1 TO EXHIBIT A
MAP OF TRANSFERRED FACILITIES

EXHIBIT "B"

ASSIGNMENT

EXHIBIT "C"

GRANT DEED

EXHIBIT "D"

STATEMENT OF WORK

1. SCE will repair or replace the flowline from the East Fork Dam to the turnout at Raywood Flat. The repair will allow for the continued diversion of water at Black Wheel Creek.

2. SCE will repair and restore the diversion dams and sand boxes as follows:

   a. Where it would not harm the integrity of the dam, remove vegetation from dams (e.g. alders growing out of the face of the East Fork Diversion Dam);
   b. Repair the undercut portion of the toe of the East Fork Diversion Dam that is exposing the dam structure to ensure dam stability;
   c. Repair the foundation of the sand box at the East Fork Diversion Dam damaged by erosion, and to the extent practicable repair the leaks; and
   d. Replace/repair the sand box at the South Fork Dam.
   e. Replace/repair the pipe leading from South Fork Dam to the sandbox.

3. SCE will install break away gates at the South Fork Dam. The gates will be designed to give way when large flows of water are present at South Fork Dam.

4. SCE will improve the Burnt Canyon pipeline by removing the temporary pipeline and installing a permanent underground pipe. The pipe will be designed with the capacity to convey approximately 11 cubic feet per second (cfs), or the capacity to carry the volume of flows authorized to be diverted from Project diversions by the FERC and/or the San Bernardino National Forest, whichever is less, at velocities of not greater than ten cubic feet per second.

5. If determined necessary, SCE will install a well or other recovery mechanism to recover project water documented to be lost to surface diversion or groundwater extraction by the Participating Entities due to seepage in Burnt Canyon. The need for the well or other recovery device will be reasonably determined by the Joint Design Review Team (JDRT), described below.

6. SCE will repair or replace damaged sections of the canal between Powerhouse No. 1 and Tank 2. This will include approximately 416 feet of outer wall, 469 feet of inner wall, and 21 feet of canal floor. In addition, SCE will replace the unusable or missing covering boards with redwood, cedar, or other suitable wood, as appropriate and available.

7. SCE will construct an electric distribution line to the site of the recovery mechanism, to be located near San Gorgonio No. 1 Powerhouse, at no cost to San Gorgonio, Banning Heights and Banning.

8. Within 30 days after the effective date of the Agreement, the Participating Entities and SCE will form a Joint Design Review Team (JDRT) to carry out a Joint Design Review Process to review the engineering design of the Work Statement elements described above. The design review will be based on, and incorporate, the following principles:

    a. The Participating Entities will have design approval of the facilities to be constructed by SCE for purposes of determining that, in their reasonable discretion, such facilities will comply with sections 1 through 6, above and will not adversely affect the safety, operation, maintenance or any applicable regulatory requirements of the San Gorgonio project as a viable water supply project.

    b. The JDRT will be composed of one representative from the Participating Entities and one representative from SCE. Once the JDRT has reached consensus on a design, the proposal will be shared with all parties. Both representatives will utilize licensed engineers for design review.

    c. The JDRT will meet as frequently as necessary for the duration of the planning, design and construction of the elements described in Sections 1 through 6, above.

9. The Joint Design Review Process will include the following.

    a. Schedule. The JDRT shall develop project planning and design schedules of key design-phase milestones, deliverables and meeting dates to support construction schedules. A draft summary schedule will be prepared by the JDRT and distributed to all parties for review. Comments from the parties will be incorporated into a final schedule.

        - Review of Design Basis. The JDRT will review and evaluate the basis for the design for each of the Statement of Work's elements identified in the above Sections 1 through 6. The Basis of Design will document the relevant design criteria, present the conceptual design, and summarize the plan for implementation. This review will consist of an evaluation of the design basis upon operational, safety, and long-term maintenance performance considerations. The buildability, bidability, efficiency of design, and choice of components suitable for project purpose and addressing the potential environment impacts of project operation will also be considered. Except as otherwise provided herein or as subsequently agreed to by the parties, SCE shall not be required to repair the Facilities based on a design more advanced than the Project's original infrastructure and equipment.

b. Review of Preliminary Design. The JDRT will conduct a review of the preliminary design. The preliminary design submittal will consist of an updated Basis of Design, preliminary design drawings, and supporting documentation. The preliminary design shall provide sufficient detail for a thorough evaluation of the suitability of the design to meet the established Statement of Work elements and to identify any potential constraints to implementation. Further detail or documentation may be requested by the JDRT to facilitate the completion of its preliminary design review.

c. Review of Final Design. JDRT review of final design will consist of review of the construction plans and specifications for compliance with the Statement of Work elements. Subsequent to the Final Design Review, any changes to the design other than those recommended by the JDRT's shall be submitted for review by the JDRT.

10. Construction Review. In addition to the technical review during design development, the JDRT will assist with the development of a plan for monitoring of the execution of the approved design package during construction. The plan will also address final inspection, testing and commissioning.

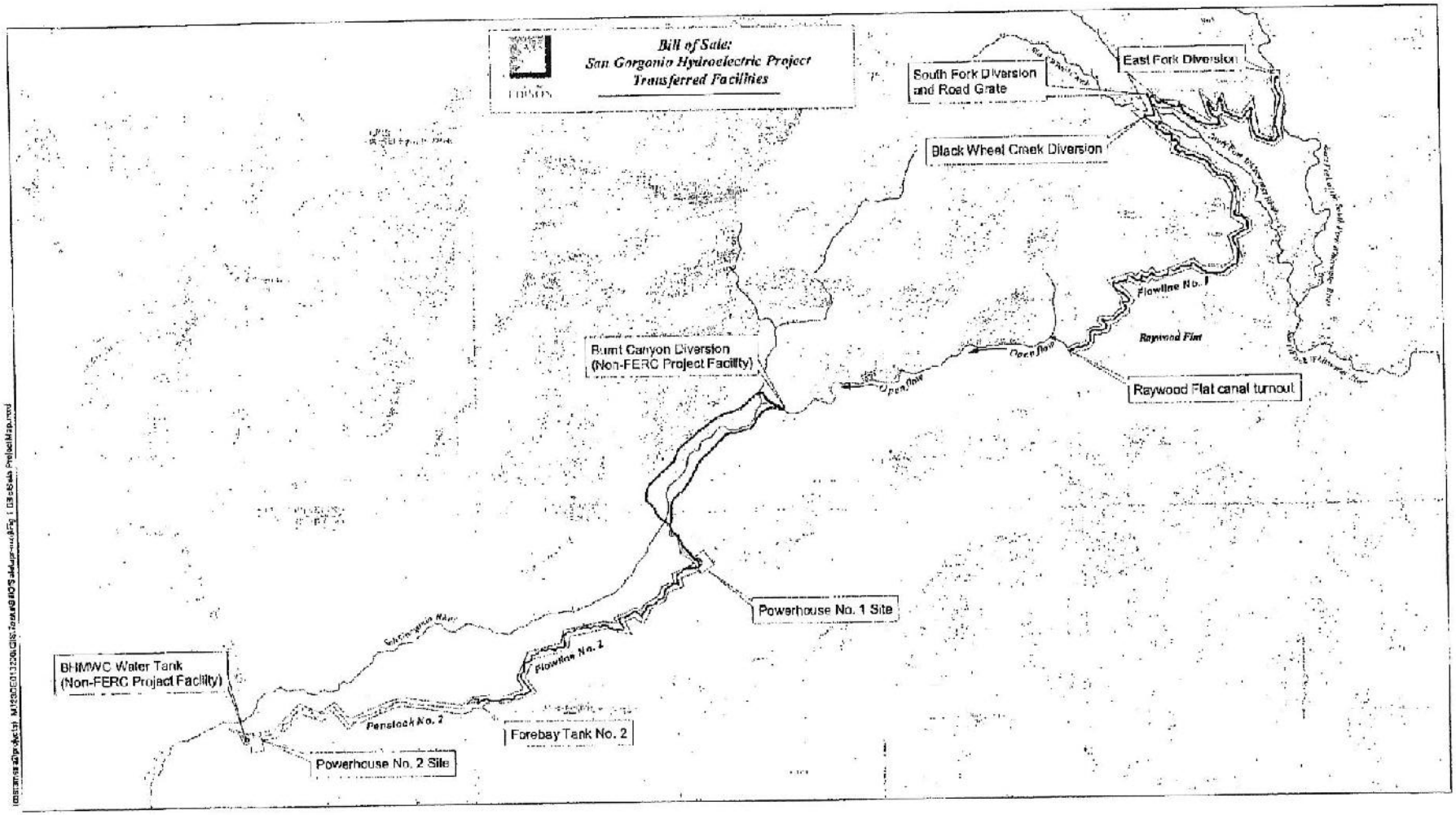
11. Guidelines. In working cooperatively to develop a bid package and a final constructed product of high quality, the Joint Design Review Team will consider the following design guidelines to the extent feasible and consistent with the other sections of this Statement of Work.
    a. Soil shall be stable before any new reinforced concrete walls and/or floors are installed or placed on the soil. Saturated soil will be evaluated and addressed as needed.
    b. To the extent needed, walls and floor of the flume shall be reinforced with gunite or other suitable material, including concrete or concrete block. The liner material shall provide a relatively smooth and watertight surface along the entire length of the improved flowline. The flowline shall be designed for a hydraulic capacity that is the lesser of (i) the amount allowed by the US Forest Service Special Use Permit, or (ii) approximately 5 cfs between the East Fork and South Fork diversions and approximately 11 cfs between the South Fork diversion and Raywood Flat.
    c. Where pipe sections are used for improvements, the transition from rectangular flowline to the round pipeline shall be smooth and watertight as practical.
    d. Material used for lining of the flume shall be suitable for freezing temperatures for extended periods of time during a winter season.
    e. Any pipe material used shall be non-corrosive, such as polyethylene, polyvinyl chloride (PVC), or concrete.
    f. Sufficient pieces of wood planking shall be provided to cover the flowline where it is an open channel and where wood planking is replaced, full cut

planking similar to the existing planks shall be used. The wood shall be redwood, cedar, or other material that resists decay and is suitable for outdoor service.

g. When reconstruction of the flowline is required, the finished flowline shall have a constant grade and be free of low and/or high spots to the extent practical.

EXHIBIT E

APPRAISAL FOR RAYWOOD FLAT PARCEL


Bill of Sale:
San Gorgonio Hydroelectric Project
Transferred Facilities
South Fork Diversion and Road Grate
East Fork Diversion
Black Wheat Creek Diversion
Burnt Canyon Diversion (Non-FERC Project Facility)
Flowline No. 1
Raywood Flat
Raywood Flat canal turnout
Powerhouse No. 1 Site
BHMWC Water Tank (Non-FERC Project Facility)
Flowline No. 2
Penstock No. 2
Forebay Tank No. 2
Powerhouse No. 2 Site
Project Assets ROW
Flowline No. 1 and No. 2
Penstock No. 2
Burnt Canyon Diversion Pipe (Existing)
Burnt Canyon Diversion Pipe (Planned)
0
0.25
0.5
1 Miles
San Gorgonio
Hydroelectric Power Project
PSOMAS

RECORDING REQUESTED BY

SOUTHERN CALIFORNIA EDISON COMPANY

WHEN RECORDED MAIL TO

SOUTHERN CALIFORNIA EDISON COMPANY
14799 CHESTNUT STREET
WESTMINSTER, CA. 92683

ATTN: TITLE & REAL ESTATE SERVICES

SPACE ABOVE THIS LINE FOR RECORDER'S USE

ASSIGNMENT

Location: Unincorporated

A.P.N. 0580-011-07
0580-041-01

DOCUMENTARY TRANSFER TAX $ _____ _____ COMPUTED ON FULL VALUE OF PROPERTY CONVEYED _____ OR COMPUTED ON FULL VALUE LESS LIENS AND ENCUMBRANCES REMAINING AT TIME OF SALE SO. CALIF. EDISON CO. SIGNATURE OF DECLARANT OR AGENT DETERMINING TAX FIRM NAME	SER. 67307A J.O. Approved CORPORATE REAL ESTATE BY JG DATE 11/19/07

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, SOUTHERN CALIFORNIA EDISON COMPANY, a corporation, successor in interest to the Consolidated Reservoir & Power Company, does hereby assign, transfer and convey to _____, all of its right, title and interest in and to that certain twenty foot wide Right of Way for Canal from Southern Pacific Land Company to Consolidated Reservoir & Power Company, by Deed No. 1826-R, recorded on March 23, 1923 in Book 580, page 33 of Deeds, in the office of the County Recorder of Riverside County, State of California.

IN WITNESS WHEREOF, this instrument is executed this _____ day of _____, 20____.

SOUTHERN CALIFORNIA EDISON COMPANY
a corporation

By _____
Laura Verdugo
Right of Way Agent
Corporate Real Estate Dept.
Real Estate Operations Division

State of California)
County of _____)

On _____ before me, _____, a Notary Public, personally appeared _____, who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

RECORDING REQUESTED BY
SOUTHERN CALIFORNIA EDISON
COMPANY

WHEN RECORDED MAIL TO
SOUTHERN CALIFORNIA EDISON
COMPANY
14799 Chestnut Street,
Westminster, Ca. 92683
Attn: Title & Real Estate Services

SPACE ABOVE THIS LINE FOR RECORDER'S USE

GRANT DEED

Location: Unincorporated
A.P.N. 0580-011-08

Affects SCE Document:
242977

DOCUMENTARY TRANSFER TAX $ _____ _____ COMPUTED ON FULL VALUE OF PROPERTY CONVEYED _____ OR COMPUTED ON FULL VALUE LESS LIENS AND ENCUMBRANCES REMAINING AT TIME OF SALE SO. CALIF. EDISON CO. SIGNATURE OF DECLARANT OR AGENT DETERMINING TAX FIRM NAME	SER. 67307A APPROVED CORPORATE REAL ESTATE DEPARTMENT GWO: BY JG DATE 11/06/07

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, SOUTHERN CALIFORNIA EDISON COMPANY, a corporation, successor in interest to California Electric Power Company by merger, (hereinafter referred to as "Grantor") hereby GRANTS to _____,
(hereinafter referred to as "Grantee") that certain real property in the County of San Bernardino, State of California, described within that certain Deed and Assignment between San Gorgonio Electric Corporation and California Electric Power Company, recorded November 2, 1949 in Book 1121, page 1 of Official Records in the Office of the County recorder of Riverside County and recorded November 20, 1949 in Book 2492, page 482, of Official Records in the Office of the County recorder of San Bernardino County, described as follows:

"...(m) Approximately one acre of land located in Sec. 31. T.1. S., R. 2. E., S. B. B. & M., as conveyed to San Gorgonio Electric Corporation by deed from Edward W. Bertram and Eva H. Bertram, his wife , dated November 30, 1936 and recorded December 15, 1936, in Book 1177, page 266, Official Records of San Bernardino County, California"

Said deed from Edward W. Bertram and Eva H. Bertram, his wife, dated November 30, 1936 and recorded December 15, 1936, in Book 1177, page 266, Official Records of San Bernardino County, California, is described as follow:

"That portion of Section 31, Township 1 South, Range 2 East, S. B. B. & M, described as follows:

Beginning at a point which bears S 30° 07' 30" E., a distance of 983.64 feet from the Northwest corner of said Section 31; thence N. 87° 55" 30" W., a distance of 14.23 feet; thence S 51° 15' 30" W., a distance of 90.55 feet; thence S. 0° 55' W., a distance of 44.41 feet, thence S. 71° 02' E., a distance of 182.00 feet; thence N. 86° 07' E., a distance of 138.00 feet; thence NW. 1° 13' E., a

MAIL TAX STATEMENTS TO:

Grant Deed
S.C.E. Co., a corp., to
City of Banning and Banning Heights Mutual Water Company
Serial No. 67307A
Affects SCE Document No. 242977

distance of 73.76 feet; thence S. 78° 55' W., a distance of 139.90 ft.; thence N. 87° 55' 30" W., a distance of 93.37 ft. to the point of beginning, containing 1 acre, more or less."

The real property hereby conveyed is not necessary or useful in the performance of the duties of said Southern California Edison Company to the public.

SUBJECT TO current real property taxes and to covenants, conditions, restrictions, reservations, exceptions, rights and easements of record.

IN WITNESS WHEREOF, said Southern California Edison Company has caused this instrument to be executed this _____ day of _____, 20____.

SOUTHERN CALIFORNIA EDISON COMPANY,
a corporation

By _____
Laura Verdugo
Operations Support
Real Estate Operations Division
Corporate Real Estate Department

State of California)
County of _____)

On _____ before me, _____, a Notary Public, personally appeared _____, who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

SOUTHERN CALIFORNIA EDISON®

An EDISON INTERNATIONAL® Company

August 14, 2007

Nino Mascolo
Law Department

Candace Irelan
Hydro

Subject: SCE Project 344 Conveyance of Water Facilities
San Gorgonio area

In response to your request, I have researched the information provided and have also completed an appraisal of the land rights proposed to be acquired. The following appraisal is reported in a Summary Appraisal Report for the valuation of land in the San Bernardino National Forest for sale purposes to Banning Heights Mutual Water Company.

The following report is intended to comply with the reporting requirements set forth in the Uniform Standards of Professional Appraisal Practice (USPAP) for the specific type of appraisal and report. This report incorporates, by reference, the data and valuation analysis contained in the office file. The information contained in this report is specific and confidential to the needs of The Southern California Edison Company (the client); the appraiser is not responsible for unauthorized use of this report. Additional supporting information is contained in the appraiser/company work file and may be provided upon request.

Client/Intended User:	SCE Corporate Real Estate Dept., and other SCE personnel as required.
Intended Use:	To establish a value for sale purposes.
Identification of Real Estate:	The subject property consists of a one-acre parcel located approximately 10 miles northeast of the City of Banning, CA. The site is located within the San Bernardino National Forest at an elevation of approximately 7,000 feet. The Assessors Parcel Number is 0580-011-08 (San Bernardino County).
Type of value appraised:	Fair market value.
Effective date of appraisal & date of report:	Both as of August 14, 2007
Ownership:	Southern California Edison (SCE) Company. The property was originally granted to California Electric Power, a SCE predecessor company, in October 1949.

Current Use:	Vacant land excess to utility needs
Zoning:	Resource Conservation (County of San Bernardino)
Highest and Best Use:	Resource Conservation, Preservation, or Mitigation uses. Limited access with no to limited utilities.
Real Property Interest Valued:	Fee simple[1]
Purpose of the Assignment:	To develop an opinion of the market value of the subject property for sale purposes as outlined in the draft "Agreement for Transfer of San Gorgonio Hydroelectric Project No. 344 Water Conveyance Facilities".
Effective Date of Value Opinion:	August 14, 2007
Date of Report:	August 14, 2007
Use of real estate at Date of value:	Vacant land
Scope of Work:	The appraisal process used in this report consisted of searching comparable sales of similar use land near the subject property, analyzing the data and performing a valuation analysis using appropriate appraisal procedure for the valuation of easements. Zoning and use restrictions were verified with County of San Bernardino sources. Where possible, comparable sales were verified with a party to or a real estate broker involved in the transaction. Secondary sources such as First American Real Estate Services, CoStar Comps, and brokers Internet websites were relied upon for data. Supporting data is retained in the appraiser's work file. The Sales Comparison Approach to value was used to determine an unencumbered fee unit value of the land. The subject property is vacant forest land and does not generate income as is required in the Income Capitalization approach. Therefore, the Income approach is not applicable or appropriate to value the unencumbered fee. The Cost Approach is typically used in the valuation of improved properties. Since the subject property being appraised is vacant land, the Cost Approach is considered not applicable or appropriate. Therefore, the only applicable and appropriate method to estimate the value of the unencumbered fee land is the Sales Comparison Approach.

For the purposes of this appraisal, the unit of comparison used is the price per square foot or price per acre. These units are common units of comparison used by buyers and sellers of land in this area.

Valuation:

The subject property is a one-acre parcel that was included in the sale of hydroelectric facilities from the San Gorgonio Electric Corporation to the California Electric Power Company in 1949. The sale included hydroelectric power plants, transmission lines, water rights, federal power licenses, rights of way, operating leases, and other miscellaneous documents and rights. The current agreement conveys these same facilities from SCE to a group of "Participating Entities" that consist of the San Gorgonio Pass Water Agency, Banning Heights Mutual Water Company and the City of Banning, CA. **It is prominently noted that this appraisal only values the one-acre parcel of real property defined in the agreement and no other real or personal or other intangible property interests.**

A search was conducted for sales of vacant acreage in the area that was devoted to open space or mitigation uses. There were very few of these type sales in the Southern California area. The following chart illustrates the best available sales:

Location and Grantor/Grantee	APN	Acres	Sale Date	Price	Price/Per Acre	Use
1) Mountain Center, near Idyllwild, CA	635-440-001	640	12/8/2006	$3,024,000	$4,725	Conservation
George M Valeur to Friends of the Desert Mountains						
2) Cabazon area, CA	514-250-004, etal	731.4	9/23/2005	$6,000,000	$8,203	Conservation
Lezar Tr. To Friends of the Desert Mountains						
3) La Verne area, CA	8678-015-010, etal	126.5	2/6/2006	$1,500,000	$11,850	Conservation
Sandra LaHaye to City of LaVerne						
4) Lake Forest area, CA	656-011-22	23.38	2/22/2005	$1,900,000	$81,266	Conservation
Live Oak Plaza, LLC to Foothill/Eastern Transportation Corridor Agency						

Extraordinary Assumptions:

It is assumed that the right being sold is the full fee interest. The appraiser reserves the right to revise the valuation based on any changes to the interest being sold.

It is also assumed that the property is vacant. Due to the extreme location, a physical inspection was not possible and instead was analyzed with aerial photography. The appraiser reserves the right to revise the valuation if any improvements are on the property.

Hypothetical Conditions: None

Indicated Exposure Time: Since this is considered a special use property – within a National Forest with limited access and developability, there is not data from which to derive an exposure time.

Reconciliation/Conclusion:

The sales noted above represent recent sales of land for conservation uses in the Riverside, San Bernardino, Los Angeles and Orange County areas.

Although the sales noted above are all larger in size, small parcels as the subject rarely transact in the market. The higher valued data above have some development potential (good access, possibility of zoning change, etc...) and thus warrant a higher value. The subject property has virtually no likelihood of development, has topographical challenges, limited access (no access in winter) and therefore should not be considered in the upper part of the range of data.

Taking these factors into consideration, and weighing the appropriateness, quantity and quality of the data to support a value, it is my conclusion that the sales were determined to be applicable comparable unit values of the subject property. Considering the information provided above as well as my professional judgment and experience as an appraiser, it is my opinion that a reasonable unit value for the subject property is **$12,000.00 per acre.**

Property Calculations: The subject property is one acre in size. Therefore, the appraised value of the subject property is:

$12,000 (Twelve Thousand Dollars)

CERTIFICATION:

I certify that, to the best of my knowledge and belief:

- The statements of fact contained in this report are true and correct.
- The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- The reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics & Standards of Professional Appraisal Practice of the Appraisal Institute, which include the *Uniform Standards of Professional Appraisal Practice.*
- The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
- I have not made a personal inspection of the property that is the subject of this report.
- No one provided significant real property appraisal assistance to the person signing this certification.
- I have the knowledge and experience required to complete this assignment competently.
- This appraisal assignment was not based on a requested minimum value, valuation, a specific valuation, nor provides a value estimate for the approval of a loan (federally or privately funded).

David L. Guder, CCIM
Project Manager
Corporate Real Estate
#AG019544

[1] *The Dictionary of Real Estate Appraisal,* The Appraisal Institute, 4th Ed., p. 113.

Exhibit "D"
Water Rate Charges to Banning Heights

Banning Heights will pay for Second Tier water served by Banning to Banning Heights through the Facilities and water served by Banning to Banning Heights through infrastructure other than the Facilities at the customary rates for the commodity charge levied by Banning to its residential and agricultural customers for treated domestic water. The fixed monthly service charge will not apply.

Banning has a three tier rate structure based on consumption. At the time of the signing of this agreement, the tiers are 0 to 9 Hundred Cubic Feet (HCF), 10 to 29 HCF and 30 plus HCF. As usage increases, the commodity charge increases.

The water served to Banning Heights subject to this commodity charge will be taken in the aggregate. That is, Banning and Banning Heights will agree as to the total metered quantity served, Banning Heights will provide the total number of meters in service for the period, and the quantities to be billed at each tier will be determined by dividing the total amount of water served by the total number of meters in service, allowing for the correct number of months the water was served. The determination of tiers will not be done on a meter by meter basis.

The rate paid by Banning Heights for Second Tier water delivered the facilities will be capped, on a calendar year basis, at 50% of the total Operations and Maintenance costs incurred by the City in providing the service to Banning Heights, which are generally the costs for operating Well #6 or any substitute facilities for the calendar year in which the water was served.

EXHIBIT "D"

DATE	READ	CONSUMPTION CCF(UNITS)	M. G.	DAYS		
04/09/01	50238.00	0.00	0.00	0		
05/08/01	78832.00	28594.00	21.39	29		
05/13/01	82700.00	3868.00	2.89	5		
05/24/01	82700.00	0.00	0.00	0		
06/07/01	105135.00	22435.00	16.78	14		
07/10/01	185806.00	80671.00	60.34	33		
08/08/01	259193.00	73387.00	54.89	29		
09/10/01	354682.00	95489.00	71.43	33		
10/08/01	399677.00	44995.00	33.66	28		
11/06/01	439877.00	40200.00	30.07	29		
12/06/01	467000.00	27123.00	20.29	30		
01/08/02	493333.00	26333.00	19.70	33		
02/07/02	516281.00	22948.00	17.17	30		
03/08/02	533016.00	16735.00	12.52	29		
04/08/02	546754.00	13738.00	10.28	31		
05/08/02	566148.00	19394.00	14.51	30		
06/06/02	597837.00	31689.00	23.70	29		
07/08/02	639664.00	41827.00	31.29	32		
08/06/02	666274.00	26610.00	19.90	29		
09/06/02	688730.00	22456.00	16.80	31		
10/07/02	716479.00	27749.00	20.76	31		
11/06/02	728952.00	12473.00	9.33	30		
12/06/02	729075.00	123.00	0.09	30		
12/18/02	729075.00	0.00	0.00	12		
06/10/05	11778.00	0.00	0.00	0		
07/12/05	13702.00	1924.00	1.44	32		
08/09/05	16203.00	2501.00	1.87	28		
09/12/05	16391.00	188.00	0.14	34		
10/07/05	16769.00	378.00	0.28	25		
11/08/05	17253.00	484.00	0.36	32		
12/07/05	18130.00	877.00	0.66	29		
01/09/06	18191.00	61.00	0.05	33		
02/08/06	18193.00	2.00	0.00	30		
06/08/06	18197.00	4.00	0.00	28		
07/11/06	18200.00	3.00	0.00	33		
07/30/07	18203.00	3.00	0.00	18		
07/30/07	10.00	0.00	0.00	0		
10/08/07	584.00	574.00	0.43	28		
11/05/07	913.00	329.00	0.25	28		
		686165.00	513.25	985		
	AVG	696.61	0.52			
				LOW	MID	HIGH
				129,364.12	164,713.62	185,772.90
				$3,317.02	$4,223.00	$4,763.40

DATE	READ	CONSUMPTION CCF(UNITS)	M. G.	DAYS
04/09/01	50238.00			
05/08/01	78832.00	28594.00	21.39	29
05/13/01	82700.00	3868.00	2.89	5
05/24/01	82700.00	0.00	0.00	0
06/07/01	105135.00	22435.00	16.78	14
07/10/01	185806.00	80671.00	60.34	33
08/08/01	259193.00	73387.00	54.89	29
09/10/01	354682.00	95489.00	71.43	33
10/08/01	399677.00	44995.00	33.66	28
11/06/01	439877.00	40200.00	30.07	29
12/06/01	467000.00	27123.00	20.29	30
		416762.00	**311.74**	**230**
	AVG/Day	**1,812.01**	**1.36**	

Total Billed Amount in 2001	**$41,130.27**
Total if Billed Using Middle Tier	**$36,675.06**
Difference	**$4,455.21**

DATE	READ	CONSUMPTION CCF(UNITS)	M. G.	DAYS
01/08/02	493333.00			
02/07/02	516281.00	22948.00	17.17	30
03/08/02	533016.00	16735.00	12.52	29
04/08/02	546754.00	13738.00	10.28	31
05/08/02	566148.00	19394.00	14.51	30
06/06/02	597837.00	31689.00	23.70	29
07/08/02	639664.00	41827.00	31.29	32
08/06/02	666274.00	26610.00	19.90	29
09/06/02	688730.00	22456.00	16.80	31
10/07/02	716479.00	27749.00	20.76	31
11/06/02	728952.00	12473.00	9.33	30
12/06/02	729075.00	123.00	0.09	30
12/18/02	729075.00	0.00	0.00	12
	Total	235742.00	176.34	344
	AVG/Day	685.30	0.51	

Total Billed Amount in 2002	$25,989.28
Total If Billed Using Middle Tier	$20,745.30
Difference	$5,243.98

DATE	READ	CONSUMPTION CCF(UNITS)	M. G.	DAYS
06/10/05	11778.00			
07/12/05	13702.00	1924.00	1.44	32
08/09/05	16203.00	2501.00	1.87	28
09/12/05	16391.00	188.00	0.14	34
10/07/05	16769.00	378.00	0.28	25
11/08/05	17253.00	484.00	0.36	32
12/07/05	18130.00	877.00	0.66	29
	Total	**6352.00**	**4.75**	**180.00**
	AVG/Day	**35.29**	**0.03**	

Total Billed Amount in 2005	**$9,446.02**
Total if Billed Using Middle Tier	**$8,130.56**
Difference	**$1,315.46**

DATE	READ	CONSUMPTION CCF(UNITS)	M. G.	DAYS
01/09/06	18191.00			
02/08/06	18193.00	2.00	0.00	30
06/08/06	18197.00	4.00	0.00	28
07/11/06	18200.00	3.00	0.00	33
	Total	**9.00**	**0.01**	**91**
	AVG/Day	**0.10**	**0.00**	

Total Billed Amount in 2006	**$1,632.42**
Total if Billed Using Middle Tier	**$11.52**
Difference	**$1,620.90**

DATE	READ	CONSUMPTION CCF(UNITS)	M. G.	DAYS
07/30/07	18203.00			
07/30/07	10.00	0.00	0.00	0
10/08/07	584.00	574.00	0.43	28
11/05/07	913.00	329.00	0.25	28
	Total	**903.00**	**0.68**	**56**
	AVG	**16.13**	**0.01**	

Total Billed Amount in 2005	**$2,945.38**
Total if Billed Using Middle Tier	**$1,210.02**
Difference	**$1,735.36**

USDA United States Department of Agriculture | Forest Service | San Bernardino National Forest
Front Country Ranger District | 1209 Lytle Creek Road
Lytle Creek, CA 92358
909-382-2600 #3 (Voice)
909-887-8197 (FAX)

File Code: 2720
Date: September 13, 2016

Luany Oseguera
Lands Services Agent, Government Lands
Southern California Edison Company
Attn: Government Lands
2 Innovation Way
Pomona, CA 91758

Dear Ms. Oseguera:

I am in receipt of the Southern California Edison Company's (SCE) special use application, dated June 29, 2016. The application requested the issuance of a new Temporary Special Use for an 8" above ground waterline located in Burnt Canyon. Issuance of the new temporary permit (SGD4116C) is approved under the following conditions:

- This will be the last temporary special use permit issued to SCE for the Burnt Canyon 8" above ground waterline. Any future use of the facilities must accompany a decision on the Federal Energy Regulatory Commission's (FERC) license surrender.
- SCE's "Abandonment and Restoration Plan for the Burnt Canyon Temporary Pipeline" will be amended to reflect that water will no longer be authorized to be diverted into Burnt Canyon at Raywood Flat. The amended plan is due to the Forest Service by November 1, 2016.
- A special use application for an authorization to operate and maintain the remaining water conveyance facilities of San Gorgonio FERC Project No. 344 should be submitted to the Forest Service by January 3, 2017. Such an application should cover the facilities and uses authorized in this permit, as well as the remaining FERC licensed infrastructure. If an acceptable application is not received, temporary permit SGD4116C will be revoked.
- Provide daily flow data to the Forest Service on a monthly basis from the Raywood Flat discharge site in T1S, R2E, Section 31; in channel at the Forest Service/private land boundary at T1S, R1E, Sections 35 & 36; and at the Powerhouse 1 tailrace at the outlet of the 8" above ground pipeline. A new flow measuring device (e.g. weir, gage with data logger, etc.) will need to be installed at the Forest Service/private land boundary as there isn't one there now. SCE has the capability of retrieving flow data at the other two locations.

