

**MEMORANDUM OF AGREEMENT
BETWEEN THE CALIFORNIA DEPARTMENT OF TRANSPORTATION AND
THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER
REGARDING THE REPLACEMENT OF THE MOUNT VERNON AVENUE BRIDGE,
SAN BERNARDINO COUNTY, CALIFORNIA**

WHEREAS, the Federal Highway Administration (FHWA) has assigned and the California Department of Transportation (Caltrans) has assumed FHWA responsibility for the environmental review, consultation, and coordination under the provisions of the *Memorandum of Understanding (MOU) between the Federal Highway Administration and the California Department of Transportation Concerning the State of California's Participation in the Surface Transportation Project Delivery Pilot Program*, which became effective on July 1, 2007 and applies to this project; and

WHEREAS, Caltrans has determined that the replacement of the Mount Vernon Avenue Bridge (#54C-0066) located on Mount Vernon Avenue between 2nd and 5th Street (Undertaking), in the City of San Bernardino, San Bernardino County, California, will have an adverse effect on the Mount Vernon Avenue Bridge, which Caltrans has determined, in conclusion with the State Historic Preservation Officer (SHPO), to be eligible for inclusion in the National Register of Historic Places (National Register) and therefore, a historic property as defined at 36 CFR§800.16 (l)(1);

WHEREAS, Caltrans has consulted with the SHPO pursuant to stipulation X.C and X.I of the January 2004 *Programmatic Agreement among the Federal Highway Administration, The Advisory Council on Historic Preservation, The California State Historic Preservation Officer, and the California Department of Transportation regarding compliance with Section 106 of the National Historic Preservation Act, as it Pertains to the Administration of the Federal-Aid Highway Program in California* (PA), and where the PA so directs, in accordance with 36 CFR Part 800, the regulation that implements Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. Section 470f), as amended, regarding the Undertaking's effect on the historic property, and has notified the Advisory Council on Historic Preservation (ACHP) of the adverse effect finding pursuant to 36 CFR§800.16(a)(1); and

WHEREAS, Caltrans has thoroughly considered alternatives to the undertaking, has determined that the statutory and regulatory constraints on the design of the Undertaking preclude the possibility of avoiding adverse effects to the Mount Vernon Avenue Bridge during the Undertaking's implementation, and has further determined that it will resolve the adverse effect of the Undertaking on the subject historic property through the execution and implementation of this MOA; and

WHEREAS, Caltrans District 8 (District 8) and the City of San Bernardino (City) have participated in the consultation and has been invited to concur in this MOA; and

NOW, THEREFORE, Caltrans and the SHPO agree that, upon Caltrans' decision to proceed

with the Undertaking, Caltrans shall ensure that the Undertaking is implemented in accordance with the following stipulations in order to take into account the effects of the Undertaking on historic properties, and that these stipulations shall govern the Undertaking and all of its parts until this MOA expires or is terminated.

STIPULATIONS

Caltrans shall ensure the following measures are implemented:

I. AREA OF POTENTIAL EFFECTS

- A. The Area of Potential Effects (APE) for the Undertaking is depicted in Attachment A of the Finding of Effect (FOE). The APE was established to include all cultural resources that would be directly or indirectly affected by the Undertaking. The APE included the maximum existing and proposed right-of-way, project construction easements (temporary and permanent), staging areas, and temporary or permanent changes in access (ingress or egress).
- B. If modifications to the Undertaking subsequent to the execution of this MOA necessitate the revision of the APE, Caltrans will consult with District 8 and the SHPO to facilitate mutual agreement on the subject revisions. If Caltrans, District 8 and the SHPO cannot reach such agreement, then the parties to this MOA shall resolve the dispute in accordance with Stipulation IV.D below. If Caltrans, District 8 and the SHPO reach mutual agreement on the proposed revisions, Caltrans will submit a final map of the revisions, consistent with the requirements of stipulation VII1.A and attachment XVI.A of the PA, no later than 30 days following such agreement.

II. TREATMENT OF HISTORIC PROPERTIES

- A. Prior to the start of any work that could adversely affect any characteristics that qualify the Mt. Vernon Avenue Bridge as an historic property, Caltrans shall ensure that the recordation measures specified in section A of this stipulation are completed.
 - 1. The City shall take large-format (4" by 5" or larger negative size) photographs showing the Mt. Vernon Avenue Bridge in context as well as details of its historic engineering features. Photographs shall be processed for archival permanence in accordance with the Historic American Engineering Record (HAER) photographic specifications. Views of the Mt. Vernon Avenue Bridge shall include:
 - a. Contextual views showing the bridge in its setting;
 - b. Elevation views;
 - c. Views of the bridge's approaches and abutments;

