

Terms and Definitions:

1. **Property Owner/Developer** – Owner or developer of Brown Strauss Industrial Project.
2. **Environmental Equivalent/Timing** – Any mitigation measure and timing thereof, subject to the approval of the City of Banning (City) which will have the same or superior result and will have the same or superior effect on the environment. The Planning Department, in conjunction with any appropriate agencies or City departments, shall determine the adequacy of any proposed "environmental equivalent/timing" and, if determined necessary, may refer said determination to the Planning Commission or City Council. Any costs associated with information required in order to make a determination of environmental equivalency/timing shall be done by the property owner/developer. Staff time for reviews will be charged on a time and materials basis at the rate in the City's adopted Fee Schedule.
3. **Implementation Timing** – This is the point where a mitigation measure must be monitored for compliance. In the case where multiple action items are indicated, it is the first point where compliance associated with the mitigation measure must be monitored. Once the initial action item has been complied with, no additional monitoring pursuant to the Mitigation Monitoring and Reporting Plan will occur, as routine City practices and procedures will ensure that the intent of the measure has been complied with. For example, if the timing is "to be shown on approved building plans" subsequent to issuance of the building permit consistent with the approved plans will be final building and zoning inspections pursuant to the building permit to ensure compliance.
4. **Responsibility Monitoring Party** – Shall mean that compliance with the subject mitigation measure(s) shall be reviewed and determined adequate by all departments listed for each mitigation measure. Outside public agency review is limited to those public agencies specified in the Mitigation Monitoring and Reporting Plan which have permit authority in conjunction with the mitigation measure.
5. **Ongoing Mitigation Measures** – The mitigation measures that are designated to occur on an ongoing basis as part of this Mitigation Monitoring and Reporting Plan will be monitored in the form of an annual letter from the property owner/developer in January of each year demonstrating how compliance with the subject measure(s) has been achieved. When compliance with a measure has been demonstrated for a period of one year, monitoring of the measure will be deemed to be satisfied and no further monitoring will occur. For measures that are to be monitored "Ongoing During Construction", the annual letter will review those measures only while construction is occurring; monitoring will be discontinued after construction is complete. A final annual letter will be provided at the close of construction.
6. **Building Permit** – For purposes of this Mitigation Monitoring and Reporting Plan, a building permit shall be defined as any permit issued for construction of a new building or structural expansion or modification of any existing building but shall not include any permits required for interior tenant improvements or minor additions to an existing structure or building.

Mitigation Monitoring and Reporting Plan

Impact Category	Mitigation Measure	Implementation Timing	Responsible Monitoring Party	Monitoring/Reporting Method
<p>Biological Resources</p>	<p>MM BIO-1: In order to avoid violation of the MBTA and the California Fish and Game Code, site preparation activities (ground disturbance, construction activities, staging equipment, and/or removal of trees and vegetation) for the Project shall be avoided, to the greatest extent possible, during the nesting season of potentially occurring native and migratory bird species.</p> <p>If site-preparation activities are proposed during the nesting/breeding season, the Project proponent shall retain a qualified biologist to conduct a pre-activity field survey prior to the issuance of grading permits for the Project to determine if active nests of species protected by the MBTA or the California Fish and Game Code are present in the construction zone.</p> <p>If active nests are not located within the Project Site and an appropriate buffer of 500 feet of an active listed species or raptor nest, 300 feet of other sensitive or protected bird nests (non-listed), or 100 feet of sensitive or protected songbird nests, construction may be conducted during the nesting/breeding season. However, if active nests are located during the pre-activity field survey, the Biologist shall immediately establish a conservative avoidance buffer surrounding the nest based on their best professional judgement and experience. The Biologist shall monitor the nest at the onset of project activities, and at the onset of any changes in such project activities (e.g., increase in number or type of equipment, change in equipment usage, etc.) to determine the efficacy of the</p>	<p>Prior to issuance of grading permits</p>	<p>City of Banning Planning Division</p>	<p>Grading Plan Check</p>



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	<p>buffer. If the Biologist determines that such project activities may be causing an adverse reaction, the Biologist shall adjust the buffer accordingly or implement alternative avoidance and minimization measures, such as redirecting or rescheduling construction or erecting sound barriers. All work within these buffers will be halted until the nesting effort is finished (i.e., the juveniles are surviving independent from the nest). The on-site qualified biologist will review and verify compliance with these nesting avoidance buffers and will verify the nesting effort has finished. Work can resume within these avoidance areas when no other active nests are found. Upon completion of the survey and nesting bird monitoring, a report shall be prepared and submitted to the City of Banning for mitigation monitoring compliance record keeping.</p>			
Biological Resources	<p>MM BIO-2: Project-specific habitat assessments and focused surveys for burrowing owls will be conducted for implementing development or infrastructure projects within burrowing owl survey areas. A pre-construction survey for resident burrowing owls will also be conducted by a qualified biologist within 30 days prior to commencement of grading and construction activities within those portions of implementing project sites containing suitable burrowing owl habitat and for those properties within an implementing project site where the biologist could not gain access. If ground disturbing activities in these areas are delayed or suspended for more than 30 days after the pre-construction survey, the area shall be resurveyed for owls. The pre-construction survey</p>	<p>Prior to commencement of grading and/or construction</p>	<p>City of Banning Planning Division</p>	<p>Grading and Building Plan Check</p>