If you have any questions regarding the temporary special use permit please give Jerry Sirski, Natural Resource Specialist, a call at 909-382-2690 or email at jsirski@fs.fed.us.

Sincerely,

CHRISTINE A. HILL
District Ranger

Cc: Julie Hutchinson
Cc: Jeff Davis
Cc: Perry Gerdes

RESOLUTION NO. 2015-68

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH ASPEN ENVIRONMENTAL GROUP TO PROVIDE ENVIRONMENTAL AND PERMITTING SERVICES RELATED TO THE FLUME

WHEREAS, in order to obtain a U.S. Forest Service ("USFS") Special Use Permit and other applicable permits or authorizations to repair, upgrade, operate and maintain existing water conveyance facilities the City deemed it necessary to obtain an environmental and permitting services consulting firm; and

WHEREAS, staff solicited proposals and statement of qualifications from consultants that demonstrated strong capabilities in environmental review and permitting complex infrastructure systems on National Forest System Lands; experience permitting for water conveyance systems; experience with USFS permitting; the full range of NEPA and CEQA analysis and compliance; and strong technical expertise in resource areas such as public utilities and ground water; and

WHEREAS, staff advertised a Request for Qualifications ("RFQ"), attached as Exhibit "A", on May 18, 2015 in the Press Enterprise and on the City's website and the RFQ is provided as Exhibit "B"; and

WHEREAS, following the evaluation committee recommendations, attached as Exhibit "C" interviews were held on June 18, 2015, resulting in the selection of Aspen Environmental Group; and

WHEREAS, the fee schedule is attached as Exhibit "D" and a contract award in the amount of $82,098.00 will be funded by Account No. 663-6300-471.96-35 (Flume Project).

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The Banning City Council adopts Resolution No. 2015-68 approving a Professional Services Agreement with Aspen Environmental Group of Agoura Hills, California in an amount of $82,098.00.

SECTION 2. The Administrative Services Director is authorized to make necessary budget adjustments and appropriations and transfers related to the project.

SECTION 3. The Interim City Manager is authorized to execute the Professional Services Agreement with Aspen Environmental Group of Agoura, California, in a form approved by the City Attorney.

PASSED, ADOPTED AND APPROVED this 14th day of July, 2015.

Deborah Franklin, Mayor
City of Banning

ATTEST:

Marie A. Calderon, City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

David J. Aleshire, City Attorney
Aleshire & Wynder, LLP

CERTIFICATION:

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2015-68, was duly adopted by the City Council of the City of Banning, California, at a Regular Meeting thereof held on the 14th day of July, 2015, by the following vote, to wit:

AYES: Councilmembers Miller, Moyer, Peterson, Welch, Mayor Franklin

NOES:

ABSTAIN:

ABSENT:

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

RESOLUTION NO. 2015-68

EXHIBIT "A"

RFP ADVERTISEMENT

REQUEST FOR QUALIFICATIONS (RFQ) FOR
ENVIRONMENTAL AND PERMITTING SERVICES

The City of Banning (City) is soliciting Statements of Qualifications (SOQs) from qualified consulting firms to provide environmental and permitting services to the City for the purpose of obtaining a US Forest Service (USFS) Special Use Permit and any other applicable agency permits or authorizations, to repair, upgrade, operate, and maintain existing water conveyance facilities. In addition, the City may pursue a Federal Energy Regulatory Commission (FERC) license to operate the existing conveyance system as a hydroelectric power plant, consistent with its historic use.

The City anticipates the need to consult with multiple agencies to identify issues and concerns, prepare environmental review documents under the National Environmental Policy Act (NEPA) and California Environmental Quality Act (CEQA), and prepare a number of technical studies to support the Special Use Permit application.

A complete copy of the Request for Qualifications may be obtained by visiting the City of Banning website at http://www.ci.banning.ca.us/index.aspx?nid=19 or by contacting Ms. Holly Stuart, Public Works Analyst by email at hstuart@ci.banning.ca.us or by phone at (951) 922-3138. The Proposals are due by Monday, June 1, 2015 by 10:00 a.m. to the City of Banning, City Clerk located at 99 E. Ramsey Street, Banning, CA 92220.

BY ORDER OF THE CITY CLERK of the City of Banning, California.

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

DATED: May 14, 2015
PUBLISH: May 18, 2015

RESOLUTION NO. 2015-68

EXHIBIT "B"

REQUEST FOR PROPOSALS

Request for Qualifications (RFQ)
Environmental and Permitting Services

Responses Due:
City of Banning
Public Works Department
99 E. Ramsey Street
Banning, CA 92220
(951) 922-3130

May, 2015

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1.0 INTRODUCTION

1.1 PROJECT DESCRIPTION AND OBJECTIVES

The City of Banning (City) is soliciting Statements of Qualifications (SOQs) from qualified consulting firms to provide environmental and permitting services to the City for the purpose of obtaining a US Forest Service (USFS) Special Use Permit and any other applicable agency permits or authorizations, to repair, upgrade, operate, and maintain existing water conveyance facilities. In addition, the City may pursue a Federal Energy Regulatory Commission (FERC) license to operate the existing conveyance system as a hydroelectric power plant, consistent with its historic use.

The City anticipates the need to consult with multiple agencies to identify issues and concerns, prepare environmental review documents under the National Environmental Policy Act (NEPA) and California Environmental Quality Act (CEQA), and prepare a number of technical studies to support the Special Use Permit application.

1.2 BACKGROUND INFORMATION

The City and its partner agencies (Banning Heights Mutual Water Company and San Gorgonio Pass Water Agency) hold water rights to surface waters originating at stream diversions on the South Fork and Middle Fork of the Whitewater River, at about 7,200 feet elevation. The water is currently conveyed to the Banning Heights Mutual Water District via a flume and penstock system that is owned by Southern California Edison (SCE), under license by FERC (San Gorgonio Hydroelectric Project No. 344). The conveyance system is located in part on National Forest System lands managed by the San Bernardino National Forest (SBNF), and in part on City-owned lands. The conveyance system has been damaged by storms and erosion, and is not in operation for power generation; however, it continues to convey water. The system provides about 30 percent of the City's municipal water supply, and 100 percent of the Banning Heights Mutual Water Company's supply. SCE has applied to FERC to surrender its license; that application is currently under FERC review. Upon surrender of the license, SCE proposes to transfer ownership of the conveyance system to the City and its partner agencies.

A summary of the system's history, current status, and ongoing regulatory proceeding may be found at the FERC web site: https://www.ferc.gov/whats-new/comm-meet/2014/091814/H-3.pdf

2.0 CONSULTANT QUALIFICATIONS

Qualified consultants should be located in southern California. The SOQ must demonstrate strong capabilities in environmental review and permitting of complex infrastructure systems on National Forest System Lands within the past five years; experience permitting for water conveyance systems within the past five years; experience with USFS permitting within the past five years; the full range of NEPA and

CEQA analysis and compliance; and strong technical expertise in resource areas including but not limited to:

- Public utilities and services
- Public health and safety
- Surface hydrology
- Groundwater
- Biological resources
- Cultural resources
- Land use
- Geology and soils

In addition, qualified consultants should have strong prior experience with county, city, and local districts, and a strong understanding of the FERC regulatory processes. The SOQ should demonstrate staffing capacity and availability to provide the needed services; ability to meet with City staff and other agencies on short notice; and ability to complete tasks and high-quality, professional, and legally defensible work products according to agreed-upon schedules. Specify any conflict of interest conditions and/or disclose the firm's or subconsultants' prior work or ongoing work with other interested parties.

2.1 PROJECT ADMINISTRATION AND COORDINATION

Kick-off Meeting

Upon receipt of a written Notice to Proceed from the City of Banning, consultant shall conduct a kick-off meeting with the City and/or Participating Entities ("PE") to review the scope of the project, develop a project schedule, and confirm deliverables. The project schedule shall include each task and subtasks, milestones, critical path designation and a schedule for progress meetings.

Multi-Agency Coordination

The City, has been working with Banning Heights, SCE and the San Gorgonio Pass Water Agency ("Pass Water") for a number of years to secure control of the Flume, once SCE's Surrender Application has been accepted by the Federal Energy Regulatory Commission ("FERC"), which is anticipated to be handed down at any time. It is very important to coordinate with all participating Pes, as well as, other entities as needed.

Project Milestone/Monthly Meetings

Consultant shall prepare a project execution schedule with major milestones for approval. Consultant shall prepare regular progress reports each month.

2.2 QUALIFICATIONS AND UNDERSTANDING

This section should describe one or more proposed strategies for achieving the objectives of the RFQ. It should provide a description of environmental services tasks that will be needed to complete the project objective, including a list of anticipated documents and technical studies needed, and list of local, state, and federal agencies that are likely to be involved. The narrative should include a description of the logical progression of tasks and efforts and estimated schedule for the completion of the work.

Please note that the City has not identified a specific scope of work. The Qualifications and Understanding section of the SOQ should demonstrate the consultant's understanding of the project, and its ability to develop a detailed scope, including schedule and budget, in collaboration with the City. The overall permitting strategy may necessitate a phased process, such that only the initial tasks and budget can be specified at this time. In addition, please provide descriptions of no more than four comparable projects the firm has completed.

Each Consultant must provide the following information about their company so the City can evaluate the Consultant's stability and ability to support the commitments set forth in response to the RFQ. It is imperative the Consultant's proposal fully address all aspects of the RFQ. The proposal must provide the City Staff with clearly expressed information concerning the Proposer's understanding of the City's specific requirements which would result in the conduct of this study in a thorough and efficient manner.

The Consultant shall outline their company's (or team's) background, including:

- How long the company has been in business, plus a brief description of the company history, size and organization.
- Consultant qualifications to complete the scope of services and a statement of understanding of the work involved to complete this assignment.

2.3 PROJECT TEAM

Each Consultant must provide the following information about their project team.

- Primary point of contact, person responsible for overall corporate commitment (must be a company principal or officer) and project manager. Describe the responsibilities of the individuals and extent of involvement with the project.
- Identify and list key individuals proposed for the project team. Describe the responsibilities of the individuals and extent of involvement with the project.
- All key personnel listed should have current names, titles and telephone numbers and be listed on at least one of the supplied client references who are familiar with work performed by the individual in a similar capacity. References will be contacted as part of the selection process.

- Clearly identify project sub consultants, how long the prime and sub have worked together and the reason why they were selected. Consultants are encouraged to support small businesses where ever possible.

2.4 REFERENCES

The Consultant shall supply a minimum of 3 references from agencies with projects of similar nature. Each reference shall contain:

- Client name and contact information
- Project description
- Role of key project team members.

Only references of the prime consultant shall be considered, or references from project teams that have completed at least 3 projects together. The Consultant shall also list projects completed for other agencies.

2.5 SCHEDULE

The consultant shall provide a project schedule indicating key milestones and activities.

2.6 WORKSHOPS AND MEETINGS

Additionally, it is estimated that the consultant will be required to attend ten (10) meetings located at City Hall, Banning, California. The meetings will be held between staff, Consultant, and participating entities. A fee reflecting this requirement shall be included in the proposal.

3.0 PROPOSAL SUBMISSION

3.1 RFQ TIME SCHEDULE

• Request for Proposal Available	Wed.,	May 20, 2015
• Inquiry Deadline @ 1:00 p.m.	Tues.,	May 26, 2015
• Proposals Due @ 10:00 a.m.	Mon.,	June 1, 2015
• Final Selection	Thurs.,	June 11, 2015
• City Council Approval	Tues.,	June 23, 2015
• Notice to Proceed (Tentative)	Tues,	July 21, 2015

3.2 NUMBER OF COPIES AND DELIVERY

Four (4) copies of the proposal shall be submitted to the following address:

City of Banning
City Clerk's Office
99 E. Ramsey Street
P.O. Box 998
Banning, CA 92220

The proposal title, consultants name and deadline information shall be clearly identified on the submission package and cover page. Submission deadline is Monday, June 1, 2015 at 10:00 a.m. Proposals submitted after that time shall not be considered. All questions regarding the scope of work shall be submitted to Holly Stuart, Public Works analyst at the address above or via e-mail at hstuart@ci.banning.ca.us.

3.3 FORMAT AND CONTENT

Proposals shall be printed on 8 ½" X 11" paper, single sided in a 10 point Arial font and be limited to 25 pages excluding the cover letter, resumes and any appended information.

Proposals should address the following items in order of appearance:

Cover letter

The cover letter shall be provided which explains the firm's interest in the project. The letter shall contain name/address/phone number of the person who will serve as the firm's principal contact person.

Qualifications of Firm/Project Team

Provide names, titles and responsibilities of key personnel who will be responsible for the management of the project. Include qualifications, resumes, experience of each, and length of time with the company.

References

Give at least three (3) references for projects of similar size and scope, including at least three (3) references for projects completed during the past five years. Include the name and organization, a brief summary of the work, the cost of the project and the name and telephone number of a responsible contact person.

Strategy and Implementation Plan

Prepare a list of tasks to address the Scope of Work. Describe the firm's interpretation of the City's objectives with the regard to this RFP. Describe the proposed strategy and/or plan for achieving the objectives of the RFP. The narrative should include a description of the logical progression of tasks and efforts. Also include an explanation of the type of technology that will be used. This section shall also include a time schedule for the completion of the project and an estimate of time commitments from City staff.

Proposed quality assurance program (QA/QC)

Explain the firm's quality assurance program and the proposed approach for implementing the plan with this project.

Fee Proposal: One set in a separate sealed envelope

The Fee Schedule in a separate envelope shall be broken down on separate sheets as follows:

- A "Not to Exceed" fee for all services. Man-hours and billing rates per classification of personnel will be indicated for each task and/or subtask.
- Provide a complete list of costs per task and/or subtask and a total fee for the proposal, including expected reimbursable expenses (non-binding), for completion of the scope of services set forth in the proposal.
- A current hourly Fee Schedule for Fiscal Year 2014/2015 and classification of personnel for the firm, along with the type of work they and any sub consultants will perform, is also required.
- All printing and reproduction costs, research, meetings, mileage, telephone usage, general office supplies and overhead, etc., shall be included in the proposal and its "Not to Exceed" Fee schedule. Proposals should be prepared in a straight forward manner.

Note: A separate fee schedule is required for each project location.

3.4 PROPOSAL EVALUATION

Proposals will be evaluated based on the following criteria:

- Responsiveness to the RFP.
- Consultant qualifications, project understanding, and overall experience.
- Technical Competency.
- Results of reference checks.
- Project Schedule.
- Proposed QA/QC plan.
- Proposal Fee.

3.5 NEGOTIATIONS

In an effort to manage the resources available for this project, the City may find it necessary to negotiate tasks, include contingencies for additional meetings or workshops, and address other factors identified by the Proposer not contemplated in this document or the City's standard agreement.

4.0 CONTRACT REQUIREMENTS AND SUBMITTALS

4.1 CITY OF BANNING REQUIREMENTS

The Contract will be presented to Council for approval. Please provide a copy of the attached City agreement to your legal team and insurance provider, if you are selected for Final Evaluation. This will expedite the process. A purchase order will not be granted until the contract is signed and all insurance requirements are satisfied.

RESOLUTION NO. 2015-68

EXHIBIT "C"

PROPOSAL EVALUATION SUMMARY

Design of Improvements at Roosevelt Williams Park

Reviewers	Aspen Environmental Group	Placeworks	Meridian Consultants	KWC Engineers
City of Banning, Acting Director of Public Works	86	85.5	84.5	51
Banning Heights Municipal Water Company, Board of Directors President	66	65	35	2
Stockton Consutling, Stephen P. Stockton	76	77.5	71	49
Total Score	228	228	190.5	102
Average Score	**76.0**	**76.0**	**63.5**	**34.0**

RESOLUTION NO. 2015-68

EXHIBIT "D"

ASPEN ENVIRONMENTAL GROUP
FEE SCHEDULE

Aspen Team Hourly Fee Schedule

Fiscal Year 2014/2015

Personnel	Classification	Proposed Work	Rates
Jon Davidson	Principal Associate	Principal-in-Charge	$195
Chris Huntley	Senior Associate II	Project Manager, Biological Resources	$165
Scott White	Senior Associate III	Permitting Lead, Biological Resources	$175
Negar Vahidi	Senior Associate III	NEPA/CEQA Lead, Land Use and Planning, Environmental Justice	$160
Scott Debauche	Associate II	Aesthetics, Noise, Population, Housing and Environmental Justice, Public Services and Utilities, Transportation and Traffic	$100
William Walters	Senior Associate III	Air Quality and Greenhouse Gases	$170
Justin Wood	Associate II	Biological Resources	$100
Carla Wakeman	Associate II	Biological Resources	$100
Jared Varonin	Senior Associate I	CDFW/USACE Permitting	$110
Elizabeth Bagwell	Senior Associate I	Cultural and Paleontological Resources	$110
Evan Elliott	Associate I	Cultural and Paleontological Resources	$75
Anton Kozhevnikov	Senior Associate I	Geographic Information Systems	$140
Tracy Popiel	Associate I	Geographic Information Systems	$75
Matthew Long	Associate II	Geology/Soils, Mineral Resources, Surface Hydrology/Water Quality	$210
Philip Lowe	Senior Associate III	Groundwater, Surface Hydrology and Water Quality	$165
Susanne Huerta	Associate II	Land Use and Planning, Public Services and Utilities, Recreation	$87
Jamison Miner	Associate II	Biological Resources	$95
Jennifer Lancaster	Associate II	Biological Resources	$95
Melissa Jordan	Staff I	Administrative Assistant	$65
Maral Koshkarian	Staff I	Accounting	$65
Subconsultants			
James Thurber	Senior Geologist	Geology/Soils, Mineral Resources, Groundwater, Hazards/Hazardous Materials	$180
Aurie Patterson	Senior Geologist	Geology/Soils, Mineral Resources, Hazards/Hazardous Materials	$110
John Kessler	Principal	FERC Regulatory Specialist	$100
William Lahaye	Principal	USFS Special Use Compliance	$110

Aspen Environmental Group

City of Banning

Qualification for Environmental and Permitting Services

Summary Page

	Task 1 Initial Coordination	Task 2 Meetings	Total
Aspen Environmental Group - Labor	$47,492	$29,870	$77,362
Aspen Environmental Group - ODC	$1,183	$1,001	$2,184
ASPEN ENVIRONMENTAL GROUP TOTAL	$48,675	$30,871	$79,546

SUBCONTRACTOR COST:			
Getoechnical Consultants	$792	$792	$1,584
Willaim S. LaHaye	$484	$484	$968
Kessler and Associates	$440	$440	$880
Total Subcontractor Cost	**$1,276**	**$1,276**	**$2,552**

Total Cost Per Task	**$49,951**	**$32,147**	**$82,098**

Aspen Environmental Group

City of Banning
Qualification for Environmental and Permitting Services

Cost Estimate

Prime Contractor: Aspen Environmental Group

Aspen Labor Costs		Task 1 Data Review and Initial Coordination		Task 2 Meetings		Total	
Key Personnel/Category	Hourly Rate*	Hours	Amount	Hours	Amount	Hours	Amount
Jon Davidson, Vice President	$195.00	8	$1,560	20	$3,900	28	$5,460
Chris Huntley	$165.00	90	$14,850	80	$13,200	170	$28,050
Scott White	$175.00	90	$15,750	40	$7,000	130	$22,750
Negar Vahidi	$160.00	18	$2,880	16	$2,560	34	$5,440
Jared Varonin	$110.00						
Scott White	$175.00						
Phil Lowe	$165.00	30	$4,950	16	$2,640	46	$7,590
Beth Bagwell	$110.00	20	$2,200	4	$440	24	$2,640
Justin Wood	$100.00						
Carla Wakeman	$100.00						
Jamison Miner	$95.00						
Jennifer Lancaster	$95.00						
Susanne Huerta	$87.00	56	$4,872			56	$4,872
Scott Debauche	$100.00						
Will Walters	$170.00						
Tracy Valentovich	$75.00	4	$300			4	$300
Anton Kozhevnikov	$140.00						
Melissa Jordan	$65.00						
Maral Koshkarian	$65.00	2	$130	2	$130	4	$260
TOTAL		318	$47,492	178	$29,870	496	$77,362

* Including fringe benefits, overhead, and fee.

Non-Labor Costs

Direct Project Cost Item	Unit Cost						
Printing & CD reproduction							
Mileage - 2 Wheel Drive (per mile)	$0.55	500	$275	1,200	$660	1700	$935
Mileage - 4 Wheel Drive (per mile)	$0.75						
Travel and Per Diem			$750		$250		$1,000
Postage/Delivery							
Outside Word Processing/Data Entry							
Outside Services Graphics/Mapping							
Document/Data Acquisition							
Miscellaneous		-	$50				$50
Subtotal ODC Cost			**$1,075**		**$910**		**$1,985**
Aspen Fee 10%			**$108**		**$91**		**$199**
Total ODC Cost			**$1,183**		**$1,001**		**$2,184**

Total Cost by Task		318	$48,675	178	$30,871	496	$79,546

Assumptions: Task 1

104 hours for review of existing data by Chris Huntley, Scott White, Negar Vahidi, and Phil Lowe.
24 hours meetings with ANF/Banning for Chris Huntley and Scott White
16 hours misc calls and coordination
40 hours development of draft Project Description and Purpose & Need statement

Assumptions: Task 2

One or two Aspen team leaders in person at all meetings. Others by conference calls as needed.

Aspen Environmental Group

City of Banning
Qualification for Environmental and Permitting Services

Cost Estimate

Subcontractor Name: Geotechnical Consultants Inc

Aspen Labor Costs

Key Personnel/Category	Hourly Rate*	Task 1 and Initial Coordination	Task 2 Meetings	Total
Jim Thurber	$180.00	4	4	8
Aurie Patterson	$150.00			
TOTAL		4	4	8

* Including fringe benefits, overhead, and fee.

LABOR COST ($)

Key Personnel/Category			
Jim Thurber	$720	$720	$1,440
Aurie Patterson			
Total Labor Cost	**$720**	**$720**	**$1,440**

Non-Labor Costs

Direct Project Cost Item	Unit Cost			
Internal Copies (per page)	$0.10			
Outside Copies/Printing	cost			
Mileage - 2 Wheel Drive (per mile)	$0.55			
Mileage - 4 Wheel Drive (per mile)	$0.75			
Monitor Vehicle Expenses				
Monitor Meals				
Travel and Per Diem	cost			
Postage/Delivery	cost			
Telephone	cost			
Outside Word Processing/Data Entry	cost			
Outside Services Graphics/Mapping	cost			
Document/Data Acquisition	cost			
Miscellaneous	cost			
Total ODC Cost				

Total Cost by Task		**$720**	**$720**	**$1,440**
Aspen Fee		**$72**	**$72**	**$144**
Total Subcontractor Cost per Task		**$792**	**$792**	**$1,584**

Aspen Environmental Group

City of Banning
Qualification for Environmental and Permitting Services

Cost Estimate

Subcontractor Name: William Lahaye

Fehr & Peers Labor Costs

Key Personnel/Category	Hourly Rate*	Task 1 and Initial Coordination	Task 2 Meetings	Total
William Lahaye	$110.00	4	4	8
TOTAL		4	4	8

* Including fringe benefits, overhead, and fee.

LABOR COST ($)

Key Personnel/Category			
William Lahaye	$440	$440	$880
Total Labor Cost	**$440**	**$440**	**$880**

Non-Labor Costs

Direct Project Cost Item	Unit Cost			
Internal Copies (per page)	$0.10			
Outside Copies/Printing	cost			
Mileage - 2 Wheel Drive (per mile)	$0.55			
Mileage - 4 Wheel Drive (per mile)	$0.75			
Monitor Vehicle Expenses				
Monitor Meals				
Travel and Per Diem	cost			
Postage/Delivery	cost			
Telephone	cost			
Outside Word Processing/Data Entry	cost			
Outside Services Graphics/Mapping	cost			
Document/Data Acquisition	cost			
Miscellaneous	cost			
Total ODC Cost				

Total Cost by Task		**$440**	**$440**	**$880**
Aspen Fee		**$44**	**$44**	**$88**
Total Subcontractor Cost per Task		**$484**	**$484**	**$968**

Aspen Environmental Group

City of Banning
Qualification for Environmental and Permitting Services

Cost Estimate

Subcontractor Name: Kessler and Associates

Fehr & Peers Labor Costs		Task 1 and Initial Coordination	Task 2 Meetings	Total
Key Personnel/Category	Hourly Rate*			
John Kessler, FERC Regulatory Specialist	$100.00	4	4	8
TOTAL		4	4	8

* Including fringe benefits, overhead, and fee.

LABOR COST ($)

Key Personnel/Category			
John Kessler, FERC Regulatory Specialist	$400	$400	$800
Total Labor Cost	**$400**	**$400**	**$800**

Non-Labor Costs

Direct Project Cost Item	Unit Cost			
Internal Copies (per page)	$0.10			
Outside Copies/Printing	cost			
Mileage - 2 Wheel Drive (per mile)	$0.55			
Mileage - 4 Wheel Drive (per mile)	$0.75			
Monitor Vehicle Expenses				
Monitor Meals				
Travel and Per Diem	cost			
Postage/Delivery	cost			
Telephone	cost			
Outside Word Processing/Data Entry	cost			
Outside Services Graphics/Mapping	cost			
Document/Data Acquisition	cost			
Miscellaneous	cost			
Total ODC Cost				

Total Cost by Task		**$400**	**$400**	**$800**
Aspen Fee		**$40**	**$40**	**$80**
Total Subcontractor Cost per Task		**$440**	**$440**	**$880**

RESOLUTION NO. 2016-07 UA

A RESOLUTION OF THE BANNING UTILITY AUTHORITY OF BANNING, CALIFORNIA, APPROVING THE FIRST AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH ASPEN ENVIRONMENTAL GROUP OF AGOURA HILLS, CA IN THE AMOUNT OF $20,000.00 FOR ENVIRONMENTAL AND PERMITTING SERVICES RELATED TO THE FLUME FOR A TOTAL AGREEMENT AMOUNT OF $102,098.00

WHEREAS, in order to obtain a U.S. Forest Service ("USFS") Special Use Permit and other applicable permits or authorizations to repair, upgrade, operate and maintain existing water conveyance facilities the City deemed it necessary to obtain an environmental and permitting services consulting firm; and

WHEREAS, on July 14, 2015 City Council adopted Resolution No. 2015-68, "Approving a Professional Services Agreement with Aspen Environmental Group to Provide Environmental and Permitting Services related to the Flume" in the amount of $82,098.00; and

WHEREAS, an amendment to increase the contract amount will allow for Aspen Environmental Group to continue to provide environmental and permitting consultation services; and

WHEREAS, the First Amendment to the Professional Services Agreement will be funded by the BUA Capital Improvement Fund, Account No. 663-6300-471.96-35 (Flume Restoration Project) in the amount of $20,000.00.