- d. Detail views of significant engineering and design elements.
 2. The City shall make a reasonable and good faith effort to locate historic construction drawings for the Mt. Vernon Avenue Bridge. If these drawings are located, the City shall photographically reproduce plans, elevations and selected details from these drawing in accordance with HAER photographic specifications. If they are legible in this format, reduced size (8 1/2" by 11") copies of construction drawings may be included as pages of the report cited in subsection A.3 of this stipulation rather than photographed and included as photographic documentation. The City shall promptly notify Caltrans if historic construction drawings for Bridge #53-0739 cannot be located. In that event, the requirements of this paragraph shall not apply.
 3. A written historical and descriptive report for the Mt. Vernon Avenue Bridge will be completed. This report will provide a physical description of the bridge, discuss its construction and its significance under applicable National Register criteria, and address the historical context for its construction following the format and instructions in the September 1993 National Parks Service (NPS) *HAER Guidelines for Preparing Written Historical and Descriptive Data* guidelines for written documentation.
 4. Upon completion, copies of the documentation prescribed in subsection A.3 of this stipulation shall be retained by Caltrans District 8, and offered to the California Room of the City's Feldhym Library
- B. Caltrans shall ensure that the City constructs the replacement bridge in accordance with a design developed in consultation with the SHPO and submitted to the SHPO for comments, to minimize its indirect visual impact (profile, scale, color, and material) on the setting of the adjacent National Register listed historic property, the Atchison, Topeka and Santa Fe Passenger and Freight Depot (Santa Fe Depot). The proposed bridge replacement design is depicted in Attachment B and simulations for the replacement are included in Attachment C. In addition, existing photographs of the Mt. Vernon Avenue Bridge are located in Attachment D.
- C. Caltrans, in consultation with the SHPO, shall ensure that the replacement bridge will be designed to include architectural details (bridge railing, lighting, concrete abutments, stairways) in order to convey the character-defining elements of the original historic structure and to be visually compatible with the adjacent Santa Fe Depot.
- D. Caltrans shall ensure that the City replace any landscape elements (fan palm trees – *Washington Filifera* and *Washingtonia robusta*), which are 50 years or older and contribute to the historic setting of the bridge, which were removed as a result of the bridge replacement project. Appropriate replacement trees should be planted in those planned landscaped areas northwest and southeast of the bridge alignment.

III. DISCOVERIES AND UNANTICIPATED EFFECTS

If Caltrans determines after the construction of the Undertaking has commenced, that the Undertaking will affect a previously unidentified property that may be eligible for listing in the National Register, or affect a known historic property in an unanticipated manner, Caltrans will address the discovery or unanticipated effect in accordance with 36 CFR §800.13(b)(3). Caltrans at its discretion may hereunder assume any discovered property to be eligible for inclusion in the National Register in accordance with 36 CFR § 800.13(c).

IV. ADMINISTRATIVE PROVISIONS

A. Standards

1. Professional Qualifications. All activities prescribed by Stipulations I.B, II., and III of this MOA shall be carried out under the authority of Caltrans or under the direct supervision of a person or persons meeting at a minimum the Secretary of Interior's Professional Qualifications Standards (PQS; 48 FR 44738-39, September 29, 1983) in the appropriate disciplines. However, nothing in this stipulation may be interpreted to preclude Caltrans or any agent or contractor thereof from using the properly supervised services of person who do not meet the PQS.
2. Historic Preservation Standards. Written documentation of activities prescribed by Stipulations I.B, II.A, and II.B of this MOA shall conform to the *Secretary of the Interior's Guidelines for Archaeology and Historic Preservation* (48 FR 44716-44740) as well as to applicable standards and guidelines established by the SHPO.

B. Resolving Objections

1. Should any party to this MOA object at any time in writing to the manner in which the terms of this MOA are implemented, to any action carried out or proposed with respect to implementation of the MOA, or to any document prepared in accordance with and subject to the terms of the MOA, Caltrans shall immediately notify the other parties of the objection, request their comments on the objection within 15 days following receipt of Caltrans' notification, and proceed to consult with the objecting party for no more than 30 days to resolve the objection. Caltrans will honor the request of any other parties to participate in the consultation and will take any comments provided by those parties into account.
2. If the objection is resolved during the 30 day consultation period, Caltrans may proceed with the disputed action in accordance with the terms of such resolution.
3. If at the end of the 30 day consultation period, Caltrans determines that the objection cannot be resolved through such consultation, then Caltrans shall forward all documentation relevant to the objection to the ACHP, including Caltrans' proposed

response to the objection, with the expectation that the ACHP will, within 30 days after receipt of such documentation:

- a. Advise Caltrans that the ACHP concurs in Caltrans' proposed response to the objection, whereupon Caltrans will respond to the objection accordingly. The objection shall thereby be resolved; or
 - b. Provide Caltrans with recommendations, which Caltrans will take into account in reaching a final decision regarding its response to the objection. The objection shall thereby be resolved; or
 - c. Notify Caltrans that the objection will be referred for comment pursuant to 36 CFR Part 800.7(c) and proceed to refer the objection and comment. Caltrans shall take the resulting comments into account in accordance with 36 CFR 800.7(c)(4) and Section 110(1) of the NHPA. The objection shall thereby be resolved.
4. Should the ACHP not exercise one of the above options within 30 days after receipt of all pertinent documentation, Caltrans may assume the ACHP's concurrence in its proposed response to the objection and proceed to implement that response. The objection shall thereby be resolved.
5. Caltrans shall take into account any of the ACHP's recommendations or comments provided in accordance with this stipulation with reference only to the subject of the objection. Caltrans' responsibility to carry out all other actions under this MOA that are not the subject of the objection shall remain unchanged.
6. At any time during implementation of the measures stipulated in this MOA, should a member of the public raise an objection in writing pertaining to such implementation to any signatory party to this MOA, that signatory party shall immediately notify Caltrans. Caltrans shall immediately notify the other signatory parties in writing of the objection. Any signatory party may choose to comment in writing on the objection to Caltrans. Caltrans shall establish a reasonable time frame for this comment period. Caltrans shall consider the objection, and in reaching its decision, Caltrans will take all comments from the other signatory parties into account. Within 15 days following closure of the comment period, Caltrans will render a decision regarding the objection and respond to the objecting party. Caltrans will promptly notify the other signatory parties of its decision in writing, including a copy of the response to the objecting party. Caltrans' decision regarding resolution of the objection will be final. Following issuance of its final decision, Caltrans may authorize the action subject to dispute hereunder to proceed in accordance with the terms of that decision.
7. Caltrans shall provide all parties to this MOA, and the ACHP, if the ACHP has commented, and any parties that have objected pursuant to section B.6 of this stipulation, with a copy of its final written decision regarding any objection addressed pursuant to this stipulation.
8. Caltrans may authorize any action subject to objection under this stipulation to proceed after the objection has been resolved in accordance with the terms of this stipulation.

