



Contract Number

SAP Number

San Bernardino County Flood Control District

Department Contract Representative	Melissa L. Walker
Telephone Number	(909) 387-8040
Contractor	City of Yucaipa
Contractor Representative	Fermin Preciado
Telephone Number	(909) 797-2489
Contract Term	N/A
Original Contract Amount	N/A
Amendment Amount	N/A
Total Contract Amount	\$0
Cost Center	N/A

IT IS HEREBY AGREED AS FOLLOWS:

(Use space below and additional bond sheets. Set forth service to be rendered, amount to be paid, manner of payment, time for performance or completion, determination of satisfactory performance and cause for termination, other terms and conditions, and attach plans, specifications, and addenda, if any.)

WITNESSETH

WHEREAS, the San Bernardino County Flood Control District (**DISTRICT**), and the City of Yucaipa (**CITY**) hereby seek to enter into this **AGREEMENT**, and shall be collectively known as "the **PARTIES**"; and

WHEREAS, the **PARTIES** entered into a Memorandum of Understanding No. 13-378, dated June 4, 2013, as amended by the First Amendment, dated April 7, 2020, for the development and construction of a detention basin and appurtenant channel improvements at the confluence of Wilson and Oak Glen Creek, located South of Oak Glen Road and West of Bryant Street (**PROJECT**); and

WHEREAS, the **CITY** has developed and the **DISTRICT** has accepted the **PROJECT** plans (**PLANS**); and

WHEREAS, the **PARTIES** entered into a construction agreement for the **PROJECT** dated August 12, 2020 (**CONSTRUCTION AGREEMENT**); and

WHEREAS, the **CONSTRUCTION AGREEMENT** requires the **CITY** to be responsible for the operation and maintenance of the **PROJECT** until the initial five (5) year operation and maintenance Resource Agency

Permits, as defined herein, are obtained by the **CITY** and transferred to the **DISTRICT** and the **DISTRICT** has accepted the completed **PROJECT**; and

WHEREAS, the **PARTIES** agree that flood control is the primary purpose of the **PROJECT**, which may also be secondarily used, subject to the primary purpose, the limitations set forth herein, and applicable law, for passive recreational opportunities including a lake, habitat mitigation and assisting the City and its partners in developing passive and active groundwater recharge capabilities to meet the future needs of the Yucaipa community; and

WHEREAS, the **PARTIES** now desire to satisfy Section 3.7 of the **CONSTRUCTION AGREEMENT**, which requires that the **PARTIES** negotiate and execute this **AGREEMENT** as a precondition to the **DISTRICT's** acceptance of the **PROJECT**, and to further define and set forth the roles and responsibilities of the **PARTIES** for the long term, ongoing operation, maintenance, and use of the **PROJECT**.

NOW, THEREFORE, IT IS MUTUALLY AGREED as follows:

SECTION I

1.0 DEFINITIONS.

- 1.1 "Active Recharge" – Refers to recharge created by imported water sources including, but not limited to, State Water Project water and recycled/treated water.
- 1.2 "Debris" – Rock, organics, and soil carried into the Detention Basin through the channel and inlet.
- 1.3 "Detention Basin" – The area from the spillway to the inlet channel as depicted in the attached Exhibit "A."
- 1.4 "Forebay" – The area within the Detention Basin adjacent to the channel entrance as depicted in the attached Exhibit "A."
- 1.5 "Lake" – The middle area within the Detention Basin where dead storage and water ponding will occur as depicted in the attached Exhibit "A."
- 1.6 "Marsh" - The approximate 0.05 acre area adjacent and south of the Forebay as depicted in the attached Exhibit "A."
- 1.7 "Passive Recharge" – Refers to recharge created by natural storm and nuisance runoff that is a tributary to the Recharge Areas.
- 1.8 "**PROJECT CITY** Facilities" - Those **CITY** improvements including the soil cement liner bottom, slopes, **CITY** streets, Marsh area in the Detention Basin, landscaping, irrigation systems, and control structures as well as the multi-use trail features including, but not limited to, decomposed granite trail/access roads, associated piping, trail signage within the recreational area of the **PROJECT**, which are shown on the attached Exhibit "B." "**PROJECT CITY** Facilities" also includes slope drains, brow drains, terrace drains, offsite drains, v-ditches, well site discharge line connections, and drainage swales including but not limited to the storm drain Lines A, A-1, B, C, OS, OEX, and OSW in conformance with the **PLANS**.
- 1.9 "**PROJECT** Flood Control Facilities" – Those **DISTRICT** improvements, including, but not limited to, the channels, access roads, Forebay located upstream of the Lake, grouted and ungrouted rock, inlets, culverts, headwalls and wingwalls, impact structures, storm drain Line O, pipe gates, chain link and cable rail fencing, and bottom control structures; and warning or regulatory signage related only to the flood control aspects of the **PROJECT**, which are shown on the attached Exhibit "B."