NOW, THEREFORE, BE IT RESOLVED by the Banning Utility Authority of the City of Banning as follows:

SECTION 1. The Banning Utility Authority adopts Resolution No. 2016-07 UA, approving the First Amendment to the Professional Services Agreement with Aspen Environmental Group of Agoura Hills, CA in the amount of $20,000.00 for environmental and permitting services related to the Flume for a total agreement amount of $102,098.00.

SECTION 2. The Administrative Services Director is authorized to make necessary budget adjustments, appropriations and transfers related to the Professional Services Agreement First Amendment for environmental and permitting services.

SECTION 3. The City Manager is authorized to execute the First Amendment to the Professional Services Agreement with Aspen Environmental Group of Agoura Hills, CA for additional environmental and permitting services related to the Flume.

PASSED, ADOPTED AND APPROVED this 24th day of May, 2016.

Arthur L. Welch, Chairman
Banning Utility Authority

ATTEST:

Marie A. Calderon, Secretary

APPROVED AS TO FORM AND LEGAL CONTENT:

Anthony R. Taylor, Authority Counsel
Aleshire & Wynder, LLP

CERTIFICATION:

I, Marie A. Calderon, Secretary of the Banning Utility Authority of Banning, California, do hereby certify that the foregoing Resolution No. 2016-07 UA was duly adopted by the Banning Utility Authority of the City of Banning, California, at a special meeting thereof held on the 24th day of May, 2016, by the following vote, to wit:

AYES:	Boardmembers Franklin, Moyer, Peterson, Chairman Welch
NOES:	None
ABSTAIN:	None
ABSENT:	Boardmember Miller

Marie A. Calderon, Secretary
Banning Utility Authority
Banning, California

RESOLUTION 2017-07 UA

A RESOLUTION OF THE BANNING UTILITY AUTHORITY OF BANNING, CALIFORNIA, APPROVING THE AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH ASPEN ENVIRONMENTAL GROUP IN THE AMOUNT OF $150,745 FOR ENVIRONMENTAL SERVICES RELATED TO THE FLUME

WHEREAS, the City of Banning along with the Banning Heights Mutual Water Company ("Banning Heights") and the San Gorgonio Pass Water Agency, collectively known as the Participating Entities (PE) have been working together with the United States Forest Service ("Forest Service") to facilitate the transfer of the San Gorgonio Whitewater River Water Conveyance System ("Flume") pending Southern California Edison (SCE) surrender application before the Federal Energy Regulatory Commission (FERC) for its hydropower project known as the San Gorgonio Hydroelectric Project No. 344; and

WHEREAS, a Forest Service issued Special Use Permit (SUP) must be obtained for those parts of the Flume that are not covered by an existing right-of-way originally dedicated for the operation of the Flume and which lay on Forest Service lands; and

WHEREAS, on January 3, 2017 the City of Banning, in coordination with the other PEs, prepared and submitted a SUP application, which has since been accepted by the Forest Service for formal review; and

WHEREAS, the Forest Service must follow a National Environmental Policy Act (NEPA) process prior to the issuance of an SUP which includes the preparation of several environmental studies necessary to support the Forest Service's NEPA determination. The cost for the preparation of said studies is burdened on the applicant, which in this case is the City of Banning; and

WHEREAS, four technical studies have been identified as being needed to be completed in order to support a NEPA determination by the Forest Service: Stream Assessment Protocol, Whitewater Tributary Habitat Evaluation, Flow Volume and Wetted Perimeter Evaluation and Reconnaissance Level Biological Surveys. The studies have to be completed during the summer season between June and October; and

WHEREAS, on July 14, 2015 City Council adopted Resolution 2015-68, "Approving a Professional Services Agreement with Aspen Environmental Group to Provide Environmental and Permitting Services related to the Flume" and on May 10, 2016, the Banning Utility Authority approved Resolution 2016-07UA, "Approving the First Amendment to the Professional Services Agreement with Aspen Environmental Group of Agoura Hills, CA in the amount of $20,000 for Environmental and Permitting Services related to the Flume for a total agreement amount of $102,098"; and

WHEREAS, Aspen Environmental Group ("Aspen") has continued to play a significant role in the Flume project and recently completed the preparation of the SUP application under contract by Banning Heights; and

WHEREAS, Aspen has provided a proposal to complete the identified technical studies in the amount of $150,745; and

WHEREAS, the cost of the amendment shall be funded by BUA Water Capital Fund, Account No. 663-6300-471.96-35 (Flume Consultant Costs) which currently has balance of $300,000.

NOW, THEREFORE, BE IT RESOLVED by the Banning Utility Authority of the City of Banning as follows:

SECTION 1. The Banning Utility Authority adopts Resolution No. 2017-07 UA approving the Amendment to the Professional Services Agreement with Aspen Environmental Group of Agoura Hills, CA in the amount of $150,745 for Environmental Services related to the Flume.

SECTION 2. The City Manager or his designee is authorized to make necessary budget adjustments, appropriations and transfers related to the Professional Services Agreement.

SECTION 3. The City Manager is authorized to execute the Professional Services Agreement with Aspen Environmental Group of Agoura Hills, CA for environmental services related to the Flume.

PASSED, APPROVED AND ADOPTED this 23rd day of May, 2017.

George Moyer, Chairman
Banning Utility Authority

ATTEST:

Marie A. Calderon, Secretary
Banning Utility Authority

APPROVED AS TO FORM AND LEGAL CONTENT:

John C. Cotti, Interim Authority Counsel
Jenkins & Hogin, LLP

CERTIFICATION:

I, Marie A. Calderon, Secretary of the Banning Utility Authority of Banning, California, do hereby certify that the foregoing Resolution No. 2017-07 UA was duly adopted by the Banning Utility Authority of the City of Banning, California, at a scheduled meeting thereof held on the 23rd day of May, 2017, by the following vote, to wit:

AYES: Boardmembers Andrade, Franklin, Peterson, Welch, Chairman Moyer

NOES: None

ABSTAIN: None

ABSENT: None

Marie A. Calderon, Secretary
Banning Utility Authority
City of Banning, California

RESOLUTION 2018-19 UA

A RESOLUTION OF THE BANNING UTILITY AUTHORITY OF BANNING, CALIFORNIA, APPROVING AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH ASPEN ENVIRONMENTAL GROUP IN THE AMOUNT OF $50,000 FOR ENVIRONMENTAL SERVICES RELATED TO THE SAN GORGONIO FLUME

WHEREAS, the City of Banning along with the Banning Heights Mutual Water Company ("Banning Heights") and the San Gorgonio Pass Water Agency, collectively known as the Participating Entities (PE) have been working with the United States Forest Service ("Forest Service") to facilitate the transfer of the San Gorgonio Flume ("Flume") pending Southern California Edison (SCE) surrender application before the Federal Energy Regulatory Commission (FERC) for its hydropower project known as the San Gorgonio Hydroelectric Project No. 344; and

WHEREAS, a Forest Service issued Special Use Permit (SUP) must be obtained for those parts of the Flume that are not covered by an existing right-of-way originally dedicated for the operation of the Flume and which lay on Forest Service lands; and

WHEREAS, the Forest Service must comply with the National Environmental Policy Act (NEPA) prior to the issuance of an SUP which includes the preparation of several environmental studies necessary to support the NEPA determination; and

WHEREAS, on July 14, 2015 City Council adopted Resolution 2015-68, "Approving a Professional Services Agreement with Aspen Environmental Group to Provide Environmental and Permitting Services related to the Flume" and on May 10, 2016, the Banning Utility Authority approved Resolution 2016-07 UA, "Approving the First Amendment to the Professional Services Agreement with Aspen Environmental Group of Agoura Hills, CA in the amount of $20,000 for Environmental and Permitting Services related to the Flume for a total agreement amount of $102,098" and on May 23, 2017 the Banning Utility Authority adopted Resolution 2017-07 UA "Approving an Amendment to the Professional Services Agreement with Aspen Environmental Group in the Amount of $150,745 for Environmental Services Related to the Flume"; and

WHEREAS, Aspen Environmental Group ("Aspen") has continued to play a significant role in the Flume project and there continues to be a need for the services provided by Aspen. As part of this amendment Aspen will be tasked on an as-needed basis to participate in discussions with the Forest Service and to review technical analysis prepared by other agencies (e.g. Forest Service, FERC and SCE) that could impact the NEPA determination; and

WHEREAS, the cost of the amendment shall be funded by Account No. 660-6300-471.90-78 (Planning/Design/Capital).

NOW, THEREFORE, BE IT RESOLVED by the Banning Utility Authority of the City of Banning as follows:

SECTION 1. The Banning Utility Authority adopts Resolution No. 2018-19 UA approving the Amendment to the Professional Services Agreement with Aspen Environmental Group of Agoura Hills, CA in the amount of $50,000 for Environmental Services related to the San Gorgonio Flume.

SECTION 2. The Interim City Manager or his designee is authorized to make necessary budget adjustments, appropriations and transfers related to the Amendment to the Professional Services Agreement.

SECTION 3. The Interim City Manager is authorized to execute the Amendment to the Professional Services Agreement with Aspen Environmental Group of Agoura Hills, CA for environmental services related to the San Gorgonio Flume.

PASSED, ADOPTED AND APPROVED this 9th day of October, 2018.

George Moyer, Chairman
Banning Utility Authority

ATTEST:

Sonja De La Fuente, Secretary
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

Kevin G. Ennis, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Sonja De La Fuente, Secretary of the Banning Utility Authority of the City of Banning, California, do hereby certify that the foregoing Resolution 2018-19 UA was adopted by the City Council of the City of Banning at a regular meeting thereof held on the 9th day of October, 2018, by the following vote, to wit:

AYES: Board Members Andrade, Franklin, Peterson, Welch, and Chairman Moyer

NOES: None

ABSENT: None

ABSTAIN: None

Sonja De La Fuente, Secretary
Banning Utility Authority

Banning Heights Mutual Water Co.
Bill Payments for All Vendors
All Transactions

Vendor	Type	Num	Date	Amount
Aspen Environment...	Bill Pmt -Check	4020	12/30/2016	10,281.80
Aspen Environment...	Bill Pmt -Check	4060	02/14/2017	16,411.70
Aspen Environment...	Bill Pmt -Check	4090	03/17/2017	5,938.87
Aspen Environment...	Bill Pmt -Check	4106	04/04/2017	9,356.45
Aspen Environment...	Bill Pmt -Check	4140	05/09/2017	7,816.65
Aspen Environment...	Bill Pmt -Check	4173	06/16/2017	14,418.66
Aspen Environment...	Bill Pmt -Check	4196	07/11/2017	30,170.37
Total				**94,394.50**

Invoice

Aspen Environmental Group
5020 Chesebro Road #200
Agoura Hills, CA 91301
Contact Name: Vicky Tinkjian
Phone: 818-597-3407
Fax: 818-597-8001

Julie Hutchinson
Banning Heights Mutual Water Company
7091 Bluff Street
Banning, CA 92220

December 23, 2016
Project No: 3376.001
Invoice No: 3376.001-01

Contract Amount 50,000.00
Project Manager Christian Huntley

Project 3376.001 City of Banning San Bernadino Permitting

Progress Report:
- Prepare bio assessment protocols for Banning Heights and PE's
- Participate in meetings and calls with PE's, USFS, and FERC
- Review documents, prepare memos, and travel to meetings

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DEC 30 2016
By

Professional Services from September 01, 2016 to November 30, 2016

Professional Personnel

	Hours	Rate	Amount	
Chitiea, Emily	2.00	75.00	150.00	
Huntley, Christian	2.00	165.00	330.00	
Koshkarian, Maral	.75	65.00	48.75	
Simpson, Mary	.25	107.00	26.75	
Stewart, Samuel	20.50	140.00	2,870.00	
White, Scott	38.50	175.00	6,737.50	
Totals	64.00		10,163.00	
Total Labor				**10,163.00**

Reimbursable Expenses

Travel Expenses

10/25/2016	White, Scott	3313 Attend 2 Meetings	108.00	
Total Reimbursables		**1.1 times**	**108.00**	**118.80**

Total this Invoice **$10,281.80**

OK To Pay

BANNING HEIGHTS MUTUAL WATER CO.

4020

Aspen Environmental Group 12/30/2016

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
12/30/2016	Bill		10,281.80	10,281.80		10,281.80
					Check Amount	10,281.80

Wells Fargo Bank (2) Invoice No. 3376.001-01 10,281.80

PRODUCT SSLT103 USE WITH 91663 ENVELOPE Deluxe Corporation 1-800-328-0304 or www.deluxe.com/shop

0027 27 B1425C SLXRX9 09/22/2016 14:42

RECEIVED
FEB 03 2017
By

Invoice

Aspen Environmental Group
5020 Chesebro Road #200
Agoura Hills, CA 91301
Contact Name: Vicky Tinkjian
Phone: 818-597-3407
Fax: 818-597-8001

January 30, 2017

Julie Hutchinson
Banning Heights Mutual Water Company
7091 Bluff Street
Banning, CA 92220

Project No: 3376.001
Invoice No: 3376.001-02

Contract Amount 50,000.00

Project Manager Christian Huntley

Project 3376.001 City of Banning San Bernadino Permitting

Progress Report:
- Preparation of SUP application
- Prepare maps for SUP application
- Participate in routine calls, meetings, and respond to emails
- Review legal letters
- Invoicing and Billing

Professional Services from December 01, 2016 to December 31, 2016

Professional Personnel

	Hours	Rate	Amount	
Huntley, Christian	.25	165.00	41.25	
Koshkarian, Maral	.50	65.00	32.50	
Popiel, Tracy	6.50	85.00	552.50	
Simpson, Mary	.75	107.00	80.25	
Wakeman, Carla	22.25	100.00	2,225.00	
White, Scott	77.00	175.00	13,475.00	
Totals	107.25		16,406.50	
Total Labor				**16,406.50**

Reimbursable Expenses

Telephone				
12/9/2016	Verizon	Verizon Cell Phone Charges 11/10-12/09/16	4.73	
Total Reimbursables		**1.1 times**	**4.73**	**5.20**
		Total this Invoice		**$16,411.70**

Billings to Date

	Current	Prior	Total
Fee	0.00	10.80	10.80
Labor	16,406.50	10,163.00	26,569.50
Expense	5.20	108.00	113.20
Totals	**16,411.70**	**10,281.80**	**26,693.50**

BANNING HEIGHTS MUTUAL WATER CO. 4060

Aspen Environmental Group 2/14/2017

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
1/30/2017	Bill		16,411.70	16,411.70		16,411.70
					Check Amount	16,411.70

Wells Fargo Bank (2) Invoice No. 3376.001-02 16,411.70

PRODUCT SSLT103 USE WITH 91663 ENVELOPE Deluxe Corporation 1-800-328-0304 or www.deluxe.com/shop

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1839

MAR 06 2017

By

Invoice

Aspen Environmental Group
5020 Chesebro Road #200
Agoura Hills, CA 91301
Contact Name: Vicky Tinkjian
Phone: 818-597-3407
Fax: 818-597-8001

Julie Hutchinson
Banning Heights Mutual Water Company
7091 Bluff Street
Banning, CA 92220

February 28, 2017
Project No: 3376.001
Invoice No: 3376.001-03

Contract Amount 50,000.00

Project Manager Christian Huntley

Project 3376.001 City of Banning San Bernadino Permitting

Progress Report:
- Preparation of SUP application
- Prepare maps for SUP application
- Participate in routine calls, meetings, and respond to emails
- Review legal letters
- Invoicing and Billing

Professional Services from January 01, 2017 to January 31, 2017

Professional Personnel

	Hours	Rate	Amount	
Huntley, Christian	1.25	165.00	206.25	
Popiel, Tracy	1.00	85.00	85.00	
White, Scott	31.50	175.00	5,512.50	
Totals	33.75		5,803.75	
Total Labor				**5,803.75**

Reimbursable Expenses

Telephone				
1/9/2017	Verizon	Verizon Cell Phone Charges 12/10-01/09/17	15.84	
Travel Expenses				
1/31/2017	White, Scott	3376 Attend Meetings	107.00	
	Total Reimbursables	**1.1 times**	**122.84**	**135.12**
		Total this Invoice		**$5,938.87**

Billings to Date

	Current	Prior	Total
Fee	0.00	11.27	11.27
Labor	5,803.75	26,569.50	32,373.25
Expense	135.12	112.73	247.85
Totals	**5,938.87**	**26,693.50**	**32,632.37**

PANNING HEIGHTS MUTUAL WATER CO.

4090

3/17/2017

Aspen Environmental Group

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
2/28/2017	Bill		5,938.87	5,938.87		5,938.87
					Check Amount	5,938.87

Wells Fargo Bank (2) Invoice No. 3376.001-03 5,938.87

PRODUCT SSLT103 USE WITH 91663 ENVELOPE Deluxe Corporation 1-800-328-0304 or www.deluxe.com/shop

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1841

Invoice

Aspen Environmental Group
5020 Chesebro Road #200
Agoura Hills, CA 91301
Contact Name: Vicky Tinkjian
Phone: 818-597-3407
Fax: 818-597-8001

Julie Hutchinson
Banning Heights Mutual Water Company
7091 Bluff Street
Banning, CA 92220

March 30, 2017
Project No: 3376.001
Invoice No: 3376.001-04

Contract Amount 50,000.00
Project Manager Christian Huntley

Project 3376.001 City of Banning San Bernadino Permitting

Progress Report:
- Preparation of SUP application
- Prepare maps for SUP application
- Participate in routine calls, meetings, and respond to emails
- Review legal letters
- Invoicing and Billing

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APR 04 2017
By

Professional Services from February 01, 2017 to February 28, 2017

Professional Personnel

	Hours	Rate	Amount	
Keefe, Kellie	.25	75.00	18.75	
Koshkarian, Maral	.50	65.00	32.50	
White, Scott	52.50	175.00	9,187.50	
Totals	53.25		9,238.75	
Total Labor				**9,238.75**

Reimbursable Expenses

Travel Expenses

2/23/2017	White, Scott	3376 Attend Meetings	107.00	
Total Reimbursables		**1.1 times**	**107.00**	**117.70**

Total this Invoice **$9,356.45**

Billings to Date

	Current	Prior	Total
Fee	0.00	23.55	23.55
Labor	9,238.75	32,373.25	41,612.00
Expense	117.70	235.57	353.27
Totals	**9,356.45**	**32,632.37**	**41,988.82**

PER JULIE, OK TO PAY

BANNING HEIGHTS MUTUAL WATER CO.

4106

Aspen Environmental Group

4/4/2017

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
3/30/2017	Bill		9,356.45	9,356.45		9,356.45
					Check Amount	9,356.45

Wells Fargo Bank (2) Invoice No. 3376.001-04

9,356.45

PRODUCT SSLT103 USE WITH 91663 ENVELOPE Deluxe Corporation 1-800-328-0304 or www.deluxe.com/shop

0113

113 B14250 SLXRX9 09/22/2016 14:42

1843

Invoice

Aspen Environmental Group
5020 Chesebro Road #200
Agoura Hills, CA 91301
Contact Name: Vicky Tinkjian
Phone: 818-597-3407
Fax: 818-597-8001

Aspen Environmental Group

April 28, 2017

Julie Hutchinson
Banning Heights Mutual Water Company
7091 Bluff Street
Banning, CA 92220

Project No: 3376.001
Invoice No: 3376.001-05

Contract Amount 50,000.00

Project Manager Christian Huntley

Project 3376.001 City of Banning San Bernadino Permitting

Progress Report:
- Review of hydrology data
- Meeting preparation including research, conference calls, and prepare agenda
- Review letter from SBNF
- Conduct calls with PE's and legal staff
- Invoicing and billing

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MAY 02 2017
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Professional Services from March 01, 2017 to March 31, 2017

Professional Personnel

	Hours	Rate	Amount	
Huntley, Christian	.75	165.00	123.75	
Koshkarian, Maral	.50	65.00	32.50	
Lowe, Philip	5.00	165.00	825.00	
Rosen, Susan	.50	75.00	37.50	
White, Scott	37.50	175.00	6,562.50	
Totals	44.25		7,581.25	
Total Labor				**7,581.25**

Reimbursable Expenses

Travel Expenses

3/30/2017	White, Scott	3376 Attend Meetings	214.00	
	Total Reimbursables	**1.1 times**	**214.00**	**235.40**

Total this Invoice **$7,816.65**

Billings to Date

	Current	Prior	Total
Fee	0.00	34.25	34.25
Labor	7,581.25	41,612.00	49,193.25
Expense	235.40	342.57	577.97
Totals	**7,816.65**	**41,988.82**	**49,805.47**

OK TO PAY, HOWEVER THIS AMOUNT TAKES US TO THE TOP OF OUR LIMIT THAT WAS AGREED UPON.

BANNING HEIGHTS MUTUAL WATER CO.

4140

Aspen Environmental Group

5/9/2017

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
4/28/2017	Bill		7,816.65	7,816.65		7,816.65
					Check Amount	7,816.65

Wells Fargo Bank (2) Invoice No. 3376.001-05 7,816.65

PRODUCT SSLT103 USE WITH 91663 ENVELOPE Deluxe Corporation 1-800-328-0304 or www.deluxe.com/shop

0147 147 B1425C SLXRX9 09/22/2016 14:42

RECEIVED
MAY 29 2017

Invoice

Aspen Environmental Group
5020 Chesebro Road #200
Agoura Hills, CA 91301
Contact Name: Vicky Tinkjian
Phone: 818-597-3407
Fax: 818-597-8001

Aspen Environmental Group

May 24, 2017

Julie Hutchinson
Banning Heights Mutual Water Company
7091 Bluff Street
Banning, CA 92220

Project No: 3376.001
Invoice No: 3376.001-06

Contract Amount 50,000.00

Project Manager Christian Huntley

Project 3376.001 City of Banning San Bernadino NF Permitting

Progress Report:
- Review of hydrology data
- Meeting preparation including research, conference calls, and preparation of agendas
- Review letter from SBNF
- Evaluate proposed budget from SBNF and prepare alternate cost spreadsheet and scope
- Evaluate CEQA/NEPA approach
- Participate in meetings with SBNF, SCE, and PE's
- Conduct calls with PE's and legal staff
- Invoicing and billing

Professional Services from April 01, 2017 to April 30, 2017

Professional Personnel

	Hours	Rate	Amount	
Freeman, Darlene	.75	87.00	65.25	
Huntley, Christian	14.00	165.00	2,310.00	
Koshkarian, Maral	.50	65.00	32.50	
Lowe, Philip	8.00	165.00	1,320.00	
Rosen, Susan	.25	75.00	18.75	
Vahidi, Negar	.50	160.00	80.00	
White, Scott	59.50	175.00	10,412.50	
Totals	83.50		14,239.00	
Total Labor				14,239.00

Reimbursable Expenses

Telephone				
4/30/2017	AT&T Mobility	Cell Phone Charges 03/24-04/23/17	2.83	
Travel Expenses				
4/20/2017	White, Scott	3376 Attend Meetings	160.50	
	Total Reimbursables	**1.1 times**	**163.33**	179.66
		Total this Invoice		**$14,418.66**

Billings to Date

	Current	Prior	Total
Fee	0.00	55.65	55.65
Labor	14,239.00	49,193.25	63,432.25
Expense	179.66	556.57	736.23
Totals	**14,418.66**	**49,805.47**	**64,224.13**

OK TO PAY

BANNING HEIGHTS MUTUAL WATER CO.

4173

Aspen Environmental Group

6/16/2017

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
5/24/2017	Bill		14,418.66	14,418.66		14,418.66
					Check Amount	14,418.66

Wells Fargo Bank (2) Invoice No. 3376.001-06 14,418.66

PRODUCT SSLT103 USE WITH 91663 ENVELOPE Deluxe Corporation 1-800-328-0304 or www.deluxe.com/shop

0180

180 B1425C SLXRX9 09/22/2016 14:42

1847

Consent Calendar 7-10-17

RECEIVED
JUN 27 2017
By

Invoice

Aspen Environmental Group
5020 Chesebro Road #200
Agoura Hills, CA 91301
Contact Name: Vicky Tinkjian
Phone: 818-597-3407
Fax: 818-597-8001

Aspen Environmental Group

June 21, 2017

Julie Hutchinson
Banning Heights Mutual Water Company
7091 Bluff Street
Banning, CA 92220

Project No: 3376.001
Invoice No: 3376.001-07

Contract Amount 50,000.00

Project Manager Christian Huntley

Project 3376.001 City of Banning San Bernadino NF Permitting

Progress Report:
- Meeting prep. (research, conference calls, and agendas), attendance, and follow-up (5/4, 5/10, 5/18)
- Hydrology field visit (5/3)
- USGS and SBNF coordination
- prepared scope for SBNF field work
- Review & comment on SBNF cost share
- Prepared alternate cost estimate for USFS Regional Office
- Prepared project handout sheet for congressional staff meetings
- Travel planning
- Invoicing and billing

Professional Services from May 1, 2017 to May 31, 2017

Professional Personnel

	Hours	Rate	Amount
Freeman, Darlene	1.00	87.00	87.00
Huntley, Christian	10.00	165.00	1,650.00
Keefe, Kellie	2.50	75.00	187.50
Koshkarian, Maral	.50	65.00	32.50
Lowe, Philip	45.00	165.00	7,425.00
Rosen, Susan	1.50	75.00	112.50
Simpson, Mary	7.25	107.00	775.75
Vahidi, Negar	12.50	160.00	2,000.00
White, Scott	87.00	175.00	15,225.00
Totals	167.25		27,495.25
Total Labor			**27,495.25**

Reimbursable Expenses

Telephone			
5/31/2017	Adigo	Conference Call Service - May 2017	13.65
5/31/2017	AT&T Mobility	Cell Phone Charges 04/24-05/23/17	5.85
Travel Expenses			
12/5/2016	American Express	P Lowe BE83V7 Used funds for this trip	327.96
4/24/2017	Lowe, Philip	3376 Attend Water District Meetings	8.03
4/24/2017	Lowe, Philip	3376 Attend Water District Meetings	11.00
5/1/2017	American Express	SW Air PL 05/01/17	393.96
5/4/2017	American Express	P Lowe 05/01-05/04/17	358.92

Project	3376.001	City of Banning San Bernadino Permitting		Invoice	3376.001-07
5/4/2017	National Car Rental	P Lowe 05/01-05/04/17		178.66	
5/9/2017	American Express	SW Air PL 05/09/17		441.96	
5/10/2017	American Express	P Lowe 05/09-05/10/17		102.56	
5/10/2017	National Car Rental	P Lowe 05/09-05/10/17		121.61	
5/10/2017	Lowe, Philip	3376 Attend Water District Meetings		45.94	
5/10/2017	Lowe, Philip	3376 Attend Water District Meetings		32.10	
5/10/2017	Lowe, Philip	3376 Attend Water District Meetings		66.00	
5/23/2017	White, Scott	3376 Attend Meetings		125.73	
Meals					
4/24/2017	Lowe, Philip	3376 Attend Water District Meetings		20.00	
5/10/2017	Lowe, Philip	3376 Attend Water District Meetings		178.00	
	Total Reimbursables		**1.1 times**	**2,431.93**	**2,675.12**
			Total this Invoice		**$30,170.37**

Billings to Date

	Current	Prior	Total
Fee	0.00	71.98	71.98
Labor	27,495.25	63,432.25	90,927.50
Expense	2,675.12	719.90	3,395.02
Totals	**30,170.37**	**64,224.13**	**94,394.50**

1850

BANNI G HEIGHTS MUTUAL WATER CO.