C. Amendments

Any MOA party may propose that this MOA be amended, whereupon all signatory parties shall consult for no more than 30 days to consider such amendment. Caltrans may extend this consultation period. The amendment will be effective on the date a copy signed by all of the original signatories is filed with the ACHP. If the signatories cannot agree to appropriate terms to amend the MOA, any signatory may terminate the agreement in accordance with section D of this stipulation, below.

D. Termination

1. If this MOA is not amended as provided for in section C of this stipulation, or if either signatory party proposes termination of this MOA for other reasons, the signatory party proposing termination shall, in writing, notify the other MOA parties, explain the reasons for proposing termination, and consult with the other parties for at least 30 days to seek alternatives to termination. Such consultation shall not be required if Caltrans proposes termination because the Undertaking no longer meets the definition set forth in 36 CFR Part 800.16(y).
2. Should such consultation result in an agreement on an alternative to termination, the signatory parties shall proceed in accordance with the terms of that agreement.
3. Should such consultation fail, the signatory party proposing termination may terminate this MOA by promptly notifying the other parties in writing. Termination hereunder shall render this MOA without further force or effect.
4. If this MOA is terminated hereunder, and if Caltrans determines that the Undertaking will nonetheless proceed, then Caltrans shall comply with the requirements of 36 CFR Part 800.3-800.6.

E. Duration of the MOA

1. Unless terminated pursuant to section D of this stipulation, or unless it is superseded by an amended MOA, this MOA will be in effect following execution by the signatory parties until Caltrans, in consultation with the other signatory parties, determines that all of its stipulations have been satisfactorily fulfilled.
2. The terms of this MOA shall be satisfactorily fulfilled within seven (7) years following the date of execution by the signatory parties. If Caltrans determines that this requirement cannot be met, the MOA parties will consult to reconsider its terms. Reconsideration may include continuation of the MOA as originally executed, amendment of the MOA or termination. In the event of termination, Caltrans will comply with section D.4 of this stipulation, if it determines that the Undertaking will proceed notwithstanding termination of this MOA.
3. If the Undertaking has not been implemented within seven (7) years following execution of this MOA, this MOA shall automatically terminate and have no further force or effect. In such event, Caltrans shall notify the other signatory

parties in writing and, if it chooses to continue with the Undertaking, shall reinstitute review of the Undertaking in accordance with 36 CFR Part 800.

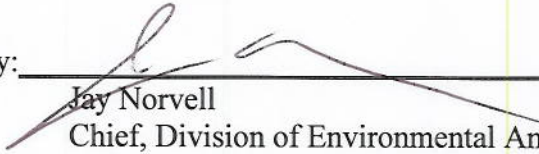
F. Effective Date

This MOA will take effect on the date that it has been executed by Caltrans and the SHPO.

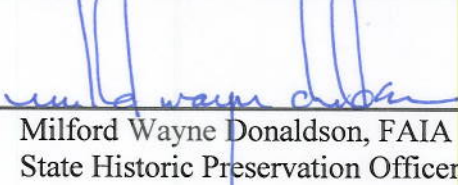
EXECUTION of this MOA by Caltrans and the SHPO, its filing with the ACHP in accordance with 36 CFR§800.6(b)(1)(iv), and subsequent implementation of its terms, shall evidence, pursuant to 36CFR§800.6(c), that Caltrans has afforded the ACHP an opportunity to comment on the Undertaking and its effects on historic properties, and that Caltrans has taken into account the effects of the Undertaking on historic properties.

SIGNATORY PARTIES:

CALIFORNIA DEPARTMENT OF TRANSPORTATION


By:  Date: 2/8/11
Jay Norvell
Chief, Division of Environmental Analysis

CALIFORNIA STATE HISTORIC PRESERVATION OFFICER:


By:  Date: 8 JUN 2009
Milford Wayne Donaldson, FAIA
State Historic Preservation Officer

CONCURRING PARTIES:

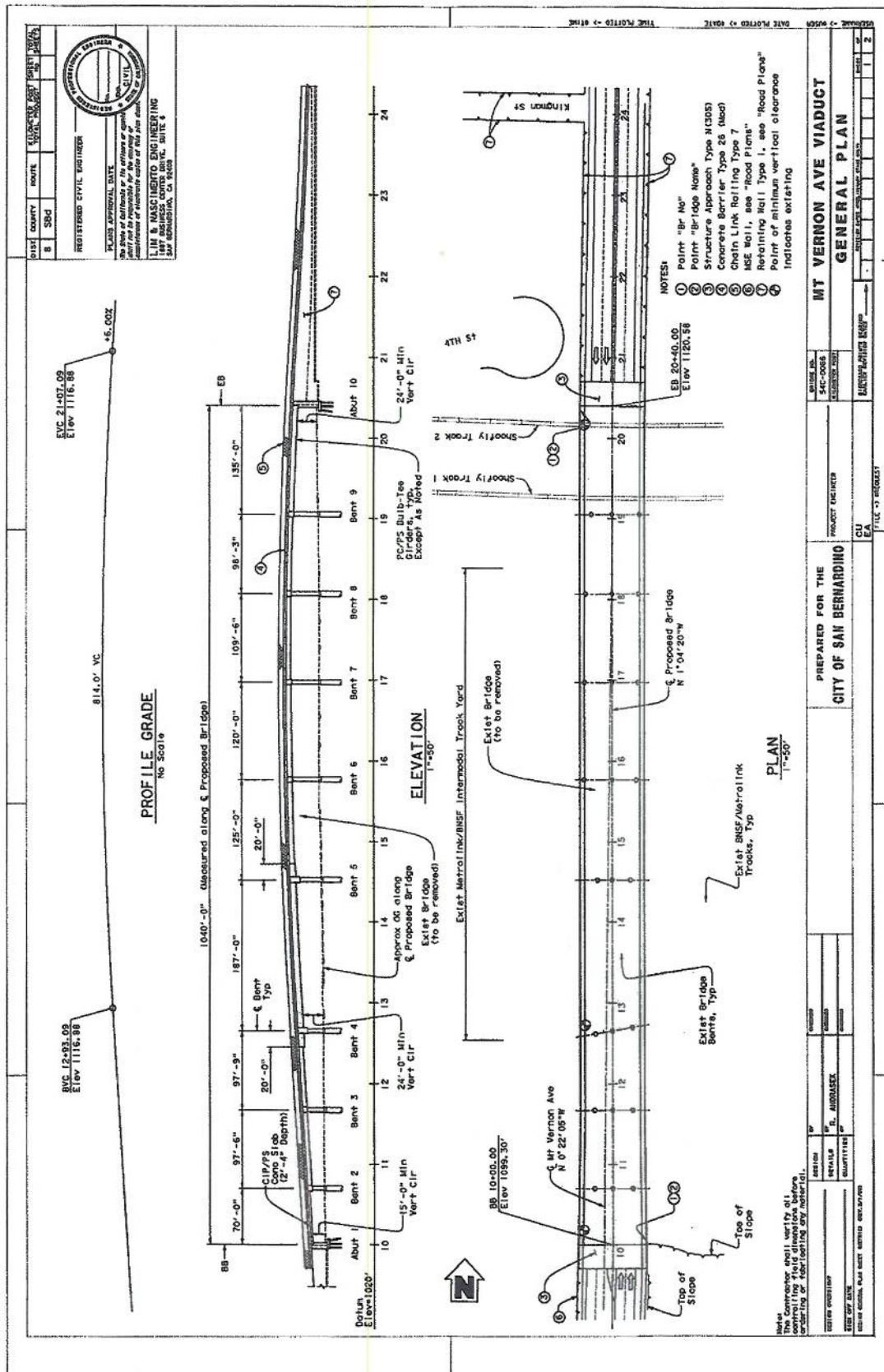
CALIFORNIA DEPARTMENT OF TRANSPORTATION

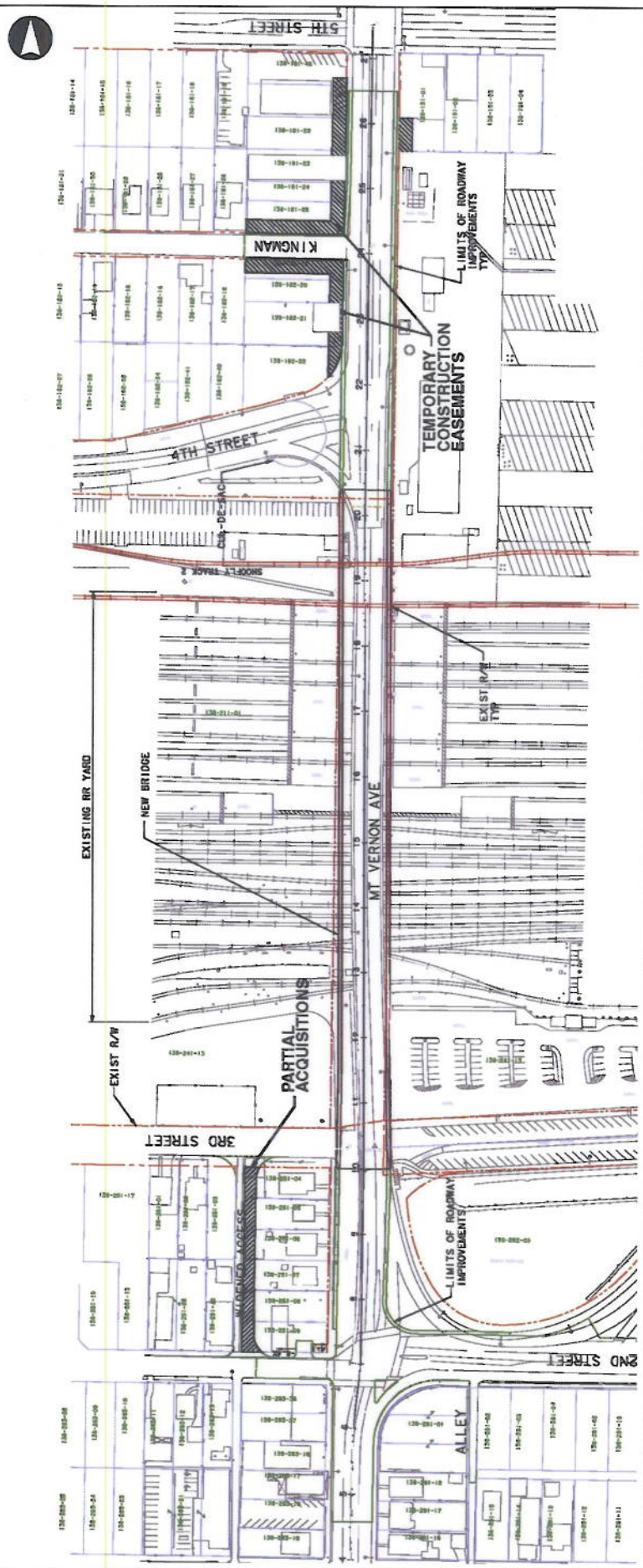
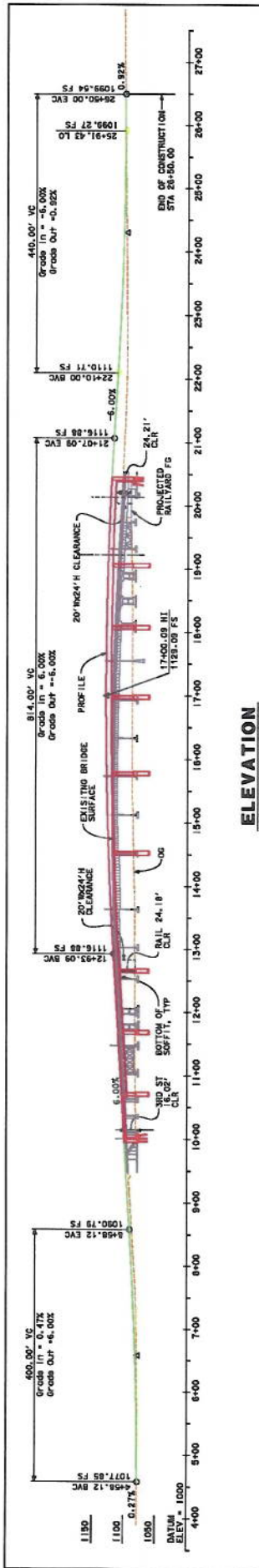
By:  Date: 2/1/11
Raymond W. Wolfe, PhD
Director, District 8, San Bernardino

