# CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD SAN DIEGO REGION

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Clean Water Act Section 401 Water Quality Certification and Waste Discharge Requirements for Discharge of Dredged and/or Fill Materials

PROJECT: Inland Rail Trail Project, San Marcos to Vista Segment Certification Number R9-2014-0128 WDID: 9000002777

Reg. Meas. ID: 398591 Place ID: 810067 Party ID: 39834 Person ID: 524620

APPLICANT: San Diego Association of Governments 401 B Street Suite 800 San Diego, CA 92101

#### ACTION:

Order for Low Impact Certification	Order for Denial of Certification
<ul> <li>Order for Technically-conditioned Certification</li> </ul>	<ul> <li>Waiver of Waste Discharge Requirements</li> </ul>
<ul> <li>Enrollment in SWRCB GWDR</li> <li>Order No. 2003-017-DWQ</li> </ul>	Enrollment in Isolated Waters Order No. 2004-004-DWQ

#### PROJECT DESCRIPTION

An application dated October 13, 2014 was submitted by the San Diego Association of Governments (hereinafter Applicant), for Water Quality Certification pursuant to section 401 of the Clean Water Act (33 U.S.C. § 1341) for the proposed Inland Rail Trail Project, San Marcos to Vista Segment (Project). The California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) deemed the application to be complete on January 20, 2015. The Applicant proposes to discharge dredged or fill material to waters of the United States and/or State associated with construction activity at the Project site. The Applicant has also applied for a Clean Water Act section 404 permit from the United States Army Corps of Engineers for the Project (USACE File No. SPL-2013-00246-SAS).

The Project is located within the cities of San Marcos, Vista, Oceanside, and unincorporated San Diego County, California, between the intersections of North Pacific Street/West Mission Road (San Marcos) and West Bobier Drive/Oceanside Boulevard (Vista). The Project center reading is located at latitude 33.183847° and longitude -117.190497°. The Applicant has paid all required fees for this Certification in the amount of \$90,000. On October 31, 2014, the San Diego Water Board provided public notice of the Project application pursuant to California Code of Regulations, title 23, section 3858 by posting information describing the Project on the San Diego Water Board's web site and providing a period of twenty-one days for public review and comment. No comments were received.

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The Applicant proposes to construct a 7 mile long paved bikeway located within the North County Transit District railway right of way. The two lane bikeway will generally be 10 feet wide, however some sections will be 12 to 18 feet wide. Most sections of the bikeway will have two 2-feet wide earthen shoulders. Bridges will span Buena and Buena Vista Creeks, thereby avoiding impacts to these creeks. Nine concrete drainage channels, that are tributary to Buena and Buena Vista Creeks, will be realigned to accommodate the construction of the bikeway.

The Project will convert approximately 8.91 acres of pervious ground cover to impervious surfaces. Runoff leaving the developed Project area would be significantly greater in volume, velocity, peak flow rate, and duration than pre-development runoff from the same area without mitigation. Post-construction best management practices (BMPs) to manage and control the effects of these runoff increases will consist of vegetative swales along the length of the bikeway.

The Project application includes a description of the design objective, operation, and degree of treatment expected to be attained from equipment, facilities, or activities (including construction and post-construction BMPs) to treat waste and reduce runoff or other effluents which may be discharged. Compliance with the Certification conditions will help ensure that construction and post-construction discharges from the Project will not cause on-site or off-site downstream erosion, damage to downstream properties, or otherwise damage stream habitats in violation of water quality standards in the *Water Quality Control Plan for the San Diego Basin (9)* (Basin Plan).

Project construction will permanently impact 0.02 acre (290 linear feet) of non-wetland waters of the United States and/or State and 0.69 acre (10,560 linear feet) of concrete channelized streambed waters of the United States and/or State. The Applicant reports that the Project purpose cannot be practically accomplished in a manner which would avoid or result in less adverse impacts to aquatic resources considering all potential practicable alternatives, such as the potential for alternate available locations, designs, reductions in size, configuration or density.

The Applicant reports that compensatory mitigation for the permanent loss of 0.02 acre of jurisdictional waters will be achieved by providing 0.06 acres of re-establishment credits from the Pilgrim Creek Mitigation Bank. The mitigation credits were purchased by the City of San Marcos, a member agency of the San Diego Association of Governments, in 2001 for the entire bikeway project (Attachment 4). Mitigation purchased from the Pilgrim Creek Mitigation Bank is protected and maintained by California Department of Fish and Wildlife according to the conditions of the *Banking Instrument, Pilgrim Creek Mitigation Bank* and addendum, finalized on March 16, 2000. The Applicant reports that compensatory mitigation for permanent impacts to 0.69 acre of jurisdictional waters resulting from the realignment of the concrete channelized streambed will be achieved through the on-site re-establishment of 0.69 acres of in-kind waters of the United States and/or State receiving temporary discharges of fill material will be restored upon removal of the fill. Mitigation for discharges of fill material to waters of the United States and/or State will be completed by the Applicant on-site located within the Vista, Buena, and Richland hydrologic sub-areas (HSA 904.22, 904.32, and 904.52) at a minimum compensation ratio of 1:1 (area

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mitigated:area impacted) and off-site at the Pilgrim Creek Mitigation Bank located in the Mission hydrologic sub-area (HSA 903.11) at a minimum compensation ratio of 3:1 (area mitigated:area impacted).

Additional Project details are provided in Attachments 2 through 5 of this Certification.

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Attachments:

- 1. Definitions
- 2. Project Location Maps
- 3. Project Site Plans
- 4. Mitigation Figures
- 5. CEQA Mitigation Monitoring and Reporting Program

## I. STANDARD CONDITIONS

Pursuant to section 3860 of title 23 of the California Code of Regulations, the following three standard conditions apply to <u>all</u> water quality certification actions:

- A. This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the Water Code and chapter 28, article 6 (commencing with title 23, section 3867), of the California Code of Regulations.
- B. This Certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent Certification application was filed pursuant to California Code of Regulations title 23, section 3855 subdivision (b), and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- C. This Certification action is conditioned upon total payment of any fee required under title 23, chapter 28 (commencing with section 3830) of California Code of Regulations and owed by the applicant.

## II. GENERAL CONDITIONS

- A. Term of Certification. Water Quality Certification No. R9-2014-0128 (Certification) shall expire upon a) the expiration or retraction of the Clean Water Act section 404 (33 U.S.C. §1344) permit issued by the U.S. Army Corps of Engineers for this Project, or b) five (5) years from the date of issuance of this Certification, whichever occurs first.
- B. Duty to Comply. The Applicant must comply with all conditions and requirements of this Certification. Any Certification noncompliance constitutes a violation of the Water Code and is grounds for enforcement action or Certification termination, revocation and reissuance, or modification.
- C. **General Waste Discharge Requirements**. The requirements of this Certification are enforceable through Water Quality Order No. 2003-0017-DWQ, *Statewide General Waste Discharge Requirements for Discharges of Dredged or Fill Material that have Received State Water Quality Certification* (Water Quality Order No. 2003-0017-DWQ). This provision shall apply irrespective of whether a) the federal permit for which the Certification was obtained is subsequently retracted or is expired, or b) the Certification is expired. Water Quality Order No. 2003-0017-DWQ is accessible at:

http://www.waterboards.ca.gov/water\_issues/programs/cwa401/docs/generalorders/go\_wdr401regulated\_projects.pdf.

D. **Project Conformance with Application.** All water quality protection measures and BMPs described in the application and supplemental information for water quality

certification are incorporated by reference into this Certification as if fully stated herein. Notwithstanding any more specific conditions in this Certification, the Applicant shall construct, implement and comply with all water quality protection measures and BMPs described in the application and supplemental information. The conditions within this Certification shall supersede conflicting provisions within the application and supplemental information submitted as part of this Certification action.

E. Project Conformance with Water Quality Control Plans or Policies. Notwithstanding any more specific conditions in this Certification, the Project shall be constructed in a manner consistent with the Basin Plan and any other applicable water quality control plans or policies adopted or approved pursuant to the Porter Cologne Water Quality Act (Division 7, commencing with Water Code Section 13000) or section 303 of the Clean Water Act (33 U.S.C §1313). The Basin Plan is accessible at:

#### http://www.waterboards.ca.gov/sandiego/water issues/programs/basin plan/index.shtml

- F. **Project Modification**. The Applicant must submit any changes to the Project, including Project operation, which would have a significant or material effect on the findings, conclusions, or conditions of this Certification, to the San Diego Water Board for prior review and written approval. If the San Diego Water Board is not notified of a significant change to the Project, it will be considered a violation of this Certification.
- G. Certification Distribution Posting. During Project construction, the Applicant must maintain a copy of this Certification at the Project site. This Certification must be available at all times to site personnel and agencies. A copy of this Certification shall also be provided to any contractor or subcontractor performing construction work, and the copy shall remain in their possession at the Project site.
- H. **Inspection and Entry**. The Applicant must allow the San Diego Water Board or the State Water Resources Control Board, and/or their authorized representative(s) (including an authorized contractor acting as their representative), upon the presentation of credentials and other documents as may be required under law, to:
  - Enter upon the Project or Compensatory Mitigation site(s) premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this Certification;
  - 2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Certification;
  - 3. Inspect, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Certification; and
  - 4. Sample or monitor, at reasonable times, for the purposes of assuring Certification compliance, or as otherwise authorized by the Clean Water Act or Water Code, any substances or parameters at any location.

- Enforcement Notification. In the event of any violation or threatened violation of the conditions of this Certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under State law. For purposes of section 401(d) of the Clean Water Act, the applicability of any State law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Certification.
- J. **Certification Actions**. This Certification may be modified, revoked and reissued, or terminated for cause including but not limited to the following:
  - 1. Violation of any term or condition of this Certification;
  - Monitoring results indicate that continued Project activities could violate water quality objectives or impair the beneficial uses of Buena and Buena Vista Creeks or their tributaries;
  - Obtaining this Certification by misrepresentation or failure to disclose fully all relevant facts;
  - 4. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge; and
  - 5. Incorporation of any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the Clean Water Act.

The filing of a request by the Applicant for modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any Certification condition.

- K. **Duty to Provide Information**. The Applicant shall furnish to the San Diego Water Board, within a reasonable time, any information which the San Diego Water Board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Certification or to determine compliance with this Certification.
- L. **Property Rights**. This Certification does not convey any property rights of any sort, or any exclusive privilege.
- M. **Petitions**. Any person aggrieved by this action of the San Diego Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with the California Code of Regulations, title 23, sections 3867 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Certification. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

http://www.waterboards.ca.gov/public\_notices/petitions/water\_quality or will be provided upon request.

## III. CONSTRUCTION BEST MANAGEMENT PRACTICES

- A. Approvals to Commence Construction. The Applicant shall not commence Project construction until all necessary federal, State, and local approvals are obtained.
- B. **Personnel Education.** Prior to the start of the Project, and annually thereafter, the Applicant must educate all personnel on the requirements in this Certification, pollution prevention measures, spill response measures, and BMP implementation and maintenance measures.
- C. **Spill Containment Materials.** The Applicant must, at all times, maintain appropriate types and sufficient quantities of materials on-site to contain any spill or inadvertent release of materials that may cause a condition of pollution or nuisance if the materials reach waters of the United States and/or State.
- D. General Construction Storm Water Permit. Prior to start of Project construction, the Applicant must, as applicable, obtain coverage under, and comply with, the requirements of State Water Resources Control Board Water Quality Order No. 2009-0009-DWQ, the General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activity, (General Construction Storm Water Permit) and any reissuance. If Project construction activities do not require coverage under the General Construction Storm Water Permit, the Applicant must develop and implement a runoff management plan (or equivalent construction BMP plan) to prevent the discharge of sediment and other pollutants during construction activities.
- E. Waste Management. The Applicant must properly manage, store, treat, and dispose of wastes in accordance with applicable federal, state, and local laws and regulations. Waste management shall be implemented to avoid or minimize exposure of wastes to precipitation or storm water runoff. The storage, handling, treatment, or disposal of waste shall not create conditions of pollution, contamination or nuisance as defined in Water Code section 13050. Upon Project completion, all Project generated debris, building materials, excess material, waste, and trash shall be removed from the Project site(s) for disposal at an authorized landfill or other disposal site in compliance with federal, state and local laws and regulations.
- F. Waste Management. Except for a discharge permitted under this Certification, the dumping, deposition, or discharge of trash, rubbish, unset cement or asphalt, concrete, grout, damaged concrete or asphalt, concrete or asphalt spoils, wash water, organic or earthen material, steel, sawdust or other construction debris waste from Project activities directly into waters of the United States and or State, or adjacent to such waters in any manner which may permit its being transported into the waters, is prohibited.

- G. **Downstream Erosion.** Discharges of concentrated flow during construction or after Project completion must not cause downstream erosion or damage to properties or stream habitat.
- H. Construction Equipment. All equipment must be washed prior to transport to the Project site and must be free of sediment, debris, and foreign matter. All equipment used in direct contact with surface water shall be steam cleaned prior to use. All equipment using gas, oil, hydraulic fluid, or other petroleum products shall be inspected for leaks prior to use and shall be monitored for leakage. Stationary equipment (e.g., motors, pumps, generator, etc.) shall be positioned over drip pans or other types of containment.
- Process Water. Water containing mud, silt, or other pollutants from equipment washing or other activities, must not be discharged to waters of the United States and/or State or placed in locations that may be subjected to storm water runoff flows. Pollutants discharged to areas within a stream diversion must be removed at the end of each work day or sooner if rain is predicted.
- J. **Surface Water Diversion.** All surface waters, including ponded waters, must be diverted away from areas of active grading, construction, excavation, vegetation removal, and/or any other activity which may result in a discharge to the receiving water. Diversion activities must not result in the degradation of beneficial uses or exceedance of the receiving water quality objectives. Any temporary dam or other artificial obstruction constructed must only be built from materials such as clean gravel which will cause little or no siltation. Normal flows must be restored to the affected stream immediately upon completion of work at that location.
- K. Re-vegetation and Stabilization. All areas that have 14 or more days of inactivity must be stabilized within 14 days of the last activity. The Applicant shall implement and maintain BMPs to prevent erosion of the rough graded areas. After completion of grading, all areas must be re-vegetated with native species appropriate for the area. The re-vegetation palette must not contain any plants listed on the California Invasive Plant Council Invasive Plant Inventory, which can be accessed at <u>http://www.calipc.org/ip/inventory/</u>.
- L. **Hazardous Materials.** Except as authorized by this Certification, substances hazardous to aquatic life including, but not limited to, petroleum products, unused cement/concrete, asphalt, and coating materials, must be prevented from contaminating the soil and/or entering waters of the United States and/or State. BMPs must be implemented to prevent such discharges during each Project activity involving hazardous materials.
- M. Vegetation Removal. Removal of vegetation must occur by hand, mechanically, or through application of United States Environmental Protection Agency (USEPA) approved herbicides deployed using applicable BMPs to minimize adverse effects to beneficial uses of waters of the United States and/or State. Discharges related to the application of aquatic pesticides within waters of the United States must be done in compliance with State Water Resources Control Board Water Quality Order No. 2004-

- N. Limits of Disturbance. The Applicant shall clearly define the limits of Project disturbance to waters of the United States and/or State using highly visible markers such as flag markers, construction fencing, or silt barriers prior to commencement of Project construction activities within those areas.
- O. On-site Qualified Biologist. The Applicant shall designate an on-site qualified biologist to monitor Project construction activities within or adjacent to waters of the United States and/or State to ensure compliance with the Certification requirements. The biologist shall be given the authority to stop all work on-site if a violation of this Certification occurs or has the potential to occur. Records and field notes of the biologist's activities shall be kept on-site and made available for review upon request by the San Diego Water Board.
- P. Beneficial Use Protection. The Applicant must take all necessary measures to protect the beneficial uses of waters of Buena and Buena Vista Creeks and their tributaries. This Certification requires compliance with all applicable requirements of the Basin Plan. If at any time, an unauthorized discharge to surface waters (including rivers or streams) occurs or monitoring indicates that the Project is violating, or threatens to violate, water quality objectives, the associated Project activities shall cease immediately and the San Diego Water Board shall be notified in accordance with Notification Requirement VII.A of this Certification. Associated Project activities may not resume without approval from the San Diego Water Board.

# IV. POST-CONSTRUCTION BEST MANAGEMENT PRACTICES

- A. **Post-Construction Discharges.** The Applicant shall not allow post-construction discharges from the Project site to cause or contribute to on-site or off-site erosion or damage to properties or stream habitats.
- B. **Storm Drain Inlets.** All storm drain inlet structures within the Project boundaries must be stamped or stenciled (or equivalent) with appropriate language prohibiting non-storm water discharges.
- C. Post-Construction BMP Design. Post-construction BMPs must be implemented as described in the following documents: Water Quality Excerpts from the Inland Rail Trail Phase 1A, San Marcos Hydrology & Hydraulic Report, dated September 12, 2014 and prepared by Dokken Engineering; Water Quality Excerpts from the Drainage Study for Rail Trail Improvements Phase 1B Adjacent to the Rancho Santalina Project, dated September 29, 2014 and prepared by Rick Engineering Company; County of San Diego, Land Use and Environments Group, Minor Stormwater Management Plan for Inland Rail Trails Phase 2, dated August 8, 2014 and prepared Dokken Engineering; City of Vista Water Quality Technical Report for Inland Rail Trail Phase 3, dated October 2014 and prepared by Dokken Engineering; and City of Oceanside Water

- D. Post-Construction BMP Implementation. All post-construction BMPs must be constructed, functional, and implemented prior to completion of Project construction, occupancy, and/or planned use, and maintained in perpetuity. The post construction BMPs must include those described in the Storm Water Management Reports or any subsequent version of the Storm Water Management Reports approved by the appropriate city or county storm water agency.
- E. **Post-Construction BMP Maintenance.** The post construction BMPs must be designed, constructed, and maintained in accordance with the most recent California Storm Water Quality Association (CASQA)<sup>1</sup> guidance. The Applicant shall:
  - 1. No less than two times per year, assess the performance of the BMPs to ensure protection of the receiving waters and identify any necessary corrective measures;
  - Perform inspections of BMPs, at the beginning of the wet season no later than October 1 and the end of the wet season no later than April 1, for standing water, slope stability, sediment accumulation, trash and debris, and presence of burrows;
  - 3. Regularly perform preventative maintenance of BMPs, including removal of accumulated trash and debris, as needed to ensure proper functioning of the BMPs;
  - 4. Identify and promptly repair damage to BMPs; and
  - 5. Maintain a log documenting all BMP inspections and maintenance activities. The log shall be made available to the San Diego Water Board upon request.

# V. PROJECT IMPACTS AND COMPENSATORY MITIGATION

- A. **Project Impact Avoidance and Minimization**. The Project must avoid and minimize adverse impacts to waters of the United States and/or State to the maximum extent practicable.
- B. **Project Impacts and Compensatory Mitigation.** Unavoidable Project impacts to the unnamed tributaries to Buena and Buena Vista Creeks within the Carlsbad Watershed must not exceed the type and magnitude of impacts described in the table below. At a minimum, compensatory mitigation required to offset unavoidable temporary and permanent Project impacts to waters of the United States and/or State must be achieved as described in the table below:

<sup>&</sup>lt;sup>1</sup> California Storm Water Quality Association (*California Storm Water BMP Handbook, New Development and Redevelopment 2003*), available on-line at: <u>http://www.cabmphandbooks.org/</u> [Accessed on January 15, 2012]

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	Impacts (acres)	Impacts (linear ft.)	Mitigation for Impacts <sub>(acres)</sub>	Mitigation Ratio (area mitigated :area impacted)	Mitigation for Impacts (linear ft.)	Mitigation Ratio (linear feet mitigated :linear feet impacted)
Permanent Impacts						
Streambed - concrete channels	0.69	10,560	0.69 Re- establishment <sup>1</sup>	1:1	10,560 Re- establishment	1:1
Streambed - non-wetland earthen channel	0.02	290	0.06 Re- establishment <sup>2</sup>	3:1	N/A <sup>3</sup>	N/A <sup>3</sup>

1. On-site realignment (re-establishment) of the concrete channelized streambed.

2. Permanent impacts for non-wetland earthen channel were mitigated through the purchase of re-establishment mitigation credits from the Pilgrim Creek Mitigation Bank. Mitigation purchased from the Pilgrim Creek Mitigation Bank is required to be protected and maintained by California Department of Fish and Wildlife according to the conditions of the *Banking Instrument, Pilgrim Creek Mitigation Bank* and addendum, finalized on March 16, 2000. The mitigation provided for Project impacts contributes to the net gain of wetlands per the State of California Net Gain Policy (Executive Order W-59-93).

3. The amount of mitigation credit purchased is not reported in terms of linear feet of mitigation.

# VI. MONITORING AND REPORTING REQUIREMENTS

- A. **Representative Monitoring**. Samples and measurements taken for the purpose of monitoring under this Certification shall be representative of the monitored activity.
- B. **Monitoring Reports**. Monitoring results shall be reported to the San Diego Water Board at the intervals specified in section VI of this Certification.
- C. **Monitoring and Reporting Revisions**. The San Diego Water Board may make revisions to the monitoring program at any time during the term of this Certification and may reduce or increase the number of parameters to be monitored, locations monitored, the frequency of monitoring, or the number and size of samples collected.
- D. Records of Monitoring Information. Records of monitoring information shall include:
  - 1. The date, exact place, and time of sampling or measurements;
  - 2. The individual(s) who performed the sampling or measurements;
  - 3. The date(s) analyses were performed;
  - 4. The individual(s) who performed the analyses;
  - 5. The analytical techniques or methods used; and
  - 6. The results of such analyses.

- E. **Annual Project Progress Reports.** The Applicant must submit annual Project progress reports describing status of BMP implementation and compliance with all requirements of this Certification to the San Diego Water Board prior to **March 1** of each year following the issuance of this Certification, until the Project has reached completion. The monitoring period for each Annual Project Progress Report shall be January 1<sup>st</sup> through December 31<sup>st</sup> of each year. The report must include the following information:
  - 1. The names, qualifications, and affiliations of the persons contributing to the report;
  - 2. The status, progress, and anticipated schedule for completion of Project construction activities including the installation and operational status of best management practices project features for erosion and storm water quality treatment;
  - 3. A description of Project construction delays encountered or anticipated that may affect the schedule for construction completion; and
  - 4. A description of each incident of noncompliance during the annual monitoring period and its cause, the period of the noncompliance including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
- F. Final Project Completion Report. The Applicant must submit a Final Project Completion Report to the San Diego Water Board within 30 days of completion of the Project. The final report must include the following information:
  - 1. Date of construction initiation;
  - 2. Date of construction completion;
  - 3. BMP installation and operational status for the Project;
  - 4. As-built drawings of the Project, no bigger than 11"X17"; and
  - Photo documentation of implemented post-construction BMPs and all areas of permanent impacts, prior to and after project construction. Photo documentation must be conducted in accordance with guidelines posted at <u>http://www.waterboards.ca.gov/sandiego/water\_issues/programs/401\_certification/d</u> <u>ocs/StreamPhotoDocSOP.pdf.</u> In addition, photo documentation must include Global Positioning System (GPS) coordinates for each of the photo points referenced.
- G. **Reporting Authority.** The submittal of information required under this Certification, or in response to a suspected violation of any condition of this Certification, is required pursuant to Water Code section 13267 and 13383. Civil liability may be administratively imposed by the San Diego Water Board for failure to submit information pursuant to

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Water Code sections 13268 or 13385.

 H. Electronic Document Submittal. The Applicant must submit all reports and information required under this Certification in electronic format via e-mail to <u>SanDiego@waterboards.ca.gov</u>. Documents over 50 megabytes will not be accepted via e-mail and must be placed on a disc and delivered to:

California Regional Water Quality Control Board San Diego Region Attn: 401 Certification No. R9-2014-0128:PIN 810067 2375 Northside Drive, Suite 100 San Diego, California 92108

Each electronic document must be submitted as a single file, in Portable Document Format (PDF) format, and converted to text searchable format using Optical Character Recognition (OCR). All electronic documents must include scanned copies of all signature pages; electronic signatures will not be accepted. Electronic documents submitted to the San Diego Water Board must include the following identification numbers in the header or subject line: Certification No. R9-2014-0128:PIN 810067.

- I. **Document Signatory Requirements**. All applications, reports, or information submitted to the San Diego Water Board must be signed as follows:
  - 1. For a corporation, by a responsible corporate officer of at least the level of vice president.
  - 2. For a partnership or sole proprietorship, by a general partner or proprietor, respectively.
  - 3. For a municipality, or a state, federal, or other public agency, by either a principal executive officer or ranking elected official.
  - 4. A duly authorized representative may sign applications, reports, or information if:
    - a. The authorization is made in writing by a person described above.
    - b. The authorization specifies either an individual or position having responsibility for the overall operation of the regulated activity.
    - c. The written authorization is submitted to the San Diego Water Board Executive Officer.

If such authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the Project, a new authorization satisfying the above requirements must be submitted to the San Diego Water Board prior to or together with any reports, information, or applications, to be signed by an authorized representative.

J. **Document Certification Requirements**. All applications, reports, or information submitted to the San Diego Water Board must be certified as follows:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

## VII. NOTIFICATION REQUIREMENTS

- A. Twenty Four Hour Non-Compliance Reporting. The Applicant shall report any noncompliance which may endanger health or the environment. Any such information shall be provided orally to the San Diego Water Board within 24 hours from the time the Applicant becomes aware of the circumstances. A written submission shall also be provided within five days of the time the Applicant becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected; the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance. The San Diego Water Board, or an authorized representative, may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
- B. Hazardous Substance Discharge. Except for a discharge which is in compliance with this Certification, any person who, without regard to intent or negligence, causes or permits any hazardous substance or sewage to be discharged in or on any waters of the State, shall as soon as (a) that person has knowledge of the discharge, (b) notification is possible, and (c) notification can be provided without substantially impeding cleanup or other emergency measures, immediately notify the County of San Diego, in accordance with California Health and Safety Code section 5411.5 and the California Office of Emergency Services of the discharge in accordance with the spill reporting provision of the State toxic disaster contingency plan adopted pursuant to Government Code Title 2, Division 1, Chapter 7, Article 3.7 (commencing with section 8574.17), and immediately notify the State Water Board or the San Diego Water Board of the discharge. This provision does not require reporting of any discharge of less than a reportable quantity as provided for under subdivisions (f) and (g) of section 13271 of the Water Code unless the Applicant is in violation of a Basin Plan prohibition.
- C. Oil or Petroleum Product Discharge. Except for a discharge which is in compliance with this Certification, any person who without regard to intent or negligence, causes or permits any oil or petroleum product to be discharged in or on any waters of the State, or discharged or deposited where it is, or probably will be, discharged in or on any waters of the State, shall, as soon as (a) such person has knowledge of the discharge, (b) notification is possible, and (c) notification can be provided without substantially impeding cleanup or other emergency measures, immediately notify the California Office of Emergency Services of the discharge in accordance with the spill reporting

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provision of the State oil spill contingency plan adopted pursuant to Government Code Title 2, Division 1, Chapter 7, Article 3.7 (commencing with section 8574.1). This requirement does not require reporting of any discharge of less than 42 gallons unless the discharge is also required to be reported pursuant to Clean Water Act section 311, or the discharge is in violation of a Basin Plan prohibition.

- D. Anticipated Noncompliance. The Applicant shall give advance notice to the San Diego Water Board of any planned changes in the Project or the Compensatory Mitigation project which may result in noncompliance with Certification conditions or requirements.
- E. **Transfers.** This Certification is not transferable in its entirety or in part to any person or organization except after notice to the San Diego Water Board in accordance with the following terms:
  - 1. **Transfer of Property Ownership:** The Applicant must notify the San Diego Water Board of any change in ownership of the Project area. Notification of change in ownership must include, but not be limited to, a statement that the Applicant has provided the purchaser with a copy of the Section 401 Water Quality Certification and that the purchaser understands and accepts the certification requirements and the obligation to implement them or be subject to liability for failure to do so; the seller and purchaser must sign and date the notification and provide such notification to the San Diego Water Board within 10 days of the transfer of ownership.
  - 2. Transfer of Mitigation Responsibility: Any notification of transfer of responsibilities to satisfy the mitigation requirements set forth in this Certification must include a signed statement from an authorized representative of the new party (transferee) demonstrating acceptance and understanding of the responsibility to comply with and fully satisfy the mitigation conditions and agreement that failure to comply with the mitigation conditions and associated requirements may subject the transferee to enforcement by the San Diego Water Board under Water Code section 13385, subdivision (a). Notification of transfer of responsibilities meeting the above conditions must be provided to the San Diego Water Board within 10 days of the transfer date.
  - 3. **Transfer of Post-Construction BMP Maintenance Responsibility:** The Applicant assumes responsibility for the inspection and maintenance of all post-construction structural BMPs until such responsibility is legally transferred to another entity. At the time maintenance responsibility for post-construction BMPs is legally transferred the Applicant must submit to the San Diego Water Board a copy of such documentation and must provide the transferee with a copy of a long-term BMP maintenance plan that complies with manufacturer specifications. The Applicant must provide such notification to the San Diego Water Board within **10 days** of the transfer of BMP maintenance responsibility.

Upon properly noticed transfers of responsibility, the transferee assumes responsibility for compliance with this Certification and references in this Certification to the Applicant

will be interpreted to refer to the transferee as appropriate. Transfer of responsibility does not necessarily relieve the Applicant of this Certification in the event that a transferee fails to comply.

F. **Discharge Commencement**. The Applicant must notify the San Diego Water Board in writing **at least 5 days prior to** the start of Project construction.

## VIII. CALIFORNIA ENVIRONMENTAL QUALITY ACT COMPLIANCE

- A. The San Diego Association of Governments is the Lead Agency under the California Environmental Quality Act (CEQA) (Public Resources Code section 21000, et seq.) section 21067, and CEQA Guidelines (California Code of Regulations, title 14, section 15000 et seq.) section 15367, and has filed a Notice of Determination dated September 26, 2014 for Final Initial Study/Subsequent Mitigated Negative Declaration (MND) titled *The Inland Rail Trail Bikeway* (State Clearing House Number 1999081121). The Lead Agency has determined the Project will have a significant effect on the environment and mitigation measures were made a condition of the Project.
- B. The San Diego Water Board is a Responsible Agency under CEQA (Public Resources Code section 21069; CEQA Guidelines section 15381). The San Diego Water Board has considered the Lead Agency's MND and finds that the Project as proposed will have a significant effect on resources within the San Diego Water Board's purview.
- C. The San Diego Water Board has required mitigation measures as a condition of this Certification to avoid or reduce the environmental effects of the Project to resources within the Board's purview to a less than significant level.
- D. The Lead Agency has adopted a mitigation monitoring and reporting program pursuant to Public Resources Code section 21081.6 and CEQA Guidelines section 15097 to ensure that mitigation measures and revisions to the Project identified in the FEIR are implemented. The Mitigation Monitoring and Reporting Program (MMRP) is included and incorporated by reference in Attachment 5 to this Certification. The Applicant shall implement the Lead Agency's MMRP described in the FEIR, as it pertains to resources within the San Diego Water Board's purview. The San Diego Water Board has imposed additional MMRP requirements as specified in sections V and VI of this Certification.
- E. As a Responsible Agency under CEQA, the San Diego Water Board will file a Notice of Determination in accordance with CEQA Guidelines section 15096 subdivision (i).

# IX. SAN DIEGO WATER BOARD CONTACT PERSON

Mike Porter, Engineering Geologist Telephone: 619-521-3967 Email: <u>mike.porter@waterboards.ca.gov</u> San Diego Association of Governments Inland Rail Trail San Marcos to Vista Segment Certification No. R9-2014-0128

## X. WATER QUALITY CERTIFICATION

I hereby certify that the proposed discharge from the **Inland Rail Trail Project, San Marcos to Vista Segment** project (Certification No. R9-2014-0128) will comply with the applicable provisions of sections 301 ("Effluent Limitations"), 302 ("Water Quality Related Effluent Limitations"), 303 ("Water Quality Standards and Implementation Plans"), 306 ("National Standards of Performance"), and 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act. This discharge is also regulated under State Water Board Order No. 2003-0017-DWQ, "*Statewide General Waste Discharge Requirements for Dredged or Fill Discharges that have Received State Water Quality Certification (General WDRs)*," which requires compliance with all conditions of this Water Quality Certification. Please note that enrollment under Order No. 2003-017-DWQ is conditional and, should new information come to our attention that indicates a water quality problem, the San Diego Water Board may issue individual waste discharge requirements at that time.

Except insofar as may be modified by any preceding conditions, all Certification actions are contingent on (a) the discharge being limited to, and all proposed mitigation being completed in strict compliance with, the applicants' Project description and/or the description in this Certification, and (b) compliance with all applicable requirements of the Basin Plan.

I, David W. Gibson, Executive Officer, do hereby certify the forgoing is a full, true, and correct copy of Certification No. R9-2014-0128 issued on February 26, 2015.

DÁVID W. GIBSON Executive Officer San Diego Water Board

Tebruary 2015 Date

## **ATTACHMENT 1**

## DEFINITIONS

**Activity** - when used in reference to a permit means any action, undertaking, or project including, but not limited to, construction, operation, maintenance, repair, modification, and restoration which may result in any discharge to waters of the state.