4196

Aspen Environmental Group

7/11/2017

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
6/21/2017	Bill		30,170.37	30,170.37		30,170.37
					Check Amount	30,170.37

Wells Fargo Bank (2) Invoice No. 3376.001-07 30,170.37

PRODUCT SSLT103 USE WITH 91663 ENVELOPE Deluxe Corporation 1-800-328-0304 or www.deluxe.com/shop

0203

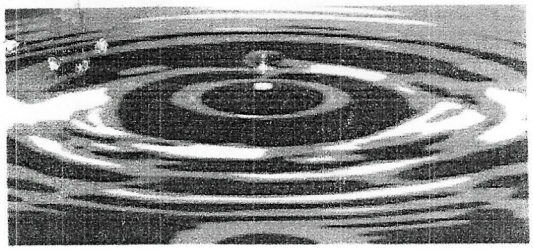
203 B1425C SLXRX9 09/22/2016 14:42

Banning Heights Mutual Water Co.
Bill Payments for All Vendors
As of November 14, 2022

Vendor	Type	Num	Date	Amount
~~Stephen P. Stockton~~	~~Bill Pmt -Check~~	~~15630~~	~~01/16/2007~~	~~1,402.64~~
Stephen P. Stockton	Bill Pmt -Check	3725	02/09/2016	0.00
Stephen P. Stockton	Bill Pmt -Check	3734	02/16/2016	4,963.25
Stephen P. Stockton	Bill Pmt -Check	3785	04/05/2016	225.00
Stephen P. Stockton	Bill Pmt -Check	3872	07/12/2016	1,482.00
Stephen P. Stockton	Bill Pmt -Check	3935	09/19/2016	1,675.00
Stephen P. Stockton	Bill Pmt -Check	4012	12/13/2016	1,608.00
Stephen P. Stockton	Bill Pmt -Check	4013	12/13/2016	1,178.42
Stephen P. Stockton	Bill Pmt -Check	4083	03/07/2017	950.00
Stephen P. Stockton	Bill Pmt -Check	4121	04/14/2017	1,343.00
Stephen P. Stockton	Bill Pmt -Check	4169	06/09/2017	2,620.00
Stephen P. Stockton	Bill Pmt -Check	4243	09/12/2017	1,945.00
Stephen P. Stockton	Bill Pmt -Check	4300	11/14/2017	1,558.00
Stephen P. Stockton	Bill Pmt -Check	4386	02/13/2018	1,405.00
Stephen P. Stockton	Bill Pmt -Check	4570	09/11/2018	1,895.00
Stephen P. Stockton	Bill Pmt -Check	4708	02/08/2019	172.35
Stephen P. Stockton	Bill Pmt -Check	4774	04/02/2019	615.00
Stephen P. Stockton	Bill Pmt -Check	4818	05/14/2019	365.00
Stephen P. Stockton	Bill Pmt -Check	4964	09/10/2019	700.00
Stephen P. Stockton	Bill Pmt -Check	5049	11/25/2019	635.00
Stephen P. Stockton	Bill Pmt -Check	4885	07/12/2019	505.00
Stephen P. Stockton	Bill Pmt -Check	5129	02/05/2020	600.00
Stephen P. Stockton	Bill Pmt -Check	5192	04/07/2020	650.00
Stephen P. Stockton	Bill Pmt -Check	5295	07/22/2020	725.00
Stephen P. Stockton	Bill Pmt -Check	5339	09/01/2020	312.69
Stephen P. Stockton	Bill Pmt -Check	5441	12/01/2020	591.73
Stephen P. Stockton	Bill Pmt -Check	5477	01/05/2021	975.00
Stephen P. Stockton	Bill Pmt -Check	5543	03/22/2021	695.00
Stephen P. Stockton	Bill Pmt -Check	5633	07/02/2021	1,152.00
Stephen P. Stockton	Bill Pmt -Check	5739	11/05/2021	275.00
Total				**33,219.08**

- 1402.64

31,816.44



Consent calendar 2-8-16

Stockton Consulting Services

1906 Canyon Road
Redlands, California 92373
909 792-6611 ♦ spsjas@aol.com

RECEIVED
FEB 04 2016
By

Invoice

February 1, 2016

To: Banning Heights Mutual Water Company
7091 Bluff Road
Banning, CA 92220

Re: Whitewater Flume Restoration
Period: November 1, 2015 to January 31. 2016

November 30, 2015: P.E. meeting at City of Banning. Review JDRT process and other Process for all P.E. parties. Continued discussion on "next steps".
5 hours $500.00
40 miles

January 6, 2016: P. E. and SCE meeting to discuss process to completing design for construction of Flume rehabilitation and consideration of permanent pipe in Burnt Canyon and placing a pipe in Flow Line 2.
3 hour $300.00
40 miles

January 14, 2016: DRD phone conference and status of all parties.
½ hour $ 50.00
0 miles

January 19, 2016: P.E. meeting w/ City of Banning. Discuss DRD & USFS issues. Received BHMWC letter to US Department of Agriculture in Washington D.C.
2 hours $200.00
40 mile

Balance due from City of Banning Contract (See attached invoices & check stub)	$447.25
Reimbursable insurance with invoices	$ 3,406.00

Summary: 10 ½ hours @ $100.00 per hour	$1050.00
120 miles @ $0.50 per mile	$ 60.00
City of Banning	$447.25
Insurance	$ 3,406.00
Total Invoice:	$ 4,963.25

Ok to pay 2/8

BANNING HEIGHTS MUTUAL WATER CO.

Stephen P. Stockton

3734

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
2/1/2016	Bill		4,963.25	4,963.25		4,963.25
					Check Amount	4,963.25

2/16/2016

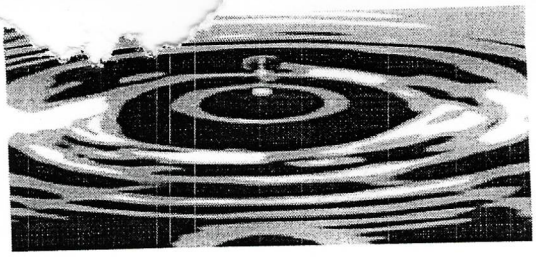
Wells Fargo Bank (2) Whitewater Flume Restoration

PRODUCT SSLT103 USE WITH 91663 ENVELOPE

4,963.25

C5432D AVKDK14 03/16/2015 14:12 -18-

1853



Stockton Consulting Services

1906 Canyon Road
Redlands, California 92373
909 792-6611 ♦ spsjas@aol.com

RECEIVED
APR 05 2016
By_____

Invoice

April 2, 2016

To: Banning Heights Mutual Water Company
7091 Bluff Road
Banning, CA 92220

Re: Whitewater Flume Restoration
Period: February 1 to March 31, 2016

February 18, 2016: D.R.D. phone conference
1/2 hour $50.00
0 miles

March 7, 2016: Interview SGPWA and SBVMWD on issues regarding other local agencies revising SGPWA's Board of Directors make up and enabling Act. Review proposed letter by BHMWC regarding SGPWA and other agencies proposals.
3/4 hour $75.00
0 miles

March 15, 2016: DRD phone conference
1 hour $100.00
0 miles
$ 3,406.00

Summary: 2 ¼ hours @ $100.00 per hour $225.00

Total Invoice: $ 225.00

3785

BANNING HEIGHTS MUTUAL WATER CO.

4/5/2016

Stephen P. Stockton

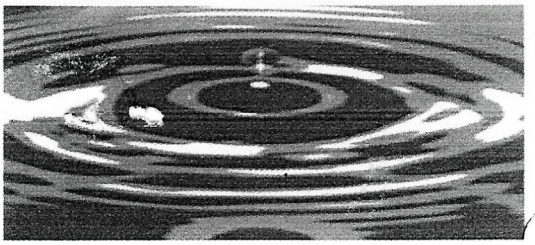
Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
4/2/2016	Bill		225.00	225.00		225.00
					Check Amount	225.00

225.00

Wells Fargo Bank (2) Whitewater Flume Restoration

PRODUCT SSLT103 USE WITH 91663 ENVELOPE

C5432D AVKDK14 03/16/2016 14:13 -217-



Consent Calendar
7-11-16

Stockton Consulting Services

1906 Canyon Road
Redlands, California 92373
909 792-6611 ♦ spsjas@aol.com

Invoice

July 5, 2016

To: Banning Heights Mutual Water Company **Via E-mail**
Banning, CA 92220

Re: Whitewater Flume Restoration,
Period: April 1. 2016 to June 30, 2016

April 28, 2016: P.E.'s status up date. Banning City Hall, Review Right of Way documents with attorney
4 hours **$400.00**
40 miles

May 4, 2016: Field trip to Big Oaks to measure Flow Line No. 2. Stockton, Dale Hutchenson, Allan Handorff. 9 places were measured inside of Flume from Big Oaks to 2,000 feet west. Write report
4 ½ hours **$450.00**
50 miles

May 9, 2016: Technical PE. Phone conference call. Review items for May 20, 2016 on site meeting at SBVMWD.
1 ½ hours **$150.00**
0 miles

June 16, 2016: DRD phone conference call with 13 participants. Main topic is flow releases at the 3 dams.
0.67 hours **$67.00**
0 miles

June 23, 2016: P.E. "family" meeting at City of Banning. Aspen laid out options for going forward with a Special Use Permit (SUP) from USFS with some water releases. John McClendon stated that USFS cannot require water releases
3 ½ hours **$350.00**
40 miles

Summary: 14.17 hours @ $100.00 per hour **$1,417.00**
130 miles @ $0.50 per mile **$ 65.00**
Total Invoice: **$1,482.00**

BANNING HEIGHTS MUTUAL WATER CO.

3872

Stephen P. Stockton

7/12/2016

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
7/5/2016	Bill		1,482.00	1,482.00		1,482.00
					Check Amount	1,482.00

Wells Fargo Bank (2) Whitewater Flume Restoration 1,482.00

PRODUCT SSLT103 USE WITH 91663 ENVELOPE

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Approved on Consent Calendar
9-12-16

Stockton Consulting Services

1906 Canyon Road
Redlands, California 92373
909 792-6611 ♦ spsjas@aol.com

RECEIVED
SEP 09 2016
By

Invoice

September 3, 2016

To: Banning Heights Mutual Water Company
Banning, CA 92220

Via E-mail

Re: Whitewater Flume Restoration,
Period: July 1, 2016 to September 1, 2016

July 19, 2016: P.E. meeting at city of Banning. 10 participants with 3 "call ins". Reviewed legal analysis of 1891 Mining Act Right of Way documents by Roy McDonald. Roy believes no SUP is required from USFS for continued flume operation. Considerable discussion on next steps and how to secure Burnt Canyon water way with USFS.
5 ½ hours $550.00
40 miles

July 25, 2016: SGPWA & Stockton meeting for discussions on water well location in Banning Canyon. Survey of 1891 ROW is required to locate legal location possible for new well. SGPWA to contact Webb & Associated for proposal for survey.
1 ¾ hours $175.00
30 miles

August 1, 2016: P.E. meeting, City of Banning. Review 1891 ROW status with John McClendon and City of Banning Attorney. Prepare for DRD phone call on August 3, 2016 with update on ROW status. Discussion on under flow and leakage at South fork and East fork diversions on Whitewater River.
3 ¼ hours $325.00
40 miles

August 8, 2106: Investigate and prepare water well construction estimate for P.E.'s
2 hours
$200.00
0 miles

August 30, 2016: P.E. meeting at City of Banning. Review "taking points" memo to send to USFS and SCE.
3 ½ hours $350.00
40 miles

Summary: 16 hours @ $100.00 per hour	$1,600.00
150 miles @ $0.50 per mile	$ 75.00
Total Invoice:	$1,675.00

BANNING HEIGHTS MUTUAL WATER CO.

Stephen P. Stockton

3935

9/19/2016

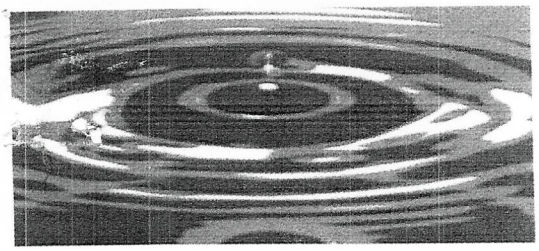
Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
9/12/2016	Bill		1,675.00	1,675.00		1,675.00
					Check Amount	1,675.00

Wells Fargo Bank (2) Whitewater Flume Restoration

PRODUCT SSLT103 USE WITH 91663 ENVELOPE

1,675.00

C5432D AVKDK14 03/16/2015 14:12 -67-



Stockton Consulting Services

1906 Canyon Road
Redlands, California 92373
909 792-6611 ♦ spsjas@aol.com

Invoice

November 1, 2016

To: Banning Heights Mutual Water Company — Via E-mail
Banning, CA 92220

Re: Whitewater Flume Restoration,
Period: September 1, 2016 to November 2, 2016

September 1, 2016: DRD conference call w/ 16 participants. 1891 Mining Act reviewed by C of B attorney and Right of Way provisions and how it impacts a SUP permit from USFS..
½ hours — $50.00
0 miles

September 1, 2016: JDRT meeting with SCE at Bear Valley Mutual Water Co. Stockton reviewed past efforts of JDRT. Also, stated the engineering plans should be completed. SEC will check on status but needs directions from upper management to start work based on clear definition of total project.
1 1/2 hours — $150.00
6 miles

September 12, 2016: P.E. meeting, City of Banning. Reviewed letters to SCE and DRD for submitting data on P.E. position on ROW. No flume water releases from either South Fork or East Fork diversions. .
3 hours — $300.00
40 miles

September 28, 2106: P.E. tech meeting with SEC, C of B, SGPWA & Psomas. Reviewed SCE issues and Burnt Canyon pipeline
3 hours — $300.00
40 miles

October 12, 2016: P.E. meeting at City of Banning. Call in for meeting. Discussed Burnt Canyon Pipeline and options for USFS.
3/4 hours — $75.00
0 miles

October 25, 2016: P.E. meeting, C of B. with SCE. Considerable discussion on Burnt Canyon or using the existing ROW from Raywood Flats to Tank 1 site for new pipeline. Stockton to get a feasibility study proposal for possible pipe line from Raywood Flats to the confluence of Burnt Canyon and Saw Mill Creek.
3 hours — $300.00
40 miles

OKAY TO PAY
$1,608.00 12-12-16 CONTROLLER

November 1, 2106: P.E. meeting, C of B.. Reviewed legal position regarding 1891 Mining Act use by PE for water pipeline ROW and need for stream studies now or in the future.

3 ½ hours	$350.00
40 miles	

Summary: 15.25 hours @ $100.00 per hour	$1,525.00
166 miles @ $0.50 per mile	$ 83.00
Total Invoice:	$1,608.00

BANNING HEIGHTS MUTUAL WATER CO.

4012

Stephen P. Stockton

12/13/2016

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
11/1/2016	Bill		1,608.00	1,608.00		1,608.00
					Check Amount	1,608.00

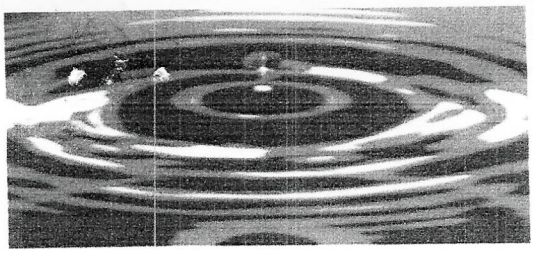
Wells Fargo Bank (2) Whitewater Flume Restoration 1,608.00

PRODUCT SSLT103 USE WITH 91663 ENVELOPE Deluxe Corporation 1-800-328-0304 or www.deluxe.com/shop

0019

19 B1425C SLXRX9 09/22/2016 14:42

1862



Consent Calendar 12-12-16

Stockton Consulting Services

1906 Canyon Road
Redlands, California 92373
909 792-6611 ♦ spsjas@aol.com

RECEIVED
DEC 06 2016
By

Invoice

December 2, 2016

To: Banning Heights Mutual Water Company
7091 Bluff Street
Banning, CA 92220

Re: Whitewater Flume Restoration,
Period: November 3, 2016 to November 30, 2016

November 10, 2016: Burnt Canyon Field Interstation: Investigate Burnt Canyon from Saw Mill Creek to base of Raywood Flats with Stockton, Ellis, K. Falls & Mike Corcoran from E. J. Meyers Construction. See report	
5 ½ hours	**$ 550.00**
57 miles	
November 16, 2016: P.E. meeting at City of Banning. DRD phone conference. Discussion regarding information required to file SUP with USFS by January 3, 2017.	
4 ¾ hours	**$ 475.00**
40 miles	
November 20, 2016: Complete written report on Burnt Canyon investigation.	
¾ hours	**$ 75.00**
0 miles	
Summary: 10.25 hours @ $100.00 per hour	**$1,100.00**
97 miles @ $0.50 per mile	**$ 48.50**
Meals for field investigation **	**$ 29.92**
Total Invoice:	**$1,178.42**

**** Enclosed receipt**

OKAY TO PAY
12-12-16 CONSENT CALENDER

Jay De

BANNING HEIGHTS MUTUAL WATER CO.

4013

Stephen P. Stockton

12/13/2016

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
12/2/2016	Bill		1,178.42	1,178.42		1,178.42
					Check Amount	1,178.42

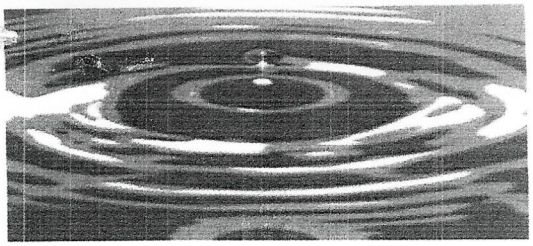
Tax ID: 561-48-0030

Wells Fargo Bank (2) Whitewater Flume Restoration 1,178.42

PRODUCT SSLT103 USE WITH 91663 ENVELOPE Deluxe Corporation 1-800-328-0304 or www.deluxe.com/shop

0020

20 B1425C SLXRX9 09/22/2016 14:42



Stockton Consulting Services

1906 Canyon Road
Redlands, California 92373
909 792-6611 ♦ spsjas@aol.com

Invoice

March 2, 2017

To: Banning Heights Mutual Water Company — Via e-mail
7091 Bluff Street
Banning, CA 92220

Re: Whitewater Flume Restoration,
Period: December 1, 2016 to February 28, 2917

February 9, 2017: P.E. meeting at City of Banning. No SGPWA. Reviewed USFS response to P.E. letter of January 3, 2017.
3 ¼ — $ 325.00
40 miles

February 23, 2017; P.E. meeting at City of Banning. Followed by an "all hands" phone call with DRD in Washington DC, SCE, & USFS. Discussion regarding in stream water releases. USFS reviewed authority to require instream releases.
4 ¼ hours — $ 425.00
40 miles

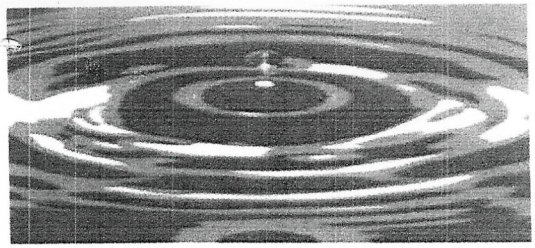
Rebate on $1 million liability insurance

Original amount	$2,906.00	
Rebate	$2,746.00	
Amount due		$ 160.00

(Rebate on General Liability insurance, Pending)

Summary: 7.5 hours @ $100.00 per hour	$ 750.00
80 miles @ $0.50 per mile	$ 40.00
Insurance	$ 160.00
Total Invoice:	$ 950.00

OKay To pay



N

Stockton Consulting Services

1906 Canyon Road

909 792-6611 ♦ spsjas@aol.com

Invoice

January 1, 2017

To: Banning Heights Mutual Water Company
7091 Bluff Street
Banning, CA 92220

Re: Whitewater Flume Restoration,
Period: December 1 to December 31, 2016

Lability Insurance for 2017:	
Professional Liability Premium, $1,000,000	**$2,906.00**
General Liability	**$ 500.00**
Total Invoice:	**$3,406.00***

*** Enclosed receipts**

BANNING HEIGHTS MUTUAL WATER CO.

Stephen P. Stockton

4083

3/7/2017

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
3/2/2017	Bill		950.00	950.00		950.00
					Check Amount	950.00

Wells Fargo Bank (2) Whitewater Flume Restoration

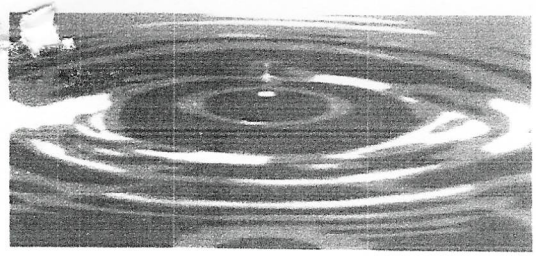
950.00

PRODUCT SSLT103 USE WITH 91663 ENVELOPE Deluxe Corporation 1-800-328-0304 or www.deluxe.com/shop

0090

90 B1425C SLXRX9 09/22/2016 14:42

1867



APPROVED ON CONSENT CALENDAR
4-10-17

Stockton Consulting Services

1906 Canyon Road
Redlands, California 92373
909 792-6611 ♦ spsjas@aol.com

RECEIVED
APR 10 2017
By

Invoice

April 6, 2017

To: Banning Heights Mutual Water Company
7091 Bluff Street
Banning, CA 92220

Via e-mail

Re: Whitewater Flume Restoration,
Period: March 1, 2017 to April 4, 2017:

March 1, 2017: P.E. meeting at City of Banning. Review response to USGS letter due March 4, 2017.
3½ hours
40 miles — $ 350.00

March 2, 2017: Review and comment on reply to USFS letter. Submit response to Aspen.
1 ½ hours
0 miles — $ 150.00

March 9, 2017: P.E. meeting at City of Banning. Discuss meeting with SCE and second meeting with SCE.
3 ½ hours
40 miles — $ 350.00

March 12, 2017: Prepare comments to Aspen letter to SCE.
½ hour
0 miles — $ 50.00

April 3, 2017: P.E. and SCE meeting at City of Banning. Reviewed requirements for in stream studies as part of USFS review of required studies to determine in stream water releases at existing stream diversions (3).
3 ½ hours
40 miles — $350.00

Rebate on General lability insurance

Original amount	$ 500.00
Rebate	$ 467.00
Amount due	$ 33.00

(Rebate on General Liability insurance)

Summary: 12 ½ hours @ $100.00 per hour	$ 1250.00
120 miles @ $0.50 per mile	$ 60.00
Insurance	$ 33.00
Total Invoice:	$ 1343.00

BANNING HEIGHTS MUTUAL WATER CO.

4121

Stephen P. Stockton

4/14/2017

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
4/6/2017	Bill		1,343.00	1,343.00		1,343.00
					Check Amount	1,343.00

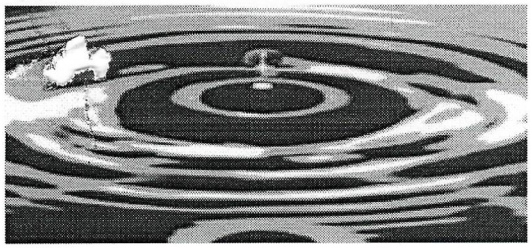
Wells Fargo Bank (2) Whitewater Flume Restoration 1,343.00

PRODUCT SSLT103 USE WITH 91663 ENVELOPE Deluxe Corporation 1-800-328-0304 or www.deluxe.com/shop

0128

128 B14250 SLXRX9 09/22/2016 14:42

1869



Stockton Consulting Services

1906 Canyon Road
Redlands, California 92373
909 792-6611 ♦ spsjas@aol.com

Invoice

June 1, 2017

To: Banning Heights Mutual Water Company **Via e-mail**
7091 Bluff Street
Banning, CA 92220

pd 6/9/17
ck 4169

Re: Whitewater Flume Restoration,
Period: April 5, 2017 to June 1, 2017:

April 13, 2017: P.E. meeting at City of Banning. Prepare for meeting with USFS on April 24, 2107. UFSF meeting to determine what studies are needed for SUP. Comments on letter from SCE to FERC.
3½ hours **$ 350.00**
40 miles

April 13, 2017: Review USFS letter to City of Banning and prepare comments.
½ hours **$ 50.00**
0 miles

April 20, 2017: P.E. meeting at City of Banning. Review cost sharing letter from USFS to the City of Banning. Prepare for USFS meeting on April 24, 2017. P.E. to have small staff with some call ins.
3 ¼ hours **$ 325.00**
40 miles

April 24, 2017: Meeting with SCE, USFS and P.E.'s at City of Banning. Reviewed USFS cost estimate of $740,000. Aspen believes this is way too expensive. Reviewed alternatives and how NEPA and CEQA process are linked. Reviewed issues for May 4, 2017 meeting with SCE, USFS and P.E. Meeting to be at SCE East end Hydro.
3 ¾ hours **$ 375.00**
40 miles

May 4, 2017: P.E. and SCE meeting with USFS at SCE East End Hydro conference room. USFS representative Rob Taylor, reviewed cost sharing proposal. Rob will check with Jody Noiron, SBNF supervisor, to extend time for preparation of a alterative cost sharing agreement. SCE will fund USFS costs for 3 to 4 weeks in order to start stream studies
4 ¾ hours **$ 475.00**
20 miles

May 10, 2017: P.E., SCE and USFS technical meeting at SCE East End Hydro conference room. USFS reviewed process and studies needed to determine flow conditions in East Fork and South Fork of the Whitewater River, SBNF. Reviewed cost recovery and proposed agreement between USFS and City of Banning. NO ENVIRONMENTAL INVESTGATION WILL BE DONE FOR PIPELING INSTALLATION IN BURNT CANYON BETWEEN RAYWOOD FLATS AND THE CONFLUENCE OF BURNT CANYON AND SAW MILL CREEK (Rob Taylor). East Fork and South Fork studies will be done during the summer of 2017.

4 ¾ hours	$ 475.00
20 miles	

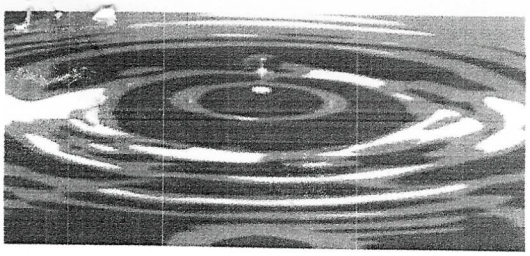
May 18, 2017: P.E. meeting at City of Banning. C of B lobbyist in Washington D.C. were on the phone. Reviewed revised cost sharing agreement by Aspen. Discussion regarding USFS ability to require water releases anywhere and the infringement into adjudicated water rights.

2 2/3 hours	$ 267.00
40 miles	

May 22, 2017: J.D.R.T. meeting in Redlands. Reviewed previous work by SCE for JDRT. SCE will gather all work done in the past for next meeting. SCE appears to delay finish work until more specifics are completed by USFS. SCE was considering a 14" diameter pipe for flume installation. I told them 16" is minimum size and need to be verified.

2 hours	$ 200.00
6 miles	

Summary: 25.17 hours @ $100.00 per hour	$ 2,517.00
206 miles @ $0.50 per mile	$ 103.00
Total Invoice:	$ 2,620.00



Consent Calendar 9-11-17

Stockton Consulting Services

1906 Canyon Road
Redlands, California 92373
909 792-6611 ♦ spsjas@aol.com

Invoice

September 1, 2017

To: Banning Heights Mutual Water Company
7091 Bluff Street
Banning, CA 92220

Via e-mail

RECEIVED
SEP 05 2017
By

Re: Whitewater Flume Restoration,
Period: June 1, 2017 to September 1, 2017:

June 1, 2017: P.E. meeting at City of Banning Police Department. Reviewed recent letter from USFS on water rights and NEPA-CEQA requirements. Stockton reported on JDRT meeting May 22, 2017.
3½ hours
40 miles
$ 350.00

July 13, 2017: P. E. meeting, City of Banning. No apparent staff from SGPWA. Reviewed Agenda for 7-14-2017 meeting with USFS. Revisited proposed meeting hand outs and talking points. Washington D.C. city lobbyist on phone and City and BHMWC attorneys on phone.
3½ hours
40 miles
$ 350.00

July 27, 2017: P.E. meeting at City of Banning. Water rights legislation discussed by John McClendon. Current bill removed from larger bill in order to move through congress. No resolution to question of USFS requiring water releases.
2 ¾ hours
40 miles
$ 275.00

August 3, 2017: P.E. meeting at City of Banning. Discussed response from USFS about cost sharing. August 14, 2017 next meeting with USFS. P.E.'s do not want to conduct studies that might lead to more water releases.
2 ¾
40 miles
$ 275.00

August 10, 2017: P.E. at City of Banning. Discussed cost sharing agreement with USFS again. Discussed items from USFS meeting of August 14, 2017.BHMWC attorney is reviewing releasing Federal papers on ROW for flowline number 2. agreement.
2 ¾ hours
40 miles
$ 275.00

- Item -

August 24, 2017: P.E. meeting at City of Banning, Attorneys discussed meeting with USFS attorney and USFS to prepare a memo acknowledging the ROW position of PE's and limiting USFS ability to require water releases. P.E. believe SCE should pay for a large portion of NEPA studies as part of the SCE surrender process with FERC

3 hours
40 miles $ 300.00

Summary: 18.25 hours @ $100.00 per hour	$ 1,825.00
240 miles @ $0.50 per mile	$ 120.00
Total Invoice:	$ 1,945.00

BANNING HEIGHTS MUTUAL WATER CO.

4243

Stephen P. Stockton

9/12/2017

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
9/1/2017	Bill		1,945.00	1,945.00		1,945.00
					Check Amount	1,945.00

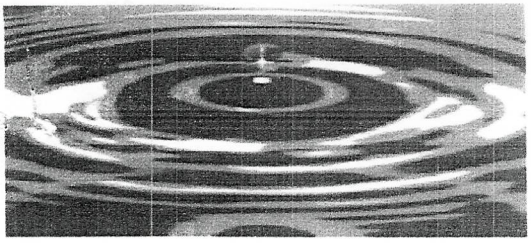
Wells Fargo Bank (2) Whitewater Flume Restoration 1,945.00

PRODUCT SSLT103 USE WITH 91663 ENVELOPE Deluxe Corporation 1-800-328-0304 or www.deluxe.com/shop

0250

250 B1425C SLXRX9 09/22/2016 14:42

1874



Stockton Consulting Services

1906 Canyon Road
Redlands, California 92373
909 792-6611 ♦ spsjas@aol.com

Invoice

November 1, 2017

RECEIVED
NOV 07 2017
By

Banning Heights Mutual Water Company
7091 Bluff Street
Banning, CA 92220

Re: Whitewater Flume Restoration,
Period: September 1, 2017 to November 1, 2017:

September 7, 2017: Meeting with Banning Heights President to review issues for letter to SCE for water purchased by Banning Heights from a third party. Water purchased because of low or no water flows in Flowline No. 1 due to inadequately maintained flume by SEC.
1 hour $ 100.00
0 miles

September 7, 2017: P. E. meeting, City of Banning. Discussed payment of stream studies and who should pay: P.E. or SCE. P.E. position is it is an SCE responsibility and is part of the SCE FERC surrender process. Reviewed agenda for September 26, 2017 meeting with SCE.
4 1/4 hours $ 425.00
40 miles

September 11, 2017: Draft letter from BHMWC to SCE for reimbursement of water purchased because of minimal Flow Line No. 1 maintenance.
1 ½ hours $ 150.00
0 miles

September 21, 2017: P.E. meeting at City of Banning. Report by attorneys of phone conference call with USFS legal team and SCE attorneys regarding 1892 right of way documents. Also discussed USFS ability to set certain requirements for flume restoration. Drafted agenda for meeting SCE meeting for September 26, 2017.
2 3/4 $ 275.00
40 miles

September 26, 2017: P.E. meeting at City of Banning. Continued discussion regarding cost recovery agreement with USFS. No answer to 1892 ROW issues and what NEPA work is required by P.E's. P.E.'s only need an operational permit not a construction permit.
2 1/2 hours $ 250.00
40 miles

October 12, 2017: JDRT meeting at SCE East End Hydro facility in Mentone, CA. Cost recovery still an unresolved issue with USFS. Some costs listed in the recovery agreement are SCE and some are P.E. responsibility. It is not clear how to separate costs to the two parties. JDRT to meet to discuss remaining design issues.