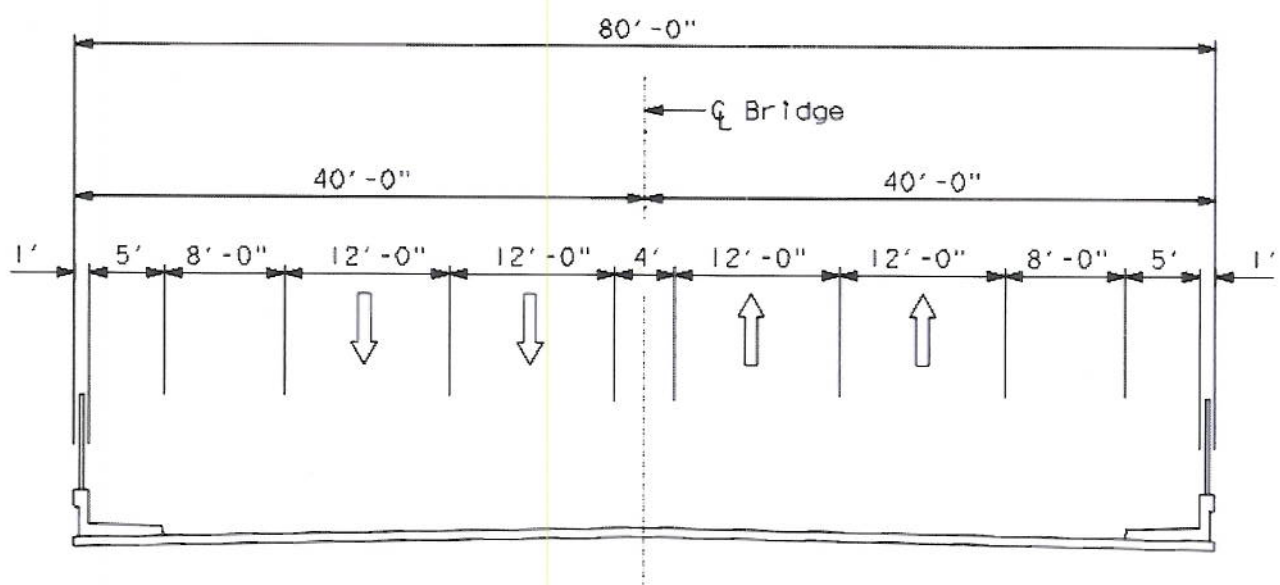
CITY OF SAN BERNARDINO

By:  Date: 1/26/11
Robert Eisenbeisz
City Engineer
City of San Bernardino

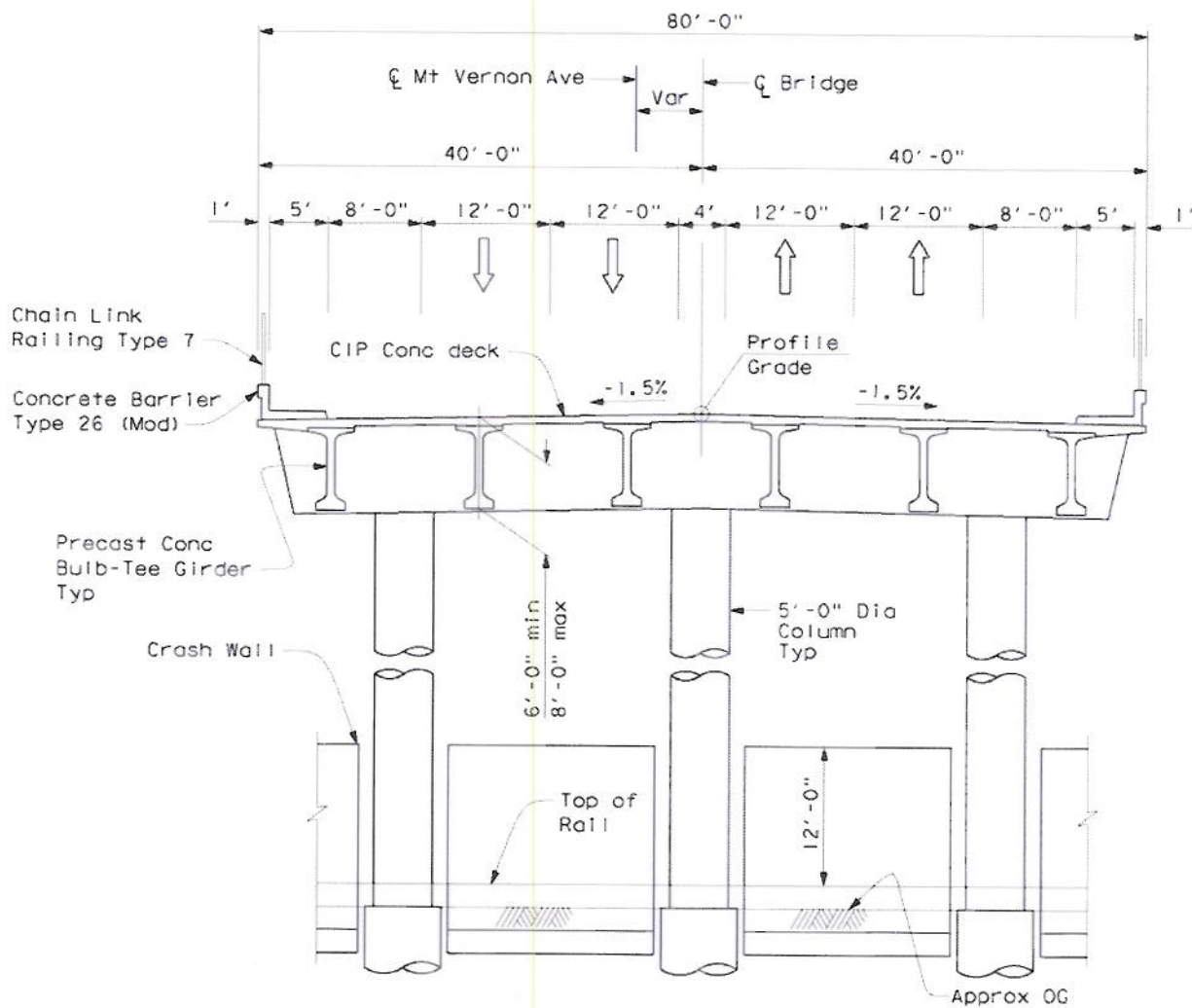
ATTACHMENT A:
Bridge Replacement Sheets (1-4)

[illegible]





TYPICAL SECTION



TYPICAL SECTION
BENT 2 THRU BENT 9
 $\frac{1}{8}" = 1'-0"$

ATTACHMENT B:

Photo Simulations for Alternative 3 (Replacement)

Alternative 3 (Replacement)
Photo Simulation 1



Before: Looking north at the bridge from 2nd Street



After

Alternative 3 (Replacement)
Photo Simulation 2



Before: looking west from the depot to the bridge



