



Item Number: 1

**City Council / Board of Directors**

**Public Hearing(s)**

**Meeting of: February 20, 2024**

**Submitted By:**

Doug Mathews, Director of Public Works and Water  
Fredy Bonilla, City Engineer

**Subject:**

Adopt a Mitigated Negative Declaration for the City-Wide Environmental Maintenance Permits for Ephemeral Washes, Project No. BM19-064

**Recommendation:**

That the Honorable City Council:

1. Open and conduct a public hearing to receive testimony regarding the Mitigated Negative Declaration for the City-Wide Environmental Maintenance Permits for Ephemeral Washes, Project No. BM19-064;
2. Close the public hearing; and
3. Adopt Resolution No. 24-008, adopting a Mitigated Negative Declaration and a Mitigation Monitoring and Reporting Program under the California Environmental Quality Act for the City-Wide Environmental Maintenance Permits for Ephemeral Washes, Project No. BM19-064, and approving the project.

**Fiscal Impact:**

This action will result in an expenditure of \$3,000 as the Notice of Determination must be submitted to the San Bernardino County Clerk of the Board for the California Department of Fish and Wildlife review. There are sufficient funds to cover this anticipated expense in Storm Drain - Contract Services (2024500-52300).

Additionally, if Council moves forward with staff's recommendation, there will be initial application and annual permit costs through various agencies for the City-Wide Environmental Maintenance Permits for Ephemeral Washes Project (the "Project"), that will be assessed based on location(s). Additionally, the City will need to retain an on-call, licensed professional biologist for pre-construction surveys of existing vegetation, nesting birds, and other protected species before maintenance activities can commence. The services of a qualified archaeologist or certified paleontologist may be required as well. These expenses have been anticipated and will be covered under Storm Drain – Contract

Services (2024500-52300) and will be incorporated as part of the annual budget process within the Storm Drain Fund (Fund 202) each year.

**Strategic Plan Goal:**

Goal E – Invest in Infrastructure: Ensuring our community’s wellbeing and sustaining a healthy and livable community by investing the time and resources necessary to maintain the City’s infrastructure. The Project will allow staff to provide routine maintenance of City-owned flood control facilities and detention basins (see map in Attachment A) which protect vital public infrastructure, including roadways, waterlines, sewer mains, high-pressure fuel transmission pipes, storm drain pipes and structures, private utilities, and public and private property; and ensure unimpeded stormwater conveyance.

**Background:**

The City has numerous washes, culverts, and detention basins that require frequent maintenance and inspection. The City’s Public Works Department is responsible for maintaining and operating the City’s flood control system in an efficient, economic, and environmentally responsible manner for protection of property and for public safety. Routine maintenance of the City’s flood control system is required to ensure the long-term function, flow capacity, and infrastructure sustainability. Oftentimes these systems require routine maintenance following rain events to restore capacity, repair already authorized improvements, and remove undesired vegetation establishment, accumulation of debris and litter, and accumulated sediments that reduce flow capacity and increase the potential for flooding that could damage property and threaten public safety.

The environmental agencies: Lahontan Regional Water Quality Control Board (RWQCB), United States Army Corps of Engineers (USACOE), and the California Department of Fish and Wildlife (CDFW), all require permits to enter any wash tributary to the Mojave River. In July 2019, the City entered into an agreement with Michael Baker International (MBI) for the City-Wide Environmental Maintenance Permits, Project No. BM19-064, which focuses on City-Wide Environmental Maintenance Permits for annual routine maintenance from these agencies.

MBI’s responsibilities include conducting studies to understand wildlife habitats, establishing maintenance baselines, proposing solutions for clearing washes of debris and vegetation, environmental report preparation and analysis, and obtaining permits. Additionally, the consultant will also produce a field reference manual to assist the crews with specific maintenance activities that are permitted for each location.

The primary objective of the Project is to establish a comprehensive routine maintenance program for 127 City-owned flood control facilities and detention basins managed by the City’s Public Works Department. This program will include vegetation removal, sediment and debris removal, bank stabilization, and in-channel erosion repair at various City-owned properties, public right-of-way areas, and dedicated easements. The goal is to protect vital public infrastructure, including roadways, waterlines, sewer mains, high-

pressure fuel transmission pipes, storm drain pipes and structures, private utilities, and public and private property; and to ensure unimpeded stormwater conveyance.

**Discussion:**

The draft Initial Study/Mitigated Negative Declaration (IS/MND) is a crucial component required by the California Environmental Quality Act (CEQA) for this project as the City is the designated Lead Agency performing the work. This study signifies that the City, through MBI, conducted an analysis to assess the potential environmental impacts of the proposed project and to identify mitigation measures for any that may exist. The draft IS/MND was made available for a 30-day public review period beginning on December 12, 2023, and ending on January 10, 2024. It was posted on the City's website and made available at the City's Engineering counter. In addition, the IS/MND was also posted with the California State Clearinghouse and the Notice of Intent to Adopt (NOI) was filed with the County of San Bernardino Clerk of the Board of Supervisors. The Notice of Public Hearing (NOPH) was posted on the City's website, in the Victorville Daily Press newspaper and at City Hall, advising the date and time the public may provide comment on the proposed adoption of Resolution No. 24-008 (Attachment B) approving and adopting the Final IS/MND (Exhibit A to Attachment B).

