THE INFORMATION IN THIS BOX IS NOT A PART OF THE CONTRACT AND IS FOR COUNTY USE ONLY

Contract Number
13-378 A-1

SAP Number

San Bernardino County Flood Control District

Department Contract Representative	David R. Doublet
Telephone Number	(909) 387-7918
Contractor	City of Yucaipa
Contractor Representative	David Avila, Mayor
Telephone Number	(909) 797-2489 ext. 506
Contract Term	
Original Contract Amount	
Amendment Amount	
Total Contract Amount	
Cost Center	

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.)

FIRST AMENDMENT TO MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF YUCAIPA AND THE SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT REGARDING THE WILSON III PROJECT AND THE SALE OF CERTAIN DISTRICT PROPERTY LOCATED IN THE CITY

This First Amendment (**First Amendment**) to the Memorandum of Understanding, Contract 13-378, regarding the Wilson III Project and the sale of certain District Property located in the City (**MOU**) is executed as of _____, 2020 ("Effective Date") by and between the City of Yucaipa, a California municipal corporation (**CITY**), and the San Bernardino County Flood Control District, a public body, corporate and politic (**DISTRICT**). The **CITY** and the **DISTRICT** may hereinafter be referred to each as (**PARTY**) and collectively as the (**PARTIES**).

RECITALS

WHEREAS, the **PARTIES** previously executed the **MOU** whereby the **DISTRICT** agreed to consider selling surplus property to the **CITY** in phases and use the proceeds of the sale(s) as the **DISTRICT**'s financial contribution to assist with funding the Wilson III Basin Project (**PROJECT**), with any excess funding to be used for other flood control projects in Zone 3 of the **DISTRICT**.

WHEREAS, the **PARTIES** wish to modify the reimbursement structure contemplated in Agreement No. 11-523 by terminating that agreement and specifying the reimbursement framework in Contract No. 13-378.

WHEREAS, the **MOU** depicts the **DISTRICT**-owned property in the attached Exhibit "A" to the **MOU**. The depicted property consists of APNs 0303-181-19, 0303-151-23, 0303-151-36, 0303-181-13, 0303-191-01, and 0303-191-04.

WHEREAS, the **PARTIES** hereby seek to amend the **MOU** to:

1) Specifically identify the **PROPERTY** that will be sold by the **DISTRICT** to the **CITY**,

2) More specifically identify the **PROPERTY** that will be sold by the **DISTRICT** to the **CITY**,

3) Identify an off-site mitigation area,

4) Confirm certain funding that the **DISTRICT** is committing to the **PROJECT**, and

5) Specify the mitigation areas for the **PROJECT** that will be operated and maintained for a minimum of 25 years as required by the California Natural Resource Agency grant.

NOW, THEREFORE, the **PARTIES** hereby agree to amend the MOU as follows:

AMENDMENT

1. As of the Effective Date of this **First Amendment**, pursuant to Section 4.19 of that agreement, the **PARTIES** hereby mutually terminate Agreement 11-523.

2. The fifth "WHEREAS" clause of the MOU is hereby deleted and replaced with the following: **WHEREAS,** the **DISTRICT** owns the following real **PROPERTY**: Assessor Parcel Numbers 0303-181-19, 0303-151-23, 0303-151-36, 0303-181-13, 0303-191-01, and 0303-191-04, which are generally depicted on the attached Exhibit "A."

3. Subsection iii, on Page 2 of 5, under the "The District shall" section, is hereby deleted and replaced with the following:

   iii) Consider selling the portion of the **PROPERTY** not needed for the **WILSON III PROJECT** (the **SURPLUS PROPERTY**) at fair market value established in accordance with the San Bernardino County Real Estate Services appraisal methodologies and procedures. The **SURPLUS PROPERTY** is identified as follows:

   1) Approximately 36 acres of APN 0303-181-19.

   2) Approximately 1.5 acres of APN 0303-151-23.

   3) Approximately 5 acres of APN 0303-151-36.

   4) Approximately 3 acres of APN 0303-191-01. After purchasing this property from the **DISTRICT**, the **CITY** will be selling the property to the Inland Empire Resources Conservation District (IERCD).

5) Approximately 2.5 acres of APN 0303-191-04 which will be used as a future park area. The **SURPLUS PROPERTY** is generally depicted on Exhibit "B."