After

Alternative 3 (Replacement)
Photo Simulation 3



Before: Looking southeast from 4th Street and Mount Vernon Ave



After

ATTACHMENT C:
Additional Photographs

Image 1



Looking directly west from the ATSF Depot, January 15, 2004.

Image 2



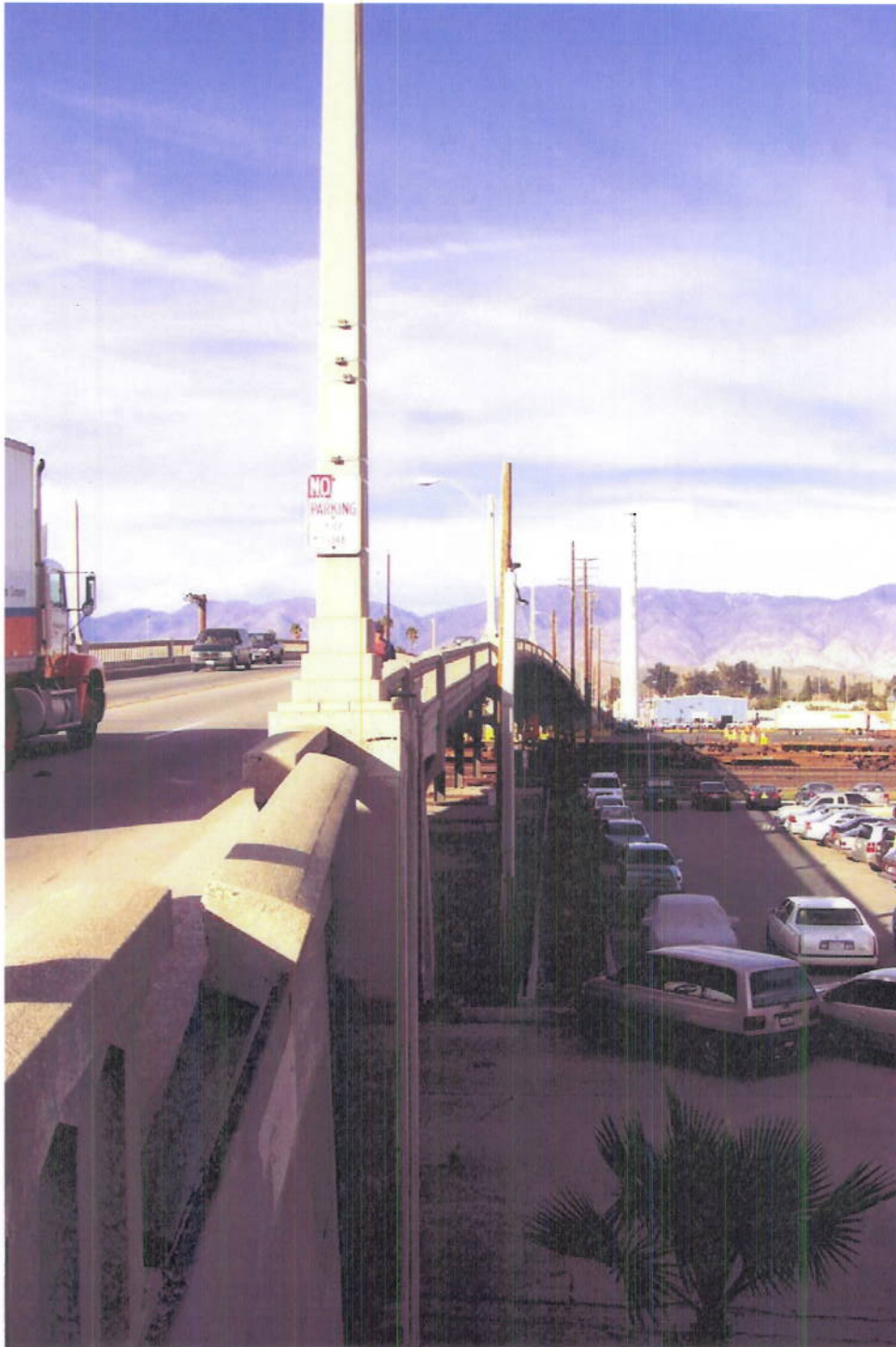
Looking south along the east side of the bridge, January 15, 2004. At the center of the image is the stairwell at the southeast corner of the bridge, a character-defining feature. To the far right are Abutment 1, and Bent 2 and 3, all character-defining features.

