AGENDA

CITY COUNCIL - REGULAR MEETING
CITY OF BANNING, CALIFORNIA

May 27, 2025
5:00 p.m.
In Chambers

Council Chambers
99 E. Ramsey Street
Banning, CA 92220

The following information comprises the agenda for the regular meeting of the Banning City Council, a joint meeting of the City Council and Banning Utility Authority, and the Banning City Council sitting in its capacity as the Banning Successor Agency Board.

This meeting is being held via Zoom so that members of the public may observe and participate in this meeting electronically. If you participate in this meeting via Zoom, you are agreeing to abide by the City's Zoom Community Standards for Public Meetings (provided in full on the last page of the agenda). *Esta reunión se lleva a cabo en la Cámara y a través de Video/Teleconferencia en Zoom para que los miembros del público puedan observar y participar en esta reunión de manera electrónica. Si elige participar en esta reunión a través de Zoom, acepta cumplir con los Estándares comunitarios de Zoom para reuniones públicas de la ciudad (que se proporcionan en su totalidad en la última página de la agenda).*

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https://us02web.zoom.us/j/82012644588?pwd=RwqtJC8xehLDKZvr3LEKOf9u8uP2pt.1

Dial in: +1 669 900 9128

Meeting ID: 820 1264 4588
Password: 92220

Per the City of Banning Manual of Procedural Guidelines, matters taken up by the Council before 10 p.m. may be concluded, but no new matters shall be taken up except upon a majority vote of the council members present and voting. Such an extension shall only be valid for one hour and each hour thereafter shall require a renewed action for the meeting to continue.

1. CALL TO ORDER

1.1 **INVOCATION**
Performed by Todd Oldenburg of Thrive Church

1.2 **PLEDGE OF ALLEGIANCE**

1.3 **ROLL CALL**

2. AGENDA APPROVAL

2.1 **AGENDA APPROVAL**

3. PRESENTATIONS

4. REPORT ON CLOSED SESSION

John Pinkney, Interim City Attorney

5. PUBLIC COMMENTS, CORRESPONDENCE, APPOINTMENTS, AND REPORTS

5.1 **PUBLIC COMMENTS**

5.2 **CORRESPONDENCE**

5.3 **APPOINTMENTS**

5.4 **CITY COUNCIL COMMITTEE REPORTS**

5.5 **CITY MANAGER'S REPORT**

5.6 **CITY ATTORNEY'S REPORT**

5.7 **CITY TREASURER'S REPORT**

6. CONSENT ITEMS

The following items have been recommended for approval and will be acted upon simultaneously, unless a member of the City Council/Banning Utility Authority/Successor Agency Board wishes to remove an item for separate consideration.

6.1 Receive and File Police Department Statistics for the Month of April 2025
Recommendation: Receive and file.

6.2 Receive and File Fire Protection Services Statistics for the Month of April 2025
Recommendation: Receive and file.

6.3 Public Works Capital Improvement Project Tracking List
Recommendation: Receive and file.

6.4 Receive and File Code Enforcement Statistics for the Month of April 2025
Recommendation: Receive and file.

6.5 City Council Travel and Conference Expense Report Year to Date Through April 2025
Recommendation: Receive and file.

6.6 Receive and File Contracts Approved Under the City Manager's Signature Authority and Inventory Reports for April 2025
Recommendation: Receive and file.

6.7 Community Cleanup and Compost Giveaway Event Update
Recommendation: This is informational only; receive and file report.

6.8 Accept as Complete Various Improvements Related to the Atwell Specific Plan Development and Authorize 90% Reduction of the Improvement Bonds
Recommendation: Accept as Complete Various Improvements Related to the Atwell Specific Plan Development and Authorize 90% Reduction of the Improvement Bonds

6.9 Consideration of Accepting an Easement from Tri-Pointe Homes for Storm Drain Purposes Within Tract 37388-6 and 37388-7 of the Atwell Project

Recommendation: Accept an Easement from Tri-Pointe Homes for Storm Drain Purposes Within Tract 37388-6 and 37388-7 of the Atwell Project.

6.10 Approval of Temporary Right of Entry Agreement with Southern California Gas Company (SoCalGas) for Pipeline Replacement Project at APN 532-130-012
Recommendation: Authorize the City Manager to execute a Temporary Right of Entry Agreement (TRE) with Southern California Gas Company (SoCal Gas) for the replacement of approximately 400 feet of Line 2000 pipeline on City-owned property identified as APN 532-130-012, located in Banning.

6.11 Consideration of Resolution 2025-66, Consolidated Approval of Software-as-a-Service Projects Utilized Citywide
Recommendation: Adopt Resolution 2025-66.

6.12 Consideration of Resolution 2025-67, Approving Amendment No.1 to the Landscape Operation and Maintenance Contract for Landscape Maintenance District No. 1 with Mariposa Landscapes, Inc. of Irwindale, California for Fiscal Year 2025/2026 in the Amount of $90,002
Recommendation: Adopt Resolution 2025-67.

6.13 Consideration of Resolution 2025-68, Authorizing Staff to Execute an Agreement Regarding Construction and Maintenance of Interim Storm Water Retention Basin and Covenant Running with the Land with Tri-Pointe Homes for Interim Stormwater Facilities Within the Atwell Project
Recommendation: Adopt Resolution 2025-68.

6.14 Consideration of Resolution 2025-70, Approving Amendment No. 4 to the Professional Services Agreement with Albert A. Webb Associates, Inc. for an Additional Amount of $57,080 for Environmental Permitting Related Biological Studies for the Sun Lakes Boulevard Extension Project
Recommendation: Adopt Resolution 2025-70.

6.15 Consideration of Resolution 2025-71, Approving the Fourth Amendment for Contract Services (C00698) for Landscape Maintenance Services for Banning City Parks with Mariposa Landscapes, Inc. in the not too exceed amount of $167,296.95 for FY 2025/26
Recommendation: Adopt Resolution 2025-71.

6.16 Consideration of Resolution 2025-73, Approving Amendment No. 6 to the Professional Services Agreement with Mariposa Landscapes, Inc. in the Amount of $171,320 for FY 2025/2026 City Property Landscape Maintenance
Recommendation: Adopt Resolution 2025-73.

6.17 Consideration of Resolution 2025-74, Authorizing the City Manager to Execute the Reimbursement Agreement for Preliminary Engineering Services with Union Pacific Railroad in the Amount “Not-to-Exceed” $450,000 for the Hargrave Street Grade Separation Project
Recommendation: Adopt Resolution 2025-74.

6.18 Consideration of Resolution 2025-75, Approving Amendment No. 2 to the Custodial Services Agreement to Executive Facilities Services, Inc. for Custodial Services at City Facilities in the Amount of $224,512
Recommendation: Adopt Resolution 2025-75.

6.19 Consideration of Resolution 2025-76, Approving Amendment No. 1 to a Sole Source Agreement with CASC Engineering and Consulting, Inc. ("CASC") for Consulting Services Related to the Focused General Plan Update in an Amount of $229,268 for a Total Contract Amount Not to Exceed $415,753

Recommendation: Adopt Resolution 2025-76.

6.20 Consideration of Resolution 2025-77, Awarding a Construction Contract for Project No. 2022-05 Ramsey Street and Omar Street Intersection Improvements, to Van Engineering, Inc. in the Amount of $649,954 and approving a 10% contingency for a total budget of "Not-to-Exceed" $714,949.40
Recommendation: Adopt Resolution 2025-77.

6.21 Consideration of Resolution 2025-78, Adopting the Revised City of Banning Manual of Procedural Guidelines
Recommendation: Adopt Resolution 2025-78.

7. PUBLIC HEARINGS

7.1 Consideration of (1) Resolution 2025-59, Approving the Banning Commerce Center Project by Sansone Group, Including a Design Review Application, Case DR 21-7017, for the Construction of a 1,320,284-Square Foot Industrial Warehouse Building on 131.28-acres of Land Generally Located North of the I-10 Freeway/E. Ramsey Street, East of N. Hathaway Street and Bisected by Wilson Street ("Project Site") and a Tentative Parcel Map Application, Case TPM 38756, for the Subdivision of the 131-28-acre Project Site into Three Numbered Lots for Private Development Improvements and Four Lettered Lots for Right-of-Way and Other Improvements; (2) Resolution 2025-60, Certifying the Environmental Impact Report (SCH No. 2022090102), Adopting Findings and a Statement of Overriding Considerations, and Adopting a Mitigation Monitoring and Reporting Program for the Banning Commerce Center Project Consisting of a 1,320,284-Square Foot Industrial Warehouse Building on 131.28-acres of Land Located on the Project Site; and (3) Introduction and First Reading of Ordinance 1609, Approving a Development Agreement By and Between the City of Banning and JDJN Enterprises, LLC, a Missouri Limited Liability Corporation
Recommendation:
1. Adopt Resolution 2025-59.
2. Adopt Resolution 2025-60.
3. Introduce and conduct first reading of, by title only, Ordinance 1609: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING A DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF BANNING AND JDNJ ENTERPRISES, LLC, A MISSOURI LIMITED LIABILITY CORPORATION

8. REPORTS OF OFFICERS

8.1 Update of the ATP Cycle 7 Grant Application "City of Banning Downtown Active Transportation Improvement Project" Submittal and Seeking Concurrence to reapply for Cycle 8
Recommendation: Staff are seeking City Council concurrence with regard to reapplying for the Cycle 8 ATP (Active Transportation Plan) grant program administered by the California Transportation Commission (CTC), due in June of 2026.

8.2 Consideration of Resolution 2025-72, Amending Administrative Policy (AP) No. B-35 – Grant Management/Administration
Recommendation: Adopt Resolution 2025-72.

8.3 Consideration of Homeless Services
Recommendation: Provide staff direction for wraparound services.

8.4 Consideration of an Agreement with Wanderlust Events for a Summer Food Truck Event Series located at City-Owned Property located at 150 E. Ramsey Street, Banning, CA 92220
Recommendation: City Council is requested to provide direction and approval regarding the

proposed event series' costs and logistics as outlined in this report.

9. DISCUSSION ITEMS

10. ANNOUNCEMENTS FROM CITY COUNCIL MEMBERS

11. ITEMS FOR FUTURE AGENDAS

11.1 **NEW ITEMS**

11.2 **EXISTING ITEMS**

1. Update on Community Garden (Flynn)
2. Contracting Animal Services (Flynn)
3. Emergency Preparedness (Barrington)
4. Changes to the Banning Procedural Manual (Royce)
5. Discussion of Reversing Decision to Close Airport (Royce)
6. Patriot Tree (Barrington)
7. Contractor(s) to do Citywide Cleanup (Flynn)
8. RFP for City Manager (Wallace)
9. Long term City Strategic Planning (Miller)
10. Review Grant Management Protocol (Flynn)
11. Update on Electric Billing (Miller)
12. Review and Update Council Travel Policy (Flynn)
13. 2x2 Committee on Smith Correctional Facility (Royce)
14. Acting City Manager Evaluation (Miller)

12. ADJOURNMENT

Next Regular Meeting – June 10, 2025

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- Your microphone must remain on mute, and you may only unmute your microphone when/if you are recognized by the Mayor.
- Your camera must be turned off unless/until you are recognized by the Mayor.
- To indicate a desire to make Public Comment, you must use the Raise Hand function. The Mayor will not recognize those who have not used the Raise Hand function.
- Public Comment from Zoom attendees will immediately follow in-person comment from members of the public in Council Chambers.
- If you fail to adhere to these community guidelines, **you may be removed** for disrupting the meeting occurring in Council Chambers. You may rejoin the meeting but may be removed for each violation of these community standards.
- The chat function will be disabled for all City Council meetings on Zoom.

Estándares comunitarios de Zoom para Reuniones Públicas

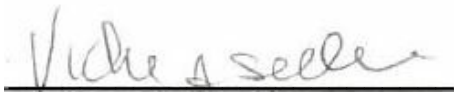
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- Su micrófono debe permanecer en silencio, y solo puede reactivar su micrófono cuando / si es reconocido por el alcalde.
- Su cámara debe estar apagada a menos que sea reconocido por el alcalde.
- Para indicar el deseo de hacer un Comentario Público, debe utilizar la función Levantar la mano. El alcalde no reconocerá a quienes no hayan utilizado la función Levantar la mano.

- Los comentarios públicos de lo que atienden por Zoom seguirán inmediatamente los comentarios en persona de los miembros del público en las Cámaras del Consejo.
- Si no cumple con estas pautas de la comunidad, es posible que lo destituyan por interrumpir la reunión que tiene lugar en las Cámaras del Consejo. Puede volver a unirse a la reunión, pero es posible que lo eliminen por cada violación de estos estándares de la comunidad.
- La función de chat estará deshabilitada para todas las Reuniones del Ayuntamiento en Zoom.

AFFIDAVIT • DECLARACIÓN JURADA

IT IS HEREBY CERTIFIED under the laws of the State of California that the above agenda was posted on the City's website (www.banningca.gov) as well as the Bulletin Board at Banning City Hall, located at 99 E Ramsey Street, Banning, CA 92220, at least 72 hours in advance of the meeting.



Vickie Sellers, Elected City Clerk
Secretaria Municipal Electa

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Public Comment

Agenda Items

Any member of the public may address this meeting of the City Council on any item appearing on the agenda. A five-minute limitation shall apply to each member of the public and no member of the public shall be permitted to share their time with any other person.

Non-Agenda Items

Any member of the public may address this meeting of the City Council on any item which does not appear on the regular meeting agenda but is of interest to the general public and is an item upon which the City Council may act. A three-minute limitation shall apply to each member of the public and no member shall be permitted to share their time with any other person. No action shall be taken, nor discussion held by the City Council, on any item which does not appear on the agenda, unless the action is otherwise authorized in accordance with the provisions of subdivision (b) of §54954.2 of the Government Code.

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CONTACT • CONTACTO

City Clerk's Office | 951-922-3102 | CityClerks@banningca.gov
99 East Ramsey Street, Banning, California 92220

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Robert Fisher, Acting City Manager**
PREPARED BY:	**Caroline Patton, Administrative City Clerk** **Vincent Avila, Chief of Police**
MEETING DATE:	**May 27, 2025**
SUBJECT:	**Receive and File Police Department Statistics for the Month of April 2025**

RECOMMENDATION:

Receive and file.

BACKGROUND:

The Banning Police Department provides statistics to the public and City Council upon request.

JUSTIFICATION:

Statistics tell a city how many police officers need to be on the street, what crimes are being committed, and reveal increases and decreases in specific crimes. Also, cities get funding in part on their crime rates. If a federal crime bill passed, the Government needs to know which cities could benefit the most from those funds, and some cities have been rewarded financially for drastically lowering rates of crime.

FISCAL IMPACT:

None

ALTERNATIVES:

Providing statistics keeps the Council, staff, and residents apprised of current police activities. If the statistics are not presented to the Council on a regular basis, then they should be provided on another platform.

BUDGETED?:

No

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. Group A Offense Report (30)-APRIL 2025.pdf
2. Police Stats Workbook updated Apr 2025.pdf

Group A Offense Report

Beginning Date: 04/01/2025 **Ending Date: 04/30/2025**

Agency: BANNING PD

Offense	Reported in 2025	Reported in 2024	Percent Change	Offenses Cleared	Percent Cleared	Percent Of Category	Rate Per 100,000*
Murder	1	1	0.00%	0	0.00%	6.25%	3.13
Negligent Manslaughter	0	0	NA	0	0.00%	0.00%	0.00
Justifiable Homicide	0	0	NA	0	0.00%	0.00%	0.00
Non-consensual Sex Offenses:							
Rape	0	0	NA	0	0.00%	0.00%	0.00
Sodomy	0	0	NA	0	0.00%	0.00%	0.00
Sexual Assault with Object	0	0	NA	0	0.00%	0.00%	0.00
Fondling	1	1	0.00%	0	0.00%	6.25%	3.13
Aggravated Assault	5	9	-44.44%	2	40.00%	31.25%	15.63
Simple Assault	9	6	50.00%	5	55.56%	56.25%	28.13
Intimidation	0	2	-100.00%	0	0.00%	0.00%	0.00
Kidnapping/Abduction	0	0	NA	0	0.00%	0.00%	0.00
Consensual Sex Offenses:							
Incest	0	0	NA	0	0.00%	0.00%	0.00
Statutory Rape	0	0	NA	0	0.00%	0.00%	0.00
Human Trafficking, Commercial Sex Acts	0	0	NA	0	0.00%	0.00%	0.00
Human Trafficking, Involuntary Servitude	0	0	NA	0	0.00%	0.00%	0.00
Crimes Against Persons Total	**16**	**19**	**-15.79%**	**7**	**43.75%**	**26.23%**	**50**
Robbery	1	1	0.00%	0	0.00%	3.70%	3.13
Burglary/Breaking & Entering	4	24	-83.33%	0	0.00%	14.81%	12.50
Larceny/Theft Offenses	8	10	-20.00%	1	12.50%	29.63%	25.00
Motor Vehicle Theft	3	4	-25.00%	0	0.00%	11.11%	9.38
Arson	1	1	0.00%	0	0.00%	3.70%	3.13
Destruction Of Property	5	8	-37.50%	1	20.00%	18.52%	15.63
Counterfeiting/Forgery	2	0	NA	0	0.00%	7.41%	6.25
Fraud Offense	2	1	100.00%	0	0.00%	7.41%	6.25
Embezzlement	0	0	NA	0	0.00%	0.00%	0.00
Extortion/Blackmail	0	0	NA	0	0.00%	0.00%	0.00
Bribery	0	0	NA	0	0.00%	0.00%	0.00
Stolen Property Offenses	1	1	0.00%	1	100.00%	3.70%	3.13
Crimes Against Property Total	**27**	**50**	**-46%**	**3**	**11.11%**	**44.26%**	**84.38**
Drug/Narcotic Violations	5	1	400.00%	5	100.00%	27.78%	15.63
Drug Equipment Violations	7	5	40.00%	7	100.00%	38.89%	21.88
Gambling Offenses	0	0	NA	0	0.00%	0.00%	0.00
Pornography/Obscene Material	0	0	NA	0	0.00%	0.00%	0.00
Prostitution	0	0	NA	0	0.00%	0.00%	0.00
Weapons Law Violation	6	7	-14.29%	6	100.00%	33.33%	18.75
Animal Cruelty	0	0	NA	0	0.00%	0.00%	0.00
Crimes Against Society Total	**18**	**13**	**38.46%**	**18**	**100%**	**29.51%**	**56.25**
Total Group "A" Offenses	**61**	**82**	**-25.61%**	**28**	**45.9%**	**100%**	**190.63**

Note: *The Rate per 100,000 will be 'NA' when the Adjusted Population Base is Zero.*

* Adjusted population base: 32,000

BANNING POLICE DEPARTMENT
APRIL, 2025

CRIME	Apr-25	Apr-24	% CHGE	YTD-25	YTD-24	% CHGE
PART 1 CRIMES						
Homicide	1	0	100%	1	1	0%
Rape	0	1	-100%	1	2	-50%
Robbery	1	0	100%	4	1	300%
Assaults Agg/Simp	14	18	-22%	56	78	-28%
Burglary	4	20	-80%	9	54	-83%
Vehicle Theft	3	9	-67%	24	28	-14%
Larceny	8	25	-68%	38	89	-57%
OTHER						
Narcotics	6	3	100%	24	27	-11%
DUI	4	1	300%	10	6	67%
T/C Non-Injury	16	16	0%	56	62	-10%
T/C Injury	3	5	-40%	17	20	-15%
T/C Fatal	0	0	0%	0	0	0%
Transient Calls	164	157	4%	517	561	-8%
Unattended Death	3	2	50%	13	12	8%
246PC	8	13	-38%	32	33	-3%
Citations	67	45	49%	339	235	44%
Total Incidents	2764	2775	0%	11282	11121	1%

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Robert Fisher, Acting City Manager**
PREPARED BY:	**Caroline Patton, Administrative City Clerk** **Todd Hopkins, CalFire Division Chief**
MEETING DATE:	**May 27, 2025**
SUBJECT:	**Receive and File Fire Protection Services Statistics for the Month of April 2025**

RECOMMENDATION:

Receive and file.

BACKGROUND:

City Council has requested CalFire's Riverside County Division, which provides fire protection services in the City of Banning, provide specific reports to the public and City Council on a monthly basis.

JUSTIFICATION:

Many fire and EMS departments store and analyze statistical data, which can provide a detailed analysis of the types of responses their organization is called to assist. This information is critical to elevating the level of service provided by the fire department

FISCAL IMPACT:

None

ALTERNATIVES:

Providing statistics keeps the Council, staff, and residents apprised of current fire and paramedic activities. If the statistics are not presented to the Council on a regular basis, then they should be provided on another platform.

BUDGETED?:

No

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. jurisreport_banning.pdf

Riverside County Fire Department/ CAL FIRE

Jurisdiction Summary for City of Banning

Bill Weiser

Fire Chief

4/1/2025 to 4/30/2025

Incident Response Activity

***At least 1 Resource Dispatched**

Incident Type	#
False Alarm	19
Haz Mat	1
Medical	365
Other Fire	13
Public Service Assist	27
Res Fire	2
Traffic Collision	15
Vehicle Fire	3
Wildland Fire	4
Incident Total	**449**

Average Enroute to On-Scene Time

***Units Responding Charlie, Delta, Bravo, Echo, Code 3**



Enroute Time: Unit has been acknowledged as responding.
On-Scene Time: Unit has been acknowledged as being On-Scene.

Transport

***Based on Units with a Transport time**

	0
Total:	**0**

Mutual Aid

***Unit responses**

Jurisdiction Units Responses

Engine	323
Total:	**323**

Mutual Aid Given

Engine	169
Total:	**169**

Mutual Aid Received

	36
Brush	5
Chief	12
Engine	174
Patrol	12
PIO	2
Squad	22
Truck/Quint	7
Total:	**270**

Truck Report

MRFT1 recorded 7 responses in City of Banning from 4/1/2025 1:40:10 PM to 4/30/2025 1:40:10 PM

Significant Incidents

25CARRU067200

4/26/2025 5:29:00AM

CAL FIRE / Riverside County Fire Department responded to a residential structure fire at the location above. First arriving engine found a fully involved structure. Units initiated fire attack from the exterior of the structure; however, the structure was a total loss. 2 civilians self-transported to a local hospital. Fire Prevention is at scene conducting an origin & cause investigation. 2 adults are displaced, however, unable to determine need for Red Cross. 2 adult fatalities. Units will remain at scene for several hours.

** UPDATE **
2 confirmed fatalities.

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Robert Fisher, Acting City Manager**
PREPARED BY:	**Art Vela, Public Works Director**
MEETING DATE:	**May 27, 2025**
SUBJECT:	**Public Works Capital Improvement Project Tracking List**

RECOMMENDATION:

Receive and file.

BACKGROUND:

To keep the City Council and the public informed of the progress and status of various capital improvement projects, staff has prepared the attached Public Works CIP Tracking List, which will be updated and presented on a monthly basis.

The tracking list includes planning, environmental, design, and construction contracts previously approved by the City Council and/or the City Manager's Office and currently managed by the Public Works Department.

JUSTIFICATION:

This recurring item is provided to keep the City Council and the public apprised of progress on certain projects.

FISCAL IMPACT:

Not applicable.

ALTERNATIVES:

Not applicable.

BUDGETED?:

No

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. CIP Tracking May 2025.pdf

PUBLIC WORKS CAPITAL IMPROVEMENT PROJECTS (CIP) TRACKING SHEET

Category	Project #	Project Name	Phase	% Completed	Tasks Completed	Current Tasks	Future Tasks	Tentative Completion Date	Project Budget
Streets	2023-17	Hargrave Grade Separation	PA&ED	2%	Contract execution; project kickoff, grant reporting.	Agreements with Caltrans and UPRR; Project Management Plan; Update Schedule	Basis of Design Document	12/30/27	$ 8,300,000
Streets	-	Highland Springs Avenue Interchange	PA&ED	35%	Highway Safety Manaul segmentation existing condition; aerial topo mapping; traffic volume report; Environmental Purpose/Need Statement; Air/Noise memos; VMT Methodology Memo; DDI Exclusion Memo; ROW Data Sheets;	Geometric development; utility agency data collection; Traffic Operations Analysis Report; Enviro. Technical Reports; HSM Analysis Memo; Geotech Reports; Prelim Drainage Reports;	Design Standard Risk Assessment; Value Analysis Report; Geometric Approval Document; R/W Data Sheets; Transp. Management Plan	8/1/25	$ 2,900,000
Streets	2020-04	Sun Lakes Blvd Extension	CEQA, PS&E	92%	Council has approved a redesign in order to comply with Kinder Morgan's requirements.	Webb to submit signed 100% Plans. Finalize Easement Documents and Environmental Permitting	Prepare Bid Documents	12/1/26	$ 1,248,026
Streets	-	Traffic Signalization of 8th Street/I-10 Interchange	Design/Permits	90%	Design well underway. Submittal of encroachment permit application to Caltrans. Caltrans approval on TOAR and concepts.	Design drawings have been resubmitted to Caltrans and awaiting a response. Negotiations with private owners for ROW acquisition.	Resubmitted to Caltrans if needed. Caltrans encroachment permit issuance. Property acquisition (private party task)	12/1/25	$ 1,081,000
Streets	2022-05	HSIP Cycle 10 Omar/Ramsey Intersection Improvements	Construction	0%	Project Approved for Funding by the State. Proposal solicitation. Contract award.	Award Project by CC 5/27/25	Kick Off Meeting	7/30/25	$ 59,698
Streets	2023-04	HSIP Cycle 10 Ramsey Street Pedestrian Safety Improvements	Construction	0%	Project Approved for Funding by the State. Project Awarded.	Project needs to rebid. Bids came in higher than Engineer's Cost Estimate	Award Contract	7/30/25	$ 64,780
Streets	2023-09	HSIP Upgrade 17 Traffic Signals Hardware	PS&E	5%	Project approved for funding by Caltrans	STC Traffic Working on 90% Plans Submittal and Caltrans Approval	100% Plans Submittal and Approval	12/1/25	$ 433,900
Streets	2023-10	HSIP Pedestrian Crossings Upgrades at 19 Intersection	PS&E	2%	Project approved for funding by Caltrans	RFP Sent to Purchasing for Advertizing	Award Contract	12/1/25	$ 585,000
Streets	2023-11	HSIP Wilson St & 12 St Intersection Upgrade	PS&E	2%	Project approved for funding by Caltrans	Preparing RFP Documents for Design Services	Send to purchasing for advertizing	12/1/25	$ 277,000
Streets	2023-05	San Gorgonio/UPRR Pedestrian Crossing	Design	95%	Amendment 2 CC Approval. 65% Plans complete	Final Plans approved by UPRR, CUPC and Caltrans. Sent GO 88-B to Caltrans for Review	Prepare Bid Documents	12/1/25	$ 230,000
Facility	2021-06	CNG Station	Design-Build	50%	Grading, wall footing, equipment pads and some underground piping. Underground utility installation; coordination with Gas Co., concrete pads.	Continue construction of block wall; shephard hook installation; install time fill posts.	Concrete driveway, install bollards, Gas Company to begin work, BEU to begin work.	10/1/25	$ 4,888,261
Facility		City Hall Roof Repairs - Phase 2	Design/Bid	10%	Scope identification - Roof/leak repairs on flat roof section over remainder of City Hall	Preparation of RFP	Award, Construction	6/30/25	$ 275,000
Facility	2024-02	City Hall West Side Workspace Reconfiguration	Construction	100%	Removal of cubicles, removal of floowing, close off existing hallway door, installation of flooring and new office spaces and furniture	Completed. Issue Notices of Completion	Complete punchlist and close out project.	2/28/25	$ 300,000
Facility	2023-16	Opportunity Village Sound Wall	Design	90%	Project kicked off.	100% Plans approved by City. Waiting on Caltrans approval and Encroachment	Final Plans	6/1/25	$ 103,486
Water	2018-02W-2	New Domestic Water Well C8 (Phase 2: Well Equipping and Site Development)	Construction	5%	Project was awarded, a NTP was issued followed by pre-con meeting and submittal reviews.	Material submittal reviews and procurement are underway. Contractor to mobilize on 5/28/2025 for prelim site grading.	Site grading and installation of underground piping/structures.	9/30/25	$ 3,774,100
Water	2023-15W	Ramsey Street Water Line	Construction	99%	16" DIP for the actual mainline alignment has been completed and tested. Services installed.	Project major tasks completed. Only pavement striping remains	CC Notice of Completion	5/24/25	$ 1,199,106
Water	2022-07W	Well M12A (Phase 2: Well Equipping an Site Development)	Construction	5%	Project was awarded, a NTP was issued followed by pre-con meeting and submittal reviews.	Material submittal reviews. Contractor to mobilize 5/25/2025 for prelim site grading.	Site grading and installation of underground piping/structures.	9/30/25	$ 2,684,990
Water	20254-08W	Banning Canyon Stormwater Repairs	Construction	20%	Held pre-con and issued a NTP to Weaver Grading.	Grading (dredging) of the percolation ponds is underway.	Grading/restoration	7/31/25	$ 563,310
Wastewater	2022-01WW	Wastewater Treatment Plant and Recycled Water Improvments	Phase 1 (Design)	5%	Executed DBIA Agreement (545) and General Conditions (535). Phase 1 (design) kick-off meeting was held on 4.21.2025.	Technical design workshops are being held roughly every 3-weeks. All requested data e.g., as-builts, shop drawings of the exisitng plant's equipment etc., and sanitray sewer strength (influent/effleunt) samples are being tested for design purposes.	Data collection, field surveys, preliminary design reprot and continuation of technical workshops with the City.	4/30/26	$ 4,398,490

Wastewater	2020-08WW	WWTP Equalization Basin	Design/CEQA	90%	Completed 60% drawings, 90% drawings are in reviewed.	Development of 100% drawings; working with EPA on grant funding.	Submittal of 100% drawings; Approval to proceed with grant expenditures; Invitation for Bids	8/1/25	$ 362,866
Recycled Water	2024-1RW	Charles Street and Lincoln Street Booster Station and Reservoirs	Construction	10%	Project was awarded, a NTP was issued followed by pre-con meeting and submittal reviews.	Mass Grading of both sites is complete. Contractor working on Storm Drain and Staking for buildings. Long lead materials submittals have been approved.	Underground piping followed by fore-bay tanks and building improvements.	2/1/26	$ 10,160,200
Recycled Water	2023-06RW	Lions Park Non-Potable Water Conversion	Design	100%	Project Awarded. Kick Off Meeting. Surveying and utility research	Bid package being reviewed by PW for posting	Award project	12/1/25	$ 98,500
Electric		Sun Lakes Blvd Extension	Design	90%	Full redesign completed and in review	Development of 100% drawings and prepare bid package to include with larger Public Works project.	Prepare bid documents, construction cost estimate and invitation for bid.	12/1/26	$ 75,700
Electric		Robertson's Ready Mix Pole Relocation	Construction	0%	Line Extension Agreement approved by City Council. Additional comments provided by Robertson's Ready Mix	Update ageemtment and resubmit for City Council approval	Collect deposits from Robertson's Ready Mix and order materials for contruction and schedule installation	3/30/26	$ 425,000
Electric		12kV Reconductor on Barbour St at Hathaway	Design	90%	Design has been completed for the project	Plan in review with amangement	Include project in budget cycle for 2025/26; Order materials for contruction and schedule installation	12/30/25	$ 100,000

CITY OF BANNING
STAFF REPORT

TO: **CITY COUNCIL**

FROM: **Robert Fisher, Acting City Manager**

PREPARED BY: **Yvette Vaca, Administrative Sergeant**
Vincent Avila, Chief of Police

MEETING DATE: **May 27, 2025**

SUBJECT: **Receive and File Code Enforcement Statistics for the Month of April 2025**

RECOMMENDATION:

Receive and file.

BACKGROUND:

The City's Code Enforcement Division ("Code") is responsible for enforcement of the Banning Municipal Code and state and federal laws, as applicable. Typical code enforcement duties and responsibilities include pursuing the abatement of unsafe buildings, unpermitted land use, business without a license, construction without permit, and unregistered food vendors. Additionally, Code is responsible for compliance with weed abatement, which involves patrol, investigation, noticing, enforcement, and remediation of vacant lots.

Code is currently overseeing 385 open cases, including 36 cases opened during the month of April 2025. Below is a summary of cases during the month of April 2025.

	Month	YTD
New Cases Opened	36	111
Total Cases Open (includes previous years)	385	N/A
Notice of Violations issued	143	372
Violations Resolved	126	440
Citations Issued	4	30
Field Inspections completed	117	380
Fee's Collected (Citations)	$	$ 1,946.67
Red Tagged Properties	3	12
Abandoned Vehicles Abated (AVA Program)	0	0
Weed Abatement Cost Recovery Received	$ 61,671.22	$ 90,935.03
72 Hour Parking Notice Violation	3	3

JUSTIFICATION:

Monthly activity reports are provided for informational purposes.

FISCAL IMPACT:

Not applicable.

ALTERNATIVES:

Direct staff to provide additional information on the case data.

BUDGETED?:

Yes

CONTRACT/AGREEMENT:

No

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Robert Fisher, Acting City Manager**
PREPARED BY:	**Barbara Mason, Chief Procurement Officer** **Barbara Mason, Chief Procurement Officer**
MEETING DATE:	**May 27, 2025**
SUBJECT:	**City Council Travel and Conference Expense Report Year to Date Through April 2025**

RECOMMENDATION:

Receive and file.

BACKGROUND:

The City Council attends many events, conferences, and training sessions while serving the City of Banning. The rules for these events and expenses are enforced by the Reimbursement Policy for Elected and Appointed Officials as well as by Policy E-3 Travel and Meeting Policy.

JUSTIFICATION:

As part of the Reimbursements Policy for Elected and Appointed Officials each official must briefly report on outside meetings, and all City reimbursement expenditures are subject to disclosure under the Public Records Act and other applicable laws. This monthly report will enable the City to comply with this requirement.

FISCAL IMPACT:

All expenditures under this category are from account 001-1000-411.23-05. As of April 30, 2025, the total charges expensed to this account is $XX,XXX.XX.

ALTERNATIVES:

Providing statistics keeps the Council, staff, and residents apprised of current council activities. If the statistics are not presented to the Council on a regular basis, then they should be provided on another platform.

BUDGETED?:

Yes

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. Travel Expenses - City Council

CITY COUNCIL TRAVEL AND CONFERENCE BUDGET FY2024-2025

ACCOUNT 001-1000-411.23-05

AS OF APRIL 30, 2025

BUDGET	$	31,500.00
WALLACE	$	4,863.24
SANCHEZ	$	1,012.49
FLYNN	$	3,977.64
BARRINGTON	$	1,998.56
MILLER	$	1,851.03
ROYCE	$	1,931.60
TOTAL EXPENSES	$	15,634.56
BALANCE AVAILABLE	$	15,865.44

TRAVEL AND CONFERENCE FY 2024-2025

WALLACE **C00013** **Expenses posted as of 4/30/25**

Expense	Event Date	Authorizatio	Name of Event	Additional	Location	Amount
7/12/2024	7/17/2024		Banning Sunrise Breakfast	Banning Chamber	Banning	25.00
7/23/2024	8/21/2024		Chad Bianco Luncheon		Morongo	85.00
7/31/2024			July 2024 Mileage			54.61
8/1/2024	8/8/2024		Riverside County Women's Leadership Conference		Corona	100.00
8/22/2024	9/26/2024		Calimesa State of the City		Calimesa	75.00
8/31/2024			August 2024 Mileage			102.51
9/19/2024	9/19/2024		Beaumont State of the City		Beaumont	75.00
9/24/2024	10/10/2024		San Jacinto State of the City		San Jacinto	71.21
9/30/2024			September 2024 Mileage			41.47
10/8/2024	12/12/2024		Regional City Managers Presentation		Beaumont	25.00
10/16/2024	10/16-10/18/2024	TV2458	League of California Cities Annual Conference	Meal Per Diem	Long Beach	115.25
10/16/2024	10/16-10/18/2024	TV2458	League of California Cities Annual Conference	Mileage	Long Beach	116.83
10/18/2024	10/16-10/18/2024	TV2458	League of California Cities Annual Conference	Hotel & Parking	Long Beach	605.41
10/22/2024	10/16-10/18/2024	TV2458	League of California Cities Annual Conference	Hotel & Parking	Long Beach	26.01
10/24/2024	11/14/2024		League of California Cities - Riverside Divisional Meeting		Moreno Valley	60.00
10/25/2024	11/7/2024		Hemet State of the City		Hemet	75.00
10/31/2024			October 2024 Mileage			93.47
11/8/2024	12/12/2024		Pass EDA Presentation		Beaumont	25.00
11/11/2024	1/29-1/31/2025	TV25C7	League of California Cities Mayor & Council Academy	Registration	Garden Grove	675.00
11/30/2024			November Mileage			126.16
12/4/2024	12/3-12/7/2024	TV25A1	League of California Cities Leadership Committee	Meal Per Diem	Napa	135.25
12/4/2024	12/3-12/7/2024	TV25A1	League of California Cities Leadership Committee	Rental Car Fuel	Napa	120.31
12/4/2025	1/23-1/25/2025	TV25E5	League of California Cities Policy Committee Meeting	Rental Car Fuel	Sacramento	109.01
12/30/2024			December Mileage			55.81
12/31/2024	12/3-12/7/2024	TV25A1	League of California Cities Leadership Committee	Rental Car	Napa	261.83
1/10/2025	1/13/2025		League of California Cities - Riverside Divisional Meeting		Desert Hot Springs	60.00
1/23/2025	1/23-1/25/2025	TV25E5	League of California Cities Policy Committee Meeting	Meal Per Diem	Sacramento	85.50
1/24/2025	4/23-4/25/2025	TV25H1	League of California Cities - City Leadership Summit	Registration	Sacramento	650.00
1/29/2025	1/29-1/31/2025	TV25C7	League of California Cities Mayor & Council Academy	Meal Per Diem	Garden Grove	131.25
1/29/2025	1/29-1/31/2025	TV25C7	League of California Cities Mayor & Council Academy	Mileage	Garden Grove	96.60
1/31/2025	1/23-1/25/2025	TV25E5	League of California Cities Policy Committee Meeting	Rental Car	Sacramento	131.30
4/30/2025	4/23-4/25/2025	TV25H1	League of California Cities - City Leadership Summit	Rental Car	Sacramento	262.95
4/23/2025	4/23-4/25/2025	TV25H1	League of California Cities - City Leadership Summit	Meal Per Diem	Sacramento	190.50
			Total Expenses			4,863.24

TRAVEL AND CONFERENCE FY 2024-2025

SANCHEZ **C00016** **Expenses posted as of 4/30/25**

Expense Date	Event Date	Authorization No.	Event	Additional Description	Location	Amount
8/6/2024	8/14/2024		State of the 5th District		Morongo	$ 100.00
9/19/2024	9/19/2024		Beaumont State of the City		Beaumont	$ 75.00
10/16/2024	10/16-10/18/24	TV2460	League of California Cities Annual Conference	Meal Per Diem	Long Beach	$ 115.25
10/16/2024	10/16-10/18/24	TV2460	League of California Cities Annual Conference	Mileage	Long Beach	$ 116.83
10/18/2024	10/16-10/18/24	TV2460	League of California Cities Annual Conference	Hotel & Parking	Long Beach	$ 605.41
			Total Expenses			$ 1,012.49

TRAVEL AND CONFERENCE FY 2024-2025

FLYNN **C00020** **Expenses posted as of 4/30/25**

Expense Date	Event Date	Authorization No.	Event	Additional Description	Location	Amount
7/8/2024	7/8/2024		Cal Cities Riverside Division Meeting		Calimesa	60.00
7/23/2024	8/21/2024		Chad Bianco Luncheon		Morongo	85.00
7/23/2024	8/14/2024		State of the 5th District		Morongo	100.00
7/31/2024			July Mileage			14.67
8/22/2024			Calimesa State of the City		Calimesa	75.00
9/24/2024			San Jacinto State of the City		San Jacinto	71.21
10/16/2024	10/16-10/18/2024	TV2459	League of California Cities Annual Conference	Meal Per Diem	Long Beach	115.25
10/16/2024	10/16-10/18/2024	TV2459	League of California Cities Annual Conference	Mileage, Add'l Parking, Toll Roads	Long Beach	131.33
10/18/2024	10/16-10/18/2024	TV2459	League of California Cities Annual Conference	Hotel & Parking	Long Beach	555.41
10/18/2024	10/16-10/18/2024	TV2459	League of California Cities Annual Conference	Hotel & Parking	Long Beach	50.00
11/8/2024	12/12/2024		Pass EDA Regional City Manager Presentation		Beaumont	25.00
11/8/2024			League of California Cities - Webinar		Online	25.00
11/11/2024	1/29-1/31/2025	TV25C8	League of California Cities Mayor & Council Academy	Registration	Garden Grove	675.00
12/31/2024			December Mileage			15.08
1/10/2025	1/13/2025		League of California Cities - Riverside Divisional Meeting		Desert Hot	60.00
1/24/2025	4/23-4/25/2025	TV25G9	League of California Cities - City Leadership Summit	Registration	Sacramento	650.00
1/29/2025	1/29-1/31/2025	TV25C8	League of California Cities Mayor & Council Academy	Meal Per Diem	Garden Grove	131.25
1/29/2025	4/23-4/25/2025	TV25G9	League of California Cities - City Leadership Summit	Airfare	Sacramento	308.96
1/29/2025	1/29-1/31/2025	TV25C8	League of California Cities Mayor & Council Academy	Mileage, Toll Roads, Meal Ded	Garden Grove	84.55
1/31/2025			January Mileage			32.23
4/23/2025	4/23-4/25/2025	TV25G9	League of California Cities - City Leadership Summit	Meal Per Diem	Sacramento	163.75
4/25/2025	5/18-5/20/2025	TV25M7	ICSC 2025 Convention	Airfare	Las Vegas	333.95
4/25/2025	5/18-5/20/2025	TV25M7	ICSC 2025 Convention	Meal Per Diem	Las Vegas	215.00
			Total Expenses			3,977.64

TRAVEL AND CONFERENCE FY 2024-2025

BARRINGTON **C00021** **Expenses posted as of 4/30/25**

Expense Date	Event Date	Authorizatio	Event	Additional Description	Location	Amount
12/9/2024	1/29-1/31/2025	TV25D3	League of California Cities Mayor & Council Academy	Registration	Garden Grove	675.00
1/24/2025	4/23-4/25/2025	TV25H3	League of California Cities - City Leadership Summit	Registration	Sacramento	650.00
1/29/2025	1/29-1/31/2025	TV25D3	League of California Cities Mayor & Council Academy	Meal Per Diem	Garden Grove	131.25
1/29/2025	4/23-4/25/2025	TV25H3	League of California Cities City Leader Summit	Airfare	Sacramento	308.96
1/29/2025	1/29-1/31/2025	TV25D3	League of California Cities Mayor & Council Academy	Mileage, Meal Ded	Garden Grove	69.60
1/29/2025	4/23-4/25/2025	TV25H3	League of California Cities City Leader Summit	Meal Per Diem	Sacramento	163.75
			Total Expenses			1,998.56

TRAVEL AND CONFERENCE FY 2024-2025

MILLER **C00022** **Expenses posted as of 4/30/25**

Expense Date	Event Date	Authorization	Event	Additional Description	Location	Amount
11/11/2024	1/29-1/31/2025	TV25D1	League of California Cities Mayor & Council Academy	Registration	Garden Grove	675.00
1/10/2025	1/13/2025		League of California Cities - Riverside Divisional Meeting		Desert Hot Springs	60.00
1/24/2025	4/23-4/25/2025	TV25H2	League of California Cities - City Leadership Summit	Registration	Sacramento	650.00
1/29/2025	1/29-1/31/2025	TV25D1	League of California Cities Mayor & Council Academy	Meal Per Diem	Garden Grove	131.25
1/29/2025	1/29-1/31/2025	TV25D1	League of California Cities Mayor & Council Academy	Mileage, Meal Ded	Garden Grove	69.60
4/30/2025	4/23-4/25/2025	TV25H2	League of California Cities - City Leadership Summit	Meal Per Diem	Sacramento	$ 163.75
4/30/2025	4/23-4/25/2025	TV25H2	League of California Cities - City Leadership Summit	Mileage, Meal Ded	Sacramento	$ 101.43
			Total Expenses			$ 1,851.03

TRAVEL AND CONFERENCE FY 2024-2025

ROYCE **C00023** **Expenses posted as of 4/30/25**

Expense	Event Date	Authorization	Event	Additional Description	Location	Amount
11/11/2024	1/29-1/31/2025	TV25C9	League of California Cities Mayor & Council Academy	Registration	Garden Grove	$ 675.00
1/24/2025	4/23-4/25/2025	TV25H6	League of California Cities - City Leadership Summit	Registration	Sacramento	650.00
1/29/2025	1/29-1/31/2025	TV25C9	League of California Cities Mayor & Council Academy	Meal Per Diem	Garden Grove	131.25
1/29/2025	1/29-1/31/2025	TV25C9	League of California Cities Mayor & Council Academy	Mileage, Meal Ded	Garden Grove	96.60
4/30/2025	4/23-4/25/2025	TV25H6	League of California Cities - City Leadership Summit	Meal Per Diem	Sacramento	$ 163.75
4/30/2025	5/18-5/20/2025	TV25M7	ICSC 2025 Convention	Meal Per Diem	Las Vegas	215.00
			Total Expenses			$ 1,931.60

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Robert Fisher, Acting City Manager**
PREPARED BY:	**Barbara Mason, Chief Procurement Officer** **Barbara Mason, Chief Procurement Officer**
MEETING DATE:	**May 27, 2025**
SUBJECT:	**Receive and File Contracts Approved Under the City Manager's Signature Authority and Inventory Reports for April 2025**

RECOMMENDATION:

Receive and file.

BACKGROUND:

Per Purchasing Policy B-30, 3-105(5), written notification by the Purchasing Officer of all City Manager approved contracts will be provided quarterly to the City Council for review, and 16-107(3), The City Manager, or his designated representative, shall make a monthly written report to the City Council as to all Change Orders approved by the City Manager during the month, and of all possible future Change Orders that may appear probable prior to the next monthly report. At a minimum, the City Manager shall provide the Council with the name and nature of the contract, all Change Orders approved during that month, the reason for the Change Orders, the cumulative amount of the Change Orders for that contract, and any additional information the Council requests.

JUSTIFICATION:

While the policy requires contracts signed under the City Manager's signature authority to be submitted to City Council on a quarterly basis, it is staff's intent to submit these reports on a monthly basis to provide continuity with other monthly reports submitted to Council.

FISCAL IMPACT:

None

ALTERNATIVES:

Failure to provide this report to the City Council would result in the City being out of compliance with Purchasing Policy B-30,3-105(5).

BUDGETED?:

No

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. 2025-05 May 2025 Executed Contract Below $25K.pdf

Contracts Approved Within City Manager Signature Authority

FOR MONTH OF MAY 2025					
City Manager Approval Date	**Vendor Name**	**Description of Item/Service**	**Contact Award Total**	**Department/ Division**	**Comments**
4/10/2025	Mariposa Landscaping, Inc.	Palm Tree Trimming - Ramsey Median	2,784.00	PW - Streets	CUPCCAA Contract
4/11/2025	Southern California Gas Co.	Project 286304 - Line Extension	603,691.46	PW - Transit	
4/11/2025	Southern California West Coast Elec	City Hall Can Lights	4,600.00	PW - Building Maintenance	CUPCCAA Contract
4/11/2025	General Pump Company Inc.	Banning WWTP Booster Rebuild	31,357.98	PW - Wastewater	CUPCCAA Contract
4/11/2025	EXP U.S. Services, Inc.	All Way Stop Warrant Study	7,200.00	PW - Engineering	
4/15/2025	Couts Heating & Cooling, Inc.	Adding of Router and adding City Hall Data to PD	6,502.14	PW - Building Maintenance	CUPCCAA Contract
4/16/2025	Myers & Sons Hi-Way Safety Inc.	Guard repair 3055 W. Ramsey	4,942.07	PW - Building Maintenance	CUPCCAA Contract
4/17/2025	West Coast Arborists, Inc	Park Tree Trimming - Repplier Park Tennis Courts	2,250.00	CS - Parks	CUPCCAA Contract
4/21/2025	SoCal Arbor Care Inc	Repplier Park - Tree Trim Georgia & Internal	10,085.00	CS - Parks	CUPCCAA Contract
4/21/2025	SoCal Arbor Care Inc	4469 W. Wilson - Tree Service	5,090.00	PW - Streets	CUPCCAA Contract
4/21/2025	Core Business Technologies	Credit Card Machines	-	AS - Utility Billing	
4/22/2025	ACC & Engineering LLC	Playhouse Bowl Flooring	10,109.70	PW - Building Maintenance	CUPCCAA Contract

4/22/2025	KEPT Companies	Bus Washing Services	11,000.00	PW - Transit	
4/22/2025	SoCal Arbor Care Inc	Tree Removal at 1796 N. San Gorgonio & stump g	2,950.00	PW - Streets	CUPCCAA Contract
4/24/2025	Mariposa Landscapes, Inc	Prune Trees at 713 N Sunrise St	14,950.00	PW - Water	CUPCCAA Contract
4/24/2025	Sloan, Sakai, Yeung & Wong LLP	Legal Services	as needed	CM - City Manager	

Change Orders Approved Within City Manager Signature Authority

FOR MONTH OF MAY 2025

Date	Vendor Name	Description of Item/Service	Contact Award Total	Change Order	Comments
4/11/2025	Core Business Technologies	Credit Card Machines	$3,001.00	3,001.00	
4/11/2025	CASC Engineering & Consulting	Extend Time Line - Design San Gorgonio/ UPRR Crossing	$112,908.36	-	
4/14/2025	Hemet Fence Corp	CO No.1 - Electric Dept Fencing	$0.00		
4/14/2025	Vision Security Systems	CO No.1 - Add'l data drop	17,391.00	191.00	
4/21/2025	Michael Baker International	Amend No.3 - Sunset Crossroads Specific Plan	$150,000.00		Time Extension only
4/22/2025	Cornerstone Development Co.	Design Engineering Services	$547,900.00		Time Extension only

INVENTORY PURCHASES OVER $25K

FOR MONTH OF MAY 2025

Date	Vendor Name	Description of Item/Service	Amount	Department	Comments
4/15/2025	OneSource Distributors	Water Inventory Supplies & Commodities	57,756.16	PW - Electric	Reso 2024-101

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Robert Fisher, Acting City Manager**
PREPARED BY:	**Holly Stuart, Public Works Program Manager** **Art Vela, Director of Public Works**
MEETING DATE:	**May 27, 2025**
SUBJECT:	**Community Cleanup and Compost Giveaway Event Update**

RECOMMENDATION:

This is informational only; receive and file report.

BACKGROUND:

The City of Banning has partnered with Waste Management as part of the solid waste franchise agreement to provide three free bulky item collection events for residential accounts per calendar year. In celebration of Earth Day the City held the second of three bulky item collection events for this year on April 19, 2025, at Dysart Park offering residents the opportunity to dispose of unwanted items including, but not limited to, appliances, mattresses, green waste, e-waste and so forth. This event also offers residents paper shredding and the collection of household batteries.

This latest event welcomed 523 vehicles. An accumulation of 40.27 tons of municipal solid waste, 9.45 tons of green waste, 8.22 tons of white goods/metal, 3.15 tons of paper shredding, 3.05 tons of E-waste, and 2.29 tons of mattresses were collected over the duration of 5 hours. Waste Management collected a grand total of 66.43 tons of waste, of which 26.16 tons were successfully diverted from the landfill. Furthermore, five (5) barrels of household batteries were collected during the event.

According to Waste Management's calculations, these recycling efforts resulted in the following benefits:
• Saved 136,091 kWh of electricity. Enough electricity to power 11 households for one year.
• Reduced GHG emissions by 5 metric tons. Equivalent to taking 3 passenger cars off the road for one year.
• Kept 6,100 lbs of solid Waste out of the landfill. The amount of trash generated by 3 households in one year.
• Kept 1,495 lbs. of hazardous materials out of the environment.

In addition to the collection of bulky waste at Dysart Park, the City included a compost station, giving away free compost to the community. Fifty-two (52) residents obtained compost on the day of the event. Any unused compost that was not given away was disbursed and utilized on City properties throughout the community. Incorporating the free compost giveaway supports the City's compliance goals in achieving targets identified by the State and SB 1383 requirements to purchase and utilize organic waste materials. In all, Waste Management provided 18 tons of compost for the giveaway.

JUSTIFICATION:

The City's Bulky Item Collection and Compost Giveaway events continue to be a success and provide a great service to our community. The events aid in keeping the community clean through reducing the

amount of waste that may otherwise be illegally dumped throughout the City and its rights-of-ways. Our next event is scheduled for Saturday, October 18, 2025.

FISCAL IMPACT:

Event staff and material costs were funded by the Refuse fund.

ALTERNATIVES:

Receive and file.

BUDGETED?:

Yes

CONTRACT/AGREEMENT:

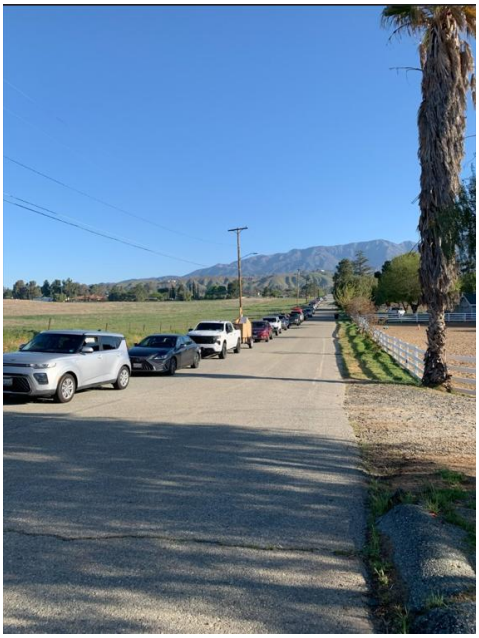
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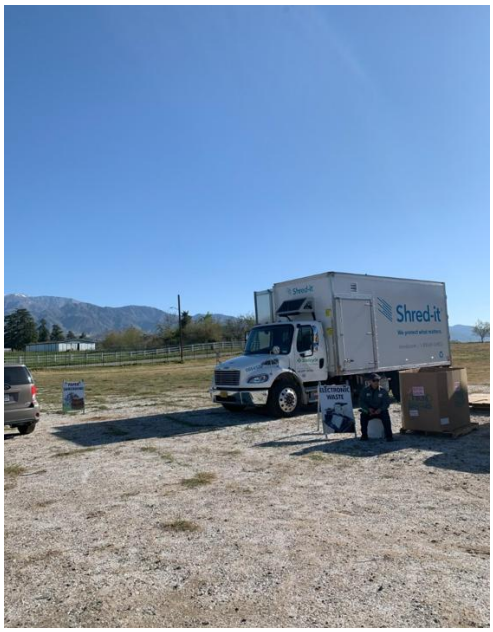
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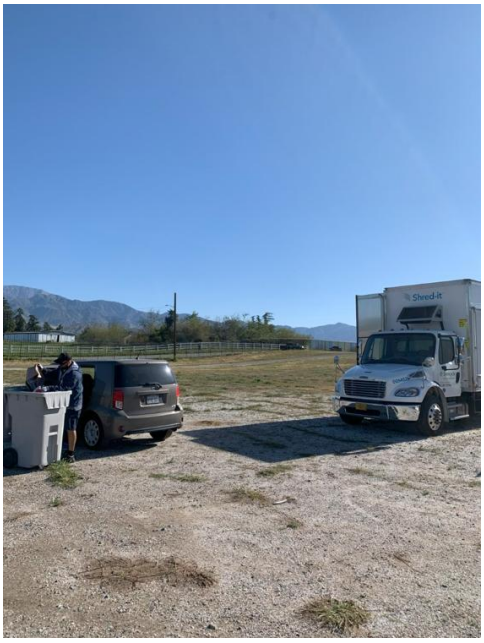
1. ATTACHMENT 1 Event Pictures 4.19.25.pdf

Staff Report: Bulky Item Collection & Compost Giveaway (Earth Day Celebration)
April 19, 2025
523 Vehicle Trips

BULKY ITEM COLLECTION & COMPOST GIVEAWAY EVENT PICTURES













Staff Report: Bulky Item Collection & Compost Giveaway (Earth Day Celebration)
April 19, 2025
523 Vehicle Trips








CITY OF BANNING
STAFF REPORT

TO: **CITY COUNCIL**

FROM: **Robert Fisher, Acting City Manager**

PREPARED BY: **Nate Smith, Deputy Director of Public Works/City Engineer**
Art Vela, Director of Public Works

MEETING DATE: **May 27, 2025**

SUBJECT: **Accept as Complete Various Improvements Related to the Atwell Specific Plan Development and Authorize 90% Reduction of the Improvement Bonds**

RECOMMENDATION:

Accept as Complete Various Improvements Related to the Atwell Specific Plan Development and Authorize 90% Reduction of the Improvement Bonds

BACKGROUND:

The City Council approved the Butterfield Specific Plan on April 10, 2012 with Ordinance No. 1450. A challenge to the project approval was filed and resolved with a Settlement Agreement by the parties in November 2014. The initial project approvals for the Specific Plan anticipated the use of recycled water for common areas within the Specific Plan by the installation of non-potable pipelines for future connection and use once recycled water was made available by the City of Banning. Terms within the Settlement Agreement agreed to by Pardee Homes (now Tri-Pointe Homes) required Pardee Homes to fund or construct project related infrastructure to provide non-potable water.

The NP-1 well is one component of the non-potable water system that was constructed by Tri-Pointe Homes in accordance with the requirement of the Settlement Agreement. The well is located on Westward Ave. at the eastern City boundary, and downstream of the wastewater treatment plant. The State of California Division of Drinking Water determined that this well location would not be suitable as a potable water well, but met the requirements for non-potable water use. As such, Tri-Pointe Homes equipped the well and improved the well site. The well is now operational and capable of delivering non-potable water once the remaining improvements of the system, which are currently in construction, are complete.

JUSTIFICATION:

Staff has verified through inspections that the required public improvements were completed per City standards and specifications and recommends that City Council accept the improvements as complete and authorize the 90% bond exoneration for the following bonds:

BOND NUMBER	IMPROVEMENT
CMS331845	NP-1 Well Site Mechanical, Electrical, Plumping
CMS331837	NP-1 Well Site Civil Improvements

The remaining 10% of the bond amounts will remain for a period of 12 months (maintenance period) at

which point the 10% balance will be released and the improvements will become City owned and maintained improvements.

FISCAL IMPACT:

The City of Banning will take over operations and maintenance of the Well NP-1 facility within the Water Department enterprise fund.

ALTERNATIVES:

Do not accept staff's recommendation and provide staff with alternative direction.

BUDGETED?:

No

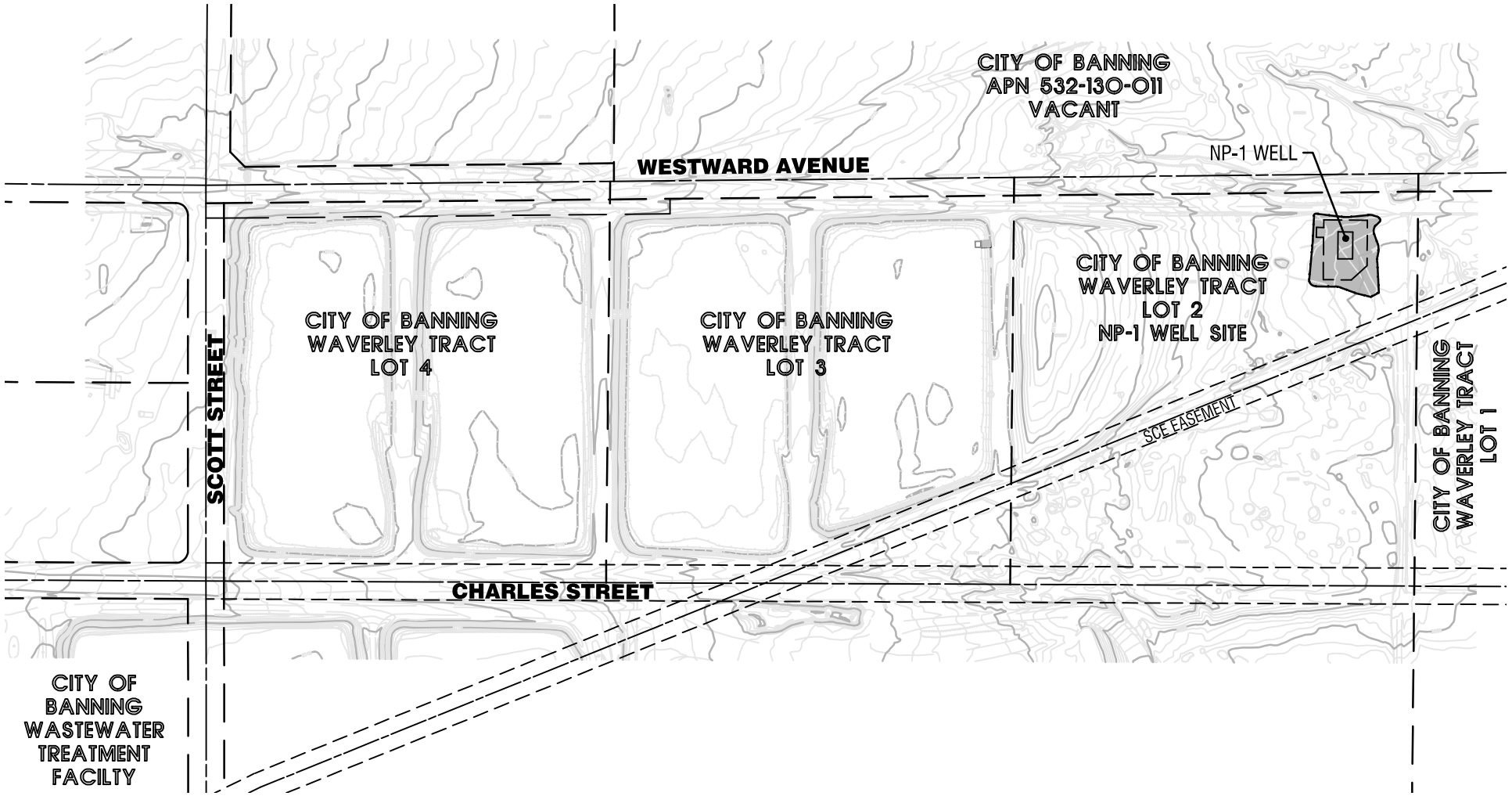
CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. Att 1 - NP-1 Well Site Exhibit.pdf

NP-1 WELL SITE EXHIBIT



CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Robert Fisher, Acting City Manager**
PREPARED BY:	**Nate Smith, Deputy Director of Public Works/City Engineer** **Art Vela, Director of Public Works**
MEETING DATE:	**May 27, 2025**
SUBJECT:	**Consideration of Accepting an Easement from Tri-Pointe Homes for Storm Drain Purposes Within Tract 37388-6 and 37388-7 of the Atwell Project**

RECOMMENDATION:

Accept an Easement from Tri-Pointe Homes for Storm Drain Purposes Within Tract 37388-6 and 37388-7 of the Atwell Project.

BACKGROUND:

On May 28th, 2024, the City Council adopted Resolution 2024-77 authorizing the recordation of Final Maps 37388-4, 37388-5, and 37388-6. On December 10th, 2024, the City Council adopted Resolution 2024-190 authorizing the recordation of Final Maps 37388-7, 37388-8, and 37388.

Within Final Map 37388-6, Lot G was created for Park, Recreation, Landscape and Maintenance Purposes. Tri-Pointe Homes as since completed grading and drainage plans for this park site was completed, including a location where onsite drainage is collected and conveyed to the public storm drain system within the public roadway.

Within Final Map 37388-7, Lot I was created for Park, Vehicle Parking, Landscape, and Maintenance Purposes. Tri-Pointe Homes as since completed grading and drainage plans for this park site was completed, including a location where onsite drainage is collected and conveyed to the public storm drain system within the public roadway.

JUSTIFICATION:

It is necessary to obtain the easements for the ongoing maintenance of the storm drain connector pipe between the park sites and the public right of way. It is standard practice to disallow private entities from maintaining private drainage within the public right of way, and this action is consistent with this practice.

FISCAL IMPACT:

None

ALTERNATIVES:

Do not accept the easement and provide alternative direction.

BUDGETED?:

No

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. Storm Drain Easement CofA, Grand Deed, Legal Description, Plat.pdf

When Recorded Mail To:
City Clerk
City of Banning
P.O. Box 998
Banning, CA 92220

NO RECORDING FEE PER SECTION 6103 OF THE GOVERNMENT CODE.

SPACE FOR RECORDER'S USE

CERTIFICATE OF ACCEPTANCE

This is to certify that the EASEMENT – PUBLIC STORM DRAIN PURPOSES from **Tri-Pointe Homes IE-SD, Inc.** dated 4/17/2025, is hereby accepted by THE CITY OF BANNING pursuant to authority conferred by the City Council this 27th day of May, 2025, and the grantees consent to recordation thereof by its duly authorized agent.

Dated:_____

CITY OF BANNING

By_____
Caroline Patton
Administrative City Clerk

EXEMPT RECORDING REQUESTED BY City of Banning PER GOV'T CODE 6103 AND WHEN RECORDED MAIL TO: City of Banning – City Clerk P.O. Box 998 Banning, CA 92220 MAIL TAX STATEMENTS TO: City of Banning – City Clerk P.O. Box 998 Banning, CA 92220	

APN: 408-570-004, 005 & 023

EASEMENT – PUBLIC STORM DRAIN PURPOSES

The undersigned, being the present title owner(s) of record of the herein described parcel of land, do hereby grant to the City of Banning, a municipal corporation, and its successors or assigns an easement for public storm drain purposes, the real property situated in the City of Banning, County of Riverside, State of California, described in Exhibit "A" (legal description) and shown on Exhibit "B" (plat map) attached hereto and incorporated herein by this reference as though set forth in full.

It is understood and agreed that the City of Banning and its successors or assigns shall incur no liability with respect to such easement, and shall not assume any responsibility for the offered parcel of land or any improvements thereon or therein, until such offer has been accepted by appropriate action of the City Council, or of the local governing bodies or its successors or assigns.

The provisions hereof shall inure to the benefit of and be binding upon heirs, successors, assigns, and personal representatives of the respective parties hereto.

IN WITNESS THEREOF, these presents have executed this instrument this 17th day of April, 2025.

Tri Pointe Homes IE-SD, Inc.
Individual/Corporation (Type Name)

Signature

Brian Ortwein, Vice President Project Management
Name and Title (Type)

See acknowledgements attached to this document.

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Riverside)

On 04/17/2025 before me, Edelmira Gonzales / Notary Public
(insert name and title of the officer)

personally appeared Brian Ortwein,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

FRS01 EDELMIRA GONZALES NOTARY PUBLIC - CALIFORNIA COMMISSION # 2466323 RIVERSIDE COUNTY My Comm. Exp. October 12, 2027 FRS01

Signature Edelmira Gonzales (Seal)

EXHIBIT "A"

PUBLIC STORM DRAIN AND MAINTENANCE EASEMENT
CITY OF BANNING PROJECT ID NO. RW 25-0002
LEGAL DESCRIPTION

STRIP 1:

BEING A 20.00 FOOT WIDE STRIP OF LAND LYING WITHIN LOT 'I' OF TRACT NO. 37388-7, IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS FILED IN MAP BOOK 499, PAGES 97 THROUGH 106, INCLUSIVE, RECORDS OF SAID COUNTY, LYING 10.00 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT THE CENTERLINE INTERSECTION OF APEX STREET, HAVING A HALF WIDTH OF 35.00 FEET, AND TAMARACK LANE, HAVING A HALF WIDTH OF 28.00 FEET AS SHOWN ON SAID TRACT NO. 37388-7;

THENCE SOUTHEASTERLY ALONG SAID CENTERLINE OF TAMARACK LANE THE FOLLOWING THREE (3) COURSES:

1) SOUTH 78°36'07" EAST 65.00 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 600.00 FEET;

2) SOUTHEASTERLY ALONG SAID TANGENT CURVE, THROUGH A CENTRAL ANGLE OF 9°04'34", AN ARC LENGTH OF 95.04 FEET TO THE BEGINNING OF A REVERSE CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 600.00 FEET, A RADIAL LINE TO THE BEGINNING OF SAID REVERSE CURVE BEARS SOUTH 20°28'27" WEST;

3) SOUTHEASTERLY ALONG SAID REVERSE CURVE, THROUGH A CENTRAL ANGLE OF 07°53'16", AN ARC LENGTH OF 82.60 FEET;

THENCE PERPENDICULAR TO SAID CENTERLINE OF TAMARACK LANE, NORTH 12°35'10" EAST 28.00 FEET TO THE NORTH RIGHT OF WAY LINE OF SAID TAMARACK LANE, SAID POINT ALSO BEING ON THE SOUTHERLY LINE OF SAID LOT 'I' AND THE **TRUE POINT OF BEGINNING**;

THENCE NORTH 01°52'40" WEST 29.68 FEET TO THE **POINT OF TERMINUS**.

THE SIDELINES OF SAID STRIP SHALL BE PROLONGED OR SHORTENED TO TERMINATE IN SAID SOUTHERLY LINE OF LOT 'I'.

SAID PUBLIC STORM DRAIN AND MAINTENANCE EASEMENT CONTAINS 593 SQUARE FEET, MORE OR LESS.

STRIP 2:

BEING A 20.00 FOOT WIDE STRIP OF LAND LYING WITHIN LOT 'G' OF TRACT NO. 37388-6, IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS FILED IN MAP BOOK 496, PAGES 9 THROUGH 16, INCLUSIVE, RECORDS OF SAID COUNTY, LYING 10.00 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT THE CENTERLINE INTERSECTION OF RAINTREE PLACE, HAVING A HALF WIDTH OF 28.00 FEET, AND CAROB PLACE, HAVING A HALF WIDTH OF 28.00 FEET AS SHOWN ON SAID TRACT NO. 37388-6;

THENCE ALONG THE CENTERLINE OF SAID CAROB PLACE NORTH 22°35'40" EAST 40.29 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 300.00 FEET;

THENCE NORTHEASTERLY ALONG SAID TANGENT CURVE, THROUGH A CENTRAL ANGLE OF 01°49'15", AN ARC LENGTH OF 9.53 FEET;

THENCE PERPENDICULAR TO SAID CENTERLINE OF CAROB PLACE, NORTH 65°35'05" WEST 28.00 FEET TO THE WESTERLY RIGHT OF WAY LINE OF SAID CAROB PLACE, SAID POINT ALSO BEING ON THE EASTERLY LINE OF SAID LOT 'G' AND THE **TRUE POINT OF BEGINNING**;

THENCE NORTH 62°32'39" WEST 38.57 FEET TO THE **POINT OF TERMINUS.**

THE SIDELINES OF SAID STRIP SHALL BE PROLONGED OR SHORTENED TO TERMINATE IN SAID EASTERLY LINE OF LOT 'G'.

SAID PUBLIC STORM DRAIN AND MAINTENANCE EASEMENT CONTAINS 772 SQUARE FEET, MORE OR LESS.

SUBJECT TO ALL CONDITIONS, RESERVATIONS, EASEMENTS AND RIGHTS OF RECORDS, IF ANY.

SEE EXHIBIT "B" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

PREPARED UNDER THE SUPERVISION OF:

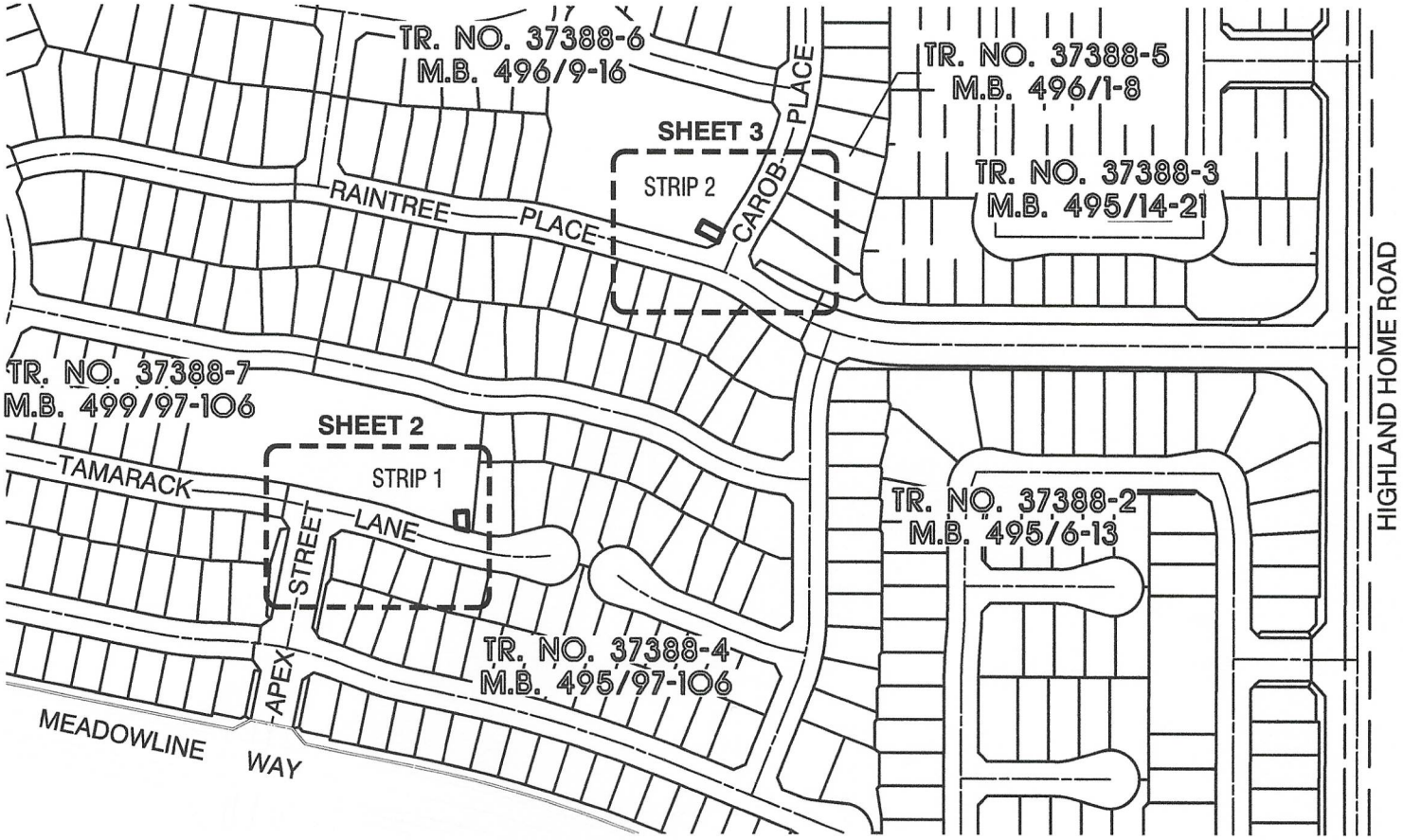


4-17-25

DARYL J. CHRISTIAN, PLS 8554 DATE

EXHIBIT "B"

PUBLIC STORM DRAIN AND MAINTENANCE EASEMENT
CITY OF BANNING PROJECT ID NO. RW 25-0002
PLAT TO ACCOMPANY LEGAL DESCRIPTION
INDEX MAP



N

SCALE: 1" = 300'

300 150 0 300 600

GRAPHIC SCALE

ABBREVIATIONS

TR. NO.	TRACT
XXX/XX-XX	BOOK NO./PAGES
NO.	NUMBER
P.O.C.	POINT OF COMMENCEMENT
P.O.T.	POINT OF TERMINUS
T.P.O.B.	TRUE POINT OF BEGINNING

LEGEND:

INDICATES AREA FOR PUBLIC STORM DRAIN AND MAINTENANCE EASEMENT

PROFESSIONAL LAND SURVEYOR
DARYL J. CHRISTIAN
LS 8554
STATE OF CALIFORNIA

SURVEYOR'S CERTIFICATE

PREPARED UNDER THE SUPERVISION OF:

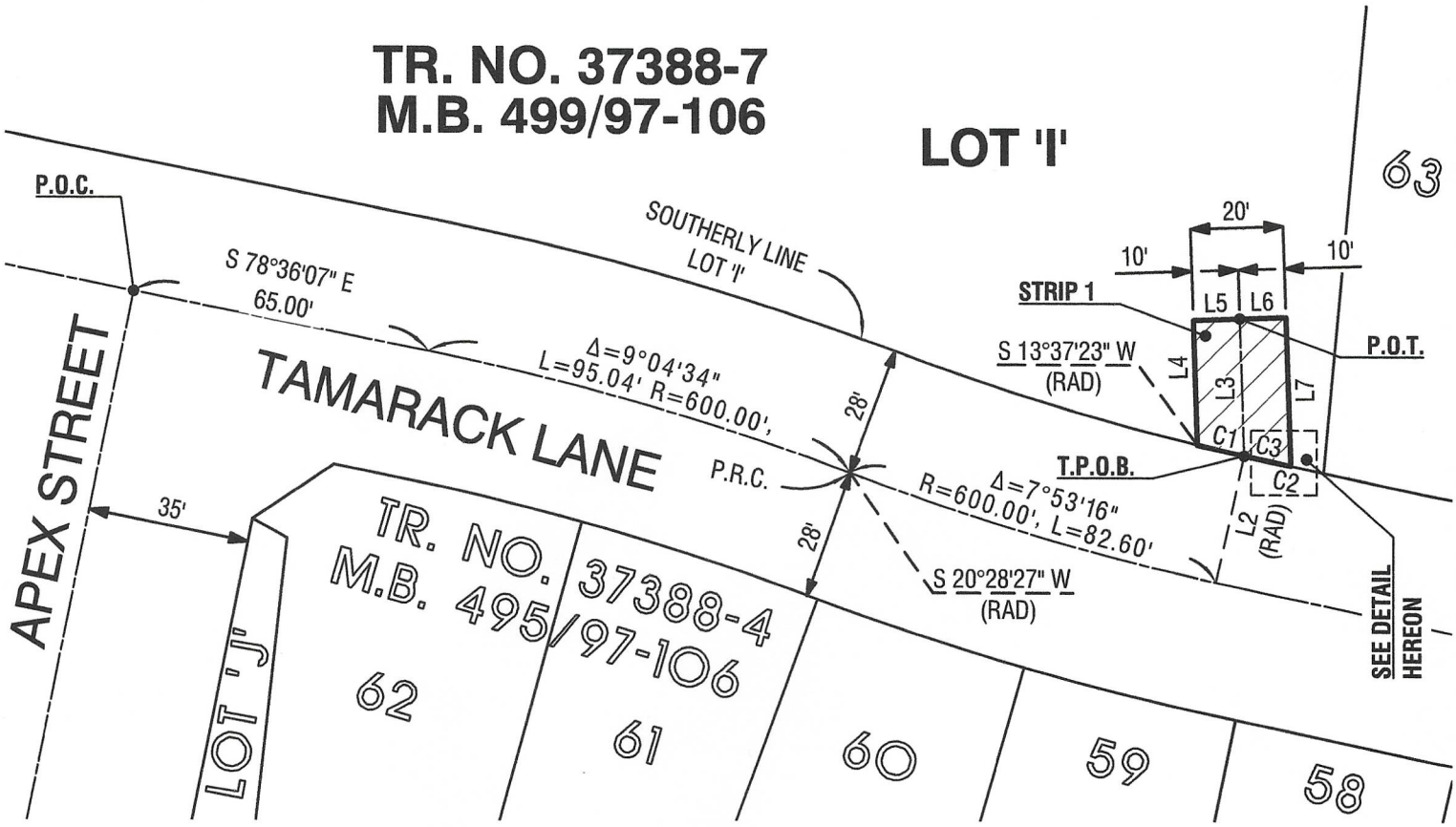
4-17-25

DARYL J. CHRISTIAN DATE
LICENSED LAND SURVEYOR NO. 8554

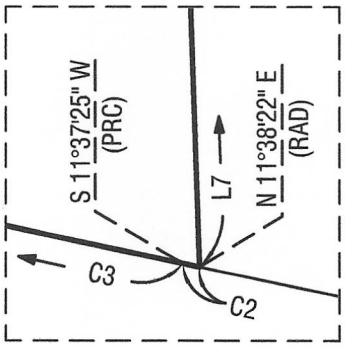
MDS CONSULTING
5 PETERS CANYON ROAD
SUITE 305
IRVINE, CA 92606
(949) 251-8821
WWW.MDSCONSULTING.NET
PLANNERS ENGINEERS SURVEYORS

EXHIBIT "B"

PUBLIC STORM DRAIN AND MAINTENANCE EASEMENT
CITY OF BANNING PROJECT ID NO. RW 25-0002
PLAT TO ACCOMPANY LEGAL DESCRIPTION



LINE TABLE		
LINE #	BEARING	DISTANCE
L2	S 12°35'10" W	28.00'
L3	N 1°52'40" W	29.68'
L4	N 1°52'40" W	27.00'
L5	N 88°07'20" E	10.00'
L6	N 88°07'20" E	10.00'
L7	N 1°52'40" W	32.16'
L8	S 65°35'05" E	28.00'
L9	N 62°32'39" W	38.57'
L10	N 62°32'39" W	39.25'
L11	N 27°27'21" E	10.00'
L12	N 27°27'21" E	10.00'
L13	S 62°32'39" E	38.19'
L14	S 22°35'40" W	40.29'



DETAIL
SCALE: N.T.S.

SCALE: 1" = 40'

20 10 0 40

GRAPHIC SCALE

NOTE:

SEE SHEET 3 FOR CURVE TABLE

LEGEND:

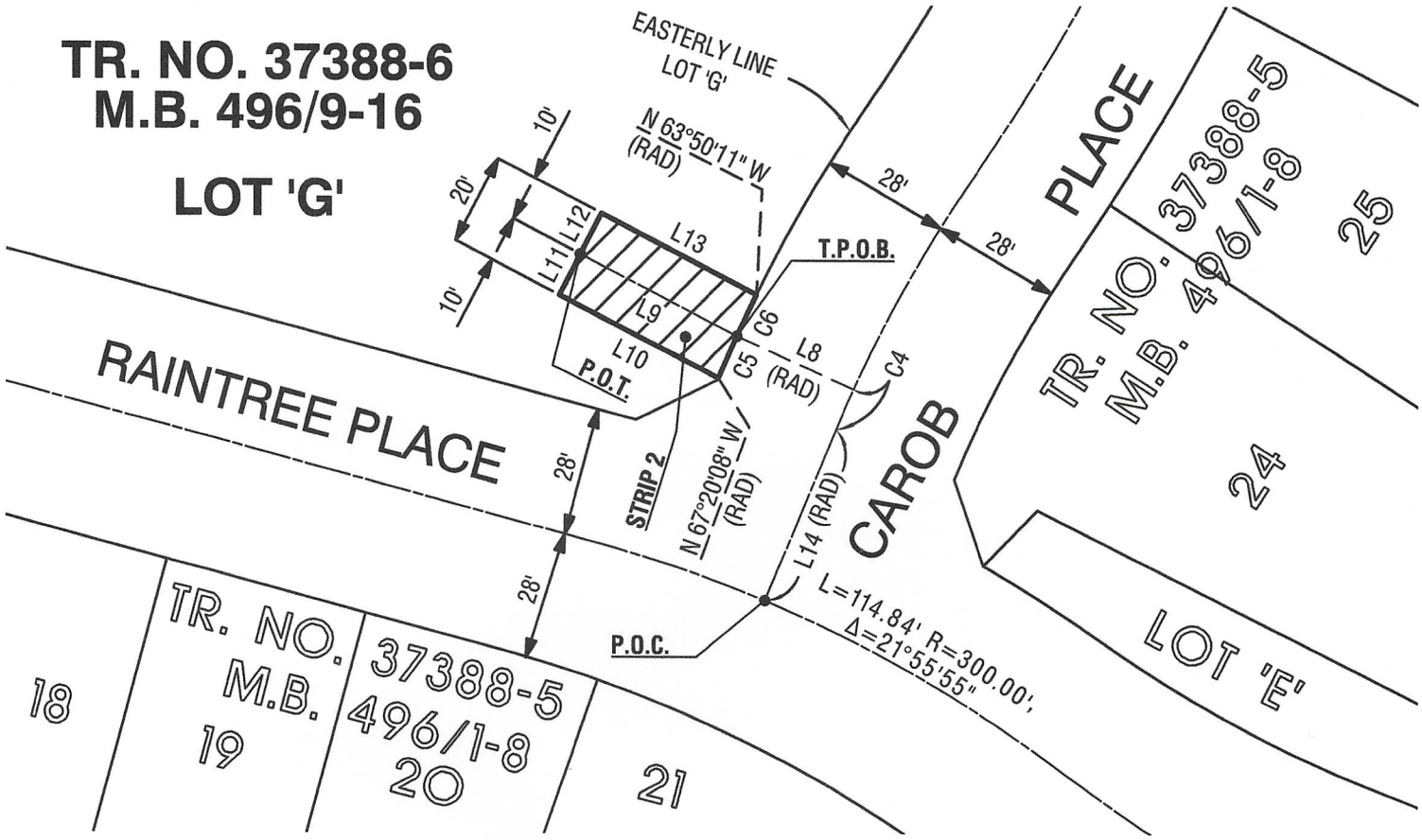
PUBLIC STORM DRAIN AND MAINTENANCE EASEMENT (593 SF)

P.O.C. POINT OF COMMENCEMENT
T.P.O.B. TRUE POINT OF BEGINNING
P.O.T. POINT OF TERMINUS

MDS CONSULTING
5 PETERS CANYON ROAD
SUITE 305
IRVINE, CA 92606
(949) 251-8821
WWW.MDSCONSULTING.NET
PLANNERS ENGINEERS SURVEYORS

EXHIBIT "B"

PUBLIC STORM DRAIN AND MAINTENANCE EASEMENT
CITY OF BANNING PROJECT ID NO. RW 25-0002
PLAT TO ACCOMPANY LEGAL DESCRIPTION



CURVE TABLE				
CURVE #	DELTA	RADIUS	LENGTH	TANGENT
C1	1°02'13"	572.00'	10.35'	5.18'
C2	0°00'57"	2520.00'	0.69'	0.35'
C3	0°57'45"	572.00'	9.61'	4.80'
C4	1°49'15"	300.00'	9.53'	4.77'
C5	1°45'04"	328.00'	10.02'	5.01'
C6	1°44'53"	328.00'	10.01'	5.00'

NOTE:

SEE SHEET 2 FOR LINE TABLE

LEGEND:

PUBLIC STORM DRAIN AND MAINTENANCE EASEMENT (772 SF)

P.O.C.	POINT OF COMMENCEMENT
T.P.O.B.	TRUE POINT OF BEGINNING
P.O.T.	POINT OF TERMINUS

N

SCALE: 1" = 40'

20 10 0 40

GRAPHIC SCALE

MDS CONSULTING
5 PETERS CANYON ROAD
SUITE 305
IRVINE, CA 92606
(949) 251-8821
WWW.MDSCONSULTING.NET
PLANNERS ENGINEERS SURVEYORS

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Robert Fisher, Acting City Manager**
PREPARED BY:	**Marisol Lopez,** **Robert Fisher, Acting City Manager**
MEETING DATE:	**May 27, 2025**
SUBJECT:	**Approval of Temporary Right of Entry Agreement with Southern California Gas Company (SoCalGas) for Pipeline Replacement Project at APN 532-130-012**

RECOMMENDATION:

Authorize the City Manager to execute a Temporary Right of Entry Agreement (TRE) with Southern California Gas Company (SoCal Gas) for the replacement of approximately 400 feet of Line 2000 pipeline on City-owned property identified as APN 532-130-012, located in Banning.

BACKGROUND:

Southern California Gas Company (SoCalGas) operates and maintains an existing pipeline and related facilities known as Line 2000, which is located on property owned by the City of Banning. SoCalGas holds the right-of-way easement recorded in Book 873, Page 234, on October 24, 1947, at the County Recorder's Office of Riverside County.

To ensure continued service reliability for customers, SoCalGas proposes to replace approximately 400 feet of this pipeline. As part of this project, SoCalGas requires a temporary right of entry agreement for the City-owned property identified as APN 532-130-012.

Project Manager Brook Sandoval generated the encroachment permit and notified the FAA (attached in staff report as an attachment). Please note that P.W. Permit No. EP25-0035 for the Encroachment/Excavation Permit application was submitted on March 24, 2025 and has been approved by City of Banning Public Works Department.

JUSTIFICATION:

SoCalGas is requesting 50,762 square feet of temporary workspace/laydown yard, as described in the enclosed Temporary Right of Entry Agreement (TRE) and depicted in the enclosed Exhibit A related to the property identified as APN 532-130-012.

The proposed TRE is for a period of three months, during which SoCalGas will utilize the specified area for the pipeline replacement project. In consideration for the temporary use of the property, SoCalGas is offering compensation of Nine Thousand Dollars ($9,000.00), payable upon receipt of the executed agreement. SoCalGas (including its subcontractors) shall have access to and use of the Temporary Workspace for approximately Three months, tentatively arranged to start on or about September 22,

2025, to on or about November 22, 2025 (“Basic Term”).

Upon review and acceptance by the City Council, the City Manager will be authorized to execute the TRE, and payment will be processed for the agreed amount once the TRE is executed.

FISCAL IMPACT:

The City will receive a one-time payment of Nine Thousand Dollars ($9,000.00) upon execution of the Temporary Right of Entry Agreement. These funds will be deposited into the City’s General Fund. SoCalGas may postpone the start date of the Basic Term, in which case SoCalGas will notify the Owner in advance. In the unlikely event SoCalGas needs extra time on the Temporary Workspace, Owner agrees that SoCalGas may have additional monthly periods for the sum of $3,000.00 per month (or portion thereof), not to exceed six months.

ALTERNATIVES:

Request modifications to the terms of the Temporary Right of Entry Agreement.

BUDGETED?:

No

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. TRE Offer Letter & TEMPORARY RIGHT OF ENTRY AGREEMENT Package - LN 2000 CLC MP 139.36-139.44 City of Banning A.E.Rev.3-27-25.pdf
2. FAA_NRA_Notification (1).pdf
3. Updated Site Map of project - LN 2000 CLC MP 139 J.C. Rev. 2.png

Alana Edwards
Sr. Land Specialist
Land & Right-of-Way
8101 Rosemead Blvd. SC722K
Pico Rivera, CA 90660
Ph: (213) 671-2089
Aedward1@SoCalGas.com

March 27, 2025

VIA Electronic Mail

Marisol Lopez
Economic Development Manager
City of Banning
99 E. Ramsey Street
Banning, CA 92220

RE: Southern California Gas Company's Line 2000 CLC MP 139.36-139.44 Replacement Project - Offer Letter: Temporary Right of Entry Agreement (TRE)
Location: APN: 532-130-012

Dear Ms. Lopez,

Southern California Gas Company (SoCalGas®) operates and maintains an existing pipeline and related facilities known as Line 2000, which is located on property owned by the City of Banning. SoCalGas holds the right-of-way easement recorded in Book 873, Page 234, on October 24, 1947, at the County Recorder's Office of Riverside County. We are proposing to replace approximately 400 feet of this pipeline to ensure continued service reliability for our customers. As part of this project, SoCalGas requires a temporary right of entry agreement for your property, identified as APN: 532-130-012, located in Riverside County.

SoCalGas is requesting 50,762 square feet of temporary workspace/laydown yard, as described in the enclosed Temporary Right of Entry Agreement (TRE) and depicted in the enclosed Exhibit A related to the Property identified as APN 532-130-012. We are offering compensation of Nine Thousand Dollars ($9,000.00) for the TRE, payable upon receipt of the executed agreement. This arrangement is for a period of three months.

After review and acceptance by the City of Banning's Council Board, please execute the enclosed TRE and return the original signed document. Payment will be processed for the amount once the TRE is executed.

If you have any questions regarding this offer or the project, please feel free to contact me at 562 388-3220 or via email at AEdward1@SoCalGas.com.

Sincerely,

AE

Let me know if you need any further changes!

Alana Edwards
Southern California Gas

Enclosures:
Temporary Right of Entry Agreement w/Exhibit A

TEMPORARY RIGHT OF ENTRY AGREEMENT

FOR SOUTHERN CALIFORNIA GAS COMPANY

This Temporary Right of Entry Agreement ("Agreement") is dated as of this ___ day of _____2025 and is made by and between Southern California Gas Company ("SoCalGas"), a California corporation, and the City of Banning, a California Corporation, ("Owner"), the legal owner of the property identified herein.

The property owner is the legal owner of that certain real property located in the City of Banning, County of Riverside, California, more specifically identified as A.P.N. 532-130-012 (the "Property").

Easement-SoCalGas is the owner of that certain right-of-way recorded as Book No. 873 Page 234 on October 24, 1947, in the County Recorder's Office of Riverside County, California, which covers a portion of the Property and pursuant to which SoCalGas installed a 30-inch pipeline and appurtenances under a portion of the Property.

Temporary Workspace and Work-SoCalGas request the right to fabricate any and all related above and below-ground pipes, valves, fences, and appurtenances and the right to bring and store temporarily any and all necessary vehicles, materials, and other construction equipment and stockpile on the Temporary Workspace, as defined below (all of which is hereafter referred to as "Work"). As a condition to the Temporary Workspace Owner requested that the FAA notification be completed by SoCalGas. SoCalGas made such notification on March 6, 2025, SoCalGas requests the right to perform the Work within an area of approximately 50,762 square feet as shown on the attached map. This area is referred to hereafter (individually and collectively) as "Temporary Workspace." See the Exhibit A map attached hereto and incorporated by reference.

Owner's Consent-Owner grants SoCalGas (including its subcontractors) permission to enter and use the Temporary Workspace for purposes of performing the Work. *Work may be conducted by SoCalGas or by its subcontractors during the hours of 7:00 am to 5:00 pm from Monday through Saturday.* If any conflict arises between Work and any other uses of the Property, then SoCalGas and the Owner shall work together diligently and in good faith to resolve any such conflicts.

Payment and Time Period-After SoCalGas has received the Owner's executed Agreement, and the completed IRS W-9 form and CA Form 590 or CA Form 587, SoCalGas shall pay Owner a total of $9,000.00 for the Basic Term of the Agreement, which payment shall be sent by SoCalGas' accounting department. SoCalGas (including its subcontractors) shall have access to and use of the Temporary Workspace for approximately Three months, tentatively arranged to start on or about September 22, 2025, to on or about November 22, 2025 ("Basic Term"). SoCalGas may postpone the start date of the Basic Term, in which case SoCalGas will notify the Owner in advance. In the unlikely event SoCalGas needs extra time on the Temporary Workspace, Owner agrees that SoCalGas may have additional monthly periods for the sum of $3,000.00 per month (or portion thereof), not to exceed six months.

Restoration-At the completion of the Work, SoCalGas (including through its subcontractors) will restore the Temporary Workspace to as near to its original condition and appearance as is reasonably possible.

Indemnification- SoCalGas will indemnify the Owner for any liability arising out of SoCalGas' (or its subcontractor's) Work or use of the Temporary Workspace, except to the extent such liability is due to the Owner's negligence or willful misconduct.

Entire Agreement-This Agreement constitutes the entire agreement between the parties relating to the Work and SoCalGas' entry onto the Property. Any prior agreements, promises, negotiations, or representations not expressly set forth herein are of no force and effect.

Authority- Each person executing this Agreement hereby represents and warrants (i) their authority to do so and (ii) that such authority has been duly and validly conferred.

Severability-If any term or provision of this Agreement shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall remain in full force and effect.

No Waiver-A waiver or a breach of a covenant or provision of this Agreement shall not be deemed a waiver of any other covenant or provision in this Agreement and no waiver shall be valid unless in writing and executed by the waiving party.

Governing Law-This Agreement shall be governed and construed in accordance with the laws of the State of California.

Recordation-This Agreement shall not be recorded. However, the Owner agrees that upon any transfer of title involving the Property during the period of the Agreement, the Owner shall give written notice of the Agreement to the new owner or transferee and written notice of the transfer to SoCalGas to the address below.

Counterparts-This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of this Agreement and of signature pages by facsimile transmission or by other electronic means shall constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes.

Electronic Signatures-Each of the parties (i) has agreed to permit the use of electronic signatures in order to expedite the execution of this Agreement, (ii) intends to be bound by its respective electronic signatures, (iii) is aware that the other will rely on such electronically transmitted signature, and (iv) acknowledges such reliance and waives any defenses to the enforcement of this Agreement based on the fact that a signature was sent by electronic transmission only.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK- SIGNATURES ON NEXT PAGE]

The parties have read this Agreement, understand it, and agree to be bound by its terms as of the date first set forth above.

Southern California Gas Company

_____

Artemis G. Manos
Land and Right of Way Supervisor
For Southern California Gas Company
8101 Rosemead Blvd., SC722K
Pico Rivera, California 90660-5100

City of Banning

_____

Robert Fisher
Acting City Manager

PLSS INFORMATION
TOWNSHIP: 003
RANGE: 001
SECTION: 011

APN: 532-130-012
CITY OF BANNING

16.5' SOCALGAS EASEMENT
R/W# 8283

192 '±
110 '±
124 '±
140 '±
515 '±
15 '±
67 '±
16.5'

CITY OF BANNING

HATHAWAY ST

BARBOUR ST

I 10

LEGEND

- BAKER TANK
- WORKSPACE (OUTSIDE EASEMENT)
- WORKSPACE (INSIDE EASEMENT)
- LAYDOWN YARD
- ACCESS ROAD
- ACCESS ROAD (REQUIRING VEGETATION CLEARANCE)
- EASEMENT 16.5'
- PARCEL LINE
- SECTION LINE / PLSS LIMITS

WORK DESCRIPTION	APN	AREA (SQ FT)	AREA (ACRES)
ACCESS ROAD	532-130-012	38,689	0.888
ACCESS ROAD (REQUIRING VEGETATION CLEARANCE)	532-130-012	6,397	0.147
BAKER TANK	532-130-012	500	0.011
LAYDOWN YARD	532-130-012	18,431	0.423
WORKSPACE (INSIDE EASEMENT)	532-130-012	8,498	0.195
WORKSPACE (OUTSIDE EASEMENT)	532-130-012	25,934	0.595

BY		DATE
DESIGNED:	R. MATTHEWS	03/11/25
DRAWN:	S. MOLDENHAUER	03/11/25
CHECKED:	R. MATTHEWS	03/11/25
APPROVED:	B. SANDOVAL	03/11/25
CLASS:	DIST:	SCALE: 1"=150'

Service Layer Credits: Maxar

SoCalGas™

150 75 0 150
Feet

REV	DATE	BY	CHK	APV	DESCRIPTION
A	03/11/25	SJM	JRM	BLS	ISSUED FOR INFORMATION

APN: 532-130-012
OWNER: CITY OF BANNING

L2000 CLC MP 139.36-139.44 REPLACEMENT

DRAWING NUMBER
8788-EX-203
EXHIBIT A

REV
A

S:\8788\8788-EX-201.aprx

Federal Aviation Administration

March 06, 2025

TO:
Ileana Figueroa
Attn: Ileana Figueroa
1981 W. Lugonia Ave
Redlands, CA 92374
ifigueroa@socalgas.com

CC:
SPEC Services
Attn: Brooke Sandoval
10542 Talbert Ave
Suite 100
Fountain Valley, CA 92708
bsandov1@scgcontractor.com

RE: *(See attached Table 1 for referenced case(s))*
THIS IS NOT A FINAL DETERMINATION LETTER

The Federal Aviation Administration has received your notice concerning:

Table 1 - Letter Referenced Case(s)

ASN	Prior ASN	Location	Latitude (NAD83)	Longitude (NAD83)	AGL (Feet)	AMSL (Feet)
2025-AWP-1322-NRA		BANNING,CA	33-55-18.66N	116-51-13.28W	24	2202
2025-AWP-1323-NRA		BANNING,CA	33-55-17.99N	116-51-13.30W	24	2201
2025-AWP-1324-NRA		BANNING,CA	33-55-18.63N	116-51-07.12W	24	2184
2025-AWP-1325-NRA		BANNING,CA	33-55-17.96N	116-51-07.12W	24	2183

Description: Replace a portion of 30-in L-2000 that is out of compliance (class 1 location became class 3 location), by replacing a 414.78-ft, via open-trench excavation. The tallest construction equipment is 24-ft high. The pipeline replacement shall take south of the runway on unpaved soil, with adjacent workspace. Each of the 4 cases under the project each represent one of the 4 corners of the workspace at the project site.

NOTE: If the coordinates of your notice were submitted in NAD 27 datum, they have been converted to NAD 83 datum as shown above. NAD 83 datum will be referenced on all future correspondence and will be used for the purpose of this study.

Your notice has been assigned Aeronautical Study Number and we are in the process of conducting an aeronautical study to determine the effect on air navigation. A determination or response will be forthcoming.

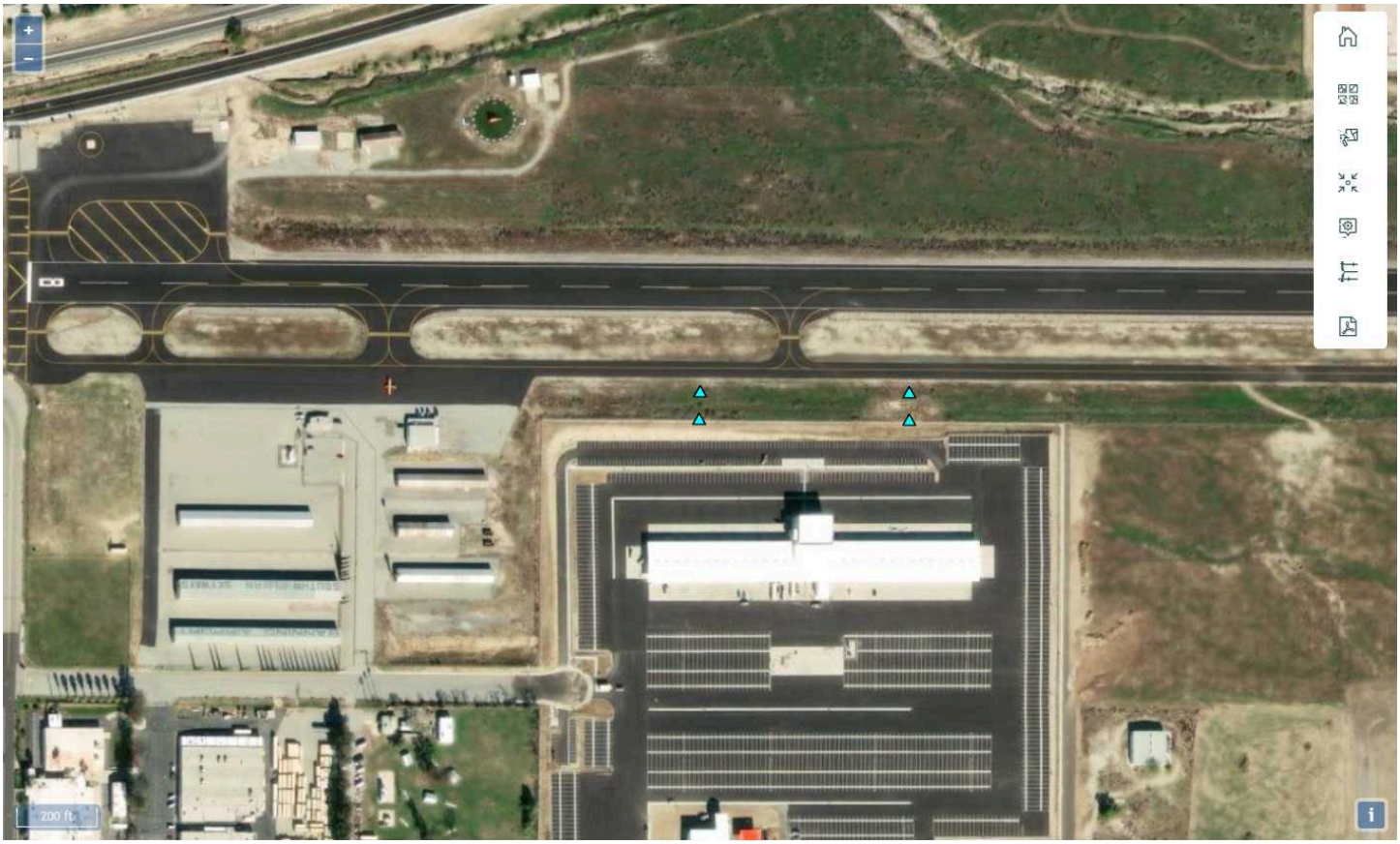
Please inform involved consultants of this correspondence.

Your project is in circulation for analysis. If you do not receive a final determination letter after 45 business days, please contact Mr. Lloyd Lewis, Regional Lead Airspace Specialist at (424) 405-7316, or Lloyd.E.Lewis@faa.gov.

If you have any questions concerning this determination contact Vincent K. Nguyen (424) 405-7286 vincent.k.nguyen@faa.gov. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2025-AWP-1322-NRA.

Vincent K. Nguyen
ADO
Signature Control No: 649458549-649570939

Verified Map for ASN 2025-AWP-1322-NRA




APN 532-130-012
Project Workspace
Laydown Yard
Access Road
Laydown Backup
Water Source – Fire Hydrant
Meeting location
APN 532-130-011
Launcher

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Robert Fisher, Acting City Manager**
PREPARED BY:	**Barbara Mason, Chief Procurement Officer** **Barbara Mason, Chief Procurement Officer**
MEETING DATE:	**May 27, 2025**
SUBJECT:	**Consideration of Resolution 2025-66, Consolidated Approval of Software-as-a-Service Projects Utilized Citywide**

RECOMMENDATION:

Adopt Resolution 2025-66.

BACKGROUND:

The City of Banning utilizes software to conduct operations, maintain records, reporting, compliance, transparency, implementation and comply with Federal, State and Local requirements and regulations. The software programs assist in many facets of the City from Utility billing and financial reporting to project management to Parks & Recreation events. The use of these software programs streamlines productivity, provides open communication and transparency of information to name a few benefits.

Recent changes in the Government Accounting Standards Board (GASB) requires reporting on software agreements that include Subscription-Based Information Technology Arrangements (SBITAs). This new standard, GASB 96, establishes uniform accounting and financial reporting requirements for SBITAS for the purpose of improves the comparability of government's financial statements, and enhancing the understandability, reliability, relevance, and consistency of information.

Additionally, the future implementation of the new financial ERP software will track these agreements and assist in the reporting of GASB 96 as well as management of these SaaS agreements.

As part of these endeavors, Staff have created a list of software (Exhibit "A") and would like to streamline the approval of the SaaS agreements and increase transparency. The software total is $2,064,272.74 which includes software previously approved by City Council in the amount of $880,520.33 for various multi-year SaaS agreements and a five percent escalator of $56,369.16.

JUSTIFICATION:

The varied software applications and platforms are necessary tools utilized by Staff for continued operations across all departments. The software provides informational data and reporting enabling Staff and Council to manage the City of Banning. By submitting the annual listing of the software, this will streamline the timely presentation for approval to the City Council in one cohesive effort.

FISCAL IMPACT:

Staff budgets for the software for their prospective department which is approved annually by City Council. Any software purchases not within budget would be presented to City Council for approval.

ALTERNATIVES:

Do not adopt the resolution and provide alternative direction to staff.

BUDGETED?:

Yes

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. Resolution 2025-66, SAAS Agreements Listing.docx
2. FY26 Software Listing

RESOLUTION 2025-66

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING CITYWIDE SOFTWARE-AS-A-SERVICE (SAAS) AGREEMENTS

WHEREAS, the City of Banning uses multiple software as a service agreements (SAAS) in departments throughout the City; and

WHEREAS, the SAAS are utilized necessary to the continued operations of the City; and

WHEREAS, the City Council has approved the use of certain SAAS agreements throughout the past year(s) and Staff would like to present an annual comprehensive SAAS list for City Council approval and greater transparency.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The City Council approves the use of City-Wide SAAS listed in Exhibit "A" for a total cost of $2,064,272.74 that includes a five percent escalator of $56,369.16 of which $880,520.33 was previously approved.

SECTION 2. The City Council authorizes the City Manager to make necessary non-substantive changes, and to execute said agreement(s).

SECTION 3. The City Council authorizes the City Manager, or designee, to make necessary budget adjustments, appropriations, and transfers related to this resolution.

SECTION 4. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 27th day of May, 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

John O. Pinkney, City Attorney
Slovak, Baron, Empey, Murphy & Pinkney LLP

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-66, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 27th day of May, 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

EXHIBIT A
Citywide Software-As-A-Service (SAAS) Agreements

FY26 CITYWIDE SOFTWARE

Vendor	Product	Purpose	Dept	s/b Annual Cost	Annual Start Date	Annual End Date	Annual Approval (Y/N)
Acom	Acom	Transfer data between Naviline AP/PR	AS - Finance	5,371.00	10/18/2025	10/18/2026	Y
Adobe	Adobe Illustrator	Graphic software for events/flyers	CS - Community Center	264.47	7/1/2025	6/30/2026	Y
Agents of Discovery	Agents of Discovery	Digital Education Platform for Community Services	CS - Community Center	5,650.00	4/22/2026	4/22/2027	Y
ALLDATA	ALLDATA	Data for repair	PW - Fleet Maintenance	1,500.00	7/17/2025	7/16/2026	Y
Altair Engineering, Inc.	Altair Engineering, Inc.	Data Analytics	AS - Finance	23,165.00	7/15/2025	7/14/2026	Y
ASPEN Inc.	Advanced Systems	Oneliner 100 and Power Flow 100 (1 seat)	EU - Electric Utilities	5,243.00	6/15/2025	6/15/2026	Y
Bentley	SpidaCalc	Prod Sub, SPIDA calcFull HWL	EU - Electric Utilities	4,580.00	10/25/2025	10/24/2026	Y
Bluebeam Inc	Revu	PDF markup and collaboration tool that is used by	CD - Planning	7,980.00	1/9/2026	12/28/2026	Y
Canva	Formerly Adobe Spark	Graphic software for events/flyers	CS - Community Center	2,500.00	11/2/2025	11/1/2026	Y
CDW-G	Adobe Professional DC & Annual Renewal	PDF Management	AS - Information Technology	13,376.00	1/1/2026	12/31/2026	Y
CDW-G	Barracuda Essentials	Email security, email archiving, O365, webfilter, Backup	AS - Information Technology	20,918.02	9/1/2025	8/31/2026	Y
CI Solutions	CI Solutions	PD ID Card Reader Services	PD - Police Dept.	1,040.00	7/1/2025	6/30/2026	Y
CivicPlus	CivicEngage	City Website	AS - Information Technology	25,453.27	7/1/2025	6/30/2026	Y
CivicPlus	CivicREC	Recreation Management	CS - Community Center	4,500.00	9/29/2025	9/28/2026	Y
Cleverbridge	Konnect	O-365 integration software	AS - Information Technology	3,059.45	11/1/2025	10/31/2026	Y
ComDirect Inc.	ComDirect Inc.	Mitel Support	PD - Police Dept.	6,880.00	7/1/2025	6/30/2026	Y
Cummins Insite	Cummins Insite	Engine Diagnostics	PW - Fleet Maintenance	840.00	3/1/2026	2/28/2027	Y

FY26 CITYWIDE SOFTWARE

Vendor	Product	Purpose	Dept	s/b Annual Cost	Annual Start Date	Annual End Date	Annual Approval (Y/N)
Cybertex	Smartnet	Vsphere, VMware	AS - Information Technology	18,267.87	8/4/2025	8/3/2026	Y
Cybertex	Smartnet	Annual Renewal - Enterprise Firewall	AS - Information Technology	6,873.26	9/21/2025	9/20/2026	Y
Cybertex	Smartnet	Virtual environment - PD	AS - Information Technology	15,585.48	9/21/2025	9/20/2026	Y
Cybertime	Cybertime	Internet Service	AS - Information Technology	10,388.00	7/1/2025	6/30/2026	Y
Cybertime	Cybertime	Looped Microwave Backbone	AS - Information Technology	22,800.00	7/1/2025	6/30/2026	Y
DLT	AutoCAD LT 2024	Engineer Drafting	CD - Planning	45,279.09	4/25/2025	5/24/2026	Y
DocuSign	DocuSign	Document signing software	AS - Purchasing	22,833.16	4/1/2026	3/31/2027	Y
Eagle Aerial	WaterView	Water Efficiency and Data Management	PW - Water	26,936.00	6/18/2025	6/17/2026	Y
ECS Imaging	Laserfiche	Core records	CM - City Clerk	28,885.00	10/1/2025	9/30/2026	Y
ESRI	ArcGIS	License (4)	PW - Water	3,060.00	2/20/2026	2/19/2027	Y
Everbridge	Nixie Alert System	Public Alert & Warning System - Mass Notification	CM - City Manager	5,292.00	11/19/2025	11/18/2026	Y
FirstTwo, Inc.	FirstTwo, Inc	Police Intelligence Software	PD - Police Dept.	3,600.00	4/1/2026	3/31/2027	Y
GovInvest, Inc.	GovInvest	Investment modules OPEB, etc.	AS - Finance	38,349.00	5/20/2025	5/19/2026	Y
GovOptics LLC	Beacon Bid	Scope Searches	AS - Purchasing	6,375.00	4/4/2026	4/3/2027	Y
HDL Companies	HDL Business License	Business License Management	AS - Finance	25,000.00	1/1/2026	12/31/2027	Y
HDL Coren & Cone	HDL Property Tax Software	Property Tax Software	AS - Finance	15,000.00	12/23/2025	12/22/2026	Y
Helm	Helm Ford Diagnostic Software	Diagnostic Software on Ford Vehicles	PW - Fleet Maintenance	800.00	12/6/2025	12/5/2026	Y

FY26 CITYWIDE SOFTWARE

Vendor	Product	Purpose	Dept	s/b Annual Cost	Annual Start Date	Annual End Date	Annual Approval (Y/N)
Hinderliter De Llamas & Associates	Sales, Use, and Transactions Tax Audit and Information	Sales Tax	AS - Finance	15,000.00	12/13/2025	12/22/2026	Y
Honeywell	Digital watchdog	City Cameras	PW - Building Maintenance	N/A	N/A	N/A	Y
Innovyze	Innovyze	Water Modeling Software	PW - Water	5,158.65	10/14/2025	10/13/2026	Y
Integrity Surveliance Group	Tactitrack GPS Tracker	Portable GPS Trackers	PD - Police Dept.	998.00	12/15/2025	12/14/2026	Y
Invoice Cloud	Invoice Cloud	Customer Online Bill Pay portal for Utilities	AS - Utility Billing	8,000.00	3/16/2026	3/16/2027	Y
ITRON	ITRON	Electric AMI, Smart meter Subscriptions	PW - Water	4,121.52	8/1/2025	7/31/2026	Y
ITRON	ITRON	ISM and Openway (OWCE)	EU - Electric Utilities	50,000.00	8/1/2025	7/31/2026	Y
KUBRA	Drop counter	Water Citizen Engagement Platform	PW - Water	19,404.00	7/7/2025	8/6/2026	Y
LeadsOnline, LLC	Leads Online Power Plus Investigation System Software	Investigative Software	PD - Police Dept.	5,486.67	5/14/2026	5/13/2027	Y
Leightronix	Live Streaming and Video on Demand	City Council meetings and records	CM - City Manager	5,644.80	10/9/2025	10/8/2026	Y
LexisNexis Coplogic Solutions	LexisNexis	Desk Officer Reporting	PD - Police Dept.	9,206.93	7/1/2025	6/30/2026	Y
LexiPol LLC	Wellness Application for PD	Fitness tracking	PD - Police Dept.	7,999.20	5/1/2026	4/30/2027	Y
MAGUS Maintenance, Journal	Level II, Inc.	MAGUS Maintenance, Journal Maintenance & ftServer 2800	PD - Police Dept.	30,247.35	7/1/2025	6/30/2026	Y
MegaTronics International Corp	MegaTrak	Fuel Management	PW - Fleet Maintenance	2,995.00	12/31/2025	12/30/2026	Y
ARCOS	Textpower	Texting for Utilities	EU - Electric Utilities	30,000.00	9/1/2024	10/31/2025	Y
Milsoft	WindMil Enterprise Site License	Milsoft Engineering Analysis Essentials	EU - Electric Utilities	7,734.25	11/1/2025	10/31/2026	Y
Muncipal Code Corporation	Municipal Code Publication Services	Service to Update Muncipal Code	CM - City Clerk	10,000.00	7/1/2025	6/30/2026	Y

FY26 CITYWIDE SOFTWARE

Vendor	Product	Purpose	Dept	s/b Annual Cost	Annual Start Date	Annual End Date	Annual Approval (Y/N)
MyCOI	MyCOI	Insurance Compliance & Certificate Mgmt	AS - Purchasing	14,800.00	11/29/2025	11/30/2026	Y
Nearmap	Nearmap	Aerial Imagery & Location Data	PW - Water	14,000.00	4/10/2026	4/9/2027	Y
Next request	Next request	Public Records Request	CM - City Clerk	7,019.55	7/1/2025	6/30/2026	Y
Nobel	ArcGIS Online API	Geographic	PW - Water	14,600.00	3/19/2026	3/20/2027	Y
Nobel	ArcGIS	Information Systems for Smartgov	PW - Water	22,600.00	3/12/2026	3/11/2027	Y
Online Utility Exchange	Online Information Services Inc	Portal for Utility Billing to determine customer credit	AS - Utility Billing	7,000.00	6/6/2025	6/5/2026	Y
PDQ Deploy	PDQ Deploy	Software Deployment	AS - Information Technology	1,500.00	6/13/2025	6/12/2026	Y
PDQ Invt	PDQ Invt	Software Inventory	AS - Information Technology	1,500.00	6/13/2025	6/12/2026	Y
Pixabytes Solutions, Inc	Verkada	PD Cameras	PD - Police Dept.	3,000.00	7/1/2025	6/30/2026	Y
Placer Labs Inc	Placer.ai	Economic Development Data Reports	CM - Economic Development	16,900.00	5/1/2026	4/30/2027	Y
PMAM Corporation	False Alarm Management Solution	False Alarm Management Solution	PD - Police Dept.	6,000.00	4/8/2026	4/7/2027	Y
Power Monitors, Inc.	Power Monitors, Inc.	Canvas devices	EU - Electric Utilities	995.00	5/10/2026	5/9/2027	Y
QT Petroleum on Demand dba QT Pod	QT Pod	Fuel Management	EU - Electric Utilities	1,195.00	9/1/2025	8/31/2026	Y
Reavis Code	Reavis Code	Monthly subscription for RC Ops., Tickets Core- Core system for	EU - Electric Utilities	51,300.00	7/1/2025	6/30/2026	Y
Recyclist	Recyclist	Solid Waste Compliance Reporting	PW - Refuse	24,686.00	5/1/2026	4/30/2027	Y
Ron Turley & Associates	RTA	Vehicle Maintenance Tracking & Management	PW - Fleet Maintenance	7,200.00	8/1/2025	7/31/2026	Y
Satellite Phone Store	Iridium	Emergency Svc - montly	AS - Information Technology	3,695.40	8/1/2025	7/31/2026	Y

FY26 CITYWIDE SOFTWARE

Vendor	Product	Purpose	Dept	s/b Annual Cost	Annual Start Date	Annual End Date	Annual Approval (Y/N)
ScaleFusion	Kiosk software	Lobby kiosk terminals: BL/Permits/Payments	CD - Planning	302.40	12/19/2025	12/18/2026	Y
Snag it	Snag it	Desktop recorder	AS - Information Technology	879.33	11/19/2025	11/19/2026	Y
Software One, Inc.	Backup, Azure Simple	File system backup - Backup Simple, Azure is the software to	AS - Information Technology	42,000.00	7/1/2025	6/30/2026	Y
SPS or Ace-Tech	Elite - 12 mo svc	Hardware Maint for IBM	AS - Information Technology	9,030.00	10/1/2025	10/31/2026	Y
SunRidge Systems	RIMS	PD computer aided dispatch & records management	PD - Police Dept.	26,175.00	9/24/2025	9/23/2026	Y
SuperC AI	WITH	Community Calendar	CM - City Manager	15,175.00	11/9/2025	11/8/2026	Y
Superion	Central Square	Naviline ERP system	AS - Information Technology	121,087.86	7/1/2025	6/30/2026	Y
Survalent Technology, Inc.	Survalent Technology, Inc.	SCADA Servers	EU - Electric Utilities	26,139.67	5/9/2026	5/8/2027	Y
Survey Monkey	Surveys	Survey for internal stakeholders (AEP)	AS - Purchasing	900.00	5/9/2026	5/8/2027	Y
Swiftly Solutions	Trillium	GPS tracking for transit vehicles	PW - Transit	14,200.00	7/28/2025	7/27/2026	Y
Symbium Corporation	Symbium	Cloud Based Software Compliance Checks for Solar Permits	CD - Code Enforcement	-	10/17/2025	10/17/2026	Y
Timeclock Plus	Schedule Anywhere	Timeclock for Seasonal and Part-Time Staff	PD - Police Dept.	2,178.00	12/1/2025	11/30/2026	Y
Token Transit	Token Transit	Mobile Ticketing for Transit busing	PW - Transit	10% of Gross proceeds	7/1/2025	6/30/2026	Y
Tri-Global Technologies, LLC	UtiliPad	Data Orbit transfer service for GPS Centering rod for	EU - Electric Utilities	4,185.00	10/26/2025	11/28/2026	Y
Turbo Data Systems	Turbo Data	Citation Processing Services	PD - Police Dept.	3,000.00	9/1/2025	9/30/2026	Y
Virtual Project Manager	Virtual PM	Project management software	PW - Engineering	12,000.00	3/1/2026	3/1/2027	Y
When I Work	When I Work	Timeclock for Seasonal and Part-Time Staff	CS - Parks	1,575.00	7/1/2025	6/30/2026	Y

FY26 CITYWIDE SOFTWARE

Vendor	Product	Purpose	Dept	s/b Annual Cost	Annual Start Date	Annual End Date	Annual Approval (Y/N)
Wincan	Wincan	CCTV for the sewer systems	PW - Wastewater	4,495.00	7/1/2025	6/30/2026	Y
Zenner	Stealth	Zenner meter reads for AMI	PW - Water	1,200.00	7/1/2025	6/30/2026	Y
Zoho Corporation	Manage Engine	Tech Support Live	AS - Information Technology	3,940.00	6/12/2025	6/11/2026	Y
Zoom	Zoom Meeting	Online meetings	CM - City Manager	1,289.60	7/1/2025	6/30/2026	Y

Description		Amount
Total FY25/FY26 Annualized SaaS Cost:		2,007,903.58
Previously approved by City Council Action		880,520.33
To be approved:		
	FY25/FY26 Annual	1,127,383.25
	Estimated 5% Escalator	56,369.16
	Total to be approved:	1,183,752.41

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Robert Fisher, Acting City Manager**
PREPARED BY:	**Nate Smith, Deputy Director of Public Works/City Engineer** **Art Vela. Director of Public Works**
MEETING DATE:	**May 27, 2025**
SUBJECT:	**Consideration of Resolution 2025-67, Approving Amendment No.1 to the Landscape Operation and Maintenance Contract for Landscape Maintenance District No. 1 with Mariposa Landscapes, Inc. of Irwindale, California for Fiscal Year 2025/2026 in the Amount of $90,002**

RECOMMENDATION:

Adopt Resolution 2025-67.

BACKGROUND:

LMD No. 1 in the City of Banning was established through the adoption of Resolution No. 1990-59 on August 14, 1990 (9 tracts), with another, Tract No. 22913 being annexed into LMD No. 1 in 1992. An additional five tracts and three tentative tracts were annexed (Annexation No. 1) into LMD No. 1 when the City Council approved Resolution 2005-36 on May 10, 2005. Tract No. 32370 was annexed into the LMD on November 14, 2023 when the City Council approved Annexation No. 2. A map displaying the District and its' Zones is shown as Attachment 2. There are currently eleven (11) Zones and 1,034 assessment units.

LMD No. 1 currently consists of seventeen (17) accepted tracts in eleven (11) Zones: Tract Nos. 21882, 22810, 22811, 22913, 23446 (including the median on Highland Home Road), 23598, 28252, 29721, 30186, 30222 (including Richard Sanchez Park), 30793, 31833, 31834, 31835, 32109, 30906 and 32370. The purpose of LMD No. 1 is for the maintenance and servicing of landscape medians and parkways, perimeter strips and backup walls, landscaped hillsides with high visibility, side slopes adjacent to sidewalks, retention basins, and the irrigation of the above facilities all of which are part of residential development projects. LMD No. 1, by special benefit assessments, provides funding for the servicing and maintenance of designated landscape areas within the City of Banning.

A Request for Proposals (RFP No. 24-061) for the Operation and Maintenance of LMD No. 1 was prepared and released through the OpenGov program on April 5, 2024. On June 25, 2024, the City Council approved Resolution No. 2024-108, awarding the contract for the Operation and Maintenance of LMD No. 1 to Mariposa, shown as Attachment 3. The Scope of Work includes providing all the labor, tools, materials, and equipment necessary to provide landscape maintenance services of LMD No.1. This includes performing seasonal maintenance and inspection, checking the operation of all irrigation systems, and identifying required repairs and, if necessary, the labor for replacing trees, flowers or shrubs within landscaped areas that are maintained under the contract.

As originally approved, the Contract Agreement was for a term of twelve (12) months ($6,517.61/month; $78,211.26/year) with the possibility of an option to renew for up to four (4) single additional years (for a

total of five (5) single years) upon a satisfactory yearly review of the previously provided services. The total "not to exceed" amount for the Contract was $93,211.26, which included $15,000 for miscellaneous expenses. A Consumer Price Index (CPI) increase is allowed to be applied to the current contract amount, taken from the Bureau of Labor Statistics, from January of 2024 to January of 2025. The CPI during this period was calculated as 2.94% and applied to the original fiscal year (FY) 2024/2025 Bid proposal, per the Contract.

If approved, Contract Amendment No. 1 is for a term of twelve (12) months ($5,416.84/month; $65,002.08/year) with the possibility of an option to renew for up to three (3) more single additional years (for a total of five (5) single years) upon a satisfactory yearly review of the previously provided services. Extensions to the Contract Agreement will terminate no later than June 30, 2029 and Amendment No. 1, shown as Attachment 4, will extend the current Contract through June 30, 2026. The cost proposal for FY 2025/2026, included as Attachment 5, is for $5,416.84/month; $65,002.08/year. Irrigation repairs, materials, tree, shrub, ground cover and plant material replacements are paid for as an added cost, separate from this contract. Thus, an additional $25,000 is being added to the contract award.

For FY 2025/2026, Richard Sanchez Park was removed from the Scope of Work in Zone 1 as it will be maintained by the Parks Dept. and annual tree trimming within the retention basin in Zones 10/11 was added. The Bid Proposal for FY 2025/2026 lists the frequency of service and cost per Tract/Zone and is shown attached. The estimated expenses for FY 2025/2026 are $124,597 and the additional $25,000 for unforeseen miscellaneous expenses bring the total budget to $149,597. The revenues collected are $161,443.15, a surplus of approximately $11,846.15 for the overall District. It should be noted that each zone within the District has its own fund balance and budget separate from other zones.

Attachment 6 identifies funding reserve balances in each zone. Some of the zones (Zones 3,4,5 and 9) do not have sufficient reserves to cover the projected expenses next year; therefore, a further reduction in maintenance services is imminent to reduce costs.

JUSTIFICATION:

The Public Works Department does not have the required field staff needed to maintain LMD No. 1 landscape areas; therefore, it is necessary to retain a landscape maintenance contractor to provide these services.

FISCAL IMPACT:

Fund No. 111 (Landscape Maintenance Assessment District No.1) will be utilized to fund this contract for Fiscal Year 2025/2026 in the amount of "not to exceed" $90,002. Account No. 111-4900-432-23.29 (Landscape Maintenance) in the amount of $65,002.08 will fund the monthly operation and maintenance portion of the Contract Amendment and also be used to fund miscellaneous "as-needed" expenses related to irrigation repairs and landscaping replacement in the amount of up to $25,000. The completion of miscellaneous repairs and replanting will be dependent on funding available in each individual zone.

ALTERNATIVES:

Do not adopt Resolution 2025-67 and provide staff with alternate direction.

BUDGETED?:

Yes

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. Resolution 2025-67, Mariposa LMD.docx
2. C01040 PSA - Amend No.1 LMD District Landscaping.docx

3. Att. 1 LMD No.1 Map of Zones 1 through 11.pdf
4. Att. 2 Reso. 2024-108, approving Contract, 6.25.24.pdf
5. Att. 3 Mariposa Bid Schedule for FY 25 26.pdf
6. Att. 4 Zone Funding.docx

RESOLUTION 2025-67

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING AMENDMENT NO. 1 TO THE LANDSCAPE OPERATION AND MAINTENANCE CONTRACT FOR LANDSCAPE MAINTENANCE DISTRICT NO. 1 WITH MARIPOSA LANDSCAPES, INC. OF IRWINDALE, CALIFORNIA, FOR FISCAL YEAR 2025/2026 IN THE AMOUNT OF $90,002

WHEREAS, Landscape Maintenance District (LMD) No. 1 in the City of Banning was established through the adoption of Resolution 1990-59 on August 14, 1990 (9 tracts), with another Tract, No. 22913, being annexed into the District in 1992; and

WHEREAS, on May 10, 2005, the City Council adopted Resolution 2005-36, ordering the annexation of an additional five tracts and three tentative tracts to the City's LMD No. 1 ("Annexation No. 1"); and

WHEREAS, on November 14, 2023, the City Council adopted Resolution 2023-177, ordering the annexation of Tract No. 32370, known as Canterbury, to the City's LMD No. 1 ("Annexation No. 2"); and

WHEREAS, the Public Works Department does not have the required field staff needed to maintain the LMD No. 1 landscape areas; therefore, it is necessary to retain a landscape maintenance contractor to provide these services; and

WHEREAS, a Request for Proposals (RFP No. 24-061 "Operation and Maintenance of LMD No. 1") was prepared and advertised through OpenGov on April 5, 2024, notifying qualified firms of the opportunity to provide proposals, with the proposals due on May 9, 2024; and

WHEREAS, on June 25, 2024, the City Council approved Resolution No. 2024-108, awarding the contract for the Operation and Maintenance of LMD No. 1 to Mariposa Landscapes, Inc. for Fiscal Year 2024/2025 with the option to renew for four (4) additional single years; and

WHEREAS, the scope of work includes providing all the labor, tools, materials, and equipment necessary to provide landscape maintenance services to LMD No. 1, including performing seasonal maintenance and inspection, checking the operation of all irrigation systems, and identifying required repairs and, if necessary, the labor for replacing trees, flowers or shrubs within landscaped areas that are maintained under the contract; and

WHEREAS, Mariposa has provided satisfactory work and the First Amendment to the Agreement will extend the term through Fiscal Year 2025/2026 for an additional one-year period with the option to renew for three (3) additional single years; and

WHEREAS, Account No. 111-4900-432-23.29 (Landscape Maintenance) in the amount of $65,002.08 ($5,416.84/month) will fund the monthly operation and maintenance portion of the agreement and Account No. 111-4900-432-23.29 (Landscape Maintenance) in the amount of $25,000 will also be used to fund miscellaneous operations related to irrigation repairs and landscape replacement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The Banning City Council approves Resolution 2025-XXX, approving the First Amendment to the LMD No. 1 Operation and Maintenance Agreement with Mariposa Landscapes, Inc., extending the term through Fiscal Year 2025/2026 and increasing the compensation in the amount of "not to exceed" $90,002 for FY 2025/26 with the option to renew for an additional three single years, subject to a Consumer Price Index increase adjustment and satisfactory performance.

SECTION 2. The City Manager or his designee is authorized to make necessary budget adjustments, appropriations and transfers related to the First Amendment, for the Operation and Maintenance of LMD No. 1 with Mariposa Landscapes, Inc. for Fiscal Year 2025/2026.

SECTION 3. The City Manager or his designee is authorized to make necessary non-substantive adjustments to the First Amendment and to execute the First Amendment with Mariposa Landscapes, Inc. for Fiscal Year 2025/2026.

SECTION 4. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 27th day of May 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

John Pinkney, City Attorney
Slovak, Baron, Empey, Murphy & Pinkney, LLP

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-67, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 27th day of May, 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

Exhibit A
Agreement with Mariposa Landscaping, Inc.

AMENDMENT NO. 1 TO CONTRACT SERVICES AGREEMENT (C01040) FOR LMD NO. 1 LANDSCAPE MAINTENANCE SERVICES BY AND BETWEEN CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

THIS AMENDMENT NO. 1 TO THE CONTRACT SERVICES AGREEMENT FOR SERVICES ("Amendment No. 1") by and between the **CITY OF BANNING** ("City") and Mariposa Landscapes, Inc., a California Corporation ("Contractor") is effective as of this day: _____.

RECITALS

A. City and Contractor entered into that certain Contract dated June 25, 2024 for the purpose of providing LMD.1 Landscape Maintenance Services ("Agreement") following Landscape Maintenance Services for LMD No.1 by bid RFP #23-061, as approved by City Council Resolution 2024-108.

B. City and Contractor now desire to amend the Agreement to modify the Scope of Services, extend the Term of the Agreement to June 30, 2026, and increase the Contract Sum to One Hundred Eighty-Three Thousand Two Hundred Thirteen Dollars and Thirty-Four Cents ($183,213.34).

The Parties therefore agree follows:

1. Amended Terms. The Agreement is hereby amended as follows:

1.1 The Scope of Services as set forth in Section 1.1 of and Exhibit A to the Agreement is hereby amended to include the Services set forth in Attachment A, attached hereto and incorporated herein.

1.2 The maximum compensation for the Services performed pursuant to this Amendment No. 1 shall not exceed Ninety Thousand Two Dollars and Eight Cents ($90,002.08) thereby increasing the Contract Sum, as set forth in Section 2.1 of the Agreement, to One Hundred Eighty-Three Thousand Two Hundred Thirteen Dollars and Thirty-Four Cents ($183,213.34)

1.3 The Term of the Agreement, as set forth in Section 3.4 of the Agreement, is hereby extended through June 30, 2026, unless sooner terminated or extended as provided in the Agreement.

1.4 Exhibit C-1 to the Agreement is hereby amended to read as set forth in Attachment 1, attached hereto and incorporated herein.

2. Miscellaneous Provisions

2.1 Continued Effect of Agreement. Except as amended by this Amendment No. 1, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment No. 1, whenever the term

"Agreement" appears in the Agreement, it shall mean the Agreement, as amended by Amendment No.1. In the event of a conflict between the provisions of this Amendment No. 1 and the provisions of the Agreement or Amendments No. 1 the provisions of this Amendment No. 1 shall control.

2.2 Consideration for Amendment. The parties hereby agree that they have each received adequate and independent consideration for the modifications to the Agreement set forth in this Amendment No. 1.

2.3 Authority. The persons executing this Amendment No. 1 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 1 on behalf of said party, (iii) by so executing this Amendment No. 1, such party is formally bound to the provisions of this Amendment No. 1, and (iv) entering into this Amendment No. 1 does not violate any provision of any other agreement to which said party is bound.

2.4 Counterparts. This Amendment No. 1 may be signed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument.

2.5 Electronic Signatures. Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Agreement and such other documents transmitted by the Parties.

[*SIGNATURE PAGE FOLLOWS*]

The Parties are signing this Amendment No. 1 on the date stated in the introductory clause.

CITY OF BANNING	CONTRACTOR
Douglas Schulze, City Manager	NAME: TITLE:
City Council Approval: _____	NAME: TITLE:
ATTEST:	
Caroline Patton Administrative City Clerk	
APPROVED AS TO FORM: Solvak, Baron, Empey, Murphy & Pinkney LLP	
John O. Pinkney City Attorney	

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONTRACTOR'S BUSINESS ENTITY.