Accomplishment of this transaction(s) is envisioned to be via a "Purchase and Sell" agreement entered into by the **DISTRICT** and **CITY**, after completion of the necessary environmental review. The **SURPLUS PROPERTY** shall be sold in "phases" as the **CITY** is able to purchase portions of the **SURPLUS PROPERTY** based on budget and negotiations with interested parties (hereinafter collectively called **THIRD PARTIES**); the purchase and sale agreement entered into by the **CITY** with any **THIRD PARTIES** shall include provisions for the **THIRD PARTIES** to accept the dirt from the excavation for the **WILSON III PROJECT** after start of construction. There will be no guarantee to the **THIRD PARTIES** as to the actual date of construction or when they will begin receiving dirt.

4. Under the "The **DISTRICT** shall" section, add the following new Subsection vii to the MOU as follows:

vii) Allocate Three Hundred and Fifty Thousand Dollars ($350,000.00) in its budget for the **WILSON III PROJECT.** This amount shall be used towards the construction of the **WILSON III PROJECT** and, the **CITY** may invoice the **DISTRICT** for **WILSON III PROJECT** related construction expenses once the construction has started, to an amount not to exceed $350,000. The **CITY** shall invoice the **DISTRICT** on a quarterly basis for cost incurred on the **WILSON III PROJECT** until the $350,000.00 is exhausted, which invoices shall include, at minimum, the following information:

a. Cost incurred for work performed in implementing the project during the period identified in the particular invoice.

b. Invoices submitted shall meet the following format requirements:

1. Cover letter with signature from the responsible **CITY** official.
2. Invoice must contain date of invoice, time period covered by the invoice, and the total amount due.
3. A cost breakdown in table format with Vendor (Contractor, Invoices and Staff Time), description of costs, total costs for each line item.
4. Invoices must be itemized.
5. Sufficient backup documentation (e.g. receipts, copies of checks, time sheets, labor reports, cost accounting reports,) as determined by the **DISTRICT** must be provided to support all charges and all costs included in the invoice.

5. On page 3 of 5, under the "The **CITY** shall" section, add the following new Subsection v to the MOU as follows:

v) Require all contractors and vendors working on the **WILSON III PROJECT** to have appropriate and adequate insurance coverage for the mutual protection and benefit of the **PARTIES.** Add **DISTRICT** and County of San Bernardino (**COUNTY**) (or ensure that the **DISTRICT** and **COUNTY** are added) as an Additional Insured by endorsement on all contracts let out by **CITY** for the **WILSON III PROJECT**. Retain or cause to be retained for audit by **DISTRICT** or other government auditors for a period of three (3) years from the date of the final payment, all records and accounts relating to the **WILSON III PROJECT**. Require the contractor(s) for the **WILSON III PROJECT** to maintain a labor and materials bond and a faithful performance bond, each in a penal sum equal to one hundred percent of the contract

price for **WILSON III PROJECT**. All bonds required for **WILSON III PROJECT** shall include both **CITY** and **DISTRICT** as obligees for their respective contributions to and/or participation in the **WILSON III PROJECT**. Such bond shall be delivered to **DISTRICT** prior to the commencement of any work on **WILSON III PROJECT**.

6. On page 3 of 5, under the "The **CITY** and the **DISTRICT** shall" section, add a new Subsection iii to the MOU as follows:

iii) Operate and maintain the **WILSON III PROJECT**. The details of the operations and maintenance responsibilities for the **DISTRICT** and the **CITY** will be spelled out in a separate agreement. Generally, the **DISTRICT** shall maintain the Basin, Channel and Flood Control Apertures, as those terms are defined in that separate agreement. The **CITY** shall first obtain a permit from the **DISTRICT** prior to commencing construction. The **CITY** shall at a minimum maintain:

1) The marsh/wetlands area that will include the planting and maintenance of approximately 4,000 native riparian plants.

2) 4,200 lineal feet of a 4 to 8-foot-wide multi-use, non-vehicular trail with decomposed granite trail surfacing that will be installed by the **CITY**. The trail will include approximately 4,200 lineal feet of PVC 2-rail trail fencing, approximately 5 access gates, and 10 trail related signs, all of which will be maintained by the **CITY**. The approximate location of the trail fencing is depicted in the attached Exhibit "C."

3) One informational signage/kiosk that will be installed by the **CITY** in the future park area to be owned by the **CITY**.

4) One sign acknowledging funding by the California Natural Resource Agency that will be installed by the **CITY**.