- 1.10 “Recharge Activities” – Refers to activities such as scarification and weed abatement which are needed to maintain recharge.
- 1.11 “Recharge Areas” - Refers to the area west of the Lake within the Detention Basin and the area downstream of the outlet channel. See Exhibit “A”.
- 1.12 “Recreational Uses” – Any recreational activities, including fishing, that are conducted by the public throughout the **PROJECT** area but shall not include boating or swimming in the Lake as the Lake will be a “no contact” water feature and the **CITY** will prohibit the public from physically being in contact with the water.
- 1.13 “Resource Agency Permits” - The California Department of Fish and Wildlife Streambed Alteration Agreement (1602 Agreement), Army Corps of Engineers Individual Permit (404 Permit), and the Regional Water Quality Control Board (401 Certification) Permit.

SECTION II

2.0 DISTRICT RESPONSIBILITIES.

- 2.1 As set forth in Section 2.6 of the **CONSTRUCTION AGREEMENT**, following inspection, upon (1) the written acceptance of the completed **PROJECT** by the **DISTRICT**, and (2) the **CITY’s** satisfaction of the conditions set forth in Section 3.3 of this **AGREEMENT**, the **DISTRICT** shall assume title to the **PROJECT** and shall be responsible for all work normally required by the **DISTRICT** to operate and maintain the completed **PROJECT** Flood Control Facilities, as defined herein.
- 2.2 The **DISTRICT’s** responsibility to operate and maintain the **PROJECT** Flood Control Facilities hereunder shall include:
 - 2.2.1 Graffiti removal from the **PROJECT** Flood Control Facilities.
 - 2.2.2 Debris and trash removal from the **PROJECT** Flood Control Facilities.
 - 2.2.3 Debris clearance of the Lake as a result of Debris inundation associated with storm events.
 - 2.2.4 Debris removal and erosion repair, which are needed in order to maintain the flood capacity of the Detention Basin for storm events.
 - 2.2.5 Vector issues associated with the **PROJECT** Flood Control Facilities.
 - 2.2.6 Pest management associated with the **PROJECT** Flood Control Facilities.
 - 2.2.7 All chain link fencing or any cable rail fencing on **PROJECT** Flood Control Facilities as shown on the **PLANS**.
 - 2.2.8 Repair and maintenance of all **PROJECT** Flood Control Facilities.
 - 2.2.9 For common use areas (areas used by both the **DISTRICT** and the **CITY**), the **DISTRICT** shall have repair and maintenance obligations of the access roads used for **DISTRICT** purposes.
- 2.3 The **DISTRICT** shall accept the transfer of any Resource Agency Permits once the **PROJECT** has been constructed by the **CITY** and accepted by the **DISTRICT**, provided that the conditions set forth in Section 3.3 are satisfied. Except as provided for in Sections 3.2, 3.3, and 3.4, the **DISTRICT** shall obtain any other necessary approvals, permits, and/or agreements from agencies that may be needed to carry out any of its maintenance activities once the **PROJECT** has been accepted by the **DISTRICT**.

- 2.4 The **DISTRICT** shall be responsible for all costs associated with its maintenance activities under this Section 2.
- 2.5 The **DISTRICT's** operation and maintenance activities are within the sole discretion of the **DISTRICT** and are contingent upon the receipt of the applicable environmental approvals, and budget and staff availability.
- 2.6 Pursuant to the access easement referenced in Section 2.7 below, the **DISTRICT** grants the **CITY** permission to enter upon the **DISTRICT'S** property to perform the maintenance work set forth in Section 3 below with **CITY's** own staff. Alternatively, the **CITY** may elect to have any maintenance work performed by a qualified contractor hired by the **CITY**, and/or the Inland Empire Resource Conservation District (**IERCD**), and the **DISTRICT** shall allow said contractor hired by the **CITY** and/or **IERCD** access on the **DISTRICT** property to the **PROJECT** site.
- 2.7 The **DISTRICT** hereby agrees to grant an access easement to the **CITY**, by way of a separate instrument to be later granted to the **CITY**, to provide ingress/egress from the future **CITY** yard property to the Detention Basin so that the **CITY** may perform its maintenance obligations under this **AGREEMENT**. Such access easement shall acknowledge the **DISTRICT's** priority of use which is paramount to any **CITY** ingress/egress requirements. The access easement will cover the area generally depicted on Exhibit "C."
- 2.8 The recreational multi-use trails may be used by the **DISTRICT** for its operational and/or maintenance needs.
- 2.9 Passive Recharge will be allowed by the **DISTRICT** pursuant to this **AGREEMENT**, and the **DISTRICT** shall not impose any cost or charge on the **CITY** for Passive Recharge, and the **DISTRICT** shall not seek or generate revenue from the Passive Recharge. The Passive Recharge areas shall be operated and maintained by the City.
- 2.10 Active Recharge will be allowed by the **DISTRICT**, subject to technical review and evaluation through the **DISTRICT** encroachment permit process and pursuant to a separate water spreading agreement(s) between the appropriate parties.
- 2.11 The **DISTRICT** will review and approve the Operation and Maintenance Manual for the Lake prepared by the **CITY** as set forth in Section 3.6.
- 2.12 The **DISTRICT's** rights and obligations set forth in this Section 2, including but not limited to, Sections 2.9 and 2.10, are subject to the **DISTRICT's** paramount obligation to provide flood control protection (the primary purpose of the **PROJECT**, which may also be incidentally used for recreation and recharge), and applicable law.