ATTACHMENT NO. 1

FY 2025-2026 BID SHEET PROPOSAL

"Operation and Maintenance of Landscape Maintenance District No. 1"

ZONE	TRACT NO.	SPECIFIC LOCATION	FREQUENCY	UNIT COST (PRICE/ MONTH)
1	22810, 22811, 22913	Oregon Trail, east side, per site visit with staff	Shrubs and ground cover quarterly.	$324.52
1	30186	Mountain Avenue, Wilson Street and Oregon Trail west side, does **not** include Retention Basin, per Plans and site visit with staff	Shrubs and ground cover quarterly.	$739.80
1	30222	Mountain Avenue, per Plans and site visit	Shrubs and ground cover quarterly.	$215.26
2	21882	Wilson Street and Highland Home Road west side, per Site Visit with staff	Mowing frequencies: Weekly during May 1 through Aug. 31; Biweekly during Sept. 1 through Oct. 31 and April 1 through April 30; Monthly Nov. 1 through March 31. Shrub frequencies: Biweekly May 1 through Aug. 31, then monthly.	$636.07
2	23446	Wilson Street and Highland Home Road east side, includes median on Highland Home Road, per Site Visit with staff	Mowing frequencies: Weekly during May 1 through Aug. 31; Biweekly during Sept. 1 through Oct. 31 and April 1 through April 30; Monthly Nov. 1 through March 31. Shrub frequencies: Biweekly May 1 through Aug. 31, then monthly.	$636.07
3	29721	Wilson Street and Omar Street, east side, per Site Visit with staff and per Plans	Mowing frequencies: Biweekly during May 1 through Aug. 31; Monthly Sept. 1 through April 30. Shrubs frequency: quarterly.	$98.95
4	32109	Wilson Street and Alder Court, west side, per Site Visit with staff and per Plans	Shrubs and ground cover quarterly.	$185.67

5	23598	Wilson Street, Sunrise Ave. and includes Moonbeam Drive frontage per site visit with staff and per Plans	Mowing frequencies: Biweekly during May 1 through Aug. 31; Monthly Sept. 1 through April 30. Shrubs frequency: quarterly.	$449.65
6	28252	Hathaway Street, west side, per Plans and site visit with staff	Mowing frequencies: Weekly during May 1 through Aug. 31; Biweekly during Sept. 1 through Oct. 31 and April 1 through April 30; Monthly Nov. 1 through March 31. Shrub frequencies: Biweekly May 1 through Aug. 31, then monthly.	$299.27
6	28252	Retention Basin, per Plans and site visit with staff	Mowing frequencies: Weekly during May 1 through Aug. 31; Biweekly during Sept. 1 through Oct. 31 and April 1 through April 30; Monthly Nov. 1 through March 31. Shrub frequencies: Biweekly May 1 through Aug. 31, then monthly.	$243.04
7	30793	Wilson Street, Foothill Drive, includes portion of Omar Street, per Site Visit with staff and per Plans	Shrub frequencies: Biweekly May 1 through Aug. 31, then monthly.	$181.21
8	31833	Charles Street, north side, per Site Visit with staff and per Plans	Mowing frequencies: Biweekly during May 1 through Aug. 31; Monthly Sept. 1 through April 30.	$110.59
8	31834	Charles Street, south side, per Site Visit with staff and per Plans	Mowing frequencies: Biweekly during May 1 through Aug. 31; Monthly Sept. 1 through April 30.	$110.59
9	31835	Charles Street, Hargrave Street and Victory Avenue, (tract perimeter) per Site Visit with staff and per Plans	Shrubs and ground cover quarterly.	$517.84
10	30906	Mountain Avenue, west side and interior Oak Lane, per Site Visit and per Plans	Mowing frequencies: Weekly during May 1 through Aug. 31; Biweekly during Sept. 1 through Oct. 31 and April 1 through April 30; Monthly Nov. 1 through March 31. Shrub	$400.86

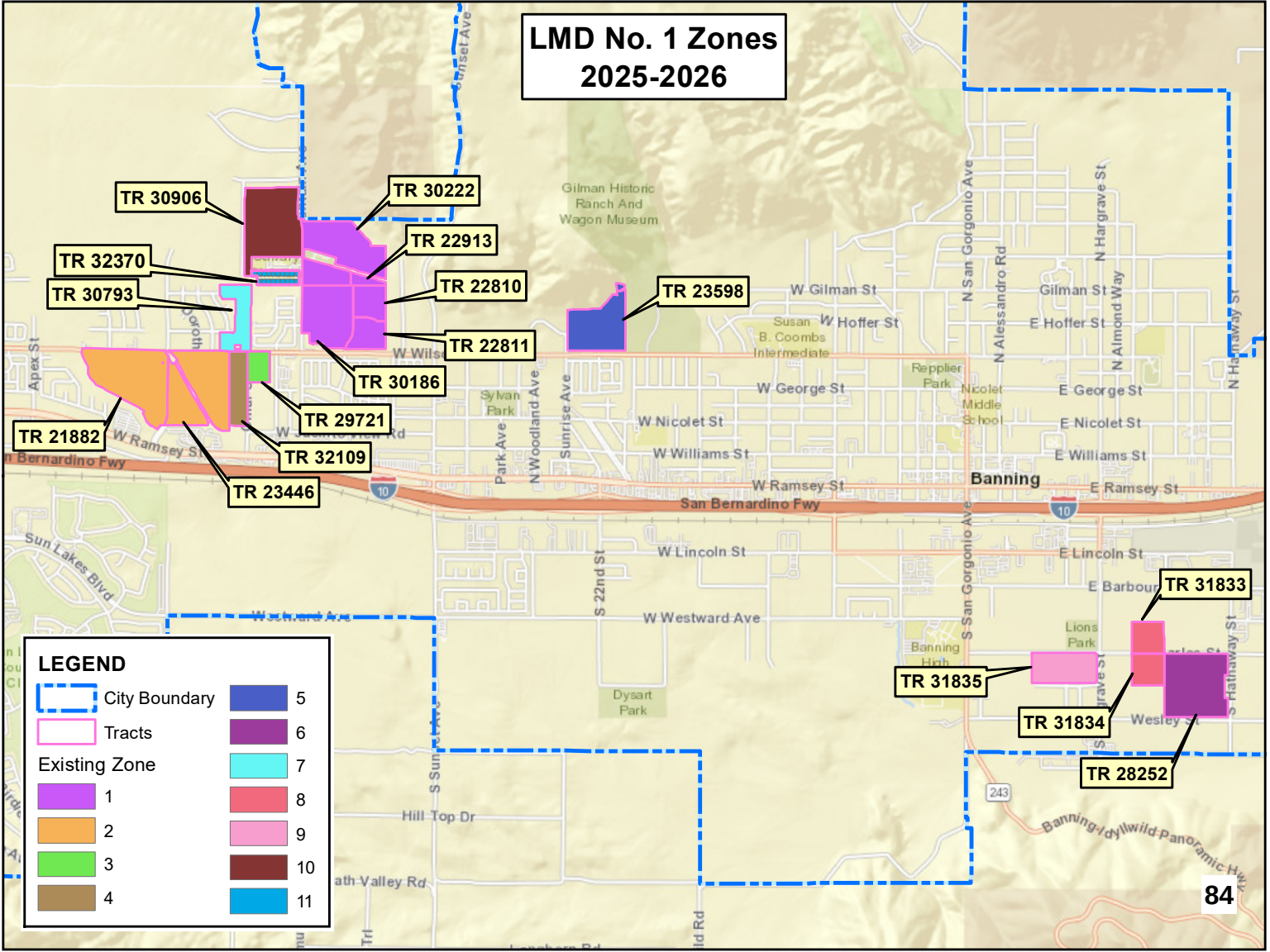
			frequencies: Biweekly May 1 through Aug. 31, then monthly.	
10/11	30906, 32370	Retention Basin, per Site Visit and per Plans	Tree trimming annually.	$191.47
11	32370	Mountain Avenue, west side, North and South of Cedar Lane, frontage along the tract, per Site Visit and per Plans	Shrub frequencies: Biweekly May 1 through Aug. 31, then monthly.	$75.98
		GRAND TOTAL: (Cost/month)	$5,416.84	

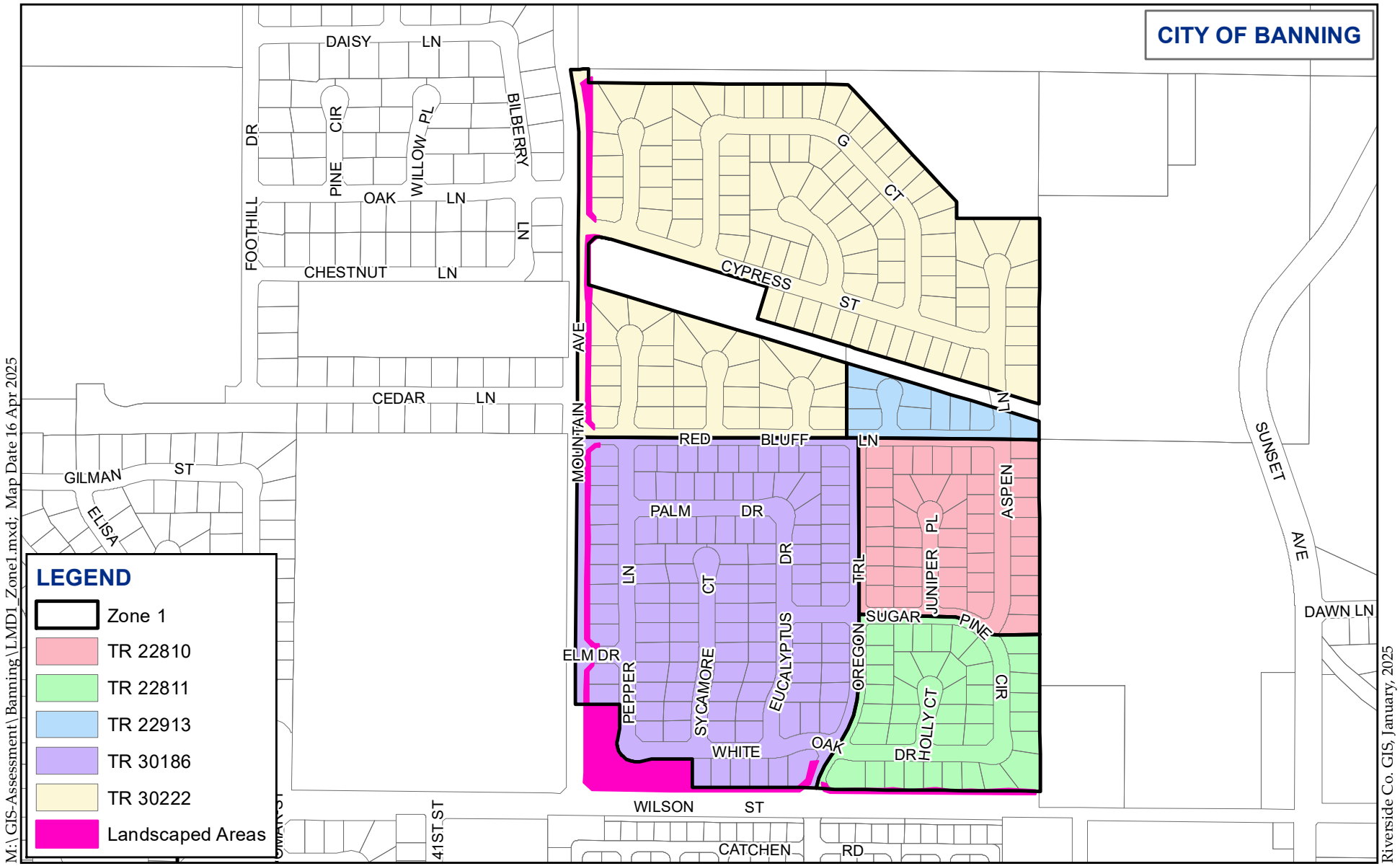
Note:"Per plans" means the Tract has improvement plans on file.

Retention Basins in Zone 1 will include trash pickup and weed abatement twice per year in price above for Zone 1. The frequency may be reduced in a Zone depending on the budget for that Zone during the term of the contract or Fiscal Year.

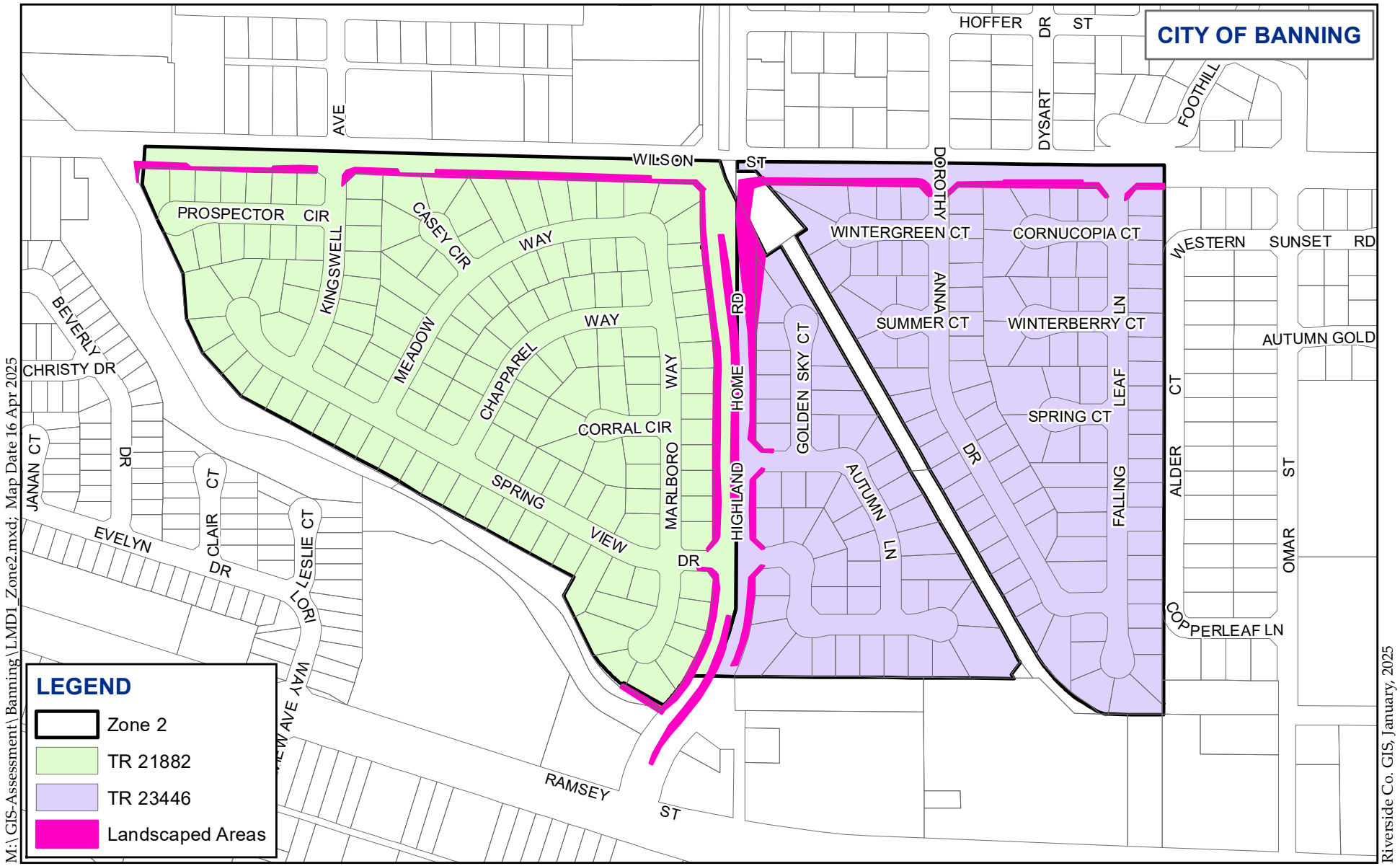
CPI OF 2.94% was applied to the original Bid Sheet cost submitted in the FY 24/25 proposal, per the Contract.

TOTAL ANNUAL COST FOR LMD NO. 1 FY 25/26: $65,002.08

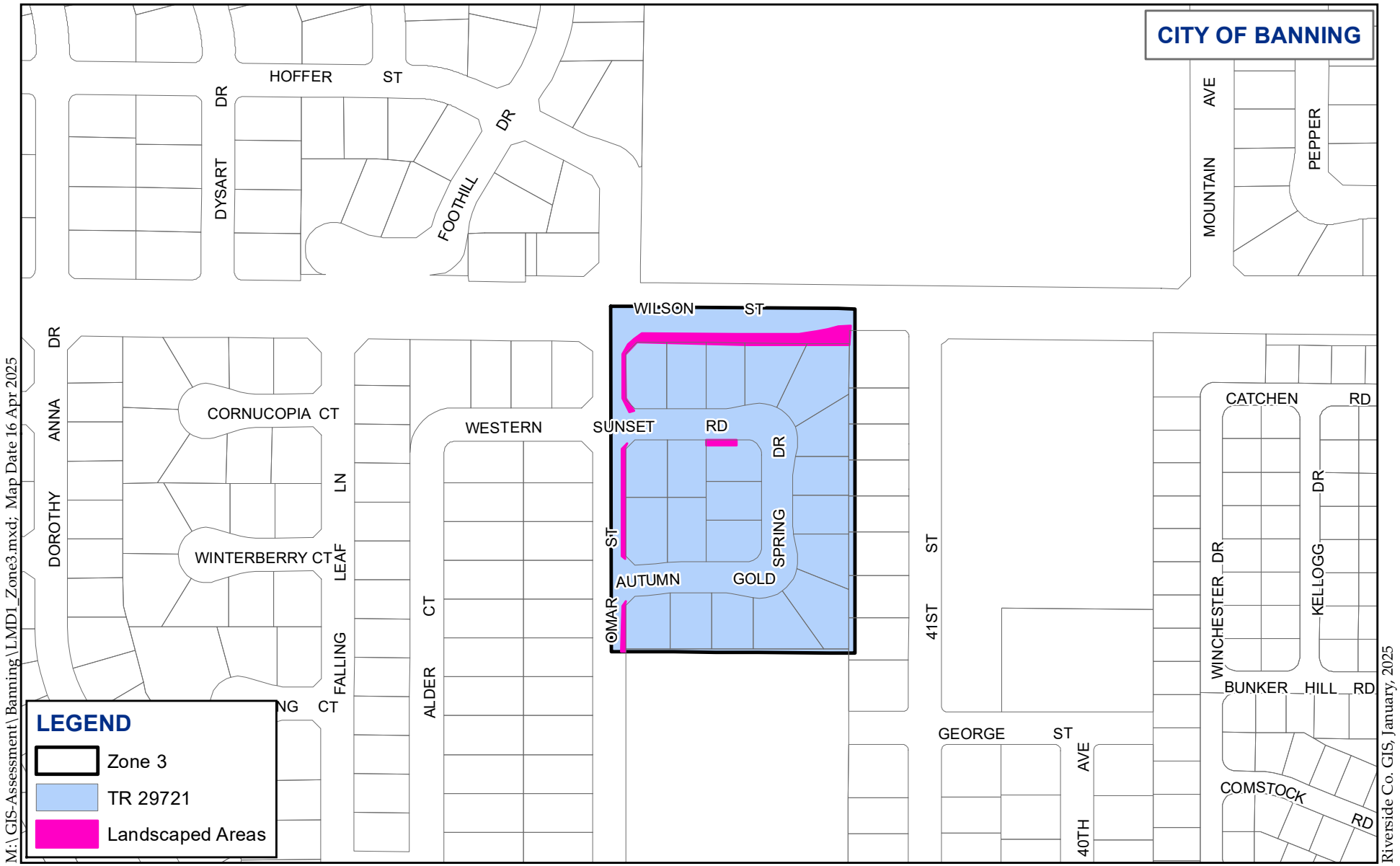

LMD No. 1 Zones
2025-2026
TR 30906
TR 30222
TR 22913
TR 32370
TR 30793
TR 22810
TR 23598
TR 22811
TR 30186
TR 29721
TR 21882
TR 32109
TR 23446
TR 31833
TR 31835
TR 31834
TR 28252
LEGEND
City Boundary
Tracts
Existing Zone
1
2
3
4
5
6
7
8
9
10
11
Gilman Historic Ranch And Wagon Museum
W Gilman St
W Hoffer St
Susan B. Coombs Intermediate
W George St
W Nicolet St
W Williams St
W Ramsey St
Banning
San Bernardino Fwy
W Lincoln St
W Westward Ave
Dysart Park
Repplier Park
Nicolet Middle School
Lions Park
Banning Hgth
Wesley St
Gilman St
E Hoffer St
E George St
E Nicolet St
E Williams St
E Ramsey St
E Lincoln St
E Barbour
N San Gorgonio Ave
S San Gorgonio Ave
N Alessandro Rd
N Hargrave St
N Almond Way
N Hathaway St
S Hathaway St
Sylvan Park
Park Ave
N Woodland Ave
Sunrise Ave
S 22nd St
Apex St
Sunset Ave
Sun Lakes Blvd
Hill Top Dr
Banning-Idyllwild Panoramic Hwy
243
84



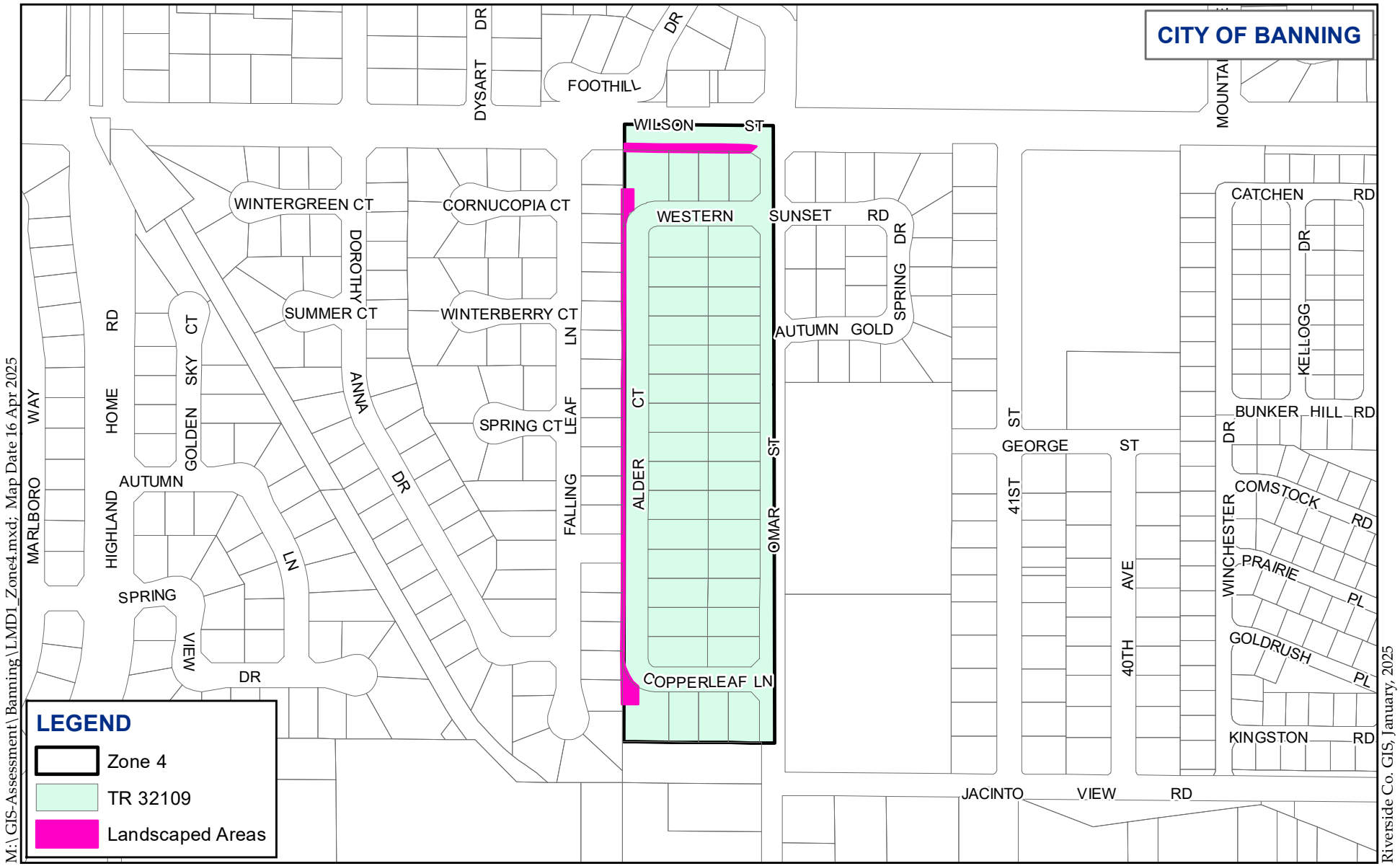
Landscape Maintenance Areas
LMD 1 Zone 1



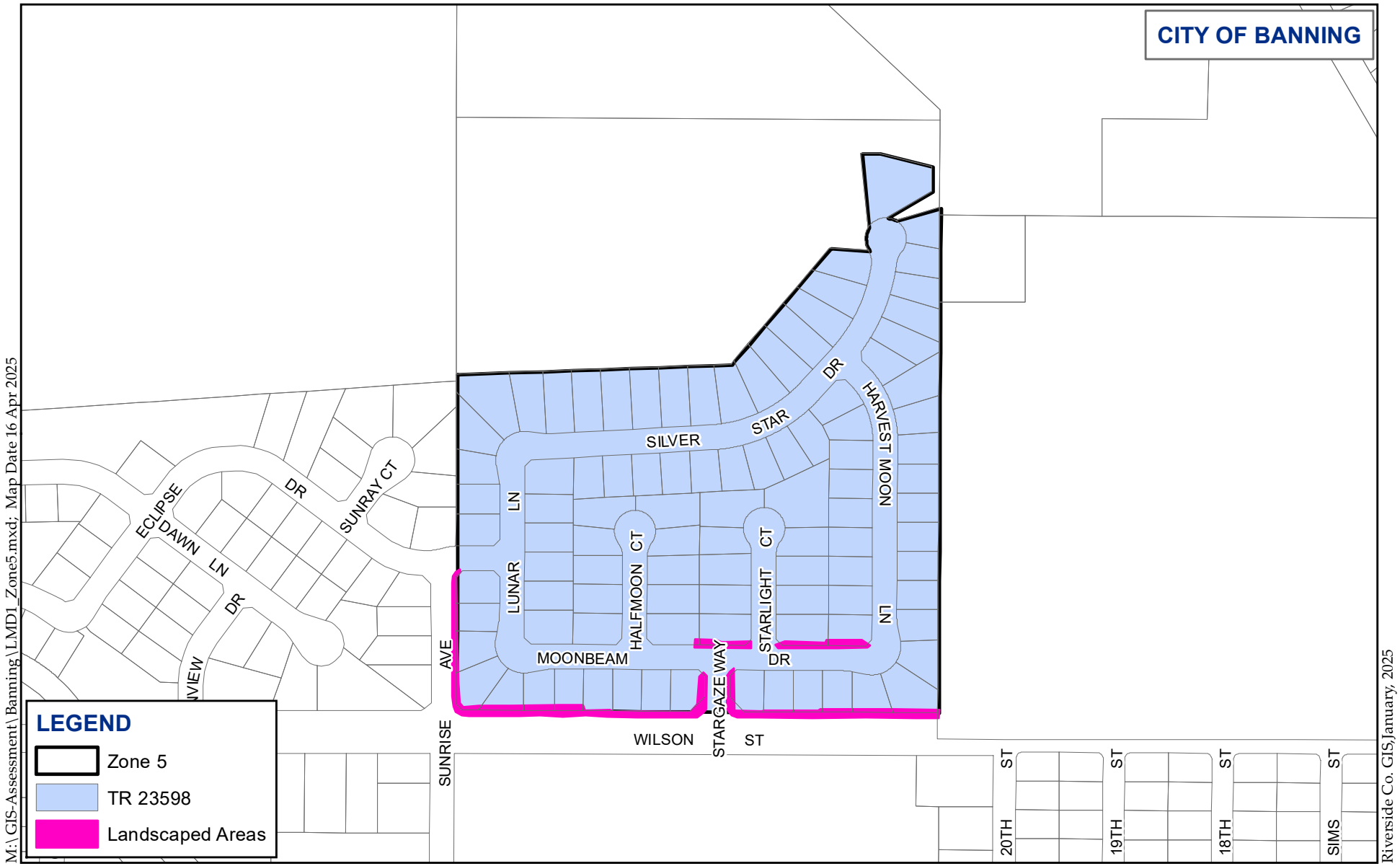
Landscape Maintenance Areas
LMD1 Zone 2



Landscape Maintenance Areas
LMD1 Zone 3

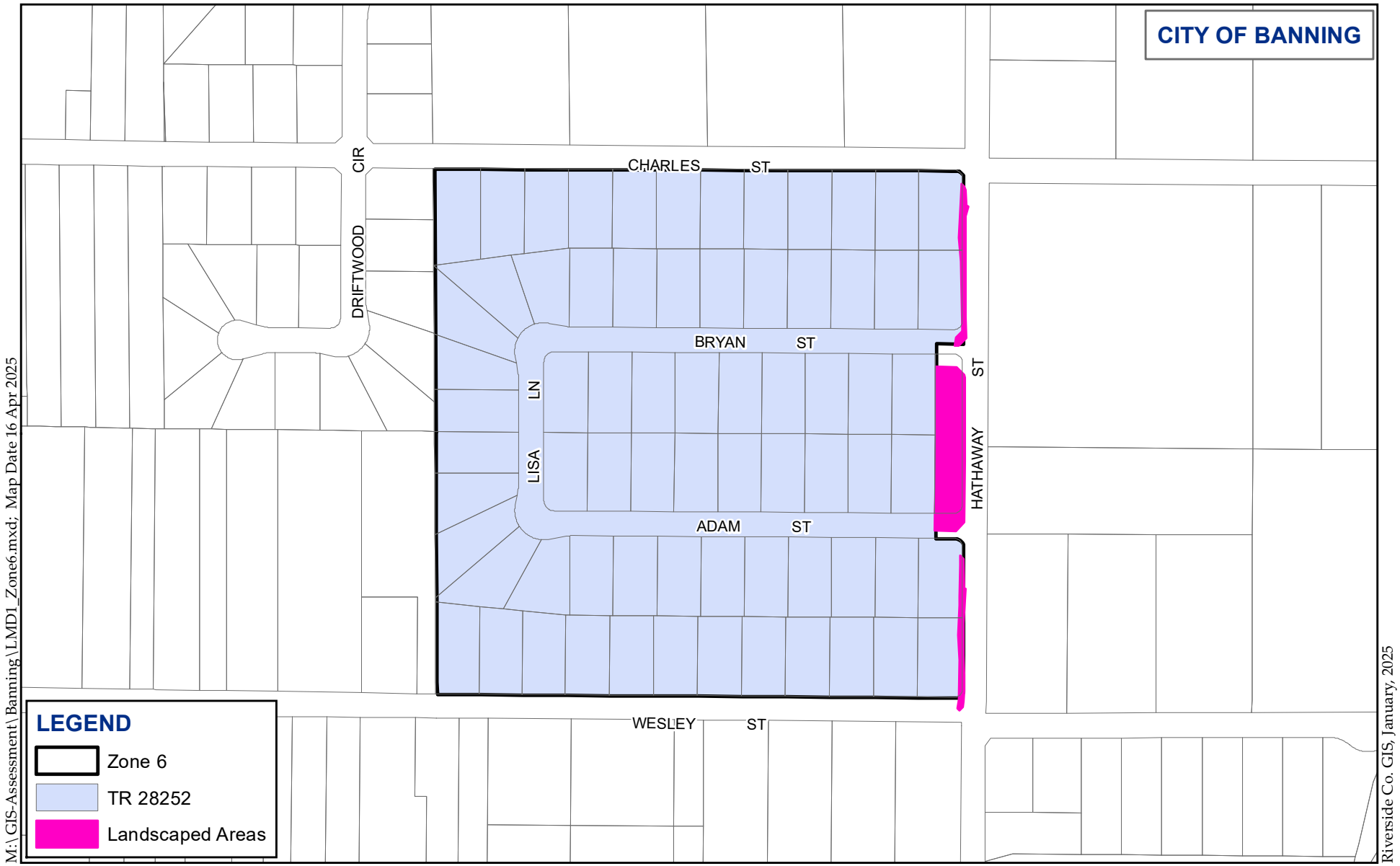


Landscape Maintenance Areas
LMD1 Zone 4



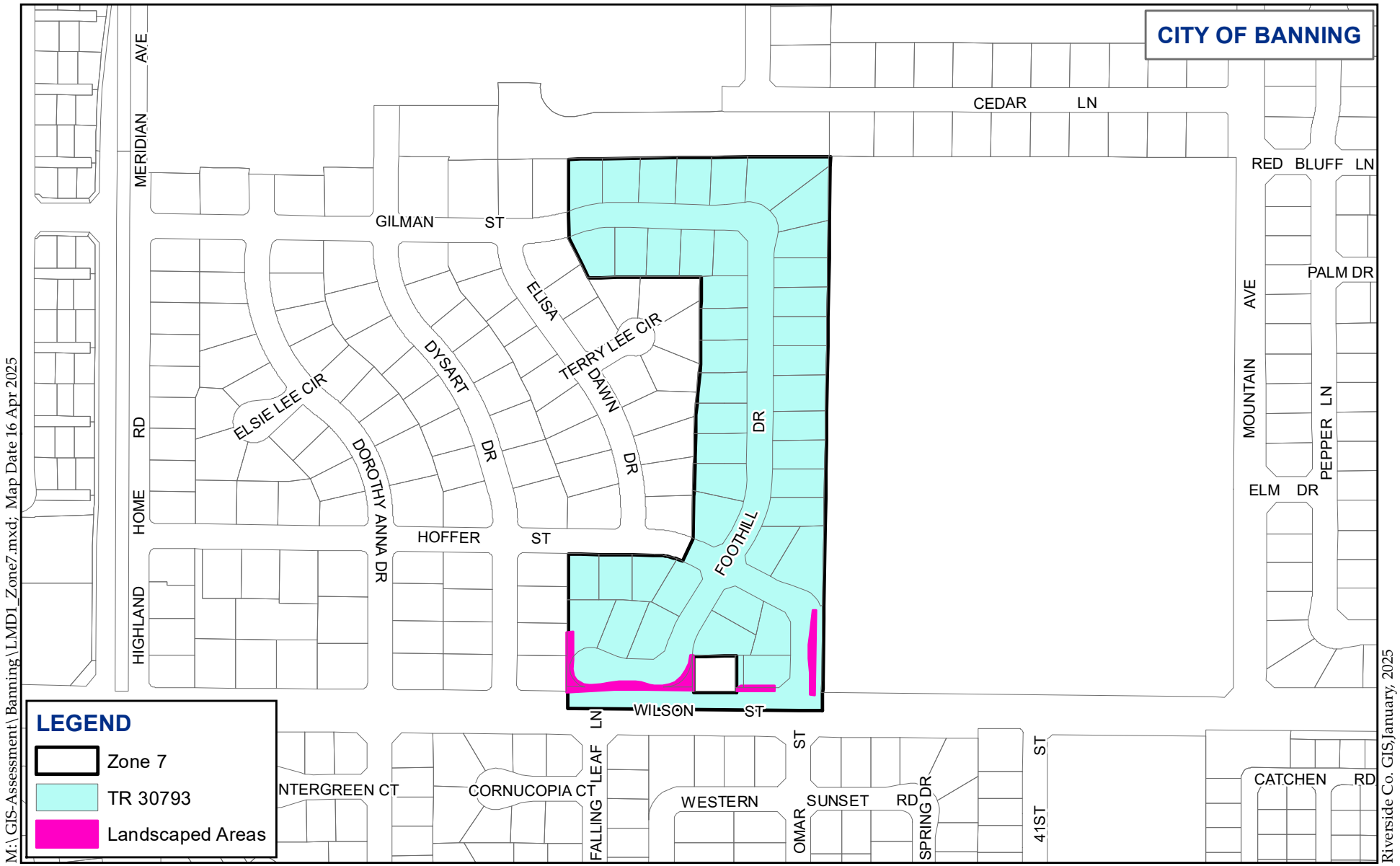
Landscape Maintenance Areas
LMD1 Zone 5

Webb MUNICIPAL FINANCE

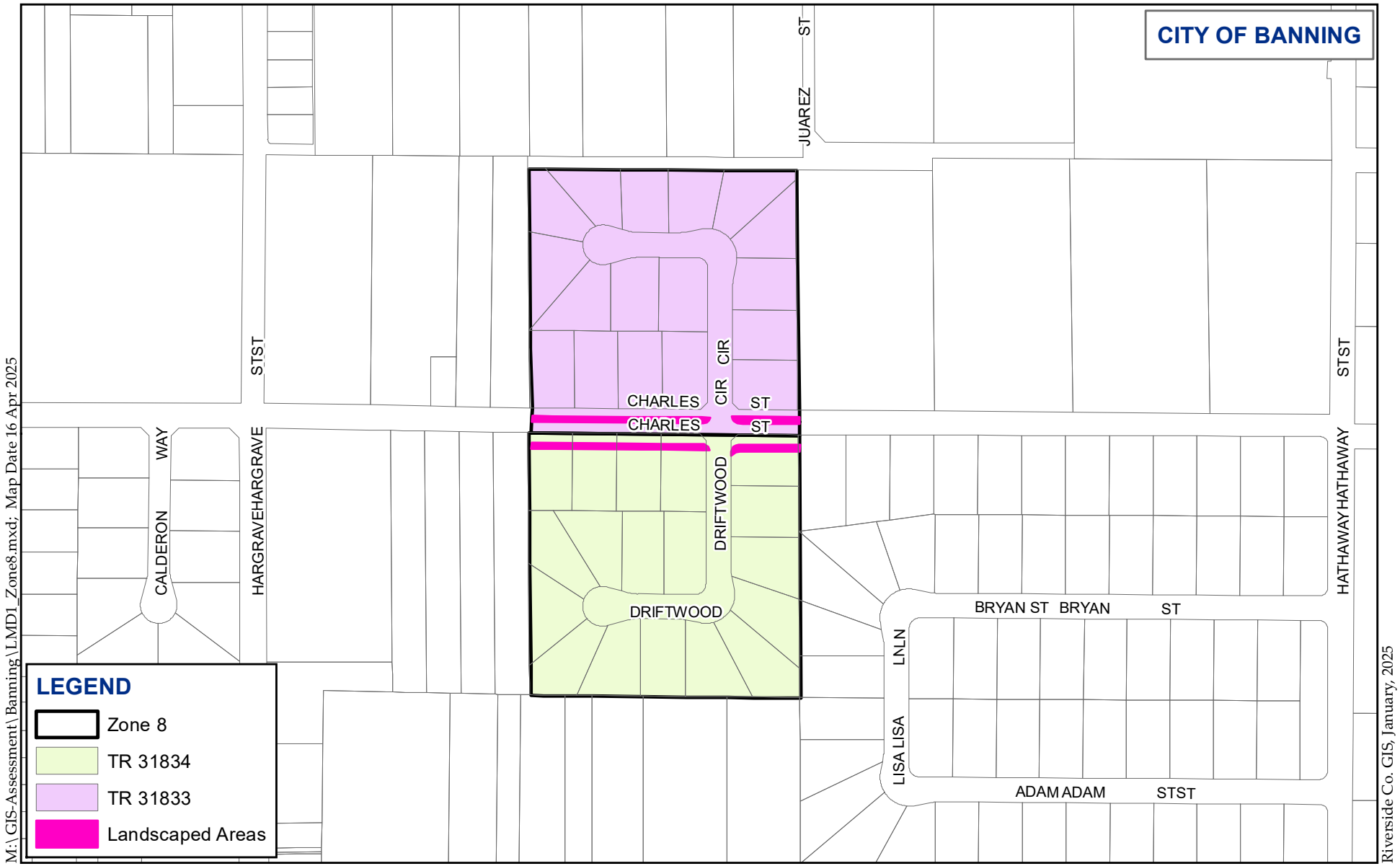


Landscape Maintenance Areas
LMD1 Zone 6

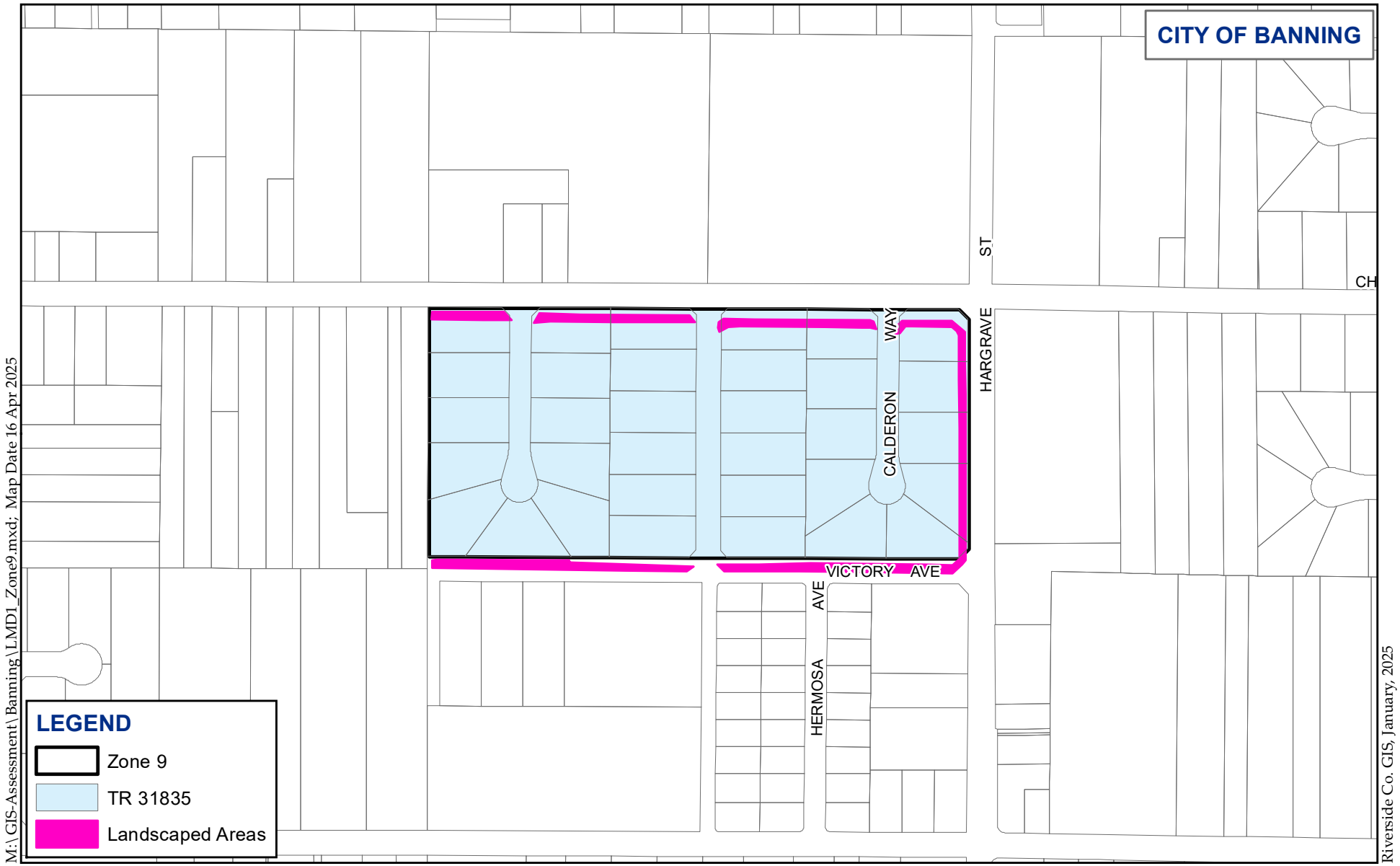
Webb MUNICIPAL FINANCE



Landscape Maintenance Areas
LMD1 Zone 7



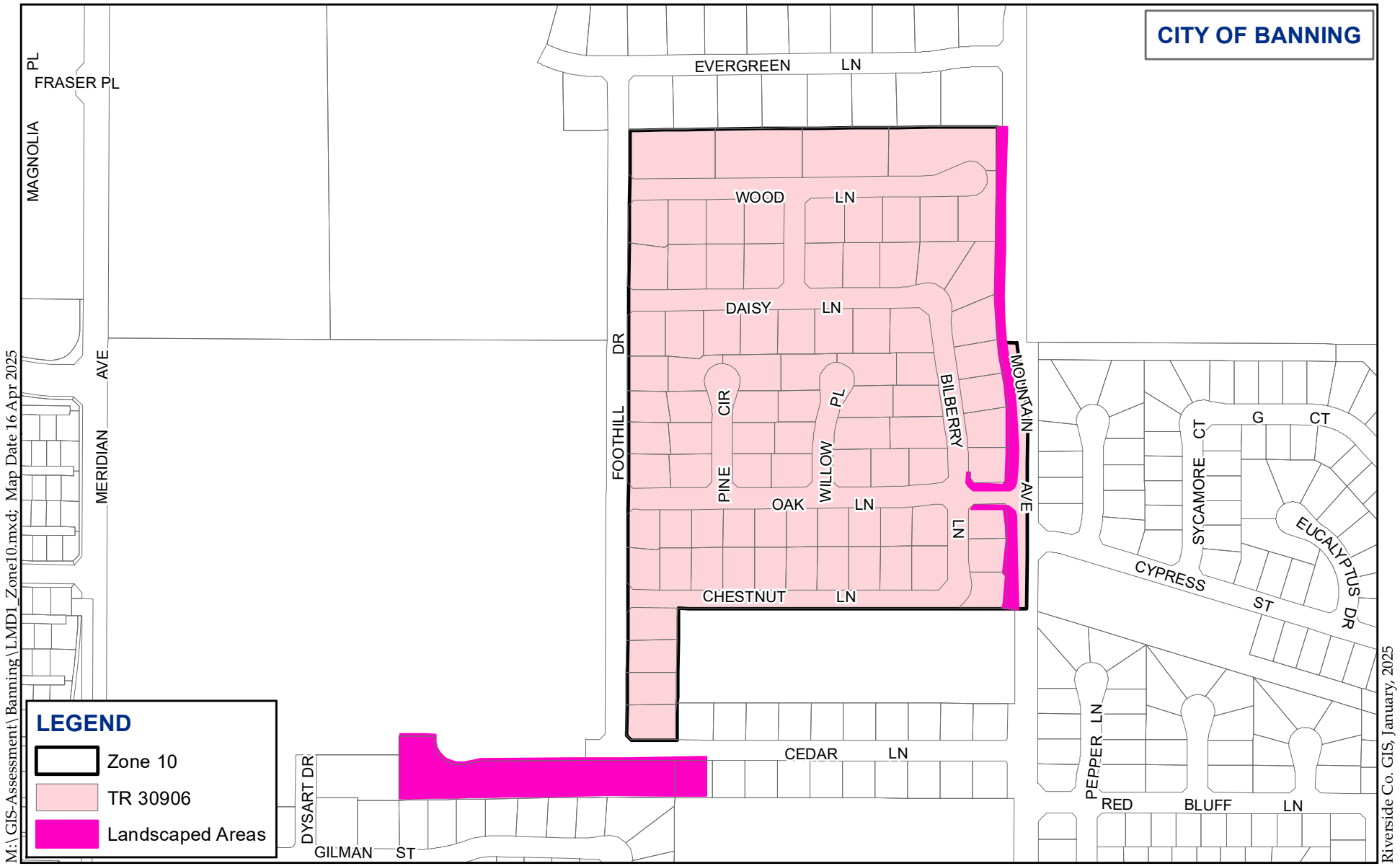
Landscape Maintenance Areas
LMD1 Zone 8



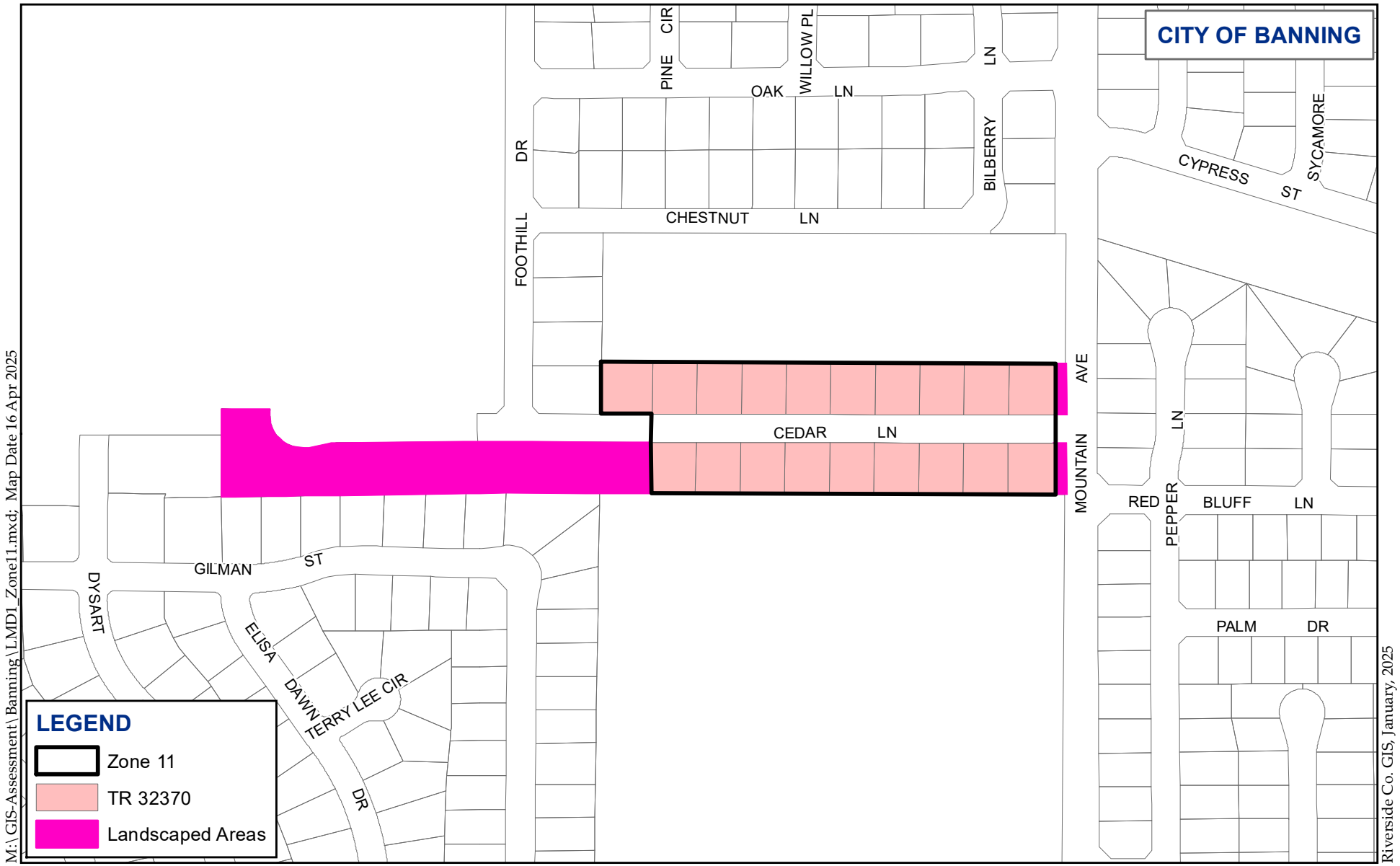
Landscape Maintenance Areas
LMD1 Zone 9

0 250 500 750 1,000 Feet

Webb MUNICIPAL FINANCE



Landscape Maintenance Areas
LMD1 Zone 10



Landscape Maintenance Areas
LMD1 Zone 11

Webb MUNICIPAL FINANCE

RESOLUTION 2024-108

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AWARDING AN OPERATION AND MAINTENANCE CONTRACT TO MARIPOSA LANDSCAPES, INC. OF IRWINDALE, CALIFORNIA, IN THE AMOUNT OF $93,211.26 FOR FISCAL YEAR 2024/2025 FOR THE OPERATION AND MAINTENANCE SERVICES OF LANDSCAPE MAINTENANCE DISTRICT NO. 1

WHEREAS, Landscape Maintenance District (LMD) No. 1 in the City of Banning was established through the adoption of Resolution 1990-59 on August 14, 1990 (9 tracts), with another Tract, No. 22913, being annexed into the District in 1992; and

WHEREAS, on May 10, 2005, the City Council adopted Resolution 2005-36, ordering the annexation of an additional five tracts and three tentative tracts to the City's LMD No. 1 ("Annexation No. 1"); and

WHEREAS, on November 14, 2023, the City Council adopted Resolution 2023-177, ordering the annexation of Tract No. 32370, known as Canterbury, to the City's LMD No. 1 ("Annexation No. 2"); and

WHEREAS, the Public Works Department does not have the required field staff needed to maintain the LMD No. 1 landscape areas; therefore, it is necessary to retain a landscape maintenance contractor to provide these services; and

WHEREAS, a Request for Proposals (RFP No. 24-061 "Operation and Maintenance of LMD No. 1") was prepared and advertised through OpenGov on April 5, 2024, notifying qualified firms of the opportunity to provide proposals, with the proposals due on May 9, 2024; and

WHEREAS, the scope of work includes providing all the labor, tools, materials, and equipment necessary to provide landscape maintenance services to LMD No. 1, including performing seasonal maintenance and inspection, checking the operation of all irrigation systems, and identifying required repairs and, if necessary, the labor for replacing trees, flowers or shrubs within landscaped areas that are maintained under the contract; and

WHEREAS, an evaluation committee consisting of three (3) Public Works Department staff members, evaluated the two (2) proposals that were received based on price, qualifications, experience and project understanding, approach (implementation plan) and methodology and references; and

WHEREAS, Mariposa Landscapes, Inc. had the highest combined score from the three evaluators and is a reputable qualified firm that has successfully provided services to the City in the past and is the current contractor providing landscape services for city facilities and as a result, staff recommends the contract be awarded to Mariposa Landscapes, Inc.; and

WHEREAS, Account No. 111-4900-432-23.29 (Landscape Maintenance) in the amount of $93,211.26 ($6,517.61/month; $78,211.26/year) will fund the monthly operation and maintenance portion of the Agreement and up to $15,000.00 will also be used to fund miscellaneous operations related to irrigation repairs and landscape replacement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The Banning City Council hereby awards an operation and maintenance services contract for Landscape Maintenance District No. 1 to Mariposa Landscapes, Inc of Irwindale, California, in the amount of $$93,211.26 for FY 2024/25 with the option to renew for an additional four single years, subject to a Consumer Price Index increase adjustment and satisfactory performance, and all other bids are hereby rejected.

SECTION 2. The City Manager or his designee is authorized to make necessary budget adjustments, appropriations and transfers related to the Professional Services Agreement.

SECTION 3. The City Manager or his designee is authorized to execute the Professional Services Agreement as to form approved by the City Attorney

PASSED, APPROVED AND ADOPTED this 25th day of June 2024.

Alberto Sanchez, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

Serita R. Young, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2024-108, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 25th day of June, 2024 by the following vote, to wit:

AYES: Flynn, Happe, Minjares, Sanchez, and Wallace.

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

Exhibit A
Professional Services Agreement with Mariposa Landscapes, Inc.

AGREEMENT FOR CONTRACT SERVICES (C01040) FOR LMD NO. 1 LANDSCAPE MAINTENANCE SERVICES BY AND BETWEEN CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

THIS AGREEMENT FOR CONTRACT SERVICES (herein "Agreement") is made and entered into this day: _____, ("Effective Date") by and between the **CITY OF BANNING,** a California municipal corporation ("City") and Mariposa Landscapes, Inc., a California Corporation ("Contractor"). City and Contractor are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties."

RECITALS

A. City has sought by a Request for Proposal (RFP #23-061) for the performance of the services for Landscape Maintenance Services for LMD No.1 and as further defined and described particularly in Article 1 of this Agreement.

B. Contractor, following submission of a proposal for the performance of the services defined and described particularly in Article 1 of this Agreement, was selected by City to perform those services.

C. The Parties desire to formalize the selection of Contractor for performance of those services defined and described particularly in Article 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

D. Pursuant to the City of Banning's Municipal Code, City has authority to enter into this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1. SERVICES OF CONTRACTOR

1.1 Scope of Services.

In compliance with all terms and conditions of this Agreement, Contractor shall provide those services specified in the "Scope of Services" attached hereto as **Exhibit A** and incorporated herein by this reference, which services may be referred to herein as the "Services" hereunder. As a material inducement to City entering into this Agreement, Contractor represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the Services required under this Agreement in a thorough, competent, and professional manner, and is experienced in performing the Services contemplated herein. Contractor shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all Services described herein. Contractor covenants that it shall follow the highest professional standards in performing the Services required hereunder and that all materials will be of good quality, and fit for the purpose intended. For purposes of this Agreement, the phrase "highest professional

standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

1.2 Contract Documents and Exhibits.

This Agreement includes the Request for Proposal and Contractor's accepted proposal ("Contract Documents"), both of which are on file with the City and incorporated herein by this general reference as though fully set forth herein. **Exhibit A** (Scope of Services), **Exhibit B** (Special Requirements), **Exhibit C** (Schedule of Compensation), and **Exhibit D** (Schedule of Performance) also constitute a part of this Agreement and are incorporated into this Agreement by this reference. Except as set forth in Section 1.10 regarding **Exhibit B**, this Agreement controls over the Contract Documents and the provisions in **Exhibits A, B** and **C**.

1.3 Compliance with Law.

Contractor shall keep itself informed concerning all ordinances, resolutions, statutes, rules, and regulations of City and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered, and shall render all Services hereunder in accordance therewith.

1.4 Licenses, Permits, Fees and Assessments.

Contractor shall obtain and maintain during the term of this Agreement, at its sole cost and expense, all necessary licenses, permits, certificates and approvals required by law for the performance of Services under this Agreement, including a City business license. Contractor shall have the sole obligation to pay for all fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and which arise from or are necessary for Contractor's performance of the Services required by this Agreement. Contractor shall indemnify, defend and hold harmless City, its officers, employees or agents, against all such fees, assessments, taxes, penalties or interest levied, assessed or imposed against City hereunder.

1.5 Familiarity with Services.

By executing this Agreement, Contractor warrants that Contractor: (i) has thoroughly investigated and considered the Scope of Services to be performed, (ii) has carefully considered how the Services should be performed, and (iii) fully understands the facilities and any difficulties and restrictions attending performance of the Services under this Agreement. If the Services involve work upon any site, Contractor warrants that Contractor has or will investigate the site and is or will be fully acquainted with the conditions existing therein, prior to commencement of Services hereunder. Should Contractor discover any latent or unknown conditions, which will materially affect the performance of the Services hereunder, Contractor shall immediately inform City of such fact and shall not proceed except at Contractor's risk until written instructions are received from the Contract Officer (defined in Section 1.12. A).

1.6 Prevention of Loss and Damages.

Contractor shall adopt reasonable methods during the Term (defined in Section 3.4) to furnish continuous protection to the work product, and the equipment, materials, papers,

documents, plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the Services by City, except such losses or damages as may be caused by City's own negligence.

1.7 Further Responsibilities of Parties.

Both Parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both Parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonable necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither Party shall be responsible to perform the Services of the other.

1.8 Additional Services.

City shall have the right at any time during the performance of the Services, without invalidating this Agreement, to order extra services beyond that specified in the Scope of Services or to make changes by altering, adding to or deducting from the Services. No such extra services may be undertaken unless a written order is first given by the Contract Officer to Contractor, which written order incorporates therein an adjustment in (i) the Contract Sum (as defined in Section 2.1), and/or (ii) the Schedule of Performance, (as defined in Section 3.2), and which written order is approved in writing by Contractor. Any increase in compensation of up to ten percent (10%) of the Contract Sum, or $25,000, whichever is less; or in the Schedule of Performance of up to one hundred eighty (180) days may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively, must be approved by City Council. It is expressly understood by Contractor that the provisions of this Section shall not apply to Services which are specifically set forth in the Scope of Services or which are reasonably contemplated therein. Contractor hereby acknowledges that it accepts the risk that the Services to be provided pursuant to the Scope of Services may be more costly or time consuming than Contractor anticipates and that Contractor shall not be entitled to additional compensation therefor.

1.9 Facilities and Equipment.

Except as otherwise provided, Contractor shall, at its own cost and expense, provide all facilities and equipment necessary to perform the Services required by this Agreement. City shall make available to Contractor only physical facilities such as desks, filing cabinets, and conference space ("City Facilities"), as City deems, in its sole discretion, to be reasonably necessary for Contractor's use while consulting with City employees and reviewing records and the information in possession of City. The location, quality, and time of furnishing City Facilities shall be in the sole discretion of City. In no event shall City be required to furnish any facilities that may involve incurring any direct expense, including but not limited to a computer, long distance telephone, network data, internet or other communication charges, vehicles and reproduction facilities.

1.10 Special Requirements.

Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as **Exhibit B** and incorporated herein by this reference. In the event of a conflict between the provisions of **Exhibit B** and any other provisions of this Agreement, the provisions of **Exhibit B** shall govern.

1.11 Corrections.

In addition to the indemnification obligations set forth in Article 4, and Sections 1.4, 1.13, 5.3, 5.4, and 6.3, Contractor shall correct, at its expense, all errors in the Services which may be disclosed during City's review of Contractor's report or plans. Should Contractor fail to make such correction(s) in a reasonably timely manner, such correction(s) may be made by City, and the cost thereof shall be charged to Contractor. In addition to all other available remedies, City may deduct the cost of such correction(s) from any retention amount held by City, or may withhold payment otherwise owed Contractor under this Agreement up to the amount of the cost of correction(s), as provided in Section 6.3.

1.12 Party Representatives.

A. Contract Officer: For the purposes of this Agreement, the Contract Officer shall be the City Manager, or such other person designated in writing by the City Manager ("Contract Officer"). Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of City required hereunder to carry out the terms of this Agreement.

B. Principals and Personnel of Contractor.

1) Contractor Representative: The following principal of Contractor is hereby designated as being the Contractor Representative authorized to act on Contractor's behalf regarding the Services specified herein and make all decisions in connection therewith:

Name	Title
Larry Rudd	VP of Sales and Marketing

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing Contractor Representative were a substantial inducement for City to enter into this Agreement. Therefore, the foregoing Contractor Representative shall be responsible during the term of this Agreement for directing all activities of Contractor and devoting sufficient time to personally supervise the Services hereunder. All personnel of Contractor, and any authorized agents, shall at all times be under the exclusive direction and control of the Contractor Representative. For purposes of this Agreement, the foregoing Contractor Representative may not be replaced nor may their responsibilities be substantially reduced or reassigned by Contractor without the express written approval of City. It shall be Contractor's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the Services, and Contractor shall refer any decisions which must be made by City to the Contract Officer.

2) Contractor's Personnel: Contractor has, or will secure at its own expense, all personnel required to perform the Services required under this Agreement. All of the Services required under this Agreement shall be performed by Contractor or under its supervision, and all personnel engaged in the Services shall be qualified to perform such Services. Contractor shall make every reasonable effort to maintain the stability and continuity of Contractor's staff and sub-contractors, if any, assigned to perform the Services required under this Agreement.

Contractor shall notify City of all changes in Contractor's staff and sub-contractors, if any, assigned to perform the Services required under this Agreement, prior to and during any such performance. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires to reassign any staff or sub-contractor of Contractor, City shall give notice as set forth in Section 8.1. Contractor shall, immediately upon the receipt of the notice to re-assign staff from City, reassign such person or persons.

1.13 Independent Contractor.

A. Contractor is an independent contractor and not an employee of City. Contractor shall have no power to incur any debt, obligation, or liability on behalf of City. All Services provided pursuant to this Agreement shall be performed by Contractor or under its supervision. Contractor will determine the means, methods, and details of performing the Services. Any additional personnel performing Services under this Agreement on behalf of Contractor shall also not be employees of City and shall at all times be under Contractor's exclusive direction and control. Contractor shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Contractor shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

B. Contractor shall indemnify and hold harmless City and its elected officials, officers, employees, servants, designated volunteers, and agents serving as independent contractors in the role of City officials, from any and all liability, damages, claims, costs and expenses of any nature to the extent arising from Contractor's personnel practices. City shall have the right to offset against the amount of any fees due to Contractor under this Agreement any amount due to City from Contractor as a result of Contractor's failure to promptly pay to City any reimbursement or indemnification arising under this Section.

1.14 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Contractor, the Contractor Representative and employees were a substantial inducement for City to enter into this Agreement. Therefore, Contractor shall not contract with any other entity to perform in whole or in part the Services required hereunder without the express written approval of City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty-five percent (25%) of the present ownership and/or control of Contractor, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this

Agreement shall be void. No approved transfer shall release Contractor or any surety of Contractor of any liability hereunder without the express consent of City.

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, as full compensation for Services satisfactorily rendered, City shall pay Contractor at the hourly rates set forth in the "Schedule of Compensation" attached hereto as **Exhibit C** and incorporated herein by this reference. In no event shall Contractor be paid more than Ninety-Three Thousand Two Hundred Eleven Dollars and Twenty-Six Cents ($93,211.26) (the "Contract Sum"). The Contract Sum shall include the attendance of Contractor at all project meetings reasonably deemed necessary by City. Coordination of the performance of the Services with City is a critical component of the Services. If Contractor is required to attend additional meetings to facilitate such coordination, Contractor shall not be entitled to any additional compensation for attending those meetings.

2.2 Method of Compensation.

The method of compensation may include: (i) a lump sum payment upon completion of the Services, (ii) payment in accordance with specified tasks or the percentage of completion of the Services, (iii) payment for time and materials based upon Contractor's rates as specified in the Schedule of Compensation, provided that time estimates are provided for the performance of sub tasks, but not exceeding the Contract Sum or (iv) such other methods as may be specified in the Schedule of Compensation.

2.3 Reimbursable Expenses.

City shall only reimburse Contractor for those actual and necessary expenses expressly set forth in **Exhibit C**. Reimbursable expenses may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expenses, and travel expenses approved by the Contract Officer in advance, or actual sub-contractor expenses of an approved sub-contractor pursuant to Section 1.14, and only if specified in the Schedule of Compensation.

2.4 Unauthorized Services and Expenses.

City will not pay for any Services or reimburse for any expenses incurred which are not specified in the Scope of Services, unless authorized in writing as set forth in Section 1.8 of this Agreement. City shall make payment for such authorized additional Services and expenses in accordance with Article 2 of this Agreement.

2.5 Invoices.

Each month Contractor shall furnish to City an original invoice for all Services performed and expenses incurred during the preceding month. Each such invoice shall contain all of the information set forth in Section III of **Exhibit C** to this Agreement. By submitting an invoice for payment under this Agreement, Contractor is certifying compliance with all provisions of the

Agreement. Contractor shall not invoice City for any duplicate Services performed by more than one person.

City shall independently review each invoice submitted by Contractor to determine whether the Services performed and expenses incurred are in compliance with the provisions of this Agreement. City will use its best efforts to cause Contractor to be paid within thirty (30) days of receipt of Contractor's correct and undisputed invoice, except as to any charges for Services performed or expenses incurred by Contractor which are disputed by City, or as provided in Section 6.3. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Contractor for correction and resubmission. Review and payment by City of any invoice provided by Contractor shall not constitute waiver of any rights or remedies provided herein or any applicable law.

2.6 Waiver.

Payment to Contractor for Services performed pursuant to this Agreement shall not be deemed to waive any defects in Services performed by Contractor.

ARTICLE 3. PERFORMANCE SCHEDULE

3.1 Time of Essence.

Time is of the essence in the performance of this Agreement; provided, however, that the foregoing shall not be construed to limit or deprive a Party of the benefits of any grace or use period allowed in this Agreement.

3.2 Schedule of Performance.

Contractor shall commence the Services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all Services within the time period(s) established in the "Schedule of Performance" attached hereto as **Exhibit D** and incorporated herein by this reference.

3.3 Force Majeure.

The time period(s) specified in the Schedule of Performance for performance of the Services rendered pursuant to this Agreement may be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of Contractor. Such unforeseeable consequences include, but are not restricted to, acts of God or public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including City, if Contractor shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the Services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified, subject to the provisions of Section 1.8. The Contract Officer's determination (or the City Council's determination, in the event the period of enforced delay exceeds the period specified in Section 1.8) shall be final and conclusive upon the Parties to this Agreement. In no event shall Contractor

be entitled to recover damages against City for any delay in the performance of this Agreement, however caused; Contractor's sole remedy shall be the extension of the Agreement pursuant to this Section.

3.4 Term.

The Term of this Agreement shall be from the Effective Date through June 30, 2025 with optional four (4) one-year renewal periods,unless sooner terminated as provided in Article 6 of this Agreement or extended as provided in Sections 1.8 and 3.3 of this Agreement. Maximum term and any subsequent amendment or modification shall not exceed five (5) years.

ARTICLE 4. INSURANCE AND INDEMNIFICATION

4.1 Minimum Scope and Limits of Insurance.

Contractor shall procure and at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:

A. Commercial General Liability Insurance with a minimum limit of $1,000,000.00 per occurrence for bodily injury, personal injury and property damage and a general aggregate limit of $2,000,000.00 per project or location. If Contractor is a limited liability company, the commercial general liability coverage shall be amended so that Contractor and its managers, members, affiliates, employees, agents and other persons necessary or incidental to its operation are insureds.

B. Automobile Liability Insurance for any owned, non-owned or hired vehicle used in connection with the performance of this Agreement with a combined single limit of $1,000,000.00 per accident for bodily injury and property damage. If Contractor does not use any owned, non-owned or hired vehicles in the performance of Services under this Agreement, Contractor shall obtain a non-owned auto endorsement to the Commercial General Liability policy.

C. Workers' Compensation Insurance as required by the State of California and Employer's Liability Insurance with a minimum limit of $1,000,000.00 per accident for bodily injury or disease. If Contractor has no employees while performing Services under this Agreement, workers' compensation policy is not required; however, Contractor shall execute a declaration that it has no employees.

D. Professional Liability/Errors and Omissions Insurance with minimum limits of $1,000,000.00 per claim and in the aggregate.

4.2 Acceptability of Insurers.

The insurance policies required under this Article shall be issued by an insurer admitted to write insurance in the State of California with a rating of A:VII or better in the latest

edition of the A.M. Best Insurance Rating Guide. Self-insurance shall not be considered to comply with the insurance requirements under this Article.

4.3 Additional Insured.

The commercial general and automobile liability policies shall contain an endorsement naming City, its officers, employees, agents and volunteers as additional insureds.

4.4 Primary and Non-Contributing.

The insurance policies required under this Article shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance available to City. Any insurance or self-insurance maintained by City, its officers, employees, agents or volunteers, shall be in excess of Contractor's insurance and shall not contribute with it.

4.5 Contractor's Waiver of Subrogation.

The insurance policies required under this Article shall not prohibit Contractor and Contractor's employees, agents or sub-contractors from waiving the right of subrogation prior to a loss. Contractor hereby waives all rights of subrogation against City.

4.6 Deductibles and Self-Insured Retentions.

Any deductibles or self-insured retentions must be declared to and approved by City. At City's option, Contractor shall either reduce or eliminate the deductibles or self-insured retentions with respect to City; or Contractor shall procure a bond guaranteeing payment of losses and expenses.

4.7 Cancellations or Modifications to Coverage.

Contractor shall not cancel, reduce or otherwise modify the insurance policies required by this Article during the term of this Agreement. The commercial general and automobile liability policies required under this Agreement shall be endorsed to state that should the issuing insurer cancel the policy before the expiration date, the issuing insurer will endeavor to mail 30 days' prior written notice to City. If any insurance policy required under this Article is canceled or reduced in coverage or limits, Contractor shall, within two (2) Business Days (as defined in Section 8.12) of notice from the insurer, phone, fax or notify City via certified mail, return receipt requested, of the cancellation of or changes to the policy.

4.8 City Remedy for Noncompliance.

If Contractor does not maintain the policies of insurance required under this Article in full force and effect during the term of this Agreement, or in the event any of Contractor's policies do not comply with the requirements under this Article, City may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, City may, but has no duty to, take out the necessary insurance and pay, at Contractor's expense, the premium thereon. Contractor shall promptly reimburse City for any premium paid by City, or City may withhold amounts sufficient to pay the premiums from payments due to Contractor.

4.9 Evidence of Insurance.

Prior to the performance of Services under this Agreement, Contractor shall furnish the City Clerk with a certificate or certificates of insurance and all original endorsements evidencing and effecting the coverages required under this Article. The endorsements are subject to City's approval. Contractor may provide complete, certified copies of all required insurance policies to City. Contractor shall maintain current endorsements on file with the City Clerk. Contractor shall provide proof to the City Clerk that insurance policies expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Contractor shall furnish such proof at least two (2) weeks prior to the expiration of the coverages.

4.10 Indemnity Requirements not Limiting.

Procurement of insurance by Contractor shall not be construed as a limitation of Contractor's liability or as full performance of Contractor's duty to indemnify City under this Agreement.

4.11 Sub-contractor Insurance Requirements.

Contractor shall require each of its sub-contractors that perform Services under this Agreement to maintain insurance coverage that meets all of the requirements of this Article.

4.12 Indemnification, Hold Harmless, and Duty to Defend.

A. Indemnification of City.

1) To the fullest extent permitted by law, Contractor shall, at its sole cost and expense, defend, hold harmless and indemnify City and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, assigns and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees"), from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith and the payment of all consequential damages (collectively "Liabilities"), at law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Contractor, its officers, agents, servants, employees, sub-contractors, materialmen, Contractors or their officers, agents, servants or employees (or any entity or individual that Contractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties. Contractor shall defend the Indemnitees in any action or actions filed in connection with any Liabilities with counsel of the Indemnitees' choice, and shall pay all costs and expenses, including all attorneys' fees and experts' costs actually incurred in connection with such defense. Contractor shall reimburse the Indemnitees for any and all legal expenses and costs incurred by Indemnitees in connection therewith.

2) Contractor shall pay all required taxes on amounts paid to Contractor under this Agreement, and indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Contractor shall fully comply with the workers' compensation law regarding Contractor and Contractor's employees. Contractor shall indemnify and hold City harmless from any failure of Contractor to comply with applicable workers' compensation laws. City may offset against the amount of any fees due to Contractor under this Agreement any amount due to City from Contractor as a result of Contractor's failure to promptly pay to City any reimbursement or indemnification arising under this subparagraph A.2.

3) Contractor shall obtain executed indemnity agreements with provisions identical to those in this Article from each and every sub-contractor or any other person or entity involved by, for, with or on behalf of Contractor in the performance of this Agreement. If Contractor fails to obtain such indemnity obligations, Contractor shall be fully responsible and indemnify, hold harmless and defend the Indemnitees from and against any and all Liabilities at law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Contractor's sub-contractor, its officers, agents, servants, employees, sub-contractors, materialmen, Contractors or their officers, agents, servants or employees (or any entity or individual that Contractor's sub-contractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties.

B. Workers' Compensation Acts not Limiting. Contractor's indemnifications and obligations under this Article, or any other provision of this Agreement, shall not be limited by the provisions of any workers' compensation act or similar act. Contractor expressly waives its statutory immunity under such statutes or laws as to City, its officers, agents, employees and volunteers.

C. Insurance Requirements not Limiting. City does not, and shall not, waive any rights that it may possess against Contractor because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. The indemnities in this Article shall apply regardless of whether or not any insurance policies are determined to be applicable to the Liabilities, tax, assessment, penalty or interest asserted against City.

D. Survival of Terms. Contractor's indemnifications and obligations under this Article shall survive the expiration or termination of this Agreement.

ARTICLE 5. RECORDS, REPORTS, AND RELEASE OF INFORMATION

5.1 Service Records.

Contractor shall keep, and require sub-contractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and Services performed hereunder (the "Service Records"), as shall be necessary to perform the Services required by this Agreement and enable the Contract Officer

to evaluate the performance of such Services. Any and all such Service Records shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such Service Records at all times during normal business hours of City, including the right to inspect, copy, audit and make copies and transcripts from such Service Records. Such Service Records shall be maintained for a period of three (3) years following completion of the Services hereunder, and City shall have access to such Service Records in the event any audit is required. In the event of dissolution of Contractor's business, custody of the Service Records may be given to City, and access shall be provided by Contractor's successor in interest ("Contractor's Successor"). If custody of the Service Records is given to Contractor's Successor, Contractor shall give written notice to City of the transfer of the Service Records to Contractor's Successor. The notice shall include contact information (address and telephone number) for Contractor's Successor, and access shall be provided to City by Contractor's Successor.

5.2 Reports.

Contractor shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the Services required by this Agreement as the Contract Officer shall require. Contractor hereby acknowledges that City is greatly concerned about the cost of Services to be performed pursuant to this Agreement. For this reason, Contractor agrees that if Contractor becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the Services contemplated herein, Contractor shall promptly notify the Contract Officer of that fact, circumstance, technique or event and the estimated increased or decreased cost related thereto.

5.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the "Contractor Documents") prepared by Contractor, its employees, sub-contractors and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the termination of this Agreement. Contractor shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership use, reuse, or assignment of the Contractor Documents hereunder. Any use, reuse or assignment of such completed Contractor Documents for other projects and/or use of uncompleted Contractor Documents without specific written authorization by Contractor will be at City's sole risk and without liability to Contractor, and Contractor's guarantee and warranties shall not extend to such use or assignment. Contractor may retain copies of such Contractor Documents for its own use. Contractor shall have an unrestricted right to use the concepts embodied therein. All sub-contractors shall provide for assignment to City of all Contractor Documents prepared by them; and in the event Contractor fails to secure such assignment, Contractor shall indemnify City for all damages resulting therefrom.

5.4 Confidentiality and Release of Information.

A. All information gained or work product produced by Contractor in performance of this Agreement shall be considered confidential, unless such information is in the

public domain or already known to Contractor. Contractor shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the Contract Officer.

B. Contractor, its officers, employees, agents or sub-contractors, shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the Services performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Contractor gives City notice of such court order or subpoena.

C. If Contractor, or any officer, employee, agent or sub-contractor of Contractor, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Contractor for any damages, costs and fees, including attorneys' fees, caused by or incurred as a result of Contractor's conduct.

D. Contractor shall promptly notify City should Contractor, its officers, employees, agents or sub-contractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any Party regarding this Agreement and the Services performed thereunder. City retains the right, but has no obligation, to represent Contractor or be present at any deposition, hearing or similar proceeding. Contractor agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Contractor. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite the response.

ARTICLE 6. ENFORCEMENT OF AGREEMENT AND TERMINATION

6.1 California Law.

This Agreement, and any dispute arising from the relationship between the Parties to this Agreement, shall be interpreted, construed and governed both as to validity and to performance of the Parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Riverside, State of California, or any other appropriate court in such county, and Contractor covenants and agrees to submit to the personal jurisdiction of such court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in Riverside.

6.2 Disputes; Default.

A. In the event that City determines Contractor is in default under the terms of this Agreement, City shall have no obligation or duty to continue compensating Contractor for any Services performed after the date of default. In addition to the provisions of Section 4.8, and the right to terminate pursuant to Section 6.7, if the City Manager determines that Contractor is in default in the performance of any of the terms or conditions of this Agreement, City may serve Contractor with written notice of the default. Contractor shall have ten (10) calendar days after service upon it of the notice in which to cure the default by rendering a satisfactory performance.

In the event that Contractor fails to cure its default within such period of time, City may, notwithstanding any other provision of this Agreement, terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

B. In the event of termination pursuant to this Section, City may take over the Services and prosecute the same to completion by contract or otherwise, and Contractor shall be liable to the extent that the total cost for completion of the Services required hereunder exceeds the compensation herein stipulated (provided that City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to Contractor for the purpose of set-off or partial payment of the amounts owed City as provided in Section 6.3.

6.3 Retention of Funds.

Contractor hereby authorizes City to deduct from any amount payable to Contractor (whether or not arising out of this Agreement): (i) any payment amount of which may be in dispute hereunder or which is necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, (ii) all amounts retained pursuant to the provisions of Section 4.8, (iii) all amounts for which City may be liable to third parties, by reason of Contractor's acts or omissions in performing or failing to perform Contractor's obligation under this Agreement, and (iv) all payments due or that become due to Contractor during the period that Contractor or any of its sub-contractors fail to maintain any required insurance in full force and effect, until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to City, as provided in Section 4.9, above. In the event that any claim is made by a third party, the amount or validity of which is disputed by Contractor, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of Contractor to insure, indemnify, and protect City as elsewhere provided herein.

6.4 Waiver.

Waiver by any Party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any Party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any Services by Contractor shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either Party of any default must be in writing, and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

6.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party

of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

6.6 Legal Action.

In addition to any other rights or remedies, either Party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Notwithstanding any contrary provision herein, Contractor must file a statutory claim pursuant to Government Code Sections 905 et seq. and 910 et seq., in order to pursue a legal action against City under this Agreement.

6.7 Termination Prior to Expiration of Term.

This Article 6 shall govern any termination of this Agreement except as specifically provided in Section 6.2 for termination for default of Contractor. City reserves the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days' written notice to Contractor, except that where termination is due to the fault of Contractor, the period of notice may be a shorter time as may be determined by the Contract Officer. In addition, Contractor reserves the right to terminate this Agreement at any time, with or without cause, upon sixty (60) days' written notice to City, except that where termination is due to the fault of City, the period of notice may be a shorter time as Contractor may determine. Upon receipt of any notice of termination, Contractor shall immediately cease all Services hereunder except such as may be specifically approved by the Contract Officer. Except where Contractor has initiated termination, Contractor shall be entitled to compensation for all Services rendered prior to the effective date of the notice of termination and for any Services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 6.3. In the event Contractor has initiated termination, Contractor shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder. In the event of termination without cause pursuant to this Section, the terminating Party need not provide the non-terminating Party with the opportunity to cure pursuant to Section 6.2.

6.8 Attorneys' Fees.

In any litigation or other proceeding by which a Party seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing Party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorneys' fees. Attorneys' fees shall include attorney's fees on any appeal, and in addition the Party entitled to attorneys' fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

ARTICLE 7. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

7.1 Non-liability of City Officers and Employees.

No officer or employee of City shall be personally liable to Contractor, or Contractor's Successor, in the event of any default or breach by City or for any amount which may become due to Contractor or Contractor's Successor, or for breach of any obligation of the terms of this Agreement.

7.2 Conflict of Interest.

Contractor covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Contractor's performance of Services under this Agreement. Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or sub-contractor without the express written consent of the Contract Officer. Contractor agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

No officer or employee of City shall have any direct or indirect financial interest in this Agreement within the scope of Government Code section 1090, nor shall any such officer or employee make, participate in making, or use his or her official position to influence, any City decision relating to the Agreement which has a material financial effect on his or her financial interests or the financial interests of any corporation, partnership or association in which he or she is, directly or indirectly, interested, in violation of any State statute or regulation. Contractor warrants that it has not paid or given, and will not pay or give any third party any money or other consideration for obtaining this Agreement.

Contractor and its officers, employees, associates and sub-contractors, if any, shall comply with all conflict of interest statutes of the State of California applicable to Contractor's Services under this Agreement, including the Political Reform Act (Gov. Code § 81000, et seq.) and Government Code Section 1090. During the term of this Agreement, Contractor may perform similar services for other clients; but Contractor and its officers, employees, associates and sub-contractors shall not, without the Contract Officer's prior written approval, perform services for another person or entity for whom Contractor is not currently performing services that would require Contractor or one of its officers, employees, associates or sub-contractors to abstain from a decision under this Agreement pursuant to a conflict of interest statute. Contractor shall incorporate a clause substantially similar to this Section into any subcontract that Contractor executes in connection with the performance of this Agreement.

7.3 Covenant Against Discrimination.

Contractor covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, or ancestry in the performance of this Agreement. Contractor shall take affirmative action to insure that applicants are employed, and that employees

are treated during employment, without regard to their race, color, creed, religion, sex, marital status, national origin, or ancestry, or other protected class.

7.4 Unauthorized Aliens.

Contractor hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Contractor so employ such unauthorized aliens for the performance of Services covered by this Agreement, and should the any liability or sanctions be imposed against City for such use of unauthorized aliens, Contractor hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

ARTICLE 8. MISCELLANEOUS PROVISIONS

8.1 Notices.

Any notice, demand, request, document, consent, approval, bill, invoice, report or other communication required or permitted under this Agreement shall be in writing and conclusively deemed effective: (a) on confirmed delivery by courier service or overnight delivery service during Contractor's and City's regular business hours; or (b) three (3) Business Days after deposit in the United States mail, by certified or registered mail, and addressed to the Party to be notified as set forth below:

If to City	Attn: Nathan Smith Deputy Director of Engineering City of Banning 99 East Ramsey Street Banning, California 92220 Email: nsmith@banningca.gov
With a courtesy copy to:	Serita R. Young, City Attorney Richards, Watson & Gershon 350 South Grand Avenue, 37th Floor Los Angeles, California 90071 Email: SYoung@rwglaw.com
If to Contractor:	Attn: Terry Noriega President Marisposa Landscapes, Inc. 6232 Santos Diaz Street Irwindale, CA 91702 Email: terry@mariposa-ca.com

8.2 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either Party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

8.3 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

8.4 Integration; Amendment.

This Agreement, and all exhibits referred to in this Agreement, constitute the final, complete and exclusive statement of the terms of the agreement between the Parties pertaining to the subject matter of this Agreement and supersede all other and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the Parties, and none shall be used to interpret this Agreement. No Party has been induced to enter into this Agreement by, nor is any Party relying on, any representation or warranty except those expressly set forth in this Agreement. No amendment to or modification of this Agreement, nor any provision or breach hereof waived, shall be valid unless made in writing and approved by Contractor and by City Council. The Parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

8.5 Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the Parties hereunder unless the invalid provision is so material that its invalidity deprives either Party of the basic benefit of their bargain or renders this Agreement meaningless.

8.6 Mutual Cooperation.

A. City's Cooperation. City shall provide Contractor with all pertinent data, documents and other requested information as is reasonably available for Contractor's proper performance of the Services required under this Agreement.

B. Contractor's Cooperation. In the event any claim or action is brought against City relating to Contractor's performance of Services rendered under this Agreement, Contractor shall render any reasonable assistance that City requires.

8.7 No Third Party Beneficiaries Intended.

This Agreement is made solely for the benefit of the Parties to this Agreement and their respective successors and assigns, and no other person or entity may have or acquire a right by virtue of this Agreement.

8.8 Final Payment Acceptance Constitutes Release.

The acceptance by Contractor of the final payment made under this Agreement shall operate as and be a release of City from all claims and liabilities for compensation to Contractor for anything done, furnished or relating to Contractor's Services. Acceptance of payment shall be any negotiation of City's check or the failure to make a written extra compensation claim within ten (10) calendar days of the receipt of that check. However, approval or payment by City shall not constitute, nor be deemed, a release of the responsibility and liability of Contractor, its employees, sub-contractors and agents for the accuracy and competency of the information provided and/or Services performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by City for any defect or error in the Services prepared by Contractor, its employees, sub-contractors and agents.

8.9 Non-Appropriation of Funds.

Payments to be made to Contractor by City for Services performed within the current fiscal year which are within the current fiscal budget and within an available, unexhausted fund. In the event that City does not appropriate sufficient funds for payment of Contractor's Services beyond the current fiscal year, this Agreement shall cover payment for Contractor's Services only to the conclusion of the last fiscal year in which City appropriates sufficient funds and shall automatically terminate at the conclusion of such fiscal year.

8.10 Headings.

The headings in this Agreement are included solely for convenience of reference and shall not affect the interpretation of any provision of this Agreement or any of the rights or obligations of the Parties to this Agreement.

8.11 Word Usage.

Unless the context clearly requires otherwise, (a) the words "shall," "will" and "agrees" are mandatory and "may" is permissive; (b) "or" is not exclusive; and (c) "includes" or "including" are not limiting.

8.12 Business Days.

"Business Days" refers to days that the Banning City Hall is open for business.

8.13 Corporate Authority.

The persons executing this Agreement on behalf of the Parties hereto warrant that (i): such Party is duly organized and existing, (ii) they are duly authorized to execute and deliver

this Agreement on behalf of that Party, (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which that Party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the Parties.

8.14 Electronic Signatures.

Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Agreement and such other documents transmitted by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF the Parties hereto have executed this Agreement the day and year first hereinabove written.

CITY OF BANNING		CONTRACTOR	
Douglas Schulze, City Manager	Date	NAME: TITLE:	Date
		NAME: TITLE:	Date
ATTEST:			
Caroline Patton Administrative City Clerk	Date	Tax ID No. Address:	

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONTRACTOR'S BUSINESS ENTITY.

EXHIBIT "A"
SCOPE OF SERVICES

I. Contractor will perform the following Services in connection with providing Landscape Maintenance Services for LMD No.1 prepared in connection therewith:

II. As part of the Services, Contractor will prepare and deliver the following tangible work products and services to City:

M A R I P O S A

L A N D S C A P E S I N C

April 29, 2024

Cover Letter

City of Banning
99 E. Ramsey Street
Banning, CA 92220
Attn: Barbara Manson
(951) 922-3121

RE: Request for Proposal, Operation and Maintenance of Landscape Maintenance District No. 1

Mariposa Landscapes, Inc. has continuously been in business since 1977. Growing from a single truck in Rosemead, California to a fleet of trucks and equipment with over 800 employees covering all Southern California and Arizona. With over 95 awards for project excellence, we take pride in the quality of our work and thrive on keeping our company as one of the most recommended in the industry. Our steady record of customer satisfaction has allowed us to maintain positive relationships with our clients.

We bring decades of knowledge and in-depth experience to every landscape entrusted to our care. Building long-lasting relationships with our clients is important to us. We understand and respect your goals and do everything in our power to assure the well-being of your properties.

We value open, honest communication, ongoing staff training, and new methods and technologies that will help us do the best job possible. While we always appreciate the accolades we receive, seeing our customers enjoy a well-executed and thriving landscape is still the most rewarding part of our work. We believe great communication is the key to every successful contract that we are awarded. For this reason, we will assign an experienced and knowledgeable Account Manager to keep in contact with the City of Banning and make sure anything that arises is addressed. He will be responsible for conducting quality inspections and will submit a monthly report to keep the appropriate Managers well informed.

Mariposa Landscapes, Inc. takes pride in the work that we do. We are willing to enter into a contract under the conditions prescribed by this RFP and in the Sample Agreement. We would be honored to work for you and beautify your properties to their ultimate potential.

Company Name and Address
Mariposa Landscapes, Inc.
6232 Santos Diaz St, Irwindale, CA 91702

Contact Information
Eduardo Salmeron, Estimator
Email: estimating@mariposa-ca.com
Phone: (626) 960-0196 Ext. 2711

Sincerely,

Terry Noriega – President

A. Statement of Understanding and Approach

Mariposa Landscapes, Inc. takes pride in delivering high-quality service to our clients. We are dedicated to making sure the landscape we maintain in your city is mowed, pruned, watered, and trimmed to be kept away from the sidewalks. We will make sure that our crews are aware to clear debris where needed. Our service for this contract includes inspections of the sites, irrigation reporting, disease and pest control, weed control, trash control, irrigation monitoring, turf care, ground cover care, shrub care, tree care and general clean up.

Implementation

Project Startup and Quality Control Coordination Meeting

Our Project Estimator and Account Manager carefully review the project specifications and visit the project site(s) to devise a work plan that meets the project requirements. We also hold a meeting with the Account Manager and the key personnel who will execute the work, to discuss and coordinate the best way to perform the project work.

Documentation

Before starting the contract work, we will conduct a thorough inspection and documentation of any deficiencies. We will then submit a comprehensive list to the City of Banning for each location. We will also provide a proposal for restoring the area to its original state if needed and any repairs that may be needed in the irrigation system.

During the meeting, the Account Manager communicates the work task quality requirements and reinforces heightened awareness for critical requirements. Topics for the meeting include:

- Project requirements per specifications.
- Record keeping documents and availability of necessary forms.
- Review methods, sequence of work tasks and timeline.

Preparatory Site Inspection

The Account Manager performs a quality inspection of the work area and:

- Assesses the required work to be done per specifications.
- Verifies field measurements.
- Assures availability of required equipment and materials to complete the project.
- Identifies potential problems and develops an action plan to resolve them.

Scheduling

Mariposa Landscapes, Inc. will submit a detailed schedule to the City of Banning which includes all the routine activities. After submission and approval of this schedule, we will be ready to start work.

Labor

Our proposal is calculated to provide full time employees to the project on a year round basis. It is our goal to provide professional results. Therefore, we will assign the appropriate and trained crew force necessary to complete the specified activities in a professional and timely manner. To achieve the desired results, the appropriate labor will be assigned for every aspect of the work.

Description of Efforts

Mariposa has read the scope of work and will make sure we complete the maintenance of the locations provided to a satisfactory level. After reading through the specifications provided by the city, we are confident we can provide the level of maintenance that the City of Banning requires. Our crew will be instructed on what the city expects and the level of maintenance that the City of Banning is looking for per the specifications. With an open line of communication with the City of Banning we can look for deficiencies that can be improved on and make sure the city is satisfied with our service.

Quality Control

We perform internal quality control on our work to free up our contract monitor or client representative (be it a Public Works Inspector or Property Manager) so that he or she will have a reduced workload. This creates a positive environment for everyone involved and enhances our client relationships. Our main philosophy behind quality control is summed up in one statement "Plan your work and work your plan."

Our Account Managers perform an initial work in process inspection when the first portion of the work activity for each work task is completed. They perform ongoing work in process quality inspections to ensure that the work tasks continue to conform to the project quality requirements. Any outstanding punch items remaining after the work task completion inspection is deemed a nonconformance. Should a problem occur in the quality of work, we systematically contain the issue and quickly make corrections. We expedite a corrective action that brings the workmanship of material issue into conformance by repair, replacement, or rework. Previously completed work is re-inspected for similar non-conformances.

Mariposa Landscapes, Inc. systematically prevents recurrences to improve quality. First, management monitoring is put into place to ensure work proceeds without incident. Then a structured problem-solving process identifies the root of the causes and initiates solutions. Solutions may involve a combination of enhanced process controls, training, upgrading of personnel qualifications, and/or higher-grade materials. Follow up ensures that a problem is completely resolved. Non-conformance and their resolutions are recorded on a Non-Conformance Report.

Monthly Work Plans

The Mariposa Account Manager will submit Monthly Work Plans describing maintenance operations of all areas contained within this contract and when the work, including trimming, pruning and applications of chemicals/fertilizers will be accomplished. Other work will include the removing and/or replacing of landscape materials within the scope of this Contract. The work may include landscape renovations of right-of-ways, medians, retention areas and/or common turf areas. The Account Manager will develop the Monthly Work Plans and submit them to the client representative by the 25th of the previous month prior to the regular monthly meeting. The Monthly Work Plan will correlate with the Annual Work Schedule in a more detailed form. After the plan is approved

at the regular monthly meeting the Monthly Schedule Evaluation Form will be completed with the client representative to evaluate the performance of the current month. The Mariposa Supervisor is responsible for creating and submitting these reports.

Irrigation Reports

The Irrigation Technician will create the Irrigation Reports at the specified frequencies and the Mariposa Account Manager will insure their accurate and timely completion. These reports will include scheduled formal inspections, all service requests, authorized emergency work and repair of damage. The Irrigation Technician will be responsible for conducting a formal inspection and related repairs of the irrigation system as scheduled. Results of the inspection shall be recorded on the Irrigation Inspection Report and checked for accuracy and then delivered to the client representative. The frequency of these reports will vary depending on the work scope.

Account Manager/Client Meeting Work Quality Evaluations

A critical aspect of the work is communication. Timely and accurate schedules address a lot of this; however, there is another important aspect that is sometimes overlooked: interpretations of quality. What is beautiful to some is not to others, this is why specifications are written. However, there is always some level of interpretation that can vary from person to person. The goal is to have the Mariposa Account Manager and the client representative both interpreting the expectations of the specifications in the same way. The way we accomplish this is through a graded evaluation of every aspect of the landscape on a site by the Mariposa Supervisor and the client representative. This evaluation is performed prior to the regular client representative meeting by the Mariposa Supervisor. When the regular meeting takes place, this same form is given to the client representative to evaluate the exact same items as the Mariposa Account Manager previously graded. Any differences in evaluation that the client representative has of the same work item or area that were graded by the Mariposa Supervisor are addressed immediately and clarified. The frequency of these evaluations and number of work items evaluated can vary based on the work scope. However, typically a weekly evaluation will be conducted for quality assurance. Please see the sample form provided.

Action Item Lists

Even with jobs that go perfectly there are always items that come up during walk-through inspections. These items may have nothing to do with work quality but may be requests for improvement, additional work or notations of concern, etc. One of the key aspects of an action item list is a target completion date. This is included for every item on our form. The Mariposa Account Manager is committed to completion of a requested activity at an agreed upon date. This is in writing; it's quick and easy to fill out. The client representative will have confidence that we will keep our promises because they are documented. **Our goal is *"Promises made are promises kept."*** Please see the sample form provided.

Work Quality Evaluation Form

Mariposa Landscapes, Inc.

SITE INSPECTION EVALUATION FORM

Inspection Date: | Job:

Mariposa Account Manager | Job Number:

Client Representative:

Please give a rating of 1-10 on the following items (1 = unacceptable and 10 being perfect)

		ML	CR
1.	**TURF**		
A	Color of turf acceptable		
B	Turf texture, no thin/bare areas		
C	Free of trash/debris		
D	Irrigation leaks visible		
E	Over or under watering		
F	Dry spots		
2.	**GROUND COVER/SHRUB AREAS**		
A	Free of trash/debris		
B	Free of weeds		
C	Mulch evenly distributed		
D	Irrigation leaks visible		
E	Groundcover trimming		
3.	**TREES/SHRUBS**		
A	Health/vigor		
B	Trimmed per scheduled cycle		
C	Pruned correctly for species		
D	Walkway shrub clearance		
E	Walkway tree clearance		
F	Disease & insects controlled		
G	Irrigation leaks visible		
H	Over or under watering		
I	Trees staked properly		
4.	**ANNUAL COLOR/POTS**		
A	Annual flowers healthy		
B	Bed/Pots free of trash/debris		
C	No missing annual color plants		
D	Disease & insects controlled		
E	Irrigation leaks visible		
F	Over or under watering		
5.	**D.G. PATHS & OPEN AREAS**		
A	Free of trash/debris		
B	Weeds managed/controlled		
C	Erosion areas repaired		

		ML	CR
6.	**HARDSCAPE AREAS**		
A	Free of trash/debris		
B	Free of weeds in cracks		
C	Standing water		
D	Safety issues reported		
7.	**IRRIGATION**		
A	Controllers working		
B	Controllers programmed properly		
C	Schedules submitted/updated		
D	Valves working properly		
E	Valves leaking		
F	Backflow(s) on		
G	Backflow(s) Leaking		
H	Meter readings (if in scope) up-to-date		
I	Water usage analysis up-to-date		
8.	**L.V. LIGHTING (if applies)**		
A	System has power		
B	Timer/photocell working		
C	Bulbs working		
D	Fixtures clean		
E	Fixtures broken		
F	Fixtures aimed properly		
9.	**WATER FEATURES (if applies)**		
A	Power/working properly		
B	Leaks		
C	Cleaned of debris at inlets		
10.	**OTHER (if applies)**		
A	Dog mess cleaned up		
B	Dog stations replenished		
C	Trash cans dumped & new liners		
D	Play equipment clean		
E	Ramadas/picnic tables/BBQs clean		
F	Response time on call-outs		
G	General safety issues reported		

Only enter ratings for items that are applicable to this project (blank = Not Applicable at this time)

	ML	CR
OVERALL RATING: Per the above individual ratings, pleas provide an overall rating from 1 to 10		

Mariposa Account Manager Signature/Date (**ML**)

Client Representative Signature/Date (**CL**)

Action Items Form

Mariposa Landscapes, Inc.

ACCOUNT MANAGER INSPECTION ACTION ITEMS

Today's Date: _____ Job: _____ Job Number: _____

	ACTION ITEMS	Resolution Date
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

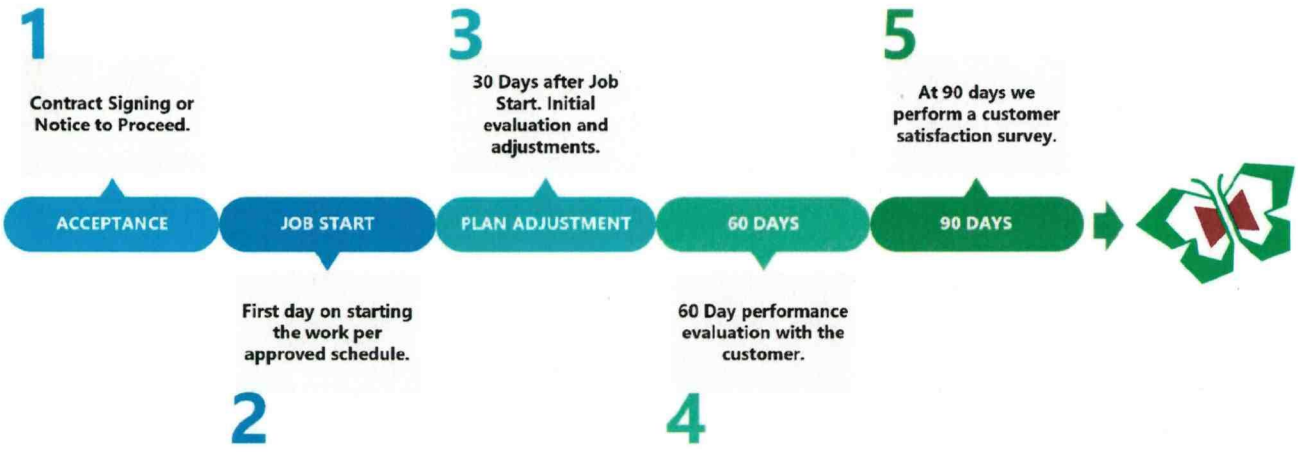
Mariposa Account Manager Signature/Date

Client Representative Signature/Date

Detailed project schedule

Mariposa will make sure the "Scope of Work" provided by the city is upheld throughout the duration of the contract. We have put together notes on the tasks and frequencies of each of the tasks provided by the City of Banning. From the weekly mowing , shrub care, ground cover care, and irrigation checking to the annual shrub pruning and tree pruning we have made sure to take a look at the tasks closely to make sure everything is covered. We have allotted 1 Crew of 3 guys twice a week to maintain the landscape in the contract. After that we also have allotted time for tree pruning and shrub pruning within our final price.

Transition Plan



Contract Executed or an Official Notice to Proceed

On new contracts we typically purchase trucks and equipment, so we cannot initiate purchases until we have a signed commitment. Quicker startups that are 30 days or less may be an issue with supply chain delays. We prefer a 60 to 90 day start for our procurement. During this period, before the Job Start, we may have one or more meetings with the client to meet the management staff and go over a preliminary schedule of work. We also use this interim time to prepare more detailed maps of the areas with measurements so we can pre-order the materials we will need (fertilizer, IPM material for weed control and other consumables.)

Job Start

On day 1 our crews will have detailed maps of the areas along with task lists and the initial schedule. Our management is heavily involved in logistics during this time. We also go through the irrigation systems with our technicians to perform our initial evaluation. If we find anything that is broken, inoperative or neglected, we create a detailed list with repair pricing and a completion schedule for the customer.

30 Day Evaluation

At 30 days we have a special evaluation meeting with the customer. There are always aspects of every job that cannot be completely spelled out in the work scope and specifications like, custom timelines, work sequences and specific area needs. We go over the experience so far and identify what is working well and what needs adjustment.

The customer gets an action plan for any adjustments with timeline commitments from us along with the initial irrigation system inspection.

60 Day Evaluation

At 60 days we anticipate operations to be going smoothly and meeting expectations. We perform a customer survey to assess the customer's perception of the experience related to the proposal process, transition to operations and the actual performance on the job. Our goal is to receive the highest score possible from our clients and provide complete customer satisfaction.

90 Day Evaluation

At 90 days the customer receives a survey with one question on it "Would you recommend Mariposa Landscapes to other customers right now?" Our goal is to receive an enthusiastic "Yes" to this question.

Price Fluctuation

If the scope of work fluctuates from the specifications Mariposa would be happy to have a conversation with the city regarding what an update to the scope entails and how the prices will be adjusted. We are open to having a back and forth on what the city would like to change and how that will impact the current scope of work.

Required from the City

The main role the city will need to provide for Mariposa will be the point of contact for the contract. We will need to report on how the current state of the contract is looking. We will need the point of contact to make sure that if any deficiencies are reported to the city they are relayed back to Mariposa for correction.

Innovative

Mariposa Landscapes, Inc. is always trying to make sure we are tackling every task given to us in innovative ways. We are always looking for ways to improve and streamline our work. If we see something that may work better or faster, we will communicate with the city and make sure we explain how we can improve our approach to the tasks given to us.

Proposer's Green Initiative and Environmental Sensitivity

Mariposa Landscapes, Inc. uses every effort to implement "green" environment and energy conservation measures.

Our company has a recycling program for green waste and paper products. We implement this program at our local offices and at all job sites.

Mariposa currently uses hybrid vehicles and is researching and looking forward to obtaining hybrid equipment to be used on our contracts. We strive to be as environmentally conscientious as possible and are expanding our operations to achieve this goal.

We have been certified by the American Green Zone Alliance – Sustainable Land Care Certification (Electric Equipment). This puts us at the cutting edge of industry knowledge in selecting cost effective options related to the latest in commercial grade electric small equipment as well as mowers.

Mariposa works with all clients to assure optimum water usage where possible. With hundreds of ET "Smart" Controller installations over the years, we can assess a property for water savings, create a solution and correctly program these newer irrigation control devices for optimum savings.

In addition to these and other Green Initiatives, we are also committed to leading the industry in minimizing any potential negative impact on the environment.

The key points of its strategy to achieve this are:

- Minimize waste by evaluating operations and ensuring they are as efficient as possible.
- Minimize toxic emissions through the selection and use of its fleet and equipment.
- Actively promote recycling both internally and amongst its customers and suppliers.
- Meet or exceed all the environmental legislation that relates to the Company.
- Adhere to all local codes and ordinances regarding water conservation.

City Owned Facilities

Mariposa Landscapes Inc. does not intend on using any storage and will bring everything needed from our yard in Bermuda Dunes.

B. Company Information

Proposer Identification

Legal Name: Mariposa Landscapes, Inc.
Main Office/Mailing Address: 6232 Santos Diaz St., Irwindale, CA 91702
Telephone Number: (626) 960-0196
Fax Number: (626) 960-8477
Proposal Contact Email Address: estimating@mariposa-ca.com
Proposal contact: Eduardo Salmeron

President: Terry Noriega
California Corporation: C1469653
California Employer ID: 368-4753-1
Date Incorporated: January 26th, 1981
Organization Type: Mariposa Landscapes Inc. is a corporation.

III. In addition to the requirements of Parts I and II of this Scope of Services, during the performance of the Services, Contractor will keep City appraised through periodic status reports regarding the performance of the Services under this Agreement as set forth below and in Section 5.2, by the following means:

a. In-person meetings and/or teleconferences.

b. Email updates/questions to applicant team and City while reviews are underway.

c. Conference calls.

IV. All work product is subject to review and acceptance by City. If the City determines that any work product is unacceptable, for any reason, it must be revised by Contractor without additional charge to City until found satisfactory and accepted by City.

EXHIBIT "B"
SPECIAL REQUIREMENTS

TERMS FOR COMPLIANCE WITH CALIFORNIA LABOR LAW REQUIREMENTS

1. This Agreement calls for services that, in whole or in part, constitute "public works" as defined in Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code ("Chapter 1"). Further, Contractor acknowledges that this Agreement is subject to (a) Chapter 1 and (b) the rules and regulations established by the Department of Industrial Relations ("DIR") implementing such statutes. Therefore, as to those Services that are "public works," Contractor shall comply with and be bound by all the terms, rules and regulations described in 1(a) and 1(b) as though set forth in full herein.

2. California law requires the inclusion of specific Labor Code provisions in certain contracts. The inclusion of such specific provisions below, whether or not required by California law, does not alter the meaning or scope of Section 1 above.

3. Contractor shall be registered with the Department of Industrial Relations in accordance with California Labor Code Section 1725.5, and has provided proof of registration to City prior to the Effective Date of this Agreement. Contractor shall not perform work with any subcontractor that is not registered with DIR pursuant to Section 1725.5. Contractor and subcontractors shall maintain their registration with the DIR in effect throughout the duration of this Agreement. If the Contractor or any subcontractor ceases to be registered with DIR at any time during the duration of the project, Contractor shall immediately notify City.

4. Pursuant to Labor Code Section 1771.4, Contractor's Services are subject to compliance monitoring and enforcement by DIR. Contractor shall post job site notices, as prescribed by DIR regulations.

5. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file at City Hall and will be made available to any interested party on request. Contractor acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and Contractor shall post such rates at each job site covered by this Agreement.

6. Contractor shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. The Contractor shall, as a penalty to City, forfeit $200.00 for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the DIR for the work or craft in which the worker is employed for any public work done pursuant to this Agreement by Contractor or by any subcontractor.

7. Contractor shall comply with and be bound by the provisions of Labor Code Section 1776, which requires Contractor and each subcontractor to: keep accurate payroll records and verify such records in writing under penalty of perjury, as specified in Section 1776; certify and make such payroll records available for inspection as provided by Section 1776; and inform City of the location of the records.

8. Contractor shall comply with and be bound by the provisions of Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code Title 8, Section 200 et seq. concerning the employment of apprentices on public works projects. Contractor shall be responsible for compliance with these aforementioned Sections for all apprenticeable occupations. Prior to commencing work under this Agreement, Contractor shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within 60 days after concluding work pursuant to this Agreement, Contractor and each of its subcontractors shall submit to City a verified statement of the journeyman and apprentice hours performed under this Agreement.

9. The Contractor shall not perform Work with any Subcontractor that has been debarred or suspended pursuant to California Labor Code Section 1777.1 or any other federal or state law providing for the debarment of contractors from public works. The Contractor and Subcontractors shall not be debarred or suspended throughout the duration of this Agreement pursuant to Labor Code Section 1777.1 or any other federal or state law providing for the debarment of contractors from public works. If the Contractor or any subcontractor becomes debarred or suspended during the duration of the project, the Contractor shall immediately notify City.

10. Contractor acknowledges that eight hours labor constitutes a legal day's work. Contractor shall comply with and be bound by Labor Code Section 1810. Contractor shall comply with and be bound by the provisions of Labor Code Section 1813 concerning penalties for workers who work excess hours. The Contractor shall, as a penalty to City, forfeit $25.00 for each worker employed in the performance of this Agreement by the Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code section 1815, work performed by employees of Contractor in excess of eight hours per day, and 40 hours during any one week shall be permitted upon public work upon compensation for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay.

11. California Labor Code Sections 1860 and 3700 provide that every employer will be required to secure the payment of compensation to its employees. In accordance with the provisions of California Labor Code Section 1861, Contractor hereby certifies as follows:

> "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."

Date_____ **Signature**_____

12. For every subcontractor who will perform work on the project, Contractor shall be responsible for such subcontractor's compliance with Chapter 1 and Labor Code Sections 1860 and 3700, and Contractor shall include in the written contract between it and each subcontractor a copy of those statutory provisions and a requirement that each subcontractor shall comply with those statutory provisions. Contractor shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractor's compliance, including, without limitation, conducting a periodic review of the certified payroll records of the subcontractor and upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages. Contractor shall diligently take corrective action to halt or rectify any failure.

EXHIBIT "C"
SCHEDULE OF COMPENSATION

I. Contractor shall perform the following tasks ("Tasks") at the following rates as attached as Exhibit C-1:

II. Within the budgeted amounts for each Task, and with the approval of the Contract Officer, funds may be shifted from one Task sub-budget to another so long as the Contract Sum is not exceeded per Section 2.1, unless Additional Services are approved per Section 1.8.

III. City will compensate Contractor for the Services performed upon submission of a valid invoice. Each invoice is to include:

A. Line items for all personnel describing the Services performed, the number of hours worked, and the hourly rate.

B. Line items for all materials and equipment properly charged to the Services.

C. Line items for all other approved reimbursable expenses claimed, with supporting documentation.

D. Line items for all approved sub-contractor labor, supplies, equipment, materials, and travel properly charged to the Services.

ZONE 1

		Shrub & Ground Cover Frequencies													
		Quarterly			Quarterly			Quarterly			Quarterly				
TRACT NO.	SPECIFIC LOCATION	May	June	July	August	September	October	November	December	January	February	March	April	Annual Cost	Monthly Average
22810	Oregon Trail, east side, per site visit with staff	$		1,178.98										$ 1,178.98	$ 98.25
22811	Oregon Trail, east side, per site visit with staff	$		1,425.15										$ 1,425.15	$ 118.76
22913	Oregon Trail, east side, per site visit with staff	$		1,178.98										$ 1,178.98	$ 98.25
30186	Mountain Avenue, Wilson Street and Oregon Trail west side, does not include Retention Basin, per Plans and site visit with staff.	$		4,312.01				$		4,312.01				$ 8,624.03	$ 718.67
30222	Mountain Avenue, per Plans and site visit	$		627.36	$		627.36	$		627.36	$		627.36	$ 2,509.43	$ 209.12

		Mowing Frequencies													
		Weekly May 1 - Aug. 31				Biweekly Sept. 1 - Oct. 31		Monthly Nov. 1 - March 31					Biweekly In April		
TRACT NO.	SPECIFIC LOCATION	May	June	July	August	September	October	November	December	January	February	March	April	Annual Cost	Monthly Average
30222	Richard Sanchez Park and trail, per Plans and site visit .	$ 1,215.49	$ 1,215.49	$ 1,215.49	$ 1,215.49	$ 1,215.49	$ 607.74	$ 607.74	$ 607.74	$ 607.74	$ 607.74	$ 607.74	$ 607.74	$ 10,331.66	$ 860.97

		Shrub Frequencies													
		Biweekly May 1 - Aug. 31				Monthly Sept 1 - April 30									
		May	June	July	August	September	October	November	December	January	February	March	April	Annual Cost	Monthly Average
30222	Richard Sanchez Park and trail, per Plans and site visit	$ 3,483.01								$ 3,483.01				$ 6,966.02	$ 580.50

NOTE:	Retention Basins in Zone 1 will include trash pickup and weed abatement twice per year in price.

ZONE 2

		Mowing Frequencies													
		Weekly May 1 - Aug. 31				Biweekly Sept. 1 - Oct. 31		Monthly Nov. 1 - March 31.					Biweekly In April		
TRACT NO.	SPECIFIC LOCATION	May	June	July	August	September	October	November	December	January	February	March	April	Annual Cost	Monthly Average
21882	Wilson Street and Highland Home Road west side, per Site Visit with staff	$ 310.04	$ 310.04	$ 310.04	$ 310.04	$ 155.02	$ 155.02	$ 77.51	$ 77.51	$ 77.51	$ 77.51	$ 77.51	$ 155.02	$ 2,092.79	$ 174.40
23446	Wilson Street and Highland Home Road east side, includes median on Highland Home Road, per Site Visit with staff	$ 310.04	$ 310.04	$ 310.04	$ 310.04	$ 155.02	$ 155.02	$ 77.51	$ 77.51	$ 77.51	$ 77.51	$ 77.51	$ 155.02	$ 2,092.79	$ 174.40

		Shrub Frequencies													
		Biweekly May 1 - Aug. 31				Monthly Sept 1 - April 30									
TRACT NO.	SPECIFIC LOCATION	May	June	July	August	September	October	November	December	January	February	March	April	Annual Cost	Monthly Average
21882	Wilson Street and Highland Home Road west side, per Site Visit with staff	$ 665.25	$ 665.25	$ 665.25	$ 665.25	$ 332.62	$ 332.62	$ 332.62	$ 332.62	$ 332.62	$ 332.62	$ 332.62	$ 332.62	$ 5,321.96	$ 443.50
23446	Wilson Street and Highland Home Road east side, includes median on Highland Home Road, per Site Visit with staff	$ 665.25	$ 665.25	$ 665.25	$ 665.25	$ 332.62	$ 332.62	$ 332.62	$ 332.62	$ 332.62	$ 332.62	$ 332.62	$ 332.62	$ 5,321.96	$ 443.50

ZONE 3

		Mowing Frequencies

		Biweekly May 1 - Aug. 31				Monthly Sept. 1 - April 30.									
TRACT NO.	SPECIFIC LOCATION	May	June	July	August	September	October	November	December	January	February	March	April	Annual Cost	Monthly Average
29721	Wilson Street and Omar Street, east side, per Site Visit with staff and per Plans	$ 51.40	$ 51.40	$ 51.40	$ 51.40	$ 25.70	$ 25.70	$ 25.70	$ 25.70	$ 25.70	$ 25.70	$ 25.70	$ 25.70	$ 411.16	$ 34.26

		Shrub Frequencies													
		Quarterly			Quarterly			Quarterly			Quarterly				
TRACT NO.	SPECIFIC LOCATION	May	June	July	August	September	October	November	December	January	February	March	April	Annual Cost	Monthly Average
29721	Wilson Street and Omar Street, east side, per Site Visit with staff and per Plans	$ 61.86	$ 61.86	$ 61.86	$ 61.86	$ 61.86	$ 61.86	$ 61.86	$ 61.86	$ 61.86	$ 61.86	$ 61.86	$ 61.86	$ 742.28	$ 61.86

ZONE 4

		Shrub & Ground Cover Frequencies													
		Quarterly			Quarterly			Quarterly			Quarterly				
TRACT NO.	SPECIFIC LOCATION	May	June	July	August	September	October	November	December	January	February	March	April	Annual Cost	Monthly Average
32109	Wilson Street and Alder Court, west side, per Site Visit with staff and per Plans	$ 360.73	$ 360.73	$ 360.73	$ -	$ -	$ -	$ 360.73	$ 360.73	$ 360.73	$ -	$ -	$ -	$ 2,164.38	$ 180.37

ZONE 5

		Mowing Frequencies													
		Biweekly May 1 - Aug. 31				Monthly Sept. 1 - April 30									
TRACT NO.	SPECIFIC LOCATION	May	June	July	August	September	October	November	December	January	February	March	April	Annual Cost	Monthly Average
23598	Wilson Street, Sunrise Ave. and includes Moonbeam Drive frontage per site visit with staff and per Plans	$ 38.35	$ 38.35	$ 38.35	$ 38.35	$ 19.17	$ 19.17	$ 19.17	$ 19.17	$ 19.17	$ 19.17	$ 19.17	$ 19.17	$ 306.76	$ 25.56

		Shrub Frequencies													
		Quarterly			Quarterly			Quarterly			Quarterly				
TRACT NO.	SPECIFIC LOCATION	May	June	July	August	September	October	November	December	January	February	March	April	Annual Cost	Monthly Average
23598	Wilson Street, Sunrise Ave. and includes Moonbeam Drive frontage per site visit with staff and per Plans	$ 822.51	$ 822.51	$ 822.51	$ -	$ -	$ -	$ 822.51	$ 822.51	$ 822.51	$ -	$ -	$ -	$ 4,935.05	$ 411.25

ZONE 6

		Mowing Frequencies													
		Weekly May 1 - Aug. 31				Biweekly Sept. 1 - Oct. 31		Monthly Nov. 1 - March 31					Biweekly In April		
TRACT NO.	SPECIFIC LOCATION	May	June	July	August	September	October	November	December	January	February	March	April	Annual Cost	Monthly Average
28252	Hathaway Street, west side, per Plans and site visit with staff	$ 252.47	$ 252.47	$ 252.47	$ 252.47	$ 126.23	$ 126.23	$ 63.12	$ 63.12	$ 63.12	$ 63.12	$ 63.12	$ 126.23	$ 1,704.16	$ 142.01
28252	Retention Basin, per Plans and site visit with staff	$ 252.47	$ 252.47	$ 252.47	$ 252.47	$ 126.23	$ 126.23	$ 63.12	$ 63.12	$ 63.12	$ 63.12	$ 63.12	$ 126.23	$ 1,704.16	$ 142.01

		Shrub Frequencies													
		Biweekly May 1 - Aug. 31				Monthly Sept 1 - April 30									
TRACT NO.	SPECIFIC LOCATION	May	June	July	August	September	October	November	December	January	February	March	April	Annual Cost	Monthly Average
28252	Hathaway Street, west side, per Plans and site visit with staff	$ 223.07	$ 223.07	$ 223.07	$ 223.07	$ 111.53	$ 111.53	$ 111.53	$ 111.53	$ 111.53	$ 111.53	$ 111.53	$ 111.53	$ 1,784.54	$ 148.71
28252	Retention Basin, per Plans and site visit with staff	$ 141.14	$ 141.14	$ 141.14	$ 141.14	$ 70.57	$ 70.57	$ 70.57	$ 70.57	$ 70.57	$ 70.57	$ 70.57	$ 70.57	$ 1,129.09	$ 94.09

ZONE 7

		Shrub Frequencies													
		Biweekly May 1 - Aug. 31				Monthly Sept 1 - April 30									
TRACT NO.	SPECIFIC LOCATION	May	June	July	August	September	October	November	December	January	February	March	April	Annual Cost	Monthly Average
30793	Wilson Street, Foothill Drive, includes portion of Omar Street, per Site Visit with staff and per Plans	$ 264.05	$ 264.05	$ 264.05	$ 264.05	$ 132.02	$ 132.02	$ 132.02	$ 132.02	$ 132.02	$ 132.02	$ 132.02	$ 132.02	$ 2,112.36	$ 176.03

ZONE 8

		Mowing Frequencies													
		Biweekly during May 1 - Aug. 31				Monthly Sept. 1 - April 30									
TRACT NO.	SPECIFIC LOCATION	May	June	July	August	September	October	November	December	January	February	March	April	Annual Cost	Monthly Average
31833	Charles Street, north side, per Site Visit with staff and per Plans	$ 161.15	$ 161.15	$ 161.15	$ 161.15	$ 80.57	$ 80.57	$ 80.57	$ 80.57	$ 80.57	$ 80.57	$ 80.57	$ 80.57	$ 1,289.17	$ 107.43
31834	Charles Street, south side, per Site Visit with staff and per Plans	$ 161.15	$ 161.15	$ 161.15	$ 161.15	$ 80.57	$ 80.57	$ 80.57	$ 80.57	$ 80.57	$ 80.57	$ 80.57	$ 80.57	$ 1,289.17	$ 107.43

ZONE 9

		Shrub & Ground Cover Frequencies													
		Quarterly			Quarterly			Quarterly			Quarterly				
TRACT NO.	SPECIFIC LOCATION	May	June	July	August	September	October	November	December	January	February	March	April	Annual Cost	Monthly Average
31835	Charles Street, Hargrave Street and Victory Avenue, (tract perimeter) per Site Visit with staff and per Plans		$3,018.32						$3,018.32					$6,036.63	$503.05

ZONE 10 & 11

		Mowing Frequencies													
		Weekly May 1 - Aug. 31				Biweekly Sept. 1 - Oct. 31		Monthly Nov. 1 - March 31					Biweekly In April		
TRACT NO.	SPECIFIC LOCATION	May	June	July	August	September	October	November	December	January	February	March	April	Annual Cost	Monthly Average
30906	Mountain Avenue, west side and interior Oak Lane, per Site Visit and per Plans	$ 341.84	$ 341.84	$ 341.84	$ 341.84	$ 170.92	$ 170.92	$ 85.46	$ 85.46	$ 85.46	$ 85.46	$ 85.46	$ 170.92	$2,307.41	$192.28

		Shrub Frequencies													
		Biweekly May 1 - Aug. 31				Monthly Sept 1 - April 30									
TRACT NO.	SPECIFIC LOCATION	May	June	July	August	September	October	November	December	January	February	March	April	Annual Cost	Monthly Average
30906	Mountain Avenue, west side and interior Oak Lane, per Site Visit and per Plans	$ 295.69	$ 295.69	$ 295.69	$ 295.69	$ 147.85	$ 147.85	$ 147.85	$ 147.85	$ 147.85	$ 147.85	$ 147.85	$ 147.85	$2,365.53	$197.13

		Shrub Frequencies													
		Biweekly May 1 - Aug. 31				Monthly Sept 1 - April 30									
TRACT NO.	SPECIFIC LOCATION	May	June	July	August	September	October	November	December	January	February	March	April	Annual Cost	Monthly Average
32370	Mountain Avenue, west side, North and South of Cedar Lane, frontage along the tract, per Site Visit and per Plans	$ 110.71	$ 110.71	$ 110.71	$ 110.71	$ 55.35	$ 55.35	$ 55.35	$ 55.35	$ 55.35	$ 55.35	$ 55.35	$ 55.35	$885.66	$73.81

		Tree Trimming Annually													
TRACT NO.	SPECIFIC LOCATION	May	June	July	August	September	October	November	December	January	February	March	April	Annual Cost	Monthly Average
30906, 32370	Retention Basin, per Site Visit and per Plans	$0.00												$0.00	$0.00

		Weed Abatement & Trash Removal Monthly													
TRACT NO.	**SPECIFIC LOCATION**	May	June	July	August	September	October	November	December	January	February	March	April	**Annual Cost**	**Monthly Average**
30906, 32370	Retention Basin, per Site Visit and per Plans													$0.00	$0.00

NOTE: **The frequency may be reduced in any Zone(s) depending on the budget for that Zone during the term of the contract or Fiscal Year.**

EXHIBIT "D"
SCHEDULE OF PERFORMANCE

I. Contractor shall perform all Services timely, and deliver the specified tangible work products to City in accordance with the schedule attached as Exhibit C-1.

II. The Contract Officer may approve extensions for performance of the Services in accordance with Sections 1.8 and 3.3.

FY 2025-2026 BID SHEET PROPOSAL

"Operation and Maintenance of Landscape Maintenance District No. 1"

ZONE	TRACT NO.	SPECIFIC LOCATION	FREQUENCY	UNIT COST (PRICE/ MONTH)
1	22810, 22811, 22913	Oregon Trail, east side, per site visit with staff	Shrubs and ground cover quarterly.	$324.52
1	30186	Mountain Avenue, Wilson Street and Oregon Trail west side, does **not** include Retention Basin, per Plans and site visit with staff	Shrubs and ground cover quarterly.	$739.80
1	30222	Mountain Avenue, per Plans and site visit	Shrubs and ground cover quarterly.	$215.26
2	21882	Wilson Street and Highland Home Road west side, per Site Visit with staff	Mowing frequencies: Weekly during May 1 through Aug. 31; Biweekly during Sept. 1 through Oct. 31 and April 1 through April 30; Monthly Nov. 1 through March 31. Shrub frequencies: Biweekly May 1 through Aug. 31, then monthly.	$636.07
2	23446	Wilson Street and Highland Home Road east side, includes median on Highland Home Road, per Site Visit with staff	Mowing frequencies: Weekly during May 1 through Aug. 31; Biweekly during Sept. 1 through Oct. 31 and April 1 through April 30; Monthly Nov. 1 through March 31. Shrub frequencies: Biweekly May 1 through Aug. 31, then monthly.	$636.07
3	29721	Wilson Street and Omar Street, east side, per Site Visit with staff and per Plans	Mowing frequencies: Biweekly during May 1 through Aug. 31; Monthly Sept. 1 through April 30. Shrubs frequency: quarterly.	$98.95
4	32109	Wilson Street and Alder Court, west side, per Site Visit with staff and per Plans	Shrubs and ground cover quarterly.	$185.67

5	23598	Wilson Street, Sunrise Ave. and includes Moonbeam Drive frontage per site visit with staff and per Plans	Mowing frequencies: Biweekly during May 1 through Aug. 31; Monthly Sept. 1 through April 30. Shrubs frequency: quarterly.	$449.65
6	28252	Hathaway Street, west side, per Plans and site visit with staff	Mowing frequencies: Weekly during May 1 through Aug. 31; Biweekly during Sept. 1 through Oct. 31 and April 1 through April 30; Monthly Nov. 1 through March 31. Shrub frequencies: Biweekly May 1 through Aug. 31, then monthly.	$299.27
6	28252	Retention Basin, per Plans and site visit with staff	Mowing frequencies: Weekly during May 1 through Aug. 31; Biweekly during Sept. 1 through Oct. 31 and April 1 through April 30; Monthly Nov. 1 through March 31. Shrub frequencies: Biweekly May 1 through Aug. 31, then monthly.	$243.04
7	30793	Wilson Street, Foothill Drive, includes portion of Omar Street, per Site Visit with staff and per Plans	Shrub frequencies: Biweekly May 1 through Aug. 31, then monthly.	$181.21
8	31833	Charles Street, north side, per Site Visit with staff and per Plans	Mowing frequencies: Biweekly during May 1 through Aug. 31; Monthly Sept. 1 through April 30.	$110.59
8	31834	Charles Street, south side, per Site Visit with staff and per Plans	Mowing frequencies: Biweekly during May 1 through Aug. 31; Monthly Sept. 1 through April 30.	$110.59
9	31835	Charles Street, Hargrave Street and Victory Avenue, (tract perimeter) per Site Visit with staff and per Plans	Shrubs and ground cover quarterly.	$517.84
10	30906	Mountain Avenue, west side and interior Oak Lane, per Site Visit and per Plans	Mowing frequencies: Weekly during May 1 through Aug. 31; Biweekly during Sept. 1 through Oct. 31 and April	$400.86

ZONE	TRACT NO.	SPECIFIC LOCATION	FREQUENCY	UNIT COST (PRICE/ MONTH)
			1 through April 30; Monthly Nov. 1 through March 31. Shrub frequencies: Biweekly May 1 through Aug. 31, then monthly.	
10/11	30906, 32370	Retention Basin, per Site Visit and per Plans	Tree trimming annually.	$191.47
11	32370	Mountain Avenue, west side, North and South of Cedar Lane, frontage along the tract, per Site Visit and per Plans	Shrub frequencies: Biweekly May 1 through Aug. 31, then monthly.	$75.98
		GRAND TOTAL: (Cost/month)	$5,416.84	

Note:"Per plans" means the Tract has improvement plans on file.
Retention Basins in Zone 1 will include trash pickup and weed abatement twice per year in price above for Zone 1. The frequency may be reduced in a Zone depending on the budget for that Zone during the term of the contract or Fiscal Year.

CPI OF 2.94% was applied to the original Bid Sheet cost submitted in the FY 24/25 proposal, per the Contract.

TOTAL ANNUAL COST FOR LMD NO. 1 FY 25/26: $65,002.08

Submitted by: Terry Noriega Date: 04-18-2025

Title: Terry Noriega - President

ATTACHMENT 6

PROJECTED ZONE RESERVE BALANCES

	Zone 1	Zone 2	Zone 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8	Zone 9	Zone 10	Zone 11
25/26 Reserve Balance Available	$16,800.94	$36,779.15	$3,164.30	$4,867.49	$9,645.35	$29,614.90	$19,537.06	$10,964.03	$7,858.40	$35,021.88	$12,545.33
25/26 Total Costs	$25,328.37	$28,724.67	$2,825.45	$5,281.01	$10,749.77	$9,024.72	$3,948.80	$6,139.89	$11,826.17	$16,296.39	$4,451.84
25/26 Total Revenue	$34,739.10	$30,820.32	$2,379.51	$4,305.78	$9,594.27	$18,728.50	$11,504.65	$9,364.25	$8,829.15	$23,276.85	$7,900.77
25/26 Rev. – Expenses (Costs)	$9,410.73	$2,095.65	($445.94)	($975.23)	($1,555.50)	$9,703.78	$7,555.85	$3,224.36	($2,997.02)	$6,980.46	$3,448.93
26/27 Reserve Balance	$26,211.67	$38,874.80	$2,718.36	$3,892.26	$8,489.85	$39,318.68	$27,092.91	$14,188.39	$4,861.38	$42,002.34	$15,994.26

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Robert Fisher, Acting City Manager**
PREPARED BY:	**Nate Smith, Deputy Director of Public Works/City Engineer** **Art Vela, Director of Public Works**
MEETING DATE:	**May 27, 2025**
SUBJECT:	**Consideration of Resolution 2025-68, Authorizing Staff to Execute an Agreement Regarding Construction and Maintenance of Interim Storm Water Retention Basin and Covenant Running with the Land with Tri-Pointe Homes for Interim Stormwater Facilities Within the Atwell Project**

RECOMMENDATION:

Adopt Resolution 2025-68.

BACKGROUND:

As part of the orderly development of the Atwell Project, there are a series of drainage and flood control measures that are necessary. The project proposes to construct up to four (4) flood control facilities north of the Edison easement to reduce the peak storm water flows through the Atwell project. A Conditional Letter and Map Approval (CLOMR) study was prepared, reviewed, and accepted by the City of Banning and the Federal Emergency Management Agency (FEMA) on the methodology to complete the flood control facilities. At this time, the southernmost flood control facility, Basin E, has been constructed by Tri-Pointe Homes, and Tri-Pointe Homes is under a cooperative agreement with the Riverside County Flood Control District (RCFCD) for the ongoing maintenance of that facility until such time that RCFCD accepts the basin for its own maintenance. Of the three (3) remaining basins, Tri-Pointe Homes is nearing design completion of the Smith Creek Basin (Basin A), and has not yet begun design of the remaining two (2) basins, Basin B and Basin C. Once completed, all three of these remaining basins will have a cooperative agreement between Tri-Pointe Homes and RCFCD until RCFCD accepts the basins for their perpetual maintenance. The remaining basins are located at the northern and eastern limits of the Atwell project.

As Tri-Pointe Homes continues to build the project from the south to the north, it was determined that the appropriate flood control approach would be to construct an interim basin north of the Edison easement, west of Smith Creek, and east of Highland Springs Ave. This basin was designed with necessary hydrologic studies to ensure that the interim basin design would meet the flood control needs for the existing and under construction development area south of the Edison Easement. As this facility is an interim facility, it would be maintained by Tri-Pointe Homes until the ultimate facilities described above are constructed, making this interim facility no longer necessary.

To ensure that maintenance is provided to the interim basin, City staff prepared the attached Agreement Regarding Construction and Maintenance of Interim Storm Water Retention Basin and Covenant Running with the Land (Maintenance Agreement) to clearly delineate the roles and responsibilities of Tri-Pointe Homes. This agreement provides the City with mechanisms to enforce maintenance activities and protect downstream residents from increased flood risk, and ensure compliance with the ultimate project

CLOMR that was reviewed and approved by the City of Banning and FEMA. This agreement will remain in effect until such time that a subsequent maintenance agreement for a future interim basin is accepted by the City of Banning, or until Tri-Pointe Homes has entered into cooperative agreements with RCFCD for the ultimate Smith Creek Basin A, Basin B, and Basin C.

JUSTIFICATION:

The maintenance agreement is an implementing step of the larger Atwell project and ensures that Tri-Pointe Homes (and its future assignees and/or owners) maintains the interim flood control basin to meet the basins design objectives of reduced flow and flood risk downstream of the facility at no cost to the City of Banning.

FISCAL IMPACT:

None

ALTERNATIVES:

Do not approve the Maintenance Agreement. Failure to have the agreement in place may leave the City of Banning as the responsible agency for the interim flood control facility, requiring private contracting and expenses incurred by the City of Banning to provide routine and emergency maintenance.

BUDGETED?:

No

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. Resolution 2025-68, Stormwater Retention Basin.docx
2. Resolution 2025-68 Exhibit A - Interim Basin A Grading Agreement.pdf
3. Att. 1 - Final Map 35967.pdf

RESOLUTION 2025-68

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT REGARDING CONSTRUCTION AND MAINTENANCE OF INTERIM STORM WATER RETENTION BASIN AND CONVENANT RUNNING WITH THE LAND WITH TRI-POINTE HOMES FOR STORM WATER FACILITIES WITHIN THE ATWELL PROJECT

WHEREAS, Tri-Pointe Homes is the master developer for the Atwell project, and is constructing the basin from south to north, and has prepared necessary hydrologic and hydraulic studies including a Conditional Letter of Map Revision (CLOMR) with the Federal Emergency Management Agency (FEMA) for flood control facilities and reduction of peak storm water flow through the Atwell project; and

WHEREAS, Tri-Pointe Homes, in consideration of the orderly development of the Atwell project, is constructing interim flood control facilities downstream of the ultimate flood control facilities, and has prepared and processed necessary hydrologic and hydraulic studies, and prepared basin grading plans in compliance with those studies, and has had those studies reviewed and accepted by the City of Banning; and

WHEREAS, Tri-Pointe Homes agrees through the terms and condition of the Maintenance Agreement to provide the required inspections and maintenance of the interim storm water retention facilities.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The City Council approves the *Agreement Regarding Construction and Maintenance of Interim Storm Water Retention Basin and Covenant Running with the Land* with Tri-Pointe Homes for the continued maintenance of Interim Basin A within the Atwell Project

SECTION 2. The City Council authorizes the City Manager to make non-substantive changes to and to execute the *Agreement Regarding Construction and Maintenance of Interim Storm Water Retention Basin and Covenant Running with the Land* with Tri-Pointe Homes on behalf of the City Council.

SECTION 3. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 27th day of May, 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

John Pinkney, City Attorney

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-68, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 27th day of May, 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

EXHIBIT A

Agreement Regarding Construction and Maintenance of Interim Storm Water Retention Basin and Covenant Running with the Land

RECORDING REQUESTED BY,
AND WHEN RECORDED MAIL TO

City of Banning
99 E. Ramsey Street
Post Office Box 998
Banning, California 92220-0998

With a copy to:

Tri-Pointe Homes IE-SD, INC.
1250 Corona Pointe Court, Suite 600
Corona California, 92879

Space Above This Line for Recorder's Use
(Exempt from Recording Fees per Gov't Code § 6103)

AGREEMENT REGARDING CONSTRUCTION AND MAINTENANCE OF INTERIM STORM WATER RETENTION BASIN AND COVENANT RUNNING WITH THE LAND

This AGREEMENT REGARDING CONSTRUCTION AND MAINTENANCE OF INTERIM STORM WATER RETENTION BASIN AND COVENANT RUNNING WITH THE LAND **(**"Agreement") is dated _____, 2025, and is entered into by and between the CITY OF BANNING ("City") and TRI-POINTE HOMES IE-SD, INC. ("Owner").

RECITALS

A. Owner owns that certain real property more particularly described on EXHIBIT "A" attached hereto and incorporated herein by this reference ("Owner Property").

B. Owner is in the process of developing the Owner Property pursuant to and in accordance with the Development Agreement between the City and Owner (formerly known as Pardee Homes, a California Corporation), recorded on July 17, 2012, as document no. 2012-0332888 ("Atwell Development Agreement") and the Atwell Specific Plan ("Atwell Project")

C. A Conditional Letter of Map Revision ("CLOMR") has been processed with the City as the local flood plain administrator and reviewed by the Federal Emergency Management Agency (FEMA) in accordance with the Banning Master Drainage Plan issued by the Riverside County Flood Control and Water Conservation District ("District"). The CLOMR assumes that the Master Drainage Plan Facility referred to as "Smith Creek Basin" is eventually constructed to significantly reduce peak storm flows downstream of the detention facility. Owner has prepared rough grading plans for development within areas identified as Phase 2A-2 and 2B-3 that are consistent with the revised floodplain mapping in the project level CLOMR. Pursuant to the proposed grading of the Atwell Project, Developer would be able to place fill in the existing floodplain area because the new floodplain would be moved into an interim engineered channel.

D. The long-term functionally of the Smith Creek Basin is necessary to provide flood protection to the Owner Property and to benefit the future homeowners of residences constructed in the Atwell Project. Owner shall continue to process necessary plans and permits with the District and other necessary agencies in a timely fashion.

E. In order to balance the needs of dirt movement and the ongoing processing of the Smith Creek Basin with the District, Owner requested authorization to construct an Interim Basin A detention facility ("Interim Basin A") to detain peak flows from upstream of the Phase 1 and Phase 2 areas of the Atwell Project and release storm flows to match the modeled storm flows in the Atwell Project CLOMR through Phase 2A-2 and Phase 2B-3.

F. City and Owner have agreed that Owner shall construct the Interim Basin A facility described on EXHIBIT "B" in accordance with the approved grading plan and specifications (collectively, "Basin Requirements") attached hereto as EXHIBIT "C". EXHIBIT "B" and EXHIBIT "C" are attached hereto and incorporated herein by this reference.

G. Owner's construction, operation and maintenance of the Interim Basin A facility on Owner Property will materially benefit the Atwell Project, allow Owner to proceed with development of Atwell Project, and provide necessary interim flood protection to the Atwell Project.

H. Owner agrees pursuant to this Agreement, that Owner and Owner's successors-in-interest to the Owner Property, as applicable, shall, at their sole cost, maintain in perpetuity the Interim Basin A facility described on EXHIBIT "B", and that such maintenance shall conform to the Basin Requirements in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the City and Owner hereby agree as follows:

1. **Construction Duties of Owner**. Owner shall, at its sole cost and expense, construct the Interim Basin A facility described in EXHIBIT "B" in accordance with plans approved by the City.

2. **Purpose of Interim Basin A Facility**. The Interim Basin A facility is planned as an interim storm water facility to protect the Atwell Project. The purpose of the Interim Basin A facility is to detain peak flows from upstream of the Phase 1 and Phase 2 areas of the Atwell Project and release storm flows to match the modeled storm flows in the Atwell Project CLOMR through Phase 2A-2 and Phase 2B-3.