Plants that are planted pursuant to the three-year plant establishment program. These plants and any associated irrigation systems will be maintained by the **CITY**. The **CITY**'s maintenance obligations will be further defined in a future maintenance agreement between the **CITY** and the **DISTRICT**.

7. On page 3 of 5, under the "The **CITY** and the **DISTRICT** shall" section, add a new Subsection iv as follows:

iv) Work cooperatively to obtain an easement in favor of the **CITY** for trail purposes on the property identified as APN 0303-191-31 owned by the Yucaipa Valley Water District. The trail shall be constructed and maintained by the **CITY**. The **CITY's** maintenance obligations with respect to the trail easement shall be further set forth in a separate maintenance agreement between the **CITY** and the **DISTRICT**.

8. On page 3 of 5, under the "The **CITY** and the **DISTRICT** shall" section, add a new Subsection v as follows:

v) Work cooperatively to record a conservation easement on a 4.5-acre portion of the real properties identified as APNs 0321-141-05 and 0321-141-06 owned by the **DISTRICT.** The 4.5-acre property is more particularly described and depicted on Exhibit "D." This 4.5-acre property will be used by the **CITY** as off-site mitigation for the impacts created by the **WILSON**

III PROJECT. The **CITY** shall be financially responsible for any costs associated with administering the conservation easement.

9. On page 3 of 5, under the "The **CITY** and the **DISTRICT** shall" section, add a new subsection vi as follows:

   vi) Work cooperatively to record an 18.3 acre conservation easement on portions of the real properties identified as APNs 0303-181-19, 0303-191-01, and 0303-181-13 owned by the **DISTRICT**. The 18.3 property that the conservation easement will be recorded on is more particularly described and depicted on Exhibit "E." This 18.3-acre property will be used by the **CITY** as on-site mitigation for the impacts created by the **WILSON III PROJECT**. The **CITY** shall be financially responsible for any costs associated with administering the conservation easement.

10. On page 3 of 5, under the "The **CITY** and the **DISTRICT** shall" section, add a new Subsection vii as follows:

    vii) Execute an encroachment permit, or similar agreement, that allows the **CITY** to construct the **WILSON III PROJECT** and the new City Yard area prior to the **CITY** purchasing the **SURPLUS PROPERTY** from the **DISTRICT**. The encroachment permit shall also allow the **CITY** to grade and export material from the basin/channel excavation to the **SURPLUS PROPERTY**.

11. On page 3 of 5, under the "The **CITY** and the **DISTRICT** shall" section, add a new Subsection viii as follows:

    viii) Make all payments via electronic funds transfer (EFT) directly deposited into the **PARTIES'** designated checking or other bank account. **PARTIES** shall promptly comply with directions and accurately complete forms provided to process EFT payments.

IN WITNESS WHEREOF, the **PARTIES** have caused this **First Amendment** to the MOU to be executed on the day and year first hereinabove written.

ATTEST:

Jennifer Crawford
Deputy City Manager/City Clerk
City of Yucaipa

SAN BERNARDINO COUNTY
FLOOD CONTROL DISTRICT

►

Curt Hagman, Board Chairman

Dated: APR 07 2020

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

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

By _____
(Authorized signature - sign in blue ink)

Name David Avila
(Print or type name of person signing contract)

Title Mayor
(Print or Type)

Dated: MAR 09 2020

Address _____

FOR COUNTY USE ONLY

Approved as to Legal Form	Reviewed for Contract Compliance	Reviewed/Approved by District
►	►	►
Sophie A. Akins, County Counsel	Mohammad Ali, P.E.	Brendon Biggs, Interim Chief Flood Control Engineer
Date 3/18/20	Date 3-18-2020	Date 3-18-2020