**Buffer** - means an upland, wetland, and/or riparian area that protects and/or enhances aquatic resource functions associated with wetlands, rivers, streams, lakes, marine, and estuarine systems from disturbances associated with adjacent land uses.

**California Rapid Assessment Method (CRAM)** - is a wetland assessment method intended to provide a rapid, scientifically-defensible and repeatable assessment methodology to monitor status and trends in the conditions of wetlands for applications throughout the state. It can also be used to assess the performance of compensatory mitigation projects and restoration projects. CRAM provides an assessment of overall ecological condition in terms of four attributes: landscape context and buffer, hydrology, physical structure and biotic structure. CRAM also includes an assessment of key stressors that may be affecting wetland condition and a "field to PC" data management tool (eCRAM) to ensure consistency and quality of data produced with the method.

**Compensatory Mitigation Project** - means compensatory mitigation implemented by the Applicant as a requirement of this Certification (i.e., applicant -responsible mitigation), or by a mitigation bank or an in-lieu fee program.

**Discharge of dredged material** – means any addition of dredged material into, including redeposit of dredged material other than incidental fallback within, the waters of the United States and/or State.

**Discharge of fill material** – means the addition of fill material into waters of the United States and/or State.

**Dredged material** – means material that is excavated or dredged from waters of the United States and/or State.

**Ecological Success Performance Standards** – means observable or measurable physical (including hydrological), chemical, and/or biological attributes that are used to determine if a compensatory mitigation project meets its objectives.

**Enhancement** – means the manipulation of the physical, chemical, or biological characteristics of an aquatic resource to improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

**Establishment** – means the manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist. Creation results in a gain in aquatic resource area.

**Fill material** – means any material used for the primary purpose of replacing an aquatic area with dry land or of changing the bottom elevation of a water body.

**Isolated wetland** – means a wetland with no surface water connection to other aquatic resources.

**Mitigation Bank** – means a site, or suite of sites, where resources (e.g., wetlands, streams, riparian areas) are restored, established, enhanced, and/or preserved for the purpose of providing mitigation for impacts authorized by this Certification.

**Preservation** - means the removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

**Re-establishment** - means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/ historic functions to a former aquatic resource. Re-establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area and functions.

**Rehabilitation** - means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/ historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area.

**Restoration** - means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: re-establishment and rehabilitation.

**Start of Project Construction** - For the purpose of this Certification, "start of Project construction" means to engage in a program of on-site construction, including site clearing, grading, dredging, landfilling, changing equipment, substituting equipment, or even moving the location of equipment specifically designed for a stationary source in preparation for the fabrication, erection or installation of the building components of the stationary source within waters of the United States and/or State.

**Uplands** - means non-wetland areas that lack any field-based indicators of wetlands or other aquatic conditions. Uplands are generally well-drained and occur above (i.e., up-slope) from nearby aquatic areas. Wetlands can, however, be entirely surrounded by uplands. For example, some natural seeps and constructed stock ponds lack aboveground hydrological connection to other aquatic areas. In the watershed context, uplands comprise the landscape matrix in which aquatic areas form. They are the primary sources of sediment, surface runoff, and associated chemicals that are deposited in aquatic areas or transported through them.

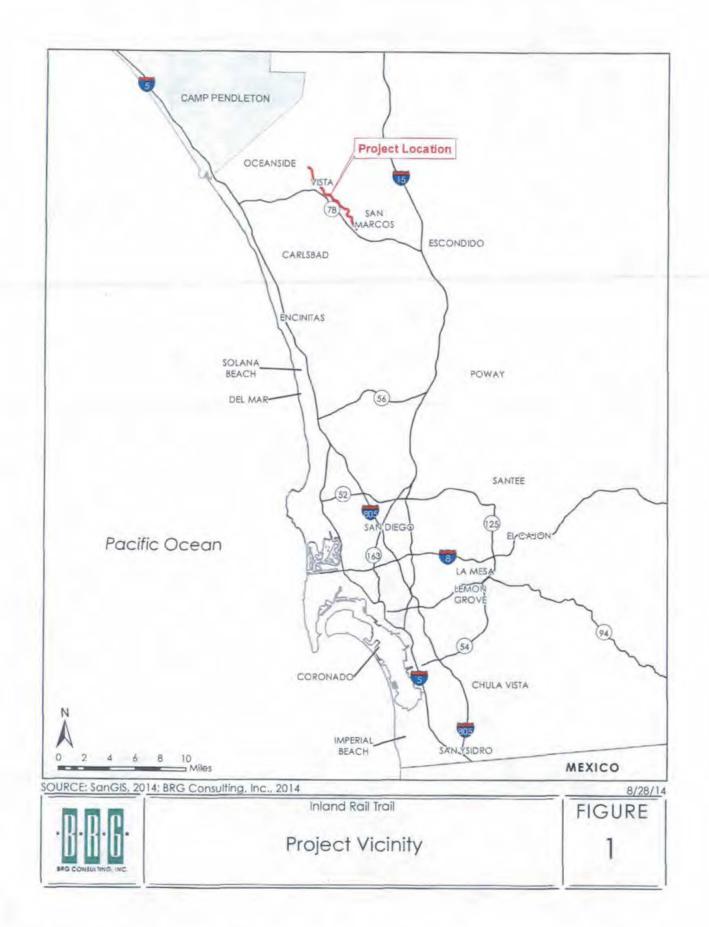
Water quality objectives and other appropriate requirements of state law – means the water quality objectives and beneficial uses as specified in the appropriate water quality control plan(s); the applicable provisions of sections 301, 302, 303, 306, and 307 of the Clean Water Act; and any other appropriate requirement of state law.

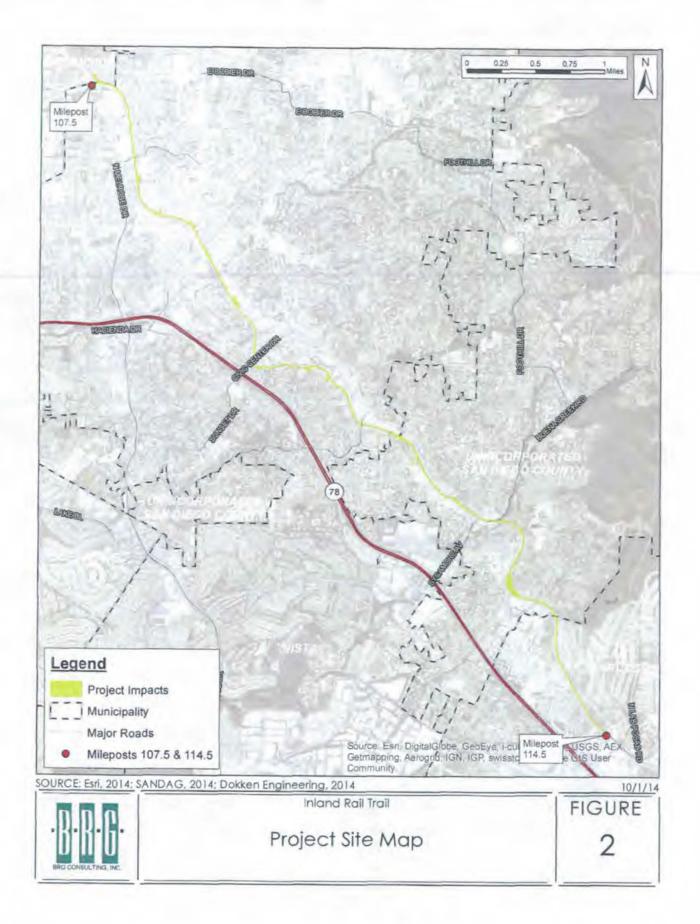
San Diego Association of Governments Inland Rail Trail Project, San Marco to Vista Segment Certification No. R9-2014-0128

#### ATTACHMENT 2 PROJECT LOCATION MAPS

Figure 1 – Project Vicinity

Figure 2 – Project Site Map

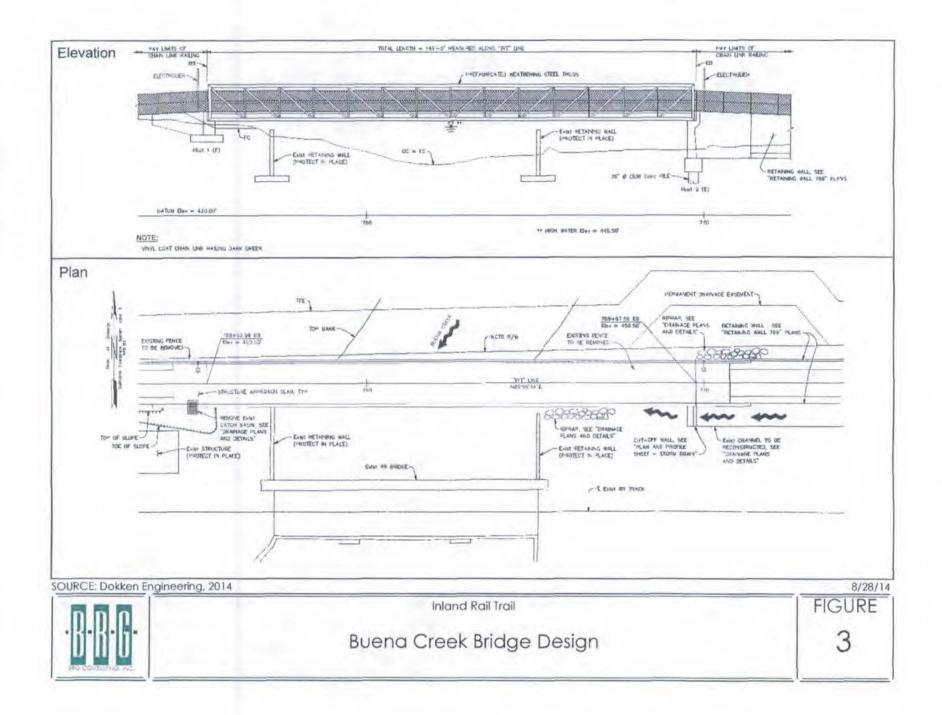


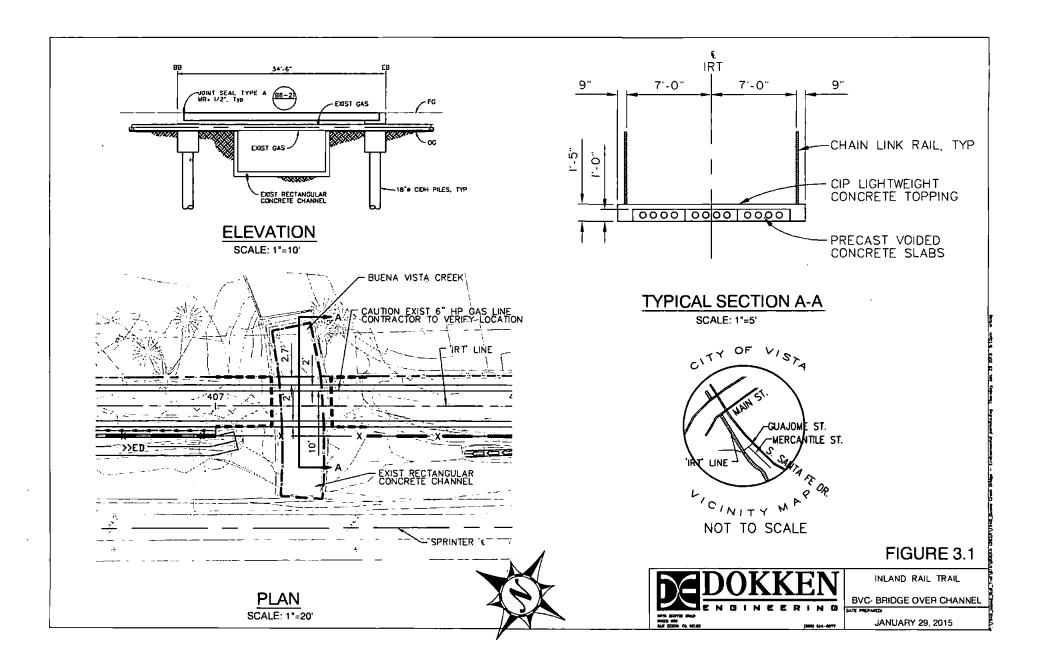


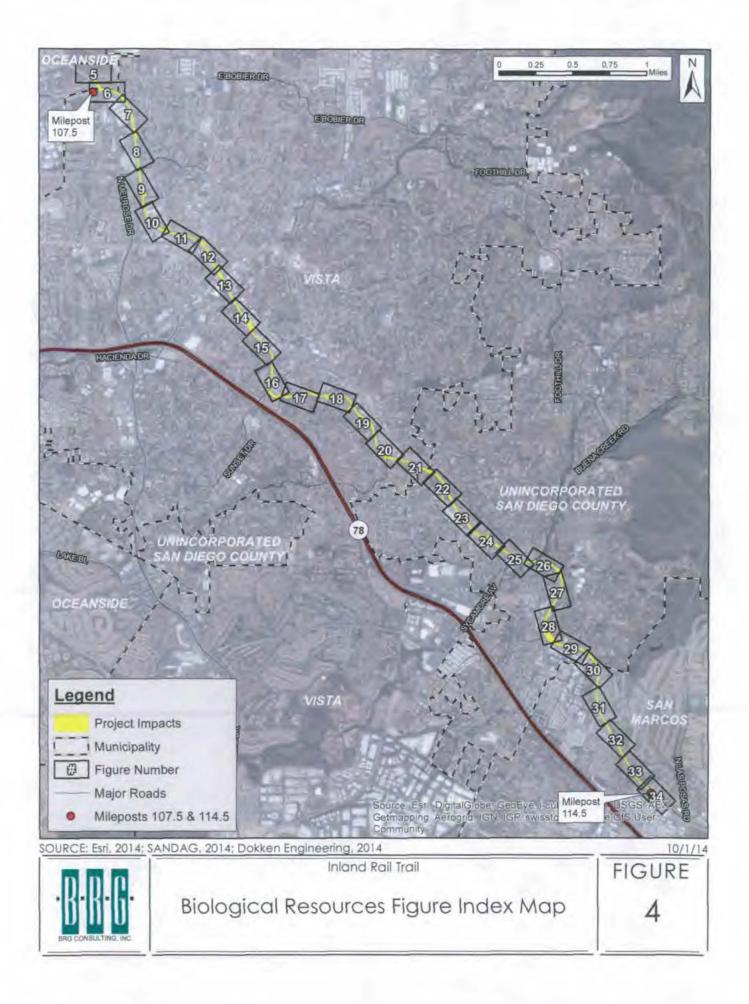
San Diego Association of Governments Inland Rail Trail Project, San Marco to Vista Segment Certification No. R9-2014-0128

## ATTACHMENT 3 PROJECT SITE PLANS

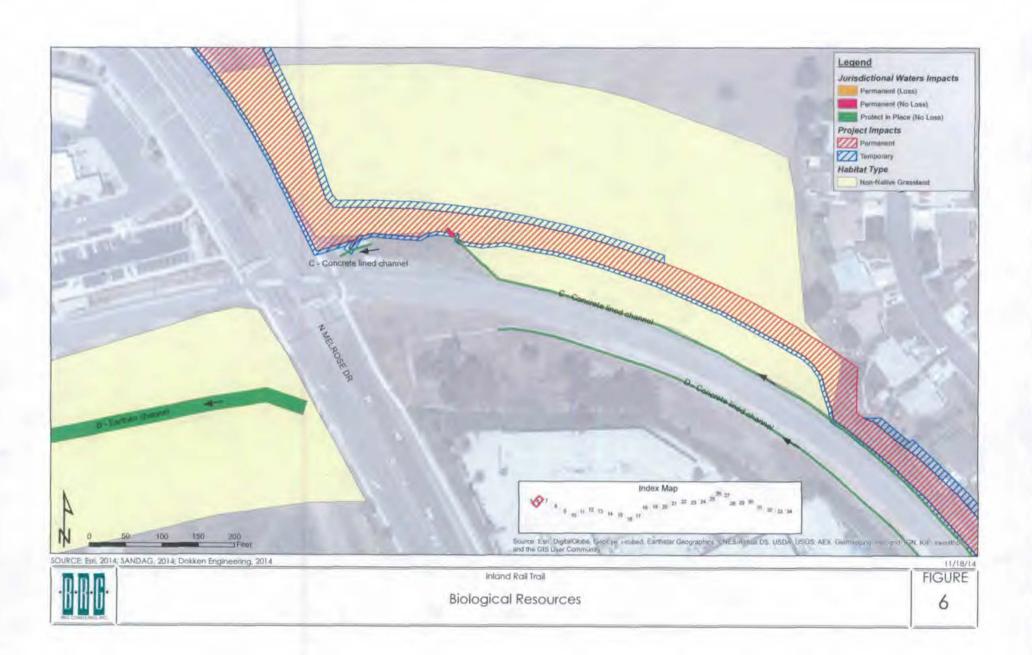
- Figure 3 Buena Creek Bridge Design
- Figure 3.1 BVC Bridge Over Channel
- Figure 4 Biological Resources Figure Index Map
- Figures 5 to 34 Biological Resources
- 54 Figures Construction Plans