3. **Maintenance Duties and Obligation of Owner**. Owner shall maintain, at its sole cost and expense, the Interim Basin A facility in accordance with the Basin Requirements and all applicable laws and regulations twice each calendar year until such time that an alternate interim facility or facilities are approved and constructed or the ultimate Smith Creek Basin is constructed, inspected, and accepted by the District, as well as any other stormwater retention basins necessary to reduce peak storm water flows to the maximum channel capacity as studied in the Project CLOMR have been constructed, inspected, and accepted by the entity to provide permanent maintenance. Alternatively, until acceptance by the District,

maintenance shall continue unless a separate agreement between the Owner and the City and/or the District is in place regarding the ongoing maintenance of upstream retention facilities.

a. Prior to grading within the Smith Creek area, the Owner shall provide to the City all necessary permits required by the California Department of Fish and Wildlife and the Regional Water Quality Control Board to the Public Works and Community Development Department.

b. If City determines that unsatisfactory conditions exist at the Interim Basin A facility (or subsequently approved facilities) or that repair or maintenance of the Interim Basin A facility is required, City will provide to Owner written notice in accordance with Section 7 below regarding said unsatisfactory conditions, maintenance and/or repairs. If Owner fails to commence the cure of the unsatisfactory conditions in connection with the Interim Basin A facility or undertake action to repair or maintain the Interim Basin A facility within ten (10) business days of receipt of the written notice from the City, then City has the right to correct any such unsatisfactory condition or undertake the maintenance and/or repairs in connection with the Interim Basin A facility. If City corrects any such unsatisfactory condition or undertakes the maintenance and/or repairs in connection with the Interim Basin A facility, City shall send to Owner a notice with the invoice/receipt for the work, maintenance and/or repair of the Interim Basin A facility. Owner will reimburse City for all of City's costs in connection with this Section 3 within twenty (20) business days of the date on which such notice with the invoice/receipt was received by Owner.

c. Any certificates of occupancy for home sites within the existing FEMA mapped floodplain will not be issued until the City has inspected the basin to ensure that the construction of the facility is complete and constructed in accordance with the Basin Requirements.

4. **Indemnification**. Neither City, nor any officer or employee thereof is responsible for any claim, injury, damage or liability occurring by reason of anything done or omitted to be done by Owner under or in connection with any work, authority or jurisdiction arising under this Agreement. It is understood and agreed that Owner will fully defend, indemnify and save harmless City and all of its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation, injury to persons and/or property, and other theories or assertions of liability occurring by reason of anything done or omitted to be done by Owner under this Agreement and/or resulting from or arising in connection with any acts, omissions, negligence, or willful misconduct by Owner or its contractors in connection with the Interim Basin A facility. Owner shall notify the City within three (3) business days of any claim regarding any matter covered by the foregoing indemnity.

5. **Insurance**. Owner shall maintain liability insurance with general liability coverage of not less than two million dollars ($2,000,000) naming the City, its elected officials, employees, and authorized agents, officers, and representatives as additional insureds. Owner shall provide City with a Certificate of Insurance each time the policy changes. City Manager may increase the insurance coverage every three (3) years from the date of this Agreement in

such an amount as necessary to maintain reasonable and customary coverages for such insurance upon thirty (30) days' prior written notice to the Owner.

6. **Covenants to Run with the Land**. This Agreement and obligations herein shall run with the Owner Property and burden Owner, its successors and assigns until such time as the City and Owner, its successors or assigns execute and record a NOTICE OF TERMINATION OF AGREEMENT REGARDING CONSTRUCTION AND MAINTENANCE OF INTERIM STORM WATER RETENTION BASIN AND COVENANT RUNNING WITH THE LAND in the Official Records of the County of Riverside.

7. **Atwell Development Agreement Not Effected By This Agreemen**t. The Atwell Development Agreement and the covenants contained therein are not modified nor terminated by this Agreement except as to the specific obligations listed in this Agreement. Any conflict between the Development Agreement and this Agreement the Development Agreement shall govern.

7. **Notices**. All notices and demands will be given in writing by personal delivery, certified mail, postage prepaid, and return receipt requested, or by Federal Express or other overnight carrier. Notices will be considered given upon the earlier of (a) personal delivery, (b) two (2) business days following deposit in the United States mail, postage prepaid, certified or registered, return receipt requested, or (c) one (1) business day following deposit with Federal Express or other overnight carrier. A copy of all notices will be sent to Escrow Holder. The Parties will address such notices as provided below or as may be amended by written notice:

City: City of Banning
Attention: City Manager
99 E. Ramsey Street
Post Office Box 998
Banning, California 92220-0998

Owner: Tri-Pointe Homes IE-SD, Inc.
Attention: Michael C. Taylor, Division President
1250 Corona Pointe Court, Suite 600
Corona California, 92879

8. **General**.

a. Amendments. Any amendments to this Agreement must be in writing, duly signed by each party, acknowledged, and recorded in the Official Records of the County of Riverside.

b. California Law. The laws of the State of California shall govern the validity of this Agreement, the construction of its terms and the interpretation of the rights and duties of the Parties.

c. Binding on Successors in Interest. Each and all of the covenants, terms, and provisions in this Agreement will be a covenant running with the Owner Property and will bind Owner and Owner's successor's and assigns.

d. Subordination. Owner warrants and represent to City that there are no deeds of trust or other liens encumbering the Owner Property, or that all persons who have a deed of trust on or other lien or monetary encumbrance impacting the Owner Property have duly executed a LENDER CONSENT AND SUBORDINATION in the form approved by the City. Copies of the executed LENDER CONSENT AND SUBORDINATION documents are attached collectively hereto as EXHIBIT "D".

e. No Third Party Beneficiaries. This Agreement is not intended to, and shall not be construed to, create any right on the part of a third party nor does it create any private right of action for any third party nor permit any third party to bring an action to enforce any of its terms.

f. Good Faith and Further Acts. In exercising their respective rights and performing their respective obligations under this Agreement, the Parties agree to exercise good faith and fair dealing toward one another so that the purposes of this Agreement can be achieved. The Parties will take such additional reasonable steps and sign such additional reasonable documents as may be reasonably necessary to achieve the purposes of this Agreement.

g. Authority. The persons signing below warrant and represent that they have the requisite authority to bind the entities on whose behalf they are signing.

h. Entire Agreement. This agreement constitutes the entire understanding and agreement between the Parties hereto with respect to the maintenance and repair of the Interim Basin A facility, and there are no agreements, undertakings, restrictions, or warranties among the Parties other than those set forth herein and herein provided for with respect to said subject matter.

i. No Agency or Joint Venture. The terms and provisions of this Agreement shall not cause the Parties hereto or any of each Parties' agents, consultants, contractors, or other providers of professional services to be construed in any manner whatsoever as partners, joint venturers, or agents of each other in the performance of their respective duties and obligations under this Agreement, or subject either party to this Agreement to any obligation, loss, charge, or expense of the other party to this Agreement.

j. Time of Essence. Time is expressly made of the essence of each and every provision of this Agreement.

k. Remedies. No remedy or election hereunder shall be deemed to be exclusive but shall, wherever possible, be cumulative with all other remedies at or in equity.

l. Venue. This Agreement shall be construed and interpreted in accordance with the laws of the State of California. Venue for any action arising directly or indirectly under this Agreement shall be in the Superior Court of Riverside County, California.

m. Exhibits. The Exhibits attached hereto are incorporated in this Agreement by this reference.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed the day and year first above written.

TRI POINTE HOMES IE-SD, INC.

By: _____
Name: Michael C. Taylor
Title: Division President
Dated: 5/15/25

CITY:

CITY OF BANNING

By: _____
Print Name: _____
Title: _____

ATTEST:

_____
Caroline Patton
Administrative City Clerk

APPROVED AS TO FORM:

_____
John Pinkney
City Attorney

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Riverside)

On 05/15/2025 before me, Edelmira Gonzales / Notary Public
(insert name and title of the officer)

personally appeared Michael C. Taylor,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

FRS01 EDELMIRA GONZALES FRS01
NOTARY PUBLIC - CALIFORNIA
COMMISSION # 2466323
RIVERSIDE COUNTY
My Comm. Exp. October 12, 2027

Signature Edelmira Gonzales (Seal)

EXHIBIT “A”

DESCRIPTION OF OWNER PROPERTY

EXHIBIT "A"

BASIN MAINTENANCE AGREEMENT
LEGAL DESCRIPTION

BEING ALL OF LOTS 1 THROUGH 25, INCLUSIVE, TOGETHER WITH LOTS 27 THROUGH 47, INCLUSIVE, AND LOTS A THROUGH U, INCLUSIVE, AS SHOWN ON TRACT NO. 35967, IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS FILED IN MAP BOOK 474, PAGES 1 THROUGH 14, INCLUSIVE, RECORDS OF SAID COUNTY.

EXHIBIT "B"

DESCRIPTION OF INTERIM BASIN A FACILITY

EXHIBIT "B"

INTEREIM BASIN
LEGAL DESCRIPTION

BEING ALL OF LOTS 15 AND 16, AS SHOWN ON TRACT NO. 35967, IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS FILED IN MAP BOOK 474, PAGES 1 THROUGH 14, INCLUSIVE, RECORDS OF SAID COUNTY.

EXHIBIT "C"

BASIN REQUIREMENTS

Title Sheet of Improvement Plan Sets is included on the following page. The entire grading plan (Sheets 1-44) are on file with the Public Works Department.

Permit Number: RG23-0007

IN THE CITY OF BANNING, STATE OF CALIFORNIA

TENTATIVE TRACT NO. 37388 & 37389
ATWELL
INTERIM SMITH CREEK DETENTION BASIN 'A' IMPROVEMENT PLAN

GRADING GENERAL NOTES:

1. ALL GRADING AND RELATED ACTIVITIES SHALL CONFORM TO THE GRADING, EROSION & SEDIMENT CONTROL ORDINANCE NO. 1388, AND IF APPLICABLE, TO THE STATE WATER RESOURCES CONTROL BOARD NPDES GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES.
2. BUILDING PAD AND DRAINAGE SWALE SLOPES SHALL BE A MINIMUM OF 1%. DRAINAGE SWALES SHALL BE A MINIMUM OF 0.2' DEEP AND BE CONSTRUCTED A MINIMUM OF 2' AWAY FROM THE TOP OF GRADED SLOPES. FINISH GRADE SHALL SLOPE AWAY FROM ALL EXTERIOR WALLS AT NOT LESS THAN ¼" PER FOOT FOR A MINIMUM OF 3 FEET.
3. MAXIMUM CUT AND FILL SLOPES SHALL BE 2:1.
4. PROVIDE, AS APPLICABLE, CONCRETE BROW DITCHES DESIGNED TO CONVEY 100-YEAR STORM FLOWS, OR PROVIDE GRADED BERMS, ALONG THE TOP OF ALL GRADED SLOPES OVER 3' IN VERTICAL HEIGHT OR THAT ARE ADJACENT TO GRADED AREAS TO DIRECT SURFACE RUNOFF AWAY FROM THE TOP OF SLOPES.
5. ALL GRADING SHALL BE DONE UNDER THE SUPERVISION OF A REGISTERED CIVIL ENGINEER, SOIL ENGINEER, OR ENGINEERING GEOLOGIST WHO SHALL CERTIFY THAT ALL FILLS HAVE BEEN PROPERLY PLACED AND WHO SHALL SUBMIT A FINAL COMPACTION REPORT FOR ALL FILLS OVER 1' DEEP.
6. A REGISTERED CIVIL ENGINEER SHALL SUBMIT TO THE CITY OF BANNING'S PUBLIC WORKS DEPARTMENT A WRITTEN CERTIFICATION OF COMPLETION OF ROUGH GRADING IN ACCORDANCE WITH THE APPROVED GRADING PLAN PRIOR TO ISSUANCE OF THE BUILDING PERMIT. CERTIFICATION SHALL BE TO LINE, GRADE, ELEVATION, AND LOCATION OF CUT/FILL SLOPES.
7. FINAL COMPACTION REPORT WILL BE REQUIRED FOR ALL FILLS GREATER THAN ONE FOOT.
8. ALL GRADING SHALL BE DONE IN CONFORMANCE WITH RECOMMENDATIONS OF THE PRELIMINARY SOILS INVESTIGATION BY GEOCON WEST, INC. DATED JANUARY 24, 2024. TWO SETS OF THE FINAL COMPACTION REPORT SHALL BE SUBMITTED TO THE PUBLIC WORKS DEPARTMENT WHICH SHALL INCLUDE FOUNDATION DESIGN RECOMMENDATIONS AND CERTIFICATION THAT GRADING HAS BEEN DONE IN CONFORMANCE WITH THE RECOMMENDATIONS OF THE PRELIMINARY SOILS REPORT.
9. THE CONTRACTOR SHALL NOTIFY THE PUBLIC WORKS DEPARTMENT AT LEAST 48 HOURS IN ADVANCE REQUESTING FINISH LOT GRADE AND DRAINAGE INSPECTION. THIS INSPECTION MUST BE APPROVED PRIOR TO BUILDING PERMIT CLEARANCE FOR EACH LOT. PUBLIC WORKS DEPARTMENT PHONE: (951) 922-3130.
10. CUT AND FILL SLOPES SHALL BE PROTECTED WITH A COMBINATION OF EROSION AND SEDIMENT CONTROLS TO PROTECT THE SLOPE FROM EROSION AND INSTABILITY DURING THE GRADING PHASE.
11. POST-GRADING ACTIVITIES SHALL INCLUDE, BUT NOT BE LIMITED TO, INSTALLING, WHERE APPLICABLE, GROUNDCOVER, TREES, SHRUBS, OR A COMBINATION THEREOF IN ACCORDANCE WITH CITY CODES PRIOR TO THE APPROVAL OF FINAL INSPECTION. SLOPES OVER 4' IN VERTICAL HEIGHT SHALL HAVE PERMANENT IRRIGATION SYSTEMS WITH BACKFLOW PREVENTION DEVICES PER THE U.P.C.
12. FILL MATERIAL SHALL NOT BE PLACED ON EXISTING GROUND UNTIL THE GROUND HAS BEEN CLEARED OF WEEDS, DEBRIS, TOPSOIL, AND OTHER DELETERIOUS MATERIAL. IF STEEP SLOPING TERRAIN OCCURS UPON WHICH FILL IS TO BE PLACED, THE TERRAIN MUST BE CLEARED, KEYED, AND BENCHED INTO FIRM NATURAL SOIL FOR FULL SUPPORT. A REGISTERED CIVIL ENGINEER, SOIL ENGINEER, OR ENGINEERING GEOLOGIST SHALL APPROVE PLACEMENT OF FILL.
13. TEMPORARY DRAINAGE SHALL BE PROVIDED UNTIL PERMANENT DRAINAGE STRUCTURES ARE INSTALLED. PROTECTIVE MEASURES SHALL BE IMPLEMENTED TO PROTECT ADJOINING AND DOWNSTREAM PROPERTIES FROM SILT DEPOSITION AND PONDING WATER DURING GRADING OPERATIONS.
14. DUST SHALL BE CONTROLLED BY METHODS APPROVED BY THE CITY ENGINEER.
15. STABILITY CALCULATIONS WITH A FACTOR-OF-SAFETY OF AT LEAST ONE AND FIVE-TENTHS (1.5) SHALL BE SUBMITTED TO THE PUBLIC WORKS DEPARTMENT BY A REGISTERED CIVIL ENGINEER, SOIL ENGINEER, OR ENGINEERING GEOLOGIST FOR CUT AND FILL SLOPES OVER 30' IN VERTICAL HEIGHT.
16. A REGISTERED CIVIL ENGINEER OR LICENSED LAND SURVEYOR SHALL SUBMIT CERTIFICATION OF BUILDING PAD ELEVATIONS. WHERE SPECIFIC ELEVATIONS ARE REQUIRED, THE ELEVATION (WITH RESPECT TO MEAN SEA LEVEL) SHALL BE GIVEN. IF AN ELEVATION WITH RESPECT TO ADJACENT GROUND SURFACE IS REQUIRED, THE ACTUAL DISTANCE ABOVE THE ADJACENT GROUND SHALL BE GIVEN.
17. EROSION AND SEDIMENT CONTROL: THE PERMITTEE SHALL ABIDE BY THE REQUIREMENTS OUTLINED IN THE CITY OF BANNING GRADING, EROSION & SEDIMENT CONTROL ORDINANCE NO. 1388 THROUGHOUT THE DURATION OF THE PROJECT, INCLUDING ADHERENCE TO THE STATE NPDES PERMIT FOR CONSTRUCTION ACTIVITIES, IF APPLICABLE.
18. EXISTING DRAINAGE COURSES SHALL CONTINUE TO FUNCTION DURING THE RAINY SEASON. NO OBSTRUCTION OF FLOODPLAINS OR NATURAL WATER COURSES SHALL BE PERMITTED.
19. ALL PROPERTY CORNERS SHALL BE CLEARLY DELINEATED IN THE FIELD PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION/GRADING.
20. THE PERMITTEE MUST OBTAIN AN ENCROACHMENT PERMIT PRIOR TO ANY WORK WITH A PUBLIC RIGHT-OF-WAY.
21. APPROVAL OF THESE PLANS BY THE CITY OR ITS AGENTS DOES NOT RELIEVE THE APPLICANT AND HIS ENGINEER FROM THE RESPONSIBILITY FOR THE CORRECTION OF ERRORS AND OMISSIONS DISCOVERED DURING CONSTRUCTION. UPON REQUEST, THE APPROPRIATE PLAN REVISIONS SHALL BE PROMPTLY SUBMITTED TO THE CITY ENGINEER FOR REVIEW AND APPROVAL.
22. THE ISSUANCE OF THIS PERMIT BY THE CITY OF BANNING DOES NOT IMPLY OR PROVIDE ANY CLEARANCES FROM STATE OR FEDERAL AGENCIES REGULATING THE PROVISIONS OF STATE OR FEDERAL ENDANGERED SPECIES ACTS OR WATER QUALITY REGULATIONS. THE CONTRACTOR/OWNER/DEVELOPER IS RESPONSIBLE FOR OBTAINING THE APPROPRIATE CLEARANCES FROM THESE AGENCIES PRIOR TO ANY SITE DISTURBANCES OR GRADING.
23. CONSTRUCTION CONTRACTOR TO ADHERE TO SOUTH COAST AQMD RULE 403 FOR IMPLEMENTATION OF FUGITIVE DUST CONTROL MEASURES IN COORDINATION WITH LATEST "RULE 403 FUGITIVE DUST IMPLEMENTATION HANDBOOK.

GRADING EARTHWORK QUANTITIES:

	CUT	FILL
MASS EXCAVATION	1,464,685 CY.	762,008 CY.
SHRINKAGE (12.5%)	(183,086 CY.)	
BERM OVER-X (5 FT)	138,814 CY.	156,165 CY.
STOCKPILE OVER-X (10FT)	496,737 CY.	558,829 CY.
TOTAL EARTHWORK	1,917,150 CY.	1,477,002 CY.
EXPORT TO PHASE 2A-2 & 2B-3	440,148 CY.	

NOTE: ABOVE QUANTITIES ARE ENGINEER'S ESTIMATE ONLY. CONTRACTOR TO VERIFY ALL QUANTITIES FOR BID SUBMITTAL.

TOTAL DISTURBED AREA:

TOTAL SITE DISTURBED AREA IN ACRES : 140.46 AC.

SOIL'S ENGINEER CERTIFICATE

THE UNDERSIGNED SOILS ENGINEER CERTIFIES THAT HE HAS RECEIVED THIS GRADING PLAN AND FOUND IT TO BE IN SUBSTANTIAL COMPLIANCE WITH THE RECOMMENDATIONS CONTAINED IN THE GEOTECHNICAL REPORT BY GEOCON WEST, INC. PROJECT NUMBER T2305-22-10P DATED JANUARY 24, 2024.

GEOCON WEST INC.
41571 CORNING PLACE, SUITE 101
MURRIETA, CA 92562-7065
(951) 304-2392

LISA BATTIATO, GE 2316 — DATE 2/27/25

ANDREW SHOASHEKAN PE 93940

REGISTERED PROFESSIONAL ENGINEER ANDREW T. SHOASHEKAN No. 93940 CIVIL STATE OF CALIFORNIA

BASIS OF BEARINGS

THE BEARINGS FOR THIS SURVEY ARE BASED ON THE LINE BETWEEN STATIONS "TRAK" AND "MATH" (PORTIONS PER NATIONAL GEODETIC SURVEY, NAD 83, EPOCH 1995.5), AS SHOWN ON THE MAP FILED IN BOOK 102, PAGES 50 THROUGH 65 OF RECORDS OF SURVEY, IN THE OFFICE OF THE COUNTY RECORDER OF RIVERSIDE COUNTY, CALIFORNIA, BEING NORTH 52° 49' 02.84" EAST.

BENCHMARK

ELEVATIONS AS SHOWN HEREON ARE IN TERMS OF THE NATIONAL GEODETIC VERTICAL DATUM OF NAVD 88 BASED LOCALLY UPON THE FOLLOWING BENCH MARK: 3-1/4" STANDARD ALUMINUM MWD DISK, FLUSH, LOCATED IN BANNING, 0.6 MILES SOUTH ALONG HIGHLAND SPRINGS AVENUE FROM THE INTERSECTION OF HIGHLAND SPRINGS AVENUE AND THE SOUTHERN PACIFIC RAILROAD BRIDGE, 17.5 FEET EAST OF THE CENTERLINE OF HIGHLAND SPRINGS AVENUE AT THE NORTHWEST CORNER OF CATCH BASIN AT THE TOP OF CURB, 0.5 FEET EAST OF FACE OF CURBS. ELEVATION=2534.10

LEGAL DESCRIPTION

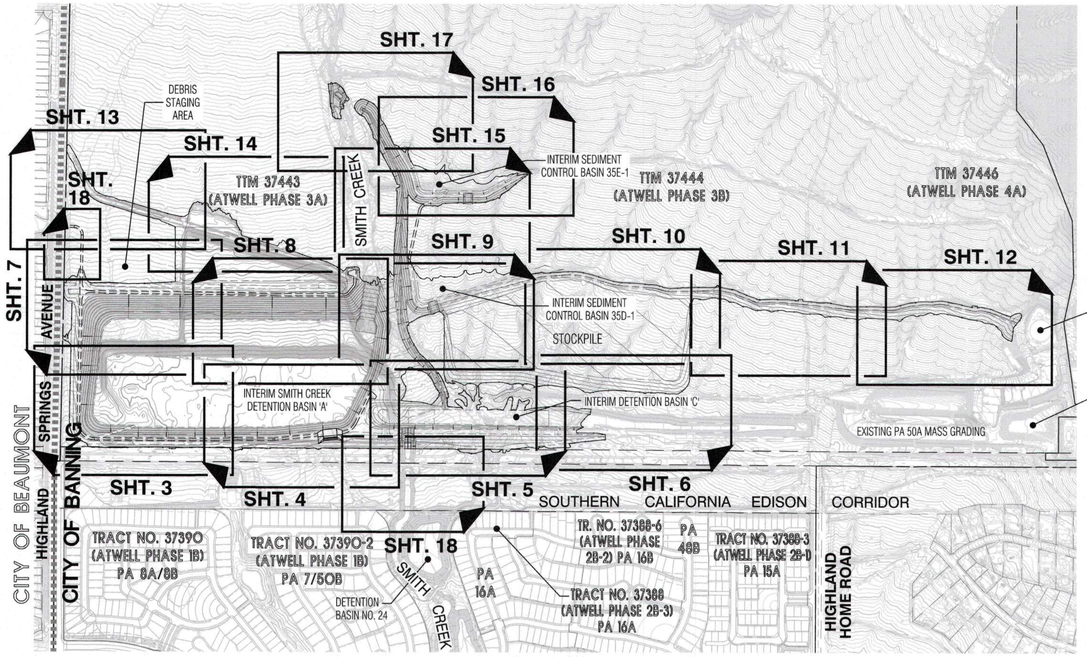
LOTS 10, 11, 12, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 37, 38, 39, 43, 44, 45, 46, 48, A, D, E, F, S AND U OF TRACT MAP NO. 35967, FILED IN BOOK 474 OF MAPS, PAGES 1 THROUGH 14, INCLUSIVE, ALL IN THE OFFICE OF THE COUNTY RECORDER OF RIVERSIDE COUNTY, CALIFORNIA.

ASSESSORS PARCEL NUMBERS

408-580-023, 024, 025, 026, 027, 028, 033, 035, 036, 037, 038, 039, 040, 041, 042, 043, 044, 045, 047, 051, 052, 054, 055 & 061

SOURCE OF TOPOGRAPHY:

DON READ CORPORATION
501 MERCURY LANE
BREA, CA 92821
(714) 529-9599
FLOWN DATE: APRIL 14, 2017/JUNE 16, 2023

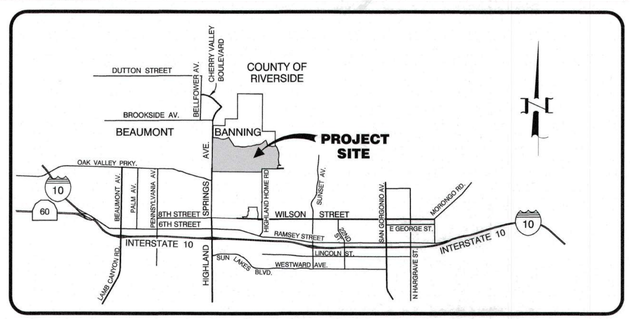


SHEET INDEX MAP

SCALE: 1"=500'

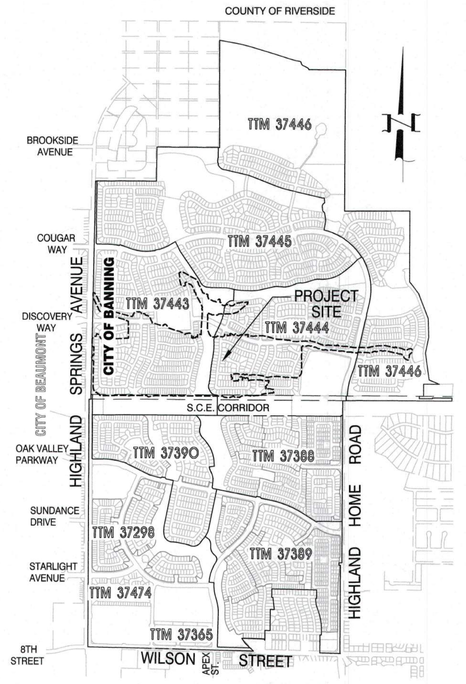
500 0 250 500 1000 2000

(1"=500')



VICINITY MAP

NOT TO SCALE



ATWELL PROJECT KEY MAP

SCALE: 1"=1500'

UTILITIES:

WATER
CITY OF BANNING
99 EAST RAMSEY STREET
BANNING, CA. 92220
(951) 922-3281

SEWER
CITY OF BANNING
99 EAST RAMSEY STREET
BANNING, CA. 92220
(951) 922-3281

STORM DRAIN
CITY OF BANNING
99 EAST RAMSEY STREET
BANNING, CA. 92220
(951) 922-3130

WASTE MANAGEMENT
(800) 423-9986

SOUTHERN CALIFORNIA EDISON
1 INNOVATIVE WAY, 1ST FLR
POMONA, CA. 91768
(800) 655-4555

ELECTRIC
CITY OF BANNING
176 EAST LINCOLN STREET
BANNING, CA. 92220
(951) 922-3260

GAS
SOUTHERN CALIFORNIA GAS COMPANY
1981 WEST LUGONIA AVENUE
REDLANDS, CA. 92374
(909) 792-2187

TELEPHONE
FRONTIER COMMUNICATIONS
280 SOUTH LOCUST STREET
POMONA, CA. 91766
(909) 397-0042

CABLE
SPECTRUM CABLE
7337 CENTRAL AVENUE
RIVERSIDE, CA. 92504
(951) 329-9487

LEGEND

- EX. FIBER — EXISTING FIBER OPTIC
- EX. ELEC. — EXISTING ELECTRIC
- EX. TELE — EXISTING TELEPHONE
- EX. CATV — EXISTING CABLE TV
- TRACT BOUNDARY
- STREET CENTERLINE
- PROPOSED RIGHT-OF-WAY
- DAYLIGHT LINE
- PROPOSED CURB & GUTTER
- EXISTING CURB & GUTTER
- FLOWLINE
- 2605.50 — PROPOSED ELEVATION
- HIGHLAND SPRINGS AVENUE — STREET NAME
- (2605.0) — PAD ELEVATION
- 100 — LOT NUMBER
- SD — PROPOSED STORM DRAIN
- SS — PROPOSED SANITARY SEWER
- DW — PROPOSED POTABLE WATER
- NONP — PROPOSED NON-POTABLE WATER
- EX. SD — EXISTING STORM DRAIN
- EX. SS — EXISTING SANITARY SEWER
- EX. DW — EXISTING POTABLE WATER
- 1.00% — PROPOSED GRADE
- G x — EXISTING GAS LINE
- GB — PROPOSED GRADE BREAK
- CITY BOUNDARY LINE
- C / F — CUT/ FILL LINE

ABBREVIATIONS

HP	HIGH POINT
LP	LOW POINT
PI	POINT OF INTERSECTION
SD	STORM DRAIN
SS	SANITARY SEWER
DW	POTABLE WATER
RCW	NON-POTABLE WATER
G	GAS
NO.	NUMBER
Δ	DELTA
R	RADIUS
L	LENGTH
MIN	MINIMUM
MAX	MAXIMUM
ST	STREET
PA	PLANNING AREA
SQ. FT.	SQUARE FEET
AC	ACREAGE
DU	DWELLING UNIT
AVG.	AVERAGE
R/W	RIGHT OF WAY
RW	RETAINING WALL
TC	TOP OF CURB
GB	GRADE BREAK
FL	FLOWLINE
EX.	EXISTING
TR	TOP OF RISER
FH	FIRE HYDRANT
TDS	TOP OF DROP STRUCTURE
BDS	BOTTOM OF DROP STRUCTURE

SHEET INDEX

SHEET	1	TITLE SHEET AND SHEET INDEX MAP
SHEET	2	GENERAL NOTES, DETAILS & CONSTRUCTION NOTES AND ESTIMATED QUANTITIES
SHEETS	3-18	INTERIM DETENTION BASIN IMPROVEMENT PLAN
SHEETS	19-20	GRADING SECTIONS
SHEET	21	DETAILS & GRADING SECTIONS
SHEET	22	GRADING SECTIONS
SHEETS	23-25	STORM DRAIN PLAN & PROFILE
SHEET	26	EROSION & SEDIMENT CONTROL PLAN TITLE SHEET AND SHEET INDEX
SHEET	27	EROSION & SEDIMENT CONTROL PLAN DETAILS
SHEETS	28-32	EROSION & SEDIMENT CONTROL PLAN
SHEET	33	MITIGATION MEASURE NOTES
SHEET	34	CONSTRUCTION TRAFFIC ACCESS & STAGING PLAN
SHEETS	35-44	DETAILS

OWNER/APPLICANT/DEVELOPER

TRI POINTE HOMES
1250 CORONA POINTE COURT, SUITE 600
CORONA, CA 92879
(951) 428-4400
CONTACT: MICHAEL HEISHMAN
24-HOUR CONTACT: JERRY DOLBEE (951) 534-6734

WDID #: 7 33C404721

NOTE
"COMPLIANCE WITH MITIGATION MEASURES BIO-1 AND BIO-2 IS REQUIRED"

RECOMMENDED FOR ACCEPTANCE BY:
JOHN M. BRUDIN/R.C.E. 41836
ENGINEERING RESOURCES OF SOUTHERN CALIFORNIA, INC.

RECOMMENDED FOR ACCEPTANCE BY:
RIVERSIDE COUNTY FIRE DEPARTMENT - OFFICE OF THE FIRE MARSHAL

Call before you Dig
Avoid cutting underground utility lines. It's easy.
Call 811 or 1-800-422-4133

REVISIONS

MARK		APPR	DATE

PLANS PREPARED BY:
MDS CONSULTING
5 PETERS CANYON ROAD
SUITE 305
IRVINE, CA 92606
(949) 251-8821
WWW.MDSCONSULTING.NET
PLANNERS ENGINEERS SURVEYORS

SUBMITTED BY:
EDWARD J. LENTH
RCE# 052496
2/27/2025 DATE

REGISTERED PROFESSIONAL ENGINEER EDWARD J. LENTH No. 52496 CIVIL STATE OF CALIFORNIA

City of BANNING INCORPORATED 1913 ENDLESS OPPORTUNITY

CITY OF BANNING

APPROVED BY:
NATHAN C. SMITH, RCE #74754
DEPUTY DIRECTOR OF PUBLIC WORKS/CITY ENGINEER
5/21/25 DATE

INTERIM SMITH CREEK DETENTION BASIN 'A' IMPROVEMENT PLAN
TENTATIVE TRACT NO. 37388 & 37389
ATWELL
TITLE SHEET / SHEET INDEX

W.O. No.
CIP No.
PROJECT No.
SHEET 1 OF 44

INTERIM SMITH CREEK DETENTION BASIN 'A' IMPROVEMENT PLAN, TENTATIVE TRACT NO. 37388 & 37389

MDS Proj. Data: I:\89416\ENGINEERING\Plans\Interim Basin
Created: 01.22.2025 08:30:35 AM Author: MDS
Last Edit: 01.30.2025 11:49:08 AM By: Mtran
Plot Scale: 1" = 1' Dwg Scale: --
Plot Date: 02.27.2025 9:07:53 AM By: mtran
MDS File: 89416-INTR-BASIN-SHT01 (TS).dwg

EXHIBIT “D”

LENDER CONSENT AND SUBORDINATION DOCUMENTS

tri pointe HOMES

May 21, 2025

To whom it may concern:

Tri Pointe Homes IE-SD, Inc. is a land development and home building company that is self-funded.

Thank you,

Michael Heishman
Director of Land Development

1250 Corona Pointe Court, #600
Corona, CA 92879

LENDER'S CONSENT AND SUBORDINATION TO AGREEMENT REGARDING CONSTRUCTION AND MAINTENANCE OF INTERIM STORM WATER RETENTION BASIN AND COVENANT RUNNING WITH THE LAND

1. _____ ("Lender") holds a security interest described in Paragraph 2 below in all or a portion of the Owner Property described in the AGREEMENT REGARDING CONSTRUCTION AND MAINTENANCE OF INTERIM STORM WATER RETENTION BASIN AND COVENANT RUNNING WITH THE LAND ("Agreement"), to which this document is attached, between the City of Banning ("City") and Tri-Pointe Homes_____ ("Owner") dated _____, 2024.

2. Lender's security interest in all or a portion of the Property is shown on the document recorded on _____ as Document Number _____ of Official Records of the County of Riverside ("Subject Deed of Trust").

3. Lender acknowledges that the construction of, operation and maintenance of the Interim Basin A facility on Owner Property will materially benefit the Atwell Project, allow Owner to proceed with development of Atwell Project, and provide necessary interim flood protection to the Atwell Project.

4. In consideration of the rights and benefits conferred upon the Owner by the terms of the Agreement and in recognition of the accrual of those benefits to the Lender and successors-in-interest to Owner, including Lender in the event Lender takes possession to or ownership of the Property, Lender hereby consents to the Agreement and its recordation and further agrees that Lender's Subject Deed of Trust and all interests in the Property are subject to, and made subordinate to, the rights and interests of the City as set forth in the Agreement.

5. The City agrees to provide to Lender by certified mail a copy of any notice from City to Owner of any default, required repair or maintenance of the Interim Basin A facility at the address below. Lender may cure any such default or undertake any repair or maintenance required by Owner in the time permitted under the Agreement for Owner to cure such default:

Lender _____
_____
_____
_____

6. The individuals who have signed this document on behalf of Lender represent and warrant to City that he/she/they have the legal power, right, and authority to approve and execute this document on behalf of Lender and thereby and bind the Lender.

IN WITNESS WHEREOF, the Lender has executed this Consent and Subordination as of _____, 2024.

LENDER:

_____

_____

By: _____
Print Name: _____
Title: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____, before me, _____,
(insert name and title of the officer)
Notary Public, personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature_____ (Seal)

2020-0325323 4th
Original 1

IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

TRACT NO. 35967

BEING A SUBDIVISION OF A PORTION OF LOTS 12, 14 THROUGH 17, 19 AND 20, OF TRACT NO. 34330, AS SHOWN BY MAP ON FILE IN BOOK 429, PAGES 84 THROUGH 103, INCLUSIVE, OF MAPS, TOGETHER WITH LOT 2 OF TRACT NO. 35967-1, AS SHOWN BY MAP ON FILE IN BOOK 471, PAGES 92 THROUGH 94, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, LYING WITHIN SECTION 1, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN.

DARYL J. CHRISTIAN, L.S. 8554 MDS CONSULTING APRIL, 2020

FOR FINANCE AND CONVEYANCE PURPOSES

THIS SUBDIVISON CONTAINS

NUMBERED LOTS: 47
LETTERED LOTS: 21
GROSS AREA: 914.56 ACRES

RECORDER'S STATEMENT

FILED THIS 23rd DAY OF July, 2020
AT 10:54 AM. IN BOOK 474 OF MAPS,
AT PAGES 1-14 AT THE REQUEST
OF THE CLERK OF THE CITY OF BANNING
NO. 2020-0325323
FEE $35-

PETER ALDANA, COUNTY ASSESSOR - CLERK - RECORDER
BY: _____ DEPUTY
SUBDIVISION GUARANTEE BY:
FIRST AMERICAN TITLE INSURANCE COMPANY

OWNER'S STATEMENT

WE HEREBY STATE THAT WE ARE THE OWNERS OF THE LAND INCLUDED WITHIN THE SUBDIVISION SHOWN HEREON, THAT WE ARE THE ONLY PERSONS WHOSE CONSENT IS NECESSARY TO PASS A CLEAR TITLE TO SAID LAND, THAT WE CONSENT TO THE MAKING AND RECORDING OF THIS SUBDIVISION AS SHOWN WITHIN THE DISTINCTIVE BORDER LINE.

WE HEREBY RESERVE LOTS A THROUGH U, INCLUSIVE, AS SHOWN HEREON FOR ACCESS PURPOSES, UNTO OURSELVES, OUR SUCCESSORS, ASSIGNEES AND LOT OWNERS WITHIN THIS TRACT MAP.

PARDEE HOMES, A CALIFORNIA CORPORATION

NAME: MIKE TAYLOR
TITLE: DIVISION PRESIDENT

NAME: JEFF CHAMBERS
TITLE: VICE PRESIDENT

NOTARY ACKNOWLEDGMENT

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF CALIFORNIA)
) SS
COUNTY OF RIVERSIDE)

ON MAY 7 2020 BEFORE ME, SONAL SHAH, A NOTARY PUBLIC,
PERSONALLY APPEARED MIKE TAYLOR and JEFF CHAMBERS
WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE, TO BE THE PERSON(S) WHOSE NAME(S) ~~IS~~/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT ~~HE/SHE~~/THEY EXECUTED THE SAME IN ~~HIS/HER~~/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY ~~HIS/HER~~/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND
SIGNATURE
SONAL SHAH
PRINT NAME

MY PRINCIPAL PLACE OF BUSINESS IS IN RIVERSIDE COUNTY

MY COMMISSION EXPIRES 09/30/2021

Commission # 2216371

TAX COLLECTOR'S CERTIFICATE

I HEREBY CERTIFY THAT ACCORDING TO THE RECORDS OF THIS OFFICE, AS OF THIS DATE, THERE ARE NO LIENS AGAINST THE PROPERTY SHOWN ON THE WITHIN MAP FOR UNPAID STATE, COUNTY, MUNICIPAL OR LOCAL TAXES OR SPECIAL ASSESSMENTS COLLECTED AS TAXES, EXCEPT TAXES OR SPECIAL ASSESSMENTS COLLECTED AS TAXES NOW A LIEN, BUT NOT YET PAYABLE, WHICH ARE ESTIMATED TO BE $ 160,100.00 .

DATED: May 26, 2020.
JON CHRISTENSEN, COUNTY TAX COLLECTOR

BY: _____, DEPUTY

TAX BOND CERTIFICATE

I HEREBY CERTIFY THAT A BOND IN THE SUM OF $ 160,100.00 HAS BEEN EXECUTED AND FILED WITH THE BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE, CALIFORNIA, CONDITIONED UPON THE PAYMENT OF ALL TAXES, STATE, COUNTY, MUNICIPAL OR LOCAL, AND ALL SPECIAL ASSESSMENTS COLLECTED AS TAXES, WHICH AT THE TIME OF FILING OF THIS MAP WITH THE COUNTY RECORDER ARE A LIEN AGAINST SAID PROPERTY BUT NOT YET PAYABLE AND SAID BOND HAS BEEN DULY APPROVED BY SAID BOARD OF SUPERVISORS.

DATED: May 26, 2020.

(CASH) OR SURETY TAX BOND
JON CHRISTENSEN,
COUNTY TAX COLLECTOR

BY: _____, DEPUTY

SIGNATURE OMISSIONS: SEE SHEET 2
EASEMENT NOTES: SEE SHEET 4

SURVEYOR'S STATEMENT

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF PARDEE HOMES IN SEPTEMBER, 2017. I HEREBY STATE THAT ALL MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED, OR THAT THEY WILL BE SET IN ACCORDANCE WITH THE TERMS OF THE MONUMENT AGREEMENT FOR THE MAP AND THAT THE MONUMENTS ARE, OR WILL BE, SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED, AND THAT THIS FINAL MAP SUBSTANTIALLY CONFORMS TO THE CONDITIONALLY APPROVED TENTATIVE MAP. THIS SURVEY IS TRUE AND COMPLETE AS SHOWN.

DATE: 4-21, 2020.
DARYL J. CHRISTIAN L.S. 8554 EXP. 12/31/20

PROFESSIONAL LAND SURVEYOR · DARYL J. CHRISTIAN · LS 8554 · EXP. 12/31/20 · STATE OF CALIFORNIA

CITY ENGINEER'S STATEMENT

I HEREBY STATE THAT I HAVE EXAMINED THE WITHIN MAP, THAT THE SUBDIVISION SHOWN THEREON IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP OF TRACT NO. 35967 WHICH WAS APPROVED BY THE CITY OF BANNING CITY COUNCIL ON JUNE 13, 2017, AND ANY APPROVED ALTERATIONS THEREOF; THAT ALL PROVISIONS OF THE SUBDIVISION MAP ACT (DIVISION 2 OF TITLE 7 OF THE CALIFORNIA GOVERNMENT CODE) AND CHAPTER 22 OF THE BANNING MUNICIPAL CODE APPLICABLE AT THE TIME OF THE APPROVAL OF THE TENTATIVE MAP HAVE BEEN COMPLIED WITH.

DATE: JUNE 19, 2020.
ARTURO VELA, RCE 75696, EXP. 6/30/2020
CITY ENGINEER, CITY OF BANNING

REGISTERED PROFESSIONAL ENGINEER · ARTURO VELA · No. 75696 · Exp. 6-30-20 · CIVIL · STATE OF CALIFORNIA

CITY SURVEYOR'S STATEMENT

I HEREBY STATE THAT I HAVE EXAMINED THIS MAP AND THAT SAID MAP IS TECHNICALLY CORRECT.

DATE: 11 JUNE, 2020
BY: ERIK T. HOWARD, PLS 7648 EXP. 12/31/2020
ENGINEERING RESOURCES OF SOUTHERN CALIFORNIA

LICENSED LAND SURVEYOR · ERIK THOMAS HOWARD · EXP. 12/31/20 · 7648 · STATE OF CALIFORNIA

COMMUNITY DEVELOPMENT DIRECTOR'S STATEMENT

THE TENTATIVE MAP WAS APPROVED BY THE CITY COUNCIL ON JUNE 13, 2017.

DATED: 16-June, 2020
ADAM B. RUSH
COMMUNITY DEVELOPMENT DIRECTOR

CITY TREASURER'S STATEMENT

I HEREBY STATE THAT ACCORDING TO THE RECORDS OF THIS OFFICE AS OF THIS DATE, THE PROPERTY SHOWN ON THIS MAP IS NOT SUBJECT TO ANY SPECIAL ASSESSMENTS, BONDS AND/OR LIENS WHICH HAVE NOT BEEN PAID IN FULL. THIS CERTIFICATION DOES NOT INCLUDE ANY SPECIAL ASSESSMENTS THE BONDS OF WHICH HAVE NOT BECOME A LIEN AGAINST SAID PROPERTY.

DATED: July 16, 2020
BY: _____
CITY TREASURER

CITY ACCEPTANCE CERTIFICATE

I, MARIE A. CALDERON CITY CLERK AND EX-OFFICIO CLERK OF THE CITY COUNCIL OF THE CITY OF BANNING, STATE OF CALIFORNIA, DO HEREBY CERTIFY THAT THE SAID CITY COUNCIL AT ITS REGULAR MEETING HELD ON THE 14th DAY OF July, 2020, DULY APPROVED THE WITHIN SUBDIVISION.

DATED: 7-15-2020
BY: _____
CITY CLERK

ABANDONMENT NOTE:

PURSUANT TO SECTIONS 66499.20.1/2 AND 66434(g) OF THE SUBDIVISION MAP ACT THE FILING OF THIS MAP SHALL CONSTITUTE THE ABANDONMENT OF ALL EASEMENTS RIGHTS FOR ACCESS AND INCIDENTAL PURPOSES WITHIN THE BOUNDARY OF THIS MAP WHICH WERE CREATED BY THE RECORDATION OF TRACT NO. 34330, FILED IN BOOK 429, PAGES 84 THROUGH 103, INCLUSIVE OF MAPS, RECORDS OF RIVERSIDE COUNTY, NOT SHOWN ON THIS MAP.

NOTE:

NO DEVELOPMENT OR IMPROVEMENT OF ANY PORTION OF THIS MAP SHALL BE PERMITTED UNTIL A SUBDIVISION MAP IS RECORDED IN ACCORDANCE WITH GOVERNMENT CODE SECTION 66411 ET AL FOR THE SUBDIVISION DESCRIBED IN THIS MAP.

IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

TRACT NO. 35967

BEING A SUBDIVISION OF A PORTION OF LOTS 12, 14 THROUGH 17, 19 AND 20, OF TRACT NO. 34330, AS SHOWN BY MAP ON FILE IN BOOK 429, PAGES 84 THROUGH 103, INCLUSIVE, OF MAPS, TOGETHER WITH LOT 2 OF TRACT NO. 35967-1, AS SHOWN BY MAP ON FILE IN BOOK 471, PAGES 92 THROUGH 94, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, LYING WITHIN SECTION 1, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN.

DARYL J. CHRISTIAN, L.S. 8554 MDS CONSULTING APRIL, 2020

FOR FINANCE AND CONVEYANCE PURPOSES

SIGNATURE OMISSIONS:

PURSUANT TO SECTION 66436(a)(3) OF THE SUBDIVISION MAP ACT, THE SIGNATURES OF THE FOLLOWING OWNERS OF EASEMENTS AND/OR OTHER INTERESTS HAVE BEEN OMITTED, AS THEIR INTERESTS CANNOT RIPEN INTO FEE.

SAN BERNARDINO COUNTY, HOLDER OF AN EASEMENT FOR HIGHWAY AND INCIDENTAL PURPOSES, RECORDED JANUARY 10, 1887 IN BOOK A OF DEEDS, PAGES 34 AND 35, RECORDS OF SAN BERNARDINO COUNTY.

SOUTHERN SIERRAS POWER COMPANY, HOLDER OF AN EASEMENT FOR PUBLIC UTILITIES AND INCIDENTAL PURPOSES, RECORDED DECEMBER 1, 1919 IN BOOK 8, PAGE 40 OF PATENTS.

UNITED STATES OF AMERICA, HOLDER OF A RIGHT OF WAY FOR DITCHES AND CANALS AS RESERVED IN THE PATENT RECORDED DECEMBER 1, 1919 IN BOOK 8, PAGE 40 OF PATENTS.

SOUTHERN SIERRAS POWER COMPANY, HOLDER OF AN EASEMENT FOR PUBLIC UTILITIES AND INCIDENTAL PURPOSES, RECORDED APRIL 28, 1914 IN BOOK 392, PAGE 332 OF DEEDS.

SOUTHERN CALIFORNIA EDISON COMPANY, HOLDER OF AN EASEMENT FOR PUBLIC UTILITIES AND INCIDENTAL PURPOSES, RECORDED MAY 9, 1946 IN BOOK 754, PAGE 84, OF OFFICIAL RECORDS.

SOUTHERN CALIFORNIA GAS COMPANY AND SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA, HOLDER OF AN EASEMENT FOR PIPELINES AND INCIDENTAL PURPOSES, RECORDED JUNE 26, 1950 IN BOOK 1184, PAGE 121 OF OFFICIAL RECORDS, AS MODIFIED BY DOCUMENTS RECORDED OCTOBER 23, 2003 AS INSTRUMENT NO. 2003-0835005 AND RECORDED NOVEMBER 20, 2009 AS INSTRUMENT NO. 2009-0602745, BOTH OF OFFICIAL RECORDS.

CITY OF BANNING, HOLDER OF AN EASEMENT FOR DRAINAGE AND INCIDENTAL PURPOSES, RECORDED NOVEMBER 16, 1959 AS INSTRUMENT NO. 97593 OF OFFICIAL RECORDS.

CALIFORNIA WATER & TELEPHONE COMPANY AND THE CITY OF BANNING, HOLDER OF AN EASEMENT FOR PUBLIC UTILITIES AND INCIDENTAL PURPOSES RECORDED FEBRUARY 4, 1960 AS INSTRUMENT NO. 9894 OF OFFICIAL RECORDS.

CALIFORNIA ELECTRIC POWER COMPANY, A CORPORATION, HOLDER OF AN EASEMENT FOR PUBLIC UTILITIES AND INCIDENTAL PURPOSES, RECORDED JANUARY 20, 1961 AS INSTRUMENT NO. 5433 OF OFFICIAL RECORDS.

THE CITY OF BANNING, HOLDER OF AN EASEMENT FOR STORMWATER-FLOOD CONTROL FACILITIES AND INCIDENTAL PURPOSES, RECORDED DECEMBER 3, 2007 AS INSTRUMENT NO. 2007-0723899 OF OFFICIAL RECORDS.

SOILS REPORT:

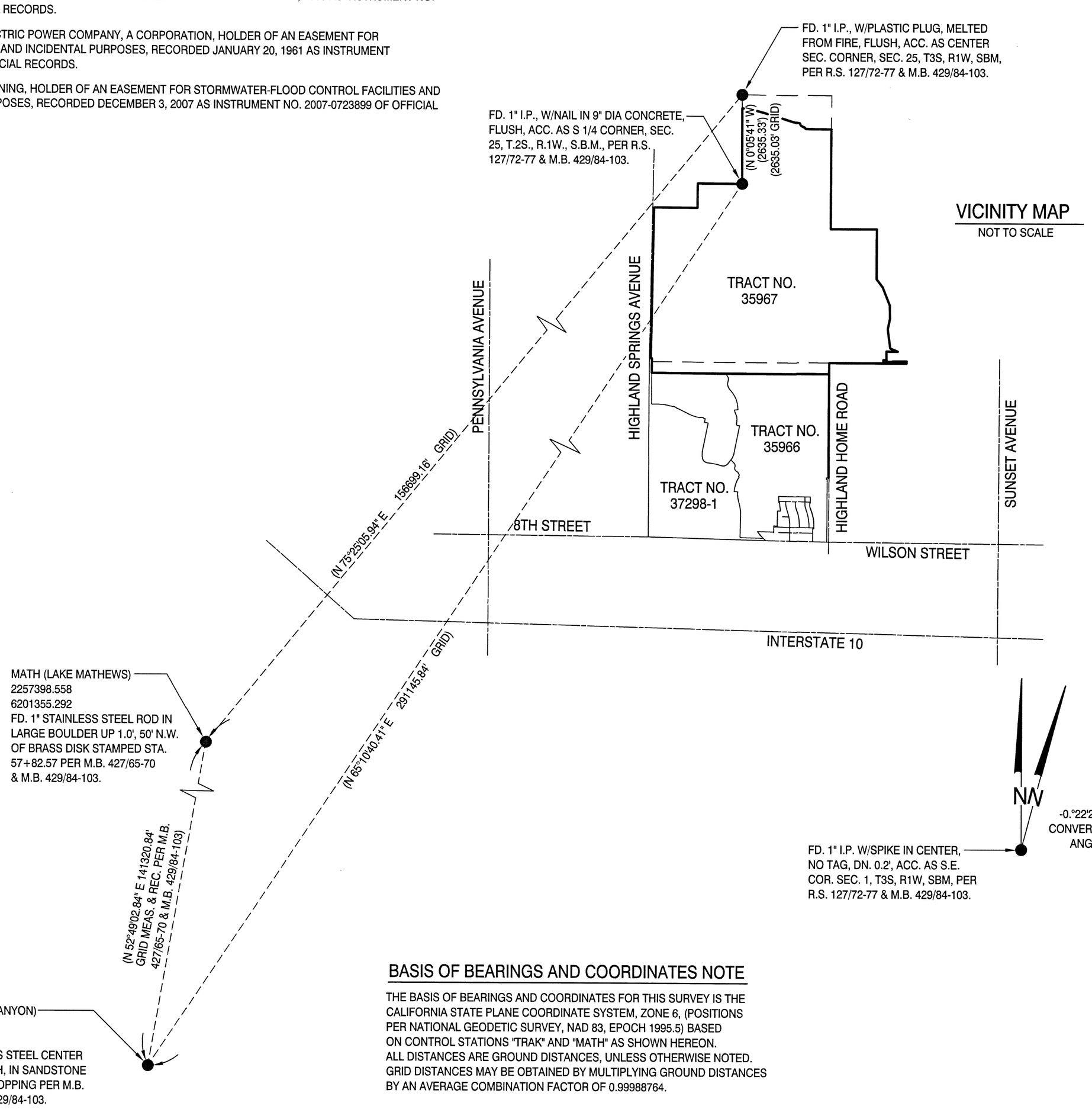
PURSUANT TO SECTION 66490 OF THE SUBDIVISION MAP ACT, A PRELIMINARY SOILS REPORT, PREPARED BY GEOCON WEST, INC., PROJECT NO. T2305-22-08, DATED AUGUST 1, 2018, AUGUST 2, 2018, AUGUST 7, 2018 AND AUGUST 8, 2018 ARE ALL ON FILE WITH THE CITY OF BANNING, ENGINEERING DEPARTMENT.

RECORD DATA REFERENCE LIST:

R1- INDICATES RECORD DATA PER TRACT NO. 35967-1, M.B. 471/92-94
R2 - INDICATES RECORD DATA PER TRACT NO. 37298-1, M.B. 471/48-58
R3 - INDICATES RECORD DATA PER TRACT NO. 35967-1, M.B. 471/92-94
R4 - INDICATES RECORD DATA PER TRACT NO. 35966, M.B. 473/94-107

VICINITY MAP

NOT TO SCALE



BASIS OF BEARINGS AND COORDINATES NOTE

THE BASIS OF BEARINGS AND COORDINATES FOR THIS SURVEY IS THE CALIFORNIA STATE PLANE COORDINATE SYSTEM, ZONE 6, (POSITIONS PER NATIONAL GEODETIC SURVEY, NAD 83, EPOCH 1995.5) BASED ON CONTROL STATIONS "TRAK" AND "MATH" AS SHOWN HEREON. ALL DISTANCES ARE GROUND DISTANCES, UNLESS OTHERWISE NOTED. GRID DISTANCES MAY BE OBTAINED BY MULTIPLYING GROUND DISTANCES BY AN AVERAGE COMBINATION FACTOR OF 0.99988764.

2020-0225822 Page 3 of 14

IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

TRACT NO. 35967

BEING A SUBDIVISION OF A PORTION OF LOTS 12, 14 THROUGH 17, 19 AND 20, OF TRACT NO. 34330, AS SHOWN BY MAP ON FILE IN BOOK 429, PAGES 84 THROUGH 103, INCLUSIVE, OF MAPS, TOGETHER WITH LOT 2 OF TRACT NO. 35967-1, AS SHOWN BY MAP ON FILE IN BOOK 471, PAGES 92 THROUGH 94, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, LYING WITHIN SECTION 1, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN.

DARYL J. CHRISTIAN, L.S. 8554 MDS CONSULTING APRIL, 2020

FOR FINANCE AND CONVEYANCE PURPOSES

SCALE: 1" = 500'

500 250 0 500 1000 1500

GRAPHIC SCALE

BASIS OF BEARINGS SEE SHEET 2 OF 14

EASEMENT NOTES SEE SHEET 4 OF 14

SURVEYOR'S NOTES

● — INDICATES FOUND MONUMENTS AS NOTED.

O — INDICATES SET 2" IRON PIPE TAGGED L.S. 8554, FLUSH; AT ALL TRACT CORNERS AND ANGLE POINTS IN TRACT BOUNDARY, UNLESS OTHERWISE NOTED.

1" IRON PIPE TAGGED L.S. 8554, FLUSH, OR SPIKE & WASHER, STAMPED L.S. 8554 IN ASPHALT, OR LEAD, TACK AND TAG, L.S. 8554 FLUSH IN CONCRETE, TO BE SET AT ALL LOT CORNERS.

( ) — INDICATES RECORD DATA AS NOTED (SEE SHEET 2 FOR RECORD DATA REFERENCES)

THIS TRACT MAP CONTAINS 68 NUMBERED LOTS

THIS TRACT MAP CONTAINS 914.56 ACRES GROSS.

MONUMENT NOTES

① – FD. 1 1/2" BRASS CAP W/PUNCH MARK, STAMPED "52–80.45 1/4 COR.", FLUSH, ACC. AS W1/4 COR., SEC. 1, PER R.S. 123/72–77 & M.B. 429/84–103.

② – FD. 1" I.P. W/TAG "RIV. CO. SURV.", DN. 0.4' IN MON. WELL, ACC. AS SECTION PER R.S. 123/72–77 & M.B. 429/84–103.

③ – FD. 1 1/2" BRASS CAP W/PUNCH MARK, DN. 0.3', ACC. AS W 1/4 COR., SEC. 36, PER R.S. 123/72–77 & M.B. 429/84–103.

④ – FD. 2" I.P., LS 8554, FLUSH, TO BE SET PER TRACT NO. 37298–1, M.B. 471/48–58.

⑤ – FD. 1" I.P., W/TAG LS 4547, FLUSH, ACC. AS TRACT CORNER PER M.B. 429/84–103.

⑥ – FD. 3/4" I.P., W/PLAS. PLUG, ILLEGIBLE, UP 0.1', ACC. AS TR. COR. PER M.B. 429/84–103.

⑦ – FD. 1" I.P. W/NAIL IN 9" DIA. CONC., FLUSH, ACC. AS S 1/4 COR. SEC. 25, PER R.S. 123/72–77 & M.B. 429/84–103.

⑧ – FD. 2" I.P., LS 8554, FLUSH, TO BE SET PER TRACT NO. 35967–1, M.B. 471/92–94.

⑨ – FD. 1" I.P. W/PLAS. PLUG MELTED FROM FIRE, ACC. AS CENTER SEC. 25, PER R.S. 123/72–77 & M.B. 429/84–103.

⑩ – FD. MAGNESIUM NAIL IN BURNED OUT 6"x8" WOOD POST AT INTERSECTION OF FENCE LINES, W/ROCK PILE AROUND POST, ACC. AS SEC. COR. PER M.B. 429/84–103.

⑪ – FD. 1" I.P. W/TAG, RCE 25742, FLUSH, ACC. AS SW SEC. COR., SEC. 31, PER M.B. 429/84–103.

⑫ – FD. 2" I.P., LS 8554, FLUSH, TO BE SET PER TRACT NO. 35966, M.B. 473/94-107

COURSE DATA		
#	BEARING	DISTANCE
L1	N 00°10'12" E	2541.66'
L2	N 01°08'32" E	100.01'
L3	N 89°41'50" W	31.00'
L4	N 79°46'43" W	325.04'
L5	N 73°18'02" W	493.27'
L6	N 72°12'57" W	382.93'
L7	N 15°08'45" W	25.41'
L8	N 62°44'45" W	106.45'
L9	N 89°35'54" W	766.52'

CURVE DATA			
#	DELTA	RADIUS	LENGTH
C1	06°28'41"	2790.00'	315.45'
C2	01°05'05"	990.00'	18.74'
C3	09°48'49"	1210.00'	207.25'
C4	66°53'01"	30.00'	35.02'
C5	47°36'00"	55.00'	45.69'
C6	41°22'58"	80.00'	57.78'

(N 88°22'01" W 2649.36' R1)

TRACT NO. 35967-1
M.B. 471/92-94

LOT 1

(L4 R3) (C1 R3) (L5 R3) (L6 R3) (C2 R3) (C3) (R3) (L9 R3)

SEE DETAIL "B"

(985.58' R3)

(N 00°24'06" E 2619.34' R1)

(1633.77' R3)

GLEN EYRIE HIEGHTS
M.B. 8/76

(N 00°05'41" W 2635.33' R1)

(N 00°05'41" W 2238.98' R3)

LOT 2

DETAIL "B"
1"=200'

(C3 R3) (C4 R3) (L7 R3) N 07°58'14" E RAD–PRC N 74°51'15" E RAD. N 27°15'15" E RAD. (C5 R3) (L8) (R3) (C6 R3) (L9 R3) N 27°15'15" E RAD. N 68°38'13" E RAD.

(N 89°44'13" W 1313.39' R1)

(N 0°45'10" E) (719.81' R1)

TRACT NO. 14209-1
M.B. 133/33-38

(N 89°43'36" W 1278.37' R1)

LOT 20

(N 00°11'36" E 1320.20' R1)

(N 89°56'08" E 1366.67' R1)

(N 00°06'34" E 1477.91' R1)

(N 37°34'23" W) (304.01' R1)

(N 21°03'23" W) (569.30' R1)

(N 01°28'23" W) (388.20' R1)

(N 11°51'37" E) (329.80' R1)

(N 07°54'23" W) (568.00' R1)

SEE SHEET 14

LOT 12

TRACT NO. 34330
M.B. 429/84-103

LOT 14

LOT 20

LOT 15

LOT 16

℄ HIGHLAND SPRINGS AVENUE

N 01°09'01" E 1920.26' R1)

(N 1°08'32" E 2639.31' R1) N 1°08'32" E 2539.01'

℄ HIGHLAND SPRINGS AVE.

(N 1°08'32" E) (2639.31' R1) N 1°08'32" E 2539.01'

40' (L3 R2) (L2 R2) (N 89°41'50" W) (5341.08' R1)

35 36 2 1 71'

(N 0°10'12" E) (2541.66') TR. NO. 37298-1 LOT "A" (N 0°10'12" E) (330.00' R2)

DETAIL "A"
1"=200'

SEE DETAIL "A"

(N 89°41'50" W) (5341.08' R1) (N 89°48'23" W) (2265.80' R1)

(N 0°13'14" E) (330.00' R5)

(N 89°41'50" W) (20.00' R1)

℄ HIGHLAND HOME ROAD

DETAIL "C"
1"=200'

SEE DETAIL "C"

LOT 19

(N 89°41'50" W 5341.08' R1)

(N 89°48'23" W 2265.80' R1)

(N 0°10'12" E 330.00' R2)

(L1 R2)

(N 89°41'50" W 5249.79' R4)

(3073.89' R4)

LOT 17

(N 00°13'14" E 330.00' R4)

℄ HIGHLAND HOME ROAD

TRACT NO. 35966
M.B. 473/94-107

TRACT NO. 10620
M.B. 100/80-81

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IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

TRACT NO. 35967

BEING A SUBDIVISION OF A PORTION OF LOTS 12, 14 THROUGH 17, 19 AND 20, OF TRACT NO. 34330, AS SHOWN BY MAP ON FILE IN BOOK 429, PAGES 84 THROUGH 103, INCLUSIVE, OF MAPS, TOGETHER WITH LOT 2 OF TRACT NO. 35967-1, AS SHOWN BY MAP ON FILE IN BOOK 471, PAGES 92 THROUGH 94, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, LYING WITHIN SECTION 1, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN.

DARYL J. CHRISTIAN, L.S. 8554 MDS CONSULTING APRIL, 2020

FOR FINANCE AND CONVEYANCE PURPOSES

SCALE: 1" = 500'

500 250 0 500 1000 1500

GRAPHIC SCALE

SHEET INDEX AND EASEMENT MAP

(X) INDICATES SHEET NUMBER

EASEMENT NOTES

A EASEMENT FOR OPEN HIGHWAY PURPOSES IN FAVOR OF THE COUNTY OF SAN BERNARDINO RECORDED JANUARY 10, 1887, IN BOOK A, PAGES 34 AND 35 OF DEEDS.
(LOCATED WITHIN WILSON STREET, SOUTH OF THIS MAP)

B RIGHT OF WAY FOR DITCHES AND CANALS IN FAVOR OF THE UNITED STATES OF AMERICA, RECORDED DECEMBER 1, 1919 IN BOOK 8, PAGE 40 OF PATENTS.
LOCATION CAN NOT BE DETERMINED FROM RECORD INFORMATION

(C) 50 FOOT WIDE EASEMENT FOR PUBLIC UTILITIES AND INCIDENTAL PURPOSES IN FAVOR OF SOUTHERN SIERRAS POWER COMPANY, RECORDED APRIL 28, 1914, IN BOOK 392, PAGE 332 OF DEEDS.

EASEMENT NOTES

D EASEMENT FOR DRAINAGE AND INCIDENTAL PURPOSES IN FAVOR OF THE CITY OF BANNING, RECORDED NOVEMBER 16, 1959 AS INSTRUMENT NO. 97593, OF OFFICIAL RECORDS.
(NOT PLOTTED HEREON, EASEMENT IS LOCATED SOUTH OF THIS MAP)

E EASEMENT FOR PUBLIC UTILITIES AND INCIDENTAL PURPOSES IN FAVOR OF THE CITY OF BANNING, AND CALIFORNIA WATER AND TELEPHONE COMPANY, RECORDED FEBRUARY 4, 1960 AS INSTRUMENT NO. 9894, OF OFFICIAL RECORDS.
(NOT PLOTTED HEREON, EASEMENT IS LOCATED SOUTH OF THIS MAP)

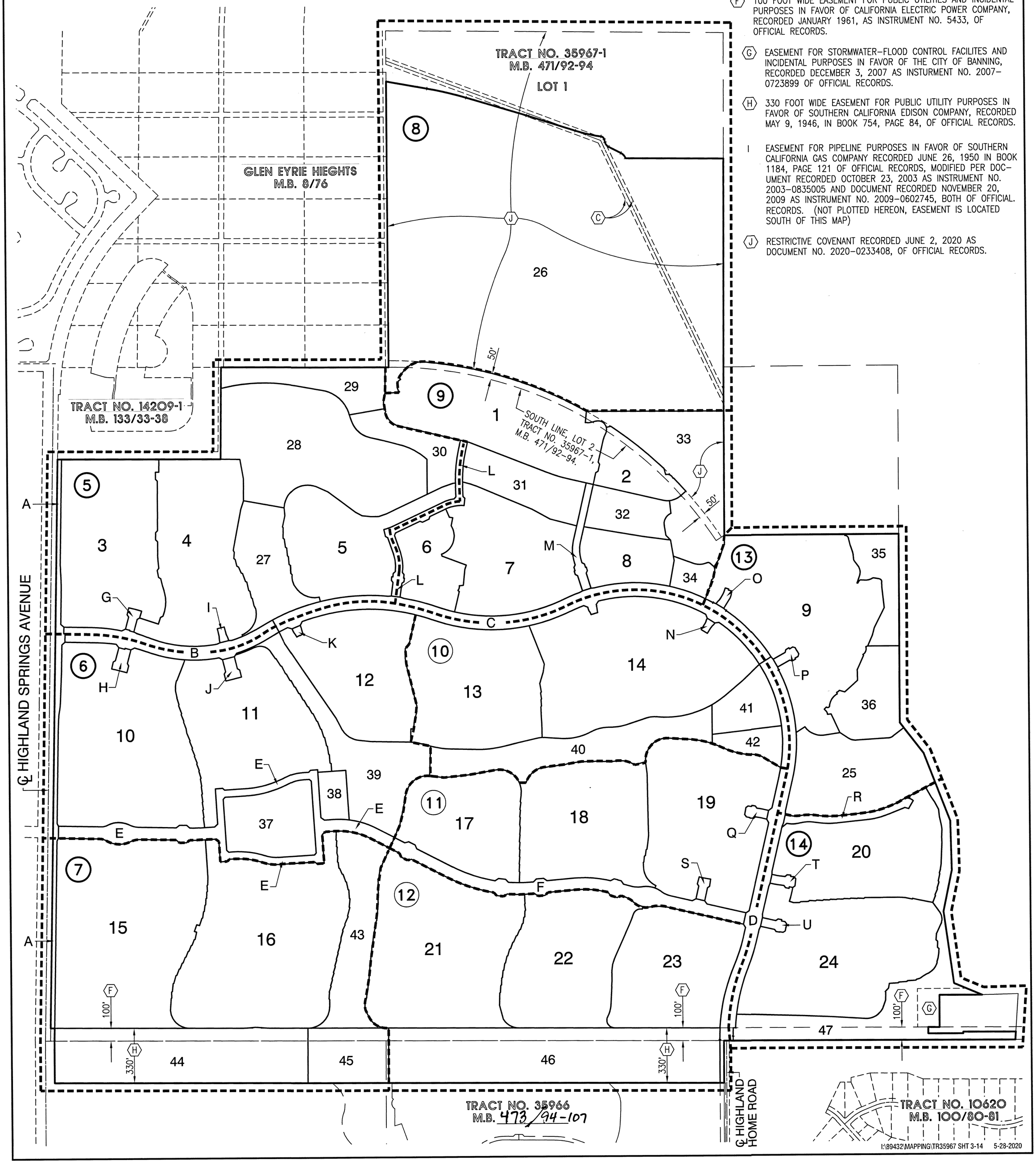
(F) 100 FOOT WIDE EASEMENT FOR PUBLIC UTILITIES AND INCIDENTAL PURPOSES IN FAVOR OF CALIFORNIA ELECTRIC POWER COMPANY, RECORDED JANUARY 1961, AS INSTRUMENT NO. 5433, OF OFFICIAL RECORDS.

(G) EASEMENT FOR STORMWATER-FLOOD CONTROL FACILITES AND INCIDENTAL PURPOSES IN FAVOR OF THE CITY OF BANNING, RECORDED DECEMBER 3, 2007 AS INSTURMENT NO. 2007-0723899 OF OFFICIAL RECORDS.

(H) 330 FOOT WIDE EASEMENT FOR PUBLIC UTILITY PURPOSES IN FAVOR OF SOUTHERN CALIFORNIA EDISON COMPANY, RECORDED MAY 9, 1946, IN BOOK 754, PAGE 84, OF OFFICIAL RECORDS.

I EASEMENT FOR PIPELINE PURPOSES IN FAVOR OF SOUTHERN CALIFORNIA GAS COMPANY RECORDED JUNE 26, 1950 IN BOOK 1184, PAGE 121 OF OFFICIAL RECORDS, MODIFIED PER DOCUMENT RECORDED OCTOBER 23, 2003 AS INSTRUMENT NO. 2003-0835005 AND DOCUMENT RECORDED NOVEMBER 20, 2009 AS INSTRUMENT NO. 2009-0602745, BOTH OF OFFICIAL RECORDS. (NOT PLOTTED HEREON, EASEMENT IS LOCATED SOUTH OF THIS MAP)

(J) RESTRICTIVE COVENANT RECORDED JUNE 2, 2020 AS DOCUMENT NO. 2020-0233408, OF OFFICIAL RECORDS.



2020-0325323
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474
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IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

TRACT NO. 35967

SHEET 5 OF 14 SHEETS

BEING A SUBDIVISION OF A PORTION OF LOTS 12, 14 THROUGH 17, 19 AND 20, OF TRACT NO. 34330, AS SHOWN BY MAP ON FILE IN BOOK 429, PAGES 84 THROUGH 103, INCLUSIVE, OF MAPS, TOGETHER WITH LOT 2 OF TRACT NO. 35967-1, AS SHOWN BY MAP ON FILE IN BOOK 471, PAGES 92 THROUGH 94, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, LYING WITHIN SECTION 1, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN.

DARYL J. CHRISTIAN, L.S. 8554 MDS CONSULTING APRIL, 2020

FOR FINANCE AND CONVEYANCE PURPOSES

160 80 0 160 320 480

GRAPHIC SCALE

SCALE: 1" = 160'

CURVE DATA			
#	DELTA	RADIUS	LENGTH
C1	1°18'34"	1372.00'	31.36'
C2	5°17'23"	978.00'	90.29'
C3	4°12'47"	1234.00'	90.74'
C4	1°14'56"	1228.00'	26.77'
C5	16°13'36"	328.00'	92.89'
C6	9°17'36"	978.00'	158.63'
C7	7°35'47"	184.00'	24.40'
C8	3°53'23"	1598.00'	108.49'
C9	3°53'23"	1490.00'	101.15'
C10	4°45'50"	1186.00'	98.61'
C11	7°10'59"	1186.00'	148.69'
C12	15°19'03"	1228.00'	328.29'
C13	0°44'14"	428.00'	5.51'

COURSE DATA		
#	BEARING	DISTANCE
L1	N 17°24'06" E RAD	56.00'
L2	N 15°08'30" E	98.73'
L3	N 63°58'25" E	31.86'
L4	N 22°40'25" W RAD	12.18'
L5	N 87°18'23" W	25.80'
L6	N 64°59'48" E	25.80'
L7	N 63°27'14" W	25.26'
L8	N 15°08'30" E	103.47'
L9	N 61°13'03" E	21.61'
L10	N 71°35'50" E	93.10'
L11	N 1°46'43" W	81.06'
L12	N 13°38'08" W	35.79'
L13	N 31°58'01" W RAD–PRC	
L14	N 29°06'48" E	15.47'
L15	N 74°51'30" W	35.00'
L16	N 15°08'30" E	5.01'
L17	N 76°09'05" E	70.00'
L18	N 28°04'38" W	108.00'
L19	N 34°34'05" E	31.57'
L20	N 76°09'05" E	96.00'
L21	N 65°16'20" E	32.76'
L22	N 74°51'30" W	48.00'
L23	N 15°08'30" E	8.19'
L24	N 1°09'01" E	67.00'
L25	N 76°27'40" W	56.00'
L26	N 64°47'35" E	142.00'
L27	N 64°47'35" E	56.00'
L28	N 24°28'11" W RAD	
L29	N 13°50'55" W	49.54'
L30	N 13°50'55" W	8.02'
L31	N 1°09'01" E	51.00'
L32	N 7°43'03" E	6.31'

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6

IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

TRACT NO. 35967

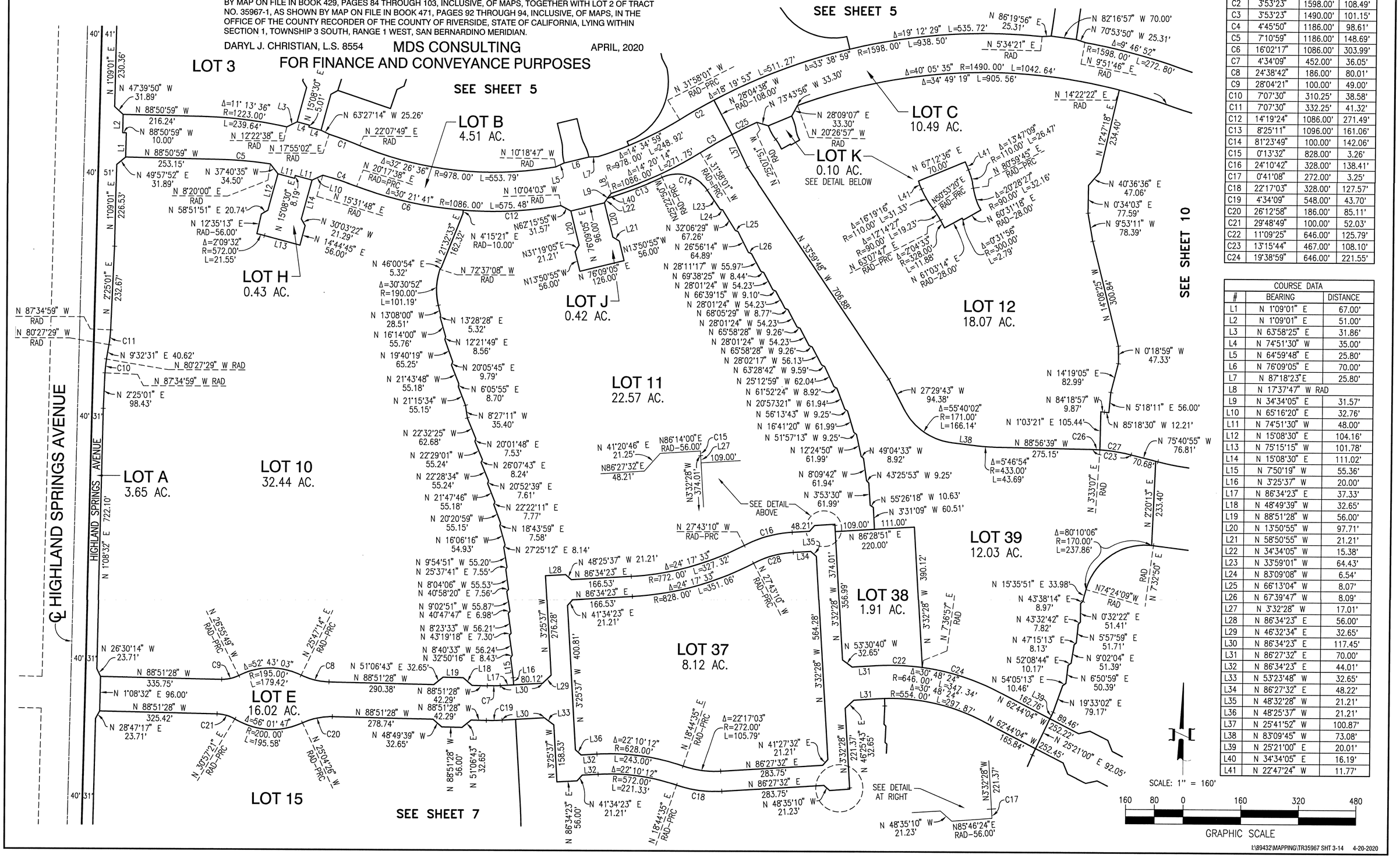
BEING A SUBDIVISION OF A PORTION OF LOTS 12, 14 THROUGH 17, 19 AND 20, OF TRACT NO. 34330, AS SHOWN BY MAP ON FILE IN BOOK 429, PAGES 84 THROUGH 103, INCLUSIVE, OF MAPS, TOGETHER WITH LOT 2 OF TRACT NO. 35967-1, AS SHOWN BY MAP ON FILE IN BOOK 471, PAGES 92 THROUGH 94, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, LYING WITHIN SECTION 1, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN.

DARYL J. CHRISTIAN, L.S. 8554 — MDS CONSULTING — APRIL, 2020

FOR FINANCE AND CONVEYANCE PURPOSES

CURVE DATA			
#	DELTA	RADIUS	LENGTH
C1	4°12'47"	1234.00'	90.74'
C2	3°53'23"	1598.00'	108.49'
C3	3°53'23"	1490.00'	101.15'
C4	4°45'50"	1186.00'	98.61'
C5	7°10'59"	1186.00'	148.69'
C6	16°02'17"	1086.00'	303.99'
C7	4°34'09"	452.00'	36.05'
C8	24°38'42"	186.00'	80.01'
C9	28°04'21"	100.00'	49.00'
C10	7°07'30"	310.25'	38.58'
C11	7°07'30"	332.25'	41.32'
C12	14°19'24"	1086.00'	271.49'
C13	8°25'11"	1096.00'	161.06'
C14	81°23'49"	100.00'	142.06'
C15	0°13'32"	828.00'	3.26'
C16	24°10'42"	328.00'	138.41'
C17	0°41'08"	272.00'	3.25'
C18	22°17'03"	328.00'	127.57'
C19	4°34'09"	548.00'	43.70'
C20	26°12'58"	186.00'	85.11'
C21	29°48'49"	100.00'	52.03'
C22	11°09'25"	646.00'	125.79'
C23	13°15'44"	467.00'	108.10'
C24	19°38'59"	646.00'	221.55'
C25	2°56'47"	1490.00'	76.62'
C26	2°29'46"	467.00'	20.35'
C27	10°45'58"	467.00'	87.75'
C28	24°10'42"	272.00'	114.78'

COURSE DATA		
#	BEARING	DISTANCE
L1	N 1°09'01" E	67.00'
L2	N 1°09'01" E	51.00'
L3	N 63°58'25" E	31.86'
L4	N 74°51'30" W	35.00'
L5	N 64°59'48" E	25.80'
L6	N 76°09'05" E	70.00'
L7	N 87°18'23"E	25.80'
L8	N 17°37'47" W RAD	
L9	N 34°34'05" E	31.57'
L10	N 65°16'20" E	32.76'
L11	N 74°51'30" W	48.00'
L12	N 15°08'30" E	104.16'
L13	N 75°15'15" W	101.78'
L14	N 15°08'30" E	111.02'
L15	N 7°50'19" W	55.36'
L16	N 3°25'37" W	20.00'
L17	N 86°34'23" E	37.33'
L18	N 48°49'39" W	32.65'
L19	N 88°51'28" W	56.00'
L20	N 13°50'55" W	97.71'
L21	N 58°50'55" W	21.21'
L22	N 34°34'05" W	15.38'
L23	N 33°59'01" W	64.43'
L24	N 83°09'08" W	6.54'
L25	N 66°13'04" W	8.07'
L26	N 67°39'47" W	8.09'
L27	N 3°32'28" W	17.01'
L28	N 86°34'23" E	56.00'
L29	N 46°32'34" E	32.65'
L30	N 86°34'23" E	117.45'
L31	N 86°27'32" E	70.00'
L32	N 86°34'23" E	44.01'
L33	N 53°23'48" W	32.65'
L34	N 86°27'32" E	48.22'
L35	N 48°32'28" W	21.21'
L36	N 48°25'37" W	21.21'
L37	N 25°41'52" W	100.87'
L38	N 83°09'45" W	73.08'
L39	N 25°21'00" E	20.01'
L40	N 34°34'05" E	16.19'
L41	N 22°47'24" W	11.77'



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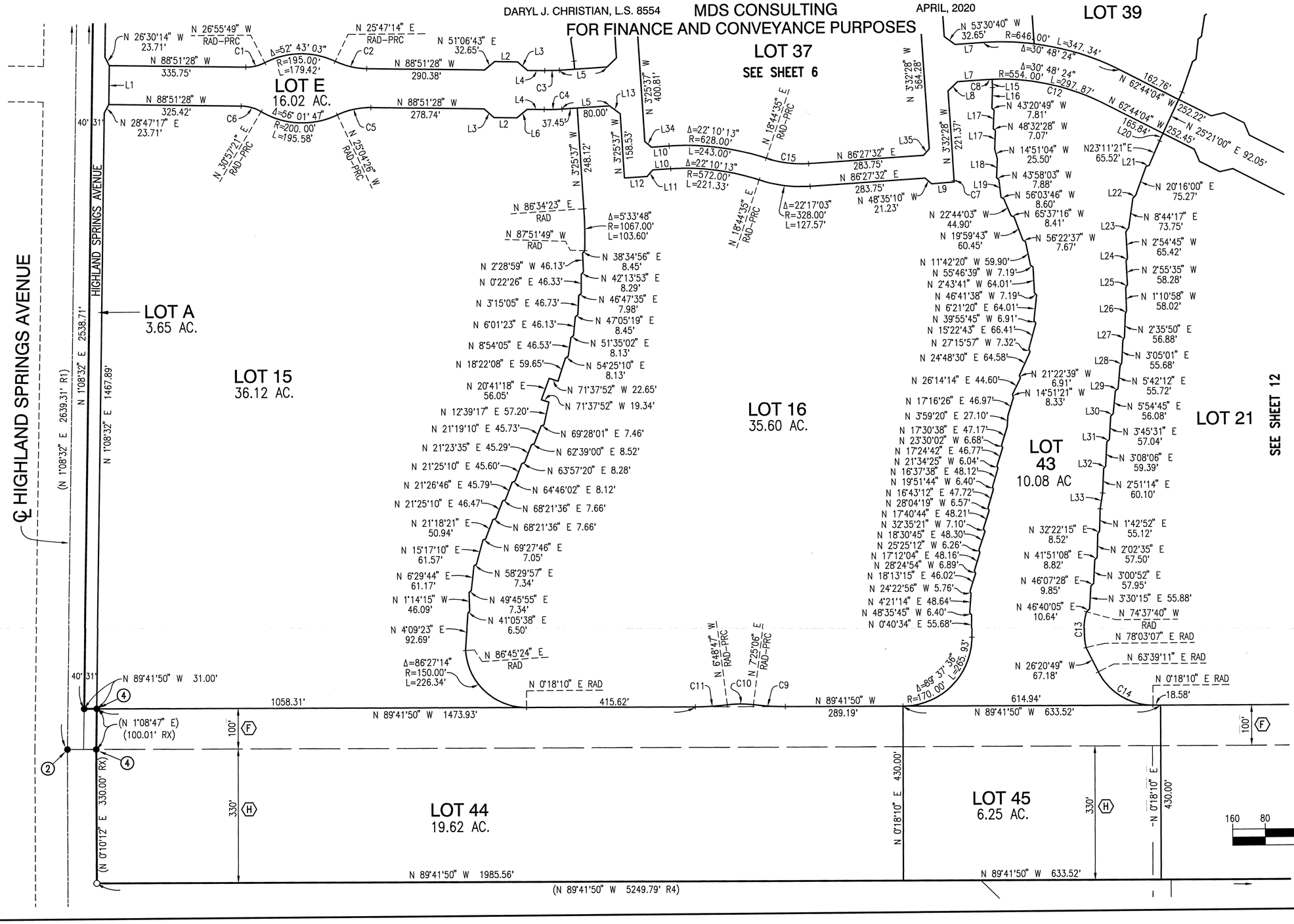
IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

TRACT NO. 35967

BEING A SUBDIVISION OF A PORTION OF LOTS 12, 14 THROUGH 17, 19 AND 20, OF TRACT NO. 34330, AS SHOWN BY MAP ON FILE IN BOOK 429, PAGES 84 THROUGH 103, INCLUSIVE, OF MAPS, TOGETHER WITH LOT 2 OF TRACT NO. 35967-1, AS SHOWN BY MAP ON FILE IN BOOK 471, PAGES 92 THROUGH 94, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, LYING WITHIN SECTION 1, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN.

DARYL J. CHRISTIAN, L.S. 8554 MDS CONSULTING APRIL, 2020

FOR FINANCE AND CONVEYANCE PURPOSES



CURVE DATA			
#	DELTA	RADIUS	LENGTH
C1	28°04'21"	100.00'	49.00'
C2	24°38'42"	186.00	80.01'
C3	4°34'09"	452.00'	36.05'
C4	4°34'09"	548.00'	43.70'
C5	26°12'58"	186.00'	85.11'
C6	29°48'49"	100.00'	52.03'
C7	0°41'08"	272.00'	3.25'
C8	1°36'43"	554.00'	15.59'
C9	7°06'56"	635.00'	78.86'
C10	14°13'53"	260.00'	64.58'
C11	7°06'57"	635.00'	78.86'
C12	29°11'41"	554.00'	282.29'
C13	27°19'13"	186.00'	88.69'
C14	63°21'01"	150.00'	165.85'
C15	22°17'03"	272.00'	105.79'

COURSE DATA		
#	BEARING	DISTANCE
L1	N 1°08'32" E	96.00'
L2	N 88°51'28" W	56.00'
L3	N 48°49'39" W	32.65'
L4	N 88°51'28" W	42.29'
L5	N 86°34'23" E	117.45'
L6	N 51°06'43" E	32.65'
L7	N 86°27'32" E	70.00'
L8	N 46°25'43" E	32.65'
L9	N 85°46'24" E	56.00'
L10	N 86°34'23" E	44.01'
L11	N 41°34'23" E	21.21'
L12	N 86°34'23" E	56.00'
L13	N 53°23'48" W	32.65'
L14	N 1°08'47" E	100.01'
L15	N 1°55'45" W RAD	20.79'
L16	N 2°10'10" E	50.25'
L17	N 2°47'56" E	45.28'
L18	N 2°44'50" E	45.65'
L19	N 6°26'53" W	42.84'
L20	N 25°21'00" E	20.01'
L21	N 73°17'35" E	7.80'
L22	N 44°21'04" E	10.33'
L23	N 34°29'59" E	12.60'
L24	N 26°39'11" E	7.59'
L25	N 31°14'16" E	7.94'
L26	N 21°14'18" E	8.04'
L27	N 29°05'16" E	8.66'
L28	N 29°00'06" E	8.72'
L29	N 46°57'47" E	9.10'
L30	N 44°15'27" E	8.81'
L31	N 45°38'08" E	8.97'
L32	N 39°14'01" E	8.01'
L33	N 9°20'08" E	39.29'
L34	N 48°25'37" w	21.21'
L35	N 41°27'32" E	21.21'

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IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

TRACT NO. 35967

BEING A SUBDIVISION OF A PORTION OF LOTS 12, 14 THROUGH 17, 19 AND 20, OF TRACT NO. 34330, AS SHOWN BY MAP ON FILE IN BOOK 429, PAGES 84 THROUGH 103, INCLUSIVE, OF MAPS, TOGETHER WITH LOT 2 OF TRACT NO. 35967-1, AS SHOWN BY MAP ON FILE IN BOOK 471, PAGES 92 THROUGH 94, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, LYING WITHIN SECTION 1, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN.

DARYL J. CHRISTIAN, L.S. 8554 MDS CONSULTING APRIL, 2020

FOR FINANCE AND CONVEYANCE PURPOSES

SECTION 25
T.2S., R.1W., S.B.M.

(N 89°22'01" W 2649.36') R1

(396.35') R3

TRACT NO. 35967-1
M.B. 471/92-94

LOT 1

(N 79°46'43" W)
(325.04') R3

(Δ=6° 28' 41")
(R=2790. 00')
(L=315.45') R3

(N 73°18'02" W)
(493.27') R3

(N 72°12'57" W)
(382.93') R3

(Δ=1°05'05")
(R=990.00')
(L=18.74') R3

(Δ=9°48'49")
(R=1210.00')
(L=207.25') R3

(Δ=47°36'00")
(R=55.00')
(L=45.69') R3

N 17°47'03" E
RAD

N 7°58'14" E
RAD-PRC

(Δ=66°53'01")
(R=30.00')
(L=35.02') R3

(N 15°08'45" W 25.41') R3

(N 62°44'45" W 106.45') R3

C1

(N 89°35'54" W 766.52') R3

N 68°38'13" E
RAD

(985.58') R3

2635.33' R1

(N 0°05'41" W

(2238.98') R3

50'

C

J

LOT 26
126.81 AC.

TRACT NO. 35967-1
M.B. 471/92-94

LOT 2

Δ=57°01'13"
R=180.00'
L=179.13'

Δ=24° 58' 28" R=3080. 00' L=1342. 53'

N 4°46'08" E
RAD-PCC

N 52°15'05" W
RAD

N 0°37'53" E
203.38'

L1

L2

C2

L3

C3

L4

N 75°03'06" E
RAD

N 88°26'50" E
110.27'

SOUTH LINE, LOT 2
TRACT NO. 35967-1
M.B. 471/92-94

N 29°44'36" E
RAD

N 89°48'24" W 1077.46'

346.30'

(1633.77') R3

(N 0°24'06" E 2619.34') R1

(N 0°24'06" E 1320.20') R1

SEE SHEET 9
1

SEE SHEET 9
33

2

SCALE: 1" = 200'

200 100 0 200 400 600

GRAPHIC SCALE

COURSE DATA		
#	BEARING	DISTANCE
L1	N 37°44'55" E	56.37'
L2	N 22°15'05" W	24.75'
L3	N 18°10'51" W	40.00'
L4	N 89°44'13" W	27.87'

CURVE DATA			
#	DELTA	RADIUS	LENGTH
C1(R2)	(41°22'58")	(80.00')	(57.78')
C2	85°55'46"	48.00'	71.99'
C3	3°13'57"	100.00'	5.64'

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IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

TRACT NO. 35967

SHEET 9 OF 14 SHEETS

BEING A SUBDIVISION OF A PORTION OF LOTS 12, 14 THROUGH 17, 19 AND 20, OF TRACT NO. 34330, AS SHOWN BY MAP ON FILE IN BOOK 429, PAGES 84 THROUGH 103, INCLUSIVE, OF MAPS, TOGETHER WITH LOT 2 OF TRACT NO. 35967-1, AS SHOWN BY MAP ON FILE IN BOOK 471, PAGES 92 THROUGH 94, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, LYING WITHIN SECTION 1, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN.

DARYL J. CHRISTIAN, L.S. 8554 MDS CONSULTING APRIL, 2020

FOR FINANCE AND CONVEYANCE PURPOSES

SCALE: 1" = 160'

160 80 0 160 320 480

GRAPHIC SCALE

SEE SHEET 8

LOT 26

LOT 1
21.63 AC.

LOT 33
14.76 AC.

LOT 30

LOT 28

LOT 31
7.12 AC.

LOT 2
5.10 AC.

LOT 5

LOT 32
4.61 AC.

LOT M
1.20 AC.

LOT 6
6.66 AC.

LOT 7
18.01 AC.

LOT 8
6.34 AC.

LOT L
SEE SHEET 5

LOT C
10.49 AC.

LOT 34
1.73 AC.

LOT 12

LOT 13

LOT 14

SEE SHEET 5

SEE SHEET 10

SEE SHEET 13

SEE DETAIL ON SHEET 10

SOUTH LINE, LOT 2, TRACT NO. 35967-1, M.B. 471/92-94.

CURVE DATA			
#	DELTA	RADIUS	LENGTH
C1	85°55'46"	48.00'	71.99'
C2	127°14'46"	66.00'	146.58'
C3	25°49'07"	184.00'	82.91'
C4	10°33'50"	314.00'	57.89'
C5	54°36'56"	158.00'	150.61'
C6	36°13'56"	66.00'	41.74'
C7	47°48'29"	48.00'	40.05'
C8	6°23'31"	1292.00'	144.14'
C9	26°37'01"	328.00'	152.37'
C10	0°44'14"	428.00'	5.51'
C11	30°37'49"	272.00'	145.41'
C12	1°37'15"	1172.00'	33.15'
C13	75°56'49"	90.00'	119.30'
C14	34°12'48"	181.00'	108.08'
C15	79°27'28"	5.00'	6.93'
C16	64°59'47"	20.00'	22.69'
C17	44°23'45"	145.00'	112.35'
C18	35°54'52"	158.00'	99.04'
C19	91°00'50"	66.00'	104.84'
C20	13°29'20"	1262.00'	297.11'
C21	57°01'13"	180.00'	179.13'

COURSE DATA		
#	BEARING	DISTANCE
L1	N 88°26'50" E	110.27'
L2	N 75°03'06" E RAD	100.00'
L3	N 18°10'51" W	40.00'
L4	N 5°29'14" E RAD	89.28'
L5	N 29°06'48" E	15.47'
L6	N 15°11'43" E	8.59'
L7	N 70°12'25" E	21.21'
L8	N 64°47'35" E	56.00'
L9	N 19°47'35" E	21.21'
L10	N 22°33'59" W	69.74'
L11	N 70°53'50" W	25.31'
L12	N 7°43'03" E	109.36'
L13	N 83°26'35" W	5.26'
L14	N 7°43'03" E	6.31'
L15	N 64°47'35" E	2.74'
L16	N 43°10'40" W	19.84'
L17	N 1°46'43" W	81.06'
L18	N 19°53'15" W RAD	
L19	N 14°27'32" W RAD	
L20	N 13°32'20" E	37.63'
L21	N 49°12'57" W	42.96'
L22	N 11°28'36" E	57.85'
L23	N 26°10'35" E RAD	15.06'
L24	N 72°49'36" E	70.00'
L25	N 72°49'36" E	70.00'
L26	N 09°27'41" W	34.01'

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SHEET 10 OF 14 SHEETS

IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

TRACT NO. 35967

BEING A SUBDIVISION OF A PORTION OF LOTS 12, 14 THROUGH 17, 19 AND 20, OF TRACT NO. 34330, AS SHOWN BY MAP ON FILE IN BOOK 429, PAGES 84 THROUGH 103, INCLUSIVE, OF MAPS, TOGETHER WITH LOT 2 OF TRACT NO. 35967-1, AS SHOWN BY MAP ON FILE IN BOOK 471, PAGES 92 THROUGH 94, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, LYING WITHIN SECTION 1, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN.

DARYL J. CHRISTIAN, L.S. 8554 MDS CONSULTING APRIL, 2020

FOR FINANCE AND CONVEYANCE PURPOSES

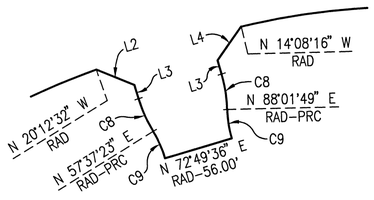
SCALE: 1" = 160'

160 80 0 160 320 480

GRAPHIC SCALE

COURSE DATA		
#	BEARING	DISTANCE
L1	N 75°40'55" W	76.81'
L2	N 68°24'19" W	33.49'
L3	N 17°10'24" W	11.41'
L4	N 34°03'32" E	33.49'
L5	N 31°58'05" E	6.41'
L6	N 86°12'18" W	134.03'
L7	N 58°01'55" W	70.00'
L8	N 86°19'56" E	25.31'
L9	N 82°16'57" W	70.00'
L10	N 70°53'50" W	25.31'
L11	N 72°49'36" E	70.00'
L12	N 69°26'05" W	25.26'
L13	N 58°01'55" W	70.00'
L14	N 46°37'45" W	25.26'

CURVE DATA			
#	DELTA	RADIUS	LENGTH
C1	5°16'16"	1490.00'	137.08'
C2	16°56'17"	167.00'	49.37'
C3	11°25'15"	167.00'	33.29'
C4	5°31'02"	167.01'	16.08'
C5	13°15'44"	467.00'	108.10'
C6	10°45'58"	467.00'	87.75'
C7	2°29'46"	467.00'	20.35'
C8	15°12'13"	110.00'	29.19'
C9	15°12'13"	90.00'	23.88'
C10	19°15'56"	35.00'	11.77'
C11	19°15'56"	90.00'	30.26'
C12	10°46'06"	733.00'	137.76'
C13	7°13'24"	738.00'	93.04'
C14	6°23'31"	1292.00'	144.14'
C15	39°04'26"	181.00'	123.44'



SEE SHEET 6

SEE SHEET 9

LOT 7

LOT 8

LOT 34

LOT C
10.49 AC.

LOT N
SEE DETAIL AT RIGHT

LOT N
0.14 AC.

SEE DETAIL ABOVE

LOT 14
31.97 AC.

LOT 13
21.84 AC.

LOT 12

LOT 40
11.60 AC.

LOT 39

LOT 41
4.27 AC.

LOT 42
2.42 AC.

LOT 19

SEE SHEET 11

SEE SHEET 13

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IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

TRACT NO. 35967

SHEET 11 OF 14 SHEETS

BEING A SUBDIVISION OF A PORTION OF LOTS 12, 14 THROUGH 17, 19 AND 20, OF TRACT NO. 34330, AS SHOWN BY MAP ON FILE IN BOOK 429, PAGES 84 THROUGH 103, INCLUSIVE, OF MAPS, TOGETHER WITH LOT 2 OF TRACT NO. 35967-1, AS SHOWN BY MAP ON FILE IN BOOK 471, PAGES 92 THROUGH 94, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, LYING WITHIN SECTION 1, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN.

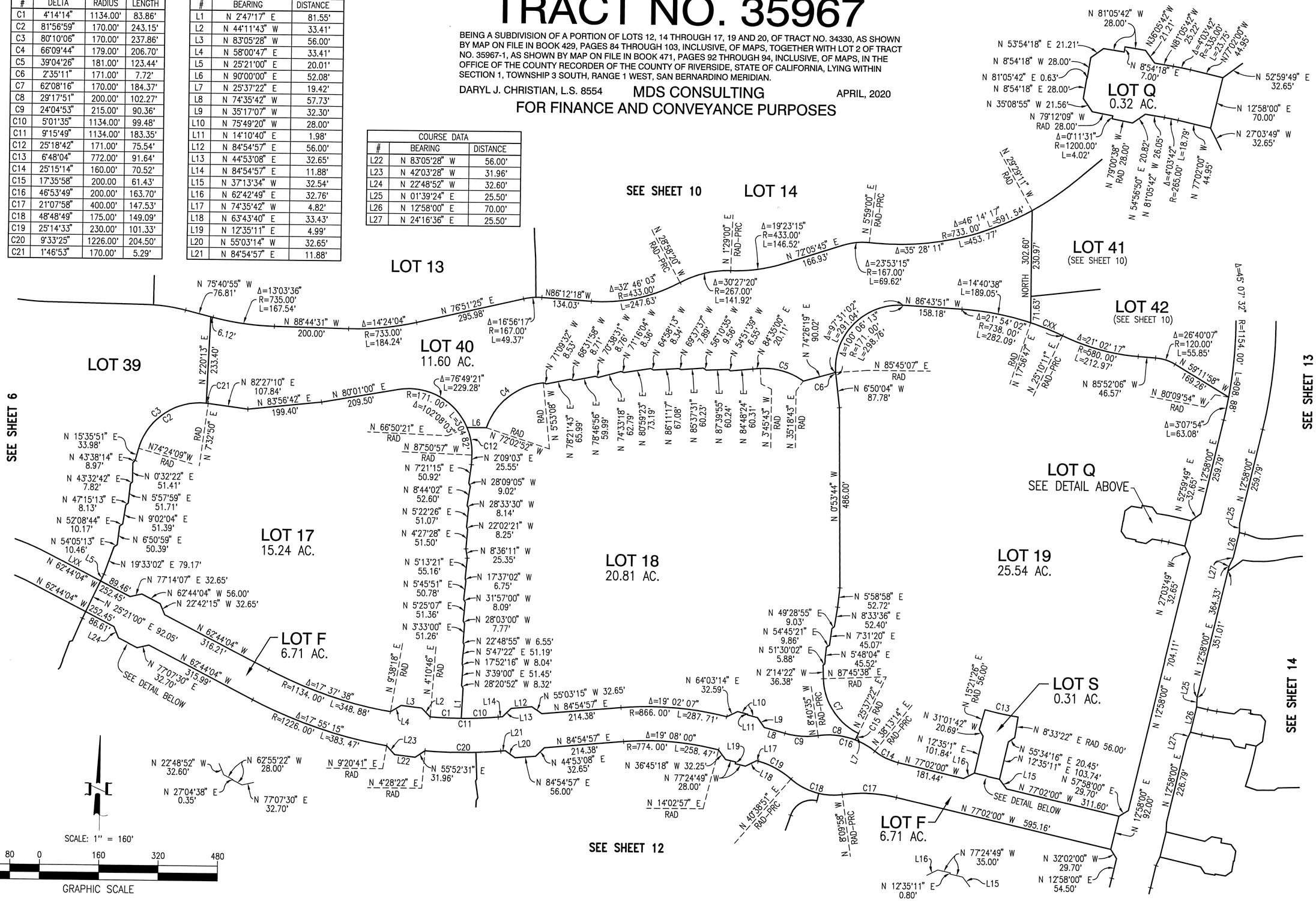
DARYL J. CHRISTIAN, L.S. 8554 MDS CONSULTING APRIL, 2020

FOR FINANCE AND CONVEYANCE PURPOSES

CURVE DATA			
#	DELTA	RADIUS	LENGTH
C1	4°14'14"	1134.00'	83.86'
C2	81°56'59"	170.00'	243.15'
C3	80°10'06"	170.00'	237.86'
C4	66°09'44"	179.00'	206.70'
C5	39°04'26"	181.00'	123.44'
C6	2°35'11"	171.00'	7.72'
C7	62°08'16"	170.00'	184.37'
C8	29°17'51"	200.00'	102.27'
C9	24°04'53"	215.00'	90.36'
C10	5°01'35"	1134.00'	99.48'
C11	9°15'49"	1134.00'	183.35'
C12	25°18'42"	171.00'	75.54'
C13	6°48'04"	772.00'	91.64'
C14	25°15'14"	160.00'	70.52'
C15	17°35'58"	200.00	61.43'
C16	46°53'49"	200.00'	163.70'
C17	21°07'58"	400.00'	147.53'
C18	48°48'49"	175.00'	149.09'
C19	25°14'33"	230.00'	101.33'
C20	9°33'25"	1226.00'	204.50'
C21	1°46'53"	170.00'	5.29'

COURSE DATA		
#	BEARING	DISTANCE
L1	N 2°47'17" E	81.55'
L2	N 44°11'43" W	33.41'
L3	N 83°05'28" W	56.00'
L4	N 58°00'47" E	33.41'
L5	N 25°21'00" E	20.01'
L6	N 90°00'00" E	52.08'
L7	N 25°37'22" E	19.42'
L8	N 74°35'42" W	57.73'
L9	N 35°17'07" W	32.30'
L10	N 75°49'20" W	28.00'
L11	N 14°10'40" E	1.98'
L12	N 84°54'57" E	56.00'
L13	N 44°53'08" E	32.65'
L14	N 84°54'57" E	11.88'
L15	N 37°13'34" W	32.54'
L16	N 62°42'49" E	32.76'
L17	N 74°35'42" W	4.82'
L18	N 63°43'40" E	33.43'
L19	N 12°35'11" E	4.99'
L20	N 55°03'14" W	32.65'
L21	N 84°54'57" E	11.88'

COURSE DATA		
#	BEARING	DISTANCE
L22	N 83°05'28" W	56.00'
L23	N 42°03'28" W	31.96'
L24	N 22°48'52" W	32.60'
L25	N 01°39'24" E	25.50'
L26	N 12°58'00" E	70.00'
L27	N 24°16'36" E	25.50'



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SHEET 12 OF 14 SHEETS

IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

TRACT NO. 35967

BEING A SUBDIVISION OF A PORTION OF LOTS 12, 14 THROUGH 17, 19 AND 20, OF TRACT NO. 34330, AS SHOWN BY MAP ON FILE IN BOOK 429, PAGES 84 THROUGH 103, INCLUSIVE, OF MAPS, TOGETHER WITH LOT 2 OF TRACT NO. 35967-1, AS SHOWN BY MAP ON FILE IN BOOK 471, PAGES 92 THROUGH 94, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, LYING WITHIN SECTION 1, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN.

DARYL J. CHRISTIAN, L.S. 8554 MDS CONSULTING APRIL, 2020

FOR FINANCE AND CONVEYANCE PURPOSES

160 80 0 160 320 480

GRAPHIC SCALE

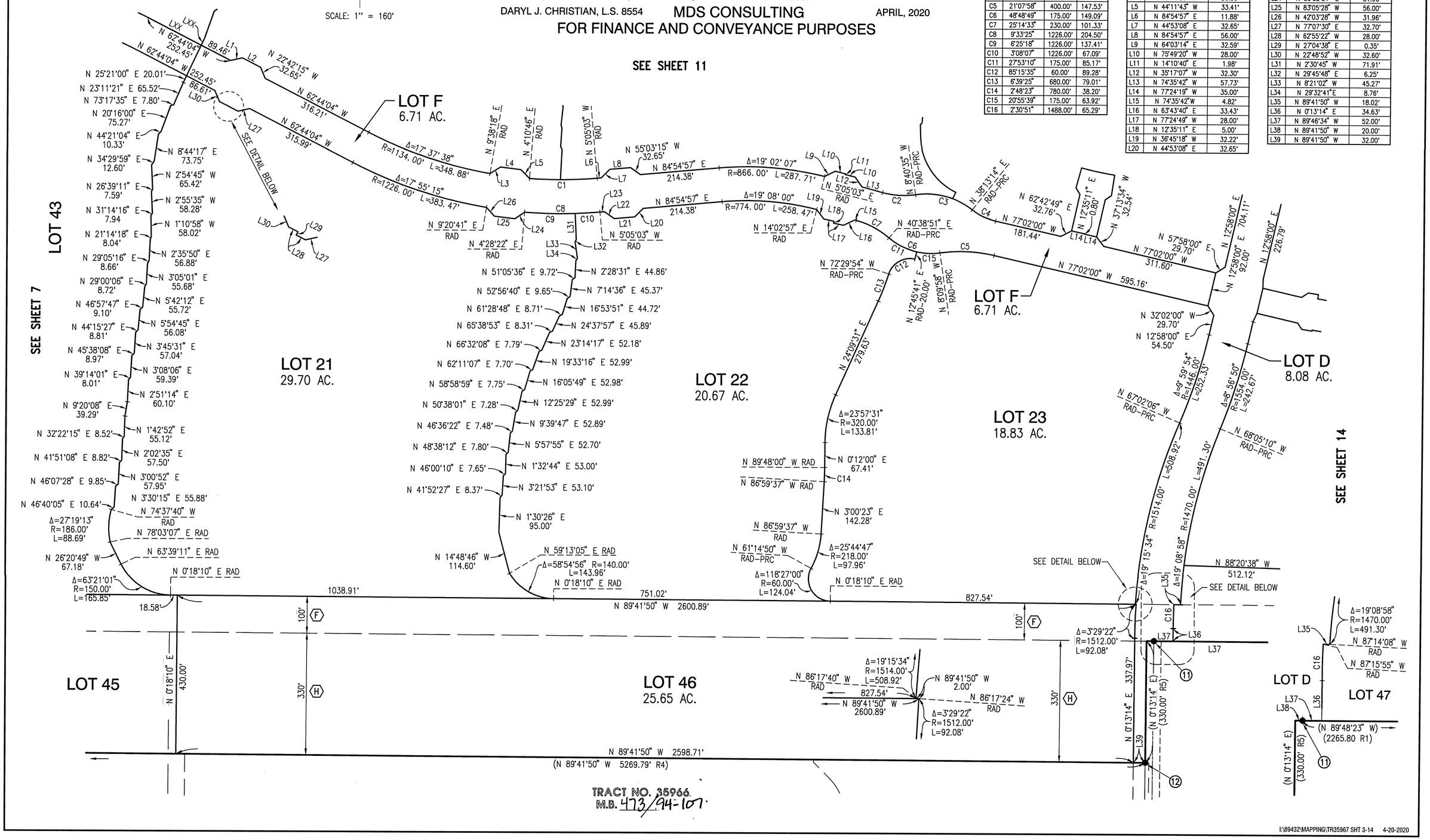
SCALE: 1" = 160'

SEE SHEET 11

CURVE DATA			
#	DELTA	RADIUS	LENGTH
C1	9°15'49"	1134.00'	183.35'
C2	24°04'53"	215.00'	90.36'
C3	46°53'49"	200.00'	163.70'
C4	25°15'14"	160.00'	70.52'
C5	21°07'58"	400.00'	147.53'
C6	48°48'49"	175.00'	149.09'
C7	25°14'33"	230.00'	101.33'
C8	9°33'25"	1226.00'	204.50'
C9	6°25'18"	1226.00'	137.41'
C10	3°08'07"	1226.00'	67.09'
C11	27°53'10"	175.00'	85.17'
C12	85°15'35"	60.00'	89.28'
C13	6°39'25"	680.00'	79.01'
C14	2°48'23"	780.00'	38.20'
C15	20°55'39"	175.00'	63.92'
C16	2°30'51"	1488.00'	65.29'

COURSE DATA		
#	BEARING	DISTANCE
L1	N 77°14'07" E	32.05'
L2	N 62°44'04" W	56.00'
L3	N 58°00'47" E	33.41'
L4	N 83°05'28" W	56.00'
L5	N 44°11'43" W	33.41'
L6	N 84°54'57" E	11.88'
L7	N 44°53'08" E	32.65'
L8	N 84°54'57" E	56.00'
L9	N 64°03'14" E	32.59'
L10	N 75°49'20" W	28.00'
L11	N 14°10'40" E	1.98'
L12	N 35°17'07" W	32.30'
L13	N 74°35'42" W	57.73'
L14	N 77°24'19" W	35.00'
L15	N 74°35'42"W	4.82'
L16	N 63°43'40" E	33.43'
L17	N 77°24'49" W	28.00'
L18	N 12°35'11" E	5.00'
L19	N 36°45'18" W	32.22'
L20	N 44°53'08" E	32.65'

COURSE DATA		
#	BEARING	DISTANCE
L21	N 84°54'57" E	56.00'
L22	N 55°03'14" W	32.65'
L23	N 84°54'57" E	11.88'
L24	N 55°52'31" E	31.96'
L25	N 83°05'28" W	56.00'
L26	N 42°03'28" W	31.96'
L27	N 77°07'30" E	32.70'
L28	N 62°55'22" W	28.00'
L29	N 27°04'38" E	0.35'
L30	N 22°48'52" W	32.60'
L31	N 2°30'45" W	71.91'
L32	N 29°45'48" E	6.25'
L33	N 8°21'02" W	45.27'
L34	N 29°32'41"E	8.76'
L35	N 89°41'50" W	18.02'
L36	N 0°13'14" E	34.63'
L37	N 89°46'34" W	52.00'
L38	N 89°41'50" W	20.00'
L39	N 89°41'50" W	32.00'



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2020-0325323 Original 4th 13

IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

TRACT NO. 35967

BEING A SUBDIVISION OF A PORTION OF LOTS 12, 14 THROUGH 17, 19 AND 20, OF TRACT NO. 34330, AS SHOWN BY MAP ON FILE IN BOOK 429, PAGES 84 THROUGH 103, INCLUSIVE, OF MAPS, TOGETHER WITH LOT 2 OF TRACT NO. 35967-1, AS SHOWN BY MAP ON FILE IN BOOK 471, PAGES 92 THROUGH 94, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, LYING WITHIN SECTION 1, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN.

DARYL J. CHRISTIAN, L.S. 8554 MDS CONSULTING APRIL, 2020

FOR FINANCE AND CONVEYANCE PURPOSES

SCALE: 1" = 160'

160 80 0 160 320 480

GRAPHIC SCALE

SECTION 31
T.2S., R.1E., S.B.M.

CURVE DATA			
#	DELTA	RADIUS	LENGTH
C21	23°02'14"	110.00'	44.23'
C22	3°04'38"	1262.00'	67.78'
C23	79°27'28"	5.00'	6.93'
C24	34°12'48"	181.00'	108.08'
C25	48°16'03"	66.00'	55.60'
C26	20°59'50"	328.00'	120.20'
C27	11°44'01"	272.00'	55.70'
C28	21°57'58"	90.00'	34.50'
C29	9°53'07"	110.00'	18.98'
C30	78°20'20"	66.00'	90.24'
C31	24°12'24"	272.00'	114.92'
C32	23°43'00"	260.00'	107.62'
C33	30°04'17"	66.00'	34.64'

CURVE DATA			
#	DELTA	RADIUS	LENGTH
C1	76°22'04"	30.00'	39.99'
C2	12°50'59"	100.00'	22.43'
C3	31°31'43"	20.00'	11.01'
C4	56°24'50"	80.00'	78.77'
C5	62°14'13"	15.00'	16.29'
C6	33°05'43"	100.00'	57.76'
C7	39°25'16"	25.00'	17.20'
C8	79°42'18"	25.00'	34.78'
C9	31°36'59"	48.00'	26.49'
C10	55°17'32"	120.00'	115.80'
C11	125°52'43"	15.00'	32.95'
C12	39°00'02"	48.00'	32.67'
C13	63°10'57"	160.00'	176.44'
C14	0°20'24"	1500.00'	8.90'
C15	0°23'58"	1500.00'	10.46'
C16	18°36'37"	35.00'	11.37'
C17	14°31'09"	90.00'	22.81'
C18	20°10'04"	272.00'	95.74'
C19	1°42'25"	300.00'	8.94'
C20	5°15'20"	272.00	24.95'

COURSE DATA		
#	BEARING	DISTANCE
L1	N 30°45'13" E	20.32'
L2	N 87°00'34" W	32.06'
L3	N 80°41'01" W	38.85'
L4	N 00°58'43" W	40.65'
L5	N 74°01'38" W	44.11'
L6	N 20°31'35" W RAD	12.84'
L7	N 44°57'35" E	23.54'
L8	N 45°02'25" W	15.61'
L9	N 81°28'14" E	122.05'
L10	N 57°42'02" E	81.75'
L11	N 73°43'37" W	21.48'
L12	N 61°59'26" E RAD	28.00'
L13	N 61°39'02" E RAD	28.00'
L14	N 16°06'11" E	21.01'
L15	N 29°26'41" W	28.00'
L16	N 60°33'19" E	0.75'
L17	N 75°29'39" W	20.82'
L18	N 58°27'24" E RAD	28.00'
L19	N 58°03'26" W RAD	28.00'
L20	N 14°18'23" E	21.67'
L21	N 57°50'28" E RAD	108.00'
L22	N 31°58'05" E	14.30'
L23	N 74°06'31" W RAD	28.00'
L24	N 75°48'49" W RAD	28.27'
L25	N 26°10'35" E RAD	15.06'
L26	N 16°06'11" E RAD	23.13'
L27	N 57°50'08" E	40.99'
L28	N 68°07'57" E	88.34'
L29	N 77°02'00" W	15.39'
L30	N 1°39'24" E	25.50'
L31	N 29°26'41" W	70.00'
L32	N 12°58'00" E	70.00'
L33	N 24°16'36" E	25.50'
L34	N 30°09'59" E	71.01'
L35	N 68°07'57" E	139.30'
L36	N 52°40'33" E	50.37'

SOUTH LINE, LOT 2, TRACT NO. 35967-1, M.B. 471/92-94.

COUNTY OF RIVERSIDE

CITY OF BANNING

(N 89°59'08" E 1366.67' R1)

944.19'

N 0°00'52" W 10.00'

N 0°00'52" W RAD

N 76°21'12" E RAD

C1 422.48'

N 13°38'48" W 53.62'

N 18°08'49" W 59.91'

C2

N 5°17'50" W 35.95'

C3

N 36°49'33" W 51.40'

C4

N 19°35'17" E 62.50'

N 88°36'11" W 6.26'

L1 C5 C6 L2 C7 L3 C8 L4

N 30°06'17" W RAD-PRC

N 26°51'48" E 174.83'

878.21'

599.70'

(N 0°06'34" E 1477.91' R1)

N 14°29'38" E 56.40'

N 23°23'54" E 97.76'

N 68°29'22" E (RAD) 16.03'

N 89°53'26" W 247.35'

N 26°54'37" E (RAD) 9.15'

Δ=84°36'02" R=48.00' L=70.87'

N 24°15'06" E 117.46'

N 0°51'02" W 86.90'

N 48°24'15" E 136.46'

N 52°08'34" W RAD

N 20°31'35" W RAD

L5 L6 C9 C10

N 29°13'09" W RAD

N 41°22'02" E RAD

N 84°30'41" W RAD-PRC

L7 L8 C11 C12

N 83°57'37" E (RAD) 28.29'

N 24°58'40" W 161.91'

N 6°16'18" W 161.87'

N 54°39'11" E RAD

L10 C13 L9

N 56°38'13" W 78.16'

N 52°25'37" E 108.94'

N 86°28'54" E RAD

N 86°25'21" E 252.78'

52.24'

(N 37°34'23" W) (304.01' R1) 251.77'

Δ=36°56'26" R=100.00' L=64.47'

Δ=33°59'44" R=65.00' L=38.57'

246.99'

(N 21°03'23" W 569.30' R1)

LOT O
SEE DETAIL BELOW

LOT C
SEE SHEET 10

LOT 9
29.40 AC.

LOT 35
4.80 AC.

LOT P
SEE DETAIL BELOW

LOT 36
6.96 AC.

LOT D
8.08 AC.

SECTION 31
T.2S., R.1E., S.B.M.

N 40°50'51" W 25.26'

N 18°02'31" W 25.26'

L31 L21 C24 C23 C22 L25

N 89°35'38" E RAD

N 0°11'36" E 75.02'

N 67°25'55" E 15.44'

N 56°11'34" W RAD-PRC

N 44°20'58" W RAD

N 33°51'17" E 67.84'

N 16°13'03" W 24.04'

N 11°24'53" E 71.00'

N 52°10'04" E 16.52'

N 13°25'11" E 68.45'

N 54°14'40" E 18.86'

N 11°28'36" E 57.85'

N 69°26'05" W 25.26'

N 29°15'13" E RAD

N 46°37'45" W 25.26'

Δ=23°09'32" R=1262.00' L=510.10'

N 34°40'56" E RAD

Δ=22°50'15" R=1154.00' L=459.97'

N 63°16'11" E RAD

Δ=23°12'43" L=511.27'

Δ=39°41'49" R=1262.00' L=874.37'

Δ=45°07'32" R=1154.00' L=908.88'

Δ=16°29'06" L=363.10'

N 12°58'00" E 259.79'

N 12°58'00" E 364.33'

13.32'

N 27°03'49" W 32.65'

N 52°59'49" E 32.65'

N 12°58'00" E 259.79'

N 22°51'07" E RAD-PRC

N 0°53'09" E RAD-PRC

N 10°50'52" W RAD-PRC

N 10°08'58" E RAD-PRC

N 14°03'26" W RAD-PRC

N 10°08'58" E RAD-PRC

Δ=16°10'45" R=572.00' L=161.52'

Δ=15°50'16" R=572.00' L=158.11'

Δ=10°17'49" R=100.00' L=17.97'

Δ=16°10'45" R=628.00' L=177.33'

Δ=15°50'16" R=628.00' L=173.59'

N 83°58'13" E 233.84'

N 83°58'13" E 233.84'

N9°39'34"E RAD

N46°10'28"E RAD

N 73°48'28" W 30.82'

N 62°12'22" E 220.90'

136.92'

83.98'

L26 C25 C30 C33 L27 L28 L34 L35 L36 C26 C27 C28 C29 C31 C32 L30 L29 L33 L32

LOT R
1.37 AC.

LOT 25
13.90 AC.

SEE SHEET 10

N 72°24'06" W RAD

N 53°56'27" W RAD-PRC

N 39°25'18" W RAD-PRC

N 81°04'09" W RAD-PRC

L23 L24 C18 C19 C20 C21 C16 C17 L22

N 31°58'05" E 83.84'

N 58°01'05" W 70.00'

N 69°26'05" W 25.26'

N 46°37'45" W 25.26'

LOT O
0.22 AC.

L15 C15 L17 L19 L18 L20 L16 L13 L14 C14 L12 C13 L11

N 60°33'19" E 107.34'

N 29°26'41" W 70.00'

N 60°33'19" E 108.26'

N 18°02'31" W 25.26'

LOT P
0.35 AC.

LOT 20
SEE SHEET 14

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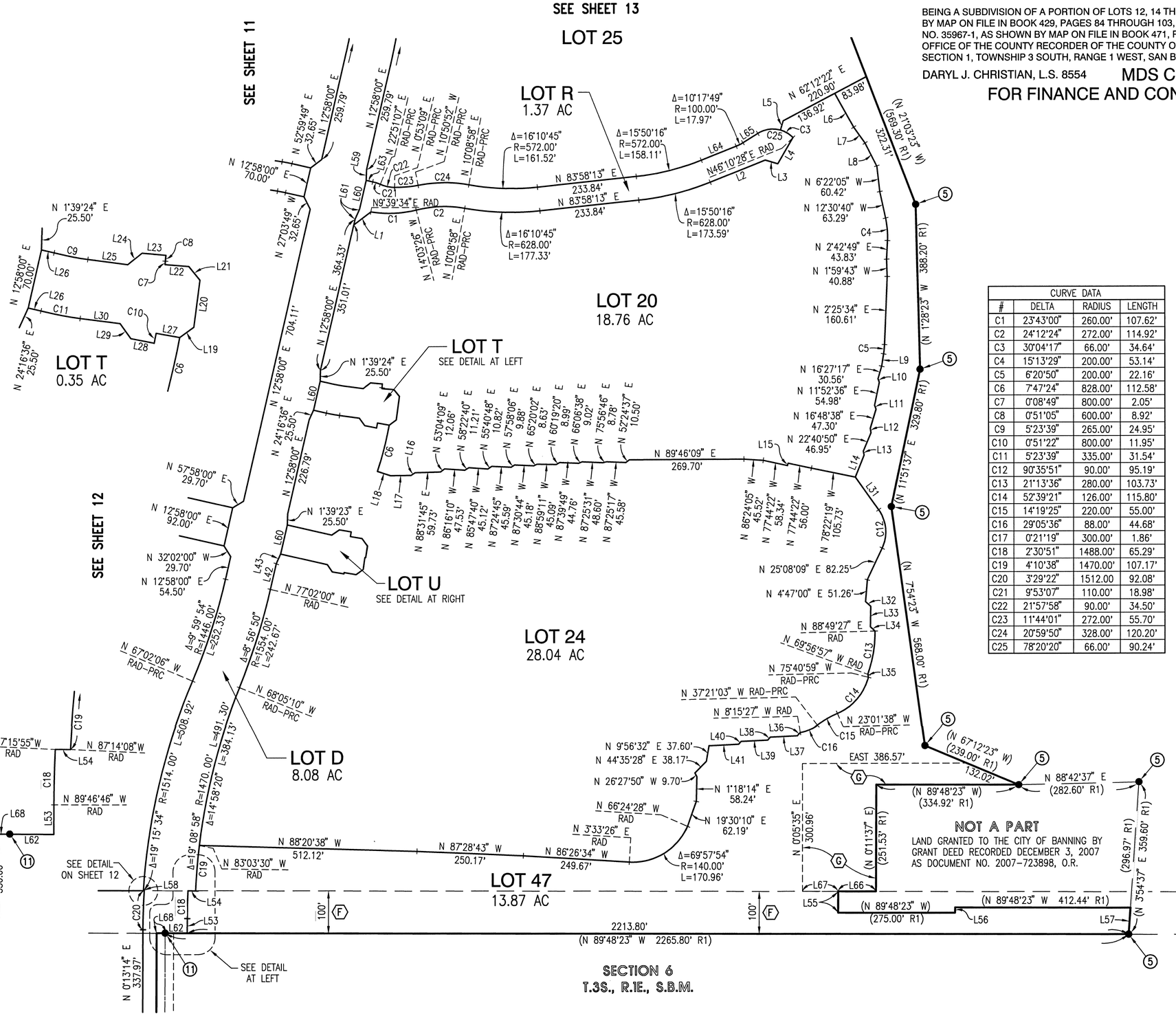
IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

TRACT NO. 35967

BEING A SUBDIVISION OF A PORTION OF LOTS 12, 14 THROUGH 17, 19 AND 20, OF TRACT NO. 34330, AS SHOWN BY MAP ON FILE IN BOOK 429, PAGES 84 THROUGH 103, INCLUSIVE, OF MAPS, TOGETHER WITH LOT 2 OF TRACT NO. 35967-1, AS SHOWN BY MAP ON FILE IN BOOK 471, PAGES 92 THROUGH 94, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, LYING WITHIN SECTION 1, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN.

DARYL J. CHRISTIAN, L.S. 8554 — MDS CONSULTING — APRIL, 2020

FOR FINANCE AND CONVEYANCE PURPOSES



SCALE: 1" = 160'

160 80 0 160 320 480

GRAPHIC SCALE

CURVE DATA			
#	DELTA	RADIUS	LENGTH
C1	23°43'00"	260.00'	107.62'
C2	24°12'24"	272.00'	114.92'
C3	30°04'17"	66.00'	34.64'
C4	15°13'29"	200.00'	53.14'
C5	6°20'50"	200.00'	22.16'
C6	7°47'24"	828.00'	112.58'
C7	0°08'49"	800.00'	2.05'
C8	0°51'05"	600.00'	8.92'
C9	5°23'39"	265.00'	24.95'
C10	0°51'22"	800.00'	11.95'
C11	5°23'39"	335.00'	31.54'
C12	90°35'51"	90.00'	95.19'
C13	21°13'36"	280.00'	103.73'
C14	52°39'21"	126.00'	115.80'
C15	14°19'25"	220.00'	55.00'
C16	29°05'36"	88.00'	44.68'
C17	0°21'19"	300.00'	1.86'
C18	2°30'51"	1488.00'	65.29'
C19	4°10'38"	1470.00'	107.17'
C20	3°29'22"	1512.00	92.08'
C21	9°53'07"	110.00'	18.98'
C22	21°57'58"	90.00'	34.50'
C23	11°44'01"	272.00'	55.70'
C24	20°59'50"	328.00'	120.20'
C25	78°20'20"	66.00'	90.24'

COURSE DATA		
#	BEARING	DISTANCE
L1	N 52°40'33" E	50.37'
L2	N 68°07'57" E	139.30'
L3	N 73°48'28" W	30.82'
L4	N 30°09'59" E	71.01'
L5	N 16°06'11" E	23.13'
L6	N 29°11'05" W	91.03'
L7	N 35°56'09" W	45.75'
L8	N 26°58'40" W	61.74'
L9	N 8°46'24" E	28.86'
L10	N 18°55'15" W	9.34'
L11	N 20°39'08" W	10.08'
L12	N 8°20'58" W	10.43'
L13	N 11°37'25" W	9.49'
L14	N 21°34'27" E	55.35'
L15	N 12°15'38" E	5.70'
L16	N 56°06'37" E	11.56'
L17	N 89°26'53" E	48.67'
L18	N 71°46'43" W RAD	31.80'
L19	N 54°00'07" E	20.68'
L20	N 7°28'48" E	56.00'
L21	N 38°55'21" W	20.65'
L22	N 85°24'58" W RAD	28.00'
L23	N 84°42'42" W RAD	28.00'
L24	N 51°25'49" E	21.63'
L25	N 82°25'39" W	47.22'
L26	N 77°02'00" W	30.79'
L27	N 79°34'07" W RAD	28.00'
L28	N 78°42'45" W RAD	28.00'
L29	N 35°34'12" W	21.89'
L30	N 82°25'39" W	47.21'
L31	N 35°27'42" W	94.15'
L32	N 48°39'41" W	16.43'

COURSE DATA		
#	BEARING	DISTANCE
L33	N 1°01'31" E	48.57'
L34	N 46°39'25" W	14.70'
L35	N 11°42'27" W	7.04'
L36	N 41°13'23" E	10.41'
L37	N 87°18'41" E	63.76'
L38	N 40°03'26" E	8.99'
L39	N 87°18'41" E	62.69'
L40	N 41°44'28" E	9.03'
L41	N 87°18'41" E	69.56'
L42	N 12°58'00" E	61.50'
L43	N 24°16'34" E	25.50'
L44	N 33°57'09" W	20.49'
L45	N 80°16'30" W	28.00'
L46	N 9°43'30" E	2.95'
L47	N 54°11'39" E	21.02'
L48	N 8°39'48" E RAD	28.00'
L49	N 8°18'29" E RAD	28.00'
L50	N 35°59'00" W	21.47'
L51	N 9°43'30" E	11.19'
L52	N 56°02'03" E	21.90'
L53	N 0°13'14" E	34.63'
L54	N 89°41'50" W	18.02'
L55	(N 0°11'37" E R1)	(50.00' R1)
L56	N 0°11'37" E	12.50'
L57	N 3°54'37" E	62.63'
L58	N 89°41'50" W	2.00'
L59	N 1°39'24" E	25.50'
L60	N 12°58'00" E	70.00'
L61	N 24°16'36" E	25.50'
L62	N 89°48'23" W	52.00'
L63	N 77°02'00" W	15.39'
L64	N 68°07'57" E	88.34'
L65	N 57°50'08" E	40.99'
L66	(N 89°48'23" W)	(89.27' R1)
L67	N 89°48'23" W	83.74'
L68	N 89°41'50" W	20.00'

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CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Robert Fisher, Acting City Manager**
PREPARED BY:	**Patrick Safari, Capital Improvement Projects Manager** **Art Vela, Director of Public Works**
MEETING DATE:	**May 27, 2025**
SUBJECT:	**Consideration of Resolution 2025-70, Approving Amendment No. 4 to the Professional Services Agreement with Albert A. Webb Associates, Inc. for an Additional Amount of $57,080 for Environmental Permitting Related Biological Studies for the Sun Lakes Boulevard Extension Project**

RECOMMENDATION:

Adopt Resolution 2025-70.

BACKGROUND:

On April 14, 2020, City Council approved Resolution No. 2020-48 for Professional Services Agreement with WEBB for the design of the Sun Lakes Boulevard Extension Project in the amount of $548,416.05.

On July 14, 2020, City Council adopted Resolution No. 2020-97, authorizing the City Manager to execute a Transportation Uniform Mitigation Fee (TUMF) Reimbursement Agreement with Western Riverside Council of Government (WRCOG) for up to $1,000,000 in TUMF funds for the Sun Lakes Boulevard Extension project.

On February 11, 2022, a change order to the Professional Services Agreement with WEBB was approved for out-of-scope work including coordination with Western Riverside County Regional Conservation Authority (RCA) in the amount of $24,983.25. The approval of this change order was within the City Manager's approval authority.

On March 21, 2022, a change order to the Professional Services Agreement with WEBB was approved for out-of-scope work for the preparation of a sediment transport analysis in the amount of $5,974.88. The approval of this change order was within the City Manager's approval authority.

On October 11, 2022, City Council adopted Resolution 2022-139 to rescind Resolution 2022-106 and to amend the Professional Services Agreement with WEBB ("Amendment No. 1") to include additional compensation in the amount of $148,222 and extend the term of the agreement to June 30, 2024. Amendment No. 1 was for out-of-scope work such as storm drain system design, environmental coordination with RCA, supplemental environmental documentation and jurisdictional delineation and permitting. Amendment No. 1 increased the contract amount to $751,947.66.

On October 24, 2023, City Council adopted Resolution 2023-175 to amend the Professional Services Agreement with WEBB ("Amendment No.2") to include additional compensation in the amount of $496,079 for continued design of the Sun Lakes Boulevard Extension. Amendment No. 2 increased the

contract amount to $1,248,026.66.

Under the existing Professional Services Agreement, WEBB is working on securing regulatory permits from the Regional Water Quality Control Board (RWQCB) and the California Department of Fish and Wildlife (CDFW). To obtain these permits, pre-construction biological investigations are one of the prerequisites that must be met as stated in the draft Streambed Alteration Agreement with CDFW. This agreement is still in negotiation and expected to be finalized in June 2025.

The new scope of work under this Amendment No.3 will include the following biological studies and other services required before construction can commence on the project:

- Pre-construction Nesting Bird Survey and Report
- Pre-construction Burrowing Owl Inspection Survey and Report
- Crotch's Bumble Bee Habitat Mapping and Report
- Crotch's Bumble Bee Draft Survey Plan
- Crotch's Bumble Bee Surveys and Report
- Biological Worker's Environmental Awareness Program (WEAP) Training
- WEBB Management of Biological Services

The above-mentioned biological investigations are time sensitive because they can only be conducted during certain months of the year. For instance, the Bumble Bee Survey can only be conducted during the colony active period from April to August and the Burrowing Owl can only be detected during the breeding months from February to August. Therefore, it is important to have the biological studies conducted before August 31, 2025 to prevent delays that may jeopardize the scheduled Winter 25/26 construction start time.

Contract Summary:

Original Contract	$ 548,416.05
Change Order No. 1	$ 24,983.25
Change Order No. 2	$ 5,974.88
Change Order No. 3	$ 148,222.00
Contingency	$ 24,351.48
Change Order No. 4	$ 496,079.00
Change Order No. 5	**$ 57,080.00**
Total Contract Value	**$1,305,106.66**

The TUMF reimbursement agreement between the City of Banning and WRCOG was executed to fund the environmental documentation, plans, specifications and cost estimate.

JUSTIFICATION:

Sun Lakes Boulevard is identified by the City of Banning General Plan Circulation Element as an Arterial Highway. The proposed extension of Sun Lakes Boulevard will ease traffic congestion on existing city streets; improve public safety and emergency response; and improve regional connectivity.

Amendment No. 4 is needed so that Biological Studies can be conducted in a timely manner in order to avoid delaying the construction schedule by another year which may affect the availability of over $30 Million Dollars in construction funding through WRCOG.

FISCAL IMPACT:

An appropriation in the amount of $57,080 from the Measure A Fund to Account No. 101-4900-431.93-16 is necessary to fund Amendment No. 4.

The project is funded by the TUMF program, with $12,000,000 under a reimbursement agreement between the City and WRCOG. The proposed work is covered as an eligible expense by the TUMF

program, and reimbursement for expenses incurred with be requested against this amount.

ALTERNATIVES:
Do not adopt Resolution 2025-70 and provide alternative direction to staff.

BUDGETED?:
Yes

CONTRACT/AGREEMENT:
Yes

ATTACHMENTS:
1. Resolution 2025-70, Webb Amendment.docx
1. AMENDMENT NO 4.pdf
2. Resolution No. 2023-175.pdf
3. Resolution No. 2020-048.pdf
4. Resolution No. 2022-139.pdf
5. Original Services Agreement.pdf
6. Amendment #1 Services Agreement.pdf
7. Amendment #2 Services Agreement.pdf
8. Change Orders #1,2 and 3.pdf
9. Change Order #4.pdf
10. Change Order #5.pdf
11. Resolution No. 2020-097.pdf

RESOLUTION 2025-70

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING AMENDMENT NO. 4 TO THE PROFESSIONAL SERVICES AGREEMENT WITH ALBERT A. WEBB ASSOCIATES, INC. FOR AN ADDITIONAL AMOUNT OF $57,080 FOR ENVIRONMENTAL PERMITTING RELATED BIOLOGICAL STUDIES FOR THE SUN LAKES BOULEVARD EXTENSION PROJECT

WHEREAS, on April 14, 2020, under Resolution No. 2020-48, the City Council approved the Professional Services Agreement with Albert A. Webb Associates, Inc. for the design of Sun Lakes Boulevard Extension in the amount of $548,416.05; and

WHEREAS, on July 14, 2020, City Council adopted Resolution No. 2020-97, authorizing the City Manager to execute a Transportation Uniform Mitigation Fee (TUMF) Reimbursement Agreement with Western Riverside Council of Government (WRCOG) for up to $1,000,000 in TUMF funds for the Sun Lakes Boulevard Extension project; and

WHEREAS, on February 11, 2022, a change order (change order 1) to the Professional Services Agreement with WEBB was approved for out-of-scope work including coordination with Western Riverside County Regional Conservation Authority (RCA) in the amount of $24,983.25; and

WHEREAS, on March 21, 2022, a change order (change order 2) to the Professional Services Agreement with WEBB was approved for out-of-scope work including a sediment transport analysis in the amount of $5,974.88; and

WHEREAS, on October 11, 2022, City Council adopted Resolution 2022-139 to rescind Resolution 2022-106 and to amend the Professional Services Agreement with WEBB ("Amendment No. 1") to include additional compensation in the amount of $148,222 (change order 3) and extend the term of the agreement to June 30, 2024. Amendment No. 1 was for out-of-scope work such as storm drain system design, environmental coordination with RCA, supplemental environmental documentation and jurisdictional delineation and permitting. Amendment No. 1 increased the contract amount to $751,947.66; and

WHEREAS, on October 24, 2023, City Council adopted Resolution 2023-175 to amend the Professional Services Agreement with WEBB ("Amendment No.2") to include additional compensation in the amount of $496,079 for continued design of the Sun Lakes Boulevard Extension increasing the contract amount to $1,248,026.66; and

WHEREAS, under the existing Professional Services Agreement, WEBB is working on securing regulatory permits from the Regional Water Quality Control Board (RWQCB) and the California Department of Fish and Wildlife (CDFW). To obtain these permits, pre-construction biological investigations are one of the prerequisites that must be met; and

WHEREAS, the scope of work includes pre-construction Nesting Bird Survey, Burrowing Owl Inspection survey and report; Bumble Bee habitat surveys and reports; Biological Worker's Environmental Awareness Program (WEAP) Training; and WEBB Management of Biological Services; and

WHEREAS, the biological investigations are time sensitive because they can only be conducted during certain months of the year; and

WHEREAS, Amendment No.3 will amend the Professional Services Agreement by adding an additional $57,080 to cover Change Order No.5; and

WHEREAS, an appropriation from the Measure A Fund in the amount of $57,080 to Account No. 101-4900-431.93-16 is necessary to cover the change orders; and

WHEREAS, the project is funded by the TUMF program up to $1,000,000, therefore the additional expenditure related to Amendment No. 2 will be partially reimbursed by the TUMF program, which has a current balance of $189,605.41; and

WHEREAS, the City intends to request additional TUMF funding in the amount of $400,000 including contingency.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The City Council approves Amendment No. 4 to the Professional Services Agreement with Albert A. Webb Associates, Inc. for an additional $57,080 for the Design of Sun Lakes Boulevard Extension.

