

**AGENDA
REGULAR MEETING
CITY OF BANNING
BANNING, CALIFORNIA**

April 8, 2014
5:00 p.m.

Banning Civic Center
Council Chambers
99 E. Ramsey St.

Per City Council Resolution No. 2010-38 matters taken up by the Council before 9:00 p.m. may be concluded, but no new matters shall be taken up after 9:00 p.m. except upon a unanimous vote of the council members present and voting, but such extension shall only be valid for one hour and each hour thereafter shall require a renewed action for the meeting to continue.

I. CALL TO ORDER

- Invocation – Rev. Dave Horning, Banning United Methodist Church
- Pledge of Allegiance
- Roll Call – Councilmembers Miller, Peterson, Welch, Westholder, Mayor Franklin

II. REPORT ON CLOSED SESSION

III. PUBLIC COMMENTS/CORRESPONDENCE/PRESENTATIONS

PUBLIC COMMENTS – On Items Not on the Agenda

A five-minute limitation shall apply to each member of the public who wishes to address the Mayor and Council on a matter not on the agenda. No member of the public shall be permitted to “share” his/her five minutes with any other member of the public. (Usually, any items received under this heading are referred to staff for future study, research, and appropriate Council Action.) See last page. PLEASE STATE YOUR NAME AND ADDRESS FOR THE RECORD.

CORRESPONDENCE: Items received under the category may be received and filed or referred to staff for future research or a future agenda.

PRESENTATIONS

1. Proclamation – National Library Week 1

*The City of Banning promotes and supports a high quality of life that ensures a safe
and friendly environment, fosters new opportunities and provides responsive,
fair treatment to all and is the pride of its citizens*

VI. CONSENT ITEMS

(The following items have been recommended for approval and will be acted upon simultaneously, unless a member of the City Council wishes to remove an item for separate consideration.)

Motion: That the City Council approve Consent Item 1 through 5

Items to be pulled _____, _____, _____, _____ for discussion.

(Resolutions require a recorded majority vote of the total membership of the City Council)

1. Approval of Minutes – Special Meeting – 03/05/14 *(Closed Session)* 2
2. Approval of Minutes – Special Meeting – 03/19/14 *(Closed Session)* 3
3. Approval of Minutes – Special Meeting – 03/25/14 *(Closed Session)* 4
4. Approval of Minutes – Regular Meeting – 03/25/14 6
5. Accept Notice of Completion for Project 2013-03 EL, Downtown
Underground Project – Phase 2 39

- **Open for Public Comments**
- **Make Motion**

V. PUBLIC HEARINGS

(The Mayor will ask for the staff report from the appropriate staff member. The City Council will comment, if necessary on the item. The Mayor will open the public hearing for comments from the public. The Mayor will close the public hearing. The matter will then be discussed by members of the City Council prior to taking action on the item.)

1. Appeal of Planning Commission Action – Conditional Use Permit
(CUP) #13-8005/Design Review (DR) #13-7003; Proposed 24-Unit
Airport Industrial Live/Work Lofts; APN 541-290-013.
Staff Report 43
Recommendations: That the City Council hear the appeal, take public
testimony, and then takes the following actions: **Adopt Resolution No.
2014-22 adopting a Mitigated Negative Declaration in compliance with
California Environmental Quality Act (CEQA) Guidelines along with a
Mitigation Monitoring and Reporting Program; and approve Conditional
Use Permit #13-8005, and Design Review #13-7003. .**

VI. REPORTS OF OFFICERS

1. Termination of Lease Agreement with Alliance for Youth
Employment Skills (AYES) for Utilization of Dysart Park.
Staff Report 179
Recommendation: **Provide direction to staff regarding the Lease
Agreement with Alliance for Youth Employment Skills (AYES). If
Council desires to terminate the lease, then authorize the City Manager
to send letter to that effect to AYES.**

2. Contract for Interim City Manager
Staff Report 207 ~ A
Recommendation: **That the City Council authorize the City Attorney to sign the Staffing Services Agreement, including Exhibit “A” (“Agreement”), with MuniTemps/Municipal Staffing Solutions (“MuniTemps”) to provide the Interim City Manager services of Homer Croy.**

VII. ANNOUNCEMENTS/REPORTS *(Upcoming Events/Other Items if any)*

- City Council
- City Committee Reports
- Report by City Attorney
- Report by City Manager

VIII. ITEMS FOR FUTURE AGENDAS

New Items – None

Pending Items

1. Schedule Meetings with Our State and County Elected Officials
2. Discussion on how to handle loans or distributions to charities.
3. Discussion on how the City Council handles donations to the City.

IX. ADJOURNMENT

Pursuant to amended Government Code Section 54957.5(b) staff reports and other public records related to open session agenda items are available at City Hall, 99 E. Ramsey St., at the office of the City Clerk during regular business hours, Monday through Thursday, 7 a.m. to 5 p.m.

NOTICE: Any member of the public may address this meeting of the Mayor and Council on any item appearing on the agenda by approaching the microphone in the Council Chambers and asking to be recognized, either before the item about which the member desires to speak is called, or at any time during consideration of the item. A five-minute limitation shall apply to each member of the public, unless such time is extended by the Mayor. No member of the public shall be permitted to “share” his/her five minutes with any other member of the public.

Any member of the public may address this meeting of the Mayor and Council on any item which does not appear on the agenda, but is of interest to the general public and is an item upon which the Mayor and Council may act. A five-minute limitation shall apply to each member of the public, unless such time is extended by the Mayor. No member of the public shall be permitted to “share” his/her five minutes with any other member of the public. The Mayor and Council will in most instances refer items of discussion which do not appear on the agenda to staff for appropriate action or direct that the item be placed on a future agenda of the Mayor and Council. However, no other action shall be taken, nor discussion held by the Mayor and 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 Section 54954.2 of the Government Code.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office (951) 922-3102. **Notification 48 hours prior to the meeting** will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.02-35.104 ADA Title II]



PROCLAMATION

WHEREAS, libraries enable individuals to make informed decisions about their self-governance by promoting unrestricted access to information and by serving as community centers for lifelong learning; and

WHEREAS, in a world undergoing constant change, libraries provide enduring connections to the past and future of our communities, nations and civilizations; and

WHEREAS, the expansion of electronic networks linking libraries and their resources makes possible better and more easily accessible information for library users around the world; and

WHEREAS, libraries provide entry to important research about health, economics, housing, the environment and countless other areas to support better living conditions and to help people lead longer, more productive and fulfilling lives; and

WHEREAS, libraries support a competitive workforce with basic literacy programs, computers and other resources to help children and adults learn to find, evaluate and use information they need for their jobs, health, education and other needs; and

WHEREAS, many libraries offer pre-school story times and summer reading programs to encourage children to begin a habit of reading that will serve to benefit their personal and professional lives.

NOW THEREFORE, I, Deborah Franklin, Mayor of the City of Banning, along with the City Council, do hereby proclaim the week of April 13-19, 2014 as "NATIONAL LIBRARY WEEK" in Banning and urge everyone to visit the library and thank a librarian for making this unique and wonderful institution possible.

IN WITNESS WHEREOF, I have set my hand and caused the seal of the City of Banning, California to be affixed this 8th day of April, 2014.

ATTEST:

Marie A. Calderon, City Clerk

Deborah Franklin, Mayor



MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

3/05/14
SPECIAL MEETING

A special meeting of the Banning City Council was called to order by Mayor Franklin on March 5, 2014 at 5:00 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT: Councilmember Miller
Councilmember Peterson
Councilmember Welch
Councilmember Westholder
Mayor Franklin

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: June Overholt, Interim City Manager/Administrative Services Dir.
David J. Aleshire, City Attorney
Colin Tanner, Attorney – Aleshire & Wynder, LLC
Marie A. Calderon, City Clerk

CLOSED SESSION

Closed session items are in regards to personnel matter pursuant to Government Code Section 54957; as follows: Public Employee Discipline/Dismissal: Position of City Manager; and Public Employment: Position of Interim City Manager; and Anticipated litigation pursuant to Government Code Section 54956.9 as follows: Conference with legal counsel - Anticipated litigation pursuant to 54956.9(d)(2)(4) and (e)(5).

Mayor Franklin opened the closed session items for public comments; there was none. Meeting went into closed session at 5:02 p.m. and reconvened at 6:43 p.m.

City Attorney reported that the Council met in closed session to discuss public employment discipline/dismissal for the City Manager position, also the Interim City, and conference with anticipated litigation. A status report and there was no report action taken on any of those matters.

ADJOURNMENT

By common consent the meeting adjourned at 6:44 p.m.

Marie A. Calderon, City Clerk

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MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

3/19/14
SPECIAL MEETING

A special meeting of the Banning City Council was called to order by Mayor Franklin on March 19, 2014 at 5:04 p.m. at the Banning Civic Center Large Conference, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT: Councilmember Miller
Councilmember Peterson
Councilmember Welch
Councilmember Westholder
Mayor Franklin

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: June Overholt, Interim City Manager/Administrative Services Dir.
David J. Aleshire, City Attorney
Colin Tanner, Attorney – Aleshire & Wynder, LLC
Marie A. Calderon, City Clerk

CLOSED SESSION

Closed session items are in regards to personnel matter pursuant to Government Code Section 54957; as follows: Public Employee Discipline/Dismissal: Position of City Manager; and Public Employment: Position of Interim City Manager; and Anticipated litigation pursuant to Government Code Section 54956.9 as follows: Conference with legal counsel - Anticipated litigation pursuant to 54956.9(d)(2)(4) and (e)(5).

Mayor Franklin opened the item for public comment; there was no public in attendance. Meeting went into closed session at 5:04 p.m. and reconvened at 6:53 p.m.

City Attorney reported that the City Council met in closed session and considered the matter of the public employee discipline position of City Manager and with regards to that there was no reportable action taken. With regard to the position of Interim City Manager a status report was given and there was no reportable action taken. In regards to anticipated litigation there was no reportable action taken.

ADJOURNMENT

By common consent the meeting adjourned at 6:56 p.m.

Marie A. Calderon, City Clerk

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

3/25/14
SPECIAL MEETING

A special meeting of the Banning City Council was called to order by Mayor Pro Tem Welch on March 25, 2014 at 3:04 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT: Councilmember Miller
Councilmember Peterson
Councilmember Welch
Councilmember Westholder
Mayor Franklin

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: June Overholt, Interim City Manager/Administrative Services Dir.
David J. Aleshire, City Attorney
Marie A. Calderon, City Clerk

CLOSED SESSION

City Attorney said the items on the closed session agenda are two cases of potential litigation pursuant to Government Code Section 54956.9 (d)(4); personnel matter pursuant to Government Code Section 54957: Public Employee Discipline/Dismissal: Position of City Manager; anticipated litigation pursuant to Government Code Section 54956.9 as follows: Conference with legal counsel – Anticipated litigation pursuant to 54956.9(d)(2)(4) and (e)(5); personnel matter pursuant to Government Code Section 54957: Status of MRAP Investigation; real property Negotiations pursuant to Government Code Section 54956.8 to confer with its real property negotiator in regards to: (a) APN's 532-130-001; 532-130-002; 532-110-006, (b) Parcels behind the City Yard APN's: 541-260-030, 541-260-031, 541-260-040, 541-260-043, 541-260-045 (215 E. Barbour St.), (c) Fire Museum – 5261 W. Wilson (APN: 408-134-009) (b) Village at Paseo San Gorgonio (APN: 541-181-009 thru 012, 541-181-024 thru 028, 541-183-001 thru 004 and vacated rights-of-way as depicted on Tentative Parcel Map No. 36285 and in those matters they will give a status of the negotiations; and existing litigation pursuant to the provisions of paragraph (d) (1) of Section 54956.9: Stephen J. Mascaro, et.al. v. Banning Heights Mutual Water Company, et al. (San Bernardino County Superior Court Case No. CIVDS 1104447. City Attorney said that in regards to the litigation matters and personnel matters they will give a status report.

Mayor Franklin opened the closed session items for public comments and seeing no one in the audience she closed the public comments.

City Attorney said in regards to the position of the City Manager they did give him 24-hour's notice and they have not received a request that it be an open matter.

Meeting went into closed session at 3:06 p.m. and reconvened at 4:56 p.m.

ADJOURNMENT

By common consent the meeting adjourned at 4:56 p.m.

Marie A. Calderon, City Clerk

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

3/25/2014
REGULAR MEETING

A regular meeting of the Banning City Council and a joint meeting of the City Council and the Banning Utility Authority and the City Council Sitting in Its Capacity of a Successor Agency was called to order by Mayor Franklin on March 25, 2014 at 5:06 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT: Councilmember Miller
Councilmember Peterson
Councilmember Welch
Councilmember Westholder
Mayor Franklin

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: June Overholt, Interim City Manager/Administrative Services Dir.
David J. Aleshire, City Attorney
Duane Burk, Public Works Director
Bill Manis, Economic Development Director
Zai Abu Bakar, Community Development Director
Ron Espalin, Building Official
Heidi Meraz, Community Services Director
Fred Mason, Electric Utility Director
Alex Diaz, Acting Chief of Police
Tim Chavez, Battalion Chief
Michelle Green, Deputy Finance Director
Marie A. Calderon, City Clerk

The invocation was given by Pastor Tate Crenshaw, Life Point Church. Councilmember Westholder led the audience in the Pledge of Allegiance to the Flag.

REPORT ON CLOSED SESSION

City Attorney said that the Council discussed one matter of potential litigation and there was no reportable action taken. In terms of anticipated litigation one item was discussed and no reportable action taken. With regard to the personnel matter involving the MRAP investigation a status report was given and there was no reportable action taken. In regards to real property matters the item involving Assessor Parcel Numbers 532-130-001; 532-130-002; 532-110-006 that item was not discussed; concerning the property behind the City Yard that was not discussed; concerning the Fire Museum property there was discussion and no reportable action was taken; and with regards to the Village at Paseo San Gorgonio property that matter was not discussed. In regards to the existing litigation with Mascaro that item was not discussed. The personnel matter involving public employee discipline/dismissal position of City Manager that item was discussed and he said he had a statement to read concerning the action that was taken

in closed session as follows: "On January 14, 2014 the City Council as a part of an evaluation process of City Manager Andy Takata determined to accept his proposed resignation in exchange for paying the severance payment stated in his contract and put him on administrative leave while instructing the City Attorney and an ad hoc Council committee to negotiate the details of a written severance agreement and release with the City Manager. A draft severance agreement was developed providing the severance payment of \$275,951.67 which was 14 months of salary in accordance with the City Manager's contract entered into on January 12, 2010. Mr Takata signed the severance agreement on February 20, 2014 but had the legal right to revoke the agreement in 7 days of its execution. Mr Takata did so revoke the severance agreement in writing on February 26, 2014. Since then he has remained on paid administrative leave while the City Council weighed its options. The City Council tonight considered further Mr Takata's performance and decided to terminate his contract effective March 25, 2014 without payment of any severance. Through Mr Takata's attorney, Mr Brad Gage, Mr Takata requested that the Council defer considering the matter for 30 days. The City Council has lost confidence in Mr Takata's management and was unwilling to defer this decision further as requested. The decision of the Council was unanimous upon a motion made by Councilmember Westholder seconded by Councilmember Miller. While in recent months there have been reports in the media concerning various matters that have not reflected well on the City or the City Manager, the City Council has no desire to try its issues with Mr Takata in the court of public opinion. Mr Takata has a long career of public service and though litigation may result over this decision, the Council would wish that he can go forward with as little disruption to his career as possible. Accordingly, Councilmembers will not individually comment on this matter to the media."

PUBLIC COMMENTS/CORRESPONSE/PRESENTATIONS

PUBLIC COMMENTS – *On Items Not on the Agenda*

Inge Schuler addressed the Council stating that on Thursday night the 27th of March at 7:00 p.m. at the Grange in Cherry Valley, Marion Ashley is going to be the speaker for the CVAN (Cherry Valley Acres and Neighbors) regular meeting. She is sure that the Gateway Center will be coming up for questions and answers so anyone who is interested in that project should probably try to attend that meeting.

Marion Johnson addressed the Council stating that she was speaking for the Anthropol Women's Club. This club has been in action in the Banning area for more than 40 years. They are doing their annual fundraiser brunch and the main focus is on the education of our youth and raising scholarships. This brunch will be held at the Banning Community Center on April 19, 2014 at 11:30 a.m. The speaker this year will be Dr. Linda L. Smith who is a dynamic inspirational speaker and her focus is on small businesses and as CEO and founder of Four-D College, the first and only African American owned and operated vocational college in the state of California, she is well versed on business topics. Mrs. Johnson encouraged everyone to attend.

Susan Savolainen resident of Banning addressed the Council stating that she is not on the Earth Day Committee but she has not seen a lot of publicity about the Earth Day event that is coming up on April 12th at the Gilman Historic Ranch and Wagon Museum. There will be guest

speakers at 10:00 and 11:30 a.m., and at 1:00 p.m. The Earth Day event hours are from 9 a.m. to 3 p.m. and there is a small charge for adults \$3.00, kids \$2.00 and dogs on a leash \$1.00. She printed out some flyers and if anybody knows of a community event and they are not seeing publicized, consider yourself a publicity agent and let people know because if we let folks know about things going on in our community both at home and where we work, and if we go out of town bringing folks to Banning is only a good thing for the community as far as revenues and people may come here and they might spend money, might decide to relocate to Banning; all kinds of good things could happen. She left a flyer with the Clerk and left some on the back table for anyone who might be interested.

Fred Sakurai addressed the Council stating that he noted the Council had a nice long secret session this evening prior to the City Council meeting and as per normal "no reportable action". It looks like the only thing to note was again in regards to Andy Takata and more will come of that at a later session he is sure. Also it looks like they will have to wait until Friday until the Record Gazette gets some additional information on what actually constituted "no reportable action". Isn't there some way that at least the people that take the time to come to the Council meetings to at least get as much as can be released to the Record Gazette, can we get that right here in the Council Chambers or should we wait until Friday again. Regarding the Fire Memories Museum he doesn't know what the issue is about trying to take it back when they have done a terrific job of publicizing their old restored equipment, getting younger children involved in a career in the fire department and just publicizing Banning in general. And now he guesses that the puppet master wants that property for no reason other than to ruin anything good about Banning. Can we keep that museum there permanently and not respond to any puppet guide that is going to pull strings and change things around.

Jon Christian representing the Fire Memories Museum addressed the Council stating that they have been located for about two and a half years at the old Fire Station 2. They have had a steady growth and increase of visitors each month and each year. They currently have 200 to 300 people visiting the museum each month. Over the past 30 days 36% of their visitors have been from out of town. These people obviously would be spending money here in Banning at the businesses such as gas stations, restaurants, and retail stores. These numbers do not include the museum's outreach to the schools, charity events, community events and so on. They are very active in the community and spreading the word about Banning. They are the source for fire education for local children either with the children visiting the museum or the museum going out to the schools. They do appreciate the museum being allowed to use the fire station and they are trying to provide a great image and a great location for people to visit Banning and a reason to visit Banning.

CORRESPONDENCE – None at this time.

PRESENTATIONS

1. Introduction of New Employee – Police Assistant II

Interim City Manager introduced Angie Lam, new Police Assistant II and read her biography as follows: "I was born in Vietnam and raised by my grandmother until the age 3. During the Vietnam War, while my dad was flying in the war, my mother, brother, sister and I left for the

United States with just the clothes on our back. In 1985, my family and I proudly became US Citizens. I received my high school diploma from Saugus High in 1988, an AS degree in Math/ Science in 1994, and a Bachelor of Arts in 1997. I have worked for the Redlands Police Department, the Superior Courts of Riverside County and the Superior Courts of San Bernardino. After saving my money for a very long time, I finally reached one of my goals of owning a home with the help of my parents. I purchased my first home in Beaumont in 2009. My hobbies include eating, watching TV, going to the movies, collecting Coca Cola memorabilia, going to sporting events, and hanging out with my friends.” Interim City Manager thanked Angie for being here tonight and for joining our team here at the City of Banning.

2. Proclamation – National Donate Life Month

Mayor Franklin asked if anyone was present to receive the proclamation and seeing no one come forward she said this is Donate Life Month and the proclamation will be forwarded to the organization.

APPOINTMENTS

1. City Council Committee Assignments

Mayor Franklin said that there a couple of changes on some of our committee assignment. The first one is for the Community Action Partnership for Riverside and Councilmember Miller has resigned and Mayor Pro Tem Welch stated that he will take that position. She asked if there were any Council comments and seeing none; that will be one change. The alternate for that committee will continue to be Anna from Community Services. She said that two suggestions came up and one was to either start an ad hoc or a 2+2 Public Works Committee that will work with staff in regards to our streets and what we need to have done. We have two volunteers and those are Councilmembers Miller and Peterson. There being no discussion she said staff will get in touch with the Councilmembers to let them know when those meetings will be held. In regards to the school 2+2 committee a suggestion was made that we consider adding two people from the Parks and Recreation Commission to be included in those conversations having to do with joint use for our park facilities. Councilmember Miller said that was an excellent idea. There was Council consensus to add two people from the Parks and Recreation Commission.

CONSENT ITEMS

Mayor Franklin pulled Consent Items 1 and 2 only for abstention purposes since she was not at the last meeting and would also pull Consent Item No. 3.

4. Report of Investments for February 2014

Recommendation: That the City Council receive and file the monthly Report of Investments.

5. Memorandum of Understanding for 2013-14 for the Banning Police Officers Association and Side Letter Agreement (A) – Resolution No. 2014-07, Approving a

Successor Memorandum of Understanding between the Banning Police Officers Association (BPOA) and the City of Banning; and (B) – Resolution No. 2014-21, Approving Side Letter Agreements to the Memorandum of Understanding Between the City and the Banning Police Officers Association (BPOA) Representing the Police Unit Employees and the City of Banning.

Recommendation: That the City Council adopt Resolution No. 2014-07 and Resolution No. 2014-21.

Motion Peterson/Welch to approve Consent Items 4 and 5. Motion carried by roll call vote 5/0.

1. Approval of Minutes – Special Meeting – 3/11/14 (*Closed Session*)

Recommendation: That the minutes of the Special Meeting of March 11, 2014 be approved.

2. Approval of Minutes – Regular Meeting – 3/11/14

Recommendation: That the minutes of the Regular Meeting of March 11, 2014 be approved.

Motion Westholder/Peterson to approve Consent Items 1 and 2. Motion carried by roll call vote 4/1 with Mayor Franklin abstaining.

3. Ordinance No. 1478 – 2nd Reading: An Ordinance of the City Council of the City of Banning, California, Amending Banning Municipal Code Section 2.08.080 (Relating to City Manager Powers and Section 2.08.100 (Relating to City Manager Removal).

Recommendation: That Ordinance No. 1478 pass its second reading and be adopted.

Motion Miller/Peterson to approve Consent Item 3. Motion carried by roll call vote 4/1 with Mayor Franklin voting no.

Mayor Franklin said that she forgot to open the Consent Items for public comment and asked if there were any public comments. She closed public comment seeing no one coming forward.

Mayor Franklin recessed the regular City Council Meeting and called to order a joint meeting of the Banning City Council, the Banning Utility Authority and the City Council Sitting In Its Capacity of a Successor Agency.

Joint Meeting

CONSENT ITEMS

Consent Item pulled by Councilmembers Westholder and Peterson for discussion.

1. Resolution No. 2014-03 UA, Approving the Contract Services Agreement with Merlin

Johnson Construction Company of Mentone, CA, for the Repairs to the 15" Sewer Main on Hargrave Street in the amount not to exceed \$38,210.00 and allowing a 10% contingency of \$3,821.00.

Director Burk gave the staff report on this item as contained in the agenda packet. He said that during a video inspection this previous year they found that there was a break in the 15" sewer line and they received bids. Staff is asking the Council to award the contract.

Councilmember Miller said when it comes to these contracts many times you have in the agenda package the actual bids from the different companies and he does not see them include. He asked if there was a policy as to when those are going to be presented.

Director Burk said this was an informal process where they reached out to independent contractors that could perform this work and had sealed bids and they only received two bids. Staff did reach out to get a third bid but some of this type of work is a little bit more sophisticated only for the sole reason you have to keep the sewer line live and active during the process and there are some contractors that don't do that type of work. They do have the proposals and he apologized for not included them. This bid was not noticed in the newspapers like they normally do. This was an informal process which our municipal code allows.

Councilmember Miller said it would be helpful if in the future all that information was in the agenda packet so that it is available for everyone to look at.

Councilmember Peterson asked when the video inspection was done. Director Burk said it was last May or June.

Councilmember Peterson said then you say it is imperative that the main be repaired in order to avoid sewer system overflow. Is it imperative for over a year later?

Director Burk said that to him it is imperative that we repair it but going through the process takes time. It is not an emergency or urgency; it is imperative that we do repair it and they did reach out to contractors.

Councilmember Peterson said that he would really like to see the bids.

Mayor Franklin opened the item for public comments; there were none.

Motion Peterson/Miller to continue this item to the next meeting so that the bids can be attached to the resolution. Motion carried by roll call vote 4/1 with Councilmember Welch voting no.

City Attorney said for clarification that continuance the sole thing you are looking for is that you would like Director Burk to come back and show you what the other bid was.

Councilmember Peterson said yes. He thinks that they have asked for this before that the bids be attached.

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REPORTS OF OFFICERS

1. Resolution No. 2014-02 UA, Approving a Professional Services Agreement with Carollo Engineers, Inc.
(Staff Report – Duane Burk, Public Works Director)

Director Burk gave the staff report as contained in the agenda packet. There is an application for the Rancho San Gorgonio Project which is on the south side of the City south of Westward, east of Sunset and west of San Gorgonio and they are in the application process and will be submitting water and sewer master plans in accordance with ours. Some of the area that is out there was never really studied as it relates to our hydraulic model that was completed in 2002. The hydraulic model is an engineering report; a computer model where you plug in the numbers and Carollo Engineers has that model and would be working on behalf of the City identifying the size of pipeline and/or tank elevations that we would need to serve that portion of our community. Rancho San Gorgonio would be participating in the cost sharing as it relates to their project. Staff is asking for a little bit more additional money as it relates to the City being able to use the model for future studies.

Councilmember Peterson said that City staff solicited proposals from multiple engineering firms and recommends an award of \$50,000 to Carollo Engineers but it doesn't say to whom or how many or anything else and we are kind of in the same situation as we were on the last resolution. He would like to postpone this until the next Council meeting and bring back the proper paperwork.

Councilmember Miller asked who was paying for this. Is the El Rancho project paying for it or is the City paying for it?

Director Burk said that Rancho San Gorgonio would pay their fair share for what we would be studying and the remainder of the balance would come from the City's Utility Authority.

Councilmember Miller asked if he has any data that he could show the Council that would indicate why you determine that half it ours and half is theirs.

Director Burk said that there is really no data, just a percentage of the acreage and the number of dwelling units that would be impacting our system.

Councilmember Miller said it seems to him that this modeling is absolutely necessary because of the El Rancho Project and without that project we have our sewer system and an examination of the flow system would not be necessary. So it seems to him that this is directly related to the El Rancho Project and should be directly paid for by them. He doesn't understand why the City should have to pay part of that modeling.

Director Burk said he thinks the intent behind staff's ability to analyze its system on the overall model is what we are looking for. Not just specific impacts to what Rancho San Gorgonio is going to impact on us but the rest of our system as it relates to what our current system is doing every day.

Councilmember Miller said he knows but again, our City is not exactly rich and he has heard this over and over again and again the El Rancho Project cannot proceed without this type of modeling being performed. Since the El Rancho Project cannot proceed to him it is quite clear that this should be charged completely to them.

City Attorney said the legal standard with respect to charging fees back to developers to the extent you have brand new infrastructure that is being built for the developers project yes, the developer installs it or pays 100%. When you have infrastructure that is serving the City generally but you either need to increase the capacity or update it or do things like that so that the infrastructure can take care of the new project, the new project can only be charged the increment of added cost or capacity that is applicable to the project. So when you get to your point of how we came up with 50% that is certainly a good point but the test is not if you didn't do this to this infrastructure you couldn't build the project. The test is that when you create the infrastructure what proportion of that infrastructure is being utilized by the new project versus how much is serving existing residential and the idea is that a developer shouldn't have to pay to take care of something that is a community-wide benefit just because their project happens to be the one that is coming along at that point in time. So we have to determine the relative benefit not just hit them with the whole cost because of a timing standpoint they need it now. You actually can do a reimbursement agreement. If you don't have the ability of paying for the whole thing, then the development could install but then you are going to have to reimburse the developer in terms of the disproportionate cost that the developer spent. So there is quite a bit of law dealing with this subject.

There was some further discussion about paying for half of the cost and how the percentage is determined.

Mayor Franklin opened the item for public comments. There were none.

Motion Peterson/Miller to continue this item for two weeks and bring in the multiple bids. Motion carried by roll call vote 3/2 with Councilmember Welch and Mayor Franklin voting no.

2. FY 2013/14 Mid-Year Budget Review
(Staff Report – June Overholt, Interim City Manager/Administrative Services Director)

Interim City Manager addressed the Council giving her report as contained in the agenda packet and she also started her power-point presentation (see Exhibit A), stating that she will be going over the General Fund, Utilities, Other Funds, Successor Agency and Future Challenges. She explained the process that they follow in preparing the Midyear Budget and said that they also update the fund summary status report and that is kind of the guiding document that they use for managing the budget. Two weeks ago there was an audit presentation and when that is complete they can update the budget at midyear with the final numbers. This year they had the opportunity to take the midyear to the Budget and Finance Committee for their review and discussion. When they do this review they highlight the big changes that occurred so when they target looking at the General Fund it is because that is the fund where we have a majority of the employees, majority of the services, and majority of the discretionary revenue and it also is the fund that is most sensitive to the economic circumstances. She continued explaining in

detail each of the slides in her power-point presentation in regards to General Fund Revenues, Expenditures, General Fund Status and Available Resources.

Mayor Franklin asked the Council if they had any comments. Councilmember Peterson said it is nice to see almost \$3 million in reserves.

Interim City Manager continued her power-point presentation in regards to the Utilities going over the various slides in detail regarding Water Funds, Wastewater Funds, Reclaimed Water Funds, Electric Funds, Special Revenue Funds, Capital Improvement Funds, Enterprise Funds, Internal Service Funds, and the Successor Agency.

Councilmember Peterson said in regards to Wastewater where you said that we are staying in a negative is that because we contract that service out and it is the same company that we have had for quite a few years and he directed the question to Director Burk. Director Burk said yes.

Interim City Manager said that we do have some future challenges. PERS recently adopted a new change in their assumptions and have changed some of the age requirements and what that means is some increases in our rates so we are going to see that most definitely. We are going to see the rate increases next year from the previous change and assumptions and now we are going to see new increases in the 2016-17 timeframe. In regards to the TOT (Transient Occupancy Tax) – Measure E we are status quo on that and we are seeking the voters to continue the cap at 12%.

Interim City Manager recommended that the Council approve the resolutions amending the estimated revenues and appropriates for the Fiscal Year 2013/2014 budget for the City of Banning.

Mayor Franklin asked the Council if they had any questions.

Councilmember Peterson said in regards to the Capital Improvement Fund No. 410 for Fire Facility Development \$934,000 on page 95 is that money available to get new exhaust systems and improvements to the station or what exactly is that money for.

Interim City Manager said these funds that are related to impact fees which this one is funded through impact fees that were paid by developers. The developers are paying the impact of their development on the city and therefore anything that is done needs to be done to expand the services based on the impact of that development rather than anything related to maintenance. So we would have to be able to create a nexus between putting the exhaust hose in there to increased service demands related to the impact of the development.

Councilmember Peterson said that in regards to TOT – Measure E we talked about hiring a consulting firm or the City was going to do it as far as educating the public about Measure E; did we do anything with that.

Interim City Manager said the subcommittee met and they went over three informal bids that they received and two were from members of the community and the general consensus at that time was to do outreach at the staff level and since then she has had some conversation that said

maybe two of the local community members could assist us in a low-cost educational component that we would consider that and she is following up on that. She said the City cannot do any advocacy.

Councilmember Peterson said in regards to the Wastewater that one is kind of frightening and if there is some type of raise of water rates, what is the name of the company that is out there now that controls it and when does their contract expire.

Interim City Manager said the way their contract is functioning right now is on a month to month basis and the last time that it came before Council which became apparent to her was that they have had no cost of living adjustment so at some point in the future as time permits then we will do a bid and see how that is progressing.

Councilmember Peterson said maybe we should take a look if it is on a month to month and look at cutting costs before we take any kind of a hint of raising water rates.

Interim City Manager said we always do that and will absolutely receive what you are saying. One thing, for the education of public, and you are aware of this is that anything related to sewer has some pretty stiff fines when it comes to how it is discharged and with the State so we want to make sure that we are always in compliance. One of the things that the department has been working very hard to do is to make sure that the plant repairs are being done in a timely fashion so that we are never on the hook for having discharged something that we shouldn't have discharged and there is the compliance that governs it and it is very strict and limits how much we can truly cut back on.

Mayor Franklin opened the item for public comments. There were none. She asked if there were any comments from the Council.

Councilmember Miller said that in regards to the TOT it is a tax for the hotels and motels for visitors and that is \$300,000 per year that the City gets and as a comparison if somebody builds a \$5 million dollar building and we get the property tax from, the property tax is essentially less than \$10,000 a year so if you compare those two you see how absolutely necessary the TOT tax will be for us.

Motion Welch/Miller that the City Council approve Resolution No. 2014-20; Resolution No. 2014-04 UA; and Resolution No. 2014-06 SA Authorizing the Administrative Services Director to make necessary Budget adjustments to implement the mid-year analysis. Motion carried by roll call vote 5/0.

Mayor Franklin recessed the joint meeting and reconvened the regular City Council Meeting.

PUBLIC HEARINGS

1. Ordinance No. 1477 of the City Council of the City of Banning Repealing Ordinance No. 842 and Chapter 15.20 of the Municipal Code Regarding Designating Snow Load and Wind Load.
(Staff Report – Ron Espalin, Building Official)

Mr. Espalin gave the staff report as contained in the agenda packet. He said every three years the State Building Standards Commission publishes new codes and every three years the City Council adopts those standards. The last time the City took action was late October/November 2013 and those new codes became effective January 1, 2014. In those standards are published wind and snow loads that are used throughout the State of California. In 1965 Ordinance No. 842 was adopted and adopted snow loads and wind force loads and it made reference to the Uniform Building Code and that was approximately 49 years ago and that code no longer exists. Mr. Espalin went over the method of calculating wind forces. He said the Health and Safety Code permits the local jurisdictions to modify the published code and you can go to a higher value if you have findings and substantiating data that justifies those increases. Based on the information that they were able to collect and the loads that are published in the building code there doesn't exist sufficient data to modify those loads. Staff is recommending that the Council adopt Ordinance No. 1477 by repealing Ordinance No. 842 in Chapter 15.20 of the Banning Municipal Code.

Mayor Franklin opened the item for Council questions.

Councilmember Miller said this seems fairly reasonable but it is a big change and he explained. He asked if this is the ordinance that cities around us also used and did they use 85 mph as the standard.

Mr. Espalin said that most of the cities used 85 mph. It is his understanding that the City of Fontana and Rialto have higher speeds.

Councilmember Miller asked if the City of Beaumont also used 85 mph. Mr. Espalin said that Beaumont uses 100 mph.

There was further Council discussion in regards to the wind speed and the importance of wind speed and problems with construction and being in compliance with the State Building Code.

Mayor Franklin opened the item for public comments.

Jerimiah Price addressed the Council stating that he managed a ski resort for ten years and this factor of load is very, very important and we are missing some things here because we are talking about what has happened this year and things like that. He said he has seen winds much higher than what is being discussed here in the Pass and Banning does have higher winds than Beaumont. The other thing about load is that we are calculating just wind speed load but many times this can happen with snow already on the roofs. He thinks that we are really pushing it to bring it down to 25 lbs. He has also managed construction projects and he can see how this would save people money building but we are also probably setting ourselves up possibly for a major disaster if we have a one-time occurrence. We really need to consider this because this could be causing some serious problems.

Don Smith addressed the Council stating that we don't get snow like we used to and he does not know what the circular pattern of snow is but he can think of two times that we had over a

foot of snow in the front yards. He doesn't know whether the 43 mph is sustained winds or gusted winds but if they are gusted winds we have had those significantly more of 43 mph. It seems to him the wind tunnel we are in seems to be similar to the exact same wind tunnel that Beaumont, Rialto and Fontana are in. He doesn't know what their reasons are for the 100 mph and doesn't know what studies they did. Our study seems to be that we asked some guy at the airport what he thinks and that concerns him that it is not a very good study and perhaps we should do a better study. But perhaps Beaumont, Rialto and Fontana actually did do studies and 100 is the answer; he doesn't know. He is worried that our study does seem to be much of a study.

Mayor Franklin closed the public comment period and brought it back to the Council for discussion.

There was further Council discussion regarding the difference between Banning and Beaumont in regards to the wind, and the need for data.

Motion Miller/Peterson that we modify the proposal so the wind load calculation is 100 mph and not the 85 mph.

Mayor Franklin asked if there was any other source of documentation for winds in our area.

Mr. Espalin said he did check with the National Climatic Data Center and wasn't able to identify wind data from them. But the Fire Chief just informed him that he does have forty years of wind speed data from the Beaumont Station and we can investigate that.

Councilmember Miller amended his motion to continue this item until we get further information about weather patterns in our city. Motion seconded by Councilmember Peterson. Motion carried by roll call vote 5/0.

There was Council consensus that this item be brought back to the Council Meeting of April 22, 2014.

REPORTS OF OFFICERS

1. San Gorgonio Pass Water Agency Proposed Water Policies
(Staff Report – Duane Burk, Public Works Director)

Director Burk gave the staff report as contained in the agenda packet. He said that this is a letter he is asking the Council to support to respond to the San Gorgonio Pass Water Agency's proposed water policies in regards to policies for future water demands, policies regarding the ordering of water and policies establishing a water shortage plan. He further explained as to why these policies don't work well for the retailers.

Councilmember Peterson said he knows that we have several issues here but the only thing that concerns him on the letter is that he looked at the "CC's" and he doesn't see the City Attorney there and he would like to have the City Attorney go over the letter before it goes out and he be included.

City Attorney said that they actually drafted the letter and that is why they were not included.

Mayor Franklin opened the item for public comments. There were none.

Mayor Franklin said that she has been sitting in some of the water meetings and attended a meeting that the Beaumont Cherry Valley Water District had last week and the presentation was made on the different issues that Director Burk brought up. Every retailer there had questions about their policies and there was not a lot of willingness to work with the retailers and when she says that it includes Beaumont Cherry Valley Water and Yucaipa, as well as, Banning. It did raise a lot of concerns because these are the major retailers and the Pass Water Agency said this is what we are going to do and we are not really concerned about what you are proposing. Part of our proposal regarding the San Geronio Pass Water Alliance is that we try to get all bodies working together and she thinks this is one example of where we have one water body that is working not in agreement and not necessarily working with other agencies to try to really address the water issues in our area. This is something that impacts all of us.

Motion Welch/Westholder that the City Council authorize the Public Works Director to sign and send the attached letter to Mr. John Jeter, President, San Geronio Pass Water Agency ("Pass Agency") regarding the City's concerns about the adoption by Pass Agency of three water policies. The water policies are: 1) Policy for Meeting Future Water Demands; 2) Policy Regarding Ordering Water; and 3) Policy Establishing a Water Shortage Plan. Motion carried by roll call vote 5/0.

2. Resolution No. 2014-16, Awarding a Professional Services Agreement to Land Engineering Consultants, Inc. of Calimesa, CA for Survey and Civil Engineering Services for Ramsey Street and Hargrave Street Improvements for an amount Not to Exceed \$53,783.00
(Staff Report – Duane Burk, Public Works Director)

Director Burk gave the staff report as contained in the agenda packet. He said that an RFP (Request for Proposals) was done and the proposals are attached (consultant rate sheets). The intent behind Hargrave Street is that they are improvements under the Successor Agency or the ROPS (Recognized Obligation Payment Schedule). The obligation is to improve that intersection for traffic and relocation of traffic signals.

Councilmember Miller said we already talked about the fact that there is a variation from time to time with the amount of information that is provided with these request for bids and he wanted to go through this so that we get a uniform statement with the agenda items. He asked various questions in regards to the RFP process and the need to have specific information. He also asked if they could have the RFP in the agenda and the dates that it was sent out. He said that he was going to ask that this be continued to next time so that they can have all the data that is requested.

Councilmember Miller asked further questions in regards to the RFP and items he would like to see. He also had various questions in regards to Land Engineering and noticed that they have

done previous work for the City and questioned why have a bid for \$25,000 and then a bid for \$53,000; why not come to the Council for the total bid to begin with.

Director Burk said that they did not know what the total scope of work included and in this case, Land Engineering was the engineers that had the topographic survey already completed for the northwest corner of Hargrave and Ramsey and he explained.

Councilmember Miller said his concern is that you are basing everything on the hourly rate and not the number of hours somebody works. The hourly rate to him doesn't make any difference whatsoever; it is the total cost of the bid and he doesn't see anywhere this is indicated. He asked if these three companies submitted a bid with a cost to do the specific work specified in the request for bid and if so, he would like to see that data. Also, this is being paid for by the ROPS which is basically Redevelopment Agency funding which is only approved for projects that have already been started and this project certainly has not been started and how did we manage to get this on the ROPS.

Interim City Manager said when the redevelopment agencies were eliminated through the state legislation one of the things that they required of the City was an EOPS (Enforceable Obligation Payment Schedule) and so in that list were projects that had been identified by the City at that time for use of the bonds. So the bonds had already gone to Council with a list of projects on how those bonds were going to be used so we had proceeds from the bonds and Council approved this is our intent on how it is going to be spent. So when the State said do you have any bonds we need to see that listed on the Enforceable Obligations Payment Schedule those projects were listed and this project was included on it back two or three years ago. Since that time we put in on the ROPS so we are referencing back to the original approval that Council made of the intent to do the project. So even though the project construction hadn't started and she knows that in general if it was anything that was tax increment if the construction hadn't started, it could not start today because we can't use any property tax revenues to start a project today in the redevelopment agency. But the bonds we can now spend and that is because we went through the entire exercise of providing the State the due diligence report and once that report went to the State and was approved they gave us a notice of completion and with the Notice of Completion the State law now allows us to spend our bond funds. So now we are starting to go back to the projects that were on the original EOPS list and taking a look at that. She said she mention in her previous report for the midyear she has on her radar to bring before the subcommittee for Budget and Finance what is it we are doing with the remaining funds for the redevelopment agency bonds and what is the refinancing component to that.

Councilmember Miller said the reason he is asking all these questions is that we need complete transparency so that there are no questions and he appreciates all the answers.

There was further Council questions and discussion with staff in regards to the data that should have been supplied by each bidder and the need to see the RFP and the format of the contracts. They also asked questions in regards to the \$25,000 contract with Land Engineering.

Mayor Franklin said what she thinks Councilmember Miller asked for earlier and Director Burk said he would do is to provide the information asked for. She asked Councilmember Peterson if

this was the same information he was asking for. Councilmember Peterson said yes with a little more information because now he would like to see the \$25,000 contract.

Councilmember Miller asked if there was a difference between professional services and vendor services. He said he looked at the Municipal Code Section 3.24.090 and he didn't see anything that says the difference between the two.

City Attorney said the code doesn't necessarily specify a difference but with regards to professional services it is recommended that you get quotes from different consultants but primarily the idea is that if you have a professional and you can make that decision not based upon price but based upon their expertise, knowledge and experience with the project. It is not a bad idea to get quotes in order to have some price comparison in terms of trying to make sure that your professional will give you the best rates possible.

There was some further discussion in regards to professional services and the need to get three quotes.

Mayor Franklin opened the item for public comments; there were none.

Motion Miller/Peterson to continue this item until next time and have the RFP and the various bids be available to the Council for discussion. Motion carried by roll call bid 4/1 with Councilmember Welch voting no.

3. Chamber of Commerce Feedback on the City's Sign Regulations
(Staff Report – Zai Abu Bakar, Community Development Director)

Director Abu Bakar stated that this is a Chamber presentation as requested by the Council at their meeting of January 28, 2014 and staff contacted the Chamber of Commerce and the Chamber Board appointed two of their members to provide the presentation. The representatives are John Selvaggio and Oleg Ivaschuck who are on the Banning Chamber of Commerce Board. She went over the staff recommendations as contained in the staff report.

John Selvaggio addressed the Council stating that any city you go to there are going to be sign issues and it is their responsibility to stay on top of these issues to help businesses come to town. They are asking the Council today to approve the committee so that they can move forward with this.

Oleg Ivaschuck representing Xenia Pacific Company thanked the City for keeping the city clean. It is better to have orderly, organized streets with no graffiti anywhere in the city and it is nice and clean; clean to the point of sterile. He is saying this because you have to have some kind of lenience for businesses to be able to express or conduct business. He feels the code is too prohibitive and doesn't allow successful growth by local businesses and doesn't entice other businesses to come to the city. Current regulation doesn't recognize the importance in value of signs to business. The current sign code is technically sound and if you look at all sign codes everywhere in California they are practically the same. They may differ from one city to another to accommodate local flavor or historical importance but because we are not an industrial city and we are not a major attraction we have to approach it a little bit different from

where we are at right now. For example the cost of a permanent sign is \$537.00 and he cannot argue because he was not on the committee and doesn't know how it was calculated and he may agree because it is the average cost of a sign everywhere in California. But \$235.00 for a temporary sign he feels is a little bit excessive. He said he didn't have any data or conducted any study or studied current prices of how much it should be but from the point of view of a local businessman you need to entice people to conduct more business more often and you have to give them financial stimulation to do that. He would say \$35.00 to \$40.00 dollars is more reasonable to put in a banner which cost \$80.00 dollars as compared to \$235.00 dollars. He said we are all here to try to make our city better and everyone wants to see our city thrive so he would not say it is easy to do but we can contribute by changing the code slightly in reviewing it. He said we have cities we like to visit like Santa Monica, the Gaslamp District in San Diego, Palm Spring and what they have in common is that you go to the downtown and you look and you look because there is something to look at. Here in Banning, for example if you would like to have a Gaslamp District, there are so many A-frame signs or chalkboard signs saying come to us and we are serving this and that and the cost is this and that and people do window shopping and that is what entices them. When they see something in front of the shop or a restaurant they tend to look at it. It means that they are active and there is something going on. If there is nothing in front of the shop, business is dead. Current sign regulations prohibit explicitly the use of A-frame and chalkboard signs. He understands the concerns after speaking to Zai Abu Bakar but with chalkboard signs he cannot comprehend it. The bottom line is that we want to have people come here and to show that our city is viable and a really good place to conduct business. We have to look at the sign code a little bit differently and he is pretty sure we can amend the two. He agrees that we need to form a committee and we have to have people that represent the city, who know codes, people who are small business owners who know the concerns, and we need to have some professionals who deal with the sign industry. Right now we can address this issue but it should be studied and we need to make changes to the code.

Mayor Franklin said the request before us tonight is to approve the five-person committee and that would consist of (2) business owners, (1) member of the community-at-large, (2) people from the Chamber of Commerce and possibly Council representative(s). She asked if there was a timeframe as to when there would be a report coming back.

Director Abu Bakar said possible six months in terms of working with the committee if they meet twice a month. There are many things to be looked at so she figures six months of committee time and then having joint meetings and working with the City Attorney's office to draft the language for the sign ordinance and then go through the public hearing process and then to the City Council for final approval. So she is thinking somewhere between eight months to a year to be able to have a solid program. She said that she would come back to the Council with updates in regards to where they are on the committee level.

Mayor Franklin opened the item for questions from the Council.

Councilmember Peterson questioned the 8 months to a year for the sign ordinance and asked if there was something that could be done in the next 30 days to cut back on fees. Instead of looking at the whole sign ordinance, can we look at a fee schedule and cut that for the business owner as soon as possible.

Director Abu Bakar said that they can look at a fee schedule.

Councilmember Peterson said he understands the issue with the budget but this is money coming out of these poor people's pocket. For him the first thing that should be looked at is the fee schedule and then look at your signs.

Councilmember Westholder said he agrees with what was said by Councilmember Peterson. He thinks that \$235.00 dollars for a temporary banner is ridiculous in his opinion. Personally he would volunteer to be on that committee as a Council person.

Councilmember Miller said he looked at the sign ordinance and couldn't believe how long and complicated it is and he would like to hear from the members of the Chamber of Commerce whether they really need a year to do this. It seems to him that that the business community would want something to be done as soon as possible and he thinks that she would have said that they could come back in 30 days.

City Attorney said he has worked on sign ordinances with a number of cities and this is a very short sign ordinance. Sign ordinances get in to all kinds of issues because they deal with first amendment issues so you have constitutional issues when you are dealing with sign ordinances and he explained. He said certainly if you want to do something in terms of fees and do something fairly quickly there is a number of ways to deal with that. You talk about forming this committee here and to form a committee because of the Brown Act, etc. we have hoops we have to jump through and would have to come back to the Council with a resolution. Under the Maddy Act when you have openings on committee created by the City, you have to go through an advertising time period to get people on the committee.

Oleg Ivaschuck asked the City Attorney how many times the City has been sued over sign regulations or whatever was displayed in the city.

City Attorney said in the five years that he has been working for the City of Banning it has not been sued but there are just a host of cases that have gone to the Supreme Court dealing with sign ordinances and you have to be sure that you approach these things in the right way.

Mr. Ivaschuck said the major concern is the size of the allowable advertising. One concern is how much square footage per square footage of building and also the fees. We are not talking about the content and don't want to change the content. He thinks that 30 days is probably too short and if we just address the issue of fees, they are for it. The point he was just trying to make if we could just address allowing people or small businesses to use A-frame signs with the permission of the City where they can go and get a permit and where they can indicate on a diagram where this A-frame sign will be located, it would help tremendously. We are not trying to do a radical reform. Certain articles of the code could be amended and some restrictions can be eased up and that is what they are looking for. So if they can cut in 30 days the fees, they are for it. And maybe they can knock out the sign ordinance within six months which he feels is feasible.

Mayor Pro Tem Welch said if you had to pick two to three items that are a concern of the small business owners generally speaking in Banning right now, could those be addressed pretty quickly.

Mr. Ivaschuck said yes.

Mayor Pro Tem Welch said that it was said that this is not a total revolutionary thing from A to Z, it is repair something that is very old and he would make a recommendation and he knows that Councilmember Westholder already volunteered but he would make a recommendation that if this Council is going to have a member on it that maybe it should be someone who had a business frontage in Banning.

Councilmember Peterson said he would like to follow-up on the Councilmember Welch's question and what three things out of the sign ordinance would be your priority.

John Selvaggio said fees, square footage of the sign, and the overlay ability to get the sign. Right now it is very hard to get a monument sign in town because there are a lot of regulations that go along with it.

Mr. Ivaschuck said he would say John leans more towards the bigger businesses. For the small businesses he would allow the A-frame signs with certain restrictions.

Councilmember Peterson said in regards to the A-frame signs he would have to agree with Director Abu Bakar because this is a windy city and the sign could be blown out in front of traffic and he understands why she would stick by her guns on that. He asked that they stick to fees and look at square footage for the size of the building.

Mr. Ivaschuck said then he would say then he would address the window advertisement because currently what you can do is just a 2x2 square footage sign with the name of the business and hours of operation. If we can't utilize the A-frame signs because of weather conditions, then maybe we can just have a little bit more leeway of posting the business services on the window or whatever is safe but can help small businesses to get message across.

Mayor Franklin opened the item for public comments.

Don Smith addressed the Council stating that he likes the question about what are the biggest problems because it is a good place to start and certainly fees are one of the problems. A temporary sign often becomes a permanent sign so obviously there would need to be some follow up on that. We have a one-size fits all fee and we assume our sign is a brand new sign that is going to have to go through all sorts of checks to make sure it is placed safely on a building. Many of our signs are not that. Their owners want to paint something on their windows and there are no structural issues; they are signs that already exist and he gave an example. He said we need a fee structure that takes into account what you are doing. If you are just replacing an existing sign or maybe the wood sign is already there and you are just going to paint a different logo or have Oleg make you one of those vinyl plastic things that you can put on it that is actually permanent than temporary. It shouldn't require staff more than five minutes to accept the form, put it in their files and the fee should be according. Our

second problem is to some degree the placement of the sign and the size of the sign. He said he sees no problem with professional window signs and he knows that the police might have some issue with wanting to be able to see in the window so there could be some size issues regarding that. He does have a problem with unprofessional window signs where people change things all the time so we are left with junky advertising signs and he makes his tenants take them down. He doesn't know if it will take six months but he knows that five people sitting in a room and coming up with the rules, at least at some point in time the business community as a whole might want to chime in and we are going to have to bring the public into this also to get input before the final decision comes out. He thinks the idea of a committee is a good idea and he thinks the Chamber leading it makes a lot of sense and you may want to talk to the real estate board as well because they will have different issues. The problem lies when they first come in to get their business permit because they have to pay for the sign at that time.

Mayor Franklin closed the item for public comment seeing no one else coming forward. She said that a note was slipped to her that maybe Councilmember Peterson should be one of the people being considered for the committee also so we have two Council Members that have volunteered – Councilmembers Peterson and Westholder.

Motion Westholder/Peterson to approve staff recommendation to form a Sign Advisory Committee that consists of five (5) members to provide input into the reasonable commercial sign standards for the City; direct staff to seek nominations for the Sign Advisory Committee consisting of two (2) business owners, and one (1) member of the community-at-large in addition to the two (2) Board Members of the Chamber of Commerce that have been selected and with the two additional Council Members (Peterson and Westholder) involved as the Ad Hoc.