2.83 hours	$ 283.00
30 miles	

Summary: 14.83 hours @ $100.00 per hour	$ 1,483.00
150 miles @ $0.50 per mile	$ 75.00
Total Invoice:	$ 1,558.00

BANNING HEIGHTS MUTUAL WATER CO.

4300

11/14/2017

Stephen P. Stockton

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
11/1/2017	Bill		1,558.00	1,558.00		1,558.00
					Check Amount	1,558.00

1,558.00

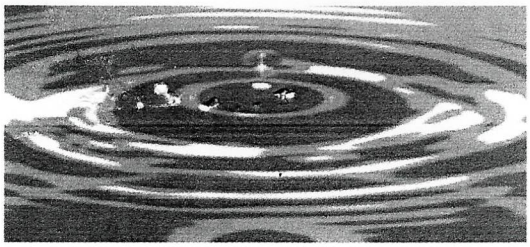
Wells Fargo Bank (2) Whitewater Flume Restoration

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57 B1425C SLXRX9 09/22/2016 14:42

1877

Consent Calendar 2-12-18



Stockton Consulting Services

1906 Canyon Road
Redlands, California 92373
909 792-6611 ♦ spsjas@aol.com

Invoice

February 4, 2018

Banning Heights Mutual Water Company — via E-mail
7091 Bluff Street
Banning, CA 92220

Re: Whitewater Flume Restoration,
Period: November 1, 2017 to January 31, 2018:

November 8, 2017: Flume inspection with SCE on Flow Line #2, Big Oaks to Tank #2. SCE engineer Frank Dunn was on the trip to understand the issues for surveying the Flow Line and preparing a RFP for an outside SCE contractor. Parties on trip included, Stockton, Matt Woodall, Matt Zents, Brad Blood, and Frank Dunn. Larry Ellis (BHMWC) was along for the first part of the hike.
6 ½ hours — $650.00
40 miles

November 16, 2017: P. E. meeting, City of Banning. Stockton discussed the Flume inspection hike of November 8, 2018. No design issues were discussed only information needed for survey and design contract by an outside contractor. Discussion continued on in-stream studies and their need. payment of stream
2 1/4 hours — $ 225.00
40 miles

December 14, 2017: P.E. meeting, City of Banning. Discussed 2017 accomplishments and what was to be in a letter prepared by Wes. Letter would go to FERC to place PE work "on the record" for 2017.
2 ½ hours — $ 250.00
40 miles

January 11, 2018: P.E. meeting at City of Banning. Letter about 2017 PE efforts was discussed. SCE want to write a letter to FERC also but with little detail. P.E.'s wants more detail for the FREC record. City of Banning is requesting through JDRT information on the penstock from Tank 2 to lower Power House including after bay. Information would include any maps of the Penstock.
2 hours — $ 200.00
40 miles

Summary: 13.25 hours @ $100.00 per hour	**$ 1,325.00**
160 miles @ $0.50 per mile	**$ 80.00**
Total Invoice:	**$ 1,405.00**

BANNING HEIGHTS MUTUAL WATER CO.

Stephen P. Stockton

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
2/4/2018	Bill		1,405.00	1,405.00		1,405.00

2/13/2018

Check Amount 1,405.00

4386

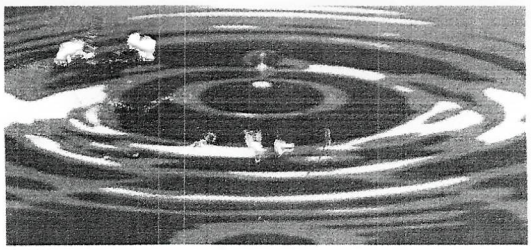
Wells Fargo Bank (2)

Whitewater Flume Restoration

PRODUCT SSLT103 USE WITH 91663 ENVELOPE

Deluxe Corporation 1-800-328-0304 or www.deluxe.com/shop

143 B14250 SLXRX9 09/22/2016 14:42



Consent Calendar 9-10-18

Stockton Consulting Services

1906 Canyon Road
Redlands, California 92373
909 792-6611 ♦ spsjas@aol.com

Invoice

August 1, 2018

Banning Heights Mutual Water Company
7091 Bluff Street
Banning, CA 92220

via E-mail

Re: Whitewater Flume Restoration,
Period: February 1, 2018 to July 31, 2018:

February 4, 2018: P.E. meeting at City of Banning. Discussed letters from and to: SCE, FERC and USFS. Letter to FERC only went to the Commissioner and not to the "Docket". A new letter to USFS was also discussed. Stockton gave a report on SCE progress of JDRT. SCE surveying the flume route and selecting an outside firm to do the design work.
2 ¼ hours $225.00
40 miles

April 19, 2018: P. E. meeting, City of Banning. Reviewed previous meeting with SCE. SCE is looking at PE position on ROW and reconstruction of flume on original ROW from Raywood to tank 1 site. Additional SCE meetings are planned.
1 ¾ hours $175.00
40 miles

July 10, 2018: JDRT meeting with SCE and Stockton at SCE East end Hydro office. Reviewed proposed construction schedule including design for entire flume system. SCE engineers are work on a hydraulic study for gravity and open channel sections of the flume system for Flowlines 1 and 2.
2 ½ hours $ 250.00
30 miles

July 12, 2108: P.E meeting at City of Banning. Discussed by pass flows for the 3 diversions on the flume system. In average years BHMWC would have no water for diversion for over 200 days per year. Discussed talking points for DRD meeting on July 19, 2108.
3 ½ hours $ 350.00
40 miles

July 19, 2018: PE's, SCE, DRD (FERC) and USFS meeting at city of Banning council chambers. Pre-meeting with PE's started at 9:00 AM with Congressional representatives to come at 10:00 AM.

Pre-meeting discussed DRD format for 2nd meeting.
All participants meeting started at 10:00 AM. Discussed who should be in the meeting and Congressional Representatives were asked to leave because it was not a public meeting. First question to UFSF was how the 1891 ROW permits water releases at the diversions.
Next step: 2 ½ hour caucus by all parties. Time included lunch break. Restarted at 2:30 PM. SCE-PE discussion on piping Burnt Canyon. City of Banning thinks a well will be complicated to install and regulate water to each party. SCE will take the lead on revising by pass flows requirements. Meeting ended at 4:45 PM

8 hours	$ 800.00
40 miles	

Summary: 18 hours @ $100.00 per hour	$ 1,800.00
190 miles @ $0.50 per mile	$ 95.00
Total Invoice:	$ 1,895.00

BANNING HEIGHTS MUTUAL WATER CO.

4570

Stephen P. Stockton

9/11/2018

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
9/11/2018	Bill		1,895.00	1,895.00		1,895.00
					Check Amount	1,895.00

Wells Fargo Bank (2) Whitewater Flume Restoration 1,895.00

PRODUCT SSLT103 USE WITH 91663 ENVELOPE Deluxe Corporation 1-800-328-0304 or www.deluxe.com/shop

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1883

BANNING HEIGHTS MUTUAL WATER CO.

4708

Stephen Stockton

2/8/2019

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
2/8/2019	Bill		172.35	172.35		172.35
					Check Amount	172.35

Wells Fargo Bank (2) Stockton Consulting

172.35

PRODUCT SSLT103 USE WITH 91663 ENVELOPE Deluxe Corporation 1-800-328-0304 or www.deluxe.com/shop

7028146701

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ARTHUR
Commercial Press
601 W. State Street, Suite F
Redlands, CA 92373
(909) 793-4883 Fax (909) 792-2498
Email: arthurpressinfo@msn.com

RECEIVED
FEB 08 2019
By

Invoice

Date	Invoice #
2/5/2019	9566

Bill To	Ship To
House Account S. Stockton Joint Design Review Team (JDRT) Flume (4 party Agreement)	OK TO BILL

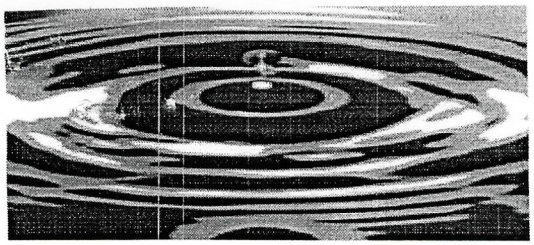
P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Job Number
	Due on receipt		2/5/2019			

Quantity	Item Code	Description	Price Each	Amount
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35	Printing	Pages 2 thru 8 - 2-sided in B/W	0.09	3.15T
110	Printing	Pages 9 thru 30 in color	0.39	42.90T
20	Printing	Pages 31 thru 34 - 2-sided in B/W	0.09	1.80T
35	Printing	Pages 35 thru 42 11 x 17 in B/W	0.25	8.75T
760	Printing	Pages 43 thru 194 - 2-sided in B/W	0.09	68.40T
5	Printing	Clear fronts and black backs	1.50	7.50T
5	Printing	Binders	2.50	12.50T
40	Printing	Fold 11 x 17 sheets down to 8.5 x 11	0.20	8.00T
5	Printing	Collate together	1.00	5.00T
		San Bernardino County	7.75%	12.40
		Printing of SCE - Hydraulic Analyses for HDPE pipe Replacement SG-Flowline #2 Dec. 11 2018 (5 copies)		approved for reimbursement

We Appreciate Your Business

Total $172.35

"Value With Integrity"
Since 1890



Stockton Consulting Services

1906 Canyon Road
Redlands, California 92373
909 792-6611 ♦ spsjas@aol.com

Invoice

March 4, 2019

Banning Heights Mutual Water Company
7091 Bluff Street
Banning, CA 92220

via E-mail

Re: Whitewater Flume Restoration,
Period: August 1, 2018 to February 28, 2019

September 6, 2018: P.E. meeting at City of Banning. Reviewed SEC position on lack of work on Burnt Canyon pipeline. Stockton to send note to Matt Dents (SCE) on hydraulic analysis and should include Burnt Canyon.
2 hours $200.00
40 miles

December 28, 2018: Reviewed new hydraulic analysis for Flow Line Number 2. The analysis recommends a 26" OD pipeline that satisfies all flow condition at 30 CFS. The analysis does not include any work in Burn Canyon. Reviewed concept pipeline drawings also included with the analysis. Sent the report from SEC to Julie Hutchenson at BHMWC via electronic form.
1 hour $100.00
0 miles

February 7, 2019: P.E. Status meeting at Banning City Hall. Reviewed Federal process with USFS including the long proposed "land swap" near Raywood Flat. Stockton reviewed the SCE hydraulic analysis Report for Flow Line No. 2. Delivered 5 hard copies of the report to the City of Banning and BHMW.
2 ¾ hours $ 275.00
40 miles

Summary: 5 ¾ hours @ $100.00 per hour	$ 575.00
80 miles @ $0.50 per mile	$ 40.00
Total Invoice:	$ 615.00

BANNING HEIGHTS MUTUAL WATER CO.

Stephen Stockton

4774

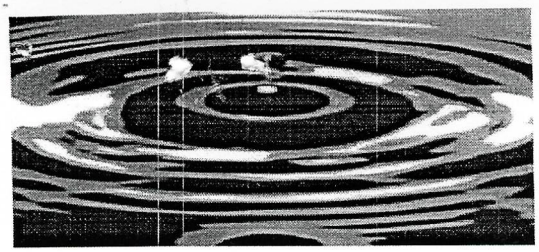
Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
4/2/2019	Bill		615.00	615.00	4/2/2019	615.00
					Check Amount	615.00

Wells Fargo Bank (2) Stockton Consulting - Invoice Dated March 4, 20

615.00

PRODUCT SSLT103 USE WITH 91663 ENVELOPE Deluxe Corporation 1-800-328-0304 or www.deluxe.com/shop

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Stockton Consulting Services

1906 Canyon Road
Redlands, California 92373
909 792-6611 ♦ spsjas@aol.com

Invoice

May 4, 2019

Banning Heights Mutual Water Company — via E-mail
7091 Bluff Street
Banning, CA 92220

Re: Whitewater Flume Restoration,
Period: March 1, 2019 to April 30, 2019

March 5, 2019: Phone conference with SCE (Matts Zents) to establish a process for meetings with JDRT. Meeting period will monthly at SEC's East End Hydro facility.

1/2 hour — $50.00
0 miles

April 25, 2019: JDRT meeting with SCE at East End Hydro facility. Reviewed 50% design drawing for Flow Line No 2. Some survey work has been delayed because of winter weather. Stockton received 3 sets of drawings and a revised copy of the hydraulic analysis. SCE to send electronic versions of drawings and hydraulic analysis. Next meeting May 23, 2019

2 hours — $200.00
30 miles

Aril 26, 2019: Reviewed revised hydraulic analysis from SCE.

½ hour — $ 50.00
0 miles

April 28, 2019: Reviewed 50% design drawings from SCE. Prepared letter to BHMWC with comments on the drawings.

1 ½ hours — $150.00
0 miles

Summary: 3 1/2 hours @ $100.00 per hour	$ 350.00
30 miles @ $0.50 per mile	$ 15.00
Total Invoice:	$ 365.00

RECEIVED
MAY 07 2019
By

OK TO PAY

OK TO PAY

BANNING HEIGHTS MUTUAL WATER CO. 4818

Stephen P. Stockton 5/14/2019

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
5/14/2019	Bill		365.00	365.00		365.00
					Check Amount	365.00

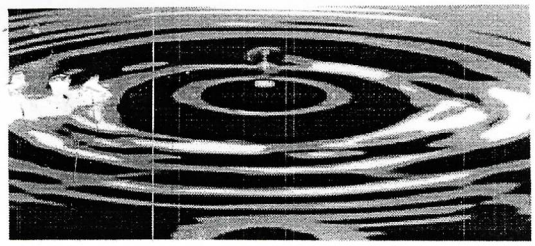
Wells Fargo Bank (2) Whitewater Flume Restoration 365.00

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1889



Stockton Consulting Services Services
1906 Canyon Road
Redlands, California 92373
909 792-6611 ♦ spsjas@aol.com

Invoice

September 2, 2019
Banning Heights Mutual Water Company **via E-mail**
7091 Bluff Street
Banning, CA 92220

Re: Whitewater Flume Restoration,
Period: July 1, 2019 to August 31, 2019

July 24, 2019: JDRT meeting with SCE, East End Hydro. Matt Zents and engineer from SCE pipeline design section were on site. Reviewed Stockton comments from May 2019. Most comments were included in revised drawings or will be included in the next review at 75%. Hydraulic survey and design on F/L No. 1 are not complete at this time.
SEC is moving forward on design of a recovery well near Big Oaks as outlined in the Transfer Agreement. SCE wants a complete set of drawings that will be consistent with the Transfer Agreement to submit to USFS. This will allow USFS to review the entire package of planned activities on USFS land. SCE land survey to the west end of the Mascaro property is still not complete. Turn out to Burnt Canyon will be at the bifurcation of the flume at Raywood Flats. At this time, flow will continue into Burnt Canyon via a pipeline to the west end of the Mascaro property.

3 hours	**$ 300.00**
30 miles	

August 8, 2019: Phone conference with City of Banning. Stockton reviewed past JDRT meeting with SCE detailed hydraulic analysis on F/L No. 2. Zents told Stockton that SCE wants out of maintenance on flume and is considering asking FERC for relief.
Delivered 50% design drawings of F/L/ No. 2 to City of Banning.

1 ½	**$150.00**
40 miles	

August 22, 2019: JDRT meeting with SCE at East End Hydro. Stockton, Zents and Matt Woodall. Woodall discussed the proposed meeting DRS in September, date not set at this time. Matt Zents reviewed preliminary hydraulic finding from Tetra Tech (TT). TT is recommending enlarged sand boxes at both East Fork and South Fork in order to convey the Transfer Agreement flows listed. SCE is still studying a well location near Big Oaks and the amount of percolation in Burnt Canyon. The tentative construction schedule for pipeline on F/L No. 1 and 2 is the fall of 2020. If studies are required to install a pipe in Burnt Canyon, construction would be delayed about 1 year. At this point, Stockton suggested SCE look at phasing the work and Zents is considering a revised schedule and proceeding with construction without a Burnt Canyon solution.

2 hours	**$200.00**
30 miles	

Summary: 6 ½ hours @ $100.00 hour	**$ 650.00**
100 miles @ $0.50	**$ 50.00**
Total Invoice:	**$ 700.00**

BANNING HEIGHTS MUTUAL WATER CO.

4964

9/10/2019

Stephen P. Stockton

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
9/10/2019	Bill		700.00	700.00		700.00
					Check Amount	700.00

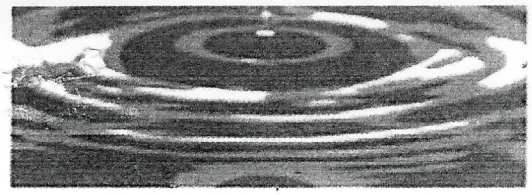
Wells Fargo Bank (2) Whitewater Flume Restoration 700.00

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1891



Stockton Consulting Services
1906 Canyon Road
Redlands, California 92373
909 792-6611 ♦ spsjas@aol.com

Invoice

NOV 2 1 2019
By

November 3, 2019
Banning Heights Mutual Water Company
7091 Bluff Street
Banning, CA 92220

via E-mail

OK TO PAY

OKAY TO PAY

Re: Whitewater Flume Restoration,

Period: September 1, 2019 to October 31, 2019

October 17, 2019: JDRT meeting with P. E's at City of Banning. Stockton reviewed last 6 months of work with SCE and Matt Zents. SCE is producing construction drawings for FL No. 1 and 2. They are also investigating well locations near Burnt Canyon and Big Oaks. Stockton to deliver next set of construction drawings when completed.

2 ¼ hours — $ 225.00
40 miles

October 24, 2019: JDRT meeting with SCE at SCE's East End Hydro office. Matt Zents and Matt Woodall at meeting. Woodall reviewed the "new thinking" from USFS with one permanent permit and includes Burnt Canyon. A discussion was held looking for various solutions for water recovery of lost water between Raywood and Burnt Canyon-Sawmill Canyon confluence. SEC is considering reducing pipe size for FL No. 2 to 18" OD to accommodate the HDPE welding machine. 26" OD machine cannot move along flume route. SCE is also looking at some type of "spray on" liner for the FL No. route. SEC would add a permanent cover over flume. More discussion required.

2 ¾ hours — $275.00
30 miles

October 28-29: Phone conversation with SGPWA to review recent JDRT work and review previous work with USGS in the San Gorgonio River wash. Reviewed possible contract work with USGS for investigations of River wash for well location and other water intercept locations. A new USGS contract could be done through the existing City of Banning contract with USGS or the SGPWA contract. Write memo to SCE and Banning Heights.

1 hours — $100.00
0 miles

Summary: 6 hours @ $100.00 hour	$ 600.00
70 miles @ $0.50	$ 35.00
Total Invoice:	$ 635.00

BANNING HEIGHTS MUTUAL WATER CO.

5049

Stephen P. Stockton

11/25/2019

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
11/25/2019	Bill		635.00	635.00		635.00
					Check Amount	635.00

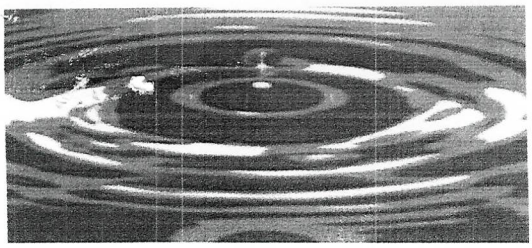
Wells Fargo Bank (2) Whitewater Flume Restoration 635.00

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1893



Stockton Consulting Services Services
1906 Canyon Road
Redlands, California 92373
909 792-6611 ♦ spsjas@aol.com

Invoice

June 30, 2019
Banning Heights Mutual Water Company
7091 Bluff Street
Banning, CA 92220

via E-mail

Re: Whitewater Flume Restoration,
Period: May 1, 2019 to June 30, 2019

May 16, 2019: Phone conference, Art Vela, Julie Hutchinson. Stockton reviewed the last JDRT meeting with SCE. Stockton outline the 50% design of pipe system for Flow Line 2. Survey work is under way on Flow Line 1.

½ hour $ 50.00
0 miles

May 20, 2019: JDRT meeting with SCE at SCE's East End Hydro facility. Attendance was Stockton, Matt Zents & Matt Woodall. Discussed survey work on Flow Line 2. Not complete at this time because of winter weather. Woodall was concerned about pipe sizes for both Flow Lines. SCE is OK with proposed size for Flow Line 2 as designed and the P.E.'s are OK also. Hydraulic analysis is not complete at this time. No pipe size has been proposed for Flow Line 1. A marked up set of the 50% design drawings will be done by Stockton for the P.E's. Plans should be complete by the end of 2019. (Matt Woodall was at the meeting for 10 minutes).

1 ¾ $175.00
30 miles

May 23, 2019: Stockton reviewed the 50% design drawings furnished by SCE. Stockton added comments to the drawings. Comments to be sent to SCE.

¾ hours $ 75.00
0 miles

June 25, 2019: JDRT meeting with SCE at SCE's East End Hydro Facility. Stockton and Zents were present. Stockton and Zents reviewed the Stockton comments of Flow Line 2. Zents will take comments to SCE engineers. We spent considerable time reviewing the SCE transfer agreement. SCE will look at installing additional pipe from the west end of the Mascaro property to the confluence of Burnt Canyon and Sawmill Creek. The field location of Mascaro's west property line at the creek channel in Burnt Canyon has not be set. Stockton explained the reason for the recovery well in Banning Canyon.

1 ¾ hours $175.00
30 miles

Summary: 4.75 hours @ $100.00 hour	$ 475.00
60 miles @ $0.50	$ 30.00
Total Invoice:	$ 505.00

BANNING HEIGHTS MUTUAL WATER CO.

4885

7/12/2019

Stephen Stockton

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
7/12/2019	Bill		505.00	505.00		505.00
					Check Amount	505.00

Wells Fargo Bank (2) Stockton Consulting - Invoice Dated June 30, 20

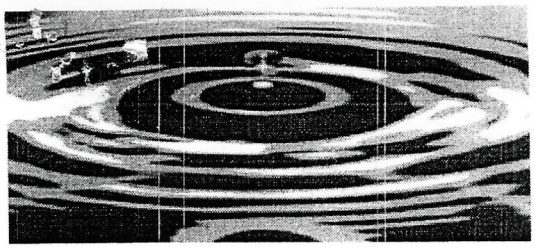
505.00

PRODUCT SSLT103 USE WITH 91663 ENVELOPE Deluxe Corporation 1-800-328-0304 or www.deluxe.com/shop

7028146701

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1895



Stockton Consulting Services
1906 Canyon Road
Redlands, California 92373
909 792-6611 ♦ spsjas@aol.com

Invoice

RECEIVED
FEB 07 2020

February 1, 2020
Banning Heights Mutual Water Company
7091 Bluff Street
Banning, CA 92220

via E-mail

Re: Whitewater Flume Restoration,

Period: November 1, 2019 to January 31, 2020

December 19, 2019: JDRT & SCE meeting at SCE East End Hydro Facility with Matt Zents. Not much work completed by SCE except for Burnt Canyon. Preliminary estimate for construction in Burnt Canyon is $9 to $12 million. SCE is also looking at well locations below the confluence of Burnt Canyon and Sawmill Creek. SCE is using drones to photograph the Canyon. Power for a proposed well(s) requires reconstruction of SCE system in "Water Canyon".

1 ½ hours $ 150.00
30 miles

January 9, 2020: P.E. meeting at City of Banning. Stockton reviewed the work of JDRT meetings with SCE. *(See above for Burnt Canyon discussion)* City of Banning stated that USFS has OK'd a 100' R/W for the location of Flow Line No. 1.

1 ¾ hours $175.00
40 miles

January 23. 2020: JDRT meeting at SCE's East End Hydro Facility. Present were Stockton, Matt Zents and SCE's IT-photographer, Vidal Virmontes. F.L. No. 2 design scheduled for completion in 30 days and F.L. No. 1 by May 1, 2020. SCE is working an "open channel" concept in Burnt Canyon east of the diversion to 610 feet east of the diversion. Hydrology study are under way to confirm water losses in open channel section and possible well(s) locations in "water canyon". Power line to proposed well(s) will be up graded because of fire-wind issues. Lager conductors are also required and will be covered with insulation to prevent arcing. SCE has drone pictures of upper Burnt Canyon showing very difficult terrain. Very little construction width in this area. The stream in Burnt Canyon seems to be a "gaining" stream in some areas. SCE believes most percolation occurs in the first 600' section above the confluence of Burnt and Sawmill Creek.

2 ¼ hours $225.00
30 miles

Summary: 5 ½ hours @ $100.00 hour	$ 550.00
100 miles @ $0.50	$ 50.00
Total Invoice:	$ 600.00

BANNING HEIGHTS MUTUAL WATER CO.

Stephen P. Stockton

5129

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
2/5/2020	Bill		600.00	600.00		600.00
					Check Amount	600.00

2/5/2020

Wells Fargo Bank (2)

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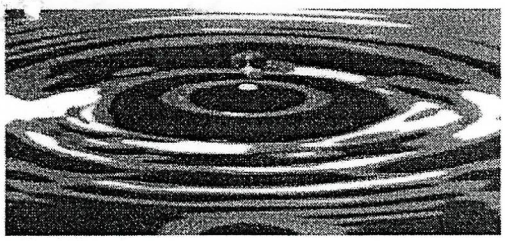
Deluxe Corporation 1-800-328-0304 or www.deluxe.com/shop

600.00

8813894700

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1897



Stockton Consulting Services
1906 Canyon Road
Redlands, California 92373
909 792-6611 ♦ spsjas@aol.com

Invoice

February 1, 2020

Banning Heights Mutual Water Company
7091 Bluff Street
Banning, CA 92220

via E-mail

Re: Whitewater Flume Restoration,

Period: February 1, 2020 to March 31, 2020

March 21, 2020: Conference with Julie & Dale Hutchenson regarding new look at "pumping alternate" by SCE. Also discussed Flow Line 2 construction drawings and delivered a set to Dale. Stockton will talk to SCE at next JDRT on pumping alternate. JDRT meetings will be via phone for the time being.
1 hour $ 100.00

March 24, 2020: Review construction drawing for Flow Line 2 with notations.
1½ hours $150.00

March 25,2020: Finish construction drawings review and prepare for JDRT meeting on March 26, 2020.
1 hour $100.00

March 26, 2020: JDRT phone conference with SCE (Matt Zents). Reviewed some of Stockton comments on Flow Line 2. Stockton requested an in-person meeting but SCE is only allowing phone conferences at this time, so notes are to be written and submitted to SEC. Reviewed pumping alternative through Gun Site Pass. SCE said it is possible but require a robust electrical system that must be buried to reduce fire hazard. SCE is getting proposals for inspection of penstock 1 to Big Oaks. Condition of penstock is unknown at this time.
Prepared written notes on construction drawing and transferred notes to SCE.
3 hours $300.00

Summary: 6 ½ hours @ $100.00 hour $ 650.00
No miles this period
Total Invoice: $ 650.00

Hours Verified
OK to pay
4/2/2020

BANNING HEIGHTS MUTUAL WATER CO.

5192

4/7/2020

Stephen P. Stockton

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
4/7/2020	Bill		650.00	650.00		650.00
					Check Amount	650.00

650.00

Wells Fargo Bank (2)

PRODUCT SSLT103 USE WITH 91663 ENVELOPE

Deluxe Corporation 1-800-328-0304 or www.deluxe.com/shop

8813894700

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1899



Stockton Consulting Services
1906 Canyon Road
Redlands, California 92373
909 792-6611 ♦ spsjas@aol.com

Invoice

July 1, 2020
Banning Heights Mutual Water Company
7091 Bluff Street
Banning, CA 92220

via E-mail

RECEIVED
JUL 2 2020
By

Re: Whitewater Flume Restoration,

Period: April 1, 2020 to June 30, 2020

April 30, 2020: JDRT phone conference. Reviewed comments from Stockton and City of Banning on Flow Line 2. Plans are 90% complete. Some questions not answered by SCE but will be addressed in the future. Some legal questions have been raised by SCE legal department. SCE is redesigning several appurtenances along Flow Line. Hydraulic analysis to follow soon.
3 1/4 hours, 0 miles $ 325.00

June 24, 2020: Phone conference with BHMW (Julie and Dale). Reviewed work by JDRT and discussion BHMW had with USFS in Washington DC. And with FERC. BHMWC has reached agreement of bypass flows at East Fork and South Fork of the Whitewater River.
¾ hours, 0 miles $75.00

June 25, 2020: Phone conference with BHMWC, SCE, Matt Zents. SCE legal, BHMWC legal, USFS and Washington DC facilitator. SCE discussed JDRT work and issues with Burnt Canyon surface flows, construction problems and water losses. USFS has not agreed that surface water flows can be introduced into Burnt Canyon. Water recovery in Banning Canyon from water losses in Burnt Canyon may trigger water rights issues with others. Stockton reviewed the "pumping alternative" over gunsight pass. SCE has not inspected the penstock to power house 1 and are securing proposal for inspection. This phone conference is in place of the monthly JDRT meetings.
1 3/4 hour, 0 miles $175.00

June 27, 2020: Phone conference with BHMWC about SCE Hydrologist report. Stockton will obtain 2 hard copies of the report from SCE. Stockton reviewed the report on water losses in Burnt Canyon and well recovery locations in Banning Canyon. Most water losses in Burnt Canyon occur in the last 600 feet before the confluence with Saw Mill Creek.
1 ½ hours, 0 miles $150.00

Summary: 7 ¼ hours @ $100.00 hour $ 725.00
No miles this period
Total Invoice: $ 725.00

BANNING HEIGHTS MUTUAL WATER CO.