SECTION III

3.0 CITY RESPONSIBILITIES.

- 3.1 As set forth in Section 2.7.1 of the **CONSTRUCTION AGREEMENT**, the **CITY** is responsible for acquiring all environmental clearances and permits to build the **PROJECT** and to have those in place prior to constructing the **PROJECT**. This includes any mitigation required by the Resource Agency Permits and the Habitat Mitigation and Monitoring Plan.
- 3.2 As set forth in Section 2.7.2 of the **CONSTRUCTION AGREEMENT**, the **CITY** shall be responsible for obtaining the initial five (5) year Resource Agency Permits that will allow the operation and maintenance clearances and permits for the entire **PROJECT**. The **CITY** shall use good faith, reasonable efforts to ensure that the Resource Agency Permits contain a transferability clause which allows for the transfer of the Resource Agency Permits from the **CITY** to the **DISTRICT**. The **DISTRICT** may accept the early transfer of the Resource Agency Permits from the **CITY** if the Resource Agency Permits are made transferable to **DISTRICT**.
- 3.3 The **CITY** shall be responsible for all operation and maintenance of the **PROJECT** until (1) the

initial five (5) year operation and maintenance Resource Agency Permits are obtained by the **CITY** and transferred to the **DISTRICT** (if the permits are deemed transferrable), (2) the **PROJECT** has been constructed by the **CITY** and accepted by the **DISTRICT**, and (3) the **CITY** has implemented the short-term mitigation measures in compliance with the Resource Agency Permits and the Habitat Mitigation and Monitoring Plan. Following any transfer of the Resource Agency Permits from the **CITY** to the **DISTRICT**, the **CITY** shall remain responsible for any mitigation obligations set forth in the Resource Agency Permits issued to the **CITY**. In the event that the Resource Agency Permits are not deemed transferrable and the **DISTRICT** is required to obtain new permits, **CITY** shall remain responsible for the mitigation obligations in the new **DISTRICT**-obtained Resource Agency Permits for a period of five (5) years from the date of the first issuance of the initial operation and maintenance Resource Agency Permits to the **CITY**.

- 3.4 All mitigation and environmental compliance associated with the construction and mitigation for the **PROJECT**, in compliance with the initial five-year Resource Agency Permits and the Habitat Mitigation and Monitoring Plan is the sole responsibility of the **CITY**.
- 3.5 The **CITY** shall operate and maintain the **PROJECT CITY** Facilities as defined herein. The **CITY's** responsibility to operate and maintain the **PROJECT CITY** Facilities hereunder shall include:
- 3.5.1 Graffiti removal from the **PROJECT CITY** Facilities.
 - 3.5.2 Debris and trash removal from the **PROJECT CITY** Facilities.
 - 3.5.3 Pest management associated with the **PROJECT CITY** Facilities.
 - 3.5.4 Operation and maintenance of the Marsh within the Detention Basin that will include the planting and maintenance of approximately 4,000 native riparian plants in perpetuity.
 - 3.5.5 Operation and maintenance of the 2nd Street improvements and the 2nd Street Alley improvements in conformance with the **PLANS**.
 - 3.5.6 The management of the Lake within the Detention Basin pursuant to the Operation and Maintenance Manual for the Lake. This will include aeration, maintaining water levels, gate systems, and soil cement liner bottom, draining of the Lake when necessary and all associated Recreational Uses of the Lake.
 - 3.5.7 Installation and maintenance of the informational signage/kiosk in the future **CITY** park area.
 - 3.5.8 Installation and maintenance of a sign acknowledging funding by the California Natural Resource Agency.
 - 3.5.9 Maintenance of the joint use maintenance roads to provide a stable and safe surface for trail users and/or the **DISTRICT** for its maintenance access needs. The **CITY** may limit or reroute trail use to allow for maintenance activities by the **CITY** and/or the **DISTRICT**.
 - 3.5.10 Maintenance of all site landscaping and irrigation systems associated with the **PROJECT**, including any and all repairs required after a storm event. Maintenance activities will include: the irrigation system; all trees, shrubs, and plants installed on the **PROJECT** site; and all hydro-seeded areas.
 - 3.5.11 Maintenance of plants that are planted pursuant to the three-year plant establishment program, including any associated irrigation systems.
 - 3.5.12 Maintenance of the multi-use, non-vehicular trails, as depicted on the attached Exhibit "C," including, but not limited to, approximately 4,200 lineal feet of PVC 2-rail trail fencing, all wrought iron fencing and access gates, and 10 trail related signs as shown on the **PLANS**.

Vector issues that arise from the **PROJECT CITY** Facilities or use of the **PROJECT** including, but not limited to, the ponding or percolation of water in the Lake and Marsh areas, excluding the Detention Basin and channel areas maintained by the **DISTRICT**.