Councilmember Miller would like to make an amendment. The proposal is strictly in regards to signs and does not deal with the cost of the sign so he would like to add that to the motion.

Mayor Franklin said it is included because it talks about sign standards.

City Attorney asked if the Council wanted the committee to deal with that issue or do you want it to come back from staff so it doesn't have to go through the whole committee. If you want it more quickly, you would just ask staff to come back with something. If it goes through the committee, it will take a little longer but it is up to the Council.

Mayor Franklin said she thinks the committee sounds like they are interested in talking about the fees also so maybe if staff started it and it could go to the committee to make their recommendations and then come back to the Council at that point; is that doable.

Interim City Manager answered the Mayor and said what she thinks the City Attorney is saying is that there are certain steps that we could initiate sooner that would provide relief and what she is hearing you say is that the committee could review those actions that we take sooner to see if that is sufficient or if additional review is needed. So that would be the two-step process.

Mr. Selvaggio said if the City could start something today that would be great. Whatever the Council could do on their end to get the fees reduced would be awesome but he would like to

see some recommendation come from the committee as well for fee structures because there are a lot of things we should do such as possibly bundling many different signs together because some properties out here are larger. We will start with everything from the smaller sign and then put packages together all the way up to that \$500 or \$600 dollar sign as well.

Motion carried by roll call vote 5/0.

4. General Plan Annual Progress Report (Calendar Year 2013)
(Staff Report – Zai Abu Bakar, Community Development Director)

Director Abu Bakar gave a short power-point presentation just to highlight the main points from the staff report (see Exhibit “B”). She went over the policy issues in more detail as contained in the staff report.

Councilmember Peterson said in regards to the rezoning of the neighborhood over at Hargrave how long is that going to take to get it rezoned.

Director Abu Bakar said the only challenge is that she would have to go before the Airport Land Use Commission which could take about two months and then allow them three weeks to look at it so she would say anywhere between 4 to 6 months she should be able to be before the Planning Commission and the Council.

Mayor Franklin asked Director Abu Bakar that you are giving the status to the State at this point and then to move forward with the land use and zoning and also to be able to work with the County to work on the land use requirements by the Airport Land Use Commission.

Director Abu Bakar said that was correct.

Mayor Franklin opened the item for public comments and seeing no one come forward she closed the item for public comments.

Councilmember Miller said we had a workshop about six months ago about the airport and various things came up that were interesting to him. First of all we had the FAA (Federal Aviation Administration) come and the theory before that was that it would cost us at least \$25 million to convert the airport to commercial property and the FAA said it was only about \$2 million dollars and also we would have to pay for the use that the airport is paid by other people landing at our airport and nobody lands at our airport so that costs no money. He said after listening to that and the statement by the Fire Chief that they don't need the airport do we really need an airport. The FAA said specifically an airport can never produce money for a City. The whole purpose for an airport for a City is to attract business into the city and we have never succeeded in doing that except for Deutsch and they are gone and the chance, in his opinion, of having the airport being a viable source of income to the City is essentially non-existent. Our city does not have much land whatsoever; we are landlocked and here we have this giant piece of land that is essentially useless. Thirty-one people have airplanes and thirty-one people use it on occasion. He said that he has sat next to the airport for two to three hours for five to six days and he has never seen an airplane take off or land. Whenever he drives by on the I-10 freeway he never sees an airplane. The airport could be so valuable for us in the

long-run by converting it into industrial area. His suggestion is that we have another workshop to consider whether or not to convert the airport to commercial use and at least advertise it and have that as one of the areas that we are trying to get commercial use for and if indeed we decide that, then this whole process of going to Airport Land Use Commission and getting their approval of changing the zoning is a complete waste of time and that also hinders the development of our city by having to go through that process.

Motion Miller to have a workshop to discuss this and hold off on changing the zoning of the airport surrounding area until we have had that discussion whether or not the airport is in the best interest of our city in the long run.

Mayor Franklin said she wanted to back up a little bit because you are talking about the airport which is not actually on our agenda so we really can't talk about the actual use of the airport. What we are talking about tonight has to do with the land use and zoning compatibility which even if we were to talk about the airport that is going to be a very long drawn out process.

Motion died for a lack of a second.

Councilmember Miller made a motion that we delay the rezoning of the properties under discussion and that it be tabled.

City Attorney said the actual rezoning would be a very lengthy process so he certainly thinks for a future action you can bring up the workshop. He said that this is just kind of a list of working on the land use compatibility; it is an update. In terms of if the Council wishes to determine to eliminate the airport he thinks that you have properly indicated that it should be the source of another workshop. There is a lot of other information that would come into that that is not in this report. In the meantime as long as there is an airport they would need to be making sure that things are compatible. Given that the Council wants to have this discussion nobody is going to put this on the first priority of their work list to make these changes.

Motion died for a lack of a second.

Mayor Franklin said one of the issues, if she understands staff, with rezoning this is so that people who own residential lots at this point are really not able to sell them because of the way they are zoned; is that correct.

Director Abu Bakar drew the Council's attention to page 156 of the agenda packet which gives the recommendation. Under Item No. 1, it says discuss the policy issue raised in the staff report and one of them is airport land use compatibility and she thinks this is what Councilmember Miller was alluding to and he was alluding to a bigger picture. But in this case in terms of the airport land use compatibility she thinks that the City Attorney mentioned that as long as we have an airport right now we are going to have these compatibility issues. So if the Council does not wish for staff to work with the County right now, they wouldn't do anything. Staff is seeking direction from the Council whether to go and work with the County to make the land use synch with our General Plan. If you don't want to do that, it is okay. The second thing is a separate issue and we were talking about the neighborhood. So if the Council wishes that they work on those, the neighborhood bounded by Hargrave, Barbour, Juarez and

Westward Avenue, staff will work on those but will postpone if the Council desires not to move forward with the airport land use compatibility.

Councilmember Miller said that was fine.

Councilmember Peterson said in looking at page 156 where it states, "After hearing the testimony, the Planning Commission recommended that the City Council consider fast-tracking the processing of the General Plan Amendment and re-zoning for the neighborhood that is located in the area bounded by Hargrave, Barbour, Juarez, and Westward avenues" and he would like to make sure that we do the fast-tracking for that neighborhood.

Motion Peterson/Welch to fast-track the rezoning for the residential area.

Mayor Franklin opened the item for public comments. There were none.

Mayor Franklin asked Councilmember Peterson if he was willing to amend his motion to include that the Council: 1) that in regards to the land use we will postpone that piece for the time being in regards to the airport; 2) move forward with the land use and rezoning for the residential neighborhood that is located in the area bounded by Hargrave, Barbour, Juarez and Westward Avenue; and 3) approve the General Plan Annual Progress Report and direct staff to file it with the State Office of Planning and Research and State Department of Housing and Community Development (Resolution No. 2014-17).

Motion Peterson/Welch to amend his motion as stated by Mayor Franklin. Mayor Franklin opened the item for public comments; there were none. **Motion carried 5/0 by roll call vote.**

5. Continue the Decision Regarding Resolution No. 2014-10, Vacation of a Portion of Livingston Street, Alessandro Road and Adjacent Alleys until May 13, 2014.
(Staff Report -

Mayor Franklin said that in regards to this item the date says "until May 13, 2014" but actually we are going to change to say "until April 22, 2014" so tonight we are only talking about continuing this discussion. There will be no discussion tonight.

Councilmember Peterson left the Council Chambers at this time because of a conflict of interest. He has property that is 500 feet away from the project.

City Attorney although they recommended May 13, 2014 he had talked to the developer and he would like it on April 22nd which is okay with staff. The one thing he would add is that the Council had appointed a subcommittee and that subcommittee is working with the developer and they have had very positive discussion in terms of trying to work out the use question and there is going to be some meetings scheduled with the County. Sorting through all of that is taking a little bit of time and the developer is hopeful that this gets done earlier than May 13th and that is the reason for the earlier date.

Motion Westholder/Miller to continue the Council discussion and decision of Resolution No. 2014-10, Vacation of a Portion of Livingston Street, Alessandro Road and Adjacent Alleys until April 22, 2014.

Mayor Franklin opened the item for public comments; there were none.

City Attorney said because of these delays in our discussion with the developer he has indicated that there are actually time periods in the agreement by which they are supposed to perform and he said as long as this dialogue is going on those time periods are toed during that period of time. He wants everybody to be aware that the developer had asked them that question and City Attorney had indicated that under the agreement, the agreement provides for that toeing so they will answer the developer affirmatively.

Motion carried 4/0 by roll call vote.

Councilmember Peterson returned to the meeting.

ANNOUNCEMENTS/REPORTS *(Upcoming Events/Other Items if any)*

City Council

Councilmember Welch–

- Tomorrow at 5:00 p.m. at Aaron's Furniture Store on Ramsey there will be a Mixer with the Banning Chamber of Commerce but the important part of this is that there will be the judging of an art contest for our grade school children. There will be food and games and the public is invited.

Councilmember Westholder –

- He reminded the Council and the public about the Annual National Day of Prayer Mayoral Prayer Breakfast combined with Banning and Beaumont to be held in Beaumont at the Albert A. Chatigny Sr. Community Recreation Center on May 1, 2014 at 7:30 a.m. and you can make reservations via his email or call 951-845-1366. The special guest speaker this year will be noted author and talk show host H. B. London.

Mayor Franklin –

- She stated that the Riverside County Transportation Commission had a groundbreaking for the Perris Metrolink line. In a couple of years you will be able to ride the Metrolink from Perris to downtown Riverside and they have actually already started the work.
- The Western Riverside Council of Governments had a presentation from two water general managers. The main message being sent across the county is that we all try to reduce water usage by 20%.
- The Water Alliance Meeting will be held tomorrow night here at city hall and 6 p.m. and they will be doing their ceremonial signing of the memorandum of understand between thirteen different water districts but in addition to that they will also be recommending that we move towards asking everybody to look at the Governor's Water Conservation Plan and that we look at it in the sense that we need to talk about conserving water and not just because of the drought but because it is the right thing to do long term.

- She attended the Community Action Partnership Mediation Conference and they had two interesting speakers. One of the things that they talked about was the lack of civility regarding communications between people and they are really trying to look at how we can get our young people to be more civil to each other and be able to communicate more. One of the things that talked about was how do we model that in the community. Through the experts in the area they are saying that what we do as adults really impacts what our young people do.
- During the last meeting she attended with Fred Mason the APPA (American Public Power Authority) Conference in Washington, DC. She attended the Governance Workshop and they gave some ideas of how we can look at how do we monitor, how do we measure our utilities and she left the book with staff to see if there are some things that may help us. Also they had two days to talk with our legislative representative's staff. They talked about City issues and included things like the flume, transportation reauthorization, issues regarding mandates that come up. They also talked with APPA staff regarding some things that impact everybody regarding energy. Some of those things include cyber security, nuclear waste and even though it may not seem like those are things that may impact us they do. They also talked about things like why we had to put the brick wall around the City yard because that does impact our security. Also talked about how inflow streams even though we talk about it in regards to our flume it impacts everybody because of the drought and because it does impact the cost of our energy.
- April 16, 2014 the Pass Area Supporting Soldiers will be doing a packing day in Beaumont from 8 a.m. to noon so if there are people who are interested in supporting the troops with providing supplies, they can drop them off here at city hall.
- April 14, 2014 we will have our first Town Hall Meeting for this year and invited will be not only our city staff and our City Manager but they have also invited the hospital, the school district and Mt. San Jacinto College presidents to participate. It will be from 6 to 7:30 p.m. at the hospital in their modular building. This will be a chance for the public to be able to have two-way conversation with staff.
- April 26, 2014 the Ninth Annual Disaster Preparedness Expo and Health Fair will be held between 10 a.m. and 2 p.m. This is free to the public.

City Committee Reports

- 2+2 Meeting with the School Board will be held on April 10, 2014 at 10:00 a.m.
- Budget and Finance Committee meets every month.
- Legislative Committee -- they have three items that they were asked to both support and oppose and the first one to oppose is HR Bill 29 relating to outsourcing public services and basically this is a bill that would say that if we are a city we have to provide all services in-house and would not have the flexibility of deciding which services we may want to contract. She thinks that cities should be able to determine on their own whether or not we want to have the ability to outsource or not. She is asking if there was a consensus of the Council to oppose that bill. **There was Council consensus to oppose that bill.** The second item is to support through a resolution SB 1000 to require health warning labels be placed on sugary drinks including sodas, sports drinks and energy drinks. She said that we would like to support this so that people know how much sugar is in drinks. They want to make sure it is on the drinks because we have so many children that have diabetes and obesity issues.

City Attorney said that she can find out if the Council wants to put these on the agenda to take specific actions and then we could put it back on the agenda. In terms of the Council taking a

position that we are going to go to Sacramento on it should be on an agenda with the subject listed. You can bring these subjects up and find out which ones the Council is interested in and then have a legislative item and then list the items on the next agenda to get an actual action. You may want resolutions because sometimes a resolution of support is a good thing.

There was Council consensus to have the item regarding SB 1000 on the next agenda.

Mayor Franklin said the third item has to do with medical marijuana. This would be to address public safety concerns and health and safety standards and it will actually be held on March 31st so we won't have a meeting before then.

Mayor Pro Tem Welch said that this would be giving the local government the authority to decide if you are going to have medical marijuana in your community and if so, how is it going to be controlled.

Mayor Franklin said since this will come up before our next meeting we will not be able to support or oppose it.

City Attorney said you won't have something in time for that meeting. On the other hand in regards to the contacting the Mayor can send a letter that reflects the position of the Mayor without it being the full position of the Council and then we can have the agenda discussion and then have a resolution and then for further consideration of the legislation it goes through the process we will have a position. A public official can take an action and send a letter and he explained or they could add it to the agenda this evening to take a position.

There was Council consensus to have an item on a future agenda regarding the local control of medical marijuana.

Report by City Attorney – None at this time.

Report by City Manager – None at this time.

ITEMS FOR FUTURE AGENDAS

New Items – None

Mayor Franklin asked the Council if there was agreement of the Council to have come back on the agenda a grocery cart policy for recovery by stores of the grocery carts that are all over the city; this would be a future agenda. **There was Council consensus to have it come back at a future agenda.**

Pending Items

1. Schedule Meetings with Our State and County Elected Officials
2. Discussion on how to handle loans or distributions to charities.
3. Discussion on how the City Council handles donations to the City.
4. Review of regular City Council meeting time.

Mayor Franklin said in regards to Pending Items Mayor Pro Tem Welch is going to work on scheduling meetings with our elected officials and staff is going to bring back memo policy regarding Items 2 and 3 which have to deal with how to handle loans or distributions to charities and how the City Council handles donations to the City. In regards to Item No. 4 she thinks that can be removed because we have already discussed keeping our starting time the same but we have move up our closed session so that we can deal with the different items. **There was Council consensus to remove item No. 4 from the Pending Items list.**

City Clerk mentioned to the Mayor about setting up a Special Meeting to interview candidates for the Planning Commissioner. A tentative date had been March 31st but not all the Council Members could meet on that date. Mayor Franklin said since the next Planning Commission meeting is not until May the City Clerk will poll the Council Members for a date.

ADJOURNMENT

By common consent the meeting adjourned at 8:30 p.m.

Marie A. Calderon, City Clerk

THE ACTION MINUTES REFLECT ACTIONS TAKEN BY THE CITY COUNCIL. A COPY OF THE MEETING IS AVAILABLE IN DVD FORMAT AND CAN BE REQUESTED IN WRITING TO THE CITY CLERK'S OFFICE.

Midyear Presentation Fiscal Year 2013-14

March 25, 2014



Agenda

- General Fund
- Utilities
- Other funds
- Successor Agency
- Future challenges

Process

- Department review
- Finance review
- Update Fund Summary Status and available resources based on June 30, 2013 year end actual balances
 - General Fund beginning balances includes emergency contingency
- Prepare budget adjustments for Council approval
- Budget and Finance Committee review

General Fund – Revenues

Midyear Adjustments:	
Property Taxes	89,296
Sales Taxes	17,222
Pass Thru - CRA	64,650
Permits & Plan Checks	50,406
Miscellaneous - Net	23,782
Net Increase in Revenues	<u>\$245,356</u>

General Fund – Expenditures

Midyear Adjustments:	80,749
Payroll	50,000
Contract - Interim City Manager	264,897
City Attorney	100,125
Police Overtime	41,751
Building & Safety Contract	(15,753)
Miscellaneous - Net	
Net Increase in Expenditures	<u>\$521,769</u>

General Fund Status

FY14 Adopted Budget	Surplus/(Deficit)	0
Adjustments during first 6 months:		
Encumbrances		(196,888)
Net new appropriations		(8,746)
Net continuing appropriations - grants		157,565
Net continuing appropriations - other		(173,989)
Adjusted Budget (before midyear)		<u>(222,058)</u>
Midyear adjustments:		
ADD: Increase in Revenues - net		245,356
SUBTRACT: Increase in Expenditures - net		<u>(521,769)</u>
Revised Budget w/ midyear adjustments		<u>\$(498,471)</u>

General Fund - Available Resources

FY14 Adjustments to Available Resources	179,189
Litigation Contingency	(527,899)
Future Compensated Absences Contingency	367,153
Encumbrances & Continuing Appropriations	3,338,733
Emergency Contingency	3,357,176
Adjusted Available Resources July 1, 2013	(498,471)
SUBTRACT: Projected Net Deficit	<u>\$ 2,858,705</u>
Projected Net Balance at June 30, 2014	

Water Funds

Water Funds	Available resources @ 6/30/2013	Projected YTD Gain/loss	Projected balance @ 6/30/2014
660 – Water Operations	6,343,195	1,591,077	7,934,272
661 – Water Capital Facilities	4,872,620	(3,250,986)	1,621,634
663 – BUA Water Capital Project	2,341,891	(496,800)	1,845,091
669 – BUA - Water Debt Service	85,003	(650)	84,353
Combined Fund Balance >>>	13,642,709	(2,157,359)	11,485,350

Wastewater Funds

<u>Wastewater Funds</u>	<u>Available resources @ 6/30/2013</u>	<u>Projected YTD Gain(loss)</u>	<u>Projected balance @ 6/30/2014</u>
680 – Wastewater	1,204,273	(204,944)	999,329
681 – Wastewater Capital Facility	10,657,246	(704,000)	9,917,246
683 – BUA Wastewater Capital Project	3,270,590	(541,861)	2,728,729
685 – State Revolving Loan	769,208	1,505	770,713
689 – BUA Wastewater Debt Service	89,226	425	89,651
Combined Fund Balance >>>	15,990,543	1,484,875	14,505,668

Reclaimed Water Funds

<u>Reclaimed Water Funds</u>	<u>Available resources @ 6/30/2013</u>	<u>Projected YTD Gain(loss)</u>	<u>Projected balance @ 6/30/2014</u>
662 – Irrigation Water	1,320,648	(1,320,648)	-
682 – Wastewater Tertiary	3,743,649	(1,549,459)	2,194,190
Combined Fund Balance >>>	5,064,297	(2,870,107)	2,194,190

Electric Funds

<u>Electric Funds</u>	<u>Available resources @ 6/30/2013</u>	<u>Projected YTD Gain(loss)</u>	<u>Projected balance @ 6/30/2014</u>
670 - Operations	7,820,296	1,802,831	9,623,127
672 - Rate Stability	6,002,169	10,000	6,012,169
673 - Electric Improvement	8,743,799	(1,819,490)	6,924,309
674 - Electric Bond Project Fund	14,136,102	(7,702,497)	6,433,605
675 - Public Benefit Fund	289,390	15,344	304,734
678 - Electric Debt Service Fund	296,670	400	297,070
Combined Fund Balance >>>	37,288,426	(7,693,412)	29,595,014

Special Revenue Funds

- Includes funds that are restricted in use. Examples include:
 - Gas Tax
 - Measure A
 - Grants
 - Development impact funds
- Total Adjusted Revenues \$ 4,711,897
- Total Adjusted Expenditures \$ 6,022,080

Capital Improvement Funds

- Includes funds that are restricted in use.
 - i.e. Development impact funds, major capital projects
- Sunset Grade Separation project represents the majority
 - Revenue \$ 2,631,606
 - Reimbursement for prior year Sunset Grade Separation expenditures
 - Expenditures \$ 304,186
- Total Adjusted Revenues \$ 2,640,747
- Total Adjusted Expenditures \$ 526,232

Enterprise Funds

- Includes funds that are considered to be like a business:
 - Airport
 - Transit
 - Refuse
- Total Adjusted Revenues \$ 6,713,769
- Total Adjusted Expenditures \$ 6,708,514

Internal Service Funds

- Include funds that provide services to other City operations. These include:
 - Insurance (worker's compensation & general liability)
 - Fleet
 - Information services
 - Utility billing services
- Total Adjusted Revenues \$ 5,907,020
- Total Adjusted Expenditures \$ 5,956,272

Successor Agency

- Overview
 - Successor Agency approves ROPS every 6 months
 - Oversight Board approves ROPS
 - Department of Finance approves ROPS
 - Last ROPS approved was ROPS 14-15 A

<u>Successor Agency Fund</u>	<u>Available resources @ 6/30/2013</u>	<u>Projected YTD Gain(loss)</u>	<u>Projected balance @ 6/30/2014</u>
805 - Redevelopment Obligation Retirement Fund	1,707,877	(71,570)	1,636,307
810 - Successor housing Agency	37,539	100	37,639
830 - Debt Service Fund	(15,944)	65,810	49,866
850 - Successor Agency	1,544,261	(42,925)	1,501,336
855 - Tax Alloc Bonds - 2007	8,547,159	(1,294,711)	7,252,448
856 - Tax Alloc Bonds - 2003	163,294	76,292	239,586
857 - Low/Mod Tax Alloc Bonds - 2003	449,692	1,000	450,692
Combined Fund Balance >>>		12,433,878	(1,266,004) 11,167,874

Future Challenges

General Fund

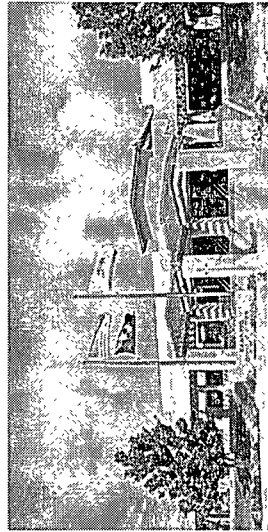
- Increasing costs with PERS
 - They have changed the actuarial assumptions again
- TOT revenue is on the June 3, 2014 ballot as Measure E seeking the continuation of the 12% cap.

Recommendation

- Approve the resolutions amending the estimated revenues and appropriations for the Fiscal Year 2013/2014 budget for the City of Banning, Banning Utility Authority and Successor Agency

COMMUNITY DEVELOPMENT

March 25, 2014
City Council Meeting



1

GENERAL PLAN

ANNUAL PROGRESS REPORT FOR 2013

- Required by Government Code Section 65400.
- Status of Programs in the City's General Plan.
- 299 Programs based on 21 elements.
- 264 programs - Implemented/on-going
- 35 - Not implemented due to budget and staffing cuts or department priorities.
- All city departments contributed to updating the programs status.

2

GENERAL PLAN AMENDMENTS COMPLETED IN 2013

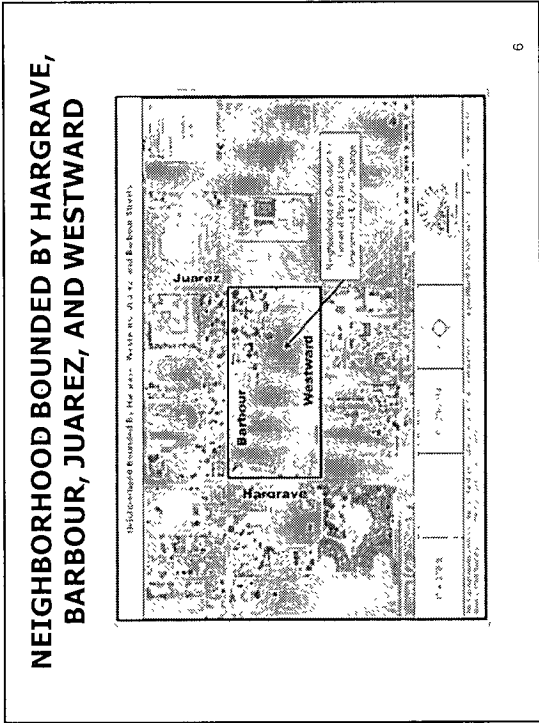
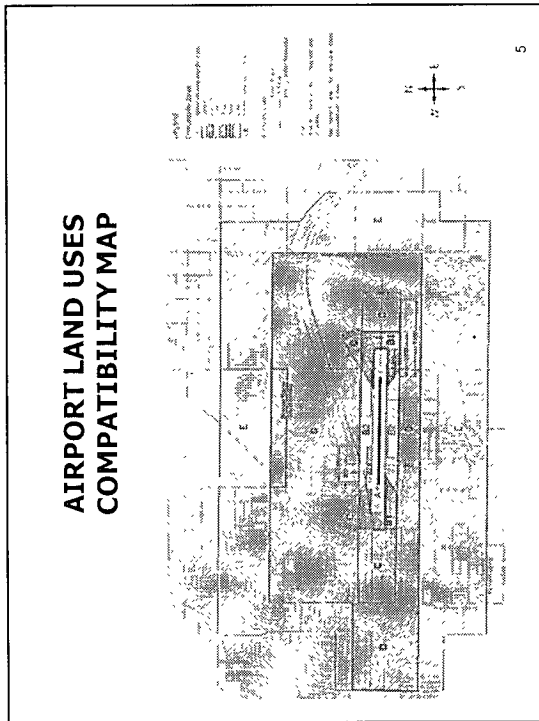
- Land Use, Economic Development & Circulation Elements.
- Housing Element for 2008-2014.
- Land Use/Rezoning of 9.28 acres for the neighborhood located at the northeast corner of Hargrave and Charles Streets.

3

POLICY ISSUES

- Site Selection for Housing Element. Next Housing Element is due in 2021 (7 years from now). At the same time, the life of the current General Plan will be 15 years. Comprehensive amendment is recommended when the General Plan reaches its life anywhere between 10-15 years.
- Airport Land Use Compatibility with the General Plan.
- Rezoning of Neighborhood bounded by Hargrave, Barbour, Juarez, and Westward.

4



Community Development

City of Banning – Planning Division
99 E. Ramsey Street
Banning, CA 92220
(951) 922-3125

7

CITY COUNCIL AGENDA

Date: April 8, 2014
TO: Honorable Mayor and City Council
FROM: Fred Mason, Electric Utility Director
SUBJECT: Notice of Completion for "Project 2013-03EL Downtown Underground Project – Phase 2"

RECOMMENDATION: The City Council accept the Project 2013-03EL "Downtown Underground Project – Phase 2" as complete and direct the City Clerk to record the Notice of Completion.

STRATEGIC PLAN: The contractor has completed the work as per the plans and specifications.

BACKGROUND: The City Council awarded the construction contract for said project to Southern California West Coast Electric, Inc. of Beaumont, at its regular meeting held on September 10, 2013.

The scope of work for the project included installing conduits, hand holes, transformer pads, street light bases and other appurtenances for primary and secondary distribution along Livingston Street and San Gorgonio Avenue in the City of Banning.

FISCAL DATA: The final contract price for the entire project was \$373,575.46.

RECOMMENDED BY:



Fred Mason
Electric Utility Director

APPROVED BY:



June Overholt
Acting City Manager

1 WHEN RECORDED MAIL TO:

2
3 City Clerk's Office
4 City of Banning
5 City Hall, 99 E. Ramsey Street
6 Banning, California 92220
7

8 FREE RECORDING:
9 Exempt Pursuant to
10 Government Code §6103
11

12
13
14 NOTICE OF COMPLETION

15 PROJECT NO. 2013-03EL DOWNTOWN UNDERGROUND PROJECT –
16 PHASE 2
17

18
19 THIS NOTICE OF COMPLETION IS HEREBY GIVEN by the City of Banning,
20 a municipal corporation, pursuant to the provisions of Section 3093 of the Civil Code of
21 the State of California, and is hereby accepted by the City of Banning pursuant to
22 authority conferred by the City Council this April 8, 2014, and the grantees consent to
23 recordation thereof by its duly authorized agent.
24

25 (1) That the OWNER, the City of Banning, and Southern California West
26 Coast Electric, Inc., entered into a written Agreement dated September 23, 2013, for the
27 Downtown Underground Project - Phase 2. The scope of work for the project included
28 installing conduits, hand holes, transformer pads, street light bases and other
29 appurtenances for primary and secondary distribution along Livingston Street and San
30 Gorgonio Avenue in the City of Banning.
31

32 (2) That the Work of Improvement was substantially completed on January
33 16, 2014, and the Nature of Interest is in fee simple owner.
34

35 (3) That the City of Banning, a municipal corporation, whose address is
36 Banning City Hall, 99 E. Ramsey Street, Banning, California 92220, is the owner of said
37 Work of Improvement.

38
39 (4) That the said Work of Improvement was performed on Livingston
40 between Martin Street and Alola Street, and on San Gorgonio Avenue between Williams
41 Street and Wilson Street, in the City of Banning.

42
43 (5) That the original contractor for said improvement was Southern California
44 West Coast Electric, Inc., State Contractor's License No. 462222.

45
46 (6) That the corporate surety on the performance and payment bonds is
47 SureTec Insurance Company.

48
49 Dated: April 8, 2014

50
51 CITY OF BANNING
52 A Municipal Corporation
53

54
55
56 By _____
57 Fred Mason
58 Director of Electric Utility
59

60 APPROVED AS TO FORM:

61
62
63 _____
64 David Aleshire, Aleshire & Wynder, LLP
65 City Attorney

1 STATE OF CALIFORNIA)

2) ss

3 COUNTY OF RIVERSIDE)

4
5
6 MARIE A. CALDERON, being duly sworn, deposes and says:

7
8 That I am the City Clerk of the City of Banning, which City caused the work to be
9 performed on the real property hereinabove described, and that I am authorized to verify
10 this Notice of Completion on behalf of said City; that I have read the foregoing Notice
11 and knows the contents thereof, and that the facts stated therein are true based upon
12 information available to the City of Banning, and that I make this verification on behalf
13 of said City of Banning I declare under penalty of perjury that the foregoing is true and
14 correct.

15
16
17
18 Marie A. Calderon
19 City Clerk of the City of Banning
20

21
22
23 Executed on _____, 2014 at Banning, California.
24
25
26
27
28
29
30

42

**CITY COUNCIL
PUBLIC HEARING**

DATE: April 8, 2014

TO: City Council

FROM: Zai Abu Bakar, Community Development Director

SUBJECT: APPEAL OF PLANNING COMMISSION ACTION
CONDITIONAL USE PERMIT (CUP) #13-8005/DESIGN REVIEW (DR) #13-7003; PROPOSED 24 UNIT AIRPORT INDUSTRIAL LIVE/WORK LOFTS;
APN 541-290-013

RECOMMENDATION:

That the City Council hear the appeal, take public testimony, and then takes the following actions:

1. Adopt Resolution No 2014-22 (Attachment 1) adopting a Mitigated Negative Declaration in compliance with California Environmental Quality Act (CEQA) Guidelines along with a Mitigation Monitoring and Reporting Program; and, approving Conditional Use Permit #13-8005, and Design Review #13-7003.

Planning Commission Action

On March 5, 2014, the Planning Commission considered Resolution No. 2014-04 recommending approval of the subject applications; however, the vote was 1-no to 2-ayes that resulted in the Resolution not passing as determined by the Assistant City Attorney. At the time of the vote, only three Planning Commission members were present (one seat being vacant, and another member ill with an excused absence). Policies of the City of Banning require a unanimous vote to approve resolutions when only three members are present.

While the Planning Commission members were complimentary to the design and the project proposal overall, one member of the Commission voted “no” on the project because of the concern that children may occupy the live/work units. It was explained by the Assistant City Attorney that when housing is involved, the Fair Employment and Housing Act (FEHA) prohibits discrimination in employment and housing based on age, and more specifically families with children. However, it is noteworthy to recognize that state and federal laws do restrict what a child less than 18 years of age, and what a child less than 16 years of age, may be exposed to in the work place. These limitations, along with other health and safety regulations provide a safeguard for children.

JUSTIFICATION: Section 17.68.090 *Appeal of Action* of the Zoning Ordinance allows any action taken by the Planning Commission to approve or disapprove an application to be appealed to the City Council. On March 18, 2014, the applicant for the subject project submitted an appeal of the action of the Planning Commission for the subject project.

BACKGROUND/ANALYSIS:

The applicant is requesting approval to construct a 64,327 square foot mixed use residential/commercial development on a 3.7 acre parcel in the Airport Industrial (AI) zoning district. Specifically, the project proposes the construction of one building consisting of approximately 9,900 square feet of office space; 26,950 square feet of warehouse space; 11,864 square feet of residential space; 8,360 square feet of enclosed parking; and, 7,253 square feet of miscellaneous space (closets, stairs, walls, etc) (see Site Plan – Attachment 4). Improvements to the site include a parking lot for approximately 125 vehicles, landscaping, and utilities.

Site Description

The project is located south of Lincoln Street and west of Hathaway Street (see Attachment 2- Location Map). The project area consists of one parcel, Assessor's Parcel Number (APN) 541-290-013 totaling approximately 3.7 acres. The land is described as the west 242 feet of Block 182, as shown by Map of Banning Colony Lands on file in Book 5 Page 186 of Maps, Records of Riverside County California.

The site is vacant ground sloping to the southeast and contains little or no vegetation (see Attachment 2 – Aerial Map). Lincoln Street, a paved arterial highway, is located immediately north of the site. Barbour Street is located immediately to the south of the site is partially improved with asphalt pavement. Banning Municipal Airport is located across Lincoln Street adjacent to the project site.

Surrounding Land Use

The project is located in an urban environment in the Airport Industrial (AI) zone that has been developed since the early part of the 20th century. Banning Municipal Airport, described as a general aviation facility, is located to the north and east across Lincoln Street; the airport includes a small terminal building, aircraft hangars and tie-downs, along with a small aircraft fueling station. The area of the airport closest to the development (across Lincoln Street) is vacant land reserved as a runway protection zone for runway 8-26. To the west are located two legal non-conforming single family dwellings and a large industrial building presently being used as a recreational vehicle storage lot. East of the project site are a few legal non-conforming single family dwellings and a vacant parcel of land. Barbour Street serves as the southern border for the project site with a vacant parcel of land located across the street (see Attachment 2-Aerial Photo).

The nature of the surrounding uses, Zoning and General Plan land use designations are indicated in the following table.

Land Use Summary Table

	Existing Land Use	Zoning Designation	General Plan Designation
Subject Site	vacant parcel	Airport Industrial	Airport Industrial
North	airport	Public Facilities-Airport	Public Facilities-Airport
South	vacant parcel	Industrial (south of Barbour Street)	Industrial (south of Barbour Street)
East	residential/vacant parcel	Airport Industrial	Airport Industrial
West	residential/industrial	Airport Industrial	Airport Industrial

Project Analysis

The proposed project is located in the Airport Industrial (AI) zone. Proposed uses must be focused on airport-related and transportation-related functions, including machining, manufacturing, warehousing, flight schools, restaurants and office uses. Aircraft maintenance, repair and catering services are also appropriate; and mixed-use projects may also be permitted, subject to approval of a conditional use permit. Historically, some residential uses are associated with commercial developments located near airports. For example, hotels are often located on or near airport uses. Some airport specific uses like flight schools, air ambulance services, and other aviation businesses find it convenient to have a place where employees may live while performing their duties.

The developer proposes a project with a mixed use residential component that will provide a live/work loft arrangement where the owner of the property would have a residential space (loft) located above the work space. This type of development is advantageous for airport related businesses and in particular for those who are just starting out in business and cannot afford to purchase both a residence and work space. The drawings submitted with the application provide greater detail on the design of the building areas, parking areas, and landscaping.

The project is described as mixed use residential/industrial condominium project consisting of 24 units. At this time the applicant has not included a subdivision map for the project. A condition of approval is added to the project condition that requires a subdivision map be filed prior to the sale of any units located within the project area (see condition number 97). The parking, access, and maintenance including landscaping of the overall site will be established through agreements that will be finalized by the developer prior to final map approval and recordation.

Compliance with Airport Industrial Development Standards

Below is a chart showing the minimum development standards for the Airport Industrial (AI) zone as stated in Table 17.12.030; and, how the proposed project meets those standards.

Airport Industrial Development Standards

Development Standards	Required	Provided	Complies With Code
Minimum Lot Size	5 Acre	3.7 acres	legal non-conforming
Minimum Lot Width	150 feet	242 feet	Yes
Minimum Lot Depth	150 feet	609 feet	Yes
Minimum Front Setback	10 feet	95 feet	Yes
Minimum Rear Setback	0 feet	68 feet	Yes
Minimum Side Yard Setback	0 feet	57 feet	Yes
Maximum Building Coverage	75%	40%	Yes
Maximum Building Height (stories/feet)	2/50 feet	2 story/28'-6" feet	Yes
Maximum Fence/Wall Height	8 feet	8 feet	Yes

Site Design/Grading

The proposed project will be accessed by a split drive approach entryway (one drive approach for ingress and a separate drive approach for egress) along Lincoln Street; and, one commercial type drive approach along Barbour Street. Both access points are located midway in the parcel frontage. The driveway around the proposed building is approximately 21 feet wide along the north-south axis and 28 feet wide minimum along the east-west axis to allow the fire department adequate access for protecting the structure. Parking is set back from all access points along the street to allow at least one vehicle to enter and exit the parking lot without being blocked by vehicles pulling out from or into the parking spaces. This design feature helps reduce vehicle congestion along Lincoln Street and Barbour Street by allowing vehicles to enter the site unobstructed. The onsite driveways provide for vehicle circulation in both directions. The design of the parking spaces and driveway comply with the requirements of the Parking Lot Design Standards of the zoning ordinance.

The existing ground surface is flat and slopes to the southeast. The site is not developed and a grading permit along with grading plans shall be required. A precise grading plan will be submitted to the City Engineer for review and approval in accordance with the City's Grading Ordinance and a grading permit shall be issued prior to any construction activities taking place. The City's Grading Ordinance makes provision for dust prevention and control during construction, erosion and sediment control, protection of adjoining properties, water quality, and other regulations related to grading.

Parking Requirements

Portions of Table 17.28.040.B “Commercial and Industrial Parking Requirements” of the Zoning Code are reproduced below. Based upon the uses proposed for the project (residential, office, and warehouse) the Zoning Ordinance for the City of Banning requires 107 total parking spaces, and 125 parking spaces are proposed for the project. Additionally, one loading space will be provided for the front office. Loading for each unit may take place adjacent to the respective units.

Table 17.28.040B
Commercial and Industrial Parking Requirements

Residential/studio and one-bedroom	One covered parking space per unit, plus one uncovered guest parking space for every 4 units.
General Offices	For up to 2000 square feet of gross floor area, one space for each 200 sq. ft. For 2001 to 7500 square feet of gross floor area, one space for each 250 sq ft. For over 7500 square feet of gross floor area, one space for each 300 sq ft.
Industrial Warehousing	For the first 20,000 square feet a minimum of two spaces plus one space for each 1,000 square feet of gross floor area; for over 20,000 square feet, 22 spaces plus one space per 2,000 square feet for portion over 20,000 square feet.

Vehicle Trip Reduction

Vehicle trip reduction principles are required to be incorporated into projects that employ 100 persons or more as required in Chapter 8.60 of the Banning Municipal Code. The purpose of these requirements is to reduce the number of vehicle trips and thus improve traffic congestion and air quality. Using the methodology in the code, it is calculated that the proposed project will generate 152 employees; therefore, a reduction of 12% of vehicle trips is the goal of the City program. The provisions of this section may include but are not limited to the following items:

1. Preferential parking for carpool vehicles;
2. Bicycle parking and shower facilities;
3. Information center for transportation alternatives;
4. Rideshare vehicle loading area;
5. Vanpool vehicle accessibility;
6. Bus stop improvements;
7. On-site child care facilities;
8. Local TSM and road improvements;
9. Facilities to encourage telecommuting;
10. Contributions to support regional facilities designed to reduce vehicle trips and miles traveled;
11. On-site amenities, such as cafeterias and restaurants, automated teller machines and other services that would eliminate the need for additional trips.

The code section is permissive in the case of trip reduction provisions. However, as a condition of approval for the project, items 1, 2, 3, as listed above will be required by the building permit and then implemented by the applicant. Other provisions of the program may be implemented as

tenants fill the units. Therefore, the provisions of the trip reduction program will assure that the congestion management program for the City will not be significantly impacted.

By its very nature the live/work concept for this development will reduce vehicle trips by not requiring a commute to the work place for some businesses. Since the specific businesses that will occupy the project are not known at this time, it is difficult to estimate the reduced traffic impacts; however, it may be reasoned that this concept will have a positive effect on vehicle trip reduction.

Architectural Design

The design and architecture of new development in the Airport Industrial zoning district shall be consistent with the Design Guidelines of the zoning ordinance. Desirable elements of the design include significant texture for building surfaces, wall articulation, insets, canopies, wing walls, trellises, multi-planed, pitched roofs, roof overhangs, arcades and covered walkways, regular window distribution, articulated mass and bulk, significant landscape and hardscape elements, clearly identifiable access driveways, convenient and accessible parking, landscaped and screened parking, unified and complementary signage.

The basic building type is concrete wall tilt-up construction. The textures used for the concrete finishes include smooth painted surfaces, scored panels, along with exposed aggregate panels with wall plane articulation. The finish/paint colors may be described as brown and tan earth tones. Wall articulation is accomplished at nearly every unit along the building elevation, which provides significant desirable shadow effect. Second floor patio decks are provided and break the mass of the building plane as well as provide outdoor private space. The roof plane changes at intervals and provides articulation for the building mass. Significant landscaping features both adjacent to the building and along the property lines in the parking area contribute to the desirable design elements of the project.

The monument sign proposed for the project is included as an entry statement for the project at the main drive entrance for Lincoln Street. The monument sign with the project title " AIRPORT INDUSTRIAL WORK/ LOFTS" with painted metal textured lettering standing off the background includes architectural details consisting of stone veneered pilasters and wall elements, and a planter wall in front of the sign. Other hardscape features include raised planters with trees providing shade in the parking areas.

Landscaping and Lighting Design

The landscaping design and construction emphasizes drought tolerant features as required by State and Zoning Code regulations for the purpose of conserving water. Specified tree types include Crepe Myrtle for color; shrub types include Junipers and Lantana. All plant types will require little to moderate watering with some types requiring no additional watering at all. No turf is proposed for this project. A landscape documentation package that includes a water conservation statement shall be required at time of construction for approval of the final landscape design plans.

The Parking Lot Design Standards of the Zoning Code require that at least 15% of the parking area be landscaped. The parking area as proposed in the design plans is approximately 59,528 square feet. Therefore, the minimum landscape area is 8,929 square feet. The applicant is

proposing 11,070 square feet of landscaping in the parking area and 10,588 square feet of landscaping for the street frontages.

Exterior lighting is required to be shielded or recessed so that light is contained within the boundaries of the parcel on which the lighting is located. All lighting shall be directed downward and away from adjoining properties and public rights-of-way. Additionally, any lighting that would interfere with the nearby airport operations shall be prohibited in accordance with Federal Aviation Administration (FAA) regulations and the conditions imposed by the Riverside County Airport Land Use Commission (see Attachment 6).

Projects Near Airports

The project is located within Airport Compatibility Zones B1 and D of the Riverside County Airport Land Use Compatibility Plan as adopted by the Riverside County Airport Land Use Commission (ALUC) for Banning Municipal Airport. On December 12, 2013, the Riverside County Airport Land Use Commission determined the project is conditionally consistent with the Airport Land Use Compatibility Plan. The results of the determinations and conditions are as shown in Exhibit 6. The project requires approval of a Conditional Use Permit, and conditions imposed through the ALUC review will be incorporated into the project CUP conditions of approval (see Attachment 6).

Conclusion

Staff recommends approval of the subject Conditional Use Permit and Design Review as the proposed project is consistent with the requirements of the General Plan and Zoning Code. The project adequately meets the performance standards and design guidelines as discussed in the staff report; or, will meet those requirements as stated in the conditions of approval and upon review and approval of the construction plans and specifications.

ENVIRONMENTAL RESOURCES:

Biological Resources

Biological resources represent the plants and wildlife species and ecosystems and habitats that contribute to an area's natural setting. The project site is located within an urbanized area of the City of Banning. Based on the review of the General Plan for the City of Banning, there are several sensitive plant and animal species as having a potential to occur in the vicinity of the project. However, the potential to find such species on the project site or in the area immediately surrounding the project site is very low due to a lack of natural vegetation, the heavy disturbance of the natural environment (active weed control) and the lack of undisturbed habitat.

Additionally, a detailed review of Exhibit IV-2 of the General Plan demonstrates that the site is not located in a Special Linkage Area or Criteria Area of the MSHCP; a detailed review of Exhibit IV-3 of the General Plan demonstrates that the site is not located in an area that supports the Yucaipa Onion; a detailed review of Exhibit IV-4 of the General Plan demonstrates that the site is not located in a Burrowing Owl Survey Area; and, a detailed review of Exhibit IV-5 of the General Plan demonstrates that the site is not located in a L.A. Pocket Mouse survey area. Therefore, there will not be a substantial adverse effect on candidate, sensitive, or special status species.

The project will be required to pay a local development mitigation fee for funding the preservation of natural ecosystems in accordance with the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP). The purpose of the plan is to protect the existing character of the city and the region through the implementation of a system of reserves which will provide for permanent open space, community edges, and habitat conservation for species covered by the MSHCP.

There are no streams, drainage courses, or lakes on the site. There are no depressions on the site that may allow water to collect and provide suitable habitat to support natural communities and wetlands. The project site is surrounded by existing development to the east and west, and fronts Lincoln Street and Barbour Street on the north and south consequently the site does not serve as a wildlife movement corridor. The site contains no trees or vegetation; and, therefore there is nothing to consider preserving.

Cultural Resources

Cultural resources provide residents with a meaningful sense of history and heritage. The site is not listed in the National Register of Historic Places (NRHP). Review of the California State Historic Register of Historic Resources, California Historical Landmarks, and California Points of Interest indicates that the site is not registered or designated as a historic place.

When the General Plan for the City of Banning was prepared in 2006, Historical maps, previous cultural resource surveys, aerial photographs, topographic maps and other cultural records were consulted to determine the presence of known archaeological resources in the planning area. A total of 20 archaeological sites have been identified and recorded in the planning area, 12 of which are prehistoric (Native American) sites. The planning area for the General Plan has not been extensively surveyed for cultural resources due to the fact that large scale development projects have not been as widespread in the planning area as other communities in the San Geronio Pass/Coachella Valley region.

A detailed review of Table IV-11 of the General Plan found that the site is not listed as a Historic-Era Building, in fact there are no structures located on the site. A detailed review of Exhibit IV-7 found that there are no designated heritage properties located in the vicinity of the project site. Therefore, the potential to find such cultural resources on the project site is very low due to the lack of history or structures being located on the site and the heavy disturbance of the ground (active weed control). There are no known archaeological resources, paleontological resources, or cemeteries on the site. In the event of accidental discovery of human remains, the County Coroner will be contacted and the remains will be dealt with in accordance with State regulations.

Geotechnical Hazards

A geotechnical investigation was prepared for the project by Norcal Engineering of Los Alamitos, California dated April 30, 2009. Section 7 of the report concluded that based on the results of their review, field exploration, laboratory testing, and geotechnical analysis the proposed development is considered feasible from a geotechnical standpoint provided that the recommendations of the report are addressed.

As identified in the report, the project is not located in Alquist-Priolo Zone, therefore the possibility of significant fault rupture is considered to be low. Additionally, the proposed development must be designed in accordance with the requirements of the California Building Code (CBC) Seismic Design Parameters. The CBC provides procedures for earthquake resistant structural design that include considerations for on-site soils conditions, occupancy, and the configuration of the structure including structural system and height.

The City of Banning General Plan Exhibit V-4 indicates that the site is located within a zone of moderate liquefaction susceptibility. However, the analysis prepared in the report indicates that the potential for liquefaction at this site is considered to be very low due to the depth of ground water in excess of 200 feet within the vicinity of the area. Free ground water is required for liquefaction to occur.

The geotechnical investigation did not identify any soil conditions of concern other than those standard conditions that will be addressed during the grading operation. The recommendations of the report will be made part of the grading plans through the project conditions of approval and in accordance with the "Grading Ordinance" for the City of Banning.

Hydrology

Exhibit V-5 of the General Plan (GP) identifies that the site is located within an area of shallow flooding. Specifically, the GP explains as follows:

"Areas between limits of the 100-year and 500-year flood; or certain areas subject to 100-year flooding with average depths less than 1 foot or where the contributing drainage area is less than 1 square mile; or areas protected by levees from base flood".

A grading plan is required in connection with the site development and will include a hydrology and hydraulics analysis in accordance with the City of Banning Grading Ordinance. The buildings as proposed in the project will be designed in accordance with the Grading Ordinance that includes design of building floor elevations to protect the structures from potential flood damage. Therefore, the impacts related to flood are considered to be less than significant.

For post construction activities, a Preliminary Water Quality Management Plan recommends that the project's runoff flow rate, volume, velocity and duration for the post development condition mimic the pre-development conditions and incorporate site design considerations to improve water quality. A Final Water Quality Management Plan (WQMP) is required to be approved before construction of the project. The recommendations of the WQMP will be incorporated into the project design and practices.

Noise

The Noise Element of the City of Banning General Plan coordinates land use with existing and future noise environment. Noise is measured in decibels (db). The A-weighted decibel (dBA) approximates the subjective response of the ear to noise source by discriminating against the very low and very high frequencies in the spectrum. Table V-3 of the GP identifies that the existing noise contour for Lincoln Street east of San Geronio (the closest listed location) for 55 dBA extends to approximately 106 feet. Table V-4 of the GP identifies that residential-multiple family uses, which is the most conservative case, are compatible with noise environments up to

65 dBA. Since the site is farther away than the 55 dBA noise contour, existing noise from motor vehicle traffic is not a factor. The requirements for noise reduction related to proximity to the airport is the controlling factor.

The project requires approval of a Conditional Use Permit, and conditions imposed through the Airport Land Use Commission (ALUC) review will be incorporated into the project conditions. Specifically, condition number 5 of the ALUC review requires noise attenuation measures be incorporated into the building construction to reduce interior noise levels to at or below 45 CNEL. Therefore, the potentially significant noise hazards will be reduced to levels that are less than significant.

Noise impacts associated with construction activity may exceed what is generally acceptable by the City's General Plan guidelines. However, in accordance with the City's noise ordinance, those impacts are restricted to the hours of 7:00 a.m to 6:00 p.m. and are enforced by the building official through the permitting process. Furthermore, the noise ordinance places this additional restriction on construction activities:

“However, nothing contained herein shall permit any person to cause sound levels to at any time exceed 55 dBA for intervals of more than fifteen minutes per hour as measured in the interior of the nearest occupied residence or school.”

Therefore, any noise impacts related to construction activities are temporary and not considered significant.

Traffic

A focused traffic impact analysis was prepared by Kunzman Associates, Inc. dated August 14, 2013. The proposed development is projected to generate approximately 841 daily vehicle trips, 49 of which will occur during the morning peak hour and 67 of which will occur during the evening peak hour. The report analyzed roadway capacity, and level of service and determined that the traffic generated from the proposed project will not significantly impact any of the study intersections and roadway segments. Lincoln Street is a fully improved arterial roadway. However, Barbour Street is partially improved and does not have curb and gutters constructed to the General Plan design standards. Therefore, it is necessary to construct Barbour Street from the west project boundary to the east project boundary at its ultimate half-section width including landscaping and parkway improvements to address roadway design hazards and street parking.

Additionally, the project will participate in the cost of off-site improvements through payment of the following “fair share” mitigation fees:

- Transportation Uniform Mitigation Fee (TUMF) prior to construction (regional).
- Traffic Signal Mitigation Fee prior to construction (local).

Access will not be impacted as the site fronts two improved roadways and the project will not alter or limit access in any way. During construction portions of Lincoln Street and/or Barbour Street may be affected; however these impacts are considered temporary and will be mitigated through traffic control as required by the City Engineer. Access drives proposed for the project are designed in accordance with Fire department minimum design standards.

Air Quality

The project is located within a portion of the South Coast Air Quality Management District (SCAQMD) which has been identified by the California Air Resources Board as being in non-attainment for Ozone, Large Particulate Matter PM₁₀ and Small Particulate Matter PM_{2.5}. The 2007 Air Quality Management Plan for the South Coast Air Basin (2007 AQMP) relies on a multi-level partnership of governmental agencies at the Federal, State, regional, and local level. The plan contains a number of land use and transportation control measures that are intended to reduce air pollution emissions. The project will comply with the control measures identified in the plan in addition to all of the District's applicable rules and regulations.

SCAQMD Thresholds

CEQA guidelines define a significant effect on the environment as "a substantial, or potentially substantial, adverse change in the environment." To determine if a proposed project would have a significant impact on air quality, the type, level, and impact of emissions generated by the proposed project must be evaluated.

To assist in the establishment of a quantitative determination of what is considered "significant," the SCAQMD has published a number of significance thresholds that apply to new projects constructed or operated within the SCAQMD. The SCAQMD recommends that these quantitative air pollution thresholds be used by lead agencies in determining whether a proposed project could result in a significant impact. If the lead agency finds that the proposed project has the potential to exceed these air pollution thresholds, the project should be considered significant.