5295

Stephen P. Stockton

7/22/2020

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
7/22/2020	Bill		725.00	725.00		725.00
					Check Amount	725.00

Wells Fargo Bank (2)

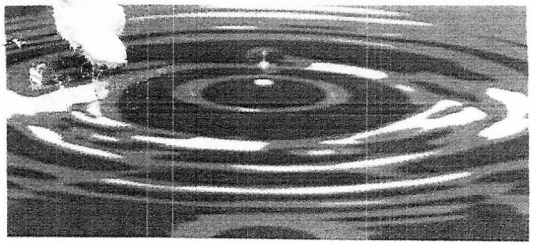
725.00

PRODUCT SSLT103 USE WITH 91663 ENVELOPE Deluxe Corporation 1-800-328-0304 or www.deluxe.com/shop

8813894700

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1901

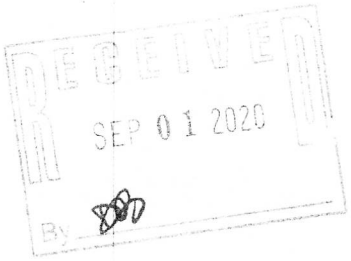


Stockton Consulting Services
1906 Canyon Road
Redlands, California 92373
909 792-6611 ♦ spsjas@aol.com

Invoice

September 1, 2020
Banning Heights Mutual Water Company
7091 Bluff Street
Banning, CA 92220

via E-mail



Re: Whitewater Flume Restoration

Period: July 1, 2020 to August 31, 2020

July 23, 2020: JDRT phone conference., Stockton, Zents & Dale Hutchenson. Reviewed City of Banning comments on Flow Line 2. SCE working on Flow Line 1 using 2ea 18" diameter pipes instead of one large pipe from South Fork and East Fork to Raywood Flats. Larger pipe requires a very large "welding machine" for joining the HDPE pipe. SCE is also working on repairs at East Fork diversion structure. Stockton to mail out hydrology report on Banning Canyon for drilling wells.
2 ¼ hours, 0 miles **$ 225.00**

August 27, 2020: JDRT phone conference. Stockton, Zents (SCE), Dean Caskey (SCE) and Dale Hutchenson with BHMW. Flow Line 1 design 75% complete and 74% complete on the design of hill side stabilization. SCE has no plans to address mud slides and run off from the Apple Fire. SCE waiting for Federal report(s) on damage and repairs required from the fire before work can be scheduled.
½ hour, 0 miles **$50.00**

Summary: 2 ¾ hours @ $100.00 hour **$ 275.00**
No miles this period
Copy and postage invoices (see page 2) **$ 37.69**

Total Invoice: **$ 312.69**

OK to Pay

BANNING HEIGHTS MUTUAL WATER CO.

5339

Stephen P. Stockton

9/1/2020

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
9/1/2020	Bill		312.69	312.69		312.69
					Check Amount	312.69

Wells Fargo Bank (2)

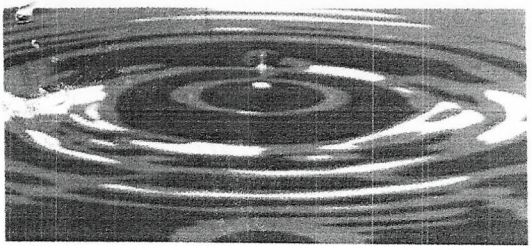
312.69

PRODUCT SSLT103 USE WITH 91663 ENVELOPE Deluxe Corporation 1-800-328-0304 or www.deluxe.com/shop

8813894700

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1903



Stockton Consulting Services
1906 Canyon Road
Redlands, California 92373
909 792-6611 ♦ spsjas@aol.com

OK TO PAY

Invoice

December 1, 2020
Banning Heights Mutual Water Company **via E-mail**
7091 Bluff Street
Banning, CA 92220

Re: Whitewater Flume Restoration
Period: August 1, to November 30, 2020

November 18, 2020: Review Flow Line 1 construction drawings.	
1 hour, 0 miles	**$100.00**
November 19, 2020: JDRT meeting preparation.	
½ hour, 0 miles	**$50.00**
November 19, 2020: JDRT phone conference. Reviewed Flow Line 1 with SCE.	
Drawings are well done. Some question about Raywood turnout at 10 cfs.	
Banning Heights wants hard copy of hydraulic analysis. SCE to supply.	
1 ½ hours, 0 miles	**$150.00**
November 19, 2020: Deliver drawings to Banning Heights	
½ hour, 15 miles	**$ 50.00**
November 30, 2020: Finish review of Flow Line 1 construction drawings and write memo	
2 ¼ hours	**$225.00**
Summary: 5 ¾ hours @ $100.00 hour	**$ 575.00**
15 miles @ $0.50 per mile	**$ 7.50**
Binding of hydraulic analysis report, Receipt attached	**$ 9. 23**
Total Invoice:	**$ 591.73**

BANNING HEIGHTS MUTUAL WATER CO.

5441

12/1/2020

Stephen P. Stockton

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
12/1/2020	Bill		591.73	591.73		591.73
					Check Amount	591.73

591.73

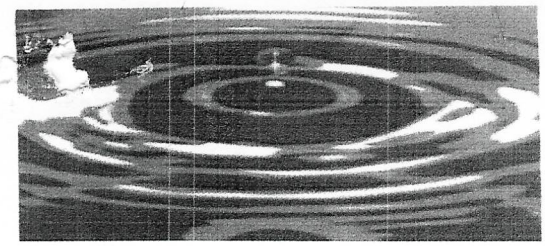
Wells Fargo Bank (2) Whitewater Flume Restoration 8/1-11/30/20

PRODUCT SSLT103 USE WITH 91663 ENVELOPE Deluxe Corporation 1-800-328-0304 or www.deluxe.com/shop

8813894700

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1905



Stockton Consulting Services
1906 Canyon Road
Redlands, California 92373
909 792-6611 ♦ spsjas@aol.com

JAN 05 2021

Invoice

OK TO PAY

OK. TO PAY

December 31, 2020
Banning Heights Mutual Water Company
7091 Bluff Street
Banning, CA 92220

via E-mail

Re: Whitewater Flume Restoration
Period: December 1 to December 31, 2020.

December 11, 2020: Review hydraulic calculations for flow line 1 to confirm BH questions and their review.
1 3/4 hours, 0 miles $175.00

December 17, 2020: JDRT phone conference call with SCE. Reviewed Stockton comments. SCE is requesting a formal change in material for "penstock section" below Raywood Flats from HDPE to steel. Stockton to send info on flow regulation orifice plates to limit flows to adjudicated diversion amounts.
2 ½ hours, 0 miles $250.00

December 21, 2020: Phone conference with BH and city of Banning. Reviewed methods for flow control at South Fork. City of Banning to reach out to USGS to see if they have installed similar flow control devices.
1 hour, 0 Miles $100.00

December 28, 2020: Reviewed comments from City of Banning and prepared report on comments
2 hours, 0 miles $200.00

December 29, 2020: Prepare memo on BH and city of Banning comments on Flow Line 1 to send to SCE.
1 ½ hours, 0 Miles $150.00

December 31, 2020: Prepare version 3 memo comments from P.E.'s to SCE for Flow Line 1. Memo includes both BH and City of Banning comments
1 hour, 0 miles $100.00

Summary:
7 ¾ hours @ $100.00 per hour $975.00
0 miles Total invoice: $975.00

5477

BANNING HEIGHTS MUTUAL WATER CO.

1/5/2021

Stephen P. Stockton

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
1/5/2021	Bill		975.00	975.00		975.00
					Check Amount	975.00

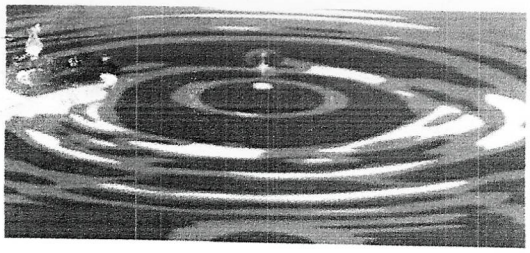
975.00

Wells Fargo Bank (2) Whitewater Flume Restoration Dec 1 - Dec 31, 2

8813894700

PRODUCT SSLT103 USE WITH 91663 ENVELOPE Deluxe Corporation 1-800-328-0304 or www.deluxe.com/shop

1907



Stockton Consulting Services
1906 Canyon Road
Redlands, California 92373
909 792-6611 ♦ spsjas@aol.com

Invoice

OK TO PAY

OK TO PAY

RECEIVED
MAR 17 2021
By

March 1, 2021
Banning Heights Mutual Water Company
7091 Bluff Street
Banning, CA 92220

via E-mail

Re: Whitewater Flume Restoration
Period: December 1 to February 28, 2021

January 28, 2021: JDRT meeting via Zoom with SCE design team. Discussed each item in the Stockton memo of December 30, 2020. See SCE response of issue from P.E.'s.
2 ¾ hours
0 miles
$275.00

February 23, 2021: Review new set of design drawing for Flow Line No. 1 dated February 2, 2021. Deliver 3 sets of drawing to City of Banning.
2 hours
40 miles
$200.00

February 24, 2021: Finish checking design drawings for Flow Line No. 1. Dated February 2, 2021.
1 hour, 0 miles
$100.00

February 25, 2021: JDRT phone conference. Reviewed several types of flow control devices for South Fork diversion. No decisions made. SCE to continue design concepts on flow control devices. SCE has scheduled a tour for February 26, 2021 of flume area to determine fire from last fall fire.
1 hour, 0 miles
$100.00

Summary: 6 ¾ hours @ $100.00 hour	$ 675.00
40 miles @ $0.50 per mile	$ 20.00
Total Invoice:	$ 695.00

BANNING HEIGHTS MUTUAL WATER CO.

5543

3/22/2021

S ephen P. Stockton

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
3/22/2021	Bill		695.00	695.00		695.00
					Check Amount	695.00

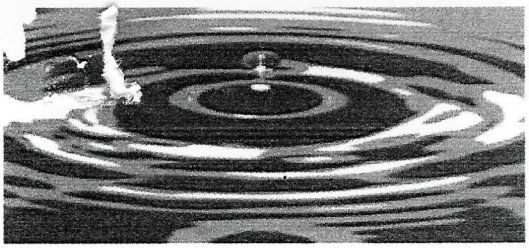
Wells Fargo Bank (2) Whitewater Flume Restoration 12/1/2020 - 2/28/ 695.00

PRODUCT SSLT103 USE WITH 91663 ENVELOPE Deluxe Corporation 1-800-328-0304 or www.deluxe.com/shop

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1909



Stockton Consulting Services
1906 Canyon Road
Redlands, California 92373
909 792-6611 ♦ spsjas@aol.com

Invoice

July 1, 2021
Banning Heights Mutual Water Company **via E-mail**
7091 Bluff Street
Banning, CA 92220

Re: Whitewater Flume Restoration

OK TO PAY

Period: March 1, 2021, to June 30, 2021

March 24, 2021: Review version I of Flow Line No. 1 construction drawings.
¾ hours, 0 miles **$ 75.00**

March 25, 2021: JDRT phone conference. Stockton, Zents (SCE), Dale Hutchinson, Frank Dunn, (SCE). Reviewed Stockton comments on revision I. Zents explained certain elements of the phase 1 project are being left out at this time because of time constraints. Raywood turnout structure and erosion repair and new Black Wheel sandbox and pipeline will not be part of phase 1.
1 hour, 0 miles **$100.00**

June 4, 2021: Flow Line 1 inspections tour with USFS (2) from South Fork diversion to Raywood Flats. Inspection was after the Apple Fire and there is incredibly significant damage from the fire to the Flow Line and to the Forest. 2 locations were identified for pipe bridges in place of erosion control rocks and concrete.
8 1/4 hours **$825.00**
54 miles **$ 27.00**

June 24, 2021: JDRT phone conference. Discussed the 2-bridge crossing identified in the inspection tour on Flow Line 1. Also, USFS wants to reroute Flow Line 2 along the existing road from Big Oaks to BHMWC tank instead of replacing pipe in the existing flume.
1 ¼ hours, 0 miles **$125.00**

Summary: 11.25 hours @ $100.00 hour **$1125.00**
54 miles this period $ $0.50 per mile **$ 27.00**

Total Invoice: **$ 1152.00**

BANNI' HEIGHTS MUTUAL WATER CO.

5633

tephen P. Stockton

7/2/2021

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
7/2/2021	Bill		1,152.00	1,152.00		1,152.00
					Check Amount	1,152.00

Wells Fargo Bank (2) March 1 to June 30

1,152.00

PRODUCT SSLT103 USE WITH 91663 ENVELOPE Deluxe Corporation 1-800-328-0304 or www.deluxe.com/shop

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1911



Stockton Consulting Services
1906 Canyon Road
Redlands, California 92373
909 792-6611 ♦ spsjas@aol.com

RECEIVED
NOV 2 2021
By J.M.

Invoice

November 1, 2021
Banning Heights Mutual Water Company
7091 Bluff Street
Banning, CA 92220

via E-mail

Re: Whitewater Flume Restoration

Period: July 1, 2021, to November 1, 2021

July 22, 2021: JDRT phone conference with SCE. (Matt Zents) and Dale Hutchinson. SCE gave a report for flowline 1 slope repair and USFS permit. Also included was the design status adding pipe bridges in 2 locations (shoots). The bridges were recommended by USFS during job walk in June. Construction bidding job walk is scheduled for late August.

½ hour, 0 miles $ 50.00

August 26, 2021: JDRT phone conference with SCE and BHMWC. Reviewed the latest set of drawing for flowline 1 flume repair. No significant comments from P.E.'s.

¾ hour, 0 miles $75.00

October 28, 2021: JDRT phone conference with SCE & BHMWC. Reviewed construction drawings for flowline 1 from east fork and south fork and repairs on the east fork diversion dam. Stockton to summarize comments to SCE and forward to SCE. City of Banning comments will be solicited.

1 ½ hours, 0 miles $150.00

Summary: 2 ¾ hours @ $100.00 hour	$275.00
0 miles	$ 00.00
Total Invoice:	$ 275.00

BANNING HEIGHTS MUTUAL WATER CO.

5739

Stephen P. Stockton

11/5/2021

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
11/5/2021	Bill		275.00	275.00		275.00
					Check Amount	275.00

Wells Fargo Bank (2) July 1, 2021 to Nov 1, 2021

275.00

PRODUCT SSLT103 USE WITH 91663 ENVELOPE Deluxe Corporation 1-800-328-0304 or www.deluxe.com/shop

3529834100

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1913

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Douglas Schulze, City Manager**
PREPARED BY:	**Lincoln Bogard, Administrative Services Director**
MEETING DATE:	**November 12, 2024**
SUBJECT:	**Preliminary Results of Operations for Fiscal Year 2023-24**

RECOMMENDATION:

Receive and file.

BACKGROUND:

The City's Fiscal Year is July through June. While the numbers are not yet final, staff would like to share the current preliminary results of operations for Fiscal Year 2023-24.

The results are in the attachment to this report. To view on the transparency portal, go to: https://banningca.opengov.com/transparency#/104821/accountType=revenuesVersusExpenses&embed=

JUSTIFICATION:

Staff would like to share preliminary financial results to Council for Fiscal Year 2023-24 for transparency. These results are not finalized and are subject to change. Staff will bring the externally audited Annual Comprehensive Financial Report to Council in January or February upon issuance of the audit opinion.

FISCAL IMPACT:

None. This is a report of the results of last fiscal year.

ALTERNATIVES:

None.

BUDGETED?:

No

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. Preliminary Results of Operations FY 2023-24.pdf

FY 2023-24 Preliminary Results of Operations By Fund Grouping

Fund Group	Assets	Liabilities	Revenues	Expenses	Encumbrances	Budgeted Net Income	Net Income-BS	Current Fund Balances
General Fund	12,988,098.23	9,517,157.08	33,246,063.37	33,731,676.91	-	(1,139,394.00)	(485,613.54)	3,470,941.15
Special Revenue	6,740,545.35	4,405,186.11	6,349,250.06	8,230,719.09	-	(5,057,237.00)	(1,881,469.03)	2,335,359.24
Capital Projects	9,548,430.27	195,372.71	759,680.65	537,145.65	-	(849,247.00)	222,535.00	9,353,057.56
Airport	2,295,106.18	230,042.85	215,781.32	485,309.09	-	(136,740.00)	(269,527.77)	2,065,063.33
Transit	6,887,259.99	6,695,348.74	5,128,027.16	3,814,309.71	-	(1,920,401.00)	1,313,717.45	191,911.25
Water	106,726,146.16	24,392,607.96	32,198,071.60	15,549,415.36	-	(7,208,143.00)	16,648,656.24	82,333,538.20
Wastewater	50,763,001.46	5,413,149.56	17,112,938.17	4,911,041.57	-	(118,958.00)	12,201,896.60	45,349,851.90
Electric	84,330,715.16	35,362,897.03	43,360,022.39	46,847,783.48	-	(16,201,789.00)	(3,487,761.09)	48,967,818.13
Refuse	-	-	-	1,042,518.50	-	-	(1,042,518.50)	-
ISF	(1,865,303.46)	8,093,976.13	14,197,241.60	16,015,900.48	-	(2,716,024.00)	(1,818,658.88)	(9,959,279.59)
Fiduciary	1,097,066.53	49,192.73	520,991.42	188,525.67	-	6,707.00	332,465.75	1,047,873.80
Successor Agency	947,232.84	23,922,797.17	4,646,752.00	3,372,035.75	-	71,327.00	1,274,716.25	(22,975,564.33)

FY 2023-24 Preliminary Results of Operations By Fund

Fund Type	Fund	Assets	Liabilities	Revenues	Expenses	Encumbrances	Beudgeted Net Income	Net Income-BS	Current Fund Balances
General Fund	001	11,595,226.57	9,079,578.63	32,764,677.94	33,483,959.46	-	(1,493,108.00)	(719,281.52)	2,515,647.94
General Fund	002	(624,762.81)	437,578.45	231,385.43	244,703.16	-	113,311.00	(13,317.73)	(1,062,341.26)
General Fund	005	2,011,524.69	-	250,000.00	2,512.44	-	240,303.00	247,487.56	2,011,524.69
Special Revenue	100	(690,957.28)	202,812.62	1,714,075.41	2,462,459.43	-	(1,182,741.00)	(748,384.02)	(893,769.90)
Special Revenue	101	1,137,857.90	318,785.50	1,045,083.28	1,558,750.14	-	(1,275,546.00)	(513,666.86)	819,072.40
Special Revenue	102	818,737.96	192,422.56	865,261.11	762,549.03	-	(1,604,318.00)	102,712.08	626,315.40
Special Revenue	110	(53,659.30)	607.66	90,540.69	95,274.32	-	(774,709.00)	(4,733.63)	(54,266.96)
Special Revenue	111	83,874.97	3,880.41	149,019.90	145,880.00	-	(7,580.00)	3,139.90	79,994.56
Special Revenue	132	328,731.56	10,513.55	52,441.01	18,524.48	-	(77,400.00)	33,916.53	318,218.01
Special Revenue	140	1,928.20	-	57.39	-	-	30.00	57.39	1,928.20
Special Revenue	148	185,376.86	186,378.89	6,938.98	21,051.74	-	(14,884.00)	(14,112.76)	(1,002.03)
Special Revenue	150	(117.84)	-	-	28.52	-	(29.00)	(28.52)	(117.84)
Special Revenue	200	46,948.83	7,525.48	4,204.25	1,305.96	-	(10,907.00)	2,898.29	39,423.35
Special Revenue	201	64,058.06	18.01	12,809.93	2,064.92	-	917.00	10,745.01	64,040.05
Special Revenue	202	(114.96)	-	-	28.52	-	(29.00)	(28.52)	(114.96)
Special Revenue	203	6,743.35	-	1,676.79	199.36	-	613.00	1,477.43	6,743.35
Fiduciary	221	590,693.33	-	325,795.18	-	-	-	325,795.18	590,693.33
Special Revenue	222	1,653,816.58	1,731,554.28	2,335,923.87	2,413,661.57	-	15,793.00	(77,737.70)	(77,737.70)
General Fund	300	6,109.78	-	-	-	-	100.00	-	6,109.78
Fiduciary	360	38,372.55	-	1,141.85	-	-	600.00	1,141.85	38,372.55
Fiduciary	365	79,342.65	19,957.53	2,361.00	-	-	1,200.00	2,361.00	59,385.12
General Fund	370	-	-	-	191.85	-	-	(191.85)	-
Fiduciary	375	388,658.00	29,235.20	191,693.39	188,525.67	-	4,907.00	3,167.72	359,422.80
General Fund	376	-	-	-	310.00	-	-	(310.00)	-
Capital Projects	400	306,009.33	-	41,566.55	193.88	-	6,275.00	41,372.67	306,009.33
Capital Projects	410	1,444,735.29	-	119,791.54	210.96	-	25,794.00	119,580.58	1,444,735.29
Capital Projects	420	2,147,221.83	4,563.60	152,052.14	7,559.16	-	(369,767.00)	144,492.98	2,142,658.23
Capital Projects	430	507,761.83	7,264.48	120,290.48	163,011.51	-	(60,452.00)	(42,721.03)	500,497.35
Special Revenue	444	413,220.44	-	12,299.89	136.84	-	5,863.00	12,163.05	413,220.44
Capital Projects	451	300,723.84	-	291,425.61	293,986.12	-	(407,617.00)	(2,560.51)	300,723.84
Capital Projects	470	687,680.51	-	34,168.28	88.40	-	(88.00)	34,079.88	687,680.51
Airport	600	2,295,106.18	230,042.85	215,781.32	485,309.09	-	(136,740.00)	(269,527.77)	2,065,063.33

FY 2023-24 Preliminary Results of Operations By Fund

Fund Type	Fund	Assets	Liabilities	Revenues	Expenses	Encumbrances	Beudgeted Net Income	Net Income-BS	Current Fund Balances
Transit	610	6,887,259.99	6,695,348.74	5,128,027.16	3,814,309.71	-	(1,920,401.00)	1,313,717.45	191,911.25
Water	660	99,829,226.59	5,692,937.32	29,507,223.76	12,937,672.91	-	(4,020,160.00)	16,569,550.85	94,136,289.27
Water	661	3,336,983.01	21,793.13	679,376.55	1,920,460.61	-	(3,284,364.00)	(1,241,084.06)	3,315,189.88
Water	662	1,400,939.37	2,472.46	41,687.99	-	-	20,000.00	41,687.99	1,398,466.91
Water	663	1,592,272.18	(0.01)	6,033.65	-	-	-	6,033.65	1,592,272.19
Water	669	566,725.01	18,675,405.06	1,963,749.65	691,281.84	-	76,381.00	1,272,467.81	(18,108,680.05)
Electric	670	88,893,401.50	11,462,572.96	38,886,706.61	40,966,912.51	-	3,127,505.00	(2,080,205.90)	77,430,828.54
Electric	672	6,817,835.21	-	202,879.49	-	-	100,000.00	202,879.49	6,817,835.21
Electric	673	(14,844,117.72)	892,698.34	1,105,223.44	4,351,144.67	-	(19,148,779.00)	(3,245,921.23)	(15,736,816.06)
Electric	674	698,605.13	24,238.13	27,880.53	-	-	(72.00)	27,880.53	674,367.00
Electric	675	1,236,157.58	37,355.52	714,931.54	543,354.96	-	(315,632.00)	171,576.58	1,198,802.06
Electric	678	1,528,833.46	22,946,032.08	2,422,400.78	986,371.34	-	35,189.00	1,436,029.44	(21,417,198.62)
Wastewater	680	28,610,289.74	2,182,038.79	15,737,435.47	4,809,242.05	-	149,670.00	10,928,193.42	26,428,250.95
Wastewater	681	11,041,262.19	12,413.68	476,680.09	42,993.09	-	(768,280.00)	433,687.00	11,028,848.51
Wastewater	682	8,152,017.98	-	587,810.59	1,782.49	-	488,815.00	586,028.10	8,152,017.98
Wastewater	683	2,186,690.56	6,470.60	250.61	2,313.63	-	(3,933.00)	(2,063.02)	2,180,219.96
Wastewater	685	540,194.66	-	16,074.66	-	-	8,000.00	16,074.66	540,194.66
Wastewater	689	232,546.33	3,212,226.49	294,686.75	54,710.31	-	6,770.00	239,976.44	(2,979,680.16)
Refuse	690	-	-	-	1,042,518.50	-	-	(1,042,518.50)	-
ISF	700	(4,243,802.83)	3,904,768.25	4,414,394.01	7,232,477.93	-	(2,074,519.00)	(2,818,083.92)	(8,148,571.08)
ISF	702	1,733,105.75	1,003,204.00	2,493,279.17	1,919,347.20	-	275,608.00	573,931.97	729,901.75
ISF	703	(532,091.74)	848,729.22	1,222,515.09	1,440,744.74	-	(632,229.00)	(218,229.65)	(1,380,820.96)
ISF	704	816,327.75	51,825.19	1,660,967.02	896,464.46	-	(419,925.00)	764,502.56	764,502.56
ISF	705	(518,848.34)	89,163.31	1,554,084.24	2,162,095.89	-	(23,906.00)	(608,011.65)	(608,011.65)
ISF	761	880,005.95	2,196,286.16	2,852,002.07	2,364,770.26	-	158,947.00	487,231.81	(1,316,280.21)
Successor Agency	805	1,903,029.06	-	2,455,366.00	2,421,960.12	-	162,706.00	33,405.88	1,903,029.06
Special Revenue	810	2,744,100.02	1,750,687.15	58,917.56	748,804.26	-	(132,310.00)	(689,886.70)	993,412.87
Successor Agency	830	1,613,204.12	23,922,797.17	2,171,886.00	944,943.63	-	(86,247.00)	1,226,942.37	(22,309,593.05)
Capital Projects	840	3,608,638.11	183,544.63	386.05	72,050.02	-	(43,346.00)	(71,663.97)	3,425,093.48
Capital Projects	841	545,659.53	-	-	45.60	-	(46.00)	(45.60)	545,659.53
Successor Agency	850	(2,569,000.34)	-	19,500.00	5,132.00	-	(5,132.00)	14,368.00	(2,569,000.34)

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Douglas Schulze, City Manager**
PREPARED BY:	**Doug Schulze, City Manager**
MEETING DATE:	**November 12, 2024**
SUBJECT:	**Consider Animal Shelter Options**

RECOMMENDATION:

Provide direction to City Manager.

BACKGROUND:

The City Council previously provided direction to the City Manager to negotiate a contract with Riverside Animal Control Services for a temporary agreement (approx. 1 year), which would utilize current City of Banning Animal Control Officers and use of the current shelter as a holding facility until animals are relinquished to County. As of September 27, 2024, Riverside County Animal Control Services has not provided a contract and has been unresponsive since July 22, 2024.

A proposal for a contract was submitted by Riverside County, but they did not agree to a temporary term or to use current City of Banning Animal Control Officers. The County also did not agree to use of the current shelter as a short-term holding facility. All animal sheltering services would be provided at the San Jacinto facility.

The City in-house proposal is based on establishing Animal Control & Shelter Services at the former fire station located at 5261 West Wilson Street. The apparatus bays are large enough to hold 45 - 60 kennels and floors have drainage for easy cleaning. The property is enclosed with a perimeter fence, adequate parking, a large lawn for exercise and a smaller area for potential adopters to interact with dogs. The building has numerous rooms that can be used for storage, small dog kennels, cattery, staff and a spay/neuter surgical room. In addition, the building has a full kitchen and restrooms.

JUSTIFICATION:

Animal shelter services are currently not available in Banning. Stray and lost dogs are increasingly running at-large.

FISCAL IMPACT:

Animal control and shelter services are General Fund expenses and the majority of costs will be funded with property and sales tax revenues. Some revenue is generated from user fees, such as, licensing, fines and penalties, and adoption fees.

Riverside County proposal is estimated to cost $680,000 annually. Difference from attached proposal is the addition of a second animal control officer.

City of Banning in-house proposal is estimated to cost $690,000 in year one, due to capital costs and $500,000 in year two. This cost estimate does not include a potential contribution from Morongo Band of

Mission Indians for start-up costs, which has been discussed.

ALTERNATIVES:

Provide direction to City Manager.

BUDGETED?:

No

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. City of Banning Proposal_7.10.24.docx
2. DRAFT In-House Animal Control Budget.xlsx

SUMMARY OF PROPOSAL FOR FUTURE SERVICES

COUNTY OF RIVERSIDE

DEPARTMENT OF ANIMAL SERVICES

County of Riverside Department of Animal Services
6851 Van Buren Boulevard
Jurupa Valley, CA 92509
(951) 358-7442

DEPARTMENT OF ANIMAL SERVICES
County of Riverside, California

July 10, 2024

City of Banning
Attn: Doug Schulze, City Manager
99 E. Ramsey Street
Banning, CA 92220

Dear Doug Schulze,

The Department of Animal Services would like to collaborate on a proposal for services with the City of Banning to provide the best care possible for the animals and residents.

