# AGENDA
# BANNING CITY COUNCIL
# REGULAR MEETING
# CITY OF BANNING
# BANNING, CALIFORNIA

March 27, 2012
**5:00** p.m.

Banning Civic Center
Council Chambers

*The following information comprises the agenda for a regular meeting of the City Council and the City Council of the City of Banning Sitting In Its Capacity as Successor Agency, and the Banning Financing Authority, Banning Housing Authority and the Banning Utility Authority.*

*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 – Pastor Elder Preston, Praise Tabernacle Church
- Pledge of Allegiance
- Roll Call – Council Members Botts, Franklin, Hanna, Machisic, Mayor Robinson

## II. REPORT ON CLOSED SESSION

## III. PUBLIC COMMENTS/CORRESPONSENCE/PRESENTATIONS/ANNOUNCEMENTS

PUBLIC COMMENTS – *On Items Not on the Agenda*

*A **three-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. A thirty-minute time limit is placed on this section. No member of the public shall be permitted to "share" his/her three minutes with any other member of the public. (Usually, any items received under this heading are referred to staff or future study, research, completion and/or future 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. Introduction of New Employee by the City Manager *(ORAL)*

## IV. 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 6**
**Items to be pulled ____, ____, ____, ____ for discussion.**
*(Resolutions require a recorded majority vote of the total membership of the City Council)*


1. Approval of Minutes – Regular Meeting – 03/13/12. . . . . 1
2. Resolution No. 2012-26, Authorizing the Banning Police Department to Destroy Internal Affairs Records in Excess of Five Years from Date of Completion Per California Government Code Section 34090 and California Penal Code Section 832.5, and Resolution No. 2003-26 of the City of Banning . . . . . 13
3. Resolution No. 2012-28, Awarding the Construction Contract for Project No. 2012-02, Street and Electrical Improvement on Ramsey Street Between San Gorgonio Avenue and Martin Street and Rejecting All Other Bids . . . . . 19
4. Resolution No. 2012-29, Updating the Status of Banning Electric Department Energy Storage Activities and Opening a Proceeding to Determine Appropriate Energy Storage Targets . . . . . 28
5. Report of Investments – January 2012. . . . . 32
6. Resolution No. 2012-05 SA of the City Council of the City of Banning acting in its capacity as Successor Agency to the Community Redevelopment Agency of the City of Banning, California, ratifying the Mayor's appointments of City Council Member Bob Botts, City Council Member John Machisic as the alternate for Council Member Botts, and Brian Guillot the City's Assistant Planner to the Banning Oversight Board. . 42


- **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. Pardee Homes, Water Supply Assessment, Final Environmental Impact Report, General Plan Amendment No. 11-2501, Zone Change No. 11-3501, Butterfield Specific Plan, and Development Agreement.


Staff Report . . . . . 48


Recommendations: **That the City Council adopt:**

a) **Resolution No. 2012-27, Approving the Water Supply analysis for the project based on findings of fact as indicated in the resolution.**

b) **Resolution No. 2012-24, Adopting a Statement of Overriding Considerations and CEQA Findings of Fact, Certifying the Final Environmental Impact Report, and adopting the Mitigation Monitoring and Reporting Program for the Butterfield Specific Plan.**

c) **Resolution No. 2012-25, Approving General Plan Amendment No. 11-2501 and Zone Change No. 11-3501 to Update the City of Banning General Plan Land Use and Zoning Overlay Map and Designate the Project Site from "Deutsch Specific Plan" to "Butterfield Specific Plan."**

d) Adopt Ordinance No. 1450 and introduce its first reading amending the Deutsch Specific Plan with the Superseding Butterfield Specific Plan and Conditions of Approval.

**Mayor asks the City Clerk to read the title of Ordinance No. 1450:**

*"An Ordinance of the City Council of the City of Banning, California, Amending the Deutsch Specific Plan and Superseding it with the Butterfields Specific Plan and Adopting Conditions of Approval and Making Findings in Support Thereof."*

**Motion: I move to waive further reading of Ordinance No. 1450.**
(Requires a majority vote of Council)
**Motion: I move that Ordinance No. 1450 pass its first reading.**

e) Adopt Ordinance No. 1451 and introduce its first reading amending the Development Agreement for the Deutsch Specific Plan with the Development Agreement for the Butterfield Specific Plan.

**Mayor asks the City Clerk to read the title of Ordinance No. 1451:**

*"An Ordinance of the City Council of the City of Banning, California, Adopting the Development Agreement Superseding the Deutsch Specific Plan Development Agreement and Making Findings in Support Thereof.*

**Motion: I move to waive further reading of Ordinance No. 1451.**
(Requires a majority vote of Council)
**Motion: I move that Ordinance No. 1451 pass its first reading.**

Recommendation: **That the Utility Authority adopt:**

f) **Resolution No. 2012-04UA, Approving the Water Supply Assessment for The Butterfield Specific Plan and Making Findings that the Water Supply Analysis was prepared consistent with SB 610.**

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

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

## VII. ITEMS FOR FUTURE AGENDAS

New Items –

Pending Items – City Council

1. Schedule Meetings with Our State and County Elected Officials
2. Polices & Procedures (fingerprinting) for Applicant re. Projects and Applicants for Commissions & Committees *(Commissions & Committees))*
3. Water Resources Report *(Workshop) (April)*

Successor Agency

1. Proposal from Owners of Oddfellows Building - 42 W. Ramsey Street.

## VIII. 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, 8 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 and Council. 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 three-minute limitation shall apply to each member of the public, unless such time is extended by the Mayor and Council. A thirty-minute time limit is placed on this section. No member of the public shall be permitted to "share" his/her three 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 Tile II].

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

03/13/12
REGULAR MEETING

A regular meeting of the Banning City Council was called to order by Mayor Robinson on March 13, 2012 at 5:02 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT: Councilmember Botts
Councilmember Franklin
Councilmember Hanna
Councilmember Machisic
Mayor Robinson

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Andrew J. Takata, City Manager
June Overholt, Administrative Services Director
David J. Aleshire, City Attorney
Zai Abu Bakar, Community Development Director
Duane Burk, Public Works Director
Leonard Purvis, Police Chief
Heidi Meraz, Community Services Director
Bill Manis, Economic Development/Redevelopment Director
Fred Mason, Electric Utility Director
Marie A. Calderon, City Clerk

The invocation was given by Pastor George Rosemier, Banning United Methodist Church. Mayor Pro Tem Franklin invited the audience to join her in the Pledge of Allegiance to the Flag.

REPORT ON CLOSED SESSION

City Attorney reported that the Council met in closed session and the item listed concerning potential litigation was not discussed. The Council discussed two matters of real property negotiations on 4545 W. Ramsey and 347 E. Ramsey. A status report was given on each of those matters and no reportable action was taken.

PUBLIC COMMENTS/CORRESPONDENCE/PRESENTATIONS/ANNOUNCEMENTS

PUBLIC COMMENTS – There was none

CORRESPONDENCE

City Clerk read a memo to Bill Manis, Economic Development/Redevelopment Manager from Beverly Rashidd of the Banning Cultural Alliance (see exhibit "A").

PRESENTATIONS:

1. Proclamation presentation to Mandy Stephens – Becoming A Naturalized United States Citizen.

Mayor Robinson asked the Council to join him at the podium and he read the proclamation for the benefit of those in attendance and the listening audience and presented the proclamation to Mandy Stephens who became a United Stated Citizen on February 22, 2012.

2. San Gorgonio Memorial Hospital Update – Mark Turner, CEO

Mr. Turner addressed the Council stating that he would like to give a brief update on what is happening at the hospital. The four things he would like to cover are their new affiliation with Epic Management, the improvements that they have made to their financial operations at the hospital, the building project and the Measure D parcel tax mail ballot.

Mr. Turner said that about a year and a half ago they finalized a negotiation with Epic Management and they are primarily a physician practice management company based in Redlands but they also manage the hospital as well. The reason they selected them as their affiliation partner and entered into a long-term management agreement with them is because they bring three valuable things: 1) management expertise; 2) doctors; and 3) financial assistance. With those three ingredients that they have received from Epic their financial performance has grown dramatically. They are very please with the progress that they are making and they have more room to go and they have paid down most of their vendor debt and they are starting to invest in new equipment, passed along pay increases to all of their employees this past year for the first time in three years, restored some benefits and improved others and they are making sizeable investments now in their infrastructure, not the building, but rather in their medical equipment and information technology. Also the federal government has stimulus funds out there available for hospitals that comply with requirements for getting to electronic medical records and they are due and on course to be able to receive a fairly significant amount of money from the federal government for that purpose this summer to the tune of about $1.5 million dollars. They think they are doing the right things and things are starting to fall into place and their financial health has improved considerably and they couldn't have done that without the help of Epic Management and their partner or owners Beaver Medical Group and Loma Linda University Medical Center both of which has been integral in their performance improvement and bringing in the new physicians into their market. One of the things that this improved financial performance has allowed them to do is to do their marketing efforts again and communication with the public. They are out there electronically getting the word out of what is happening at the hospital and also the old fashioned way too with some ads that go into magazines and newspapers that talk about the new things that they are doing. He showed some of these new advertisements. In regards to the construction project they are on budget and on schedule to get their first patient care building open and operating in about one year. It is a two-story structure with the first floor being the new emergency department that will increase from their existing 10-bed unit to 28 beds. On the second floor will be the new ICU and that will expand from the current 6-bed unit to a 16-bed unit. What they are going through in the planning stages and permitting stages with the state agency is to get permits for their final building and that is a six-story structure that will replace their medical/surgical inpatient beds and direct observation unit beds, as well as, provide four new

surgery suites and new space for diagnostic imaging, pharmacy, new waiting room and entry way and a gift shop. That building will allow them also to expand from their current 77 licensed beds to ultimately 151 licensed beds and all those rooms would be private occupancy. They expect this to take about two years. They have not yet identified the source of the funds that will be used to pay for the construction of that building but the research is being done right now on how to come up with those funds and what the sources will be. In regards to Measure D a flyer came out back in December that came out from the Hospital District featuring Dr. Cibelli and tells about considering filing for an election to ask the voters of the hospital district to extend the Measure D Parcel Tax. The Measure D Parcel Tax was passed about ten years ago right after 911 to support and expand the emergency care services that they provide from the hospital to the residents of the district. That was a ten-year parcel tax and expires this summer June 30th. After a lot of debate and research internally they decided to maintain and continue to improve the hospital and extend the improvements that they have already made and it would be very helpful for them to ask the voters to extend this for another ten years. What they have filed for and put together is a mail ballot election which will be due May 1, 2012. The mail ballots will be coming out in early April and it will be asking the voters whether or not they support simply extending this current parcel tax measure for another 10 years. Right now it is at $49.00 dollars per parcel, per year that we would be asking the voters to vote on. For the hospital that means $1.7 million dollars in support for emergency medical care services. That would be $1.7 million dollars that they would have to find from some other source every year. It has nothing to do with building or construction. This is purely for the support of emergency medical care services 24-hours a day, 7 days a week.

There was some Council questions and discussion in regards staffing, service providers, the need to support our local hospital, service area, and the quarterly construction updates and tours that are held in Feb, May, July and November on the third Wednesday of every month at 4:00 p.m. with the next one to be held on May 16th.

3. Banning Chamber of Commerce Update on Contract and Golf Tournament

Art Welch addressed the Council at this time starting with a report on the golf tournament (see Exhibit "B"). He said also attached to the comments he just made is a sheet showing the income from all sponsors and golfers that played in the event and how those monies were used.

Councilmember Hanna asked about the commissions and what they were paid for. Mr. Welch said that there is actually and Stagecoach Scramble website that was done on a commission basis, brochures were designed and printed, the logo was designed and those commissions cover those expenses.

Mayor Pro Tem Franklin said that there are two pages of financials and she was trying to understand if this was over the two tournaments. Mr. Welch said that there should be just one. The first page of financial can be tossed out. The second page shows the expenses for the two one-day tournaments. He said that they did not make any money.

There was some further Council questions in regards to the cost for trophies, and funding for putting on other golf tournaments.

Mr. Welch addressed the Council in regards to the Chamber Contract and directed their attention to the top two sheets of the next handout (see Exhibit "C"). Those sheets show the expenditures against the contract and there were three items on their contract beginning July 1, 2011 to end the July 2012 and they include the Community Appreciation Roast, Information Packets and Round Table Breakfast. In regards to the Information Packets they had just purchased some packets prior to the new contract so they do not yet have a need for new ones. Probably in the next 30 days they will be ordering some more informational packets. In regards to the Round Table Breakfast for $255.97 this was a bill that got to them late and they paid it and submitted it and through the graciousness of the City they authorized the payment of that bill. On the second page is the accountability for the monthly newsletter by month. The cost you see in the Reimbursed Amount column was what was submitted on a quarterly basis to the City and they were reimbursed for each of those months. To date they have spent about $5,493 and that is all the way through nine months of the twelve month contract and in estimating their costs for the next three months it looks like they will net out a savings of about $1,500 against the $7,000 dollar contract. He thanked the Council very much for the monies that allowed them to do this. He thinks that especially the newsletter has been very effective and they have upgraded that document quite a bit and it carries a good message to all of their Chamber members. He invited the Council to take advantage however because in the contract a page in that newsletter belongs to the City. So he invites the City to take advantage of that page.

There was some Council questions and discussion in regards to the increase in membership because of marketing efforts, interest in out of town businesses, and calendar of events.

Mr. Welch said that tomorrow morning they will be holding their first Business to Business coffee at the Chamber and everyone is invited to attend.

CONSENT ITEMS

1. Approval of Minutes – Regular Meeting – 02/28/12

Recommendation: That the minutes of the Regular Meeting of February 28, 2012 be approved.

2. Right of Way Dedication Acceptance – Parcel No. 540-130-021, also known as 1481 W. Ramsey Street.

Recommendation: That the City Council accept the Right-of-Way dedication from APN: 540-130-021, also known as 1481 W. Ramsey Street, and direct the City Clerk to accept and record said dedication as described in Exhibits "A" and "B".

3. Resolution No. 2012-17, Authorize the purchase of three (3) 2012 Chevrolet Caprice PPV sedans from Diamond Hills Auto Group in the amount of $28,000 each, $84,000 total, and the purchase of four (4) 2011 Ford Crown Victoria Police Interceptor sedans from Wondries Fleet Group in the amount of $24,793 each, or $99,172 total.

Recommendation: That the City Council adopt Resolution No. 2012-17, authorizing the purchase of three (2) 1012 Chevy Caprice PPV sedans for the City of Banning Police

Department from Diamond Hills Auto Group in an amount not to exceed $84,000 and four (4) Ford Crown Victoria Police Interceptor sedans from Wondries Fleet Group in an amount not to exceed $99,172.

4. Resolution No. 2012-18, Appropriating Funds for the Public Benefit Programs

Recommendation: That the City Council adopt Resolution No. 2012-18.

5. Resolution No. 2012-20, Supporting New Mexico's Proposed State Implementation Plan Regarding Regional Haze Standards.

Recommendation: That the City Council adopt Resolution No. 2012-20.

6. Resolution No. 2012-22, Awarding the Construction Contract for Project No. 2012-01, UST and Hydraulic Lift Removal at 150, 220 and 280 E. Ramsey Street to Warren Duncan Contracting of San Bernardino, CA for an amount of $35,000.00 and allowing a 15% construction contingency.

Recommendation: That the City Council adopt Resolution No. 2012-22.

7. Resolution No. 2012-23, Accepting Project No. 2011-02, Street and Electrical Improvements on Ramsey Street, Martin Street and Williams Street as Complete.

Recommendation: That the City Council adopt Resolution No. 2012-23, Accepting Project No. 2011-02, Street and Electrical Improvements on Ramsey Street, Martin Street and Williams Street, as complete and direct the City Clerk to record the Notice of Completion; and Authorizing the Administrative Services Director to make the necessary budget adjustments, appropriations and transfers related to this project.

**Motion Franklin/Machisic to approved Consent Items 1 through 7.** Mayor Robinson opened the item for public comments. There were none. **Motion carried, all in favor.**

ORDINANCES - INTRODUCTION

1. Ordinance No. 1449, Re-establishing and Declaring Prima Facie Speed Limits Within Specified Speed Zones throughout the City of Banning to include Speed Zones 28, 37 and 46.

Mayor Robinson announced that this item would be on the April 10, 2012 City Council Meeting.

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

City Council

Mayor Pro Tem Franklin –

- Yesterday she attended the San Gorgonio Pass Water Agency Meeting and this is for their engineering committee. At that meeting there were several things discussed and one of them

was the report from the State Water Resource Control Board staff and this was a letter concerning a proposal from four entities and the anchor was Yucaipa Water District and it included the City of Banning, Beaumont Cherry Valley Water, as well as, the Pass Water Agency. They also had one letter from the City of Beaumont. The purpose of the report was to deal with anti-degradation analysis and the salt liability of recycled water in the Beaumont Management Zone which affects us because part of our water is there also. The Control Board considered the proposal and supported it and it will be referred to their Board for final approval. How this impacts us is that we should be moving forward regarding a resolution to agree with their report because we have to author this report because it affects the water for the next 30 years or so but the idea was that they were putting forth a plan that we have to author to make sure that the water that comes to the water basins through the State Waterline is an equal distribution for everybody. Also there is an opening for Division One on the Water Board. For those that are not aware, Dave Dysart did resign his position and his Division covers most of the city so they are accepting letters up through March 30th for anyone that is interesting in applying for that position and then they would have that position appointed up till November when it is open for election.

- This morning she attended Passcom and they had a presentation regarding the Regional Web from the Emergency Office of Operations for the County and they showed an electronic system that they have now for reporting. It is an easy way to share and get information if needed.

Councilmember Machisic –

- In regards to WRCOG (Western Riverside Council of Governments) all of you are familiar with Dave Willmon who was the League of California Cities representative and he is now working for the Riverside District Attorney's Office as Government Relations. The Southern California Air Quality Management District Executive Officer Dr. Wallerstein reported on activities, background and future plans and he will have the City Clerk circulate the information. TUMF (Transportation Uniform Mitigation Fee) is up again and the proposal this year is that it go up by 3% this coming year. The chamber of commerce and the business industry association are both requesting no increases for the coming year based on the housing market as it is in the Inland Empire. The second issue is that jurisdictions have had the ability to reduce their TUMF fee by 50% and that was permitted last year up to a maximum of $20 million dollars. We are now at $17 million and the question is do we go over the cap or do we continue this program into the next year. Remember that there is one important thing it has not been determined how they are going to make up this loss revenue because in one of the original packets they talked about recovering the revenue so he assumes until they answer that question, people may be a little hesitant on it. He would like to know informally from the Council their opinion on both of these issues the 3% TUMF increase and whether we should continue the 50%. Remember that the 50% is elective upon the part of the City but they have not been told how the money is going to be recovered the extra 50% that they didn't charge.

Councilmember Botts –

- He would like the Council to recognize Charlene Sakurai who was recognized this morning at Passcom who was the President for 4 years along with other presidents who did an outstanding job. He said that Passcom is emergency provided first responders, EOC from the County and cities and the hospital. He thanked her for putting time into Passcom.
- He said as a businessman we need to strengthen the chamber of commerce and have a reason why people want to join the chamber because we all ask "what is in it for me" if we

invest time and money. We have put together the "BBC" (Business to Business Connection) which will be primarily focused on retailers, businesses, professional selling products and services and it is a pretty standard way of networking. The response has been overwhelming and he and Linda Hanley have been working together with staff to put this together for the chamber and the meeting will be tomorrow morning at 7:30 to 8:30 a.m. at the Banning Chamber office. The goal is to have businesses come and network, share leads, etc. If it cannot help the businesses sell new products and get new leads, then the organization will fail. They have already had three new memberships join the chamber just so they can come. Whether you are from Banning or Beaumont you can attend the meeting twice and then after that they will ask any non-Banning Chamber member to join the chamber so that they can continue. There is a lot of excitement about it and think it is a real benefit to local retail in the Pass for this kind of networking effort and anyone interesting in participating it is free.

Mayor Robinson –

- He said that on the back table there are a lot of leaflets of upcoming events so you are welcome to pick up some of those up if you wish. One item is about the April 21, 2012 Fire Memories Museum Pancake Breakfast to be held at the Fire Memories Museum with a lot of food and things to do.
- March 17, 2012 the Banning Pass Little League will have their opening event. They have 450 players. Heidi Meraz, Duane Burk, and Fred Mason along with staff have done a great job in getting that park ready. It may possibly have to be canceled because of the weather so keep a look out.
- He attended a WRCOG (Western Riverside Council of Governments) Environmental Youth Conference at the Diamond Valley Lake Visitors Center with two classes of Nicolet Middle School 7th graders. He said that it was a lot of fun and he learned a lot and he would suggest this to anybody that really wants to know about water, solar energy and all the other things that we need to know about going green.
- On March 6, 2012 the entire Council attended the Banning Powersports Groundbreaking and the first construction phase of that is to revamp that existing showroom and the buildings in the back so they will be upgraded and construction has already started and they hope to be open in 60 days with that and then after that plans will be submitted for an additional 10,000 square feet of showroom.

City Committee Reports – There was none.

Report by City Attorney – Nothing to report at this time.

Report by City Manager

- In regards to the Sunset Grade Separation the plans are 95% complete and should have groundbreaking sometime this year. Also there was an article that was a little bit confusing about the grade separation at Hargrave and that would go under the next SAFETEA-LU which is the transportation money that comes from the Feds and that would be applied for in that round and not this current round.
- I-10 Bypass – The Morongo Band of Mission Indians had given the County $2 million dollars to begin the environmental for the Bypass so we believe that is going to go quicker especially with the recent closures that have happened and he thinks the Feds will get

behind it so hopefully that will happen so there is some way to get around basically from Cabazon to Ramsey.

- Tomorrow there is a Wilson Street closure between Stargaze and Mountain.
- The Banning Heights Mutual Water subcommittee meeting has been cancelled for tomorrow.
- Dr. Ray Wolfe of Caltrans District 8 is now the Executive Director of the San Bernardino Association of Governments.
- There will be a Job Fair on April 3, 2012 from 8 to 10 a.m. at Green Thumb Produce in regards to Micro Department, Sanitation Department and Production/Packing.

Mayor Robinson said that he and the City Manager will have an introductory meeting this Friday with Congresswomen Mary Bono Mack and talk a little bit about the I-10 Bypass and the Sunset Grade Separation and kind of her up to speed since she will be our representative at the federal level in the not to distant future. The other part of their talk with her would be to set up a meet and greet with the entire Council so that everyone has a chance to talk to her.

ITEMS FOR FUTURE AGENDAS

New Items – There were none.

Pending Items – City Council

1. Schedule Meetings with Our State and County Elected Officials
2. Polices & Procedures (fingerprinting) for Applicant re. Projects and Applicants for Commissions & Committees *(Commissions & Committees))*
3. Water Resources Report *(Workshop) (April)*

Successor Agency

1. Parking Delineation (Martin to 4th; Livingston to Williams, Nicolet
2. Proposal from Owners of Oddfellows Building - 42 W. Ramsey Street.

ADJOURNMENT

By common consent the regular City Council meeting adjourned at 6:05 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.**

**From:** Bill Manis
**Sent:** Thursday, March 08, 2012 12:26 PM
**To:** BRashidd@aol.com
**Cc:** Marie Calderon
**Subject:** Re: correction

I will have the City Clerk correct the minutes. Thanks, Bill

On Mar 8, 2012, at 11:55 AM, "BRashidd@aol.com" <BRashidd@aol.com> wrote:

> Hi, Bill,
>
> I heard form Miram of the Hispanic Chamber as she was upset that they had been listed as part of to the proposal to NEA. I assume that info was still there because the material had already been sent to the Council before you got my update?
>
> I had updated the info to drop them right after hearing from Miriam. I understood why the Hmongs were not listed as I did not get that info to you until Monday, February 27.
>
> Could you please correct this information so that it is read into the minutes of the next City Council meeting. Miriam is particularly anxious to have it corrected for the City Council.
>
> I know we were going back and forth on so many things during those hectic days. It is perfectly understandable that something fell through the cracks.
>
> thanks, much!
>
> beverly r

1

GOOD EVENING MAYOR AND COUNCIL MEMBRES

ON AUGUST 31ST, 2010, YOU KINDLY ISSUED A CHECK IN THE AMOUNT OF $7500 TO THE CHAMBER OF COMMERCE IN SUPPORT OF A GOLFING EVENT ENTITLED "THE STAGE COACH SCRAMBLE"

THE EVENT WAS TO TAKE PLACE ON THREE WEEKENDS BEGINNING ON JULY 31ST AND ENDING ON AUGUST 22ND 2010.

THE PRIMARY OBJECTIVE OF THIS EVENT WAS TO HELP THE LOCAL ECONOMY BY ENTICING PLAYERS FROM THE SOUTHERN CALIFORNIA AREA TO COME TO THE PASS AREA AND ENJOY A WELL PLANNED GOLF TOURNAMENT , RESTAURANTS AND HOTELS.

THE KEY TO THIS EVENT WAS THE PARTICIPATION OF THE SOUTHERAN CALIFORNIA PGA. THIS ORGANIZATION WAS EXCITED TO HELP THIS EVENT HAPPEN AND WAS COMMITTED TO GETTING 30 CLUB PROFESIONAL GOLFERS TO PARTICIPATE. EACH PROS' ENTRY FEE WAS TO BRING A FOURSOME FROM THEIR RESPECTIVE GOLF CLUB TO PLAY IN THE EVENT. THIS WOULD HAVE BEEN A TOTAL OF 150 GOLFERS. WITH THE HELP OF THE MANAGEMENT TEAM FROM THE SOUTHERN CALIFORNIA PGA, THIS SEEMED TO BE MOVING FORWARD VERY NICELY.

2

BASED ON THIS ACTIVITY THE GOLF COMMITTEE MOVED FORWARD WITH ALL OF THE DETAILS THAT WERE NECESSARY TO PUT THIS EVENT IN PLAY. WE WERE ABLE TO DO THIS BECAUSE OF THE SUPPORT WE HAD RECEIVED FROM SEVERAL SPONSORS.

CONTRACTS WERE WRITTEN WITH THE GOLF COURSE, COMMITTING TO THE NUMBER OF PLAYERS, AND FOOD EVENTS. EACH CONTRACT REQUIRED A DEPOSIT. WE WERE ALSO ABLE TO ORDER TROPHIES AND SHIRTS (WITH THE SCRAMBLE LOGO), AND ESTABLISH THE AMOUNTS OF PRIZE MONIES FOR THE PRO'S., WITH ANTICIPATION THAT ALL WAS COMING TOGETHER IN A TIMELY FASHION.

TWO WEEKS BEFORE THE TOURNAMENT THE PGA INFORMED US THAT THEY COULD NOT DELIVER ON THEIR COMMITMENT OF 30 PRO'S. THIS LEFT US WITH COMMITTED FUNDS AND A LIMITED NUMBER OF PLAYERS.

BEING VERY AWARE OF OUR COMMITMENTS TO OUR SPONSORS, WE DECIDED THAT IT WOULD BE IN THE BEST INTEREST TO MOVE FORWARD WITH PLANNING THE EVENT, EVEN THOUGH THE PGA DID NOT UPHOLD THEIR COMMITMENT.

3

ON SEPTEMBER 25TH, 2010, WE HELD A ONE DAY TOURNAMENT AT THE TUKWET CANYON GOLF COURSE. THIS WAS A MAJOR CHANGE FROM THE ORGINAL PLAN. WE WERE NOW CONTRACTING WITH A NEW OWNER OF THE GOLF FACILITY, THE MORONGO BAND OF MISSION INDIANS. THEY WERE GRACIOUS ENOUGH TO HONOR MOST OF THE PREVIOUS OWNER'S COMMITMENTS AND HELP US MAKE THIS HAPPEN. HOWEVER WE WERE NOT ABLE TO RETRIEVE ALL OF THE PREVIOUS COMMITTED FUNDS, WE WERE ABLE TO HOLD A MUCH MORE LIMITED TOURNAMENT AND WERE ABLE TO RECOGNIZE ALL OF OUR SPONSORS AT THE TIME. EVENTS AT THIS TOURNAMENT INCLUDED A LIMITED NUMBER OF PRO'S (10), THAT THE COMMITTEE WAS ABLE TO GET TO ATTEND. FROM THE ORGINAL FUNDS WE WERE ABLE TO GIVE PRIZE MONIES TO THE PROS' AND TO HOLD THE RECEPTION AS ORIGINALLY PLANNED AT THE MORONGO CASION. THE TOTAL NUMBER OF PLAYERS AT THE EVENT WAS 40 AMATURES,AND 10 PRO'S.

A SECOND TOURNAMENT WAS HELD ON NOVEMEBR 5,2011, AT THE SAME GOLF COURSE, AGAIN A LIMITED NUMBER OF PLAYERS WERE PRESENT (40). DUE TO THE RESERVE OF SPONSOR FUNDS WE WERE ABLE TO DO THIS. THE SPONSORS WERE AGAIN RECOGNIZED AT THE GOLF COURSE AND AT THE AWARDS BANQUET.

4

THE ORIGINAL OBJECTIVE OF THE "STAGE COACH SCRAMBLE" WAS NOT MET. AGAIN THIS WAS NOT CAUSED BY LACK OF EFFORT ON THE GOLF COMMITTEE'S PART, BUT BY UNCONTROLABLE EVENTS THAT TOOK PLACE.THIS WAS TO BE AN EVENT THAT WOULD BRING OUT OF TOWN GUESTS TO THE PASS TO ADD TO THE ECONOMY OF OUR AREA IN MONIES SPENT IN OUR RESTAURANTS AND HOTELS AS WELL AS OTHER BUSINESSES IN THE PASS. THIS WAS ACCOMPLISHED TO A MUCH LESSOR DEGREE .

IN AN EFFORT TO RECOGNIZE THE CITY'S GENEROUS INVESTMENT IN THIS ENDEVOR, THE CHAMBER WILL CONTINUE TO RECOGNIZE THE CITY AS A BANNER SPORSOR IN OUR FUTURE GOLF TOURNAMENTS WITHOUT ANY FURTHER FINANCIAL INVESTMENT.

NOT ALL PROJECTS STAND UP TO THEIR TOTAL OBJECTIVES, BUT NO EVENT IS WITHOUT RISK.

THE CHAMBER APPRECIATES THE CITY'S INVOLVEMENT IN THIS PROGECT. THANK YOU.

5

INCOME:

| | |
|---|---|
| TOTAL AMOUNT OF SPONSORSHIPS | $31,875 |
| Total expenses for original tournament | $25,755 |
| Net not spent | $6,120 |
| Cost of 2 one day tournaments | $6,400 |
| Net amount from sponsors | ($280.00) |

Original expenses;(3 weekends)

| | | | |
|---|---|---|---|
| Advertising | $1,485 | | |
| Commissions | $6,875 | | |
| Hole-in-one | $874 | breakfast | $1.400 |
| Shirts | $2,500 | | |
| Trophies | $9,446 | awards lunch | $2,400 |
| Prize money | | | |
| To pro's | $1,900 | prizes | $2,600 |
| Award lunch | $2,675 | | |
| TOTAL | $23,736 | TOTAL | $6,400 |

Expenses for 2 one-day tournaments



11

# BANNING CHAMBER OF COMMERCE

| | BUDGET | SUBMITTED EXPENSE | DIFFERENCE |
|---|---|---|---|
| Community Appreciation Roast | $ 4,000.00 | $ 1,740.10 | $ 2,259.90 |
| Informational Packets | $ 1,000.00 | -0- | $ 1,000.00 |
| Round table Breakfast | -0- | $ 255.97 | ( 255.97 ) |

(1)

City of Banning 2011-2012

Banning Chamber of Commerce Newsletter (B-8)

| YEAR | MONTH | REIMBURSED AMOUNT | ANNUAL CONTRACT | |
|---|---|---|---|---|
| | | | $ 7,000.00 | |
| 2011 | JULY | $ 456.97 | | |
| 2011 | AUGUST | $ 456.76 | | |
| 2011 | SEPTEMBER | $ 456.76 | | |
| 2011 | OCTOBER | $ 509.57 | | |
| 2011 | NOVEMBER | $ 456.91 | | |
| 2011 | DECEMBER | $ 442.11 | $ 2,779.08 | $ Sub-total |
| 2012 | JANUARY $ 444.76 | Submitted | | |
| 2012 | FEBRUARY $ 452.43 | Submitted | | |
| 2012 | MARCH $ 465.13 | Submitted | $ 1,364.32 | |
| 2012 | APRIL | | | |
| 2012 | MAY | | | |
| 2012 | JUNE | | $ 1,350.26 | Estimated cost |
| | | Total | $ 5,493.66 | Estimated total |
| | | | $ 1,506.34 | Net |

(2)

**CITY COUNCIL AGENDA**
**CONSENT ITEM**

**Date:** **March 27, 2012**

**TO:** **City Council**

**FROM:** **Leonard Purvis, Chief of Police**

**SUBJECT:** **Resolution No. 2012-26, authorizing the destruction of city records as provided by Section 34090 of the California Government Code, Section 832.5 of the California Penal Code, and Resolution No. 2003-26 of the City of Banning.**

**RECOMMENDATIONS:** "The City Council adopt Resolution No. 2011-26 authorizing the destruction of city records as provided by Section 34090 of the California Government Code, Section 832.5 of the California Penal Code, and Resolution No. 2003-26 of the City of Banning."

**JUSTIFICATION:** The City Clerk and the City Attorney have certified the records listed in Attachment A to Resolution 2012-26 are no longer required to be kept by the City.

**BACKGROUND:** In March of 2003, the City Council adopted Resolution No. 2003-26, setting forth the schedule for destruction of City Records. The records listed in Attachment A of Resolution No. 2012-26 have all reached the end of their retention period.

**STRATEGIC PLAN INTEGRATION:** Council approval of this request will meet the City's goal to comply with California Government Code Section 34090 and California Penal Code Section 832.5, concerning the destruction of city records.

**FISCAL DATA:** This request requires no funds.

**RECOMMENDED BY:**

Leonard Purvis
Chief of Police

**APPROVED BY:**

Andrew Takata
City Manager

**RESOLUTION NO. 2012-26**

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BANNING AUTHORIZING THE BANNING POLICE DEPARTMENT TO DESTROY INTERNAL AFFAIRS RECORDS IN EXCESS OF FIVE YEARS FROM DATE OF COMPLETION PER CALIFORNIA GOVERNMENT CODE SECTION 34090 AND CALIFORNIA PENAL CODE SECTION 832.5.**

**WHEREAS,** Penal Code Section 832.5 requires that citizen complaints against police department personnel and any related reports or findings be maintained for a period of at least five years; and

**WHEREAS**, Government Code Section 34090 expressly authorizes the Chief of Police for the City of Banning, upon resolution of the City Council and written consent of the City Attorney, to destroy City records, documents, instruments, and other papers under his charge after the same are no longer required; and

**WHEREAS,** the Chief of Police has agreed to review the status of any such citizens complaint investigation in excess of five years for pending related civil or criminal litigation prior to its destruction; and

**WHEREAS,** the City Attorney hereby give his written consent for the destruction of the following records (See Attachment A); and

**NOW, THEREFORE, BE IT RESOLVED,** that the Chief of Police is hereby granted the authority to order the destruction of any and all records, reports, and findings relating to citizen complaints in excess of five years from the date of completion once the Chief of Police has determined that such are no longer required;

**BE IT FURTHER RESOLVED** that nothing in this resolution is intended to supersede or otherwise conflict with any law or any lawful judicial process which might affect retention or destruction of such records.

**PASSED, APPROVED, AND ADOPTED** this 27th day of March, 2012.

_____
Don Robinson, Mayor
City of Banning

**ATTEST:**

_____
Marie A. Calderon, City Clerk
City of Banning

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

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

**CERTIFICATION:**

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2012-26 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 27th day of March, 2012, by the following to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

# Attachment A

# BPD INTERNAL AFFAIRS INVESTIGATIONS INVENTORY WORKSHEET



| DEPARTMENT | BUILDING |
|---|---|
| Police | Banning Police Department |
| INVENTORY TAKEN BY: Leonard Purvis, Chief of Police | CHIEF OF POLICE: 3-14-12 (Signature/Date) |

## RECORDS INVENTORY

| IA CASE NUMBER | DATE COMPLETED | FILE LOCATION | MEDIA TYPE | YEARS COVERED | DOCUMENT ORIG | DOCUMENT COPY | Disposition |
|---|---|---|---|---|---|---|---|
| #2004-01 | 5/3/2004 | BPD | Paper, Cassette, Video, CD | 2004 & Prior | X | | Sustained / Not Sustained |
| #2005-02 | 8/1/2005 | BPD | Paper, Cassette, Video, CD | 2005 & Prior | X | | Sustained |
| #2006-01 | 2/24/2006 | BPD | Paper, Cassette, Video, CD | 2006 & Prior | X | | Preventable |
| #2006-02 | 7/20/2006 | BPD | Paper, Cassette, Video, CD | 2006 & Prior | X | | Not Sustained |
| #2006-03 | 9/8/2006 | BPD | Paper, Cassette, Video, CD | 2006 & Prior | X | | Sustained |
| #2006-04 | 7/6/2006 | BPD | Paper, Cassette, Video, CD | 2006 & Prior | X | | Sustained |
| #2006-05 | 7/11/2006 | BPD | Paper, Cassette, Video, CD | 2006 & Prior | X | | Not Sustained |
| #2006-06 | 5/17/2006 | BPD | Paper, Cassette, Video, CD | 2006 & Prior | X | | Non Preventable |
| #2006-07 | 7/7/2006 | BPD | Paper, Cassette, Video, CD | 2006 & Prior | X | | Unfounded |
| #2006-08 | 8/8/2006 | BPD | Paper, Cassette, Video, CD | 2006 & Prior | X | | Not Sustained |
| #2006-09 | 6/29/2006 | BPD | Paper, Cassette, Video, CD | 2006 & Prior | X | | Non Preventable |
| #2006-11 | 9/25/2006 | BPD | Paper, Cassette, Video, CD | 2006 & Prior | X | | Not Sustained / Unfounded |
| #2006-12 | 8/28/2006 | BPD | Paper, Cassette, Video, CD | 2006 & Prior | X | | Preventable |
| #2006-13 | 8/28/2006 | BPD | Paper, Cassette, Video, CD | 2006 & Prior | X | | Preventable |
| #2006-14 | 8/28/2006 | BPD | Paper, Cassette, Video, CD | 2006 & Prior | X | | Preventable |
| #2006-15 | 8/30/2006 | BPD | Paper, Cassette, Video, CD | 2006 & Prior | X | | Preventable |
| #2006-16 | 8/30/2006 | BPD | Paper, Cassette, Video, CD | 2006 & Prior | X | | Sustained |
| #2006-17 | 3/8/2007 | BPD | Paper, Cassette, Video, CD | 2007 & Prior | X | | Not Sustained |
| #2006-19 | 2/6/2007 | BPD | Paper, Cassette, Video, CD | 2007 & Prior | X | | Sustained |
| #2006-20 | 1/18/2007 | BPD | Paper, Cassette, Video, CD | 2007 & Prior | X | | Within Policy |
| #2006-21 | 2/6/2007 | BPD | Paper, Cassette, Video, CD | 2007 & Prior | X | | Preventable |
| #2006-24 | 3/2/2007 | BPD | Paper, Cassette, Video, CD | 2007 & Prior | X | | Unfounded |
| #2006-25 | 3/5/2007 | BPD | Paper, Cassette, Video, CD | 2007 & Prior | X | | Unfounded |
| #2006-26 | 2/8/2007 | BPD | Paper, Cassette, Video, CD | 2007 & Prior | X | | Sustained |
| #2006-27 | 2/8/2007 | BPD | Paper, Cassette, Video, CD | 2007 & Prior | X | | Sustained |
| #2006-28 | 3/2/2007 | BPD | Paper, Cassette, Video, CD | 2007 & Prior | X | | Non Preventable |
| #2008-07 | 12/29/2008 | BPD | Paper, Cassette, Video, CD | 2008 & Prior | X | | Sustained |

## REQUEST FOR DESTRUCTION OF RECORDS

Date: 03-27-12
Department: Banning Police Department

We are requesting destruction of the attached records due to:

☐ A copy has been made in accordance with Administrative Policy #A-28.
☒ The retention period on the following records has elapsed.

**Approvals:**

Department Head _____ Date _____

City Clerk _____ Date _____

City Attorney _____ Date _____

| Destruction Date: | Destroyed By: | Remarks: |
|---|---|---|
| | | |

Return signed original to City Clerk when completed.

# CITY COUNCIL AGENDA

**DATE:** **March 27, 2012**

**TO:** **City Council**

**FROM:** **Duane Burk, Director of Public Works**

**SUBJECT:** **Resolution No. 2012-28, "Awarding the Construction Contract for Project No. 2012-02, 'Street and Electrical Improvements on Ramsey Street between San Gorgonio Avenue and Martin Street' and Rejecting all other Bids"**

**RECOMMENDATION:** Adopt City Council Resolution No. 2012-28:

I. Awarding the Construction Contract for Project No. 2012-02, "Street and Electrical Improvements on Ramsey Street between San Gorgonio Avenue and Martin Street" to Cooley Construction Inc. of Hesperia, California for an amount of $488,308.50 and allowing a 10% contingency of $48,830.85.

II. Approving the Professional Services Agreement for Surveying and Construction Staking Services with Albert A. Webb Associates of Riverside, California, for an amount of "Not to Exceed" $4,920.00 and a Professional Services Agreement for Material Testing Services with Landmark Consultants Inc. of Palm Desert, California, for an amount of "Not to Exceed" $4,000.00.

III. Authorizing the Administrative Services Director to appropriate $412,690.55 from the 2003 Tax Allocation Bond Fund to Account No. 856-9500-490.93-72 and $80,814.80 from the 2007 Electric Revenue Bond Proceeds to Account No. 673-7000-473-96.29 and to make the necessary budget adjustments, appropriations and transfers to fund this project.

IV. Authorizing the Administrative Services Director to approve change orders within the 10% contingency of $48,830.85.

**JUSTIFICATION:** Cooley Construction Inc. is the lowest responsive and responsible bidder to construct Project No. 2012-02, "Street and Electrical Improvements on Ramsey Street between San Gorgonio Avenue to Martin Street."

**BACKGROUND**: The Community Redevelopment Agency (CRA) directed staff to proceed with the acquisition of various properties including 150, 220 and 280 E. Ramsey Street as well as 50 S. Alessandro Road with intentions of utilizing the property for the development of a mixed use project titled the Village at Paseo San Gorgonio (VPSG).

On June 14, 2011, in an effort to continue to prepare the future VPSG site for development, the CRA approved the award of a Professional Services Agreement with Albert A. Webb Associates for the design of street and sewer improvements on Ramsey Street and Martin Street. The improvement plans were completed in February of 2012.

The Public Works staff advertised a "Notice Inviting to Bid", as shown attached as Exhibit "A", on February 24, 2012 and March 2, 2012 for Project No. 2012-02, "Street and Electrical Improvements on Ramsey Street between San Gorgonio Avenue and Martin Street". The scope of work includes grinding/cold planing of existing asphalt; grading, placing new A.C. and base; constructing A.C. berms, sidewalks, curbs, gutters, driveways, cross gutters, spandrels and handicap ramps; installation of electric conduits, street lights and hand holes; construction of a sewer main and manholes; construction of a water main and related appurtenances; adjusting fire hydrants, water meters, and water valve covers to grade; removing and replacing water services, water meter boxes; and striping improvements in accordance with the City of Banning and CALTRANS Standard Specifications.

On March 15, 2012 the City Clerk received four (4) bids and publicly opened and read out loud the following results (shown as attached Exhibit "B"):

| Contractor | Total Bid |
|---|---|
| 1. Cooley Construction, Inc. | $488,308.50 |
| 2. Matich Corporation | $562,000.00 |
| 3. All American Asphalt | $595,000.00 |
| 4. Silvia Construction | $664,088.00 |

The Engineer's estimate for the project is $500,000.00. If approved the project is anticipated to begin in April, 2012.

**FISCAL DATA:** The total project cost is equal to $546,059.35, which includes a 10% construction contingency and the professional services costs. An appropriation in the amount of $412,690.55 from the 2003 Tax Allocation Bond Fund is needed in Account No. 856-9500-490.93-72, which currently has an uncommitted balance of $52,554.00. In the case that issues arise with the funding of this project due to AB 1X26, the project would be backfilled through the proceeds from the sale of the land proposed for the VPSG project. The remaining balance of $80,814.80 is requested to be appropriated from the 2007 Electric Revenue Bond Proceeds to Account No. 673-7000-473-96.29 (D.T. Underground Conversion).

**RECOMMENDED BY:**

Duane Burk
Director of Public Works

**RECOMMENDED BY:**

Fred Mason
Electric Utility Director

**APPROVED BY**

Andy Takata
City Manager

**REVIEWED BY:**

June Overholt
Administrative Services Director/
Deputy City Manager

**RESOLUTION NO. 2012-28**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AWARDING THE CONSTRUCTION CONTRACT FOR PROJECT NO. 2012-02, "STREET AND ELECTRICAL IMPROVEMENTS ON RAMSEY STREET BETWEEN SAN GORGONIO AVENUE AND MARTIN STREET" AND REJECTING ALL OTHER BIDS**

**WHEREAS,** the Community Redevelopment Agency (CRA) directed staff to proceed with the acquisition of various properties such as 150, 220 and 280 E. Ramsey Street as well as 50 S. Alessandro Road with intentions of utilizing the property for the development of a mixed use project titled the Village at Paseo San Gorgonio (VPSG); and

**WHEREAS,** on June 14, 2011, in an effort to continue to prepare the future VPSG site for development, the CRA approved the award of a Professional Services Agreement with Albert A. Webb Associates for the preparation of street and sewer improvement plans on Ramsey Street and Martin Street; and

**WHEREAS,** Albert A. Webb Associates completed the plans in February of 2012; and

**WHEREAS,** a Notice Inviting Bids was advertised on February 24, 2012 and March 2, 2012, as shown attached as Exhibit "A", and four (4) bids were received and opened on March 15, 2012 (shown as Exhibit "B"); and

**WHEREAS,** Cooley Construction Inc. of Hesperia, California is the lowest responsible bidder to construct Project No. 2012-02, "Street and Electrical Improvements on Ramsey Street between San Gorgonio Avenue and Martin Street"; and

**WHEREAS,** the scope of work under this project includes grinding/cold planing of existing asphalt; grading, placing new A.C. and base; constructing A.C. berms, sidewalks, curbs, gutters, driveways, cross gutters, spandrels and handicap ramps; installation of electric conduits, street lights and hand holes; construction of a sewer main and manholes; construction of a water main and related appurtenances; adjusting fire hydrants, water meters, and water valve covers to grade; removing and replacing water services, water meter boxes; and striping improvements all in accordance with the City of Banning and CALTRANS Standard Specifications; and

**WHEREAS,** the project will be partially funded by the 2003 Tax Allocation Bond Fund and in the case that issues arise due to AB 1X26 the project would be backfilled through the proceeds from the sale of the land proposed for the VPSG project.

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

SECTION 1. City Council adopts Resolution No. 2012-28 awarding the Construction Contract for Project No. 2012-02, "Street and Electrical Improvements on Ramsey Street between San Gorgonio Avenue to Martin Street" to Cooley Construction Inc. of Hesperia, California for an amount equal to $488,308.50, allowing a 10% contingency of $48,830.85 and rejecting all other bids.

SECTION 2. City Council approves the Professional Services Agreement for Surveying and Construction Staking Services with Albert A. Webb Associates of Riverside, California, for an amount of "Not to Exceed" $4,920.00 and a Professional Services Agreement for Material Testing Services with Landmark Consultants Inc. of Palm Desert, California, for an amount of "Not to Exceed" $4,000.00.

SECTION 3. The Administrative Services Director is authorized to make the necessary budget appropriation in the amount of $412,690.55 from the 2003 Tax Allocation Bond Fund to Account No. 856-9500-490.93-72, which currently has an uncommitted balance of $52,554.00 and an appropriation from the 2007 Electric Revenue Bond Proceeds to Account No. 673-7000-473-96.29 in the amount of $80,814.80 and any additional budget adjustments, appropriations and transfers related to this project including approval of change orders within the 10% contingency of $48,830.85.

SECTION 4. The City Manager is authorized to execute the contract agreements for Project No. 2012-02, "Street and Electrical Improvements on Ramsey Street between San Gorgonio Avenue to Martin Street." This authorization will be rescinded if the contract agreements are not executed within forty-five (45) days of the date of this resolution.

**PASSED, ADOPTED AND APPROVED** this 27th day of March, 2012.

_____
Don Robinson, Mayor
City of Banning

ATTEST:

_____
Marie A. Calderon, City Clerk

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. 2012-28, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 27th day of March, 2012.

AYES:
NOES:
ABSTAIN:
ABSENT:

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

# EXHIBIT "A"

# NOTICE INVITING TO BID

Printed at: 12:45 pm
on: Wednesday, Feb 22, 2012
Ad #: 0000742068
Order Taker: Maria Tinajero

enterprise media
Classified Advertising
**Proof**

3450 Fourteenth St.
Riverside, CA 92501-3878
(800) 514-7253
(951) 684-1200
(951) 368-9006 Fax

**Account Information**

| | |
|---|---|
| Phone #: | (951) 922-3130 |
| Name: | BANNING, CITY OF |
| Address: | 99 E RAMSEY ST ,<br>BANNING, CA 92220<br>USA |
| Account #: | 100143211 |
| Client: | |
| Placed By: | Art Vela |
| Fax #: | |

**Ad Information**

| | |
|---|---|
| Classification: | EN CLS Legals |
| Publication: | PE.com, Press Enterprise |
| Start Date: | 02/24/2012 |
| Stop Date: | 03/02/2012 |
| Insertions: | 2 print / 2 online |
| Rate code: | LGL PE City Legal |
| Ad type: | CLS 10 Liner |
| Size: | 2.0 X 68 Li |
| Bill Size: | |
| Amount Due: | |

**Ad Copy:**

**NOTICE INVITING TO BID**
**PROJECT NO. 2012-02, "STREET IMPROVEMENTS AND ELECTRICAL IMPROVEMENTS ON RAMSEY STREET BETWEEN SAN GORGONIO AVENUE AND MARTIN STREET"**

**OWNER:** City of Banning

**PROJECT DESCRIPTION:** The scope of work under this project includes grinding/cold planing of existing asphalt; grading, placing new A.C. and base; constructing A.C. berms, sidewalks, curbs, gutters, driveways, cross gutters, spandrels and handicap ramps; installation of electric conduits, street lights and hand holes; construction of a sewer main and manholes; adjusting manholes, fire hydrants, water meters, and water valve covers to grade; removing and replacing water services, water meter boxes, and mailboxes when required by the Public Works Inspector; striping improvements; and cleaning; etc., on various streets all in accordance with the City of Banning and CALTRANS Standard Specifications. The Contractor must comply with all NPDES requirements to reduce storm water run-off by implementing applicable BMPs, as required by the Public Works Inspector.

**PLANS & SPECS:** Full-size drawings and specifications will be made available on February 28, 2012, and may be obtained at the Public Works Department, Engineering Division, City of Banning, 99 E. Ramsey Street, Banning, California 92220, by a non-refundable deposit of Fifty Dollars ($50.00) per set. An additional non-refundable charge of Fifteen Dollars ($15.00) to cover the cost of wrapping, handling, and postage will be made for each set of Contract Documents mailed.

**NON-MANDATORY PRE-BID CONFERENCE:** March 8, 2012 at 10 a.m. at the City of Banning, City Hall, 99 E. Ramsey St., Banning.

**REQUIREMENTS:** Prevailing Wage, Certified Payroll, Bid Bond, Payment and Performance Bond, Insurance, etc., per the approved specifications. Pursuant to the provisions of Public Contract Code Section 3300, the City has determined that the Contractor shall possess a valid Class A license at the time that the Contract is awarded. Failure to possess the specified license shall render the bid as not responsible and/or non-responsive and shall act as a bar to award the Contract to any bidder not possessing said license at the time of award.

**SEALED BIDS DUE:** March 15, 2012 and Opened Publicly at 10 a.m. local time, at the above City Hall address, Attn: City Clerk.

CITY OF BANNING, CALIFORNIA
Dated: 2/22/2012
S/ Marie A. Calderon
City Clerk

2/24, 3/2

# EXHIBIT "B"

# BID SUMMARY

# SUMMARY OF BIDS RECEIVED
# CITY OF BANNING

**PROJECT NO.:** 2012-02

**DESCRIPTION:** Street Improvements & Electrical Improvements on Ramsey Street Between San Gorgonio Avenue and Martin Street

**BID OPENING DATE:** March 15, 2012 **TIME:** 2:00 p.m.

| NAME OF BIDDER: | Bid Bond | Addendum | TOTAL BID AMOUNT: |
|---|---|---|---|
| All American Asphalt<br>Corona, CA | ✓ | ✓ | $ 595,000.00 |
| Matich Corporation<br>Highland, CA | ✓ | ✓ | $ 562,000.00 |
| Cooley Construction, Inc.<br>Hesperia, CA | ✓ | ✓ | $ 487,508.50 |
| Silvia Construction, Inc.<br>Rancho Cucamonga, CA | ✓ | ✓ | $ 664,088.00 |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

**VERIFIED BY:** Marie A. Calderon, City Clerk

[illegible], Senior Eng.

# CITY COUNCIL AGENDA

**DATE:** **March 27, 2012**

**TO:** **Honorable Mayor and City Council**

**FROM:** **Fred Mason, Electric Utility Director**

**SUBJECT:** **City Council Resolution No. 2012-29, Updating the Status of Banning Electric Department Energy Storage Activities and Opening a Proceeding to Determine Appropriate Energy Storage Targets**

**RECOMMENDATION:** Adopt City Council Resolution No. 2012-29, accepting the update on the status of the Banning Electric Department energy storage activities, and opening a proceeding to determine appropriate energy storage targets.

**JUSTIFICATION:** California legislation requires publicly owned electric utilities, such as the City of Banning, to perform specific activities pertaining to energy storage.

**BACKGROUND:** Assembly Bill 2514 (AB 2514) was signed by the Governor on September 29, 2010, and requires the governing board of local publicly owned electric utilities to open a proceeding by March 2012 to determine appropriate targets, if any, for procuring technically viable and cost-effective energy storage systems. Under AB 2514, the City Council is required by October 1, 2013 to adopt an initial energy storage system procurement target, if determined to be appropriate, to be achieved by December 31, 2015, with a second target to be achieved by December 31, 2020.

An energy storage system must be cost-effective and reduce emissions of greenhouse gases, reduce demand for peak electrical generation, defer or substitute for an investment in generation, transmission or distribution assets, or improve the reliable operation of the electrical transmission or distribution grid.

At this time, due to the cost and limited applications, the Electric Department has not implemented any energy storage projects. However, Staff will continue to evaluate and quantify the benefits of viable and cost-effective energy storage system options, as they become available, and will report back to Council by October 1, 2013 with recommendations for energy storage system procurement targets.

**FISCAL DATA:** This is a status report and there are no fiscal impacts.

**RECOMMENDED BY:**

Fred Mason
Electric Utility Director

**APPROVED BY:**

Andrew J. Takata
City Manager

**RESOLUTION NO 2012-29**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING UPDATING THE STATUS OF BANNING ELECTRIC DEPARTMENT ENERGY STORAGE ACTIVITIES AND OPENING A PROCEEDING TO DETERMINE APPROPRIATE ENERGY STORAGE TARGETS**

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

**WHEREAS,** Assembly Bill 2514 (AB 2514) requires that the governing board of a publicly owned electric utility open a proceeding by March 2012 to determine appropriate targets, if any, for procuring technically viable and cost-effective energy storage systems; and

**WHEREAS,** under AB 2514 the City Council is required by October 1, 2013 to adopt an initial energy storage system procurement target, if determined to be appropriate, to be achieved by December 31, 2015, with a second target to be achieved by December 31, 2020; and

**WHEREAS,** City Staff will continue to evaluate viable and cost-effective energy storage system options, and will report back to Council by October 1, 2013;

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

SECTION 1: Adopt Resolution 2012-29 and authorize the Mayor to sign said resolution.

**PASSED, APPROVED AND ADOPTED** this 27th day of March, 2012.

Don Robinson, Mayor
City of Banning

**ATTEST:**

Marie A. Calderon, City Clerk

**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. 2012-29 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 27th day of March, 2012, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

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

# CITY COUNCIL AGENDA

**Date:** **March 27, 2012**

**TO:** **City Council**

**FROM:** **June Overholt, Administrative Services Director/Deputy City Manager**

**SUBJECT:** **Report of Investments for January 2012**

**RECOMMENDATION:** "The City Council receive and place these required monthly *Reports of Investments* on file."

**JUSTIFICATION:** State law requires that a monthly report of investments be submitted to the Chief Executive Officer and the Legislative Body.

**BACKGROUND:** This report includes investments on hand at the end of January 2012. As of January 31, 2012, the City's operating funds totaled $64,617,644. Included in operating funds is $1,506,801 of restricted CRA bond proceeds that are on deposit with LAIF and reflected separately on the Treasurer's Report. As of January 31, 2012 approximately 49% of the City's unrestricted cash balances were invested in investments other than LAIF.

Presented are three months of Investment Reports. January is a first issue, while November and December are included to provide multiple months of statements for comparison.

**FISCAL DATA:** The latest reports from the State indicate that the average interest achieved by the Local Agency Investment Fund (LAIF) increased to 0.385% in January. The average rate for all investments in January was 0.388%.

**RECOMMENDED BY:**

June Overholt
Administrative Services Director/
Deputy City Manager

**APPROVED BY:**

Andy Takata
City Manager

## Summary Schedule of Cash and Investments

**Operating Funds**

| | | Interest Rate | Amount | Amount | |
|---|---|---|---|---|---|
| *Petty Cash* | | | | 2,305 | |
| *Bank Accounts* | | | | | |
| Wells Fargo Bank | | 0.000% | 70,869 | | |
| Wells Fargo Bank-Investment Account | | 0.100% | 4,602,220 | | |
| Bank of America-Airport | | 0.300% | 7,917 | | |
| Bank of America-Parking Citations | | 0.300% | 4,094 | | |
| Bank of America-CNG Station | | 0.300% | 6,012 | | |
| *Money Market and Bank Account Sub-Total* | | | | 4,691,111 | |
| *Government Pools* | | | | | |
| Account #1 Operating Amount | 31,011,337 | | | | |
| Account #1 CRA Bond Cash Bal. | 1,506,801 | | | | |
| Local Agency Investment Fund: Account #1 | | 0.385% | 32,518,138 | | |
| Account #2 Operating Amount | | | | | |
| Account #2 CRA Bond Cash Bal | 0 | | | | |
| Local Agency Investment Fund: Account #2 | | 0.385% | - | | |
| *Government Pool Sub-Total* | | | | 32,518,138 | |
| **Operating Cash Balance** | | | | | **37,211,554** |
| ***Restricted Operating Funds at Riverside Public Utilities*** | | | | | |
| Highmark U.S. Government Money Market Fund | | 0.000% | | | **1,800,128** |
| ***Other Investments*** | | | | | |
| Investments-US Bank/Piper Jaffray - See Page 2 | | 0.446% | | | **25,605,961** |
| ***Operating Funds Total*** | | | | | **64,617,644** |

**Fiscal Agent**

| | Amount | |
|---|---|---|
| US Bank | 44,402,661 | |
| ***Fiscal Agent Total*** | | **44,402,661** |

# City of Banning Investment Report

January31, 2012

## Operational Portfolio Individual Investments

| Par Value | Investment Description | Coupon Rate | Interest Rate | Maturity Date | Purchase Date | Purchase 40,695 | Discount or (Premium) Amortization | Market Value |
|---|---|---|---|---|---|---|---|---|
| *Bank Accounts* | | | | | | | | |
| 70,869 | Wells Fargo Bank-Operating | n/a | 0.00% | daily | varies | 70,869 | n/a | 70,869 |
| 4,602,220 | Wells Fargo Bank-Investment Acct | n/a | 0.10% | daily | varies | 4,602,220 | n/a | 4,602,220 |
| 7,917 | Bank of America-Airport | n/a | 0.30% | daily | varies | 7,917 | n/a | 7,917 |
| 4,094 | Bank of America-Parking Citations | n/a | 0.30% | daily | varies | 4,094 | n/a | 4,094 |
| 6,012 | Bank of America-Parking Citations | n/a | 0.30% | daily | varies | 6,012 | n/a | 6,012 |
| | Sub-total | | | | | | | 4,691,111 |
| *Government Pools* | | | | | | | | |
| 32,518,138 | L.A.I.F. account #1 | n/a | 0.385% | daily | varies | 32,518,138 | n/a | 32,518,138 |
| - | L.A.I.F. account #2 | n/a | 0.385% | daily | varies | - | n/a | - |
| | | | | | | | | 32,518,138 |
| *Investments-US Bank/Piper Jaffray* | | | | | | | | |
| 1,000,000 | Federal Home Loan Banks | n/a | 1.000% | 6/27/2014 | 6/16/2011 | 1,000,000 | | 1,002,760 |
| 5,000,000 | FHLMC MTN | n/a | 0.500% | 9/6/2013 | 12/2/2011 | 5,000,000 | | 4,998,050 |
| 5,000,000 | FHLMC MTN | n/a | 0.450% | 9/6/2013 | 12/2/2011 | 5,000,000 | | 5,002,800 |
| 3,000,000 | Federal Farm Bank Credit Bks | n/a | 0.620% | 5/1/2014 | 12/2/2011 | 3,000,000 | | 3,000,150 |
| 5,500,000 | Federal Farm Bank Credit Bks | n/a | 0.690% | 6/12/2014 | 12/28/2011 | 5,500,000 | | 5,502,365 |
| 6,099,836 | Money Market | n/a | 0.000% | daily | varies | 6,099,836 | 0 | 6,099,836 |
| | US Bank/Piper Jaffray Average Rate= | | 0.446% | | | | | 25,605,961 |

## Average Rate All= 0.388%

It has been verified that this investment portfolio is in conformity with the City of Banning's investment policy which was approved by the City Council on August 23, 2011. The Treasurer's cash management program provides sufficient liquidity to meet estimated future expenditures for a period of six months. The weighted average maturity of the pooled investment portfolio is 226 days and does not include Bond Reserve Fund Investments.

# City of Banning Investment Report

January, 2012

## Individual Investments with Fiscal Agent

| TRUSTEE<br>Bond Issue Description | Bond Maturity Date | Investment Description | Current Yield | Bond Reserve Bond Maturity Date | Minimum Reserve Requirement | Interest Jan-12 | 1/31/2012 Market Value |
|---|---|---|---|---|---|---|---|
| **COB IMPROVEMENT DISTRICT LIMITED OBLIGATION BONDS SERIES 2005A** | | | | | | | |
| 2005 Fair Oaks Ranch Estates | 2035 | US Bank Mmkt 4-Ct | 0.050% | daily | 188,943 | 7.73 | 188,065 |
| **COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION, SERIES 2003** | | | | | | | |
| 2003 CRA Tax Allocation Bonds | 2028 | U S Treasury Bill | 0.00% | 7/28/2011 | 971,763 | 4,318.13 | |
| | | US Bank Mmkt 4-Ct | 0.050% | daily | | 0.90 | 1,013,156 |
| | | US Bank Mmkt 4-Ct | 0.050% | daily | | | 242,761 |
| Surplus Fund | | US Bank Mmkt 4-Ct | 0.000% | daily | | | 8 |
| **COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007** | | | | | | | |
| Redevelop Fund | 2037 | US Bank Mmkt 4-Ct | 0.050% | daily | | 490.37 | 11,932,838 |
| Reserve Fund | | US Bank Mmkt 4-Ct | 0.050% | daily | 1,880,751 | 77.08 | 1,875,647 |
| Special Fund | | US Bank Mmkt 4-Ct | 0.050% | daily | | | 599,738 |
| Surplus Fund | | US Bank Mmkt 4-Ct | 0.000% | daily | | | 9 |
| **BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES** | | | | | | | |
| Interest Account | | US Bank Mmkt 4-Ct | 0.000% | daily | | | 4 |
| Principal Account | | US Bank Mmkt 4-Ct | 0.000% | daily | | | 6 |
| | | US Bank Mmkt 4-Ct | 0.050% | daily | | 151.58 | 3,688,559 |
| **BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES** | | | | | | | |
| Interest Account | | US Bank Mmkt 4-Ct | 0.040% | daily | | | 24 |
| Principal Account | | US Bank Mmkt 4-Ct | 0.030% | daily | | - | 30 |
| Reserve Fund | | US Bank Mmkt 4-Ct | 0.050% | daily | 2,310,710 | 94.97 | 2,311,121 |
| Project Fund | | US Bank Mmkt 4-Ct | 0.050% | daily | | 172.51 | 4,197,973 |
| **BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES** | | | | | | | |
| | | US Bank Mmkt 4-Ct | 0.050% | daily | | 19.15 | 19 |
| | | US Bank Mmkt 4-Ct | 0.050% | daily | 2,672,050 | 122.16 | 2,972,716 |
| Acquisition & Construction | | US Bank Mmkt 4-Ct | 0.500% | daily | | 632.03 | 15,379,987 |
| | | | | **Total** | | **6,086.61** | **44,402,661** |

*Paid Semi-Annually-Deposited into Money Mkt Account

## Summary Schedule of Cash and Investments

| | | Interest Rate | Amount | Amount | |
|---|---|---|---|---|---|
| **Operating Funds** | | | | | |
| *Petty Cash* | | | | 2,305 | |
| *Bank Accounts* | | | | | |
| Wells Fargo Bank | | 0.000% | 4,620 | | |
| Wells Fargo Bank-Investment Account | | 0.100% | 2,947,287 | | |
| Bank of America-Airport | | 0.300% | 4,666 | | |
| Bank of America-Parking Citations | | 0.300% | 3,244 | | |
| Bank of America-CNG Station | | 0.300% | 3,726 | | |
| *Money Market and Bank Account Sub-Total* | | | | 2,963,544 | |
| *Government Pools* | | | | | |
| Account #1 Operating Amount | 31,216,326.48 | | | | |
| Account #1 CRA Bond Cash Bal. | 297,412 | | | | |
| Local Agency Investment Fund: Account #1 | | 0.382% | 31,513,738 | | |
| Account #2 Operating Amount | | | | | |
| Account #2 CRA Bond Cash Bal | 1,272,335 | | | | |
| Local Agency Investment Fund: Account #2 | | 0.382% | 1,272,335 | | |
| *Government Pool Sub-Total* | | | | 32,786,074 | |
| **Operating Cash Balance** | | | | | **35,751,923** |
| ***Restricted Operating Funds at Riverside Public Utilities*** | | | | | |
| Highmark U.S. Government Money Market Fund | | 0.000% | | | **1,244,500** |
| ***Other Investments*** | | | | | |
| Investments-US Bank/Piper Jaffray - See Page 2 | | 0.623% | | | **25,586,516** |
| ***Operating Funds Total*** | | | | | **62,582,938** |
| **Fiscal Agent** | | | | Amount | |
| US Bank | | | | 43,554,793 | |
| ***Fiscal Agent Total*** | | | | | **43,554,793** |

# City of Banning Investment Report

December 31, 2011

## Operational Portfolio Individual Investments

| Par Value | Investment Description | Coupon Rate | Interest Rate | Maturity Date | Purchase Date | Purchase 40,695 | Discount or (Premium) Amortization | Market Value |
|---|---|---|---|---|---|---|---|---|
| *Bank Accounts* | | | | | | | | |
| 4,620 | Wells Fargo Bank-Operating | n/a | 0.00% | daily | varies | 4,620 | n/a | 4,620 |
| 2,947,287 | Wells Fargo Bank-Investment Acct | n/a | 0.10% | daily | varies | 2,947,287 | n/a | 2,947,287 |
| 4,666 | Bank of America-Airport | n/a | 0.30% | daily | varies | 4,666 | n/a | 4,666 |
| 3,244 | Bank of America-Parking Citations | n/a | 0.30% | daily | varies | 3,244 | n/a | 3,244 |
| 3,726 | Bank of America-Parking Citations | n/a | 0.30% | daily | varies | 3,726 | n/a | 3,726 |
| | Sub-total | | | | | | | 2,963,544 |
| *Government Pools* | | | | | | | | |
| 31,513,738 | L.A.I.F. account #1 | n/a | 0.382% | daily | varies | 31,513,738 | n/a | 31,513,738 |
| 1,272,335 | L.A.I.F. account #2 | n/a | 0.382% | daily | varies | 1,272,335 | n/a | 1,272,335 |
| | | | | | | | | 32,786,074 |
| *Investments-US Bank/Piper Jaffray* | | | | | | | | |
| 1,000,000 | Federal Home Loan Banks | n/a | 1.000% | 6/27/2014 | 6/16/2011 | 1,000,000 | | 1,002,900 |
| 2,000,000 | Federal Home Loan Banks | n/a | 1.125% | 6/30/2014 | 6/16/2011 | 2,000,000 | | 2,000,120 |
| 2,000,000 | FHLMC MTN | n/a | 0.650% | 7/18/2013 | 7/18/2011 | 2,000,000 | | 2,000,260 |
| 1,000,000 | FHLMC MTN | n/a | 1.000% | 4/11/2014 | 7/11/2011 | 1,000,000 | | 1,000,110 |
| 5,000,000 | FHLMC MTN | n/a | 0.500% | 9/6/2013 | 12/2/2011 | 5,000,000 | | 4,994,050 |
| 5,000,000 | FHLMC MTN | n/a | 0.450% | 9/6/2013 | 12/2/2011 | 5,000,000 | | 4,999,150 |
| 3,000,000 | Federal Farm Bank Credit Bks | n/a | 0.620% | 5/1/2014 | 12/2/2011 | 3,000,000 | | 3,000,840 |
| 5,500,000 | Federal Farm Bank Credit Bks | n/a | 0.690% | 6/12/2014 | 12/28/2011 | 5,500,000 | | 5,498,625 |
| 1,090,461 | Money Market | n/a | 0.000% | daily | varies | 1,090,461 | 0 | 1,090,461 |
| | US Bank/Piper Jaffray Average Rate= | | 0.623% | | | | | 25,586,516 |

## Average Rate All= 0.469%

It has been verified that this investment portfolio is in conformity with the City of Banning's investment policy which was approved by the City Council on August 23, 2011. The Treasurer's cash management program provides sufficient liquidity to meet estimated future expenditures for a period of six months. The weighted average maturity of the pooled investment portfolio is 305 days and does not include Bond Reserve Fund Investments.

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# City of Banning Investment Report

December 31, 2011

## Individual Investments with Fiscal Agent

| TRUSTEE<br>Bond Issue Description | Bond Maturity Date | Investment Description | Current Yield | Bond Reserve Bond Maturity Date | Minimum Reserve Requirement | Interest Dec-11 | 12/31/2011 Market Value |
|---|---|---|---|---|---|---|---|
| **COB IMPROVEMENT DISTRICT LIMITED OBLIGATION BONDS SERIES 2005A** | | | | | | | |
| 2005 Fair Oaks Ranch Estates | 2035 | US Bank Mmkt 4-Ct | 0.050% | daily | 188,943 | 7.73 | 188,057 |
| **COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION, SERIES 2003** | | | | | | | |
| 2003 CRA Tax Allocation Bonds | 2028 | U S Treasury Bill | 0.75% | 7/28/2011 | 971,763 | 0.00 | 987,622 |
| | | US Bank Mmkt 4-Ct | 0.050% | daily | | 0.84 | 21,837 |
| | | US Bank Mmkt 4-Ct | 0.030% | daily | | | 29 |
| Surplus Fund | | US Bank Mmkt 4-Ct | 0.000% | daily | | | 8 |
| **COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007** | | | | | | | |
| Redevelop Fund | 2037 | US Bank Mmkt 4-Ct | 0.050% | daily | | 490.35 | 11,932,348 |
| Reserve Fund | | US Bank Mmkt 4-Ct | 0.050% | daily | 1,880,751 | 77.07 | 1,875,570 |
| Special Fund | | US Bank Mmkt 4-Ct | 0.040% | daily | | | 47 |
| Surplus Fund | | US Bank Mmkt 4-Ct | 0.000% | daily | | | 9 |
| **BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES** | | | | | | | |
| Interest Account | | US Bank Mmkt 4-Ct | 0.000% | daily | | | 4 |
| Principal Account | | US Bank Mmkt 4-Ct | 0.000% | daily | | | 6 |
| | | US Bank Mmkt 4-Ct | 0.050% | daily | | 151.57 | 3,688,408 |
| **BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES** | | | | | | | |
| Interest Account | | US Bank Mmkt 4-Ct | 0.040% | daily | | | 24 |
| Principal Account | | US Bank Mmkt 4-Ct | 0.050% | daily | | - | 30 |
| Reserve Fund | | US Bank Mmkt 4-Ct | 0.050% | daily | 2,310,710 | 94.97 | 2,311,026 |
| Project Fund | | US Bank Mmkt 4-Ct | 0.050% | daily | | 172.51 | 4,197,800 |
| **BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES** | | | | | | | |
| | | US Bank Mmkt 4-Ct | 0.050% | daily | | 19.15 | 19 |
| | | US Bank Mmkt 4-Ct | 0.050% | daily | | 55.14 | 2,972,594 |
| Acquisition & Construction | | US Bank Mmkt 4-Ct | 0.050% | daily | | 632.00 | 15,379,355 |
| | | | | **Total** | | **1,701.33** | **43,554,793** |

*Paid Semi-Annually-Deposited into Money Mkt Account

## Summary Schedule of Cash and Investments

| **Operating Funds** | Interest Rate | Amount | Amount | |
|---|---|---|---|---|
| *Petty Cash* | | | 2,305 | |
| *Bank Accounts* | | | | |
| Wells Fargo Bank | 0.000% | 42,179 | | |
| Wells Fargo Bank-Investment Account | 0.100% | 2,868,834 | | |
| Bank of America-Airport | 0.300% | 15,891 | | |
| Bank of America-Parking Citations | 0.300% | 3,875 | | |
| Bank of America-CNG Station | 0.300% | 5,879 | | |
| *Money Market and Bank Account Sub-Total* | | | 2,936,658 | |
| *Government Pools* | | | | |
| Local Agency Investment Fund: Account #1 | 0.401% | 31,513,738 | | |
| Account #2 Operating Amount 404,740 | | | | |
| Account #2 CRA Bond Cash Bal 1,567,596 | | | | |
| Local Agency Investment Fund: Account #2 | 0.401% | 1,972,335 | | |
| *Government Pool Sub-Total* | | | 33,486,074 | |
| **Operating Cash Balance** | | | | **36,425,037** |
| ***Restricted Operating Funds at Riverside Public Utilities*** | | | | |
| Highmark U.S. Government Money Market Fund | 0.000% | | | **1,206,019** |
| ***Other Investments*** | | | | |
| Investments-US Bank/Piper Jaffray - See Page 2 | 0.240% | | | **25,589,800** |
| ***Operating Funds Total*** | | | | **63,220,856** |

| **Fiscal Agent** | Amount | |
|---|---|---|
| US Bank | 44,480,980 | |
| ***Fiscal Agent Total*** | | **44,480,980** |

# City of Banning Investment Report

November 30, 2011

## Operational Portfolio Individual Investments

| Par Value | Investment Description | Coupon Rate | Interest Rate | Maturity Date | Purchase Date | Purchase 40,695 | Discount or (Premium) Amortization | Market Value |
|---|---|---|---|---|---|---|---|---|
| *Bank Accounts* | | | | | | | | |
| 42,179 | Wells Fargo Bank-Operating | n/a | 0.00% | daily | varies | 42,179 | n/a | 42,179 |
| 2,868,834 | Wells Fargo Bank-Investment Acct | n/a | 0.10% | daily | varies | 2,868,834 | n/a | 2,868,834 |
| 15,891 | Bank of America-Airport | n/a | 0.30% | daily | varies | 15,891 | n/a | 15,891 |
| 3,875 | Bank of America-Parking Citations | n/a | 0.30% | daily | varies | 3,875 | n/a | 3,875 |
| 5,879 | Bank of America-Parking Citations | n/a | 0.30% | daily | varies | 5,879 | n/a | 5,879 |
| | Sub-total | | | | | | | 2,936,658 |
| *Government Pools* | | | | | | | | |
| 31,513,738 | L.A.I.F. account #1 | n/a | 0.401% | daily | varies | 31,513,738 | n/a | 31,513,738 |
| 1,972,335 | L.A.I.F. account #2 | n/a | 0.401% | daily | varies | 1,972,335 | n/a | 1,972,335 |
| | | | | | | | | 33,486,074 |
| *Investments-US Bank/Piper Jaffray* | | | | | | | | |
| 1,000,000 | FHLMC MTN | n/a | 0.600% | 6/28/2013 | 6/16/2011 | 1,000,000 | | 1,000,140 |
| 1,000,000 | Federal Home Loan Banks | n/a | 1.000% | 6/27/2014 | 6/16/2011 | 1,000,000 | | 1,003,310 |
| 2,000,000 | Federal Home Loan Banks | n/a | 1.125% | 6/30/2014 | 6/16/2011 | 2,000,000 | | 2,000,860 |
| 2,000,000 | FHLMC MTN | n/a | 0.650% | 7/18/2013 | 7/18/2011 | 2,000,000 | | 2,000,780 |
| 1,000,000 | FHLMC MTN | n/a | 1.000% | 4/11/2014 | 7/11/2011 | 1,000,000 | | 1,000,550 |
| 18,584,160 | Money Market | n/a | 0.000% | daily | varies | 18,584,160 | 0 | 18,584,160 |
| | US Bank/Piper Jaffray Average Rate= | | 0.240% | | | | | 25,589,800 |

## Average Rate All= 0.320%

It has been verified that this investment portfolio is in conformity with the City of Banning's investment policy which was approved by the City Council on August 23, 2011. The Treasurer's cash management program provides sufficient liquidity to meet estimated future expenditures for a period of six months. The weighted average maturity of the pooled investment portfolio is 91 days and does not include Bond Reserve Fund Investments.

Att

# City of Banning Investment Report

November 30, 2011

## Individual Investments with Fiscal Agent

| TRUSTEE<br>Bond Issue Description | Bond Maturity Date | Investment Description | Current Yield | Bond Reserve Bond Maturity Date | Minimum Reserve Requirement | Interest Nov-11 | 11/30/2011 Market Value |
|---|---|---|---|---|---|---|---|
| **COB IMPROVEMENT DISTRICT LIMITED OBLIGATION BONDS SERIES 2005A** | | | | | | | |
| 2005 Fair Oaks Ranch Estates | 2035 | US Bank Mmkt 4-Ct | 0.050% | daily | 188,943 | 7.99 | 188,049 |
| **COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION, SERIES 2003** | | | | | | | |
| 2003 CRA Tax Allocation Bonds | 2028 | U S Treasury Bill | 0.75% | 7/28/2011 | 971,763 | 3,682.50 | 988,392 |
| | | US Bank Mmkt 4-Ct | 0.050% | daily | | 0.86 | 21,836 |
| | | US Bank Mmkt 4-Ct | 0.030% | daily | | | 29 |
| Surplus Fund | | US Bank Mmkt 4-Ct | 0.000% | daily | | | 8 |
| **COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007** | | | | | | | |
| Redevelop Fund | 2037 | US Bank Mmkt 4-Ct | 0.050% | daily | | 506.67 | 11,931,858 |
| Reserve Fund | | US Bank Mmkt 4-Ct | 0.050% | daily | 1,880,751 | 79.64 | 1,875,493 |
| Special Fund | | US Bank Mmkt 4-Ct | 0.040% | daily | | | 47 |
| Surplus Fund | | US Bank Mmkt 4-Ct | 0.000% | daily | | | 9 |
| **BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES** | | | | | | | |
| Interest Account | | US Bank Mmkt 4-Ct | 0.000% | daily | | 4.04 | 4 |
| Principal Account | | US Bank Mmkt 4-Ct | 0.000% | daily | | 2.87 | 6 |
| | | US Bank Mmkt 4-Ct | 0.050% | daily | | 156.62 | 3,688,256 |
| **BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES** | | | | | | | |
| Interest Account | | US Bank Mmkt 4-Ct | 0.040% | daily | | 23.71 | 24 |
| Principal Account | | US Bank Mmkt 4-Ct | 0.050% | daily | | 15.19 | 30 |
| Reserve Fund | | US Bank Mmkt 4-Ct | 0.050% | daily | 2,310,710 | 98.16 | 2,310,931 |
| Project Fund | | US Bank Mmkt 4-Ct | 0.050% | daily | | 178.25 | 4,197,628 |
| **BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES** | | | | | | | |
| | | US Bank Mmkt 4-Ct | 0.050% | daily | | | 873,547 |
| Reserve Fund | | Reliance Trust Company # 9AMGGBEZ7 | 3.650% | 11/17/2011 | 2,961,500 | 41,032.69 | 3,026,111 |
| Acquisition & Construction | | US Bank Mmkt 4-Ct | 0.050% | daily | | 653.04 | 15,378,723 |
| *Paid Semi-Annually-Deposited into Money Mkt Account | | | | **Total** | | **46,442.23** | **44,480,980** |

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**CITY COUNCIL OF THE CITY OF BANNING,**
**ACTING IN ITS CAPACITY AS THE SUCCESSOR AGENCY**

**DATE:** **March 27, 2012**

**TO:** **Mayor and Members of the City Council/Successor Agency**

**FROM:** **Bill R. Manis, Economic Development Director**

**SUBJECT:** **Resolution No. 2012-05 SA ratifying the Mayors appointments of City Council Member Bob Botts, City Council Member John Machisic as the alternate for Council Member Bob Botts, and Brian Guillot the City's Assistant Planner to the Banning Oversight Board**

**RECOMMENDATION:**

That the Successor Agency:

(1) Adopt Resolution No. 2012-05 SA of the City Council of the City of Banning acting in its capacity as Successor Agency to the Community Redevelopment Agency of the City of Banning, California, ratifying the Mayors appointments of City Council Member Bob Botts, City Council Member John Machisic as the alternate for Council Member Bob Botts, and Brian Guillot the City's Assistant Planner to the Banning Oversight Board.

**BACKGROUND:**

Under the provisions of AB1X26, the bill which abolished redevelopment agencies (and which was upheld by the California State Supreme Court), successor agencies such as the City of Banning are to be involved in the creation of Oversight Boards. The Oversight Boards will be responsible for the "winding down" process of the former redevelopment agency and must be in place by May 1, 2012.

The Oversight Board is deemed to be a local entity for purposes of the Ralph M. Brown Act, the California Public Records Act, and the Political Reform Act of 1974. The Successor Agency will be responsible for posting the agendas and minutes of Oversight Board meetings and maintaining a Successor Agency website. Oversight board members shall have personal immunity from suit for their actions taken within the scope of their responsibilities as Oversight Board members.

It is anticipated that the appointees to the Banning Oversight Board will serve indefinitely unless a member resigns and/or the City makes a new appointment. Any vacancies on the Oversight Board must be filled within 60 days. If any Oversight Board member position remains vacant for more than 60 days, the Governor may appoint to fill that vacancy. Commencing on July 1, 2016, all of the Oversight Boards for the various former redevelopment agencies in a particular county will be consolidated into a single county-wide Oversight Board of a composition specified by the Dissolution Act. The Banning Oversight Board will meet after May 1, 2012, and as soon as a quorum is established.

The Oversight Board is to contain seven (7) members. The makeup of the Banning Oversight Board is as follows:

- Two (2) appointed representatives Mayor
  - City of Banning
- One (1) appointed representative by the largest special district
  - San Gorgonio Pass Water District
- Two (2) appointed representatives by the County Board of Supervisors (one County staff person and one public person)
  - Riverside County Board of Supervisors
- One (1) appointed representative by the Chancellor of Community Colleges
  - Mt. San Jacinto Community College
- One (1) appointed representative by the County Superintendent of Education
  - Riverside County Board of Education

There is no compensation associated with these appointments and members are subject to FPPC and Political Reform Act requirements. The actions of the Banning Oversight Board will be overseen by the California Department of Finance and the Boards responsibilities are to include:

- Approving all actions of the Banning Successor Agency;
- Having fiduciary responsibilities to holders of enforceable obligations and the taxing entities that benefit from the distribution of property tax and other revenues; and
- Approving the administrative budget of the Banning Successor Agency.

As indicated above, under the provisions of AB1X26, the Mayor is to appoint (and the City Council is to confirm) two (2) members of this seven (7) member Oversight Board. One is to be an employee associated with the former agency and one is to be a person selected by the Mayor. In addition staff suggests establishing an alternate for the Mayors appointment in case the Mayors appointment is not able to make the commitments of the Oversight Board.

Staff would therefore recommend the appointments of Mr. Brian Guillot, the City's Assistant Planner as the employee representative, Council Member Bob Botts as the Mayors appointment, and the selection of Council Member John Machisic as the alternate for Council Member Bob Botts to the Banning Oversight Board. Based on this recommendation, City Council would need to confirm the seats to the Oversight Board during the annual rotation of the Banning City Council.

**FISCAL DATA:**

The fiscal impact to the City of the Oversight Board appointments is minimal. The appointees would be expected to perform Oversight Board member roles as part of their existing duties as public officials and/or City employees. The Dissolution Act states that the Oversight Board members shall serve without compensation or reimbursement for expenses from the Successor Agency. However, the Successor Agency shall pay for all of the costs of meetings of the Oversight Board and may include such costs in its administrative budget. The frequency and schedule for Oversight Board meetings has yet to be determined.

However, it is anticipated that the majority of the Oversight Boards work will occur in the initial year of existence as the members review existing obligations and contracts. At a minimum the Oversight Board is expected to meet twice a year to review and approve the Successor Agency Recognized Obligation Payment Schedule "ROPS."

**RECOMMENDED BY:**

Bill R. Manis
Economic Development Director

**APPROVED BY:**

Andy Takata,
City Manager

**REVIEWED BY:**

June Overholt
Deputy City Manager/
Administrative Services Director

**Attachment:**

1. Resolution 2012-05 SA

**RESOLUTION NO. 2102-05 SA**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING ACTING IN ITS CAPACITY AS SUCCESSOR AGENCY TO THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING, CALIFORNIA, APPOINTING TWO MEMBERS AND SELECTING ONE ALTERNATE TO THE BANNING OVERSIGHT BOARD PURSUANT TO HEALTH AND SAFETY CODE SECTION 34179**

The City of Banning, Acting as Successor Agency to the Former Redevelopment Agency of the City of Banning DOES RESOLVE as follows:

**WHEREAS**, the Community Redevelopment Agency of the City of Banning ("Redevelopment Agency") is a public body, corporate and politic, organized and existing under the California Community Redevelopment Law (Health & Safety Code §§ 33000 *et seq.)*; and

**WHEREAS**, the City of Banning is a municipal corporation and a general law city organized and existing under the Constitution of the State of California ("City"); and

**WHEREAS**, on December 29, 2011, the California Supreme Court issued its opinion in the case *California Redevelopment Association, et al. v. Ana Matosantos, etc., et al.*, Case No. S196861, and upheld the validity of Assembly Bill X126 ("ABX126") and invalidated Assembly Bill X127; and

**WHEREAS**, the Court's decision results in the implementation of ABX126 which dissolves all the redevelopment agencies in the State of California as of February 1, 2012; and

**WHEREAS**, the City is, by operation of law, the Successor Agency to the Redevelopment Agency for purposes of winding-down the Redevelopment Agency under ABX126; and

**WHEREAS**, Section 34179 (a) of the Redevelopment Law provides that the City Council that authorized the creation of the former redevelopment agency may elect to appoint on one at-large member to the oversight board ("Banning Oversight Board") of the successor agency to the former redevelopment agency ("Banning Successor Agency"); and

**WHEREAS**, Section 34179 (a) of the Redevelopment Law provides that the City Council that authorized the creation of the former redevelopment agency may elect to appoint one member to the Banning Oversight Board of the Banning Successor Agency who represents employees of the former redevelopment agency; and

**WHEREAS**, after careful consideration, the City of Banning City Council has appointed Mr. Bob Botts, City Council Member of Banning to the Banning Oversight Board, City Council Member John Mashisic to serve as an alternate for City Council Member Bob Botts to the Banning Oversight Board, and has appointed Mr. Brian Guillot, the City's Assistant Planner and



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former redevelopment agency employee to the Banning Oversight Board of the Banning Successor Agency; and

**WHEREAS**, the City Council may appoint alternate members if the need arises.

**NOW, THEREFORE**, the City Council of the City of Banning, in its capacity as Successor Agency, resolves as follows:

SECTION 1. The foregoing Recitals are true and correct and are incorporated herein.

SECTION 2. The City Council here by confirms the appointment of Mr. Bob Botts, City Council Member of the City of Banning, to serve as the former Community Redevelopment Agency of the City of Banning representative to the Banning Oversight Board, City Council Member John Machisic to serve as the alternate to City Council Member Bob Botts on the Oversight Board, and Mr. Brian Guillot, the City's Assistant Planner to serve as the representative for the employees of the former redevelopment agency, and such appointments are to be effective immediately.

SECTION 3. The City Council hereby authorizes and directs the City Manager to take any action and execute any documents necessary to carry out the purposes of this Resolution, including, but not limited to notifying the Riverside County Auditor/Controller, the Controller of the State of California, and the California Department of Finance providing notice of the adoption of this Resolution and the City Councils appointment of the above-named representatives to the Banning Oversight Board in accordance with AB1X26.

SECTION 4. The City Clerk shall certify to the adoption of this Resolution.

SECTION 5. The Resolution shall take effect immediately upon adoption.

**PASSED, APPROVED, AND ADOPTED** at a joint meeting of the City Council of the City of Banning, acting at its capacity as the Successor Agency, this 27th day of March 2012.

_____
Don R. Robinson, Mayor
City of Banning – Successor Agency

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

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

**ATTEST:**

_____
Marie Calderon, City Clerk

**CERTIFICATION:**

I, MARIE CALDERON, City Clerk of the City of Banning, seating as the Successor Agency, California, do hereby certify that Resolution No. 2012-04 SA was adopted by the City of Banning, seating as the Successor Agency, of the City of Banning at a regular meeting held on the 28th day of February, 2012, and that the same was adopted by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Marie Calderon, City Clerk
City of Banning

**JOINT MEETING**
**CITY COUNCIL AND BANNING UTILITY AUTHORITY**
**PUBLIC HEARING**

**DATE:** March 27, 2012

**TO:** City Council and Banning Utility Authority

**FROM:** Zai Abu Bakar, Community Development Director

**SUBJECT:** **PARDEE HOMES – WATER SUPPLY ASSESSMENT, FINAL ENVIRONMENTAL IMPACT REPORT, GENERAL PLAN AMENDMENT NO. 11-2501, ZONE CHANGE NO. 11-3501, BUTTERFIELD SPECIFIC PLAN, AND DEVELOPMENT AGREEMENT**

**RECOMMENDATIONS:**

That the City Council:

1. Adopt Resolution No. 2012-27 approving the Water Supply Analysis for the project based on findings of fact as indicated in the resolution.

2. Adopt Resolution No. 2012- 24 adopting a Statement of Overriding Considerations and CEQA Findings of Fact, certifying the Final Environmental Impact Report, and adopting the Mitigation Monitoring and Reporting Program for the Butterfield Specific Plan;

3. Adopt Resolution No. 2012-25 approving General Plan Amendment No. 11-2501 and Zone Change No. 11-3501 to update the City of Banning General Plan Land Use and Zoning Overlay Map and designate the project site from "Deutsch Specific Plan" to "Butterfield Specific Plan";

4. Adopt Ordinance No. 1450 and introduce its first reading amending the Deutsch Specific Plan with the superseding Butterfield Specific Plan and Conditions of Approval;

5. Adopt Ordinance No. 1451 and introduce its first reading amending the Development Agreement for the Deutsch Specific Plan with the Development Agreement for the Butterfield Specific Plan.

The Utility Authority:

1. Adopt Resolution No. 2012-04UA approving the Water Supply Assessment for the Butterfield Specific Plan and making findings that the Water Supply Analysis was prepared consistent with SB 610.

## PLANNING COMMISSION RECOMMENDATION:

On March 7, 2012, the Planning Commission held a noticed public hearing at which time interested persons had an opportunity to testify in support of, or opposition to the project. There were many people who attended the public hearing. Seven (7) people in the audience spoke before the Planning Commission. The majority of the speakers' concerns relate to traffic impacts and concern regarding the annexation of the 21-acre property that is currently owned by the Highland Springs Country Club Owners Association and which is being shown on the Butterfield Specific Plan Land Use map as being a part of the Specific Plan and future extension of Highland Home Road. The speakers also spoke about the EIR and the impacts in generalities. After public testimony and Commission's discussion and questions of staff and the applicant, the Planning Commission voted 3-0 and adopted a resolution recommending approval of the project to the City Council.

## EXPLANATION OF ANNEXATION ISSUE:

Pardee Homes proposes to develop a 1,543-acre property that is located at the northeast corner of Highland Springs Avenue and Wilson Street with a mixed-use master planned community. Pardee owns 1,522 acres and the 21-acre property that is located on the northwest corner of the project site is land that is in the County of Riverside. The 1,522-acre property currently has an approved Specific Plan called "Deutsch Specific Plan". The Deutsch Specific Plan was approved for the development of 5,400 homes, a golf course, commercial sites, parks, and open space, and various infrastructures to serve the development with the exception of the 21-acre property. The 21-acre property is outside of the City limits and currently is part of the golf course that is owned by the Highland Springs Country Club Owners Association. Because this parcel bears direct relation to land use planning and traffic circulation elements of the General Plan, the Specific Plan identifies this 21-acre property as a potential "add in" to the Specific Plan (subject to future annexation proceedings by the City). This annexation is not currently being pursued by the owners of the 21-acre property.

## GENERAL BACKGROUND:

The Deutsch Specific Plan was approved nearly 26 years ago. The Chronology of the Deutsch and the proposed Butterfield Specific Plans are listed below.

**Deutsch Specific Plan**

- October 1984: General Plan Amendment, Specific Plan, Zoning and Environmental Impact Report (EIR) documents completed.
- April 18, 1985: City Council certified the Final EIR for the Specific Plan.
- June 25, 1985: City Council approved a General Plan Amendment, Specific Plan, Zoning and Pre-Zoning for the Deutsch Property.

- Specific Plan Amendment No. 1992-03 was filed to amend and enlarge the Specific Plan; City Council certified a new EIR on October 26, 1993 and adopted the amended Specific Plan on November 9, 1993 by Ordinance No. 1133.

- A majority of the Specific Plan area was annexed to the City of Banning in 1985. The remainder was annexed to the City in 1995.

- The Banning General Plan and Zoning Map designated the subject site as an approved Specific Plan site.

- In 2000 Pardee Homes acquired the Deutsch Specific Plan and project from the Deutsch Corporation.

**Proposed Butterfield Specific Plan**

2007 Notice of Preparation is issued to amend the previously approved Deutsch Specific Plan and supersede it with the Butterfield Specific Plan. was issued

2007 City acquires the 4.21-acre site within the Specific Plan for an electrical substation.

2007 Since 2007 staff has been working with the developer to prepare a comprehensive land use plan for the development of the Butterfield Specific Plan and the preparation of an Environmental Impact Report, Traffic Circulation, and Water Supply Assessment for the project.

2008 City approves conveyance maps subdividing the property into 20 lots for financing purposes only. No construction was approved with the conveyance map.

2011 Joint Study Session with the Planning Commission and City Council on June 7th. The meeting was conducted to present information and provide opportunity for the City Council and Planning Commission to ask questions relative to the project.

Pardee Homes has revised the land use plan for the Deutsch Specific Plan to be more in keeping with the natural features of the land, reflect better engineering feasibility and market conditions, as well as to comply with current land use and environmental regulations. To reflect this update, Pardee Homes is renaming the Deutsch Specific Plan to the Butterfield Specific Plan. The Butterfield land plan as proposed at build-out could consist of 5,387 homes (937.4 acres) along with a potential 18-hole golf course (253.9 acres); pocket, neighborhood, and community parks (66.5 acres); natural open space/trails (108.4 acres); two elementary school sites – one each for the Banning and Beaumont Unified School Districts; a 1.6-acre fire station, an existing utility sub-station (4.2 acres); and backbone roadways (113.6 acres). The project also includes the construction of major on-site and off-site infrastructure, including but not limited to various off-site conveyance pipelines, a multi-purpose recharge/storage/detention basin, drainage improvement to Smith Creek immediately upstream and downstream of the Project site; on-site drainage improvements and groundwater recharge basins, on-site and off-site road improvements, other related infrastructure, and water storage tanks and detention basins. Each of the neighborhoods within the Specific Plan

provides two points of access for fire/public safety personnel during an emergency as the land plan has been reviewed by the Fire Department.

Significant efforts were made as part of the project analysis to determine the infrastructure needs for the development including water, sewer, drainage facilities, and roadways. The City has updated studies for the current Master Plan for sewer and water facilities and the City's Public Works Department has updated these plans in conjunction with the project. As a proactive effort, the City's Public Works Department is also working with the developer to improve traffic and circulation on Highland Springs Avenue in the area around Ramsey Street, Joshua Palmer, and the I-10 Freeway.

**DEVELOPER'S REQUEST:**

The developer is requesting approvals of the following entitlements for the project:

1. General Plan Amendment and a Zone Change to change the General Plan Land Use and Zoning Overlay Map and label the land use and zoning designation for the property as "Butterfield Specific Plan."

   General Plan Amendment (No. 11-2501) and Zone Change (No. 11-3501) as proposed would amend the text in the General Plan that would allow the City's General Plan Land Use and Zoning Overlay Map to show a zoning designation as "Specific Plan" for a property that has an approved Specific Plan without displaying the underlying land uses. In addition, the General Plan amendment and Zone Change would replace the Zoning for the project site from Deutsch Specific Plan to the Butterfield Specific Plan.

2. An amendment to the Deutsch Specific Plan to supersede it with the Butterfield Specific Plan.

   The amendment is required to replace the existing Zoning regulations (maps and text) from the Deutsch Specific Plan and supersede it with the Butterfield Specific Plan to ensure that future development of the property complies with the Zoning regulations of the Butterfield Specific Plan.

3. Approval of an amendment to an existing Development Agreement.

   The developer is requesting approval of an amendment to the existing Development Agreement for the Deutsch Specific Plan for a vested right to develop the project in the future consistent with the Butterfield Specific Plan Development Agreement in exchange for public benefits to the City.

4. Certification of the Final Environmental Impact Report (EIR) – (State Clearinghouse No. 2007091149), and adoption of CEQA findings of fact, a Statement of Overriding Considerations and Mitigation Monitoring and Reporting Program for the project.

   The EIR is required to be prepared per Section 21065 of the California Environmental

Quality Act (CEQA) for any projects or activities which may cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. The purpose of the EIR is to provide disclosure to decision makers and the public with specific information regarding the environmental effects associated with the Project, identify ways to minimize the significant effects of the Project, describe reasonable alternatives to the Project, and disclose the project impacts that cannot be mitigated. The proposed approvals constitute a project under CEQA and an EIR is required to be prepared and certified prior to project approval.

5. Approval of Water Supply Assessment for the Butterfield Specific Plan

SB 610 and Water Code Sections 10910 through 10915 require that an EIR for certain projects must include an assessment of the availability of the public water system to serve the project in the near-term and long-term. CEQA Section 15155 requires that a project that falls within the definition of a "water demand project" including 500 residential units must demonstrate that it has secured a supply of potable water sufficient to support the demands of the Project prior to obtaining any discretionary approvals required for its implementation. The Butterfield Specific Plan meets the definition of a "water demand project" pursuant to CEQA Guidelines Section 15155. The Water Supply Assessment for the Butterfield Specific Plan was prepared in compliance with SB 610 and Water Code Sections 10910 through 10915 and is required to be approved by the Banning Utility Authority and the City Council.

**Projects with Multiple Applications**

The developer is processing four (4) land use entitlement applications for the Butterfield master planned community. Per Section 17.44.020 of the Banning Zoning Code, projects that have multiple applications that are processed concurrently must be reviewed and decided by the highest level of review authority. The City Council is the highest review authority for the EIR, General Plan Amendment, Zone Change, Specific Plan, and Development Agreement. As part of the land use application and CEQA, approval of a Water Supply Assessment is required to be approved by the City Council and the Banning Utility Authority.

## PROJECT INFORMATION AND ANALYSIS:

The following provides project information relative to the Butterfield Specific Plan.

**Project Location**

- The site is approximately 1,543 acres and located in the northwestern corner of the City of Banning. Of this acreage, 1,522 acres is owned by Pardee. The remaining 21-acres are owned by the Highland Springs Country Club Owners Association. The 21-acre site is located outside of the City of Banning's city limits and is not within the City's Sphere of Influence; however, the property is within the Banning General Plan Planning Area. At this time, the 21-acre property is not proposed to be annexed to the City as it is being shown as part of the Specific Plan for future land use planning only. Annexation of the property, if at some point sought, will require coordination among the County of Riverside, the Highland Springs Country Club Owners Association, and the City of

Beaumont.

- The site transitions from relatively flatland at the northeast corner of Highland Springs Avenue and Wilson Street to the foothills of the San Bernardino Mountains.

- Major access to the site is provided by Highland Springs Avenue, Wilson Street, and Highland Home Road.

**Surrounding Land Uses**

| | |
|---|---|
| North of the Project Site: | The Highland Springs golf course fairways and vacant land. |
| East of the project Site: | The foothills, existing single-family homes, vacant home sites which were previously approved for Fiesta development and existing single-family homes on the east side of Highland Home Road. |
| South of the Project Site: | Existing single-family homes, apartments, health care facility, and San Gorgonio Memorial Hospital |
| West: | The Sundance Specific Plan which is located on the west side of Highland Springs Avenue in the City of Beaumont |

**Project Objectives**

The Butterfield Specific Plan objectives are as follows:

- To Develop a Master Planned Community: Design and implement the development of a creatively-designed master planned community that expresses and embodies the City's vision of its future as articulated in the fundamental land use principles, policies, and objectives of the City's General Plan;

- To Update the Deutsch Specific Plan: Update and restate the prior approved 1993 Deutsch Property Specific Plan based on current and projected market conditions while maintaining the Plan's underlying concept of comprehensive and cohesive development planning that allows for the appropriate physical and economic development of the property;

- To Provide a Quality, Livable Community: Provide a quality, livable community through the implementation of a Specific Plan that will ensure a consistent quality of design, allow for the provision and maintenance of community amenities, and create a collection of cohesive, well-defined neighborhoods that provide residents with a clear sense of place and identity within the diverse fabric of the larger community;

- To Provide a Wide Range of Housing Opportunities: Provide a range of high quality housing opportunities by developing a diverse range of housing types available at a

variety of price points, responsive to market demand, varying lifestyles, and the developing economic profile of the community;

- To Promote Sustainability: Promote the concept of sustainable community development by implementing green building practices in the selection of construction materials, the recycling of construction waste, and the use of energy and water efficient building practices;

- To Incorporate Water and Energy Efficiency: Incorporate energy and water efficient design and technology into the homes, commercial buildings, and landscape of the Butterfield development;

- To Conserve Water Resources: Conserve water resources and reduce demand for potable water within the Specific Plan area by maximizing the use of recycled water wherever appropriate, including the potential development of on-site recycled water treatment capacity, if needed;

- To Increase Employment Opportunities: Increase local job opportunities through the approximate 30 year build out;

- To Provide Ease of Navigation within and out of the Community: Create a community that is easy to navigate through careful use of landscape, signage, and entry design based on the Specific Plan's design objectives;

- To Provide Recreational Amenities: Provide recreational amenities which will serve the needs of neighborhood residents and others in the City of Banning as well as nearby communities;

- To Provide Safe and Efficient Circulation: Provide a safe and efficient roadway network, linking all internal elements of the planned community with the surrounding area;

- To Encourage Use of Alternative Transportation: Encourage alternative transportation choices through the creation of a walkable community with well-defined pedestrian linkages between neighborhoods, amenities, schools, and commercial uses, the provision of bike paths, the creation of LSV/NEV linkages, and the development of multi-purpose trails;

- To Promote Community Security: Promote community security and safety through appropriate outdoor lighting, the incorporation of "defensible space" concepts in the design of multifamily developments, and by encouraging community involvement through the area's master homeowners association;

- To Address Drainage and Water Quality Issues: Provide adequate drainage, flood control and water quality improvements, which satisfy applicable local, state and federal criteria while respecting and enhancing/preserving natural drainage functions and features;

- To Ensure Provision of Public Services: Ensure provision of adequate public services, utilities, and infrastructure in a timely manner as development occurs; and

- To Provide Adequate Sites for School Facilities: Ensure provision of adequate education facilities within the planned community, pursuant to applicable school district and state requirements.

These project objectives are accomplished in the Specific Plan which is attached to this report under a separate cover.

**Proposed Land Use and Project Elements:**

The proposed land use and project elements include the following:

- 1,543-acre mixed-use community that includes residential, commercial, potential golf course, parks and open space, two elementary school sites, a site for a fire station, a site for ground water recharge, a site for a potential satellite waste water treatment plant, electric utility substation, and sites for water reservoirs.

- A total of up to 5,387 residential units are proposed to be allowed within approximately 938 acres of the project site.

- The majority of the development is single-family detached homes.

- The density for the project is divided into four (4) categories as follows:

    - Low Density Residential Single-Family (Density of 2-5 units per acre) - Lot sizes range from a minimum of 5,000 square feet to a minimum average of 7,500 square feet in some planning areas to a minimum average of over 10,000 square feet in northern planning areas.

    - Medium Density Residential Single-Family – Conventional (Density 5-10 units per acre) - Lot sizes range from a minimum of 3,400 square feet to a minimum average of 7,200 square feet. Low Density Residential may be developed in the MDR planning areas.

    - Medium Density Residential Single-Family - Cluster Development (Density 5-10 units per acre) - Lot areas ranging in minimum size from 2,000 to 2,800 square feet potentially as detached condominium units. Low Density Residential may be developed in the MDR planning areas.

    - High Density Residential Attached (Density 10-18 units per acre) - Townhomes or other types of attached dwellings are allowed for potential development in three (3) of the Specific Plan planning areas. Low Density Residential and Medium Density Residential uses may also be developed within the HDR planning areas.

- Age-Restricted Active Adult Residential Alternative is also proposed should there be a need for this type of development in the future. This development would occur along the North Loop Collector and would be gated. Streets within the gate will be private streets.

- There are two commercial sites totaling 36 acres (PA 17 – 13 acres and PA 18 – 23 acres). The 13-acre site is located on the south side of Street B, which is a road connection to Oak Valley Parkway in the City of Beaumont. The 23-acre commercial site is located at the corner of Highland Springs Avenue and Wilson Street.

- The combined acreage for parks, golf course, and open space totals approximately 428 acres (27% of Specific Plan area) a significant increase from the previously approved Deutsch Specific Plan of 268 acres.

- Two elementary school sites (23 acres) are proposed – one for Banning Unified School District (PA 68) and the other for Beaumont Unified School District (PA 20). The boundary between the two school districts is Highland Home Road.

- The overall Butterfield Specific Plan density of 3.5 DU/AC is the same as the previous Deutsch Plan.

- A proposed Fire Station site of 1.6 acres is located at the northeast corner of the Specific Plan. The Specific Plan allows the fire station site to be located in most Planning Areas to ensure the flexibility for a regional fire station which is currently under discussion between the Cities of Banning, Beaumont, and Calimesa.

- Smith Creek would be preserved in a realigned open channel in a natural like condition that enhances habitat vegetation.

- The edge of the foothills to the east and steeper elevations in the north will be preserved as natural open space.

- There will be a trail connection that provides access to existing trail systems subject to use agreement with the trail owners.

- The Specific Plan also allows for an alternative open space and recreation area to the golf course in the event it is not economically viable.

Table 1 below shows the Land Use distribution for the project.

| Land Use | Gross Acres | % of Area | Dwelling Units | % of Dwelling Units | Average Gross Density |
|---|---|---|---|---|---|
| **Residential**[3] | | | | | |
| Low Density (LDR) 2-5 DU/AC | 539.2 | 35.0% | 2,222 | 41.2% | 4.1 |
| Medium Density (MDR) 5-10 DU/AC | 324.4 | 21.0% | 1,960 | 36.4% | 6.0 |
| High Density (HDR) 10-18 DU/AC | 73.8 | 4.8% | 1,205 | 22.4% | 16.4 |
| **Residential Subtotals** | **937.2** | **60.8%** | **5,387** | **100.0%** | **5.7** |

| | | | | | |
|---|---|---|---|---|---|
| **Open Space** | | | | | |
| Golf Course/Drainage/Open Space | 253.9 | 16.5% | | | |
| Parks | 66.5 | 4.3% | | | |
| Natural/Landscape/Easement | 70.1 | 4.5% | | | |
| Drainage/Open Space | 38.3 | 2.5% | | | |
| **Open Space Subtotals** | **428.8** | **27.8%** | | | |
| **Schools**[1] | **23.0** | 1.5% | | | |
| **Commercial/Office**[2] | **36.0** | 2.3% | | | |
| **Utility Substation – Existing** | **4.2** | 0.3% | | | |
| **Backbone Roads** | **113.6** | 7.4% | | | |
| **SPECIFIC PLAN TOTALS** | **1,543** | **100.0%** | **5,387** | **100.0%** | **3.5** |

[1] Alternate Residential use of School sites at up to 10 DU/AC is provided.
[2] Alternate Residential use or mixed use of the Commercial sites is provided for with PA 17 at up to 4.5 DU/AC (LDR) and PA 18 at up to 10 DU/AC (MDR). The overall DU total for the Specific Plan shall not exceed 5,387 DU. In addition, Commercial use is allowed as an alternate use for all or a portion of Residential PAs 3, 4 and 5 (51.4 acres combined), and Park PAs 26 and 27 (0.9 acres combined).
[3] The Specific Plan allows for cluster development and Active Adult residential within certain Planning Areas, as described in detail within the Specific Plan (Section 3.1.1.1, Residential).

## Amenities

- Golf Course: The proposed 18-hole golf course acts as a central open space which runs through the Specific Plan, in addition to trails, realigned and enhanced Smith Creek, and flood control and water quality improvements. The total area is 292 acres. Alternatively, this same area amount could be natural open space and hiking and walking trails rather than the golf course should development of the golf course be infeasible due to market conditions. The alternative will be developed in Phase I of the project.

- Improved Parks: A total of 66.5 acres of improved parks are provided within the development. The park sites are distributed throughout the Specific Plan for use by the residents of the community. The park sites include the site for the community centers for the use of the residents within the project. Additionally, community parks are also proposed within the development for use by the public at-large.

- Natural Open Space and Trails: The 70-acres of natural open space are provided on the north and northeast edges of the Specific Plan with potential trail connections to adjoining areas.

- Trails within the Project: Trails as well as walkways are provided along major interior streets (South Loop, North Loop and "F" Street collectors).

- Bike Lanes and Neighborhood Electric Vehicles: Joint bike and low speed electric vehicles (neighborhood electric vehicles) use lanes on all major collector streets within the Specific Plan area. Low speed electric vehicle access, as well as pedestrian and bike access, will be

provided between all planning areas in the Specific Plan, including residential, parks, schools and commercial.

- Parkway and Median Landscaping: Broad landscaped parkways between 20-30 feet wide are provided along major streets within the Specific Plan, including A, B, C, D, E and F Streets, South and North Loop Streets, and Highland Springs Avenue, as well as landscaped medians where appropriate on Wilson Street.

- Fire Station and Public Community Center Sites: The Specific Plan allows for a fire station site and a public community center site. The community center site will be provided with a finished grade and utilities stub out and readily available when the City has funds to build the center.

Section 4.1 through 4.3.75, pages 4-1 through 4-78 of the Butterfield Specific Plan dated November 21, 2011 provides development design guidelines for the open space/parks plan, trail head, entry concept and gated community concept.

**Proposed Infrastructure:**

**Circulation**

Circulation plan and road improvements required in the vicinity of the project include:

- Arterial Highway: Highland Springs Avenue is the perimeter roadway to the Specific Plan and provides a north-south connection between the project site and the I-10 freeway. Highland Springs Avenue fronting the project site will be improved to two lanes in the City of Banning with a landscape median. As a perimeter roadway to the Specific Plan, access to Highland Springs Avenue is limited to three connections at "A", "B", and "F" streets.

- Major Highway (Modified): Wilson Street will be widened and a raised landscape median will be provided where appropriate from Highland Springs Avenue to "C" street. For this segment of Wilson Street, bike lanes will be provided. Between "C" Street and Highland Home Road, there will be a raised landscaped median or painted median with considerations given to the existing driveways and future roadways that outlet onto Wilson Street. Within this stretch of Wilson Street, bike lanes will be provided on the north side of Wilson.

- Major Highway: Highland Home Road will be extended northerly through the Specific Plan and, if approved by the County of Riverside pursuant to a future discretionary review process, connect to either Brookside Avenue or Cherry Valley Boulevard.

- Divided Collector Streets: These are six project entry streets into the various neighborhoods and connect to the major roadways surrounding the project site. There are three entry streets that connect to Highland Springs ("A", "B", and "F" Streets); one entry street ("C" Street) on Wilson Street, and two ("F" Street and North Loop Road) on

Highland Home Road.

- Local Streets: Local streets are provided within the development to serve the neighborhoods.

- Private Streets: The Specific Plan provides for private street options for the active adults residential development.

Non-Vehicular Circulation includes:

- On-Street Bike Lanes/Golf Carts/Neighborhood Electric Vehicle Lanes
- Trails/Pathways
- Sidewalks
- Combination of Meandering Sidewalk and Meandering Trails

**Parks**

- Parks that are provided within the development range from 0.4 acres to 16.4 acres. These parks are distributed throughout the community to provide access to the adjoining neighborhoods within the Specific Plan. The parks include Neighborhood Mini Parks, Neighborhood Recreation Parks, and Community Parks. The developer will provide fully improved parks with each phase of the development.

- Mid-sized parks (approximately 3-4 acres) are designated as Neighborhood Recreation Parks and provide specialized facilities such as community swimming pools, buildings for meetings or community functions, restroom facilities, and on-site parking.

- Community Parks range in size from 9-16 acres and may include larger play fields and areas, ball fields and on-site parking. The community parks are provided in the Edison easement area which the underlying land is owned by the developer.

- The developer will also be providing a community center site of approximately 3 acres as part of the Development Agreement for the project. The site will be provided with a finished grade and utility stub-out.

**Utilities**

Potable Water Reservoirs and Pumps

- The project net potable water demand at build out is estimated at approximately 1,783 acre feet/year in 2045 with estimated future water conservation reductions (assuming the development of 5,387 dwelling units, in which PAs 17, 18, 20 and 68 are developed according to their primary development designation, commercial and schools).

- The Project potable water demand at build out without anticipated future water conservation reduction estimates factored in is 2,880 acre feet/year. This water demand

was based on recent actual historical water demand factors that the City has been experiencing without adjustments for future anticipated water conservation requirements based on more recent law enacted.

- To meet the potable water needs of the Project, three (3) above-ground steel potable water reservoirs with a total storage capacity of approximately 3.5 million gallons (mg), would be required to serve homes in the Project. These reservoirs would become part of the City's existing lower Foothill West Pressure Zone, on-site Pressure Zone I, and on-site Pressure Zone II.

The Specific Plan proposes the following reservoirs:

- Approximate 1.6 mg Foothill West storage reservoir would be located on the east side of PA 50 at an elevation of approximately 2,790 feet average mean sea level (amsl). Alternatively, this storage tank could be buried under the playing fields of the PA 68 elementary school site in Banning;

- Approximate 1.4 mg Zone I storage reservoir would be located in the east portion of PA 73 at minimum pad elevation of approximately 3,038 feet amsl;

- Approximate 0.5 mg Zone II storage would be located in the east portion of PA 73, at minimum pad elevation of approximately 3,205 feet amsl;

- In addition to the potable water storage reservoirs, three potential pump stations and on-site water distribution pipelines would be constructed. The Project's water distribution and storage system would connect to the City's existing system at Highland Home Road and Wilson Street as well as at "C" Street and Wilson Street. In addition, the Specific Plan allows for three potential interconnections with the Beaumont-Cherry Valley Water District (BCVWD) with the use of the existing joint Banning and BCVWD wells, through potential additional pump stations located along Highland Springs Avenue.

- Approximate potential tank and pump locations for potable water supply are indicated on Exhibit 3.8 the Butterfield Specific Plan as incorporated herein by reference, Conceptual Potable Water Plan, and are located onsite within the development area of the site.

- Exhibit 3.10A depicts the proposed interconnection points between the proposed Banning system serving the Butterfield Specific Plan area and that of the Beaumont-Cherry Valley Water District (BCVWD).

**Recycled Water for Irrigation and Sewer Facility**

- Sewer system and recycled water facilities are required to serve the development.

- When available, the project will use recycled water for irrigation of the golf course open space and non-residential land uses, to reduce demand for potable water. Recycled water must be available before the golf course is completed and open for play (Phase I).

- The City has completed plans for a 1.5 million gallon per day (mgd) upgrade (Phase I) of the main Wastewater Treatment Plant. The 1.5 mgd upgrade would provide treatment to tertiary standards, which would allow for the production of approximately 1,680 acre-ft/yr of recycled water. Pardee shall provide a connection from the project to the waste water treatment plant along existing right-of-ways.

- Project's projected total irrigation water demand to serve the project's common landscaped areas as well as the golf course is estimated at 1,321 acre feet/year net in 2045 at project build out.

- An additional option for generating recycled water for the project is to construct a satellite wastewater treatment plant on-site within the Butterfield Specific Plan area. The site is proposed at the northwest corner of Highland Home Road and Wilson Street.

- The City is also exploring a site on the south side of the I-10 and west of Sunset Avenue for a potential satellite treatment plant that would accommodate future development, including the Butterfield Project. If this facility is built prior to Butterfield, the developer has the option of constructing the facility or is required to pay their fair share for the cost of the development of the water reclamation treatment plant.

- The projected total average wastewater (sewer) flow generation is approximately 0.84 million gallons/day (mgd) for the development of 5,387 dwelling units, commercial development of 36 acres, and the two elementary schools. If the number of residential units is reduced or if a portion of the development is built with homes for active adults, the wastewater generation would be lower.

- Infrastructure required for wastewater collection in the Specific Plan area includes new off-site transmission pipelines for connection to the existing City's wastewater treatment plant at 2242 Charles Street as one option. Exhibit 3.11A shows the proposed sewer lines serving the development. The developer would construct the off-site sewer transmission pipeline from Highland Home Road and Wilson Street intersection eastward along Wilson Street, south to Omar Street, and eastward on Ramsey Street to Sunset Avenue and connect to the existing sewer line off of Sunset Avenue. Exhibit 3.11B shows the off-site sewer plan.

Besides connection to the City's water treatment facility, there are two options for providing sewer treatment for the project:

- Construction of a satellite treatment plant on a 3-acre site in Planning Area 11 (corner of Highland Home Road and Wilson Street). The plant would be constructed in a manner that the building design will blend with its surrounding. Additionally, landscaping to minimize view impact of the plant from public view shall be provided.

- The City is also exploring an option to construct a satellite waste water treatment facility within the area west of Sunset Avenue, east of the Sun Lakes' master-planned

community, and south of the I-10 Freeway. If the City moves forward with the construction of this facility, the developer will be required to pay its fair share cost of the construction costs of building the facility, or if the developer pays to constructs the entire off-site sewer treatment facility, the developer will be reimbursed for the construction costs of the additional capacity.

**Drainage and Groundwater Recharge**

- The project site lies in two (2) separate local watersheds. Approximately 79% (1,220 acres) of the site lies within Smith Creek and 21% (323 acres) of the site lies within Pershing Channel. The rain water flows to these drainage areas from north to south.

- A portion of the site is in the current flood; however, this will change with the planned drainage and grading improvements except the commercial site that is located at the northwest corner of the project site is presently located outside of the flood zone.

- To accommodate and transport surface water flows for the development, Smith Creek and Pershing Channel will be sized accordingly. The golf course/open space will be integrated into the Smith Creek drainage system to help regulate the volume and velocity of surface water. Additionally, the golf course open space area will act as storage containment for ground water recharge.

- A 36-acre drainage basin to detain upstream drainage flows will be constructed in the northern portion of the project site (Planning Area 71). This basin will detain flows during the 100-year flood events and release the storm water in a controlled manner. The basin contains three sub-parts – a desilting basin to desilt upstream flows, a weir which helps contain any accumulated materials, and a connected larger part of the basin that receives storm water overflow from the desilting basin.

- In addition, there will be water quality treatment facilities consisting of vegetated detention basins in the golf course and other open space areas and may be in residential areas.

- In addition, storm drain systems will be constructed to intercept water from the development that flows onto the street system.

**Natural Gas**

Southern California Gas Company provides natural gas services to the project site and the City as a whole. The developer will construct the gas lines and connect to the transmission line to provide natural gas services to its development.

**Electric**

The City of Banning Electric Utility Department provides electric services to its customers in the City. Currently, the City has a 4.2-acre electric utility sub-station site within the Project, which



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will provide future power to the development. The developer will be required to provide electric utility lines to serve the development. These lines are required to be placed underground.

**Telephone**

Verizon currently provides land line telephone services to the project site. The developer will be required to install telephone lines within the development. Future residents will select their own provider for cellular/mobile phone services.

**Cable Television**

Time Warner Cable currently provides cable television services citywide. The developer is responsible for providing cable lines to serve the development

**Other Public Utilities and Services**

Other public utilities and services will be required to serve the development. These include fire, police, school, library, water, trash, transit and health services.

**Fire Services**

The City contracts with the County of Riverside for fire services. The City is currently in discussion with the surrounding communities to provide regional fire services. To accommodate a future fire station, the project has designated a 1.6-acre site in the northeastern portion of the Specific Plan. However, an alternative fire station site can be accommodated in most other areas of the Specific Plan. Should a site for a regional fire station be necessary in the future, the Specific Plan provides flexibility for an alternate fire station site to be located within the Project.

**Police Services**

The City provides police services. To serve this development, the developer is required to pay a special service tax for polices services.

**Schools**

The project is serviced by the Banning and Beaumont Unified School Districts. The dividing line for the school district is Highland Home Road. Two elementary school sites of 11 acres each is provided in Planning Areas 20 (Beaumont Unified School District) and 68 (Banning Unified School District).

**Library**

The project site is located within the Banning Library District. The development is required to pay their fair share costs of impacts to the Banning Library District if the Library District adopts a library district mitigation fee.

**Health Services**

San Gorgonio Memorial Hospital provides health services to the City of Banning residents including emergency medical care services. Residents within the project area will be required to pay for their per capita share of the bond to construct the expansion of the hospital facility.

**Trash**

The City contracts with Waste Management to provide trash pick-up and disposal. Waste Management will provide trash services within the project area.

**Transit**

The Banning Pass Transit provides transit services for Banning residents and the surrounding community. The developer will provide bus stops at strategic locations within the development as required by the Pass Transit.

**FINANCING MECHANISM FOR CONSTRUCTION AND MAINTENANCE OF INFRASTRUCTURE, PUBLIC SAFETY, PARKS AND OPEN SPACE:**

- The project will be financed by the developer and community facilities districts (CFD) including special services districts for police and fire services and landscape maintenance district.

- The CFD is/are designed to finance major infrastructure such as major streets to include Highland Springs Avenue, Wilson Street, Highland Home Road, sewer and water facilities.

- The Homeowners Association will maintain the facilities that will not be dedicated to the City which include private streets, private recreation centers, and open space areas that are private.

**DEVELOPMENT DESIGN GUIDELINES:**

- Section 4.0, page 4-1, of the Butterfield Specific Plan provides detailed design guidelines for the entire development. The design Guidelines are intended to create an attractive and cohesive community identity through detail direction for the physical design of the Butterfield Specific Plan.

- The Guidelines address design hierarchies at three different levels: community, neighborhood, and building.

- Community wide design guidelines apply to the entire Specific Plan and are intended to provide a strong sense of community identity through the use of consistent design details and entries, guidelines for pedestrian walking trails and connectivity as well as landscaping, walls, and fences throughout the project area. These guidelines also include a design theme for the community features and facilities such as streetscapes, bicycle and neighborhood



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electric vehicle connectivity. Sections 4.1 through 4.4.9, pages 4-1 through 4-84 of the Butterfield Specific Plan, provides detailed design guidelines for the development of the project.