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	<p>and any relocation activity will be conducted in accordance with the current Burrowing Owl Instruction for the Western Riverside MSHCP.</p> <p>If active nests are identified on an implementing project site during the pre-construction survey, the nests shall be avoided, or the owls actively or passively relocated. To adequately avoid active nests, no grading or heavy equipment activity shall take place within at least 250 feet of an active nest during the breeding season (February 1 through August 31), and 160 feet during the non-breeding season.</p> <p>If burrowing owls occupy any implementing project site and cannot be avoided, active or passive relocation shall be used to exclude owls from their burrows, as agreed to by the City of Perris Planning Division and the CDFG. Relocation shall be conducted outside the breeding season or once the young are able to leave the nest and fly. Passive relocation is the exclusion of owls from their burrows (outside the breeding season or once the young are able to leave the nest and fly) by installing 1-way doors in burrow entrances. These 1-way doors allow the owl to exit the burrow, but not enter it. These doors shall be left in place 48 hours to ensure owls have left the burrow. Artificial burrows shall be provided nearby. The implementing project area shall be monitored daily for 1 week to confirm owl use of burrows before excavating burrows in the impact area. Burrows shall be excavated using hand tools and refilled to prevent reoccupation. Sections of flexible pipe shall be inserted into the tunnels during excavation to maintain an escape route for any animals inside the burrow. The CDFG shall be consulted</p>			



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	<p>prior to any active relocation to determine acceptable receiving sites available where this species has a greater chance of successful long-term relocation. If avoidance is infeasible, then a DBESP will be required, including associated relocation of burrowing owls. If conservation is not required, then owl relocation will still be required following accepted protocols. Take of active nests will be avoided, so it is strongly recommended that any relocation occur outside of the nesting season.</p>			
<p>Cultural Resources</p>	<p>MM CR-1: In the event of an unanticipated discovery, all work must be suspended within 50 feet of the find until a qualified archaeologist evaluates it.</p> <p>If archaeological resources are encountered during ground-disturbing activities, all work shall cease in the area of the find or diverted away from discovery to a distance of 50 feet. The City shall be immediately informed of the discovery and a qualified archaeologist shall be retained by the applicant to determine if the find is classified as a significant historical resource pursuant to CEQA Guidelines Section 15064.5(a) and/or unique archaeological resources (Public Resources Code Section 21083.2[g]). A qualified archaeologist is an archaeologist who meets or exceeds the Secretary of Interior's Professional Qualification Standards for archaeology. Personnel of the proposed project shall not collect or move any archaeological materials or associated materials. The qualified archaeologist shall be empowered to halt or divert ground disturbing activities.</p>	<p>Prior to issuance of grading permits</p>	<p>City of Banning Planning Division</p>	<p>Grading Plan Check</p>



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	<p>If the resource is classified as a significant cultural resource, the qualified archaeologist shall make recommendations on the treatment and disposition of the find. The final recommendations on the treatment and disposition of the find shall be developed in accordance with all applicable provisions of Public Resources Code Section 21083.2 and CEQA Guidelines Sections 15064.5 and 15126.4. The City shall review and approve the recommendations prior to implementation. The City shall be provided with a final report on the treatment and disposition of the finding prior to issuance of a Certificate of Occupancy.</p>			
Cultural Resources	<p>MM CR-2: In the event that human remains (or remains that may be human) are discovered at the Project Site or within the off-site Project improvement areas during ground-disturbing activities, the construction contractors, Project archaeologist, and/or designated Luiseño tribal representative shall immediately stop all activities within 100 feet of the find. The Project proponent shall then inform the Riverside County Coroner and the City of Banning Planning Division immediately, and the coroner shall be permitted to examine the remains as required by California Health and Safety Code Section 7050.5(b).</p> <p>If the coroner determines that the remains are of Native American origin, the coroner will notify the Native American Heritage Commission (NAHC), which will identify the “Most Likely Descendent” (MLD). Despite the affiliation with any Luiseño tribal representative(s) at the Project Site, the NAHC’s identification of the MLD will</p>	During construction	City of Banning Planning Division	Building Site Inspection