Regional Significance Thresholds

The SCAQMD has established the following regional significance thresholds expressed as daily emission totals released by a project during construction and operation. The URBEMIS 2007 software version 9.2.4 was utilized to demonstrate compliance with regional significant thresholds as shown in the table below:

Regional Significance Thresholds

Pollutant*	Construction (pounds per day)	Operational (pounds per day)	Project Construction	Project Operations
Oxides of Nitrogen (NO _x)	100	55	16.91	4.22
Volatile Organic Compounds (VOC)	75	55	68.92	2.98
Particulate Matter (PM ₁₀)	150	150	1.00	8.10
Particulate Matter (PM _{2.5})	55	55	0.87	1.60
Oxides of Sulfur (SO _x)	150	150	0.02	0.05
Carbon Monoxide (CO)	550	550	15.7	34.22

*Source: South Coast Air Quality Management District Air Quality Significance Thresholds, March 2011.

Evaluation of the above table indicates that all criteria pollutant emissions from construction and operation of this project will not exceed the SCAQMD regional daily thresholds and therefore the impacts are considered less than significant.

ENVIRONMENTAL FINDINGS:

The City Council, in light of the whole record before it including but not limited to the City's local CEQA Guidelines and Thresholds of Significance, the proposed Mitigated Negative Declaration and documents incorporated therein by reference, any written comments received and responses provided, the proposed Mitigation Monitoring and Reporting Program and other substantial evidence (within the meaning of Public Resources Code § 21080(e) and § 21082.2) within the record and/or provided at the public hearing, hereby finds and determines as follows:

1. California Environmental Quality Act (CEQA):

- a) **Review Period:** That the City has provided the public review period for the Mitigated Negative Declaration for the duration required under CEQA Guidelines Sections 15073 and 15105. The public review period was from February 1, 2014 to March 2, 2014.
- b) **Compliance with Law:** That the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program were prepared, processed, and noticed in accordance with the California Environmental Quality Act (Public Resources Code Section 21000 et seq.), the CEQA Guidelines (14 California Code of Regulations Section 15000 et seq.) and the local CEQA Guidelines and Thresholds of Significance adopted by the City of Banning.
- c) **Independent Judgment:** That the Mitigated Negative Declaration reflects the independent judgment and analysis of the City.
- d) **Mitigation Monitoring and Reporting Program:** That the Mitigation Monitoring and Reporting Program as referred to herein is designed to ensure compliance during project implementation in that change to the project and/or mitigation measures have been incorporated into the project and are fully enforceable through permit conditions, agreements or other measures as required by Public Resources Code Section 21081.6.
- e) **No Significant Effect:** That revisions made to the project plans agreed to by the applicant and mitigation measures imposed as conditions of approval on the project, avoid or mitigate any potential significant effects on the environment identified in the Initial Study to a point below the threshold of significance. Furthermore, after taking into consideration the revisions to the project and the mitigation measures imposed, the City Council finds that there is no substantial evidence, in light of the whole record, from which it could be fairly argued that the project may have a significant effect on the environment. Therefore, the City Council concludes that the project will not have a significant effect on the environment.

2. Wildlife Resources.

Pursuant to Title 14, California Code of Regulations § 753.5(c), the City Council has determined, based on consideration of the whole record before it, that there is no evidence that the proposed project will have the potential for any adverse effect on wildlife resources

or the habitat upon which wildlife depends. The project site is vacant and void of vegetation and wildlife habitat. Furthermore, on the basis of substantial evidence, the City Council hereby finds that any presumption of adverse impact has adequately been rebutted. Therefore, pursuant to Fish and Game Code § 711.4(c)(2)(B) and Title 14, California Code of Regulations, § 753.5(a)(3), the project is not required to pay Fish and Game Department filing fees.

3. Multiple Species Habitat Conservation Plan (MSHCP).

The project is found to be consistent with the MSHCP. The project is located outside of any MSHCP criteria area and mitigation is provided through payment of the MSHCP Mitigation Fee.

REQUIRED FINDINGS FOR CONDITIONAL USE PERMIT:

Section 17.52.050 requires that each Conditional Use Permit application meet certain findings in order to be approved by the City Council. The following findings are provided for City Council consideration:

Finding No. 1: The proposed project is consistent with the General Plan.

Findings of Fact: The project 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 land-use designation of Airport Industrial (AI) allows a mixed use development subject to approval of a Conditional Use Permit by City Council. The proposed project will provide approximately 9,900 square feet of office space, 26,950 square feet of warehouse space, and 11,864 square feet of residential space.

Further, the project 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”. The proposed project will generate an estimated 152 jobs and generate sales tax from retail sales if commercial uses occupy the space.

Finding No. 2: The proposed use is conditionally permitted within the subject land use district and complies with the applicable provisions of the Zoning Code.

Findings of Fact: Mixed use development is allowed in accordance with Section 17.12.020 *Permitted, conditional and prohibited uses* of the Zoning Ordinance subject to approval of a Conditional Use Permit by City Council. Additionally, the existing building meets the front, rear, and side setback requirements of the AI development standards as shown in the staff report dated March 5, 2014. The proposed project is conditioned to meet all local standards pertaining to office, warehouse, and residential use and any proposed improvements.

Finding No. 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 will not impair the integrity and character of the AI land use district in which it is to be located because it is surrounded by existing developments and on the Lincoln Street corridor which is a long-established commercial/industrial corridor. Banning Municipal Airport, described as a general aviation facility, is located to the north and east across Lincoln Street; the airport includes a small terminal building, aircraft hangars and tie-downs, along with a small aircraft fueling station. To the west are located two legal non-conforming single family dwellings and a large industrial building presently being used as a recreational vehicle storage lot. East of the project site are a few legal non-conforming single family dwellings and a vacant parcel of land. The building architecture and site circulation and landscaping have been designed in a way that the project is compatible with the character of the surrounding neighborhood. Additionally, an 8 foot tall solid wall along with landscaping will separate the site from the legal non-conforming residential properties nearby.

Finding No. 4: The subject site is physically suitable for the type and intensity of land use being proposed.

Findings of Fact: The subject site is basically flat with a gentle slope to the southeast, and is surrounded by developed roadways providing suitable access (Lincoln Street and Barbour Street). The 3.7 acre land area is of adequate size to accommodate the proposed use including building area, parking area, and landscaping with conditions as shown in the staff report dated March 5, 2014.

Furthermore, the conditions for the project as stipulated by the Riverside County Airport Land Use Commission determinations covenants the occupancy for units 1 through 16 as identified on the project plans be limited to a maximum of five (5) people per unit to limit building occupancy intensity near the Banning Municipal Airport and said covenant is included in the Conditions of Approval.

Finding No. 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.

Findings of Fact: The site is served by the public and private utilities, including the City's water, sewer, and electrical utilities. There is an existing 8 inch steel waterline in Lincoln Street and an existing 12 inch steel waterline in Barbour Street. An existing 8 inch clay gravity sewer main is located in Barbour Street, which is downstream of the project site.

The City is required to adhere to the requirements of their discharge permit with the Regional Water Quality Control Board for the wastewater treatment facility and all wastewater discharges are expected to be treated by the City's system. Additionally, the City requires industrial facilities to comply with the Industrial Wastewater Collection and Treatment Ordinance. Provisions of the Ordinance will require connection permits, monitoring and inspection of the project, and restrictions on certain wastewater discharges.

Finding No. 6: There will not be significant harmful effects upon environmental quality, natural resources or neighborhood characteristics

Findings of Fact: There is no evidence that the proposed project will have the potential for any adverse effect on environmental quality, wildlife resources, or the habitat upon which wildlife depends as demonstrated in the facts listed in the Initial Study for the project dated January 30, 2014.

Based on the review of the General Plan for the City of Banning, there are several sensitive plant and animal species as having a potential to occur in the vicinity of the project. However, the potential to find such species on the project site or in the area immediately surrounding the project site is very low due to a lack of natural vegetation, the heavy disturbance of the natural environment (active weed control) and the lack of undisturbed habitat. There are no streams, drainage courses, or lakes on the site. There are no depressions on the site that may allow water to collect and provide suitable habitat to support natural communities and wetlands. The project site is surrounded by existing development to the east and west, and fronts Lincoln Street and Barbour Street on the north and south consequently the site does not serve as a wildlife movement corridor. The site contains no trees or vegetation; and, therefore there is nothing to consider preserving.

The proposed use will not impair the integrity and character of the AI land use district in which it is to be located because it is surrounded by existing developments and on the Lincoln Street corridor which is a long-established commercial/industrial corridor. Banning Municipal Airport, described as a general aviation facility, is located to the north and east across Lincoln Street; the airport includes a small terminal building, aircraft hangars and tie-downs, along with a small aircraft fueling station. To the west are located two legal non-conforming single family dwellings and a large industrial building presently being used as a recreational vehicle storage lot. East of the project site are a few legal non-conforming single family dwellings and a vacant parcel of land. The building architecture and site circulation and landscaping have been designed in a way that the project is compatible with the character of the surrounding neighborhood. Additionally, an 8 foot tall solid wall along with landscaping will separate the site from the legal non-conforming residential properties nearby.

Finding No. 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.

Findings of Fact: A mixed use development is a conditionally permitted use in the Airport Industrial (AI) zone. The proposed office, warehouse, and residential use will not be detrimental to the City's health, safety, and welfare in that it complies with the development standards of the Zoning Ordinance with the conditions of approval referenced herein. The project will not generate excessive noise or traffic. Furthermore, there is no evidence that the proposed project will have the potential for any adverse effect or detriment to the public interests, health, safety, convenience or welfare of the City as demonstrated in the facts listed in the Initial Study for the project dated January 30, 2014, along with the mitigation, monitoring and reporting program.

As respects the concern that children may occupy the residential units proposed for the project, the following facts are provided; first, the Fair Employment and Housing Act (FEHA) prohibits discrimination in employment and housing based on age, and more specifically families with children; secondly, Federal and State employment regulations restrict the employment of children summarized as follows:

United States Department of Labor

Occupational Safety & Health Administration (OSHA)

Employers must provide a safe and healthful workplace and comply with OSHA standards to prevent injuries and illnesses. Employers must train new workers on job hazards and safe work practices in a language they understand. Employers must also pay for most types of required safety gear. Child labor laws restrict the types of jobs and the hours that youth under age 18 can work. They also prohibit workers under age 18 from using certain equipment.

State of California

Department of Industrial Relations

Division of Labor Standards Enforcement

For manufacturing and processing uses under state law 16 is the minimum age that minors may be employed, permitted or suffered to work in or in connection with any manufacturing establishment. [LC 1290] "Manufacturing" includes work done at any place upon the work of a manufacturing establishment or upon the materials entering into the products of a manufacturing establishment whether directly under any arrangement with the person in charge of the establishment or indirectly through contractors of third persons. [LC 1291]

Under federal regulation, adopted by inclusion by the state of California, 16 is the minimum age for employment in manufacturing and processing occupations. Minors under 16 may not be employed in manufacturing or processing in any occupation performed in the work rooms or work places where goods are manufactured or processed, including occupations that would otherwise be permitted to 14 and 15 year olds.

Furthermore, regarding recreational amenities, the nearest park is Lions Park which is located approximately ½ mile to the east of the project site. This park is classified as a neighborhood park by the General Plan and is available for recreational purposes by those who may reside at the project location. The amenities at Lions Park include ball fields, restrooms, picnic areas, barbeque grills, playground, and parking.

The above listed facts provides evidence that children are safeguarded from hazards in the work place by existing Federal and State regulations; and, therefore the proposed project is not detrimental to health, safety, convenience, and welfare of the City, or more specifically children.

REQUIRED FINDINGS FOR DESIGN REVIEW:

The Zoning Code requires that each Design Review (BMC §17.56.050) application meet certain findings in order to be approved by the City Council. The following findings are provided for Commission consideration:

Finding No. 1: The proposed project is consistent with the General Plan.

Findings of Fact: The project 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 land-use designation of Airport Industrial (AI) allows a mixed use development subject to approval of a Conditional Use Permit by City Council. The proposed project will provide approximately 9,900 square feet of office space, 26,950 square feet of warehouse space, and 11,864 square feet of residential space.

Further, the project 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”. The proposed project will generate an estimated 152 jobs and generate sales tax from retail sales if commercial uses occupy the space.

Finding No. 2: The proposed project is consistent with the Zoning Ordinance, including the development standards and guidelines for the district in which it is located.

Findings of Fact: The proposed project is consistent with the Zoning Ordinance and the development standards of the AI zone, including setbacks, building height, building coverage on the lot. The Zoning Ordinance requires 107 total parking spaces. The proposed project provides 125 parking spaces. The project provides 11,070 square feet of landscaping in the parking area and 10,588 square feet of landscaping for the street frontages, which is greater than the 15% minimum landscaping requirement of the Zoning Ordinance.

Finding No. 3: The design and layout of the proposed project will not unreasonably interfere with the use and enjoyment of neighboring existing or future development, and will not result in vehicular and/or pedestrian hazards.

Findings of Fact: The proposed project has provided site and circulation layout design in such a way that the project will not interfere with the use and enjoyment of existing and future development. The proposed project provides two separate vehicle access driveways, one fronting Lincoln Street, and one fronting Barbour Street, with a driveway that circulates around the entire building. The proposed project provides pedestrian walks around the building. Additionally, the project has been reviewed by the City Engineer and Fire Department with regard to site circulation for pedestrian and motor vehicles and emergency access, which will not result in vehicular and/or pedestrian hazards.

Finding No. 4: The design of the proposed project is compatible with the character of the surrounding neighborhood.

Findings of Fact: The proposed use will not impair the integrity and character of the AI land use district in which it is to be located because it is surrounded by existing developments and on the Lincoln Street corridor which is a long-established commercial/industrial corridor. Banning Municipal Airport, described as a general aviation facility, is located to the north and east across Lincoln Street; the airport includes a small terminal building, aircraft hangars and tie-downs, along with a small aircraft fueling station. To the west are located two legal

non-conforming single family dwellings and a large industrial building presently being used as a recreational vehicle storage lot. East of the project site are a few legal non-conforming single family dwellings and a vacant parcel of land. The building architecture and site circulation and landscaping have been designed in a way that the project is compatible with the character of the surrounding neighborhood. Additionally, an 8 foot tall solid wall along with landscaping will separate the site from the legal non-conforming residential properties nearby.

PUBLIC COMMUNICATION:

The appeal of the Planning Commission action was advertised in the Record Gazette newspaper on March 28, 2014, and notices were mailed to all property owners within a 300-foot radius of the site on March 27, 2014. As of the date of this report, staff has not received any verbal or written comments for or against the proposed project or appeal.

For the Planning Commission action, the hearing was held on March 5, 2014, and advertised in the Record Gazette newspaper on January 31, 2014; and, notices were mailed to all property owners within a 300-foot radius of the site on January 30, 2014. The proposed Initial Study/Mitigated Negative Declaration along with the Mitigation Monitoring and Reporting Program were advertised for public comment. The review period was February 1, 2014, to March 2, 2014; 30 days. As of the date of this report, staff has not received any verbal or written comments for or against the proposed project as related to the environmental.

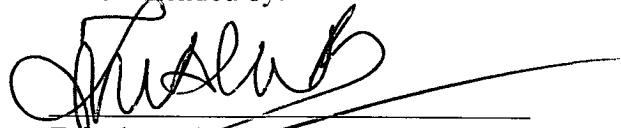
Additionally the project developer held a public meeting on February 27, 2014, to discuss the project.

Prepared by:




Brian Guillot
Associate Planner

Recommended by:



Zal Abu Bakar
Community Development Director

Reviewed by:



June Overholt
Administrative Services Director
Interim City Manager

PC Attachments:

1. PC Resolution No. 2014-22 (with Conditions of Approval)
2. Location map, APN map, and Aerial Photo
3. Site Photographs
4. Project Plans
5. Initial Study/Mitigated Negative Declaration
6. Riverside County Airport Land Use Commission Development Review
7. Under Separate Cover-1/2 scale project plans.

Attachment 1

(Resolution No. 2014-22 with Conditions of Approval)

RESOLUTION NO. 2014-22

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA ADOPTING AN INITIAL STUDY/MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING AND REPORTING PROGRAM, AND APPROVING CONDITIONAL USE PERMIT (CUP) #13-8005/DESIGN REVIEW (DR) #13-7003 FOR A 24 UNIT AIRPORT INDUSTRIAL LIVE/WORK LOFTS DEVELOPMENT ON A 3.7 ACRE PARCEL IN THE AIRPORT INDUSTRIAL (AI) ZONE

WHEREAS, an application for a Conditional Use Permit and Design Review to construct a mixed use development has been duly filed by:

Applicant/Owner: Mark Quental-Watermark Development, Inc. of Placentia, CA
Project Location: South of Lincoln Street, west of Hathaway Street
APN Number: 541-290-013
Lot Area: 3.7 Acres

WHEREAS, the City Council has the authority per Chapter 17.52 and 17.56 of the Banning Municipal Code to take action on Conditional Use Permit #13-8005 and Design Review #13-7003 to construct a mixed use commercial development on a 3.7 acre parcel in the Airport Industrial (AI) zone located South of Lincoln Street, west of Hathaway Street; and

WHEREAS, an Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program was prepared in accordance with the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines, and the City of Banning Environmental Review Guidelines. The Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program was made available for a 30-day public review from February 1, 2014, through March 2, 2014; and

WHEREAS, on January 31, 2014, the City gave public notice by advertisement in the Record Gazette newspaper and mailed notice to property owners within 300 feet of the site of the holding of a public hearing at which the project would be considered; and

WHEREAS, on March 5, 2014, the Planning Commission held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, Conditional Use Permit #13-8005 and Design Review #13-7003; and

WHEREAS, at this public hearing on March 5, 2014, the Planning Commission considered and heard public comments on the project and denied Conditional Use Permit #13-8005 and Design Review #13-7003 by the vote of 1-noes to 2 ayes; and

WHEREAS, an application for an Appeal of Action by the Planning Commission was duly filed by the applicant on March 18, 2014; and

WHEREAS, the City Council has the authority per Section 17.68.040 of the Banning Municipal Code to take action on Conditional Use Permit #13-8005 and Design Review #13-7003 through an appeal of action as stipulated in the Banning Municipal Code; and

WHEREAS, on March 28, 2014, the City gave public notice by advertisement in the Record Gazette newspaper and mailed notice to property owners within 300 feet of the site of the holding of a public hearing at which the appeal would be considered; and

WHEREAS, on April 8, 2014, the City Council held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the appeal to approve Conditional Use Permit #13-8005 and Design Review #13-7003; and

WHEREAS, at this public hearing on April 8, 2014, the City Council considered and heard public comments on the appeal to approve Conditional Use Permit #13-8005 and Design Review #13-7003;

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

SECTION 1 ENVIRONMENTAL FINDINGS.

The City Council, in light of the whole record before it including but not limited to the City's local CEQA Guidelines and Thresholds of Significance, the adopted Mitigated Negative Declaration and documents incorporated therein by reference, any written comments received and responses provided, the proposed Mitigation Monitoring and Reporting Program and other substantial evidence (within the meaning of Public Resources Code § 21080(e) and § 21082.2) within the record and/or provided at the public hearing, hereby finds and determines as follows:

1. California Environmental Quality Act (CEQA):

- a) **Review Period:** That the City has provided the public review period for the Mitigated Negative Declaration for the duration required under CEQA Guidelines Sections 15073 and 15105.
- b) **Compliance with Law:** That the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program were prepared, processed, and noticed in accordance with the California Environmental Quality Act (Public Resources Code Section 21000 et seq.), the CEQA Guidelines (14 California Code of Regulations Section 15000 et seq.) and the local CEQA Guidelines and Thresholds of Significance adopted by the City of Banning.
- c) **Independent Judgment:** That the Mitigated Negative Declaration reflects the independent judgment and analysis of the City.
- d) **Mitigation Monitoring and Reporting Program:** That the Mitigation Monitoring and Reporting Program is designed to ensure compliance during project implementation in that change to the project and/or mitigation measures have been incorporated into the project and are fully enforceable through permit conditions, agreements or other measures as required by Public Resources Code Section 21081.6.

- e) **No Significant Effect:** That revisions made to the project plans agreed to by the applicant and mitigation measures imposed as conditions of approval on the project, avoid or mitigate any potential significant effects on the environment identified in the Initial Study to a point below the threshold of significance. Furthermore, after taking into consideration the revisions to the project and the mitigation measures imposed, the City Council finds that there is no substantial evidence, in light of the whole record, from which it could be fairly argued that the project may have a significant effect on the environment. Therefore, the City Council concludes that the project will not have a significant effect on the environment.

2. Wildlife Resources.

Pursuant to Title 14, California Code of Regulations § 753.5(c), the City Council has determined, based on consideration of the whole record before it, that there is no evidence that the proposed project will have the potential for any adverse effect on wildlife resources or the habitat upon which wildlife depends. The project site is vacant and void of vegetation and wildlife habitat. Furthermore, on the basis of substantial evidence, the City Council hereby finds that any presumption of adverse impact has adequately been rebutted. Therefore, pursuant to Fish and Game Code § 711.4(c)(2)(B) and Title 14, California Code of Regulations, § 753.5(a)(3), the project is not required to pay Fish and Game Department filing fees.

3. Multiple Species Habitat Conservation Plan (MSHCP).

The project is found to be consistent with the MSHCP. The project is located outside of any MSHCP criteria area and mitigation is provided through payment of the MSHCP Mitigation Fee.

SECTION 2 REQUIRED FINDINGS FOR CONDITIONAL USE PERMIT #13-8005.

Section 17.52.050 requires that each Conditional Use Permit application meet certain findings in order to be approved by the City Council. The following findings are provided for Conditional Use Permits:

Finding No. 1: The proposed project is consistent with the General Plan.

Findings of Fact: The project 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 land-use designation of Airport Industrial (AI) allows a mixed use development subject to approval of a Conditional Use Permit by City Council. The proposed project will provide approximately 9,900 square feet of office space, 26,950 square feet of warehouse space, and 11,864 square feet of residential space.

Further, the project 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". The proposed project will generate an estimated 152 jobs and generate sales tax from retail sales if commercial uses occupy the space.

Finding No. 2: The proposed use is conditionally permitted within the subject land use district and complies with the applicable provisions of the Zoning Code.

Findings of Fact: Mixed use development is allowed in accordance with Section 17.12.020 *Permitted, conditional and prohibited uses* of the Zoning Ordinance subject to approval of a Conditional Use Permit by City Council. Additionally, the existing building meets the front, rear, and side setback requirements of the AI development standards as shown in the staff report dated March 5, 2014. The proposed project is conditioned to meet all local standards pertaining to office, warehouse, and residential use and any proposed improvements.

Finding No. 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 will not impair the integrity and character of the AI land use district in which it is to be located because it is surrounded by existing developments and on the Lincoln Street corridor which is a long-established commercial/industrial corridor. Banning Municipal Airport, described as a general aviation facility, is located to the north and east across Lincoln Street; the airport includes a small terminal building, aircraft hangars and tie-downs, along with a small aircraft fueling station. To the west are located two legal non-conforming single family dwellings and a large industrial building presently being used as a recreational vehicle storage lot. East of the project site are a few legal non-conforming single family dwellings and a vacant parcel of land. The building architecture and site circulation and landscaping have been designed in a way that the project is compatible with the character of the surrounding neighborhood. Additionally, an 8 foot tall solid wall along with landscaping will separate the site from the legal non-conforming residential properties nearby.

Finding No. 4: The subject site is physically suitable for the type and intensity of land use being proposed.

Findings of Fact: The subject site is basically flat with a gentle slope to the southeast, and is surrounded by developed roadways providing suitable access (Lincoln Street and Barbour Street). The 3.7 acre land area is of adequate size to accommodate the proposed use including building area, parking area, and landscaping with conditions as shown in the staff report dated March 5, 2014.

Furthermore, the conditions for the project as stipulated by the Riverside County Airport Land Use Commission determinations covenants the occupancy for units 1 through 16 as identified on the project plans be limited to a maximum of five (5) people per unit to limit building occupancy intensity near the Banning Municipal Airport and said covenant is included in the Conditions of Approval.

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Finding No. 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.

Findings of Fact: The site is served by the public and private utilities, including the City's water, sewer, and electrical utilities. There is an existing 8 inch steel waterline in Lincoln Street and an existing 12 inch steel waterline in Barbour Street. An existing 8 inch clay gravity sewer main is located in Barbour Street, which is downstream of the project site.

The City is required to adhere to the requirements of their discharge permit with the Regional Water Quality Control Board for the wastewater treatment facility and all wastewater discharges are expected to be treated by the City's system. Additionally, the City requires industrial facilities to comply with the Industrial Wastewater Collection and Treatment Ordinance. Provisions of the Ordinance will require connection permits, monitoring and inspection of the project, and restrictions on certain wastewater discharges.

Finding No. 6: There will not be significant harmful effects upon environmental quality, natural resources or neighborhood characteristics

Findings of Fact: There is no evidence that the proposed project will have the potential for any adverse effect on environmental quality, wildlife resources, or the habitat upon which wildlife depends as demonstrated in the facts listed in the Initial Study for the project dated January 30, 2014.

Based on the review of the General Plan for the City of Banning, there are several sensitive plant and animal species as having a potential to occur in the vicinity of the project. However, the potential to find such species on the project site or in the area immediately surrounding the project site is very low due to a lack of natural vegetation, the heavy disturbance of the natural environment (active weed control) and the lack of undisturbed habitat. There are no streams, drainage courses, or lakes on the site. There are no depressions on the site that may allow water to collect and provide suitable habitat to support natural communities and wetlands. The project site is surrounded by existing development to the east and west, and fronts Lincoln Street and Barbour Street on the north and south consequently the site does not serve as a wildlife movement corridor. The site contains no trees or vegetation; and, therefore there is nothing to consider preserving.

The proposed use will not impair the integrity and character of the AI land use district in which it is to be located because it is surrounded by existing developments and on the Lincoln Street corridor which is a long-established commercial/industrial corridor. Banning Municipal Airport, described as a general aviation facility, is located to the north and east across Lincoln Street; the airport includes a small terminal building, aircraft hangars and tie-downs, along with a small aircraft fueling station. To the west are located two legal non-conforming single family dwellings and a large industrial building presently being used as a recreational vehicle storage lot. East of the project site are a

few legal non-conforming single family dwellings and a vacant parcel of land. The building architecture and site circulation and landscaping have been designed in a way that the project is compatible with the character of the surrounding neighborhood. Additionally, an 8 foot tall solid wall along with landscaping will separate the site from the legal non-conforming residential properties nearby.

Finding No. 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.

Findings of Fact: A mixed use development is a conditionally permitted use in the Airport Industrial (AI) zone. The proposed office, warehouse, and residential use will not be detrimental to the City's health, safety, and welfare in that it complies with the development standards of the Zoning Ordinance with the conditions of approval referenced herein. The project will not generate excessive noise or traffic. Furthermore, there is no evidence that the proposed project will have the potential for any adverse effect or detriment to the public interests, health, safety, convenience or welfare of the City as demonstrated in the facts listed in the Initial Study for the project dated January 30, 2014, along with the mitigation, monitoring and reporting program.

As respects the concern that children may occupy the residential units proposed for the project, the following facts are provided; first, the Fair Employment and Housing Act (FEHA) prohibits discrimination in employment and housing based on age, and more specifically families with children; secondly, Federal and State employment regulations restrict the employment of children summarized as follows:

**United States Department of Labor
Occupational Safety & Health Administration (OSHA)**

Employers must provide a safe and healthful workplace and comply with OSHA standards to prevent injuries and illnesses. Employers must train new workers on job hazards and safe work practices in a language they understand. Employers must also pay for most types of required safety gear. Child labor laws restrict the types of jobs and the hours that youth under age 18 can work. They also prohibit workers under age 18 from using certain equipment.

**State of California
Department of Industrial Relations
Division of Labor Standards Enforcement**

For manufacturing and processing uses under state law 16 is the minimum age that minors may be employed, permitted or suffered to work in or in connection with any manufacturing establishment. [LC 1290] "Manufacturing" includes work done at any place upon the work of a manufacturing establishment or upon the materials entering into the products of a manufacturing establishment whether directly under any arrangement with the person in charge of the establishment or indirectly through contractors of third persons. [LC 1291] Under federal regulation, adopted by inclusion by the state of California, 16 is the minimum age for employment in manufacturing and processing occupations. Minors under 16 may not be employed in manufacturing or processing in any occupation performed in the work rooms

or work places where goods are manufactured or processed, including occupations that would otherwise be permitted to 14 and 15 year olds.

Furthermore, regarding recreational amenities, the nearest park is Lions Park which is located approximately ½ mile to the east of the project site. This park is classified as a neighborhood park by the General Plan and is available for recreational purposes by those who may reside at the project location. The amenities at Lions Park include ball fields, restrooms, picnic areas, barbeque grills, playground, and parking.

The above listed facts provides evidence that children are safeguarded from hazards in the work place by existing Federal and State regulations; and, therefore the proposed project is not detrimental to health, safety, convenience, and welfare of the City, or more specifically children.

SECTION 3 REQUIRED FINDINGS FOR DESIGN REVIEW #13-7003.

The Zoning Code requires that each Design Review (BMC §17.56.050) application meet certain findings in order to be approved by the City Council. The following findings are provided for Design Review:

Finding No. 1: The proposed project is consistent with the General Plan.

Findings of Fact: The project 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 land-use designation of Airport Industrial (AI) allows a mixed use development subject to approval of a Conditional Use Permit by City Council. The proposed project will provide approximately 9,900 square feet of office space, 26,950 square feet of warehouse space, and 11,864 square feet of residential space.

Further, the project 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”. The proposed project will generate an estimated 152 jobs and generate sales tax from retail sales if commercial uses occupy the space.

Finding No. 2: The proposed project is consistent with the Zoning Ordinance, including the development standards and guidelines for the district in which it is located.

Findings of Fact: The proposed project is consistent with the Zoning Ordinance and the development standards of the AI zone, including setbacks, building height, building coverage on the lot. The Zoning Ordinance requires 107 total parking spaces. The proposed project provides 125 parking spaces. The project provides 11,070 square feet of landscaping in the parking area and 10,588 square feet of landscaping for the street frontages, which is greater than the 15% minimum landscaping requirement of the Zoning Ordinance.

Finding No. 3: The design and layout of the proposed project will not unreasonably interfere with the use and enjoyment of neighboring existing or future development, and will not result in vehicular and/or pedestrian hazards.

Findings of Fact: The proposed project has provided site and circulation layout design in such a way that the project will not interfere with the use and enjoyment of existing and future development. The proposed project provides two separate vehicle access driveways, one fronting Lincoln Street, and one fronting Barbour Street, with a driveway that circulates around the entire building. The proposed project provides pedestrian walks around the building. Additionally, the project has been reviewed by the City Engineer and Fire Department with regard to site circulation for pedestrian and motor vehicles and emergency access, which will not result in vehicular and/or pedestrian hazards.

Finding No. 4: The design of the proposed project is compatible with the character of the surrounding neighborhood.

Findings of Fact: The proposed use will not impair the integrity and character of the AI land use district in which it is to be located because it is surrounded by existing developments and on the Lincoln Street corridor which is a long-established commercial/industrial corridor. Banning Municipal Airport, described as a general aviation facility, is located to the north and east across Lincoln Street; the airport includes a small terminal building, aircraft hangars and tie-downs, along with a small aircraft fueling station. To the west are located two legal non-conforming single family dwellings and a large industrial building presently being used as a recreational vehicle storage lot. East of the project site are a few legal non-conforming single family dwellings and a vacant parcel of land. The building architecture and site circulation and landscaping have been designed in a way that the project is compatible with the character of the surrounding neighborhood. Additionally, an 8 foot tall solid wall along with landscaping will separate the site from the legal non-conforming residential properties nearby.

SECTION 4 CITY COUNCIL ACTIONS.

The City Council hereby takes the following actions:

1. In accordance with Public Resources Code Section 21152(a) and CEQA Guidelines Section 15063(b) (2) the City Council hereby adopts the Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and directs the Community Development Director to prepare and file with the Clerk for the County of Riverside a notice of determination as provided under Public Resources Code Section 21152(a) and CEQA Guidelines Section 15094; and
2. Adopt City Council Resolution No. 2014-22 approving Conditional Use Permit #13-8005, and Design Review #13-7003 subject to Conditions of Approval attached hereto and incorporated herein by reference as Exhibit A.

PASSED, APPROVED AND ADOPTED this 8th day of April, 2014.

Deborah Franklin, Mayor
City of Banning

ATTEST:

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

**APPROVED AS TO FORM AND
LEGAL CONTENT:**

David J. Aleshire, City Attorney
Aleshire & Wynder, LLP

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2014-22, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 8th day of April, 2014, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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



City of Banning

99 E. Ramsey Street • P.O. Box 998 • Banning, CA 92220-0998 • (951) 922-3125 • Fax (951) 922-3128

COMMUNITY DEVELOPMENT
DEPARTMENT

EXHIBIT A

PROJECT #: Conditional Use Permit #13-8005, and Design Review #13-7003

SUBJECT: Conditions of Approval* (CC Reso No. 2014-22)

APPLICANT: Mark Quental-Watermark Development, Inc. of Placentia, CA

LOCATION: APN 541-290-013

*** 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.**

I. On-going.

Community Development Department

1. The applicant shall indemnify, protect, defend, and hold harmless, the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, from any and all claims, demands, lawsuits, writs of mandamus, and other actions and proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolutions procedures (including, but not limited to arbitrations, mediations, and other such procedures), (collectively "Actions"), brought against the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul, the action of, or any permit or approval issued by, the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City), for or concerning the project, whether such Actions are brought under the California Environmental Quality Act, the Planning and Zoning Law, the Subdivisions Map Act, Code of Civil Procedure Section 1085 or 1094.5, or any other state, federal, or local statute, law, ordinance, rule, regulation, or any decision of a competent jurisdiction. It is expressly agreed that the City shall have the right to approve, which approval will not be unreasonably withheld, the legal counsel providing the City's defense, and that applicant shall reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. City shall promptly notify the applicant of any Action brought and City shall cooperate with applicant in the defense of the Action.

2. The issuance of these Conditions of Approval do not negate the requirements of the Engineering/Public Works Department or submittal, review, and approval of: Street improvement plans, signing and striping plans, grading plans, storm drain improvement plans, street lighting plans, water, sewer, and electrical improvement plans, or other plans as deemed necessary by the City Engineer.
3. Construction shall commence within two (2) years from the date of project approval, or the Conditional Use Permit and Design Review approval shall become null and void. Additionally, if after commencement of construction work is discontinued for a period of one year the Conditional Use Permit and Design Review shall become null and void. The Community Development Director may, upon a written application being filed 30 days prior to expiration and for good cause, grant a onetime extension not to exceed 12 months. Upon granting of an extension, the Community Development Director shall ensure that the Conditional Use Permit and Design Review complies with all current Ordinance provisions.
4. A copy of the signed resolution of approval or Community Development Director's letter of approval and all conditions of approval (with conditions from Banning Fire Services attached) and any applicable mitigation measures shall be reproduced in legible form on the grading plans, building and construction plans, and landscape and irrigation plans submitted for review and approval as required by the reviewing department.
5. The applicant shall comply with all conditions of approval as stipulated by the Airport Land Use Commission (ALUC) project review held on December 12, 2013, and any amendments; including any requirements stipulated by the Federal Aviation Administration (FAA) Aeronautical Study.
6. The site shall be developed and maintained in accordance with the plans stamped approved by the City dated March 5, 2014, which include site plans, architectural elevations, exterior materials and colors, landscaping, and grading on file in the Planning Division; the conditions contained herein; and, municipal code regulations.
7. The development shall maintain an onsite building manager to manage the 24 units to directly address any on-site related issues such as noise, traffic, lighting, etc.
8. The respective live/work units may not be separated, that is dividing the live portion (residence) of the unit from the work portion (office/warehouse) of the unit, and offered for lease, rent, or sale apart from what is approved by this entitlement.
9. There shall be no storage of vehicles, equipment, or any other materials in the parking or landscaping areas of the project.
10. Approval of this entitlement shall not waive compliance with any sections of the Development Code, other applicable City Ordinances, in effect at the time of building permit issuance.

11. If human remains are encountered during grading and other construction excavation, the developer/owner shall stop/cease work in the immediate vicinity and the County Coroner shall be contacted pursuant to State Health and Safety Code Section 7050.5.
12. Trash collection shall occur between the hours of 8:00 a.m. and 6:00 p.m. only.
13. All graffiti shall be removed immediately or within 24 hours of notice from the City.
14. The entire site shall be kept free from trash and debris at all times and in no event shall trash and debris remain for more than 24 hours.
15. The property owner shall permanently maintain all parking lot signs and markings in a clear and visible manner.
16. Exterior wall mounted lighting shall be decorative fixtures in a prefinished color to match the building. Wall fixtures shall be consistent with any pole mounted fixtures required to maintain minimum lighting levels.
17. The buildings used in the development for office use shall designate one preferred parking space for carpool vehicles.
18. The developer shall provide a bicycle parking spot including a rack to secure bicycles.
19. The office buildings shall be designed to accommodate telecommuting facilities.
20. The developer shall prepare a trip reduction program for the proposed development. This will include an information center for transportation alternatives. The program shall be subject to the review and approval of the City Engineer.
21. There shall be no light spillover onto the adjacent properties from the parking lot lighting and/or exterior building lighting, including outdoor security lighting. All lighting fixtures shall not have a visible light source, must be shielded and directed downward and away from adjoining properties and public rights-of-way.
22. Trash enclosure shall be provided with three, decorative walls with enhanced wall cap and a gate, in a style compatible with the structure's architecture. The gate shall be maintained in working order and shall remain closed except when in use.
23. All roof-mounted equipment or utility equipment on the side of the structure, or on the ground, shall not be visible from adjacent properties, the public rights-of-way or the parking lot. Any architectural screening that is proposed to shield the roof-mounted equipment shall be compatible in terms of colors and materials of the building. Landscape screening for ground mounted equipment shall be of sufficient size and quantity to fully screen the equipment.

24. There shall be no visible storage of any items including garbage, building, or manufacturing materials or junk, in any portion of the project.
25. Comply with all environmental mitigation measures, as detailed in the Mitigated Negative Declaration or the Mitigation Monitoring and Reporting Plan, as approved by the City Council at their regularly scheduled meeting held on April 8, 2014.
26. The project shall at all times comply with all Federal, State, County and City laws, codes, regulations and standards including those that relate to hazardous materials.

Public Works Department

27. A Public Works Permit shall be required prior to commencement of any work within the public right-of-way. The contractor working within the public right-of-way shall submit proof of a Class "A" State Contractor's License, City of Banning Business License, and Liability Insurance. 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.
28. Driveway grades shall not exceed eight percent unless approved by the City Engineer.
29. Parking areas shall be designed and improved with grades not to exceed five percent slope.
30. Access drives to the public right-of-way shall be restricted to those approved by the City Engineer as shown on plans approved by City Council on April 8, 2014.
31. The following improvement plans shall be prepared by a Civil Engineer licensed by the State of California and submitted to the Engineering Division for review and approval. A separate set of plans shall be prepared for each line item listed below. Unless otherwise authorized in writing by the City Engineer, the plans shall utilize the minimum scale specified and shall be drawn on 24" x 36" Mylar film. Plans may be prepared at a larger scale if additional detail or plan clarity is desired (Note: the applicant may be required to prepare other improvement plans not listed here pursuant to improvements required by other agencies and utility purveyors):
 - a. Rough and Precise Grading Plans 1" = 40' Horizontal
 - b. Haul Route Plans 1" = 40' Horizontal
 - c. Clearing Plans 1" = 50' Horizontal
 - d. Street Improvement Plans 1" = 40' Horizontal
1" = 4' Vertical
 - e. Signing & Striping Plans (on/off site) 1" = 40' Horizontal
 - f. Landscaping Plans-Streets 1" = 20' Horizontal
 - g. Water & Sewer Improvement Plans 1" = 40' Horizontal
1" = 4' Vertical

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.

All off-site plan and profile street improvement plans and signing & striping plans shall show all existing improvements for a distance of at least 200-feet beyond the project limits, or at a distance sufficient to show any required design transitions.

All on-site signing and striping plans shall show the following at a minimum: stop signs, limit lines and legends, no parking signs, raised pavement markers (including blue raised pavement markers at fire hydrants) and street name signs per Public Works standard plans and/or as approved by the City Engineer.

A small index map shall be included on the title sheet of each set of plans, showing the overall view of the entire work area.

32. All 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.
33. Prior to issuance of any permit(s), the applicant shall acquire or confer property rights necessary for the construction or proper functioning of the proposed project/development. Conferred rights shall include right-of-way dedications, irrevocable offers to dedicate or grant of easements to the City for emergency services, maintenance, utilities, storm drain facilities, or temporary construction purposes including the reconstruction of essential improvements.
34. Offer to dedicate to the City of Banning for public purposes the right-of-way for Lincoln Street fronting the site as an Arterial Highway; 55 feet one-half width.
35. Offer to dedicate to the City of Banning for public purposes the right-of-way for Barbour Street fronting the site as a Collector Highway; 33 feet one-half width.
36. Offer to dedicate to the City of Banning an aviation easement for the airspace related to the operation of Banning Municipal Airport (BNG).
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 & striping plans shall show all existing improvements for a distance of at least 200-feet beyond the project limits, or at a distance sufficient to show any required design transitions.
39. All on-site signing and striping plans shall show the following at a minimum: stop signs, limit lines and legends, no parking signs, raised pavement markers (including blue raised

pavement markers at fire hydrants) and street name signs per Public Works standard plans and/or as approved by the City Engineer.

40. A small index map shall be included on the title sheet of each set of plans, showing the overall view of the entire work area.
41. The applicant shall not grant any easements over any property subject to a requirement of dedication or irrevocable offer of dedication to the City of Banning or the Riverside County Flood Control and Water Conservation District unless such easements are expressly made subordinate to the easements to be offered for dedication to the City or RCFCDD. Prior to granting any of said easements, the applicant shall furnish a copy of the proposed easement to the City Engineer for review and approval. Further, a copy of the approved easement shall be furnished to the City Engineer prior to the issuance of any certificate of use and/or occupancy.
42. The project shall provide two separate and approved access points to the public right-of-way (secondary access).
43. All street improvement design shall provide pavement and lane transitions per Caltrans standards for transition to existing street sections.
44. The developer shall participate in the City's recycling program by providing two trash receptacles, one for regular trash and one for recycling, within the trash enclosure. The trash enclosure shall be designed and constructed in such a manner to accommodate a recycling bin as well as the necessary solid waste containers.
45. The applicant shall plant and perpetually maintain trees, shrubs, and ground cover placed in the parkway, slopes adjacent to public right-of-ways, and median islands constructed in connection with the project in accordance with the approved landscape and irrigation plan. This includes providing irrigation and the clearing of debris and weed removal.
46. Construction debris shall be disposed of at a certified recycling site. It is recommended that the developer contact the City's franchised solid waste hauler, Waste Management of the Inland Valley at 1-800-423-9986, for disposal of construction debris.
47. Plan check fees for professional report review (geotechnical, drainage, etc.), and all improvement plans review, shall be paid prior to submittal of said documents for review and approval in accordance with the fee schedule in effect at the time of submittal.
48. The CC & R's shall contain provisions which prohibit dissolution of the property owners' association unless another entity has agreed to assume the operation and maintenance responsibilities of the property owners' association. The CC & R's shall contain provisions that prohibit the developer and his/her successors-in-interest from amending said covenants, conditions and restrictions to conflict with these conditions of approval, City codes and/or standards. The CC & R's shall be subject to prior review and approval of the City Attorney. The applicant or developer shall bear the cost of the review.

Electric Utility Department

49. The Electric Utility shall be notified of any changes to the site plans, & load calculations.

II. Prior to Issuance of Grading Permits.

Community Development Department

50. All site, grading, landscape, irrigation, and street improvement plans shall be coordinated for consistency such as grading, tree removal, encroachments, building location, etc. or prior to final map approval in the case of a subdivision, or approved use has commenced, whichever comes first.

51. The developer shall submit a construction access plan and schedule for the development of the project 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.

52. The following notation shall be placed on the grading plan: "No more than three days prior to removing trees, shrubs or tall herbaceous vegetation during the breeding season for migratory birds (February 15 to August 31) a qualified biologist shall conduct a nesting bird survey."

Public Works Department

53. Grading of the subject property shall be in accordance with the City of Banning grading standards, and accepted grading practices as reviewed and approved by the City Engineer. The final grading plan shall be in substantial conformance with the approved conceptual grading plan.

54. The applicant shall execute a Stormwater Management Facilities Agreement guaranteeing the maintenance of stormwater pollution controls. Said agreement shall be subject to prior review and approval by the City Attorney. The applicant or developer shall bear the cost of the review. Said approved agreement shall be recorded with the Riverside County Recorder and run with the land.

55. A preconstruction meeting shall be held for all participating field personnel, including all appropriate City staff, prior to the commencement of construction activities.

56. A soils report and geological report shall be prepared by a qualified engineer and geologist, respectively, licensed by the State of California to perform such work. Said report shall be reviewed and approved by the City Engineer. The applicant or developer shall be required to comply with all recommendations of said report.

57. The applicant shall obtain any necessary clearances and/or permits from the following agencies:

Fire Marshal
Public Works Department (Grading Permit, Improvement Permit)
Community Development Department
Riverside County Environmental Health Department
California Regional Water Quality Control Board Colorado River Basin (RWQCB)
South Coast Air Quality Management District (SCAQMD)
Riverside County Flood Control District (RCFCD)

58. The applicant is responsible for meeting all requirements of permits and/or clearances from the above listed agencies. When the requirements include approval of improvement plans, the applicant shall furnish proof of such approvals when submitting improvements plans to the City.
59. All utility systems including gas, electric, telephone, water, sewer, storm drain, and cable TV shall be provided underground, with easements provided as required, designed and submitted for review and approval. Said items shall be constructed in accordance with City codes and the utility provider. Telephone, cable TV, and/or security systems shall be pre-wired.
60. Submit a copy of the title report, closure calculations, and any separate instruments or necessary right-of-way documents to the Engineering Division for review and approval of the City Engineer prior to grading plan approval.
61. Submit a Drainage Study with hydrologic and hydraulic analysis for developed and undeveloped (existing) conditions to the Engineering Division for review and approval. The study and analysis shall be prepared by a civil engineer licensed by the State of California. Drainage design shall be in accordance with Banning Master Drainage Plan adopted by Riverside County Flood Control and Water Conservation District (RCFCD), RCFCD Hydrology Manual, and standard plans and specifications. The 10-year storm flow shall be contained within the street curbs, and the 100-year storm shall be contained within the street right-of-way; when this criteria is exceeded, additional drainage facilities shall be designed and constructed.
62. If the site is located in a Flood Area as identified in the current Flood Insurance Rate Map the developer is responsible for providing a certification by a registered professional engineer or architect demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
63. The project grading shall be designed in a manner that perpetuates the existing natural drainage patterns with respect to tributary drainage areas, outlet points and outlet conditions. Otherwise, a drainage easement shall be obtained for the release of concentrated or diverted storm flows. The project shall accept and convey storm flows from the adjacent property to the west.

64. The applicant shall comply with Chapter 13.24 “Stormwater Management and Discharge Controls” of the Banning Municipal Code (BMC); California Building Code related to excavation and grading; and, the State Water Resources Control Board’s orders, rules and regulations.
65. For construction activities including clearing, grading or excavation of land that disturbs one (1) acre or more of land, or that disturbs less than one (1) acre of land, but which is a part of a construction project that encompasses more than one (1) acre of land, the applicant shall be required to submit a Storm Water Pollution Protection Plan (SWPPP) and file a Notice of Intent (NOI) with the Regional Water Quality Control Board.
66. The applicant’s SWPPP shall include provisions for all of the following Best Management Practices (“BMPs”):
- Temporary Soil Stabilization (erosion control).
 - Temporary Sediment Control.
 - Wind Erosion Control.
 - Tracking Control.
 - Non-Storm Water Management.
 - Waste Management and Materials Pollution Control.
67. All erosion and sediment control BMPs proposed by the applicant shall be approved by the City Engineer prior to any onsite or offsite grading, pursuant to this project. The approved SWPPP and BMPs shall remain in effect for the entire duration of project construction until all improvements are completed and accepted by the City. The applicant shall ensure that the required SWPPP is available for inspection at the project site at all times through and including acceptance of all improvements by the City.
68. Grading and excavations in the public right-of-way shall be supplemented with a soils and geology report prepared by a professional engineer or geologist licensed by the State of California. A grading permit shall be obtained prior to commencement of any grading activity.
69. The applicant shall submit and obtain approval in writing from the Fire Marshall for the plans for all public or private access roads, drives, streets, and alleys. The plans shall include plan and sectional views and indicate the grade and width of the access road measured flow-line to flow-line. When a dead-end access exceeds 150 feet or when otherwise required, a clearly marked fire apparatus access turnaround must be provided and approved by the Fire Marshall. Applicable covenant, conditions or restrictions or other approved documents shall contain provisions which prohibit obstructions such as speed bumps/humps, control gates or other modifications within said easement or access road unless prior approval of the Fire Marshall is granted.

Electric Utility Department

70. Protect in place any existing electric utility infrastructure vaults, power poles etc.

III. Prior to the Issuance of Building Permit.

Community Development Department

71. The project shall implement, at a minimum, and require an increase in building energy efficiency of 15 percent beyond Title 24, and reduce indoor water use by 25 percent. All requirements will be documented through a checklist to be submitted prior to issuance of any building permits with building plans and calculations.
72. A noise study will be performed and noise insulation features be incorporated into the design of the building to reduce the noise impacts from the work areas to acceptable levels for the residential occupancies. This is in addition to the requirements for reducing noise impacts related to the ALUC project review (projects located adjacent to airports).
73. Provide a reciprocal parking plan/agreement for the proposed parcels based on the required parking for the project.
74. Obtain clearance and/or permits from the Banning Unified School District
75. A detailed on-site lighting plan, including a photometric diagram, shall be reviewed and approved by the Community Development Director and Police Department. Such plan shall indicate style, illumination, location, height, and method of shielding so as not to adversely affect adjacent properties in accordance with the Zoning Code. Lighting fixtures shall be shielded or recessed to prevent spillage to the adjacent properties. The lighting fixture design shall compliment the architecture of the site. Additionally, all lighting plans and installations shall conform to the requirements of the conditions stipulated by the Airport Land Use Commission (ALUC) and Federal Aviation Administration (FAA) review.
76. Plans for any security gates to secure the building premises shall be submitted for the Community Development Director, City Engineer, and City of Banning Fire Marshal review and approval. Security gates will not be allowed to block any public street.
77. A complete landscape/irrigation package prepared by a landscape architect licensed by the State of California shall be reviewed and approved by the Planning Division prior to issuance of building permit. The plans shall include the following elements:
 - a. Water conservation concept statement.
 - b. Calculation of maximum applied water allowance.
 - c. Calculation of estimated total water use.
 - d. Landscape design plan.
 - e. Irrigation design plan.

- f. Grading design plan.
- g. Soil analysis.
- h. Certificate of substantial completion.

- 78. The final design of the perimeter parkways, walls, landscaping, and sidewalks shall be included in the required landscape plans and shall be subject to Community Development Director review and approval and coordinated for consistency with any parkway landscaping plan, which may be required by the Engineering Division.
- 79. All landscaping and irrigation shall be designed to conserve water through the principles of Xeriscape in accordance with Zoning Ordinance requirements.
- 80. Building and Safety plans shall be submitted for plan check and approval. All plans shall be marked with the project number (i.e., DR #13-7003). The applicant shall comply with 2013 California Building Codes, and all other applicable codes, ordinances, and regulations in effect at the time of permit application including but not limited to those regulations that relate to ground movement.
- 81. The applicant shall pay development impact fees at the established rate. Such fees may include, but are not limited to: Transportation Development Fee, Drainage Fee, School Fees, Permit and Plan Checking Fees. Applicant shall provide a copy of the school fees receipt to the Building and Safety Division.
- 82. Projects subject to flood hazards shall implement standards for flood hazard reduction in accordance with Banning Municipal Code Section 15.64 including, but not limited to, anchoring, construction materials and methods, elevation and floodproofing, and utilities.

Public Works Department

- 83. The developer shall provide for the relocation of any sewer or water mains that interfere with the proposed project.
- 84. A precise grading plan shall be submitted to the City Engineer for review and approval. Precise grading plans shall include perimeter walls with top of wall and top of footing elevations shown. All footings shall have a minimum of 1-foot of cover, and/or sufficient cover to clear any obstructions.
- 85. Prior to issuance of any grading or building permit, a Project-Specific Water Quality Management Plan (WQMP) shall be reviewed and approved in accordance with California Regional Water Quality Control Board Colorado River Basin Region Order No. R7-2013-0011. At a minimum, all development will make provisions to store runoff from rainfall events up and including the **one-hundred year, three hour duration**. Post development peak urban runoff discharge rates shall not exceed pre-development peak urban runoff discharge rates.