EXHIBIT A

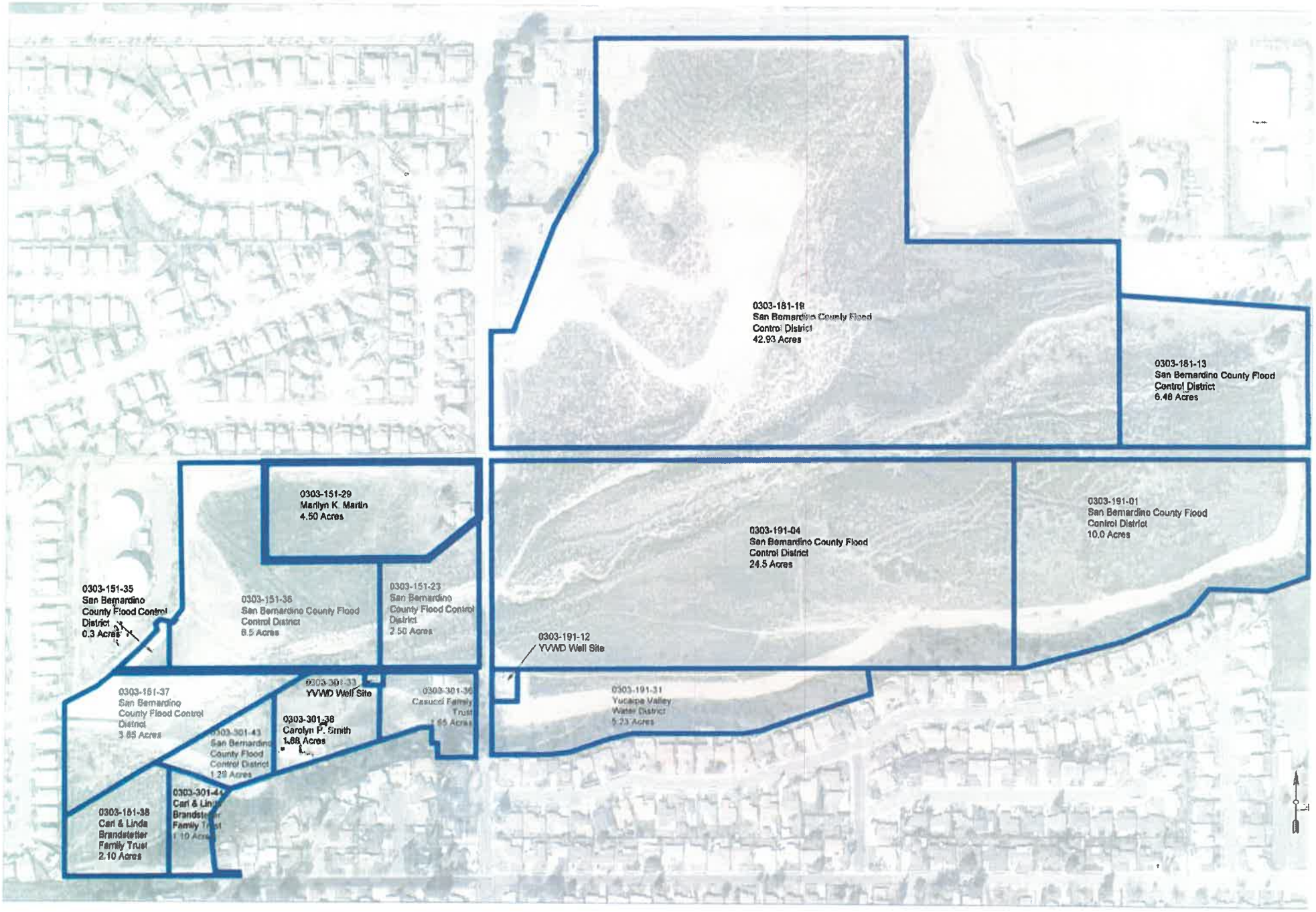

0303-181-19
San Bernardino County Flood
Control District
42.93 Acres
0303-181-13
San Bernardino County Flood
Control District
6.48 Acres
0303-151-29
Marilyn K. Martin
4.50 Acres
0303-191-04
San Bernardino County Flood
Control District
24.5 Acres
0303-191-01
San Bernardino County Flood
Control District
10.0 Acres
0303-151-35
San Bernardino
County Flood Control
District
0.3 Acres
0303-151-36
San Bernardino County Flood
Control District
8.5 Acres
0303-151-23
San Bernardino
County Flood Control
District
2.50 Acres
0303-191-12
YVWD Well Site
0303-151-37
San Bernardino
County Flood Control
District
3.85 Acres
YVWD Well Site
0303-301-36
Carolyn P. Smith
1.88 Acres
0303-191-31
Yucaipa Valley
Water District
5.23 Acres
0303-151-38
Carl & Linda
Brandstetter
Family Trust
2.10 Acres