SECTION 2. City Council authorizes the City Manager or designee to make necessary budget adjustments, appropriations and transfers related to Amendment No. 4 to the Professional Services Agreement with Albert A. Webb Associates, Inc. for the Design of Sun Lakes Boulevard Extension.

SECTION 3. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 27th day of May 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

John Pinkney, City Attorney
Slovak, Baron, Empey, Murphy & Pinkney, LLP

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-70, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 27th day of May 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

EXHIBIT A
Amendment No.3 to the Professional Services Agreement with WEBB

AMENDMENT NO. 4 TO PROFESSIONAL SERVICES AGREEMENT (C00660) FOR THE DESIGN OF SUN LAKES BOULEVARD EXTENSION BY AND BETWEEN CITY OF BANNING AND ALBERT A. WEBB ASSOCIATES

THIS AMENDMENT NO. 4 TO THE PROFESSIONAL SERVICES AGREEMENT FOR SERVICES ("Amendment No. 4") by and between the **CITY OF BANNING** ("City") and **ALBERT A. WEBB ASSOCIATES**, a California Corporation ("Consultant") is effective as of this day: _____.

RECITALS

A. City and Consultant entered into that certain Agreement for Professional Design Services dated June 23, 2020 ("Agreement") whereby Consultant agreed to provide Design Services for the Design of Sun Lakes Boulevard Extension following a Request for Proposals for an amount not to exceed Five-Hundred Forty-Eight Thousand Four Hundred Sixteen Dollars and Five Cents ($548,416.05). The agreement included a 10% Contingency of Fifty-Four Thousand Eight Hundred Forty One Dollars and Sixty-One Cents ($54,841.61) for a total contract amount of Six Hundred Three Thousand Seven Hundred Twenty-Five Dollars and Sixty-Six Cents ($603,725.66). The Term of the Agreement was to commence on June 23, 2020, and continue in full force and effect until October 3, 2022.

B. On February 11, 2022, Public Works Department approved a change order to the Professional Services Agreement with Albert A. Webb Associates, Inc. for out-of-scope work including coordination with Western Riverside County Regional Conservation Authority (RCA) in the amount of $24,983.25, leaving a contingency balance of $29,858.36.

C. On March 21, 2022, Public Works Department approved a change order to the Professional Services Agreement with Albert A. Webb Associates, Inc. for the preparation of a sediment transport analysis (out of scope) in the amount of $5,974.88, leaving a contingency balance of $23,883.48.

D. On August 23,2022 City Council adopted City Council Resolution 2022-106 which authorized the increase in compensation for services provided under the Agreement by One Hundred Twenty-Nine Thousand Four Hundred Dollars ($129,400.00).

E. On October 11, 2022, City Council Adopted City Council Resolution 2022-139 to rescind Resolution 2022-106 and amend the Agreement to include additional compensation in the amount of One Hundred Forty-Eight Thousand Two Hundred Twenty-Two Dollars ($148,222.00) for a new contract total of Seven Hundred Fifty-One Thousand Nine Hundred Forty-Seven Dollars and Sixty-Six Cents ($751,947.66) and to extend the term of the Agreement through June 30, 2024.

F. On October 23, 2023, City and Consultant amended the Agreement to modify the Scope of Services, extend the Term of the Agreement to June 30, 2025, and increase the Contract Sum by Four Hundred Ninety-Six Thousand Seventy-Nine Dollars

($496,079.00) for a total not to exceed amount of One Million Two Hundred Forty-Eight Thousand Twenty-Six Dollars and Sixty-Six Cents ($1,248,026.66).

G. On January 6, 2025, City and Consultant amended the Agreement to extend the Term of the Agreement to June 30, 2026.

H. City and Consultant now desire to amend the Agreement to modify the Scope of Services,and increase the Contract Sum to One Million Three Hundred Five Thousand One Hundred Six Dollars and Sixty-six Cents. ($1,305,106.66).

The Parties therefore agree follows:

1. Amended Terms. The Agreement is hereby amended as follows:

1.1 The Scope of Services as set forth in Section 1.1 of and Exhibit A to the Agreement is hereby amended to include the Services set forth in Attachment "1", attached hereto and incorporated herein.

1.2 The maximum compensation for the Services performed pursuant to this Amendment No. 4 shall not exceed Fifty-Seven Thousand Eighty Dollars ($57,080.00) thereby increasing the Contract Sum, as set forth in Section 2.1 of the Agreement, to One Million Three Hundred Five Thousand One Hundred Six Dollars and Sixty-six Cents. ($1,305,106.66).

Miscellaneous Provisions

2.1 Continued Effect of Agreement. Except as amended by this Amendment No. 43, all provisions of the Agreement, as amended by Amendment Nos. 1, 2, 3, and 4, shall remain unchanged and in full force and effect. From and after the date of this Amendment No. 4, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by Amendment Nos. 1 through 4. In the event of a conflict between the provisions of this Amendment No. 4 and the provisions of the Agreement or Amendments No. 1 through 4, the provisions of this Amendment No. 4 shall control.

2.2 Consideration for Amendment. The parties hereby agree that they have each received adequate and independent consideration for the modifications to the Agreement set forth in this Amendment No. 4.

2.3 Authority. The persons executing this Amendment No. 4 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 4 on behalf of said party, (iii) by so executing this Amendment No. 4, such party is formally bound to the provisions of this Amendment No. 4, and (iv) entering into this Amendment No.

4 does not violate any provision of any other agreement to which said party is bound.

1.3 Counterparts. This Amendment No. 4 may be signed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument.

1.4 Electronic Signatures. Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Agreement and such other documents transmitted by the Parties.

[*SIGNATURE PAGE FOLLOWS*]

The Parties are signing this Amendment No. 4 the date stated in the introductory clause.

CITY OF BANNING	CONSULTANT
Douglas Schulze, City Manager	NAME: TITLE:
City Council Approval: __n/a_____	NAME: TITLE:
ATTEST:	
Caroline Patton Administrative City Clerk	

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

ATTACHMENT "1"

2020-0126

February 28, 2025
Revised April 23, 2025

Patrick Safari, CIP Manager
City of Banning
99 E. Ramsey Street
Banning, CA 92220

Sent via email: psafari@banningca.gov

RE: Proposal for Contract Amendment No. 4 - Additional Environmental Services for Sun Lakes Boulevard Extension Project (PSA C00660)

Dear Patrick,

Pursuant to your request on February 6, 2025, and subsequent discussion on April 2, 2025, Albert A. WEBB Associates (WEBB) is pleased to provide you with this proposal for additional services for the Sun Lakes Boulevard Extension Project. WEBB is currently under contract with the City to obtain regulatory permits for the project from the California Department of Fish and Wildlife (CDFW) and the Regional Water Quality Control Board (RWQCB).

Said permits have requirements that the City will need to fulfill prior to construction of the project which are outlined below in Task 1. Biological reporting and monitoring that is required during construction are not included herein, but as we have discussed with you, we understand the City will include the permitting-related tasks during construction to be included in the City's forthcoming construction management contract.

Also included in this request is the City's obligation for compensatory mitigation related to impacts to jurisdictional waters which are required to be fulfilled within 18 months of impacts. Task 2 includes WEBB's assistance with the compensatory mitigation obligations.

Scope of Work

Task 1: Biological Services During Construction

The Tasks below are related to the surveying and reporting requirements of the CDFW permit, RWQCB permit, as well as CEQA mitigation measures MM BIO-1 through MM BIO-4.[1] WEBB will subcontract with Osprey Environmental Associates (Osprey) to fulfill these requirements.

Preconstruction Nesting Bird Survey and Report (corresponds to CDFW Measures 2.11.1 and 4.4; CEQA MM BIO-1)

Osprey will conduct preconstruction nesting bird surveys if vegetation clearance occurs outside the recommended window (September 1 – February 1). Surveys will be performed within three (3) days prior to construction initiation to identify active nests within 100 feet of the project site. A survey report by a qualified biologist verifying nest status will be submitted to the City of Banning prior to construction. If active nests are identified, species-specific measures will be implemented to prevent nest abandonment.

Burrowing Owl Pre-Construction Inspection Survey and Report (corresponds to CDFW Measure 2.12.4 and CEQA MM BIO-2)

A single preconstruction burrowing owl survey will be conducted within 3 days of vegetation removal or ground disturbance. The survey will comply with the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) and 2006 "Burrowing Owl Survey Instructions" and will cover entire the project site and within 150-meters. If burrowing owls are detected during the breeding season (February 1–August 31), a 300-foot buffer will be enforced around active burrows until nesting is complete. Following the survey, a burrowing owl pre-construction survey report will be prepared and submitted to WEBB in PDF format. The survey report will document the methods, results, and conclusion of the survey.

Crotch's Bumble Bee (corresponds to CEQA MM BIO-3)

- **Crotch's Bumble Bee Habitat Mapping and Report (corresponds to CDFW Measure 2.14)**

Osprey will conduct habitat mapping for the Crotch's bumblebee within the project footprint. Mapping will identify habitat alliances following Sawyer et al. (2009). Following field mapping and no less than 120 days prior to the initiation of activities Osprey will complete and submit to CDFW a baseline habitat mapping report. The report will identify species composition for each mapped alliance and will be submitted to CDFW.

- **Crotch's Bumble Bee Draft Survey Plan (corresponds to CDFW Measure 2.15.2)**

A qualified Osprey biologist will prepare and submit to CDFW for review and comment a draft survey plan for Crotch's bumble bee. The survey plan will identify the timing, number, and duration of survey efforts, and procedures to follow should Crotch's bumble bee be detected within the project area.

[1] There are a total of five mitigation measures for biological resources. MM BIO-5 is "Mitigation for Riparian/Riverine and Jurisdictional Impacts." WEBB's assistance with this is in Task 2, herein.

The survey plan will be submitted no less than 90 days prior to initiation of project activities in suitable habitat.

- **Crotch's Bumble Bee Survey(s) and Report (corresponds to CDFW Measure 2.15.3)**

If habitat mapping identifies the presence of plants (e.g., genera *Antirrhinum, Phacelia, Clarkia, Cordylanthus, Dendromecon, Eschscholzia, Eriogonum, Hypericum, Lantana, Lupinus, Salvia, Asclepias, Cirsium, Monardella, Keckiella, Acmispon, Euthamia, Ehrendorferia, Vicia, and/or Trichostema*) or other suitable habitat (i.e. nesting, foraging, and overwintering habitat), Osprey will conduct focused surveys for the Crotch's bumblebee (CBB) following the approval and submittal of survey plan. Osprey will first conduct a literature review and records search for CBB occurrences within a 10-mile radius, utilizing the CDFW California Natural Diversity Database and iNaturalist. Following the literature review, Osprey will conduct on-site CBB surveys following the Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species (CDFW 2023). These surveys will take place during the Colony Active Period (April-August) and when floral resources are available, ideally at peak bloom. A minimum of three surveys will be conducted, spaced 2-4 weeks apart between April and August. Surveys will be performed during daylight, beginning at least one hour after sunrise and ending at least two hours before sunset, ideally between 9:00 AM and 1:00 PM, with temperatures between 65°F and 90°F and wind speeds under 8 miles per hour. Each survey will cover at least one person-hour of search effort per three acres of suitable habitat.

Following the completion of the surveys, a report will be prepared summarizing the survey methods, findings, and conclusions. The report will also include a list of bee species observed and any accompanying photographs. Survey results will be submitted to CDFW before ground-disturbing activities begin. If an active CBB nest is detected, a no-disturbance buffer zone will be established, and CDFW will be notified.

Biological Worker's Environmental Awareness Program (WEAP) and Invasive Species Education Program (corresponds to CDFW Measures 2.8 and 2.8.1; CEQA MM BIO-4)

Osprey will develop and conduct a mandatory Biological Worker's Environmental Awareness Program (WEAP) training for all construction personnel. This training will cover key topics, including CBB, burrowing owls, rare plant species, and riparian/riverine features. WEAP training will be coordinated with the paleontological WEAP. A recorded training will be prepared and available.

Further, included in the WEAP will be an additional discussion of the invasive species currently present within the project site as well as those that may pose a threat to or have the potential to invade the Project site. The discussion will include a physical description of each species and information regarding their habitat preferences, local and statewide distribution, modes of dispersal, and impacts. The invasive species education program will also include a discussion of Best Management Practices (BMPs) to be implemented at the Project site to avoid the introduction and spread of invasive species into and out of the Project site.

WEBB Management of Biological Services

WEBB has budgeted 40 hours to manage and coordinate with Osprey related to Task 1 including reviewing documents, and meeting with the City.

UAV (Drone) Survey(s) (Optional)

Osprey can provide a drone survey of the project area to generate a high-resolution orthomosaic basemap, offering a temporally and spatially accurate depiction of the project site as is currently prior to construction and post-construction. This updated imagery can serve as a key reference for stakeholders, ensuring precise visualization of project lands, roads, and planned or constructed infrastructure. The orthomosaic will enhance project planning, coordination, and decision-making by delivering highly accurate spatial and visual data. The flight will be conducted by an Osprey FAA-licensed Remote Pilot in Command (RPIC) and a visual observer, ensuring full compliance with FAA regulations. The drone data collection and subsequent GIS analysis will be used to support all of Osprey's reporting deliverables included herein. Deliverables will include a high-resolution orthomosaic base map, digital terrain model depicting project ground elevations, and a digital surface model depicting project surface elevations.

Although a temporally and spatially accurate orthomosaic basemap is informative and helpful, this optional service is not required in order to complete any of the aforementioned tasks.

Task 1 Assumptions

- None of the species identified above will be found on site.
- This scope includes one (1) in-person WEAP training. Any additional training sessions will require a separate scope and fee.
- Materials required for delineating Environmentally Sensitive Areas (ESAs) or establishing nesting buffers are not included in this proposal. The cost of these materials will be billed directly to the client if not provided by the City.
- The preparation of a Burrowing Owl Mitigation Plan is not included. If required, Osprey will provide a separate scope and fee for this task.
- This proposal does not cover small mammal trapping or the preparation of a small mammal trapping survey report. If required, Osprey will provide an additional scope and fee for these efforts.
- Assistance with securing an Incidental Take Permit (ITP) from CDFW is not included. If required, Osprey can provide a separate scope and fee for this task.

Task 2: WEBB Assistance with Offsite Compensatory Mitigation Fulfillment (corresponds to CDFW Measure 3.3; CEQA MM BIO-5)

WEBB has included 50 hours to help the City to set up its compensatory mitigation obligation utilizing an offsite mitigation site owned by the City located southeast of the City's wastewater treatment plant. We anticipate actions under this task will be to advise and support the City related to: finding a third party to hold a conservation easement/deed restriction(s) on the City's property (City to retain

fee title), negotiate and find the City a third party land manager and assist City with said agreement, and finding an entity to provide a non-wasting endowment. We understand the City will take lead on each of these tasks; therefore this budget is for things like attending meetings to provide project background and making connections to facilitate the process.

Budget

Our proposed budget for the services listed herein will be billed on a Time and Materials basis according to our existing contract for a total not to exceed of **$57,080.**

Environmental Services

Task 1 - Biological Services	
Preconstruction Nesting Bird Survey and Report	$ 4,660
Burrowing Owl Pre-Construction Inspection Survey and Report	$ 6,230
Crotch's Bumble Bee Habitat Mapping and Report	$ 6,840
Crotch's Bumble Bee Draft Survey Plan	$ 4,350
Crotch's Bumble Bee Survey(s) and Report	$ 14,380
WEBB Management of Task 1 (40 hours)	$ 7,150
Optional UAV (Drone) Survey	$ 4,370
Task 2 - Management and Coordination for Offsite Mitigation	$ 9,100
TOTAL	**$ 57,080**

The following is a summary of original, current, and proposed authorizations according to our records.

WEBB Original Authorization:	$548,416.05 plus $54,841.61 contingency for total of $603,725.66
Change Order No. 1	$24,983.25 (subtracted from contingency)
Change Order No. 2	$5,974.88 (subtracted from contingency)
City Council Resolution 2022-106	$129,400 (rescinded)
City Council Resolution 2022-139	$148,222
Change Order No. 3	$496,079
Current Authorization	$1,248,026.66
Proposed Change Order	**$57,080**
Total WEBB Authorization with Proposed Change Order	$1,305,106.66

If you find this request acceptable, please issue a contract amendment to our office. We appreciate this opportunity to be of service to the City and look forward to hearing from you. If you have any questions regarding this proposal, please call me at (951) 830-4305.

Sincerely,

ALBERT A. WEBB ASSOCIATES



Dilesh Sheth, PE, TE
Senior Vice President
Dilesh.Sheth@webbassociates.com

Copy: Stephanie Standerfer
Autumn DeWoody

RESOLUTION 2023-175

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING AMENDMENT NO. 2 TO THE PROFESSIONAL SERVICES AGREEMENT WITH ALBERT A. WEBB ASSOCIATES, INC. FOR AN ADDITIONAL AMOUNT OF $496,079 FOR THE CONTINUED DESIGN OF THE SUN LAKES BOULEVARD EXTENSION

WHEREAS, on February 18, 2020, the Public Works Department released a Request for Proposals for the design of the Sun Lakes Boulevard Extension (also known as the Westward Avenue Extension) and on March 10, 2020, two proposals were received from Albert A. Webb Associates, Inc. and Engineering Resources of Southern California (ERSC) in the amount of $548,416.05 and $849,674.30 respectively; and

WHEREAS, on April 14, 2020, under Resolution No. 2020-48, the City Council approved the Professional Services Agreement with Albert A. Webb Associates, Inc. for the design of Sun Lakes Boulevard Extension in the amount of $548,416.05; and

WHEREAS, on July 14, 2020, City Council adopted Resolution No. 2020-97, authorizing the City Manager to execute a Transportation Uniform Mitigation Fee (TUMF) Reimbursement Agreement with Western Riverside Council of Government (WRCOG) for up to $1,000,000 in TUMF funds for the Sun Lakes Boulevard Extension project; and

WHEREAS, on February 11, 2022, a change order (change order 1) to the Professional Services Agreement with WEBB was approved for out-of-scope work including coordination with Western Riverside County Regional Conservation Authority (RCA) in the amount of $24,983.25; and

WHEREAS, on March 21, 2022, a change order (change order 2) to the Professional Services Agreement with WEBB was approved for out-of-scope work including a sediment transport analysis in the amount of $5,974.88; and

WHEREAS, on October 11, 2022, City Council adopted Resolution 2022-139 to rescind Resolution 2022-106 and to amend the Professional Services Agreement with WEBB ("Amendment No. 1") to include additional compensation in the amount of $148,222 (change order 3) and extend the term of the agreement to June 30, 2024. Amendment No. 1 was for out-of-scope work such as storm drain system design, environmental coordination with RCA, supplemental environmental documentation and jurisdictional delineation and permitting. Amendment No. 1 increased the contract amount to $751,947.66; and

WHEREAS, Kinder Morgan operates two (2) pipelines in the City of Banning which are located in easements dedicated to Kinder Morgan from 1955 and 1957 in Westward Avenue north of the proposed road centerline between Highland Home Road and Sunset Avenue within the proposed alignment of the Sun Lakes Boulevard Extension project; and

WHEREAS, the City understands that the roadway alignment must clear the Kinder Morgan easements as quickly as practicable and this late direction from Kinder Morgan requires portions of the roadway to be redesigned; and

WHEREAS, as project revisions have become necessary, City Staff has been in communication with WRCOG staff to ensure that further design efforts are consistent with the Reimbursement Agreement between the City and WRCOG; and

WHEREAS, Amendment 2 will amend the Professional Services Agreement by adding an additional $496,079 to cover Change Order No.4; and

WHEREAS, an appropriation from the Measure A Fund in the amount of $496,079 to Account No. 101-4900-431.93-16 is necessary to cover the change orders; and

WHEREAS, the project is funded by the TUMF program up to $1,000,000, therefore the additional expenditures related to Amendment No. 2 will be partially reimbursed by the TUMF program, which has a current balance of $307,164.39; and

WHEREAS, the City intends to request additional TUMF funding in the amount of $350,000 including contingency.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The City Council approves Amendment No. 2 to the Professional Services Agreement with Albert A. Webb Associates, Inc. for an additional $496,079 for the Design of Sun Lakes Boulevard Extension.

SECTION 2. City Council authorizes the City Manager or designee to make necessary budget adjustments, appropriations and transfers related to Amendment No. 2 to the Professional Services Agreement with Albert A. Webb Associates, Inc. for the Design of Sun Lakes Boulevard Extension.

SECTION 3. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 24th day of October 2023.

Alberto Sanchez, Mayor
City of Banning

ATTEST:

Caroline Patton, Deputy City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

Serita R. Young, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Caroline Patton, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2023-175, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 24th day of October 2023 by the following vote, to wit:

AYES: Flynn, Gonzales, Minjares, Sanchez, and Wallace.

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Deputy City Clerk
City of Banning, California

Exhibit A
Draft Agreement with Albert A. Webb Associates Inc.

AMENDMENT NO. 2 TO PROFESSIONAL SERVICES AGREEMENT (C00660) FOR THE DESIGN OF SUN LAKES BOULEVARD EXTENSION BY AND BETWEEN THE CITY OF BANNING AND ALBERT A. WEBB ASSOCIATES

THIS AMENDMENT NO. 2 TO THE AGREEMENT FOR PROFESSIONAL DESIGN SERVICES ("Amendment No. 2") by and between the **CITY OF BANNING** ("City") and **ALBERT A. WEBB ASSOCIATES**, a California Corporation ("Consultant") is effective as of this day: _____.

RECITALS

A. City and Consultant entered into that certain Agreement for Professional Design Services dated June 23, 2020 ("Agreement") whereby Consultant agreed to provide Design Services for the Design of Sun Lakes Boulevard Extension following a Request for Proposals for an amount not to exceed Five-Hundred Forty-Eight Thousand Four Hundred Sixteen Dollars and Five Cents ($548,416.05). The agreement included a 10% Contingency of Fifty Four Thousand Eight Hundred Forty One Dollars and Sixty One Cents ($54,841.61) for a total contract amount of Six Hundred Three Thousand Seven Hundred Twenty Five Dollars and Sixty Six Cents ($603,725.66) The Term of the Agreement was to commence on June 23, 2020, and continue in full force and effect until October 3, 2022.

B. On February 11, 2022, Public Works Department approved a change order to the Professional Services Agreement with Albert A. Webb Associates, Inc. for out-of-scope work including coordination with Western Riverside County Regional Conservation Authority (RCA) in the amount of $24,983.25, leaving a contingency balance of $29,858.36.

C. On March 21, 2022, Public Works Department approved a change order to the Professional Services Agreement with Albert A. Webb Associates, Inc. for the preparation of a sediment transport analysis (out of scope) in the amount of $5,974.88, leaving a contingency balance of $23,883.48.

D. On August 23,2022 City Council adopted City Council Resolution 2022-106 which authorized the increase in compensation for services provided under the Agreement by One Hundred Twenty-Nine Thousand Four Hundred Dollars ($129,400.00).

E. On October 11, 2022, City Council Adopted City Council Resolution 2022-139 to rescind Resolution 2022-106 and amend the Agreement to include additional compensation in the amount of One Hundred Forty-Eight Thousand Two Hundred Twenty-Two Dollars ($148,222.00) for a new contract total of Seven Hundred Fifty-One Thousand Nine Hundred Forty-Seven Dollars and Sixty-Six Cents ($751,947.66) and to extend the term of the Agreement through June 30, 2024.

F. City and Consultant now desire to amend the Agreement to modify the Scope of Services, extend the Term of the Agreement to June 30, 2025, and increase the Contract Sum by Four Hundred Ninety-Six Thousand Seventy-Nine Dollars ($496,079.00) for a total not to exceed amount of One Million Two Hundred Forty-Eight Thousand Twenty-Six Dollars and Sixty-Six

Cents ($1,248,026.66).

TERMS

1. **Contract Changes**. The Agreement is amended as provided herein.

(a) Section 2.1 – "Contract Sum" of the Agreement is amended to provide that Consultant's total compensation shall not to exceed One Million Two Hundred Forty-Eight Thousand Twenty-Six Dollars and Sixty-Six Cents ($1,248,026.66).

(b) Section 3.4 – "Term" of the Agreement is hereby amended to extend the Agreement term to June 30, 2025.

(c) Section 1.1, Exhibit "A" and Exhibit "D" - The Scope of Services as set forth in Section 1.1 of and Exhibits A and D to the Agreement is hereby amended to include the Services set forth in Attachment 1, attached hereto and incorporated herein.

2. **Continuing Effect of Agreement**. Except as amended by this Amendment No. 2, all provisions of the Agreement as amended by Amendment No. 1, shall remain unchanged and in full force and effect. From and after the date of this Amendment No. 2, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by Amendments Nos. 1 through 2 to the Professional Services Agreement. In the event of a conflict between the provisions of this Amendment No. 1 and the provisions of the Agreement or Amendments No. 1 through 2, the provisions of this Amendment No. 2 shall control.

3. **Affirmation of Agreement; Warranty Re Absence of Defaults**. City and Consultant each ratify and reaffirm each and every one of the respective rights and obligations arising under the Agreement. Each party represents and warrants to the other that there have been no written or oral modifications to the Agreement other than as provided herein. Each party represents and warrants to the other that the Agreement is currently an effective, valid and binding obligation.

4. **Adequate Consideration**. The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment No. 2.

5. **Authority**. The persons executing this Amendment No. 2 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 2 on behalf of said party, (iii) by so executing this Amendment No. 2, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Amendment No. 2 does not violate any provision of any other Agreement to which said party is bound.

6. **Counterparts**. This Amendment No. 2 may be signed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument.

7. **Electronic Signatures.** Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document

transmitted by such Party ("electronic signature"). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Agreement and such other documents transmitted by the Parties.

[*SIGNATURE PAGE FOLLOWS*]

IN WITNESS WHEREOF the Parties hereto have executed this Amendment No. 2 to the Agreement the day and year first hereinabove written.

CITY OF BANNING

Douglas Schulze, Date
City Manager

ATTEST:

Caroline Patton Date
Deputy City Clerk

APPROVED AS TO FORM:
Richards, Watson & Gershon

Serita R. Young Date
City Attorney

CONSULTANT

Dilesh Sheth Date
Vice President

NAME: Date

95-1723730
Tax ID No.

Address:
3788 McCray Street
Riverside, CA 92506

City Council Approval: _____

RESOLUTION 2020-48

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AWARDING A PROFESSIONAL SERVICES AGREEMENT FOR THE DESIGN OF THE SUN LAKES BOULEVARD EXTENSION FROM HIGHLAND HOME ROAD TO SUNSET AVENUE, TO ALBERT A. WEBB ASSOCIATES IN THE AMOUNT OF $548,416.05 AND APPROVING A 10% CONTINGENCY FOR A TOTAL PROJECT BUDGET OF "NOT-TO-EXCEED" $603,258.05

WHEREAS, there is a current need for a new road on the south side of Interstate 10 to close a gap in the City's street network from Highland Home Road to Sunset Avenue to reduce existing congestion at the Highland Springs Avenue interchange and to accommodate expected growth within the City; and

WHEREAS, on February 11, 2020, under Resolution 2020-21 the City Council accepted Lots A, D, E, F and G for the necessary right-of-way for the extension of Sun Lakes Boulevard from Highland Home Road to Sunset Avenue. The lots were originally offered to the City on Parcel Map 25541 approved on August 28, 1990, at which time the City deferred the approval of the right-of-way to a future date; and

WHEREAS, on March 24, 2020, under Resolution 2020-37, the City Council approved General Plan Amendment 19-2502 and Environmental Assessment 19-1503, a proposed amendment to the Circulation Element of the General Plan to modify the alignment of Sun Lakes Boulevard from its existing General Plan alignment with Lincoln Street to the proposed alignment with Westward Avenue following closely the right-of-way offered on Parcel Map 25541; and

WHEREAS, on February 18, 2020, staff released an Invitation for Bid for the Design of the Sun Lakes Boulevard Extension to five (5) consultants on the on-call engineering list approved by City Council on September 10, 2019 under Resolution 2019-116 and received three (3) proposals ranging in costs from $508,678 to $849,674; and

WHEREAS, staff evaluated the proposals based on qualifications, cost, experience with the request scope of services and response to the request for proposals. As a result, staff recommends the award of a professional services agreement to Albert A. Webb Associates, in the amount of $548,416.05; and

WHEREAS, the total project budget of $603,258.05, which includes a 10% contingency, will be funded by Measure A funds. The project costs are eligible and expected to be reimbursed by the Western Riverside Council of Governments (WRCOG) via the Transportation Uniform Mitigation Fee (TUMF) program.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The City of Banning City Council adopts Resolution No. 2020-48 Professional Services Agreement for the Design of the Sun Lakes Boulevard Extension from Highland Home Road to Sunset Avenue, to Albert A. Webb Associates in the amount of $548,416.05 and approves a 10% contingency for a total project budget of "not-to-exceed" $603,258.05.

SECTION 2. City Council authorizes the City Manager or his designee to make necessary budget adjustments, appropriations and transfers related to the Professional Services Agreement with Albert A. Webb Associates and to approve change orders within the 10% contingency.

SECTION 3. The City Manager is authorized to execute the Professional Services Agreement with Albert A. Webb Associates.

SECTION 4. The City Clerk is authorized to certify the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions

PASSED, APPROVED and ADOPTED this 14th day of April, 2020.

Daniela Andrade

Daniela Andrade, Mayor
City of Banning

ATTEST:

Sonja De La Fuente, Deputy City Clerk

APPROVED AS TO FORM AND LEGAL CONTENT:

Kevin G. Ennis, Esq., City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Sonja De La Fuente, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2020-48 was duly adopted by the City Council of the City of Banning at a Regular Meeting thereof held on the 14th of April, 2020.

AYES: Councilmembers Happe, Pingree, Wallace, Welch & Mayor Andrade

NOES: None

ABSTAIN: None

ABSENT: None

Sonja De La Fuente, Deputy City Clerk
City of Banning, California

RESOLUTION 2022-139

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT WITH ALBERT A. WEBB ASSOCIATES, INC. FOR AN ADDITIONAL AMOUNT OF $148,222 FOR THE DESIGN OF SUN LAKES BOULEVARD EXTENSION; EXTENDING THE TERM OF AGREEMENT TO JUNE 30, 2024; AND RESCINDING RESOLUTION 2022-106

WHEREAS, on April 14, 2020, under Resolution No. 2020-48, the City Council approved the Professional Services Agreement with Albert A. Webb Associates, Inc. for the design of Sun Lakes Boulevard Extension in the amount of $548,416.05, and a 10% contingency for a total of $603,725.66; and

WHEREAS, on July 14, 2020, City Council adopted Resolution No. 2020-97, authorizing the City Manager to execute a Transportation Uniform Mitigation Fee (TUMF) Reimbursement Agreement with Western Riverside Council of Government (WRCOG) for up to $1,000,000 in TUMF funds for the Sun Lakes Boulevard Extension project; and

WHEREAS, on February 11, 2022, Public Works Department approved a change order to the Professional Services Agreement with Albert A. Webb Associates, Inc. for out-of-scope work including coordination with Western Riverside County Regional Conservation Authority RCA in the amount of $24, 9873.25, paid from contingency funds; and

WHEREAS, on March 21, 2022, Public Works Department approved a change order to the Professional Services Agreement with Albert A. Webb Associates, Inc. for the preparation of sediment transport in the amount of $5,974.88, paid from contingency funds; and

WHEREAS, on May 12, 2022, Public Works Department approved a change order to the Professional Services Agreement with Albert A. Webb Associates, Inc. for additional out of scope work such as storm drain system design, environmental coordination with Wildlife Agencies and Western Riverside County Regional Conservation Authority (RCA), supplemental environmental documentation and jurisdictional delineation and permitting in the amount of $148,222; and

WHEREAS, Amendment No.1 will amend the purchase order by adding an additional $148,222; and

WHEREAS, Amendment No. 1 will also extend the term of the Agreement to June 30, 2024; and

WHEREAS, an appropriation from the Measure A Fund in the amount of $148,222 to Account No. 101-4900-431.93-16 is necessary to cover the change orders; and

WHEREAS, the project, including Amendment No. 1 is fully funded by the TUMF program up to $1,000,000.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. City Council hereby approves Amendment No. 1 to the Professional Services Agreement with Albert A. Webb Associates, Inc. for an additional $148,222 for the Design of Sun Lakes Boulevard Extension and extend the term of the agreement to June 30, 2024.

SECTION 2. The City Manager or designee is authorized to make necessary budget adjustments, appropriations and transfers related to the Professional Services Agreement Amendment No. 1 with Albert A. Webb Associates, Inc.

SECTION 3. The City Manager or designee is authorized to execute Amendment No. 1 to the Professional Services Agreement with Albert A. Webb Associates, Inc.

PASSED, APPROVED AND ADOPTED this 11th day of October 2022.

Colleen Wallace, Mayor
City of Banning

ATTEST:

Caroline Patton, Deputy City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

Serita Young, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Caroline Patton, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2022-139, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 11th day of October 2022 by the following vote, to wit:

AYES: Happe, Minjares, Sanchez, and Wallace.

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Deputy City Clerk
City of Banning, California

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AGREEMENT FOR PROFESSIONAL SERVICES (C00660) FOR THE DESIGN OF SUN LAKES BOULEVARD EXTENSION BY AND BETWEEN CITY OF BANNING AND ALBERT A WEBB ASSOCIATES

THIS AGREEMENT FOR PROFESSIONAL SERVICES (herein "Agreement") is made and entered into this day: 6/23/2020, ("Effective Date") by and between the **CITY OF BANNING, a California municipal corporation** ("City") and **ALBERT A WEBB ASSOCIATES, a** California corporation, ("Consultant"). City and Consultant are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties."

RECITALS

A. City has sought, by issuance of a Request for Proposals, the performance of the services for the design of Sun Lakes Boulevard extension prepared in connection therewith, and as further defined and described particularly in Article 1 of this Agreement.

B. Consultant, following submission of a proposal or bid for the performance of the services defined and described particularly in Article 1 of this Agreement, was selected by City to perform those services.

C. The Parties desire to formalize the selection of Consultant for performance of those services defined and described particularly in Article 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

D. Pursuant to the City of Banning's Municipal Code, City has authority to enter into this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1. SERVICES OF CONSULTANT

1.1 Scope of Services.

In compliance with all terms and conditions of this Agreement, Consultant shall provide those services specified in the "Scope of Services" attached hereto as **Exhibit A** and incorporated herein by this reference, which services may be referred to herein as the "Services" hereunder. As a material inducement to City entering into this Agreement, Consultant represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the Services required under this Agreement in a thorough, competent, and professional manner, and is experienced in performing the Services contemplated herein. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all Services described herein. Consultant covenants that it shall follow the highest professional standards in performing the Services required hereunder and that all materials will be of good quality, and fit for the purpose intended. For purposes of this Agreement, the phrase "highest professional

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standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances. This Agreement calls for services that, in whole or in part, constitute "public works" as defined in the California Labor Code. Therefore, as to those services that are "public works," Consultant shall comply in all respects with all applicable provisions of the California Labor Code, including those set forth in **Exhibit B** hereto.

1.2 Contract Documents and Exhibits.

This Agreement includes the Request for Proposal and Consultant's accepted proposal ("Contract Documents"), both of which are on file with the City and incorporated herein by this general reference as though fully set forth herein. **Exhibit A** (Scope of Services), **Exhibit B** (Special Requirements), **Exhibit C** (Schedule of Compensation), and **Exhibit D** (Schedule of Performance) also constitute a part of this Agreement and are incorporated into this Agreement by this reference. Except as set forth in Section 1.10 regarding **Exhibit B**, this Agreement controls over the Contract Documents and the provisions in **Exhibits A, B** and **C**.

1.3 Compliance with Law.

Consultant shall keep itself informed concerning all ordinances, resolutions, statutes, rules, and regulations of City and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered, and shall render all Services hereunder in accordance therewith.

1.4 Licenses, Permits, Fees and Assessments.

Consultant shall obtain and maintain during the term of this Agreement, at its sole cost and expense, all necessary licenses, permits, certificates and approvals required by law for the performance of Services under this Agreement, including a City business license. Consultant shall have the sole obligation to pay for all fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and which arise from or are necessary for Consultant's performance of the Services required by this Agreement. Consultant shall indemnify, defend and hold harmless City, its officers, employees or agents, against all such fees, assessments, taxes, penalties or interest levied, assessed or imposed against City hereunder.

1.5 Familiarity with Services.

By executing this Agreement, Consultant warrants that Consultant: (i) has thoroughly investigated and considered the Scope of Services to be performed, (ii) has carefully considered how the Services should be performed, and (iii) fully understands the facilities and any difficulties and restrictions attending performance of the Services under this Agreement. If the Services involve work upon any site, Consultant warrants that Consultant has or will investigate the site and is or will be fully acquainted with the conditions existing therein, prior to commencement of Services hereunder. Should Consultant discover any latent or unknown conditions, which will materially affect the performance of the Services hereunder, Consultant shall immediately inform City of such fact and shall not proceed except at Consultant's risk until written instructions are received from the Contract Officer (defined in Section 1.12. A).

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1.6 Prevention of Loss and Damages.

Consultant shall adopt reasonable methods during the Term (defined in Section 3.4) to furnish continuous protection to the work product, and the equipment, materials, papers, documents, plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the Services by City, except such losses or damages as may be caused by City's own negligence.

1.7 Further Responsibilities of Parties.

Both Parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both Parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonable necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither Party shall be responsible to perform the Services of the other.

1.8 Additional Services.

City shall have the right at any time during the performance of the Services, without invalidating this Agreement, to order extra services beyond that specified in the Scope of Services or to make changes by altering, adding to or deducting from the Services. No such extra services may be undertaken unless a written order is first given by the Contract Officer to Consultant, which written order incorporates therein an adjustment in (i) the Contract Sum (as defined in Section 2.1), and/or (ii) the Schedule of Performance, (as defined in Section 3.2), and which written order is approved in writing by Consultant. Any increase in compensation of up to five percent (5%) of the Contract Sum, or $25,000, whichever is less; or in the Schedule of Performance of up to one hundred eighty (180) days may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively, must be approved by City Council. It is expressly understood by Consultant that the provisions of this Section shall not apply to Services which are specifically set forth in the Scope of Services or which are reasonably contemplated therein. Consultant hereby acknowledges that it accepts the risk that the Services to be provided pursuant to the Scope of Services may be more costly or time consuming than Consultant anticipates and that Consultant shall not be entitled to additional compensation therefor.

1.9 Facilities and Equipment.

Except as otherwise provided, Consultant shall, at its own cost and expense, provide all facilities and equipment necessary to perform the Services required by this Agreement. City shall make available to Consultant only physical facilities such as desks, filing cabinets, and conference space ("City Facilities"), as City deems, in its sole discretion, to be reasonably necessary for Consultant's use while consulting with City employees and reviewing records and the information in possession of City. The location, quality, and time of furnishing City Facilities shall be in the sole discretion of City. In no event shall City be required to furnish any facilities that may involve incurring any direct expense, including but not limited to a computer, long distance telephone, network data, internet or other communication charges, vehicles and reproduction facilities.

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1.10 Special Requirements.

Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as **Exhibit B** and incorporated herein by this reference. In the event of a conflict between the provisions of **Exhibit B** and any other provisions of this Agreement, the provisions of **Exhibit B** shall govern.

1.11 Corrections.

In addition to the indemnification obligations set forth in Article 4, and Sections 1.4, 1.13, 5.3, 5.4, and 6.3, Consultant shall correct, at its expense, all errors in the Services which may be disclosed during City's review of Consultant's report or plans. Should Consultant fail to make such correction(s) in a reasonably timely manner, such correction(s) may be made by City, and the cost thereof shall be charged to Consultant. In addition to all other available remedies, City may deduct the cost of such correction(s) from any retention amount held by City, or may withhold payment otherwise owed Consultant under this Agreement up to the amount of the cost of correction(s), as provided in Section 6.3.

1.12 Party Representatives.

A. Contract Officer: For the purposes of this Agreement, the Contract Officer shall be the City Manager, or such other person designated in writing by the City Manager ("Contract Officer"). Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of City required hereunder to carry out the terms of this Agreement.

B. Principals and Personnel of Consultant.

1) Consultant Representative: The following principal of Consultant is hereby designated as being the Consultant Representative authorized to act on Consultant's behalf regarding the Services specified herein and make all decisions in connection therewith:

Name	Title
Dilesh Sheth	Vice President

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing Consultant Representative were a substantial inducement for City to enter into this Agreement. Therefore, the foregoing Consultant Representative shall be responsible during the term of this Agreement for directing all activities of Consultant and devoting sufficient time to personally supervise the Services hereunder. All personnel of Consultant, and any authorized agents, shall at all times be under the exclusive direction and control of the Consultant Representative. For purposes of this Agreement, the foregoing Consultant Representative may not be replaced nor may their responsibilities be substantially reduced or reassigned by Consultant without the express written approval of City. It shall be Consultant's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the Services, and Consultant shall refer any decisions which must be made by City to the Contract Officer.

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2) Consultant's Personnel: Consultant has, or will secure at its own expense, all personnel required to perform the Services required under this Agreement. All of the Services required under this Agreement shall be performed by Consultant or under its supervision, and all personnel engaged in the Services shall be qualified to perform such Services. Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff and sub-contractors, if any, assigned to perform the Services required under this Agreement. Consultant shall notify City of all changes in Consultant's staff and sub-contractors, if any, assigned to perform the Services required under this Agreement, prior to and during any such performance. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires to reassign any staff or sub-contractor of Consultant, City shall give notice as set forth in Section 8.1. Consultant shall, immediately upon the receipt of the notice to re-assign staff from City, reassign such person or persons.

1.13 Independent Contractor.

A. Consultant is an independent contractor and not an employee of City. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City. All Services provided pursuant to this Agreement shall be performed by Consultant or under its supervision. Consultant will determine the means, methods, and details of performing the Services. Any additional personnel performing Services under this Agreement on behalf of Consultant shall also not be employees of City and shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

B. Consultant shall indemnify and hold harmless City and its elected officials, officers, employees, servants, designated volunteers, and agents serving as independent contractors in the role of City officials, from any and all liability, damages, claims, costs and expenses of any nature to the extent arising from Consultant's personnel practices. City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this Section.

1.14 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Consultant, the Consultant Representative and employees were a substantial inducement for City to enter into this Agreement. Therefore, Consultant shall not contract with any other entity to perform in whole or in part the Services required hereunder without the express written approval of City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty-five percent (25%) of the present ownership and/or control of Consultant, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this

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Agreement shall be void. No approved transfer shall release Consultant or any surety of Consultant of any liability hereunder without the express consent of City.

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, as full compensation for Services satisfactorily rendered, City shall pay Consultant at the hourly rates set forth in the "Schedule of Compensation" attached hereto as **Exhibit C** and incorporated herein by this reference. In no event shall Consultant be paid more than $ 548,416.05 (the "Contract Sum"). The Contract Sum shall include the attendance of Consultant at all project meetings reasonably deemed necessary by City. Coordination of the performance of the Services with City is a critical component of the Services. If Consultant is required to attend additional meetings to facilitate such coordination, Consultant shall not be entitled to any additional compensation for attending those meetings.

2.2 Method of Compensation.

The method of compensation may include: (i) a lump sum payment upon completion of the Services, (ii) payment in accordance with specified tasks or the percentage of completion of the Services, (iii) payment for time and materials based upon Consultant's rates as specified in the Schedule of Compensation, provided that time estimates are provided for the performance of sub tasks, but not exceeding the Contract Sum or (iv) such other methods as may be specified in the Schedule of Compensation.

2.3 Reimbursable Expenses.

City shall only reimburse Consultant for those actual and necessary expenses expressly set forth in **Exhibit C**. Reimbursable expenses may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expenses, and travel expenses approved by the Contract Officer in advance, or actual sub-contractor expenses of an approved sub-contractor pursuant to Section 1.14, and only if specified in the Schedule of Compensation.

2.4 Unauthorized Services and Expenses.

City will not pay for any Services or reimburse for any expenses incurred which are not specified in the Scope of Services, unless authorized in writing as set forth in Section 1.8 of this Agreement. City shall make payment for such authorized additional Services and expenses in accordance with Article 2 of this Agreement.

2.5 Invoices.

Each month Consultant shall furnish to City an original invoice for all Services performed and expenses incurred during the preceding month. Each such invoice shall contain all of the information set forth in Section IV of **Exhibit C** to this Agreement. By submitting an invoice for payment under this Agreement, Consultant is certifying compliance with all provisions of the Agreement. Consultant shall not invoice City for any duplicate Services performed by more than one person.

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City shall independently review each invoice submitted by Consultant to determine whether the Services performed and expenses incurred are in compliance with the provisions of this Agreement. City will use its best efforts to cause Consultant to be paid within thirty (30) days of receipt of Consultant's correct and undisputed invoice, except as to any charges for Services performed or expenses incurred by Consultant which are disputed by City, or as provided in Section 6.3. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Consultant for correction and resubmission. Review and payment by City of any invoice provided by Consultant shall not constitute waiver of any rights or remedies provided herein or any applicable law.

2.6 Waiver.

Payment to Consultant for Services performed pursuant to this Agreement shall not be deemed to waive any defects in Services performed by Consultant.

ARTICLE 3. PERFORMANCE SCHEDULE

3.1 Time of Essence.

Time is of the essence in the performance of this Agreement; provided, however, that the foregoing shall not be construed to limit or deprive a Party of the benefits of any grace or use period allowed in this Agreement.

3.2 Schedule of Performance.

Consultant shall commence the Services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all Services within the time period(s) established in the "Schedule of Performance" attached hereto as **Exhibit D** and incorporated herein by this reference.

3.3 Force Majeure.

The time period(s) specified in the Schedule of Performance for performance of the Services rendered pursuant to this Agreement may be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of Consultant. Such unforeseeable consequences include, but are not restricted to, acts of God or public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including City, if Consultant shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the Services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified, subject to the provisions of Section 1.8. The Contract Officer's determination (or the City Council's determination, in the event the period of enforced delay exceeds the period specified in Section 1.8) shall be final and conclusive upon the Parties to this Agreement. In no event shall Consultant be entitled to recover damages against City for any delay in the performance of this Agreement, however caused; Consultant's sole remedy shall be the extension of the Agreement pursuant to this Section.

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3.4 Term.

The Term of this Agreement shall be from the Effective Date through October 3, 2022, unless sooner terminated as provided in Article 6 of this Agreement or extended as provided in Sections 1.8 and 3.3 of this Agreement.

ARTICLE 4. INSURANCE AND INDEMNIFICATION

4.1 Minimum Scope and Limits of Insurance.

Consultant shall procure and at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:

A. Commercial General Liability Insurance with a minimum limit of $1,000,000.00 per occurrence for bodily injury, personal injury and property damage and a general aggregate limit of $2,000,000.00 per project or location. If Consultant is a limited liability company, the commercial general liability coverage shall be amended so that Consultant and its managers, members, affiliates, employees, agents and other persons necessary or incidental to its operation are insureds.

B. Automobile Liability Insurance for any owned, non-owned or hired vehicle used in connection with the performance of this Agreement with a combined single limit of $1,000,000.00 per accident for bodily injury and property damage. If Consultant does not use any owned, non-owned or hired vehicles in the performance of Services under this Agreement, Consultant shall obtain a non-owned auto endorsement to the Commercial General Liability policy.

C. Workers' Compensation Insurance as required by the State of California and Employer's Liability Insurance with a minimum limit of $1,000,000.00 per accident for bodily injury or disease. If Consultant has no employees while performing Services under this Agreement, workers' compensation policy is not required; however, Consultant shall execute a declaration that it has no employees.

D. Professional Liability/Errors and Omissions Insurance with minimum limits of $1,000,000.00 per claim and in the aggregate.

4.2 Acceptability of Insurers.

The insurance policies required under this Article shall be issued by an insurer admitted to write insurance in the State of California with a rating of A:VII or better in the latest

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edition of the A.M. Best Insurance Rating Guide. Self-insurance shall not be considered to comply with the insurance requirements under this Article.

4.3 Additional Insured.

The commercial general and automobile liability policies shall contain an endorsement naming City, its officers, employees, agents and volunteers as additional insureds.

4.4 Primary and Non-Contributing.

The insurance policies required under this Article shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance available to City. Any insurance or self-insurance maintained by City, its officers, employees, agents or volunteers, shall be in excess of Consultant's insurance and shall not contribute with it.

4.5 Consultant's Waiver of Subrogation.

The insurance policies required under this Article shall not prohibit Consultant and Consultant's employees, agents or sub-contractors from waiving the right of subrogation prior to a loss. Consultant hereby waives all rights of subrogation against City.

4.6 Deductibles and Self-Insured Retentions.

Any deductibles or self-insured retentions must be declared to and approved by City. At City's option, Consultant shall either reduce or eliminate the deductibles or self-insured retentions with respect to City; or Consultant shall procure a bond guaranteeing payment of losses and expenses.

4.7 Cancellations or Modifications to Coverage.

Consultant shall not cancel, reduce or otherwise modify the insurance policies required by this Article during the term of this Agreement. The commercial general and automobile liability policies required under this Agreement shall be endorsed to state that should the issuing insurer cancel the policy before the expiration date, the issuing insurer will endeavor to mail 30 days' prior written notice to City. If any insurance policy required under this Article is canceled or reduced in coverage or limits, Consultant shall, within two (2) Business Days (as defined in Section 8.12) of notice from the insurer, phone, fax or notify City via certified mail, return receipt requested, of the cancellation of or changes to the policy.

4.8 City Remedy for Noncompliance.

If Consultant does not maintain the policies of insurance required under this Article in full force and effect during the term of this Agreement, or in the event any of Consultant's policies do not comply with the requirements under this Article, City may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, City may, but has no duty to, take out the necessary insurance and pay, at Consultant's expense, the premium thereon. Consultant shall promptly reimburse City for any premium paid by City, or City may withhold amounts sufficient to pay the premiums from payments due to Consultant.

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4.9 Evidence of Insurance.

Prior to the performance of Services under this Agreement, Consultant shall furnish the City Clerk with a certificate or certificates of insurance and all original endorsements evidencing and effecting the coverages required under this Article. The endorsements are subject to City's approval. Consultant may provide complete, certified copies of all required insurance policies to City. Consultant shall maintain current endorsements on file with the City Clerk. Consultant shall provide proof to the City Clerk that insurance policies expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Consultant shall furnish such proof at least two (2) weeks prior to the expiration of the coverages.

4.10 Indemnity Requirements not Limiting.

Procurement of insurance by Consultant shall not be construed as a limitation of Consultant's liability or as full performance of Consultant's duty to indemnify City under this Agreement.

4.11 Sub-contractor Insurance Requirements.

Consultant shall require each of its sub-contractors that perform Services under this Agreement to maintain insurance coverage that meets all of the requirements of this Article.

4.12 Indemnification, Hold Harmless, and Duty to Defend.

A. Indemnification of City.

1) Indemnity for Design Professional Services. To the fullest extent permitted by law, Consultant shall, at its sole cost and expense, protect, indemnify, and hold harmless City and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, assigns and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees"), from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith, and reimbursement of attorney's fees and costs of defense (collectively "Liabilities"), whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to, in whole or in part, the negligence, recklessness or willful misconduct of Consultant, its officers, agents, servants, employees, subcontractors, material men, contractors or their officers, agents, servants or employees (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of design professional services under this Agreement by a "design professional," as the term is defined under California Civil Code Section 2782.8(c).

2) Other Indemnities. Other than in the performance of design professional services, and to the fullest extent permitted by law, Consultant shall, at its sole cost and expense, defend, hold harmless and indemnify Indemnitees from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith and the payment of all consequential

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damages (collectively "Claims"), at law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant, its officers, agents, servants, employees, sub-contractors, materialmen, consultants or their officers, agents, servants or employees (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Claims arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties. Consultant shall defend the Indemnitees in any action or actions filed in connection with any Claims with counsel of the Indemnitees' choice, and shall pay all costs and expenses, including all attorneys' fees and experts' costs actually incurred in connection with such defense. Consultant shall reimburse the Indemnitees for any and all legal expenses and costs incurred by Indemnitees in connection therewith.

3) Consultant shall pay all required taxes on amounts paid to Consultant under this Agreement, and indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant shall fully comply with the workers' compensation law regarding Consultant and Consultant's employees. Consultant shall indemnify and hold City harmless from any failure of Consultant to comply with applicable workers' compensation laws. City may offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this subparagraph A.3.

4) Consultant shall obtain executed indemnity agreements with provisions identical to those in this Article from each and every sub-contractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. If Consultant fails to obtain such indemnities, Consultant shall be fully responsible and indemnify, hold harmless and defend the Indemnitees from and against any and all Liabilities and Claims, in law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant's sub-contractor, its officers, agents, servants, employees, sub-contractors, materialmen, contractors or their officers, agents, servants or employees (or any entity or individual that Consultant's sub-contractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities and Claims arising from the sole negligence or willful misconduct of the Indemnitees, as determined by court decision or by the agreement of the Parties.

B. Workers' Compensation Acts not Limiting. Consultant's indemnifications and obligations under this Article, or any other provision of this Agreement, shall not be limited by the provisions of any workers' compensation act or similar act. Consultant expressly waives its statutory immunity under such statutes or laws as to City, its officers, agents, employees and volunteers.

C. Insurance Requirements not Limiting. City does not, and shall not, waive any rights that it may possess against Consultant because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. The indemnities in this Article shall apply regardless of whether or not any insurance policies are determined to be applicable to the Liabilities, tax, assessment, penalty or interest asserted against City.

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D. Survival of Terms. Consultant's indemnifications and obligations under this Article shall survive the expiration or termination of this Agreement.

ARTICLE 5. RECORDS, REPORTS, AND RELEASE OF INFORMATION

5.1 Service Records.

Consultant shall keep, and require sub-contractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and Services performed hereunder (the "Service Records"), as shall be necessary to perform the Services required by this Agreement and enable the Contract Officer to evaluate the performance of such Services. Any and all such Service Records shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such Service Records at all times during normal business hours of City, including the right to inspect, copy, audit and make copies and transcripts from such Service Records. Such Service Records shall be maintained for a period of three (3) years following completion of the Services hereunder, and City shall have access to such Service Records in the event any audit is required. In the event of dissolution of Consultant's business, custody of the Service Records may be given to City, and access shall be provided by Consultant's successor in interest ("Consultant's Successor"). If custody of the Service Records is given to Consultant's Successor, Consultant shall give written notice to City of the transfer of the Service Records to Consultant's Successor. The notice shall include contact information (address and telephone number) for Consultant's Successor, and access shall be provided to City by Consultant's Successor.

5.2 Reports.

Consultant shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the Services required by this Agreement as the Contract Officer shall require. Consultant hereby acknowledges that City is greatly concerned about the cost of Services to be performed pursuant to this Agreement. For this reason, Consultant agrees that if Consultant becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the Services contemplated herein, Consultant shall promptly notify the Contract Officer of that fact, circumstance, technique or event and the estimated increased or decreased cost related thereto.

5.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the "Consultant Documents") prepared by Consultant, its employees, sub-contractors and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the termination of this Agreement. Consultant shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership use, reuse, or assignment of the Consultant Documents hereunder. Any use, reuse or assignment of such completed Consultant Documents for other projects and/or use of uncompleted Consultant Documents without specific written authorization by Consultant will be at City's sole

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risk and without liability to Consultant, and Consultant's guarantee and warranties shall not extend to such use or assignment. Consultant may retain copies of such Consultant Documents for its own use. Consultant shall have an unrestricted right to use the concepts embodied therein. All sub-contractors shall provide for assignment to City of all Consultant Documents prepared by them; and in the event Consultant fails to secure such assignment, Consultant shall indemnify City for all damages resulting therefrom.

5.4 Confidentiality and Release of Information.

A. All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the Contract Officer.

B. Consultant, its officers, employees, agents or sub-contractors, shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the Services performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

C. If Consultant, or any officer, employee, agent or sub-contractor of Consultant, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorneys' fees, caused by or incurred as a result of Consultant's conduct.

D. Consultant shall promptly notify City should Consultant, its officers, employees, agents or sub-contractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any Party regarding this Agreement and the Services performed thereunder. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite the response.

ARTICLE 6. ENFORCEMENT OF AGREEMENT AND TERMINATION

6.1 California Law.

This Agreement, and any dispute arising from the relationship between the Parties to this Agreement, shall be interpreted, construed and governed both as to validity and to performance of the Parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Riverside, State of California, or any other appropriate court in such county, and Consultant covenants and agrees to submit to the personal jurisdiction of such

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court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in Riverside.

6.2 Disputes; Default.

A. In the event that City determines Consultant is in default under the terms of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any Services performed after the date of default. In addition to the provisions of Section 4.8, and the right to terminate pursuant to Section 6.7, if the City Manager determines that Consultant is in default in the performance of any of the terms or conditions of this Agreement, City may serve Consultant with written notice of the default. Consultant shall have ten (10) calendar days after service upon it of the notice in which to cure the default by rendering a satisfactory performance. In the event that Consultant fails to cure its default within such period of time, City may, notwithstanding any other provision of this Agreement, terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

B. In the event of termination pursuant to this Section, City may take over the Services and prosecute the same to completion by contract or otherwise, and Consultant shall be liable to the extent that the total cost for completion of the Services required hereunder exceeds the compensation herein stipulated (provided that City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to Consultant for the purpose of set-off or partial payment of the amounts owed City as provided in Section 6.3.

6.3 Retention of Funds.

Consultant hereby authorizes City to deduct from any amount payable to Consultant (whether or not arising out of this Agreement): (i) any payment amount of which may be in dispute hereunder or which is necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, (ii) all amounts retained pursuant to the provisions of Section 4.8, (iii) all amounts for which City may be liable to third parties, by reason of Consultant's acts or omissions in performing or failing to perform Consultant's obligation under this Agreement, and (iv) all payments due or that become due to Consultant during the period that Consultant or any of its sub-contractors fail to maintain any required insurance in full force and effect, until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to City, as provided in Section 4.9, above. In the event that any claim is made by a third party, the amount or validity of which is disputed by Consultant, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of Consultant to insure, indemnify, and protect City as elsewhere provided herein.

6.4 Waiver.

Waiver by any Party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any

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Party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any Services by Consultant shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either Party of any default must be in writing, and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

6.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

6.6 Legal Action.

In addition to any other rights or remedies, either Party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Notwithstanding any contrary provision herein, Consultant must file a statutory claim pursuant to Government Code Sections 905 et seq. and 910 et seq., in order to pursue a legal action against City under this Agreement.

6.7 Termination Prior to Expiration of Term.

This Article 6 shall govern any termination of this Agreement except as specifically provided in Section 6.2 for termination for default of Consultant. City reserves the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days' written notice to Consultant, except that where termination is due to the fault of Consultant, the period of notice may be a shorter time as may be determined by the Contract Officer. In addition, Consultant reserves the right to terminate this Agreement at any time, with or without cause, upon sixty (60) days' written notice to City, except that where termination is due to the fault of City, the period of notice may be a shorter time as Consultant may determine. Upon receipt of any notice of termination, Consultant shall immediately cease all Services hereunder except such as may be specifically approved by the Contract Officer. Except where Consultant has initiated termination, Consultant shall be entitled to compensation for all Services rendered prior to the effective date of the notice of termination and for any Services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 6.3. In the event Consultant has initiated termination, Consultant shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder. In the event of termination without cause pursuant to this Section, the terminating Party need not provide the non-terminating Party with the opportunity to cure pursuant to Section 6.2.

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6.8 Attorneys' Fees.

In any litigation or other proceeding by which a Party seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing Party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorneys' fees. Attorneys' fees shall include attorney's fees on any appeal, and in addition the Party entitled to attorneys' fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

ARTICLE 7. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

7.1 Non-liability of City Officers and Employees.

No officer or employee of City shall be personally liable to Consultant, or Consultant's Successor, in the event of any default or breach by City or for any amount which may become due to Consultant or Consultant's Successor, or for breach of any obligation of the terms of this Agreement.

7.2 Conflict of Interest.

Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of Services under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or sub-contractor without the express written consent of the Contract Officer. Consultant agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

No officer or employee of City shall have any direct or indirect financial interest in this Agreement within the scope of Government Code section 1090, nor shall any such officer or employee make, participate in making, or use his or her official position to influence, any City decision relating to the Agreement which has a material financial effect on his or her financial interests or the financial interests of any corporation, partnership or association in which he or she is, directly or indirectly, interested, in violation of any State statute or regulation. Consultant warrants that it has not paid or given, and will not pay or give any third party any money or other consideration for obtaining this Agreement.

Consultant and its officers, employees, associates and sub-contractors, if any, shall comply with all conflict of interest statutes of the State of California applicable to Consultant's Services under this Agreement, including the Political Reform Act (Gov. Code § 81000, et seq.) and Government Code Section 1090. During the term of this Agreement, Consultant may perform similar services for other clients; but Consultant and its officers, employees, associates and sub-contractors shall not, without the Contract Officer's prior written approval, perform services for another person or entity for whom Consultant is not currently performing services that would

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require Consultant or one of its officers, employees, associates or sub-contractors to abstain from a decision under this Agreement pursuant to a conflict of interest statute. Consultant shall incorporate a clause substantially similar to this Section into any subcontract that Consultant executes in connection with the performance of this Agreement.

7.3 Covenant Against Discrimination.

Consultant covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, or ancestry in the performance of this Agreement. Consultant shall take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, religion, sex, marital status, national origin, or ancestry, or other protected class.

7.4 Unauthorized Aliens.

Consultant hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such unauthorized aliens for the performance of Services covered by this Agreement, and should the any liability or sanctions be imposed against City for such use of unauthorized aliens, Consultant hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

ARTICLE 8. MISCELLANEOUS PROVISIONS

8.1 Notices.

Any notice, demand, request, document, consent, approval, bill, invoice, report or other communication required or permitted under this Agreement shall be in writing and conclusively deemed effective: (a) on confirmed delivery by courier service or overnight delivery service during Consultant's and City's regular business hours; or (b) three (3) Business Days after deposit in the United States mail, by certified or registered mail, and addressed to the Party to be notified as set forth below:

If to City

Attn: Patrick Safari
Associate Engineer
City of Banning
99 East Ramsey Street
Banning, California 90220
Email: psafari@banningca.gov

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With a courtesy copy to:	Kevin G. Ennis, City Attorney Richards, Watson & Gershon 355 South Grand Avenue, 40th Floor Los Angeles, California 90071 Email: kennis@rwglaw.com
If to Consultant:	Dilesh Sheth Vice President Albert A. Webb Associates 3788 McCray Street Riverside, CA 92506 Email: dilesh.sheth@webbassociates.com

8.2 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either Party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

8.3 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

8.4 Integration; Amendment.

This Agreement, and all exhibits referred to in this Agreement, constitute the final, complete and exclusive statement of the terms of the agreement between the Parties pertaining to the subject matter of this Agreement and supersede all other and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the Parties, and none shall be used to interpret this Agreement. No Party has been induced to enter into this Agreement by, nor is any Party relying on, any representation or warranty except those expressly set forth in this Agreement. No amendment to or modification of this Agreement, nor any provision or breach hereof waived, shall be valid unless made in writing and approved by Consultant and by City Council. The Parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

8.5 Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the Parties hereunder unless the invalid provision is so material that its invalidity deprives either Party of the basic benefit of their bargain or renders this Agreement meaningless.

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8.6 Mutual Cooperation.

A. City's Cooperation. City shall provide Consultant with all pertinent data, documents and other requested information as is reasonably available for Consultant's proper performance of the Services required under this Agreement.

B. Consultant's Cooperation. In the event any claim or action is brought against City relating to Consultant's performance of Services rendered under this Agreement, Consultant shall render any reasonable assistance that City requires.

8.7 No Third Party Beneficiaries Intended.

This Agreement is made solely for the benefit of the Parties to this Agreement and their respective successors and assigns, and no other person or entity may have or acquire a right by virtue of this Agreement.

8.8 Final Payment Acceptance Constitutes Release.

The acceptance by Consultant of the final payment made under this Agreement shall operate as and be a release of City from all claims and liabilities for compensation to Consultant for anything done, furnished or relating to Consultant's Services. Acceptance of payment shall be any negotiation of City's check or the failure to make a written extra compensation claim within ten (10) calendar days of the receipt of that check. However, approval or payment by City shall not constitute, nor be deemed, a release of the responsibility and liability of Consultant, its employees, sub-contractors and agents for the accuracy and competency of the information provided and/or Services performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by City for any defect or error in the Services prepared by Consultant, its employees, sub-contractors and agents.

8.9 Non-Appropriation of Funds.

Payments to be made to Consultant by City for Services performed within the current fiscal year which are within the current fiscal budget and within an available, unexhausted fund. In the event that City does not appropriate sufficient funds for payment of Consultant's Services beyond the current fiscal year, this Agreement shall cover payment for Consultant's Services only to the conclusion of the last fiscal year in which City appropriates sufficient funds and shall automatically terminate at the conclusion of such fiscal year.

8.10 Headings.

The headings in this Agreement are included solely for convenience of reference and shall not affect the interpretation of any provision of this Agreement or any of the rights or obligations of the Parties to this Agreement.

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8.11 Word Usage.

Unless the context clearly requires otherwise, (a) the words "shall," "will" and "agrees" are mandatory and "may" is permissive; (b) "or" is not exclusive; and (c) "includes" or "including" are not limiting.

8.12 Business Days.

"Business Days" refers to days that the Banning City Hall is open for business.

8.13 Corporate Authority.

The persons executing this Agreement on behalf of the Parties hereto warrant that (i): such Party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of that Party, (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which that Party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the Parties.

[SIGNATURES ON FOLLOWING PAGE]

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IN WITNESS WHEREOF the Parties hereto have executed this Agreement the day and year first hereinabove written.

CITY OF BANNING

DocuSigned by:
Doug Schulze 6/23/2020
0AD14BA217CE497...

Douglas Schulze, Date
City Manager

ATTEST:

DocuSigned by:
Sonja De La Fuente 6/23/2020
9C9C3E6DD5AB49B...

Sonja De La Fuente Date
Deputy City Clerk

APPROVED AS TO FORM:
Richards, Watson & Gershon

DocuSigned by:
Kevin Ennis 6/23/2020
940BF72E9643480...

Kevin G. Ennis, Esq., Date
City Attorney

CONSULTANT

DocuSigned by:
Dilesh Sheth 6/23/2020
BE3BB4E66D146B1...

NAME: Dilesh Sheth Date
TITLE: Vice President

NAME: Date
TITLE:

95-1723730
Tax ID No.

Address:
3788 McCray Street, Riverside, Ca 92506

City Council Approval: 04/14/2020

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

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EXHIBIT "A"
SCOPE OF SERVICES

I. Consultant will perform the following Services in connection with providing design of Sun Lakes Boulevard extension prepared in connection therewith:

I. As part of the Services, Consultant will prepare and deliver the following tangible work products to City:

A. Consultant shall provide services necessary to provide a complete (construction ready) project.

Task 1. Project Management

The consultant shall attend regular status meetings with the City throughout the duration of the project as well as prepare monthly progress reports. The consultant shall develop and maintain a detailed work program and schedule the development of a project specific Work Plan. The Work Plan will include, at a minimum, details of methodology, sequence of tasks, lists of deliverables, milestone submittal schedule, summary of organizational responsibilities and contacts, as well as reporting and invoicing procedures. The consultant will meet face to face with the Project Design Team (PDT) monthly. The consultant will be responsible to facilitate other meetings as necessary with City Departments and other key stakeholders, creating meeting agendas with input from the City and prepare and distribute meeting minutes.

Deliverables: Work Plan, Monthly Progress Reports, Meeting Agendas and Meeting Minutes.

Task 2. Project Development

2.1 Data Collection and Site Reconnaissance

Consultant shall collect and review available existing reports, data, as-built plans, and information relevant to the project from the City, County and any other agency necessary to complete the work, including assessor's information and any utilities that exist in the area. Consultant shall conduct a field investigation to familiarize the project team with the drainage conditions, flow patterns, existing design constraints and existing/ongoing improvements in the project area.

Deliverables: Field Review Notes, Photo Logs, Copies of Existing Data

2.2 Survey and Aerial Topographic Mapping

Consultant shall research available record information pertaining to the project including: Tract Maps, Records of Survey, Parcel Maps and Right-of-Way Maps.

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Consultant shall provide topographical mapping at 1-foot contour intervals and field surveying to identify existing topographical features. Tie out any and all survey monuments that may be disturbed by the work. Establish street centerline and centerline stationing to an accuracy of one-tenth foot (0.10'). Establish temporary benchmarks required for the work and provide all elevations, dimensions and other measurements necessary to establish proper line and grade.

Deliverables: AutoCAD drawing file of the survey points

2.3 Utility Research and Base Mapping

Consultant shall act on behalf of the City of Banning and contact all utility purveyors to determine if existing facilities are present in the area. Utility data shall be base mapped and include appropriate identification by their respective owner, location and size.

2.4 Public Outreach

Due to the number of residences and existing developments located adjacent to the project site, the Consultant shall include the necessary public outreach. At a minimum, this shall be conducted in an "Open house" fashion to give the adjacent neighbors a chance to learn about the project and note any potential concerns.

Deliverables: Letters to Utility Owners, Utility As-Built Maps, Utility Base Map

Task 3. Preliminary Engineering Design

3.1 Roadway Geometric Approval Drawings (GAD's)

Consultant shall analyze and prepare a proposed alignment consistent with the existing right-of-way and in accordance with the Caltrans Highway Design Manual for geometric features. It is anticipated that right-of-way will not be required as a part of this project; however, construction easements, slope easements, etc. may still be required. The GAD shall include typical cross sections as well as the identification of existing rights-of-way and property lines to determine any need for right-of-way or easements.

Deliverables: Geometric Approval Drawings (30% Complete Plans),

Preliminary Cost Estimate, Preliminary Right-of-Way Requirements Map

3.2 Preliminary Roadway Drainage Plans

Consultant shall prepare drainage design for the proposed improvements in accordance with the Riverside County Flood Control and Water Conservation District (RCFC&WCD) design standards. The consultant shall review any available hydrology reports and prepare necessary analysis in accordance with RCFC&WCD

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as well as City requirements to determine the amount of drainage tributary to the project area and to review the capacity of existing drainage facilities. Consultant shall review public agency's available hydrology/hydraulic and storm drain plan records for existing drainage facilities within and adjacent to the project site. Existing drainage patterns and runoff tributary areas to the site shall be determined. Consultant shall perform necessary analysis to determine hydraulic function and size of necessary facilities.

Deliverables: Drainage Design Report, 30% Drainage Plans (shown on the GAD)

Task 4. Environmental Documentation

Consultant shall identify environmental impacts under California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) if necessary. Environmental services shall include identification and preparation of an Initial Study Assessment, technical studies and environmental document for City review and approval as necessary for CEQA clearance. The City currently anticipates an IS/MND as the appropriate CEQA document for the project. The Consultant shall evaluate the City's recommendation and determine if the IS/MND is the appropriate document for this project. Based on this assumption, the proposal should include timing and cost breakdowns for the initial assessment, as well as costs associated with potential focused surveys. At a minimum, the consultant shall address:

4.1 Traffic Impact Analysis

Consultant shall prepare a TIA for the proposed improvements for CEQA documentation. The study will address the changes in traffic volumes and patterns in the immediate vicinity. At a minimum, the study shall look at adjacent intersections to determine if traffic controls (stop control, traffic signals, etc.) are required. The consultant shall assume that Vehicle Miles Traveled (VMT) analysis will be required in conformance with SB 743.

4.2 Air Quality and Greenhouse Gas

These studies will be used in the CEQA review. The studies should include a written report (with photos of the site) discussing air quality and greenhouse gas impacts.

4.3 Biological Study

Based on the recent Negative Declaration for the modification to the City's General Plan Circulation Element, at a minimum this shall include a burrowing owl survey and Los Angeles Pocket Mouse Survey. An MSHCP consistency analysis will need to be completed as a part of this study. The necessary habitat assessments shall include written reports (with photos of the site) indicating whether or not the site contains suitable habitat.

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4.4 Cultural Study and Paleontological Resources Report

The Cultural Study and Paleontological Resources Report should include a written report following the guidelines for Archaeological Resource Management Reports prepared by the California Office of Historical Preservation, Preservation Planning Bulletin 4(a), December 1989. AB52 compliance shall also be included in the scope of services.

4.5 Noise Study

The Noise Study shall include a written report (with photos of the site) identifying short- and long-term noise impacts, and any mitigation measures required to reduce these impacts to less than significant. Deliverables: CEQA IS/MND, Responses to Comments, Copies of Studies, Correspondence.

Task 5. Final Design Reports and Studies

Consultant shall provide final Design Reports and Studies necessary to complete the project. The following recommendations may be necessary:

5.1 Utility Coordination

Review and verification of facilities that may be in conflict based on results of potholing; relocation of any existing utilities determined to be in conflict; liability for all utility conflicts; agreements as necessary; issuance of notices to relocate as necessary.

5.2 Geotechnical Design Report

Structural conditions and recommendations that may include over excavation and recompaction areas or surcharges; all necessary analysis for proper design of the project objectives, R-values of subgrade material and the structural section of the roadway using the latest traffic index.

5.3 Supplemental Design Surveys

Provide potholing map as necessary for utility surveying in the field; establish potholing location and record elevations of any utilities located.

5.4 Storm Water Pollution Prevention Plan (SWPPP)

In compliance with National Pollution Discharge Elimination system (NPDES) requirements as well as Construction General Permits; address project's risk level; provide Notice of Intent (NOI) and assist with uploading NOI & SWPPP into the "SMARTs" system.

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Deliverables: Utility Correspondences (i.e. Relocation Claim Letters, Agreements, Notice to Relocate, etc.), Final Studies/Reports.

Task 6. Final Design Plans, Specifications and Estimates

Consultant shall prepare a complete set of improvement plans compatible with AutoCAD 2019. PS&E submittals will be required at the 60%, 90% and 100% design intervals. The plans shall include a cover sheet with all sheets using the City title block and prepared in accordance with the regulations and standards of the City of Banning. At a minimum, the plans shall include the following new, modification or relocation of existing improvements:

· Street Improvements
· Grading
· Easement Documents
· Sidewalk, Curb & Gutter
· Retaining Walls and/or Structures
· Storm Drain
· Landscape & Irrigation
· Signing & Striping
· Erosion Control and Storm Water Pollution Prevention Plan (if necessary)
· Construction Options, Phasing and Detour Plans
· Street Lighting, Traffic Signals and Modifications
· Utilities
· Intersecting Street Designs
· Driveway Approaches
· Record of Existing Survey Monuments
· Other Related Work

Consultant shall address all plan check comments, to the satisfaction of the City Engineer. Final Plans shall be submitted on 24" X 36" mylars

Deliverables: 60%, 90%, 100% PS&E Submittals, Final PS&E, Electronic Versions of each Submittal.

Task 7. Permitting

Consultant shall investigate and process all required permits if necessary, including, but not limited to the following: Riverside County Flood Control & Water Conservation District, National Pollution Discharge Elimination System, U.S. Army Corps of Engineers, California Department of Fish and Wildlife, State of California Water Resources Control Board, and Regional Conservation Authority.

Deliverables: Correspondence with Various Agencies, Permit Applications and Final Permits

Task 8. Bidding/Construction Support

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Consultant shall be available during the advertisement and construction of the project to answer RFI's as well as prepare necessary addenda. The consultant shall plan to attend, at a minimum, the following meetings: pre-bid meeting and pre-construction meeting. The Consultant shall review shop drawings and submittals from the contractor for conformance with the contract plans and specifications, and make recommendations for acceptance, denial or re-submittal within reasonable time of receipt. Upon written authorization from the City, consultant shall provide engineering design services for revisions to construction documents resulting from changed or unforeseen conditions, or other change order work required due to actions of the City. The Consultant shall assume a minimum of eight (8) site visits during construction as requested by the City. Upon completion of the project, the consultant shall use information based on redlined information provided by the contractor and the City to prepare as-built plans. As-built plans shall be submitted to the City within one (1) month of receipt of as-built plans.

Deliverables: Meeting Attendance, Response to Bidder's/Contractor's RFIs, Design Addenda, Submittal Reviews, As-Built Plans

II. In addition to the requirements of Parts I and II of this Scope of Services, during the performance of the Services, Consultant will keep City appraised through periodic status reports regarding the performance of the Services under this Agreement as set forth below and in Section 5.2, by the following means:

A. In-person meetings or teleconference.

B. Email updates/questions to applicant team and City while reviews are underway.

C. Conference calls.

III. All work product is subject to review and acceptance by City, and must be revised by Consultant without additional charge to City until found satisfactory and accepted by City.

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EXHIBIT "B"
SPECIAL REQUIREMENTS

TERMS FOR COMPLIANCE WITH CALIFORNIA LABOR LAW REQUIREMENTS

1. This Agreement calls for services that, in whole or in part, constitute "public works" as defined in Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code ("Chapter 1"). Further, Consultant acknowledges that this Agreement is subject to (a) Chapter 1 and (b) the rules and regulations established by the Department of Industrial Relations ("DIR") implementing such statutes. Therefore, as to those Services that are "public works," Consultant shall comply with and be bound by all the terms, rules and regulations described in 1(a) and 1(b) as though set forth in full herein.

2. California law requires the inclusion of specific Labor Code provisions in certain contracts. The inclusion of such specific provisions below, whether or not required by California law, does not alter the meaning or scope of Section 1 above.

3. Consultant shall be registered with the Department of Industrial Relations in accordance with California Labor Code Section 1725.5, and has provided proof of registration to City prior to the Effective Date of this Agreement. Consultant shall not perform work with any subcontractor that is not registered with DIR pursuant to Section 1725.5. Consultant and subcontractors shall maintain their registration with the DIR in effect throughout the duration of this Agreement. If the Consultant or any subcontractor ceases to be registered with DIR at any time during the duration of the project, Consultant shall immediately notify City.

4. Pursuant to Labor Code Section 1771.4, Consultant's Services are subject to compliance monitoring and enforcement by DIR. Consultant shall post job site notices, as prescribed by DIR regulations.

5. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file at City Hall and will be made available to any interested party on request. Consultant acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and Consultant shall post such rates at each job site covered by this Agreement.

6. Consultant shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. The Consultant shall, as a penalty to City, forfeit $200.00 for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the DIR for the work or craft in which the worker is employed for any public work done pursuant to this Agreement by Consultant or by any subcontractor.

7. Consultant shall comply with and be bound by the provisions of Labor Code Section 1776, which requires Consultant and each subcontractor to: keep accurate payroll records and verify such records in writing under penalty of perjury, as specified in Section 1776; certify and make such payroll records available for inspection as provided by Section 1776; and inform City of the location of the records.

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8. Consultant shall comply with and be bound by the provisions of Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code Title 8, Section 200 et seq. concerning the employment of apprentices on public works projects. Consultant shall be responsible for compliance with these aforementioned Sections for all apprenticeable occupations. Prior to commencing work under this Agreement, Consultant shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within 60 days after concluding work pursuant to this Agreement, Consultant and each of its subcontractors shall submit to City a verified statement of the journeyman and apprentice hours performed under this Agreement.

9. The Consultant shall not perform Work with any Subcontractor that has been debarred or suspended pursuant to California Labor Code Section 1777.1 or any other federal or state law providing for the debarment of contractors from public works. The Consultant and Subcontractors shall not be debarred or suspended throughout the duration of this Agreement pursuant to Labor Code Section 1777.1 or any other federal or state law providing for the debarment of contractors from public works. If the Consultant or any subcontractor becomes debarred or suspended during the duration of the project, the Consultant shall immediately notify City.

10. Consultant acknowledges that eight hours labor constitutes a legal day's work. Consultant shall comply with and be bound by Labor Code Section 1810. Consultant shall comply with and be bound by the provisions of Labor Code Section 1813 concerning penalties for workers who work excess hours. The Consultant shall, as a penalty to City, forfeit $25.00 for each worker employed in the performance of this Agreement by the Consultant or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code section 1815, work performed by employees of Consultant in excess of eight hours per day, and 40 hours during any one week shall be permitted upon public work upon compensation for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay.

11. California Labor Code Sections 1860 and 3700 provide that every employer will be required to secure the payment of compensation to its employees. In accordance with the provisions of California Labor Code Section 1861, Consultant hereby certifies as follows:

> "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."

Date 6/23/2020 **Signature** DocuSigned by: Dilesh Sheth BE3BB4E55DC146F...

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12. For every subcontractor who will perform work on the project, Consultant shall be responsible for such subcontractor's compliance with Chapter 1 and Labor Code Sections 1860 and 3700, and Consultant shall include in the written contract between it and each subcontractor a copy of those statutory provisions and a requirement that each subcontractor shall comply with those statutory provisions. Consultant shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractor's compliance, including, without limitation, conducting a periodic review of the certified payroll records of the subcontractor and upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages. Consultant shall diligently take corrective action to halt or rectify any failure.

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EXHIBIT "C"
SCHEDULE OF COMPENSATION

I. Consultant shall perform the following tasks ("Tasks") at the following rates.

TASK	DESCRIPTION	SUB-BUDGET
1.	Project Management	$19,970
2.	Project Development	$26,206
3.	Preliminary Engineering Design	$76,154
4.	Environmental Documentation	$159,470
5.	Final Design Report and Studies	$67,250
6.	Final Design, Specifications and Estimates	$183,236
7.	Permitting	$11,130
8.	Bidding/Construction Support	$5,000
	TOTAL	**$548,416.05**

II. Within the budgeted amounts for each Task, and with the approval of the Contract Officer, funds may be shifted from one Task sub-budget to another so long as the Contract Sum is not exceeded per Section 2.1, unless Additional Services are approved per Section 1.8.

III. City will compensate Consultant for the Services performed upon submission of a valid invoice. Each invoice is to include:

A. Line items for all personnel describing the Services performed, the number of hours worked, and the hourly rate.

B. Line items for all materials and equipment properly charged to the Services.

C. Line items for all other approved reimbursable expenses claimed, with supporting documentation.

D. Line items for all approved sub-contractor labor, supplies, equipment, materials, and travel properly charged to the Services.

IV. The total compensation for Services shall not exceed $548,416.05 as provided in Section 2.1 of this Agreement.

V. Consultant's billing rates for all personnel are attached as Exhibit C-1.

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EXHIBIT "D"
SCHEDULE OF PERFORMANCE

I. Consultant shall perform all Services timely, and deliver the specified tangible work products to City in accordance with the schedule attached as Exhibit D-1.

II. The Contract Officer may approve extensions for performance of the Services in accordance with Sections 1.8 and 3.3.

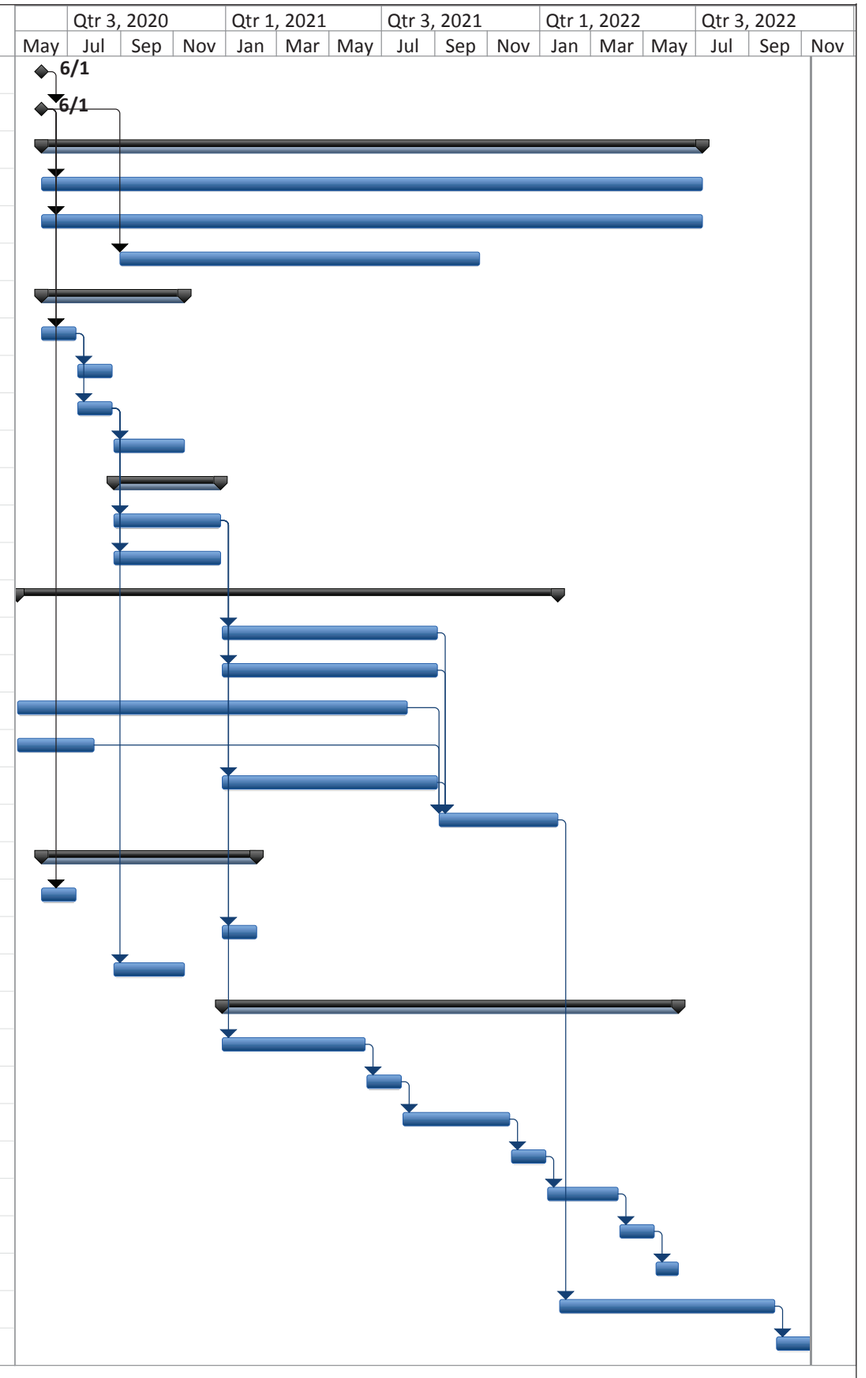
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EXHIBIT "D-1"
PROPOSED PROJECT SCHEDULE

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Section D. Project Schedule

ID	Task Name	Duration	Start	Finish	Predecessors
1	Contract Award	0 days	Mon 6/1/20	Mon 6/1/20	
2	Project Kick-Off Meeting	0 days	Mon 6/1/20	Mon 6/1/20	1
3	**Task 1 - Project Management**	**550 days**	**Mon 6/1/20**	**Fri 7/8/22**	
4	1.1 - Coordination and Meetings (Prepare Agendas and Minutes)	550 days	Mon 6/1/20	Fri 7/8/22	**2**
5	1.2 - Prepare Monthly Progress Reports and Work Plans	550 days	Mon 6/1/20	Fri 7/8/22	**2**
6	1.3 - Coordination with Stakeholders and Agencies	300 days	Mon 8/31/20	Fri 10/22/21	2
7	**Task 2 - Project Development**	**120 days**	**Mon 6/1/20**	**Fri 11/13/20**	
8	2.1 - Data Collection and Site Reconnaissance	30 days	Mon 6/1/20	Fri 7/10/20	2
9	2.2 - Survey and Aerial Topographic Mapping	30 days	Mon 7/13/20	Fri 8/21/20	8
10	2.3 - Utility Research and Base Mapping	30 days	Mon 7/13/20	Fri 8/21/20	8
11	2.4 - Public Outreach	60 days	Mon 8/24/20	Fri 11/13/20	10
12	**Task 3 - Prelinimary Engineering Design**	**90 days**	**Mon 8/24/20**	**Fri 12/25/20**	
13	3.1 - Roadway Geometric Approval Drawing (GAD)	90 days	Mon 8/24/20	Fri 12/25/20	10
14	3.2 - Preliminary Roadway Drainage Plans	90 days	Mon 8/24/20	Fri 12/25/20	10
15	**Task 4 - Environmental Documentation**	**450 days**	**Mon 5/4/20**	**Fri 1/21/22**	
16	4.1 - Traffic Impact Analysis	180 days	Mon 12/28/20	Fri 9/3/21	13
17	4.2 - Air Quality and Greenhouse Gas	180 days	Mon 12/28/20	Fri 9/3/21	13
18	4.3 - Biological Study	325 days	Mon 5/4/20	Fri 7/30/21	
19	4.4 - Cultural Study and Paleontological Report	65 days	Mon 5/4/20	Fri 7/31/20	
20	4.5 - Noise Study	180 days	Mon 12/28/20	Fri 9/3/21	13
21	4.6 - CEQA Documentation	100 days	Mon 9/6/21	Fri 1/21/22	16,17,18,19,20
22	**Task 5 - Final Design Reports and Studies**	**180 days**	**Mon 6/1/20**	**Fri 2/5/21**	
23	5.1 - Utility Coordination	30 days	Mon 6/1/20	Fri 7/10/20	2
24	5.2 - Supplemental Design Survey	30 days	Mon 12/28/20	Fri 2/5/21	13
25	5.3 - Storm Water Pollution Prevention Plan (SWPPP)	60 days	Mon 8/24/20	Fri 11/13/20	10
26	**Task 6 - Final Design Plans, Specifications and Estimate**	**380 days**	**Mon 12/28/20**	**Fri 6/10/22**	
27	Preparation of 60% Plans	120 days	Mon 12/28/20	Fri 6/11/21	13
28	City Review of 60% Plans	30 days	Mon 6/14/21	Fri 7/23/21	27
29	Preparation of 90% PS&E	90 days	Mon 7/26/21	Fri 11/26/21	28
30	City Review of 90% PS&E	30 days	Mon 11/29/21	Fri 1/7/22	29
31	Preparation of 100% PS&E	60 days	Mon 1/10/22	Fri 4/1/22	30
32	City Review of 100% PS&E	30 days	Mon 4/4/22	Fri 5/13/22	31
33	Approval of PS&E Package	20 days	Mon 5/16/22	Fri 6/10/22	32
34	**Task 7 - Regulatory Permitting**	180 days	Mon 1/24/22	Fri 9/30/22	21
35	**Task 8 - Bidding / Construction Support**	30 days	Mon 10/3/22	Fri 11/11/22	34



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AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT (C00660) FOR THE DESIGN OF SUN LAKES BOULEVARD EXTENSION BY AND BETWEEN THE CITY OF BANNING AND ALBERT A. WEBB ASSOCIATES

THIS AMENDMENT NO. 1 TO THE AGREEMENT FOR PROFESSIONAL DESIGN SERVICES ("Amendment No. 1") by and between the **CITY OF BANNING** ("City") and **ALBERT A. WEBB ASSOCIATES**, a California Corporation ("Consultant") is effective as of this day: November 8, 2022.

RECITALS

A. City and Consultant entered into that certain Agreement for Professional Design Services dated June 23, 2020 ("Agreement") whereby Consultant agreed to provide Design Services for the Design of Sun Lakes Boulevard Extension following a Request for Proposals for an amount not to exceed Five-Hundred Forty-Eight Thousand Four Hundred Sixteen Dollars and Five Cents ($548,416.05). The agreement included a 10% Contingency of Fifty Four Thousand Eight Hundred Forty One Dollars and Sixty One Cents ($54,841.61) for a total contract amount of Six Hundred Three Thousand Seven Hundred Twenty Five Dollars and Sixty Six Cents ($603,725.66) The Term of the Agreement was to commence on June 23, 2020, and continue in full force and effect until October 3, 2022.

B. On February 11, 2022, Public Works Department approved a change order to the Professional Services Agreement with Albert A. Webb Associates, Inc. for out-of-scope work including coordination with Western Riverside County Regional Conservation Authority (RCA) in the amount of $24,983.25, leaving a contingency balance of $29,858.36.

C. On March 21, 2022, Public Works Department approved a change order to the Professional Services Agreement with Albert A. Webb Associates, Inc. for the preparation of a sediment transport analysis (out of scope) in the amount of $5,974.88, leaving a contingency balance of $23,883.48.

D. On August 23,2022 City Council adopted City Council Resolution 2022-106 which authorized the increase in compensation for services provided under the Agreement by One Hundred Twenty-Nine Thousand Four Hundred Dollars ($129,400).

E. On October 11, 2022, City Council Adopted City Council Resolution 2022-139 to rescind Resolution 2022-106 and amend the Agreement to include additional compensation in the amount of One Hundred Forty-Eight Thousand Two Hundred Twenty-Two Dollars ($148,222.00) for a new contract total of Seven Hundred Fifty-One Thousand Nine Hundred Forty-Seven Dollars and Sixty-Six Cents ($751,947.66) and to extend the term of the Agreement through June 30, 2024.

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TERMS

1. **Contract Changes**. The Agreement is amended as provided herein.

(a) Section 2.1 – "Contract Sum" of the Agreement is amended to provide that Consultant's total compensation shall not to exceed Seven Hundred Fifty-One Thousand Nine Hundred Forty-Seven Dollars and Sixty Six Cents ($751,947.66).

(b) Section 3.4 – "Term" of the Agreement is hereby amended to extend the Agreement term to June 30, 2024.

2. **Continuing Effect of Agreement**. Except as amended by this Amendment No. 1, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment No. 1, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by this Amendment No. 1 to the Professional Services Agreement.

3. **Affirmation of Agreement; Warranty Re Absence of Defaults**. City and Consultant each ratify and reaffirm each and every one of the respective rights and obligations arising under the Agreement. Each party represents and warrants to the other that there have been no written or oral modifications to the Agreement other than as provided herein. Each party represents and warrants to the other that the Agreement is currently an effective, valid and binding obligation.

Consultant represents and warrants to City that, as of the date of this Amendment No. 1, City is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

City represents and warrants to Consultant that, as of the date of this Amendment No. 1, Consultant is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

4. **Adequate Consideration**. The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment No. 1.

5. **Authority**. The persons executing this Amendment No. 1 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 1 on behalf of said party, (iii) by so executing this Amendment No. 1, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Amendment No. 1 does not violate any provision of any other Agreement to which said party is bound.

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IN WITNESS WHEREOF the Parties hereto have executed this Amendment No. 1 to the Agreement the day and year first hereinabove written.

CITY OF BANNING

DocuSigned by:
Doug Schulze 11/7/2022
0AD14BA217CE497...

Douglas Schulze, Date
City Manager

ATTEST:

DocuSigned by:
11/8/2022
72C57B436CA24C7...

Caroline Patton Date
Deputy City Clerk

APPROVED AS TO FORM:
Richards, Watson & Gershon

DocuSigned by:
Serita Young 11/4/2022
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Serita R. Young Date
City Attorney

CONSULTANT

DocuSigned by:
Dilesh Sheth, PE, TE 10/19/2022
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Dilesh Sheth Date
Vice President

NAME: Date
TITLE:

95-1723730
Tax ID No.

Address:
3788 McCray Street
Riverside, CA 92506

City Council Approval: October 11, 2022

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

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RESOLUTION 2022-139

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT WITH ALBERT A. WEBB ASSOCIATES, INC. FOR AN ADDITIONAL AMOUNT OF $148,222 FOR THE DESIGN OF SUN LAKES BOULEVARD EXTENSION; EXTENDING THE TERM OF AGREEMENT TO JUNE 30, 2024; AND RESCINDING RESOLUTION 2022-106

WHEREAS, on April 14, 2020, under Resolution No. 2020-48, the City Council approved the Professional Services Agreement with Albert A. Webb Associates, Inc. for the design of Sun Lakes Boulevard Extension in the amount of $548,416.05, and a 10% contingency for a total of $603,725.66; and

WHEREAS, on July 14, 2020, City Council adopted Resolution No. 2020-97, authorizing the City Manager to execute a Transportation Uniform Mitigation Fee (TUMF) Reimbursement Agreement with Western Riverside Council of Government (WRCOG) for up to $1,000,000 in TUMF funds for the Sun Lakes Boulevard Extension project; and

WHEREAS, on February 11, 2022, Public Works Department approved a change order to the Professional Services Agreement with Albert A. Webb Associates, Inc. for out-of-scope work including coordination with Western Riverside County Regional Conservation Authority RCA in the amount of $24, 9873.25, paid from contingency funds; and

WHEREAS, on March 21, 2022, Public Works Department approved a change order to the Professional Services Agreement with Albert A. Webb Associates, Inc. for the preparation of sediment transport in the amount of $5,974.88, paid from contingency funds; and

WHEREAS, on May 12, 2022, Public Works Department approved a change order to the Professional Services Agreement with Albert A. Webb Associates, Inc. for additional out of scope work such as storm drain system design, environmental coordination with Wildlife Agencies and Western Riverside County Regional Conservation Authority (RCA), supplemental environmental documentation and jurisdictional delineation and permitting in the amount of $148,222; and

WHEREAS, Amendment No.1 will amend the purchase order by adding an additional $148,222; and

WHEREAS, Amendment No. 1 will also extend the term of the Agreement to June 30, 2024; and

WHEREAS, an appropriation from the Measure A Fund in the amount of $148,222 to Account No. 101-4900-431.93-16 is necessary to cover the change orders; and

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WHEREAS, the project, including Amendment No. 1 is fully funded by the TUMF program up to $1,000,000.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. City Council hereby approves Amendment No. 1 to the Professional Services Agreement with Albert A. Webb Associates, Inc. for an additional $148,222 for the Design of Sun Lakes Boulevard Extension and extend the term of the agreement to June 30, 2024.

SECTION 2. The City Manager or designee is authorized to make necessary budget adjustments, appropriations and transfers related to the Professional Services Agreement Amendment No. 1 with Albert A. Webb Associates, Inc.

SECTION 3. The City Manager or designee is authorized to execute Amendment No. 1 to the Professional Services Agreement with Albert A. Webb Associates, Inc.

PASSED, APPROVED AND ADOPTED this 11th day of October 2022.

Colleen Wallace, Mayor
City of Banning

ATTEST:

Caroline Patton, Deputy City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

Serita Young, City Attorney
Richards, Watson & Gershon

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CERTIFICATION:

I, Caroline Patton, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2022-139, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 11th day of October 2022 by the following vote, to wit:

AYES: Happe, Minjares, Sanchez, and Wallace.

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Deputy City Clerk
City of Banning, California

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CITY OF BANNING
STAFF REPORT

TO: **CITY COUNCIL**

FROM: **Douglas Schulze, City Manager**

PREPARED BY: **Art Vela, Director of Public Works**
Patrick Safari, Associate Engineer

MEETING DATE: **October 11, 2022**

SUBJECT: **Consideration of Resolution 2022-139, Approving Amendment No. 1 to the Professional Services Agreement with Albert A. Webb Associates, Inc. for an Additional Amount of $148,222 for the Design of Sun Lakes Boulevard Extension; Extending the Term of Agreement to June 30, 2024; and Rescinding Resolution 2022-106**

RECOMMENDATION:

City Council adopt Resolution 2022-139:

1. Approving Amendment No. 1 to the Professional Services Agreement with Albert A. Webb Associates, Inc. for an additional amount of $148,222 for the Design of Sun Lakes Boulevard Extension and extend the term of the agreement to June 30, 2024.
2. Authorizing the City Manager or his designee to make necessary budget adjustments, appropriations and transfers related to the Professional Services Agreement Amendment No. 1 with Albert A. Webb Associates, Inc.
3. Authorizing the City Manager to execute Amendment No. 1 to the Professional Services Agreement with Albert A. Webb Associates, Inc.
4. Rescinding Resolution 2022-106.

BACKGROUND:

On April 14, 2020, under Resolution No. 2020-48, the City Council approved the Professional Services Agreement with Albert A. Webb Associates, Inc. for the design of Sun Lakes Boulevard Extension (“Project”) in the amount of $548,416.05 with a 10% contingency of $54,841.61, for a total of $603,725.66.

On July 14, 2020, City Council adopted Resolution No. 2020-97, authorizing the City Manager to execute a Transportation Uniform Mitigation Fee (TUMF) Reimbursement Agreement with Western Riverside Council of Government (WRCOG) for up to $1,000,000 in TUMF funds for the Sun Lakes Boulevard Extension project. The TUMF

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funding would fully fund the environmental documentation (CEQA) and the design of the Project.

On February 11, 2022, Public Works Department approved a change order to the Professional Services Agreement with Albert A. Webb Associates, Inc. for out-of-scope work including coordination with Western Riverside County Regional Conservation Authority (RCA) in the amount of $24,983.25, leaving a contingency balance of $29,858.36.

On March 21, 2022, Public Works Department approved a change order to the Professional Services Agreement with Albert A. Webb Associates, Inc. for the preparation of a sediment transport analysis (out of scope) in the amount of $5,974.88, leaving a contingency balance of $23,883.48.

On May 12, 2022, Public Works Department approved a change order to the Professional Services Agreement with Albert A. Webb Associates, Inc. for additional out-of-scope work such as storm drain system design, environmental coordination with Wildlife Agencies and Western Riverside County Regional Conservation Authority (RCA), supplemental environmental documentation and jurisdictional delineation and permitting in the amount of $148,222. The change order increased the contract amount to $751,947.66.

JUSTIFICATION:

Throughout the design process and coordination with the various environmental regulatory agencies, several out-of-scope tasks were identified that were needed to be completed in order to continue progress on the Project leading to the change orders described in the background section of this report.

As a result of the extra work, Amendment No.1 will also extend the term of the Agreement to June 30, 2024.

FISCAL IMPACT:

An appropriation from the Measure A Fund in the amount of $148,222 to Account No. 101-4900-431.93-16 is necessary to cover the current change order $148,222 as described above. A contingency balance will remain equal to $23,883.48.

The project is fully funded by the TUMF program up to $1,000,000, therefore the additional expenditures related to Amendment No. 1 will be fully reimbursed by the TUMF program.

ALTERNATIVES:

1. Approve Resolution 2022-139
2. Do not approve Resolution 2022-139 and provide alternative direction to staff.

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ATTACHMENTS:

1. Resolution 2022-139
   https://banningca.gov/DocumentCenter/View/11549/Att-1-Resolution-2022-139
2. Approved Resolution 2020-48
   https://banningca.gov/DocumentCenter/View/11550/Att-2-CC-Resolution-No-2020-048
3. Approved Resolution 2020-97
   https://banningca.gov/DocumentCenter/View/11551/Att-3-CC-Resolution-No-2020-097
4. Professional Services Agreement with Webb
   https://banningca.gov/DocumentCenter/View/11552/Att-4-Professional-Services-Agreement-with-Webb
5. Amendment No.1 to the Webb Agreement
   https://banningca.gov/DocumentCenter/View/11547/Att-5-Amendment-No-1
6. Change Orders
   https://banningca.gov/DocumentCenter/View/11548/Att-6--Change-Orders

Approved by:

Douglas Schulze
City Manager

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CHANGE ORDER

Change Order No. 2

Purchase Order No. 030269

Date 1/25/2022

Agreement Date 6/23/2020

Sheet 1 of 2

Owner: CITY OF BANNING

Project: **2020-04 Sun Lakes Boulevard Extension**

Contractor: Albert A. Webb and Associates

The following changes are hereby made to the Contract Documents:

JUSTIFICATIONS:

Out of scope work. Sediment Transport Study was needed to assess the potential sediment transport capacity at the proposed arched culverts crossings.

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CHANGE TO CONTRACT PRICE

Original Contract Price	$ 548,416.05 Current
Contract Price adjusted by previous Change Order(s)	$ 573,399.30
Contract Price due to this Change Order will be (increased)	$ 5,974.88
New Contract Price including this Change Order	$ 579,374.18

CHANGE TO CONTRACT TIME

Contract Time will be (increased) Date	12/31/2022
for Completion of all Work	580 (Working Days) (Date)

APPROVALS REQUIRED

To be effective, this order must be approved by the Owner, or as may otherwise be required by the Supplemental General Conditions.

Recommended by: _____ Date: 1/26/2022

Approved by: _____ Date: 1/27/22

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CHANGE ORDER

Change Order No. 1

Purchase Order No. 030269

Date 1/11/2022

Agreement Date 6/23/2020

Sheet 1 of 2

Owner: CITY OF BANNING

Project: **2020-04 Sun Lakes Boulevard Extension**

Contractor: Albert A. Webb and Associates

The following changes are hereby made to the Contract Documents:

JUSTIFICATIONS:

Out of scope work. Coordination with RCA, meetings with RCA, analysis of arched culvert design, coordination and plan revisions per Sunset Crossroads Project.

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CHANGE TO CONTRACT PRICE

Original Contract Price	$ 548,416.05 Current
Contract Price adjusted by previous Change Order(s)	$ 548,416.05
Contract Price due to this Change Order will be (increased)	$ 24,983.25
New Contract Price including this Change Order	$ 573,399.30

CHANGE TO CONTRACT TIME

Contract Time will be (increased) Date	12/31/2022
for Completion of all Work	580 (Working Days) (Date)

APPROVALS REQUIRED

To be effective, this order must be approved by the Owner, or as may otherwise be required by the Supplemental General Conditions.

Recommended by: _____ Date: 1/11/2022

Approved by: _____ Date: 1/14/22

Richards, Watson & Gershon - 2018

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RESOLUTION 2020-97

ADOPT RESOLUTION 2020-97, AUTHORIZING THE CITY MANAGER TO EXECUTE A TUMF REIMBURSEMENT AGREEMENT WITH WRCOG FOR UP TO $1,000,000 IN TUMF FUNDS FOR THE SUN LAKES BOULEVARD EXTENSION PROJECT

WHEREAS, Western Riverside Council of Government (WRCOG) has developed and administers the Transportation Uniform Mitigation Fee (TUMF) program, a regional fee program designed to provide transportation infrastructure to mitigate the impact of new growth in western Riverside County. The City of Banning is an active member in WRCOG; and

WHEREAS, as the program administrator, WRCOG allocates TUMF funds to a variety of agencies, including the Riverside County Transportation Commission (RCTC), Riverside Transit Agency (RTA), Western Riverside Regional Conservation Authority (RCA) and western Riverside cities and Riverside County areas through applicable TUMF Zones; and

WHEREAS, the City of Banning is part of the Pass Zone along with the City of Calimesa, City of Beaumont and Riverside County (District 5); and

WHEREAS, the Pass Zone Transportation Improvement Program (TIP), which included the Sun Lakes Boulevard Extension project, was approved by the WRCOG Executive Committee at its May 4, 2020 meeting; and

WHEREAS, the TUMF Reimbursement Agreement will provide up to $1,000,000 in TUMF funds in the form of a reimbursement to the City of Banning for expenditures related to the Sun Lakes Boulevard Extension project; and

WHEREAS, the WRCOG Executive Committee approved the TUMF Reimbursement Agreement at its June 1, 2020 meeting.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

Section 1. The Banning City Council adopts Resolution 2020-97 authorizing the City Manager to execute the TUMF Reimbursement Agreement with WRCOG for up to $1,000,000 in TUMF funds for the Sun Lakes Boulevard Extension project.

Section 2. The City Manager or his designee is authorized to record the reimbursement funds and to make all necessary budget adjustments, appropriations and transfers related to the TUMF Reimbursement Agreement for the Sun Lakes Boulevard Extension project.

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PASSED, APPROVED AND ADOPTED this 14th day of July, 2020.

Daniela Andrade

Daniela Andrade, Mayor
City of Banning

ATTEST:

Sonja De La Fuente, Deputy City Clerk
City of Banning

APPROVED AS TO FORM
AND LEGAL CONTENT:

Kevin G. Ennis, Esq., City Attorney
Richards, Watson & Gershon

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CERTIFICATION:

I, Sonja De La Fuente, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2020-97, was adopted by the City Council of the City of Banning at a Regular Meeting thereof held on the 14th day of July, 2020, by the following vote, to wit:

AYES: Councilmembers Happe, Pingree, Wallace, Welch and Mayor Andrade

NOES: None

ABSTAIN: None

ABSENT: None

Sonja De La Fuente, Deputy City Clerk
City of Banning

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RESOLUTION 2020-48

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AWARDING A PROFESSIONAL SERVICES AGREEMENT FOR THE DESIGN OF THE SUN LAKES BOULEVARD EXTENSION FROM HIGHLAND HOME ROAD TO SUNSET AVENUE, TO ALBERT A. WEBB ASSOCIATES IN THE AMOUNT OF $548,416.05 AND APPROVING A 10% CONTINGENCY FOR A TOTAL PROJECT BUDGET OF "NOT-TO-EXCEED" $603,258.05

WHEREAS, there is a current need for a new road on the south side of Interstate 10 to close a gap in the City's street network from Highland Home Road to Sunset Avenue to reduce existing congestion at the Highland Springs Avenue interchange and to accommodate expected growth within the City; and

WHEREAS, on February 11, 2020, under Resolution 2020-21 the City Council accepted Lots A, D, E, F and G for the necessary right-of-way for the extension of Sun Lakes Boulevard from Highland Home Road to Sunset Avenue. The lots were originally offered to the City on Parcel Map 25541 approved on August 28, 1990, at which time the City deferred the approval of the right-of-way to a future date; and

WHEREAS, on March 24, 2020, under Resolution 2020-37, the City Council approved General Plan Amendment 19-2502 and Environmental Assessment 19-1503, a proposed amendment to the Circulation Element of the General Plan to modify the alignment of Sun Lakes Boulevard from its existing General Plan alignment with Lincoln Street to the proposed alignment with Westward Avenue following closely the right-of-way offered on Parcel Map 25541; and

WHEREAS, on February 18, 2020, staff released an Invitation for Bid for the Design of the Sun Lakes Boulevard Extension to five (5) consultants on the on-call engineering list approved by City Council on September 10, 2019 under Resolution 2019-116 and received three (3) proposals ranging in costs from $508,678 to $849,674; and

WHEREAS, staff evaluated the proposals based on qualifications, cost, experience with the request scope of services and response to the request for proposals. As a result, staff recommends the award of a professional services agreement to Albert A. Webb Associates, in the amount of $548,416.05; and

WHEREAS, the total project budget of $603,258.05, which includes a 10% contingency, will be funded by Measure A funds. The project costs are eligible and expected to be reimbursed by the Western Riverside Council of Governments (WRCOG) via the Transportation Uniform Mitigation Fee (TUMF) program.

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NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The City of Banning City Council adopts Resolution No. 2020-48 Professional Services Agreement for the Design of the Sun Lakes Boulevard Extension from Highland Home Road to Sunset Avenue, to Albert A. Webb Associates in the amount of $548,416.05 and approves a 10% contingency for a total project budget of "not-to-exceed" $603,258.05.

SECTION 2. City Council authorizes the City Manager or his designee to make necessary budget adjustments, appropriations and transfers related to the Professional Services Agreement with Albert A. Webb Associates and to approve change orders within the 10% contingency.

SECTION 3. The City Manager is authorized to execute the Professional Services Agreement with Albert A. Webb Associates.

SECTION 4. The City Clerk is authorized to certify the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions

PASSED, APPROVED and ADOPTED this 14th day of April, 2020.

Daniela Andrade

Daniela Andrade, Mayor
City of Banning

ATTEST:

Sonja De La Fuente, Deputy City Clerk

APPROVED AS TO FORM AND LEGAL CONTENT:

Kevin G. Ennis, Esq., City Attorney
Richards, Watson & Gershon

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CERTIFICATION:

I, Sonja De La Fuente, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2020-48 was duly adopted by the City Council of the City of Banning at a Regular Meeting thereof held on the 14th of April, 2020.

AYES: Councilmembers Happe, Pingree, Wallace, Welch & Mayor Andrade

NOES: None

ABSTAIN: None

ABSENT: None

Sonja De La Fuente, Deputy City Clerk
City of Banning, California

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AGREEMENT FOR PROFESSIONAL SERVICES (C00660) FOR THE DESIGN OF SUN LAKES BOULEVARD EXTENSION BY AND BETWEEN CITY OF BANNING AND ALBERT A WEBB ASSOCIATES

THIS AGREEMENT FOR PROFESSIONAL SERVICES (herein "Agreement") is made and entered into this day: 6/23/2020, ("Effective Date") by and between the **CITY OF BANNING, a California municipal corporation** ("City") and **ALBERT A WEBB ASSOCIATES, a** California corporation, ("Consultant"). City and Consultant are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties."

RECITALS

A. City has sought, by issuance of a Request for Proposals, the performance of the services for the design of Sun Lakes Boulevard extension prepared in connection therewith, and as further defined and described particularly in Article 1 of this Agreement.

B. Consultant, following submission of a proposal or bid for the performance of the services defined and described particularly in Article 1 of this Agreement, was selected by City to perform those services.

C. The Parties desire to formalize the selection of Consultant for performance of those services defined and described particularly in Article 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

D. Pursuant to the City of Banning's Municipal Code, City has authority to enter into this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1. SERVICES OF CONSULTANT

1.1 Scope of Services.

In compliance with all terms and conditions of this Agreement, Consultant shall provide those services specified in the "Scope of Services" attached hereto as **Exhibit A** and incorporated herein by this reference, which services may be referred to herein as the "Services" hereunder. As a material inducement to City entering into this Agreement, Consultant represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the Services required under this Agreement in a thorough, competent, and professional manner, and is experienced in performing the Services contemplated herein. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all Services described herein. Consultant covenants that it shall follow the highest professional standards in performing the Services required hereunder and that all materials will be of good quality, and fit for the purpose intended. For purposes of this Agreement, the phrase "highest professional

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standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances. This Agreement calls for services that, in whole or in part, constitute "public works" as defined in the California Labor Code. Therefore, as to those services that are "public works," Consultant shall comply in all respects with all applicable provisions of the California Labor Code, including those set forth in **Exhibit B** hereto.

1.2 Contract Documents and Exhibits.

This Agreement includes the Request for Proposal and Consultant's accepted proposal ("Contract Documents"), both of which are on file with the City and incorporated herein by this general reference as though fully set forth herein. **Exhibit A** (Scope of Services), **Exhibit B** (Special Requirements), **Exhibit C** (Schedule of Compensation), and **Exhibit D** (Schedule of Performance) also constitute a part of this Agreement and are incorporated into this Agreement by this reference. Except as set forth in Section 1.10 regarding **Exhibit B**, this Agreement controls over the Contract Documents and the provisions in **Exhibits A, B** and **C**.

1.3 Compliance with Law.

Consultant shall keep itself informed concerning all ordinances, resolutions, statutes, rules, and regulations of City and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered, and shall render all Services hereunder in accordance therewith.

1.4 Licenses, Permits, Fees and Assessments.

Consultant shall obtain and maintain during the term of this Agreement, at its sole cost and expense, all necessary licenses, permits, certificates and approvals required by law for the performance of Services under this Agreement, including a City business license. Consultant shall have the sole obligation to pay for all fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and which arise from or are necessary for Consultant's performance of the Services required by this Agreement. Consultant shall indemnify, defend and hold harmless City, its officers, employees or agents, against all such fees, assessments, taxes, penalties or interest levied, assessed or imposed against City hereunder.

1.5 Familiarity with Services.

By executing this Agreement, Consultant warrants that Consultant: (i) has thoroughly investigated and considered the Scope of Services to be performed, (ii) has carefully considered how the Services should be performed, and (iii) fully understands the facilities and any difficulties and restrictions attending performance of the Services under this Agreement. If the Services involve work upon any site, Consultant warrants that Consultant has or will investigate the site and is or will be fully acquainted with the conditions existing therein, prior to commencement of Services hereunder. Should Consultant discover any latent or unknown conditions, which will materially affect the performance of the Services hereunder, Consultant shall immediately inform City of such fact and shall not proceed except at Consultant's risk until written instructions are received from the Contract Officer (defined in Section 1.12. A).

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1.6 Prevention of Loss and Damages.

Consultant shall adopt reasonable methods during the Term (defined in Section 3.4) to furnish continuous protection to the work product, and the equipment, materials, papers, documents, plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the Services by City, except such losses or damages as may be caused by City's own negligence.

1.7 Further Responsibilities of Parties.

Both Parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both Parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonable necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither Party shall be responsible to perform the Services of the other.

1.8 Additional Services.

City shall have the right at any time during the performance of the Services, without invalidating this Agreement, to order extra services beyond that specified in the Scope of Services or to make changes by altering, adding to or deducting from the Services. No such extra services may be undertaken unless a written order is first given by the Contract Officer to Consultant, which written order incorporates therein an adjustment in (i) the Contract Sum (as defined in Section 2.1), and/or (ii) the Schedule of Performance, (as defined in Section 3.2), and which written order is approved in writing by Consultant. Any increase in compensation of up to five percent (5%) of the Contract Sum, or $25,000, whichever is less; or in the Schedule of Performance of up to one hundred eighty (180) days may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively, must be approved by City Council. It is expressly understood by Consultant that the provisions of this Section shall not apply to Services which are specifically set forth in the Scope of Services or which are reasonably contemplated therein. Consultant hereby acknowledges that it accepts the risk that the Services to be provided pursuant to the Scope of Services may be more costly or time consuming than Consultant anticipates and that Consultant shall not be entitled to additional compensation therefor.

1.9 Facilities and Equipment.

Except as otherwise provided, Consultant shall, at its own cost and expense, provide all facilities and equipment necessary to perform the Services required by this Agreement. City shall make available to Consultant only physical facilities such as desks, filing cabinets, and conference space ("City Facilities"), as City deems, in its sole discretion, to be reasonably necessary for Consultant's use while consulting with City employees and reviewing records and the information in possession of City. The location, quality, and time of furnishing City Facilities shall be in the sole discretion of City. In no event shall City be required to furnish any facilities that may involve incurring any direct expense, including but not limited to a computer, long distance telephone, network data, internet or other communication charges, vehicles and reproduction facilities.

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1.10 Special Requirements.

Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as **Exhibit B** and incorporated herein by this reference. In the event of a conflict between the provisions of **Exhibit B** and any other provisions of this Agreement, the provisions of **Exhibit B** shall govern.

1.11 Corrections.

In addition to the indemnification obligations set forth in Article 4, and Sections 1.4, 1.13, 5.3, 5.4, and 6.3, Consultant shall correct, at its expense, all errors in the Services which may be disclosed during City's review of Consultant's report or plans. Should Consultant fail to make such correction(s) in a reasonably timely manner, such correction(s) may be made by City, and the cost thereof shall be charged to Consultant. In addition to all other available remedies, City may deduct the cost of such correction(s) from any retention amount held by City, or may withhold payment otherwise owed Consultant under this Agreement up to the amount of the cost of correction(s), as provided in Section 6.3.

1.12 Party Representatives.

A. Contract Officer: For the purposes of this Agreement, the Contract Officer shall be the City Manager, or such other person designated in writing by the City Manager ("Contract Officer"). Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of City required hereunder to carry out the terms of this Agreement.

B. Principals and Personnel of Consultant.

1) Consultant Representative: The following principal of Consultant is hereby designated as being the Consultant Representative authorized to act on Consultant's behalf regarding the Services specified herein and make all decisions in connection therewith:

Name	Title
Dilesh Sheth	Vice President

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing Consultant Representative were a substantial inducement for City to enter into this Agreement. Therefore, the foregoing Consultant Representative shall be responsible during the term of this Agreement for directing all activities of Consultant and devoting sufficient time to personally supervise the Services hereunder. All personnel of Consultant, and any authorized agents, shall at all times be under the exclusive direction and control of the Consultant Representative. For purposes of this Agreement, the foregoing Consultant Representative may not be replaced nor may their responsibilities be substantially reduced or reassigned by Consultant without the express written approval of City. It shall be Consultant's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the Services, and Consultant shall refer any decisions which must be made by City to the Contract Officer.

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2) Consultant's Personnel: Consultant has, or will secure at its own expense, all personnel required to perform the Services required under this Agreement. All of the Services required under this Agreement shall be performed by Consultant or under its supervision, and all personnel engaged in the Services shall be qualified to perform such Services. Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff and sub-contractors, if any, assigned to perform the Services required under this Agreement. Consultant shall notify City of all changes in Consultant's staff and sub-contractors, if any, assigned to perform the Services required under this Agreement, prior to and during any such performance. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires to reassign any staff or sub-contractor of Consultant, City shall give notice as set forth in Section 8.1. Consultant shall, immediately upon the receipt of the notice to re-assign staff from City, reassign such person or persons.

1.13 Independent Contractor.

A. Consultant is an independent contractor and not an employee of City. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City. All Services provided pursuant to this Agreement shall be performed by Consultant or under its supervision. Consultant will determine the means, methods, and details of performing the Services. Any additional personnel performing Services under this Agreement on behalf of Consultant shall also not be employees of City and shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

B. Consultant shall indemnify and hold harmless City and its elected officials, officers, employees, servants, designated volunteers, and agents serving as independent contractors in the role of City officials, from any and all liability, damages, claims, costs and expenses of any nature to the extent arising from Consultant's personnel practices. City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this Section.

1.14 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Consultant, the Consultant Representative and employees were a substantial inducement for City to enter into this Agreement. Therefore, Consultant shall not contract with any other entity to perform in whole or in part the Services required hereunder without the express written approval of City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty-five percent (25%) of the present ownership and/or control of Consultant, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this

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Agreement shall be void. No approved transfer shall release Consultant or any surety of Consultant of any liability hereunder without the express consent of City.

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, as full compensation for Services satisfactorily rendered, City shall pay Consultant at the hourly rates set forth in the "Schedule of Compensation" attached hereto as **Exhibit C** and incorporated herein by this reference. In no event shall Consultant be paid more than $ 548,416.05 (the "Contract Sum"). The Contract Sum shall include the attendance of Consultant at all project meetings reasonably deemed necessary by City. Coordination of the performance of the Services with City is a critical component of the Services. If Consultant is required to attend additional meetings to facilitate such coordination, Consultant shall not be entitled to any additional compensation for attending those meetings.

2.2 Method of Compensation.

The method of compensation may include: (i) a lump sum payment upon completion of the Services, (ii) payment in accordance with specified tasks or the percentage of completion of the Services, (iii) payment for time and materials based upon Consultant's rates as specified in the Schedule of Compensation, provided that time estimates are provided for the performance of sub tasks, but not exceeding the Contract Sum or (iv) such other methods as may be specified in the Schedule of Compensation.

2.3 Reimbursable Expenses.

City shall only reimburse Consultant for those actual and necessary expenses expressly set forth in **Exhibit C**. Reimbursable expenses may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expenses, and travel expenses approved by the Contract Officer in advance, or actual sub-contractor expenses of an approved sub-contractor pursuant to Section 1.14, and only if specified in the Schedule of Compensation.

2.4 Unauthorized Services and Expenses.

City will not pay for any Services or reimburse for any expenses incurred which are not specified in the Scope of Services, unless authorized in writing as set forth in Section 1.8 of this Agreement. City shall make payment for such authorized additional Services and expenses in accordance with Article 2 of this Agreement.

2.5 Invoices.

Each month Consultant shall furnish to City an original invoice for all Services performed and expenses incurred during the preceding month. Each such invoice shall contain all of the information set forth in Section IV of **Exhibit C** to this Agreement. By submitting an invoice for payment under this Agreement, Consultant is certifying compliance with all provisions of the Agreement. Consultant shall not invoice City for any duplicate Services performed by more than one person.

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City shall independently review each invoice submitted by Consultant to determine whether the Services performed and expenses incurred are in compliance with the provisions of this Agreement. City will use its best efforts to cause Consultant to be paid within thirty (30) days of receipt of Consultant's correct and undisputed invoice, except as to any charges for Services performed or expenses incurred by Consultant which are disputed by City, or as provided in Section 6.3. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Consultant for correction and resubmission. Review and payment by City of any invoice provided by Consultant shall not constitute waiver of any rights or remedies provided herein or any applicable law.

2.6 Waiver.

Payment to Consultant for Services performed pursuant to this Agreement shall not be deemed to waive any defects in Services performed by Consultant.

ARTICLE 3. PERFORMANCE SCHEDULE

3.1 Time of Essence.

Time is of the essence in the performance of this Agreement; provided, however, that the foregoing shall not be construed to limit or deprive a Party of the benefits of any grace or use period allowed in this Agreement.

3.2 Schedule of Performance.

Consultant shall commence the Services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all Services within the time period(s) established in the "Schedule of Performance" attached hereto as **Exhibit D** and incorporated herein by this reference.

3.3 Force Majeure.

The time period(s) specified in the Schedule of Performance for performance of the Services rendered pursuant to this Agreement may be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of Consultant. Such unforeseeable consequences include, but are not restricted to, acts of God or public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including City, if Consultant shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the Services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified, subject to the provisions of Section 1.8. The Contract Officer's determination (or the City Council's determination, in the event the period of enforced delay exceeds the period specified in Section 1.8) shall be final and conclusive upon the Parties to this Agreement. In no event shall Consultant be entitled to recover damages against City for any delay in the performance of this Agreement, however caused; Consultant's sole remedy shall be the extension of the Agreement pursuant to this Section.

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3.4 Term.

The Term of this Agreement shall be from the Effective Date through October 3, 2022, unless sooner terminated as provided in Article 6 of this Agreement or extended as provided in Sections 1.8 and 3.3 of this Agreement.

ARTICLE 4. INSURANCE AND INDEMNIFICATION

4.1 Minimum Scope and Limits of Insurance.

Consultant shall procure and at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:

A. Commercial General Liability Insurance with a minimum limit of $1,000,000.00 per occurrence for bodily injury, personal injury and property damage and a general aggregate limit of $2,000,000.00 per project or location. If Consultant is a limited liability company, the commercial general liability coverage shall be amended so that Consultant and its managers, members, affiliates, employees, agents and other persons necessary or incidental to its operation are insureds.

B. Automobile Liability Insurance for any owned, non-owned or hired vehicle used in connection with the performance of this Agreement with a combined single limit of $1,000,000.00 per accident for bodily injury and property damage. If Consultant does not use any owned, non-owned or hired vehicles in the performance of Services under this Agreement, Consultant shall obtain a non-owned auto endorsement to the Commercial General Liability policy.

C. Workers' Compensation Insurance as required by the State of California and Employer's Liability Insurance with a minimum limit of $1,000,000.00 per accident for bodily injury or disease. If Consultant has no employees while performing Services under this Agreement, workers' compensation policy is not required; however, Consultant shall execute a declaration that it has no employees.

D. Professional Liability/Errors and Omissions Insurance with minimum limits of $1,000,000.00 per claim and in the aggregate.

4.2 Acceptability of Insurers.

The insurance policies required under this Article shall be issued by an insurer admitted to write insurance in the State of California with a rating of A:VII or better in the latest

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edition of the A.M. Best Insurance Rating Guide. Self-insurance shall not be considered to comply with the insurance requirements under this Article.

4.3 Additional Insured.

The commercial general and automobile liability policies shall contain an endorsement naming City, its officers, employees, agents and volunteers as additional insureds.

4.4 Primary and Non-Contributing.

The insurance policies required under this Article shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance available to City. Any insurance or self-insurance maintained by City, its officers, employees, agents or volunteers, shall be in excess of Consultant's insurance and shall not contribute with it.

4.5 Consultant's Waiver of Subrogation.

The insurance policies required under this Article shall not prohibit Consultant and Consultant's employees, agents or sub-contractors from waiving the right of subrogation prior to a loss. Consultant hereby waives all rights of subrogation against City.

4.6 Deductibles and Self-Insured Retentions.

Any deductibles or self-insured retentions must be declared to and approved by City. At City's option, Consultant shall either reduce or eliminate the deductibles or self-insured retentions with respect to City; or Consultant shall procure a bond guaranteeing payment of losses and expenses.

4.7 Cancellations or Modifications to Coverage.

Consultant shall not cancel, reduce or otherwise modify the insurance policies required by this Article during the term of this Agreement. The commercial general and automobile liability policies required under this Agreement shall be endorsed to state that should the issuing insurer cancel the policy before the expiration date, the issuing insurer will endeavor to mail 30 days' prior written notice to City. If any insurance policy required under this Article is canceled or reduced in coverage or limits, Consultant shall, within two (2) Business Days (as defined in Section 8.12) of notice from the insurer, phone, fax or notify City via certified mail, return receipt requested, of the cancellation of or changes to the policy.

4.8 City Remedy for Noncompliance.

If Consultant does not maintain the policies of insurance required under this Article in full force and effect during the term of this Agreement, or in the event any of Consultant's policies do not comply with the requirements under this Article, City may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, City may, but has no duty to, take out the necessary insurance and pay, at Consultant's expense, the premium thereon. Consultant shall promptly reimburse City for any premium paid by City, or City may withhold amounts sufficient to pay the premiums from payments due to Consultant.

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4.9 Evidence of Insurance.

Prior to the performance of Services under this Agreement, Consultant shall furnish the City Clerk with a certificate or certificates of insurance and all original endorsements evidencing and effecting the coverages required under this Article. The endorsements are subject to City's approval. Consultant may provide complete, certified copies of all required insurance policies to City. Consultant shall maintain current endorsements on file with the City Clerk. Consultant shall provide proof to the City Clerk that insurance policies expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Consultant shall furnish such proof at least two (2) weeks prior to the expiration of the coverages.

4.10 Indemnity Requirements not Limiting.

Procurement of insurance by Consultant shall not be construed as a limitation of Consultant's liability or as full performance of Consultant's duty to indemnify City under this Agreement.

4.11 Sub-contractor Insurance Requirements.

Consultant shall require each of its sub-contractors that perform Services under this Agreement to maintain insurance coverage that meets all of the requirements of this Article.

4.12 Indemnification, Hold Harmless, and Duty to Defend.

A. Indemnification of City.

1) Indemnity for Design Professional Services. To the fullest extent permitted by law, Consultant shall, at its sole cost and expense, protect, indemnify, and hold harmless City and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, assigns and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees"), from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith, and reimbursement of attorney's fees and costs of defense (collectively "Liabilities"), whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to, in whole or in part, the negligence, recklessness or willful misconduct of Consultant, its officers, agents, servants, employees, subcontractors, material men, contractors or their officers, agents, servants or employees (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of design professional services under this Agreement by a "design professional," as the term is defined under California Civil Code Section 2782.8(c).

2) Other Indemnities. Other than in the performance of design professional services, and to the fullest extent permitted by law, Consultant shall, at its sole cost and expense, defend, hold harmless and indemnify Indemnitees from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith and the payment of all consequential

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damages (collectively "Claims"), at law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant, its officers, agents, servants, employees, sub-contractors, materialmen, consultants or their officers, agents, servants or employees (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Claims arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties. Consultant shall defend the Indemnitees in any action or actions filed in connection with any Claims with counsel of the Indemnitees' choice, and shall pay all costs and expenses, including all attorneys' fees and experts' costs actually incurred in connection with such defense. Consultant shall reimburse the Indemnitees for any and all legal expenses and costs incurred by Indemnitees in connection therewith.

3) Consultant shall pay all required taxes on amounts paid to Consultant under this Agreement, and indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant shall fully comply with the workers' compensation law regarding Consultant and Consultant's employees. Consultant shall indemnify and hold City harmless from any failure of Consultant to comply with applicable workers' compensation laws. City may offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this subparagraph A.3.

4) Consultant shall obtain executed indemnity agreements with provisions identical to those in this Article from each and every sub-contractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. If Consultant fails to obtain such indemnities, Consultant shall be fully responsible and indemnify, hold harmless and defend the Indemnitees from and against any and all Liabilities and Claims, in law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant's sub-contractor, its officers, agents, servants, employees, sub-contractors, materialmen, contractors or their officers, agents, servants or employees (or any entity or individual that Consultant's sub-contractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities and Claims arising from the sole negligence or willful misconduct of the Indemnitees, as determined by court decision or by the agreement of the Parties.

B. Workers' Compensation Acts not Limiting. Consultant's indemnifications and obligations under this Article, or any other provision of this Agreement, shall not be limited by the provisions of any workers' compensation act or similar act. Consultant expressly waives its statutory immunity under such statutes or laws as to City, its officers, agents, employees and volunteers.

C. Insurance Requirements not Limiting. City does not, and shall not, waive any rights that it may possess against Consultant because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. The indemnities in this Article shall apply regardless of whether or not any insurance policies are determined to be applicable to the Liabilities, tax, assessment, penalty or interest asserted against City.

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D. Survival of Terms. Consultant's indemnifications and obligations under this Article shall survive the expiration or termination of this Agreement.

ARTICLE 5. RECORDS, REPORTS, AND RELEASE OF INFORMATION

5.1 Service Records.

Consultant shall keep, and require sub-contractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and Services performed hereunder (the "Service Records"), as shall be necessary to perform the Services required by this Agreement and enable the Contract Officer to evaluate the performance of such Services. Any and all such Service Records shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such Service Records at all times during normal business hours of City, including the right to inspect, copy, audit and make copies and transcripts from such Service Records. Such Service Records shall be maintained for a period of three (3) years following completion of the Services hereunder, and City shall have access to such Service Records in the event any audit is required. In the event of dissolution of Consultant's business, custody of the Service Records may be given to City, and access shall be provided by Consultant's successor in interest ("Consultant's Successor"). If custody of the Service Records is given to Consultant's Successor, Consultant shall give written notice to City of the transfer of the Service Records to Consultant's Successor. The notice shall include contact information (address and telephone number) for Consultant's Successor, and access shall be provided to City by Consultant's Successor.

5.2 Reports.

Consultant shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the Services required by this Agreement as the Contract Officer shall require. Consultant hereby acknowledges that City is greatly concerned about the cost of Services to be performed pursuant to this Agreement. For this reason, Consultant agrees that if Consultant becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the Services contemplated herein, Consultant shall promptly notify the Contract Officer of that fact, circumstance, technique or event and the estimated increased or decreased cost related thereto.

5.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the "Consultant Documents") prepared by Consultant, its employees, sub-contractors and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the termination of this Agreement. Consultant shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership use, reuse, or assignment of the Consultant Documents hereunder. Any use, reuse or assignment of such completed Consultant Documents for other projects and/or use of uncompleted Consultant Documents without specific written authorization by Consultant will be at City's sole

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risk and without liability to Consultant, and Consultant's guarantee and warranties shall not extend to such use or assignment. Consultant may retain copies of such Consultant Documents for its own use. Consultant shall have an unrestricted right to use the concepts embodied therein. All sub-contractors shall provide for assignment to City of all Consultant Documents prepared by them; and in the event Consultant fails to secure such assignment, Consultant shall indemnify City for all damages resulting therefrom.

5.4 Confidentiality and Release of Information.

A. All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the Contract Officer.

B. Consultant, its officers, employees, agents or sub-contractors, shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the Services performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

C. If Consultant, or any officer, employee, agent or sub-contractor of Consultant, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorneys' fees, caused by or incurred as a result of Consultant's conduct.

D. Consultant shall promptly notify City should Consultant, its officers, employees, agents or sub-contractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any Party regarding this Agreement and the Services performed thereunder. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite the response.

ARTICLE 6. ENFORCEMENT OF AGREEMENT AND TERMINATION

6.1 California Law.

This Agreement, and any dispute arising from the relationship between the Parties to this Agreement, shall be interpreted, construed and governed both as to validity and to performance of the Parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Riverside, State of California, or any other appropriate court in such county, and Consultant covenants and agrees to submit to the personal jurisdiction of such

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court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in Riverside.

6.2 Disputes; Default.

A. In the event that City determines Consultant is in default under the terms of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any Services performed after the date of default. In addition to the provisions of Section 4.8, and the right to terminate pursuant to Section 6.7, if the City Manager determines that Consultant is in default in the performance of any of the terms or conditions of this Agreement, City may serve Consultant with written notice of the default. Consultant shall have ten (10) calendar days after service upon it of the notice in which to cure the default by rendering a satisfactory performance. In the event that Consultant fails to cure its default within such period of time, City may, notwithstanding any other provision of this Agreement, terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

B. In the event of termination pursuant to this Section, City may take over the Services and prosecute the same to completion by contract or otherwise, and Consultant shall be liable to the extent that the total cost for completion of the Services required hereunder exceeds the compensation herein stipulated (provided that City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to Consultant for the purpose of set-off or partial payment of the amounts owed City as provided in Section 6.3.

6.3 Retention of Funds.

Consultant hereby authorizes City to deduct from any amount payable to Consultant (whether or not arising out of this Agreement): (i) any payment amount of which may be in dispute hereunder or which is necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, (ii) all amounts retained pursuant to the provisions of Section 4.8, (iii) all amounts for which City may be liable to third parties, by reason of Consultant's acts or omissions in performing or failing to perform Consultant's obligation under this Agreement, and (iv) all payments due or that become due to Consultant during the period that Consultant or any of its sub-contractors fail to maintain any required insurance in full force and effect, until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to City, as provided in Section 4.9, above. In the event that any claim is made by a third party, the amount or validity of which is disputed by Consultant, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of Consultant to insure, indemnify, and protect City as elsewhere provided herein.

