



GREAT REDWOOD TRAIL AGENCY

MEETING DATE: April 3, 2025

AGENDA ITEM: 15. Non-Exclusive License Agreement with Phillips 66 Company

FROM: Bridget Nichols

RE: Non-Exclusive License Agreement with Phillips 66 Company

EXECUTIVE SUMMARY:

Staff seeks Board of Directors approval to enter into a Non-Exclusive License Agreement with the Phillips 66 Company for six monitoring wells and one soil boring on GRTA property near milepost 114.5 in Ukiah, Mendocino County, CA to construct and access for periodic monitoring, sampling, maintenance and eventual decommission of the wells on GRTA's property. This item seeks Board authority for the Executive Director to execute such a license agreement in a form approved by counsel.

BACKGROUND:

Phillips 66 Company is requesting a license agreement to install six (6) Monitoring wells, and one (1) Soil bore site and access to include periodic monitoring, sampling, maintenance and eventual decommission of the wells on the GRTA property near Milepost 114.5 in Ukiah, Mendocino County, California as part of their ongoing site monitoring.

The property at 195 Brush Street in Ukiah, California, adjacent to the GRTA property was previously a bulk fuel facility that is now inactive. Fuel storage and distribution facilities often leave behind contaminants like petroleum hydrocarbons (e.g., benzene, toluene, ethylbenzene, xylene), which can seep into the soil and groundwater. Monitoring wells help track the presence and movement of these contaminants. Even after a facility is shut down, subsurface contamination can migrate. Monitoring wells help detect if pollutants are spreading offsite or reaching water sources. The proposed monitoring wells on the GRTA property are to see if any contaminants have spread from the 195 Brush Street property.

Installation of the monitoring wells would take approximately 1 week (3 days of drilling, 2 days to create the wells) and would require the section of the Great Redwood Trail just south of Brush Street in Ukiah to be closed. Phillips 66 would be responsible for any needed flagging, signing or temporary fencing to secure the area during the installation. The monitoring wells are capped with a locking steel cap that is affixed to a 18" by 18" cement square. Depths of the wells are 15-25 feet below the ground. Locations and ground disturbances from the wells do not impact any of the developed trail, planned trail, or current landscaping. Upon completion of the monitoring, Phillips 66 Company would remove and restore the ground at the location of the wells.

Groundwater monitoring will continue semi-annually in the first and third quarters of the

years. Trail sections would not need to close during sampling. Samples will be collected using standard low-flow groundwater purging and sampling methods and submitted to a California certified laboratory for analysis of petroleum-based contaminants. Data collected will be submitted to the California State Water Resources Control Board that would then make determinations on contaminate levels if present and any needed cleanup efforts by Phillips 66 Company.

If all readings are determined "clean" by the California State Water Resources Control Board in the first year, the license may only be needed for one year. If some contaminants are present, Phillips 66 Company would need to monitor the area for five years for any changes that may trigger a cleanup effort. The proposed lease is for one year with auto-renewal for up to five years. A new license would need to be arranged in the event of a resulting cleanup project.

RECOMMENDATION:

Authorize the Executive Director to approve a Non-Exclusive License Agreement with the Phillips 66 Company for the installation of six groundwater monitoring wells and one temporary soil boring with access to the site for periodic monitoring, sampling, maintenance and eventual decommission of the wells on GRTA's right-of-way in the town of Ukiah in Mendocino County, for a period of one (1) years, with renewal option of up to five (5) years in a form approved by Counsel.

FISCAL IMPACT:

Annual revenue from this license agreement will start at \$815 (\$593 for the Monitoring wells & \$222 for Boring event). Each year after the monitoring well cost will be \$593 with the greater of either (1) 3% annual increase or (2) adjustments to coincide with the current GRTA Schedule of Rates & Charges approved by the Board. The final year of the agreement will include the rate of the Monitoring wells as described above with an additional \$297 Well Destruction charge.

RATE METHODOLOGY :

The GRTA's Schedule of Real Property Rates and Charges for FY 24-25 does not have a listed rate for Monitoring Wells or Soil Boring activities however, the GRTA's Miscellaneous Rates & Charges lists "All Other New Encroachments" rate to be the market value as determined by the Executive Director or the Board of Directors.