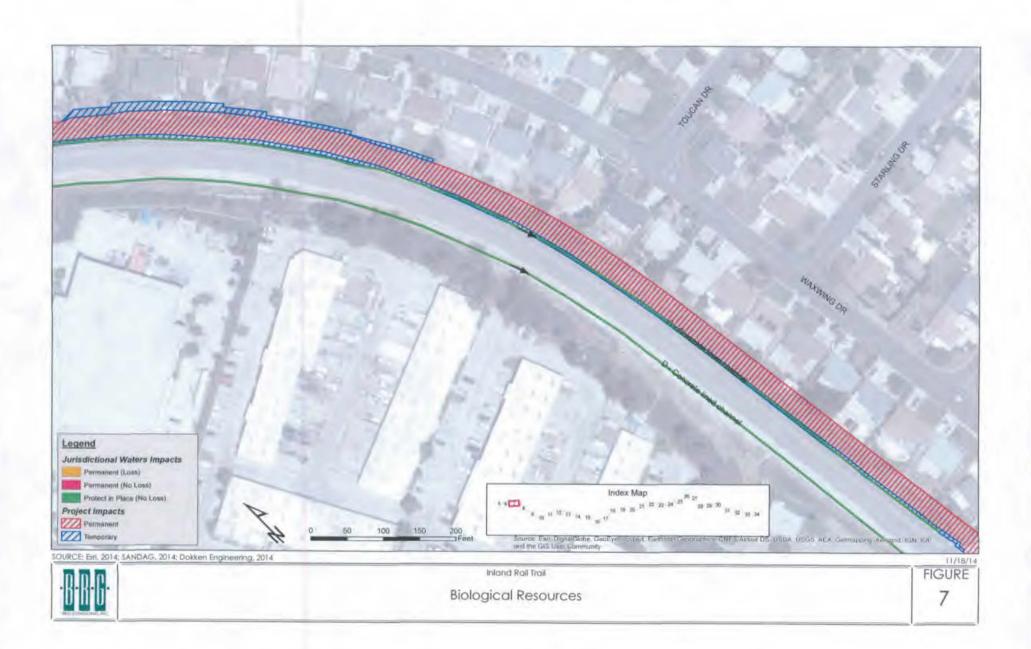


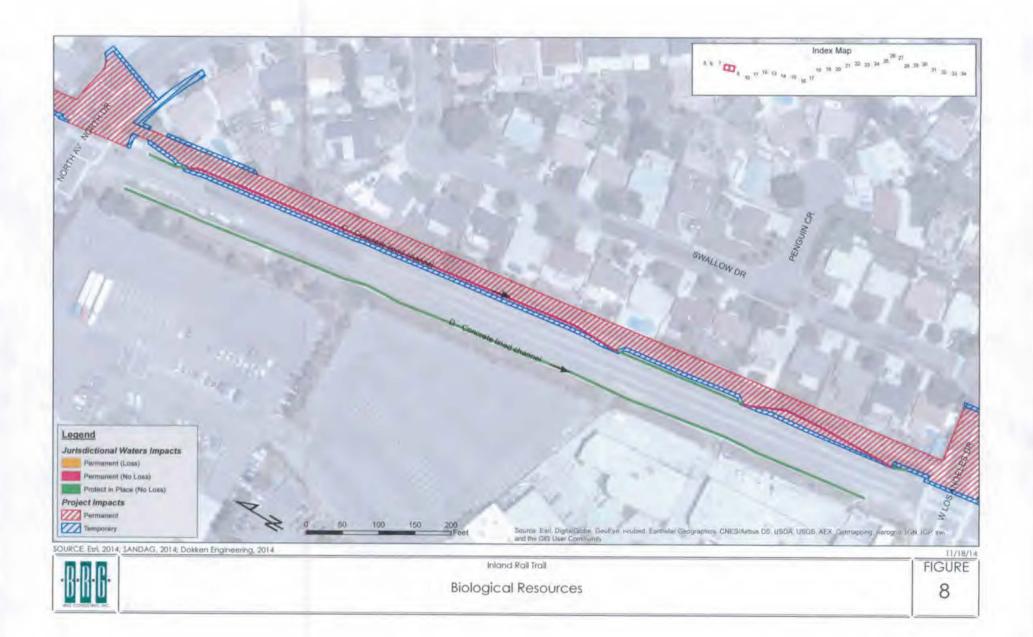




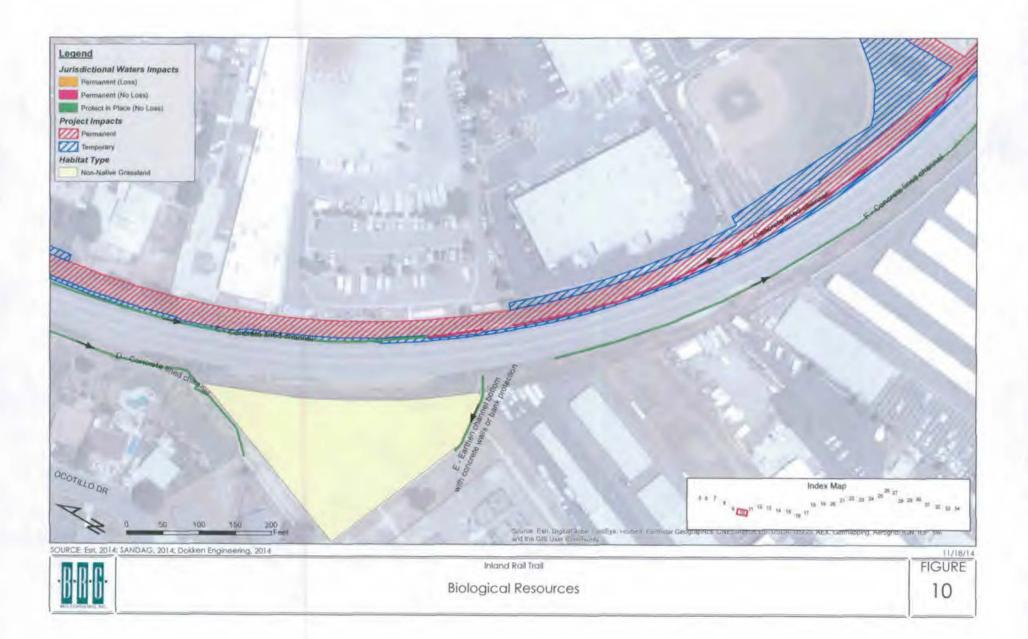


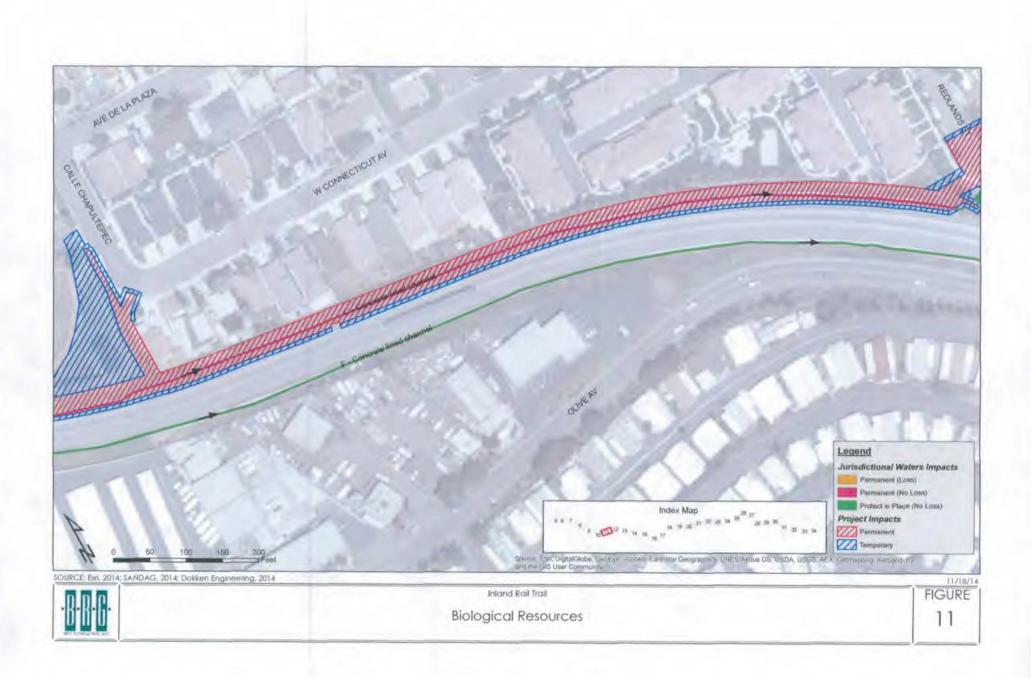


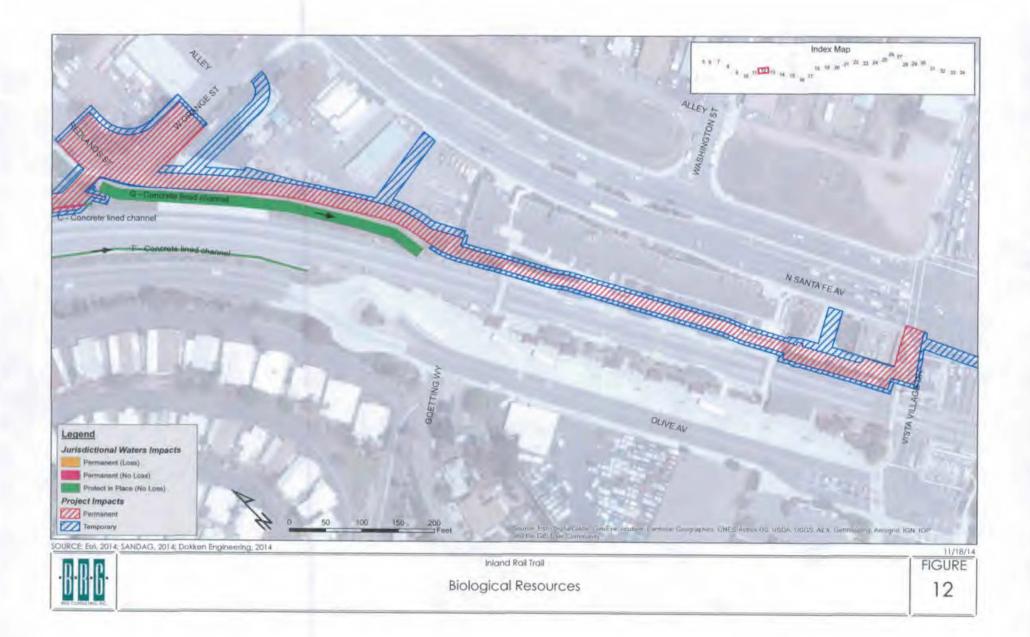


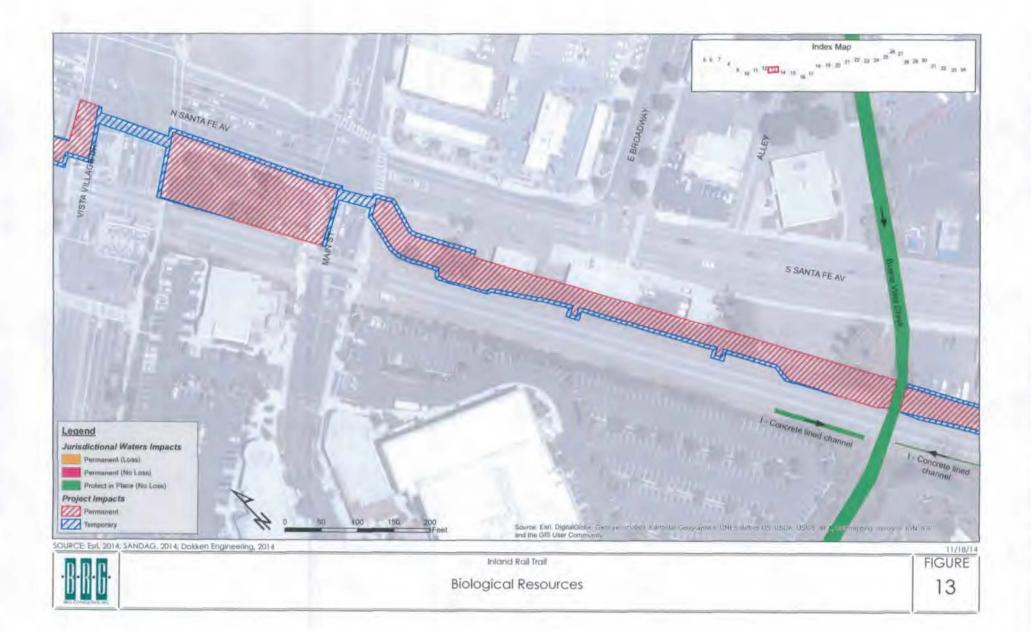


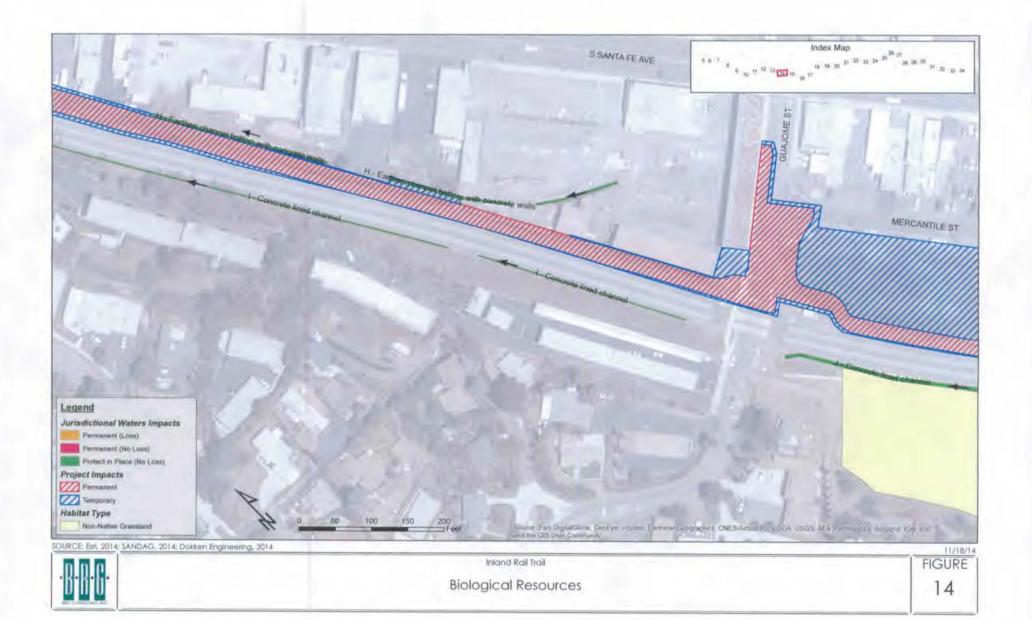


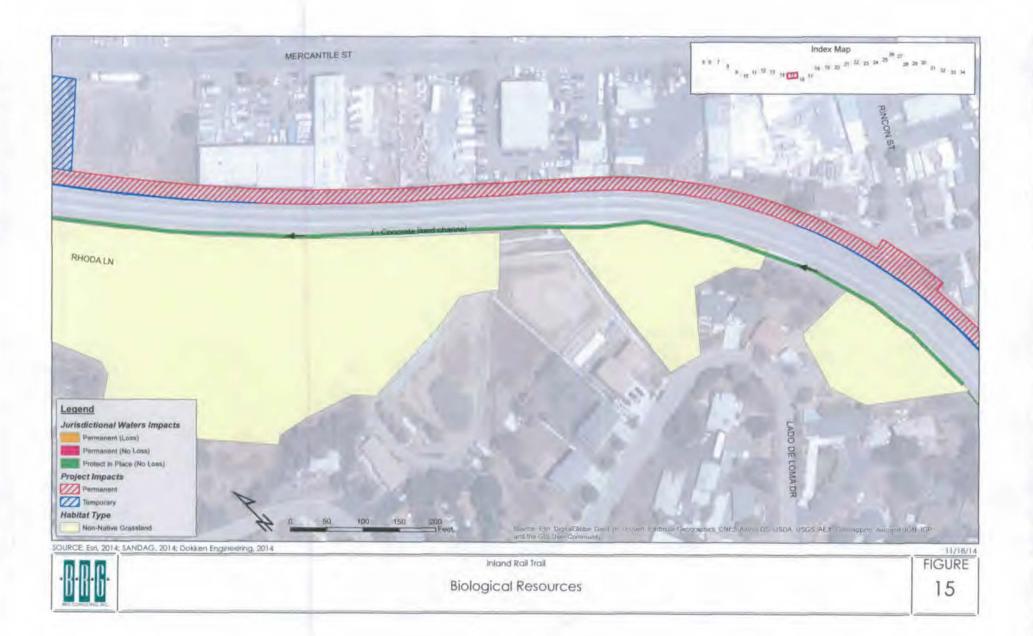


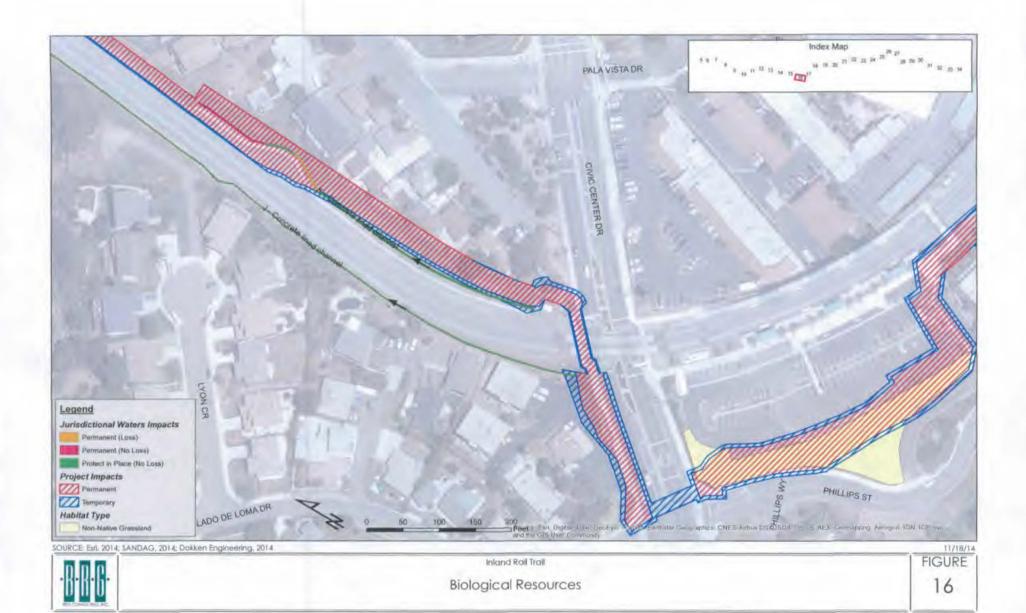




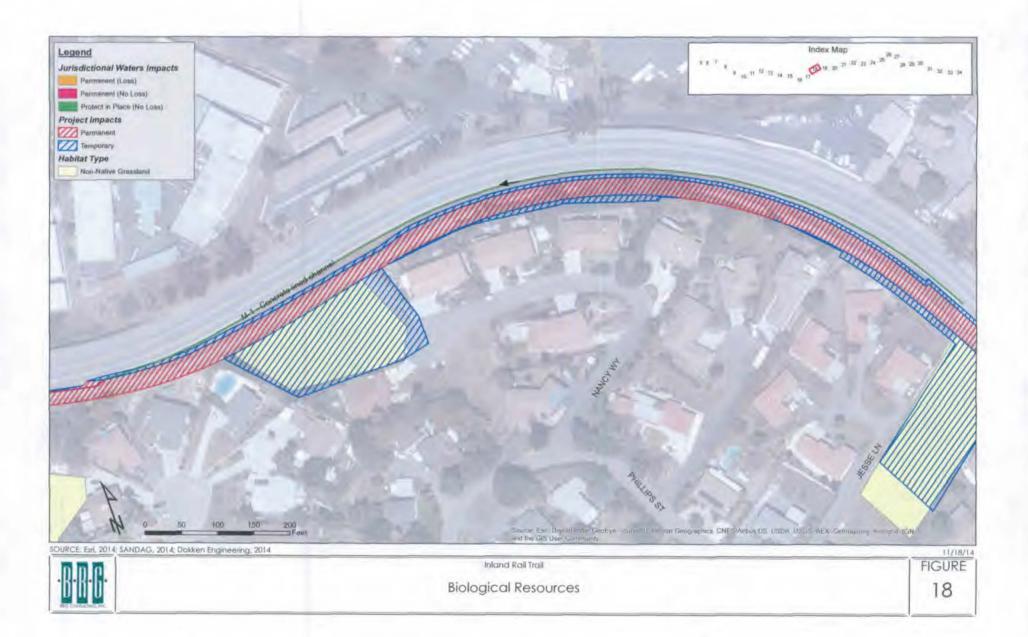










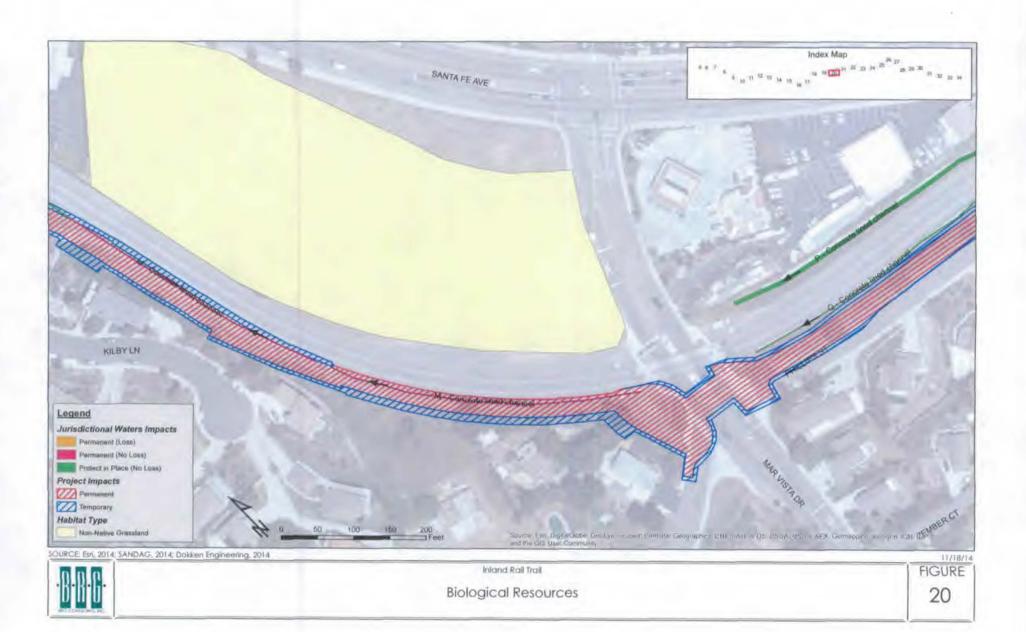




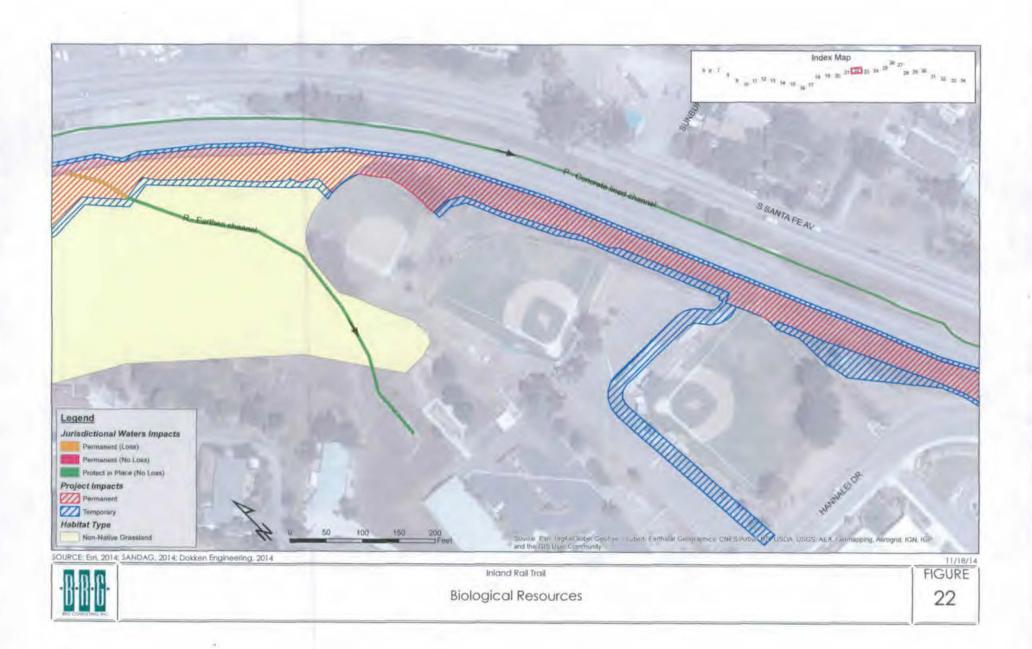


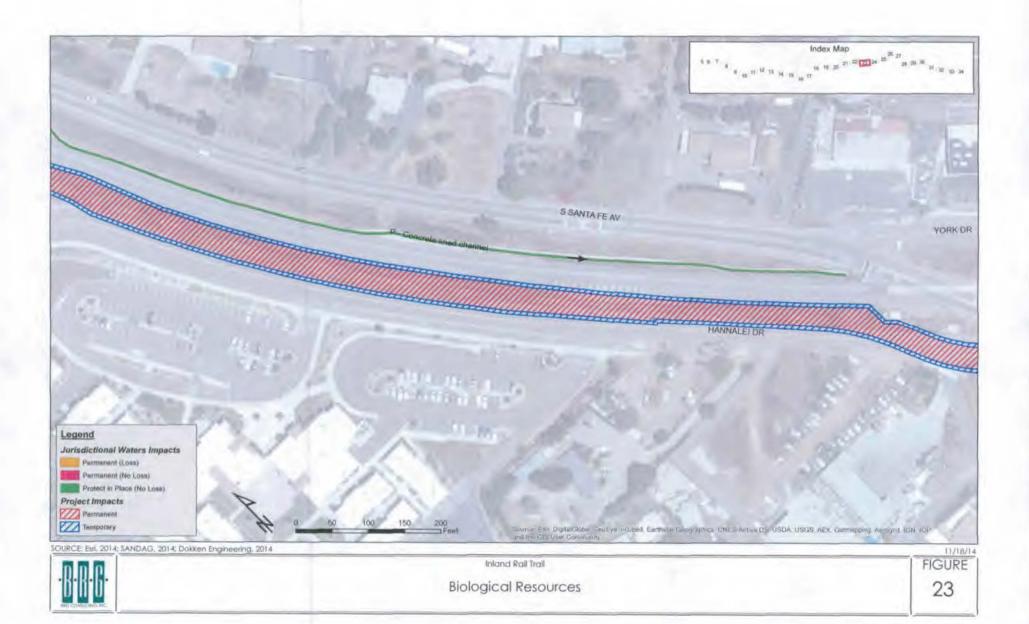
Inland Rail Trail Biological Resources

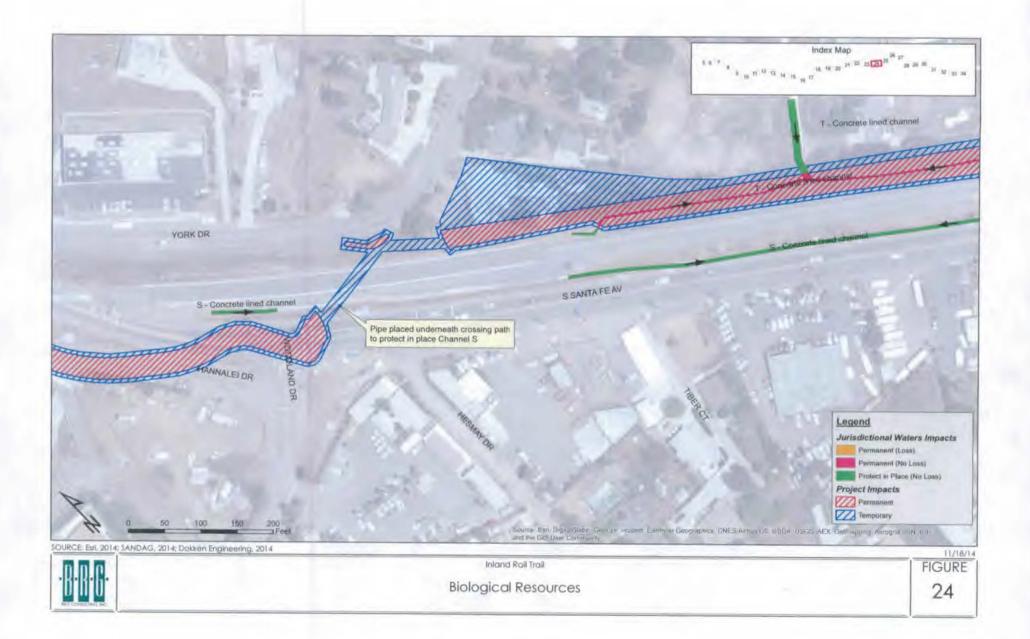
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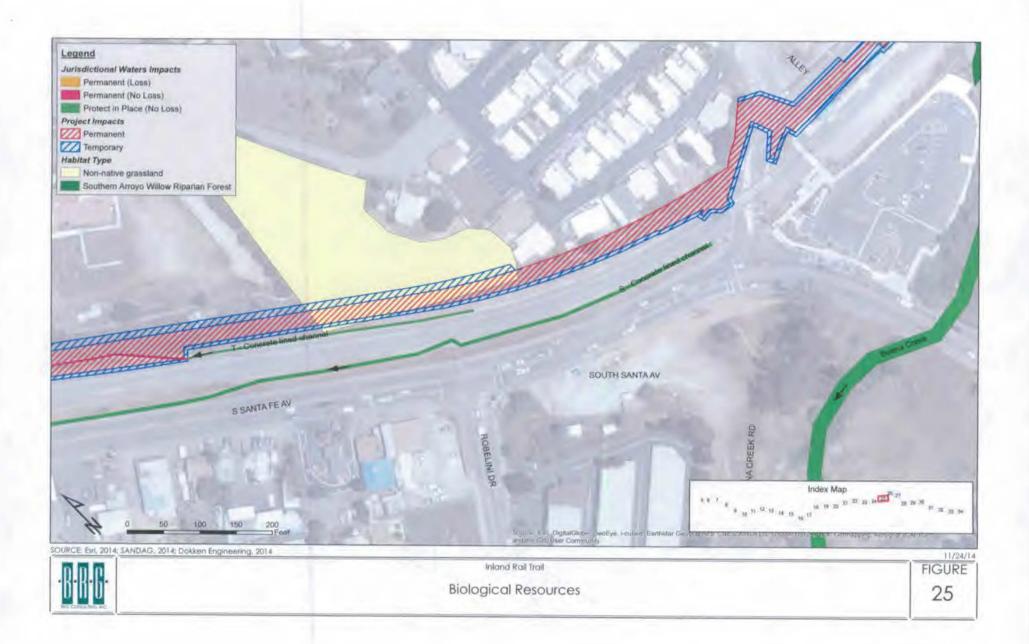