6.4 Waiver.

Waiver by any Party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any

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Party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any Services by Consultant shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either Party of any default must be in writing, and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

6.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

6.6 Legal Action.

In addition to any other rights or remedies, either Party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Notwithstanding any contrary provision herein, Consultant must file a statutory claim pursuant to Government Code Sections 905 et seq. and 910 et seq., in order to pursue a legal action against City under this Agreement.

6.7 Termination Prior to Expiration of Term.

This Article 6 shall govern any termination of this Agreement except as specifically provided in Section 6.2 for termination for default of Consultant. City reserves the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days' written notice to Consultant, except that where termination is due to the fault of Consultant, the period of notice may be a shorter time as may be determined by the Contract Officer. In addition, Consultant reserves the right to terminate this Agreement at any time, with or without cause, upon sixty (60) days' written notice to City, except that where termination is due to the fault of City, the period of notice may be a shorter time as Consultant may determine. Upon receipt of any notice of termination, Consultant shall immediately cease all Services hereunder except such as may be specifically approved by the Contract Officer. Except where Consultant has initiated termination, Consultant shall be entitled to compensation for all Services rendered prior to the effective date of the notice of termination and for any Services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 6.3. In the event Consultant has initiated termination, Consultant shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder. In the event of termination without cause pursuant to this Section, the terminating Party need not provide the non-terminating Party with the opportunity to cure pursuant to Section 6.2.

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6.8 Attorneys' Fees.

In any litigation or other proceeding by which a Party seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing Party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorneys' fees. Attorneys' fees shall include attorney's fees on any appeal, and in addition the Party entitled to attorneys' fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

ARTICLE 7. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

7.1 Non-liability of City Officers and Employees.

No officer or employee of City shall be personally liable to Consultant, or Consultant's Successor, in the event of any default or breach by City or for any amount which may become due to Consultant or Consultant's Successor, or for breach of any obligation of the terms of this Agreement.

7.2 Conflict of Interest.

Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of Services under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or sub-contractor without the express written consent of the Contract Officer. Consultant agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

No officer or employee of City shall have any direct or indirect financial interest in this Agreement within the scope of Government Code section 1090, nor shall any such officer or employee make, participate in making, or use his or her official position to influence, any City decision relating to the Agreement which has a material financial effect on his or her financial interests or the financial interests of any corporation, partnership or association in which he or she is, directly or indirectly, interested, in violation of any State statute or regulation. Consultant warrants that it has not paid or given, and will not pay or give any third party any money or other consideration for obtaining this Agreement.

Consultant and its officers, employees, associates and sub-contractors, if any, shall comply with all conflict of interest statutes of the State of California applicable to Consultant's Services under this Agreement, including the Political Reform Act (Gov. Code § 81000, et seq.) and Government Code Section 1090. During the term of this Agreement, Consultant may perform similar services for other clients; but Consultant and its officers, employees, associates and sub-contractors shall not, without the Contract Officer's prior written approval, perform services for another person or entity for whom Consultant is not currently performing services that would

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require Consultant or one of its officers, employees, associates or sub-contractors to abstain from a decision under this Agreement pursuant to a conflict of interest statute. Consultant shall incorporate a clause substantially similar to this Section into any subcontract that Consultant executes in connection with the performance of this Agreement.

7.3 Covenant Against Discrimination.

Consultant covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, or ancestry in the performance of this Agreement. Consultant shall take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, religion, sex, marital status, national origin, or ancestry, or other protected class.

7.4 Unauthorized Aliens.

Consultant hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such unauthorized aliens for the performance of Services covered by this Agreement, and should the any liability or sanctions be imposed against City for such use of unauthorized aliens, Consultant hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

ARTICLE 8. MISCELLANEOUS PROVISIONS

8.1 Notices.

Any notice, demand, request, document, consent, approval, bill, invoice, report or other communication required or permitted under this Agreement shall be in writing and conclusively deemed effective: (a) on confirmed delivery by courier service or overnight delivery service during Consultant's and City's regular business hours; or (b) three (3) Business Days after deposit in the United States mail, by certified or registered mail, and addressed to the Party to be notified as set forth below:

If to City

Attn: Patrick Safari
Associate Engineer
City of Banning
99 East Ramsey Street
Banning, California 90220
Email: psafari@banningca.gov

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With a courtesy copy to: Kevin G. Ennis, City Attorney
Richards, Watson & Gershon
355 South Grand Avenue, 40th Floor
Los Angeles, California 90071
Email: kennis@rwglaw.com

If to Consultant: Dilesh Sheth
Vice President
Albert A. Webb Associates
3788 McCray Street
Riverside, CA 92506
Email: dilesh.sheth@webbassociates.com

8.2 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either Party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

8.3 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

8.4 Integration; Amendment.

This Agreement, and all exhibits referred to in this Agreement, constitute the final, complete and exclusive statement of the terms of the agreement between the Parties pertaining to the subject matter of this Agreement and supersede all other and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the Parties, and none shall be used to interpret this Agreement. No Party has been induced to enter into this Agreement by, nor is any Party relying on, any representation or warranty except those expressly set forth in this Agreement. No amendment to or modification of this Agreement, nor any provision or breach hereof waived, shall be valid unless made in writing and approved by Consultant and by City Council. The Parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

8.5 Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the Parties hereunder unless the invalid provision is so material that its invalidity deprives either Party of the basic benefit of their bargain or renders this Agreement meaningless.

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8.6 Mutual Cooperation.

A. City's Cooperation. City shall provide Consultant with all pertinent data, documents and other requested information as is reasonably available for Consultant's proper performance of the Services required under this Agreement.

B. Consultant's Cooperation. In the event any claim or action is brought against City relating to Consultant's performance of Services rendered under this Agreement, Consultant shall render any reasonable assistance that City requires.

8.7 No Third Party Beneficiaries Intended.

This Agreement is made solely for the benefit of the Parties to this Agreement and their respective successors and assigns, and no other person or entity may have or acquire a right by virtue of this Agreement.

8.8 Final Payment Acceptance Constitutes Release.

The acceptance by Consultant of the final payment made under this Agreement shall operate as and be a release of City from all claims and liabilities for compensation to Consultant for anything done, furnished or relating to Consultant's Services. Acceptance of payment shall be any negotiation of City's check or the failure to make a written extra compensation claim within ten (10) calendar days of the receipt of that check. However, approval or payment by City shall not constitute, nor be deemed, a release of the responsibility and liability of Consultant, its employees, sub-contractors and agents for the accuracy and competency of the information provided and/or Services performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by City for any defect or error in the Services prepared by Consultant, its employees, sub-contractors and agents.

8.9 Non-Appropriation of Funds.

Payments to be made to Consultant by City for Services performed within the current fiscal year which are within the current fiscal budget and within an available, unexhausted fund. In the event that City does not appropriate sufficient funds for payment of Consultant's Services beyond the current fiscal year, this Agreement shall cover payment for Consultant's Services only to the conclusion of the last fiscal year in which City appropriates sufficient funds and shall automatically terminate at the conclusion of such fiscal year.

8.10 Headings.

The headings in this Agreement are included solely for convenience of reference and shall not affect the interpretation of any provision of this Agreement or any of the rights or obligations of the Parties to this Agreement.

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8.11 Word Usage.

Unless the context clearly requires otherwise, (a) the words "shall," "will" and "agrees" are mandatory and "may" is permissive; (b) "or" is not exclusive; and (c) "includes" or "including" are not limiting.

8.12 Business Days.

"Business Days" refers to days that the Banning City Hall is open for business.

8.13 Corporate Authority.

The persons executing this Agreement on behalf of the Parties hereto warrant that (i): such Party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of that Party, (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which that Party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the Parties.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF the Parties hereto have executed this Agreement the day and year first hereinabove written.

CITY OF BANNING

DocuSigned by:
Doug Schulze 6/23/2020
0AD14BA217CE497...

Douglas Schulze, Date
City Manager

ATTEST:

DocuSigned by:
Sonja De La Fuente 6/23/2020
9C9C3E6DD5AB49B...

Sonja De La Fuente Date
Deputy City Clerk

APPROVED AS TO FORM:
Richards, Watson & Gershon

DocuSigned by:
Kevin Ennis 6/23/2020
940BF72E9643480...

Kevin G. Ennis, Esq., Date
City Attorney

CONSULTANT

DocuSigned by:
Dilesh Sheth 6/23/2020
BE3BB4E56D148B...

NAME: Dilesh Sheth Date
TITLE: Vice President

NAME: Date
TITLE:

95-1723730
Tax ID No.

Address:
3788 McCray Street, Riverside, Ca 92506

City Council Approval: 04/14/2020

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

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EXHIBIT "A"
SCOPE OF SERVICES

I. Consultant will perform the following Services in connection with providing design of Sun Lakes Boulevard extension prepared in connection therewith:

I. As part of the Services, Consultant will prepare and deliver the following tangible work products to City:

A. Consultant shall provide services necessary to provide a complete (construction ready) project.

Task 1. Project Management

The consultant shall attend regular status meetings with the City throughout the duration of the project as well as prepare monthly progress reports. The consultant shall develop and maintain a detailed work program and schedule the development of a project specific Work Plan. The Work Plan will include, at a minimum, details of methodology, sequence of tasks, lists of deliverables, milestone submittal schedule, summary of organizational responsibilities and contacts, as well as reporting and invoicing procedures. The consultant will meet face to face with the Project Design Team (PDT) monthly. The consultant will be responsible to facilitate other meetings as necessary with City Departments and other key stakeholders, creating meeting agendas with input from the City and prepare and distribute meeting minutes.

Deliverables: Work Plan, Monthly Progress Reports, Meeting Agendas and Meeting Minutes.

Task 2. Project Development

2.1 Data Collection and Site Reconnaissance

Consultant shall collect and review available existing reports, data, as-built plans, and information relevant to the project from the City, County and any other agency necessary to complete the work, including assessor's information and any utilities that exist in the area. Consultant shall conduct a field investigation to familiarize the project team with the drainage conditions, flow patterns, existing design constraints and existing/ongoing improvements in the project area.

Deliverables: Field Review Notes, Photo Logs, Copies of Existing Data

2.2 Survey and Aerial Topographic Mapping

Consultant shall research available record information pertaining to the project including: Tract Maps, Records of Survey, Parcel Maps and Right-of-Way Maps.

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Consultant shall provide topographical mapping at 1-foot contour intervals and field surveying to identify existing topographical features. Tie out any and all survey monuments that may be disturbed by the work. Establish street centerline and centerline stationing to an accuracy of one-tenth foot (0.10'). Establish temporary benchmarks required for the work and provide all elevations, dimensions and other measurements necessary to establish proper line and grade.

Deliverables: AutoCAD drawing file of the survey points

2.3 Utility Research and Base Mapping

Consultant shall act on behalf of the City of Banning and contact all utility purveyors to determine if existing facilities are present in the area. Utility data shall be base mapped and include appropriate identification by their respective owner, location and size.

2.4 Public Outreach

Due to the number of residences and existing developments located adjacent to the project site, the Consultant shall include the necessary public outreach. At a minimum, this shall be conducted in an "Open house" fashion to give the adjacent neighbors a chance to learn about the project and note any potential concerns.

Deliverables: Letters to Utility Owners, Utility As-Built Maps, Utility Base Map

Task 3. Preliminary Engineering Design

3.1 Roadway Geometric Approval Drawings (GAD's)

Consultant shall analyze and prepare a proposed alignment consistent with the existing right-of-way and in accordance with the Caltrans Highway Design Manual for geometric features. It is anticipated that right-of-way will not be required as a part of this project; however, construction easements, slope easements, etc. may still be required. The GAD shall include typical cross sections as well as the identification of existing rights-of-way and property lines to determine any need for right-of-way or easements.

Deliverables: Geometric Approval Drawings (30% Complete Plans),

Preliminary Cost Estimate, Preliminary Right-of-Way Requirements Map

3.2 Preliminary Roadway Drainage Plans

Consultant shall prepare drainage design for the proposed improvements in accordance with the Riverside County Flood Control and Water Conservation District (RCFC&WCD) design standards. The consultant shall review any available hydrology reports and prepare necessary analysis in accordance with RCFC&WCD

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as well as City requirements to determine the amount of drainage tributary to the project area and to review the capacity of existing drainage facilities. Consultant shall review public agency's available hydrology/hydraulic and storm drain plan records for existing drainage facilities within and adjacent to the project site. Existing drainage patterns and runoff tributary areas to the site shall be determined. Consultant shall perform necessary analysis to determine hydraulic function and size of necessary facilities.

Deliverables: Drainage Design Report, 30% Drainage Plans (shown on the GAD)

Task 4. Environmental Documentation

Consultant shall identify environmental impacts under California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) if necessary. Environmental services shall include identification and preparation of an Initial Study Assessment, technical studies and environmental document for City review and approval as necessary for CEQA clearance. The City currently anticipates an IS/MND as the appropriate CEQA document for the project. The Consultant shall evaluate the City's recommendation and determine if the IS/MND is the appropriate document for this project. Based on this assumption, the proposal should include timing and cost breakdowns for the initial assessment, as well as costs associated with potential focused surveys. At a minimum, the consultant shall address:

4.1 Traffic Impact Analysis

Consultant shall prepare a TIA for the proposed improvements for CEQA documentation. The study will address the changes in traffic volumes and patterns in the immediate vicinity. At a minimum, the study shall look at adjacent intersections to determine if traffic controls (stop control, traffic signals, etc.) are required. The consultant shall assume that Vehicle Miles Traveled (VMT) analysis will be required in conformance with SB 743.

4.2 Air Quality and Greenhouse Gas

These studies will be used in the CEQA review. The studies should include a written report (with photos of the site) discussing air quality and greenhouse gas impacts.

4.3 Biological Study

Based on the recent Negative Declaration for the modification to the City's General Plan Circulation Element, at a minimum this shall include a burrowing owl survey and Los Angeles Pocket Mouse Survey. An MSHCP consistency analysis will need to be completed as a part of this study. The necessary habitat assessments shall include written reports (with photos of the site) indicating whether or not the site contains suitable habitat.

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4.4 Cultural Study and Paleontological Resources Report

The Cultural Study and Paleontological Resources Report should include a written report following the guidelines for Archaeological Resource Management Reports prepared by the California Office of Historical Preservation, Preservation Planning Bulletin 4(a), December 1989. AB52 compliance shall also be included in the scope of services.

4.5 Noise Study

The Noise Study shall include a written report (with photos of the site) identifying short- and long-term noise impacts, and any mitigation measures required to reduce these impacts to less than significant. Deliverables: CEQA IS/MND, Responses to Comments, Copies of Studies, Correspondence.

Task 5. Final Design Reports and Studies

Consultant shall provide final Design Reports and Studies necessary to complete the project. The following recommendations may be necessary:

5.1 Utility Coordination

Review and verification of facilities that may be in conflict based on results of potholing; relocation of any existing utilities determined to be in conflict; liability for all utility conflicts; agreements as necessary; issuance of notices to relocate as necessary.

5.2 Geotechnical Design Report

Structural conditions and recommendations that may include over excavation and recompaction areas or surcharges; all necessary analysis for proper design of the project objectives, R-values of subgrade material and the structural section of the roadway using the latest traffic index.

5.3 Supplemental Design Surveys

Provide potholing map as necessary for utility surveying in the field; establish potholing location and record elevations of any utilities located.

5.4 Storm Water Pollution Prevention Plan (SWPPP)

In compliance with National Pollution Discharge Elimination system (NPDES) requirements as well as Construction General Permits; address project's risk level; provide Notice of Intent (NOI) and assist with uploading NOI & SWPPP into the "SMARTs" system.

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Deliverables: Utility Correspondences (i.e. Relocation Claim Letters, Agreements, Notice to Relocate, etc.), Final Studies/Reports.

Task 6. Final Design Plans, Specifications and Estimates

Consultant shall prepare a complete set of improvement plans compatible with AutoCAD 2019. PS&E submittals will be required at the 60%, 90% and 100% design intervals. The plans shall include a cover sheet with all sheets using the City title block and prepared in accordance with the regulations and standards of the City of Banning. At a minimum, the plans shall include the following new, modification or relocation of existing improvements:

· Street Improvements
· Grading
· Easement Documents
· Sidewalk, Curb & Gutter
· Retaining Walls and/or Structures
· Storm Drain
· Landscape & Irrigation
· Signing & Striping
· Erosion Control and Storm Water Pollution Prevention Plan (if necessary)
· Construction Options, Phasing and Detour Plans
· Street Lighting, Traffic Signals and Modifications
· Utilities
· Intersecting Street Designs
· Driveway Approaches
· Record of Existing Survey Monuments
· Other Related Work

Consultant shall address all plan check comments, to the satisfaction of the City Engineer. Final Plans shall be submitted on 24" X 36" mylars

Deliverables: 60%, 90%, 100% PS&E Submittals, Final PS&E, Electronic Versions of each Submittal.

Task 7. Permitting

Consultant shall investigate and process all required permits if necessary, including, but not limited to the following: Riverside County Flood Control & Water Conservation District, National Pollution Discharge Elimination System, U.S. Army Corps of Engineers, California Department of Fish and Wildlife, State of California Water Resources Control Board, and Regional Conservation Authority.

Deliverables: Correspondence with Various Agencies, Permit Applications and Final Permits

Task 8. Bidding/Construction Support

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Consultant shall be available during the advertisement and construction of the project to answer RFI's as well as prepare necessary addenda. The consultant shall plan to attend, at a minimum, the following meetings: pre-bid meeting and pre-construction meeting. The Consultant shall review shop drawings and submittals from the contractor for conformance with the contract plans and specifications, and make recommendations for acceptance, denial or re-submittal within reasonable time of receipt. Upon written authorization from the City, consultant shall provide engineering design services for revisions to construction documents resulting from changed or unforeseen conditions, or other change order work required due to actions of the City. The Consultant shall assume a minimum of eight (8) site visits during construction as requested by the City. Upon completion of the project, the consultant shall use information based on redlined information provided by the contractor and the City to prepare as-built plans. As-built plans shall be submitted to the City within one (1) month of receipt of as-built plans.

Deliverables: Meeting Attendance, Response to Bidder's/Contractor's RFIs, Design Addenda, Submittal Reviews, As-Built Plans

II. In addition to the requirements of Parts I and II of this Scope of Services, during the performance of the Services, Consultant will keep City appraised through periodic status reports regarding the performance of the Services under this Agreement as set forth below and in Section 5.2, by the following means:

A. In-person meetings or teleconference.

B. Email updates/questions to applicant team and City while reviews are underway.

C. Conference calls.

III. All work product is subject to review and acceptance by City, and must be revised by Consultant without additional charge to City until found satisfactory and accepted by City.

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EXHIBIT "B"
SPECIAL REQUIREMENTS

TERMS FOR COMPLIANCE WITH CALIFORNIA LABOR LAW REQUIREMENTS

1. This Agreement calls for services that, in whole or in part, constitute "public works" as defined in Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code ("Chapter 1"). Further, Consultant acknowledges that this Agreement is subject to (a) Chapter 1 and (b) the rules and regulations established by the Department of Industrial Relations ("DIR") implementing such statutes. Therefore, as to those Services that are "public works," Consultant shall comply with and be bound by all the terms, rules and regulations described in 1(a) and 1(b) as though set forth in full herein.

2. California law requires the inclusion of specific Labor Code provisions in certain contracts. The inclusion of such specific provisions below, whether or not required by California law, does not alter the meaning or scope of Section 1 above.

3. Consultant shall be registered with the Department of Industrial Relations in accordance with California Labor Code Section 1725.5, and has provided proof of registration to City prior to the Effective Date of this Agreement. Consultant shall not perform work with any subcontractor that is not registered with DIR pursuant to Section 1725.5. Consultant and subcontractors shall maintain their registration with the DIR in effect throughout the duration of this Agreement. If the Consultant or any subcontractor ceases to be registered with DIR at any time during the duration of the project, Consultant shall immediately notify City.

4. Pursuant to Labor Code Section 1771.4, Consultant's Services are subject to compliance monitoring and enforcement by DIR. Consultant shall post job site notices, as prescribed by DIR regulations.

5. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file at City Hall and will be made available to any interested party on request. Consultant acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and Consultant shall post such rates at each job site covered by this Agreement.

6. Consultant shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. The Consultant shall, as a penalty to City, forfeit $200.00 for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the DIR for the work or craft in which the worker is employed for any public work done pursuant to this Agreement by Consultant or by any subcontractor.

7. Consultant shall comply with and be bound by the provisions of Labor Code Section 1776, which requires Consultant and each subcontractor to: keep accurate payroll records and verify such records in writing under penalty of perjury, as specified in Section 1776; certify and make such payroll records available for inspection as provided by Section 1776; and inform City of the location of the records.

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8. Consultant shall comply with and be bound by the provisions of Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code Title 8, Section 200 et seq. concerning the employment of apprentices on public works projects. Consultant shall be responsible for compliance with these aforementioned Sections for all apprenticeable occupations. Prior to commencing work under this Agreement, Consultant shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within 60 days after concluding work pursuant to this Agreement, Consultant and each of its subcontractors shall submit to City a verified statement of the journeyman and apprentice hours performed under this Agreement.

9. The Consultant shall not perform Work with any Subcontractor that has been debarred or suspended pursuant to California Labor Code Section 1777.1 or any other federal or state law providing for the debarment of contractors from public works. The Consultant and Subcontractors shall not be debarred or suspended throughout the duration of this Agreement pursuant to Labor Code Section 1777.1 or any other federal or state law providing for the debarment of contractors from public works. If the Consultant or any subcontractor becomes debarred or suspended during the duration of the project, the Consultant shall immediately notify City.

10. Consultant acknowledges that eight hours labor constitutes a legal day's work. Consultant shall comply with and be bound by Labor Code Section 1810. Consultant shall comply with and be bound by the provisions of Labor Code Section 1813 concerning penalties for workers who work excess hours. The Consultant shall, as a penalty to City, forfeit $25.00 for each worker employed in the performance of this Agreement by the Consultant or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code section 1815, work performed by employees of Consultant in excess of eight hours per day, and 40 hours during any one week shall be permitted upon public work upon compensation for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay.

11. California Labor Code Sections 1860 and 3700 provide that every employer will be required to secure the payment of compensation to its employees. In accordance with the provisions of California Labor Code Section 1861, Consultant hereby certifies as follows:

> "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."

Date 6/23/2020 **Signature** DocuSigned by: Dilesh Sheth BE3BB4E55DC146F...

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12. For every subcontractor who will perform work on the project, Consultant shall be responsible for such subcontractor's compliance with Chapter 1 and Labor Code Sections 1860 and 3700, and Consultant shall include in the written contract between it and each subcontractor a copy of those statutory provisions and a requirement that each subcontractor shall comply with those statutory provisions. Consultant shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractor's compliance, including, without limitation, conducting a periodic review of the certified payroll records of the subcontractor and upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages. Consultant shall diligently take corrective action to halt or rectify any failure.

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EXHIBIT "C"
SCHEDULE OF COMPENSATION

I. Consultant shall perform the following tasks ("Tasks") at the following rates.

TASK	DESCRIPTION	SUB-BUDGET
1.	Project Management	$19,970
2.	Project Development	$26,206
3.	Preliminary Engineering Design	$76,154
4.	Environmental Documentation	$159,470
5.	Final Design Report and Studies	$67,250
6.	Final Design, Specifications and Estimates	$183,236
7.	Permitting	$11,130
8.	Bidding/Construction Support	$5,000
	TOTAL	**$548,416.05**

II. Within the budgeted amounts for each Task, and with the approval of the Contract Officer, funds may be shifted from one Task sub-budget to another so long as the Contract Sum is not exceeded per Section 2.1, unless Additional Services are approved per Section 1.8.

III. City will compensate Consultant for the Services performed upon submission of a valid invoice. Each invoice is to include:

A. Line items for all personnel describing the Services performed, the number of hours worked, and the hourly rate.

B. Line items for all materials and equipment properly charged to the Services.

C. Line items for all other approved reimbursable expenses claimed, with supporting documentation.

D. Line items for all approved sub-contractor labor, supplies, equipment, materials, and travel properly charged to the Services.

IV. The total compensation for Services shall not exceed $548,416.05 as provided in Section 2.1 of this Agreement.

V. Consultant's billing rates for all personnel are attached as Exhibit C-1.

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EXHIBIT "D"
SCHEDULE OF PERFORMANCE

I. Consultant shall perform all Services timely, and deliver the specified tangible work products to City in accordance with the schedule attached as Exhibit D-1.

II. The Contract Officer may approve extensions for performance of the Services in accordance with Sections 1.8 and 3.3.

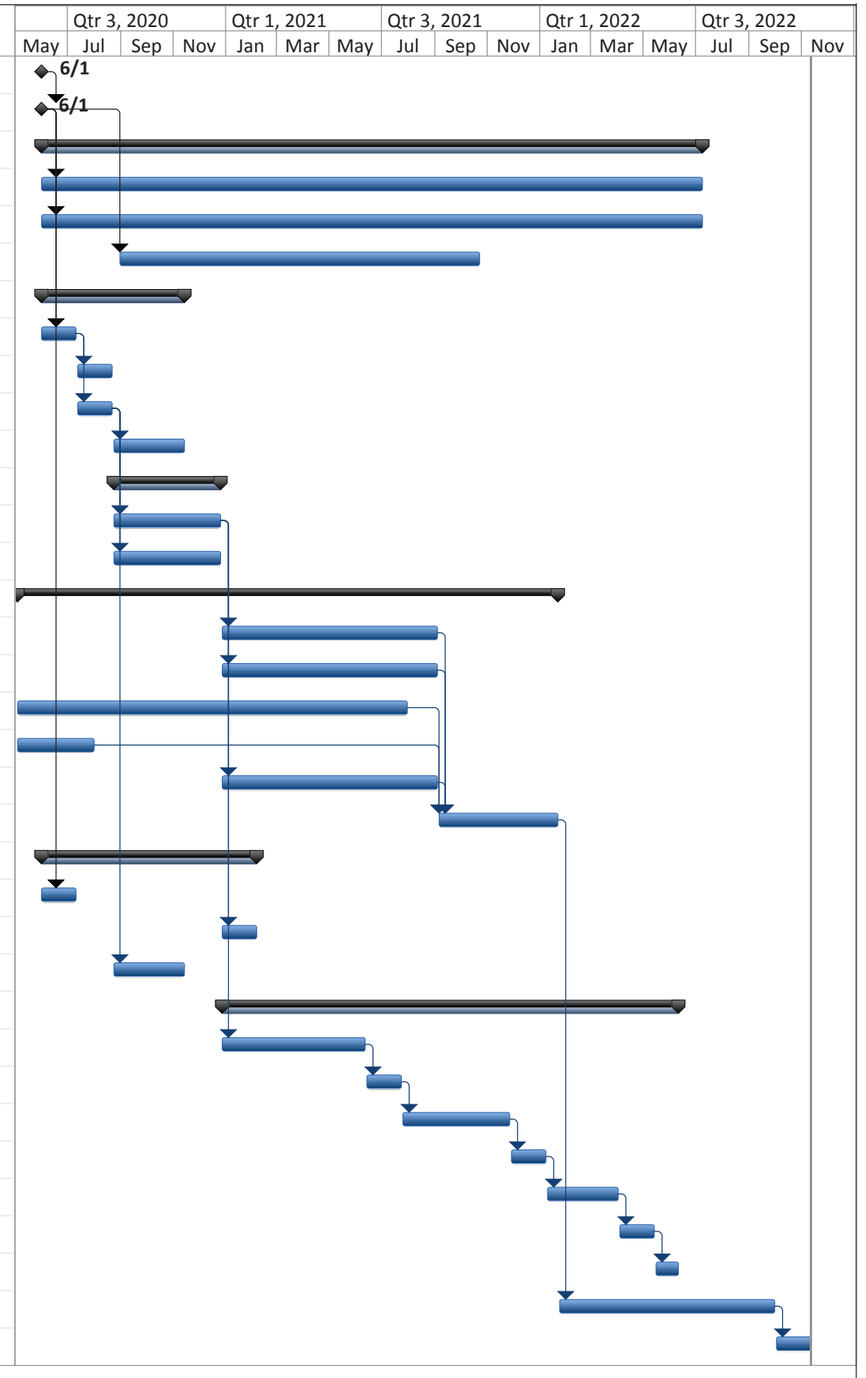
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EXHIBIT "D-1"
PROPOSED PROJECT SCHEDULE

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Section D. Project Schedule

ID	Task Name	Duration	Start	Finish	Predecessors
1	Contract Award	0 days	Mon 6/1/20	Mon 6/1/20	
2	Project Kick-Off Meeting	0 days	Mon 6/1/20	Mon 6/1/20	1
3	**Task 1 - Project Management**	**550 days**	**Mon 6/1/20**	**Fri 7/8/22**	
4	1.1 - Coordination and Meetings (Prepare Agendas and Minutes)	550 days	Mon 6/1/20	Fri 7/8/22	**2**
5	1.2 - Prepare Monthly Progress Reports and Work Plans	550 days	Mon 6/1/20	Fri 7/8/22	**2**
6	1.3 - Coordination with Stakeholders and Agencies	300 days	Mon 8/31/20	Fri 10/22/21	2
7	**Task 2 - Project Development**	**120 days**	**Mon 6/1/20**	**Fri 11/13/20**	
8	2.1 - Data Collection and Site Reconnaissance	30 days	Mon 6/1/20	Fri 7/10/20	2
9	2.2 - Survey and Aerial Topographic Mapping	30 days	Mon 7/13/20	Fri 8/21/20	8
10	2.3 - Utility Research and Base Mapping	30 days	Mon 7/13/20	Fri 8/21/20	8
11	2.4 - Public Outreach	60 days	Mon 8/24/20	Fri 11/13/20	10
12	**Task 3 - Prelinimary Engineering Design**	**90 days**	**Mon 8/24/20**	**Fri 12/25/20**	
13	3.1 - Roadway Geometric Approval Drawing (GAD)	90 days	Mon 8/24/20	Fri 12/25/20	10
14	3.2 - Preliminary Roadway Drainage Plans	90 days	Mon 8/24/20	Fri 12/25/20	10
15	**Task 4 - Environmental Documentation**	**450 days**	**Mon 5/4/20**	**Fri 1/21/22**	
16	4.1 - Traffic Impact Analysis	180 days	Mon 12/28/20	Fri 9/3/21	13
17	4.2 - Air Quality and Greenhouse Gas	180 days	Mon 12/28/20	Fri 9/3/21	13
18	4.3 - Biological Study	325 days	Mon 5/4/20	Fri 7/30/21	
19	4.4 - Cultural Study and Paleontological Report	65 days	Mon 5/4/20	Fri 7/31/20	
20	4.5 - Noise Study	180 days	Mon 12/28/20	Fri 9/3/21	13
21	4.6 - CEQA Documentation	100 days	Mon 9/6/21	Fri 1/21/22	16,17,18,19,20
22	**Task 5 - Final Design Reports and Studies**	**180 days**	**Mon 6/1/20**	**Fri 2/5/21**	
23	5.1 - Utility Coordination	30 days	Mon 6/1/20	Fri 7/10/20	2
24	5.2 - Supplemental Design Survey	30 days	Mon 12/28/20	Fri 2/5/21	13
25	5.3 - Storm Water Pollution Prevention Plan (SWPPP)	60 days	Mon 8/24/20	Fri 11/13/20	10
26	**Task 6 - Final Design Plans, Specifications and Estimate**	**380 days**	**Mon 12/28/20**	**Fri 6/10/22**	
27	Preparation of 60% Plans	120 days	Mon 12/28/20	Fri 6/11/21	13
28	City Review of 60% Plans	30 days	Mon 6/14/21	Fri 7/23/21	27
29	Preparation of 90% PS&E	90 days	Mon 7/26/21	Fri 11/26/21	28
30	City Review of 90% PS&E	30 days	Mon 11/29/21	Fri 1/7/22	29
31	Preparation of 100% PS&E	60 days	Mon 1/10/22	Fri 4/1/22	30
32	City Review of 100% PS&E	30 days	Mon 4/4/22	Fri 5/13/22	31
33	Approval of PS&E Package	20 days	Mon 5/16/22	Fri 6/10/22	32
34	**Task 7 - Regulatory Permitting**	180 days	Mon 1/24/22	Fri 9/30/22	21
35	**Task 8 - Bidding / Construction Support**	30 days	Mon 10/3/22	Fri 11/11/22	34



AMENDMENT NO. 2 TO PROFESSIONAL SERVICES AGREEMENT (C00660) FOR THE DESIGN OF SUN LAKES BOULEVARD EXTENSION BY AND BETWEEN THE CITY OF BANNING AND ALBERT A. WEBB ASSOCIATES

THIS AMENDMENT NO. 2 TO THE AGREEMENT FOR PROFESSIONAL DESIGN SERVICES ("Amendment No. 2") by and between the **CITY OF BANNING** ("City") and **ALBERT A. WEBB ASSOCIATES**, a California Corporation ("Consultant") is effective as of this day: _____.

RECITALS

A. City and Consultant entered into that certain Agreement for Professional Design Services dated June 23, 2020 ("Agreement") whereby Consultant agreed to provide Design Services for the Design of Sun Lakes Boulevard Extension following a Request for Proposals for an amount not to exceed Five-Hundred Forty-Eight Thousand Four Hundred Sixteen Dollars and Five Cents ($548,416.05). The agreement included a 10% Contingency of Fifty Four Thousand Eight Hundred Forty One Dollars and Sixty One Cents ($54,841.61) for a total contract amount of Six Hundred Three Thousand Seven Hundred Twenty Five Dollars and Sixty Six Cents ($603,725.66) The Term of the Agreement was to commence on June 23, 2020, and continue in full force and effect until October 3, 2022.

B. On February 11, 2022, Public Works Department approved a change order to the Professional Services Agreement with Albert A. Webb Associates, Inc. for out-of-scope work including coordination with Western Riverside County Regional Conservation Authority (RCA) in the amount of $24,983.25, leaving a contingency balance of $29,858.36.

C. On March 21, 2022, Public Works Department approved a change order to the Professional Services Agreement with Albert A. Webb Associates, Inc. for the preparation of a sediment transport analysis (out of scope) in the amount of $5,974.88, leaving a contingency balance of $23,883.48.

D. On August 23,2022 City Council adopted City Council Resolution 2022-106 which authorized the increase in compensation for services provided under the Agreement by One Hundred Twenty-Nine Thousand Four Hundred Dollars ($129,400.00).

E. On October 11, 2022, City Council Adopted City Council Resolution 2022-139 to rescind Resolution 2022-106 and amend the Agreement to include additional compensation in the amount of One Hundred Forty-Eight Thousand Two Hundred Twenty-Two Dollars ($148,222.00) for a new contract total of Seven Hundred Fifty-One Thousand Nine Hundred Forty-Seven Dollars and Sixty-Six Cents ($751,947.66) and to extend the term of the Agreement through June 30, 2024.

F. City and Consultant now desire to amend the Agreement to modify the Scope of Services, extend the Term of the Agreement to June 30, 2025, and increase the Contract Sum by Four Hundred Ninety-Six Thousand Seventy-Nine Dollars ($496,079.00) for a total not to exceed amount of One Million Two Hundred Forty-Eight Thousand Twenty-Six Dollars and Sixty-Six

Cents ($1,248,026.66).

TERMS

1. **Contract Changes**. The Agreement is amended as provided herein.

(a) Section 2.1 – "Contract Sum" of the Agreement is amended to provide that Consultant's total compensation shall not to exceed One Million Two Hundred Forty-Eight Thousand Twenty-Six Dollars and Sixty-Six Cents ($1,248,026.66).

(b) Section 3.4 – "Term" of the Agreement is hereby amended to extend the Agreement term to June 30, 2025.

(c) Section 1.1, Exhibit "A" and Exhibit "D" - The Scope of Services as set forth in Section 1.1 of and Exhibit A to the Agreement is hereby amended to include the Services set forth in Attachment 1, attached hereto and incorporated herein.

2. **Continuing Effect of Agreement**. Except as amended by this Amendment No. 2 , all provisions of the Agreement as amended by Amendment Nos 1, shall remain unchanged and in full force and effect. From and after the date of this Amendment No. 2, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by Amendments Nos. 1 through 2 to the Professional Services Agreement. In the event of a conflict between the provisions of this Amendment No. 1 and the provisions of the Agreement or Amendments No. 1 through 2, the provisions of this Amendment No. 2 shall control.

3. **Affirmation of Agreement; Warranty Re Absence of Defaults**. City and Consultant each ratify and reaffirm each and every one of the respective rights and obligations arising under the Agreement. Each party represents and warrants to the other that there have been no written or oral modifications to the Agreement other than as provided herein. Each party represents and warrants to the other that the Agreement is currently an effective, valid and binding obligation.

4. **Adequate Consideration**. The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment No. 2.

5. **Authority**. The persons executing this Amendment No. 2 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 2 on behalf of said party, (iii) by so executing this Amendment No. 2, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Amendment No. 2 does not violate any provision of any other Agreement to which said party is bound.

6. **Counterparts**. This Amendment No. [Insert amendment number] may be signed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument.

7. **Electronic Signatures.** Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document

transmitted by such Party ("electronic signature"). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Agreement and such other documents transmitted by the Parties.

[*SIGNATURE PAGE FOLLOWS*]

IN WITNESS WHEREOF the Parties hereto have executed this Amendment No. 2 to the Agreement the day and year first hereinabove written.

CITY OF BANNING

Douglas Schulze, Date
City Manager

ATTEST:

Caroline Patton Date
Deputy City Clerk

APPROVED AS TO FORM:
Richards, Watson & Gershon

Serita R. Young Date
City Attorney

CONSULTANT

Dilesh Sheth Date
Vice President

NAME: Date
TITLE:

95-1723730
Tax ID No.

Address:
3788 McCray Street
Riverside, CA 92506

City Council Approval: _____

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

ALBERT A. WEBB ASSOCIATES

Corporate Headquarters
3788 McCray Street
Riverside, CA 92506
951.686.1070

Murrieta Office
41870 Kalmia Street #160
Murrieta, CA 92562
T: 951.686.1070

July 6, 2023

Mr. Patrick Safari
CIP Manager
City of Banning
99 E. Ramsey Street
Banning, CA 92220

RE: Request for Additional Engineering and Environmental Services for the Sun Lakes Blvd. Extension Project (C00660)

Dear Patrick,

Albert A. Webb Associates (WEBB) respectfully submit this change order for additional Engineering and Environmental Services for the revised alignment of the Sun Lakes Boulevard Extension Project (C00660). It is necessary to revise the alignment of this roadway as it is infeasible to obtain an easement from Kinder Morgan to place the road atop their existing high-pressure gas line.

WEBB has been contracted by the City of Banning to provide engineering and environmental services for the Sun Lakes Blvd. Extension Project. The following are out-of-scope additional task items to be provided by WEBB for the proposed revised alignment of Sun Lakes Boulevard:

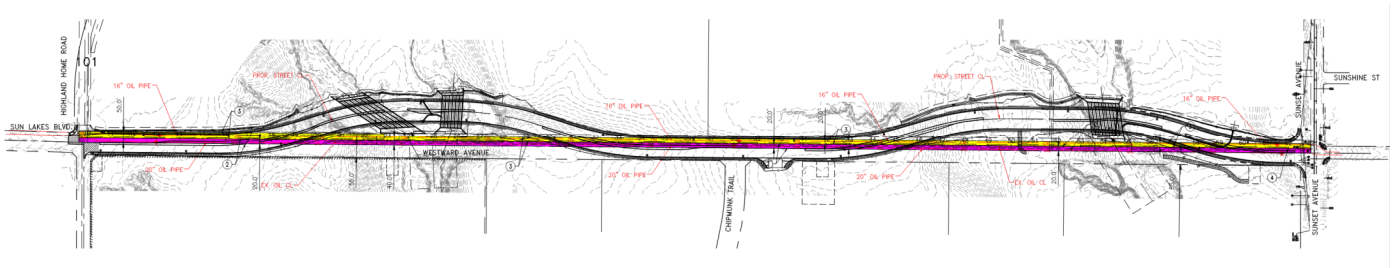
- Update final design plans and documents
- Revised CEQA Document
- Revised Technical Studies (Biological, Cultural, and Air Quality/GHG/Energy)
- Revised Jurisdictional Delineation and Permitting
- Utility coordination
- Project Management, Coordination, and Meetings

At this time, we are respectfully requesting compensation for the tasks already completed and the future tasks to be completed as outlined below.

EXHIBIT "A" SCOPE OF SERVICES

The proposed Sun Lakes Boulevard Extension project (Project) is a project that entails the construction of a new section of Sun Lakes Boulevard from Highland Home Road to Sunset Avenue. The proposed Project is approximately 5,400 linear feet (1.02 mile) long and 110 feet wide and will be constructed according to the City's General Plan Typical Section for an Arterial Highway.

Westward Avenue is a straight east-west unpaved dirt road between Highland Home Road and Sunset Avenue. Kinder Morgan has two fuel lines (16- and 20-inch diameters) in two 20-feet wide easements along Westward Avenue. The proposed Sun Lakes Boulevard curvilinear alignment overlaps Westward Avenue and Kinder Morgan easements, as shown in **Figure 1.** Initially, Kinder Morgan had no issue with roadway construction over their easements. Later, Kinder Morgan changed their policies to restrict roadway improvement over their lines and directed the City to realign Sun Lakes Boulevard to minimize the impact on Kinder Morgan fuel lines.



Sun Lakes Boulevard Circulation Plan Alignment
Figure 1

WEBB had already completed draft CEQA documents and associated technical studies and substantially completed final design plans, studies, and documents for the Project. Now, WEBB prepared a preliminary realignment of Sun Lakes Boulevard, as shown in **Figure 2**. Since the completion of the draft CEQA document and associated technical studies, the alignment for Sun Lakes Boulevard will be modified to an area that falls outside the previously surveyed areas in some places. Therefore, updates to the CEQA document and the relevant technical studies are needed now. In addition, redesigning all final design documents and update of studies and documents are needed.



Sun Lakes Boulevard Realignment to Minimize Impacts on Kinder Morgan Fuel Lines
Figure 2

Based on the feedback we received at the pre-application meeting with resource agencies on June 14, 2023, they understood the Kinder Morgan easement challenges. They agreed with the City to allow roadway realignment, as shown in Figure 2 above.

The City has received substantial funds for the Project and would like to move forward as soon as possible to meet the funding deadlines. The following is our understanding of the Project to complete the PS&E:

1. Drainage Report and Storm Drain Improvement Plans - Minor updates to the drainage report will be required. Storm drain alignments and elevations will remain the same; minor changes may be needed. Headwall and wing wall changes will be required to match the street improvement plans. Plans will be submitted for 90%, 100%, and approval.

2. Street Improvement Plans – Try to hold the profile over the storm drains. Revise street improvement plans and profiles for the realignment. Redesign and detail out 7-ADA ramps. No driveways, ADA ramps, and curb ramps will be provided along the alignment. We will provide AC berm at the proposed driveways per City's request. We will be submitted for 90%, 100%, and approval.

3. Signing & Striping Plans – Revise plans per the realignment and submit for 90% and 100% for approval.

4. Street Light Location Plans – Revise street light location plans per the revised alignment and submit for approval for 90% and 100%. The City will prepare street light conduit and conductor plans.

5. Landscape and Irrigation Plans – Because of budget constraints, the City decided not to landscape the parkway and median at this time, so an update of plans will not be required. The City would like to install sleeves with the Project to avoid future trenching across the pavement. The conduit sleeves will be shown on the street improvement plans.

6. Coordination with the Developer – The City will coordinate with the developer. WEBB will not be required to attend meetings and provide coordination with the developer. WEBB's scope of work includes legal & plats and exhibits needed to obtain right-of-way and easement for the roadway and storm drain improvement. The developer will analyze any impact on future development.

7. Potholing – We will prepare an exhibit for approximately 40 potholes. The City will coordinate and hire a potholing contractor to perform the work. WEBB will conduct the field survey and collect data points set by the potholing contractor.

8. Coordination with Kinder Morgan – Even with the roadway realignment, approximately 500' on both ends will impact Kinder Morgan fuel lines. We have estimated our effort under utility coordination and meetings. It is very hard to predict the effort required to estimate effort to obtain Kinder Morgan approval and to meet the Federal Energy Regulatory Commission (FERC) requirements. We have added optional items and a budget to provide additional effort if needed.

9. Out-of-scope services – We will obtain authorization from the City for the out-scope services before beginning out-of-scope tasks.

Our scope of services is as follows:

Task 1 – Update Final Design Plans, Studies, and Documents

1.1 – Street Improvement Plans

Additional work includes the following items:

a. Update of horizontal alignment to minimize impacts to Kinder Morgan fuel lines.
b. Update the vertical centerline, curbs, and right-of-way profiles.
c. Update grading limits. The grading limits will consider cut and fill amounts, environmental impact, and resources.
d. Revise raised medians layout and profiles
e. Update sidewalks, ADA ramps, and driveways design and details.
f. Review utility adjustment and relocation and update plans and construction notes.

1.2 – Storm Drain System Design

The approved scope and budget for the Project included a task for the development of a preliminary roadway drainage design and tasks for a final drainage report and storm drain plans. The preliminary drainage design task included a preliminary hydrology and hydraulic analysis, preliminary scour calculations, preliminary plans, and a preliminary drainage report. The preliminary design was completed and submitted in November of 2020.

After the preliminary design was completed, concerns were raised by the resource agencies, which necessitated a sediment transport study be prepared for the Project. This study was completed and concluded that revisions to the culvert configuration were needed to address those concerns. WEBB's efforts to coordinate with the sediment transport study engineer and develop a revised design concept were covered under both a separate approved change order and the remaining preliminary design task budget. A change order was also approved by the City to update the plans based on the revised concept. This change order included updating the drainage report, update of the drainage plan sheets, and preparation of structural details and calculations.

As WEBB was proceeding with the updates to the design, input was received from Kinder Morgan stating that the drainage outlet structures would not be permitted within their easement. WEBB was then directed to stop work while the City coordinated with Kinder Morgan. WEBB was authorized by the City in January 2023 to proceed. An additional redesign of the outlet structures was completed to ensure that they did not encroach into the easement as requested.

After the redesign was substantially complete, WEBB was given direction to realign the street to minimize the impact on the existing Kinder Morgan easement. This change will require a redesign of the channel inlet and outlet structures, a redesign of the street storm drains, and a redesign of the intercept drain on the northerly side of the street. The drainage plans will also need to be redrafted. The hydraulic calculations (HEC-RAS, WSPG, etc) and drainage report will also need to be updated for these changes. The structural design work that has been started will also need to be redone. Added to this work is also an update to the preliminary geotechnical report to provide all the parameters needed to finalize the structural design calculations.

1.2.1 - Final Drainage Report Update - Additional work items include:

a. Due to road realignment, update the HEC-RAS model for updated inlet/outlet configuration.
b. Update WSPG calculations for culverts, new street storm drains, and intercept drain designs.
c. Update report text and exhibits to reflect revised road alignment.
d. Address additional plan check comments.

1.2.2 – Storm Drain Plan Update – Additional work items include:

a. Update the design and plan details for the outlet structures to avoid the Kinder Morgan easement.
b. Update design and plans due to the road realignment (channel inlet and outlets, street storm drain, northerly intercept ditch, and appurtenances).
c. Coordination with WEBB environmental team for the information requested and/or needed.

1.2.3 - Structural Design Details - Additional work items include:

a. Update structural calculations for revised inlet and outlet configuration.
b. Coordination with the geotechnical engineer for information required for structural design.
c. Review of Geotechnical report of adjacent development provided by City.
d. Update of Preliminary Geotechnical report by sub-consultant.

1.2.4 – Assessment of Potential Sediment Transport Impact - Additional work items include:

A study is to be conducted to assess the potential sediment transport impacts associated with the improvement of Sun Lakes Boulevard. The proposed road improvements involve the addition of several new culvert crossings that are to be constructed upstream of two existing dry weather crossings. The proposed culvert crossings have increased in size since the hydraulic assessment previously conducted by Northwest Hydraulic Consultants (NHC) in 2021. The existing dry weather crossings are to remain in place with the proposed road improvement plan.

Impacts on sediment transport will depend on the configuration proposed for the new crossings. A high-level assessment of the potential effects will be completed through a comparison of hydraulic characteristics pre- and post-project.

We will evaluate (existing conditions models, also developed previously provided for the 2021 NHC study) 2D model hydraulic models (HEC-RAS) of the proposed improvement plan.

Assumptions:

a. The Resource Agencies are currently reviewing the HEC-RAS model prepared for the revised culvert concept. WEBB will proceed with the final design phase ahead of Resource Agency approval under the assumption that they will not have any comments that will impact the culvert design or analysis. This additional budget request does not include any additional changes to the culvert analysis or design resulting from future Resource Agency comments.
b. It is assumed that the Caltrans Standard Detail D81 for double-cell reinforced concrete boxes can be utilized for the multi-cell boxes required for this Project, and no special structural design is required for these culverts.
c. The final plans and analysis will be designed with the assumption that the future Sunset Crossing project will be designed and built after the roadway project is completed. This additional budget request does not include any additional design or analysis required to assess changes to the roadway design or hydraulic analysis based on this future Project. It also assumes that drainage facilities for the Sunset Crossroads property (outside of the street right of way) will be designed and constructed by the developer's plans and is not a part of the road project scope.

1.3 – ROW and Easement Documents

We will prepare and update fourteen (14) documents needed for additional right-of-way and easements.

1.4 – Signing & Striping Plans

Update signing & striping plans for the revised alignment.

1.5 – Street Light Location Plans

a. Update street light location plans for the revised alignment.

1.6 – Specifications

The City will provide us with its boilerplate Technical Provisions in Microsoft Word format. We will compile the project specifications, including the project-specific scope of work in the Technical Specifications, and provide Special Technical Provisions beyond the City's Standard Technical Provisions. With each submittal, WEBB will provide a bid schedule, special provisions, and technical specifications. The specifications shall be signed by a Civil Engineer registered in the State of California as complete and ready for bidding purposes and awarding contracts for construction for the improvements. The latest edition of the Greenbook (Standard Specifications for Public Works Construction and subsequent amendments) will be used on the Project, except for the signing/striping elements. The City and Caltrans Standard Specifications will be used for these improvements. The City will prepare the bid book.

1.7 - Cost Estimates

We will provide a construction quantity and cost estimate with each submittal of plans. The unit costs shall be based upon the most current cost information for recent similar projects in the area compiled by us and approved by the City. The estimated items of work with quantities shall include, but not be limited to, itemizing all removals, clearing and grubbing, relocations, sidewalk, curb & gutter, driveway approaches, Asphalt Concrete (AC), utility improvements, applying/painting of pavement legends & striping, signs, traffic control, raised pavement markers, street lights in City limits, storm drain improvements, and project identification and completion signs. The estimates will also include probable costs for utility relocations, right-of-way, and temporary construction easements.

Task 3 – Revised Environmental Documentation

Since the completion of the draft CEQA document and associated technical studies, the alignment for Sun Lakes Boulevard has been modified to an area that, in some places, falls outside the previously surveyed areas. Therefore, updates to the CEQA document and the relevant technical studies are needed at this time.

3.1 - Revised Cultural Resources Study – Additional work items include:

a. Applied Earthworks (AE), WEBB's cultural resources subconsultant will conduct a complete and intensive cultural resource survey of the additional Project acreage. Two previously documented cultural resources (a large farm/ranch complex and a large historic water-control complex) are located within the expanded Project area. AE will confirm the location of these previously identified resources in proximity to the expanded Project area and assess their current condition.

b. AE will update the *Phase I Cultural Resources Assessment* (*Phase I CRA*) and paleontological memorandum to include the additional Project acreage, as well as add language regarding federal funding. This scope includes two rounds of comments following the City review of the draft updated *Phase I CRA* and no major revisions will be required. The draft updated *Phase I CRA* and paleontological memorandum will be submitted electronically in MS Word format for ease of review; the final updated *Phase I CRA* and paleontological memorandum will be submitted electronically as a PDF file.

3.2 - Revised Biological Resources Studies – Additional work items include:

a. WSP USA Environment & Infrastructure Solutions (WSA),[1] WEBB's biological resources subconsultant will revise the figures and exhibits, recalculate impacts, and update the previously finalized versions of the following reports to include the revised street alignment (Project footprint). The updated draft reports listed below will be submitted electronically for ease of review; the final revised reports will be submitted electronically as PDF files.

1. *Habitat Assessment/Western Riverside County Multiple Species Habitat Consistency Analysis,*
2. *Focused Burrowing Owl Survey,*
3. *Narrow Endemic and Criterial Area Plants Survey,*
4. *Los Angeles Pocket Mouse Protocol Survey*
5. *Determination of Biologically Equivalent or Superior Preservation (DBESP)*
6. West and Dry Season Fairy Shrimp Survey Memo Update

3.3 - Additional Environmental Coordination – Additional work items include:

WEBB has expended all original budgets associated with coordination and meetings with the Regional Conservation Authority (RCA) and regulatory agencies (US Army Corps of Engineers, California Department of Fish and Wildlife, Regional Water Quality Control Board and US Fish and Wildlife Service). Given that a meeting has been scheduled for June 14, 2023 with the RCA and regulatory agencies, and since there will be pre- and post- meeting coordination needed with the City and WEBB Team, additional request for budgets to do this meeting, along with more frequent coordination with the City as the revised CEQA document is underway, will also be needed.

3.4 – Revised Environmental (CEQA) Documentation – Additional work items include:

The Initial Study/Mitigated Negative Declaration (IS/MND) in addition to the CEQA notices for the original proposed alignment have been prepared. The IS/MND was ready to be released in January 2024 for public review prior to the decision to revise the Project alignment. Because the Project footprint has changed and revised biological resources reports, cultural report, and jurisdictional delineation must be prepared, additional budget is needed to revise and complete processing the IS/MND for public review through the Final MND phase. We are asking for an additional task authorization to complete this task since the budget originally allocated has been expended.

This scope does not include updating the air quality/greenhouse gas analysis completed in November 2021, which was prepared using the California Emissions Estimator Model® version 2020.4.0 (CalEEMod) model. The California Air Pollution Control Officers Association (CAPCOA) released CalEEMod version 2022.1 in December 2022. However, WEBB is not proposing to redo the air quality/greenhouse gas analysis using

[1] Wood Environment Infrastructure Solutions, Inc. was acquired by WSP.

the new model because: (i) the analysis was completed before the new model was released; (ii) there are no substantial changes to the Project that would warrant remodeling construction impacts; (iii) this is a capital improvement project; and (iv) and the results of the original air quality/greenhouse gas analysis were well below the numeric thresholds that would indicate a potentially significant impact. In the event comments are received during the public review period for the IS/MND, WEBB would address that in the responses to comments and explain the rationale for not remodeling the Project's air quality/greenhouse gas emissions.

Task 4 - Jurisdictional Delineation and Permitting

The original field surveys for the jurisdictional delineation (JD) were completed summer 2021, exhibits prepared, impacts calculated, and these results were presented to the resource agencies. WEBB will update the previous JD, to cover the new areas proposed by the revised Project alignment, including a 100-foot survey buffer. Specifically, WEBB will update the existing JD report with regulatory changes that have occurred since preparation of the original 2021 JD report. Following the literature review update, WEBB will conduct a one-day site visit to the revised Project site to document suspected wetlands and non-wetland waters of the U.S, waters of the State located outside federal jurisdiction, and streambed according to Fish and Game Code.

Waters of the U.S. will be evaluated using the methodology set forth in the guidelines provided in the *Corps of Engineers Wetlands Delineation Manual* (1987), the *2008 Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region* (Version 2.0), and the *2008 Field Guide to the Identification of the Ordinary High Water Mark (OHWM) in the Arid West Region of the Western United States*. Potential Waters of the State that are outside of federal jurisdiction will be identified following the *Procedures for Discharges of Dredged or Fill Material to Waters of the State. Fish and Game Code,* Section 1600 et al streambed will be identified as the bank-to-bank where the active streambed shows the fullest expression on the landscape.

After the site-visit is completed, WEBB will update the JD report with the new data collected from the site visit including tables, figures, and impacts discussion. The report will be prepared following the 2017 U.S Army Corps of Engineers (USACE), *Minimum Standards for Acceptance of Aquatic Resources Delineation Reports*. The JD report will provide an analysis and discussion of the existing site conditions, methods, and results of the delineation, including details such as soil types, hydrology, and vegetation present on the site. The report will also provide a discussion of the impacts proposed to any jurisdictional areas, including photographs and exhibits depicting any jurisdictional features.

Task 5 – Utility Coordination and Additional Field Survey for Potholing (Time and Material Basis)

WEBB will Identify all known utilities that potentially conflict with the planned project improvements and determine special requirements for facilities, including protection, relocation, right-of-way easements, and construction. WEBB will coordinate with utility companies to schedule the relocation of the utilities before the start of construction.

a. Coordinate with Kinder Morgan to construct Sun Lakes Boulevard for segments east of Highland Home Road and west of Sunset Avenue.
b. Coordinate with City to relocate power poles and guy anchors and adjust electrical vaults.
c. Coordinate with the City for relocation and adjustment of water valves, fire hydrants, blow-offs, air vacuum, and sewer manholes.
d. Coordinate with the Gas Company to relocate and adjust gas valves and electronic gas station.

e. Coordinate with telecommunication companies for the adjustment of telecommunication manholes.
f. Attend six (6) meetings with utility companies.
g. We will prepare an exhibit for approximately 40 potholes. The City will coordinate and hire a potholing contractor to perform the work. WEBB will conduct the field survey and collect data points set by the potholing contractor.

Task 6 – Project Management, Coordination, and Meetings (Time and Material Basis)

We will schedule and attend meetings as follows:

a. Project Development Team (PDT) meetings – We estimate twelve (12) meetings
b. Environmental meetings - We estimate six (6) meetings

We will schedule, chair, and prepare meeting agendas and meeting minutes. The agendas will be submitted to the City for review one working day before the meeting. The minutes will be distributed to all attendees, everyone invited, and the City's Project Manager within five working days after the meeting. The minutes shall include but are not limited to a list of attendees with phone numbers and contact emails, a summary of discussion items, a decision log, ROW/Utility Tracking Sheets, any pertinent information, and follow-up to action items.

We will update project schedules. The project schedules will be divided into tasks and subtasks in full detail, including the City function timeline, critical path, and outside sources such as agencies or utilities.

Task 7 – Engineering Support Services for Environmental Documentation, Jurisdictional Delineation, and Permitting (Time and Material Basis)

We have been providing out-of-scope services for the realignment of the roadway and coordination with the City and resource agencies.

We will provide engineering support services for environmental documentation, jurisdictional delineation, and permitting.

Optional Task 8 – Additional Work for Kinder Morgan (Time and Material Basis)

Even with the roadway realignment, approximately 500' on both ends will impact Kinder Morgan fuel lines. We have estimated our effort under utility coordination and meetings. It is very hard to predict the effort required to estimate effort to obtain Kinder Morgan approval and to meet the Federal Energy Regulatory Commission (FERC) requirements. Any additional effort required beyond estimated under the utility coordination and meetings, with the approval of the City, WEBB will provide additional support services.

EXHIBIT "B" COMPENSATION FOR SCOPE OF SERVICES

Total fees for services shown in the Scope of Services (Exhibit "A") shall not exceed **$496,079** without prior authorization from the client. If the optional Task 7 is to be conducted, the total shall be provided on a time and materials basis not to exceed **$516,079** after City authorization for the task. We propose to provide details in Exhibit "A" for an initial Time & Materials fee to be billed monthly in accordance with the attached fee schedule.

Task budgets are estimates and may be used interchangeably to stay within the budget total. Any additional services requested outside this scope will be provided under separate contract addenda for additional fees.

Charges for deliveries, printing, copying, mileage, postage, outside services, and for coordination or other services not specifically listed in the scope of work (Reimbursable Expenses) will be billed on a time and material basis in accordance with our Schedule of Fees. Checking and/or filing fees are not included in this contract and shall be paid directly to the appropriate governmental agency by the client.

If you find this request acceptable, please issue contract amendment #1 with the current dollar amount to the Final Engineering Services contract dated June 23, 2020. We appreciate this opportunity to serve your firm and look forward to hearing from you. If you have any questions regarding this proposal, don't hesitate to contact me at 951-830-4305.

Sincerely,

ALBERT A. WEBB ASSOCIATES



Dilesh Sheth, PE / TE
Senior Vice President

Attachment "1"

Exhibit B

Additional Engineering and Environmental Services for the Sun Lakes Blvd. Extension Project (C00660)

Item	Description	Stephanie Standerfer	Cheryl DeGano	Autumn DeWoody	Marshall Paymard	Field Biologist	Virginia Waters	Jacqueline Gamboa	Joseph Caldwell	Eric Hays	Ranjit Singh	Nathan Armendariz	Dilesh Sheth	Nicholas Keller	Joy Schwiebert	Son Le	Deborah Saulina	Danielle Logsdon	Jason Ardery	Michael Johnson	Linda Bouschet	Jon Ros	Andres Lopez	Party Chief/2-Person Survey Crew	Total Hours	Subtotal - Labor	Sub-consultant budget	Total/task
	Classification	Principal II	Principal II	Associate II	Associate II	Assistant II	Assistant II	Assistant II	Principal II	Principal I	Senior III	Assistant V	Principal II	Senior I	Assistant V	Associate II	Assistant III	Senior III	Principal II	Principal II	Associate III	Senior II	Senior I	Party Chief/2-Person				
	Billout Rate	$ 293	$ 293	$ 197	$ 197	$ 135	$ 135	$ 135	$ 293	$ 279	$ 252	$ 173	$ 293	$ 232	$ 173	$ 197	$ 144	$ 252	$ 293	$ 293	$ 208	$ 240	$ 232	$ 302				
Task 1 - Update Final Design Plans, Studies, and Documents									24	62	168	430	30	208	108	48	60	110	8	16	110	14			1396	$ 295,874	$ 6,600	$ 302,474
1.1	Street i\Improvement Plans																									$ -	$ -	$ -
	Update Street i\Improvement Plans												12	200			12	40							264	$ 61,724	$ -	$ 61,724
	Redesign ADA Ramps (7)												2		70			12							84	$ 15,720	$ -	$ 15,720
1.2	Storm Drain System Design																											
	1.2.1 - Final Drainage Report Update								8		20	50	2		8		4	4							96	$ 19,588	$ -	$ 19,588
	1.2.2 - Storm Drain Plan Update								8	40	120	300	2				4	4							478	$ 97,814	$ -	$ 97,814
	1.2.3 - Structural Design Details									2	4	80	2				4	4							96	$ 17,576	$ -	$ 17,576
	1.2.4 - Assessment of Potential Sediment Transport Impact								8	4	8		2				4	4							30	$ 7,646	$ 6,600	$ 14,246
1.3	ROW and Easement Documents (14)													8			8	8	8	16	110	14			172	$ 38,296	$ -	$ 38,296
1.4	Signing and Striping Plans														6	40	4								50	$ 9,494	$ -	$ 9,494
1.5	Street Light Plans														16		4								20	$ 3,344		$ 3,344
1.6	Specifications									8	8		4				8	20							48	$ 11,612	$ -	$ 11,612
1.7	Cost Estimate									8	8		4		8	8	8	14							58	$ 13,060	$ -	$ 13,060
Task 3 - Revised Environmental Documentation		56	108	8				68																	240	$ 58,808	$ 17,820	$ 76,628
3.1	Revised Cultural Resources Study		4					4																	8	$ 1,712	$ 3,520	$ 5,232
3.2	Revised Biological Resources Studies		4					4																	8	$ 1,712	$ 14,300	$ 16,012
3.3	Additional Environmental Coordination	40	60																						100	$ 29,300	$ -	$ 29,300
3.4	Revised CEQA Documentation	16	40	8				60																	124	$ 26,084	$ -	$ 26,084
Task 4 - Jurisdictional Delineation and Permitting		28	20	89	74	12	16																		239	$ 49,955	$ -	$ 49,955
4.1	Revised Survey, Mapping, Impact Calculation, Report Preparation, and Regulatory Permitting (includes optional UAV Remote sensing updates)	28	20	89	74	12	16																		239	$ 49,955	$ -	$ 49,955
Task 5 - Utility Coordination and Additional Field Survey for Potholing (T&M)													6	6	6		16	10		2			4	8	58	$ 12,942	$ -	$ 12,942
5.1	Utility Coordination & Meetings (6)												6		6		12	6							30	$ 6,036	$ -	$ 6,036
5.2	Additional Survey for Potholing													6			4	4		2			4	8	28	$ 6,906		$ 6,906
Task 6 - Project Management, Coordination & Meeting (T&M)													26		12		30	42							110	$ 24,598	$ -	$ 24,598
6.1	Project Management and Coordination												8					12							20	$ 5,368	$ -	$ 5,368
6.2	PDT Meetings (Estimate 12)												12		12		24	24							72	$ 15,096	$ -	$ 15,096
6.3	Environmental Meetings (estimate 6)												6				6	6							18	$ 4,134	$ -	$ 4,134
Task 7 - Engineering Support Services for Environmental Documentation, Jurisdictional Delineation, and Permitting (T&M)		8	8						24		16	16	14		28			8							122	$ 29,482	$ -	$ 29,482
7.1	Realignment and Pre-Coordination with Agencies	8	8						8		8		6		12										50	$ 12,882	$ -	$ 12,882
7.2	Engineering Support Services for Environmental Documentation, Jurisdictional Delineation, and Permitting								16		8	16	8		16			8							72	$ 16,600	$ -	$ 16,600
Total		92	136	97	74	12	16	68	48	62	184	446	76	214	154	48	106	170	8	18	110	14	4	8	2165	$ 471,659	$ 24,420	$ 496,079
Optional Task 8 - Additional Work for Kinder Morgan (T&M)																										$ -	$ 20,000	$ 20,000
8.1	Additional Work for Kinder Morgan																									$ -	$ 20,000	$ 20,000

CHANGE ORDER

Change Order No. 1

Purchase Order No. 030269

Date 1/11/2022

Agreement Date 6/23/2020

Sheet 1 of 2

Owner: CITY OF BANNING

Project: **2020-04 Sun Lakes Boulevard Extension**

Contractor: Albert A. Webb and Associates

The following changes are hereby made to the Contract Documents:

JUSTIFICATIONS:

Out of scope work. Coordination with RCA, meetings with RCA, analysis of arched culvert design, coordination and plan revisions per Sunset Crossroads Project.

CHANGE TO CONTRACT PRICE

Original Contract Price	$ 548,416.05	Current
Contract Price adjusted by previous Change Order(s)	$ 548,416.05	
Contract Price due to this Change Order will be (increased)	$ 24,983.25	
New Contract Price including this Change Order	$ 573,399.30	

CHANGE TO CONTRACT TIME

Contract Time will be (increased) Date	12/31/2022	
for Completion of all Work	580	(Working Days) (Date)

APPROVALS REQUIRED

To be effective, this order must be approved by the Owner, or as may otherwise be required by the Supplemental General Conditions.

Recommended by: Peter Safai Date: 1/11/2022

Approved by: [signature] Date: 1/14/22

CHANGE ORDER

Change Order No. 2

Purchase Order No. 030269

Date 1/25/2022

Agreement Date 6/23/2020

Sheet 1 of 2

Owner: CITY OF BANNING

Project: **2020-04 Sun Lakes Boulevard Extension**

Contractor: Albert A. Webb and Associates

The following changes are hereby made to the Contract Documents:

JUSTIFICATIONS:

Out of scope work. Sediment Transport Study was needed to assess the potential sediment transport capacity at the proposed arched culverts crossings.

CHANGE TO CONTRACT PRICE

Original Contract Price

$ 548,416.05 Current

Contract Price adjusted by previous Change Order(s)

$ 573,399.30

Contract Price due to this Change Order will be (increased)

$ 5,974.88

New Contract Price including this Change Order

$ 579,374.18

CHANGE TO CONTRACT TIME

Contract Time will be (increased) Date

12/31/2022

for Completion of all Work

580

(Working Days) (Date)

APPROVALS REQUIRED

To be effective, this order must be approved by the Owner, or as may otherwise be required by the Supplemental General Conditions.

Recommended by: _____ Date: 1/26/2022

Approved by: _____ Date: 1/27/22

ALBERT A. WEBB ASSOCIATES

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May 3, 2022

Mr. Patrick Safari
City of Banning
99 E. Ramsey Street
Banning, CA 92220

RE: Request for Change Order for Additional Engineering and Environmental Services for the Sun Lakes Blvd. Extension Project (C00660)

Dear Patrick,

Albert A. WEBB Associates respectfully submit this change order for Engineering and Environmental Services for the Sun Lakes Blvd. Extension Project (C00660).

WEBB has been contracted by the City of Banning to provide engineering and environmental services for the Sun Lakes Blvd. Extension Project. The following are out-of-scope additional task items provided by WEBB:

- Street Improvement, Storm Drain Design, and Environmental Coordination for Wildlife/Resource Agencies review and Sunset Crossroads Project Coordination
- Storm Drain System Design
- Supplemental Environmental Documentation
- Jurisdictional Delineating and Permitting

At this time, we are respectfully requesting compensation for the tasks already completed, and the future tasks to be completed as outlined below.

EXHIBIT "A" SCOPE OF SERVICES

Task 1 - Street Improvement, Storm Drain Design, and Environmental Coordination for Wildlife/Resource Agencies review and Sunset Crossroads Project Coordination

1. Attend meetings with City and Sunset Crossroads design team.
   - Original Proposal: Not in scope, Additional Cost: $4,644
2. Review Sunset Crossroads preliminary on-site design layout.
   - Original Proposal: Not in scope, Additional Cost: $3,666
3. Prepare and provide electronic CAD files to Sunset Crossroads design team.
   - Original Proposal: Not in scope, Additional Cost: $896
4. Coordinate with bridge consultant to determine appropriate spans and type selection (arched culverts).
   - Original Proposal: Not in scope, Additional Cost: $1,120
5. Coordinate with environmental team and biologist for determining new impacts from revised culvert design.
   - Original Proposal: Not in scope, Additional Cost: $790
6. Coordinate with environmental team to determine alternative alignments and spans for minimizing impacts.
   - Original Proposal: Not in scope, Additional Cost: $1,792
7. Coordinate with design team to prepare for resource agency meetings.
   - Original Proposal: Not in scope, Additional Cost: $713
8. Meet and coordinate with Wildlife/Resource Agencies
   - Original Proposal: Not in scope, Additional Cost: $713
9. Coordinate and schedule meeting with Sunset Crossroads design team for environmental analysis approach.
   - Original Proposal: Not in scope, Additional Cost: $448
10. Coordinate with sediment transport consultant for scour memo and/or detailed analysis.

a. Review Geotechnical Report with consultant
b. Review existing particle size distribution for channel bed.
   - Original Proposal: Not in scope, Additional Cost $1,344

Task 2 – Storm Drain System Design

2.1 - Final Drainage Report – Additional work items include:

a. Update preliminary hydraulic and scour calculations for the revised culvert footprint.
b. Prepare hydraulic analysis for mimicking the existing hydraulic conditions at the existing roadway crossings.
c. Update preliminary report for the new concept and additional analysis.
   - Original Proposal: Included in scope but revisions required as a result of revised culvert design, Additional Cost: $10,304

2.2 - Storm Drain Plans – Additional work items include:

a. Update design layout of culvert and culvert inlet and outlet wing walls, headwalls, aprons, access ramps, riprap, and other elements for new culvert concept.
b. Update design layout and details for mimicking existing hydraulic conditions at existing roadway crossings.

- Original Proposal: Included in scope but revisions required as a result of revised culvert design, Additional Cost: $34,944

2.3 - Structural Design Allowance – Additional work items include:

a. Prepare structural design calculations and details, as needed, for culverts, wingwalls, headwall, parapet, and energy dissipaters where standard details are not applicable.
   - Original Proposal: Not in scope, Additional Cost: $34,792

Task 3 – Supplemental Environmental Documentation

Following preparation of the draft *Phase I Cultural Resource Assessment for the Sun Lakes Boulevard Realignment Project,* November 2020 (the *Draft Phase 1 CRA*) and the biological resources studies, the Project footprint has expanded due to the new culvert concept and the addition of access to the City's substation being and grading along the west side of Sunset Avenue. This has resulted in an expanded Project footprint that was not evaluated in the *Draft Phase I CRA* or the biological resources studies.

3.1 - Supplemental Cultural Resources Study – Additional work items include:

a. Applied Earthworks (AE), WEBB's cultural resources subconsultant will conduct a complete and intensive cultural resource survey of the expanded Project footprint. Two previously documented cultural resources (a large farm/ranch complex and a large historic water-control complex) are located within the expanded Project area. AE will confirm the location of these previously identified resources in proximity to the expanded Project area and assess their current condition.
b. AE will update the draft *Phase I CRA* to include the expanded Project footprint. This scope include two rounds of comments following City review of the draft updated *Phase I CRA* and no major revisions will be required. The draft updated *Phase I CRA* will be submitted electronically in MS Word format for ease of review; the final updated *Phase I CRA* will be submitted electronically as a PDF file.
   - Original Proposal: Included in scope but revisions required as a result of revised culvert design, Additional Cost: $3,646

3.2 - Supplemental Biological Resources Studies – Additional work items include:

a. Wood Environment Infrastructure Solutions, Inc. (Wood), WEBB's biological resources subconsultant will revise the figures and exhibits, recalculate impacts, and update the previously submitted draft versions of the following reports to include the expanded Project footprint. Habitat Assessment/Western Riverside County Multiple Species Habitat Consistency Analysis, Focused Burrowing Owl Survey, Narrow Endemic and Criterial Area Plants Survey, Los Angeles Pocket Mouse Protocol Survey. The Determination of Biologically Equivalent or Superior Preservation (DBESP), which is in process, will also be revised to include the expanded Project footprint.
b. The updated draft reports will be submitted electronically for ease of review; the final updated reports will be submitted electronically as PDF files.
   - Original Proposal: Included in Scope but revisions required as a result of revised culvert design, Additional Cost: $19,336

3.3 - Additional Environmental Coordination – Additional work items include:

Subsequent to the initial meeting with the Western Riverside County Regional Conservation Authority (RCA) and the Wildlife/Resource Agencies, WEBB's environmental staff coordinated with the Wildlife/Resource Agencies to provide the hydraulic modeling results and assist City staff in responding to agency questions. WEBB will also assist the City in shepherding this project through the DBESP process with the Wildlife/Resource Agencies.

- Original Proposal: Included in Scope but revisions required as a result of revised culvert design, Additional Cost: $12,430

3.4 - CEQA Documentation Updates – Additional work items include:

Because the design of the culverts delayed the design progress and over a year has gone by since the draft CEQA document was prepared, as well as given the updates to the project design/footprint and the need to update the cultural and biological and JD studies, additional budget is needed to further process the MND. Budget for all the additional meetings and coordination related the crossings took budget away from the CEQA task. We are asking for an additional task authorization to update the draft MND, and process it for public review through a Final MND.

- Original Proposal: Included in Scope but revisions required as a result of revised culvert design, Additional Cost: $11,952

Task 4 - Jurisdictional Delineation and Permitting

The original field surveys for the jurisdictional delineation were completed summer 2021, exhibits prepared, impacts calculated, and these results were presented to the resource agencies and used to develop the new culvert concept. In order to complete the jurisdictional delineation report, additional work items include:

a. Survey and map jurisdictional resources within the expanded Project footprint.
b. Prepare revised exhibits for use in the report.

- Original Proposal: Included in Scope but revisions required as a result of revised culvert design, Additional Cost: $4,692

EXHIBIT "B" COMPENSATION FOR SCOPE OF SERVICES

Total fees for services shown in the Scope of Services (Exhibit "A") shall not exceed **$148,222** without prior authorization from client. We propose to provide details in Exhibit "A" for an initial Time & Materials fee to be billed monthly in accordance with the attached fee schedule.

Task 1: Street, Storm, Environmental Coordination		$16,126
Task 2: Storm Drain System Design		$80,040
Task 3: Supplemental Environmental Documentation		$47,364
Task 4: Jurisdicational Delineation and Permitting		$4,692
	Total	**$148,222**

Task budgets are estimates and may be used interchangeably as needed but not to exceed the budget total. Any additional services requested outside this scope will be provided under separate contract addenda for additional fees. Invoices will be submitted monthly based on the percentage of work completed. All invoices shall be due and payable upon receipt. If invoices remain unpaid after 30 days, work on project may cease and interest of 1.5% per month shall be charged on unpaid balances.

Charges for deliveries, printing, copying, mileage, postage, outside services, and for coordination or other services not specifically listed in the scope of work (Reimbursable Expenses), will be billed on a time and material basis, in accordance with our Schedule of Fees. Checking and/or filing fees are not included in this contract and shall be paid by the client directly to the appropriate governmental agency.

Charges for printing, copying, mileage, postage, outside services, and for coordination or other services not specifically listed in the scope of work (Reimbursable Expenses), will be billed on a time and material basis, in accordance with our Schedule of Fees. Checking and/or filing fees are not included in this contract and shall be paid by the client directly to the appropriate agency.

If you find this request acceptable, please issue contract amendment #1 with the current dollar amount to the Final Engineering Services contract dated June 23, 2020. We appreciate this opportunity to be of service to your firm and look forward to hearing from you. If you have any questions regarding this proposal, please contact us at 951-320-6063.

Sincerely,

ALBERT A. WEBB ASSOCIATES



Eugene Abrego, PE
Senior Engineer

ALBERT A. WEBB ASSOCIATES

Sun Laked Blvd. Extension Change Order - 2

Item	Description	Stephanie Standerfer	Cheryl DeGano	Autumn DeWoody	Eric Hays	Eugene Abrego	Ranjit Singh	Total Hours	Subtotal - Labor	Sub-consultant budget	Total/task
	Billout Rate	$ 265	$ 224	$ 171	$ 224	$ 224	$ 224				
Task 1 -	**Street/Storm/Env. Design Coordination**	**8**	**14**	**2**	**6**	**21**	**20**	**71**	**$ 16,126**	**$ -**	**$ 16,126**
1.1	Attend Meetings	4	4		2	6	4	**20**	$ 4,644	$ -	$ 4,644
1.2	Review of Sunset Crossroads Project	2	2		2	8	2	**16**	$ 3,666	$ -	$ 3,666
1.3	Preparation of CAD files					4		**4**	$ 896	$ -	$ 896
1.4	Coodination with Bridge Consultant					1	4	**5**	$ 1,120	$ -	$ 1,120
1.5	Coordination with Biologist		2	2				**4**	$ 790	$ -	$ 790
1.6	Alternative Culvert Alignment Analysis				2	2	4	**8**	$ 1,792	$ -	$ 1,792
1.7	Coordination for Resource Agency Meetings	1	2					**3**	$ 713	$ -	$ 713
1.8	Meet and Coordinate with Wildlife/Resource Aencies	1	2					**3**	$ 713	$ -	$ 713
1.9	Coordination and Meetings with SC Env. Team		2					**2**	$ 448	$ -	$ 448
1.10	Coordination with Sediment Transport Subconsultant						6	**6**	$ 1,344	$ -	$ 1,344
Task 2 -	**Storm Drain System Design**				**40**		**170**	**210**	**$ 47,040**	**$ 33,000**	**$ 80,040**
2.1	Final Draiange Report				16		30	**46**	$ 10,304	$ -	$ 10,304
2.2	Storm Drain Plans				16		140	**156**	$ 34,944	$ -	$ 34,944
2.3	Structural Design Allowance				8			**8**	$ 1,792	$ 33,000	$ 34,792
Task 3 -	**Supplemental Environmental Services**	**46**	**58**	**12**				**116**	**$ 27,234**	**$ 20,130**	**$ 47,364**
3.1	Supplemental Cultural Resources Study		4					**4**	$ 896	$ 2,750	$ 3,646
3.2	Supplemental Biological Resources Studies	4	4					**8**	$ 1,956	$ 17,380	$ 19,336
3.3	Additional Environmental Coordination	30	20					**50**	$ 12,430	$ -	$ 12,430
3.4	CEQA Document Updates and Processing	12	30	12				**54**	$ 11,952	$ -	$ 11,952
Task 4 -	**Jurisdicational Delineation and Permitting**	**4**	**4**	**16**				**24**	**$ 4,692**	**$ -**	**$ 4,692**
4.1	Additional Survey, Mapping, Impact Calculation	4	4	16				**24**	$ 4,692	$ -	$ 4,692
Total		**58**	**76**	**30**	**46**	**21**	**190**	**421**	**$ 95,092**	**$ 53,130**	**$ 148,222**

ALBERT A. WEBB ASSOCIATES

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July 6, 2023

Mr. Patrick Safari
CIP Manager
City of Banning
99 E. Ramsey Street
Banning, CA 92220

RE: Request for Additional Engineering and Environmental Services for the Sun Lakes Blvd. Extension Project (C00660)

Dear Patrick,

Albert A. Webb Associates (WEBB) respectfully submit this change order for additional Engineering and Environmental Services for the revised alignment of the Sun Lakes Boulevard Extension Project (C00660). It is necessary to revise the alignment of this roadway as it is infeasible to obtain an easement from Kinder Morgan to place the road atop their existing high-pressure gas line.

WEBB has been contracted by the City of Banning to provide engineering and environmental services for the Sun Lakes Blvd. Extension Project. The following are out-of-scope additional task items to be provided by WEBB for the proposed revised alignment of Sun Lakes Boulevard:

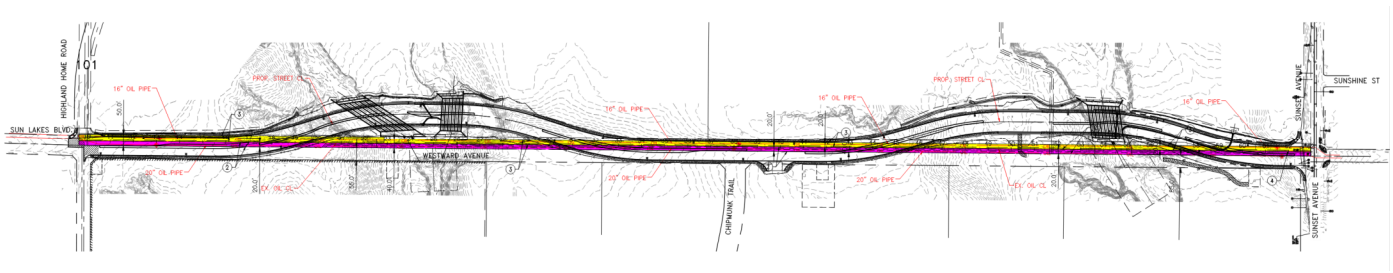
- Update final design plans and documents
- Revised CEQA Document
- Revised Technical Studies (Biological, Cultural, and Air Quality/GHG/Energy)
- Revised Jurisdictional Delineation and Permitting
- Utility coordination
- Project Management, Coordination, and Meetings

At this time, we are respectfully requesting compensation for the tasks already completed and the future tasks to be completed as outlined below.

EXHIBIT "A" SCOPE OF SERVICES

The proposed Sun Lakes Boulevard Extension project (Project) is a project that entails the construction of a new section of Sun Lakes Boulevard from Highland Home Road to Sunset Avenue. The proposed Project is approximately 5,400 linear feet (1.02 mile) long and 110 feet wide and will be constructed according to the City's General Plan Typical Section for an Arterial Highway.

Westward Avenue is a straight east-west unpaved dirt road between Highland Home Road and Sunset Avenue. Kinder Morgan has two fuel lines (16- and 20-inch diameters) in two 20-feet wide easements along Westward Avenue. The proposed Sun Lakes Boulevard curvilinear alignment overlaps Westward Avenue and Kinder Morgan easements, as shown in **Figure 1.** Initially, Kinder Morgan had no issue with roadway construction over their easements. Later, Kinder Morgan changed their policies to restrict roadway improvement over their lines and directed the City to realign Sun Lakes Boulevard to minimize the impact on Kinder Morgan fuel lines.



Sun Lakes Boulevard Circulation Plan Alignment
Figure 1

WEBB had already completed draft CEQA documents and associated technical studies and substantially completed final design plans, studies, and documents for the Project. Now, WEBB prepared a preliminary realignment of Sun Lakes Boulevard, as shown in **Figure 2**. Since the completion of the draft CEQA document and associated technical studies, the alignment for Sun Lakes Boulevard will be modified to an area that falls outside the previously surveyed areas in some places. Therefore, updates to the CEQA document and the relevant technical studies are needed now. In addition, redesigning all final design documents and update of studies and documents are needed.



Sun Lakes Boulevard Realignment to Minimize Impacts on Kinder Morgan Fuel Lines
Figure 2

Based on the feedback we received at the pre-application meeting with resource agencies on June 14, 2023, they understood the Kinder Morgan easement challenges. They agreed with the City to allow roadway realignment, as shown in Figure 2 above.

The City has received substantial funds for the Project and would like to move forward as soon as possible to meet the funding deadlines. The following is our understanding of the Project to complete the PS&E:

1. Drainage Report and Storm Drain Improvement Plans - Minor updates to the drainage report will be required. Storm drain alignments and elevations will remain the same; minor changes may be needed. Headwall and wing wall changes will be required to match the street improvement plans. Plans will be submitted for 90%, 100%, and approval.

2. Street Improvement Plans – Try to hold the profile over the storm drains. Revise street improvement plans and profiles for the realignment. Redesign and detail out 7-ADA ramps. No driveways, ADA ramps, and curb ramps will be provided along the alignment. We will provide AC berm at the proposed driveways per City's request. We will be submitted for 90%, 100%, and approval.

3. Signing & Striping Plans – Revise plans per the realignment and submit for 90% and 100% for approval.

4. Street Light Location Plans – Revise street light location plans per the revised alignment and submit for approval for 90% and 100%. The City will prepare street light conduit and conductor plans.

5. Landscape and Irrigation Plans – Because of budget constraints, the City decided not to landscape the parkway and median at this time, so an update of plans will not be required. The City would like to install sleeves with the Project to avoid future trenching across the pavement. The conduit sleeves will be shown on the street improvement plans.

6. Coordination with the Developer – The City will coordinate with the developer. WEBB will not be required to attend meetings and provide coordination with the developer. WEBB's scope of work includes legal & plats and exhibits needed to obtain right-of-way and easement for the roadway and storm drain improvement. The developer will analyze any impact on future development.

7. Potholing – We will prepare an exhibit for approximately 40 potholes. The City will coordinate and hire a potholing contractor to perform the work. WEBB will conduct the field survey and collect data points set by the potholing contractor.

8. Coordination with Kinder Morgan – Even with the roadway realignment, approximately 500' on both ends will impact Kinder Morgan fuel lines. We have estimated our effort under utility coordination and meetings. It is very hard to predict the effort required to estimate effort to obtain Kinder Morgan approval and to meet the Federal Energy Regulatory Commission (FERC) requirements. We have added optional items and a budget to provide additional effort if needed.

9. Out-of-scope services – We will obtain authorization from the City for the out-scope services before beginning out-of-scope tasks.

Our scope of services is as follows:

Task 1 – Update Final Design Plans, Studies, and Documents

1.1 – Street Improvement Plans

Additional work includes the following items:

a. Update of horizontal alignment to minimize impacts to Kinder Morgan fuel lines.
b. Update the vertical centerline, curbs, and right-of-way profiles.
c. Update grading limits. The grading limits will consider cut and fill amounts, environmental impact, and resources.
d. Revise raised medians layout and profiles
e. Update sidewalks, ADA ramps, and driveways design and details.
f. Review utility adjustment and relocation and update plans and construction notes.

1.2 – Storm Drain System Design

The approved scope and budget for the Project included a task for the development of a preliminary roadway drainage design and tasks for a final drainage report and storm drain plans. The preliminary drainage design task included a preliminary hydrology and hydraulic analysis, preliminary scour calculations, preliminary plans, and a preliminary drainage report. The preliminary design was completed and submitted in November of 2020.

After the preliminary design was completed, concerns were raised by the resource agencies, which necessitated a sediment transport study be prepared for the Project. This study was completed and concluded that revisions to the culvert configuration were needed to address those concerns. WEBB's efforts to coordinate with the sediment transport study engineer and develop a revised design concept were covered under both a separate approved change order and the remaining preliminary design task budget. A change order was also approved by the City to update the plans based on the revised concept. This change order included updating the drainage report, update of the drainage plan sheets, and preparation of structural details and calculations.

As WEBB was proceeding with the updates to the design, input was received from Kinder Morgan stating that the drainage outlet structures would not be permitted within their easement. WEBB was then directed to stop work while the City coordinated with Kinder Morgan. WEBB was authorized by the City in January 2023 to proceed. An additional redesign of the outlet structures was completed to ensure that they did not encroach into the easement as requested.

After the redesign was substantially complete, WEBB was given direction to realign the street to minimize the impact on the existing Kinder Morgan easement. This change will require a redesign of the channel inlet and outlet structures, a redesign of the street storm drains, and a redesign of the intercept drain on the northerly side of the street. The drainage plans will also need to be redrafted. The hydraulic calculations (HEC-RAS, WSPG, etc) and drainage report will also need to be updated for these changes. The structural design work that has been started will also need to be redone. Added to this work is also an update to the preliminary geotechnical report to provide all the parameters needed to finalize the structural design calculations.

1.2.1 - Final Drainage Report Update - Additional work items include:

a. Due to road realignment, update the HEC-RAS model for updated inlet/outlet configuration.
b. Update WSPG calculations for culverts, new street storm drains, and intercept drain designs.
c. Update report text and exhibits to reflect revised road alignment.
d. Address additional plan check comments.

1.2.2 – Storm Drain Plan Update – Additional work items include:

a. Update the design and plan details for the outlet structures to avoid the Kinder Morgan easement.
b. Update design and plans due to the road realignment (channel inlet and outlets, street storm drain, northerly intercept ditch, and appurtenances).
c. Coordination with WEBB environmental team for the information requested and/or needed.

1.2.3 - Structural Design Details - Additional work items include:

a. Update structural calculations for revised inlet and outlet configuration.
b. Coordination with the geotechnical engineer for information required for structural design.
c. Review of Geotechnical report of adjacent development provided by City.
d. Update of Preliminary Geotechnical report by sub-consultant.

1.2.4 – Assessment of Potential Sediment Transport Impact - Additional work items include:

A study is to be conducted to assess the potential sediment transport impacts associated with the improvement of Sun Lakes Boulevard. The proposed road improvements involve the addition of several new culvert crossings that are to be constructed upstream of two existing dry weather crossings. The proposed culvert crossings have increased in size since the hydraulic assessment previously conducted by Northwest Hydraulic Consultants (NHC) in 2021. The existing dry weather crossings are to remain in place with the proposed road improvement plan.

Impacts on sediment transport will depend on the configuration proposed for the new crossings. A high-level assessment of the potential effects will be completed through a comparison of hydraulic characteristics pre- and post-project.

We will evaluate (existing conditions models, also developed previously provided for the 2021 NHC study) 2D model hydraulic models (HEC-RAS) of the proposed improvement plan.

Assumptions:

a. The Resource Agencies are currently reviewing the HEC-RAS model prepared for the revised culvert concept. WEBB will proceed with the final design phase ahead of Resource Agency approval under the assumption that they will not have any comments that will impact the culvert design or analysis. This additional budget request does not include any additional changes to the culvert analysis or design resulting from future Resource Agency comments.
b. It is assumed that the Caltrans Standard Detail D81 for double-cell reinforced concrete boxes can be utilized for the multi-cell boxes required for this Project, and no special structural design is required for these culverts.
c. The final plans and analysis will be designed with the assumption that the future Sunset Crossing project will be designed and built after the roadway project is completed. This additional budget request does not include any additional design or analysis required to assess changes to the roadway design or hydraulic analysis based on this future Project. It also assumes that drainage facilities for the Sunset Crossroads property (outside of the street right of way) will be designed and constructed by the developer's plans and is not a part of the road project scope.

1.3 – ROW and Easement Documents

We will prepare and update fourteen (14) documents needed for additional right-of-way and easements.

1.4 – Signing & Striping Plans

Update signing & striping plans for the revised alignment.

1.5 – Street Light Location Plans

a. Update street light location plans for the revised alignment.

1.6 – Specifications

The City will provide us with its boilerplate Technical Provisions in Microsoft Word format. We will compile the project specifications, including the project-specific scope of work in the Technical Specifications, and provide Special Technical Provisions beyond the City's Standard Technical Provisions. With each submittal, WEBB will provide a bid schedule, special provisions, and technical specifications. The specifications shall be signed by a Civil Engineer registered in the State of California as complete and ready for bidding purposes and awarding contracts for construction for the improvements. The latest edition of the Greenbook (Standard Specifications for Public Works Construction and subsequent amendments) will be used on the Project, except for the signing/striping elements. The City and Caltrans Standard Specifications will be used for these improvements. The City will prepare the bid book.

1.7 - Cost Estimates

We will provide a construction quantity and cost estimate with each submittal of plans. The unit costs shall be based upon the most current cost information for recent similar projects in the area compiled by us and approved by the City. The estimated items of work with quantities shall include, but not be limited to, itemizing all removals, clearing and grubbing, relocations, sidewalk, curb & gutter, driveway approaches, Asphalt Concrete (AC), utility improvements, applying/painting of pavement legends & striping, signs, traffic control, raised pavement markers, street lights in City limits, storm drain improvements, and project identification and completion signs. The estimates will also include probable costs for utility relocations, right-of-way, and temporary construction easements.

Task 3 – Revised Environmental Documentation

Since the completion of the draft CEQA document and associated technical studies, the alignment for Sun Lakes Boulevard has been modified to an area that, in some places, falls outside the previously surveyed areas. Therefore, updates to the CEQA document and the relevant technical studies are needed at this time.

3.1 - Revised Cultural Resources Study – Additional work items include:

a. Applied Earthworks (AE), WEBB's cultural resources subconsultant will conduct a complete and intensive cultural resource survey of the additional Project acreage. Two previously documented cultural resources (a large farm/ranch complex and a large historic water-control complex) are located within the expanded Project area. AE will confirm the location of these previously identified resources in proximity to the expanded Project area and assess their current condition.

b. AE will update the *Phase I Cultural Resources Assessment* (*Phase I CRA*) and paleontological memorandum to include the additional Project acreage, as well as add language regarding federal funding. This scope includes two rounds of comments following the City review of the draft updated *Phase I CRA* and no major revisions will be required. The draft updated *Phase I CRA* and paleontological memorandum will be submitted electronically in MS Word format for ease of review; the final updated *Phase I CRA* and paleontological memorandum will be submitted electronically as a PDF file.

3.2 - Revised Biological Resources Studies – Additional work items include:

a. WSP USA Environment & Infrastructure Solutions (WSA),[1] WEBB's biological resources subconsultant will revise the figures and exhibits, recalculate impacts, and update the previously finalized versions of the following reports to include the revised street alignment (Project footprint). The updated draft reports listed below will be submitted electronically for ease of review; the final revised reports will be submitted electronically as PDF files.

1. *Habitat Assessment/Western Riverside County Multiple Species Habitat Consistency Analysis,*
2. *Focused Burrowing Owl Survey,*
3. *Narrow Endemic and Criterial Area Plants Survey,*
4. *Los Angeles Pocket Mouse Protocol Survey*
5. *Determination of Biologically Equivalent or Superior Preservation (DBESP)*
6. West and Dry Season Fairy Shrimp Survey Memo Update

3.3 - Additional Environmental Coordination – Additional work items include:

WEBB has expended all original budgets associated with coordination and meetings with the Regional Conservation Authority (RCA) and regulatory agencies (US Army Corps of Engineers, California Department of Fish and Wildlife, Regional Water Quality Control Board and US Fish and Wildlife Service). Given that a meeting has been scheduled for June 14, 2023 with the RCA and regulatory agencies, and since there will be pre- and post- meeting coordination needed with the City and WEBB Team, additional request for budgets to do this meeting, along with more frequent coordination with the City as the revised CEQA document is underway, will also be needed.

3.4 – Revised Environmental (CEQA) Documentation – Additional work items include:

The Initial Study/Mitigated Negative Declaration (IS/MND) in addition to the CEQA notices for the original proposed alignment have been prepared. The IS/MND was ready to be released in January 2024 for public review prior to the decision to revise the Project alignment. Because the Project footprint has changed and revised biological resources reports, cultural report, and jurisdictional delineation must be prepared, additional budget is needed to revise and complete processing the IS/MND for public review through the Final MND phase. We are asking for an additional task authorization to complete this task since the budget originally allocated has been expended.

This scope does not include updating the air quality/greenhouse gas analysis completed in November 2021, which was prepared using the California Emissions Estimator Model® version 2020.4.0 (CalEEMod) model. The California Air Pollution Control Officers Association (CAPCOA) released CalEEMod version 2022.1 in December 2022. However, WEBB is not proposing to redo the air quality/greenhouse gas analysis using

[1] Wood Environment Infrastructure Solutions, Inc. was acquired by WSP.

the new model because: (i) the analysis was completed before the new model was released; (ii) there are no substantial changes to the Project that would warrant remodeling construction impacts; (iii) this is a capital improvement project; and (iv) and the results of the original air quality/greenhouse gas analysis were well below the numeric thresholds that would indicate a potentially significant impact. In the event comments are received during the public review period for the IS/MND, WEBB would address that in the responses to comments and explain the rationale for not remodeling the Project's air quality/greenhouse gas emissions.

Task 4 - Jurisdictional Delineation and Permitting

The original field surveys for the jurisdictional delineation (JD) were completed summer 2021, exhibits prepared, impacts calculated, and these results were presented to the resource agencies. WEBB will update the previous JD, to cover the new areas proposed by the revised Project alignment, including a 100-foot survey buffer. Specifically, WEBB will update the existing JD report with regulatory changes that have occurred since preparation of the original 2021 JD report. Following the literature review update, WEBB will conduct a one-day site visit to the revised Project site to document suspected wetlands and non-wetland waters of the U.S, waters of the State located outside federal jurisdiction, and streambed according to Fish and Game Code.

Waters of the U.S. will be evaluated using the methodology set forth in the guidelines provided in the *Corps of Engineers Wetlands Delineation Manual* (1987), the *2008 Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region* (Version 2.0), and the *2008 Field Guide to the Identification of the Ordinary High Water Mark (OHWM) in the Arid West Region of the Western United States*. Potential Waters of the State that are outside of federal jurisdiction will be identified following the *Procedures for Discharges of Dredged or Fill Material to Waters of the State. Fish and Game Code,* Section 1600 et al streambed will be identified as the bank-to-bank where the active streambed shows the fullest expression on the landscape.

After the site-visit is completed, WEBB will update the JD report with the new data collected from the site visit including tables, figures, and impacts discussion. The report will be prepared following the 2017 U.S Army Corps of Engineers (USACE), *Minimum Standards for Acceptance of Aquatic Resources Delineation Reports*. The JD report will provide an analysis and discussion of the existing site conditions, methods, and results of the delineation, including details such as soil types, hydrology, and vegetation present on the site. The report will also provide a discussion of the impacts proposed to any jurisdictional areas, including photographs and exhibits depicting any jurisdictional features.

Task 5 – Utility Coordination and Additional Field Survey for Potholing (Time and Material Basis)

WEBB will Identify all known utilities that potentially conflict with the planned project improvements and determine special requirements for facilities, including protection, relocation, right-of-way easements, and construction. WEBB will coordinate with utility companies to schedule the relocation of the utilities before the start of construction.

a. Coordinate with Kinder Morgan to construct Sun Lakes Boulevard for segments east of Highland Home Road and west of Sunset Avenue.
b. Coordinate with City to relocate power poles and guy anchors and adjust electrical vaults.
c. Coordinate with the City for relocation and adjustment of water valves, fire hydrants, blow-offs, air vacuum, and sewer manholes.
d. Coordinate with the Gas Company to relocate and adjust gas valves and electronic gas station.

e. Coordinate with telecommunication companies for the adjustment of telecommunication manholes.
f. Attend six (6) meetings with utility companies.
g. We will prepare an exhibit for approximately 40 potholes. The City will coordinate and hire a potholing contractor to perform the work. WEBB will conduct the field survey and collect data points set by the potholing contractor.

Task 6 – Project Management, Coordination, and Meetings (Time and Material Basis)

We will schedule and attend meetings as follows:

a. Project Development Team (PDT) meetings – We estimate twelve (12) meetings
b. Environmental meetings - We estimate six (6) meetings

We will schedule, chair, and prepare meeting agendas and meeting minutes. The agendas will be submitted to the City for review one working day before the meeting. The minutes will be distributed to all attendees, everyone invited, and the City's Project Manager within five working days after the meeting. The minutes shall include but are not limited to a list of attendees with phone numbers and contact emails, a summary of discussion items, a decision log, ROW/Utility Tracking Sheets, any pertinent information, and follow-up to action items.

We will update project schedules. The project schedules will be divided into tasks and subtasks in full detail, including the City function timeline, critical path, and outside sources such as agencies or utilities.

Task 7 – Engineering Support Services for Environmental Documentation, Jurisdictional Delineation, and Permitting (Time and Material Basis)

We have been providing out-of-scope services for the realignment of the roadway and coordination with the City and resource agencies.

We will provide engineering support services for environmental documentation, jurisdictional delineation, and permitting.

Optional Task 8 – Additional Work for Kinder Morgan (Time and Material Basis)

Even with the roadway realignment, approximately 500' on both ends will impact Kinder Morgan fuel lines. We have estimated our effort under utility coordination and meetings. It is very hard to predict the effort required to estimate effort to obtain Kinder Morgan approval and to meet the Federal Energy Regulatory Commission (FERC) requirements. Any additional effort required beyond estimated under the utility coordination and meetings, with the approval of the City, WEBB will provide additional support services.

EXHIBIT "B" COMPENSATION FOR SCOPE OF SERVICES

Total fees for services shown in the Scope of Services (Exhibit "A") shall not exceed **$496,079** without prior authorization from the client. If the optional Task 7 is to be conducted, the total shall be provided on a time and materials basis not to exceed **$516,079** after City authorization for the task. We propose to provide details in Exhibit "A" for an initial Time & Materials fee to be billed monthly in accordance with the attached fee schedule.

Task budgets are estimates and may be used interchangeably to stay within the budget total. Any additional services requested outside this scope will be provided under separate contract addenda for additional fees.

Charges for deliveries, printing, copying, mileage, postage, outside services, and for coordination or other services not specifically listed in the scope of work (Reimbursable Expenses) will be billed on a time and material basis in accordance with our Schedule of Fees. Checking and/or filing fees are not included in this contract and shall be paid directly to the appropriate governmental agency by the client.

If you find this request acceptable, please issue contract amendment #1 with the current dollar amount to the Final Engineering Services contract dated June 23, 2020. We appreciate this opportunity to serve your firm and look forward to hearing from you. If you have any questions regarding this proposal, don't hesitate to contact me at 951-830-4305.

Sincerely,

ALBERT A. WEBB ASSOCIATES



Dilesh Sheth, PE / TE
Senior Vice President

ALBERT A. WEBB ASSOCIATES

Exhibit B

Additional Engineering and Environmental Services for the Sun Lakes Blvd. Extension Project (C00660)

Item	Description	Stephanie Standerfer	Cheryl DeGano	Autumn DeWoody	Marshall Paymard	Field Biologist	Virginia Waters	Jacqueline Gamboa	Joseph Caldwell	Eric Hays	Ranjit Singh	Nathan Armendariz	Dilesh Sheth	Nicholas Keller	Joy Schwiebert	Son Le	Deborah Saulina	Danielle Logsdon	Jason Ardery	Michael Johnson	Linda Bouschet	Jon Ros	Andres Lopez	Party Chief/2-Person Survey Crew	Total Hours	Subtotal - Labor	Sub-consultant budget	Total/task
	Classification	Principal II	Principal II	Associate II	Associate II	Assistant II	Assistant II	Assistant II	Principal II	Principal I	Senior III	Assistant V	Principal II	Senior I	Assistant V	Associate II	Assistant III	Senior III	Principal II	Principal II	Associate III	Senior II	Senior I	Party Chief/2-Person				
	Billout Rate	$ 293	$ 293	$ 197	$ 197	$ 135	$ 135	$ 135	$ 293	$ 279	$ 252	$ 173	$ 293	$ 232	$ 173	$ 197	$ 144	$ 252	$ 293	$ 293	$ 208	$ 240	$ 232	$ 302				
Task 1 - Update Final Design Plans, Studies, and Documents									**24**	**62**	**168**	**430**	**30**	**208**	**108**	**48**	**60**	**110**	**8**	**16**	**110**	**14**			**1396**	**$ 295,874**	**$ 6,600**	**$ 302,474**
1.1	Street i\Improvement Plans																									$ -	$ -	$ -
	Update Street i\Improvement Plans												12	200			12	40							**264**	$ 61,724	$ -	$ 61,724
	Redesign ADA Ramps (7)												2		70			12							**84**	$ 15,720	$ -	$ 15,720
1.2	Storm Drain System Design																											
	1.2.1 - Final Drainage Report Update								8		20	50	2		8		4	4							**96**	$ 19,588	$ -	$ 19,588
	1.2.2 - Storm Drain Plan Update								8	40	120	300	2				4	4							**478**	$ 97,814	$ -	$ 97,814
	1.2.3 - Structural Design Details									2	4	80	2				4	4							**96**	$ 17,576	$ -	$ 17,576
	1.2.4 - Assessment of Potential Sediment Transport Impact								8	4	8		2				4	4							**30**	$ 7,646	$ 6,600	$ 14,246
1.3	ROW and Easement Documents (14)													8			8	8	8	16	110	14			**172**	$ 38,296	$ -	$ 38,296
1.4	Signing and Striping Plans														6	40	4								**50**	$ 9,494	$ -	$ 9,494
1.5	Street Light Plans														16		4								**20**	$ 3,344		$ 3,344
1.6	Specifications									8	8		4				8	20							**48**	$ 11,612	$ -	$ 11,612
1.7	Cost Estimate									8	8		4		8	8	8	14							**58**	$ 13,060	$ -	$ 13,060
Task 3 - Revised Environmental Documentation		**56**	**108**	**8**				**68**																	**240**	**$ 58,808**	**$ 17,820**	**$ 76,628**
3.1	Revised Cultural Resources Study		4					4																	**8**	$ 1,712	$ 3,520	$ 5,232
3.2	Revised Biological Resources Studies		4					4																	**8**	$ 1,712	$ 14,300	$ 16,012
3.3	Additional Environmental Coordination	40	60																						**100**	$ 29,300	$ -	$ 29,300
3.4	Revised CEQA Documentation	16	40	8				60																	**124**	$ 26,084	$ -	$ 26,084
Task 4 - Jurisdictional Delineation and Permitting		**28**	**20**	**89**	**74**	**12**	**16**																		**239**	**$ 49,955**	**$ -**	**$ 49,955**
4.1	Revised Survey, Mapping, Impact Calculation, Report Preparation, and Regulatory Permitting (includes optional UAV Remote sensing updates)	28	20	89	74	12	16																		**239**	$ 49,955	$ -	$ 49,955
Task 5 - Utility Coordination and Additional Field Survey for Potholing (T&M)													**6**	**6**	**6**		**16**	**10**		**2**			**4**	**8**	**58**	**$ 12,942**	**$ -**	**$ 12,942**
5.1	Utility Coordination & Meetings (6)												6		6		12	6							**30**	$ 6,036	$ -	$ 6,036
5.2	Additional Survey for Potholing													6			4	4		2			4	8	**28**	$ 6,906		$ 6,906
Task 6 - Project Management, Coordination & Meeting (T&M)													**26**		**12**		**30**	**42**							**110**	**$ 24,598**	**$ -**	**$ 24,598**
6.1	Project Management and Coordination												8					12							**20**	$ 5,368	$ -	$ 5,368
6.2	PDT Meetings (Estimate 12)												12		12		24	24							**72**	$ 15,096	$ -	$ 15,096
6.3	Environmental Meetings (estimate 6)												6				6	6							**18**	$ 4,134	$ -	$ 4,134
Task 7 - Engineering Support Services for Environmental Documentation, Jurisdictional Delineation, and Permitting (T&M)		**8**	**8**						**24**		**16**	**16**	**14**		**28**			**8**							**122**	**$ 29,482**	**$ -**	**$ 29,482**
7.1	Realignment and Pre-Coordination with Agencies	8	8						8		8		6		12										**50**	$ 12,882	$ -	$ 12,882
7.2	Engineering Support Services for Environmental Documentation, Jurisdictional Delineation, and Permitting								16		8	16	8		16			8							**72**	$ 16,600	$ -	$ 16,600
Total		**92**	**136**	**97**	**74**	**12**	**16**	**68**	**48**	**62**	**184**	**446**	**76**	**214**	**154**	**48**	**106**	**170**	**8**	**18**	**110**	**14**	**4**	**8**	**2165**	**$ 471,659**	**$ 24,420**	**$ 496,079**
Optional Task 8 - Additional Work for Kinder Morgan (T&M)																										**$ -**	**$ 20,000**	**$ 20,000**
8.1	Additional Work for Kinder Morgan																									$ -	$ 20,000	$ 20,000

2020-0126

February 28, 2025
Revised April 23, 2025

Patrick Safari, CIP Manager
City of Banning
99 E. Ramsey Street
Banning, CA 92220

Sent via email: psafari@banningca.gov

RE: Proposal for Contract Amendment No. 4 - Additional Environmental Services for Sun Lakes Boulevard Extension Project (PSA C00660)

Dear Patrick,

Pursuant to your request on February 6, 2025, and subsequent discussion on April 2, 2025, Albert A. WEBB Associates (WEBB) is pleased to provide you with this proposal for additional services for the Sun Lakes Boulevard Extension Project. WEBB is currently under contract with the City to obtain regulatory permits for the project from the California Department of Fish and Wildlife (CDFW) and the Regional Water Quality Control Board (RWQCB).

Said permits have requirements that the City will need to fulfill prior to construction of the project which are outlined below in Task 1. Biological reporting and monitoring that is required during construction are not included herein, but as we have discussed with you, we understand the City will include the permitting-related tasks during construction to be included in the City's forthcoming construction management contract.

Also included in this request is the City's obligation for compensatory mitigation related to impacts to jurisdictional waters which are required to be fulfilled within 18 months of impacts. Task 2 includes WEBB's assistance with the compensatory mitigation obligations.

Scope of Work

Task 1: Biological Services During Construction

The Tasks below are related to the surveying and reporting requirements of the CDFW permit, RWQCB permit, as well as CEQA mitigation measures MM BIO-1 through MM BIO-4.[1] WEBB will subcontract with Osprey Environmental Associates (Osprey) to fulfill these requirements.

Preconstruction Nesting Bird Survey and Report (corresponds to CDFW Measures 2.11.1 and 4.4; CEQA MM BIO-1)

Osprey will conduct preconstruction nesting bird surveys if vegetation clearance occurs outside the recommended window (September 1 – February 1). Surveys will be performed within three (3) days prior to construction initiation to identify active nests within 100 feet of the project site. A survey report by a qualified biologist verifying nest status will be submitted to the City of Banning prior to construction. If active nests are identified, species-specific measures will be implemented to prevent nest abandonment.

Burrowing Owl Pre-Construction Inspection Survey and Report (corresponds to CDFW Measure 2.12.4 and CEQA MM BIO-2)

A single preconstruction burrowing owl survey will be conducted within 3 days of vegetation removal or ground disturbance. The survey will comply with the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) and 2006 "Burrowing Owl Survey Instructions" and will cover entire the project site and within 150-meters. If burrowing owls are detected during the breeding season (February 1–August 31), a 300-foot buffer will be enforced around active burrows until nesting is complete. Following the survey, a burrowing owl pre-construction survey report will be prepared and submitted to WEBB in PDF format. The survey report will document the methods, results, and conclusion of the survey.

Crotch's Bumble Bee (corresponds to CEQA MM BIO-3)

- **Crotch's Bumble Bee Habitat Mapping and Report (corresponds to CDFW Measure 2.14)**

Osprey will conduct habitat mapping for the Crotch's bumblebee within the project footprint. Mapping will identify habitat alliances following Sawyer et al. (2009). Following field mapping and no less than 120 days prior to the initiation of activities Osprey will complete and submit to CDFW a baseline habitat mapping report. The report will identify species composition for each mapped alliance and will be submitted to CDFW.

- **Crotch's Bumble Bee Draft Survey Plan (corresponds to CDFW Measure 2.15.2)**

A qualified Osprey biologist will prepare and submit to CDFW for review and comment a draft survey plan for Crotch's bumble bee. The survey plan will identify the timing, number, and duration of survey efforts, and procedures to follow should Crotch's bumble bee be detected within the project area.

[1] There are a total of five mitigation measures for biological resources. MM BIO-5 is "Mitigation for Riparian/Riverine and Jurisdictional Impacts." WEBB's assistance with this is in Task 2, herein.

The survey plan will be submitted no less than 90 days prior to initiation of project activities in suitable habitat.

- **Crotch's Bumble Bee Survey(s) and Report (corresponds to CDFW Measure 2.15.3)**

If habitat mapping identifies the presence of plants (e.g., genera *Antirrhinum, Phacelia, Clarkia, Cordylanthus, Dendromecon, Eschscholzia, Eriogonum, Hypericum, Lantana, Lupinus, Salvia, Asclepias, Cirsium, Monardella, Keckiella, Acmispon, Euthamia, Ehrendorferia, Vicia, and/or Trichostema*) or other suitable habitat (i.e. nesting, foraging, and overwintering habitat), Osprey will conduct focused surveys for the Crotch's bumblebee (CBB) following the approval and submittal of survey plan. Osprey will first conduct a literature review and records search for CBB occurrences within a 10-mile radius, utilizing the CDFW California Natural Diversity Database and iNaturalist. Following the literature review, Osprey will conduct on-site CBB surveys following the Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species (CDFW 2023). These surveys will take place during the Colony Active Period (April-August) and when floral resources are available, ideally at peak bloom. A minimum of three surveys will be conducted, spaced 2-4 weeks apart between April and August. Surveys will be performed during daylight, beginning at least one hour after sunrise and ending at least two hours before sunset, ideally between 9:00 AM and 1:00 PM, with temperatures between 65°F and 90°F and wind speeds under 8 miles per hour. Each survey will cover at least one person-hour of search effort per three acres of suitable habitat.

Following the completion of the surveys, a report will be prepared summarizing the survey methods, findings, and conclusions. The report will also include a list of bee species observed and any accompanying photographs. Survey results will be submitted to CDFW before ground-disturbing activities begin. If an active CBB nest is detected, a no-disturbance buffer zone will be established, and CDFW will be notified.

Biological Worker's Environmental Awareness Program (WEAP) and Invasive Species Education Program (corresponds to CDFW Measures 2.8 and 2.8.1; CEQA MM BIO-4)

Osprey will develop and conduct a mandatory Biological Worker's Environmental Awareness Program (WEAP) training for all construction personnel. This training will cover key topics, including CBB, burrowing owls, rare plant species, and riparian/riverine features. WEAP training will be coordinated with the paleontological WEAP. A recorded training will be prepared and available.

Further, included in the WEAP will be an additional discussion of the invasive species currently present within the project site as well as those that may pose a threat to or have the potential to invade the Project site. The discussion will include a physical description of each species and information regarding their habitat preferences, local and statewide distribution, modes of dispersal, and impacts. The invasive species education program will also include a discussion of Best Management Practices (BMPs) to be implemented at the Project site to avoid the introduction and spread of invasive species into and out of the Project site.

WEBB Management of Biological Services

WEBB has budgeted 40 hours to manage and coordinate with Osprey related to Task 1 including reviewing documents, and meeting with the City.

UAV (Drone) Survey(s) (Optional)

Osprey can provide a drone survey of the project area to generate a high-resolution orthomosaic basemap, offering a temporally and spatially accurate depiction of the project site as is currently prior to construction and post-construction. This updated imagery can serve as a key reference for stakeholders, ensuring precise visualization of project lands, roads, and planned or constructed infrastructure. The orthomosaic will enhance project planning, coordination, and decision-making by delivering highly accurate spatial and visual data. The flight will be conducted by an Osprey FAA-licensed Remote Pilot in Command (RPIC) and a visual observer, ensuring full compliance with FAA regulations. The drone data collection and subsequent GIS analysis will be used to support all of Osprey's reporting deliverables included herein. Deliverables will include a high-resolution orthomosaic base map, digital terrain model depicting project ground elevations, and a digital surface model depicting project surface elevations.

Although a temporally and spatially accurate orthomosaic basemap is informative and helpful, this optional service is not required in order to complete any of the aforementioned tasks.

Task 1 Assumptions

- None of the species identified above will be found on site.
- This scope includes one (1) in-person WEAP training. Any additional training sessions will require a separate scope and fee.
- Materials required for delineating Environmentally Sensitive Areas (ESAs) or establishing nesting buffers are not included in this proposal. The cost of these materials will be billed directly to the client if not provided by the City.
- The preparation of a Burrowing Owl Mitigation Plan is not included. If required, Osprey will provide a separate scope and fee for this task.
- This proposal does not cover small mammal trapping or the preparation of a small mammal trapping survey report. If required, Osprey will provide an additional scope and fee for these efforts.
- Assistance with securing an Incidental Take Permit (ITP) from CDFW is not included. If required, Osprey can provide a separate scope and fee for this task.

Task 2: WEBB Assistance with Offsite Compensatory Mitigation Fulfillment (corresponds to CDFW Measure 3.3; CEQA MM BIO-5)

WEBB has included 50 hours to help the City to set up its compensatory mitigation obligation utilizing an offsite mitigation site owned by the City located southeast of the City's wastewater treatment plant. We anticipate actions under this task will be to advise and support the City related to: finding a third party to hold a conservation easement/deed restriction(s) on the City's property (City to retain

fee title), negotiate and find the City a third party land manager and assist City with said agreement, and finding an entity to provide a non-wasting endowment. We understand the City will take lead on each of these tasks; therefore this budget is for things like attending meetings to provide project background and making connections to facilitate the process.

Budget

Our proposed budget for the services listed herein will be billed on a Time and Materials basis according to our existing contract for a total not to exceed of **$57,080.**

Environmental Services

Task 1 - Biological Services	
Preconstruction Nesting Bird Survey and Report	$ 4,660
Burrowing Owl Pre-Construction Inspection Survey and Report	$ 6,230
Crotch's Bumble Bee Habitat Mapping and Report	$ 6,840
Crotch's Bumble Bee Draft Survey Plan	$ 4,350
Crotch's Bumble Bee Survey(s) and Report	$ 14,380
WEBB Management of Task 1 (40 hours)	$ 7,150
Optional UAV (Drone) Survey	$ 4,370
Task 2 - Management and Coordination for Offsite Mitigation	$ 9,100
TOTAL	**$ 57,080**

The following is a summary of original, current, and proposed authorizations according to our records.

WEBB Original Authorization:	$548,416.05 plus $54,841.61 contingency for total of $603,725.66
Change Order No. 1	$24,983.25 (subtracted from contingency)
Change Order No. 2	$5,974.88 (subtracted from contingency)
City Council Resolution 2022-106	$129,400 (rescinded)
City Council Resolution 2022-139	$148,222
Change Order No. 3	$496,079
Current Authorization	$1,248,026.66
Proposed Change Order	**$57,080**
Total WEBB Authorization with Proposed Change Order	$1,305,106.66

If you find this request acceptable, please issue a contract amendment to our office. We appreciate this opportunity to be of service to the City and look forward to hearing from you. If you have any questions regarding this proposal, please call me at (951) 830-4305.

Sincerely,

ALBERT A. WEBB ASSOCIATES



Dilesh Sheth, PE, TE
Senior Vice President
Dilesh.Sheth@webbassociates.com

Copy: Stephanie Standerfer
Autumn DeWoody

RESOLUTION 2020-97

ADOPT RESOLUTION 2020-97, AUTHORIZING THE CITY MANAGER TO EXECUTE A TUMF REIMBURSEMENT AGREEMENT WITH WRCOG FOR UP TO $1,000,000 IN TUMF FUNDS FOR THE SUN LAKES BOULEVARD EXTENSION PROJECT

WHEREAS, Western Riverside Council of Government (WRCOG) has developed and administers the Transportation Uniform Mitigation Fee (TUMF) program, a regional fee program designed to provide transportation infrastructure to mitigate the impact of new growth in western Riverside County. The City of Banning is an active member in WRCOG; and

WHEREAS, as the program administrator, WRCOG allocates TUMF funds to a variety of agencies, including the Riverside County Transportation Commission (RCTC), Riverside Transit Agency (RTA), Western Riverside Regional Conservation Authority (RCA) and western Riverside cities and Riverside County areas through applicable TUMF Zones; and

WHEREAS, the City of Banning is part of the Pass Zone along with the City of Calimesa, City of Beaumont and Riverside County (District 5); and

WHEREAS, the Pass Zone Transportation Improvement Program (TIP), which included the Sun Lakes Boulevard Extension project, was approved by the WRCOG Executive Committee at its May 4, 2020 meeting; and

WHEREAS, the TUMF Reimbursement Agreement will provide up to $1,000,000 in TUMF funds in the form of a reimbursement to the City of Banning for expenditures related to the Sun Lakes Boulevard Extension project; and

WHEREAS, the WRCOG Executive Committee approved the TUMF Reimbursement Agreement at its June 1, 2020 meeting.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

Section 1. The Banning City Council adopts Resolution 2020-97 authorizing the City Manager to execute the TUMF Reimbursement Agreement with WRCOG for up to $1,000,000 in TUMF funds for the Sun Lakes Boulevard Extension project.

Section 2. The City Manager or his designee is authorized to record the reimbursement funds and to make all necessary budget adjustments, appropriations and transfers related to the TUMF Reimbursement Agreement for the Sun Lakes Boulevard Extension project.

PASSED, APPROVED AND ADOPTED this 14th day of July, 2020.

Daniela Andrade, Mayor
City of Banning

ATTEST:

Sonja De La Fuente, Deputy City Clerk
City of Banning

APPROVED AS TO FORM
AND LEGAL CONTENT:

Kevin G. Ennis, Esq., City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Sonja De La Fuente, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2020-97, was adopted by the City Council of the City of Banning at a Regular Meeting thereof held on the 14th day of July, 2020, by the following vote, to wit:

AYES: Councilmembers Happe, Pingree, Wallace, Welch and Mayor Andrade

NOES: None

ABSTAIN: None

ABSENT: None



Sonja De La Fuente, Deputy City Clerk
City of Banning

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Robert Fisher, Acting City Manager**
PREPARED BY:	**Ralph Wright, Parks and Recreation Director**
MEETING DATE:	**May 27, 2025**
SUBJECT:	**Consideration of Resolution 2025-71, Approving the Fourth Amendment for Contract Services (C00698) for Landscape Maintenance Services for Banning City Parks with Mariposa Landscapes, Inc. in the not too exceed amount of $167,296.95 for FY 2025/26**

RECOMMENDATION:

Adopt Resolution 2025-71.

BACKGROUND:

On February 23, 2021, The City Council of the City of Banning awarded a fifteen-month agreement (C00698) with Mariposa Landscapes, Inc., for the landscape maintenance of the five of the City of Banning's parks through June 30, 2022. The original fifteen-month agreement was in the amount of $96,684.00 to cover monthly service costs, with a 10% contingency to allow for additional work and irrigation repair services as needed, for a total not to exceed $106,352.

On May 10, 2022, The City Council adopted Resolution 2022-56 approving the first amendment to the original agreement extending the term for an additional twelve months. The compensation for twelve month extension included a CPI adjustment of 8.6% based on the U.S. Department of Labor Consumer Price Index(CPI) Riverside – San Bernardino – Ontario Area and was for a not to exceed amount of $101,638.80

On May 23, 2023, The City Council adopted Resolution 2023-99 approving the second amendment to the original agreement extending the term for an additional twelve months through June 30, 2024. The scope of work added the Aquatic Center, Community Center, and Senior Center to the contract. These sites were previously included in Public Works LMD contract. The compensation for twelve month extension included a CPI adjustment of 7.9% based on the U.S. Department of Labor Consumer Price Index(CPI) Riverside – San Bernardino – Ontario Area and was for a not to exceed amount of $135,848.14.

On May 14, 2024, The City Council adopted Resolution 2024-67, approving the third amendment to the original agreement extending the term for an additional twelve months through June 30, 2025. The compensation for twelve month extension included a CPI adjustment of 2.9% based on the U.S. Department of Labor Consumer Price Index(CPI) Riverside – San Bernardino – Ontario Area and was for a not to exceed amount of $139,787.84.
The original agreement allowed for four (4) one-year extensions if the services were provided to the expected level within the scope of work. Mariposa Landscapes has and continues to perform at or above expectations with regard to their service over the last 48 plus months, has proven themselves responsive to questions, interacts well with staff and continues to provide and offer ideas for

improvements for our Park's system.

For the reasons stated, it is staff's recommendation that the City authorize Amendment No. 4 to the Park's Landscape Maintenance agreement with Mariposa Landscapes, Inc. for Fiscal Year 2025-26.

The scope of work for landscape maintenance services includes weekly turf management; shrub bed maintenance; tree care and pruning; fertilization; environmental weed and pest control program; irrigation monitoring and operations for the Park properties listed below:

1) Dysart Equestrian Park – 2101 Victory Ave.
2) Lion's Park – 955 S. Hargrave Street
3) Repplier Park – 201 W. George Street
4) Roosevelt Williams Park – 1101 E. George Street
5) Sylvan Park – 2798 W. George Street
6) Community Center and Senior Center –769&789 N. San Gorgonio Ave
7) Repplier Park Aquatic Center – 749 N. San Gorgonio Ave
8) Repplier Park and Community Center Parkway – 749, 769 & 789 N. San Gorgonio Ave

Additionally, per Resolution 2025-63, The City Council authorized the removal of Richard Sanchez Park and the accompanying trail from LMD # 1 and moving the operational responsibilities and expenditures to the Parks and Recreation Department's. This additional scope of work will add a monthly cost of $1,777 to the contract.
This additional scope of work for Richard Sanchez Park will include the same maintenance responsibilities and standards set in the contract for all parks included in the contract. The scope of the work for the Trail south of Richard Sanchez will include Quarterly maintenance of the trees and shrubs to ensure safe accessible use for the public.

Amendment No. 4 includes three recommended changes to the original agreement:

1) Changes in the term – The extended term will be from July 1, 2025, through June 30, 2026.
2) Additional Scope to the contract to include ongoing weekly and monthly maintenance responsibilities for Richard Sanchez Park and Quarterly maintenance of the accompanying Richard Sanchez Park neighborhood trail.
3) Compensation adjustments: Pursuant to Section 2.1 of the original agreement, the total compensation can be adjusted to reflect the annual changes in the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index (CPI) Riverside – San Bernardino – Ontario Area. For the period from March 2024 to March 2025, the CPI was at 2.9%. Reflecting the CPI rate of 2.9%, the monthly service rate for continuing service will increase from $10,589.97 to $10,897.08. Additionally, with the added scope, the compensation will increase by $1,777 per month bringing the monthly compensation to $12,674.08.

Note: Park sites and the cost breakdown is included in Attachment # 2 of this report.

JUSTIFICATION:

The Parks and Recreation Department does not have the required staff or equipment needed to perform the scope of work included in the Scope of Services and maintain the current service levels of our parks, therefore; it is necessary to retain a landscape maintenance contractor to provide these services. Mariposa Landscapes, Inc. came to the city as a highly respected vendor and has performed above expectations. The annual compensation pursuant to the agreement is within the normal parameters for park's landscape maintenance projects in the area.

FISCAL IMPACT:

The fourth Amendment for Landscape Maintenance of park properties with Mariposa Landscapes, Inc. increases compensation for FY 2025/26 in the amount of $167,296.95 which includes the monthly compensation amount of $12,674.08 plus a 10% contingency amount for additional work that might include replanting of plants and trees and irrigation repairs. The fourth Amendment to the agreement will

be funded by the following operational budgets of the Parks and Recreation Department as follows:
1) Park Division – 001-3600-461.23-29 ($141,705.47)
2) Community Center – 001-4000-461.23-29 ($8,960.53)
3) Aquatic Center– 001-4010-461.23-29 ($13,469.20)
4) Senior Center – 001-4050- 461.23-29 ($3,161.75)

ALTERNATIVES:

Do not adopt Resolution 2025-71 and provide alternative direction to staff. The City Council may choose to reject this action which would result in a significant reduction in Parks landscape maintenance. The City does not have staff resources to perform the landscape maintenance included in the scope of work.

BUDGETED?:

Yes

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. Resolution 2025-71, Mariposa Parks.docx
2. Attachment # 1 - EXHIBIT A- RFP 20-035 Scope of Work.pdf
2. C00698_Mariposa_Landscapes_Inc_-_A4.pdf
3. Attachment # 2 - Park's Landscape maintenance - Cost breakdown 2025-26.pdf
4. Attachment # 3 - C00698_MARIPOSA_LANDSCAPES_INC.pdf
5. Attachment # 4, Executed C00698_Mariposa_Landscapes_Inc_-_A1.pdf
6. Attachment # 5 - Executed C00698_Mariposa_Landscapes_Inc_-_A2.pdf
8. Attachment # 6 - Resolution 2024-67 - C00968 Amendment # 3.pdf
9. Attachment # 7 - Resolution 2025-63.pdf

RESOLUTION 2025-71

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE EXTENSION AND AMENDMENT OF THE LANDSCAPE MAINTENANCE SERVICE CONTRACT FOR CITY PARKS WITH MARIPOSA LANDSCAPES, INC., FOR FISCAL YEAR 2025/2026 IN THE NOT TO EXCEED AMOUNT OF$167,296.95

WHEREAS, the Parks and Recreation Department does not have the required staff needed to provide parks landscape maintenance for City parks; therefore, it is necessary to retain a landscape maintenance service provider to maintain the current service level effectively, efficiently and safely for City parks; and

WHEREAS, at the regularly scheduled meeting on February 23, 2021, the City Council awarded a Park's Landscape maintenance contract (C00698) to Mariposa landscapes, Inc., for maintenance of City Parks; and

WHEREAS, the original contract was in the amount of $96,684.00, with a 10% contingency, for a total not to exceed amount of $106,352.00; and

WHEREAS, the initial Agreement for maintenance of the City Parks was for a term of fifteen (15) months with four (4), one (1) year renewal options upon satisfactory review of the previously provided services through June 30, 2022; and

WHEREAS; On May 10, 2022, the City Council approved Amendment #1 to the contract extending the term through June 30, 2023; and

WHEREAS; On May 23, 2023, the City Council approved Amendment #2 to the contract extending the term through June 30, 2024; and

WHEREAS; On May 14, 2024, the City Council approved Amendment #3 to the contract extending the term through June 30, 2025; and

WHEREAS, Mariposa Landscape Services, Inc., has provided satisfactory service to the City over the term of Amendment #3; and

WHEREAS, the Contract Agreement with Mariposa Landscapes, Inc., provides an option to renew at the annual rate plus the annexed CPI for the previous year for up to one (1) additional years upon satisfactory review of the previously provided services; and

WHEREAS, Mariposa Landscape Services, Inc., has requested to extend the contract for FY 2025/26 at the annual rate plus a CPI adjustment of 2.9%; and

WHEREAS, staff recommends the continuation of Mariposa Landscape, Inc., services for Fiscal Year 2025/2026.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The City Council approves the Contract Service Agreement with Mariposa Landscapes, Inc. for the landscape maintenance service of Banning City Parks in a not-to-exceed amount of $167,296.95, which includes a 10% contingency and subsequent amendments to

extend the Agreement for up to one additional 1-year term upon satisfactory performance, with a total not-to-exceed amount of $650,923.36 over five (5) years.

SECTION 2. The City Council authorizes the City Manager to make non-substantive changes to the maintenance service agreement and to execute the maintenance service agreement with Mariposa Landscapes, inc. on behalf of the City Council.

SECTION 3. The City Council authorizes the City Manager, or designee, to make necessary budget adjustments, appropriations, and transfers related to this resolution.

SECTION 4. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 27th day of May, 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

John Pinkney, Interim City Attorney
Slovak, Baron, Empey, Murphy & Pinkney, LLP

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-71, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 27th day of May, 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

EXHIBIT A

Amendment No. 4 To Agreement For Contract Services (C00698) For Landscape Maintenance Services For City Parks Between City Of Banning And Mariposa Landscapes, Inc.

IV. SCOPE OF WORK

IV.A Introduction

The City of Banning is seeking proposals from qualified contractors and intends to retain the services of a contractor to provide landscape maintenance services for its properties throughout the City. The City is considering awarding a contract to begin April 1, 2021, for a term of one (1) year and (3) three months with the option to renew for an additional four (4) single years upon an annual review of the provided services. The City of Banning reserves the right to accept or reject any or all proposals. These Specifications and Scope of Services shall become part of the contract Agreement.

The scope of services includes turf management; shrub bed maintenance; tree care and pruning; fertilization; environmental weed and pest control program; and irrigation equipment and operations for all locations identified in this Request for Proposals ("RFP") and listed below:

- Dysart Park (2101 W. Victory Avenue)
- Lion's Park (9955 S. Hargrave Street)
- Repplier Park (201 W. George Street)
- Roosevelt Williams Park (1101 E. George Street)
- Sylvan Park (2801 W. Nicolet Street)

It is the responsibility of the Contractor to visit the sites and become familiar with the project locations and maintenance needs. It is the City's expectation that all land care and maintenance items identified in this RFP will be addressed.

IV.B TURF MANAGEMENT

1. Lawn Mowing
    1. For all turf areas, Contractor will inspect and police the grounds for litter and debris prior to each mowing and dispose of it.
    2. Turf will be mowed one time per week during active growing periods, and as often as required during slow periods of growth to maintain a neat and manicured appearance, weather permitting.
    3. Mowing height for all irrigated lawn areas will be no less than 1 ½" and no more than 2" for a finished cut height unless otherwise requested. Turf will be cut at a uniform height. Mowing equipment is to be kept sufficiently sharp and properly adjusted through daily servicing to provide a cleanly cut grass blade. Grass blade bruising, tearing, and shredding are to be prevented. Mowing pattern will be varied where

possible to reduce rutting and compaction of grade. Any excess clippings will be dispersed and/or collected to prevent damage and unsightly appearance of lawns.

4. Unless otherwise specified, grass cuttings need not be removed. However, when an inordinate amount of grass is evident, removal may be requested by staff with no extra charge to City for such removal by contractor. Clippings shall be legally disposed of offsite at the Contractor's expense. Special note: frequencies and turf height may change throughout the year in order to accommodate sports activities and facility use schedule; staff may request change in such turf height to address such activities.
5. Work shall be performed on the same day each week. Contractor shall provide a mow schedule to the City. Initial week schedule and any changes must be approved by the City prior to implementation. All mowing missed due to inclement weather or ground conditions from such weather shall be rescheduled and completed within (3)) three working days.
6. Aeration: Contractor shall aerate all turf areas a minimum of once a year by removing one 1/2" diameter by 3" deep cores of sod with an aerator machine with not more than 66" spacing, once over. Aeration shall take place at an approved time frame each year. In addition, the tops of all mounds and any areas that show excessive compaction shall receive additional treatment as required, to alleviate this condition and allow for proper water penetration and minimal runoff. All damaged areas larger than 4" by 4" shall be seeded on an as-needed basis. The cores shall be dragged to breakup cores and allowed to remain or be removed at the Contractor's discretion with approval of the City.
7. Over seeding:- Annual (one time per year) over seeding shall take place. Contractor shall prepare turf (verticutting and aeration) prior to applying seed. Seed shall match existing lawn and will be provided by the City. All labor and the equipment to perform the over seeding will be the responsibility of the Contractor.

2. Edging and String Trimming
    1. Concurrent with every mowing, all turf grass borders shall be neatly and uniformly edged or trimmed. String trimmers (weed eaters) or similar equipment shall not be used around trees or shrubs or wooden posts or for hardscape/pathways/mow strips edging. This trimming shall include cutting all grass along walls, fences, foundations, curbs, sidewalks, shrubs, tree trunks, poles, guy wires, or other object within or immediately adjacent to lawn areas. Trim shall not exceed one half(1/2) - inch from hardscape.
    2. Trim around sprinkler heads as necessary to allow maximum water coverage. Trimming shall not expose the sprinkler body or trim cap.
    3. Care shall be taken to avoid damage to tree trunks, shrubs, sign posts, buildings, and other structures. Damage shall be promptly reported to the City's representative and repairs made promptly at the Contractor's expense. Any damage to tree trunks and/or shrubs shall be considered neglect and shall be replaced at the discretion of

City staff at the Contractor's expense. All walkways, roadways, trails or other areas dirtied by edging operations shall be cleaned and all debris disposed offsite prior to the completion of the day's operations or end of the day, whichever occurs first. CLIPPINGS/DEBRIS SHALL NOT BE BLOWN INTO STORM DRAINS OR INTO GUTTERS THAT DRAIN INTO STORM DRAINS BUT SHALL BE LEGALLY DISPOSED OF.

3. Clearing of Walks
    1. At the conclusion of each visit, walks adjacent to work areas will be blown clean.

IV.C SHRUB BED MAINTENANCE

1. Landscaped areas will be policed throughout the growing season for weeds, litter, and debris. Particular attention will be paid to entryways, focal points, and high traffic areas.
2. Planter beds will be groomed to promote an attractive, fresh appearance.
3. Concrete swales (if applicable) to be kept clear of miscellaneous dirt and debris.
4. Complete trimming, edging, and weeding of all shrub and ground cover areas will be done on a cyclical basis. Trimming and edging are to be performed monthly and weeding is to be performed weekly. Major pruning will be done following flowering or during plant dormant season.
    1. Pruning shall be performed by Contractor’s designated staff member who is trained and demonstrated competency in proper pruning techniques.
    2. Prune shrubbery and hedges at established maintenance height.
    3. Prune groundcover as required to contain perimeter growth to within bed areas where adjacent to walks, curbs, and structures. Mature groundcover will be maintained at a consistent appearance with a beveled or rolled edge at hard surfaces.
    4. Shearing of plants will occur only where previous practice has been to shear, or as directed.
    5. Removal of leaves and debris from lawns, planter beds, and walkways will be completed throughout the year as needed to maintain a clean appearance.
    6. Dead or damaged shall be removed whenever possible.
    7. Contractor shall monitor trees for signs of disease and insect infestations. If affected, appropriate recommendations for treatment shall be submitted to the City. When insect and/or disease problems are detected, legally approved chemicals are to be used to treat the problem.

IV.D TREE CARE & PRUNING

1. All trees will be “skirted” as needed per the City’s request to allow for pedestrian and vehicle clearance. Remove lower branches of trees when in conflict with growth of

planning beneath. On trees that are over 12' only low hanging branches that are considered a hazard to pedestrians or vehicles will be pruned as part of this agreement.