Image 3



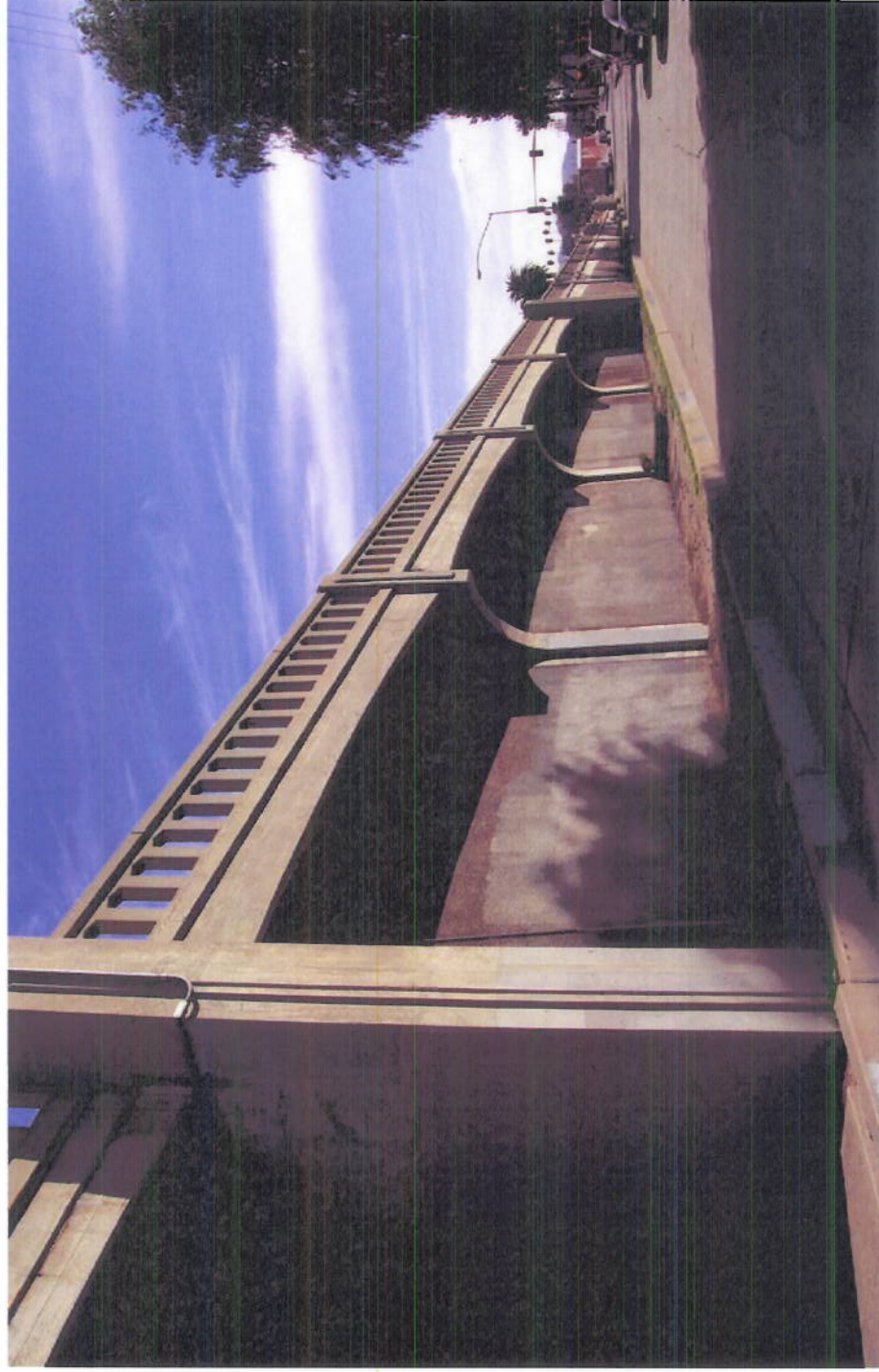
An example of an original light pole, with a modern “cobra” lamp, January 15, 2004. The pole is part of a character-defining feature.