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	<p>stand. The MLD shall be granted access to inspect the Project Site of the discovery of Native American human remains and may recommend to the Project proponent means for treatment or disposition, with appropriate dignity of the human remains and any associated grave goods. The MLD shall complete his or her inspection and make recommendations or preferences for treatment within 48 hours of being granted access to the Project Site. The disposition of the remains will be determined in consultation between the Project proponent and the MLD. In the event that there is disagreement regarding the disposition of the remains, State law will apply and median with the NAHC will make the applicable determination (see Public Resources Code Section 5097.98(e) and 5097.94(k)).</p> <p>The specific locations of Native American burials and reburials will be proprietary and not disclosed to the general public. The locations will be documented by the consulting archaeologist in conjunction with the various stakeholders and a report of findings will be filed with the Eastern Information Center (EIC).</p>			
Geology and Soils	MM GEO-1: Prior to the issuance of grading permits, the Project proponent/developer shall submit to and receive approval from the City, a Paleontological Resource Impact Mitigation Monitoring Program (PRIMMP). The PRIMMP shall include the provision for a qualified professional paleontologist (or his or her trained paleontological representative) to be on-site for any Project-related excavations that exceed three (3) feet below the pre-grade surface. Selection of the paleontologist shall be subject to	Prior to issuance of grading permits	City of Banning Planning Division	Grading Plan Check



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	<p>approval of the City of Banning Planning Manager and no grading activities shall occur at the Project Site or within the off-site Project improvement areas until the paleontologist has been approved by the City.</p> <p>In the event of an unanticipated discovery, all work must be suspended within 50 feet of the find until a qualified paleontologist can evaluate the find and make recommendations. The approved paleontologist shall be prepared to quickly salvage fossils as they are unearthed to avoid construction delays. The paleontologist shall also remove samples of sediments which are likely to contain the remains of small fossil invertebrates and vertebrates. The paleontologist shall have the power to temporarily halt or divert grading equipment to allow for removal of abundant or large specimens.</p> <p>Collected samples of sediments shall be washed to recover small invertebrate and vertebrate fossils. Recovered specimens shall be prepared so that they can be identified and permanently preserved. Specimens shall be identified and curated and placed into an accredited repository (such as the Western Science Center or the Riverside Metropolitan Museum) with permanent curation and retrievable storage.</p> <p>A report of findings, including an itemized inventory of recovered specimens, shall be prepared upon completion of the steps outlined above. The report shall include a discussion of the significance of all recovered specimens. The report and inventory, when submitted to the City of Banning Planning Division, will signify completion of the program to mitigate impacts to paleontological resources.</p>			



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Geology and Soils	MM GEO-2: Prior to the start of construction, a paleontological resources Worker Environmental Awareness Program (WEAP) training program shall be presented to all earthmoving personnel to inform them of the possibility for buried resources and the procedures to follow in the event of fossil discoveries.	Prior to building permit issuance	City of Banning Planning Division	Building Plan Check
Tribal Cultural Resources	MM TCR-1: Prior to the issuance of a grading permit, at least 30 days prior to the issuance, the applicant shall contact the consulting Native American Tribe(s) that have requested monitoring through consultation with the City during the AB 52 and/or the SB 18 process (“Monitoring Tribes”). The applicant shall coordinate with the Tribe(s) to develop individual Tribal Monitoring Agreement(s). A copy of the signed agreement(s) shall be provided to the City of Banning Community Development Department, Planning Division prior to the issuance of a grading permit. The Agreement shall address the treatment of any known tribal cultural resources (TCRs) including the project’s approved mitigation measures and conditions of approval; the designation, responsibilities, and participation of professional Tribal Monitors during grading, excavation and ground disturbing activities; project grading and development scheduling; terms of compensation for the monitors; and treatment and final disposition of any cultural resources, sacred sites, and human remains/burial goods discovered on the site per the Tribe(s) customs and traditions and	Prior to grading permit issuance	City of Banning Planning Division	Building Plan Check



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	the City's mitigation measures/conditions of approval. The Tribal Monitor will have the authority to stop and redirect grading in the immediate area of a find in order to evaluate the find and determine the appropriate next steps, in consultation with the Project archaeologist.			
Tribal Cultural Resources	MM TCR-2: It is understood by all parties that unless otherwise required by law, the site of any reburial of Native American human remains or associated grave goods shall not be disclosed and shall not be governed by public disclosure requirements of the California Public Records Act. The Coroner, pursuant to the specific exemption set forth in California Government Code 6254 (r), parties, and Lead Agencies, will be asked to withhold public disclosure information related to such reburial, pursuant to the specific exemption set forth in California Government Code 6254 (r).	During construction	City of Banning Planning Division	Building Site Inspection