2. All trees under 12" total height will be pruned to remove weak, dead, damaged, and diseased portions of the plant for natural growth development.
    1. Cuts will be flush and clean, leaving not stubs, or tearing of bark. Major pruning will be done following flowering or during plant's dormant season.
    2. Dead or damaged portion shall be removed whenever possible.
    3. Pruning to be performed by Contractor's designated staff member who is trained and demonstrates competency in proper pruning techniques.
    4. Contractor shall monitor trees for signs of disease and insect infestations. If affected, appropriate recommendations for treatment shall be submitted to the City. When insect and/or disease problems are detected, legally approved chemicals are to be used to treat the problem.
3. Monitor trees that are staked or guyed. Loosen and/or remove supports when appropriate to prevent girdling of the trunk and encourage root support. Replace stakes when damaged.

IV.E FERTILIZATION

1. Contractor shall provide all labor and materials to fertilize lawn, shrubs and ground cover to maintain proper nutrient levels and provide a consistent, healthy appearance.
    1. Turf, shrub and ground cover areas will be fertilized with specifically formulated products including well-balanced, slow-release fertilizers customized seasonally by Contractor. Seasonally refers to "Winter" and "Summer" and different fertilizers will be used based on ground temperature.
    2. Fertilizer product will be selected based on plant type and season.

IV.F ENVIRONMENTAL WEED AND PEST CONTROL PROGRAM

1. All applications and herbicides or pesticides will be performed under the direction of California Licensed & Certified Pest Control Specialist. All safety precautions will be taken in the handling and application of chemicals as stated on manufacture's labels.
2. Broadleaf turf weeds will be treated as needed in the "Spring" and "Fall" with applicable materials.
3. Weeds in shrub, planter beds, ground cover areas, tree circles, and sidewalk cracks adjacent to landscaped areas will be controlled by a manual weeding program or by using selected herbicides, including pre-emergent herbicides.

4. Planting areas will be monitored for insect and disease infestations. Moles, field mice, ground squirrels, gophers, and other rodent activity will be monitored. Notification of problems and recommendations for timely appropriate, control measure will be made.
5. Material Safety Data Sheets (MSDS) for all chemicals used on site(s) are available from Contractor to clients in accordance with EPA and OSHA regulations. Sheets shall be provided to the City.
6. Notice of scheduled use of pesticides and herbicides must be given to the City prior to use and signage on site may be required prior to application at the City's discretion.
7. Contractor shall be in compliance with requirements for hazardous communications programs. Pest control specialist are to be trained and supervised in the safe application, storage, and disposal of chemicals in accordance with EPA, OSHA, and DPR regulations.

IV.G IRRIGATION EQUIPMENT AND OPERATION

1. . Schedule all irrigation controllers on project to maximize existing irrigation systems efficiency. Controller programs will be adjusted as determined by weather and plant requirements, with water conservation methods in place. Controllers will be shut off during periods of rain. Watering will be scheduled for night or early morning unless instructed differently by City's representative.
2. Clean and adjust sprinkler system to provide the best coverage possible from existing system. Turn on each zone, monitor for leaks or malfunctioning parts, and adjust for proper spray arch and maximum efficiency.
3. Upon inspection, any accidental damage or vandalism caused by others shall be reported to owner within 48 hours. Repair and/or replacement of any damaged of malfunctioning components beyond Contractor's control will be submitted as an extra.
4. The irrigation system shall be checked after each mowing for any damage. Damage caused to the irrigation system by Contractor shall be repaired within forty-eight (48) hours, unless otherwise agreed to, at no charge to the City.

IV.H GENERAL CONDITIONS

1. City is responsible for all cost associated with water.
2. Contractor will provide uniformed staff supervised by fully trained Supervisors and Area Manager. Radio and cellular phone communication will be available.
3. Inspection of site(s) will be made regularly and problems, if found, will be discussed by Contractor and the City. A monthly written, comprehensive maintenance and inspection reports shall be submitted with monthly billings.
4. Debris generated by landscape activities will be removed from the site unless prior arrangements are made. Debris collected by the Contractor will be recycled and or

composted. Contractor will submit a monthly diversion summary report stating diverted quantities and facilities utilized for recycling materials.

5. During routine maintenance visits, the Contractor is responsible for removing trash and debris from the properties.

IV.I CONTRACTOR COMPENSATION

The City shall pay Contractor, as compensation for the services to be performed, the sum of per month listed in the Contract Agreement with additional adjustments as specified thereinafter.

Compensation may be adjusted annually, on July 1st of each year commencing on July 1, 2022, during the term of the Contract Agreement to reflect annual changes in the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index Riverside-San Bernardino- Ontario Area, or any successor index agreed upon by the City and Contractor, as set forth over the previous available twelve (12) months prior to the date of adjustment.

IV.J ADDITIONAL WORK

1. The Parks and Recreation Director or designee may authorize the Contractor to perform additional work. Additional work shall be defined as work not included in the specifications with the exception of additional sites, or portions thereof that may be added and shall be in writing.
2. Prior to the Contractor performing any additional work, the Contractor shall prepare and submit a written description of the work with an estimate of labor and materials cost. No work shall commence without written authorization from the Parks and Recreation Director, or designee. In the event that conditions exist where there is imminent danger of injury to the public or damage to property, the Parks and Recreation Director or designee may verbally authorize the work to be performed upon receiving a verbal estimate from the Contractor. Within twenty-four (24) hours after receiving verbal authorization, the Contractor shall submit a written estimate to the Parks and Recreation Director or designee for written approval.
3. The cost estimate for additional work shall consist of the following elements:
    1. Wholesale cost of materials including sales tax plus ten percent (10%).
    2. Base cost of labor plus fifteen percent (15%) for overhead and profit.
4. Change Order - Written authorization for additional work from the Parks and Recreation Director or designee, shall be by the issuance of a Change Order. This Change Order shall be considered an amendment to the Contract Agreement and approved by both the Parks and Recreation Director and Contractor.
5. All additional work shall commence on the specified date established and shall diligently proceed until completion.

6. Upon completion of the additional work, the Parks and Recreation Director or designee shall be notified so that the work may be verified.
7. The Contractor shall submit an invoice for compensation with attached photocopies of original invoices for materials. Compensation shall not exceed the written estimate.
8. The Contractor's invoice shall be subject to audit and review by the City prior to payment.
9. The City of Banning reserves the right to repair and/or contract with a third party to perform such additional work.

IV.K INSPECTION

The Parks and Recreation Director or designee may inspect the work areas to ensure adequacy of maintenance and methods of performing the work are in compliance with the contract. However, this shall not be construed to relieve the Contractor of any duty under this contract. Discrepancies and deficiencies in the work shall be brought to the attention of the Contractor and corrected in the manner agreed to by the Parks and Recreation Director or designee.

1. It shall be the Contractor's responsibility to inspect, and identify, any conditions(s) that renders any areas within this Contract Agreement unsafe, as well as any unsafe practices occurring thereon. The Parks and Recreation Director or designee shall be notified immediately of any unsafe condition that requires correction.
2. During the inspection of all work sites for hazards, or potential hazards, the Contractor shall keep a log indicating the date the area was inspected, any unsafe conditions found, and the action taken.
3. The Contractor shall cooperate fully with the City of Banning in the investigation of any accidental injury or death occurring on the premises, including the submission of a complete written report thereof to the Parks and Recreation Director or designee within five days following the occurrence.

IV.L SAFETY

1. The Contractor shall perform all work outlined in these specifications in such a manner as to provide maximum safety to the public, and meet all accepted standards for safe practices during the maintenance operation, to safely maintain equipment, machines and materials or other hazards consequential or related to the work. The Contractor shall have sole responsibility for complying with all local, County, State or other legal requirements including, but not limited to CAL-OSHA.
2. The Parks and Recreation Director or designee, reserves the right to issue restraint, or cease and desist orders, to the Contractor when unsafe or harmful acts are observed or reported relative to the performance of work under this contract.

AMENDMENT NO. 4 TO AGREEMENT FOR CONTRACT SERVICES (C00698) FOR LANDSCAPE MAINTENANCE SERVICES FOR CITY PARKS BETWEEN CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

THIS AMENDMENT NO. 4 TO THE AGREEMENT FOR LANDSCAPE MAINTENANCE SERVICES FOR CITY PARKS ("Amendment No. 4") by and between the **CITY OF BANNING** ("City") and **MARIPOSA LANDSCAPES, INC.** ("Contractor") is effective as of this day: _____.

RECITALS

A. On February 23, 2021, the City awarded a Landscape Maintenance Agreement to Mariposa Landscapes, Inc. The Agreement provided that Contractor would provide those services specified in the Agreement and in the Scope of Services attached to the Agreement as Exhibit "A-1". The Agreement included a Schedule of Compensation attached as Exhibit "C" which specified that Contractor's total compensation would not exceed One Hundred Six Thousand Three Hundred Fifty-Two Dollars ($106,352.00), which included a 10% contingency for additional work.

B. On March 22, 2021, the City and Contractor, executed the Landscape Maintenance Agreement for City Parks – (C00698).

C. On May 10, 2022, the City and Contractor amended the Agreement ("Amendment No. 1") to extend the term for an additional one-year term to expire June 30, 2023 and increase the compensation for services provided under the Agreement in an amount not to exceed One Hundred One Thousand Six Hundred Thirty-Eight Dollars and Eighty Cents ($101,638.80), as approved by City Council Resolution No. 2022-56.

D. On June 15, 2023, the City and Contractor amended the Agreement ("Amendment No. 2") to extend the term for an additional one-year term to expire June 30, 2024, modify the scope of services, and increase the compensation for services provided under the Agreement in an amount not to exceed One Hundred Thirty-Five Thousand Eight Hundred Forty-Seven Dollars and Ninety-Seven Cents ($135,847.97), as approved by City Council Resolution No. 2023-095.

E. On May 14, 2024, the City and Contract amended the Agreement ("Amendment No. 3") to extend the term for an additional one-year term to expire June 30, 2025, modify the scope of services, and increase the compensation for services provided under the Agreement in an amount not to exceed One Hundred and Thirty-Nine Thousand Seven Hundred Eighty-Seven Dollars and Sixty-Four Cents ($139,787.64), as approved by City Council Resolution No. 2024-067.

F. City and Contractor now desire to amend the Agreement ("Amendment No. 4") in accordance with City Council approval to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2026, modify the scope of services to include additional landscape sites and to provide compensation for the additional one-year term and additional services in an amount not to exceed One Hundred Sixty-Seven Thousand Two Hundred Ninety-Six Dollars and Ninety-Five Cents ($167,296.95). The total compensation shall not exceed

Six Hundred Fifty Thousand Nine Hundred Twenty-Three Dollars and Thirty-Six Cents ($650,923.36).

TERMS

1. **Contract Changes**. The Agreement is amended as follows:

   a) Section 1.1 and Exhibit "A" to the Agreement is amended to include the amended scope of services attached as Attachment "1" to this Amendment 4.

   b) Section 2.1 ("Contract Sum") of the Agreement is amended to provide that the City agrees to pay Contractor a monthly amount of Twelve Thousand Six Hundred Seventy-Four Dollars and Seven Cents ($12,674.07) for twelve (12) months through June 30, 2026. Additionally, the City may authorize extra work for services not included in the agreed Scope of Services of a not to exceed amount of Fifteen Thousand Two Hundred Eight Dollars ($15,208.00) for a total not to exceed amount of One Hundred Sixty-Seven Thousand Two Hundred Ninety-Six Dollars and Ninety-Five Cents ($167,296.95). The total compensation, including reimbursement for actual expenses shall not exceed Six Hundred Fifty Thousand Nine Hundred Twenty-Three Dollars and Thirty-Six Cents ($650,923.36) (the "Contract Sum").

   c) Section 3.1 ("Term") of the Agreement is hereby amended to extend the Term of the Agreement to June 30, 2026.

2. **Continuing Effect of Agreement.** Except as amended by this Amendment No. 4, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment No. 4, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by Amendment Nos. 1 through 4. In the event of a conflict between the provisions of this Amendment No. 4 and the provisions of the Agreement or Amendment Nos. 1 through 4, the provisions of this Amendment No. 4 shall control.

3. **Affirmation of Agreement; Warranty Re Absence of Defaults.** City and Contractor each ratify and reaffirm each and every one of the respective rights and obligations arising under the Agreement. Each party represents and warrants to the other that there have been no written or oral modifications to the Agreement other than as provided herein. Each party represents and warrants to the other that the Agreement is currently an effective, valid, and binding obligation.

Contractor represents and warrants to City that, as of the date of this Amendment No. 4, City is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

City represents and warrants to Contractor that, as of the date of this Amendment No. 4, Contractor is not in default of any material term of the Agreement and that there have been no

events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

4. **Adequate Consideration.** The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment No. 4.

5. **Authority.** The persons executing this Amendment No. 4 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 4 on behalf of said party, (iii) by so executing this Amendment No. 4, such party is formally bound to the provisions of this Amendment No. 4, and (iv) the entering into this Amendment No. 4 does not violate any provision of any other Agreement to which said party is bound.

6. **Electronic Signatures**. Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto hereby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Amendment No.4 and such other documents transmitted by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF the Parties hereto have executed this Amendment No. 4 the day and year first hereinabove written.

CITY OF BANNING

Robert Fisher, Date
Acting City Manager

ATTEST:

Caroline Patton Date
Administrative City Clerk

APPROVED AS TO FORM:
Solvak, Baron, Empey, Murphy & Pinkney LLP

John O. Pinkney Date
City Attorney

CONTRACTOR

NAME: Date
TITLE:

NAME: Date
TITLE:

Tax ID No.

Address:

City Council Approval: _____

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

ATTACHMENT "1"

Banning Park's Landscape Maintenance - Per Site Cost breakdown FY 2025-26

Line Item	Location	Quantity	Unit of Measure	Monthly Rate 2024-25	CPI 2.90%	New Monthly Rate	Annual Rate
1	Dysart Equestrian Park - 2101 Victory Ave	12	Month	$953.96	$27.66	$981.62	**$11,779.50**
2	Lion's Park - 955 S. Hargrave Sreet	12	Month	$2,214.54	$64.22	$2,278.76	**$27,345.14**
3	Repplier Park - 201 W. George Street	12	Month	$2,248.61	$65.21	$2,313.82	**$27,765.84**
4	Roosevelt Williams - 1101 E. George Street	12	Month	$919.88	$26.68	$946.56	**$11,358.68**
5	Sylvan Park - 2798 W. George Street	12	Month	$2,180.46	$63.23	$2,243.69	**$26,924.32**
6	Community Center & Senior Center 769 & 789 N. San Gorgonioe Ave	12	Month	$981.72	$28.47	$1,010.19	**$12,122.28**
7	Banning Aquatic Center 749 N. San Gorgonio Ave	12	Month	$1,090.80	$31.63	$1,122.43	**$13,469.20**
8	Repplier Park and Community Center Parkway 749, 769 & 789 N. San Gorgonio Ave	12	Month	Included in Line Items 6 & 7	N/A	N/A	N/A
9	Richard Sanchez Park and Trail - 3758 Cypress	12	Month	XXXXX	N/A	$1,777.00	**$21,324.00**
			Totals>>>	**$10,589.97**	**$307.11**	**$12,674.08**	**$152,088.95**

XXXXX ADDITIONAL SCOPE OF SERVICE - Per Resolution 2025-63, Effective, July 2025, general maintenance and operational costs supporting the maintenance of Richard Sanchez Park and the accompnaying trail on the South side of the park have been added to the responsibilities of the Parks and Recreation Department.

Banning Park's Landscape Maintenance - Per Site Cost breakdown FY 2025-26

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AGREEMENT FOR CONTRACT SERVICES (C00698)

FOR LANDSCAPE MAINTENANCE SERVICES FOR CITY PARKS

By and Between

THE CITY OF BANNING,
A MUNICIPAL CORPORATION

and

MARIPOSA LANDSCAPES, INC.

a California corporation

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AGREEMENT FOR CONTRACT SERVICES (C00698) FOR LANDSCAPE MAINTENANCE SERVICES FOR CITY PARKS BY AND BETWEEN CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

THIS AGREEMENT FOR CONTRACT SERVICES (herein" Agreement") is made and entered into this day: 3/22/2021, by and between the **CITY OF BANNING**, **a municipal corporation** ("City") and **MARIPOSA LANDSCAPES, INC., a California corporation** and licensed contractor (California License Number 592268) ("Contractor"). City and Contractor are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties."

RECITALS

A. City has sought, by issuance of a Request for Proposals (RFP No. 20-035), the performance of the Services defined and described particularly in Article 1 of this Agreement, including turf management; shrub bed maintenance; tree care and pruning; fertilization; environmental weed and pest control program; and irrigation equipment and operations at the following locations: Dysart Park, Lion's Park, Repplier Park, Roosevelt Williams Park, and Sylvan Park.

B. Contractor, following submission of a proposal or bid for the performance of the Services defined and described particularly in Article 1 of this Agreement, was selected by the City to perform those Services.

C. On February 23, 2021, City Council approved the award and execution of this Agreement.

D. Pursuant to the City of Banning's Municipal Code, City has authority to enter into this Agreement.

E. The Parties desire to formalize the selection of Contractor for performance of those Services defined and described particularly in Section 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1. SERVICES OF CONTRACTOR

1.1 Scope of Services.

In compliance with all terms and conditions of this Agreement, the Contractor shall provide those Services specified in the "Scope of Services" attached hereto as Exhibit "A" and "A-1" and incorporated herein by this reference, which Services may be referred to herein as the "Services" hereunder. As a material inducement to the City entering into this Agreement, Contractor represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the Services required under this Agreement in a thorough, competent, and

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professional manner, and is experienced in performing the Services contemplated herein. Contractor shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all Services described herein. Contractor covenants that it shall follow the highest professional standards in performing the Services required hereunder and that all materials will be of good quality, fit for the purpose intended. For purposes of this Agreement, the phrase "highest professional standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

1.2 Order of Precedence.

The Scope of Services shall include City's Request for Proposals ("RFP") and the Contractor's Response to the City's RFP ("Response") which shall be incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the terms of this Agreement and the RFP or Response, the terms of this Agreement shall govern. In the event of any inconsistency between the terms of the City's RFP and the Contractor's Response, the City's RFP shall govern.

1.3 Compliance with Law.

Contractor shall keep itself informed concerning, and shall render all Services hereunder in accordance with all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered.

1.4 Licenses, Permits, Fees and Assessments.

Contractor shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the Services required by this Agreement. Contractor shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Contractor's performance of the Services required by this Agreement, and shall indemnify, defend and hold harmless City, its officers, employees or agents of City, against any such fees, assessments, taxes penalties or interest levied, assessed or imposed against City hereunder.

1.5 Familiarity with Services.

By executing this Agreement, Contractor warrants that Contractor (i) has thoroughly investigated and considered the Scope of Services to be performed, (ii) has carefully considered how the Services should be performed, and (iii) fully understands the facilities, difficulties and restrictions attending performance of the Services under this Agreement. If the Services involve work upon any site, Contractor warrants that Contractor has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of Services hereunder. Should the Contractor discover any latent or unknown conditions, which will materially affect the performance of the Services hereunder, Contractor shall immediately inform the City of such fact and shall not proceed except at Consultant's risk until written instructions are received from the Contract Officer.

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1.6 Prevailing Wages.

Contractor is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 1600, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "Public Works" and "Maintenance" projects. If the Services are being performed as part of an applicable "Public Works" or "Maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is $1,000.00 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. City shall provide Contractor with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Contractor's principal place of business and at the project site. Contractor shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

1.7 Additional Services.

City shall have the right at any time during the performance of the Services, without invalidating this Agreement, to order extra Services beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said Services. No such extra Services may be undertaken unless a written order is first given by the Contract Officer to the Contractor, incorporating therein any adjustment in (i) the Contract Sum, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Contractor. Any increase in compensation of up to ten percent (10%) of the Contract Sum, or $25,000, whichever is less; or in the Schedule of Performance of up to one hundred eighty (180) days may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively must be approved by the City Council. It is expressly understood by Contractor that the provisions of this Section shall not apply to Services specifically set forth in the Scope of Services or reasonably contemplated therein. Contractor hereby acknowledges that it accepts the risk that the Services to be provided pursuant to the Scope of Services may be more costly or time consuming than Contractor anticipates and that Contractor shall not be entitled to additional compensation therefor.

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, City agrees to pay Contractor the sum of NINETY SIX THOUSAND, SIX HUNDRED AND EIGHTY FOUR DOLLARS ($96,684.00) (the "Contract Sum") annually, unless additional compensation is approved pursuant to Section 1.7.

Compensation may be adjusted annually on July 1st of each year, or during the term of the Contract Agreement to reflect annual changes in the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index Riverside-San Bernardino-Ontario Area, or any successor index agreed upon by the City and Contractor, as set forth over the previous available twelve (12) months prior to the date of adjustment.

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2.2 Invoices.

Each month Contractor shall furnish to City an original invoice for all Services performed and expenses incurred during the preceding month in a form approved by City's Director of Finance. The invoice shall detail charges for all necessary and actual expenses by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-contractor charges. Sub-contractor charges shall also be detailed by such categories.

City shall independently review each invoice submitted by the Contractor to determine whether the Services performed and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for Services performed or expenses incurred by Contractor which are disputed by City, or as provided in Section 7.3. City will use its best efforts to cause Contractor to be paid within forty-five (45) days of receipt of Contractor's correct and undisputed invoice(s). In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Contractor for correction and resubmission.

ARTICLE 3. TERM

3.1 Term.

Unless earlier terminated in accordance with Article 7 of this Agreement, the term of this Agreement shall commence on April 1, 2021 and shall expire on June 30, 2022. This Agreement shall include the option to extend for four (4) additional one-year terms if agreed to in writing in advance by both Parties.

ARTICLE 4. COORDINATION OF SERVICES

4.1 Representatives and Personnel of Contractor.

The following principal of Contractor (Principal) is hereby designated as being the principal and representative of Contractor authorized to act in its behalf with respect to the Services specified herein and make all decisions in connection therewith.

Terry Noriega, President

4.2 Representative Name, Title.

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principal was a substantial inducement for City to enter into this Agreement. Therefore, the foregoing principal shall be responsible during the term of this Agreement for directing all activities of Contractor and devoting sufficient time to personally supervise the Services hereunder. All personnel of Contractor, and any authorized agents, shall at all times be under the exclusive direction and control of the Principal. For purposes of this Agreement, the foregoing Principal may not be replaced nor may their responsibilities be substantially reduced by Contractor without the express written approval of City. Additionally, Contractor shall make every reasonable effort to maintain the stability and continuity of Contractor's staff and subcontractors, if any, assigned to perform the Services required under this Agreement. Contractor shall notify City of any changes in Contractor's staff and subcontractors, if any, assigned to perform the Services required under this Agreement, prior to and during any such performance.

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4.3 Status of Contractor.

Contractor shall have no authority to bind City in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City. Contractor shall not at any time or in any manner represent that Contractor or any of Contractor's officers, employees, or agents are in any manner officials, officers, employees or agents of City. Neither Contractor, nor any of Contractor's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Contractor expressly waives any claim Contractor may have to any such rights.

4.4 Contract Officer.

The Contract Officer shall be such person as may be designated by the City Manager. It shall be the Contractor's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the Services and the Contractor shall refer any decisions which must be made by City to the Contract Officer. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of the City required hereunder to carry out the terms of this Agreement.

4.5 Independent Contractor.

Neither the City nor any of its employees shall have any control over the manner, mode or means by which Contractor, its agents or employees, perform the Services required herein, except as otherwise set forth herein. City shall have no voice in the selection, discharge, supervision or control of Contractor's employees, servants, representatives or agents, or in fixing their number, compensation or hours of service. Contractor shall perform all Services required herein as an independent contractor of City and shall remain at all times as to City a wholly independent contractor with only such obligations as are consistent with that role. Contractor shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. City shall not in any way or for any purpose become or be deemed to be a partner of Contractor in its business or otherwise or a joint venturer or a member of any joint enterprise with Contractor.

4.6 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Contractor, its principals and employees were a substantial inducement for the City to enter into this Agreement. Therefore, Contractor shall not contract with any other entity to perform in whole or in part the Services required hereunder without the express written approval of the City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty-five percent (25%) of the present ownership and/or control of Contractor, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release the Contractor or any surety of Contractor of any liability hereunder without the express consent of City.

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ARTICLE 5. INSURANCE, INDEMNIFICATION AND BONDS

5.1 Insurance Coverages.

Throughout the life of this Agreement, Contractor shall pay for and maintain in full force and effect all policies of insurance required hereunder with an insurance company(ies) that meet the standards specified in Section 5.5. The following policies of insurance are required:

(i) COMMERCIAL GENERAL LIABILITY insurance which shall be at least as broad as the most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01 and include insurance for "bodily injury," "property damage" and "personal and advertising injury" with coverage for premises and operations (including the use of owned and non-owned equipment), products and completed operations, and contractual liability (including, without limitation, indemnity obligations under the Contract) with limits of liability of not less than the following:

$1,000,000 per occurrence for bodily injury and property damage

$1,000,000 per occurrence for personal and advertising injury

$2,000,000 aggregate for products and completed operations

$2,000,000 general aggregate

(ii) COMMERCIAL AUTOMOBILE LIABILITY insurance which shall be at least as broad as the most current version of Insurance Service Office (ISO) Business Auto Coverage Form CA 00 01, and include coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1 Any Auto) with limits of liability of not less than $1,000,000 per accident for bodily injury and property damage.

(iii) WORKERS' COMPENSATION insurance as required under the California Labor Code.

(iv) EMPLOYERS' LIABILITY insurance with limits of liability of not less than $1,000,000 each accident, $1,000,000 disease policy limit and $1,000,000 disease each employee.

In the event Contractor purchases an Umbrella or Excess insurance policy(ies) to meet the minimum limits of insurance set forth above, this insurance policy(ies) shall "follow form" and afford no less coverage than the primary insurance policy(ies).

If this Agreement continues for more than three (3) years duration, or in the event the City Manager or his/her designee determines that the work or Services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Contractor agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from the City Manager, or his/her designee.

Contractor shall be responsible for payment of any deductibles contained in any insurance policies required hereunder and Contractor shall also be responsible for payment of any self-insured retentions.

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Any deductibles or self-insured retentions must be declared to, and approved by, the City Manager or his/her designee. At the option of the City Manager or his/her designee, either: (i) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to City, its Council members, officers, officials, employees and agents; or (ii) Contractor shall provide a financial guarantee, satisfactory to the City Manager or his/her designee, guaranteeing payment of losses and related investigations, claim administration and defense expenses. At no time shall the City be responsible for the payment of any deductibles or self-insured retentions.

5.2 General Requirements.

All policies of insurance required hereunder shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after 30 calendar day written notice has been given to City. Upon issuance by the insurer, broker, or agent of a notice of cancellation, non-renewal, or reduction in coverage or in limits, Contractor shall furnish City with a new certificate and applicable endorsements for such policy(ies). In the event any policy is due to expire during the work to be performed for City, Contractor shall provide a new certificate, and applicable endorsements, evidencing renewal of such policy not less than 15 calendar days prior to the expiration date of the expiring policy.

The General Liability and Automobile Liability insurance policies shall be written on an occurrence form. The General Liability (including ongoing and completed operations) and Automobile Liability shall name City and its officers, officials, employees, agents and volunteers as an additional insured. Such policy(ies) of insurance shall be endorsed so Contractor's insurance shall be primary and no contribution shall be required of City. The coverage shall contain no special limitations on the scope of protection afforded to the City and its officers, officials, employees, agents and volunteers. The Workers' Compensation insurance policy shall contain a waiver of subrogation as to City and its officers, officials, employees, agents and volunteers. Should Contractor maintain insurance with broader coverage and/or limits of liability greater than those shown above, City requires and shall be entitled to the broader coverage and/or the higher limits of liability maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.

Contractor shall furnish City with all certificate(s) and applicable endorsements effecting coverage required hereunder. All certificates and applicable endorsements are to be received and approved by the City Manager or his/her designee prior to City's execution of the Agreement and before work commences.

If at any time during the life of this Agreement or any extension, Contractor or any of its subcontractors fail to maintain any required insurance in full force and effect, all work under this Agreement shall be discontinued immediately, and all payments due or that become due to Contractor shall be withheld until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to City. Any failure to maintain the required insurance shall be sufficient cause for City to terminate this Agreement. No action taken by City hereunder shall in any way relieve Contractor of its responsibilities under this Agreement.

Upon request of City, Contractor shall immediately furnish City with a complete copy of any insurance policy required under this Agreement, including all endorsements, with said copy certified by the underwriter to be a true and correct copy of the original policy. This requirement shall survive expiration or termination of this Agreement.

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The fact that insurance is obtained by Contractor shall not be deemed to release or diminish the liability of Contractor, including, without limitation, liability under the indemnity provisions of this Agreement. The duty to indemnify City and its officers, officials, employees, agents and volunteers shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Contractor. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of Contractor, its principals, officers, employees, agents, persons under the supervision of Contractor, vendors, suppliers, invitees, subcontractors, or anyone employed directly or indirectly by any of them.

If Contractor should subcontract all or any portion of the Services to be performed under this Agreement, Contractor shall require each subcontractor to provide insurance protection in favor of City and its officers, officials, employees, agents and volunteers in accordance with the terms of each of the preceding paragraphs, except that the subcontractors' certificates and endorsements shall be on file with Contractor and City prior to the commencement of any work by the subcontractor.

5.3 Indemnification, Hold Harmless, and Duty to Defend.

A. Indemnities.

1) To the fullest extent permitted by law, Contractor shall, at its sole cost and expense, defend, hold harmless and indemnify City and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, assigns and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees"), from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith and the payment of all consequential damages (collectively "Liabilities"), in law or equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Contractor, its officers, agents, servants, employees, subcontractors, materialmen, Contractors or their officers, agents, servants or employees (or any entity or individual that Contractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties. Contractor shall defend the Indemnitees in any action or actions filed in connection with any Liabilities with counsel of the Indemnitees' choice, and shall pay all costs and expenses, including all attorneys' fees and experts' costs actually incurred in connection with such defense. Contractor shall reimburse the Indemnitees for any and all legal expenses and costs incurred by Indemnitees in connection therewith.

2) Contractor shall pay all required taxes on amounts paid to Contractor under this Agreement, and indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Contractor shall fully comply with the workers' compensation law regarding Contractor and Contractor's employees. Contractor shall indemnify and hold City harmless from any failure of Contractor to comply with applicable workers' compensation laws. City may offset against the amount of any fees due to Contractor under this Agreement any amount due to City from Contractor as a result of Contractor's failure to promptly pay to City any reimbursement or indemnification arising under this subparagraph A.2).

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3) Contractor shall obtain executed indemnity agreements with provisions identical to those in this Section from each and every subcontractor or any other person or entity involved by, for, with or on behalf of Contractor in the performance of this Agreement. If Contractor fails to obtain such indemnity obligations, Contractor shall be fully responsible and indemnify, hold harmless and defend the Indemnitees from and against any and all Liabilities at law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Contractor's subcontractor, its officers, agents, servants, employees, subcontractors, materialmen, Contractors or their officers, agents, servants or employees (or any entity or individual that Contractor's subcontractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties.

B. Workers' Compensation Acts not Limiting. Contractor's indemnifications and obligations under this Section, or any other provision of this Agreement, shall not be limited by the provisions of any workers' compensation act or similar act. Contractor expressly waives its statutory immunity under such statutes or laws as to City, its officers, agents, employees and volunteers.

C. Insurance Requirements not Limiting. City does not, and shall not, waive any rights that it may possess against Contractor because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. The indemnities in this Section shall apply regardless of whether or not any insurance policies are determined to be applicable to the Liabilities, tax, assessment, penalty or interest asserted against City.

D. Survival of Terms. Contractor's indemnifications and obligations under this Section shall survive the expiration or termination of this Agreement.

5.4 Performance Bond.

Concurrently with execution of this Agreement, and if required in Exhibit "B", Contractor shall deliver to City performance bond in the sum of the amount of the Contract Sum, in the form provided by the City Clerk, which secures the faithful performance of this Agreement. The bond shall contain the original notarized signature of an authorized officer of the surety and affixed thereto shall be a certified and current copy of his power of attorney. The bond shall be unconditional and remain in force during the entire term of the Agreement and shall be null and void only if the Contractor promptly and faithfully performs all terms and conditions of this Agreement.

5.5 Sufficiency of Insurer or Surety.

Insurance or bonds required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the Risk Manager of the City ("Risk Manager") due to unique circumstances. If this Agreement continues for more than three (3) years duration, or in the event the Risk Manager determines that the work or Services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Contractor agrees that the minimum limits of the insurance policies and the performance bond

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required by Section 5.4 may be changed accordingly upon receipt of written notice from the Risk Manager; provided that the Contractor shall have the right to appeal a determination of increased coverage by the Risk Manager to the City Council of City within ten (10) days of receipt of notice from the Risk Manager.

ARTICLE 6. RECORDS, REPORTS, AND RELEASE OF INFORMATION

6.1 Records.

Contractor shall keep, and require subcontractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and Services performed hereunder (the "Books and Records"), as shall be necessary to perform the Services required by this Agreement and enable the Contract Officer to evaluate the performance of such Services. Any and all such Books and Records shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such Books and Records at all times during normal business hours of City, including the right to inspect, copy, audit and make records and transcripts from such Books and Records. Such Books and Records shall be maintained for a period of 3 years following completion of the Services hereunder, and the City shall have access to such Books and Records in the event any audit is required. In the event of dissolution of Contractor's business, custody of the Books and Records may be given to City, and access shall be provided by Contractor's successor in interest.

6.2 Reports.

Contractor shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the Services required by this Agreement as the Contract Officer shall require. Contractor hereby acknowledges that the City is greatly concerned about the cost of Services to be performed pursuant to this Agreement. For this reason, Contractor agrees that if Contractor becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the Services contemplated herein Contractor shall promptly notify the Contract Officer of said fact, circumstance, technique or event and the estimated increased or decreased cost related thereto.

6.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the "Documents and Materials") prepared by Contractor, its employees, subcontractors and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the termination of this Agreement, and Contractor shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership use, reuse, or assignment of the Documents and Materials hereunder. Any use, reuse or assignment of such completed Documents and Materials for other projects and/or use of uncompleted Documents and Materials without specific written authorization by the Contractor will be at the City's sole risk and without liability to Contractor, and Contractor's guarantee and warranties shall not extend to such use, revise or assignment. Contractor may retain copies of such Documents and Materials for its own use. Contractor shall have an unrestricted right to use the concepts embodied therein. All subcontractors shall provide for assignment to City of any

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Documents and Materials prepared by them, and in the event Contractor fails to secure such assignment, Contractor shall indemnify City for all damages resulting therefrom.

6.4 Confidentiality and Release of Information.

(a) All information gained or work product produced by Contractor in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Contractor. Contractor shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the Contract Officer.

(b) Contractor, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the Services performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Contractor gives City notice of such court order or subpoena.

(c) If Contractor, or any officer, employee, agent or subcontractor of Contractor, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Contractor for any damages, costs and fees, including attorney's fees, caused by or incurred as a result of Contractor's conduct.

(d) Contractor shall promptly notify City should Contractor, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the Services performed there under. City retains the right, but has no obligation, to represent Contractor or be present at any deposition, hearing or similar proceeding. Contractor agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Contractor. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

ARTICLE 7. ENFORCEMENT OF AGREEMENT AND TERMINATION

7.1 California Law.

This Agreement shall be interpreted, construed and governed both as to validity and to performance of the Parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Riverside, State of California, or any other appropriate court in such county, and Contractor covenants and agrees to submit to the personal jurisdiction of such court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in Riverside.

7.2 Disputes; Default.

In the event that Contractor is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Contractor for any Services performed after the date of default. Instead, the City may give notice to Contractor of the default and the reasons for the default. The notice shall include the timeframe in which Contractor may cure the

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default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that Contractor is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. In the alternative, the City may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Contractor does not cure the default, the City may take necessary steps to terminate this Agreement under this Article. Any failure on the part of the City to give notice of the Contractor's default shall not be deemed to result in a waiver of the City's legal rights or any rights arising out of any provision of this Agreement.

7.3 Retention of Funds.

Contractor hereby authorizes City to deduct from any amount payable to Contractor (whether or not arising out of this Agreement) (i) any amounts the payment of which may be in dispute hereunder or which are necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, and (ii) all amounts for which City may be liable to third parties, by reason of Contractor's acts or omissions in performing or failing to perform Contractor's obligation under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by Contractor, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of the Contractor to insure, indemnify, and protect City as elsewhere provided herein.

7.4 Waiver.

Waiver by any Party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any Party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any Services by Contractor shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either Party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

7.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

7.6 Legal Action.

In addition to any other rights or remedies, either Party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement.

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7.7 Liquidated Damages.

Since the determination of actual damages for any delay in performance of this Agreement would be extremely difficult or impractical to determine in the event of a breach of this Agreement, the Contractor and its sureties shall be liable for and shall pay to the City the sum of Not Applicable ($0.00) as liquidated damages for each working day of delay in the performance of any service required hereunder, as specified in the Schedule of Performance (Exhibit "D"). The City may withhold from any monies payable on account of Services performed by the Contractor any accrued liquidated damages.

7.8 Termination Prior to Expiration of Term.

This Section shall govern any termination of this Agreement except as specifically provided in the following Section for termination for cause. The City reserves the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days' written notice to Contractor, except that where termination is due to the fault of the Contractor, the period of notice may be such shorter time as may be determined by the Contract Officer. In addition, the Contractor reserves the right to terminate this Agreement at any time, with or without cause, upon sixty (60) days' written notice to City, except that where termination is due to the fault of the City, the period of notice may be such shorter time as the Contractor may determine. Upon receipt of any notice of termination, Contractor shall immediately cease all Services hereunder except such as may be specifically approved by the Contract Officer. Except where the Contractor has initiated termination, the Contractor shall be entitled to compensation for all Services rendered prior to the effective date of the notice of termination and for any Services authorized by the Contract Officer thereafter in accordance with the Agreement or such as may be approved by the Contract Officer, except as provided in Section 7.3. In the event the Contractor has initiated termination, the Contractor shall be entitled to compensation only for the reasonable value of the Services actually performed hereunder. In the event of termination without cause pursuant to this Section, the terminating Party need not provide the non-terminating Party with the opportunity to cure pursuant to Section 7.2.

7.9 Termination for Default of Contractor.

If termination is due to the failure of the Contractor to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 7.2, take over the Services and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable to the extent that the total cost for completion of the Services required hereunder exceeds the compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Contractor for the purpose of set-off or partial payment of the amounts owed the City as previously stated.

7.10 Attorneys' Fees.

If either Party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing Party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees. Attorney's fees shall include attorney's fees on any appeal, and in addition a Party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have

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accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

ARTICLE 8. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

8.1 Non-liability of City Officers and Employees.

No officer or employee of the City shall be personally liable to the Contractor, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Contractor or to its successor, or for breach of any obligation of the terms of this Agreement.

8.2 Conflict of Interest.

Contractor covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Contractor's performance of Services under this Agreement. Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the Contract Officer. Contractor agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

No officer or employee of the City shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which effects his financial interest or the financial interest of any corporation, partnership or association in which he is, directly or indirectly, interested, in violation of any State statute or regulation. The Contractor warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

8.3 Covenant Against Discrimination.

Contractor covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, or ancestry in the performance of this Agreement. Contractor shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, marital status, national origin, or ancestry.

8.4 Unauthorized Aliens.

Contractor hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Contractor so employ such unauthorized aliens for the performance of Services covered by this Agreement, and should the any liability or sanctions be imposed against City for such use of unauthorized aliens, Contractor hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

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ARTICLE 9. MISCELLANEOUS PROVISIONS

9.1 Notices.

Any notice, demand, request, document, consent, approval, or communication that either Party desires or is required to give to the other Party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the City, to the City Manager and to the attention of the Contract Officer, CITY OF BANNING, 99 East Ramsey Street, Banning, CA 92220 and in the case of the Contractor, to the person at the address designated on the execution page of this Agreement. Either Party may change its address by notifying the other Party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

9.2 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either Party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

9.3 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

9.4 Integration; Amendment.

This Agreement including the attachments hereto is the entire, complete and exclusive expression of the understanding of the Parties. It is understood that there are no oral agreements between the Parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the Parties, and none shall be used to interpret this Agreement. No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Contractor and by the City Council. The Parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

9.5 Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the Parties hereunder unless the invalid provision is so material that its invalidity deprives either Party of the basic benefit of their bargain or renders this Agreement meaningless.

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9.6 Time is of the Essence. Time is of the essence in every provision of this Agreement in which time for performance is a factor.

9.7 Corporate Authority.

The persons executing this Agreement on behalf of the Parties hereto warrant that (i) such Party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said Party, (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said Party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the Parties.

[SIGNATURES ON FOLLOWING PAGE]

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IN WITNESS WHEREOF the Parties hereto have executed this Agreement the day and year first hereinabove written.

CITY OF BANNING

DocuSigned by:
Doug Schulze 3/22/2021
0AD14BA217CE497...

Douglas Schulze, Date
City Manager

ATTEST:

DocuSigned by:
Laurie Sampson 3/22/2021
5857E664E42A405...

Laurie Sampson Date
Acting Deputy City Clerk

APPROVED AS TO FORM:
Richards, Watson & Gershon

DocuSigned by:
Kevin G Ennis 3/19/2021
940BF72E964348C...

Kevin G. Ennis, Esq., Date
City Attorney

CONSULTANT

DocuSigned by:
Terry Noriega 3/19/2021
073E1ED56B0840B...

NAME: Terry Noriega Date
TITLE: President

NAME: Date
TITLE:

95-4245898
Tax ID No.

Address:
6232 Santos Diaz ST, Irwindale CA 91702

City Council Approval: 02/23/2021

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

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EXHIBIT "A"
SCOPE OF SERVICES

I. Contractor will perform the following Services:

As specified in RFP 20-035.

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IV. SCOPE OF WORK

IV.A Introduction

The City of Banning is seeking proposals from qualified contractors and intends to retain the services of a contractor to provide landscape maintenance services for its properties throughout the City. The City is considering awarding a contract to begin April 1, 2021, for a term of one (1) year and (3) three months with the option to renew for an additional four (4) single years upon an annual review of the provided services. The City of Banning reserves the right to accept or reject any or all proposals. These Specifications and Scope of Services shall become part of the contract Agreement.

The scope of services includes turf management; shrub bed maintenance; tree care and pruning; fertilization; environmental weed and pest control program; and irrigation equipment and operations for all locations identified in this Request for Proposals ("RFP") and listed below:

- Dysart Park (2101 W. Victory Avenue)
- Lion's Park (9955 S. Hargrave Street)
- Repplier Park (201 W. George Street)
- Roosevelt Williams Park (1101 E. George Street)
- Sylvan Park (2801 W. Nicolet Street)

It is the responsibility of the Contractor to visit the sites and become familiar with the project locations and maintenance needs. It is the City's expectation that all land care and maintenance items identified in this RFP will be addressed.

IV.B TURF MANAGEMENT

1. Lawn Mowing
    1. For all turf areas, Contractor will inspect and police the grounds for litter and debris prior to each mowing and dispose of it.
    2. Turf will be mowed one time per week during active growing periods, and as often as required during slow periods of growth to maintain a neat and manicured appearance, weather permitting.
    3. Mowing height for all irrigated lawn areas will be no less than 1 ½" and no more than 2" for a finished cut height unless otherwise requested. Turf will be cut at a uniform height. Mowing equipment is to be kept sufficiently sharp and properly adjusted through daily servicing to provide a cleanly cut grass blade. Grass blade bruising, tearing, and shredding are to be prevented. Mowing pattern will be varied where

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possible to reduce rutting and compaction of grade. Any excess clippings will be dispersed and/or collected to prevent damage and unsightly appearance of lawns.

4. Unless otherwise specified, grass cuttings need not be removed. However, when an inordinate amount of grass is evident, removal may be requested by staff with no extra charge to City for such removal by contractor. Clippings shall be legally disposed of offsite at the Contractor's expense. Special note: frequencies and turf height may change throughout the year in order to accommodate sports activities and facility use schedule; staff may request change in such turf height to address such activities.
5. Work shall be performed on the same day each week. Contractor shall provide a mow schedule to the City. Initial week schedule and any changes must be approved by the City prior to implementation. All mowing missed due to inclement weather or ground conditions from such weather shall be rescheduled and completed within (3)) three working days.
6. Aeration: Contractor shall aerate all turf areas a minimum of once a year by removing one 1/2" diameter by 3" deep cores of sod with an aerator machine with not more than 66" spacing, once over. Aeration shall take place at an approved time frame each year. In addition, the tops of all mounds and any areas that show excessive compaction shall receive additional treatment as required, to alleviate this condition and allow for proper water penetration and minimal runoff. All damaged areas larger than 4" by 4" shall be seeded on an as-needed basis. The cores shall be dragged to breakup cores and allowed to remain or be removed at the Contractor's discretion with approval of the City.
7. Over seeding:- Annual (one time per year) over seeding shall take place. Contractor shall prepare turf (verticutting and aeration) prior to applying seed. Seed shall match existing lawn and will be provided by the City. All labor and the equipment to perform the over seeding will be the responsibility of the Contractor.

2. Edging and String Trimming
    1. Concurrent with every mowing, all turf grass borders shall be neatly and uniformly edged or trimmed. String trimmers (weed eaters) or similar equipment shall not be used around trees or shrubs or wooden posts or for hardscape/pathways/mow strips edging. This trimming shall include cutting all grass along walls, fences, foundations, curbs, sidewalks, shrubs, tree trunks, poles, guy wires, or other object within or immediately adjacent to lawn areas. Trim shall not exceed one half(1/2) - inch from hardscape.
    2. Trim around sprinkler heads as necessary to allow maximum water coverage. Trimming shall not expose the sprinkler body or trim cap.
    3. Care shall be taken to avoid damage to tree trunks, shrubs, sign posts, buildings, and other structures. Damage shall be promptly reported to the City's representative and repairs made promptly at the Contractor's expense. Any damage to tree trunks and/or shrubs shall be considered neglect and shall be replaced at the discretion of

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City staff at the Contractor's expense. All walkways, roadways, trails or other areas dirtied by edging operations shall be cleaned and all debris disposed offsite prior to the completion of the day's operations or end of the day, whichever occurs first. CLIPPINGS/DEBRIS SHALL NOT BE BLOWN INTO STORM DRAINS OR INTO GUTTERS THAT DRAIN INTO STORM DRAINS BUT SHALL BE LEGALLY DISPOSED OF.

3. Clearing of Walks
    1. At the conclusion of each visit, walks adjacent to work areas will be blown clean.

IV.C SHRUB BED MAINTENANCE

1. Landscaped areas will be policed throughout the growing season for weeds, litter, and debris. Particular attention will be paid to entryways, focal points, and high traffic areas.
2. Planter beds will be groomed to promote an attractive, fresh appearance.
3. Concrete swales (if applicable) to be kept clear of miscellaneous dirt and debris.
4. Complete trimming, edging, and weeding of all shrub and ground cover areas will be done on a cyclical basis. Trimming and edging are to be performed monthly and weeding is to be performed weekly. Major pruning will be done following flowering or during plant dormant season.
    1. Pruning shall be performed by Contractor’s designated staff member who is trained and demonstrated competency in proper pruning techniques.
    2. Prune shrubbery and hedges at established maintenance height.
    3. Prune groundcover as required to contain perimeter growth to within bed areas where adjacent to walks, curbs, and structures. Mature groundcover will be maintained at a consistent appearance with a beveled or rolled edge at hard surfaces.
    4. Shearing of plants will occur only where previous practice has been to shear, or as directed.
    5. Removal of leaves and debris from lawns, planter beds, and walkways will be completed throughout the year as needed to maintain a clean appearance.
    6. Dead or damaged shall be removed whenever possible.
    7. Contractor shall monitor trees for signs of disease and insect infestations. If affected, appropriate recommendations for treatment shall be submitted to the City. When insect and/or disease problems are detected, legally approved chemicals are to be used to treat the problem.

IV.D TREE CARE & PRUNING

1. All trees will be “skirted” as needed per the City’s request to allow for pedestrian and vehicle clearance. Remove lower branches of trees when in conflict with growth of

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planning beneath. On trees that are over 12' only low hanging branches that are considered a hazard to pedestrians or vehicles will be pruned as part of this agreement.

2. All trees under 12" total height will be pruned to remove weak, dead, damaged, and diseased portions of the plant for natural growth development.
    1. Cuts will be flush and clean, leaving not stubs, or tearing of bark. Major pruning will be done following flowering or during plant's dormant season.
    2. Dead or damaged portion shall be removed whenever possible.
    3. Pruning to be performed by Contractor's designated staff member who is trained and demonstrates competency in proper pruning techniques.
    4. Contractor shall monitor trees for signs of disease and insect infestations. If affected, appropriate recommendations for treatment shall be submitted to the City. When insect and/or disease problems are detected, legally approved chemicals are to be used to treat the problem.
3. Monitor trees that are staked or guyed. Loosen and/or remove supports when appropriate to prevent girdling of the trunk and encourage root support. Replace stakes when damaged.

IV.E FERTILIZATION

1. Contractor shall provide all labor and materials to fertilize lawn, shrubs and ground cover to maintain proper nutrient levels and provide a consistent, healthy appearance.
    1. Turf, shrub and ground cover areas will be fertilized with specifically formulated products including well-balanced, slow-release fertilizers customized seasonally by Contractor. Seasonally refers to "Winter" and "Summer" and different fertilizers will be used based on ground temperature.
    2. Fertilizer product will be selected based on plant type and season.

IV.F ENVIRONMENTAL WEED AND PEST CONTROL PROGRAM

1. All applications and herbicides or pesticides will be performed under the direction of California Licensed & Certified Pest Control Specialist. All safety precautions will be taken in the handling and application of chemicals as stated on manufacture's labels.
2. Broadleaf turf weeds will be treated as needed in the "Spring" and "Fall" with applicable materials.
3. Weeds in shrub, planter beds, ground cover areas, tree circles, and sidewalk cracks adjacent to landscaped areas will be controlled by a manual weeding program or by using selected herbicides, including pre-emergent herbicides.

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4. Planting areas will be monitored for insect and disease infestations. Moles, field mice, ground squirrels, gophers, and other rodent activity will be monitored. Notification of problems and recommendations for timely appropriate, control measure will be made.
5. Material Safety Data Sheets (MSDS) for all chemicals used on site(s) are available from Contractor to clients in accordance with EPA and OSHA regulations. Sheets shall be provided to the City.
6. Notice of scheduled use of pesticides and herbicides must be given to the City prior to use and signage on site may be required prior to application at the City's discretion.
7. Contractor shall be in compliance with requirements for hazardous communications programs. Pest control specialist are to be trained and supervised in the safe application, storage, and disposal of chemicals in accordance with EPA, OSHA, and DPR regulations.

IV.G IRRIGATION EQUIPMENT AND OPERATION

1. . Schedule all irrigation controllers on project to maximize existing irrigation systems efficiency. Controller programs will be adjusted as determined by weather and plant requirements, with water conservation methods in place. Controllers will be shut off during periods of rain. Watering will be scheduled for night or early morning unless instructed differently by City’s representative.
2. Clean and adjust sprinkler system to provide the best coverage possible from existing system. Turn on each zone, monitor for leaks or malfunctioning parts, and adjust for proper spray arch and maximum efficiency.
3. Upon inspection, any accidental damage or vandalism caused by others shall be reported to owner within 48 hours. Repair and/or replacement of any damaged of malfunctioning components beyond Contractor’s control will be submitted as an extra.
4. The irrigation system shall be checked after each mowing for any damage. Damage caused to the irrigation system by Contractor shall be repaired within forty-eight (48) hours, unless otherwise agreed to, at no charge to the City.

IV.H GENERAL CONDITIONS

1. City is responsible for all cost associated with water.
2. Contractor will provide uniformed staff supervised by fully trained Supervisors and Area Manager. Radio and cellular phone communication will be available.
3. Inspection of site(s) will be made regularly and problems, if found, will be discussed by Contractor and the City. A monthly written, comprehensive maintenance and inspection reports shall be submitted with monthly billings.
4. Debris generated by landscape activities will be removed from the site unless prior arrangements are made. Debris collected by the Contractor will be recycled and or

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composted. Contractor will submit a monthly diversion summary report stating diverted quantities and facilities utilized for recycling materials.

5. During routine maintenance visits, the Contractor is responsible for removing trash and debris from the properties.

IV.I CONTRACTOR COMPENSATION

The City shall pay Contractor, as compensation for the services to be performed, the sum of per month listed in the Contract Agreement with additional adjustments as specified thereinafter.

Compensation may be adjusted annually, on July 1st of each year commencing on July 1, 2022, during the term of the Contract Agreement to reflect annual changes in the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index Riverside-San Bernardino- Ontario Area, or any successor index agreed upon by the City and Contractor, as set forth over the previous available twelve (12) months prior to the date of adjustment.

IV.J ADDITIONAL WORK

1. The Parks and Recreation Director or designee may authorize the Contractor to perform additional work. Additional work shall be defined as work not included in the specifications with the exception of additional sites, or portions thereof that may be added and shall be in writing.
2. Prior to the Contractor performing any additional work, the Contractor shall prepare and submit a written description of the work with an estimate of labor and materials cost. No work shall commence without written authorization from the Parks and Recreation Director, or designee. In the event that conditions exist where there is imminent danger of injury to the public or damage to property, the Parks and Recreation Director or designee may verbally authorize the work to be performed upon receiving a verbal estimate from the Contractor. Within twenty-four (24) hours after receiving verbal authorization, the Contractor shall submit a written estimate to the Parks and Recreation Director or designee for written approval.
3. The cost estimate for additional work shall consist of the following elements:
    1. Wholesale cost of materials including sales tax plus ten percent (10%).
    2. Base cost of labor plus fifteen percent (15%) for overhead and profit.
4. Change Order - Written authorization for additional work from the Parks and Recreation Director or designee, shall be by the issuance of a Change Order. This Change Order shall be considered an amendment to the Contract Agreement and approved by both the Parks and Recreation Director and Contractor.
5. All additional work shall commence on the specified date established and shall diligently proceed until completion.

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6. Upon completion of the additional work, the Parks and Recreation Director or designee shall be notified so that the work may be verified.
7. The Contractor shall submit an invoice for compensation with attached photocopies of original invoices for materials. Compensation shall not exceed the written estimate.
8. The Contractor's invoice shall be subject to audit and review by the City prior to payment.
9. The City of Banning reserves the right to repair and/or contract with a third party to perform such additional work.

IV.K INSPECTION

The Parks and Recreation Director or designee may inspect the work areas to ensure adequacy of maintenance and methods of performing the work are in compliance with the contract. However, this shall not be construed to relieve the Contractor of any duty under this contract. Discrepancies and deficiencies in the work shall be brought to the attention of the Contractor and corrected in the manner agreed to by the Parks and Recreation Director or designee.

1. It shall be the Contractor's responsibility to inspect, and identify, any conditions(s) that renders any areas within this Contract Agreement unsafe, as well as any unsafe practices occurring thereon. The Parks and Recreation Director or designee shall be notified immediately of any unsafe condition that requires correction.
2. During the inspection of all work sites for hazards, or potential hazards, the Contractor shall keep a log indicating the date the area was inspected, any unsafe conditions found, and the action taken.
3. The Contractor shall cooperate fully with the City of Banning in the investigation of any accidental injury or death occurring on the premises, including the submission of a complete written report thereof to the Parks and Recreation Director or designee within five days following the occurrence.

IV.L SAFETY

1. The Contractor shall perform all work outlined in these specifications in such a manner as to provide maximum safety to the public, and meet all accepted standards for safe practices during the maintenance operation, to safely maintain equipment, machines and materials or other hazards consequential or related to the work. The Contractor shall have sole responsibility for complying with all local, County, State or other legal requirements including, but not limited to CAL-OSHA.
2. The Parks and Recreation Director or designee, reserves the right to issue restraint, or cease and desist orders, to the Contractor when unsafe or harmful acts are observed or reported relative to the performance of work under this contract.

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EXHIBIT "A-1"
SCOPE OF SERVICES

I. Contractor will perform the following Services:

As specified in Proposal.

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City of Banning

Request for Proposal

Landscape Maintenance Services for City Parks

RFP 20-035

Due: Tuesday, January 26, 2021 at 2:00 PM

CA CONTRACTOR'S LIC # 592268 A, C-27, D-49
6232 Santos Diaz St., IRWINDALE, CA 91702 •TEL 800•794•9458 •FAX 626•960•8477
www.mariposa-ca.com

Our Core Values – Safety • Teamwork • Quality • Integrity

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MARIPOSA
LANDSCAPES INC

January 25, 2021

City of Banning
Shiloh Rogers, Purchasing Manager
99 E. Ramsey St.
Banning, CA 92220

Re: Request for Proposal Landscape Maintenance Services for City Parks, RFP 20-035

Thank you for the opportunity to submit our proposal. Mariposa Landscapes, Inc. looks forward to the competitive process.

Mariposa Landscapes, Inc. has been in business for over 40 years providing similar services for other cities and public agencies. Our attention to quality and detail is documented with a list of more than 99 award winning construction and maintenance projects that extends over four decades. Our depth of knowledge and level of experience in our management and supervisory personnel is unmatched by our competitors.

We have over 400 employees including Certified Irrigators, Certified Landscape Techs, Certified Arborists and Pest Control Advisors. We are available 24 hours a day through the answering service to address emergency call outs.

Our company has met every financial obligation for over 40 years and has established a corporate bonding capacity far in excess of any requirements across all business lines. Therefore, this enables us to be the most capable firm that will commit to provide the best level of service for the City of Banning.

Our price reflects necessary labor, services, equipment, and material to perform the work. We have the ability to comply with all the terms and requirements of the bid documents and the resulting contract. We have visited all sites and are familiar with the current conditions of each.

The contact person during the RFP review process will be Kevin Coon. His contact number is (626) 960-0196 and his email address is kevin.coon@mariposa-ca.com

We look forward to providing professional landscape maintenance services for the City of Banning and its residents, with the best interest in the well-being of the community and its appearance.

Respectfully,

Antonio Valenzuela, Secretary

CA CONTRACTOR'S LIC # 592268 A, C-27, D-49
6232 Santos Diaz Street, Irwindale, CA 91702 •TEL 800•794•9458 •FAX 626•960•8477
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Qualifications

Mariposa Landscapes, Inc. is a full-service landscape company with vast experience performing large scale landscape maintenance similar in size and scope to that requested in this RFP for over 40 years. We understand our client's priorities and do everything in our power to honor the trust they place in us.

Mariposa is a full-service landscape company, with both Construction, complete Tree Service Operations, and Interior Plant Maintenance Divisions. In addition to the required C-27 license, we carry A, C-61/D-49, and C-31 licenses. This diversity of capabilities and proven expertise is not found with other landscape maintenance competitors.

We are committed to bringing the best possible quality for our customers and their properties and projects. We provide prompt service, expert workmanship, and superior products. We take pride in meeting or exceeding expectations. Our ultimate goal is to deliver excellent value for our clients' investment.

We are honest and open in our communications, building deep trust and confidence in all of our relationships. We value the dedication and contribution of each person. The overall well-being of our employees, customers and vendors is important to us.

We believe the depth of knowledge and level of experience being brought to the City of Banning by our team is unmatched by our competitors. Our many successful years of experience in providing similar maintenance services for the public entities, enables us to be the most responsive and responsible firm who will be committed to providing the best level of service in maintaining the public areas for the City.

As the City of Banning's Landscape Maintenance Contractor, Mariposa will:

- Provide qualified employees for these contracts to achieve professional results.
- Provide the required labor to achieve professional results and not necessarily an employee "head count"
- Provide clear and timely irrigation reports.
- Provide immediate information about hazards in contract areas
- Perform timely responses and offer solutions to issues or complaints (if and when they arise)
- Keep accurate records of requests for work, including date/time received and date/time completed.
- Provide suggestions to City of Banning for improvements to areas.
- Provide qualified extra labor, appropriate equipment, and materials for extra work projects.

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Company History

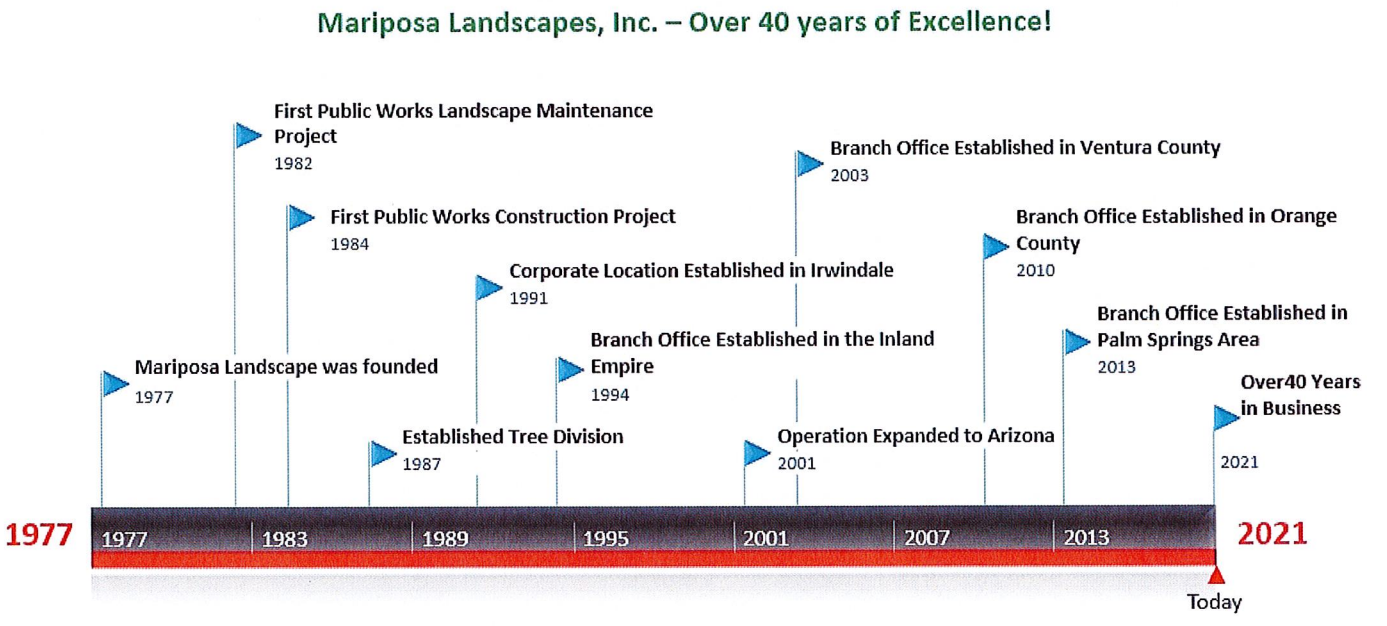
In 1977, Terry Noriega established Mariposa Landscapes in Rosemead, California, by providing landscape maintenance and installation for custom residential and small commercial clients. After five years, he created the Public Works Maintenance Division, in 1984 the Public Works Construction Division was added, and in 1987, a Tree Care Division was formed.

Mariposa Landscapes reincorporated in 1989 as Mariposa Horticultural Enterprises, Inc. In 2009, the company changed their business name back to Mariposa Landscapes, Inc. The company currently has a workforce of over 600 in California and Arizona.

A brief chronology:

- 1977 –The Company is established in Rosemead, California.
- 1982 –The Public Works Maintenance Division is formed.
- 1984 – The Public Works Construction Division is added.
- 1987 – The Tree Care Division is started.
- 1991 – Relocates to our current facilities in Irwindale, CA.
- 1994 – Expands operations by opening a branch in Fontana, CA.
- 2001 – Establishes an office in Glendale, Arizona.
- 2003 – Expands into servicing the Ventura County
- 2010 – Branch office established in Orange County

- 2013 – Branch Office established in Palm Springs Area
- 2021 – Over 40 years in Business!



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Company Information

President: Terry Noriega
California Corporation: C1469653
California Employer ID: 368-4753-1
Date Incorporated: October 2, 1989

Licenses & Certificates

Contractors State License:	592268	C27, A, C61/D49
Qualified Applicators License:	103864	ABCDEFH
Pest Control Adviser License:	74416	ABCDEG
Pest Control Business License:	30977	
Irwindale Business License:	000538	
Supplier Clearinghouse MBE:	94HS0050	
City of Los Angeles MBE:	561730	
City of Los Angeles LBE:	37858	
LA County MBE:	43914	
LA Co. Agricultural Pest Control	1000279	
Certified Arborist:	*WE-1182A*	

State of California Contractors License



Proof of DIR Registration

Legal Name	Registration Number	County	City	License Type/Number(s)	Current Status	Registration Date	Expiration Date
MARIPOSA LANDSCAPES, INC.	1000005079	LOS ANGELES	IRWINDALE	CSLB:592268	Active	07/01/2019	06/30/2022

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Statement of Understanding and Approach

It is our intention to perform this contract per the City requirements as indicated in the proposal documents. We are confident that we will be able to improve over the current level of landscape maintenance that is being provided for the City of Banning. Our proposal includes an adequate level of labor, materials, and equipment to sustain a high level of landscape maintenance throughout the term of this contract.

Project Startup and Quality Control Coordination Meeting

The Project Estimator and the Account Manager review the project specifications and visit the project site(s) to develop a work plan for the completion of the project per specifications. A meeting including the Account Manager with key personnel responsible for carrying out the work, is held to discuss and coordinate how the project work will be performed.

Prior to commencement of contract work we will thoroughly inspect and document deficiencies. After this is completed for each location, we will provide the City with a detailed list. We will also include a proposal for restoring the area to its original condition if applicable.

During the meeting, the Account Manager communicates the work task quality requirements and reinforces heightened awareness for critical requirements. Topics for the meeting include:

- Project requirements per specifications.
- Record keeping documents and availability of necessary forms
- Review methods, sequence of work tasks and timeline.

Preparatory Site Inspection

The Account Manager performs a quality inspection of the work area and:

- Assesses the required work to be done per specifications.
- Verifies field measurements.
- Assures availability of required equipment and materials to complete the project.
- Identifies potential problems and develops an action plan to resolve them.

Labor

It is our goal to provide professional results. Therefore, we will assign the appropriate and trained crew force necessary to complete the specified activities in a professional and timely manner. To achieve the desired results, the appropriate labor will be assigned for every aspect of the work.

Scheduling

Mariposa Landscapes, Inc. will submit a final detailed schedule that includes all the routine activities. After submission and approval of this schedule, we will be ready to start work. Please refer to attached sample schedule.

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Communication and Yard Location

All communications will be routed through our main office and dispatch center. A 24-hour "800" number will be provided. Mariposa Landscapes will use all the current communication methods such as two-way radios and cellular phones. Our response time will meet or exceed the City's expectations.

Our office is open for communications from 6:00am to 4:00pm, Monday-Friday and we are available 24 hours a day through the answering service to address emergency call outs. We have numerous strategically located yards and offices to efficiently service all of Southern California.

Work in Process Quality Inspection

For each work task, the Account Manager, along with City representative, will perform an initial work in process inspection when the first portion of the work activity is completed. The Account Manager performs ongoing work in process quality inspections to ensure that the work tasks continue to conform to the project quality requirements.

Work Task Completion Inspection

Completion inspections are performed for each work task before starting other work activities. Any outstanding punch items remaining after the work task completion inspection is deemed a nonconformance.

Control of Punch Items and Nonconformance

Should a problem occur in the quality of work, we systematically contain the issue and quickly make corrections. We expedite a corrective action that brings the workmanship of material issue into conformance by repair, replacement, or rework. Previously completed work is re-inspected for similar non-conformances. In the event that we cannot meet contract specifications, the customer will be notified, and customer approval of corrective action is required before proceeding.

Mariposa Landscapes, Inc. systematically prevents recurrences to improve quality. First, management monitoring is put into place to ensure work proceeds without incident. Then a structured problem-solving process identifies the root of the causes and initiates solutions. Solutions may involve a combination of enhanced process controls, training, upgrading of personnel qualifications, and/or higher-grade materials. Follow up ensures that a problem is completely resolved. Non-conformance and their resolutions are recorded on a Non-Conformance Report.

Supervisor/Employee Ratio

Each Account Manager supervises a group of approximately twenty-five workers that breaks down into several work crews, each managed by a Foreman/Field Supervisor. The Account Manager covers a geographical area that will include several contracts for servicing. Each work crew is assigned to service one or more landscape maintenance contracts and is easily accessible to the supervisor.

The Account Manager is in daily communication with the Foreman/Field Supervisor personally or by cellular phone or radio to ensure that the schedule of work operations is followed in strict accordance with the guidelines of the contact. The Foreman/Field Supervisor routinely inspects the job site by walking it with his crew lead, identifying areas of concern and keeping the Account Manager, in charge of landscape maintenance operations, informed as to the condition of the sites in question. All work not in compliance in the opinion of the Account Manager will be addressed immediately through specific instructions to the foreman and crew to perform the corrective work.

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Work Methodology

Mariposa has reviewed the specifications necessary to provide landscape maintenance services for City parks. We have reviewed the specifications thoroughly and will adhere to the tasks that are detailed within them. We have a complete understanding of all the work that will be required of Mariposa Landscapes, Inc.

All workers/ crews assigned to the City of Banning contract will arrive at various locations within the city per the tasks and per the schedule (to be submitted upon start of contract).

- **General Maintenance** –Such tasks include trash/litter, visual inspections, leaf and debris control and any other tasks shall be performed by on-site worker(s) and/ or by a roaming crew(s)/personnel.
- **Specialty areas-**Tasks and less frequent tasks shall be performed by both the on-site workers and/or other Mariposa crew(s)/staff assigned to this contract.
- **General Turf/Grass Maintenance**- Such tasks include mowing, edging, detailing along with seasonal duties such as fertilization and weed control shall be performed by a designated mow crew, with additional personnel (if needed), per the agreed schedule.
- **Weed Control** – Manual weed control, along with chemicals, will be utilized for this contract. Any manual weed control shall be performed by the crew designated to this contract and any chemical application requiring certifications shall be performed by crew member(s) with proper qualifications (ie. QAC, QAL).
- **Landscape Maintenance**- Such tasks include tree, shrub, vine, and ground cover trimming and maintenance shall be performed by crew designated to the contract. The on-site crew will perform all aspects of the maintenance requirements.
- **Fertilization**- All fertilization shall be performed per the schedule. The City will be notified in advance of application days and locations. The crew assigned to the contract will be responsible for fertilization application and ensuring that the approved product type and rates are applied as per the City's requirements. All fertilizer application requirements will be performed to ensure that the fertilizer was applied and cleaned up properly. All applications will be recorded and identified per the city's requirements.
- **Pest & Rodent Control**- Such control shall be performed by crew member(s) with proper qualifications on an on-going basis or per the recommendations of our in-house PCA. We will utilize IPM per the City's requirements along with ensuring that all safety and regulatory measures are taken for the safety of the general public and for our employees. All required reports and recording of chemical use will be documented and submitted as required.

Our crews are trained and equipped with proper equipment to perform the landscape maintenances tasks per the specifications. Mariposa is committed to providing professional services that the City of Banning requires.

Mariposa Landscapes, Inc.

Below is a sample schedule
Final schedule to be submitted upon award of contract.

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Turf Areas	# of Frequencies	JANUARY				FEBRUARY				MARCH				APRIL				MAY				JUNE				JULY				AUGUST				SEPTEMBER				OCTOBER				NOVEMBER				DECEMBE			
		Week				Week				Week				Week				Week				Week				Week				Week				Week				Week				Week				Week			
		1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
Litter Control, All Areas, Liner Replacement	Daily	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Mowing	52 X year	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Edging & Detaling	52 X year	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Blowing	52 X year	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Sweeping	52 X year	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Broadleaf Control	2 X year									■																												■											
Pre-emergent application	3 X year										■											■													■													
Fertilizations	3 X year										■													■														■										
Aeration	2 X year					■					■													■														■										
Pest Monitoring	Monthly				■				■				■				■				■				■				■				■				■				■				■			
Irrigation System Inspections	Weekly	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■

Shrubs & G.C Areas	# of Frequencies	JANUARY				FEBRUARY				MARCH				APRIL				MAY				JUNE				JULY				AUGUST				SEPTEMBER				OCTOBER				NOVEMBER				DECEMBE			
		Week				Week				Week				Week				Week				Week				Week				Week				Week				Week				Week				Week			
		1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
Hedge Trimming	8 X year							■								■				■				■				■				■				■								■					
Ground-Covers Trimming	8 X year						■								■				■				■				■				■				■								■					
Ground-Covers Edging	8 X year						■								■				■				■				■				■				■								■					
Shrub Pruning	8 X year					■								■				■				■				■				■				■								■							
Deadheading & Cleaning	As Needed																																																
Weed Control	Monthly		■				■				■				■				■				■				■				■				■				■				■				■		
Fertilizations	2 X year										■																								■													
Pre-emergent application	3 X year										■												■												■													
Mulching Refreashing	Monthly			■				■				■				■				■				■				■				■				■				■				■				■	
Annual Color	4 X year									■												■												■								■							
Premium Color	1 X year																																					■											
Removal of Dead Plants	As Needed																																															
Trees & Shrubs Safety Clearance	Monthly			■				■				■				■				■				■				■				■				■				■				■				■	
Irrigation System Inspections	Weekly	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■

Hardscapes	# of Frequencies	JANUARY				FEBRUARY				MARCH				APRIL				MAY				JUNE				JULY				AUGUST				SEPTEMBER				OCTOBER				NOVEMBER				DECEMBER			
		Week				Week				Week				Week				Week				Week				Week				Week				Week				Week				Week				Week			
		1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
Safety Inspection and Reporting	Weekly	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Blowing	Weekly	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Weed Control	As Needed																																															
Pressure Washing (Optional, Extra)																																																
Pest Treatment (Optional, extra)																																																
Plant replacement (Optional, Extra)																																																

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Customer Service

Here at Mariposa Landscapes, Inc. we take pride in our work and thrive on keeping our company as one of the most recommended in the industry. Our steady record of customer satisfaction has allowed us to maintain positive relationships with our clients.

We bring decades of knowledge and in-depth experience to every landscape entrusted to our care. Building long-lasting relationships with our clients is important to us. We understand and respect our clients' goals and do everything in our power to ensure the well-being of their properties. We value open, honest communication, ongoing staff training, and new methods and technologies that will help us do the best job possible.

Service commitment to customers

- We believe that customer service is the most important aspect to our success.
- We provide courteous, responsive, high-quality service to our customers
- We seek innovative approaches to benefit our customer
- We listen to our customer and respond to suggestion and concerns with fairness and flexibility
- We respect our customer's privacy

Mariposa Landscapes, Inc. will communicate with the City of Banning before the work begins, during, and after the project is complete to insure that the City is completely satisfied with the services provided. In case of any complaint or irregularity, the Division manager will take immediate action to resolve any issues. Routine phone calls and emails will be used to track customer satisfaction.

We partner with our clients to achieve a common goal. From simple to complex projects, we coordinate our vast array of expertise to create the project our clients envision. We value open, honest communication, ongoing staff training, and new methods and technologies that will help us do the best job possible. We are open to working closely with the City of Banning and we welcome all feedback.

While we always appreciate the accolades we receive, seeing our customers enjoy a well-executed and thriving landscape is still the most rewarding part of our work.

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Staffing Plan

Staff chart below lists job titles, experience, and responsibility of those that will be assigned to this contract.

Mariposa Landscapes, Inc. is open to working close with the City of Banning. We have over four decades of experience working with many cities and counties alike. We

Job Title	Minimum Experience and Responsibility
Account Manager	Over 10 years of experience conducting and overseeing Public Works, Commercial and Residential landscape maintenance work in the landscape industry. Will be the primary contact with the City of Banning and will be responsible for all aspects of project management.
Foreman	Will have a minimum of 10 years of experience in all aspects of maintenance operations including carrying out weekly schedules, documenting, communicating work reports and hazardous conditions.
Spray Technician	Will be responsible for all spraying of pre- and post-emergent, insecticides as needed, broadleaf control and all other spraying tasks. They will report directly to Mariposa's Account Manager and the City of Banning representative.
Laborers	Will have minimum 3 years' experience in all aspects of maintenance operations.

Manpower schedules are established and adjusted regularly with changes made seasonally in accordance with contract specifications. Our employees are cross trained, and this enables us to effectively assign additional personnel, should there be a fluctuation in service needs.

All of Mariposa Landscapes, Inc. contracts are internally monitored against budgets. Our Invoices are generated internally per the terms of each contract. Should the City require additional services, Mariposa will provide a complete cost proposal and will require approval before starting any services outside of the contracted work.

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Organization Memberships and Staff Certification

We are dedicated to having the best-trained workforce in the industry. As members of the California Landscape Contractors Association, we participate in the training programs offered by this industry organization. The CLCA sponsors a rigorous "hands-on" test administered under actual field conditions. With only a 20% first time pass rate, only the best workers are able to obtain the designation of CLT or Certified Landscape Technician. All of the managers and supervisors in our company have the CLT designation. No other contractor of our size and diversity in Southern California has achieved this many certifications.

We are members of the following organizations:

- CACM (California Association of Community Managers)
- CAI Orange County (Community Association Institute)
- CAI Los Angeles (Community Associations Institute)
- CAI Greater Inland Empire (Community Association Institute)
- CAI Coachella Valley (Community Association Institute)
- ASA (American Subcontractors Association)
- BIA Southern California (Building Industry Association)
- BIA Orange County (Building Industry Association)
- BOMA IE (Building Owners and Managers Association)
- CLCA (California Landscape Contractors Association)
- ISA (International Society of Arboriculture)
- CAPCA (California Association of Pest Control Advisors)

Licensing and Certifications

- California Contractor License 592268 C27-Landscaping, Class A-Engineering, C31 Traffic Control, C61/D49 Tree Services
- Certified Arborists on staff
- Certified Tree Workers on staff
- Tree Work – Line Clearance Certified
- Tree Work – Line Clearance Certified Instructor
- Certified Water Auditor
- Certified Backflow Inspectors
- Licensed Pest Control Company/Pest Control Advisor
- Certified Pest Control Applicators on staff

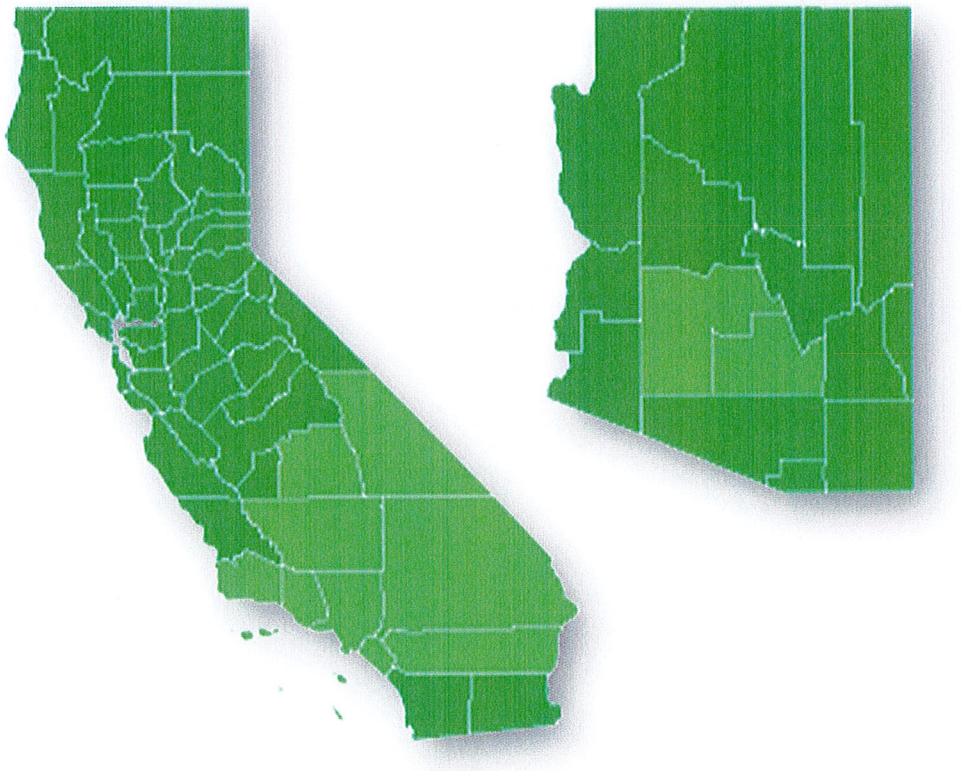
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Location

Mariposa Landscapes, Inc. is a licensed contractor working in both Southern California and Arizona. We have numerous strategically located yards and offices to efficiently service our contracts. We can provide quick response times for additional and emergency services.

Mariposa owns 90% of all vehicles and equipment used in its operations. Our entire fleet of equipment is less than 5 years old and well maintained by our in-house mechanics who can respond to emergencies immediately and a depth of replacement equipment that will allow us to stay consistent with our schedules.

This contract will be serviced from our Bermuda Dunes yard location which is located minutes from the City of Banning.



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Innovation

Mariposa Landscapes Inc. understands the importance of Innovation in our trade, particularly with landscape maintenance services. Innovative options are always nurtured and encouraged by management.

Equipment, methods, and ideas are brought to the attention of the Mariposa Management Team on a regular basis. This provides an opportunity for the team to consider new options in all aspects of our business.

Historically, Mariposa has developed several innovative approaches to providing services and reporting to our customers. These have included some programs mentioned elsewhere in this document such as our Quality Control program, uniquely designed to catch issues, correct, and follow up.

Water conservation is key for all property owners, particularly in California. Mariposa has established an innovative partnership with Weathermatic. This company provides cutting edge ET based irrigation controllers nationwide. We are able to offer this product to replace existing older technology controllers, with significant water savings in every case.

At Mariposa Landscapes Inc. we value and expect the highest levels of Horticultural expertise. The owner and President of Mariposa, Terry Noriega, founded one of the premier native and drought tolerant plant nurseries in Southern California, El Nativo Growers, Inc.

As a landscape maintenance service provider, it is critical for Mariposa to stay in the forefront of understanding standards of care for emerging types of plants for use in landscapes.

Mariposa Landscapes Inc. is committed to continued improvements to minimize our equipment impacts on the environment. This takes continued study and testing by our Fleet Management team, to identify viable options and test productivity.

One of the most promising recent innovations being considered, is expanding the use of electric equipment. We have many electric blowers and string trimmers in use, although battery life is still a challenge for consistent commercial use. Concurrently, we have tested several electric powered mowers with promising results.

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References

Here at Mariposa Landscapes, Inc. we take pride in our work and thrive on keeping our company as one of the most recommended in the industry. Our steady record of customer satisfaction has allowed us to maintain positive relationships with our clients. Below are cities for which we provide landscape maintenance services similar to those listed within the RFP.

Additional references are available upon request.

Name:	City of Newport Beach	**Contact:**	Kevin Pekar
Phone:	(949) 644-3069	**Email:**	kpekar@newportbeachca.gov
Address:	592 Superior Ave, Newport Beach, CA 92660	**Contract Term:**	Current
Description:	Landscape maintenance- Irrigation maintenance, turf maintenance, groundcover maintenance, shrub, vine and tree maintenance, hardscape maintenance, sand/wood chip area maintenance, drinking fountain maintenance. Specialty/sports atheletic area maintenance.		

Name:	City of Tustin	**Contact:**	Christine Zepeda
Phone:	(714) 573-3147	**Email:**	czepeda@tustinca.org
Address:	300 Centennial Way, Tustin, CA 92780	**Contract Term:**	Current
Description:	Landscape maintenance of City LMD areas, parks, medians and facilities. Duties include mowing, turf maintenance, pest control, litter removal, Irrigation system maintenance monitoring, fertilization, Aerification dethatching, weed control, pruning/shrubs, vine care and ground cover.		

Name:	City of Palm Desert	**Contact:**	Randy Chavez
Phone:	(760) 902-9064	**Email:**	rchavez@cityofpalmdesert.org
Address:	73-510 Fred Waring Dr., Palm Desert, CA 922(	**Contract Term:**	Current
Description:	Landscape maintenance. Duties inclcude litter control, plant maintenance, tree maintenance, turf maintenance, hardscape maintenance and irrigatin maintenance.		

Name:	Coachella Valley Water District	**Contact:**	Mike Munoz
Phone:	(760) 578-6471	**Email:**	mmunoz@cvwd.org
Address:	51501 Tyler St., Coachella, CA 92236	**Contract Term:**	Current
Description:	Landscape services of 40 District sites around the Valley: Services include plant litter, trash control, weed control, pest control, plant maintenance, tree maintenance, hardscape maintenance, planter maintenance and irrigation system maintenance.		

Name:	City of Rancho Cucamonga	**Contact:**	Steve Relph
Phone:	(909) 477-2730 *4116	**Email:**	steve.relph@cityofrc.us
Address:	9153 9th St., Rancho Cucamonga, CA 91730	**Contract Term:**	Current
Description:	Landscape Maintenance of Medians and Parkways: Shrub, groundcover, vine and landscape mulch maint., tree maintenance, pest control, hardscape maintenace, restroom maintenance and drinking fountain maint.		

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Evidence of Insurance- General Liability

ACORD

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 04/06/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER FEDERATED MUTUAL INSURANCE COMPANY HOME OFFICE: P.O. BOX 328 OWATONNA, MN 55060	CONTACT NAME: CLIENT CONTACT CENTER PHONE (A/C, No, Ext): 888.333.4949 FAX (A/C, No): 507.446.4664 E-MAIL ADDRESS: CLIENTCONTACTCENTER@FEDINS.COM
INSURED 171235.5 MARIPOSA LANDSCAPES INC 8212 SANTOS DIAZ ST IRWINDALE, CA 91702-3207	INSURER(S) AFFORDING COVERAGE — NAIC # INSURER A: FEDERATED SERVICE INSURANCE COMPANY — 28304 INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:

COVERAGES — CERTIFICATE NUMBER: 0 — REVISION NUMBER: 0

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY PRO-JECT LOC OTHER:	N	N	6069499	04/01/2020	04/01/2021	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$1,000,000 $100,000 EXCLUDED $1,000,000 $2,000,000 $2,000,000
A	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY HIRED AUTOS ONLY SCHEDULED AUTOS NON-OWNED AUTOS ONLY	N	N	6069499	04/01/2020	04/01/2021	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$1,000,000
A	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED RETENTION	N	N	6069500	04/01/2020	04/01/2021	EACH OCCURRENCE AGGREGATE	$10,000,000 $10,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Any PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y / N / N/A					PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

THIS COPY IS NOT TO BE REPRODUCED FOR ISSUANCE OF CERTIFICATES.

CERTIFICATE HOLDER	CANCELLATION
08 A CERTIFICATE HAS BEEN FILED WITH EACH OF YOUR CERTIFICATE HOLDERS.	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE Michael G Kern

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Evidence of Insurance- Workers Compensation

ACORD

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 03/27/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: Tami Mason	
Global Risk, LLC 800 Wilshire Blvd., Second Floor Los Angeles CA 90017	PHONE (A/C, No, Ext): (213) 550-2253	FAX (A/C, No): (213) 550-2258
	E-MAIL ADDRESS: tmason@globalriskcap.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A: Sentry Casualty Company	28460
INSURED Mariposa Landscapes, Inc. 6232 Santos Diaz St. Irwindale CA 91702	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES CERTIFICATE NUMBER: Cert ID 308 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$
	CLAIMS-MADE OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$
							MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$
	POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$
	OTHER:							$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$
	ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB OCCUR						EACH OCCURRENCE	$
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	$
	DED RETENTION $							$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N: Y If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	Y	90-20720-01 00 191	04/01/2020	04/01/2021	X PER STATUTE / OTH-ER	
							E.L. EACH ACCIDENT	$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE	$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	$ 1,000,000
								$
								$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Proof of Insurance Only!

CERTIFICATE HOLDER	CANCELLATION
Mariposa Landscapes Inc. 15529 Arrow Highway Irwindale CA 91706	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE: Tami Mason

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Proposal Forms (Exhibit A)

Please note that all required Proposal Forms have been uploaded as a separate attachment.

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OUR VALUES ARE...



Safety Being the primary foundation of our company. We emphasize "safety first" on every worksite and in all our training programs. Our employees are taught to be aware of, and responsible for, safety at all times. We strive to prevent injuries and accidents and provide a safe environment for staff and customers alike.

Teamwork We work together, seeking input from all team members to organize our efforts for the greater good. We always remain open to change, embracing new methods and techniques to achieve the highest levels of quality and efficiency. We are considerate of team members, provide support, and encourage their growth, resulting in the ultimate outcome for the team.

Quality We are committed to bringing the best possible quality for our customers and their properties and projects. We provide prompt service, expert workmanship, and superior products. We take pride in meeting or exceeding expectations. Our ultimate goal is to deliver excellent value for our clients' investment.

Integrity We are honest and open in our communications, building deep trust and confidence in all of our relationships. We value the dedication and contribution of each person. The overall well-being of our employees, customers and vendors is important to us.

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AMENDMENT NO. 1 TO AGREEMENT FOR CONTRACT SERVICES (C00698) FOR LANDSCAPE MAINTENANCE SERVICES FOR CITY PARKS BETWEEN CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

THIS AMENDMENT NO. 1 TO THE AGREEMENT FOR LANDSCAPE MAINTENANCE SERVICES FOR CITY PARKS ("Amendment No. 1") by and between the **CITY OF BANNING** ("CITY") and **MARIPOSA LANDSCAPES, INC.** ("Contractor") is effective as of this day: August 2, 2022.

RECITALS

A. On February 23, 2021, CITY awarded a Landscape Maintenance Agreement to Mariposa Landscapes, Inc. The Agreement provided that Contractor would provide those services specified in the Agreement and in the Scope of Services attached to the Agreement as Exhibit "A-1". The Agreement included a Schedule of Compensation attached as Exhibit "C" which specified that Contractor's total compensation would not exceed One Hundred and Six Thousand Three Hundred and Fifty-Two Dollars ($106,352), which included a 10% contingency for additional work.

B. On March 22, 2021, the CITY and Mariposa Landscapes Inc., executed the Landscape Maintenance Agreement for City Parks – (C00698)

C. On May 10, 2022, City adopted City Council Resolution No. 2022-56, which authorized the First Amendment of the Agreement to extend the term for an additional one-year term to expire June 30, 2023 and increase compensation for services provided under the Agreement to an amount that shall not exceed One-Hundred One Thousand, Six-Hundred Thirty Eight Dollars and Eighty cents ($101,638.80).

TERMS

1. **Contract Changes**. The Agreement is amended as follows:

Section 2.1 of the Agreement is amended to read as follows:

(a) 2.1. Contract Sum.

Subject to any limitations set forth in this Agreement, City agrees to pay Contractor a monthly amount of Seven Thousand Six Hundred

Ninety-Nine Dollars and ninety-one cents ($7,699.91) for twelve (12) months through June 30, 2023. Additionally, the City may authorize extra work for services not included in the agreed Scope of Services of a not to exceed amount of Nine Thousand Two Hundred and Thirty-Nine dollars and eighty-nine cents ($9,239.89) for a total not to exceed amount of One Hundred and One Thousand Six Hundred and Thirty-Eight Dollars and eighty cents ($101,638.80) The total compensation, including reimbursement for actual expenses, from April 1, 2021 through June 30, 2023, shall not exceed Two Hundred and Seven Thousand Nine Hundred and

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Ninety dollars and eighty cents ($207,990.80) (the "Contract Sum"), unless additional compensation is approved pursuant to Section 1.10.

(b) Section 3.1, "Term" of the Agreement is amended read as follows:

3.1 Term.

Unless earlier terminated in accordance with Article 7 of this Agreement, the term of this Agreement shall be extended upon execution by both Parties and shall expire on June 30, 2023.

2. **Continuing Effect of Agreement.** Except as amended by this Amendment No. 1, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement and all amendments thereto.

3. **Affirmation of Agreement; Warranty Re Absence of Defaults.** City and Contractor each ratify and reaffirm each and every one of the respective rights and obligations arising under the Agreement. Each party represents and warrants to the other that there have been no written or oral modifications to the Agreement other than as provided herein. Each party represents and warrants to the other that the Agreement is currently an effective, valid, and binding obligation.

Contractor represents and warrants to City that, as of the date of this Amendment No. 1, City is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

City represents and warrants to Contractor that, as of the date of this Amendment No. 1, Contractor is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

4. **Adequate Consideration.** The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment No. 1.

5. **Authority.** The persons executing this Amendment No. 1 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 1 on behalf of said party, (iii) by so executing this Amendment No. 1, such party is formally bound to the provisions of this Amendment No. 1, and (iv) the entering into this Amendment No. 1 does not violate any provision of any other Agreement to which said party is bound.

[SIGNATURES ON FOLLOWING PAGE]

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IN WITNESS WHEREOF the Parties hereto have executed this Agreement the day and year first hereinabove written.

CITY OF BANNING

DocuSigned by:
Doug Schulze
0AD14BA217CE497...
8/2/2022

Douglas Schulze, Date
City Manager

ATTEST:

DocuSigned by:
Caroline Patton
72C57B436CA24C7...
8/2/2022

Caroline Patton Date
Deputy City Clerk

APPROVED AS TO FORM:
Richards, Watson & Gershon

DocuSigned by:
Kevin Ennis
940BF72E964348C...
8/1/2022

Kevin G. Ennis, Esq., Date
City Attorney

CONSULTANT

DocuSigned by:
Terry Noriega
073E1ED56B0840B...
8/1/2022

NAME: Terry Noriega Date
TITLE: President

NAME: Date
TITLE:

95-4245898
Tax ID No.

Address:
6232 Santos Diaz Street
Irwindale, CA 91702

City Council Approval: May 10, 2022

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

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CITY OF BANNING
STAFF REPORT

TO: **CITY COUNCIL**

FROM: **Douglas Schulze, City Manager**

PREPARED BY: **Ralph Wright, Parks and Recreation Director**

MEETING DATE: **May 10, 2022**

SUBJECT: **Consideration of Resolution 2022-56, Approving Amendment No. 1 to the Agreement with Mariposa Landscapes, Inc. for City Parks Landscape Maintenance in Fiscal Year 2022-23 for a Not-to-Exceed Amount of $101,639**

RECOMMENDATION:

City Council Adopt Resolution 2022- 56

1. Approving the extension and amendment of the Landscape Maintenance contract for City parks with Mariposa Landscapes, Inc., for fiscal year 2022/2023 for a not-to-exceed amount of $101,638.80

2. Authorizing the City Manager or his designee to execute the Amendment No. 1 to the Landscape Maintenance Agreement (C00698) for City Parks with Mariposa Landscapes, Inc., for the renewal term of July1, 2022 through June 30, 2023.

3. Authorizing the City Manager or designee to make necessary budget adjustments, appropriations and transfers related to the agreement for Landscape Maintenance of City Parks.

BACKGROUND:

On December 29, 2020 an RFP for Parks Landscape Maintenance was released through the ProcureNow purchasing system used by the City. In response, five (5)proposals were received. A committee consisting of three (3) members was assembled to evaluate the proposals based on five categories: qualifications, pricing, experience, professional references, and approach and methodology. After each member of the panel evaluated all proposals, the proposing firms were ranked in order and the top two firms were selected for an interview. Mariposa Landscapes Inc. was the top ranked vendor after the initial proposal review and selected for an interview. After review of the proposals and subsequent interviews, Mariposa Landscapes, Inc., was unanimously selected as the chosen service provider.

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On February 23, 2021, The City Council of the City of Banning awarded a contract agreement with Mariposa Landscapes, Inc., in the amount of $96,684.00 to cover monthly service costs, with a 10% contingency to allow for additional work and irrigation repair services as needed, for a total not to exceed $106,352.

After the Council approval, Mariposa Landscape Inc., informed the City that there was a significant error in their proposal as the total compensation amount was based on a twelve-month calendar rather than the requested fifteen-month contract term and their monthly proposal less additional work should have been $8,057.00 per month rather than the $6,445.60 per month that was included in their proposal. After discussions between the Purchasing Division, Mariposa agreed to move forward within the awarded total monthly contract amount of $7,090.16. The adjusted monthly amount did not change the placement of Mariposa landscapes, Inc., as compared to the other submitted proposals and therefore the City and Mariposa Landscapes Inc., executed the Parks Landscape Maintenance Agreement (C00698)

The original agreement allows for four (4) one-year extensions if the services are provided satisfactorily as per the agreed upon scope of services. Mariposa Landscapes Inc., has exceeded the expectations with regard to their service over the length of the original contract term, noticeably improving the parks overall aesthetic look and turf management. Additionally, Mariposa Landscapes Inc., has been very responsive to questions and provided ideas for improvements over the last year.

For those reasons stated, it is staff's recommendation that the city authorize Amendment No. 1, to the Parks Landscape Maintenance contract with Mariposa Landscape Inc., for Fiscal Year 2022-23, for the term of July 1, 2022 through June 30, 2023.

Pursuant to Section 2.1 of the original agreement, the total compensation can be adjusted to reflect the annual changes in the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index (CPI) Riverside – San Bernardino – Ontario Area. For the period from March 2020 to March 2021, the CPI was at 8.6%. Reflecting the CPI rate of 8.6%, the monthly service rate will increase from $7,090.16 to $7,699.91.

JUSTIFICATION:

The Parks and Recreation Department does not have the required staff needed to perform the scope of work included in the Scope of Services and maintain the current service levels of our parks, therefore; it is necessary to retain a landscape maintenance contractor to provide these services. Mariposa Landscapes, Inc. came to the city highly as a highly respected vendor and has performed above expectations.

FISCAL IMPACT:

The total annual compensation of $92,398.92 as well as the 10% contingency amount for additional work results in the Not to Exceed amount of $101,638.80. The funding for

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parks landscape maintenance will be fully funded within the parks operational budget account 001-3600-461.23.-29.

ALTERNATIVES:

The City Council may choose to reject this action which would result in a significant reduction in Parks landscape maintenance. The City does not have staff resources to perform the landscape maintenance included in the scope of work.

ATTACHMENTS:

1. Resolution 2022-56
   https://banningca.gov/DocumentCenter/View/10468/Att-1-Resolution-2022-56-Mariposa-Landscapes-Amendment-No-1

2. Scope of Work
   https://banningca.gov/DocumentCenter/View/10469/Att-2-Scope-of-Work-from-RFP-20-035

3. Draft Amendment No. 1 to Agreement
   https://banningca.gov/DocumentCenter/View/10465/Att-3-Draft-Amendment-1

4. Mariposa Landscapes Inc., Original Proposal
   https://banningca.gov/DocumentCenter/View/10466/Att-4-Mariposa-Landscape-Inc---Proposal

5. Amendment No. 1
   https://banningca.gov/DocumentCenter/View/10467/Att-5-Mariposa-Landscapes-Original-Agreement

Approved by:

Douglas Schulze
City Manager

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RESOLUTION 2022-56

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING AMENDMENT NO. 1 TO THE AGREEMENT WITH MARIPOSA LANDSCAPES, INC. FOR LANDSCAPE MAINTENACE OF CITY PARKS FOR FISCAL YEAR 2022/2023 IN AN AMOUNT NOT-TO-EXCEED $101,638.80

WHEREAS, the Parks and Recreation Department does not have the required staff needed to provide parks landscape maintenance for City parks; therefore, it is necessary to retain a landscape maintenance service provider to effectively, efficiently and safely maintain the current service level for City parks; and

WHEREAS, at the regularly scheduled meeting on February 23, 2022, the City Council awarded a Park's Landscape maintenance contract (C00698) to Mariposa landscapes, Inc., for maintenance of City Parks; and

WHEREAS, the initial Agreement for maintenance of the City Parks was for a term of fifteen (15) months with four (4), one (1) year renewal options upon satisfactory review of the previously provided services; and

WHEREAS, the original contract was in the amount of $96,684, with a 10% contingency, for a total not to exceed amount of $106,352; and

WHEREAS, Mariposa Landscape Services, Inc., has provided satisfactory service to the City over the term of the initial contract; and

WHEREAS, the Contract Agreement with Mariposa Landscapes, Inc., provides an option to renew at the annual rate plus the annexed CPI for the previous year for up to four (4) additional years upon satisfactory review of the previously provided services; and

WHEREAS, staff recommends the continuation of Mariposa Landscape, Inc., services for Fiscal Year 2022/2023.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. Amendment No. 1 to the Agreement between the City of Banning and Mariposa Landscapes, Inc, is approved for an additional one (1) year term from July 1, 2022 to June 30, 2023 in the not to exceed amount of $101,6383.80 including a 10% contingency for additional work not included in the scope of services.

SECTION 2. That the City Manager or his designee is authorized to make all necessary budget adjustments, appropriations and transfers related to the agreement for Landscape Maintenance of City parks.

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SECTION 3. That the City Manager is authorized to execute Amendment No. 1 with Mariposa Landscapes, Inc.

SECTION 4. The City Clerk shall certify to the adoption of this Resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 10th day of May 2022.

Kyle Pingree, Mayor
City of Banning

ATTEST:

Caroline Patton, Deputy City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

Kevin G. Ennis, City Attorney
Richards, Watson & Gershon

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CERTIFICATION:

I, Caroline Patton, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2022-56, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 10th day of May 2022 by the following vote, to wit:

AYES: Hamlin, Happe, Pingree, Sanchez, and Wallace.

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Deputy City Clerk
City of Banning, California

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AGREEMENT FOR CONTRACT SERVICES (C00698)

FOR LANDSCAPE MAINTENANCE SERVICES FOR CITY PARKS

By and Between

THE CITY OF BANNING,
A MUNICIPAL CORPORATION

and

MARIPOSA LANDSCAPES, INC.

a California corporation

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AGREEMENT FOR CONTRACT SERVICES (C00698) FOR LANDSCAPE MAINTENANCE SERVICES FOR CITY PARKS BY AND BETWEEN CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

THIS AGREEMENT FOR CONTRACT SERVICES (herein" Agreement") is made and entered into this day: 3/22/2021, by and between the **CITY OF BANNING**, **a municipal corporation** ("City") and **MARIPOSA LANDSCAPES, INC., a California corporation** and licensed contractor (California License Number 592268) ("Contractor"). City and Contractor are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties."

RECITALS

A. City has sought, by issuance of a Request for Proposals (RFP No. 20-035), the performance of the Services defined and described particularly in Article 1 of this Agreement, including turf management; shrub bed maintenance; tree care and pruning; fertilization; environmental weed and pest control program; and irrigation equipment and operations at the following locations: Dysart Park, Lion's Park, Repplier Park, Roosevelt Williams Park, and Sylvan Park.

B. Contractor, following submission of a proposal or bid for the performance of the Services defined and described particularly in Article 1 of this Agreement, was selected by the City to perform those Services.

C. On February 23, 2021, City Council approved the award and execution of this Agreement.

D. Pursuant to the City of Banning's Municipal Code, City has authority to enter into this Agreement.

E. The Parties desire to formalize the selection of Contractor for performance of those Services defined and described particularly in Section 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1. SERVICES OF CONTRACTOR

1.1 Scope of Services.

In compliance with all terms and conditions of this Agreement, the Contractor shall provide those Services specified in the "Scope of Services" attached hereto as Exhibit "A" and "A-1" and incorporated herein by this reference, which Services may be referred to herein as the "Services" hereunder. As a material inducement to the City entering into this Agreement, Contractor represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the Services required under this Agreement in a thorough, competent, and

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professional manner, and is experienced in performing the Services contemplated herein. Contractor shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all Services described herein. Contractor covenants that it shall follow the highest professional standards in performing the Services required hereunder and that all materials will be of good quality, fit for the purpose intended. For purposes of this Agreement, the phrase "highest professional standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

1.2 Order of Precedence.

The Scope of Services shall include City's Request for Proposals ("RFP") and the Contractor's Response to the City's RFP ("Response") which shall be incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the terms of this Agreement and the RFP or Response, the terms of this Agreement shall govern. In the event of any inconsistency between the terms of the City's RFP and the Contractor's Response, the City's RFP shall govern.

1.3 Compliance with Law.

Contractor shall keep itself informed concerning, and shall render all Services hereunder in accordance with all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered.

1.4 Licenses, Permits, Fees and Assessments.

Contractor shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the Services required by this Agreement. Contractor shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Contractor's performance of the Services required by this Agreement, and shall indemnify, defend and hold harmless City, its officers, employees or agents of City, against any such fees, assessments, taxes penalties or interest levied, assessed or imposed against City hereunder.

1.5 Familiarity with Services.

By executing this Agreement, Contractor warrants that Contractor (i) has thoroughly investigated and considered the Scope of Services to be performed, (ii) has carefully considered how the Services should be performed, and (iii) fully understands the facilities, difficulties and restrictions attending performance of the Services under this Agreement. If the Services involve work upon any site, Contractor warrants that Contractor has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of Services hereunder. Should the Contractor discover any latent or unknown conditions, which will materially affect the performance of the Services hereunder, Contractor shall immediately inform the City of such fact and shall not proceed except at Consultant's risk until written instructions are received from the Contract Officer.

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1.6 Prevailing Wages.

Contractor is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 1600, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "Public Works" and "Maintenance" projects. If the Services are being performed as part of an applicable "Public Works" or "Maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is $1,000.00 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. City shall provide Contractor with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Contractor's principal place of business and at the project site. Contractor shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

1.7 Additional Services.

City shall have the right at any time during the performance of the Services, without invalidating this Agreement, to order extra Services beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said Services. No such extra Services may be undertaken unless a written order is first given by the Contract Officer to the Contractor, incorporating therein any adjustment in (i) the Contract Sum, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Contractor. Any increase in compensation of up to ten percent (10%) of the Contract Sum, or $25,000, whichever is less; or in the Schedule of Performance of up to one hundred eighty (180) days may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively must be approved by the City Council. It is expressly understood by Contractor that the provisions of this Section shall not apply to Services specifically set forth in the Scope of Services or reasonably contemplated therein. Contractor hereby acknowledges that it accepts the risk that the Services to be provided pursuant to the Scope of Services may be more costly or time consuming than Contractor anticipates and that Contractor shall not be entitled to additional compensation therefor.

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, City agrees to pay Contractor the sum of NINETY SIX THOUSAND, SIX HUNDRED AND EIGHTY FOUR DOLLARS ($96,684.00) (the "Contract Sum") annually, unless additional compensation is approved pursuant to Section 1.7.

Compensation may be adjusted annually on July 1st of each year, or during the term of the Contract Agreement to reflect annual changes in the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index Riverside-San Bernardino-Ontario Area, or any successor index agreed upon by the City and Contractor, as set forth over the previous available twelve (12) months prior to the date of adjustment.

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2.2 Invoices.

Each month Contractor shall furnish to City an original invoice for all Services performed and expenses incurred during the preceding month in a form approved by City's Director of Finance. The invoice shall detail charges for all necessary and actual expenses by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-contractor charges. Sub-contractor charges shall also be detailed by such categories.

City shall independently review each invoice submitted by the Contractor to determine whether the Services performed and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for Services performed or expenses incurred by Contractor which are disputed by City, or as provided in Section 7.3. City will use its best efforts to cause Contractor to be paid within forty-five (45) days of receipt of Contractor's correct and undisputed invoice(s). In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Contractor for correction and resubmission.

ARTICLE 3. TERM

3.1 Term.

Unless earlier terminated in accordance with Article 7 of this Agreement, the term of this Agreement shall commence on April 1, 2021 and shall expire on June 30, 2022. This Agreement shall include the option to extend for four (4) additional one-year terms if agreed to in writing in advance by both Parties.

ARTICLE 4. COORDINATION OF SERVICES

4.1 Representatives and Personnel of Contractor.

The following principal of Contractor (Principal) is hereby designated as being the principal and representative of Contractor authorized to act in its behalf with respect to the Services specified herein and make all decisions in connection therewith.

Terry Noriega, President

4.2 Representative Name, Title.

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principal was a substantial inducement for City to enter into this Agreement. Therefore, the foregoing principal shall be responsible during the term of this Agreement for directing all activities of Contractor and devoting sufficient time to personally supervise the Services hereunder. All personnel of Contractor, and any authorized agents, shall at all times be under the exclusive direction and control of the Principal. For purposes of this Agreement, the foregoing Principal may not be replaced nor may their responsibilities be substantially reduced by Contractor without the express written approval of City. Additionally, Contractor shall make every reasonable effort to maintain the stability and continuity of Contractor's staff and subcontractors, if any, assigned to perform the Services required under this Agreement. Contractor shall notify City of any changes in Contractor's staff and subcontractors, if any, assigned to perform the Services required under this Agreement, prior to and during any such performance.

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4.3 Status of Contractor.

Contractor shall have no authority to bind City in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City. Contractor shall not at any time or in any manner represent that Contractor or any of Contractor's officers, employees, or agents are in any manner officials, officers, employees or agents of City. Neither Contractor, nor any of Contractor's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Contractor expressly waives any claim Contractor may have to any such rights.

4.4 Contract Officer.

The Contract Officer shall be such person as may be designated by the City Manager. It shall be the Contractor's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the Services and the Contractor shall refer any decisions which must be made by City to the Contract Officer. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of the City required hereunder to carry out the terms of this Agreement.

4.5 Independent Contractor.

Neither the City nor any of its employees shall have any control over the manner, mode or means by which Contractor, its agents or employees, perform the Services required herein, except as otherwise set forth herein. City shall have no voice in the selection, discharge, supervision or control of Contractor's employees, servants, representatives or agents, or in fixing their number, compensation or hours of service. Contractor shall perform all Services required herein as an independent contractor of City and shall remain at all times as to City a wholly independent contractor with only such obligations as are consistent with that role. Contractor shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. City shall not in any way or for any purpose become or be deemed to be a partner of Contractor in its business or otherwise or a joint venturer or a member of any joint enterprise with Contractor.

4.6 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Contractor, its principals and employees were a substantial inducement for the City to enter into this Agreement. Therefore, Contractor shall not contract with any other entity to perform in whole or in part the Services required hereunder without the express written approval of the City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty-five percent (25%) of the present ownership and/or control of Contractor, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release the Contractor or any surety of Contractor of any liability hereunder without the express consent of City.

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ARTICLE 5. INSURANCE, INDEMNIFICATION AND BONDS

5.1 Insurance Coverages.

Throughout the life of this Agreement, Contractor shall pay for and maintain in full force and effect all policies of insurance required hereunder with an insurance company(ies) that meet the standards specified in Section 5.5. The following policies of insurance are required:

(i) COMMERCIAL GENERAL LIABILITY insurance which shall be at least as broad as the most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01 and include insurance for "bodily injury," "property damage" and "personal and advertising injury" with coverage for premises and operations (including the use of owned and non-owned equipment), products and completed operations, and contractual liability (including, without limitation, indemnity obligations under the Contract) with limits of liability of not less than the following:

$1,000,000 per occurrence for bodily injury and property damage

$1,000,000 per occurrence for personal and advertising injury

$2,000,000 aggregate for products and completed operations

$2,000,000 general aggregate

(ii) COMMERCIAL AUTOMOBILE LIABILITY insurance which shall be at least as broad as the most current version of Insurance Service Office (ISO) Business Auto Coverage Form CA 00 01, and include coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1 Any Auto) with limits of liability of not less than $1,000,000 per accident for bodily injury and property damage.

(iii) WORKERS' COMPENSATION insurance as required under the California Labor Code.

(iv) EMPLOYERS' LIABILITY insurance with limits of liability of not less than $1,000,000 each accident, $1,000,000 disease policy limit and $1,000,000 disease each employee.

In the event Contractor purchases an Umbrella or Excess insurance policy(ies) to meet the minimum limits of insurance set forth above, this insurance policy(ies) shall "follow form" and afford no less coverage than the primary insurance policy(ies).

If this Agreement continues for more than three (3) years duration, or in the event the City Manager or his/her designee determines that the work or Services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Contractor agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from the City Manager, or his/her designee.

Contractor shall be responsible for payment of any deductibles contained in any insurance policies required hereunder and Contractor shall also be responsible for payment of any self-insured retentions.

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Any deductibles or self-insured retentions must be declared to, and approved by, the City Manager or his/her designee. At the option of the City Manager or his/her designee, either: (i) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to City, its Council members, officers, officials, employees and agents; or (ii) Contractor shall provide a financial guarantee, satisfactory to the City Manager or his/her designee, guaranteeing payment of losses and related investigations, claim administration and defense expenses. At no time shall the City be responsible for the payment of any deductibles or self-insured retentions.

5.2 General Requirements.

All policies of insurance required hereunder shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after 30 calendar day written notice has been given to City. Upon issuance by the insurer, broker, or agent of a notice of cancellation, non-renewal, or reduction in coverage or in limits, Contractor shall furnish City with a new certificate and applicable endorsements for such policy(ies). In the event any policy is due to expire during the work to be performed for City, Contractor shall provide a new certificate, and applicable endorsements, evidencing renewal of such policy not less than 15 calendar days prior to the expiration date of the expiring policy.

The General Liability and Automobile Liability insurance policies shall be written on an occurrence form. The General Liability (including ongoing and completed operations) and Automobile Liability shall name City and its officers, officials, employees, agents and volunteers as an additional insured. Such policy(ies) of insurance shall be endorsed so Contractor's insurance shall be primary and no contribution shall be required of City. The coverage shall contain no special limitations on the scope of protection afforded to the City and its officers, officials, employees, agents and volunteers. The Workers' Compensation insurance policy shall contain a waiver of subrogation as to City and its officers, officials, employees, agents and volunteers. Should Contractor maintain insurance with broader coverage and/or limits of liability greater than those shown above, City requires and shall be entitled to the broader coverage and/or the higher limits of liability maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.

Contractor shall furnish City with all certificate(s) and applicable endorsements effecting coverage required hereunder. All certificates and applicable endorsements are to be received and approved by the City Manager or his/her designee prior to City's execution of the Agreement and before work commences.

If at any time during the life of this Agreement or any extension, Contractor or any of its subcontractors fail to maintain any required insurance in full force and effect, all work under this Agreement shall be discontinued immediately, and all payments due or that become due to Contractor shall be withheld until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to City. Any failure to maintain the required insurance shall be sufficient cause for City to terminate this Agreement. No action taken by City hereunder shall in any way relieve Contractor of its responsibilities under this Agreement.

Upon request of City, Contractor shall immediately furnish City with a complete copy of any insurance policy required under this Agreement, including all endorsements, with said copy certified by the underwriter to be a true and correct copy of the original policy. This requirement shall survive expiration or termination of this Agreement.

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The fact that insurance is obtained by Contractor shall not be deemed to release or diminish the liability of Contractor, including, without limitation, liability under the indemnity provisions of this Agreement. The duty to indemnify City and its officers, officials, employees, agents and volunteers shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Contractor. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of Contractor, its principals, officers, employees, agents, persons under the supervision of Contractor, vendors, suppliers, invitees, subcontractors, or anyone employed directly or indirectly by any of them.

If Contractor should subcontract all or any portion of the Services to be performed under this Agreement, Contractor shall require each subcontractor to provide insurance protection in favor of City and its officers, officials, employees, agents and volunteers in accordance with the terms of each of the preceding paragraphs, except that the subcontractors' certificates and endorsements shall be on file with Contractor and City prior to the commencement of any work by the subcontractor.

5.3 Indemnification, Hold Harmless, and Duty to Defend.

A. Indemnities.

1) To the fullest extent permitted by law, Contractor shall, at its sole cost and expense, defend, hold harmless and indemnify City and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, assigns and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees"), from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith and the payment of all consequential damages (collectively "Liabilities"), in law or equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Contractor, its officers, agents, servants, employees, subcontractors, materialmen, Contractors or their officers, agents, servants or employees (or any entity or individual that Contractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties. Contractor shall defend the Indemnitees in any action or actions filed in connection with any Liabilities with counsel of the Indemnitees' choice, and shall pay all costs and expenses, including all attorneys' fees and experts' costs actually incurred in connection with such defense. Contractor shall reimburse the Indemnitees for any and all legal expenses and costs incurred by Indemnitees in connection therewith.

2) Contractor shall pay all required taxes on amounts paid to Contractor under this Agreement, and indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Contractor shall fully comply with the workers' compensation law regarding Contractor and Contractor's employees. Contractor shall indemnify and hold City harmless from any failure of Contractor to comply with applicable workers' compensation laws. City may offset against the amount of any fees due to Contractor under this Agreement any amount due to City from Contractor as a result of Contractor's failure to promptly pay to City any reimbursement or indemnification arising under this subparagraph A.2).

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3) Contractor shall obtain executed indemnity agreements with provisions identical to those in this Section from each and every subcontractor or any other person or entity involved by, for, with or on behalf of Contractor in the performance of this Agreement. If Contractor fails to obtain such indemnity obligations, Contractor shall be fully responsible and indemnify, hold harmless and defend the Indemnitees from and against any and all Liabilities at law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Contractor's subcontractor, its officers, agents, servants, employees, subcontractors, materialmen, Contractors or their officers, agents, servants or employees (or any entity or individual that Contractor's subcontractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties.

B. Workers' Compensation Acts not Limiting. Contractor's indemnifications and obligations under this Section, or any other provision of this Agreement, shall not be limited by the provisions of any workers' compensation act or similar act. Contractor expressly waives its statutory immunity under such statutes or laws as to City, its officers, agents, employees and volunteers.

C. Insurance Requirements not Limiting. City does not, and shall not, waive any rights that it may possess against Contractor because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. The indemnities in this Section shall apply regardless of whether or not any insurance policies are determined to be applicable to the Liabilities, tax, assessment, penalty or interest asserted against City.

D. Survival of Terms. Contractor's indemnifications and obligations under this Section shall survive the expiration or termination of this Agreement.

5.4 Performance Bond.

Concurrently with execution of this Agreement, and if required in Exhibit "B", Contractor shall deliver to City performance bond in the sum of the amount of the Contract Sum, in the form provided by the City Clerk, which secures the faithful performance of this Agreement. The bond shall contain the original notarized signature of an authorized officer of the surety and affixed thereto shall be a certified and current copy of his power of attorney. The bond shall be unconditional and remain in force during the entire term of the Agreement and shall be null and void only if the Contractor promptly and faithfully performs all terms and conditions of this Agreement.

5.5 Sufficiency of Insurer or Surety.

Insurance or bonds required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the Risk Manager of the City ("Risk Manager") due to unique circumstances. If this Agreement continues for more than three (3) years duration, or in the event the Risk Manager determines that the work or Services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Contractor agrees that the minimum limits of the insurance policies and the performance bond

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required by Section 5.4 may be changed accordingly upon receipt of written notice from the Risk Manager; provided that the Contractor shall have the right to appeal a determination of increased coverage by the Risk Manager to the City Council of City within ten (10) days of receipt of notice from the Risk Manager.

ARTICLE 6. RECORDS, REPORTS, AND RELEASE OF INFORMATION

6.1 Records.

Contractor shall keep, and require subcontractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and Services performed hereunder (the "Books and Records"), as shall be necessary to perform the Services required by this Agreement and enable the Contract Officer to evaluate the performance of such Services. Any and all such Books and Records shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such Books and Records at all times during normal business hours of City, including the right to inspect, copy, audit and make records and transcripts from such Books and Records. Such Books and Records shall be maintained for a period of 3 years following completion of the Services hereunder, and the City shall have access to such Books and Records in the event any audit is required. In the event of dissolution of Contractor's business, custody of the Books and Records may be given to City, and access shall be provided by Contractor's successor in interest.

6.2 Reports.

Contractor shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the Services required by this Agreement as the Contract Officer shall require. Contractor hereby acknowledges that the City is greatly concerned about the cost of Services to be performed pursuant to this Agreement. For this reason, Contractor agrees that if Contractor becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the Services contemplated herein Contractor shall promptly notify the Contract Officer of said fact, circumstance, technique or event and the estimated increased or decreased cost related thereto.

6.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the "Documents and Materials") prepared by Contractor, its employees, subcontractors and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the termination of this Agreement, and Contractor shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership use, reuse, or assignment of the Documents and Materials hereunder. Any use, reuse or assignment of such completed Documents and Materials for other projects and/or use of uncompleted Documents and Materials without specific written authorization by the Contractor will be at the City's sole risk and without liability to Contractor, and Contractor's guarantee and warranties shall not extend to such use, revise or assignment. Contractor may retain copies of such Documents and Materials for its own use. Contractor shall have an unrestricted right to use the concepts embodied therein. All subcontractors shall provide for assignment to City of any

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Documents and Materials prepared by them, and in the event Contractor fails to secure such assignment, Contractor shall indemnify City for all damages resulting therefrom.

6.4 Confidentiality and Release of Information.

(a) All information gained or work product produced by Contractor in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Contractor. Contractor shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the Contract Officer.

(b) Contractor, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the Services performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Contractor gives City notice of such court order or subpoena.

(c) If Contractor, or any officer, employee, agent or subcontractor of Contractor, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Contractor for any damages, costs and fees, including attorney's fees, caused by or incurred as a result of Contractor's conduct.

(d) Contractor shall promptly notify City should Contractor, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the Services performed there under. City retains the right, but has no obligation, to represent Contractor or be present at any deposition, hearing or similar proceeding. Contractor agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Contractor. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

ARTICLE 7. ENFORCEMENT OF AGREEMENT AND TERMINATION

7.1 California Law.

This Agreement shall be interpreted, construed and governed both as to validity and to performance of the Parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Riverside, State of California, or any other appropriate court in such county, and Contractor covenants and agrees to submit to the personal jurisdiction of such court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in Riverside.

7.2 Disputes; Default.

In the event that Contractor is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Contractor for any Services performed after the date of default. Instead, the City may give notice to Contractor of the default and the reasons for the default. The notice shall include the timeframe in which Contractor may cure the

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default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that Contractor is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. In the alternative, the City may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Contractor does not cure the default, the City may take necessary steps to terminate this Agreement under this Article. Any failure on the part of the City to give notice of the Contractor's default shall not be deemed to result in a waiver of the City's legal rights or any rights arising out of any provision of this Agreement.

7.3 Retention of Funds.

Contractor hereby authorizes City to deduct from any amount payable to Contractor (whether or not arising out of this Agreement) (i) any amounts the payment of which may be in dispute hereunder or which are necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, and (ii) all amounts for which City may be liable to third parties, by reason of Contractor's acts or omissions in performing or failing to perform Contractor's obligation under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by Contractor, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of the Contractor to insure, indemnify, and protect City as elsewhere provided herein.

7.4 Waiver.

Waiver by any Party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any Party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any Services by Contractor shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either Party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

7.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

7.6 Legal Action.

In addition to any other rights or remedies, either Party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement.

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7.7 Liquidated Damages.

Since the determination of actual damages for any delay in performance of this Agreement would be extremely difficult or impractical to determine in the event of a breach of this Agreement, the Contractor and its sureties shall be liable for and shall pay to the City the sum of Not Applicable ($0.00) as liquidated damages for each working day of delay in the performance of any service required hereunder, as specified in the Schedule of Performance (Exhibit "D"). The City may withhold from any monies payable on account of Services performed by the Contractor any accrued liquidated damages.

7.8 Termination Prior to Expiration of Term.

This Section shall govern any termination of this Agreement except as specifically provided in the following Section for termination for cause. The City reserves the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days' written notice to Contractor, except that where termination is due to the fault of the Contractor, the period of notice may be such shorter time as may be determined by the Contract Officer. In addition, the Contractor reserves the right to terminate this Agreement at any time, with or without cause, upon sixty (60) days' written notice to City, except that where termination is due to the fault of the City, the period of notice may be such shorter time as the Contractor may determine. Upon receipt of any notice of termination, Contractor shall immediately cease all Services hereunder except such as may be specifically approved by the Contract Officer. Except where the Contractor has initiated termination, the Contractor shall be entitled to compensation for all Services rendered prior to the effective date of the notice of termination and for any Services authorized by the Contract Officer thereafter in accordance with the Agreement or such as may be approved by the Contract Officer, except as provided in Section 7.3. In the event the Contractor has initiated termination, the Contractor shall be entitled to compensation only for the reasonable value of the Services actually performed hereunder. In the event of termination without cause pursuant to this Section, the terminating Party need not provide the non-terminating Party with the opportunity to cure pursuant to Section 7.2.

7.9 Termination for Default of Contractor.

If termination is due to the failure of the Contractor to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 7.2, take over the Services and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable to the extent that the total cost for completion of the Services required hereunder exceeds the compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Contractor for the purpose of set-off or partial payment of the amounts owed the City as previously stated.

7.10 Attorneys' Fees.

If either Party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing Party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees. Attorney's fees shall include attorney's fees on any appeal, and in addition a Party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have

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accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

ARTICLE 8. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

8.1 Non-liability of City Officers and Employees.

No officer or employee of the City shall be personally liable to the Contractor, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Contractor or to its successor, or for breach of any obligation of the terms of this Agreement.

8.2 Conflict of Interest.

Contractor covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Contractor's performance of Services under this Agreement. Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the Contract Officer. Contractor agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

No officer or employee of the City shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which effects his financial interest or the financial interest of any corporation, partnership or association in which he is, directly or indirectly, interested, in violation of any State statute or regulation. The Contractor warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

8.3 Covenant Against Discrimination.

Contractor covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, or ancestry in the performance of this Agreement. Contractor shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, marital status, national origin, or ancestry.

8.4 Unauthorized Aliens.

Contractor hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Contractor so employ such unauthorized aliens for the performance of Services covered by this Agreement, and should the any liability or sanctions be imposed against City for such use of unauthorized aliens, Contractor hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

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ARTICLE 9. MISCELLANEOUS PROVISIONS

9.1 Notices.

Any notice, demand, request, document, consent, approval, or communication that either Party desires or is required to give to the other Party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the City, to the City Manager and to the attention of the Contract Officer, CITY OF BANNING, 99 East Ramsey Street, Banning, CA 92220 and in the case of the Contractor, to the person at the address designated on the execution page of this Agreement. Either Party may change its address by notifying the other Party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

9.2 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either Party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

9.3 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

9.4 Integration; Amendment.

This Agreement including the attachments hereto is the entire, complete and exclusive expression of the understanding of the Parties. It is understood that there are no oral agreements between the Parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the Parties, and none shall be used to interpret this Agreement. No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Contractor and by the City Council. The Parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

9.5 Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the Parties hereunder unless the invalid provision is so material that its invalidity deprives either Party of the basic benefit of their bargain or renders this Agreement meaningless.

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9.6 Time is of the Essence. Time is of the essence in every provision of this Agreement in which time for performance is a factor.

9.7 Corporate Authority.

The persons executing this Agreement on behalf of the Parties hereto warrant that (i) such Party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said Party, (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said Party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the Parties.

[SIGNATURES ON FOLLOWING PAGE]

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IN WITNESS WHEREOF the Parties hereto have executed this Agreement the day and year first hereinabove written.

CITY OF BANNING

DocuSigned by:
Doug Schulze 3/22/2021
0AD14BA217CE497...

Douglas Schulze, Date
City Manager

CONSULTANT

DocuSigned by:
Terry Noriega 3/19/2021
073E1ED56B0840B...

NAME: Terry Noriega Date
TITLE: President

NAME: Date
TITLE:

ATTEST:

DocuSigned by:
Laurie Sampson 3/22/2021
5857E664E42A405...

Laurie Sampson Date
Acting Deputy City Clerk

95-4245898
Tax ID No.

Address:
6232 Santos Diaz ST, Irwindale CA 91702

APPROVED AS TO FORM:
Richards, Watson & Gershon

DocuSigned by:
Kevin G Ennis 3/19/2021
940BF72E964348C...

Kevin G. Ennis, Esq., Date
City Attorney

City Council Approval: 02/23/2021

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

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EXHIBIT "A"
SCOPE OF SERVICES

I. Contractor will perform the following Services:

As specified in RFP 20-035.

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IV. SCOPE OF WORK

IV.A Introduction

The City of Banning is seeking proposals from qualified contractors and intends to retain the services of a contractor to provide landscape maintenance services for its properties throughout the City. The City is considering awarding a contract to begin April 1, 2021, for a term of one (1) year and (3) three months with the option to renew for an additional four (4) single years upon an annual review of the provided services. The City of Banning reserves the right to accept or reject any or all proposals. These Specifications and Scope of Services shall become part of the contract Agreement.

The scope of services includes turf management; shrub bed maintenance; tree care and pruning; fertilization; environmental weed and pest control program; and irrigation equipment and operations for all locations identified in this Request for Proposals ("RFP") and listed below:

- Dysart Park (2101 W. Victory Avenue)
- Lion's Park (9955 S. Hargrave Street)
- Repplier Park (201 W. George Street)
- Roosevelt Williams Park (1101 E. George Street)
- Sylvan Park (2801 W. Nicolet Street)

It is the responsibility of the Contractor to visit the sites and become familiar with the project locations and maintenance needs. It is the City's expectation that all land care and maintenance items identified in this RFP will be addressed.

IV.B TURF MANAGEMENT

1. Lawn Mowing
    1. For all turf areas, Contractor will inspect and police the grounds for litter and debris prior to each mowing and dispose of it.
    2. Turf will be mowed one time per week during active growing periods, and as often as required during slow periods of growth to maintain a neat and manicured appearance, weather permitting.
    3. Mowing height for all irrigated lawn areas will be no less than 1 ½" and no more than 2" for a finished cut height unless otherwise requested. Turf will be cut at a uniform height. Mowing equipment is to be kept sufficiently sharp and properly adjusted through daily servicing to provide a cleanly cut grass blade. Grass blade bruising, tearing, and shredding are to be prevented. Mowing pattern will be varied where

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possible to reduce rutting and compaction of grade. Any excess clippings will be dispersed and/or collected to prevent damage and unsightly appearance of lawns.

4. Unless otherwise specified, grass cuttings need not be removed. However, when an inordinate amount of grass is evident, removal may be requested by staff with no extra charge to City for such removal by contractor. Clippings shall be legally disposed of offsite at the Contractor's expense. Special note: frequencies and turf height may change throughout the year in order to accommodate sports activities and facility use schedule; staff may request change in such turf height to address such activities.
5. Work shall be performed on the same day each week. Contractor shall provide a mow schedule to the City. Initial week schedule and any changes must be approved by the City prior to implementation. All mowing missed due to inclement weather or ground conditions from such weather shall be rescheduled and completed within (3)) three working days.
6. Aeration: Contractor shall aerate all turf areas a minimum of once a year by removing one 1/2" diameter by 3" deep cores of sod with an aerator machine with not more than 66" spacing, once over. Aeration shall take place at an approved time frame each year. In addition, the tops of all mounds and any areas that show excessive compaction shall receive additional treatment as required, to alleviate this condition and allow for proper water penetration and minimal runoff. All damaged areas larger than 4" by 4" shall be seeded on an as-needed basis. The cores shall be dragged to breakup cores and allowed to remain or be removed at the Contractor's discretion with approval of the City.
7. Over seeding:- Annual (one time per year) over seeding shall take place. Contractor shall prepare turf (verticutting and aeration) prior to applying seed. Seed shall match existing lawn and will be provided by the City. All labor and the equipment to perform the over seeding will be the responsibility of the Contractor.

2. Edging and String Trimming
    1. Concurrent with every mowing, all turf grass borders shall be neatly and uniformly edged or trimmed. String trimmers (weed eaters) or similar equipment shall not be used around trees or shrubs or wooden posts or for hardscape/pathways/mow strips edging. This trimming shall include cutting all grass along walls, fences, foundations, curbs, sidewalks, shrubs, tree trunks, poles, guy wires, or other object within or immediately adjacent to lawn areas. Trim shall not exceed one half(1/2) - inch from hardscape.
    2. Trim around sprinkler heads as necessary to allow maximum water coverage. Trimming shall not expose the sprinkler body or trim cap.
    3. Care shall be taken to avoid damage to tree trunks, shrubs, sign posts, buildings, and other structures. Damage shall be promptly reported to the City's representative and repairs made promptly at the Contractor's expense. Any damage to tree trunks and/or shrubs shall be considered neglect and shall be replaced at the discretion of

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City staff at the Contractor's expense. All walkways, roadways, trails or other areas dirtied by edging operations shall be cleaned and all debris disposed offsite prior to the completion of the day's operations or end of the day, whichever occurs first. CLIPPINGS/DEBRIS SHALL NOT BE BLOWN INTO STORM DRAINS OR INTO GUTTERS THAT DRAIN INTO STORM DRAINS BUT SHALL BE LEGALLY DISPOSED OF.

3. Clearing of Walks
    1. At the conclusion of each visit, walks adjacent to work areas will be blown clean.

IV.C SHRUB BED MAINTENANCE

1. Landscaped areas will be policed throughout the growing season for weeds, litter, and debris. Particular attention will be paid to entryways, focal points, and high traffic areas.
2. Planter beds will be groomed to promote an attractive, fresh appearance.
3. Concrete swales (if applicable) to be kept clear of miscellaneous dirt and debris.
4. Complete trimming, edging, and weeding of all shrub and ground cover areas will be done on a cyclical basis. Trimming and edging are to be performed monthly and weeding is to be performed weekly. Major pruning will be done following flowering or during plant dormant season.
    1. Pruning shall be performed by Contractor’s designated staff member who is trained and demonstrated competency in proper pruning techniques.
    2. Prune shrubbery and hedges at established maintenance height.
    3. Prune groundcover as required to contain perimeter growth to within bed areas where adjacent to walks, curbs, and structures. Mature groundcover will be maintained at a consistent appearance with a beveled or rolled edge at hard surfaces.
    4. Shearing of plants will occur only where previous practice has been to shear, or as directed.
    5. Removal of leaves and debris from lawns, planter beds, and walkways will be completed throughout the year as needed to maintain a clean appearance.
    6. Dead or damaged shall be removed whenever possible.
    7. Contractor shall monitor trees for signs of disease and insect infestations. If affected, appropriate recommendations for treatment shall be submitted to the City. When insect and/or disease problems are detected, legally approved chemicals are to be used to treat the problem.

IV.D TREE CARE & PRUNING

1. All trees will be “skirted” as needed per the City’s request to allow for pedestrian and vehicle clearance. Remove lower branches of trees when in conflict with growth of

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planning beneath. On trees that are over 12' only low hanging branches that are considered a hazard to pedestrians or vehicles will be pruned as part of this agreement.

2. All trees under 12" total height will be pruned to remove weak, dead, damaged, and diseased portions of the plant for natural growth development.
    1. Cuts will be flush and clean, leaving not stubs, or tearing of bark. Major pruning will be done following flowering or during plant's dormant season.
    2. Dead or damaged portion shall be removed whenever possible.
    3. Pruning to be performed by Contractor's designated staff member who is trained and demonstrates competency in proper pruning techniques.
    4. Contractor shall monitor trees for signs of disease and insect infestations. If affected, appropriate recommendations for treatment shall be submitted to the City. When insect and/or disease problems are detected, legally approved chemicals are to be used to treat the problem.
3. Monitor trees that are staked or guyed. Loosen and/or remove supports when appropriate to prevent girdling of the trunk and encourage root support. Replace stakes when damaged.

IV.E FERTILIZATION

1. Contractor shall provide all labor and materials to fertilize lawn, shrubs and ground cover to maintain proper nutrient levels and provide a consistent, healthy appearance.
    1. Turf, shrub and ground cover areas will be fertilized with specifically formulated products including well-balanced, slow-release fertilizers customized seasonally by Contractor. Seasonally refers to "Winter" and "Summer" and different fertilizers will be used based on ground temperature.
    2. Fertilizer product will be selected based on plant type and season.

IV.F ENVIRONMENTAL WEED AND PEST CONTROL PROGRAM

1. All applications and herbicides or pesticides will be performed under the direction of California Licensed & Certified Pest Control Specialist. All safety precautions will be taken in the handling and application of chemicals as stated on manufacture's labels.
2. Broadleaf turf weeds will be treated as needed in the "Spring" and "Fall" with applicable materials.
3. Weeds in shrub, planter beds, ground cover areas, tree circles, and sidewalk cracks adjacent to landscaped areas will be controlled by a manual weeding program or by using selected herbicides, including pre-emergent herbicides.

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4. Planting areas will be monitored for insect and disease infestations. Moles, field mice, ground squirrels, gophers, and other rodent activity will be monitored. Notification of problems and recommendations for timely appropriate, control measure will be made.
5. Material Safety Data Sheets (MSDS) for all chemicals used on site(s) are available from Contractor to clients in accordance with EPA and OSHA regulations. Sheets shall be provided to the City.
6. Notice of scheduled use of pesticides and herbicides must be given to the City prior to use and signage on site may be required prior to application at the City's discretion.
7. Contractor shall be in compliance with requirements for hazardous communications programs. Pest control specialist are to be trained and supervised in the safe application, storage, and disposal of chemicals in accordance with EPA, OSHA, and DPR regulations.

IV.G IRRIGATION EQUIPMENT AND OPERATION

1. . Schedule all irrigation controllers on project to maximize existing irrigation systems efficiency. Controller programs will be adjusted as determined by weather and plant requirements, with water conservation methods in place. Controllers will be shut off during periods of rain. Watering will be scheduled for night or early morning unless instructed differently by City’s representative.
2. Clean and adjust sprinkler system to provide the best coverage possible from existing system. Turn on each zone, monitor for leaks or malfunctioning parts, and adjust for proper spray arch and maximum efficiency.
3. Upon inspection, any accidental damage or vandalism caused by others shall be reported to owner within 48 hours. Repair and/or replacement of any damaged of malfunctioning components beyond Contractor’s control will be submitted as an extra.
4. The irrigation system shall be checked after each mowing for any damage. Damage caused to the irrigation system by Contractor shall be repaired within forty-eight (48) hours, unless otherwise agreed to, at no charge to the City.

IV.H GENERAL CONDITIONS

1. City is responsible for all cost associated with water.
2. Contractor will provide uniformed staff supervised by fully trained Supervisors and Area Manager. Radio and cellular phone communication will be available.
3. Inspection of site(s) will be made regularly and problems, if found, will be discussed by Contractor and the City. A monthly written, comprehensive maintenance and inspection reports shall be submitted with monthly billings.
4. Debris generated by landscape activities will be removed from the site unless prior arrangements are made. Debris collected by the Contractor will be recycled and or

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composted. Contractor will submit a monthly diversion summary report stating diverted quantities and facilities utilized for recycling materials.

5. During routine maintenance visits, the Contractor is responsible for removing trash and debris from the properties.

IV.I CONTRACTOR COMPENSATION

The City shall pay Contractor, as compensation for the services to be performed, the sum of per month listed in the Contract Agreement with additional adjustments as specified thereinafter.

Compensation may be adjusted annually, on July 1st of each year commencing on July 1, 2022, during the term of the Contract Agreement to reflect annual changes in the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index Riverside-San Bernardino- Ontario Area, or any successor index agreed upon by the City and Contractor, as set forth over the previous available twelve (12) months prior to the date of adjustment.