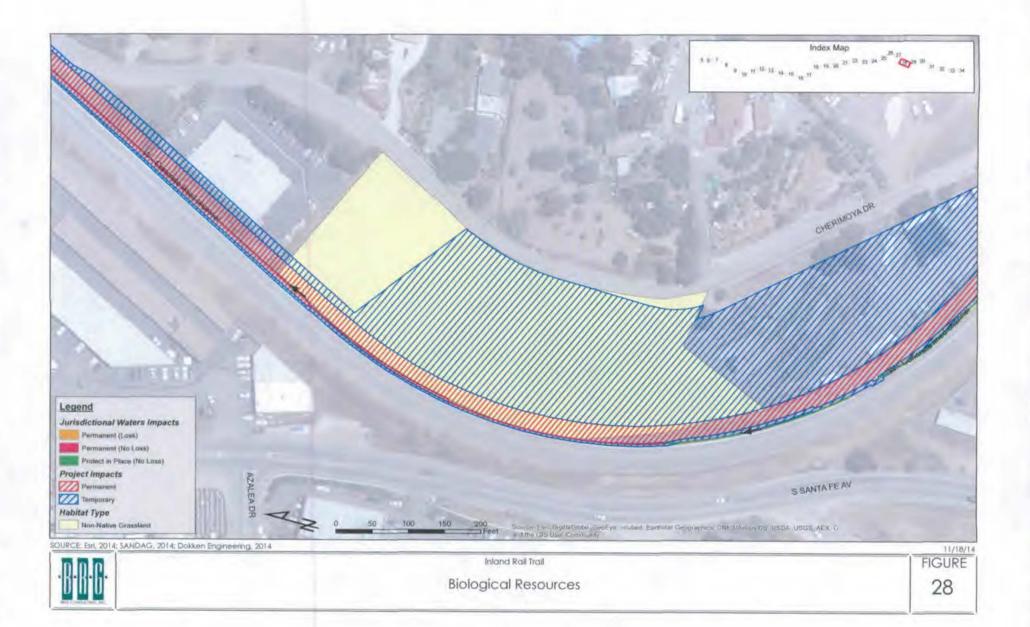


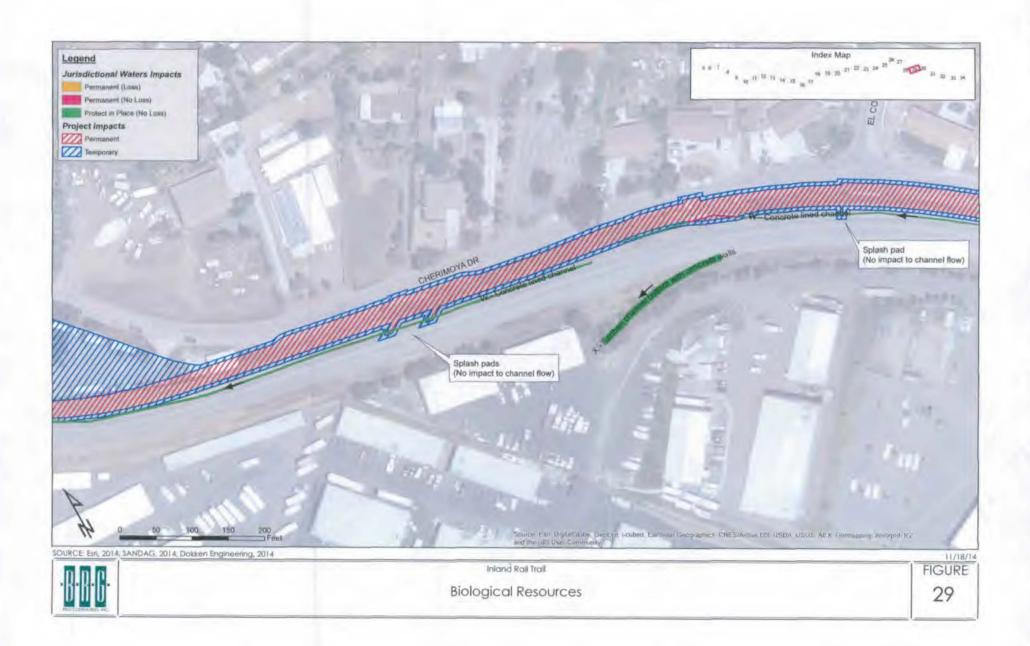


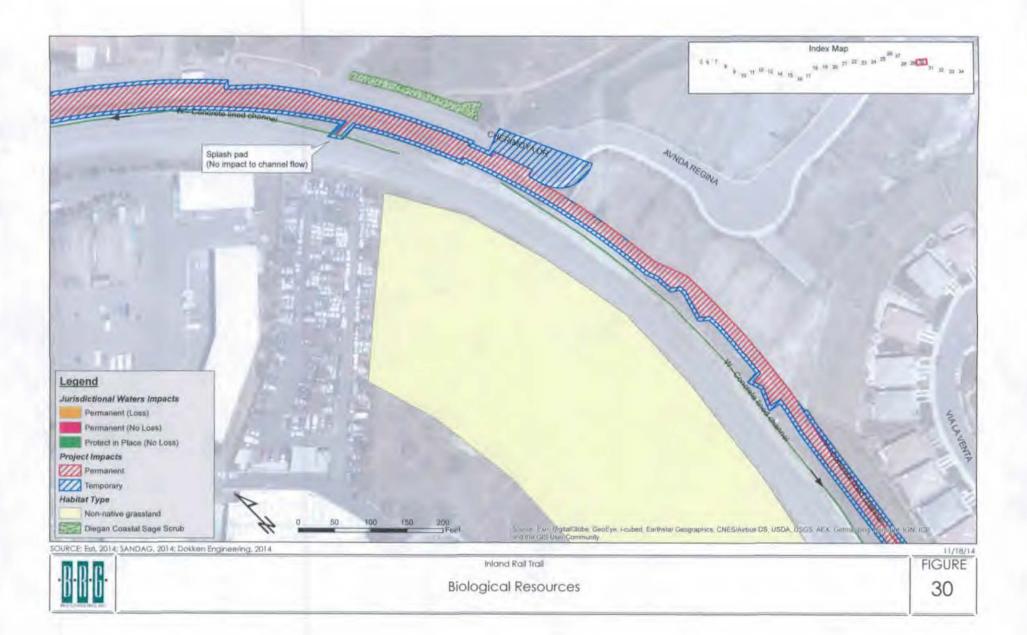


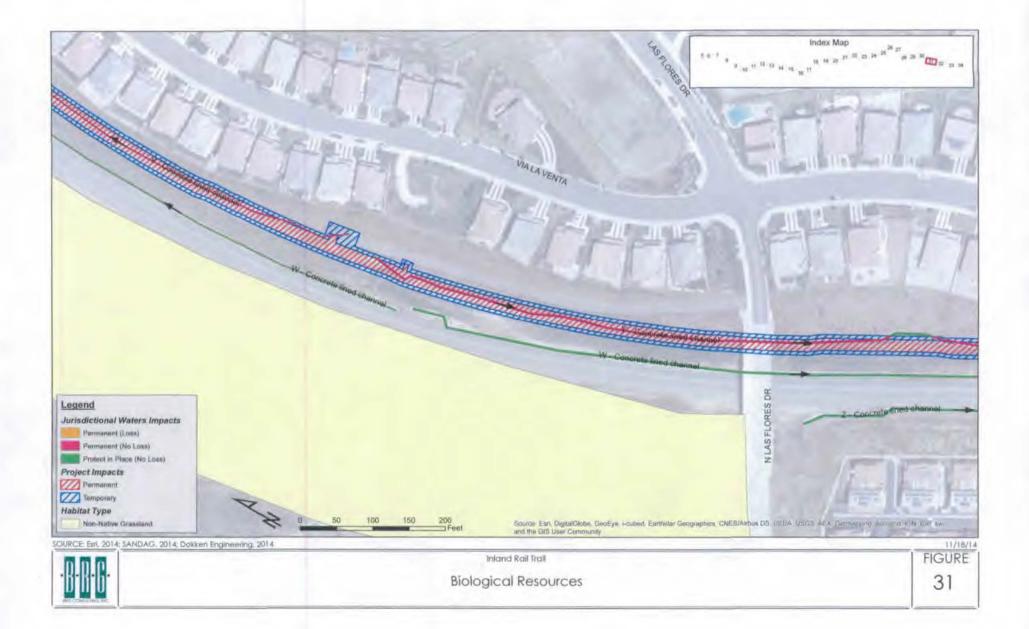


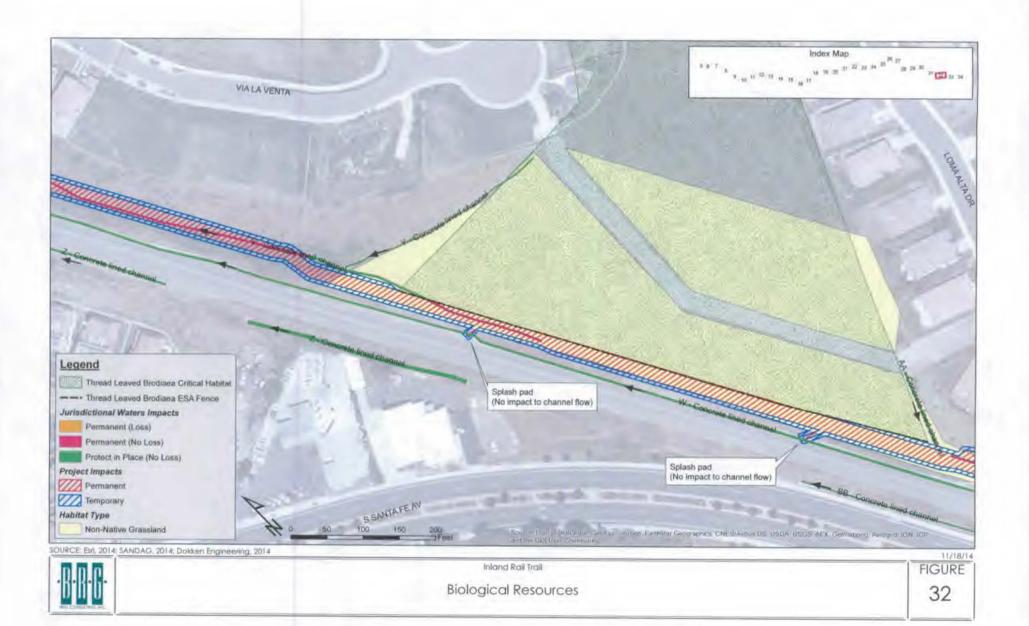


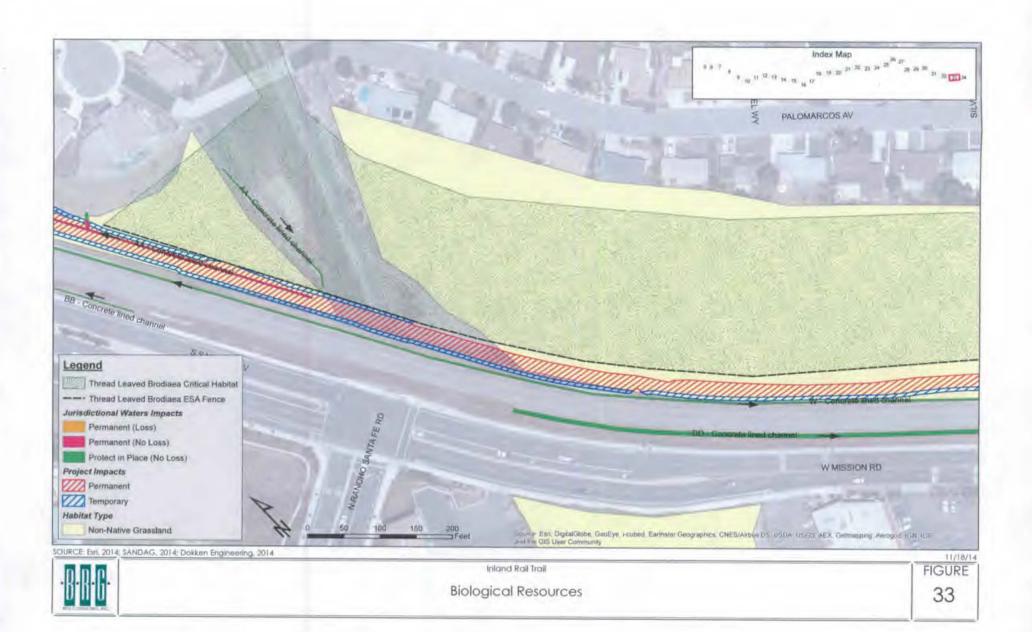


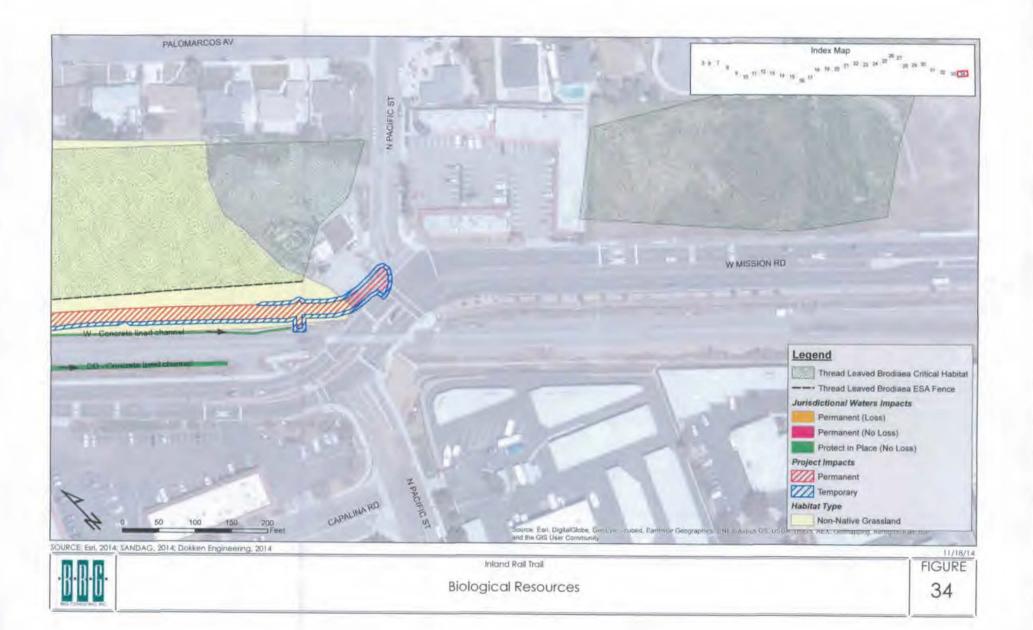


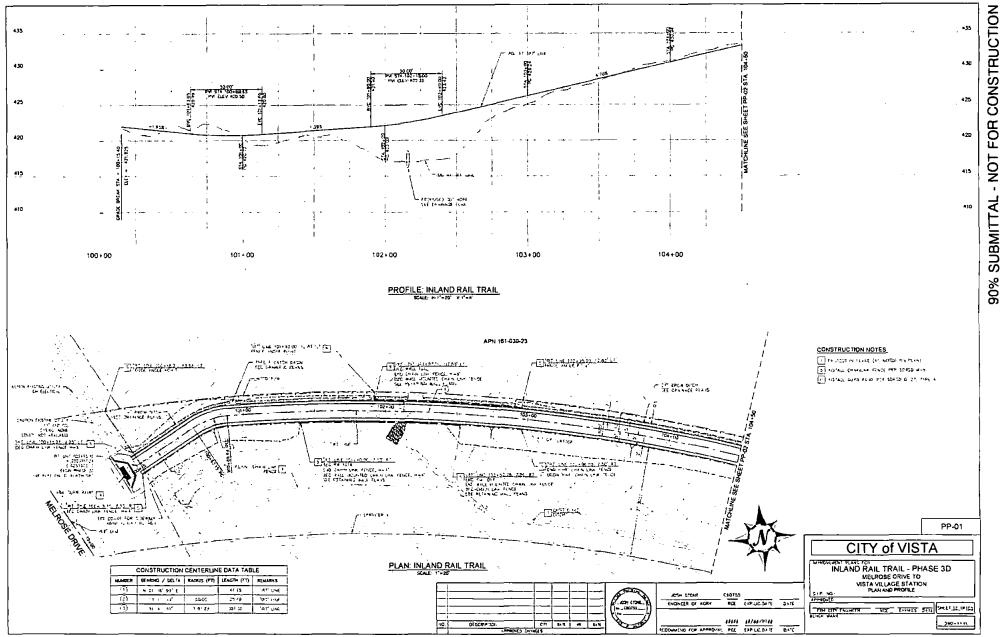




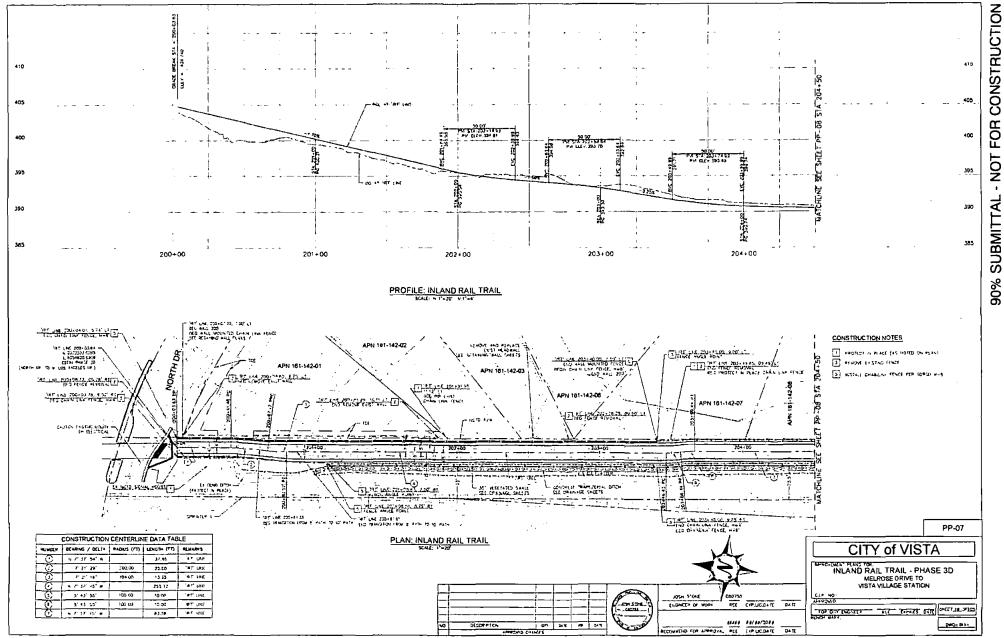




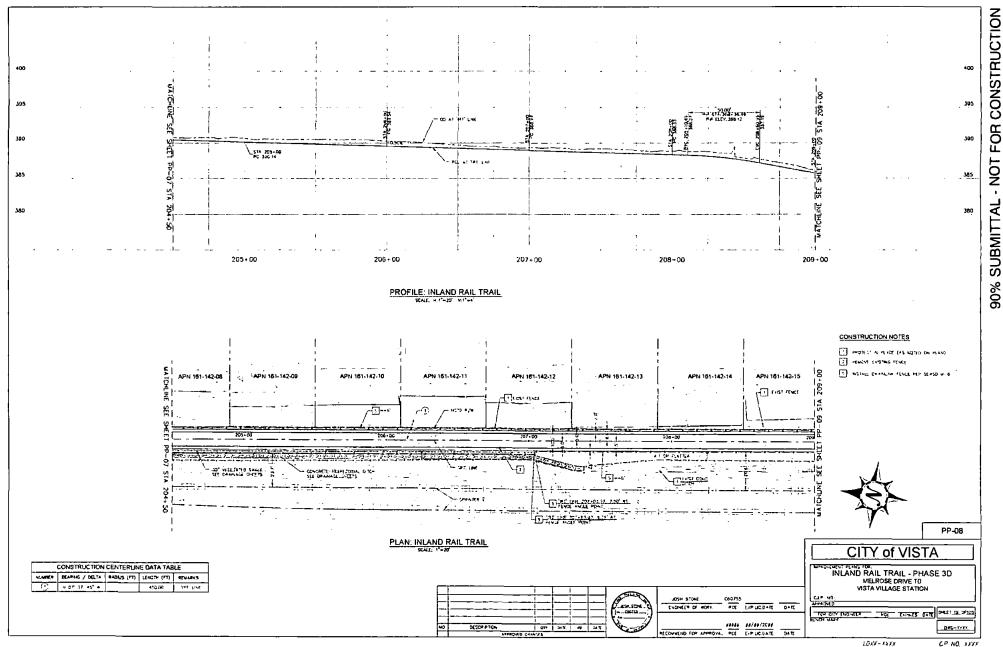




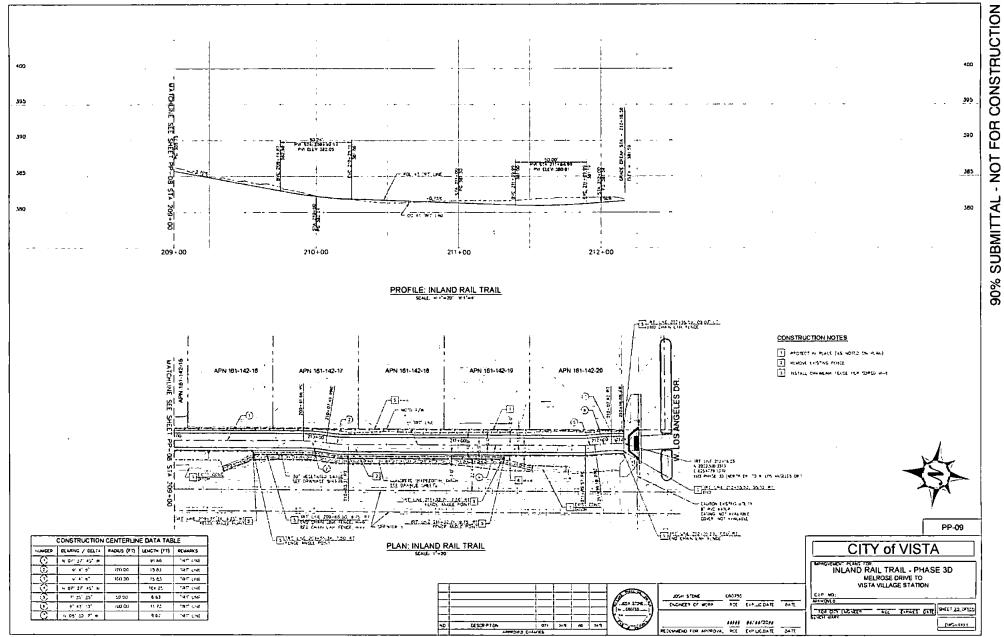
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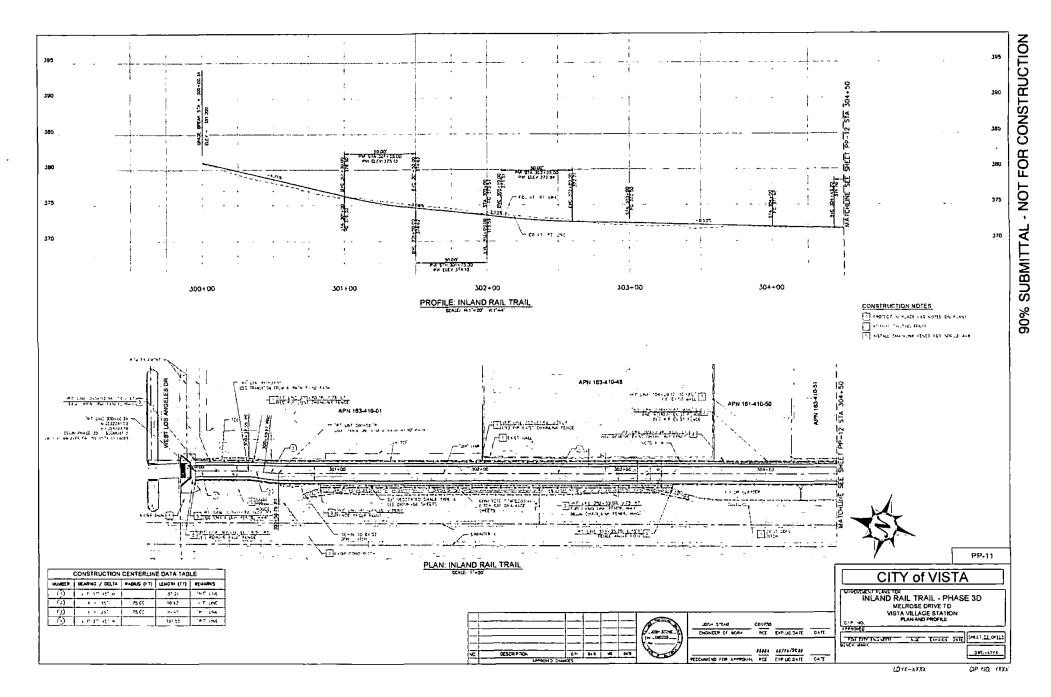
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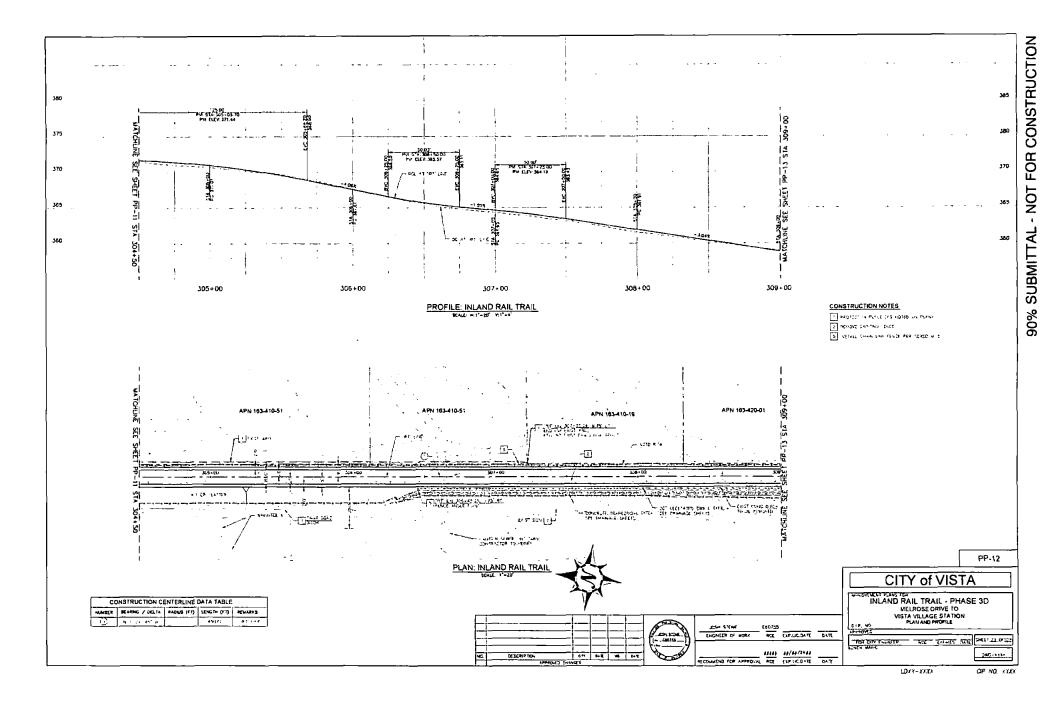


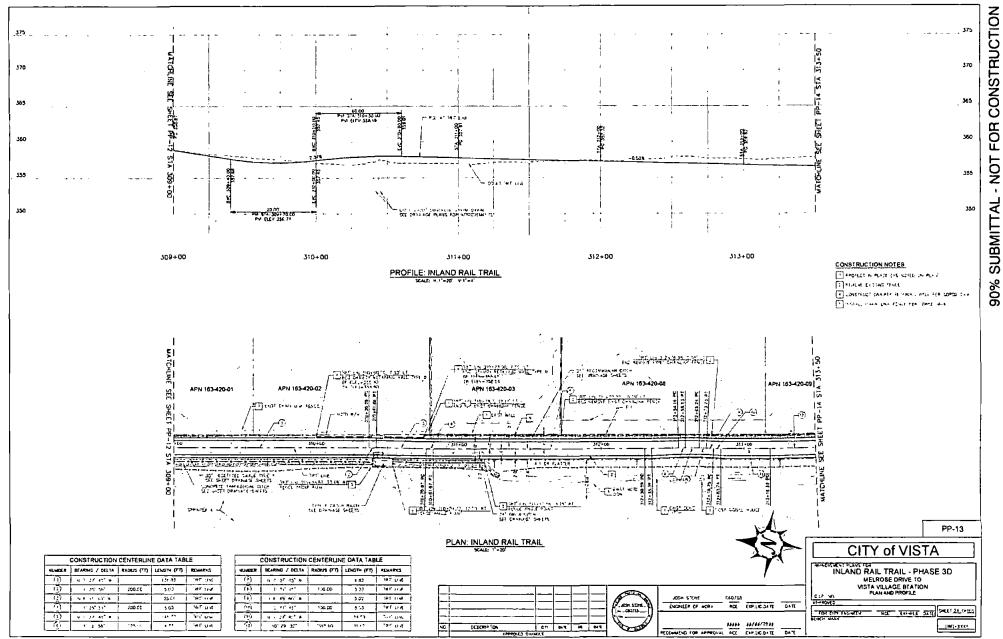
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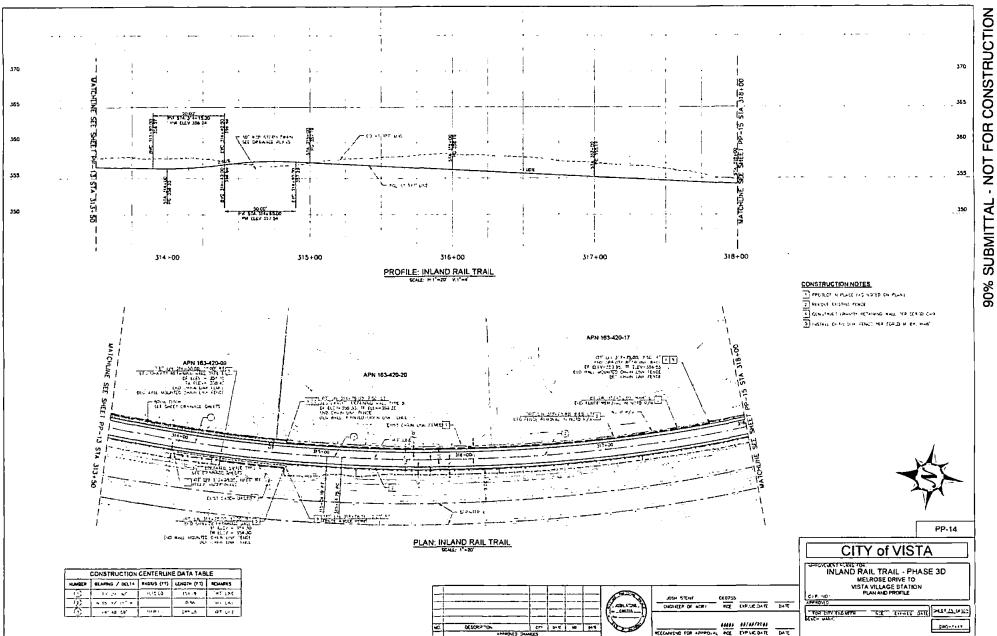
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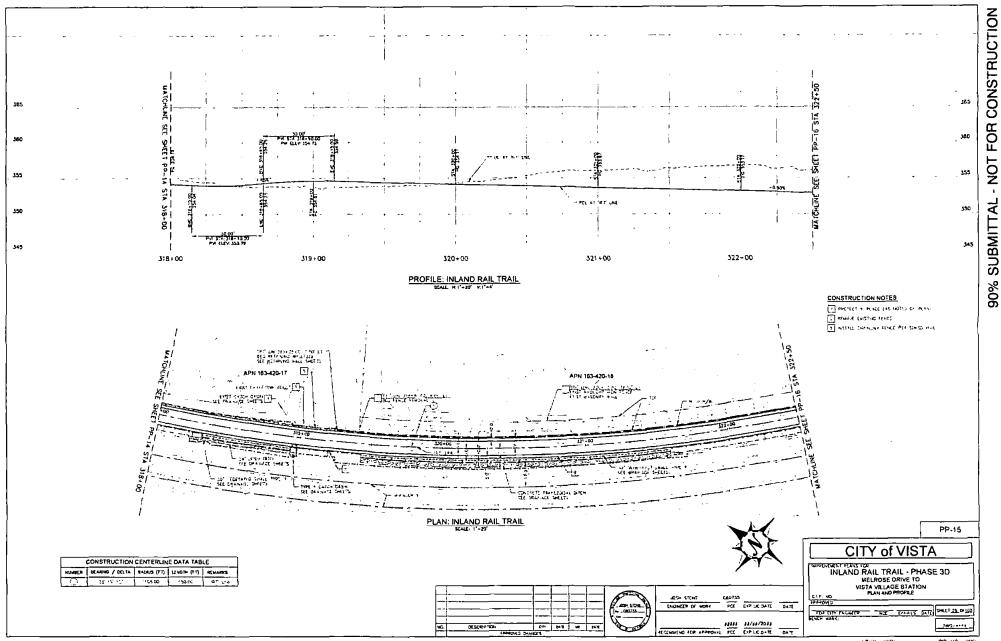




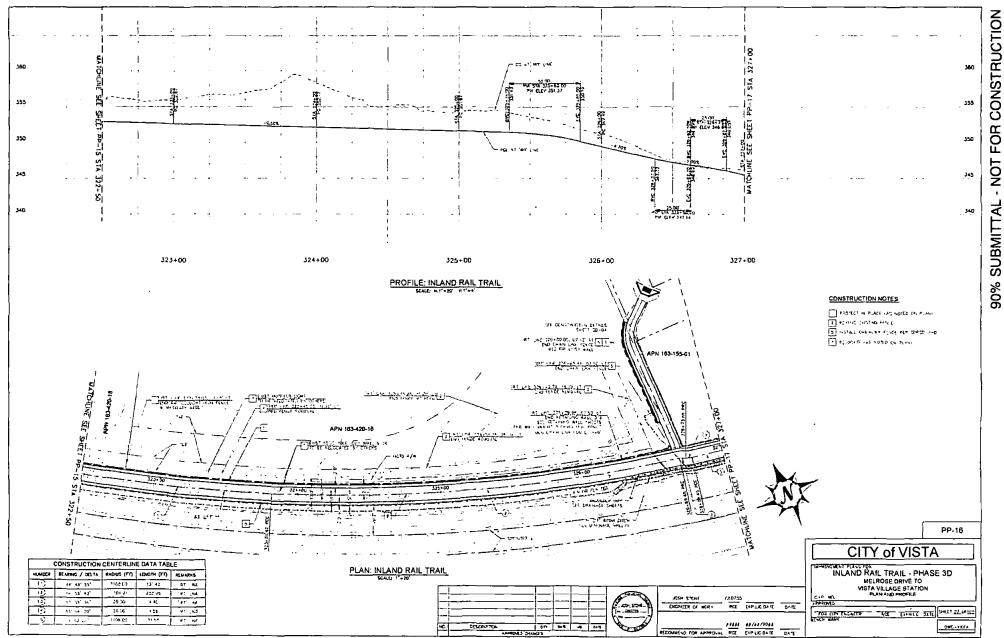
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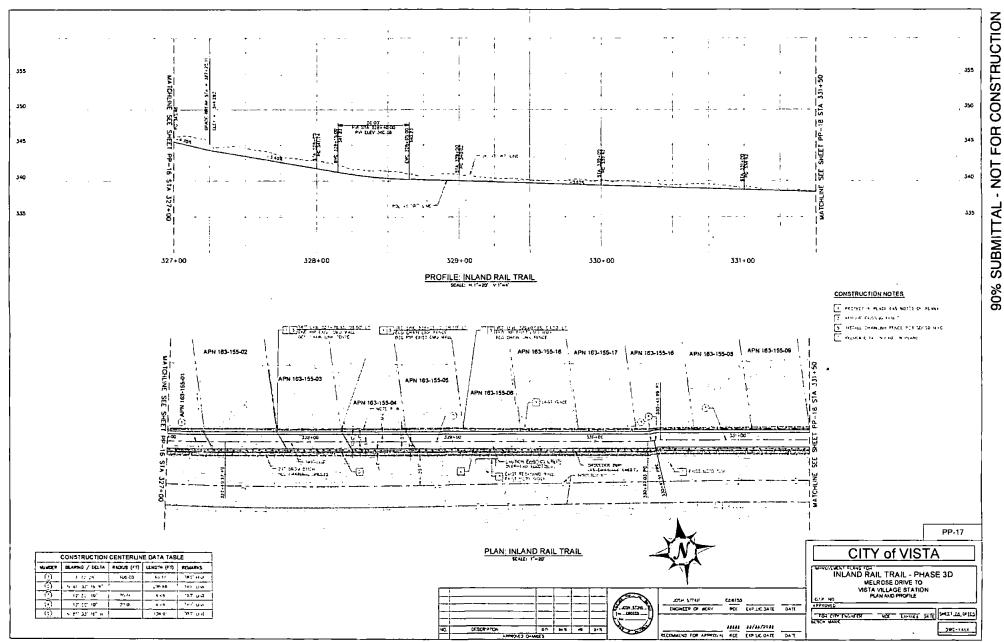
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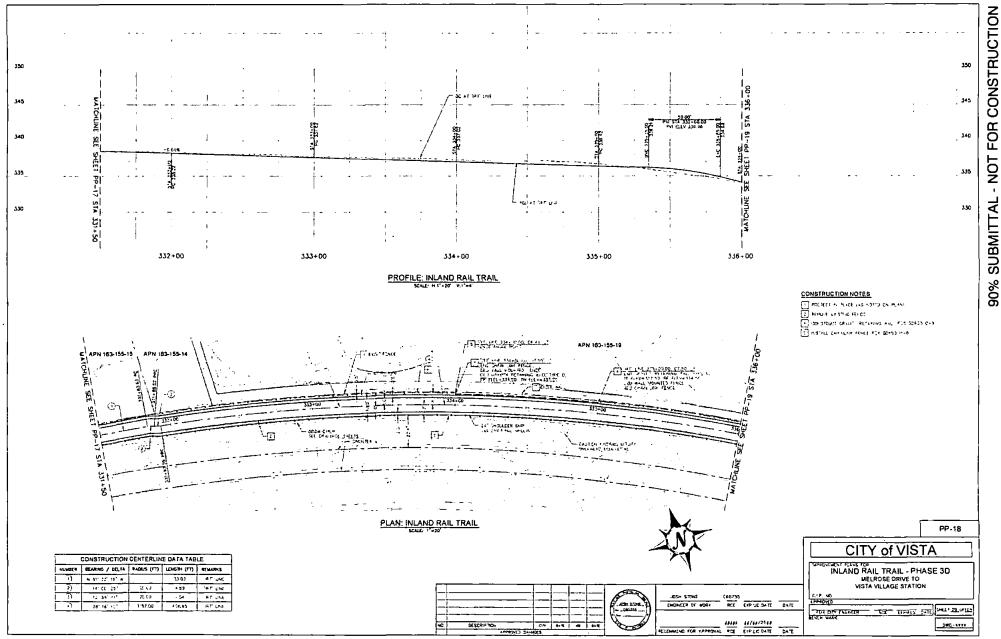
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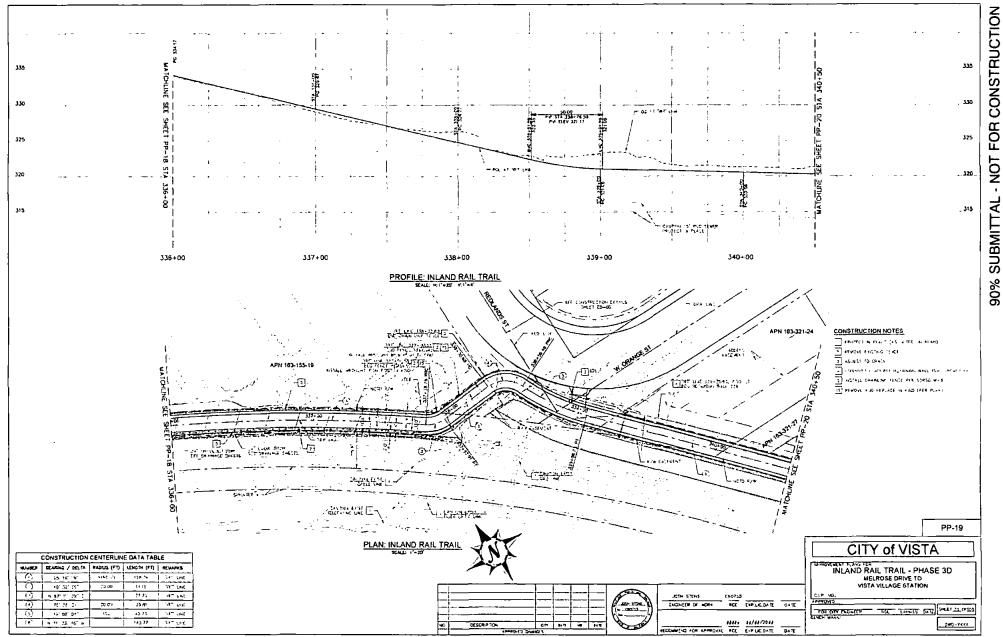
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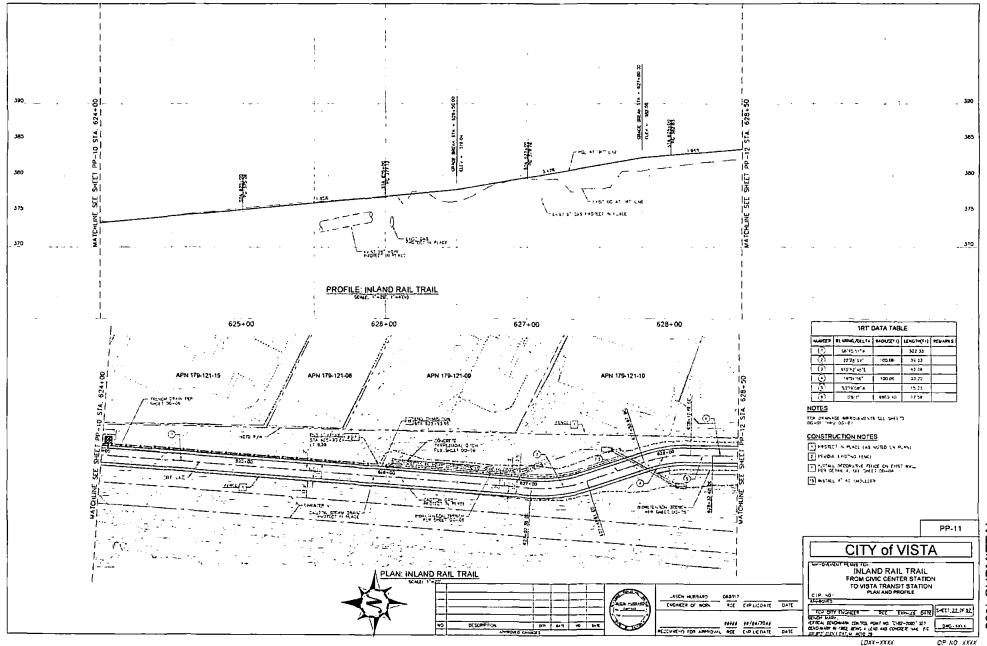
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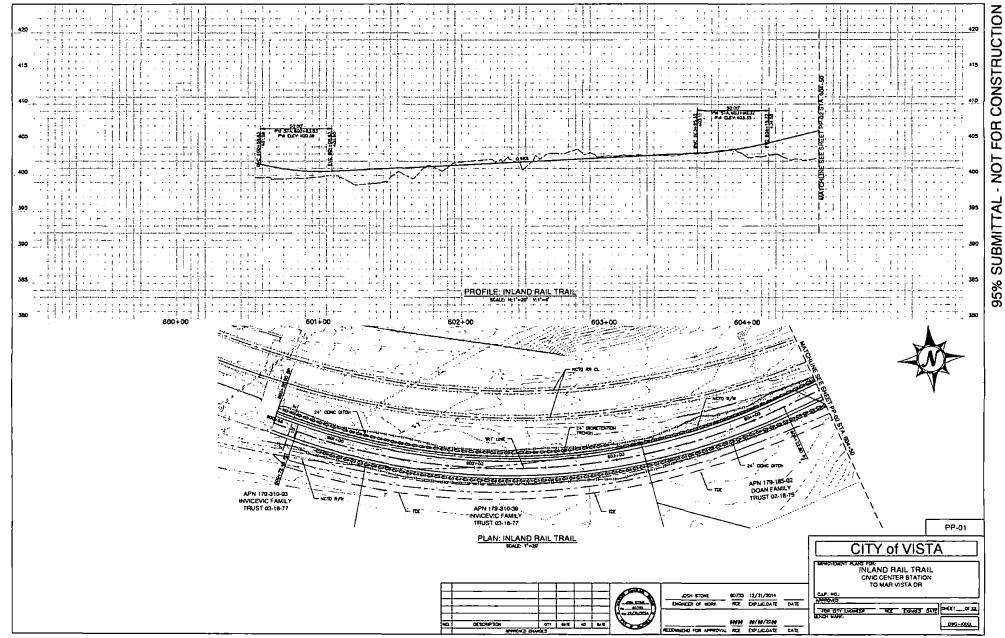


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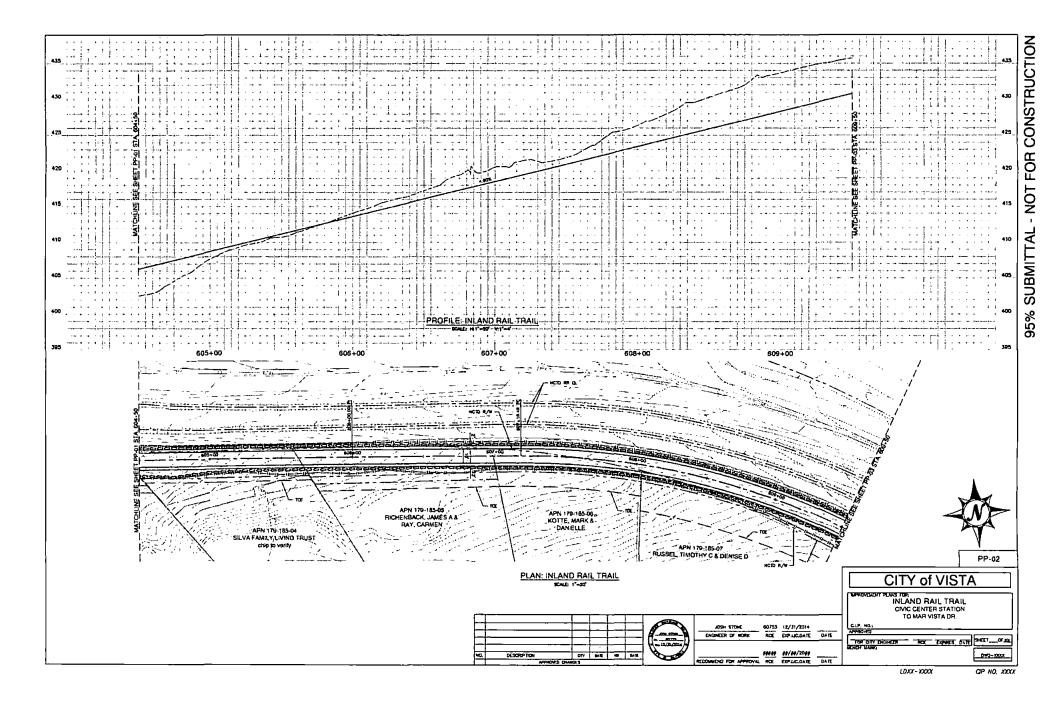


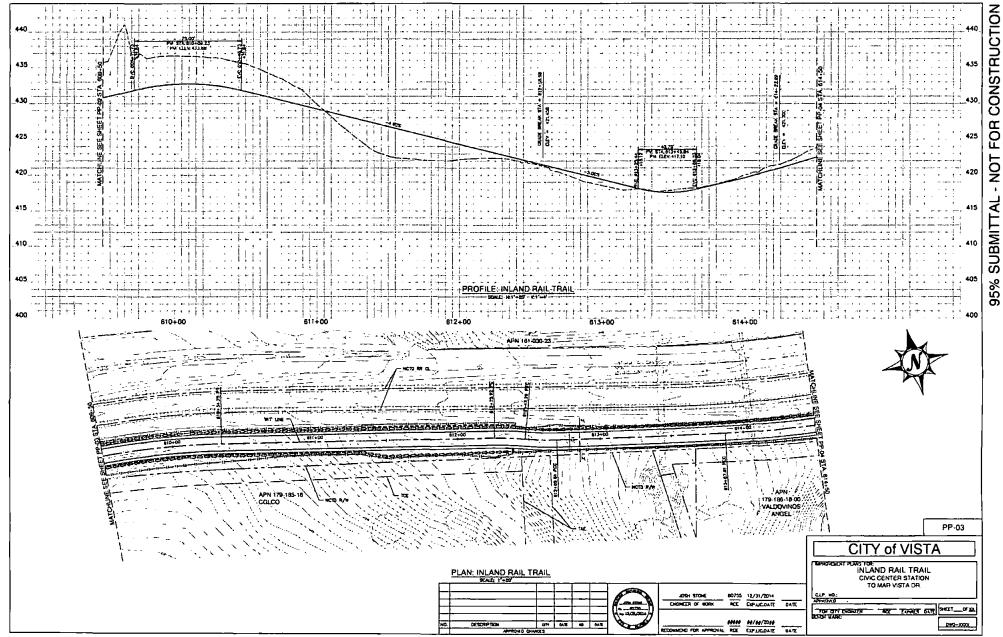
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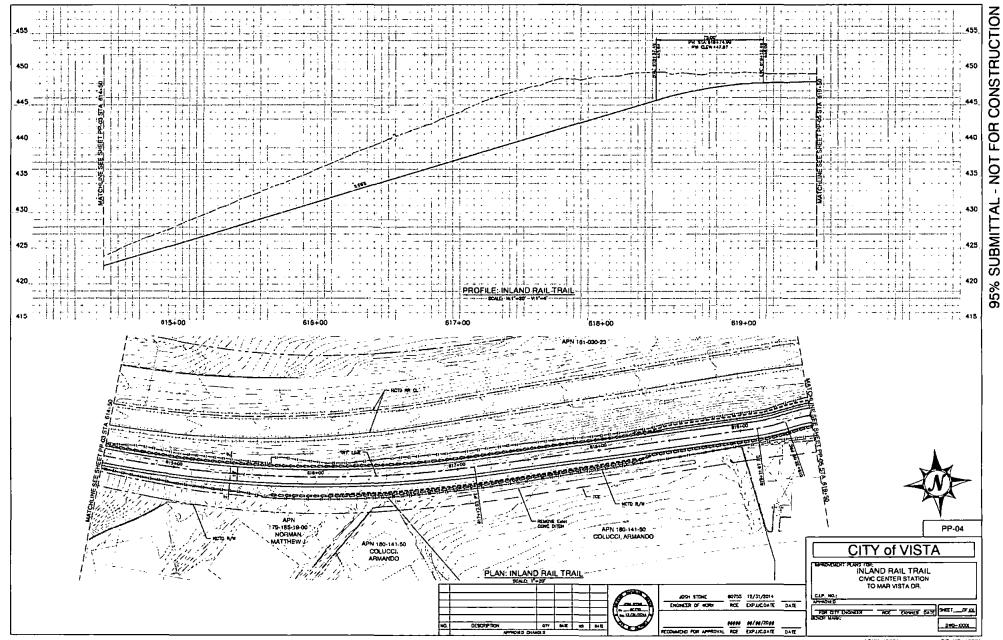