- Neighborhood level design guidelines, including commercial and residential, address the design for different neighborhoods within the Specific Plan area which also include guidelines for architectural, landscaping, walls and fences as well as pedestrian connectivity, bicycle, and neighborhood electric vehicles connectivity. Sections 4.5 through 4.7.4, pages 4-84 through 4-87 provide details on neighborhood design guidelines.

- Building level design guidelines provide criteria for architectural theme, design, colors, and materials for the buildings. There are nine (9) architectural styles proposed for the single-family homes, which include California Ranch, Butterfield Americana, Western Farmhouse, California Craftsman, Butterfield Cottage, Southwest Prairie, Santa Barbara, Napa, and Monterey. Sections 4.8 through 4.13.9, pages 4-99 through4-139 provide detail information on building level design guidelines.

**DEVELOPMENT REGULATIONS**

- Section 5.0 through 5.8.1, pages 5-1 through 5-38 of the Butterfield Specific Plan provides details on development regulations for each of the land use districts.

- Each of the land use districts identified permitted, conditional, and prohibited uses and development standards that regulate the placement and intensity of the uses on each specific site. This includes building setbacks, height, parking, and landscaping.

**DEVELOPMENT PHASING:**

The development phasing as indicated in the Butterfield Specific Plan in Section 3.7.2 and Exhibit 3.15, pages 3-99 through 3-103 does not require that the project be developed in any specific order but, instead, are illustrative of how the Project may be developed.

The phasing and timing requirements for the construction of all public improvements shall be in accordance with the Master Phasing Plan and pursuant to the Development Agreement for Butterfield Specific Plan. Although the overall timing of Project development remains subject to the Developer's discretion based on market conditions, there is a logical sequence to the development and certain improvements are required to be complete before phases of the Project can be considered complete and ready for occupancy. The Master Phasing Plan will contain the following elements:

a. **Project Phases.** The Developer must achieve certain goals and objectives in terms of Project development. The development of the Project will be reviewed at each Ten Year Anniversary Review. The Development Goals are as follows:

| | |
|---|---|
| Phase I (10th Anniversary) | ▪ Development will begin near the corner of Highland Springs and Wilson unless otherwise agreed. |



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| | |
|---|---|
| | ▪ 1,200 Residential Units to be constructed.<br>▪ Commercial retail development of a minimum 23-acre retail-commercial site at the corner of Highland Springs and Wilson (Planning Area 18).<br>▪ Outlet for Smith Creek and other commercial, recreation and/or emergency center improvements. |
| Phase II (20th Anniversary | ▪ 1,600 residential units to be constructed. |
| Phase III (30th Anniversary) | ▪ 1,400 residential units to be constructed. |
| Phase IV (40th Anniversary) | ▪ 1,187 residential units to be constructed. |

Within each Phase, as defined above, more detailed phasing plans for each subdivision shall be developed in accordance with Section 6.5 of the Development Agreement, and are subject to the City's review and approval as conditions of approval of the Tract or Subdivision Map and, as approved, shall become a part of the Existing Approvals.

b. **Development of Phasing Plans During Subdivision Map Approvals.** The phasing and timing requirements for the construction of all development including public improvements shall generally be in accordance with the Development Approvals and applicable provisions of the Development Agreement (For example, Sections 6.2, 6.4, 6.5, 7.3, 8.0, etc.) and be developed over time in accordance with the following process:

i. Master Phase Tract Map. Each Phase shall have a Master Tract Map which shall be submitted for financing and conveyance purposes only and no improvements may be constructed nor shall development be permitted pursuant to such approved Tract Map except through submission and approval of tentative and final Subdivision Maps. Concurrently with processing of the Master Tract Map, all tentative Subdivision Maps for the Tract shall be submitted and processed.

ii. Subdivision Maps. Each Master Tract Map shall designate future subdivisions within the Tract and the order of subdivision development to the extent that the need for development of public infrastructure dictates the logical progression of subdivision development. Each Subdivision Map shall show all infrastructure necessary for the development of the Subdivision. Each subdivision will have a written Phasing Plan approved by the Director and the City Engineer prior to commencement of development of the subdivision specifying when the lots within the subdivision will be developed and when all public infrastructure within the subdivision will be constructed. Generally all streets, lighting, curbs and gutters, sidewalks, parkway landscaping, asphalt concrete paving, traffic signs and stripping, medians, landscaping, drainage facilities, storm drains, water lines, sewer lines, utility lines, trails and other facilities within the subdivision must be completed before release of any occupancy permits within the subdivision. All

conditions which require the provision of Backbone Infrastructure and Subdivision Improvements for the area covered by each tentative Subdivision Map must be satisfied, either through performance or through the provision of suitable security, prior to the approval and recordation of the Subdivision Map.

iii. Backbone Infrastructure. Attached as Exhibit "A" of the Development Agreement (as referenced herein) is a list of Backbone Infrastructure, including roadways, detention basins, water lines, sewer lines, recycle water lines, utilities, storm drains and drainage facilities, treatment plants, power substations, community parks, community centers, fire stations, and other infrastructure serving area-wide populations. Backbone Infrastructure serves multiple subdivisions, and may need to be constructed in the initial phase of a particular Tract, or even before certain Tracts can be developed. The detailed phasing of construction will be provided through the Master Tract and Subdivision Phasing Plans. Exhibit "A" outlines the Backbone Infrastructure and when in the development of various Tracts it must be constructed.

**ENVIRONMENTAL IMPACT REPORT:**

- An Environmental Impact Report (EIR) is required to be prepared for the Project per the California Environmental Quality Act (CEQA) pursuant to the Public Resources Code Section 12000 et seq.

- When the developer filed an application for the project in 2007, the City identified that an EIR was required for the project because the physical conditions of the site and the environmental regulations have changed since the Deutsch Specific Plan was approved. While the EIR follows the Deutsch Specific Plan, it is a stand-alone document analyzing all potential impacts of the project.

- Per Section 15083 of the California Environmental Quality Act ("CEQA") and prior to completing the draft Environmental Impact Report (EIR), the City held an early consultation regarding the issue areas to be considered in the EIR. The City released a Notice of Preparation (NOP) for the Draft EIR on September 27, 2007. The City published the Notice of Preparation (NOP) in the Record Gazette and on the City's website. The City also mailed the NOP to residents who are located within 300' of the project site and to members of the public, organizations/groups, public agencies and persons who have requested to be on the mailing lists. The NOP was also sent to the State Clearinghouse for review by State and Trustee agencies.

- As part of early consultation, the City held three (3) public scoping meetings. Two (2) scoping meetings were held on October 16, 2007 from 2 p.m. to 4 p.m. and from 6 p.m. to 8 p.m. Another scoping meeting was held on October 22, 2007 from 6 p.m. to 8 p.m. The NOP comment period closed on October 29, 2007 following a State-mandated 30-day public review period.

- Since 2007 the developer has been working with City staff and the environmental consultants

to revise the proposed Butterfield Specific Plan and prepare the Draft EIR, in response to comments received.

- An EIR (SCH No. 2007091149) and Mitigation Monitoring and Reporting Program were prepared in accordance with the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines, and the City of Banning Environmental Review Guidelines. Consistent with Section 15086 of CEQA, the City published the Notice of Availability (NOA) of the Draft EIR and it was made available for a 45-day public review period from June 6, 2011 to July 21, 2011. The NOA was published in the Press Enterprise and the City's website. The City also mailed the NOA to the State Clearinghouse for distribution to State Agencies. Also, the City mailed the NOA to the residents, who live within 300' radius of the project boundaries, groups and organizations, and members of the public who requested to be on the mailing list of the project.

- Prior to the close of the comment period, the City held a public workshop on June 21, 2011 to provide information and answer questions from interested members of the public regarding the project and the Draft EIR.

- During the public workshop of June 21, 2011, the City received questions and comments mostly on traffic, among other questions about the project. In response to the oral comments on traffic, the City held another workshop on July 14, 2011 to respond to questions from members of the public regarding the traffic analysis report and conclusions.

- Prior to the close of the comment period on the DEIR, the City received approximately 31 comment letters from members of the public, public agencies, groups/organizations, and persons who requested to be a part of the mailing list of the project.

- Consistent with Section 15088 of CEQA, the City evaluated the responses received and responded to written comments received from members of the public, public agencies, groups/organizations, and persons who requested to be a part of the mailing list of the project and prepared written responses which are culminated in a Final EIR for the project and as referenced herein. The Final EIR was made available for public review on Friday, February 24, 2012. The Final EIR was made available at City Hall Community Development Counter, the Banning Public Library, and the City's website.

**ENVIRONMENTAL ISSUE AREAS ANALYZED IN THE DEIR:**

The draft DEIR reviewed all phases of the project including short-term and long-term impacts and analyzed impacts in 14 environmental issue areas including:

- Aesthetics
- Agriculture and Forestry Resources
- Air Quality
- Biological Resources
- Climate Change
- Cultural and Historic Resources

- Geology/Soils/Seismicity
- Hazards and Hazardous Materials
- Hydrology/Water Quality
- Land Use/Planning
- Noise
- Public Services and Utilities
- Transportation/Traffic
- Water Supply

**Water Supply Assessment**

Water Code Section 10911(b) requires that an EIR for certain projects must include an assessment of the availability of the public water system to serve the project. CEQA Section 15155 requires that a project that falls within the definition of a "water demand project" or 500 residential units must demonstrate that it has secured a supply of potable water sufficient to support the demands of the Project prior to obtaining any discretionary approvals required for its implementation. The Butterfield Specific Plan meets the definition of a "water demand project" pursuant to CEQA Guidelines Section 15155.

A Water Supply Assessment (WSA) as referenced herein was prepared for the Project and is consistent with the 2010 City of Banning Urban Water Management Plan (UWMP) which was adopted by the City Council on June 28, 2011. The adopted UWMP specifically identified the Butterfield Specific Plan as planned for development.

The WSA for the Butterfield Specific Plan analyzed the project water demand for the build-out of the project which is 35 years in five year increments, which exceeds the 20 year period required by State law. The WSA analyzed the City's existing and future water supplies, and the reliability of those supplies under a variety of hydrologic circumstances, and compared them to the water demand at project build out, in addition to the City's existing and planned future uses. The analysis took into account the various conservation measures that are being implemented in the project, as well as throughout the City, and the various hydrologic conditions – period of drought, normal years, and multiple dry years. As detailed in the Water Supply Assessment and made a part of the project's Draft EIR, there is adequate water supply for the projected water demand associated with the project, in addition to the City's existing and planned future uses.

**ENVIRONMENTAL ISSUE AREAS DETERMINED TO BE LESS THAN SIGNIFICANT OR LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED:**

In compliance with CEQA and the Guidelines for CEQA the DEIR determined the following issue areas to be less than significant, or less than significant with mitigation incorporated, as a result of Project implementation:

- Agricultural Resources
- Biological Resources
- Cultural Resources

- Geology Soils and Seismicity
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Public Services and Utilities
- Water Supply

**ENVIRONMENTAL ISSUE AREAS DETERMINED TO BE SIGNIFICANT AND UNAVOIDABLE:**

CEQA Guidelines Section 15126.2 requires that issue areas that were deemed significant must be analyzed in detail in the Draft EIR. The following significant environmental impacts of the project were found to be unavoidable:

**Aesthetics, Light and Glare**
Due to the size of the proposed Project and the current context of rural, undeveloped conditions, the Project's impact on light and glare is considered significant and unavoidable (although typical of any large-scale residential development, and mitigated to the extent feasible).

**Air Quality**
Construction-Related Emissions: As Project-related emissions are anticipated to exceed SCAQMD thresholds, construction-related emissions are considered significant and unavoidable.

Regional Operational Emission: During the operational phase, the Project would result in a net increase in regional emissions of ROG, NOX, SO2, CO, PM10, and PM2.5 from the operation of both stationary and mobile sources. Despite the inclusion of numerous project design features that would reduce the potential air quality impacts to the degree feasible, emissions would remain above SCAQMD significance thresholds. Therefore, operation of the proposed Project would have a significant and unavoidable impact on regional air quality.

Air Quality Management Plan Consistency: As the Project would exceed SCAQMD thresholds, the Project would potentially result in a long-term impact on the region's ability to meet State and Federal air quality Standards. The Project would conflict with the AQMP as it would not meet the first AQMP consistency criterion for construction related emissions. However, the proposed Specific Plan is generally consistent with the City of Banning General Plan's assumptions regarding population and housing growth. Therefore, on a regional scale, the emissions from the Specific Plan have been considered in the forecasts presented in the 2007 AQMP. The Project would meet the second AQMP consistency criterion.

**Traffic and Circulation**

Construction of the recommended improvements, when and where needed, would achieve applicable level-of-service performance at all study area intersections; however, as some improvements could also result in significant impacts to existing land uses (due to Project right-of-way requirements), certain improvements may either be made in part, deferred or not implemented due to overriding considerations and/or limited funding. Further, many of the

recommended improvements are located in jurisdictions outside the City of Banning. Most of these improvements have been, can be and should be implemented by those other agencies, but successfully completing the improvements in a timely fashion cannot be guaranteed.

## CUMULATIVE IMPACTS:

### Aesthetics, Light and Glare

The Project will introduce significant sources of light and glare into an existing rural, undeveloped area and result in a significant and unavoidable adverse impact on nighttime views of the Project site in the interim and long-term build-out condition. Mitigation measures can reduce these impacts but would not reduce them to a level of insignificance due to the nature, size, and scale of the proposed project and its cumulative significance.

### Air Quality

Emissions from development and operation of the proposed Project would exceed the SCAQMD thresholds, resulting in a significant impact. In accordance with SCAQMD methodology, any project that cannot be mitigated to a level of less than significant is also significant on a cumulative basis.

### Climate Change

Although the Project has incorporated reasonable and feasible mitigation measures, the Project's incremental contribution to global climate change can be considered "significant" on a cumulatively considerable basis. Although implementation of these mitigation measures would reduce the proposed Project's greenhouse gas emissions, such project-specific mitigation may not be feasibly imposed upon cumulative projects.

### Noise

As the project cannot reasonably or feasibly mitigate for cumulative mobile noise impacts (e.g., constructing sound walls on private property adjacent to sensitive uses surrounding the project site; forcing existing residential uses to change their existing windows; etc.), implementation of the proposed Project would result in a significant and unavoidable impact for cumulative mobile noise impacts as both the combined and incremental effects criteria have been exceeded.

### Traffic and Circulation

As stated above under the Project impacts related to traffic and circulation, construction of the recommended improvements, when and where needed, would achieve applicable level-of-service performance at all study area intersections; however, as some improvements could also result in significant impacts to existing land uses (due to cumulative right-of-way requirements), certain improvements may either be made in part, deferred or not implemented due to overriding considerations and/or limited funding. Further, many of the recommended improvements are located in jurisdictions outside the City of Banning. Most of these improvements have been, can

be and should be implemented by those other agencies, but successfully completing the improvements in a timely fashion cannot be guaranteed because the City has no jurisdiction over other agencies.

## ALTERNATIVES ANALYZED:

Potential environmental impacts of four (4) separate alternatives were compared in the EIR to impacts from the proposed Project. These alternatives were selected based upon their ability to avoid or substantially lessen the significant effects of the proposed Project, while still achieving the primary Project objectives (to develop the site in a manner generally consistent with the currently approved Deutsch Specific Plan). The Project alternatives selected were:

- No Project/Existing Specific Plan Alternative
- Reduced Density – 20% Reduction Alternative
- Active Adult Community Alternative
- No Golf Course Alternative

### No Project/Existing Specific Plan Alternative

Under the No Project alternative, the site will remain vacant and undeveloped and the proposed Butterfield Specific Plan will not occur. Any future development of the site is subject to the provisions contained within the currently approved Deutsch Specific Plan.

The existing Deutsch Property Specific Plan provides for a total of 5,400 dwelling units (with a net density of 3.5 du/ac), three elementary schools, a 193-acre 18-hole championship golf course, a 10-acre community center, a 10-acre commercial site, a 5-acre medical/office site, two community parks and three neighborhood parks (totaling approximately 75 acres of parks). The Deutsch Property Specific Plan includes a higher maximum number of dwelling units than the proposed Project (5,387 dwelling units) and an equivalent gross density (3.5 du/ac). Additionally, this alternative would have a slightly larger impact area (1,552 acres) than the proposed Project (1,543 acres). A detailed comparison of the currently approved Deutsch Specific Plan with the proposed Butterfield Specific Plan is provided in Section 3.6.1 and Table 3.0-3 of this Draft EIR, and in Section 1.4 of the Draft Butterfield Specific Plan.

### Reduced Density (20% Reduction) Alternative

The purpose of the Reduced Density Alternative is to reduce impacts from the Project related to the number of units developed and the intensity of commercial development. Under this alternative, the total number of residential dwelling units would be reduced from 5,387 to 4,318, representing a reduction of 1,069 units, or approximately 20%. In addition, it is anticipated that commercial square footage would be reduced by 20% under this alternative. This alternative assumes the development of 4,318 residential units in the same Planning Areas proposed with the Project. Under this alternative, the average residential density would be reduced from 3.5 du/ac to 2.8 du/ac.

### Active Adult Land Use Plan Alternative

This alternative assumes that the Planning Areas 40-49 and 53-59 located in the northwestern part of the Specific Plan would be designated as exclusively age restricted, "active adult" homes (assumed to be 1,700 DU) . Refer to Exhibit X, Land Use Plan, to locate these Planning Areas within the Project site. A total of 5,387 DU would still be constructed with this alternative. These age-restricted planning areas would take access off the North Loop Collector Road. Under an age-restricted, "active adult" homes scenario, the North Loop Road could be proposed as a gated, access-controlled private roadway. All other aspects of this alternative would be similar to the proposed Project.

### No Golf Course Alternative

This alternative assumes that development of the golf course in Planning Areas 35 and 39 would not occur. This alternative assumes that other types of open space and recreational uses would be permitted as alternatives in the event the golf course is not developed due to market conditions or other considerations. These alternative uses include various combinations of parks, trails, native habitat, drainage facilities, water quality improvements, groundwater recharge areas, and wetland mitigation areas.

Most alternatives are found to be infeasible due to lack of alternative site availability, failure to meet basic Project objectives, or the fact that some alternatives would still have the same types of significant and unavoidable impacts as the Project. The "Existing Specific Plan" alternative would actually result in similar or greater impacts as compared to the proposed Project.

## CITY COUNCIL CONSIDERATION OF THE PROJECT:

Staff identified the following key questions which are the core of the four (4) recommended actions regarding whether the Council should: 1) approve the General Plan Amendment, the Zone Change, and the Water Supply Assessment for the project; 2) approve the Butterfield Specific Plan; 3) approve the Development Agreement; and; certify the Final EIR. The responses to the questions below are provided in detail in the City Council resolutions (attached).

### Approval of General Plan Amendment and Zone Change

**Do you feel that the General Plan Amendment and Zone Change merits approval by the City Council?**

The General Plan Amendment and Zone Change may be adopted by the City Council if the following findings are made.

a. That the proposed amendment is internally consistent with the General Plan.

b. That the proposed amendment would not be detrimental to the public interest, health, safety, convenience or welfare of the City.

c. The proposed amendment would maintain the appropriate balance of land uses within the City; and

d. That in the case of an amendment to the General Plan Land Use Map, the subject parcel(s) is physically suitable (including, but not limited to access, provision of utilities, compatibility with adjoining land uses, and absence of physical constraints, for the requested land use designations and the anticipated land use development.

The developer is requesting approval of a General Plan Amendment and Zone Change to:

1. Amend the text in the General Plan that would allow the City's General Plan Land Use and Zoning Overlay Map to show a zoning designation as "Specific Plan" for a property that has an approved Specific Plan without displaying the specific details of the underlying land uses. The Specific Plan would provide the land use plan for the project consistent with the General Plan.

2. Replace the current zoning for the project site from Deutsch Specific Plan to the Butterfield Specific Plan so that the future development of the project site will be implemented consistent with the Butterfield Specific Plan.

The following provides Staff's analysis of the project and the facts supporting the findings for approval of a General Plan Amendment and Zone Change for the project. The details of the finding of facts are included in City Council Resolution No. 2012-25.

a. The current General Plan Land Use and Zoning Overlay Map shows the project site as Deutsch Specific Plan, including the display of the detail underlying land uses. The developer proposes a new Specific Plan called "Butterfield Specific Plan", which would amend the existing land use and zoning regulations for future development of the property that would include the development of up to 5,387 dwelling units (937.4 acres of residential), a golf course and open space (253.9 acres), parks (66.5 acres) and other open space (108.4) acres, two school sites (23.0 acres), and existing utilities substation facility (4.2 acres), a potential fire station site (1.6 acres) and backbone roadways (113.6 acres). The project also includes the construction of major on-site and off-site infrastructure, including, but not limited to: various on-site and off-site street improvements to provide access to and from the project site; various on-site and off-site conveyance pipelines for sewer, water, storm drain; a multi-purpose detention basin, and drainage improvements to Pershing Channel and Smith Creek immediately upstream and downstream of the 1,543-acre project site to accommodate the mixed-use master planned community. The proposed Butterfield Specific Plan is partially consistent with the General Plan as it is a "Specific Plan."

   To make the Butterfield Specific Plan consistent with the General Plan, the Applicant is requesting that the text of the General Plan be amended as indicated in Exhibit "A" of Resolution No. 2012-25 to: (1) allow the City's General Plan Land Use and Zoning Overlay Map to display any approved Specific Plans, including Butterfield Specific Plan with text only and not displaying the underlying details of the land use maps; and, (2)

replace the existing Zoning for the project site from Deutsch Specific Plan to the Butterfield Specific Plan (dated November 21, 2011) as referenced herein.

The City of Banning has reviewed the proposed General Plan Amendment (No. 11-2501) and Zone Change (No. 11-3501), including detailed regulations contained within the Butterfield Specific Plan for internal consistency within all of the General Plan elements' text, diagrams, and maps and have concluded that the proposed General Plan Amendment and Zone Change will not create any conflicts among the various General Plan elements goals, policies, and objectives, including the maps and diagrams of all the elements in the General Plan. The General Plan Amendment does not change any existing land use designations at the site under the existing Deutsch Specific Plan. Specifically, Section 7.0 of the Butterfield Specific Plan dated November 21, 2011 and as referenced herein describes the Butterfield Specific Plan and the projects consistency with the goals and policies set forth in the City of Banning General Plan.

b. The proposed General Plan Amendment (No. 11-2501) and Zone Change (No. 11-3501) when approved will designate the General Plan and Zoning Overlay Map for the project site with the Butterfield Specific Plan as referenced herein. The Butterfield Specific Plan has been prepared in accordance with Chapter 17.96 of the Banning Zoning Code and Government Code Sections 65451 and 65452 in that the Butterfield Specific Plan provides detailed zoning regulations with regard to future development of the project site to be consistent with the vision, goals, and objectives for the aesthetics, design, and infrastructure needs for the project as a master-planned community.

Based on staff's analysis of the State law and facts provided in the staff report and the Butterfield Specific Plan as referenced herein, the Specific Plan has been prepared in compliance with the State law. Specifically, the Butterfield Specific Plan provides for the following to address compliance with State law and the Banning Zoning Code.

(1) Section 1.0, pages 1-1 to 1-17 includes maps and diagrams for the distribution, location, and extent of the uses of land, including open space. In addition, the text accompanies the maps and diagrams providing detail information as to the specific plan land uses, their location, and intensity/density of the uses. Sections 3.0 through 3.1.2, pages 3-1 through 3-16 of the Specific Plan provide detailed development plans for each of the land uses. Detail information of the distribution, location, and extent of the parks and open space development is provided in Section 3.6 through 3.6.6, pages 3-85 through 3-98.

(2) Section 3.2 through 3.5.5, pages 3-17 through 3.84 provide detail information via text and diagrams/maps showing distribution location, and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, and other essential facilities proposed to be located within the area covered by the plan and needed to support the land uses described in the plan. Other public services and essential facilities for the project including schools, fire and police protection, library, cable, gas, and health services are provided in Section 3.7.1 on pages 2-97 through 3-99.

(3) Standards and criteria by which the development will proceed, and standards for the conservation, development and utilization of natural resources where applicable are provided in the following sections:

a. Section 3.7.2, pages 3-99 through 3-105 provide phasing concept for each development.
b. Sections 4.1 through 4.13.9, pages 4-1 through 4-139 provide detail development design guidelines for the community, neighborhood, and individual buildings and how they are to be developed.
c. Sections 5.0 through 5.8.1 provide specific development regulations for each of the land use districts and how they are to be developed.

(4) Section 6.0 through 6.2.2, pages 6-1 through 6-4 provide detailed information on the administration and implementation of the Butterfield Specific Plan that includes regulations, programs, public works projects, and financing measures necessary to carry out items (1), (2), and (3). The financing measures include Community Facility District which is described in detail in Section 3.7.3 on page 3-105.

In addition to the Specific Plan regulations described above, the City Engineer and the Banning Fire Department also reviewed the access to and from the project site connecting to the surrounding communities, including emergency access to within each of the neighborhoods for emergency vehicles. It was determined that regular access and emergency access have been deemed adequately provided. A site for a fire station, a community center, and two elementary schools for the Banning and Beaumont Unified School Districts are also provided within the Specific Plan. The developer also will provide other public utilities such as electric, cable, telephone lines, and gas lines, including working with the Pass Transit to provide transit stops to serve the needs of the Butterfield community.

In compliance with SB 610 and Government Code Section 66473.7, a water supply assessment was prepared for the Butterfield Specific Plan. The Water Supply Assessment (WSA) which is incorporated herein by reference indicated that at the project build-out in 2045, the potable water demand for the project is 2,880 acre feet per year (AFY) without conservation and 1,725 AFY with conservation measures. The City also prepared the Urban Water Management Plan (UWMP) that was adopted by the City Council on June 28, 2011. The UWMP provides an analysis for a 20-year time frame as required by State law. Due to the time frame for the build out of the project, the Butterfield Specific Plan analyzed a 35-year time frame, which is 15 years beyond the life the adopted UWMP and concluded that the City has adequate water to supply to the project.

In compliance with CEQA Guidelines (Public Resources Code Section 21000 et seq.), the City has prepared a Final EIR for the project which identified and assessed all of the environmental impacts associated with the project, identified

mitigation measures for the project that reduce the project impacts, disclose impacts that are significant that cannot be mitigated to less than significant. The City has prepared a Mitigation Monitoring and Reporting Program which is hereby incorporated by reference. The City also prepared a Statement of Overriding Considerations for the significant and unavoidable Project-related impacts associated with aesthetics, light and glare, air quality, and traffic and circulation and the cumulative impacts associated with aesthetics, light and glare, air quality, climate change, noise, and traffic and circulation. (Refer to Resolution No. 2012-24).

Based upon the Statement of Overriding Considerations, the City finds that sixteen (16) areas of public benefits related to the proposed Butterfield Specific Plan Project outweigh the seven (7) environmental issue areas of significant unavoidable adverse impacts. Accordingly, the significant unavoidable adverse impacts are considered acceptable.

The above finding of facts provided in this subsection concludes that the General Plan Amendment and Zone Change would not be detrimental to the public interest, health, safety, convenience, or welfare of the community as the project has been prepared in compliance with the City of Banning Zoning Code Chapter 17.96, Government Code Sections 65451 and 65452, and the California Environmental Quality Act Guidelines Section 15000 through 15387 (Public Resources Code Section 21000 et seq.)

c. The proposed General Plan Amendment and Zone Change would maintain the appropriate balance of land uses within the City.

The proposed General Plan Amendment and Zone Change would maintain the appropriate balance of land uses within the City in that the Butterfield Specific Plan provides a mix of land uses that include residential, commercial, open space, parks, trails, school sites, fire station site, golf course, and infrastructure to serve the needs of the community. Specifically, the residential development would include single-family (539.2 acres) and medium density residential (324.4 acres) components. The single-family residential development will be provided with varying product types and lot sizes. Within the single-family residential development, the Low Density component of the development will have lot sizes ranging from a minimum of 5,000 square feet to an average of 7,500 square feet. For a medium density single-family component, the lot sizes range from 3,400 square feet to a minimum average of 7,200 square feet. For the cluster medium density single-family, the lot sizes range from 2,000 square feet to 2,800 square feet.

The High Density Residential (73.8 acres) development would provide for attached single-family dwellings with semi-private courtyards and open spaces.

The two commercial sites totaling 36 acres are located at key intersections within the project. The 23-acre site is located at Highland Springs Avenue and Wilson Street. The 13-acre site is located at the southeast corner of "B" Street and Highland Springs Avenue. Both sites

would provide for general commercial, retail and office uses that would serve the residents of the project and the surrounding community.

Park facilities of varying sizes, including pedestrian, and bike lanes are provided within the development to serve the recreation needs of the community. The park sites are easily accessible from the various neighborhoods within the development. The golf course area or its alternative use as an open space with recreational trails provides a central open space or view window for the development which is an amenity for the project.

The Butterfield Specific Plan also provides adequate areas for drainage, streets, and infrastructure to serve the development.

Based on the facts provided in this sub-section, including Section 7.0 of the Butterfield Specific Plan findings of consistency with the General Plan as referenced herein, the proposed General Plan Amendment and Zone Change would maintain the appropriate balance of land uses within the City and specifically, it will implement the Citywide goal of "a balanced well-planned community including business which provides a functional pattern of land uses and enhances the quality of life for all Banning residents."

d. That in the case of an amendment to the General Plan Land Use Map, the subject parcel(s) is physically suitable (including, but not limited to access, provision of utilities, compatibility with adjoining land uses, and absence of physical constraints, for the requested land use designations and the anticipated land use development.

The project site is 1,543 acres and is adequate and suitable to develop with the proposed land uses which are described in detail in the Butterfield Specific Plan as incorporated herein by reference. The land use plan for the project takes into consideration the physical constraints and opportunities of the site including surrounding land uses, topography, geology, seismic hazards, soils, groundwater, drainage and flood control channels – Smith Creek and Pershing Channel, paleontology and archeology, biology, circulation and access, and utilities as described in detailed in Sections 2.1 through 2.7.2 of the Specific Plan.

The location of the various land uses has been distributed and placed to provide compatibility within the neighborhoods in the project and the surrounding area, including the neighborhood on the north side of Mockingbird Lane as this neighborhood provided input as to compatibility of the previous lot sizes which were smaller compare to lot sizes in their neighborhood. Specifically, to ensure compatibility with the existing residential development on the north side of Mockingbird Lane, the Project has designated Planning Area 50 (refer to Exhibit 3.1, Land Use Plan, in the Specific Plan) as Low Density Residential, with an average lot size of 7,500 sq. ft. Furthermore, starting at the back of lots along the existing lots on the north side of Mockingbird Lane, there would be approximately 390 ft. of open space between the rear property lines of lots located on Mockingbird Lane and the southern boundary of Planning Area 50.

Each of the neighborhoods within the project area have been reviewed and provided two points of access for public safety in case of emergency and also connection to the

surrounding community. Necessary utilities that include water, sewer, gas, electricity, cable, telephone, and transit that will serve the development will be provided through the implementation of the Specific Plan.

In compliance with SB 610 and Government Code Section 66473.7, a Water Supply Assessment was prepared for the project consistent with the City's Urban Water Management Plan as incorporated herein by reference, and concluded that the City has adequate water to supply to the project.

Based on the facts indicated in this subsection and subsections above, the project site is suitable for requested land use designation(s) and the anticipated land use development(s). Details of the findings of fact are provided in Resolution No. 2012-25.

**Approval of Butterfield Specific Plan**

**Do you feel that the proposed Butterfield Specific Plan merits approval by the City Council? Per the Banning Zoning Code Chapter 17.96, the adoption of any specific plan's contents must meet the requirements of Government Code Sections 65451 and 65452.**

Key to the City Council's consideration for approval of the Butterfield Specific Plan is determining whether it meets the requirements of Government Code Sections 65451 and 65452 as listed below.

a. The Specific Plan shall include a text and a diagram or diagrams which specify all of the following in detail:

   (1) The distribution, location, and extent of the uses of land, including open space, within the area covered by the Plan.

   (2) The proposed distribution location, and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, and other essential facilities proposed to be located within the area covered by the plan and needed to support the land uses described in the plan.

   (3) Standards and criteria by which the development will proceed, and standards for the conservation, development and utilization of natural resources where applicable.

   (4) A program of implementation measures including regulations, programs, public works projects, and financing measures necessary to carry out paragraphs (1), (2), and (3).

b. The specific plan shall include a statement of the relationship of the specific plan to the General Plan.

Based on staff's analysis of Government Code Sections 65451 and 65452, Banning Zoning Code Chapter 17.96, and facts provided in the staff report and the Specific Plan document referenced

herein, the Butterfield Specific Plan has been prepared in compliance with these regulations. Specifically, the Butterfield Specific Plan provides for the following to address compliance with State law.

Section 1.0, pages 1-1 to 1-17 includes maps and diagrams for the distribution, location, and extent of the uses of land, including open space. In addition, the text accompanies the maps and diagrams providing detail information as to the specific plan land uses, their location, and intensity/density of the uses. Furthermore Sections 3.0 through 3.1.2, pages 3-1 through 3-16 of the Specific Plan provide detailed development plans for each of the land uses. Detail information of the distribution, location, and extent of the parks and open space development is provided in Section 3.6 through 3.6.6, pages 3-85 through 3-98.

Section 3.2 through 3.5.5, pages 3-17 through 3.84 provide detail information via text and diagrams/maps showing distribution location, and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, and other essential facilities proposed to be located within the area covered by the plan and needed to support the land uses described in the plan. Other public services and essential facilities for the project including schools, fire and police protection, library, cable, gas, and health services are provided in Section 3.7.1 on pages 2-97 through 3-99.

Standards and criteria by which the development will proceed and standards for the conservation, development and utilization of natural resources where applicable are provided in the following sections:

a. Section 3.7.2, pages 3-99 through 3-105 provide phasing for each development
b. Sections 4.1 through 4.13.9, pages 4-1 through 4-139 provide detail development design guidelines for the community, neighborhood, and individual buildings and how they are to be developed.
c. Sections 5.0 through 5.8.1 provide specific details development regulations for each of the land use districts and how they are to be developed.

Section 6.0 through 6.2.2, pages 6-1 through 6-4 provide details information on the administration and implementation of the Butterfield Specific Plan that includes regulations, programs, public works projects, and financing measures necessary to carry out items (1), (2), and (3). The financing measures include Community Facility District which is described in detail in Section 3.7.3 on page 3-105. Details of the finding of facts are included in Ordinance No. 1450.

**<u>Development Agreement</u>**
**Do you feel that the Development Agreement which provides the developer with vested rights to develop the project in the future in accordance with Butterfield Specific Plan merits approval in exchange for the public benefits to the City?**

The development of the Butterfield Specific Plan requires an up-front and substantial investment in public infrastructure costs. The initial infrastructure cost for the project is estimated to be $100 million. The ultimate infrastructure cost is approximately $460 million. In exchange for



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the investment, the developer is requesting approval of a Development Agreement for Butterfield Specific Plan to provide a vested right to develop the project consistent with the Zoning (Butterfield Specific Plan) for the property without any concerns that the Zoning will change during the 40-year period.

The development agreement provides the following:

- A 40-year term subject to City review every 10 years.

- Incentive for the developer with a development impact fee (DIF) credit up to 500 units provided that the construction occurs on January 2014 and the 500 units are completed within five (5) years after the Effective date of the Agreement. The development impact fees include general facility, police, fire, and traffic. The purpose of the fee credit is to incentivize the developer to start construction early and not wait until the economy recovers in four or more years. The total fee credit is $1.4 million. The park development impact fee is not included because the developer will provide a fully improved park for all park sites within the development.

- The developer is required to complete the number of units as indicated on the Phasing Plan as indicated on page 18 of this staff report: 1,200 units – the first ten years (Phase I); 1,600 units the second 10 years (Phase II); 1,400 the third ten years (Phase III); and 1,187 the last ten years (Phase IV).

- At the 10-year mark, the City will review the project for compliance with the terms of the agreements. If the total required units are not constructed by the end of the 10-year period, the developer will lose 5 years at the end of the development agreement. For a 30-year agreement, the developer may lose up to 10 years if they do not meet the unit threshold as provided in the agreement. The purpose of this requirement is to ensure that there is an incentive for the developer to complete the project in Banning as opposed to other projects that they have in other communities.

- Also at the 10-year mark, the City has the right to raise the processing fees and development fees that are effective at the time for the remaining units that are to be built. Additional, the City has the right to impose new city-wide fees that are effective at the 10-year mark.

- If there is a downturn in the economy, the developer could add one year for each year that the economy is in the downturn. The downturn in the economy is defined based on the 50% average total units constructed in the Western Riverside County cities and its unincorporated areas for a 25-year period.

- The developer will also be reimbursed for providing the up-front costs for the preparation of the studies that include sewer and water master plan, general plan circulation element amendment, and improvement to Highland Springs Avenue and traffic circulation and relocation of Joshua Palmer Way. The total up-front cost invested by the developer is $2.3 million.

With the vested right to develop the property, the City will receive:

- A substantial amount of investment in public infrastructure, for water, sewer, streets, storm drain, and flood control. The initial investment in infrastructure is $100 million. The total infrastructure investment for the entire project is estimated to be $460 million.

- New and variety of home types for existing and future residents.

  This includes single-family (539.2 acres) and medium density residential (324.4 acres) components. The single-family residential development will be provided with varying product types and lot sizes. Within the single-family residential development, the Low Density component of the development will have lot sizes ranging from a minimum of 5,000 square feet to an average of 7,500 square feet. For a medium density single-family component, the lot sizes range from 3,400 square feet to a minimum average of 7,200 square feet. For the cluster medium density single-family, the lot sizes range from 2,000 square feet to 2,800 square feet.

  The High Density Residential (73.8 acres) development would provide for attached single-family dwellings with semi-private courtyards and open spaces.

- Commercial development to serve the development and the surrounding community.

  The two commercial sites are located at key intersections within the project. The 23-acre site is located at Highland Springs Avenue and Wilson Street. The 13-acre site is located at the southeast corner of "B" Street and Highland Springs Avenue. Both sites would provide for general commercial, retail and office uses of approximately 0.5 million square feet that would serve the residents of the project and the surrounding community.

- Improved park facilities, hiking and biking trails for the residents of the development

  The developer will provide the City with fully improved parks as part of the development as opposed to some future date. The park facilities of varying sizes, including pocket parks, neighborhood parks, and Community Parks, pedestrian, and bike lanes are provided within the development to serve the recreation needs of the community. The park sites are easily accessible from the various neighborhoods within the development. The golf course area or its alternative use as an open space with trails provides a central open space or view window for the development which is an amenity for the project.

- Revenue from property tax, sales tax, and development fees.

  The development of the property will provide property tax, sales tax, and development fees compared to the current vacant undeveloped state.

- Construction jobs and jobs for the various trades.



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The project is expected to generate construction jobs, including jobs for other trades such as architects, engineers, interior designers, roofing, flooring, furniture, lighting, piping, asphalt, etc. It is estimated that a total of 1,283 permanent jobs would be created as a result of the project. During the long-term construction of the project, it is estimated that the project would create 500 direct and indirect local jobs.

- Roof tops to attract future commercial development.

  The City will have more roof tops to attract future retailers and restaurants to locate in Banning once the homes are occupied. The project would incentivize the local economy.

- The development provides sites for the community center, fire station, schools, and sewer treatment facility.

Staff believes that the proposed Development Agreement is a win-win for the developer and the City. Staff recommends that the City Council adopt an Ordinance No. 1451 and introduce its first reading approving Development Agreement. Ordinance No. 1451 provides details of the finding of facts for approval of the Development Agreement.

**Certification of the Final EIR**

**Do you feel that the EIR prepared for this project appropriately identifies, mitigates, or acknowledges an inability to mitigate, the potential environmental impact of the proposed project? If so, this would allow you to approve the certification of the Final EIR. Certification of the Final EIR does not necessitate the approval of the project itself - rather it is specific to the adequacy of the environmental analysis of the project.**

Staff believes that the Final EIR, including the Draft EIR and its supporting documentation appropriately identifies, analyzes, and mitigates all potential environmental effects of the project and acknowledges those that are significant and unavoidable and cannot be mitigated to a level less than significant. The Mitigation Monitoring and Reporting Program as referenced herein and attached to the City Council Resolution No. 2012-24 identifies the specific mitigation measures that must be implemented by the project to reduce the project impacts. Additionally, the EIR provides disclosure that five (5) environmental issue areas: aesthetics/ light and glare, air quality, and traffic and circulation and the cumulative impacts associated with aesthetics, light and glare, air quality, climate change, noise, and traffic and circulation will not be fully mitigated and would require a statement of overriding considerations should the project be approved. The statement of overriding considerations is attached to City Council Resolution No. 2012-24.

**Do you feel that the project benefits override or outweigh the identified unavoidable environmental impacts to justify the adoption of the Statement of Overriding Considerations? Prior to the City Council approval of the General Plan Amendment, Zone Change, and Butterfield Specific Plan, a Statement of Overriding Considerations must be adopted.**

Based on Staff's evaluation of the project and its benefits, the approval of the project would



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outweigh the identified unavoidable environmental impacts of the Project as provided in the discussion of the Development Agreement on pages 33 to 36 of this staff report. Details of the findings of fact for certification of the Final EIR, findings of fact for the environmental, and Statement of Overriding Considerations are included in City Council Resolution No. 2012-24. When the City Council adopts the Overriding Considerations, it means that the project will still have to mitigate all of the impacts identified in the Mitigation Monitoring and Reporting Program. The difference is that the five issue areas identified in this report and the Final and Draft EIRs, cannot be feasibly mitigated to a less than significant level because, for example, the City has no jurisdictional power to compel other agencies to adopt the mitigation measures or the taking of private property would be required or the alternative or measure does not meet the project objectives. Some of the impacts are caused by other projects and occurs at general plan build-out which requires other projects to participate and provides funding and is not solely the responsibility of the project.

## PUBLIC HEARING NOTICES:

- On March 16, 2012, the City gave public notice by advertisement in the Record Gazette newspaper of a public hearing concerning the project, which included the Water Supply Assessment, Final Environmental Impact Report, General Plan Amendment No. 11-2501, Zone Change No. 11-3501, Butterfield Specific Plan, and Development Agreement. The public hearing notice is attached.

- In addition, the City mailed public hearing notices to the owners of properties that are located within a 300' radius of the project boundaries and to interested persons who requested to be on the mailing lists for the project. The public hearing notice is attached.

Subsequent to the Planning Commission public hearing and as of the writing of this staff report, staff received an inquiry from Kathy Hannemann, a resident of Cherry Valley who opposed the project. Ms. Hannemann indicated that she will be writing a letter indicating her concerns about the project to the City Council.

A response to the late comment from the Banning and Beaumont School District (the letter that was sent at 4:12 pm on March 7, 2012 which is the day of the Planning Commission hearing) is also attached.

## FISCAL IMPACT:

**City Services**

A Fiscal Impact Analysis for the project was prepared by Willdan Financial Services. The purpose of the fiscal impact analysis was to determine the project impacts on general city services. The Analysis concludes that the project would generate negative impacts on the city services. To mitigate the fiscal impact, the project is required to create a special services tax in the amount of $115 per year for single-family and $ 92 for multiple-family unit.



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**Development and Impact Fee Receipt**

Based on the current fees, the projected fee receipt from development fees and impact fees over the life of the project is $110,854,979.00. This amount includes Development Impact Fees ($69,718,598.00), which are to be used for specific purpose (general facility, police, fire, and traffic) and permitting fees ($41,136,381). The fee does not include the parkland fee because the developer will provide a fully improved park as part of the Development Agreement. In addition, this fee does not include the TUMF (Regional Transportation Uniform Mitigation Fee) and the County MSHCP (Multi-Species Habitat Conservation Plan) since the fees are pass-through fees.

The Development Agreement provides for fee credits for up to 500 homes to incentivize the developer to jump start the construction during this economic downturn. The fee credit would reduce the total development impact fees receipt of $69,718,598.00 by $1.2 million (or a receipt of $68,518,598.00 to the City).

The developer, as part of the Development Agreement, is seeking reimbursement of pre-approval costs for preparation of the City's Master Plan for Sewer and Recycled Water Master Plans, Urban Water Master Plan, preparation of Citywide Traffic Circulation Element Amendment, road and bridge fees studies, and pre-project expenses for preparation of plans for Highland Springs Avenue and I-10 traffic improvement. The total reimbursement is $2.23 million.

**APPROVED BY:**

Andy Takata
City Manager

**RECOMMENDED BY:**

Zai Abu Bakar
Community Development Director

**REVIEWED BY:**

Duane Burk
Public Works Director

**REVIEWED BY:**

June Overholt
Administrative Services Director

**Attachments:**

1. City Council Resolution No. 2012- 24 Certification of the Final EIR with Exhibits "A" – Final EIR including Draft EIR (Under Separate Cover); Exhibit "B" - Findings of Fact, Exhibit "C" Statement of Overriding Considerations, and Exhibit "D" Mitigation Monitoring and Reporting Program.
2. City Council Resolution No. 2012-25 with Exhibit "A" - General Plan Amendment and Zone Change.



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3. Ordinance No. 1450 with Exhibit "A" - Butterfield Specific Plan (Under Separate Cover) and Conditions of Approval
4. Ordinance No. 1451 with Exhibit "A" - Development Agreement
5. City Council Resolution No. 2012-27 with Exhibit "A" - Water Supply Assessment, Also shown as Appendix J of the Draft EIR (Under Separate Cover) and Water Supply Addendum (Section 4.0 Errata of the Final EIR)
6. Banning Utility Authority Resolution No. 2012-04 UA with Exhibit "A" - Water Supply Assessment, Also shown as Appendix J of the Draft EIR (Under Separate Cover), and Water Supply Addendum (Section 4.0 of the Final EIR).
7. Comment letters received after the Final EIR and the City's responses to them: Chatten-Brown & Carstens representing Highland Springs Resort; Bowie, Arneson, Wiles & Giannone respresenting Banning and Beaumont School Districts; Janelle Singleton; Soboba Band of Luiseno Indians; and FEMA
8. Public Hearing Notice and Mailing Labels

# ATTACHMENT 1

**Resolution No. 2012-24**
**Certification of the Final EIR with**
**Exhibit "A" – Final EIR including Draft EIR (Under Separate Cover);**
**Exhibit "B" – Findings of Fact;**
**Exhibit "C" – Statement of Overriding Considerations;**
**Exhibit "D" – Mitigation Monitoring and Reporting Program**

**RESOLUTION NO. 2012-24**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE BUTTERFIELD SPECIFIC PLAN (SCH NO. 2007091149) AND ADOPTING FINDINGS OF FACT, A STATEMENT OF OVERRIDING CONSIDERATIONS, AND A MITIGATION MONITORING AND REPORTING PROGRAM**

**WHEREAS,** the City of Banning received an application on August 20, 2007, for a General Plan Amendment and Zone Change, which will supersede the Deutsch Specific Plan and provide zoning regulations for the Butterfield Specific Plan, and a superseding the Deutsch Development Agreement to allow the development of up to 5,387 dwelling units (937.4 acres of residential), a golf course and open space (253.9 acres), parks (66.5 acres) and other open space (108.4) acres, two school sites (23.0 acres), and existing utilities substation facility (4.2 acres), a fire station site (1.6 acres) various retail commercial sites (36 acres) and backbone roadways (113.6 acres) (collectively, the "Project"). The Project also includes the construction of major onsite and offsite infrastructure, including, but not limited to: various on-site and off-site street improvements to provide access to and from the Project site; designation of a site for a potential satellite wastewater treatment facility, various onsite and offsite conveyance pipelines for sewer, water, storm drain; water reservoir tanks, a multi-purpose detention basin, and drainage improvements to Pershing Channel and Smith Creek immediately upstream and downstream of the 1,543-acre Project site to accommodate the mixed-use master planned community.

| | |
|---|---|
| Project Applicant: | Pardee Homes (Authorized Agent Mike Taylor, Vice President of Pardee Homes, 10880 Wilshire Boulevard, Suite 1900, Los Angeles, CA 90024) |
| Property Owners: | Pardee Homes owns 1,522 acres within the Butterfield Specific Plan.<br><br>Highland Springs Country Club Owners Association owns the 21-acre property that is located at the northwest corner of the Butterfield Specific Plan (APN: 408-060-006, 007 & 008 portion). |
| Project Location: | Northeast Corner of Highland Springs Avenue and Wilson Street |
| APN Number: | The Project includes 34 parcels: 408-060-006, 007 & 008 (por.); 408-030-001 & 005; 408-120-001 through 020, 022, 024, 025, 027 & 033; and 531-080-013 & 014. |
| Specific Plan Size: | 1,543 Acres |

**WHEREAS,** applications for General Plan Amendment No. 11-2510, Zone Change No. 11-3501, and Development Agreement, all of which supersede the Deutsch Specific Plan with the Butterfield Specific Plan, and are considered a "project" pursuant to the California Environmental Quality Act ("CEQA") Guideline Section 15378 (Public Resources Code Section 21065).



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**WHEREAS,** the City determined that there was substantial evidence that the Butterfield Specific Plan and associated applications as referenced herein may have one or more significant effects of the environment and that the preparation of the Environmental Impact Report (EIR) was therefore warranted under CEQA Guidelines Sections 15002, 15382, 15384.

**WHEREAS,** the City of Banning is the lead agency for the preparation and consideration of environmental documents for the Project, as defined by CEQA Sections 15051 and 15367.

**WHEREAS,** consistent with Section 15083 of CEQA and prior to completing the draft Environmental Impact Report ("EIR"), the City held an early consultation or scoping meeting regarding the environmental issue areas to be considered in the EIR. The City published the Notice of Preparation ("NOP") on September 27, 2007 including the Scoping meeting in the Record Gazette and on the City's website. The NOP was filed with the Office of Planning and Research on September 28, 2007. The City also mailed the NOP to residents who are located within 300' of the Project site and to members of the public, organizations/groups, public agencies and persons who have requested to be on the mailing lists. As part of early consultation, the City held three (3) public scoping meetings. Two (2) scoping meetings were held on October 16, 2007, from 2 p.m. to 4 p.m. and from 6 p.m. to 8 p.m. Another scoping meeting was held on October 22, 2007, from 6 p.m. to 8 p.m.

**WHEREAS,** an EIR (SCH No. 2007091149) and Mitigation Monitoring and Reporting Program were prepared in accordance with the California Environmental Quality Act Sections 15000-15387 (Title 14, Chapter 3 of California Code of Regulations), the State CEQA Guidelines, and the City of Banning Environmental Review Guidelines.

**WHEREAS,** consistent with Sections 15086 and 15087 of CEQA, the City published the Notice of Availability ("NOA") of the Draft EIR and made the Draft EIR available for a 45-day public review period from June 6, 2011, to July 21, 2011. The NOA was published in the Press Enterprise and the City's website. The City also mailed the NOA to the State Clearinghouse for distribution to State Agencies. Also, the City mailed the NOA to the residents, who live within 300' radius of the Project boundaries, groups and organizations, and members of the public who requested to be on the mailing list of the Project.

**WHEREAS,** prior to the close of the comment period, the City held a public workshop on June 21, 2011, to provide information and answer questions from interested members of the public regarding the Project and the Draft EIR.

**WHEREAS,** during the public workshop of June 21, 2011, the City received questions and comments mostly on traffic, among other questions about the Project. In response to the oral comments on traffic, the City held another workshop on July 14, 2011 to respond to questions from members of the public regarding the traffic analysis report and conclusions.

**WHEREAS,** the City received 31 comment letters from members of the public, public agencies, groups/organizations, and persons who requested to be a part of the mailing list of the Project regarding the Draft EIR and the impacts of the Butterfield Specific Plan, including its associated applications as referenced herein.

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**WHEREAS,** consistent with Section 15088 of CEQA, the City evaluated the responses received from members of the public, public agencies, groups/organizations, and persons who requested to be a part of the mailing list of the Project and prepared written responses, which culminated in a Final EIR for the Project and is referenced herein. The Final EIR was made available for 10-day public review on Friday, February 24, 2012. The Final EIR was made available at City Hall Community Development Counter, the Banning Public Library, and the City's website.

**WHEREAS,** the Final EIR (Exhibit "A") consists of the following documents, all of which are incorporated herein by reference: the Draft EIR, the Mitigation Monitoring and Reporting Program attached hereto, Statement of Findings of Fact attached hereto, Statement of Overriding Considerations, Technical Appendices, Written Comments and Responses regarding the Draft, and Draft EIR Errata Sheet.

**WHEREAS,** Section 10911(b) of the Water Code and Section 15155 of CEQA requires that the environmental document for a project that falls within the definition of a "water demand project" or 500 residential units must include an assessment of the adequacy of the public water system to serve the project ("Water Supply Assessment" or "WSA"). The Butterfield Specific Plan meets the definition of a "water demand project" pursuant to CEQA Guidelines Section 15155.

**WHEREAS,** a Water Supply Assessment was prepared for the Project and is consistent with the 2010 City of Banning Urban Water Management Plan (UWMP), which was adopted by the City Council on June 28, 2011. The adopted UWMP specifically identified the Butterfield Specific Plan as planned for development and concluded that the City is anticipated to have a surplus of water to meet its customers' demands. The WSA for the Butterfield Specific Plan analyzed the Project water demand for the build-out of the Project, which is 35 years as opposed to 20 years as required by State law. The WSA analyzed the City's existing water and future supplies, and the reliability of those supplies under varying hydrologic conditions, and compared them to the water demand at Project build out, in addition to the City's existing and planned for future demands. As detailed in the Water Supply Assessment, made a part of the Project's Draft EIR, the City's total projected water supplies available during normal, single dry, and multiple dry water years during a 35-year projection will meet the projected water demand associated with the Project, in addition to the City's existing and planned future uses.

**WHEREAS,** on March 7, 2012, the Banning Planning Commission held a duly-noticed public hearing, at which time the Commission considered the public testimony, staff report, full documentation of the Final EIR, and all other documentation relating to the Project, and the Commission unanimously recommended approval of the Project and certification of the Final EIR to the City Council.

**WHEREAS,** on March 16, 2012, the City gave public notice by advertisement in the Record Gazette newspaper of a public hearing concerning the Project to be held before the City Council. On March 27, 2012, the City Council held its public hearing on the Project and Final EIR, to consider public testimony, the staff reports and presentations, full copy of the Final EIR and all other documentation relating to the Project.

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

SECTION 1. FINDINGS.

The Recitals prefacing this Resolution are hereby incorporated herein by this reference and in factual support of all findings. The City Council, in light of the whole record before it, including but not limited to, the Final EIR (the Mitigation Monitoring and Reporting Program, Statement of Findings of Fact attached hereto, Statement of Overriding Considerations attached hereto, Technical Appendices, Written Comments and Responses regarding the Draft, and Draft EIR Errata Sheet), all documents incorporated by reference herein, and other substantial evidence (within the meaning of Public Resources Code Section 21080(e) and 21082.2), hereby recommends the City Council make the following findings:

**Finding No. 1** *EIR Prepared.* That an Environmental Impact Report for the Project was prepared in compliance with the California Environmental Quality Act Sections 15000-15387 (Title 14, Chapter 3 of California Code of Regulations), and the local CEQA Guidelines and Thresholds of Significance adopted by the City of Banning.

**Findings of Fact:** *NOP Prepared.* The City of Banning prepared a Notice of Preparation (NOP) in accordance with Section 15082 of CEQA in that:

(1) The NOP as incorporated herein by reference included: (a) detailed description of the Project; (b) location of the Project; and, (c) probable environmental effects of the Project.

(2) The NOP was distributed to the State Clearinghouse on November 28, 2007. The State Clearinghouse issued a state identification number on November 28, 2007 (SCH No. 2007091149), according to the CEQA Guidelines Sections 15082(a), 15103, and 15375 indicating that an EIR was being prepared. The City circulated the NOP to responsible and trustee state agencies, local organizations, interested individuals, and owners of property who lives within 300' of the Project boundaries, to identify issues to be addressed in the EIR.

**Finding No. 2** *Early Public Consultation.* The City held an early public consultation pursuant to Section 15085 of the CEQA Guidelines.

**Findings of Fact:** The City held an early consultation or scoping meeting regarding the environmental issue areas to be considered in the EIR. The City published the Notice of Preparation (NOP) including the Scoping meeting in the Record Gazette and on the City's website. The City also mailed the NOP to residents who are located within 300' of the Project site and to members of the public, organizations/groups, public agencies and persons who have requested to be on the mailing lists. As part of early consultation, the City held three (3) public scoping meetings. Two (2) scoping meetings were held on October 16, 2007 from 2 p.m. to 4 p.m. and from 6 p.m. to 8 p.m.

Another scoping meeting was held on October 22, 2007 from 6 p.m. to 8 p.m.

**Finding No. 3**

*Notice of Completion.* The City has complied with CEQA Guidelines Sections 15085, 15086, 15087, and 15105 by providing a Notice of Completion of the Draft EIR to the State Clearinghouse and a Notice of Availability to responsible and trustee agencies and other persons and agencies as required.

**Findings of Fact:**

Upon completion of the Draft EIR, the City filed a Notice of Availability as hereby incorporated by reference (NOA) with State Clearinghouse. The Notice of Availability includes: (1) a brief description of the Project; (2) the location of the Project and address where copies of the EIR are available, and comment period for the Draft EIR. Additionally, the City provided copies of the Draft EIR to the State Clearing house for distribution to the responsible and trustee agencies for a 45-day public review. The Notice of Availability also was posted on the City's website at www.ci.banning.ca.us.

The City also published a Notice of Availability of the Draft EIR in the Press Enterprise and made the DRAFT EIR available on the City's website, at City Hall Community Development Department Counter, and at the Banning Public Library. In addition, the City mailed the NOA to the residents who live within 300' radius of the Project boundaries; members of the public who requested to be on the mailing list of the Project; groups and organizations including the Cherry Valley Acres and Neighbors, Cherry Valley Environmental Group, and South Coast Air Quality Management District.

Prior to the close of the comment period, the City held a public workshop on June 21, 2011 to provide information and answer questions from interested members of the public regarding the Project and the Draft EIR.

During the public workshop of June 21, 2011, the City received questions and comments mostly on traffic, among other questions about the Project. In response to the oral comments on traffic, the City held another workshop on July 14, 2011 to respond to questions from members of the public regarding the traffic analysis report and conclusions.

Comments that were received on the NOP were addressed during the preparation of the EIR and incorporated into the Draft EIR. Copies of the comment letters are included in Appendix A of the Draft EIR.

**Finding No. 4**

*Written Comments.* The City has evaluated and responded to all written comments received during the public review period and included both comments and responses as part of the Final EIR pursuant to CEQA Guidelines Section 15088.

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**Findings of Fact:** The City provided written response to comments received from the commenting agencies/individuals pursuant to CEQA Guidelines Section 15088. The Responses to Comments document includes the verbatim comments received on the Draft EIR, a list of those commenting, and the City's response to the significant environmental points raised in the review and consultation process. The Final EIR (Exhibit "A") for the Project consists of the Draft EIR (incorporated by reference and hereinafter referred to as the "EIR"), the Responses to Comments document, and changes to the EIR which clarify, supplement, or update the information provided in the EIR. None of the changes or supplemental information in the Final EIR constitutes significant new information as defined by CEQA Guidelines Section 15088.5. Therefore, CEQA does not require recirculation of the EIR.

**Finding No. 5** *Less than Significant Impacts.* In the course of Draft EIR evaluation, certain environmental impacts of the Project were found not to be significant.

**Findings of Fact** See Section 4.0 of the Findings of Fact. There exists no fair argument that the environmental conditions identified in Section 3.0 of the Findings of Fact will pose a significant environmental impact, due to the inability of the Project to create such impacts or the absence of Project characteristics producing significant effects of this nature.

**Finding No. 6** *Potentially Significant Impacts That May Be Mitigated.* The Final EIR identifies potentially significant effects on the environment that could result if the Project were adopted without changes or alterations in the Project and imposition of mitigation measures and further finds that changes, alterations, and mitigation measures have been incorporated into, or imposed as conditions of approval on, the Project. These changes, alterations, and mitigation measures will avoid the significant environmental effects identified in the Final EIR or lessen their impact to the maximum extent feasible. These changes, alterations, and mitigation measures are fully enforceable because they have either resulted in an actual change to the Project as proposed or they have been imposed as conditions of approval on the Project. The Final EIR also identifies significant unavoidable effects even after mitigation and Project changes.

**Findings of Fact:** See Section 4.0 of the Findings of Fact. The proposed Project would have potentially significant impacts to agricultural resources; biological resources; cultural resources; geology, soils and seismicity; hydrology and water quality; land use and planning; noise; public services and utilities; and water supply; however, mitigation measures can be implemented to reduce these impacts to a level that is less than significant. The Final EIR identified potentially significant effects on the environment and identified mitigation measures that shall be incorporated into the Project to avoid or substantially lessen impacts. The City has incorporated design features

into the Project, adopted conditions of approval, and prepared a Mitigation Monitoring and Reporting Program to track compliance with the mitigation measures. In certain instances incorporation of mitigation measures were unable to reduce impacts to less than significant. For that reason, the City has prepared a Statement of Overriding Considerations (Exhibit "C") hereby incorporated by reference.

**Finding No. 6**

*Mitigation Monitoring and Reporting Program.* The City as lead agency has prepared and adopts a Mitigation Monitoring and Reporting Program for the changes made to the Project that it has adopted in order to mitigate or avoid significant effects on the environment.

**Findings of Fact**

A Mitigation Monitoring and Reporting Program (Exhibit "D") has been prepared and is recommended for adoption by the City Council concurrently with the adoption of these findings to ensure compliance with mitigation measures during Project implementation. As required by Public Resources Code Section 21081.6, the Mitigation Monitoring and Reporting Program designates responsibility and anticipated timing for the implementation of the mitigation measures recommended in the Final EIR. The Mitigation Monitoring and Reporting Program will remain available for public review during the compliance period. (b) The City Council hereby adopts the MMRP for the Project attached hereto and incorporated by reference, and finds, determines, and declares that adoption of the Mitigation Monitoring and Reporting Program will ensure enforcement and continued imposition of the mitigation measures recommended in the Final EIR.

**Finding No. 7**

*Unavoidable Significant Impacts & Infeasible Mitigation Measures.* The City Council finds that even though adopting the Project with mitigation measures and a Mitigation Monitoring and Reporting Program has avoided or significantly lessened significant effects on the environment, certain other environmental impacts, and cumulative environmental impacts, may remain significant and unavoidable ("Unavoidable Significant Impacts").

**Findings of Fact:**

Specific economic, legal, social, technological, legal or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible certain mitigation measures or alternatives identified in the environmental impact report. The Final EIR identifies the following areas where, after the implementation of feasible mitigation measures and consideration of Project design features and existing regulations, the Project would result in impacts which cannot be fully mitigated; significant and unavoidable impacts would occur with regard to aesthetics, light, and glare; air quality; hazards and hazardous materials (fire hazards in PA 60 and 61), noise (cumulative); traffic and transportation; water supply (cumulative); and climate change. See Sections 5.0 and 6.0 of the Findings of Fact. Certain



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mitigation measures for these impacts are infeasible because they lie outside the jurisdiction of the lead agency (or mitigation is the responsibility of another agency), right-of-way acquisitions, commercial and residential impacts, and structural or parking takes.

**Finding No. 8** *Statement of Overriding Considerations.* The City Council finds, pursuant to CEQA Section 21081(b) and CEQA Guidelines Section 15093, that the specific economic, legal, social, technological and other benefits of the Project outweigh the Project's unavoidable adverse environmental impacts, and therefore, the impacts are acceptable.

**Findings of Fact:** The Final EIR describes the significant and unavoidable impacts, alternatives analysis, infeasibility analysis and the Project with mitigation alternatives for the purpose of providing supporting evidence for the City's adoption of statements of overriding considerations at Exhibit "C" hereto.

**Finding No. 9** *Alternatives.* The City finds, pursuant to CEQA Section 21081 and CEQA Guidelines Section 15091(a)(3), that environmentally superior alternatives identified in the EIR are infeasible.

**Findings of Fact** In the EIR, potential environmental impacts of three separate alternatives are compared to impacts from the proposed Project. These alternatives were selected based upon their ability to avoid or substantially lessen the significant effects of the proposed Project, while still achieving the primary Project objectives (to develop the site in a manner generally consistent with the currently approved Deutsch Specific Plan). The analyzed Project alternatives are: (i) No Project/Existing Specific Plan Alternative, (ii) Reduced Density – 20% Reduction Alternative, (iii) Active Adult Community Alternative, and (iv) No Golf Course Alternative. Alternatives rejected from further consideration were: (i) No Development (vacant land) Alternative, and (ii) Alternative Site Alternative. Most alternatives are hereby found infeasible due to lack of alternative site availability, failure to meet basic Project objectives, or the fact that some alternatives would still have the same types of significant and unavoidable impacts as the Project. The "Existing Specific Plan" alternative would actually result in similar or greater impacts as compared to the proposed Project.

**Finding No. 10** *Independent Judgment.* The Final EIR reflects the independent judgment and analysis of the City.

**Finding of Fact:** Prior to taking action on the Project, the City was presented with, heard, reviewed and considered all of the information and data in the administrative record including, but not limited to, the Final EIR, and all oral and written testimony presented to it during meetings and hearings. The City also contracted with Hogle-Ireland to peer review the draft EIR

prior to its release for public review. The Final EIR reflects the independent judgment of the City and is deemed adequate for purposes of making decisions on the merits of the Project and its related actions.

In making the findings in this Resolution, the City Council recognizes that the environmental analysis of the Project raises several controversial environmental issues, and that a range of technical and personal opinion exists with respect to those issues and that there are differing and conflicting opinions regarding the Project, its impacts, and the feasibility of reducing or avoiding those impacts. These differences of opinion relate to the methodologies the EIR employed, the historical significance of resources on the Project site, the feasibility of mitigating impacts to traffic, air quality and views, among other issues. The City Council has, by its review of the evidence and analysis presented in the Final EIR, and other evidence in the record, acquired an understanding of the breadth of this technical opinion and of the scope of the environmental issues presented by the Project. In turn, this understanding has enabled the City to make informed, carefully considered decisions after taking account of the various viewpoints on these important issues. The findings herein are based on full consideration of all viewpoints expressed in the Final EIR and in the record as well as other relevant evidence in the record of proceedings for the Project.

SECTION 2. MULTIPLE SPECIES HABITAT CONSERVATION PLAN (MSHCP)

The Project is found to be consistent with the MSHCP. The Project site is not located within an MSHCP Criteria Cell or Conservation Area. With implementation of mitigation measures BIO-1 through BIO-5, which require avoidance and compensatory mitigation of Project impacts to jurisdictional riparian/riverine and wetland habitat pursuant to the requirements and regulations of the U.S. Army Corps of Engineers, the California Department of Fish and Game, and the Regional Water Quality Control Board, the Project will have less than significant impacts on sensitive habitats and species and will be consistent with the MSHCP.

SECTION 3. WATER SUPPLY

Based on the entire administrative record, including but not limited to the 2010 Urban Water Management Plan and the Water Supply Assessment prepared for the Project, responses to comments and errata and incorporated into the EIR, it is determined that City's total projected water supplies available during normal, single dry, and multiple dry water years during a 35-year projection will meet the existing and planned future uses.

SECTION 4. CITY COUNCIL ACTION.

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

1. **Certifies EIR:** The City Council certifies the Final Environmental Impact Report (SCH No. 2007091149) for the Butterfield Specific Plan and related Applications (Exhibit "A" – Under Separate Cover)

2. **Adopts Findings of Fact:** The City Council adopts the Findings of Facts prepared for the EIR (Exhibit "B").

3. **Adopts Statement of Overriding Considerations:** The City Council adopts a Statement of Overriding Considerations for the significant and unavoidable Project-related impacts associated with aesthetics, light and glare, air quality and traffic and circulation and the cumulative impacts associated with aesthetics, light and glare, air quality, climate change, noise and traffic and circulation (Exhibit "C").

4. **Adopts Mitigation Monitoring and Reporting Program:** The City Council approves and adopts the Mitigation Monitoring and Reporting Program (Exhibit "D")

5. **Location:** The Final Environmental Impact Report (SCH NO. 2007091149) for the Butterfield Specific Plan and all documents incorporated herein shall be filed with the Banning Planning Division at the Banning City Hall, 99 East Ramsey Street, Banning, California, 92220 and be made available for public review upon request.

**PASSED, APPROVED AND ADOPTED** this 27th day of March, 2012.

_____
Don Robinson, Mayor
City of Banning

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

_____
David J. Aleshire, City Attorney
Aleshire & Wynder LLP
City of Banning

**ATTEST:**

_____
Marie Calderon, City Clerk
City of Banning

**CERTIFICATION:**

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2012-24, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 27th day of March 2012, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marie Calderon, City Clerk
City of Banning, California

**EXHIBIT "B"**
(to Reso No. 2012-24)

# BUTTERFIELD SPECIFIC PLAN PROJECT

## Findings of Fact

### 1.0 INTRODUCTION

The California Environmental Quality Act ("CEQA") in Public Resources Code Section 21081 provides in part that:

"[N]o public agency shall approve or carry out a project for which an environmental impact report has been certified which identifies one or more significant effects on the environment that would occur if the project is approved or carried out unless both of the following occur:

(a) The public agency makes one or more of the following findings with respect to each significant effect:

(1) Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.
(2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.
(3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.

(b) With respect to significant effects which were subject to a finding under paragraph (3) of subdivision (a), the public agency finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment."

In accordance with CEQA Guidelines Section 15082, an NOP was completed for the proposed Project to initiate the City's CEQA review process for the Project, identify potential environmental impacts of the Project, seek public input regarding potential environmental impacts, and to announce public scoping meetings for the Project (refer to Appendix A and the discussion below). The City of Banning distributed the NOP, which was filed with the State of California Office of Planning and Research on September 28, 2007. The NOP comment period closed on October 29, 2007, following the State-mandated 30-day public review period.

Three public scoping meetings were held to discuss the proposed Project on the following dates: Tuesday October 16, 2007 at 2:00 pm and at 6:00 pm, and Monday October 22, 2007 at 6:00 pm.

The City initiated a 45-day public comment period from June 3, 2011 to July 21, 2011 by filing a Notice of Completion with the State Clearinghouse and publishing a Notice of Availability for the Draft EIR in the Record Gazette, a newspaper of general circulation within the City's jurisdiction (CEQA Guidelines § 15087).

The Draft EIR (State Clearinghouse No. 2007091149) addresses potential significant impacts in the following areas as identified during the Draft EIR preparation process, including public and agency comments received on the NOP, as well as comments received from the public during separate scoping

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meetings. In addition to CEQA-mandated discussions, environmental issues evaluated within the Draft EIR are as follows:

- Aesthetics, Light, and Glare (Section 4.1)
- Agricultural Resources (Section 4.2)
- Air Quality (Section 4.3)
- Biological Resources (Section 4.4)
- Climate Change (Section 4.5)
- Cultural and Historic Resources (Section 4.6)
- Geology, Soils, and Seismicity (Section 4.7)
- Hazards and Hazardous Materials (Section 4.8)
- Hydrology and Water Quality (Section 4.9)
- Land Use and Planning (Section 4.10)
- Noise (Section 4.11)
- Public Services and Utilities (Section 4.12)
- Transportation and Traffic (Section 4.13)
- Water Supply (Section 4.14)

Copies of the Draft EIR were distributed to state agencies for a 45-day review through the State Clearinghouse. The Notice of Availability was sent to public agencies, organizations and individuals and indicated where copies of the Draft EIR and supporting documents could be obtained, or where they were available for a 45-day review. The City made copies available for local review at the City of Banning Community Development Department, on the City's website, and at the Banning Public Library. The City also sent copies of the EIR to interested agencies, organizations, and individuals, including the Cherry Valley Acres and Neighbors, Cherry Valley Environmental Group, and South Coast Air Quality Management District.

The City provided written response to comments received from the commenting agencies/ individuals pursuant to Public Resources Code § 21092.5. The Responses to Comments document includes the verbatim comments received on the Draft EIR, a list of those commenting, and the City's response to the significant environmental points raised in the review and consultation process. The Final EIR for the project consists of the Draft EIR (incorporated by reference and hereinafter referred to as the "EIR"), the Responses to Comments document, and changes to the EIR which clarify, supplement, or update the information provided in the EIR. None of the changes or supplemental information in the Final EIR constitute significant new information as defined by CEQA Guidelines § 15508.5.

## 2.0 DESCRIPTION OF PROJECT PROPOSED FOR APPROVAL

The proposed Project site (hereinafter the "Butterfield Specific Plan" or "Project") consists of 20 existing legal lots, covering approximately 1,522 acres, owned by Pardee Homes. The EIR also analyzes the impacts of development of an additional 21-acre lot owned by the Highland Springs Country Club Owner's Association. However, the potential future annexation is not part of the proposed Project and, if proposed in the future, would be subject to a separate and independent review process. The site is generally located north of the I-10 Freeway within the northwestern portion of the City of Banning adjacent to the City of Beaumont and unincorporated areas of the County of Riverside, within the San Gorgonio Pass, an area that links the Riverside and Perris Valleys to the Coachella Valley; refer to Exhibit 3.0-1, *Regional Vicinity Map,* of the Draft EIR. Specifically, the Project is located north of Wilson Street, east of Highland Springs Road, west of Highland Home Road, north and northwest of the present terminus of Highland Home Road, and south of the unincorporated portion of Riverside County, generally north of the extended alignment of Brookside Avenue into the San Bernardino Mountain foothills; refer to Exhibit 3.0-2, *Local Vicinity Map,* of the Draft EIR. The Project site is generally

surrounded by unincorporated Riverside County and portions of the San Bernardino Mountains to the north and northeast, Highland Home Road, and the Banning Bench to the east, the City of Beaumont and existing residential to the east and south, Wilson Street to the south, and Highland Springs Avenue and the City of Beaumont to the west. Regional access to the Project site is via I-10, located south of the Project site.

## 3.0 FINDINGS CONCERNING IMPACTS FOUND NOT SIGNIFICANT & LESS THAN SIGNIFICANT

In the course of this evaluation, certain impacts of the Project were found not to be significant due to the inability of a project to create such impacts or the absence of project characteristics producing effects of this nature or less than significant when considering Project design features and existing regulations. The following section provides findings and supporting facts of effects found not to be significant based on the analysis conducted through the Draft EIR preparation process. Several issues indicated as "No Impact" are nonetheless addressed in Section 7.0, *Effects Found Not to be Significant,* of the Draft EIR, as a matter of clarification or convenience for the reader. The section also provides findings and supporting facts concerning impacts that are less than significant due to design features and existing regulations.

## 3.1 AESTHETICS/LIGHT AND GLARE

### 3.1-1 Finding

As identified in Impact 4.1-1, *Scenic Vistas and Scenic Highways,* of the Draft EIR, the proposed Project would result in less than significant impacts on a scenic vista and/or causing substantial damage of scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway related to offsite infrastructure and the existing 115kv Line Relocation.

### Facts in Support of Finding

*Offsite Infrastructure*

There would be no long-term visual resource impacts associated with offsite sub-surface pipelines and no disruption of scenic vistas or scenic resources associated with the I-10 corridor. The offsite sewer lift station would be located on a small commercial lot in an appropriately designed and screened building pursuant to City Design Guideline requirements contained in the City's Municipal Code and the Specific Plan.

*115kV Line Relocation*

The Project includes relocation of two segments of an existing above-ground 115kv power line. Relocated portions will be above-ground, along the northeastern edge of the proposed development area, subject to review and approval by the California Public Utilities Commission (CPUC) and Southern California Edison (SCE). The power line relocation would have negligible effect on views from existing residences located along Highland Home Road and along the western edges of a more recently development subdivision adjacent to the site boundary to the southeast. Existing hillside contours and mature windrows in and around the adjacent subdivisions create a foreground conditions that block views to the north and west where the poles are located. Development within the Specific Plan Project area, including slope landscape as it matures, will further obscure views of the relocated transmission line from onsite and off-site.

### 3.1-3 Finding

As identified in Impact 4.1-2, *Visual Character,* of the Draft EIR, the proposed Project would result in less than significant impacts with regard to degrading the existing visual character or quality of the site and its surroundings related to the potential satellite treatment facility, drainage facilities, above-ground storage tanks, offsite infrastructure and the 115kv line relocation.

**Facts in Support of Finding**

The site is predominantly disturbed open space abutting the City of Banning's northern and western development edges and the City of Beaumont's eastern development edge. The site has little intrinsic aesthetic value itself in its undeveloped state and is currently approved for development pursuant to the Deutsch Specific Plan and related approvals. The site is not located in a designated Open Space District, does not contain unique geological features, visual resources and is not located in an adopted Corridor Protection Plan. Used for cattle grazing, the site is highly disturbed and vegetated primarily with non-native grasses.

*Potential Onsite Satellite Treatment Facility*
The potential onsite wastewater treatment plant will be designed pursuant to Specific Plan Design Guidelines (Section 3.5.5), including appropriate landscaping, lighting, building materials and setbacks, such that potential visual quality and character impacts are reduced to a less than significant level.

*Drainage Facilities*
The installation of drainage facilities and the realignment of Smith Creek onsite will be followed by re-vegetation of the drainage and related facilities pursuant to applicable jurisdictional permits, the Landscape Design Concept of the Specific Plan, and the requirements of the City's Landscape standards ordinance. Long term effects on visual character and visual quality will be less than significant.

*Above Ground Water Storage Tanks*
With implementation of Project Design Features, long term impacts to visual quality and character of the site or surrounding area associated with the above ground water storage tanks would be reduced to a less than significant level.

*Offsite Infrastructure*
There would be no significant long term impacts to the visual quality and character of the site or surrounding area associated with off-site infrastructure. Subsurface pipelines would not impact the visual character of the site and its surroundings and the offsite sewer lift station would be located on a small commercial lot in an appropriately designed and screened building pursuant to City Design Guideline requirements contained in the City's Municipal Code and the Specific Plan.

*115 kV Line Relocation*
There would be no significant long-term impacts to the visual quality and character of the site or surrounding areas associated with the relocation of the existing 115kv transmission line. See Facts in Support of Finding 3.1-2.

## 3.2 AGRICULTURAL RESOURCES

**3.2-1 Finding**
As identified in Impact 4.2-1, *Conversion of Farmland,* of the Draft EIR, the proposed Project would result in less than significant impacts related to the conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use.

**Facts in Support of Finding**
The proposed Project site is not designated as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance by the FMMP Program of the California Resources Agency (2008). Implementation of the proposed Butterfield Specific Plan would result in the conversion of approximately 1,500 acres of State-designated "Farmland of Local Importance" to non-agricultural uses. The site has not

been used for cultivation since 1988 and has been zoned for residential and commercial development since the adoption of the Deutsch Specific Plan Amendment in 1993. There is no Williamson Act contract covering any portion of the Project site. The issue of conversion of farmland was originally addressed in the EIR certified for the Deutsch Banning Specific Plan and found to be a less than significant impact. Since this Project is an amendment and restatement of the originally approved Deutsch Specific Plan, the analysis and findings of the original certified EIR are incorporated by reference.

**3.2-2 Finding**
As identified in Impact 4.2-2, *Conflicts with Existing Zoning or Williamson Act Contracts,* of the Draft EIR, the proposed Project would result in less than significant impacts related to conflicts with the existing zoning for agricultural use, or a Williamson Act Contract.

**Facts in Support of Finding**
As previously discussed none of the parcels that comprise the Project site are subject to Williamson Act contracts. The site is not zoned or General Plan designated for any agricultural use. Accordingly, impacts would be less than significant.

**3.2-3 Finding**
As identified in Impact 4.2-3, *Other Environmental Changes,* of the Draft EIR, the proposed Project would result in less than significant impacts related to changing the existing environment, which due to the location or nature could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use.

**Facts in Support of Finding**
While the proposed Project will convert land designated as Farmland of Local Importance to a non-agricultural use, the site has not supported agricultural uses, apart from occasional livestock grazing since 1988 and, although property adjacent to the east of the Project site is zoned for Ranch Agricultural (Hillside), there is currently no agricultural activity on any adjacent property with the possible exception of occasional cattle grazing. The County of Riverside's Right to Farm Ordinance does not affect the Project site because the site is located within the municipal boundaries of the City of Banning. However, consistent with Right to Farm principles, all real estate transactions for residential and non-residential uses will include appropriate disclosure forms, as approved by the community Development Director, indicating the historic and intended continued small scale, temporary livestock grazing, so as not to hinder ongoing grazing activities on the Project site; however, this temporary agricultural use contributes very little to the regional agricultural economy and the development of the Project would not directly or indirectly catalyze the conversion of additional farmland to urban uses nor does the Project include any component that would adversely affect the quality or quantity of groundwater available for agricultural production elsewhere in the region; refer to Section 4.14, *Water Supply*, and 4.9, *Hydrology and Water Quality*, for a more detailed discussion of Project impacts on groundwater and surface water quality and water demand.

**3.3 AIR QUALITY**

**3.3-1 Finding**
As identified in Impact 4.3-2, *Sensitive Receptors,* of the Draft EIR, the proposed Project would result in less than significant impacts related to the exposure of sensitive receptors to substantial pollutant concentrations.

**Facts in Support of Finding**
The projected traffic volumes were modeled using the BREEZE ROADS dispersion model. The results are shown in Table 4.3-11, *Project Buildout Carbon Monoxide Concentrations*, of the Draft EIR, and indicate that CO concentration at the three worst-case intersections would be well below the State and

Federal standards. The modeling provided projections for 1-Hour CO concentration measurements, which were modeled at 10 feet from the corners of the selected intersections. Therefore, the remainder of the intersections would also be below the State and Federal standards for CO concentration and would not impact any sensitive receptors. Impacts in regards to CO hotspots would be less than significant.

## 3.4 GEOLOGY, SOILS, AND SEISMECITY

### 3.4-1 Finding

As identified in Impact 4.7-1a, *Surface Fault Rupture*, of the Draft EIR, the proposed Project would result in less than significant impacts related to exposing people or structures to potential adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake faults, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map, or a County of Riverside designated Fault Hazard Area, or a County of Riverside designated Potential Fault Hazard Area.

### Facts in Support of Finding

As required by State law and local Building Code, building setbacks are incorporated into the Project's site plan and the potential for ground rupture to occur outside the building setback zones (within Open Space or Golf Course designated areas) is considered low. Therefore, adverse impacts to structures and people resulting from surface fault rupture onsite would be less than significant. A *Limited Geotechnical Investigation* (see Appendix E) was prepared by Geocon to evaluate potential geotechnical constraints that may potentially affect the areas where off-site improvements are proposed. The proposed pipeline alignments for water, sewer, and recycled water do not lie within an Alquist-Priolo earthquake fault zone nor were any active or potentially active faults identified along the proposed pipeline alignments. Accordingly, the potential for damage to off-site underground pipelines for water and sewer due to fault rupture would be less than significant.

### 3.4-2 Finding

As identified in Impact 4.7-1c, *Seismically-Induced Ground Failure*, of the Draft EIR, the proposed Project would result in less than significant impacts related to exposing people or structures to potential adverse effects, including the risk of loss, injury, or death involving seismic-related ground failure, including liquefaction; subsidence, and lateral spreading.

### Facts in Support of Finding

The RCIP Pass Area Plan indicates that the Project site is located in an area with moderate liquefaction potential. When considered with the density of on-site soils at depth and the depth of groundwater, the potential for liquefaction on the Project site is considered to be very low. Also, the probability of lateral spread occurring on-site is also considered very low, and no mitigation measures are required. Appropriate site preparation pursuant to the recommendations of the Project's geotechnical engineer as required by the City's Grading Standards and appropriate structural design as recommended by the Geocon study, any subsequent required studies, and as required by the 2010 CGC and CRC and the City of Banning Building Code would reduce potential impacts to structures as a result of seismically-induced settlement due to densification to a less than significant level. Field investigation by Geocon found no evidence of ground subsidence as a result of past groundwater withdrawal in the Project area or on the Project site. Accordingly, it is unlikely that the site would be affected by ground subsidence and no mitigation measures would be required.

### 3.4-3 Finding

As identified in Impact 4.7-2, *Soil Erosion*, of the Draft EIR, the proposed Project would result in less than significant impacts related to soil erosion or the loss of topsoil.

**Facts in Support of Finding**
The Project site is located in an area that has been subject to soil erosion due to precipitation, wind, storm water runoff, and sedimentation. The proposed development of the Project site, which includes grubbing and clearing of site vegetation in preparation for mass grading and tract-specific rough grading, has the potential to result in a substantial increase in soil erosion from the Project site, including the loss or degradation of topsoil. The Project site has been heavily disturbed over the course of many decades through cattle grazing, plowing for farming, and weed abatement activity, etc. Overall, the post-construction condition of on-site topsoil would be improved as compared to the current or immediate post-grading condition. With the implementation of existing Municipal Code Title 18 requirements, State NPDES General Permit requirements, installation and maintenance of BMPs pursuant to an approved SWPPP, continuous construction phase inspection, and the post-construction installation of landscape and drainage improvements, as required by the City, Project impacts related to erosion and loss of topsoil would be reduced to a less than significant level and no additional mitigation measures are required.

**3.4-4 Finding**
As identified in Impact 4.7-4, *Expansive Soils*, of the Draft EIR, the proposed Project would result in less than significant impacts related to the Project being located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property or on soils with an expansion index greater than 20 percent.

**Facts in Support of Finding**
The majority of the site consists of silty sands that generally posses very low expansion potential. Therefore, the Project is unlikely to be adversely affected by expansive soils. However, the soil profile of any individual location may be unique and could contain expansive soils. Prior to issuing a site-specific grading permit, a geotechnical report must be submitted identifying any expansive soils and recommending either removal and replacement of the expansive soils or a structural design solution. Grading permits would be conditioned on performing one of these recommendations. With adherence to the provisions of the City's grading standards and building code, as enforced by the City, the potential for adverse impacts due to expansive soils would be less than significant.

## 3.5 HAZARDS AND HAZARDOUS MATERIALS

**3.5-1 Finding**
As identified in Impact 4.8-1, *Use and Transport of Hazardous Materials*, of the Draft EIR, the proposed Project would result in less than significant impacts with regard to creating a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials related to wastewater treatment and electrical substation facilities and project operational impacts.

**Facts in Support of Finding**

Compliance with existing regulations would reduce potential impacts associated with the routine use, handling, transport, and storage of hazardous materials in connection with the operation of the Project to a less than significant level.

*Wastewater Treatment and Electrical Substation Facilities – Long Term Operational Impacts*
The Project designates a 2.5 acre site in the southeast portion of the property in PA 11 as a location for a potential satellite wastewater treatment plant (refer to Section 3.0, *Project Description* for details). If the City decides to develop the treatment plant, all activities would take place within fully enclosed buildings. Solids removed during treatment would be pumped directly into the existing sewer line in Wilson Street. There would be no further handling of solids at the treatment plant. Compliance with existing regulations and on-going monitoring of the plant's operations would reduce potential impacts associated with the

routine use, handling, transport, and storage of hazardous materials in connection with the operation of the potential Satellite Wastewater Treatment Plant to a less than significant level.

*Project Operational Phase Impacts – Commercial/Golf Course*
The proposed Project includes a commercial component. Commercial uses permitted on the site may include businesses, such as dry cleaning establishments, gas stations, auto repair facilities, doctor's offices, etc., which routinely use and/or dispense hazardous agents. All businesses operating within the Project site that would regularly receive, store, handle, generate, or dispose of regulated types and quantities of hazardous materials and waste products would be regulated pursuant to appropriate permits and inspected annually to ensure compliance with permit conditions. Accordingly, compliance with existing regulations would be sufficient to reduce potential impacts to a less than significant level and no additional, project specific mitigation measure would be required.

The proposed golf course would be heavily landscaped with turf, shrubs, and trees. To the extent that the golf course handles, stores, or disposes of hazardous materials and wastes subject to regulation by the State Department of Toxic Substances Control, its impacts would be reduced to a less than significant level through implementation of existing regulations described for other Project-based commercial uses.

**3.5-3 Finding**
As identified in Impact 4.8-2, *Risk of Upset*, of the Draft EIR, the proposed Project would result in less than significant impacts with regard to creating a hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment, specifically from prior agricultural use of the site and radon.

**Facts in Support of Finding**

*Agricultural Use*
The Phase I ESA determined that the Project site has historically been used for cattle grazing and dry farming. The Phase I ESA prepared by Converse Consultants in 2002 and updated in 2007 did not find evidence of the use of herbicides or pesticides in connection with the historic cultivation of the site prior to 1988. Nitrates and other chemicals associated with cattle manure could have leached deeply enough into the soil to have resulted in soil and/or groundwater contamination. However, given the depth to groundwater over the site, contact with potentially contaminated, untreated groundwater during site excavation, grading, and trenching activities is considered highly unlikely. Accordingly, risk of upset associated with past agricultural use of the site is considered to be less than significant.

*Radon*
The Project site is located in Riverside County, which is classified by the EPA as Zone 2, defined as having a predicted screening level of 2 to 4 pCi/L[1]. This classification indicates that there is a potential for slightly elevated levels of radon to be present in the Riverside County area. However, the radon zones are linked to counties and not necessarily to a specific location within the County. Typically, mountainous areas present a higher risk for radon exposure due to the presence of igneous rock and soil, while the risk for alluvial plain areas, where the Project is located, is lower. Since the majority of the Project site is located on an alluvial plain, hazards involving potential exposure to naturally occurring radon are considered to be less than significant.

**3.5-5 Finding**
As identified in Impact 4.8-3, *School Safety*, of the Draft EIR, the proposed Project would result in less than significant impacts resulting in hazardous emissions or the handling of hazardous or acutely hazardous materials, substances, or waste within 0.25 miles of an existing or proposed school.

[1] Technical Memorandum – Hazardous Materials Review, Converse Consultants, March 12, 2007.

**Facts in Support of Finding**
Two elementary schools are proposed within Planning Areas 20 and 68. Residential, commercial and park uses would be located within 0.25 miles of the proposed school sites. Residential uses, commercial uses, and parks would involve the storage or use of hazardous materials (i.e., household cleaners, automobile oil, gardening chemicals, etc.); however, the small volume and low concentration of these materials would make the risk of upset less than significant.

A Southern California Edison easement runs through the middle of the Project in an east-west direction. Per the State limits, the required setback is measured from any part of the school site to the edge of the easement. The proposed school in PA 68 is located beyond the required 350-foot buffer and, therefore, impacts to schools associated with the power line location would be less than significant. The Planning Area 20 school site is also located more than 350 feet from the edge of the central SCE transmission line easement.

Neither of the proposed on-site schools would be located within 1,500 feet of the existing or relocated high pressure gas line. Where any of the school sites change subsequent to the adoption of the Specific Plan, new sites would be subject to the same setback requirements by existing regulations. Accordingly, impacts to school safety associated with utility locations would be less than significant.

**3.5-6 Finding**
As identified in Impact 4.8-4, *Affect Known Hazardous Materials Site(s)*, of the Draft EIR, the proposed Project would result in less than significant impacts resulting from being located on a site that is included on a list of hazardous materials sites complied pursuant to Government Code Section 65962.5 and, as a result, would create a significant hazard to the public or the environment.

**Facts in Support of Finding**
A Phase I Environmental Site Assessment was prepared for the Project site, including the 21-acre parcel owned by Highland Springs Country Club. Pursuant to *Government Code Section 65962.5,* an Environmental Database Report (EDR) of Standard Environmental Record Sources (records) was prepared specifically for the Project site. No portion of the site was identified on any hazardous materials database in the EDR report. While properties in the vicinity of the Project site were identified as potential sources of hazardous materials and/or contaminants, it was determined that these nearby properties represent a low risk due to the nature of their contamination and their distance from the Project site.

## 3.6 HYDROLOGY AND WATER QUALITY

**3.6-1 Finding**
As identified in Impact 4.9-1, *Water Quality*, of the Draft EIR, the proposed Project would result in less than significant impacts resulting from the violation of water quality standards or waste discharge requirements.

**Facts in Support of Finding**
Impacts to surface water quality have the potential to occur during the Project's construction phases; in the interim condition when portions of the site are left fallow with temporary vegetative cover; and following construction of individual tracts through build out of the community, when impacts related to siltation, sedimentation, and erosion are likely to decrease while impacts associated with urban runoff such as nutrients, oil and grease, organic compounds, pesticides, and gross pollutants that could change the chemical composition of downstream water bodies, which may affect plant and wildlife will become more prominent. Impacts have potential to occur both on- and off-site during the course of construction, but would be limited to on-site impacts following the construction of off-site facilities.

Impacts to groundwater quality have the potential to occur throughout the life of the project. The Project site is underlain by the Beaumont basin and the site is currently a recharge area for the basin. The Beaumont Basin is an adjudicated basin. All uses of the basin are subject to the court's continuing jurisdiction over the operation of the basin pursuant to the judgment entered to adjudicate groundwater rights in the basin. The Beaumont Basin is actively monitored by the Beaumont Basin Watermaster, which collects data on water quality and manages production, water levels, and water quality. Any potentially adverse impacts associated with the City's replenishment of the Beaumont Basin as part of the Project will be evaluated by the Watermaster as part of its duty to manage the basin. Any replenishment of the Beaumont Basin requires prior Watermaster approval.

Additionally, the Regional Water Quality Control Board (RWQCB), Santa Ana Region (Region 8), has jurisdiction over water quality issues within the basin and regulates discharges into the basin. The project site overlies the Beaumont Management Zone. The discharge of imported water, capture of storm water into recharge areas and use of recycled water for irrigation and/or recharge will require the City to meet applicable recharge standards and to ensure that water quality levels meet "maximum benefit" objectives included in the Santa Ana Region, Region 8 Basin Plan.

The Project site, and in particular that portion of the site occupied by Smith Creek, is currently a recharge area for that basin and is the result of storm water or snow melt flowing through Smith Creek from higher elevations, ponding within the creek channel or in the channel's floodplain, and ponding outside of the immediate creek area due to sheet flow. The recharge function of Smith Creek will be retained and enhanced as the Project develops through the realignment of the creek, the construction of debris, detention, and water quality basins as well as anticipated containment of post-storm ponding within the golf course Planning Area as the Project develops.

The Project may receive recycled water treated to California Department of Public Health (CDPH) (formerly CDHS) Title 22 tertiary standards from the City's expanded Wastewater Treatment Plant (WWTP) and Phase I Upgrade. The City has already adopted an Initial Study/Mitigated Negative Declaration for the Wastewater Treatment Plant Expansion and Phase I Recycled Water System with a Mitigation Monitoring and Reporting Program on May 27, 2008. Thus, no additional environmental review regarding the Phase I Upgrade is required and less than significant impacts related to the violation of water quality standards or waste discharge requirements would occur. Alternatively, the City may elect to construct the optional onsite wastewater treatment plant. Either way, the use of recycled water on the Project site would require additional approval and permits from the Regional Water Quality Control Board (RWQCB), Santa Ana Region (Region 8) and CDPH. This would include the filing of a Report of Waste Discharge with the RWQCB as well as compliance with Title 22 regulations. Thus, less than significant impacts related to recycled water would occur. A complete discussion of the required permits/approvals for the City's use of recycled water on the Project site are listed in the WSA, Section 6.4.2.2 and impacts related to new and expanded entitlements are discussed in Draft EIR Impact 4.14-2.

The City or Pass Agency may also elect to construct a pipeline connecting the termination of the State Water Project (SWP) pipeline at the San Gorgonio Pass Water Agency's (SGPWA) spreading grounds with the Project site and use of the North Basin Reservoir and Project recharge basins to recharge the Beaumont Basin with imported water purchased from the SGPWA, as a possible future alternative to, or in addition to, the City's current use of Beaumont-Cherry Valley Water District's Noble Creek Recharge Facility. Importation of SWP water was previously analyzed in the certified East Branch Extension – Phase II EIR, SGPWA Water Importation Project EIR, and subsequent Addendum Nos. 2 and 3.

As a result of the Beaumont Basin Watermaster's management of the Beaumont Basin pursuant to the Judgment and the RWQCB's regulation of recharge operations potentially affecting water quality within the basin, the project will result in less than significant impacts related to the use of imported water or recycled water onsite and the capture of storm water. The Draft EIR and the WSA (Draft EIR Appendix

J), Section 6 have provided sufficient analysis of the potential water quality impacts that may be associated with the proposed Project.

The construction phase of the Project would include the use of potentially hazardous and/or toxic chemicals and materials that could enter receiving waters in the event of accidental spill resulting in soil contamination or nuisance/storm flow contamination, improper handling, and improper storage. Implementation of construction-phase water quality and erosion control best management practices in compliance with existing ordinances and regulations, including the NPDES Construction General Permit and the requirements of Title 13 (*Storm water)* and Title 18 (*Grading)* of the City's Municipal Code, would ensure that potential Project construction phase impacts to water quality would be less than significant by ensuring compliance with water quality standards and waste discharge requirements.

Preparation, review and approval of one or more Water Quality Management Plans (WQMPs) for the proposed Project, and implementation of site-specific post-construction best management practices (BMPs), including those incorporated into the Project as part of the Master Drainage Plan, would ensure that post-construction water quality impacts in both interim and long-term build-out conditions would be less than significant.

**3.6-2 Finding**
As identified in Impact 4.9-3, *Runoff Capacity*, of the Draft EIR, the proposed Project would result in less than significant impacts resulting from creating or contributing runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.

**Facts in Support of Finding**
Future development facilitated by implementation of the proposed Project, including both on-site and off-site infrastructure, would result in changes to the absorption rates, drainage patterns, and the corresponding rate and amount of surface runoff of the existing Project area. The proposed land uses would be located in vacant land areas, and would result in new impervious surfaces that would generate additional storm water flows. While the development of the site would introduce urban uses into a currently undeveloped area with corresponding increases in potential pollutants that could impact storm water runoff from the site, water quality best management practices (BMPs) implemented pursuant to existing regulations, described in Impact Analysis 4.9-1, would reduce these impacts to a less than significant level in the construction phase, interim development phases, and the final build out phase of the Project. Accordingly, Project impacts relative to flood control system capacity and water quality would be less than significant.

**3.6-3 Finding**
As identified in Impact 4.9-6, *Inundation by Seiche, Tsunami, or Mudflow*, of the Draft EIR, the proposed Project would result in less than significant impacts resulting from inundation by seiche, tsunami, or mudflow.

**Facts in Support of Finding**
The proposed Project area is not located on or near the coast or a large body of water. Therefore, it would not be subject to seiche wave action or tsunami hazards. Due to the topography of the Project area, particularly in the foothill areas along the northern perimeter of the Project area, there are potential hazards related to mudflow. The specific Planning Areas in the proposed Project that would be of concern are surrounded by undeveloped open space areas (steep canyons) to the east, in which the threat of mudflow during significant storm events could be a factor; however, Project design includes several debris/detention basins along the northeastern perimeter of the Project area. These basins would serve to mitigate impacts related to mudflow that could occur with major storms by capturing any sediment and debris that may be generated in these off-site areas and preventing these materials from being transported

into the planning areas adjoining these undeveloped areas to the east. In addition, compliance with flood control measures imposed by regional and local agencies, as well as implementation of the Butterfield Specific Plan Drainage Plan, would further reduce the impacts associated with mudflow, to a less than significant level. As recommended in the Project's geotechnical reports (Appendix E) during mass grading activities, geotechnical stabilization would occur on the periphery of the Project area within open space areas, and would be graded appropriately to reduce mudflow susceptibility.

## 3.7 LAND USE AND PLANNING

### 3.7-1 Finding

As identified in Impact 4.10-1, *Physically Divide an Established Community*, of the Draft EIR, the proposed Project would result in no impact resulting from physically dividing an established community.

### Facts in Support of Finding

Development of the proposed Project site is currently governed by an adopted Specific Plan and would be generally consistent with the City of Banning General Plan and Zoning Ordinance. Since the Project site is vacant and undeveloped, there is no contiguous established community located on the site that would be divided by the implementation of the Project. Development outside the Project boundaries would not be governed by the proposed project and no incursion into, or division of, existing residential neighborhoods would occur as a result of implementation of the proposed Project. Neither would development involve the expansion of the approved Deutsch Specific Plan into an established community. Rather, the proposed Project would continue a pattern of development that is already in place to the south, east, and west of the site, would provide desirable linkages between existing developments, extend/improve the City's circulation system in a manner consistent with the City's Circulation Element, and provide parks, schools, and other public facilities that would serve both proposed and existing land uses in the area.

The potential extension of Highland Home Road to Brookside Avenue is a regional transportation project that would undergo its own review and approval process. If built, the road would bisect three fairways of a private golf course (two fairways to the north would be cut off from a fairway to the south) that is already bisected by Cherry Valley Boulevard. The three fairways are not an established community. Moreover, the Highland Home Road to Brookside Avenue extension is not part of the proposed Project and not necessary to accommodate Project generated and cumulative traffic through build out.

Off-site subsurface utility pipelines that would serve the Project would be constructed in existing street right-of-way and would not divide any established community. Because the proposed Project would be consistent with surrounding land uses, as designated by the General Plan, and because no existing communities exist on the Project site, the proposed Project would not divide any existing communities and there would be no impact associated with the division of an established community.

### 3.7-2 Finding

As identified in Impact 4.10-2, *Conflict with Land Use Policy or Regulation*, of the Draft EIR, the proposed Project would result in less than significant impacts associated with conflicts with any applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including, but not limited to, the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.

### Facts in Support of Finding

Table 4.10-1, *Project Consistency with Land Use-Related Goals and Policies,* of the Draft EIR, addresses the consistency of the Project with adopted City of Banning General Plan policies. These policies that are relevant to the proposed Project are included. The Applicant proposes an amendment to the General Plan in order for the General Plan Land Use Map to reference the Butterfield Specific Plan as an amendment

and restatement of the Deutsch Specific Plan. Refer to Exhibit 4.10-3, *Proposed Amended City of Banning General Plan Designation*. The proposed General Plan Amendment (GPA) would allow for the orderly planned development of the Butterfield Specific Plan site in a manner that is consistent with current market requirements and revised regulatory requirements. Therefore the proposed GPA would not conflict with the existing policies of the General Plan.

The current zoning of the Project site conforms to the locations of specific plan uses contained in the Deutsch Specific Plan approved in 1993. The proposed Project includes similar uses and reduces the residential footprint of the site's current zoning. Regional and City planning has incorporated the proposed uses since 1993. The proposed zone change is intended to reference site zoning with the amended and restated Butterfield Specific Plan. Accordingly, the proposed zone change would not conflict with the remainder of the Zoning Ordinance.

SCAG has prepared a comprehensive planning document intended to serve the SCAG region as a framework for decision making over the next 20 years. The plan includes a set of broad goals for the region and identifies strategies designed to guide local decision making. The consistency analysis of the proposed Project with relevant and applicable policies of SCAG is provided in Table 4.10-2, *SCAG Goals and Principles Consistency Analysis*. As detailed in Table 4.10-2, the proposed Project is considered consistent with relevant and applicable policies of the RCP regarding growth-inducing impacts.

## 3.8 PUBLIC SERVICES AND UTILITIES

Impacts associated with new or physically altered governmental facilities or services, such as libraries, parks, and various utilities, were analyzed to determine if acceptable levels of service would be maintained.

### 3.8-1 Finding

As identified in Impact 4.12-4, *Need for New or Physically Altered Library Facilities*, of the Draft EIR, the proposed Project would result in less than significant impacts associated with the provision of new or physically altered public library facilities.

### Facts in Support of Finding

*Library Services and Facilities*

Both the Banning and Beaumont Library Districts are funded primarily by the Library Districts. Project residents would have access to both public library systems and could, therefore, increase the use of facilities and programs in both Districts. Both Districts have an existing deficit of space pursuant to current State standards; however, neither District has adopted a facilities space to population ratio standard and with access via the internet to a full catalogue of library books at the County of Riverside Library System there is no actual deficit in volumes of books. The Project would contribute substantially toward overall City General Fund revenue and therefore proportionally increase revenue available to the local library districts that could be used to expand existing facilities.

Determining actual library space needs resulting from the implementation of the Project is difficult in the absence of an adopted space standard. The City's General Plan and General Plan EIR indicate that the issue of library facilities would be addressed by careful monitoring of usage and consideration of developer fees to fund future expansion if warranted.

Based on the General Plan finding, and in the absence of any locally adopted space-to-population standard for facilities, the proposed Project would have a less than significant impact on library facilities.



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**3.8-2 Finding**
As identified in Impact 4.12-5, *Need for New or Physically Altered Hospital Facilities*, of the Draft EIR, the proposed Project would result in less than significant impacts associated with the provision of new or physically altered hospital facilities.

**Facts in Support of Finding**

*Health Care Services and Facilities*
The City of Banning General Plan EIR addressed potential impacts to health services resulting from build out of the General Plan and concluded that build out of the General Plan would not result in a significant impact to health services. Because the Deutsch Specific Plan Project's projected contribution to the demand for hospital facilities was considered in the General Plan analysis, and the Butterfield Project is generally consistent with the Deutsch Specific Plan, implementation of the proposed Project is not expected to have any significant adverse impacts on medical facilities in the area.

**3.8-3 Finding**
As identified in Impact 4.12-6A, *Increased Use of Existing Recreational Facilities (parks)*, of the Draft EIR, the proposed Project would result in less than significant impacts associated with an increase in 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.

**Facts in Support of Finding**

*Parks and Recreational Programs and Facilities*
While the new residents of the Project would be expected to make use of specialized recreational facilities, such as the City's Community Center/Senior Center, skate park, municipal swimming pool, or planned regional Smith Creek Park, the Project would also generate sales and property tax revenue to support the operation and maintenance of these facilities through the City's General Fund to offset any physical deterioration that might occur as a result of increased public usage. Accordingly, the Project would have a less than significant impact on existing public recreational facilities and parks. In addition, the Project's provision of active recreational facilities including neighborhood parks, mini parks, potential new Community Center, and a publicly accessible golf course/open space trails would address the needs of the Project itself and the identified deficiencies in the "Gap Area No 1" identified in the Draft Resolution and Parks Master Plan and thus development would have a net beneficial impact on the City's available recreational amenities.

**3.8-4 Finding**
As identified in Impact 4.12-7B, *Consumption of Energy*, of the Draft EIR, the proposed Project would result in less than significant impacts associated with the encouragement of the inefficient, wasteful or unnecessary consumption of energy.

**Facts in Support of Finding**

*Energy*
The residential, commercial, and institutional uses to be developed as part of the Project will be designed and constructed pursuant to the applicable provisions of CCR Title 24, and the City's energy and lighting efficiency standards. In addition, Specific Plan Design Guidelines include provision for the use of photovoltaic panels integrated into the roofline of residential structures, consistent with General Plan Energy Policy 2. All new construction facilitated by the Specific Plan would be required to comply with *California's Energy Efficiency Standards for Residential and Nonresidential Buildings*, contained in Title 24, Part 6, of the California Code of Regulations as amended in 2008. These standards became effective on January 1, 2010 and have been incorporated into the City's Building Code. In addition, the Project

would be required to comply with the lighting power requirements of the California Energy Code, CCR, Part 6 and Section 5.106.8 of California Green Code, which requires automatic exterior light control for nonresidential buildings. Further, the Project would reduce the number of street lights on interior streets by eliminating mid-block lights, subject to City review, and/or use of LED street lights, resulting in an energy savings. While not mandatory, the California Green Code encourages design that achieves at least a 15 percent reduction in energy usage when compared to the State's mandatory energy efficiency standards under Tier 1. Mitigation Measure GHG-1 requires compliance with the Tier 1 standard. At Butterfield, homebuyers can have their homes constructed pursuant to Pardee's LivingSmart program to maximize energy efficiency (refer to Section 4.5, *Climate Change*, for a detailed discussion). Therefore, the Project would not encourage the wasteful or inefficient use of energy and its impacts relative to this threshold would be less than significant.

**3.8-5 Finding**
As identified in Impact 4.12-8, *Adequate Telecommunication Facilities*, of the Draft EIR, the proposed Project would result in less than significant impacts associated with the need for new systems or substantial alterations to existing communication systems.

**Facts in Support of Finding**

*Communication Systems*
Cable, internet, and phone services would be extended through the Project by their providers as part of the dry utility installations. Cell towers to serve the area are in place or can be constructed unobtrusively within the Project site if needed. Telecommunications is a consumer driven utility that will provide service as customers request that service. Since the telecommunications industry is rapidly evolving, it is not reasonable or practical to plan for technological changes over the 30-year implementation span of the Project; however, such changes can be accommodated with the Project as it develops. Installation of facilities and cabling necessary to support telecommunications is performed by the service provider as each tract in the Specific Plan is developed. As new technologies emerge, it has been the practice of service providers to upgrade their existing systems on an as-needed basis in occupied areas where infrastructure has already been installed. Based on current service provision, adequate capacity exists to serve the proposed Project. Therefore, impacts would be less than significant.

**3.8-6 Finding**
As identified in Impact 4.12-9A, *Wastewater Treatment Requirements*, of the Draft EIR, the proposed Project would result in less than significant impacts associated with exceeding treatment requirements of the applicable Regional Water Quality Control Board.

**Facts in Support of Finding**

*Sanitary Sewer and Recycled Water*
Whether by utilizing the City's Wastewater Treatment Plant or on-site wastewater treatment (if the City determines that development of a satellite plant is necessary), the Project would not result in an exceedance of RWQCB wastewater treatment requirements and the Project's impact as regarding this threshold would be less than significant.

The proposed Project would pay City-assessed sewer connection fees in excess of $20 million for sewer connection in addition to ongoing user fees. Connection fees are used in part by the City to defray the cost of any necessary facility upgrades. In addition, the Project would minimize wastewater facility impacts by maximizing use of available recycled water. Water quality permitting issues are discussed in greater detail in Sections 3.6 and 4.9, *Hydrology and Water Quality*. Wastewater currently discharged from the City's Treatment Plant complies with the treatment requirements of its RWQCB-issued Permits. With payment

of required connection fees and City compliance with required regulatory agency permits, the Project will not have significant impacts related to RWQCB wastewater treatment requirements.

Alternatively, for use of recycled water via the potential on-site wastewater treatment plant, the City would apply to RWQCB for an individual order setting wastewater discharge requirements (WDRs). The plant would be operated pursuant to these RWQCB requirements together with those of the Department of Health Services. As discussed in WSA Section 6.4.2.2.2.2, the City may be restricted from using recycled water that exceeds water quality objectives for total dissolved solids (TDS) and nitrogen to comply with the updated Basin Plan adopted by RWQCB Region 8 (Resolution No. R8-2004-0001). As such, the potential on-site wastewater treatment plant will also not have significant impacts related to RWQCB wastewater treatment requirements.

**3.8-7 Finding**
As identified in Impact 4.12-9C, *Wastewater Treatment Requirements*, of the Draft EIR, the proposed Project would result in less than significant impacts associated with a determination by the wastewater treatment provider which serves or may serve the Project that it has inadequate capacity to serve the Project's projected demand in addition to the provider's existing commitments.

**Facts in Support of Finding**
Refer to Analysis 4.12-9A. of the Draft EIR The wastewater treatment provider for the Project (the City of Banning) has existing and planned capacity that would exceed the combined total capacity needed to serve the Project in addition to its existing commitments and still leave a potential excess capacity of 1.76 mgd. If the City proceeds with development of an on-site satellite wastewater treatment plant, the Project would have only limited impact on the City's existing treatment capacity at its main treatment plant.

The Project would extend sewer infrastructure from the Project site to the City's wastewater treatment plant as part of its off-site improvements. The cost of the infrastructure improvements, including off-site lift station, would be borne by the Project. As noted above, the wastewater treatment provider would have sufficient capacity to serve the proposed Project in addition to its existing commitments and the Project's impact would be less than significant.

The City of Banning has an adopted Capital Improvement Program that includes upgrades and expansion of the City's wastewater treatment infrastructure sufficient to accommodate the proposed Project. The planned upgrade has already undergone environmental review and the City certified an EIR. Its 2006 *Recycled Water Master Plan* and its 2009-2010 *Rates Study* anticipate and include the construction of the Butterfield Specific Plan Project. In addition, the City's Municipal Code allows the City to require extension of wastewater infrastructure to the Project site as a condition of approval for the Project. Accordingly, the City has and would have the capacity to serve the proposed Project as it develops over time. Therefore, this impact is less than significant.

## 3.9 TRAFFIC AND CIRCULATION

**3.9-1 Finding**
As identified in Impact 4.13-3, *Result in a Change in Air Traffic Patterns or Cause Safety Risks*, of the Draft EIR, the proposed Project would result in no impacts associated with a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks.

**Facts in Support of Finding**
The proposed Project site is located approximately 4 miles northwest of the Banning Municipal Airport. The proposed Project will not change air traffic patterns because there are no structures proposed to be constructed within the Project site that would be tall enough to encroach into or physically affect existing air traffic patterns. Also refer to Section 7.0, *Effects Found Not To Be Significant,* of the Draft EIR.

**3.9-2 Finding**
As identified in Impact 4.13-4, *Increase Hazards*, of the Draft EIR, the proposed Project would result in less than significant impacts associated with substantially increasing hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment).

**Facts in Support of Finding**
The proposed Project would include an internal circulation system that would allow for efficient and unencumbered travel routes. All Project roadways would be designed and built in compliance with City of Banning, County of Riverside, CALTRANS and other relevant regulating agency development standards, requirements, and regulations. The Project site will not be subject to active "farming" involving frequent or intense use of agricultural equipment. The Applicant intends to continue allowing periodic grazing activity on the site as a Project benefit, and such uses have historically not created any significant safety hazards, nor are they anticipated to in the future. Also refer to Section 7.0, *Effects Found Not To Be Significant,* of the Draft EIR.

**3.9-3 Finding**
As identified in Impact 4.13-5, *Result in Inadequate Emergency Access*, of the Draft EIR, the proposed Project would result in no impacts associated with inadequate emergency access.

**Facts in Support of Finding**
The Project proposes several ingress/egress points into the Butterfield Specific Plan Project area, which provide options for alternate emergency routes. City road design requirements provide adequate space for the passage of emergency vehicles based on the road classification width. The Project has been modified based on initial discussions with City staff to provide additional emergency access points for PAs 5 and 11.

**3.9-4 Finding**
As identified in Impact 4.13-6, *Conflict with Adopted Policies, Plans, or Programs or Decrease Safety of Alternative Travel Facilities*, of the Draft EIR, the proposed Project would result in less than significant impacts associated with conflicting with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities.

**Facts in Support of Finding**
Public transit in the City of Banning is currently provided by the City's Transit Fixed Route Division, which provides bus services and Dial-A-Ride service. Riverside Transit Agency (RTA) coordinates transit services with the City of Banning. The Project would not decrease transit performance because the Project is required to consult with the City of Banning and Riverside County Transit authorities to expand scheduled bus service, to implement long-term public transportation projects, and to develop vanpools and subscription bus service where appropriate. The proposed Project includes a variety of alternative transportation modes such as a pedestrian trail system, accommodation for Neighborhood Electric Vehicles (NEV), and bicycle lanes. These modes of transportation are consistent with the City of Banning General Plan Circulation Element because the City's General Plan and various Policies support planning that allows and enhances access to commercial services and places of employment and recreation without the essential use of motorized vehicles. The proposed addition of pedestrian, bicycle and NEV facilities that are connected and not discontinuous, like various existing facilities within the City, will provide safe paths for pedestrians, bicycles and NEVs to travel throughout the Specific Plan area. Refer to the Butterfield Specific Plan Section 3.2, *Circulation Plan,* for more detail on the proposed alternative transportation facilities. Additional non-vehicular transportation measures are discussed in Section 4.5, *Climate Change,* of the Draft EIR. The proposed Project would not conflict with the performance of transit systems within the area or with adopted plans or programs related to pedestrian, bicycle, and transit facilities. Impacts would be less than significant in this regard.

## 3.10 WATER SUPPLY

### 3.10-1 Finding

As identified in Impact 4.14-2, *New or Expanded Entitlements,* of the Draft EIR, the proposed Project would result in less than significant impacts associated with sufficient water supplies being available to serve the project from existing entitlements and resources, or the need of new or expanded entitlements.

### Facts in Support of Finding

The anticipated future Project demand would not cause the City to exceed its rights in any of the five groundwater basins from which it presently obtains its supply. All of the City's groundwater supplies are supported by vested water rights. Given the City's integrated water supply and distribution system, groundwater produced from the Beaumont, Banning, Banning Bench, Banning Canyon, or Cabazon Basins may serve the Project.

Pursuant to SB 610, a Water Supply Assessment (WSA) was prepared for the Specific Plan that determined water needs of the Specific Plan area could be met for the next 35 years. The WSA indicates that the City has a reliable water portfolio to satisfy the demands of the project in addition to planned and future uses.

For the three Banning Basins, the City does not currently propose increasing its pumping from any of the Banning Basins (i.e., the project average annual available supply equals to the City's historical production from these Basins) and does not propose the construction of any new wells. Refer to Table 6.1.6.4 (WSA, Appendix J) for Banning Basins projected supply. The City is the only major producer in all three basins; minor private pumping is considered immaterial.

The City proposes an increase in the City's pumping from the Cabazon Basin pursuant to its appropriative and developed rights in that basin. In addition, the City intends to continue its recharge of the Cabazon Basin with treated wastewater. The City's proposed pumping from the Cabazon Basin is projected to be within the safe yield of the Cabazon Basin and not anticipated to result in adverse impacts to the Basin or impact other producers. The City's anticipated supply from the Cabazon Basin will vary annually based on the quantity of treated wastewater supplied recharged into the basin. Refer to Table 4.14-15, *Hydrologic Budget – Cabazon Basin (AFY),* of the Draft EIR, for inflow and outflow terms used in calculating the Cabazon Basin's hydrologic budget.

The Cabazon and Banning Basins are unadjudicated Basins and would not require permits or agreements for additional groundwater extraction. No new or expanded entitlements are anticipated for these particular Basins. Additionally, with implementation of Mitigation Measure WS-1, less than significant impacts are expected.

The City proposes to maintain average historical amounts from the Beaumont Basin in order to promote the accumulation of water (both from the City's unused production rights and recharged imported water) in the City's stored water account. The City does not propose pumping in excess of its adjudicated rights in the basin. The City's existing wells provide sufficient capacity to continue to produce historical amounts. All water production and storage operations in the Beaumont Basin are subject to the adjudication and resulting court judgment. The court's and Watermaster's ongoing management of the Beaumont Basin ensures that the City's production of its rights in the basin, including withdrawal of water from storage, does not result in adverse impacts on the basin or material interference with other basin right holders.

Also, reclaimed water from the City's Wastewater Treatment Plant (WWTP) Phase I Upgrade will be made available to the site, for use in meeting non-potable water demands. Recycled water is expected to

be available to consumers in the City of Banning beginning in 2015, when the Phase I expansion of the City's Wastewater Treatment Plant is completed and tertiary treatment of wastewater is available. This projected use of recycled water from the City's WWTP and associated appurtenant facilities are already covered by an adopted Mitigated Negative Declaration (MND).[2]

Additionally, the City purchases imported State Water Project (SWP) water from the SGPWA which it percolates into the Beaumont Basin and stores for later use; it does not take direct delivery of the supply. The City is not entitled to a specified quantity of supply from SGPWA; rather, it may purchase all of the water that SGPWA has available to sell, subject only to the demands of other retailed water customers. Historically, SGPWA has made available for purchase all of the water that the City has requested. The City's projected increase in purchases of imported water to service the Project and other future demand will not cause any new impacts not previously identified in the certified East Branch Extension – Phase II EIR[3] and SGPWA Water Importation Project EIR and subsequent Addendum Nos. 2 and 3.[4]

Detailed descriptions of each of these projected supplies as well as the justification for the projected quantities of supply are provided in the WSA Section 6. As such, projected demand could be met through existing entitlements over the 35-year study period, and thus the proposed Project would result in less than significant impacts.

## 4.0 FINDINGS CONCERNING IMPACTS FOUND TO BE LESS THAN SIGNIFICANT WITH MITIGATION

In evaluating the potential impacts associated with the project, the Draft EIR identified potential impacts that would be less than significant with mitigation. This Section of the Statement of Facts and Findings identifies those impacts that may occur with project implementation but were found to be below the threshold of significance with recommended mitigation measures.

### 4.1 AESTHETICS/LIGHT AND GLARE

#### 4.1-1 Finding

As identified in Impact 4.1-1, *Scenic Vistas and Scenic Highways,* of the Draft EIR, the proposed Project would result in less than significant impacts with mitigation incorporated with regard to impacts on a scenic vista and/or causing substantial damage of scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway with regard to the short term (construction) and interim (phasing) effects, initial mass grading and interim development, onsite backbone and offsite infrastructure, long-term effects potential onsite satellite treatment facility and above-ground reservoirs.

#### Facts in Support of Finding

*Short-term (Construction) and Interim (Phasing) Effects*

The visual character of the site would be dramatically altered as a result of the Project, however, since the site does not itself possess distinctive scenic resources such as geologic formations, historic structures or significant stands of trees, it's grading and development would not result in a direct substantial adverse impact to scenic resources. Construction will also require temporary use and storage of heavy equipment and vehicles onsite that may be visible offsite. Pursuant to Mitigation Measure AES-6 the Applicant shall

[2] City of Banning, Water/Wastewater Utilities Department, Initial Study/Mitigated Negative Declaration: Wastewater Treatment Plant Expansion and Phase I Recycled Water System, May 2008.
[3] Department of Water Resources, *East Branch Extension – Phase II Environmental Impact Report* (SCH No. 200704101), Draft prepared September 2008.
[4] San Gorgonio Pass Water Agency, *Water Importation Project Environmental Impact Report* (1994107039), Notice of Determination filed April 1994.

identify construction staging areas and mitigate potentially unsightly equipment by, among other things, requiring a 500 foot setback of the staging area from the nearest residences and screening where feasible.

*Initial Mass Grading and Interim Development Conditions*
The 4 phases of proposed mass grading will result in the short-term exposure of unvegetated soils, which must be stabilized to prevent erosion and adverse impacts to the site's natural drainage features and surface water quality. To address this condition, the City's grading requirements include the re-vegetation and/or re-seeding of exposed soils in the mass graded area with native plant materials at the earliest possible time (MC Chapter 18.15.020).

*Onsite Backbone and Offsite Infrastructure*
Mitigation Measures AES-1 through AES-5 would reduce the visual impacts to scenic resources and scenic vistas associated with the development of the Project in the construction and interim conditions as the Project builds out to a less than significant level. The measures include, among other things, revegetation, erosion control, site maintenance, construction staging with screening and setbacks as well as lighting controls. See Section 4.1, *Aesthetics, Light and Glare*, of the Draft EIR, for details on Mitigation Measures AES-1 through AES-5. The Project would also reduce, avoid or offset potentially adverse impacts to aesthetic resources through Project Design Features summarized in Section 3.7, *Project Design Features,* of the EIR.

*Long-term Effects*
Development of the site will result in a change in the site's topographic relief and will change its use from open space/live stock grazing to urban development that includes a mix of residential, commercial, recreational, and open space uses. The Project's development would not constitute a barrier to the designation of the Pass area I-10 corridor as a State scenic highway as envisioned by the County RCIP nor would it obstruct long distance views of the foothills and mountains except immediately adjacent to the development boundaries, where the foreground of homes, walls and landscape would block the line of sight. The ridgelines in the northern portion of the site will not be developed, but maintained as open space, thereby protecting long-distance views of the San Bernardino Mountains. Moreover, Mitigation Measures AES-1 through AES-5 would mitigate any short-term impacts to existing views resulting from grading activities.

*Potential Onsite Satellite Treatment Facility*
The potential onsite satellite water treatment facility would include mitigation measures to ensure that there is no lasting impact on visual resources or scenic vistas once construction is complete. Mitigation Measure AQ-8 requires that the construction and implementation of the wastewater treatment plant would require a conditional use permit to be approved by the City of Banning, as well as design review of the proposed site plan and building architecture, landscaping and lighting. If developed by the City, the treatment plant would be located within an approximate 3 acre site, 36 feet in height, similar to the maximum height of a residential structure, and would be set back a minimum of 20 feet from the property line. The plant's elevation would be too low for it to be viewed from east-bound I-10, nor would it obstruct long-range views of the mountain ridgelines to the north and south from that location. All treatment processes would take place within an enclosed structure(s) constructed of decorative concrete block and residential architectural design to blend the facility into the surrounding residential community and nearby commercial uses. All employee and maintenance parking would be located within the facility's perimeter walls. In visual aspect, the treatment plant would not differ significantly from nearby commercial development, nor would it cause a substantial impact on a scenic vista.