- 3.5.13 For common use areas (areas used by both the **DISTRICT** and the **CITY**), the **CITY** shall have repair and maintenance obligations of the trails.
- 3.6 The **CITY** shall develop an Operation and Maintenance Manual for the Lake which shall be submitted with sufficient time for the **DISTRICT's** reasonable review and approval prior to the public's recreational use of the Lake.
- 3.7 The **CITY** shall be responsible for all work necessary to return the Lake to the condition in which the public can safely engage in Recreational Uses after any storm event that requires the **DISTRICT** to perform any Debris removal as set forth herein.
- 3.8 The **CITY** will coordinate its field operations, which includes maintenance activities, with the **DISTRICT**.
- 3.9 The **CITY** shall be responsible for appropriate security and surveillance of the **PROJECT** areas used for recreation.
- 3.10 The **CITY** shall be responsible for any and all contamination of the water due to Recreational Uses on, in or directly adjacent to the Lake. **CITY** shall control contamination within the **PROJECT** limits and notify the **DISTRICT** within one (1) hour of discovery of such incident.
- 3.11 The **CITY** shall be responsible for any species (non-native, invasive, or otherwise) that are introduced to the Lake and/or within the **PROJECT** limits by the **CITY** or the public that then impact the **DISTRICT** facilities or require mitigation or remediation by the **DISTRICT**.
- 3.12 The **CITY** is responsible for ensuring that the Lake feature is a "No contact" feature, i.e. the **CITY** shall prohibit the public from physically contacting the water features within the **PROJECT**, through posting of signage and enforcement.
- 3.13 The **CITY** shall be responsible for all National Pollutant Discharge Elimination System requirements for the **PROJECT** and the recreational uses of the **PROJECT**.
- 3.14 The **CITY** will continue to work with the **DISTRICT** to secure ingress and egress to the Forebay from 2nd Street through the future **CITY** park site and ensure that there is adequate turnaround area in the Detention Basin for **DISTRICT** maintenance equipment. The Forebay is designed with gradual soil cement slopes (4:1) and invert (hard bottom) that will allow maintenance equipment to access the Forebay during cleanout operations per the **PLANS**.
- 3.15 The **CITY** may perform the maintenance work under this Section with its own staff or have the maintenance work done by a qualified contractor hired by the **CITY**, and/or the **IERCD**.
- 3.16 The **CITY** shall obtain any necessary approvals, permits, and/or agreements from other agencies that may be needed to carry out any of its maintenance activities under this Section in perpetuity.
- 3.17 The **CITY** shall be responsible for all costs associated with its operation and maintenance activities identified in this section for the life of the **PROJECT**.
- 3.18 The **CITY** hereby agrees to grant an access easement to the **DISTRICT**, by way of a separate instrument, through the new **CITY** park property to the detention basin so that the **DISTRICT** may perform its maintenance obligations under this **AGREEMENT**. The recreational multi-use trails may be used by the **CITY** for its operational and/or maintenance needs.

- 3.19 The **CITY** in conjunction with San Bernardino Valley Municipal Water District, Yucaipa Valley Water District, Western Heights Water Company, by way of separate agreements, will be responsible for the operation and maintenance of the Recharge Areas. Any Recharge Activities shall be subject to the satisfaction of Section 2.10, as a condition precedent, that requires the applicable encroachment permits be obtained from the **DISTRICT** and water spreading agreement(s) be executed. Nothing set forth herein shall be deemed to confer any third party beneficiary rights to the preceding named water agencies for recharge or any other activities pursuant to this **AGREEMENT**.

SECTION IV

4.0 TERM.

- 4.1 The Effective Date of this **AGREEMENT** shall be the first date on which both of the following has occurred: (1) the Yucaipa City Council and the **DISTRICT's** governing board (the San Bernardino County Flood Control District Board of Supervisors) have both approved the **AGREEMENT**; and (2) the authorized representative of each has signed the **AGREEMENT**.
- 4.2 The initial term of the **AGREEMENT** shall be for twenty-five (25) years and shall commence on the Effective Date. The term may be extended by the mutual written agreement of the **PARTIES** for successive five (5) year terms at the end of the initial term and each extended term.
- 4.3 Either **PARTY** may terminate this **AGREEMENT** for its convenience upon one (1) year written notice to the other **PARTY**.
- 4.4 Either **PARTY** may terminate this **AGREEMENT** for cause in the event of a default, if the defaulting **PARTY** does not commence to cure the default within ninety (90) days of receiving the written notice of default and request to cure from the other **PARTY**. In the event of termination for cause, the termination date shall be that date which is one hundred and twenty (120) days from the date of the initial notice of default and request to cure is received by the defaulting **PARTY**.
- 4.5 Notwithstanding Sections 4.2, 4.3, and 4.4, Sections 3.2, 3.3, 3.11, 5, and 6 shall survive the expiration or early termination of this **AGREEMENT**.

SECTION V

5.0 INSURANCE AND INDEMNIFICATION.

- 5.1 The **DISTRICT** and the **CITY** are authorized self-insured public entities for purposes of Professional Liability, General Liability, Automobile Liability and Worker's Compensation and warrant that through their respective programs of self-insurance, they have adequate coverage or resources to protect against liabilities arising out of performance of the terms, conditions or obligations of this **AGREEMENT**.
- 5.2 Neither the **CITY** nor any officer or employee of the **CITY** shall be responsible for any damage or liability occurring by reason of any acts or omissions on the part of the **DISTRICT** under or in connection with any work, authority, nor jurisdiction delegated to or determined to be the responsibility of the **DISTRICT** under this **AGREEMENT**. It is also understood and agreed that, pursuant to Government Code, Section 895.4, **DISTRICT** shall fully indemnify, defend and hold the **CITY** harmless from any liability imposed for injury (as defined by Government Code section 810.8) occurring by reason of any acts or omissions on the part of the **DISTRICT** under or in connection with any work, authority or jurisdiction delegated to or determined to be the responsibility of the **DISTRICT** under this **AGREEMENT**. Neither the **DISTRICT** nor any officer or employee of the **DISTRICT** shall be responsible for any damage or liability occurring by

reason of any acts or omissions on the part of the **CITY** under or in connection with any work, authority or jurisdiction delegated to or determined to be the responsibility of the **CITY** under this **AGREEMENT**. It is also understood and agreed that, pursuant to Government Code, Section 895.4, **CITY** shall fully indemnify, defend and hold the **DISTRICT** harmless from any liability imposed for injury (as defined by Government Code section 810.8) occurring by reason of any acts or omissions on the part of the **CITY** under or in connection with any work, authority or jurisdiction delegated to or determined to be the responsibility of the **CITY** under this **AGREEMENT**.