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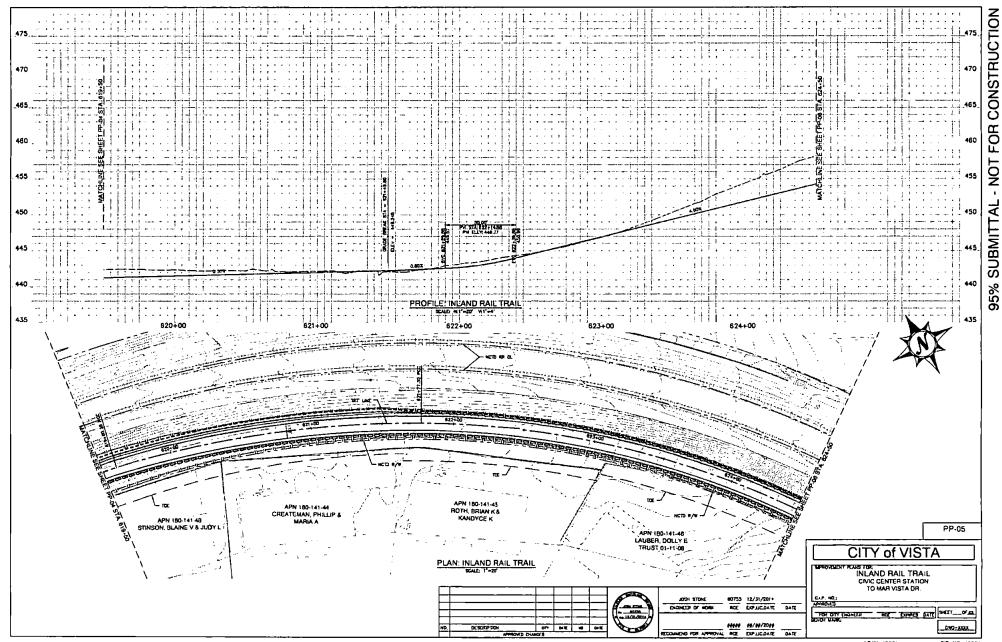




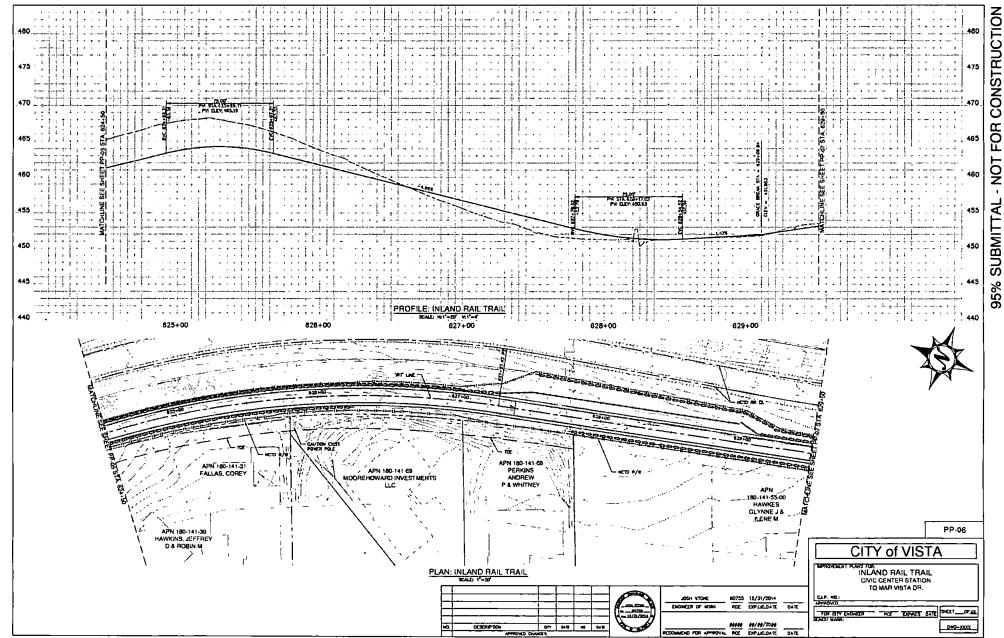
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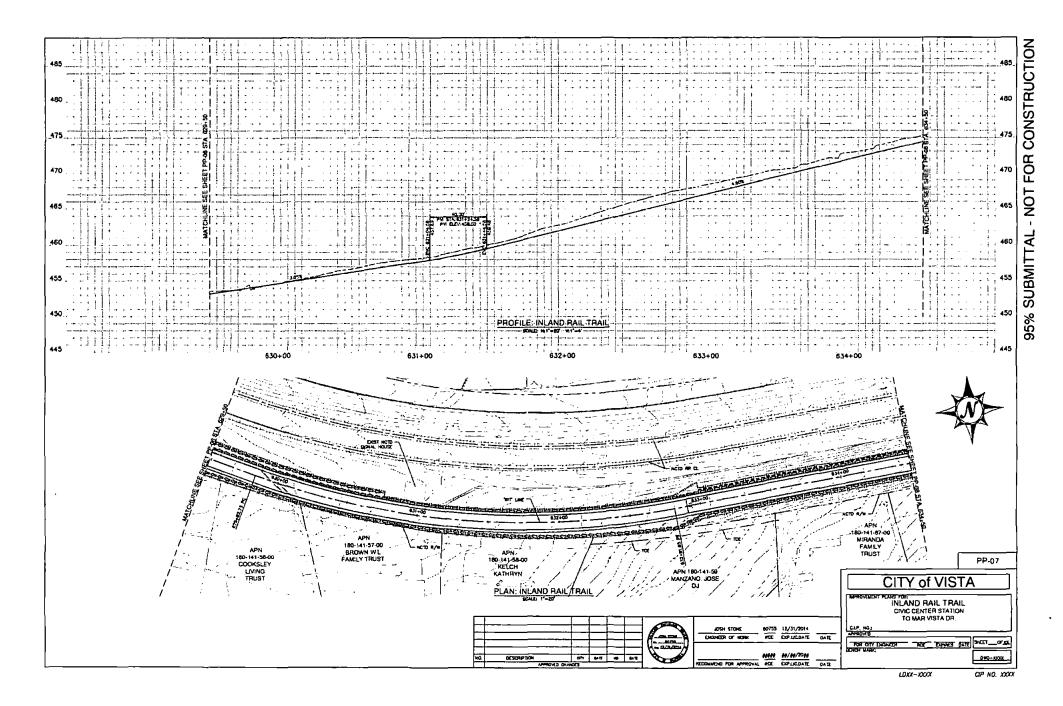
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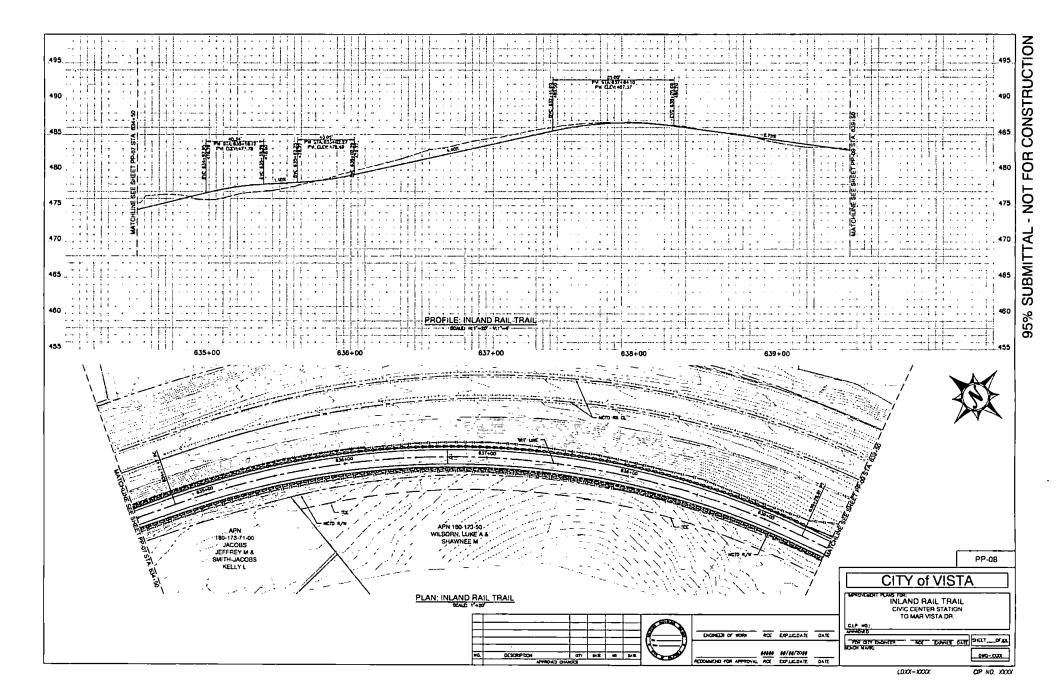


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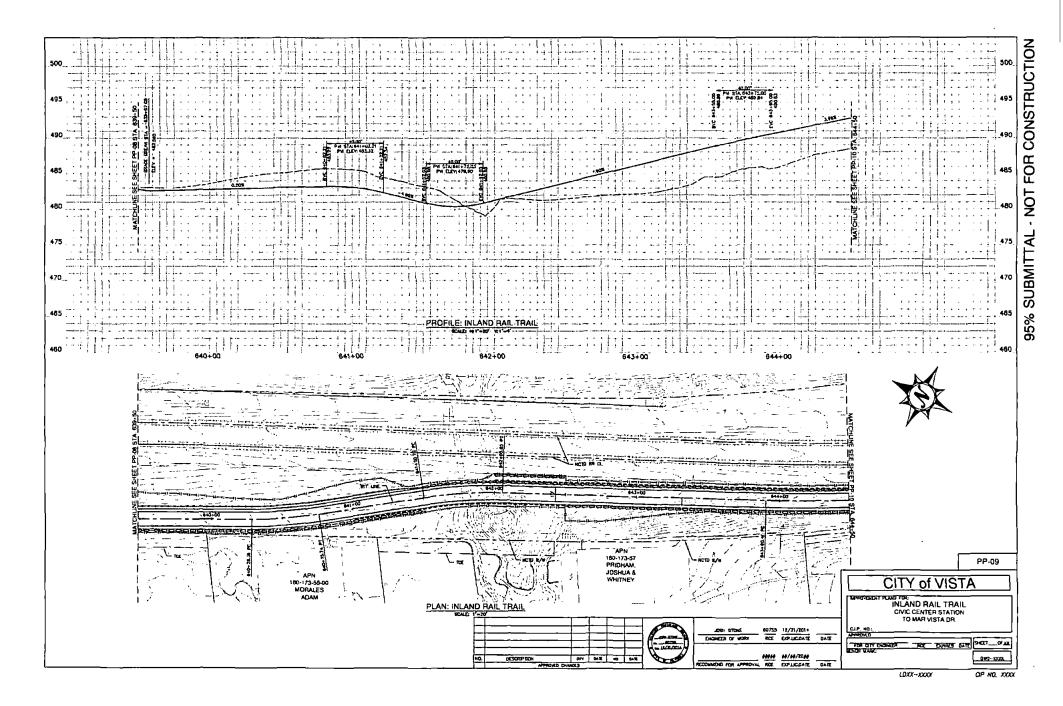


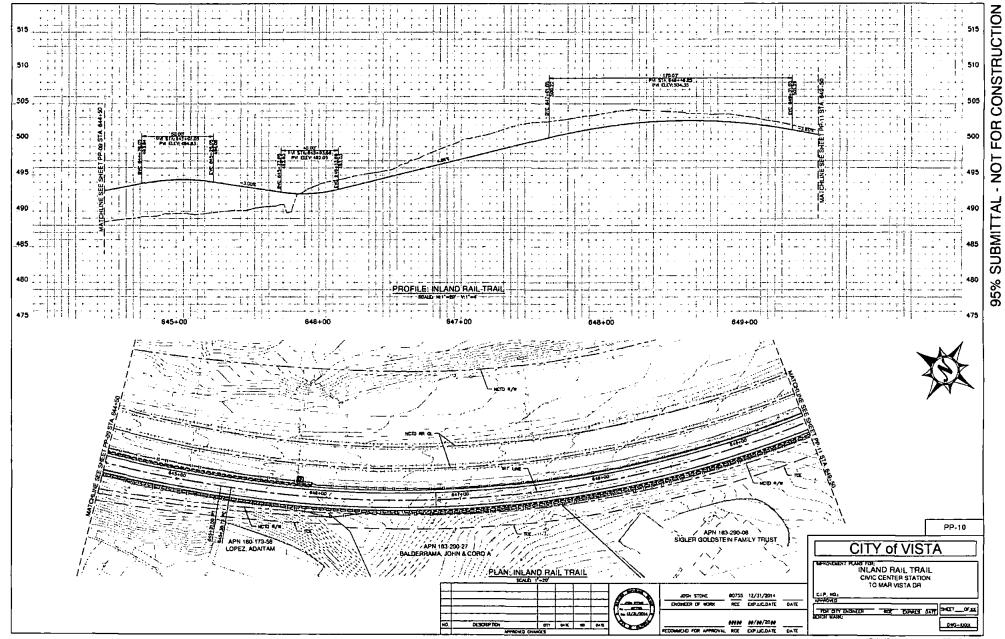
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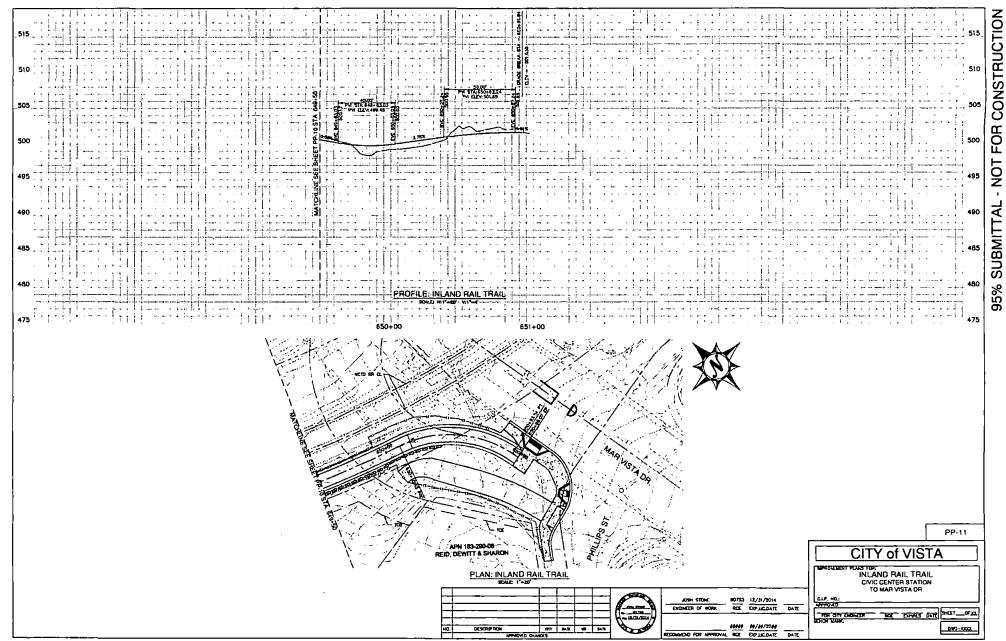


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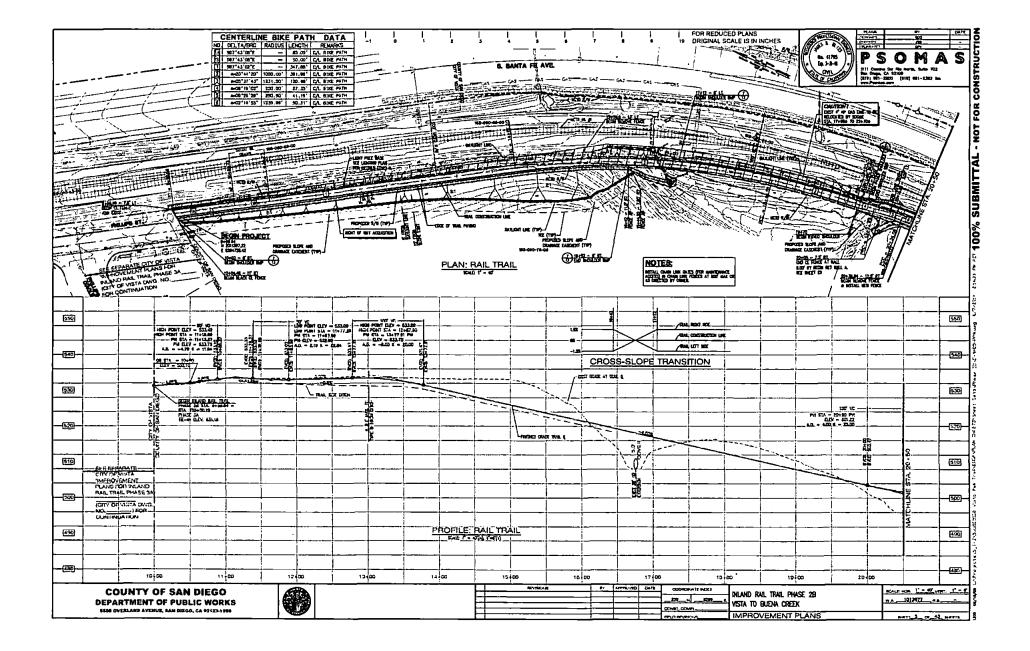


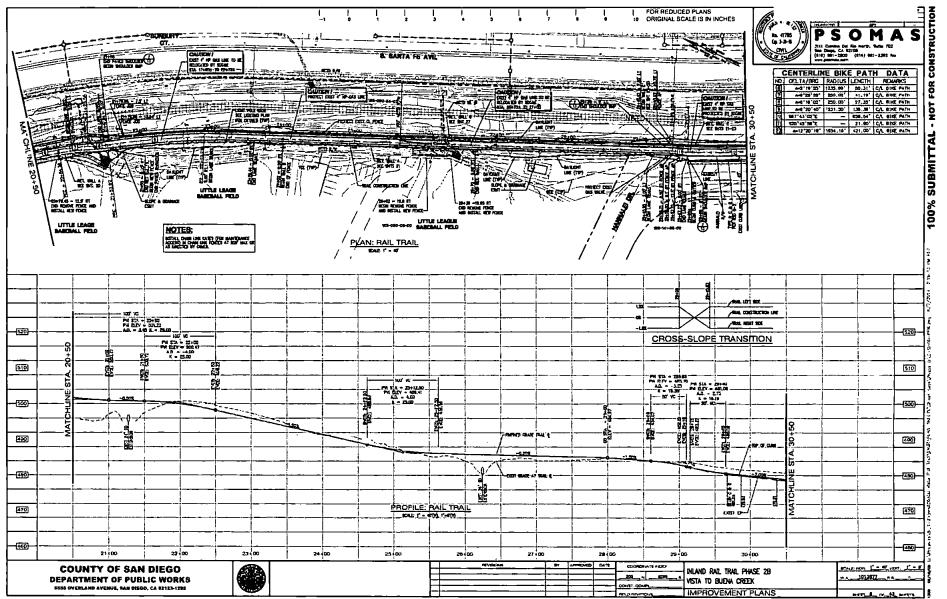


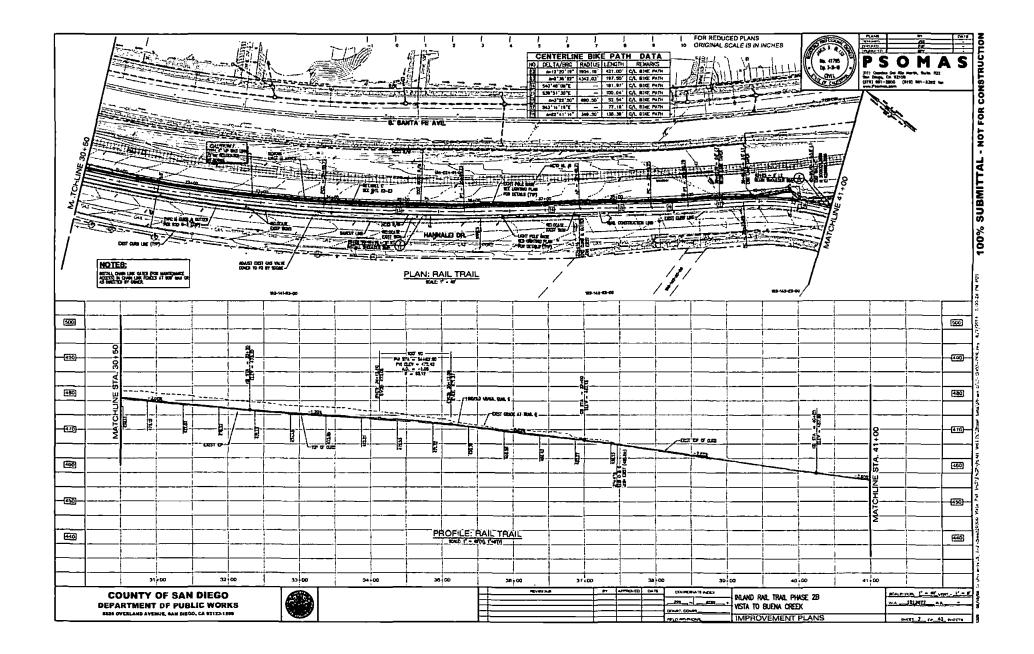
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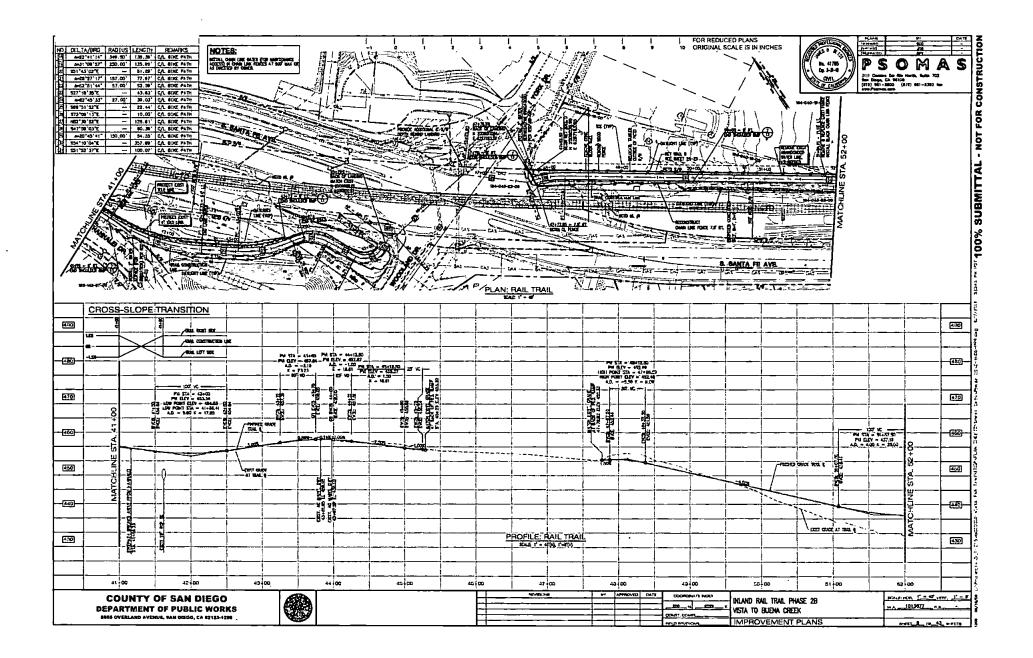


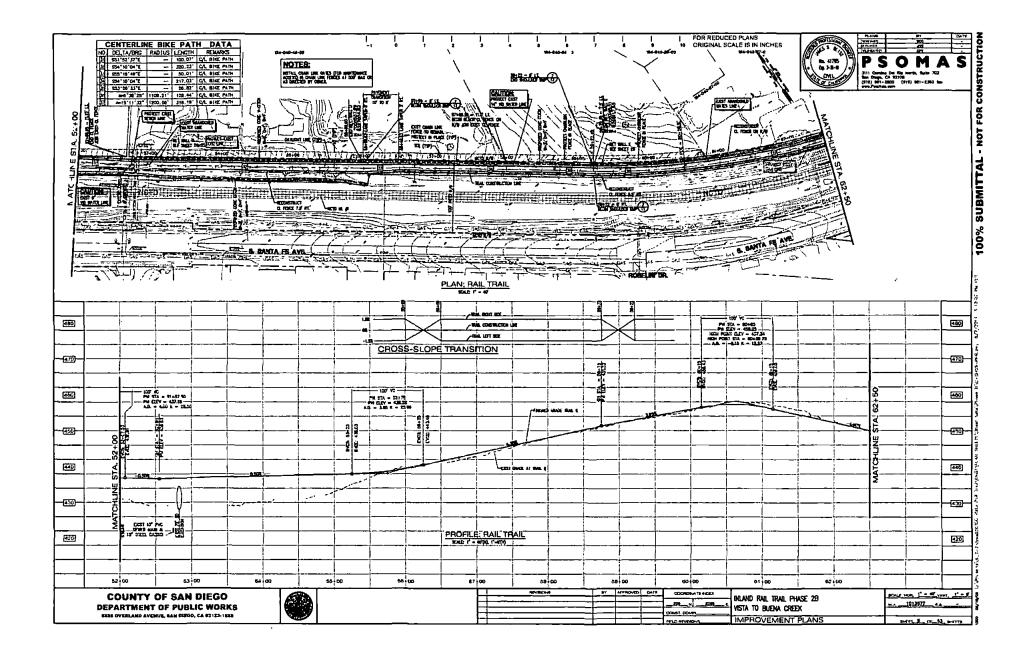
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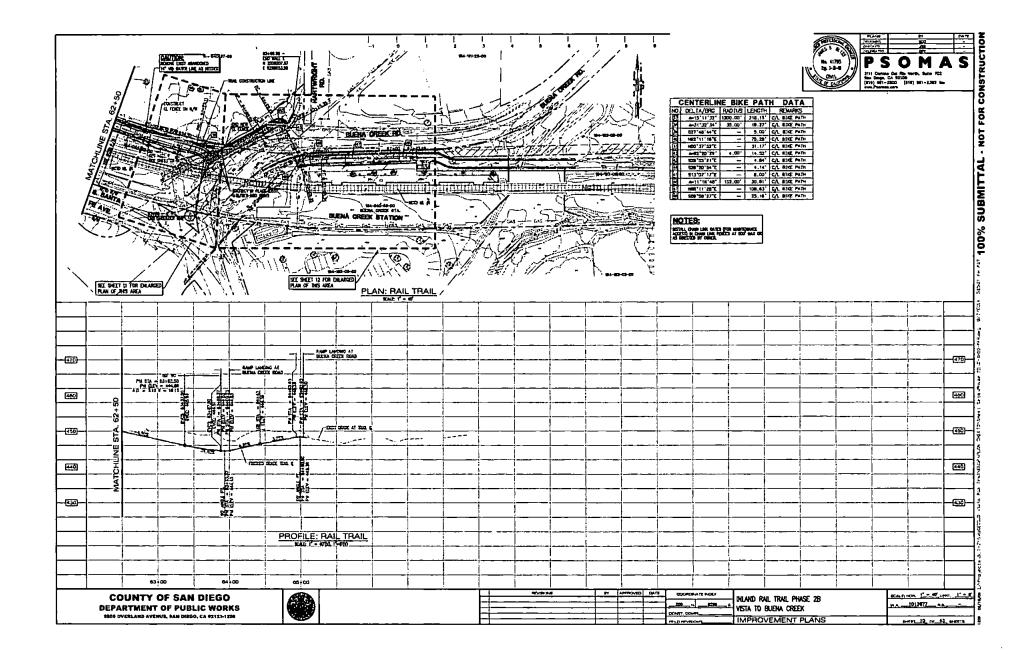