Research was conducted for other agencies rates for monitoring wells and soil boring activities to determine a market value appropriate for the GRTA's vicinity. Rates, or comparable activity/well rates, were reviewed for a variety of Counties such as Humboldt,

Mendocino, Alameda, Butte, San Diego, and Los Angeles. Rates varied from each county. San Diego was on the higher rate with \$768 for the first initial monitoring well and \$490 for each additional well and \$421 initial soil boring and \$129 for each additional boring. Butte County was in the middle range with rates of \$545 per well and \$424 per parcel for boring holes. Mendocino did not have specific rates published for monitoring wells, however geothermal wells were listed at a rate of \$450 annually.

Humboldt County's published rates most directly aligned with the requested use (monitoring wells, boring sites, and well decommission) and reflected a regionally appropriate rate of \$371 for 1-3 monitoring wells and \$74 for each additional site, well decommission/destruction of \$297 per site, and \$222 for 1-5 bore sites per event with an additional \$44 each additional boring. This has been deemed the market value that was used to assess rates for the license agreement.

CEQA ANALYSIS:

This project is categorically exempt from CEQA under Title 14, Section 15330, Minor actions to prevent, minimize, stabilize, mitigate or eliminate the release or threat of release of hazardous waste or hazardous substances (3) Construction or maintenance of interim or temporary surface caps.

ATTACHMENTS:

- A. PHILLIPS 66 MONITORING WELL LICENSE AGREEMENT 2025

LICENSE AGREEMENT

THIS LICENSE AGREEMENT ("Agreement" or "License") is made as of this ____ day of ____, 2025, by and between the Great Redwood Trail Agency, a public agency formed pursuant to Government Code Section 93000 et seq. ("GRTA"), formerly known as the North Coast Railroad Authority ("NCRA") and Phillips 66 Company, a Delaware corporation ("Licensee").

RECITALS

- A. GRTA is the property owner of the railroad right of way located in Mendocino County known as the Northwestern Pacific Railroad rail corridor ("NWP Rail Corridor").
- B. Licensee desires to obtain: (i) a non-exclusive temporary license for construction purposes ("Temporary Construction License") to install six groundwater monitoring wells ("Wells") and one temporary soil boring ("Boring") and (ii) access to include periodic monitoring, sampling, maintenance and eventual decommission of the Wells through and on GRTA's Property ("Well Access"), and Owner is willing to grant such license pursuant to the terms and conditions set forth herein.
- C. Licensee acknowledges that the property is currently used for public trail use and potential trail conversion ("Existing Uses") and the Licensee will take all reasonable steps necessary to minimize or reduce interference, to the extent feasible, with said Existing Uses at its cost and expense.
- D. Pursuant to the GRTA Encroachment permit, GRTA has agreed to provide Licensee with a license to construct and access Wells and Boring in the NWP Corridor, for purposes associated with construction, monitoring, sampling, maintenance and decommission of Wells upon certain conditions set forth hereinbelow.

NOW THEREFORE, in consideration of the mutual covenants, conditions and agreements recited herein and made a material part hereof, the GRTA and Licensee agree as follows:

1. Description of License Property. The property subject to this Agreement (the "License Property") is defined as that specific location as depicted in Exhibit A attached hereto ("Premises") Ukiah, Mendocino, California, the Premises consisting of two (2) Wells approximately 25 feet north of Brush Street, four (4) Wells and one (1) Bore between approximately 20- 90 feet south of Brush Street near Railroad Milepost 114.5, for use of the NWP rail line at this area for the purposes set forth in Section 2 below (the "Use")
2. Use. GRTA hereby grants to Licensee a non-exclusive license to use the License Property and to access the Licensee Property in a manner consistent with the Existing Use of the License Property to construct six groundwater monitoring wells and one temporary soil boring and may additionally use the License for access to the License Property for periodic monitoring, sampling, maintenance and eventual decommission of the wells. Licensee must adhere to GRTA Encroachment Conditions as outlined in Exhibit B. Licensee may additionally use the License Property to the extent necessary to maintain any existing improvements, as set forth in Section 5 Construction, Maintenance & Decommission, below.