*Above-ground Reservoirs*
The development of the proposed Project includes the construction of approximately three above ground water storage reservoirs, as described in Section 4.1.2.1, *Interim Development Setting,* of the Draft EIR. Reservoir 1 would be constructed during development phase 1 in one of two possible locations. If located

on the proposed school site, the reservoir would be buried underground and would have no impacts on scenic vistas; however, if located on the other alternative site, the pad elevation (2,790 amsl) of the reservoir would be visible from the surrounding community, though the degree of visibility would vary depending upon location, distance, and the presence of visual obstructions such as foreground structures and mature vegetation, tank coloration and the gradual maturing of screening vegetation both around the reservoir and within the surrounding community. Reservoir 2 would be located at an elevation of 3,038 amsl and Reservoir 3 would be located at an elevation of 3,205, which may be visible from the surrounding community and/or the eastbound I-10 corridor. A typical reservoir for this type of development could potentially be as much as 36 feet high with a 110 foot diameter. However, as indicated in Project Design Features 7 and required by Mitigation Measure AES-7, the exterior of the reservoirs would be painted with a matte-finish, earth-toned coating to allow them to blend into the surrounding hillside and would be further screened by perimeter and slope landscape. The combination of appropriate color coating and landscape screening would reduce the above ground reservoirs long-term impacts on scenic vistas to a less than significant level.

**4.1-2 Finding**

As identified in Impact 4.1-2, *Visual Character,* of the Draft EIR, the proposed Project would result in less than significant impacts with mitigation incorporated with regard to degrading the existing visual character or quality of the site and its surroundings with regard to the short term (construction) and interim (phasing) effects, initial mass grading and interim development conditions, onsite and offsite infrastructure, and long-term effects.

**Facts in Support of Finding**

*Refer to above Impacts, specifically Finding 4.1-1.* The following discussion supplements the analysis contained in those Findings above.

*Short-term (Construction) and Interim (Phasing) Effects*

*Refer to above Impacts, Finding 4.1-1.* The implementation of the proposed Project will occur in phases over a 30-year period. Proposed site development would involve construction activities that may potentially impact the existing visual character and quality of the Project site and surrounding areas incrementally over a substantial period of time. At no point would the construction activity occur over the entire site at once. The staging and operation of heavy equipment, the appearance of graded areas prior to temporary or permanent re-vegetation, and material and debris stockpiles could result in a temporary degradation of the aesthetic qualities and visual character of the Project site and immediately surrounding area; however implementation Mitigation Measures AES-2, AES-3, and AES-5, in addition to the enforcement of existing provisions of the City's *Municipal Code*, and implementation of the Specific Plan's grading standards would reduce the impacts to the visual quality of the site in both the short-term construction and interim phase conditions to a less than significant level by requiring re-vegetation of graded surfaces including slopes as soon as feasible after grading is completed, requiring contour grading of slopes in excess of 10 feet in height, requiring slope stabilization using hydromulch and other bio-degradable and natural appearing materials and techniques to the extent feasible, avoiding large stockpiles of dirt, requiring contractors to maintain construction and grading sites clear of debris and trash, and mandating the location of staging areas at least 500 feet from residences and requiring screening of these areas.

*Initial Mass Grading and Interim Development Conditions*

As noted in the previous findings above, the Project site will be mass graded in approximately four phases. Exposed, graded surfaces, construction debris, construction equipment, and heavy truck traffic would be visible in various locations at various times during the lengthy implementation phase of the project; however construction phase impacts would be temporary and, with the exception of mass grading, very limited as to scope and location. In addition, the gradual installation of permanent landscape

pursuant to the landscape guidelines contained in the Specific Plan over the course of the Project's development will provide further visual relief and gradually transform the appearance of the Project site. Accordingly, impacts to the visual character and quality of the site and surrounding area associated with Project implementation, especially in the early phases of development, would be reduced to less than significant with mitigation incorporated.

*Onsite and Offsite Infrastructure Drainage Facilities*
The construction of the proposed offsite drainage improvements include offsite excavation, grading and construction of inlet structures, construction of a multi-use basin north of the potential future extension of Brookside Avenue, realignment of Smith Creek onsite, and channel improvements to the Smith Creek drainage south of the culvert beneath Wilson Street. The potential drainage improvements would be at grade and would result in minimal impacts to visual character once construction is completed and vegetation is re-established. The short-term visual effects associated with construction of proposed on and offsite Smith Creek improvements would result in a less than significant impact on visual character.

*Optional Onsite Satellite Treatment Facility*
Construction phase impacts would be temporary and would not differ from impacts associated with the balance of the development.

*Long-term Effects*
Development of the proposed Project would replace the vacant grassland character of the site, with a residential, institutional, commercial and recreational development including a golf course, and both natural and landscaped open space. Accordingly, the visual character of the Project site does not necessarily mean that the visual character or quality of the site is "degraded". The proposed Project is not located in a designated Open Space District, does not contain unique geologic features, visual resources, or cultural/historical resources, and is not located in (or regulated by) an adopted Corridor Protection Plan. Used for occasional cattle grazing, the site is highly disturbed and vegetated primarily with non-native grasses and chaparral, with the exception of scattered brush and trees in the upper and lower reaches of Smith Creek. Highland Springs Avenue, particularly in its higher elevations, would continue to provide a view corridor from which motorists and pedestrians would have views both north and south to the mountain ridgelines of the San Bernardino and San Jacinto Mountains. The widening and extension of Highland Home Road would provide an additional view corridor to the mountains and foothills from Wilson Street. Mid-range views of the site's foothill area would still be available, though ultimately altered by development.

The Butterfield Specific Plan includes Grading Standards that incorporate contour grading to soften the appearance of manufactured slopes and allow for a blending of man-created and natural topography. The Project's land use plan incorporates open space planning areas in the far northern and eastern edges of the Project site where elevations are highest to preserve natural edges as they blend into the rugged adjacent foothills.

The Specific Plan Landscape Guidelines include utilization of native, drought-tolerant species, which would contribute to a sense of unity with the surrounding environment by enhancing compatibility with the adjacent natural landscape.

The land use plan also identifies easement areas, which provide a setback of approximately 430 feet (100 feet onsite and 330 feet offsite) between the proposed Project development and existing residential developments along the Project's southeastern border. This setback reduces the potential impacts of development on existing residences located in the vicinity of this portion of the Project by providing significant open space between these homes and the development edge. Uses proposed for these open space areas are consistent with the requirements of MC Chapter 17.24- 010-050 (Open Space Districts),

would substantially enhance the internal appearance of the Project site, and would further reduce any adverse impacts on the visual character and quality of the site and the surrounding area.

Accordingly, while development of the proposed Project would alter the existing disturbed grassland aesthetic and visual character of the project site by developing the site as a suburban community, the Project would not *degrade* the existing visual character and quality of the site and the surrounding area. Rather, at build out the proposed Project would *enhance* the visual character of the Project and the visual quality of the site and its surrounding area.

**4.1-11 Finding**
As identified in Impact 4.1-3, *Light and Glare,* of the Draft EIR, the proposed Project would result in less than significant impacts with mitigation incorporated with regard to creating a new source of light or glare, which would adversely affect day and nighttime views in the area with regard to interim development and construction condition.

**Facts in Support of Finding**

*Interim Development and Construction Condition*
Short-term construction activities could include nighttime security lighting, that would potentially introduce new sources of light and glare into the Project site and surrounding properties during the mass grading and infrastructure construction phase, and throughout remaining construction phase(s) of the proposed Project. Construction of offsite infrastructure improvements within public street right of way could occur at night to avoid disruption of traffic and/or to expedite installation. Night lighting onsite could affect adjacent residential uses along the Project's southern boundary (south side of Wilson) and along Highland Home Road and the residences located in adjacent subdivisions at the eastern boundary of the Project site. Locating staging areas a minimum of 500 feet from residential uses to the extent feasible, and requiring that all temporary security lighting be designed and located so as to avoid intrusive effects on adjacent properties as required by Mitigation Measure AES-5, and adherence to the requirements of the City's lighting ordinance would effectively mitigate the potential impacts of onsite night security lighting during the construction phases of the Project. Night construction lighting during the installation of offsite infrastructure could be disruptive to adjacent residential uses or could introduce light into currently dark areas of the hillside in the case of the potential future extension of the State Water Project line. Screening of construction areas where night lighting is used could reduce this impact, which would in any case be temporary, short term, and would cease upon completion of installation of offsite pipelines.

Since on- and offsite pipelines would be underground, long-term operational impacts associated with light and glare are not anticipated. Minimal security lighting may be implemented at the lift station near the intersection of Omar Street and Ramsey Street; however, since the lift station would be located in an existing commercial area along a major arterial, impacts related to light and glare from this Project feature are considered less than significant.

As each phase is developed, permanent landscape and lighting treatments will provide a visual and light/glare buffer between construction areas and existing onsite and offsite areas. In addition, conformance with the provisions of the City's lighting ordinance and adherence to the lighting control provisions of Mitigation Measure AES-5 and AES-7 will reduce temporary light and glare impacts throughout the construction and interim implementation phases of the Project to less than significant levels.

**4.2 AIR QUALITY**

**4.2-1 Finding**
As identified in Impact 4.3-4, *Odors,* of the Draft EIR, the proposed Project would result in a less than significant impact with mitigation incorporated with regard to creating objectionable odors that would affect a substantial number of people.

**Facts in Support of Finding**
*Short-Term Odors*
Potential short-term odors could arise from the diesel construction equipment used on-site, as well as from architectural coatings and asphalt off-gassing. Emissions produced during grading and construction activities are short-term, as they would exist only in close proximity to the specific construction activity. Although construction would occur over a 25-year period, these activities would occur at different locations as the equipment moves throughout the 1,543 acre project site. Also, construction odors would be subject to the requirements of SCAQMD Rule 402 which prevents odor nuisance to surrounding receptors. With Mitigation Measure AQ-7 which requires measures during construction to substantially reduce NOX related emissions, the short-term odor impacts would be less than significant.

*Operational Odors*
The Project includes a site for a potential satellite wastewater treatment plant. If the City decides to develop the plant, it would be fully enclosed, and would operate on a 24-hour basis, with approximately 16 hours of operational staff time per week. The satellite wastewater treatment plant would not involve outdoor settling ponds or wet weather basins, would be fully enclosed, and would have to comply with the City Municipal Code Section 13.20 and SCAQMD Rule 402 requirements for odor control and would require a conditional use permit pursuant to Mitigation Measure AQ-8.

**4.3 BIOLOGICAL RESOURCES**

**4.3-1 Finding**
As identified in Impact 4.4-1, *Sensitive Species and Habitats,* of the Draft EIR, the proposed Project would result in a less than significant impact with mitigation incorporated with regard to having a adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game (CDFG) or U.S. Fish and Wildlife Service (USFWS).

**Facts in Support of Finding**
The proposed Project development is not expected to result in a significant reduction of the populations of the species in the regional and projected long-term habitat impacts, therefore the Project is not considered significant and short term impacts would be addressed through Mitigation Measures BIO-1 and BIO-2.

Off-site Project infrastructure will be located within the right of way of existing public streets or within developed or developing commercial and residential neighborhoods and would have no direct or indirect impacts on biological resources. Mitigation measures will reduce potentially significant impacts to nesting migratory birds or burrowing owls during the construction phase of the project to less than significant levels.

**4.3-2 Finding**
As identified in Impact 4.4-2, *Sensitive Natural Communities,* of the Draft EIR, the proposed Project would (a) result in a less than significant impact with mitigation incorporated with regard to having a adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the CDFG or USFWS and would (b) result in a less than significant impact with mitigation incorporated with regard to having a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption, or other means.

**Facts in Support of Finding**
With the implementation of Mitigation Measure BIO-3, which requires compensatory mitigation of the Project impacts to jurisdictional riparian/riverine and wetland habitat pursuant to the requirements and regulations of the USACE, CDFG and RWQCB, CDFG and the RCA and compliance with any permit/agreement conditions and mitigation measures imposed by the permitting agencies, Project impacts would be reduced to a less than significant level.

**4.3-3 Finding**
As identified in Impact 4.4-3, *Habitat Conservation Plans,* of the Draft EIR, the proposed Project would result in a less than significant impact with mitigation incorporated with regard to conflicts with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.

**Facts in Support of Finding**
The Project site is located within an MSHCP survey area for burrowing owls. With the implementation of Mitigation Measures BIO-1 through BIO-5, Project impacts related to Habitat Conservation Plans would be reduced to a less than significant level. These mitigation measures for impacts to sensitive species, riparian/riverine habitats, and urban/wildlands interface are consistent with the MSHCP.

## 4.4 CULTURAL AND HISTORIC RESOURCES

**4.4-1 Finding**
As identified in Impact 4.6-1, Paleontological Resources, of the Draft EIR, the Project would result in less than significant impacts with mitigation incorporated with regard to directly or indirectly destroying a unique paleontological resource or site or unique geologic feature.

**Facts in Support of Finding**
*On-Site Construction and Operation*
To reduce the potential for adverse impacts on paleontological resources as a result of on and off-site grading and excavation activities, Mitigation Measure CUL-1 is proposed. This mitigation measure would require preparation of a paleontological resource impact mitigation program (PRIMP) for the grading and excavation phases of the Project, in order to reduce potential impacts to unknown paleontological resources to a less than significant level. The PRIMP would include monitoring, salvage, processing, and collection of discovered resources, with findings of the evaluation submitted to the City of Banning.

*Off-Site Infrastructure*
The initial phase of Project development and subsequent phases will include trenching and installation of off-site infrastructure improvements consisting primarily of drainage improvements and underground pipeline. There is a potential that these off-site improvements would occur in areas underlain by Pleistocene sediments having potential to support paleontological resources similar to those that could be unearthed on-site. This impact would be significant without mitigation; however, implementation of Mitigation Measure CUL-1 would reduce this impact to a less than significant level. Potential adverse Project effects are also "mitigated" through the various existing regulations and ordinances noted above. In addition, the Project has reduced, avoided or offset potentially adverse impacts to cultural resources through Project Design Features (all of which are summarized in Section 3.8, *Project Design Features,* of the Specific Plan).

**4.4-2 Finding**
As identified in Impact 4.6-2, Archaeological Resources, of the Draft EIR, the Project would result in less than significant impacts with mitigation incorporated with regard to causing a adverse change in the significance of an archaeological resource pursuant to CEQA Guideline Section 15064.5.

**Facts in Support of Finding**
Most of the Project site will be disturbed by grading activities required for implementation of the Specific Plan. Accordingly, Mitigation Measures CUL-2 and CUL-3 will be required. These mitigation measures require the presence of a qualified archaeological monitor on-site during the initial mass grading phases of the Project, as well as during deep trench excavations, to assess the significance of resources, including human remains that may be discovered during such activities. With implementation of Mitigation Measures CUL-2 and CUL-3, potential impacts to archaeological resources as the result of Project implementation and off-site infrastructure improvements would be reduced to a less than significant level.

**4.4-3 Finding**
As identified in Impact 4.6-3, Historical Resources, of the Draft EIR, the Project would result in less than significant impacts with mitigation incorporated with regard to causing a adverse change in the significance of a historical resource as defined in CEQA Guidelines Section 15064.5.

**Facts in Support of Finding**
A portion of the historic Bradshaw Road traversed the northern portion of the site; however, no portion of the road was uncovered during a field survey. A search of State and Local Registers of Historic Resources found no historical resources listed within the Project site or improvement areas. Three potential resources were uncovered but two were determined ineligible for listing and the third, a historic refuse deposit, had minimal data potential. Implementation of Mitigation Measure CUL-3 will reduce potential impacts to this potentially historic resource to a less than significant level. Mitigation Measure CUL-3 requires that all earthmoving activities occurring within 30 meters of this potential resource shall be monitored by a qualified archaeologist. If historic remnants are discovered during ground disturbing activities, the archaeologist shall have the authority to halt or divert grading to allow for the assessment of the discovered resources. One hundred nineteen (119) historic buildings have been identified within a one-mile radius of the Project site by previous surveys; however, these previously identified structures would not be significantly impacted by the proposed off-site infrastructure improvements, and no further study is required. As a result, impacts to historic-era structures resulting from the construction of off-site infrastructure are considered less than significant.

**4.4-4 Finding**
As identified in Impact 4.6-4, Human Remains, of the Draft EIR, the Project would result in less than significant impacts with mitigation incorporated with regard to resulting in the disturbance of any human remains, including those inferred outside of formal cemeteries.

**Facts in Support of Finding**
No known formal gravesites have been identified within the Project area; however, due to the known prehistoric use and habitation of the area in general and the identification of archaeological resources in the vicinity of the Project site, the possibility that human remains could be encountered during grading, trenching, or other earth-moving activities as a result of Project implementation does exist. Any disturbance of human remains as the result of Project would be considered a significant adverse impact. Mitigation Measure CUL-2 requires an archaeological monitor on-site during grading activities and Mitigation Measure CUL-4 requires compliance with all applicable State and federal regulations concerning preservation, salvage, or handling of human remains that could be uncovered as a result of grading and excavation. Implementation of applicable State laws, existing State and federal standards and policies and Mitigation Measures CUL-2 and CUL-4 would ensure that human remains are not damaged if unearthed within the Project area, and that any such remains would be handled appropriately, therefore, the result of Project Implementation would be reduced to a less than significant level.

In addition, Mitigation Measure CUL-2 requires monitoring of all off-site land disturbance activities by a qualified archaeological monitor. Mitigation Measure CUL-4 requires compliance with all applicable

State and federal regulations concerning preservation, salvage, or handling of human remains should those be uncovered. Compliance with these regulations and with implementation of Mitigation Measures CUL-2 and CUL-4, potential impacts to human remains as the result of off-site improvements would be reduced to a less than significant level.

## 4.5 GEOLOGY, SOILS, AND SEISMECITY

### 4.5-1 Finding

As identified in Impact 4.7-1b, *Ground Shaking*, of the Draft EIR, the Project would result in less than significant impacts with mitigation incorporated with regard to exposing people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving strong seismic ground shaking.

### Facts in Support of Finding

The Project site is located within a seismically active region of southern California, is traversed by various faults, and would likely be subjected to strong seismic ground shaking, which is considered the most serious seismic hazard likely to impact the Project. Pursuant to the requirements of the Municipal Code, the City's Department of Building and Safety would ensure that building plans conform to all applicable structural requirements prior to the issuance of a building permit for any structure to be constructed on the Project site. Conformance with these requirements would be monitored during construction by City building inspectors and would be confirmed prior to the issuance of certificate of occupancy for any structure. These measures would ensure that all Project structures are designed and built in conformance with the recommendations contained in the applicable geotechnical study and, pursuant to Mitigation Measure GEO-1, the most current seismic requirements of the adopted State of California building codes and any additional code requirements adopted by the City of Banning, and therefore would reduce potential adverse effects on structures due to ground shaking to a less than significant level.

### 4.5-2 Finding

As identified in Impact 4.7-1d, *Landslides*, of the Draft EIR, the Project would result in less than significant impacts with mitigation incorporated with regard to exposing people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving landslides.

### Facts in Support of Finding

As required by the City's Building Code and Grading Code and Mitigation Measures GEO-2 and GEO-3, site-specific evaluation of geologic conditions prior to the grading design for each tract within the Specific Plan Project area will be required and would provide the basis for the development of site-specific design criteria needed and ensure that grading and drainage plans for manufactured slopes minimize the potential effects of landslides. The City would ensure that Project grading and drainage plans were designed pursuant to these site-specific criteria through the City's plan check process prior to the issuance of grading permits. Compliance with permitted grading and drainage plans would be monitored through the construction phase by City inspectors and certification of the stability of building pads and slopes would be required prior to the issuance of building permits for any structures on lots with slope exposure. These measures, together with compliance with other applicable regulations contained in the City's Title 18 Grading Standards and Building Code and General Plan EIR Geotechnical Element mitigation measures, would ensure that adverse effects associated with on-site landslide potential would be reduced to a less than significant level. Also, the 2007 *Limited Geotechnical Observation* did not identify any specific geologic conditions in the off-site locations of Project-associated infrastructure that would make landslides a concern.

### 4.5-3 Finding

As identified in Impact 4.7-3, *Unstable Soils*, of the Draft EIR, the Project would result in less than significant impacts with mitigation incorporated with regard to being located on a geologic unit or soil

that is unstable, or that would become unstable as the result of the project, and potentially result in on-or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?

**Facts in Support of Finding**
While the Project site is traversed by both Banning fault segments, compliance with requirements for building setbacks from the fault zones would ensure that no structures are constructed on unstable geological units. The Project is not located on soil that is unstable or could become unstable as the result of the Project. With implementation of grading plans that are consistent with the requirements of the 2010 (or most current) CBC and the City's Title 18 Grading Standards and Title 15 Building Code, and Mitigation Measures GEO-2, the Project's development would not result in significant impacts due to unstable soils or geologic units.

## 4.6 HAZARDS AND HAZARDOUS MATERIALS

**4.6-1 Finding**
As identified in Impact 4.8-1, *Use and Transport of Hazardous Materials*, of the Draft EIR, the proposed Project would result in less than significant impacts with mitigation incorporated with regard to creating a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials with regard to project construction phase impacts.

**Facts in Support of Finding**
As part of the implementation of the Butterfield Specific Plan Project, the developer and its contractors/subcontractors would be required to comply with existing hazardous materials regulations, which are codified in *Titles 8, 22, and 26 of the California code of Regulations,* and their enabling legislation set forth in *Chapter 6.95 of the California Health and Safety Code* as well as with the applicable provisions of *Title 14 of the Natural Resources Code14* as regards the disposal of inert construction debris. In addition, the Project would be required to comply with applicable federal, State, and local laws and regulations pertaining to the transport, use, and disposal of hazardous waste, including, but not limited to, *Title 49 of the Code of Federal Regulation* and as implemented by *Title 13 of the CCR.* In addition, Mitigation Measures HAZ-1, which requires preparation and implementation of a construction contingency plan, HAZ-2, which requires specific standards for the maintenance and fueling of construction equipment on-site, shall be implemented during the construction phase(s) of the proposed Project. Mitigation Measures HAZ-1 through HAZ-3, together with implementation and compliance with existing regulations, all ensured by regular inspection by of the construction site by City inspectors and inspectors from the Regional Water Quality Control Board, would reduce potentially significant construction phase impacts related to the routine use, transport or disposal of hazardous materials and hazardous wastes to less than significant levels.

**4.6-2 Finding**
As identified in Impact 4.8-2, *Risk of Upset,* of the Draft EIR, the proposed Project would result in less than significant impacts with mitigation incorporated resulting from creating a hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment, specifically from an existing abandoned well, debris removal, illegal dumping, abandoned equipment, and a high-pressure gas line, construction phase accidental releases, and operational phase impacts.

**Facts in Support of Finding**
The Phase I ESA identified a water well on the Project site that appeared to have been abandoned and is described as being in poor condition. Unless properly abandoned and capped, the well could provide a route for the migration of surface contaminants, including nitrates and bacteria from cattle waste and hazardous wastes associated with construction, into the groundwater. Implementation of Mitigation Measure HAZ-4 would require the proper abandonment and capping of the on-site well prior to the start

of grading on the Project site. With this mitigation, risk of upset associated with potential contamination conducted by the well casing would be reduced to a less than significant level.

*Debris Removal, Illegal dumping, and Abandoned Equipment*
The Phase I ESA identified a diesel engine, an associated water well pump, and five damaged automotive batteries on a concrete pad, along with the apparently abandoned water well in the southern portion of the Project site. In addition, debris piles containing asphalt debris, tires, automotive parts, and other potentially hazardous materials were identified in various locations on the site. Residues from these materials may be present in the soil within the Project site, potentially requiring not only removal of the solid debris but also removal and/or treatment of contaminated soils in the vicinity of the debris piles. Mitigation Measure HAZ-5 would require the removal and appropriate disposal of debris; including potentially hazardous waste and any soil that may have been contaminated by this debris, and would result in a significant improvement over the existing condition. Implementation of Mitigation Measure HAZ-5 would also ensure that removal of the debris, including any potentially hazardous or toxic components, would be handled by appropriately licensed and trained contractors and waste haulers. Mitigation Measure HAZ-5 also requires additional assessment of all debris piles located on the site prior to grading and clearing with additional testing and implementation of appropriate methods of handling and disposal as may be required to ensure full compliance with applicable State and federal regulations.

*High Pressure Gas Line*
The Phase I ESA update (2007) identified the presence of a high-pressure natural gas pipeline traversing the Project site Accidental or intentional rupture of the underground natural gas pipeline during grading, trenching or other construction-related activities could result in environmental contamination, fire, or explosion. The risk of an accidental rupture would be greatest during the site clearing and excavation phases, when earthmoving and utility trenching equipment are adjacent to a pipeline. Mitigation Measure HAZ-6 would require contact with DigAlert prior to the start of grading operations and close coordination with SCGC prior to and during grading and trenching activities in the vicinity of the pipeline to provide the maximum feasible protection of workers and property. Mitigation Measure HAZ-7 would require appropriate horizontal and vertical separation between the pipeline and both wet and dry utility installations and crossings and monumentation to mark the location of the pipeline through the developed Project site.

It should be noted that when the adjacent Sundance project in the City of Beaumont was developed, the Gas Co. replaced the pipeline through that project and further to the west, and also replaced non-residential grade pipeline to the east through the Fiesta project. As part of this work the Gas Co. replaced the non-residential grade pipeline a distance of 600 feet into the Butterfield project site from both the west and east boundaries. It is typically acceptable for public streets and the golf course to overlay the pipeline along its alignment through the Project site; however residential lots may not overlay the pipeline[5]. Accordingly, the Project has been designed to ensure that the pipeline is located under the public streets or within the golf course area.

School sites are required to observe a 1000 foot setback from the outer edge of the high pressure gas line easement. As currently located, the southerly proposed school site in Planning Area 20 is approximately 1,400 feet from the gas line and the northerly school site in Planning area 68 is over 8,000 feet from the gas line. Accordingly, both proposed school sites meet these setback requirements.

Pursuant to existing regulations, implementation of Mitigation Measures HAZ-6 and HAZ-7, the risk of upset associated with the presence of an operating high pressure natural gas pipeline would be reduced to a less than significant level.

[5] Specific easement conditions, pipeline alignments, and construction details are developed on a case-by-case basis following PUC and Gas Company policies and regulations.

*Construction Phase Accidental Releases*
The proposed Project includes approximately four phases of mass grading as well as multiple phases of rough grading and precise grading for each of the residential neighborhoods, golf course, and commercial site. Since grading involves the use of heavy equipment, which must be fueled and serviced on the site during the course of grading operations, fuel may be stored in a temporary above ground storage tank and/or may be supplied by tanker trucks. Installation of temporary above ground fuel storage on construction sites may also be regulated locally. To further minimize the potential risk of upset impacts that could be created by an above ground fuel storage tank Mitigation Measure HAZ-8, which requires appropriate permitting prior to installation and appropriate site maintenance and use subsequent to installation, shall be required. In the event hazardous substance and/or contaminated soil are encountered during site grading, work shall immediately cease in the area and the property owner/developer shall notify the Riverside County Fire Department Hazardous Materials Unit located in FS 20 in Beaumont, the County Department of Environmental Health HAZMAT team in Riverside, and the City Public Works Department. Additionally, implementation of Mitigation Measure HAZ-3 would ensure that the Project site is remediated of all existing potentially hazardous materials, including batteries, pipelines, engines, tires and other debris.

*Operational Phase Impacts*
The routine transport, use, and disposal of hazardous materials can result in hazards to people and the environment, due to the potential for accidental release. Such hazards are typically associated with certain types of land uses, such as chemical manufacturing facilities, industrial processes, waste disposal, and storage and distribution facilities. At full build-out, the proposed
Project would consist of single family and multi-family residences, commercial development (e.g. retail and office development), two schools, a golf course, parks and open space, and a potential satellite wastewater treatment plant. With the exception of the wastewater treatment plant, none of these land uses is expected to use significant quantities of hazardous materials or to generate significant quantities of hazardous wastes requiring transport. If the treatment plant is built, it would be further conditioned through the conditional use permit process, as required by Mitigation Measure AQ-8.

**4.6-3 Finding**
As identified in Impact 4.8-5, *Emergency Management Plans,* of the Draft EIR, the proposed Project would result in less than significant impacts with mitigation incorporated resulting from the implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.

**Facts in Support of Finding**
The proposed Project would not impair implementation of the city's Emergency Plan. The City has not established emergency evacuation routes although, depending on the location and extent of an emergency, major surface streets and I-10 could be utilized to route traffic through the City. The Project would be required by current regulations to provide adequate ingress and egress, street width, turning radius, fire hydrants and adequate fire flow before certificates of occupancy could be issued. Implementation of Mitigation Measure HAZ-9 would require pre-construction consultation with the Fire Department to establish protocols for response and access by emergency vehicles during each phase of Project construction. Mitigation Measure HAZ-10 would require preparation and implementation of a construction traffic management plan that would ensure that evacuation and emergency response routes remain functional during all construction phases both on and off-site. Approval of the Plan by the city and potentially by the Fire Department prior to the issuance of encroachment permits allowing work within the public right of way. Enforcement of the provisions of the approved Traffic Control Plan would be the responsibility of the City during the course of Project construction. With the implementation of existing regulations and Mitigation Measures HAZ-9 and HAZ-10, the construction phase impacts of the Project on emergency access and response would be reduced to a less than significant level.

**4.6-4 Finding**
As identified in Impact 4.8-6, *Wildland Fires,* of the Draft EIR, the proposed Project would result in less than significant impacts with mitigation incorporated resulting from exposing 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 wildland.

**Facts in Support of Finding**
Portions of the Project site are locally designated Hazardous Fire Areas and the site also includes property designated as High, and Very High fire hazard severity zones by the City's General Plan and the State FHSZ mapping program; however, pursuant to the Cal Fire 2010 Very High Fire Severity Zone Map, only a small portion of the Project site is located within a Very High Fire Hazard Severity Zone (VHFHSZ), as shown on the Exhibit 4.8-1, *Wildfire Susceptibility Map*[6]. In addition to required compliance with the applicable provisions of the city of Banning's Municipal Code Chapters dealing with fire safety and its Building Code, which incorporate in their entirety the provisions of the 2010 CBC, 2010 CRC, the following mitigation measures are imposed to further reduce the potential impacts of wildfire that could be associated with the implementation of the proposed Project. With Project Design Features noted above, adherence to the Fire Department requirements, applicable laws and regulations and implementation of Mitigation Measures PSU-1a and PSU-1b, Project impacts related to wildland fires would be reduced to a less-than-significant level.

## 4.7 HYDROLOGY AND WATER QUALITY

**4.7-1 Finding**
As identified in Impact 4.9-2, *Drainage,* of the Draft EIR, the proposed Project would result in less than significant impacts with mitigation incorporated resulting from substantially altering the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, and increase impervious surfaces, which could substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site.

**Facts in Support of Finding**
The development of the proposed Project would alter existing drainage patterns through the realignment of Smith Creek and grading that would increase the amount of site area that would drain to Smith Creek as compared to existing conditions. Accordingly, while the proposed Project drainage improvements, including off-site grading and construction of the debris/desilting basins would alter the existing drainage patterns, implementation of these improvements would ultimately allow for optimal drainage throughout the site and would offer improved stormwater flow downstream of the Project area. To ensure that compliance with the Specific Plan's Drainage Plan Guidelines, Mitigation Measure HWQ-1 identifies specific requirements associated with subsequent Tentative Tract maps, site plans, grading plans and improvement plans prior to issuance of applicable permits. Adherence to these requirements will result in a less than significant impact.

**4.7-2 Finding**
As identified in Impact 4.9-4, *100 Year Flood Hazard,* of the Draft EIR, the proposed Project would result in less than significant impacts with mitigation incorporated resulting from placing 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.

**Facts in Support of Finding**

[6] Cal Fire, Very High Fire Hazard Severity Zones in LRA, as recommended by Cal Fire 1/2010, http://frap.cdf.ca.gov/webdata/maps/riverside_west/fhszl_map.60.pdf, accessed 7/23/10.

As indicated on Exhibit 4.9-2, *Flood Hazards Map,* of the Draft EIR, a portion of the proposed Project is currently located within a mapped 100-year floodplain[7]. The Project site will be designed to effectively drain the Project area into Smith Creek and/or Pershing Channel and will include improvements that would reduce the potential for flooding due to sheet flow or flash flood conditions. The main purpose of the backbone drainage system proposed for the project is to ensure that effective drainage is provided throughout the development further reducing the potential risk associated with flooding. The development of the Project would not result in the placement of structures within the 100-year flood plain and there would be a less than significant impact with implementation of Mitigation Measure HWQ-1.

**4.7-3 Finding**
As identified in Impact 4.9-5, *Flooding,* of the Draft EIR, the proposed Project would result in less than significant impacts with mitigation incorporated resulting from exposing 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.

**Facts in Support of Finding**
The Project site is not located within the mapped inundation area of any dam. There are no levees on or near the site. Flood control facilities described in the "Existing Conditions" portion of this Section would protect the Project site from flooding, including flash floods in Smith Creek. As proposed, the Project's backbone drainage facilities will mitigate the runoff under the developed condition that could potentially create flooding hazards. There is no significant basin failure hazard, as the basin will be excavated rather than creating a "dam" face (the basin would not fall under the jurisdiction of the State's Division of Safety of Dams), and flows would be detained within the downstream facilities along the golf course fairway. Temporary basins shall be constructed to meet detention requirements and earthen channels/berms shall be used to divert and convey flows during construction phases (refer to Mitigation Measure HWQ-1). Accordingly, impacts would be less than significant with implementation of Mitigation Measure HWQ-1.

**4.8 LAND USE AND PLANNING**

**4.8-1 Finding**
As identified in Impact 4.10-3, *Conflict with Any Applicable Habitat Conservation Plan or Natural Community Conservation Plan,* of the Draft EIR, the proposed Project would result in less than significant impacts with mitigation incorporated resulting from conflicts with any applicable habitat conservation plan or natural community conservation plan.

**Facts in Support of Finding**
The Butterfield Specific Plan Project is located in the City of Banning, with is signatory to the Western Riverside County Multiple Species Conservation Plan (MSHCP). The site is not located in a criteria cell and does not contain critical habitat for any species the MSHCP includes requirements for the protection of *Riparian/Riverine Areas and Vernal Pools* (MSHCP Section 6.1.2) and *Narrow Endemic Species* (MSHCP Section 6.1.3). Compliance with MSHCP requirements and with the mitigation measures contained in Section 4.4 of the Draft EIR and the requirements of jurisdictional permits required for the proposed disturbance of a minor amount of existing riparian habitat will assure consistency with applicable conservation plans and therefore the impact would be less than significant.

**4.9 NOISE**

[7] City of Banning Comprehensive General Plan and Zoning Ordinance EIR, Exhibit III-16, *Terra Nova Planning, Inc.*, 2005

**4.9-1 Finding**
As identified in Impact 4.11-1, *Short-Term Construction Noise Impacts,* of the Draft EIR, the proposed Project would result in less than significant impacts with mitigation incorporated resulting from a temporary or periodic increase in ambient noise levels in the Project vicinity above levels existing without the Project.

**Facts in Support of Finding**
The Project site would be developed in five main phases over a period of approximately 30 years, with an estimated 180 dwelling units to be developed per year on average. Appropriate levels of infrastructure and any required improvements would be provided as development proceeds. In many cases, Project-related noise would be further buffered from adjacent receptors by intervening topography or structures, or by adjacent streets and/or drainage channels, and off-site areas also include perimeter walls, all of which would serve to reduce the net noise impact during Project construction and operation. The City's General Plan EIR notes that noise associated with future construction would impact adjacent lands; however, these impacts are expected to be short term. While recognizing that there may occasionally be noise impacts associated with heavy construction equipment, Project-specific implementation of General Plan EIR required mitigation measures and City Code requirements were determined to be sufficient to assure that reasonable noise levels would be maintained on and off-site during the construction phase of projects implemented pursuant to the General Plan. Implementation of Mitigation Measure NOI-1 includes both Project-specific mitigations and mitigation measures required by the City's General Plan EIR to reduce construction noise impacts by requiring the applicant to submit a Construction Noise Management Plan to the City's Building Official. Additionally, Mitigation Measure NOI-2 would help reduce noise impacts by requiring an Applicant-provided Noise Disturbance Coordinator to enforce noise attenuating construction requirements. With the implementation of Mitigation Measures NOI-1 and -2, and conformance with the requirements of Chapter 8.44 of the City's Municipal Code, construction-related noise on sensitive receptors would be reduced to a less-than-significant level.

**4.9-2 Finding**
As identified in Impact 4.11-2, *Construction-Related Vibration Impacts,* of the Draft EIR, the proposed Project would result in less than significant impacts with mitigation incorporated resulting from exposing persons to or generating excessive ground borne vibration or ground borne noise levels.

**Facts in Support of Finding**
The City of Banning Municipal Code does not include a threshold standard for determining the significance of vibration impacts. In the absence of vibration thresholds in the City of Banning Municipal Code, guidance from Caltrans is utilized. Implementation of Mitigation Measure NOI- 3 would ensure less than significant construction related vibration impacts during construction by requiring the operation of vibration generating equipment as far away from vibration-sensitive uses as feasible.

**4.9-3 Finding**
As identified in Impact 4.11-3, *Long-Term Mobile Noise Impacts,* of the Draft EIR, the proposed Project would result in less than significant impacts with mitigation incorporated resulting from a permanent increase in ambient noise levels in the project vicinity above levels existing without the project.

**Facts in Support of Finding**
Long-term development within the Project area would result in additional traffic on adjacent roadways, and an increase in vehicular noise in the vicinity of the existing and proposed land uses. In addition to the typical noise reduction of 20 dBA for closed windows, once more detailed grading and Highland Home Road improvement plans have been developed. Mitigation Measure NOI-4 would require completion of a focused noise study[8] for sensitive receptors along Highland Home Road (on-site and off-site) and Wilson

[8] A construction-level acoustic study is not practical at this time, as this study requires final improvement and grading plans to verify elevations, road geometry, and topography.

Street to determine specific noise reduction measures required, if any, to ensure the proposed project meets the City of Banning exterior and interior noise standards. Based on the above, and requirement for Project-level mitigation of Highland Home Road noise impacts, Project-related impacts would be reduced to a less than significant level.

**4.9-4 Finding**
As identified in Impact 4.11-4, *General Plan and Noise Ordinance or Applicable Standards,* of the Draft EIR, the proposed Project would result in less than significant impacts with mitigation incorporated resulting from exposing persons to noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.

**Facts in Support of Finding**
The City's General Plan EIR notes that noise associated with future construction would impact adjacent lands; however, these impacts are expected to be short term. While recognizing that there may occasionally be noise impacts associated with heavy construction equipment, Project specific implementation of General Plan EIR required mitigation measures and City Code Requirements were determined to be sufficient to assure that reasonable noise levels would be maintained on and off-site during the construction phase of projects implemented pursuant to the General Plan. The General Plan EIR specifies both general and construction phase mitigation measures, all of which have either been incorporated into Chapter 8.44 (*Noise*) of the City's Municipal Code or cited in Section 4.11, *Noise,* of the Draft EIR, as Mitigation Measures NOI-1, -2, and -3 for the proposed Project. The General Plan EIR concluded that, with implementation of these mitigation measures and Code requirements, construction noise impacts would be reduced to a less-than-significant level.

Two of the locations where potentially significant Project-related traffic noise increases may occur have sound attenuation features the effects of which are not reflected in the forecasted noise levels. Along Highland Springs Road between Starlight and 8th, the existing Sundance homes to the west of the project site are located in the City of Beaumont and have perimeter block walls along the frontage to provide some sound attenuation. Future development areas along the east side of this stretch of road are within the City of Banning and would be designed to provide adequate attenuation pursuant to the outdoor and indoor noise level requirements specified in the City Code. Along Highland Springs Road between 8th and 6th, there are either commercial uses that do not require attenuation, or future project areas that would be designed to incorporate sound attenuation features pursuant to City Code. In addition to the typical noise reduction of 20- dBA for closed windows, once more detailed grading and Highland Home Road improvement plans have been developed; Mitigation Measure NOI-4 would require completion of a focused noise study[9] for sensitive receptors along Highland Home Road (on-site and off-site) and Wilson Street to determine specific noise reduction measures required, if any, to ensure the proposed project meets the City of Banning exterior and interior noise standards. Based on the above, and requirement for Project-level mitigation of Highland Home Road noise impacts, Project related impacts would be reduced to a less than significant level.

**4.9-5 Finding**
As identified in Impact 4.11-5, *Operational Stationary Source Noise Impacts,* of the Draft EIR, the proposed Project would result in less than significant impacts with mitigation incorporated resulting from stationary-source noise impacts on nearby sensitive receptors.

**Facts in Support of Finding**
Noise from residential stationary sources would primarily occur during the "daytime" activity hours. The City's Code provides procedures for complaints and enforcement of violations of the City's noise standards which provide adequate mitigation for occasional violations of the noise standards by individual

[9] A construction-level acoustic study is not practical at this time, as this study requires final improvement and grading plans to verify elevation, road geometry, and topography.

homeowners. Accordingly, noise impacts to surrounding uses associated with implementation of the proposed project are anticipated to be less than significant.

*Non-Residential Uses*
It should be noted that the potential wastewater treatment plant, if developed by the City, would be a completely enclosed facility and therefore is not anticipated to generate a significant increase in ambient noise. In addition, construction of the wastewater treatment plant would be required to implement Mitigation Measure NOI-5 requiring the wastewater treatment plant to obtain a conditional use permit (CUP) and would be required to perform an acoustical analysis, to be approved by the City of Banning, ensuring that the wastewater treatment plan would adhere to noise level thresholds established in the City of Banning *General Plan* and City Code. With implementation of Mitigation Measure NOI-5, noise impacts associated with truck deliveries and trash pickup and compaction would be reduced to a less than significant level.

## 4.10 PUBLIC SERVICES AND UTILITIES

### 4.10-1 Finding
As identified in Impact 4.12-1, *Need for New or Physically Altered Fire Facilities,* of the Draft EIR, the proposed Project would result in less than significant impacts with mitigation incorporated resulting from adverse environmental impacts associated with the provision of new or physically altered fire protection facilities or the need for new or physically altered fire protection facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance standards.

### Facts in Support of Finding
In addition to Mitigation Measure PSU-1, the Project will also address the reduction of wildland fire hazard through the implementation of State and local regulations and Mitigation Measures HAZ-10, HAZ-11, and HAZ-12. The reduction of fire hazard related to the presence of a high pressure natural gas pipeline through the project site would be addressed through the replacement of existing pipeline as provided for in Mitigation Measure HAZ-6, all contained in Section 4.8, *Hazards and Hazardous Materials*, of the Draft EIR.

### 4.10-2 Finding
As identified in Impact 4.12-2, *Need for New or Physically Altered Police Facilities,* of the Draft EIR, the proposed Project would result in less than significant impacts with mitigation incorporated resulting from adverse environmental impacts associated with the provision of new or physically altered police protection facilities or the need for new or physically altered police protection facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance standards.

### Facts in Support of Finding
Based on the Banning Police Department's adopted officer-to-resident ratio goal, stated in the General Plan, the Project could generate a demand for as many as 28 additional sworn officers at full build out; however, the need for additional officers to meet the city's officer-to-resident ratio would occur slowly and incrementally over time. The City's existing General Plan takes into account development of the site under existing zoning which is very similar to the proposed uses. Accordingly, existing facilities, including the new police headquarters building, would remain adequate for the provision of police services to the Project for much of its development period. The City imposes a Police Facilities Impact Fee on new development to fund construction and expansion of new or expanded facilities. Sales and property taxes from the commercial and residential development would contribute to support police facilities. Since the proposed Project includes the development of cluster and/or multifamily housing in addition to single family neighborhoods, Mitigation Measure PSU-2, which requires incorporation of

defensible space design elements into the Project's multi-family and cluster housing developments, will be required to maintain compliance with the General Plan and to facilitate policing of the community. With the payment of the Police Facilities Fee and the implementation of Mitigation Measure PSU-2, the impact of the Project on police facilities would be reduced to a less than significant level.

**4.10-3 Finding**
As identified in Impact 4.12-3, *Need for New or Physically Altered School Facilities,* of the Draft EIR, the proposed Project would result in less than significant impacts with mitigation incorporated resulting from adverse environmental impacts associated with the provision of new or physically altered school facilities.

**Facts in Support of Finding**
Project impacts to public schools would be fully addressed through compliance with existing laws and regulations including the payment of school facilities fees pursuant to SB 50 for each dwelling unit located within the boundaries of the receiving school district, and through the provision of at least two potential school sites within the development (PSU-3). Under Measure Z, Beaumont USD is authorized to issue in $125 Million in General Obligation Bonds. Of the $125 Million authorization, $42 Million has been identified to construct new school facilities. Owners of residential or commercial property within the Butterfield Specific Plan are obligated to pay their portion of the taxes necessary to service bonds issued pursuant to Measure Z. Accordingly, the Project's impacts on school facilities would be less than significant.

**4.10-4 Finding**
As identified in Impact 4.12-6B, *Construction of Recreational Facilities,* of the Draft EIR, the proposed Project would result in less than significant impacts with mitigation incorporated resulting from including recreational facilities or requiring the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.

**Facts in Support of Finding**
Operation of the proposed facilities could result in noise and light effects that could potentially impact adjacent residential uses within the Project site. The small neighborhood and mini-parks would include small scale play equipment suitable for young children in addition to seating, turf and similar facilities. It is not expected that these small neighborhood facilities would be used at night or in the early morning hours and they are not expected to be a source of noise during those sensitive periods. Further, where they abut residential lots they would be separated from the residential use by block walls, which would attenuate daytime noise. These parks would not include night lighting unless needed for security purposes to allow for adequate policing, in which case, the lighting would be subject to the provisions of Section 5.106.8 of the California Green Code as well as the provision of the City's Municipal Code and Mitigation Measure AES-7, all of which would prohibit park lighting spillage into adjacent residential lots. The parks would be designed so that the most active recreational uses are concentrated along the South and North Loop Collector Streets, which would provide significant separation from residential uses and noise attenuation features would be incorporated into building construction to the extent needed to ensure that interior noise levels in adjacent residential uses remain within acceptable limits. With adherence to Code requirements, cited mitigation measures, and appropriate design strategies, impacts resulting from park or golf course use on nearby sensitive residential uses would be less than significant.

**4.10-5 Finding**
As identified in Impact 4.12-7A, *New Energy Production or Transmission Facilities,* of the Draft EIR, the proposed Project would result in less than significant impacts with mitigation incorporated resulting from construction of new energy production and/or transmission facilities or expansion or existing facilities, the construction of which could cause significant environmental effects.

**Facts in Support of Finding**
To meet the projected additional demand of the Butterfield Specific Plan Project and other anticipated growth in the northwest portion of the City, the Electric System Master Plan (ESMP) proposed the construction of a new substation within the Project site. Since no additional supplies are required for the proposed Project, its development will not require or result in the construction of new energy production facilities. Further, the extension of energy services to the Project would be a natural extension of existing infrastructure and would not result in a disjointed pattern of utility extensions.

The proposed Project includes the relocation of certain existing Southern California Edison power transmission lines as described in detail in Section 3.0, *Project Description*, of the Draft EIR. This Project will also require the installation of underground electrical power lines and natural gas lines throughout the Project. These underground utility lines would be constructed within public street right-of-way and would not result in significant environmental impacts since the ROW would already be disturbed as a result of grading, street construction and related trenching. In addition, the contractor will ensure that precautions are taken to avoid the Southern California Gas Company pipeline observed crossing the property that may be present along the alignments of proposed off-site infrastructure (refer to Mitigation Measure HAZ-6). Accordingly, the Project's impacts would be less than significant with adherence to the mitigation measures incorporated.

**4.10-6 Finding**
As identified in Impact 4.12-9B, *Water and Wastewater Facilities Expansion,* of the Draft EIR, the proposed Project would result in less than significant impacts with mitigation incorporated resulting from construction of new water or wastewater treatment facilities or expansion of existing facilities, construction of which could cause significant environmental effects.

**Facts in Support of Finding**
The Project proposes construction of an on-site and off-site water, wastewater and recycled water system, as described in Section 3.0, *Project Description* and referenced in Impact Analysis 4.12-9A. This system does not include the potential onsite "satellite" wastewater treatment facility. Impacts associated with the provision of water and recycled water distribution infrastructure is addressed in Section 4.13, *Water Supply*. Currently, the City has plans and a capital improvement plan to expand existing City wastewater treatment facilities. In the future, the City may chose to develop a satellite wastewater treatment facility on site. The environmental impacts associated with the proposed expansion of the City's Wastewater Treatment Plant have been addressed in the 2008 *Wastewater Treatment Plant Expansion and Phase I Recycled Water System Initial Study/Mitigated Negative Declaration (IS/MND).* That study determined that the potential impacts associated with the proposed expansion would be less than significant or could be mitigated to a less than significant level. The potential future on-site wastewater treatment facility could result in aesthetics, noise, odor, and hazards impacts. No unmitigated impacts have been identified. Accordingly, whether the Project is served by the expanded City Wastewater Treatment Facility or the potential on-site satellite facility, effects associated with facilities construction would be less than significant.

The Project also proposes various off-site water, wastewater and recycled water facilities, the majority of which would be constructed within existing roadways and would be below ground. No long-term environmental effects associated with operation of these subsurface facilities are anticipated.

Implementation of Mitigation Measures PSU-4 and PSU-5 would result in the reduction of potential impacts of off-site infrastructure; specifically the impacts associated with sensitive receptors to less than significant levels (also refer to Mitigation Measures AQ-8 and NOI-5).

**4.10-7 Finding**
As identified in Impact 4.12-10, *Landfill Capacity and Compliance with Regulations,* of the Draft EIR, the proposed Project would result in less than significant impacts with mitigation incorporated resulting from (a) the Project being served by a landfill that does not have sufficient permitted capacity for Project's solid waste disposal needs and (b) the Project failing to comply with federal, State, and local statutes and regulations related to solid waste.

**Facts in Support of Finding**
Specific Plan build-out will increase the total City wide generation of solid waste. In estimating the potential impact of the General Plan buildout, the Draft EIR used waste generation factors for specific land uses. The potential solid waste that could be generated by the proposed Project was estimated using these same factors and is illustrated in Table 4.12-9, *Projected Solid Waste Generation at Project Build-out,* of the Draft EIR. The proposed Project would contribute from 3-12 percent of the total City waste stream to any one of the landfills that serve it. All have existing unused capacity sufficient to accommodate the projected waste stream growth, assuming continued compliance with diversion requirements.

The proposed Project also includes a golf course and two public schools. To ensure the maximum feasible reduction in the waste stream generated by the Specific Plan's golf course, Mitigation Measure PSU-6 shall be imposed. Accordingly, the Project would not adversely impact existing land fill capacity, would be fully compliant with all federal, State, and local requirements for solid waste diversion and recycling, and, with the addition of Mitigation Measure PSU-6, its impacts with regard to solid waste would be reduced to a less than significant level.

**4.11 WATER SUPPLY**

**4.11-1 Finding**
As identified in Impact 4.14-1, *Groundwater Supplies,* of the Draft EIR, the proposed Project would result in less than significant impacts with mitigation incorporated associated with depleting groundwater supplies or interfering 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., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted.

**Facts in Support of Finding**
The City's average annual water supply is, and will continue to be, from local groundwater supplies. The City pumps groundwater from five local groundwater basins — the Banning, Banning Bench, and Banning Canyon basins (collectively, the Banning Basins), the Cabazon Basin and the Beaumont Basin. All of the City's groundwater supplies are supported by vested water rights. In the case of the Beaumont Basin, the City's production and storage rights in the basin have been adjudicated by a court and are subject to a final judgment. The imported water that the City purchases from the Pass Water Agency is percolated into the Beaumont Basin and stored. When needed, the City's stored imported water supplies are available for production as groundwater from the Beaumont Basin, together with the City's adjudicated rights in the basin. Similarly, a portion of the City's wastewater is percolated into the Cabazon Basin and stored. When needed, this supply may be produced as groundwater from the Cabazon Basin. Additionally, the City's Phase I Upgrade will provide additional supplies of recycled water by 2015 when the City will complete construction of this upgrade of its Main Treatment Plant. This supply may be delivered directly to serve non-potable demands within the City, or percolated into the Cabazon Basin, if permitted.

The City's existing and projected water supplies are sufficient during normal, single dry, and multiple dry water years during the 35-year study period to meet the projected water demands of the Project, in addition to the City's existing and planned future uses. Therefore, sufficient water supplies are available to serve the Project. Refer to Draft EIR Table 4.14-14 and WSA Tables 1.8A through 1.8C.

The City proposes to maintain average historical pumping or "baseline" levels from the Beaumont Basin in order to promote the accumulation of water (both from the City's unused production rights and recharged imported water) in the City's stored water account. The City's projected pumping is within the Watermaster's most-recent determination of the safe yield of the basin and is permitted by the City's adjudicated rights in the basin, as those rights are set forth in the Beaumont Basin Judgment and subject to the continuing jurisdiction of the Court and ongoing management by the Watermaster. As directed by the Judgment, every ten years, the Watermaster will reevalate the safe yield of the basin. Accordingly, the City's rights in the basin may change over time. The City's existing wells provide sufficient capacity to continue to produce average historical amounts. The Project does not include any new wells. Therefore, the City's projected pumping from the Beaumont Basin would have less than significant impacts on groundwater supplies.

In the event the City increases pumping from the Beaumont Basin above historical average quantities – for example, to withdraw water from storage as needed to meet increased demands after 2035 – any increased pumping would be from water stored in the City's approved stored water account, which includes water added to the basin as "new yield", or water the City had the right to pump in prior years, but did not. The City's adjudicated rights in the Beaumont Basin include the right to withdraw water from storage. The proposed Project would not cause the City to exceed its adjudicated rights in the Beaumont Basin and would not exceed the safe yield of the basin, as determined by the Watermaster. The City's approved Groundwater Storage Agreement permits the City to store up to 80,000 acre-feet in the Beaumont Basin. As a result of the City's conjunctive use operations in the Beaumont Basin, to date, the City has stored approximately 30,000 acre-feet of water in the Beaumont Basin for later use. The City projects that the City will add an additional 50,000 acre-feet to the Beaumont Basin by 2035. This supply augments the Beaumont Basin's natural or native groundwater supplies. Further, to prevent adverse impacts to the basin or material interference with the rights of other users associated with withdrawals of water from storage, all pumping from the Beaumont Basin to withdraw water from storage is subject to the Watermaster's approval. Any withdrawal of water from storage is subject to the terms and conditions of the Watermaster's approval. Although the Watermaster has not developed rules for the withdrawal of water from storage, it may do so at any time.

All water production, storage operations and withdrawals from storage in the Beaumont Basin are subject to the adjudication and resulting court judgment, as well as the Watermaster's adopted rules and regulations. The court's continuing jurisdiction over the basin and Watermaster's ongoing management of the basin ensures that the City's production of its rights in the basin, including withdrawal of water from storage, does not result in adverse impacts on the basin or material interference with other basin right holders. Therefore, less than significant impacts to groundwater supplies in the Beaumont Basin are anticipated.

In the Banning, Banning Bench, Banning Canyon and Cabazon Basins, the City's proposed pumping is within the safe yield of each basin and consistent with the City's rights in each basin. The City does not propose increases in pumping from any of the three Banning basins above average historical or "baseline" levels to serve the Project. As a result of the City's conjunctive use operations in the Cabazon Basin, the City has recharged and stored 2,656 acre-feet per year, on average, in the basin. The City's anticipated supply from the Cabazon Basin will vary annually based on the quantity of treated wastewater supplied recharged into the basin. Refer to Table 4.14-15, *Hydrologic Budget – Cabazon Basin (AFY),* of the Draft EIR, for inflow and outflow terms used in calculating the Cabazon Basin's hydrologic budget. The City's proposed pumping from the Cabazon Basin is anticipated to increase over time as a result of the City's

production of native groundwater supplies pursuant to the City's appropriative rights and withdrawal of treated wastewater recharged and stored in the basin, but not in excess of the basin's safe yield. The City does not propose increases in pumping in excess of its rights in the basin. Further, the City's projected increase in pumping is not anticipated to adversely impact neighboring wells. To ensure the City's pumping in the Banning, Banning Bench, Banning Canyon and Cabazon Basins is within the safe yield of each basin and to avoid interference with existing wells when new wells are constructed, Mitigation Measure WS-1 will be implemented. Therefore, less than significant impacts to groundwater supplies are anticipated.

The Project includes an onsite groundwater recharge system. The recharge system may be used to recharge stormwater, imported water or recycled water, if permitted, into the Beaumont Basin. The recharge function of Smith Creek will be retained and enhanced as the Project develops through the realignment of the creek, the construction of debris, detention, and water quality basins as well as anticipated containment of post-storm ponding within the golf course Planning Area as the Project develops. As a result, less than significant impacts to groundwater recharge are anticipated.

**4.11-2 Finding**
As identified in Impact 4.14-3, *Construction of Water System Facilities,* of the Draft EIR, the proposed Project would result in less than significant impacts with mitigation incorporated associated with the construction of new water system facilities or expansion of existing facilities, the construction of which would cause significant environmental effects.

**Facts in Support of Finding**
The Project proposes construction of several water supply and water quality features that are described as part of the *Project Design Features* in Section 4.14.4 of the Draft EIR. The Project includes construction of comprehensive onsite water storage and transmission facilities to meet projected water demands for uses in the proposed Specific Plan. In addition to water and sewer lines, the Project includes onsite construction of recycled water pipelines to serve non-potable demands of the Project when recycled water is made available. The Project would be integrated into the City domestic water system.

Offsite water treatment, storage and transmission facilities include three pump stations, subsurface pipelines, and the offsite sewer lift station. The proposed lift station would be located on a small commercial lot in an appropriately designed and screened building. Similarly, the pump stations would be located within an enclosed structure. The potential future onsite treatment facility (if developed by the City) would require additional review and the approval of a conditional use permit. The tallest structure for the treatment facility, a one million gallon water storage tank, would be 35 feet in height, similar to the maximum height of a residential structure. All treatment processes would take place within an enclosed structure(s).

The water supply and water quality-related elements described in Section 4.14.4 are part of the overall Project, and therefore their environmental impacts are analyzed throughout Section 4 of the Draft EIR, including Impact 4.14-1. Mitigation Measure PSU-4 would result in the reduction of potential impacts of off-site infrastructure, specifically the impacts associated with sensitive receptors to less than significant levels. With the implementation of the mitigation measures noted in Section 4.14, *Water Supply,* of the Draft EIR, the impacts will be less than significant with mitigation incorporated.

## 5.0 FINDINGS CONCERNING IMPACTS FOUND TO BE SIGNIFICANT WITH MITIGATION ("Unavoidable Significant Impacts")

While the specific mitigation measures summarized in Section 1.0, *Executive Summary*, would reduce the level of many significant impacts to a less than significant level, the Draft EIR identified the following areas where, after the implementation of feasible mitigation measures and consideration of Project Design

Features and existing regulations, the Project would result in impacts which cannot be fully mitigated (note that these conclusions, and overall Project impacts, are similar to those found in the previously certified Deutsch Specific Plan EIR and
City of Banning General Plan EIR):

## 5.1 AESTHETICS LIGHT AND GLARE

**5.1-1 Finding**
As identified in Impact 4.1-3, *Light and Glare,* of the Draft EIR, the proposed Project would create significant and unavoidable impacts resulting from long term build out light and glare.

**Facts in Support of Finding**
As an undeveloped area used for cattle grazing, the existing Project site currently has no sources of light or glare, and therefore does not create light or glare impacts on adjacent land uses. Predominantly residential development abuts the Project site to the northwest, west, south, and southeast. The area to the north and northeast of the Project site is largely undeveloped or sparsely developed. Implementation of the proposed Project would result in construction of up to 5,387 dwelling units, two schools, approximately 36 acres of commercial uses, as well as parks, a golf course, various drainage facilities (including a multi-use basin), a potential satellite wastewater treatment plant, above ground water storage reservoirs, and a potential fire station (pad), all of which would permanently alter the lighting levels of the existing environment. The proposed Project would create substantial new sources of light and glare typical of the suburban uses proposed: streetlights, residential and commercial lighting, security lighting, and safety lighting for the commercial, schools, parks, golf course, and infrastructure facilities. These new sources of light and glare would be most visible form development located along adjacent roadways including receptors such as area residents and traveling motorists. All developed areas and trails will have 24-hour security lighting, and active recreation areas (parks, golf course, school, community center) may have lighting for activities and event up to 10:00 P.M., per City Municipal Code. The commercial areas and fire station may have 24-hour lighting as permitted in the Specific Plan and Municipal Code. Pursuant to City Code, street and sign lighting within the Project would be oriented toward and confined within the development site to prevent spillover into adjacent properties. In addition, as a Project Design Feature, the proposed Specific Plan includes design guidelines that are intended to make the development as compatible with the rural nature of the area as possible, by, among other things, controlling light and glare impacts.

Mitigation Measure AES-7 will reduce potentially significant light and glare impacts to the extent feasible. The Project has also reduced, avoided or offset potentially adverse impacts to light and glare through Project Design Features noted in Section 3.7, *Project Design Features.* Even with these design features and mitigation, the Project would result in significant light and glare as compared to the site's existing undeveloped condition.

## 5.2 AIR QUALITY

**5.2-1 Finding**
As identified in Impact 4.3-1, *Air Quality Standards,* of the Draft EIR, the proposed Project would result in significant and unavoidable impacts with respect to the violation of any air quality standards or contributing substantially to an existing or projected air quality violation.

**Facts in Support of Finding**
Construction activities would occur in different locations on the Project site at different times; thereby not affecting the same sensitive receptors for significant periods of time. Nonetheless, construction impacts would exceed Federal and State ambient air quality standards. Construction emissions would exceed established SCAQMD thresholds for criteria pollutants as depicted in Table 4.3-5 through Table 4.3-9.

Implementation of Mitigation Measures AQ-1 through AQ-7 would lessen construction-related impacts by requiring measures to reduce air pollutant emissions from construction activities. These measures call for the maintenance of construction equipment, the use of non-polluting and non-toxic building equipment, the minimization of fugitive dust, and the use of machine guided grading equipment. Additionally, as the Project proposes significant grading activities and would result in exposed soils for the approximately 30 year construction period, Mitigation Measure AQ-5 would require the development of a Dust Management Plan prior to the issuance of grading permits for the control of fugitive dust throughout the five phases of construction. Project design features incorporated into the Project would reduce construction-related emissions, however, even with implementation of Mitigation Measures AQ-1 through AQ-7, construction emissions would exceed SCAQMD thresholds for ROG, CO, NOx, PM2.5, and PM10 due to the magnitude of the proposed development, and a significant unavoidable impact would result.

Air quality impacts would be regional and not confined to the City limits. Compliance with Mitigation Measure GHG-1 and GHG-2 (refer to Section 4.5, *Climate Change,* of the Draft EIR), as well as with regulations and permit requirements, would reduce emissions from new commercial and residential uses. Mitigation Measure GHG-1 includes requirements for building and water efficiency. Implementation of these measures and programs would reduce area source emissions due to reduced energy demand, thereby reducing area source emissions related to natural gas and electricity consumption. Additionally, Mitigation Measure GHG-2 would amend the Specific Plan to allow and promote renewable energy resources such as rooftop solar. However, emissions resulting from area sources would remain significant due to the magnitude of development associated with the proposed Specific Plan.

As seen in Table 4.3-10, *Estimated Operational Emissions for the Specific Plan,* of the Draft EIR, mobile sources are anticipated to be the largest contributor to the estimated annual average air pollutant levels, and would exceed the SCAQMD thresholds. Due to the magnitude of development and associated mobile source air quality impacts, impacts in this regard remain significant and unavoidable.

**5.2-2 Finding**
As identified in Impact 4.3-3, *Air Quality Management Plan,* of the Draft EIR, the proposed Project would result in significant and unavoidable impacts with respect to conflicting with or obstructing implementation of the applicable air quality plan.

**Facts in Support of Finding**
Consistency with the 2007 *Air Quality Management Plan for the South Coast Air Basin (2007 AQMP)* means that a project is consistent with the goals, objectives, and assumptions in the respective plan to achieve the Federal and State air quality standards.

*Criterion 1*
There is a potential for the proposed Project to result in an increase in the frequency or severity of existing air quality violations. The South Coast Air Basin is currently in non-attainment for ozone and particulate matter. As shown in Tables 4.3-5 through 4.3-9, Project emissions would exceed SCAQMD thresholds during construction and operations for ROG, NOX, CO, PM10, and PM2.5. The Project would implement applicable local, State and Federal air quality measures, and Project construction fleet and operational-related traffic is regulated by CARB vehicle emission reduction programs. The Draft EIR also identifies an extensive menu of additional mitigation measures and Project Design Features to further reduce potential construction-related and operational emissions to the extent feasible; refer to Mitigation Measures GHG-1 and GHG-2 in Section 4.5, *Climate Change*. The Project is consistent with the City's General Plan, and generally consistent with the previously approved Deutsch Specific Plan. Nonetheless, given the scale of the Project and non-attainment status of the Basin, it is possible that the Project's construction and/or operational emissions would exacerbate SCAQMD's regional efforts to bring the Basin into attainment. However, this is no different than the cumulative effect that SCAQMD

development projects would have upon Basin attainment, for which the SCAQMD has and is continuing to pursue various attainment strategies through the AQMP implementation process.

There is a potential for the proposed Project to cause or contribute to new air quality violations. Localized concentrations of CO have been analyzed for the Project, and would be below SCAQMD thresholds. SOX emissions would me minimal during construction and long-term operations, and therefore would not have a potential to cause or affect a violation of the SOX ambient air quality standard. As shown in Table 4.3-11, *Project Buildout Carbon Monoxide Concentrations*, of the Draft EIR, the Project would not exceed localized significant thresholds. However, it should be noted that the proposed project would exceed each of the SCAQMD's regional thresholds of significance with the exception of SOX emissions.

The Project would result in significant impacts for regional emissions with regard to criteria pollutants during Project construction and operations. Therefore, the Project could potentially delay the timely attainment of air quality standards or AQMP emissions reductions.

*Criterion 2*
The proposed Project is consistent with AQMP in part if it is consistent with the population, housing, and employment assumptions that were used in the development of the AQMP. The Project is generally consistent with the previously approved Deutsch Specific Plan. These uses were incorporated into the City General Plan and GPEIR. Thus, the proposed Project is consistent with City-wide plans for population growth at the Project site, and is consistent with the types, intensity, and patterns of land use envisioned for the site vicinity in the *RCPG.* The population, housing, and employment forecasts, which are adopted by SCAG's Regional Council, are based on the local plans and policies applicable to the City; these are used by SCAG in all phases of implementation and review. Additionally, as the SCAQMD has incorporated these same projects into the *2007 AQMP*, it can be concluded that the proposed Project would be consistent with the projections.

The Project implements applicable feasible mitigation measures as described in this Section, as well as feasible greenhouse gas reduction measures, as described in Section 4.5, *Climate Change*. The Project would include design features that would reduce operational emissions of criteria pollutants. For example, the "Smart Homes" program would improve building efficiency and energy usage, thereby reducing both direct and indirect area source emissions. Furthermore, several design features would reduce vehicle trips and/or vehicle miles traveled, thereby reducing mobile source emissions. Although Project related emissions would remain significant, the applicant has committed to additional aggressive emissions reductions measures such as the use of machine-guided grading to reduce construction emissions, provision of "Smart Homes" to reduce residential operational emissions, and inclusion of renewable energy uses as "conditionally permitted uses" in the Specific Plan to allow for incorporation of solar, electric and/or hydrogen power stations into the Project to accommodate for "clean vehicles", thereby reducing mobile source emissions of criteria pollutants (refer to Section 4.5, *Climate Change,* for additional discussion). With these various measures, the proposed Project meets this AQMP consistency criterion.

The proposed Project would be consistent with the land use planning strategies set forth in the AQMP. The Project would implement the Butterfield Specific Plan development in a currently undeveloped portion of the City. The project would be consistent with the applicable AQMP measures such as the energy efficiency and control measures. As described above, the proposed Project would implement the "Smart Homes" program than would improve building energy efficiency and promote conservation among prospective residents. Because the southwestern corner of the Project is located approximately 300 feet from an existing bus stop the existing transit network would be expanded through the Project site. The City of Banning and Riverside County Transit authorities would be consulted to implement long-term public transportation projects and to develop vanpools and subscription bus service. Furthermore, the Project would include pedestrian paths and bike trails that would provide both internal and external

connections. Other AQMP transportation strategies target regional emissions that require SCAQMD coordination with SCAG and include control programs to reduce vehicle emissions and remove high emitters. The proposed Project would not conflict with these strategies.

## 5.3 CLIMATE CHANGE

### 5.3-1 Finding

As identified in Impact 4.5-1, Greenhouse Gas Emissions, of the Draft EIR, the Project would result in potentially significant and unavoidable impacts with mitigation incorporated with regard to generating greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment.

### Facts in Support of Finding

The Project has implemented reasonable and feasible mitigation measures and has incorporated special Project Design Features to reduce greenhouse gas emissions to the extent feasible. In addition, the Project is consistent with the Deutsch Specific Plan represented in the adopted City of Banning General Plan, and therefore is consistent with the regional growth emissions included in SCAG, SCAQMD, and CARB climate change planning and policy documents. While the Project's designed features and mitigation measures would reduce GHG emissions by approximately 20% over BAU, the project's cumulative contribution would remain at approximately 124,000 metric tons of CO2E. Without any applicable numeric standards, it cannot be concluded that these emissions are not cumulatively significant. Further, because GHG emission impacts are global and result from the buildup of GHG emissions over many years, the global cumulative effects could remain potentially significant and unavoidable without regard to the Project's design features and mitigation measures.

### 5.3-2 Finding

As identified in Impact 4.5-2, Greenhouse Gas Reduction Plan, of the Draft EIR, the Project would result in potentially significant and unavoidable impacts with mitigation incorporated with regard to conflicting with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases.

### Facts in Support of Finding

With implementation of Project design features and mitigation measures, the Project would not obstruct or conflict with the statewide goals of AB32 and regional targets under SB375. However, because measures implementing AB32 and SB375 require further action by other state and federal agencies and implementation and effectiveness is not assured, as well as the continuing effects of past human-induced GHG emissions, the Project's incremental contribution to climate change would remain potentially significant and unavoidable. Even with Project design features and mitigation measures for reducing GHG emissions, Project-related incremental contributions and cumulative development would remain significant and unavoidable, and could hinder GHG reduction goals of AB32.

## 5.4 TRAFFIC AND CIRCULATION

### 5.4-1 Finding

As identified in Impact 4.13-1, Conflict with an Applicable Plan, Ordinance, or Policy, of the Draft EIR, the Project would result in potentially significant and unavoidable impacts with mitigation incorporated with regard to conflicting 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 bicycled paths, and mass transit.

**Facts in Support of Finding**
The *City of Banning General Plan* Circulation Element standard provides that LOS C is the upper limit of satisfactory operations except for intersections along Ramsey Street, where LOS D is considered satisfactory. Mitigation is required for any intersections where Project traffic causes the intersection to deteriorate from satisfactory to unsatisfactory operation. The City does not have an adopted criterion that defines significant impact at an existing deficient intersection; therefore, a conservative criterion was developed to address this potential condition. If an intersection is already operating at an unsatisfactory LOS, any increase in delay due to the addition of one or more cars would constitute a significant Project impact. This criterion was applied to study intersections in the jurisdictions of the City of Banning, City of Beaumont, and the County of Riverside. Construction of the recommended improvements, when and where needed, would achieve applicable level-of-service performance at all study area intersections; however, as some improvements could also result in significant impacts to existing land uses (due to Project right-of-way requirements), certain improvements may either be made in part, deferred or not implemented due to overriding considerations and/or limited funding. Further, many of the recommended improvements are located in jurisdictions outside the City of Banning. Most of these improvements have been, can be and should be implemented by those other agencies, but successfully completing the improvements in a timely fashion cannot be guaranteed.

**5.4-2 Finding**
As identified in Impact 4.13-2, Conflict with an Applicable Congestion Management Program, of the Draft EIR, the Project would result in potentially significant and unavoidable impacts with mitigation incorporated with regard to conflicting 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 congestion management agency for designated roads or highways.

**Facts in Support of Finding**
The Riverside County CMP has a standard of LOS E or better for CMP facilities. CMP facilities affected by the Project include SR-60, I-10, SR-79 (Beaumont Avenue) south of I-10, and SR-243 south of I-10. As discussed in Appendix I, Traffic Impact Assessment, Section 7, the TIA identifies potential freeway ramp improvements and freeway mainline improvements, as well as recommended mitigation measures for SR-79 and SR-243. Freeway mainline improvements are described further below in Cumulative Impacts. The Draft EIR identifies mitigation to achieve acceptable levels of service for CMP facilities (discussed above). However, as these improvement locations are outside the control of the City of Banning and the Applicant, timely implementation of the mitigation measures is uncertain, and therefore these issues must be considered a "potentially unavoidable significant impact".

## 6.0 FINDINGS REGARDING CUMULATIVE IMPACTS

The following section provides a brief description of each section in the Draft EIR's cumulative based on the analysis conducted through the Draft EIR preparation process. A further description of each section's cumulative impact conclusion can be found at the end of the corresponding impact in Section 4.0, *Environmental Impact Analysis,* of the Draft EIR. A brief conclusion of each cumulative impact is described below for the convenience of the reader.

### 6.1 AESTHETICS/LIGHT AND GLARE

**6.1-1 Finding**
The Project would result in less than significant cumulative impacts with mitigation incorporated associated with aesthetics.

**Facts in Support of Finding**
The geographic context for the analysis of cumulative visual impacts is the San Gorgonio Pass area including the City of Banning, the City of Beaumont, and the adjacent unincorporated areas of the County of Riverside. The proposed Butterfield Specific Plan Project would contribute to the on-going development of projects on undeveloped or vacant land through the creation of a new residential community. According to the *City of Banning General Plan EIR,* build out of the General Plan would result in significant visual impacts within the City, which would be mitigated to a less than significant level through the implementation of Draft EIR-specified mitigation measures which have since been incorporated into the City's *Municipal Code.* Implementation of the proposed Project in compliance with current City standards, proposed mitigation measures, and the design guidelines contained in the Specific Plan would result in less than significant impacts related to scenic vistas and visual character.

**6.1-2 Finding**
The Project would result in significant and unavoidable cumulative impacts associated with light and glare.

**Facts in Support of Finding**
Given the size of the proposed Project relative to anticipated future development in the City, the Project's impact on cumulative light and glare would be perceived as a substantial part of the overall, cumulative visual changes that would occur at General Plan build out. Although the surrounding area is quickly urbanizing, there will be additional light and glare generated from the proposed Specific Plan.

The nature of the proposed development, the magnitude and scale, and the existence of sensitive receptors (residences and the hospital) adjacent to the site will result in significant light and glare impacts to these areas. The proposed Project would contribute to light and glare in conjunction with past, present, and future projects. Mitigation measures are proposed to reduce this impact; however, this is considered a significant cumulative impact.

**6.2 AGRICULTURAL RESOURCES**

**6.2-1 Finding**
The Project would result in less than significant cumulative impacts associated with agricultural resources.

***Fact in Supporting Finding***
The geographic setting for this cumulative impacts analysis is Riverside County. The analysis considers the significance of the contribution of the proposed Project to cumulative regional impacts on County agricultural land and agricultural production resulting from the conversion of farmland to urban uses.

Though previously subject to Williamson Act contracts, these have since expired and the Project site is no longer in agricultural use, with the exception of small-scale temporary use for livestock grazing that contributed very little to the regional agricultural economy. Accordingly, while the conversion of farmland in western Riverside County, and in Coachella Valley in particular, may have an adverse cumulative effect on the County's agricultural economy, the incremental loss of this Project site's potential as farmland would not be considered cumulatively considerable and would be less than significant.

**6.3 AIR QUALITY**

**6.3-1 Finding**
The Project would result in significant and unavoidable cumulative impacts associated with air quality.

**Facts in Support of Finding**
The SCAQMD neither recommends quantified analyses of cumulative construction or operational emissions, nor does it provide separate methodologies or thresholds of significance to be used to assess cumulative construction impacts. Individual development projects that generate construction-related or operational emissions that exceed the SCAQMD recommended daily thresholds for project-specific impacts would also cause a cumulatively considerable increase in emissions for those pollutants for which the Basin is non-attainment.

*Short-Term Construction Emissions*
Based on the program-level construction analysis, construction-related emissions associated with future potential development projects in the Project area may be "cumulatively considerable", even with implementation of the recommended mitigation measures. Construction of future development and infrastructure projects under the Specific Plan would be required to comply with the applicable SCAQMD rules and regulations, SCAQMD Air Quality Management Plan, City of Banning and City of Beaumont General Plan EIRs, Riverside County General Plan EIR, and SCAG Compass Blueprint Growth Visioning Program. These measures call for the maintenance of construction equipment, the use of non-polluting and non-toxic building equipment, and minimizing fugitive dust.

*Long Term Operational Emissions*
New development under the proposed Specific Plan, combined with other anticipated future development in the region would contribute to a cumulative annual increase in regional air pollutant emissions. As shown in Table 4.30-10, *Estimated Operational Emissions for the Specific Plan,* of the Draft EIR, the emissions from development of the Project area exceed the SCAQMD thresholds for ROG, NOX, CO, PM2.5, and PM10, resulting in a significant impact. In accordance with SCAQMD methodology, any project that cannot be mitigated to a level of less than significant is also significant on a cumulative basis. Therefore, the cumulative operational emissions associated with the proposed Project are cumulatively significant and unavoidable.

## 6.4 BIOLOGICAL RESOURCES

**6.4-1 Finding**
The Project would result in less than significant cumulative impacts with mitigation incorporated associated with biological resources.

**Facts in Support of Finding**
The proposed Project will result in the permanent removal of approximately 1,500 acres of existing vegetation. Development will contribute to the overall reduction of open grassland available in the region, which habitat is used, or can be used, as live-in and/or foraging areas for several sensitive species including burrowing owl. However, this habitat is not considered "sensitive" and is widely available throughout the region. The Project will also result in the removal of a small amount of riparian/riverine and wetland habitat. Compensatory mitigation for project specific impacts to riparian/riverine and wetland habitat will be required by agencies with jurisdiction over these resources, permit conditions, and Mitigation Measures BIO-1 through BIO-5 will reduce Project impacts to biological resources to a less than significant level. Accordingly, the project will not make a cumulatively considerable contribution to any potentially significant cumulative impact on biological resources in the Banning area.

## 6.5 CLIMATE CHANGE

**6.5-1 Finding**
The Project would result in significant and unavoidable cumulative impacts with mitigation incorporated associated with climate change.

**Facts in Support of Finding**
The Project has implemented reasonable and feasible mitigation measures and has incorporated special Project Design Features to reduce greenhouse gas emissions to the extent feasible. In addition, the Project is consistent with the Deutsch Specific Plan represented in the adopted City of Banning General Plan, and therefore is consistent with the regional growth emissions included in SCAG, SCAQMD, and CARB climate change planning and policy documents. While the Project's design features and mitigation measures would reduce GHG emissions by approximately 20% over BAU, the project's cumulative contribution would remain at approximately 124,000 metric tons of CO2E. Without any applicable numeric standards, it cannot be concluded that these emissions are not cumulatively significant. Even with Project design features and mitigation measures for reducing GHG emissions, Project-related incremental contributions and cumulative development would cause GHG impacts to remain significant and unavoidable, and could hinder the GHG reduction goals of AB 32.

## 6.6 CULTURAL RESOURCES

**6.6-1 Finding**
The Project would result in less than significant cumulative impacts with mitigation incorporated associated with cultural resources.

**Facts in Support of Finding**
As discussed in Section 4.10, *Land Use and Planning*, the Butterfield Specific Plan is generally consistent with the City's General Plan, and is an amendment and restatement of the previously approved Deutsch Specific Plan. Additionally, extensive field investigation of the Project site and off-site areas potentially impacted by the Project, together with literature reviews, have detected no archaeological or historical resources of any significant value on the site, and no off-site resources that would be impacted by the development of the proposed Project. Mitigation Measures CUL-1 through CUL-4 further limit the Project's potential to contribute significantly to any cumulative paleontological, archaeological, or historical resource impacts on a regional level therefore would not make a cumulatively considerable contribution to regional cumulative impacts on cultural resources and would therefore be cumulatively less-than-significant.

## 6.7 GEOLOGY, SOILS, AND SEISMICITY

**6.7-1 Finding**
The Project would result in less than significant cumulative impacts with mitigation incorporated associated with geology, soils and seismicity.

**Facts in Support of Finding**
The General Plan EIR determined that, with the implementation of the above requirements, cumulative geotechnical and soils impacts of the General Plan build-out would be less than significant. Since the proposed Project is an amendment and restatement of a previously approved Specific Plan, its build out was considered as part of the General Plan EIR cumulative analysis. All of the requirements noted in the General Plan EIR and all of the requirements contained in Title 18 of the City's Municipal Code would be met by the proposed Project, in addition to the Project-specific Mitigation Measures GEO-1 and GEO-3. Accordingly, the proposed Project would not contribute considerably to regional cumulative impacts related to geology and soils.

## 6.8 HAZARDS AND HAZARDOUS MATERIALS

**6.8-1 Finding**
The Project would result in less than significant cumulative impacts with mitigation incorporated associated with hazards and hazardous materials.

**Facts in Support of Finding**
Hazardous materials used, or hazardous waste generated, during the operational phase of the Project would not be quantitatively significant. Accordingly, the proposed Project's contribution would not be cumulative considerable and would be considered less than significant with mitigation incorporated. Development of the proposed Project would increase the number of residential structures located in urban-wildland interface areas within the City of Banning and therefore the number of structures and persons vulnerable to the effects of wildfire. With adherence to existing and future laws ordinances, and regulations and implementation of appropriate mitigation measures mandating uniform and effective maintenance of defensible space/fuel modification areas the risk posed by new construction in UWI areas would be reduced to less than cumulatively considerable.

## 6.9 HYDROLOGY AND WATER QUALITY

**6.9-1 Finding**
The Project would result in less than significant cumulative impacts with mitigation incorporated associated with hydrology and water quality.

**Facts in Support of Finding**
Cumulative impacts to hydrology and water quality are impacts that would result from incremental changes that degrade water quality or contribute to drainage and flooding problems within the Banning area. Although the proposed Project, in combination with other cumulative projects in the Banning area, represents an incremental change in regional drainage patterns and additional developed surfaces, the proposed Project as well as other cumulative projects are required to construct a number of on- and off-site facilities that would mitigate cumulative drainage and flooding conditions, as well as mitigate potential water quality impacts. With the Project Design Features proposed to mitigate potential impacts to hydrology and water quality and the regulatory requirements applicable to all development within the Banning area, the proposed Project would not significantly contribute to cumulative or regional drainage or water quality impacts.

## 6.10 LAND USE AND PLANNING

**6.10-1 Finding**
The Project would result in less than significant cumulative impacts associated with land use and planning.

**Facts in Support of Finding**
Development pursuant to the proposed Specific Plan would not conflict with the designated land uses in the General Plan and Zoning code. With adoption of the proposed General Plan Amendment, the proposed Specific Plan would be compatible with the land uses that surround the proposed Project. It should be noted that future projects could include General Plan amendments and/or zone changes. However, each proposed amendment or zone change would require specific consistency analysis and, up adoption, would not conflict with the General Plan or City Code. For this reason, the cumulative impact associated with conflict of future development with adopted plans and policies would be less than significant. In addition, as noted, development of the proposed Specific Plan would be compatible with surrounding land uses and would not conflict with applicable plans or policies. Therefore, the cumulative impact of the proposed Project with respect to future development would not be cumulative considerable and is, therefore, less than significant.

## 6.11 NOISE

**6.11-1 Finding**
The Project would result in less than significant cumulative impacts with mitigation incorporated associated with construction phase noise impacts.

**Facts in Support of Finding**
Construction-related noise for the proposed project and each related project would be localized. Additionally, each of the various cumulative projects would be required to comply with the local noise ordinance, as well as mitigation measures that may be prescribed pursuant to CEQA on a project-specific basis. Construction noise impacts would cease upon completion of excavation, grading, and building activities. Compliance with project-specific mitigation, compliance with General Plan EIR mitigation measures, as well as compliance with City Code requirement, would serve to minimize the length of time noise-sensitive receptors are exposed to significant noise levels that exceed City standards. In addition, because noise dissipates as it travels away from its source, noise impacts from construction activities would be limited to each of the respective sites and their vicinities. Construction noise from cumulative projects would not interact with noise from the proposed Project due to distances between the specific sites. Therefore, a less than significant cumulative impact would occur in this regard.

**6.11-2 Finding**
The Project would result in significant and unavoidable cumulative impacts associated with mobile noise impacts.

**Facts in Support of Finding**
Although there may be a significant noise increase due to the proposed Project in combination with other related projects (combined effects), it must also be demonstrated that the proposed Project has a significant incremental effect. The proposed Project would make a cumulatively considerable contribution to cumulative background traffic noise levels, resulting in a cumulatively significant impact at the 13 roadway segments identified in Table 4.11-15, *Cumulative Noise Scenarios*, of the Draft EIR. Due to the absence of a program or feasible measures to reduce such effects, the impact is cumulative and unavoidable.

**6.11-3 Finding**
The Project would result in less than significant cumulative impacts associated with operational noise impacts.

**Facts in Support of Finding**
The proposed Project would introduce the use of stationary equipment that would increase noise levels within the project area; however, based on the operational stationary source noise impacts analysis, these impacts would be less than significant.

**6.12 PUBLIC SERVICES AND UTILITIES**

**6.12-1 Finding**
The Project would result in less than significant cumulative impacts with mitigation incorporated associated with fire facilities.

**Facts in Support of Finding**
As additional development occurs in the Fire Department's Oak Glen service area there would be an overall increase in the demand for fire protection services, which is expected to result in the need for additional and/or expanded fire protection facilities. In its response to the Project's NOP, Cal Fire stated, "The increase in acreage [represented by] the Butterfield SP will have a cumulative adverse impact on the Fire Department's ability to provide an acceptable level of service using existing facilities, given the projected increase in population and the number and location of new structures." Accordingly, cumulative

future development would result in the need for additional facilities. This is a potentially significant cumulative impact. Development of the Butterfield Specific Plan would contribute to the need for additional fire facilities; however, the Project has sufficiently mitigated for its contribution to the cumulative impact by providing funds and a potential site for the construction of a new fire station to serve both the Specific Plan area and adjacent, yet to be developed neighborhoods.

**6.12-2 Finding**
The Project would result in less than significant cumulative impacts with mitigation incorporated associated with police facilities.

**Facts in Support of Finding**
The City General Plan anticipates a need for additional police facilities based a goal of 2.0 sworn officers per 1000 population and the known capacity of then-existing facilities. The City has recently built a new police headquarters building; however, to meet City service ratios at
General Plan build out the Police Department would need to hire approximately 80 new sworn officers. The new headquarters building may not be able to accommodate this level of staffing, requiring the provision of additional police facilities. This is a potentially significant cumulative impact. The City assesses a Police Facilities Fee on all new development in the City to fund the construction of new and/or the expansion of existing police facilities needed to address community needs. The fee is based on a calculation of the Project's "fair share" of the overall cost of providing adequate police facilities to the community. The proposed Project would participate in that program and additionally, would implement Mitigation Measure PSU-2 to ensure incorporation of defensible space design into multifamily and cluster housing to help reduce the need for new officers to adequately police the community. Accordingly, the Project's impact on police facilities would be less than cumulatively considerable.

**6.12-3 Finding**
The Project would result in less than significant cumulative impacts associated with school facilities.

**Facts in Support of Finding**
The proposed Project could generate a need for additional school facilities in both the Banning and Beaumont Unified School Districts as the number of students projected to be generated by the Project at buildout substantially exceeds the capacity available or reasonably projected to be available, at existing schools. To mitigate the potential impacts to school facilities created by the growth anticipated by the City's General Plan, Policy 4 requires the City to assist, cooperate and coordinate with the Banning and Beaumont Unified School Districts and State agencies in identifying, acquiring and developing school sites needed to meet future growth demands and encourage the selection of potential school sites that are centrally located in areas of existing or future residential development. The Butterfield Project provides two school sites to mitigate impacts to public schools occasioned by its development, in compliance with this policy.

General Plan Policy 4 further requires the City to cooperate in securing school impact fees from developers, pursuant to State law. The Butterfield Project will be conditioned to pay School District Facilities Fees and will require proof of payment prior to the issuance of building permits for affected units. Lastly, General Plan Policy 2 requires the City to continue to work with the Banning Unified School District to amend the District's boundary to encompass all lands within its corporate limits and sphere of influence. The initial action to accomplish that goal was taken in 2005, when boundaries were adjusted south of I-10, and discussions continue between the City and the Banning and Beaumont Districts to adjust boundaries between Highland Home Road and Highland Springs Avenue north of I-10, as proposed by the Specific Plan. The location of schools and student generation estimates contained in the Draft EIR are based on those proposed revised boundaries, as are the proposed locations of the school sites within the Specific Plan. Accordingly, the proposed Project fully conforms to General Plan policies designed to mitigate development impacts to public schools.

SB 50 provides that the impact of new development on school facilities for purposes of CEQA shall be fully mitigated through the payment of District School Facilities Fees. The General Plan EIR mitigation measures for public schools reflect that understanding. Since the proposed Project would pay the District-mandated fees at the annually adjusted level imposed by each District and, in addition, would also make available two elementary school sites which, when developed, would have capacity equal to, or exceeding that required to accommodate the number of students generated by the proposed Project, the Project would fully mitigate its impacts pursuant to existing policies and its contribution to any cumulative impact of new development on public schools would not be cumulatively considerable.

**6.12-4 Finding**
The Project would result in less than significant cumulative impacts associated with library facilities.

**Facts in Support of Finding**
Although there is an existing deficiency in library space and volumes based on current State standards, neither the Banning nor the Beaumont Library District have an adopted space-to-population ratio standard. Cumulative development within the service areas of the two library districts is expected to result in increased use of existing library facilities and programs; however, increasingly, access to library collections and programs is via the internet and both library systems maintain effective interactive websites for that purpose. Though not every household has access to internet technology, enough do to make it difficult to anticipate what facility needs will be in the future or how those needs will be met.

Both Districts have indicated in their adopted planning documents that any expansion of library facilities that involves new construction would require additional funding. Each District has the ability to impose library facilities fees on new development to fund facility expansion and have indicated that such fees are likely in the future. The Districts may also expand access through joint use agreements with the school district with which they share boundaries.

The General Plan EIR analyzed cumulative impacts on the Banning Library District resulting from new development, including the Butterfield project, and concluded that the impact would be mitigated through careful monitoring of library use and consideration of the use of library facilities fees on new development to fund new facilities construction if those facilities are warranted.

**6.12-5 Finding**
The Project would result in less than significant cumulative impacts associated with hospital facilities.

**Facts in Support of Finding**
The San Gorgonio Memorial Hospital has independently planned for population growth in its service area and will have capacity to serve up to 225,000 persons per year once its new facilities are completed in 2014. Therefore the anticipated cumulative impact of new development on hospital facilities would be less than significant.

**6.12-6 Finding**
The Project would result in less than significant cumulative impacts associated with recreational facilities.

**Facts in Support of Finding**
The City's General Plan assumes a need for an additional 411 acres of recreation and parkland at buildout to serve the population anticipated at General Plan build out based on the City's 5 acre per thousand population standard. In addition to the General Plan, the City is currently reviewing a Draft Master Plan for Recreation and Park Facilities that is expected to be adopted in 2011 to guide the development of recreational facilities to meet current and anticipated demands through 2020. The standards and impact issues identified in the pending Master Plan are used in this analysis of cumulative impacts as they represent the current planning of the City.

The City currently owns 64 acres of developed parkland, additional recreational facilities, and 161 acres of undeveloped parkland for which master plans have been developed and are pending funding. The City also contains the 126-acre Gilman Ranch Museum Regional Park, owned and operated by the County of Riverside Regional Park and Open Space District, leaving the City with a shortfall of 60 acres of parkland once planned park facilities are constructed on City-owned sites.

The proposed Project site is located within a "Gap Area" identified in the Draft Master Plan. Park facilities located within the Project area could be accessed by residents living outside of the Butterfield Specific Plan boundaries but still within the "service area radius" of specific facilities. In addition, the Project may include a site for the development of a new Community Center and would pay City-imposed Parkland Facilities Fees of as much as $10 million over the life of the Project, which could be used to construct the Center or to construct additional park facilities. Therefore, the Project would address an identified deficiency in existing facilities and services, including locational gaps in facilities, and would contribute approximately 66.5 acres of active park facilities, in addition to potentially two joint school/park use sites, and a 253.9- acre golf course, and a system of trails, bikeways and open space. While a deficit in overall park acreage for the City may still exist, the proposed Project would add to the City's inventory of public recreation resources and its contribution to any cumulative significant condition would not be cumulatively considerable.

**6.12-7 Finding**
The Project would result in less than significant cumulative impacts associated with new energy production or transmission facilities and consumption of energy.

**Facts in Support of Finding**
The City's 10-Year ESMP assumes the need for additional transmission facilities to meet the requirements of anticipated growth including the development of the Butterfield Specific Plan but does not indicate a need for additional generation facilities. The General Plan anticipates the need for both additional transmission and additional generation facilities with full buildout of the General Plan. Projections regarding demand growth made in the 2004 ESMP have not been realized within the Plan's intended timeframe. Rather, the City has experienced a decline in demand of more than 10 percent since the Plan's adoption. Other than on-site utility relocations noted above, the proposed Project can be served with existing facilities, including an already constructed and operating substation, and with existing generating capacity. In addition, because of the energy efficiency features required by the 2008 California Energy Code and 2010 Green Building Code, which would be implemented by the Project, in addition to features integrated into the Project pursuant to Pardee's LivingSmart Program, the Project would meet or exceed local, State and federal energy conservation guidelines and regulatory requirements. Therefore, while the cumulative impact of growth pursuant to the General Plan could be cumulatively significant insofar as it could require additional generation and transmission facilities, the Project's contribution to cumulative impacts would not be cumulatively considerable.

**6.12-8 Finding**
The Project would result in less than significant cumulative impacts associated with telecommunication facilities.

**Facts in Support of Finding**
Increased development due to regional growth would result in an increase in demand for telecommunication services; however, telecommunications is a reactive utility that will provide customers service as requested and the service provider would construct those systems in accordance with applicable local, State and federal regulations as need arise. The Project would be adequately served by existing facilities and therefore would not contribute considerably to any future cumulative need for additional facilities.

**6.12-9 Finding**
The Project would result in less than significant cumulative impacts associated with wastewater treatment requirements and water and wastewater facilities expansion.

**Facts in Support of Finding**
The General Plan EIR estimates that buildout of the General Plan has the potential to generate approximately 8,203,300 gallons of wastewater per day. This figure includes potential wastewater generated within the proposed Butterfield Specific Plan Project. The City's 2006 *Sewer System Study* anticipates a need to expand capacity at the City's treatment plant as well as the need to expand the balance of the City's sewer collection and transmission system. In addition, the City's plans include creation of a network for the distribution of recycled water to eligible users. Citywide facility improvements are funded through connection fees, user fees, plan check fees, General Fund revenue, and other sources. As noted above, the Project can fully mitigate its impacts. Further, the proposed expansion of the City's wastewater treatment facilities would take place with or without the Project. Therefore, the Project's contribution to the cumulative impacts would not be cumulatively considerable.

**6.12-10 Finding**
The Project would result in less than significant cumulative impacts with mitigation incorporated associated with landfill capacity and compliance regulations.

**Facts in Support of Finding**
At buildout, the City is estimated to generate approximately 88,223 tons of solid waste per year; however, the estimate did not include the application of verifiable diversion factors. The General Plan states that the proposed land uses within the General Plan Study Area are not anticipated to produce unusually high quantities of solid waste. All mitigation measures imposed by the City's General Plan EIR that address solid waste, listed in the Regulatory Framework Section of this analysis, would be applied to the proposed Project. Waste Management Services, which contracts with the City for solid waste disposal, administers a recycling program for the City and also operates transfer stations to which solid waste is transported for sorting and potential recycling prior to being forwarded to area landfills. Mitigation Measure PSU-6 would ensure that the golf course operator implements efficient green waste recycling and diversion practices. Each of the school districts has a waste management and recycling plan in place and coordinates with its respective city and waste hauler. Existing landfills have significant remaining capacity and also contain land area sufficient to allow for expansion of existing operations and capacity. While cumulative development within the County will increase the volume of solid waste, continuing recycling efforts including those mandated by current and pending legislation, and current State and local codes, should result in increasing reductions in overall solid waste volumes. Cumulative impacts are anticipated to be less than significant and the Project's contribution to cumulative impacts would itself not be cumulatively considerable.

**6.13 TRAFFIC AND CIRCULATION**

**6.13-1 Finding**
The Project would result potentially significant and unavoidable cumulative impacts with mitigation incorporated associated with traffic and circulation.

**Facts in Support of Finding**
The adopted General Plan Circulation Element for the City does not define a build-out year for the General Plan land uses and, in order to develop the proportional growth between existing condition and General Plan Build-out condition, a General Plan Build-out year was estimated for the traffic impact analysis.

*Intersection Levels of Service (without mitigation),* Table 4.13-12, *General Plan Build-out Year Without and plus Project (Project Completion) Freeway Mainline Levels of Service (without mitigation)* Table 4.13-13, *General Plan Build-out Year plus Project With Mitigations Intersection Levels of Service,* Table 4.13-14, *General Plan Build-out Year plus Project With Mitigations Freeway Mainline Levels of Service* (all tables found in Section 4.13, *Traffic and Circulation,* of the Draft EIR), show that, with mitigation, all intersections and freeway segments would operate at acceptable levels of service. Certain improvements may not be constructed or not constructed in a timely manner, due to feasibility, cost, significant ROW impacts, or other factors. In addition, improvements outside of the City of Banning are not within the control of the City or the Applicant, and as such the Draft EIR cannot be assured of their implementation. Therefore, with respect to cumulative traffic impacts, the Draft EIR must find that locations outside of the City of Banning or identified below as having "potentially significant impacts" may not be implemented, thereby representing a "potentially unavoidable significant impact".

The Project's contribution toward cumulative mitigation is in the form of TUMF fees and other contributions such as Project-related gas tax, property tax and General Fund revenue. Table 4.13-9, *Summary of Future Improvements*, provides a summary of all recommended future improvements, for Existing plus Project and General Plan build-out conditions. Table 4.13-16 *Project Contribution to Total New Traffic*, and Table 4.13-17, *Project Contribution to Total New Freeway Traffic Volumes*, show the Project's relative share of the projected future traffic growth.

Additional right-of-way necessary to improve various intersection traffic conditions could result in impacts to land use or biological resources. A list of intersections that may require additional right-of-way for improvements can be found in the Draft EIR Section 4.13, *Traffic and Circulation.* This discussion is based on a preliminary assessment of potential improvement geometrics, potential additional ROW, and potential impacts related to the additional ROW acquisition. The applicable jurisdiction(s) will conduct preliminary design studies, prepare final design plans, and determine whether or not additional CEQA review is required for each individual improvement.

## 6.14 WATER SUPPLY

### 6.14-1 Finding

The Project would result in less than significant cumulative impacts, with mitigation incorporated, associated with water supply.

### Facts in Support of Finding

As discussed above, the project would not substantially effect groundwater supplies, there would be sufficient water supplies to serve the project and the project would not require new water system facilities that could cause significant impacts. The City and water management purveyors in the region have acquired water supplies and prepared water plans considering regional land use plans, including the relevant general plans. As the planned growth in the Banning area continues to occur, the demand on water resources will increase. However, the proposed Project and other reasonably foreseeable projects would be served by the existing and future water supplies identified in the analysis completed for the WSA, and also in the 2010 UWMP, approved and adopted by the City in June 2011, which evaluate anticipated cumulative water demand against existing and planned supply and determined a sufficient water supply (including groundwater pumping that would not result in long-term depletion of groundwater resources) is available to serve anticipated demand, including the proposed Project.

While the Project's increased water demand would represent a significant increase compared to current conditions, the WSA concludes that the incremental demand generated by this Project has been planned for by the City, has been taken into account in developing the City's water supplies, and would not be cumulatively considerable and would be less than significant. Both governmental agencies and non-governmental organizations recommend that water decision-makers operate existing water systems to

allow for increased flexibility. Other recommendations include incorporating climate change research into infrastructure design, conjunctively managing surface water and groundwater supplies, and integrating water and land use practices. With implementation of WS-2, less than significant impacts are anticipated.

## 7.0 FINDINGS REGARDING PROJECT ALTERNATIVES

As discussed in Chapter 4.0, the proposed Project would have potentially significant impacts to agricultural resources; biological resources; cultural resources; geology, soils and seismicity; hydrology and water quality; land use and planning; noise; public services and utilities; and water supply; however, mitigation measures can be implemented to reduce these impacts to a level that is less than significant. As described below in Section 6.4, Significant and Unavoidable Impacts of the Proposed Project, significant and unavoidable impacts would occur with regard to aesthetics, light, and glare; air quality; hazards and hazardous materials (fire hazards in PA 60 and 61), noise (cumulative); traffic and transportation; water supply (cumulative); and climate change. The analysis below compares a range of alternatives to the proposed Project to evaluate whether impacts would be greater, lesser, or similar to those resulting with the proposed Project.

As noted previously, the *CEQA Guidelines* (Section 15126.6(e)(2)) require that the alternatives discussion analyze the "No Project Alternative." Pursuant to CEQA, the No Project Alternative refers to the analysis of existing conditions (i.e., implementation of current plans and consistency with available infrastructure and community services) and what would reasonably be expected to occur in the foreseeable future if the Project is not approved. When the project is the revision of an existing land use plan, the no project alternative is the continuation of the existing plan into the future and the Draft EIR's discussion compared the projected impacts of the change that would result from approval of the project with the impacts that would occur under the existing plan. CEQA Guidelines Section 15126.6(e)(3)(A).

Potential environmental impacts of three separate alternatives are compared below to impacts from the proposed Project. These alternatives were selected based upon their ability to avoid or substantially lessen the significant effects of the proposed Project, while still achieving the primary Project objectives (to develop the site in a manner generally consistent with the currently approved Deutsch Specific Plan).

Although no specific alternatives were identified during the Draft EIR Notice of Preparation (NOP) comment period and scoping process (see Appendix A), several residents did express concern regarding the Project density along the eastern boundary. In response to this, Pardee modified the Land Use Plan and created additional separation between the existing homes and proposed development.

For the purpose of this analysis, the alternatives are analyzed in comparison to the 5,387 dwelling unit Butterfield Specific Plan. The analysis for each of the Project alternatives identified below includes the following:

- Description of the alternative.
- Analysis of environmental impacts and comparison to the proposed Project. Pursuant to the CEQA Guidelines, if an alternative would cause one or more significant effects in addition to those that would be caused by the Project as proposed, the significant effects of the alternative shall be discussed, but in less detail than the significant effects of the Project as proposed.
- Assessment of the ability of the alternative to meet the Project objectives (previously identified above and in Section 6.3).

The Project alternatives are:

- No Project/Existing Specific Plan Alternative
- Reduced Density – 20% Reduction Alternative
- Active Adult Community Alternative

- No Golf Course Alternative

Alternatives rejected from further consideration:

- No Development Alternative
- Alternative Site Alternative

CEQA states that the specific alternative of "No Project" shall also be evaluated along with its impact (15126.6(e)(1)). If the environmentally superior alternative is the "No Project" alternative, the Draft EIR shall also identify an environmentally superior alternative among the other alternatives (15126.6(e)(2)). A comparison of the proposed alternatives to the proposed Project is presented in Table 6-1, *Comparison of Impacts Resulting from Project Alternatives as Compared to the Proposed Project,* of the Draft EIR. An indication of whether the impacts resulting with each alternative would be lesser, greater, or similar to the proposed Project is given.

**"Alternative Site" Alternative**

The Alternative Site Alternative proposes that the proposed Project be built at an alternative location within the City of Banning; however, there are no available sites within the City that would accommodate the size, density, and amenities of the proposed Project while maintaining proximity to downtown Banning, and the feasibility of the applicant be able to assemble a site of similar size within a reasonable time frame is questionable. Currently, there are other land development projects underway that require large tracts of land, and available land within the City is physically incapable of accommodating the size and/or density of the proposed Project. Furthermore, this alternative would not achieve the Project objectives of updating the previously-approved 1993 Deutsch Property Specific Plan based on changes of circumstances and market conditions, or of implementing a comprehensive and cohesive plan for the physical and economic development of the property. For the above reasons, the Alternative Site Alternative was rejected from further consideration.

**"No Project/No Development" Alternative**

The No Project / No Development Alternative assumes that the proposed Butterfield Specific Plan Project would not occur, and the Project site would remain in its existing condition. No development would occur. The existing open space would remain, and the owner may continue the limited cattle grazing activities. No residential development, landscaping, infrastructure, commercial, public or private recreational facilities would be constructed or implemented. It is important to note that this Alternative does not reflect the landowner/Applicant's current entitlement as set forth in the Deutsch Specific Plan. The site is designated for development in a manner generally consistent with the proposed Project, the City's General Plan reflects this designation, and there have been no indications by City staff, elected officials or the public through the Draft EIR scoping process that there is a desire to repurchase the site from the owner to preserve it as permanent open space.

The No Project / No Development Alternative does not meet any of the basic Project objectives because it does not implement a comprehensive and cohesive plan for the physical and economic development of the property, does not provide a variety of residential uses oriented toward many types of incomes and stages of life, does not provide enhanced recreational amenities or establish a community plan that would provide well-integrated and compatible land uses, and does not provide adequate drainage flood control and water quality improvements. The No Project/No Development Alternative would also be inconsistent with the City's Housing Element and General Plan, would fail to provide increased revenue, employment and housing opportunities within the City, and would not provide the various infrastructure and service improvements associated with the Project (such as two new schools, a reserved fire station site, a potential satellite wastewater treatment plant site, and offsite drainage and road improvements). For these reasons, this alternative has been rejected from further consideration.

**"No Project/Existing Specific Plan" Alternative**

The No Project / Existing Specific Plan Alternative assumes that development as proposed with the Butterfield Specific Plan Project would not occur, and that the Project site would instead remain subject to the provisions contained within the currently approved Deutsch Property Specific Plan. The Deutsch Property Specific Plan provides for a total of 5,400 dwelling units (with a net density of 3.5 du/ac), three elementary schools, a 193-acre 18-hole championship golf course, a 10-acre community center, a 10-acre commercial site, a 5-acre medical/office site, and two community parks and three neighborhood parks (totaling approximately 75 acres of parks). The Deutsch Property Specific Plan includes a higher maximum number of dwelling units than the proposed Project (5,387 dwelling units) and an equivalent gross density (3.5 du/ac). Additionally, this alternative would have a slightly larger impact area (1,552 acres) than the proposed Project (1,543 acres). A detailed comparison of the currently approved Deutsch Specific Plan with the proposed Butterfield Specific Plan is provided in Section 3.4.2 and Table 3.0-3, *Butterfield/Deutsch Specific Plan Land Use Comparison,* of the Draft EIR, and in Section 1.4 of the Draft Butterfield Specific Plan.

The primary differences between the presently approved and the proposed Specific Plan are:

- Similar dwelling units (5,400 in Deutsch SP vs. 5,387 in Butterfield)
- The Project would substantially increase open space (268 acres in Deutsch vs. 428.8 acres in Butterfield)
- The Project would increase commercial use from 25 to 36 acres
- The Project would include a site for a potential satellite wastewater treatment plant
- The Project includes a more efficient internal circulation system, including an NEV program
- The Project includes open space buffers along the northeastern boundary
- The Project includes creation of a 70-acre natural open space area in PA 71, preserving the steeper slopes in open space
- The Project includes a realignment of the golf course and Planning Areas to respect the identified seismic hazards
- The Project includes consideration of a 21-acre area that may be acquired and/or annexed in the future

This Alternative would not implement many of the Project Design Features noted in Section 3.8 of this Draft EIR, including clustered development (which reduces total grading and preserves the more visible higher elevations), avoiding of known seismic hazards, a more extensive and integrated water supply and conservation program, and other favorable improvements in the Project since its approval in 1993. This Alternative would result in similar or greater impacts as compared to the Project, and is not under consideration at this time.

**"Reduced Density (20% Reduction)" Alternative**

The purpose of the Reduced Density Alternative is to reduce impacts from the Project related to the number of units developed and the intensity of development. Under this alternative, the total number of residential dwelling units would be reduced from 5,387 to 4,318, representing a reduction of 1,069 units, or approximately 20 percent. This alternative assumes the development of 4,318 residential units in the same Planning Areas proposed with the Project. Under this alternative, the average residential density would be reduced from 3.5 to 2.8 dwelling units per acre (du/ac). The impacts of this alternative could be greater than or less than the impacts of the proposed Project with regard to specific issue areas As a variation of this alternative, the site could be developed with higher density product in the lower elevations in a "cluster development" fashion, leaving increased natural open space in the northeastern areas and reducing the extent and cost of infrastructure improvements and site grading. The Deutsch Specific Plan presently allows for this flexibility with cluster development and mixed use overlays in the

residential Planning Areas. This Alternative would overall have similar or reduced impacts in comparison to the Project, and is considered the Environmentally Superior Alternative.

**"Active Adult Land Use Plan" Alternative**

This alternative assumes that the Planning Areas 40-49 and 53-59 would be designated as exclusively age restricted, "active adult" homes (assumed to be 1,700 dwelling units [DU]). A total of 5,387 DU would still be constructed with this alternative. These age-restricted planning areas would take access off the North Loop Collector Road. Under an age-restricted, "active adult" homes scenario, the North Loop Road could be proposed as a gated, access-controlled private roadway. All other aspects of this alternative would be similar to the proposed Project. This option, in fact, is presently permitted within the proposed Butterfield Specific Plan, as a variation to the traditional single family housing (the Specific Plan includes two adult living scenarios, ranging from 1,460 to 2,042 DU). The net effect of the senior housing in these PAs would be approximately 53,000 average daily trips (ADT) in comparison to the Project's 62,263 ADT (due to reduced trip generation rates for senior housing). This Alternative would have an overall similar or reduced impact in comparison to the Project, and remains as a potential implementation option under the proposed Specific Plan.

**"No Golf Course" Alternative**

This alternative reflects the Specific Plan's option of not developing the proposed golf course in Planning Areas 35 and 39. This alternative assumes that other types of open space and recreational uses would be permitted as alternatives in the event the golf course is not developed due to market conditions or other considerations. These alternative uses include various combinations of parks, trails, native habitat, drainage facilities, water quality improvements, groundwater recharge areas, and wetland mitigation areas. This Alternative would result in slightly reduced impacts in comparison to the Project, due to possible slight reduction in traffic and water demands, depending on the alternative recreation options implemented. In addition, this Alternative would likely result in reduced grading or the ability to grade in phased increments, since the proposed Project would need to grade the entire golf course Planning Area at once.

**Conclusion**

An "Alternative Site" Alternative is not applicable, as the Project represents a revision to a previously approved Specific Plan. The Reduced Density Alternative is considered the Environmentally Superior Alternative, as it would have similar grading and surface disturbance impacts (biology, geology, archaeology, visual), with proportionate reductions in impacts related to Project density (approximately a 20% reduction in traffic, air quality, noise, public service/utility demands, water demands, etc). These reductions would reduce, but not avoid, the identified Unavoidable Significant Impacts of the Project. It should also be noted that the Project itself can be considered an environmentally superior alternative to the currently approved Deutsch Specific Plan, and that the applicant has already modified the proposed Land Use Plan in response to City staff comments and input from the public during the Project scoping process (refer to Section 2.3.1, *Scope of the Draft EIR*).

**"Environmentally Superior" Alternative**

Section 15126(d) of the State CEQA Guidelines indicates that an analysis of alternatives to the proposed project shall identify one alternative to the project as the environmentally superior alternative. Table 6-1, *Comparison of Impacts Resulting from Project Alternatives As Compared to the Proposed Project*, of the Draft EIR, provides a summary matrix that compares the impacts associated with the Project with the impacts of each of the proposed alternatives. Of the alternatives analyzed in the Draft EIR, the Reduced Density Alternative is considered environmentally superior overall.

Although superior in reducing environmental impacts (refer to Section 6.5, subsection "Reduced Density (20% Reduction) Alternative", above for analysis of impacts regarding relevant CEQA topical areas), it would still have the same types of significant and unavoidable impacts. Even with a 20% reduction in project size and design changes, there would still be significant and unavoidable project impacts associated with light and glare, construction and operational air quality, Air Quality Management Plan (AQMP) consistency, and traffic and cumulative impacts associated with light and glare, operational air quality, climate change, mobile source noise, and traffic. Also, by reducing the density of the project by approximately 20%, the reduced density would not fulfill certain objectives to the same degree as the proposed Project.

# BUTTERFIELD SPECIFIC PLAN PROJECT

## Statement of Overriding Considerations

### 1.0 Introduction

The California Environmental Quality Act (CEQA) requires a public agency to balance the benefits of a proposed project against its significant unavoidable adverse environmental impacts in determining whether to approve the project.

The Guidelines provide the following directives regarding Lead Agencies approving projects with significant unavoidable adverse impacts:

a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposal project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."

b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.

c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

### 2.0 Significant Unavoidable Adverse Impacts

The Butterfield Specific Plan Project would result in seven (7) significant unavoidable adverse impacts, described in detail in Section 4.0 of the Draft EIR and Section 5.0 of the Finding of Fact (Exhibit 'A'). These significant unavoidable adverse impacts would remain even with the implementation of the Project Design Features, Conditions of Approval and mitigation measures. These impacts are inherent with the development of the Project and cannot be feasibly mitigated. The City of Banning City Council has adopted all feasible mitigation measures with respect to these impacts. Although in some instances these mitigation measures may substantially lessen these significant impacts, adoption of the measures will not fully avoid the impacts.

While the proposed mitigation measures would reduce the level of many significant impacts to a less than significant level, the Draft EIR identified the following areas where, after the implementation of feasible mitigation measures, the Project may nonetheless result in impacts

which cannot be fully mitigated (note that these conclusions, and overall Project impacts, are similar to those found in the previously certified Deutsch Specific Plan EIR and City of Banning General Plan EIR):

Project Impacts

1) Impact 1 – Project impact due to light and glare: As identified in Impact 4.1-3, *Light and Glare,* of the Draft EIR, the proposed Project would create significant and unavoidable impacts resulting from long term build out light and glare. Due to the size of the proposed Project and the current context of rural, undeveloped conditions, the Project's impact on light and glare is considered significant and unavoidable (although typical of any large-scale residential development, and mitigated to the extent feasible).

2) Impact 2 – Project impact due to Air Quality Impacts: As identified in Impact 4.3-1, *Air Quality Standards,* of the Draft EIR, the proposed Project would result in significant and unavoidable impacts with respect to the violation of air quality standards and contributing to an existing or projected air quality violation. Due to the development size and associated mobile source air quality impacts (which are best mitigated through state and/or federal emission standards), impacts in this regard remain significant and unavoidable.

3) Impact 3 – Project impact due to Air Quality Management Plan (AQMP) inconsistency: As identified in Impact 4.3-3, *Air Quality Management Plan,* of the Draft EIR, the proposed Project would result in significant and unavoidable impacts with respect to conflicting or obstructing implementation of the applicable air quality plan. As the Project would exceed SCAQMD thresholds, the Project would potentially result in a long-term impact on the region's ability to meet State and Federal air quality Standards. The Project would conflict with the AQMP as it would not meet the first AQMP consistency criterion. However, the proposed Specific Plan is generally consistent with the previously approved Deutsch Specific Plan, and therefore the City of Banning General Plan's assumptions regarding population and housing growth. On a regional scale, the emissions from the Specific Plan have been considered in the forecasts presented in the 2007 AQMP. The Project would meet the second AQMP consistency criterion.

4) Impact 4 – Project's cumulative impact due to Greenhouse Gas Emissions inconsistency: As identified in Impact 4.5-1, *Greenhouse Gas Emissions*, of the Draft EIR, the Project would result in potentially significant and unavoidable impacts with mitigation incorporated with regard to generating greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment. Since GHG emission impacts are global and result from the buildup of GHG emissions over many years, the global cumulative effects could remain potentially significant and unavoidable without regard to the Project's design features and mitigation measures.

5) Impact 5 – Project's cumulative impact due to Greenhouse Gas Reduction Plan inconsistency: As identified in Impact 4.5-2, *Greenhouse Gas Reduction Plan*, of the Draft EIR, the Project would result in potentially significant and unavoidable impacts with mitigation incorporated with regard to conflicting with an applicable plan, policy or

regulation adopted for the purpose of reducing the emissions of greenhouse gases. While the Project would not obstruct or conflict with the statewide goals of AB 32 or the regional targets under SB 375, the implementation and effectiveness of state and regional plans is not assured. Moreover, the continuing effects of past human-induced GHG emissions, current emissions and planned future emissions, globally, would likely continue even with effective implementation of the statewide and regional targets and could hinder the statewide plan to reduce the effects GHG emissions on the climate. Accordingly, even with Project design features and mitigation measures for reducing GHG emissions, Project-related incremental GHG emission contributions and cumulative development GHG emissions would remain significant and unavoidable, and could hinder the GHG reduction goals of AB32.

6) Impact 6 – Project impacts due to traffic and circulation: As identified in Impact 4.13-1, *Conflict with an Applicable Plan, Ordinance, or Policy*, of the Draft EIR, the Project would result in potentially significant and unavoidable impacts with mitigation incorporated with regard to conflicting 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 bicycled paths, and mass transit. Construction of the recommended improvements, when and where needed, would achieve applicable level-of-service performance at all study area intersections; however, as some improvements could also result in significant impacts to existing land uses (due to Project right-of-way requirements and potential property acquisition), certain improvements may either be made in part, deferred or not implemented due to legal and funding restraints. Further, many of the recommended improvements are located in jurisdictions outside the City of Banning. Most of these improvements have begun to be, can be and should be implemented by those other agencies, but successfully completing the improvements in a timely fashion cannot be guaranteed.

7) Impact 7 – Project impacts due to Congestion Management Program inconsistency: As identified in Impact 4.13-2, *Conflict with an Applicable Congestion Management Program*, of the Draft EIR, the Project would result in potentially significant and unavoidable impacts with mitigation incorporated with regard to conflicting 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 congestion management agency for designated roads or highways. The Draft EIR identifies mitigation to achieve acceptable levels of service for CMP facilities in Impact 4.13-2, *Conflict with an Applicable Congestion Management Program,* of the Draft EIR. However, as these improvement locations are outside the control of the City of Banning and the Applicant, timely implementation of the mitigation measures is uncertain, and therefore these issues must be considered a "potentially unavoidable significant impact".

Cumulative Impacts

8) Impact 8 – Project impacts due to light and glare: The Project will introduce significant sources of light and glare into an existing rural, undeveloped area and result in a significant and unavoidable adverse impact on nighttime views of the Project site in the interim and long-term build-out condition. Mitigation measures can reduce these impacts

but would not reduce them to a level of insignificance due to the nature, size, and scale of the proposed project and its cumulative significance.

9) Impact 9 – Project impacts due to air quality: Emissions from development and operation of the proposed Project would exceed the SCAQMD thresholds, resulting in a significant impact. In accordance with SCAQMD methodology, any project that cannot be mitigated to a level of less than significant is also significant on a cumulative basis.

10) Impact 10 – Project impacts due to climate change: As noted under number 4 and 5, above, although the Project has incorporated reasonable and feasible mitigation measures the Project's incremental contribution to global climate change can be considered "significant" on a cumulatively considerable basis. Although implementation of these mitigation measures would reduce the proposed Project's greenhouse gas emissions, such project-specific mitigation may not be feasibly imposed upon cumulative projects. Further, because GHG emission impacts are global and result from the buildup of GHG emissions over many years, the global cumulative effects could remain potentially significant and unavoidable without regard to the Project's design features and mitigation measures.

11) Impact 11 – Project impacts due to noise: As the project cannot reasonably or feasibly mitigate for cumulative mobile noise impacts (e.g., constructing sound walls along the entire perimeter of the sensitive uses adjacent to the project site; forcing existing residential uses to change their existing windows; etc.), implementation of the proposed Project would result in a significant and unavoidable impact for cumulative mobile noise impacts as both the combined and incremental effects criteria have been exceeded.

12) Impact 12 – Project impacts due to traffic and circulation: As stated in Section, 4.13, *Traffic and Circulation,* of the Draft EIR, under the Project impacts related to traffic and circulation, construction of the recommended improvements, when and where needed, would achieve applicable level-of-service performance at all study area intersections; however, as some improvements could also result in significant impacts to existing land uses (due to cumulative right-of-way requirements), certain improvements may either be made in part, deferred or not implemented due to overriding considerations and/or limited funding. Further, many of the recommended improvements are located in jurisdictions outside the City of Banning. Most of these improvements have begun to be, can be and should be implemented by those other agencies, but successfully completing the improvements in a timely fashion cannot be guaranteed.

In order to approve the Butterfield Specific Plan Project, the City of Banning City Council must adopt a Statement of Overriding Considerations pursuant to State CEQA Guidelines Section 15043 and 15093. The statement allows as lead agency to cite a project's general economic, legal, social, technological or other benefits as a justification for choosing to allow the occurrence of specified significant environmental effects that have not been avoided. The statement explains why, in the agency's judgment, the project's benefits outweigh the unavoidable significant effect.

## 3.0 The Public Benefits of the Proposed Project

CEQA does not require the lead agency to analyze "beneficial impacts" of a proposed project in an EIR. Rather, EIRs are required to focus on potential significant effects on the environment, defined to be "adverse" impacts after the California Supreme Court held that beneficial impacts must also be addressed (see *Wildlife Alive v. Chickering* [1976] Cal. Ed. 190, 206 [132 Cal. Rptr. 377]). Nevertheless, decision-makers benefit from information about project benefits. These benefits can be cited, if necessary, in a Statement of Overriding Considerations.

The City Council declares that, having reduced the adverse significant environmental effects of the Project, to the extent feasible by adopting the proposed mitigation measures, having considered the entire administrative record on the Project and having weighed the benefits of the Project against its unavoidable significant impacts after mitigation, the City Council has determined that the social, economic and environmental benefits of the Project outweigh the potential unavoidable significant impacts and render those potential significant impacts acceptable based upon the following considerations:

- The Project will establish a well-balanced and carefully planned development for residential, commercial/ office, school, park, open space, and public facilities uses within the City. Specifically, the residential development would include single-family (539.2 acres) and medium density residential (324.4 acres) components. The single-family residential development will be provided with varying product types and lot sizes. Within the single-family residential development, the Low Density component of the development will have lot sizes ranging from a minimum of 5,000 square feet to an average of 7,500 square feet. For a medium density single-family component, the lot sizes range from 3,400 square feet to a minimum average of 7,200 square feet. For the cluster medium density single-family, the lot sizes range from 2,000 square feet to 2,800 square feet.

  The High Density Residential (73.8 acres) development would provide for attached single-family dwellings with semi-private courtyards and open spaces.

  The two commercial sites are located at key intersections within the project. The 23-acre site is located at Highland Springs Avenue and Wilson Street. The 13-acre site is located at the southeast corner of "B" Street and Highland Springs Avenue. Both sites would provide for general commercial, retail and office uses that would serve the residents of the project and the surrounding community.

  Park facilities of varying sizes, including pedestrian, and bike lanes are provided within the development to serve the recreation needs of the community. The park sites are easily accessible from the various neighborhoods within the development. The golf course area, or its alternative use as an open space with trails provides a central open space or view window for the development which is an amenity for the project.

  The Butterfield Specific Plan also provides adequate areas for drainage, streets, and infrastructure to serve the development.