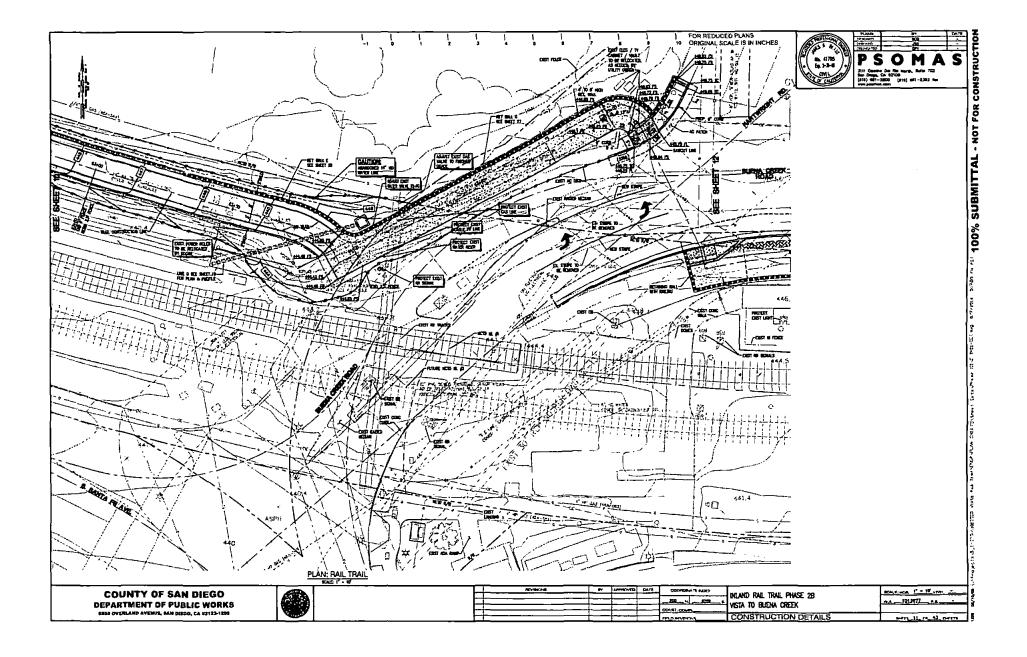


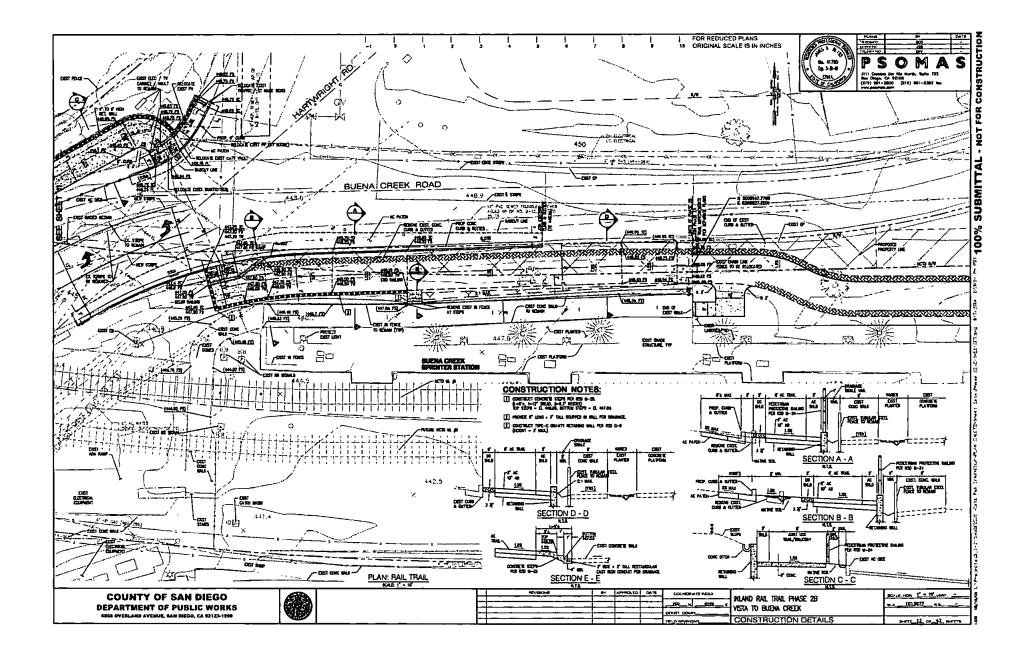


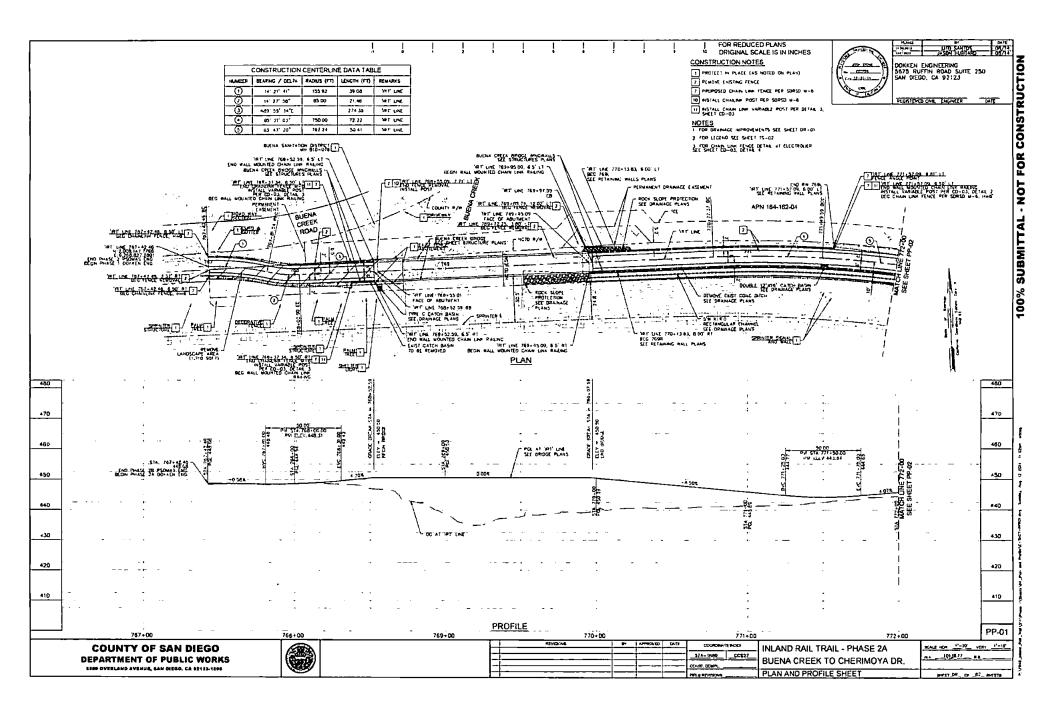


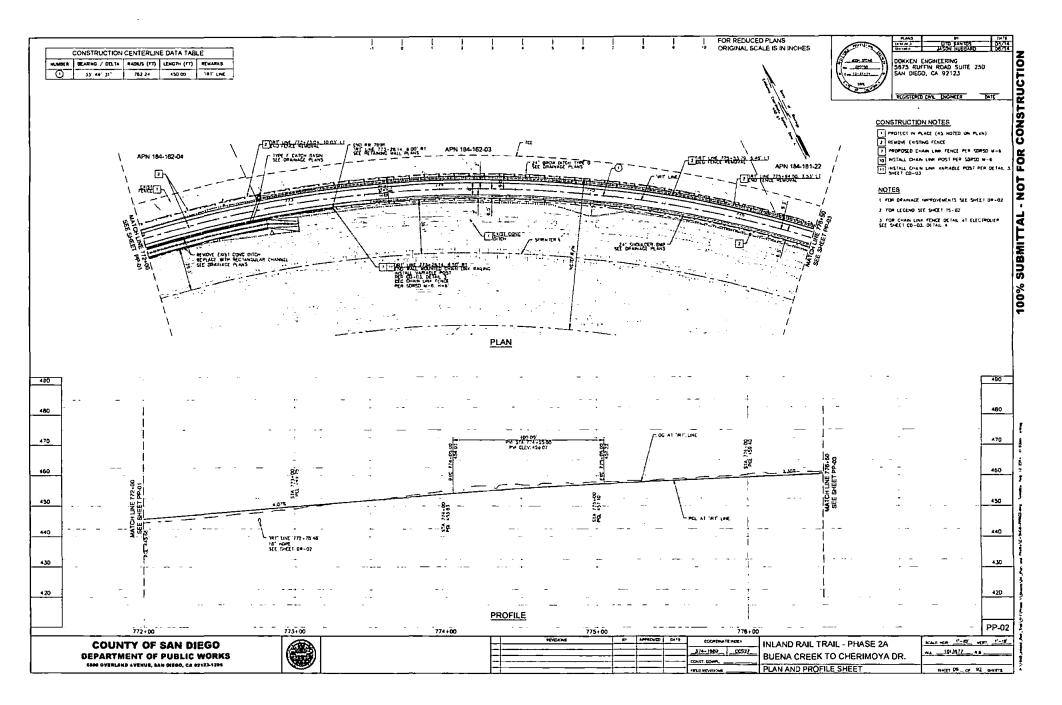


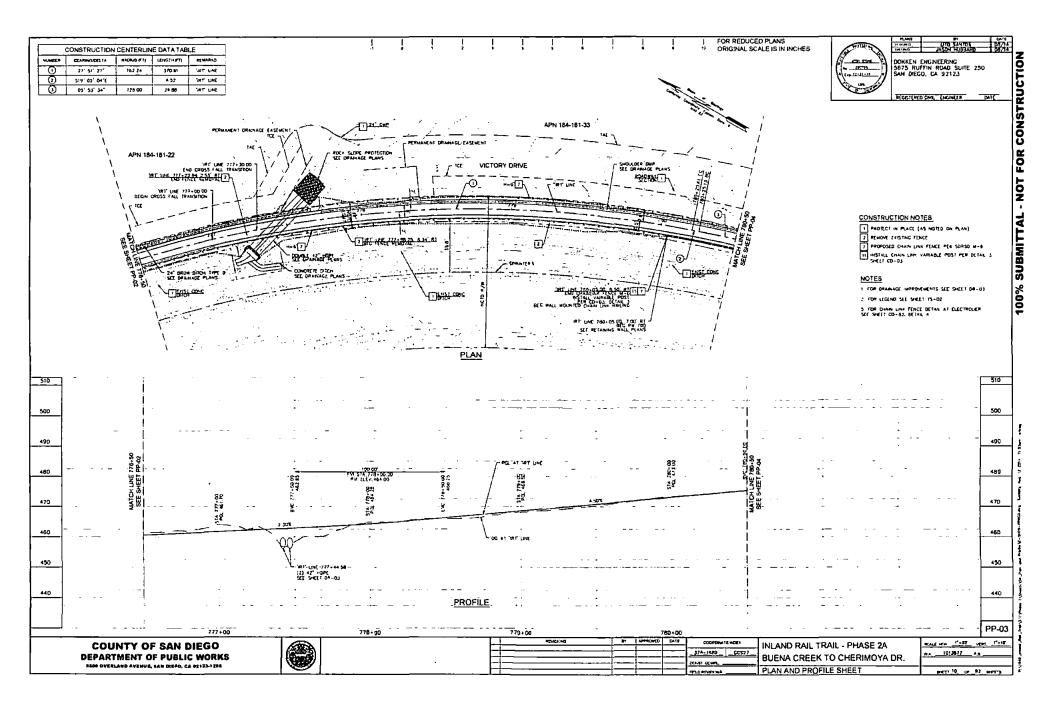


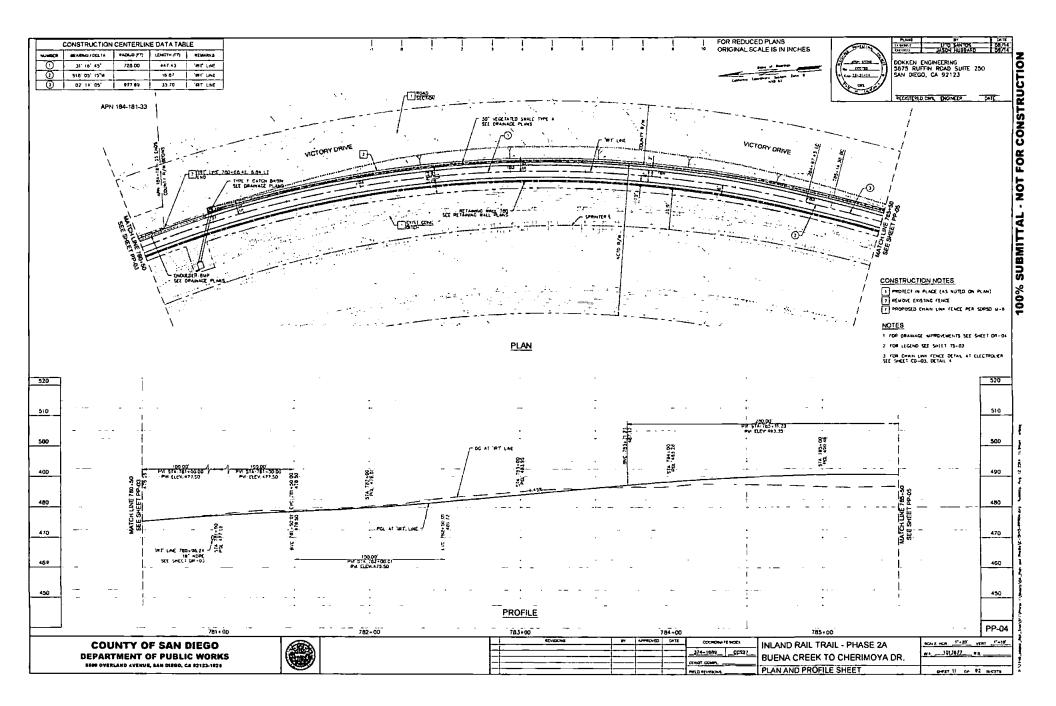


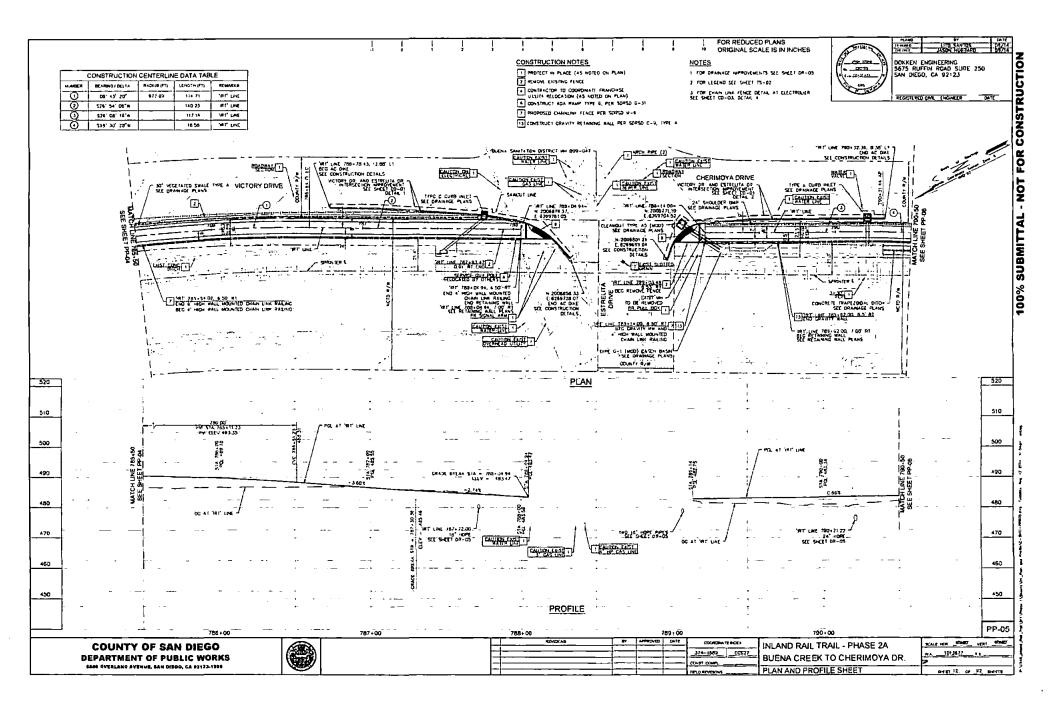


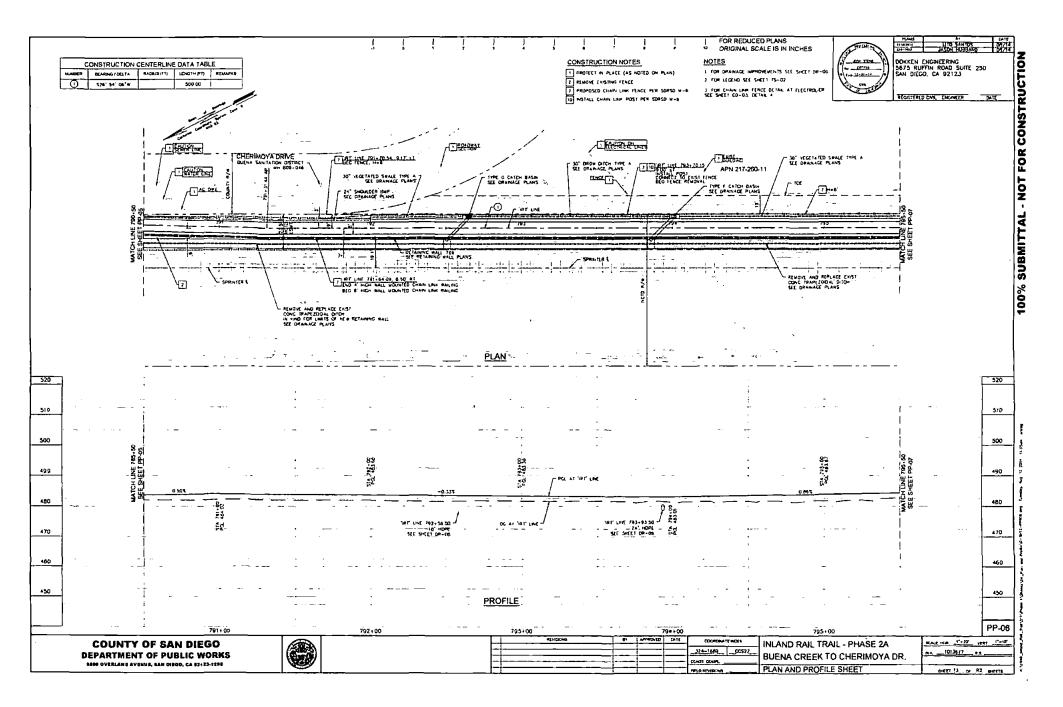


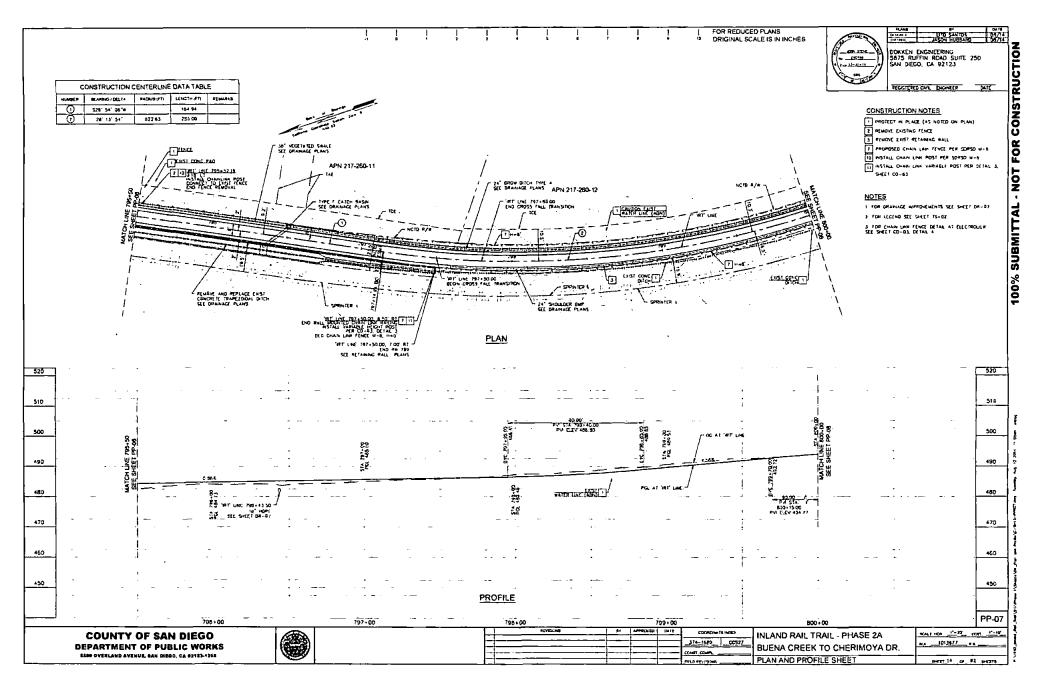




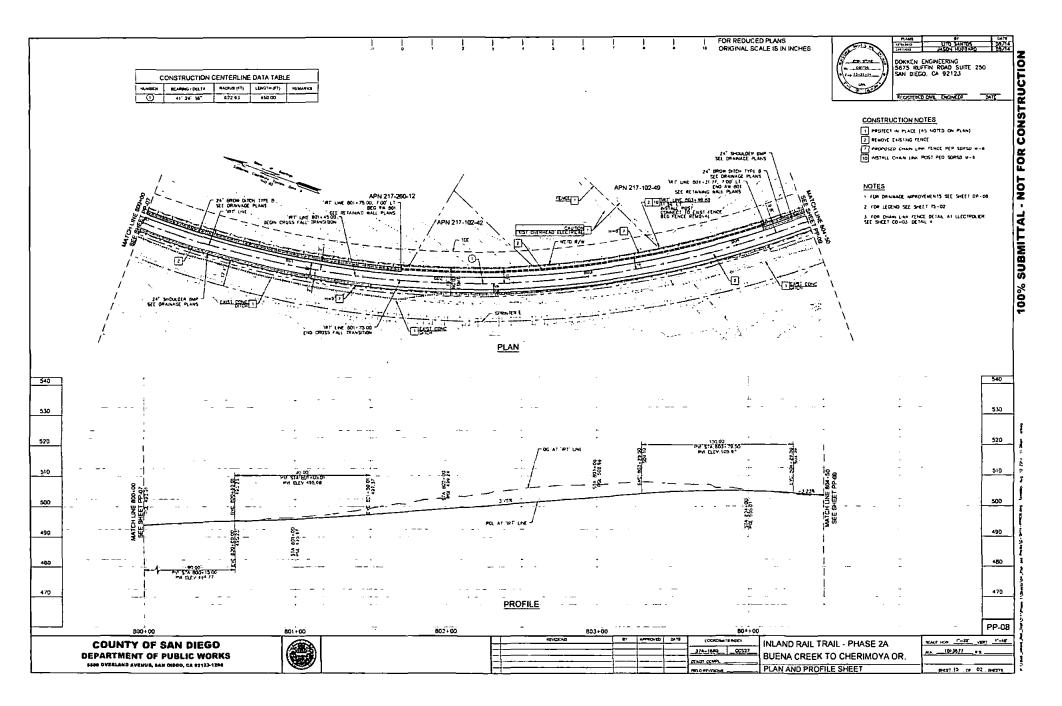


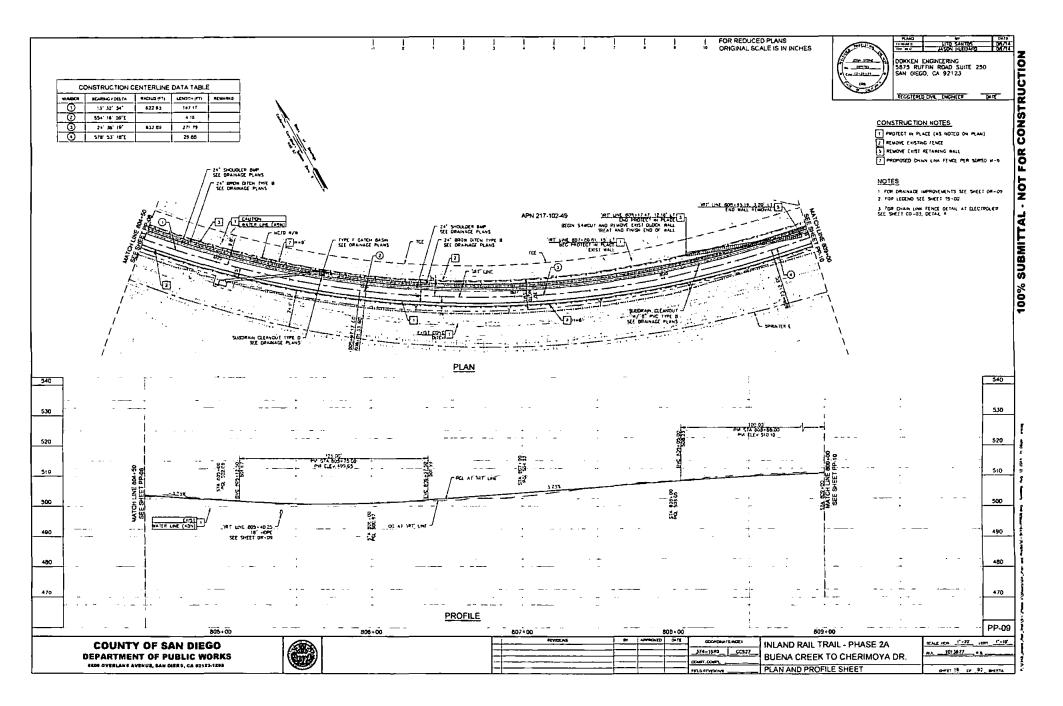


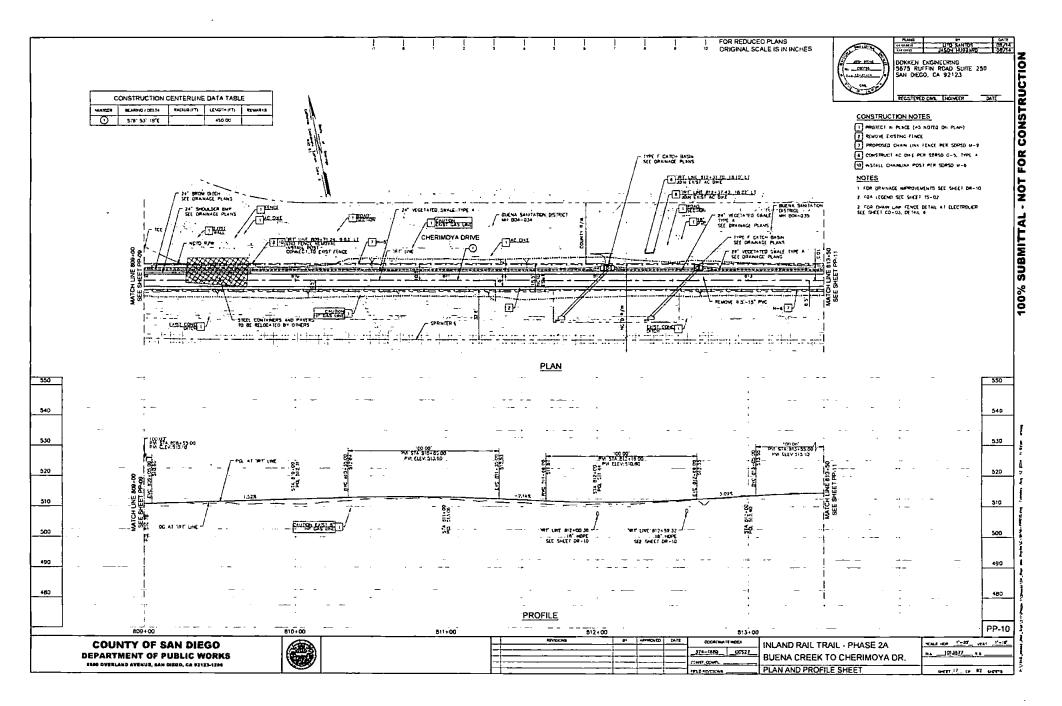


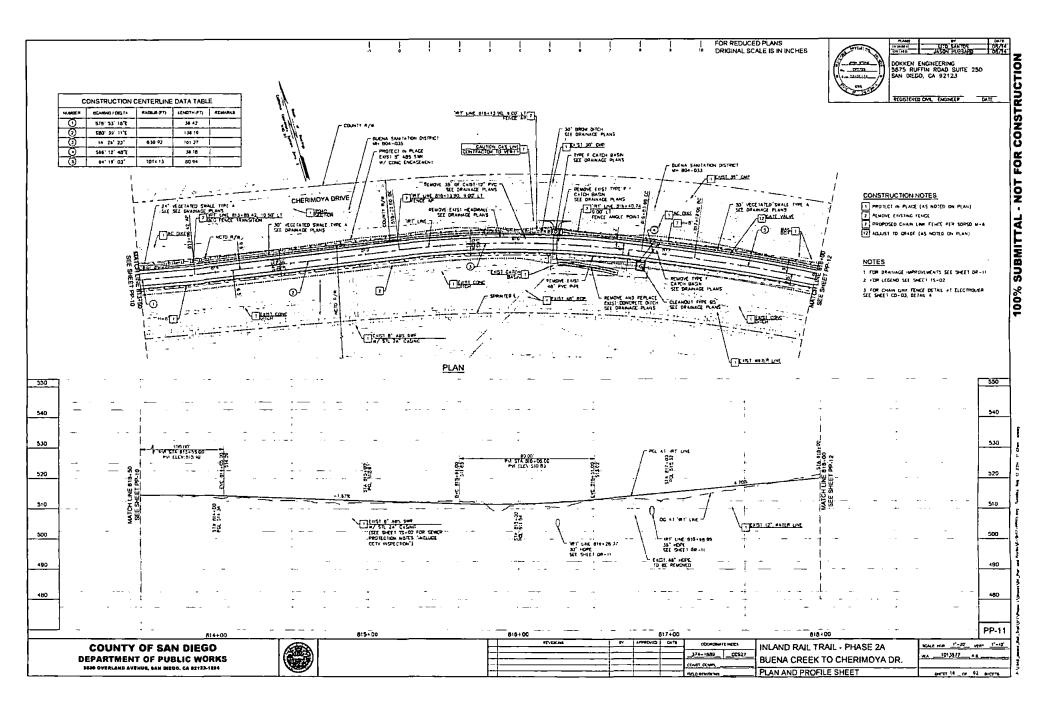


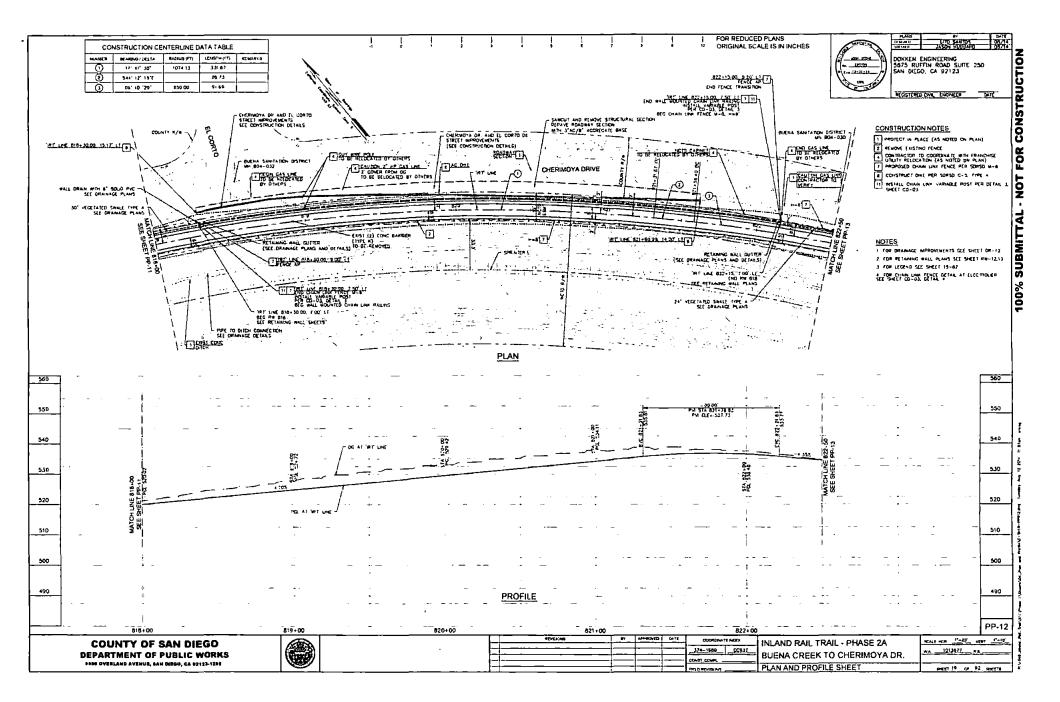
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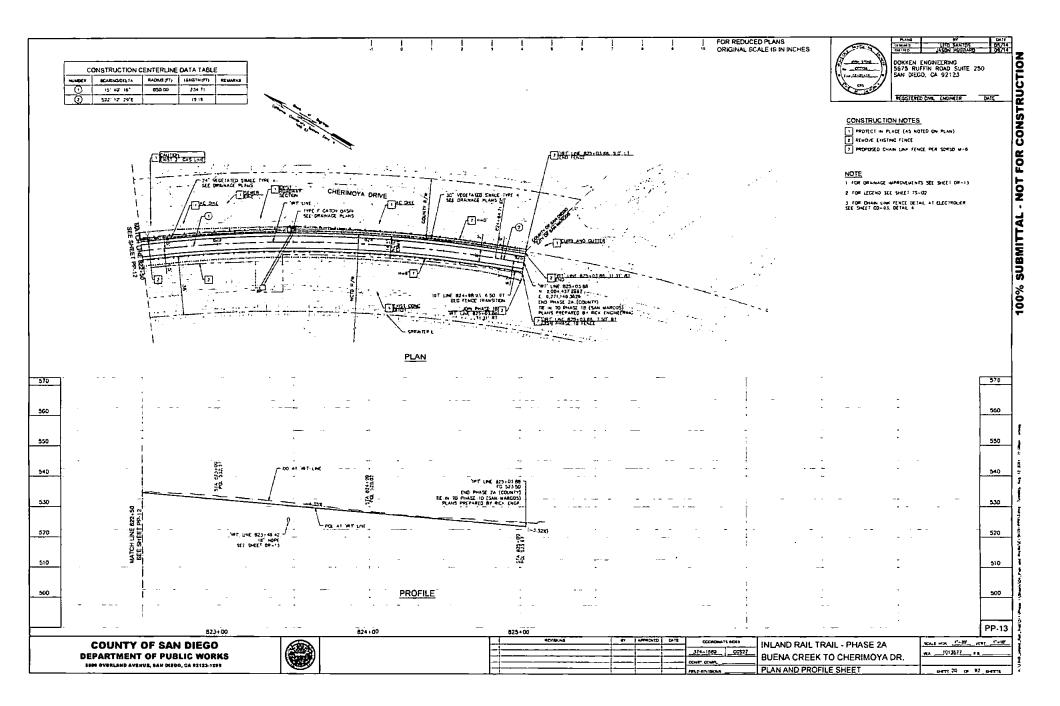