IV.J ADDITIONAL WORK

1. The Parks and Recreation Director or designee may authorize the Contractor to perform additional work. Additional work shall be defined as work not included in the specifications with the exception of additional sites, or portions thereof that may be added and shall be in writing.
2. Prior to the Contractor performing any additional work, the Contractor shall prepare and submit a written description of the work with an estimate of labor and materials cost. No work shall commence without written authorization from the Parks and Recreation Director, or designee. In the event that conditions exist where there is imminent danger of injury to the public or damage to property, the Parks and Recreation Director or designee may verbally authorize the work to be performed upon receiving a verbal estimate from the Contractor. Within twenty-four (24) hours after receiving verbal authorization, the Contractor shall submit a written estimate to the Parks and Recreation Director or designee for written approval.
3. The cost estimate for additional work shall consist of the following elements:
    1. Wholesale cost of materials including sales tax plus ten percent (10%).
    2. Base cost of labor plus fifteen percent (15%) for overhead and profit.
4. Change Order - Written authorization for additional work from the Parks and Recreation Director or designee, shall be by the issuance of a Change Order. This Change Order shall be considered an amendment to the Contract Agreement and approved by both the Parks and Recreation Director and Contractor.
5. All additional work shall commence on the specified date established and shall diligently proceed until completion.

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6. Upon completion of the additional work, the Parks and Recreation Director or designee shall be notified so that the work may be verified.
7. The Contractor shall submit an invoice for compensation with attached photocopies of original invoices for materials. Compensation shall not exceed the written estimate.
8. The Contractor's invoice shall be subject to audit and review by the City prior to payment.
9. The City of Banning reserves the right to repair and/or contract with a third party to perform such additional work.

IV.K INSPECTION

The Parks and Recreation Director or designee may inspect the work areas to ensure adequacy of maintenance and methods of performing the work are in compliance with the contract. However, this shall not be construed to relieve the Contractor of any duty under this contract. Discrepancies and deficiencies in the work shall be brought to the attention of the Contractor and corrected in the manner agreed to by the Parks and Recreation Director or designee.

1. It shall be the Contractor's responsibility to inspect, and identify, any conditions(s) that renders any areas within this Contract Agreement unsafe, as well as any unsafe practices occurring thereon. The Parks and Recreation Director or designee shall be notified immediately of any unsafe condition that requires correction.
2. During the inspection of all work sites for hazards, or potential hazards, the Contractor shall keep a log indicating the date the area was inspected, any unsafe conditions found, and the action taken.
3. The Contractor shall cooperate fully with the City of Banning in the investigation of any accidental injury or death occurring on the premises, including the submission of a complete written report thereof to the Parks and Recreation Director or designee within five days following the occurrence.

IV.L SAFETY

1. The Contractor shall perform all work outlined in these specifications in such a manner as to provide maximum safety to the public, and meet all accepted standards for safe practices during the maintenance operation, to safely maintain equipment, machines and materials or other hazards consequential or related to the work. The Contractor shall have sole responsibility for complying with all local, County, State or other legal requirements including, but not limited to CAL-OSHA.
2. The Parks and Recreation Director or designee, reserves the right to issue restraint, or cease and desist orders, to the Contractor when unsafe or harmful acts are observed or reported relative to the performance of work under this contract.

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EXHIBIT "A-1"
SCOPE OF SERVICES

I. Contractor will perform the following Services:

As specified in Proposal.

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MARIPOSA
LANDSCAPES INC

City of Banning

Request for Proposal

Landscape Maintenance Services for City Parks

RFP 20-035

Due: Tuesday, January 26, 2021 at 2:00 PM

CA CONTRACTOR'S LIC # 592268 A, C-27, D-49
6232 Santos Diaz St., IRWINDALE, CA 91702 •TEL 800•794•9458 •FAX 626•960•8477
www.mariposa-ca.com

Our Core Values – Safety • Teamwork • Quality • Integrity

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MARIPOSA
LANDSCAPES INC

January 25, 2021

City of Banning
Shiloh Rogers, Purchasing Manager
99 E. Ramsey St.
Banning, CA 92220

Re: Request for Proposal Landscape Maintenance Services for City Parks, RFP 20-035

Thank you for the opportunity to submit our proposal. Mariposa Landscapes, Inc. looks forward to the competitive process.

Mariposa Landscapes, Inc. has been in business for over 40 years providing similar services for other cities and public agencies. Our attention to quality and detail is documented with a list of more than 99 award winning construction and maintenance projects that extends over four decades. Our depth of knowledge and level of experience in our management and supervisory personnel is unmatched by our competitors.

We have over 400 employees including Certified Irrigators, Certified Landscape Techs, Certified Arborists and Pest Control Advisors. We are available 24 hours a day through the answering service to address emergency call outs.

Our company has met every financial obligation for over 40 years and has established a corporate bonding capacity far in excess of any requirements across all business lines. Therefore, this enables us to be the most capable firm that will commit to provide the best level of service for the City of Banning.

Our price reflects necessary labor, services, equipment, and material to perform the work. We have the ability to comply with all the terms and requirements of the bid documents and the resulting contract. We have visited all sites and are familiar with the current conditions of each.

The contact person during the RFP review process will be Kevin Coon. His contact number is (626) 960-0196 and his email address is kevin.coon@mariposa-ca.com

We look forward to providing professional landscape maintenance services for the City of Banning and its residents, with the best interest in the well-being of the community and its appearance.

Respectfully,

Antonio Valenzuela, Secretary

CA CONTRACTOR'S LIC # 592268 A, C-27, D-49
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Qualifications

Mariposa Landscapes, Inc. is a full-service landscape company with vast experience performing large scale landscape maintenance similar in size and scope to that requested in this RFP for over 40 years. We understand our client's priorities and do everything in our power to honor the trust they place in us.

Mariposa is a full-service landscape company, with both Construction, complete Tree Service Operations, and Interior Plant Maintenance Divisions. In addition to the required C-27 license, we carry A, C-61/D-49, and C-31 licenses. This diversity of capabilities and proven expertise is not found with other landscape maintenance competitors.

We are committed to bringing the best possible quality for our customers and their properties and projects. We provide prompt service, expert workmanship, and superior products. We take pride in meeting or exceeding expectations. Our ultimate goal is to deliver excellent value for our clients' investment.

We are honest and open in our communications, building deep trust and confidence in all of our relationships. We value the dedication and contribution of each person. The overall well-being of our employees, customers and vendors is important to us.

We believe the depth of knowledge and level of experience being brought to the City of Banning by our team is unmatched by our competitors. Our many successful years of experience in providing similar maintenance services for the public entities, enables us to be the most responsive and responsible firm who will be committed to providing the best level of service in maintaining the public areas for the City.

As the City of Banning's Landscape Maintenance Contractor, Mariposa will:

- Provide qualified employees for these contracts to achieve professional results.
- Provide the required labor to achieve professional results and not necessarily an employee "head count"
- Provide clear and timely irrigation reports.
- Provide immediate information about hazards in contract areas
- Perform timely responses and offer solutions to issues or complaints (if and when they arise)
- Keep accurate records of requests for work, including date/time received and date/time completed.
- Provide suggestions to City of Banning for improvements to areas.
- Provide qualified extra labor, appropriate equipment, and materials for extra work projects.

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Company History

In 1977, Terry Noriega established Mariposa Landscapes in Rosemead, California, by providing landscape maintenance and installation for custom residential and small commercial clients. After five years, he created the Public Works Maintenance Division, in 1984 the Public Works Construction Division was added, and in 1987, a Tree Care Division was formed.

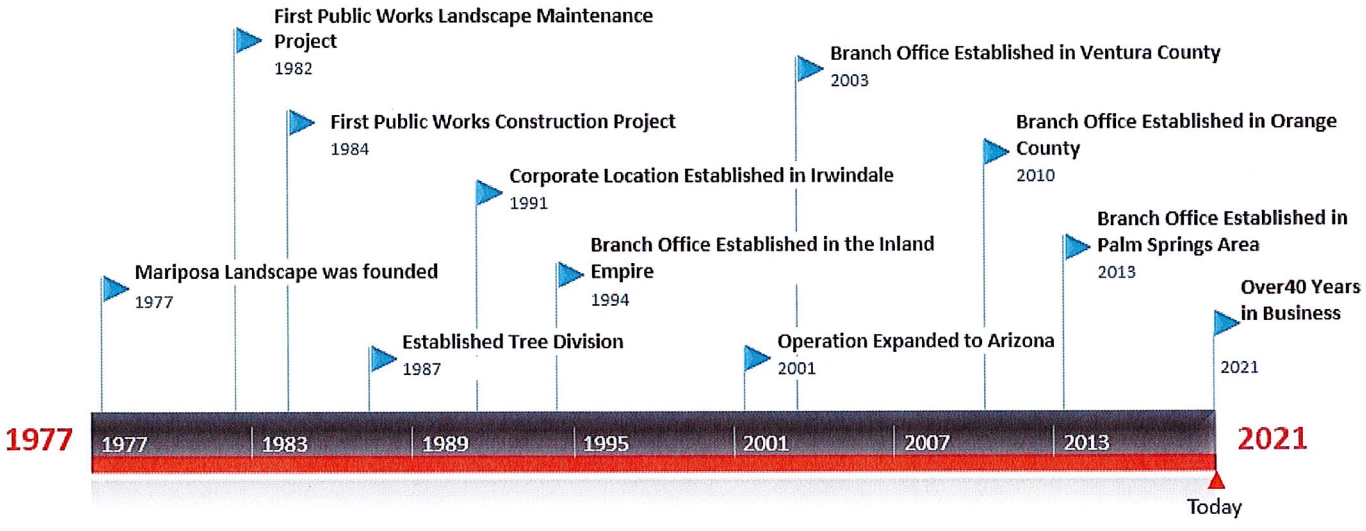
Mariposa Landscapes reincorporated in 1989 as Mariposa Horticultural Enterprises, Inc. In 2009, the company changed their business name back to Mariposa Landscapes, Inc. The company currently has a workforce of over 600 in California and Arizona.

A brief chronology:

- 1977 –The Company is established in Rosemead, California.
- 1982 –The Public Works Maintenance Division is formed.
- 1984 – The Public Works Construction Division is added.
- 1987 – The Tree Care Division is started.
- 1991 – Relocates to our current facilities in Irwindale, CA.
- 1994 – Expands operations by opening a branch in Fontana, CA.
- 2001 – Establishes an office in Glendale, Arizona.
- 2003 – Expands into servicing the Ventura County
- 2010 – Branch office established in Orange County

- 2013 – Branch Office established in Palm Springs Area
- 2021 – Over 40 years in Business!

Mariposa Landscapes, Inc. – Over 40 years of Excellence!



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Company Information

President: Terry Noriega
California Corporation: C1469653
California Employer ID: 368-4753-1
Date Incorporated: October 2, 1989

Licenses & Certificates

Contractors State License:	592268	C27, A, C61/D49
Qualified Applicators License:	103864	ABCDEFH
Pest Control Adviser License:	74416	ABCDEG
Pest Control Business License:	30977	
Irwindale Business License:	000538	
Supplier Clearinghouse MBE:	94HS0050	
City of Los Angeles MBE:	561730	
City of Los Angeles LBE:	37858	
LA County MBE:	43914	
LA Co. Agricultural Pest Control	1000279	
Certified Arborist:	*WE-1182A*	

State of California Contractors License


dca
CONTRACTORS
STATE LICENSE BOARD
ACTIVE LICENSE
License Number 592268 Entity CORP
Business Name MARIPOSA LANDSCAPES INC
Classification(s) C27 A C61/D49 C31
Expiration Date 04/30/2022 www.cslb.ca.gov

Proof of DIR Registration

Legal Name	Registration Number	County	City	License Type/Number(s)	Current Status	Registration Date	Expiration Date
MARIPOSA LANDSCAPES, INC.	1000005079	LOS ANGELES	IRWINDALE	CSLB:592268	Active	07/01/2019	06/30/2022

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Statement of Understanding and Approach

It is our intention to perform this contract per the City requirements as indicated in the proposal documents. We are confident that we will be able to improve over the current level of landscape maintenance that is being provided for the City of Banning. Our proposal includes an adequate level of labor, materials, and equipment to sustain a high level of landscape maintenance throughout the term of this contract.

Project Startup and Quality Control Coordination Meeting

The Project Estimator and the Account Manager review the project specifications and visit the project site(s) to develop a work plan for the completion of the project per specifications. A meeting including the Account Manager with key personnel responsible for carrying out the work, is held to discuss and coordinate how the project work will be performed.

Prior to commencement of contract work we will thoroughly inspect and document deficiencies. After this is completed for each location, we will provide the City with a detailed list. We will also include a proposal for restoring the area to its original condition if applicable.

During the meeting, the Account Manager communicates the work task quality requirements and reinforces heightened awareness for critical requirements. Topics for the meeting include:

- Project requirements per specifications.
- Record keeping documents and availability of necessary forms
- Review methods, sequence of work tasks and timeline.

Preparatory Site Inspection

The Account Manager performs a quality inspection of the work area and:

- Assesses the required work to be done per specifications.
- Verifies field measurements.
- Assures availability of required equipment and materials to complete the project.
- Identifies potential problems and develops an action plan to resolve them.

Labor

It is our goal to provide professional results. Therefore, we will assign the appropriate and trained crew force necessary to complete the specified activities in a professional and timely manner. To achieve the desired results, the appropriate labor will be assigned for every aspect of the work.

Scheduling

Mariposa Landscapes, Inc. will submit a final detailed schedule that includes all the routine activities. After submission and approval of this schedule, we will be ready to start work. Please refer to attached sample schedule.

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Communication and Yard Location

All communications will be routed through our main office and dispatch center. A 24-hour "800" number will be provided. Mariposa Landscapes will use all the current communication methods such as two-way radios and cellular phones. Our response time will meet or exceed the City's expectations.

Our office is open for communications from 6:00am to 4:00pm, Monday-Friday and we are available 24 hours a day through the answering service to address emergency call outs. We have numerous strategically located yards and offices to efficiently service all of Southern California.

Work in Process Quality Inspection

For each work task, the Account Manager, along with City representative, will perform an initial work in process inspection when the first portion of the work activity is completed. The Account Manager performs ongoing work in process quality inspections to ensure that the work tasks continue to conform to the project quality requirements.

Work Task Completion Inspection

Completion inspections are performed for each work task before starting other work activities. Any outstanding punch items remaining after the work task completion inspection is deemed a nonconformance.

Control of Punch Items and Nonconformance

Should a problem occur in the quality of work, we systematically contain the issue and quickly make corrections. We expedite a corrective action that brings the workmanship of material issue into conformance by repair, replacement, or rework. Previously completed work is re-inspected for similar non-conformances. In the event that we cannot meet contract specifications, the customer will be notified, and customer approval of corrective action is required before proceeding.

Mariposa Landscapes, Inc. systematically prevents recurrences to improve quality. First, management monitoring is put into place to ensure work proceeds without incident. Then a structured problem-solving process identifies the root of the causes and initiates solutions. Solutions may involve a combination of enhanced process controls, training, upgrading of personnel qualifications, and/or higher-grade materials. Follow up ensures that a problem is completely resolved. Non-conformance and their resolutions are recorded on a Non-Conformance Report.

Supervisor/Employee Ratio

Each Account Manager supervises a group of approximately twenty-five workers that breaks down into several work crews, each managed by a Foreman/Field Supervisor. The Account Manager covers a geographical area that will include several contracts for servicing. Each work crew is assigned to service one or more landscape maintenance contracts and is easily accessible to the supervisor.

The Account Manager is in daily communication with the Foreman/Field Supervisor personally or by cellular phone or radio to ensure that the schedule of work operations is followed in strict accordance with the guidelines of the contact. The Foreman/Field Supervisor routinely inspects the job site by walking it with his crew lead, identifying areas of concern and keeping the Account Manager, in charge of landscape maintenance operations, informed as to the condition of the sites in question. All work not in compliance in the opinion of the Account Manager will be addressed immediately through specific instructions to the foreman and crew to perform the corrective work.

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Work Methodology

Mariposa has reviewed the specifications necessary to provide landscape maintenance services for City parks. We have reviewed the specifications thoroughly and will adhere to the tasks that are detailed within them. We have a complete understanding of all the work that will be required of Mariposa Landscapes, Inc.

All workers/ crews assigned to the City of Banning contract will arrive at various locations within the city per the tasks and per the schedule (to be submitted upon start of contract).

- **General Maintenance** –Such tasks include trash/litter, visual inspections, leaf and debris control and any other tasks shall be performed by on-site worker(s) and/ or by a roaming crew(s)/personnel.
- **Specialty areas-**Tasks and less frequent tasks shall be performed by both the on-site workers and/or other Mariposa crew(s)/staff assigned to this contract.
- **General Turf/Grass Maintenance**- Such tasks include mowing, edging, detailing along with seasonal duties such as fertilization and weed control shall be performed by a designated mow crew, with additional personnel (if needed), per the agreed schedule.
- **Weed Control** – Manual weed control, along with chemicals, will be utilized for this contract. Any manual weed control shall be performed by the crew designated to this contract and any chemical application requiring certifications shall be performed by crew member(s) with proper qualifications (ie. QAC, QAL).
- **Landscape Maintenance**- Such tasks include tree, shrub, vine, and ground cover trimming and maintenance shall be performed by crew designated to the contract. The on-site crew will perform all aspects of the maintenance requirements.
- **Fertilization**- All fertilization shall be performed per the schedule. The City will be notified in advance of application days and locations. The crew assigned to the contract will be responsible for fertilization application and ensuring that the approved product type and rates are applied as per the City's requirements. All fertilizer application requirements will be performed to ensure that the fertilizer was applied and cleaned up properly. All applications will be recorded and identified per the city's requirements.
- **Pest & Rodent Control**- Such control shall be performed by crew member(s) with proper qualifications on an on-going basis or per the recommendations of our in-house PCA. We will utilize IPM per the City's requirements along with ensuring that all safety and regulatory measures are taken for the safety of the general public and for our employees. All required reports and recording of chemical use will be documented and submitted as required.

Our crews are trained and equipped with proper equipment to perform the landscape maintenances tasks per the specifications. Mariposa is committed to providing professional services that the City of Banning requires.

Mariposa Landscapes, Inc.

Below is a sample schedule
Final schedule to be submitted upon award of contract.

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Turf Areas	# of Frequencies	JANUARY				FEBRUARY				MARCH				APRIL				MAY				JUNE				JULY				AUGUST				SEPTEMBER				OCTOBER				NOVEMBER				DECEMBE			
		Week				Week				Week				Week				Week				Week				Week				Week				Week				Week				Week				Week			
		1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	
Litter Control, All Areas, Liner Replacement	Daily	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	
Mowing	52 X year	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	
Edging & Detaling	52 X year	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	
Blowing	52 X year	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	
Sweeping	52 X year	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	
Broadleaf Control	2 X year									■																												■											
Pre-emergent application	3 X year										■											■														■												
Fertilizations	3 X year										■													■														■										
Aeration	2 X year					■					■													■														■										
Pest Monitoring	Monthly				■				■				■				■				■				■				■				■				■				■				■			
Irrigation System Inspections	Weekly	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	

Shrubs & G.C Areas	# of Frequencies	JANUARY				FEBRUARY				MARCH				APRIL				MAY				JUNE				JULY				AUGUST				SEPTEMBER				OCTOBER				NOVEMBER				DECEMBE			
		Week				Week				Week				Week				Week				Week				Week				Week				Week				Week				Week				Week			
		1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	
Hedge Trimming	8 X year							■								■				■				■				■				■				■				■				■				■	
Ground-Covers Trimming	8 X year						■								■				■				■				■				■				■				■				■				■	
Ground-Covers Edging	8 X year						■								■				■				■				■				■				■				■				■				■	
Shrub Pruning	8 X year					■								■				■				■				■				■				■				■				■				■			
Deadheading & Cleaning	As Needed																																																
Weed Control	Monthly		■				■				■				■				■				■				■				■				■				■				■				■			
Fertilizations	2 X year										■																												■											
Pre-emergent application	3 X year										■																										■												
Mulching Refreashing	Monthly			■				■				■				■				■				■				■				■				■				■				■				■	
Annual Color	4 X year									■												■												■								■							
Premium Color	1 X year																																					■											
Removal of Dead Plants	As Needed																																															
Trees & Shrubs Safety Clearance	Monthly			■				■				■				■				■				■				■				■				■				■				■				■	
Irrigation System Inspections	Weekly	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	

Hardscapes	# of Frequencies	JANUARY				FEBRUARY				MARCH				APRIL				MAY				JUNE				JULY				AUGUST				SEPTEMBER				OCTOBER				NOVEMBER				DECEMBER			
		Week				Week				Week				Week				Week				Week				Week				Week				Week				Week				Week				Week			
		1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
Safety Inspection and Reporting	Weekly	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Blowing	Weekly	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Weed Control	As Needed																																																
Pressure Washing (Optional, Extra)																																																	
Pest Treatment (Optional, extra)																																																	
Plant replacement (Optional, Extra)																																																

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Customer Service

Here at Mariposa Landscapes, Inc. we take pride in our work and thrive on keeping our company as one of the most recommended in the industry. Our steady record of customer satisfaction has allowed us to maintain positive relationships with our clients.

We bring decades of knowledge and in-depth experience to every landscape entrusted to our care. Building long-lasting relationships with our clients is important to us. We understand and respect our clients' goals and do everything in our power to ensure the well-being of their properties. We value open, honest communication, ongoing staff training, and new methods and technologies that will help us do the best job possible.

Service commitment to customers

- We believe that customer service is the most important aspect to our success.
- We provide courteous, responsive, high-quality service to our customers
- We seek innovative approaches to benefit our customer
- We listen to our customer and respond to suggestion and concerns with fairness and flexibility
- We respect our customer's privacy

Mariposa Landscapes, Inc. will communicate with the City of Banning before the work begins, during, and after the project is complete to insure that the City is completely satisfied with the services provided. In case of any complaint or irregularity, the Division manager will take immediate action to resolve any issues. Routine phone calls and emails will be used to track customer satisfaction.

We partner with our clients to achieve a common goal. From simple to complex projects, we coordinate our vast array of expertise to create the project our clients envision. We value open, honest communication, ongoing staff training, and new methods and technologies that will help us do the best job possible. We are open to working closely with the City of Banning and we welcome all feedback.

While we always appreciate the accolades we receive, seeing our customers enjoy a well-executed and thriving landscape is still the most rewarding part of our work.

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Staffing Plan

Staff chart below lists job titles, experience, and responsibility of those that will be assigned to this contract.

Mariposa Landscapes, Inc. is open to working close with the City of Banning. We have over four decades of experience working with many cities and counties alike. We

Job Title	Minimum Experience and Responsibility
Account Manager	Over 10 years of experience conducting and overseeing Public Works, Commercial and Residential landscape maintenance work in the landscape industry. Will be the primary contact with the City of Banning and will be responsible for all aspects of project management.
Foreman	Will have a minimum of 10 years of experience in all aspects of maintenance operations including carrying out weekly schedules, documenting, communicating work reports and hazardous conditions.
Spray Technician	Will be responsible for all spraying of pre- and post-emergent, insecticides as needed, broadleaf control and all other spraying tasks. They will report directly to Mariposa's Account Manager and the City of Banning representative.
Laborers	Will have minimum 3 years' experience in all aspects of maintenance operations.

Manpower schedules are established and adjusted regularly with changes made seasonally in accordance with contract specifications. Our employees are cross trained, and this enables us to effectively assign additional personnel, should there be a fluctuation in service needs.

All of Mariposa Landscapes, Inc. contracts are internally monitored against budgets. Our Invoices are generated internally per the terms of each contract. Should the City require additional services, Mariposa will provide a complete cost proposal and will require approval before starting any services outside of the contracted work.

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Organization Memberships and Staff Certification

We are dedicated to having the best-trained workforce in the industry. As members of the California Landscape Contractors Association, we participate in the training programs offered by this industry organization. The CLCA sponsors a rigorous "hands-on" test administered under actual field conditions. With only a 20% first time pass rate, only the best workers are able to obtain the designation of CLT or Certified Landscape Technician. All of the managers and supervisors in our company have the CLT designation. No other contractor of our size and diversity in Southern California has achieved this many certifications.

We are members of the following organizations:

- CACM (California Association of Community Managers)
- CAI Orange County (Community Association Institute)
- CAI Los Angeles (Community Associations Institute)
- CAI Greater Inland Empire (Community Association Institute)
- CAI Coachella Valley (Community Association Institute)
- ASA (American Subcontractors Association)
- BIA Southern California (Building Industry Association)
- BIA Orange County (Building Industry Association)
- BOMA IE (Building Owners and Managers Association)
- CLCA (California Landscape Contractors Association)
- ISA (International Society of Arboriculture)
- CAPCA (California Association of Pest Control Advisors)

Licensing and Certifications

- California Contractor License 592268 C27-Landscaping, Class A-Engineering, C31 Traffic Control, C61/D49 Tree Services
- Certified Arborists on staff
- Certified Tree Workers on staff
- Tree Work – Line Clearance Certified
- Tree Work – Line Clearance Certified Instructor
- Certified Water Auditor
- Certified Backflow Inspectors
- Licensed Pest Control Company/Pest Control Advisor
- Certified Pest Control Applicators on staff

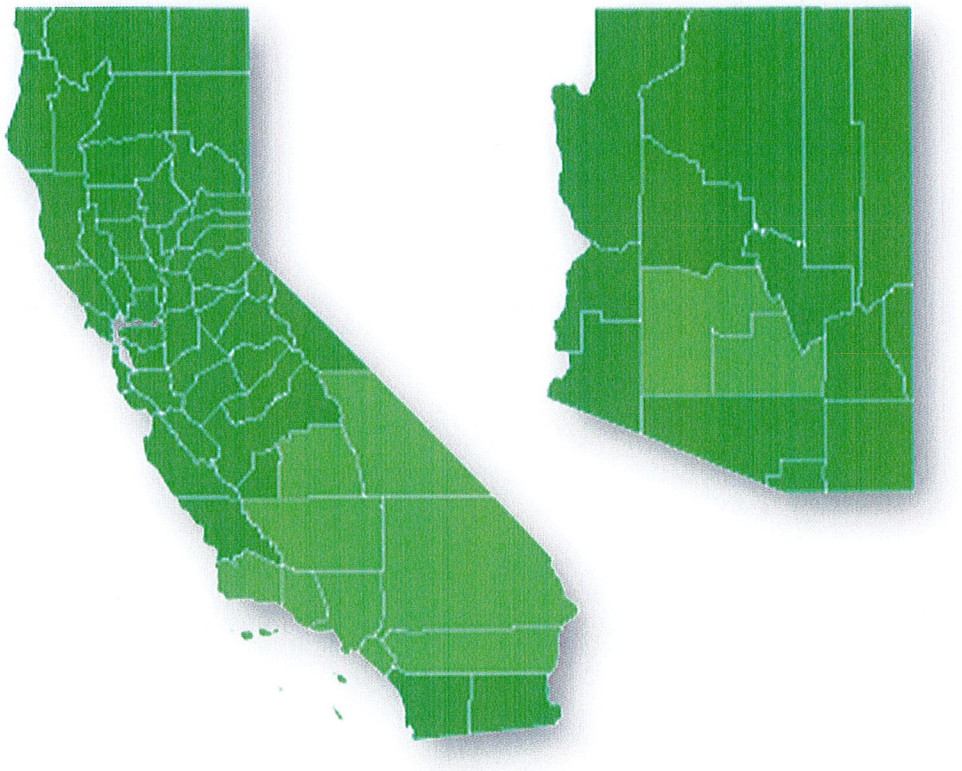
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Location

Mariposa Landscapes, Inc. is a licensed contractor working in both Southern California and Arizona. We have numerous strategically located yards and offices to efficiently service our contracts. We can provide quick response times for additional and emergency services.

Mariposa owns 90% of all vehicles and equipment used in its operations. Our entire fleet of equipment is less than 5 years old and well maintained by our in-house mechanics who can respond to emergencies immediately and a depth of replacement equipment that will allow us to stay consistent with our schedules.

This contract will be serviced from our Bermuda Dunes yard location which is located minutes from the City of Banning.



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Innovation

Mariposa Landscapes Inc. understands the importance of Innovation in our trade, particularly with landscape maintenance services. Innovative options are always nurtured and encouraged by management.

Equipment, methods, and ideas are brought to the attention of the Mariposa Management Team on a regular basis. This provides an opportunity for the team to consider new options in all aspects of our business.

Historically, Mariposa has developed several innovative approaches to providing services and reporting to our customers. These have included some programs mentioned elsewhere in this document such as our Quality Control program, uniquely designed to catch issues, correct, and follow up.

Water conservation is key for all property owners, particularly in California. Mariposa has established an innovative partnership with Weathermatic. This company provides cutting edge ET based irrigation controllers nationwide. We are able to offer this product to replace existing older technology controllers, with significant water savings in every case.

At Mariposa Landscapes Inc. we value and expect the highest levels of Horticultural expertise. The owner and President of Mariposa, Terry Noriega, founded one of the premier native and drought tolerant plant nurseries in Southern California, El Nativo Growers, Inc.

As a landscape maintenance service provider, it is critical for Mariposa to stay in the forefront of understanding standards of care for emerging types of plants for use in landscapes.

Mariposa Landscapes Inc. is committed to continued improvements to minimize our equipment impacts on the environment. This takes continued study and testing by our Fleet Management team, to identify viable options and test productivity.

One of the most promising recent innovations being considered, is expanding the use of electric equipment. We have many electric blowers and string trimmers in use, although battery life is still a challenge for consistent commercial use. Concurrently, we have tested several electric powered mowers with promising results.

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References

Here at Mariposa Landscapes, Inc. we take pride in our work and thrive on keeping our company as one of the most recommended in the industry. Our steady record of customer satisfaction has allowed us to maintain positive relationships with our clients. Below are cities for which we provide landscape maintenance services similar to those listed within the RFP.

Additional references are available upon request.

Name:	City of Newport Beach	**Contact:**	Kevin Pekar
Phone:	(949) 644-3069	**Email:**	kpekar@newportbeachca.gov
Address:	592 Superior Ave, Newport Beach, CA 92660	**Contract Term:**	Current
Description:	Landscape maintenance- Irrigation maintenance, turf maintenance, groundcover maintenance, shrub, vine and tree maintenance, hardscape maintenance, sand/wood chip area maintenance, drinking fountain maintenance. Specialty/sports atheletic area maintenance.		

Name:	City of Tustin	**Contact:**	Christine Zepeda
Phone:	(714) 573-3147	**Email:**	czepeda@tustinca.org
Address:	300 Centennial Way, Tustin, CA 92780	**Contract Term:**	Current
Description:	Landscape maintenance of City LMD areas, parks, medians and facilities. Duties include mowing, turf maintenance, pest control, litter removal, Irrigation system maintenance monitoring, fertilization, Aerification dethatching, weed control, pruning/shrubs, vine care and ground cover.		

Name:	City of Palm Desert	**Contact:**	Randy Chavez
Phone:	(760) 902-9064	**Email:**	rchavez@cityofpalmdesert.org
Address:	73-510 Fred Waring Dr., Palm Desert, CA 922(	**Contract Term:**	Current
Description:	Landscape maintenance. Duties inclcude litter control, plant maintenance, tree maintenance, turf maintenance, hardscape maintenance and irrigatin maintenance.		

Name:	Coachella Valley Water District	**Contact:**	Mike Munoz
Phone:	(760) 578-6471	**Email:**	mmunoz@cvwd.org
Address:	51501 Tyler St., Coachella, CA 92236	**Contract Term:**	Current
Description:	Landscape services of 40 District sites around the Valley: Services include plant litter, trash control, weed control, pest control, plant maintenance, tree maintenance, hardscape maintenance, planter maintenance and irrigation system maintenance.		

Name:	City of Rancho Cucamonga	**Contact:**	Steve Relph
Phone:	(909) 477-2730 *4116	**Email:**	steve.relph@cityofrc.us
Address:	9153 9th St., Rancho Cucamonga, CA 91730	**Contract Term:**	Current
Description:	Landscape Maintenance of Medians and Parkways: Shrub, groundcover, vine and landscape mulch maint., tree maintenance, pest control, hardscape maintenace, restroom maintenance and drinking fountain maint.		

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Evidence of Insurance- General Liability

ACORD

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 04/06/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER FEDERATED MUTUAL INSURANCE COMPANY HOME OFFICE: P.O. BOX 328 OWATONNA, MN 55060	CONTACT NAME: CLIENT CONTACT CENTER PHONE (A/C, No, Ext): 888.333.4949 FAX (A/C, No): 507.446.4564 E-MAIL ADDRESS: CLIENTCONTACTCENTER@FEDINS.COM

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: FEDERATED SERVICE INSURANCE COMPANY	28304
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	
INSURER F:	

INSURED 171235.5
MARIPOSA LANDSCAPES INC
8212 SANTOS DIAZ ST
IRWINDALE, CA 91702-3207

COVERAGES CERTIFICATE NUMBER: 0 REVISION NUMBER: 0

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY PRO-JECT LOC OTHER:	N	N	6069499	04/01/2020	04/01/2021	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$1,000,000 $100,000 EXCLUDED $1,000,000 $2,000,000 $2,000,000
A	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY HIRED AUTOS ONLY SCHEDULED AUTOS NON-OWNED AUTOS ONLY	N	N	6069499	04/01/2020	04/01/2021	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$1,000,000
A	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED RETENTION	N	N	6069500	04/01/2020	04/01/2021	EACH OCCURRENCE AGGREGATE	$10,000,000 $10,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y / N / N/A					PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
THIS COPY IS NOT TO BE REPRODUCED FOR ISSUANCE OF CERTIFICATES.

CERTIFICATE HOLDER	CANCELLATION
08 A CERTIFICATE HAS BEEN FILED WITH EACH OF YOUR CERTIFICATE HOLDERS.	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE Michael G Kern

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Evidence of Insurance- Workers Compensation

ACORD

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 03/27/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Global Risk, LLC 800 Wilshire Blvd., Second Floor Los Angeles CA 90017	CONTACT NAME: Tami Mason PHONE (A/C, No, Ext): (213) 550-2253 FAX (A/C, No): (213) 550-2258 E-MAIL ADDRESS: tmason@globalriskcap.com
	INSURER(S) AFFORDING COVERAGE — NAIC #
INSURED Mariposa Landscapes, Inc. 6232 Santos Diaz St. Irwindale CA 91702	INSURER A: Sentry Casualty Company — 28460 INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:

COVERAGES — CERTIFICATE NUMBER: Cert ID 308 — REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	COMMERCIAL GENERAL LIABILITY CLAIMS-MADE OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY PRO-JECT LOC OTHER:						EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ $ $ $ $ $
	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY HIRED AUTOS ONLY SCHEDULED AUTOS NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ $ $ $
	UMBRELLA LIAB OCCUR EXCESS LIAB CLAIMS-MADE DED RETENTION $						EACH OCCURRENCE AGGREGATE	$ $
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N: Y — N/A If yes, describe under DESCRIPTION OF OPERATIONS below		Y	90-20720-01 00 191	04/01/2020	04/01/2021	X PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 1,000,000 $ 1,000,000 $ 1,000,000
								$ $

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Proof of Insurance Only!

CERTIFICATE HOLDER	CANCELLATION
Mariposa Landscapes Inc. 15529 Arrow Highway Irwindale CA 91706	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE: Tami Mason

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Proposal Forms (Exhibit A)

Please note that all required Proposal Forms have been uploaded as a separate attachment.

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OUR VALUES ARE...



Safety Being the primary foundation of our company. We emphasize "safety first" on every worksite and in all our training programs. Our employees are taught to be aware of, and responsible for, safety at all times. We strive to prevent injuries and accidents and provide a safe environment for staff and customers alike.

Teamwork We work together, seeking input from all team members to organize our efforts for the greater good. We always remain open to change, embracing new methods and techniques to achieve the highest levels of quality and efficiency. We are considerate of team members, provide support, and encourage their growth, resulting in the ultimate outcome for the team.

Quality We are committed to bringing the best possible quality for our customers and their properties and projects. We provide prompt service, expert workmanship, and superior products. We take pride in meeting or exceeding expectations. Our ultimate goal is to deliver excellent value for our clients' investment.

Integrity We are honest and open in our communications, building deep trust and confidence in all of our relationships. We value the dedication and contribution of each person. The overall well-being of our employees, customers and vendors is important to us.

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AMENDMENT NO. 2 TO AGREEMENT FOR CONTRACT SERVICES (C00698) FOR LANDSCAPE MAINTENANCE SERVICES FOR CITY PARKS BETWEEN CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

THIS AMENDMENT NO. 2 TO THE AGREEMENT FOR LANDSCAPE MAINTENANCE SERVICES FOR CITY PARKS ("Amendment No. 2") by and between the **CITY OF BANNING** ("City") and **MARIPOSA LANDSCAPES, INC.** ("Contractor") is effective as of this day: 6/15/2023.

RECITALS

A. On February 23, 2021, the City awarded a Landscape Maintenance Agreement to Mariposa Landscapes, Inc. The Agreement provided that Contractor would provide those services specified in the Agreement and in the Scope of Services attached to the Agreement as Exhibit "A-1". The Agreement included a Schedule of Compensation attached as Exhibit "C" which specified that Contractor's total compensation would not exceed One Hundred and Six Thousand Three Hundred and Fifty-Two Dollars ($106,352.00), which included a 10% contingency for additional work.

B. On March 22, 2021, the City and Contractor, executed the Landscape Maintenance Agreement for City Parks – (C00698).

C. On May 10, 2022, the City and Contractor amended the Agreement ("Amendment No. 1") to extend the term for an additional one-year term to expire June 30, 2023 and increase the compensation for services provided under the Agreement in an amount not to exceed One Hundred One Thousand Six Hundred Thirty-Eight Dollars and Eighty Cents ($101,638.80), as approved by City Council Resolution No. 2022-56.

D. City and Contractor now desire to amend the Agreement ("Amendment No. 2") in accordance with City Council approval to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2024, modify the scope of services to include additional landscape sites and to provide compensation for the additional one-year term and additional services in an amount not to exceed One Hundred and Thirty-Five Thousand Eight Hundred and Forty-Seven Dollars and Ninety-Seven Cents ($135,847.97) for a total not to exceed Contract Sum of Three Hundred Forty-Three Thousand Eight Hundred Thirty-Eight Dollars and Seventy-Seven Cents ($343,838.77).

TERMS

1. **Contract Changes**. The Agreement is amended as follows:

   a) Section 1.1 and Exhibit "A" to the Agreement is amended to include the amended scope of services attached as Attachment "1" to this Amendment 2.

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b) Section 2.1 ("Contract Sum") of the Agreement is amended to provide that the City agrees to pay Contractor a monthly amount of Ten Thousand Two Hundred Ninety-One Dollars and Fifty-One Cents ($10,291.51) for twelve (12) months through June 30, 2024. Additionally, the City may authorize extra work for services not included in the agreed Scope of Services of a not to exceed amount of Twelve Thousand Three Hundred and Forty-Nine Dollars and Eighty-Five Cents ($12,349.85) for a total not to exceed amount of One Hundred and Thirty-Five Thousand Eight Hundred and Forty-Seven Dollars and Ninety-Seven Cents ($135,847.97). The total compensation, including reimbursement for actual expenses shall not exceed Three Hundred Forty-Three Thousand Eight Hundred Thirty-Eight Dollars and Seventy-Seven Cents ($343,838.77) (the "Contract Sum").

c) Section 3.1 ("Term") of the Agreement is hereby amended to extend the Term of the Agreement to June 30, 2024.

2. **Continuing Effect of Agreement.** Except as amended by this Amendment No. 2, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment No. 2, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by Amendment Nos. 1 through 2. In the event of a conflict between the provisions of this Amendment No. 2 and the provisions of the Agreement or Amendment No. 1, the provisions of this Amendment No. 2 shall control.

3. **Affirmation of Agreement; Warranty Re Absence of Defaults.** City and Contractor each ratify and reaffirm each and every one of the respective rights and obligations arising under the Agreement. Each party represents and warrants to the other that there have been no written or oral modifications to the Agreement other than as provided herein. Each party represents and warrants to the other that the Agreement is currently an effective, valid, and binding obligation.

Contractor represents and warrants to City that, as of the date of this Amendment No. 2, City is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

City represents and warrants to Contractor that, as of the date of this Amendment No. 2, Contractor is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

4. **Adequate Consideration.** The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment No. 2.

5. **Authority.** The persons executing this Amendment No. 2 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 2 on behalf of said party, (iii) by so executing this Amendment No. 2, such party is formally bound to the provisions of this Amendment No. 2, and (iv) the

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entering into this Amendment No. 2 does not violate any provision of any other Agreement to which said party is bound.

6. **Electronic Signatures**. Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Amendment and such other documents transmitted by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

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IN WITNESS WHEREOF the Parties hereto have executed this Amendment No. 2 the day and year first hereinabove written.

CITY OF BANNING

6/15/2023

Douglas Schulze, Date
City Manager

ATTEST:

6/15/2023

Caroline Patton Date
Deputy City Clerk

APPROVED AS TO FORM:
Richards, Watson & Gershon

Serita Young 6/5/2023

Serita Young Date
City Attorney

CONSULTANT

6/12/2023

NAME: Antonio Valenzuela Date
TITLE: Secretary

Terry Noriega 6/13/2023

NAME: Terry Noriega Date
TITLE: President

95-4245898

Tax ID No.

Address:
Mariposa Landscapes, Inc.
6232 Santos Diaz St.
Irwindale, CA 91702

City Council Approval: 2023-099

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

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ATTACHMENT "1"

Park's Landscape Maintenance - Per Site Cost Breakdown

Line Item	Location	Quantity	Unit of Measure	Orginal Monthly Rate	CPI 7.50%	New Monthly Rate	Annual Rate
1	Dysart Equestrian Park - 2101 Victory Ave	12	Month	$862.39	$64.68	$927.07	$11,124.83
2	Lion/s Park - 955 S. Hargrave Street	12	Month	$2,001.98	$150.15	$2,152.13	$25,825.54
3	Repplier Park - 201 W. George Street	12	Month	$2,032.78	$152.46	$2,185.24	$26,222.86
4	Roosevelt Williams - 1101 El George Street	12	Month	$831.59	$62.37	$893.96	$10,727.51
5	Sylvan Park - 2798 W. George Street	12	Month	$1,971.17	$147.84	$2,119.01	$25,428.09
6	Community Center & Senior Center (769 & 789 N. San Gorgonio Avenue)	12	Month	$887.49	$66.56	$954.05	$11,448.62
7	Aquatic Center (749 N. San Gorgonio)	12	Month	$986.10	$73.96	$1,060.06	$12,720.69
8	Repplier Park and Community Center Parkway. 749, 769 & 789 N. San Gorgonio Ave.	12	Month	Included in Line Items 6 & 7.	$0.00	$0.00	$0.00
			Totals >>>	$9,573.50	$718.01	$10,291.51	$123,498.15

RESOLUTION 2024-67

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE EXTENSION AND AMENDMENT OF THE LANDSCAPE MAINTENANCE CONTRACT FOR CITY PARKS WITH MARIPOSA LANDSCAPES, INC., FOR FISCAL YEAR 2024/2025 IN THE AMOUNT NOT TO EXCEED AMOUNT OF $ 139,787.64

WHEREAS, the Parks and Recreation Department does not have the required staff needed to provide parks landscape maintenance for City parks; therefore, it is necessary to retain a landscape maintenance service provider to maintain the current service level effectively, efficiently and safely for City parks; and

WHEREAS, at the regularly scheduled meeting on February 23, 2021, the City Council awarded a Park's Landscape maintenance contract (C00698) to Mariposa landscapes, Inc., for maintenance of City Parks; and

WHEREAS, the original contract was in the amount of $96,684.00, with a 10% contingency, for a total not to exceed amount of $106352.00; and

WHEREAS, the initial Agreement for maintenance of the City Parks was for a term of fifteen (15) months with four (4), one (1) year renewal options upon satisfactory review of the previously provided services; and

WHEREAS; On May 10, 2022, the City Council approved Amendment #1 to the contract extending the term through June 30, 2023; and

WHEREAS; On May 23, 2023, the City Council approved Amendment #2 to the contract extending the term through June 30, 2024; and

WHEREAS, Mariposa Landscape Services, Inc., has provided satisfactory service to the City over the term of Amendment #2; and

WHEREAS, the Contract Agreement with Mariposa Landscapes, Inc., provides an option to renew at the annual rate plus the annexed CPI for the previous year for up to two (2) additional years upon satisfactory review of the previously provided services; and

WHEREAS, Mariposa Landscape Services, Inc., has requested to extend the contract for FY 2024/25 at the annual rate plus a CPI adjustment of 2.9%; and

WHEREAS, staff recommends the continuation of Mariposa Landscape, Inc., services for Fiscal Year 2024/2025.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. Amendment No. 3 to the Agreement between the City of Banning and Mariposa Landscapes, Inc, is approved for an additional one (1) year term from July 1, 2024, to June 30, 2025 in the not to exceed amount of $139,787.64 including a 10% contingency for additional work not included in the scope of services.

SECTION 2. That the City Manager or his designee is authorized to make all necessary budget adjustments, appropriations and transfers related to the agreement for Landscape Maintenance of City parks

SECTION 3. That the City Manager is authorized to execute Amendment No. 3 with Mariposa Landscapes, Inc.

SECTION 4. The City Clerk shall certify to the adoption of this Resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 14th day of May 2024.

Alberto Sanchez, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

Serita R. Young, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2024-67, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 14th day of May 2024 by the following vote, to wit:

AYES: Flynn, Happe, Minjares, Sanchez, and Wallace.

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

EXHIBIT A
Amendment to Professional Services Agreement C00698
with Mariposa Landscapes, Inc.

AMENDMENT NO. 3 TO AGREEMENT FOR CONTRACT SERVICES (C00698) FOR LANDSCAPE MAINTENANCE SERVICES FOR CITY PARKS BETWEEN CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

THIS AMENDMENT NO. 3 TO THE AGREEMENT FOR LANDSCAPE MAINTENANCE SERVICES FOR CITY PARKS ("Amendment No. 3") by and between the **CITY OF BANNING** ("City") and **MARIPOSA LANDSCAPES, INC.** ("Contractor") is effective as of this day: _____.

RECITALS

A. On February 23, 2021, the City awarded a Landscape Maintenance Agreement to Mariposa Landscapes, Inc. The Agreement provided that Contractor would provide those services specified in the Agreement and in the Scope of Services attached to the Agreement as Exhibit "A-1". The Agreement included a Schedule of Compensation attached as Exhibit "C" which specified that Contractor's total compensation would not exceed One Hundred and Six Thousand Three Hundred and Fifty-Two Dollars ($106,352.00), which included a 10% contingency for additional work.

B. On March 22, 2021, the City and Contractor, executed the Landscape Maintenance Agreement for City Parks – (C00698).

C. On May 10, 2022, the City and Contractor amended the Agreement ("Amendment No. 1") to extend the term for an additional one-year term to expire June 30, 2023 and increase the compensation for services provided under the Agreement in an amount not to exceed One Hundred One Thousand Six Hundred Thirty-Eight Dollars and Eighty Cents ($101,638.80), as approved by City Council Resolution No. 2022-56.

D. On June 15, 2023, the City and Contractor amended the Agreement ("Amendment No. 2") to extend the term for an additional one-year term to expire June 30, 2024, modify the scope of services, and increase the compensation for services provided under the Agreement in an amount not to exceed One Hundred and Thirty-Five Thousand Eight Hundred and Forty-Seven Dollars and Ninety-Seven Cents ($135,847.97), as approved by City Council Resolution No. 2023-095.

E. City and Contractor now desire to amend the Agreement ("Amendment No. 2") in accordance with City Council approval to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2024, modify the scope of services to include additional landscape sites and to provide compensation for the additional one-year term and additional services in an amount not to exceed One Hundred and Thirty-Five Thousand Eight Hundred and Forty-Seven Dollars and Ninety-Seven Cents ($135,847.97) for a total not to exceed Contract Sum of Three Hundred Forty-Three Thousand Eight Hundred Thirty-Eight Dollars and Seventy-Seven Cents ($343,838.77).

TERMS

1. **Contract Changes**. The Agreement is amended as follows:

a) Section 1.1 and Exhibit "A" to the Agreement is amended to include the amended scope of services attached as Attachment "1" to this Amendment 3.

b) Section 2.1 ("Contract Sum") of the Agreement is amended to provide that the City agrees to pay Contractor a monthly amount of Ten Thousand Five Hundred Eighty-Nine Dollars and Ninety-Seven Cents ($10,589.97) for twelve (12) months through June 30, 2025. Additionally, the City may authorize extra work for services not included in the agreed Scope of Services of a not to exceed amount of Twelve Thousand Seven Hundred Eight Dollars ($12,708.00) for a total not to exceed amount of One Hundred and Thirty-Nine Thousand Seven Hundred Eighty-Seven Dollars and Sixty-Four Cents ($139,787.64). The total compensation, including reimbursement for actual expenses shall not exceed Four Hundred Seventy Thousand Nine Hundred Eighteen Dollars and Forty-One Cents ($470,918.41) (the "Contract Sum").

c) Section 3.1 ("Term") of the Agreement is hereby amended to extend the Term of the Agreement to June 30, 2025.

2. **Continuing Effect of Agreement.** Except as amended by this Amendment No. 3, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment No. 3, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by Amendment Nos. 1 through 3. In the event of a conflict between the provisions of this Amendment No. 3 and the provisions of the Agreement or Amendment No. 1 through 2, the provisions of this Amendment No. 3 shall control.

3. **Affirmation of Agreement; Warranty Re Absence of Defaults.** City and Contractor each ratify and reaffirm each and every one of the respective rights and obligations arising under the Agreement. Each party represents and warrants to the other that there have been no written or oral modifications to the Agreement other than as provided herein. Each party represents and warrants to the other that the Agreement is currently an effective, valid, and binding obligation.

Contractor represents and warrants to City that, as of the date of this Amendment No. 3, City is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

City represents and warrants to Contractor that, as of the date of this Amendment No. 3, Contractor is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

4. **Adequate Consideration.** The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment No. 3.

5. **Authority.** The persons executing this Amendment No. 3 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 3 on behalf of said party, (iii) by so executing this Amendment No. 3, such party is formally bound to the provisions of this Amendment No. 3, and (iv) the entering into this Amendment No. 3 does not violate any provision of any other Agreement to which said party is bound.

6. **Electronic Signatures**. Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Amendment No.3 and such other documents transmitted by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF the Parties hereto have executed this Amendment No. 3 the day and year first hereinabove written.

CITY OF BANNING

Douglas Schulze, Date
City Manager

ATTEST:

Caroline Patton Date
Deputy City Clerk

APPROVED AS TO FORM:
Richards, Watson & Gershon

Serita Young Date
City Attorney

CONSULTANT

NAME: Date
TITLE:

NAME: Date
TITLE:

Tax ID No.

Address:

City Council Approval: _____

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

ATTACHMENT "1"

Banning Park's Landscape Maintenance - Per Site Cost Breakdown FY 2024/25

Line Item	Location	Quantity	Unit of Measure	Monthly Rate 2023/24	CPI 2.90%	New Monthly Rate	Annual Rate
1	Dysart Equestrian Park - 2101 Victory Ave	12	Month	$927.07	$26.89	$953.96	**$11,447.52**
2	Lion/s Park - 955 S. Hargrave Street	12	Month	$2,152.13	$62.41	$2,214.54	**$26,574.48**
3	Repplier Park - 201 W. George Street	12	Month	$2,185.24	$63.37	$2,248.61	**$26,983.32**
4	Roosevelt Williams - 1101 El George Street	12	Month	$893.96	$25.92	$919.88	**$11,038.56**
5	Sylvan Park - 2798 W. George Street	12	Month	$2,119.01	$61.45	$2,180.46	**$26,165.52**
6	Community Center & Senior Center (769 & 789 N. San Gorgonio Avenue)	12	Month	$954.05	$27.67	$981.72	**$11,780.64**
7	Aquatic Center (749 N. San Gorgonio)	12	Month	$1,060.06	$30.74	$1,,090.80	**$13,089.60**
8	Repplier Park and Community Center Parkway. 749, 769 & 789 N. San Gorgonio Ave.	12	Month	Included in Line Items 6 & 7.	$0.00	$0.00	**$0.00**
			Totals >>>	**$10,291.52**	**$298.45**	**$10,589.97**	**$127,079.64**

RESOLUTION 2025-63

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, IN CONNECTION WITH THE CITY OF BANNING LANDSCAPE MAINTENANCE DISTRICT NO. 1, DECLARING ITS INTENTION TO LEVY AND COLLECT ASSESSMENTS WITHIN THE CITY OF BANNING LANDSCAPE MAINTENANCE DISTRICT NO. 1 FOR FISCAL YEAR 2025-26, APPROVING THE REPORT OF THE ENGINEER FOR FISCAL YEAR 2025-26 AND APPOINTING A TIME AND PLACE FOR HEARING PROTESTS

WHEREAS, on August 14, 1990, the City Council of the City of Banning ("City Council") adopted Resolution 1990-59, authorizing the formation of Landscape Maintenance District No. 1 ("LMD No. 1" or the "District"); and

WHEREAS, on May 10, 2005, the City Council adopted Resolution 2005-36, ordering the annexation of an additional five tracts and three tentative tracts to the City's LMD No. 1 ("Annexation No. 1 Tracts"); and

WHEREAS, on November 14, 2023, the City Council adopted Resolution 2023-177, ordering the annexation of Tract No. 32370, known as Canterbury, to the City's LMD No. 1 ("Annexation No. 2 Tract"); and

WHEREAS, on March 25, 2025, the City Council adopted Resolution 2025-38, initiating proceedings for the levy of an assessment for fiscal year 2025-26 in connection with LMD No. 1 pursuant to the "Landscaping and Lighting Act of 1972," Part 2 (commencing with Section 22500) of Division 15 of the California Streets and Highways Code (the "Act"), for the operation, maintenance and servicing of landscape medians, parkways, perimeter strips and slopes adjacent to sidewalks, flood detention or retention basins, and the irrigation of the above facilities and all appurtenant facilities related thereto; and

WHEREAS, by Resolution 2025-38 the City Council also ordered the City Engineer to prepare and file a written Report with the City Clerk in accordance with Article 4 (commencing with Section 22565) of Chapter 1 of Part 2 of Division 15 of the Act; and

WHEREAS, the Deputy Director of Public Works/City Engineer has prepared and filed with the City Clerk, and the City Clerk has presented to the City Council, a report dated April, 2025 that is titled "Engineer's Report for FY 2025-26 City of Banning Landscape Maintenance District No. 1" (the "Report"); and

WHEREAS, Richard Sanchez Park and trail, located in Zone 1 of the District shall be removed and maintained by the City's Parks Department on July 1, 2025 due to the fact that the general benefit to the public outweighs the special benefit bestowed to the residents within Zone 1 and therefore, the Park and trail are deemed to provide a citywide benefit and thus will be maintained by the City; and

WHEREAS, the vinyl fencing along the equestrian trail border in Zone 9 shall be physically removed due to the lack of use of its intended purpose and frequent vandalism; and

WHEREAS, it is essential that the City Council adopt this Resolution, so that the City may assess and collect assessments from the property owners located within LMD No. 1; and

WHEREAS, the City Council hereby finds that funding for LMD No. 1 is available through a special assessment of property owners located within the District.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The City Council has carefully examined and reviewed the Report, and the Report is approved as filed and considered final.

SECTION 2. The City Council hereby (1) finds that the public interest and convenience requires and (2) declares its intention to order, the levy and collection of assessments against the lots and parcels of property within LMD No. 1 pursuant to the provisions of the Act for Fiscal Year 2025-26, commencing July 1, 2025, and ending June 30, 2026, to pay for the costs and expenses of the improvements described below in Section 3. The boundaries of the District are located in the City of Banning, County of Riverside, and are shown on Exhibit "A" to this Resolution and on the District Location Map in Section 4 of the Report.

SECTION 3. The existing improvements are briefly described as follows: landscaped street medians and parkways, landscaped perimeter strips and backup walls, landscaped side slopes adjacent to sidewalks, landscaped hillsides with high visibility, landscaped flood detention or retention basins, open spaces, and equestrian trails, drainage channel bordering Tract 23446, and the irrigation of the above facilities and all appurtenant facilities related thereto.

SECTION 4. The assessments to be levied and collected against the assessable lots and parcels of property within Tracts 21882, 22810, 22811, 22913, 23446, 23598, 29721, 30186, 30222, and 32109 within the District for fiscal year 2025-26 are not proposed to increase from the assessments levied and collected for fiscal year 2024-25. The assessments to be levied and collected against the assessable lots and parcels of property within the Annexation No. 1 Tracts (Tracts 28252, 30793, 30906, 31833, 31834, and 31835) and Annexation No. 2 Tract 32370 are proposed to increase by a 2.94% Consumer Price Index ("CPI") increase from the assessments levied and collected against the assessable lots and parcels of property within the Annexation No. 1 and No. 2 Tracts from last fiscal year 2024-25, as authorized by the property owners' assessable lots and parcels of property within the Annexation No. 1 and No. 2 Tracts at the time of annexation into LMD No. 1 in 2005 and 2023, respectively.

SECTION 5. Reference is made to a map on file in the offices of the City Clerk and the City Engineer, attached as Exhibit "A," and open for public inspection for a description of the exterior boundaries of the District and the improvements described in Section 3. Reference is further made to the Report on file in the office of the City Clerk, for a full and detailed description of the improvements, the boundaries of the District and any zones therein, and the proposed assessments upon assessable lots and parcels of land within the District.

SECTION 6. NOTICE IS HEREBY GIVEN THAT THE CITY COUNCIL APPOINTS TUESDAY, THE 10TH DAY OF JUNE, 2025, AT THE HOUR OF 5:00 P.M., IN THE COUNCIL CHAMBERS AT CITY HALL, CITY OF BANNING, 99 E RAMSEY STREET, BANNING, CALIFORNIA 92220, AS THE TIME AND PLACE FOR THE HEARING OF PROTESTS OR OBJECTIONS TO THE LEVY OF THE PROPOSED ASSESSMENTS IN CONNECTION WITH THE DISTRICT. All interested persons shall be afforded the opportunity to hear and be heard. Any interested person may file a written protest with the City Clerk prior to the conclusion of the hearing. A written protest shall state all grounds of objection. A protest by a property owner shall contain a description sufficient to identify the property owned by the signer. The City Council shall consider all oral statements, and all written protests made or filed by any interested person.

SECTION 7. The Administrative City Clerk shall give notice of the time and place of said public hearing by publishing this Resolution once in a local newspaper notice not less than ten (10) days before the date of the hearing in accordance with the provisions of Streets and Highways Code Sections 22552 and 22553 and Government Code Section 6061.

SECTION 8. The Administrative City Clerk shall certify the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 13th day of May, 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

John Pinkney, Interim City Attorney
Slovak, Baron, Empey, Murphy & Pinkney, LLC

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-63, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 13th day of May, 2025 by the following vote, to wit:

AYES: Barrington, Flynn, Miller, Royce, and Wallace.

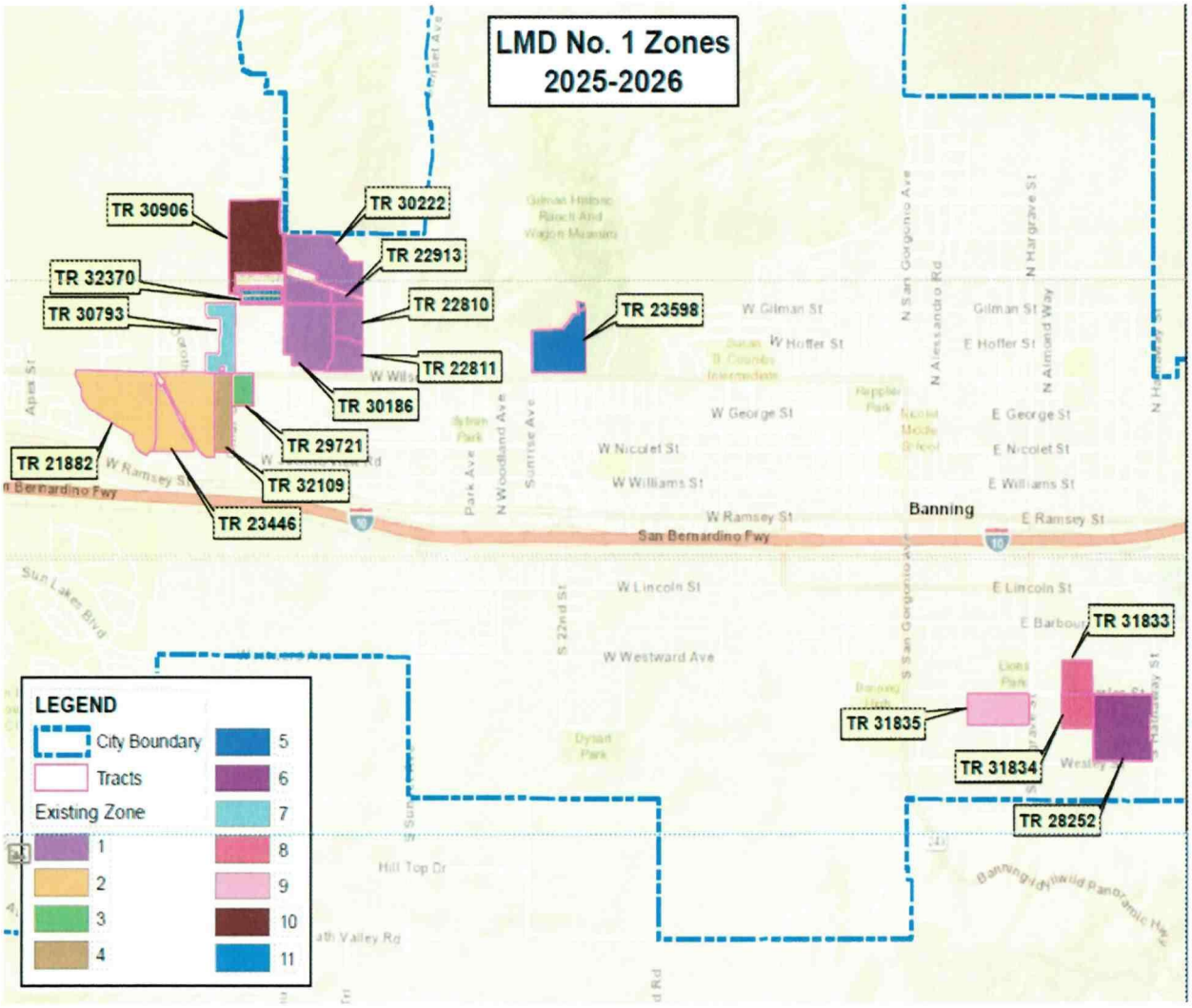
NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

EXHIBIT A
Landscape Maintenance District No. 1 Map



CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Robert Fisher, Acting City Manager**
PREPARED BY:	**Holly Stuart, Public Works Program Manager** **Art Vela, Director of Public Works**
MEETING DATE:	**May 27, 2025**
SUBJECT:	**Consideration of Resolution 2025-73, Approving Amendment No. 6 to the Professional Services Agreement with Mariposa Landscapes, Inc. in the Amount of $171,320 for FY 2025/2026 City Property Landscape Maintenance**

RECOMMENDATION:

Adopt Resolution 2025-73.

BACKGROUND:

On June 28, 2022, Resolution 2022-86 was approved awarding a Landscape Maintenance Agreement with Mariposa to provide landscape maintenance to various City properties for an annual amount of $140,807.

On February 14, 2023, Amendment No. 1 to the agreement was approved adding service locations to the agreement including Fire Station 89 located at 172 N. Murray Street and the Fire Administration Building located at 3900 W. Wilson Street. Amendment No. 1 increased the annual agreement amount by $7,248 for a total agreement amount of $148,055.

On May 23, 2023, Amendment No. 2 to the agreement was approved by City Council extending the term and increasing the agreement compensation in the amount of $139,794 for Fiscal Year 2023/2024. During this renewal period, locations under the Community Services Department were removed and added to a separate contract.

In August of 2023, Amendment No. 3 to the agreement was administratively approved adding annual maintenance of the Highland Spring Avenue underpass in the amount of $4,224 through Fiscal Year 2023/2024.

On June 11, 2024, Amendment No. 4 to the agreement was approved by City Council extending the term and increasing the agreement compensation in the amount of $148,372 for Fiscal Year 2024/2025.

On March 26, 2025, Amendment No. 5 to the agreement was approved under the Master Agreement increasing compensation by $15,000.

At this time, staff evaluated and confirmed that the contractor continues to provide satisfactory services; therefore, recommends a term extension for FY 2025/2026. For this renewal period, staff proposes to add a location to the Agreement, Amendment 6, for Ramsey Street Medians landscape services from Highland Home Road to Sunset Avenue. Amendment No. 6 will increase compensation in the amount of

$171,320.

The scope of work for landscape maintenance services includes turf management; shrub bed maintenance; tree care and pruning; fertilization; environmental weed and pest control program; irrigation equipment and operations for the City properties listed below:

- Ramsey Street Medians from Highland Springs Avenue to Highland Home Road.
- Banning City Hall (99 East Ramsey Street) landscaping around building and parking lot.
- Banning Police Station (125 East Ramsey Street).
- Banning Police Station Northeast Parking Lot (125 E. Ramsey Street)
- Fire Station Building (5261 W. Wilson Street)
- Former Armory National Guard Property (2041 W. Nicolet Street)
- Brinton Reservoir (1700 N. Mountain Avenue)
- Sunset Reservoir (1202 N. Sunset Avenue)
- San Gorgonio Parking Lot
- Fire Station 89 (172 N. Murray Street)
- Fire Administration Building (3900 W. Wilson Street)
- East Ramsey Street Medians (West and East of N. Hathaway Street)
- Highland Spring Avenue Underpass
- Ramsey Street Medians from Highland Home Road to Sunset Avenue.

Overall, the increase in fees align with the change in CPI (January 2024 to January 2025) increasing service fees by 2.9%. With approval of Amendment No. 6 the total agreement including approval under this resolution will amount to $455,445. Following this approval, there is a remaining option to renew one additional single-year.

JUSTIFICATION:

The Public Works Department does not have the required field staff needed to maintain the identified landscape areas, therefore; it is necessary to retain a landscape maintenance contractor to provide these services. Upon evaluating the existing services provided by Mariposa, staff recommends the contract renewal and processing of Amendment No. 6. If approved, one (1) additional single-year renewal remains.

FISCAL IMPACT:

Amendment No. 6 will increase the monthly landscape maintenance services agreement for FY 2025/2026 in the amount of $171,320.

The Building Maintenance Division will fund $139,575.56 of the costs. Operational costs in the amount of $120,711.56 were included in the budget and will be distributed to the appropriate area via an interfund transfer. An appropriation in the amount of $18,864 to the Building Maintenance Services Fund is necessary to cover the addition of services for the Ramsey Street Medians from Highland Home Road to Sunset Avenue.

The Water Fund in the amount of $24,244.44 will fund landscape maintenance services at the reservoirs.

Funding sources for services as needed in the amount of $7,500 will be defined on a case-by-case basis and later determined.

ALTERNATIVES:

Do not adopt Resolution 2025-73 and provide alternative direction to staff. The City Council may choose to reject this action which would result in an interruption of services in landscape maintenance of City properties. The City does not have staff resources to perform the landscape maintenance tasks.

BUDGETED?:
Yes

CONTRACT/AGREEMENT:
Yes

ATTACHMENTS:
1. Resolution_2025-73__Mariposa_City_Properties_REV.docx
2. Amend No.6 Mariposa Landscape.doc
3. Attach 2_Mariposa_FY2026 Rates.xlsx
4. Attach3A_ORG_Mariposa.pdf
5. Attach3B-Amend No. 1_Mariposa.pdf
6. Attach3C-Amend No.2_Mariposa.pdf
7. Attach3D-Amend No. 3_Mariposa.pdf
8. Attach3E_Amend No. 4_Mariposa.pdf
9. Attach_3F_Amend No.5 Mariposa.pdf

RESOLUTION 2025-73

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING AMENDMENT NO. 6 WITH MARIPOSA LANDSCAPES, INC. IN THE AMOUNT OF $171,320 FOR FISCAL YEAR 2025/2026 CITY PROPERTY LANDSCAPE MAINTENANCE

WHEREAS, on June 28, 2022, Resolution 2022-86 was approved awarding a Landscape Maintenance Agreement with Mariposa Landscapes, Inc. to provide landscape maintenance to various City properties for an annual amount of $140,807; and

WHEREAS, on February 14, 2023, Amendment No. 1 to the agreement was approved adding service locations to the agreement including Fire Station 89 located at 172 N. Murray Street and the Fire Administration Building located at 3900 W. Wilson Street increasing the annual agreement amount by $7,248 for a total agreement amount of $148,055; and

WHEREAS, on May 23, 2023, City Council approved Amendment No. 2 to the agreement with Mariposa Landscapes, Inc. extending the term of the agreement through Fiscal Year 2024 for an additional amount of $139,794 for a total contract sum of "not-to-exceed" $287,848.64 and leaving three (3) additional single year agreement renewals; and

WHEREAS, in August of 2023, Amendment No. 3 to the agreement was administratively approved adding annual maintenance of the Highland Spring Avenue underpass in the amount of $4,224 through Fiscal Year 2023/2024; and

WHEREAS, on June 11, 2024, Amendment No. 4 was approved and increased the monthly landscape maintenance services agreement for FY 2024/2025 in the amount of $148,372; and

WHEREAS, on March 26, 2025, Amendment No. 5 to the agreement was a approved under the Master Agreement increasing compensation by $15,000.00; and

WHEREAS, under approval of this resolution, Amendment No. 6 is approved for FY 2025/2026 in the amount of $171,320; and

WHEREAS, the Building Maintenance Division will fund $139,575.56 of the contract with a portion in the amount of $120,711.56 being funded by FY 2025/2026 operational budget with an appropriation in the amount of $18,864 being approved under this resolution to cover the remaining portion for the inclusion of services for the Ramsey Street Medians from Highland Home Road to Sunset Avenue; and

WHEREAS, the Water Division will fund a portion of the agreement utilizing the Water Fund in the amount of $24,244.44 for landscape maintenance services at reservoirs; and

WHEREAS, the funding source for services as needed in the amount of $7,500 will be defined on a case-by-case basis and determined at a later date.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The City Council approves Amendment No. 6 to the City Properties Landscape Maintenance Agreement with Mariposa Landscapes, Inc. in the amount of $171,320 for Fiscal Year 2025/2026.

SECTION 2. The City Council authorizes the City Manager, or designee, to make necessary budget adjustments, appropriations, and transfers related to this resolution.

SECTION 3. City Council authorizes the City Manager to make necessary non-substantive changes and to execute Amendment No. 6 with Mariposa for Fiscal Year 2025/2026.

SECTION 4. The City Clerk shall certify the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 27th day of May 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

John Pinkney, City Attorney
Slovak, Baron, Empey, Murphy & Pinkney, LLP

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-73, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 27th day of May 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

Exhibit A
Amendment No. 6 with Mariposa Landscapes, Inc.
FY 2025/2026 Landscape Maintenance of City Properties

AMENDMENT NO. 6 TO AGREEMENT FOR PROFESSIONAL SERVICES (C00763) FOR LANDSCAPE MAINTENANCE BETWEEN THE CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

1. PARTIES AND DATE

THIS AMENDMENT NO. 6 TO THE PROFESSIONAL SERVICES AGREEMENT ("Amendment No. 6") by and between the **CITY OF BANNING** ("City") and **MARIPOSA LANDSCAPES, INC.**, a California corporation ("Consultant") is effective this day of: _____.

2. RECITALS

2.1 City and Consultant entered into an agreement dated July 6, 2022 for the purpose of providing Landscape Maintenance Services ("Master Agreement") following Request for Proposals, RFP #2022-86 and approved by City Council Resolution No.2022-86.

2.2 City and Consultant have entered into an Amendment No.1 to the Master Agreement dated May 8, 2023, for the purpose of modifying the Scope of Services and increasing the compensation by an amount not to exceed Seven Thousand Two-Hundred Forty-Eight Dollars ($7,248.00) to the Master Agreement.

2.3 City and Consultant have entered into an Amendment No.2 to the Master Agreement dated, June 7, 2023 to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2024, and to provide compensation for the additional one-year term in an amount not to exceed One Hundred Thirty-Nine Thousand Seven Hundred Ninety-Three Dollars and Sixty-Four Cents ($139,793.64) as approved by City Council Resolution No. 2023-095.

2.4 City and Consultant have entered into an Amendment No.3 to the Master Agreement dated, September 14, 2023 to exercise the option to extend the Agreement for an additional services and to provide compensation in an amount not to exceed Four Thousand Two Hundred Twenty-Four Dollars ($4,224.00).

2.5 City and Consultant have entered into an Amendment No.4 to the Master Agreement dated, June 25, 2024 to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2025, and to provide compensation for the additional one-year term in an amount not to exceed One Hundred Forty-Eight Thousand Three Hundred Seventy-One Dollars and Forty-Eight Cents ($148,371.48) as approved by City Council Resolution No. 2024-081.

2.6 City and Consultant have entered into an Amendment No.5 to the Master Agreement dated, March 26, 2025 to provide additional compensation for as-needed services in the amount not to exceed Fifteen Thousand Dollars ($15,000.00).

2.7 City and Consultant now desire to amend the Master Agreement to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2026 and to provide

compensation for the additional one-year term in an amount not to exceed One Hundred Seventy-One Thousand Three Hundred Twenty Dollars ($171,320.00)

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants, conditions, and promises contained in the Master Agreement, the Parties mutually agree follows:

3. INCORPORATION OF RECITALS

3.1 The recitals listed above are true and correct and are hereby incorporated herein by this reference.

4. AMENDMENT TERMS

4.1 The maximum compensation for services performed pursuant to this Amendment No. 6 to the Master Agreement, is hereby amended and shall not exceed One Hundred Seventy-One Thousand Three Hundred Twenty Dollars ($171,320.00) thereby increasing the total not to exceed compensation of the Master Agreement to the amount of Six Hundred Twenty-Six Thousand Seven Hundred Sixty-Four Dollars and Twelve Cents ($626,764.12). Work shall be performed at the rates set forth in the Master Agreement.

4.2 The Scope of Services as set forth in Section 1.1 of and Exhibit A to the Agreement is hereby amended to include the Services set forth in Attachment A, attached hereto and incorporated herein.

4.3 The Term of the Agreement, as set forth in Section 3.4 of the Agreement, is hereby extended through June 30, 2026, unless sooner terminated or extended as provided in the Agreement.

4.4 Continuing Effect of Agreement. Except as amended by this Amendment No. 6, all provisions of the Master Agreement as amended by Amendment No. 1, Amendment No. 2, Amendment No. 3, Amendment No. 4 and Amendment No. 5, shall remain unchanged and in full force and effect.

4.5 The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment No. 6.

4.6 The persons executing this Amendment No. 6 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 6 on behalf of said party, (iii) by so executing this Amendment No. 6, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Amendment No. 6 does not violate any provision of any other Agreement to which said party is bound.

4.7 This Amendment No. 6 may be signed in counterparts, each of which shall constitute an original.

4.8 Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party (“electronic

signature”). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Agreement and such other documents transmitted by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF the Parties hereto have executed this Amendment No. **6** to the Master Agreement the day and year first hereinabove written.

CITY OF BANNING		CONSULTANT	
Robert Fisher, Acting City Manager	Date	NAME: TITLE:	Date
		NAME: TITLE:	Date

ATTEST:

Caroline Patton Date
Administrative City Clerk

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO THE CONSULTANT'S BUSINESS ENTITY.

ATTACHMENT "A"

RATE SCHEDULE FOR LANDSCAPE MAINTENANCE SERVICES OF CITY PROPERTIES

Line Item	Location	Quantity	Unit of Measure	FY 2024 Monthly Rate	FY 2024 Annual Rate	CPI 2.90% Monthly Adj	FY 2025 Monthly Rate	Annual Rate	CPI 2.90% Monthly Adj	FY 2026 Monthly Rate	FY 2026 Annual Rate
1	Ramsey Street Medians from Highland Springs Avenue to Highland Home Avenue	12	Month	$1,908.10	**$22,897.20**	$55.33	$1,963.43	$ 23,561.16	$56.93	$2,020.36	$ 24,244.38
2	Banning City Hall (Civic Center)	12	Month	$1,272.07	**$15,264.84**	$36.89	$1,308.96	$ 15,707.52	$37.95	$1,346.91	$ 16,162.92
3	Banning Police Station (125 E. Ramsey Street)	12	Month	$1,484.08	**$17,808.96**	$43.04	$1,527.12	$ 18,325.44	$44.28	$1,571.40	$ 18,856.78
4	Banning Police Station Northeast Parking Lot (125 E. Ramsey Street)	12	Month	$318.02	**$3,816.24**	$9.22	$327.24	$ 3,926.88	$9.48	$336.72	$ 4,040.67
5	Fire Station (5261 W. Wilson Street)	12	Month	$636.03	**$7,632.36**	$18.44	$654.47	$ 7,853.64	$18.92	$673.39	$ 8,080.74
8	Former Army National Guard Property (2041 W. Nicolet Street)	12	Month	$848.05	**$10,176.66**	$24.59	$872.64	$ 10,471.68	$25.30	$897.94	$ 10,775.32
9	Brinton Reservoir (1700 N. Mountain Avenue)	12	Month	$1,060.06	**$12,720.72**	$30.74	$1,090.80	$ 13,089.60	$31.63	$1,122.43	$ 13,469.18
10	Sunset Reservoir (1202 N. Sunset Avenue)	12	Month	$848.05	**$10,176.60**	$24.59	$872.64	$ 10,471.68	$25.30	$897.94	$ 10,775.32
11	San Gorgonio Parking Lot	12	Month	$212.01	**$2,544.12**	$6.15	$218.16	$ 2,617.92	$6.33	$224.49	$ 2,693.86
12	Fire Station 89 (172 N. Murray St) (added Amend 1)	12	Month	$906.00	**$10,872.00**	$26.27	$932.27	$ 11,187.24	$27.03	$959.30	$ 11,511.65
13	Fire Administration building (4900 W. Wilson St) (addeded Amend 1)	12	Month	$906.00	**$10,872.00**	$26.27	$932.27	$ 11,187.24	$27.03	$959.30	$ 11,511.65
14	West Ramsey Street Medians	12	Month	$626.00	**$7,512.00**	$18.15	$644.15	$ 7,729.80	$18.68	$662.83	$ 7,954.01
15	Higland Spring Avenue Underpass (added Amend 3)	12	Month	$384.00	**$4,224.00**	$11.14	$395.14	$ 4,741.68	$11.45	$406.59	$ 4,879.03
16	Ramsey Street Medians from Highland Home Road to Sunset Avenue (added	12	Month	---	---	---	---	---	---	$1,572.00	$ 18,864.00
17	Services As Needed (Locations to be determined)				**$7,500.00**			$ 7,500.00	$0.00	$0.00	$ 7,500.00
			Totals >>>	$11,408.47	$144,017.70	$330.82	$11,739.29	$148,371.48	$340.31	$13,651.63	$171,320

RATE SCHEDULE FOR LANDSCAPE MAINTENANCE SERVICES OF CITY PROPERTIES

Line Item	Location	Quantity	Unit of Measure	FY 2024 Monthly Rate	FY 2024 Annual Rate	CPI 2.90% Monthly Adj	FY 2025 Monthly Rate	FY 2025 Annual Rate	CPI 2.90% Monthly Adj	FY 2026 Monthly Rate	FY 2026 Annual Rate
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16	Ramsey Street Medians from Highland Home Road to Sunset Avenue (added Amend 5)	12	Month	---	---	---	---	---	---	$1,572.00	$ 18,864.00
17	Services As Needed (Locations to be determined)				$7,500.00			$ 7,500.00	$0.00	$0.00	$ 7,500.00
			Totals >>>	$11,408.47	$144,017.70	$330.82	$11,739.29	$148,371.48	$340.31	$13,651.63	$171,319.5076

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AGREEMENT FOR PROFESSIONAL SERVICES (C00763) FOR LANDSCAPE MAINTENANCE BY AND BETWEEN CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

THIS AGREEMENT FOR PROFESSIONAL SERVICES (herein "Agreement") is made and entered into this day: 7/6/2022, ("Effective Date") by and between the **CITY OF BANNING, a California municipal corporation** ("City") and **MARIPOSA LANDSCAPES, INC., a California corporation** ("Contractor"). City and Contractor are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties."

RECITALS

A. City has sought, by issuance of a Request for Proposals (RFP No. 22-015), the performance of the services for landscaping maintenance services for the City properties prepared in connection therewith, and as further defined and described particularly in Article 1 of this Agreement.

B. Contractor, following submission of a proposal or bid for the performance of the services defined and described particularly in Article 1 of this Agreement, was selected by City to perform those services.

C. The Parties desire to formalize the selection of Contractor for performance of those services defined and described particularly in Article 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

D. Pursuant to the City of Banning's Municipal Code, City has authority to enter into this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1. SERVICES OF CONTRACTOR

1.1 Scope of Services.

In compliance with all terms and conditions of this Agreement, Contractor shall provide those services specified in the "Scope of Services" attached hereto as **Exhibit A** and incorporated herein by this reference, which services may be referred to herein as the "Services" hereunder. As a material inducement to City entering into this Agreement, Contractor represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the Services required under this Agreement in a thorough, competent, and professional manner, and is experienced in performing the Services contemplated herein. Contractor shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all Services described herein. Contractor covenants that it shall follow the highest professional standards in performing the Services required hereunder and that all materials will be of good quality, and fit

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for the purpose intended. For purposes of this Agreement, the phrase "highest professional standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances. This Agreement calls for services that, in whole or in part, constitute "public works" as defined in the California Labor Code. Therefore, as to those services that are "public works," Contractor shall comply in all respects with all applicable provisions of the California Labor Code, including those set forth in Exhibit B hereto.

1.2 Contract Documents and Exhibits.

This Agreement includes the Request for Proposal and Contractor's accepted proposal ("Contract Documents"), both of which are on file with the City and incorporated herein by this general reference as though fully set forth herein. **Exhibit A** (Scope of Services), **Exhibit B** (Special Requirements), **Exhibit C** (Schedule of Compensation), and **Exhibit D** (Schedule of Performance) also constitute a part of this Agreement and are incorporated into this Agreement by this reference. Except as set forth in Section 1.10 regarding **Exhibit B**, this Agreement controls over the Contract Documents and the provisions in **Exhibits A, B** and **C**.

1.3 Compliance with Law.

Contractor shall keep itself informed concerning all ordinances, resolutions, statutes, rules, and regulations of City and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered, and shall render all Services hereunder in accordance therewith.

1.4 Licenses, Permits, Fees and Assessments.

Contractor shall obtain and maintain during the term of this Agreement, at its sole cost and expense, all necessary licenses, permits, certificates and approvals required by law for the performance of Services under this Agreement, including a City business license. Contractor shall have the sole obligation to pay for all fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and which arise from or are necessary for Contractor's performance of the Services required by this Agreement. Contractor shall indemnify, defend and hold harmless City, its officers, employees or agents, against all such fees, assessments, taxes, penalties or interest levied, assessed or imposed against City hereunder.

1.5 Familiarity with Services.

By executing this Agreement, Contractor warrants that Contractor: (i) has thoroughly investigated and considered the Scope of Services to be performed, (ii) has carefully considered how the Services should be performed, and (iii) fully understands the facilities and any difficulties and restrictions attending performance of the Services under this Agreement. If the Services involve work upon any site, Contractor warrants that Contractor has or will investigate the site and is or will be fully acquainted with the conditions existing therein, prior to commencement of Services hereunder. Should Contractor discover any latent or unknown conditions, which will materially affect the performance of the Services hereunder, Contractor shall immediately inform City of such fact and shall not proceed except at Contractor's risk until written instructions are received from the Contract Officer (defined in Section 1.12. A).

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1.6 Prevention of Loss and Damages.

Contractor shall adopt reasonable methods during the Term (defined in Section 3.4) to furnish continuous protection to the work product, and the equipment, materials, papers, documents, plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the Services by City, except such losses or damages as may be caused by City's own negligence.

1.7 Further Responsibilities of Parties.

Both Parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both Parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonable necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither Party shall be responsible to perform the Services of the other.

1.8 Additional Services.

City shall have the right at any time during the performance of the Services, without invalidating this Agreement, to order extra services beyond that specified in the Scope of Services or to make changes by altering, adding to or deducting from the Services. No such extra services may be undertaken unless a written order is first given by the Contract Officer to Contractor, which written order incorporates therein an adjustment in (i) the Contract Sum (as defined in Section 2.1), and/or (ii) the Schedule of Performance, (as defined in Section 3.2), and which written order is approved in writing by Contractor. Any increase in compensation of up to ten percent (10%) of the Contract Sum, or $25,000, whichever is less; or in the Schedule of Performance of up to one hundred eighty (180) days may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively, must be approved by City Council. It is expressly understood by Contractor that the provisions of this Section shall not apply to Services which are specifically set forth in the Scope of Services or which are reasonably contemplated therein. Contractor hereby acknowledges that it accepts the risk that the Services to be provided pursuant to the Scope of Services may be more costly or time consuming than Contractor anticipates and that Contractor shall not be entitled to additional compensation therefor.

1.9 Facilities and Equipment.

Except as otherwise provided, Contractor shall, at its own cost and expense, provide all facilities and equipment necessary to perform the Services required by this Agreement. City shall make available to Contractor only physical facilities such as desks, filing cabinets, and conference space ("City Facilities"), as City deems, in its sole discretion, to be reasonably necessary for Contractor's use while consulting with City employees and reviewing records and the information in possession of City. The location, quality, and time of furnishing City Facilities shall be in the sole discretion of City. In no event shall City be required to furnish any facilities that may involve incurring any direct expense, including but not limited to a computer, long distance telephone, network data, internet or other communication charges, vehicles and reproduction facilities.

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1.10 Special Requirements.

Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as **Exhibit B** and incorporated herein by this reference. In the event of a conflict between the provisions of **Exhibit B** and any other provisions of this Agreement, the provisions of **Exhibit B** shall govern.

1.11 Corrections.

In addition to the indemnification obligations set forth in Article 4, and Sections 1.4, 1.13, 5.3, 5.4, and 6.3, Contractor shall correct, at its expense, all errors in the Services which may be disclosed during City's review of Contractor's report or plans. Should Contractor fail to make such correction(s) in a reasonably timely manner, such correction(s) may be made by City, and the cost thereof shall be charged to Contractor. In addition to all other available remedies, City may deduct the cost of such correction(s) from any retention amount held by City, or may withhold payment otherwise owed Contractor under this Agreement up to the amount of the cost of correction(s), as provided in Section 6.3.

1.12 Party Representatives.

A. Contract Officer: For the purposes of this Agreement, the Contract Officer shall be the City Manager, or such other person designated in writing by the City Manager ("Contract Officer"). Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of City required hereunder to carry out the terms of this Agreement.

B. Principals and Personnel of Contractor.

1) Contractor Representative: The following principal of Contractor is hereby designated as being the Contractor Representative authorized to act on Contractor's behalf regarding the Services specified herein and make all decisions in connection therewith:

Name	Title
Andres Perez	Account Manager

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing Contractor Representative were a substantial inducement for City to enter into this Agreement. Therefore, the foregoing Contractor Representative shall be responsible during the term of this Agreement for directing all activities of Contractor and devoting sufficient time to personally supervise the Services hereunder. All personnel of Contractor, and any authorized agents, shall at all times be under the exclusive direction and control of the Contractor Representative. For purposes of this Agreement, the foregoing Contractor Representative may not be replaced nor may their responsibilities be substantially reduced or reassigned by Contractor without the express written approval of City. It shall be Contractor's responsibility to assure that

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the Contract Officer is kept informed of the progress of the performance of the Services, and Contractor shall refer any decisions which must be made by City to the Contract Officer.

2) Contractor's Personnel: Contractor has, or will secure at its own expense, all personnel required to perform the Services required under this Agreement. All of the Services required under this Agreement shall be performed by Contractor or under its supervision, and all personnel engaged in the Services shall be qualified to perform such Services. Contractor shall make every reasonable effort to maintain the stability and continuity of Contractor's staff and sub-contractors, if any, assigned to perform the Services required under this Agreement. Contractor shall notify City of all changes in Contractor's staff and sub-contractors, if any, assigned to perform the Services required under this Agreement, prior to and during any such performance. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires to reassign any staff or sub-contractor of Contractor, City shall give notice as set forth in Section 8.1. Contractor shall, immediately upon the receipt of the notice to re-assign staff from City, reassign such person or persons.

1.13 Independent Contractor.

A. Contractor is an independent contractor and not an employee of City. Contractor shall have no power to incur any debt, obligation, or liability on behalf of City. All Services provided pursuant to this Agreement shall be performed by Contractor or under its supervision. Contractor will determine the means, methods, and details of performing the Services. Any additional personnel performing Services under this Agreement on behalf of Contractor shall also not be employees of City and shall at all times be under Contractor's exclusive direction and control. Contractor shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Contractor shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

B. Contractor shall indemnify and hold harmless City and its elected officials, officers, employees, servants, designated volunteers, and agents serving as independent contractors in the role of City officials, from any and all liability, damages, claims, costs and expenses of any nature to the extent arising from Contractor's personnel practices. City shall have the right to offset against the amount of any fees due to Contractor under this Agreement any amount due to City from Contractor as a result of Contractor's failure to promptly pay to City any reimbursement or indemnification arising under this Section.

1.14 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Contractor, the Contractor Representative and employees were a substantial inducement for City to enter into this Agreement. Therefore, Contractor shall not contract with any other entity to perform in whole or in part the Services required hereunder without the express written approval of City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer

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to any person or group of persons acting in concert of more than twenty-five percent (25%) of the present ownership and/or control of Contractor, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release Contractor or any surety of Contractor of any liability hereunder without the express consent of City.

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, as full compensation for Services satisfactorily rendered, City shall pay Contractor at the hourly rates set forth in **Exhibit C-1** and the not-to-exceed sub-budget rates set forth in the "Schedule of Compensation" attached hereto as **Exhibit C** and incorporated herein by this reference. In no event shall Contractor be paid more than One Hundred Forty Thousand Eight Hundred Seven Dollars ($140,807.00) (the "Contract Sum"). The Contract Sum shall include the attendance of Contractor at all project meetings reasonably deemed necessary by City. Coordination of the performance of the Services with City is a critical component of the Services. If Contractor is required to attend additional meetings to facilitate such coordination, Contractor shall not be entitled to any additional compensation for attending those meetings.

2.2 Method of Compensation.

The method of compensation may include: (i) a lump sum payment upon completion of the Services, (ii) payment in accordance with specified tasks or the percentage of completion of the Services, (iii) payment for time and materials based upon Contractor's rates as specified in the Schedule of Compensation, provided that time estimates are provided for the performance of sub tasks, but not exceeding the Contract Sum or (iv) such other methods as may be specified in the Schedule of Compensation.

2.3 Reimbursable Expenses.

City shall only reimburse Contractor for those actual and necessary expenses expressly set forth in **Exhibit C**. Reimbursable expenses may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expenses, and travel expenses approved by the Contract Officer in advance, or actual sub-contractor expenses of an approved sub-contractor pursuant to Section 1.14, and only if specified in the Schedule of Compensation.

2.4 Unauthorized Services and Expenses.

City will not pay for any Services or reimburse for any expenses incurred which are not specified in the Scope of Services, unless authorized in writing as set forth in Section 1.8 of this Agreement. City shall make payment for such authorized additional Services and expenses in accordance with Article 2 of this Agreement.

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2.5 Invoices.

Each month Contractor shall furnish to City an original invoice for all Services performed and expenses incurred during the preceding month. Each such invoice shall contain all of the information set forth in Section III of **Exhibit C** to this Agreement. By submitting an invoice for payment under this Agreement, Contractor is certifying compliance with all provisions of the Agreement. Contractor shall not invoice City for any duplicate Services performed by more than one person.

City shall independently review each invoice submitted by Contractor to determine whether the Services performed and expenses incurred are in compliance with the provisions of this Agreement. City will use its best efforts to cause Contractor to be paid within thirty (30) days of receipt of Contractor's correct and undisputed invoice, except as to any charges for Services performed or expenses incurred by Contractor which are disputed by City, or as provided in Section 6.3. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Contractor for correction and resubmission. Review and payment by City of any invoice provided by Contractor shall not constitute waiver of any rights or remedies provided herein or any applicable law.

2.6 Waiver.

Payment to Contractor for Services performed pursuant to this Agreement shall not be deemed to waive any defects in Services performed by Contractor.

ARTICLE 3. PERFORMANCE SCHEDULE

3.1 Time of Essence.

Time is of the essence in the performance of this Agreement; provided, however, that the foregoing shall not be construed to limit or deprive a Party of the benefits of any grace or use period allowed in this Agreement.

3.2 Schedule of Performance.

Contractor shall commence the Services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all Services within the time period(s) established in the "Schedule of Performance" attached hereto as **Exhibit D** and incorporated herein by this reference.

3.3 Force Majeure.

The time period(s) specified in the Schedule of Performance for performance of the Services rendered pursuant to this Agreement may be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of Contractor. Such unforeseeable consequences include, but are not restricted to, acts of God or public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including City, if Contractor shall within ten (10) days of the commencement of such delay notify the

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Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the Services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified, subject to the provisions of Section 1.8. The Contract Officer's determination (or the City Council's determination, in the event the period of enforced delay exceeds the period specified in Section 1.8) shall be final and conclusive upon the Parties to this Agreement. In no event shall Contractor be entitled to recover damages against City for any delay in the performance of this Agreement, however caused; Contractor's sole remedy shall be the extension of the Agreement pursuant to this Section.

3.4 Term.

The Term of this Agreement shall be one (1) year from the date of execution with the option to extend for four (4) additional one-year terms, unless sooner terminated as provided in Article 6 of this Agreement or extended as provided in Sections 1.8 and 3.3 of this Agreement. Maximum term and any subsequent amendment or modification shall not exceed five (5) years.

ARTICLE 4. INSURANCE AND INDEMNIFICATION

4.1 Minimum Scope and Limits of Insurance.

Contractor shall procure and at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:

A. Commercial General Liability Insurance with a minimum limit of $1,000,000.00 per occurrence for bodily injury, personal injury and property damage and a general aggregate limit of $2,000,000.00 per project or location. If Contractor is a limited liability company, the commercial general liability coverage shall be amended so that Contractor and its managers, members, affiliates, employees, agents and other persons necessary or incidental to its operation are insureds.

B. Automobile Liability Insurance for any owned, non-owned or hired vehicle used in connection with the performance of this Agreement with a combined single limit of $1,000,000.00 per accident for bodily injury and property damage. If Contractor does not use any owned, non-owned or hired vehicles in the performance of Services under this Agreement, Contractor shall obtain a non-owned auto endorsement to the Commercial General Liability policy.

C. Workers' Compensation Insurance as required by the State of California and Employer's Liability Insurance with a minimum limit of $1,000,000.00 per accident for bodily injury or disease. If Contractor has no employees while performing Services under this Agreement, workers' compensation policy is not required; however, Contractor shall execute a declaration that it has no employees.

D. Professional Liability/Errors and Omissions Insurance with minimum limits of $1,000,000.00 per claim and in the aggregate.

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4.2 Acceptability of Insurers.

The insurance policies required under this Article shall be issued by an insurer admitted to write insurance in the State of California with a rating of A:VII or better in the latest edition of the A.M. Best Insurance Rating Guide. Self-insurance shall not be considered to comply with the insurance requirements under this Article.

4.3 Additional Insured.

The commercial general and automobile liability policies shall contain an endorsement naming City, its officers, employees, agents and volunteers as additional insureds.

4.4 Primary and Non-Contributing.

The insurance policies required under this Article shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance available to City. Any insurance or self-insurance maintained by City, its officers, employees, agents or volunteers, shall be in excess of Contractor's insurance and shall not contribute with it.

4.5 Contractor's Waiver of Subrogation.

The insurance policies required under this Article shall not prohibit Contractor and Contractor's employees, agents or sub-contractors from waiving the right of subrogation prior to a loss. Contractor hereby waives all rights of subrogation against City.

4.6 Deductibles and Self-Insured Retentions.

Any deductibles or self-insured retentions must be declared to and approved by City. At City's option, Contractor shall either reduce or eliminate the deductibles or self-insured retentions with respect to City; or Contractor shall procure a bond guaranteeing payment of losses and expenses.

4.7 Cancellations or Modifications to Coverage.

Contractor shall not cancel, reduce or otherwise modify the insurance policies required by this Article during the term of this Agreement. The commercial general and automobile liability policies required under this Agreement shall be endorsed to state that should the issuing insurer cancel the policy before the expiration date, the issuing insurer will endeavor to mail 30 days' prior written notice to City. If any insurance policy required under this Article is canceled or reduced in coverage or limits, Contractor shall, within two (2) Business Days (as defined in Section 8.12) of notice from the insurer, phone, fax or notify City via certified mail, return receipt requested, of the cancellation of or changes to the policy.

4.8 City Remedy for Noncompliance.

If Contractor does not maintain the policies of insurance required under this Article in full force and effect during the term of this Agreement, or in the event any of Contractor's policies do not comply with the requirements under this Article, City may either immediately

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terminate this Agreement or, if insurance is available at a reasonable cost, City may, but has no duty to, take out the necessary insurance and pay, at Contractor's expense, the premium thereon. Contractor shall promptly reimburse City for any premium paid by City, or City may withhold amounts sufficient to pay the premiums from payments due to Contractor.

4.9 Evidence of Insurance.

Prior to the performance of Services under this Agreement, Contractor shall furnish the City Clerk with a certificate or certificates of insurance and all original endorsements evidencing and effecting the coverages required under this Article. The endorsements are subject to City's approval. Contractor may provide complete, certified copies of all required insurance policies to City. Contractor shall maintain current endorsements on file with the City Clerk. Contractor shall provide proof to the City Clerk that insurance policies expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Contractor shall furnish such proof at least two (2) weeks prior to the expiration of the coverages.

4.10 Indemnity Requirements not Limiting.

Procurement of insurance by Contractor shall not be construed as a limitation of Contractor's liability or as full performance of Contractor's duty to indemnify City under this Agreement.

4.11 Sub-contractor Insurance Requirements.

Contractor shall require each of its sub-contractors that perform Services under this Agreement to maintain insurance coverage that meets all of the requirements of this Article.

4.12 Indemnification, Hold Harmless, and Duty to Defend.

A. Indemnification of City.

1) Indemnity for Design Professional Services. To the fullest extent permitted by law, Contractor shall, at its sole cost and expense, protect, indemnify, and hold harmless City and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, assigns and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees"), from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith, and reimbursement of attorney's fees and costs of defense (collectively "Liabilities"), whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to, in whole or in part, the negligence, recklessness or willful misconduct of Contractor, its officers, agents, servants, employees, subcontractors, material men, contractors or their officers, agents, servants or employees (or any entity or individual that Contractor shall bear the legal liability thereof) in the performance of design professional services under this Agreement by a "design professional," as the term is defined under California Civil Code Section 2782.8(c).

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2) Other Indemnities. Other than in the performance of design professional services, and to the fullest extent permitted by law, Contractor shall, at its sole cost and expense, defend, hold harmless and indemnify Indemnitees from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith and the payment of all consequential damages (collectively "Claims"), at law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Contractor, its officers, agents, servants, employees, sub-contractors, materialmen, Contractors or their officers, agents, servants or employees (or any entity or individual that Contractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Claims arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties. Contractor shall defend the Indemnitees in any action or actions filed in connection with any Claims with counsel of the Indemnitees' choice, and shall pay all costs and expenses, including all attorneys' fees and experts' costs actually incurred in connection with such defense. Contractor shall reimburse the Indemnitees for any and all legal expenses and costs incurred by Indemnitees in connection therewith.

3) Contractor shall pay all required taxes on amounts paid to Contractor under this Agreement, and indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Contractor shall fully comply with the workers' compensation law regarding Contractor and Contractor's employees. Contractor shall indemnify and hold City harmless from any failure of Contractor to comply with applicable workers' compensation laws. City may offset against the amount of any fees due to Contractor under this Agreement any amount due to City from Contractor as a result of Contractor's failure to promptly pay to City any reimbursement or indemnification arising under this subparagraph A.3.

4) Contractor shall obtain executed indemnity agreements with provisions identical to those in this Article from each and every sub-contractor or any other person or entity involved by, for, with or on behalf of Contractor in the performance of this Agreement. If Contractor fails to obtain such indemnities, Contractor shall be fully responsible and indemnify, hold harmless and defend the Indemnitees from and against any and all Liabilities and Claims, in law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Contractor's sub-contractor, its officers, agents, servants, employees, sub-contractors, materialmen, contractors or their officers, agents, servants or employees (or any entity or individual that Contractor's sub-contractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities and Claims arising from the sole negligence or willful misconduct of the Indemnitees, as determined by court decision or by the agreement of the Parties.

B. Workers' Compensation Acts not Limiting. Contractor's indemnifications and obligations under this Article, or any other provision of this Agreement, shall not be limited by the provisions of any workers' compensation act or similar act. Contractor expressly waives its statutory immunity under such statutes or laws as to City, its officers, agents, employees and volunteers.

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C. Insurance Requirements not Limiting. City does not, and shall not, waive any rights that it may possess against Contractor because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. The indemnities in this Article shall apply regardless of whether or not any insurance policies are determined to be applicable to the Liabilities, tax, assessment, penalty or interest asserted against City.

D. Survival of Terms. Contractor's indemnifications and obligations under this Article shall survive the expiration or termination of this Agreement.

ARTICLE 5. RECORDS, REPORTS, AND RELEASE OF INFORMATION

5.1 Service Records.

Contractor shall keep, and require sub-contractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and Services performed hereunder (the "Service Records"), as shall be necessary to perform the Services required by this Agreement and enable the Contract Officer to evaluate the performance of such Services. Any and all such Service Records shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such Service Records at all times during normal business hours of City, including the right to inspect, copy, audit and make copies and transcripts from such Service Records. Such Service Records shall be maintained for a period of three (3) years following completion of the Services hereunder, and City shall have access to such Service Records in the event any audit is required. In the event of dissolution of Contractor's business, custody of the Service Records may be given to City, and access shall be provided by Contractor's successor in interest ("Contractor's Successor"). If custody of the Service Records is given to Contractor's Successor, Contractor shall give written notice to City of the transfer of the Service Records to Contractor's Successor. The notice shall include contact information (address and telephone number) for Contractor's Successor, and access shall be provided to City by Contractor's Successor.

5.2 Reports.

Contractor shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the Services required by this Agreement as the Contract Officer shall require. Contractor hereby acknowledges that City is greatly concerned about the cost of Services to be performed pursuant to this Agreement. For this reason, Contractor agrees that if Contractor becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the Services contemplated herein, Contractor shall promptly notify the Contract Officer of that fact, circumstance, technique or event and the estimated increased or decreased cost related thereto.

5.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the "Contractor Documents") prepared by Contractor, its employees, sub-contractors and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract

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Officer or upon the termination of this Agreement. Contractor shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership use, reuse, or assignment of the Contractor Documents hereunder. Any use, reuse or assignment of such completed Contractor Documents for other projects and/or use of uncompleted Contractor Documents without specific written authorization by Contractor will be at City's sole risk and without liability to Contractor, and Contractor's guarantee and warranties shall not extend to such use or assignment. Contractor may retain copies of such Contractor Documents for its own use. Contractor shall have an unrestricted right to use the concepts embodied therein. All sub-contractors shall provide for assignment to City of all Contractor Documents prepared by them; and in the event Contractor fails to secure such assignment, Contractor shall indemnify City for all damages resulting therefrom.

5.4 Confidentiality and Release of Information.

A. All information gained or work product produced by Contractor in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Contractor. Contractor shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the Contract Officer.

B. Contractor, its officers, employees, agents or sub-contractors, shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the Services performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Contractor gives City notice of such court order or subpoena.

C. If Contractor, or any officer, employee, agent or sub-contractor of Contractor, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Contractor for any damages, costs and fees, including attorneys' fees, caused by or incurred as a result of Contractor's conduct.

D. Contractor shall promptly notify City should Contractor, its officers, employees, agents or sub-contractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any Party regarding this Agreement and the Services performed thereunder. City retains the right, but has no obligation, to represent Contractor or be present at any deposition, hearing or similar proceeding. Contractor agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Contractor. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite the response.

ARTICLE 6. ENFORCEMENT OF AGREEMENT AND TERMINATION

6.1 California Law.

This Agreement, and any dispute arising from the relationship between the Parties to this Agreement, shall be interpreted, construed and governed both as to validity and to performance of

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the Parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Riverside, State of California, or any other appropriate court in such county, and Contractor covenants and agrees to submit to the personal jurisdiction of such court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in Riverside.

6.2 Disputes; Default.

A. In the event that City determines Contractor is in default under the terms of this Agreement, City shall have no obligation or duty to continue compensating Contractor for any Services performed after the date of default. In addition to the provisions of Section 4.8, and the right to terminate pursuant to Section 6.7, if the City Manager determines that Contractor is in default in the performance of any of the terms or conditions of this Agreement, City may serve Contractor with written notice of the default. Contractor shall have ten (10) calendar days after service upon it of the notice in which to cure the default by rendering a satisfactory performance. In the event that Contractor fails to cure its default within such period of time, City may, notwithstanding any other provision of this Agreement, terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

B. In the event of termination pursuant to this Section, City may take over the Services and prosecute the same to completion by contract or otherwise, and Contractor shall be liable to the extent that the total cost for completion of the Services required hereunder exceeds the compensation herein stipulated (provided that City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to Contractor for the purpose of set-off or partial payment of the amounts owed City as provided in Section 6.3.

6.3 Retention of Funds.

Contractor hereby authorizes City to deduct from any amount payable to Contractor (whether or not arising out of this Agreement): (i) any payment amount of which may be in dispute hereunder or which is necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, (ii) all amounts retained pursuant to the provisions of Section 4.8, (iii) all amounts for which City may be liable to third parties, by reason of Contractor's acts or omissions in performing or failing to perform Contractor's obligation under this Agreement, and (iv) all payments due or that become due to Contractor during the period that Contractor or any of its sub-contractors fail to maintain any required insurance in full force and effect, until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to City, as provided in Section 4.9, above. In the event that any claim is made by a third party, the amount or validity of which is disputed by Contractor, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of Contractor to insure, indemnify, and protect City as elsewhere provided herein.

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6.4 Waiver.

Waiver by any Party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any Party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any Services by Contractor shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either Party of any default must be in writing, and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

6.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

6.6 Legal Action.

In addition to any other rights or remedies, either Party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Notwithstanding any contrary provision herein, Contractor must file a statutory claim pursuant to Government Code Sections 905 et seq. and 910 et seq., in order to pursue a legal action against City under this Agreement.

6.7 Termination Prior to Expiration of Term.

This Article 6 shall govern any termination of this Agreement except as specifically provided in Section 6.2 for termination for default of Contractor. City reserves the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days' written notice to Contractor, except that where termination is due to the fault of Contractor, the period of notice may be a shorter time as may be determined by the Contract Officer. In addition, Contractor reserves the right to terminate this Agreement at any time, with or without cause, upon sixty (60) days' written notice to City, except that where termination is due to the fault of City, the period of notice may be a shorter time as Contractor may determine. Upon receipt of any notice of termination, Contractor shall immediately cease all Services hereunder except such as may be specifically approved by the Contract Officer. Except where Contractor has initiated termination, Contractor shall be entitled to compensation for all Services rendered prior to the effective date of the notice of termination and for any Services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 6.3. In the event Contractor has initiated termination, Contractor shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder. In the event of termination without cause pursuant to this Section,

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the terminating Party need not provide the non-terminating Party with the opportunity to cure pursuant to Section 6.2.

6.8 Attorneys' Fees.

In any litigation or other proceeding by which a Party seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing Party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorneys' fees. Attorneys' fees shall include attorney's fees on any appeal, and in addition the Party entitled to attorneys' fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

ARTICLE 7. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

7.1 Non-liability of City Officers and Employees.

No officer or employee of City shall be personally liable to Contractor, or Contractor's Successor, in the event of any default or breach by City or for any amount which may become due to Contractor or Contractor's Successor, or for breach of any obligation of the terms of this Agreement.

7.2 Conflict of Interest.

Contractor covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Contractor's performance of Services under this Agreement. Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or sub-contractor without the express written consent of the Contract Officer. Contractor agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

No officer or employee of City shall have any direct or indirect financial interest in this Agreement within the scope of Government Code section 1090, nor shall any such officer or employee make, participate in making, or use his or her official position to influence, any City decision relating to the Agreement which has a material financial effect on his or her financial interests or the financial interests of any corporation, partnership or association in which he or she is, directly or indirectly, interested, in violation of any State statute or regulation. Contractor warrants that it has not paid or given, and will not pay or give any third party any money or other consideration for obtaining this Agreement.

Contractor and its officers, employees, associates and sub-contractors, if any, shall comply with all conflict of interest statutes of the State of California applicable to Contractor's Services under this Agreement, including the Political Reform Act (Gov. Code § 81000, et seq.) and Government Code Section 1090. During the term of this Agreement, Contractor may perform

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similar services for other clients; but Contractor and its officers, employees, associates and sub-contractors shall not, without the Contract Officer's prior written approval, perform services for another person or entity for whom Contractor is not currently performing services that would require Contractor or one of its officers, employees, associates or sub-contractors to abstain from a decision under this Agreement pursuant to a conflict of interest statute. Contractor shall incorporate a clause substantially similar to this Section into any subcontract that Contractor executes in connection with the performance of this Agreement.

7.3 Covenant Against Discrimination.

Contractor covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, or ancestry in the performance of this Agreement. Contractor shall take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, religion, sex, marital status, national origin, or ancestry, or other protected class.

7.4 Unauthorized Aliens.

Contractor hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Contractor so employ such unauthorized aliens for the performance of Services covered by this Agreement, and should the any liability or sanctions be imposed against City for such use of unauthorized aliens, Contractor hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

ARTICLE 8. MISCELLANEOUS PROVISIONS

8.1 Notices.

Any notice, demand, request, document, consent, approval, bill, invoice, report or other communication required or permitted under this Agreement shall be in writing and conclusively deemed effective: (a) on confirmed delivery by courier service or overnight delivery service during Contractor's and City's regular business hours; or (b) three (3) Business Days after deposit in the United States mail, by certified or registered mail, and addressed to the Party to be notified as set forth below:

If to City

Attn: Carl Szoyka
Public Works Superintendent
City of Banning
99 East Ramsey Street
Banning, California 92220
Email: cszoyka@banningca.gov

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With a courtesy copy to:	Kevin G. Ennis, City Attorney Richards, Watson & Gershon 350 South Grand Avenue, 37th Floor Los Angeles, California 90071 Email: kennis@rwglaw.com
If to Contractor:	Attn: Terry Noriega President Mariposa Landscapes, Inc. 6232 Santos Diaz St Irwindale, CA 91702 Email: terry@mariposa-ca.com

8.2 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either Party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

8.3 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

8.4 Integration; Amendment.

This Agreement, and all exhibits referred to in this Agreement, constitute the final, complete and exclusive statement of the terms of the agreement between the Parties pertaining to the subject matter of this Agreement and supersede all other and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the Parties, and none shall be used to interpret this Agreement. No Party has been induced to enter into this Agreement by, nor is any Party relying on, any representation or warranty except those expressly set forth in this Agreement. No amendment to or modification of this Agreement, nor any provision or breach hereof waived, shall be valid unless made in writing and approved by Contractor and by City Council. The Parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

8.5 Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the Parties hereunder unless the invalid provision is so material that its invalidity deprives either Party of the basic benefit of their bargain or renders this Agreement meaningless.

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8.6 Mutual Cooperation.

A. City's Cooperation. City shall provide Contractor with all pertinent data, documents and other requested information as is reasonably available for Contractor's proper performance of the Services required under this Agreement.

B. Contractor's Cooperation. In the event any claim or action is brought against City relating to Contractor's performance of Services rendered under this Agreement, Contractor shall render any reasonable assistance that City requires.

8.7 No Third Party Beneficiaries Intended.

This Agreement is made solely for the benefit of the Parties to this Agreement and their respective successors and assigns, and no other person or entity may have or acquire a right by virtue of this Agreement.

8.8 Final Payment Acceptance Constitutes Release.

The acceptance by Contractor of the final payment made under this Agreement shall operate as and be a release of City from all claims and liabilities for compensation to Contractor for anything done, furnished or relating to Contractor's Services. Acceptance of payment shall be any negotiation of City's check or the failure to make a written extra compensation claim within ten (10) calendar days of the receipt of that check. However, approval or payment by City shall not constitute, nor be deemed, a release of the responsibility and liability of Contractor, its employees, sub-contractors and agents for the accuracy and competency of the information provided and/or Services performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by City for any defect or error in the Services prepared by Contractor, its employees, sub-contractors and agents.

8.9 Non-Appropriation of Funds.

Payments to be made to Contractor by City for Services performed within the current fiscal year which are within the current fiscal budget and within an available, unexhausted fund. In the event that City does not appropriate sufficient funds for payment of Contractor's Services beyond the current fiscal year, this Agreement shall cover payment for Contractor's Services only to the conclusion of the last fiscal year in which City appropriates sufficient funds and shall automatically terminate at the conclusion of such fiscal year.

8.10 Headings.

The headings in this Agreement are included solely for convenience of reference and shall not affect the interpretation of any provision of this Agreement or any of the rights or obligations of the Parties to this Agreement.

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8.11 Word Usage.

Unless the context clearly requires otherwise, (a) the words "shall," "will" and "agrees" are mandatory and "may" is permissive; (b) "or" is not exclusive; and (c) "includes" or "including" are not limiting.

8.12 Business Days.

"Business Days" refers to days that the Banning City Hall is open for business.

8.13 Corporate Authority.

The persons executing this Agreement on behalf of the Parties hereto warrant that (i): such Party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of that Party, (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which that Party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the Parties.

[SIGNATURES ON FOLLOWING PAGE]

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IN WITNESS WHEREOF the Parties hereto have executed this Agreement the day and year first hereinabove written.

CITY OF BANNING

DocuSigned by:
Doug Schulze 7/6/2022
0AD14BA217CE497...

Douglas Schulze, Date
City Manager

ATTEST:

DocuSigned by:
7/6/2022
72C57B436CA24C7...

Caroline Patton Date
Deputy City Clerk

APPROVED AS TO FORM:
Richards, Watson & Gershon

DocuSigned by:
KEVIN G ENNIS 7/6/2022
940BF72E9643480...

Kevin G. Ennis, Esq., Date
City Attorney

CONTRACTOR

DocuSigned by:
Terry Noriega 7/5/2022
073E1ED56B084D5...

NAME: Terry Noriega Date
TITLE: President

DocuSigned by:
7/5/2022
C43353EH02E4MB

NAME: Antonio Valenzuela Date
TITLE: Secretary

95-4245898
Tax ID No.

Address:
Mariposa Landscapes, Inc.
6232 Santos Diaz St.
Irwindale, CA 91702

City Council Approval: 06/28/2022

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONTRACTOR'S BUSINESS ENTITY.

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EXHIBIT "A"
SCOPE OF SERVICES

I. **Contractor will perform the following Services in connection with providing landscape maintenance services for city properties, prepared in connection therewith:**

II. As part of the Services, Contractor will prepare and deliver the following tangible work products and services to City:

- RFP22-015, Landscape Maintenance Services for City Properties, Exhibit A-1
- RFP22-015, Landscape Maintenance Services, Addendum One, Exhibit A-1
- Reference Submitted RFP 22-015 dated 05/31/022, Exhibit A-1

III. In addition to the requirements of Parts I and II of this Scope of Services, during the performance of the Services, Contractor will keep City appraised through periodic status reports regarding the performance of the Services under this Agreement as set forth below and in Section 5.2, by the following means:

a. In-person meetings and/or teleconferences.

b. Email updates/questions to applicant team and City while reviews are underway.

c. Conference calls.

IV. All work product is subject to review and acceptance by City and must be revised by Contractor without additional charge to City until found satisfactory and accepted by City.

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REQUEST FOR PROPOSAL

LANDSCAPE MAINTENACE SERVICES FOR CITY PROPERTIES

RFP-22-015

CITY OF BANNING, CA

http://www.banningca.gov

RELEASE DATE: May 3, 2022
DEADLINE FOR QUESTIONS: May 17, 2022
RESPONSE DEADLINE: May 31, 2022, 2:00 pm

RESPONSES MAY BE SUBMITTED ELECTRONICALLY TO:
https://secure.procurenow.com/portal/banning-ca

DocuSign Envelope ID: E987ADF9-612B-437D-805C-D4A0CA3810C7

City of Banning
REQUEST FOR PROPOSAL
LANDSCAPE MAINTENACE SERVICES FOR CITY PROPERTIES

I. Notice .....
II. Introduction .....
III. Prerequisites .....
IV. Scope of Work .....
V. Vendor Questionnaire .....
VI. Pricing Proposal .....
VII. Submission Instructions And Inquiries .....
VIII. Evaluation Criteria .....
IX. Resulting Contract .....
X. Terms And Conditions .....

Attachments:

A - Professional Services agreement (with prevailing wage language) Sample

B - Banning Prevailing Wage Checklist Acknowledgement

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I. NOTICE

REQUEST FOR PROPOSALS (RFP)

LANDSCAPE MAINTENACE SERVICES FOR CITY PROPERTIES

Dear Proposers:

The City of Banning (hereinafter referred to as the "City") is requesting proposals from a qualified public entity or private firm, to establish a contract for the scope of services outlined in this request for proposals.

NOTICE IS HEREBY GIVEN that online price and document submittals must be uploaded to the online bidding system in accordance with the instructions included herein, on or before the time and date set forth in the schedule of events. It shall be the responsibility of the proposer to upload their proposal before the announced time. However, responses may be submitted at any time prior to the deadline. (Submitted proposals may be withdrawn and resubmitted at any time prior to the deadline, and cannot be viewed by City staff until the close date and time.)

SOLICITATION DOCUMENTS: To obtain a copy of the solicitation documents, please visit https://secure.procurenow.com/portal/banning-ca. If you are not currently registered with the City of Banning through ProcureNow, please create an account and subscribe to this project for notifications. Proposals may only be submitted by companies who are listed as a prospective bidder on the electronic bidding website for each project that they wish to submit a response to. Firms must also check the web site periodically for addenda information as failure to download and acknowledge any and all addenda in the submittal will result in proposer disqualification.

RESPONSIVE PROPOSALS: Once listed on the prospective bidders list, companies may submit their proposals on the electronic bidding system. The City will not accept proposals submitted by companies who are not on the prospective bidders list, or from companies who have submitted a proposal via facsimile, email, mail, or any other format not permitted by this solicitation. Further instructions for submitting proposals are explained in this solicitation. Companies are to adhere to all of the submittal instructions and requirements outlined in this solicitation in order to be considered responsive to this request for proposals.

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II. INTRODUCTION

II.A Summary

The City of Banning ("City") is seeking a qualified entity or individual ("Company") to provide the services listed in the Scope of Work.

The City anticipates selecting one firm to perform the services.

Proposals are requested from Companies that have a demonstrated ability to perform the tasks identified in this Request for Proposal ("RFP").

II.B Background

The City of Banning is strategically located astride Interstate 10 between the Inland Empire and the Coachella Valley in the San Gorgonio Pass. The City, incorporated in 1913, has a rich and colorful history.

Initially Banning served as a stagecoach and railroad stop between the Arizona territories and Los Angeles. This history has contributed to the present-day spirit of pioneer resourcefulness and "can do" attitude that is so prevalent in the community.

Banning is a friendly and wholesome place to work and raise a family. Desirable executive housing is available, as well as moderate and lower income housing. Clean air, ample water supplies and the memorable and inspiring scenic vistas of both Mt. San Gorgonio and Mt. San Jacinto, the 2 tallest peaks in Southern California, are additional amenities which make the City of Banning a logical choice as a development opportunity in the Southern California area.

II.C Contact Information

Tisha Jacobs
Buyer
99 E Ramsey St
Banning, CA 92220
Email: tjacobs@banningca.gov
Phone: (951) 922-3151
Department:
Public Works

II.D Timeline

This request for proposal will be governed by the following tentative schedule. All dates are subject to change at the discretion of the City.

Release Project Date	May 3, 2022

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Pre-Proposal Meeting (Non-Mandatory)	May 10, 2022, 10:00am Corner of Wilson St and Highland Home Rd
Question Submission Deadline	May 17, 2022, 4:00pm
Question Response Deadline	May 24, 2022, 5:00pm
Proposal Submission Deadline	May 31, 2022, 2:00pm
Interviews, If Needed	Week of 06/13/2022
Tentative City Council Meeting to Consider Awarding Contract	June 28, 2022

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III. PREREQUISITES

Proposals will only be considered from Companies that meet the following prerequisites:

III.A Years of experience

Have at least **five (5)** years' of experience, within the past **five (5)** years under a legally registered business name, in providing services of a similar type and scope as described in the Scope of Services. Have not filed for bankruptcy under any business name over the past five (5) years.

III.B ProcureNow Registration

Have created an account on ProcureNow. Companies can register at: https://secure.procurenow.com/portal/banning-ca

Once registered, Companies must download this solicitation in order to appear on the Bidder's List as a "Prospective Bidder." Companies that fail to specifically download this solicitation will not appear on the Bidders' List and will be unable to participate or be considered for this RFP.

III.C Non-Mandatory Pre-Proposal Meeting

All prospective Companies are strongly encouraged to attend the non-mandatory pre-proposal meeting on Tuesday, May 10, 2022 at 10:00 am to be held at:

Corner of Wilson St and Highland Home Rd

III.D Licenses

If applicable, Company and/or its key personnel, shall hold an appropriate license for the Company's discipline and the Services on the date the Proposal is submitted.

III.E Department of Industrial Relations Registration

Company shall have registered with the Department of Industrial Relations and any other required organizations.

- No contractor or subcontractor may be listed on a bid proposal for a public works project (submitted on or after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
    A. No contractor or subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.
    B. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

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C. Registration can be accomplished through the DIR website by using this link: http://www.dir.ca.gov/Public-Works/PublicWorks.html.

- Contractor is aware of and stipulates that Contractor will also comply with the following sections of the California Labor Code:

  A. Sections 1771, 1774, and 1775 prescribing prevailing wage rage requirements and sanctions for failure to pay prevailing wage rates;

  B. Section 1776 requiring the making, keeping and disclosing of detailed payroll records and prescribing sanctions for failure to do so;

  C. Section 1777.5 prescribing the terms and conditions for employing registered apprentices;

  D. Section 1810 providing that eight hours of labor shall be a day's work; and

  E. Section 1813 and 1815 prescribing sanctions for violations of the provisions concerning eight-hour work days and forty-hour work weeks.

     1. A schedule of prevailing wage rates as published by the California Department of Industrial Relations for the types of work to be done under these Special Provisions can be found on the DIR's website: http://www.dir.ca.gov/OPRL/PWD/index.htm. The Contractor and all subcontractors shall pay not less than these rates. The Contractor shall submit certified payroll records electronically to the DIR.

     2. The possibility of wage increases is one of the elements to be considered by the Contractor in determining Contractor's bid. No additional compensations will be made for any increases in prevailing wage rates in excess of those set forth in the Contract. However, if the job is prolonged as a result of construction change order(s) or delayed by the City beyond the specified days in the Time of Completion, reimbursements may be made for increases in prevailing wage rates, but only for the working days beyond that stipulated.

See attachment B - Banning Prevailing Wage Checklist Acknowledgement

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IV. SCOPE OF WORK

IV.A SCOPE OF WORK

The scope of services includes turf management; shrub bed maintenance; tree care and pruning; fertilization; environmental weed and pest control program; and irrigation equipment and operations for all locations identified in this Request for Proposals ("RFP") and listed below:

- Ramsey Street Medians (Ramsey Street) from Highland Springs Avenue to Highland Home Road.
- Banning City Hall (99 East Ramsey Street) landscaping around building and in parking lot.
- Banning Police Station (125 E. Ramsey Street)
- Banning Police Station Northeast Parking Lot (125 E. Ramsey Street)
- Fire Station (5261 W. Wilson Street)
- Community Center & Senior Center (769 & 789 N. San Gorgonio Avenue)
- Aquatic Center (749 N. San Gorgonio Avenue) landscaping around the immediate exterior vicinity around the center as well as the landscaping inside the center.
- Former Army National Guard property (2041 W. Nicolet Street)
- Brinton Reservoir (1700 N. Mountain Avenue)
- Sunset Reservoir (1202 N. Sunset Avenue)
- San Gorgonio Parking Lot

It is the responsibility of the Contractor to visit the sites and become familiar with the project locations and maintenance needs. It is the City's expectation that all land care and maintenance items identified in this RFP will be addressed.

IV.B TURF MANAGEMENT

A. Lawn Mowing

1. For all turf areas, Contractor will inspect and police the grounds for litter and debris prior to each mowing and dispose of it.
2. Turf will be mowed one time per week during active growing periods, and as often as required during slow periods of growth to maintain a neat and manicured appearance, weather permitting.
3. Mowing height for all irrigated lawn areas will be no less than 1 ½" and no more than 2 ½" for a finished cut height unless otherwise requested. Turf will be cut at a uniform height. Mowing equipment is to be kept sufficiently sharp and properly adjusted through daily servicing to provide a cleanly cut grass blade. Grass blade bruising,

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tearing, and shredding are to be prevented. Mowing pattern will be varied where possible to reduce rutting and compaction of grade. Any excess clippings will be dispersed and/or collected to prevent damage and unsightly appearance of lawns.

B. Edging and String Trimming

1. All sidewalks, curb lines, concrete slabs, tree circles, and bed edges will be edged as often as necessary to maintain a neat and manicured appearance. String trimming will be performed around all trees, shrubs, road signs, guard posts, utility poles, and other obstacles.

C. Clearing of Walks

1. At the conclusion of each visit, walks adjacent to work areas will be blown clean.

IV.C SHRUB BED MAINTENANCE

A. Landscaped areas will be policed throughout the growing season for weeds, litter, and debris. Particular attention will be paid to entryways, focal points, and high traffic areas.

B. Planter beds will be groomed to promote an attractive, fresh appearance.

C. Concrete swales (if applicable) to be kept clear of miscellaneous dirt and debris.

D. Complete trimming, edging, and weeding of all shrub and ground cover areas will be done on a cyclical basis. Trimming and edging are to be performed monthly and weeding is to be performed weekly. Major pruning will be done following flowering or during plant dormant season.

1. Pruning shall be performed by Contractor's designated staff member who is trained and demonstrated competency in proper pruning techniques.
2. Prune shrubbery and hedges at established maintenance height.
3. Prune groundcover as required to contain perimeter growth to within bed areas where adjacent to walks, curbs, and structures. Mature groundcover will be maintained at a consistent appearance with a beveled or rolled edge at hard surfaces.
4. Shearing of plants will occur only where previous practice has been to shear, or as directed.
5. Removal of leaves and debris from lawns, planter beds, and walkways will be completed throughout the year as needed to maintain a clean appearance.

IV.D TREE CARE & PRUNING

A. All trees will be "skirted" as needed per the City's request to allow for pedestrian and vehicle clearance. Remove lower branches of trees when in conflict with growth of planning beneath. On trees that are over 12' only low hanging branches that are considered a hazard to pedestrians or vehicles will be pruned as part of this agreement.

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B. All trees under 12" total height will be pruned to remove weak, dead, damaged, and diseased portions of the plant for natural growth development.

   1. Cuts will be flush and clean, leaving not stubs, or tearing of bark. Major pruning will be done following flowering or during plant's dormant season.

   2. Pruning to be performed by Contractor's designated staff member who is trained and demonstrates competency in proper pruning techniques.

C. Monitor trees that are staked or guyed. Loosen and/or remove supports when appropriate to prevent girdling of the trunk and encourage root support.

IV.E FERTILIZATION

A. Contractor shall provide all labor and materials to fertilize lawn, shrubs and ground cover to maintain proper nutrient levels and provide a consistent, healthy appearance.

   1. Turf, shrub and ground cover areas will be fertilized with specifically formulated products including well-balanced, slow-release fertilizers customized seasonally by Contractor. Seasonally refers to "Winter" and "Summer" and different fertilizers will be used based on ground temperature.

   2. Fertilizer product will be selected based on plant type and season.

IV.F ENVIRONMENTAL WEED AND PEST CONTROL PROGRAM

A. All applications and herbicides or pesticides will be performed under the direction of California Licensed & Certified Pest Control Specialist. All safety precautions will be taken in the handling and application of chemicals as stated on manufacture's labels.

B. Broadleaf turf weeds will be treated as needed.

C. Weeds in shrub, planter beds, ground cover areas, tree circles, and sidewalk cracks adjacent to landscaped areas will be controlled by a manual weeding program or by using selected herbicides, including pre-emergent herbicides.

D. Planting areas will be monitored for insect and disease infestations. Moles, field mice, ground squirrels, gophers, and other rodent activity will be monitored. Notification of problems and recommendations for timely appropriate, control measure will be made.

E. Material Safety Data Sheets (MSDS) for all chemicals used on site(s) are available from Contractor to clients in accordance with EPA and OSHA regulations.

F. Contractor shall be in compliance with requirements for hazardous communications programs. Pest control specialist are to be trained and supervised in the safe application, storage, and disposal of chemicals in accordance with EPA, OSHA, and DPR regulations.

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IV.G IRRIGATION EQUIPMENT AND OPERATION

A. Schedule all irrigation controllers on project to maximize existing irrigation systems efficiency. Controller programs will be adjusted as determined by weather and plant requirements, with water conservation methods in place. Controllers will be shut off during periods of rain. Watering will be scheduled for night or early morning unless instructed differently by City's representative.

B. Clean and adjust sprinkler system to provide the best coverage possible from existing system. Turn on each zone, monitor for leaks or malfunctioning parts, and adjust for proper spray arch and maximum efficiency.

C. Upon inspection, any accidental damage or vandalism caused by others shall be reported to owner within 48 hours. Repair and/or replacement of any damaged of malfunctioning components beyond Contractor's control will be submitted as an extra. Damage caused to the irrigation system by Contractor shall be repaired with three (3) days, unless otherwise agreed to, at no charge.

IV.H GENERAL CONDITIONS

A. City is responsible for all cost associated with water.

B. Contractor will provide uniformed staff supervised by fully trained Supervisors and Area Manager. Radio and cellular phone communication will be available.

C. Inspection of site(s) will be made regularly and problems, if found, will be discussed by Contractor and the City. Written, comprehensive inspection reports will be provided upon request.

D. Debris generated by landscape activities will be removed from the site unless prior arrangements are made. Debris collected by the Contractor will be recycled and or composted. Contractor will submit a monthly diversion summary report stating diverted quantities and facilities utilized for recycling materials.

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V. VENDOR QUESTIONNAIRE

Proposals should be prepared in such a way as to provide a straightforward, concise delineation of capabilities to satisfy the requirements of this RFP. Responses should emphasize the Company's demonstrated capability to perform work of this type. Emphasis should be concentrated on completeness and clarity of content. Proposals shall adhere to the following format for organization and content. Proposals must be typed and arranged/divided in the following sequence to facilitate evaluation.

V.A Cover Letter*

The cover letter shall include a brief general statement of intent to perform the services and confirm that all elements of the RFP have been reviewed and understood. The letter shall include a brief summary of Company's qualifications and Company's willingness to enter into a contract under the terms and conditions prescribed by this RFP and in the Sample Agreement. The letter must identify a single person for contact during the RFP review process.

*Response required

V.B Proposal*

A. Statement of Understanding and Approach

- This section must demonstrate an understanding of the Services. It should describe the general approach, organization and staffing required for the Services requested. If necessary, preliminary investigations, due diligence, and research shall be discussed in this section.
- This section should include the following:
  - An implementation plan that describes in detail (i) the methods, including controls by which your firm or entity manages projects of the type sought by this RFP; (ii) methodology for soliciting and documenting views of internal and external stakeholders; (iii) and any other project management or implementation strategies or techniques that the respondent intends to employ in carrying out the work.
  - Detailed description of efforts your firm or entity will undertake to achieve client satisfaction and to satisfy the requirements of the "Scope of Work" section.
  - Detailed project schedule, identifying all tasks and deliverables to be performed, durations for each task, and overall time of completion, including a complete transition plan. Include your plan to deal with fluctuation in service needs and any associated price adjustments. The Contractor shall provide a project schedule indicating monthly and project activities. The schedule shall reflect a tentative start date of July 1, 2022 through June 30, 2023 with the option to renew upon satisfactory review and request of the City.

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- Detailed description of specific tasks you will require from City staff. Explain what the respective roles of City staff and your staff would be to complete the tasks specified in the Scope of Work.
- Proposers are encouraged to provide additional innovative and/or creative approaches for providing the service that will maximize efficient, cost-effective operations or increased performance capabilities. In addition, the City will consider proposals that offer alternative service delivery means and methods for the services desired.
- Proposers are also requested to identify any City owned facilities or property which Proposer would propose to use or lease, purchase, or rent from the City in connection with the services to be performed, including information about the terms of any proposed lease, purchase or use of such equipment and facilities, and how this proposed structure affects the overall cost proposal to the City, if applicable.

B. Company Information

- This section shall include contact person information, address and telephone number of the company main office and branch offices. Each Company shall identify itself as to the type of organizational entity (corporation, sole proprietorship, partnership, joint venture, etc.). Any supplemental information that Company believes may be pertinent to the selection process may be provided.
  - How long the company has been in business, plus a brief description of the company history, size and organization.
- The proposer should provide an affirmative statement that it is independent of the City as defined by generally accepted auditing standards/the U.S. General Accounting Office's Government Auditing Standards (1994).
- The Proposal shall identify any litigation, mediation, or arbitration, regarding the performance of any services similar to the Services, in which the Company has been involved in the past five (5) years. If the Services require a license or certification, the Proposal shall include any claims or disciplinary action taken against Company or any of Company's key personnel within the past five years.

C. Company Personnel

- This section shall contain names, contact numbers and description of experience, including licenses and/or certifications, of all key personnel who would be assigned to perform the Services. Members of the Company's professional team (managers, contact person, etc.) should be identified by name, title, phone number, and description of the portion of work they will be assigned to perform under this Agreement. Also include major subcontractors (if any) and their degree of involvement in this program. If the Company is including any subcontractors, the Company shall identify how long the Company has worked with the subcontractor.

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- An affirmative statement should be included that the proposer and all assigned key professional staff are properly licensed to practice in California.

D. Disclosure

- Please disclose any and all past or current business and personal relationships with any current Banning elected official, appointed official, City employee, or family member of any current Banning elected official, appointed official, or City employee. Any past or current business relationship may not disqualify the firm from consideration.

E. Experience and References

- The Proposal must demonstrate that the Company, or its key personnel, meets the minimum experience requirement in #Prerequisites with a legally registered business name, that provides services of a similar type and scope as described in the Scope of Services. A Company shall not have filed for bankruptcy under any business name over the past five (5) years.
- Company shall provide at least 3 references, within the past 5 years, of clients for whom services have been performed that are comparable in quality and scope to that specified in this RFP. The references shall include client names, addresses, telephone numbers and e-mail addresses of the clients for whom prior work was performed and include an explanation of the services provided along with project start and end dates.

*Response required

V.C Price Proposal*

All proposals submitted shall have a stated dollar bid amount for providing the services outlined in the Scope of Services. The total shall be an all-inclusive maximum price and to contain all direct and indirect costs including all out-of-pocket expenses with a full and complete breakdown of all said costs, and proposed fees including but not limited to hourly rates, reimbursable expenses and/or rates, mileage and/or travel cost, miscellaneous fees, etc., for the first year's audit engagement.

In addition, a statement must be included in this section that if the proposer is charging travel costs, the proposer's charges invoiced to the City for travel, lodging and subsistence shall not exceed the current IRS rates.

*Response required

V.D Value Added Services

Please describe any value-added services your company offers that may be of use to the City

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V.E Evidence of Insurance*

In addition, the Company shall provide evidence of possession of insurance in the coverage and amounts listed in the Sample Agreement.

City requires that licensees, lessees, and vendors have an approved Certificate of Insurance (not a declaration or policy) or proof of legal self-insurance on file with the City for the issuance of a permit or contract. Within ten (10) consecutive calendar days of award of contract, successful Proposer must furnish the City with the Certificates of Insurance proving coverage as specified in contract sample.

*Response required

V.F Vendor Forms

Please download the below documents, complete, and upload.

- New_Vendor_Packet.pdf

V.G Type of Business*

☐ C Corporation
☐ S Corporation
☐ Limited Liability C Corporation
☐ Partnership
☐ Limited Liability Partnership
☐ Sole Proprietor/Individual
☐ Other
*Response required

V.H Type your Legal Company Name Here*

State your Company's Name Here. This will be verified against the California Secretary of State's Website.

*Response required

V.I Contractors State License Board (CSLB) Number*

Contractors State License Board (CSLB) Number*

Please enter your License Number here. This will be verified against the state database

*Response required

V.J California Department of Industrial Relations Registration*

California Department of Industrial Relations Registration*

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Please enter your Public Works Contractor Registration Number. This will be verified against the state database.

*Response required

V.K PREVAILING WAGE REQUIREMENT*

Please upload pages 1-5 of attachment B - Banning Prevailing Wage Checklist Acknowledgement

*Response required

V.L EX PARTE COMMUNICATIONS CERTIFICATION*

I certify that Bidder and Bidder's representatives have not had any communication with a City Councilmember concerning this IFB at any time after the date and time that this IFB was publicly advertised.

☐ Yes
☐ No
*Response required

V.M EX PARTE COMMUNICATION CONTINUED*

EX PARTE COMMUNICATION CONTINUED *

If stated "Yes" above, please explain the circumstances in the following space, or state "None.

*Response required

V.N DISQUALIFICATIONS QUESTIONNAIRE*

Has the Company, any officer of the Company, or any employee of the Company who has proprietary interest in the Company, ever been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of a violation of law or safety regulation?

☐ Yes
☐ No
*Response required

V.O DISQUALIFICATIONS QUESTIONNAIRE CONTINUED*

If stated "Yes" above, please explain the circumstances in the following space, or state "None."

*Response required

V.P DISCLOSURE OF GOVERNMENT POSITIONS*

Each Bidder shall disclose below whether any owner or employee of the firm currently hold positions as elected or appointed officials, directors, officers, or employees of a governmental entity or held such positions in the past twelve months. List below or state "None."

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☐ Yes
☐ No
*Response required

V.Q DISCLOSURE OF GOVERNMENT POSITIONS CONTINUED*

If stated "Yes" above, please disclose any owner or employee of the firm currently hold positions as elected or appointed officials, directors, officers, or employees of a governmental entity or held such positions in the past twelve months, or state "None."