  Based on the facts provided in this sub-section, including Section 7.0 of the Butterfield Specific Plan findings of consistency with the General Plan as referenced herein, the proposed General Plan Amendment and Zone Change would maintain the appropriate balance of land uses within the City and specifically, it will implement the Citywide goal

of "a balanced well-planned community including business which provides a functional pattern of land uses and enhances the quality of life for all Banning residents."

- The Project will expand the residential housing options within the City and provide needed infrastructure, services and jobs, which would strengthen the local economy; The project will provide a variety of housing options as indicated in the first bullet above and will provide the needed infrastructure including street, water, sewer, storm drain, drainage, waste water treatment plant, water reservoirs to serve the development. Additionally, the project will provide short-term construction jobs, including jobs in other professions such as architects, engineers, interior designer, roofing, furniture, plumbing, and asphalt. The project also will provide permanent jobs when the commercial development is open for business which would strengthen the local economy. Approximately 1,283 permanent jobs are anticipated to be created at build out as a result of the proposed land uses within the development. The Project will increase local job opportunities during the approximate 30-year build out through the construction and operations of the proposed land uses. It is estimated that approximately 500 direct and indirect local jobs could be created during the long term construction of the project[1];

- The Project will fulfill the City's vision by providing high-quality developments that would attract new residents and provide existing residents with new options for homeownership within the City. The project is a mixed-use master plan community which will be developed in a cohesive manner that will create a sense of place through hierarchy of building architecture and building design and thematic landscaping for the community and the neighborhoods. As stated in the earlier findings, the project provides a variety of housing types with different lot sizes to serve new and existing residents, including home ownerships.

- The Project will provide commercial centers to satisfy demand when there is a viable market for them within this portion of the City. The project will provide two commercial centers – one center which is located at the northeast corner of Highland Springs Avenue and Wilson Street (Planning Area 18) is 23 acres in size and another center which is located on the south side of Street B and Highland Springs Avenue (Planning Area 17) which is 13 acres in size. The commercial centers will provide retail and general commercial needs for the residents who live within the project site and the surrounding community.

- The Project will provide the necessary circulation improvements in the Project area with the addition of new street(s), traveling and turning lanes, signals, and expansion of existing roadways to meet current and future transportation demands. The project involves widening of Highland Springs Avenue, Wilson Street, and Highland Homes Road to accommodate the project traffic. New backbone roadways including Streets "A", B" "C", "D", "E", "F", North and South Loop Road in addition to various streets in the development will be constructed to provide access for residents. All of the roadway improvements will include curb and gutters, and striping and signing consistent with the requirements of the General Plan, the Butterfield Specific Plan, and the Final

[1] National Association of Home Builders, The Local Impact of Home Building in a Typical Metro Area, June 2009, http://www.nahb.org/generic.aspx?sectionID=784&genericContentID=35601, accessed November 17, 2011.

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Environmental Impact Report and its Mitigation Measures for traffic circulation which is made apart of the Conditions of Approval for the project.

- The Project will ensure adequate drainage and reduce the potential for flooding within the Project site and surrounding areas through the construction of County Master Drainage Plan and City General Plan facilities. The project provides improvement to the Smith Creek and Pershing Channel which, in addition to acting as drainage basins through the project, provide detention of flood waters and to act as a water quality basins.

- The Project will provide new water and sewer infrastructure to serve the proposed master planned community as well as the surrounding community;

- The Project will be fiscally neutral with future positive revenues generated upon build out of the development

- The Project will generate development impact fees along with additional property and sales taxes, which will in combination be utilized to fund additional City services and capital improvements. As a condition of development, the developer is required to pay the development impact fees for general city facilities, police and fire facilities, and traffic control facilities. In addition, as part of the development agreement, the developer agreed to provide fully improved park facilities consistent with the facilities that are indicated in the Butterfield Specific Plan and other benefits set forth in full in the Development Agreement for the Butterfield Specific Plan. Once the homes are occupied, the City will receive property tax revenue. Sales tax and property tax will also be generated from the commercial sites once they are opened for business.

- The Project will provide various community amenities and recreational opportunities throughout the Project site including the proposed golf course, 24 parks (neighborhood mini parks, neighborhood recreation parks, and community parks), natural and landscaped open space, and the multi-use basin/lake in Planning Area 71. As indicated above the developer will provide fully-improved park facilities within the development. These facilities will be constructed in accordance with the phasing plans for the development to ensure that residents will have park facilities to serve the recreation needs of the neighborhood and the development at build-out.

- The Project will preserve 428 acres of the Project site as open space, which will consist of parks, natural open space, landscaped slope areas, easement areas, drainage areas, and potentially a golf course integrated with the proposed realigned Smith Creek;

- The Project will offer for dedication two approximately 11-acre elementary school sites within the Project area if the Banning and Beaumont Unified School Districts accept these sites;

- The Project will offer a 1.6-acre optional fire station site within the Project site to enhance the provision of future fire protection services and increase response times. Additionally, the Butterfield Specific Plan provides flexibility for the City to have a fire station site in another location in the Specific Plan should a centralized location be needed to serve the project and the surrounding community;

- The Project will allow for electric low-speed vehicles (LSVs) on all internal Project area streets, on-street bicycle lanes along all project roadways of modified collector classification or higher, and multi-use trails;

- The Project proposes an onsite groundwater recharge system to assist the City in replenishing the Beaumont Basin; this basin will give the City the option to recharge the groundwater basin with imported water that the City purchases from the San Gorgonio Pass Water Agency; and,

- The Project will include green building practices that focus on water conservation, energy conservation, and recycling (energy, water, and waste).

The City Council hereby declares that the foregoing benefits provided to the public through approval and implementation of the Project outweighs the identified significant adverse environmental impacts of the Project that cannot be mitigated. The City Council finds that each of the Project benefits outweighs the unavoidable adverse environmental impacts identified in the Final EIR and, therefore, finds those impacts to be acceptable.

## 4.0 Findings

As required by CEQA Statutes, Section 21081 (a)(3) and (b), and CEQA Guidelines Section 15903, the City of Banning City Council makes the following findings:

1) The City of Banning City Council has considered the impacts of the proposed Butterfield Specific Plan Project as identified and analyzed in the Final EIR. Although there are mitigation measures, Conditions of Approval, and Project Design Features that assist in mitigation of the significant unavoidable adverse impacts, as discussed in Section 5.0 of the Findings (Exhibit 'B'), certain impacts cannot be avoided or reduced to below a level of significance. The City Council finds that all feasible changes and alterations, in the form of mitigation measures, Conditions of Approval and Project Design Features, have been incorporated into, or imposed upon, the proposed Butterfield Specific Plan Project.

2) The City of Banning City Council has considered the four (4) Project alternatives to the proposed Butterfield Specific Plan Project, and the additional two (2) alternatives which were rejected from further consideration, as identified and analyzed in the Final EIR. Per the criteria under State CEQA Guidelines Section 15126.6, which provides specific guidance with regard to the discussion of alternatives in an EIR, the City Council considers this a reasonable range of alternatives to the Project. Based upon this examination, the City of Banning City Council has determined that none of the alternatives would reduce the Projects significant and unavoidable effects to a less than significant level, based upon Section 7.0 of the Findings of Fact. Further, none of the alternatives would achieve the City's goals and objectives to the same extent as the proposed Project,; and

3) Based upon the foregoing, the City of Banning City Council finds that the sixteen (16) areas of Public Benefit related to the proposed Butterfield Specific Plan Project outweigh

the seven (7) areas of significant unavoidable adverse impacts. Therefore, the City of Banning City Council finds the significant unavoidable adverse impacts acceptable.

**Butterfield Specific Plan Project**
**Mitigation Monitoring and Reporting Program**

Project File No.:_____ Applicant: _____
EIR Prepared by: _____ Date:_____

| Mitigation Measure No./ Implementation Action | Responsible for Monitoring | Timing of Verification | Method of Verification | Verified Date/ Initials |
|---|---|---|---|---|
| Aesthetics, Light and Glare | | | | |
| **AES-1:** Development or revegetation shall be initiated within three months following initiation of mass grading or clearing activities, so as to limit the time graded surfaces remain in their exposed state, consistent with the Specific Plan's approved landscape design guidelines and landscape plans and the provisions of Title 18.15.020 of the City's *Municipal Code*. A Revegetation Plan, addressing interim revegetation during construction and for future development areas prior to buildout, shall be submitted for City review and approval as part of each grading permit application. | CDD | D,F | A2,C2 | |
| **AES -2:** The faces of all slopes shall be prepared, protected and maintained to control erosion and to reduce the visual impacts of slope grading. Slopes in excess of ten feet in height shall be graded pursuant to City Code requirements. Devices or procedures for erosion protections shall be installed as prescribed by State law and regulations and Title 18 of the City's *Municipal Code* and shall be maintained in operable condition by the developer during the duration of the activity for which the grading permit was issued. The use of plastic sheeting for erosion control shall be avoided except where required in emergency conditions to prevent land slippage. Preferred means of erosion and sediment control on slopes and pads shall include hydromulching, placement of straw bales and wind fencing, and the use of straw blankets and similar devises. | CDD | D,G | A2,C2 | |
| **AES -3:** The Project developer shall maintain the site free of debris, which shall be promptly removed from the site when found at least once a quarter and at least daily during construction, and the Project developer shall monitor the site at least once a quarter and at least daily during construction to protect the site from illegal dumping. | DPW | C | A2 | |

| Responsible Person | Monitoring Frequency | Method of Verification |
|---|---|---|
| CDD – Community Development Director or designee | A - With each new development | A2 - Onsite inspection |
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| **AES -4:** The Project developer and its successor(s) in interest inclusive of the HOA or Landscape Lighting and Maintenance District, if any, shall maintain perimeter walls, fencing, irrigation, and landscape in a satisfactory condition at all times. Parkways and other landscape features visible from the public right of way shall be maintained free of weeds and trash and graffiti shall be promptly removed. | CDD,DPW | C,E | A2 | |
| **AES-5:** Rough Grading Plans, including a sheet detailing the location of the construction staging, shall be approved by the City Engineer, prior to grading permit issuance. The sheet pertaining to the construction staging shall include the following provisions:<br>• The construction equipment and supply staging areas shall be at least 500 feet from the nearest residence off site. Staging areas shall be screened.<br>• During construction and grading, the construction contractor shall keep the site clear of all trash, weeds, and debris. Compliance with this measure is subject to periodic City inspections.<br>• The grading contractor shall minimize creation of large stockpiles of soil (in terms of height) to minimize visual impacts pursuant to the provisions of the grading and/or stockpile permit issued by the City Engineer pursuant to the provisions of MC Section 18.09, *Grading Permit Requirements*, and the requirements of the City Engineer.<br>• All temporary security lighting shall be designed and located so as to avoid intrusive effects on adjacent properties. Proper lighting techniques to direct light onsite and away from other properties shall be required to reduce light and glare impacts (including directional lighting away from reflective surfaces, use of non-reflective glass, low-intensity lighting, use of lighting baffles, and use of appropriate types of lighting fixtures). | CE | C,F | A2,C2 | |
| **AES-6:** As part of the final design, improvement plan and grading plan review and approval process, the applicant shall design plans to preserve the existing oak tree along Highland Springs Avenue. If during this process it is determined that preservation is not feasible, the Applicant will utilize the following options to mitigate this impact.<br>• A certified arborist shall evaluate the viability of transplanting the oak tree. If transplanting is deemed feasible by the arborist, the Project Applicant shall relocate the oak tree to a suitable location as approved by the City and verified by the arborist within the Project boundaries, or | CP | C,D,F | A2,C2 | |

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| • If replacement is selected, the Project Applicant as "Replacement Option #1" shall replace the oak with a single oak tree contained in a minimum of a 60-inch box if readily available and suitable for transplanting at a suitable location approved by the City and verified by the arborist, or<br>• If replacement is selected, and Option 1 is not feasible, the Project Applicant shall replace the oak tree with 24-inch box oaks trees at a ratio of 3:1 at suitable locations approved by the City and verified by the arborist within the Project boundaries. | | | | |
| **AES-7:** Prior to issuance of building permits, architectural plans, including detailed lighting specifications, shall be submitted for the review and approval by the City of Banning Community Development Director. The specifications shall be consistent with lighting standards included in the Specific Plan and shall meet or exceed the lighting standards contained in the City's Municipal Code. The lighting plans must demonstrate the following to the satisfaction of the City of Banning Community Development Director:<br>• Use of low-sodium lamps of 4,050 lumens (maximum), to provide for adequate public safety and security;<br>• A lighting standard that is shielded to direct illumination downward and to limit casting light and glare on adjacent properties;<br>• Exterior lighting, including street lights, landscape lighting, parking lot lighting, and lighting of the interior of parks and trails shall be sufficient to establish a sense of well-being for the pedestrian and sufficient to facilitate recognition of persons at a reasonable distance. Type (lighting standard) and placement of lighting shall be to the satisfaction of the Community Development Director or designee and shall be consistent with the requirements of the City's most current lighting ordinance and the standards of the Specific Plan ;<br>• A minimum of one foot-candle at ground level overlap provided in all exterior doorways and vehicle parking areas, and on outdoor pedestrian walkways presented on a photometric plan; and<br>• Outdoor light fixtures that are not covered by the Specific Plan's lighting standards shall be subject to the City of Banning *Municipal Code*. | CDD | C,F,G | A2,C2,D2 (lighting plans) | |
| Air Quality | | | | |

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| **AQ-1:** Prior to issuance of any Grading Permit, the Director of Public Works and the Building Official shall confirm that the Grading Plan, Building Plans, and specifications stipulate that, in compliance with SCAQMD Rule 403, excessive fugitive dust emissions shall be controlled by regular watering or other dust prevention measures, as specified in the SCAQMD's Rules and Regulations. In addition, in accordance with SCAQMD Rule 402, the Applicant shall implement dust suppression techniques to prevent fugitive dust from creating a nuisance off-site. Implementation of the following measures are required:<br>• All active portions of the construction site shall be watered at least twice daily to prevent excessive amounts of dust;<br>• On-site vehicle speed shall be limited to 15 miles per hour;<br>• All on-site permanent roads shall be paved, watered as needed, or chemically stabilized;<br>• Visible dust beyond the property line which emanates from the project shall be prevented to the maximum extent feasible through the use of dust suppressant techniques identified above;<br>• All material transported off-site shall be either sufficiently watered or securely covered to prevent excessive amounts of dust prior to departing the job site;<br>• Track-out devices shall be used at all construction site access points;<br>• All delivery truck tires shall be watered down and/or scraped down prior to departing the job site; and<br>• Replace groundcover on disturbed areas within the required timeframes identified in Rule 403. | DPW,BO | C,F | A2,C2 | |
| **AQ-2:** All trucks that are to haul excavated or graded material on-site shall comply with State Vehicle Code Section 23114 (Spilling Loads on Highways), with special attention to Sections 23114(b)(F), (e)(4) as amended, regarding the prevention of such material spilling onto public streets and roads. Prior to the issuance of grading permits, the Applicant shall coordinate with the appropriate City of Banning Engineer on hauling activities compliance. | DPW,BO | C,F | A2,C2 | |
| **AQ-3:** Prior to the issuance of building permits, the City building official shall confirm that construction plans and specifications include the following measures, which shall be implemented to reduce ROG emissions resulting from application of architectural coatings: | DPW,BO | C,F | A2,C2 | |

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| • Contractors shall use high-pressure-low-volume (HPLV) paint applicators with a minimum transfer efficiency of at least 50 percent;<br>• Coatings and solvents with a ROG content lower than required under Rule 1113 shall be used;<br>• Construction and building materials that do not require painting shall be used where readily available; and<br>• Pre-painted construction materials shall be used where readily available. | | | | |
| **AQ-4:** Prior to issuance of any Grading Permit, the Director of Public Works and the Building Official shall confirm that the Grading Plan, Building Plans and specifications stipulate that, in compliance with SCAQMD Rule 403, ozone precursor emissions from construction equipment vehicles shall be controlled by maintaining equipment engines in good condition and in proper tune per manufacturer's specifications, to the satisfaction of the City Engineer. A set of maintenance records shall be provided to the City before grading commences. The City Inspector shall be responsible for ensuring that contractors comply with this measure during construction. | DPW,BO | C,F | A2,C2 | |
| **AQ-5:** Prior to issuance of any Grading Permit, the grading plan shall indicate dust management measures for review and approval by the City Engineer, to identify viable dust control measures and include a monitoring plan to be implemented throughout the construction phases of the Specific Plan. In accordance with the Specific Plan and City's Municipal Code, the dust management measures shall minimize wind-blown particles by including:<br>• All applicable mitigation measures identified in this EIR (related to dust control) and otherwise required by the City or SCAQMD;<br>• An erosion and sediment control plan to minimize wind or waterborne transport of soil onto adjacent properties, streets, storm drains, or drainages; and<br>• A Revegetation Plan to address interim conditions between initial grading and final site development. The Revegetation Plan, although focused on the control of wind and water erosion, shall consider compatibility with fuel modification zone requirements, drought tolerant landscape requirements, and potential ongoing livestock grazing. Special techniques such as wind fences shall also be considered, to minimize surface soil and dust during high wind events. | CE | C,F | A2,C2 | |

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| **AQ-6:** GPS-controlled "machine-guided grading", or other equivalent grading techniques, shall be incorporated into Project grading plans, subject to review and approval by the City Engineer. The City Engineer shall approve the areas of the site where this technology shall be used. | CE | C,F | A2,C2 | |
| **AQ-7:** The following measures shall be implemented during construction to substantially reduce NOX related emissions. They shall be included in the Grading Plan, Building Plans, and specifications.<br>• Off-road diesel equipment operators shall be required to shut down their engines rather than idle for more than five minutes, and shall ensure that all off-road equipment is compliant with the CARB in-use off-road diesel vehicle regulation and SCAQMD Rule 2449.<br>• The following note shall be included on all grading plans: "The City shall require construction contractors to utilize diesel powered construction equipment that meets EPA-Certified Tier III emissions standards, or higher according to the following:<br>o January 1, 2012, to December 31, 2014: All off-road diesel-powered construction equipment greater than 50 hp shall meet Tier 3 off-road emissions standards at a minimum. In addition, all construction equipment shall be outfitted with BACT devices certified by CARB. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 3 diesel emissions control strategy for a similarly sized engine as defined by CARB regulations.<br>o Post-January 1, 2015: All off-road diesel-powered construction equipment greater than 50 hp shall meet the Tier 4 emission standards, where available. In addition, all construction equipment shall be outfitted with BACT devices certified by CARB. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 3 diesel emissions control strategy for a similarly sized engine as defined by CARB regulations.<br>o A copy of each unit's certified tier specification, BACT documentation, and CARB or SCAQMD operating permit shall be provided at the time of mobilization of each applicable unit of equipment.<br>o Encourage construction contractors to apply for AQMD "SOON" funds. | DPW,BO | C,F | A2,C2 | |

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| Incentives could be provided for those construction contractors who apply for AQMD "SOON" funds. The "SOON" program provides funds to accelerate clean up of off-road diesel vehicles, such as heavy duty construction equipment. More information on this program can be found at the following website: http://www.aqmd.gov/tao/Implementation/SOONProgram.htm"<br>• The contractor and applicant, if the applicant's equipment is used, shall maintain construction equipment engines by keeping them tuned and regularly serviced to minimize exhaust emissions.<br>• Low sulfur fuel for stationary construction equipment shall be required. This is required by SCAQMD Rules 431.1 and 431.2.<br>• Existing power sources (i.e., power poles) shall be used when available.<br>• Construction parking shall be located on-site where possible and shall be configured to minimize traffic interference.<br>• Obstruction of through-traffic lanes shall be minimized by providing temporary traffic controls such as flag persons, cones and/or signage during all phases of construction when needed to maintain smooth traffic flow. Construction shall be planned so that lane closures on existing streets are kept to a minimum.<br>• Construction operations affecting traffic shall be scheduled for off-peak hours, except in situations deemed necessary.<br>• Develop a traffic plan to minimize traffic flow interference from construction activities. The plan shall specify the times during which construction activities will occur and particular times when travel lanes cannot be blocked (e.g., peak traffic periods as directed by the affected City Engineer). The plans shall provide details regarding the placement of traffic control, warning devices and detours. As a supplement to the traffic plan, the construction contractor shall coordinate with the affected agency to determine the need for a public information program which would inform area residents, employers and business owners of the details concerning construction schedules and expected travel delays, detours, and blocking of turning movements lanes at intersections. The public information programs could utilize various media venues (e.g., newspaper, radio, television, telephone hot lines, internet website, etc.) to disseminate information such as: | | | | |

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| ○ Overview of project information<br>○ Weekly updates on location of construction zones;<br>○ Identification of street(s) affected by construction;<br>○ Times when construction activities will occur and when traffic delays, and blockage of intersection turning movements can be expected; and<br>○ Identification of alternate routes which could be used to avoid construction. | | | | |
| **AQ-8:** The potential future construction and implementation of an onsite WWTP shall require a Conditional Use Permit (CUP) to be approved by the City of Banning, as well as design review of the proposed site plan and building architecture, landscaping and lighting. | CDD | B,F,G | D2 | |
| Biological Resources | | | | |
| **BIO-1:** Prior to the commencement of grading during the nesting season (approximately mid-February through mid-August), all suitable habitat shall be surveyed for the presence of nesting birds by a qualified biologist prior to site disturbance. Should any active nests be located, construction must comply with Migratory Bird Treaty Act requirements, including a 300-foot construction buffer around active nests or avoiding construction during the nesting season if a 300-foot buffer is infeasible. | DPW (verify pre-construction survey), BO (verify monitoring & implementation) | B,C,F | A2,C2,D2 | |
| **BIO-2:** A preconstruction clearance survey for burrowing owl will be performed within 30 days prior to ground disturbance in potentially suitable habitat within the site, pursuant to CDFG protocols. The preconstruction survey will include a 300-foot buffer if between February 1 and August 31 (nesting season) and a 100-foot buffer if outside of this period. If owls are found within the survey area during the nesting season, construction activities will not occur within 300 feet of the occupied burrows until nesting is completed. A qualified biologist must confirm that the nesting effort has been completed prior to the removal of the work buffer restriction. If owls are found within the disturbance footprint outside of the February 1 through August 31 period, passive relocation (e.g. use of one way doors and collapse of burrows) will occur. These surveys and mitigation for burrowing owl are consistent with Section 6.3.2, *Additional Survey Needs and Procedures* of the MSHCP. | DPW (verify pre-construction survey), BO (verify monitoring & implementation) | B,C,F | A2,C2,D2 | |
| **BIO-3:** The applicant shall provide mitigation for the temporary disturbance to 9.22 acres of CDFG jurisdictional waters at a minimum 1:1 ratio, which includes approximately 0.02 acres of vegetated riparian habitat, and the temporary disturbance to 8.65 acres of Regional Board and | DPW (verify pre-construction | B,C,F | A2,C2,D2 | |

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| USACE jurisdiction. The applicant shall provide mitigation for the permanent impact disturbance to 2.47 acres of CDFG jurisdiction, of which 0.41 acre consists of vegetated riparian habitat and the permanent disturbance to 1.17 acres of USACE jurisdiction, of which 0.01 acre consists of jurisdictional wetlands.<br>The mitigation requirements will be determined through applicable regulatory permitting programs of CDFG, RWQCB, and USACE, and shall consist of minimum 1:1 mitigation through onsite restoration of 9.22 acres within the Smith Creek drainage and other onsite areas, which will be performed concurrently with development of the golf course (PAs 35 and 39) or alternative uses within these PAs and 1:1 mitigation through onsite restoration of 2.47 acres of permanent habitat within, or adjacent to, Smith Creek. | survey),<br>BO (verify monitoring & implementation) | | | |
| **BIO-4:** Prior to the issuance of the grading permits the developer shall complete and submit all required protocol and habitat assessment studies required to demonstrate compliance with the MSHCP. Specifically, a DBESP (Determination of Biologically Equivalent or Superior Preservation), following approval of all required permits for the CDFG and USACE, shall be prepared, which shall be reviewed by the CDFG and USFWS and approved by City staff, in compliance with Section 6.1.2 of the MSHCP. The applicant shall implement the approved DBESP as a condition of the issuance of a grading permit and comply with all biological mitigation measures contained within the DBESP. | CDD | B,C,D,E,F | B2,D2 | |
| **BIO-5:** The following mitigations shall be incorporated into the construction plans and specifications to minimize any potentially adverse construction impacts:<br>• Construction areas will be watered regularly to control dust and minimize impacts to adjacent vegetation and wildlife habitat.<br>• Short-term stream diversions will be accomplished by use of gravel bags or other methods that will result in minimal in-stream impacts. Short-term diversions will be evaluated through the riparian/riverine component of the MSHCP Consistency analysis (Section 6.1.2) (refer to Mitigation Measure BIO-4) which will require a DBESP analysis to be prepared. In addition the 401, 404, and 1602 permitting processes will evaluate short-term impacts relative to stream diversions. All biological mitigation measures contained within the 401, 404 and 1602 approval conditions and DBESP shall be implemented pursuant to BIO-3 and BIO-4, respectively, which typically require 1:1 onsite restoration. Any mitigation beyond the 1:1 restoration of the original stream will be mitigated onsite through negotiations with CDFG, RWQCB, and | DPW,BO | C,F | A2,D2 | |

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| USACE.<br>• Equipment storage, fueling and staging areas will be sited on non-sensitive upland habitat types with minimal risk of direct discharge into riparian areas or other sensitive habitat types.<br>• The limits of jurisdictional disturbance, including the upstream, downstream along Smith Creek and lateral extents that are tributaries to Smith Creek, will be clearly defined and marked in the field. Monitoring personnel will review the limits of disturbance prior to initiation of construction activities.<br>• During construction, the placement of equipment within the stream or on adjacent banks or adjacent upland habitats occupied by Covered Species that are outside of the Project footprint will be avoided.<br>• Exotic, weedy plant species removed during construction will be properly handled to prevent sprouting or re-growth.<br>• Waste, dirt, rubble, or trash shall not be deposited in a conservation area or on native habitat. | | | | |
| Climate Change | | | | |
| **GHG-1:** Prior to the issuance of building permits, the following measures shall be reflected on applicable tract maps, building permits, improvement plans, landscape plans and/or grading plans:<br>**a)** ***Green Building Practices***<br>1) **Water Conservation** – All appliances such as showerheads, lavatory faucets and sink faucets shall comply with efficiency standards set forth in Title 20, California Administrative Code Section 1604(f). Title 24 of the California Administrative Code Section 1606(b) prohibits the installation of fixtures unless the manufacturer has certified to the California Energy Conservation compliance with the flow rate standards.<br>2) **Water Conservation –** Low-flush toilets shall be installed as specified in California State Health and Safety Code Section 17921.3 and the County Green Building Ordinance [as applicable in Riverside County].<br>3) **Water Conservation** – All common area irrigation areas shall be operated by a | DPW,BO | A,F,G | A2,C2 | |

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| computerized irrigation system which includes an on-site weather station/ET gage capable of reading current weather data and making automatic adjustments to independent run times for each irrigation valve based on changes in temperature, solar radiation, relative humidity, rain and wind. In addition, the computerized irrigation system shall be equipped with flow sensing capabilities, thus automatically shutting down the irrigation system in the event of a mainline break or broken head. All common area irrigation controllers shall also include a rain-sensing automatic shutoff.<br>4) **Water Conservation** – Common-area landscaping shall emphasize drought-tolerant vegetation. Plants of similar water use shall be grouped to reduce over-irrigation of low-water-using plants. Those irrigated areas not designed with drought-tolerant vegetation shall be gauged to use the minimum amount of water needed to maintain healthy vegetation.<br>5) **Water Conservation** – Residential occupants shall be informed as to the benefits of low-water-using landscaping and sources of additional information related to water conservation documents.<br>6) **Water Conservation** – Community Center or Recreational Facilities with a pool amenity shall be conditioned to provide and use a pool cover to reduce water evaporation and retain heat.<br>7) **Water Conservation** – Water conservation standards shall be noted in the Tier 1 measures of the 2010 California Green Building Standards.<br>8) **Energy, Water, and Recycling –**<br>**The builder shall be conditioned to provide the following:**<br>• Energy efficient appliances;<br>• Energy efficient indoor lighting<br>• Water efficient smart controllers for landscaping<br>• Water efficient plumbing in all buildings<br>• Integrate recycling into residential home design. Create areas in the home to promote recycling (additional trash cans in cabinets, etc.)<br>• Energy Efficiency standards shall be as noted in the Tier 1 measures of the 2010 California Green Building Standards.<br>9) **Carbon Sequestration** – The builder shall plant an average of approximately | | | | |

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| 40 trees per landscaped acre (where landscaping is provided) as a means to capture (sequester) carbon dioxide emissions and to provide shade to the buildings, which can decrease the need for air conditioning.<br>10) **Green Education Program** - In order to increase awareness of green building practices and to promote water and energy conservation, the builder(s) shall develop and implement a green educational program. The program shall include but not necessarily be limited to a pamphlet that educates and promotes conservation practices that homeowners can implement, with specific guidance on landscaping with drought tolerant plants, use of efficient irrigation systems, compact florescent lighting, and other measures that help lower GHG emissions.<br>11) **Energy Efficient Outdoor Lighting** – Lighting for public streets, parking areas, and recreation areas shall utilize energy efficient light and mechanical, computerized or photo cell switching devices to reduce unnecessary energy usage.<br>12) **Energy Conservation** – Community Center or Recreational Facilities with a pool amenity shall be conditioned to install energy-efficient pumps and motors, such as variable speed motors.<br>**b)** ***Solid Waste Measures***<br>1) Reuse and recycle construction and demolition waste (including, but not limited to, soil, vegetation, concrete, lumber, metal, and cardboard).<br>2) Shall comply with state model ordinance AB 1327, Chapter 18 California Solid Water Reuse and Recycling Access Act of 1991, which requires interior and exterior storage areas for recyclables and green waste and adequate recycling containers located in public areas.<br>**c) Transportation and Motor Vehicles**<br>1) Limit idling time for commercial vehicles, including delivery and construction vehicles, pursuant to applicable SCAQMD and City requirements.<br>2) Promote ride sharing programs e.g., by designating a certain percentage of parking spaces for ride sharing vehicles, designating adequate passenger loading and unloading and waiting areas for ride sharing vehicles, and providing a web site or message board for coordinating rides. The actual | | | | |

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| percentage of potential ride sharing vehicle spaces will be determined in coordination with the City Planning Director or designee based on square footage and use type (e.g., shopping center, office, fitness center, etc.) prior to approval of a site plan within the commercial land use Planning Areas.<br>3) Provide adequate bicycle parking near non-residential building entrances to promote cyclist safety, security, and convenience. Provide facilities that encourage bicycle commuting (e.g., locked bicycle storage or covered or indoor bicycle parking).<br>4) All golf carts and Neighborhood Electric Vehicles (NEVs) shall be electrical powered only. | | | | |
| **GHG-2:** The Butterfield Specific Plan shall be conditioned to allow the following uses (as reflected on future tract maps and commercial site plans), to further promote renewable energy resources, including:<br>a) Allowing rooftop solar on all structures, subject to City Municipal Code and related building permit provisions;<br>b) Allowing electric vehicle charging stations at all commercial, park, golf course, multi-family residential, and school areas, subject to a Conditional Use Permit; and<br>c) Allowing hydrogen vehicle fueling stations within the Commercial zone, subject to a Conditional Use Permit. | DPW,BO | A,F,G | A2,C2 | |
| **GHG-3** As part of future tract map, grading plan, site plan and/or improvement plan submittals, the Applicant shall identify bus stop provisions along arterial streets, through consultation with the City Engineer and Banning Pass Transit, including stops on Highland Springs Road, Wilson Street, Highland Home Road, and F Street as determined appropriate. | CE | A,D,F,G | A,D,F,G | C2,D2 (site plans) |
| Cultural Resources | | | | |
| **CUL-1:** The Project Applicant shall prepare a paleontological resource impact mitigation program (PRIMP) for the grading and excavation phase of the Project, including both on- and off-site activities. The PRIMP shall be submitted for review and approval prior to issuance of any grading permit, and shall conform to the guidelines of the County of Riverside and the Society of Vertebrate Paleontology; including the following:<br>• A trained paleontological monitor shall be present during initial mass grading or deep trenching activities within the Project in sediment areas determined likely to contain | CDD | C,F | A2,C2,D2 | |

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| paleontological resources. If paleontological resources are located within excavation, the monitoring program will change to full-time. The monitor shall be empowered to temporarily halt or redirect construction activities to ensure avoidance of adverse impacts to paleontological resources. The monitor shall be equipped to rapidly remove any large fossil specimens encountered during excavation. During monitoring, samples shall be collected and processed to recover microvertebrate fossils. Processing shall include wet screen washing and microscopic examination of the residual materials to identify small vertebrate remains.<br>• Upon encountering a large deposit of bone, salvage of all bone in the area shall be conducted with additional field staff and in accordance with modern paleontological techniques.<br>• All fossils collected during the Project shall be prepared to a reasonable point of identification. Excess sediment or matrix shall be removed from the specimens to reduce the bulk and cost of storage. Itemized catalogs of all material collected and identified shall be provided to the museum repository along with the specimens.<br>• A report documenting the results of the monitoring and salvage activities and the significance of the fossils will be prepared.<br>• All fossils collected during this work, along with the itemized inventory of these specimens, shall be deposited in a museum repository for permanent curation and storage. | | | | |
| **CUL-2:** Prior to the issuance of a grading permit, an archaeological resource monitoring plan shall be developed by a qualified archaeologist. This plan shall include a grading observation schedule, to be maintained when initial mass grading occurs in upper soils, to identify and further evaluate any cultural resources that may be discovered in the Project area. A qualified archaeologist shall be retained to attend pre-grading meetings and to monitor earth moving activities, including clearing, grubbing, cutting, and trenching at the site. The archaeologist shall carefully inspect these areas to assess the potential for significant prehistoric or historic remains. If potential archaeological and historical resources are uncovered, the construction contractor shall cease grading operations in the vicinity of the find until further evaluation is undertaken to assess the discovery. Further subsurface investigation may be needed if the resource is determined unique or important for its prehistoric or historic information. | CDD | C,F | A2,C2,D2 | |

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| **CUL-3:** All earthmoving activity occurring within 30 meters of the on-site refuse scatter (LSA-PDH0601-H-2) shall be monitored by a qualified archaeologist. If archaeological remnants are discovered during monitoring, the archaeologist shall have the authority to divert construction in order to assess the significance of the find. Remnants shall be properly evaluated, documented, and deposited as applicable, consistent with State and local protocols. | DPW,BO | C | A2 | |
| **CUL-4:** If previously unknown cultural resources, including human remains, are identified during grading activities, a qualified archaeologist shall be retained to assess the nature and significance of the find. If human remains are encountered, State Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the County Coroner has made a determination of origin and disposition pursuant to Public Resources Code Section 5097.98. The County Coroner shall be notified of the find immediately. If the remains are determined to be prehistoric, the Coroner shall notify the Native American Heritage Commission (NAHC), which shall determine and notify a Most Likely Descendant (MLD). With the permission of the landowner or his/her authorized representative, the MLD may inspect the site of the discovery. The MLD shall complete the inspection within 24 hours of notification by the NAHC. The MLD may recommend scientific removal and nondestructive analysis of human remains and items associated with Native American burials. | DPW,BO | C | A2 | |
| Geology, Soils, and Seismicity | | | | |
| **GEO-1:** All structures on the Project site shall be constructed pursuant to the most current applicable seismic standards, as determined by the City as part of the tract map, grading plan, and building permit review processes, with building setbacks as recommended by the Project's Seismic Hazard Analysis (Geocon 2005). Design criteria developed for Project structures shall also be based on the most current standards of practice and design parameters suggested by the Structural Engineers Association of California based on the recommendations and amendments to the CBC by the Division of State Architect for specific types of buildings and occupancies. | DPW,BO | C,F | A2,C2 | |
| **GEO-2:** A detailed analysis of site geotechnical conditions, field investigation and slope stability analyses shall be conducted as 40-scale grading plans for mass and fine grading are prepared in the course of the phased development of the Project site. These studies shall be submitted to the City Building Department or Building Official, and their recommendations incorporated into Project design to the satisfaction of the City Engineer, prior to the issuance of any grading permits, including those for mass grading, in areas where slopes of 10 feet or more in height | DPW,BO,CE | C,F | A2,C2,D2 | |

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| are anticipated and/or where evidence of debris flows or past landslides is found. | | | | |
| **GEO-3:** The Project site shall be constructed pursuant to the following mitigation measure contained in the City of Banning General Plan EIR, Geotechnical Element:<br>• During the site grading, all existing vegetation and debris shall be removed from areas that are to receive compacted fill. Any trees to be removed shall have a minimum of 95 percent of the root systems extracted. Man-made objects shall be over excavated and exported from the site. Removal of unsuitable materials may require excavation to depths ranging from 2 to 4 feet or more below the existing site grade.<br>• All fill soil, whether on site or imported, shall be approved by the individual Project soils engineer prior to placement as compaction fill. All fill soil shall be free from vegetation, organic material, cobbles and boulders greater than 6 inches in diameter, and other debris. Approved soil shall be placed in horizontal lifts or appropriate thickness as prescribed by the soils engineer and watered or aerated as necessary to obtain near-optimum moisture-content.<br>• Fill materials shall be completely and uniformly compacted to not less than 90 percent of the laboratory maximum density, as determined by American Society for Testing and Materials (ASTM) Test Method D-1557-78, or equivalent test method acceptable to the City Building Department. The project soils engineer shall observe the placement of fill and take sufficient tests to verify the moisture content, uniformity, and degree of compaction obtained. In-place soil density should be determined by the sand-cone method, in accordance with ASTM Test Method D1556-64 (74), or equivalent test method acceptable to the City Building Department.<br>• Finish cut slopes generally shall not be inclined steeper than 2:1 (horizontal to vertical). Attempts to excavate near-vertical temporary cuts for retaining walls or utility installation in excess of 5 feet may result in gross failure of the cut and may possibly damage equipment and injure workers. All cut slopes must be inspected during grading to provide additional recommendations for safe construction.<br>• Finish fill slopes shall not be inclined steeper than 2:1 (horizontal to vertical). Fill slope surfaces shall be compacted to 90 percent of the laboratory maximum density by either overfilling and cutting back to expose a compacted core or by approved | DPW,BO,CE | C,F | A2,C2 | |

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| mechanical methods.<br>• Foundation systems that utilize continuous and spread footings are recommended for the support of one- and two-story structures. Foundations for higher structures must be evaluated based on structure design and on-site soil conditions.<br>• Retaining walls shall be constructed to adopted building code standards and inspected by the Building Inspector.<br>• Positive site drainage shall be established during finish grading. Finish lot grading shall include a minimum positive gradient of 2 percent away from structures for a minimum distance of 3 feet and a minimum gradient of 1 percent to the street or other approved drainage course.<br>• Utility trench excavations in slope areas or within the zone of influence of structures should be properly backfilled in accordance with the following:<br>(a) Pipes shall be bedded with a minimum of 6 inches of pea gravel or approved granular soil. Similar material shall be used to provide a cover of at least 1 foot over the pipe. This backfill shall then be uniformly compacted by mechanical means or jetted to a firm and unyielding condition.<br>(b) Remaining backfill may be fine-grained soils. It shall be placed in lifts not exceeding 6 inches in thickness or as determined appropriate, watered, or aerated to near optimum moisture content, and mechanically completed to a minimum of 90 percent of the laboratory maximum density.<br>(c) Pipes in trenches within 5 feet of the top of slopes or on the face of slopes shall be bedded and backfilled with pea gravel or approved granular soils as described above. The remainder of the trench backfill shall comprise typical on-site fill soil mechanically completed as described in the previous paragraph. | | | | |
| Hazards and Hazardous Materials | | | | |
| **HAZ-1:** The grading plans shall indicate methods to address potential contamination discovered during construction, as well as safety considerations for on-site construction personnel and the general public. Details of the plan shall include, but not be limited, to the following:<br>• Procedures for identification of contaminated soil during earthmoving operations; | DPW,BO | B,C,F | A2,B2,C2 | |

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| • Immediate measures to protect workers and the public from exposure to contaminated areas (e.g., fencing or hazard flagging, covering of contaminated soils with plastic, etc.) and prevent migration of the contaminants to the surrounding environment; and<br>• Steps to be taken following initial discovery of contaminated soils. Notification shall be made to the local environmental health officials and the City's construction inspector(s) immediately following identification of previously unknown contamination within the construction area. In the event hazardous substances are encountered during site grading, work shall immediately cease in the area and the property owner/developer shall retain a qualified hazardous materials engineer to assess the impacts and prepare a response plan using risk-based cleanup standards applicable to residential land use. Upon approval of the response plan by the Fire Department or other agency, as applicable, the engineer shall obtain any required permits, oversee the removal of such features and/or conduct the response work to the satisfaction of the Fire Department or other agency, as applicable, until closure status is attained. | | | | |
| **HAZ-2:** As part of construction specifications, procedures for the fueling and maintenance of construction vehicles shall be required to minimize the potential for accidental release of hazardous materials. This shall include locating refueling and maintenance areas minimum of 500 feet from occupied residential uses. Drip plans shall be placed under motorized equipment when parked on the site to prevent soil contamination from dripping oil or other fluids. | DPW,BO | C,F | A2,C2 | |
| **HAZ-3:** Hazardous construction waste management practices are to be implemented pursuant to the Best Management Practices contained in the California Stormwater BMP Handbook (2009)[1] and shall include the following:<br>1. All hazardous construction wastes as defined by Title 22 Division 4.5, or listed in 40 CFR Pars 110, 117, 261, or 302, including but not limited to petroleum products, concrete curing compounds, palliatives, septic wastes, stains, wood preservatives, asphalt products, pesticides, acids, paints, solvents, roofing tar, sandblasting grid mixed with lead-, cadmium-, or chromium based paints, asbestos, or PCBs, that | DPW,BO | C,F | A2,C2 | |

[1] California Stormwater Quality Association, 2009 Construction BMP Handbook, 2010, accessed from *https://www.casqa.org/casqastore/entitiy/tabid/169/c-4-best-management-practice-bmp-handbooks.aspx* 3.10.11

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| cannot be reused or recycled shall be disposed of by a licensed hazardous waste hauler.<br>2. Wastes shall be stored in sealed containers constructed of suitable material and shall be labeled as required by Title 22 CCR, Division 4.5 and 49 CFR Parts 172, 173, 178, and 179.<br>3. Waste containers shall be stored in temporary containment facilities that should comply with the following requirements:<br>a. Temporary containment facility shall provide for a spill containment volume equal to 1.5 times the volume of all containers able to contain precipitation from a 25 year storm event plus the greater of 10 percent of the aggregate volume of all containers or 100 percent of the largest tank within its boundary, whichever is greater.<br>b. Temporary containment facility shall be impervious to the materials stored there for a minimum contact time of 72 hours.<br>c. Temporary containment facilities shall be maintained free of accumulated rainwater and spills. In the event of spills or leaks, accumulated rainwater and spills should be placed into drums after each rainfall. These liquids shall be handled as a hazardous waste unless testing determines them to be non-hazardous.<br>d. Sufficient separation shall be provided between stored containers to allow for spill cleanup and emergency response access.<br>e. Incompatible materials such as chlorine and ammonia shall not be stored in the same temporary containment facility.<br>d. Throughout the rainy season, temporary containment facilities shall be covered during non-working days and prior to rain events.<br>4. Storage drums shall not be overfilled and wastes should not be mixed.<br>5. Unless watertight, containers of dry waste shall be stored on pallets.<br>6. Herbicides and pesticides shall not be over used. Only the amount needed shall be prepared. Apply surface dressings in several small applications as opposed to one large application. Allow time for infiltration and avoid excess material being carried off-site by runoff. Do not apply such chemicals immediately prior to rain events. All persons applying pesticides must be certified in accordance with federal and State | | | | |

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| regulations.<br>7. Paint brushes and equipment for water and oil based pants should be cleaned within a contained area and shall not be allowed to contaminate soil, watercourses or drainage systems. Waste paints, thinners, solvents, residues, and sludges that cannot be recycled or reused shall be disposed of as hazardous waste by a licensed hazardous waste hauler.<br>8. Hazardous waste storage areas on-site shall be located away from storm drains or water courses and way from moving vehicles and equipment to prevent accidental spills.<br>9. Containment berms shall be used in fueling and maintenance areas and where the potential for spills is high.<br>10. Potentially hazardous waste shall be segregated from non-hazardous construction site debris.<br>11. Liquid or semi-liquid hazardous materials shall be stored in appropriate containers and under cover.<br>12. Hazardous waste collection sites shall be designated on-site away from watercourses and drainage systems, and shall be clearly labeled.<br>13. Hazardous materials shall be stored in containers and protected from vandalism.<br>14. All employees and subcontractors shall receive on-site training in hazardous waste storage and disposal procedures.<br>15. Areas treated with chemicals shall be identified with appropriate warning signage<br>16. Place a stockpile of spill clean-up materials where it will be readily accessible<br>17. Inspect and verify that activity-based BMPs are in place prior to the commencement of associated activities. While activities associated with the BMP are underway, BMPs shall be inspected on a weekly basis.<br>18. A copy of hazardous waste manifests shall be maintained on-site for access by City inspectors. | | | | |
| **HAZ-4** The abandoned well identified in the 2007 Converse Consultant's Technical Memorandum for the Butterfield Specific Plan shall be properly capped and any associated pipeline abandoned and/or removed from the site pursuant to applicable State and federal Guidelines. | DPW,BO | C,D | B2,C2,D2 | |

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| **HAZ-5** Prior to issuance of grading permits, the following remediation efforts shall occur:<br>• The batteries, auto parts, tires and the diesel engine observed on the concrete pad next to the well and any associated fuel sources shall be removed and disposed of in compliance with all applicable regulations by waste haulers certified by the State for the handling and disposal of such wastes;<br>• Piles of asphalt debris and inert trash observed in various locations throughout the property shall be removed following their inspection by a hazardous waste consultant and, if required, by a cultural resource consultant, and the material removed and disposed of pursuant to all applicable laws and regulations.<br>• Prior to the removal of any potentially hazardous debris, additional environmental assessment and testing shall be completed pursuant to the recommendations of a certified environmental consultant and appropriate methods of handling and disposal shall be identified and implemented pursuant to existing (or then current) regulations and procedures for any particular hazardous waste or toxic material identified. | DPW,BO | C,F,D | A2,C2,D2 | |
| **HAZ-6** The contractor shall ensure that precautions are taken to avoid the Southern California Gas Company pipeline observed crossing the property diagonally from the west-center of the Project site to the southeast corner and that may be present along the alignments of the proposed off-site infrastructure. Such precautions shall include calling Dig Alert prior to any construction activity to determine and mark the exact location of this pipeline and close coordination with Southern California Gas Company to ensure that appropriate measures are taken by SCGC, including potential reduction in pressure and on-site monitoring, to protect both workers and the pipeline from accidental damage during grading activities. The appropriate identification and setbacks shall be maintained in order to ensure the safety of adjacent properties. | DPW,BO | B,C | A2,C2 | |
| **HAZ-7:** The Applicant shall ensure that the existing high pressure gas line is replaced by the operator with pipeline that is PUC-rated for location in residential areas. Replacement of the pipeline and required relocation shall occur prior to trenching for sewer, water and storm drain within 25 feet of the outer edge of the pipeline easement and/or prior to the issuance of building permits for residences located within 100 feet of the ultimate pipeline alignment and prior to the paving of any roads within the pipeline alignment. Unless directed otherwise by the PUC, wet utility crossings shall observe a minimum ten-foot vertical separation and ten-feet of horizontal separation from the pipeline, given the needed depth of utility services. | DPW,BO | C,D,G | A2,C2 | |

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| Undergrounded electrical services shall observe a minimum 10 foot horizontal separation from the pipeline. The location of the pipeline shall be indicated with appropriate curbside notation and/or monuments at minimum 50-foot intervals along its route and by ground-level monumentation through the golf course, or at intervals required by the PUC. | | | | |
| **HAZ- 8:** A permit shall be obtained from the Riverside County Fire Department (Banning Services Unit) and, if required, from the County Department of Environmental Health, prior to installation of any temporary above ground fuel storage tank on the Project site.<br>• A hazardous materials business plan consisting of an owner/operator page, a chemical description/inventory page, and a site map must be submitted with the application for permit.<br>• The storage area shall be kept free of weeds and extraneous combustible material.<br>• Plans must be submitted for approval prior to installation. Aboveground fuel/mixed liquid tanks(s) shall meet the following standard: Tank must be tested and labeled to UL2085 Protected Tank Standard or SwRI 93-01. The test must include the Projectile Penetration Test and the Heavy Vehicle Impact Test. A sample copy of the tank's label from an independent test laboratory must be submitted with the tank plans.<br>• The tank shall be kept 50 feet from buildings and conspicuously marked with the name **DIESEL** and **COMBUSTIBLE – KEEP FIRE AWAY**.<br>• The tank shall be located within a secondary containment area such as earthen berms covered from end to end by a thick mil plastic. Concrete or steel may also be used to provide secondary containment. /show calculations for secondary containment on the Site Plan.<br>• The tank shall be secured to prevent movement on the containment surface or be mounted on metal skids (not on an elevated stilt rack).<br>• The project manager or contractor shall contact the fire department representative for inspections at the time prior to when product is put into the tank to verify compliance, **AND** at the time when the tank is removed from the site to check for evidence of ground contamination. | DPW,BO,FC | B,D | B2,C2,D2 (Hazardous Materials Business Plan) | |
| **HAZ-9:** Prior to the approval of Final Tract maps, the City Engineer and Riverside County Fire Department (Banning Services Unit) shall discuss with the Applicant approximate locations of work activities and ingress and egress points in and out of the construction site to assure there | DPW,CE,FC | A,F | B2,C2 | |

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|---|---|---|
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| is adequate access and communications protocols for emergency response vehicles during each of the proposed construction phases. | | | | |
| **HAZ-10:** Prior to the issuance of grading permits or road encroachment permits, a Traffic Management Plan providing safety control measures for area-wide streets that would be affected by construction traffic and activities must be prepared by a licensed civil or traffic engineer, to the satisfaction of the City Engineer, that would minimize safety hazards and emergency access impacts. The temporary measures in the Traffic Management Plan could include: flaggers, temporary lane restriping, temporary lanes, caution signs, reduced-speed zones, temporary detours, and other safety and traffic control devices. | DPW,CE | A,B,F | C2,D2 | |
| **HAZ-11:** All proposed subdivisions within the Specific Plan project area shall be evaluated by the Fire Department to determine whether the Department's Urban-Wildland Interface requirements should be implemented as part of the development. If the Department determines that either an interim or permanent condition of high fire risk would be present, a Fuel Modification Plan that meets the then-current requirements of the Fire Department shall be prepared and shall be approved by the Fire Department prior to recordation of a Final Tract Map. Maintenance of interim fuel modification areas shall be the responsibility of the master Homeowners Association and/or the property owner and/or a LLMP and temporary maintenance easements shall be recorded over interim fuel modification areas. Such easements shall be quitclaimed when the Fire Department determines that additional new development has eliminated the need for fuel modification in these areas. | DPW,FC | A,D,E,F | A2,C2,D2 | |
| **HAZ-12:** Seed mix used for the temporary re-vegetation of graded areas that will remain as undeveloped open space for a period of 6 months or more shall consist primarily of drought-tolerant grasses that may combine native and non-native species. These mixes include grasses that require little maintenance and do not grow tall, but do provide sufficient vegetative coverage to be effective in controlling wind and water-caused erosion. Defensible spaces as defined by the Fire Department pursuant to Chapter 49 of the California Fire Code shall be maintained around the exposed perimeters of subdivisions abutting un-irrigated grassland and/or chaparral through weed abatement, mowing, and other fuel reduction/modification strategies. | DPW,BO | C,D,E | A2,B2,C2 | |
| **HAZ-13:** The applicant shall continue to provide annual fuel modification as required by City code. The annual fuel modification (thinning) shall also be conducted in the future development areas south of Highland Home Road extension as needed (which excludes PAs 50, | DPW,BO,FC | C,E | A2,B2,C2 | |

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| 51, 52, 60, 61 and 73, which shall remain natural until such time these areas are developed or require infrastructure improvements). | | | | |
| Hydrology and Water Quality | | | | |
| **HWQ-1:** The following measures shall be reflected in applicable Tentative Tract Maps (TTMs), site plans, grading plans, and/or improvement plans to the satisfaction of the City Engineer, prior to applicable plan/permit approval:<br>1) All building pads within the Specific Plan shall be constructed so that they are free from flood hazard for the 100-year frequency storm by elevating finished floor elevations above the 100-year level of flood protection.<br>2) The depths of flow in the Project's streets shall not exceed top of curb elevations for the 10-year frequency storm event.<br>3) Streets shall be oriented to allow for maximum potential conveyance of regional flooding during significant storm events to expedite the passage of storm flows through the Specific Plan area.<br>4) The Specific Plan will be phased so that 100-year flood protection is ensured in all areas of development. Interim improvements (such as temporary debris basin, earthen channels/berms, check dams, sand bag barriers,, or other temporary BMP and flood protection measures; refer to Mitigation Measure HWQ-1, bullet #6 and 7 below) shall be provided as development progresses to protect against flooding, erosion, siltation, and water quality impacts.<br>5) All subdivisions implemented as part of the Specific Plan shall be required to detain any incremental increase in drainage within the Project Boundary until the Riverside County Flood Control and Water Conservation District Master Drainage Plan ("Banning" – Zone 5) is fully implemented downstream of the Project site.<br>6) Construction of each phase shall include an assessment of the size and flow patterns of the adjacent undeveloped areas of the Specific Plan site. Interim phase on-site facilities shall provide developed phases with required flood protection pursuant to Code.<br>7) Temporary basins shall be constructed to meet detention requirements and earthen channels/berms shall be used to divert and convey flows during construction phases. | DPW,CE,BO | F | C2 | |

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| Mitigation Measure No./ Implementation Action | Responsible for Monitoring | Timing of Verification | Method of Verification | Verified Date/ Initials |
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| Noise | | | | |
| **NOI-1:** As a condition of approval of all grading and building permits, the Applicant shall comply with the following list of noise reduction measures, subject to inclusion of additional provisions at the discretion of the Building Official as appropriate:<br>• Excavation, grading, and other noise-intensive construction activities related to the proposed Project shall be restricted to the hours of operation allowed under Section 8.44.090.E, Noise Prohibited – Unnecessary Noise Standard – Construction, Landscape Maintenance or Repair, of the City Municipal Code. Any deviations from these standards shall require the written approval of the City Building Official. The days and hours shall also apply to any servicing of equipment and to the movement of materials to and from the site.<br>• The developer shall require, as a condition of contract, that all construction equipment operating on the site be equipped with mufflers and sound control devices (e.g., intake silencers and noise shrouds) no less effective than those provided on the original equipment and no equipment shall have an unmuffled exhaust.<br>• The developer shall require all contractors, as a condition of contract, to maintain and tune-up all construction equipment to minimize noise emissions<br>• Stockpiling and vehicle staging areas shall be located a minimum of 500 feet from occupied residences, and screened from these uses by a solid noise attenuation barrier where necessary to achieve City Municipal Code-required noise attenuation levels.<br>• Solid noise attenuation barriers (temporary barriers or noise curtains) with a sound transmission coefficient (STC) of at least 20 shall be used along Project boundaries adjacent to sensitive receptors, where noise monitoring, performed by a qualified noise monitor, indicates exceedance of City Municipal Code noise levels for more than 15 minutes in any one hour period.<br>• Construction activities that occur outside the allowable hours per City standards 6 PM to 7 AM) shall require approval of the City Building Official based on demonstration of unusual circumstances and avoidance of significant impacts to neighboring sensitive receptors. Construction noise exceeding City standards (i.e., interior noise in excess of 50 dBA or exterior noise in excess of 65 dBA) and statutory time limits is anticipated, | DPW,BO | C,F | A2,C2 | |

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| shall require implementation of additional noise attenuation measures such as temporary noise "curtains" to reduce construction noise to meet City Standards, or offer the affected sensitive receptors the option of temporary relocation at the Developer's expense for the duration of the impact.<br>• All stationary construction equipment (e.g., air compressor, generators, etc.) shall be operated as far away from the residential and institutional uses as practicable. If necessary to meet the City's noise standards, the equipment shall be shielded with temporary sound barriers, sound aprons, or sound skins to the satisfaction of the Building Official.<br>• In areas subject to potentially significant construction noise impacts, the developer shall be required to monitor and document compliance with all applicable noise level limits.<br>• Construction haul routes for large equipment and material import/export shall be specified to minimize the use of routes affecting sensitive receptors (e.g., residential, parks, hospitals, schools, convalescent homes, etc.). Construction phasing for individual subdivisions shall be designed to avoid the need for construction vehicles and related construction traffic to traverse occupied residential neighborhoods. In all cases, trucks shall utilize a route that is least disruptive to sensitive receptors. Construction trucks shall avoid weekday and Saturday AM and PM peak hours (7 AM to 9 AM and 4 PM to 6 PM). | | | | |
| **NOI-2:** Prior to the issuance of each grading or building permit, the Applicant shall submit to the Building Official a proposed Construction Noise Monitoring Program to respond to and track complaints pertaining to construction noise, throughout demolition and/or grading. Throughout and/or grading, these measures shall include the following:<br>• A procedure and phone numbers for notifying the City Building and Safety Department staff and Banning Police Department (during regular construction hours and off-hours);<br>• A sign prominently posted on-site containing the permitted construction days and hours and complaint procedures and the name and phone number of the person(s) to notify in the event of a problem. The sign shall also include a listing of both the City and construction contractor's telephone numbers (during regular construction hours | DPW,BO | B,C,F | A2,C2,D2 | |

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| and off-hours);<br>• The designation of an on-site construction complaint and enforcement manager for the Project. The manager shall act as a liaison between the Project and its neighbors. The manager's responsibilities and authority shall include the following:<br>o An active role in monitoring project compliance with respect to noise;<br>o Ability to reschedule noisy construction activities to reduce effects on surrounding sensitive receivers;<br>o Site supervision of all potential sources of noise (e.g., material delivery, construction staging areas, construction workers, debris box pick-up and delivery) for all trades;<br>o Intervening or discussing mitigation options with contractors; and<br>o Conducting a preconstruction meeting shall be held with the job inspectors and the general contractor/on-site project manager to confirm that noise measures and practices (including construction hours, neighborhood notification, posted signs, etc.) are completed. | | | | |
| **NOI-3:** The Applicant shall, through contract specifications, prohibit the use of any on-site construction equipment generating greater than 0.049 RMS (greater than 79 VpD) within 25 feet of any sensitive use or limit the use of equipment exceeding this standard to less than 30 events per day. | DPW,BO | C,F | A2,C2 | |
| **NOI-4:** Prior to the issuance of grading permits or encroachment permits for the improvement of Highland Home Road (aka Meridian Street) between future "D Street" and Wilson Street, an acoustical study shall be completed by the Applicant (using construction-level improvement plans and/or more detailed grading plans) and submitted to the City for review and approval. The acoustical study will specify additional specific noise attenuation measures necessary, if any, to ensure that the City of Banning's exterior and interior noise standards are met at adjacent residential properties. Appropriate attenuation measures could include a solid wall in the landscaped parkway between future Highland Home Road and the existing frontage street. | DPW,BO | C,F | A2,C2,D2 | |
| **NOI-5:** Prior to the issuance of building permits for non-residential uses (such as commercial areas, wastewater treatment plant, and the golf course clubhouse), the Applicant shall prepare a site-specific construction level noise analysis, analyzing potential on and off site noise impacts, based upon detailed grading plans, improvement plans and site plans. The grading, | DPW,BO | C,F | A2,C2,D2 | |

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| site and/or improvement plans for these uses shall include the location of stationary noise sources, such as loading docks, air conditioning units, trash hauling and trash compactors (noise from trash pickup and compacting results from the use of hydraulic equipment to raise and lower the metal trash bins and to compact their contents), and drive-thru lanes. The noise analysis shall evaluate the potential noise impacts to the existing and proposed noise sensitive homes near the commercial areas of the project. In the event the analysis shows that noise levels for any adjacent sensitive receptor(s) would exceed applicable standards, measures shall be required to reduce noise to levels to within applicable standards, including providing enclosures for stationary sources (such as pump stations and air conditioners), and providing walls or siting to attenuate mobile or stationary sources from receptors (such as loading bays). The analysis shall be subject to review and approval by the City Building Official and shall ensure compliance with applicable exterior and interior noise standards. | | | | |
| Public Services and Utilities | | | | |
| **PSU-1:** Applicant shall communicate and work with the Fire Chief throughout Project development to determine the appropriate timing for a potential addition of a fire response unit (medic squad, fire engine), or the need for a fire station that is conceptually located in PA 60 but could be located in any Planning Area as described within the Specific Plan. When the fire station or a response unit is determined to be necessary, the Applicant shall fund and/or construct the fire response unit and/or fire station and would subsequently be credited the cost of the fire response unit or fire station towards the dedication of fire fees. | FC | C | B2 | |
| **PSU-2:** The Project shall incorporate the principles of defensible space as defined by the U.S. Department of Housing and Urban Development Office of Policy Development and Research in the design of cluster housing and/or multifamily housing within the proposed Project to reduce the impact of such development on police services. These principles shall be incorporated through inclusion of the following design solutions:<br>• Orienting the front doors and living area windows to the public street without providing "protection" of walls and fencing while providing back doors in these same units that allow access to more secure play areas and open space.<br>• Clustering parking in close proximity to units or the must provide enclosed garages or semi-subterranean parking garages that can be secured.<br>• Providing motion-activated security lighting. | DPW,BO | A,G | C2 | |

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| • Clustering multifamily units around shared courtyard spaces with appropriate amenities that draw residents into the common area and encourage the development of relationships between neighbors through interaction in the public domain<br>(See Oscar Newman, *Creating Defensible Space*, 1996, Institute for Community Design Analysis, US Department of Housing and Urban Development, Office of Policy Development and Research for applicable guidelines and design criteria.) | | | | |
| **PSU-3:** The Project shall include potential school sites within the development by designating and setting aside two 11+ acre Planning Areas (i.e., PA 68 for Banning Unified School District and PA 20 for Beaumont Unified School District) to increase available school facilities. (The intent of Mitigation Measure PSU-3 is to initially designate and set aside each of the two 11+ acre Planning Areas, then offer these sites to the School Districts for sale or fee credit. In the event that one or both of the Districts choose to not accept the site, the Applicant may opt to implement the residential overlay on the corresponding school site, which would permit medium-density residential development at 10 du/ac). | CDD | C | B2[4] | |
| **PSU-4:** Offsite infrastructure improvements (identified in Section 3.6.3) shall comply with all of the same mitigation measures for onsite facilities, as applicable. Off-site above-ground facilities shall provide for a general biological assessment by a qualified biologist. If sensitive resources are determined to be present, those resources shall be assessed and/or delineated, mitigation measures shall be developed and imposed. | DPW,BO (fair market compensation), CDD (biological assessment) | B,F | C2,D2 | |
| **PSU-5:** Prior to the issuance of building permits for an onsite satellite WWTP, the City must prepare a site-specific construction-level noise analysis analyzing potential on- and off-site noise impacts. In addition, the analysis shall evaluate the potential noise impacts to existing and proposed sensitive receptors. Construction and implementation of the wastewater treatment plant would require a Conditional Use Permit (CUP) to be approved by the City of Banning, as well as design review of the proposed site plan and building architecture, landscaping and lighting. Compliance with the existing regulations (specified under Impact 4.8-1) and on-going monitoring of the plant's operations would reduce potential impacts associated with the routine use, handling, transport, and storage of hazardous materials. | CDD | G | D2 | |
| **PSU-6:** The operator of the Butterfield Specific Plan Golf Course shall prepare and implement a Operational Waste Management Plan that incorporates the Best Management Practices for the management of green waste recommended by the Golf Course Superintendent Association of | DPW,BO | E,G | A2,D2 | |

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| America (GCSAA) including separate collection and recycling of green waste by a licensed hauler and recycling facility, on-site use of green waste for landscape mulching, and other methods acceptable to the City and the SCAQMD so as to reduce the facility's impact on landfill capacity. | | | | |
| Traffic and Transportation | | | | |
| **TRF-1:** If not constructed by the City or others, the Applicant shall construct road improvements identified in Table 4.13-9, Summary of Future Improvements ("Existing plus Project" improvements in the City of Banning only). These improvements include portions on Highland Springs Avenue in the City of Beaumont, between I-10 and Brookfield, but exclude locations that are deemed by the affected jurisdiction(s) to be infeasible due to impacts of ROW acquisition. If constructed by the Applicant, the cost of these improvements shall be credited against applicable City fees, and/or shall be eligible for reimbursement agreements with the City and/or third parties. The Improvements listed in Table 4.13-9 shall be consistent with the General Plan Circulation Element. | DPW,CE | A,D | C2 | |
| **TRF–2:** As part of each Final Tract Map, or appropriate group of maps, the Applicant shall prepare a TIA Validation Report (TVR) based on the criteria provided herein for review and approval by the City Engineer. Final Tract Map approvals resulting in less than 500 p.m. peak hour trips (Exempt Maps) shall not require a TVR unless the cumulative total of prior approved Exempt Maps exceeds 1,000 p.m. peak hour trips since the last TVR.<br>The TVR shall identify which of the Existing Plus Project improvements identified in Table 4.13-9, are required to be constructed for the respective Final Tract Map, to ensure adequate emergency access and satisfactory levels of service. "Existing plus Project" improvements in the City of Banning identified in an approved TVR shall be conditions of Final Tract Map approval. To the extent that any of the improvements mentioned above are included in a fee program, the cost for those improvements, if constructed by the Applicant, will be eligible for fee credits.<br>The ongoing traffic impact assessment program will be based on the p.m. peak-hour trip threshold. The Final Tract Maps' total number of p.m. peak hour trips will be established based on the trip generation listed in Table 4.13-7, Project Trip Generation. If a portion of commercial development and some residential development is included in the Final Tract Map, the total number of trips generated by each use (commercial and residential) will be calculated for the p.m. peak hour and compared to a predefined threshold. | DPW,CE | A,F | C2,D2 | |

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4.13

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| Recognizing the variety of land use options, overlays and permitted or conditionally permitted uses, the TVR will also be used to verify , as the Project builds out, that the Project's total peak hour trips are consistent with the assumptions in the Project TIA. | | | | |
| **TRF-3:** Improvement plans shall be prepared for each Project-related offsite traffic improvement and approved by the City Engineer. Improvement plans shall incorporate the following considerations, as applicable:<br>a) Obtain encroachment permit(s) from the applicable jurisdiction(s) for offsite improvements;<br>b) Through creative design techniques, where determined appropriate and consistent with City policy, modify roadway geometry to reduce potential impacts to existing developed areas (such as reduced lane widths, reduced or eliminated medians, reduced turn lane transition zones, and/or shifting intersection approaches to widen intersection quadrants where associated impacts would be reduced);<br>c) Maintain access for existing residences and businesses at all times;<br>d) Replace landscaped areas within the affected parcel and along the parcel frontage wherever practical;<br>e) Assist the affected property owner in re-striping affected parking areas and/or reconfiguring affected driveways to avoid or offset improvement-related impacts;<br>f) Follow applicable Project EIR mitigation measures related to biological resources (i.e., BIO-1 through BIO-5), with respect to minimizing loss of native vegetation, replacement or relocation of mature trees, use of native and/or drought tolerant vegetation in new landscaped areas, and ensuring consistency with applicable MSHCP and regulatory agency permitting provisions; and<br>g) Compensate the affected property owner based on fair market valuation of the acquired ROW in accordance with applicable local, State and federal regulations. | CE | A,G | A2,C2 | |
| **TRF-4:** The applicant shall pay a fair share toward cumulative impacts not otherwise captured in existing fee programs, funding sources or in lieu improvements noted above, if such a program is in place at the time of building permit issuance, based on project contribution percentages identified in Table 4.13-16. | DPW,BO | A,D | C2 | |
| Water Supply | | | | |

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|---|---|---|---|---|
| **WS-1:** With respect to the City's Banning, Banning Bench, Banning Canyon, and Cabazon groundwater supplies, the City will:<br>1) Periodically, conduct a groundwater audit that evaluates groundwater level trends, production rates, groundwater quality or other aquifer/well/pump considerations from the previous year (through use of a on-going groundwater monitoring and data collection system).<br>2) Develop a groundwater model to allow accurate simulation of groundwater flow and groundwater quality (including potential impacts by recharge of recycled water) in the City of Banning groundwater resource area.<br>Additionally, to avoid injury to other legal users of the Cabazon Basin, the City will:<br>3) Site any new well so as to not result in material interference to existing wells. | DPW | E | D2 | |
| **WS-2:** Additionally, to guard against the potential adverse effects of climate change on the City's water supplies, the City will:<br>1) Continue to manage its imported and surface water supplies conjunctively with its groundwater supplies to maximize opportunities for groundwater storage.<br>2) Continue to monitor expert technical analyses of the impacts of climate change on surface and groundwater supplies and incorporate any recommendations into the City's water supply planning efforts.<br>3) Continue to practice and promote integrated flood management. The City will incorporate climate change findings into infrastructure design and continue to integrate water and land use practices, such as encouraging new developments to capture and treat stormwater onsite. New water infrastructure will be designed to operate under a wide range of conditions and will consider climate change impacts.<br>4) Continue to diversify its portfolio through increased water use efficiency and aggressive demand reductions achieved by existing and new conservation programs. The development and use of a new recycled water supply will further diversity the City's portfolio and reduce potable water demands.<br>5) Continue to further develop regional alliances with cities, water districts and water agencies to integrate, improve and develop regional water management. | DPW | E | D2 | |

| Responsible Person | Monitoring Frequency | Method of Verification |
|---|---|---|
| CDD – Community Development Director or designee | A - With each new development | A2 - Onsite inspection |
| CP - City Planner or designee | B - Prior to construction | B2 - Other agency permit/ approval |
| CE - City Engineer or designee | C - Throughout construction | C2 - Plan check |
| BO - Building Official or designee | D - On completion | D2 - Separate submittal (e.g., reports/studies/ plans) |
| PC - Police Captain or designee | E - Operating | |
| FC - Fire Chief or designee | F - Prior to issuance of grading/building permits | |
| DPW - Director of Public Works or designee | G - Prior to approval of project plans and/or specifications | |

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# ATTACHMENT 2

**Resolution No. 2012-25 with**
**Exhibit "A" – General Plan Amendment**
**and Zone change**

**RESOLUTION NO. 2012-25**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA ADOPTING GENERAL PLAN AMENDMENT NO. 11-2501 AND ZONE CHANGE NO. 11-3501 RELATING TO THE BUTTERFIELD SPECIFIC PLAN AND MAKING FINDINGS IN SUPPORT THEREOF**

**WHEREAS,** the City of Banning received an application on August 20, 2007, for a General Plan Amendment and Zone Change, which will supersede the Deutsch Specific Plan and provide zoning regulations for the Butterfield Specific Plan, and a superseding the Deutsch Development Agreement to allow the development of up to 5,387 dwelling units (937.4 acres of residential), a golf course and open space (253.9 acres), parks (66.5 acres) and other open space (108.4) acres, two school sites (23.0 acres), and existing utilities substation facility (4.2 acres), a fire station site (1.6 acres) various retail commercial sites (36 acres) and backbone roadways (113.6 acres) (collectively, the "Project"). The Project also includes the construction of major onsite and offsite infrastructure, including, but not limited to: various on-site and off-site street improvements to provide access to and from the Project site; designation of a site for a potential wastewater treatment facility; various onsite and offsite conveyance pipelines for sewer, water, storm drain; water reservoir tanks, a multi-purpose detention basin, and drainage improvements to Pershing Channel and Smith Creek immediately upstream and downstream of the 1,543-acre Project site to accommodate the mixed-use master planned community.

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|---|---|
| Project Applicant: | Pardee Homes (Authorized Agent Mike Taylor, Vice President of Pardee Homes, 10880 Wilshire Boulevard, Suite 1900, Los Angeles, CA 90024) |
| Property Owners: | Pardee Homes owns 1,522 acres within the Butterfield Specific Plan.<br>Highland Springs Country Club Owners Association owns the 21-acre property that is located at the northwest corner of the Butterfield Specific Plan (APN: 408-060-006, 007 & 008 portion). |
| Project Location: | Northeast Corner of Highland Springs Avenue and Wilson Street |
| APN Number: | The Project includes parcels: 408-060-006, 007 & 008 (por.); 408-030-001 & 005; 408-120-001 through 020, 022, 024, 025, 027 & 033; and 531-080-013 & 014. |
| Specific Plan Size: | 1,543 Acres |

**WHEREAS,** Pardee Homes requests that the text of the General Plan be amended as indicated in Exhibit "A" to: (1) allow the City's General Plan Land Use and Zoning Overlay Map to show a zoning designation for a property that has an approved Specific Plan to be labeled as Specific Plan without displaying the underlying land use maps; and, (2) replace the existing Zoning for the Project site from Deutsch Specific Plan with the Butterfield Specific Plan as



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referenced herein and dated November 21, 2011.

**WHEREAS,** Pardee Homes has submitted the Butterfield Specific Plan which is a companion application to General Plan Amendment No. 11-2501, Zone Change No. 11-3501, and a Development Agreement, including a Draft and Final Environmental Impact Reports ["EIR"] (SCH No. 2007091149).

**WHEREAS,** the Butterfield Specific Plan will supersede the existing Deutsch Specific Plan which is the Zoning regulation for the Project.

**WHEREAS,** the City has reviewed the Butterfield Specific Plan and associated entitlement applications to allow the development of up to 5,387 dwelling units (937.4 acres of residential), a golf course and open space (253.9 acres), parks (66.5 acres) and other open space (108.4) acres, two school sites (23.0 acres), and existing utilities substation facility (4.2 acres), a potential fire station site (1.6 acres) and backbone roadways (113.6 acres). The Project also includes the construction of major on-site and off-site infrastructure, including, but not limited to: various on-site and off-site street improvements to provide access to and from the Project site; various on-site and off-site conveyance pipelines for sewer, water, storm drain; a multi-purpose detention basin, and drainage improvements to Pershing Channel and Smith Creek immediately upstream and downstream of the 1,543-acre Project site to accommodate the mixed-use master planned community.

**WHEREAS,** the approval of General Plan Amendment No. 11-2501 and Zone Change No. 11-3501, including its companion applications for an amendment to the Deutsch Specific Plan to supersede its zoning regulations with Butterfield Specific Plan Zoning regulations as referenced herein, and Development Agreement, is considered a Project pursuant to CEQA Guidelines Section 15378 (Public Resources Code Section 21065).

**WHEREAS,** consistent with Section 15083 of the California Environmental Quality Act ("CEQA") and prior to completing the draft Environmental Impact Report (EIR), the City held an early consultation regarding the issue areas to be considered in the EIR. The City published the Notice of Preparation ("NOP") including the Scoping Meeting in the Record Gazette and on the City's website. The City also mailed the NOP to residents who are located within 300' of the Project site and to members of the public, organizations/groups, public agencies and persons who have requested to be on the mailing lists. As part of early consultation, the City held three (3) public scoping meetings. Two (2) scoping meetings were held on October 16, 2007 from 2 p.m. to 4 p.m. and from 6 p.m. to 8 p.m. Another scoping meeting was held on October 22, 2007 from 6 p.m. to 8 p.m.

**WHEREAS,** an EIR (SCH No. 2007091149) and Mitigation Monitoring and Reporting Program were prepared in accordance with the CEQA Guidelines Sections 15000-15387 (title 14, Chapter 3 of the California Code of Regulations), the State CEQA Guidelines, and the City of Banning Environmental Review Guidelines.

**WHEREAS,** consistent with Section 15086 and 15087 of CEQA, the City published the Notice of Availability ("NOA") of the Draft EIR and made available for a 45-day public review

period from June 6, 2011, to July 21, 2011. The NOA was published in the Press Enterprise and the City's website. The City also mailed the NOA to the State Clearinghouse for distribution to State Agencies. Also, the City mailed the NOA to the residents who live within 300' radius of the Project boundaries, groups and organizations, and members of the public who requested to be on the mailing list of the Project.

**WHEREAS,** prior to the close of the comment period, the City held a public workshop on June 21, 2011, to provide information and answer questions from interested members of the public regarding the Project and the Draft EIR.

**WHEREAS,** during the public workshop of June 21, 2011, the City received questions and comments mostly on traffic, among other questions about the Project. In response to the oral comments on traffic, the City held another workshop on July 14, 2011 to respond to questions from members of the public regarding the traffic analysis report and conclusions.

**WHEREAS,** the City received 31 comment letters from members of the public, public agencies, groups/organizations, and persons who requested to be a part of the mailing list of the Project regarding the Draft EIR and the impacts of the Butterfield Specific Plan, including its associated applications referenced herein.

**WHEREAS,** consistent with Section 15088 of CEQA, the City evaluated the responses received from members of the public, public agencies, groups/organizations, and persons who requested to be a part of the mailing list of the Project and prepared written responses which culminated in a Final EIR for the Project and is referenced herein. The Final EIR was made available for a 10-day public review on Friday, February 24, 2012. The Final EIR was made available at City Hall Community Development Counter, the Banning Public Library, and the City's website.

**WHEREAS,** on March 7, 2012, the Planning Commission held a duly-noticed the noticed public hearing, at which time the Commission considered the public testimony, staff report, full documentation of the Final EIR and all other documentation relating to the Project, and the Commission unanimously recommended approval of the Project and certification of the Final EIR to the City Council.

**WHEREAS,** on March 16, 2012, the City gave public notice by advertisement in the Record Gazette newspaper of a public hearing concerning the Project to be held before the City Council. –In addition, the City mailed public hearing notices to the owners of properties that are located within a 300' radius of the project boundaries and to interested persons who requested to be on the mailing lists for the project. In addition, the City mailed public hearing notices to the owners of properties that are located within a 300' radius of the project boundaries and to interested persons who requested to be on the mailing lists for the project. -On March 27, 2012, the City Council held its public hearing on the Project and the Final EIR, to consider public testimony, the staff reports and presentations, full copy of the Final EIR and all other documentation relating to the Project.

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

SECTION 1. ENVIRONMENTAL FINDINGS.

A Final Environmental Impact Report [EIR] (SCH No. 2007091149), including Draft EIR and Mitigation Monitoring and Report Program was prepared in accordance with the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines Sections 15000 through 15387, and the City of Banning Environmental Review Guidelines. Whereas, the City Council Resolution No. 2012-24 as referenced herein provides environmental findings for the Project.

SECTION 2. REQUIRED FINDINGS FOR GENERAL PLAN AMENDMENT NO. 11-2501 AND ZONE CHANGE NO. 11-3501:

**Finding No. 1:** The proposed General Plan Amendment and Zone Change are internally consistent with the General Plan.

**Findings of Fact:** The current General Plan Land Use and Zoning Overlay Map shows the project site as Deutsch Specific Plan, including the display of the detail underlying land uses. The developer proposes a new Specific Plan called "Butterfield Specific Plan", which would amend the existing land use and zoning regulations for future development of the property that would include the development of up to 5,387 dwelling units (937.4 acres of residential), a golf course and open space (253.9 acres), parks (66.5 acres) and other open space (108.4) acres, two school sites (23.0 acres), and existing utilities substation facility (4.2 acres), a potential fire station site (1.6 acres) and backbone roadways (113.6 acres). The project also includes the construction of major on-site and off-site infrastructure, including, but not limited to: various on-site and off-site street improvements to provide access to and from the project site; various on-site and off-site conveyance pipelines for sewer, water, storm drain; a multi-purpose detention basin, and drainage improvements to Pershing Channel and Smith Creek immediately upstream and downstream of the 1,543-acre project site to accommodate the mixed-use master planned community. The proposed Butterfield Specific Plan is partially consistent with the General Plan as it is a "Specific Plan."

To make the Butterfield Specific Plan consistent with the General Plan, the Applicant is requesting that the text of the General Plan be amended as indicated in Exhibit "A" (attached) to: (1) allow the City's General Plan Land Use and Zoning Overlay Map to display any approved Specific Plans, including Butterfield Specific Plan with text only and not displaying the underlying details of the land use maps; and, (2) replace the existing Zoning for the project site from Deutsch Specific Plan to the Butterfield Specific Plan (dated November 21, 2011) as referenced herein.

The City of Banning has reviewed the proposed General Plan Amendment (No. 11-2501) and Zone Change (No. 11-3501), including detailed regulations contained within the Butterfield Specific Plan for internal consistency within all of the General Plan elements' text, diagrams, and maps and have concluded that the proposed General Plan Amendment and Zone Change will not create any conflicts among the various General Plan elements goals, policies, and objectives, including the maps and diagrams of all the elements in the General Plan. The General Plan Amendment does not change any existing land use designations at the site under the existing Deutsch Specific Plan. Specifically, Section 7.0 of the Butterfield Specific Plan dated November 21, 2011 and as referenced herein describes the Butterfield Specific Plan and the projects consistency with the goals and policies set forth in the City of Banning General Plan.

**Finding No. 2:** The proposed General Plan Amendment and Zone Change would not be detrimental to the public interest, health, safety, convenience, or welfare of the community.

**Finding of Facts:** The proposed General Plan Amendment (No. 11-2501) and Zone Change (No. 11-3501) when approved will designate the General Plan and Zoning Overlay Map for the Project site with the Butterfield Specific Plan as referenced herein. The Butterfield Specific Plan has been prepared in accordance with Chapter 17.96 of the Banning Zoning Code and Government Code Sections 65451 and 65452 in that the Butterfield Specific Plan provides details zoning regulations with regard to future development of the Project site to be consistent with the vision, goals, and objectives for the aesthetics, design, and infrastructure needs for a master-planned community.

Based on staff's analysis of the State law and facts provided in the staff report and the Butterfield Specific Plan as referenced herein, the Specific Plan has been prepared in compliance with the State law. Specifically, the Butterfield Specific Plan provides for the following to address compliance with State law and the Banning Zoning Code:

(1) Section 1.0, pages 1-1 to 1-17 includes maps and diagrams for the distribution, location, and extent of the uses of land, including open space. In addition, the text accompanies the maps and diagrams providing detail information as to the specific plan land uses, their location, and intensity/density of the uses. Sections 3.0 through 3.1.2, pages 3-1 through 3-16 of the Specific Plan provide detailed development plans for each of the land uses. Detail information of the distribution, location, and extent of the parks and open space development is provided in Section 3.6 through 3.6.6, pages 3-85 through 3-98.

(2) Section 3.2 through 3.5.5, pages 3-17 through 3-84 provide detail information via text and diagrams/maps showing distribution location, and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, and other essential facilities proposed to be located within the area covered by the plan and needed to support the land uses described in the plan. Other public services and essential facilities for the Project including schools, fire and police protection, library, cable, gas, and health services are provided in Section 3.7.1 on pages 3-97 through 3-99.

(3) Standards and criteria by which the development will proceed, and standards for the conservation, development and utilization of natural resources where applicable are provided in the following sections:

a. Section 3.7.2, pages 3-99 through 3-105 provide phasing for each development
b. Sections 4.1 through 4.13.9, pages 4-1 through 4-139 provide detail development design guidelines for the community, neighborhood, and individual buildings and how they are to be developed.
c. Sections 5.0 through 5.8.1, pages 5-1 through 5-38 provide specific details development regulations for each of the land use districts and how they are to be developed.

(4) Section 6.0 through 6.2.2, pages 6-1 through 6-4 provide details information on the administration and implementation of the Butterfield Specific Plan that includes regulations, programs, public works Projects, and financing measures necessary to carry out items (1), (2), and (3). The financing measures include Community Facility District(s) which is described in detail in Section 3.7.3 on page 3-105.

In addition to the Specific Plan regulations described above, the City Engineer and the Banning Fire Department also reviewed the access to and from the Project site connecting to the surrounding communities, including emergency access to within each of neighborhoods for emergency vehicles. It is determined that regular access and emergency access have been deemed adequately provided. A site for a fire station, a community center, and two elementary schools for the Banning and Beaumont Unified School Districts are also provided within the Specific Plan. The developer also will provide other public utilities such as electric, cable, telephone lines, and gas lines, including transit stops to serve the needs of the Butterfield community.

In compliance with SB 610 (Water Code Section 10910 et seq.), a water supply assessment (WSA) was prepared for the Butterfield Specific Plan. The WSA, which is incorporated herein by reference, indicated that at the

build out of the Project in 2045, the potable water for the Project is 2,880 acre feet per year (AFY) without conservation and 1,725 AFY with conservation measures. The Butterfield Specific Plan will be build out over time. The City also updated its Urban Water Management Plan (UWMP); the 2010 UWMP was adopted by the City Council on June 28, 2011. The UWMP provides an analysis for a 20-year time frame, as required by State law. Due to the time frame for the build out of the Project, the WSA for the Butterfield Specific Plan analyzed a 35-year time frame. The UWMP concludes that the City is anticipated to have a surplus of water to meet its customers' demands. The UWMP accounts for the projected demands of the Butterfield Specific Plan. The WSA concludes that the City's total projected water supplies available during normal, single dry, and multiple dry water years during a 35-year projection will meet the projected water demand associated with the Project, in addition to the City's existing and planned future uses.

In compliance with CEQA Guidelines (Public Resources Code Section 21000 et seq.), the City has prepared an EIR for the Project which identified and assessed all of the environmental impacts associated with the Project, identified mitigation measures for the that reduce the impacts, disclose impacts that are significant that cannot be mitigated to less than significant. The City has prepared a Mitigation Monitoring and Reporting Program which is hereby incorporated by reference. The City also prepared a Statement of Overriding Considerations for the significant and unavoidable Project-related impacts associated with aesthetics, light and glare, air quality, and traffic and circulation and the cumulative impacts associated with aesthetics, light and glare, air quality, climate change, noise, and traffic and circulation. (Refer to Environmental Impact Report Resolution 2012-02).

Based upon the Statement of Overriding Considerations, the City finds that seventeen (17) areas of public benefits related to the proposed Butterfield Specific Plan Project outweigh the seven (7) areas of significant unavoidable adverse impacts. Accordingly, the significant unavoidable adverse impacts are considered acceptable.

The above finding of facts provided in this subsection concludes that the General Plan Amendment and Zone Change would not be detrimental to the public interest, health, safety, convenience, or welfare of the community as the Project has been prepared in compliance with the City of Banning Zoning Code Chapter 17.96, Government Code Sections 65451 and 65452, and the California Environmental Quality Act (Public Resources Code Section 21000 et seq.)

**Finding No. 3:** The proposed General Plan Amendment and Zone Change would maintain the appropriate balance of land uses within the City.

**Findings of Fact:** The proposed General Plan Amendment and Zone Change would maintain the appropriate balance of land uses within the City in that the Butterfield Specific Plan provides a mix of land uses that include residential, commercial, open space, parks, trails, school sites, fire station site, golf course, and infrastructure to serve the needs of the community. Specifically, the residential development would include single-family (539.2 acres) and medium density residential (324.4 acres) components. The single-family residential development will be provided with varying product types and lot sizes. Within the single-family residential development, the Low Density component of the development will have lot sizes ranging from a minimum of 5,000 square feet to an average of 7,500 square feet. For a medium density single-family component, the lot sizes range from 3,400 square feet to a minimum average of 7,200 square feet. For the cluster medium density single-family, the lot sizes range from 2,000 square feet to 2,800 square feet.

The High Density Residential (73.8 acres) development would provide for attached single-family dwellings with semi-private courtyards and open spaces.

The two commercial sites totaling 36 acres are located at key intersections within the project. The 23-acre site is located at Highland Springs Avenue and Wilson Street. The 13-acre site is located at the southeast corner of "B" Street and Highland Springs Avenue. Both sites would provide for general commercial, retail and office uses that would serve the residents of the project and the surrounding community.

Park facilities of varying sizes, including pedestrian, and bike lanes are provided within the development to serve the recreation needs of the community. The park sites are easily accessible from the various neighborhoods within the development. The golf course area or its alternative use as an open space with recreational trails provides a central open space or view window for the development which is an amenity for the project.

The Butterfield Specific Plan also provides adequate areas for drainage, streets, and infrastructure to serve the development.

Based on the facts provided in this sub-section, including Section 7.0 of the Butterfield Specific Plan findings of consistency with the General Plan as referenced herein, the proposed General Plan Amendment and Zone Change would maintain the appropriate balance of land uses within the City and specifically, it will implement the Citywide goal of "a balanced well-planned community including business which provides a functional pattern of land uses and enhances the quality of life for all Banning residents."

**Finding No. 4:** With regard to the General Plan Amendment and Zone Change to the General Plan Land Use, the subject property is physically suitable for the requested land use designation(s) and the anticipated land use development(s).

**Finding of Fact:** The project site is 1,543 acres and is adequate and suitable to develop with the proposed land uses which are described in detail in the Butterfield Specific Plan as incorporated herein by reference. The land use plan for the project takes into consideration the physical constraints and opportunities of the site including surrounding land uses, topography, geology, seismic hazards, soils, groundwater, drainage and flood control channels – Smith Creek and Pershing Channel, paleontology and archeology, biology, circulation and access, and utilities as described in detailed in Sections 2.1 through 2.7.2 of the Specific Plan.

The proposed Project would continue a pattern of development that is already in place to the south, southeast, west and northwest of the site, providing desirable linkages between existing developments, extending and improving the City's circulation system, and providing additional parks, schools, and other public facilities that would serve both proposed and existing land uses in the area. The Butterfield Specific Plan is proposing to substantially increase the open space to 428.8 acres, compared to the previously designated 268 acres of open space in the previously approved Deutsch Specific Plan. The Project would not physically divide an established community since the Project site is currently vacant and undeveloped.

As part of the community input and public review process for the preparation of the Specific Plan and at the request of the residents who live on Mockingbird Lane, the developer modified the lot sizes for the area that is located on the east side of the Highland Home Road and north of the "F" Street. Planning Area 50 of the Butterfield Specific (refer to Exhibit 3.1, Land Use Plan, in the Specific Plan) which is the area to the north of the Mockingbird Lane has been designated as Low Density Residential, with a minimum average lot size of 7,500 sq. ft. Furthermore, starting at the back of lots along the existing lots on the north side of Mockingbird Lane, there would be approximately 390 ft. of open space between the rear property lines of lots located on Mockingbird Lane and the southern boundary of Planning Area 50.

Access to and from the Project has been evaluated consistent with the General Plan policies and the County Master Plan of Roadways. Internal circulation systems have been reviewed to provide automobile, low speed electric vehicles, pedestrian, and bikeway connections within the Project site. Additionally, each of the neighborhoods have been reviewed and

provided two points of access for public safety vehicles during an emergency. Necessary utilities that include water, sewer, gas, electricity, cable, and telephone that will serve the development will be provided through the implementation of the Specific Plan.

In compliance with SB 610 (Water Code Section 10910 et seq.), a Water Supply Assessment was prepared for the Project, which is consistent with the City's Urban Water Management Plan, and which is incorporated herein by reference. The WSA concluded that the City's total projected water supplies available during normal, single dry, and multiple dry water years during a 35-year projection will meet the projected water demand associated with the project, in addition to the City's existing and planned future uses.

Based on the facts indicated in this subsection and subsections above, the Project site is suitable for requested land use designation(s) and the anticipated land use development(s).

SECTION 3. CITY COUNCIL ACTION.

The City Council hereby takes the following action:

Adopt Resolution No. 2012-25 adopting General Plan Amendment No. 11-2501 and Zone Change No. 11-3501, based on the findings of facts indicated in this resolution and the administrative record.

**PASSED, APPROVED AND ADOPTED** this 7th day of March, 2012.

_____
Don Robinson, Mayor
City of Banning

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

_____
David J. Aleshire
Aleshire & Wynder, LLP
City Attorney
City of Banning, California

**ATTEST:**

_____
Marie Calderon, City Clerk
City of Banning

**CERTIFICATION:**

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2012-25, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 27th day of March 2012, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Marie Calderon, City Clerk
City of Banning, California



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**EXHIBIT "A"**
(to Resolution No. 2012-25)

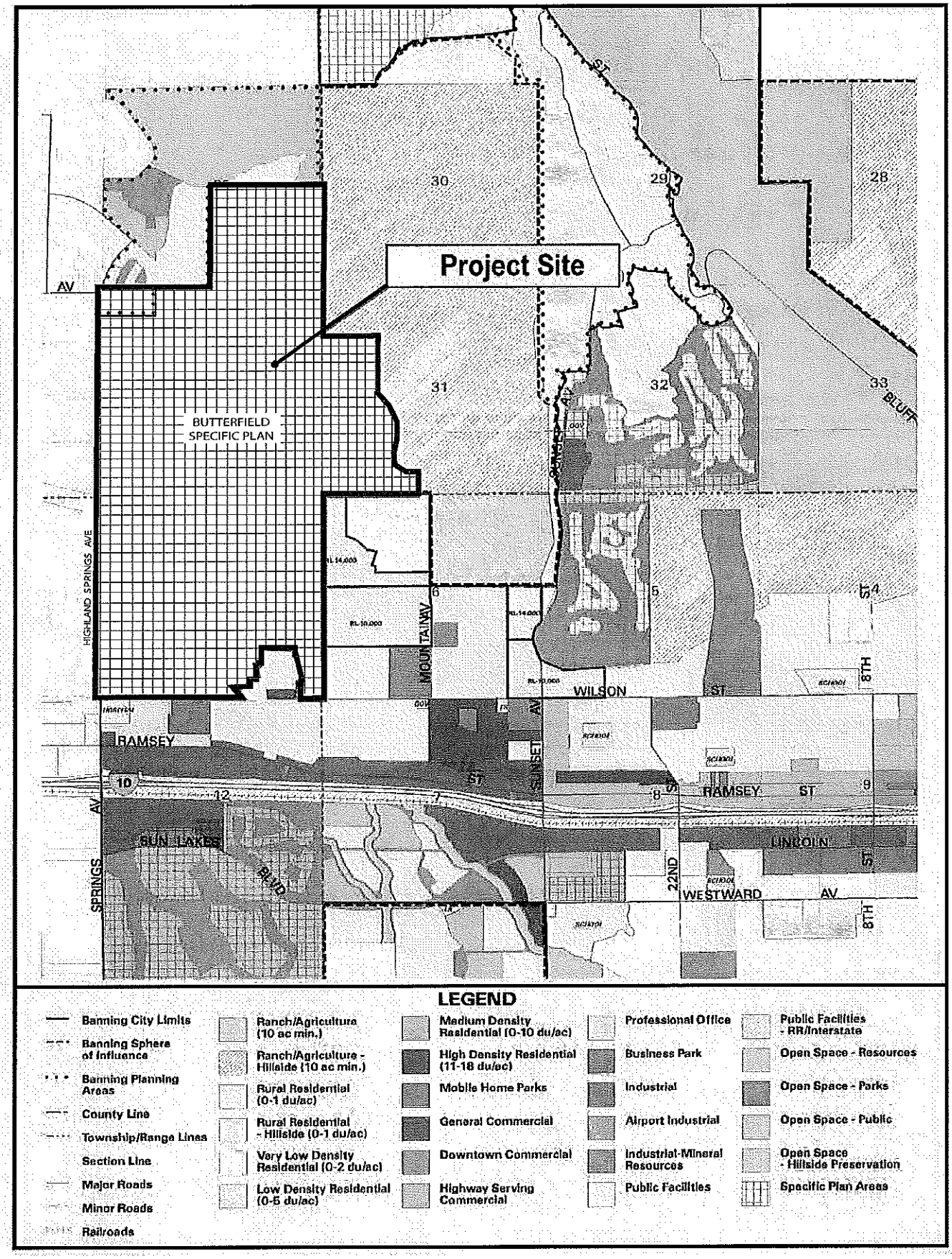
The existing General Plan text on Page III-8 of Chapter III, *Community Development*, Land Use Element, with text proposed to be removed and replaced shown in strike out and new text underlined:

**Specific Plans**

"The Specific Plan is an important tool in the coordinated development of larger parcels, or of projects which propose a variety of land uses. They shall include design standards and guidelines, infrastructure plans and implementation measures to ensure the coordinated, orderly development of a project. Government Code provides the standards and guidelines for the content of Specific Plans. Specific Plans can also be combined with environmental documentation, and result in a Specific Plan/Environmental Impact Report.

~~In Banning, Specific Plans have previously been considered a land use designation. With adoption of this General Plan, this is no longer the case. Existing approved Specific Plans are shown on the land use map with their approved land use plan, and the Specific Plan overlay.~~ ***The General Plan Land Use Map may show adopted Specific Plan Areas as an overlay, including with their underlying approved land use plan, or it may be shown with just the Specific Plan Areas overlay designation. The Specific Plan Areas designation on the General Plan Land Use Map shall act as a reference to the approved specific plans, including their associated land use plans, which shall be the governing land use. Specific Plan land use plans shall use land use designations that are consistent with the standard Land Use Designations used in the General Plan when feasible.***

With adoption of this General Plan, Specific Plans are required for projects which propose more than one type of residential land use, commercial land uses and/or industrial land uses, or a combination of these, within one project site. Specific Plans are also required when a project is proposed within an area previously undeveloped, where infrastructure master planning will be required (water, sewer, flood control or roadways), and when the project will be phased. Once a new Specific Plan is approved by the City Council, the Land Use Map will be amended to place the Specific Plan overlay on that area."; and,



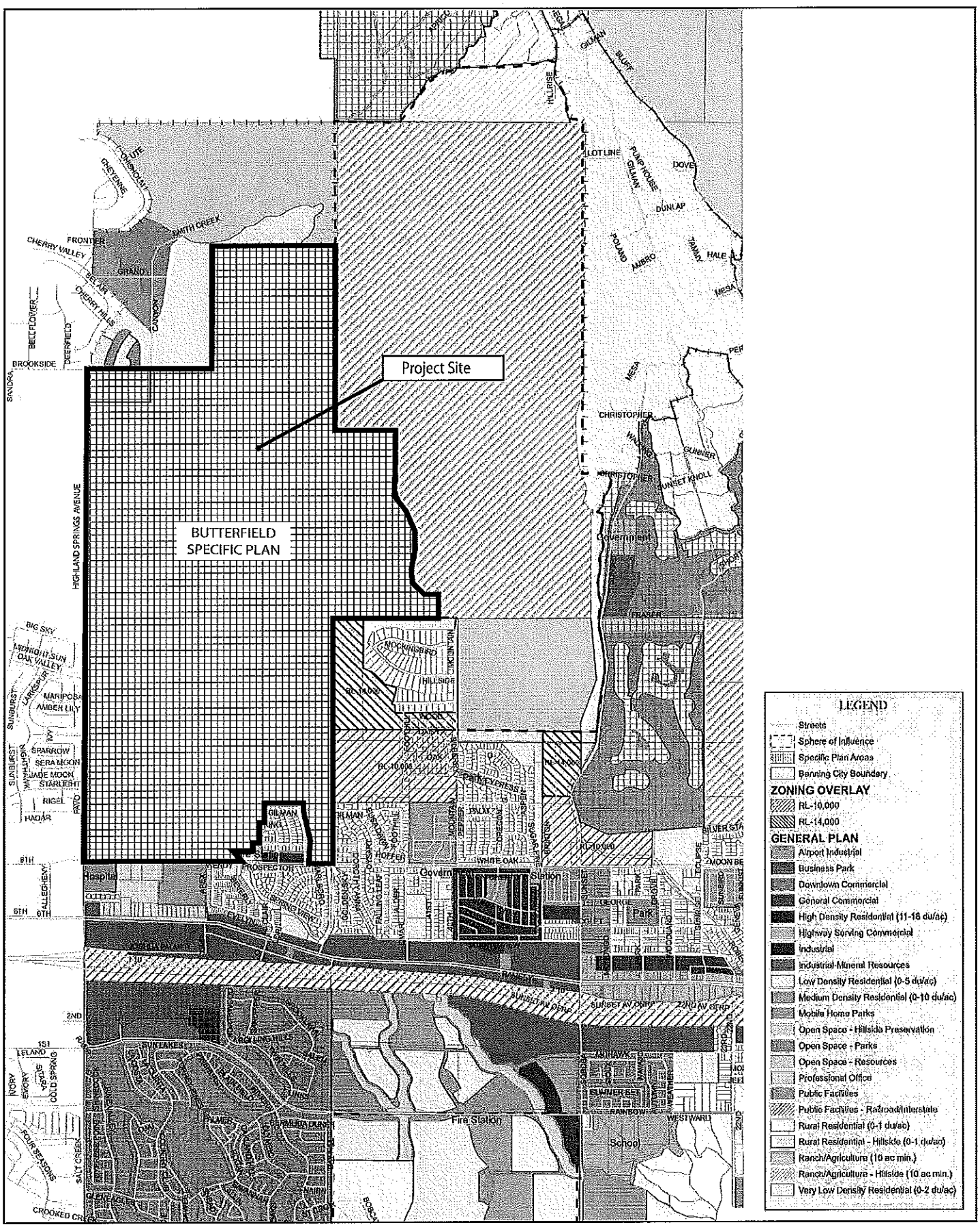

SOURCE: RBF Consulting, Butterfield Specific Plan, May 25, 2011 (Exhibit 2.2)
City of Banning General Plan Exhibit III-2, March 16, 2006

PARDEE HOMES • BUTTERFIELD SPECIFIC PLAN EIR

RBF CONSULTING | NOT TO SCALE | 5/27/11 JN:65-100290

## Proposed Amended City of Banning General Plan Designation

213 EXHIBIT A




SOURCE: RBF Consulting, Butterfield Specific Plan, May 25, 2011 (Exhibit 2.3)
City of Banning Zoning Map, October 7, 2008

NOT TO SCALE

RBF CONSULTING | 5/27/11 JN:65-100290

PARDEE HOMES • BUTTERFIELD SPECIFIC PLAN EIR

**Proposed Amended City of Banning Zoning**

214 EXHIBIT A

# ATTACHMENT 3

**Ordinance No. 1450 with**
**Exhibit "A" – Butterfield Specific Plan**
**And Conditions of Approval**

# ORDINANCE NO. 1450

## AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA AMENDING THE DEUTSCH SPECIFIC PLAN AND SUPERSEDING IT WITH THE BUTTERFIELD SPECIFIC PLAN AND ADOPTING CONDITIONS OF APPROVAL AND MAKING FINDINGS IN SUPPORT THEREOF

**WHEREAS,** the City of Banning received an application on August 20, 2007 for an amendment to the Deutsch Specific Plan to provide zoning regulations for the Butterfield Specific Plan including a General Plan Amendment and Zone Change, amendment to the Development Agreement, and approval of an EIR to allow the development of up to 5,387 dwelling units (937.4 acres of residential), a golf course and open space (253.9 acres), parks (66.5 acres) and other open space (108.4) acres, two school sites (23.0 acres), and existing utilities substation facility (4.2 acres), a fire station site (1.6 acres) and backbone roadways (113.6 acres). The project also includes the construction of major on-site and off-site infrastructure, including, but not limited to: various on-site and off-site street improvements to provide access to and from the project site; designation of a site for a potential waste water treatment facility; various on-site and off-site conveyance pipelines for sewer, water, storm drain; a multi-purpose detention basin, and drainage improvements to Pershing Channel and Smith Creek immediately upstream and downstream of the 1,543-acre project site to accommodate the mixed-use master planned community.

| | |
|---|---|
| Project Applicant: | Pardee Homes (Authorized Agent Mike Taylor, Vice President of Pardee Homes, 10880 Wilshire Boulevard, Suite 1900, Los Angeles, CA 90024) |
| Property Owners: | Pardee Homes owns 1,522 acres within the Butterfield Specific Plan.<br>Highland Springs Country Club Owners Association owns the 21-acre property that is located at the northwest corner of the Butterfield Specific Plan (APN: 408-060-006, 007 & 008 portion). |
| Project Location: | Northeast Corner of Highland Springs Avenue and Wilson Street |
| APN Number: | The project includes 34 parcels: 408-060-006, 007 & 008 (por.); 408-030-001 & 005; 408-120-001 through 020, 022, 024, 025, 027 & 033; and 531-080-013 & 014. |
| Specific Plan Size: | 1,543 Acres |

**WHEREAS,** Pardee Homes requests an amendment to the Deutsch Specific Plan by superseding it with the zoning regulations for the Butterfield Specific Plan so that future development within the project site conforms to the Butterfield Specific Plan.



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**WHEREAS,** the Butterfield Specific Plan and Conditions of Approval (Exhibit "A") including its companion entitlement applications for General Plan, Zone Change, and Development Agreement amendment, and Water Supply Assessment are considered a Project pursuant to CEQA Guidelines sections 21065.

**WHEREAS,** Government Code Sections 65450 through 65454 establish the authority for the adoption a Specific Plan, identify the required contents of the Specific Plan and mandate consistency with the General Plan.

**WHEREAS,** Chapters 17.44 and 17.96 of the Banning Zoning Code specifies the purpose, the content of the Specific Plan, procedures for the preparation and adoption of the Specific Plan, and findings.

**WHEREAS,** the City of Banning development team has reviewed the Butterfield Specific Plan and associated entitlement and determined that the Specific Plan meets the requirements of Government Code Sections 65450 and 65454 and Chapters 17.44 and 17.96 of the Banning Zoning Code.

**WHEREAS,** the approval of an amendment to the Deutsch Specific Plan and superseding it with the Butterfield Specific Plan as referenced herein, including its companion applications for General Plan Amendment No. 11-2501 and Zone Change No. 11-3501, and Development Agreement amendment, is considered a project pursuant to CEQA Guidelines Section 21065.

**WHEREAS,** consistent with Section 15083 of CEQA and prior to completing the draft Environmental Impact Report ("EIR"), the City held an early consultation or scoping meeting regarding the environmental issue areas to be considered in the EIR. The City published the Notice of Preparation ("NOP") including the Scoping meeting in the Record Gazette and on the City's website. The City also mailed the NOP to residents who are located within 300' of the Project site and to members of the public, organizations/groups, public agencies and persons who have requested to be on the mailing lists. As part of early consultation, the City held three (3) public scoping meetings. Two (2) scoping meetings were held on October 16, 2007, from 2 p.m. to 4 p.m. and from 6 p.m. to 8 p.m. Another scoping meeting was held on October 22, 2007, from 6 p.m. to 8 p.m.

**WHEREAS,** a Final EIR (SCH No. 2007091149), including Draft EIR and Mitigation Monitoring and Reporting Program were prepared in accordance with the California Environmental Quality Act Sections 15000-15387 (Title 14, Chapter 3 of California Code of Regulations), the State CEQA Guidelines, and the City of Banning Environmental Review Guidelines.

**WHEREAS,** consistent with Sections 15086 and 15087 of CEQA, the City published the Notice of Availability ("NOA") of the Draft EIR and made the Draft EIR available for a 45-day public review period from June 6, 2011, to July 21, 2011. The NOA was published in the Press Enterprise and the City's website. The City also mailed the NOA to the State Clearinghouse for distribution to State Agencies. Also, the City mailed the NOA to the residents, who live within

300' radius of the Project boundaries, groups and organizations, and members of the public who requested to be on the mailing list of the Project.

**WHEREAS,** prior to the close of the comment period, the City held a public workshop on June 21, 2011 to provide information and answer questions from interested members of the public regarding the Project and the Draft EIR.

**WHEREAS,** during the public workshop of June 21, 2011, the City received questions and comments mostly on traffic, among other questions about the Project. In response to the oral comments on traffic, the City held another workshop on July 14, 2011 to respond to questions from members of the public regarding the traffic analysis report and conclusions.

**WHEREAS,** the City received 31 comment letters from members of the public, public agencies, groups/organizations, and persons who requested to be a part of the mailing list of the Project for the Draft EIR and the impacts of the Butterfield Specific Plan, including its associated applications as referenced herein.

**WHEREAS,** consistent with Section 15088 of CEQA, the City evaluated the responses received from members of the public, public agencies, groups/organizations, and persons who requested to be a part of the mailing list of the Project and prepared written responses, which culminated in a Final EIR for the Project and is referenced herein. The Final EIR was made available for 10-day public review on Friday, February 24, 2012. The Final EIR was made available at City Hall Community Development Counter, the Banning Public Library, and the City's website.

**WHEREAS,** on March 7, 2012, the Banning Planning Commission held a duly-noticed public hearing, at which time the Commission considered the public testimony, staff report, full documentation of the Final EIR, and all other documentation relating to the Project, and the Commission unanimously recommended approval of the Project and certification of the Final EIR to the City Council.

**WHEREAS,** on March 16, 2012, the City gave public notice by advertisement in the Record Gazette newspaper of a public hearing concerning the Project to be held before the City Council. On March 27, 2012, the City Council held its public hearing on the Project and Final EIR, to consider public testimony, the staff reports and presentations, full copy of the Final EIR and all other documentation relating to the Project.

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

SECTION 1. ENVIRONMENTAL FINDINGS.

A Final Environmental Impact Report [EIR] (SCH No. 2007091149), including Draft EIR and Mitigation Monitoring and Report Program was prepared in accordance with the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines Sections 15000 through

15387, and the City of Banning Environmental Review Guidelines. Whereas, the City Council Resolution No. 2012-24 as referenced herein provides environmental findings for the Project.

SECTION 2. REQUIRED FINDINGS FOR AN AMENDMENT TO THE EXISTING REGULATIONS FOR THE DEUTSCH SPECIFIC PLAN AND REPLACE IT WITH THE BUTTERFIELD SPECIFIC PLAN

**Finding No. 1:** The proposed Specific Plan is consistent with the General Plan, as amended.

**Findings of Fact:** The proposed Specific Plan is partially inconsistent with the existing General Plan. The current General Plan Land Use and Zoning designations for the project site is Deutsch Specific Plan. The proposed General Plan Amendment No. 11-2501 and Zone Change No. 11-3501 will change the land use designations and zoning of the project site from Deutsch Specific Plan to Butterfield Specific Plan which will make the Butterfield Specific Plan consistent with the General Plan Land Use and Zoning. With approval of the General Plan Amendment No. 11-2501 and Zone Change No. 11-3501, the proposed Butterfield Specific Plan would be consistent with the intent of the General Plan through designation of the site as Specific Plan. Consistency of the Butterfield Specific Plan pertaining to the proposed project is assessed in Section 7.0 of the Butterfield Specific Plan dated November 21, 2011 and is attached herein.

**Finding No. 2:** The proposed Specific Plan would not be detrimental to the environment, or to the public interest, health, safety, convenience, or welfare of the City.

**Finding of Facts:** In compliance with State law (Government Code Sections 65450 et. seq.) the proposed Butterfield Specific Plan includes the following information:

(1) *The distribution, location, and extent of land uses, including residential, commercial, open space and trails, golf course, a site for fire station, a public community center, and sites for two elementary schools.* Specifically, Section 1.0, pages 1-1 to 1-17 includes maps and diagrams for the distribution, location, and extent of the uses of land, including open space. In addition, the text accompanies the maps and diagrams providing detail information as to the specific plan land uses, their location, and intensity/density of the uses. Furthermore Sections 3.0 through 3.1.2, pages 3-1 through 3-16 of the Specific Plan provide detailed development plans for each of the land uses. Detail information of the distribution, location, and extent of the parks and open space development is provided in Section3.6 through 3.6.6, pages 3-85 through 3-98.

(2) *The distribution, location and extent and intensity of major components of public and private transportation, water, sewer, drainage, solid waste disposal, energy, and other essential facilities within the*



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*project area required to support the land uses described in the Specific Plan.* Specifically, Section 3.2 through 3.5.5, pages 3-17 through 3.84 provide detail information via text and diagrams/maps showing distribution location, and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, and other essential facilities proposed to be located within the area covered by the plan and needed to support the land uses described in the plan. Other public services and essential facilities for the project including schools, fire and police protection, library, cable, gas, and health services are provided in Section 3.7.1 on pages 2-97 through 3-99.

(3) *Standards and criteria for which the development will proceed; and* Specifically, the following sections of the Butterfield Specific Plan provides standards and criteria for which the development will proceed:

a. Section 3.7.2, pages 3-99 through 3-105 provide phasing for each development
b. Sections 4.1 through 4.13.9, pages 4-1 through 4-139 provide detail development design guidelines for the community, neighborhood, and individual buildings and how they are to be developed.
c. Sections 5.0 through 5.8.1 provide specific details development regulations for each of the land use districts and how they are to be developed.

(4) *A program for implementation including regulations, programs, public works projects and financing measures necessary to carry out the project;* Specifically, Section 6.0 through 6.2.2, pages 6-1 through 6-4 of the Butterfield Specific Plan provides details information on the administration and implementation of the Specific Plan that includes regulations, programs, public works projects, and financing measures necessary to carry out items (1), (2), and (3). The financing measures include Community Facility District which is described in detail in Section 3.7.3 on page 3-105. Details of the finding of facts are included in Ordinance No 1450.

(5) *A Statement of Relations of the Specific Plan to the adopted General Plan.* Specifically, Section 7.0 of the Butterfield Specific Plan findings of consistency with the General Plan as referenced herein, the proposed General Plan Amendment and Zone Change would maintain the appropriate balance of land uses within the City and specifically, it will implement the Citywide goal of "a balanced well-planned community including business which provides a functional pattern of land uses and enhances the quality of life for all Banning residents."

Additionally, the Specific Plan has been reviewed to ensure that there are adequate two-points of access within each of the neighborhoods/ planning areas of the Plan to provide access for public safety emergency vehicles during an emergency.

As required by the California Environmental Quality Act (CEQA) Section 20165, an environmental impact report (EIR) [State Clearinghouse No. 2007091149] was prepared for the project. The EIR identified potentially significant effects on the environment and on the public interest, health, safety, convenience, and welfare of the City and identified mitigation measures that shall be incorporated into the Project to reduce impacts. In certain instances incorporation of mitigation measures were unable to reduce impacts to less than significant. Section 15091 allows the City to approve a project that has significant impacts on the environment and that which the impacts cannot be mitigated when there are economic, social, or other considerations that make it infeasible to mitigate the significant effects of the projects. Findings for approval must be provided consistent with Section 15093 of the CEQA Guidelines in that the City Council will need to adopt a Statement of Overriding Considerations for the significant and unavoidable Project-related impacts

The City has prepared a Statement of Overriding Considerations for the significant and unavoidable Project-related impacts associated with aesthetics, light and glare, air quality, and traffic and circulation and the cumulative impacts associated with aesthetics, light and glare, air quality, climate change, noise, and traffic and circulation. (Refer to City Council Resolution No. 2012-24).

Based upon the Statement of Overriding Considerations, sixteen (16) areas of Public Benefit related to the proposed Butterfield Specific Plan Project outweigh the seven (7) areas of significant unavoidable adverse impacts. The significant unavoidable adverse impacts are considered acceptable.

**Finding No. 3:** The subject property is physically suitable for the requested land use designation(s) and the anticipated development(s).

**Findings of Fact:** The project site is 1,543 acres and the majority of the site is located on flat land. The project site has been analyzed for constraints and opportunities for development including compatibility of the various densities and intensity of land uses surrounding the development, flood zone, earthquake fault, proximity to natural open space, availability of water and utilities to serve the development.

The proposed Project would continue a pattern of development that is already in place to the south, southeast, west and northwest of the site, providing desirable linkages between existing developments, extending

and improving the City's circulation system, and providing additional parks, schools, and other public facilities that would serve both proposed and existing land uses in the area. The Butterfield Specific Plan is proposing to substantially increase the open space to 428.8 acres, compared to the previously designated 268 acres of open space in the previously approved Deutsch Specific Plan. The Project would not physically divide an established community since the Project site is currently vacant and undeveloped.

As part of the community input and public review process for the preparation of the Specific Plan and at the request of the residents who live on Mockingbird Lane, the developer modified the lot sizes for the area that is located on the east side of the Highland Home Road and north of the "F" Street. Planning Area 50 of the Butterfield Specific Plan (refer to Exhibit 3.1, Land Use Plan, in the Specific Plan) which is the area to the north of the Mockingbird Lane has been designated as Low Density Residential, with an minimum average lot size of 7,500 sq. ft. Furthermore, starting at the back of lots along the existing lots on the north side of Mockingbird Lane, there would be approximately 390 ft. of open space between the rear property lines of lots located on Mockingbird Lane and the southern boundary of Planning Area 50.

Access to and from the project has been evaluated consistent with the General Plan policies and the County Master Plan of Roadways. Internal circulation systems have been reviewed to provide automobile, low speed electric vehicles, pedestrian, and bikeway connections within the project site. Additionally, each of the neighborhoods have been reviewed and provided two points of access for public safety vehicles during an emergency. Necessary utilities that include water, sewer, gas, electricity, cable, and telephone that will serve the development will be provided through the implementation of the Specific Plan.

**Finding No. 4:** The proposed Specific Plan shall ensure development of desirable character which will be compatible with existing and proposed development in the surrounding neighborhood.

**Finding of Fact:** The project site is 1,543 acres and is adequate and suitable to develop with the proposed land uses which are described in detailed in the Butterfield Specific Plan as incorporated herein by reference. The land use plan for the project takes into consideration the physical constraints and opportunities of the site including surrounding land uses, topography, geology, seismic hazards, soils, groundwater, drainage and flood control channels – Smith Creek and Pershing Channel, paleontology and archeology, biology, circulation and access, and utilities as described in detailed in Sections 2.1 through 2.7.2 of the Specific Plan.

The proposed Project would continue a pattern of development that is already in place to the south, southeast, west and northwest of the site, providing desirable linkages between existing developments, extending and improving the City's circulation system, and providing additional parks, schools, and other public facilities that would serve both proposed and existing land uses in the area. The Butterfield Specific Plan is proposing to substantially increase the open space to 428.8 acres, compared to the previously designated 268 acres of open space in the previously approved Deutsch Specific Plan. The Project would not physically divide an established community since the Project site is currently vacant and undeveloped.

The location of the various land uses has been distributed and placed to provide compatibility within the neighborhoods in the project and the surrounding area, including the neighborhood on the north side of the Mockingbird Lane as this neighborhood provided input as to compatibility of the previous lot sizes which were smaller compared to lot sizes in their neighborhood. Specifically, to improve compatibility with the existing residential development on the north side of Mockingbird Lane, the Project has designated Planning Area 50 (refer to Exhibit 3.1, Land Use Plan, in the Specific Plan) as Low Density Residential, with an minimum average lot size of 7,500 sq. ft. Furthermore, starting at the back of lots along the existing lots on the north side of Mockingbird Lane, there would be approximately 390 ft. of open space between the rear property lines of lots located on Mockingbird Lane and the southern boundary of Planning Area 50.

Access to and from the project has been evaluated consistent with the General Plan policies and the County Master Plan of Roadways. Internal circulation systems have been reviewed to provide automobile, low speed electric vehicles, pedestrian, and bikeway connections within the project site. Additionally, each of the neighborhoods have been reviewed and provided two points of access for public safety vehicles during an emergency. Necessary utilities that include water, sewer, gas, electricity, cable, and telephone that will serve the development will be provided through the implementation of the Specific Plan.

In compliance with SB 610 (Water Code Section 10910 et seq.), a Water Supply Assessment was prepared for the project, which is consistent with the City's Urban Water Management Plan, and which is incorporated herein by reference. The Water Supply Assessment concluded that the City's total projected water supplies are adequate to meet the projected water demand associated with the project, in addition to the City's existing and planned future uses.

Based on the facts indicated in this subsection and subsections above and the administrative record, the project site is suitable for requested land use designation(s) and the anticipated land use development(s).

SECTION 3. CITY COUNCIL ACTION.

The City Council hereby takes the following action:

Adopt Ordinance No. 1450 and introduce the first reading of the Ordinance adopting an amendment to the Deutsch Specific Plan and superseding it with the Butterfield Specific Plan and adopting the Conditions of Approval attached hereto as Exhibit "A" and making findings in support thereof.

**PASSED, APPROVED AND ADOPTED** this 27th day of March, 2012.

_____
Don Robinson, Mayor
City of Banning

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

_____
David J. Aleshire
Aleshire & Wynder, LLP
Assistant City Attorney
City of Banning, California

**ATTEST:**

_____
Marie Calderon, City Clerk
City of Banning, California



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**CERTIFICATION:**

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Ordinance No. 1450 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 27th day of March, 2012 and was duly adopted at a regular meeting of said City Council held on the ____ day of _____ 2012, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Marie Calderon, City Clerk
City of Banning, California

# Butterfield Specific Plan
# Draft Conditions of Approval

## *I. GENERAL/ONGOING*

### COMMUNITY DEVELOPMENT DEPARTMENT

1. **Approved General Plan Amendment and Zone Change.** The General Plan Amendment and Zone Change are approved as shown in Exhibit "A" to Resolution No. 2012-25. An amended Development Agreement (the "Development Agreement") was approved concurrent with the General Plan Amendment and Zone Change. Capitalized terms used herein bear the same meaning as defined in the Development Agreement.

2. **Approved Butterfield Specific Plan** - This approval includes development of up to 5,387 new residential units on approximately 937.2 acres, a minimum of 36 and up to 88 acres of commercial/office, 253.9 acres of golf course or open space, 66.5 acres of park, 70.1 acres of natural/landscape/easement, 38.3 acres of drainage and open space areas, potentially two or more elementary school sites, as determined needed by the school districts, a 4.2 acre utility substation site, and approximately 113.6 acres of backbone roads as shown in the table below ("Project").

| Land Use | Gross Acres | % of Area | Dwelling Units | % of Dwelling Units | Average Gross Density |
|---|---|---|---|---|---|
| **Residential**[3] | | | | | |
| Low Density (LDR) 0-5 DU/AC | 539.2 | 35.0% | 2,222 | 41.2% | 4.1 |
| Medium Density (MDR) 0-10 DU/AC | 324.4 | 21.0% | 1,960 | 36.4% | 6.0 |
| High Density (HDR) 11-18 DU/AC | 73.8 | 4.8% | 1,205 | 22.4% | 16.4 |
| **Residential Subtotals** | **937.2** | **60.8%** | **5,387** | **100.0%** | **5.7** |
| | | | | | |
| **Open Space** | | | | | |
| Golf Course/Drainage/Open Space | 253.9 | 16.5% | | | |
| Parks | 66.5 | 4.3% | | | |
| Natural/Landscape/Easement | 70.1 | 4.5% | | | |
| Drainage/Open Space | 38.3 | 2.5% | | | |
| **Open Space Subtotals** | **428.8** | **27.8%** | | | |
| | | | | | |
| **Schools**[1] | **23.0** | 1.5% | | | |
| | | | | | |
| **Commercial/Office**[2] | **36.0** | 2.3% | | | |
| | | | | | |
| **Utility Substation – Existing** | **4.2** | 0.3% | | | |
| | | | | | |
| **Backbone Roads** | **113.6** | 7.4% | | | |
| | | | | | |
| **SPECIFIC PLAN TOTALS** | **1,543** | **100.0%** | **5,387** | **100.0%** | **3.5** |

[1] Alternate Residential use of School sites at up to 10 DU/AC is provided.
[2] Alternate Residential use or mixed use of the Commercial sites is provided for with PA 17 at up to 4.5 DU/AC (LDR) and



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PA 18 at up to 10 DU/AC (MDR). The overall DU total for the Specific Plan shall not exceed 5,387 DU. In addition, Commercial use is allowed as an alternate use for all or a portion of Residential PAs 3, 4 and 5 (51.4 acres combined), and Park PAs 26 and 27 (0.9 acres combined).

[3] The Specific Plan allows for cluster development and Active Adult residential within certain Planning Areas, as described in detail within the Specific Plan (Section 3.1.1.1, Residential).