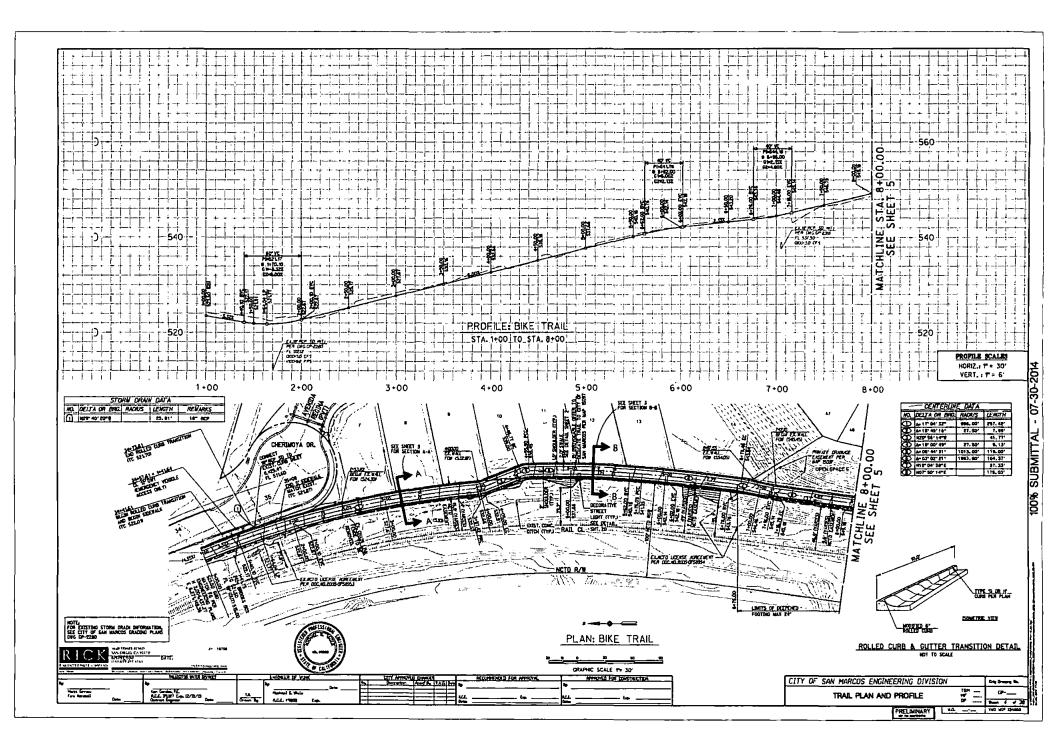


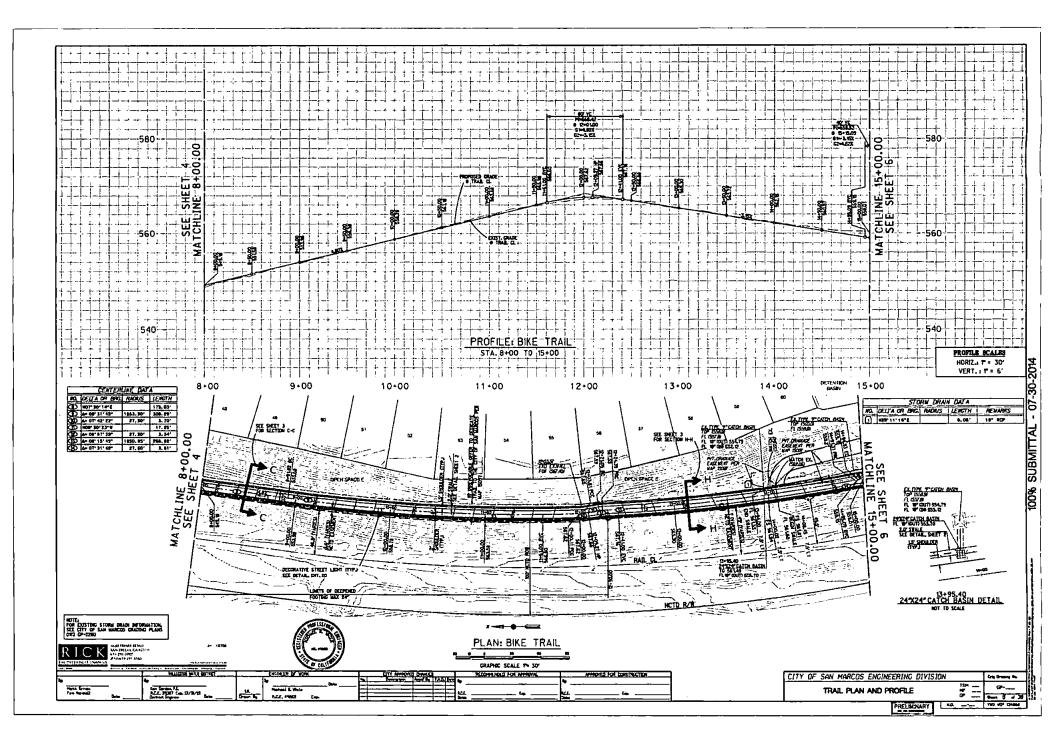


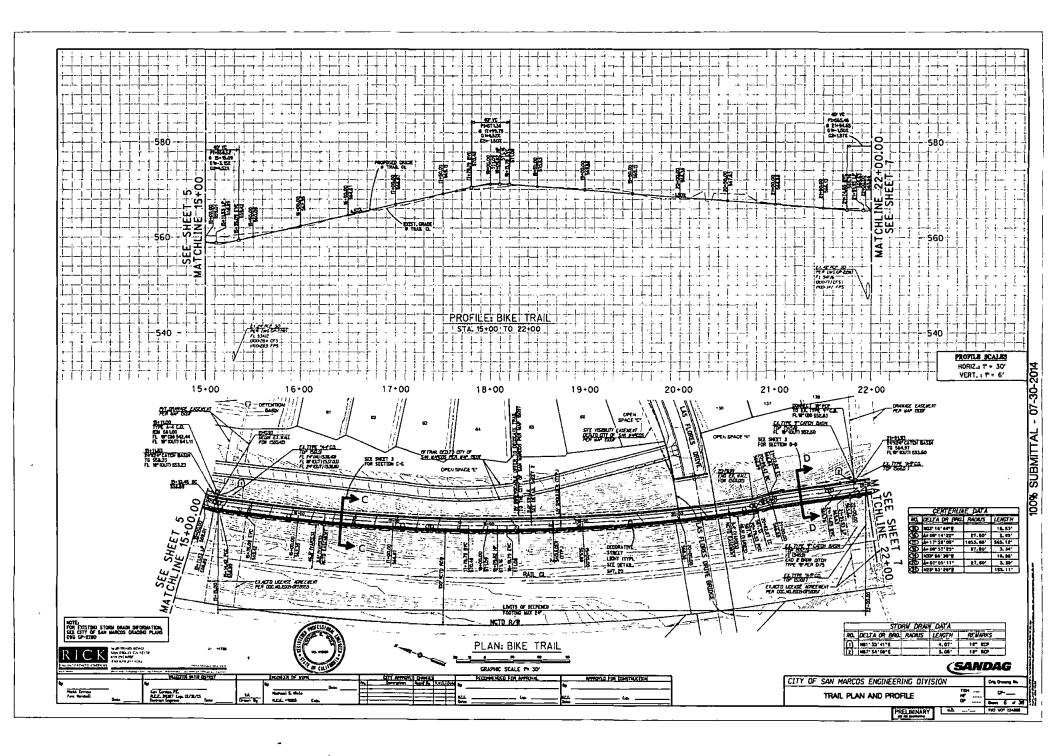


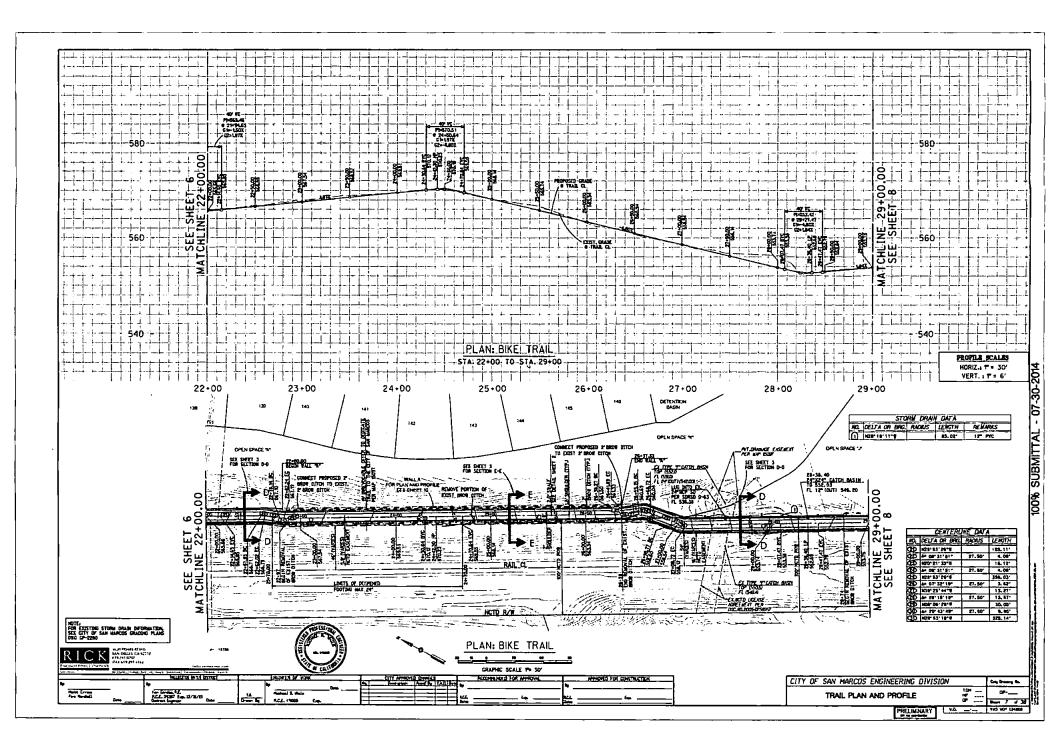


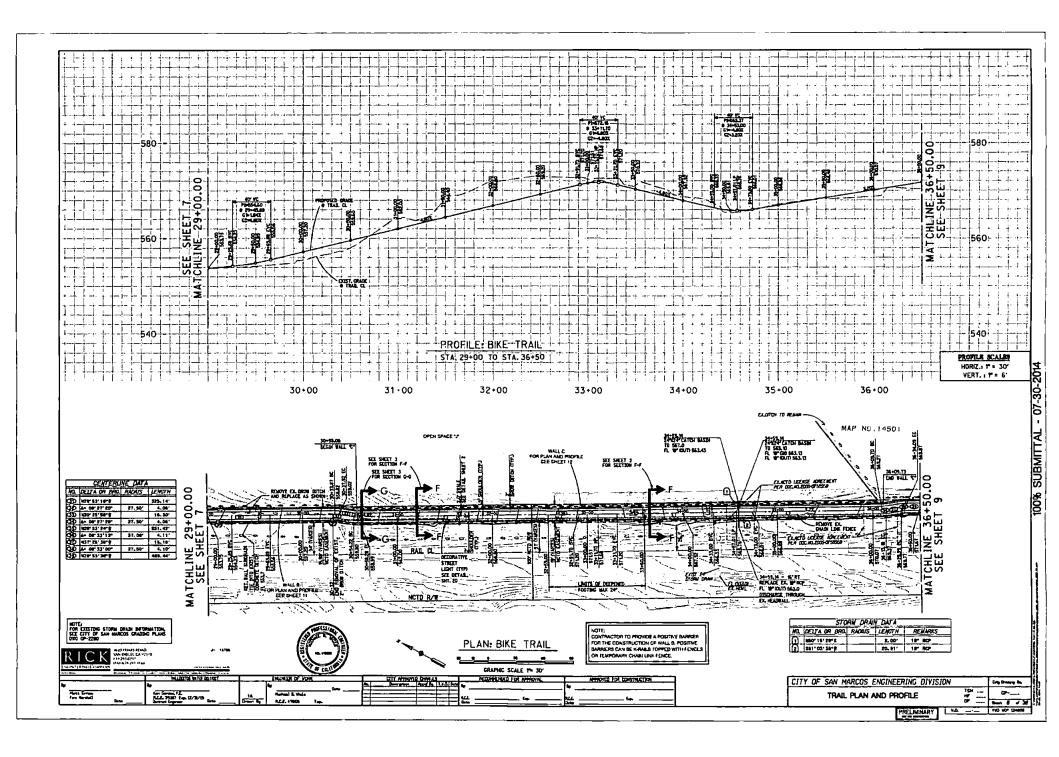


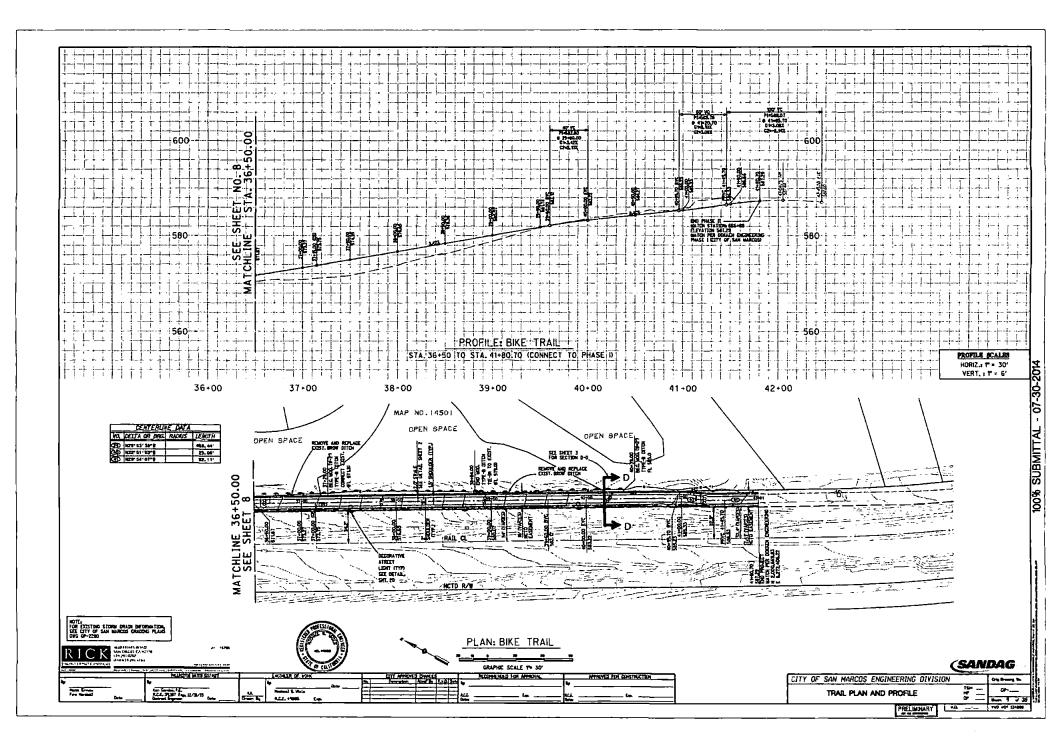


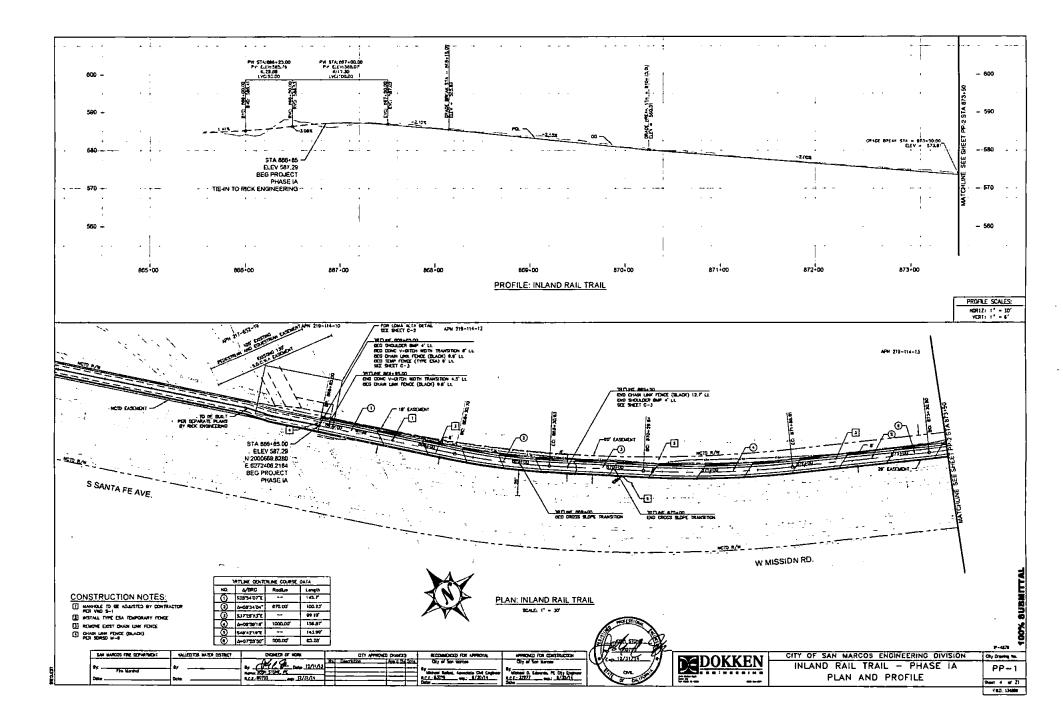


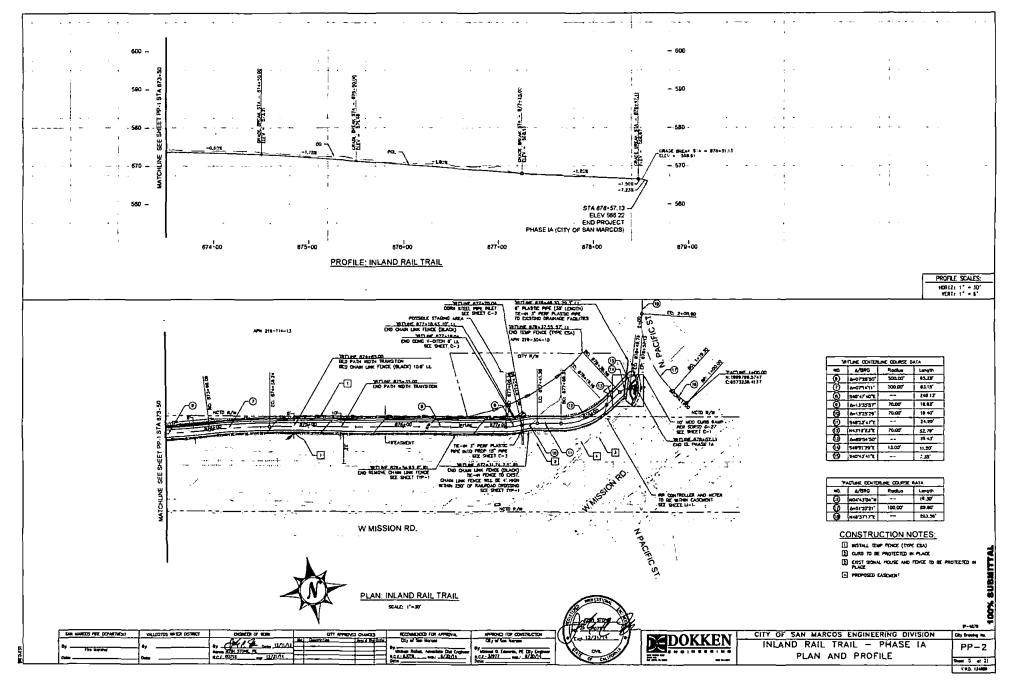












San Diego Association of Governments Inland Rail Trail Project, San Marco to Vista Segment Certification No. R9-2014-0128

## ATTACHMENT 4 MITIGATION FIGURES and DOCUMENTS

Figure 1 – Project Location Relative to Pilgrim Creek Mitigation Bank

Figure 2 – Pilgrim Creek Mitigation Bank Location

Exhibit A-2 – (untitled) mitigation site plan

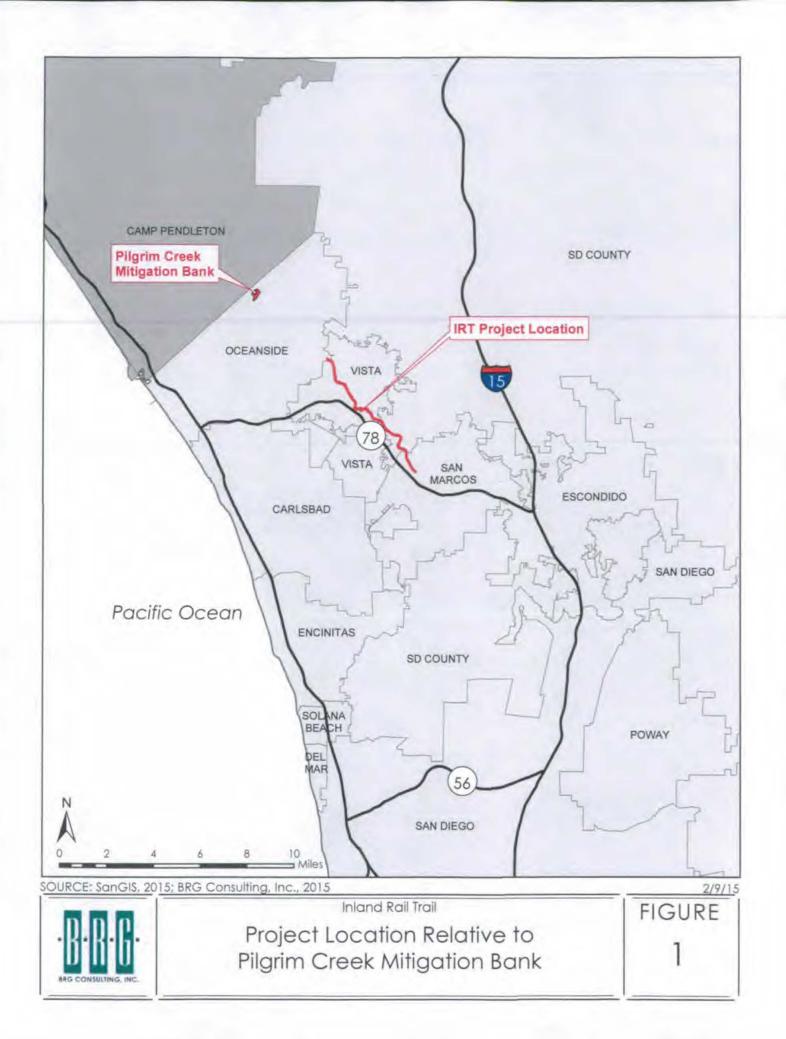
Pilgrim Creek Mitigation Bank Service Areas

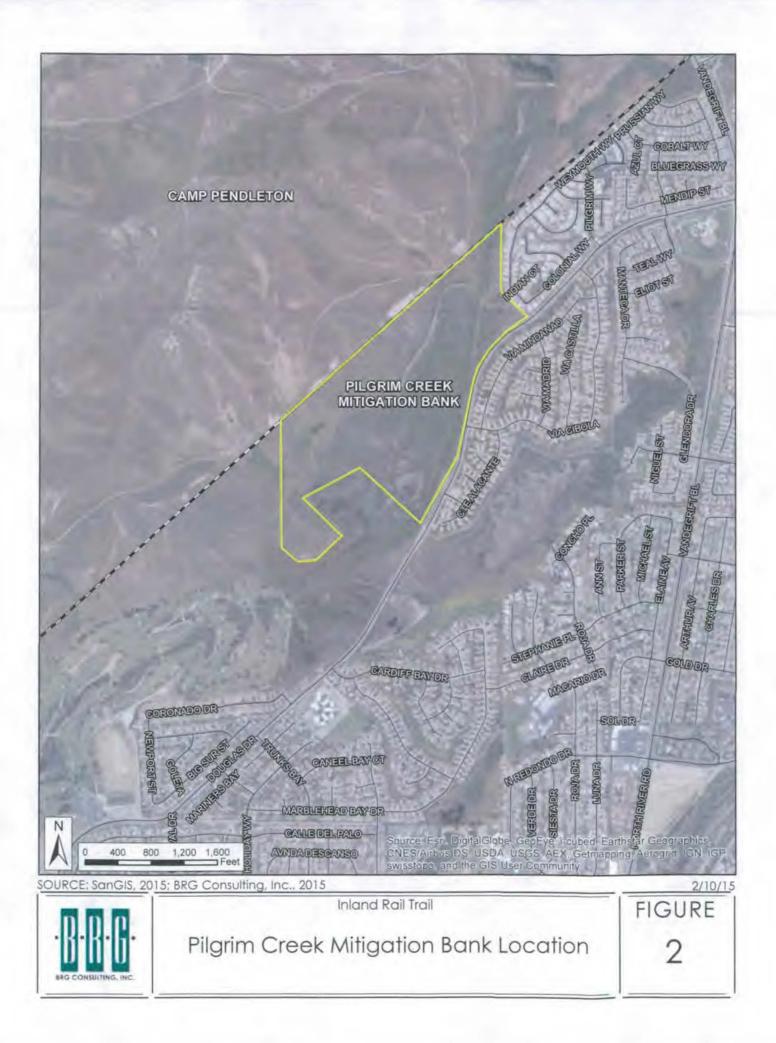
Banking Instrument, Pilgrim Creek Mitigation Bank

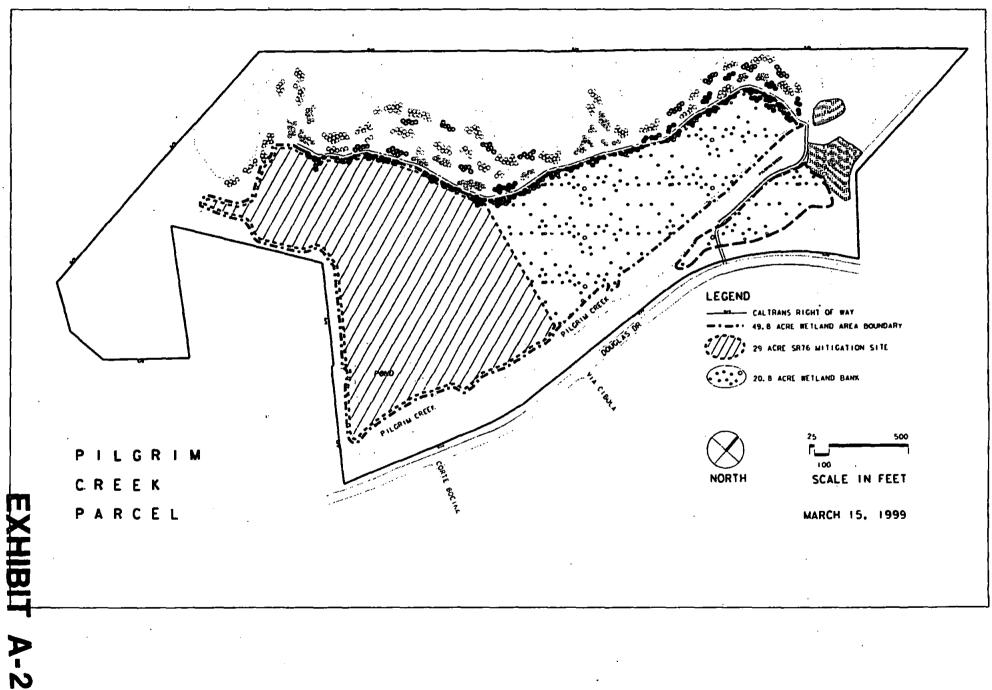
Transnet Pilgrim Creek Mitigation Bank Acreage Summary

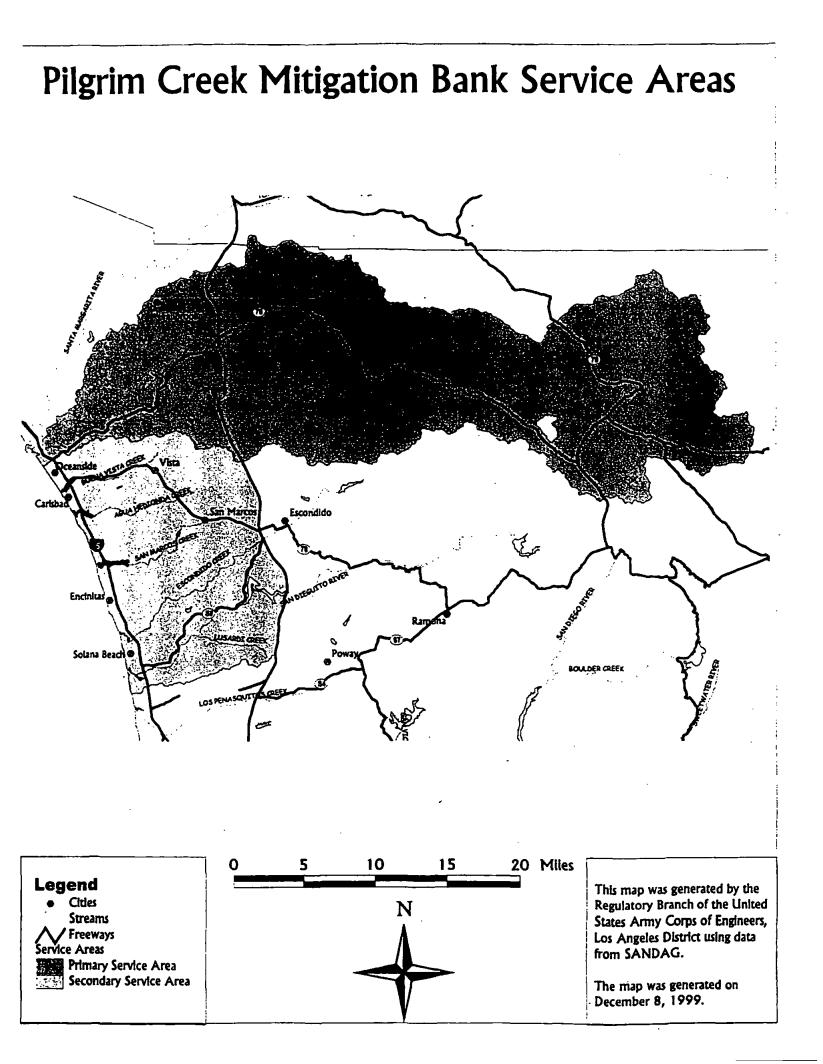
Pilgrim Creek Mitigation Bank Credit Purchases and Withdrawals, Inland Rail Trail Bike Path

Letter dated January 8, 2001 – SANDAG to City of San Marcos sales receipt









#### BANKING INSTRUMENT PILGRIM CREEK MITIGATION BANK

This Banking Instrument regarding the establishment, use, operation, and maintenance of Pilgrim Creek Mitigation Bank (hereinafter, the Bank), is made and entered into by and among the Department of Transportation (Caltrans), hereinafter, the Sponsor; San Diego Association of Governments (SANDAG), the Credit Owner; the U.S. Army Corps of Engineers (Corps); the California Department of Fish and Game (CDFG); the U.S. Environmental Protection Agency (EPA); and the U.S. Fish and Wildlife Service (FWS), with reference to the following:

#### I. PREAMBLE

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- A. Purpose: The purpose of this Banking Instrument is to establish guidelines and responsibilities for the establishment, use, operation, and maintenance of the Bank. The Bank will be used for compensatory mitigation for unavoidable impacts to Waters of the United States including wetlands which result from activities authorized under Section 404 of the Clean Water Act and Section 1601 of the CDFG Code provided such use has met all applicable requirements and is authorized by the appropriate authority.
- B. Location and Ownership of Parcel: Whereas, the Sponsor owns 121 acres of land at Douglas Drive (Exhibits A-1 & A-2), and has developed a mitigation plan to establish and/or maintain 49.8 acres of riparian habitat.
- C. Project Description: Whereas, under this Banking Instrument, the Sponsor will establish and/or maintain 19.2 acres of aquatic habitat in accordance with the provisions of this Banking Instrument and the Bank Development Plan (Exhibit B), and shall then maintain the Bank in such condition until December 31, 2001 or until success criteria are fulfilled. This parcel is in the process of being transferred to CDFG, who will manage the site in perpetuity. The Bank area shall consist of a total of 19.2 acres and includes restoration of riparian floodplain wetlands suitable for occupation by the Federally-listed endangered least Bell's vireo. This parcel will be transferred to CDFG to be conserved and managed as open space in perpetuity. All monitoring commitments will be completed by the Sponsor. Sale of credits will be managed by SANDAG.
- D. Baseline Conditions/Existing Functions and Values of the Mitigation Area:

Previous to this restoration, this parcel was a fallow agricultural field. A large strip of southern willow scrub occurs adjacent to Douglas Drive along Pilgrim Creek, which flows southwest from Camp Pendleton. Additional areas of southern willow scrub are present along the southern portion of the site. The southern willow scrub on-site is 9.5 acres in area and is. dominated by trees and large shrubs including black willow, arroyo willow, mulefat, and wild rose. Interspersed with the southern willow scrub are pockets of freshwater marsh dominated by cattails and bulrush. Some debris was dumped on-site, and the banks of the creek were diked to prevent flooding of the adjacent land. This habitat has water quality functions including groundwater recharge, flood flow alteration, and sediment stabilization. It provides habitat for the least Bell's vireo, yellow-breasted chat, yellow warbler, and several birds-ofprey (raptors). The willow flycatcher has been observed downstream of the site. There are no known recreational uses of this area. Less than 0.5 acre of the site is within the large alkali marsh adjacent to Pilgrim Creek and southwest of the site. This plant community is dominated by pickleweed; other species present include hard-stem bulrush, saltgrass and bristly ox-tongue. This area most likely provides water quality functions including ground water recharge, nutrient removal and sediment stabilization. As part of the adjacent marsh and tributary, this area is used by both mammals and birds.

Approximately 18.6 acres of coastal sage scrub is present on-site. It occurs on moderate to steep slopes and is dominated by California sagebrush, buckwheat, and coast encelia. Other shrubs include bladderpod, shore cactus, white sage, cholla, prickly pear cactus, and elderberry. Patches of coastal sage scrub vary in their level of disturbance, although most patches are of fairly good quality. Large patches of this vegetation community exist on the adjacent properties to the west and north.

The remaining areas are comprised primarily of non-native grasses and ruderal vegetation. Dominants within these areas include ripgut grass, black mustard, sweet fennel, wild lettuce, bristly ox-tongue, wild oat, coast goldenbush, horseweed and ryegrass.