3. Consideration. As consideration for this Agreement, Licensee shall pay an Annual "License Rate" due and payable on July 1st of each year, in accordance with the terms and amounts set forth by GRTA in its most currently approved Schedule of Rates and Charges, with the first year's payment being a pro-rata portion of the days remaining in that Fiscal Year calculated from the Effective Date of this Agreement through June 30 of that same Fiscal Year. The License Rate shall be at the then-current GRTA-approved rate for that Fiscal Year and shall be subject to change per GRTA Board approval of Rates on an annual basis. Accordingly, the current annual License Rate for the first year of this License, calculated pro-rata as applicable, as of the Effective Date of this Agreement through the upcoming date of June 30, is based on an annual rate of the pricing structure listed below:
- (a) Monitoring Wells: 1-3 wells \$371, \$74 for each additional well
 - (b) Well Destruction: \$297 per site
 - (c) Boring: 1-5 bore sites per event \$222, \$44 each additional boring
 - (d) Each year upon the anniversary of the Commencement Date hereof, the License Rate shall be adjusted by the greater of (1) the amount necessary to bring the License Fee up to the currently adopted applicable Rate, or (2) Three Percent (3%) of the prior year's consideration.
- Initial year: 6 monitoring wells & 1 bore event = \$815
Each year after: 6 monitoring wells = \$593 + 3% annual CPI
Final year: 6 monitoring wells & well destruction = current rate of monitoring wells as described above plus \$297 well destruction.
4. Commencement and Term. This Agreement shall commence upon execution hereof by the last party to so execute (the "Commencement Date") and shall remain in effect for one (1) year, unless sooner terminated as provided herein (the "Initial Term"). Each year, for the five (5) years following the anniversary of the Commencement Date, upon the anniversary of the Commencement Date, this Agreement shall automatically renew for one year, unless either party has notified the other in writing not less than thirty (30) days prior to the anniversary of the Commencement Date of its intent not to renew the Agreement. Subject to the terms and conditions set forth herein, the Executive Director may, in her sole and absolute discretion, grant a request for up to a one (1) year extension of the term of this Agreement, after the fifth and final year of automatic extension, if such request made in writing by Licensee no less than thirty (30) days prior to the end of the last automatic renewal period. No holdover or use of Premises beyond the term of the term shall be permitted.
5. Construction, Maintenance & Decommission. Licensee is granted the right to use the License Property on an as-is, where-is basis. GRTA makes no warranty as to the condition, useability, or fitness of the License Property for the License purposes based upon the current use or any future use of the License Property. Licensee may, subject to all provisions of Section 7 Indemnification, perform minor tasks to maintain the useability of the License Property, that do not constitute physical improvements to the real property or require any permitting, such as debris removal or weed abatement. Any improvements, repairs, or alterations to the License Property shall be completed solely upon the written approval and consent of GRTA, which consent may be given or withheld in the sole discretion of GRTA.

At its sole cost and expense, the Licensee shall construct, and maintain and repair the Wells in a good and safe condition and in accordance with GRTA approved plans and specifications and all applicable laws and regulations, including the then-current standards of the State of California and the County of Mendocino. Grantee shall secure and protect the Well Area or the Well and install appropriate signage to prevent harm or injury to Grantor and the public.

At the earlier of the expiration of the term or when the Licensee determines, at its sole discretion, that the Well is no longer needed for the Licensee's purposes, or if a regulatory agency with authority over the Well determines that the Well must be decommissioned, then at its sole cost and expense, the Licensee shall destroy the Well and restore site conditions to their state before construction of the Well. Licensee shall destroy the Well in accordance with all applicable laws and regulations, including the then-current standards of the State of California and the County of Mendocino.