The City received three comment letters from the following agencies in response to the draft IS/MND:

- California Department of Fish and Wildlife, Inland Deserts Region
- California Regional Water Quality Control Board, Lahontan Region
- Southern Region, Division of Safety and Dams

Although CEQA Guidelines do not require a Lead Agency to prepare written responses to comments received (CEQA Guidelines Section 15088), the City has elected to prepare written responses with the intent of conducting a comprehensive and meaningful evaluation of the proposed project. Part II of the final IS/MND (Exhibit A to Attachment B) provides the responses to comments received from the public agencies listed above. The responses to comments from each agency were broken down into various components and were specifically addressed in a response letter, also included in Exhibit A to Attachment B, Part II. Upon review of the comments, updates to the IS/MND were performed to address the concerns received during the comment period. Part III of the IS/MND outlines the changes to the initial draft IS/MND.

Subsequently, the final IS/MND has been prepared, indicating that potential environmental impacts can be mitigated to a level where they are no longer considered significant. Extensive research and analysis were conducted to evaluate how the project might affect the environment, identifying various potential impacts, and how the City can safely and responsibly mitigate those impacts.

Noted areas of environmental concern include:

- Biological Resources

- Cultural Resources
- Geology and Soils
- Hazards and Hazardous Materials
- Tribal Cultural Resources

To address these concerns, a series of mitigation measures and strategies were carefully developed and incorporated into the project plan. These measures are specifically designed to reduce or eliminate any adverse environmental effects to the greatest extent possible, ensuring the project functions in alignment with the environment and complies with the regulations set forth by the CEQA.

Below is the outline of Part IV of the IS/MND that addresses the City's Mitigation Monitoring & Reporting Program for this project.

- Biological Resources
  - BIO-1: Conduct rare plant surveys before maintenance, documenting findings and implementing buffers if special-status plants are present.
  - BIO-2: Perform nesting bird surveys during avian nesting season, avoiding active nests and consulting for mitigation if necessary.
  - BIO-3: Conduct two pre-construction burrowing owl clearance surveys, implementing mitigation if occupied burrows are found.
  - BIO-4: Search for desert tortoise and kit fox in suitable habitat during nesting bird surveys, consulting authorities for necessary measures if species are found.
- Cultural Resources
  - CUL-1: If cultural resources are discovered, during project activities, cease work within a 60-foot buffer, and hire a qualified archaeologist to assess the find. Contact potentially affected tribes for input in significance and treatment, developing a Monitoring and Treatment Plan if needed.
- Geology and Soils
  - GEO-1: If subsurface paleontological resources are found, cease construction, have a certified paleontologist evaluate the find, and implement a Paleontological Resources Mitigation Program if warranted.
- Hazards and Hazardous Materials
  - HAZ-1: If hazardous materials are discovered during construction, cease work, notify the City of Victorville, secure the area, and appoint a Hazardous Waste/Materials Coordinator for further action.
- Tribal Cultural Resources
  - TCR-1: Notify tribes of cultural discoveries during ground-disturbing activities. Establish Treatment Plan for significant finds, involving tribal input throughout. Share project documents with the City of Victorville for distribution to tribes, maintaining ongoing consultation.

The areas forementioned above will be monitored through the City's mitigation monitoring and reporting checklist. This checklist outlines the mitigation category, the mitigation measure to take place, monitoring and reporting process, monitoring milestones, and the party responsible for monitoring. This checklist will then have a verification of compliance; please see Part IV of the IS/MND (Exhibit A to Attachment B).

The Mitigated Negative Declaration reflects the City's commitment to responsible and environmentally conscious project planning. While there may be environmental considerations, the City has proactively taken steps to minimize and manage them, ultimately ensuring that the project's impacts on the environment are considered acceptable and in accordance with applicable guidelines.

The IS/MND serves as an essential tool for involving the public and relevant authorities in the environmental review of the project. It allows the public to provide feedback and assess the steps the City is taking to reduce environmental effects, ensuring full compliance with CEQA guidelines. The publishing of the Notice of Availability/Intent to Adopt an IS/MND and holding a public hearing to hear arguments for and against the adoption of the Mitigated Negative Declaration for the City-Wide Environmental Maintenance Permits for Ephemeral Washes, Project No. BM19-064, demonstrates the City's commitment to transparency through an earnest effort to involve the public in the environmental review process.

After the adoption of the Mitigated Declaration, staff will move forward with applying for permits through the appropriate agency, as different areas may fall within one or more agency jurisdiction. The estimated permit process through each agency will be approximately 3-6 months, depending on the agency. Once the permits are in place, staff will begin a maintenance schedule intended to restore the City's flood control system to its baseline design capacity as well as to maintain its future effectiveness, while also addressing blight and other unfavorable conditions within each wash location.

Staff is recommending that the City Council adopt Resolution No. 24-008, adopting a Mitigated Negative Declaration for the City-Wide Environmental Maintenance Permits for Ephemeral Washes, Project No. BM 19-064.

Staff is available for any questions Council may have.

**Attachments:**

- A. Map
- B. Resolution No. 24-008 (Including Final Initial Study and Mitigated Negative Declaration attached as Exhibit A thereto)