86. The applicant shall provide a lot pad certification stamped and signed by a qualified civil engineer or land surveyor. Each pad certification shall list the pad elevation as shown on the approved grading plan, the actual pad elevation and the difference between the two, if any. Such pad certification shall also list the relative compaction of the pad soil.
87. In accordance with the approved plans, the applicant shall acquire or confer property rights necessary for the construction or proper functioning of the proposed project/development. Conferred rights shall include right-of-way dedications, irrevocable offers to dedicate or grant of easements to the City for emergency services, maintenance, utilities, storm drain facilities, or temporary construction purposes including the reconstruction of essential improvements.
88. The developer shall prepare a water conservation plan to reduce water consumption in the landscape environment using xeriscape principles. "Xeriscape" shall mean a combination of landscape features and techniques that in the aggregate reduce the demand for and consumption of water, including appropriate low water using plants, non-living ground-cover, a low percentage of turf coverage (limited to 25% of the planted area), permeable paving and water conserving irrigation techniques and systems. A low water-using drought tolerant plant includes species suited to our climate, requiring less water in order to grow well.
89. Pay all applicable water and sewer connection and frontage fees per Chapter 13.08 "Water, Sewer and Electricity Rates" of the Banning Municipal Code.
90. Fire hydrants shall be installed within and on the project boundaries as per the approval plans, and/or as approved by the Fire Department.
91. Provide fire flow calculations for the project and construct the necessary facilities to meet those flows for the project.
92. A property owners' association shall be established promptly following grading permit issuance and the applicable Conditions, Covenants & Restrictions (CC & R's), shall be prepared for review and approval of the City Engineer providing for maintenance of the parkway, slopes adjacent to public right-of-ways, any debris basins and median island landscaping. The developer shall appoint the members of the Board of Directors of the property owners' association, or take such other steps as may be reasonably necessary to assure that members have been appointed or elected to such Board of Directors, until under the terms of the applicable CC & R's individual lot owners have the power to elect the members of the Board of Directors in accordance with the CC & R's. The conditions, covenants, and restrictions shall contain provisions which prohibit dissolution of the property owners' association unless another entity has agreed to assume the operation and maintenance responsibilities of the property owners' association. The conditions, covenants and restrictions shall contain provisions that prohibit the developer and his/her successors-in-interest from amending said covenants, conditions and restrictions to conflict with these Conditions of Approval.

Electric Utility Department

93. Pay required fees- Engineering, Planning, Inspection and the cost of electric apparatus for completing the primary electric service lateral and Street lighting. The City of Banning Electric Utility commercial service costs are not fixed, but are based on actual cost to install the new service. The cost of each service varies based on project location, service size, and electrical distribution equipment and material needed to service the project.

IV. Prior to the Issuance of Certificate of Occupancy.

Community Development Department

94. In order to reduce energy consumption from the proposed project development, applicable plans (e.g., electrical plans, improvement maps, etc.) submitted to the City shall include the installation of energy efficient lighting throughout the project site. These plans shall be reviewed and approved by the Electric Utility, Public Works Department and Building and Safety Division
95. Prior to any use of the project site, or business activity being commenced thereon, all Conditions of Approval shall be completed to the satisfaction of the Community Development Director.
96. All ground-mounted utility appurtenances such as transformers and AC condensers shall be located out of public view and adequately screened through the use of a combination of concrete or masonry walls, berming, and/or landscaping to the satisfaction of the Community Development Director.
97. The applicant shall cause the final map to be recorded.
98. All building numbers and individual units shall be identified in a clear and concise manner, including proper illumination.
99. Provide for the following design features in each trash enclosure, to the satisfaction of the Community Development Director:
 - a. Architecturally integrated into the design of the project.
 - b. Separate pedestrian access that does not require the opening of the main doors and to include self-closing pedestrian doors.
 - c. Large enough to accommodate two trash bins (see Public Works Dept for details).
 - d. Trash bins with counter-weighted lids.
 - e. Architecturally treated overhead shade trellis, or cover.
 - f. Chain link screen on top to prevent trash from blowing out of the enclosure and designed to be hidden from view.
100. The buildings shall be constructed in substantial compliance with the design elements as depicted in Attachment 5 of the staff report approved by the City Council at their

regularly scheduled meeting held on April 8, 2014; and, in accordance with Zoning Code regulations.

101. All roof appurtenances, including air conditioners and other roof mounted equipment and/or projections shall be shielded from view and the sound buffered from adjacent properties and streets as required by the Planning Division. Such screening shall be architecturally integrated with the building design and constructed to the satisfaction of the Community Development Director. Details shall be included in building construction plans.
102. All parking spaces shall be 9 feet wide by 19 feet long minimum. When a side of any parking space abuts a building, wall, support column, or other obstruction, the space shall be a minimum of 11 feet wide.
103. A 25 foot parking setback from the curb face shall be maintained at the driveway fronting all public streets.
104. All parking lot landscape islands shall have a minimum interior dimension of 6 feet in width and shall contain a 12-inch walk adjacent to any parking stall (including curb width).
105. Decorative paving shall be required at all driveway entrances in accordance with the requirements of the Zoning Code and City Engineer and Community Development Director.
106. All parking spaces shall be striped per City standards and all loading zones, driveway aisles, entrances, and exits shall be striped per City standards. Each exit from a parking area shall be clearly marked with a "Stop" sign.
107. A minimum of 20% of trees planted shall be 36 inch box or larger specimens; and, a minimum of 50% trees planted shall be 24 inch box or larger specimens.
108. Within parking lots, trees shall be planted at a rate of at least one 24 inch box tree for every four parking spaces. The maximum spacing between trees in parking areas shall compliment the architecture of the existing buildings.
109. All parking areas shall provide at least 30% permanent landscape shading for parked vehicles within two years of occupancy.
110. Trees shall be planted in areas of public view adjacent to and along structures at a rate of at least one tree per 30 linear feet of building.
111. The slopes within any detention basin shall be irrigated and landscaped with appropriate ground cover for erosion control. Slope planting shall include a permanent irrigation system.

Public Works Department

112. Construct full street improvements in accordance with City standards fronting Barbour Street including street lighting, curb and gutter, commercial style drive approaches, sidewalk, and asphalt concrete paving, traffic signs and striping, and any transitions. Street lights shall be installed offset of the existing street lights, if existing. Applicant's geotechnical engineer shall provide the design of the pavement section based upon the Caltrans method.
113. The applicant shall furnish the City with reproducible record drawings on Mylar 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 or raster-image files submitted to the City, revised to reflect the "As-Built" conditions.
114. There is an existing 12" CML&WS (Steel) Water line on Lincoln Street and a 12" CML&WS (Steel) line on Barbour Street. The on-site water system shall be designed to have a connection at both lines (looped).
115. Each condominium unit shall have a water meter with a backflow on the customer side.
116. The on-site water line shall be a public water system and shall therefore be within a utility easement dedicated to the City of Banning. It will be constructed per the requirements of the City of Banning Specifications (Ductile Iron).
117. A backflow device must be installed on all commercial/industrial buildings and at each irrigation water connection. The backflow device must be in compliance with the State Department of Health Regulations.
118. Fire Services will require a Double Detector Check or RPP Device.
119. There is an existing 8" VCP sewer line along Barbour Street. All sewer lines to be constructed within the Public right-of-way shall be Extra Strength Vitrified Clay Pipe (VCP). Each condominium shall have its own sewer lateral. All sewer laterals shall be a minimum of 6" and all sewer mains shall be a minimum of 8". Final sizes shall be approved by the City Engineer.
120. A sewer check valve shall be provided for each building with a finish pad elevation lower than the rim elevation of the immediate up-stream sewer manhole.
121. Submit a condominium map prepared by a surveyor licensed by the State of California to the City Engineer for review and approval. The map shall clearly identify all easements and common maintenance areas.
122. All fire hydrants shall have a blue reflective pavement marker indicating the hydrant location on the street as approved by the Fire Marshall, and must be maintained in good condition by the property owner until the street is accepted for maintenance.

123. Offer to dedicate to the City of Banning an aviation easement for the airspace related to the operation of Banning Municipal Airport.
124. An automatic sprinkler system and landscaping shall be installed, prior to occupancy of the first unit of the development, within the parkway fronting Lincoln Street and Barbour Street, and any interior public spaces. The system shall include a landscape controller, a separate water meter and electric meter, and plantings as approved by the Community Development Director. Landscaping plans and specifications shall be reviewed and approved by the City Engineer.
125. Any public improvements damaged during the course of construction shall be replaced to the satisfaction of the City Engineer, or his/her designee.
126. Landscape improvements shall be certified by a licensed landscape architect or licensed landscape contractor as having been installed in accordance with the approved detailed plans and specifications. The applicant shall furnish said certification, including an irrigation management report, for each landscape irrigation system and any other required implementation report determined applicable, to the City Engineer for review and approval.
127. Street name signs and traffic control devices including traffic legends and traffic striping shall be installed, or relocated in accordance with Caltrans Standards and as shown on the approved plans, and/or as directed by the City Engineer.
128. Monuments and center line ties shall be certified and submitted to the City Engineer for review and approval.

Electric Utility Department

129. Grant easements for electric facilities installation / maintenance, etc. Building & Safety will need to sign a release before any new service is energized. Power cannot be released until the service conductor is pulled in and terminated at the new service panel. The customer must apply for a new electric service account with the C.O.B. Utility Billing Department located at City Hall (99 E. Ramsey St.) Utility Billing will fax a Meter Release Form to the Electric Utility. The Electric Utility will coordinate the meter set with the customer.
130. The developer shall provide all conduits, vaults, and other materials associated with electric facility installations (except cables and their terminations).
131. The developer shall install streetlight poles, fixtures, pullbox, and conduits along the project frontage, and as directed by the City Engineer.
132. Secondary service entrance conductors to be provided and installed by the developer.

POLICE DEPARTMENT

133. The developer shall install a video surveillance system to view the public areas of the development that may be viewed by police dispatchers. The developer shall submit specifications for review and approval of the Police Department prior to installation.

FIRE DEPARTMENT

The following codes and standards quoted in this review response are selected from the various regulations that apply to this development. Other regulations that are not included on this review response may also apply after additional information is provided:

CITY OF BANNING FIRE SERVICES
STANDARD CONDITIONS OF APPROVAL
As amended for the proposed commercial project
CUP 13-8005, Design review 13-7003, Enviro. Assessment 13-1505, Public Hearing 13-12503
Lincoln Work – Live Complex, APN #541-290-013

Date: January 27, 2014

The following are the minimum Fire Department requirements. There may be additional requirements when the project specifics are defined and the final proposal is submitted for approval.

1. FIRE DEPARTMENT DEVELOPER FEES:

Fees are increased annually and may be different at the time of construction. The fee schedule at the time of plan submittal shall apply.

Light Industrial/Multi-Family units –
\$1335.00 per Multi-family unit
\$468.00 per Light Industrial unit
\$ 25.00 per unit Disaster Planning
Plan Check and Inspection - \$134.00 per hour

2. SPRINKLER SYSTEMS REQUIRED:

Fire Sprinkler System shall be required for this 45,650 square foot mixed occupancy structure.

Install a complete fire sprinkler system per NFPA 13 2010 edition (13D and 13R system are not allowed) in all buildings requiring a fire flow of 1500 GPM or greater sprinkler system (s) with pipe size in excess of 4" inch diameter will require the project structural engineer to certify (wet signature) the stability of the building system for seismic and gravity loads to support the sprinkler system. All fire sprinkler risers shall be protected from any physical damage. The post indicator valve and fire department connection shall be located to the front, within 50 feet of a hydrant, and the minimum of 25 feet from the building (s). A statement that the building (s) will be automatically fire sprinkled must be included on the title page of the building plans.

Applicant or developer shall be responsible to install a Central Station Monitored Fire Alarm System. Monitoring System shall monitor the fire Sprinkler system (s) water flow, P.I.V.'s and all control valves. Plans must be submitted to the Fire Department for approval prior to installation. Contact Fire Department for guideline handout.

When fire sprinkler systems are required in buildings of undetermined use, they shall be designed and installed to have a sprinkler density of not less than that required for Ordinary Hazard Group 2 use with a minimum design area of 3,000 sq. ft. Use is considered undetermined if not specified at time permit is issued.

Maintenance on fire sprinkler systems shall be provided to the Banning Fire Marshal office in writing.

3. FIRE HYDRANTS:

Prior to construction or renovation, fire hydrants shall be provided when any portion of any structure exceeds 150 feet from a water supply on a public street.

All hydrants must be installed, working and inspected by the public works department before any combustible materials can be placed at the worksite.

Spacing of fire hydrants shall comply with CFC Appendix C and the City of Banning Public Works Standards. (Maximum 300 feet between hydrants)

Minimum 6-inch riser, street valve, approved shear valve and blue dot identification marker shall be provided for each fire hydrant.

The City standard fire hydrant is the Commercial, James Jones #13765, or an equivalent approved by the Fire Marshal.

Fire Hydrants are to be painted by the developer, contractor, etc., prior to the final inspection. (EOS Standard W714) Rustoleum Red, damp proof #769 and two (2) coats of Rustoleum semi-gloss yellow #659, or an approved equivalent.

4. Blue retro reflective pavement markers shall be mounted on private street, public streets and driveways to indicate location of fire hydrants. Prior to installation, placement of markers must be approved by Riverside County Fire Department.

5. Super fire hydrant (s) (6" x 4" x 2 1/2") shall be located not less than 25 feet or more than 165 feet from any portion of the building as measured along approved vehicular travel ways.

6. RAPID ENTRY BOX

Rapid entry Hazardous Material data and key storage cabinet shall be installed on outside of each building, and KNOX key switch at all gates. Plan shall be submitted to the City of Banning's Fire Marshal's office for approval prior to installation.

7. HIGH RACK STORAGE

A separate permit is required for high pile storage and/or racks. Sprinkler Plans and/or sprinkler review must be submitted by a licensed sprinkler Contractor with storage and/or rack plans to Riverside County Fire Department for review and approval of the 2010 CFC Chapters 24 and 34 compliance. Complete Chapters 24 and 34, information re: all commodities stored, rack dimensions, placement in building, etc. must be provided with suppression system for racks and/or high-pile storage review. A complete listing of commodities classified using UFC Chapters 24 and 34, 2010 Edition, and NFPA 13, 2010 Edition guidelines by a licensed Fire protection Engineer (or other consultant to approve by this jurisdiction.)

8. WATER SUPPLY:

Fire flow shall be established by the Fire Department using the information provided in the CFC Appendix B. Fire Flow may be adjusted upward where conditions indicate an unusual susceptibility to fire.

The applicant or developer shall be responsible to submit written certification from the water company noting the location of the existing fire hydrant and that the existing water system is capable of delivering 2,250 GPM fire flow for a 2 hours duration at 20 PSI residual operating pressure. If a water system currently does not exist, the applicant or developer shall be responsible to provide written certification that financial arrangements have been made to provide them.

9. WATER PLANS

The applicants or developer shall separately submit two copies of the water system plans to the Fire Department for review and approval. Calculated velocities shall not exceed 100 feet per second. Plans shall conform to the fire hydrant types, location and spacing, and the system shall meet the fire flow requirements. Plans shall be signed and approved by a registered civil engineer and the local Water Company with the following certification: "I certify that the design of the water system is in accordance with the requirements prescribed by the Riverside County Fire Department."

10. FIRE LANES

Fire lanes shall be assigned by the City of Banning's Fire Marshal's office. Contact the City of Banning Fire Marshal's office for guideline handout.

11. FIRE EXTINGUISHERS

Install portable fire extinguishers with a minimum rating of 2A-10BC one per 3000 sq. ft. or 75 feet of travel distance. Fire extinguishers located in the public Areas shall be in recess cabinets mounted 48 inches to the center above floor level with maximum 4 inch projection from the wall. (Extinguishers must have current CSFM service tag affixed)

12. FIRE DEPARTMENT ACCESS:

Fire department access shall be required when any portion of the first story of any structure is more than 150 feet from Fire Department apparatus access.

Minimum clearances or widths may be increased when the minimum standards are not adequate for Fire Department access.

Surfaces shall be designed and maintained to support the imposed loads of fire apparatus (75,000gvw). Surfaces shall have all-weather driving capabilities, including bridges. All roads must be placed and meet the above standard before any combustible materials can be delivered to the site.

Minimum unobstructed width shall be 20 feet.

Minimum unobstructed vertical clearance shall not be less than 13 feet 6 inches.

Minimum turning radius shall be 42 feet.

All dead-end access roads in excess of 150 feet shall have approved provisions for turning around of fire apparatus.

Cut-de-sacs shall not exceed 600 feet in length

Maximum grade shall be established by the Fire Department.

Vehicles shall not be parked or otherwise obstruct the required width of any fire apparatus access.

Two means of ingress/egress shall be provided for emergency vehicles and fire apparatus.

The requirements for this segment are covered in CFC Chapter 5.

A "Knox" box will be required for fire department access for gates and buildings.

13. PREMISES IDENTIFICATION:

Approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Said numbers shall contrast with their background.

Commercial - 6" min. Size, (Recommended 12")

14. INSPECTIONS:

Inspections shall be requested a minimum of forty-eight (48) hours prior to the time the required inspection is needed. Annual inspections on fire sprinkler and fire alarm systems shall be required, and the Banning Fire Marshal will issue an operational permit per the CFC 2010 edition.

Fee for each inspection is \$134.00 per hour/ person, (One hour minimum).


15. FIRE ALARM SYSTEM:

A Fire Alarm System will be required for this project. A fire department control center will be required, where all fire alarm panels shall be installed. This system will be designed and inspected with NFPA 72, 2010 edition. Maintenance on fire alarm systems shall be provided to the Banning Fire Marshal office in writing.

16. BUILDING PLANS:

When final building plans are submitted additional requirement may apply.

Sincerely,


Doug Clarke
Assistant Fire Marshal
Banning Fire Services
(951) 922-3211
clarke@ci.banning.ca.us

Attachment 2

(Location Map, APN map, and Aerial Photograph)



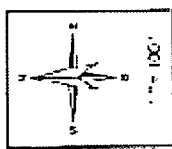
Location Map
CUP #13-8005
DR #13-7003

541-29
21-6-2

-24.001-024

SEC 10 T3SR1E
CITY OF BARNING

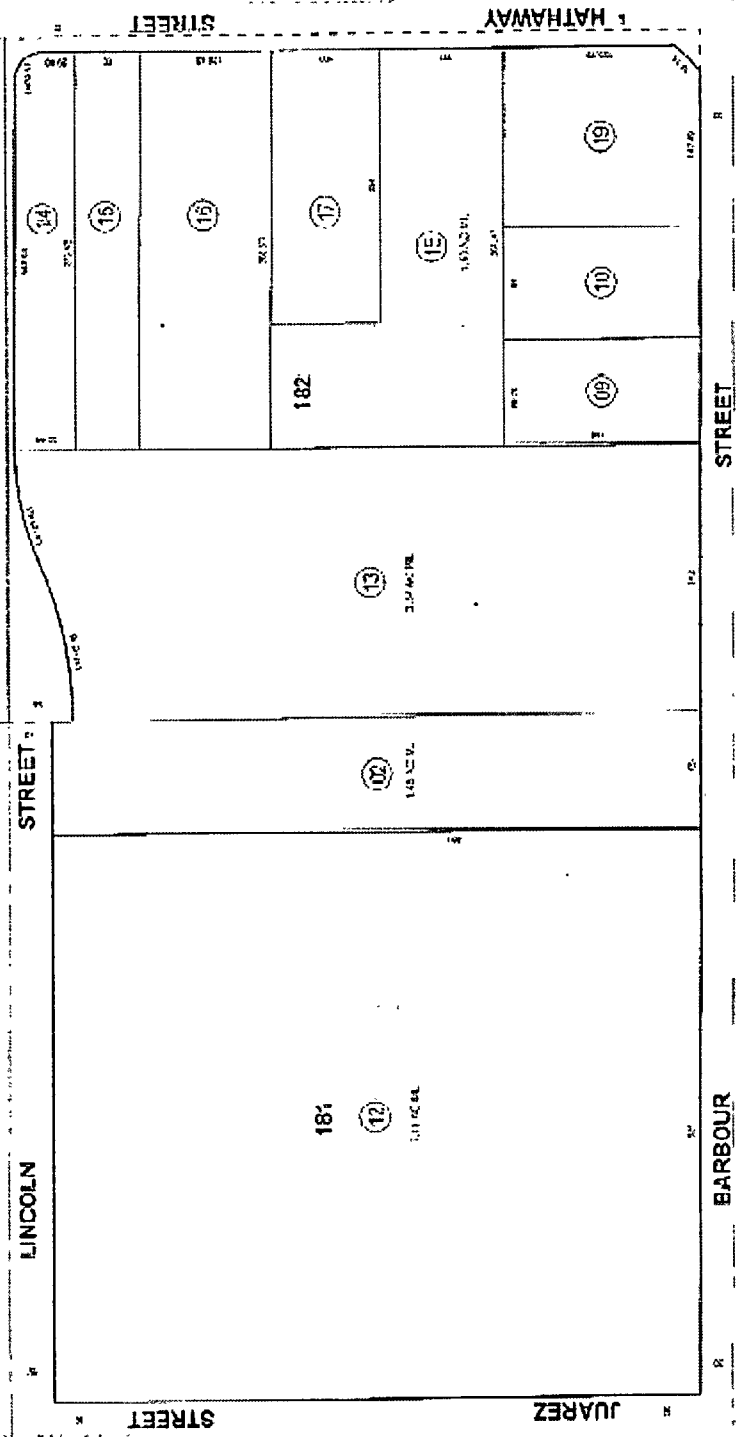
THIS MAP WAS PREPARED BY ASSESSMENT SERVICES ONLY. NO LIABILITY
IS ASSUMED FOR THE ACCURACY OF THE INFORMATION CONTAINED HEREIN.
BARNING COUNTY, NEBRASKA
JAN 2 5 2010



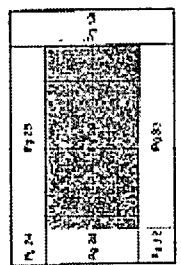
Legend

Light Gray	Unimproved
Dark Gray	Improved
Thin Solid Line	Section Line
Thin Dashed Line	Quarter Section Line
Thick Solid Line	Other Boundary
Thick Dashed Line	Other Boundary

Area	Acres	Value
Section 10	36.00	100.00
Section 11	36.00	100.00
Section 12	36.00	100.00
Section 13	36.00	100.00
Section 14	36.00	100.00
Section 15	36.00	100.00
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Section 19	36.00	100.00
Section 20	36.00	100.00

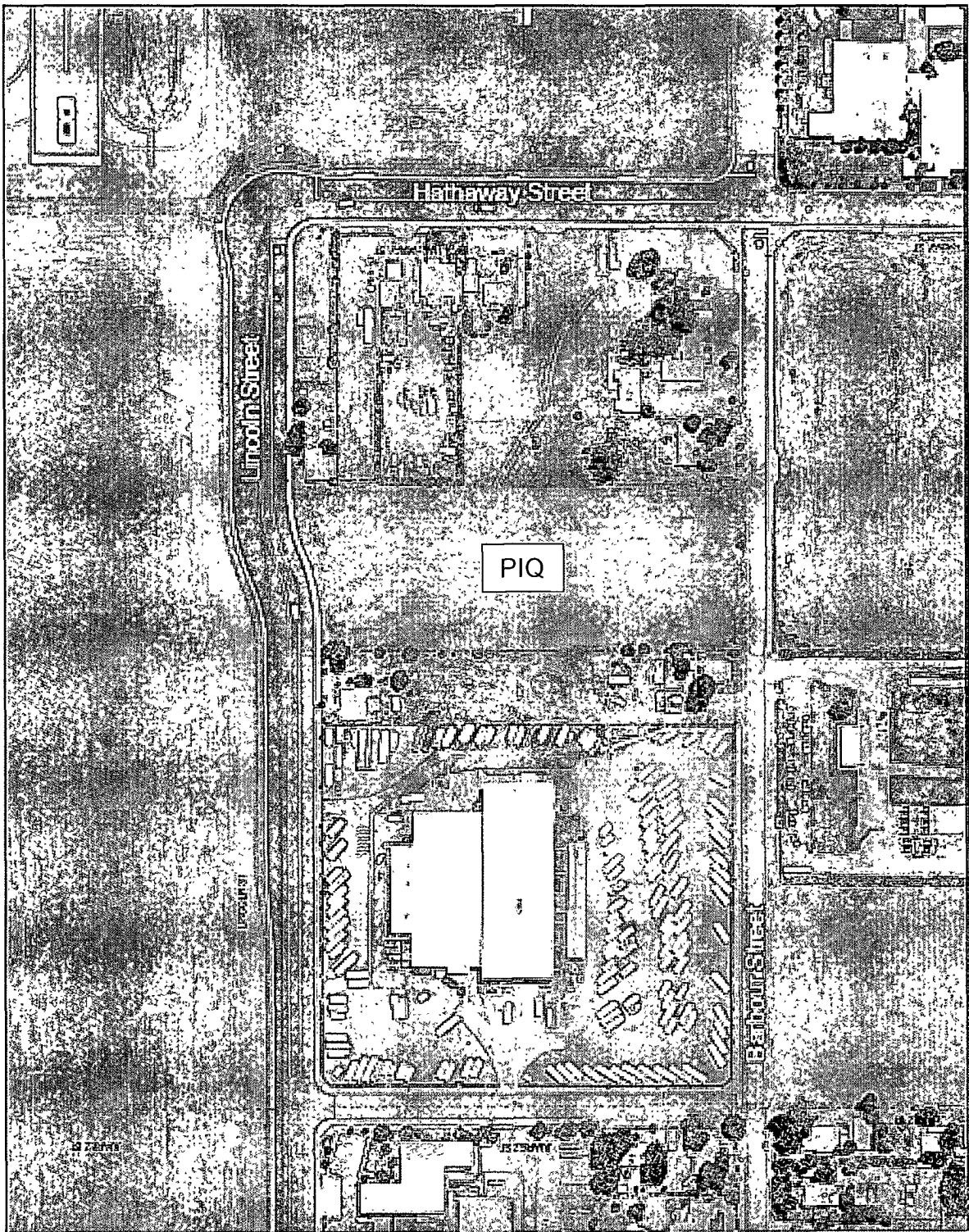


ALL PARTS OF SECTION 10, T3S, R1E, S10W, NEBRASKA
AND PART OF SECTION 11, T3S, R1E, S10W, NEBRASKA
AND PART OF SECTION 12, T3S, R1E, S10W, NEBRASKA



ASSESSORS MAP BOOK PG 20
FIVE HILLS COUNTY, NEB.

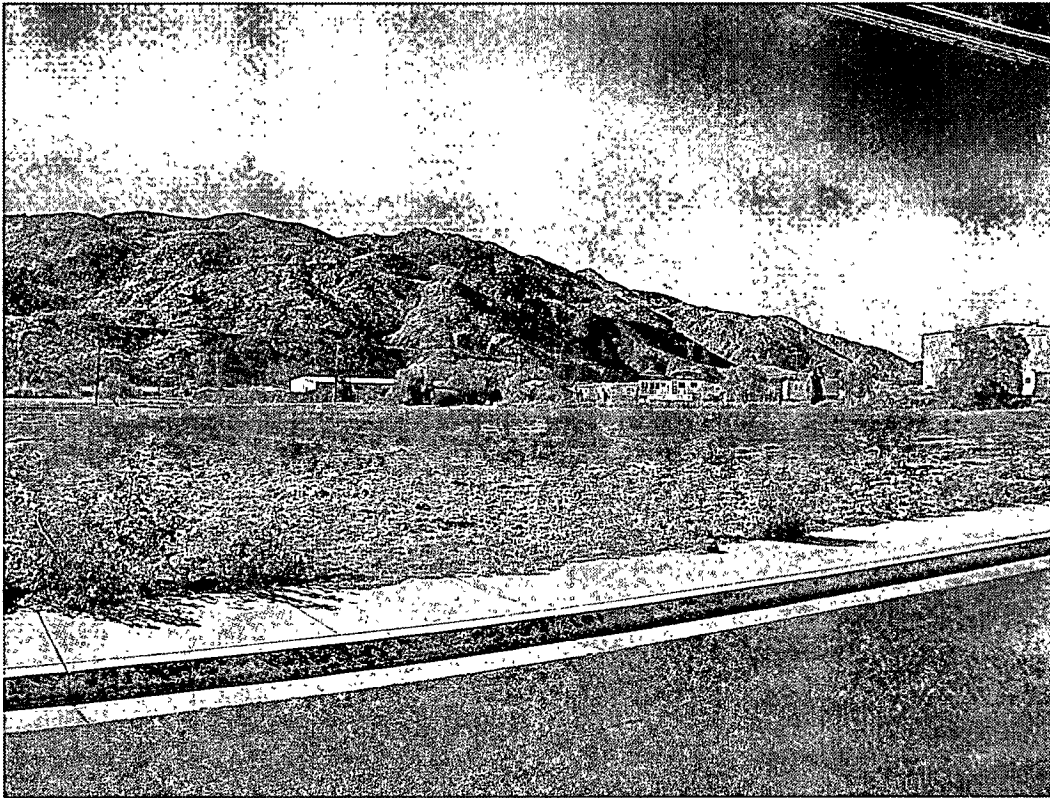
JAN 20 2010



Aerial Photograph
CUP #13-8005
DR #13-7003

Attachment 3

(Site Photographs)



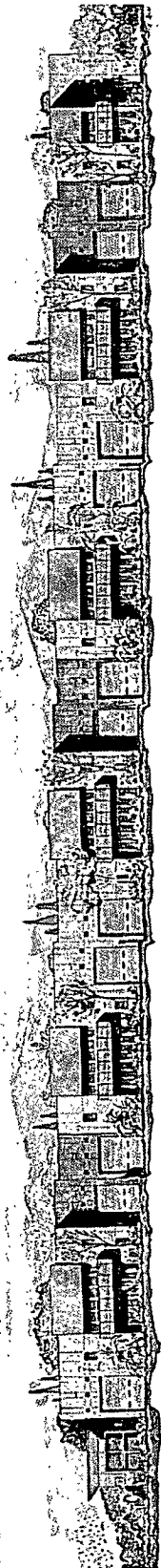
Lincoln Street looking to the south-west



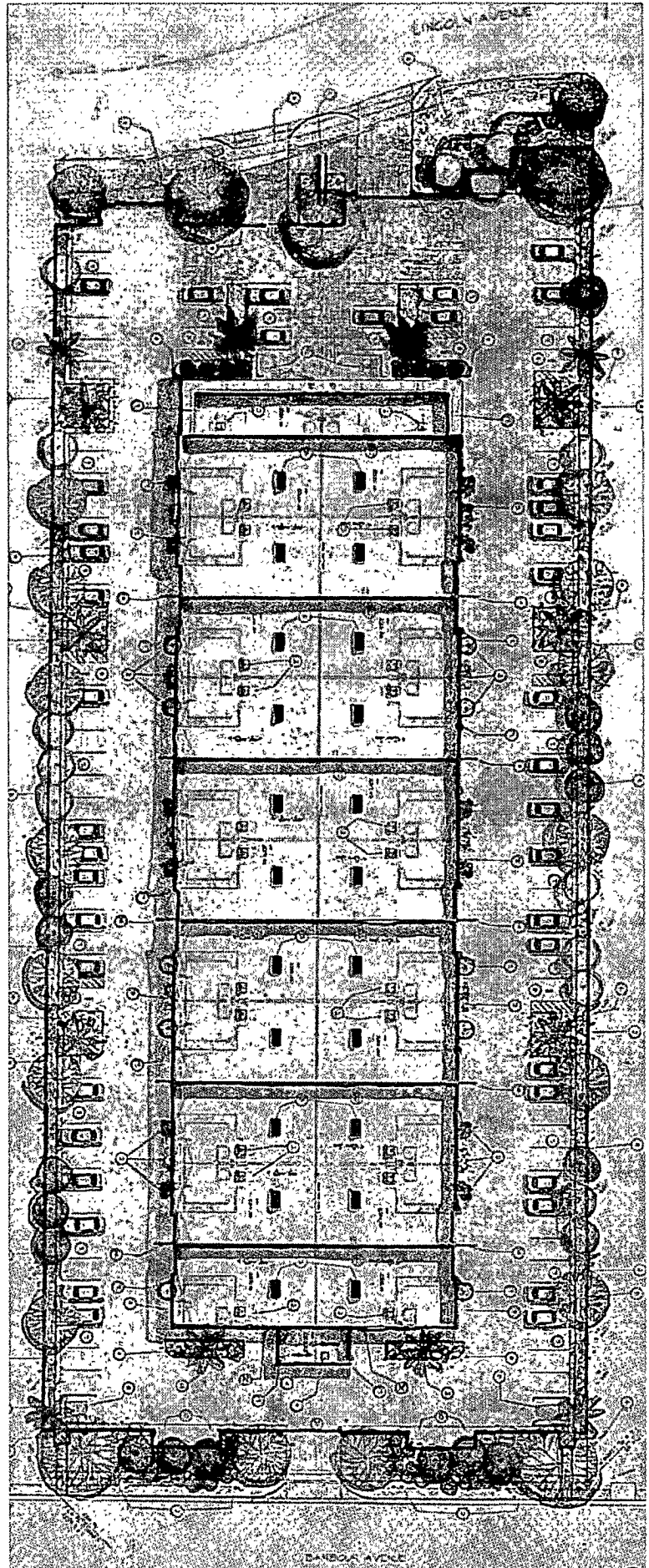
Barbour Street looking to the north-east

Attachment 4

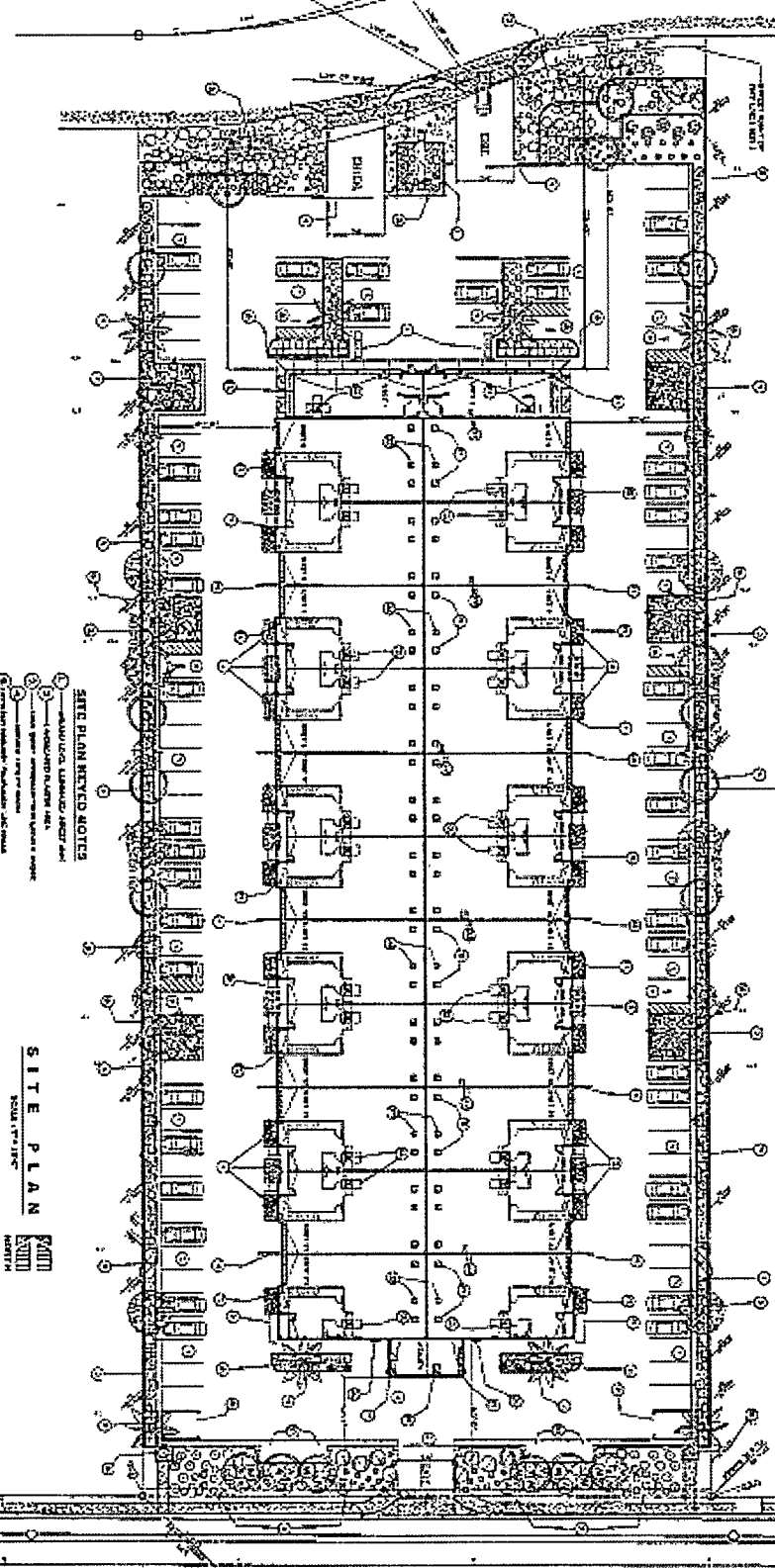
(Project Plans)



WEST ELEVATION



LINCOLN AVENUE



GENERAL NOTES

1. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA BUILDING CODE AND ALL APPLICABLE ORDINANCES.

2. THE OWNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.

3. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.

4. THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTING ALL EXISTING UTILITIES AND STRUCTURES.

5. THE CONTRACTOR SHALL MAINTAIN ADEQUATE DRAINAGE AND EROSION CONTROL MEASURES.

6. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL TREES AND PLANTS TO REMAIN.

7. THE CONTRACTOR SHALL MAINTAIN ADEQUATE ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.

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NOTES

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4. THE CONTRACTOR SHALL MAINTAIN ADEQUATE DRAINAGE AND EROSION CONTROL MEASURES.

5. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL TREES AND PLANTS TO REMAIN.

SITE PLAN REVISIONS

1. REVISION 1: ADDED PARKING SPACES AND LANDSCAPING.

2. REVISION 2: ADDED DRIVEWAY AND LANDSCAPING.

3. REVISION 3: ADDED DRIVEWAY AND LANDSCAPING.

4. REVISION 4: ADDED DRIVEWAY AND LANDSCAPING.

5. REVISION 5: ADDED DRIVEWAY AND LANDSCAPING.

6. REVISION 6: ADDED DRIVEWAY AND LANDSCAPING.

7. REVISION 7: ADDED DRIVEWAY AND LANDSCAPING.

8. REVISION 8: ADDED DRIVEWAY AND LANDSCAPING.

9. REVISION 9: ADDED DRIVEWAY AND LANDSCAPING.

10. REVISION 10: ADDED DRIVEWAY AND LANDSCAPING.

SITE PLAN

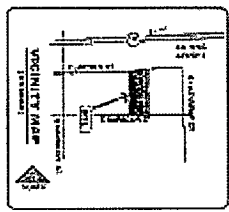
SCALE: 1" = 10'

DATE: 10/1/2011

TOTAL LOT AREA

1.00 ACRES

1.00 ACRES



WATERMARK DEVELOPMENT INC.

100

24 UNIT AIRPORT INDUSTRIAL WORK LOFTS

LINCOLN STREET

AIRPORT INDUSTRIAL WORK LOFTS

BANNING, CA 92220

A.P.N. # 541290013-3

SITE PLAN

A-2.1

Underground Service Alert
Call TOLL FREE
1-800-484-1111

NO WORKING WITH BURIED UTILITIES

NO.	DATE	REVISION

DESIGNED UNDER THE SUPERVISION OF:

SEAL: [Seal] **DATE:** 10/15/18

DESIGNED BY: [Signature] **DATE:** 10/15/18

PROJECT: KING CIVIL ENGINEERING CORP.

PROJECT: PRECISE GRADING PLAN

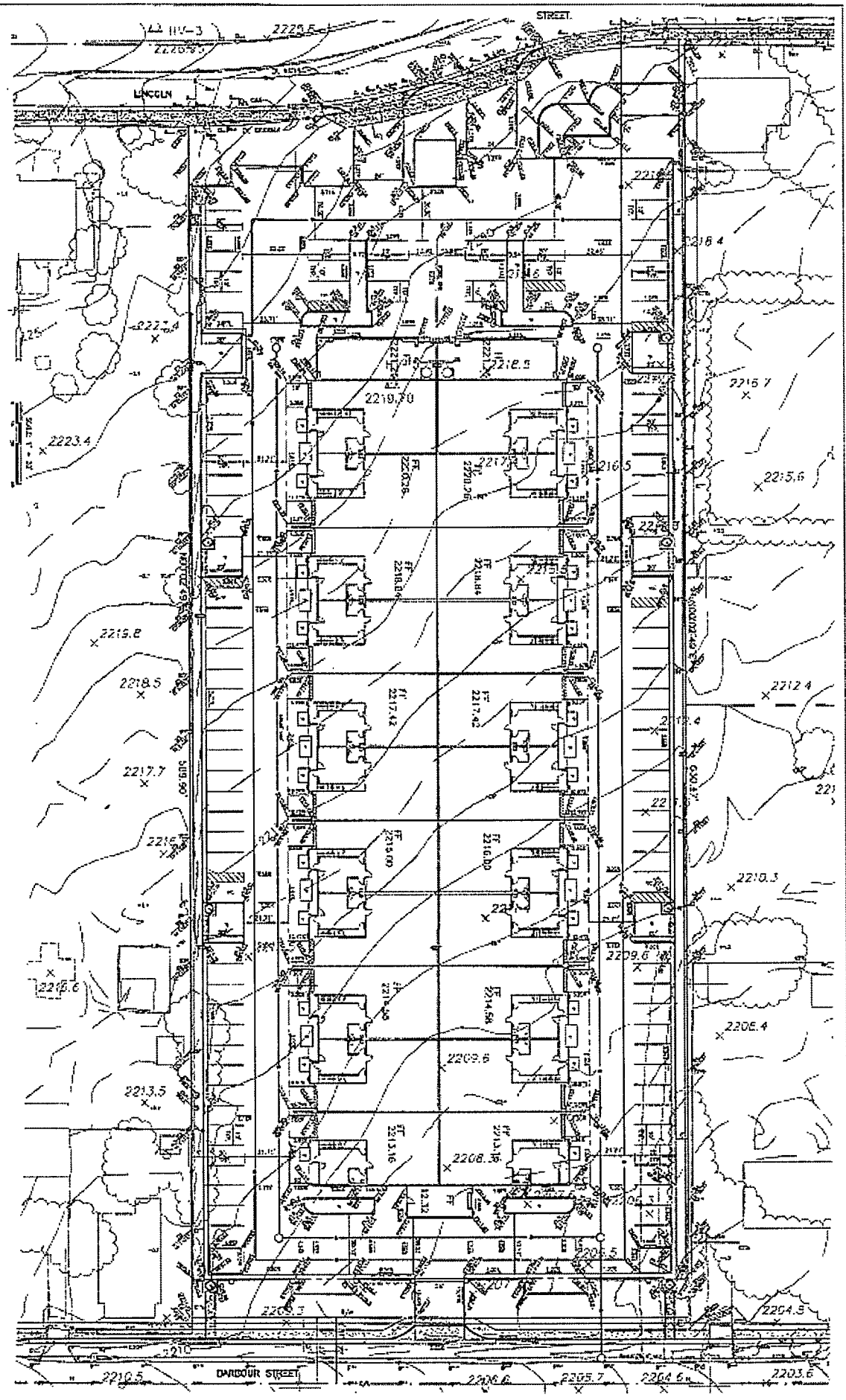
PROJECT: INDUSTRIAL PARK

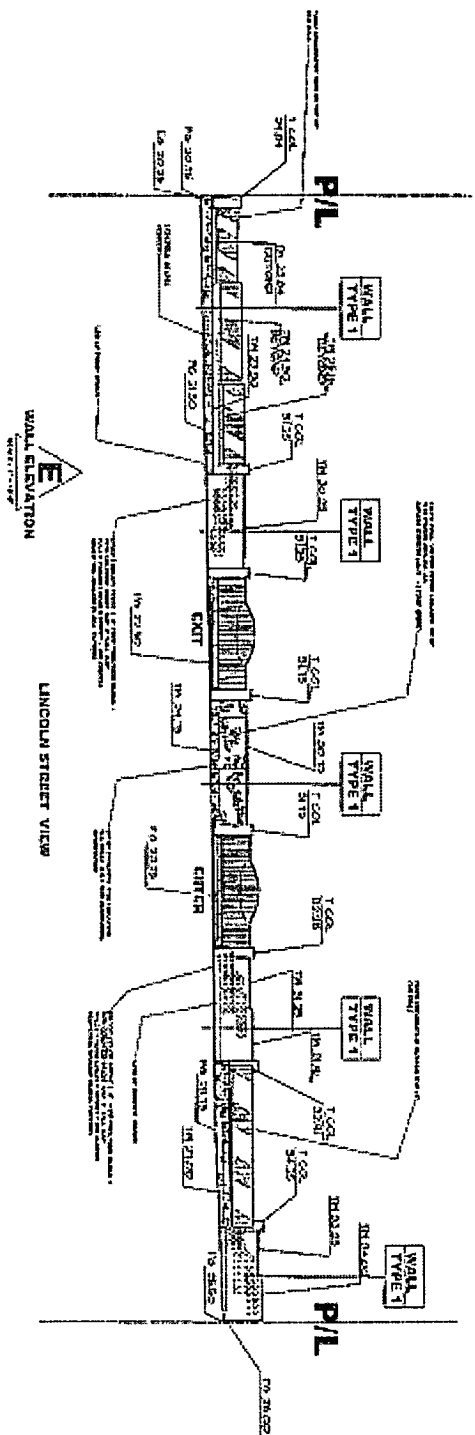
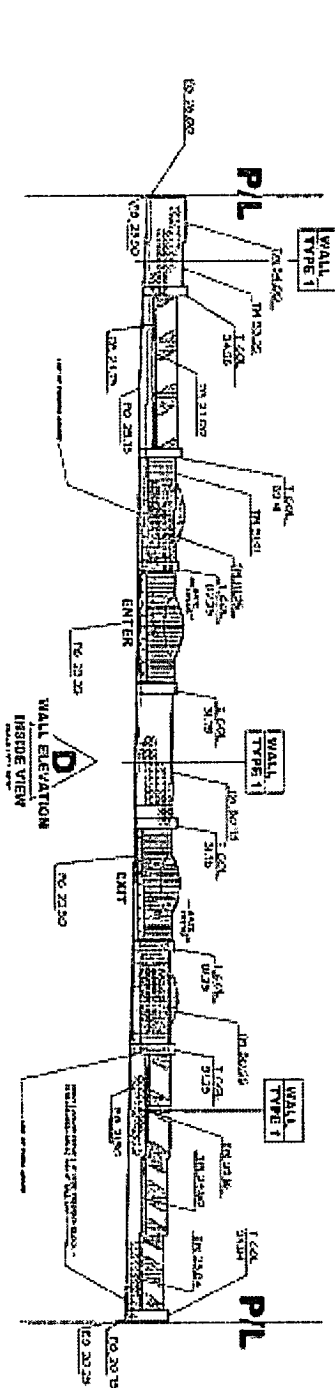
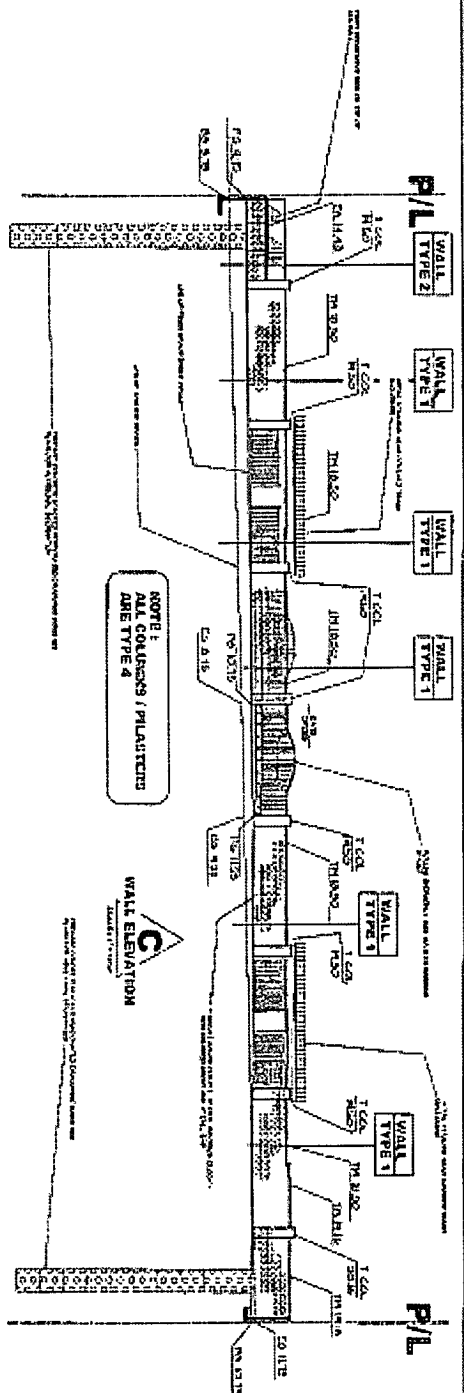
PROJECT: DARTMOUTH STREET & DARTMOUTH STREET

PROJECT: DARTMOUTH STREET & DARTMOUTH STREET

DATE: MAY 1, 2013

SCALE: 1" = 10'





WATERMARK
DEVELOPMENT
INC.
1000 S. 10th Street
Bldg. 4101 2411
BIRMINGHAM, AL 35203
205.933.1000
www.watermarkdev.com

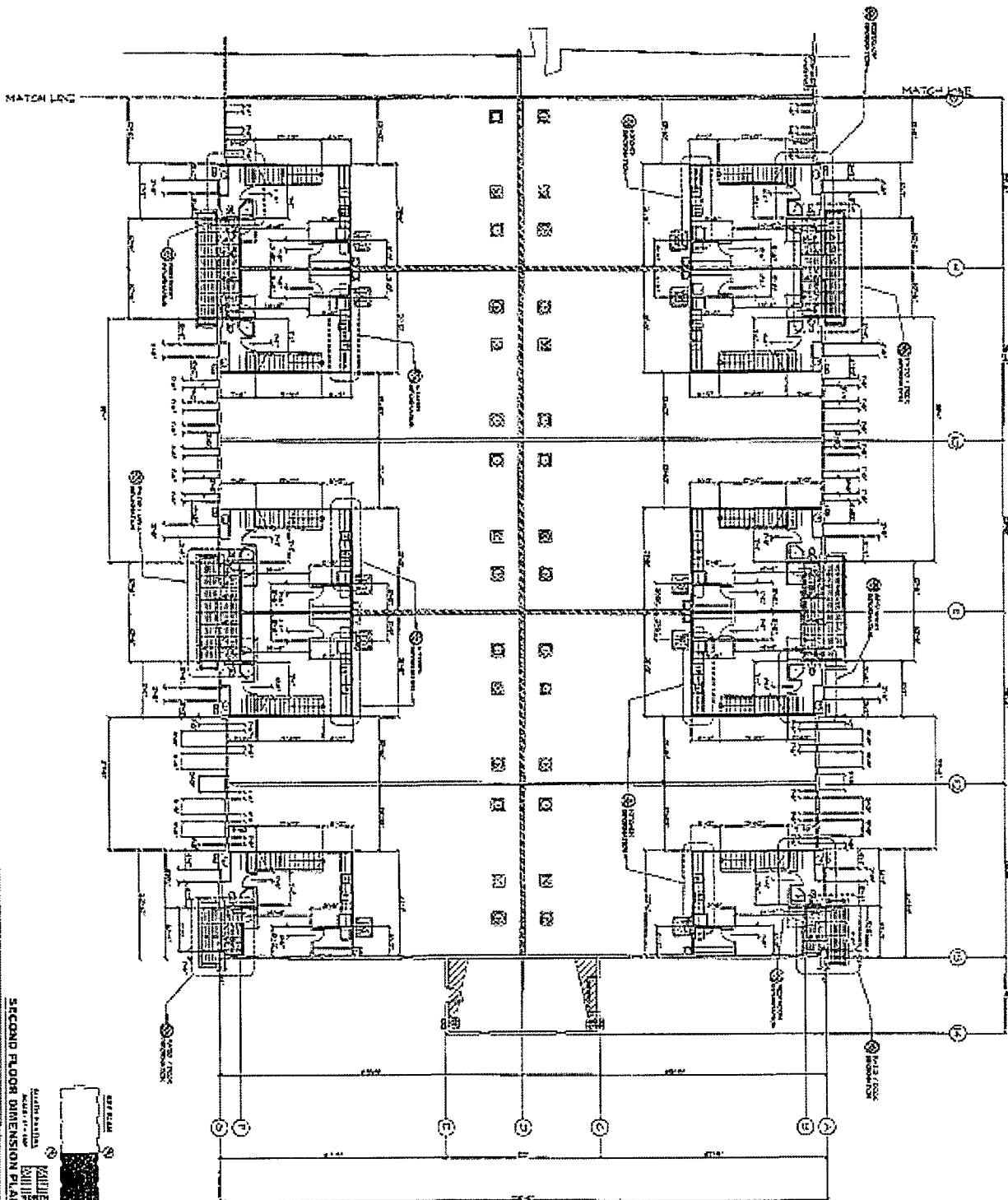
LINCOLN STREET
AIRPORT INDUSTRIAL WORK LOFTS
BANNING, CA 92220
A.P.N. # 541290013-3

2A UNIT
AIRPORT
INDUSTRIAL
WORK
LOFTS

NO.	DATE	DESCRIPTION
1	10/1/03	ISSUED FOR PERMIT
2	10/1/03	ISSUED FOR PERMIT
3	10/1/03	ISSUED FOR PERMIT
4	10/1/03	ISSUED FOR PERMIT
5	10/1/03	ISSUED FOR PERMIT
6	10/1/03	ISSUED FOR PERMIT
7	10/1/03	ISSUED FOR PERMIT
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9	10/1/03	ISSUED FOR PERMIT
10	10/1/03	ISSUED FOR PERMIT

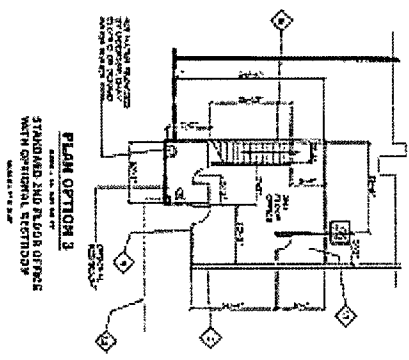
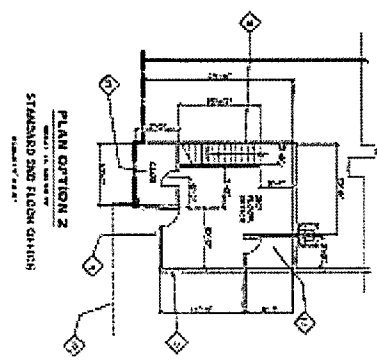
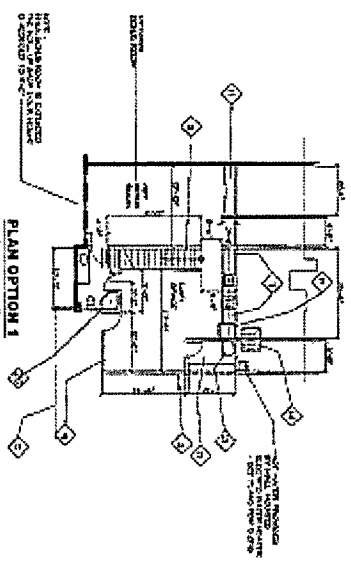
SITE
WALLS
ELEVATIONS
A-2.5

102



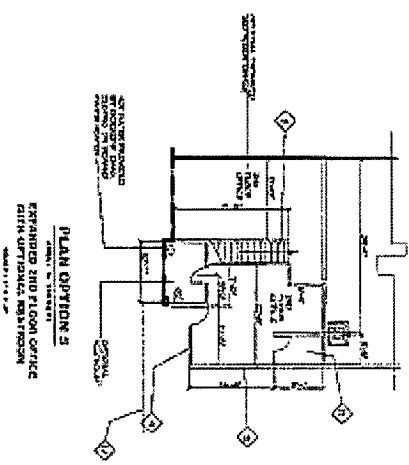
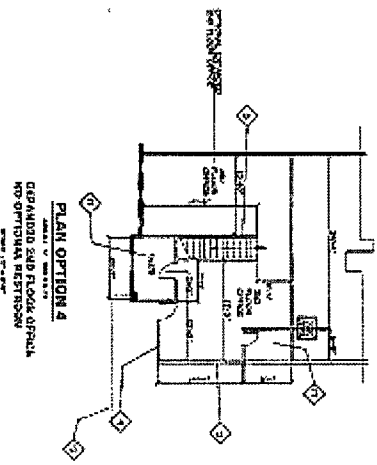
NOTE: 1. All dimensions are in feet and inches.
2. All dimensions are approximate and subject to change without notice.