2a. **The Phasing Plan.** The phasing and timing requirements for the construction of all public improvements shall be in accordance with the Master Phasing Plan and the developed pursuant to the Development Agreement. Although the overall timing of Project development remains subject to the Developer's discretion based on market conditions, there is a logical sequence to the development and certain improvements are required to be complete before phases of the Project can be considered complete and ready for occupancy. The Master Phasing Plan will contain the following elements:

a. **Project Phases.** The Developer must achieve certain goals and objectives in terms of Project development in order to keep the Agreement in place for the full term of the agreement, as set forth in the Development Agreement. The development of the Project will be reviewed at each Ten Year Anniversary Review. The Development Goals are as follows:

| | |
|---|---|
| Phase I (10th Anniversary) | ▪ Development will begin near the corner of Highland Springs and Wilson unless otherwise agreed.<br>▪ 1,200 Residential Units to be constructed.<br>▪ Commercial retail development of a minimum 23-acre retail-commercial site at the corner of Highland Springs and Wilson (Planning Area 18).<br>▪ Outlet for Smith Creek and other commercial, recreation and/or emergency center improvements. |
| Phase II (20th Anniversary | ▪ 1,600 residential units to be constructed. |
| Phase III (30th Anniversary) | ▪ 1,400 residential units to be constructed. |
| Phase IV (40th Anniversary) | ▪ 1,187 residential units to be constructed. |

Within each Phase, as defined above, more detailed phasing plans for each subdivision shall be developed in accordance with Section 6.5 of the Development Agreement, and are subject to the City's review and approval as conditions of approval of the Tract or Subdivision Map and, as approved, shall become a part of the Existing Approvals.

b. **Development of Phasing Plans During Subdivision Map Approvals.** The phasing and timing requirements for the construction of all development including public improvements shall generally be in accordance with the Development Approvals and applicable provisions of the Development Agreement (For example, Sections 6.2, 6.4, 6.5, 7.3, 8.0, etc.) and be developed over time in accordance with the following process:

i. *Master Phase Tract Map.* Each Phase shall have a Master Tract Map which shall be submitted for financing and conveyance purposes only and no improvements may be constructed nor shall development be permitted pursuant to such approved Tract Map except through submission and approval of tentative and final Subdivision Maps. Concurrently with processing of the Master Tract Map, all tentative Subdivision Maps for the Tract shall be submitted and processed.

ii. *Subdivision Maps*. Each Master Tract Map shall designate future subdivisions within the Tract and the order of subdivision development to the extent that the need for development of public infrastructure dictates the logical progression of subdivision development. Each Subdivision Map shall show all infrastructure necessary for the development of the Subdivision. Each subdivision will have a written Phasing Plan approved by the Director and the City Engineer prior to commencement of development of the subdivision specifying when the lots within the subdivision will be developed and when all public infrastructure within the subdivision will be constructed. Generally all streets, lighting, curbs and gutters, sidewalks, parkway landscaping, asphalt concrete paving, traffic signs and stripping, medians, landscaping, drainage facilities, storm drains, water lines, sewer lines, utility lines, trails and other facilities within the subdivision must be completed before release of any occupancy permits within the subdivision. All conditions which require the provision of Backbone Infrastructure and Subdivision Improvements for the area covered by each tentative Subdivision Map must be satisfied, either through performance or through the provision of suitable security, prior to the approval and recordation of the Subdivision Map.

iii. *Backbone Infrastructure*. Attached as Exhibit "A" is a list of Backbone Infrastructure, including roadways, detention basins, water lines, sewer lines, recycle water lines, utilities, storm drains and drainage facilities, treatment plants, power substations, community parks, community centers, fire stations, and other infrastructure serving area-wide populations. Backbone Infrastructure serves multiple subdivisions, and may need to be constructed in the initial phase of a particular Tract, or even before certain Tracts can be developed. The detailed phasing of construction will be provided through the Master Tract and Subdivision Phasing Plans. Exhibit A outlines the Backbone Infrastructure and when in the development of various Tracts it must be constructed.

3. **Precedence of Conditions.** If any of the Conditions of Approval alter a commitment made by the Developer in the Butterfield Specific Plan text or map exhibits, the conditions enumerated herein shall take precedence unless superseded by the Development Agreement, which shall govern over any conflicting provisions of any other approval.

4. **Compliance with City Codes and Conditions.** Development of the property shall conform substantially to the approved Butterfield Specific Plan as filed in the Planning Division, unless otherwise amended. Should the regulations in the Specific Plan differ from the City of Banning Zoning Ordinance, the regulations in the Specific Plan shall take precedence. Regulations that are not addressed in the Butterfield Specific Plan shall be subject to the City of Banning Zoning Code.

5. **Outside Agencies.** Development of the property shall be in accordance with the plans and procedures of various responsible agencies. These include the following:

   a. **State and Federal Standards.** The Project shall conform to all disabled access requirements in accordance with the State of California, Title 14, and Federal Americans with Disabilities Act (ADA).

   b. **Southern California Edison.** If construction is proposed within the area of the Southern California Edison power transmission easement or immediately adjacent thereto, the

Developer shall contact the area service planner for Southern California Edison to coordinate construction related activities.

c. **School Districts.** The Developer shall demonstrate payment of standard requirements and mitigation fees established by the State of California and the Banning Unified and Beaumont Unified School Districts.

d. **Riverside County Flood Control.** Prior to approval of any Final Tract or Parcel Map for which a Riverside County Flood Control master plan facility is included, the Developer shall obtain a written statement from the Riverside County Flood Control District, in a form satisfactory to the City, indicating that the Developer has adequately demonstrated the viability of proposed drainage facilities. The written statement could be the approval of the facility by RCFCD.

e. **Caltrans District 8.** Prior to issuance of applicable roadway improvement or encroachment permits, the Developer is required to receive approval of any construction or work within the Caltrans right-of-way(s).

f. **California Department of Fish and Game.** The Developer shall apply for and receive approval of an agreement under Section 1602 of the California Fish and game Code.

g. **United States Army Corps of Engineer.** The owner, Developer, or successor in interest shall receive approval of a permit under Section 404 of the Clean Water Act.

h. **Regional Water Quality Control Board.** The owner, Developer, or successor in interest shall receive approval of a permit under Section 401 of the State Porter-Cologne Act from the Colorado River basin Regional Water Quality Control Board.

i. **Riverside Conservation Authority.** The owner, Developer, or successor in interest shall comply with the Multi-Species Habitat Conservation Program mitigation fees.

j. **South Coast Air Quality Management District (SCAQMD).** The owner, Developer, or successor in interest shall comply with the air quality regulations promulgated by the SCAQMD.

6. **Mitigation Measures and Mitigation Monitoring Program.** The owner, Developer, or successor in interest shall comply with the Mitigation Measures and Mitigation Monitoring Program as approved in the Final Environmental Impact Report (SCH# 2007091149) as certified by the City Council on March 27, 2012 and incorporated herein by reference. The owner, Developer, or successor in interest shall pay for the cost of implementing and monitoring the mitigation measures.

7. **City Approvals.** All approvals by City, unless otherwise specified, shall be by the department head of the department requiring the condition. All agreements, covenants, easements, deposits and other documents required herein where City is a party shall be in a form approved by the City Attorney. The Developer shall pay the cost for review and approval of such agreements and deposit necessary funds pursuant to a deposit agreement.

8. **Homeowner's Associations.** The owner, Developer, or successor in interest shall form a Home Owner's Association (HOA) to maintain private amenities and areas that are determined by the

City to be under the area of responsibility of the Homeowners Association.

9. **Property Management Association.** The owner, Developer, or successor in interest shall form a Property Management Association for maintenance of common areas within the commercial/office component of the Project.

10. **Covenant, Conditions, and Restrictions (CC&Rs).** Covenants, Conditions, and Restrictions (CC&Rs) shall be established for residential and commercial development. The owner, Developer, or successor in interest shall pay for the cost of review and approval of the CC&Rs by the City Attorney. The CC&Rs shall provide for proper maintenance of all property and include other necessary conditions to carry out the terms herein, and shall be enforceable by City, and recorded prior to development of any parcels. An initial deposit of $5,000 is required to cover processing costs. The Developer shall pay the cost for review and approval of such agreements and deposit necessary funds pursuant to a deposit agreement.

11. **Reciprocal Ingress and Egress.** Reciprocal ingress and egress shall be established between the parcels within each of the commercial areas, in a form approved by the City Attorney.

12. **Mandatory Solid Waste Disposal.** Mandatory solid waste disposal services shall be provided by the City franchised waste hauler to all parcels/lots or uses affected by approval of this Project.

13. **Community Facilities District (CFD).** This Project is *not* within an existing Community Facilities District (CFD). As a requirement of this Project, one or more CFD's (and LMDs) shall be required to fund the maintenance of infrastructure, landscaping, police, and fire services. The formation of the CFD must be completed prior to recordation. An initial deposit of $5,000 is required to cover processing costs associated with the proceedings for the establishment of the CFD. The Developer shall pay the cost for review and approval of such agreements and deposit necessary funds pursuant to a deposit agreement.

14. **Tentative Tract Map(s) or Tentative Parcel Map(s).** The Developer or successor in interest shall submit Master Tentative Tract Maps for each Planning Area and concurrently therewith tentative subdivision map(s) and/or tentative parcel map(s) for review and approval by the Planning Commission and City Council. The maps shall be developed consistent with the development standards as established in the Butterfield Specific Plan and the Development Agreement.

15. **Addresses.** All numbered lots shall have addresses assigned by the Building and Safety Department.

16. **Project Phasing.** The Project phasing shall be in conformance with the approved Butterfield Specific Plan and the approved Final EIR. A master phasing plan(s) will be developed as per the Development Agreement. Projects subject to a building permit shall have all required on and off-site improvements that will facilitate the ability to safely occupy or utilize said construction, required for each phase, completed and approved prior to final inspection of any buildings or structures. The term "phase" as used here shall mean the following: "The block of building permits drawn on less than the whole Project" or "A plan of building construction which indicates blocks of construction of less than the whole Project". In each phase, the installation of any off-site improvements shall be sufficiently completed so as to assure protection from storm or drainage run off, a safe and drivable access for fire and safety, and the ordinary and intended use

of the buildings or structures. The phasing plans shall be further developed as provided in the Development Agreement.

17. **Recycled Water.** All recycled water service is subject to compliance with all rules, regulations, and conditions of all regulatory agencies and payment for all charges and fees in effect at the time service is applied for.

18. **Fair Share Agreements, Reimbursement and Covenant Agreements.** 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. The City may require the Developer to enter into fair share and reimbursement and other covenant agreements which may be recorded against property and bind owners of property and their successors. A "fair share" agreement shall provide for Developers of property to pay their fair share for infrastructure improvements as determined by an independent study of the respective benefit received by the benefited property. A reimbursement agreement requires the initial Developer to install infrastructure which will also serve other property when it is developed, and the initial Developer is reimbursed by the future development in accordance with the benefit received by the future development. The benefit formulas and terms of the fair share and reimbursement agreements shall contain provisions for securitization and enforcement and shall be in form and content approved by the City Attorney in accordance with law. The Developer shall pay the cost for review and approval of such agreements and deposit necessary funds pursuant to a deposit agreement.

19. **Development Impact Fees.** The development is required to comply with the provisions agreed upon in the Development Agreement regarding the payment of and timing of Development Impact Fees ("DIFs").

20. **Disclosure Statement.** A Disclosure Statement shall be submitted to the City for review and approval and made available to all prospective buyers of homes within the development.

21. Such a Disclosure Statement shall at least include the disclosure that every transferor of property within the Project site shall, upon transfer, also provide to any transferee the notice of future Southern California Edison (SCE) improvements recited below in writing. This notice may be contained in any form of agreement or contract; however, the notice need be given only once in any transaction. The transferor shall acknowledge delivery of the notice and the transferee shall acknowledge receipt of the notice. The notice shall read as follows:

*"NOTICE OF SOUTHERN CALIFORNIA EDISON (SCE)*
*RIGHT-OF-WAY FUTURE PROJECTS*

*You are hereby notified that the property you are acquiring an interest in is located within close proximity to Southern California Edison right-of-way easement. SCE expects to apply to the California Public Utilities Commission (CPUC) for a Certificate of Public Convenience and Necessity to construct electrical facilities associated with the West of Devers Upgrade Project (or similarly defined project), as well as any other future utility project(s) that require construction of new or upgraded facilities within the SCE right-of-way easement."*

22. **School District Fees.** The Developer shall provide certification from the appropriate school district as required by California Government Code Section 53080(b) that any fee, charge, dedication or other form or requirement levied by the governing board of the district pursuant to Government Code Section 53080(a) has been satisfied.

23. **Processing Fees.** The development is subject to all appropriate City Processing fees, charges, deposits for services to be rendered, and securities required pursuant to the adopted fee schedule, as amended or superseded prior to final inspection.

24. **Twenty-one (21) Acre Property.** The 21-acre property that is part of the Butterfield Specific Plan and designated Planning Area 43B is for the establishment of pre-zoning for the property if it was to be proposed for annexation to the City of Banning in the future, such as by its property owners; however, it is not planned for annexation at this time. If the property is annexed into the City; the property shall be annexed into the Community Facilities District as established.

25. **Fire Station Site.** The Developer, owner, or successor in interest shall dedicate the fire station site to the City of Banning. The Owner will receive fee credits as provided in the appraised value of the property at the time of purchase. The dedication shall occur in accordance with the phasing plan in the Development Agreement.

26. **Bicycle Path and Neighborhood Electric Vehicle and Walking Trails.** The development shall provide bicycle paths/lanes, neighborhood electric vehicle/golf cart lanes, and walking trails in substantial conformance as shown in Exhibit 3.4 of the Butterfield Specific Plan. The dedication shall occur in accordance with the phasing plan in the Development Agreement.

27. **Fire Department Conditions of Approval.** The Developer shall comply with the conditions in the transmittal from the Fire Department which is under contract from the County through California Department of Forestry.

27. **Trust Deposit Accounts.** Trust deposit accounts shall be established for future submittal and review of tentative tract or parcel maps. All trust deposits shall be maintained no deficits. The trust deposits shall be governed by deposit agreements. The trust deposit account shall be maintained separate from other City funds and shall be non-interest bearing. City may make demands for additional deposits to cover all expenses over a period of 60 days and funds shall be deposited within 10 days of the request therefore, or work may cease on the Project.

28. **Indemnification.** The Developer shall indemnify the City and its elected boards, commissions, officers, agents and employees and will hold and save them and each of them harmless from any and all actions, suites, claims, liabilities, losses, damages, penalties, obligations and expenses (including but not limited to attorneys' fees and costs) against the City and/or Agent for any such Claims or Litigation (as defined in Section 1.10 of the Development Agreement) and shall be responsible for any judgment arising therefrom. The City shall provide the Developer with notice of the pendency of such action and shall request that the Developer defend such action. The Developer may utilize the City Attorney's office or use legal counsel of its choosing, but shall reimburse the City for any necessary legal cost incurred by City. The Developer shall provide a deposit in the amount of 150% of the City's estimate, in its sole and absolute discretion, of the cost of litigation, including the cost of any award of attorneys fees, and shall make additional deposits as requested by City to keep the deposit at such level. The City may ask for further security in the form of a deed of trust to land of equivalent value. If the Developer fails to provide or maintain the deposit, the City may abandon the action and the Developer shall pay all costs resulting therefrom and City shall have no liability to the Developer. The Developer's

obligation to pay the cost of the action, including judgment, shall extend until judgment. After judgment in a trial court, the parties must mutually agree as to whether any appeal will be taken or defended. The Developer shall have the right, within the first 30 days of the service of the complaint, in its sole and absolute discretion, to determine that it does not want to defend any litigation attacking this Agreement or the Development Approvals in which case the City shall allow the Developer to settle the litigation on whatever terms the Developer determines, in its sole and absolute discretion, but Developer shall confer with City before acting and cannot bind City. In that event, the Developer shall be liable for any costs incurred by the City up to the date of settlement but shall have no further obligation to the City beyond the payment of those costs. In the event of an appeal, or a settlement offer, the Parties shall confer in good faith as to how to proceed. Notwithstanding the Developer's indemnity for claims and litigation, the City retains the right to settle any litigation brought against it in its sole and absolute discretion and the Developer shall remain liable except as follows: (i) the settlement would reduce the scope of the Project by 10% or more, and (ii) the Developer opposes the settlement. In such case the City may still settle the litigation but shall then be responsible for its own litigation expense but shall bear no other liability to the Developer.

29. **Community Center/Emergency Site.** An approximately 6-acre site shall be dedicated to the City of Banning for a community or emergency housing center within either Planning Areas 35 or 39 or the site shall be provided within the surplus sites that may include the optional satellite waste water treatment plant site that is located at the northwest corner of Highland Home Road and Wilson Street. [Ultimate size of site will be adjusted to not adversely affect development area of surrounding property] The site shall be graded and be provided with a finished pad. Utilities will be stubbed to the property according to the requirements of the Public Works department. In the event that the City requests the Community Center within any of the residential Planning Areas that allow for such uses, per the provisions stated within the Specific Plan, the Owner and City shall enter into an agreement for the acquisition of the otherwise developable land. This site would be in addition to the parks and open space sites that are shown on Exhibit 3.1B of the Specific Plan. The dedication shall occur in accordance with the Phasing Plan in the Development Agreement. Developer shall not receive development fee credit for the value of the site, and may be asked to construct the improvements in accordance with the Development Agreement.

30. **Paleo/Archeological Conditions.** In the event that Native American cultural resources are discovered during project development/construction, all work in the immediate vicinity of the find shall cease and a qualified archeologist meeting the Secretary of Interior Standards shall be hired to access the find. Work on the overall project may continue during this assessment period. If significant Native American cultural resources are discovered, for which a Treatment Plan must be prepared, the developer or his archeologist shall contact the Morongo Band of Mission Indians ("Tribe"). If requested by the Tribe, the developer of the project archeologist shall, in good faith, consult on the discovery and its disposition."

**PARKS, RECREATION, AND OPEN SPACE**

31. **Parks, Recreation and Open Space.** The Land Use Plan includes development of a total of 66.5-acres of neighborhood parks, neighborhood recreation centers, community parks, and an 18-hole golf course or open space as depicted in Table 3-3 and described in Section 3.6 of the approved Butterfield Specific Plan. All dedications and improvements shall be in accordance with the Phasing Plan in the Development Agreement except as specifically provided herein.

32. **Parks Completion and Use by the Public:**

a. Prior to the construction of any parks, the Developer shall meet with both the Director and the Director of Parks and Recreation to review the provisions set forth in the Specific Plan outlining the facilities to be provided at each park and discuss the Developer's plans for near-term construction of the parks. Prior to development of each park, a detailed site plan consistent with the Specific Plan shall be prepared by the Developer and approved by the Director and the Parks and Recreation Commissions. The Developer shall complete the construction of neighborhood parks and utility easement parks( park improvements which will go in beneath the SCE easement area in the middle of the project in Planning Areas 36, 37 and 38), Planning Areas 22 through 34, 36 through 38, 62, 64 through 67 and 72, no later than the issuance of the final Certificate of Occupancy for residential units within the adjacent subdivisions. A subdivision separated from a park by a street shall not be considered to be adjacent to the park. The City and Developer shall, mutually, determine what constitutes the adjacent subdivision if a park adjoins more than one subdivision. Upon completion of each neighborhood park, the City shall after the one-year maintenance period has expired, within 10 working days, develop final punch lists of items to be corrected prior to acceptance by the City. Upon correction of final punch list items by the Developer, the City shall accept the park within 30 days of the date of the final inspection.

b. The City's Parks Master Plan indentifies the need in the Project for a community recreation and/or emergency response center (the "Center"), and this is even more necessary if the Golf Course is not developed. This Center would be on an approximately six (6) acre parcel in Planning Area 39 in lieu of the golf clubhouse, or alternatively could be located as a part of a community park or other available site including in Planning Area 71, or in lieu of the waste water treatment plant site in Planning Area 11. Depending on the site selected, the six (6) acres may be reduced so as to not adversely affect the development area of adjacent parcels from the development areas shown in the Specific Plan. The Center is contemplated as a 30,000 sq. foot facility. The plan for the Center shall be included in the Park Master Plan and the site plan shall be processed at the time the chosen Planning Area is developed, subject to approved Phasing Plans, and provided that if the City chooses to put the Center in Planning Area 11, it may be developed as part of Phase I provided that Developer shall satisfy the Phase I obligation by providing a developed site, and need not fund the construction of the improvements if there are insufficient DIF's for credit. The Developer shall dedicate the site to City without charge. If developed as part of a park it shall be developed at the time required for parks in Section 8.1.1 of the Development Agreement. The Center may include emergency operations and shelter components, and will also include appropriate landscaped grounds and facilities as specified in the Master Plan. Except as provided in this Condition, the Center may be developed and constructed by Developer in the same manner as for the waste water treatment plant.

33. **Golf Course Alternative.** Any alternative plan for the development of the golf course open space within Planning Areas 35 and 39 shall be subject to the City's discretionary Design Review process as provided for in the Specific Plan and City Code. The determination on the golf course use shall be in accordance with the Phasing Plan in the Development Agreement except as specifically provided herein.

34. **Alternative Use of the School Sites.** If the school site(s) is not needed, then any alternative

use(s) of the site(s) shall be subject to the City discretionary Design Review process as provided for in the Specific Plan and City Code.

35. **Design Review for Parks, Recreation, and Open Space.** Review for improvement of applicable parks, recreation and open space for each development phase shall be approved by the Community Services Department and Community Development Department prior to recordation of final subdivision maps for that phase, in accordance with the phasing schedule and procedures specified in these conditions of approval. Nothing herein shall prevent submission of plans for review by the appropriate commission. Generally, parks and open space shall include youth oriented amenities and designed as illustrated in the Conceptual Park Plans in the Butterfield Specific Plan. The Community Recreation Center in Planning Areas 21 and 63 could include amenities such as a clubhouse, tennis courts, pool and, basketball courts. The 34-acre land in Planning Area 71 that is reserved for the detention basin/lake shall be provided with looped multi-use trails adjacent to the basin as deemed acceptable by the Public Works Department with picnic areas and shade structures. Plans for the amenities within Planning Area 71 shall be submitted for review and approval prior to the issuance of grading permit for the lake. The detention basin/lake shall be constructed consistent with any changes made to Smith Creek and in accordance with the Phasing Plan in the Development Agreement.

36. **One Year Maintenance of Parks and Open Space.** The Developer shall maintain all parks, parkways, medians, berms, lakes, drainage facilities not accepted by Riverside County Flood Control District and irrigation systems within streets or otherwise annexed into the Maintenance Districts, excluding facilities maintained by the Homeowners Association (HOA), for a period of one year after construction until accepted by the receiving agency. All facilities shall be operable and in good working order and any dead or dying landscaping shall be replaced with like materials. If these conditions are not met, or if landscaping has not been in a consistently healthy condition, the one year period can be extended. The Developer shall pay one year cash deposit or post a bond in an amount equal to one year's maintenance plus City administrative costs (value to be determined prior to recordation of each final map) to ensure maintenance for one year, and shall securitize the obligation in a form approved by the City Attorney. After one year, these operations shall be accepted by the appropriate Maintenance District. That maintenance district will then maintain the facilities to the same level as required by Owner during the maintenance period.

37. **North Basin within Planning Area 71.** The Developer, owner, or successor in interest shall develop amenities around the basin for recreational purposes to include multi-purpose trails, picnic shelter(s) with picnic tables and benches for seating. Maintenance of the amenities shall be provided by the Community Facilities District (CFD), Landscape Maintenance District (LMD), or other private funding mechanism.

38. **Installation of Plant Material.** Landscaping and permanent irrigation facilities shall be installed with street improvements including landscaped median on Highland Springs Avenue and Wilson Street in accordance with the approved Butterfield Specific Plan as they pertain to plant and irrigation standards. The Developer shall have appropriate right-of-way improvements, landscaping, street lighting and irrigation installed and in good working order prior to final release of occupancy of the homes subject to agreed upon phasing between the City and the Developer and in accordance with the Development Agreement.

39. **Content of Plans.** Landscape Improvement plans shall conform to the concepts, features, and standards established in the approved Butterfield Specific Plan and the conditions enumerated

herein, and shall be prepared by a licensed landscaped architect.

40. **Water Conservation.** In accordance with the Banning Municipal Code, all landscape and irrigation plans shall provide drought resistant and/or native vegetation, automatic irrigation systems which minimize runoff, and, where feasible, a separate irrigation system for the conveyance and distribution of recycled water.

41. **Recycled Water.** All landscaping within the golf course open space shall be irrigated with non-potable water. The Developer shall install infrastructure for a recycled water system on site (conveyance and distribution facilities), as approved by the City and the Environmental Health Department. The Phasing Plan shall be in accordance with the Development Agreement. Developer will work with City Public Works Department if special watering needs are required by golf course operator. (See Condition 61 Below)

42. **Security Camera.** For security reasons, the Developer, property owner or successor in interest shall provide a security camera at the City's discretion in selected neighborhood and/or community parks where restroom facilities and other structures are provided. Specifications of the security camera shall be subject to review and approval of the Police Department. The cameras, once installed, will be maintained and operated by the City of Banning Police Department. Developer shall convey the equipment to City with all warranties thereon.

**SITE AND ARCHITECTURAL DESIGN**

43. **Architectural Styles.** The architectural styles for the Project shall be consistent with the conceptual architectural design as approved in the Butterfield Specific Plan. Any major significant deviations from the architectural styles in the Butterfield Specific Plan are subject to review and approval of a Design Review by the Planning Commission.

44. **Community Entry Monument Program and Project/Tract Identification.** Consistent with the Butterfield Specific Plan, community entry statements, including theme walls, monumentation, and enhanced landscaping at each entrance to the Project shall be consistent with the locations as approved in the Butterfield Specific Plan. Theme walls and monuments shall not occur within the public right-of-way. All entry monumentation programs shall be submitted for review and approval by the Community Development Department and shall be in substantial conformance with the approved Butterfield Specific Plan. Construction of the monumentation shall occur based on phasing and shall be completed and open prior to final occupancy of the first home in each phase.

45. **Unit/Building Identification.** Each building and unit in the Project shall include a lighted address fixture. This fixture shall allow for replacement of the bulbs, and shall be reviewed and approved by the Community Development Department, the Fire Department, and the Police Department.

46. **Phasing.** Any Phasing Plan shall be reviewed and approved by the Community Development Department and Public Works Department. Each Phase of the Project shall provide adequate drainage, domestic water, and at least two points of access to all lots. A phasing plan shall be submitted with the Design Review application. The phasing plan shall be in accordance with the Master Phasing Plan in the Development Agreement and shall include the installation of any necessary backbone infrastructure.

47. **Commercial Sites.** Developer shall use its best efforts in planning for the development of the commercial sites within the Butterfield Specific Plan to include a big-box retailer such as Target or equivalent major tenant and as the commercial sites produce tax revenue to City and are important to alleviate the fiscal impact of the Project. Developer shall develop the commercial sites as more specifically described in the Development Agreement. In particular, Planning Areas 17 and 18 shall be developed for a big box user such as Target, Lowes, Costco, or equivalent, and shall be developed in the first phase of the Project per the Phasing Plan in the Development Agreement. The development on the commercial sites shall be subject to Design Review and approval by the Planning Commission.

48. **Multi-Family Sites.** Plans for the development of the multi-family sites shall be subject to review and approval by the Planning Commission through discretionary Design Review or other entitlement as necessary to comply with the Butterfield Specific Plan as approved and the City's Municipal Code as applicable.

49. **Active Adult Community.** Plans for the development of the active adult community within the Specific Plan shall be subject to review and approval by the Planning Commission in accordance with the approved Butterfield Specific Plan and the City's Municipal Code as applicable.

50. **Satellite Waste Water Treatment Facility.** The architecture of the building for the satellite wastewater treatment facility, if the construction of such a facility is requested by City, shall be designed to be compatible with the architecture of residential homes and the surrounding environment. The facility shall be constructed on a site approved by the Director of Public Works and dedicated to City, in accordance with the terms of the Development Agreement. If built off site, Developer will pay its fair share fees for such development in accordance with an approved fair share agreement. Plans for construction shall be prepared by appropriately certified architects and engineers and approved by the Director of Public Works.

51. **Window Treatments.** Per Sections 4.5.2.1 and 4.8.2 within the Specific Plan, building facades abutting a public street, tract boundary, or a downhill slope having an elevation change in excess of 20 feet shall provide elevation enhancements which could include window treatments such as shutters, awnings, or similar on the facades.

52. **Garage Door(s).** Garage Doors shall be provided with various door designs and colors that are compatible with the design of each home.

53. **Mechanical Equipment.** All mechanical equipment, including air conditioning units, pool equipment, etc., shall be screened from the public right-of-way by a view obscuring fence, wall, or landscaping to the satisfaction of the Community Development Department.

54. **Spark Arresters.** All spark arresters in the proposed tract shall be screened by enhanced architectural enclosures or other material acceptable to the Building Official and Planning Division and painted according to the approved paint palette.

55. **Decorative Paving within Streets at the Primary and Secondary Entries.** Decorative paving could be provided within the right-of-way at sufficient distance at the primary and secondary entries. The type of enhancement could include stamped asphalt or other similar applications.

56. **Street Paving.** Public streets in each tract, planning area, or phase of development shall be paved and accessible prior to the issuance of building permits for the first production unit.

57. **Setbacks.** The minimum setbacks shall be as set forth in the Butterfield Specific Plan.

58. **Lighting for the Garages and Porches.** Light fixtures for the garage exteriors and porches shall be provided with decorative light fixtures.

59. **Trash Enclosures for Commercial and Multi-Family Residential Development.** Trash enclosures for the commercial development and multi-family residential development shall be provided with a walk-in enclosure with decorative cap and lattice covers.

**LANDSCAPE DEVELOPMENT**

60. **Landscape Construction and Water Conservation.** All landscape architecture documents and landscape construction shall comply with the City of Banning Municipal Code with regard to water conservation in landscaping.

61. **Registered Landscape Architect Licensed by the State of California.** All landscape architecture documents, used as part of the entitlement and landscape construction process, shall be designed by a registered landscape architect licensed by the State of California.

62. **Review and approval of Landscape Architecture Documents.** All landscape architecture documents shall be submitted to Community Development Department for review and approval.

63. **Recycled Water for the Golf Course Open Space and Common Landscaping Irrigation.** All common open space landscape irrigation shall use reclaimed or recycled water, where available. The golf course must use recycle water for general irrigation of the fairways. The greens may use potable water.

64. **Future Changes to Approval Landscape Architecture Documents.** All future changes, to the landscape architecture documents after City approval, shall be reviewed by the City for conformance to all laws. If major changes are proposed, the Developer, owner, or successor in interest shall submit the landscape plans and shall deposit funds in the City's trust deposit account for review and approval of the plans. The determination of whether a change is major or minor shall be made by the Director.

65. **Landscape Maintenance.** The owner, Developer, or its successors agrees to maintain the landscape construction, including trails, in accordance with the following:

    A. The landscape construction shall be neat, of good quality and design, and show good horticultural practice.
    B. The landscape construction shall preserve the design intent in accordance with the approved landscape architecture documents.
    C. The landscaped areas shall have appropriate irrigation and drainage systems to assure healthy landscaping and prevent runoff and debris flows.
    D. The landscape construction shall be maintained in good 1st class condition in accordance with the approved Landscape Maintenance Guidelines approved with the Project.
    E. The landscape maintenance shall be provided by the owner, the owner's representatives, or by the proper professionals registered with the State of California until such time that the appropriate entity accepts the areas for maintenance.

F. Any diseased or dead landscaping shall be replaced by landscaping of similar size and in good and healthy condition.

66. **Clear Sight Triangles.** All vehicular sight line triangles shall be shown on the landscape construction planting plans.

67. **Trail Easement.** Trail easements shall be dedicated to the City of Banning, where appropriate, and shall be shown on the final map in accordance with the requirements of the City of Banning. The Developer shall provide information sufficient to confirm to the City of Banning that the trails are terminated in a safe manner at the tract boundaries. Trail crossings shall be shown on the road improvement plans and the final map, where appropriate. Unless otherwise approved by City, all trails shall be fully improved, when dedicated in accordance with Butterfield Specific Plan and all Project approvals. The Developer may be required to provide temporary trail connections to be replaced by permanent improvements in accordance with agreements approved by the City Attorney.

68. **Landscape Inspection.** All landscape inspections shall be requested at least 48 hours in advance.

69. **Avoidance of Trees Conflict with Light Standard and Utility Lines.** Trees shall be planted in such a way as to avoid conflict between light standards and electric utility distribution lines. Street tree size shall be a minimum 15-gallon and at least 50% of all street trees should be a minimum of 24-inch box size consistent with the provision of Section 4.3.2 of the Butterfield Specific Plan dated November 21, 2011. All residential landscaping shall conform to Chapter 17.32, Landscape Standards of the Banning Municipal Code. All residential lots for single-family residential development shall be provided with a minimum of one 15-gallon front yard tree, one, 15-gallon accent tree. The plant list shall be provided consistent with Section 4.6.2. If there are conflicts between the landscaping requirements of the Banning Municipal Code versus the Butterfield Specific Plan, the requirements in the Butterfield Specific Plan shall prevail.

70. **Landscape Inspections.** The Project Developer shall be aware and inform the on-site project or construction manager and the landscape contractor of their responsibility to call for landscape inspections. A minimum of three (3) landscape inspections are required in the following order, and the landscape inspection card shall be signed by the City's landscape inspector to signify approval at the following stages of landscape installation:

A. At installation of irrigation equipment, when the trenches are still open;

B. After soil preparation, when plant materials are positioned and ready to plant; and,

C. At final inspection, when all plant materials are installed and the irrigation system is fully operational.

**PUBLIC WORKS DEPARTMENT**

71. **Landscape Maintenance District ("LMD").** The City shall require the Developer to participate in a landscape and maintenance district for the maintenance of landscaping within public rights of way or easements in a form approved by City Attorney.

72. **Plan Submittal for Public Works.** The issuance of these Conditions of Approval do not negate the requirements of the Public Works Department for 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 Public Works Director.

73. **Public Works Permit.** 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.

74. **Improvement Plans.** 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 and for each phase of the Project area. 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 Developer may be required to prepare other improvement plans not listed here pursuant to improvements required by other agencies and utility purveyors).

| | |
|---|---|
| Rough Grading Plans | 1" = 40' horizontal |
| (All applicable conditions of approval shall be reproduced on last sheet of set) | |
| Haul Route Plans | 1" = 40' horizontal |
| Clearing Plans | 1" = 50' horizontal |
| (Include fuel modifications zones) | |
| (Include construction fencing plan) | |
| Erosion Control & Storm Water | |
| Pollution Prevention Plan (SWPPP) | 1" = 40' horizontal |
| (Note: a, b, c & d shall be reviewed and approved concurrently) | |
| Storm Drain Plans | 1" = 40' horizontal |
| Street Improvement Plans | 1 " = 40' horizontal |
| Water & Sewer Plans | 1 " = 40' horizontal |
| 1" = 4' vertical | |
| Traffic Signal Plans (Caltrans Standard) | 1" = 20' horizontal |
| Signing & Striping Plans | 1" = 40' Horizontal |
| Construction Traffic Control Plan | 1" = 40' Horizontal |
| (Major or arterial highways only) | |
| Precise Grading Plans | 1" = 40' Horizontal |
| Landscaping Plans-Streets | 1 "=20' Horizontal |

75. **Other Engineered Improvement Plans.** Other engineered improvement plans. 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.

76. **Street Plans.** 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.

77. **Signs & Striping.** 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.

78. **Index Map.** 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.

79. **Granting of Easements.** The Developer 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 (RCFCD) unless such easements are expressly made subordinate to the easements to be offered for dedication to the City or RCFCD. Prior to granting any of said easements, the Developer shall furnish a copy of the proposed easements to the City Engineer for review and approval.

80. All street improvement design shall provide pavement and lane transitions per City standards for transition to existing street sections.

81. **Driveway Grades.** Driveway grades shall not exceed eight percent unless approved by the City Engineer.

82. **Construction Debris.** Construction debris shall be disposed of at a certified recycling site. It is recommended that the Developer shall contact the City's franchised solid waste hauler for disposal of construction debris.

83. **Plan Check Fees.** Required 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 and the Development Agreement.

84. **Recycled Water Usage.** All lots on final maps for common open space, parks, and golf courses shall be served by a recycled water system. Recycled water shall be used when available for the Project golf course, parks and common open space. Should recycled water become available from City sources, the proposed Project shall have the capability to connect to these facilities and such connection shall be made within 90 days of request therefore by City. This condition shall be contained in the CC&Rs.

85. **School Site Grading.** Should the Banning and Beaumont Unified School Districts and the Project proponent come to an agreement on the conveyance of land within the Specific Plan to the Districts, the Developer shall cause that land to be rough-graded prior to conveyance and prior to issuance of the last building permit for the phase in which the site is located.

86. **Road Design.** Roadways shall be designed as depicted in the Specific Plan. The Developer shall be responsible for the acquisition of all necessary rights of way for streets within and adjacent to the Project; subject to Gov't Code section 66462.5 and the Development Agreement.

**ELECTRIC UTILITY DEPARTMENT**

87. **Electric Installations.** The Developer shall be responsible for all trenching, backfill, and compaction of electric installations in accordance with the phasing plan as provided in the Development Agreement.

## *II. PRIOR TO THE ISSUANCE OF GRADING PERMITS*

**COMMUNITY DEVELOPMENT DEPARTMENT**

88. **Retaining Walls.** Plans for the construction of retaining wall plans shall be reviewed and approved by the Building and Safety and Planning divisions.

**PUBLIC WORKS DEPARTMENT**

89. **Flood Risks.** If any of the development's lots are located within a mapped flood plain, the lots are subject to flood insurance rates (premiums) until such time that a map revision has been accomplished removing the lot from the flood plain.

90. **Construction Access.** The Developer shall submit a construction access plan and schedule for the development of the Project for Community Development Director and Public Works Director 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.

91. **Grading Standards.** 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. Final grading plans shall be in substantial conformance with the approved Specific Plan.

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

93. **Soils/Geologic Reports.** Soils reports and geological reports 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 Developer shall be required to comply with all recommendations of said reports.

94. **Other Permitting Agencies.** Prior to the issuance of any grading, construction, or building permit by the City, the Developer shall obtain any necessary clearances and/or permits if required from the following agencies:

- Fire Marshal
- Public Works Department (Grading Permit, Improvement Permit)
- City Water, Sewer and Electric Departments
- Community Development Department
- Riverside Co. Flood Control and Water Conservation District
- Banning / Beaumont Unified School Districts
- California Water Quality Control Board (CWQCB)
- California Department of Fish and Game
- US Fish and Wildlife Service
- US Army Corps of Engineers

- SCAQMD

The Developer is responsible for all requirements of the permits and/or clearances from the above listed agencies. When the requirements include approval of improvement plans, the Developer shall furnish proof of such approvals when submitting those improvement plans for City approval.

95. **Utility Systems.** 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.

96. **Conferred Rights.** In accordance with the approved plans, the Developer 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. All agreements shall be in a form approved by the City Attorney. Dedications shall be made on the map or by recorded instrument prior to issuance of grading permits.

97. **Drainage Study.** The Developer shall submit a Drainage Study with hydrologic and hydraulic analysis for developed and undeveloped (existing) conditions to the Engineering Division for review and approval for each phase of the Project. The study and analysis shall be prepared by a civil engineer licensed by the State of California. Drainage design shall be in accordance with the Butterfield Specific Plan, the EIR Mitigation Measures, and the 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 to the satisfaction of the Director.

98. **Flood Area.** Portions of the site are 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 to the satisfaction of the Director that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

99. **Natural Drainage.** 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 north and east. Drainage design shall be consistent with condition #97.

100. **Stormwater Management and Discharge Controls.** The Developer 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.

101. 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 Developer 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.

102. **SWPPP.** The Developer's SWPPP shall include provisions for all of, including but not limited to, 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.

103. **Erosion and Sediment Control BMPs.** All erosion and sediment control BMPs proposed by the Developer 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 Developer 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.

104. **Grading and Excavations in the Public Right-of-Way.** 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. 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. R7-2008-0001.

105. **Fire Marshal Approval.** The Developer 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. Secondary Access for certain Planning Areas, as depicted in the Specific Plan (Exhibit 3.3D, *Secondary Access Drives*) and reviewed and approved by Fire Marshall, shall be constructed accordingly. at the time of construction of all other improvements in the tract.

**ELECTRIC UTILITY DEPARTMENT**

106. **Plan Submittal Requirements.** Prior to the issuance of grading permit, the Developer, owner, or successor in interest shall submit detailed plans indicating lot lines, streets, easements, building layout, etc. These plans are required in electronic format AutoCAD 2010 or equivalent at the time of development.

107. **Electric Utility Backbone Infrastructure.** Prior to the issuance of grading permit, electric utility infrastructure backbone plans for this Project must be completed.

## *III. PRIOR TO FILING FINAL MAPS*

**PUBLIC WORKS DEPARTMENT**

108. **Bordering Roadways.** Roadways bordering and fronting the specific plan area on one side shall be designed and constructed, with right-of-way dedication offered, a minimum half width in substantial conformance with the approved Butterfield Specific Plan, including Section 3.2, *Circulation Plan*, Exhibit 3.2, *Vehicular Circulation Plan*, Exhibits 3.3 A&B, *Roadway Cross Sections*, and Section 3.2.5, *Circulation Plan Development Standards*, as well as in conformance with City of Banning requirements and standards as determined by the Public Works Director or designee. These roadways include Highland Springs Avenue, Wilson Street, and Highland Home Road (between Wilson Street and Future "F" Street). Improvements shall include street lighting, curb and gutter, sidewalk, parkway landscaping, asphalt concrete paving, traffic signs and striping, medians, and landscaping where required, and any transitions. Developer's geotechnical engineering shall provide the design of the pavement section based upon the Caltrans method. Prior to filing of the final subdivision maps, the Developer(s) will work with the City of Banning Public Works Department to identify phasing and timing requirements for the design and construction of all roadway improvements in substantial conformance with the Specific Plan and Phasing Plan per the Development Agreement as determined by the Public Works Director or designee. Roadways bordering the Specific Plan area shall be constructed at minimum half width in conjunction with adjacent development as it occurs in the Specific Plan area. City master planned roadway improvements that are part of a city improvement fee program or will serve other separate development that are designed and constructed by the Butterfield Specific Plan Developer(s) shall be subject to reimbursements and fee credits in accordance with the provisions of the Development Agreement.

109. **Internal Roadways.** Roadways internal to the specific plan area shall be designed and constructed, with right-of-way dedication offered, full width in substantial conformance with the approved Butterfield Specific Plan, including Section 3.2, *Circulation Plan*, Exhibit 3.2, *Vehicular Circulation Plan*, Exhibits 3.3B, C &D *Roadway Cross Sections*, and Section 3.2.5, *Circulation Plan Development Standards*, as well as in conformance with City of Banning requirements and standards as determined by the Public Works Director or designee. Improvements shall include street lighting, curb and gutter, sidewalk, parkway landscaping, asphalt concrete paving, traffic signs and striping, medians, and landscaping where required, and any transitions. Developer's geotechnical engineering shall provide the design of the pavement section based upon the Caltrans method. Prior to filing of the final subdivision maps, the Developer(s) will work with the City of Banning Public Works Department to identify phasing and timing requirements for the design and construction of all roadway improvements in substantial conformance with the Specific Plan and Phasing Plan per the Development Agreement as determined by the Public Works Director or designee. Roadways interior to the Specific Plan area shall be constructed full width in conjunction with adjacent development as it occurs in the Specific Plan area. City master planned roadway improvements that are part of a City improvement fee program or will serve other separate development that are designed and constructed by the Butterfield Specific Plan Developer(s) shall be subject to reimbursements and fee credits in accordance with the provisions of the Development Agreement. Prior to recordation of the first parcel or tract map, the Developer shall form, to the satisfaction of the

City Engineer and the City Attorney, a homeowners' association, assessment district, landscaping and lighting district, or other vehicle, for the maintenance of all common areas, including landscaped parkways within public rights of way, in perpetuity.

110. **National Flood Insurance Program.** A portion of the proposed Project is in a flood plain, therefore, in accordance with the requirements of the National Flood Insurance Program and related regulations and Riverside County regulations.

A. A flood study consisting of HEC-2 calculations, cross sections, maps and other data shall be prepared to the Satisfaction of the Federal Emergency Management Agency (FEMA) and the City of Banning for the purpose of recalculating the floodway and revising the effective Flood Insurance Rate Map(s) of the Specific Plan site. The submittal of the study shall be concurrent with the initial submittal of the related Project improvement plans. City approval of any final maps within the flood plain or unmapped area of Specific Plan shall not be given until a Conditional Letter of Map Revision (CLOMR) has been received.

B. Projects outside the established Flood Plain or unmapped area of the Specific Plan may be approved for development by the City, provided that studies required by Conditions of Approval for the Specific Plan or subsequent parcel/tract maps demonstrate to the satisfaction of the City Engineer and/or Riverside County Flood Control and Water Conservation District, that acceptable flood protection for said project(s) exist or will exist after installation of measures identified by the studies. The Developer acknowledges that existing downstream drainage infrastructure is inadequate to accommodate additional flows and that additional flows shall be retained onsite.

111. **Street Improvement Plans.** Developer shall submit Street Improvement Plans, prepared by a licensed professional engineer, to the Engineering Division for review and approval. Construct street improvements, consisting of new A.C. pavement, landscaped areas within the parkway between the curb and property line and in any open spaces, sidewalks where required, curb, gutter, driveway approaches, handicap access ramps, streetlights, traffic signs, striping, street name signs and roadway striping, etc. The Geotechnical Engineer shall determine the traffic index and R value for pavement design on all the streets.

112. **Water Improvement Plans.** Developer shall submit Water Improvement Plans to the Public Works Department for review and approval. Waterlines to be constructed to and across property boundaries of the Project per the City of Banning Standard Specifications. During phasing of the Project, all waterlines are to be looped for each phase (two points of connection).

113. **Hydraulic Analysis.** Developer shall submit a hydraulic analysis, prepared by a licensed Civil Engineer, showing that the Project or Project phase will meet all required water pressures and fire flows.

114. **Landscape Sprinklers.** Automatic sprinkler systems shall be installed within the landscaped parkway and median in the right of way on any street.

115. **Approval by City Engineer.** All public improvement plans shall be reviewed and approved by the City Engineer.

116. **City Easement Dedications.** Developer shall offer to dedicate to the City of Banning easements to maintain any slopes supporting public right-of-ways. Maintenance easements shall extend 10 feet beyond the toe of slope. All easements shall be in a form approved by the City Attorney.

117. **Potable Water.** A potable water system for the Specific Plan area shall be designed and constructed in substantial conformance with the approved Butterfield Specific Plan, including Section 3.5.1, *Water Service Plan Description,* Exhibit 3.8, *Conceptual Potable Water Plan*, and Section 3.5.5, *Water Plan Standards*, as well as in conformance with the City of Banning Water Master Plan, and other requirements and standards as determined by the Public Works Director or designee. Proposed tentative subdivision maps in the Specific Plan area shall include preliminary in-tract water system layouts. Prior to filing of final subdivision maps, the Developer(s) will work with the City of Banning Public Works and Water Utilities Departments to identify phasing and timing requirements for the design and construction of all Specific Plan backbone master water system improvements, including required off-site improvements, in substantial conformance with the Specific Plan and Phasing Plan per the Development Agreement and as determined by the Public Works Director or designee. City master potable water system improvements designed and constructed by the Butterfield Specific Plan Developer(s) shall be subject to reimbursements and fee credits in accordance with the provisions of the Development Agreement.

118. **Recycled Water Distribution System.** A recycled water distribution system for the Specific Plan area shall be designed and constructed in substantial conformance with the approved Butterfield Specific Plan, including Section 3.5.2, *Recycled Water Service Plan Description,* Exhibit 3.9A, *Conceptual Onsite Recycled Water Plan,* and Section 3.5.5, *Water and Sewer Plan Standards,* as well as is conformance with the City of Banning requirements and standards as determined by the Public Works Director or designee. Proposed tentative subdivision maps in the Specific Plan area shall include preliminary in-tract recycled water system layouts. Prior to filing of final subdivision maps, the Developer(s) will work with the City of Banning Public Works and Water Utilities Departments to identify phasing and timing requirements for the design and construction of all master recycled water system improvements, necessary to serve the Specific Plan area in substantial conformance with the Specific Plan and Phasing Plan per the Development Agreement and as determined by the Public Works Director or designee. The source and supply of recycled water for the Butterfield Specific Plan, when available, and which may include the City's proposed Main Treatment Plant Upgrade or a potential satellite treatment plant, as well as required conveyance infrastructure, shall be determined by the Public Works Director or designee. City master recycled water system improvements designed and constructed by the Butterfield Specific Plan Developer(s) shall be subject to reimbursements and fee credits in accordance with the provisions if the Development Agreement.

119. **Sewer Collection System.** A sewer collection system for the Specific Plan area shall be designated and constructed in substantial conformance with the approved Butterfield Specific Plan, including Section 3.5.4, *Sewer Service Plan Description,* Exhibit 3.11A, *Conceptual Onsite Sewer Plan*, and Section 3.5.5, *Water and Sewer Plan Standards*, as well as in conformance with the City of Banning requirements and standards as determined by the Public Works Director or designee. Proposed tentative subdivision maps in the Specific Plan area shall include preliminary in-tract sewer system layouts. Prior to filling of final subdivision maps, the Developer(s) will work with the City of Banning Public Works and Wastewater Utilities Departments to identify phasing and timing requirements for the design and construction of all master sewer system improvements, including required off-site improvements, necessary to serve the Specific Plan Area in substantial conformance with the Specific Plan and City of Banning Master Sewer Plan

and Phasing Plan per the Development Agreement, as determined by the Public Works Director or designee. City master sewer system improvements designed and constructed by the Butterfield Specific Plan Developer(s) shall be subject to reimbursements and fee credits in accordance with the provisions of the Development Agreement.

120. **Wastewater Treatment.** The ultimate treatment of wastewater (sewer) from the Butterfield Specific Plan area, as well as required conveyance infrastructure, shall be determined by the Public Works Director or designee. Wastewater treatment facilities may include the City's Main Treatment Plant or a satellite treatment plant. Required wastewater infrastructure may include existing city systems and/or proposed new systems in substantial conformance to those described in the Specific Plan and the City of Banning Master Sewer Plan. City master sewer system improvement designed and constructed by the Butterfield Specific Plan Developer(s) shall be subject to reimbursement and fee credits in accordance with the provisions of the Development Agreement.

121. **Sewer Check Valves.** A sewer check valve shall be provided for each lot with a finished pad elevation lower than the rim elevation of the immediate up-stream sewer manhole.

122. **CC&Rs.** A property owners' association shall be established following grading permit issuance and the applicable Conditions, Covenants & Restrictions ("CC&Rs"), shall be prepared for review and approval of the City Engineer and City Attorney providing for maintenance of the parkways, slopes adjacent to public right-of-ways, drainage areas, water quality facilities, detention basins, debris basins, common area landscaping, 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&Rs individual lot owners have the power to elect the members of the Board of Directors in accordance with the CC&Rs.

A. CC&Rs 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&Rs 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.

B. CC&Rs shall be subject to prior review and approval of the City Attorney. The Developer shall bear the cost of the review and make a deposit pursuant to a deposit agreement. The City shall be a party of the CC&Rs with full rights to enforce the provisions pertaining to the City including lien rights. The CC&Rs shall be submitted for review prior to issuance of grading permits and recorded prior to issuance of building permits unless approved by the City Attorney.

123. **Driveways.** Access drives to the public right-of-way shall be restricted to those approved by the City Engineer as shown on the approved plans.

124. **Inspection Fees**. Required Public Works Inspection fees shall be paid in accordance with the fee schedule in effect at time of time of scheduling and the Development Agreement; water and sewer connection fees including frontage fees and water meter installation charges shall be paid on a per lot basis at the time of building permit issuance in accordance with the fee schedule in

effect at that time and the Development Agreement; a plan storage fee shall be paid for any engineering plans that may be required in accordance with the fee schedule in effect at the time the fee is paid; a traffic mitigation fee shall be paid in accordance with the Development Agreement; a fee shall be paid to Riverside County Flood Control and Water Conservation District in the amount specified by them to perform plan checking for drainage purposes if necessary for the proposed Project.

125. **Government Code Section 66499.** Security for the construction of public improvements including grading may be submitted in accordance with Government Code Section 66499 and shall be as follows:

Faithful Performance Bond - 100% of estimated cost
Labor and Material Bond - 100% of estimated cost
Monumentation Bond - $7,500.00

*Securities for the public improvements shall be on file with the City Clerk prior to scheduling the final map for approval by City Council. Unit prices for bonding estimates shall be those specified or approved by the City Engineer.*

126. **Right-of-Way Documents.** Developer shall 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 final map approval.

127. **Scale for Street Maps.** Maps of the proposed subdivisions drawn at l"=200' scale showing the outline of the streets including street names shall be submitted to the City to update the city atlas map.

128. **Final Map Form.** An original Mylar of the final map (after recordation) shall be provided to the City for the record files.

129. **Monumentation Records.** A record of all street centerline monument ties shall be submitted to the Engineering Division upon completion of improvements or prior to release of Monumentation Bond.

130. **Right-of-Way Acquisitions.** Right-of-way or easement acquisitions necessary to implement any portion of the maps, including public improvements, shall be obtained by the Developer at its sole expense prior to the City's consideration of the final map which encompasses the particular improvement. The Developer shall notify the City in writing no more than 120 days and no less than 60 days in advance of filing the final map related to the acquisition if City assistance is needed to complete the acquisition pursuant to Government Code Section 66462.5 and shall document in writing all acquisition efforts. Funds in an amount of 100% of the estimated acquisition costs shall be deposited with the City in accordance with a deposit agreement to cover appraisal, right of way agent, and legal fees and costs incurred to secure the necessary property. Additional deposits will be made if needed and City will document the expenditure of all funds.

131. **Existing Plus Project Improvements.** If not constructed by the City or others, the Developer shall construct road improvements identified in Table 4.13-9, Summary of Future Improvements ("Existing plus Project" improvements in the City of Banning only), of the Butterfield Specific Plan Draft Environmental Impact Report (June 3, 2011) and as described in the Traffic Impact Analysis for the Butterfield Specific Plan, prepared by LSA Associates Inc. (September 15,

2010). These improvements include portions on Highland Springs Avenue in the City of Beaumont, between I-10 and Brookside, but exclude locations that are deemed by the affected jurisdiction(s) to be infeasible due to impacts of ROW acquisition. If constructed by the Developer, the cost of these improvements shall be credited against applicable City fees, and/or shall be eligible for reimbursement agreements with the City and/or third parties in accordance with the Development Agreement. The Improvements listed in DEIR Table 4.13-9 shall be consistent with the General Plan Circulation Element. (FEIR Mitigation Measure TRF-1). Improvements shall be constructed in accordance with the Phasing Plan in the Development Agreement.

132. **Validation Report.** As part of each Final Tract Map, or appropriate group of maps, the Developer shall prepare a TIA Validation Report (TVR) based on the criteria provided herein for review and approval by the City Engineer. Final Tract Map approvals resulting in less than 500 p.m. peak hour trips (Exempt Maps) shall not require a TVR unless the cumulative total of prior approved Exempt Maps exceeds 1,000 p.m. peak hour trips since the last TVR.

The TVR shall identify which of the Existing Plus Project improvements identified in Table 4.13-9 of the Butterfield Specific Plan Draft Environmental Impact Report (June 3, 2011) and the Traffic Impact Analysis for the Butterfield Specific Plan, prepared by LSA Associates Inc. (September 15, 2010), are required to be constructed for the respective Final Tract Map, to ensure adequate emergency access and satisfactory levels of service. "Existing plus Project" improvements in the City of Banning identified in an approved TVR shall be conditions of Final Tract Map approval. To the extent that any of the improvements mentioned above are included in a fee program, the cost for those improvements, if constructed by the Developer, will be eligible for fee credits in accordance with the Development Agreement.

The ongoing traffic impact assessment program will be based on the p.m. peak-hour trip threshold. The Final Tract Maps' total number of p.m. peak hour trips will be established based on the trip generation listed in Table 4.13-7, Project Trip Generation, of the Butterfield Specific Plan Draft Environmental Impact Report (June 3, 2011). If a portion of commercial development and some residential development is included in the Final Tract Map, the total number of trips generated by each use (commercial and residential) will be calculated for the p.m. peak hour and compared to a predefined threshold.

Recognizing the variety of land use options, overlays and permitted or conditionally permitted uses, the TVR will also be used to verify , as the Project builds out, that the Project's total peak hour trips are consistent with the assumptions in the Project TIA. (FEIR Mitigation Measure TRF-2).

133. **Offsite Traffic Improvement Plans.** Improvement plans shall be prepared for each Project-related offsite traffic improvement and approved by the City Engineer. Improvement plans shall incorporate the following considerations, as applicable:

- Obtain encroachment permit(s) from the applicable jurisdiction(s) for offsite improvements; Through creative design techniques, where determined appropriate and consistent with City policy, modify roadway geometry to reduce potential impacts to existing developed areas (such as reduced lane widths, reduced or eliminated medians, reduced turn lane transition zones, and/or shifting intersection approaches to widen intersection quadrants where associated impacts would be reduced);
- Maintain access for existing residences and businesses at all times;

- Replace landscaped areas within the affected parcel and along the parcel frontage wherever practical;
- Assist the affected property owner in re-striping affected parking areas and/or reconfiguring affected driveways to avoid or offset improvement-related impacts;
- Follow applicable Project EIR mitigation measures related to biological resources (i.e., BIO-1 through BIO-5 of the Butterfield Specific Plan Environmental Impact Report), with respect to minimizing loss of native vegetation, replacement or relocation of mature trees, use of native and/or drought tolerant vegetation in new landscaped areas, and ensuring consistency with applicable MSHCP and regulatory agency permitting provisions; and
- Compensate the affected property owner based on fair market valuation of the acquired ROW in accordance with applicable local, State and federal regulations. (FEIR Mitigation Measure TRF-3).

134. **Fair Share of Cumulative Impacts.** The Developer shall pay a fair share toward cumulative impacts not otherwise captured in existing fee programs, funding sources or in lieu improvements noted above, if such a program is in place at the time of building permit issuance, based on Project contribution percentages identified in Table 4.13-16 of the Butterfield Specific Plan Draft Environmental Impact Report (June 3, 2011). (FEIR Mitigation Measure TRF-4).

## *IV. PRIOR TO THE ISSUANCE OF BUILDING PERMIT*

### COMMUNITY DEVELOPMENT DEPARTMENT

135. **Alternative Street Accommodations.** If the City of Banning elects not to pursue the Highland Home Road connection to Brookside Avenue, or Riverside County does not approve, the Project Developer would be required to redistribute traffic via proposed F Street in the Butterfield Specific Plan area by constructing additional turning lanes at the intersections of Highland Springs Avenue/F Street and Highland Home Road/F Street (which are intersections located within the Project boundary to meet City LOS standards [see diagram attached to these Conditions of Approval]).

a) If requested by the City and after full discretionary review and approval, the developer will complete interim improvements to Highland Springs Avenue between Ramsey Street and the I-10 Freeway. These improvements may include synchronization of traffic signals along Highland Springs Avenue, relocation of traffic signals, closing and relocation of Joshua Palmer Way and the restriping and repaving of Highland Springs Avenue. The City will use its best efforts to coordinate with the City of Beaumont an agreement to reimburse a portion of the improvements either through the appropriate transportation fee credits or other mechanism.

136. **Model Homes.** Prior to the issuance of building permits, the Developer shall submit a model home plan that shows building elevations, plotting plan(s), and precise grading for review and approval for each phase of development, or per neighborhood, or per each master or merchant builders for review and approval by the Community Development Director as long as the plans conform to the Design Guidelines depicted in the Specific Plan. Subsequent minor technical change/adjustment after approval of the model homes and plotting is subject to an additional approval of the Community Development Director. If Owner would like to propose architecture that is not depicted in or consistent with the Design Guidelines, the approval will be subject to both Planning Director and Planning Commission Approval.

137. **Landscaping.** Prior to issuance of building permits, the Developer shall submit and obtain approval of three (3) copies of construction level Landscape and Irrigation Plans to the Community Development Department accompanied by the appropriate trust deposit. The plans shall be prepared by a registered landscape architect and include the location, number, genus species, and container size of the plants. Plants shall be consistent with the Banning Municipal Code. The cover page shall identify the total square footage of the landscaped area and note that it shall be maintained in accordance with the City Code. Water efficient fixtures and drought tolerant plants shall be utilized where possible. Required landscape areas specific to this Project include front yards of all lots; side yards of corner lots; streetscapes on the Project side for Highland Springs Avenue, Wilson Street, and Highland Home Road; landscaping of slopes and entry theme walls; streetscapes for both sides of all in-tract roadways; and landscaping of all lettered lots including the detention basin, and all drainage channels which include Smith Creek and Pershing Channel.

138. **Walls & Fences.** Prior to issuance of building permits, the Developer shall submit and obtain approval from the Community Development Department of block wall or vinyl fence plans. These plans shall be consistent with intent of the Butterfield Specific Plan.

139. **Disclosure Statement.** The Developer, property owner or successor in interest shall submit the disclosure statement for review and approval by the City Attorney prior to the issuance of building permit for the first home within the Specific Plan. (See also Condition No. 19)

**PUBLIC WORKS DEPARTMENT**

140. **Sewer Capacity.** No building permits shall be issued unless the Public Works Director or designee determines that all on- and off – site sewer and water facilities exist with sufficient capacity necessary and reliably to serve the proposed construction are available or will be constructed as a part of the Project, and will continue to be available during the life of the Project.

141. **Undergrounding Utilities.** 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 requirements of the utility provider. Telephone, cable TV, and/or security systems shall be pre-wired. All necessary easements shall be dedicated and granted to the necessary party with evidence provided to City.

142. **Rough & Precise Grading Plans.** Rough and precise grading plans 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.

143. **Lot Pad Certification.** The Developer shall provide to the City Engineer 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.

144. **Water Conservation Plan.** The Developer shall prepare a water conservation plan to reduce water consumption in the landscape environment in compliance with the City of Banning's landscape standards in the Municipal Code and all applicable current city and state codes, 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.

145. **Fire Hydrants.** Fire hydrants shall be installed within and on the Project boundaries as per the approval plans, at a 250' maximum spacing.

146. **Fire Flow Calculations.** The Developer shall provide fire flow calculations for the Project to the City and construct the necessary facilities to meet those flows for the Project to the satisfaction of that Director.

147. **Water Connection Fees.** Developer shall pay the current required Water Connection Fees. Fees shall be paid per EDU (EDU is based upon meter size required). Sewer Connection Fees shall be paid per EDU (EDU is based upon the estimated quality and quantity of discharge), and payment of current required Water Meter Installation Charges for each building pad in accordance with the fee schedule in effect at the time the fees are paid and the Development Agreement. Also, Developer shall pay all current water and sewer frontage fees and recycled/irrigation water fees, if applicable, and in accordance with the fee schedule in effect at the time the fees are submitted and the Development Agreement.

**ELECTRIC UTILITY DEPARTMENT**

148. **Permit Fees.** Developer shall pay current required fees - electrical permit, plan check fee, inspection fees, meter fee and cost of electrical apparatus for completing the underground line extension in accordance with the city policies and the Development Agreement.

149. **Electricity Easements.** Developer shall dedicate all easements for electric facilities installation/maintenance, etc.

150. **Electric Utility Infrastructure.** Electric Utility Infrastructure for each Phase in accordance with the Phasing Plan in the Development Agreement. The dedication shall be in a form approved by the City Attorney. Prior to the issuance of building permit, electric utility infrastructure (conduits, vaults, etc.) must be completed as well any temporary or permanent electric infrastructure to supply power to each phase as constructed.

## *V. PRIOR TO THE ISSUANCE OF CERTIFICATE OF OCCUPANCY.*

**PUBLIC WORKS DEPARTMENT**

151. **Form of Plans.** The Developer shall furnish the City with reproducible record drawings on Mylar of all improvement plans that were approved by the City Engineer..

152. **Damaged Improvements.** Any public improvements damaged during the course of construction shall be replaced to the satisfaction of the City Engineer, or his/her designee.

153. **Testing.** All required public improvements for the Project shall be completed, tested, and approved by the Engineering Division.

154. **Landscape Sprinklers.** Automatic sprinkler systems and landscaping shall be installed within the street parkways. The systems shall include landscape controllers, separate water meters, and electric meters, and plantings as approved by the Community Development Director. Landscaping plans and specifications shall be reviewed and approved by the City Engineer.

155. **Landscaping.** 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 Developer 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.

156. **Street Signs.** 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.

157. **Intersection Improvements.** Developer shall construct required intersection improvements including traffic signals. The Developer may request a Reimbursement Agreement for the design and construction of the improvements in this condition. The Reimbursement Agreement is subject to prior review and approval by the City Attorney. The Developer shall bear the cost of the review.

158. **Monuments.** Monuments and center line ties shall be certified and submitted to the City Engineer for review and approval.

**ELECTRIC UTILITY DEPARTMENT**

159. **Electric Utility Materials.** The Developer shall provide install all conduits, vaults, and other materials associated with electric facility installations (except cables and their terminations).

160. **Streetlights.** The Developer shall install, complete and test streetlight poles and conduits.

161. **Secondary Service Entrance Conductors.** Secondary service entrance conductors to be provided and installed by the Developer. The Developer shall install, complete and test secondary service entrance conductors.

162. **Completion of Electric Utility Infrastructure prior to Issuance of Certificate of Occupancy.** Prior to the issuance of certificate of occupancy, the Developer, owner, or successor in interest shall install, complete and test all electric utility infrastructure including primary and secondary cabling, transformers, etc.

163. **Cost of Electrical Line in Aid of Construction.** Prior to the issuance of certificate of occupancy, the Developer, owner, or successor in interests shall pay the required cost of electrical line extension and in aid of construction for the particular phase under construction.

**CITY OF BANNING FIRE SERVICES**
**STANDARD CONDITIONS OF APPROVAL**
**As amended for the proposed Pardee Project locate at Highland Springs/West Wilson Street**

The following are the minimum Banning Fire Marshal's office requirements. These requirements will satisfy for the Club House, Commercial Occupancies, and Park Buildings for this Project. There may be additional requirements when the Project specifics are defined and the final proposal is submitted for approval.

**FIRE DEPARTMENT DEVELOPER FEES:**

Any fees will be set pursuant to the Development Agreement. The current fee schedules at this time are as follows:

Commercial, Industrial and/or Office Complex –
$579.00 for 50,000 square feet or less
$ 25.00 per unit Disaster Planning
Plan Check and Inspection - $ 134.00 per hour

**CITY OF BANNING BUSINESS LICENSE AND PROOF OF INSURANCE:**

All contractors, subcontractors etc. are required to obtain a City of Banning Business license prior to submitting plans or starting construction.

**CODE COMPLIANCE:**

All Plans, Specifications and Construction shall comply with and conform to the current edition of the California Fire Code (CFC), California Building Code (CBC), and other state and local laws and ordinances as applicable.

**PLAN SUBMITTAL:**

Three (3) sets of Plans and Specifications shall be submitted for review prior to obtaining a permit. This requirement applies to all work regardless of the size of the job; new construction or remodel.

**SPRINKLER SYSTEMS REQUIRED:**

Fire Sprinkler Systems shall be installed as required by the CFC or in any and all structures that are thirty six hundred (3,600) sq. ft. or more, or if the applicable codes require a more restrictive system.

With the adoption of the 2010 codes, all residential homes shall be protected with fire sprinkler systems.
**SPRINKLER AND ALARM SYSTEMS:**

Three (3) sets of plans and calculations, including three (3) sets of manufacturer's hardware specifications, shall be submitted to a State Certified Fire Protection Engineering Firm, designated by the Fire Marshal, for review for compliance with recognized codes and standards.

**SPRINKLER AND ALARM SYSTEM FEE SCHEDULE:**

Inspections - Fire Department: per the current rate per hour, per person. (One-hour minimum)
Additional fees as charged by the designated Fire Protection Engineering Firm.

Plan Checks - Fire Department: per the current rate per hour, per person. (One-hour minimum)
Additional fees as charged by the designated Fire Protection Engineering Firm.

**SPRINKLER SYSTEM UNDERGROUND:**

No fire sprinkler work shall be started prior to issuance of the permit.

The minimum size for water supply to the base of the riser shall be six (6) inches for commercial systems.

An approved AWWA double check detector check assembly, as approved by the C.O.B Water Department located as close to the property line as possible, and a minimum of twelve (12) inches above the ground shall be provided.

The Water Department shall approve all plans involving water main service.

**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 and the Banning Fire Marshal's office 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 250 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 #J3765, Residential, James Jones #J3700, or an equivalent approved by the Fire Marshal.

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

**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. (1000 gallons/minute for 2 hours)

**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 place 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.

Maximum grade shall be established by the Banning Fire Marshal's office.

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. Surfaces shall have all-weather driving capabilities, including bridges. All roads must be place and meet the above standard before any combustible materials can be delivered to the site, and approved by the Banning Fire Marshal's office. See Secondary Access Plans as depicted Exhibit 3.3D, *Secondary Access Drives*, in the approved Butterfield Specific Plan.

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

A "Knox" box will be required for fire department access and location approved by the Banning Fire Marshal's office.

**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" mm. Size

**INSPECTIONS:**

Inspections shall be requested a minimum of forty-eight (48) hours prior to the time the required inspection is needed.

The current fee for each inspection is $134.00 per hour per person, (One-hour minimum). If fees changed, the Developer shall pay the fees that are effective at that time.

Work begun without a permit or without an approved set of plans at the job site will result in a triple fee and/or the work stopped.

**HAZARDOUS MATERIALS:**

The storage, dispensing, use or handling of hazardous materials shall be in accordance with the provisions of CFC Chapter 27 and CBC in addition to all federal, state and local laws or ordinances.

Business Plans may be required per SB 2186 and 2187 including MSDS, HMMP and RMPP.

**OTHER REQUIREMENTS:**

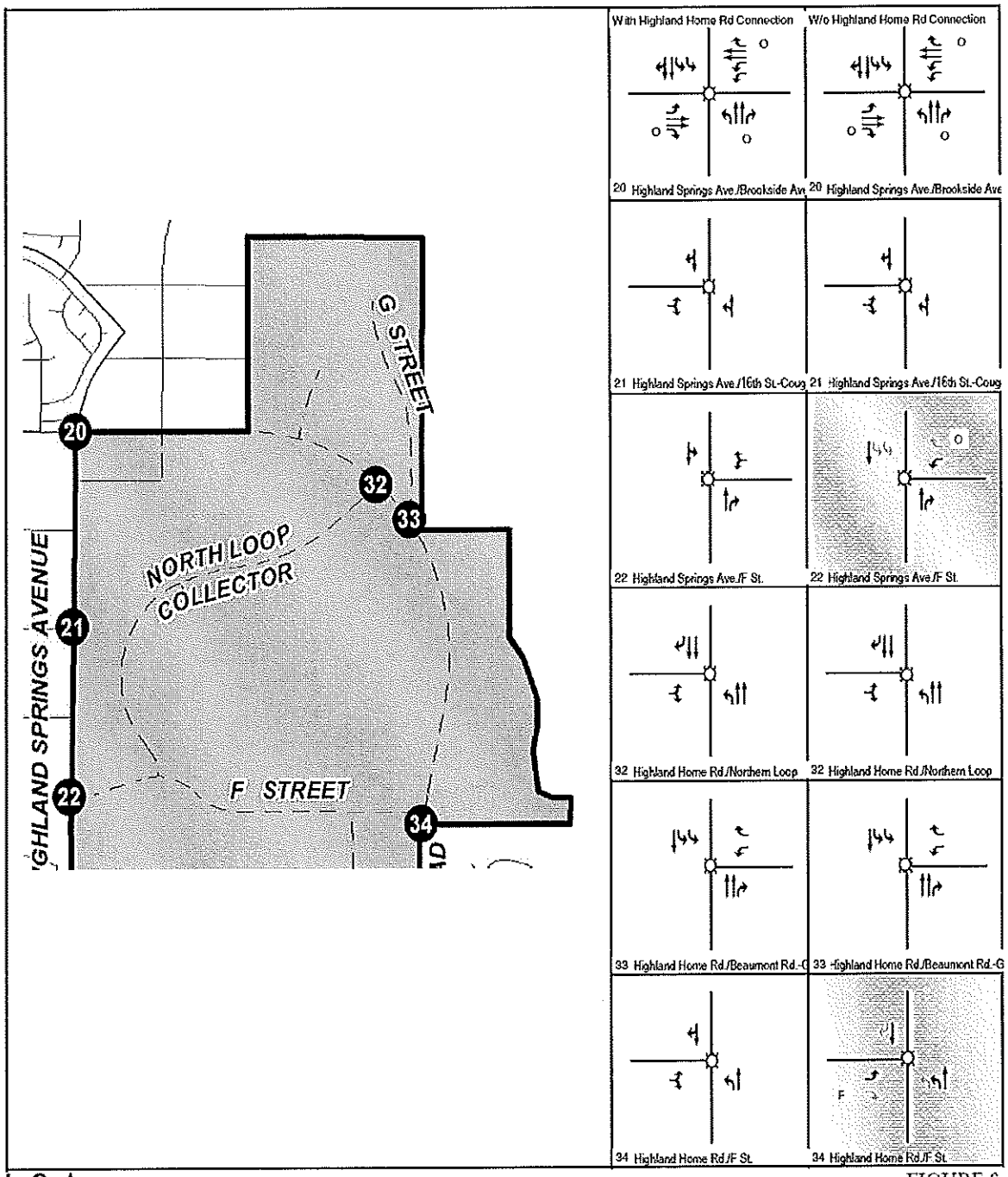
If there are no existing fire hydrants within 150 feet of the proposed building, then there will be a requirement for the installation of two commercial grade hydrants as described above. If a hydrant then only one additional hydrant will be required.

A fire alarm system, designed to NFPA 72 standards, will be required.

---

Doug Clarke
Assistant Fire Marshal
Banning Fire Services
(951) 922-3210
dclarke@ci.banning.ca.us

# Exhibit to Conditions of Approval #135




LSA

FIGURE 6

Legend

- Signal
- Stop Sign
- Improvements Within City of Banning for LOS D
- Improvements Within City of Banning for LOS C

*Butterfield Specific Plan*
*Traffic Impact Analysis*
Intersection Geometries and Stop Control

PAPDH0901 - Banning EIR Traffic\g30_06_project geo.xls 10/6/2011

# ATTACHMENT 4

## Ordinance No. 1451 with
## Exhibit "A" – Development Agreement

# ORDINANCE NO. 1451

## AN ORDINANCE OF THE CITY COUNCIL CITY OF BANNING, CALIFORNIA ADOPTING THE DEVELOPMENT AGREEMENT SUPERSEDING THE DEUTSCH SPECIFIC PLAN DEVELOPMENT AGREEMENT AND MAKING FINDINGS IN SUPPORT THEREOF

**WHEREAS,** Pardee Homes filed an application with the City for an amendment to the Development Agreement for the Deutsch Specific Plan in conjunction with General Plan Amendment No. 11-2501, Zone Change No. 11-3501, and an amendment to the Deutsch Specific Plan to provide for Zoning regulations for the Butterfield Specific Plan, and approval of an EIR to allow the development of up to 5,387 dwelling units (937.4 acres of residential), a golf course and open space (253.9 acres) , parks (66.5 acres) and other open space (108.4 acres), two school sites (23.0 acres), an existing utilities substation facility (4.2 acres), a fire station site (1.6 acres) and backbone roadways (113.6 acres). The project also includes the construction of major on-site and off-site infrastructure, including but not limited to: various on-site and off-site street improvements to provide access to and from the project site; various on-site and off-site conveyance pipelines for sewer, water, storm drain; a multi-purpose detention basin, and drainage improvements to Pershing Channel and Smith Creek immediately upstream and downstream of the 1,543 acre project site to accommodate the mixed-use master planned community.

| | |
|---|---|
| Project Applicant: | Pardee Homes (Authorized Agent Mike Taylor, Vice President of Pardee Homes, 10880 Wilshire Boulevard, Suite 1900, Los Angeles, CA 90024) |
| Property Owners: | Pardee Homes owns 1,522 acres within the Butterfield Specific Plan. |
| Project Location: | Northeast Corner of Highland Springs Avenue and Wilson Street |
| APN Number: | The project includes 34 parcels: 408-030-001 & 005; 408-120-001 through 020, 022, 024, 025, 027 & 033; and 531-080-013 & 014. |
| Specific Plan Size: | 1,543 Acres |

**WHEREAS,** Pardee Homes requests an amendment to the Deutsch Specific Plan Development Agreement as restated in the Development Agreement for the Butterfield Specific Plan in conjunction with General Plan Amendment No. 11-2501, Zone Change 11-3501, and the Butterfield Specific Plan, which would provide the Applicant with a vested right to develop their property consistent with the Butterfield Specific Plan in exchange for the public benefits to the City.

**WHEREAS,** Chapter 17.60 of the Banning Municipal Code provides for the purpose, application and public hearing procedures, content of the Development Agreement, and environmental review.

**WHEREAS,** the City Attorney and the City Manager have negotiated the Development Agreement with the Applicant.

**WHEREAS,** the City Attorney has prepared the Development Agreement consistent with the requirements of Section 17.60.040 of the Banning Zoning Code.

**WHEREAS,** the approval of the Development Agreement including its companion applications for the General Plan Amendment No. 11-2501, Zone Change No. 11-3501, and an amendment to the Deutsch Specific Plan to replace its zoning regulations with Butterfield Specific Plan Zoning regulations as referenced herein, is considered a project pursuant to CEQA Guidelines Section 21065.

**WHEREAS,** consistent with Section 15083 of the California Environmental Quality Act ("CEQA") and prior to completing the draft Environmental Impact Report (EIR), the City held an early consultation regarding the issue areas to be considered in the EIR. The City published the Notice of Preparation ("NOP") including the Scoping Meeting in the Record Gazette and on the City's website. The City also mailed the NOP to residents who are located within 300' of the Project site and to members of the public, organizations/groups, public agencies and persons who have requested to be on the mailing lists. As part of early consultation, the City held three (3) public scoping meetings. Two (2) scoping meetings were held on October 16, 2007 from 2 p.m. to 4 p.m. and from 6 p.m. to 8 p.m. Another scoping meeting was held on October 22, 2007 from 6 p.m. to 8 p.m.

**WHEREAS,** consistent with Section 15086 and 15087 of CEQA, the City published the Notice of Availability ("NOA") of the Draft EIR and made available for a 45-day public review period from June 6, 2011, to July 21, 2011. The NOA was published in the Press Enterprise and the City's website. The City also mailed the NOA to the State Clearinghouse for distribution to State Agencies. Also, the City mailed the NOA to the residents who live within 300' radius of the Project boundaries, groups and organizations, and members of the public who requested to be on the mailing list of the Project.

**WHEREAS,** prior to the close of the comment period, the City held a public workshop on June 21, 2011, to provide information and answer questions from interested members of the public regarding the Project and the Draft EIR.

**WHEREAS,** during the public workshop of June 21, 2011, the City received questions and comments mostly on traffic, among other questions about the Project. In response to the oral comments on traffic, the City held another workshop on July 14, 2011 to respond to questions from members of the public regarding the traffic analysis report and conclusions.

**WHEREAS,** the City received 31 comment letters from members of the public, public agencies, groups/organizations, and persons who requested to be a part of the mailing list of the Project regarding the Draft EIR and the impacts of the Butterfield Specific Plan, including its associated applications referenced herein.

**WHEREAS,** consistent with Section 15088 of CEQA, the City evaluated the responses received from members of the public, public agencies, groups/organizations, and persons who requested to be a part of the mailing list of the Project and prepared written responses which culminated in a Final EIR for the Project and is referenced herein. The Final EIR was made available for a 10-day public review on Friday, February 24, 2012. The Final EIR was made available at City Hall Community Development Counter, the Banning Public Library, and the City's website.

**WHEREAS,** on March 7, 2012, the Planning Commission held a duly-noticed the noticed public hearing, at which time the Commission considered the public testimony, staff report, full documentation of the Final EIR and all other documentation relating to the Project, and the Commission unanimously recommended approval of the Project and certification of the Final EIR to the City Council.

**WHEREAS,** on March 16, 2012, the City gave public notice by advertisement in the Record Gazette newspaper of a public hearing concerning the Project to be held before the City Council. In addition, the City mailed public hearing notices to the owners of properties that are located within a 300' radius of the project boundaries and to interested persons who requested to be on the mailing lists for the project. On March 27, 2012, the City Council held its public hearing on the Project and the Final EIR, to consider public testimony, the staff reports and presentations, full copy of the Final EIR and all other documentation relating to the Project.

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

SECTION 1. ENVIRONMENTAL FINDINGS.

A Final Environmental Impact Report [EIR] (SCH No. 2007091149), including Draft EIR 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. City Council Resolution No. 2012-24 as referenced herein provides environmental findings for the project.

SECTION 2. REQUIRED FINDINGS FOR DEVELOPMENT AGREEMENT:

**Finding No. 1:** The proposed Development Agreement is consistent with the General Plan and Applicable Specific Plan

**Finding of Facts:** The current zoning for the project is Deutsch Specific Plan. The proposed Development Agreement is inconsistent with the General Plan and the Deutsch Specific Plan in that the Agreement provides for the developer's vested right to develop the property in accordance with the Butterfield Specific Plan. However, in conjunction with the proposed Development Agreement for the Butterfield Specific Plan, the Applicant is requesting a General Plan Amendment No. 11-2501 and Zone Change No. 11-3501 and an amendment to the Deutsch Specific Plan. The General Plan

Amendment and Zone change would replace the zoning on the general Plan Land Use and Zoning Overlay Map and replace it with the Butterfield Specific Plan. The amendment to the Deutsch Specific Plan would replace the Specific Plan with the Butterfield Specific Plan. With approval of the General Plan Amendment No. 11-2501 and Zone Change No. 11-3501, and amendment to the Deutsch Specific Plan, the Development Agreement would be consistent with the intent of the General Plan through designation of the site as Butterfield Specific Plan.

**Finding No. 2:** The proposed Development Agreement would promote the welfare and interest of the City.

**Finding of Facts:** The development of the Butterfield Specific Plan requires an up-front and substantial investment in public infrastructure costs. The total initial infrastructure investment cost for the project is estimated to be $100 million. The ultimate infrastructure investment is approximately $460 million. The infrastructure to be developed includes streets, sewer, water, storm drain and flood control. In exchange for the investment, the developer is requesting approval of an amendment to the existing development agreement to provide a vested right to develop the project consistent with the Zoning (Butterfield Specific Plan) for the property without worrying that the Zoning will change during the 30-year period.

With the vested right to develop the property, the City will receive the following benefits that promote general welfare and interest of the City:

- A substantial investment in infrastructure as mentioned above.
- New master-planned community that provides a cohesive, well-coordinated development that would provide a sense of place.
- New and variety of home types that includes single-family homes with various lot sizes, homes sizes and design. Additionally, there will be high density housing that could include apartments and condominiums with various designs for existing and future residents.
- Revenue from property tax, sales tax, and development fees since the property will be developed and improved from the current vacant state.
- The developer will provide the City with fully improved parks as part of the development.
- Provide construction jobs for the construction of the homes and for the various trades that are associated with home building which include draftsman, architects, engineers, electricians, plumbing, roofing, interior designer, and home furnishing.
- More home construction provides incentives for future retailers and restaurants to locate in Banning once the homes are occupied. The project would incentivize the local economy.

SECTION 3. CITY COUNCIL ACTION.

The City Council hereby adopt Ordinance No. 1451 amending the Deutsch Specific Plan Development Agreement and supersede it with the Development Agreement for the Butterfield Specific Plan as attached hereto as Exhibit "A", based on the findings of facts indicated in this resolution and the administrative record.

**PASSED, APPROVED AND ADOPTED** this 27th day of March, 2012.

_____
Don Robinson, Mayor
City of Banning

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

_____
David J. Aleshire
Aleshire & Wynder, LLP
City Attorney
City of Banning, California

**ATTEST:**

_____
Marie Calderon, City Clerk
City of Banning, California

**CERTIFICATION:**

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Ordinance No. 1451 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 27th day of March, 2012 and was duly adopted at a regular meeting of said City Council held on the ____ day of _____ 2012, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Marie Calderon, City Clerk
City of Banning, California

RECORDING REQUESTED BY, )

AND WHEN RECORDED MAIL TO: )

)

CITY CLERK )

City of Banning )

99 E. Ramsey Street )

Banning, CA 92220 )

No Recording Fee Required – Government Code § 27383

DEVELOPMENT AGREEMENT

between

THE CITY OF BANNING

("City")

and

PARDEE HOMES

A California Corporation

("Developer")

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DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "Agreement") is entered into on _____, 2012, between the CITY OF BANNING (the "City"), a municipal corporation, and PARDEE HOMES (the "Developer"), a California corporation, pursuant to Article 2.5 of Chapter 4 of Division 1 of Title 7, §§ 65864 through 65869.5 of the Government Code. The City and the Developer shall be referred to within this Agreement jointly as the "Parties" and individually as a "Party."

RECITALS:

A. Capitalized Terms. The capitalized terms used in these Recitals and throughout this Agreement shall have the meaning assigned to them in Section 1. Any capitalized terms not defined in Section 1 shall have the meaning otherwise assigned to them in this Agreement or apparent from the context in which they are used.

B. Development of the Developer's Property. Concurrent with the approval of this Agreement, the City has approved the Specific Plan, which contemplates low, medium and high density residential development, to a maximum total of 5, 387 dwelling units, 36 acres of commercial/retail development, schools, parks and supporting infrastructure on 1,543 acres, and a general plan amendment and a zone change and has certified a Final Environmental Impact Report, State Clearinghouse No. 2007091149, for the area described in Exhibit "A" (the "Developer's Property").

C. Legislation Authorizing Development Agreements. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted the Development Agreement Statute, authorizing the City to enter into an agreement with any person having a legal or equitable interest in real property providing for the development of such property and establishing certain development rights therein. The legislative findings and declarations underlying the Development Agreement Statute and the provisions governing contents of development agreements state, in Government Code §§ 65864(c) and 65865.2, that the lack of public facilities, including, but not limited to, streets, sewerage, transportation, drinking water, school, and utility facilities is a serious impediment to the development of new housing, and that applicants and local governments may include provisions in development agreements relating to applicant financing of necessary public facilities and subsequent reimbursement over time.

D. Intent of the Parties. The Developer and the City have determined that the Project is a development for which a development agreement is appropriate. The Parties desire to define the parameters within which the obligations of the Developer for infrastructure and public improvements and facilities will be met and to provide for the orderly development of the Developer's Property, assist in attaining the most effective utilization of resources within the City and otherwise achieve the goals of the Development Agreement Statute. In consideration of these benefits to the City and the public benefits of the development of the Developer's Property, the Developer will receive assurances that the City shall grant all permits and approvals required

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for total development of the Developer's Property and will provide for the assistance called for in this Agreement in accordance with the terms of this Agreement.

E. Public Benefits of the Project. This Agreement provides assurances that the public benefits identified below in this Recital E will be achieved in accordance with the terms of this Agreement. The Project will provide local and regional public benefits to the City, including, without limitation:

1. Increased Tax Revenues. The development of the Developer's Property in accordance with the terms of this Agreement will result in increased real property and sales taxes and other revenues to the City.

2. Reduced Vehicle Miles Travelled. The Project will reduce vehicle trips by implementing a transportation demand management program that takes advantage of alternative modes of mass transit within the City.

3. Pedestrian Mobility. The Project encourages pedestrian mobility through the provision of walking paths, through signage guiding pedestrians to nearby destinations and through preservation of significant open space to create pleasant environments that will encourage walking.

4. Sustainable Design. The Developer will, to the extent reasonably feasible, include sustainable design for commercial and industrial uses and green building standards for residential construction.

5. Pedestrian Connection. The Project will include a series of public pedestrian trails throughout the Developer's Property.

6. Reduced Traffic Congestion. The Project will include improvements and contribute fees to improvements that will reduce congestion on local streets and the regional transportation network.

7. Public Schools. The Project will allow for the construction of elementary schools in both the Beaumont Unified School District and Banning Unified School District, which will benefit residents both within and outside the Project.

8. Natural Open Space. Over 56 acres of natural open space will be preserved in perpetuity.

9. Parks and Recreation. Park and recreation improvements include:

a. 58.5 acres of community and neighborhood parks

b. 8.0 acres devoted to private recreation centers.

c. 254 acres of public golf course or active open space amenity

d. 108.4 acres of other open space.

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10. Financial Impact Mitigation. Based upon a study of financial impacts on the City, the Project will pay a Services Special Tax to alleviate negative financial impacts of the Project on the City.

F. Public Hearings: Findings. In accordance with the requirements of the California Environmental Quality Act (Public Resources Code § 21000, et seq. ("CEQA")), appropriate studies, analyses, reports and documents were prepared and considered by the Planning Commission and the City Council. The Planning Commission, after a public hearing on _____, 2012, recommended, and the City Council, after making appropriate findings, certified, by Resolution No. _____ adopted on _____, 2012 a Final Environmental Impact Report for the Project, more specifically identified as the Final Environmental Impact Report for the Butterfield Specific Plan, State Clearinghouse No. 2007091149, as having been prepared in compliance with CEQA . On _____, 2012, the Planning Commission, after giving notice pursuant to Government Code §§ 65090, 65091, 65092 and 65094, held a public hearing on the Developer's application for this Agreement. On _____, 2012, the City Council, after providing the public notice required by law, held a public hearing to consider the Developer's application for this Agreement. The Planning Commission and the City Council have found on the basis of substantial evidence that this Agreement is consistent with all applicable plans, rules, regulations and official policies of the City.

G. Mutual Agreement. Based on the foregoing and subject to the terms and conditions set forth herein, Developer and City desire to enter into this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, and having determined that the foregoing recitals are true and correct and should be, and hereby are, incorporated into this Agreement, the Parties agree as follows:

1. DEFINITIONS

The following words and phrases are used as defined terms throughout this Agreement. Each defined term shall have the meaning set forth below.

1.1 Acquisition Agreement. "Acquisition Agreement" shall have the meaning set forth in Section 5.1 below.

1.2 Anniversary Date. "Anniversary Date means the date of the anniversary of each year following the Effective Date established in Section 3.5.

1.3 Annual Review. "Annual Review" means the annual review of the Developer's performance of the Agreement in accordance with Section 12.1 of the Agreement and Government Code § 65865.1.

1.4 Applications. "Application(s)" means a complete application for the applicable land use approvals (such as a subdivision map, conditional use permit, etc.) meeting all of the current ordinances of the City provided that any additional or alternate requirements in those ordinances enacted after the Effective Date which affect the Project application shall apply only to the extent permitted by this Agreement.

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1.5 Appraisal of Land Value. "Appraisal of Land Value" when referred to herein shall mean the determination by an experienced and independent MAI appraiser retained by City (Developer may veto any appraiser selected by City for good cause), in a written appraisal at fair market value based upon comparable sales of unimproved land, and serviced by the existing infrastructure, and with the development restrictions of the Specific Plan, and with the understanding that such value shall not exceed $80,000 per acre.

1.6 Assignment. "Assign" shall have the meaning set forth in § 14.1.1 below. All forms of use of the verb "assign" and the nouns "assignment" and "assignee" shall include all contexts of hypothecations, sales, conveyances, transfers, leases, and assignments.

1.7 Authorizing Ordinance. "Authorizing Ordinance" means Ordinance No. _____ approving this Agreement.

1.8 Building Permit. "Building Permit," with respect to any building or structure to be constructed on the Developer's Property, means a building permit for not less than the shell and core of such building or structure issued by the City's Division of Building and Safety.

1.9 CC&R's. "CC&R's" shall have the meaning set forth in Section 14.4 below.

1.10 Certificate of Compliance. "Certificate of Compliance" shall have the meaning set forth in Section 12.2 below.

1.11 Certificate of Occupancy. "Certificate of Occupancy," with respect to a particular building or other work of improvement, means the final certificate of occupancy issued by the City with respect to such building or other work of improvement.

1.12 CFD. "CFD" means a community facilities district for the Project allowed to be formed pursuant to the CFD Act by a Local Agency.

1.13 CFD Act. "CFD Act" means the Mello Roos Community Facilities Act of 1982 (Government Code § 53311 et seq.), as it may be amended from time to time, authorizing the imposition of special taxes to fund capital facilities and services.

1.14 City. "City" means the City of Banning, California.

1.15 City Council. The "City Council" means the governing body of the City.

1.16 City Development Agreement Ordinance. "City Development Agreement Ordinance" means Chapter 17.60 of the Zoning Ordinance which establishes a procedure for the consideration and approval of development agreements pursuant to the Development Agreement Statute.

1.17 City Manager. "City Manager" means the City Manager of City.

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1.18 City Wide Traffic Improvements. "City Wide Traffic Improvements" means those traffic improvements identified in the Traffic Impact Mitigation Fee established in Article 7.

1.19 Claims or Litigation. "Claims or Litigation" means any challenge by adjacent owners or any other third parties (i) to the legality, validity or adequacy of the General Plan, Land Use Regulations, this Agreement, Development Approvals or other actions of the City pertaining to the Project, or (ii) seeking damages against the City as a consequence of the foregoing actions, for the taking or diminution in value of their property or for any other reason.

1.20 Dedicate or Dedication. "Dedicate" or "Dedication" means to offer the subject land to the City .

1.21 Default. "Default" refers to any material default, breach, or violation of a provision of this Development Agreement as defined in Section 13 below. "City Default" refers to a Default by the City, while "Developer Default" refers to a Default by the Developer.

1.22 Developed Property. "Developed Property" shall mean residential property for which a certificate of occupancy has been issued or a final inspection conducted.

1.23 Development Goals. "Development Goals" shall have the meaning set forth in Section 6.2 below.

1.24 Developer's Property. "Developer's Property" means the 1543 acres of land, more or less, described in Exhibit A in which Developer holds a legal or equitable interest and upon which the Project will be developed.

1.25 Development. "Development" means the improvement of the Developer's Property for purposes of effecting the structures, improvements and facilities composing the Project including, without limitation: grading, the construction of infrastructure and public facilities related to the Project, whether located within or outside the Developer's Property; the construction of structures and buildings; the installation of landscaping; and the operation, use and occupancy of, and the right to maintain, repair, or reconstruct, any private building, structure, improvement or facility after the construction and completion thereof, provided that such repair, or reconstruction takes place during the Term of this Agreement on parcels subject to this Agreement.

1.26 Development Agreement Statute. "Development Agreement Statute" means §§ 65864 through 65869.5 of the Government Code as it exists on the Effective Date.

1.27 Development Approvals. "Development Approvals" means all site-specific (meaning specifically applicable to the Developer's Property only and not generally applicable to some or all other properties within the City) plans, maps, permits, and entitlements to use of every kind and nature. Development Approvals includes, but is not limited to, specific plans, site plans, tentative and final subdivision maps, vesting tentative maps, variances, zoning designations, planned unit developments, conditional use permits, grading, building and other similar permits, the site-specific provisions of general plans, environmental assessments, including environmental impact reports, and any amendments or modifications to those plans,

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maps, permits, assessments and entitlements. The term Development Approvals does not include rules, regulations, policies, and other enactments of general application within the City.

1.28 Development Impact Fees. "Development Impact Fees" means the monetary consideration, other than a tax or assessment, charged by the City in connection with mitigating the Project's specific impacts and the development of the public facilities related to the Development of the Project, including those fees, calculated on the basis of the number of residential units or square footage of non-residential development to be constructed, as set forth on Exhibit "D" attached hereto as well as those Development Impact Fees set forth in Exhibit B and being revised. Development Impact Fees do not include Processing Fees.

1.29 Development Plan. "Development Plan" means the Existing Development Approvals, Future Development Approvals and Existing Land Use Regulations.

1.30 Director. "Director" means the City's Director of Community Development or equivalent official.

1.31 Economically Distressed Year. "Economically Distressed Year" means any calendar year in which the number of building permits for single family dwelling units issued in Western Riverside County (includes all cities and unincorporated county territory) are less than 50% of the average number of building permits issued during the prior 25 years, based on the annual report of the California Construction Industry Research Board. For example, for the 25 year period from 1987 to 2011, inclusive, total permits issued were 235,455 and the annual average was 9418. In 2008, 2009, 2010 the total permits issued were 2794, 2717 and 3321, so all three years would have been declared "Economically Distressed" hereunder. If the number of building permits issued in any calendar year are not available from the California Construction Industry Research Board, then the City shall obtain them from any other reliable source measuring the same data over the period.

1.32 Effective Date. "Effective Date" means the date this Agreement becomes effective as set forth in Section 3.5.

1.33 Eligible Facitlities. "Eligible Facilities" means the Proposed Project Facilities and other public facilities, fees and contibutions for public facilities, as described in the Financing Plan.

1.34 Exaction. "Exaction" means Dedications, payment of Development Impact Fees and/or construction of public infrastructure by the Developer as part of the Development of the Project. The development will be subject to all development and/or in lieu fees currently in the process of being studied by the City as indentified in Section 7.22 so long as they are adopted prior to the issuance of building permits for specific portions of the development proposed herein. The amount of the fees shall be as required at the time of issuance of building permits.

1.35 Existing Development Approvals. "Existing Development Approvals" means only the Development Approvals which are listed on Exhibit "B."

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1.36 Existing Land Use Regulations. "Existing Land Use Regulations" means those Land Use Regulations applicable to the Property in effect on the Effective Date.

1.37 Financing Plan. "Financing Plan" means Exhibit "H" attached hereto.

1.38 Force Majeure. "Force Majeure" shall have the meaning set forth in Section 19.2 below.

1.39 Future Development Approvals. "Future Development Approvals" means those Development Approvals applicable to the Developer's Property approved by the City after the Effective Date such as tentative tract maps, subdivision improvement agreements and other more detailed planning or engineering approvals.

1.40 General Plan. "General Plan" means the City's General Plan as it exists on the Effective Date, and as expressly amended by (i) General Plan Amendment/Zone Changes No. _____ approved by the City Council concurrently with this Agreement; and (ii) future amendments applicable to the Developer's Property, if permitted, by Article 11.

1.41 Goals and Policies for Financing. "Goals and Policies for Financing" or "Goals and Policies" means the City's goals and policies adopted in accordance with Section 5.2.1.

1.42 Golf Course/Active Open Space. "Golf Course/Active Open Space" means the area containing all of Planning Area 35 and Planning Area 39 as described in the Specific Plan and Sections 5.3 and 5.9.10 below.

1.43 Grading Permit. "Grading Permit" means a permit issued by the City's Division of Building and Safety which allows the excavation or filling, or any combination thereof, of earth.

1.44 Improvement Area. "Improvement Area" shall have the meaning set forth in Section 5.1 below.

1.45 Innocent Owner. "Innocent Owner" shall have the meaning set forth in Section 13.6 below.

1.46 LAFCO. "LAFCO" means the Riverside County Local Agency Formation Commission.

1.47 Land Use Regulations. "Land Use Regulations" means those ordinances, laws, statutes, rules, regulations, initiatives, policies, requirements, guidelines, constraints, codes or other actions of the City which affect, govern, or apply to the Developer's Property or the implementation of the Development Plan. Land Use Regulations include the ordinances and regulations adopted by the City which govern permitted uses of land, density and intensity of use and the design of buildings, applicable to the Property, including, but not limited to, the General Plan, the Specific Plan, zoning ordinances, development moratoria, implementing growth management and phased development programs, ordinances establishing development exactions, subdivision and park codes, any other similar or related codes and building and

improvements standards, mitigation measures required in order to lessen or compensate for the adverse impacts of a project on the environment and other public interests and concerns or similar matters. The term Land Use Regulations does not include, however, regulations relating to the conduct of business, professions, and occupations generally; taxes and assessments; regulations for the control and abatement of nuisances; building codes; encroachment and other permits and the conveyances of rights and interests which provide for the use of or entry upon public property; any exercise of the power of eminent domain; or similar matters.

1.48 Legal or Equitable Interest. "Legal or Equitable Interest" means (i) an option or purchase agreement or (ii) fee title evidenced by appropriate title insurance issued in favor of the Developer.

1.49 LMD. "LMD" means the Landscape and Maintenance District established pursuant to Streets and Highways Code § 22500 et seq. to fund parks, parkways, City rights of way landscaping and common areas.

1.50 Local Agency. "Local Agency" means any public agency authorized to levy, create or issue any form of land secured financing over all or any part of the Project, including, but not limited to, the City.

1.51 Lot. "Lot" means any of the parcels legally created within the Project as a result of any approved final subdivision, parcel or tract map, pursuant to the Subdivision Map Act or recordation of a condominium plan pursuant to Civil Code § 1352 .

1.52 Master Tract Map. "Master Tract Map" (or "A Map") means a large scale tract map covering one or more complete Planning Areas which will include all infrastructure necessary to develop the tract and a phasing plan as to the development of the infrastructure and the subsidiary subdivisions within the tract. The Master Tract Map is a subdivision map within the meaning of the Subdivision Map Act and shall meet the requirements of the Act and of this Agreement. The Master Tract Map may also be a financing map for purpose of financing the development of the Project or the conveyance of large lots and may not require the actual construction of improvements.

1.53 Mortgage. "Mortgage" means a mortgage, deed of trust, sale and leaseback arrangement or other transaction in which all, or any portion of, or any interest in, the Developer's Property is pledged as security.

1.54 Mortgagee. "Mortgagee" refers to the holder of a beneficial interest under a Mortgage.

1.55 Mortgagee Successor. "Mortgagee Successor" means a Mortgagee or any third party who acquires fee title or any rights or interest in, or with respect to, the Developer's Property, or any portion thereof, through foreclosure, trustee's sale, deed in lieu of foreclosure, lease termination, or otherwise from, or through, a Mortgagee. If a Mortgagee acquires fee title or any right or interest in, or with respect to, the Developer's Property, or any portion thereof, through foreclosure, trustee's sale or by deed in lieu of foreclosure and such Mortgagee subsequently conveys fee title to such portion of the Developer's Property to a third party, then such third party shall be deemed a Mortgagee Successor.

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1.56 Municipal Code. "Municipal Code" means the City's Municipal Code as it existed on the Effective Date and as it may be amended from time to time consistent with the terms of this Agreement.

1.57 Non-Defaulting Party. "Non-Defaulting Party" shall have the meaning set forth in Section 13.1 below.

1.58 Owner. "Owner" means Pardee Homes and any successors during the period of time that each such person or entity owns fee title to any portion of the Developer's Property prior to the development of such portion of the developer's Property and subject to the terms of this Agreement.

1.59 Park fees. "Park Fees" means Development Impact Fees levied by the City for Open Space and Park Development pursuant to Chapter 15.68 of the Municipal Code.

1.60 Phase. "Phase" shall have the meaning set forth in Section 6.2 below.

1.61 Phasing Plans. "Phasing Plans" shall mean the detailed plans for development of the Proposed Project Facilities and other infrastructure and for the Project which are developed pursuant to Section 6.5 as a part of processing the Subdivision Maps.

1.62 Planning Area. "Planning Area" means each of the 75 planning areas described in the Specific Plan, and shown on Exhibit "A."

1.63 Planning Commission. "Planning Commission" means the City's Planning Commission.

1.64 Pre-Qualified Buyer. "Pre-Qualified Buyer" means a publicly traded builder or developer or a privately held merchant builder with a minimum net financial worth of Five Million Dollars ($5,000,000) who has constructed at least 75 homes in California during the preceding five year period.

1.65 Property Owner's Association or POA. "Property Owner's Association" or "POA" means one or more association formed among the owners of real estate located within the Property (as the same may be subdivided from time to time), including, but not limited to, one or more associations of homeowners and/or other associations of owners of industrial, commercial, educational and retail property.

1.66 Processing Fees. "Processing Fees" means (i) the City's normal fees for processing, environmental assessment/review, tentative tracts/parcel map review, plan checking, site review, site approval, administrative review, building permit (plumbing, mechanical, electrical, building), inspection and similar fees imposed to recover the City's costs associated with processing, review and inspection of applications, plans, specifications, etc., and (ii) fees and charges levied by any other public agency, utility, district or joint powers authority, whether or not City is a member of such body or such fees are collected by the City, and whether or not such fees are used for maintenance or capital outlay purposes.

1.67 Project. "Project" means the Development of the Developer's Property, pursuant to this Agreement and the Existing Land Use Regulations, as depicted on Exhibit "B" attached hereto.

1.68 Proposed Project Facilities. "Proposed Project Facilities" means those improvements set forth on Exhibit "F" attached hereto or otherwise included in conditions of approval of the maps.

1.69 Reimburse or Reimbursement. "Reimburse" or "Reimbursement" means the provision by the City of cash or credit in return for land, goods or services provided by Pardee Homes.

1.70 Reservations of Authority. "Reservation of Authority" shall have the meaning set forth in Article 11 below.

1.71 Services Special Tax. "Services Special Tax" shall mean the special tax authorized to be levied by the CFD(s) established over the Developer's Property to alleviate the negative fiscal impact of the Project on City services as established by the Fiscal Impact Analysis ("FIA") and as further described in Section 5.3 below.

1.72 Specific Plan. "Specific Plan" means the Butterfield Specific Plan, prepared by RBF Consulting and approved by the City Council by Ordinance No. _____, adopted on _____, 2012.

1.73 Subdivision Map. "Subdivision Map" (or "B Map") means the subsidiary subdivision maps for the development of any Tract which shall be consistent with the conditions of the Master Tract Map and shall contain its own phasing plan for the installation of the infrastructure and other improvements within the subdivision. All subdivision maps shall meet the requirements of the Subdivision Map Act including § 66473.7 (See 65867.5).

1.74 Subdivision Map Act. "Subdivision Map Act" means Government Code § 66412 et seq. as implemented by Title 16 of the Municipal Code.

1.75 Taxes. "Taxes" means general or special taxes, including but not limited to ad valorem property taxes, sales taxes, transient occupancy taxes, utility taxes or business taxes of general applicability citywide which do not burden the Developer's Property disproportionately to similar types of development in the City and which are not imposed as a condition of approval of a development project. Taxes do not include Development Impact Fees, Processing Fees or Traffic Control Facility Fees.

1.76 Ten or 10th Year Anniversary Review. "Ten Year Anniversary Review" means the review performed upon each 10th anniversary of the Effective Date as provided in Section 6.6.

1.77 Term. "Term" means that period of time during which this Agreement shall be in effect and bind the Parties, as defined in Article 6.7 below.

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1.78 Traffic Control Facility Fee. "Traffic Control Facility Fee" means the fee set forth in Exhibit "B" attached hereto.

1.79 Transfer. "Transfer" shall have the meaning set forth in Article 14 below.

1.80 Trigger Percentages. "Trigger Percentages" shall have the meaning set forth in Section 14.1.1 below.

1.81 TUMF. "TUMF" means the Transportation Uniform Mitigation Fee promulgated by the Western Riverside Council of Governments and implemented by Chapter 15.76 of the Municipal Code.

1.82 Zoning Code. "Zoning Code" means Title 17 of the Municipal Code as it existed on the Effective Date except (i) as amended by any zone change relating to the Developer's Property approved concurrently with the approval of this Agreement, and (ii) as the same may be further amended from time to time consistent with this Agreement.

2. EXHIBITS.

The following are the Exhibits to this Agreement:

Exhibit "A": Map and Legal Description of the Developer's Property

Exhibit "B": Existing Development Approvals/Fee Studies

Exhibit "C": Estoppel Certificate

Exhibit "D": Development Impact Fees

Exhibit "E": Additional Agreements Concerning Development

Exhibit "F": Proposed Project Facilities

Exhibit "G": Highland Springs Avenue Improvements

Exhibit "H": Butterfield Project Financing Plan

3. TERM.

3.1 Term. The term of this Development Agreement (the "Term") shall commence on the Effective Date and shall continue for a period of forty (40) years, subject to review, as called for in Section 6.2 below, to determine whether the Development Goals have been met, and reduction in the Term of five (5) years for each time the Development Goals of a Phase are not met and extensions for Economic Distress, as provided in Sections 6.6.5 and 6.7 below.

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3.2 Termination Upon Completion of Construction. This Agreement shall terminate with respect to any Lot, and such Lot shall be released and no longer subject to this Agreement, without the execution or recordation of any further document, when a certificate of occupancy has been issued for the last building on the Lot or, if no certificate is issued, when the final inspection for the last building on the Lot has taken place.

3.3 Termination for Default. This Agreement may be terminated due to the occurrence of any default in accordance with the procedures in Article 13.

3.4 Extension of the Term: The Term shall be extended by one (1) year for each Economically Distressed Year occurring during any Phase up to a maximum of three (3) years for any Phase.

3.5 Effective Date. This Agreement shall become effective upon the date thirty (30) days after the adoption of the Authorizing Ordinance if no Claim or Litigation have been filed which would prevent the Authorizing Ordinance from taking effect. If such a Claim or Litigation has been filed, then the Effective Date shall be the date that the Claim or Litigation has been successfully resolved in the City's favor, and the time for any further judicial review has run, so that the Authorizing Ordinance shall be effective. The City shall give Developer notice as to the date established as the Effective Date. The Effective Date is not otherwise tolled for any other Force Majeure as described in Section 19.2.

4. DEVELOPMENT OF THE DEVELOPER'S PROPERTY.

4.1 Right to Develop. During the Term, the Developer shall have a vested right to develop the Developer's Property (subject to Article 11 below) to the full extent permitted by the Development Plan and this Agreement. Except as provided within this Agreement, the Development Plan shall exclusively control the development of the Developer's Property (including the uses of the Developer's Property, the density or intensity of use, the maximum height and size of proposed buildings, the provisions for reservation or dedication of land for public purposes and the design, improvement and construction standards and specifications applicable to the Project). The maximum number of residential units authorized to be constructed hereunder and the approximate acreage of commercial development, without regard to any density bonus or incentive or concession for child care pursuant to Government Code §§ 65915 through 65918 or other similar legislation or regulation, is 5,387 units and approximately 36-acres of commercial development. In furtherance of the foregoing, the Developer retains the right to apportion the uses, intensities and densities, between itself and any subsequent Owners, upon the sale, transfer, or assignment of any portion of the Property, so long as such apportionment is consistent with the Existing Land Use Regulations and this Agreement.

4.2 Right To Future Approvals. Subject to the City's exercise of its police power authority as specified in Article 11 below, the Developer shall have a vested right: (i) to receive from the City all future Development approvals for the Developer's Property that are consistent with, and implement, the Existing Land Use Regulations and this Agreement; (ii) not to have such approvals be conditioned or delayed for reasons which are inconsistent with the Existing Land Use Regulations or this Agreement; and (iii) to Develop the Developer's Property in a manner consistent with such approvals in accordance with the Existing Land Use

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Regulations and this Agreement. All future Development Approvals for the Developer's Property, including without limitation General Plan amendments, zone changes, or parcel maps or tract maps, shall upon approval by the City, be vested in the same manner as provided in this Agreement for the Existing Land Use Regulations, for the term of this Agreement.

4.3 Existing Development Approvals. Only those items specifically set forth on Exhibit "B" hereto are deemed Existing Development Approvals for purposes of this Agreement. Any approvals not included within Exhibit "B" shall not apply to the Project with the exception of those reservations set forth in Article 11 below.

4.4 Specific Plan. Land use and Development of the Property shall be governed by the Specific Plan and this Agreement. Notwithstanding any other provision of this Agreement, the Developer shall have the right, but not the obligation, to Develop the Developer's Property for the uses specified in the Specific Plan at the locations specified in the Specific Plan.

4.5 Priority Of Specific Plan. The City has determined that the Specific Plan is consistent with the General Plan and the Zoning Code. As such, the Specific Plan shall be the primary document governing the use and Development of the Developer's Property and, in the event of a conflict, shall prevail over any other of the Existing Land Use Regulations except for this Agreement, which prevails over the Specific Plan.

4.6 Later Enacted Measures. This Agreement is a legally binding contract which will supersede any initiative, measure, moratorium, statute, ordinance, or other limitation enacted after the Effective Date, except as provided in Article 11. Any such enactment which affects, restricts, impairs, delays, conditions, or otherwise impacts the implementation of the Development Plan (including the issuance of all necessary Future Project Approvals or permits for the Project) in any way contrary to the terms and intent of this Agreement shall not apply to the Project unless otherwise provided by State law.

4.7 Impact Fee Studies. As provided in Section 7.2, studies for certain Development Impact Fees, listed in Exhibit "D," will be performed after the Effective Date of this Agreement and shall become a part of the Existing Development Approvals. Additionally, Development Impact Fees are subject to review and adjustment as a part of the 10 Year Anniversary Reviews, in accordance with Section 6.6. The cost of performing the studies may be included in the fees.

## 5. FINANCING AND THE CITY'S OBLIGATIONS.

5.1 Formation of CFD(s) and LMDs. Subject to the provisions of this Article 5, some or all of the Eligible Facilities shall be funded through the City's formation of one or more CFDs and the levy of a special tax of the CFD(s) (the "Facilities Special Tax") and issuance of bonds secured by the Facilities Special Tax (the "Bonds") in accordance with the Financing Plan set forth in Exhibit H. Such CFD(s) shall, pursuant to Section 5.3, also be authorized to finance certain City public services costs (incurred as a result of Development of the Developer's Property) through the levy of a special tax, in the not to exceed amount set forth in the Financing Plan, on each residential unit located within the boundaries of such CFD(s) (the

"Services Special Tax"). Additionally, landscape maintenance districts ("LMDs") may be formed under Section 5.6.

5.1.1. Procedures for Formation. The City and the Developer shall cooperate in good faith to form one or more (i) CFDs and/or designate improvement areas therein (the "Improvement Areas"), (ii) LMDs and designate improvement areas therein (also "Improvement Areas"), and (iii) CFDs for the Special Services Tax (collectively referred to herein as the "Financing Districts"), which are consistent with the Financing Plan and which in the aggregate will encompass and encumber the Developer's Property. Final terms and conditions regarding the formation of the Financing Districts, their boundaries, Improvement Area boundaries, the rate and method of apportionment of the Services Special Taxes and Facilities Special Taxes to be levied in any CFD, LMD and/or Improvement Area (including any tax zones therein), any acquisition or construction agreements related thereto, and the terms of one or more series of Bonds to be issued in conjunction therewith shall be determined jointly by City and the Developer in accordance with the Financing Plan and the City's Goals and Polices for Financing . In conjunction with the formation of any Financing District, the Developer and the City shall cooperate in good faith to negotiate and finalize any acquisition and funding agreement prior to the formation of the first Financing District addressing the terms of construction, acquisition and financing of any of the Eligible Facilities to be funded by the Financing District (such agreement to be referred to herein as the "Acquisition Agreement"). Developer shall cooperate in the establishment of the levy over Developer's Property and not exercise any rights of protest.

5.1.2. Timing of Formation. Developer shall prepare all studies and submit all documents necessary to form the Financing Districts within one year after the adoption of City's Goals and Policies for Financing. After Developer has initiated formation of the Financing Districts, City shall form the Financing Districts consistent with the City's adopted Goals and Policies for Financing and State Law. City shall complete formation proceedings within 180 days after Developer makes the necessary submission. The Developer shall indemnify the City and hold it harmless against Claims or Litigation brought in connection with the formation of the Financing Districts.

5.1.3. Failure to Form Financing Districts. If any of the contemplated Financing Districts are not formed, or formed but not in accordance with the terms of this Agreement, through the failure of one Party to perform its obligations pursuant to Section 5.1, the other Party shall have the right, but not the obligation, to terminate this Agreement upon providing 30 days written notice to the Party which has failed to perform prior to the actual termination date.

5.2 Adoption of Goals and Policies for Financing. Before the Developer undertakes development of any units, the City shall retain a financial advisor and prepare a City-wide policy for undertaking land based CFD and assessment financing. The draft policy will be reviewed with the Developer and the City shall in good faith consider any comments made by the Developer on the draft policy. The goals and policies for Financing shall be adopted within 180 days after the Effective Date and shall be consistent with Exhibit H, including the Financing Parameters described therein. The goals and policies shall be adopted by Council by resolution and thereafter be the Goals and Policies for Financing. The City may amend the Goals and

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Polices for Financing from time to time, and will be a part of the Existing Land Use Regulations hereunder, but such amendment shall not apply to the Development unless they are consented to by Developer.

5.3 Services Special Tax. The final Fiscal Impact Analysis prepared by the City's consultant, Willdan Financial Services, dated September 16, 2011, (the "FIA") demonstrates an overall negative fiscal impact on certain City public service costs incurred as a result of Development of the Developer's Property, including without limitation, the City's costs for police and fire services. The FIA demonstrates that such negative fiscal impact can fully be mitigated by an annual Services Special Tax, implemented as required by this Section 5.3 and the Financing Plan set forth in Exhibit "H" attached hereto. The annual services Special Tax shall not exceed $ 115 per dwelling unit of greater than 1820 square feet of habitable area and $92 per dwelling unit of 1820 or less square feet of habitable area in fiscal year 2013-14 and shall increase each fiscal year thereafter by 3%. The Services Special Tax may be levied in perpetuity and shall only be levied by the CFD(s) formed pursuant to Section 5.1 on residential parcels classified as Developed Property, but Developer shall cooperate in the establishment of the levy over Developer's Property and not exercise any rights of protest.

5.4 Planning Area 19, 35, 39 and 71 Drainage Facilities. In the event that the Developer, in its sole and absolute discretion, determines that the Golf Course is financially infeasible, the flood control improvements within Planning Areas 35 and 39 shall be considered Proposed Project Facilities and may be funded through the CFD(s). If this occurs, then portions of the land within Planning Areas 35 and 39 will be dedicated as public open space and the remaining portions dedicated to flood control appurtenances, to be transferred to the City or the Riverside County Flood Control District upon completion of the flood control facilities on such site and shall be improved to the Master Plan Standards of District. Plans for developing the necessary improvements shall be developed as a part of the Phasing Plans pursuant to Section 6.5, but improvements may not be required until the City Engineer determines that development will (i) intrude into the flood plan or (ii) cause the alteration of Smith Creek. The City Engineer may approve temporary improvements until the scale of the portion of the Project completed requires permanent structures. Upon transfer of the portions of the Planning Areas relating to the flood control facilities to the City or District, if the CFD(s) are formed or, as soon thereafter as the CFD(s) are formed, the City shall pay the agreed upon construction costs to the Developer from available CFD Proceeds in accordance with the Financing Plan. (Also see Sections 8.1.3. and 8.2.)

5.5 Reimbursement Agreements. If, and to the extent that, the Developer constructs or installs any infrastructure and/or facilities that have a capacity or size in excess of that required to serve the Project or to mitigate its impacts, the City shall reimburse the Developer for all costs and expenses incurred by the Developer in constructing such improvements for that portion of the Dedications, public facilities and/or infrastructure that the City, pursuant to this Agreement, may require pursuant to the Existing Land Use Regulations. The City further shall adopt ordinances, including but not limited to those authorized by Government Code § 66485 et seq., as may be required in order to impose a reimbursement obligation on other properties which may be served or benefited by the oversized infrastructure or facilities. The terms of the Reimbursement Agreements shall otherwise be consistent with the City's forms generally used with all other development projects of over 200 units. Such

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reimbursement shall be paid to the Developer at the earliest opportunity out, and upon collection, of available fees from benefited developments so long as consistent with City's other contractual obligations. Repayment shall not extend beyond the Term of this Agreement.

5.6 Landscape Maintenance Districts. The City shall take, and Developer shall support, all steps necessary to establish LMD(s) or other maintenance districts, to fund maintenance of City parks, parkways, City rights of way landscaping, and common areas as provided in Section 5.1. The Developer shall make a deposit to pay the cost for review and approval of all agreements, studies, analysis and actions necessary for the establishment of the LMD(s).

5.7 Reimbursement for Pre-Approval Costs. The City shall provide fee credits to the applicable DIFs, as set forth below, for those residential units for which Commencement of Construction occurs by the twelfth anniversary of the Effective Date, but not more than for the first 1200 units. "Commencement of Construction" as used herein shall have the same meaning as under Section 6.3. The units eligible for fee credits for reimbursement shall be those of the 1200 which are not eligible for the incentive provided for in Section 6.8. If the incentive is taken in accordance with Section 6.8, then the amount of the credit for each unit for each fee shall be determined by taking the amount of cost to be reimbursed and dividing it by 1200 minus the number of units eligible for the incentive. As an example, if the total amount of the cost to be reimbursed is $227,500 and the number of units eligible for the incentive is 400, then the amount of the credit for each unit after the first 400 within the 12 years following the Effective Date will be $227,500/(1200-400) = $227,500/800 = $284 rounded to the nearest dollar. These fee reimbursements may be included in the subsequent fee studies performed pursuant to Section 7.2.2. [The per unit figure shown below assumes the credit is taken over 1200 units.]

5.7.1.1 A fee credit against updated Sewer Sanitary Fee and Recycled Water Fee of $227,500 or $189.60 per unit for the Corollo Study related to the sewer and recycled water master plans.

5.7.1.2 A fee credit against the updated Domestic Water Fee of $1,115,000 or $929.17 per unit for the consultant time related to the preparation of the City's 2010 Urban Water Management Plan.

5.7.1.3 A fee credit against the proposed revised Traffic Control Facility Fee of $105,000 or $875 per unit for the consultant time related to the preparation of the Traffic Impact Analysis and related traffic fee prepared documents.

5.7.1.4 A fee credit against the proposed revised Traffic Control Facility Fee of $45,000 or $375 per unit for the development of Citywide fees related to the Traffic Impact Fees study or other fee studies required as a result of entitlement activities.

5.7.1.5 A fee credit against the proposed revised Traffic Control Facility Fee or other appropriate fee of $550,000 or $462.50 per unit for the consultant time and plan preparation for required studies related to pre-project improvements to Highland Springs near the I-10 freeway.

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5.7.1.6 A fee credit against the General Plan Fee of $187,500 or $156 per unit for the General Plan Traffic Circulation Element Amendment preparation.

5.8 Obligations of Developer Respecting Financing; No Speculation. Except as specifically provided herein, it is expressly understood that the Developer is fully responsible for the cost of the Project and obtaining any necessary construction or long term financing therefore. The Developer's Property shall be used solely to support the development of the Project and may not be pledged as security to support financing for any other purpose, in accordance with Article 18.

6. TIME FOR CONSTRUCTION AND COMPLETION OF PROJECT.

6.1 Timing of Development. The Parties acknowledge that the substantial public benefits to be provided by the Developer to the City pursuant to this Agreement are in consideration for, and in reliance upon, assurances that the City will permit Development of the Developer's Property in accordance with the terms of this Agreement. Accordingly, the City shall not attempt to restrict or limit the Development of the Developer's Property in any manner that would conflict with the provisions of this Agreement. The City acknowledges that the Developer cannot at this time predict the timing or rate at which the Developer's Property will be Developed. The timing and rate of Development depend on numerous factors such as market demand, interest rates, absorption, completion schedules and other factors, which are not within the control of the developer or the City. In Pardee Construction Co. v. City of Camarillo (1984) 37 Cal.3d 465, the California Supreme Court held that a construction company was not exempt from a city's growth control ordinance notwithstanding that the construction company and the city had entered into a consent judgment (tantamount to a contract under California law) establishing the company's vested rights to develop its property in accordance with the zoning. The California Supreme Court reached this result on the basis that the consent judgment failed to address the timing of development. It is the intent of the Parties to avoid the result of the Pardee case by acknowledging and providing in this Agreement that the Developer shall have the vested right to Develop the Developer's Property in such order and at such rate and at such time as the Developer deems appropriate, but in accordance with the Development Goals and the phasing plans developed in accordance with Section 6.5, and in accordance with other terms hereof or in the Development Approvals related to project phasing and timing. In addition to, and not in limitation of, the foregoing, but except as set forth in the following sentence, it is the intent of the Parties that no City moratorium or other similar limitation relating to the rate or timing of the Development of the Developer's Property or any portion thereof, whether adopted by initiative, referendum or otherwise, shall apply to the Developer's Property to the extent that such moratorium, referendum or other similar limitation is in conflict with this Agreement. Notwithstanding the foregoing, the Developer acknowledges that nothing herein is intended or shall be construed as (i) overriding any provision of the Existing Land Use Regulations to the phasing of development of the Project; or (ii) restricting the City from exercising the powers described in Section 11 of this Agreement to regulate development of the Property. Nothing in this Section 6.1 is intended to excuse or release the Developer from any obligation set forth in this Agreement which is required to be performed on or before a specified calendar date or event without regard to whether or not one or more Owners proceeds with any portion of the Project. The City acknowledges that the Project Phasing set forth in the Specific Plan does not require

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that the Project be Developed in any specific order but, instead, are illustrative of how the Project may be Developed. The Project Phasing instead is controlled by this Agreement.