6. Hazardous Materials. Licensee represents, warrants, and agrees that Licensee will not, and will not permit any third party to use, generate, store or dispose of any Hazardous Material (defined herein) on, under, about or within the Property, provided however, that Licensee shall be permitted to drive trucks and automobiles to the Property in connection with the Temporary Construction Easement, its maintenance, monitoring and other allowable activities provided for under this Agreement, and the decommissioning of the Well. As used in this Section, "Hazardous Material" shall mean petroleum or any petroleum product, hydrocarbons, asbestos, any substances known to cause cancer and/or reproductive toxicity, and/or any substances, chemical or waste that is identified as hazardous, toxic or dangerous in any federal, state or local law or regulation.
7. Licensee hereby expressly assumes the risk that adverse physical conditions existing as of the date of this Agreement and the full extent thereof, may not be revealed by Licensee's inspections, reviews and studies of the Property. Licensee warrants that Licensee is not relying on any representations or warranties of GRTA, express or implied, as to the condition of the Property, its suitability for Licensee's intended or any other use, nor as to the condition, safety, security, or other reliability of the License Property or any portion or aspect thereof. Licensee acknowledges that other parties may access the License Property, with or without GRTA's authorization.
8. Liability for Loss or Damage to GRTA Property. Licensee shall be liable to GRTA for any loss or damage to the Property arising from or in connection with Licensee's actions hereunder or that of any of its officers, agents, and employees. Licensee acknowledges that the any remediation or other action required to correct any contamination found pursuant to Licensee's monitoring activities authorized by this Agreement, or otherwise arising out of or relating to North Coast Regional Water Quality Control Board enforcement action # XXXX shall be the sole responsibility of Licensee.
9. Compliance with Law. Licensee shall allow no nuisances to exist or be maintained upon the License Property and shall comply with and abide by all applicable federal, state, and local laws and regulations affecting the License Property and any actions of Licensee thereupon.
10. Indemnification. To the maximum extent allowed by law, Licensee agrees to indemnify, defend and hold harmless GRTA, including its officers, employees, agents contractors, successors and assigns, from and against all loss, liability (including liability with respect to death, injury and personal and property damage), claims, demands, suits, liens, claims of lien, damages, costs and expenses, arising out of or connected in any manner with the use or misuse of the License Property by Licensee, its agents, licensees, or contractors, or any act or omission by Licensee therewith. Such indemnity shall not apply to the extent such loss, liability (including liability with respect to death, injury and personal and property damage), claims, demands, suits, liens, claims of lien, damages, costs and expenses are solely caused by GRTA's or any of its official's, employee's, consultant's, agent's,

contractor's or successors and assigns' active negligence or intentional conduct. This provision shall survive any termination of the License for actions or inactions that may arise during the time this License is in effect.

Licensee shall provide Licensors with a Certificate of Liability naming Great Redwood Trail Agency (GRTA) as Additionally Insured for the following categories and in the following amounts:

Commercial General Liability	\$1,000,000 per occurrence
	\$2,000,000 general aggregate
Comprehensive Auto Liability	\$1,000,000 combined single limit
Worker's Compensation	\$1,000,000 each employee
Employer's Liability	\$1,000,000 policy limit
	\$1,000,000 each accident

11. Termination. This Agreement may be terminated by either party at any time and for any reason whatsoever, upon 30 days of written notice of the terminating party of their intent to terminate. Upon termination of this agreement, License shall timely surrender the Premises in a clean and well-maintained state of repair, having removed any and all trade fixtures, and upon the written election of GRTA received no less than 15 days after written notice of termination, shall leave in place any improvements or other fixtures to the Premises which have become affixed thereto. If GRTA requests Licensee remove any improvements or fixtures from the Premises upon termination, Licensee shall, at its sole costs and expense, restore the Premises to the condition preexisting their placement. Any improvements or fixtures left upon the Premises upon termination hereof shall, at the election of GRTA, become the property of GRTA.
12. Waiver. No waiver of any default under this Agreement shall constitute or operate as a waiver of any subsequent default hereunder, and no delay, failure or omission in exercising or enforcing any right, privilege, or option under this Agreement shall constitute a waiver, abandonment or relinquishment thereof or prohibit or prevent any election under or enforcement or exercise of any right, privilege, or option hereunder.
13. Notices. Except as otherwise provided hereunder; any notice or communication to GRTA, its successors and assigns, or Licensee shall be in writing and be mailed by postage prepaid. Notices or communications shall be addressed to the parties at the following addresses, which may be changed at any time by notice to the other party:

To GRTA:

Great Redwood Trail Agency
c/o Blue Lake City Hall
PO Box 458
Blue Lake, CA 95525

To Licensee:

Phillips 66 Company
18781 El Camino Real
Atascadero, CA 93422

Any notice mailed in the manner above set forth shall be deemed to have been received unless returned to the sender by the post office. Notice may be sent by email when simultaneously provided using one of the methods set forth above.