WATERMARK DEVELOPMENT INC.
14100 14th Avenue
Bakersfield, CA 93311
Phone: (805) 338-1111
Fax: (805) 338-1112
E-Mail: info@watermarkdev.com
Web: www.watermarkdev.com



FLOOR PLAN KEY NOTES:

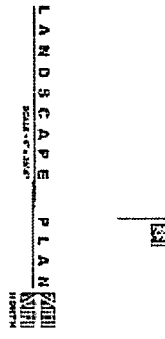
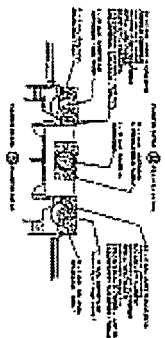
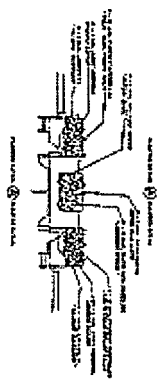
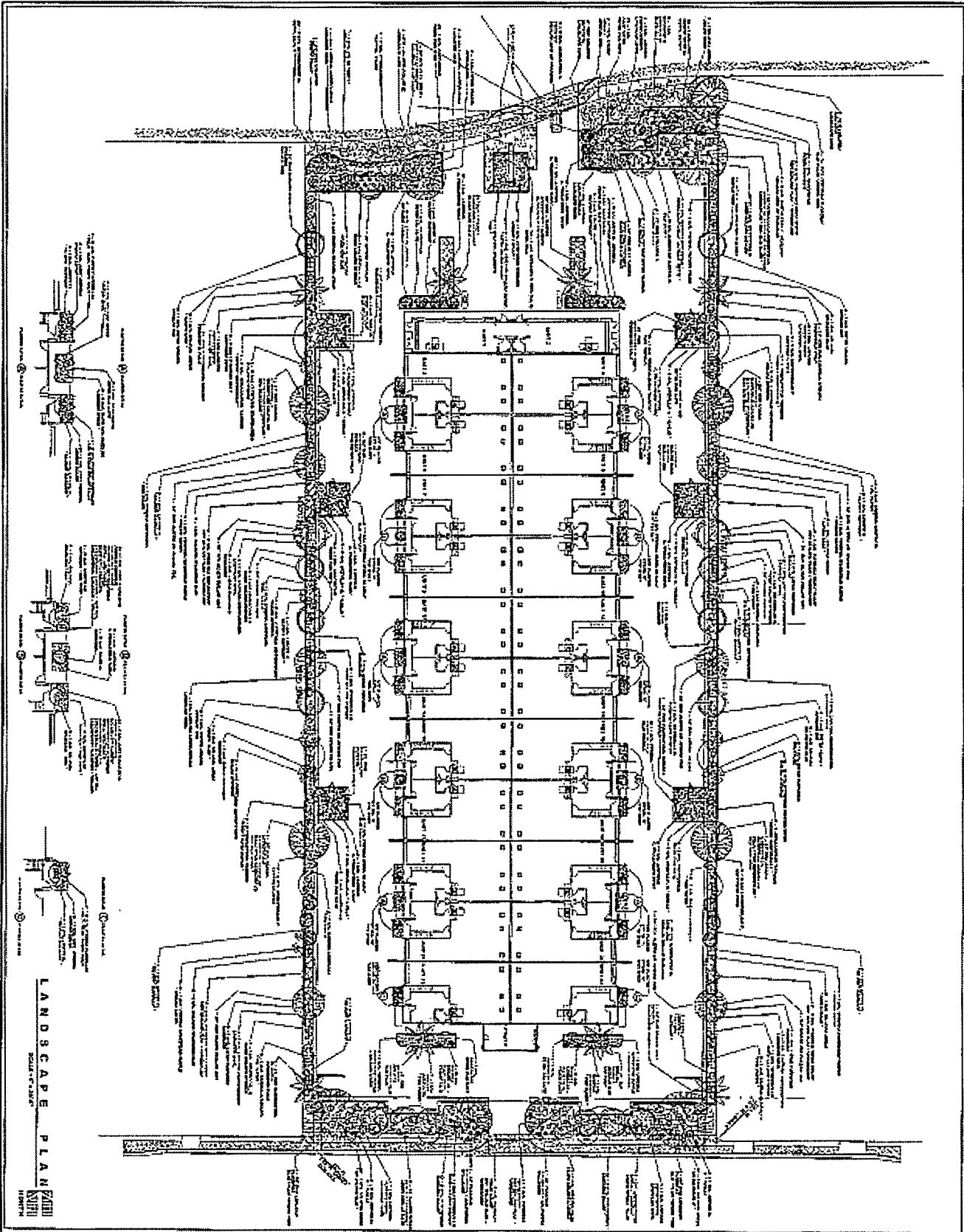
- 1. NOT A PART OF THE UNIT - ALL LOCATIONS
- 2. AREA AND FLOOR AREA INCL. IN UNIT - SEE UNIT'S FLOOR PLAN
- 3. FLOOR AREA INCL. IN UNIT - SEE UNIT'S FLOOR PLAN
- 4. FLOOR AREA INCL. IN UNIT - SEE UNIT'S FLOOR PLAN
- 5. FLOOR AREA INCL. IN UNIT - SEE UNIT'S FLOOR PLAN
- 6. FLOOR AREA INCL. IN UNIT - SEE UNIT'S FLOOR PLAN
- 7. FLOOR AREA INCL. IN UNIT - SEE UNIT'S FLOOR PLAN
- 8. FLOOR AREA INCL. IN UNIT - SEE UNIT'S FLOOR PLAN
- 9. FLOOR AREA INCL. IN UNIT - SEE UNIT'S FLOOR PLAN
- 10. FLOOR AREA INCL. IN UNIT - SEE UNIT'S FLOOR PLAN



AVAILABLE PLAN OPTIONS

PLAN	2ND FLOOR ROOM OPTIONS	PLAN
A4.5		

24 UNIT AIRPORT INDUSTRIAL WORK LOFTS
LINCOLN STREET
AIRPORT INDUSTRIAL WORK LOFTS
BANKERS, CA 92220
A.P.N. # 541290013-3



LANDSCAPE PLAN

SCALE: 1/8" = 1'-0"

24 UNIT AIRPORT INDUSTRIAL WORK LOFTS

WATERMARK DEVELOPMENT INC.

2005 10th Ave. S.

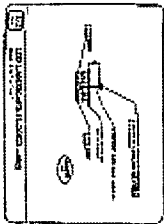
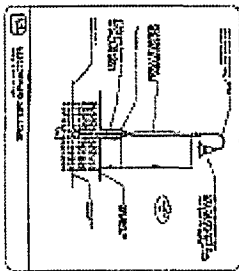
Banning, CA 92220

A.P.N. # 541290013-3

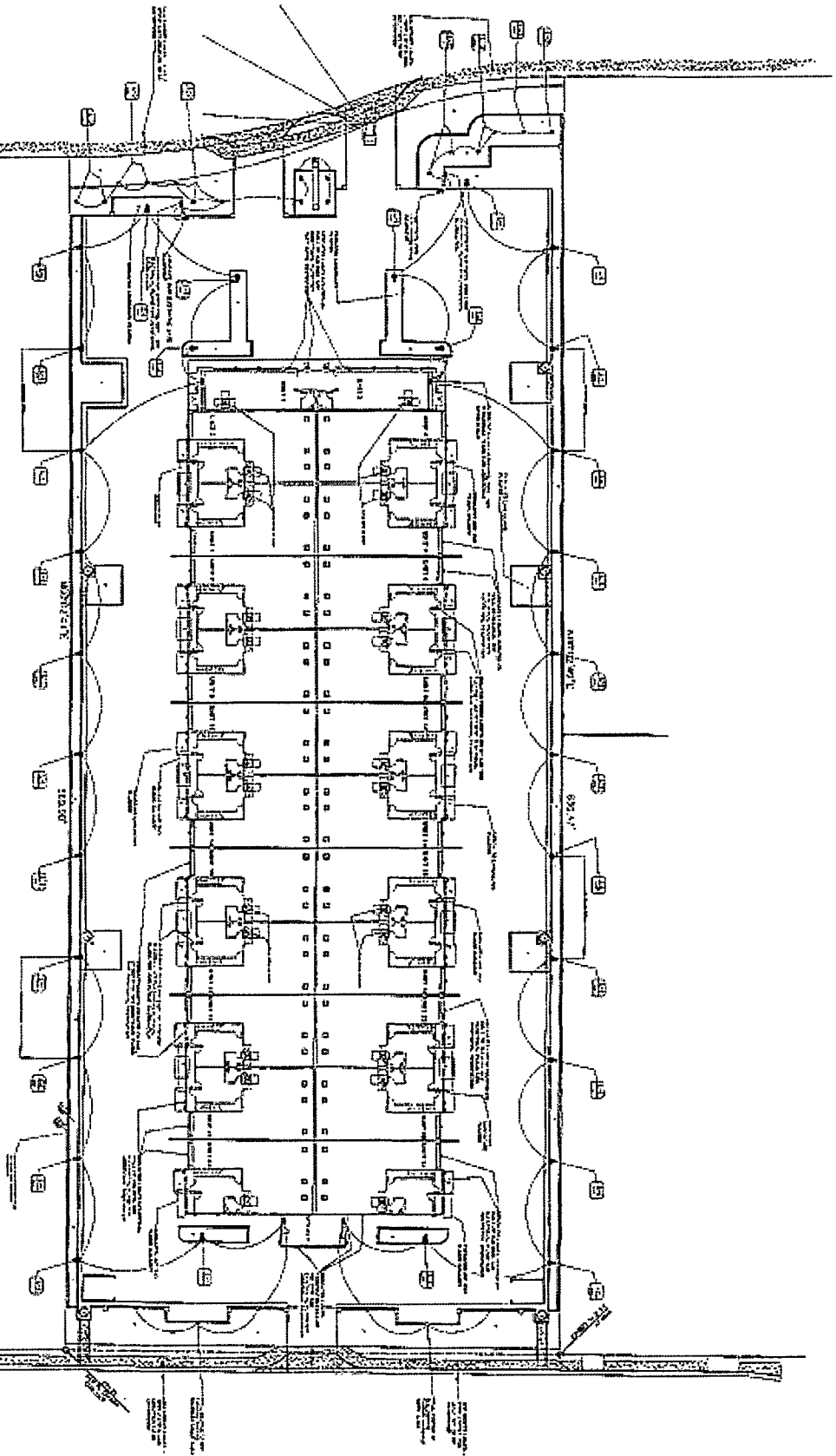
LANDSCAPE PLAN

SCALE: 1/8" = 1'-0"

A-101



EXTERIOR LIGHTING PLAN
 24 UNIT AIRPORT INDUSTRIAL WORK LOFTS



A-102

EXTERIOR
 LIGHTING
 PLAN

NO.	DESCRIPTION	QTY	UNIT PRICE	TOTAL PRICE
1	STREET LIGHT	1	100.00	100.00
2	BUILDING LIGHT	1	100.00	100.00
3	PARKING LOT LIGHT	1	100.00	100.00
4	WATERMARK	1	100.00	100.00
5	WATERMARK	1	100.00	100.00
6	WATERMARK	1	100.00	100.00
7	WATERMARK	1	100.00	100.00
8	WATERMARK	1	100.00	100.00
9	WATERMARK	1	100.00	100.00
10	WATERMARK	1	100.00	100.00
11	WATERMARK	1	100.00	100.00
12	WATERMARK	1	100.00	100.00
13	WATERMARK	1	100.00	100.00
14	WATERMARK	1	100.00	100.00
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16	WATERMARK	1	100.00	100.00
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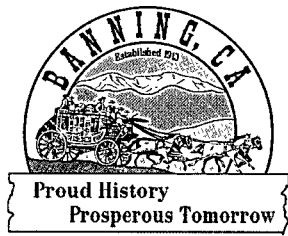
**24 UNIT
 AIRPORT
 INDUSTRIAL
 WORK
 LOFTS**

LINCOLN STREET
AIRPORT INDUSTRIAL WORK LOFTS
BANNING, CA 92220
A.P.N. # 541290013-3

**WATERMARK
 DEVELOPMENT
 INC.**
 10000 W. 10TH AVE.
 SUITE 100
 DENVER, CO 80231
 (303) 751-1000
 WWW.WATERMARK-DEV.COM

Attachment 5

(Initial Study/Mitigation Monitoring and Reporting
Program)



CITY OF BANNING
Initial Study/Mitigated Negative Declaration

24 Unit Airport Industrial Live/Work Lofts

City of Banning
Community Development Department
99 E. Ramsey Street
Banning, California 92220

January 30, 2014

Zai Abu Bakar
Community Development Director
(951) 922-3131

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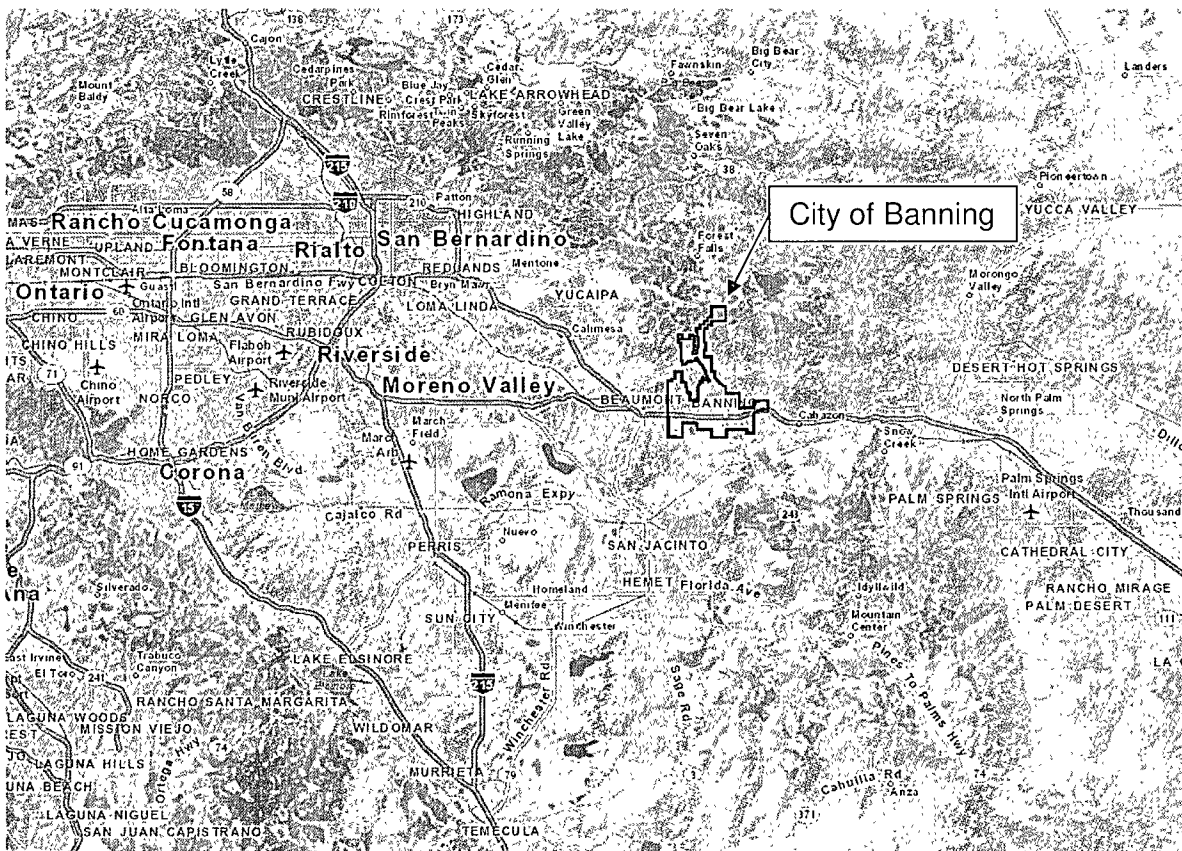
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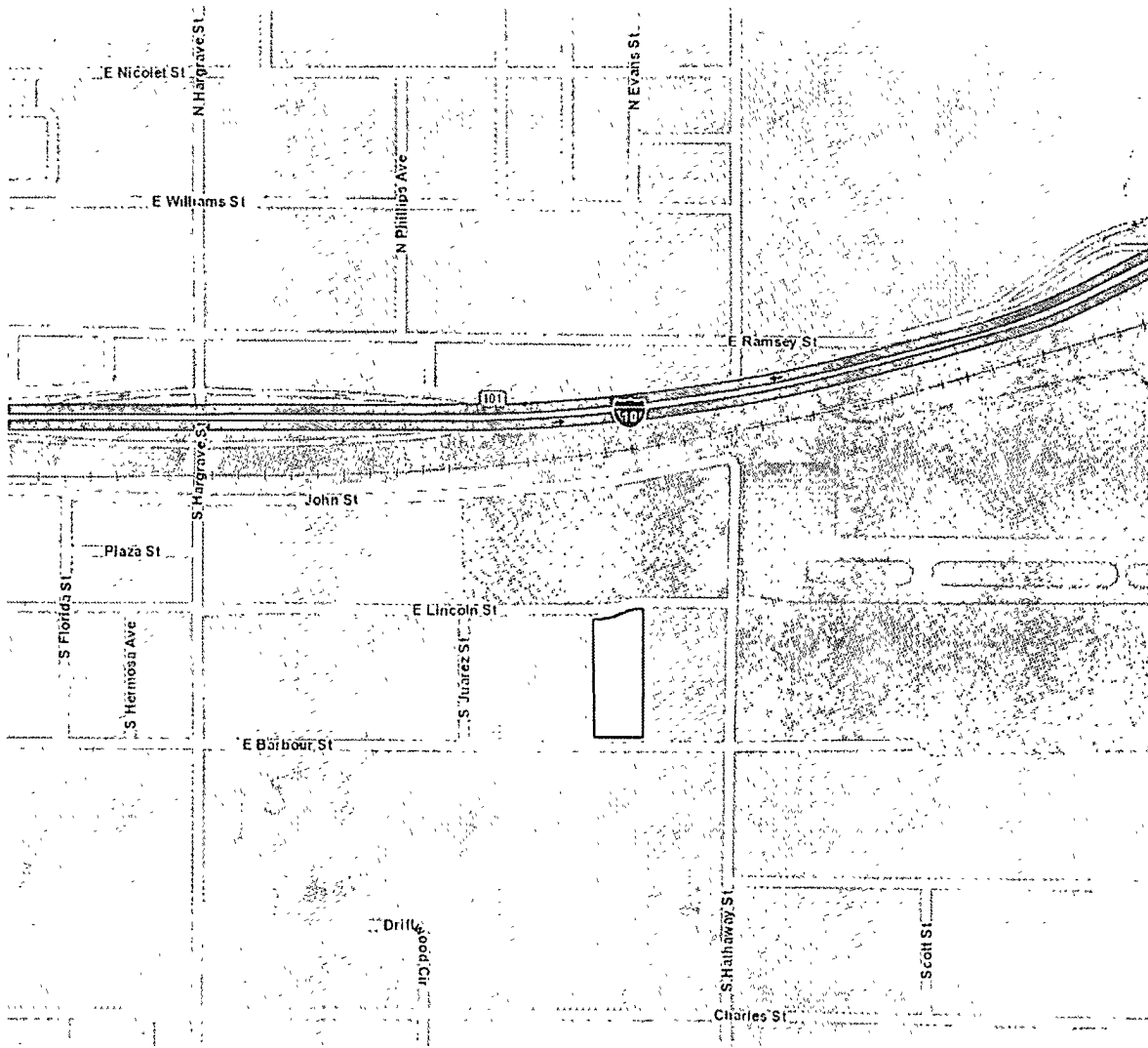
City of Banning Initial Study/Mitigated Negative Declaration for 24 Unit Airport Industrial Live/Work Lofts

EXECUTIVE SUMMARY

This Initial Study assesses the potential environmental impacts of the proposed project. The purpose of the project is to develop approximately 3.7 acres along Lincoln Street east of Hathaway Street in the City of Banning as a 24 Unit Airport Industrial Live/Work Lofts (see Project Location - Figure 1). The proposed project consists of approximately 64,327 square feet of proposed building area along with parking for 125 vehicles, landscaping, signage, and utilities.

The results of the Initial Study show that there is no substantial evidence that the project would have a significant effect on the environment. A Mitigated Negative Declaration is being recommended for adoption.





The project area is bounded by Juárez Street to the west, Lincoln Street to the north, Barbour Street to the south, and Hathaway Street to the east.

Figure 1 – Project Location

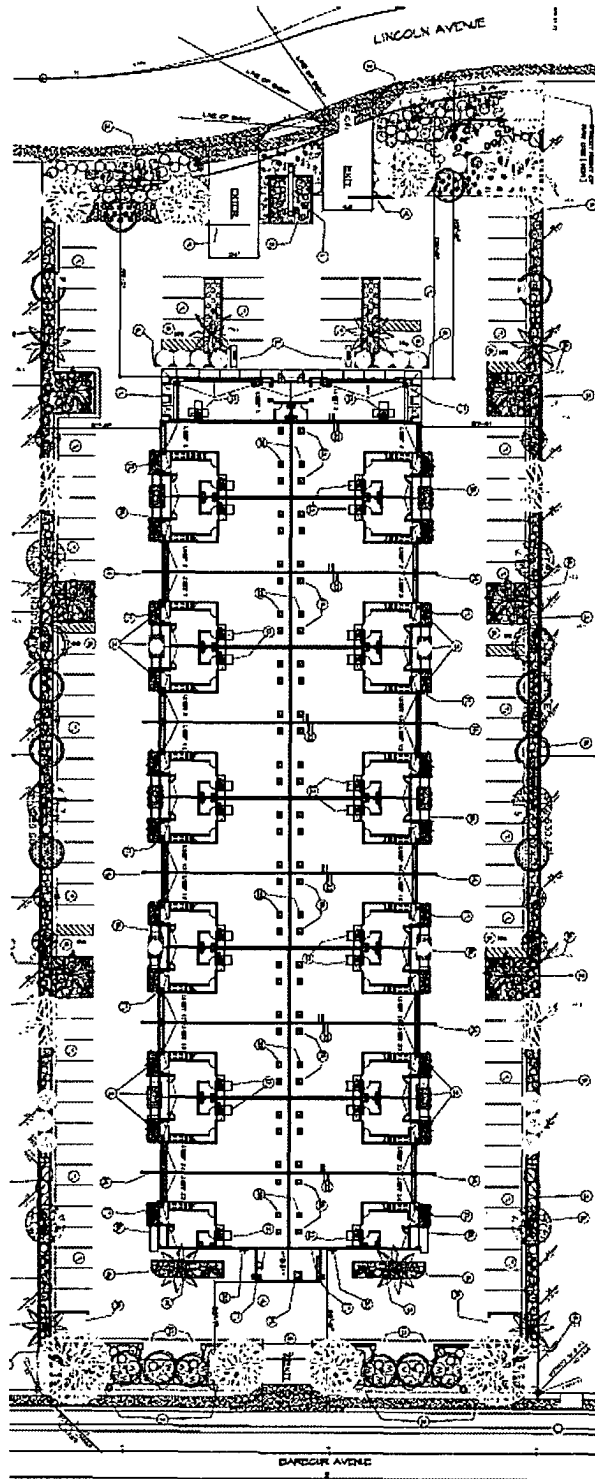


Figure 2 – Site Plan

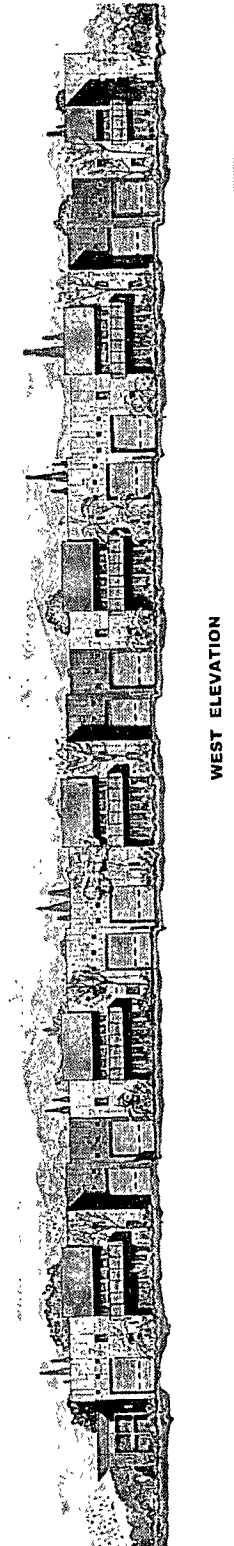


Figure 3 – Conceptual Elevation

1. INTRODUCTION

Purpose and Scope

This Initial Study serves as the environmental review of the proposed Project, as required by the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 et seq., the State CEQA Guidelines, and the City of Banning Local Guidelines for Implementing CEQA.

In accordance with Section 15063 of the State CEQA Guidelines, the City is required to prepare an Initial Study to determine if the Project may have a significant effect on the environment. This Initial Study is intended to be an informational document providing the Planning Commission, City Council, other public agencies, and the general public with an objective assessment of the potential environmental impacts that could result from the implementation of the Project.

Incorporation by Reference

This Initial Study is based in part on the information and analysis contained in other environmental and planning documents. These documents are hereby incorporated by reference in their entirety into this Initial Study, as authorized by Section 15150 of the State CEQA Guidelines. All of the documents incorporated by reference are listed in Section 7 of this Initial Study.

2. EVALUATION OF ENVIRONMENTAL IMPACTS

An Environmental Checklist Form (Form) has been used to evaluate the potential environmental impacts associated with the proposed Project. The Form has been prepared by the Resources Agency of California to assist local governmental agencies, such as the City of Banning, in complying with the requirements of the Statutes and Guidelines for implementing the California Environmental Quality Act.

This Form has been used by the City of Banning to review the effects of the proposed Project with respect to the following environmental factors. The environmental factors checked below would be potentially affected by this project, involving at least one impact that is "Potentially Significant Impact". Based on the analysis contained in this Initial Study, the following environmental factors are affected by the proposed project.

- | | | |
|---|--|--|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Hydrology/Water Quality | <input type="checkbox"/> Public Services |
| <input type="checkbox"/> Agriculture Resources | <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Air Quality | <input type="checkbox"/> Land Use and Planning | <input type="checkbox"/> Transportation/Traffic |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Utilities/Service Systems |
| <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Noise | <input type="checkbox"/> Mandatory Findings of |
| <input type="checkbox"/> Geology/Soils | <input type="checkbox"/> Population/Housing | Significance |
| <input type="checkbox"/> Greenhouse Gas Emissions | | |

In the Form, a series of questions is asked about the Project for each of the above-listed environmental factors. A brief explanation is then provided for each question on the Form.

There are four possible responses to each question:

A. Potentially Significant Impact.

This response is used when the Project has the potential to have an effect on the environment that is considered to be significant and adverse.

B. Potentially Significant Unless Mitigation Incorporated.

This response is used when the Project has the potential to have a significant impact, which is not expected to occur because:

- Mitigation measures have been incorporated into the Project design in order to reduce the impact to a less than significant level; or,
- Adherence to existing policies, regulations, and/or design standards would reduce the impact of the Project to a less than significant level.

C. Less Than Significant Impact.

This response is used when the potential environmental impact of the Project is determined to be below known or measurable thresholds of significance and thus would not require mitigation.

D. No Impact.

This response is used when the proposed Project does not have any measurable impact.

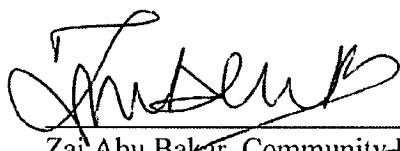
3. ENVIRONMENTAL DETERMINATION

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.
- ☒ Although the proposed Project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures, described in Exhibit B (attached), have been added to the Project. A Mitigated Negative Declaration will be prepared.
- ☐ The proposed Project may have a significant effect on the environment, and an Environmental Impact Report is required.
- ☐ The proposed Project may have a potentially significant impact unless mitigation is incorporated, but at least one of the impacts has been: 1) adequately analyzed in an earlier document pursuant to applicable legal standards and 2) addressed by mitigation measures based on the earlier analysis as described on the attached sheets. An Environmental Impact Report is required, but it is to analyze only those impacts that have not already been addressed.
- ☐ 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 Environmental Impact Report (EIR) or in a Negative Declaration pursuant to applicable legal 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.

Approved for distribution by:

Signature:



Zai Abu Bakar, Community Development Director

Prepared by: Brian Guillot, Associate Planner

Date: January 30, 2014

Public Review: February 1, 2014, to March 2, 2014.

4. PROJECT DESCRIPTION

Project Title: 24 Unit Airport Industrial Live/Work Lofts

Lead agency: City of Banning
99 E. Ramsey Street
Banning, CA 92220

Applicant: Mark Quental
1838 N. Valencia Avenue
Placentia, CA 92870

General plan designation: Airport Industrial

Zoning: Airport Industrial (AI)

Project Description: The project consists of a Design Review application along with a Conditional Use Permit application to entitle the construction and operation of 24 Airport Industrial Live/Work Lofts (Industrial Condominiums) on a 3.7 acre site in the Airport Industrial zoning district. The site consists of vacant land gently sloping to the south-east that fronts on two improved roadways, Lincoln Street along the northerly boundary and Barbour Street along the southerly boundary.

Specifically, the project proposes the construction of one building consisting of approximately 9,900 square feet of office space; 26,950 square feet of warehouse space; 11,864 square feet of residential space; 8,360 square feet of enclosed parking; and, 7,253 square feet of miscellaneous space (closets, stairs, walls, etc) (see Site Plan – Figure 2). Improvements to the site include a parking lot for approximately 125 vehicles, landscaping, and utilities.

Surrounding land uses and setting:

The Project is located in a urban environment that has been developed since the early part of the 20th century. Banning Municipal Airport is located across Lincoln Street and to the east of the project site. Located to the west is a legal non-conforming single-family dwelling and RV storage facility; and, to the east is a contractor's storage yard along with two legal non-conforming single-family dwellings. Located to the south and across Barbour Street is vacant land located within the Industrial zoning district. All surrounding land uses are located within the Airport Industrial or Industrial zoning district.

Approvals Required:

In order to complete and approve the Project, the City of Banning would need to take the following actions:

- Approval of an Initial Study and Mitigated Negative Declaration;
- Approval of Design Review by Planning Commission;
- Approval of a Conditional Use Permit by Planning Commission;
- Issuance of Grading permit;
- Issuance of Building and Safety, Fire, and other ministerial permits.

5. ENVIRONMENTAL ANALYSIS CHECKLIST

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
I. AESTHETICS. Would the Project:				
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially damage scenic resources, including but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
II. AGRICULTURAL RESOURCES. 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
c) Conflict with existing zoning for , or cause rezoning of, forestland (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))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Involve other changes in the existing environment that, due to their location or nature, could result in conversion of Farmland to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
III. AIR QUALITY. Would the Project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Violate any air quality standard or contribute to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the region is in non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions with exceeded quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless 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 modification, on any species identified as 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including but not limited to marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Conservancy Conservation Plan, or other approved local,	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
regional, or state habitat conservation plan?				
V. CULTURAL RESOURCES: Would the Project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Disturb any human remains including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
VI. GEOLOGY AND SOILS: Would the Project:				
a) Expose people or structures to 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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code, creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems if sewers are not available?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
VII. GREENHOUSE GAS EMISSIONS. Would the Project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
VIII. 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
materials, substances, or waste within one-quarter mile of an existing or proposed school?				
d) Be located on a site included on the list of hazardous materials sites compiled per Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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 it result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) For a Project within the vicinity of a private airstrip, would the Project result in a safety hazard for people residing or working in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
IX. HYDROLOGY AND WATER QUALITY. Would the Project:				
a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g.,	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
the production rate of pre-existing nearby wells would drop to a level which would not support existing or planned land uses for which permits have been granted)?				
c) Substantially alter the existing drainage pattern of the site or area, including alteration of the course of a stream or river, in a manner that would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in such a way as to result in flooding either on-site or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create or contribute runoff water exceeding the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Place, within a 100-year flood hazard area, structures that would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j) Inundation by seiche, tsunami, or	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
mudflow?				
X. LAND USE AND PLANNING. Would the Project:				
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the Project adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
XI. 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
XII. NOISE. Would the Project:				
a) Expose persons to a generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Expose persons to a generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Create a substantial permanent increase in ambient noise levels in the Project vicinity above levels existing without the Project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Create a substantial temporary or periodic increase in ambient noise levels in the Project vicinity above	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
levels existing without the Project?				
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 expose people residing or working in the Project area to excessive noise levels?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) For a Project within the vicinity of a private airstrip, would the Project expose people residing or working in the Project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
XIII. POPULATION AND HOUSING. Would the Project:				
a) Induce substantial 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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Displace a substantial number of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
XIV. PUBLIC FACILITIES. Would the Project:				
Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities or the 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				

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
performance objectives for any of the public services . . .				
a) Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
XV. 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the Project include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
XVI. TRANSPORTATION/TRAFFIC. Would the Project:				
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
congestion management agency for designated roads or highways?				
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Conflict with adopted policies, plans, or regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
XVII. UTILITIES AND SERVICE SYSTEMS. Would the Project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Have sufficient water supplies available to serve the Project from	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
existing entitlements and resources, or new or expanded entitlements needed?				
e) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Be served by a landfill with sufficient permitted capacity to accommodate the Project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Comply with federal, state and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
XVIII. MANDATORY FINDINGS OF SIGNIFICANCE				
a) Does the Project have the potential to 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, reduce the number or restrict the range of a rare or an endangered threatened species, or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the Project have impacts that are individually limited, but cumulatively considerable? (Are the incremental effects of the Project considerable when viewed in connection with those of past Projects, those of other current Projects, and those of probable	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
future Projects?				
c) Does the Project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

6. EXPLANATION OF THE ITEMS MARKED ON THE ENVIRONMENTAL CHECKLIST FORM

Checklist Item I Aesthetics.

a)-d) No Impact (Scenic Vista, Scenic Resources-State Scenic Highway, Visual Character, Light/Glare). The Project is located in an urban environment that has been developed since the early part of the 20th century. Banning Municipal Airport is located across Lincoln Street and to the east of the project site. Located to the west is a legal non-conforming single-family dwelling and RV storage facility; and, to the east is a contractor's storage yard along with two legal non-conforming single family dwellings. Located to the south and across Barbour Street is vacant land located within the Industrial zoning district. All surrounding land uses are located within the Airport Industrial or Industrial zoning district.

Project implementation would replace the view of a vacant parcel of land with new industrial building with desirable architectural features including landscaping. Project implementation would not have a substantial adverse effect on a scenic vista as identified by the General Plan. Additionally, views of streetscapes along Lincoln Street or Barbour Street would not be obstructed because the building is set back from the property lines 120 feet and 50 feet respectively.

Exterior lighting is proposed, where needed, for safety and security reasons. All proposed outdoor lighting would conform to the City's outdoor lighting guidelines which prohibits spill lighting on adjacent properties. The building finish/coating is paint over concrete or wood and does not propose any major sources of glare that would result in any lighting/glare impacts.

The "Zoning Ordinance" limits the height of the buildings to a maximum of 2 stories or 50 feet. The building structure as proposed for the project is 2 stories with a height of 28 feet 6 inches. The project as proposed is not anticipated to significantly increase the amount of shadows in public or private open spaces because of the set back of the building from the right-of-way and property lines.

Checklist Item II Agricultural and Forestry Resources.

a)-e) **No Impact (Farmland Conversion, Zoning, Land Use).** The project site is located within an urbanized area of the City of Banning and is presently zoned Airport Industrial. The site is vacant land and contains no planted trees or vegetation. According to the Department of Conservation Farmland Mapping and Monitoring Program, the site has not been mapped as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance and falls within the classification of Urban Built-up Land.

The small size of the site (3.7 acres) and location (surrounded by developed properties) make the site not suitable for agricultural production.

The project site is located within the Airport Industrial zoning district and agricultural uses are not permitted by the Zoning Ordinance in this district. There is no Williamson Act contract that affects the project site according to the title report prepared by First American Title Company dated June 25, 2013.

The project site is located within the Airport Industrial zoning district and proposes an airport related development; and, therefore is not in conflict with forest or timberland zoning. The project does not propose a zone change that converts existing forest or timberland zoning.

Checklist Item III Air Quality.

a), b), d), e) **No impact (Air Quality Plan, Air Quality Standards, Cumulative Considerable Net Increase/Criteria, Sensitive Receptors, Pollutant Concentrations, Odors).** The project is located within a portion of the South Coast Air Quality Management District (SCAQMD) which has been identified by the California Air Resources Board as being in non-attainment for Ozone, Large Particulate Matter PM10 and Small Particulate Matter PM2.5. The 2007 Air Quality Management Plan for the South Coast Air Basin (2007 AQMP) relies on a multi-level partnership of governmental agencies at the Federal, State, regional, and local level. The plan contains a number of land use and transportation control measures that are intended to reduce air pollution emissions. The project will comply with the control measures identified in the plan in addition to all of the District's applicable rules and regulations.

Sensitive Receptors

The project is a 24 unit industrial condominium complex. The following table summarizes the land uses in the vicinity of the project that could potentially generate air pollution emissions that could adversely impact sensitive receptors.

Source Category	Distance from Project Site	Recommended Separation Distance
Freeway and High Traffic Roads	950 feet	500 feet
Gasoline Dispensing Facility	1,100 feet	300 feet

As shown on the table above, the project is not located within the recommended separation distances for siting new sensitive land uses based on the California Air Resources Board publication titled *Air Quality and Land Uses Handbook: A Community Health Perspective, 2005*. Therefore, the project is not anticipated to be exposed to air pollution emissions that would adversely impact sensitive receptors.

Odors

The project consists of the construction of an approximately 64,327 square feet of proposed building area along with parking for 125 vehicles. During construction there is the potential for the generation of objectionable odors in the form of diesel exhaust and volatile organic compounds (from architectural coatings and paint) in the immediate vicinity of the site. However, these emissions will rapidly dissipate and be diluted by the atmosphere downwind of the site.

The project is not located within one mile of a wastewater treatment plant, sanitary landfill, composting station, feedlot, asphalt batching plant, painting or coating operations, or rendering plant where odor impacts may be significant. Therefore, the project will not subject a substantial number of people to objectionable odors.

Checklist Item III Air Quality.

- c) **Less Than Significant Impact (Air Quality Plan, Air Quality Standards, Cumulative Considerable Net Increase/Criteria, Sensitive Receptors, Pollutant Concentrations, Odors).** The project is located within a portion of the South Coast Air Quality Management District (SCAQMD) which has been identified by the California Air Resources Board as being in non-attainment for Ozone, Large Particulate Matter PM₁₀ and Small Particulate Matter PM_{2.5}. The 2007 Air Quality Management Plan for the South Coast Air Basin (2007 AQMP) relies on a multi-level partnership of governmental agencies at the Federal, State, regional, and local level. The plan contains a number of land use and transportation control measures that are intended to reduce air pollution emissions. The project will comply with the control measures identified in the plan in addition to all of the District's applicable rules and regulations.

SCAQMD Thresholds

CEQA guidelines define a significant effect on the environment as "a substantial, or potentially substantial, adverse change in the environment." To determine if a proposed project would have a significant impact on air quality, the type, level, and impact of emissions generated by the proposed project must be evaluated.

To assist in the establishment of a quantitative determination of what is considered "significant," the SCAQMD has published a number of significance thresholds that apply to new projects constructed or operated within the SCAQMD. The SCAQMD recommends that these quantitative air pollution thresholds be used by lead agencies in determining whether a proposed project could result in a significant impact. If the lead agency finds that the proposed project has the potential to exceed these air pollution thresholds, the project should be considered significant.

Regional Significance Thresholds

The SCAQMD has established the following regional significance thresholds expressed as daily emission totals released by a project during construction and operation. The URBEMIS 2007 software version 9.2.4 was utilized to demonstrate compliance with regional significant thresholds as shown in the table below:

Regional Significance Thresholds				
Pollutant*	Construction (pounds per day)	Operational (pounds per day)	Project Construction	Project Operations
Oxides of Nitrogen (NO _x)	100	55	16.91	4.22
Volatile Organic Compounds (VOC)	75	55	68.92	2.98
Particulate Matter (PM ₁₀)	150	150	1.00	8.10
Particulate Matter (PM _{2.5})	55	55	0.87	1.60
Oxides of Sulfur (SO _x)	150	150	0.02	0.05
Carbon Monoxide (CO)	550	550	15.7	34.22

*Source: South Coast Air Quality Management District Air Quality Significance Thresholds, March 2011.

Evaluation of the above table's indicates that all criteria pollutant emissions from construction and operation of this project will not exceed the SCAQMD regional daily thresholds and therefore the impacts are considered less than significant.

Checklist Item IV Biological Resources.

a)-f) No Impact (Listed Species, Riparian Habitat, Natural Communities, Wetlands, Wildlife Movement, Local Policies – Tree Preservation, Conservation Plans). Based on the review of the General Plan for the City of Banning, there are several sensitive plant and animal species as having a potential to occur in the vicinity of the project. However, the potential to find such species on the project site or in the area immediately surrounding the project site is very low due to a lack of natural vegetation, the heavy disturbance of the natural environment (active weed control) and the lack of undisturbed habitat.

Additionally, a detailed review of Exhibit IV-2 of the General Plan demonstrates that the site is not located in a Special Linkage Area or Criteria Area of the MSHCP; a detailed review of Exhibit IV-3 of the General Plan demonstrates that the site is not located in an area that supports the Yucaipa Onion; a detailed review of Exhibit IV-4 of the General Plan demonstrates that the site is not located in a Burrowing Owl Survey Area; and, a detailed review of Exhibit IV-5 of the General Plan demonstrates that the site is not located in a L.A. Pocket Mouse survey area. Therefore, there will not be a substantial adverse effect on candidate, sensitive, or special status species.

The project will be required to pay a local development mitigation fee for funding the preservation of natural ecosystems in accordance with the Western Riverside County Multiple

Species Habitat Conservation Plan (MSHCP). The purpose of the plan is to protect the existing character of the city and the region through the implementation of a system of reserves which will provide for permanent open space, community edges, and habitat conservation for species covered by the MSHCP.

There are no streams, drainage courses, or lakes on the site. There are no depressions on the site that may allow water to collect and provide suitable habitat to support natural communities and wetlands. The project site is surrounded by existing development to the east and west, and fronts Lincoln Street and Barbour Street on the north and south consequently the site does not serve as a wildlife movement corridor. The site contains no trees or vegetation; and, therefore there is nothing to consider preserving.

Checklist Item V Cultural Resources.

a)-d) No Impact (Historic Resource, Archeological Resources, Paleontological Resources, Disturbance of Human Remains). When the General Plan for the City of Banning was prepared in 2006, Historical maps, previous cultural resource surveys, aerial photographs, topographic maps and other cultural records were consulted to determine the presence of known archaeological resources in the planning area. A total of 20 archaeological sites have been identified and recorded in the planning area, 12 of which are prehistoric (Native American) sites. The planning area for the General Plan has not been extensively surveyed for cultural resources due to the fact that large scale development projects have not been as widespread in the planning area as other communities in the San Geronimo Pass/Coachella Valley region.

A detailed review of Table IV-11 of the General Plan found that the site is not listed as a Historic-Era Building, in fact there are no structures located on the site. A detailed review of Exhibit IV-7 found that there are no designated heritage properties located in the vicinity of the project site. Therefore, the potential to find such cultural resources on the project site is very low due to the lack of history or structures being located on the site and the heavy disturbance of the ground (active weed control). There are no known archaeological resources, paleontological resources, or cemeteries on the site. In the event of accidental discovery of human remains, the County Coroner will be contacted and the remains will be dealt with in accordance with State regulations.

Checklist Item VI Geology and Soils.

a)-e) No Impact (Alquist-Priolo Zone, Seismic Ground Shaking, Seismic Ground Failure, Liquefaction, Landslide, Soil Erosion, Loss of Topsoil, Unstable Geologic Unit, Expansive Soil, Septic Tank Suitability). A geotechnical investigation was prepared for the project by Norcal Engineering of Los Alamitos, California dated April 30, 2009. Section 7 of the report concluded that based on the results of their review, field exploration, laboratory testing, and geotechnical analysis the proposed development is considered feasible from a geotechnical standpoint provided that the recommendations of the report are addressed.

As identified in the report, the project is not located in Alquist-Priolo Zone, therefore the possibility of significant fault rupture is considered to be low. Additionally, the proposed development must be designed in accordance with the requirements of the California Building Code (CBC) Seismic Design Parameters. The CBC provides procedures for earthquake resistant structural design that include considerations for on-site soils conditions, occupancy, and the configuration of the structure including structural system and height.

The City of Banning General Plan Exhibit V-4 indicates that the site is located within a zone of moderate liquefaction susceptibility. However, the analysis prepared in the report indicates that the potential for liquefaction at this site is considered to be very low due to the depth of ground water in excess of 200 feet within the vicinity of the area. Free ground water is required for liquefaction to occur.

The geotechnical investigation did not identify any soil conditions of concern other than those standard conditions that will be addressed during the grading operation. The recommendations of the report will be made part of the grading plans through the project conditions of approval and in accordance with the "Grading Ordinance" for the City of Banning.

Checklist Item VII Greenhouse Gas Emissions.

a)-b) No impact (Global Climate Change). The project consists of 24 industrial condominium units in the South Coast Air Quality Management District (SCAQMD). The SCAQMD has established the following regional significance thresholds expressed as yearly emission totals released by a project during construction and operation. The URBEMIS 2007 software version 9.2.4 was utilized to demonstrate compliance with regional significant thresholds as shown in the table below:

Emission Source	SCAQMD Emissions Threshold (Metric Tons CO₂/Year for Industrial facilities)	URBEMIS Estimate (Metric Tons CO₂/Year)
Project Construction	10,000 eq	444
Project Operations	10,000 eq	444

Evaluation of the above table's indicates that CO₂ emissions from construction and operation of this project will not exceed the SCAQMD regional yearly thresholds. Therefore, the project is not expected to significantly impact Global Climate Change.

Checklist Item VIII Hazards and Hazardous Materials.

a)-d), f)-h) No impact (Transport, Use, Disposal of Hazardous Materials, Upset and Accident Conditions Involving Hazardous Materials, Emit if Handle Hazardous Materials within 1/4 mile from a School, Identified Hazardous Site, Within Airport Plan Area, Safety Hazard from Private Airstrip, Impair Emergency Evacuation Plan,

Wildland Fire Hazard). The project is a 24 unit industrial condominium complex. The project will permit industrial users that may transport or use hazardous materials in accordance with State, Federal, and local regulations. However, the site is not located within ¼ mile of any school, or identified hazardous site as identified by the Cortese List provided by the Department of Toxic Substances Control.

A review of area surrounding the project site shows that there are no personal use airports operating in the vicinity. Therefore, there will be no impact from a nearby private airstrip.

A review of the City of Banning Emergency Operations Plan as well as a consultation with the Fire Services Division revealed that the project will not impair an emergency evacuation plan at this time.

Exhibit V-9 of the City's General Plan reveals that the site is not located in a Very High Fire Severity Zone; and, therefore will not impact wildland fire hazards.

Checklist Item VIII Hazards and Hazardous Materials.

- e) **Potentially Significant Unless Mitigation Incorporated (Transport, Use, Disposal of Hazardous Materials, Upset and Accident Conditions Involving Hazardous Materials, Emit if Handle Hazardous Materials within 1/4 mile from a School, Identified Hazardous Site, Within Airport Plan Area, Safety Hazard from Private Airstrip, Impair Emergency Evacuation Plan, Wildland Fire Hazard).** The project is a 24 unit industrial condominium complex. The project will permit industrial users that may transport or use hazardous materials in accordance with State, Federal, and local regulations.

The project is located within Airport Compatibility Zones B1 and D of the Riverside County Airport Land Use Compatibility Plan as adopted by the Riverside County Airport Land Use Commission (ALUC) for Banning Municipal Airport. On December 12, 2013, the Riverside County Airport Land Use Commission determined the project is conditionally consistent with the Airport Land Use Compatibility Plan. The conditions are listed as follows:

1. Any outdoor lighting that is installed shall be hooded or shielded so as to prevent either the spillage of lumens or reflection in the sky.
2. The following uses shall be prohibited:
 - (a) Any use which would direct a steady flashing light of red, white, green, or amber colors associated with airport operations toward an aircraft engaged in initial straight climb following takeoff or toward an aircraft engaged in a straight final approach toward a landing at an airport, other than a FAA-approved navigational signal light or visual approach slope indicator.
 - (b) Any use which would cause sunlight to be reflected towards an aircraft engaged in an initial straight climb following a takeoff or towards an aircraft engaged in a straight final approach towards a landing at an airport.

- (c) Any use which would generate smoke or water vapor or which would attract large concentrations of birds, or which may otherwise affect safe air navigation within the area, including landscaping utilizing water features, trash transfer stations that open one or more sides, recycling centers containing putrescible wastes, construction and demolition debris facilities, and incinerators.
 - (d) Any use which would generate electrical interference that may be detrimental to the operation of aircraft and/or aircraft instrumentation.
 - (e) In Zone B1: Children's schools, day care centers, libraries, hospitals, nursing homes, places of worship, highly noise sensitive outdoor non-residential uses, aboveground bulk storage of hazardous materials, critical infrastructure facilities, or hazards to flight.
 - (f) In Zone D: Highly noise-sensitive outdoor non-residential uses or hazards to flight.
3. A "Notice of Airport in Vicinity" shall be provided to all potential purchasers of property, and shall be recorded as a deed notice.
 4. Any new retention basins on the site shall be designed so as to provide for a maximum of 48-hour detention period following the conclusion of the storm event for the design storm (may be less, but not more), and to remain totally dry between rainfalls. Vegetation in and around the retention basin(s) that would provide food or cover for bird species that would be incompatible with airport operations shall not be utilized in the project landscaping.
 5. Incorporate noise attenuation measure into building construction to ensure interior noise levels are at or below 45 CNEL for the included residential uses.
 6. ~~The deed notice for the property and any properties created by subdivision of the site shall record that occupancy for units 1 through 16 as identified on the site plan dated October 17, 2013, as submitted to the Riverside County Airport Land Use Commission shall be limited to a maximum of three (3) people per unit to limit building occupant intensity near the Banning Municipal Airport and reduce potential hazards. [deleted at hearing by Airport Land Use Commission]~~
 7. Covenants, Conditions, and Restrictions (CC&Rs) shall be recorded prior to occupancy of the proposed units that notes that occupancy for units 1 through 16 as identified on the site plan dated October 17, 2013, as submitted to the Riverside County Airport Land Use Commission shall be limited to a maximum of **five (5)** ~~three (3)~~ people per unit to limit building occupant intensity near the Banning Municipal Airport and reduce potential hazards.
 8. Prior to any tenant improvement for units 1 through 16 **for uses other than office, manufacturing, and warehousing** as identified on the site plan dated October 17, 2013, as submitted to the Riverside County Airport Land Use Commission the plans identified for the tenant improvement and any pertinent business plan or other document indicating planned use and occupancy shall be transmitted to the ALUC for evaluation of occupancy level to confirm whether any individual unit would exceed **five (5)** ~~three (3)~~ people.