6.2 Development Goals. Notwithstanding the provisions of Section 6.1, the Developer must achieve certain goals and objectives in terms of Project development in order to keep the Agreement in place for the full term contemplated in Section 3.1. The development of the Project will be reviewed at each Ten Year Anniversary Review. The Development Goals are as follows:

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|---|---|
| Phase I (10th Anniversary) | ▪ Development will begin near the corner of Highland Springs and Wilson unless otherwise agreed<br>▪ 1,200 Residential Units to be constructed<br>▪ Commercial retail development per 6.2.4<br>▪ Outlet for Smith Creek and other improvements in Section 6.2.3. |
| Phase II (20th Anniversary | ▪ 1,600 residential units to be constructed |
| Phase III (30th Anniversary) | ▪ 1,400 residential units to be constructed |
| Phase IV (40th Anniversary) | ▪ 1,187 residential units to be constructed |

6.2.1. Cumulative Measure of Units. The Development Goals for each Phase shall be cumulative, e.g., if the Developer has constructed 2000 Residential Units in Phase I and 1000 Residential Units in Phase II, then the Developer will have met the Development Goal for Phase II even though less than 1500 Residential Units were constructed during Phase II.

6.2.2. More Detailed Phasing Plans Developed. Within each Phase, as defined above, more detailed phasing plans for each subdivision shall be developed in accordance with Section 6.5, and are subject to the City's review and approval as conditions of approval of the Tract or Subdivision Map and, as approved, shall become a part of the Existing Approvals.

6.2.3. Additional Phase I Development. In addition to the residential unit Development Goals, Phase I shall also include: (i) commercial development as specified in Section 6.2.4, (ii) the outlet for the Smith Creek flood control improvements at Wilson, (iii) the preparation and dedication of the Recreation/Emergency Center site described in Section 8.1.4, (iv) the satellite water treatment plant described in Section 8.3, (v) the water tanks described in Section 8.5; and (vi) such other Proposed Project Facilities as required by the Specific Plan and the Phasing Plans approved pursuant to Section 6.5. Notwithstanding the specification of timing as provided herein, with the approval of the City Manager, any public improvement required herein may be deferred for good cause.

6.2.4. Commercial Development. A minimum 23-acre retail-commercial site at the corner of Highland Springs and Wilson (Planning Area 18) will be prepared as a part of Phase I, and concurrently with the development undertaken pursuant to Section 6.8. Site preparation

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shall require the grading of the Site, construction of surrounding streets, and bringing all necessary utilities and infrastructure for development. Developer shall also demonstrate a good faith effort undertaken over at least a five (5) year period to market the site for sale or lease to a suitable user. Additionally, Developer shall maintain the potential to expand the site to as much as 88 acres to permit a larger commercial development, provided that such expanded project obtains any necessary entitlements. Developer shall advise City within five (5) years of the Effective Date as to what interest there might be in the expanded project and the parties will mutually agree as to the scope of the project. The timely preparation and attempts to market this site is required for completion of Phase I and is subject to the same treatment as the residential units (i.e. phasing period can be prolonged for economic distress and the Term of Agreement can be shortened pursuant to Section 6.7). The goal of the City is to locate a significant sales tax generating "big box user" as the major tenant of the project. Accordingly, City retains the right to approve the major tenant in the project (tenants over 75,000 sq. ft), in accordance with the provisions in Article 14 as a transferee by lease or sale.

6.2.5. Extensions of Phases. The length of each Phase for the purposes of this Section 6.2 shall be extended by one (1) year for each Economically Distressed Year occurring during the Phase, up to a maximum of three (3) years as provided in Section 6.6.5.

6.3 Development Goals Satisfied By Commencement of Construction. The Development Goals for residential units specified above are satisfied if construction has commenced. "Commencement of Construction" of a residential unit means that building plans have been approved, that a building permit has been issued and that construction has commenced on the unit. The unit shall not be counted if the building permit expires without completion of the unit.

6.4 Public Improvements. The Parties understand and agree that the Specific Plan identifies the public infrastructure and though it contains phasing concepts, it does not specify precisely the phasing of the construction of public infrastructure. The development phasing will be consistent with the Specific Plan and this Agreement. The City desires that required public infrastructure generally be constructed in the early portion of the applicable phase of the development cycle subject to the guidelines specified below. In consideration of the foregoing, notwithstanding any provision herein to the contrary, the City shall retain the right to condition any Future Approvals to require Developer to dedicate necessary land, pay the development fees specified in Article 7, and/or to construct the required public infrastructure ("Exactions"), at such time as City shall determine in accordance with the process in Section 6.5 and subject to the following conditions:

A. The dedication, payment or construction must be to alleviate an impact caused by the Project or be of benefit to the Project; and

B. The timing of the Exaction should be reasonably related to the phasing of the development of the Project and said public improvements shall be phased to be commensurate with the logical progression of the Project development as well as the reasonable needs of the public and the improvements shall be completed based upon the needs of the general public existing from time to time.

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When the Developer is required by this Agreement and/or the Development Plan to construct any public improvements which will be dedicated to the City or any other public agency, upon completion, and if required by applicable laws to do so, the Developer shall perform such work in the same manner and subject to the same construction standards as would be applicable to the City or such other public agency should it have undertaken such construction work. The Developer shall pay prevailing wages as required by law.

6.5 Development of Phasing Plans During Subdivision Map Approvals. The phasing and timing requirements for the construction of all development including public improvements shall generally be in accordance with the Development Approvals and applicable provisions of this Agreement (For example, Sections 6.2, 6.4, 6.5, 7.3, 8.0, etc.). Although the overall timing of Project development remains subject to the Developer's discretion based on market conditions in accordance with Section 6.1, there is a logical sequence to the development and certain improvements are required to be complete before phases of the Project can be considered complete and ready for occupancy. The Phasing Plan will be developed over time in accordance with the following process:

6.5.1. Master Phase Tract Map. Each Phase shall have a Master Tract Map which shall be submitted for financing and conveyance purposes only and no improvements may be constructed nor shall development be permitted pursuant to such approved Tract Map except through submission and approval of tentative and final Subdivsion Maps. Concurrently with processing of the Master Tract Map, all tentative Subdivision Maps for the Tract shall be submitted and processed.

6.5.2. Subdivision Maps. Each Master Tract Map shall designate future subdivisions within the Tract and the order of subdivision development to the extent that the need for development of public infrastructure dictates the logical progression of subdivision development. Each Subdivision Map shall show all infrastructure necessary for the development of the Subdivision. Each subdivision will have a written Phasing Plan approved by the Director and the City Engineer prior to commencement of development of the subdivision specifying when the lots within the subdivision will be developed and when all public infrastructure within the subdivision will be constructed. Generally all streets, lighting, curbs and gutters, sidewalks, parkway landscaping, asphalt concrete paving, traffic signs and stripping, medians, landscaping, drainage facilities, storm drains, water lines, sewer lines, utility lines, trails and other facilities within the subdivision must be completed before release of any occupancy permits within the subdivision. All conditions which require the provision of Proposed Project Facilities and Subdivision Improvements for the area covered by each tentative Subdivision Map must be satisfied, either through performance or through the provision of suitable security, prior to the approval and recordation of the Subdivision Map.

6.5.3. Proposed Project Facilities. Attached as Exhibit "F" is a list of Proposed Project Facilities, including roadways, detention basins, water lines, sewer lines, recycle water lines, utilities, storm drains and drainage facilities, treatment plants, power substations, community parks, community centers, fire stations, and other infrastructure serving area-wide populations. The Proposed Project Facilities serve multiple subdivisions, and may need to be constructed in the initial phase of a particular Tract, or even before certain Tracts can

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be developed. The detailed phasing of construction will be provided through the Master Tract and Subdivision Phasing Plans, and subject to Section 6.4.

6.5.4. Time for Map Submission. The Developer shall submit all applications for tentative, or vesting tentative, Master Tract Maps and, concurrently with each application for a Master Tract Map, the applications for tentative, or vesting tentative, Subdivision Maps thereof within five (5) years of the Effective Date for the City's review and approval.

6.6 Ten Year Anniversary Review.

6.6.1. Generally. On or about each Tenth Anniversary of the Effective Date as provided herein, the City shall conduct the Ten Year Anniversary Review") the City and the Developer review to shall review the performance of this Agreement, and the development of the Project to see if the Development Goals have been met. The cost of the Annual Review shall be borne by the Developer and the Developer shall pay a reasonable deposit in an amount requested by City to pay for such review.

As part of each Ten Year Anniversary Review, sixty (60) days before each tenth anniversary of this Agreement, the Parties shall mutually meet and outline the review process, including (i) the information needed and formats, (ii) the schedule for performing the review, (iii) indentifying any needed consultants and studies, (iv) the adequacy of current DIFs and any anticipated need for changes, (v) any adjustments to needed public infrastructure, (vi) the estimated deposit needed to pay the City's costs of performing the review, and (vii) other matters necessary for the review.

The Developer shall deliver to the City all information reasonably requested by City (i) regarding the Developer's performance under this Agreement demonstrating that the Developer has complied in good faith with the terms of this Agreement and (ii) as required by this Agreement or the Existing Land Use Regulations. The Developer's submittal shall include a written explanation of any reasons why the Development Goals were or were not met, and any request for the modification of future Development Goals in the next 10 year period, and the reasons therefore.

The Developer shall submit its report on or before the Tenth Anniversary. Thereafter, the Director shall prepare and submit to City Council a written report on the performance of the Project. The Developer's written response shall be included in the Director's report. The report and recommendations to Council shall be made within 45 days of the anniversary, and a public hearing shall be held thereon.

6.6.2. Adjustment to DIFs. As provided in Section 7.2.2, all Development Impact Fees are subject to adjustment as put of the Ten Year Anniversary Review provided (i) the adjustment is based on the preparation a suitable analysis by an independent professional consultant experienced in performing such studies demonstrating the basis for the increase, (ii) the study is performed on a City-wide basis and applies to all development projects of 200 or more residential units, (iii) all infrastructure financed is included within the City's

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General Plan and capital projects master plan, (iv) the study demonstrates a reasonable nexus to the Project and the fees are proportionate to the benefit received. The Development Impact Fees shall not contain any escalators but the studies justifying the fees may use cost numbers which recognize the ten year horizon of each study.

6.6.3. Parties Can Alter Development Goals Objectives. The Development Goals for the next Ten Year Anniversary Review period as set forth in Section 6.2 may be modified with the mutual agreement of the Parties at the time of the hearing set forth in Section 6.6.1. Unless the Parties reach agreement for modification, the Development Goals will remain as provided therein.

6.6.4. No Other Changes to Development Plan. Other than the Development Impact Fee adjustments provided in Section 6.6.2 which may be unilaterally approved by City subject to performing the required studies, no other changes to the Development Approvals may be made by City without the consent of Developer. Nothing herein shall restrict the City's reservations of rights under Article 11.

6.6.5. Extensions Due to Economic Distress.

6.6.5.1 Determination of Distress. As provided in Section 6.2.4, the Phases can be extended up to three (3) years due to the occurrence of an Economically Distressed Year(s). In any year in which Developer believes conditions exist to warrant Declaration of an Economically Distressed Year, within 30 days following the Anniversary Date, Developer shall submit his request therefore. Additionally, in support thereof, Developer shall provide City with a Report including the following: (i) a written analysis of County-wide data supporting the Declaration; (ii) publicly available reports concerning general market conditions affecting home building; (iii) analysis as to how general market conditions have affected the Project including demand, costs and financing; and (iv) forecasts concerning the next three (3) years. The Report is for informational purposes only and City shall not be permitted to disapprove the Declaration of Economic Distress if the data submitted meets the definition in Section 1.31. Within 30 days the City Manger shall review the Declaration and Report and determine if the data supports the declaration of an Economically Distressed Year. The City Manager's determination is appealable to the Council under Section 13.6.3, but not as a default thereunder.

6.6.5.2 Effect of Determination on 10-Year Review. Generally the effect of the declaration of an Economically Distressed Year shall also toll the performance of the 10 Year Anniversary Review. For example, if during any 10 year cycle, two years had been declared Economically Distressed, then the 10 Year Anniversary Review would be performed on or about the Anniversary Date of the 12th year, as otherwise provided in Section 6.6. The City, however, retains the right to elect to perform the DIF adjustments in accordance with Section 6.6.2 on the 10 Year Anniversary, or to defer the studies and do them in accordance with the general 10 Year Anniversary Review performed on the date to which the Phase has been extended due to the extensions for Economically Distressed Years pursuant to Section 6.2.4.

6.7 Failure to Satisfy Phasing Goals and Objectives. For reasons stated in Section 6.1, failure to achieve the Development Goals in any ten year period shall not be a

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default hereunder, but it shall cause the term of the Agreement to be shortened five (5) years. Accordingly, a failure at the first Ten Year Anniversary Review shall cause the term of the Agreement in Section 3.1 to be reduced to 35 years, while a failure at the second review in year 20 (to achieve 3000 units) shall cause the Agreement to be shortened another five (5) years to 30 years (subject to any extension of the Term due to the occurrence of Economically Distressed Years as set forth in Section 3.4), but once the Term has been reduced, the lost time is not reinstated due to production of excess units in later phases.

The termination of this Agreement shall not alter the provisions of the Specific Plan concerning the zoning, density of development or any other regulatory provisions concerning the development of the Project, though the limitations provided in Article 4 on enactment of Future Land Use Regulations would be null and void.

6.8 Developer Incentives for Expedited Development.

6.8.1. Incentive for Early Development. The City wishes to establish new communities in the City and to encourage the early development of the Project, which, in light of current economic conditions, may require economic incentives to be provided to the Developer. Accordingly, the Developer shall be given a credit so that DIFs do not have to be paid for up to 500 residential units, if Commencement of Construction, as that term is defined in Section 6.3, occurs on or before the production dates in Section 6.8.4.

6.8.2. Conditions for Receipt of Credits. To receive the credits, the following conditions must be satisfied: (i) the units must be in Planning Areas 1 and 2 provided that, for good cause, City may approve building the units in alternative Planning Areas, (ii) each Tract containing residential units needs to be developed as a single unit with appropriate entry design features including walls, fountains, landscaping, signage and other features approved by City, (iii) the preparation of the commercial site in Planning Area 18 shall take place pursuant to Section 6.2.4, unless waived by City.

6.8.3. Fees Eligible for Credit. The DIFs eligible for credit are those identified as eligible in Exhibit "D."

6.8.4. Schedule. The credit shall be given for all units for which the Commencement of Construction, as that term is defined in Section 6.3, occurs within five (5) years after the Effective Date.

6.9 City Provided Assistance. The City shall provide the Developer with each of the items set forth in Exhibit "E."

7. FEES, TAXES AND ASSESSMENTS.

7.1 Processing Fees. During the Term of this Agreement, the City may require the Developer to pay all Processing Fees applicable to the Development of the Project at the rates in effect on the applicable application date or as described in this Agreement unless a specific amount is stated herein.

7.2 Development Impact Fees.

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7.2.1. Limit on Exactions, Mitigation Measures, Conditions and Development Fees. Except for those fees expressly set forth in Sections 7.3 and 7.5 below, and for the reservations of authority in Article 11, the City shall charge and impose only those Exactions, mitigation measures and conditions, including, without limitation, dedications as are set forth in the Existing Land Use Regulations, and those fees relating to the Development of the Developer's Property as are expressly set forth in Exhibit "D" attached hereto, and no others. Per Section 7.4 below, Park Fees shall not be imposed during the life of this Agreement. The Developer shall pay the stated amount of all other fees shown in Exhibit "D" for the first 10 years of the Term, and subsequently adjusted amounts determined in accordance with Section 6.6.2.

7.2.2. Development Impact Fees to be Established Based on Studies. The City will study and establish DIFs within one year of the effective Date for the following: revised City Traffic Control Facility Fee, revised Domestic Water Fee, new Recycled Water Fee and revised Sanitary Sewer Fee. The Developer shall be obligated to pay the revised fees and the revised DIFs shall be considered part of the Existing land Use Regulations. The initial DIFs shall be established in accordance with fee studies meeting the requirements of Section 6.6.2.

7.2.3. Adjustment at 10 Year Anniversary Review. The Developer shall pay increased fees after the Ten Year Anniversary Review if those fees are adopted on a City wide basis after the preparation of, and are justified by, a suitable analysis demonstrating the basis for the increase in accordance with Section 6.6.2. The City shall be entitled to repeat the process of increasing the fees thereafter upon the same terms, during the Ten Year Anniversary Review in accordance with Section 6.6.2, throughout the Term of this Agreement.

7.2.4. Payment of Development Impact Fees. The Developer shall pay all Development Impact Fees with respect to Development commenced on the portion of the Developer's Property owned by the Developer. The Development Impact Fees set forth on Exhibit "D" attached hereto shall be paid at the issuance of the Certificate of Occupancy for each building. Unless otherwise specified herein, all other fees, including Processing Fees shall be paid when at issuance of building permits or otherwise when required by code.

7.3 Wastewater, Domestic and Reclaimed Water Facilities Development Impact Fees.

7.3.1. Wastewater Fees. The City levies two capital facilities fees related to wastewater: (i) a sewer collection fee; and (ii) a sewer frontage fee, but collectively such fees are referred to herein as sewer collection fees. The sewer collection fee shall be fixed in accordance with Section 7.2.1 above.

7.3.2. Construction of Wastewater Collection Infrastructure in Lieu of Fees. If any additions, improvements and/or upgrades to the City's wastewater collection system outside or within the boundaries of the Developer's Property are required in connection with any Development of the Project, then with the mutual agreement of the parties, the Developer shall have the option to elect to construct some or all of such additions,

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improvements and/or upgrades at its sole cost and expense. The City shall develop the project specifications and shall undertake a design process to develop project plans and drawings meeting the City's specifications. The City may utilize the Developer to develop the plans and drawings if the design costs are competitive and Developer has retained competent design professionals who can timely perform the services. If, thereafter, the Developer wishes to construct the improvements, the Developer shall give City a fixed budget and construction schedule, while City obtains competitive bids. City may award the contract to the most competitive entity, considering price, financing, schedule and ability to perform. The contract may include liquidated damages provisions and other requirements to assure the timely and satisfactory completion of the project within budget. If performed by Developer, upon completion of such works of improvement, the Developer shall be entitled to offset the actual costs approved by City and incurred by it for the design, permitting, construction and installation of such works of improvement against any wastewater collection-related Development Impact Fees that may otherwise be payable in connection with future Development of the portion of the Developer's Property owned by the Developer.

7.3.3. Wastewater Treatment Capacity. The City shall use its best efforts to obtain the required permits and to construct the needed improvements to the City's wastewater treatment facilities in order to serve the Project as the need for additional facilities arises. The Developer shall include the construction of the wastewater treatment plant within the phasing plan developed pursuant to Section 6.5. The City estimates that a four year lead time is required with one year for design and one year for permitting with the remaining period needed for construction.

7.3.4. Wastewater, Domestic and Reclaimed Water Facilities and Fees. If any additions, improvements and/or upgrades to the City's water system, either domestic or reclaimed, outside or within the boundaries of the Developer's Property are required in connection with any Development of the Project, then with the City's approval, they may be undertaken by the Developer in accordance with the procedures in Section 7.3.2. Without limiting the generality of the foregoing, this includes the water tanks, pipelines and appurtenant facilities described in Section 8.5.

7.3.5. Recycled and Domestic Water Fees. Recycled and domestic water developer impact fees shall be established in accordance with Section 7.2.1 above. City does not currently have Development Impact Fees for reclaimed water facilities or for domestic water facilities for the Project. Within a year after the Effective Date, the City shall conduct a study to determine the reasonable charge and the Developer's pro rata share of the cost of such improvements. When adopted by the Council, the fees shall be considered incorporated herein as Existing Land Use Regulations, and shall be subject to further review at the Ten Year Anniversary Review as provided in Section 6.2.2.

7.4 Park Fees.

7.4.1. Construction of Facilities. The Developer will be constructing, installing and improving the park and recreation facilities listed below, which are deemed to be park, recreation and/or open space for the purpose of complying with the Municipal Code's park fee requirements. All parkland and open space shall be maintained by the

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POA, the Developer, the City, the Golf Course operator or such other entity as approved by the City. Provided that all required parks and recreation facilities are constructed and installed in accordance with the Specific Plan and this Agreement, the Project shall not be subject to the imposition of Park Fees by the City. The City acknowledges that the value of the land and improvements for the park, recreation and open space land and facilities exceeds the aggregate of all park fees which may be charged by the City pursuant to the Municipal Code in connection with the proposed Development of the entire Project. The Developer shall construct and install within the Project's boundaries the following park and recreation facilities:

7.4.1.1 254-acre Golf Course or Active Open Space, as set forth in Sections 5.3 above and 8.1.3 below;

7.4.1.2 22 publicly accessible parks (each ranging in size from approximately less than 1 acre to over 16 acres), equipped by Developer with typical neighborhood park facilities, which may include picnic facilities, shade structures, playgrounds, turf areas, and related facilities as further defined in the Specific Plan and in accordance with the plans developed in Section 8.1;

7.4.1.3 Two private recreation centers, totaling approximately eight acres, which will be gated and accessible only to the residents of the Project. These centers may, but are not required to, include clubhouse facilities, restrooms, and other amenities as further defined in the Specific Plan; and

7.4.1.4 108.4 acres of additional open space as described in the Specific Plan.

7.4.2. Community Recreation Center. The City shall also be entitled to construct a community recreation center in Planning Areas 35 or 39, on any park or open space site or on any site identified for a public facility, such as a fire station or waste water treatment plant, if that site is not used for the public facility. Once the site has been identified, the Developer shall grade it and stub utilities to site. The Developer's obligations are further described in Section 8.1.4.

7.5 Traffic Impact Mitigation.

7.5.1. Fees to be Established. The City has established a Development Impact Fee for the purpose of collecting funds to pay for the cost of constructing localized transportation improvements. At the request of the City, the Developer may initiate a study to expand upon the existing Traffic Control Facility Fee to include additional improvements not currently covered in the fee. The fee includes signal costs and minor roadway improvements. The Developer shall pay the applicable Traffic Control Facility Fee established by the City in effect on the Effective Date or at the time that the new revised fee is established, pursuant to Section 7.2.1 above.

7.5.2. Highland Springs Interim Improvement Project. The Developer has initiated and will complete interim improvements to Highland Springs Avenue between Ramsey Street and the I-10 Freeway. These improvements include, but are not limited to, the synchronization of traffic signals along Highland Springs Avenue, relocation of traffic

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signals, closings and relocation of Joshua Palmer Way and the restriping and repaving of Highland Springs Avenue. The City believes that the current traffic impacts are caused by the Developer's earlier project in Beaumont. The City shall use its best efforts to coordinate with the City of Beaumont an agreement to reimburse a portion of the improvements either through the appropriate transportation fee credits or other mechanism.

7.5.3. The Developer to Construct Traffic Improvements In Lieu of Paying City Fair Share Fees. In the event the Developer is required to construct traffic improvements in lieu of paying the City's fair share fees, City shall reimburse the Developer for the cost of the completed improvements through Reimbursement Agreements mandating that any project larger than 20 dwelling units pay a prorated share for benefits associated with completion of the Project.

## 8. DEDICATIONS AND CONVEYANCES OF PROPERTY INTERESTS

### 8.1 Park Improvements.

8.1.1. Neighborhood/Community Parks. Prior to the construction of any parks, the Developer shall meet with both the Director and the Director of Parks and Recreation to review the provisions set forth in the Specific Plan outlining the facilities to be provided at each park and discuss the Developer's plans for near term construction of the parks. Prior to development of each park, a detailed site plan consistent with the Specific Plan shall be prepared by the Developer and approved by the Director and the Parks and Recreation Commissions. The Developer shall complete the construction of neighborhood parks, Planning Areas 22 through 34, 62, 64 through 67 and 72, and the parks in the SCE easement, Planning Areas 36 through 38, no later than the issuance of the final Certificate of Occupancy for residential units within the adjacent subdivisions. A subdivision separated from a park by a street shall not be considered to be adjacent to the park. The Parties shall, mutually, determine what constitutes the adjacent subdivision if a park adjoins more than one subdivision. Upon completion of each neighborhood park, the City shall after the one-year maintenance period has expired, within 10 working days, develop final punch lists of items to be corrected prior to acceptance by the City. Upon correction of final punch list items by the Developer, the City shall accept the park within 30 days of the date of the final inspection.

8.1.2. POA Recreation Centers. The POA Recreation centers identified in Planning Areas 21 and 63 shall be constructed by the Developer in accordance with the Tract Phasing Plan pursuant to Section 6.5.

8.1.3. Golf Course/Active Open Space. The Golf Course shall be constructed at the sole and absolute discretion of the Developer. The determination to construct the Golf Course will take place within the first phase of Phase I of development due to the need to construct of the flood control improvements for Smith Creek. The Golf Course will be maintained by a Developer selected operator and open to the public. The operator may sell annual play memberships. If, as described in Section 5.4 above, the Golf Course is determined to be financially infeasible, the Developer shall notify the Planning Department in writing and the open space and drainage provisions described in the Specific Plan shall dictate the uses allowed on Planning Areas 35 and 39. The revised use of Planning Areas 35 and 39 shall be

approved by both the Planning Commission (as the recommending body) and City Council prior to construction. The revised plan shall incorporate active recreational use including biking and pedestrian trails, turnouts for exercise, viewing and educational facilities, all linkable to other tracts, parks and open space, landscaping and providing full public access.

8.1.4. Community Recreation/Emergency Center. The City's Parks Master Plan indentifies the need in the Project for a community recreation center, and this is even more necessary if the Golf Course is not developed. This Center would be on an approximately six (6) acre parcel in Planning Area 39 in lieu of the golf clubhouse, or alternatively could be located as a part of a community park or other available site including in Planning Area 71, or in lieu of the waste water treatment plant site in Planning Area 11. Depending on the site selected, the six (6) acres may be reduced so as to not adversely affect the development area of adjacent parcels from the development areas shown in the Specific Plan. The Center is contemplated as a 30,000 sq. foot facility. The plan for the Center shall be included in the Park Master Plan and the site plan shall be processed at the time the chosen Planning Area is developed, subject to the Phasing Plans approved pursuant to Section 6.5, and provided that if the City chooses to put the Center in Planning Area 11, it may be developed as part of Phase I provided that Developer shall satisfy the Phase I obligation by providing a developed Site, and need not fund the construction of the improvements if there are insufficient DIF's for credit. The Developer shall dedicate the site to City without charge. If developed as part of a park it shall be developed at the time required for parks in Section 8.1.1. The Center may include emergency operations and shelter components, and will also include appropriate landscaped grounds and facilities as specified in the Master Plan. The Center may be developed and constructed by Developer in the same manner as for the waste water treatment plant in Section 7.3.2, except as provided above.

8.2 Drainage Facilities. Planning Areas 19 and 71 are required areas of detention, recharge and conveyance of Project created and natural storm flows through the Project as set forth in Section 5.4 above. Planning Area 19 will consist of water quality basins, habitat restoration and flood conveyance facilities as well as the head works for the culvert underneath Wilson Street. This Planning Area may be ultimately transferred to the Flood Control District or City for acceptance and maintenance, but the Developer shall have the right to utilize it until such time as Development has fully or partially occurred for erosion control purposes. Planning Area 71 may be constructed in Phase I of the Project if required for the realignment of Smith Creek. This Planning Area may also consist of a large open reservoir, detention basin and recharge facility that may ultimately be transferred to the City or other appropriate body for acceptance and maintenance. The City shall have no obligation to accept the facilities if they primarily benefit the Project and are for flood control purposes but City may do so if the recharge facility and reservoir facility is designed for water recharge purposes and City determines in its sole and absolute discretion that they are needed to enhance the City's water supply.

8.3 Satellite Water Treatment Plant. The Director of Public Works Director shall determine the location of a two to five acre portion of Planning Area 11 for the onsite treatment of Project-related and other localized wastewater flows. The City shall have an Appraisal of Land Value determined within one (1) year of the signing of this Agreement. The City shall grant a credit equal to the fair market value determined by the appraisal to the City's

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waste water impact fee, when that fee is established, which credit may be used by the Developer on a unit by unit basis. Title to the site shall be transferred to the City after the site has been graded by the Developer and utilities are stubbed to the site.

8.4 Fire Station Site. The Specific Plan has identified a site in Planning Area 60 as the possible site for a fire station. The City shall have the an Appraisal of Land Value performed for a site of up to two (2) acres within one (1) year of the signing of this Agreement. The City shall grant a credit equal to the fair market value determined by the appraisal to the City's Fire Facilities Development Fee which credit may be used by the Developer on a unit by unit basis. Title to the site shall be transferred to the City after the site has been graded by the Developer and utilities are stubbed to the site.

8.5 Water Tanks. The City's water facilities and improvements described in Section 7.3.4 include certain water tanks, pipelines, access roads and appurtenant facilities which largely serve the Development and must be located at specific locations and elevations to make the water system function correctly and maintain public health and safety. The water tanks shall be developed as follows:

A. A 500,000 gallon tank in Planning Area 73 at an high water elevation line of 3237 feet.

B. A 1.4 million gallon tank in Planning Area 73 at an high water elevation line of 3070 feet.

C. A 1.6 million gallon tank Planning Area 68 or 50 at an high water elevation line of 2822 feet.

Each tank will require a parcel from 1 to 1.5 acres in area and additional area for access, and shall be dedicated to City without charge after the site has been graded and stubbed out by Developer. The Developer may construct the improvements in accordance with Section 7.3.2 and receive fee credits to the water development impact fee on a unit per unit basis for the construction costs. The water tanks are considered part of the Proposed Project Facilities and shall be constructed in accordance with the Phasing Plans developed in accordance with Section 6.5 provided that the tanks in paragraph C above must be in Phase I.

## 9. PROCESSING OF REQUESTS AND APPLICATIONS: OTHER GOVERNMENT PERMITS.

9.1 Processing. In reviewing Future Development Approvals which are discretionary, the City may impose only those conditions, exactions, and restrictions which are allowed by the Development Plan and this Agreement. Upon satisfactory completion by the Developer of all required preliminary actions, meetings, submittal of required information and payment of appropriate processing fees, if any, the City shall promptly commence and diligently proceed to complete all required steps necessary for the implementation of this Agreement and the development by the Developer of the Project in accordance with the Existing Development Approvals. In this regard, the Developer, in a timely manner, will provide the City with all documents, applications, plans and other information necessary for the City to carry out its obligations hereunder and will cause the Developer's planners, engineers and all other

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consultants to submit in a timely manner all required materials and documents therefor. It is the express intent of this Agreement that the parties cooperate and diligently work to implement any zoning or other land use, site plan, subdivision, grading, building or other approvals for development of the Project in accordance with the Existing Development Approvals and those items set forth in Exhibit "E." Notwithstanding the foregoing, nothing contained herein shall be construed to require City to process Developer's Applications ahead of other projects in process in the City and City's obligations hereunder shall be subject to the City's workload and staffing at any given time.

9.2 Developer to Pay for Expedited Processing. If Developer elects, in its sole and absolute discretion, to request the City to incur overtime or additional consulting services to receive expedited processing by the City, the Developer shall pay all such overtime costs, charges or fees incurred by City for such expedited processing.

9.3 General Time Periods for Processing.

9.3.1. General Plan Review and Approval. The City shall provide comments within two weeks for all plan checks for required infrastructure, building, grading, both mass and finished, architectural, erosion control or any other required plan submittal and will not unduly extend amount of plan checks beyond three submittals provided that Developer's consultants are responsive . In the event that consensus between the City and the Developer regarding the content of the plans after the 3rd submittal can not be made, a meeting will be scheduled to discuss how to reconcile the differences.

9.3.2. Architectural Plan Submittal Process. The Developer shall submit architectural plans to the Planning Department for maximum two-week review of the entire plan set for each submittal for a maximum of three plan check reviews to ensure that they conform to the guidelines set forth in Specific Plan provided that Developer's consultants are responsive. In the event that consensus can not be made after the third plan check, a meeting will be coordinated with the plan checker, Planning Department and the Developer or the Developer's representative. The Planning Department, upon determining compliance with the guidelines set forth in the Specific Plan, shall approve the plans. This review is a ministerial action. Additional architectural enhancements that are above and beyond the design guidelines will be implemented at the Developer's sole and absolute discretion but are subject to review by City if proposed.

9.4 Precise Grading/Plot Plan Revisions. In the event that the Developer wishes to revise house plan type or elevation on an approved plot plan or revised grading plan, City Engineering and Planning staff review and approval shall be done over the counter.

9.5 Additional Inspectors and Plan Checkers. In the event that the Developer requests it, the City shall permit overtime, including both additional days and hours, for inspections and plan checking at the Developer's expense. In the event that the City is unable to provide inspectors or plan checkers capable of meeting the demand for inspections or plan checks required for the Development of the Project in a timely fashion, the City shall, if requested to do so by the Developer and at the Developer's expense, employ additional private entities or persons to perform such services.

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9.6 Tentative Subdivision Maps. The City shall extend through the Term hereof (pursuant to Government Code § 66452.6) all Master Tract Maps and all tentative and vesting tentative Subdivision Maps applied for by the Developer during the term of this Agreement and approved by the City in the future.

9.7 Multiple Final Subdivision Maps: The Developer may file as many final maps over a tentative Subdivision Map as it deems appropriate in its sole and absolute discretion.

9.8 Financing and Conveyance Maps: The Developer may have a Master Tract Map approved for the purpose of conveying portions of the Developer's Property to others and/or for the purpose of creating legal lots which may be used as security for loans to develop the Developer's Property and as provided in Section 6.5.1. Any such map shall not authorize any Development and shall not be subject to any conditions, Exactions or restrictions, other than monumentation and conditions which do not require the payment of money or the installation or construction of improvements.

9.9 Water Availability. Any final subdivision map prepared for the Developer's Property, or any portion of the Developer's Property, shall comply with the provisions of Government Code § 66473.7.

9.10 Other Governmental Permits. The Developer shall apply in a timely manner for such other permits and approvals as may be required from other governmental or quasi-governmental agencies having jurisdiction over the Project as may be required for the development of, or provision of services to, the Project. The City shall cooperate with the Developer in its efforts to obtain such permits and approvals.

9.11 Public Agency Coordination. The City and Developer shall cooperate and use reasonable efforts in coordinating the implementation of the Development Plan with other public agencies, if any, having jurisdiction over the Property or the Project.

9.12 Annexation. This Agreement's effectiveness over land within the Developer's Property that is currently not within the City nor within its sphere of influence is subject to the annexation of that land into the City. If the land is annexed into the City, the terms of this Agreement shall automatically apply to all portions of that land upon its annexation. In the event that annexation of portions of the Developer's Property not currently within the City is not approved by LAFCO, or for any other reason is not annexed to the City, then any such portions shall be excluded from this Agreement. With the exception of land within Planning Area 43B, the City shall, subject to the negotiation of a tax allocation agreement with the County of Riverside acceptable to City, use its best efforts to expeditiously accomplish the annexation of those portions of the Developer's Property not within the City, or such portions thereof as may be approved by the developer, to the City.

10. AMENDMENT AND MODIFICATION OF DEVELOPMENT AGREEMENT.

10.1 Initiation of Amendment. Either Party may propose an amendment to this Agreement.

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10.2 Procedure. Except as set forth in Section 10.4 below, the procedure for proposing and adopting an amendment to this Agreement shall be the same as the procedure required for entering into this Agreement in the first instance, and meet the requirements of the Development Agreement Statute § 65867.

10.3 Consent. Except as expressly provided in this Agreement, no amendment to all or any provision of this Agreement shall be effective unless set forth in writing and signed by duly authorized representatives of each of the Parties hereto and recorded in the Official Records of Riverside County.

10.4 Minor Modifications.

10.4.1. Flexibility Necessary. The provisions of this Agreement require a close degree of cooperation between the City and the Developer. Implementation of the Project may require minor modifications of the details of the Development Plan and affect the performance of the Parties under this Agreement. The anticipated refinements to the Project and the Development of the Developer's Property may demonstrate that clarifications to this Agreement and the Existing Land Use Regulations are appropriate with respect to the details of performance of the City and the Developer. The Parties desire to retain a certain degree of flexibility with respect to those items covered in general terms under this Agreement. Therefore, non-substantive and procedural modifications of the Development Plan shall not require modification of this Agreement.

10.4.2. Non-Substantive Changes. A modification will be deemed non-substantive and/or procedural if it does not result in a material change in fees, maximum residential density, maximum intensity of use, permitted uses, the maximum height and size of buildings, the reservation or dedication of land for public purposes, or the improvement and construction standards and specifications for the Project, including density transfers between phases. A "material change" is generally one which does not change the standard by ten percent (10%) or more. For example, for a height limit of 20 feet, a change of less than two feet is deemed non-material.

10.4.3. Hearing Rights Protected. Notwithstanding the foregoing, City will process any change to this Development Agreement consistent with state law and will hold public hearings thereon if so required by state law and the parties expressly agree nothing herein is intended to deprive any party or person of due process of law.

10.5 Effect of Amendment to Development Agreement. Except as expressly set forth in any such amendment, an amendment to this Agreement will not alter, affect, impair, modify, waive, or otherwise impact any other rights, duties, or obligations of either Party under this Agreement.

## 11. RESERVATIONS OF AUTHORITY.

11.1 Limitations, Reservations and Exceptions. Notwithstanding anything to the contrary set forth hereinabove, in addition to the Existing Land Use Regulations, only the following Land Use Regulations adopted by City hereafter shall apply to and govern the Development of the Developer's Property ("Reservation of Authority"):

11.1.1. Future Regulations. Future Land Use Regulations which (i) are not in conflict with the Existing Land Use Regulations, (ii) which would be applicable under the Development Agreement statute (§ 65866); (iii) if in conflict with the Existing Land Use Regulations but the application of which to the Development of the Developer's Property has been consented to in writing by Developer.

11.1.2. State and Federal Laws and Regulations. Where state or federal laws or regulations enacted after the Effective Date prevent or preclude compliance with one or more provisions of the Development Agreement, those provisions shall be modified, through revision or suspension, to the extent necessary to comply with such state or federal laws or regulations.

11.1.3. Public Health and Safety/Uniform Codes.

11.1.3.1 Adoption Automatic Regarding Uniform Codes. This Agreement shall not prevent the City from adopting Future Land Use Regulations or amending Existing Regulations which are uniform codes and are based on recommendations of a multi-state professional organization and become applicable throughout the City, such as, but not limited to, the Uniform Building, Electrical, Plumbing, Mechanical, or Fire Codes.

11.1.3.2 Adoption Regarding Public Health and Safety/Uniform Codes. This Development Agreement shall not prevent the City from adopting Future Land Use Regulations respecting public health and safety to be applicable throughout the City which directly result from findings by the City that failure to adopt such Future Land Use Regulations would result in a condition injurious or detrimental to the public health and safety and that such Future General Regulations are the only reasonable means to correct or avoid such injurious or detrimental condition.

11.1.3.3 Adoption Automatic Regarding Regional Programs. This Agreement shall not prevent the City from adopting Future Land Use Regulations or amending Existing Regulations which are regional codes and are based on recommendations of a county or regional organization and become applicable throughout the region, such as Western Riverside Council of Governments.

11.1.4. Amendments to Codes for Local Conditions. Notwithstanding the foregoing, no construction within the Project shall be subject to any provision in any of the subsequent Uniform Construction Codes, adopted by the State of California, but modified by the City to make it more restrictive than the provisions of previous Uniform Construction Codes of the City, notwithstanding the fact that the City has the authority to adopt such more restrictive provision pursuant to the California Building Standards Law, including, but not limited to, Health and Safety Code § 18941.5, unless such amendment applies City-wide. The City shall give Developer prior written notice of the proposed adoption of such amendment and Developer shall have the right to present its objections to the amendment.

11.2 Regulation by Other Public Agencies. It is acknowledged by the Parties that other public agencies not within the control of the City possess authority to regulate aspects

of the Development of the Developer's Property separately from, or jointly with, the City and this Agreement does not limit the reasonable authority of such other public agencies.

11.3 Fees, Taxes and Assessments. Notwithstanding any other provision herein to the contrary, the City retains the right (i) to impose or modify Processing Fees and Development Impact Fees as provided in Article 7, (ii) to impose or modify business licensing or other fees pertaining to the operation of businesses, (iii) to impose or modify taxes and assessments which apply City-wide such as utility taxes, sales taxes and transient occupancy taxes, (iv) to impose or modify fees and charges for City services such as electrical utility charges, water rates, and sewer rates, (v) to impose or modify a community wide or area-wide assessment district which does not predominately apply to the Developer's Property, and (vi) to impose or modify any fees, taxes or assessments similar to the foregoing.

12. ANNUAL REVIEW.

12.1 Annual Monitoring Review. Following commencement of construction, the City and the Developer shall review the performance of this Agreement, and the Development of the Project, on or about each anniversary of the Effective Date (the "Annual Review"). The cost of the Annual Review shall be borne by Developer and Developer shall pay a reasonable deposit in an amount requested by City to pay for such review. As part of each Annual Review, within ten (10) days after each anniversary of this Agreement, the Developer shall deliver to the City all information reasonably requested by City (i) regarding the Developer's performance under this Agreement demonstrating that the Developer has complied in good faith with the terms of this Agreement and (ii) as required by the Existing Land Use Regulations.

The Director shall prepare and submit to Developer and thereafter to City Council a written report on the performance of the Project, and identify any deficiencies. If any deficiencies are noted, or if requested by a Councilmember a public hearing shall be held before the City Council on the report to Council. The Developer's written response shall be included in the Director's report. The report to Council shall be made within 45 days of the anniversary date.

If the City determines that the Developer has substantially complied with the terms and conditions of this Agreement, the Annual Review shall be concluded. If the City finds and determines that the Developer has not substantially complied with the terms and conditions of this Agreement for the period under review, the City may declare a default by the Developer in accordance with Section 13.1.

12.2 Certificate of Compliance. If, at the conclusion of an Annual Review, the City finds that the Developer is in substantial compliance with this Agreement, the City shall, upon request by the Developer, issue an Estoppel Certificate to the Developer in the form shown on Exhibit "C."

12.3 Failure to Conduct Annual Review. The failure of the City to conduct the Annual Review shall not be a Developer Default unless Developer fails to cooperate in providing necessary information.

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13. DEFAULT, REMEDIES AND TERMINATION.

13.1 Rights of Non-Defaulting Party after Default. The Parties acknowledge that both Parties shall have hereunder all legal and equitable remedies as provided by law following the occurrence of a Default or to enforce any covenant or agreement herein except as provided in Section 13.2 below. Before this Agreement may be terminated or action may be taken to obtain judicial relief the Party seeking relief ("Non-Defaulting Party") shall comply with the notice and cure provisions of this Article 13.

13.2 No Recovery for Monetary Damages. The nature of a development agreement under the Development Agreement Statute is a very unusual contract involving promoting a very large development project facing many complex issues including geologic, environmental, finance, market, regulatory and other constantly evolving factors over an extremely long time frame. The high level of uncertainty and risk involved justify the extraordinary commitments made to the Developer. However, the original persons representing the parties and approving the transaction are only likely to be involved with the Project for a limited time in comparison to the over-all life of the Project.

It is highly likely that misunderstandings will develop over time. Moreover, municipal budgets are extremely constrained, and a threat of recovery of damages against a municipal entity may pressure a municipality with limited resources to settle in a manner adverse to its interests and those of its citizens. Finally, the municipal entity represents the public welfare of the entire community, a community who cannot directly represent themselves. The City Council has come to believe that entering into a development agreement with the Developer vesting the Developer with the extraordinary rights provided herein is in the best interests of the community through the Developer's active engagement with the community and open communications over several years. It is critical to the success of this Project that as inevitable obstacles are met, and the persons implementing the Project change over the 40 year time span of the Project, that close working relationships be maintained. Accordingly, in this Agreement, the rights of enforcement are limited as follows (i) the remedy of monetary damages is not available to either Party, and (ii) there is no shortcut to a mediation or arbitration procedure where a nonelected representative can arbitrarily determine land use development issues.

For purposes of enforcement, stated positively, the Parties shall have the equitable remedies of specific performance, injunctive and declaratory relief, or a mandate or other action determining that the City has exceed its authority, and similar remedies, other than recovery of monetary damages, to enforce their rights under this Agreement. The Parties shall have the right to recover their attorney fees and costs pursuant to Section 19.9 in such action. Moreover, the Developer shall have the right to a public hearing before the City Council before any default can be established under this Agreement, as provided in Section 13. 6.

13.3 Recovery of Monies Other Than Damages.

13.3.1. Restitution of Improper Exactions. In the event any actions, whether monetary or through the provision of land, good or services, are imposed on the Development of the Developer's Property other than those authorized pursuant to this Agreement, the Developer shall be entitled to recover from City restitution of all such

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improperly assessed exactions, either in kind or the value in lieu of the exaction, together with interest thereon at the rate of the maximum rate provided by law per year from the date such exactions were provided to City to the date of restitution.

13.3.2. Monetary Default. In the event the Developer fails to perform any monetary obligation under this Agreement, City may sue for the payment of such sums to the extent due and payable. The Developer shall pay interest thereon at the lesser of: (i) ten percent (10%) per annum, or (ii) the maximum rate permitted by law, from and after the due date of the monetary obligation until payment is actually received by the City.

13.4 Compliance with the Claims Act. Compliance with this Article 13 shall constitute full compliance with the requirements of the Claims Act, Government Code § 900 et seq., pursuant to Government Code § 930.2 in any action brought by the Developer.

13.5 Notice and Opportunity to Cure. A Non-Defaulting Party in its discretion may elect to declare a Default under this Agreement in accordance with the procedures hereinafter set forth for any failure or breach of the other Party ("Defaulting Party") to perform any material duty or obligation of the Defaulting Party under the terms of this Agreement. However, the Non-Defaulting Party must provide written notice to the Defaulting Party setting forth the nature of the breach or failure and the actions, if any, required by the Defaulting Party to cure such breach or failure. The Defaulting Party shall be deemed in Default under this Agreement, if the breach or failure can be cured, but the Defaulting Party has failed to take such actions and cure such default within thirty (30) days after the date of such notice or ten (10) days for monetary defaults (or such lesser time as may be specifically provided in this Agreement). However, if such non-monetary Default cannot be cured within such thirty (30) day period, and if and, as long as the Defaulting Party does each of the following:

1. Notifies the Non-Defaulting Party in writing with a reasonable explanation as to the reasons the asserted default is not curable within the thirty (30) day period;

2. Notifies the Non-Defaulting Party of the Defaulting Party's proposed cause of action to cure the default;

3. Promptly commences to cure the default within the thirty (30) day period;

4. Makes periodic reports to the Non-Defaulting Party as to the progress of the program of cure;

5. Diligently prosecutes such cure to completion, and

Then the Defaulting Party shall not be deemed in breach of this Agreement.

Notwithstanding the foregoing, the Defaulting Party shall be deemed in default under this Agreement if the breach or failure involves the payment of money but the Defaulting Party has failed to completely cure the monetary default within ten (10) days (or such lesser time as may be specifically provided in this Agreement) after the date of such notice.

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13.6 Dispute Resolution.

13.6.1. Meet & Confer. Prior to any Party issuing a Default Notice hereunder, the Non-Defaulting Party shall inform the Defaulting Party either orally or in writing of the Default and request a meeting to meet and confer over the alleged default and how it might be corrected. The Parties through their designated representatives shall meet within ten (10) days of the request therefore. The Parties shall meet as often as may be necessary to correct the conditions of default, but after the initial meeting either Party may also terminate the meet and confer process and proceed with the formal Default Notice.

13.6.2. Termination Notice. Upon receiving a Default Notice, should the Defaulting Party fail to timely cure any default, or fail to diligently pursue such cure as prescribed above, the Nondefaulting Party may, in its discretion, provide the Defaulting Party with a written notice of intent to terminate this Agreement and other Agreements ("Termination Notice"). The Termination Notice shall state that the Nondefaulting Party will elect to terminate the Agreement and such other Agreements as the Non-defaulting Party elects to terminate within thirty (30) days and state the reasons therefor (including a copy of any specific charges of default) and a description of the evidence upon which the decision to terminate is based. Once the Termination Notice has been issued, the Non-defaulting Party's election to terminate Agreements will only be waived if (i) the Defaulting Party fully and completely cures all defaults prior to the date of termination, or (ii) pursuant to Section 13.6.3 below.

13.6.3. Hearing Opportunity Prior to Termination. Prior to any termination, a termination hearing shall be conducted as provided herein ("Termination Hearing"). The Termination Hearing shall be scheduled as an open public hearing item at a regularly-scheduled City Council meeting within thirty (30) days of the Termination Notice, subject to any legal requirements including but not limited to the Ralph M. Brown Act, Government Code Sections 54950-54963. At said Termination Hearing, the Defaulting Party shall have the right to present evidence to demonstrate that it is not in default and to rebut any evidence presented in favor of termination. Based upon substantial evidence presented at the Termination Hearing, the Council may, by adopted resolution, act as follows:

A. Decide to terminate this Agreement.

B. Determine that the alleged Defaulting Party is innocent of a default and, accordingly, dismiss the Termination Notice and any charges of default; or

C. Impose conditions on a finding of default and a time for cure, such that Defaulting Party's fulfillment of said conditions will waive or cure any default.

Findings of a default or a condition of default must be based upon substantial evidence supporting the following three findings: (i) that a default in fact occurred and has continued to exist without timely cure, (ii) that the Non-Defaulting Party's performance has not excused the default; and (iii) that such default has, or will, cause a material breach of this Agreement and/or a substantial negative impact upon public health, safety and welfare, or the financial terms established in the Agreement, or such other interests arising from the Project. Notwithstanding

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the foregoing, nothing herein shall vest authority in the City Council to unilaterally change any material provision of the Agreement.

Following the decision of the City Council, any Party dissatisfied with the decision may seek judicial relief consistent with this Article 13.

13.7 Waiver of Breach. By not challenging any Development Approval within 90 days of the action of City enacting the same, Developer shall be deemed to have waived any claim that any condition of approval is improper or that the action, as approved, constitutes a breach of the provisions of this Agreement. By recordation of a final map on all or any portion of the Developer's Property, the Developer shall be deemed to have waived any claim that any condition of approval is improper or that the action, as approved, constitutes a breach of the provisions of this Agreement.

13.8 Limitations on Defaults. Notwithstanding any provision in this Agreement to the contrary, a Default by one Owner shall not constitute a Default by an Owner of a portion of the Developer's Property, which is not the owner of the portion of the Developer's Property that is the subject of the Default (an "Innocent Owner"). Likewise, a Default by an Owner with respect to a Lot (or group of Lots) it owns or leases shall not constitute a Default by an Innocent Owner, nor shall the Default by another Owner of a portion of the Developer's Property not owned by an Innocent Owner constitute a Default of the Innocent Owner. Therefore, (i) no Innocent Owner shall have any liability to the City for, or with respect to, any Default by another Owner or any Default of any other Owner, (ii) an Innocent Owner shall have no liability to the City for, or with respect to, any Default by any other Owner, and (iii) the City's election to terminate this Agreement as a result of a Default by an Owner shall not result in a termination of this Agreement with respect to either (x) any portion of the Developer's Property not owned by such Owner or (y) those Lots owned or leased by an Innocent Owner until such time that this Agreement would otherwise terminate in accordance with its terms.

13.9 Venue. In the event of any judicial action, venue shall be in the Superior Court of Riverside County.

## 14. ASSIGNMENT.

### 14.1 Right to Assign.

14.1.1. General. Neither Party shall assign (as hereinafter defined) or transfer (as hereinafter defined) its interests, rights or obligations under this Agreement without the prior written consent of the other, which consent shall not be unreasonably withheld or delayed. The term "assignment" as used in this Agreement shall include successors-in-interest to the City that may be created by operation of law. Notwithstanding the foregoing, the City shall have the right to sell, assign or transfer its interest in any real property dedicated or transferred to the City pursuant to the terms of this Agreement or to another public agency.

As used in this Section, the term "transfer" shall include the transfer to any person or group of persons acting in concert of more than seventy percent (70%) of the present equity ownership and/or more than fifty percent (50%) of the voting control of the Developer (jointly and severally referred to herein as the "Trigger Percentages") or any general partner of the

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Developer in the aggregate, taking all transfers into account on a cumulative basis, except transfers of such ownership or control interest between members of the same immediate family, or transfers to a trust, testamentary or otherwise, in which the beneficiaries are limited to members of the transferor's immediate family. A transfer of interests (on a cumulative basis) in the equity ownership and/or voting control of the Developer in amounts less than the Trigger Percentages shall not constitute a transfer subject to the restrictions set forth herein. In the event the Developer or any general partner of the Developer or its successor is a corporation or trust, such transfer shall refer to the transfer of the issued and outstanding capital stock of the Developer, or of beneficial interests of such trust; in the event that Developer or any general partner of the Developer is a limited or general partnership, such transfer shall refer to the transfer of more than the Trigger Percentages in the limited or general partnership interest; in the event that the Developer or any general partner is a joint venture, such transfer shall refer to the transfer of more than the Trigger Percentages of such joint venture partner, taking all transfers into account on a cumulative basis.

The Developer shall not transfer this Agreement or any of the Developer's rights hereunder, or any interest in the Developer's Property or in the improvements thereon, directly or indirectly, voluntarily or by operation of law, except as provided below, without the prior written approval of City, and if so purported to be transferred, the same shall be null and void. In considering whether it will grant approval to any transfer by Developer, which transfer requires City approval, City shall consider factors such as (i) the financial strength and capability of the proposed transferee to perform the obligations hereunder; and (ii) the proposed transferee's experience and expertise in the planning, financing, development, ownership, and operation of similar projects. In no event shall the City's approval of any transfer be unreasonably withheld or delayed.

In addition, no attempted assignment of any of the Developer's obligations hereunder shall be effective unless and until the successor party signs and delivers to the City an assumption agreement, in a form approved by the City, assuming such obligations. No consent or approval by City of any transfer requiring the City's approval shall constitute a further waiver of the provision of this Section 14.1.1 and, furthermore, the City's consent to a transfer shall not be deemed to release the Developer of liability for performance under this Agreement unless such release is specific and in writing executed by City. In no event shall the City's release of the Developer from liability under this Agreement upon a transfer be unreasonably withheld or delayed.

Notwithstanding any provision of this Agreement to the contrary, City approval of a Transfer or Assignment of any portion of the Developer's Property under this Agreement shall not be required in connection with any of the following provided that such person or entity transferee or assignee assumes in writing all of the Developer's obligations under this Agreement and notifies the City in writing of the same:

A. Any mortgage, deed of trust, sale/lease-back, or other form of conveyance for financing and any resulting foreclosure therefrom.

B. The granting of easements or dedications to any appropriate governmental agency or utility or permits to facilitate the development of the Developer's Property.

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C. A sale or transfer resulting from, or in connection with, a reorganization as contemplated by the provisions of the Internal Revenue Code of 1986, as amended or otherwise, in which the ownership interests of a corporation are assigned directly or by operation of law to a person or persons, firm or corporation which acquires the control of the voting capital stock of such corporation or all or substantially all of the assets of such corporation.

D. A sale or transfer of less than the Trigger Percentages between members of the same immediate family, or transfers to a trust, testamentary or otherwise, in which the beneficiaries consist solely of immediate family members of the trustor or transfers to a corporation or partnership in which the immediate family members or shareholders of the transferor who owns at least ten percent (10%) of the present equity ownership and/or at least fifty percent (50%) of the voting control of Developer.

E. A transfer of common areas to a POA.

F. Any transfer to an entity or entities in which the Developer retains a minimum of 51% of the ownership or beneficial interest and retains management and control of the transferee entity or entities.

G. Any transfer of interests in Owner for estate planning purposes to the heirs of Owner, provided that the heirs retain a minimum of 51% of the ownership or beneficial interest of the transferor entity and retain management and control of the transferee entity.

H. Any transfer of interest to a Pre-Qualified Buyer.

14.1.2. Subject to Terms of Agreement. Following any such Transfer or Assignment of any of the rights and interests of the Developer under this Agreement, in accordance with Section 14.1.1 above, the exercise, use and enjoyment of such rights and interests shall continue to be subject to the terms of this Agreement to the same extent as if the assignee or transferee were the Developer.

14.1.3. Release of Developer. Upon the written consent of the City to the complete assignment of this Agreement or the transfer of a portion of the Developer's Property and the express written assumption of the assigned obligations of the Developer under this Agreement by the assignee, the Developer shall be relieved of its legal duty from the assigned obligations under this Agreement with respect to the portion of the Developer's Property transferred, except to the extent the Developer is in default under the terms of this Agreement prior to the transfer.

14.1.4. No Approval of Terms of Loan by City. Notwithstanding anything to the contrary set forth herein with regards to the approval by the City of hypothecation, encumbrances or mortgages, the City shall only have the right to approve the identity of the Developer's lender, which approval will not be unreasonably withheld, taking into consideration such lender's financial strength, reputation, and other relevant factors. The City shall not have any right to approve any of the terms or conditions of the Developer's financing arrangements with third party lenders.

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14.2 Sale to Pre-Qualified Buyer. Nothing herein shall prevent the Developer from selling a portion of the Developer's Property for residential development subject to any approved final subdivision map to a Pre-Qualified Buyer for construction of houses in accordance with the terms of this Agreement provided that the transferee must enter into appropriate agreements with the City to assure that all Development restrictions hereunder will be met.

14.3 Termination of Agreement With Respect to Individual Parcels Upon Sale to Public. Notwithstanding any provisions of this Agreement to the contrary, this Agreement shall terminate as to any Lot which has been finally subdivided and improved with all required public improvements and which is individually (and not in "bulk") sold to an owner-user and thereupon, and without the execution or recordation of any further document or instrument, such Lot shall be released from and no longer be subject to the provisions of this Agreement; provided, however, that CC&R's are placed of record in accordance with Section 14.4 below.

14.4 Declaration of Covenants. Conditions and Restrictions. Prior to the transfer of any portion of the Project to a third party, the Developer shall submit a proposed form of Declaration of Covenants, Conditions and Restrictions to be recorded against the applicable subdivision to the City for its review and approval ("CC&RS"). The CC&RS must be recorded prior to issuance of certificates of occupancy, and Developer shall pay City's review costs. It is anticipated that the CC&RS will contain, among other things, protective covenants to protect and preserve the integrity and value in the subdivision, including but not limited to use restrictions, maintenance covenants, EIR mitigation measures, restrictions under this Development Agreement which will continue to apply to the subdivision, covenants for construction and completion of the improvements and a provision giving the City the right to enforce the CC&RS, including the right to recover its enforcement costs if there is noncompliance following notice and the opportunity to cure.

15. RELEASES AND INDEMNITIES.

15.1 The City's Release As To Actions Prior To Effective Date. The City forever discharges, releases and expressly waives as against the Developer and its attorneys and employees any and all claims, liens, demands, causes of action, excuses for nonperformance (including but not limited to claims and/or defenses of unenforceability, lack of consideration, and/or violation of public policy), losses, damages, and liabilities, known or unknown, suspected or unsuspected, liquidated or unliquidated, fixed or contingent, based in contract, tort, or other theories of direct and/or of agency liability (including but not limited to principles of respondent superior) that it has now or has had in the past, arising out of or relating to this Agreement and the development agreement approved in 1993, and the currently existing land use plans for the Developer's Property or any portion thereof.

15.2 The Developer's Release As To Actions Prior To Effective Date. The Developer forever discharges, releases and expressly waives as against the City and its respective councils, boards, commissions, officers, attorneys and employees any and all claims, liens, demands, causes of action, excuses for nonperformance (including but not limited to claims and/or defenses of unenforceability, lack of consideration, and/or violation of public policy),

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losses, damages, and liabilities, known or unknown, suspected or unsuspected, liquidated or unliquidated, fixed or contingent, based in contract, tort or other theories of direct and/or of agency liability (including but not limited to principles of respondent superior) that they have now or have had in the past, arising out of or relating to this Agreement and the development agreement approved in 1993, and the currently existing land use plans for the Developer's Property or any portion thereof.

15.3 Third-Party Litigation.

15.3.1. Non-liability of City. As set forth above, the City has determined that this Agreement is consistent with the General Plan and that the General Plan and Development Approvals meets all of the legal requirements of State law. The Parties acknowledge that:

A. In the future there may be challenges to legality, validity and adequacy of the General Plan, the Development Approvals and/or this Agreement; and

B. If successful, such challenges could delay or prevent the performance of this Agreement and the development of the Developer's Property.

In addition to the other provisions of this Agreement, including, without limitation, the provisions of this Section 15, the City shall have no liability under this Agreement for any failure of the City to perform under this Agreement or the inability of the Developer to develop the Developer's Property as contemplated by the Development Plan or this Agreement as the result of a judicial determination that on the Effective Date, or at any time thereafter, the General Plan, the Land Use Regulations, the Development Approvals, this Agreement, or portions thereof, are invalid or inadequate or not in compliance with law.

15.3.2. Revision of Land Use Restrictions. If, for any reason, the General Plan, Land Use Regulations, Development Approvals, this Agreement or any part thereof is hereafter judicially determined, as provided above, to not be in compliance with the State or Federal Constitution, laws or regulations and, if such noncompliance can be cured by an appropriate amendment thereof otherwise conforming to the provisions of this Agreement, then this Agreement shall remain in full force and effect to the extent permitted by law. The Development Plan, Development Approvals and this Agreement shall be amended, as necessary, in order to comply with such judicial decision.

15.3.3. Participation in Litigation: Indemnity. The Developer shall indemnify the City and its elected boards, commissions, officers, agents and employees and will hold and save them and each of them harmless from any and all actions, suites, claims, liabilities, losses, damages, penalties, obligations and expenses (including but not limited to attorneys' fees and costs) against the City and/or Agent for any such Claims or Litigation (as defined in Section 1.10) and shall be responsible for any judgment arising therefrom. The City shall provide the Developer with notice of the pendency of such action and shall request that the Developer defend such action. The Developer may utilize the City Attorney's office or use legal counsel of its choosing, but shall reimburse the City for any necessary legal cost incurred by City. The Developer shall provide a deposit in the amount of 150% of the City's estimate, in its sole and

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absolute discretion, of the cost of litigation, including the cost of any award of attorneys fees, and shall make additional deposits as requested by City to keep the deposit at such level. The City may ask for further security in the form of a deed of trust to land of equivalent value. If the Developer fails to provide or maintain the deposit, the City may abandon the action and the Developer shall pay all costs resulting therefrom and City shall have no liability to the Developer. The Developer's obligation to pay the cost of the action, including judgment, shall extend until judgment. After judgment in a trial court, the parties must mutually agree as to whether any appeal will be taken or defended. The Developer shall have the right, within the first 30 days of the service of the complaint, in its sole and absolute discretion, to determine that it does not want to defend any litigation attacking this Agreement or the Development Approvals in which case the City shall allow the Developer to settle the litigation on whatever terms the Developer determines, in its sole and absolute discretion, but Developer shall confer with City before acting and cannot bind City. In that event, the Developer shall be liable for any costs incurred by the City up to the date of settlement but shall have no further obligation to the City beyond the payment of those costs. In the event of an appeal, or a settlement offer, the Parties shall confer in good faith as to how to proceed. Notwithstanding the Developer's indemnity for claims and litigation, the City retains the right to settle any litigation brought against it in its sole and absolute discretion and the Developer shall remain liable except as follows: (i) the settlement would reduce the scope of the Project by 10% or more, and (ii) the Developer opposes the settlement. In such case the City may still settle the litigation but shall then be responsible for its own litigation expense but shall bear no other liability to the Developer.

15.4 Hold Harmless: Developer's Construction and Other Activities. The Developer shall defend, save and hold the City and its elected and appointed boards, commissions, officers, agents, and employees harmless from any and all claims, costs (including attorneys' fees) and liability for any damages, personal injury or death, which may arise, directly or indirectly, from the Developer's or the Developer's agents, contractors, subcontractors, agents, or employees' operations under this Agreement, whether such operations be by the Developer or by any of the Developer's agents, contractors or subcontractors or by any one or more persons directly or indirectly employed by or acting as agent for the Developer or any of the Developer's agents, contractors or subcontractors. Nothing herein is intended to make the Developer liable for the acts of the City's officers, employees, agents, contractors of subcontractors.

15.5 Survival of Indemnity Obligations. All indemnity provisions set forth in this Agreement shall survive termination of this Agreement for any reason other than the City's Default.

16. EFFECT OF AGREEMENT ON TITLE.

16.1 Covenant Run with the Land. Subject to the provisions of Sections 14 and 18 and pursuant to the Development Agreement Statute (§ 65868.5):

A. All of the provisions, agreements, rights, powers, standards, terms, covenants and obligations contained in this Agreement shall be binding upon the parties and their respective heirs, successors (by merger, consolidation, or otherwise) and assigns, devisees, administrators, representatives, lessees, and all other persons acquiring

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any rights or interests in the Developer's Property, or any portion thereof, whether by operation of laws or in any manner whatsoever and shall inure to the benefit of the parties and their respective heirs, successors (by merger, consolidation or otherwise) and assigns;

B. All of the provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land pursuant to applicable law; and

C. Each covenant to do or refrain from doing some act on the Developer's Property hereunder (i) is for the benefit of and is a burden upon every portion of the Developer's Property, (ii) runs with such lands, and (iii) is binding upon each party and each successive owner during its ownership of such properties or any portion thereof, and each person having any interest therein derived in any manner through any owner of such lands, or any portion thereof, and each other person succeeding to an interest in such lands.

17. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION.

17.1 Non-liability of City Officers and Employees. No official, agent, contractor, or employee of the City shall be personally liable to the Developer, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Developer or to its successor, or for breach of any obligation of the terms of this Agreement.

17.2 Conflict of Interest. No officer or employee of the City shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to this Agreement which affects the financial interest of any corporation, partnership or association in which he or she is, directly or indirectly, interested, in violation of any state statute or regulation.

17.3 Covenant Against Discrimination. The Developer covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, or ancestry in the performance of this Agreement. The Developer shall take affirmative action to insure that employees are treated during employment without regard to their race, color, creed religion, sex, marital status, national origin or ancestry.

18. MORTGAGEE PROTECTION.

18.1 Definitions. As used in this Section, the term "mortgage" shall include any mortgage, whether a leasehold mortgage or otherwise, deed of trust, or other security interest, or sale and lease-back, or any other form of conveyance for financing. The term "holder" shall include the holder of any such mortgage, deed of trust, or other security interest, or the lessor under a lease-back, or the grantee under any other conveyance for financing.

18.2 No Encumbrances Except Mortgages to Finance the Project. Notwithstanding the restrictions on transfer in Section 14, mortgages required for any reasonable method of financing of the construction of the improvements are permitted but only for the

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following: (i) for the purpose of securing loans of funds used or to be used for financing the acquisition of a separate lot(s) or parcel(s), (ii) for the construction of improvements thereon, in payment of interest and other financing costs, and (iii) for any other expenditures necessary and appropriate to develop the Project under this Agreement, or for restructuring or refinancing any for same. No map permitted herein, even if for financing purposes, shall permit financing for other than purposes of developing the Project solely. The Developer (or any entity permitted to acquire title under this Agreement) shall notify the City in advance of any future mortgage or any extensions or modifications thereof. Any lender which has so notified the City shall not be bound by any amendment, implementation, or modification to this Agreement without such lender giving its prior written consent thereto. In any event, the Developer shall promptly notify the City of any mortgage, encumbrance, or lien that has been created or attached thereto prior to completion of construction, whether by voluntary act of the Developer or otherwise.

18.3 Developer's Breach Not Defeat Mortgage Lien. The Developer's breach of any of the covenants or restrictions contained in this Agreement shall not defeat or render void the lien of any mortgage made in good faith and for value but, unless otherwise provided herein, the terms, conditions, covenants, restrictions, easements, and reservations of this Agreement shall be binding and effective against the holder of any such mortgage whose interest is acquired by foreclosure, trustee's sale or otherwise.

18.4 Holder Not Obligated to Construct or Complete Improvements. The holder of any mortgage shall in no way be obligated by the provisions of this Agreement to construct or complete the improvements or to guarantee such construction or completion. Nothing in this Agreement shall be deemed or construed to permit or authorize any such holder to devote the Project or any portion thereof to any uses, or to construct any improvements thereon, other than those uses or improvements provided for or authorized by this Agreement.

18.5 Notice of Default to Mortgagee. Whenever the City shall deliver any notice or demand to the Developer with respect to any breach or default by the Developer hereunder, the City shall at the same time deliver a copy of such notice or demand to each holder of record of any mortgage who has previously made a written request to the City therefor, or to the representative of such lender as may be identified in such a written request by the lender. No notice of default shall be effective as to the holder unless such notice is given.

18.6 Right to Cure. Each holder (insofar as the rights of City are concerned) shall have the right, at its option, within ninety (90) days after the receipt of the notice, and one hundred twenty (120) days after the Developer's cure rights have expired, whichever is later, to:

A. Obtain possession, if necessary, and to commence and diligently pursue the cure until the same is completed, and

B. Add the cost of said cure to the security interest debt and the lien or obligation on its security interest;

provided that, in the case of a default which cannot with diligence be remedied or cured within such cure periods referenced above in this Section 18.6, such holder shall have additional time as reasonably necessary to remedy or cure such default.

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In the event there is more than one such holder, the right to cure or remedy a breach or default of the Developer under this Section shall be exercised by the holder first in priority or as the holders may otherwise agree among themselves, but there shall be only one exercise of such right to cure and remedy a breach or default of the Developer under this Section.

No holder shall undertake or continue the construction or completion of the improvements (beyond the extent necessary to preserve or protect the improvements or construction already made) without first having expressly assumed the Developer's obligations to the City by written agreement satisfactory to City with respect to the Project or any portion thereof in which the holder has an interest. The holder must agree to complete, in the manner required by this Agreement, the improvements to which the lien or title of such holder relates, and submit evidence satisfactory to the City that it has the qualifications and financial responsibility necessary to perform such obligations.

18.7 City's Rights upon Failure of Holder to Complete Improvements. In any case where one hundred eighty (180) days after default by the Developer in completion of construction of improvements under this Agreement, the holder of any mortgage creating a lien or encumbrance upon the Project or portion thereof has not exercised the option to construct afforded in this Section or, if it has exercised such option and has not proceeded diligently with construction, the City may, after ninety (90) days' notice to such holder and if such holder has not exercised such option to construct within said ninety (90) day period, purchase the mortgage, upon payment to the holder of an amount equal to the sum of the following:

A. The unpaid mortgage, debt plus any accrued and unpaid interest (less all appropriate credits, including those resulting from collection and application of rentals and other income received during foreclosure proceedings, if any);

B. All expenses, incurred by the holder with respect to foreclosure, if any;

C. The net expenses (exclusive of general overhead), incurred by the holder as a direct result of the ownership or management of the applicable portion of the Project, such as insurance premiums or real estate taxes, if any;

D. The costs of any improvements made by such holder, if any; and

E. An amount equivalent to the interest that would have accrued on the aggregate of such amounts had all such amounts become part of the mortgage debt and such debt had continued in existence to the date of payment by the City.

If the City has not purchased the mortgage within ninety (90) days of the expiration of the ninety (90) days referred to above, then the right of the City to purchase shall expire.

In the event that the holder does not exercise its option to construct afforded in this Section, and if the City elects not to purchase the mortgage of holder, upon written request by the holder to the City, the City shall use reasonable efforts to assist the holder in selling the holder's interest to a qualified and responsible party or parties (as determined by City), who shall assume

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the obligations of making or completing the improvements required to be constructed by the Developer, or such other improvements in their stead as shall be satisfactory to the City. The proceeds of such a sale shall be applied first to the holder of those items specified in subparagraphs A through E hereinabove and any balance remaining thereafter shall be applied as follows:

(1) First, to reimburse the City for all costs and expenses actually and reasonably incurred by the City, including, but not limited to, payroll expenses, management expenses, legal expenses, and others;

(2) Second, to reimburse the City for all payments made by City to discharge any other encumbrances or liens on the applicable portion of the Project or to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults, or acts of the Developer, its successors or transferees;

(3) Third, to reimburse the City for all costs and expenses actually and reasonably incurred by the City, in connection with its efforts assisting the holder in selling the holder's interest in accordance with this Section; and

(4) Fourth, any balance remaining thereafter shall be paid to the Developer.

18.8 Right of City to Cure Mortgage Default. In the event of a default or breach by the Developer (or entity permitted to acquire title under this Section) prior to completion of the Project or the applicable portion thereof, and the holder of any such mortgage has not exercised its option to complete the development, the City may cure the default prior to completion of any foreclosure. In such event, the City shall be entitled to reimbursement from the Developer or other entity of all costs and expenses incurred by the City in curing the default, to the extent permitted by law, as if such holder initiated such claim for reimbursement, including legal costs and attorneys' fees, which right of reimbursement shall be secured by a lien upon the applicable portion of the Project to the extent of such costs and disbursements. Any such lien shall be subject to:

A. Any Mortgage; and

B. Any rights or interests provided in this Agreement for the protection of the holders of such Mortgages;

provided that nothing herein shall be deemed to impose upon the City any affirmative obligations (by the payment of money, construction or otherwise) with respect to the Project in the event of its enforcement of its lien.

18.9 Right of the City to Satisfy Other Liens on the Developer's Property After Conveyance of Title. After the conveyance of title and prior to completion of construction and development, and after the Developer has had a reasonable time to challenge, cure, or satisfy any liens or encumbrances on the Project, the City shall have the right to satisfy any such liens or encumbrances; provided, however, that nothing in this Agreement shall require the Developer to pay or make provision for the payment of any tax, assessment, lien or charge so long as the

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Developer in good faith shall contest the validity or amount thereof, and so long as such delay in payment shall not subject the Project or any portion thereof to forfeiture or sale.

19. MISCELLANOUS.

19.1 Estoppel Certificates. Either Party (or a Mortgagee under Section 18) may at any time deliver written notice to the other Party requesting an Estoppel Certificate stating:

A. The Agreement is in full force and effect and is a binding obligation of the Parties;

B. The Agreement has not been amended or modified either orally or in writing or, if so amended, identifying the amendments; and

C. There are no existing defaults under the Agreement to the actual knowledge of the party signing the Estoppel Certificate.

A Party receiving a request for an Estoppel Certificate shall provide a signed certificate to the requesting Party within thirty (30) days after receipt of the request. The Planning Director may sign Estoppel Certificates on behalf of the City. An Estoppel Certificate may be relied on by assignees and Mortgagees. The Estoppel Certificate shall be substantially in the same form as Exhibit "C."

19.2 Force Majeure. The time within which the Developer or the City shall be required to perform any act under this Agreement shall be extended by a period of time equal to the number of days during which performance of such act is delayed due to war, insurrection, strikes, lock-outs, riots, floods, earthquakes, fires, casualties, natural disasters, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, governmental restrictions on priority, initiative or referendum, moratoria, processing with governmental agencies other than the City, unusually severe weather, third party litigation as described in Section 15.3 above, or any other similar causes beyond the control or without the fault of the Party claiming an extension of time to perform. An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if written notice by the party claiming such extension is sent to the other Party within thirty (30) days of knowledge of the commencement of the cause. Any act or failure to act on the part of a Party shall not excuse performance by that Party.

19.3 Interpretation.

19.3.1. Construction of Development Agreement. The language of this Agreement shall be construed as a whole and given its fair meaning. The captions of the sections and subsections are for convenience only and shall not influence construction. This Agreement shall be governed by the laws of the State of California. This Agreement shall not be deemed to constitute the surrender or abrogation of the City's governmental powers over the Developer's Property.

19.3.2. Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement and this

Agreement supersedes all previous negotiations, discussions, and agreements between the Parties. No parol evidence of any prior or other agreement shall be permitted to contradict or vary the terms of this Agreement.

19.3.3. Recitals. The recitals in this Agreement constitute part of this Agreement and each Party shall be entitled to rely on the truth and accuracy of each recital as an inducement to enter into this Agreement.

19.3.4. Mutual Covenants. The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the Party benefitted thereby of the covenants to be performed hereunder by such benefitted Party.

19.4 Severability. If any provision of this Agreement is adjudged invalid, void or unenforceable, that provision shall not affect, impair, or invalidate any other provision, unless such judgment affects a material part of this Agreement in which case the parties shall comply with the procedures set forth in Section 15.3.3 above.

19.5 Joint and Several Obligations. All obligations and liabilities of the Developer hereunder shall be joint and several among the obligees.

19.6 No Third Party Beneficiaries. The only Parties to this Agreement are the Developer and the City and their successor and assigns. There are no third party beneficiaries and this Agreement is not intended, and shall not be construed, to benefit or be enforceable by any other person whatsoever.

19.7 Notice.

19.7.1. To Developer. Any notice required or permitted to be given by the City to the the Developer under this Development Agreement shall be in writing and delivered personally to the Developer or mailed, with postage fully prepaid, registered or certified mail, return receipt requested, addressed as follows:

Pardee Homes.
10880 Wilshire Boulevard, Suite 1900
Los Angeles, CA 90024
Attention: Legal department

With a copy to:

Kenneth B. Bley, Esq.
Cox, Castle & Nicholson LLP
2049 Century Park East, 28th Floor
Los Angeles, CA 90067-3284

or such other address as the Developer may designate in writing to the City.

19.7.2. To the City. Any notice required or permitted to be given by the Developer to the City under this Development Agreement shall be in writing and

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delivered personally to the City Clerk or mailed with postage fully prepaid, registered or certified mail, return receipt requested, addressed as follows:

City of Banning
99 E. Ramsey Street
Banning, CA 92220
Attention: Planning Director

With a copy to:

David J. Aleshire, Esq., City Attorney
Aleshire & Wynder, LLP
18881 Von Karman Avenue, Suite 400
Irvine, California 92612

or such other address as the City may designate in writing to the Developer.

Notices provided pursuant to this Section shall be deemed received at the date of delivery as shown on the affidavit of personal service or the Postal Service receipt.

19.8 Relationship of Parties. It is specifically understood and acknowledged by the Parties that the Project is a private development, that neither Party is acting as the agent of the other in any respect hereunder, and that each Party is an independent contracting entity with respect to the terms, covenants, and conditions contained in this Agreement. The only relationship between the City and the Developer is that of a government entity regulating the development of private property and the owner of such private property.

19.9 Attorney's Fees. If either Party to this Agreement is required to initiate or defend litigation against the other Party, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees. Attorney's fees shall include attorney's fees on any appeal, and, in addition, a Party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to a final judgment.

19.10 Further Actions and Instruments. Each of the Parties shall cooperate with and provide reasonable assistance to the other to the extent necessary to implement this Agreement. Upon the request of either Party at any time, the other Party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary to implement this Agreement or to evidence or consummate the transactions contemplated by this Agreement.

19.11 Time of Essence. Time is of the essence in:

A. The performance of the provisions of this Agreement as to which time is an element; and

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B. The resolution of any dispute which may arise concerning the obligations of the Developer and the City as set forth in this Agreement.

19.12 Waiver. Failure by a Party to insist upon the strict performance of any of the provisions of this Agreement by the other Party, or the failure by a Party to exercise its rights upon the default of the other Party, shall not constitute a waiver of such Party's right to insist and demand strict compliance by the other Party with the terms of this Agreement thereafter.

19.13 Execution.

19.13.1. Counterparts. This Agreement may be executed by the parties in counterparts which counterparts shall be construed together and have the same effect as if all of the Parties had executed the same instrument.

19.13.2. Recording. The City Clerk shall cause a copy of this Agreement to be executed by the City and recorded in the Official Records of Riverside County no later than ten (10) days after the Effective Date (Gov't Code § 65868.5). The recordation of this Agreement is deemed a ministerial act and the failure of the City to record the Agreement as required by this Section and the Development Agreement Statute does not make this Agreement void or ineffective.

19.13.3. Authority to Execute. The persons executing this Agreement on behalf of the Parties hereto warrant that (i) such Party is duly organized and existing, (ii) they are duly authorized to sign and deliver this Agreement on behalf of the Party he or she represents, (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement, (iv) the entering into of this Agreement does not violate any provision of any other Agreement to which the Party is bound and (v) there is no litigation or legal proceeding which would prevent the Parties from entering into this Agreement.

(Signatures on the next page.)

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IN WITNESS WHEREOF, the City and the Developer have executed this Agreement on the date first above written.

**CITY OF BANNING**

BY: _____
Don Robinson, MAYOR
City of Banning

ATTEST:

_____
CITY CLERK
City of Banning

APPROVED AS TO FORM:

_____
David J. Aleshire, City Attorney
Aleshire & Wynder, LLP
City of Banning, California

"DEVELOPER"

PARDEE HOMES, a California corporation

BY: _____
President

BY: _____
Secretary

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STATE OF CALIFORNIA )
) ss
COUNTY OF _____ )

On _____, _____, before me _____, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument, the person or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

_____

Notary Signature

(SEAL)

STATE OF CALIFORNIA )
) ss
COUNTY OF _____ )

On _____, _____, before me _____, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument, the person or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

_____

Notary Signature

(SEAL)

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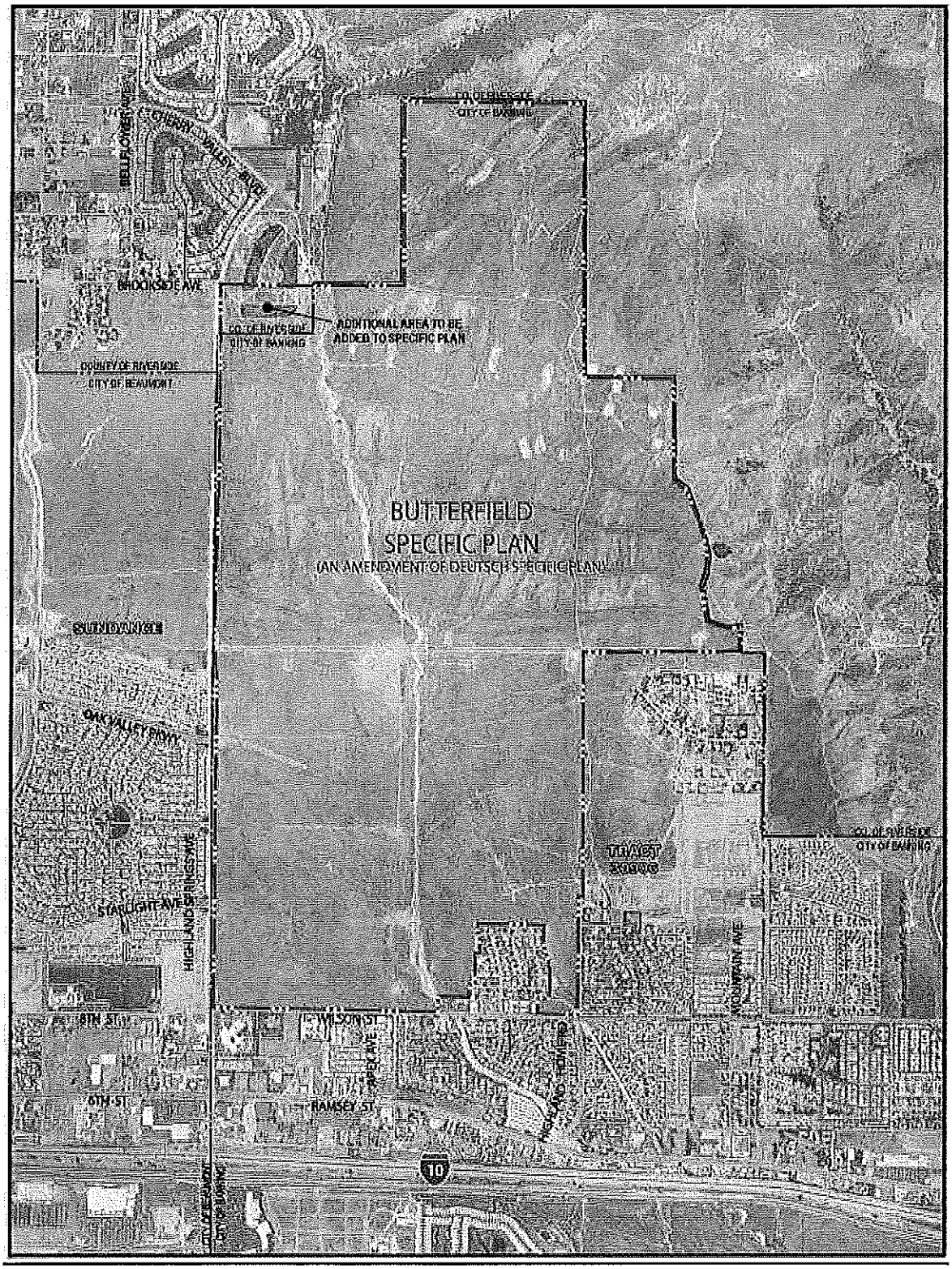
**EXHIBIT "A"**

## MAP AND LEGAL DESCRIPTION OF DEVELOPER'S PROPERTY

**EXHIBIT "A"**
**PARDEE BANNING PROPERTY**

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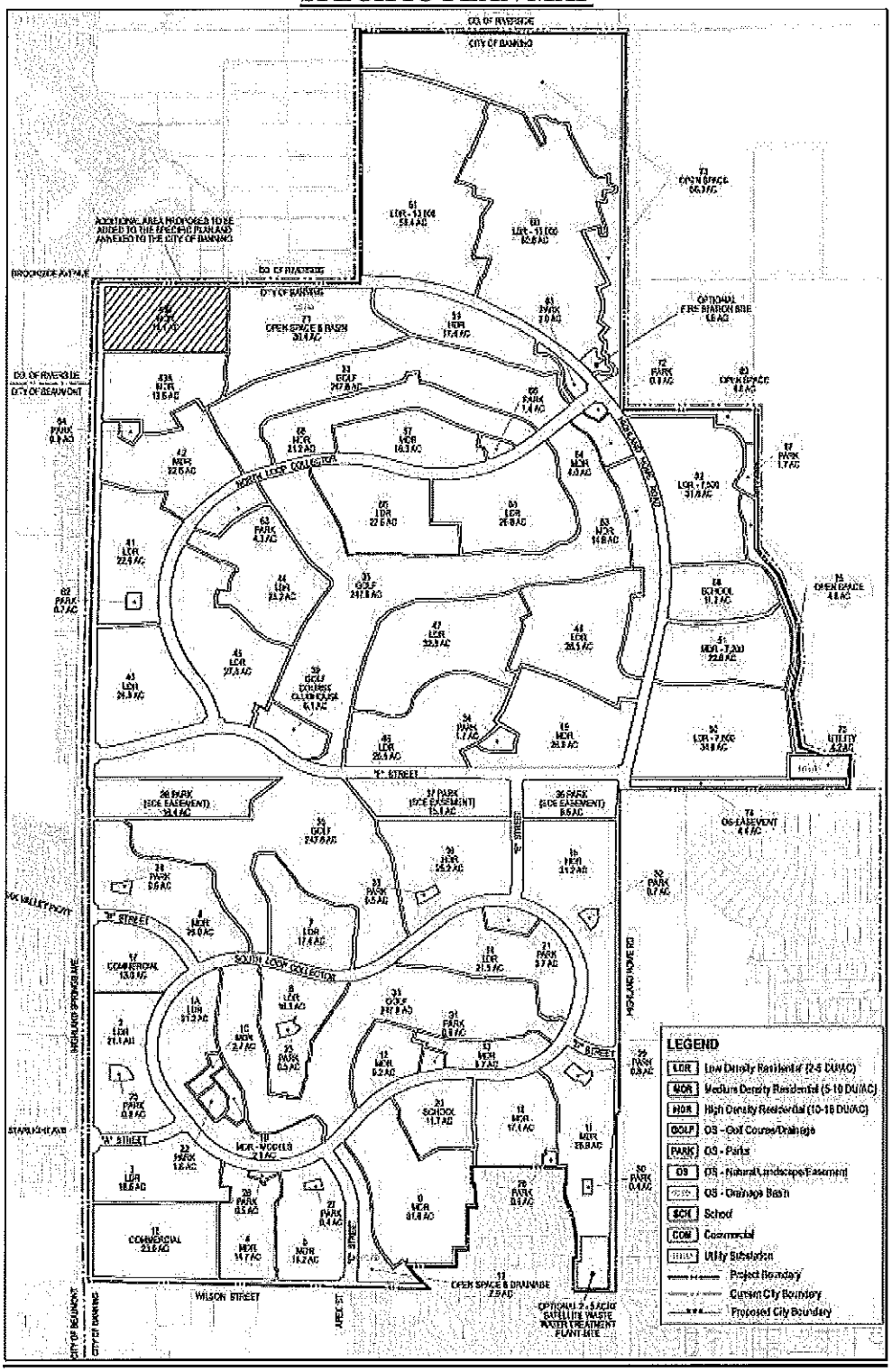
# SPECIFIC PLAN MAP

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# LEGAL DESCRIPTION

**EXHIBIT "B"**
**EXISTING DEVELOPMENT APPROVALS/FEE STUDIES**

General Plan Amendment No. 11-2501
Zone Change No. 11-3501
Butterfield Specific Plan
Development Agreement

**DEVELOPMENT FEE STUDIES IN PROCESS**

General Facilities Fee
Fire Facilities Fee
Police Facilities Fee
Traffic Control Fee
Park Land Fee
Road and Bridge Fee
Recycled Water Fee
Water Connection
Waste Water Connection (Collection Fee and Frontage Fee)
Emergency Shelter Fee

**EXHIBIT "C"**
**ESTOPPEL CERTIFICATE**

Date Requested: _____

Date of Certificate: _____

On _____, 2012, the City of Banning approved the Development Agreement between Pardee Homes, a California corporation and the City of Banning (the "Development Agreement").

This Estoppel Certificate certifies that, as of the Date of Certificate set forth above:

[CHECK WHERE APPLICABLE]

____ 1. The Development Agreement remains binding and effective.

____ 2. The Development has not been amended.

____ 3. The Development Agreement has been amended in the following aspects:_____
_____
_____.

____ 4. To the best of our knowledge, neither Developer nor any of its successors is in default under the Development Agreement.

____ 5. The following defaults exist under the Development Agreement:_____
_____
_____.

This Estoppel Certificate may be relied upon by an transferee or mortgagee of any interest in the property which is the subject of the Development Agreement.

CITY OF BANNING

BY:_____
PLANNING DIRECTOR

**EXHIBIT "D"**
**DEVELOPMENT IMPACT FEES**

NEW PAGES TO BE INSERTED

**Of the foregoing DIFs, the following are eligible for credit under Section 6.9:**

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**EXHIBIT "E"**
**ADDITIONAL AGREEMENTS CONCERNING DEVELOPMENT**

In addition to the other terms and conditions concerning the City's assistance to the Project, the City shall accommodate and expedite the development of the Developer's Property as follows:

## 1.0 CONSTRUCTION CONDITIONS

1.1 Provision of Utility Connections. The City shall provide, at the Developer's expense, any necessary temporary and permanent utility connections requested by the Developer for power, water service and sewer service prior to recordation of final map.

1.2 Allowance of Transformers. The City shall allow the setting of transformers without requiring adjacent streets to be fully paved. It is anticipated that 6' feet of curb and gutter will be placed adjacent to the transformer to ensure correct elevation of the transformer pad. In the event that the location or elevation change, the Developer shall incur the full costs of relocation of both the curb and transformer.

1.3 Temporary Water Pipes. Temporary above ground pipes for construction water and temporary fire hydrants will be acceptable for model and production homes prior to the first certificate of occupancy in the construction phase being developed.

1.4 Provision of Construction Water. The City shall provide "jumpers" or temporary construction water at the City's normal rate.

1.5 Temporary Use of City Sewer System. The City shall allow the temporary connection of construction trailers to the permanent City sewer system.

1.6 Temporary Use of City Water System. The City shall allow temporary connection of construction trailers to the permanent City water system, provided that all required backflow devices are installed to protect the integrity of the system.

## 2.0 MAINTAINENCE

2.1 Maintenance of Construction Activities. The Developer shall contract directly for all work required for the maintenance of construction related activities, including but not limited to recycling of construction materials, erosion control, temporary fence installation, and temporary power installation. The selection and retention of the contractor, subcontractor or other person or entity to do such work shall be made by the Developer in its sole and absolute discretion. Trash removal will be coordinated directly with City franchisee. In regards to recycled materials, the Developer will produce for the City, at its request, a manifest to confirm the location, type and amount of materials recycled.

## 3.0 STREETS

3.1 Timing of Street Paving. The Developer shall be allowed to begin construction of model and production homes without first paving streets. Paved streets shall be required as a condition for the issuance of the certificate of occupancy for the first production home in each construction phase. The Developer shall install all-weather access for construction and emergency personnel, which, during dry months, may, include maintained dirt roads.

3.1 Final Lift of Pavement. The City shall allow the installation of the final 1" of asphalt pavement through coordination with the Developer and the City's Public Works officials. If the final 1" of pavement is installed early in the Development of specific in-tract or on backbone streets, and if no structural failures have occurred within the street system, the City may require a fog coat seal prior to exoneration of any outstanding bonds.

## 4.0 GRADING/DRAINAGE

4.1 At Risk Grading. After the first plan check comments on either the rough or mass grading plans are received by the Developer, the City shall allow the Developer to begin grading operations for the area that is the subject of the plan check. The Developer acknowledges that any changes that may be required by the City will be made at the sole expense of the Developer.

4.2 Erosion Control. The Developer shall Develop the Developer's Property in such a way as to confine all storm water within the Project and shall, do so in a manner which adequately protects all construction within the Project. The Developer shall prepare an erosion control plan that will demonstrate methods that may be incorporated in the Development of the Project to protect downstream watersheds. The Developer shall manage and determine when erosion control measures need to be installed and maintained, but Developer shall comply with any order of City.

4.3 Drainage. Reverse lot drainage on lots that back up to open space, the Golf Course or parks shall be allowed provided that these areas are privately maintained by the Property Owners Association.

## 5.0 DEVELOPMENT CONDITIONS

5.1 Lot Line Adjustments. In the event that lot line adjustments are required for model complexes or adjustments to open space lots after the recordation of a final map, the City shall review the requested adjustment over the counter with City Engineering staff and the Developer or the Developer's representative. This will not be allowed for the construction of regular production homes.

5.2 Rear Residential Slopes. The Developer shall stabilize according to the City Grading and Landscape Ordinance the rear slope of all residential Lots prior to issuance of a Certificate of Occupancy but shall not be required to landscape and/or irrigate the slopes. It is the intention that rear yard landscaping will be required and installed within the time specified in the CCC & R's by the homeowner.

5.3 Use of Joint Trenches. The City shall allow the Developer, to utilize joint trenches if it deems it necessary for Internet capabilities and/or telecommunication purposes.

5.4 Curbs. The construction of wedge, rolled curb, or mountable curbs within residential and multifamily zoned Planning Areas shall be permitted at the Developer's sole and absolute discretion.

## 6.0 GOLF COURSE

6.1 Golf Course/Active Open Space Drainage Facilities. It is the Developer's intention that the flood control facilities proposed within this area will be constructed consistent with all applicable design standards for such facilities with their maintenance being the responsibility of the either the POA, the operator of the Golf Course, the Developer or the City and not the responsibility of the Riverside County Flood Control District (the "RCFCD") unless the facility has been identified as a Drainage Master Plan Facility by RCFCD.

6.2 Golf Course Water. The financial viability of the Golf Course will be dependent upon the costs to operate and maintain the Golf Course. The City shall provide water to the Project at a per unit rate not to exceed the cost highest tiered rate for irrigation water for the Golf Course for the Term of this Agreement.

## 7.0 PERMITTING

7.1 Fire Sprinkler Inspections. The City's Building and Safety Division shall serve as Special Fire Marshall for this project. Building and Safety shall be responsible for enforcing the then applicable provisions of the California Fire Code, and the California Building Standards Codes.

7.2 Bond Exoneration. Upon request by the Developer, the City shall generate a one-time punch list of items required for the full or partial exoneration of all Project-related improvement bonds, for improvements both within and outside of the Property. The City shall, within 5 days of receipt of a written request from the Developer, provide an inspector to determine if the punch list items have been corrected. Once it has been determined that they have been corrected, the City shall expeditiously exonerate the bonds, partially or fully, as applicable. No additional punch lists shall be generated once an improvement has been inspected and a punch list generated.

7.3 Building Permit Refunds. If a Building Permit has expired without construction having started on the structure for which the Building Permit was issued, the Developer shall be entitled to a refund of the building permit fee less 20% for an administrative fee. No refund will be provided if the request for the refund has not been provided to the City within 30 days of the Building Permit's expiration.

## 8.0 PREVAILING WAGES

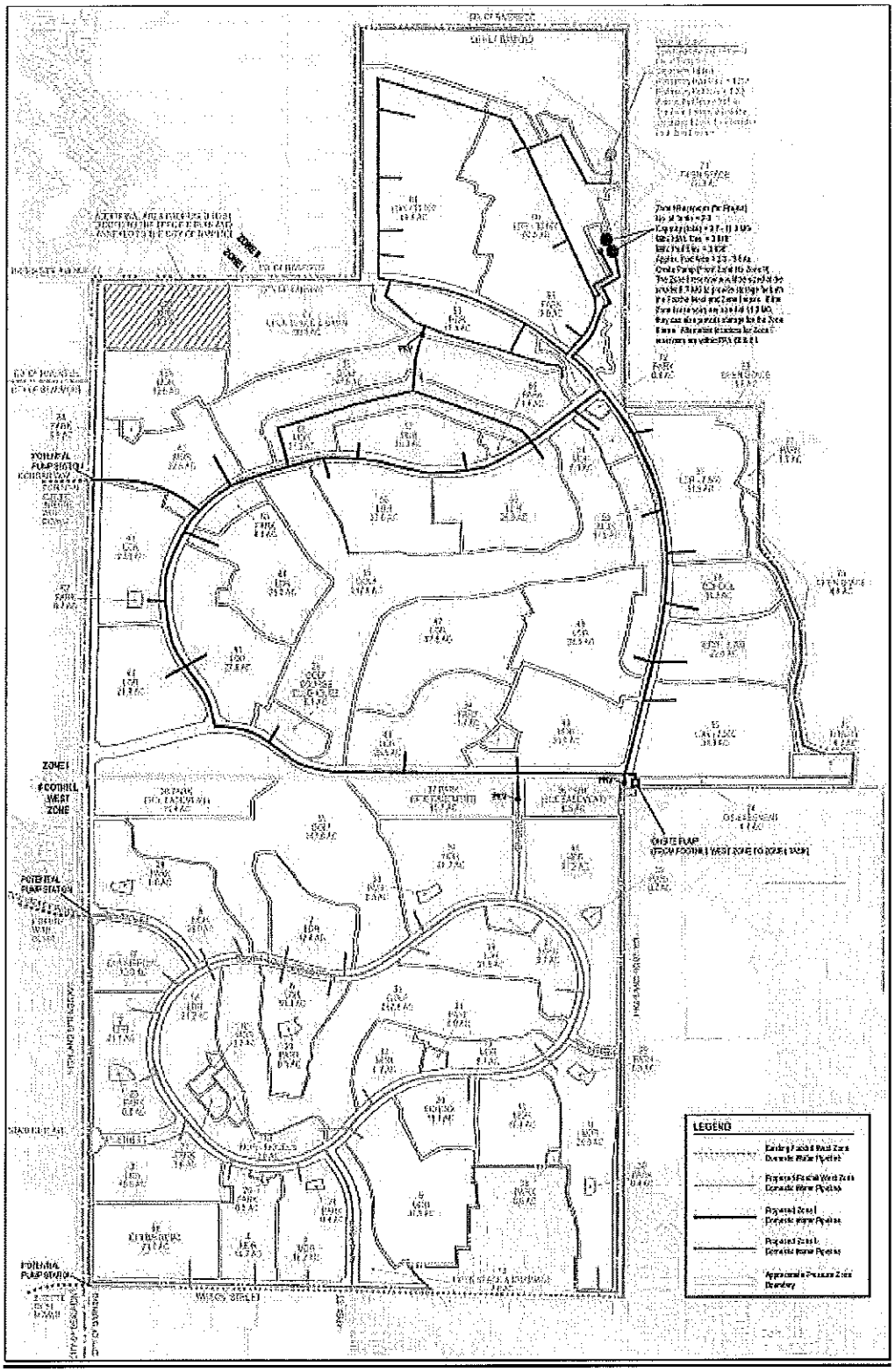
The Developer shall pay prevailing wages in connection with the construction of the Project as required by law. To the extent that it is determined that Developer has not paid, or does not pay, prevailing wages required by law for any portion of the Project, Developer shall defend and hold the City harmless from and against any and all increase in construction costs, or other liability, loss, damage, costs, or expenses (including reasonable attorneys' fees and court costs) arising from or as a result of any action or determination that the Developer failed to pay prevailing wages in connection with the construction of the Project.

Developer acknowledges and agrees that should any third party, including but not limited to the Director of the Department of Industrial Relations ("DIR"), require Developer or any of its contractors or subcontractors to pay the general prevailing wage rates of per diem wages and overtime and holiday wages determined by the Director of the DIR under Prevailing Wage Law, then Developer shall indemnify, defend, and hold City harmless from any such determinations, or actions (whether legal, equitable, or administrative in nature) or other proceedings, and shall assume all obligations and liabilities for the payment of such wages and for compliance with the provisions of the Prevailing Wage Law. The City makes no representation that any construction or Site uses to be undertaken by Developer are or are not subject to Prevailing Wage Law.

## 9.0 COST OF DEVELOPMENT AGREEMENT

Developer has previously deposited approximately $100,000 with the City to pay all the City's outside consulting costs, costs of the environmental and legal review, and costs to process and obtain the Development Approvals, including this Agreement. As of March 1, such costs in aggregate exceed the amount deposted by $90,000, and additional cost of $10,000 are anticipated by the end of the approval process. Accordingly, before this Development Agreement shall be approved by the City Council, Developer shall deposit $120,000 in good money with the City's Finance Director.

# EXHIBIT "F"
# PROPOSED PROJECT FACILITIES



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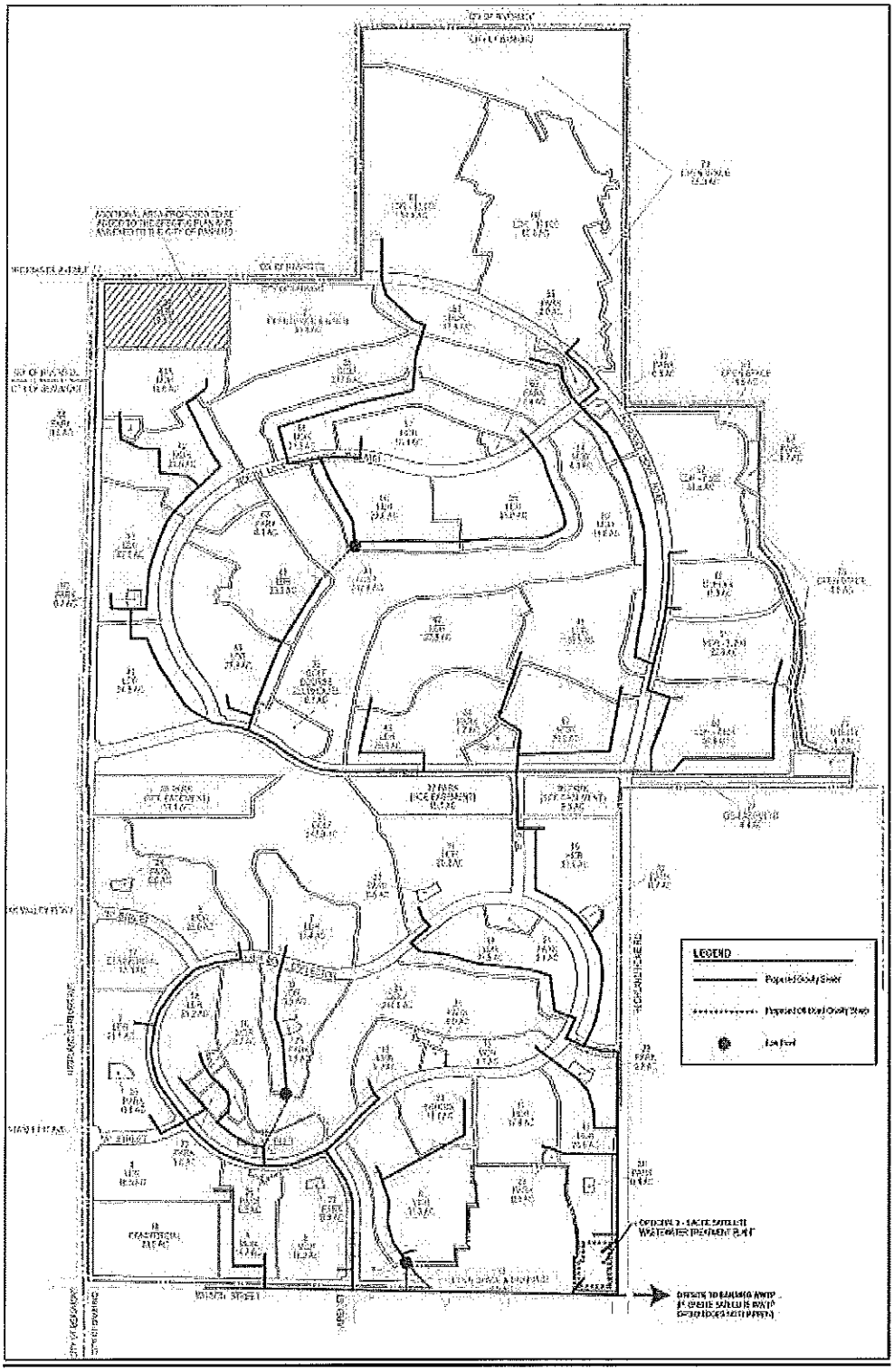
# PROPOSED PROJECT FACILITIES



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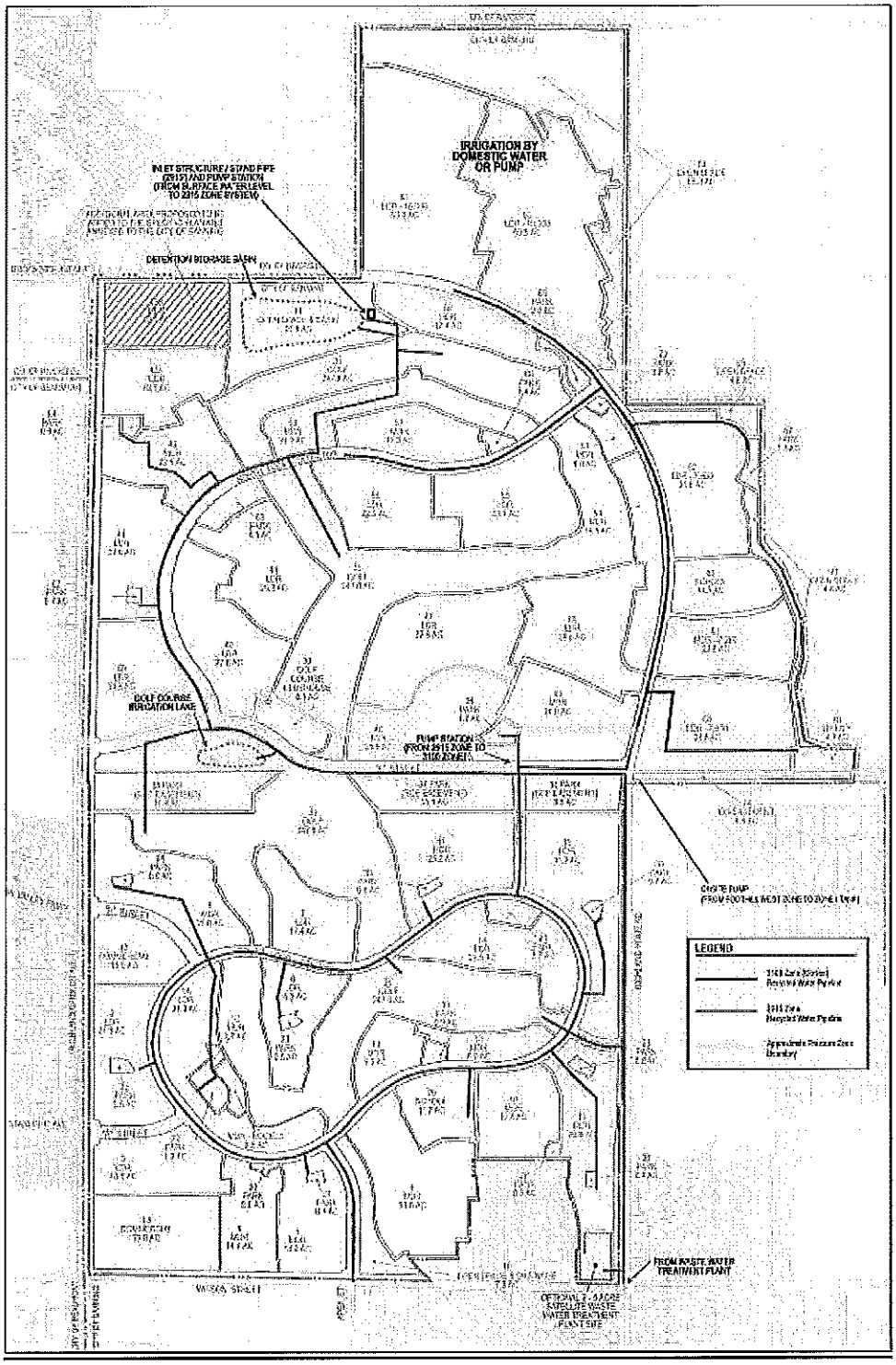

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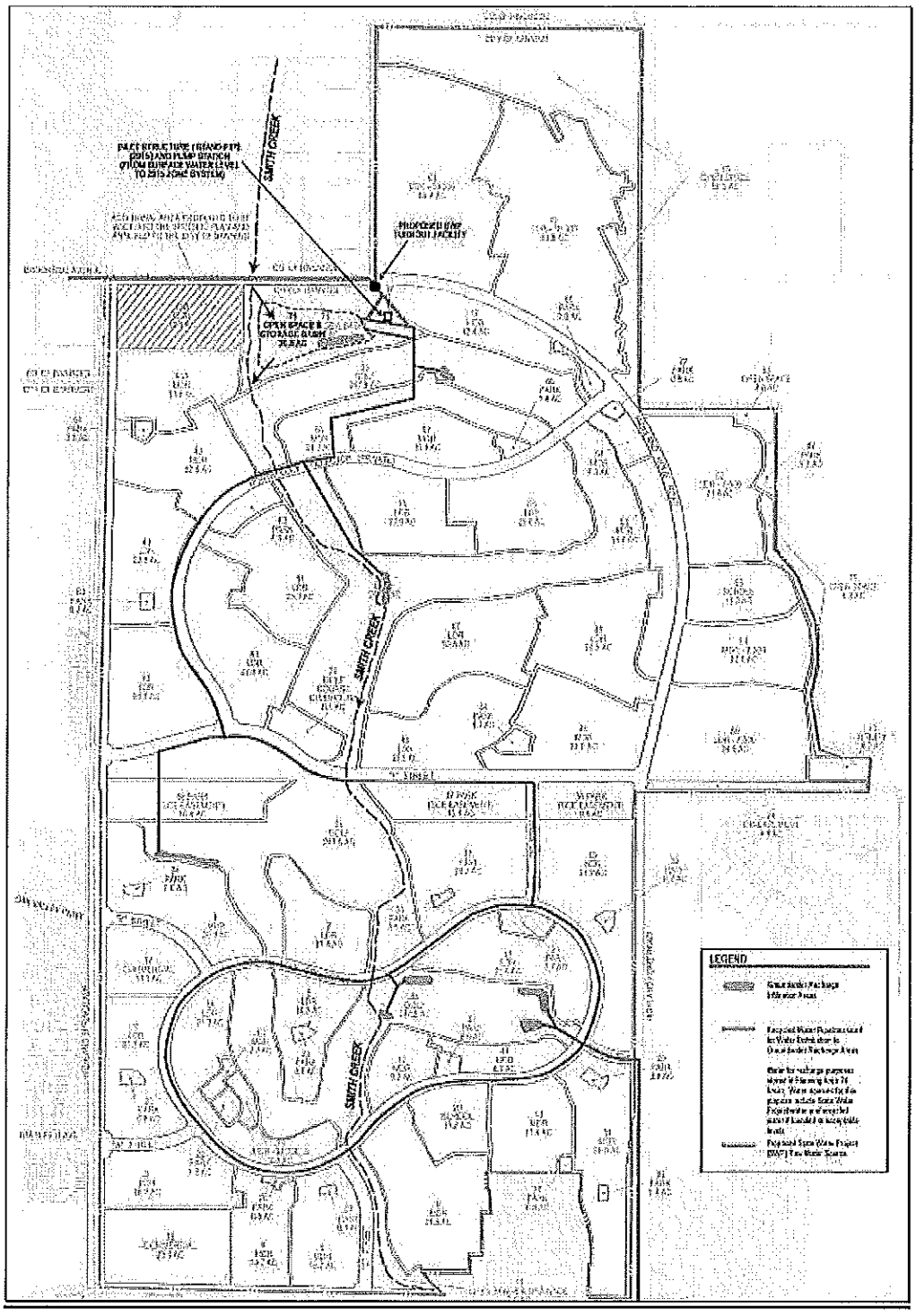
# PROPOSED PROJECT FACILITIES



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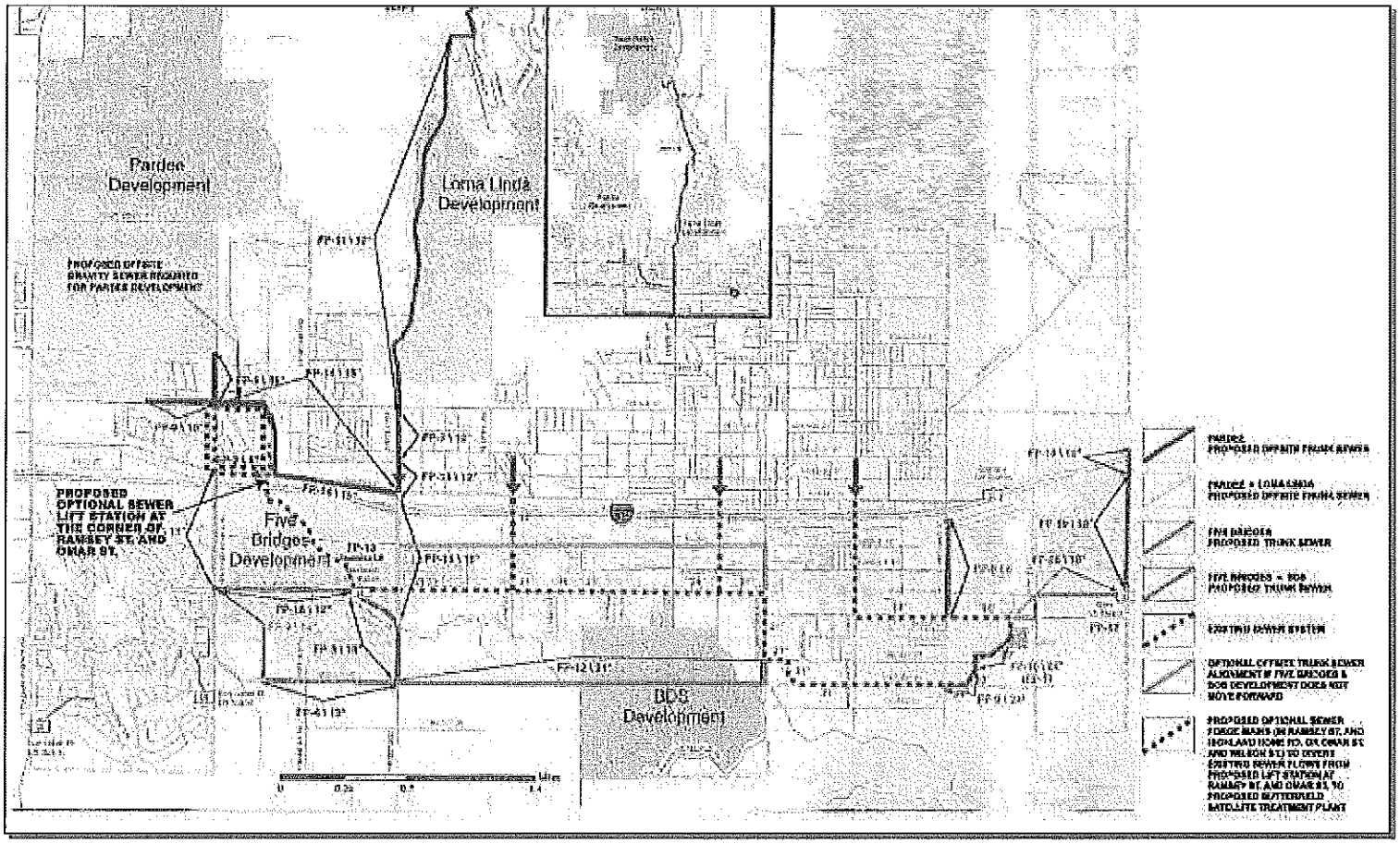
# PROPOSED PROJECT FACILITIES



# EXHIBIT "G"
# HIGHLAND SPRINGS IMPROVEMENTS

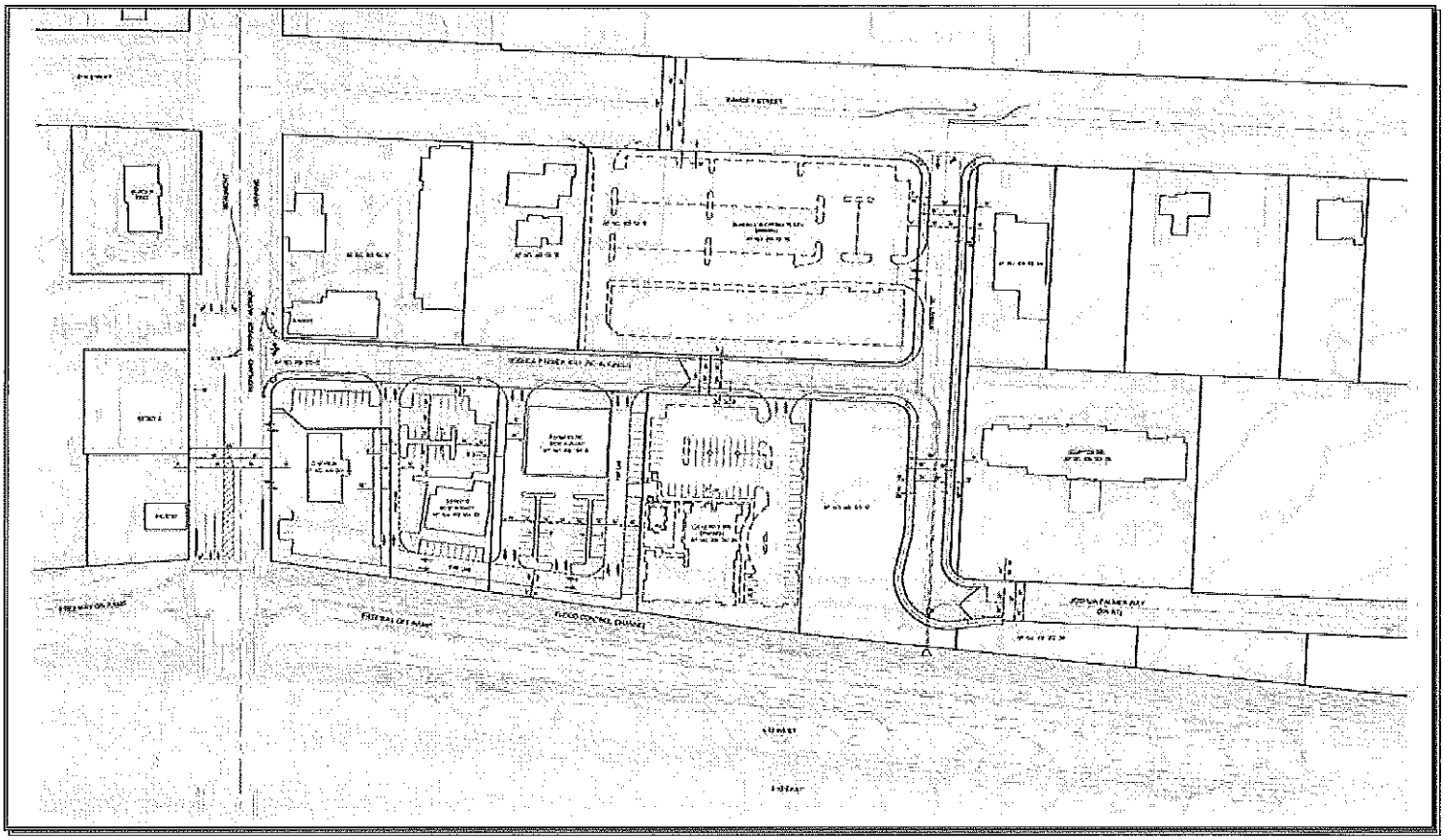


**EXHIBIT "H"**
**BUTTERFIELD PROJECT FINANCING PLAN**

This Financing Plan sets forth the basic terms and conditions pursuant to which City and Developer will cooperate to establish one or more CFD(s) and designate Improvement Areas therein pursuant to the CFD Act to finance the Eligible Facilities in connection with the Project and to levy the Services Special Tax. Capitalized terms not otherwise defined in this Financing Plan shall be defined as provided in the Development Agreement.

1. Goals and Policies for Financing. The City will adopt general Goals and Policies for establishing CFDs. The Goals and Polices for Financing shall apply on a City-wide basis and may be amended from time to time. This Financing Plan shall be consistent with the City's Goals and Policies for Financing. The principal objectives of this Financing Plan are to:

a. Provide City and Developer reasonable certainty that each CFD will be established in accordance with the Goals and Policies and this Financing Plan.

b. Provide basic parameters for the levy of (i) the Facilities Special Tax (defined below) within each CFD or Improvement Area to pay directly for Eligible Facilities and to secure the issuance of bonds of each CFD or Improvement Area secured by and payable from the Facilities Special Tax in order to finance the Eligible Facilities ("**Bonds**") and (ii) the Services Special Tax.

c. Provide basic parameters for the issuance of Bonds by or for the CFD(s) and any Improvement Areas therein.

2. Formation. City shall initiate proceedings to establish a CFD, upon Developer's petition request pursuant to the CFD Act and submittal of City's standard application form and receipt of an advance from Developer in an amount determined by City to pay for City's estimated costs to be incurred in undertaking the proceedings to establish the CFD ("Formation Proceeding Costs"). City agrees that all such advances for Formation Proceedings Costs so long as the costs re reasonable and not due to the actions of developer, incurred in connection with the formation of such CFD shall be eligible for reimbursement out of the first available proceeds of Surplus Special Taxes (defined below) and Bonds of the CFD and/or Facilities Special Taxes to the extent approved by the City's Bond Counsel ("CFD Proceeds"). The exact terms and conditions for the advance of funds by Developer and the reimbursement of such advances shall be memorialized in a separate agreement between City and Developer. City agrees to use its best efforts to complete the proceedings to form each CFD and record the notice of special tax lien for the CFD and each Improvement Area therein within 210 days after City's receipt of Developer's complete application and deposit.

3. Boundaries. The CFD boundary, or the boundaries of all CFDs if more than one is formed, shall encompass the Project. Each CFD may contain multiple Improvement Areas based on phasing of the Project within the CFD.

4. Eligible Public Facilities and Discrete Components. Subject to the City's adopted Goals and Policies for Financing, and review by Bond Counsel, conditions set forth in the following paragraph, City may authorize the CFDs to finance the acquisition or construction of the Eligible Facilities, which may include the following:

a. public streets and other related improvements within the public right-of-way

b. water facilities

c. storm drain facilities

d. sewer facilities

e. public parks, open space and landscaping

f. electrical facilities to be extent reasonable

g. any public facility to be constructed by City for which Developer is required to make a cash contribution pursuant to the Project's conditions of approval or this Agreement or which is included in any City capital improvement fee program and which public facility is to be owned by the City, subject to credit against the corresponding fee.

The costs of any Eligible Facility to be constructed by Developer that are eligible to be financed with CFD Proceeds ("**Actual Costs**") shall include the following if permissible under the Act:

(i) The actual hard costs for the construction or the value of the Proposed Eligible Facility, including labor, materials and equipment costs;

(ii) The costs of grading related to the Eligible Facility;

(iii) The costs incurred in designing, engineering and preparing the plans and specifications for the Eligible Facility;

(iv) The costs of environmental evaluation and mitigation of or relating to the Eligible Facility;

(v) Fees paid to governmental agencies for, and costs incurred in connection with, obtaining permits, licenses or other governmental approvals for the Eligible Facility;

(vi) Costs of construction administration and supervision;

(vii) Professional costs associated with the Eligible Facility, such as engineering, legal, accounting, inspection, construction staking, materials and testing and similar professional services; and

(viii) Costs of payment, performance and/or maintenance bonds and insurance costs directly related to the construction of the Eligible Facility.