Please review the enclosed information about animal field and shelter services that the department will provide, along with optional additional services at the City's request. Contract services rates are fees established by County of Riverside Ordinances 534 and 630 codified as Riverside County Code of Ordinances Title 6-Animals and subject to change as approved by the Board of Supervisors.

The Department has the experience and personnel to provide shelter and field services to the residents of the City of Banning and their animals, we would welcome the opportunity to serve you.

We would like to express our appreciation to you and your staff for considering the Riverside County Department of Animal Services. If you have any questions about the documents that you received, please give Harold Jones, Deputy Director - Administration, a call at (951) 358-7442 or email: hsjones@rivco.org.

Sincerely,

Erin Gettis, Director
Riverside County Department of Animal Services

Proposal: City of Banning– Itemization of Projected Contract Costs for Animal Field and Shelter Services at the San Jacinto Valley Animal Campus, 581 S. Grand Avenue, San Jacinto, CA 92582

Field Services Outline:

Basic services for animal control officer field operations include the following:

- Respond to calls for assistance from the public/law enforcement/fire
- Impoundment of stray animals
- Care and treatment of strays and/or abandoned animals
- Animal bite investigations
- Animal cruelty investigations
- Rabies quarantine investigations
- Habitual stray and/or barking animal complaints
- Deceased animal pick up
- Return of impounded animals
- Dog licensing
- Kennel/cattery inspections and licensing
- Issuance of warnings/citations
- Public service and education
- Emergency planning and response

There are multiple benefits of utilizing the County's Animal Control Officers (ACOs) for your city. All RCDAS animal control officers are certified by the State of California through Penal Code 832 and are authorized to issue citations, make arrests when necessary, and utilize animal capture equipment such as chemical capture tranquilizing rifles. ACOs are also certified through state and industry authorities such as the California State Humane Officers Academy and The National Animal Control Association. RCDAS field operations uses unincorporated ACOs to backup city officers. In situations such as an area "sweep," or during a declared emergency response, RCDAS has the ability to pull additional officers from other areas in a very short time frame to target the specific needs of the city.

Under the licensure of the Chief Veterinarian by the California Veterinary Medical Board and the DEA, contracting for field services shall include training, any required documentation, supervision, and reconciliation of all controlled substances used by animal control officers in the field and elsewhere.

Field Services Cost:

Each full-time animal control officer (ACO) 2,080 hours is $286,790.40/FY, flat rate billed $23,899.20/month

*Overtime/stand-by field services $178.66 per hour (minimum call out of 2 hours)
Wildlife fee: $144.90 per call
Deceased fee: $73.50 per call

*Cost will fluctuate based on actual overtime usage.

Shelter Services Outline:

Basic animal shelter services include the following:

Contracting with the County of Riverside for animal shelter services will include direct and indirect supervision of all veterinary medical activities in the shelters by the County's Chief Veterinarian. This shall include the acquisition and maintenance of a DEA license, and a premise permit to be issued by the California Veterinary Medical Board.

All animals impounded into the San Jacinto Valley Animal Campus Shelter will receive immediate prompt and necessary veterinary care and husbandry by our highly trained staff in accordance with state law and the veterinary medical board guidelines. In addition to re-homing activities, the department provides full-service adoptions and coordinates pet rescue efforts.

Animal Sheltering at San Jacinto Valley Animal Campus Costs:

Animal sheltering costs at San Jacinto Valley Animal Campus are based on actual impounds. County shall provide the City with a monthly invoice that includes actual impound statistics. The invoice will detail the number of animals impounded and the total number of kenneling days, plus all other applicable fees. The daily sheltering rate is $35.81 per animal.

Operational and Maintenance (O&M) Costs:

O&M Costs is calculated based on actual monthly impounds multiplied by $10.96.

Large Animal Sheltering @ $21/animal (horses, ponies, cattle) per day of sheltering (additional cost billed on actual use)
Large Animal Sheltering @ $12.60/animal (swine, goats, sheep) per day of sheltering (additional cost billed on actual use)

County Issuing Dog Licenses for City:

At City's request, County can issue dog licenses for the City. The City will authorize the County to collect and retain any and all canine license revenue generated by City residents during the program and term of the Agreement. County shall retain the sum of $11.92 for each dog license issued.

There will be a one-time data conversion fee based on actual cost to enter current City's license data into the County's licensing database at City's expense.

Field, Shelter and Licensing Services Estimate (Information based on the data that was provided)

Service	Quantity	Cost	Annually	Monthly
Full Time Animal Control Officer	1	$286,790.40 ea.	$286,790.40	$23,899.20
Estimated Overtime*		$178.66/hour	$	$
Animal Sheltering	267	$35.81/day	$95,612.70	$7,967.73
Wildlife Impounds**	3	$144.90	$434.70	$36.22
Deceased Animal Pick-Up and Disposal**	166	$73.50	$12,201.00	$1,016.75
Operations and Maintenance	267	$10.96/impound	$2,926.32	$243.86
License Processing***		$11.92 per license	$	$
Total Estimated Cost**			$397,965.12/FY	$33,163.76/month

* Actual cost may vary based on on-call usage.
**Rates are subject to change as adopted by the Board of Supervisors.
***License processing cost may vary based on number of licenses sold. County shall retain $11.92 for each license sold, and remaining balance of license will be credited back to the City on a monthly basis.

Optional additional services at City's request:

Daily flat rates for shot clinics and/or spay and neuter bus services will be billed based on actual outreach days scheduled. The projected compensation accounts for full staff time to provide service for one day. The maximum time possible will be afforded for actual outreach activity; however actual outreach activity time will be reduced by travel and preparation time the day of the event.

Shot Clinic and Spay and Neuter Bus Services:
$3,000 per event flat rate billed actual use
(The cost to provide three (3) clinic staff and one veterinarian for 9 hours, to be billed based on actual usage as requested by City.)

ANIMAL SHELTER & CONTROL - City Operating & Managed
Operating Budget

	Year 1	Year 2	
REVENUE			
License Fees	$ 50,000	$ 50,000	
Fines/Forfeits/Penalties	$ 45,000	$ 45,000	
Adoption Fees	$ 24,000	$ 24,000	
Donations/Contributions	$ 25,000	$ 25,000	
TOTAL REVENUE	$ 144,000	$ 144,000	
EXPENDITURES			
Personnel			
Shelter Staff (x2)	$ 180,000	$ 180,000	
Animal Control Officer (x2)	$ 260,000	$ 260,000	
Total Personnel	$ 440,000	$ 440,000	
Supplies			
Office Supplies	$ 6,400	$ 6,400	
Shelter Supplies	$ 8,040	$ 8,040	
Fuel	$ 15,600	$ 15,600	
Pet Food	$ 62,050	$ 62,050	
Uniforms	$ 1,200	$ 1,200	
Total Supplies	$ 93,290	$ 93,290	
Services			
Advertising/Publishing	$ 4,000	$ 4,000	
Printing	$ 1,000	$ 1,000	
Dues/Subscriptions	$ 1,500	$ 1,500	
Postage	$ 500	$ 500	
Travel & Training	$ 2,500	$ 2,500	
Building Maintenance	$ 7,500	$ 7,500	
Insurance	$ 5,000	$ 5,000	
Utilities	$ 16,920	$ 16,920	
Vehicle Lease	$ 4,800	$ 4,800	
Veterinary Services	$ 50,000	$ 50,000	
Total Services	$ 93,720	$ 93,720	
Capital Outlay			
Office Furniture	$ 5,000	$ 1,500	
Computer Hardware	$ 5,000	$ 500	
Computer Software	$ 2,500	$ 2,500	
Animal Shelter Equipment	$ 194,400	$ 10,000	
Total Capital Outlay	$ 206,900	$ 14,500	
TOTAL EXPENDITURES	$ 833,910	$ 641,510	
SURPLUS/(DEFICIT)	$ (689,910)	$ (497,510)	$690

	Salary	Benefits	Total
Animal Control Officer	$ 100,000.00	$ 30,000.00	$ 130,000.00
Animal Control Officer	$ 100,000.00	$ 30,000.00	$ 130,000.00
Shelter Manager	$ 80,000.00	$ 25,000.00	$ 105,000.00
Shelter Assistant	$ 60,000.00	$ 15,000.00	$ 75,000.00
Total			$ 440,000.00

	Quantity	Price	Total
Paper	2	$ 45.00	$ 90.00
Pens	50	$ 1.00	$ 50.00
Notepads	50	$ 1.00	$ 50.00
Staplers	4	$ 15.00	$ 60.00
File Folders	100	$ 0.25	$ 25.00
Miscellaneous	1	$ 500.00	$ 500.00
Microchip Injector	300	$ 15.00	$ 4,500.00
Microchip Reader	2	$ 100.00	$ 200.00
Dog License Tags	2500	$ 0.25	$ 625.00
First Aid Kit	2	$ 150.00	$ 300.00
			$ 6,400.00

	Quantity	Price	Total
Dog Food Bowls	60	$ 2.00	$ 120.00
Dog Water Bowls	60	$ 2.00	$ 120.00
Cat Food Bowls	50	$ 2.00	$ 100.00
Cat Water Bowls	50	$ 2.00	$ 100.00
Blankets	30	$ 20.00	$ 600.00
Pet Toys	300	$ 5.00	$ 1,500.00
Towels	100	$ 8.00	$ 800.00
Water Hoses	4	$ 75.00	$ 300.00
Scoops	6	$ 20.00	$ 120.00
Scrub Brushes	6	$ 15.00	$ 90.00
Leashes	30	$ 10.00	$ 300.00
Collars	100	$ 10.00	$ 1,000.00
Pet Shampoo	25	$ 10.00	$ 250.00
Pet Potty Pads	12000	$ 0.22	$ 2,640.00
			$ 8,040.00

ACO Truck 1	52	$ 150.00	$ 7,800.00
ACO Truck 2	52	$ 150.00	$ 7,800.00
Total			$ 15,600.00

	Avg # Impound	Daily Cost	Annual Cost
Small Dogs	20	$ 2.00	$ 14,600.00
Large Dogs	30	$ 3.00	$ 32,850.00
Cats	40	$ 1.00	$ 14,600.00
			$ 62,050.00

	Quantity		Price		Total
Water	12	$	200.00	$	2,400.00
Sewer	12	$	30.00	$	360.00
Electricity	12	$	150.00	$	1,800.00
Propane	12	$	1,000.00	$	12,000.00
Solid Waste	12	$	30.00	$	360.00
Total				$	16,920.00

	Quantity	Price	Total
Office Desk	3		
Office Chair	3		
Side Chair	3		
File Cabinets	2		
Lobby Chairs	5		
Plants	6		
Brochure Display	1		

	Quantity	Price	Total
Desk PC	2		
Printer	1		
Monitor	2		

Microsoft License	2
Pet License	1
Shelter Management	1

	Quantity	Price	Total
Kitty Condo (6)	5	$ 2,600.00	$ 13,000.00
Small Dog Kennels	2	$ 2,700.00	$ 5,400.00
Dog Wash Station	1	$ 1,000.00	$ 1,000.00
Large Dog Kennels	40	$ 4,250.00	$ 170,000.00
Miscellaneous		$ 5,000.00	$ 5,000.00
Total			$ 194,400.00

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Douglas Schulze, City Manager**
PREPARED BY:	**Doug Schulze, City Manager**
MEETING DATE:	**November 12, 2024**
SUBJECT:	**Discuss Options for Use of Zoom During City Council Meetings**

RECOMMENDATION:

Provide direction to the City Manager regarding use of Zoom for City Council meetings.

BACKGROUND:

In response to social distancing requirements during COVID 19, use of Zoom for public meetings so members of the City Council, staff, and consultants could participate remotely. In addition, members of the public were also provided with the opportunity to participate via Zoom. After social distancing restrictions were lifted, use of Zoom was continued until "Zoom Bombing" became problematic for several organizations, including the City of Banning. Since the decision to use Zoom was an administrative decision and not Council policy, an administrative decision was made to discontinue use of Zoom for public participation. Use of Zoom is limited to consultants, City Treasurer and occasionally by staff participating remotely, which requires identity verification. When Zoom was offered as an option for members of the public to participate, there were just a few people online each meeting so, it was not used broadly.

Currently, staff resources are used to make all public meetings accessible on Government Access Channel 10 and streaming on the City website. These options do not allow members of the public to comment during meetings, but they are able to view meetings in real time. Members of the public are currently able to provide comments during the City Council's meeting by either attending City Council meetings and making verbal comments to the City Council at the appropriate times or by submitting written comments to the City Clerk on items on the Council's agenda, which comments are forwarded to the City Council for the Council's consideration. While Zoom Bombing seems to be less of an issue, it could be related to the fact that many public agencies discontinued use of Zoom for public meetings. Use of Zoom as a webinar provides more control because access to speak must be granted by a monitor (staff member), which also reduces the likelihood of Zoom Bombing. However, a staff person would either need to be hired or paid overtime to serve as monitor during public meetings.

City Managers in Riverside County were asked if they use Zoom for public participation in City Council meetings. In total, 16 cities did not allow remote participation, 3 cities did, and 3 did not respond to the poll. These were the exact responses:

- Beaumont - No
- Calimesa - No
- Cathedral City - No
- Coachella - Yes
- Corona - No
- Desert Hot Springs - No

- Eastvale - No
- Hemet - No
- Indian Wells - Did not respond
- Indio - No
- LaQuinta - Did not respond
- Menifee - No
- Moreno Valley - No
- Palm Desert - Yes
- Palm Springs - Yes
- Perris - No
- Rancho Mirage - No
- Riverside - Did not respond
- San Jacinto - No
- Temecula - No
- Wildomar - No
- Yucaipa - No

JUSTIFICATION:

Allowing members of the public to provide comments during City Council meetings via Zoom would allow for an additional form of public participation and engagement during City Council meetings.

FISCAL IMPACT:

Should the Council provide direction to offer the ability to make public comments via Zoom during City Council meetings, an additional staff member would be needed to monitor and promote individuals to presenter status when members of the public request to speak.

ALTERNATIVES:

Option 1 - Offer Zoom as an additional form or public participation during City Council meetings.
Option 2 - Do not offer Zoom as an additional for public participation during City Council meetings.

BUDGETED?:

No

CONTRACT/AGREEMENT:

No

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AGREEMENT FOR PROFESSIONAL SERVICES (C00991) FOR SURFACE SURFACE MINING INSPECTION SERVICES BY AND BETWEEN CITY OF BANNING AND ARAGON GEOTECHNICAL, INC.

THIS AGREEMENT FOR PROFESSIONAL SERVICES (herein "Agreement") is made and entered into this day: 3/6/2024, ("Effective Date") by and between the **CITY OF BANNING,** a California municipal corporation ("City") and **ARAGON GEOTECHNICAL, INC.,** a Nevada Corporation ("Consultant"). City and Consultant are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties."

RECITALS

A. City has sought by issuance of a Request for Proposal (RFP No.20-029), the performance of the services for the Surface Mining Inspections and as further defined and described particularly in Article 1 of this Agreement.

B. Consultant, following submission of a proposal for the performance of the services defined and described particularly in Article 1 of this Agreement, was selected by City to perform those services.

C. The Parties desire to formalize the selection of Consultant for performance of those services defined and described particularly in Article 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

D. Pursuant to the City of Banning's Municipal Code, City has authority to enter into this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1. SERVICES OF CONSULTANT

1.1 Scope of Services.

In compliance with all terms and conditions of this Agreement, Consultant shall provide those services specified in the "Scope of Services" attached hereto as **Exhibit A** and incorporated herein by this reference, which services may be referred to herein as the "Services" hereunder. As a material inducement to City entering into this Agreement, Consultant represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the Services required under this Agreement in a thorough, competent, and professional manner, and is experienced in performing the Services contemplated herein. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all Services described herein. Consultant covenants that it shall follow the highest professional standards in performing the Services required hereunder and that all materials will be of good quality, and fit for the purpose intended. For purposes of this Agreement, the phrase "highest professional

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standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

1.2 Contract Documents and Exhibits.

This Agreement includes the Request for Proposal and Consultant's accepted proposal ("Contract Documents"), both of which are on file with the City and incorporated herein by this general reference as though fully set forth herein. **Exhibit A** (Scope of Services), **Exhibit B** (Special Requirements), **Exhibit C** (Schedule of Compensation), and **Exhibit D** (Schedule of Performance) also constitute a part of this Agreement and are incorporated into this Agreement by this reference. Except as set forth in Section 1.10 regarding **Exhibit B**, this Agreement controls over the Contract Documents and the provisions in **Exhibits A, B** and **C**.

1.3 Compliance with Law.

Consultant shall keep itself informed concerning all ordinances, resolutions, statutes, rules, and regulations of City and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered, and shall render all Services hereunder in accordance therewith.

1.4 Licenses, Permits, Fees and Assessments.

Consultant shall obtain and maintain during the term of this Agreement, at its sole cost and expense, all necessary licenses, permits, certificates and approvals required by law for the performance of Services under this Agreement, including a City business license. Consultant shall have the sole obligation to pay for all fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and which arise from or are necessary for Consultant's performance of the Services required by this Agreement. Consultant shall indemnify, defend and hold harmless City, its officers, employees or agents, against all such fees, assessments, taxes, penalties or interest levied, assessed or imposed against City hereunder.

1.5 Familiarity with Services.

By executing this Agreement, Consultant warrants that Consultant: (i) has thoroughly investigated and considered the Scope of Services to be performed, (ii) has carefully considered how the Services should be performed, and (iii) fully understands the facilities and any difficulties and restrictions attending performance of the Services under this Agreement. If the Services involve work upon any site, Consultant warrants that Consultant has or will investigate the site and is or will be fully acquainted with the conditions existing therein, prior to commencement of Services hereunder. Should Consultant discover any latent or unknown conditions, which will materially affect the performance of the Services hereunder, Consultant shall immediately inform City of such fact and shall not proceed except at Consultant's risk until written instructions are received from the Contract Officer (defined in Section 1.12. A).

1.6 Prevention of Loss and Damages.

Consultant shall adopt reasonable methods during the Term (defined in Section 3.4) to furnish continuous protection to the work product, and the equipment, materials, papers,

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documents, plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the Services by City, except such losses or damages as may be caused by City's own negligence.

1.7 Further Responsibilities of Parties.

Both Parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both Parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonable necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither Party shall be responsible to perform the Services of the other.

1.8 Additional Services.

City shall have the right at any time during the performance of the Services, without invalidating this Agreement, to order extra services beyond that specified in the Scope of Services or to make changes by altering, adding to or deducting from the Services. No such extra services may be undertaken unless a written order is first given by the Contract Officer to Consultant, which written order incorporates therein an adjustment in (i) the Contract Sum (as defined in Section 2.1), and/or (ii) the Schedule of Performance, (as defined in Section 3.2), and which written order is approved in writing by Consultant. Any increase in compensation of up to ten percent (10%) of the Contract Sum, or $25,000, whichever is less; or in the Schedule of Performance of up to one hundred eighty (180) days may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively, must be approved by City Council. It is expressly understood by Consultant that the provisions of this Section shall not apply to Services which are specifically set forth in the Scope of Services or which are reasonably contemplated therein. Consultant hereby acknowledges that it accepts the risk that the Services to be provided pursuant to the Scope of Services may be more costly or time consuming than Consultant anticipates and that Consultant shall not be entitled to additional compensation therefor.

1.9 Facilities and Equipment.

Except as otherwise provided, Consultant shall, at its own cost and expense, provide all facilities and equipment necessary to perform the Services required by this Agreement. City shall make available to Consultant only physical facilities such as desks, filing cabinets, and conference space ("City Facilities"), as City deems, in its sole discretion, to be reasonably necessary for Consultant's use while consulting with City employees and reviewing records and the information in possession of City. The location, quality, and time of furnishing City Facilities shall be in the sole discretion of City. In no event shall City be required to furnish any facilities that may involve incurring any direct expense, including but not limited to a computer, long distance telephone, network data, internet or other communication charges, vehicles and reproduction facilities.

1.10 Special Requirements.

Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as **Exhibit B** and incorporated herein by this reference. In the event of a conflict between the provisions of **Exhibit B** and any other provisions of this Agreement, the provisions of **Exhibit B** shall govern.

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1.11 Corrections.

In addition to the indemnification obligations set forth in Article 4, and Sections 1.4, 1.13, 5.3, 5.4, and 6.3, Consultant shall correct, at its expense, all errors in the Services which may be disclosed during City's review of Consultant's report or plans. Should Consultant fail to make such correction(s) in a reasonably timely manner, such correction(s) may be made by City, and the cost thereof shall be charged to Consultant. In addition to all other available remedies, City may deduct the cost of such correction(s) from any retention amount held by City, or may withhold payment otherwise owed Consultant under this Agreement up to the amount of the cost of correction(s), as provided in Section 6.3.

1.12 Party Representatives.

A. Contract Officer: For the purposes of this Agreement, the Contract Officer shall be the City Manager, or such other person designated in writing by the City Manager ("Contract Officer"). Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of City required hereunder to carry out the terms of this Agreement.

B. Principals and Personnel of Consultant.

1) Consultant Representative: The following principal of Consultant is hereby designated as being the Consultant Representative authorized to act on Consultant's behalf regarding the Services specified herein and make all decisions in connection therewith:

Name	Title
Fernando Aragon	President

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing Consultant Representative were a substantial inducement for City to enter into this Agreement. Therefore, the foregoing Consultant Representative shall be responsible during the term of this Agreement for directing all activities of Consultant and devoting sufficient time to personally supervise the Services hereunder. All personnel of Consultant, and any authorized agents, shall at all times be under the exclusive direction and control of the Consultant Representative. For purposes of this Agreement, the foregoing Consultant Representative may not be replaced nor may their responsibilities be substantially reduced or reassigned by Consultant without the express written approval of City. It shall be Consultant's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the Services, and Consultant shall refer any decisions which must be made by City to the Contract Officer.

2) Consultant's Personnel: Consultant has, or will secure at its own expense, all personnel required to perform the Services required under this Agreement. All of the Services required under this Agreement shall be performed by Consultant or under its supervision, and all personnel engaged in the Services shall be qualified to perform such Services. Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff and sub-contractors, if any, assigned to perform the Services required under this Agreement.

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Consultant shall notify City of all changes in Consultant's staff and sub-contractors, if any, assigned to perform the Services required under this Agreement, prior to and during any such performance. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires to reassign any staff or sub-contractor of Consultant, City shall give notice as set forth in Section 8.1. Consultant shall, immediately upon the receipt of the notice to re-assign staff from City, reassign such person or persons.

1.13 Independent Contractor.

A. Consultant is an independent contractor and not an employee of City. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City. All Services provided pursuant to this Agreement shall be performed by Consultant or under its supervision. Consultant will determine the means, methods, and details of performing the Services. Any additional personnel performing Services under this Agreement on behalf of Consultant shall also not be employees of City and shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

B. Consultant shall indemnify and hold harmless City and its elected officials, officers, employees, servants, designated volunteers, and agents serving as independent contractors in the role of City officials, from any and all liability, damages, claims, costs and expenses of any nature to the extent arising from Consultant's personnel practices. City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this Section.

1.14 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Consultant, the Consultant Representative and employees were a substantial inducement for City to enter into this Agreement. Therefore, Consultant shall not contract with any other entity to perform in whole or in part the Services required hereunder without the express written approval of City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty-five percent (25%) of the present ownership and/or control of Consultant, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this

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Agreement shall be void. No approved transfer shall release Consultant or any surety of Consultant of any liability hereunder without the express consent of City.

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, as full compensation for Services satisfactorily rendered, City shall pay Consultant at the hourly rates set forth in the "Schedule of Compensation" attached hereto as **Exhibit C** and incorporated herein by this reference. In no event shall Consultant be paid more than Six Thousand Eighty-Two Dollars and 50 Cents ($6,082.50) (the "Contract Sum"). The Contract Sum shall include the attendance of Consultant at all project meetings reasonably deemed necessary by City. Coordination of the performance of the Services with City is a critical component of the Services. If Consultant is required to attend additional meetings to facilitate such coordination, Consultant shall not be entitled to any additional compensation for attending those meetings.

2.2 Method of Compensation.

The method of compensation may include: (i) a lump sum payment upon completion of the Services, (ii) payment in accordance with specified tasks or the percentage of completion of the Services, (iii) payment for time and materials based upon Consultant's rates as specified in the Schedule of Compensation, provided that time estimates are provided for the performance of sub tasks, but not exceeding the Contract Sum or (iv) such other methods as may be specified in the Schedule of Compensation.

2.3 Reimbursable Expenses.

City shall only reimburse Consultant for those actual and necessary expenses expressly set forth in **Exhibit C**. Reimbursable expenses may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expenses, and travel expenses approved by the Contract Officer in advance, or actual sub-contractor expenses of an approved sub-contractor pursuant to Section 1.14, and only if specified in the Schedule of Compensation.

2.4 Unauthorized Services and Expenses.

City will not pay for any Services or reimburse for any expenses incurred which are not specified in the Scope of Services, unless authorized in writing as set forth in Section 1.8 of this Agreement. City shall make payment for such authorized additional Services and expenses in accordance with Article 2 of this Agreement.

2.5 Invoices.

Each month Consultant shall furnish to City an original invoice for all Services performed and expenses incurred during the preceding month. Each such invoice shall contain all of the information set forth in Section III of **Exhibit C** to this Agreement. By submitting an invoice for payment under this Agreement, Consultant is certifying compliance with all provisions of the

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Agreement. Consultant shall not invoice City for any duplicate Services performed by more than one person.

City shall independently review each invoice submitted by Consultant to determine whether the Services performed and expenses incurred are in compliance with the provisions of this Agreement. City will use its best efforts to cause Consultant to be paid within thirty (30) days of receipt of Consultant's correct and undisputed invoice, except as to any charges for Services performed or expenses incurred by Consultant which are disputed by City, or as provided in Section 6.3. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Consultant for correction and resubmission. Review and payment by City of any invoice provided by Consultant shall not constitute waiver of any rights or remedies provided herein or any applicable law.

2.6 Waiver.

Payment to Consultant for Services performed pursuant to this Agreement shall not be deemed to waive any defects in Services performed by Consultant.

ARTICLE 3. PERFORMANCE SCHEDULE

3.1 Time of Essence.

Time is of the essence in the performance of this Agreement; provided, however, that the foregoing shall not be construed to limit or deprive a Party of the benefits of any grace or use period allowed in this Agreement.

3.2 Schedule of Performance.

Consultant shall commence the Services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all Services within the time period(s) established in the "Schedule of Performance" attached hereto as **Exhibit D** and incorporated herein by this reference.

3.3 Force Majeure.

The time period(s) specified in the Schedule of Performance for performance of the Services rendered pursuant to this Agreement may be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of Consultant. Such unforeseeable consequences include, but are not restricted to, acts of God or public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including City, if Consultant shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the Services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified, subject to the provisions of Section 1.8. The Contract Officer's determination (or the City Council's determination, in the event the period of enforced delay exceeds the period specified in Section 1.8) shall be final and conclusive upon the Parties to this Agreement. In no event shall Consultant

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be entitled to recover damages against City for any delay in the performance of this Agreement, however caused; Consultant's sole remedy shall be the extension of the Agreement pursuant to this Section.

3.4 Term.

The Term of this Agreement shall be from the Effective Date March 31, 2024, unless sooner terminated as provided in Article 6 of this Agreement or extended as provided in Sections 1.8 and 3.3 of this Agreement. Maximum term and any subsequent amendment or modification shall not exceed two (2) years.

ARTICLE 4. INSURANCE AND INDEMNIFICATION

4.1 Minimum Scope and Limits of Insurance.

Consultant shall procure and at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:

A. Commercial General Liability Insurance with a minimum limit of $1,000,000.00 per occurrence for bodily injury, personal injury and property damage and a general aggregate limit of $2,000,000.00 per project or location. If Consultant is a limited liability company, the commercial general liability coverage shall be amended so that Consultant and its managers, members, affiliates, employees, agents and other persons necessary or incidental to its operation are insureds.

B. Automobile Liability Insurance for any owned, non-owned or hired vehicle used in connection with the performance of this Agreement with a combined single limit of $1,000,000.00 per accident for bodily injury and property damage. If Consultant does not use any owned, non-owned or hired vehicles in the performance of Services under this Agreement, Consultant shall obtain a non-owned auto endorsement to the Commercial General Liability policy.

C. Workers' Compensation Insurance as required by the State of California and Employer's Liability Insurance with a minimum limit of $1,000,000.00 per accident for bodily injury or disease. If Consultant has no employees while performing Services under this Agreement, workers' compensation policy is not required; however, Consultant shall execute a declaration that it has no employees.

D. Professional Liability/Errors and Omissions Insurance with minimum limits of $1,000,000.00 per claim and in the aggregate.

4.2 Acceptability of Insurers.

The insurance policies required under this Article shall be issued by an insurer admitted to write insurance in the State of California with a rating of A:VII or better in the latest

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edition of the A.M. Best Insurance Rating Guide. Self-insurance shall not be considered to comply with the insurance requirements under this Article.

4.3 Additional Insured.

The commercial general and automobile liability policies shall contain an endorsement naming City, its officers, employees, agents and volunteers as additional insureds.

4.4 Primary and Non-Contributing.

The insurance policies required under this Article shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance available to City. Any insurance or self-insurance maintained by City, its officers, employees, agents or volunteers, shall be in excess of Consultant's insurance and shall not contribute with it.

4.5 Consultant's Waiver of Subrogation.

The insurance policies required under this Article shall not prohibit Consultant and Consultant's employees, agents or sub-contractors from waiving the right of subrogation prior to a loss. Consultant hereby waives all rights of subrogation against City.