14. Severability. In case any one or more of the provisions contained in this License shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this License, but this License shall be construed as if such invalid, illegal, or unenforceable provisions had not been contained herein.
15. Time of the Essence. Time is of the essence of each and all of the agreements, covenants, and conditions of this Lease.
16. Consents. Whenever in this License the consent or approval of either GRTA, or its successors and assigns, or Licensee is required or permitted, the party requested to give such consent or approval will act promptly and will not unreasonably withhold its consent or approval, unless such consent is in the sole discretion of the non-requesting party.
17. Attorneys' Fees. In the event of any action or proceeding at law or in equity between GRTA, or its successors and assigns, and Licensee to enforce any provision of this License or to protect or establish any right or remedy of either party hereunder, the unsuccessful party to such litigation shall pay to the prevailing party all costs and expenses, including reasonable attorney's fees, incurred therein by such prevailing party, and if such prevailing party shall recover judgment in any such action or proceeding, such costs, expenses and attorney's fees shall be included in and as a part of such judgment.
18. Integration. This instrument constitutes the entire agreement between GRTA and Licensee with respect to the subject matter hereof and supersedes all prior offers and negotiations, oral or written. This License may not be amended or modified in any respect whatsoever except by an instrument in writing signed by GRTA, or its successors and assigns, and Licensee.
19. Amendments. If circumstances arise under which an amendment or modification of this Agreement would be appropriate, the Licensee and GRTA shall be free to jointly amend this Agreement. This License may be modified only in writing and only if signed by the parties at the time of the modification.
20. License Not a Lease. This Agreement does not constitute a lease but constitutes a mere revocable license, and Licensee is limited to the use of the License Property as described above. Licensee disclaims any interest that when coupled with the license herein granted would render it irrevocable.
21. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Nothing in this Agreement is intended to alter, limit, or otherwise affect the immunities and liability limitations provided to public entities under the laws of the State of California, including without limitation the Government Claims Act set forth in the California Government Code.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

GRTA:

LICENSEE:

By: _____

By: _____

Phillips 66 Company
MP 114.5

Name: _____

Its: _____

Date: _____

Approved as to form:

General Counsel

Date: _____

Name: _____

Its: _____

Date: _____

DRAFT

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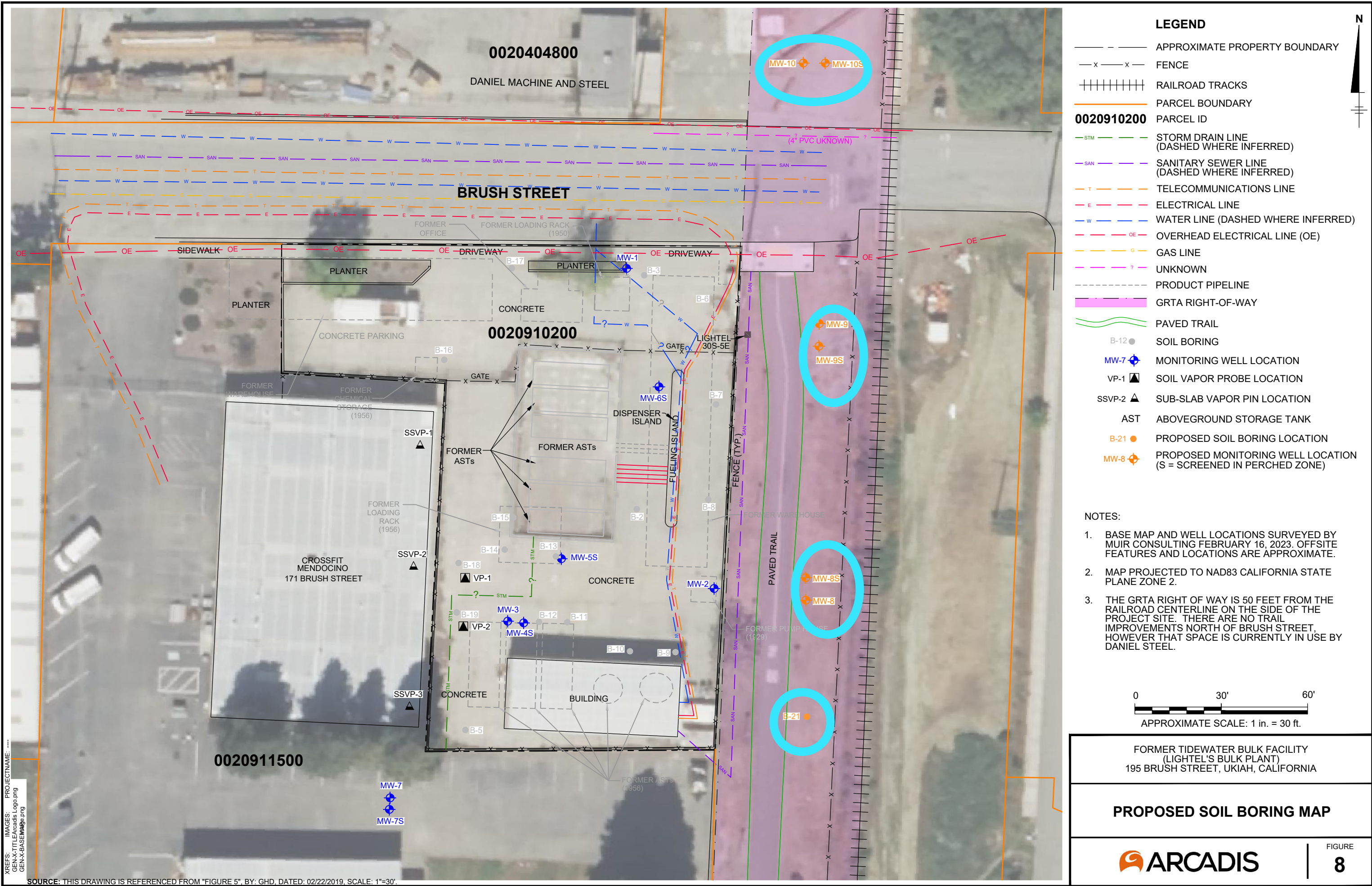


Exhibit B: GRTA Encroachment Conditions

Phillips 66 Company

Ukiah Site Assessment Monitoring Wells

The project described in Phillips 66 GRTA Encroachment Application and attached plan sheet showing the location of the well locations is approved for construction with the following conditions:

1. Phillips 66 obtains a license agreement with associated fees from GRTA for the monitoring wells to be installed in GRTA's right of way.
2. Access to GRTA right of way shall be from Brush Street. Access to GRTA right of way north of Brush Street shall be coordinated with adjacent landowner if needed.
3. GRTA must be notified 72 hours prior to starting work in GRTA right-of-way.
4. Phillips 66 and its contractor shall be responsible for facilitating the closure of the Great Redwood Trail from Ford Street to Brush street with the City of Ukiah Public Works (707 463-6280). City shall be contacted a minimum of 7 days prior to begin of work.
5. It shall be the responsibility of Phillip 66 and its contractors to locate existing utilities on GRTA property. Records of existing utilities will be provided to GRTA.
6. Boring and well drilling equipment shall be rubber tire or rubber track mounted only. No equipment shall be operated on the bituminous trail surface without proper protection.
7. All drilling spoils shall be removed and properly disposed offsite in accordance with regulatory environment agencies' requirements.
8. Upon completion of installation of wells and soil drilling, all disturbance to soil and vegetation shall be remediated and properly protected from erosion. A remediation plan shall be provided for approval by GRTA for installation and removal of wells.
9. GRTA shall be notified annually of monitoring requirements. Annual extensions of license agreement are required.
10. Upon completion of well monitoring, GRTA shall be notified 7 business days before well removal and sealing process. This work will require closure of the Great Redwood Trail. See above requirement for closure.
11. Any resulting cleanup efforts because of findings from wells will need a new license agreement with the GRTA.
12. Phillip 66 and its contractor shall be responsible for repairing any damage to GRTA's right-of-way including the existing Great Redwood Trail.
13. Certificate of insurance meeting GRTA's requirements as listed in GRTA's permit application shall be delivered to GRTA before start of construction.
14. This permit is valid for 12 months from date of issuance for the installation of the monitoring wells. The permit shall be updated annually until monitoring is complete.