(ix) Any other costs permitted by law.

The Eligible Facilities constructed by Developer, and for which Developer elects to submit payment requests, shall be bid, contracted for and constructed in accordance with the Acquisition Agreement to be entered into between City and Developer at the time of formation of the first CFD. The Acquisition Agreement shall provide additional detail, consistent with the provisions of the Goals and Polices for Financing and this Development Agreement, with respect to the acquisition and construction of the Eligible Facilities, including a more detailed description of the specific Eligible Facilities that will be eligible to be financed through the CFD and discrete components of each Eligible Facility that may be reimbursed prior to the completion of the entire Eligible Facility. The Acquisition Agreement will also provide additional detail with respect to the financing of the City's construction of Eligible Facilities in satisfaction of corresponding City capital improvement fees, as elected by Developer. The CFD financing of the acquisition of an Eligible Facility constructed by Developer that is included in a City Capital improvement fee program or required by the Project conditions of approval, shall not preclude the Developer's receipt of corresponding fee credits.

5. Financing Parameters. Each CFD shall be authorized to levy Facilities Special Taxes of each Improvement Area and issue Bonds of each CFD or Improvement Area in one or more series to finance the Eligible Facilities in accordance with the basic parameters set forth below:

a. A precondition to the issuance of Bonds shall be that the value of the real property subject to Facilities Special Taxes required to repay the Bonds shall be at least three times the amount of the Bonds.

b. Each series of Bonds shall have a term of at least thirty (30) years and include escalating annual debt service commensurate with any annual escalation in the Facilities Special Taxes.

c. The total effective tax rate within each Improvement Area applicable to any residential parcel on which a residential dwelling has or is to be constructed, taking into account all ad valorem property taxes, voter-approved ad valorem property taxes in excess of one percent (1%) of assessed value, the annual special taxes of existing community facilities districts and community facilities districts under consideration and reasonably expected to be established (but excluding the Services Special Tax), the annual assessments (including any administrative surcharge) of existing assessment districts and assessment districts under consideration and reasonably expected to be established (but excluding assessments for maintenance and services), and the Facilities Special Taxes, shall equal two percent (2.00%) of the projected initial sales price of the residential dwelling unit and such parcel, as estimated at the time of formation of the

applicable CFD, or such lesser amount requested by Developer. The Facilities Special Taxes may escalate by up to 2% per year.

# ATTACHMENT 5

**Resolution No. 2012-27 with**
**Exhibit "A" – Water Supply Assessment,**
**Also shown as Appendix J of the Draft EIR (Under Separate Cover) and Water Supply Addendum**
**(Section 4.0 Errata of the Final EIR)**

**RESOLUTION NO. 2012-27**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING APPROVING A WATER SUPPLY ASSESSMENT FOR THE BUTTERFIELD SPECIFIC PLAN (SCH NO. 2007091149)**

**WHEREAS,** the City of Banning received an application on August 20, 2007 for a General Plan Amendment and Zone Change, an amendment to the Deutsch Specific Plan to provide zoning regulations for the Butterfield Specific Plan, and a Development Agreement to allow the development of up to 5,387 dwelling units (937.4 acres of residential), a golf course and open space (253.9 acres), parks (66.5 acres) and other open space (108.4 acres), two school sites (23.0 acres), an existing utilities substation facility (4.2 acres), a fire station site (1.6 acres), and backbone roadways (113.6 acres)(the Project). The Project also includes the construction of major onsite and offsite infrastructure, including, but not limited to: various on-site and off-site street improvements to provide access to and from the Project site; a site for a waste water treatment facility; various onsite and offsite conveyance pipelines for sewer, water, storm drain; a multi-purpose detention basin, and drainage improvements to Pershing Channel and Smith Creek immediately upstream and downstream of the 1,543-acre Project site to accommodate the mixed-use master planned community.

| | |
|---|---|
| Project Applicant: | Pardee Homes (Authorized Agent Mike Taylor, Vice President of Pardee Homes, 10880 Wilshire Boulevard, Suite 1900, Los Angeles, CA 90024) |
| Property Owners: | Pardee Homes owns 1,522 acres within the Butterfield Specific Plan<br><br>Highland Springs Country Club Owners Association owns the 21-acre property that is located at the northwest corner of the Butterfield Specific Plan (APN: 408-060-008). |
| Project Location: | Northeast Corner of Highland Springs Avenue and Wilson Street |
| APN Number: | The Project includes 34 parcels: 406-030-028; 406-040-016 to 017; 406-170-003; 406-030-001; 406-030-005; 406-120-001 to 020; 408-060-008; 408-120-022; 408-120-024 to 025; 408-120-027; 408-120-033; 531-080-013; and 531-080-014. |
| Specific Plan Size: | 1,543 Acres |

**WHEREAS,** applications for General Plan Amendment No. 11-2510, Zone Change No. 11-3501, and a Development Agreement, all of which supersede the Deutsch Specific Plan with the Butterfield Specific Plan are considered a "project" pursuant to the California Environmental Quality Act Guideline (CEQA) Section 15378 (Public Resources Code Section 21065).

**WHEREAS,** the City of Banning is the lead agency for the preparation and consideration of environmental documents for the Project, as defined by CEQA Sections 15051 and 15367;

**WHEREAS,** Section 10910 of the California Water Code and Section 15155 of CEQA requires that the environmental document for a project that falls within the definition of a "water demand project" or 500 residential units must include an assessment of the adequacy of the public water system to serve the project (Water Supply Assessment or WSA). The Butterfield Specific Plan meets the definition of a "water demand project" pursuant to CEQA Section 15155;

**WHEREAS,** a Water Supply Assessment was prepared for the Project and is consistent with the 2010 City of Banning Urban Water Management Plan (UWMP), which was adopted by the City Council of the City of Banning on June 28, 2011. The adopted UWMP specifically identified the Butterfield Specific Plan as planned for development and concluded that the City is anticipated to have a surplus of water to meet its customers' demands. The WSA for the Butterfield Specific Plan analyzed the Project water demand for the entire 35-year build-out of the Project, even though State law requires only 20 years of water-supply analysis. The WSA analyzed the City's existing water and future supplies, and the reliability of those supplies under varying hydrologic conditions, and compared those supplies to the water demand at Project build out, in addition to the City's existing and planned for future demands. As detailed in the WSA, made a part of the Project's EIR, the City's total projected water supplies available during normal, single dry, and multiple-dry water years during a 35-year projection will meet the projected water demand associated with the Project, in addition to the City's existing and planned future uses;

**WHEREAS,** on March 16, 2012, the City gave public notice by advertisement in the Record Gazette newspaper of a public hearing concerning the Project, which included the Final Environmental Impact Report, the General Plan Amendment No. 11-2501, Zone Change 11-3501, Butterfield Specific Plan, and Development Agreement. In addition, the City mailed public hearing notices to the owners of properties that are located within a 300 foot radius of the Project boundaries and to interested persons who requested to be on the mailing lists for the Project. The City also mailed the Final EIR to persons, organizations/groups, and public agencies who commented on the Draft EIR; and,

**WHEREAS,** on March 27, 2012, the City Council held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the Project and at which the City Council considered the Project approvals; and,

**WHEREAS,** Section 15155(b) of CEQA and Section 10910(g) of the Water Code require the governing body of a public water system that will serve a "water demand project" such as this Project to approve a Water Supply Assessment at a regular or special meeting.

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

SECTION 1. WATER SUPPLY

Pursuant to SB 610 (Water Code section 10910 *et seq.*), a WSA was prepared for the Butterfield Specific Plan and determined that the water needs of this Specific Plan area could be met for the next 35 years. The WSA indicates that the City has a reliable water portfolio to satisfy the demands of the Project, in addition to planned and future uses.

The City's average annual water supply is, and will continue to be, from local groundwater supplies. The City pumps groundwater from five local groundwater basins — the Banning, Banning Bench, and Banning Canyon basins (collectively, the Banning Basins), the Cabazon Basin and the Beaumont Basin. All of the City's groundwater supplies are supported by vested water rights. In the case of the Beaumont Basin, the City's production and storage rights in the basin have been adjudicated by a court and are subject to a judgment.

The City's Phase I Upgrade will also provide additional supplies of recycled water by 2015 when the City will complete construction of this upgrade of its Main Treatment Plant (WWTP). Reclaimed water from the City's WWTP Phase I Upgrade would be made available to the Project for use in meeting non-potable water demands. Recycled water is expected to be available to consumers in the City of Banning beginning in 2015, when the Phase I expansion of the City's WWTP is completed and tertiary treatment of wastewater is available. This projected use of recycled water from the City's WWTP and associated appurtenant facilities are already covered by an adopted Mitigated Negative Declaration (MND).

Additionally, the City purchases imported State Water Project (SWP) water from the San Gorgonio Pass Water Agency (SGPWA) which it percolates into the Beaumont Basin and stores for later use; it does not take direct delivery of the supply. The City is not entitled to a specified quantity of supply from SGPWA; rather, it may purchase all of the water that SGPWA has available to sell, subject only to the demands of other retailed water customers. Historically, SGPWA has made available for purchase all of the water that the City has requested. The City's projected increase in purchases of imported water to service the Project and other future demand will not cause any new impacts not previously identified in the certified East Branch Extension – Phase II EIR and SGPWA Water Importation Project EIR and subsequent Addendums (Nos. 2 and 3). The City conjunctively manages its groundwater and surface water supplies, including its imported water supplies. Imported water purchased from the SGPWA is recharged into the Beaumont Basin and stored for later use.

The City's projected pumping from all five (5) groundwater supplies – the three Banning Basins, the Cabazon Basin and the Beaumont Basin – are within the safe yields of each basin and consistent with the City's rights in each basin. Currently, the City does not propose to increase pumping from any of the three Banning Basins. The City proposes an increase in the City's pumping from the Cabazon Basin pursuant to its appropriative and developed rights in that basin. In addition, the City intends to continue its recharge of the Cabazon Basin with treated wastewater. The City's proposed pumping from the Cabazon Basin is projected to be within the safe yield of the Cabazon Basin. Groundwater extractions from the Cabazon Basin will be that amount which will not anticipated to result in adverse impacts to the Basin or impact other producers. The City's anticipated supply from the Cabazon Basin will vary annually based on the

quantity of treated wastewater supplied recharged into the basin. (Refer to Table 4.14-15, Hydrologic Budget – Cabazon Basin, of the Draft EIR, for inflow and outflow terms used in calculating the Cabazon Basin's hydrologic budget.)

The City proposes to maintain average historical amounts from the Beaumont Basin in order to promote the accumulation of water (both from the City's unused production rights and recharged imported water) in the City's stored water account. Therefore, the City does not propose increases in pumping from the Beaumont Basin, at least until 2035, and does not propose pumping in excess of its rights in the basin. The City's existing wells provide sufficient capacity to continue to produce historical amounts. All water production and storage operations in the Beaumont basin are subject to the adjudication and resulting court judgment. The court's and Watermaster's ongoing management of the Beaumont basin ensures that the City's production of its rights in the Beaumont basin, including withdrawal of water from storage, does not result in adverse impacts on the Beaumont basin or material interference with other Beaumont basin right holders.

The WSA assesses the reliability of each of the City's individual water supplies (groundwater, surface water, imported water and recycled water) during normal, single dry and multiple-dry water years. The WSA concludes that the City's diversified portfolio of water supplies and conjunctive management of groundwater and surface (imported) water increases the overall reliability of the City's water supplies during times of water shortage. The WSA concludes that the City's existing and projected water supplies are sufficient during normal, single dry, and multiple-dry water years during the 35-year study period to meet the projected water demands of the Project, in addition to the City's existing and planned future uses. Therefore, sufficient water supplies are available to serve the Project. (Refer to Draft EIR Table 4.14-14 and WSA Tables 1.8A through 1.8C.)

Based on the entire administrative record, including but not limited to the 2010 Urban Water Management Plan, the Water Supply Assessment, and the EIR prepared for the Project, it is determined that City's total projected water supplies available during normal, single dry, and multiple-dry water years during a 35-year projection will meet the existing and planned future uses.

SECTION 2. CITY COUNCIL ACTION.

Based on the foregoing recitals, findings, and on substantial evidence in the record, the City Council adopts Resolution No. 2012-27 approving the Water Supply Assessment for the Butterfield Specific Plan (SCH NO. 2007091149), in compliance with SB 610. (WSA, attached hereto as Exhibit "A".)

By approving the WSA, the City Council determines that the projected water supplies will be sufficient to satisfy the demands of the Project, in addition to existing and planned future uses. The City Council's approval of the WSA is limited to approving the WSA, and does not approve or otherwise take action on any other matter involving the Project.

**PASSED, APPROVED AND ADOPTED** this 27th day of March, 2012.

Don Robinson, Mayor
City of Banning

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

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

**ATTEST:**

Marie Calderon, City Clerk
City of Banning, California

**CERTIFICATION:**

I, Marie Calderon, City Clerk, City of Banning, California, do hereby certify that the foregoing Resolution, No. 2012-27, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 27th day of March 2012, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marie Calderon, City Clerk
City of Banning, California

# 4.0 ERRATA

These Errata consist of minor technical changes, clarifications and updates to existing analysis; none of which constitute significant new information or trigger the need for further environmental review.

## DRAFT EIR TEXT

Changes to the Draft EIR are noted below. Underlining indicates additions to the text; striking indicates deletions to the text. The changes to the Draft EIR do not affect the overall conclusions of the environmental document. These errata represent changes to the Draft EIR to provide clarification, corrections, or revisions as needed as a result of public comments on the Draft EIR, or due to additional information received during the public review period. These clarifications and corrections are not considered to result in any new or more severe impacts than identified in the Draft EIR, and are not otherwise deemed to warrant Draft EIR recirculation pursuant to CEQA Guidelines §15088.5. Changes are listed by page and where appropriate by paragraph. Added or modified text is shown by underlining (example) while deleted text is shown by striking (~~example~~).

## SECTION 1.0, EXECUTIVE SUMMARY

**Note:** Table 1.0-1: Environmental Impact Summary has been updated in response to comments. Please see the Mitigation Monitoring and Reporting Plan attached to the Final EIR for changes to the mitigation measures.

## CHAPTER 3.0, PROJECT DESCRIPTION

### Page 3.0-1, First Paragraph

The proposed Project site (hereinafter the "Butterfield Specific Plan" or "Project") consists of 20 existing legal lots, covering approximately 1,522 acres, owned by Pardee Homes. The EIR also analyzes the impacts of development of ~~and~~ an additional 21-acre lot owned by the Highland Springs Country Club Owner's Association. However, the potential future annexation is not part of the proposed Project and, if proposed in the future, would be subject to a separate and independent review process.

### Page 3.0-19, Fourth Paragraph

In addition to the above identified open space areas, a 30.4-acre multi-use basin is proposed in PA 71, where Smith Creek enters the site. This basin would be designed to detain flows from Smith Creek. Additionally, the City may elect to use the basin ~~and~~ to provide water storage ~~for~~

~~irrigation and other needs~~. The area could potentially function as a recreational amenity for viewing, hiking, fishing and/ or picnicking. This multi-use basin is described in greater detail in Section 3.6.2.5, Infrastructure.

**~~Page 3.0-20, Second Full Paragraph~~**

~~While the Butterfield Specific Plan proposes a golf course other types of open space and recreational uses are also permitted as alternatives in the event the golf course is not developed due to market conditions or other considerations. These alternative uses include various combinations of parks, trails, native habitat, drainage facilities, water quality improvements, groundwater recharge areas, and wetland mitigation areas. The potential impacts of a "no golf course" Alternative are discussed in greater detail in the "Alternatives" section of this document.~~

**Page 3.0-26, First Full Paragraph**

The Project site ~~also sits above a portion of~~ lies entirely over the Beaumont groundwater basin. In its undeveloped condition, the site allows precipitation to percolate through the underlying soil and rock to recharge the basin. To replicate that function, the proposed drainage system also includes groundwater recharge areas located within the golf course/open space area and along the Smith Creek drainage alignment. Several detention basins are proposed to be located along the northern and eastern perimeter of the Project area adjacent to PAs 50, 51, 52, 60 and 61, and adjacent to the foothills. These basins would serve to control and contain debris associated with stormwater runoff reaching the site from off-site areas. Exhibit 3.0-7, *Master Drainage Plan*, illustrates the overall Project drainage concept and shows the location of the PA 71 multi-use North Basin described below. Exhibit 3.0-8, *Proposed Water Quality / Infiltration Areas Map*, shows the locations of debris basins, detention basins, storm drains, infiltration areas, and post-construction Best Management Practices (BMPs).

**Page 3.0-26, Third Paragraph**

In addition to the detaining of stormwater, t~~T~~he North Basin (PA 71) might ~~may~~ also be used to store recycled water (if the City elects to construct the on-site "satellite" wastewater treatment plant ("WWTP")) and/or raw (i.e., pre-treated) State Water Project (SWP) water (if the City elects to construct the SWP Pipeline Extension) ~~that could be imported to the site~~. From whatever source, the stored water would be used for direct irrigation on the Project site and ~~could be considered for~~ groundwater recharge ~~purposes in the future~~, subject to the appropriate review and approval processes. ~~The City has been considering the construction of an off-site water pipeline that would convey SWP water into the North Basin as a separate City project;~~ ~~r~~Refer to Section 3.6.3, Offsite Project-Related Infrastructure.

**Page 3.0-27, Second Paragraph**

The Project proposes a total of 13 acres of recharge basins located throughout the proposed golf course/open space area. The golf course is designed so that, during significant storm events, the channelized storm flows can spill over the creek banks and spread onto the golf course fairways, to be detained there. In addition, as needed, limited detention facilities may be constructed along Smith Creek to ensure additional on-site control of stormwater.

**Pages 3.0-28 to -29, Fifth Paragraph**

The Butterfield Project proposes~~d~~ to reduce its consumption of potable water through the use of recycled water, if made available to the Project by the City, for irrigation of the golf course, landscaped medians/parkways, parks, landscaped open spaces and hillside fuel modification zones ~~to the greatest extent feasible~~. To accomplish this goal, the Project ~~would~~ includes necessary infrastructure to ~~either~~ receive recycled water treated to tertiary standards from the City's expanded and upgraded main ~~Wastewater Treatment Plant~~ (WWTP). Refer to Section 3.6.3, Off-site Project-Related Infrastructure.

As a potential alternative source of recycled water, the City might choose to construct ~~or would construct~~ an on-site "satellite" WWTP, which would be owned and operated by the City of Banning. R~~;~~ refer to the description of the Project's Wastewater (Sewer) System for additional detail. ~~If the on-site WWTP is not constructed, off-site recycled water pipelines would be constructed in existing City right-of ways to the City's main WWTP so that recycled water produced at that facility could be conveyed to the Project site for use; refer to Section 3.6.3, Off-Site Project-Related Infrastructure.~~

**Page 3.0-29, First Paragraph**

To provide a new source of water to the City, thereby ~~help~~ partially offsetting the Project's anticipated demands ~~impact on City water supplies and groundwater basins~~, the Project would include a ground water recharge system that would replenish the City's Beaumont Basin supply. ~~is proposed to be incorporated into the Butterfield Project. Planned recharge would help replenish groundwater supplies in the Beaumont groundwater basin, from which the City draws a portion of its water supply.~~ The Beaumont Basin is an adjudicated ground water basin and the ~~City of~~ Beaumont Basin Watermaster is responsible for managing and protecting the ~~water quality within the~~ basin. ~~Accordingly, a~~Any potential recharge activity associated with the Project would require Watermaster approval pursuant to the Beaumont Basin Judgment. ~~coordination between the City of Banning, the City of Beaumont, the State Water Quality Control Board, and the Beaumont Basin Watermaster.~~

Minimally, t~~T~~he proposed groundwater recharge system for the Project will permit the recharge of stormwater. Additionally, the City may elect to utilize the Project site for the recharge of imported water, primarily ~~may utilize a portion of the City's~~ State Water Project

(SWP)~~allocation~~, delivered by the San Gorgonio Pass Water Agency via a pipeline extension connecting the SWP pipeline and the North Basin on the Project site. Refer to Section 3.6.3,Off-Site Project-Related Infrastructure. Accordingly, potential impacts associated with the construction of the off-site SWP extension pipeline are addressed in this EIR. Imported water delivered to the Project site would be stored in the North Basin temporarily and then conveyed through an on-site distribution system to groundwater recharge areas within the Project, located primarily within the Smith Creek drainage. The choice of whether to use imported water for groundwater recharge and the responsibility for building the infrastructure needed to deliver imported water and facilitate the recharge are the City's. It would constitute a separate project, which the City would review and approve separately.

The City may also elect to utilize the Project site for the recharge of surplus ~~, in addition to potential surplus~~ recycled water, conveyed to the North Basin from either the on-site "satellite" WWTP or the existing City WWTP. If recycled water is used, it would have to be blended with another water source, such as SWP water, to achieve an acceptable level of water quality for groundwater recharge. Uses of recycled water for groundwater recharge in the Butterfield Specific Plan area would require the approval ~~and permits~~ from the Regional Water Quality Control Board, Santa Ana Region, because it overlies the Beaumont (groundwater basin) Management Zone, as well as complying with California Department of Public Health Title 22 regulations. ~~The recharge system would be facilitated in part by extending a SWP pipeline from the Noble Creek Spreading Grounds to the proposed North Basin through the Brookside Avenue right-of-way; refer to Section 3.6.3, Off Site Project-Related Infrastructure. As a potential component of the Project's water system, impacts associated with the construction of the off-site SWP pipeline are addressed in this EIR, although as previously noted, the City of Banning may construct the pipeline as a separate City project. SWP water stored in the North Basin would be conveyed through an on-site distribution system to groundwater recharge areas within the Project, located primarily within the Smith Creek drainage.~~

**Page 3.0-30, First Paragraph**

The City is presently pursuing expansion and upgrade of its main WWTP to provide capacity for the treatment of waste water to tertiary standards. Alternatively~~, however, to ensure the availability of recycled water to the Project,~~ the City may elect ~~Butterfield Specific Plan proposes the~~ to construction ~~of~~ an ~~optional or alternative~~ on-site satellite WWTP. To accommodate this alternative, the Specific Plan designates an ~~which would be located on a~~ approximately 3-acre site at south end of PA 11 for a on-site "satellite" WWTP. If constructed, the satellite WWTP would receive wastewater from the Project and potential off-site locations, would treat the wastewater to tertiary standards, and would pump recycled water through an on-site recycled water distribution system to the golf course irrigation lake located north of PA 38 or to the North Basin in PA 71, where it ~~c~~would be stored for irrigation or for potential groundwater recharge ~~use~~. Recycled water ~~c~~would also be stored in an above-ground one million gallon steel storage tank located on the satellite WWTP site.

If constructed, ~~T~~the satellite WWTP ~~treatment process~~ would be confined to a fully enclosed building. All buildings on the WWTP site would be constructed of decorative masonry with residential roof treatments. The site would be enclosed by a minimum 6-foot high decorative masonry wall and landscaping to provide visual screening. All operations and maintenance vehicle parking would be located inside the walled area.

If built, ~~T~~the ~~plant~~ WWTP would likely operate on a 24-hour basis, with approximately 16 hours of operational staff time per week. The on-site WWTP would use a membrane bioreactor (MBR) process to treat up to approximately 1.75 to 2.0 million gallons per day (mgd) of wastewater. The biosolids removed during the treatment process, together with a remaining percentage of unused partially treated water, would be pumped into a new off-site sewer line to be built as part of the Project in Wilson Street and Highland Home Road or Omar Street that would convey this discharge to the existing City sewer trunk line at Ramsey and Omar Streets, where it would then be conveyed to the City's existing WWTP for further treatment and disposal.

**Page 3.0-32, First Full Paragraph**

Currently, the City takes delivery of all purchased imported water at the BCVWD's Noble Recharge Facility. As a possible alternative to, or in addition to, the City's use of the BCVWD Noble Recharge basins, ~~To accommodate potential increases in historical SWP water for groundwater recharge purposes on the Project site and within Banning City Boundaries,~~ the Project includes ~~proposed~~ groundwater recharge basins that could be used for delivery and recharge of SWP water ~~on site~~. To utilize these ~~proposed~~ potential on-site recharge basins, a connection between the Project's North Basin and the current SWP pipeline terminus ~~, and San Gorgonio Pass Water Agency (SGPWA) spreading ground facilities at Little San Gorgonio Creek, northwest of the Project site,~~ would need to be constructed. ~~This option would only be pursued if determined preferable by the City of Banning, instead of or in addition to using the existing Beaumont Cherry Valley Water District (BCVWD) Noble Creek spreading facilities for SWP ground water recharge, as the City is currently doing under agreement with BCVWD.~~ To accomplish the connection, a 24-inch or 36-inch diameter transmission pipeline would need to be constructed to convey SWP water, and a pump station would be needed ~~constructed~~ at the connection to facilitate conveyance.

If constructed, the SWP pipeline extension would connect to the existing terminus of the pipeline within Orchard Street and likely follow one of three potential alignments, illustrated in Exhibit 3.0-11, State Water Project Pipeline Extension: (1) **SWP Alternative A** would carry water south beneath the Noble Street right-of-way and east beneath the Brookside Avenue right-of-way to the Project site; (2) **SWP Alternative B** would convey water south beneath Noble Street, east beneath Dutton Street, south beneath Cherry Avenue and east beneath Brookside Avenue, all within the public street right-of-way, to the Project site; and (3) **SWP Alternative C** would convey water south beneath Noble Street, east beneath Dutton Street, south beneath Bellflower Avenue and east beneath Brookside Avenue to the Project site, all within the public street right-of-ways.

**Pages 3.0-33 and -34, Fourth Full Paragraph**

As noted above, the Project would be served by the City's Main WWTP in some capacity, whether to accept all wastewater flows generated on-site ~~as an alternative to an on-site satellite WWTP~~ or as a means of transporting residual wastewater with biosolids from the ~~on-site~~ alternative satellite WWTP ~~to the City's WWTP~~ for further treatment and disposal~~, the Project would be served by the City's Main WWTP~~. An infrastructure connection to the City's Main WWTP would require construction of approximately 22,400 linear feet of off-site sewer main within portions of the Wilson Street, Omar Street, Ramsey Street, Sunset Avenue, Lincoln Street and San Gorgonio Avenue right of ways as illustrated in Exhibit 3.0-13, *Off-Site Sewer Plan*. A new gravity sewer line conveying residual wastewater and biosolids from ~~the Project~~ an on-site satellite WWTP, if the City builds one, to the existing City sewer trunk line at Ramsey and Omar Streets would follow one of the same alignment alternatives as the proposed force sewer diversion main described above and would bypass the proposed lift station connecting to the existing sewer downstream of it.

**Page 3.0-38, Second Full Paragraph**

- The potential alternative on-site "satellite" WWTP ~~optional wastewater treatment facilities~~ would be located, if built, at the intersection of Highland Home Road and Wilson Street. ~~; r~~ Refer to Exhibit 3.0-3, Land Use Plan. All treatment processes would be contained within an enclosed structure that incorporates residential design features including roofing materials, surrounded by a decorative masonry wall and landscaping to screen the facility. The 1-million gallon storage reservoir would be a maximum of 26 feet in height, similar to the height of a residential structure and would have a matte, earth-tone exterior finish and landscape screening to allow the reservoir to blend into the surrounding neighborhood. The treatment plant would observe a building setback of 20 feet for all property lines.

**Page 3.0-42, Fourth Paragraph**

- If the City decides to build a ~~The Alternative On-Site Satellite~~WWTP~~Wastewater Treatment Plant~~ on the Project site, the plant will store all potentially hazardous materials (primarily chlorine) in a separate building with appropriate safeguards as required by law and will provide appropriate signage and inventory control as required by the Fire Department so as to reduce any potential risk of upset.

**Page 3.0-42, Fifth Paragraph**

- The Project will include the construction of a ~~1.6~~2.4-million gallon water storage reservoir, a ~~1.4~~2-million gallon water storage reservoir, a ~~0.5~~0.6-million gallon water storage reservoir, a 1-million gallon recycled water storage reservoir and a multi-use basin with the potential to ~~which can~~ store water for groundwater recharge. The

reservoir sizes are approximate. Three of the water storage reservoirs would be located in the north/northeastern portion of the site, and the multi-use basin would be located in the northwestern portion of the site where Smith Creek enters the property. Collectively, t~~T~~hese reservoirs will provide sources of water available for both structure and wildfire response, as well as non-potable and irrigation use.

**Page 3.0-48, First Paragraph**

- The Project has been designed to permit receipt and maximum use of recycled water through provision of a comprehensive on-site recycled water system pursuant to City requirements. Recycled water would be delivered to the Project by the City following construction of its Phase I Upgrade project. ~~provide an optional satellite wastewater treatment facility, on site (southern portion of PA 70), should connection and extensions to the City's existing WWTP be less desirable. This provides the opportunity to divert wastewater from the City's existing plant, and maximize use of recycled water.~~

- ~~The Project has been designed to maximize use of recycled water, through provision of a comprehensive on-site recycled water system pursuant to City requirements. In addition, as note above, the Project includes options to either utilize an on-site water treatment plant to deliver recycled water to the site (and thereby diverting wastewater from the City's treatment plant), or deliver recycled water from the City's plant should recycled water be available from the existing plant in the future.~~

- The Project has been designed to accommodate a potential "satellite" WWTP by designating an area on-site for it (the southern portion of PA 11) as an alternative to, or in addition to, the City's Phase I Upgrade project. The City's optional on-site "satellite" WWTP ~~treatment plant~~ would ~~also creates~~ provide the opportunity to divert additional wastewater flows generated by other (off-site) existing or future uses, to further reduce flows of wastewater to the City's existing treatment plant. ~~, allowing its new capacity to support additional development, and further maximize use of recycled water in compliance with the City's General Plan Goals and Policies.~~ These recycled water options are addressed in further detail in Section 4.14, *Water Supply*.

**Page 3.0-49, Fourth Paragraph**

- The Project proposes an on-site groundwater recharge system that could assist the City in replenishing the Beaumont Basin located beneath the Project site. The proposed system would have the capacity to recharge the basin with stormwater. Additionally, the system may also be used to recharge ~~a portion of the City's SWP allocation~~ imported water purchased from the Pass Agency if the City elects to build a connecting pipeline to the Project from the terminus of the SWP. ~~If approved and permitted, potential surplus recycled water generated by the Project, if available, could be used for recharge purposes.~~ To permit the on-site recharge of imported water, ~~T~~the City would have to

~~recharge system would be facilitated in part by~~ extending a pipeline from the existing SWP pipeline at the Pass Agency Little San Gorgonio Creek Spreading Grounds to the proposed north basin in PA 71 via Brookside Avenue (refer to Section 3.6.3, *Off-Site Project-Related Infrastructure*). Any such undertaking by the City would constitute a separate project, subject to additional environmental review and approval.

**Pages 3.0-49 and -50, Sixth Paragraph**

- Recycled water, as it is available, will be used to irrigate the golf course and the common landscaped areas of the Project in order to reduce the demand for domestic (potable) water. The City has completed plans and prepared environmental analysis for an expansion ~~1.5 mgd~~ and upgrade~~, referred to as the Phase I project,~~ of the City's main ~~treatment plant~~ WWTP ("Phase I Upgrade") that will produce and supply up to 1.5 mgd (or 1,680 AFY) of recycled water. Funding for the Phase I Upgrade project has been identified and the upgrade should be completed by year 2015 (see Appendix J, *Water Supply Assessment*, Section 6.4, for further detail). In addition to on-site infrastructure, the recycled water system for the Project would require connecting and pumping recycled water from the City's ~~wastewater treatment plant~~ WWTP through planned City pipelines to the Project site. As an alternative to the Phase I Upgrade project, the Project has been designed to accommodate a potential on-site "satellite" WWTP by designating an area on-site for it (the southern portion of PA 11). ~~The Project also includes the option of constructing an on-site "satellite" wastewater treatment plant to be owned and operated by the City of Banning.~~

**Page 3.0-52, Fifth Paragraph**

- **Regulatory Permit Applications.** Concurrent with or following Draft EIR submittal, ~~Pardee Homes~~ the Project Applicant may submit applications to one or more regulatory agencies seeking permits or approvals related to site development, including, e.g., off-site infrastructure (i.e., encroachment permits), water supply (e.g., State and local approvals related to ~~State Water Project and~~ local groundwater), and resource agencies (e.g., for Project-related effects upon "jurisdictional" drainages and/or habitat).

**SECTION 4.1. AESTHETICS, LIGHT AND GLARE**

**Page 4.1-15, *Mitigation Measures***

**AES -1** Development or revegetation shall be initiated within three months following initiation of mass grading or clearing activities, ~~where feasible,~~ so as to limit the time graded surfaces remain in their exposed state, consistent with the Specific Plan's approved landscape design guidelines and landscape plans and the provisions of Title 18.15.020 of the City's *Municipal Code*. A Revegetation Plan, addressing interim revegetation during construction and for future development

# ATTACHMENT 6

**Resolution No. 2012-04 UA with**
**Exhibit "A" – Water Supply Assessment,**
**Also shown as Appendix J of the Draft EIR (Under Separate Cover) and Water Supply Addendum**
**(Section 4.0 Errata of the Final EIR)**

**RESOLUTION NO. 2012-04UA**

**A RESOLUTION OF THE BOARD OF THE BANNING UTILITY AUTHORITY APPROVING A WATER SUPPLY ASSESSMENT FOR THE BUTTERFIELD SPECIFIC PLAN (SCH NO. 2007091149)**

**WHEREAS,** the City of Banning received an application on August 20, 2007 for a General Plan Amendment and Zone Change, an amendment to the Deutsch Specific Plan to provide zoning regulations for the Butterfield Specific Plan, and a Development Agreement to allow the development of up to 5,387 dwelling units (937.4 acres of residential), a golf course and open space (253.9 acres), parks (66.5 acres) and other open space (108.4 acres), two school sites (23.0 acres), an existing utilities substation facility (4.2 acres), a fire station site (1.6 acres), and backbone roadways (113.6 acres)(the Project). The Project also includes the construction of major onsite and offsite infrastructure, including, but not limited to: various on-site and off-site street improvements to provide access to and from the Project site; a site for a waste water treatment facility; various onsite and offsite conveyance pipelines for sewer, water, storm drain; a multi-purpose detention basin, and drainage improvements to Pershing Channel and Smith Creek immediately upstream and downstream of the 1,543-acre Project site to accommodate the mixed-use master planned community.

| | |
|---|---|
| Project Applicant: | Pardee Homes (Authorized Agent Mike Taylor, Vice President of Pardee Homes, 10880 Wilshire Boulevard, Suite 1900, Los Angeles, CA 90024) |
| Property Owners: | Pardee Homes owns 1,522 acres within the Butterfield Specific Plan<br><br>Highland Springs Country Club Owners Association owns the 21-acre property that is located at the northwest corner of the Butterfield Specific Plan (APN: 408-060-008). |
| Project Location: | Northeast Corner of Highland Springs Avenue and Wilson Street |
| APN Number: | The Project includes 34 parcels: 406-030-028; 406-040-016 to 017; 406-170-003; 406-030-001; 406-030-005; 406-120-001 to 020; 408-060-008; 408-120-022; 408-120-024 to 025; 408-120-027; 408-120-033; 531-080-013; and 531-080-014. |
| Specific Plan Size: | 1,543 Acres |

**WHEREAS,** applications for General Plan Amendment No. 11-2501, Zone Change No. 11-3501, and Development Agreement, all of which supersede amendment to and restatement of the Deutsch Specific Plan with the Butterfield Specific Plan, are considered a "project" pursuant to the California Environmental Quality Act Guideline (CEQA) Section 15378 (Public Resources Code Section 21065).

**WHEREAS,** the City of Banning is the lead agency for the preparation and consideration of environmental documents for the Project, as defined by CEQA Sections 15051 and 15367;

**WHEREAS,** Section 10910 of the California Water Code and Section 15155 of CEQA requires that the environmental document for a project that falls within the definition of a "water demand project" or 500 residential units must include an assessment of the adequacy of the public water system to serve the project (Water Supply Assessment or WSA). The Butterfield Specific Plan meets the definition of a "water demand project" pursuant to CEQA Section 15155;

**WHEREAS,** a Water Supply Assessment was prepared for the Project and is consistent with the 2010 City of Banning Urban Water Management Plan (UWMP), which was adopted by the Board of the Banning Utility Authority on June 28, 2011. The adopted UWMP specifically identified the Butterfield Specific Plan as planned for development and concluded that the City is anticipated to have a surplus of water to meet its customers' demands. The WSA for the Butterfield Specific Plan analyzed the Project water demand for the entire 35-year build-out of the Project, even though State law requires only 20 years of water-supply analysis. The WSA analyzed the City's existing water and future supplies, and the reliability of those supplies under varying hydrologic conditions, and compared those supplies to the water demand at Project build out, in addition to the City's existing and planned for future demands. As detailed in the WSA, made a part of the Project's EIR, the City's total projected water supplies available during normal, single dry, and multiple-dry water years during a 35-year projection will meet the projected water demand associated with the Project, in addition to the City's existing and planned future uses;

**WHEREAS,** on March 16, 2012, the City gave public notice by advertisement in the Record Gazette newspaper of a public hearing concerning the Project, which included the action to approve the Water Supply Assessment for the Butterfield Specific Plan (SCH NO. 2007091149); and,

**WHEREAS,** on March 27, 2012, the Board of the Banning Utility Authority held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the Water Supply Assessment and at which the Board considered the Water Supply Assessment.

**NOW THEREFORE,** the Board of the Banning Utility Authority does hereby resolve, determine, find, and order as follows:

SECTION 1. WATER SUPPLY

Pursuant to SB 610 (Water Code section 10910 *et seq.*), a WSA was prepared for the Butterfield Specific Plan and determined that the water needs of this Specific Plan area could be met for the next 35 years. The WSA indicates that the City has a reliable water portfolio to satisfy the demands of the Project, in addition to planned and future uses.

The City's average annual water supply is, and will continue to be, from local groundwater supplies. The City pumps groundwater from five local groundwater basins — the Banning,

Banning Bench, and Banning Canyon basins (collectively, the Banning Basins), the Cabazon Basin and the Beaumont Basin. All of the City's groundwater supplies are supported by vested water rights. In the case of the Beaumont Basin, the City's production and storage rights in the basin have been adjudicated by a court and are subject to a judgment.

The City's Phase I Upgrade will also provide additional supplies of recycled water by 2015 when the City will complete construction of this upgrade of its Main Treatment Plant (WWTP). Reclaimed water from the City's WWTP Phase I Upgrade would be made available to the Project for use in meeting non-potable water demands. Recycled water is expected to be available to consumers in the City of Banning beginning in 2015, when the Phase I expansion of the City's WWTP is completed and tertiary treatment of wastewater is available. This projected use of recycled water from the City's WWTP and associated appurtenant facilities are already covered by an adopted Mitigated Negative Declaration (MND).

Additionally, the City purchases imported State Water Project (SWP) water from the San Gorgonio Pass Water Agency (SGPWA) which it percolates into the Beaumont Basin and stores for later use; it does not take direct delivery of the supply. The City is not entitled to a specified quantity of supply from SGPWA; rather, it may purchase all of the water that SGPWA has available to sell, subject only to the demands of other retailed water customers. Historically, SGPWA has made available for purchase all of the water that the City has requested. The City's projected increase in purchases of imported water to service the Project and other future demand will not cause any new impacts not previously identified in the certified East Branch Extension – Phase II EIR and SGPWA Water Importation Project EIR and subsequent Addendums (Nos. 2 and 3). The City conjunctively manages its groundwater and surface water supplies, including its imported water supplies. Imported water purchased from the SGPWA is recharged into the Beaumont Basin and stored for later use.

The City's projected pumping from all five (5) groundwater supplies – the three Banning Basins, the Cabazon Basin and the Beaumont Basin – are within the safe yields of each basin and consistent with the City's rights in each basin. Currently, the City does not propose to increase pumping from any of the three Banning Basins. The City proposes an increase in the City's pumping from the Cabazon Basin pursuant to its appropriative and developed rights in that basin. In addition, the City intends to continue its recharge of the Cabazon Basin with treated wastewater. The City's proposed pumping from the Cabazon Basin is projected to be within the safe yield of the Cabazon Basin. Groundwater extractions from the Cabazon Basin will be that amount which will not anticipated to result in adverse impacts to the Basin or impact other producers. The City's anticipated supply from the Cabazon Basin will vary annually based on the quantity of treated wastewater supplied recharged into the basin. Refer to Table 4.14-15, Hydrologic Budget – Cabazon Basin, of the Draft EIR, for inflow and outflow terms used in calculating the Cabazon Basin's hydrologic budget.

The City proposes to maintain average historical amounts from the Beaumont Basin in order to promote the accumulation of water (both from the City's unused production rights and recharged imported water) in the City's stored water account. Therefore, the City does not propose increases in pumping from the Beaumont Basin, at least until 2035, and does not propose pumping in excess of its rights in the basin. The City's existing wells provide sufficient capacity

to continue to produce historical amounts. All water production and storage operations in the Beaumont basin are subject to the adjudication and resulting court judgment. The court's and Watermaster's ongoing management of the basin ensures that the City's production of its rights in the Beaumont basin, including withdrawal of water from storage, does not result in adverse impacts on the Beaumont basin or material interference with other Beaumont basin right holders.

The WSA assesses the reliability of each of the City's individual water supplies (groundwater, surface water, imported water and recycled water) during normal, single dry and multiple-dry water years. The WSA concludes that the City's diversified portfolio of water supplies and conjunctive management of groundwater and surface (imported) water increases the overall reliability of the City's water supplies during times of water shortage. The WSA concludes that the City's existing and projected water supplies are sufficient during normal, single dry, and multiple-dry water years during the 35-year study period to meet the projected water demands of the Project, in addition to the City's existing and planned future uses. Therefore, sufficient water supplies are available to serve the Project. (Refer to Draft EIR Table 4.14-14 and WSA Tables 1.8A through 1.8C.)

Based on the entire administrative record, including but not limited to the 2010 Urban Water Management Plan, the Water Supply Assessment, and the EIR prepared for the Project, it is determined that City's total projected water supplies available during normal, single dry, and multiple-dry water years during a 35-year projection will meet the existing and planned future uses.

SECTION 2. BOARD ACTION.

Based on the foregoing recitals, findings, and on substantial evidence in the record, the Board adopts Resolution No. 2012-04UA approving the Water Supply Assessment for the Butterfield Specific Plan (SCH NO. 2007091149), in compliance with SB 610. (WSA, attached hereto as Exhibit "A".)

By approving the WSA, the Board determines that the projected water supplies will be sufficient to satisfy the demands of the Project, in addition to existing and planned future uses. The Board's approval of the WSA is limited to approving the WSA, and does not approve or otherwise take action on any other matter involving the Project.

**PASSED, APPROVED AND ADOPTED** this 27th day of March, 2012.

_____

Don Robinson, Chairman
Banning Utility Authority

**APPROVED AS TO FORM:**

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

**ATTEST:**

Marie Calderon, Secretary
Banning Utility Authority

**CERTIFICATION:**

I, Marie Calderon, Secretary, Banning Utility Authority, City of Banning, California, do hereby certify that the foregoing Resolution, No. 2012-04 UA, was duly adopted by the Board of the City of Banning, California, at a regular meeting thereof held on the 27th day of March 2012, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marie Calderon, Secretary
Banning Utility Authority

# 4.0 ERRATA

These Errata consist of minor technical changes, clarifications and updates to existing analysis; none of which constitute significant new information or trigger the need for further environmental review.

## DRAFT EIR TEXT

Changes to the Draft EIR are noted below. Underlining indicates additions to the text; striking indicates deletions to the text. The changes to the Draft EIR do not affect the overall conclusions of the environmental document. These errata represent changes to the Draft EIR to provide clarification, corrections, or revisions as needed as a result of public comments on the Draft EIR, or due to additional information received during the public review period. These clarifications and corrections are not considered to result in any new or more severe impacts than identified in the Draft EIR, and are not otherwise deemed to warrant Draft EIR recirculation pursuant to CEQA Guidelines §15088.5. Changes are listed by page and where appropriate by paragraph. Added or modified text is shown by underlining (example) while deleted text is shown by striking (~~example~~).

## SECTION 1.0, EXECUTIVE SUMMARY

**Note:** Table 1.0-1: Environmental Impact Summary has been updated in response to comments. Please see the Mitigation Monitoring and Reporting Plan attached to the Final EIR for changes to the mitigation measures.

## CHAPTER 3.0, PROJECT DESCRIPTION

### Page 3.0-1, First Paragraph

The proposed Project site (hereinafter the "Butterfield Specific Plan" or "Project") consists of 20 existing legal lots, covering approximately 1,522 acres, owned by Pardee Homes. The EIR also analyzes the impacts of development of ~~and~~ an additional 21-acre lot owned by the Highland Springs Country Club Owner's Association. However, the potential future annexation is not part of the proposed Project and, if proposed in the future, would be subject to a separate and independent review process.

### Page 3.0-19, Fourth Paragraph

In addition to the above identified open space areas, a 30.4-acre multi-use basin is proposed in PA 71, where Smith Creek enters the site. This basin would be designed to detain flows from Smith Creek. Additionally, the City may elect to use the basin ~~and~~ to provide water storage ~~for~~

~~irrigation and other needs~~. The area could potentially function as a recreational amenity for viewing, hiking, fishing and/ or picnicking. This multi-use basin is described in greater detail in Section 3.6.2.5, Infrastructure.

~~**Page 3.0-20, Second Full Paragraph**~~

~~While the Butterfield Specific Plan proposes a golf course other types of open space and recreational uses are also permitted as alternatives in the event the golf course is not developed due to market conditions or other considerations. These alternative uses include various combinations of parks, trails, native habitat, drainage facilities, water quality improvements, groundwater recharge areas, and wetland mitigation areas. The potential impacts of a "no golf course" Alternative are discussed in greater detail in the "Alternatives" section of this document.~~

**Page 3.0-26, First Full Paragraph**

The Project site ~~also sits above a portion of~~ lies entirely over the Beaumont groundwater basin. In its undeveloped condition, the site allows precipitation to percolate through the underlying soil and rock to recharge the basin. To replicate that function, the proposed drainage system also includes groundwater recharge areas located within the golf course/open space area and along the Smith Creek drainage alignment. Several detention basins are proposed to be located along the northern and eastern perimeter of the Project area adjacent to PAs 50, 51, 52, 60 and 61, and adjacent to the foothills. These basins would serve to control and contain debris associated with stormwater runoff reaching the site from off-site areas. Exhibit 3.0-7, *Master Drainage Plan*, illustrates the overall Project drainage concept and shows the location of the PA 71 multi-use North Basin described below. Exhibit 3.0-8, *Proposed Water Quality / Infiltration Areas Map*, shows the locations of debris basins, detention basins, storm drains, infiltration areas, and post-construction Best Management Practices (BMPs).

**Page 3.0-26, Third Paragraph**

In addition to the detaining of stormwater, t~~T~~he North Basin (PA 71) might ~~may~~ also be used to store recycled water (if the City elects to construct the on-site "satellite" wastewater treatment plant ("WWTP")) and/or raw (i.e., pre-treated) State Water Project (SWP) water (if the City elects to construct the SWP Pipeline Extension) ~~that could be imported to the site~~. From whatever source, the stored water would be used for direct irrigation on the Project site and ~~could be considered for~~ groundwater recharge ~~purposes in the future~~, subject to the appropriate review and approval processes. ~~The City has been considering the construction of an off-site water pipeline that would convey SWP water into the North Basin as a separate City project;~~ rRefer to Section 3.6.3, Offsite Project-Related Infrastructure.

**Page 3.0-27, Second Paragraph**

The Project proposes a total of 13 acres of recharge basins located throughout the proposed golf course/open space area. The golf course is designed so that, during significant storm events, the channelized storm flows can spill over the creek banks and spread onto the golf course fairways, to be detained there. In addition, as needed, limited detention facilities may be constructed along Smith Creek to ensure additional on-site control of stormwater.

**Pages 3.0-28 to -29, Fifth Paragraph**

The Butterfield Project proposesd to reduce its consumption of potable water through the use of recycled water, if made available to the Project by the City, for irrigation of the golf course, landscaped medians/parkways, parks, landscaped open spaces and hillside fuel modification zones ~~to the greatest extent feasible~~. To accomplish this goal, the Project ~~would~~ includes necessary infrastructure to ~~either~~ receive recycled water treated to tertiary standards from the City's expanded and upgraded main ~~Wastewater Treatment Plant (~~WWTP~~)~~. Refer to Section 3.6.3, Off-site Project-Related Infrastructure.

As a potential alternative source of recycled water, the City might choose to construct ~~or would construct~~ an on-site "satellite" WWTP, which would be owned and operated by the City of Banning. R~~; r~~efer to the description of the Project's Wastewater (Sewer) System for additional detail. ~~If the on-site WWTP is not constructed, off-site recycled water pipelines would be constructed in existing City right-of-ways to the City's main WWTP so that recycled water produced at that facility could be conveyed to the Project site for use; refer to Section 3.6.3, Off-Site Project-Related Infrastructure.~~

**Page 3.0-29, First Paragraph**

To provide a new source of water to the City, thereby ~~help~~ partially offsetting the Project's anticipated demands ~~impact on City water supplies and groundwater basins~~, the Project would include a ground water recharge system that would replenish the City's Beaumont Basin supply. ~~is proposed to be incorporated into the Butterfield Project. Planned recharge would help replenish groundwater supplies in the Beaumont groundwater basin, from which the City draws a portion of its water supply.~~ The Beaumont Basin is an adjudicated ground water basin and the ~~City of~~ Beaumont Basin Watermaster is responsible for managing and protecting the ~~water quality within the~~ basin. ~~Accordingly, a~~Any potential recharge activity associated with the Project would require Watermaster approval pursuant to the Beaumont Basin Judgment. ~~coordination between the City of Banning, the City of Beaumont, the State Water Quality Control Board, and the Beaumont Basin Watermaster.~~

Minimally, t~~T~~he proposed groundwater recharge system for the Project will permit the recharge of stormwater. Additionally, the City may elect to utilize the Project site for the recharge of imported water, primarily ~~may utilize a portion of the City's~~ State Water Project

(SWP)~~allocation~~, delivered by the San Gorgonio Pass Water Agency via a pipeline extension connecting the SWP pipeline and the North Basin on the Project site. Refer to Section 3.6.3,Off-Site Project-Related Infrastructure. Accordingly, potential impacts associated with the construction of the off-site SWP extension pipeline are addressed in this EIR. Imported water delivered to the Project site would be stored in the North Basin temporarily and then conveyed through an on-site distribution system to groundwater recharge areas within the Project, located primarily within the Smith Creek drainage. The choice of whether to use imported water for groundwater recharge and the responsibility for building the infrastructure needed to deliver imported water and facilitate the recharge are the City's. It would constitute a separate project, which the City would review and approve separately.

The City may also elect to utilize the Project site for the recharge of surplus ~~, in addition to potential surplus~~ recycled water, conveyed to the North Basin from either the on-site "satellite" WWTP or the existing City WWTP. If recycled water is used, it would have to be blended with another water source, such as SWP water, to achieve an acceptable level of water quality for groundwater recharge. Uses of recycled water for groundwater recharge in the Butterfield Specific Plan area would require the approval ~~and permits~~ from the Regional Water Quality Control Board, Santa Ana Region, because it overlies the Beaumont (groundwater basin) Management Zone, as well as complying with California Department of Public Health Title 22 regulations. ~~The recharge system would be facilitated in part by extending a SWP pipeline from the Noble Creek Spreading Grounds to the proposed North Basin through the Brookside Avenue right-of-way; refer to Section 3.6.3, Off-Site Project Related Infrastructure. As a potential component of the Project's water system, impacts associated with the construction of the off-site SWP pipeline are addressed in this EIR, although as previously noted, the City of Banning may construct the pipeline as a separate City project. SWP water stored in the North Basin would be conveyed through an on-site distribution system to groundwater recharge areas within the Project, located primarily within the Smith Creek drainage.~~

**Page 3.0-30, First Paragraph**

The City is presently pursuing expansion and upgrade of its main WWTP to provide capacity for the treatment of waste water to tertiary standards. Alternatively~~, however, to ensure the availability of recycled water to the Project,~~ the City may elect ~~Butterfield Specific Plan proposes the~~ to construction ~~of~~ an ~~optional or alternative~~ on-site satellite WWTP. To accommodate this alternative, the Specific Plan designates an ~~which would be located on a~~ approximately 3-acre site at south end of PA 11 for a on-site "satellite" WWTP. If constructed, the satellite WWTP would receive wastewater from the Project and potential off-site locations, would treat the wastewater to tertiary standards, and would pump recycled water through an on-site recycled water distribution system to the golf course irrigation lake located north of PA 38 or to the North Basin in PA 71, where it cwould be stored for irrigation or for potential groundwater recharge ~~use~~. Recycled water cwould also be stored in an above-ground one million gallon steel storage tank located on the satellite WWTP site.

If constructed, ~~T~~the satellite WWTP ~~treatment process~~ would be confined to a fully enclosed building. All buildings on the WWTP site would be constructed of decorative masonry with residential roof treatments. The site would be enclosed by a minimum 6-foot high decorative masonry wall and landscaping to provide visual screening. All operations and maintenance vehicle parking would be located inside the walled area.

If built, ~~T~~the ~~plant~~ WWTP would likely operate on a 24-hour basis, with approximately 16 hours of operational staff time per week. The on-site WWTP would use a membrane bioreactor (MBR) process to treat up to approximately 1.75 to 2.0 million gallons per day (mgd) of wastewater. The biosolids removed during the treatment process, together with a remaining percentage of unused partially treated water, would be pumped into a new off-site sewer line to be built as part of the Project in Wilson Street and Highland Home Road or Omar Street that would convey this discharge to the existing City sewer trunk line at Ramsey and Omar Streets, where it would then be conveyed to the City's existing WWTP for further treatment and disposal.

**Page 3.0-32, First Full Paragraph**

Currently, the City takes delivery of all purchased imported water at the BCVWD's Noble Recharge Facility. As a possible alternative to, or in addition to, the City's use of the BCVWD Noble Recharge basins, ~~To accommodate potential increases in historical SWP water for groundwater recharge purposes on the Project site and within Banning City Boundaries,~~ the Project includes ~~proposed~~ groundwater recharge basins that could be used for delivery and recharge of SWP water ~~on site~~. To utilize these ~~proposed~~ potential on-site recharge basins, a connection between the Project's North Basin and the current SWP pipeline terminus ~~, and San Gorgonio Pass Water Agency (SGPWA) spreading ground facilities at Little San Gorgonio Creek, northwest of the Project site,~~ would need to be constructed. ~~This option would only be pursued if determined preferable by the City of Banning, instead of or in addition to using the existing Beaumont Cherry Valley Water District (BCVWD) Noble Creek spreading facilities for SWP ground water recharge, as the City is currently doing under agreement with BCVWD.~~ To accomplish the connection, a 24-inch or 36-inch diameter transmission pipeline would need to be constructed to convey SWP water, and a pump station would be needed ~~constructed~~ at the connection to facilitate conveyance.

If constructed, the SWP pipeline extension would connect to the existing terminus of the pipeline within Orchard Street and likely follow one of three potential alignments, illustrated in Exhibit 3.0-11, State Water Project Pipeline Extension: (1) **SWP Alternative A** would carry water south beneath the Noble Street right-of-way and east beneath the Brookside Avenue right-of-way to the Project site; (2) **SWP Alternative B** would convey water south beneath Noble Street, east beneath Dutton Street, south beneath Cherry Avenue and east beneath Brookside Avenue, all within the public street right-of-way, to the Project site; and (3) **SWP Alternative C** would convey water south beneath Noble Street, east beneath Dutton Street, south beneath Bellflower Avenue and east beneath Brookside Avenue to the Project site, all within the public street right-of-ways.

**Pages 3.0-33 and -34, Fourth Full Paragraph**

As noted above, the Project would be served by the City's Main WWTP in some capacity, whether to accept all wastewater flows generated on-site ~~as an alternative to an on-site satellite WWTP~~ or as a means of transporting residual wastewater with biosolids from the ~~on-site~~ alternative satellite WWTP ~~to the City's WWTP~~ for further treatment and disposal~~, the Project would be served by the City's Main WWTP~~. An infrastructure connection to the City's Main WWTP would require construction of approximately 22,400 linear feet of off-site sewer main within portions of the Wilson Street, Omar Street, Ramsey Street, Sunset Avenue, Lincoln Street and San Gorgonio Avenue right of ways as illustrated in Exhibit 3.0-13, *Off-Site Sewer Plan*. A new gravity sewer line conveying residual wastewater and biosolids from ~~the Project~~ an on-site satellite WWTP, if the City builds one, to the existing City sewer trunk line at Ramsey and Omar Streets would follow one of the same alignment alternatives as the proposed force sewer diversion main described above and would bypass the proposed lift station connecting to the existing sewer downstream of it.

**Page 3.0-38, Second Full Paragraph**

- The potential alternative on-site "satellite" WWTP ~~optional wastewater treatment facilities~~ would be located, if built, at the intersection of Highland Home Road and Wilson Street. ~~;~~ Refer to Exhibit 3.0-3, Land Use Plan. All treatment processes would be contained within an enclosed structure that incorporates residential design features including roofing materials, surrounded by a decorative masonry wall and landscaping to screen the facility. The 1-million gallon storage reservoir would be a maximum of 26 feet in height, similar to the height of a residential structure and would have a matte, earth-tone exterior finish and landscape screening to allow the reservoir to blend into the surrounding neighborhood. The treatment plant would observe a building setback of 20 feet for all property lines.

**Page 3.0-42, Fourth Paragraph**

- If the City decides to build a ~~The Alternative On Site Satellite~~WWTP~~Wastewater Treatment Plant~~ on the Project site, the plant will store all potentially hazardous materials (primarily chlorine) in a separate building with appropriate safeguards as required by law and will provide appropriate signage and inventory control as required by the Fire Department so as to reduce any potential risk of upset.

**Page 3.0-42, Fifth Paragraph**

- The Project will include the construction of a ~~1.6~~2.4-million gallon water storage reservoir, a ~~1.4~~2-million gallon water storage reservoir, a ~~0.5~~0.6-million gallon water storage reservoir, a 1-million gallon recycled water storage reservoir and a multi-use basin with the potential to ~~which can~~ store water for groundwater recharge. The

reservoir sizes are approximate. Three of the water storage reservoirs would be located in the north/northeastern portion of the site, and the multi-use basin would be located in the northwestern portion of the site where Smith Creek enters the property. Collectively, t~~T~~hese reservoirs will provide sources of water available for both structure and wildfire response, as well as non-potable and irrigation use.

**Page 3.0-48, First Paragraph**

- The Project has been designed to permit receipt and maximum use of recycled water through provision of a comprehensive on-site recycled water system pursuant to City requirements. Recycled water would be delivered to the Project by the City following construction of its Phase I Upgrade project. ~~provide an optional satellite wastewater treatment facility, on-site (southern portion of PA 70), should connection and extensions to the City's existing WWTP be less desirable. This provides the opportunity to divert wastewater from the City's existing plant, and maximize use of recycled water.~~

- ~~The Project has been designed to maximize use of recycled water, through provision of a comprehensive on-site recycled water system pursuant to City requirements. In addition, as note above, the Project includes options to either utilize an on-site water treatment plant to deliver recycled water to the site (and thereby diverting wastewater from the City's treatment plant), or deliver recycled water from the City's plant should recycled water be available from the existing plant in the future.~~

- The Project has been designed to accommodate a potential "satellite" WWTP by designating an area on-site for it (the southern portion of PA 11) as an alternative to, or in addition to, the City's Phase I Upgrade project. The City's optional on-site "satellite" WWTP ~~treatment plant~~ would ~~also creates~~ provide the opportunity to divert additional wastewater flows generated by other (off-site) existing or future uses, to further reduce flows of wastewater to the City's existing treatment plant. ~~, allowing its new capacity to support additional development, and further maximize use of recycled water in compliance with the City's General Plan Goals and Policies.~~ These recycled water options are addressed in further detail in Section 4.14, *Water Supply.*

**Page 3.0-49, Fourth Paragraph**

- The Project proposes an on-site groundwater recharge system that could assist the City in replenishing the Beaumont Basin located beneath the Project site. The proposed system would have the capacity to recharge the basin with stormwater. Additionally, the system may also be used to recharge ~~a portion of the City's SWP allocation~~ imported water purchased from the Pass Agency if the City elects to build a connecting pipeline to the Project from the terminus of the SWP. ~~If approved and permitted, potential surplus recycled water generated by the Project, if available, could be used for recharge purposes.~~ To permit the on-site recharge of imported water, ~~T~~the City would have to

~~recharge system would be facilitated in part by~~ extend~~ing~~ a pipeline from the existing SWP pipeline at the Pass Agency Little San Gorgonio Creek Spreading Grounds to the proposed north basin in PA 71 via Brookside Avenue (refer to Section 3.6.3, *Off-Site Project-Related Infrastructure*). Any such undertaking by the City would constitute a separate project, subject to additional environmental review and approval.

**Pages 3.0-49 and -50, Sixth Paragraph**

- Recycled water, as it is available, will be used to irrigate the golf course and the common landscaped areas of the Project in order to reduce the demand for domestic (potable) water. The City has completed plans and prepared environmental analysis for an expansion ~~1.5 mgd~~ and upgrade~~, referred to as the Phase I project,~~ of the City's main ~~treatment plant~~ WWTP ("Phase I Upgrade") that will produce and supply up to 1.5 mgd (or 1,680 AFY) of recycled water. Funding for the Phase I Upgrade project has been identified and the upgrade should be completed by year 2015 (see Appendix J, *Water Supply Assessment*, Section 6.4, for further detail). In addition to on-site infrastructure, the recycled water system for the Project would require connecting and pumping recycled water from the City's ~~wastewater treatment plant~~ WWTP through planned City pipelines to the Project site. As an alternative to the Phase I Upgrade project, the Project has been designed to accommodate a potential on-site "satellite" WWTP by designating an area on-site for it (the southern portion of PA 11). ~~The Project also includes the option of constructing an on-site "satellite" wastewater treatment plant to be owned and operated by the City of Banning.~~

**Page 3.0-52, Fifth Paragraph**

- **Regulatory Permit Applications.** Concurrent with or following Draft EIR submittal, ~~Pardee Homes~~ the Project Applicant may submit applications to one or more regulatory agencies seeking permits or approvals related to site development, including, e.g., off-site infrastructure (i.e., encroachment permits), water supply (e.g., State and local approvals related to ~~State Water Project and~~ local groundwater), and resource agencies (e.g., for Project-related effects upon "jurisdictional" drainages and/or habitat).

**SECTION 4.1. AESTHETICS, LIGHT AND GLARE**

**Page 4.1-15, *Mitigation Measures***

**AES -1** Development or revegetation shall be initiated within three months following initiation of mass grading or clearing activities, ~~where feasible,~~ so as to limit the time graded surfaces remain in their exposed state, consistent with the Specific Plan's approved landscape design guidelines and landscape plans and the provisions of Title 18.15.020 of the City's *Municipal Code*. A Revegetation Plan, addressing interim revegetation during construction and for future development

# ATTACHMENT 7

**Comment letters received after the Final EIR and the City's responses to them:**
**Chatten-Brown & Carstens representing Highland Springs Resort;**
**Bowie, Arneson, Wiles & Giannone representing Banning and Beaumont School Districts;**
**Janelle Singleton;**
**Soboba Band of Luiseno Indians;**
**FEMA**

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March 6, 2012

Planning Commission
City of Banning
99 E. Ramsey Street
Banning, CA 92220

Re: Butterfield Specific Plan Draft Environmental Impact Report
SCH No. 2007091149

Honorable Commissioners:

On behalf of the Highland Springs Resort ("the Resort"), we submit these comments on the final environmental impact report for the Butterfield Specific Plan. We have reviewed the responses the City has prepared to our July 21, 2011 comments regarding the draft environmental impact report (EIR) for this Project. For the overwhelming majority of the inadequate analysis identified in our comments on the draft EIR, the response to comments fails to disprove our conclusion that the EIR for this Project is inadequate. Below we identify several specific areas where the responses to comments were inadequate, incorrect or misleading. Additionally, for some impacts, new information and analysis has been added that reveals potentially significant new impacts, or mitigation measures and alternatives that were not adopted, thus requiring recirculation of the Final EIR before it is certified.

The Resort again urges you to reconsider this Project as proposed and give greater attention to reducing the avoidable impacts of the Project. We do not believe our prior comments have been completely answered and have had a short time to prepare this letter. Therefore, while we identify particular deficiencies below, we do not waive objections to other deficiencies made in our prior comments.

**A. Insufficient Information About a Prior Development Agreement is Provided.**

The Final EIR Response to Comments (RTC) states that the developer has a vested right under a prior Development Agreement to develop at a slightly greater density. (RTC 20-k.) It also states the developer has a right to build up to 5400 dwelling units under the prior development agreement. (RTC 20-l.) However, that right was subject to

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subsequent changes in law since the approval was for a specific plan, not for particular developments implementing it. New legal requirements such as for showing adequate water supply must be complied with. If the Project is founded upon implementing the Development Agreement, the Development Agreement should have been included in the Draft EIR and circulated for public information. We request that a copy of the Development Agreement be provided to the public and the EIR recirculated after it has been included in the document.

**B. Analysis of Aesthetic Impacts Remains Insufficient**

**1. Impacts to Views from Public Trails are Not Analyzed.**

The EIR failed to include a rendering or analysis of the visual impacts of the Project from the nearby hiking trails. The RTC states that visual impacts to those hiking the trails on adjacent land should not be considered significant because the Project would not entirely block mountain views. The RTC also claims these impacts would be less than significant because the existing site does not contain any visually significant features. (RTC 20-n.) These responses fail to acknowledge the visual impact of large scale development intruding upon the existing views of the San Jacinto Mountains over open space. Although some views of the San Jacinto from the publicly accessible trails on Highland Springs Resort will remain, the views will be significantly altered and impaired. The Project will change the focal point of these views of the majestic mountains to urban sprawl, eliminating yet another wilderness experience in South California. The California Court of Appeal has found intrusions into views from trails to be significant adverse impacts. (*Ocean View Estates Homeowners Ass'n, Inc. v. Montecito Water Dist.* (2004) 116 Cal. App. 4th 396, 402 [impacts to views from public trails of a roof structure on a water reservoir were significant and required mitigation].)

The Project's compliance with the City's grading code requirements does not mitigate this impact. There remains no analysis of the impacts on the trails. Without such analysis, the EIR cannot reach the conclusion that impacts are mitigated to a less than significant level. (RTC 20-p.)

**2. Additional Mitigation for Significant Nighttime Lighting Impacts is Feasible.**

The EIR admits the impacts from the Project's nighttime lighting would have a significant impact, but wrongly claims this impact cannot be mitigated further. The RTC claims impacts from nighttime lighting of the golf course cannot be further mitigated because a City ordinance already requires lights be shut off at 10 p.m. unless prior

approval is granted. (RTC 20-s.) This is an inadequate basis upon which to claim further mitigation of a significant impact is infeasible. Additionally, the true significance of the impact is not disclosed because it is unclear whether the City will allow the lights to operate later than 10 p.m., how often, and under what conditions.

The Resort has suggested the nighttime lighting impacts could be substantially reduced by prohibiting nighttime use of the proposed driving range and eliminating use of nighttime lighting at the driving range and on Specific Plan trails. The RTC implies that because the City ordinance allows recreational uses until 10 p.m. at night, the nighttime lighting cannot be required to end earlier. The City has the authority to require uses to end earlier if these uses result in a significant impact that must be mitigated. There is no evidence it would be infeasible to require such mitigation. (RTC 20-s.)

### 3. Replacement of a Culturally Important Oak Tree Would be Inadequate.

The RTC attempts to downplay the cultural significance of the large oak tree located along Highland Springs Avenue that is used as a Veteran's Memorial. The RTC claims it would be infeasible to re-route the roadway so that widening of the roadway would not negatively impact the Veteran's Memorial oak tree, but fails to provide sufficient evidence that alternative routes are truly infeasible. (RTC 20-u.) Replacement of this large memorial tree with a 60 inch box tree is not guaranteed because a replacement tree of this size would only be used "if readily available." Replacement with several substantially smaller 24 inch box trees would be inadequate.

## C. Responses About Alternatives to the Project are Not Adequate.

Our previous comments requested that an alternative of preservation of the open space in the northwest corner of the Specific Plan be analyzed. (Comment 20.l.) We also requested that an alternative with a very low, rural development should be considered.

The RTC says the Reduced Density Alternative would reduce residential and commercial development by 20 percent, therefore reducing impacts but not all the way to insignificance (RTC 20-b). It claims this reduction of impacts would be greater than it would be under the alternative of potential sale of a part of the site to Highland Springs Resort. (RTC 20-l.) Response 20-x regarding Air Quality impacts states the same thing. However, if an alternative will reduce impacts, it must be adopted if feasible, even if it does not completely eliminate those impacts. Furthermore, with the preservation of historic land and views and the maximum use of the northern area lands for grazing livestock or growing lavender or crops, impacts would be greatly reduced. This is

especially true when compared to the likely impact that housing and road development in this area would have.

Significant, unavoidable impacts would occur related to light and glare, construction and operational air emissions, and noise from mobile sources as a cumulative impact. (RTC 20-e.) Therefore, every feasible mitigation measure to reduce these impacts must be adopted.

The RTC states that the reduced density would be inconsistent with the City's General Plan Housing Element and would not provide a range of housing opportunities. (RTC 20-x). However, the commercial portion of the project could be reduced, and the housing density could be redesigned to provide a range of housing opportunities, but with a fewer number of units. It is worth noting here that the RHNA approved in 2007 only requires a total of 3,841 units for the entire City of Banning and the draft updated RHNA requires even fewer units, so the 5,400 units planned for this Project alone far exceed what would be required to maintain consistency with state law. (Attachment 1, Approved 2006-2014 RHNA and Draft 2014-2021 RHNA.) The City states that a reduced density alternative would "not be consistent with the City's vision of its future" as articulated in its 2008-2014 Draft Housing Element but this Housing Element is just a draft. As shown elsewhere, the City must correlate its Land Use Element, its Housing Element, and its Circulation Element so City roads are maintained at a level of service C. The City, by planning for expansive growth and failing to examine a smaller alternative or more infrastructure support for existing and planned development, fails to ensure correlation of its general plan elements.

**D. Responses About Air Quality Impacts Are Not Adequate.**

The RTC states that it considered the air quality mitigation measures recommended by the Attorney General and that all feasible reduction measures were adopted. (RTC 20-x.) However, the measures were not enforceably adopted, especially with regard to installation of solar power systems. We pointed out the lack of enforceability for requiring energy efficient appliances (Comment 20.vvvvv) and electrical vehicle charging stations (Comment 20.zzzzz) but the FEIR still does not require these.

The RTC states that VOC emission reduction measures such as manual application and supercompliant paint "would not effectively reduce VOC emissions below SCAQMD thresholds." (RTC, 20-y.) However, reduction below thresholds is not the test. Rather, the fact that such measures would reduce impacts but were not adopted is significant. All feasible means of reducing VOC emission impacts should have been adopted but they

were not.

The RTC states that Mitigation Measure GHG-2 requires the Project to "promote renewable energy sources" and that roof area for solar will be provided. (RTC, 20-bb). However, this is not an enforceable commitment to require usage of renewable energy sources. The Project should require installation of solar panels as a feasible means of reducing air emission impacts. "Allowing" rooftop solar on all structures is not sufficient. The response is not responsive to comment 20 which states "Passive solar heating and cooling and utilizing daylight should be part of every element of the Specific Plan. Ultra low-flush toilets should be required" and ultra-low maintenance grass should be required.

The RTC states that "Mandating particular energy technologies such as geothermal heat exchangers or heat pumps, solar or hydrogen fuel stations is not warranted given rapidly changing technology." (RTC 20-cc). However, the rapidity of change in technology is not a sufficient reason to fail to require enforceable mitigation measures. The FEIR should mandate the best available technologies be used to reduce impacts. The best technology currently available should be mandated unless and until a more effective technology is developed and made feasible in the future. The RTC states the Project "commits to a 15 percent base reduction requirement" but committing to a requirement to use best available technology in addition to a 15 percent base reduction could reduce impacts to an even greater extent that 15 percent. The FEIR fails to commit to specific strategies as the comment requests, rather than laundry listing possible strategies.

RTC 20-ff says that the Attorney General's list of mitigation measure recommendations are not exhaustive or legally mandated, and that the comment did not identify any particular measure that has not been covered by a design feature or mitigation measure as set forth in Table 4.5-3. (RTC 20-ff.) Although the project plans for "solar ready" roofs, this Attorney General list states "Where solar systems cannot feasibly be incorporated into the project at the outset, build 'solar ready' structures." (DEIR, Table 4.5-3.) The FEIR does not show why solar systems cannot feasibly be incorporated into the project "at the outset" rather than merely requiring solar ready structures.

Regarding using AQMD mitigation measures, the RTC states that measure GHG-1 requires the Project to include green building practices and energy efficiency measures. (RTC 20.gg.) The list in the response is much shorter than the list of SCAQMD recommendations. The response must address the other measures set forth in the comment such as light-colored roof materials, installation of (not just readiness for) solar panels on roofs, use of double-paned windows, energy-efficient low-sodium parking lot lights, increasing wall and attic insulation beyond Title 24 requirements, and using central

water heating systems.

Comment 20.jj recommends that the DIR should require the golf course to seek environmental certification, such as the "Certified Audubon Cooperative Sanctuary" designation based on course design, water quality and conservation strategies, wildlife management and chemical use reduction and safety. The Response to other parts of the paragraph containing this comment does not respond to this comment. It should have been addressed and the feasible mitigation measure imposed.

Comment 20.kk identifies the fact that children participate in camp activities at the Resort for extended periods of time and would be impacted as sensitive receptors by air pollution- both construction and operational- from the Project. However, the response to this comment fails to address the large population of children that would be on the Resort site or how they would be impacted, other than to say that the site is 1,880 feet from the Project. This is not so far that air pollution impacts would be dispersed. The response should have provided great analysis and greater mitigation.

**E. Biological Impacts Are Not Adequately Mitigated by Future Compliance with the Multi Species Habitat Conservation Plan (MSHCP).**

In responding to the Resort's many comments regarding the biological impacts of the Project, the RTC repeatedly relies upon consistency with the Western Riverside County Multi Species Habitat Conservation Plan (MSHCP) to support a claim that biological impacts would not be significant. (RTC 20-hhh.) This claim is inadequate for a couple reasons. First, a determination of whether the Project is consistent with the MSHCP would be improperly deferred until after Project approval.

Secondly, while a requirement to comply with the MSHCP is relevant to the Project's compliance with the MSHCP, it fails to show that the Project would not impact the sensitive species that now live or use the Project site. The EIR acknowledges that several species of special concern have been observed on the Project site, including: double-crested cormorant, northern harrier, California horned lark, loggerhead shrike, coyote, and San Diego black-tailed jackrabbit. Additionally species have been observed on the site by the Director of the Camp Highland Outdoor Science School. (Attachment 2, Letter from Outdoor Science School Director.) The CEQA Guidelines require the City find the Project to have a significant impact on biological resources if the Project: substantially reduces the habitat of wildlife species or will substantially reduce the number or restrict the range of sensitive species. (CEQA Guidelines § 15065.) By relying solely on a future consistency determination with the MSHCP, the EIR fails to analyze whether eliminating habitat now used by the identified sensitive species would

restrict the range of these species or substantially reduce their habitat. The EIR has also failed to properly analyze the significance of impacts from loss of grasslands under the criteria set forth in the CEQA Guidelines. (RTC 20-eee.) Thus, the EIR has applied an incorrect threshold of significance to the Project.

Additionally, the RTC claims that because the MSHCP allows for the take of special status species, the take of the burrowing owls that reside on the Project would not be a significant impact under CEQA. (RTC 20-fff.) Under CEQA, the take of a special status species is always a significant impact. The EIR must acknowledge this significant impact and provide effective mitigation for it. Protection of these owls is very important, especially since their habitat and health in the San Gorgonio Pass is already threatened through several factors such as trash in the creek drainages, groundwater pollution and additional planned future developments in other parts of the San Gorgonio Pass. The impact on the existence of Burrowing Owls needs to be seen cumulatively throughout the area, as affected by the envisioned buildout of the general plan, all other planned projects and various sources of threats to the owls. The Project should not be destroying habitat for a relatively rare species, which includes affecting or polluting its environment and food sources. The Burrowing Owls existing in Smith Creek should be protected by all means. Improvement of their onsite habitat as well as the riparian habitat should be one of the required Project mitigation measures.

Further, as proposed the Project is not in compliance with the MSHCP with regard to impacts to riparian habitat. The Project would adversely impact and eliminate riparian habitat in and around Smith Creek. The MSHCP requires a project include an "avoidance alternative" that completely avoids direct and indirect effects to riparian areas. (MSHCP 6.1.2.) This avoidance alternative must be adopted unless it is infeasible. (*Ibid.*) The EIR fails to show that avoiding impacts to riparian areas is infeasible.

**F. Responses Regarding Land Use Impacts are Inadequate.**

**1. The Project is Inconsistent with the General Plan.**

RTC 20-dddd says the project is not inconsistent with the General Plan policy to maintain peak hour Level of Service C or better because under existing conditions the LOS is already worse than C. The Project would further worsen the existing conditions, resulting in a cumulatively considerable significant and adverse impact due to inconsistency with the General Plan. The traffic is worse than LOS C, and thus inconsistent with the mandatory and directive General Plan Circulation Element Policy 6.

Alternatives and mitigation measures do not need to reduce a project's significant impacts to a less than significant level to be considered environmentally superior; these measures need only substantially reduce the impacts. A reduced project alternative would substantially reduce the traffic impacts. RTC 20-dddd claims a reduction in the number of units would result in an inconsistency with the Housing Element because the Housing Element "assumes 5,400 units would be developed with the Project site." This is not a violation of a mandatory and directory policy such as the policy that states "The City shall maintain peak hour Level of Service C or better," thus failure to develop all 5,400 units would not violate a policy of the general plan and any inconsistency would be minor. On the other hand, the failure to maintain Level of Service C would violate a specific, mandatory policy.

**2. The Project Does Not Provide Affordable Housing.**

The RTC also fails to show that the Project is consistent with the Southern California Association of Governments' Regional Housing Needs Allocation (RHNA). RTC 17-vv claims the Project would be consistent because it complies because the General Plan requirement for a mix of housing densities. Although the General Plan allows for a variety of residential housing densities, including a mix of densities at the Project site, this conformity with the City's General Plan does not show consistency with the RHNA for Banning. Providing higher density housing does not ensure the housing will be affordable for very low and low income people. The RHNA has found the City needs to provide 873 very low income units and 618 low income units. Without conditioning a portion of the homes included in the Project to provide housing that is affordable to low and very low income residents, the Project is inconsistent with the RHNA. Additionally, the RHNA only requires a total of 3,841 units for the entire City of Banning. The Project provides much more housing than it is predicted the City of Banning will need and fails to provide the type of housing found to be most needed.

**3. The Project Would Further Worsen the Jobs/Housing Imbalance.**

In support of a claim that the Project would not worsen the existing jobs/housing imbalance in Banning, the FEIR improperly compares the existing conditions to predicted but unknown future conditions. (RTC 17-vv.) In analyzing the impacts of a project, CEQA requires the comparison of the existing conditions to the existing conditions plus the Project. As stated in our comments on the draft EIR, the existing conditions are a significant jobs/housing imbalance of .87. The Project would further worsen these conditions by providing an

abysmal .41 jobs/housing ratio.

**4. Hillside Grading Appears to be Included.**

The RTC claims the Project would comply with the City's General Plan and Municipal Code requirements prohibiting grading on slopes greater than 25 percent. However, based on the amount of grading proposed for the Project and the site's topography, it is unclear how the proposed extensive grading could be achieved without grading slopes that are 25 percent or greater. The exhibited displays of the Specific Plan showed very clear grading along the northern/northeastern edge of the property, carving a narrow trail out of the hills. Such grading would be prohibited.

**5. Adjacent Land Uses are Misrepresented.**

Like the draft EIR, the RTC again cites to the existing designations of adjacent land uses to support its claim that the Project would be compatible with these uses. (RTC 20-pppp.) As the owners of the adjacent property, the Resort is informing the City that it will not include residential development at the former Black Bench site. This site is now used for organic farming and hiking trails. This change in circumstances must be taken into consideration. This Project can no longer be considered infill.

**G. Responses to Comments Regarding Traffic and Circulation are Not Adequate and Identify New Impacts That Require Recirculation.**

Our previous letter pointed out that "there are houses in close proximity on the right and left sides" of Brookside Avenue which would have to be condemned in order to widen Brookside Avenue to a four lane road. (FEIR, p. 3.20-43.) The FEIR does not deny this comment, but instead states that the County would need to conduct future environmental analysis at which time it would address the "potential take of properties." (FEIR, p. 3.20-108.) Since this is a reasonably foreseeable impact of the Project, this potential take must be addressed now, not deferred to a future process. The FEIR acknowledges that "widening of this roadway segment would be necessary at General Plan buildout." (*Ibid.*) Thus, apparently in recognition of the fact that widening of Brookside Avenue is required, but that the County controls it and may not approve it in the future, the FEIR says analysis was conducted to address "if this connection was not made." (FEIR, p. 3.20-108.) As discussed below, this new analysis revealed additional significant impacts could occur, thus requiring recirculation of the FEIR.

Master Response #2 regarding traffic impacts states that either alignment for northern roads- whether connecting through Brookside Avenue or to Cherry Valley Boulevard- are viewed as feasible and acceptable. (RTC p. 2.0-7 and RTC 20-ccccc.) However, the EIR does not acknowledge the impacts that both alignments would create- dramatic visual, noise, vibrations, and air pollution impacts to the Highland Springs Resort property. (Comment 20.ddddd.) These impacts would be avoided by an alignment using Cougar Way but the FEIR rejects this alignment merely because there are unimproved segments of it and there is existing development blocking access to the I-10 Freeway corridor. (RTC, p. 2.0-7.) However, as comment 20.fffff points out, and is not addressed by the response to comments, "the four-lane Oak Valley Parkway travels directly to Interstate 10, just south [of] Cougar Way. It could connect to 'F' Street in the Specific Plan area and provide necessary circulation, also avoiding a northern extension of Highland Home Road connecting to Brookside Avenue." (RTC, p. 3.20-46, RTC 20.fffff.) The FEIR fails to respond to this comment. Furthermore, the undeveloped part of Cougar Way is almost entirely on the Project proponent's land so there would be no need for condemnation or eminent domain. A Project condition should be added to require the Project to include completion of the undeveloped portions of Cougar Way.

Furthermore, the FEIR confirms that "City Staff elected to use the Highland Home Road extension via Brookside" and that the County might extend Cherry Valley Boulevard as a county road to the Project." (FEIR, p. 3.20-109, RTC 20-ccccc.) Under that circumstance of extension of Cherry Valley Boulevard, the City "could require Highland Home Road to connect with Cherry Valley Boulevard." (*Ibid.*) The FEIR fails to analyze this eventuality, even though as stated in comment 20-ccccc, "The Cherry Valley Boulevard extension is shown in the existing City of Banning and County of Riverside general plans." (RTC, p. 3.20-46.) Significantly, the FEIR acknowledges "The Draft EIR analyzes environmental impacts related to the proposed extension to Brookside Ave. *only*." (RTC, p. 3.20-109, emph. added.) Because the extension to Cherry Valley Boulevard is reasonably foreseeable, indeed it is planned on City and County maps, the FEIR should have analyzed the impacts of this extension.

It is our understanding that most Cherry Valley residents are opposing the widening of Brookside Ave and the connection of Cherry Valley Ave from Bellflower Ave. to Noble St., where it is now interrupted, to maintain the rural character of Cherry Valley. That means that an extension from the proposed Project to Cherry Valley Ave. would drain traffic onto Bellflower Avenue, which would not be good planning. The widening of Brookside Avenue would also require eminent domain against the Resort and the Golf Course, and potentially also against the property owners between Bellflower and Noble St., which does not seem to be feasible. Brookside Avenue now drains onto Highland Springs Avenue, and unless it would get its own freeway access, it would not be

a better solution than requiring completion of Cougar Way or Oak Valley, due to the traffic already overstressing Brookside/Beaumont Ave/Cherry Valley Ave around the high school that is located there. A Brookside widening would require eminent domain against homes, farms and churches along Brookside and seems as unfeasible as the Cherry Valley option. Oak Valley might well be the best alternative, with reduced stop-signage to encourage free flow to the freeway, since there is no school blocking the way and it is basically four lanes already all the way to the freeway now.

Minimizing density on the northern part of the property, either north of the Edison Easement (Powerlines) or at least north of Cougar Way would present a significant reduction in traffic, fire hazard, water usage, trespassing, lighting, sealing of farm land and other issues and would also be more consistent with the traditional low-density uses of land in adjacent Cherry Valley, Northern Beaumont and Banning Bench. Such reduction in density in the northern part of the property would also reduce the need for a road extension towards the north, or at least decrease it to a requirement for a smaller, two lane road.

The FEIR claims that topics such as impacts to the Resort's trail network, visual resources, air, mobile source noise, wildlife, and roadway safety are addressed. (RTC, p. 3.20-109.) However, these impacts are addressed with reference to the extension of Brookside Avenue only, not the extension of Cherry Valley Boulevard. This is a significant omission from the EIR.

The FEIR claims that "since the Project Applicant and City do not have control over the portion of Brookside/Highland Home Road alignment within Riverside County. . . . the Project Applicant has analyzed the impacts if this connection was not made." (FEIR, p. 3.20-108, RTC 20-aaaaa.) This analysis, set forth on page 2.0-8 of the FEIR, shows that there are significant new impacts that would require mitigation. This new analysis shows that the intersections of Highland Springs Avenue/F Street and Highland Home Road/F Street would operate at unacceptable levels of service and require mitigation in the form of construction of widened turn lanes. (FEIR, p. 2.0-8, Master Response 2.) Although the FEIR claims that they potentially could be mitigated, the fact that they are new significant impacts shows that the EIR must be recirculated before it may be certified as adequate.

With regard to local street impacts, the FEIR states that such streets "generally do not affect regional traffic patterns" and therefore do not affect the proposed Project. (RTC, p. 3.20-108, 20-bbbbb.) These streets should have been analyzed for possibly significant local impacts, even if they do not have a regional impact.

The FEIR confirms that the extension of Brookside Avenue would require the acquisition of right of way from the Highland Spring Country Club golf course. (FEIR, p. 3.20-112, RTC 20-jjjjj.) However, the FEIR does not detail impacts of reconstruction of the impacted golf holes and facilities, potentially to the north of the current location. The County might choose not to seek extension and undertaking eminent domain proceedings.

Our letter objected to the lack of correlation between the Land Use Element and the Circulation Element. (Comment 20-kkkkk, RTC, p. 3.20-47.) The FEIR does not adequately respond to this comment. The FEIR does not recognize the fact that the General Plan requires operation of local intersections at LOS C while the DEIR predicts that 18 intersections would be at LOS D even after mitigation measures are implemented means that the Specific Plan cannot be approved because no finding of consistency of the Project with the General Plan is possible. The FEIR response claims that it is sufficient that the Project allegedly is "not degrading these intersections further." (RTC, p. 3.20-112, RTC 20-kkkkk.) That is not the point. Since the Project impacts these intersections, in order for its approval to be consistent with the General Plan, one way or another, the City must ensure that the intersections operate at LOS C because that is what the General Plan requires. If it requires restriction of other development, or modification of the proposed Project to achieve the level of service mandated in the General Plan, those steps must be taken. The City fails to ensure consistency of the proposed Project with its General Plan, or ensure internal consistency among its General Plan Land Use and Circulation elements.

**H. Comments Regarding Noise Impacts are Not Sufficiently Addressed.**

Our prior comment letter pointed out that the DEIR reported noise impacts as unmitigable, but failed to implement every feasible mitigation measure including reduction of the Project size, which would reduce the traffic generated by it, and requiring the acquisition of buffers along the rights of way. (Comment 20-ssss.) The RTC responded that studies would be conducted in the future and City noise standards would be met, possibly with construction of a "solid wall in the landscaped parkway between future Highland Home Road and the existing frontage street." (RTC 20-ssss.) The FEIR must address other mitigation measures beyond merely stating in a conclusory fashion "buffers along the rights of way are not necessary." (RTC 20-ssss.) The FEIR argues that reducing the residential density "would not necessarily reduce the noise impacts" even though it acknowledges that the Project accounts for approximately 20% of the total General Plan buildout. (RTC 20-tttt.) This is a significant contribution to cumulative noise impacts, and a reduction in project size would have a correspondingly large effect in reducing cumulative noise impacts. The FEIR should have analyzed this feasible method of reducing noise impacts in addition to analyzing the possibility of constructing

buffers, rather than merely rely on future adherence to noise standards to address impacts.

## I. Public Service Comments Are Not Addressed Sufficiently.

Our prior comment letter objected that the project applicant had advertised that homeowners would have access to Highland Spring Resort trails and that hunters, shooters, or gatherers might access Resort property without authorization. (Comment 20-vvvv.) The RTC responds that access points were shown on the Recreation and Open Space Plan (Specific Plan Exhibit 3.12) would be built only "if the Resort was to allow access and request trail access points." (RTC, 20-vvvv.) However, in light of the project applicant's advertisements and the Specific Plan maps showing access points without the caveat that they would be made available only if approved by the Resort, more affirmative steps are required to forestall the possibility of unauthorized trespassing on Resort trails. The RTC states residential areas would be "fenced and/or walled" but there should be enforceable covenants imposed on these properties not to access the Resort property through their fences or walls. The Specific Plan show "public" trails along, or carved into, the foothills. Trespassing by people coming out of the foothills could only be limited by a tall fence along the whole Resort property. The Project will likely bring young people and pet owners who will be difficult to restrict from trespassing and will foreseeably create potential hazards in terms of fire, safety, trash, and wildlife stress. These hazards are of particular concern to the Resort because over 2000 school children stay at the Resort and hike the hills regularly throughout the year. However, a fence on Resort property would limit the free access for wildlife and destroy the natural character of the Resort lands. Therefore, the Project applicant should construct the fence within the Project boundaries in a manner that does not adversely impact views, interfere with the historicity of the landscape, carve into the hills, or inhibit the movement of wildlife that now moves through the land.

Contrary to hard-learned lessons about fire safety, the Specific Plan proposes low-density ranchette development in the northern and eastern areas of the project site where wildfires have burned before and are likely to burn again. (Comment 20.wwww to 20.zzzz.) Our prior letter stated that Planning Areas 59, 60, and 61 in the northern portion and Planning Areas 50, 51, and 52 on the eastern side should be preserved as open space to reduce potential wildfire hazards to lives and property. The RTC's response to this issue is that the project would adhere to Fire Department regulations. Approving extensive development in burn areas puts firefighters at risk, requiring them to risk their lives to protect public lives and property that would not otherwise have to be protected if it was located outside of likely high fire hazard zones. The RTC acknowledges that certain neighborhoods "may potentially use more fire protection services than others" but fails to require any mitigation measure to spread the burdens of fire protection payments

fairly. (RTC, 20-yyyy.) The location of development in a high fire hazard area is a significant impact that the EIR fails to identify as such and to mitigate appropriately.

**J. Impacts to the Historic Bradshaw Trail Have Not Been Analyzed or Mitigated.**

The Resort submitted comments and detailed information regarding the historic significance of the Bradshaw Trail, which is assumed to traverse the Project site. The RTC points out the Project allows for continuation of hiking trails as support for its claim that the Project would not have an adverse impact due to the elimination of the historic Bradshaw Trail. (RTC 20-uuu.) The provision of other trails is irrelevant to the impacts on this historic resource. A seven foot walking trail does not preserve the historicity of the Bradshaw Trail and its context of surrounding hillsides, which would then be marred by water tanks that destroy the historic natural landscape. The impact remains significant and unacknowledged. Bradshaw Trail is a historic resource documenting the settlement of California, the history of the Gold Rush and even further back the old Indian trails traversing the region, as are the hills adjoining it. The buffer zone to protect the Bradshaw Trail should be at least 2-300 feet to retain at least parts of the historic atmosphere and authenticity along its stretch through the Project area. Other historic trails in other areas such as the Juan Bautista de Anza Historic Trail are protected in this way. (http://www.nps.gov/juba/index.htm, incorporated by reference.)

**K. Documentation and Reports Submitted with the Resorts July 21, 2011 Comment Letter are Part of the Administrative Record.**

RTC 20-yyy dismisses comments raised regarding the Black Bench EIR as not being part of the record for the Butterfield Specific Plan. The Resort submitted these comments as an attachment to our July 21, 2011 comment letter and they are thus now a part of the record for this Project.

**L. Growth Inducing Impacts Would be Significant.**

The EIR claims that the Project would not have a significant growth inducing impact because the infrastructure that would be constructed as part of the Project is included in the Master Plans for sewer, water, and flood. Although this infrastructure may be included in other Master Plans, it has yet to be constructed and would not induce growth until they are constructed. This infrastructure would be constructed as part of the Project, thus the Project would physically remove an impediment to growth. The EIR fails to acknowledge this significant and adverse impact.

**M. Project Description is Inadequate Due to Deferral of Decisions Regarding Infrastructure.**

The RTC misses the point when responding the Comment 20-sssss. The comment states the project description is inadequate due to the uncertainty regarding future infrastructure for the Project. RTC 2-sssss states that the EIR analyzes the infrastructure in question, including whether and how many culverts will be required for the Smith Creek and how wastewater will be treated, reconfirming that decisions will be made after environmental review is completed and the Project has been approved. This is inadequate as the public and decision makers do not know key aspects of the Project that is being approved. Contrary to the claims set forth in RTC 20-sssss, the EIR did not analyze the potential biological, aesthetic, and other impacts associated with the future infrastructure.

**Conclusion**

The Butterfield Specific Plan would have severe impacts on the region and would have unnecessary impacts on nearby private property, including property owned by the Highland Springs Resort and used for habitat preservation, organic farming, and publicly accessible hiking. The Butterfield Specific Plan draft EIR fails to fully disclose all impacts of the Project to the public and to the City's decisionmakers, and then to mitigate them as required by CEQA. The FEIR should be revised to include fully responsive and adequate responses to comments, additional analysis – and to include analysis of impacts where analysis is absent – as well as to include enforceable mitigation measures that will actually reduce the Specific Plan's significant impacts. It should then be recirculated for the benefit of the community, decisionmakers, and the Banning area environment.

Thank you for your consideration of these comments.

Sincerely,

Amy Minteer
Douglas P. Carstens

Enclosures:

Attachment 1, Approved 2006-2014 RHNA and Draft 2014-2021 RHNA
Attachment 2, Letter from Outdoor Science School Director

# ATTACHMENT 1

SOUTHERN CALIFORNIA ASSOCIATION of GOVERNMENTS

# Final Regional Housing Need Allocation Plan - Planning Period (January 1, 2006 - June 30, 2014) for Jurisdictions within the Six-County SCAG Region (approved by the SCAG Regional Council on July 12, 2007)

110% Adjustment toward County Distribution

| County | City | % very low income households | % low income households | % moderate income households | % above moderate income households | % total | Number of very low income households | Number of low income households | Number of moderate income households | Number of above moderate income households | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|
| SCAG Region | | 23.7% | 16.2% | 18.1% | 42.0% | 100% | 165,457 | 113,649 | 126,715 | 293,547 | 699,368 |
| Imperial | Brawley city | 24.5% | 16.6% | 16.0% | 42.9% | 100% | 757 | 511 | 494 | 1,326 | 3,088 |
| Imperial | Calexico city | 24.6% | 16.2% | 15.7% | 43.5% | 100% | 615 | 405 | 391 | 1,086 | 2,498 |
| Imperial | Calipatria city | 25.0% | 16.0% | 16.0% | 43.0% | 100% | 50 | 32 | 32 | 87 | 202 |
| Imperial | El Centro city | 24.8% | 16.6% | 16.1% | 42.6% | 100% | 720 | 483 | 467 | 1,238 | 2,908 |
| Imperial | Holtville city | 25.4% | 16.7% | 15.9% | 42.0% | 100% | 35 | 23 | 22 | 59 | 139 |
| Imperial | Imperial city | 26.0% | 17.1% | 16.3% | 40.7% | 100% | 470 | 309 | 295 | 736 | 1,810 |
| Imperial | Westmorland city | 23.6% | 16.5% | 15.7% | 44.1% | 100% | 61 | 42 | 40 | 113 | 256 |
| Imperial | Unincorporated | 24.7% | 16.3% | 15.7% | 43.2% | 100% | 3,317 | 2,194 | 2,109 | 5,806 | 13,427 |
| Los Angeles | Agoura Hills city | 26.6% | 16.5% | 17.4% | 39.4% | 100% | 29 | 18 | 19 | 43 | 110 |
| Los Angeles | Alhambra city | 24.5% | 15.5% | 16.8% | 43.2% | 100% | 379 | 239 | 260 | 668 | 1,546 |
| Los Angeles | Arcadia city | 25.5% | 15.8% | 17.1% | 41.5% | 100% | 549 | 340 | 368 | 892 | 2,149 |
| Los Angeles | Artesia city | 25.2% | 15.3% | 16.8% | 42.7% | 100% | 33 | 20 | 22 | 56 | 132 |
| Los Angeles | Avalon city | 25.2% | 15.0% | 17.0% | 42.9% | 100% | 37 | 22 | 25 | 64 | 148 |
| Los Angeles | Azusa city | 24.6% | 15.4% | 16.6% | 43.3% | 100% | 184 | 115 | 124 | 323 | 745 |
| Los Angeles | Baldwin Park city | 24.9% | 15.4% | 16.5% | 43.1% | 100% | 186 | 115 | 123 | 321 | 744 |
| Los Angeles | Bell city | 23.4% | 14.9% | 17.0% | 44.7% | 100% | 11 | 7 | 8 | 21 | 47 |
| Los Angeles | Bell Gardens city | 24.0% | 14.9% | 16.5% | 44.6% | 100% | 29 | 18 | 20 | 54 | 122 |
| Los Angeles | Bellflower city | 24.7% | 15.4% | 16.6% | 43.3% | 100% | 263 | 164 | 178 | 462 | 1,067 |
| Los Angeles | Beverly Hills city | 25.5% | 16.2% | 17.6% | 40.7% | 100% | 111 | 71 | 77 | 178 | 436 |
| Los Angeles | Bradbury city | 25.7% | 17.1% | 17.1% | 40.0% | 100% | 9 | 6 | 6 | 14 | 35 |
| Los Angeles | Burbank city | 25.0% | 15.8% | 16.9% | 42.3% | 100% | 947 | 597 | 642 | 1,600 | 3,786 |
| Los Angeles | Calabasas city | 26.4% | 16.5% | 17.8% | 39.3% | 100% | 137 | 86 | 93 | 205 | 521 |
| Los Angeles | Carson city | 25.4% | 15.8% | 16.9% | 41.8% | 100% | 461 | 287 | 307 | 757 | 1,812 |
| Los Angeles | Cerritos city | 26.6% | 16.0% | 17.0% | 40.4% | 100% | 25 | 15 | 16 | 38 | 95 |
| Los Angeles | Claremont city | 25.6% | 16.1% | 17.4% | 40.8% | 100% | 117 | 74 | 80 | 187 | 457 |
| Los Angeles | Commerce city | 23.8% | 15.9% | 15.9% | 44.4% | 100% | 15 | 10 | 10 | 28 | 64 |
| Los Angeles | Compton city | 23.5% | 14.7% | 17.6% | 44.1% | 100% | 16 | 10 | 12 | 30 | 69 |
| Los Angeles | Covina city | 25.1% | 15.8% | 16.9% | 42.2% | 100% | 336 | 211 | 226 | 564 | 1,337 |
| Los Angeles | Cudahy city | 23.5% | 14.9% | 16.7% | 44.9% | 100% | 94 | 60 | 67 | 180 | 399 |

Note: There is a one unit rounding difference in some localities between the total housing need and the sum of the 4 income groups.
In such cases, communities may choose which of the income categories it will adjust by one unit to maintain consistency with the approved total housing need.

SOUTHERN CALIFORNIA ASSOCIATION of GOVERNMENTS

# Final Regional Housing Need Allocation Plan - Planning Period (January 1, 2006 - June 30, 2014) for Jurisdictions within the Six-County SCAG Region (approved by the SCAG Regional Council on July 12, 2007)

| County | City | % very low income households | % low income households | % moderate income households | % above moderate income households | % total | Number of very low income households | Number of low income households | Number of moderate income households | Number of above moderate income households | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Los Angeles | Culver city | 25.6% | 15.8% | 16.8% | 41.8% | 100% | 129 | 80 | 85 | 211 | 504 |
| Los Angeles | Diamond Bar city | 26.1% | 16.4% | 17.2% | 40.3% | 100% | 284 | 179 | 188 | 440 | 1,090 |
| Los Angeles | Downey city | 25.0% | 15.7% | 16.8% | 42.4% | 100% | 277 | 174 | 187 | 470 | 1,108 |
| Los Angeles | Duarte city | 25.1% | 15.9% | 17.1% | 41.9% | 100% | 92 | 58 | 63 | 154 | 367 |
| Los Angeles | El Monte city | 24.1% | 15.1% | 16.8% | 44.1% | 100% | 532 | 333 | 370 | 973 | 2,208 |
| Los Angeles | El Segundo city | 26.2% | 16.1% | 16.7% | 41.1% | 100% | 44 | 27 | 28 | 69 | 168 |
| Los Angeles | Gardena city | 24.4% | 15.5% | 17.0% | 43.1% | 100% | 270 | 171 | 188 | 476 | 1,105 |
| Los Angeles | Glendale city | 24.5% | 15.7% | 17.0% | 42.8% | 100% | 767 | 491 | 534 | 1,340 | 3,131 |
| Los Angeles | Glendora city | 25.7% | 16.0% | 17.1% | 41.2% | 100% | 192 | 119 | 127 | 307 | 744 |
| Los Angeles | Hawaiian Gardens city | 24.3% | 15.3% | 16.7% | 43.8% | 100% | 35 | 22 | 24 | 64 | 145 |
| Los Angeles | Hawthorne city | 24.1% | 15.1% | 16.8% | 44.1% | 100% | 219 | 137 | 153 | 401 | 910 |
| Los Angeles | Hermosa Beach city | 26.2% | 16.5% | 17.4% | 39.9% | 100% | 147 | 93 | 98 | 224 | 562 |
| Los Angeles | Hidden Hills city | 26.5% | 17.6% | 17.6% | 38.2% | 100% | 9 | 6 | 6 | 13 | 34 |
| Los Angeles | Huntington Park city | 23.7% | 14.8% | 16.8% | 44.6% | 100% | 240 | 150 | 170 | 452 | 1,013 |
| Los Angeles | Industry city | 33.3% | 16.7% | 16.7% | 33.3% | 100% | 2 | 1 | 1 | 2 | 6 |
| Los Angeles | Inglewood city | 24.0% | 15.4% | 16.8% | 43.8% | 100% | 398 | 255 | 278 | 727 | 1,658 |
| Los Angeles | Irwindale city | 23.9% | 16.4% | 16.4% | 43.3% | 100% | 16 | 11 | 11 | 29 | 68 |
| Los Angeles | La Canada Flintridge city | 26.2% | 16.7% | 18.0% | 39.1% | 100% | 62 | 39 | 42 | 92 | 235 |
| Los Angeles | La Habra Heights city | 26.7% | 16.4% | 18.1% | 38.8% | 100% | 21 | 13 | 14 | 31 | 80 |
| Los Angeles | La Mirada city | 25.8% | 16.0% | 17.3% | 40.9% | 100% | 452 | 280 | 303 | 716 | 1,751 |
| Los Angeles | La Puente city | 24.9% | 15.4% | 16.9% | 42.9% | 100% | 201 | 124 | 136 | 346 | 807 |
| Los Angeles | La Verne city | 25.8% | 15.9% | 17.3% | 41.0% | 100% | 220 | 136 | 148 | 351 | 854 |
| Los Angeles | Lakewood city | 25.6% | 16.0% | 17.1% | 41.2% | 100% | 172 | 108 | 115 | 277 | 673 |
| Los Angeles | Lancaster city | 24.6% | 15.5% | 16.9% | 43.0% | 100% | 3,144 | 1,989 | 2,165 | 5,501 | 12,799 |
| Los Angeles | Lawndale city | 24.8% | 15.4% | 16.5% | 43.4% | 100% | 116 | 72 | 77 | 203 | 468 |
| Los Angeles | Lomita city | 25.1% | 15.6% | 16.8% | 42.5% | 100% | 87 | 54 | 58 | 147 | 346 |
| Los Angeles | Long Beach city | 24.2% | 15.5% | 17.1% | 43.2% | 100% | 2,321 | 1,485 | 1,634 | 4,143 | 9,583 |
| Los Angeles | Los Angeles city | 24.1% | 15.5% | 17.1% | 43.3% | 100% | 27,238 | 17,495 | 19,304 | 48,839 | 112,876 |
| Los Angeles | Lynwood city | 24.4% | 15.3% | 16.4% | 43.9% | 100% | 89 | 55 | 60 | 159 | 363 |
| Los Angeles | Malibu city | 26.1% | 16.5% | 17.8% | 39.6% | 100% | 115 | 73 | 79 | 175 | 441 |
| Los Angeles | Manhattan Beach city | 26.4% | 16.6% | 17.9% | 39.1% | 100% | 236 | 149 | 160 | 350 | 895 |

Note: There is a one unit rounding difference in some localities between the total housing need and the sum of the 4 income groups.
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Final Regional Housing Need Allocation Plan - Planning Period (January 1, 2006 - June 30, 2014)
for Jurisdictions within the Six-County SCAG Region (approved by the SCAG Regional Council on July 12, 2007)

| County | City | % very low income households | % low income households | % moderate income households | % above moderate income households | % total | Number of very low income households | Number of low income households | Number of moderate income households | Number of above moderate income households | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Los Angeles | Maywood city | 22.7% | 13.6% | 18.2% | 45.5% | 100% | 5 | 3 | 4 | 10 | 22 |
| Los Angeles | Monrovia city | 25.1% | 15.5% | 16.9% | 42.5% | 100% | 142 | 88 | 96 | 241 | 567 |
| Los Angeles | Montebello city | 24.5% | 15.5% | 16.9% | 43.2% | 100% | 123 | 78 | 85 | 217 | 502 |
| Los Angeles | Monterey Park city | 24.6% | 15.5% | 17.0% | 43.0% | 100% | 280 | 177 | 194 | 490 | 1,141 |
| Los Angeles | Norwalk city | 25.2% | 15.5% | 16.7% | 42.6% | 100% | 75 | 46 | 50 | 126 | 297 |
| Los Angeles | Palmdale city | 25.0% | 15.8% | 16.9% | 42.3% | 100% | 4,481 | 2,822 | 3,024 | 7,583 | 17,910 |
| Los Angeles | Palos Verdes Estates city | 26.4% | 16.7% | 18.1% | 38.9% | 100% | 19 | 12 | 13 | 28 | 72 |
| Los Angeles | Paramount city | 24.4% | 15.4% | 16.6% | 43.7% | 100% | 248 | 156 | 168 | 444 | 1,017 |
| Los Angeles | Pasadena city | 24.8% | 15.8% | 17.1% | 42.3% | 100% | 711 | 452 | 491 | 1,215 | 2,869 |
| Los Angeles | Pico Rivera city | 24.6% | 15.7% | 16.7% | 42.9% | 100% | 211 | 134 | 143 | 367 | 855 |
| Los Angeles | Pomona city | 24.5% | 15.5% | 16.8% | 43.1% | 100% | 901 | 571 | 619 | 1,587 | 3,678 |
| Los Angeles | Rancho Palos Verdes city | 26.7% | 16.7% | 17.8% | 38.9% | 100% | 16 | 10 | 11 | 23 | 60 |
| Los Angeles | Redondo Beach city | 26.0% | 16.2% | 17.3% | 40.5% | 100% | 580 | 363 | 387 | 904 | 2,234 |
| Los Angeles | Rolling Hills city | 27.3% | 18.2% | 18.2% | 36.4% | 100% | 6 | 4 | 4 | 8 | 22 |
| Los Angeles | Rolling Hills Estates city | 26.9% | 15.4% | 19.2% | 38.5% | 100% | 7 | 4 | 5 | 10 | 26 |
| Los Angeles | Rosemead city | 24.3% | 15.3% | 16.8% | 43.6% | 100% | 190 | 119 | 131 | 340 | 780 |
| Los Angeles | San Dimas city | 25.9% | 16.1% | 17.2% | 40.8% | 100% | 162 | 101 | 107 | 255 | 625 |
| Los Angeles | San Fernando city | 24.7% | 15.1% | 16.7% | 43.4% | 100% | 62 | 38 | 42 | 109 | 251 |
| Los Angeles | San Gabriel city | 24.9% | 15.4% | 17.0% | 42.8% | 100% | 206 | 127 | 140 | 354 | 827 |
| Los Angeles | San Marino city | 26.9% | 15.4% | 19.2% | 38.5% | 100% | 7 | 4 | 5 | 10 | 26 |
| Los Angeles | Santa Clarita city | 26.0% | 16.2% | 17.3% | 40.5% | 100% | 2,494 | 1,560 | 1,657 | 3,888 | 9,598 |
| Los Angeles | Santa Fe Springs city | 25.0% | 15.8% | 16.7% | 42.5% | 100% | 115 | 73 | 77 | 196 | 460 |
| Los Angeles | Santa Monica city | 24.8% | 16.0% | 17.2% | 41.9% | 100% | 164 | 106 | 114 | 277 | 662 |
| Los Angeles | Sierra Madre city | 26.1% | 15.9% | 17.4% | 40.6% | 100% | 36 | 22 | 24 | 56 | 139 |
| Los Angeles | Signal Hill city | 25.3% | 15.9% | 16.7% | 42.0% | 100% | 56 | 35 | 37 | 93 | 222 |
| Los Angeles | South El Monte city | 24.5% | 15.0% | 17.0% | 43.5% | 100% | 49 | 30 | 34 | 88 | 202 |
| Los Angeles | South Gate city | 24.5% | 15.1% | 16.6% | 43.9% | 100% | 322 | 198 | 218 | 576 | 1,313 |
| Los Angeles | South Pasadena city | 25.7% | 15.8% | 17.0% | 41.5% | 100% | 43 | 26 | 28 | 69 | 166 |
| Los Angeles | Temple city | 25.3% | 15.8% | 16.8% | 42.1% | 100% | 249 | 156 | 165 | 416 | 987 |
| Los Angeles | Torrance city | 25.6% | 16.0% | 17.1% | 41.4% | 100% | 468 | 292 | 312 | 756 | 1,828 |
| Los Angeles | Vernon city | 0.0% | 0.0% | 0.0% | 0.0% | 0% | 0 | 0 | 0 | 0 | 0 |

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SOUTHERN CALIFORNIA ASSOCIATION of GOVERNMENTS

# Final Regional Housing Need Allocation Plan - Planning Period (January 1, 2006 - June 30, 2014) for Jurisdictions within the Six-County SCAG Region (approved by the SCAG Regional Council on July 12, 2007)

| County | City | % very low income households | % low income households | % moderate income households | % above moderate income households | % total | Number of very low income households | Number of low income households | Number of moderate income households | Number of above moderate income households | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Los Angeles | Walnut city | 26.1% | 16.5% | 17.9% | 39.5% | 100% | 153 | 97 | 105 | 232 | 587 |
| Los Angeles | West Covina city | 25.6% | 15.8% | 16.9% | 41.7% | 100% | 631 | 388 | 417 | 1,026 | 2,461 |
| Los Angeles | West Hollywood city | 24.4% | 15.5% | 16.9% | 43.2% | 100% | 142 | 91 | 99 | 252 | 584 |
| Los Angeles | Westlake Village city | 26.9% | 17.3% | 17.3% | 38.5% | 100% | 14 | 9 | 9 | 20 | 52 |
| Los Angeles | Whittier city | 25.2% | 15.7% | 17.0% | 42.1% | 100% | 225 | 140 | 151 | 375 | 892 |
| Los Angeles | Unincorporated | 25.2% | 15.9% | 17.2% | 41.7% | 100% | 14,425 | 9,073 | 9,816 | 23,862 | 57,176 |
| Orange | Aliso Viejo city | 22.6% | 18.0% | 19.4% | 40.0% | 100% | 208 | 165 | 179 | 367 | 919 |
| Orange | Anaheim city | 20.8% | 17.0% | 19.7% | 42.5% | 100% | 1,971 | 1,618 | 1,874 | 4,035 | 9,498 |
| Orange | Brea city | 21.5% | 17.4% | 19.7% | 41.4% | 100% | 441 | 356 | 404 | 847 | 2,048 |
| Orange | Buena Park city | 21.0% | 17.1% | 19.5% | 42.3% | 100% | 142 | 116 | 132 | 286 | 677 |
| Orange | Costa Mesa city | 21.0% | 17.2% | 19.6% | 42.2% | 100% | 353 | 289 | 330 | 710 | 1,682 |
| Orange | Cypress city | 21.7% | 17.5% | 19.7% | 41.0% | 100% | 98 | 79 | 89 | 185 | 450 |
| Orange | Dana Point city | 22.1% | 17.6% | 19.1% | 41.2% | 100% | 15 | 12 | 13 | 28 | 69 |
| Orange | Fountain Valley city | 22.1% | 17.7% | 19.7% | 40.5% | 100% | 103 | 83 | 92 | 189 | 466 |
| Orange | Fullerton city | 20.9% | 17.2% | 19.7% | 42.2% | 100% | 398 | 329 | 376 | 806 | 1,910 |
| Orange | Garden Grove city | 20.7% | 17.1% | 19.6% | 42.5% | 100% | 116 | 96 | 110 | 238 | 560 |
| Orange | Huntington Beach city | 21.7% | 17.6% | 19.8% | 40.9% | 100% | 454 | 369 | 414 | 855 | 2,092 |
| Orange | Irvine city | 21.7% | 18.0% | 20.0% | 40.3% | 100% | 7,735 | 6,408 | 7,139 | 14,378 | 35,660 |
| Orange | La Habra city | 20.7% | 17.2% | 19.5% | 42.6% | 100% | 53 | 44 | 50 | 110 | 258 |
| Orange | La Palma city | 25.0% | 18.8% | 18.8% | 37.5% | 100% | 4 | 3 | 3 | 6 | 16 |
| Orange | Laguna Beach city | 23.3% | 16.7% | 20.0% | 40.0% | 100% | 7 | 5 | 6 | 12 | 30 |
| Orange | Laguna Hills city | 25.0% | 12.5% | 25.0% | 37.5% | 100% | 2 | 1 | 2 | 3 | 8 |
| Orange | Laguna Niguel city | 22.4% | 17.9% | 19.9% | 39.8% | 100% | 80 | 64 | 71 | 141 | 355 |
| Orange | Laguna Woods city | 18.7% | 17.2% | 20.1% | 44.0% | 100% | 25 | 23 | 27 | 60 | 135 |
| Orange | Lake Forest city | 20.7% | 17.2% | 20.7% | 41.4% | 100% | 6 | 5 | 6 | 12 | 29 |
| Orange | Los Alamitos city | 22.0% | 17.1% | 19.5% | 41.5% | 100% | 9 | 7 | 8 | 17 | 41 |
| Orange | Mission Viejo city | 22.6% | 17.8% | 19.9% | 39.7% | 100% | 33 | 26 | 29 | 59 | 147 |
| Orange | Newport Beach city | 22.0% | 18.0% | 20.3% | 39.7% | 100% | 392 | 322 | 362 | 708 | 1,784 |
| Orange | Orange city | 21.4% | 17.5% | 19.8% | 41.4% | 100% | 1,086 | 887 | 1,004 | 2,102 | 5,079 |
| Orange | Placentia city | 21.6% | 17.5% | 19.6% | 41.2% | 100% | 21 | 17 | 19 | 40 | 98 |
| Orange | Rancho Santa Margarita city | 22.8% | 17.9% | 19.5% | 39.8% | 100% | 28 | 22 | 24 | 49 | 124 |

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SOUTHERN CALIFORNIA ASSOCIATION of GOVERNMENTS

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|---|---|---|---|---|---|---|---|---|---|---|---|
| Orange | San Clemente city | 21.6% | 17.6% | 19.9% | 40.9% | 100% | 126 | 103 | 116 | 239 | 584 |
| Orange | San Juan Capistrano city | 21.6% | 17.7% | 19.8% | 41.0% | 100% | 229 | 188 | 210 | 436 | 1,062 |
| Orange | Santa Ana city | 20.5% | 16.9% | 19.6% | 43.0% | 100% | 694 | 574 | 665 | 1,461 | 3,393 |
| Orange | Seal Beach city | 19.3% | 17.5% | 21.1% | 42.1% | 100% | 11 | 10 | 12 | 24 | 57 |
| Orange | Stanton city | 19.9% | 17.1% | 19.7% | 43.4% | 100% | 108 | 93 | 107 | 236 | 544 |
| Orange | Tustin city | 21.5% | 17.2% | 19.6% | 41.6% | 100% | 512 | 410 | 468 | 991 | 2,380 |
| Orange | Villa Park city | 27.3% | 18.2% | 18.2% | 36.4% | 100% | 3 | 2 | 2 | 4 | 11 |
| Orange | Westminster city | 20.5% | 17.1% | 19.9% | 42.5% | 100% | 30 | 25 | 29 | 63 | 147 |
| Orange | Yorba Linda city | 22.6% | 18.2% | 20.2% | 39.0% | 100% | 460 | 371 | 412 | 796 | 2,039 |
| Orange | Unincorporated | 22.3% | 18.1% | 20.0% | 39.6% | 100% | 1,777 | 1,445 | 1,597 | 3,159 | 7,978 |
| Riverside | Banning city | 22.7% | 16.1% | 18.4% | 42.8% | 100% | 873 | 618 | 705 | 1,645 | 3,841 |
| Riverside | Beaumont city | 22.4% | 16.2% | 18.7% | 42.7% | 100% | 1,586 | 1,146 | 1,320 | 3,019 | 7,071 |
| Riverside | Blythe city | 22.7% | 16.5% | 18.5% | 42.3% | 100% | 177 | 128 | 144 | 329 | 778 |
| Riverside | Calimesa city | 23.2% | 16.2% | 18.4% | 42.2% | 100% | 528 | 367 | 419 | 957 | 2,271 |
| Riverside | Canyon Lake city | 25.0% | 17.0% | 19.0% | 39.0% | 100% | 25 | 17 | 19 | 39 | 101 |
| Riverside | Cathedral city | 23.5% | 16.3% | 18.3% | 42.0% | 100% | 782 | 542 | 608 | 1,397 | 3,329 |
| Riverside | Coachella city | 22.5% | 15.6% | 18.5% | 43.5% | 100% | 1,288 | 893 | 1,059 | 2,493 | 5,733 |
| Riverside | Corona city | 24.8% | 16.9% | 18.5% | 39.8% | 100% | 819 | 560 | 611 | 1,317 | 3,308 |
| Riverside | Desert Hot Springs city | 21.8% | 15.8% | 18.9% | 43.5% | 100% | 2,161 | 1,570 | 1,871 | 4,322 | 9,923 |
| Riverside | Hemet city | 22.1% | 15.8% | 18.5% | 43.6% | 100% | 2,484 | 1,781 | 2,080 | 4,898 | 11,243 |
| Riverside | Indian Wells city | 24.8% | 17.4% | 19.4% | 38.4% | 100% | 61 | 42 | 47 | 94 | 244 |
| Riverside | Indio city | 23.1% | 16.1% | 18.1% | 42.7% | 100% | 955 | 667 | 752 | 1,769 | 4,143 |
| Riverside | La Quinta city | 24.6% | 16.7% | 18.4% | 40.2% | 100% | 1,065 | 724 | 796 | 1,741 | 4,327 |
| Riverside | Lake Elsinore city | 23.5% | 16.5% | 18.6% | 41.4% | 100% | 1,311 | 921 | 1,041 | 2,316 | 5,590 |
| Riverside | Moreno Valley city | 24.2% | 16.6% | 18.2% | 41.0% | 100% | 1,806 | 1,239 | 1,362 | 3,068 | 7,474 |
| Riverside | Murrieta city | 24.9% | 16.9% | 18.6% | 39.6% | 100% | 1,568 | 1,067 | 1,171 | 2,497 | 6,303 |
| Riverside | Norco city | 24.9% | 17.1% | 18.6% | 39.4% | 100% | 236 | 162 | 177 | 374 | 949 |
| Riverside | Palm Desert city | 24.1% | 16.5% | 18.5% | 40.9% | 100% | 1,105 | 759 | 847 | 1,875 | 4,586 |
| Riverside | Palm Springs city | 23.1% | 16.2% | 18.6% | 42.1% | 100% | 523 | 366 | 421 | 951 | 2,261 |
| Riverside | Perris city | 23.2% | 16.1% | 18.0% | 42.7% | 100% | 967 | 669 | 748 | 1,778 | 4,163 |
| Riverside | Rancho Mirage city | 24.3% | 16.8% | 18.8% | 40.1% | 100% | 781 | 539 | 603 | 1,285 | 3,208 |

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|---|---|---|---|---|---|---|---|---|---|---|---|
| Riverside | Riverside city | 23.6% | 16.4% | 18.4% | 41.5% | 100% | 2,687 | 1,866 | 2,099 | 4,728 | 11,381 |
| Riverside | San Jacinto city | 22.5% | 16.1% | 18.3% | 43.1% | 100% | 2,707 | 1,931 | 2,206 | 5,183 | 12,026 |
| Riverside | Temecula city | 24.8% | 17.0% | 18.5% | 39.7% | 100% | 1,014 | 693 | 757 | 1,622 | 4,085 |
| Riverside | Unincorporated | 23.7% | 16.4% | 18.5% | 41.4% | 100% | 13,343 | 9,267 | 10,428 | 23,331 | 56,368 |
| San Bernardino | Adelanto city | 22.6% | 16.0% | 18.5% | 42.9% | 100% | 1,908 | 1,344 | 1,561 | 3,610 | 8,422 |
| San Bernardino | Apple Valley town | 23.5% | 16.1% | 18.9% | 41.4% | 100% | 912 | 627 | 736 | 1,611 | 3,887 |
| San Bernardino | Barstow city | 22.7% | 16.3% | 18.8% | 42.2% | 100% | 1,018 | 728 | 842 | 1,890 | 4,479 |
| San Bernardino | Big Bear Lake city | 22.8% | 16.1% | 19.3% | 41.8% | 100% | 113 | 80 | 96 | 207 | 495 |
| San Bernardino | Chino city | 24.3% | 16.9% | 19.1% | 39.8% | 100% | 739 | 513 | 581 | 1,212 | 3,045 |
| San Bernardino | Chino Hills city | 25.2% | 17.3% | 19.7% | 37.8% | 100% | 262 | 180 | 205 | 393 | 1,040 |
| San Bernardino | Colton city | 23.1% | 16.1% | 18.7% | 42.2% | 100% | 854 | 595 | 693 | 1,563 | 3,705 |
| San Bernardino | Fontana city | 23.9% | 16.4% | 18.8% | 40.9% | 100% | 1,365 | 932 | 1,073 | 2,329 | 5,699 |
| San Bernardino | Grand Terrace city | 24.2% | 16.9% | 19.0% | 39.9% | 100% | 80 | 55 | 63 | 131 | 329 |
| San Bernardino | Hesperia city | 23.5% | 16.2% | 18.8% | 41.6% | 100% | 2,135 | 1,469 | 1,707 | 3,784 | 9,094 |
| San Bernardino | Highland city | 23.3% | 16.5% | 19.0% | 41.3% | 100% | 502 | 355 | 409 | 890 | 2,156 |
| San Bernardino | Loma Linda city | 23.1% | 16.3% | 18.9% | 41.7% | 100% | 610 | 432 | 501 | 1,103 | 2,646 |
| San Bernardino | Montclair city | 23.5% | 16.2% | 19.0% | 41.4% | 100% | 426 | 293 | 343 | 748 | 1,810 |
| San Bernardino | Needles city | 21.2% | 16.7% | 19.7% | 42.4% | 100% | 14 | 11 | 13 | 28 | 67 |
| San Bernardino | Ontario city | 23.9% | 16.2% | 18.6% | 41.3% | 100% | 1,828 | 1,243 | 1,425 | 3,165 | 7,662 |
| San Bernardino | Rancho Cucamonga city | 24.7% | 16.8% | 19.1% | 39.3% | 100% | 317 | 216 | 245 | 504 | 1,282 |
| San Bernardino | Redlands city | 24.0% | 16.5% | 18.9% | 40.6% | 100% | 682 | 469 | 539 | 1,155 | 2,845 |
| San Bernardino | Rialto city | 23.7% | 16.2% | 18.8% | 41.4% | 100% | 1,023 | 700 | 812 | 1,788 | 4,323 |
| San Bernardino | San Bernardino city | 22.4% | 16.1% | 19.0% | 42.6% | 100% | 1,275 | 913 | 1,079 | 2,420 | 5,687 |
| San Bernardino | Twentynine Palms city | 22.8% | 15.6% | 18.8% | 42.8% | 100% | 702 | 480 | 578 | 1,317 | 3,078 |
| San Bernardino | Upland city | 23.9% | 16.4% | 19.2% | 40.5% | 100% | 476 | 328 | 382 | 809 | 1,995 |
| San Bernardino | Victorville city | 22.9% | 16.3% | 18.9% | 41.9% | 100% | 1,972 | 1,401 | 1,630 | 3,614 | 8,618 |
| San Bernardino | Yucaipa city | 23.3% | 16.2% | 19.0% | 41.5% | 100% | 476 | 332 | 389 | 850 | 2,048 |
| San Bernardino | Yucca Valley town | 22.3% | 15.9% | 18.9% | 42.9% | 100% | 560 | 399 | 474 | 1,076 | 2,510 |
| San Bernardino | Unincorporated | 23.3% | 16.1% | 18.9% | 41.7% | 100% | 4,802 | 3,324 | 3,899 | 8,598 | 20,622 |
| Ventura | Camarillo city | 21.8% | 17.7% | 20.6% | 40.0% | 100% | 727 | 591 | 687 | 1,335 | 3,340 |
| Ventura | Fillmore city | 20.6% | 17.3% | 20.5% | 41.6% | 100% | 203 | 170 | 202 | 410 | 985 |