9. Individual units shall not be further subdivided so as to allow separate ownership and use of residential and commercial/industrial uses within the same unit.

The project requires approval of a Conditional Use Permit, and conditions imposed through the ALUC review will be incorporated into the project conditions. Therefore, the potentially significant hazards will be reduced by the above stated restrictions to levels that are less than significant.

Checklist Item IX Hydrology and Water Quality.

- a)-g), i)-j) No impact (Water Quality, Waste Discharge, Groundwater, Drainage Patterns Flooding, Storm Drains, Water Quality, Housing in 100-Year Flood Hazard Area, Flood Levee or Dam, Seiche, Tsunami, or Mudflow).** Construction of the project would require grading activities that could result in a temporary increase in erosion affecting the quality of storm water runoff. This increase in erosion is expected to be minimal, due to the flatness of the site. Also, Section 18.06.140 of the "Grading Ordinance" will require an Erosion and Sediment Control Plan to be implemented during construction of the project.

For post construction activities, a Preliminary Water Quality Management Plan recommends that the project's runoff flow rate, volume, velocity and duration for the post development condition mimic the pre-development conditions and incorporate site design considerations to improve water quality. A Final Water Quality Management Plan (WQMP) is required to be approved before construction of the project. The recommendations of the WQMP will be incorporated into the project design and practices.

Checklist Item IX Hydrology and Water Quality.

- h) Less Than Significant Impact (Water Quality, Waste Discharge, Groundwater, Drainage Patterns Flooding, Storm Drains, Water Quality, Housing in 100-Year Flood Hazard Area, Flood Levee or Dam, Seiche, Tsunami, or Mudflow).** Exhibit V-5 of the General Plan (GP) identifies that the site is located within an area of shallow flooding. Specifically, the GP explains as follows:

"Areas between limits of the 100-year and 500-year flood; or certain areas subject to 100-year flooding with average depths less than 1 foot or where the contributing drainage area is less than 1 square mile; or areas protected by levees from base flood".

A grading plan is required in connection with the site development and will include a hydrology and hydraulics analysis in accordance with the City of Banning Grading Ordinance. The buildings as proposed in the project will be designed in accordance with the Grading Ordinance that includes design of building floor elevations to protect the structures from potential flood damage. Therefore, the impacts related to flood are considered to be less than significant.

Checklist Item X Land Use and Planning.

a)-c) No Impact (Physical Division, Land Use Plans, Conservation Plans). The Project is located in an urban environment that has been developed since the early part of the 20th century. Banning Municipal Airport is located across Lincoln Street and to the east of the project site. Located to the west is a legal non-conforming single family dwelling and RV storage facility; and, to the east is a contractor's storage yard along with two legal non-conforming single family dwellings. Located to the south and across Barbour Street is vacant land located within the Industrial zoning district. All surrounding land uses are located within the Airport Industrial or Industrial zoning district. This urban area of the City is connected by Lincoln Street to the north, Barbour Street to the south and Hathaway Street to the east. The project will connect to the existing roadway system and will not create any barriers that will divide the neighborhood.

Exhibit III-2 General Plan Land Use Map along with the Zoning Overlay designates the site as Airport Industrial (AI). The proposed uses (industrial condominiums) are permitted in accordance with the adopted Zoning Ordinance and consistent with GP Land Use descriptions stated as follows:

“Land uses must be focused on airport-related and transportation-related functions, including machining, manufacturing, warehousing, flight schools, restaurants and office uses. Aircraft maintenance, repair and catering services are also appropriate.”

The project as proposed consists of warehouse space, office space, and other facilities that may be utilized for airport and transportation related functions. Therefore, the use is in compliance with the land use policies of the City.

The project will not conflict with any conservation plan. The project will be required to comply with the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) and pay a local development mitigation fee for funding the preservation of natural ecosystems in accordance with the plan. The purpose of the plan is to protect the existing character of the city and the region through the implementation of a system of reserves which will provide for permanent open space, community edges, and habitat conservation for species covered by the MSHCP.

The land use plans, policies, and regulations that affect the project are described in detail in this initial studies checklist and the explanations listed herein. The information included in this initial study demonstrates that the project is not in conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project.

Checklist Item XI Mineral Resources.

a)-b) No Impact (Loss of Mineral Resources, Site Delineated as Mineral Resource Site). Under the Surface Mining and Reclamation Act of 1975 (SMARA), the State Mining and Geology Board designated on a map Sector G, two parcels covering parts of the San

Gorgonio River alluvial fan, east of the City of Banning as a Significant Construction Aggregate Resource. Sector G extends from the mouth of Banning Canyon, southeastward to the community of Cabazon. No other area in the vicinity of the City of Banning is designated a Significant Construction Aggregate Resource. The site is not located in this area; and, therefore no significant mineral resource is affected by the project.

Checklist Item XII. Noise.

- a)-d), f). No impact (Exceed Noise Standard, Groundborne Vibration, Ambient Noise Levels, Temporary Noise Levels, Airport Noise, Private Airstrip).** The project involves the construction of 24 Airport Industrial Condominium units. The applicable noise regulations are contained in the City's General Plan Noise Element and Municipal Code. In addition to those regulations the Federal Aviation Administration noise standards apply as the project is located adjacent to an airport. The project is not a U.S. Department of Housing and Urban Development Project therefore HUD regulations do not apply. A review of area surrounding the project site shows that there are no personal use airports operating in the vicinity. Therefore, there will be noise impact from a nearby private airstrip.

The Noise Element of the City of Banning General Plan coordinates land use with existing and future noise environment. Noise is measured in decibels (db). The A-weighted decibel (dBA) approximates the subjective response of the ear to noise source by discriminating against the very low and very high frequencies in the spectrum. Table V-3 of the GP identifies that the existing noise contour for Lincoln Street east of San Gorgonio (the closest listed location) for 55 dBA extends to approximately 106 feet. Table V-4 of the GP identifies that residential-multiple family uses, which is the most conservative case, are compatible with noise environments up to 65 dBA. Since the site is farther away than the 55 dBA noise contour, existing noise from motor vehicle traffic is not a factor. The requirements for noise reduction related to proximity to the airport is the controlling factor.

Noise impacts associated with construction activity may exceed what is generally acceptable by the City's General Plan guidelines. However, in accordance with the City's noise ordinance, those impacts are restricted to the hours of 7:00 a.m to 6:00 p.m. and are enforced by the building official through the permitting process. Furthermore, the noise ordinance places this additional restriction on construction activities:

"However, nothing contained herein shall permit any person to cause sound levels to at any time exceed 55 dBA for intervals of more than fifteen minutes per hour as measured in the interior of the nearest occupied residence or school."

Therefore, any noise impacts related to construction activities are temporary and not considered significant.

Checklist Item XII. Noise.

- e) Potentially Significant Unless Mitigation Incorporated (Exceed Noise Standard, Groundborne Vibration, Ambient Noise Levels, Temporary Noise Levels, Airport Noise, Private Airstrip).** The project involves the construction of 24 Airport Industrial

Condominium units. The applicable noise regulations are contained in the City's General Plan Noise Element and Municipal Code. In addition to those regulations the Federal Aviation Administration noise standards apply as the project is located adjacent to an airport. The project is not a U.S. Department of Housing and Urban Development Project therefore those regulations do not apply.

The project is located within Airport Compatibility Zones B1 and D of the Riverside County Airport Land Use Compatibility Plan as adopted by the Riverside County Airport Land Use Commission (ALUC) for Banning Municipal Airport. On December 12, 2013, the Riverside County Airport Land Use Commission determined the project is conditionally consistent with the Airport Land Use Compatibility Plan. The conditions are listed as follows:

1. Any outdoor lighting that is installed shall be hooded or shielded so as to prevent either the spillage of lumens or reflection in the sky.
2. The following uses shall be prohibited:
 - (a) Any use which would direct a steady light or flashing light of red, white, green, or amber colors associated with airport operations toward an aircraft engaged in initial straight climb following takeoff or toward an aircraft engaged in a straight final approach toward a landing at an airport, other than a FAA-approved navigational signal light or visual approach slope indicator.
 - (b) Any use which would cause sunlight to be reflected towards an aircraft engaged in an initial straight climb following a takeoff or towards a an aircraft engaged in a straight final approach towards a landing at an airport.
 - (c) Any use which would generate smoke or water vapor or which would attract large concentrations of birds, or which may otherwise affect safe air navigation within the area, including landscaping utilizing water features, trash transfer stations that open one or more sides, recycling centers containing putrescible wastes, construction and demolition debris facilities, and incinerators.
 - (d) Any use which would generate electrical interference that may be detrimental to the operation of aircraft and/or aircraft instrumentation.
 - (e) In Zone B1: Children's schools, day care centers, libraries, hospitals, nursing homes, places of worship, highly noise sensitive outdoor non-residential uses, aboveground bulk storage of hazardous materials, critical infrastructure facilities, or hazards to flight.
 - (f) IN Zone D: Highly noise-sensitive outdoor non-residential uses or hazards to flight.
3. A "Notice of Airport in Vicinity" shall be provided to all potential purchasers of property, and shall be recorded as a deed notice.
4. Any new retention basins on the site shall be designed so as to provide for a maximum of 48-hour detention period following the conclusion of the storm event for the design storm (may be less, but not more), and to remain totally dry

between rainfalls. Vegetation in and around the retention basin(s) that would provide food or cover for bird species that would be incompatible with airport operations shall not be utilized in the project landscaping.

5. Incorporate noise attenuation measure into building construction to ensure interior noise levels are at or below 45 CNEL for the included residential uses.
6. ~~The deed notice for the property and any properties created by subdivision of the site shall record that occupancy for units 1 through 16 as identified on the site plan dated October 17, 2013, as submitted to the Riverside County Airport Land Use Commission shall be limited to a maximum of three (3) people per unit to limit building occupant intensity near the Banning Municipal Airport and reduce potential hazards. [deleted at hearing by Airport Land Use Commission]~~
7. Covenants, Conditions, and Restrictions (CC&Rs) shall be recorded prior to occupancy of the proposed units that notes that occupancy for units 1 through 16 as identified on the site plan dated October 17, 2013, as submitted to the Riverside County Airport Land Use Commission shall be limited to a maximum of **five (5)** ~~three (3)~~ people per unit to limit building occupant intensity near the Banning Municipal Airport and reduce potential hazards.
8. Prior to any tenant improvement for units 1 through 16 **for uses other than office, manufacturing, and warehousing** as identified on the site plan dated October 17, 2013, as submitted to the Riverside County Airport Land Use Commission the plans identified for the tenant improvement and any pertinent business plan or other document indicating planned use and occupancy shall be transmitted to the ALUC for evaluation of occupancy level to confirm whether any individual unit would exceed **five (5)** ~~three (3)~~ people.
9. Individual units shall not be further subdivided so as to allow separate ownership and use of residential and commercial/industrial uses within the same unit.

The project requires approval of a Conditional Use Permit, and conditions imposed through the ALUC review will be incorporated into the project conditions. Specifically, condition number 5 requires noise attenuation measures be incorporated into the building construction to reduce interior noise levels to at or below 45 CNEL. Therefore, the potentially significant noise hazards will be reduced to levels that are less than significant.

Checklist Item XIII Population and Housing.

- a)-c) No Impact (Population Growth, Displace Housing).** The project proposes the construction of 24 Unit Airport Industrial Lofts that includes provisions for 22 residential lofts. This feature is unique in that airport related business often require living facilities to accomplish their purpose (i.e. air ambulance services, air charter companies, and other on-call services). Based on the information from the 2010 Census, there are 2.37 persons per owner occupied household in the City. This would result in a population increase of 53 persons. Although the project will induce minor population growth, the growth is not above General Plan buildout projections because the project does not exceed the General Plan density of 2.6 persons per household.

The project would not displace any existing housing or people, necessitating the construction of replacement housing because it is to be constructed on a vacant site.

Checklist Item XIV Public Facilities.

a)-c) Less Than Significant Impact (Fire Services, Police Services, Schools, Parks, Other Public Facilities). The project proposes the construction of 24 Unit Airport Industrial Lofts that includes provisions for 22 residential lofts with a projected population increase of 53 persons:

Fire

Fire Services are provided through a contract with CalFire. They maintain Fire Station number 89 located at 172 N. Murray Street that houses an engine and 3 personnel. The Fire department's review of the project has determined that adequate facilities exist in the vicinity of the project site (and if needed, in conjunction with other fire facilities in the service area) to maintain the required service ratios and response times mandated by the General Plan. No new or altered fire facilities are required to meet the required service ratios and response times. Additionally, a Fire Facilities Development Fee will be collected for the provision of capital facilities for fire services which provides for future facilities as the City develops. Based on the above analysis, the impacts to fire services are considered less than significant.

Police

The General Plan requires a level of service goal of 2.0 sworn officers per 1000 residents. A review of the project by the Police Department determined that no new or altered facilities would be required to maintain the level of service goal. Additionally, a Police Facilities Development Fee will be collected for the provision of capital facilities for police services which provides for future facilities as the City develops. Based on the above analysis, the impacts to police services are considered less than significant.

Schools

While the project does include a residential component, it will not add any additional students to the school district. The residential units are live/work units that are specialized in that the two uses are related and the project by its design is not intended to house families with children (no play facilities or outdoor use areas). Also, the estimated population increase for the project is 53 persons which by itself is not considered significant. Impacts on schools will be mitigated by the payment of mandatory school impact fees. Based on the above analysis, the impacts to schools are considered less than significant.

Parks

The nearest park is Lions Park which is located approximately ½ mile to the east of the project site. No new or altered parks are required to provide park services to the project. Additionally, a Park Land Development Fee will be collected for the provision of new parks which provides for future facilities as the City develops. Based on the above analysis, the impacts to parks are considered less than significant.

Other Public Facilities

The City's library system includes the library located at 21 W. Nicolet Street and is funded through as a special Riverside County tax district. Based on library usage, the existing library is considered adequate to provide services for the City including the addition of the proposed 53 residents through the project. No new or altered library facilities are needed at this time. Based on the above analysis, the impacts to libraries are considered less than significant.

Checklist Item XV Recreation.

- a)-b) No Impact (Existing Facilities, New or Altered Facilities).** The project proposes the construction of 24 Unit Airport Industrial Lofts that includes provisions for 22 residential lofts with a projected population increase of 53 persons. The project of and by itself does not result in the need for new recreation facilities because the overall ratio of 5 acres of parkland per 5,000 residents is maintained even with construction of the project. The nearest park is Lions Park, which is a neighborhood park that is less than ½ mile away, and contains three ball fields, a playground, picnic tables, restrooms, and barbeque grills. It was designed to accommodate the recreational needs of the neighborhood in which the project site is located. Therefore, it is not anticipated that the project will substantially contribute to the physical deterioration of the park.

Checklist Item XVI Transportation/Traffic.

- a)-g) No Impact (Roadway Capacity and Level of Service, Congestion Management Program (CMP), Air Traffic Patterns, Roadway Design Hazards, Emergency Access, Parking, Alternative Transportation).** A focused traffic impact analysis was prepared by Kunzman Associates, Inc. dated August 14, 2013. The proposed development is projected to generate approximately 841 daily vehicle trips, 49 of which will occur during the morning peak hour and 67 of which will occur during the evening peak hour. The report analyzed roadway capacity, and level of service and determined that the traffic generated from the proposed project will not significantly impact any of the study intersections and roadway segments. Lincoln Street is a fully improved arterial roadway. However, Barbour Street is partially improved and does not have curb and gutters constructed to the General Plan design standards. Therefore, it is necessary to construct Barbour Street from the west project boundary to the east project boundary at its ultimate half-section width including landscaping and parkway improvements to address roadway design hazards and street parking.

Additionally, the project will participate in the cost of off-site improvements through payment of the following "fair share" mitigation fees:

- Transportation Uniform Mitigation Fee (TUMF) prior to construction (regional).
- Traffic Signal Mitigation Fee prior to construction (local).

Based upon the uses proposed for the project (manufacturing-warehouse, office, and residential) the Zoning Ordinance for the City of Banning requires 107 total parking spaces for the project as follows:

The manufacturing-warehouse component (2 spaces for the first 1,000 square feet plus one space for each 1,000 square feet of gross floor area), is calculated at 29 spaces required.

The office component (1 space for each 200 square feet) is calculated at 50 spaces required.

The residential component (1 covered space per unit plus 1 space per 4 units) is calculated at 28 spaces required.

The total spaces required by the project are 107 spaces with the total spaces provided by the project being 125 spaces. Therefore, the parking provided by the project is in accordance with the Zoning Ordinance requirements and parking demand will not result in significant impacts related to parking.

Section 8.60 of the Banning Municipal Code sets forth the standards for Vehicle Trip Reduction Programs for new developments. The program requires businesses with 100 or more employees to provide certain facilities to encourage vehicle trip reductions (program). Using the methodology listed in Section 8.60.040(A) the project is estimated to have 152 employees thus requiring a program. The provisions of this section may include but are not limited to the following items:

1. Preferential parking for carpool vehicles;
2. Bicycle parking and shower facilities;
3. Information center for transportation alternatives;
4. Rideshare vehicle loading area;
5. Vanpool vehicle accessibility;
6. Bus stop improvements;
7. On-site child care facilities;
8. Local TSM and road improvements;
10. Facilities to encourage telecommuting;
11. Contributions to support regional facilities designed to reduce vehicle trips and miles traveled;
12. On-site amenities, such as cafeterias and restaurants, automated teller machines and other services that would eliminate the need for additional trips.

The code section is permissive in the case of trip reduction provisions. However, as a condition of approval for the project, items 1, 2, 3, as listed above will be required by the building permit and then implemented by the applicant. Other provisions of the program may be implemented as tenants fill the units. Therefore, the provisions of the trip reduction program will assure that the congestion management program for the City will not be significantly impacted.

Access will not be impacted as the site fronts two improved roadways and the project will not alter or limit access in any way. During construction portions of Lincoln Street and/or Barbour Street may be affected; however these impacts are considered temporary and will

be mitigated through traffic control as required by the City Engineer. Access drives proposed for the project are designed in accordance with Fire department minimum design standards. Additionally, the project is proposed with a 24 foot wide driveway circulating around the entire project.

The project is located within Airport Compatibility Zones B1 and D of the Riverside County Airport Land Use Compatibility Plan as adopted by the Riverside County Airport Land Use Commission (ALUC) for Banning Municipal Airport. On December 12, 2013, the Riverside County Airport Land Use Commission determined the project is conditionally consistent with the Airport Land Use Compatibility Plan. The review did not identify any items that would affect air traffic patterns and therefore the impact to air traffic patterns is not considered significant.

Checklist Item XVII Utilities and Service Systems.

a)-g) No Impact (RWQCB Wastewater Treatment, New Water and Wastewater Facilities, New Storm-water Drainage Facilities, Water Supplies, Wastewater, Landfill, Solid Waste). The project proposes the construction of 24 Unit Airport Industrial Lofts. There is an existing 8 inch steel waterline in Lincoln Street and an existing 12 inch steel waterline in Barbour Street. An existing 8 inch clay gravity sewer main is located in Barbour Street, which is downstream of the project site. The City is required to adhere to the requirements of their discharge permit with the Regional Water Quality Control Board for the wastewater treatment facility and all wastewater discharges are expected to be treated by the City's system. Additionally, the City requires industrial facilities to comply with the Industrial Wastewater Collection and Treatment Ordinance. Provisions of the Ordinance will require connection permits, monitoring and inspection of the project, and restrictions on certain wastewater discharges. Therefore, no additions or new facilities are anticipated to be required in connection with the project.

The only storm drain improvements required in connection with the project are onsite catch basins, gutters, and storm drain pipes which will connect to the existing system. The City Engineer has reviewed the project and no additional upgrades will be required for the public storm drain system. Therefore, the project will not result in the construction or expansion of new public storm drain facilities.

The City contracts with a solid waste handling company. The project will require the construction of a trash enclosure that includes provisions for recycling in order to comply with the City's recycling program. The nearest landfill is the County of Riverside's Lamb Canyon landfill that has excess capacity.

Checklist Item XVIII Mandatory Findings of Significance.

a) No Impact (Environment and Habitat). Based on the analysis contained in this Initial Study Checklist, the proposed project will not impact Aesthetics, Agriculture Resources, Air Quality, Biological Resources, Cultural Resources, Geology/Soils, Greenhouse Gases, Hydrology/Water Quality, Land Use and Planning, Mineral Resources, Noise,

Population/Housing, Public Services, Recreation, Transportation/Traffic, and Utility/Services Systems. Thus the project would have no impact on the environment. It will not degrade the quality of the environment and no habitat, wildlife populations, and plant and animal communities would be impacted.

- b) **No Impact (Cumulatively Considerable).** Based on the analysis contain in this Initial Study Checklist, no cumulative impacts associated with the project will significantly affect the environment. The analysis in the Initial Study Checklist demonstrated that the project is in compliance with all applicable mitigations plans. Additionally, the project would not produce impacts, that considered with the effects of other past, present, or probable future projects, would be curatively considerable because potential adverse environmental impacts were determined to be less than significant with implementation of mitigation measures identified in this Initial Study Checklist.

This response bases its conclusions on the fact that the project is consistent with the General Plan and all applicable mitigation plans. Additionally, mitigation measures have been recommended to reduce certain impacts to less than significant.

- c) **No Impact (Human Beings).** Based on the analysis contain in this Initial Study Checklist, no human impacts associated with the project will significantly affect the environment.

7. INCORPORATION BY REFERENCE

This Initial Study is based in part on the information and analysis contained in the documents listed below. These documents are hereby incorporated by reference in their entirety into this Initial Study. Copies of all documents incorporated herein are available for review in the Community Development Department at the Banning Civic Center, 99 E. Ramsey Street, Banning, and California, 92220.

A. City of Banning General Plan

This document provides a vision for the future development of the community. It is the official policy statement of the City Council intended to guide the private and public development of the City. The General Plan was adopted March 2006 and includes any amendments.

B. Environmental Impact Report (EIR) for the City of Banning General Plan and Zoning Ordinance

This document was prepared to review the environmental constraints and opportunities associated with the adoption of the Banning Comprehensive General Plan and Zoning Ordinance that was adopted March 2006. The EIR is designed to be used as an information database to facilitate the streamlining of, or tiering of the environmental review process for subsequent projects for the City.

C. City of Banning Municipal Code

The Municipal Code contains various regulations and development standards that govern use and development of properties within the City. The Zoning Ordinance was adopted in March 2006.

D. City of Banning Local Procedures for Complying with CEQA

These procedures identify how the City implements CEQA and the State CEQA Guidelines. These local procedures were put into effect in order to comply with Section 15022 of the State CEQA Guidelines.

E. Multi-Species Habitat Conservation Plan (MSHCP)

The Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP or Plan) is a comprehensive, multi-jurisdictional Habitat Conservation Plan (HCP) focusing on Conservation of species and their associated Habitats in Western Riverside County.

F. Geotechnical Investigation

A geotechnical investigation and report prepared by NorCal Engineering of Los Alamitos, California dated April 30, 2009, for the proposed Banning Industrial Park. The report was updated for the current project submittal.

G. Focused Traffic Analysis

This study was prepared by Kunzman Associates of Orange, California dated August 14, 2013. The report analyzed roadway capacity, and level of service to determine traffic impacts generated from the proposed project.

H. Preliminary Title Report

This study was prepared by First American Title of Corona, California dated June 25, 2013. The report provides ownership, legal description, and encumbrance information for the site.

8. LIST OF PREPARERS

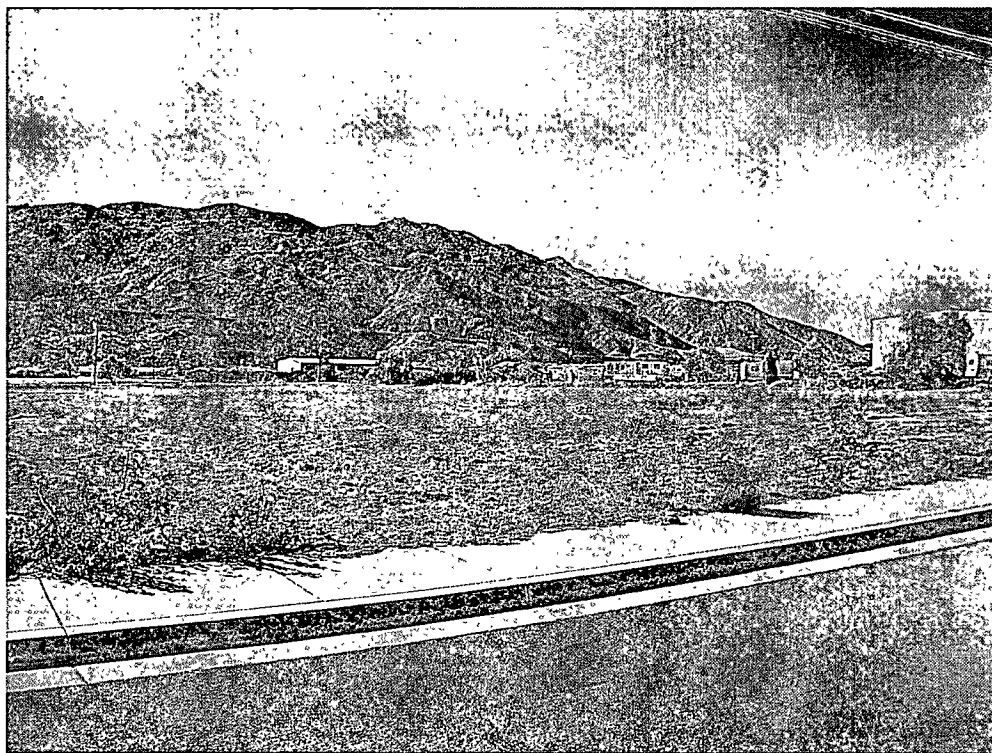
Listed below are the persons who prepared or participated in the preparation of the Initial Study:

Project Manager: Brian Guillot, Associate Planner

Reviewed by: Zai Abu Bakar, Community Development Director

EXHIBIT A

(Site photographs)



Lincoln Street looking to the south-west



Lincoln Street looking south



Barbour Street looking to the north-east



Barbour Street looking to the north

EXHIBIT B

(Mitigation Monitoring and Reporting Program)

**24 Unit Airport Industrial Live/Work Lofts
Mitigation Monitoring and Reporting Program**

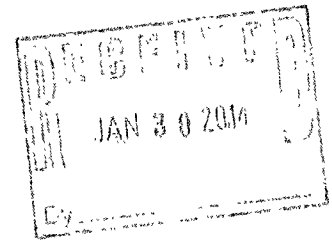
Mitigation Measure	Timing	Verification		
		Department	Signature	Date
Hazards				
H-1 In Airport Compatibility Zone B1: Children’s schools, day care centers, libraries, hospitals, nursing homes, places of worship, highly noise sensitive outdoor non-residential uses, aboveground bulk storage of hazardous materials, critical infrastructure facilities, or hazards to flight are prohibited.	Condition of approval for the Conditional Use Permit Prior to issuance of the first building permit.	Community Development		
H-2 Covenants, Conditions, and Restrictions (CC&Rs) shall be recorded prior to occupancy of the proposed units that notes that occupancy for units 1 through 16 as identified on the site plan dated October 17, 2013, as submitted to the Riverside County Airport Land Use Commission shall be limited to a maximum of five (5) three (3) people per unit to limit building occupant intensity near the Banning Municipal Airport and reduce potential hazards.	Prior to issuance of the first building permit.	Community Development		
Noise				
NO-1 Incorporate noise attenuation measure into building construction to ensure interior noise levels are at or below 45 CNEL for the included residential uses.	Prior to issuance of the first building permit.	Community Development Building & Safety		

Attachment 6

(ALUC Development Review)



AIRPORT LAND USE COMMISSION RIVERSIDE COUNTY



CHAIR January 27, 2014

Simon Housman
Rancho Mirage

Mr. Brian Guillot, Associate Planner

VICE CHAIRMAN
Rod Ballance
Riverside

City of Banning
99 East Ramsey Street
Banning, CA 92220

COMMISSIONERS

Arthur Butler
Riverside

John Lyon
Riverside

Glen Holmes
Hemet

Greg Pettis
Cathedral City

Richard Stewart
Moreno Valley

STAFF

Director
Ed Cooper

John Guerin
Russell Brady
Barbara Santos

County Administrative Center
4080 Leron St., 14th Floor
Riverside, CA 92501
(951) 955-5132

www.rcaluc.org

RE: AIRPORT LAND USE COMMISSION (ALUC) DEVELOPMENT REVIEW

File No.: ZAP1014BA13
Related File No.: Design Review Case No. DR-13-7003
APN: 541-290-013

Dear Mr. Guillot:

On December 12, 2013, the Riverside County Airport Land Use Commission (ALUC) found City of Banning Design Review Case No. DR-13-7003, a proposal to develop a 64,327 square foot 24-unit live/work building (including 52,463 square feet of 1st floor area total for office/industrial use and 11,864 square feet of 2nd floor area total for loft/living space) on 3.74 gross acres located southerly of Lincoln Street, northerly of Barbour Street, westerly of Hathaway Street, and easterly of Juarez Street **CONDITIONALLY CONSISTENT** with the 2004 Banning Municipal Airport Land Use Compatibility Plan, pending Federal Aviation Administration (FAA) review, which has now been completed, and providing that the City grants the maximum risk reduction intensity bonus of 1.3 times the typical maximum single-acre and average acre intensities for Banning Municipal Airport Compatibility Zone B1 pursuant to Countywide Policy 4.2.6, subject to the following conditions (as modified to incorporate the provisions of the FAA's Determination of No Hazard to Air Navigation letter issued on January 24, 2014):

CONDITIONS:

1. Any outdoor lighting that is installed shall be hooded or shielded so as to prevent either the spillage of lumens or reflection into the sky.
2. The following uses shall be prohibited:
 - (a) Any use which would direct a steady light or flashing light of red, white, green, or amber colors associated with airport operations toward an aircraft engaged in an initial straight climb following takeoff or toward an aircraft engaged in a straight final approach toward a landing at an airport, other than an FAA-approved navigational signal light or visual approach slope indicator.
 - (b) Any use which would cause sunlight to be reflected towards an aircraft engaged in an initial straight climb following takeoff or towards an aircraft engaged in a straight final approach towards a landing at an airport.
 - (c) Any use which would generate smoke or water vapor or which would attract large concentrations of birds, or which may otherwise affect safe air navigation within the area, including landscaping utilizing water features, trash transfer stations that are open on one or more sides, recycling centers containing putrescible

wastes, construction and demolition debris facilities, and incinerators.

- (d) Any use which would generate electrical interference that may be detrimental to the operation of aircraft and/or aircraft instrumentation.
 - (e) In Zone B1: Children's schools, day care centers, libraries, hospitals, nursing homes, places of worship, highly noise-sensitive outdoor non-residential uses, aboveground bulk storage of hazardous materials, critical infrastructure facilities, or hazards to flight.
 - (f) In Zone D: Highly noise-sensitive outdoor non-residential uses or hazards to flight
3. The attached notice shall be provided to all potential purchasers of the property.
 4. Any new retention basins on the site shall be designed so as to provide for a maximum 48-hour detention period following the conclusion of the storm event for the design storm (may be less, but not more), and to remain totally dry between rainfalls. Vegetation in and around the retention basin(s) that would provide food or cover for bird species that would be incompatible with airport operations shall not be utilized in project landscaping.
 5. Incorporate noise attenuation measures into the building construction to ensure interior noise levels are at or below 45 CNEL for the included residential uses.
 6. ~~The deed notice for the property and any properties created by subdivision of the site shall record that occupancy for units 1 through 16 as identified on the site plan dated October 17, 2013, shall be limited to a maximum of three (3) people per unit to limit building occupant intensity near the Banning Municipal Airport and reduce potential hazards. [deleted at hearing by Airport Land Use Commission]~~
 7. Covenants, Conditions, and Restrictions (CC&Rs) shall be recorded prior to occupancy of the proposed units that notes that occupancy for units 1 through 16 as identified on the site plan dated October 17, 2013, shall be limited to a maximum of **five three (5) (3)** people per unit to limit building occupant intensity near the Banning Municipal Airport and reduce potential hazards. [modified at hearing by Airport Land Use Commission]
 8. Prior to any tenant improvement for units 1 through 16 **for uses other than office, manufacturing and warehousing** as identified on the site plan dated October 17, 2013, the plans for the tenant improvement and any pertinent business plan or other document indicating planned use and occupancy shall be transmitted to ALUC for evaluation of occupancy levels to confirm whether any individual unit would exceed **five three (5) (3)** people. [modified at hearing by Airport Land Use Commission]
 9. Individual units shall not be further subdivided so as to allow separate ownership and use of residential and commercial/industrial uses within the same unit.
 10. Prior to issuance of building permits, the applicant shall have received a determination of "Not a Hazard to Air Navigation" from the Federal Aviation Administration (FAA) Obstruction Evaluation Service. Copies of the FAA determination shall be provided to the City of Banning Planning Department and the Riverside County Airport Land Use Commission. **[This condition shall be considered to have been MET as of January 24, 2014.]**
 11. Prior to issuance of building permits, the applicant shall convey and have recorded an avigation easement to the City of Banning as owner-operator of Banning Municipal Airport. (In the event that the City of Banning declines to accept an avigation

easement, the attached notice shall be recorded as a deed notice.)

The following conditions have been added subsequent to the ALUC hearing pursuant to the terms of the FAA Obstruction Evaluation Service letter issued on January 27, 2014 for Aeronautical Study No. 2013-AWP-6265-OE:

12. The Federal Aviation Administration has conducted an aeronautical study of the proposed building (Aeronautical Study No. 2013-AWP-6265-OE) and has determined that neither marking nor lighting of the structure is necessary for aviation safety. However, if marking and/or lighting for aviation safety are accomplished on a voluntary basis, such marking and/or lighting (if any) shall be installed in accordance with FAA Advisory Circular 70/7460-1 K Change 2 and shall be maintained in accordance therewith for the life of the project.
13. The maximum height of the proposed structure shall not exceed 29 feet above ground level, and the maximum elevation of the proposed structure, including all roof-mounted appurtenances (if any), shall not exceed 2,248 feet above mean sea level.
14. The specific coordinates, height, and top point elevation of the proposed structure shall not be amended without further review by the Airport Land Use Commission and the Federal Aviation Administration; provided, however, that reduction in building height or elevation shall not require further review by the Airport Land Use Commission.
15. Temporary construction equipment used during actual construction of the structure shall not exceed the height of the structure, unless separate notice is provided to the Federal Aviation Administration through the Form 7460-1 process.
16. Within five (5) days after construction of the structure reaches its greatest height, FAA Form 7460-2 (Part II), Notice of Actual Construction or Alteration, shall be completed by the project proponent or his/her designee and e-filed with the Federal Aviation Administration. (Go to <https://oeaaa.faa.gov> for instructions.) This requirement is also applicable in the event the project is abandoned.

If you have any questions, please contact Russell Brady, ALUC Contract Planner, at (951) 955-0549 or John Guerin, ALUC Principal Planner, at (951) 955-0982.

Sincerely,

RIVERSIDE COUNTY AIRPORT LAND USE COMMISSION



Edward C. Cooper, Director

RB:bks

Attachments: Notice of Airport in Vicinity
FAA Aeronautical Study No. 2013-AWP-6265-OE

RIVERSIDE COUNTY AIRPORT LAND USE COMMISSION January 27, 2014

cc: Watermark Development, Inc. – Attn.: Mark Quental
 Duane Burk, City of Banning Director of Public Works
 Arturo Vela, Senior Engineer
 ALUC Staff

Y:\AIRPORT CASE FILES\Banning\ZAP1014BA13\ZAP1014BA13.LTR.doc

NOTICE OF AIRPORT IN VICINITY

This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you. Business & Professions Code Section 11010 (b) (13)(A)



Mail Processing Center
Federal Aviation Administration
Southwest Regional Office
Obstruction Evaluation Group
2601 Meacham Boulevard
Fort Worth, TX 76193

Aeronautical Study No.
2013-AWP-6265-OE

Issued Date: 01/24/2014

Mark Quental
Watermark Development Inc.
1838 N. Valencia Ave.
Placentia, CA 92870

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure:	Building Banning Industrial Work/Live Lofts
Location:	Banning, CA
Latitude:	33-55-16.00N NAD 83
Longitude:	116-51-39.00W
Heights:	2219 feet site elevation (SE) 29 feet above ground level (AGL) 2248 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

It is required that FAA Form 7460-2, Notice of Actual Construction or Alteration, be e-filed any time the project is abandoned or:

- ☐ At least 10 days prior to start of construction (7460-2, Part I)
☒ Within 5 days after the construction reaches its greatest height (7460-2, Part II)

Based on this evaluation, marking and lighting are not necessary for aviation safety. However, if marking/lighting are accomplished on a voluntary basis, we recommend it be installed and maintained in accordance with FAA Advisory circular 70/7460-1 K Change 2.

This determination expires on 07/24/2015 unless:

- the construction is started (not necessarily completed) and FAA Form 7460-2, Notice of Actual Construction or Alteration, is received by this office.
- extended, revised, or terminated by the issuing office.
- the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE E-FILED AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE. AFTER RE-EVALUATION OF CURRENT OPERATIONS IN THE AREA OF THE STRUCTURE TO DETERMINE THAT NO SIGNIFICANT AERONAUTICAL CHANGES HAVE OCCURRED, YOUR DETERMINATION MAY BE ELIGIBLE FOR ONE EXTENSION OF THE EFFECTIVE PERIOD.

This determination is based, in part, on the foregoing description which includes specific coordinates , heights, frequency(ies) and power . Any changes in coordinates , heights, and frequencies or use of greater power will void this determination. Any future construction or alteration , including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

Any failure or malfunction that lasts more than thirty (30) minutes and affects a top light or flashing obstruction light, regardless of its position, should be reported immediately to (877) 487-6867 so a Notice to Airmen (NOTAM) can be issued. As soon as the normal operation is restored, notify the same number.

If we can be of further assistance, please contact our office at (817) 321-7760. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2013-AWP-6265-OE.

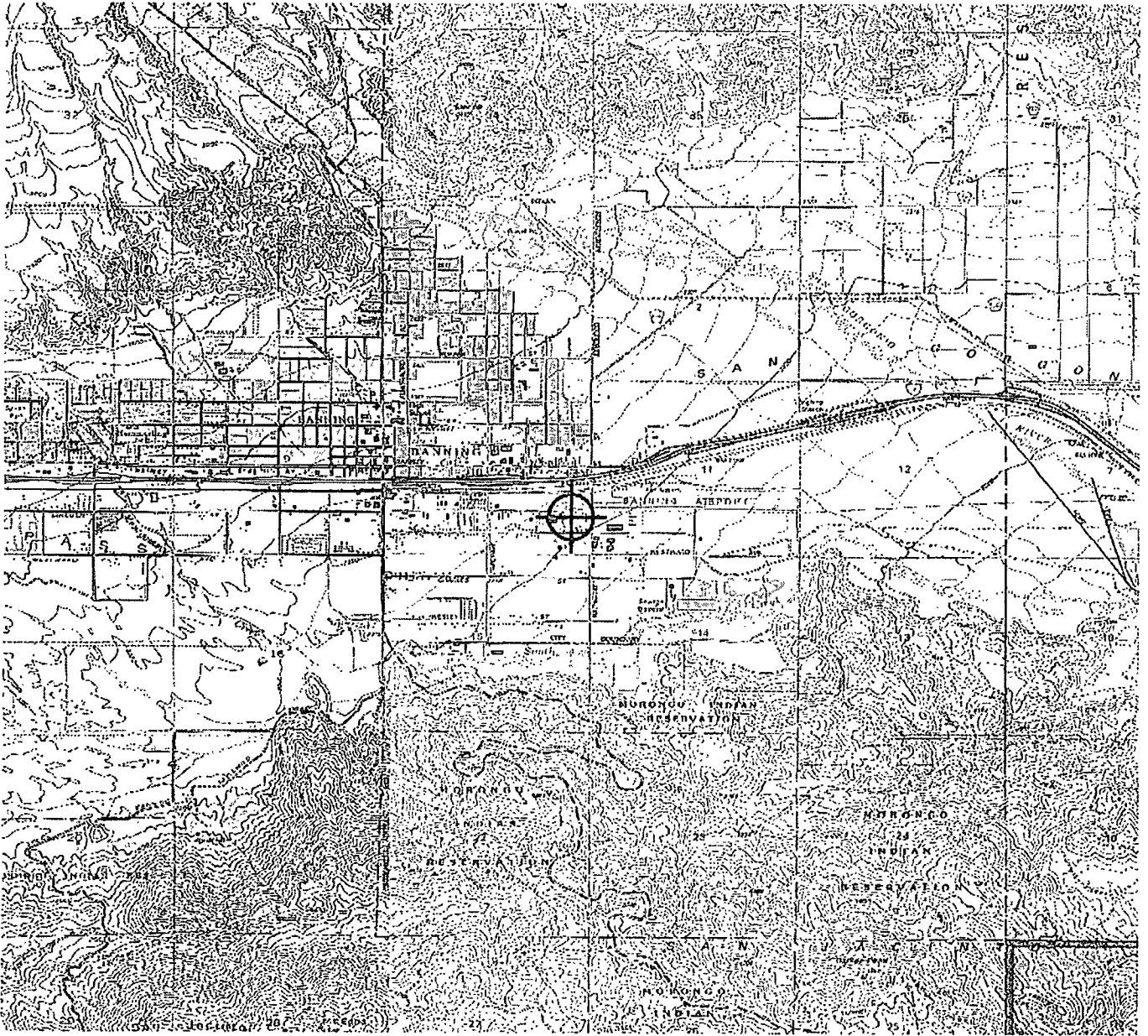
Signature Control No: 199370678-206110147

(DNE)

Joan Tengowski
Technician

Attachment(s)
Map(s)

TOPO Map for ASN 2013-AWP-6265-OE



Legend

Compatibility Zones

- Zone A
- Zone B1
- Zone B2
- Zone C
- Zone D
- Zone E
- Height Review Overlay Zone

Boundary Lines

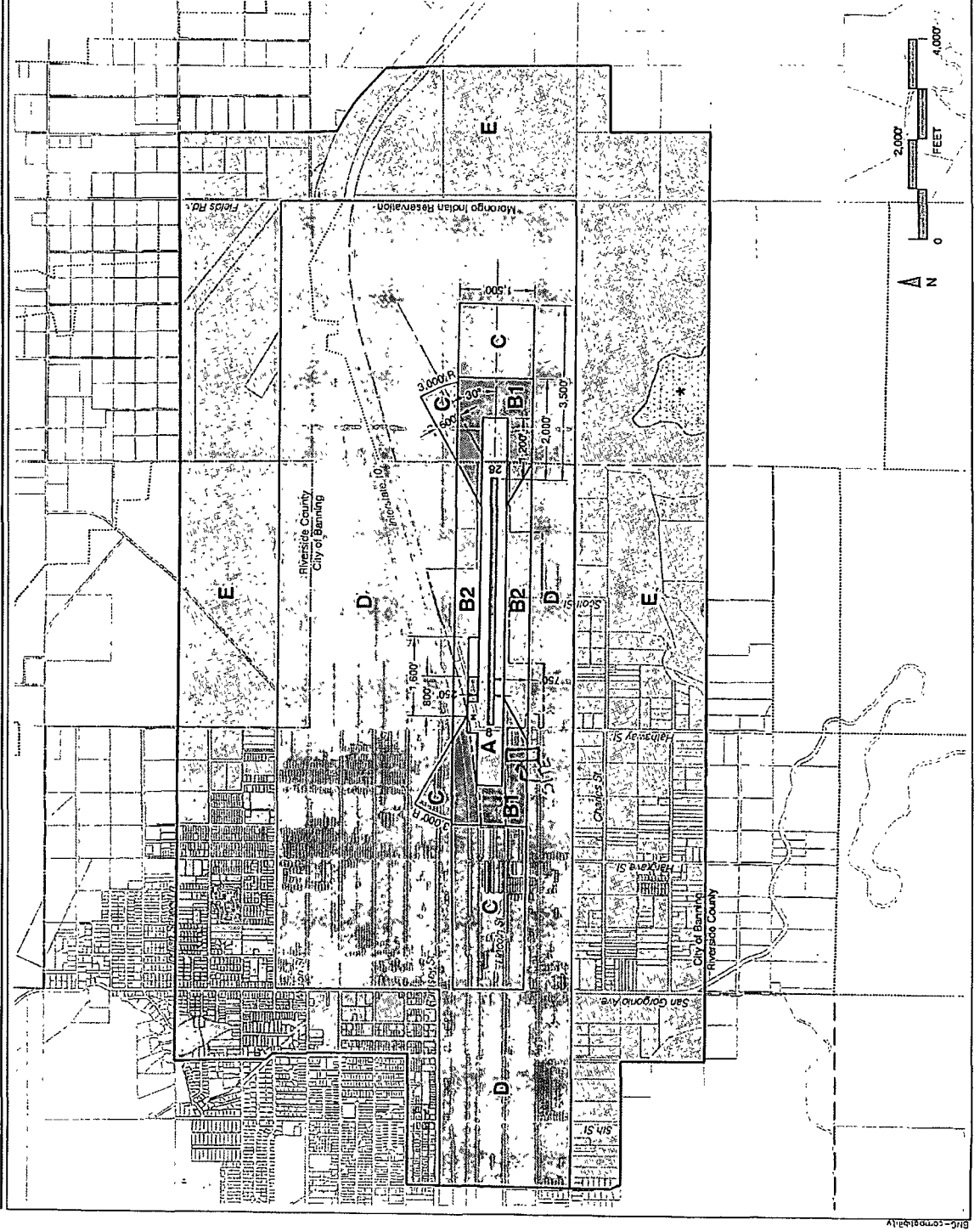
- Airport Property Line
- City Limits
- Maricopa Indian Reservation

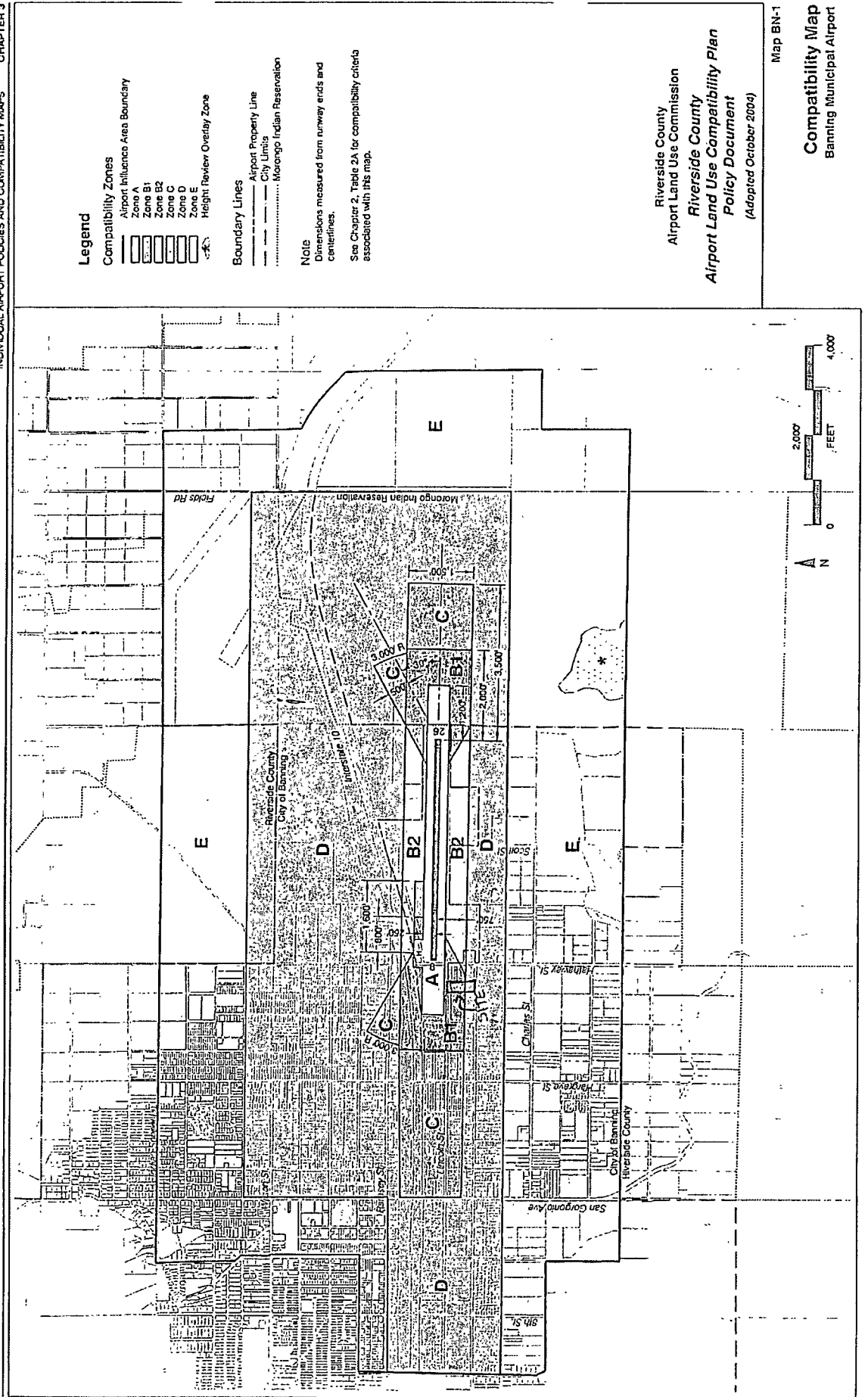
Note

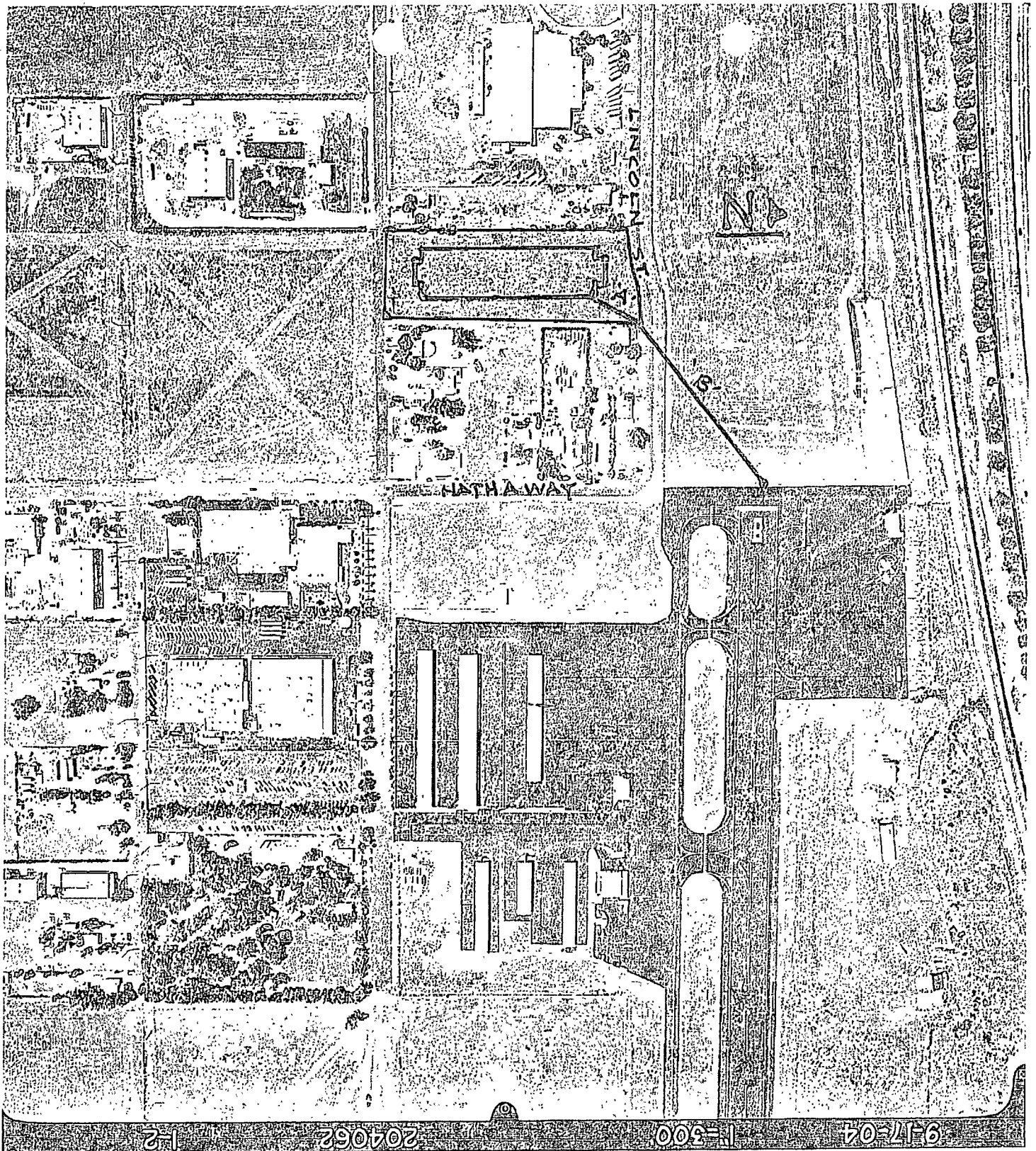
Dimensions measured from survey ends and centerlines.