4.6 Deductibles and Self-Insured Retentions.

Any deductibles or self-insured retentions must be declared to and approved by City. At City's option, Consultant shall either reduce or eliminate the deductibles or self-insured retentions with respect to City; or Consultant shall procure a bond guaranteeing payment of losses and expenses.

4.7 Cancellations or Modifications to Coverage.

Consultant shall not cancel, reduce or otherwise modify the insurance policies required by this Article during the term of this Agreement. The commercial general and automobile liability policies required under this Agreement shall be endorsed to state that should the issuing insurer cancel the policy before the expiration date, the issuing insurer will endeavor to mail 30 days' prior written notice to City. If any insurance policy required under this Article is canceled or reduced in coverage or limits, Consultant shall, within two (2) Business Days (as defined in Section 8.12) of notice from the insurer, phone, fax or notify City via certified mail, return receipt requested, of the cancellation of or changes to the policy.

4.8 City Remedy for Noncompliance.

If Consultant does not maintain the policies of insurance required under this Article in full force and effect during the term of this Agreement, or in the event any of Consultant's policies do not comply with the requirements under this Article, City may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, City may, but has no duty to, take out the necessary insurance and pay, at Consultant's expense, the premium thereon. Consultant shall promptly reimburse City for any premium paid by City, or City may withhold amounts sufficient to pay the premiums from payments due to Consultant.

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4.9 Evidence of Insurance.

Prior to the performance of Services under this Agreement, Consultant shall furnish the City Clerk with a certificate or certificates of insurance and all original endorsements evidencing and effecting the coverages required under this Article. The endorsements are subject to City's approval. Consultant may provide complete, certified copies of all required insurance policies to City. Consultant shall maintain current endorsements on file with the City Clerk. Consultant shall provide proof to the City Clerk that insurance policies expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Consultant shall furnish such proof at least two (2) weeks prior to the expiration of the coverages.

4.10 Indemnity Requirements not Limiting.

Procurement of insurance by Consultant shall not be construed as a limitation of Consultant's liability or as full performance of Consultant's duty to indemnify City under this Agreement.

4.11 Sub-contractor Insurance Requirements.

Consultant shall require each of its sub-contractors that perform Services under this Agreement to maintain insurance coverage that meets all of the requirements of this Article.

4.12 Indemnification, Hold Harmless, and Duty to Defend.

A. Indemnification of City.

1) To the fullest extent permitted by law, Consultant shall, at its sole cost and expense, defend, hold harmless and indemnify City and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, assigns and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees"), from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith and the payment of all consequential damages (collectively "Liabilities"), at law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant, its officers, agents, servants, employees, sub-contractors, materialmen, consultants or their officers, agents, servants or employees (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties. Consultant shall defend the Indemnitees in any action or actions filed in connection with any Liabilities with counsel of the Indemnitees' choice, and shall pay all costs and expenses, including all attorneys' fees and experts' costs actually incurred in connection with such defense. Consultant shall reimburse the Indemnitees for any and all legal expenses and costs incurred by Indemnitees in connection therewith.

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2) Consultant shall pay all required taxes on amounts paid to Consultant under this Agreement, and indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant shall fully comply with the workers' compensation law regarding Consultant and Consultant's employees. Consultant shall indemnify and hold City harmless from any failure of Consultant to comply with applicable workers' compensation laws. City may offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this subparagraph A.2.

3) Consultant shall obtain executed indemnity agreements with provisions identical to those in this Article from each and every sub-contractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. If Consultant fails to obtain such indemnity obligations, Consultant shall be fully responsible and indemnify, hold harmless and defend the Indemnitees from and against any and all Liabilities at law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant's sub-contractor, its officers, agents, servants, employees, sub-contractors, materialmen, consultants or their officers, agents, servants or employees (or any entity or individual that Consultant's sub-contractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties.

B. Workers' Compensation Acts not Limiting. Consultant's indemnifications and obligations under this Article, or any other provision of this Agreement, shall not be limited by the provisions of any workers' compensation act or similar act. Consultant expressly waives its statutory immunity under such statutes or laws as to City, its officers, agents, employees and volunteers.

C. Insurance Requirements not Limiting. City does not, and shall not, waive any rights that it may possess against Consultant because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. The indemnities in this Article shall apply regardless of whether or not any insurance policies are determined to be applicable to the Liabilities, tax, assessment, penalty or interest asserted against City.

D. Survival of Terms. Consultant's indemnifications and obligations under this Article shall survive the expiration or termination of this Agreement.

ARTICLE 5. RECORDS, REPORTS, AND RELEASE OF INFORMATION

5.1 Service Records.

Consultant shall keep, and require sub-contractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and Services performed hereunder (the "Service Records"), as shall be necessary to perform the Services required by this Agreement and enable the Contract Officer

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to evaluate the performance of such Services. Any and all such Service Records shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such Service Records at all times during normal business hours of City, including the right to inspect, copy, audit and make copies and transcripts from such Service Records. Such Service Records shall be maintained for a period of three (3) years following completion of the Services hereunder, and City shall have access to such Service Records in the event any audit is required. In the event of dissolution of Consultant's business, custody of the Service Records may be given to City, and access shall be provided by Consultant's successor in interest ("Consultant's Successor"). If custody of the Service Records is given to Consultant's Successor, Consultant shall give written notice to City of the transfer of the Service Records to Consultant's Successor. The notice shall include contact information (address and telephone number) for Consultant's Successor, and access shall be provided to City by Consultant's Successor.

5.2 Reports.

Consultant shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the Services required by this Agreement as the Contract Officer shall require. Consultant hereby acknowledges that City is greatly concerned about the cost of Services to be performed pursuant to this Agreement. For this reason, Consultant agrees that if Consultant becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the Services contemplated herein, Consultant shall promptly notify the Contract Officer of that fact, circumstance, technique or event and the estimated increased or decreased cost related thereto.

5.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the "Consultant Documents") prepared by Consultant, its employees, sub-contractors and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the termination of this Agreement. Consultant shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership use, reuse, or assignment of the Consultant Documents hereunder. Any use, reuse or assignment of such completed Consultant Documents for other projects and/or use of uncompleted Consultant Documents without specific written authorization by Consultant will be at City's sole risk and without liability to Consultant, and Consultant's guarantee and warranties shall not extend to such use or assignment. Consultant may retain copies of such Consultant Documents for its own use. Consultant shall have an unrestricted right to use the concepts embodied therein. All sub-contractors shall provide for assignment to City of all Consultant Documents prepared by them; and in the event Consultant fails to secure such assignment, Consultant shall indemnify City for all damages resulting therefrom.

5.4 Confidentiality and Release of Information.

A. All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the

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public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the Contract Officer.

B. Consultant, its officers, employees, agents or sub-contractors, shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the Services performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

C. If Consultant, or any officer, employee, agent or sub-contractor of Consultant, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorneys' fees, caused by or incurred as a result of Consultant's conduct.

D. Consultant shall promptly notify City should Consultant, its officers, employees, agents or sub-contractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any Party regarding this Agreement and the Services performed thereunder. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite the response.

ARTICLE 6. ENFORCEMENT OF AGREEMENT AND TERMINATION

6.1 California Law.

This Agreement, and any dispute arising from the relationship between the Parties to this Agreement, shall be interpreted, construed and governed both as to validity and to performance of the Parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Riverside, State of California, or any other appropriate court in such county, and Consultant covenants and agrees to submit to the personal jurisdiction of such court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in Riverside.

6.2 Disputes; Default.

A. In the event that City determines Consultant is in default under the terms of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any Services performed after the date of default. In addition to the provisions of Section 4.8, and the right to terminate pursuant to Section 6.7, if the City Manager determines that Consultant is in default in the performance of any of the terms or conditions of this Agreement, City may serve Consultant with written notice of the default. Consultant shall have ten (10) calendar days after service upon it of the notice in which to cure the default by rendering a satisfactory performance.

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In the event that Consultant fails to cure its default within such period of time, City may, notwithstanding any other provision of this Agreement, terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

B. In the event of termination pursuant to this Section, City may take over the Services and prosecute the same to completion by contract or otherwise, and Consultant shall be liable to the extent that the total cost for completion of the Services required hereunder exceeds the compensation herein stipulated (provided that City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to Consultant for the purpose of set-off or partial payment of the amounts owed City as provided in Section 6.3.

6.3 Retention of Funds.

Consultant hereby authorizes City to deduct from any amount payable to Consultant (whether or not arising out of this Agreement): (i) any payment amount of which may be in dispute hereunder or which is necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, (ii) all amounts retained pursuant to the provisions of Section 4.8, (iii) all amounts for which City may be liable to third parties, by reason of Consultant's acts or omissions in performing or failing to perform Consultant's obligation under this Agreement, and (iv) all payments due or that become due to Consultant during the period that Consultant or any of its sub-contractors fail to maintain any required insurance in full force and effect, until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to City, as provided in Section 4.9, above. In the event that any claim is made by a third party, the amount or validity of which is disputed by Consultant, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of Consultant to insure, indemnify, and protect City as elsewhere provided herein.

6.4 Waiver.

Waiver by any Party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any Party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any Services by Consultant shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either Party of any default must be in writing, and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

6.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party

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of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

6.6 Legal Action.

In addition to any other rights or remedies, either Party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Notwithstanding any contrary provision herein, Consultant must file a statutory claim pursuant to Government Code Sections 905 et seq. and 910 et seq., in order to pursue a legal action against City under this Agreement.

6.7 Termination Prior to Expiration of Term.

This Article 6 shall govern any termination of this Agreement except as specifically provided in Section 6.2 for termination for default of Consultant. City reserves the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days' written notice to Consultant, except that where termination is due to the fault of Consultant, the period of notice may be a shorter time as may be determined by the Contract Officer. In addition, Consultant reserves the right to terminate this Agreement at any time, with or without cause, upon sixty (60) days' written notice to City, except that where termination is due to the fault of City, the period of notice may be a shorter time as Consultant may determine. Upon receipt of any notice of termination, Consultant shall immediately cease all Services hereunder except such as may be specifically approved by the Contract Officer. Except where Consultant has initiated termination, Consultant shall be entitled to compensation for all Services rendered prior to the effective date of the notice of termination and for any Services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 6.3. In the event Consultant has initiated termination, Consultant shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder. In the event of termination without cause pursuant to this Section, the terminating Party need not provide the non-terminating Party with the opportunity to cure pursuant to Section 6.2.

6.8 Attorneys' Fees.

In any litigation or other proceeding by which a Party seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing Party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorneys' fees. Attorneys' fees shall include attorney's fees on any appeal, and in addition the Party entitled to attorneys' fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

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ARTICLE 7. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

7.1 Non-liability of City Officers and Employees.

No officer or employee of City shall be personally liable to Consultant, or Consultant's Successor, in the event of any default or breach by City or for any amount which may become due to Consultant or Consultant's Successor, or for breach of any obligation of the terms of this Agreement.

7.2 Conflict of Interest.

Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of Services under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or sub-contractor without the express written consent of the Contract Officer. Consultant agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

No officer or employee of City shall have any direct or indirect financial interest in this Agreement within the scope of Government Code section 1090, nor shall any such officer or employee make, participate in making, or use his or her official position to influence, any City decision relating to the Agreement which has a material financial effect on his or her financial interests or the financial interests of any corporation, partnership or association in which he or she is, directly or indirectly, interested, in violation of any State statute or regulation. Consultant warrants that it has not paid or given, and will not pay or give any third party any money or other consideration for obtaining this Agreement.

Consultant and its officers, employees, associates and sub-contractors, if any, shall comply with all conflict of interest statutes of the State of California applicable to Consultant's Services under this Agreement, including the Political Reform Act (Gov. Code § 81000, et seq.) and Government Code Section 1090. During the term of this Agreement, Consultant may perform similar services for other clients; but Consultant and its officers, employees, associates and sub-contractors shall not, without the Contract Officer's prior written approval, perform services for another person or entity for whom Consultant is not currently performing services that would require Consultant or one of its officers, employees, associates or sub-contractors to abstain from a decision under this Agreement pursuant to a conflict of interest statute. Consultant shall incorporate a clause substantially similar to this Section into any subcontract that Consultant executes in connection with the performance of this Agreement.

7.3 Covenant Against Discrimination.

Consultant covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, or ancestry in the performance of this Agreement. Consultant shall take affirmative action to insure that applicants are employed, and that employees

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are treated during employment, without regard to their race, color, creed, religion, sex, marital status, national origin, or ancestry, or other protected class.

7.4 Unauthorized Aliens.

Consultant hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such unauthorized aliens for the performance of Services covered by this Agreement, and should the any liability or sanctions be imposed against City for such use of unauthorized aliens, Consultant hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

ARTICLE 8. MISCELLANEOUS PROVISIONS

8.1 Notices.

Any notice, demand, request, document, consent, approval, bill, invoice, report or other communication required or permitted under this Agreement shall be in writing and conclusively deemed effective: (a) on confirmed delivery by courier service or overnight delivery service during Consultant's and City's regular business hours; or (b) three (3) Business Days after deposit in the United States mail, by certified or registered mail, and addressed to the Party to be notified as set forth below:

If to City	Attn: Adam Rush Community Development Director City of Banning 99 East Ramsey Street Banning, California 92220 Email: arush@banningca.gov
With a courtesy copy to:	Serita R. Young, City Attorney Richards, Watson & Gershon 350 South Grand Avenue, 37th Floor Los Angeles, California 90071 Email: SYoung@rwglaw.com
If to Consultant:	Attn: Fernando Aragon President Aragon Geotechnical, Inc. 16801 Van Buren Blvd, Bldg. B Riverside, CA 92504 Email: fernando@aragongeo.com

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8.2 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either Party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

8.3 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

8.4 Integration; Amendment.

This Agreement, and all exhibits referred to in this Agreement, constitute the final, complete and exclusive statement of the terms of the agreement between the Parties pertaining to the subject matter of this Agreement and supersede all other and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the Parties, and none shall be used to interpret this Agreement. No Party has been induced to enter into this Agreement by, nor is any Party relying on, any representation or warranty except those expressly set forth in this Agreement. No amendment to or modification of this Agreement, nor any provision or breach hereof waived, shall be valid unless made in writing and approved by Consultant and by City Council. The Parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

8.5 Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the Parties hereunder unless the invalid provision is so material that its invalidity deprives either Party of the basic benefit of their bargain or renders this Agreement meaningless.

8.6 Mutual Cooperation.

A. City's Cooperation. City shall provide Consultant with all pertinent data, documents and other requested information as is reasonably available for Consultant's proper performance of the Services required under this Agreement.

B. Consultant's Cooperation. In the event any claim or action is brought against City relating to Consultant's performance of Services rendered under this Agreement, Consultant shall render any reasonable assistance that City requires.

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8.7 No Third Party Beneficiaries Intended.

This Agreement is made solely for the benefit of the Parties to this Agreement and their respective successors and assigns, and no other person or entity may have or acquire a right by virtue of this Agreement.

8.8 Final Payment Acceptance Constitutes Release.

The acceptance by Consultant of the final payment made under this Agreement shall operate as and be a release of City from all claims and liabilities for compensation to Consultant for anything done, furnished or relating to Consultant's Services. Acceptance of payment shall be any negotiation of City's check or the failure to make a written extra compensation claim within ten (10) calendar days of the receipt of that check. However, approval or payment by City shall not constitute, nor be deemed, a release of the responsibility and liability of Consultant, its employees, sub-contractors and agents for the accuracy and competency of the information provided and/or Services performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by City for any defect or error in the Services prepared by Consultant, its employees, sub-contractors and agents.

8.9 Non-Appropriation of Funds.

Payments to be made to Consultant by City for Services performed within the current fiscal year which are within the current fiscal budget and within an available, unexhausted fund. In the event that City does not appropriate sufficient funds for payment of Consultant's Services beyond the current fiscal year, this Agreement shall cover payment for Consultant's Services only to the conclusion of the last fiscal year in which City appropriates sufficient funds and shall automatically terminate at the conclusion of such fiscal year.

8.10 Headings.

The headings in this Agreement are included solely for convenience of reference and shall not affect the interpretation of any provision of this Agreement or any of the rights or obligations of the Parties to this Agreement.

8.11 Word Usage.

Unless the context clearly requires otherwise, (a) the words "shall," "will" and "agrees" are mandatory and "may" is permissive; (b) "or" is not exclusive; and (c) "includes" or "including" are not limiting.

8.12 Business Days.

"Business Days" refers to days that the Banning City Hall is open for business.

8.13 Corporate Authority.

The persons executing this Agreement on behalf of the Parties hereto warrant that (i): such Party is duly organized and existing, (ii) they are duly authorized to execute and deliver

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this Agreement on behalf of that Party, (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which that Party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the Parties.

8.14 Electronic Signatures.

Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Agreement and such other documents transmitted by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

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IN WITNESS WHEREOF the Parties hereto have executed this Agreement the day and year first hereinabove written.

CITY OF BANNING

3/6/2024

Douglas Schulze, Date
City Manager

ATTEST:

3/6/2024

Caroline Patton Date
Administrative City Clerk

CONSULTANT

Fernando Aragon 3/6/2024

NAME: Fernando Aragon Date
TITLE: President

NAME: Date
TITLE:

88

Tax ID No.

Address:
16801 Van Buren Blvd, Bldg. B
Riverside, CA 92504

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

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EXHIBIT "A"
SCOPE OF SERVICES

I. Consultant will perform the following Services in connection with providing an Annual Surface Mining Inspection prepared in connection therewith.

II. As part of the Services, Consultant shall complete the following tasks:

A. Prepare and deliver the following tangible work products and services to City:

(i) Perform both general and special inspections, in accordance with Section 1 of the 2002 SMBG Surface Mine Inspection Guide (2002 Guide), which includes, but is not limited to, the review of the financial assurance cost estimate of bond calculation approvals and review of the reclamation plan and conditions of approval.

(ii) Perform general and special mine inspections in accordance with Section 2 of the 2002 Guide.

(iii) Prepare an inspection report on form MRRC-1, including all recent amendments and revisions and in compliance with Section 3 of the 2002 Guide.

B. Provide the following services in support of the tasks enumerated in Section A:

1. Serve as project manager of the inspection process to ensure that the required inspection(s) and submission of all required communications and reports are completed and submitted to City prior to December 1st of the inspection year.

2. Conduct the City's annual inspection as required by the Banning Municipal Code and SMARA, which shall review, analyze, and evaluate whether the surface mining operation is in compliance with the (1) approved site and/or reclamation plan, (2) approved financial assurances, and (3) state regulations.

3. Ensure all inspection(s) are made by a professional geologist or geotechnical engineer who retains all appropriate licenses and certifications and holds experience in land reclamation and surface mining activities.

4. Ensure the Consultant and their employees, contractors, or affiliates are not, and have not been, employed by the mining operation in any capacity during the previous twelve (12) months.

5. Conduct all inspection(s) using a form approved and provided by the Division of Mine Reclamation Department of Conservation, as amended and revised.

6. Prepare a comprehensive report ("Report"), addressed to the attention of the City's Community Development Director or his/her designee, that summarizes the annual inspection. This report shall incorporate all relevant findings, supported by technical analysis, field notes, and site photographs as necessary

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to support the findings provided. The Consultant is responsible for preparing all applicable forms required under SMARA and the Department of Conservation, inclusive of all amendments thereto to the City in written form on compliance issues, and prepare a written report for the City Council and the Planning Commission and submittal to the State.

7. Attend a total of four (4) meetings with staff and City stakeholders, as needed.

8. Attend at-least one (1) Planning Commission meeting for presentation of report.

9. Submit the inspection report to the Department of Conservation (the "DOC") on behalf of the City and provide the City with documentation that the report has been submitted and received by the DOC.

C. Incorporate the following project performance milestones in support of the tasks enumerated in Section A:

1. Conduct at-least one (1) comprehensive surface mine inspection on or prior to December 31, 2020. The Consultant shall be responsible for organizing all logistics necessary to conduct this inspection. The Consultant shall communicate to the Community Development Department, and all parties involved, the anticipated time, date, and location in which the inspection will occur. The Community Development Department can provide organizational support and guidance in order to complete this task.

2. No less than ninety (90) days from the completion of the annual surface mine inspection, the Consultant shall submit a complete Screencheck Draft of the Annual Mine Inspection Report to the City for review and comment. The report must be electronically submitted to the City in both Microsoft Word and Adobe PDF formats. Hard copies of the report shall be provided only upon the City's request and shall be furnished within forty-eight (48) hours of the Consultant's receipt of this request.

3. Upon receipt of the City's redline comments and review recommendations, the Consultant shall incorporate all of the City's comments or provide a written response providing justification for comments not included within the Screencheck Draft report.

4. The Consultant shall resubmit the corrected report, as a Final Administrative Draft, no less than thirty (30) days from the date Consultant received the City's comments and redlines. A time extension on this deadline shall not be permitted without the express, written justification provided by the City.

5. Consultant shall respond within 24 hours to all communication inquiries, including, but not limited to, voicemails, emails, or other common and acceptable forms of communication.

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III. In addition to the requirements of Parts I and II of this Scope of Services, during the performance of the Services, Consultant will keep City appraised through periodic status reports regarding the performance of the Services under this Agreement as set forth below and in Section 5.2, by the following means:

a. In-person meetings and/or teleconferences.

b. Email updates/questions to applicant team and City while reviews are underway.

c. Conference calls.

IV. All work product is subject to review and acceptance by City. If the City determines that any work product is unacceptable, for any reason, it must be revised by Consultant without additional charge to City until found satisfactory and accepted by City.

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EXHIBIT "B"
SPECIAL REQUIREMENTS

TERMS FOR COMPLIANCE WITH CALIFORNIA LABOR LAW REQUIREMENTS

1. This Agreement calls for services that, in whole or in part, constitute "public works" as defined in Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code ("Chapter 1"). Further, Consultant acknowledges that this Agreement is subject to (a) Chapter 1 and (b) the rules and regulations established by the Department of Industrial Relations ("DIR") implementing such statutes. Therefore, as to those Services that are "public works," Consultant shall comply with and be bound by all the terms, rules and regulations described in 1(a) and 1(b) as though set forth in full herein.

2. California law requires the inclusion of specific Labor Code provisions in certain contracts. The inclusion of such specific provisions below, whether or not required by California law, does not alter the meaning or scope of Section 1 above.

3. Consultant shall be registered with the Department of Industrial Relations in accordance with California Labor Code Section 1725.5, and has provided proof of registration to City prior to the Effective Date of this Agreement. Consultant shall not perform work with any subcontractor that is not registered with DIR pursuant to Section 1725.5. Consultant and subcontractors shall maintain their registration with the DIR in effect throughout the duration of this Agreement. If the Consultant or any subcontractor ceases to be registered with DIR at any time during the duration of the project, Consultant shall immediately notify City.

4. Pursuant to Labor Code Section 1771.4, Consultant's Services are subject to compliance monitoring and enforcement by DIR. Consultant shall post job site notices, as prescribed by DIR regulations.

5. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file at City Hall and will be made available to any interested party on request. Consultant acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and Consultant shall post such rates at each job site covered by this Agreement.

6. Consultant shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. The Consultant shall, as a penalty to City, forfeit $200.00 for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the DIR for the work or craft in which the worker is employed for any public work done pursuant to this Agreement by Consultant or by any subcontractor.

7. Consultant shall comply with and be bound by the provisions of Labor Code Section 1776, which requires Consultant and each subcontractor to: keep accurate payroll records and verify such records in writing under penalty of perjury, as specified in Section 1776; certify and make such payroll records available for inspection as provided by Section 1776; and inform City of the location of the records.

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8. Consultant shall comply with and be bound by the provisions of Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code Title 8, Section 200 et seq. concerning the employment of apprentices on public works projects. Consultant shall be responsible for compliance with these aforementioned Sections for all apprenticeable occupations. Prior to commencing work under this Agreement, Consultant shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within 60 days after concluding work pursuant to this Agreement, Consultant and each of its subcontractors shall submit to City a verified statement of the journeyman and apprentice hours performed under this Agreement.

9. The Consultant shall not perform Work with any Subcontractor that has been debarred or suspended pursuant to California Labor Code Section 1777.1 or any other federal or state law providing for the debarment of contractors from public works. The Consultant and Subcontractors shall not be debarred or suspended throughout the duration of this Agreement pursuant to Labor Code Section 1777.1 or any other federal or state law providing for the debarment of contractors from public works. If the Consultant or any subcontractor becomes debarred or suspended during the duration of the project, the Consultant shall immediately notify City.

10. Consultant acknowledges that eight hours labor constitutes a legal day's work. Consultant shall comply with and be bound by Labor Code Section 1810. Consultant shall comply with and be bound by the provisions of Labor Code Section 1813 concerning penalties for workers who work excess hours. The Consultant shall, as a penalty to City, forfeit $25.00 for each worker employed in the performance of this Agreement by the Consultant or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code section 1815, work performed by employees of Consultant in excess of eight hours per day, and 40 hours during any one week shall be permitted upon public work upon compensation for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay.

11. California Labor Code Sections 1860 and 3700 provide that every employer will be required to secure the payment of compensation to its employees. In accordance with the provisions of California Labor Code Section 1861, Consultant hereby certifies as follows:

> "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."
>
> **Date_____ Signature_____**

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12. For every subcontractor who will perform work on the project, Consultant shall be responsible for such subcontractor's compliance with Chapter 1 and Labor Code Sections 1860 and 3700, and Consultant shall include in the written contract between it and each subcontractor a copy of those statutory provisions and a requirement that each subcontractor shall comply with those statutory provisions. Consultant shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractor's compliance, including, without limitation, conducting a periodic review of the certified payroll records of the subcontractor and upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages. Consultant shall diligently take corrective action to halt or rectify any failure.

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EXHIBIT "C"
SCHEDULE OF COMPENSATION

I. Consultant shall perform the following tasks ("Tasks") at the following rates:

TASK	DESCRIPTION	SUB-BUDGET
	Annual Surface Mining Inspection	
1.	**Data Acquisition, Field Inspection & Operator Meeting**	**$2,362.50**
2.	**Report & Exhibits Preparation/Office Support**	**$3,180.00**
	Meeting Budget PER ANNUM (not pre-inspection)	**$540.00**
	TOTAL (1 year)	**$6,082.50**

II. Within the budgeted amounts for each Task, and with the approval of the Contract Officer, funds may be shifted from one Task sub-budget to another so long as the Contract Sum is not exceeded per Section 2.1, unless Additional Services are approved per Section 1.8.

III. City will compensate Consultant for the Services performed upon submission of a valid invoice. Each invoice is to include:

A. Line items for all personnel describing the Services performed, the number of hours worked, and the hourly rate.

B. Line items for all materials and equipment properly charged to the Services.

C. Line items for all other approved reimbursable expenses claimed, with supporting documentation.

D. Line items for all approved sub-contractor labor, supplies, equipment, materials, and travel properly charged to the Services.

IV. Consultant's billing rates for all personnel are attached as Exhibit C-1, with the exception of the Meeting Budget PER ANNUM costs which is superseded by the above-referenced amount.

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EXHIBIT "C-1"
CONSULTANT'S BILLING RATE AND TASK SCHEDULE

FEE EXHIBIT
ANNUAL SURFACE MINE INSPECTIONS
CALENDAR YEAR 2020 WITH 4-YEAR RENEWAL OPTION
BANNING QUARRY

Field Services, Per Annum			Unit Costs (per pay grade)
(1)	Data Acquisition, Field Inspection & Operator Meeting		
	(a)	Pre-inspection operators records requests, Sr. Geologist 4 hrs. @ $135/hr.	$540.00
	(b)	Pre-inspection meeting with Banning CDD, Sr. Geologist 4 hrs. @ $135/hr	540.00
	(c)	Aerial image interpretation & file update, Sr. Geologist 2.0 hrs. @ $135/hr	270.00
	(d)	Travel, R/T to mine, Sr. Geologist 1.5 hrs. @ $135/hr	202.50
	(e)	Site inspection, Sr. Geologist 6 hrs. @ $135/hr	810.00
		Field Total	**$2,362.50**
(2)	Report & Exhibits Preparation, Office Support		
	(a)	Prior-year Inspection Report Reviews, Sr. Geologist 2.0 hrs. @ $135/hr	$270.00
	(b)	Operator annual FACE review, Sr. Geologist 4.0 hrs. @ $135/hr	540.00
	(c)	Report preparation, Sr. Geologist 12 hrs. @ $135/hr	$1,620.00
	(d)	Photo exhibits & site plan, Draftsman 4 hrs.@ $75/hr.)	300.00
	(e)	Geotechnical Assistant 4 hrs. @ $45/hr.	180.00
	(f)	Report reproduction, copies, supplies	270.00
		Office Subtotal	**$3,180.00**
		****AGI Inspection Cost PER ANNUM, Base year**	**$5,542.50**
		Meeting Budget PER ANNUM [not pre-inspection per 1(b) above]	**$1,620.00**
		Requested 4-Year Contract Renewal	**x 5**
		*****5-Year Total Inspection + Meeting Costs**	**$35,812.50**

**** Based on 2019 report model with required updated photographic exhibits, operations information, and revised Form MRRC-1. Lead Agency officials should be advised that the new MRRC-1 specifically requests information outside of AGI geotechnical or geologic expertise. Professionals in other technical disciplines may need to be consulted. We will fill out the form as completely as possible under revised DMR guidelines and with the noted limitations. The listed annual inspection cost may be used by the City in determining deposit amounts to be recovered from the mine operator.**

***** Per RFP, but with allowed annual cost escalators to be negotiated.**

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EXHIBIT "D"
SCHEDULE OF PERFORMANCE

I. Consultant shall perform all Services timely, and deliver the specified tangible work products to City in accordance with the schedule attached as Exhibit D-1.

II. The Contract Officer may approve extensions for performance of the Services in accordance with Sections 1.8 and 3.3.