Image 4



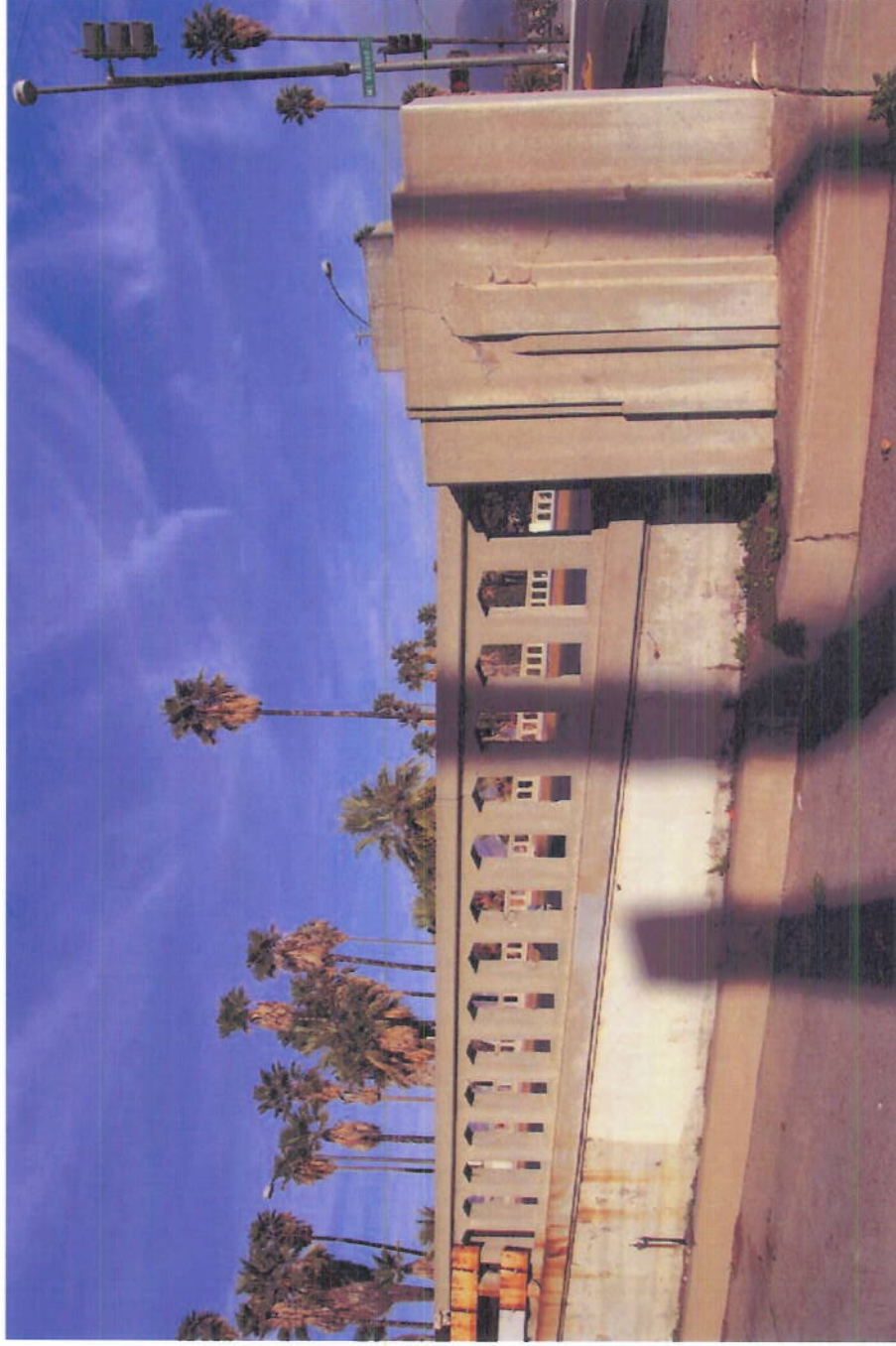
Looking north along the bridge's east side, near the stairwell, taken January 15, 2004.

Image 5



This image was taken looking south/southeast along North Mount Vernon Ave, January 15, 2004. It shows some of the bridge railing and the over hanging sidewalk deck, which are both character-defining features.

Image 6



Looking east at the intersection of Mount Vernon Avenue Bridge and 2nd Street, taken on January 15, 2004. This image shows part of the bridge railing, a character-defining feature of the bridge.

Image 7



The bridge railing, which is a character-defining feature. This image was taken on January 15, 2004.

Image 8



Looking north from the west side of the bridge near the Abutment 1, taken on January 15, 2004. This shows part of the existing lot where staging and construction will occur. Piers 4-7, which are character-defining features, are visible at the far right of the image.

Image 9



Looking north on the bridge, from the intersection of Mount Vernon Avenue and 2nd Street, taken on January 15, 2004. Some of the bridge railing, a character-defining feature of the bridge, can be viewed in this image.

Image 10



Looking northwest at the steel arched brackets, which support the bridge deck and are character-defining features. Image taken on January 15, 2004.

Image 11



Looking south/southeast at the bridge, January 15, 2004.

MT. VERNON AVENUE BRIDGE ASSOCIATED LANDSCAPE FEATURES



Figure 1: View East Along Third Street Toward Viaduct Blvd (Depot on Left)



Figure 2: Grouping of Fan Palms Along Ditch, View Southeast

MT. VERNON AVENUE BRIDGE ASSOCIATED LANDSCAPE FEATURES



Figure 3: Concrete/Arroyo Stone Lined Ditch, View Southeast From Third St.



Figure 4: Ditch and Adjoining Rock Features, Looking East Toward Viaduct Blvd.

MT. VERNON AVENUE BRIDGE ASSOCIATED LANDSCAPE FEATURES



Figure 5: Bridge Staircase, Drinking Fountain, and Stone Retaining Wall