See Chapter 2, Table 2A for compatibility criteria associated with this map.

Riverside County
Airport Land Use Commission
**Riverside County
Airport Land Use Compatibility Plan
Policy Document**
(Adopted October 2004)



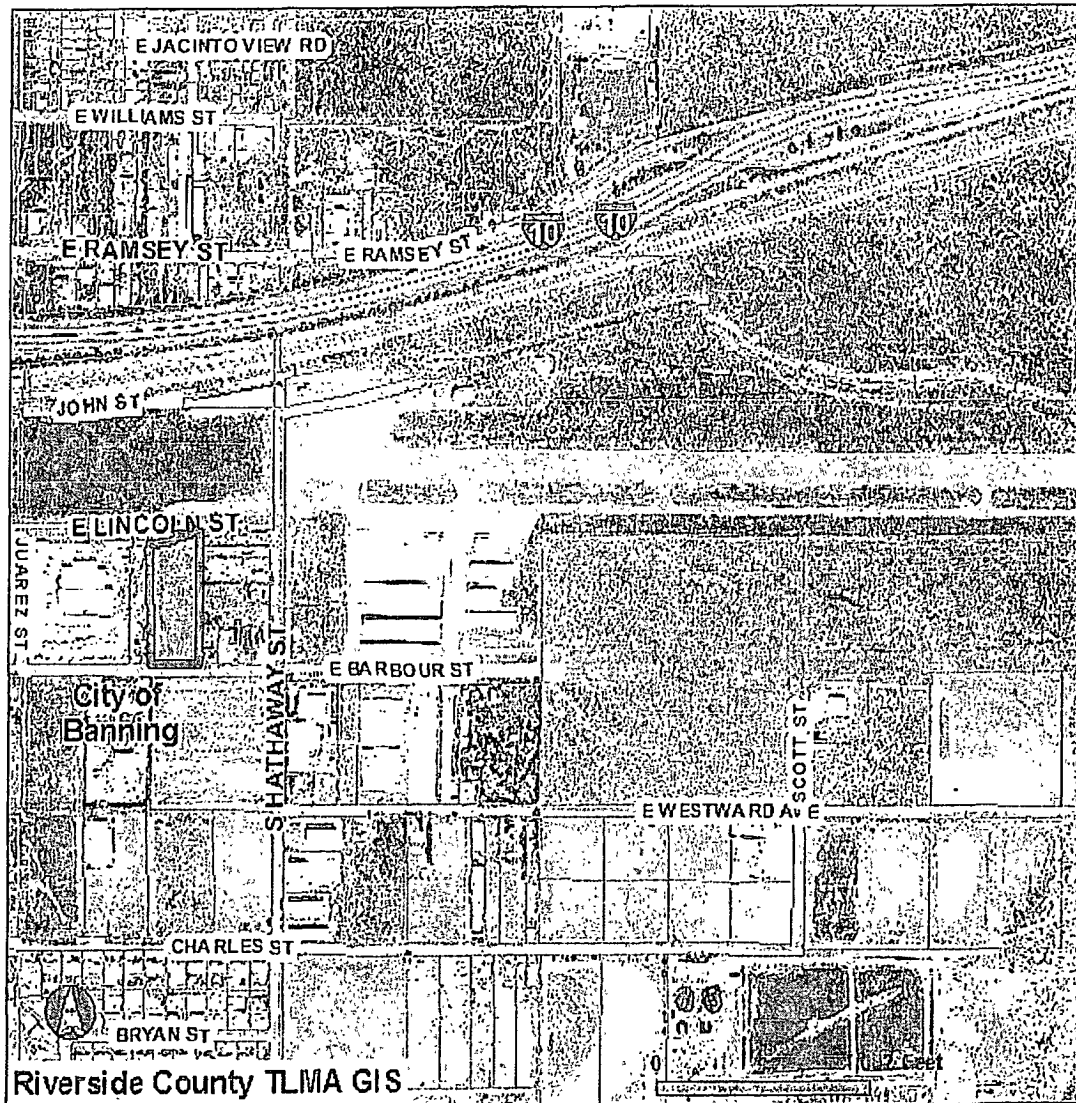




Banning Airport Elevation:	2219'
Proposed Project Site Elevation	2220'
Proposed Building Height	25'
Overall Height	2245'

Project Distance to Airport	
Measurement 'A'	157'
Measurement 'B'	545'
Total Distance	702'

RIVERSIDE COUNTY GIS



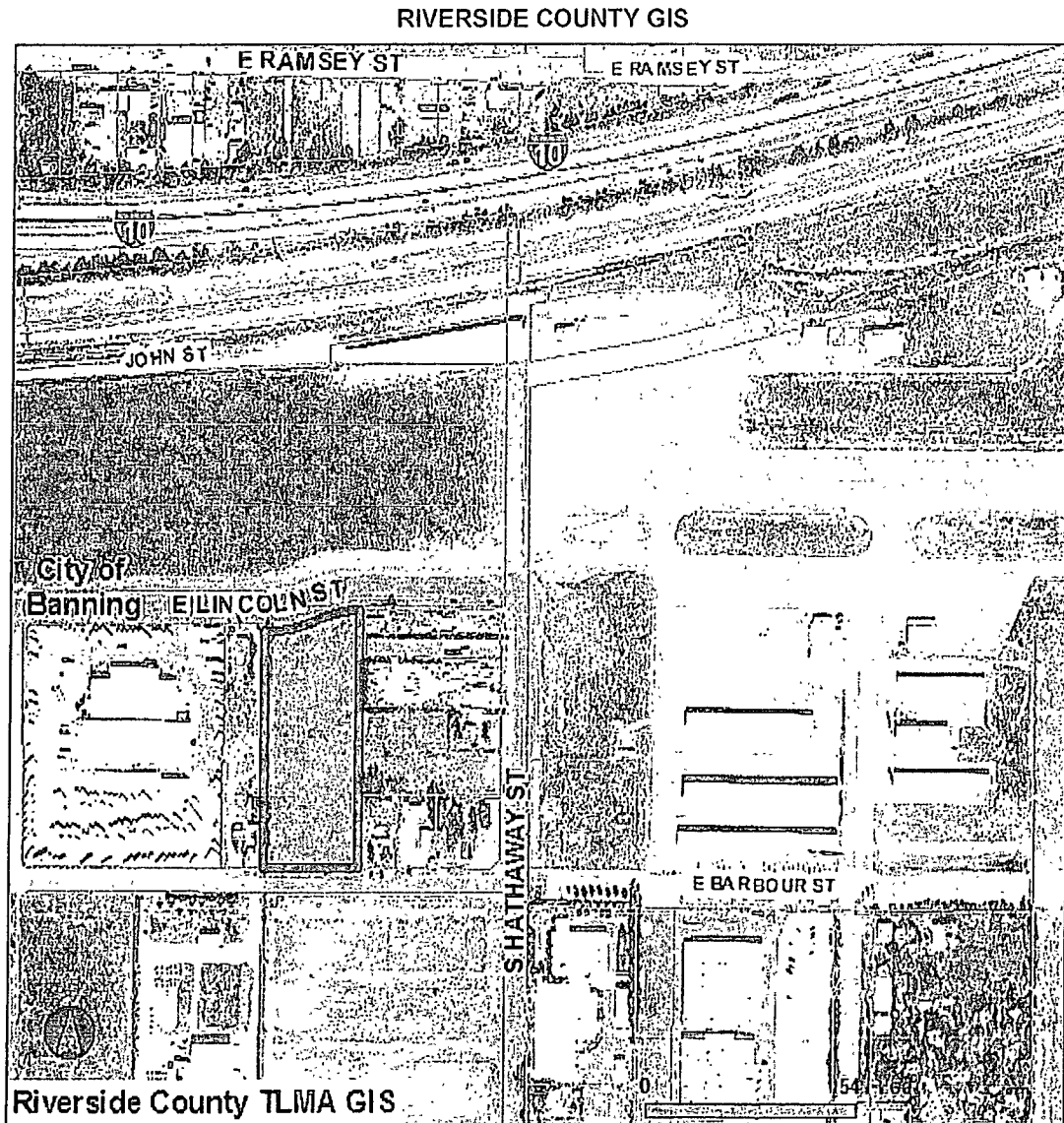
Selected parcel(s):
541-290-013

IMPORTANT

Maps and data are to be used for reference purposes only. Map features are approximate, and are not necessarily accurate to surveying or engineering standards. The County of Riverside makes no warranty or guarantee as to the content (the source is often third party), accuracy, timeliness, or completeness of any of the data provided, and assumes no legal responsibility for the information contained on this map. Any use of this product with respect to accuracy and precision shall be the sole responsibility of the user.

REPORT PRINTED ON...Tue Oct 29 12:34:42 2013

Version 131001



Selected parcel(s):
541-290-013

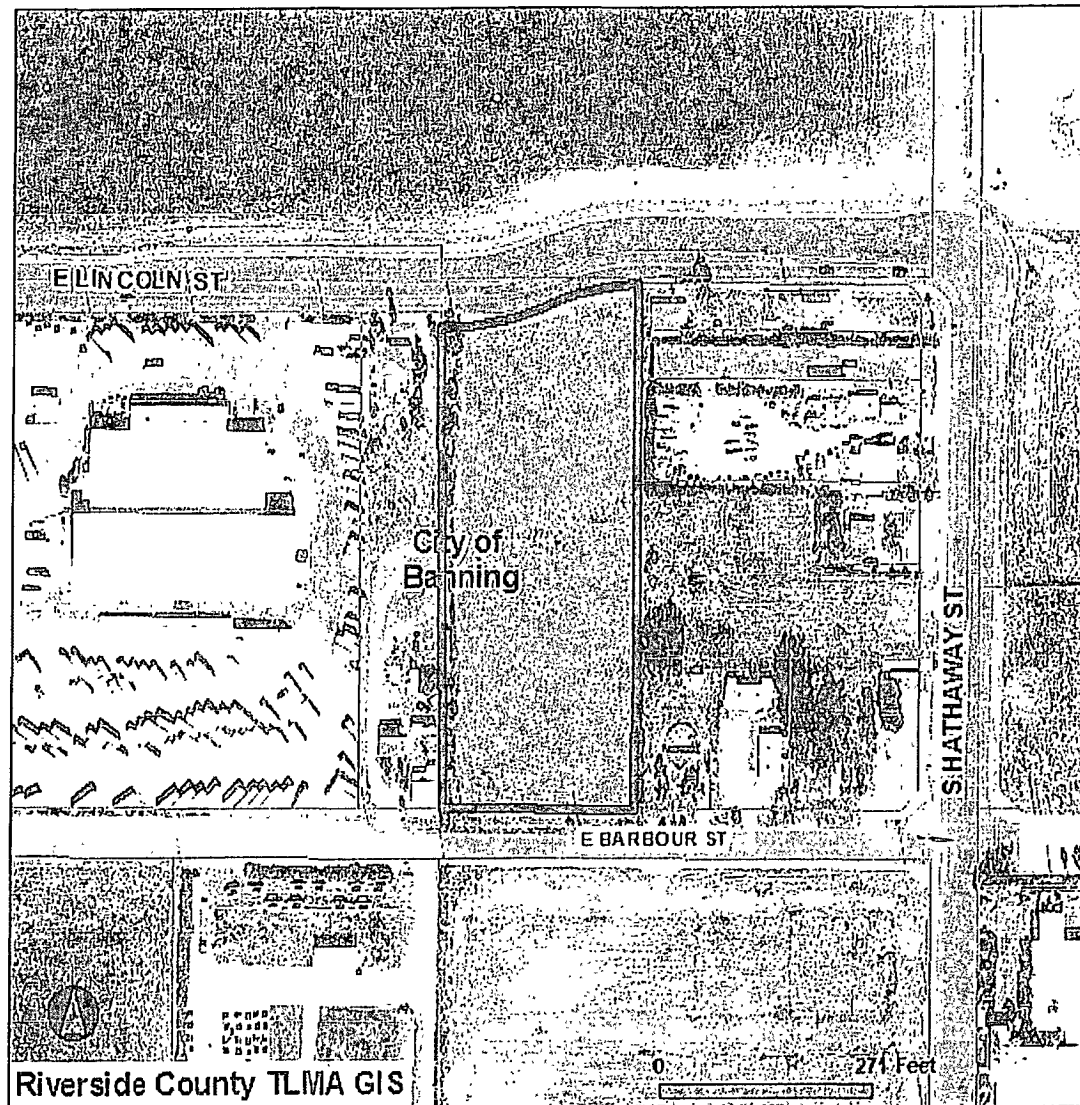
IMPORTANT

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REPORT PRINTED ON.. Tue Oct 29 12:35:25 2013

Version 131001

RIVERSIDE COUNTY GIS



Selected parcel(s):
541-290-013

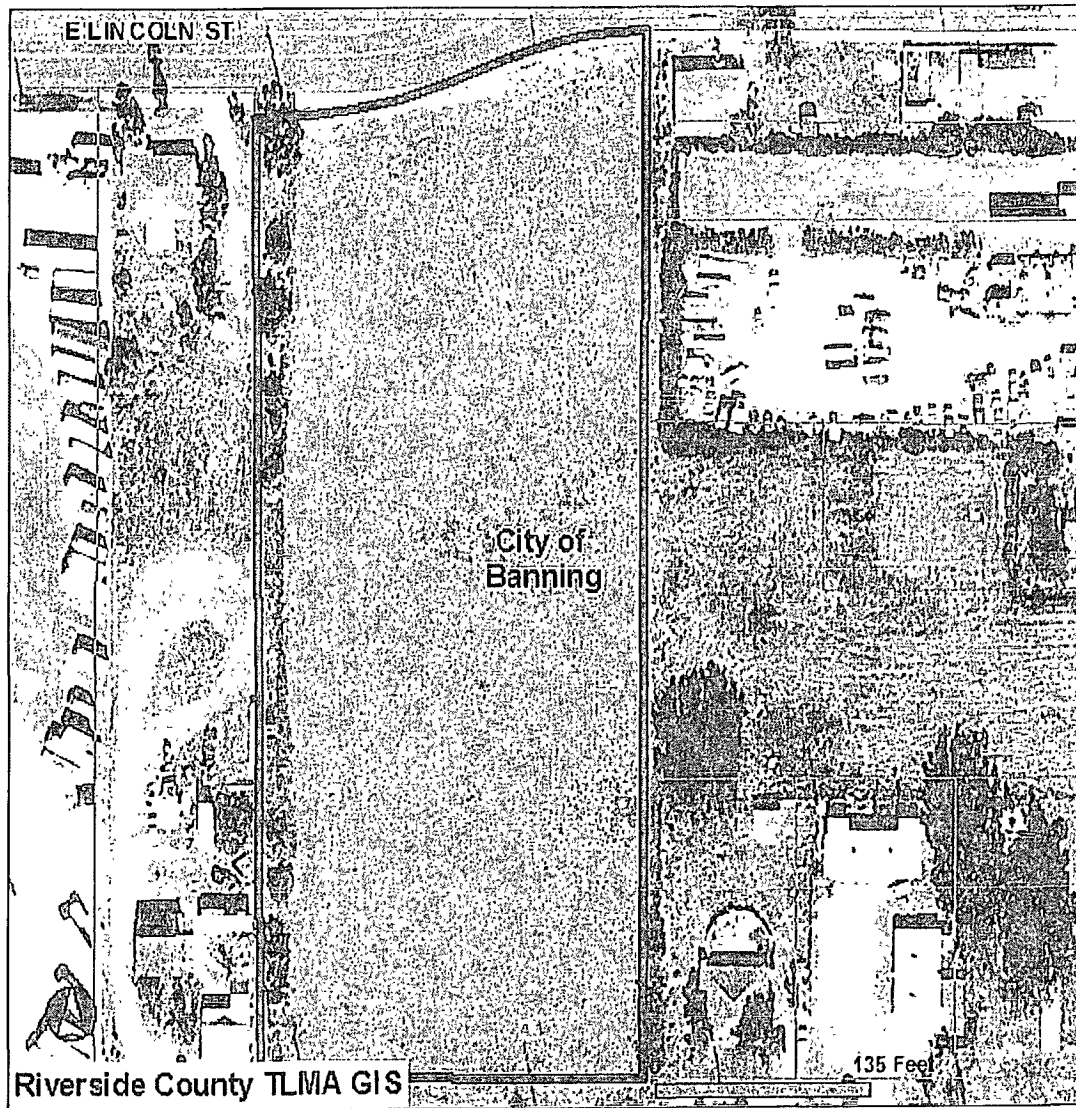
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Maps and data are to be used for reference purposes only. Map features are approximate, and are not necessarily accurate to surveying or engineering standards. The County of Riverside makes no warranty or guarantee as to the content (the source is often third party), accuracy, timeliness, or completeness of any of the data provided, and assumes no legal responsibility for the information contained on this map. Any use of this product with respect to accuracy and precision shall be the sole responsibility of the user.

REPORT PRINTED ON...Tue Oct 29 12:35:57 2013

Version 131001

RIVERSIDE COUNTY GIS



Selected parcel(s):
541-290-013

IMPORTANT

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REPORT PRINTED ON...Tue Oct 29 12:36:50 2013

Version 131001

WATERMARK
DEVELOPMENT
INC.

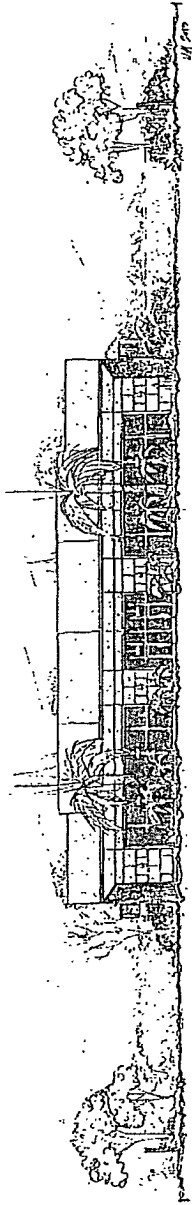
325 West Center Street
Banning, CA 92220
Tel: (951) 733-1144
Fax: (951) 733-1145
www.watermarkinc.com
Banning, CA

LINCOLN STREET
AIRPORT INDUSTRIAL WORK LOFTS
BANNING, CA 92220
A.P.N. # 541290013-3

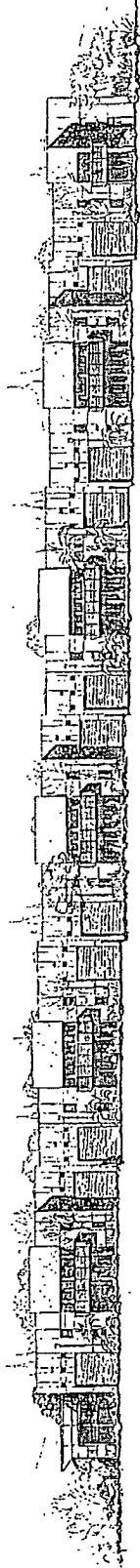
24 UNIT
AIRPORT
INDUSTRIAL
WORK
LOFTS

TITLE
SHEET

A-1.1



NORTH ELEVATION
[FACING LINCOLN STREET]



WEST ELEVATION

LINCOLN STREET

AIRPORT INDUSTRIAL WORK LOFTS

A 24 UNIT - MIXED USE
CONDOMINIUM DEVELOPMENT

BANNING, CALIFORNIA 90222



**WATERMARK
DEVELOPMENT
INC.**

1000 10th Street, Suite 100
Banning, CA 92220
760.734.1111
www.watermarkdev.com

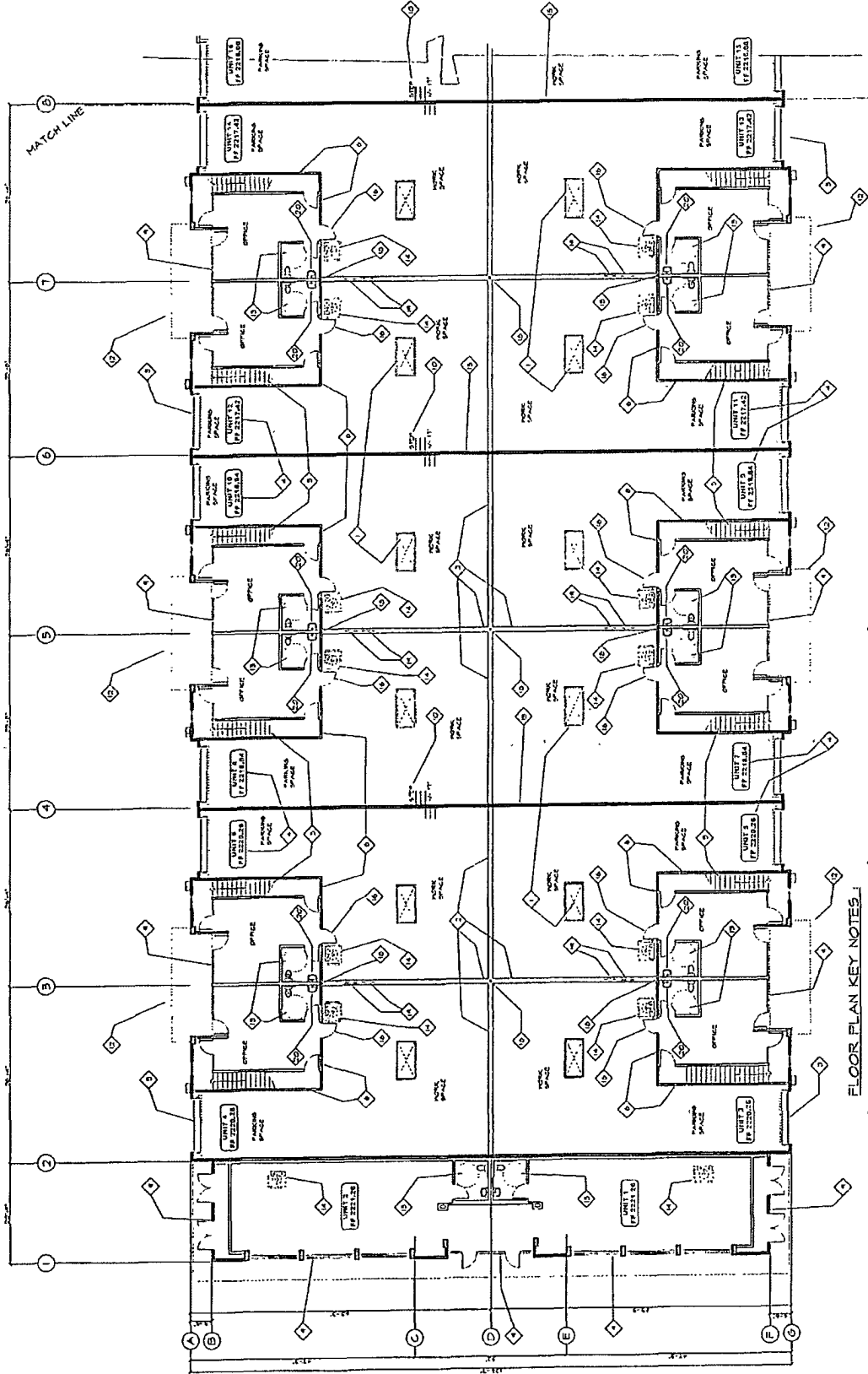
PROJECT: 24 UNIT AIRPORT INDUSTRIAL WORK LOFTS
SHEET: 101 OF 102
DATE: 01.10.2020

**24 UNIT
AIRPORT
INDUSTRIAL
WORK
LOFTS**

**1ST
FLOOR
PLAN
[NORTH]**

NO.	DATE	BY	CHKD.	DESCRIPTION
1	01.10.2020	W.D.		ISSUED FOR PERMIT
2	01.10.2020	W.D.		ISSUED FOR PERMIT
3	01.10.2020	W.D.		ISSUED FOR PERMIT
4	01.10.2020	W.D.		ISSUED FOR PERMIT
5	01.10.2020	W.D.		ISSUED FOR PERMIT
6	01.10.2020	W.D.		ISSUED FOR PERMIT
7	01.10.2020	W.D.		ISSUED FOR PERMIT
8	01.10.2020	W.D.		ISSUED FOR PERMIT
9	01.10.2020	W.D.		ISSUED FOR PERMIT
10	01.10.2020	W.D.		ISSUED FOR PERMIT

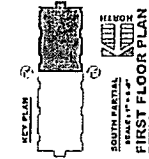
A-3.1



**1ST
FLOOR
PLAN
[NORTH]**

- FLOOR PLAN KEY NOTES:**
1. NOT TO SCALE - SEE ARCHITECT'S NOTES
 2. REFER TO ARCHITECT'S NOTES FOR UNIT LAYOUTS
 3. REFER TO ARCHITECT'S NOTES FOR UNIT LAYOUTS
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 24. REFER TO ARCHITECT'S NOTES FOR UNIT LAYOUTS

173



FLOOR PLAN KEY NOTES:

- [illegible]

MATCH LINE

**WATERMARK
DEVELOPMENT
INC.**

1000 West 10th Street
San Francisco, CA 94111
Tel: 415.774.1100
Fax: 415.774.1101
www.watermarkdevelopment.com

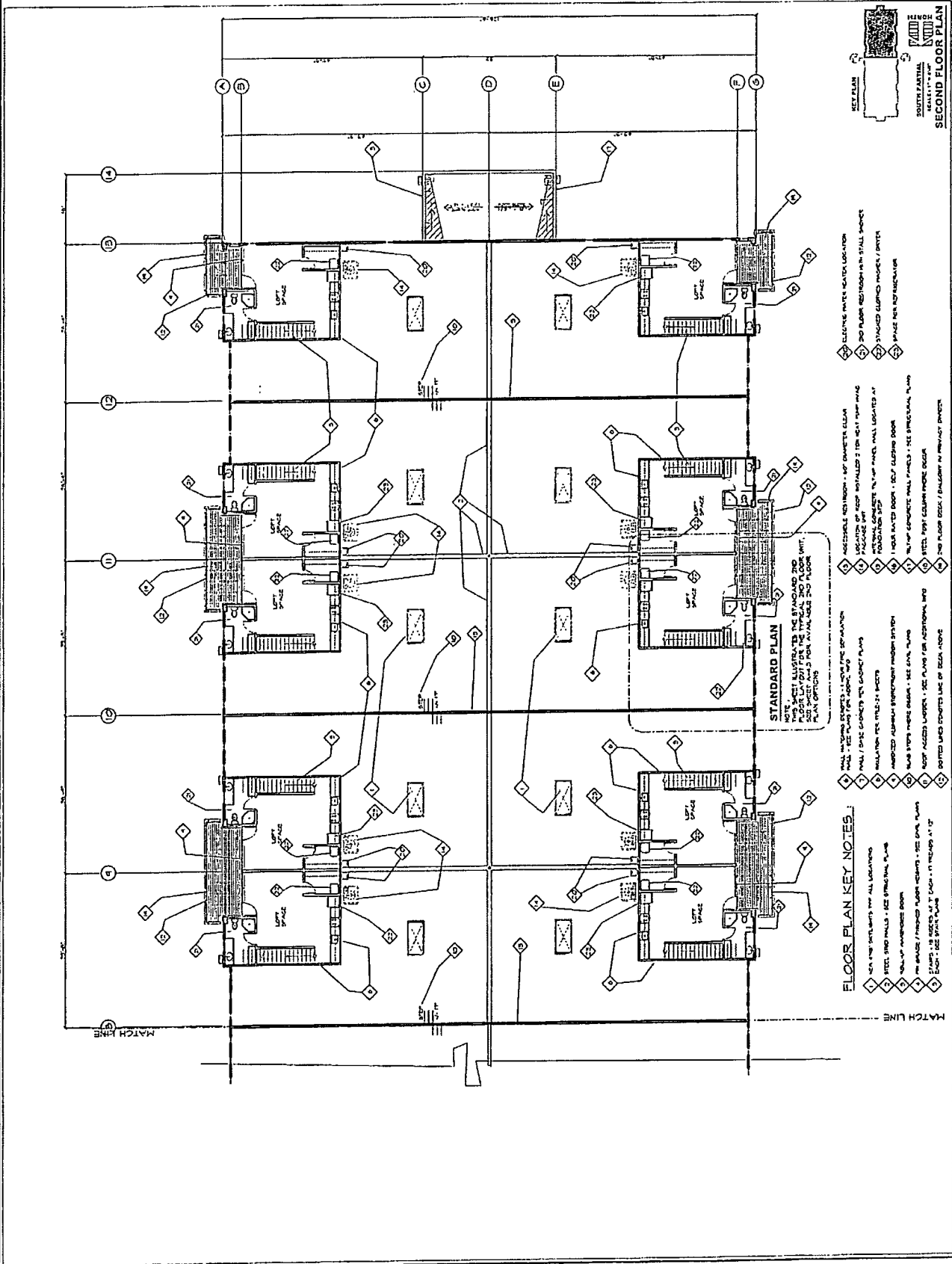
APN # 541290013-3
BANNING, CA 92220
LINCOLN STREET

**24 UNIT
AIRPORT
INDUSTRIAL
WORK
LOFTS**

**2ND
FLOOR
PLAN
[SOUTH]**

1. SHEET NO.	20
2. SHEET TOTAL	20
3. DATE	01/11/01
4. PROJECT NAME	24 UNIT AIRPORT INDUSTRIAL WORK LOFTS
5. PROJECT ADDRESS	24 UNIT AIRPORT INDUSTRIAL WORK LOFTS
6. PROJECT CITY	BANNING, CA
7. PROJECT COUNTY	SAN DIEGO
8. PROJECT ZIP	92220
9. PROJECT PHONE	
10. PROJECT FAX	
11. PROJECT E-MAIL	
12. PROJECT WEBSITE	
13. PROJECT ARCHITECT	WATERMARK DEVELOPMENT INC.
14. PROJECT ENGINEER	
15. PROJECT DESIGNER	
16. PROJECT DRAFTER	
17. PROJECT CHECKER	
18. PROJECT APPROVER	
19. PROJECT REVIEWER	
20. PROJECT DATE	01/11/01

A-42



FLOOR PLAN KEY NOTES:

- 1. SEE PLAN FOR UNIT LAYOUTS
- 2. SEE PLAN FOR UNIT LAYOUTS
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STANDARD PLAN

- 1. SEE PLAN FOR UNIT LAYOUTS
- 2. SEE PLAN FOR UNIT LAYOUTS
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2ND FLOOR PLAN KEY NOTES:

- 1. SEE PLAN FOR UNIT LAYOUTS
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- 20. SEE PLAN FOR UNIT LAYOUTS

2ND FLOOR PLAN KEY NOTES:

- 1. SEE PLAN FOR UNIT LAYOUTS
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- 20. SEE PLAN FOR UNIT LAYOUTS

2ND FLOOR PLAN KEY NOTES:

- 1. SEE PLAN FOR UNIT LAYOUTS
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- 4. SEE PLAN FOR UNIT LAYOUTS
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- 19. SEE PLAN FOR UNIT LAYOUTS
- 20. SEE PLAN FOR UNIT LAYOUTS

1/16

**WATERMARK
DEVELOPMENT
INC**

123 1/2 Street, Suite 100
Burlington, MA 01803
Tel: 978-251-1100
Fax: 978-251-1101
www.watermarkdev.com

PROJECT NO. 2001-001
DATE: 01/11/01
SCALE: 1/8" = 1'-0"

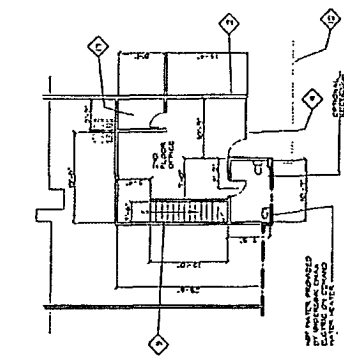
**24 UNIT
AIRPORT
INDUSTRIAL
WORK
LOFTS**

**2ND
FLOOR
ROOM
OPTIONS
PLAN**

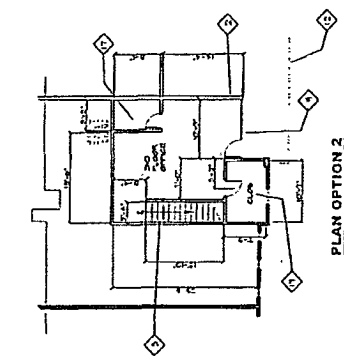
NO.	DESCRIPTION	DATE	BY	CHKD
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3				
4				
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21				
22				
23				
24				

PROJECT NO. 2001-001
DATE: 01/11/01
SCALE: 1/8" = 1'-0"

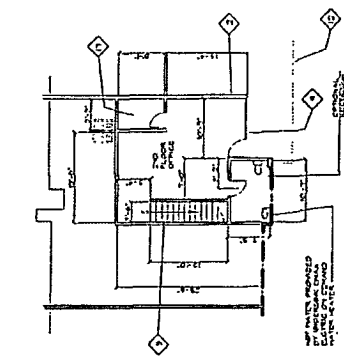
**2ND
FLOOR
ROOM
OPTIONS
PLAN**



PLAN OPTION 1
OPTIONAL 2ND FLOOR EXPANDED LOFT UNIT
WITH OPTIONAL BONUS ROOM
SCALE: 1/8" = 1'-0"



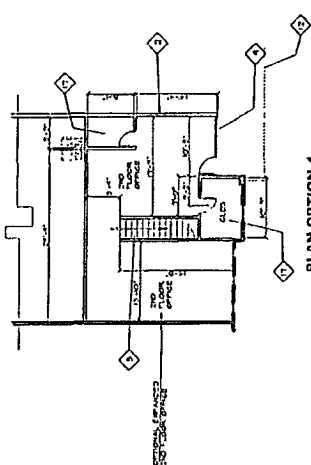
PLAN OPTION 2
STANDARD 2ND FLOOR OFFICE
SCALE: 1/8" = 1'-0"



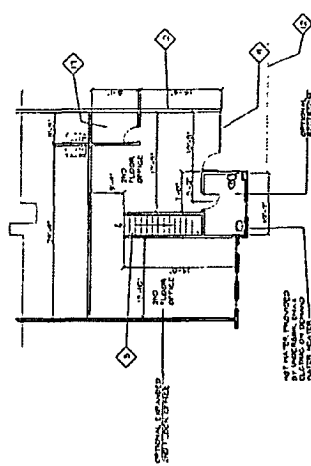
PLAN OPTION 3
STANDARD 2ND FLOOR OFFICE
WITH OPTIONAL RESTROOM
SCALE: 1/8" = 1'-0"

FLOOR PLAN KEY NOTES:

1. NEW AND EXISTING WALL LOCATIONS
2. EXIST. 2ND FLOOR BONUS ROOM UNIT - SEE EXISTING PLANS
3. EXIST. 2ND FLOOR BONUS ROOM UNIT - SEE EXISTING PLANS
4. EXIST. 2ND FLOOR BONUS ROOM UNIT - SEE EXISTING PLANS
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24. EXIST. 2ND FLOOR BONUS ROOM UNIT - SEE EXISTING PLANS

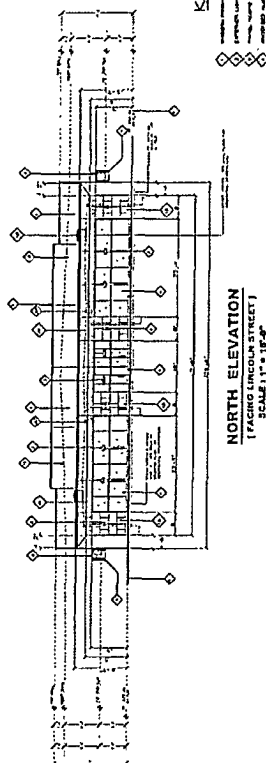


PLAN OPTION 4
EXPANDED 2ND FLOOR OFFICE
WITH OPTIONAL RESTROOM
SCALE: 1/8" = 1'-0"

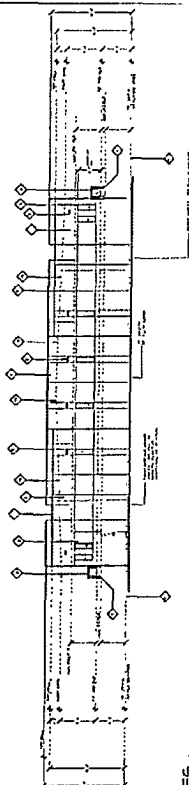


PLAN OPTION 5
EXPANDED 2ND FLOOR OFFICE
WITH OPTIONAL RESTROOM
SCALE: 1/8" = 1'-0"

**AVAILABLE
PLAN OPTIONS**

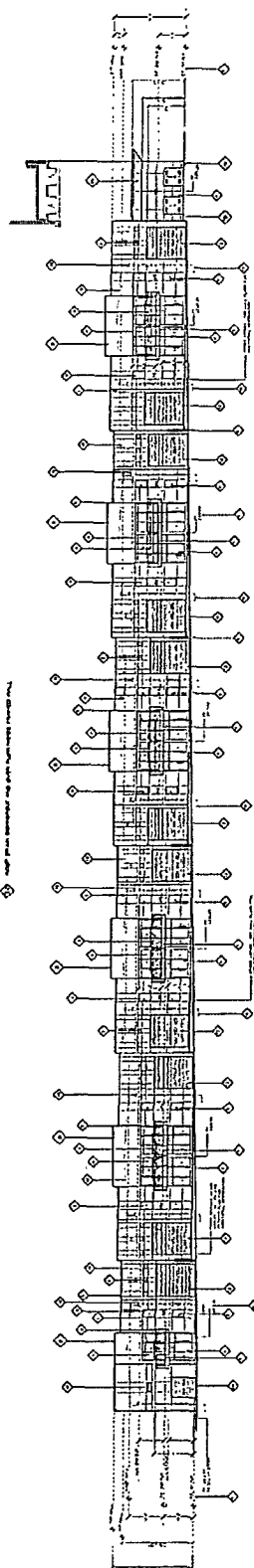


NORTH ELEVATION
(FACING LINCOLN STREET)
SCALE : 1" = 15'-0"

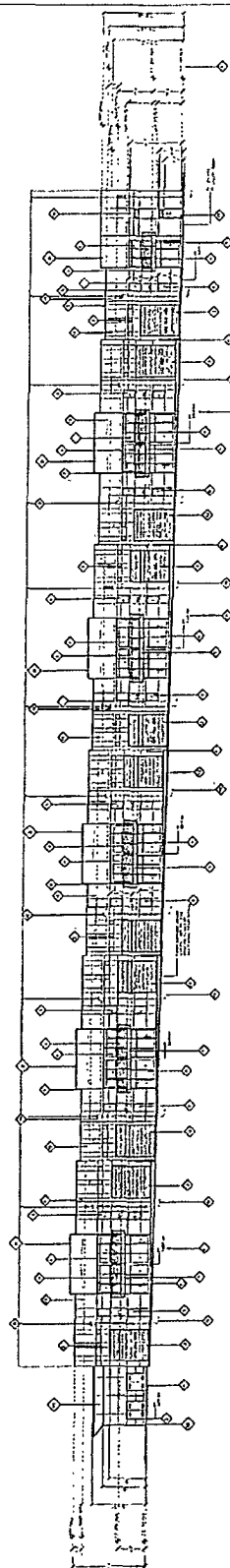


SOUTH ELEVATION
[FACING BARBOUR AVENUE]
SCALE: 1" = 10'-0"

KEY NOTES:

[illegible]

EAST ELEVATION
SCALE: 1" = 10'-0"



WEST ELEVATION
SCALE: 1" = 15'-0"

**CITY COUNCIL AGENDA
REPORT OF OFFICERS**

DATE: April 8, 2014

TO: Honorable Mayor and City Council

FROM: Heidi Meraz, Community Services Director

SUBJECT: Termination of Lease Agreement with Alliance for Youth Employment Skills (AYES) for Utilization of Dysart Park

BACKGROUND:

On April 1, 2011 the City of Banning and Alliance for Youth Employment Skills (AYES) entered into a lease agreement allowing AYES to utilize specified areas and space at Dysart Park. The agreement was recommended by the Parks and Recreation Commission and approved by the City Council with the understanding that the program would be providing horticulture and landscape training, as well as developing skills in marketing, sales, logistics and website design and management for youth and young adults in our community.

At the time the agreement was made, AYES was working the Riverside County Office of Education, more specifically with students in the Adult Life Skills program at the Milo P. Johnson School in Banning. AYES is no longer working with the Riverside County Office on Education, and does not have a formal educational component as part of their current program.

Mr. Ben White, of AYES, gave a presentation/update of the program to the Parks and Recreation Commission at their January 22, 2014 commission meeting. At that meeting, staff was asked by the commission to look into the following concerns regarding the lease agreement and the program:

1. Use of areas in excess of allocated space.
2. Visual appearance of the area that is being used.
3. Lack of participation by youth in the program.
4. The fact that AYES is no longer providing their program through the Riverside Office of Education.

A Special Meeting of the Parks and Recreation Commission was held on February 6, 2014 to allow Mr. White opportunity to address the specific questions and concerns that had been brought forward at the meeting of January 22nd.

It was determined that the AYES program was indeed using more space than is allocated in the lease and the general feeling was that the condition of the area being used was in some areas,

unsightly. It was also confirmed that AYES is no longer working with the Riverside Office of Education and that there are only four (4) young adults currently participating in the program.

At the regularly scheduled meeting of the Parks and Recreation Commission held on February 18, 2014 the Commission voted unanimously that the recommendation be made to the City Council to discontinue the Lease Agreement with the Alliance for Youth Employment Skills and that the (AYES) program be given (30) days, as stated in the lease agreement, to clean up the area and bring the area back to the way it was when the lease was executed.

RECOMMENDATION

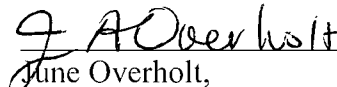
Provide direction to Staff regarding the Lease Agreement with Alliance for Youth Employment Skills (AYES). If Council desires to terminate the Lease, then authorize the City Manager to send letter to that effect to AYES.

PREPARED BY:



Heidi Meraz,
Community Services Director

APPROVED BY:

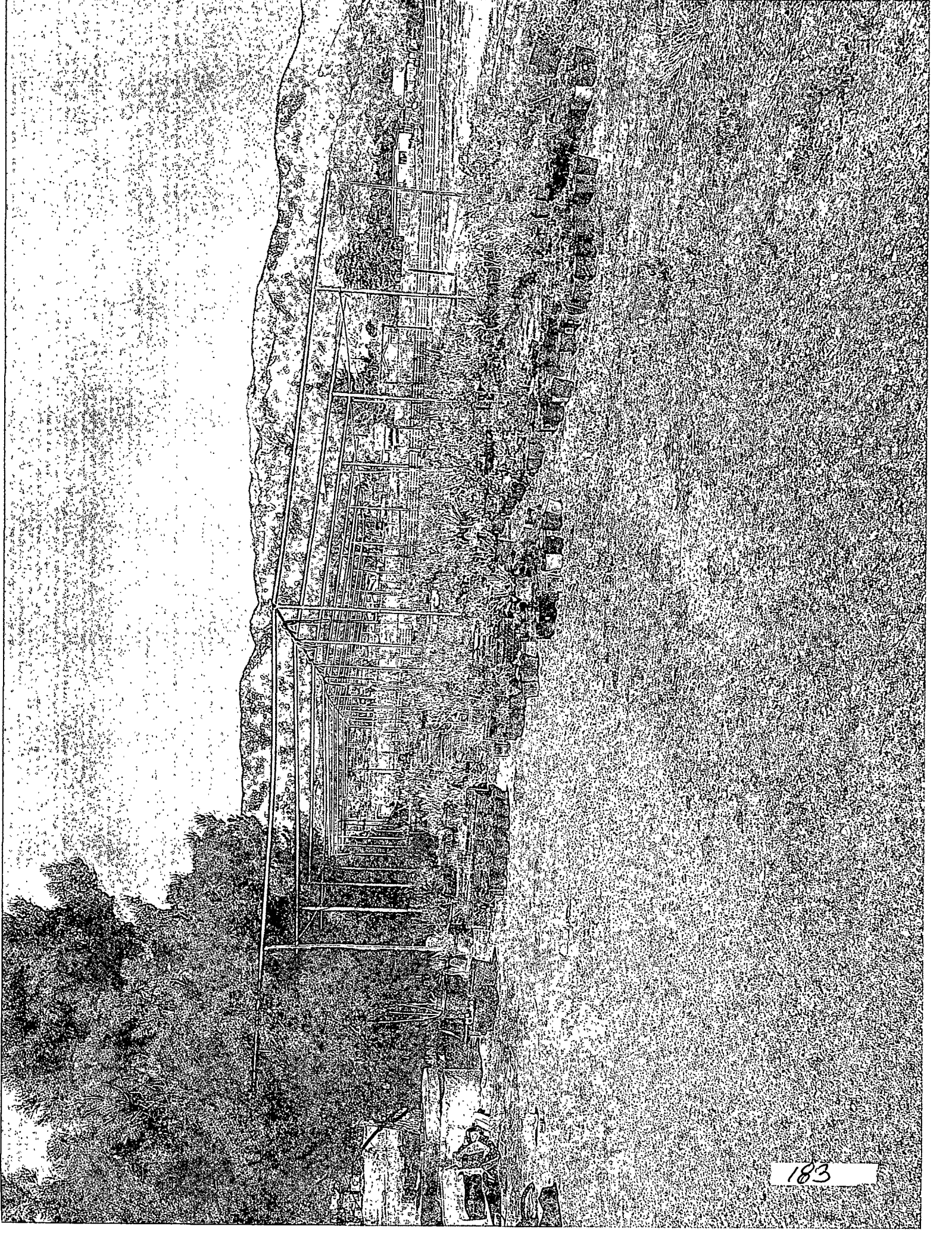


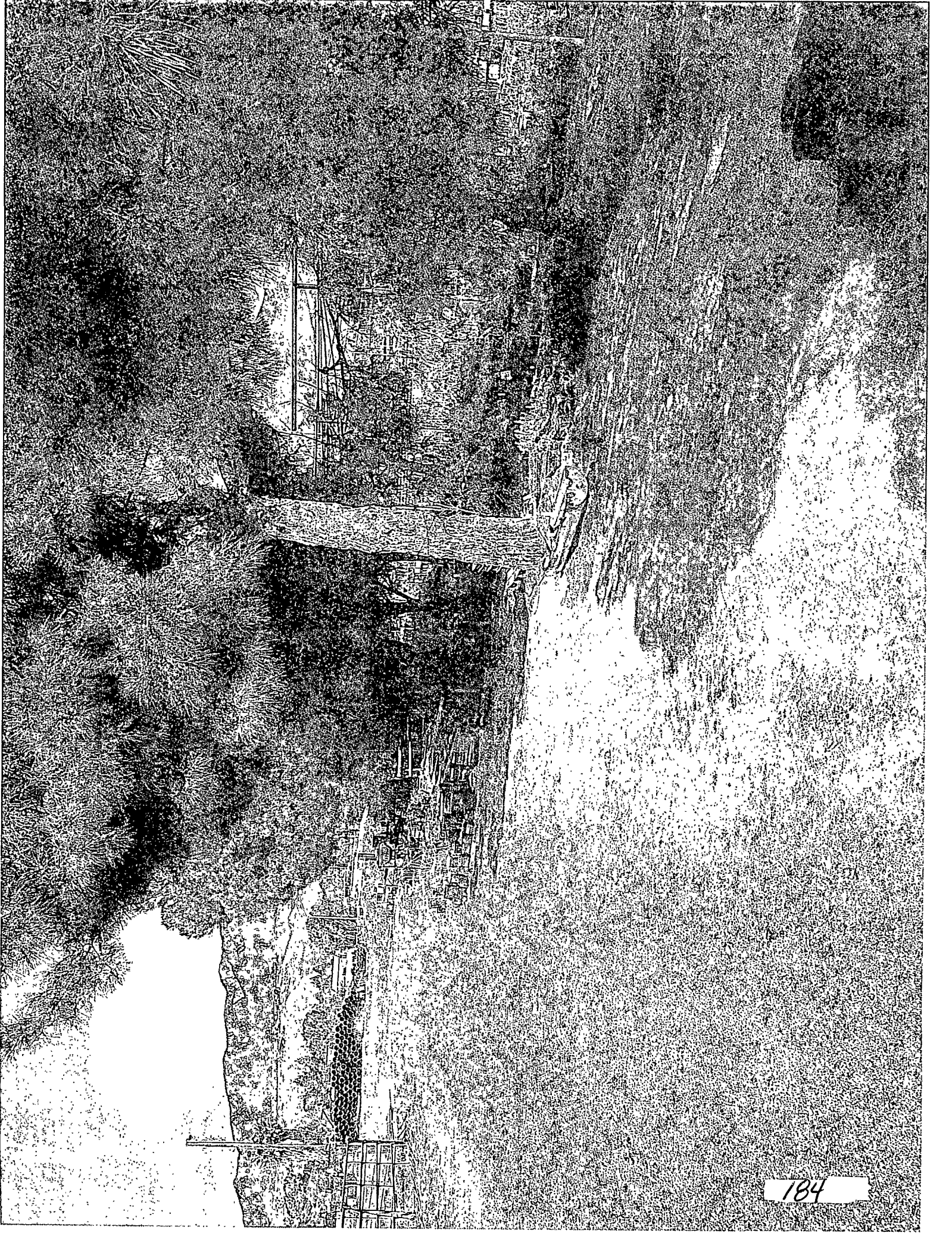
June Overholt,
Interim City Manager

**PICTURES OF THE AREA
BEING USED**











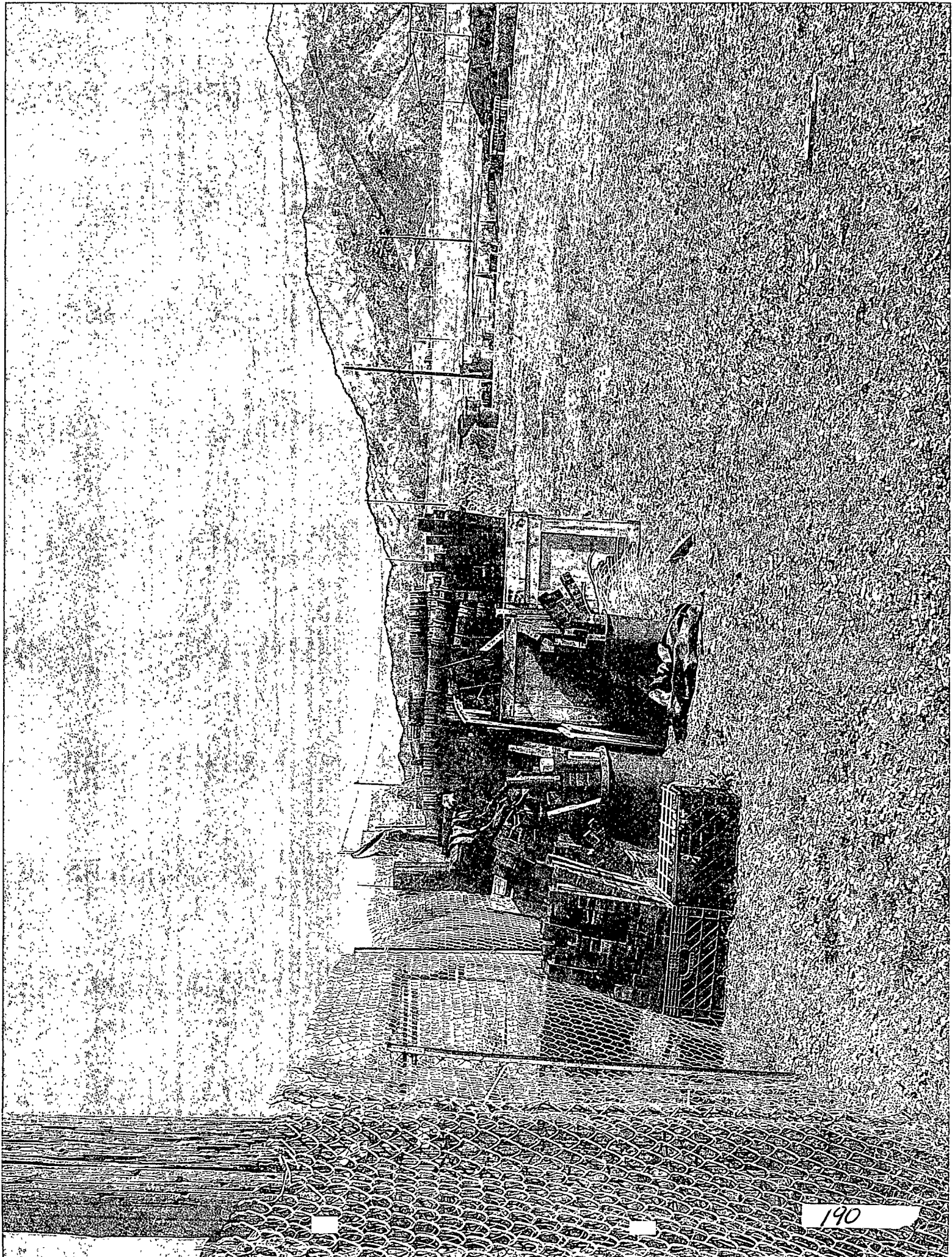


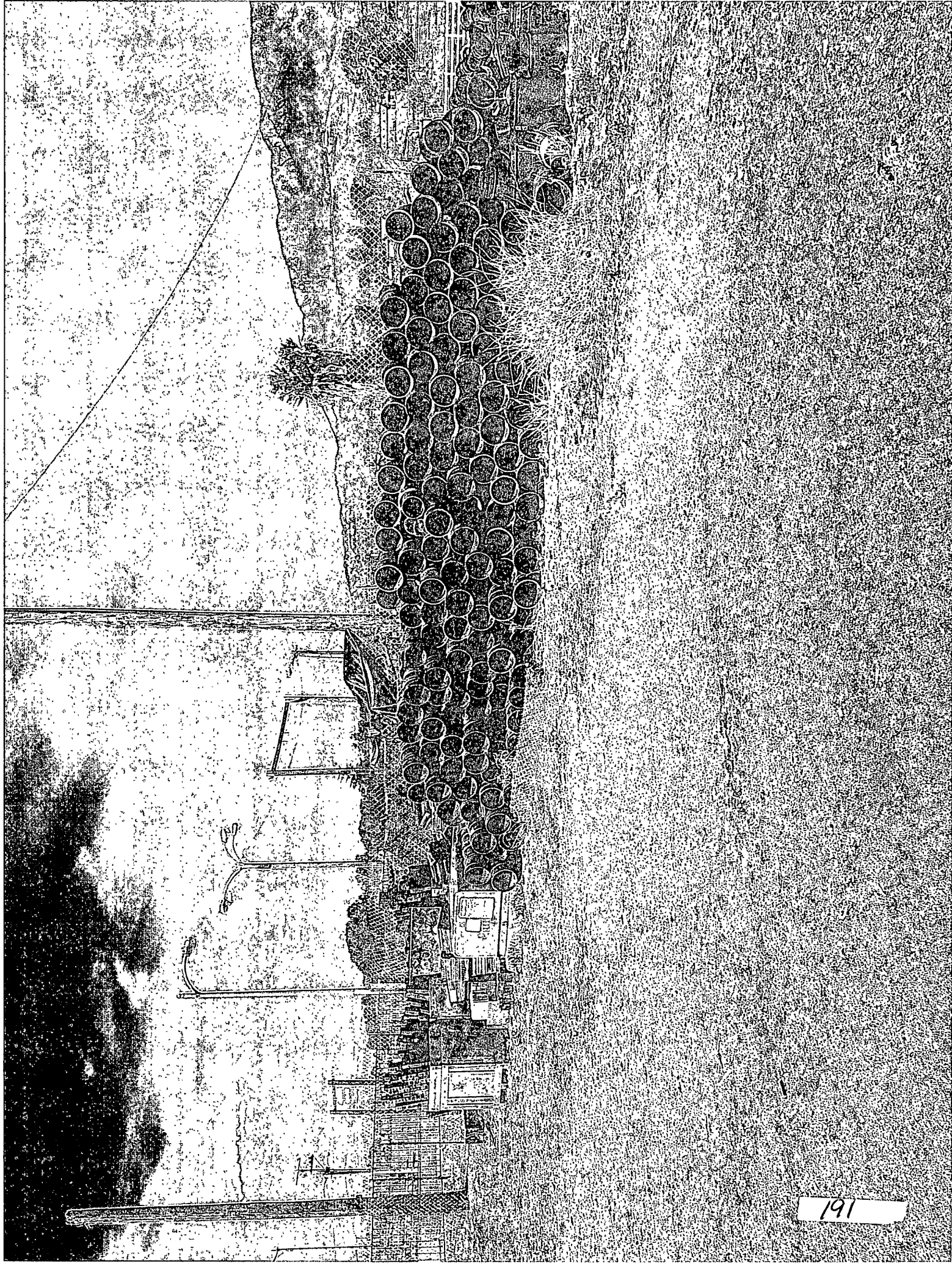


187









**LEASE AGREEMENT
WITH
ALLIANCE FOR
YOUTH EMPLOYMENT SKILLS (“AYES”)**

LEASE AGREEMENT

ORIGINAL

THIS LEASE AGREEMENT ("Lease") is made and entered into this 1 day of April, 2011, by and between the CITY OF BANNING, a California general law municipal corporation ("CITY"), and the ALLIANCE FOR YOUTH EMPLOYMENT SKILLS, ("AYES"), a not-for-profit project under the sponsorship of Housing Assistance Program for Veterans Inc., a California not-for-profit corporation.