- E. Establishment and Use of Credits: Whereas, in accordance with the provisions of this Banking Instrument and upon satisfaction of the success criteria contained herein, a total of 19.2 credits will be available to be used as mitigation in accordance with all applicable requirements (Exhibits C-1 & C-2).
- F. Whereas, the Mitigation Banking Review Team (MBRT) consists of :
  - 1. U.S. Army Corps of Engineers
  - 2. U.S. Environmental Protection Agency
  - 3. U.S. Fish and Wildlife Service
  - 4. California Department of Fish and Game
- G. Disclaimer: Whereas, this Banking Instrument does not in any manner affect statutory authorities and responsibilities of the signatory parties.
- H. Exhibits: Whereas, the following Exhibits are incorporated as appendices to this Banking Instrument:
  - 1. "Exhibits A-1&A-2", 1-Bank location and service area; 2-Pilgrim Creek parcel
  - 2. "Exhibit B", Bank Development Plan (Pilgrim Creek Habitat and Monitoring Proposal)
  - 3. "Exhibits C-1&C-2", 1-Crediting and Debiting Procedure for the Bank;2-Success Criteria
  - 4. "Exhibit D", Wetland Delineation Report
  - 5. "Exhibit E", Real-Estate Provisions
  - 6. "Exhibit F', Transfer MOA
  - 7. "Exhibit G", Sample Account Statement

The Pilgrim Creek parcel is in the process of being transferred to CDFG. The Transfer Memorandum of Agreement (signed March 22, 1999) includes an endowment which provides funding for CDFG to manage the site in perpetuity. SANDAG will continue to manage the sale of bank credits until all credits have been sold.

#### **II.** AUTHORITIES

• : .

The establishment, use, operation and maintenance of the Bank is carried out in accordance with the following authorities:

#### A. Federal:

- 1. Clean Water Act (33 USC 1251 et seq.)
- 2. Rivers and Harbors Act (33 USC 403)
- 3. Fish and Wildlife Coordination Act (16 USC 661 et seq.)
- 4. Regulatory Programs of the Corps of Engineers, Final Rule (33 CFR Parts 320-330)
- 5. Guidelines for Specification of Disposal Sites for Dredged and Fill Material (40 CFR Part 230)

- 6. Memorandum of Agreement between the Environmental Protection Agency and the Department of the Army concerning the Determination of Mitigation Under the Clean Water Act, Section 404 (b)(1) Guidelines (February 6, 1990)
- 7. Federal Guidance for the Establishment, Use, Operation of Mitigation Banks (60 F.R. 58605 et seq.)
- 8. Federal Endangered Species Act

B. State:

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- 1. 1601 of the Department of Fish and Game Code (Chapter 6, Section 1601)
- 2. 2050 of the California Department of Fish and Game Code (California Endangered Species Act)

NOW, THEREFORE, the parties agree to the following:

#### III. ESTABLISHMENT OF THE BANK

- A. The Sponsor agrees to perform all necessary work, in accordance with the provisions of this Banking Instrument, to establish and maintain 19.2 acres of aquatic habitat, as shown in Exhibit B, until it is demonstrated to the satisfaction of the agencies represented on the MBRT (acting through the Chair) that the project complies with all conditions contained herein, or until all credits are sold, whichever is later. Work shall include implementing the Bank Development Plan (Exhibit B).
- B. Caltrans will obtain all appropriate environmental documentation, permits or other authorizations needed to establish and maintain the Bank. This Banking Instrument does not fulfill or substitute for such authorization.
- C. Establishment of the Bank will be performed in one phase as described in the Pilgrim Creek Habitat and Monitoring Proposal (Exhibit B), and the credits will become available in accordance with the schedule specified in Part IV, Sections D through G of this Banking Instrument. In the event the Sponsor determines that modifications must be made in the Bank Development Plan to ensure successful establishment of habitat within the Bank, the Sponsor shall submit a written request for such modifications to the MBRT, through the Chair, for approval. Documentation of implemented modifications shall be made consistent with Part III, Section F infra.
- D. Financial Assurance Requirements: An endowment is included with the transfer of this parcel to CDFG. The endowment will be earmarked for the management of 11 parcels (including the Pilgrim Creek parcel) in perpetuity.
- E. Real Estate Provisions: The Sponsor shall provide a copy of the title transfer.
- F. The Sponsor agrees to submit an as-built report for the Bank 60 days following completion of the establishment of that phase of the bank. The as-built report will describe in detail any deviation from that described in the mitigation plan (Exhibit B), and a plan showing finish grades, and surface and groundwater elevations, as appropriate.

#### IV. OPERATION OF THE BANK

A. Service Area: The bank is established to provide mitigation to compensate for impacts to Waters of the United States including wetlands within northern San Diego County west of I-15 and north of the San Dieguito River, as shown in Exhibit A-1. Decisions authorizing use of credits from the Bank will be made by the appropriate authority on a case-by-case basis in accordance with applicable requirements.

B. The Sponsor will allow, or otherwise provide for, access to the site by all signatory parties, as necessary, for the purpose of inspection and compliance monitoring consistent with the terms and conditions of this Banking Instrument. Inspecting parties shall provide reasonable notice, of not less than 24 hours, to the Sponsor, prior to inspection of Bank.

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C. Projects Eligible to Use the Bank. For projects requiring authorization under Section 404 and Section 10, the Corps, in consultation with the other regulatory and resource agencies, will determine the eligibility of projects to use the bank on a case-by-case basis. Other requirements include:

Projects using credits from the Pilgrim Creek Mitigation Bank for compensation of unavoidable impacts to Waters of the U.S. must be located within the boundaries of the northern half of Coastal San Diego County as shown in Exhibit A-1.

The Pilgrim Creek Mitigation Bank shall be used to compensate for unavoidable impacts, to Waters of the U.S. including wetlands. Credits from the Pilgrim Creek Mitigation Bank should be used to mitigate in-kind impacts to riparian and aquatic habitats.

The Pilgrim Creek Mitigation Bank shall not be considered for mitigation of unavoidable losses to unique wetlands such as, but not limited to, vernal pools, tidal wetlands, saltmarshes, seeps, or alkali marsh. The alkali marsh element on site is not a part of the bank being created as it is being used as mitigation for the State Route 76 project and is included in the 29.0 acres for that project.

The site is available for use as credit for impacts to endangered species, subject to approval from CDFG and FWS. Areas used for mitigation for non-404 related projects shall not be available for use as mitigation for 404 projects.

- D. Assessment Methodology: Credits and debits will be assessed as specified in Exhibit C.
- E. Success Criteria: The criteria are specified in Exhibit C-2.
- F. Schedule of Credit Availability: Upon submittal of all appropriate documentation by SANDAG (the Credit Owner) and subsequent approval from the Corps and CDFG, in consultation with the other members of the MBRT, it is agreed that credits will become available for use upon Corps' written approval of compliance with interim and ultimate success criteria.
- G. Provisions For Uses of the Mitigation Bank Area: The Sponsor shall NOT:
  - Grant additional easements, right of way, or any other property interest in or to the project areas without the written consent of the Corps, in consultation with the MBRT.
  - 2. Use or authorize the areas within the Bank for any purpose which interferes with its conservation purposes other than those specified below.

#### V. MAINTENANCE AND MONITORING OF THE BANK

- A. Maintenance Provisions: the Sponsor agrees to perform all necessary work to maintain the Bank consistent with the maintenance criteria established in the Bank Development Plan until December 31, 2001, or until the ultimate success criteria have been met. The Pilgrim Creek parcel is being transferred to CDFG. After the ultimate success criteria have been met (by written notification of the Corps), CDFG will be responsible for the maintenance on this site in perpetuity. Deviation from the approved Bank Development Plan is subject to review and written approval by MBRT.
- B. Monitoring Provisions: the Sponsor agrees to perform all necessary work to monitor the Bank until December 31, 2001, or until the ultimate criteria are met (Exhibits B, C-1 and C-2).
- C. Reports: The Sponsor shall submit to the Corps and CDFG, for distribution to the other members of the MBRT, a report describing the conditions of Bank and relating those conditions to the success criteria. The Sponsor will provide these reports to the Corps and CDFG until one year after the ultimate criteria have been met. Reports will be submitted by the first day of each calendar year and contain the following:
  - 1. A U.S. Geological Survey map showing location of the Bank
  - 2. A detailed narrative summarizing the condition of the Bank and all regular maintenance activities.
  - 3. Appropriate topographic maps showing location of sampling plots, permanent photo points, location of transects
  - 4. Evaluation Criteria
- D. Accounting Procedure: SANDAG shall submit a statement to the Corps and CDFG each time credits are debited or additional credits are approved. If requested, the Corps will distribute the statement to other members of the MBRT. SANDAG shall submit an annual ledger to the Corps for distribution to all members of the MBRT, showing all transactions at the bank for the previous year. All transactions shall be reported using the format shown in Exhibit G.
- E. Contingency Plans/Remedial Actions: In the event the Bank fails to achieve the success criteria specified in Part IV, Section E of this Banking Instrument, the Sponsor shall develop necessary contingency plans and implement appropriate remedial actions (replanting, minor grading, debris removal) for the Bank in coordination with the MBRT. In the event the Sponsor fails to implement necessary remedial actions within 120 calendar days after notification by the Corps and CDFG of necessary remedial action to address any failure in meeting the success criteria, the MBRT (acting through the Chair) will notify the Sponsor and the appropriate authorizing agency(ies) and recommend appropriate remedial actions (as specified above).

If the authorizing agency(ies) determines that the Bank is operating at a deficit, debiting of credits will immediately cease, and the authorizing agency(ies), in consultation with the MBRT and the Sponsor, will determine what remedial actions are necessary to correct the situation. As determined by the Chair in coordination with the MBRT and the Sponsor, if conditions at the bank site do not improve or continue to deteriorate within a reasonable time frame from the date that the need for remediation was first identified in writing to the Sponsor by the Chair of the MBRT, the Contingency Funds and the long-term management funds shall be transferred to CDFG to undertake corrective measures.

At the request of the Sponsor, the MBRT will perform a final compliance visit to determine whether all success criteria have been satisfied. Upon satisfaction of the success criteria, any remaining credits will be released for SANDAG to sell.

F. Long-Term Management: Upon execution of the Agreement of Transfer of Control and Possession of State Owned Real Property, CDFG will be responsible for management activities on the Pilgrim Creek parcel. The Sponsor will provide an endowment in the amount of \$4,865,292 with the Mitigation Parcel Transfer Memorandum of Agreement. The endowment is specified for the conservation and maintenance of the 11 mitigation parcels (including Pilgrim Creek) that are being transferred to CDFG. Management activities may include, but are not limited to: fencing and signs needed for the protection of the Property; biological monitoring; patrolling; measures to determine the most efficient control of invasive exotic species when feasible; interaction with local and state individuals and organizations working with similar species and land holdings and conducting research; reporting; management of equipment access including vehicles; and removal of trash and such other items as determined.

#### VI. RESPONSIBILITIES OF THE MBRT

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- A. The agencies represented on the MBRT agree to provide appropriate oversight in carrying out provisions of this Banking Instrument.
- B. The agencies represented on the MBRT agree to review and provide comments on all project plans, monitoring reports, credit review reports, contingency plans, and necessary permits for the Bank in a timely manner. Comments on the monitoring reports and credit review reports will be reviewed within 30 calendar days from the date of complete submittal, except for good cause.
- C. The agencies represented on the MBRT agree to review and confirm reports on evaluation of success criteria prior to approving credits within the bank.
- D. The agencies represented on the MBRT shall conduct compliance inspections, as necessary, as determined by the Corps in consultation with the Sponsor, to verify credits available in the mitigation bank, recommend corrective measures (if any), until the terms and conditions of the Bank Development Plan have been determined to be fully satisfied or until all credits have been sold, whichever is later.

#### VII. OTHER PROVISIONS

- A. Force Majeure: The Sponsor will not be responsible for Bank failure that is attributed to natural catastrophes such as flood, drought, disease, regional pest infestation, etc., that the MBRT, acting through the Chair, determines is beyond the control of the Sponsor to prevent or mitigate.
- B. Dispute Resolution: Resolution of disputes about application of this Banking Instrument shall be in accordance with those stated in the Federal Guidance for the Establishment, Use and Operation of Mitigation Banks (60 F.R. 58605 et seq., November 28, 1995).
- C. Validity, Modification, and Termination of the Banking Instrument: This Banking Instrument will become valid on the date of the last signatory's signature. This Banking Instrument may be amended or modified with the written approval of all signatory parties. Any of the MBRT members may terminate their participation upon written notification to all signatory parties. Participation of the MBRT members will terminate 30 days after written notification.

SIGNATORIES:

U.S. ARMY CORPS OF ENGINEERS

DATED: \_/////

ohn P. Carroll

Colonel, Corps of Engineers District Engineer, Los Angeles District CALIFORNIA DEPARTMENT OF TRANSPORTATION

DATED: 6-24-90

ary L. Gallegos strict Director

U.S. ENVIRONMENTAL PROTECTION AGENCY

DATED:

Alexis Strauss Director, Water Management Division

**U.S. FISH AND WILDLIFE SERVICE** 

DATED:

Ken Berg Field Supervisor

### CALIFORNIA DEPARTMENT OF FISH AND GAME

DATED: 9/17/99

C.F. Raysbrook

Regional Manager

SAN DIEGO ASSOCIATION OF OVERNMENTS

DATED: 4/20/99

Kenneth E. Sulzer Executive Director (

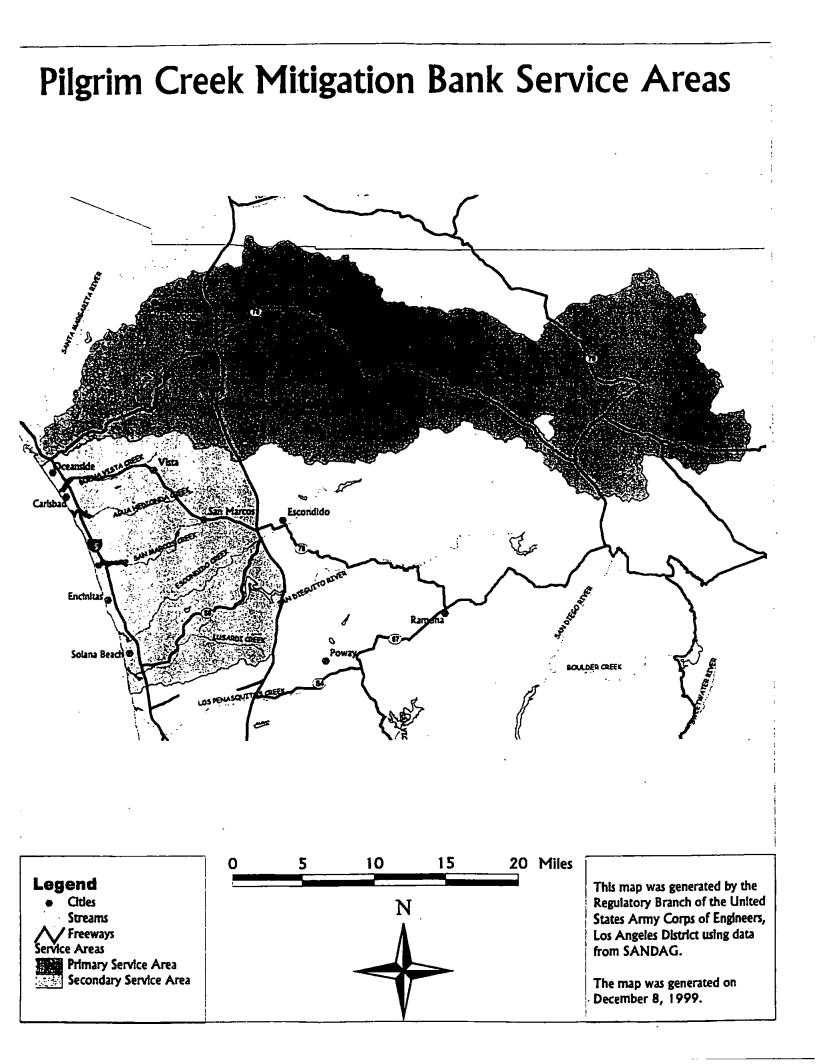
## AMENDMENT

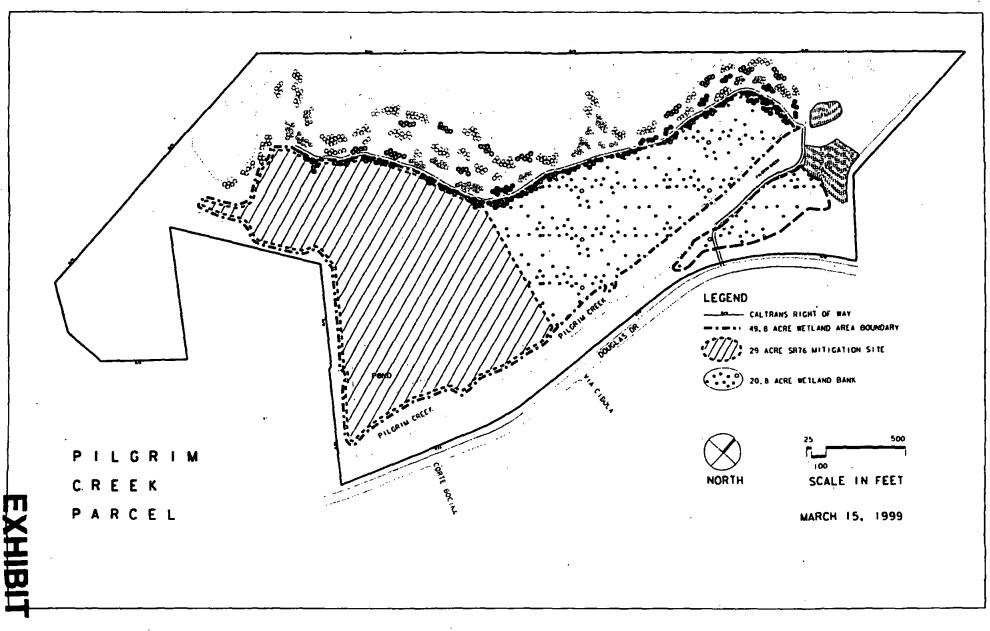
#### IV. OPERATION OF THE BANK

A. Service Area: The Bank is established to provide compensatory mitigation for impacts to Waters of the United States including wetlands within the San Luis Rey Watershed (primary Service Area). Compensatory mitigation for impacts to Waters of the U.S. occurring in watersheds south of San Luis River watershed (northern San Diego County west of I-15 and north of San Dieguito River (secondary Service Area)) may be allowed within the bank once the project has conducted a 1:1 (acreage) mitigation within the watershed of impact. Decisions authorizing use of credits from the Bank will be made by the appropriate authority on a case-by-case basis in accordance with applicable requirements.

#### SIGNATORIES:

**U.S. ARMY CORPS OF ENGINEERS** 100011 Z DATED: John P. Carroll Colonel, Corps of Engineers District Engineer, Los Angeles District CALIFORNIA DEPARTMENT OF TRANSPORTATION -1-7000 DATED: legos istrict Director U.S. ENVIRONMENTAL PROTECTION AGENCY DATED: **Alexis Strauss** Director, Water Management Division U.S. FISH AND WILDLIFE SERVICE DATED: Ken Berg **Field Supervisor** CALIFORNIA DEPARTMENT OF FISH AND GAME DATED: C.F. Krysbrook **Regional Manager** SAN DIEGO ASSOCIATION OF GOVERNMENTS 3/16/00 DATED: Kenneth E. Sulzer Executive Director





A-2

# TransNet Pilgrim Creek Mitigation Bank

## Acreage Summary

Beginning Balance

49.80 (acres)

## Acres Used

Agency/Company	Project	Debit	Balance	Invoice	Payment
Caltrans	76-West Expressway	27.80	22.00	<u> </u>	
Caltrans	76-West (Additional Guajome Impact)	1.20	20.80		
City of Oceanside	North Avenue Extension	1.60	19.20		02/25/1998
Kaufman & Broad	Residential (Olive Drive/Emerald Ave)	0.25	<b>18</b> .95		07/08/1999
City of Oceanside	Rancho Del Oro Road Extension	1.41	17.54		07/26/1999
Castello Inc.	Industrial/Commercial (Mission Rd/Rancheros Dr)	0.69	16.85		09/12/2000
Caltrans	Various Maintenance Projects	1.00	15.85	12/06/2000	
San Marcos	Oceanside - Escondido Bikeway	0.90	14.95		01/04/2001

## Acres Available for Sale

Date Cleared/Used	Acres Cleared	Acres Used	Total Cleared	Total Used	Acres for Sale
01/01/1995	30.60	27.80	30.60	27.80	2.80
01/01/1996	0.00	1.20	30.60	29.00	1.60
02/25/1998	0.00	1.60	30.60	30.60	0.00
08/10/1999	7.68	0.00	38.28	30.60	7.68
07/08/1999	0.00	0.25	38.28	30.85	7.43
07/26/1999	0.00	1.41	38.28	32.26	6.02
09/12/1999	0.00	0.69	38.28	32.95	5.33
12/06/2000	0.00	1.00	38.28	33.95	4.33
01/04/2001	0.00	0.90	38.28	34.85	3.43

## Letters of Interest

Agency/Company	Project	Letter Dated	Acres	Total Acres
SD Co. Water Authority	Emergency Storage	12/13/2000	6.00	6.00

## Clean Water Act Section 401, Application No. R9-2014-0128 SANDAG Inland Rail Project, San Marcos to Vista Segment

## Pilgrim Creek Mitigation Bank Credit Purchases and Withdrawals for the Inland Rail Trail Bike Path

## February 2015

Year	Project Activity/Description of Impacts	Withdrawal	Purchase	Total Balance
2001	City of San Marcos purchases mitigation credits for the entire bike path from Escondido to Oceanside (2001)		0.90 acres	0.90 acres
2007	Construction completed for 6.5 mile segment from Escondido SPRINTER station to intersection of West Mission Road and North Pacific Street in San Marcos (2007)	0.61 acres		0.29 acres
	Freshwater marsh: 0.05 acres of impact, 2:1 mitigation ratio	0.10 acres		
	Southern willow scrub: 0.17 acres of impact, 3:1 mitigation ratio	0.51 acres		
2015	SANDAG proposes to construct 7-mile segment from intersection of West Mission Road and North Pacific Street in San Marcos to the boundary of Vista and Oceanside (San Marcos to Vista Segment)	0.06 acres		0.23 acres
	Stream channel: 0.02 acres of impact, 3:1 mitigation ratio	0.06 acres		

Sources:

Clean Water Act Section 401 Application for the SANDAG Inland Rail Trail Project, San Marcos to Vista Segment (No. R9-2014-0128).

Final Mitigated Negative Declaration for the Oceanside-Escondido Bikeway Project, City of San Marcos, 1999.

City of San Marcos Pilgrim Creek Mitigation Bank Credit Purchase Documentation, 2001.



Development Services-Engineering 1 Civic Center Drive San Marcos, CA 92069-2918 -신 /// //1603/24.1050 FAX: 760.591.4135

January 4, 2001

Mr. Richard G. Chavez San Diego Association of Governments 401 B Street, Suite 800 San Diego, CA 92101-4231

Re: Purchase of Pilgrim Creek Mitigation Bank Credits for the Oceanside - Escondido Bikeway Project

Dear Richard:

As the lead agency representing the Cities of Escondido, Vista, Oceanside, San Marcos and the County of San Diego, this is a follow-up to purchase 0.90 acre of credit from Caltrans' Pilgrim Creek Mitigation Bank for the Oceanside - Escondido Bikeway Project.

As it was defined in your letter to the City dated October 11, 2000, enclosed please find a check for \$108,000 for the purchase of the referenced credit at Pilgrim Creek Mitigation Bank.

Please give me a call if you have questions or need additional information. I can be reached at (760) 744-1050 x3255 or odayani@ci.san-marcos.ca.us. Your prompt attention to this issue would be greatly appreciated.

Sincerely,

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Omar Dayani Project Manager City of San Marcos

OD:rl

c: Alan Schuler, City Engineer Gena Franco, Deputy City Engineer Stephan Vance, SANDAG Richalene Kelsay, Caltrans Christine Carrington, Caltrans

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page A-1 Mark Rozmus January 8, 2001



## San Diego ASSOCIATION OF GOVERNMENTS

401 B Street, Suite 800 San Diego, CA 92101-4231 (619) 595-5300 · Fax (619) 595-5305 www.sandag.org

Omar Dayani Project Manager City of San Marcos 1 Civic Center Drive San Marcos, CA 92069

Dear Mr. Dayani:

This correspondence acknowledges receipt of Check Number 007113 dated January 2, 2001 in the amount of \$108,000. This payment is for the purchase of 0.90 acres of mitigation credits from the Pilgrim Creek Mitigation Bank to satisfy an offsite mitigation requirement for your Oceanside – Escondido Bikeway Project.

The approved Banking Instrument governs the sale of these mitigation credits. I am, by copy of this correspondence, notifying the U.S. Army Corps of Engineers and the California Department of Fish and Game of this transaction, as required under the Accounting Procedure in the Banking Instrument.

Attached is the updated Pilgrim Creek Mitigation Bank Acreage Summary further documenting your mitigation credit purchase and thank you for your participation in this *TransNet* program.

Sincerely,

RICHARD G. CHAVEZ Senior Engineer

RC/jdk

Attachment

 cc: John P. Carroll, U.S. Army Corps of Engineers Mark Tucker, U.S. Army Corps of Engineers
 Fari Tabatabai, U.S. Army Corps of Engineers
 C. F. Raysbrook, California Department of Fish and Game Michelle McCartt, Caltrans District 11
 TransNet Program Files
 Administration & Finance Files

MEMBER AGENCIES: Cities of Carlsbad, Chula Vista, Coronado, Del Mar, El Cajon, Encinitas, Escondido, Imperial Beach, La Mesa, Lemon Grove. National City, Oceanside, Poway, San Diego, San Marcos, Santee, Solana Beach, Vista, and County of San Diego. ADVISORY/LIAISON MEMBERS: California Department of Transportation, Metropolitan Transil Development Board, North San Diego County Transit Development Board, U.S. Department of Defense, S.D. Unified Port District, S.D. County Water Authority, and Tijuana/Baja California/Mexico. San Diego Association of Governments Inland Rail Trail Project, San Marco to Vista Segment Certification No. R9-2014-0128

## ATTACHMENT 5 CEQA MITIGATION MONITORING AND REPORTING PROGRAM

Design Feature or Mitigation Measure	Timing	Responsible Party	Completed	Initials	Notes (optional)
<b>BIO-8</b> : SANDAG shall use the mitigation ratios for impacts to sensitive biological habitats established in the Draft North County MSCP. The 2009 Draft North County MSCP establishes a mitigation ratio of 1:1 for all riparian forest (e.g. south coast live oak riparian forest) and freshwater marsh habitats in the Buena Creek area.	Prior to construction	SANDAG			
<b>BIO-9</b> : SANDAG and the construction contractor shall mark the Buena Creek and all associated riparian and wetland vegetation as ESA and it shall be either staked or fenced with orange snow fencing to ensure the construction areas will not encroach further than the work limits designated in the environmental permits. During the construction period, the project biologist shall inspect the construction limits monthly, or less as warranted, in proximity to Buena Creek to ensure sensitive locations remain undisturbed.	Prior to construction (prepare plans) / During construction (implement)	SANDAG			
<b>BIO-10</b> : At construction completion, SANDAG shall ensure that the portion of Buena Creek within the project impact area will be revegetated with native riparian trees and understory. Species selected for the revegetation shall be selected from reference sites located along Buena Creek.	During construction / After construction	SANDAG			
<b>BIO-11</b> : The construction contractor shall avoid downing of riparian vegetation during the yellow warbler breeding season (April 1st-September 1st). Should work in proximity to Buena Creek occur within the nesting season, the project biologist shall conduct preconstruction nesting surveys within 100 feet of project construction limits for yellow warbler within 2 weeks before construction clearing and grubbing activities in proximity to Buena Creek begin.	During construction	SANDAG			
<b>BIO-12</b> : To protect nocturnal riparian species during construction, no night work (defined as the period between one hour prior to dusk and one hour after dawn) shall be permitted within 100 feet of the Buena Creek riparian corridor.	During construction	SANDAG			

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Design Feature or Mitigation Measure	Timing	Responsible Party	Completed	Initials	Notes (optional)
Cultural Resources					
<b>CUL-1</b> : Prior to the start of construction, a qualified archaeologist will be retained with an on call contract and the resident engineer will ensure that emergency contact information is retained at the job site throughout construction. If cultural materials are discovered during construction, all earth-moving activity within and around the immediate discovery area will be diverted until a qualified archaeologist can assess the nature and significance of the find and determine if additional cultural or Native American consultation is necessary.	Prior to construction / During construction	SANDAG			
Hazards and Hazardous Materials					
<b>HAZ-1</b> : A brush management plan shall be incorporated during project construction. Construction within areas of dense foliage during dry conditions should be avoided. In cases where avoidance is not feasible, necessary brush fire prevention and management practices shall be incorporated. Specifics of the brush management program will be determined as site plans for the project are finalized.	Prior to construction (prepare plans) / During construction (implement)	SANDAG			
Hydrology and Water Quality		·, ·,		<u>a</u>	·
<ul> <li>WQ-1: Due to regulation of these water bodies by the U.S. Army Corps of Engineers and California Department of Fish and Wildlife, a nationwide permit pursuant to Section 404 of the Clean Water Act and Streambed Alteration Agreement pursuant to Section 1602 of the Fish and Game Code would be obtained. In addition, SANDAG would obtain water quality certification pursuant to Section 401 of the Clean Water Act from the San Diego Regional Water Quality Control Board.</li> <li>Mitigation for any impacts to jurisdictional waters or wetlands not covered by the mitigation credits purchased by City of San Marcos in 2001 (as determined through consultation among SANDAG, USACE and CDFW) shall be provided either through the purchase</li> </ul>	Prior 10 construction	SANDAG			

Design Feature or Mitigation Measure	Timing	Responsible Party	Completed	Initials	Notes (optional)
of credits at an existing authorized mitigation bank or in lieu fee program, or through project-specific mitigation. As explained in BIO-11, SANDAG shall perform on-site restoration for the less than 0.01 acre of permanent impact to freshwater marsh habitat anticipated due to the bridge proposed over Buena Creek, or otherwise perform mitigation as required by USACE and CDFW permit conditions. A minimum on-site mitigation/restoration ratio of 1:1 shall be provided for temporary impacts, unless USACE and CDFW determine otherwise higher ratio.					
A mitigation and monitoring plan completed per the requirements of USACE and CDFW shall be prepared for all impacts to jurisdictional waters. This plan shall include details regarding site appropriateness, preparation (e.g., grading), recontouring, planting specifications (including seed mixes and plant palettes), and irrigation design (if determined necessary), as well as maintenance and monitoring procedures (including monitoring period and reporting). Impacts to other sensitive vegetation communities that may occur as the result of implementing this measure include direct loss and indirect effects related to changes in hydrology and species composition. The plan shall also identify locally appropriate plant species for the mitigation/restoration plan, and outline yearly success criteria and remedial measures should the mitigation effort fall short of the success criteria. Success criteria shall be sufficient to create self-sustaining habitat providing the functions and values required to offset those lost to the impacts and meet the requirements of all applicable agency and adopted plans, ordinances, and policies. Remedial measures typically include, but are not limited to, replanting, reseeding, grading adjustments, supplemental irrigation, access control, increased weed control, and extended maintenance and monitoring periods.					
<b>WQ-2</b> : Appropriate erosion control measures would be installed such as hay bales, sand bags, and silt curtains.	During construction	SANDAG		·	

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Design Feature or Mitigation Measure	Timing	Responsible Party	Completed	Initials	Notes (optional)
<b>WQ-3</b> : Buffer zones would be established at the down gradient boundaries of disturbed areas to prevent wash-off into channels. Buffer zones may be vegetated (grass) or hay baled. Buffer zones serve to reduce overland flow velocities and trap eroded sediment that would otherwise migrate toward drainage channels.	During construction	SANDAG			
<b>WQ-4</b> : If necessary, siltation basins would be constructed in drainage channels to capture sediment.	Prior to construction (prepare plans) / During construction (implement)	SANDAG			
<b>WQ-5</b> : Storm water management plans, as required by state and local regulation for construction sites shall be prepared.	Prior to construction (prepare plans) / During construction (implement)	SANDAG			
<b>WQ-6</b> : Right-of-way bridge piers and culverts constructed within channels would be designed to minimize disruption of flow regimes, channel scour and downstream deposition of sediment.	Prior to construction (prepare plans) / During construction (implement)	SANDAG			
Noise					-
<ul> <li>NOI-1: All construction shall occur during times allowed by the noise ordinance of each local jurisdiction:</li> <li><i>City of Vista:</i> Monday through Saturday, 7 a.m. to 7 p.m.</li> <li><i>City of San Marcos:</i> Monday through Friday, 7:00 a.m. to 6:00 p.m.; Saturday, 8:00 a.m. 5:00 p.m.</li> <li><i>City of Oceanside:</i> Monday through Friday, 7:00 a.m. to 6:00 p.m.</li> <li><i>County of San Diego:</i> Monday through Friday, 7 a.m. to 7 p.m. If weekend construction is required for the portion in unincorporated County of San Diego, SANDAG would be required to obtain prior approval from the County Department of Public Works.</li> </ul>	During construction	SANDAG			

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