EXHIBIT B

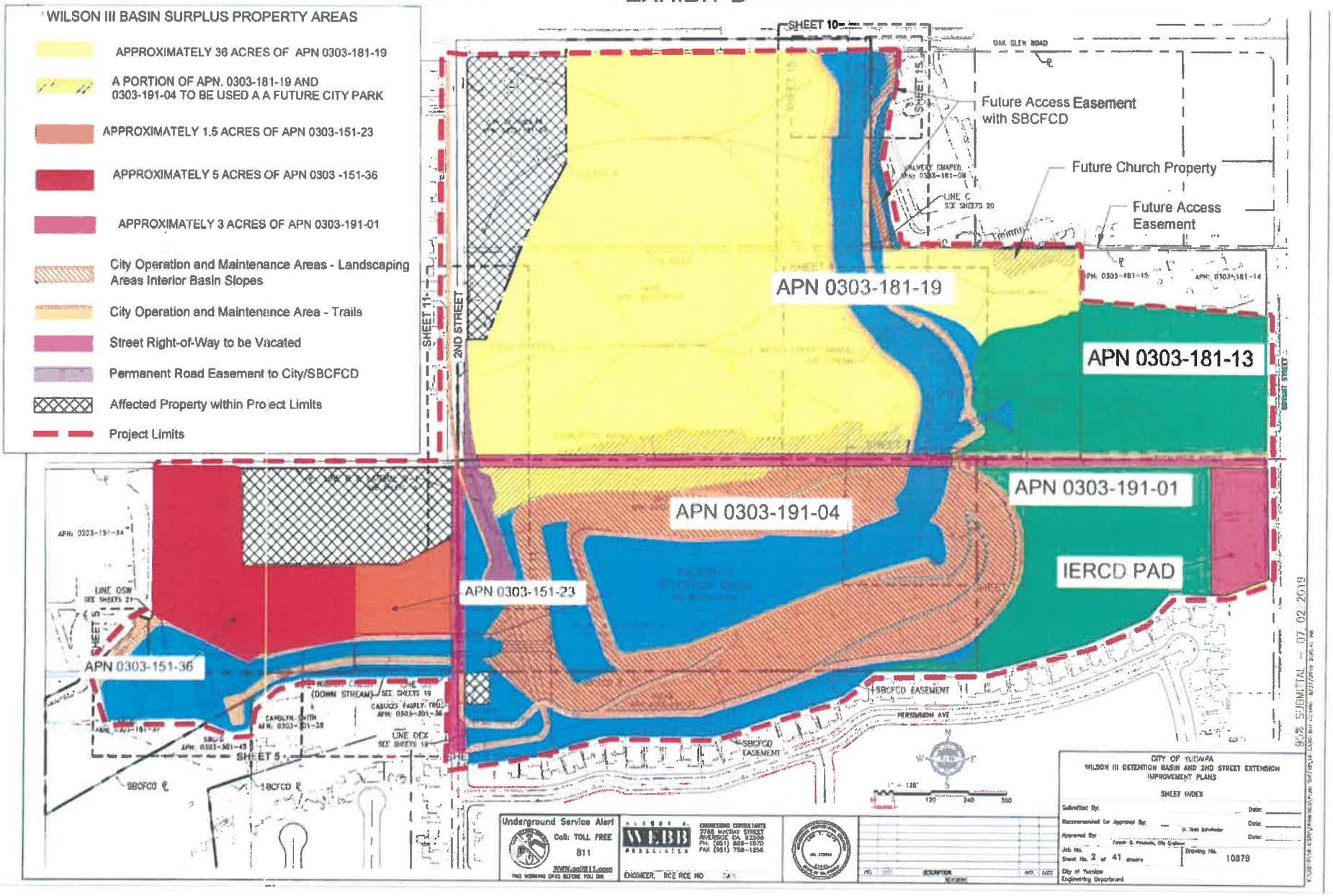

WILSON III BASIN SURPLUS PROPERTY AREAS
APPROXIMATELY 36 ACRES OF APN 0303-181-19
A PORTION OF APN. 0303-181-19 AND 0303-191-04 TO BE USED A A FUTURE CITY PARK
APPROXIMATELY 1.5 ACRES OF APN 0303-151-23
APPROXIMATELY 5 ACRES OF APN 0303 -151-36
APPROXIMATELY 3 ACRES OF APN 0303-191-01
City Operation and Maintenance Areas - Landscaping Areas Interior Basin Slopes
City Operation and Maintenance Area - Trails
Street Right-of-Way to be Vacated
Permanent Road Easement to City/SBCFCD
Affected Property within Project Limits
Project Limits
SHEET 10
OAK GLEN ROAD
Future Access Easement with SBCFCD
Future Church Property
Future Access Easement
APN 0303-181-19
APN 0303-181-13
APN 0303-191-01
APN 0303-191-04
IERCD PAD
APN 0303-151-23
APN 0303-151-36
2ND STREET
SHEET 11
SHEET 5
SBCFCD EASEMENT
PERSIMMON AVE
95% SUBMITTAL - 07/02/2019
CITY OF TUSCAIRA
WILSON III DETENTION BASIN AND 2ND STREET EXTENSION IMPROVEMENT PLANS
SHEET INDEX
Submitted By:
Recommended for Approval By:
Approved By:
Job No.
Sheet No. 2 of 41 sheets
Drawing No. 10879
City of Tuscaira Engineering Department
Underground Service Alert
Call: TOLL FREE 811
WWW.ca811.com
TWO WORKING DAYS BEFORE YOU DIG
WEBB ASSOCIATES
ENGINEERING CONSULTANTS
3760 McCRAY STREET
RIVERSIDE CA. 92506
PH. (951) 686-1070
FAX (951) 788-1256
ENGINEER, RCE RCE NO