AGREEMENT

NOW, THEREFORE, the parties incorporate the Recitals as set forth herein and agree as follows:

ARTICLE 1. Term and Termination

A. The initial term of this Lease is for twelve months (12), commencing on April 1, 2011, and ending on March 31, 2012, unless sooner terminated as provided for herein. CITY shall maintain the right to extend this agreement at its sole discretion.

B. Notwithstanding any provisions to the contrary in this Lease, CITY may terminate this Lease before the expiration of the stated term if (i) AYES does not receive approval by the appropriate governmental authority to continue to occupy the premises; (ii) if such approval has been granted, but is subsequently withdrawn by such governmental authority due to budgetary constraints, or (iii) AYES fails to continue to operate the AYES programs for which the premises were originally leased (iv) either party elects to terminate this lease by notice delivered to the other party at least thirty days (30) prior to such termination. In the event of the occurrence of any of the foregoing, CITY may, in its sole discretion, give written notice to AYES, to terminate this lease and neither party shall have any further obligation to the other hereunder.

ARTICLE 2. Lease

A. CITY hereby leases to AYES, and AYES hereby rents from CITY, all of those certain premises, which are specifically identified on the "Site Map", attached hereto as "Exhibit A" and incorporated herein by this reference (the "Premises"), to be leased to AYES on the terms and conditions contained in this Lease. The Premises are portions of that larger City-owned park commonly known as "A.C. Dysart Equestrian Park" (hereinafter, the "Park"). The Premises are marked with an "X" in "Exhibit A" and consist of the following elements:

- (1) 6,000 square feet of ground located at the east end of the arena, bordered by a tree line on the west and an access road on the east, (the "Open Area"), and
- (2) Use of one mobile structure (the "Mobile Unit"), and
- (3) Use of three outdoor shade structures (the "Shade Areas").

B. CITY shall provide AYES use of the space identified as the Premises in the Site Map during the term of this Agreement, portions of which are "non-exclusive" and shall be shared with others as authorized and approved by the City of Banning or its duly authorized agents or representatives. Other portions of the Premises are leased to AYES on an "exclusive" basis and shall be used exclusively by AYES except as otherwise provided by this Agreement. The exclusive and non-exclusive use areas of the Premises are as follows:

- (1) During the hours that AYES is utilizing the Premises, it shall have exclusive use of the Open Area.
- (2) Exclusive use of one storage room in the Mobile Unit, which storage unit shall be designated by the CITY on or before the Commencement Date of this Lease.
- (3) Except for the one storage unit designated for AYES' exclusive use, AYES shall have non-exclusive use of the remainder of the Mobile Unit.
- (4) Non-exclusive use of the Shade Areas.

C. In addition to the Premises specifically leased to AYES, the CITY grants to AYES, for the benefit of AYES and its employees, suppliers, shippers, contactors, customers and invitees, during the term of this Lease, the non-exclusive right to use those Common Areas (as hereinafter defined) of the Park in common with others. AYES is entitled to use the Common Areas as they exist from time to time, subject to any rights, powers, and privileges reserved by CITY under the terms hereof or under the terms of any rules and regulations or restrictions governing the use of the Park. In exercising any rights of access on, over or across Common Areas, AYES shall not disrupt or interfere with any other public or special event users.

D. CITY shall provide AYES with a schedule of planned uses of the Park space and facilities such that AYES has reasonable advance notice of uses by others which could interfere with the activities of AYES and so that AYES can plan its activities so as not to interfere with other permitted uses ("Notice of Event"). The CITY will make a reasonable effort to provide such Notice of Event to AYES at least ten (10) days before the scheduled event. Notwithstanding the foregoing, AYES specifically acknowledges and accepts that certain CITY-sponsored events will take precedence over AYES' use of the Premises. In particular, without limitation, the CITY's "Stagecoach Days" event in September may entail the CITY's exclusive use of the entire Park. AYES hereby accepts that it may be excluded from the Premises on such days designated for CITY-sponsored events.

E. CITY or such other person(s) as CITY may appoint shall have the exclusive control and management of the Common Areas and shall have the right, from time to time, to establish, modify, amend and enforce reasonable rules and regulations ("Rules and Regulations") for management, safety, care and cleanliness of the grounds, the parking and unloading of vehicles and the preservation of good order, as well as for the convenience of other occupants or AYES of the Project and their invitees. AYES agrees to abide by and conform to all such Rules and Regulations, and to cause its employees, suppliers, shippers, customers, contractors and invitees to so abide and conform.

F. CITY shall have the right, in CITY's sole discretion, from time to time to perform the following:

- (1) To make changes to the Common Areas, including without limitation, changes in the location, size, shape and number of driveways, entrances, parking spaces, parking areas, loading and unloading areas, ingress, egress, direction of traffic, landscaped areas, walkways and utility raceways so long as the Premises leased are not altered;
- (2) To close temporarily any of the Common Areas for maintenance purposes so long as reasonable access to the Premises remains available;

- (3) To designate other land outside the boundaries of the Premises to be part of the Common Areas;
- (4) To add additional buildings and improvements to the Common Areas;
- (5) To use the Common Areas while engaged in making additional improvements, repairs, or alterations to the Project, or any portion thereof; and
- (6) To do or perform such other acts or make such other changes in, to or with respect to the Common Areas and Project as CITY may, in the exercise of sound business judgment, deem to be appropriate.

G. The term "Common Areas" is defined as all areas and facilities outside the Premises and within the exterior boundary line of the Premises and interior utility raceways and installations within the Premises that are provided and designated by the CITY from time to time for the general non-exclusive use of CITY, AYES and their respective employees, suppliers, shippers, customers, contractors and invitees, including parking areas, loading and unloading areas, trash areas, roadways, walkways, driveways and landscaped areas.

ARTICLE 3. Minimum Rent

A. This Lease is entered into for good and valuable consideration for the period commencing on the Commencement Date and ending on the Termination Date as provided for herein. AYES shall pay to CITY as and for consideration the yearly rental amount of one dollar (\$1.00). The rent shall be payable in advance of the first day of the term of this lease addressed to:

City of Banning
99 Ramsey Street
Banning, CA 92220
Attn: Community Services Director

or, at another address that the CITY may use from time to time designate by written notice from CITY to AYES.

ARTICLE 4. Utilities

Except where separate metering and billing is not practicable and to the extent such amounts are deemed by CITY to be inconsequential and de minimis, during the Term stated herein, AYES shall be solely responsible for and shall promptly pay, before delinquency, all charges or assessments for water, sewer, gas, heat, electricity, garbage disposal, trash disposal, and all other utilities and services of any kind that may be used on the Premises by AYES at the rates charged by the supplying utility companies. Throughout the term of this lease, CITY shall have the right to make reasonable allocations to AYES for utilities that are not separately metered or billed and AYES shall pay said amounts within 15 days of receipt of notice of such allocation.

ARTICLE 5. Taxes

A. CITY shall pay to the public authorities charged with the collection on or before the last day on which payment may be made without penalty or interest, all real estate taxes that are assessed against the Premises or arise because of the occupancy, use, or possession of the

Premises subsequent to the commencement of the Term, and all installments of assessments that are due during the Term as required by law.

B. CITY shall be required to pay, discharge, or remove any tax (including penalties and interest), assessments, tax liens, forfeiture, or other imposition or charge against the Premises or any part of the Premises or any improvements. CITY shall maintain the premises free from any encumbrance that may interfere with AYES's right of use and enjoyment.

ARTICLE 6. Use of Premises

A. AYES will occupy and use the Premises exclusively and solely for the purpose of the administration, conduct, operation, and promotion of the employment skills training programs, activities and services of AYES, (including without limitation the conduct of educational and training classes, the ongoing operation of a plant nursery, public education with respect to native and drought-tolerant plants and water conservation) and for no other use or purpose. AYES program focuses upon vocational training for at-risk and/or special needs youth in the vocation of horticulture, nursery operations and seed processing. AYES use of the Premises shall specifically be limited to the following activities:

- (1) Growing plants in containers on the ground of the Open Area. Temporary, moveable shade coverings may be placed in the Area to protect young, growing plants and seedlings from direct summer sun;
- (2) The horticultural activities shall propagate drought-hardy and native California plants suitable for planting in public parks, highways and facilities;
- (3) Once mature, plants grown by AYES on the Premises may be planted in the Park, subject to the CITY's prior approval of the location and design of such plantings;
- (4) The CITY-designated storage room in the Mobile Unit shall be used for storage of AYES' supplies, and AYES warrants that such supplies shall be safe for indoor storage;
- (5) AYES shall not use, or permit the Premises, or any part thereof, to be used for any purposes other than the purposes for which the Premises are hereby leased.

B. Youth participants in the AYES program activities on the Premises shall at all times be under the supervision and guidance of qualified adult program instructors. As of the Commencement Date, the program instructors utilized by AYES are those persons identified in "Exhibit B" hereto. All program instructors shall have an educational background, work experience and/or credential qualifying the instructor to (i) supervise at-risk or special needs minors, and (ii) provide vocational training in the fields of horticulture, botany, planting, nursery operations or seed processing. Any instructors or program supervisors retained by AYES for the purpose of AYES' activities on the Premises shall have an educational background, work experience and/or credential reasonably equivalent to the qualifications of those people identified in "Exhibit B".

C. AYES shall open for business in the Premises no later than the Commencement Date and shall thereafter operate continuously for business to the public in the Premises. AYES

shall conduct its business in the Premises during the usual and customary days and hours for such type of business.

D. AYES shall not commit any acts on the Premises, nor use the Premises in any manner that will increase the existing rates for or cause the cancellation of any fire, liability, or other insurance policy insuring the Premises or the improvements on the Premises. AYES shall, at AYES's own cost and expense, comply with all requirements of CITY's insurance carriers that are necessary for the continued maintenance at reasonable rates of fire and liability insurance policies.

E. AYES, at its sole cost, shall comply with any and all laws concerning the Premises or AYES's use of the Premises, including, without limitation, the obligation at AYES's cost to alter, maintain or improve the Premises in compliance with and conformity with all laws relating to the condition, use or occupancy of the Premises during the term (including the Americans With Disabilities Act).

F. AYES agrees not to use the Premises for any immoral or unlawful purpose.

G. AYES shall not commit any waste or any public or private nuisance upon the Premises.

H. AYES shall comply with all laws, rules, and orders of all federal, state and municipal governments or agencies that may be applicable to use of the Premises.

I. AYES shall at all times keep the Premises in a neat and attractive appearance.

J. AYES' use or storage of any chemical or other fertilizers on the Premises shall be undertaken safely, according to manufacturer's directions, and in such a manner as to prevent any contamination to soils, noxious fumes, odors, or combustible conditions.

K. AYES's use of the Premises is subject to: (i) the effect of any covenants, conditions, restrictions, easements, development agreements, mortgages or deeds of trust, ground subleases, rights of way, and other matters or documents of record now or hereafter recorded, (ii) the effects of any zoning laws of the CITY, county and state where the premises are situated.

L. AYES agrees (i) that as to its leasehold estate it, and all persons in possession or holding under it, will conform to and will not violate said matters of record, and (ii) that this lease is and shall be subordinate to said matters of record and any amendments or modifications thereto.

ARTICLE 7. Condition of Premises

AYES acknowledges that as of the date of this Lease, AYES has inspected the Premises and all improvements on the Premises and that the Premises and improvements are in good order, repair, and condition. AYES therefore takes occupancy of the Premises "AS-IS".

The parties agree that any additional improvements or alterations to the Site, not otherwise specified herein, must be authorized by CITY in writing and performed at the sole cost and expense of AYES.

ARTICLE 8. Repairs and Maintenance

A. AYES, at its sole cost and expense, shall keep the Premises in reasonable order, condition and repair and shall make all replacements necessary to keep the Premises in such condition. AYES, at its expense, shall repair promptly any damage to the Premises caused by AYES or its agents, employees, or program participants, or caused by the installation or removal of AYES's personal property. All replacements shall be of a quality equal to or exceeding that of the original. Should AYES fail to make these repairs and replacements or otherwise so maintain the Premises for a period of fifteen (15) days after written demand by CITY, or should AYES commence, but fail to complete, any repairs or replacements within sixty (60) days after written demand by CITY, CITY may enter the Premises and make such repairs or replacements and AYES shall pay to CITY the costs incurred by CITY in making such repairs or replacements together with interest thereon at the maximum rate permitted by law from the date of commencement of the work until repaid. CITY shall be responsible for exterior maintenance of the Premises.

B. AYES agrees to deliver to CITY physical possession of the Premises at the end of the Term, or any extension of the Term, in good condition and repair, reasonable wear and tear and loss by fire or other casualty or by earthquake or other act of God excepted.

ARTICLE 9. AYES Improvements and Alterations

A. AYES shall be responsible for constructing any improvements necessary to use the Premises for the purpose of facilitating the conduct of administrative services at its sole cost and expense (the "AYES's Work"). AYES shall have sole responsibility for all architectural and space planning involved in AYES's Work. All such construction shall be subject to the CITY's prior written approval.

B. All construction work required or permitted by this Lease shall be subject to the prior written approval of CITY and done in a good and workmanlike manner, and in compliance with all applicable laws and ordinances, regulations, and orders of governmental authority and insurers of the Premises.

C. Except for the AYES's Work approved by CITY by written agreement, AYES shall not make any alterations to the building and improvements on the Premises, without CITY's prior written consent. Approval may be conditioned upon the receipt by CITY of a set of plans and specifications for the alterations no later than thirty (30) days prior to the scheduled construction of the alterations. AYES will indemnify and defend CITY for all liens, claims, or damages caused by remodeling, improvements, additions, alterations, and major repairs. CITY agrees, when requested by AYES, to execute and deliver any applications, consents, or other instruments required to permit AYES to do this work or to obtain permits for the work.

D. Except as otherwise set forth in this Article, all alterations and improvements made to the Premises shall become the property of CITY and shall remain on and be surrendered with the Premises at the expiration or sooner termination of this lease, including any renewals or extensions.

E. At least ten (10) days before any construction commences or materials are delivered for any alterations that AYES is making to the Premises, AYES shall give written notice to CITY as to when the construction is to commence or the materials are to be delivered. CITY shall then have the right to protect CITY and CITY's interest in making the alterations; provided, however, that it shall be AYES' duty to keep the Premises free and clear of all liens,

claims, and demands for work performed, materials furnished, or operations conducted on the Premises at the request of AYES.

F. AYES will not at any time permit any mechanics', laborers, or material men's liens to stand against the Premises for any labor or material furnished to AYES or claimed to have been furnished to AYES or AYES's agents, contractors, or sub-contractors, in connection with work of any character performed or claimed to have been performed on the Premises by or at the direction or sufferance of AYES; provided, however, that AYES shall have the right to contest the validity or amount of any lien or claimed lien, upon giving to CITY a letter executed by AYES assuring that the lien or claimed lien will be paid, when and to the extent that the lien is finally determined to be valid and owing. AYES's right, however, to contest these liens shall not extend beyond the point where CITY's title to the Premises could be lost. On final determination of the lien or claim of lien, AYES will immediately pay any final judgment rendered, with all property costs and charges, and shall have the lien released or judgment satisfied at AYES's own expense. If AYES fails to pay the judgment promptly or otherwise fails to prevent any sale, foreclosure, or forfeiture of the Premises because of a lien, CITY shall have the right, upon five (5) days' written notice to AYES, to pay or prevent this action, and the amount paid by CITY shall be immediately due and payable to CITY.

ARTICLE 10. Signs

A. AYES may place and maintain signs on the Premises provided, however, that AYES shall first obtain any necessary governmental permits' or licenses therefore and maintain it in good appearance' and repair at all times during this lease. At the Termination Date, any of the items mentioned in this section that are not removed from the Premises by AYES may, without damage or liability, be destroyed by CITY.

B. Any Trade Fixtures that are not removed from the Premises by AYES within thirty (30) days after the Termination Date shall be deemed abandoned by AYES and shall automatically become the property of CITY as owner of the real property to which they are affixed.

ARTICLE 11. Entry

AYES shall permit CITY or CITY's agents, representatives, or employees to enter the Premises at all reasonable times and upon at least two (2) hours prior notice to inspect the Premises to determine whether AYES is complying with the terms of this lease and to do other lawful acts that may be necessary to protect CITY's interest in the Premises under this lease or to perform CITY's duties under this Lease. CITY's entry and any work conducted by CITY or its contractors shall be performed without interruption or unreasonable interference with AYES's ability to operate its business and to remain open to the public for business.

ARTICLE 12. Surrender of Premises; Holding Over

A. On the Termination Date or upon termination of this Lease, AYES shall promptly surrender and deliver the Premises to CITY in as good condition as they are now at the date of this lease, reasonable wear and tear excepted.

B. At the end of the Lease term, should AYES hold over for any reason, it is agreed that in absence of a written agreement to the contrary, that tenancy shall be from month-to-month only and not a renewal of this lease, or an extension for further term. AYES shall pay Monthly Rent in an amount established by CITY, and the month-to-month tenancy shall be subject to

every other term, covenant and condition in this lease that is consistent with and not contrary to a month-to-month tenancy.

ARTICLE 13. Damage and Destruction

A. If the building or other improvements constructed on the Premises are damaged or destroyed, whether partially or entirely, by any cause, CITY may elect to repair, restore, or reconstruct the damaged or destroyed building and other improvements so that the condition and quality of the new building and other improvements shall be as near as reasonably possible to the condition and quality immediately prior to the damage or destruction to the extent that proceeds of insurance are available. Damage to or destruction of any portion of the building except the premises occupied by AYES, fixtures, or other improvements on the Premises by fire, the elements, or any other cause shall not terminate this Lease or entitle AYES to surrender the Premises or otherwise affect the respective obligations of the parties, any present or future law to the contrary notwithstanding. However, if the building fixtures, or other improvements on the Premises are totally destroyed or damaged or the CITY does not elect to repair the Premises and the Premises are partially or wholly unsuitable or inadequate for the purposes for which AYES was using the Premises prior to the destruction or damage, the CITY at its sole option may terminate the Lease.

B. If the Premises are damaged or destroyed in whole or in part and the available insurance proceeds are equal to the cost of repair, less any applicable deductible amount, CITY may, at its option, proceed with due diligence to have plans and specifications prepared, to commence rebuilding, reconstruction, or restoration as promptly as possible after the occurrence of the event causing the damage or destruction, and thereafter to diligently complete the work. If the insurance proceeds are not equal to the cost of repair, CITY may, but shall not be obligated to do whatever may be necessary for the rebuilding, recordation, repair, or restoration of any building or improvements damaged or destroyed at its own cost and expense.

C. AYES shall give prompt notice to CITY in case of fire or accidents in the Premises or of any damage or defects in the Premises or any fixtures or equipment therein.

ARTICLE 14. Waiver for Loss and Damage.

Except as may be expressly provided for to the contrary in this Lease, CITY shall not be liable for any damage to property of AYES, or of others, located in, on or about the Premises, nor for the loss of or damage to any property of AYES or of others by theft or otherwise. CITY shall not be liable to AYES, AYES 's employees or representatives for any injury or damage to persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water, rain or leaks from any part of the Premises or from the pipes, appliances or plumbing works or from the roof, street or sub-surface or from any other places or by dampness or by any other cause of whatsoever nature, except as may be proximately caused by an act or omission of CITY or its employees, contractors or agents. CITY shall not be liable to AYES, AYES 's employees or representatives for any such damage caused by persons in the Premises, or the public, or caused by operations in construction of any private, public or quasi-public work, that are not proximately caused by CITY, or its employees, contractors or agents. CITY shall not be liable for any latent defects in the Premises or in the Building at any time after the commencement of AYES's Work. All property of AYES kept or stored on the Premises shall be so kept or stored at the sole risk of AYES and AYES shall hold CITY harmless from any claims arising out of damage to the same, including subrogation claims by AYES 's insurance carriers, unless such damage shall be proximately caused by the acts or omissions of CITY, or its employees, contractors or agents.

ARTICLE 15. Assignment and Subletting

A. AYES shall not assign this lease in whole or in part, nor sublet all or any part of the Premises, without the prior written consent of CITY. The consent by CITY to any assignment or subletting shall not constitute a waiver of the necessity for such consent to any subsequent assignment or subletting. If this lease is assigned by AYES, or if the Premises or any part thereof are sublet or occupied by any person or entity other than AYES, CITY may collect Rent from the assignee, subtenant or occupant, for its own use and purpose and terminate this Lease. Collection shall not be deemed a waiver on the part of CITY, or the acceptance of the assignee, subtenant or occupant as AYES, or a release of AYES from the further performance by AYES of covenants on the part of AYES herein contained.

B. Irrespective of any assignment or sublease, AYES shall remain fully liable under this lease and shall not be released from performing any of the terms, covenants and conditions of this Agreement.

ARTICLE 16. Involuntary Assignment.

No interest of AYES in this lease shall be assignable by operation of law (including, without limitation, the transfer of this Lease by testacy or intestacy). Each of the following acts shall be considered an involuntary assignment: (a) if AYES is or becomes bankrupt or insolvent, makes an assignment for the benefit of creditors, or institutes a proceeding under the Bankruptcy Act in which AYES is bankrupt; or, if AYES is a partnership or consists of more than one person or entity, if any partner of the partnership or other person or entity is or becomes bankrupt or insolvent, or makes an assignment for the benefit of creditors; (b) if a writ of attachment or execution is levied on this Lease; or (c) if, in any proceeding or action to which AYES is a party, a receiver is appointed with authority to take possession of the Premises. An involuntary assignment shall constitute a default by AYES, and Owner shall have the right to elect to terminate this Lease, in which case this lease shall not be treated as an asset of AYES.

ARTICLE 17. Indemnification

A. Indemnification of CITY. AYES hereby waives all claims against CITY for damage to equipment or other personal property, in, upon, or about the Premises and for injuries to persons in or about the Premises, from any cause relating to AYES's use of the Premises. AYES agrees to indemnify and defend (with counsel reasonably acceptable to CITY) CITY, its officers, agents, and employees against, and shall hold and save them and each of them harmless from any and all actions, suits, claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions, or liabilities (herein "claims or liabilities") that may be asserted or claimed by any persons, firm, or entity arising out of or in connection with the negligent performance of the work, operations, or activities of AYES, its agents, employees, subcontractors, or invitees, provided for herein, or arising from the use of the Premises, or arising from the failure of AYES to fulfill any obligation hereunder to keep the Premises in good condition and repair, or arising from the negligent acts or omissions of AYES or its agents, employees, subcontractors, or invites hereunder, or arising from AYES's negligent performance of or failure to perform any term of this lease.

B. Indemnification of AYES. CITY hereby waives all claims against AYES for damage to equipment or other personal property, in, upon, or about the Premises and for injuries to persons in or about the Premises, from any cause relating to the activities and use of the CITY, its officers, agents, employees and invitees. CITY agrees to indemnify AYES, its officers, agents, and employees against, and shall hold and save them and each of them harmless from any

and all claims or liabilities that may be asserted or claimed by any persons, firm, or entity arising out of or in connection with the intentional acts or omissions of CITY, its agents, employees, subcontractors, or invitees, provided for herein.

ARTICLE 18. Insurance

A. **Liability Insurance Coverage.** AYES, at its sole expense, shall obtain prior to entering onto the Property and/or commencing any activity described in this lease, and shall maintain or cause to be maintained during the entire term of this lease, comprehensive general liability insurance, including, but not limited to, owned and non-owned vehicle liability, personal injury, blanket contractual, broad form property damage, and product/completed operations liability coverage shall be on a per occurrence basis and shall have limits of not less than \$1,000,000.00 (one million dollars) combined single limit per occurrence for bodily injury, personal injury and property damage liability.

B. AYES and all persons performing work for, or on behalf of AYES, including, but not limited to, their contractors or subcontractors, shall, at AYES's own cost and expense, procure and maintain during the performance of the said work, a policy of worker's compensation insurance and employer's liability insurance in such amount as to willfully comply with the laws of the State of California.

C. All of the above policies of insurance shall name CITY, its officers, employees, and agents as additional insureds. In the event any of said policies of insurance are canceled, AYES shall, prior to the cancellation date, submit new evidence of insurance.

ARTICLE 19. Default

A. **AYES's Default.** The occurrence of any of the following shall constitute a default by AYES: (i) abandonment and/or vacation of the Premises; (ii) failure to operate in the Premises for fifteen (15) consecutive days; (iii) failure to perform any nonmonetary provision of this lease if the failure to perform is not cured within ten (10) days after notice has been given to AYES; (iv) failure to timely deliver an estoppel certificate as required by this Agreement.

B. Notices given under this Section shall not be deemed a forfeiture or a termination of this Lease unless CITY so elects in the notice. Notices given under this Section shall be in lieu of and not in addition to any statutory notice required by law.

C. **CITY's Remedies.** CITY shall have the following remedies if AYES commits a default:

- (1) CITY can continue this Lease in full force and effect after AYES's default and abandonment, and the Lease will continue in effect as long as CITY does not terminate AYES's right to possession, and CITY may enforce all CITY's rights and remedies under the Lease. During the period AYES is in default, CITY can enter the Premises and re-let them, or any part of them, to third parties.
- (2) CITY can terminate AYES's right to possession of the Premises at any time. No act by CITY other than giving notice to AYES shall terminate this lease. Acts of maintenance, efforts to relet the Premises or the appointment of a receiver on CITY's initiative to protect CITY's interest under this Lease shall not constitute a termination of AYES's right to

possession. On termination, CITY has the right to recover from AYES any and all amounts and court costs, necessary to compensate CITY for all detriment proximately caused by AYES 's default.

- (3) CITY, at any time after AYES commits a default, can cure the default at AYES's cost. If CITY at any time, by reason of AYES 's default, pays any sum or does any act that requires the payment of any sum, the sum paid by CITY shall be due immediately from AYES to CITY at the time the sum is paid, and if paid at a later date shall bear interest at the maximum rate an individual is permitted by law to charge from the date the sum is paid by CITY until CITY is reimbursed by AYES. The sum, together with interest on it, shall be additional rent.
- (4) Upon the occurrence of an Event of Default, CITY shall also have the right, with or without termination of this Lease, to re-enter the Premises and remove all persons and property from the Premises. CITY may store the property removed from the Premises in a public warehouse or elsewhere at the expense and for the account of AYES.

These remedies are not exclusive; they are cumulative and in addition to any remedies CITY may have now or later allowed by law.

D. Default by CITY. If CITY fails to perform any of the covenants or conditions required on its part to be performed pursuant to this Lease, where such failure continues for a period of thirty (30) days after receipt of written notice specifying the nature and extent of such default in detail (provided, however, that if such default is of a nature that it cannot reasonably be cured within thirty (30) day period, CITY shall have such additional time as may be required to effect such cure provided CITY commences the cure within such 30 day period), CITY's liability shall be limited to CITY's interest in the Premises. CITY shall not be liable to AYES for any damages sustained as a direct result of such default. Neither CITY nor any of its officers, employees, or agents shall be personally liable.

ARTICLE 20. Waiver of Rights of Redemption.

AYES expressly waives any and all rights of redemption granted by or under any present or future laws in the event of AYES being evicted or dispossessed for any cause, or in the event of Owner obtaining possession of the Premises, by reason of the violation by AYES of any of the covenants or conditions of this lease, or otherwise.

ARTICLE 21. Waiver of Breach

Any express or implied waiver of a breach of any term of this lease shall not constitute a waiver of any further breach of the same or other term of this lease.

ARTICLE 22. Successors and Sale of Premises

A. Successors and Assigns. Except as provided in this lease, all rights and liabilities herein given to, or imposed upon, the respective parties hereto shall extend to and bind the several respective heirs, executors, administrators, successors, and assigns of said parties. No rights, however, shall inure to the benefit of any assignee of AYES unless the assignment to such assignee has been approved by CITY in writing as provided for herein.

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B. Sale of Premises. In the event CITY shall sell, convey, transfer or exchange the Premises, AYES agrees to recognize and attorn to the purchaser or transferee, as the CITY hereunder and CITY shall be and is hereby relieved and released from any liability under any and all of its covenants and obligations under the lease arising out of any act, occurrence or event arising after such sale, conveyance, transfer or exchange.

ARTICLE 23. Miscellaneous

A. Governing Law/Venue. This lease shall be governed by and construed in accordance with California Law. In the event of litigation the appropriate venue shall be the Riverside Superior Courts.

B. Compliance with Laws. CITY shall, at its sole cost and expense, comply with all of the requirements of all municipal, state and federal authorities now in force, or which may hereafter be in force pertaining to the use of the Property; and shall faithfully observe in said use all municipal ordinances, including, but not limited to, the general plan and zoning ordinances, state and federal statutes, or other governmental regulations now in force, or which shall hereinafter be in force.

C. Amendments. This lease may be modified only in writing and only if signed by the parties at the time of the modification.

D. No Brokerage Commission. Each party agrees and acknowledges that no commission is due any real estate broker in connection with this lease.

E. Rights Cumulative. The rights and remedies of CITY specified in this lease shall be cumulative and shall inure to the benefit of the heirs, executors, administrators, successors, and assigns of CITY and AYES in addition to any other rights and remedies provided by law.

F. No Partnership. CITY does not, in any way or for any purpose, become a partner of AYES in the conduct of its business, or otherwise, or joint venture or a member of a joint enterprise with AYES by reason of this lease. The provisions of this Lease relating to the Percentage Rent payable hereunder are included solely for the purposes of providing a method whereby Rent is to be measured and ascertained.

G. Force Majeure. In the event that either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lock-outs, labor troubles, inability to procure materials, failure of power, governmental moratorium, riots, insurrection, war or other reason of a like nature not the fault of the party delaying in performing work or doing acts required under the terms of this lease (but excluding delays due to financial inability), then performance of such act shall be excused for the period of such delay.

H. Notices. Any notice to either the parties hereto required or desired under the provisions and conditions of this instrument shall be given in writing by certified mail, registered mail, or by personal delivery addressed to the party for whom it is intended at the following addresses. Notices will be deemed effectively given, in the case of personal delivery, upon receipt (or if receipt is refused, upon attempted delivery), and in the case of mailing, three (3) days following deposit into the custody of the United States Postal Service. The notice addresses of the parties are as follows:

To CITY: City of Banning
Attn: Community Services Director
99 Ramsey Street
Banning, CA 92220
Fax: (951) 922-3242

With a copy to: Aleshire & Wynder, LLP
18881 Von Karman Avenue, Suite 1700
Irvine, CA 92612
Attn: David J. Aleshire

To AYES: Alliance for Youth Employment Skills
15450 Lazy Valley Rd.
Banning, CA 92220
Attn: Ben White, Program Coordinator

Either party, AYES or CITY, may change the address for the purpose of this Section by giving written notice of the change to the other party in the manner provided in this Section.

I. Captions and Section Numbers. The captions, section numbers, article numbers, and index appearing in this lease are inserted only as a matter of convenience and in no way define, limit, construe, or describe the scope or intent of such sections or articles of this lease nor in any way affect this Lease.

J. AYES Defined, Use of Pronoun. The word "AYES" means the Alliance for Youth Employment Skills and its sponsoring organization, the Housing Assistance Program for Veterans Inc, a California not for profit corporation. The persons signing as AYES shall be jointly and severally liable. The use of the neuter singular pronoun to refer to CITY or AYES shall be deemed a proper reference even though CITY or AYES may be an individual, a partnership, a corporation, or a group of two or more individuals or corporations. The necessary grammatical changes required to make the provisions of this lease apply in the plural sense where AYES is a corporation, association, partnership, or individual, male or female, shall in all instances be assumed as though in each case fully expressed.

K. Partial Invalidity. If any term, covenant or condition of this lease or the application thereof to any person or circumstance shall to any extent, be invalid or unenforceable, the remainder of this lease, or the application for such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this lease shall be valid and enforced to the fullest extent permitted by law.

L. Recording. AYES shall not record this lease or a memorandum thereof.

M. Legal Expenses.

- (1) In the event that any time during the Term either CITY or AYES shall institute any action or proceeding against the other relating to the provisions of this lease, or any default hereunder, or engage an attorney to enforce such provision then, and in that event, the unsuccessful party in such action or proceeding agrees to reimburse the successful party for the actual expenses of attorneys' fees and disbursements incurred therein by the successful party.

- (2) The successful party in such suit shall be entitled to its costs of suit and actual attorneys' fees whether or not such action is prosecuted to judgment. "Successful party" within the meaning of this Section shall include, without limitation, a party who brings an action against the other or who defends against an action brought by the other and whose position is substantially upheld.

N. Authority. If AYES is a corporation or partnership, each individual executing this lease on behalf of such entity represents or warrants that he or she is duly authorized to execute and deliver this lease on behalf of such entity and that such entity shall be bound by all the terms and provisions hereof.

O. Severability. In the event that any provision of this lease shall be held to be invalid, the same shall not affect, in any respect whatsoever, the validity of the remainder of this lease.

P. Run With the Land. The covenants contained in this lease shall run with the land and shall be binding on successors and assigns of the parties.

Q. Corporate Authority. The persons executing this lease 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 lease on behalf of said party, (iii) by so executing this lease, such party is formally bound to the provisions of this lease, and (iv) the entering into this lease does not violate any provision of any other lease to which said party is bound.

R. Entire Agreement. This lease and the Exhibits attached hereto and forming a part hereof, set forth all the representations, covenants, promises, agreements, conditions and understandings between CITY and AYES concerning the Premises and there are no representations, covenants, promises, agreements, conditions or understandings, either oral or written, between them other than are herein set forth. Any subsequent alteration, amendment, change or addition to this Lease must be in writing, signed by CITY and AYES.

[SIGNATURE PAGE FOLLOWS]

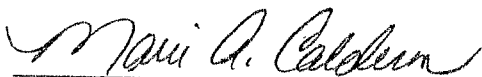
IN WITNESS WHEREOF, the parties hereto have caused this lease to be duly executed by their respective duly authorized officers or representatives as of the date first set forth above.

CITY OF BANNING COMMUNITY, a California
general law municipal corporation

By: 

Andrew J. Takata, City Manager


ATTEST:



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

APPROVED AS TO FORM

ALESHIRE & WYNDER, LLP


Lona N. Laymon, Asst. City Attorney

ALLIANCE FOR YOUTH EMPLOYMENT
SKILLS**

By: 

Ben W. White, AYES Program Coordinator

By: 

Wayne Weisberger, President,
Housing Assistance Program for
Veterans Inc., a California nonprofit
corporation

*Two signatures are required if a corporation.

*LESSEE'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO LESSEE'S BUSINESS ENTITY.

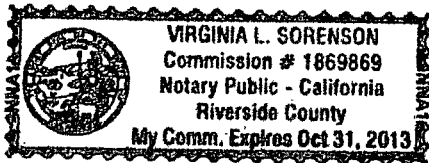
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of RIVERSIDE

On 4/12/11 before me, VIRGINIA L. SORENSON, NOTARY PUBLIC
Date Here Insert Name and Title of the Officer

personally appeared BEN W. WHITE & WAYNE WEISBERGER
Name(s) of Signer(s)



Place Notary Seal Above

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

Virginia L. Sorenson
Signature of Notary Public

OPTIONAL

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

Description of Attached Document

Title or Type of Document: LEASE AGREEMENT - "AYES" / DYSART PARK

Document Date: 4/1/11 Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

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

Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here

Signer's Name: _____

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

Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER
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CITY COUNCIL AGENDA

Date: April 8, 2014
TO: City Council
FROM: Dave Aleshire, City Attorney
SUBJECT: Contract for Interim City Manager

RECOMMENDATION: That the City Council authorize the City Attorney to sign the Staffing Services Agreement, including Exhibit 'A' ("Agreement"), with MuniTemps/Municipal Staffing Solutions ("MuniTemps") to provide the Interim City Manager services of Homer Croy.

BACKGROUND: Since the separation of City Manager Andy Takata on March 25, 2014, the City Council is in need of an Interim City Manager to oversee the City's day-to-day operations and assist in the recruitment of a permanent City Manager.

On February 20, 2014, Mr. Takata and the City entered into a severance agreement related to Mr. Takata's separation. As a result, the City Council anticipated the need for an Interim City Manager and interviewed five candidates at a duly noticed Special Meeting on February 25, 2014. They selected Homer Croy to fill the position. Mr. Croy was presented to the City through MuniTemps, a public employee staffing agency. Although Mr. Takata later revoked the severance agreement and was separated on March 25, 2014, the City Council still desires to engage Mr. Croy as the Interim City Manager.

Mr. Croy is a retired public employee with a long history of public service since 1985. As a retiree, Mr. Croy was most recently the Interim City Manager in Twentynine Palms in 2013 and has experience in overseeing day-to-day operations in a city, as well as recruitment for a permanent city manager. Prior to retirement in 2009, Mr. Croy was the Assistant City Manager in Palm Desert from 2002 to 2009, and the Building and Safety Director from 2000 to 2002. Mr. Croy was a building official in various cities between 1985 to 2000. Mr. Croy's experience includes restructuring 36 lighting and landscaping and business improvement assessment districts that were in negative cash flow, negotiating the purchase/trade of property for regional city parks and affordable housing projects, providing direction for risk management, overseeing land management of city property, cooperating with outside agencies, and coordinating complex administrative issues.

DISCUSSION: The City's contract for Interim City Manager services will be directly with MuniTemps. Mr. Croy is a retiree of the CalPERS retirement system, and the City is subject to CalPERS regulations regarding the employment of retired annuitants such as Mr. Croy. Accordingly, the Agreement provides that MuniTemps and Mr. Croy must comply with all CalPERS regulations regarding the employment of retired annuitants.

207-A

Under the Agreement, Mr. Croy will be paid an hourly rate of \$96.15, which does not exceed the maximum hourly rate equivalent paid to the former City Manager and is in compliance with CalPERS regulations. All taxes, insurances, and/or any benefits for Mr. Croy will be paid directly through MuniTemps and are contained within the hourly rate that will be billed the City. Mr. Croy's term is expected to be no longer than six (6) months.

The City Council will be conducting a recruitment for the permanent City Manager, a process that will take approximately four to six months. During that time, Mr. Croy will have responsibilities of running the day-to-day operations of the City and working with the City Council to ensure the recruitment process moves forward in an expeditious manner, among other assignments and duties.

FISCAL DATA: The monthly cost for this service is approximately \$16,700. An appropriation for this agreement was incorporated into the mid-year budget review.

PREPARED BY:

RECOMMENDED BY:

June Overholt
Acting City Manager
Administrative Services Director

Aleshire & Wynder, LLP

Attachments:

MuniTemps/Municipal Staffing Solutions – Staffing Agreement & Exhibit 'A'



Municipal Staffing Agreement

GOVERNMENT STAFFING SERVICES, INC., dba **MuniTemps**, with its Corporate Mailing Address at **MuniTemps Corporate Mailbox, PO Box 718, Imperial Beach, CA 91933** ("STAFFING FIRM"), and the **CITY OF BANNING**, with its principal municipal office located at **99 East Ramsey Street, Banning, CA 92220** ("CITY") agree to the terms and conditions set forth in this Municipal Staffing Agreement (the "Agreement").

STAFFING FIRM's Duties and Responsibilities

1. STAFFING FIRM will:

- a. Recruit, screen, interview, and assign its employees ("Assigned Employees") to perform the type of work described on Exhibit A under CITY's supervision at the locations specified on Exhibit A;
- b. Pay Assigned Employees' wages and provide them with the benefits that STAFFING FIRM offers to them;
- c. Pay, withhold, and transmit payroll taxes; provide unemployment insurance and workers' compensation benefits; and handle unemployment and workers' compensation claims involving Assigned Employees;

CITY's Duties and Responsibilities

2. CITY will:

- a. Properly supervise Assigned Employees performing its work and be responsible for its business operations, products, services, and intellectual property;
- b. Properly supervise, control, and safeguard its premises, processes, or systems, and not permit STAFFING FIRM employees to operate any vehicle or mobile equipment (unless authorized under section 2.f. below), or entrust them with unattended premises, cash, checks, keys, credit cards, merchandise, confidential or trade secret information, negotiable instruments, or other valuables without STAFFING FIRM's express prior written approval or as strictly required by the job description provided to STAFFING FIRM;
- c. Provide Assigned Employees with a safe work site and provide appropriate safety information, training, and safety equipment with respect to any hazardous substances or conditions to which they may be exposed at the work site;
- d. Not change Assigned Employees' job duties without STAFFING FIRM's express prior written approval, and
- e. Exclude Assigned Employees from CITY's benefit plans, policies, and practices, and not make any offer or promise relating to Assigned Employees' compensation or benefits.

- f. CITY is authorized to direct STAFFING FIRM's employees to drive CITY vehicles and equipment if CITY assumes liability for STAFFING FIRM's employees under CITY's auto insurance policy and names STAFFING FIRM as "additionally insured".

Payment Terms, Bill Rates, and Fees

3. CITY will pay STAFFING FIRM for its performance at the rates set forth on Exhibit A and will also pay any additional costs or fees set forth in this Agreement. STAFFING FIRM will invoice CITY for services provided under this Agreement on a Semi-Monthly basis. Payment is due on receipt of invoice. Invoices will be supported by the pertinent time sheets or other agreed system for documenting time worked by the Assigned Employees. CITY's signature or other agreed method of approval of the work time submitted for Assigned Employees certifies that the documented hours are correct and authorizes STAFFING FIRM to bill CITY for those hours. If a portion of any invoice is disputed, CITY will pay the undisputed portion.
4. STAFFING FIRM shall email invoices and supporting timesheets directly to the CITY's Accounts Payable office with a copy sent to any designated Department of the CITY.
5. STAFFING FIRM may assign two classes of Employees at CITY: (1) "Executive" Employees are presumed to be exempt from laws requiring premium pay for overtime, holiday work, or weekend work. These Employees are assigned on a fixed monthly salary contract which will be paid and pro rated on a bi-weekly pay cycle. When assigned Employee completes project at CITY, CITY will be required to pay the pro rated amount of the monthly salary contract agreed to in Exhibit A as of the full week ending last day worked at the CITY. (2) "Non-Executive" Employees are presumed to be nonexempt from laws requiring premium pay for overtime, holiday work, or weekend work. STAFFING FIRM will charge CITY special rates for premium work time only when an Assigned Employee's work on assignment to CITY, viewed by itself, would legally require premium pay and CITY has authorized, directed, or allowed the Assigned Employee to work such premium work time. CITY's special billing rate for premium hours will be the same multiple of the regular billing rate as STAFFING FIRM is required to apply to the Assigned Employee's regular pay rate. (For example, when federal law requires 150% of pay for work exceeding 40 hours in a week, CITY will be billed at 150% of the regular bill rate.)
6. STAFFING FIRM may also provide "direct hire" placement services to the CITY. The recruiting fee for direct hire placement services shall be 15% of annual salary offered to candidates presented if this service is requested.

Confidential Information

7. Both parties may receive information that is proprietary to or confidential to the other party or its affiliated companies and their CITYs. Both parties agree to hold such information in strict confidence and not to disclose such information to third parties or to use such information for any purpose whatsoever other than performing under this Agreement or as required by law. No knowledge, possession, or use of CITY's confidential information will be imputed to STAFFING FIRM as a result of Assigned Employees' access to such information.

Cooperation

8. The parties agree to cooperate fully and to provide assistance to the other party in the investigation and resolution of any complaints, claims, actions, or proceedings that may be brought by or that may involve Assigned Employees.

Indemnification and Limitation of Liability

9. To the extent permitted by law, STAFFING FIRM will defend, indemnify, and hold CITY and its directors, officers, agents, representatives, and employees harmless from all claims, losses, and liabilities (including reasonable attorneys' fees) to the extent caused by STAFFING FIRM's breach of this Agreement; its failure to discharge its duties and responsibilities set forth in paragraph 1; or the gross negligence, or willful misconduct of STAFFING FIRM or STAFFING FIRM's officers, employees, or authorized agents in the discharge of those duties and responsibilities.
10. To the extent permitted by law, CITY will defend, indemnify, and hold STAFFING FIRM and its parent, subsidiaries, directors, officers, agents, representatives, and employees harmless from all claims, losses, and liabilities (including reasonable attorneys' fees) to the extent caused by CITY's breach of this Agreement; its failure to discharge its duties and responsibilities set forth in paragraph 2; or the gross negligence, or willful misconduct of CITY or CITY's officers, employees, or authorized agents in the discharge of those duties and responsibilities.
11. Neither party shall be liable for or be required to indemnify the other party for any incidental, consequential, exemplary, special, punitive, or lost profit damages that arise in connection with this Agreement, regardless of the form of action (whether in contract, tort, negligence, strict liability, or otherwise) and regardless of how characterized, even if such party has been advised of the possibility of such damages.
12. As a condition precedent to indemnification, the party seeking indemnification will inform the other party within 15 business days after it receives notice of any claim, loss, liability, or demand for which it seeks indemnification from the other party; and the party seeking indemnification will cooperate in the investigation and defense of any such matter.
13. The provisions in paragraphs 9 through 13 of this Agreement constitute the complete agreement between the parties with respect to indemnification, and each party waives its right to assert any common-law indemnification or contribution claim against the other party.

Miscellaneous

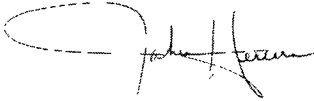
14. Notwithstanding any other provision of this Agreement to the contrary, the provisions of paragraphs 9 - 13 shall remain effective after termination or renewal of this Agreement.
15. No provision of this Agreement may be amended or waived unless agreed to in a writing signed by the parties.
16. Each provision of this Agreement will be considered severable, such that if any one provision or clause conflicts with existing or future applicable law or may not be given full effect because of such law, no other provision that can operate without the conflicting provision or clause will be affected.
17. This Agreement and the exhibits attached to it contain the entire understanding between the parties and supersede all prior agreements and understandings relating to the subject matter of the Agreement.
18. The provisions of this Agreement will inure to the benefit of and be binding on the parties and their respective representatives, successors, and assigns.

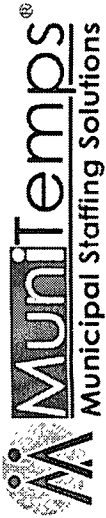
19. The failure of a party to enforce the provisions of this Agreement will not be a waiver of any provision or the right of such party thereafter to enforce each and every provision of this Agreement.
20. CITY will not transfer or assign this Agreement without STAFFING FIRM's written consent.
21. Any notice or other communication will be deemed to be properly given only when sent via the United States Postal Service or a nationally recognized courier, addressed as shown on the first page of this Agreement.
22. Neither party will be responsible for failure or delay in performance of this Agreement if the failure or delay is due to labor disputes, strikes, fire, riot, war, terrorism, acts of God, or any other causes beyond the control of the nonperforming party.
23. The provisions of this agreement shall be entered into according to the laws of the State of California.
24. For employees of STAFFING FIRM who are currently CalPERS retired annuitants, STAFFING FIRM assumes responsibility for ensuring its employees are in compliance with CalPERS retirement law (Government Code Section 20000 et seq.) relating to retired annuitants. STAFFING FIRM shall certify the hours worked by these employees to prevent annuitants from working more than 960 hours within any fiscal year and shall notify CITY when employees have reached 860 hours within any fiscal years. STAFFING FIRM shall coordinate with the CITY to ensure compliance with CalPERS regulations for retired annuitants.

Term of Agreement

25. This Agreement will be for a **term of 12 months** from the first date on which both parties have executed it. This agreement may be extended for 12 additional months by mutual agreement of both parties. The Agreement may be terminated by (i) STAFFING FIRM upon 15 days' written notice to the CITY, or (ii) CITY upon receipt of written notice to STAFFING FIRM.

Authorized representatives of the parties have executed this Agreement below to express the parties' agreement to its terms.

<hr/> <p>CITY OF BANNING</p> <hr/> <p>Signature</p> <hr/> <p>Printed Name</p> <hr/> <p>Title</p> <hr/> <p>Date</p> <hr/>	<hr/> <p>GOVERNMENT STAFFING SERVICES, INC.</p> <div style="text-align: center;">  </div> <hr/> <p>Signature</p> <hr/> <p style="text-align: center;">John Herrera, CPA</p> <hr/> <p>Printed Name</p> <hr/> <p style="text-align: center;">President / CEO</p> <hr/> <p>Title</p> <hr/> <p style="text-align: center;">03/31/2014</p> <hr/> <p>Date</p> <hr/>
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Corporate Mailing Address: PO Box 718, Imperial Beach, CA 91933
 Phone: 1-866-406-6864 • Fax: 1-866-498-6678
 Website: www.munitemps.com

Municipality:	City of Banning	Notes
Client Contact:	Rita Chapparosa	Deputy HR Director
Interim Position:	City Manager	Homer Croy
Bill Rate per Hour:	\$96.15	All hours will be billed at this rate as long as the "minimum" 4/10 Work Scheduled is worked.
Hours per Week:	40+	
Start Date:	3/3/2014	
Expected Duration:	6 Months	Depending on Needs of City.

Authorized Signature: _____
 City Representative

If CITY uses the services of Homer Croy presented as its direct employee, as an independent contractor, or through any person or firm other than MuniTemp during or within 183 days after any assignment of Homer Croy to CITY from MuniTemp, CITY must notify MuniTemp and pay a lump sum equal to (a) 9% of the annual salary offered Homer Croy if that Employee has worked a minimum of 980 hours or (b) 18% of the annual salary of Homer Croy if the Employee has worked less than 980 hours for CITY