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|---|---|---|---|---|---|---|---|---|---|---|---|
| Ventura | Moorpark city | 22.4% | 18.1% | 20.7% | 38.8% | 100% | 363 | 292 | 335 | 627 | 1,617 |
| Ventura | Ojai city | 20.8% | 17.1% | 20.8% | 41.3% | 100% | 90 | 74 | 90 | 179 | 433 |
| Ventura | Oxnard city | 21.0% | 17.2% | 20.4% | 41.4% | 100% | 1,491 | 1,221 | 1,445 | 2,936 | 7,093 |
| Ventura | Port Hueneme city | 20.0% | 17.2% | 20.6% | 42.2% | 100% | 36 | 31 | 37 | 76 | 180 |
| Ventura | San Buenaventura (Ventura) | 21.2% | 17.5% | 20.3% | 41.0% | 100% | 849 | 703 | 816 | 1,643 | 4,011 |
| Ventura | Santa Paula city | 20.2% | 17.4% | 20.6% | 41.8% | 100% | 453 | 390 | 462 | 936 | 2,241 |
| Ventura | Simi Valley city | 22.3% | 17.9% | 20.5% | 39.3% | 100% | 754 | 605 | 694 | 1,330 | 3,383 |
| Ventura | Thousand Oaks city | 22.3% | 18.0% | 20.8% | 38.9% | 100% | 411 | 333 | 385 | 718 | 1,847 |
| Ventura | Unincorporated | 21.7% | 17.8% | 20.7% | 39.7% | 100% | 305 | 250 | 291 | 558 | 1,404 |

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|---|---|---|---|---|---|---|---|---|---|---|---|
| **Summary by County** | | | | | | | | | | | |
| Imperial | | 24.8% | 16.4% | 15.8% | 43.0% | 100% | 6,025 | 4,000 | 3,851 | 10,451 | 24,327 |
| Los Angeles | | 24.7% | 15.7% | 17.1% | 42.6% | 100% | 70,117 | 44,469 | 48,472 | 120,869 | 283,927 |
| Orange | | 21.5% | 17.7% | 19.9% | 40.9% | 100% | 17,733 | 14,566 | 16,380 | 33,653 | 82,332 |
| Riverside | | 23.4% | 16.3% | 18.5% | 41.8% | 100% | 40,849 | 28,535 | 32,292 | 73,029 | 174,705 |
| San Bernardino | | 23.3% | 16.2% | 18.8% | 41.6% | 100% | 25,051 | 17,420 | 20,275 | 44,797 | 107,543 |
| Ventura | | 21.4% | 17.6% | 20.5% | 40.5% | 100% | 5,682 | 4,660 | 5,444 | 10,748 | 26,534 |
| SCAG | | 23.7% | 16.2% | 18.1% | 42.0% | 100% | 165,457 | 113,649 | 126,715 | 293,547 | 699,368 |

**For information only**

| **Summary by Subregion** | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| County | Subregion | % very low income households | % low income households | % moderate income households | % above moderate income households | % total | Number of very low income households | Number of low income households | Number of moderate income households | Number of above moderate income households | Total |
| Imperial | IVAG | 24.8% | 16.4% | 15.8% | 43.0% | 100% | 6,025 | 4,000 | 3,851 | 10,451 | 24,327 |
| Los Angeles | North LA | 25.2% | 15.9% | 17.1% | 41.8% | 100% | 18,499 | 11,661 | 12,554 | 30,639 | 73,352 |
| Los Angeles | LA City | 24.1% | 15.5% | 17.1% | 43.3% | 100% | 27,436 | 17,620 | 19,443 | 49,199 | 113,698 |
| Los Angeles | Arroyo Verdugo | 24.9% | 15.8% | 17.0% | 42.3% | 100% | 1,871 | 1,187 | 1,282 | 3,184 | 7,524 |
| Los Angeles | San Gabriel Valley Assoc. | 25.2% | 15.7% | 17.0% | 42.1% | 100% | 10,690 | 6,675 | 7,220 | 17,893 | 42,478 |
| Los Angeles | Westside Cities | 25.4% | 16.0% | 17.2% | 41.4% | 100% | 893 | 564 | 605 | 1,457 | 3,519 |
| Los Angeles | South Bay Cities Assoc. | 25.1% | 15.8% | 17.1% | 42.0% | 100% | 3,450 | 2,173 | 2,345 | 5,765 | 13,733 |
| Los Angeles | Gateway Cities | 24.5% | 15.4% | 16.9% | 43.2% | 100% | 6,914 | 4,360 | 4,777 | 12,185 | 28,236 |
| Los Angeles | Las Virgenes, Conejo | 26.3% | 16.5% | 17.7% | 39.5% | 100% | 364 | 229 | 246 | 548 | 1,387 |
| Orange | Orange | 21.5% | 17.7% | 19.9% | 40.9% | 100% | 17,733 | 14,566 | 16,380 | 33,653 | 82,332 |
| Riverside | WRCOG | 23.5% | 16.4% | 18.5% | 41.7% | 100% | 30,798 | 21,501 | 24,208 | 54,625 | 131,133 |
| Riverside | CVAG | 23.1% | 16.1% | 18.6% | 42.2% | 100% | 10,050 | 7,034 | 8,084 | 18,404 | 43,572 |
| San Bernardino | SANBAG | 23.3% | 16.2% | 18.8% | 41.6% | 100% | 25,051 | 17,420 | 20,275 | 44,797 | 107,543 |
| Ventura | VCOG | 21.4% | 17.6% | 20.5% | 40.5% | 100% | 5,682 | 4,660 | 5,444 | 10,748 | 26,534 |
| SCAG | | 23.7% | 16.2% | 18.1% | 42.0% | 100% | 165,457 | 113,649 | 126,715 | 293,547 | 699,368 |

**For information only**

Draft Regional Housing Needs Allocation (by Components and Income), 1/1/2014-9/30/2021

| Draft County | Household Growth (2014-2021) | Base Vacancy Needs | Total Replacement Needs | Vacancy Credit | Net RHNA | Number of very low income households | Number of low income households | Number of moderate income households | above moderate income households | Total |
|---|---|---|---|---|---|---|---|---|---|---|
| Imperial | 17,428 | 479 | 49 | 1,404 | 16,551 | 4,194 | 2,553 | 2,546 | 7,258 | 16,551 |
| Los Angeles | 200,572 | 6,131 | 1,268 | 28,297 | 180,067 | 45,720 | 27,497 | 30,074 | 76,779 | 180,070 |
| Orange | 41,530 | 1,143 | 414 | 6,150 | 37,965 | 8,734 | 6,246 | 6,971 | 16,015 | 37,966 |
| Riverside | 120,308 | 2,948 | 175 | 22,059 | 101,372 | 24,117 | 16,319 | 18,459 | 42,479 | 101,374 |
| San Bernardino | 70,623 | 1,890 | 469 | 16,833 | 57,208 | 13,399 | 9,265 | 10,490 | 24,053 | 57,207 |
| Ventura | 19,628 | 523 | 41 | 647 | 19,553 | 4,612 | 3,160 | 3,617 | 8,164 | 19,553 |
| SCAG | 470,089 | 13,113 | 2,416 | 75,390 | 412,716 | 100,776 | 65,040 | 72,157 | 174,748 | 412,721 |

Draft Regional Housing Needs Allocation (by Components and Income), 1/1/2014-9/30/2021

Draft

| County | City | Household Growth (2014-2021) | Base Vacancy Needs | Total Replacement Needs | Vacancy Credit | Net RHNA | Number of very low income households | Number of low income households | Number of moderate income households | above moderate income households | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Imperial | Brawley city | 3,080 | 90 | 4 | 141 | 3,034 | 760 | 470 | 466 | 1,338 | 3,034 |
| Imperial | Calexico city | 3,139 | 91 | 8 | 13 | 3,224 | 817 | 489 | 490 | 1,428 | 3,224 |
| Imperial | Calipatria city | 187 | 5 | 0 | 48 | 144 | 37 | 22 | 22 | 63 | 144 |
| Imperial | El Centro city | 2,118 | 64 | 8 | 265 | 1,924 | 487 | 300 | 297 | 840 | 1,924 |
| Imperial | Holtville city | 222 | 7 | 1 | 20 | 209 | 54 | 31 | 32 | 92 | 209 |
| Imperial | Imperial city | 1,367 | 32 | 1 | 91 | 1,309 | 349 | 205 | 202 | 553 | 1,309 |
| Imperial | Westmorland city | 230 | 7 | 3 | 8 | 233 | 57 | 35 | 36 | 105 | 233 |
| Imperial | Unincorporated | 7,085 | 182 | 25 | 819 | 6,474 | 1,633 | 1,001 | 1,001 | 2,839 | 6,474 |
| Los Angeles | Agoura Hills city | 113 | 2 | 0 | 0 | 115 | 31 | 19 | 20 | 45 | 115 |
| Los Angeles | Alhambra city | 1,580 | 52 | 0 | 141 | 1,492 | 380 | 224 | 246 | 642 | 1,492 |
| Los Angeles | Arcadia city | 1,141 | 30 | 0 | 117 | 1,054 | 276 | 167 | 177 | 434 | 1,054 |
| Los Angeles | Artesia city | 112 | 3 | 5 | 0 | 120 | 31 | 18 | 20 | 51 | 120 |
| Los Angeles | Avalon city | 149 | 6 | 3 | 79 | 80 | 20 | 12 | 14 | 34 | 80 |
| Los Angeles | Azusa city | 868 | 25 | 6 | 120 | 779 | 198 | 118 | 127 | 336 | 779 |
| Los Angeles | Baldwin Park city | 528 | 14 | 15 | 0 | 557 | 142 | 83 | 90 | 242 | 557 |
| Los Angeles | Bell city | 40 | 1 | 6 | 0 | 47 | 11 | 7 | 8 | 21 | 47 |
| Los Angeles | Bellflower city | 91 | 3 | 0 | 115 | 2 | 1 | 1 | 0 | 0 | 2 |
| Los Angeles | Bell Gardens city | 33 | 1 | 12 | 0 | 46 | 11 | 7 | 8 | 20 | 46 |
| Los Angeles | Beverly Hills city | 271 | 9 | 34 | 324 | 3 | 1 | 1 | 1 | 0 | 3 |
| Los Angeles | Bradbury city | 7 | 0 | 1 | 7 | 2 | 1 | 1 | 0 | 0 | 2 |
| Los Angeles | Burbank city | 2,767 | 88 | 62 | 234 | 2,684 | 694 | 413 | 443 | 1,134 | 2,684 |
| Los Angeles | Calabasas city | 325 | 7 | 0 | 3 | 330 | 88 | 54 | 57 | 131 | 330 |
| Los Angeles | Carson city | 1,662 | 36 | 0 | 0 | 1,698 | 447 | 263 | 280 | 708 | 1,698 |
| Los Angeles | Cerritos city | 84 | 2 | 0 | 0 | 86 | 23 | 14 | 14 | 35 | 86 |
| Los Angeles | Claremont city | 372 | 9 | 0 | 8 | 373 | 98 | 59 | 64 | 152 | 373 |
| Los Angeles | Commerce city | 44 | 1 | 0 | 0 | 46 | 12 | 7 | 7 | 20 | 46 |
| Los Angeles | Compton city | 11 | 0 | 4 | 302 | 2 | 1 | 1 | 0 | 0 | 2 |
| Los Angeles | Covina city | 310 | 9 | 2 | 90 | 230 | 60 | 35 | 38 | 97 | 230 |
| Los Angeles | Cudahy city | 303 | 12 | 3 | 0 | 318 | 80 | 46 | 51 | 141 | 318 |
| Los Angeles | Culver City city | 180 | 5 | 0 | 0 | 185 | 48 | 29 | 31 | 77 | 185 |
| Los Angeles | Diamond Bar city | 1,122 | 23 | 0 | 0 | 1,146 | 308 | 182 | 190 | 466 | 1,146 |
| Los Angeles | Downey city | 854 | 25 | 19 | 84 | 814 | 210 | 123 | 135 | 346 | 814 |
| Los Angeles | Duarte city | 329 | 8 | 0 | 0 | 337 | 87 | 53 | 55 | 142 | 337 |

Draft Regional Housing Needs Allocation (by Components and Income), 1/1/2014-9/30/2021

| Draft<br>County | City | Household Growth (2014-2021) | Base Vacancy Needs | Total Replacement Needs | Vacancy Credit | Net RHNA | Number of very low income households | Number of low income households | Number of moderate income households | above moderate income households | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Los Angeles | El Monte city | 2,069 | 67 | 34 | 28 | 2,142 | 529 | 315 | 352 | 946 | 2,142 |
| Los Angeles | El Segundo city | 60 | 2 | 7 | 0 | 69 | 18 | 11 | 12 | 28 | 69 |
| Los Angeles | Gardena city | 394 | 12 | 0 | 9 | 397 | 98 | 60 | 66 | 173 | 397 |
| Los Angeles | Glendale city | 2,291 | 77 | 61 | 411 | 2,017 | 508 | 310 | 337 | 862 | 2,017 |
| Los Angeles | Glendora city | 661 | 15 | 9 | 0 | 686 | 181 | 106 | 115 | 284 | 686 |
| Los Angeles | Hawaiian Gardens city | 124 | 4 | 3 | 2 | 129 | 32 | 19 | 21 | 57 | 129 |
| Los Angeles | Hawthorne city | 711 | 26 | 0 | 55 | 683 | 170 | 101 | 112 | 300 | 683 |
| Los Angeles | Hermosa Beach city | 1 | 0 | 0 | 0 | 2 | 1 | 1 | 0 | 0 | 2 |
| Los Angeles | Hidden Hills city | 18 | 0 | 3 | 2 | 18 | 5 | 3 | 3 | 7 | 18 |
| Los Angeles | Huntington Park city | 845 | 31 | 18 | 0 | 895 | 216 | 128 | 149 | 402 | 895 |
| Los Angeles | Industry city | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Los Angeles | Inglewood city | 1,159 | 39 | 75 | 261 | 1,013 | 250 | 150 | 167 | 446 | 1,013 |
| Los Angeles | Irwindale city | 15 | 0 | 1 | 1 | 15 | 4 | 2 | 2 | 7 | 15 |
| Los Angeles | La Canada Flintridge city | 110 | 2 | 0 | 0 | 112 | 30 | 18 | 20 | 44 | 112 |
| Los Angeles | La Habra Heights city | 117 | 2 | 1 | 1 | 119 | 32 | 19 | 21 | 47 | 119 |
| Los Angeles | Lakewood city | 425 | 10 | 0 | 32 | 403 | 107 | 63 | 67 | 166 | 403 |
| Los Angeles | La Mirada city | 230 | 5 | 0 | 0 | 235 | 62 | 37 | 40 | 96 | 235 |
| Los Angeles | Lancaster city | 3,980 | 107 | 33 | 1,610 | 2,510 | 627 | 384 | 413 | 1,086 | 2,510 |
| Los Angeles | La Puente city | 942 | 25 | 0 | 0 | 967 | 246 | 143 | 159 | 419 | 967 |
| Los Angeles | La Verne city | 585 | 13 | 3 | 39 | 562 | 147 | 88 | 94 | 233 | 562 |
| Los Angeles | Lawndale city | 368 | 13 | 0 | 0 | 381 | 96 | 57 | 62 | 166 | 381 |
| Los Angeles | Lomita city | 36 | 1 | 9 | 0 | 47 | 12 | 7 | 8 | 20 | 47 |
| Los Angeles | Long Beach city | 9,487 | 309 | 0 | 2,748 | 7,048 | 1,773 | 1,066 | 1,170 | 3,039 | 7,048 |
| Los Angeles | Los Angeles city | 95,023 | 3,186 | 0 | 16,207 | 82,002 | 20,427 | 12,435 | 13,728 | 35,412 | 82,002 |
| Los Angeles | Lynwood city | 453 | 14 | 27 | 0 | 494 | 123 | 72 | 81 | 218 | 494 |
| Los Angeles | Malibu city | 130 | 3 | 3 | 198 | 2 | 1 | 1 | 0 | 0 | 2 |
| Los Angeles | Manhattan Beach city | 37 | 1 | 0 | 0 | 38 | 10 | 6 | 7 | 15 | 38 |
| Los Angeles | Maywood city | 50 | 2 | 1 | 0 | 53 | 13 | 8 | 9 | 23 | 53 |
| Los Angeles | Monrovia city | 388 | 12 | 14 | 25 | 389 | 101 | 61 | 65 | 162 | 389 |
| Los Angeles | Montebello city | 1,031 | 32 | 3 | 0 | 1,066 | 269 | 161 | 175 | 461 | 1,066 |
| Los Angeles | Monterey Park city | 755 | 21 | 41 | 2 | 815 | 205 | 123 | 137 | 350 | 815 |
| Los Angeles | Norwalk city | 187 | 5 | 9 | 0 | 201 | 52 | 31 | 33 | 85 | 201 |

Draft Regional Housing Needs Allocation (by Components and Income), 1/1/2014-9/30/2021

| County | City | Household Growth (2014-2021) | Base Vacancy Needs | Total Replacement Needs | Vacancy Credit | Net RHNA | Number of very low income households | Number of low income households | Number of moderate income households | above moderate income households | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Los Angeles | Palmdale city | 6,432 | 158 | 0 | 1,139 | 5,452 | 1,395 | 827 | 898 | 2,332 | 5,452 |
| Los Angeles | Palos Verdes Estates city | 3 | 0 | 15 | 2 | 16 | 4 | 3 | 3 | 6 | 16 |
| Los Angeles | Paramount city | 151 | 5 | 0 | 51 | 105 | 26 | 16 | 17 | 46 | 105 |
| Los Angeles | Pasadena city | 2,051 | 65 | 29 | 812 | 1,332 | 340 | 207 | 224 | 561 | 1,332 |
| Los Angeles | Pico Rivera city | 829 | 20 | 0 | 0 | 850 | 217 | 131 | 140 | 362 | 850 |
| Los Angeles | Pomona city | 3,862 | 110 | 0 | 346 | 3,626 | 919 | 543 | 592 | 1,572 | 3,626 |
| Los Angeles | Rancho Palos Verdes city | 30 | 1 | 0 | 0 | 31 | 8 | 5 | 5 | 13 | 31 |
| Los Angeles | Redondo Beach city | 1,293 | 38 | 121 | 56 | 1,397 | 372 | 223 | 238 | 564 | 1,397 |
| Los Angeles | Rolling Hills city | 9 | 0 | 2 | 5 | 6 | 2 | 1 | 1 | 2 | 6 |
| Los Angeles | Rolling Hills Estates city | 14 | 0 | 2 | 11 | 5 | 1 | 1 | 1 | 2 | 5 |
| Los Angeles | Rosemead city | 550 | 17 | 35 | 0 | 601 | 153 | 88 | 99 | 262 | 602 |
| Los Angeles | San Dimas city | 457 | 11 | 4 | 9 | 463 | 121 | 72 | 77 | 193 | 463 |
| Los Angeles | San Fernando city | 221 | 6 | 5 | 15 | 217 | 55 | 32 | 35 | 95 | 217 |
| Los Angeles | San Gabriel city | 958 | 29 | 0 | 57 | 930 | 236 | 142 | 154 | 398 | 930 |
| Los Angeles | San Marino city | 2 | 0 | 0 | 0 | 2 | 1 | 1 | 0 | 0 | 2 |
| Los Angeles | Santa Clarita city | 8,338 | 197 | 2 | 216 | 8,322 | 2,208 | 1,315 | 1,410 | 3,389 | 8,322 |
| Los Angeles | Santa Fe Springs city | 350 | 9 | 0 | 35 | 324 | 82 | 50 | 53 | 139 | 324 |
| Los Angeles | Santa Monica city | 1,745 | 64 | 83 | 218 | 1,674 | 428 | 263 | 283 | 700 | 1,674 |
| Los Angeles | Sierra Madre city | 60 | 2 | 0 | 7 | 55 | 14 | 9 | 9 | 23 | 55 |
| Los Angeles | Signal Hill city | 197 | 6 | 0 | 34 | 169 | 44 | 27 | 28 | 70 | 169 |
| Los Angeles | South El Monte city | 162 | 5 | 6 | 0 | 172 | 43 | 25 | 28 | 76 | 172 |
| Los Angeles | South Gate city | 1,172 | 37 | 53 | 0 | 1,262 | 314 | 185 | 205 | 558 | 1,262 |
| Los Angeles | South Pasadena city | 130 | 4 | 3 | 74 | 63 | 17 | 10 | 11 | 25 | 63 |
| Los Angeles | Temple City city | 531 | 14 | 61 | 2 | 603 | 159 | 93 | 99 | 252 | 603 |
| Los Angeles | Torrance city | 1,416 | 40 | 38 | 43 | 1,450 | 380 | 227 | 243 | 600 | 1,450 |
| Los Angeles | Vernon city | 0 | 0 | 0 | 0 | 2 | 1 | 1 | 0 | 0 | 2 |
| Los Angeles | Walnut city | 892 | 17 | 0 | 0 | 908 | 246 | 144 | 155 | 363 | 908 |
| Los Angeles | West Covina city | 806 | 20 | 5 | 0 | 831 | 217 | 129 | 138 | 347 | 831 |
| Los Angeles | West Hollywood city | 408 | 16 | 0 | 347 | 77 | 19 | 12 | 13 | 33 | 77 |
| Los Angeles | Westlake Village city | 44 | 1 | 0 | 0 | 45 | 12 | 7 | 8 | 18 | 45 |
| Los Angeles | Whittier city | 911 | 25 | 3 | 60 | 878 | 228 | 135 | 146 | 369 | 878 |
| Los Angeles | Unincorporated | 30,574 | 804 | 269 | 1,503 | 30,144 | 7,854 | 4,650 | 5,060 | 12,581 | 30,145 |

Draft Regional Housing Needs Allocation (by Components and Income), 1/1/2014-9/30/2021

| County | City | Household Growth (2014-2021) | Base Vacancy Needs | Total Replacement Needs | Vacancy Credit | Net RHNA | Number of very low income households | Number of low income households | Number of moderate income households | above moderate income households | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Orange | Aliso Viejo city | 38 | 1 | 0 | 0 | 39 | 9 | 7 | 7 | 16 | 39 |
| Orange | Anaheim city | 6,877 | 209 | 0 | 1,385 | 5,702 | 1,256 | 907 | 1,038 | 2,501 | 5,702 |
| Orange | Brea city | 1,826 | 47 | 4 | 26 | 1,851 | 426 | 305 | 335 | 785 | 1,851 |
| Orange | Buena Park city | 349 | 10 | 7 | 27 | 339 | 76 | 53 | 62 | 148 | 339 |
| Orange | Costa Mesa city | 174 | 6 | 24 | 312 | 2 | 1 | 1 | 0 | 0 | 2 |
| Orange | Cypress city | 295 | 7 | 6 | 0 | 308 | 71 | 50 | 56 | 131 | 308 |
| Orange | Dana Point city | 474 | 13 | 17 | 178 | 327 | 76 | 53 | 61 | 137 | 327 |
| Orange | Fountain Valley city | 350 | 8 | 0 | 0 | 358 | 83 | 59 | 65 | 151 | 358 |
| Orange | Fullerton city | 2,163 | 62 | 32 | 416 | 1,841 | 411 | 299 | 337 | 794 | 1,841 |
| Orange | Garden Grove city | 715 | 20 | 12 | 0 | 747 | 164 | 120 | 135 | 328 | 747 |
| Orange | Huntington Beach city | 1,478 | 40 | 11 | 175 | 1,353 | 313 | 220 | 248 | 572 | 1,353 |
| Orange | Irvine city | 12,686 | 380 | 0 | 918 | 12,149 | 2,817 | 2,034 | 2,239 | 5,059 | 12,149 |
| Orange | Laguna Beach city | 32 | 1 | 1 | 172 | 2 | 1 | 1 | 0 | 0 | 2 |
| Orange | Laguna Hills city | 124 | 3 | 0 | 166 | 2 | 1 | 1 | 0 | 0 | 2 |
| Orange | Laguna Niguel city | 158 | 4 | 21 | 0 | 182 | 43 | 30 | 34 | 75 | 182 |
| Orange | Laguna Woods city | 129 | 3 | 0 | 443 | 2 | 1 | 1 | 0 | 0 | 2 |
| Orange | La Habra city | 135 | 4 | 0 | 135 | 4 | 1 | 1 | 1 | 1 | 4 |
| Orange | Lake Forest city | 2,663 | 63 | 0 | 0 | 2,727 | 647 | 450 | 497 | 1,133 | 2,727 |
| Orange | La Palma city | 9 | 0 | 0 | 0 | 9 | 2 | 2 | 2 | 3 | 9 |
| Orange | Los Alamitos city | 55 | 2 | 4 | 0 | 61 | 14 | 10 | 11 | 26 | 61 |
| Orange | Mission Viejo city | 173 | 4 | 0 | 0 | 177 | 42 | 29 | 33 | 73 | 177 |
| Orange | Newport Beach city | 533 | 15 | 0 | 608 | 5 | 1 | 1 | 1 | 2 | 5 |
| Orange | Orange city | 394 | 11 | 7 | 49 | 363 | 83 | 59 | 66 | 155 | 363 |
| Orange | Placentia city | 479 | 12 | 1 | 0 | 492 | 112 | 81 | 90 | 209 | 492 |
| Orange | ancho Santa Margarita ci | 12 | 0 | 1 | 31 | 2 | 1 | 1 | 0 | 0 | 2 |
| Orange | San Clemente city | 662 | 17 | 4 | 101 | 581 | 134 | 95 | 108 | 244 | 581 |
| Orange | San Juan Capistrano city | 625 | 14 | 0 | 2 | 638 | 147 | 104 | 120 | 267 | 638 |
| Orange | Santa Ana city | 503 | 15 | 25 | 339 | 204 | 45 | 32 | 37 | 90 | 204 |
| Orange | Seal Beach city | 19 | 0 | 10 | 186 | 2 | 1 | 1 | 0 | 0 | 2 |
| Orange | Stanton city | 329 | 10 | 2 | 28 | 313 | 68 | 49 | 56 | 140 | 313 |
| Orange | Tustin city | 1,219 | 36 | 127 | 155 | 1,227 | 283 | 195 | 224 | 525 | 1,227 |
| Orange | Villa Park city | 14 | 0 | 0 | 0 | 14 | 3 | 2 | 3 | 6 | 14 |

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Draft Regional Housing Needs Allocation (by Components and Income), 1/1/2014-9/30/2021

| County | City | Household Growth (2014-2021) | Base Vacancy Needs | Total Replacement Needs | Vacancy Credit | Net RHNA | Number of very low income households | Number of low income households | Number of moderate income households | above moderate income households | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Orange | Westminster city | 110 | 3 | 5 | 297 | 2 | 1 | 1 | 0 | 0 | 2 |
| Orange | Yorba Linda city | 633 | 13 | 24 | 0 | 669 | 160 | 113 | 126 | 270 | 669 |
| Orange | Unincorporated | 5,094 | 111 | 67 | 0 | 5,272 | 1,240 | 879 | 979 | 2,174 | 5,272 |
| Riverside | Banning city | 4,120 | 101 | 8 | 437 | 3,792 | 872 | 593 | 685 | 1,642 | 3,792 |
| Riverside | Beaumont city | 5,415 | 122 | 2 | 289 | 5,250 | 1,267 | 854 | 969 | 2,160 | 5,250 |
| Riverside | Blythe city | 565 | 17 | 15 | 194 | 402 | 91 | 64 | 75 | 172 | 402 |
| Riverside | Calimesa city | 2,439 | 51 | 1 | 150 | 2,341 | 543 | 383 | 433 | 982 | 2,341 |
| Riverside | Canyon Lake city | 141 | 3 | 0 | 61 | 83 | 21 | 14 | 16 | 32 | 83 |
| Riverside | Cathedral City city | 1,241 | 32 | 19 | 693 | 600 | 141 | 95 | 110 | 254 | 600 |
| Riverside | Coachella city | 6,871 | 181 | 1 | 283 | 6,771 | 1,555 | 1,059 | 1,212 | 2,945 | 6,771 |
| Riverside | Corona city | 1,081 | 27 | 5 | 343 | 770 | 192 | 128 | 142 | 308 | 770 |
| Riverside | Desert Hot Springs city | 4,944 | 151 | 3 | 903 | 4,196 | 946 | 661 | 772 | 1,817 | 4,196 |
| Riverside | Hemet city | 2,797 | 74 | 0 | 2,267 | 604 | 134 | 96 | 112 | 262 | 604 |
| Riverside | Indian Wells city | 291 | 6 | 1 | 138 | 160 | 40 | 27 | 31 | 62 | 160 |
| Riverside | Indio city | 4,053 | 103 | 0 | 1,131 | 3,025 | 714 | 487 | 553 | 1,271 | 3,025 |
| Riverside | Lake Elsinore city | 5,211 | 131 | 11 | 424 | 4,929 | 1,196 | 801 | 897 | 2,035 | 4,929 |
| Riverside | Menifee city | 6,842 | 150 | 0 | 748 | 6,245 | 1,488 | 1,007 | 1,140 | 2,610 | 6,245 |
| Riverside | La Quinta city | 1,336 | 30 | 18 | 1,020 | 364 | 91 | 61 | 66 | 146 | 364 |
| Riverside | Moreno Valley city | 7,114 | 182 | 15 | 1,142 | 6,169 | 1,500 | 993 | 1,112 | 2,564 | 6,169 |
| Riverside | Murrieta city | 2,174 | 52 | 4 | 657 | 1,573 | 395 | 262 | 289 | 627 | 1,573 |
| Riverside | Norco city | 809 | 17 | 4 | 12 | 818 | 205 | 136 | 151 | 326 | 818 |
| Riverside | Palm Desert city | 1,960 | 50 | 0 | 1,596 | 413 | 98 | 67 | 76 | 172 | 413 |
| Riverside | Palm Springs city | 2,010 | 55 | 8 | 1,802 | 272 | 63 | 43 | 50 | 116 | 272 |
| Riverside | Perris city | 4,693 | 118 | 4 | 536 | 4,280 | 1,026 | 681 | 759 | 1,814 | 4,280 |
| Riverside | Rancho Mirage city | 594 | 12 | 0 | 511 | 95 | 23 | 15 | 18 | 39 | 95 |
| Riverside | Riverside city | 9,534 | 270 | 35 | 1,556 | 8,283 | 2,002 | 1,336 | 1,503 | 3,442 | 8,283 |
| Riverside | San Jacinto city | 3,000 | 74 | 5 | 646 | 2,433 | 562 | 394 | 441 | 1,036 | 2,433 |
| Riverside | Temecula city | 1,903 | 46 | 14 | 470 | 1,493 | 375 | 251 | 271 | 596 | 1,493 |
| Riverside | Wildomar city | 2,620 | 60 | 1 | 146 | 2,535 | 621 | 415 | 461 | 1,038 | 2,535 |
| Riverside | Unincorporated | 36,548 | 834 | 0 | 3,903 | 33,478 | 7,956 | 5,396 | 6,115 | 14,011 | 33,478 |
| San Bernardino | Adelanto city | 3,276 | 91 | 8 | 534 | 2,841 | 633 | 459 | 513 | 1,236 | 2,841 |
| San Bernardino | Apple Valley town | 4,055 | 98 | 0 | 819 | 3,334 | 764 | 541 | 622 | 1,407 | 3,334 |

Draft Regional Housing Needs Allocation (by Components and Income), 1/1/2014-9/30/2021

| Draft<br>County | City | Household Growth (2014-2021) | Base Vacancy Needs | Total Replacement Needs | Vacancy Credit | Net RHNA | Number of very low income households | Number of low income households | Number of moderate income households | above moderate income households | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|
| San Bernardino | Barstow city | 1,456 | 44 | 4 | 662 | 843 | 188 | 138 | 154 | 363 | 843 |
| San Bernardino | Big Bear Lake city | 188 | 5 | 11 | 776 | 2 | 1 | 1 | 0 | 0 | 2 |
| San Bernardino | Chino city | 3,008 | 73 | 0 | 187 | 2,894 | 707 | 478 | 533 | 1,176 | 2,894 |
| San Bernardino | Chino Hills city | 844 | 18 | 0 | 0 | 862 | 217 | 148 | 164 | 333 | 862 |
| San Bernardino | Colton city | 2,265 | 67 | 17 | 425 | 1,923 | 443 | 302 | 347 | 831 | 1,923 |
| San Bernardino | Fontana city | 6,385 | 155 | 0 | 564 | 5,977 | 1,442 | 974 | 1,090 | 2,471 | 5,977 |
| San Bernardino | Grand Terrace city | 158 | 4 | 0 | 44 | 118 | 28 | 19 | 22 | 49 | 118 |
| San Bernardino | Hesperia city | 2,416 | 60 | 7 | 768 | 1,715 | 398 | 274 | 314 | 729 | 1,715 |
| San Bernardino | Highland city | 1,744 | 44 | 3 | 291 | 1,500 | 349 | 246 | 280 | 625 | 1,500 |
| San Bernardino | Loma Linda city | 1,354 | 45 | 3 | 308 | 1,095 | 254 | 177 | 202 | 462 | 1,095 |
| San Bernardino | Montclair city | 709 | 19 | 3 | 35 | 697 | 164 | 114 | 125 | 294 | 697 |
| San Bernardino | Needles city | 359 | 10 | 3 | 191 | 181 | 38 | 29 | 34 | 80 | 181 |
| San Bernardino | Ontario city | 10,921 | 310 | 22 | 392 | 10,861 | 2,592 | 1,745 | 1,977 | 4,547 | 10,861 |
| San Bernardino | Rancho Cucamonga city | 1,002 | 26 | 9 | 188 | 848 | 209 | 141 | 158 | 340 | 848 |
| San Bernardino | Redlands city | 2,765 | 74 | 8 | 418 | 2,429 | 579 | 396 | 453 | 1,001 | 2,429 |
| San Bernardino | Rialto city | 3,304 | 85 | 0 | 674 | 2,715 | 636 | 432 | 496 | 1,151 | 2,715 |
| San Bernardino | San Bernardino city | 6,116 | 183 | 113 | 2,028 | 4,384 | 980 | 696 | 808 | 1,900 | 4,384 |
| San Bernardino | Twentynine Palms city | 807 | 28 | 2 | 384 | 454 | 103 | 72 | 84 | 195 | 454 |
| San Bernardino | Upland city | 1,945 | 54 | 3 | 412 | 1,589 | 382 | 260 | 294 | 653 | 1,589 |
| San Bernardino | Victorville city | 8,679 | 230 | 42 | 1,579 | 7,371 | 1,698 | 1,207 | 1,342 | 3,124 | 7,371 |
| San Bernardino | Yucaipa city | 1,942 | 44 | 13 | 395 | 1,605 | 376 | 261 | 299 | 669 | 1,605 |
| San Bernardino | Yucca Valley town | 1,262 | 33 | 2 | 366 | 930 | 209 | 149 | 172 | 400 | 930 |
| San Bernardino | Unincorporated | 3,662 | 89 | 197 | 4,392 | 39 | 9 | 6 | 7 | 17 | 39 |
| Ventura | Camarillo city | 2,229 | 54 | 0 | 59 | 2,224 | 539 | 366 | 411 | 908 | 2,224 |
| Ventura | Fillmore city | 714 | 18 | 2 | 40 | 694 | 160 | 112 | 128 | 294 | 694 |
| Ventura | Moorpark city | 1,135 | 25 | 4 | 0 | 1,164 | 289 | 197 | 216 | 462 | 1,164 |
| Ventura | Ojai city | 382 | 11 | 0 | 22 | 371 | 87 | 59 | 70 | 155 | 371 |
| Ventura | Oxnard city | 7,090 | 200 | 11 | 0 | 7,301 | 1,688 | 1,160 | 1,351 | 3,102 | 7,301 |
| Ventura | Port Hueneme city | 162 | 5 | 0 | 173 | 2 | 1 | 1 | 0 | 0 | 2 |
| Ventura | Buenaventura (Ventura | 3,706 | 105 | 6 | 163 | 3,654 | 861 | 591 | 673 | 1,529 | 3,654 |
| Ventura | Santa Paula city | 1,261 | 35 | 2 | 14 | 1,285 | 288 | 201 | 241 | 555 | 1,285 |
| Ventura | Simi Valley city | 1,228 | 28 | 0 | 0 | 1,256 | 310 | 208 | 229 | 509 | 1,256 |

# Draft Regional Housing Needs Allocation (by Components and Income), 1/1/2014-9/30/2021

| Draft<br>County | City | Household Growth (2014-2021) | Base Vacancy Needs | Total Replacement Needs | Vacancy Credit | Net RHNA | Number of very low income households | Number of low income households | Number of moderate income households | above moderate income households | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Ventura | Thousand Oaks city | 188 | 4 | 0 | 0 | 192 | 47 | 32 | 36 | 77 | 192 |
| Ventura | Unincorporated | 1,534 | 37 | 15 | 177 | 1,410 | 342 | 233 | 262 | 573 | 1,410 |

Notes

* The city boundaries for the base year and the projected year are based on January 1, 2011.

** Eastvale and Jurupa Valley RHNA figures are still part of Riverside County RHNA allocation and will be determined and provided shortly.

*** Draft RHNA allocation (by components) = household growth (1/1/2014-9/30/2021)+base market vacancy needs+total replacement needs- vacancy credit

**** Draft RHNA allocation (by components) by jurisdiction is subject to rounding adjustment.

***** Tribal Land household growth credit (2,810) was already applied to household growth of selected local jurisdictions.

****** If the excess vacancy credit exceeds the sum of household growth, base vacancy needs, and replacement needs , then Draft RHNA allocation (Net RHNA) can be either of 2 units or 1% of the sum of household growth, base vacancy needs, and replacement needs, whichever is bigger.

# ATTACHMENT 2

Camp Highland Outdoor Science School
10600 Highland Springs Avenue • Cherry Valley, CA 92223 • tel 951 769-1113
fax 951 769-6463 • email info@camphighland.net • www.camphighland.net

To Whom It May Concern: March 6, 2012

I am the Director at Camp Highland Outdoor Science School and have held this position on a full time basis since Jan 2006. My background is in Outdoor Education and I have a degree in Criminology and History. I have seen the following wildlife on Camp Highland property located at 10600 Highland Springs Ave.

- Birds: White Egrets, Great Blue Herons, Roadrunners, mourning doves, ringed turtle doves, hairy woodpeckers, ladder backed woodpeckers, Anna's hummingbirds, Allen's hummingbirds, American goldfinches, western meadowlarks, western tanagers, bullocks orioles, hooded orioles (migratory), house finches, purple finches, scrub jays, assorted wrens, sparrows, blackbirds, bluebirds;
- Raptors: Great horned owls, Red tailed hawks, Coopers hawks, American kestrels, Barn Owls,
- Mammals: mule deer, coyotes, bobcats; black bears
- Snakes: western diamondback rattlesnake, gopher snake, garter snake

Kind regards,

Andrew Yoon

406

**Highland Springs Resort**
**March 6, 2012 Letter**
**Response**

By letter dated March 6, 2012, Highland Springs Resort (Resort) comments on the adequacy of the Final Environmental Impact Report (EIR) for the Butterfield Specific Plan. The Resort asserts that (1) the vast majority of its comments on the Draft EIR, submitted July 21, 2011, are still valid and that the City's responses to those comments are inadequate. Additionally, the Resort claims that (2) new information and analysis has been added that potentially reveals new impacts and new mitigation measures that require recirculation of the EIR.

(1) Response to Comments

CEQA requires a lead agency to evaluate comments on the Draft EIR and prepare written responses. When a significant environmental issue is raised in comments that object to the draft EIR's analysis, the response should be detailed but need not be exhaustive; they need only to demonstrate good faith, reasoned analysis. (CEQA Guidelines § 15088(c). A more general response is sufficient when comments are general in nature. The Resort provided 56 pages of comments on the DEIR. The City responded to each of the comments in an over 60 page response. The City also provided Master Responses and responses to other comment letters, some of which address the similar issues. The Draft EIR and the City's responses to comments satisfy CEQA's response requirement and are sufficient to allow for reasoned and informed decision-making. The majority of the Resorts comments reassert the same comments made in the July 21, 2011 letter.

*Views/Lighting/Oak Tree*. The City's 2005 Comprehensive General Plan previously evaluated aesthetic resources including views. Because the property was already entitled with vested rights under the Deutsch Specific Plan and Development Agreement, build-out of the site was considered in the planning document. The Draft EIR also evaluated the impacts to views and determined based on the elevation of the development and design standards of the Butterfield Specific Plan, views of the ridgelines of the San Jacinto Mountains would not be impacted. In addition, the project improves on the existing Deutsch Specific Plan by retaining the northern steeper slopes in natural open space and creating lower density residential. See RTC 20-p. With regard to lighting, mitigation measures are imposed to ensure that trail lighting for security is minimized (AES-7). Public recreational facilities would be open to the public and subject to current codes. The provision of new parks and recreational facilities is one of the public benefits supporting the use of a statement of overriding considerations with regard to impacts from light. In response to comments regarding the Oak Tree on Highland Springs Road, the mitigation measure (AES-6) was revised. The measure first requires that plans be designed to preserve the oak tree. However, if that is not feasible then the tree will be relocated or replaced with a similar tree or with multiple trees within the Project boundaries. The response was sufficient under CEQA.

Project Alternatives. The comment asserts that additional alternatives should be considered including the sale of the northern portion of the property to the Resort. Given the

existence of the Deutsch Specific Plan and Development Agreement, the property is currently entitled for residential use. The Draft EIR looked at a reasonable range of alternatives, including a reduced density alternative, that would reduce the development to a greater extent then the Resorts proposal to sell them the northern portion of the property. No further response is necessary.

*Air Quality.* The comment focuses on the adoption of air quality mitigation measures recommended by the Attorney General. The Draft EIR reviewed the suggested mitigation measures and incorporated many of the recommendations as either design features or mitigation measures. This was sufficient under CEQA. *See Santa Clara Organization for Planning the Environment. City of Santa Clarita* (2011) 197 Cal.App.4th 1042. The comment also reasserts that certain technologies should be mandated. The responses previously explain that mandating expensive and specific technologies for homes in the Banning market is not feasible. Instead, the Draft EIR provides a menu of measures that will be taken in order to achieve a 20% reduction in emissions while still preserving the marketability of the residences.

*Biological Impacts.* The comments state that the EIR's reliance on the Western Riverside County Multi Species Habitat Conservation Plan (MSHCP) is not sufficient to support the findings of less than significant impacts. The MSHCP is a component of the analysis because it provides the most comprehensive review of biological resources in the area, provides for acceptable mitigation and provides incidental take authority for development that complies with the plan. The Project site is disturbed land subject to years of farming and cattle grazing surrounded on three sides by development. Multiple biological surveys were conducted confirming the relatively few areas of suitable habitat and that habitat for the burrowing owl is marginal. Mitigation has been imposed to avoid impacts to special status species that were identified such as the burrowing owl. The comment includes a statement from Andrew Yoon, a camp director with a degree in Criminology and History, stating that he has seen various species on Camp Highland property located at 10600 Highland Springs Avenue (the Resort Property to the north). Evidence of species north of the site closer to the mountains does not establish that any of the listed species utilize the project site or would be significantly impacted by the development.

*Land Use Impacts/Affordable Housing/Jobs-Housing Balance.* The comment states that the project would be inconsistent with the General Plan traffic LOS of C because it would contribute to an existing unacceptable level of service. The project is not responsible for alleviating existing conditions. Moreover, the property is already entitled under the Deutsch Specific Plan and therefore the land use designations are consistent with the General Plan. The Project is not an affordable housing project, but it will provide for a mix of residential densities that will provide a range of affordability for new home purchasers. As set forth in the FEIR, RTC 17.vv, the jobs/housing ratio is estimated to trend upward from .80 currently to .98 by 2035. The 2008 RTP Growth Forecast uses general plan information, which in the case of the City included the Deutsch Specific Plan. The comment notes a ratio of .41 but does not establish how the number was calculated.

*Hillside Grading/Adjacent Land Uses.* The comment speculates that slopes 25% or greater would need to be graded. The Project would comply with City grading requirements.

The comment states that adjacent land uses are misrepresented and that the site is incompatible due to the Resort's stated change in use of the Black Bench property. As noted in the FEIR, RTC 20-pppp, the Resort's immediate property to the North is already adjacent to residences that are much closer than the nearest boundary of the proposed project. Contrary to the comment suggestion, the Project is not considered infill.

*Noise.* The comment states that noise was not adequately mitigated. The only noise impacts are to older residences on the south side of Wilson Street that will be subject to cumulative increases in traffic noise. This means the noise is being generated by cars from all over the City and neighboring jurisdictions that travel along Wilson. The only way to mitigate effects is to take private property to build a sound wall south of Wilson Street or require residents to replace their windows. Because the City does not have a program in place to address these cumulative traffic noise impacts, the Draft EIR determined that mitigating the Project's incremental contribution to the cumulative effect is infeasible.

*Public Service/Bradshaw Trail.* The comment restates prior comments as not adequately addressed concerning trails and fire hazards. The applicant does not propose to use any of the Resort's trails without prior agreement. The Draft EIR also adequately addresses fire hazards through design and fees paid for fire services. With regard to the Bradshaw Trail, while the Cultural Resources study acknowledges is likely one time existence there in no evidence the it continues to exist today. CEQA does not require the preservation of a non-existent resource.

*Growth Inducing Impacts.* The comment suggest that the project would have growth inducing impacts due to related infrastructure. As set forth in the Draft EIR and Final EIR, the project is already fully consistent with the existing General Plan growth expectations because the project is a slightly reduced version of the exiting Deutsch Specific Plan.

Project Description Inadequate Due to Deferral of Infrastructure Decisions. The comments claim that the Project has not be sufficiently identified for informed decision-making. The Butterfield Specific Plan sets forth the details of the project as summarized in the Draft EIR's over 50 page project description, not including maps. Certain infrastructure improvements are discussed in the Draft EIR that are not necessary to serve the project and are separate projects. For example, the potential extension of the State Water Project to the site as well as the construction of a satellite wastewater treatment plant are not necessary to meet project water/sewer demands and are both subject to separate review and approval. They are not part of the project, but are described in the EIR as potential future improvements that could be carried out by the applicable agencies. All onsite infrastructure and improvements along Smith Creek (culverts) were analyzed in the Draft EIR.

(2) New Information

The comment states that the inclusion of the amended Development Agreement is new information that requires recirculation of the EIR. The Draft EIR adequately apprised the public of the fact that in conjunction with the Butterfield Specific Plan (amending the Deutsch Specific Plan) the applicant is seeking approval of an amended Development Agreement (amending the existing Deutsch Development Agreement). CEQA does not require that a proposed

development agreement be included in the Draft EIR or that its terms be described in the Draft EIR. See *Native Sun/Lyon Communities v. City of Escondido* (1993) 15 Cal.App.4th 892. The Draft EIR analyzed all the potential effects of the project, which included approval of an amended Development Agreement. The amended Development Agreement was posted on March 1, 2012 on the City's website and is included in the packet provided to the Planning Commission in compliance with Government Code section 54957.5. The proposed Development Agreement does not change the project but provides certain vested rights to the developer and certain public benefits to the city, including the provision of land for public facilities, financing and fees. The agreement does not commit to any new facilities or improvements that were not already analyzed in the Draft EIR. Therefore, the Development Agreement is not new information and does not require recirculation.

The comment also states that responses regarding traffic impacts and new analysis requires recirculation. In response to comments concerning the potential future extension of Highland Home Road to either Brookside Avenue or Cherry Valley Boulevard, the City provided Master Response #2 explaining that the City's existing General Plan Circulation element identifies both connections as potential connections, however, both connections are within the jurisdiction of the County of Riverside. The City's preferred connection would be to Brookside Avenue for reasons set forth in the Master Response. Because these connections and the timing of the connections cannot be assured, as they are within the County of Riverside, an additional analysis was performed to determine whether any significant impacts would result if neither of the extensions were constructed. The analysis determined that traffic would be diverted to Highland Springs Avenue/F Street and Highland Home Road/F Street requiring the addition of new turn lanes to meet the City's existing LOS. These turn lanes are within the applicant's development and have been made a condition of approval. Therefore, if the County does not approve either the Brookside Avenue connection or the Cherry Valley Boulevard connection, the project will fully mitigate any significant effects resulting from the resulting diversion of traffic. Recirculation is not required where a potential new impact is mitigated to a level of insignificance. CEQA Guidelines § 15088.5(a)(2). In addition, Brookside Avenue is included in the County of Riverside Circulation Element as a Secondary four lane highway. The widening of the highway is already in the County's planning document and is a separate project and not part of the proposed Project. Whether the County or City of Beaumont, as applicable, chooses to change the designation of Brookside, and instead widen Oak Valley or Cougar Way is a matter for those jurisdictions to decide.

# BOWIE, ARNESON, WILES & GIANNONE

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
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By


REF. OUR FILE
2055.B2

March 7, 2012

VIA E-MAIL
AND HAND DELIVERY

Ms. Zai Abu Baker, Community Development Director
City of Banning
99 E. Ramsay Street
Banning, CA 92220

**re: Butterfield Specific Plan - Final Environmental Impact Report**

Dear Ms. Baker:

On behalf of our clients, the Beaumont Unified School District and Banning Unified School District (collectively, "Districts"), we appreciate your response to the Districts' comments submitted on July 21, 2011, in regard to the Draft Environmental Impact Report ("EIR") prepared for the Butterfield Specific Plan ("Project"). In particular, we appreciate the City's revisions of those portions of the EIR relating to the current student generation rates.

The Districts' other concerns set forth in its letter, however, remain unaddressed, particularly those relating to the shortfall of funding available to mitigate the impacts of the Project on the Districts' school facilities. The City of Banning ("City") and the project applicant, Pardee Homes ("Pardee"), must be aware that the limited developer school fees imposed as school facility mitigation pursuant to the Leroy F. Greene School Facilities Act of 1998 (commonly referred to as "SB 50") will not fully mitigate the impacts of the Project on the Districts' schools, particularly when coupled with uncertain and unreliable matching funds from the State of California ("State"). The full nature of such impacts are described in greater detail in the Districts' comment letter of July 21, 2011, which is included within the Final EIR prepared for the Project. These impacts will, in reality, severely impact the Districts' schools, regardless of statements in the EIR relying on SB 50.



2/11

In the Final EIR, the City has attempted to minimize the significance of impacts on the Districts, stating that there is currently existing and combined planned capacity between the two Districts to accommodate students generated from the Project. Nothing in the Final EIR, or incorporated Draft EIR, however, supports such conclusions. To the contrary, the Final EIR has sought to minimize the significant impacts on the Beaumont Unified School District ("Beaumont USD") by "combining" its current available capacity with that of Banning Unified School District ("Banning USD"), thereby making the scope of the impact appear less significant. Based on the available capacity in Beaumont USD, as provided in Table 4.12-2 of the Final EIR *Errata*, and the number of students projected to be generated by the Project, as reflected in Table 4.12-7 of the Final EIR, Beaumont USD will have a deficit of 1,330 seats for students in Grades K-5 as a result of the Project, and a deficit of 623 seats for students in Grades 9-12. Such a deficit substantially overshadows the additional 300 seats cited in the EIR that may become available within Beaumont USD upon completion of its 21-classroom expansion project.

Furthermore, the City has assumed that all of the existing capacity at both Districts will be solely available to the students generated from the Project, ignoring the fact that much of that capacity will be utilized by other projects likewise generating students within those areas served by the Districts. Accordingly, the impact of overcrowding school facilities will be substantially higher than contemplated within the existing EIR. Such impact will be further increased, particularly in the early stages of the Project, as the Districts will not be able to construct new facilities to accommodate students from the Project until (1) sufficient school fees have been paid from the Project to satisfy the District's required matching local funds to build the schools, and (2) State matching funds are available, which in the current economic climate is becoming increasingly unpredictable. Until such time, the Districts will be forced to accommodate students from the Project in existing facilities.

With respect to the accommodate of students at the Districts' existing facilities, the EIR, despite contrary assertions by the City, has not adequately addressed the indirect interim impacts associated with the use of existing school facilities pending the construction of new school facilities contemplated by the Project, as required by *Chawanakee Unified School District v. County of Madera* (2011) 196 Cal.App.4th 1016. The EIR does not consider the traffic impacts at and around the existing local schools, resulting from overcrowded conditions exceeding the original design capacity of such schools. The EIR also does not consider any of the additional construction-related impacts that may potentially impact the surrounding community, as the Districts are forced to add additional classrooms at their existing campuses to meet the increased demand for classrooms caused by the Project.

The Districts, however, reiterate that much of the adverse impacts can be mitigated through a mutually acceptable mitigation agreement between the Districts, Pardee, and potentially even the City. Such an agreement could address several deficiencies in the SB 50 mitigation, including a financing plan that can assist in making school facilities available as and when needed to serve the students generated by the Project. The sheer size of the Project, slated for 5,387 residential units, coupled with uncertainly and delays in the receipt of funding from the

State of California in the current economic climate, will result in delays in the construction of, and thus availability of, schools to serve the Project, particularly when local school fees are not paid until the issuance of individual building permits. A mutually acceptable mitigation agreement will allow the Districts' and Pardee an opportunity to address this problem and provide a more timely delivery of schools to serve the Project—a strong benefit to the new students who will reside within the boundaries of the Districts and an important selling point for new homes.

As such, we continue to urge both the City and Pardee to contact the Districts at their earliest convenience, to discuss options to adequately and timely fund the school facilities needed to serve the Project. We believe that such efforts can be managed in a manner that will benefit all the Parties involved and that will assist the City and Pardee in building a much stronger community.

Very truly yours,

BOWIE, ARNESON,
WILES & GIANNONE

By: Jeff Hoskinson

JAH:ad

cc: Alice Grundman
Dr. Christine Wallace

**Beaumont/Banning Unified School Districts March 7, 2012 Letter Response**

By letter dated March 7, 2012, Beaumont Unified School District and Banning Unified School District (Districts) restate their request for school funding beyond fees established by Senate Bill 50. The Districts further state that there is insufficient capacity to meet the demand resulting from the Project and that the EIR does not adequately address the indirect interim impacts associated with the use of existing school facilities pending construction of new school facilities.

The City refers the Districts to the FEIR, Response to Agency Comment Letter No. 5 and Master Response 2. Based on the availability of school sites, the payment of school fees, the conservative assumptions on student generation rates and the long-range Project buildout, the Districts (including Beaumont USD independently) would have sufficient flexibility to plan for and accommodate the additional students generated by the proposed Project.

As set forth in Table 4.12-2 of the FEIR, excess capacity currently exists within the Beaumont USD at Sundance Elementary School (111 seats), San Gorgonio Middle School (414 seats) and Beaumont High School (118 seats). In addition, planned expansion of Beaumont High School would accommodate an additional 300 students. Banning USD has excess capacity at Hemmerling Elementary (171 seats), Susan B. Combs Intermediate (66 seats), Nicolet Middle School (344 seats) and Banning High School (567 seats). See Draft EIR, Table 4.12-3. Total existing excess capacity within the Districts is 1,791 seats.

The Butterfield Specific Plan designates one school site within Beaumont USD (an 11.7 acre parcel in Planning Area 20 [Draft EIR, Exhibit 3.0-4]), which in conjunction with the two proposed school sites previously reserved within the adjacent Sundance Specific Plan, provide capacity for an additional 1,800 elementary school students and 1,200 middle school students. The Butterfield Specific Plan also designates a school site with Banning USD (an 11.3 acre parcel in Planning Area 68 [Draft EIR, Exhibit 3.0-4]). Additional school sites can be provided within the Butterfield Specific Plan if determined they are needed. Accordingly, Project approval would not cause overcrowding at existing schools and the construction of new schools can accommodate additional students as the Project is built out over the next 35 years.

Because there is existing excess capacity in the Districts and the Project provides sufficient sites for new school facilities, the Project would not cause indirect interim impacts associated with the use of existing school facilities pending construction of new school facilities. In addition, the traffic impacts generated by students travelling to existing schools was analyzed the Traffic Impact Analysis, and appropriate mitigation has been recommended to reduce those effects to acceptable service levels.

In addition, Senate Bill 50, which amended Government Code Section 65995(a), prohibits local agencies from imposing school impact mitigation fees, dedications, or other requirements in excess of those provided in the statute in connection with any legislative or adjudicative act. Consistent with prior statutes, school districts are limited to imposing only the school impact fees

authorized by statute. In addition, the legislation amended Government Code Section 65996(b) to prohibit local agencies from using the inadequacy of school facilities as a basis for denying or conditioning approvals of any 'legislative' or 'adjudicative' act involving the planning, use, or development of real property. As identified in Government Code Section 65995 (h), payment of fees is deemed to be full and complete mitigation of the impacts of any legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property.

RECEIVED
MAR - 5 2012
By

February 28, 2012

RE: Butterfield Specific Plan Development

TO WHOM IT MAY CONCERN:

Thank you for your letter of February 4, 2012. As I have stated previously, I am much opposed to this project. With houses all around in any price range, this project seems totally without reason and greedy.

Environment??? How can one predict the air quality of an unestablished development in regards to number of persons, autos, water use et al?

I understand this is a Banning development yet the street names in the enclosed map are mostly of Beaumont. What about Banning streets: Evergreen, Mountain Ave, Gilman St. Hoffer St. Would be interesting to know how they play into the diagram. Makes one a bit suspicious.

I beg for a few "wide-open" spaces to be left. With the cows grazing tis a soothing site to behold. This morning as I drove to the hospital I wish all could have seen the entire panorama from Wilson and beyond the foothills covered with snow (best I've seen in past fifty years) and the coyotes cavorting in the snow. It was an artist's delight.

Again, I would like to see action from visionaries rather than day-dreamers. Rather than so much time spent on presenting this unnecessary project, time could be well spent on the maintenance of this town, downtown & industry. May this project fail to develop for the betterment of Banning and its citizens.

Janelle Singleton
A VERY CONCERNED CITIZEN.

**Janelle Singleton**
924 Highland Home Rd.
Banning, CA 92220-1244

4/6

**Janelle Singleton**
**FEBRUARY 28, 2012 LETTER**
**RESPONSE**

The comment questions how can one predict the air quality of an un-established development in regards to number of person, autos, water use etc., but does not specifically identify any concerns with the adequacy of the analysis presented in the Draft EIR. Impacts to air quality, traffic and water are analyzed in full both on a project – specific level and cumulative level in the Draft EIR. Refer to sections 4.3, 4.13 and 4.9 of the Draft EIR.

The comment also requests open spaces be left, such as the panorama views of the foothills.

The site has been redesigned from the currently approved Deutsch Specific Plan, which has been in effect since 1993, whereby the current approved Specific Plan allowed for grading of the entire site, while the proposed Specific Plan preserves the northern steeper slopes as open space and provides for a more extensive open space network along with the Smith Creek drainage corridor. There are multiple Visual Resource Mitigation Measures incorporated in the Butterfield Specific Plan to ensure the conservation and management of visual impacts and open space areas to provide recreational opportunities and protect important resources in the future. For example, the development will incorporate landscape designs and materials that complement the surrounding native desert environment. Mass graded areas will be revegetated at the completion of the mass grading process, pursuant to the City's Municipal Code and the Specific Plan. In addition, the Butterfield Specific Plan contains grading standards and landscape guidelines that both incorporate and exceed the City's Code design standards by providing detailed plans and standards for landscape plant palettes, architectural guidelines, streetscape enhancements, park treatments, perimeter and interior fencing, etc. Also, proposed new utility lines shall be under grounded to the greatest extent possible. The Project's potential golf course or open space will provide a view corridor to preserve vistas of the San Bernardino Mountain ridgelines and foothills to the north and east and vistas of the San Jacinto Mountains to the south. Open space and parks throughout the Project will provide scenic views as well. Architectural lighting and landscape accents will be aesthetically pleasing and non obtrusive. See also Master Response #9, FEIR, Section 2.

The comment further states that this is an unnecessary project and time would be well spent on maintenance of this town, downtown & industry.

The proposed Project will increase employment opportunities throughout the 30 year build out period and to provide for a future range of housing opportunities. This will include developing a diverse range of housing types available at a variety of price points, responsive to market demand, varying lifestyles, and the developing economic profile of the community. The development sequence presented in the Draft EIR (Section 3.0,

Project Description) will be subject to change over time in response to various factors including the cyclical nature of the housing market, which is closely tied to the availability of jobs. In addition, the Project is estimated to reach full build-out in 30 years; therefore, the jobs picture is likely to fluctuate over the life of the Project and, if so, the Project would serve to meet the resultant housing demand.

Additionally, with respect to improving the town and downtown, infrastructure associated with the project will ultimately improve existing public systems. The Draft EIR analyzes impacts associated with Project-related infrastructure. Refer to Sections 4.1 through 4.14 of the Draft EIR. Infrastructure necessary for buildout of the General Plan was previously analyzed as part of the General Plan EIR. Additionally, improvements to infrastructure as a result of cumulative development would occur on an as needed basis, and independent environmental review would be conducted at the time of submittal of a project application.

SOBOBA BAND OF LUISEÑO INDIANS
EST. JUNE 19, 1883

February 27, 2012

Attn: Zai Abu Bakar, Community Development Director
City of Banning, Community Development Department
99 E. Ramsey Street
Banning, CA 92220

**Re: 1,543 acre Specific Plan project in the western portion of the City of Banning, which involves constriction of dwelling units, golf coarse open space, parks, two school sites, an existing utility substation facility, a potential fire station, office sites, and backbone roadways (to be taken in consideration with of General Plan Amendment No. 11-2501, Zone change 11-3501, and in support of the Butterfield Specific Plan Amendment Project)**

The Soboba Band of Luiseño Indians appreciates your observance of Tribal Cultural Resources and their preservation in your project. The information provided to us on said project has been assessed through our Cultural Resource Department, where it was concluded that although it is outside the existing reservation, the project area does fall within the bounds of our Tribal Traditional Use Areas. This project location is in close proximity to known village sites and is a shared use area that was used in ongoing trade between the Luiseno and Cahuilla tribes. Therefore it is regarded as highly sensitive to the people of Soboba.

Soboba Band of Luiseño Indians is requesting the following:

1. **Government to Government** consultation in accordance to SB18. Including the transfer of information to the Soboba Band of Luiseno Indians regarding the progress of this project should be done as soon as new developments occur.

2. Soboba Band of Luiseño Indians continue to be a lead consulting tribal entity for this project.

3. Working in and around traditional use areas intensifies the possibility of encountering cultural resources during the construction/excavation phase. For this reason the Soboba Band of Luiseño Indians requests that Native American Monitor(s) from the Soboba Band of Luiseño Indians Cultural Resource Department to be present during any ground disturbing proceedings. Including surveys and archaeological testing.

4. Request that proper procedures be taken and requests of the tribe be honored (Please see the attachment)

Sincerely,

Joseph Ontiveros
Soboba Cultural Resource Department
P.O. Box 487
San Jacinto, CA 92581
Phone (951) 654-5544 ext. 4137
Cell (951) 663-5279
jontiveros@soboba-nsn.gov

RECEIVED
FEB 28 2012
By

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**Cultural Items (Artifacts).** Ceremonial items and items of cultural patrimony reflect traditional religious beliefs and practices of the Soboba Band. The Developer should agree to return all Native American ceremonial items and items of cultural patrimony that may be found on the project site to the Soboba Band for appropriate treatment. In addition, the Soboba Band requests the return of all other cultural items (artifacts) that are recovered during the course of archaeological investigations. Where appropriate and agreed upon in advance, Developer's archeologist may conduct analyses of certain artifact classes if required by CEQA, Section 106 of NHPA, the mitigation measures or conditions of approval for the Project. This may include but is not limited or restricted to include shell, bone, ceramic, stone or other artifacts.

The Developer should waive any and all claims to ownership of Native American ceremonial and cultural artifacts that may be found on the Project site. Upon completion of authorized and mandatory archeological analysis, the Developer should return said artifacts to the Soboba Band within a reasonable time period agreed to by the Parties and not to exceed (30) days from the initial recovery of the items.

**Treatment and Disposition of Remains**

A. The Soboba Band shall be allowed, under California Public Resources Code § 5097.98 (a), to (1) inspect the site of the discovery and (2) make determinations as to how the human remains and grave goods shall be treated and disposed of with appropriate dignity.

B. The Soboba Band, as MLD, shall complete its inspection within twenty-four (24) hours of receiving notification from either the Developer or the NAHC, as required by California Public Resources Code § 5097.98 (a). The Parties agree to discuss in good faith what constitutes "appropriate dignity" as that term is used in the applicable statutes.

C. Reburial of human remains shall be accomplished in compliance with the California Public Resources Code § 5097.98 (a) and (b). The Soboba Band, as the MLD in consultation with the Developer, shall make the final discretionary determination regarding the appropriate disposition and treatment of human remains.

D. All parties are aware that the Soboba Band may wish to rebury the human remains and associated ceremonial and cultural items (artifacts) on or near, the site of their discovery, in an area that shall not be subject to future subsurface disturbances. The Developer should accommodate on-site reburial in a location mutually agreed upon by the Parties.

E. The term "human remains" encompasses more than human bones because the Soboba Band's traditions periodically necessitated the ceremonial burning of human remains. Grave goods are those artifacts associated with any human remains. These items, and other funerary remnants and their ashes are to be treated in the same manner as human bone fragments or bones that remain intact

SOBOBA BAND OF LUISEÑO INDIANS

**Coordination with County Coroner's Office.** The Lead Agencies and the Developer should immediately contact both the Coroner and the Soboba Band in the event that any human remains are discovered during implementation of the Project. If the Coroner recognizes the human remains to be those of a Native American, or has reason to believe that they are those of a Native American, the Coroner shall ensure that notification is provided to the NAHC within twenty-four (24) hours of the determination, as required by California Health and Safety Code § 7050.5 (c).

**Non-Disclosure of Location Reburials.** It is understood by all parties that unless otherwise required by law, the site of any reburial of Native American human remains or cultural artifacts shall not be disclosed and shall not be governed by public disclosure requirements of the California Public Records Act. The Coroner, parties, and Lead Agencies, will be asked to withhold public disclosure information related to such reburial, pursuant to the specific exemption set forth in California Government Code § 6254 (r).

Ceremonial items and items of cultural patrimony reflect traditional religious beliefs and practices of the Soboba Band. The Developer agrees to return all Native American ceremonial items and items of cultural patrimony that may be found on the project site to the Soboba Band for appropriate treatment. In addition, the Soboba Band requests the return of all other cultural items (artifacts) that are recovered during the course of archaeological investigations. Where appropriate and agreed upon in advance, Developer's archeologist may conduct analyses of certain artifact classes if required by CEQA, Section 106 of NHPA, the mitigation measures or conditions of approval for the Project. This may include but is not limited or restricted to include shell, bone, ceramic, stone or other artifacts.

SOBOBA BAND OF LUISEÑO INDIANS

**SOBOBA BAND OF LUISEÑO INDIANS**
**FEBRUARY 27, 2012 LETTER**
**RESPONSE**

This letter confirms that the Soboba Band of Luiseño Indians has assessed the project and has determined the project site lies outside of the Tribe's current reservation boundaries, but within an area that may be considered a traditional use area or one in which the Tribe has cultural ties. The Tribe raises no specific concerns regarding the project or the adequacy of the environmental review, but requests a Government to Government Consultation in accordance with SB 18. SB 18 is an independent governmental process (separate from CEQA) that requires local governments to consult with California Native American tribes identified by the Native American Heritage Commission.

Section 4.6 of the DEIR (and Appendix D) indicates that the City conducted Native American consultation pursuant to SB18 and CEQA requirements. The DEIR NOA was also distributed to local tribes, including the Soboba Band of Luiseño Indians. The City will continue to comply with all state and federal laws concerning Native American cultural resources.

Mitigation Measure CUL-4 in Chapter 4.6, *Cultural Resources,* of the Draft EIR, states that if previously unknown cultural resources, including human remains, are identified during grading activities, a qualified archaeologist shall be retained to assess the nature and significance of the find. If human remains are encountered, State Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the County Coroner has made a determination of origin and disposition pursuant to Public Resources Code Section 5097.98. The County Coroner shall be notified of the find immediately. If the remains are determined to be prehistoric, the Coroner shall notify the Native American Heritage Commission (NAHC), which shall determine and notify a Most Likely Descendant (MLD). With the permission of the landowner or his/her authorized representative, the MLD may inspect the site of the discovery. The MLD shall complete the inspection within 24 hours of notification by the NAHC. The MLD may recommend scientific removal and nondestructive analysis of human remains and items associated with Native American burials.

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FEMA Region IX
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Oakland, CA. 94607-4052

FEMA

February 28, 2012

Zai Abu Bakar, Community Development Director
City of Banning
P. O. Box 998
Banning, California 92220

Dear Zai Abu Bakar:

This is in response to your request for comments on the Notice of Public Hearing, Final Environmental Impact Report (State Clearinghouse #2007091149), General Plan Amendment no. 11-2501, Zone Change No. 11-3501, Specific Plan Amendment to Rename and Restate the Deutsch Specific Plan to Butterfield Specific Plan, and Amendment to Development Agreement ("Project") in the City of Banning .

Please review the current effective countywide Flood Insurance Rate Maps (FIRMs) for the County of Riverside (Community Number 060245) and City of Banning (Community Number 060246), Maps revised August 28, 2008. Please note that the City of Banning, Riverside County, California is a participant in the National Flood Insurance Program (NFIP). The minimum, basic NFIP floodplain management building requirements are described in Vol. 44 Code of Federal Regulations (44 CFR), Sections 59 through 65.

A summary of these NFIP floodplain management building requirements are as follows:

- All buildings constructed within a riverine floodplain, (i.e., Flood Zones A, AO, AH, AE, and A1 through A30 as delineated on the FIRM), must be elevated so that the lowest floor is at or above the Base Flood Elevation level in accordance with the effective Flood Insurance Rate Map.

- If the area of construction is located within a Regulatory Floodway as delineated on the FIRM, any ***development*** must not increase base flood elevation levels. **The term *development* means any man-made change to improved or unimproved real estate, including but not limited to buildings, other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, and storage of equipment or materials.** A hydrologic and hydraulic analysis must be performed *prior* to the start of development, and must demonstrate that the development would not cause any rise in base flood levels. No rise is permitted within regulatory floodways.

- All buildings constructed within a coastal high hazard area, (any of the "V" Flood Zones as delineated on the FIRM), must be elevated on pilings and columns, so that the lowest horizontal structural member, (excluding the pilings and columns), is elevated to or above the base flood elevation level. In addition, the posts and pilings foundation and the structure attached thereto, is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components.

- Upon completion of any development that changes existing Special Flood Hazard Areas, the NFIP directs all participating communities to submit the appropriate hydrologic and hydraulic data to FEMA for a FIRM revision. In accordance with 44 CFR, Section 65.3, as soon as practicable, but not later than six months after such data becomes available, a community shall notify FEMA of the changes by submitting technical data for a flood map revision. To obtain copies of FEMA's Flood Map Revision Application Packages, please refer to the FEMA website at http://www.fema.gov/business/nfip/forms.shtm.

**Please Note:**

Many NFIP participating communities have adopted floodplain management building requirements which are more restrictive than the minimum federal standards described in 44 CFR. Please contact the local community's floodplain manager for more information on local floodplain management building requirements. The City of Banning floodplain manager can be reached by calling Andy Takata, City Manager, at (951) 922-3104. The Riverside County floodplain manager can be reached by calling Michael Lara, Director, Building and Safety Division, at (951) 955-2514.

If you have any questions or concerns, please do not hesitate to call Frank Mansell of the Mitigation staff at (510) 627-7191.

Sincerely,

for Roy Lenaburg

Gregor Blackburn, CFM, Branch Chief
Floodplain Management and Insurance Branch

cc:
Andy Takata, City Manager, City of Banning
Michael Lara, Director, Building and Safety Division, Riverside County
Garret Tam Sing/Salomon Miranda, State of California, Department of Water Resources, Southern Region Office
Frank Mansell, NFIP Planner, DHS/FEMA Region IX
Alessandro Amaglio, Environmental Officer, DHS/FEMA Region IX

**U.S. Department of Homeland Security**
**FEMA Region IX**
**FEBRUARY 28, 2012 LETTER**
**RESPONSE**

The Agency originally commented on June 21, 2011. See Comment 3, and Response 3 FEIR Section 3.3—3. The February 28, 2012 letter repeats these statements including use of current countywide Flood Insurance Rate Maps (FIRMs) for the County of Riverside and City of Banning, which were used.

# ATTACHMENT 8

## Public Hearing Notice
## And Mailing Labels

**PROOF OF SERVICE BY MAIL - - C.C.P. § 1013.A 2015.5**

**STATE OF CALIFORNIA )**
**COUNTY OF RIVERSIDE )**

I am employed in the County aforesaid; I am over the age of eighteen years and not a party to the within action; my business address is 99 E. Ramsey Street, Banning California 92220.

On March 14, 2012 I served the within Notice of Hearing on the parties in said action, by placing a true copy thereof enclosed in a sealed envelope in the U.S. Mail at Banning, California, addressed as follows:

See attached list

I am readily familiar with the City of Banning's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with the United States Postal Service on that same day, with postage thereon fully prepaid at Banning, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation dater of postage meter date is more than one day after date of deposit for mailing an affidavit.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on March 14, 2012, at Banning, California

Gini Sorenson

Gini Sorenson

PROOF OF SERVICE BY MAIL



427

**City of Banning**
P.O. Box 998
Banning, California 92220
Fax (951) 922-3128
**Planning Division:**
(951) 922-3125

## NOTICE OF PUBLIC HEARING

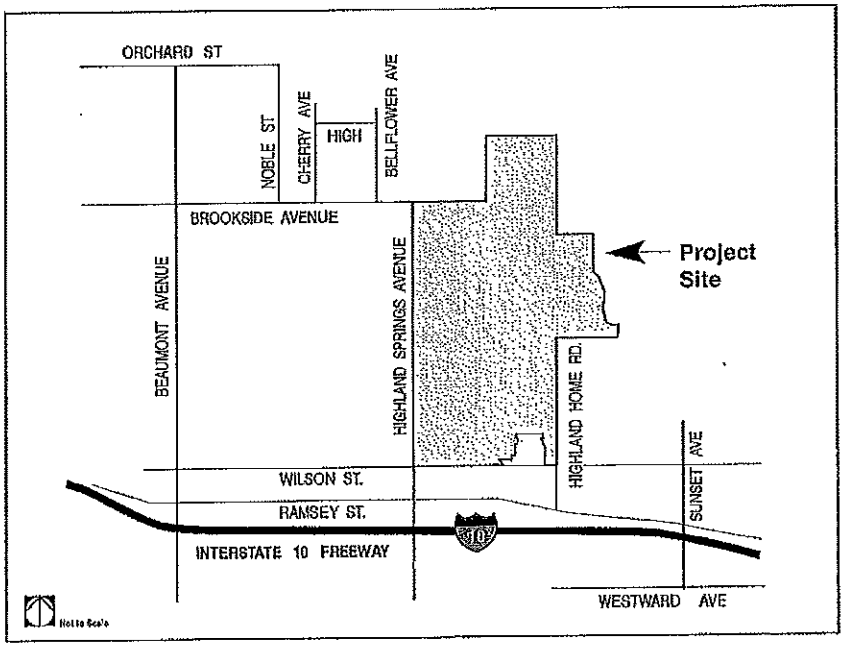
**PURSUANT TO LAW, NOTICE IS HEREBY GIVEN** to all property owners within 300 feet of the subject property, of a public hearing before the City Council of the City of Banning, to be held at a regular City Council Meeting on Tuesday, March 27, 2012 at 5:00 p.m. in the Council Chambers, City Hall, 99 East Ramsey Street, Banning, California, to consider the following:

**WATER SUPPLY ASSESSMENT, FINAL ENVIRONMENTAL IMPACT REPORT (State Clearinghouse # 2007091149), GENERAL PLAN AMENDMENT NO. 11-2501, ZONE CHANGE NO. 11-3501, SPECIFIC PLAN AMENDMENT TO RENAME AND RESTATE THE DEUTSCH SPECIFIC PLAN TO BUTTERFIELD SPECIFIC PLAN, AND AMENDMENT TO DEVELOPMENT AGREEMENT ("PROJECT")**

**NOTICE IS HEREBY GIVEN** that the City of Banning (City), as Lead Agency under the California Environmental Quality Act (CEQA), will hold a public hearing before the City Council on the date, time, and location listed below for consideration of the project. The Final Environmental Impact Report (EIR) for the project has been prepared pursuant to CEQA and the CEQA Guidelines. Copies of available materials may be reviewed or obtained from the City's office at the address below. Any person may appear at the public hearing in person or by agent and be heard.

### City Council Hearing Date = March 27, 2012
### Hearing Time = 5:00 PM
### Hearing Location = City of Banning Council Chambers
99 E. Ramsey Street, Banning, CA 92220

**Project Location:** The Project is located on approximately 1,543 acres in the western portion of the City of Banning. The Project site is located east of Highland Springs Avenue, west of Highland Home Road, and north of Wilson Street. Assessor's Parcel Numbers (APNs): 408-030-001 & -005; 408-120-001 thru -020, -022, -024, -025, -027, & -033; 531-080-013 & -014, 408-060-006, 007, & 008 (portions).




**Project Description:** The Project proposes a Specific Plan allowing a maximum of 5,387 dwelling units (936.4 acres of residential), golf course open space (253.9 acres), parks (66.5 acres) and other open space (108.4 acres), two school sites (23.0 acres), an existing utility substation facility (4.2 acres), a potential fire station site, commercial/office sites (36.0 acres), and backbone roadways (113.6 acres). The Project also includes the construction of major onsite and offsite infrastructure, including, but not limited to various offsite conveyance pipelines, a multi-purpose recharge/storage/detention basin,

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drainage improvements to Smith Creek immediately upstream and downstream of the Project site (which will provide citywide benefits), onsite drainage improvements and groundwater recharge basins, onsite and offsite road improvements, other related infrastructure, and water storage tanks and detention basins.

The Project includes concurrent consideration of a Water Supply Assessment for the project, proposed General Plan Amendment No. 11-2501 and Zone Change No. 11-3501 in consideration of the Specific Plan Amendment (amending/restating the Deutsch Property Specific Plan, which allows up to 5,400 dwelling units). The proposed General Plan Amendment and Zone Change would revise the text in the General Plan and allow the City's General Plan Land Use and Zoning Overlay Map to show a land use and zoning designation for a property that has an approved Specific Plan to be labeled as Specific Plan without depicting the underlying land use designations. In addition, the General Plan amendment and Zone Change would replace the Zoning for the project site from Deutsch Specific Plan to the Butterfield Specific Plan. The applicant, Pardee Homes, as part of the proposed Project, has also requested City approval of an amended Development Agreement.

**Environmental Impact Report (EIR) Certification:** A Draft EIR was made available for public review and comment pursuant to the provisions of CEQA. The purpose of the Draft EIR was to identify and describe probable environmental impacts that would result from the Project. The 45-day public review period for the Draft EIR began on June 6, 2011 and ended on July 20, 2011. The City also held three public meetings to discuss the project, answer questions pertaining to the analyses presented in the Draft EIR, and receive public comments on the document. The three public meetings were held on June 7, 2011, June 21, 2001, and July 14, 2011. The Final EIR proposes text revisions to the Draft EIR and responses to comments that were submitted on the Draft EIR.

The City of Banning Planning Commission held a public hearing and considered this Project at their meeting on March 7, 2012. The Planning Commission recommended approval of this Project to the Banning City Council. The Banning City Council and Banning Utility Agency will now determine to either approve or not approve the Project Water Supply Assessment. The Banning City Council will also now determine to either certify or deny the EIR for the proposed Project. In addition the City Council will determine to either approve or deny the subject General Plan Amendment, Zone Change, Specific Plan Amendment, and Development Agreement Amendment.

A copy of the Public Project Files, including the Specific Plan, Final Environmental Impact Report, Water Supply Assessment, General Plan Amendment, Change of Zone and Amended Development Agreement, is available at the the City of Banning Community Development Department, 99 E. Ramsey Street, Banning, CA 92220 and at the Banning Public Library, 21 W. Nicolet Street, Banning CA 92220, as well as at the City Community Development Department's website at http://www.ci.banning.ca.us

**BY ORDER OF THE COMMUNITY DEVELOPMENT DIRECTOR OF THE CITY OF BANNING, CALIFORNIA.**

Zai Abu Bakar
Community Development Director

Dated: March 14, 2012

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Dennis W & Sheryl Coslett
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Juan & Elvia Velazquez
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Banning, CA 92220-1210

408-132-008
Marilyn & Robert Doty
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Bertha English
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408-132-010
Richard D & Margaret Cherland
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1151 Brinton Ave
Banning, CA 92220-1203

408-132-015
Margo Rodriguez
1133 Brinton Ave
Banning, CA 92220-1203

408-132-016
John C & Denise Humphries
1115 Brinton Ave
Banning, CA 92220-1203

408-132-017
William & Martha Rhodes
1093 Brinton Ave
Banning, CA 92220-1203

408-132-018
William E & Shirley Trosper
1053 Brinton Ave
Banning, CA 92220-1203

408-132-019
William E & Shirley Trosper
1053 Brinton Ave
Banning, CA 92220-1203

408-132-020
Uyming & Anna Ling
755 W Ramsey St
Banning, CA 92220-4941

408-132-021
Albert E & Bertha Gomez
PO Box 6162
Redlands, CA 92375-1362

408-133-001
Kathleen J Funnell
5212 W Gilman St
Banning, CA 92220-1273

408-133-002
Franklin J & Guadalupe Brown
1167 Kingswell Ave
Banning, CA 92220-1266

408-133-003
Ronald L & Katherine Espalin
1151 Kingswell Ave
Banning, CA 92220-1266

408-133-004
Thomas C Funnell
1133 Kingswell Ave
Banning, CA 92220-1266

408-133-005
Chalmus J & Mary Wilson
5213 W King St
Banning, CA 92220-1263

408-133-006
Victor A & Jeannette Garcia
1117 Kingswell Ave
Banning, CA 92220-1266

408-133-007
Shirley M Gardiner
1097 Kingswell Ave
Banning, CA 92220-1266

408-133-008
Connie L Burrage
PO Box 890626
Temecula, CA 92589-0626

408-133-009
Humberto & Olga Suarez
5208 W King St
Banning, CA 92220-1263

408-133-010
Betta J Grant
1065 Kingswell Ave
Banning, CA 92220-1264

408-133-011
Brian & Marion Dolim
1045 Kingswell Ave
Banning, CA 92220-1264

408-133-012
Christine A Schicke
5241 W Hoffer St
Banning, CA 92220-1258

408-133-013
Jim & Patricia Ford
5223 W Hoffer St
Banning, CA 92220-1259

408-133-014
Joanne & Jeannette Rogers
5203 W Hoffer St
Banning, CA 92220-1258

408-133-015
Lila Lopez
1364 W Wilson St
Banning, CA 92220-4156

408-133-016
Michael & Delia Lopez
1364 W Wilson St
Banning, CA 92220-4156

408-134-001
Carmen Chapparosa
5230 W Hoffer St
Banning, CA 92220-1259

408-134-002
Larry W Davis
1126 Magnolia Ave
Beaumont, CA 92223-1842

408-134-003
Tony & Davis Abate
5182 W Hoffer St
Banning, CA 92220-1259

408-134-004
Benjamin Thompson
688 Wesley St
Banning, CA 92220-6338

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21722 Seaside Ln
Huntington Be, CA 92646-8232

408-134-007
Ixtapa Llc
232 E Grand Blvd 103
Corona, CA 92879-1579

408-134-008
Richard O & Dimitra Krick
852 Via Panorama
Banning, CA 92220-1846

408-134-009
City Of Banning
PO Box 998
Banning, CA 92220-0007

408-135-001
Joseph F & Nellie Lara
5112 W Hoffer St
Banning, CA 92220-1257

408-135-002
Cesar & Teresa Montoya
872 W Hays St
Banning, CA 92220-4406

408-135-003
Christine A Olsen
5072 W Hoffer St
Banning, CA 92220-1257

408-135-004
Jian & Long Chen
1153 Regal Canyon Dr
Walnut, CA 91789-5032

408-141-001
Dave C & Suzie Young
5087 W Gilman St
Banning, CA 92220-1239

408-141-002
Morris & Jacqueline Bean
5073 W Gilman St
Banning, CA 92220-1239

408-141-003
Frank & Sheryl Deharo
5051 W Gilman St
Banning, CA 92220-1239

408-141-004
Jesus & Elisa Quintero
2710 Baltic Ave
Long Beach, CA 90810-3103

408-142-001
Robert B & Sharon Mogeough
4989 W Gilman St
Banning, CA 92220-1279

408-142-002
Penny Rangel
4971 W Gilman St
Banning, CA 92220-1279

408-143-001
Francisca E Piceno
1184 Brinton Ave
Banning, CA 92220-1208

408-143-002
Lane R & Joann Garland
1166 Brinton Ave
Banning, CA 92220-1208

408-143-003
Walters
1150 Brinton Ave
Banning, CA 92220-1206

408-143-004
Carol Ortega
1132 Brinton Ave
Banning, CA 92220-1208

408-143-005
Jeffrey S Swendler
PO Box 672
Beaumont, CA 92223-0672

408-143-006
Vicki Ortega
1098 Brinton Ave
Banning, CA 92220-1204

408-143-007
Robert R Houle
1082 Brinton Ave
Banning, CA 92220-1204

408-143-008
Dale E & Ursula Davignon *M*
1066 Brinton Ave
Banning, CA 92220-1204

408-143-009
Joseph J & Amie Struna
1050 Brinton Ave
Banning, CA 92220-1204

408-143-010
Alice D Neal
1034 Brinton Ave
Banning, CA 92220-1204

408-143-011
Donna J Clarkson
1018 Brinton Ave
Banning, CA 92220-1204

408-143-012
Miriam Lopez
5036 W Gilman St
Banning, CA 92220-1210

408-143-013
Alma J Fultz
1167 Thompson Ave N
Banning, CA 92220-1269

408-143-014
Hope M & John Gonzalez
1151 Thompson Ave N
Banning, CA 92220-1269

408-143-015
Wanda Nottingham
1133 Thompson Ave N
Banning, CA 92220-1269

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408-143-018
Samuel R & Yolandi Shoemaker
1073 Thompson Ave N
Banning, CA 92220-1269

408-143-019
Brenda K Hatfield
1053 Thompson Ave N
Banning, CA 92220-1269

408-143-020
Mary Valdivia
1035 Thompson Ave N
Banning, CA 92220-1269

408-143-021
Rudy & Silvia Gognavec
1015 Thompson Ave N
Banning, CA 92220-1269

408-144-001
David A & Charlene Bassa
4980 W Gilman St
Banning, CA 92220-1279

408-144-002
Geremy Moyle
414 E Theodore St
Banning, CA 92220-2236

408-144-003
Evelea C Waters
1150 Thompson Ave N
Banning, CA 92220-1217

408-144-004
Dan R & Susan Proctor
1132 Thompson Ave N
Banning, CA 92220-1217

408-144-005
Mary Boss
1116 Thompson Ave N
Banning, CA 92220-1217

408-144-006
Moises & Claudia Jimenez
098 Thompson Ave N
Banning, CA 92220-1270

408-144-007
Celerino & Nancy Garcia
1082 Thompson Ave N
Banning, CA 92220-1270

408-144-008
Richmond & Sandra Zapp
1066 Thompson Ave N
Banning, CA 92220-1270

408-144-009
Nina Pogue
1050 Thompson Ave N
Banning, CA 92220-1270

408-144-010
Glynis Sheppard
1034 Thompson Ave N
Banning, CA 92220-1270

408-144-011
Abel Baradas
4941 W Hoffer St
Banning, CA 92220-1252

408-145-001
Norman F Mcgary
5050 W Hoffer St
Banning, CA 92220-1257

408-145-002
Robert & Brenda Hatfield
5030 W Hoffer St
Banning, CA 92220-1257

408-145-003
Russell & Patricia Pene
5008 W Hoffer St
Banning, CA 92220-1257

408-145-004
Melana Horsman
4990 W Hoffer St
Banning, CA 92220-1257

408-145-005
Thomas K & Sharilyn Harper
4968 W Hoffer St
Banning, CA 92220-1257

408-145-006
Pierce Dennis Casey & Lory Dia
48 N Doc Holliday Ln
Central, UT 84722-9016

408-145-007
Charles E Tedrow
20933 Spruce Ave
Bloomington, CA 92316-3221

408-145-008
Gerald M Labovitz
PO Box 1101
Makawao, HI 96768-1101

408-145-009
Qian & Long Chen
1153 Regal Canyon Dr
Walnut, CA 91789-5032

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Beaumont Sundance
2371 Fenton St
Chula Vista, CA 91914-3511

419-050-005
Church Of Jesus Christ Lds
50 E North Temple
Salt Lake Cit, UT 84150-9001

419-050-013
Emmanuel B & Ofelia David
5800 W Wilson St
Banning, CA 92220-3042

419-050-014
Wilson Inv Dba Wilson Inv
2368 Torrance Blvd 200
Torrance, CA 90501-2547

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600 N Highland Springsave
Banning, CA 92220-3046

419-060-012
Peacock Valley Co
PO Box 992
Banning, CA 92220-0007

419-060-013
City Of Banning
PO Box 998
Banning, CA 92220-0007

419-150-034
Ky Nguyen
15521 Sunburst Ln
Huntington Be, CA 92647-2942

419-270-004
Joyce Vandeville
394 Beverly Dr
Banning, CA 92220-3231

419-270-005
Garob
1392 Peacock Hill Dr
Santa Ana, CA 92705-2359

419-270-006
Nancy J Brock
5415 Ellen Way
Banning, CA 92220-3240

419-270-007
Susanne Graham
5425 Ellen Way
Banning, CA 92220-3240

419-270-008
Richard W & Marjorie Lawrence
1081 Elisa Dawn Dr
Banning, CA 92220-1225

419-270-009
Richard W & Marjorie Lawrence
1081 Elisa Dawn Dr
Banning, CA 92220-1225

419-270-010
Teel Inv
PO Box 1070
Calimesa, CA 92320-0970

419-270-011
Teel Inv
PO Box 1070
Calimesa, CA 92320-0970

419-270-012
Renova Prop
PO Box 1265
Rancho Santa , CA 92067-1265

419-270-013
Judith Belland
30412 Via Chico El
Laguna Niguel, CA 92677-2135

419-270-014
Marylou M Antero
5515 Ellen Way
Banning, CA 92220-3216

419-270-015
Alda Landaverde
5527 Ellen Way
Banning, CA 92220-3216

419-270-016
Kurt H & Patricia Baruch
5528 Wendy Ct
Banning, CA 92220-3225

419-270-017
Renova Prop
PO Box 1265
Rancho Santa , CA 92067-1265

419-270-018
Lawrence J Morton
5504 Wendy Ct
Banning, CA 92220-3225

419-270-019
Morton Knopp *M*
5486 Wendy Ct
Banning, CA 92220-3225

419-270-020
John L Caesar
926 Santiago Ave
Long Beach, CA 90804-4403

419-270-021
David J & Alice Verdugo
PO Box 1363
Banning, CA 92220-0010

419-270-022
Steven & Barbara Toth
5515 Wendy Ct
Banning, CA 92220-3225

419-270-023
Richard T Corcoran
5527 Wendy Ct
Banning, CA 92220-3225

419-270-024
Gvgh Prop
926 Santiago Ave
Long Beach, CA 90804-4403

419-270-025
Peacock Valley Homeowners Assn
PO Box 992
Banning, CA 92220-0007

419-273-001
Helen Black
46790 Verdugo Rd
Banning, CA 92220-2823

419-273-002
Gill H Jones
467 Marian Way
Banning, CA 92220-3251

419-273-003
Emil Hartmann
451 Marian Way
Banning, CA 92220-3251

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Merriman
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Calimesa, CA 92320-1113

419-273-005
Marlies Pfeiffer
427 Marian Way
Banning, CA 92220-3251

419-273-006
Andrew & Marika Juhas
1245 Cypress Point Dr
Banning, CA 92220-5418

419-341-001
Charles B & Rose Cunningham
770 Kingswell Ave
Banning, CA 92220-3331

419-341-002
Todd M Oldenburg
748 Kingswell Ave
Banning, CA 92220-3331

419-341-003
Robert & Gene Pensiero
736 Kingswell Ave
Banning, CA 92220-3331

419-341-004
Robert L & Gale Brown
724 Kingswell Ave
Banning, CA 92220-3331

419-341-013
Peter L & Bridget Miranda
5051 Meadow Way
Banning, CA 92220-3334

419-342-001
Amador & Maria Ortega
5169 Prospector Cir
Banning, CA 92220-3318

419-342-002
Betty L King
5191 Prospector Cir
Banning, CA 92220-3318

419-342-003
Paige B Sullivan
5213 Prospector Cir
Banning, CA 92220-3327

419-342-004
Robert N & Dolores Brezinske
5237 Prospector Cir
Banning, CA 92220-3327

419-342-005
Noel T & Helen Manuel
5259 Prospector Cir
Banning, CA 92220-3327

419-342-006
Mario & Maria Arias
5281 Prospector Cir
Banning, CA 92220-3327

419-342-007
Daniel A Winder
5305 Prospector Cir
Banning, CA 92220-3328

419-342-008
Michael D & Teresa Smith
5282 Prospector Cir
Banning, CA 92220-3319

419-342-009
Donald W & Jenny Rosene
5260 Prospector Cir
Banning, CA 92220-3319

419-342-010
Narinder & Kirnjit Singh
5238 Prospector Cir
Banning, CA 92220-3319

419-342-011
Carlos A Macedo
5214 Prospector Cir
Banning, CA 92220-3319

419-342-012
Richard G & Betty Morris
5192 Prospector Cir
Banning, CA 92220-3300

419-342-013
Josefina C & Ricardo Abasolo
5170 Prospector Cir
Banning, CA 92220-3300

419-351-005
Logan P & Philip Westall
714 Marlboro Way
Banning, CA 92220-3349

419-351-006
Adolfo & Bonnie Mediano
736 Marlboro Way
Banning, CA 92220-3349

419-351-007
Robert J & Michelle Granados
758 Marlboro Way
Banning, CA 92220-3349

419-351-008
Jose & Margarita Arenas
4875 Meadow Way
Banning, CA 92220-3343

419-351-009
James M Munyas
4897 Meadow Way
Banning, CA 92220-3343

419-351-010
Robert Reynolds
4919 Meadow Way
Banning, CA 92220-3342

419-351-011
Joseph P & Janice Demeo
4941 Meadow Way
Banning, CA 92220-3342

419-351-012
Ralph Kato
4963 Meadow Way
Banning, CA 92220-3342

419-351-013
Robert J & Kari Mendoza
4985 Meadow Way
Banning, CA 92220-3342

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419-351-015
Enrique Ramirez
750 Casey Cir
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419-351-016
Raymond Ballejos
1820 Michigan St
Colton, CA 92324-1327

419-351-017
Maria Aguilar
777 Casey Cir
Banning, CA 92220-3311

419-351-018
John D Monjazi
PO Box 4220
Oceanside, CA 92052-4220

419-351-019
Lorenzo R & Denice Aceves
733 Casey Cir
Banning, CA 92220-3311

419-352-005
Velinda Patten
4958 Meadow Way
Banning, CA 92220-3312

419-352-006
Robert A & Doreen Reynolds
4936 Meadow Way
Banning, CA 92220-3312

419-352-007
Alima Davis
4914 Meadow Way
Banning, CA 92220-3312

419-352-008
Rowdy A & Kelly Russell
4892 Meadow Way
Banning, CA 92220-3344

419-423-014
Yong & Edward Weeks
1683 Sera Moon Dr
Beaumont, CA 92223-2049

419-423-015
Justin R & Kathryn Kooyman
1691 Sera Moon Dr
Beaumont, CA 92223-2049

419-423-016
Charles & Sara Rathfelder
1690 Jade Moon Ln
Beaumont, CA 92223-2043

419-423-017
Steve & Lynne Obrien
1684 Jade Moon Ln
Beaumont, CA 92223-2043

419-424-001
Franck C Montero
1681 Jade Moon Ln
Beaumont, CA 92223-2044

419-424-002
Frans W & Anne Cipta
1561 Crestview Rd
Redlands, CA 92374-6378

419-424-003
Tina Kummerle
1693 Jade Moon Ln
Beaumont, CA 92223-2044

419-424-004
Elmar & Mabel Zahforlin
1697 Jade Moon Ln
Beaumont, CA 92223-2044

419-424-005
Sandra P Rosales
1054 Sandpiper Dr
Beaumont, CA 92223-2052

419-424-006
Daniel & Shirley Sharkey
1069 Sandpiper Dr
Beaumont, CA 92223-2052

419-424-007
Jeffrey Dukes
1082 Sandpiper Dr
Beaumont, CA 92223-2052

419-424-008
Griselda & Sergio Frias
1094 Sandpiper Dr
Beaumont, CA 92223-2052

419-424-009
Fred D & Amber Parrish
1110 Sandpiper Dr
Beaumont, CA 92223-2052

419-424-010
Delfino & Lisa Cuevas
1124 Sandpiper Dr
Beaumont, CA 92223-2052

419-424-011
Paul Chung
1132 Sandpiper Dr
Beaumont, CA 92223-2055

419-424-012
City Of Beaumont
PO Box 158
Beaumont, CA 92223-0158

419-424-013
Sundance Community Assn
5966 La Place Ct 170
Carlsbad, CA 92008-8830

419-424-014
City Of Beaumont
PO Box 158
Beaumont, CA 92223-0158

419-425-001
Troy D & Thomasine Walker
1135 Sandpiper Dr
Beaumont, CA 92223-2054

419-425-002
Diedreann & Charles Arvona
1127 Sandpiper Dr
Beaumont, CA 92223-2054

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1112 Blue Star Way
Beaumont, CA 92223-2050

419-425-005
Connie J Carey
1126 Blue Star Way
Beaumont, CA 92223-2050

419-425-006
Sona Phaophanith
1138 Blue Star Way
Beaumont, CA 92223-2050

419-431-007
Sundance Community Assn
5966 La Place Ct 170
Carlsbad, CA 92008-8830

419-431-008
Clyde & Suzanne Birchard
PO Box 746
Banning, CA 92220-0018

419-431-009
Mary Ramirez
1168 Sandpiper Dr
Beaumont, CA 92223-2055

419-431-010
Honorio & Divina Nocon
1174 Sandpiper Dr
Beaumont, CA 92223-2055

419-431-011
Jaime B & Guadalupe Lizarraga
1186 Sandpiper Dr
Beaumont, CA 92223-2055

419-431-012
Terence R Becerra
1698 Moss Rose Way
Beaumont, CA 92223-2056

419-431-013
Kenneth D & Aminah Edwards
1580 W 8Th St 150
Upland, CA 91786-6146

419-431-014
Steven V Jensen
1686 Moss Rose Way
Beaumont, CA 92223-2057

419-431-015
Sundance Community Assn
5966 La Place Ct 170
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419-441-016
City Of Beaumont
PO Box 158
Beaumont, CA 92223-0158

419-433-001
Josefina P & Peter Banzon
1177 Sandpiper Dr
Beaumont, CA 92223-2054

419-433-002
Eric S & Marilyn Manayan
1169 Sandpiper Dr
Beaumont, CA 92223-2054

419-433-003
Richard & Artemia Cisneros
1157 Sandpiper Dr
Beaumont, CA 92223-2054

419-433-004
Christopher P & Michelle Aceves
1150 Blue Star Way
Beaumont, CA 92223-2050

419-433-005
Tang & Chang Moua
1164 Blue Star Way
Beaumont, CA 92223-2050

419-433-006
Renee & Foze Ennabe
1176 Blue Star Way
Beaumont, CA 92223-2050

419-441-006
Yvette & Robert Pope
1679 Larkspur Ln
Beaumont, CA 92223-2084

419-441-007
Huey-Min & Grace Yu
20530 Earlgate St 100
Walnut, CA 91789-2909

419-441-008
Tana & Andrew Jerome
1689 Larkspur Ln
Beaumont, CA 92223-2084

419-441-009
Heather Fenton
1695 Larkspur Ln
Beaumont, CA 92223-2084

419-441-010
Brandon G Cole
1202 Daisy Dr
Beaumont, CA 92223-8408

419-441-011
Jesusa Alles
1216 Daisy Dr
Beaumont, CA 92223-8408

419-441-012
Tommy U & Dean Chiery
1224 Daisy Dr
Beaumont, CA 92223-8408

419-441-013
Michael A Fedele
1238 Daisy Dr
Beaumont, CA 92223-8408

419-441-014
Dennis Brown
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Sweet Home, OR 97386-9645

419-441-015
Pedro Gutierrez
1254 Daisy Dr
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419-441-018
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419-442-001
Manuel & Cynthia Simas
1696 Amber Lily Dr
Beaumont, CA 92223-8410

419-442-002
Darlene M Brewer
1688 Amber Lily Dr
Beaumont, CA 92223-8412

419-442-003
Alex T & Kelly Smith
1678 Amber Lily Dr
Beaumont, CA 92223-8412

419-442-024
Regina Glock
1677 Amber Lily Dr
Beaumont, CA 92223-8411

419-442-025
Jimmy M & Divinia Ouco
1685 Amber Lily Dr
Beaumont, CA 92223-8411

419-442-026
Robert V & Merrell Gelley
420 N Mckinley St
Corona, CA 92879-8099

419-442-027
Monica Cortes
1694 Larkspur Ln
Beaumont, CA 92223-2083

419-442-028
Ryan & Clarissa Housseln
1404 Tulip Cir
Beaumont, CA 92223-6500

419-442-029
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Manuel Flores
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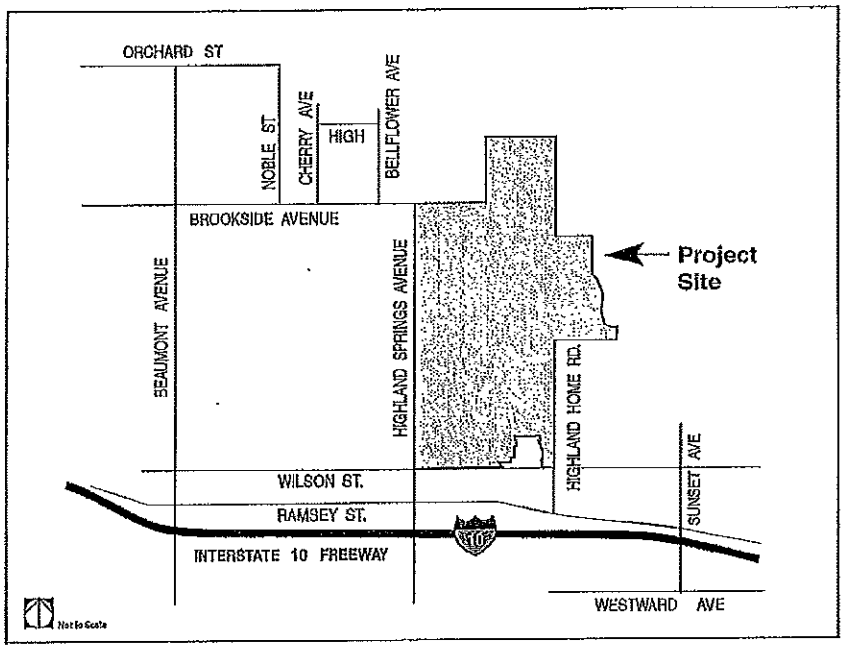
**NOTICE OF PUBLIC HEARING**

**WATER SUPPLY ASSESSMENT, FINAL ENVIRONMENTAL IMPACT REPORT (State Clearinghouse # 2007091149), GENERAL PLAN AMENDMENT NO. 11-2501, ZONE CHANGE NO. 11-3501, SPECIFIC PLAN AMENDMENT TO RENAME AND RESTATE THE DEUTSCH SPECIFIC PLAN TO BUTTERFIELD SPECIFIC PLAN, AND AMENDMENT TO DEVELOPMENT AGREEMENT ("PROJECT")**

**NOTICE IS HEREBY GIVEN** that the City of Banning (City), as Lead Agency under the California Environmental Quality Act (CEQA), will hold a public hearing before the City Council on the date, time, and location listed below for consideration of the project. The Final Environmental Impact Report (EIR) for the project has been prepared pursuant to CEQA and the CEQA Guidelines. Copies of available materials may be reviewed or obtained from the City's office at the address below. Any person may appear at the public hearing in person or by agent and be heard.

## City Council Hearing Date = March 27, 2012
## Hearing Time = 5:00 PM
## Hearing Location = City of Banning Council Chambers
99 E. Ramsey Street, Banning, CA 92220

**Project Location:** The Project is located on approximately 1,543 acres in the western portion of the City of Banning. The Project site is located east of Highland Springs Avenue, west of Highland Home Road, and north of Wilson Street. Assessor's Parcel Numbers (APNs): 408-030-001 & -005; 408-120-001 thru -020, -022, -024, -025, -027, & -033; 531-080-013 & -014, 408-060-006, 007, & 008 (portions).




**Project Description:** The Project proposes a Specific Plan allowing a maximum of 5,387 dwelling units (936.4 acres of residential), golf course open space (253.9 acres), parks (66.5 acres) and other open space (108.4 acres), two school sites (23.0 acres), an existing utility substation facility (4.2 acres), a potential fire station site, commercial/office sites (36.0 acres), and backbone roadways (113.6 acres). The Project also includes the construction of major onsite and offsite infrastructure, including, but not limited to various offsite conveyance pipelines, a multi-purpose recharge/storage/detention basin, drainage improvements to Smith Creek immediately upstream and downstream of the Project site (which will provide citywide benefits), onsite drainage improvements and groundwater recharge basins, onsite and offsite road improvements, other related infrastructure, and water storage tanks and detention basins.

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The Project includes concurrent consideration of a Water Supply Assessment for the project, proposed General Plan Amendment No. 11-2501 and Zone Change No. 11-3501 in consideration of the Specific Plan Amendment (amending/restating the Deutsch Property Specific Plan, which allows up to 5,400 dwelling units). The proposed General Plan Amendment and Zone Change would revise the text in the General Plan and allow the City's General Plan Land Use and Zoning Overlay Map to show a land use and zoning designation for a property that has an approved Specific Plan to be labeled as Specific Plan without depicting the underlying land use designations. In addition, the General Plan amendment and Zone Change would replace the Zoning for the project site from Deutsch Specific Plan to the Butterfield Specific Plan. The applicant, Pardee Homes, as part of the proposed Project, has also requested City approval of an amended Development Agreement.

**Environmental Impact Report (EIR) Certification:** A Draft EIR was made available for public review and comment pursuant to the provisions of CEQA. The purpose of the Draft EIR was to identify and describe probable environmental impacts that would result from the Project. The 45-day public review period for the Draft EIR began on June 6, 2011 and ended on July 20, 2011. The City also held three public meetings to discuss the project, answer questions pertaining to the analyses presented in the Draft EIR, and receive public comments on the document. The three public meetings were held on June 7, 2011, June 21, 2001, and July 14, 2011. The Final EIR proposes text revisions to the Draft EIR and responses to comments that were submitted on the Draft EIR.

The City of Banning Planning Commission held a public hearing and considered this Project at their meeting on March 7, 2012. The Planning Commission recommended approval of this Project to the Banning City Council. The Banning City Council and Banning Utility Agency will now determine to either approve or not approve the Project Water Supply Assessment. The Banning City Council will also now determine to either certify or deny the EIR for the proposed Project. In addition the City Council will determine to either approve or deny the subject General Plan Amendment, Zone Change, Specific Plan Amendment, and Development Agreement Amendment.

A copy of the Public Project Files, including the Specific Plan, Final Environmental Impact Report, Water Supply Assessment, General Plan Amendment, Change of Zone and Amended Development Agreement, is available at the the City of Banning Community Development Department, 99 E. Ramsey Street, Banning, CA 92220 and at the Banning Public Library, 21 W. Nicolet Street, Banning CA 92220, as well as at the City Community Development Department's website at http://www.ci.banning.ca.us

**BY ORDER OF THE COMMUNITY DEVELOPMENT DIRECTOR OF THE CITY OF BANNING, CALIFORNIA.**

Zai Abu Bakar
Community Development Director

Dated: March 12, 2012
Date Published: March 16, 2012

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| | | |
|---|---|---|
| San Bernardino National Forest<br>Jody Noiron, Forest Supervisor<br>Forest Supervisor's Office<br>602 South Tippecanoe Avenue<br>San Bernardino, CA 92408 | California Public Utilities Commission<br>San Francisco Office (Headquarters)<br>505 Van Ness Avenue<br>San Francisco, CA 94102 | Western Riverside Council of Governments<br>Rick Bishop, Executive Director<br>Environmental Review<br>4080 Lemon Street, 3rd Floor. MS1032<br>Riverside, CA 92501-3609 |
| U.S. Fish & Wildlife Service<br>Carlsbad Field Office<br>Karin Cleary-Rose<br>6010 Hidden Valley Road, Suite 101<br>Carlsbad, CA 92011 | California Air Resources Board<br>Linda Murchison, Chief<br>Planning and Technical Support Division<br>1001 I Street, 7th Floor<br>Sacramento, CA 95814 | City of Beaumont<br>Rebecca Deming, Assistant Director<br>Planning Department<br>550 E. 6th St.<br>Beaumont, CA 92223 |
| Federal Emergency Management Agency<br>Gregory Blackburn<br>CFM, Branch Chief<br>Floodplain Management & Insurance Branch<br>1111 Broadway, Suite 1200<br>Oakland, CA 94607-4052 | Regional Water Quality Control Board<br>Colorado River Basin<br>Environmental Review<br>73-720 Fred Waring Drive, Suite 100<br>Palm Desert, CA 92260 | Riverside County Clerk<br>Ms. Tammy Marshall<br>2720 Gateway Drive<br>Riverside, CA 92507 |
| U.S. Army Corps of Engineers Regulatory Branch<br>Stephanie Hall<br>Planning Division<br>915 Wilshire Blvd.<br>Los Angeles, CA 90053-2325 | California Department of Fish & Game<br>Mr. Jeff Brandt<br>Environmental Services Dept.<br>3602 Inland Empire Blvd., Suite C-220<br>Ontario, CA 91764 | Beaumont Cherry Valley Water District (CD)<br>Tony Lara<br>Environmental Review<br>560 Magnolia Avenue<br>Beaumont, CA 92223 |
| State Clearinghouse<br>Scott Morgan, Project Analyst<br>1400 Tenth Street<br>Sacramento, CA 95814 | Native American Heritage Commission<br>Dave Singleton, Program Analyst<br>915 Capitol Mall, Room 364<br>Sacramento, CA 95814 | City of Banning<br>Fred Mason, Director<br>Electric Department<br>99 E. Ramsey Street<br>Banning, CA 92220 |
| Southern California Gas Co.<br>Environmental Review<br>251 E. 1st Street<br>Beaumont, CA 92223 | California Governor's Office of Emergency Services<br>Henry Renteria, Director Environmental Review<br>3650 Schriever Ave.<br>Mather, CA 95655-4203 | City of Banning<br>Leonard Purvis, Chief<br>Police Department<br>99 E. Ramsey Street<br>Banning, CA 92220 |
| State of California Dept. of<br>Transportation/District 8<br>IGR/CEQA Review<br>Nathaniel Prickett<br>464 W. 4th St. 6th Flr/ MS 726<br>San Bernardino, CA 92401 | Regional Water Quality Control Board<br>Santa Ana Region<br>Kurt Berchtold, Acting Executive Officer<br>3737 Main Street, Suite 500<br>Riverside, CA 92501-3348 | San Bernardino Valley Municipal Water District<br>Environmental Review<br>1350 South "E" Street<br>San Bernardino, CA 92408 |
| California Geological Survey<br>Derek Chernow, Acting Director<br>801 K Street, MS 12-30<br>Sacramento, CA 95814 | Banning Unified School District<br>Lynne B. Kennedy, Superintendent<br>Superintendent's Office<br>161 W. Williams Street<br>Banning, CA 92220 | Riverside County Community Health Agency<br>Doug Osborn, Vector Control Supervisor<br>Department of Environmental Health<br>District Environmental Services Division<br>4065 County Circle Dr., Room 104<br>Riverside, CA 92503 |
| Regional Water Quality Control Board<br>Colorado River Basin<br>Robert Perdue, Executive Officer<br>73-720 South "E" Street<br>San Bernardino, CA 92408 | Beaumont School District<br>Dr. Barry Kayrell, Superintendent<br>Superintendent's Office<br>500 Grace Ave<br>Beaumont, CA 92223 | Riverside Local Agency Formation Commission<br>George Siliotis, Executive Officer<br>Environmental Review<br>3850 Vine Street, Suite 110<br>Riverside, CA 92507-4277 |
| Department of Water Resources<br>Dean Messer, Chief<br>Division of Environmental Services<br>3500 Industrial Blvd.<br>West Sacramento, CA 95691 | City of Banning<br>Jeff Stowells, Fire Chief<br>Fire Department<br>99 E. Ramsey Street<br>Banning, CA 92220 | San Gorgonio Pass Water Agency (CD)<br>Jeff Davis, General Manager<br>Environmental Review<br>1210 Beaumont Ave.<br>Beaumont, CA 92223 |

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| Riverside County Transportation Commission<br>John Standiford, Deputy Executive Director<br>4080 Lemon Street, 3rd Floor. MS1032<br>Riverside, CA 92501-3609 | Riverside County Board of Supervisors, 5th District<br>Marion Ashley, Supervisor<br>Environmental Review<br>4080 Lemon St. 5th Flr<br>Riverside, CA 92502 | Morongo Band of Mission Indians<br>Britt Wilson, Project Manager & Cultural Resources Coordinator<br>Dept. of Planning & Economic Dev.<br>49750 Seminole Drive<br>Cabazon, CA 92230 |
| South Coast Air Quality Management District<br>Steve Smith, Program Supervisor<br>CEQA Section<br>Planning, Rule Development & Area Sources<br>21865 Copely Drive<br>Diamond Bar, CA 91765 | Riverside County Flood Control & Water Conservation District<br>Theresa Tung, Sr. Civil Engineer<br>Planning Dept.<br>1995 Market St.<br>Riverside, CA 92501 | Jim & Lonie Wilson<br>4405 Mockingbird Lane<br>Banning CA 92220 |
| Southern California Association of Governments<br>Huasha Liu, Manager<br>Porgam Develpoment & Evaluation Division<br>818 W. Seventh Street, 12th Floor<br>Los Angeles, CA 90017 | Cherry Valley Acres and Neighbors<br>Environmental Review<br>P.O. Box 3257<br>Beaumont, CA 92223 | Helen H. Walter<br>4325 Mockingbird Lane<br>Banning, CA 92220 |
| County of Riverside<br>Carolyn Syms Luna, Planning Director<br>Planning Dept.<br>4080 Lemon St. 9th Flr.<br>Riverside, CA 92502 | Cherry Valley Environmental Planning Group<br>10065 Frontier Trail<br>Cherry Valley, CA 92223 | Georgia Hase<br>4355 Mockingbird Lane<br>Banning, CA 92220 |
| Beaumont Basin Watermaster<br>Environmental Review<br>3403 Tenth Street, Suite 610<br>Riverside, CA 92501 | Southern California Edison<br>Environmental Affairs<br>2244 Walnut Grove Ave.<br>Rosemead, CA 91770 | John & Jan Spann<br>4515 Mockingbird Ln.<br>Banning, CA 92220 |
| City of Banning<br>Duane Burk, Director<br>Public Works Department<br>99 E. Ramsey Street<br>Banning, CA 92220 | | Bob & Sue Payne<br>4326 Mockingbird Ln.<br>Banning, CA 92220 |
| City of Banning<br>Heidi Meraz, Director<br>Community Services Department<br>99 E. Ramsey Street<br>Banning, CA 92220 | Waste Management of Inland Valley<br>Steve Kanow, Director of Operations<br>Operations Dept./Environmental Review<br>800 S. Temescal St.<br>Corona, CA 92879 | Wendell & Gayle Lee<br>4326 Hillside Dr.<br>Banning, CA 92220 |
| City of Banning<br>Zai Abu Bakar<br>Planning Department<br>99 E. Ramsey Street<br>Banning, CA 92220 | Mountain Air Ranch Estate Neighborhoods<br>Attn: Charlie Sprang<br>4175 Hillside Dr.<br>Banning, CA 92220 | Charlie Strang<br>4175 Hillside Drive<br>Banning, CA 92220 |
| City of Beaumont<br>Deepak Moorjani, P.E., Director<br>Public Works Department<br>550 E. 6th St.<br>Beaumont, CA 92223 | Soboba Band of Luiseño Indians (CD)<br>Cultural Resources Department<br>Attn: Erica Helms<br>23096 Soboba Rd.<br>San Jacinto, CA 92581 | Dan Mares<br>600 N. Highland Springs Ave.<br>Banning, CA 92220 |
| County of Riverside<br>George Johnson<br>Transportation & Land Management Agency<br>4080 Lemon Street, 14th Floor<br>Riverside, CA 92501 | Sierra Club San Gorgonio Chapter<br>Joan Taylor<br>Tahquitz Group<br>1850 Smoke Tree Lane<br>Palm Springs, CA 92264 | Bob Christian<br>4271 W. Gilman<br>Banning, CA 92220 |

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| Ken Miller<br>161 W. Williams<br>Banning, CA 92220 | Dan & Debbie Matloff<br>4070 Hillside Dr.<br>Banning CA 92220 | Luwana Ryan<br>CVAN/CVEPG<br>9574 Mtn. View Ave.<br>Cherry Valley, CA 92223 |
| Tina Kummerle<br>10000 Highland Springs Ave.<br>Beaumont, CA 92223 | Julie Marcellus<br>1041 Lyons Ct.<br>Banning, CA 92220 | State of California Department of Conservation<br>John M. Lowrie, Program Manager<br>801 K Street<br>Sacramento, CA 95814 |
| Alfredo Martinez<br>470 East Harrison St.<br>Corona, CA 92879 | Jeff Davis<br>SGPWA<br>1210 Beaumont Ave.<br>Beaumont, CA 92223 | Department of Toxic Substances Control<br>Greg Holmes, Unit Chief of Brownfields and Env.<br>Restoration Program<br>5796 Corporate Ave.<br>Cypress, CA 90630 |
| Bob Collins<br>4106 Mockingbird Ln.<br>Banning CA 92220 | Francesca Flanders<br>41045 Mohawk Circle<br>Cherry Valley, CA 92223 | Dept. of Transportation/District 8<br>IGR/CEQA Review<br>Daniel Kopulsky<br>464 W. 4th Street 6th Flr./MS 726<br>San Bernardino, CA 92401 |
| | Amy Rangel<br>4971 W. Gilman St.<br>Banning, CA 92220 | California Department of Fish and Game<br>Mr. Jeff Brandt<br>Inland Deserts Region<br>3602 Inland Empire Blvd. Suite C-220<br>Ontario, CA 91764 |
| Barbara W. Brown<br>10143 Pawnee Cir.<br>Cherry Valley, CA 92223 | Carol Salazar<br>1305 W. George St.<br>Banning, CA 92220 | South Coast Air Quality Management District<br>Ian MacMillan, Program Supervisor<br>Intergovernmental Review<br>Planning, Rule Development & Area Sources<br>21865 Copley Drive<br>Diamond Bar, CA 91765 |
| Del & Lisa Cuevas<br>1124 Sandpiper Cir.<br>Beaumont, CA 92223 | Barbara Brown<br>CVAN<br>10143 Pawnee Circle<br>Cherry Valley, CA 92223 | Riverside County Flood Control & Water<br>Conservation District<br>Edwin Quinonez, Sr. Civil Engineer<br>Planning Department<br>1995 Market Street<br>Riverside, CA 92501 |
| Nancy Sones<br>4175 Mockingbird Ln.<br>Banning CA 92220 | Barbara Hanna<br>4678 W. Hoffer St.<br>Banning, CA 92220 | County of Riverside<br>Transportation & Land Management Agency<br>Farah Khorashadi, Engineering Division Manager<br>4080 Lemon Street, 8th Floor<br>Riverside, CA 92501 |
| James & Joyce Quinn<br>4220 Hillside Dr.<br>Banning, CA 92220 | Rocky Bray<br>Contractor<br>4778 Spring View Drive<br>Banning, CA 92220 | Morongo Band of Mission Indians<br>Franklin A. Dancy, Director of Planning<br>12700 Pumarra Road<br>Banning, CA 92220 |
| Dick & Carol Hochreiter<br>4256 Hillside Dr.<br>Banning, CA 92220 | Morris and Jackie Bean<br>5073 W. Gilman St.<br>Banning, CA 92220 | Southern California Gas Company<br>James Chuang, Environmental Specialist/Land<br>Planner<br>555 W. Fifth Street<br>Los Angeles, CA 90013-1036 |

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| Cynthia Dersh Schein<br>Attorney at Law<br>RE: Banning Healthcare & Cherry Valley Healthcare<br>2368 Torrance Blve. Suite 220<br>Torrance, CA 90501-2500 | Mary A. Daniel<br>14250 So Beaumont Ave, Hwy 79<br>Beaumont, CA 92223 | |
| Guralnick & Gilliland, LLP<br>RE: Highland Springs Country Club Owners' Association<br>40-004 Cook Street, Suite 3<br>Palm Desert, CA 92211 | Marjorie Hoffman<br>1376 N San Gorgonio Ave<br>Banning, CA 92220 | |
| Chatten Brown & Carstens<br>RE: Highland Springs Resort<br>2601 Ocean Park Boulevard, Ste 205<br>Santa Monica, CA 90405 | Janelle Singleton<br>924 Highland Home Road<br>Banning, CA 92220 | |
| Edward C. Ball<br>4678 West Hoffer Street<br>Banning, CA 92220 | | |
| Robert Brezinske<br>5237 Prospector Circle<br>Banning, CA 92220 | | |