EXHIBIT C

North Bench River Parkways Groundwater and Habitat Enhancement Project

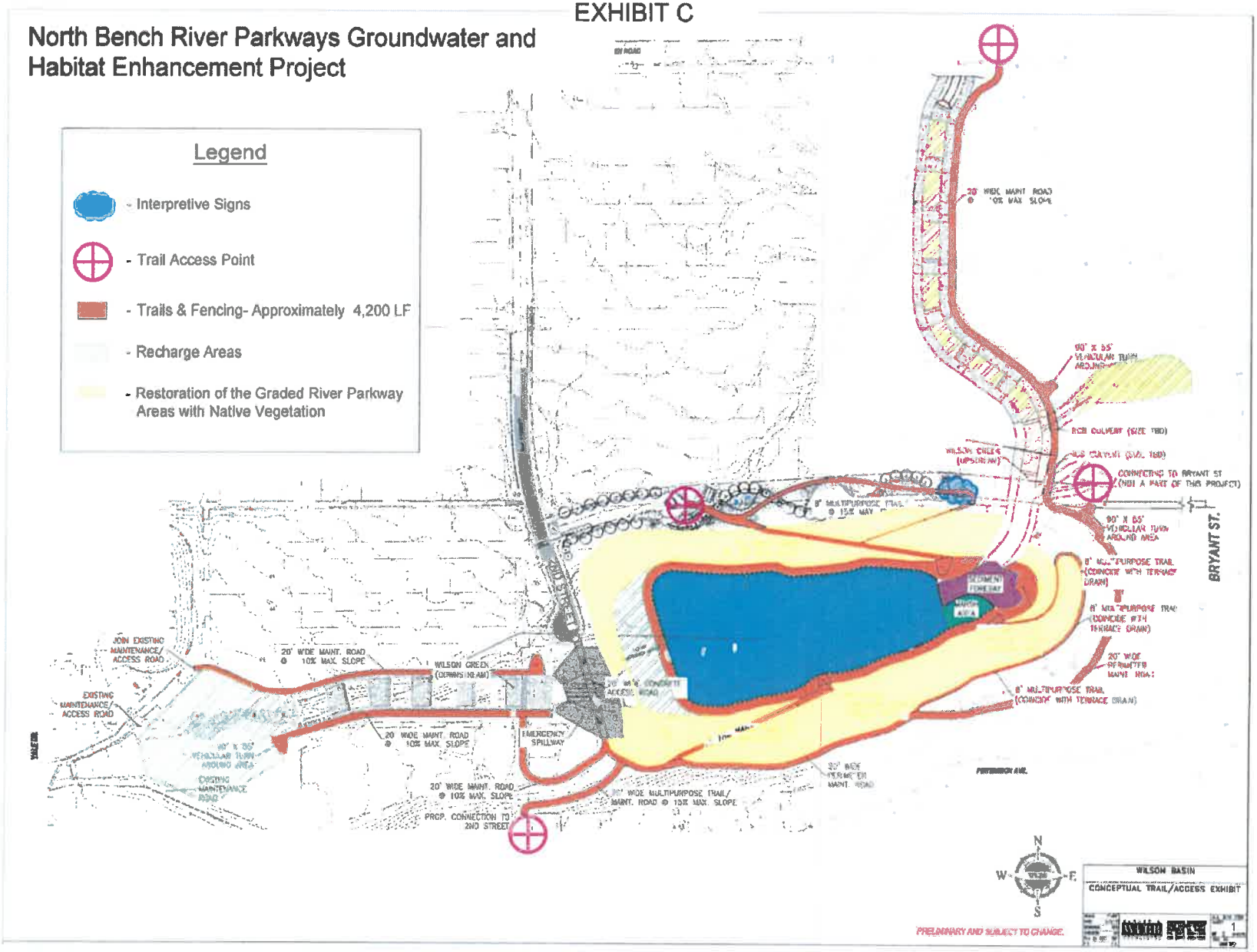
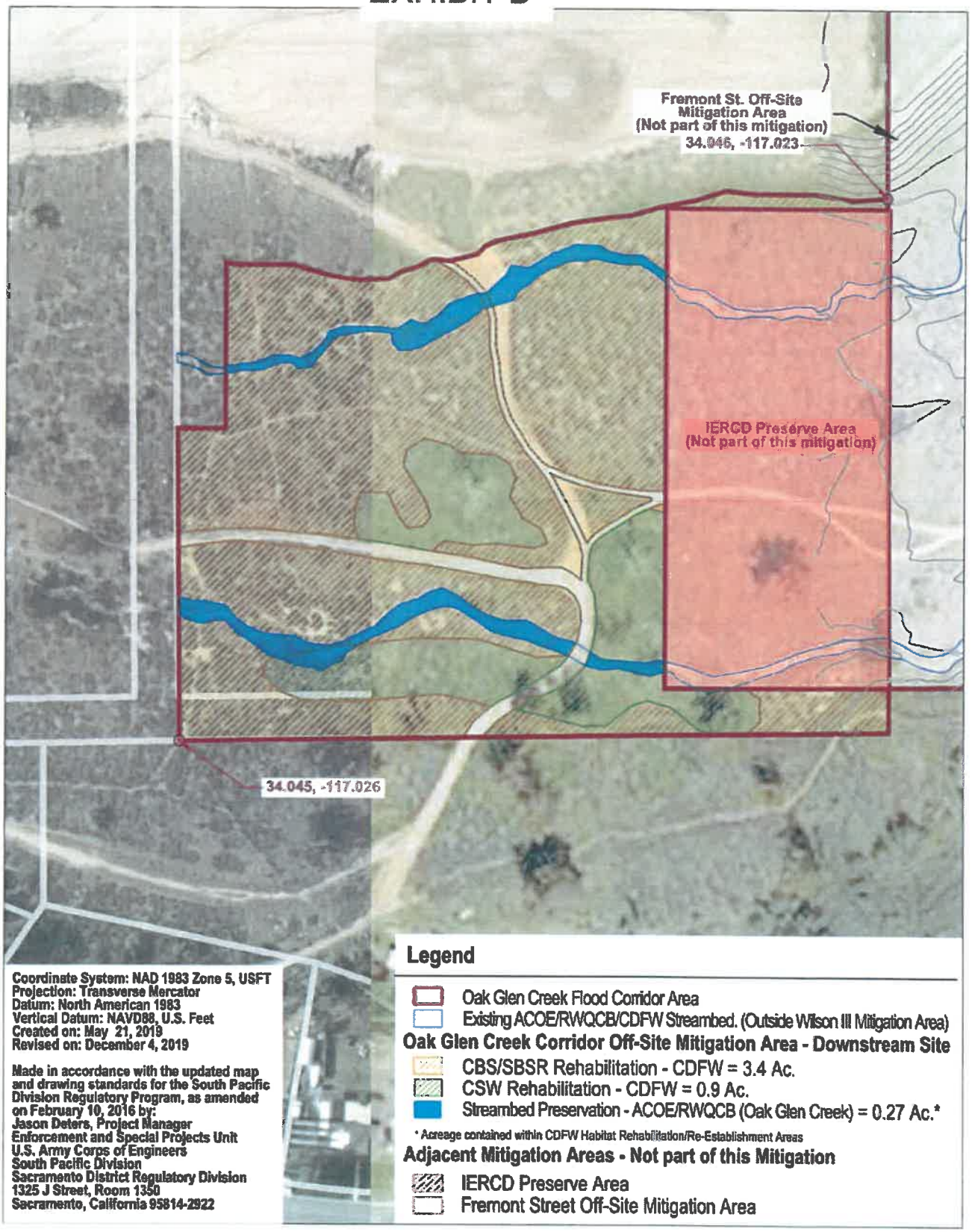