- 5.3 In the event the **DISTRICT** and/or the **CITY** is found to be comparatively at fault for any claim, action, loss or damage which results from their respective obligations under this **AGREEMENT**, the **DISTRICT** and/or the **CITY** shall indemnify the other to the extent of its comparative fault.
- 5.4 The **CITY** and the **DISTRICT** agree to waive all rights of subrogation against each other.
- 5.5 For the purposes of this Section 5, the term "**DISTRICT**" shall be deemed to include the San Bernardino County, and shall include their Board of Supervisors, directors, employees, contractors, volunteers, and assigns.
- 5.6 For the purposes of this Section 5, the term "**CITY**" shall be deemed to include the City of Yucaipa, and shall include its City Council, officers, directors, employees, contractors, volunteers, and assigns.

SECTION VI

6.0 GENERAL PROVISIONS.

- 6.1 Interpretation. Since the **PARTIES** or their agents have participated fully in the preparation of this **AGREEMENT**, the language of this **AGREEMENT** shall be construed simply, according to its fair meaning, and not strictly for any or against any party. Any term referencing time, days or period for performance shall be deemed work days. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this **AGREEMENT**.
- 6.2 Force Majeure. The **PARTIES** shall be excused from strict performance hereunder, to the extent that such performance is impeded or prevented by occurrence of force majeure, which shall be deemed to include, without limitation, floods, earthquakes, other natural disasters, war, civil insurrection, riots, epidemics, pandemics, acts of any government (including judicial action), and other similar catastrophic events or acts of God which are beyond the control of and not the fault of the party claiming excuse from performance hereunder.
- 6.3 Notices. All notices, approvals, consents or other documents required or permitted under this **AGREEMENT** shall be in writing and delivered by first-class mail, overnight mail or by personal delivery addressed as follows:

City of Yucaipa
34272 Yucaipa Blvd.
Yucaipa, CA 92399-9950
Attn: City Engineer

San Bernardino County Flood Control District
825 3rd Street
San Bernardino, CA 92415-0835
Attn: Chief Flood Control Engineer

Notice shall be effective upon personal delivery, or three days after deposit in U.S. Mail, certified, with first class postage fully prepaid. Each party agrees to notify the other promptly after any change in named representative, address, telephone, or other contact information.

- 6.4 Waiver. No waiver of any default shall constitute a waiver of any other default of breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a party shall give the other party any contractual rights by custom, estoppel, or otherwise.
- 6.5 Jurisdiction. This **AGREEMENT** shall be governed by the laws of the State of California. If a court of competent jurisdiction declares any portion of this **AGREEMENT** invalid, illegal, or otherwise unenforceable, the remaining provisions shall continue in full force and effect unless the purposes of this **AGREEMENT** are frustrated. Any dispute or action to enforce any obligation under this **AGREEMENT** shall be filed and resolved in a Superior Court in San Bernardino County, California. In the event of litigation arising from this **AGREEMENT**, each **PARTY** to the **AGREEMENT** shall bear its own costs, including attorneys' fees.
- 6.6 Dispute Resolution. In the event that a dispute arises between the **PARTIES**, the **PARTIES** shall first attempt to resolve the dispute through meetings with appropriate staff members. In the event that the dispute cannot be resolved at the staff level, the Chief Flood Control Engineer and City Manager shall meet and informally confer to attempt to resolve the matter prior to either **PARTY** pursuing any legal remedies or filing a claim.
- 6.7 Counterparts; Electronic Signatures. This **AGREEMENT** may be signed in counterparts, each of which shall constitute an original, and such counterparts shall together constitute one and the same agreement. The **PARTIES** shall be entitled to sign and transmit an electronic signature of this **AGREEMENT** (whether by facsimile, PDF or other email transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed **AGREEMENT** upon request.
- 6.8 Standard District Clause. All of the **DISTRICT's** revenues as defined below, have been pledged to secure the payment of the principal and interest on certain bonds and refunding bonds ("Bonds") issued by the **DISTRICT** in May 2007. The pledge constitutes a first lien on the revenues for the payment of the Bonds. Any payments under this **AGREEMENT** are subject to the prior pledge of revenues described above. **DISTRICT** payments pursuant to this **AGREEMENT** will be made to the extent there are sufficient funds available after payment of the Bonds. For purposes of this paragraph, "revenues" shall mean all income and revenue received by the **DISTRICT** from the operation or ownership of the flood and storm water control and conservation facilities ("Flood Control System") of the **DISTRICT** (including but not limited to, all real and personal property, or any interest therein, and all additions, improvements, betterments and extensions thereto), determined in accordance with Generally Accepted Accounting Principles, including all ad valorem property taxes received by the **DISTRICT** pursuant to Article XIII A of the Constitution of the State of California and Section 95 *et seq.* of the California Revenue and Taxation Code, all rents, royalties and license and permit fees and charges received by the **DISTRICT**, investment income and all other money howsoever derived by the **DISTRICT** from the operation or ownership of the Flood Control System or arising from the Flood Control System, but excluding (a) ad valorem property taxes levied to pay any voter approved general obligation indebtedness of the **DISTRICT**, (b) assessments levied pursuant to Section 43-7 or Section 43-26.9 of the San Bernardino County Flood Control Act (Cal. Water Code App. Sect. 43-1 *et seq.*), and (c) grants, advances or contributions in aid of construction, except to the extent such grants are unrestricted and available for any expenditure of the **DISTRICT**.
- 6.9 Successors and Assigns. This **AGREEMENT** shall inure to the benefit of and to be binding upon the successors and assigns both **PARTIES**.
- 6.10 Amendment. No supplement, modification, or amendment of this **AGREEMENT** shall be binding unless executed in writing and signed by the **CITY** and the **DISTRICT**.