Exhibit B: GRTA Encroachment Conditions

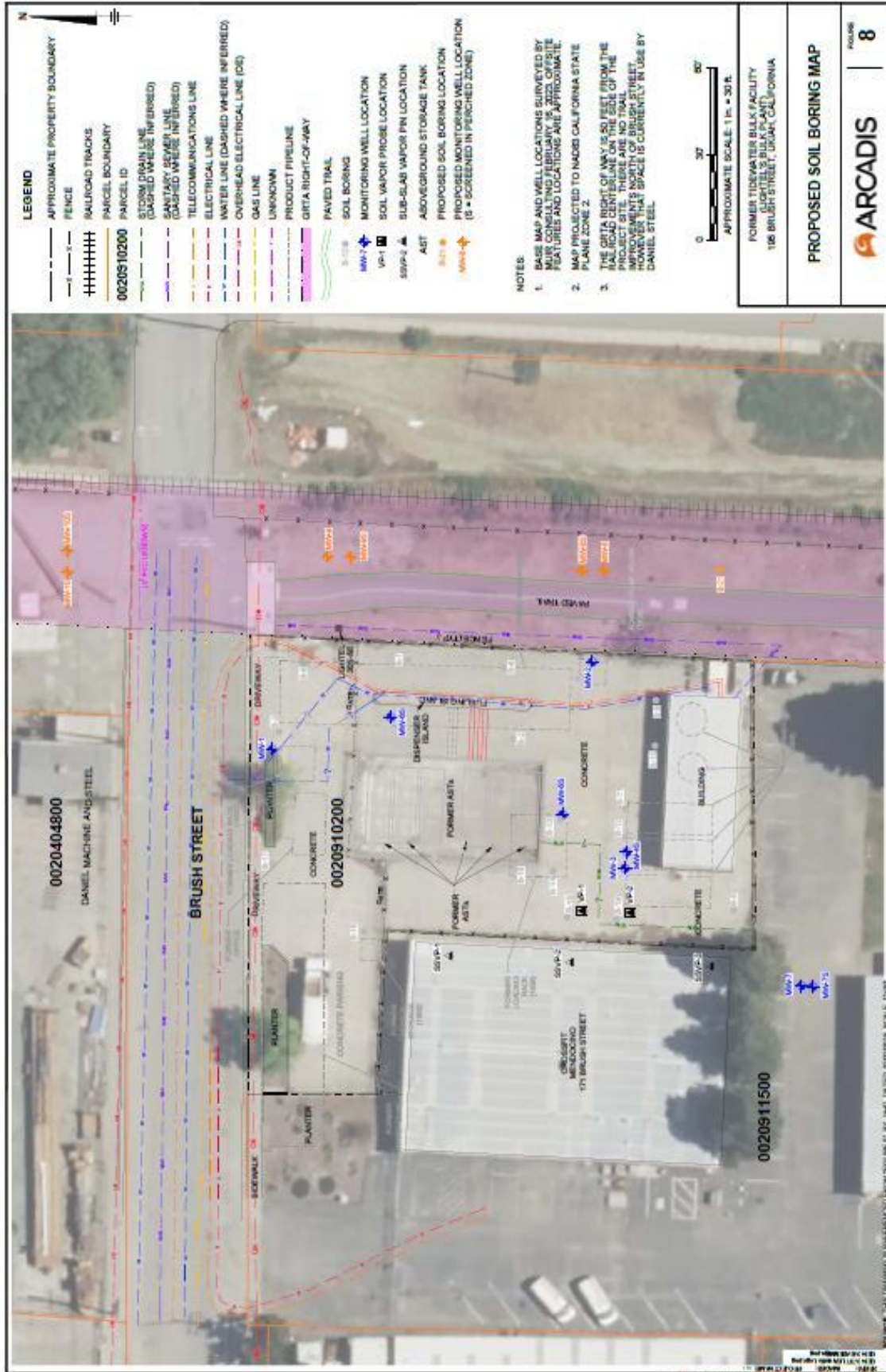


Exhibit B: GRTA Encroachment Conditions



View looking south from Brush Street



View looking north from Brush Street