EXHIBIT D



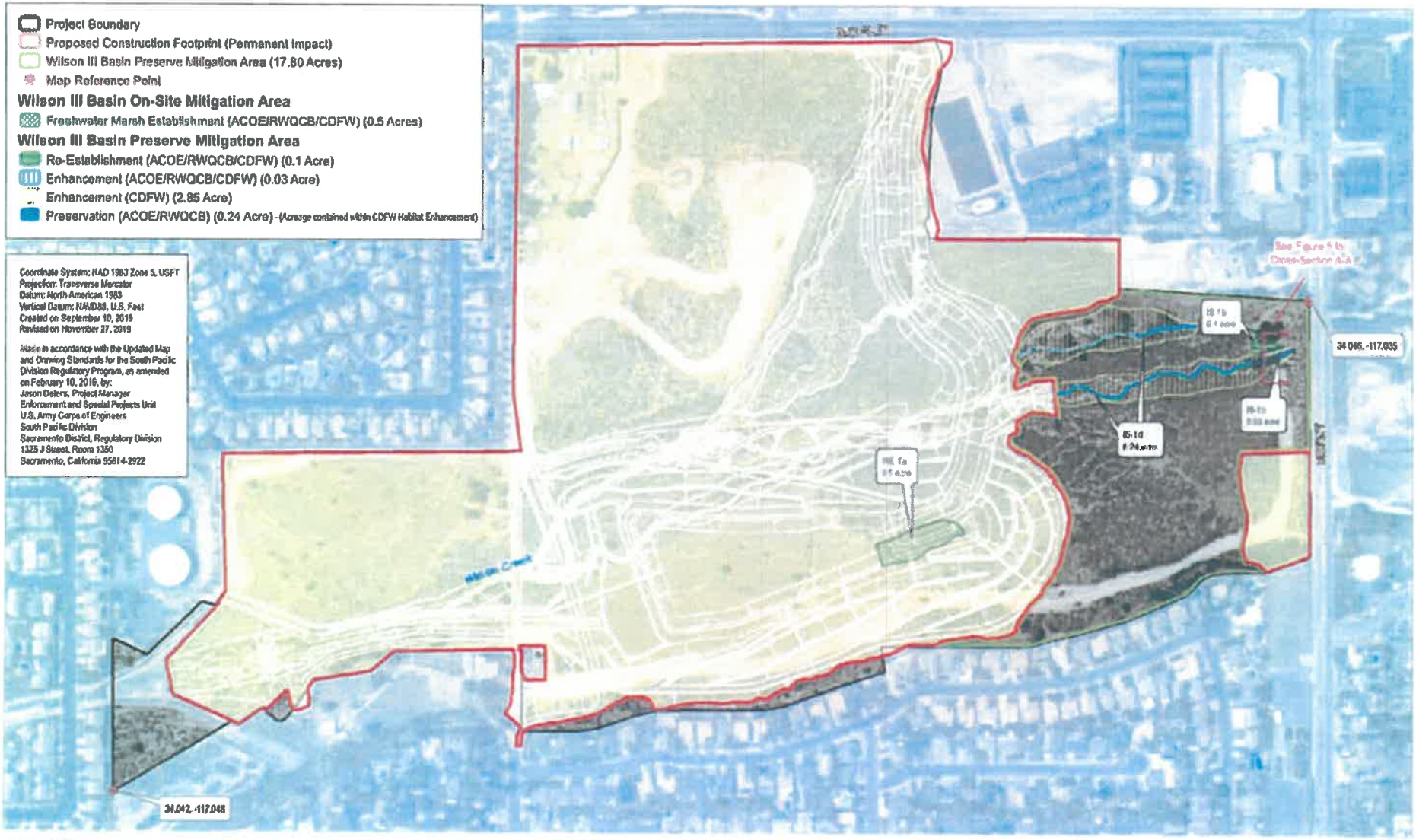
SOURCES: ArcGIS Online Basemap (Bing)

FIGURE 2C

Oak Glen Creek Corridor - Downstream Mitigation Site

Habitat Mitigation and Monitoring Plan for the Wilson III Basin Project

EXHIBIT E



DUDEK

FIGURE 2A

Wilson III Basin On-Site and Wilson III Preserve Concept Plan