6.11 Entire Agreement. This **AGREEMENT** contains the entire agreement of the **PARTIES** with respect to the subject matter hereof, and supersedes all other prior negotiations, understandings or contracts.

WITNESS WHEREOF, this **AGREEMENT**, has been fully executed on behalf of **DISTRICT** and **CITY** by their duly authorized representatives.

**SAN BERNARDINO COUNTY
FLOOD CONTROL DISTRICT**

►

Curt Hagman, Board Chairman

Dated: _____
SIGNED AND CERTIFIED THAT A COPY OF THIS
DOCUMENT HAS BEEN DELIVERED TO THE
CHAIRMAN OF THE BOARD
Lynna Monell, Clerk of the Board

By _____
Deputy

(Print or type name of corporation, company, contractor, etc.)

►By _____
(Authorized signature - sign in blue ink)

Name _____
(Print or type name of person signing contract)

Title _____
(Print or Type)

Dated: _____

Address _____

FOR COUNTY USE ONLY

Approved as to Legal Form	Reviewed for Contract Compliance	Reviewed/Approved by District
► Sophie Akins, Deputy County Counsel	► Andy Silao, P.E., Chief – Contracts	► Brendon Biggs, Chief Flood Control Engineer
Date _____	Date _____	Date _____

EXHIBIT A

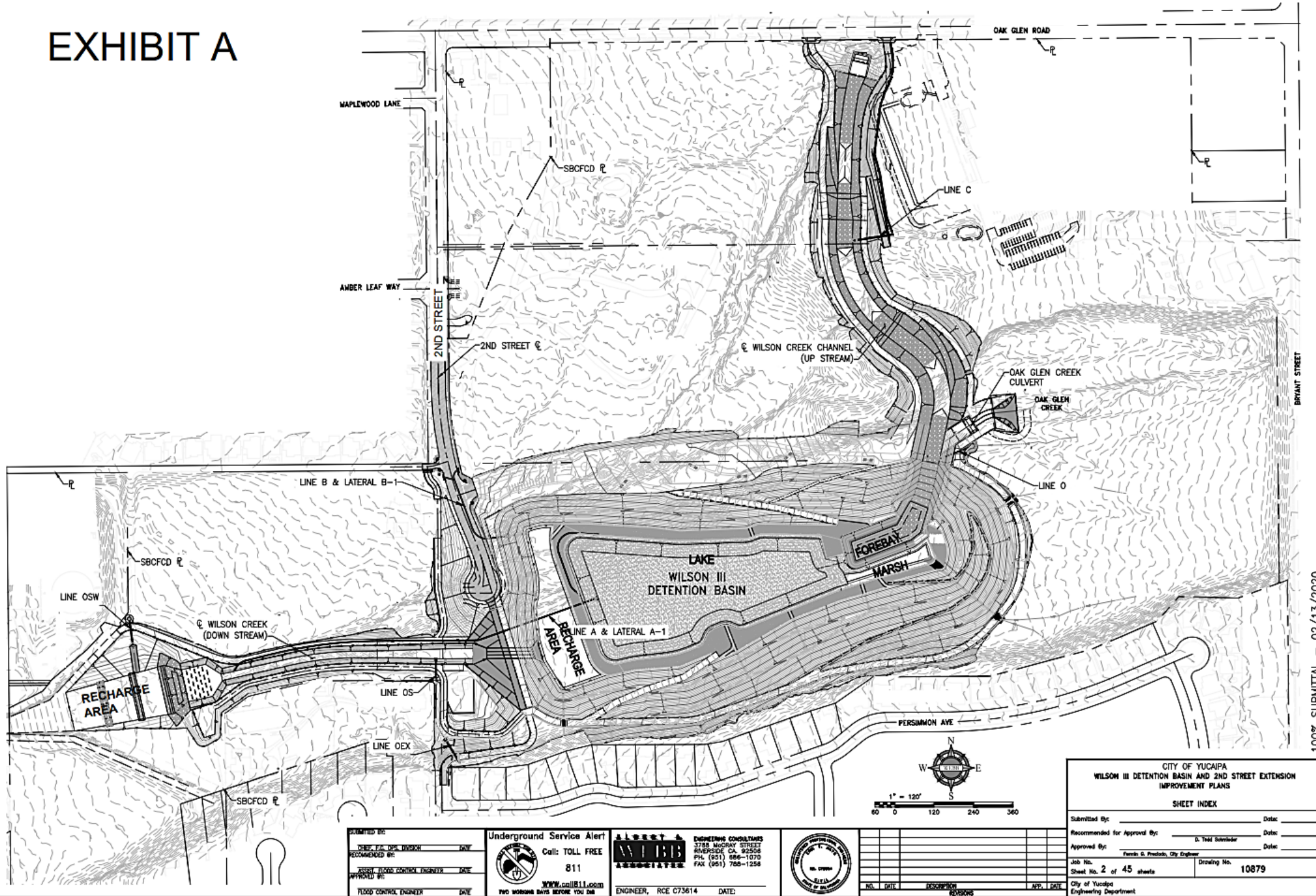


EXHIBIT B

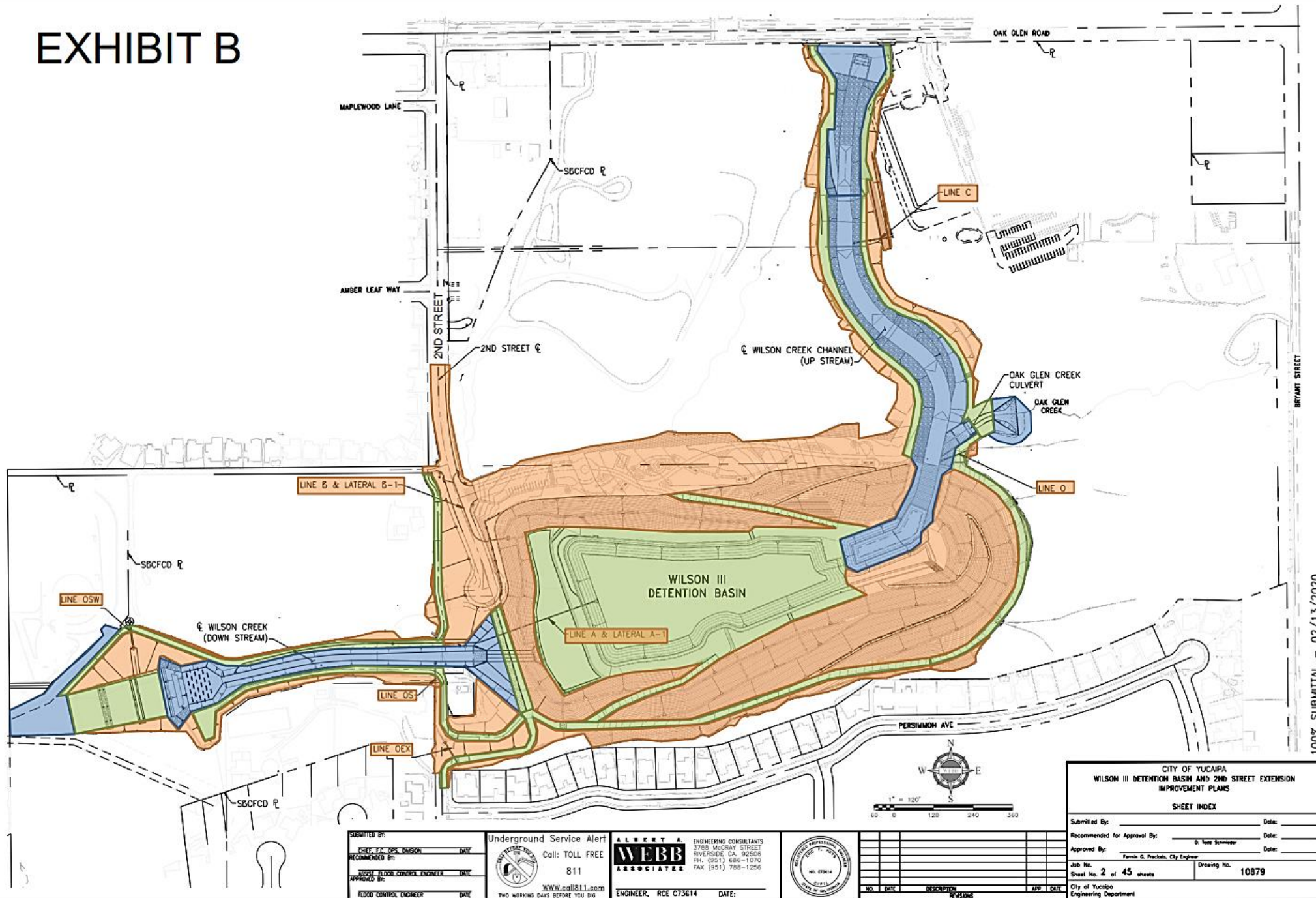





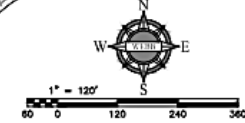
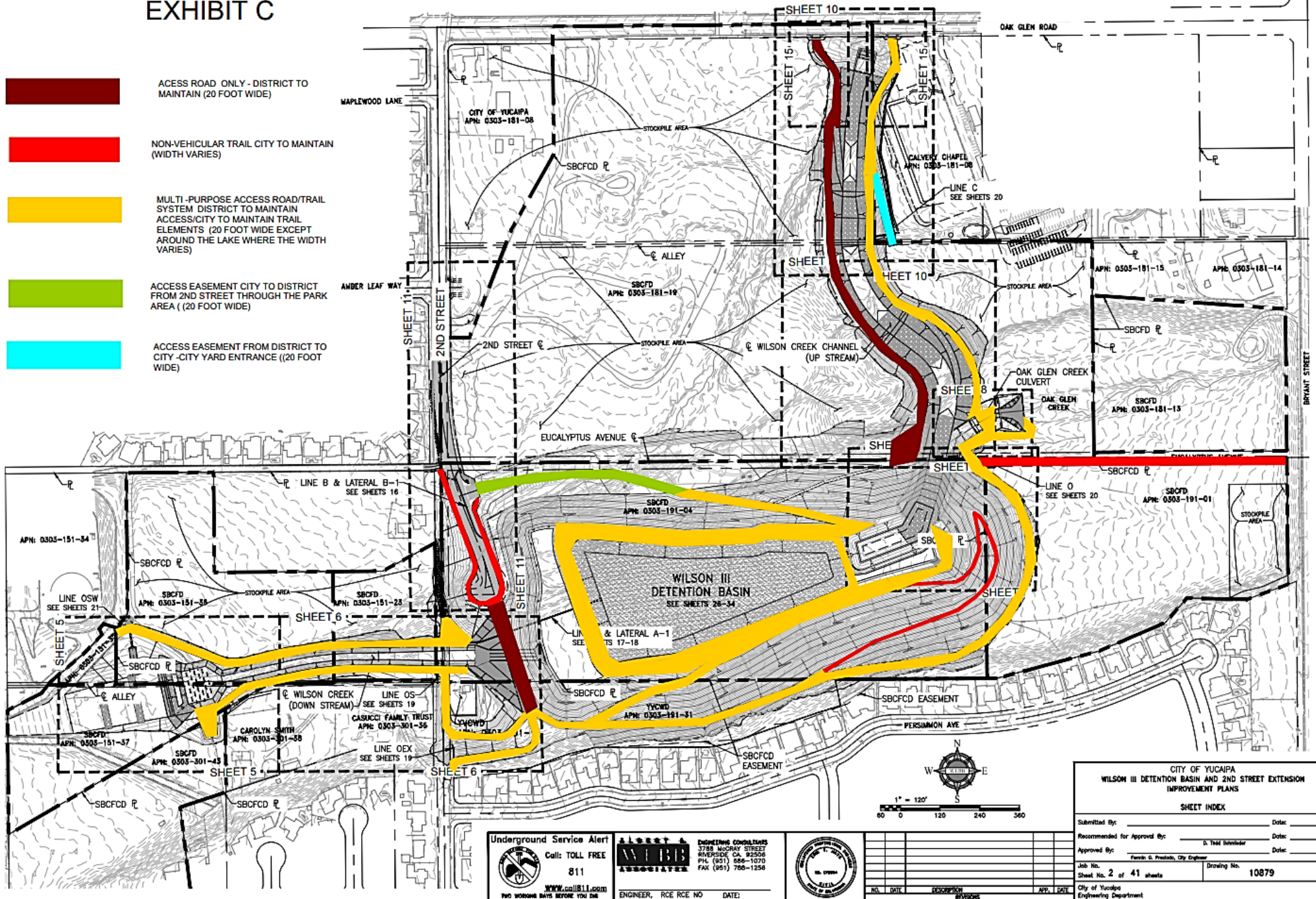


EXHIBIT C

-  ACCESS ROAD ONLY - DISTRICT TO MAINTAIN (20 FOOT WIDE)
-  NON-VEHICULAR TRAIL CITY TO MAINTAIN (WIDTH VARIES)
-  MULTI-PURPOSE ACCESS ROAD/TRAIL SYSTEM DISTRICT TO MAINTAIN ACCESS/CITY TO MAINTAIN TRAIL ELEMENTS (20 FOOT WIDE EXCEPT AROUND THE LAKE WHERE THE WIDTH VARIES)
-  ACCESS EASEMENT CITY TO DISTRICT FROM 2ND STREET THROUGH THE PARK AREA ((20 FOOT WIDE)
-  ACCESS EASEMENT FROM DISTRICT TO CITY - CITY YARD ENTRANCE ((20 FOOT WIDE)



Underground Service Alert
Call: TOLL FREE
811
www.call811.com
TWO WORKING DAYS BEFORE YOU DIG

WILBE ASSOCIATES
ENGINEERING CONSULTANTS
3788 MCGRAW STREET
ROCKVILLE, CA 92350
PH: (951) 886-1070
FAX: (951) 786-1258



NO.	DATE	DESCRIPTION	APP.	DATE

CITY OF YUCAIPA
WILSON III DETENTION BASIN AND 2ND STREET EXTENSION IMPROVEMENT PLANS
SHEET INDEX

Submitted By: _____	Date: _____
Recommended for Approval By: _____	Date: _____
Approved By: <u>David G. Probst, City Engineer</u>	Date: _____
Job No. _____	Drawing No. 10879
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City of Yucaipa Engineering Department	

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