*Response required

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VI. PRICING PROPOSAL

RATE SHEET

Line Item	Location	Quantity	Unit of Measure	Monthly Rate	Annual Rate
1	Ramsey Street Medians from Highland Springs Avenue to Highland Home Road	12	Month		
2	Banning City Hall (Civic Center)	12	Month		
3	Banning Police Station (125 E. Ramsey Street)	12	Month		
4	Banning Police Station Northeast Parking Lot (125 E. Ramsey Street)	12	Month		
5	Fire Station (5261 W. Wilson Street)	12	Month		
6	Community Center & Senior Center (769 & 789 N. San Gorgonio Avenue)	12	Month		
7	Aquatic Center (749 N. San Gorgonio)	12	Month		
8	Former Army Nation Guard Property (2041 W. Nicolet Street)	12	Month		
9	Brinton Reservoir (1700 N. Mountain Avenue)	12	Month		
10	Sunset Reservoir (1202 N. Sunset Avenue)	12	Month		
11	San Gorgonio Parking Lot	12	Month		
TOTAL					

CLEAN-UP

Line Item	Location	Unit of Measure	Monthly Rate
1	Ramsey Street Medians from Highland Springs Avenue to Highland Home Road	One Time	
2	Banning City Hall (Civic Center)	One Time	
3	Banning Police Station (125 E. Ramsey Street)	One Time	

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Line Item	Location	Unit of Measure	Monthly Rate
4	Banning Police Station Northeast Parking Lot (125 E. Ramsey Street)	One Time	
5	Fire Station (5261 W. Wilson Street)	One Time	
6	Community Center & Senior Center (769 & 789 N. San Gorgonio Avenue)	One Time	
7	Aquatic Center (749 N. San Gorgonio)	One Time	
8	Former Army Nation Guard Property (2041 W. Nicolet Street)	One Time	
9	Brinton Reservoir (1700 N. Mountain Avenue)	One Time	
10	Sunset Reservoir (1202 N. Sunset Avenue)	One Time	
11	San Gorgonio Parking Lot	One Time	

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VII. SUBMISSION INSTRUCTIONS AND INQUIRIES

VII.A Inquiries

If prior to the date fixed for submission of Proposals, a prospective Company discovers any ambiguity, conflict, discrepancy, omission or other errors in this RFP or any of its appendices, exhibits or attachments, the Company shall immediately notify the City of such error in writing and request modification or clarification of the document. Modifications shall be made by written Addenda to the RFP.

If a Company fails to notify the City, prior to the date fixed for submissions of Proposals, of an error in the RFP known to the Company, or an error that reasonably should have been known to the Company, the Company shall submit its Proposal at its own risk, and if the Company is awarded a Contract, it shall not be entitled to additional compensation or time by reason of the error or its later correction.

All communications regarding technical, scope, and/or project related questions and requests for clarifications, changes, exceptions, and deviations to the terms and conditions set forth in this RFP **shall be submitted via "Q&A"** through the City's Electronic Bidding System, ProcureNow, before the deadline and according to these specifications herein. Any and all other bidding communications shall only be with **Nicole Jews, Purchasing Manager**, at (951) 922-3121.

The Final day for receipt of questions from the Proposer shall be on or before the due date indicated in the schedule of events section. To ensure fairness and avoid misunderstandings, **all communications must be in written format** and submitted only in the format set forth above. Any verbal communications will not be considered or responded to. All questions received by the due date will be logged and reviewed and if required, a response will be provided via an addendum to the RFP that will be posted on the City's website. **Any communications, whether written or verbal, with any City Councilmember, City staff, or RFP evaluation panel member other than the individual indicated above, prior to award of a contract by City Council, is strictly prohibited and the Proposer shall be disqualified from consideration.**

VII.B Completion Of Proposal

Proposals shall be completed in all respects as required by this RFP. A proposal may be rejected if conditional or incomplete, or if it contains any alterations or other irregularities of any kind, and will be rejected if any such defect or irregularity can materially affect the quality of the proposal. Proposals which contain false or misleading statements may be rejected. If, in the opinion of the City's Selection Committee, such information was intended to mislead the City in its evaluation of the proposal, and the attribute, condition, or capability is a requirement of this RFP, the proposal will be rejected. Statements made by a Company shall also be without ambiguity, and with adequate elaboration, where necessary, for clear understanding.

Unauthorized conditions, exemptions, limitations, qualifications, or provisions attached to a Proposal will render it non-responsive and will cause its rejection.

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The Company, in responding to this RFP, must submit Proposals in the format identified in this RFP. The Proposal must address all requirements of the RFP even if a "no response" is appropriate.

Costs for developing Proposals are entirely the responsibility of the Company and shall not be chargeable to the City. The City shall not be liable for any costs incurred in response to this RFP, including but not limited to, costs for any interviews, presentations, or other follow-up information necessary as part of the selection process. All costs shall be borne by the Company responding to this RFP. The Company responding to this RFP shall hold the City harmless from any liability, claim, and expense whatsoever incurred by or on behalf of the Company.

VII.C Delivery / Submission Of Proposals

The Final day for submission of proposals shall be on or before the due date indicated in the schedule of events section.

Companies shall register on the City's Electronic Bidding System, https://www.banningca.gov/bids. Once registered, Companies must download the RFP while logged in under their own name and identification number to appear on the Current Prospective Bidders List as a "Prospective Bidder." Companies that fail to download the RFP will not appear on the Current Prospective Bidders List and their proposals will be considered non-responsive. If a Company is unable to register or download the RFP from the bidding website, a representative may contact ProcureNow.

All proposal documents and supplementary documents must be uploaded using the City's bidding website prior to event date and time as instructed in this solicitation. Once file(s) have been uploaded and the Submission Status shows as "Submitted" the submission is complete. At that point respondents will receive an email confirmation from the bidding website.

The City reserves the right to reject any and all proposals and to waive information and minor irregularities in any proposal received.

Acceptance of Terms and Conditions - Submission of a proposal pursuant to this RFP shall constitute acknowledgment and acceptance of all terms and conditions hereinafter set forth in this RFP.

The time and date are fixed, and extensions will not be granted unless specifically stated by the City in an addendum to this RFP. Proposals not received before the bid event time will not be accepted.

VII.D Alternative Proposals

Only one proposal is to be submitted by each Company for this RFP. Multiple simultaneous proposals will result in rejection of all Proposals submitted by Company. A Company may, prior to the proposal due date and time, withdraw a proposal and submit a new proposal, so long as the new proposal is submitted before the proposal due date and time.

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VII.E Examination Of RFP And Sites Of Work

The Company shall carefully examine the RFP and all sites, if applicable, of the work contemplated. The submission of a Proposal shall be conclusive evidence that the Company has investigated and is satisfied as to the conditions to be encountered, as to the character, quality, and quantities of work to be performed and materials to be furnished, the difficulties to be encountered, and to the requirements of the Proposal, RFP, and other Contract Documents.

By submitting a Proposal, the Company hereby certifies that it has: examined the local conditions, read each and every clause of this RFP, included all costs necessary to complete the specified work in its proposed prices, and agrees that if it is awarded the Contract it will make no claim against the City based upon ignorance of local conditions or misunderstanding of any provision of the Contract. Should the conditions turn out otherwise than anticipated by it, the Company agrees to assume all risks incident thereto.

VII.F Addenda

Unless otherwise specified, any addenda issued during the time of bidding must be acknowledged electronically via the City's Bidding Website, which will be made part of the proposal. Addenda notifications will be provided to those listed on the Electronic Prospective Bidder's List via email.

VII.G Withdraw Of Proposals

All proposals shall be firm offers and may not be withdrawn for a period of one hundred twenty (120) days following the deadline date for submission of proposals noted herein. Submitted Proposals may be withdrawn at any time prior to the submission deadline.

VII.H Pre-Proposal Meeting

There will be an optional pre-proposal meeting Tuesday, May 10, 2022 at 10:00 am. The meeting will be located at Corner of Wilson St and Highland Home Rd.

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VIII. EVALUATION CRITERIA

The City reserves the right to amend, withdraw, and cancel this RFP. The City also reserves the right to reject all responses to this RFP at any time prior to agreement execution. Furthermore, the City reserves the right to request additional information about any and all Proposals, that in City's opinion, is necessary to assure that the Company's competence, number of qualified employees, business organization, experience, and financial resources are adequate to perform the Services.

All Proposals shall be reviewed to verify that the Company has met the minimum requirements as stated in this RFP. Proposals that have not followed the rules, do not meet minimum content and quality standards, and/or do not provide references will be rejected as non-responsive.

Responsive proposals will be evaluated on the basis of the criteria below. **If needed, interviews will be scheduled during or after the week indicated in the "Schedule of Events" section.** If needed, interviews will be conducted by the same members on the proposal evaluation panel. Dates, times, and a location will be coordinated at that time if interviews are deemed necessary after the evaluation of responsive proposals. If interviews are deemed necessary, candidates who have submitted the highest scoring proposals within a competitive range as determined by the City will be invited to participate in the interview process.

The selected Company shall then enter into exclusive negotiations with the City to formalize the Scope of Service and Compensation. Recommendation for award is contingent upon the successful negotiation of final contract terms. Negotiations shall be confidential and not subject to disclosure to competing Proposers unless an agreement is reached. If the City is unable to obtain a fair and reasonable price or cannot reach agreement regarding the terms for the Scope of Services, then the City will end negotiations with that Company and begin negotiations with the next Company which best meets the needs of the City, and so on until a City and the Company reach agreement.
The City intends to select the Company that offers the best value to the City based on the criteria outlined above.

No.	Evaluation Criteria	Scoring Method	Weight (Points)
1.	**Qualifications**	0-5 Points	25 *(25% of Total)*
2.	**Pricing**	0-5 Points	20 *(20% of Total)*
3.	**Experience (Projects of similar size and scope)**	0-5 Points	25 *(25% of Total)*
4.	**Professional References**	0-5 Points	20 *(20% of Total)*

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5.	**Approach and Methodology**	0-5 Points	5 *(5% of Total)*
6.	**Value Added Services**	0-5 Points	5 *(5% of Total)*

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IX. RESULTING CONTRACT

IX.A CONTRACT TERM

The initial term of the Agreement shall last **one (1) year from the date of execution with the option to extend for four (4) additional one-year terms not to exceed five (5) years** based upon acceptable performance by the Company, acceptable fees and subject to the same terms and conditions of the Agreement.

Pricing is to remain firm for the initial contract term. Should the option to renew for additional years be exercised, City and Company may negotiate any and all price modifications.

IX.B CONTRACT DOCUMENTS

In submitting a Proposal, the Company agrees to enter into an Agreement with the City ***without exceptions to the City's standard agreement***. The City's standard agreement is **non-negotiable**, and a copy of the standard agreement is attached herein. **Any change to the standard agreement will deem the Proposal non-responsive**. In the event of a conflict exists between documents the following order of precedence shall apply:

- Agreement
- City of Banning's Request For Proposals
- Company's Response to the Request For Proposals

IX.C EXECUTION OF AGREEMENT

After contract award, the following shall be signed and returned to the City within fourteen (14) calendar days from the date the City mails, or by other means delivers said documents to the Company:

- The Agreement in the form included herein, properly executed by the Company.
- Certificates of Insurance and Additional Insured Endorsement evidencing coverage as specified in the sample agreement.
- Confirmation of current business tax certificate.
- Bonds, if required.

In any event that day fourteen (14) of calendar days falls on Saturday, Sunday, a legal holiday for the State of California, or on days when the City is closed, the Contract Documents shall be delivered by the following working day.

No Agreement shall be binding upon the City until all documents are fully executed by the Company and the City.

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IX.D FAILURE TO EXECUTE THE AGREEMENT

Failure to execute the Agreement and furnish the required insurance and business tax certificate, within the required time period shall be just cause for the rescission of the award. If bonds are also required, failure to furnish sufficient bonds shall cause rescission of the award. If the successful Company refuses or fails to execute the Agreement, the City may award the Agreement to the next qualified Company.

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X. TERMS AND CONDITIONS

X.A Contract Terms And Conditions

The successful company will be required to execute the City's standard agreement ("Agreement"). A sample is attached herein. The successful company must meet all insurance requirements in the Agreement. All terms and conditions of the Agreement are non-negotiable. Companies must possess valid City of Banning Business License throughout the term on the contract. Failure to execute the Agreement and furnish the required insurance within the required time period shall be just cause for the rescission of the award. If any of the successful Companies refuse or fail to execute the Agreement, the City may award the Agreement to the next most qualified Company.

X.B Public Records

All Proposals submitted in response to this RFP become the property of the City and pursuant to the Public Records Act (Gov. Code, § 6250 et seq.) are public records, and as such may be subject to public review at least 10 days before selection.

The Company must notify the City in advance of any proprietary or confidential materials contained in the Proposal and provide justification for not making such material public. The City shall have sole discretion to disclose or not disclose such material subject to any protective order that the Company may obtain. Note that under California law, price proposal to a public agency is not a trade secret.

Submission of a proposal shall indicate that, if Proposer requests that the City withhold from disclosure information identified as confidential, and the City complies with the Proposer's request, Proposer shall assume all responsibility for any challenges resulting from the non-disclosure, indemnify and hold harmless the City from and against all damages (including but not limited to attorney's fees that may be awarded to the party requesting the Proposer information), and pay any and all costs and expenses related to the withholding of Proposer information. Proposer shall not make a claim, sue, or maintain any legal action against the City or its directors, officers, employees, or agents concerning the disclosure, or withholding from disclosure, of any Proposer information. If Proposer does not request that the City withhold from disclosure information identified as confidential, the City shall have no obligation to withhold the information from disclosure and may release the information sought without any liability to the City.

The City reserves the right to make use of any information or idea contained in the Proposal. All materials, ideas and formats submitted in response to this RFP will become the property of the City upon receipt.

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X.C Conflict Of Interest

The Proposer warrants and represents that it presently has no interest and agrees that it will not acquire any interest which would present a conflict of interest under California Government Code sections 1090 et seq., or sections 87100 et seq., during the performance of services under any Agreement awarded. The Proposer further covenants that it will not knowingly employ any person having such an interest in the performance of any Agreement awarded. Violation of this provision may result in any Agreement awarded being deemed void and unenforceable.

X.D Rejection Of Proposals

The City may reject any/or all Proposals and may waive any immaterial deviation in a Proposal. The City's waiver of an immaterial defect shall in no way modify this RFP or excuse the Company from full compliance with this RFP and/or the Contract Documents if awarded the Contract. Proposals that include terms and conditions other than City's terms and conditions may be rejected as being non-responsive. The City may make investigations as deemed necessary to determine the ability of the Company to perform the work, and the Company shall furnish to the City all such information and data for this purpose as requested by the City. The City reserves the right to reject any proposal if the evidence submitted by, or investigation of, such Company fails to satisfy the City that such Company is properly qualified to carry out the obligations of the Agreement and to complete the work described herein.

X.E Protest Procedures

Failure to comply with the rules set forth herein may result in rejection of the protest. Protests based upon restrictive specifications or alleged improprieties in the proposal procedure which are apparent or reasonably should have been discovered prior to receipt of proposals shall be filed in writing with the RFP Facilitator at least 10 calendar days prior to the deadline for receipt of proposals. The protest must clearly specify in writing the grounds and evidence on which the protest is based.

Protests based upon alleged improprieties that are not apparent or which could not reasonably have been discovered prior to submission date of the proposals, such as disputes over the staff recommendation for contract award, shall be submitted in writing to the RFP Facilitator, within forty-eight hours from receipt of the notice from the City advising of staff's recommendation for award of contract. The protest must clearly specify in writing the grounds and evidence on which the protest is based. The RFP Facilitator will respond to the protest in writing at least three days prior to the meeting at which staff's recommendation to the City Council will be considered. Should Proposer decide to appeal the response of the RFP Facilitator, and pursue its protest at the Council meeting, it will notify the RFP Facilitator of its intention at least two days prior to the scheduled meeting.

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X.F Cancellation

The City retains the right to cancel this RFP at any time, should it be deemed to be in the best interest of the City. No obligation either expressed or implied exists on the part of the City to make an award based on the submission of any proposals.

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IN WITNESS WHEREOF the Parties hereto have executed this Agreement the day and year first hereinabove written.

CITY OF BANNING

Douglas Schulze, Date
City Manager

ATTEST:

Caroline Patton Date
Deputy City Clerk

APPROVED AS TO FORM:
Richards, Watson & Gershon

Kevin G. Ennis, Esq., Date
City Attorney

CONSULTANT

NAME: Date
TITLE:

NAME: Date
TITLE:

Tax ID No.

Address:

City Council Approval: _____

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

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ADDENDUM NO. 1

May 24, 2022

REQUEST FOR PROPOSALS

FOR PROFESSIONAL SERVICES

FOR

LANDSCAPE MAINTENACE SERVICES FOR CITY PROPERTIES

RFP No. 22-015

The referenced Request for Proposals solicitation (RFP) has been modified via this addendum. The following may include vendor questions, answers, added/removed information, and/or changes to the RFP hereby officially established by the City.

This addendum is hereby made part of the referenced RFP as though fully set forth therein, and supersedes any conflicting statements previously advertised in this RFP solicitation. All other provisions of the RFP shall remain in their entirety.

Companies submitting a proposal response shall acknowledge any and all addenda electronically via the OpenGov Procurement electronic bidding system. Companies who fail to acknowledge any and all addenda will be deemed non-responsive to this RFP, and their proposal response will not be considered for evaluation.

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Addendum Detail:

Please refer to the following page(s) for the details of this addendum.

1. All appropriately submitted Questions are included below along with the City's corresponding answers.

    a.

    b.

	QUESTION	ANSWER
1	**During todays Landscape walk, we walked both Brinton and Sunset reservoir properties. Both locations have a tremendous amount of overgrowth. The amount of overgrowth seems as the properties are not being maintained. Will the current contractors do a clean up before contract is over ?**	We are currently working with the existing contractors to clean up, maintenance the irrigation system and get the site back up to maintenance ready condition. An additional pricing chart has been added for bidders to supply an option to perform the clean-up, if this is not complete at start of contract
2	**What is the current price for this bid?**	$53,460 was the base bid amount for the most recent contract which includes the following locations: 1. Ramsey Medians 2. Banning City Hall 3. Banning Police Station 4. Banning Police Stations Northeast Parking Lot 5. Fire Station 6. Community/Senior Centers 7. Aquatic Center 8. Former Armory 9. Brinton Reservoir 10. Sunset Reservoir 11. San Gorgonio Parking Lot
3	**Is a bid bond required for this bid?**	No bonds required.
4	**What was to total dollar amount paid for this contract during the most recently completed fiscal year?**	FY 2021: $52,260 Contract excluded the San Gorgonio Parking Lot
5	**What was the original base cost**	$52,260

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Addendum Detail:

	submitted by the current contractor?	
6	**What year and month was the current contract started?**	July 1, 2020
7	**Is there a change in scope of work when comparing the current contract to this contract going out to bid?**	Yes. Service location added.
8	**Will the new contractor receive the contract in a condition that meets the requirements of the specifications?**	If not, please provide an optional cost to meet specifications. An additional pricing chart has been added for bidders to supply an option to perform the clean-up
9	**Can the city provide a map with boundaries for each location?**	Maps have been attached to this addendum. **Except for site 1 - Ramsey St Median**
10	**How many trees are a part of this contract that are under 12 Ft. tall?**	None
11	**Is a Bid Bond required for this contract?**	Please refer to question 3
12	**After seeing the sites, it is clear that some locations are in bad condition. Will the new contractor be expected to improve the current condition?**	Please refer to question 9 above
13	**Will this contract be awarded to the lowest bidder, or will the proposals go through a grading process to select the most qualified bidder?**	Evaluation Criteria identified in solicitation as outlined below: 1. Qualifications (25%) 2. Pricing (20%) 3. Experience (20%) 4. Professional References (20%) 5. Approach/Methodology (5%) 6. Value Added Services (5%)
14	**How many irrigation controllers will we be responsible for?**	1. Ramsey Medians: Zero (0) 2. Banning City Hall: One (1) 3. Banning Police Station: One (1) 4. Banning Police Stations Northeast Parking Lot: Zero (0) 5. Fire Station: One (1) 6. Community/Senior Centers: Two (2)

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Addendum Detail:

		7. Aquatic Center: One (1) 8. Former Armory: One (1) 9. Brinton Reservoir: One (1) 10. Sunset Reservoir: One (1) 11. San Gorgonio Parking: Lot One (1)
15	**If any, what improvements would the city like to see?**	Sites and water system brought back to specifications.
16	**How much extra work was awarded during the last fiscal year?**	None
17	**Can the city please provide a map showing the boundary lines for each area? after seeing the sites, some of the areas are difficult to tell there the boundaries are.**	Refer to question 9 and see attached.
18	**Are we supposed to use the Journeyman ($60.09 per hr) classification or the Tender ($21.34 per hr)?**	Pay prevailing wage utilizing the "Landscape Maintenance Laborer" classification.

2. See OpenGov Procurement sections listed below for following changes:
    a. Section 4 – Scope of work adding San Gorgonio Parking Lot to list of locations.
    b. Section 6 – Pricing Proposal addition of line 11 for the additional site location and second chart for the option to preform clean up on needed locations.

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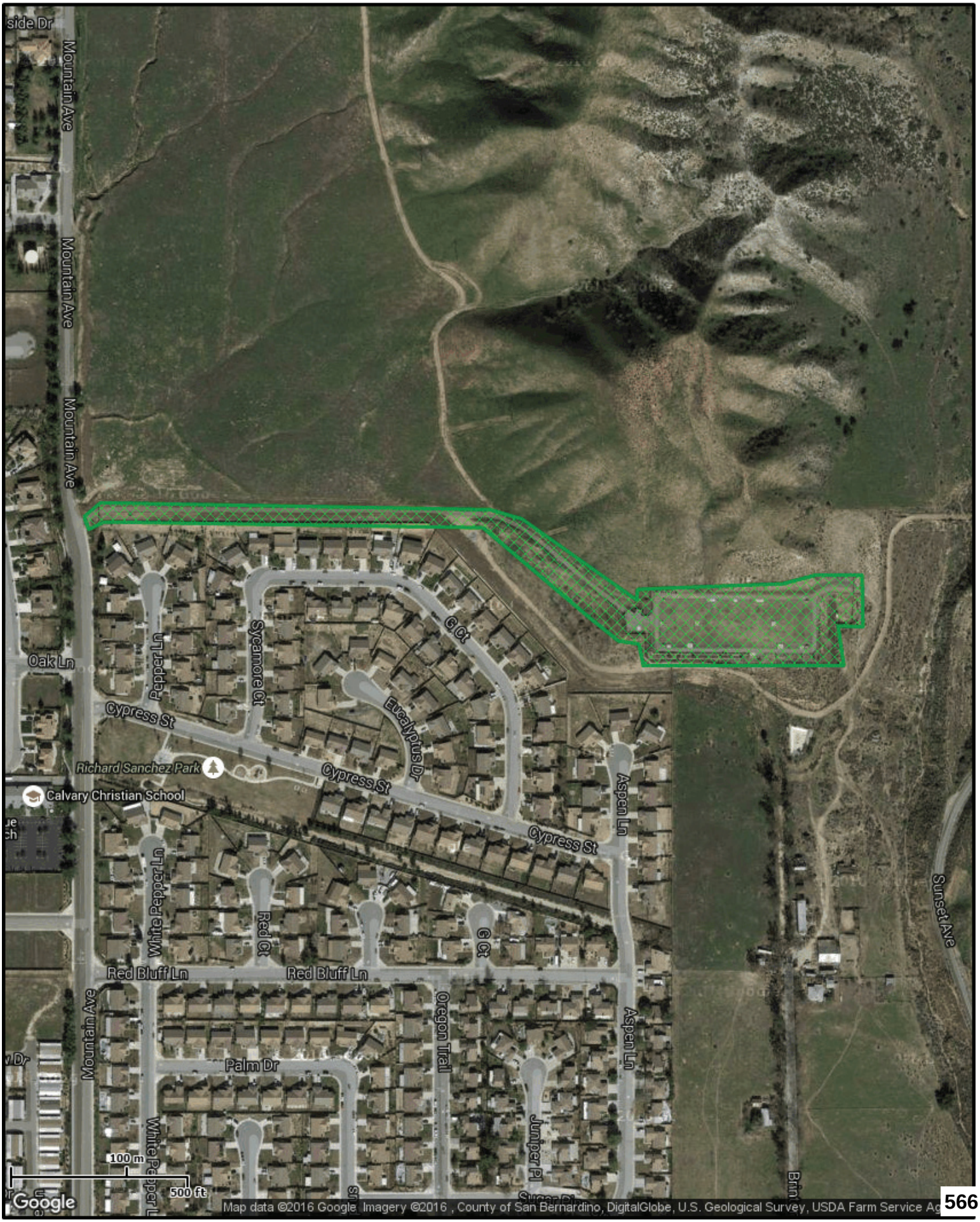
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Brinton Reservoir



DocuSign Envelope ID: E987ADF9-612B-437D-805C-D4A0CA3810C7

Sunset Reservoir



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Landscape Maintenance Request for Proposal

City of Banning RFP-22-015

Landscape Maintenance Services for City Properties

MARIPOSA LANDSCAPES INC

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MARIPOSA
LANDSCAPES INC

May 31, 2022

City of Banning – Public Works
99 E Ramsey St, Banning CA 92220
Attn: Tisha Jacobs - Buyer
915-922-3141 tjacobs@banningca.gov

RE: Request for Proposal, Landscape Maintenance

Mariposa Landscapes, Inc. has continuously been in business since 1977. Growing from a single truck in Rosemead, California to a fleet of trucks and equipment with 600 employees covering all of Southern California and Arizona. With over 95 awards for project excellence, we take pride in the quality of our work and thrive on keeping our company as one of the most recommended in the industry. Our steady record of customer satisfaction has allowed us to maintain positive relationships with our clients.

We bring decades of knowledge and in-depth experience to every landscape entrusted to our care. Building long-lasting relationships with our clients is important to us. We understand and respect your goals and do everything in our power to assure the well-being of your properties.

We value open, honest communication, ongoing staff training, and new methods and technologies that will help us do the best job possible. While we always appreciate the accolades we receive, seeing our customers enjoy a well-executed and thriving landscape is still the most rewarding part of our work.

We would be honored to work for you and beautify the City of Banning properties.

Sincerely,

Larry Rudd – Director of Estimating

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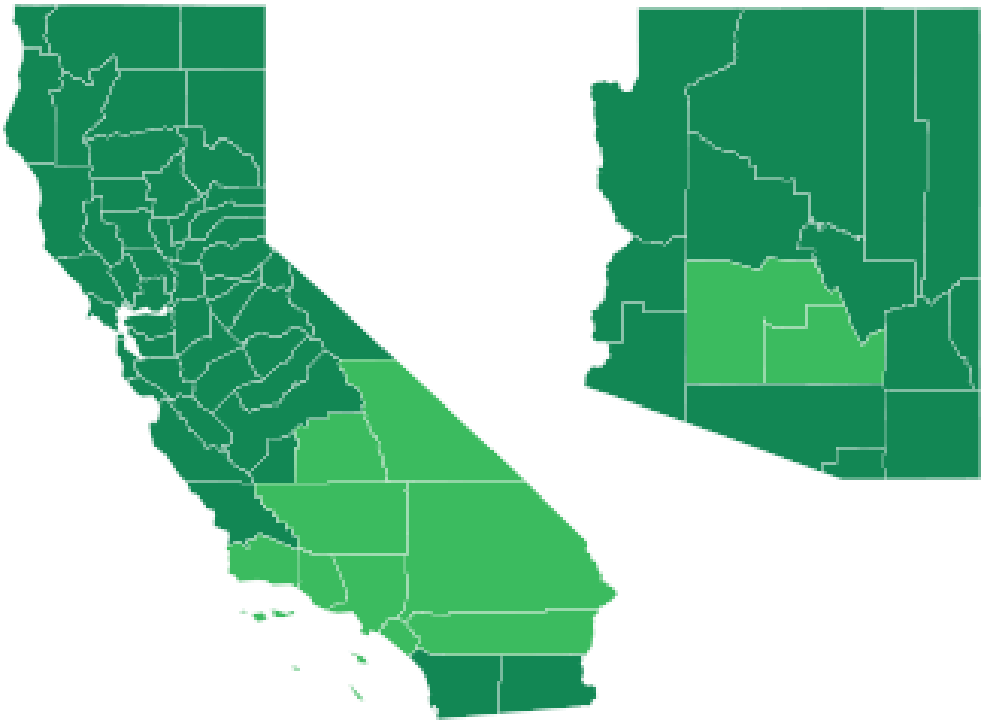
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"We blend Nature and Craftsmanship to create ultimate outdoor settings and extremely satisfied customers"

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COMPANY INTRODUCTION

Mariposa is a landscape contractor working in both Southern California and Arizona.
With our staff experience dedicated professionals, we have developed a long history of excellence performing work on hundreds of landscape construction, maintenance and tree care projects.



Current areas of operation.

Highlights

- Over 40 years in business
- Contractor's license in two states
- Over 600 employees
- Insured – $1 million workers comp, $2 million in aggregate general liability
- $100 million in bonding capacity
- Over 95 awards for project excellence

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Company Values



Safety This is the primary foundation of our company. We emphasize "safety first" on every worksite and in all our training programs. Our employees are taught to be aware of, and responsible for, safety at all times. We strive to prevent injuries and accidents, as well as provide a safe environment for staff and customers alike.

Teamwork We work together, seeking input from all team members to organize our efforts for the greater good. We always remain open to change, embracing new methods and techniques to achieve the highest levels of quality and efficiency. We are considerate of team members, provide support, and encourage their growth, resulting in the ultimate outcome for the team.

Quality We are committed to bringing the best possible quality for our customers and their properties and projects. We provide prompt service, expert workmanship, and superior products. We take pride in meeting or exceeding expectations. Our ultimate goal is to deliver excellent value for our clients' investment.

Integrity We are honest and open in our communications, building deep trust and confidence in all of our relationships. We value the dedication and contribution of each person. The overall well-being of our employees, customers and vendors is important to us.

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Proposer Identification

Legal Name: Mariposa Landscapes, Inc.
Street/Mailing Address: 6232 Santos Diaz St., Irwindale, CA 91702
Telephone Number: (626) 960-0196
Fax Number: (626) 960-8477
Bid Contact: Brandon Park
Email Address: brandon.park@maripsa-ca.com
President: Terry Noriega
California Corporation: C1469653
California Employer ID: 368-4753-1
Date Incorporated: October 2, 1989

Licenses & Certificates

Contractors State License:	592268	C27, A, C61/D49
Qualified Applicators License:	103864	ABCDEFH
Pest Control Adviser License:	74416	ABCDEG
Pest Control Business License:	30977	
Irwindale Business License:	000538	
Supplier Clearinghouse MBE:	94HS0050	
City of Los Angeles MBE:	561730	
City of Los Angeles LBE:	37858	
LA County MBE:	89126	
LA Co. Agricultural Pest Control	1000279	
Certified Arborist:	*WE-1182A*	

Minority Business Enterprise

MBE Certification, File No. CCA-7150 for the City of Los Angeles, The Women and Minority Business Enterprise Clearing house has audited and verified our eligibility as a MBE pursuant to the California Public Utilities Commission General Order 156.

Financial Resources

Mariposa has been capable of meeting all financial obligations for over 40 years. A strong balance sheet supports $100 Million bonding capacity.

Green Waste Processing Capability

Mariposa Landscapes, Inc. has a recycling program for green waste and paper products. We implement this program at our local offices and at all job sites. Mariposa currently uses hybrid vehicles and electric equipment where required. Mariposa notifies all project managers of the green initiatives prior to the award of contract.

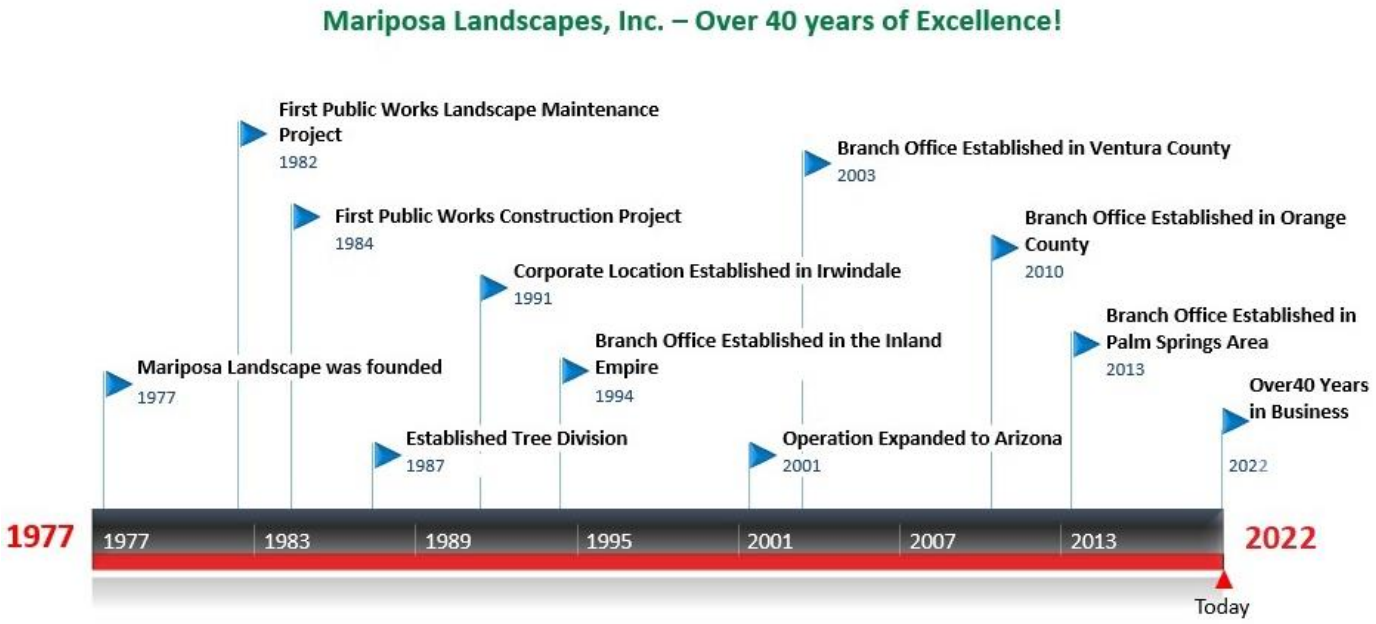
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Office Locations

Corporate Headquarters

6232 Santos Diaz Street
Irwindale, CA 91702
Phone 626 960-0196
Fax 626 960-8477

Irwindale 15529 Arrow Highway Irwindale, CA 91706 Phone 626 960-0397 Fax 626 960-3809	**Orange County** 1107 E. Walnut St Santa Ana, CA 92701 Phone 626 960-0196 Fax 626 960-8477	**San Bernardino County** 11093 Almond Avenue Fontana, CA 92335 Phone 909 429-2546 Fax 909 429-2749
North L.A. Ventura 4790 E. Los Angeles Ave. Somis, CA 93066 Phone (800) 794-9458 Fax 805-386-4140	**Palm Springs** 78355 Darby Rd Bermuda Dunes, CA 92203 Phone 626 960-0196 Fax 626 960-8477	**Arizona** 7677 N. 67th Avenue Glendale, AZ 85301 Phone 623 463-2200 Fax 623 463-2223



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QUALIFICATIONS

We are dedicated to having the best-trained workforce in the industry. As members of the California Landscape Contractors Association, we participate in the training programs offered by this industry organization. The CLCA sponsors a rigorous "hands-on" test administered under actual field conditions. With only a 20% first time pass rate, only the best workers are able to obtain the designation of CLT or Certified Landscape Technician. Many of the managers and supervisors in our company have the CLT designation. No other contractor of our size and diversity in Southern California has achieved this many certifications.

We are members of the following organizations:

- CACM (California Association of Community Managers)
- CAI Orange County (Community Association Institute)
- CAI Los Angeles (Community Associations Institute)
- CAI Greater Inland Empire (Community Association Institute)
- CAI Coachella Valley (Community Association Institute)
- ASA (American Subcontractors Association)
- BIA Southern California (Building Industry Association)
- BIA Orange County (Building Industry Association)
- BOMA IE (Building Owners and Managers Association)
- CLCA (California Landscape Contractors Association)
- ISA (International Society of Arboriculture)
- CAPCA (California Association of Pest Control Advisors)

Licensing and Certifications

- California Contractor License 592268 C27-Landscaping, Class A-Engineering
- Certified Arborists on staff
- Certified Tree Workers on staff
- Tree Work – Line Clearance Certified
- Tree Work – Line Clearance Certified Instructor
- Certified Playground Equipment Inspectors
- Certified Water Auditor
- Certified Backflow Inspectors
- Licensed Pest Control Company/Pest Control Advisor
- Certified Pest Control Applicators on staff

Corporate Tax I.D. Number: 95-4245898 California Corporate Tax I.D.: C1469653
California State Contractor's License Number: 592268 A, C-27 DIR Number: 1000005079
Pest Control Advisor's License: 74416 MBE Clearinghouse #: 20000326
Pest Control Business License: 30977 LA County LBE (LABAVN): 106243

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Management Staff Experience and Qualifications

Terry Noriega – President

- 45+ years of experience in landscape installation and maintenance
- B.S. in Ornamental Horticulture: California State Polytechnic University, Pomona
- California Contractors License: C-27 Landscape, A – Engineering, C61/D49 Tree Trimming
- Pest Control Advisor in 6 Categories
- Qualified Pest Control Applicator in 7 Categories
- **Certified Landscape Technician** in Ornamental and Turf Maintenance
- ISA Certified Arborist WE-1182A
- Arizona Contractor's License: ROC178088 K-21
- Arizona Qualifying Party License: 8263
- Arizona Pest Control Business License: 8246

Antonio Valenzuela – VP Operations

- Over 30 years of experience in landscape maintenance and irrigation troubleshooting
- Pest Control Qualified Applicator in 3 Categories
- **Certified Landscape Technician** in Ornamental and Turf Maintenance
- Certified Landscape Professional
- Backflow Certification in Los Angeles County
- Landscape Water Auditor: Cal Poly SLO
- Past affiliation – Certified Playground Inspector

Larry Rudd – Director of Estimating

- 45 years in landscape installation, maintenance operations and estimating
- Landscape Sales and Operations Experience in California, Arizona, Texas and Oklahoma
- B.S. in Business Management, University of Phoenix
- **Certified Landscape Technician**: Hardscape Install, Softscape install, Ornamental & Turf Maintenance
- Chino Basin Water Conservation District – Water Efficient Landscaper (WaterSense Certified)
- Arizona Certified Landscape Professional
- CPR Safety Trained
- Associate instructor with Dr. Fred Roth "Landscape Contracting & Estimating" Cal Poly Pomona
- Instructor "Landscape Planning for Project Management & Maintenance" Cal State Fullerton
- Instructor "Business Practices in Landscape Planning and Management" Cal State Fullerton
- Affiliations Past and Present:
    - California Contractors License: C-27 Landscape, A – Engineering
    - California Qualified Pest Control Applicator License
    - CAI California, Arizona & Texas, CACM, AAM Arizona, BOMA Dallas Chapter – Member
    - California Landscape Contractors Association (San Gabriel Valley) – Board Member
    - Certified Professional Estimator – American Society of Professional Estimators
    - International Society of Arboriculture Certified Arborist WE-11744A

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Maintenance Operations Staff Experience and Qualifications

Luis Valenzuela – Landscape Maintenance Division Manager, Southern California

- Over 25 years of experience in landscape and construction operations
- Qualified Applicator License, Category B
- Certified Landscape Technician, Irrigation
- ISA Certified Arborist WE-8713A
- Certification – Effective Business Leadership & Development – PDC/GCC

Michael Williams – Area Manager

- Over 45 years of experience in landscape management, irrigation design and retrofit, maintenance and arbor care.
- BS in Ornamental Horticulture, Cal Poly San Luis Obispo
- CPR Safety Trained
- Qualified Applicator License 133955

Roberto Perez – Area Manager

- Over 25 years of experience in landscape maintenance
- Graduate of the Pacific Southwest Maintenance Management School
- MSAC Irrigation Design and Plant ID Certificate
- Leadership Academy Certificate, Cal Poly Pomona
- Calsense 3000 Certified
- Qualified Applicator License – In Process
- Cal State Fullerton Water Auditor – In Process

Tony Valenzuela – Area Manager

- Over 12 years of experience in landscape management
- Harvard Management Essentials Certified – Harvard Business School
- Qualified Applicator Certificate, Category B, C
- Pesticide IPM and Safety Schools Act trained
- Certified Landscape Technician, Exterior Maintenance
- Certified Landscape Manager, Exterior Maintenance
- EPA WaterSense – Qualified Water Efficient Landscape
- SDCWA San Diego – Recycled Water Site Supervisor Certified
- Irvine Ranch Water District Water Management Certified
- CIRT – Certified Irrigation Water Auditor
- CIRT – Certified Irrigation Installer
- CIRT – Certified Irrigation Repair Technician
- Past affiliation – Certified Playground Inspector

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Dennis Jones – Tree Care Regional Division Manager, Southern California

- Over 20 years of experience in Arbor Care
- BS Degree in Urban Forestry, Cal Poly San Luis Obispo
- International Society of Arboriculture Certified Arborist WE-5700A
- ISA Qualified Tree Risk Assessment
- TCIA Certified Tree Safety Professional 843
- Qualified Applicator License – 108771, Categories B, C & F
- Wildlife Protector Certification
- Notary Public

Juan De La Torre – Account Manager

- Over 25 years of experience in the landscape industry
- Qualified Applicator License, Category B
- Certified Landscape Technician, Irrigation
- Pest Control Dealer Designated Agent
- Irrigation Certificate – Rainbird

Andres Perez – Account Manager

- Over 25 years of experience in the landscape industry
- Qualified Applicator License, Category B
- Certified Landscape Technician, Irrigation
- Certificate – Irrigation Design
- Certificate – Irrigation Troubleshooting
- CVAG Overseeding Certificate

Jesus Ramirez – Account Manager

- Over 25 years of experience in the landscape industry
- Qualified Applicator License, Category B
- **Certified Landscape Technician**, Ornamental and Turf Maintenance
- Certificate – Irrigation Design
- Certificate – Irrigation Troubleshooting
- CVAG Overseeding Certificate

Dirk Bennett – Account Manager

- 10 years of experience in the Residential/HOA landscape maintenance and construction
- Qualified Applicator License, Category B
- 10 years of Herbicide/Pesticide application experience
- 3 years of experience in large scale commercial landscape maintenance and operations

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Enrique Figueroa – Account Manager

- 26 years of experience in the landscape industry
- Qualified Applicator License, Category B, C
- **Certified Landscape Technician**, Ornamental and Turf Maintenance
- OSHA Construction Safety and Health Certified

Miguel Medina – Account Manager

- Over 12 years of experience in the landscape industry
- Business Essentials Certificate – Harvard Business Online
- Certified Landscape Technician, Ornamental Horticulture
- Qualified Applicator License – in progress

Dax Lopez – Account Manager

- Over 6 years of experience in the landscape industry
- AA Degree in Business Management, Mt. San Antonio College
- Qualified Applicator License – in progress

Edgar Garibay – Account Manager

- Over 15 years of experience in landscape maintenance
- Qualified Applicator License – in progress
- OSHA 30 Certified

Jorge Pacheco – Account Manager

- 29 years of experience in the landscape industry
- BS Degree in Civil Engineering, UNAM, Mexico City
- Qualified Applicator License, Category B

Irving Gallegos – Account Manager

- 15 years of experience in the landscape industry
- AA Degree in Business Management, Saddleback College
- Horticulture and Landscape Design Certificate, Saddleback College
- Qualified Applicator License, Category B
- California Friendly Landscape Training Program
- Safe Working Zone Training
- CPR Safety Trained
- Forklift Operator Certification

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EXPERIENCE

Projects of Similar Size and Scope

City or Muncipal Client	Work Description	Start Date
California State University	Palm Desert Campus	7/1/2021
City of Banning	Five City Parks	4/1/2021
City of Corona	Parks	7/5/2017
City of Desert Hot Springs	Various Locations	7/1/2019
City of Fontana	Citywide areas 2 & 3	1/1/2020
City of Moreno Valley	Citywide Facilities and Aqueduct	7/1/2018
City of Moreno Valley	Citywide LMD Zone 2 Landscape	7/1/2018
City of Moreno Valley	Citywide	7/1/2019
City of Palm Desert	Citwide Medians and Parkways	7/1/2018
City of Palm Desert	LMA area 1	9/1/2021
City of Rancho Cucamonga	Citywide Facilities, Medians, Parks and Parkways	7/1/2020
City of Riverside	Utility Sites	7/1/2016
City of Riverside	City South Quadrant	7/1/2016
Coachella Valley Water District	Various Locations	4/22/2019
County of Riverside	Regonal Parks	4/1/2018
County of Riverside	Various Locations	8/10/2020
County of Riverside	46-200 Oasis St. Indio, CA 92201	10/1/2015
Cucamonga Valley Water District	Water Utility Sites	9/1/2021
Indio Water Authority	Water Utility Sites	7/1/2020

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PROFESSIONAL REFERENCES

City of Palm Desert

Contact: Randy Chavez Phone: 760-902-9064
Email Address: rchavez@cityofpalmdesert.org
Work description
Multiple contracts throughout the City maintaining landscaped medians, parkways and facilities.

Coachella Valley Water District

Contact: Mike Munoz Phone: 760-578-6471
Email Address: mmunoz@cvwd.org
Work description
Multiple water sites and facilities.

Desert Hot Springs

Contact: Nicholas Haecker Phone: 760-329-6411
Email Address: nhaecker@icloud.com
Work description
Landscape maintenance districts.

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APPROACH AND METHODOLOGY

Along with implementing a monthly work schedule, we perform internal quality control on our work to free up our contract monitor or client representative (be it a Public Works Inspector or Property Manager) so that he or she will have a reduced workload. This creates a positive environment for everyone involved and enhances our client relationships. Our main philosophy behind quality control is summed up in one statement "Plan your work and work your plan." Therefore, the work is to be planned and monitored in the following ways:

Annual Work Schedule

Here is a sample schedule. A final schedule will be provided upon start of work.

Turf Areas	# of Frequencies	JANUARY				FEBRUARY				MARCH				APRIL				MAY				JUNE				JULY				AUGUST				SEPTEMBER				OCTOBER				NOVEMBER				DECEMBER			
		Week				Week				Week				Week				Week				Week				Week				Week				Week				Week				Week				Week			
		1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
Litter Control, All Areas, Liner Replacement	Per Visit	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Mowing	52 X year	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Edging & Detaling	52 X year	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Blowing	52 X year	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Sweeping	52 X year	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Broadleaf Control	2 X year									■																												■											
Pre-emergent application	3 X year									■												■												■													
Fertilizations	3 X year									■														■														■									
Aeration	2 X year					■																■																■									
Pest Monitoring	Monthly				■				■				■				■				■				■				■				■				■				■				■
Irrigation System Inspections	Weekly	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■

Shrubs & G.C Areas	# of Frequencies	JANUARY				FEBRUARY				MARCH				APRIL				MAY				JUNE				JULY				AUGUST				SEPTEMBER				OCTOBER				NOVEMBER				DECEMBER			
		Week				Week				Week				Week				Week				Week				Week				Week				Week				Week				Week				Week			
		1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
Hedge Trimming	8 X year							■								■				■				■				■				■				■				■							
Ground-Covers Trimming	8 X year						■								■				■				■				■				■				■							■				
Ground-Covers Edging	8 X year						■								■				■				■				■				■				■							■				
Shrub Pruning	8 X year					■								■				■				■				■				■				■							■				
Deadheading & Cleaning	As Needed																																														
Weed Control	Monthly		■				■				■				■				■				■				■				■				■				■				■			
Fertilizations	2 X year										■				■				■				■				■				■				■				■							
Pre-emergent application	3 X year										■												■												■											
Mulching Refreashing	Monthly			■				■				■				■				■				■				■				■				■				■				■			
Annual Color	4 X year									■												■												■								■					
Premium Color	1 X year																																					■									
Removal of Dead Plants	As Needed																																													
Trees & Shrubs Safety Clearance	Monthly			■				■				■				■				■				■				■				■				■				■				■			
Irrigation System Inspections	Weekly	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■

Hardscapes	# of Frequencies	JANUARY				FEBRUARY				MARCH				APRIL				MAY				JUNE				JULY				AUGUST				SEPTEMBER				OCTOBER				NOVEMBER				DECEMBER			
		Week				Week				Week				Week				Week				Week				Week				Week				Week				Week				Week				Week			
		1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
Safety Inspection and Reporting	Weekly	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Blowing	Weekly	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Weed Control	As Needed																																														

Within 30 days of award of the contract we will submit an annual work schedule that will organize all the assigned areas into sectioned areas. The sectioned areas will be per the approval of the client representative. The schedule will designate the areas included with the service level and general tasks completed for that month. Any revisions to this schedule will be submitted to the client representative for approval. A review of this schedule will be made at monthly meetings to evaluate success.

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Monthly Work Plans

The Mariposa Account Manager will submit Monthly Work Plans describing maintenance operations of all areas contained within this contract and when the work, including trimming, pruning and applications of chemicals/fertilizers will be accomplished. Other work will include the removing and/or replacing of landscape materials within the scope of this Contract. The work may include landscape renovations of right-of-ways, medians, retention areas and/or common turf areas. The Account Manager will develop the Monthly Work Plans and submit them to the client representative by the 25th of the previous month prior to the regular monthly meeting. The Monthly Work Plan will correlate with the Annual Work Schedule in a more detailed form. After the plan is approved at the regular monthly meeting the Monthly Schedule Evaluation Form will be completed with the client representative to evaluate the performance of the current month. The Mariposa Supervisor is responsible for creating and submitting these reports.

Irrigation Reports

The Irrigation Technician will create the Irrigation Reports at the specified frequencies and the Mariposa Account Manager will insure their accurate and timely completion. These reports will include scheduled formal inspections, all service requests, authorized emergency work and repair of damage. The Irrigation Technician will be responsible for conducting a formal inspection and related repairs of the irrigation system as scheduled. Results of the inspection shall be recorded on the Irrigation Inspection Report and checked for accuracy and then delivered to the client representative. The frequency of these reports will vary depending on the work scope.

Account Manager/Client Meeting Work Quality Evaluations

A critical aspect of the work is communication. Timely and accurate schedules address a lot of this; however, there is another important aspect that is sometimes overlooked: interpretations of quality. What is beautiful to some is not to others, this is why specifications are written. However, there is always some level of interpretation that can vary from person to person. The goal is to have the Mariposa Account Manager and the client representative both interpreting the expectations of the specifications in the same way. The way we accomplish this is through a graded evaluation of every aspect of the landscape on a site by the Mariposa Supervisor and the client representative. This evaluation is performed prior to the regular client representative meeting by the Mariposa Supervisor. When the regular meeting takes place, this same form is given to the client representative to evaluate the exact same items as the Mariposa Account Manager previously graded. Any differences in evaluation that the client representative has of the same work item or area that were graded by the Mariposa Supervisor are addressed immediately and clarified. The frequency of these evaluations and number of work items evaluated can vary based on the work scope. Please see the sample form provided.

Action Item Lists

Even with jobs that go perfectly there are always items that come up during walk-through inspections. These items may have nothing to do with work quality but may be requests for improvement, additional work or notations of concern, etc. One of the key aspects of an action item list is a target completion date. This is included for every item on our form. The Mariposa Account Manager is committed to completion of a requested activity at an agreed upon date. This is in writing; it's quick and easy to fill out. The client representative will have confidence that we will keep our promises because they are documented. **Our goal is *"Promises made are promises kept."*** Please see the sample form provided.

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Mariposa Landscapes, Inc.

SITE INSPECTION EVALUATION FORM

Inspection Date:		Job:	
Mariposa Account Manager		Job Number:	
		Client Representative:	

Please give a rating of 1-10 on the following items (1 = unacceptable and 10 being perfect)

		ML	CR
1.	**TURF**		
A	Color of turf acceptable		
B	Turf texture, no thin/bare areas		
C	Free of trash/debris		
D	Irrigation leaks visible		
E	Over or under watering		
F	Dry spots		
2.	**GROUND COVER/SHRUB AREAS**		
A	Free of trash/debris		
B	Free of weeds		
C	Mulch evenly distributed		
D	Irrigation leaks visible		
E	Groundcover trimming		
3.	**TREES/SHRUBS**		
A	Health/vigor		
B	Trimmed per scheduled cycle		
C	Pruned correctly for species		
D	Walkway shrub clearance		
E	Walkway tree clearance		
F	Disease & insects controlled		
G	Irrigation leaks visible		
H	Over or under watering		
I	Trees staked properly		
4.	**ANNUAL COLOR/POTS**		
A	Annual flowers healthy		
B	Bed/Pots free of trash/debris		
C	No missing annual color plants		
D	Disease & insects controlled		
E	Irrigation leaks visible		
F	Over or under watering		
5.	**D.G. PATHS & OPEN AREAS**		
A	Free of trash/debris		
B	Weeds managed/controlled		
C	Erosion areas repaired		

		ML	CR
6.	**HARDSCAPE AREAS**		
A	Free of trash/debris		
B	Free of weeds in cracks		
C	Standing water		
D	Safety issues reported		
7.	**IRRIGATION**		
A	Controllers working		
B	Controllers programmed properly		
C	Schedules submitted/updated		
D	Valves working properly		
E	Valves leaking		
F	Backflow(s) on		
G	Backflow(s) Leaking		
H	Meter readings (if in scope) up-to-date		
I	Water usage analysis up-to-date		
8.	**L.V. LIGHTING (if applies)**		
A	System has power		
B	Timer/photocell working		
C	Bulbs working		
D	Fixtures clean		
E	Fixtures broken		
F	Fixtures aimed properly		
9.	**WATER FEATURES (if applies)**		
A	Power/working properly		
B	Leaks		
C	Cleaned of debris at inlets		
10.	**OTHER (if applies)**		
A	Dog mess cleaned up		
B	Dog stations replenished		
C	Trash cans dumped & new liners		
D	Play equipment clean		
E	Ramadas/picnic tables/BBQs clean		
F	Response time on call-outs		
G	General safety issues reported		

Only enter ratings for items that are applicable to this project (blank = Not Applicable at this time)

	ML	CR
OVERALL RATING: Per the above individual ratings, pleas provide an overall rating from 1 to 10		

Mariposa Account Manager Signature/Date (**ML**)

Client Representative Signature/Date (**CL**)

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Mariposa Landscapes, Inc.

ACCOUNT MANAGER INSPECTION ACTION ITEMS

Job:

Today's Date: Job Number:

	ACTION ITEMS	Resolution Date
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

Mariposa Account Manager Signature/Date

Client Representative Signature/Date

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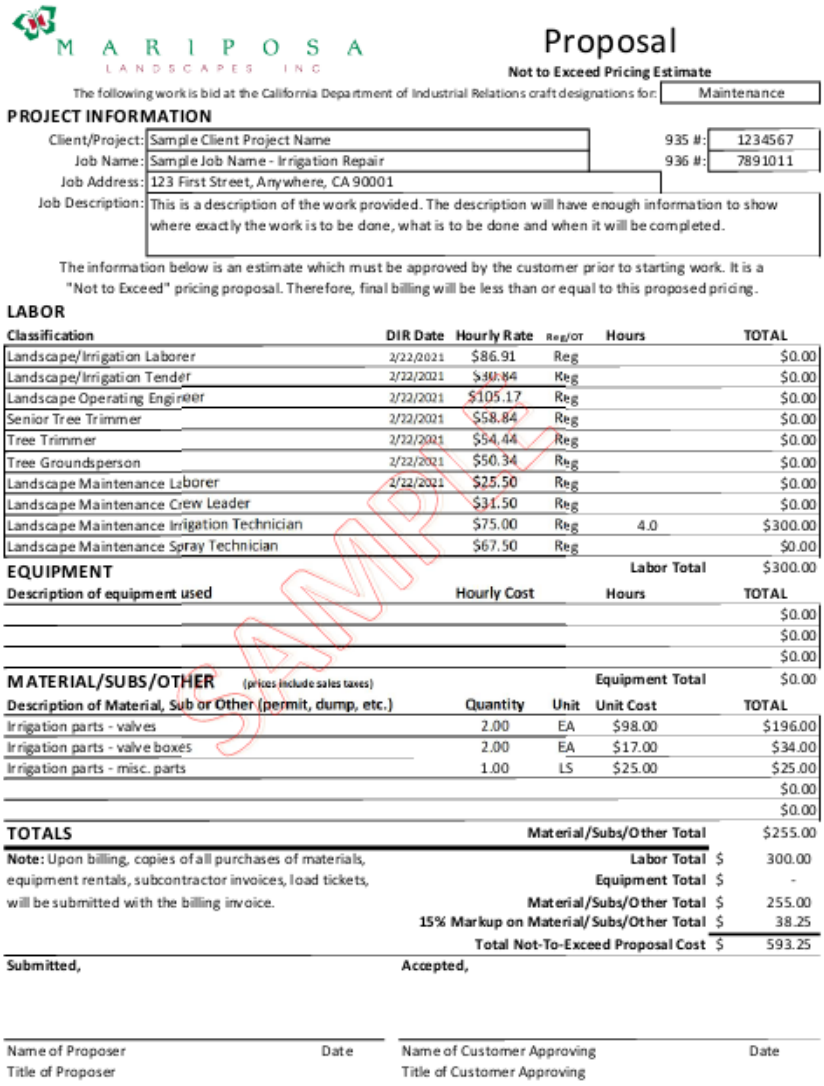
Extra Work Pricing Process

At times, work above and beyond the contract scope becomes necessary. Our process to take care of this is:

- Straight Forward – Simple pricing and approval process ahead of time
- Transparent – The Customer sees what was purchased by us
- Honest – The hours and material estimated are what is used, nothing exceeds the approved estimate
- With No Surprises – Billing either matches or is less than what was quoted on the proposal

When a customer desires additional work or an emergency arises, there must be some mechanism to quickly communicate and agree upon the cost. Many times, situations arise where it is difficult to come up with a cost ahead of time. We solve that issue with the following 4 step process:

1. Work is identified and a "Not-to-exceed" proposal is created
2. Customer receives the proposal and approves the work
3. Work proceeds, labor is tracked, and receipts are copied
4. Billing **NEVER** exceeds the original proposal. It is either equal to or less than the original proposal



MARIPOSA LANDSCAPES INC

Proposal

Not to Exceed Pricing Estimate

The following work is bid at the California Department of Industrial Relations craft designations for: Maintenance

PROJECT INFORMATION

Client/Project:	Sample Client Project Name	935 #:	1234567
Job Name:	Sample Job Name - Irrigation Repair	936 #:	7891011
Job Address:	123 First Street, Anywhere, CA 90001		
Job Description:	This is a description of the work provided. The description will have enough information to show where exactly the work is to be done, what is to be done and when it will be completed.		

The information below is an estimate which must be approved by the customer prior to starting work. It is a "Not to Exceed" pricing proposal. Therefore, final billing will be less than or equal to this proposed pricing.

LABOR

Classification	DIR Date	Hourly Rate	Reg/OT	Hours	TOTAL
Landscape/Irrigation Laborer	2/22/2021	$86.91	Reg		$0.00
Landscape/Irrigation Tender	2/22/2021	$90.84	Reg		$0.00
Landscape Operating Engineer	2/22/2021	$105.17	Reg		$0.00
Senior Tree Trimmer	2/22/2021	$58.84	Reg		$0.00
Tree Trimmer	2/22/2021	$54.44	Reg		$0.00
Tree Groundsperson	2/22/2021	$50.34	Reg		$0.00
Landscape Maintenance Laborer	2/22/2021	$25.50	Reg		$0.00
Landscape Maintenance Crew Leader		$31.50	Reg		$0.00
Landscape Maintenance Irrigation Technician		$75.00	Reg	4.0	$300.00
Landscape Maintenance Spray Technician		$67.50	Reg		$0.00
				Labor Total	$300.00

EQUIPMENT

Description of equipment used	Hourly Cost	Hours	TOTAL
			$0.00
			$0.00
			$0.00
		Equipment Total	$0.00

MATERIAL/SUBS/OTHER (prices include sales taxes)

Description of Material, Sub or Other (permit, dump, etc.)	Quantity	Unit	Unit Cost	TOTAL
Irrigation parts - valves	2.00	EA	$98.00	$196.00
Irrigation parts - valve boxes	2.00	EA	$17.00	$34.00
Irrigation parts - misc. parts	1.00	LS	$25.00	$25.00
				$0.00
				$0.00
		Material/Subs/Other Total		$255.00

TOTALS

Note: Upon billing, copies of all purchases of materials, equipment rentals, subcontractor invoices, load tickets, will be submitted with the billing invoice.	Labor Total	$ 300.00
	Equipment Total	$ -
	Material/Subs/Other Total	$ 255.00
	15% Markup on Material/Subs/Other Total	$ 38.25
	Total Not-To-Exceed Proposal Cost	$ 593.25

Submitted, **Accepted,**

Name of Proposer Date — Name of Customer Approving Date

Title of Proposer — Title of Customer Approving

SAMPLE

If an issue is uncovered that changes the scope of the original estimate, the proposal is revised and resubmitted for approval (typically with attached pictures and a clear explanation). Work will not proceed until there is client approval of the change.

Key…
The billing for any extra work does not exceed what you originally approved.

The sample proposal to the left would be something irrigation related where multiple valves would need to be replaced because of an auto accident.

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VALUE ADDED SERVICES

Landscape Maintenance

- Private, Commercial, Public Works and Homeowner Associations
- Large Scale Mowing Operations
- Comprehensive Irrigation Planning & Management.
- Environmentally Friendly Integrated Pest Management.
- Year-round Fertilization Application.
- Baseball Field Prep and Athletic Turf Maintenance.
- Porter Services and Color Design.
- Parking Lot Sweeping



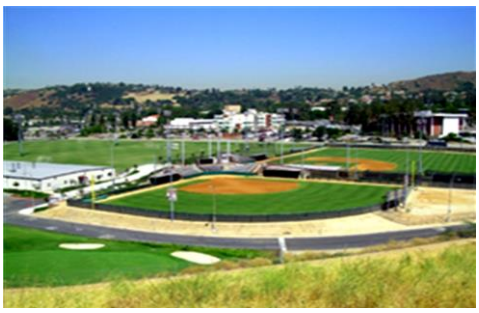
Tree Care

- On-site Diagnosis and Tree Work Recommendations
- Consultative Services with Certified Arborists.
- Development of Long-term Tree Care Programs.
- Large-scale Tree Trimming Removal.
- Diagnosis/Treatment of Tree Diseases and Pest Problems.
- Stump Grinding and Disposal of Trimmings.
- GIS Tree mapping and asset management
- Certified Workers & Comprehensive Insurance Coverage.



Landscape Construction

- Site Preparation, Demolition, Grading and Drainage.
- Irrigation Systems Installation, Repairs & Upgrades.
- Computerized Irrigation Central Control Systems.
- Irrigation Pump Installation.
- Native Plant Restoration and Habitat Rehabilitation.
- Park construction and Athletic Field installations.
- Tree, Shrub, & Ground-cover planting.



Hardscape Construction

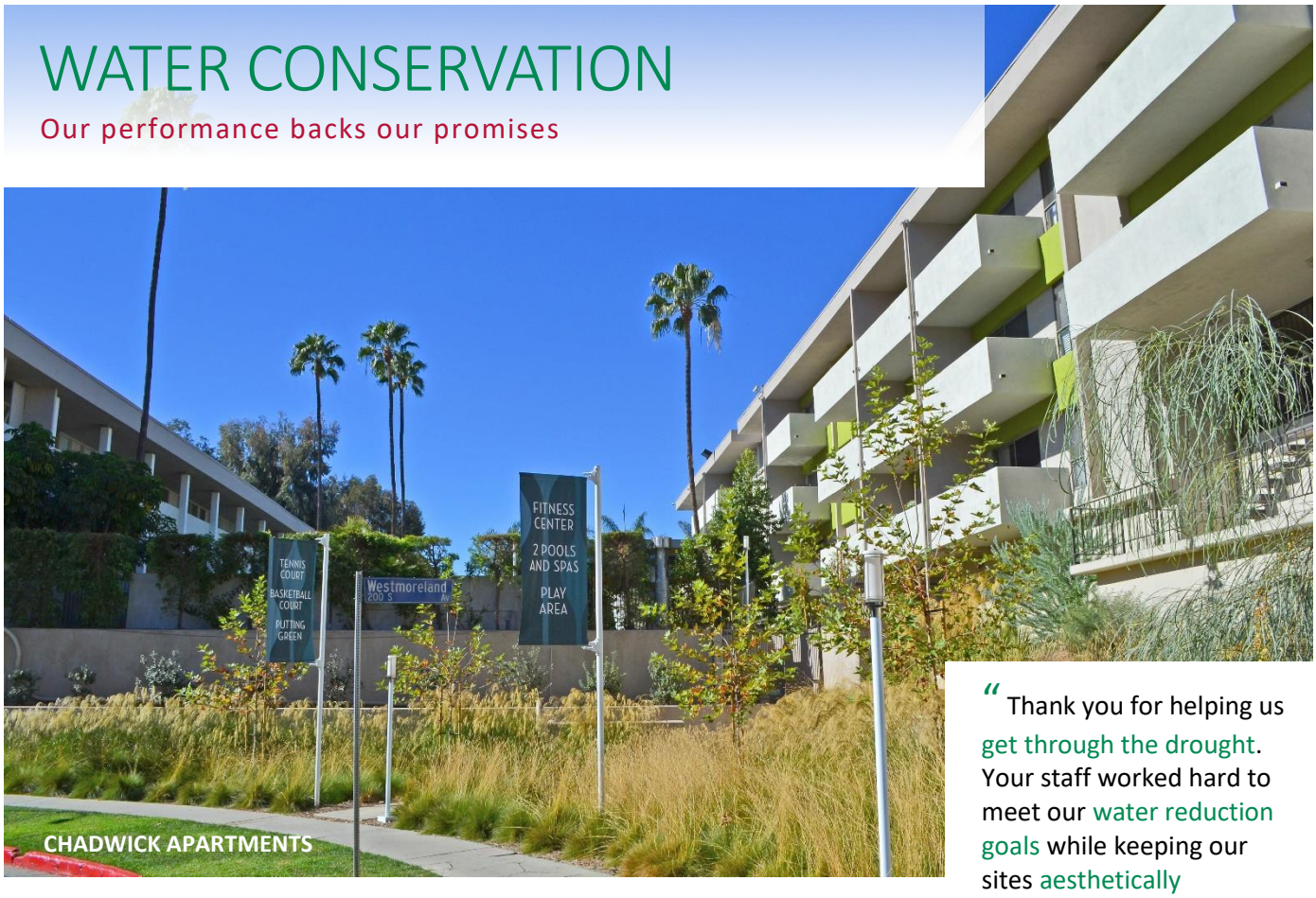
- Concrete Poured-in-Place, Stamped and Seat Walls.
- Flagstone, Tile, Masonry and Block Walls.
- Drainage and Overhead Construction.
- Water Feature Pond Installation & Repair.
- Monuments and Signage.
- Low Voltage Lighting Design and Installation.



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WATER CONSERVATION

Our performance backs our promises



Maintain an attractive landscape with less water.
Our Certified technicians can evaluate your irrigation and provide practical recommendations.

We offer weather-driven irrigation controllers and drought-tolerant landscape conversions. Our computerized tracking system allow us to quickly diagnose and fix problems, saving you water and money.

"Thank you for helping us get through the drought. Your staff worked hard to meet our water reduction goals while keeping our sites aesthetically pleasing."

-CITY OF GLENDALE

DESIGN IMPLEMENTATION

Bringing your vision to life

We partner with you to achieve a common goal success.

From simple to complex projects, we coordinate our vast array of services to create the project you envision.

Award-winning craftsmanship, in depth knowledge and high standards of professionalism are applied to every level of work.



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Overview of Additional Tree Care Services

The tree care services of Mariposa Landscapes are set apart from the competition by providing comprehensive consulting services in addition to expert tree care. Our ability to provide such excellent service is due to our crews of highly trained, safety-oriented, certified arborists and tree workers. Our staff receives the latest training in arboriculture methods, techniques, and software systems.

Our specialized consulting services include the following: Urban Forest Management Planning, Tree Evaluations, Inventory Management, Risk Assessments, Hazard Reports, Tree Appraisals, and Insect and Disease Control Recommendations.



Tree Division Accreditation

Mariposa Landscapes received accreditation from the Tree Care Industry Association (TCIA) in 2012, becoming one of the few accredited tree care companies in California. This accreditation involves a thorough audit process of procedures in the following ten areas:

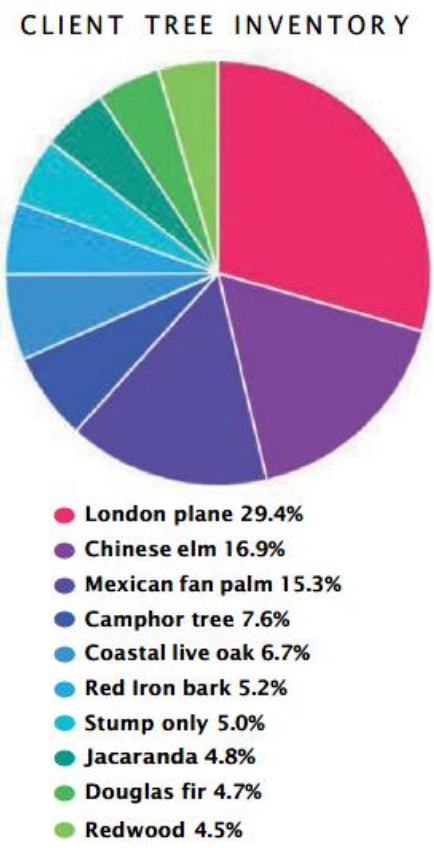
1. Consumer Satisfaction
2. Best Business Practices
3. Business Ethics
4. Employee Training
5. Safety
6. Quality
7. Industry Standards
8. Arborist Certification
9. Insurance Coverage
10. Work Estimates and Specification

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Tree Asset Management

Mariposa Landscapes leverages the latest urban forestry management technology and software. “Tree Plotter” allows us to manage all of our client’s information and property details in one easy-to-access location.

The software program creates and manages tree inventories, conducts statistical analysis and provides reports for our clients. Each client receives their own personal user account login, which provides visibility into their inventory, reports, and maps of their trees.





The Tree Plotter software also allows us to create work orders, assign them to Mariposa’s arborist crew leaders, and maintain an updated work history for a specific client inventory. This delivers maximum transparency for both contractor and client, providing easy access to all aspects of inventory, from creation to billing.

The Tree Plotter inventory management program provides Mariposa’s Tree Division with the ability to create and manage an internal roster of clients and their information. The client information table allows us to enter company names, project manager or point of contact information, property addresses, phone numbers, email addresses, and billing information. Whether our clients have a single property, or multiple locations to inventory, we can create a “Client Site” profile for each one. This allows us to manage the inventories, work orders, and billing for each property separately.

This asset mapping capability can also extend to Irrigation Assets!

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ATTACHMENTS

Pricing sheets and all other required forms

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EXHIBIT "B"
SPECIAL REQUIREMENTS

TERMS FOR COMPLIANCE WITH CALIFORNIA LABOR LAW REQUIREMENTS

1. This Agreement calls for services that, in whole or in part, constitute "public works" as defined in Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code ("Chapter 1"). Further, Contractor acknowledges that this Agreement is subject to (a) Chapter 1 and (b) the rules and regulations established by the Department of Industrial Relations ("DIR") implementing such statutes. Therefore, as to those Services that are "public works," Contractor shall comply with and be bound by all the terms, rules and regulations described in 1(a) and 1(b) as though set forth in full herein.

2. California law requires the inclusion of specific Labor Code provisions in certain contracts. The inclusion of such specific provisions below, whether or not required by California law, does not alter the meaning or scope of Section 1 above.

3. Contractor shall be registered with the Department of Industrial Relations in accordance with California Labor Code Section 1725.5, and has provided proof of registration to City prior to the Effective Date of this Agreement. Contractor shall not perform work with any subcontractor that is not registered with DIR pursuant to Section 1725.5. Contractor and subcontractors shall maintain their registration with the DIR in effect throughout the duration of this Agreement. If the Contractor or any subcontractor ceases to be registered with DIR at any time during the duration of the project, Contractor shall immediately notify City.

4. Pursuant to Labor Code Section 1771.4, Contractor's Services are subject to compliance monitoring and enforcement by DIR. Contractor shall post job site notices, as prescribed by DIR regulations.

5. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file at City Hall and will be made available to any interested party on request. Contractor acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and Contractor shall post such rates at each job site covered by this Agreement.

6. Contractor shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. The Contractor shall, as a penalty to City, forfeit $200.00 for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the DIR for the work or craft in which the worker is employed for any public work done pursuant to this Agreement by Contractor or by any subcontractor.

7. Contractor shall comply with and be bound by the provisions of Labor Code Section 1776, which requires Contractor and each subcontractor to: keep accurate payroll records and verify such records in writing under penalty of perjury, as specified in Section 1776; certify and make such payroll records available for inspection as provided by Section 1776; and inform City of the location of the records.

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8. Contractor shall comply with and be bound by the provisions of Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code Title 8, Section 200 et seq. concerning the employment of apprentices on public works projects. Contractor shall be responsible for compliance with these aforementioned Sections for all apprenticeable occupations. Prior to commencing work under this Agreement, Contractor shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within 60 days after concluding work pursuant to this Agreement, Contractor and each of its subcontractors shall submit to City a verified statement of the journeyman and apprentice hours performed under this Agreement.

9. The Contractor shall not perform Work with any Subcontractor that has been debarred or suspended pursuant to California Labor Code Section 1777.1 or any other federal or state law providing for the debarment of contractors from public works. The Contractor and Subcontractors shall not be debarred or suspended throughout the duration of this Agreement pursuant to Labor Code Section 1777.1 or any other federal or state law providing for the debarment of contractors from public works. If the Contractor or any subcontractor becomes debarred or suspended during the duration of the project, the Contractor shall immediately notify City.

10. Contractor acknowledges that eight hours labor constitutes a legal day's work. Contractor shall comply with and be bound by Labor Code Section 1810. Contractor shall comply with and be bound by the provisions of Labor Code Section 1813 concerning penalties for workers who work excess hours. The Contractor shall, as a penalty to City, forfeit $25.00 for each worker employed in the performance of this Agreement by the Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code section 1815, work performed by employees of Contractor in excess of eight hours per day, and 40 hours during any one week shall be permitted upon public work upon compensation for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay.

11. California Labor Code Sections 1860 and 3700 provide that every employer will be required to secure the payment of compensation to its employees. In accordance with the provisions of California Labor Code Section 1861, Contractor hereby certifies as follows:

> "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."

Date 7/5/2022 **Signature** DocuSigned by: Terry Noriega 073E1ED56B0840B...

7/5/2022 DocuSigned by: C43353EB202E49B...

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12. For every subcontractor who will perform work on the project, Contractor shall be responsible for such subcontractor's compliance with Chapter 1 and Labor Code Sections 1860 and 3700, and Contractor shall include in the written contract between it and each subcontractor a copy of those statutory provisions and a requirement that each subcontractor shall comply with those statutory provisions. Contractor shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractor's compliance, including, without limitation, conducting a periodic review of the certified payroll records of the subcontractor and upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages. Contractor shall diligently take corrective action to halt or rectify any failure.

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EXHIBIT "C"
SCHEDULE OF COMPENSATION

I. Contractor shall perform the following tasks ("Tasks") not to exceed the following rates.

TASK	DESCRIPTION	SUB-BUDGET
1.	Annual Landscape Maintenance of City Properties	$118,332.00
2.	Clean up of select City Properties as need if needed	$14,975.00
3.	Annual as needed if needed services not included in general maintenance	$7,500.00
	TOTAL	**$140,807.00**

Reference Pricing Proposal sheets for detailed breakdown, Exhibit C-1

II. Within the budgeted amounts for each Task, and with the approval of the Contract Officer, funds may be shifted from one Task sub-budget to another so long as the Contract Sum is not exceeded per Section 2.1, unless Additional Services are approved per Section 1.8.

III. City will compensate Contractor for the Services performed upon submission of a valid invoice. Each invoice is to include:

A. Line items for all personnel describing the Services performed, the number of hours worked, and the hourly rate.

B. Line items for all materials and equipment properly charged to the Services.

C. Line items for all other approved reimbursable expenses claimed, with supporting documentation.

D. Line items for all approved sub-contractor labor, supplies, equipment, materials, and travel properly charged to the Services.

IV. The total compensation for Services shall not exceed $140,807.00 as provided in Section 2.1 of this Agreement.

V. Contractor's pricing for all service locations and cleanup are attached as Exhibit C-1.

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EXHIBIT "C-1"
PRICING PROPOSAL

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VI. PRICING PROPOSAL

RATE SHEET

Line Item	Location	Quantity	Unit of Measure	Monthly Rate	Annual Rate
1	Ramsey Street Medians from Highland Springs Avenue to Highland Home Road	12	Month	$1,774.98	$21,299.76
2	Banning City Hall (Civic Center)	12	Month	$1,183.32	$14,199.84
3	Banning Police Station (125 E. Ramsey Street)	12	Month	$1,380.54	$16,566.48
4	Banning Police Station Northeast Parking Lot (125 E. Ramsey Street)	12	Month	$295.83	$3,549.96
5	Fire Station (5261 W. Wilson Street)	12	Month	$591.66	$7,099.92
6	Community Center & Senior Center (769 & 789 N. San Gorgonio Avenue)	12	Month	$887.49	$10,649.88
7	Aquatic Center (749 N. San Gorgonio)	12	Month	$986.10	$11,833.20
8	Former Army Nation Guard Property (2041 W. Nicolet Street)	12	Month	$788.88	$9,466.56
9	Brinton Reservoir (1700 N. Mountain Avenue)	12	Month	$986.10	$11,833.20
10	Sunset Reservoir (1202 N. Sunset Avenue)	12	Month	$788.88	$9,466.56
11	San Gorgonio Parking Lot	12	Month	$197.22	$2,366.64
TOTAL $9,861.00 Per Month					

CLEAN-UP

Line Item	Location	Unit of Measure	Monthly Rate
1	Ramsey Street Medians from Highland Springs Avenue to Highland Home Road	One Time	$2,900.00
2	Banning City Hall (Civic Center)	One Time	0
3	Banning Police Station (125 E. Ramsey Street)	One Time	0

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Line Item	Location	Unit of Measure	Monthly Rate
4	Banning Police Station Northeast Parking Lot (125 E. Ramsey Street)	One Time	0
5	Fire Station (5261 W. Wilson Street)	One Time	0
6	Community Center & Senior Center (769 & 789 N. San Gorgonio Avenue)	One Time	0
7	Aquatic Center (749 N. San Gorgonio)	One Time	0
8	Former Army Nation Guard Property (2041 W. Nicolet Street)	One Time	$2,362.50
9	Brinton Reservoir (1700 N. Mountain Avenue)	One Time	$5,550.00
10	Sunset Reservoir (1202 N. Sunset Avenue)	One Time	$4,162.50
11	San Gorgonio Parking Lot	One Time	0

* Clean-up pricing does not include irrigation repairs

* If Mariposa invoices the City for travel, lodging and subsistence it shall not exceed the current IRS rates.

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EXHIBIT "D"
SCHEDULE OF PERFORMANCE

I. Contractor shall perform all Services timely, and deliver the specified tangible work products to City in accordance with the schedule attached as Exhibit D-1.

II. The Contract Officer may approve extensions for performance of the Services in accordance with Sections 1.8 and 3.3.

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EXHIBIT "D-1"
PROPOSED PROJECT SCHEDULE

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APPROACH AND METHODOLOGY

Along with implementing a monthly work schedule, we perform internal quality control on our work to free up our contract monitor or client representative (be it a Public Works Inspector or Property Manager) so that he or she will have a reduced workload. This creates a positive environment for everyone involved and enhances our client relationships. Our main philosophy behind quality control is summed up in one statement "Plan your work and work your plan." Therefore, the work is to be planned and monitored in the following ways:

Annual Work Schedule

Here is a sample schedule. A final schedule will be provided upon start of work.

Turf Areas	**# of Frequencies**	JANUARY				FEBRUARY				MARCH				APRIL				MAY				JUNE				JULY				AUGUST				SEPTEMBER				OCTOBER				NOVEMBER				DECEMBER			
		Week				Week				Week				Week				Week				Week				Week				Week				Week				Week				Week				Week			
		1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
Litter Control, All Areas, Liner Replacement	Per Visit	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Mowing	52 X year	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Edging & Detaling	52 X year	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Blowing	52 X year	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Sweeping	52 X year	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Broadleaf Control	2 X year									■																												■											
Pre-emergent application	3 X year									■												■												■															
Fertilizations	3 X year									■														■														■											
Aeration	2 X year					■				■												■		■														■											
Pest Monitoring	Monthly				■				■				■				■				■				■				■				■				■				■				■				■
Irrigation System Inspections	Weekly	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Shrubs & G.C Areas	**# of Frequencies**	JANUARY				FEBRUARY				MARCH				APRIL				MAY				JUNE				JULY				AUGUST				SEPTEMBER				OCTOBER				NOVEMBER				DECEMBER			
		Week				Week				Week				Week				Week				Week				Week				Week				Week				Week				Week			
		1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
Hedge Trimming	8 X year							■								■				■				■				■				■				■				■							
Ground-Covers Trimming	8 X year						■								■				■				■				■				■				■				■							
Ground-Covers Edging	8 X year						■								■				■				■				■				■				■				■							
Shrub Pruning	8 X year					■								■				■				■				■				■				■								■					
Deadheading & Cleaning	As Needed																																															
Weed Control	Monthly		■				■				■				■				■				■				■				■				■				■				■				■	
Fertilizations	2 X year										■												■																	■								
Pre-emergent application	3 X year										■												■																										
Mulching Refreashing	Monthly			■				■				■				■				■				■				■				■				■				■				■				■	
Annual Color	4 X year									■												■												■								■							
Premium Color	1 X year																																					■											
Removal of Dead Plants	As Needed																																															
Trees & Shrubs Safety Clearance	Monthly			■				■				■				■				■				■				■				■				■				■				■				■	
Irrigation System Inspections	Weekly	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Hardscapes	**# of Frequencies**	JANUARY				FEBRUARY				MARCH				APRIL				MAY				JUNE				JULY				AUGUST				SEPTEMBER				OCTOBER				NOVEMBER				DECEMBER			
		Week				Week				Week				Week				Week				Week				Week				Week				Week				Week				Week			
		1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
Safety Inspection and Reporting	Weekly	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Blowing	Weekly	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Weed Control	As Needed																																														

Within 30 days of award of the contract we will submit an annual work schedule that will organize all the assigned areas into sectioned areas. The sectioned areas will be per the approval of the client representative. The schedule will designate the areas included with the service level and general tasks completed for that month. Any revisions to this schedule will be submitted to the client representative for approval. A review of this schedule will be made at monthly meetings to evaluate success.

DocuSign Envelope ID: 3A69E8D8-9100-4D39-A970-5CFC37D90134

AMENDMENT NO. 1 TO AGREEMENT FOR PROFESSIONAL SERVICES (C00763) FOR LANDSCAPE MAINTENANCE BETWEEN THE CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

THIS AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT FOR LANDSCAPE MAINTENANCE ("Amendment No. 1") by and between the **CITY OF BANNING**, a California municipal corporation ("City") and **MARIPOSA LANDSCAPES, INC.**, a California corporation ("Contractor") is effective as of 5/8/2023 _____.

RECITALS

A. On June 28, 2022, the City Council adopted Resolution 2022-86, approving that certain Agreement for Professional Services (C00763) for Landscape Maintenance dated July 6, 2022 ("Agreement"). The Agreement provided that Contractor would provide the services specified in the Scope of Services attached to the Agreement as Exhibit "A".

B. City and Contractor now desire to amend the Agreement in accordance with Resolution 2022-86 to (1) modify the Scope of Services to include landscape maintenance services for Station #89 located at 172 N. Murray Street and the Fire Administration Building located at 3900 W. Wilson Street, and (2) increase the total annual compensation amount by Seven Thousand Two Hundred Forty-Eight Dollars ($7,248.00).

TERMS

1. **Contract Changes**. The Agreement is amended as follows:

(a) Section 2.1 ("Contract Sum") of the Agreement is amended to read as follows:

"2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, as full compensation for Services satisfactorily rendered, City shall pay Contractor at the hourly rates set forth in **Exhibit C-1** and the not-to-exceed sub-budget rates set forth in the "Schedule of Compensation" attached hereto as **Exhibit C** and incorporated herein by this reference. In no event shall Contractor be paid more than One Hundred Forty-Eight Thousand Fifty-Five Dollars ($148,055.00) (the "Contract Sum"). The Contract Sum shall include the attendance of Contractor at all project meetings reasonably deemed necessary by City. Coordination of the performance of the Services with City is a critical component of the Services. If Contractor is required to attend additional meetings to facilitate such coordination, Contractor shall not be entitled to any additional compensation for attending those meetings."

(b) Section IV. of Exhibit "C" to the Agreement is amended to read as follows:

"IV. The total compensation for Services shall not exceed $148,055.00 as provided in Section 2.1 of this Agreement."

(c) Section 1.1 and Exhibit "A" to the Agreement is amended to include the amended scope of services attached as Attachment "1" to this Amendment 1.

DocuSign Envelope ID: 3A69E8D8-9100-4D39-A970-5CFC37D90134

2. **Continuing Effect of Agreement.** Except as amended by this Amendment No. 1, all provisions of the Agreement, as amended by Amendment No. 1, shall remain unchanged and in full force and effect. From and after the date of this Amendment No. 1, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by this Amendment No. 1. In the event of a conflict between the provisions of this Amendment No. 1 and the provisions of the Agreement, the provisions of this Amendment No. 1 shall control.

3. **Affirmation of Agreement; Warranty Re Absence of Defaults.** City and Contractor each ratify and reaffirm each and every one of the respective rights and obligations arising under the Agreement. Each party represents and warrants to the other that there have been no written or oral modifications to the Agreement other than as provided herein. Each party represents and warrants to the other that the Agreement is currently an effective, valid, and binding obligation.

Contractor represents and warrants to City that, as of the date of this Amendment, City is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

City represents and warrants to Contractor that, as of the date of this Amendment, Contractor is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

4. **Adequate Consideration.** The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment.

5. **Authority.** The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound.

6. **Electronic Signatures**. Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Agreement and such other documents transmitted by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

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IN WITNESS WHEREOF the Parties hereto have executed this Agreement the day and year first hereinabove written.

CITY OF BANNING

DocuSigned by:
0AD14BA217CE497...
5/8/2023

Douglas Schulze, Date
City Manager

ATTEST:

DocuSigned by:
72C57B436CA24C7...
5/8/2023

Caroline Patton Date
Deputy City Clerk

APPROVED AS TO FORM:
Richards, Watson & Gershon

DocuSigned by:
F3821CB27AE84EF...
5/8/2023

Serita R. Young Date
City Attorney

Mariposa Landscapes, Inc.

DocuSigned by:
C43353EB202E49B...
5/8/2023

NAME: Antonio Valenzuela Date
TITLE: Secretary

NAME: Date
TITLE:

95-4245898
Tax ID No.

Address:
Mariposa Landscapes, Inc.
6232 Santos Diaz St.
Irwindale, CA 91702

City Council Approval: 2/14/23

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

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ATTACHMENT "1"

MARIPOSA
LANDSCAPES INC

PROPOSAL

Friday, October 7, 2022

Carl Szoyka – Public Work Superintendent

City of Banning
99 E. Ramsey Street
Banning, CA 92220
Phone 951-922-3286 Email cszoyka@banningca.gov

Re: Landscape Maintenance at Fire Station 89

Description	This proposal provides for all labor, material, and equipment to perform landscape maintenance service at 172 N. Murray St. Fire Station 89. Service will be performed according to current contract RFP-22-015 specifications. This project has been discussed with Ruben Macias.
Price	Total monthly price for above described work $906.00
	Nine Hundred Six And 00/100
Terms:	Per current agreement RFP-22-015.
Exclusions:	Construction prevailing wages, any unforeseen underground obstacles, and anything not mentioned.
Time	Project start date is currently 10 days after acceptance
Limits	Time limit for the acceptance of this proposal is 30 calendar days from the above date.

DocuSign Envelope ID: 3A69E8D8-9100-4D39-A970-5CFC37D90134

MARIPOSA
LANDSCAPES INC

PROPOSAL

Friday, October 7, 2022

Carl Szoyka – Public Work Superintendent

City of Banning
99 E. Ramsey Street
Banning, CA 92220
Phone 951-922-3286 Email cszoyka@banningca.gov

Re: Landscape Maintenance at Fire Administration

Description	This proposal provides for all labor, material, and equipment to perform landscape maintenance service at 3900 W. Wilson St. Fire Administration. Service will be performed according to current contract RFP-22-015 specifications. This project has been discussed with Ruben Macias.
Price	Total monthly price for above described work..... $906.00
	Nine Hundred Six And 00/100
Terms:	Per current agreement RFP-22-015.
Exclusions:	Construction prevailing wages, any unforeseen underground obstacles, and anything not mentioned.
Time	Project start date is currently 10 days after acceptance
Limits	Time limit for the acceptance of this proposal is 30 calendar days from the above date.

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AMENDMENT NO. 2 TO AGREEMENT FOR PROFESSIONAL SERVICES (C00763) FOR LANDSCAPE MAINTENANCE BETWEEN THE CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

THIS AMENDMENT NO. 2 TO THE PROFESSIONAL SERVICES AGREEMENT FOR LANDSCAPE MAINTENANCE ("Amendment No. 2") by and between the **CITY OF BANNING**, a California municipal corporation ("City") and **MARIPOSA LANDSCAPES, INC.**, a California corporation ("Contractor") is effective as of 6/7/2023 _____.

RECITALS

A. On June 28, 2022, the City Council adopted Resolution 2022-86, approving that certain Agreement for Professional Services (C00763) for Landscape Maintenance dated July 6, 2022 ("Agreement"). The Agreement provided that Contractor would provide the services specified in the Scope of Services attached to the Agreement as Exhibit "A".

B. On May 8, 2023, City and Contractor amended the Agreement ("Amendment No. 1") to modify the Scope of Services and increase the compensation for the additional services in an amount not to exceed Seven Thousand Two-Hundred Forty-Eight Dollars ($7,248.00) for a total not-to-exceed Contract Sum of One Hundred Forty-Eight Thousand Fifty-Five Dollars ($148,0550.00), as approved by City Council Resolution 2023-28.

A. City and Contractor now desire to amend the Agreement ("Amendment No. 2") in accordance with City Council approval to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2024, and to provide compensation for the additional one-year term in an amount not to exceed One Hundred Thirty-Nine Thousand Seven Hundred Ninety-Three Dollars and Sixty-Four Cents ($139,793.64) for a total not-to-exceed Contract Sum of Two Hundred Eighty-Seven Thousand Eight Hundred Forty-Eight Dollars and Sixty-Four Cents ($287,848.64).

TERMS

1. **Contract Changes**. The Agreement is amended as follows:

   (a) Section 2.1 ("Contract Sum") of the Agreement is amended to provide that the total Contract Sum shall not exceed Two Hundred Eighty-Seven Thousand Eight Hundred Forty-Eight Dollars and Sixty-Four Cents ($287,848.64).

   (b) Section 3.4 ("Term") of the Agreement is hereby amended to extend the Term of the Agreement to June 30, 2024.

   (c) Section IV. of Exhibit "C" to the Agreement is amended to read as follows:

   "IV. The total compensation for Services shall not exceed $287,848.64 as provided in Section 2.1 of this Agreement."

2. **Continuing Effect of Agreement.** Except as amended by this Amendment No. 2, all provisions of the Agreement shall remain unchanged and in full force and effect. From and

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after the date of this Amendment No. 2, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by Amendment Nos. 1 through 2. In the event of a conflict between the provisions of this Amendment No. 2 and the provisions of the Agreement or Amendment No. 1, the provisions of this Amendment No. 2 shall control.

3. **Affirmation of Agreement; Warranty Re Absence of Defaults.** City and Contractor each ratify and reaffirm each and every one of the respective rights and obligations arising under the Agreement. Each party represents and warrants to the other that there have been no written or oral modifications to the Agreement other than as provided herein. Each party represents and warrants to the other that the Agreement is currently an effective, valid, and binding obligation.

Contractor represents and warrants to City that, as of the date of this Amendment, City is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

City represents and warrants to Contractor that, as of the date of this Amendment, Contractor is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

4. **Adequate Consideration.** The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment.

5. **Authority.** The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound.

6. **Electronic Signatures**. Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Agreement and such other documents transmitted by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

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IN WITNESS WHEREOF the Parties hereto have executed this Amendment No. 2 the day and year first hereinabove written.

CITY OF BANNING

6/7/2023

Douglas Schulze, Date
City Manager

ATTEST:

6/7/2023

Caroline Patton Date
Deputy City Clerk

APPROVED AS TO FORM:
Richards, Watson & Gershon

6/5/2023

Serita R. Young Date
City Attorney

Mariposa Landscapes, Inc.

Terry Noriega 6/7/2023

NAME: Terry Noriega Date
TITLE: President

Antonio Valenzuela 6/7/2023

NAME: Antonio Valenzuela Date
TITLE: Secretary

95-4245898

Tax ID No.

Address:
Mariposa Landscapes, Inc.
6232 Santos Diaz Street
Irwindale, CA 91702

City Council Approval: 2023-095

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

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AMENDMENT NO. 3 TO AGREEMENT FOR PROFESSIONAL SERVICES (C00763) FOR LANDSCAPE MAINTENANCE BETWEEN THE CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

1. PARTIES AND DATE

THIS AMENDMENT NO. 3 TO THE PROFESSIONAL SERVICES AGREEMENT ("Amendment No. 3") by and between the **CITY OF BANNING** ("City") and **MARIPOSA LANDSCAPES, INC.**, a California corporation ("Consultant") is effective this day of: 9/14/2023.

2. RECITALS

2.1 City and Consultant entered into an agreement dated July 6, 2022 for the purpose of providing Landscape Maintenance Services ("Master Agreement") following Request for Proposals, RFP #2022-86 and approved by City Council Resolution No.2022-86.

2.2 City and Consultant have entered into an Amendment No.1 to the Master Agreement dated May 8, 2023, for the purpose of modifying the Scope of Services and increasing the compensation by an amount not to exceed Seven Thousand Two-Hundred Forty-Eight Dollars ($7,248.00) to the Master Agreement.

2.3 City and Consultant have entered into an Amendment No.2 to the Master Agreement dated, June 7, 2023 to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2024, and to provide compensation for the additional one-year term in an amount not to exceed One Hundred Thirty-Nine Thousand Seven Hundred Ninety-Three Dollars and Sixty-Four Cents ($139,793.64) as approved by City Council Resolution No. 2023-095.

2.4 City and Consultant now desire to amend the Master Agreement to modify the scope and to include additional compensation in an amount not to exceed of Four Thousand Two Hundred Twenty-Four Dollars ($4,224.00).

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants, conditions, and promises contained in the Master Agreement, the Parties mutually agree follows:

3. INCORPORATION OF RECITALS

3.1 The recitals listed above are true and correct and are hereby incorporated herein by this reference.

4. AMENDMENT TERMS

4.1 The Services are hereby amended to include the additional Services set forth in Attachment "A", attached hereto and incorporated herein.

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4.2 The maximum compensation for services performed pursuant to this Amendment No. 3 to the Master Agreement, is hereby amended and shall not exceed Four Thousand Two Hundred Twenty-Four Dollars ($4,224.00) thereby increasing the total not to exceed compensation of the Master Agreement to the amount of Two Hundred Ninety-Two Thousand Seventy-Two Dollars and Sixty-Four Cents ($292,072.64). Work shall be performed at the rates set forth in the Master Agreement.

4.3 Continuing Effect of Agreement. Except as amended by this Amendment No.3, all provisions of the Master Agreement as amended by Amendment No.1 and Amendment No.2, shall remain unchanged and in full force and effect.

4.4 The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment No. 3.

4.5 The persons executing this Amendment No. 3 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 3 on behalf of said party, (iii) by so executing this Amendment No. 3, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Amendment No. 3 does not violate any provision of any other Agreement to which said party is bound.

4.6 This Amendment No. 3 may be signed in counterparts, each of which shall constitute an original.

4.7 Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Agreement and such other documents transmitted by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

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IN WITNESS WHEREOF the Parties hereto have executed this Amendment No. **3** to the Master Agreement the day and year first hereinabove written.

CITY OF BANNING

9/14/2023

Douglas Schulze, Date
City Manager

City Council Approval: 2023-095

ATTEST:

9/14/2023

Caroline Patton Date
Deputy City Clerk

CONSULTANT

Terry Noriega 9/10/2023

NAME: Terry Noriega Date
TITLE: President

9/11/2023

NAME: Antonio Valenzuela Date
TITLE: Secretary

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO THE CONSULTANT'S BUSINESS ENTITY.

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ATTACHMENT "A"

MARIPOSA
LANDSCAPES INC

PROPOSAL

31813

Tuesday, July 18, 2023

Carl Szoyka – Public Works Superintendent

City of Banning
99 E Ramsey St
Banning, CA 92220
Phone 951-922-3286

Re: Landscape Maintenance at Highland Springs Avenue Underpass

Description	This proposal provides for all labor, material, and equipment to perform the following landscape maintenance services on the slope at Highland Springs Avenue underpass. Service will be performed according to current contract #C00763 specifications. This project has been discussed with Randy Chavez. 1. Provide biweekly maintenance including trimming and weed control. 2. Tree clearance as needed. 3. Check irrigation and trash removal.
Price	Total monthly price for above-described work..... $384.00 Three Hundred Eighty-Four And 00/100
Terms:	Net 30 days with monthly billing.
Exclusions:	Construction prevailing wages, any unforeseen underground obstacles, and anything not mentioned.
Time	Project start date is currently 5 days after acceptance.
Limits	Time limit for the acceptance of this proposal is 30 calendar days from the above date.

TEL 800 • 794 • 9458 • FAX 626 • 960 • 8477 • www.mariposa-ca.com
6232 SANTOS DIAZ ST., IRWINDALE, CA 91702 • CA CONTRACTOR'S LIC # 592268 A, C-27, D-49
Our Core Values – Safety • Teamwork • Quality • Integrity

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AMENDMENT NO. 4 TO AGREEMENT FOR PROFESSIONAL SERVICES (C00763) FOR LANDSCAPE MAINTENANCE BETWEEN THE CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

1. PARTIES AND DATE

THIS AMENDMENT NO. 4 TO THE PROFESSIONAL SERVICES AGREEMENT ("Amendment No. 4") by and between the **CITY OF BANNING** ("City") and **MARIPOSA LANDSCAPES, INC.**, a California corporation ("Consultant") is effective this day of: 6/25/2024 _____.

2. RECITALS

2.1 City and Consultant entered into an agreement dated July 6, 2022 for the purpose of providing Landscape Maintenance Services ("Master Agreement") following Request for Proposals, RFP #2022-86 and approved by City Council Resolution No.2022-86.

2.2 City and Consultant have entered into an Amendment No.1 to the Master Agreement dated May 8, 2023, for the purpose of modifying the Scope of Services and increasing the compensation by an amount not to exceed Seven Thousand Two-Hundred Forty-Eight Dollars ($7,248.00) to the Master Agreement.

2.3 City and Consultant have entered into an Amendment No.2 to the Master Agreement dated, June 7, 2023 to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2024, and to provide compensation for the additional one-year term in an amount not to exceed One Hundred Thirty-Nine Thousand Seven Hundred Ninety-Three Dollars and Sixty-Four Cents ($139,793.64) as approved by City Council Resolution No. 2023-095.

2.4 City and Consultant have entered into an Amendment No.3 to the Master Agreement dated, September 14, 2023 to exercise the option to extend the Agreement for an additional services and to provide compensation in an amount not to exceed Four Thousand Two Hundred Twenty-Four Dollars ($4,224.00).

2.5 City and Consultant now desire to amend the Master Agreement to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2025, and to provide compensation for the additional one-year term in an amount not to exceed One Hundred Forty-Eight Thousand Three Hundred Seventy-One Dollars and Forty-Eight Cents ($148,371.48).

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants, conditions, and promises contained in the Master Agreement, the Parties mutually agree follows:

3. INCORPORATION OF RECITALS

3.1 The recitals listed above are true and correct and are hereby incorporated herein by this reference.

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4. AMENDMENT TERMS

4.1 The maximum compensation for services performed pursuant to this Amendment No. 4 to the Master Agreement, is hereby amended and shall not exceed One Hundred Forty-Eight Thousand Three Hundred Seventy-One Dollars and Forty-Eight Cents ($148,371.48) thereby increasing the total not to exceed compensation of the Master Agreement to the amount of Four Hundred Forty Thousand Four Hundred Forty-Four Dollars and Twelve Cents ($440,444.12). Work shall be performed at the rates set forth in the Master Agreement.

4.2 The Term of the Agreement, as set forth in Section 3.4 of the Agreement, is hereby extended through June 30, 2025, unless sooner terminated or extended as provided in the Agreement.

4.3 Exhibit C-1 to the Agreement is hereby amended to read as set forth in Attachment "A", attached hereto and incorporated herein.

4.4 Continuing Effect of Agreement. Except as amended by this Amendment No. 4, all provisions of the Master Agreement as amended by Amendment No. 1, Amendment No. 2, and Amendment No. 3, shall remain unchanged and in full force and effect.

4.5 The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment No. 4.

4.6 The persons executing this Amendment No. 4 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 4 on behalf of said party, (iii) by so executing this Amendment No. 4, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Amendment No. 4 does not violate any provision of any other Agreement to which said party is bound.

4.7 This Amendment No. 4 may be signed in counterparts, each of which shall constitute an original.

4.8 Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Agreement and such other documents transmitted by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

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IN WITNESS WHEREOF the Parties hereto have executed this Amendment No. **4** to the Master Agreement the day and year first hereinabove written.

CITY OF BANNING

6/25/2024

Douglas Schulze, Date
City Manager

City Council Approval: 2024-081

ATTEST:

6/25/2024

Caroline Patton Date
Administrative City Clerk

APPROVED AS TO FORM:

6/14/2024

Serita R. Young
City Attorney

CONSULTANT

Terry Noriega 6/21/2024

NAME: Terry Noriega Date
TITLE: President

6/21/2024

NAME: Antonio Valenzuela Date
TITLE: Secretary

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO THE CONSULTANT'S BUSINESS ENTITY.

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ATTACHMENT "A"

RATE SCHEDULE FOR LANDSCAPE MAINTENANCE SERVICES OF CITY PROPERTIES

Line Item	Location	Quantity	Unit of Measure	FY 2024 Monthly Rate	FY 2024 Annual Rate	CPI 2.90%	New Monthly Rate	FY 2025 Annual Rate
1	Ramsey Street Medians from Highland Springs Avenue to Highland Home Avenue	12	Month	$1,908.10	**$22,897.20**	$55.33	$1,963.43	$ 23,561.16
2	Banning City Hall (Civic Center)	12	Month	$1,272.07	**$15,264.84**	$36.89	$1,308.96	$ 15,707.52
3	Banning Police Station (125 E. Ramsey Street)	12	Month	$1,484.08	**$17,808.96**	$43.04	$1,527.12	$ 18,325.44
4	Banning Police Station Northeast Parking Lot (125 E. Ramsey Street)	12	Month	$318.02	**$3,816.24**	$9.22	$327.24	$ 3,926.88
5	Fire Station (5261 W. Wilson Street)	12	Month	$636.03	**$7,632.36**	$18.44	$654.47	$ 7,853.64
8	Former Army National Guard Property (2041 W. Nicolet Street)	12	Month	$848.05	**$10,176.66**	$24.59	$872.64	$ 10,471.68
9	Brinton Reservoir (1700 N. Mountain Avenue)	12	Month	$1,060.06	**$12,720.72**	$30.74	$1,090.80	$ 13,089.60
10	Sunset Reservoir (1202 N. Sunset Avenue)	12	Month	$848.05	**$10,176.60**	$24.59	$872.64	$ 10,471.68
11	San Gorgonio Parking Lot	12	Month	$212.01	**$2,544.12**	$6.15	$218.16	$ 2,617.92
12	Fire Station 89 (172 N. Murray St) (added Amend 1)	12	Month	$906.00	**$10,872.00**	$26.27	$932.27	$ 11,187.24
13	Fire Administration building (4900 W. Wilson St) (addeded Amend 1)	12	Month	$906.00	**$10,872.00**	$26.27	$932.27	$ 11,187.24
14	West Ramsey Street Medians	12	Month	$626.00	**$7,512.00**	$18.15	$644.15	$ 7,729.80
15	Higland Spring Avenue Underpass (added Amend 3)	12	Month	$384.00	**$4,224.00**	$11.14	$395.14	$ 4,741.68
16	Services As Needed (Locations to be determined)				**$7,500.00**			$ 7,500.00
			Totals >>>	$11,408.47	$144,017.70	$330.82	$11,739.29	$148,371.48

Docusign Envelope ID: 91D24BDE-E988-4287-8DE0-63580DCE6119

AMENDMENT NO. 5 TO AGREEMENT FOR PROFESSIONAL SERVICES (C00763) FOR LANDSCAPE MAINTENANCE BETWEEN THE CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

1. PARTIES AND DATE

THIS AMENDMENT NO. 5 TO THE PROFESSIONAL SERVICES AGREEMENT ("Amendment No. 5") by and between the **CITY OF BANNING** ("City") and **MARIPOSA LANDSCAPES, INC.**, a California corporation ("Consultant") is effective this day of: 3/26/2025 _____.

2. RECITALS

2.1 City and Consultant entered into an agreement dated July 6, 2022 for the purpose of providing Landscape Maintenance Services ("Master Agreement") following Request for Proposals, RFP #2022-86 and approved by City Council Resolution No.2022-86.

2.2 City and Consultant have entered into an Amendment No.1 to the Master Agreement dated May 8, 2023, for the purpose of modifying the Scope of Services and increasing the compensation by an amount not to exceed Seven Thousand Two-Hundred Forty-Eight Dollars ($7,248.00) to the Master Agreement.

2.3 City and Consultant have entered into an Amendment No.2 to the Master Agreement dated, June 7, 2023 to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2024, and to provide compensation for the additional one-year term in an amount not to exceed One Hundred Thirty-Nine Thousand Seven Hundred Ninety-Three Dollars and Sixty-Four Cents ($139,793.64) as approved by City Council Resolution No. 2023-095.

2.4 City and Consultant have entered into an Amendment No.3 to the Master Agreement dated, September 14, 2023 to exercise the option to extend the Agreement for an additional services and to provide compensation in an amount not to exceed Four Thousand Two Hundred Twenty-Four Dollars ($4,224.00).

2.5 City and Consultant have entered into an Amendment No.4 to the Master Agreement dated, June 25, 2024 to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2025, and to provide compensation for the additional one-year term in an amount not to exceed One Hundred Forty-Eight Thousand Three Hundred Seventy-One Dollars and Forty-Eight Cents ($148,371.48) as approved by City Council Resolution No. 2024-081.

2.6 City and Consultant now desire to amend the Master Agreement to exercise the option to provide additional compensation for the as needed services in amount not to exceed Fifteen Thousand Dollars ($15,000.00).

Docusign Envelope ID: 91D24BDE-E988-4287-8DE0-63580DCE6119

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants, conditions, and promises contained in the Master Agreement, the Parties mutually agree follows:

3. INCORPORATION OF RECITALS

3.1 The recitals listed above are true and correct and are hereby incorporated herein by this reference.

4. AMENDMENT TERMS

4.1 The maximum compensation for services performed pursuant to this Amendment No. 5 to the Master Agreement, is hereby amended and shall not exceed Fifteen Thousand Dollars ($15,000.00) thereby increasing the total not to exceed compensation of the Master Agreement to the amount of Four Hundred Fifty-Five Thousand Four Hundred Forty-Four Dollars and Twelve Cents ($455,444.12). Work shall be performed at the rates set forth in the Master Agreement.

4.2 Continuing Effect of Agreement. Except as amended by this Amendment No. 5, all provisions of the Master Agreement as amended by Amendment No. 1, Amendment No. 2, Amendment No. 3, and Amendment No.4, shall remain unchanged and in full force and effect.

4.3 The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment No. 5.

4.4 The persons executing this Amendment No. 5 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 5 on behalf of said party, (iii) by so executing this Amendment No. 5, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Amendment No. 5 does not violate any provision of any other Agreement to which said party is bound.

4.5 This Amendment No. 5 may be signed in counterparts, each of which shall constitute an original.

4.6 Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Agreement and such other documents transmitted by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

Docusign Envelope ID: 91D24BDE-E988-4287-8DE0-63580DCE6119

IN WITNESS WHEREOF the Parties hereto have executed this Amendment No. **5** to the Master Agreement the day and year first hereinabove written.

CITY OF BANNING

Robert Fisher 3/26/2025

Robert Fisher, Date
Acting City Manager

ATTEST:

3/26/2025

Caroline Patton Date
Administrative City Clerk

MARIPOSA LANDSCAPES, INC.

3/17/2025

NAME: Terry Noriega Date
TITLE: President

3/11/2025

NAME: Antonio Valenzuela Date
TITLE: Secretary

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO THE CONSULTANT'S BUSINESS ENTITY.

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ATTACHMENT "A"

RATE SCHEDULE FOR LANDSCAPE MAINTENANCE SERVICES OF CITY PROPERTIES

Line Item	Location	Quantity	Unit of Measure	FY 2024 Monthly Rate	FY 2024 Annual Rate	CPI 2.90%	New Monthly Rate	FY 2025 Annual Rate
1	Ramsey Street Medians from Highland Springs Avenue to Highland Home Avenue	12	Month	$1,908.10	**$22,897.20**	$55.33	$1,963.43	$ 23,561.16
2	Banning City Hall (Civic Center)	12	Month	$1,272.07	**$15,264.84**	$36.89	$1,308.96	$ 15,707.52
3	Banning Police Station (125 E. Ramsey Street)	12	Month	$1,484.08	**$17,808.96**	$43.04	$1,527.12	$ 18,325.44
4	Banning Police Station Northeast Parking Lot (125 E. Ramsey Street)	12	Month	$318.02	**$3,816.24**	$9.22	$327.24	$ 3,926.88
5	Fire Station (5261 W. Wilson Street)	12	Month	$636.03	**$7,632.36**	$18.44	$654.47	$ 7,853.64
8	Former Army National Guard Property (2041 W. Nicolet Street)	12	Month	$848.05	**$10,176.66**	$24.59	$872.64	$ 10,471.68
9	Brinton Reservoir (1700 N. Mountain Avenue)	12	Month	$1,060.06	**$12,720.72**	$30.74	$1,090.80	$ 13,089.60
10	Sunset Reservoir (1202 N. Sunset Avenue)	12	Month	$848.05	**$10,176.60**	$24.59	$872.64	$ 10,471.68
11	San Gorgonio Parking Lot	12	Month	$212.01	**$2,544.12**	$6.15	$218.16	$ 2,617.92
12	Fire Station 89 (172 N. Murray St) (added Amend 1)	12	Month	$906.00	**$10,872.00**	$26.27	$932.27	$ 11,187.24
13	Fire Administration building (4900 W. Wilson St) (addeded Amend 1)	12	Month	$906.00	**$10,872.00**	$26.27	$932.27	$ 11,187.24
14	West Ramsey Street Medians	12	Month	$626.00	**$7,512.00**	$18.15	$644.15	$ 7,729.80
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16	Services As Needed (Locations to be determined)				**$7,500.00**			$ 7,500.00
			Totals >>>	$11,408.47	$144,017.70	$330.82	$11,739.29	$148,371.48

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Robert Fisher, Acting City Manager**
PREPARED BY:	**Patrick Safari, Capital Improvement Projects Manager** **Art Vela, Director of Public Works**
MEETING DATE:	**May 27, 2025**
SUBJECT:	**Consideration of Resolution 2025-74, Authorizing the City Manager to Execute the Reimbursement Agreement for Preliminary Engineering Services with Union Pacific Railroad in the Amount "Not-to-Exceed" $450,000 for the Hargrave Street Grade Separation Project**

RECOMMENDATION:

Adopt Resolution 2025-74.

BACKGROUND:

The Hargrave Grade Separation has been a priority project for the City of Banning for years. Hargrave Street is an existing north-south arterial road that crosses under the elevated I-10 and the Union Pacific Railroad (UPRR) tracks at-grade south of the I-10. Due to the increase of UPRR trains and truck traffic through the Banning Pass area, waiting times at the train tracks crossing have increased significantly in recent years.

On June 8, 2024, the City of Banning entered into a grant agreement with the Federal Railroad Administration (FRA) to provide funds in the amount of $2,800,000 under the Railroad Crossing Elimination (RCE) grant program for the planning and design of the Hargrave Grade Separation project.

On October 8, 2024, the City Council approved Resolution 2024-161 approving a Funding Agreement with the Riverside County Transportation Commission (RCTC) through the SB 125 Transit and Intercity Rail Capital Program (TIRCP) in the amount of $5,000,000 for the planning and design of the Hargrave Grade Separation project.

On January 28, 2025, the City Council approved Resolution 2025-13 awarding a Professional Services Agreement for the Design of Hargrave Grade Separation to Kimley-Horn and Associates, Inc. in the amount of $7,929,775.06.

UPRR submitted the attached Preliminary Engineering Services Reimbursement Agreement which stipulates that the City of Banning will be responsible for UPRR costs associated with the review and approval of project design plans and specifications at a "not-to-exceed" fee of $450,000.

The scope of work will include the following tasks:

- Field diagnostics and inspections
- Plan, specification, and construction review
- Project design
- Preparation of Project estimate for force accounts or other work performed by UPRR

- Meetings and travel

JUSTIFICATION:

The key component of the Hargrave Grade Separation project is the design and construction of a temporary “shoofly track” that will help maintain railroad operations while grade separation is being built. The City is required to coordinate with UPRR on the design of all infrastructure within UPRR right-of-way, encompassing both the permanent grade separation bridge and the temporary “shoofly track.”

FISCAL IMPACT:

The UPRR Agreement costs will be reimbursed through the SB125 TIRCP Grant ($5,000,000) administered by RCTC. Development Impact Fees (DIF) will be used as local match.

The UPRR Agreement will be funded from FY25 to FY28 through Gas Tax Street Fund. An appropriation in the amount of $450,000 to expenditure Account No.100-4900-431.90-10 is required.

ALTERNATIVES:

Do not adopt Resolution 2025-74 and provide alternative direction to staff.

BUDGETED?:

Yes

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. Resolution 2025-74, Hargrave Grade UP.docx
2. Resolution No. 2025-013.pdf
3. Resolution No. 2024-161.pdf
4. FRA Funding Agreement.pdf
5. UPRR Agreement.pdf

RESOLUTION 2025-74

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AUTHORIZING THE CITY MANAGER TO EXECUTE THE REIMBURSEMENT AGREEMENT FOR PRELIMINARY ENGINEERING SERVICES WITH UNION PACIFIC RAILROAD IN THE AMOUNT "NOT-TO-EXCEED" $450,000 FOR THE HARGRAVE STREET GRADE SEPARATION PROJECT

WHEREAS, the Hargrave Grade Separation has been a priority project for the City of Banning for years. Hargrave Street is an existing north-south arterial road that crosses under the elevated I-10 and the Union Pacific Railroad (UPRR) tracks at-grade south of the I-10; and

WHEREAS, on June 8, 2024, the City of Banning entered into a grant agreement with the Federal Railroad Administration (FRA) to provide funds in the amount of $2,800,000 under the Railroad Crossing Elimination (RCE) grant program for the planning and design of the Hargrave Grade Separation project; and

WHEREAS, on October 8, 2024, the City Council approved Resolution 2024-161 approving a Funding Agreement with the Riverside County Transportation Commission (RCTC) through the SB 125 Transit and Intercity Rail Capital Program (TIRCP) in the amount of $5,000,000 for the planning and design of the Hargrave Grade Separation project; and

WHEREAS, on January 28, 2025, the City Council approved Resolution 2025-13 awarding a Professional Services Agreement for the Design of Hargrave Grade Separation to Kimley-Horn and Associates, Inc. in the amount of $7,929,775.06; and

WHEREAS, UPRR submitted a Preliminary Engineering Services Reimbursement Agreement which stipulates that the City of Banning will be responsible for UPRR costs associated with the review and approval of project design plans and specifications at a "not-to-exceed" fee of $450,000; and

WHEREAS, the scope of work will include field diagnostics and inspections; plans, specifications, and construction review; project design; preparation of project estimate for force accounts or other work performed by UPRR; and meetings and travel; and

WHEREAS, the key component of the Hargrave Grade Separation project is the design and construction of a temporary "shoofly track" that will help maintain railroad operations while grade separation is being built; and

WHEREAS, the City is required to coordinate with UPRR on the design of all infrastructure within UPRR right-of-way, encompassing both the permanent grade separation bridge and the temporary "shoofly track"; and

WHEREAS, the UPRR Agreement costs will be reimbursed through the SB125 TIRCP Grant ($5,000,000) administered by RCTC. Development Impact Fees (DIF) will be used as local match; and

WHEREAS, the UPRR Agreement will be funded from FY25 to FY28 through Gas Tax Street Fund; an appropriation in the amount of $450,000 to expenditure Account No.100-4900-431.90-10 is required.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The City of Banning approves the Reimbursement Agreement for Preliminary Engineering Services with UPRR in the amount "not-to-exceed" $450,000 for the Hargrave Grade Separation Project.

SECTION 2. The City Council authorizes the City Manager, or their designee, to execute the Reimbursement Agreement with Union Pacific Railroad and to make necessary budget appropriations.

SECTION 3. The City Council authorizes the City Manager to make necessary non-substantive changes and to execute the Reimbursement Agreement with UPRR.

SECTION 4. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 27th day of May 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

John Pinkney, City Attorney
Slovak, Baron, Empey, Murphy & Pinkney, LLP

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-74, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 27th day of May 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

EXHIBIT A
UPRR Preliminary Engineering Services Reimbursement Agreement

RESOLUTION 2025-13

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AWARDING A PROFESSIONAL SERVICES AGREEMENT FOR THE DESIGN OF HARGRAVE GRADE SEPARATION TO KIMLEY-HORN AND ASSOCIATES, INC. IN THE AMOUNT OF $7,929,775.06 AND APPROVING A 5% CONTINGENCY FOR A TOTAL PROJECT BUDGET OF "NOT-TO-EXCEED" $8,326,263.81

WHEREAS, the Hargrave Grade Separation has been a priority project for the City of Banning for years. Hargrave Street is an existing north-south arterial road that crosses under the elevated I-10 and the Union Pacific Railroad (UPRR) tracks at-grade south of the I-10; and

WHEREAS, due to the increase of UPRR trains and truck traffic through the Banning Pass area, waiting times at the train tracks crossing have increased significantly in recent years. On average, 34 trains pass through the crossing every 24 hours and the wait time at the crossing can vary between 4 to 8 minutes and often over 10 minutes; and

WHEREAS, on June 8, 2024, the City of Banning entered into a grant agreement with the Federal Railroad Administration (FRA) to provide funds in the amount of $2,800,000 under the Railroad Crossing Elimination (RCE) grant program for the planning and design of the Hargrave Grade Separation project; and

WHEREAS, on October 8, 2024, the City Council approved Resolution 2024-161 approving a Funding Agreement with the Riverside County Transportation Commission (RCTC) through the SB-125 Transit and Intercity Rail Capital Program (TIRCP) in the amount of $5,000,000 for the planning and design of the Hargrave Grade Separation project; and

WHEREAS, on September 27, 2024, staff released a Request for Proposals (RFP) for the Hargrave Grade Separation Professional Design Services on the City's public bidding platform and received three (3) proposals ranging in score from 93.67 to 82.50; and

WHEREAS, the project design services scope will consist of project administration and management, preliminary engineering, environmental documentation, permitting, Plans, Specifications and Estimates; and

WHEREAS, the local community will benefit from the elimination of the Hargrave Street at-grade railroad crossing. The benefits will include reduction in traffic congestion on local roads that extend onto I-10; reduction in noise pollution caused by passing trains; and reduction in greenhouse gas emissions caused by long idling times of motor vehicles at the railroad crossing; and

WHEREAS, staff recommends awarding a Professional Services Agreement to Kimley-Horn and Associates Inc. in the amount of $7,929,775.06 and approving a 5% contingency in the amount of $396,488.75 for a total "not-to-exceed" project budget of $ 8,326,263.81; and

WHEREAS, the project costs are eligible and will be reimbursed through the TIRCP Grant administered by RCTC and RCE Grant administered by FRA. Development Impact Fees (DIF) will be used as a local match; and

WHEREAS, the project will be funded from FY25 to FY28 through Gas Tax Street Fund Expenditure Account No.100-4900-431.90-10 and Account No. 420-4900-431.90-10 while the City is waiting to get reimbursed by RCTC and FRA; and

WHEREAS, an appropriation in the amount of $550,000 from Fund 420 (Traffic Facility Improvement Fund) to Account No. 420-4900-431.90-10 is necessary to fund the City's required match.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The City of Banning approves the Professional Services Agreement between Kimley-Horn and Associates, Inc. and the City of Banning.

SECTION 2. The City Council authorizes the City Manager, or designee, to make necessary budget adjustments, appropriations, and transfers related to the Professional Services Agreement with Kimley-Horn and Associates, Inc. for the Design of Hargrave Grade Separation.

SECTION 3. The City Council authorizes the City Manager to make necessary non-substantive changes and to execute the Professional Services Agreement with Kimley-Horn and Associates, Inc.

SECTION 4. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 28th day of January, 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

John Pinkney, Interim City Attorney
Slovak, Baron, Empey, Murphy & Pinkney, LLP

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-13, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 28th day of January, 2025 by the following vote, to wit:

AYES: Barrington, Flynn, Miller, Royce, and Wallace.

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

EXHIBIT A
Professional Services Agreement with Kimley-Horn and Associates, Inc.

DESIGN SERVICES AGREEMENT (C01108) FOR THE ENGINEERING DESIGN HARGRAVE GRADE SEPARATION PROJECT

By and Between

THE CITY OF BANNING

and

KIMLEY-HORN AND ASSOCIATES, INC.

AGREEMENT FOR ENGINEERING DESIGN PROFESSIONAL SERVICES (C01108) FOR ENGINEERING DESIGN SERVICES FOR THE HARGRAVE GRADE SEPARATION PROJECT BY AND BETWEEN CITY OF BANNING AND KIMLEY-HORN AND ASSOCIATES, INC.

THIS AGREEMENT FOR ENGINEERING DESIGN PROFESSIONAL SERVICES (herein "Agreement") is made and entered into this day: _____, by and between the **CITY OF BANNING,** a municipal corporation ("City") and Kimley-Horn and Associates, Inc., a North Carolina Corporation ("Consultant"). City and Consultant are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties.".

RECITALS

A. City has sought by a Request for a Proposal (RFP 24-085) for the performance of the services for Engineering Design Services for the Hargrave Grade Separation Project and as further defined and described particularly in Article 1 of this Agreement.

B. Consultant, following submission of a proposal for the performance of the services defined and described particularly in Article 1 of this Agreement, was selected by the City to perform those services.

C. Pursuant to the City of Banning's Municipal Code, City has authority to enter into this Agreement.

D. The Parties desire to formalize the selection of Consultant for performance of those services defined and described particularly in Section 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1. SERVICES OF CONSULTANT

1.1 Scope of Services.

In compliance with all terms and conditions of this Agreement, the Consultant shall provide those services specified in the "Scope of Services" attached hereto as Exhibit "A" and incorporated herein by this reference, which services may be referred to herein as the "services" or "work" hereunder and which relate the Engineering Design Services prepared in connection therewith. As a material inducement to the City entering into this Agreement, Consultant represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the services required under this Agreement in a thorough, competent, and professional manner, and is experienced in performing the work and services contemplated herein. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. Consultant covenants that it shall follow the highest professional standards in performing the work and services required hereunder and that all materials will be of good quality,

fit for the purpose intended. For purposes of this Agreement, the phrase "highest professional standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

1.2 Consultant's Proposal.

This Agreement shall include the Request for Proposal or Invitation for Bids ("Contract Documents") and the Scope of Service shall include the Consultant's scope of work or in Consultant's accepted bid proposal ("Accepted Bid") shall be incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the Contract Documents, Accepted Bid, and/or Agreement, the terms of this Agreement shall govern.

1.3 Compliance with Law.

Consultant shall keep itself informed concerning, and shall render all services hereunder in accordance with all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered.

1.4 Licenses, Permits, Fees and Assessments.

Consultant shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the services required by this Agreement. Consultant shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Consultant's performance of the services required by this Agreement, and shall indemnify, defend and hold harmless City, its officers, employees or agents of City, against any such fees, assessments, taxes penalties or interest levied, assessed or imposed against City hereunder.

1.5 Familiarity with Work.

By executing this Agreement, Consultant warrants that Consultant (i) has thoroughly investigated and considered the scope of services to be performed, (ii) has carefully considered how the services should be performed, and (iii) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, Consultant warrants that Consultant has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services hereunder. Should the Consultant discover any latent or unknown conditions, which will materially affect the performance of the services hereunder, Consultant shall immediately inform the City of such fact and shall not proceed except at Consultant's risk until written instructions are received from the Contract Officer.

1.6 Care of Work.

The Consultant shall adopt reasonable methods during the life of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the work by City, except such losses or damages as may be caused by City's own negligence.

1.7 Further Responsibilities of Parties.

Both Parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both Parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonable necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither Party shall be responsible for the service of the other.

1.8 Additional Services.

City shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said work. No such extra work may be undertaken unless a written order is first given by the Contract Officer to the Consultant, incorporating therein any adjustment in (i) the Contract Sum, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Consultant. Any increase in compensation of up to five percent (5%) of the Contract Sum or $25,000, whichever is less; or in the time to perform of up to one hundred eighty (180) days may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively must be approved by the City Council. It is expressly understood by Consultant that the provisions of this Section shall not apply to services specifically set forth in the Scope of Services or reasonably contemplated therein. Consultant hereby acknowledges that it accepts the risk that the services to be provided pursuant to the Scope of Services may be more costly or time consuming than Consultant anticipates and that Consultant shall not be entitled to additional compensation therefor.

1.9 Facilities and Equipment.

Except as otherwise provided, Consultant shall, at its own cost and expense, provide all facilities and equipment necessary to perform the services required by this Agreement. City shall make available to Consultant only physical facilities such as desk, filing cabinets, and conference space ("City Facilities"), as may be reasonably necessary for Consultant's use while consulting with City employees and reviewing records and the information in possession of City. The location, quality, and time of furnishing City Facilities shall be in the sole discretion of City. In no event shall City be required to furnish any facilities that may involve incurring any direct expense, including but not limited to computer, long distance telephone, network data, internet or other communication charges, vehicles and reproduction facilities.

1.10 Special Requirements.

Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as Exhibit "B" and incorporated herein by this reference. In the event of a conflict between the provisions of Exhibit "B" and any other provisions of this Agreement, the provisions of Exhibit "B" shall govern.

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, City agrees to pay Consultant the amounts specified in the "Schedule of Compensation" attached hereto as Exhibit "C" and incorporated herein by this reference. The total compensation, including reimbursement for actual expenses, shall not exceed Seven Million Nine Hundred Twenty-Nine Thousand Seven Hundred Seventy-Five Dollars and Six Cents ($7,929,775.06) (the "Contract Sum"), unless additional compensation is approved pursuant to Section 1.8.

2.2 Method of Compensation.

The method of compensation may include: (i) a lump sum payment upon completion, (ii) payment in accordance with specified tasks or the percentage of completion of the services, (iii) payment for time and materials based upon the Consultant's rates as specified in the Schedule of Compensation, provided that time estimates are provided for the performance of sub tasks, but not exceeding the Contract Sum or (iv) such other methods as may be specified in the Schedule of Compensation.

2.3 Reimbursable Expenses.

Compensation may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expenses, and travel expenses approved by the Contract Officer in advance, or actual sub-consultant expenses if an approved sub-consultant pursuant to Section 4.5, and only if specified in the Schedule of Compensation. The Contract Sum shall include the attendance of Consultant at all project meetings reasonably deemed necessary by the City. Coordination of the performance of the work with City is a critical component of the services. If Consultant is required to attend additional meetings to facilitate such coordination, Consultant shall not be entitled to any additional compensation for attending said meetings.

2.4 Invoices.

Each month Consultant shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month in a form approved by City's Director of Finance. By submitting an invoice for payment under this Agreement, Consultant is certifying compliance with all provisions of the Agreement. The invoice shall detail charges for all necessary and actual expenses by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-consultant contracts. Sub-consultant charges shall also be detailed by such categories. Consultant shall not invoice City for any duplicate services performed by more than one person.

City may independently review each invoice submitted by the Consultant to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for work performed or expenses incurred by Consultant which are disputed by City, or as provided in Section 7.3. City will use its best efforts to cause Consultant to be paid within thirty (30) days of receipt of Consultant's correct and undisputed invoice. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Consultant for correction and resubmission. Review and payment by the City

of any invoice provided by the Consultant shall not constitute waiver of any rights or remedies provided herein or any applicable law.

2.5 Waiver.

Payment to Consultant for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Consultant.

ARTICLE 3. PERFORMANCE SCHEDULE

3.1 Time of Essence.

Time is of the essence in the performance of this Agreement.

3.2 Schedule of Performance.

Consultant shall commence the services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all services within the time period(s) established in the "Schedule of Performance" attached hereto as Exhibit "D" and incorporated herein by this reference. When requested by the Consultant, extensions of the time period(s) specified in the Schedule of Performance may be approved in writing by the Contract Officer but not exceeding one hundred eighty (180) days cumulatively.

3.3 Force Majeure.

The time period(s) specified in the Schedule of Performance for performance of the services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Consultant, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the City, if the Consultant shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified. The Contract Officer's determination shall be final and conclusive upon the Parties to this Agreement. In no event shall Consultant be entitled to recover damages against the City for any delay in the performance of this Agreement, however caused, Consultant's sole remedy being extension of the Agreement pursuant to this Section.

3.4 Term.

The Term of this Agreement shall be from the Effective Date through June 30, 2028, unless sooner terminated as provided in Article 7 of this Agreement, except as otherwise provided in the Schedule of Performance (Exhibit "D"). Maximum term and any subsequent amendment or modification shall not exceed five (5) years.

ARTICLE 4. COORDINATION OF WORK

4.1 Representatives and Personnel of Consultant.

The following principals of Consultant (Principals) are hereby designated as being the principals and representatives of Consultant authorized to act in its behalf with respect to the work specified herein and make all decisions in connection therewith:

Name	Title
Darren Adrian, PE	Project Manager/Senior Vice President

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principals were a substantial inducement for City to enter into this Agreement. Therefore, the foregoing principals shall be responsible during the term of this Agreement for directing all activities of Consultant and devoting sufficient time to personally supervise the services hereunder. All personnel of Consultant, and any authorized agents, shall at all times be under the exclusive direction and control of the Principals. For purposes of this Agreement, the foregoing Principals may not be replaced nor may their responsibilities be substantially reduced by Consultant without the express written approval of City. Additionally, Consultant shall utilize only competent personnel to perform services pursuant to this Agreement. Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff and sub-consultants, if any, assigned to perform the services required under this Agreement. Consultant shall notify City of any changes in Consultant's staff and sub-consultants, if any, assigned to perform the services required under this Agreement, prior to and during any such performance. In the event that City, in its sole discretion, at any time during the term of this Agreement, desire to reassign any staff or sub-consultant of Consultant, Consultant shall, immediately upon reassign notice from City of such desire of City, reassign such person or persons.

4.2 Status of Consultant.

Consultant shall have no authority to bind City in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City. Consultant shall not at any time or in any manner represent that Consultant or any of Consultant's officers, employees, or agents are in any manner officials, officers, employees or agents of City. Neither Consultant, nor any of Consultant's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Consultant expressly waives any claim Consultant may have to any such rights.

4.3 Contract Officer.

The Contract Officer shall be such person as may be designated by the City Manager. It shall be the Consultant's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the services and the Consultant shall refer any decisions which must be made by City to the Contract Officer. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of the City required hereunder to carry out the terms of this Agreement.

4.4 Independent Consultant.

Neither the City nor any of its employees shall have any control over the manner, mode or means by which Consultant, its agents or employees, perform the services required herein, except as otherwise set forth herein. City shall have no voice in the selection, discharge, supervision or control of Consultant's employees, servants, representatives or agents, or in fixing their number, compensation or hours of service. Consultant shall perform all services required herein as an independent Consultant of City and shall remain at all times as to City a wholly independent Consultant with only such obligations as are consistent with that role. Consultant shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. City shall not in any way or for any purpose become or be deemed to be a partner of Consultant in its business or otherwise or a joint venture or a member of any joint enterprise with Consultant.

4.5 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Consultant, its principals and employees were a substantial inducement for the City to enter into this Agreement. Therefore, Consultant shall not contract with any other entity to perform in whole or in part the services required hereunder without the express written approval of the City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty-five percent (25%) of the present ownership and/or control of Consultant, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release the Consultant or any surety of Consultant of any liability hereunder without the express consent of City.

ARTICLE 5. INSURANCE, INDEMNIFICATION AND BONDS

5.1 Insurance Coverages.

Throughout the life of this Agreement, Consultant shall pay for and maintain in full force and effect all policies of insurance required hereunder with an insurance company(ies) either (i) admitted by the California Insurance Commissioner to do business in the State of California and rated not less than "A- VII" in Best's Insurance Rating Guide, or (ii) authorized by the City Manager or his/her designee at any time and in his/her sole discretion. The following policies of insurance are required:

(i) COMMERCIAL GENERAL LIABILITY insurance which shall be at least as broad as the most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01 and include insurance for "bodily injury," "property damage" and "personal and advertising injury" with coverage for premises and operations (including the use of owned and non-owned equipment), products and completed operations, and contractual liability (including, without limitation, indemnity obligations under the Contract) with limits of liability of not less than the following:

$1,000,000 per occurrence for bodily injury and property damage

$1,000,000 per occurrence for personal and advertising injury

$2,000,000 general aggregate

(ii) COMMERCIAL AUTOMOBILE LIABILITY insurance which shall be at least as broad as the most current version of Insurance Service Office (ISO) Business Auto Coverage Form CA 00 01, and include coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1 Any Auto) with limits of liability of not less than $1,000,000 per accident for bodily injury and property damage.

(iii) WORKERS' COMPENSATION insurance as required under the California Labor Code.

(iv) EMPLOYERS' LIABILITY insurance with limits of liability of not less than $1,000,000 each accident, $1,000,000 disease policy limit and $1,000,000 disease each employee.

(v) PROFESSIONAL LIABILITY Professional Liability (Errors and Omissions) insurance appropriate to Consultant's profession, with limits of liability of $1,000,000 per claim/occurrence and $1,000,000 policy aggregate.

In the event Consultant purchases an Umbrella or Excess insurance policy(ies) to meet the minimum limits of insurance set forth above, this insurance policy(ies) shall "follow form" and afford no less coverage than the primary insurance policy(ies).

If this Agreement continues for more than three (3) years duration, or in the event the City Manager or his/her designee determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Consultant agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from the City Manager, or his/her designee.

Consultant shall be responsible for payment of any deductibles contained in any insurance policies required hereunder and Consultant shall also be responsible for payment of any self-insured retentions.

Any deductibles or self-insured retentions must be declared to, and approved by, the City Manager or his/her designee. At the option of the City Manager or his/her designee, either: (i) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to City, its Council members, officers, officials, employees and agents; or (ii) Consultant shall provide a financial guarantee, satisfactory to the City Manager or his/her designee, guaranteeing payment of losses and related investigations, claim administration and defense expenses. At no time shall the City be responsible for the payment of any deductibles or self-insured retentions.

5.2 General Requirements.

All policies of insurance required hereunder shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after 30 calendar day written notice has been given to City. Upon issuance by the insurer, broker, or agent of a notice of cancellation, non-renewal, or reduction in coverage or in limits, Consultant shall furnish City with a new certificate and applicable endorsements for such policy(ies). In the event any policy is

due to expire during the work to be performed for City, Consultant shall provide a new certificate, and applicable endorsements, evidencing renewal of such policy not less than 15 calendar days prior to the expiration date of the expiring policy.

The General Liability and Automobile Liability insurance policies shall be written on an occurrence form. The General Liability (including ongoing and completed operations) and Automobile Liability shall name City and its officers, officials, employees, agents and volunteers as an additional insured. Such policy(ies) of insurance shall be endorsed so Consultant's insurance shall be "primary and non-contributory" and will not seek contribution from the City's insurance or self-insurance and shall be at least as broad as CG 20 01 04 13. The coverage shall contain no special limitations on the scope of protection afforded to the City and its officers, officials, employees, agents and volunteers. The Workers' Compensation insurance policy shall contain a waiver of subrogation as to City and its officers, officials, employees, agents and volunteers. Should Consultant maintain insurance with broader coverage and/or limits of liability greater than those shown above, City requires and shall be entitled to the broader coverage and/or the higher limits of liability maintained by Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.

If the Professional Liability (Errors and Omissions) insurance policy is written on a claims-made form:

1. The retroactive date must be shown, and must be before the effective date of the Agreement or the commencement of work by Consultant.

2. Insurance must be maintained and evidence of insurance must be provided for at least three years after any expiration or termination of the Agreement or, in the alternative, the policy shall be endorsed to provide not less than a three-year discovery period.

3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of the Agreement or the commencement of work by Consultant, Consultant must purchase extended reporting coverage for a minimum of three years following the expiration or termination of the Agreement.

4. A copy of the claims reporting requirements must be submitted to City for review.

5. These requirements shall survive expiration or termination of the Agreement.

Consultant shall furnish City with all certificate(s) and applicable endorsements effecting coverage required hereunder. All certificates and applicable endorsements are to be received and approved by the City Manager or his/her designee prior to City's execution of the Agreement and before work commences.

If at any time during the life of this Agreement or any extension, Consultant or any of its subcontractors fail to maintain any required insurance in full force and effect, all work under this Agreement shall be discontinued immediately, and all payments due or that become due to Consultant shall be withheld until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to City. Any failure to maintain the required insurance shall be sufficient cause for

City to terminate this Agreement. No action taken by City hereunder shall in any way relieve Consultant of its responsibilities under this Agreement.

Upon request of City, Consultant shall immediately furnish City with a complete copy of any insurance policy required under this Agreement, including all endorsements, with said copy certified by the underwriter to be a true and correct copy of the original policy. This requirement shall survive expiration or termination of this Agreement.

The fact that insurance is obtained by Consultant shall not be deemed to release or diminish the liability of Consultant, including, without limitation, liability under the indemnity provisions of this Agreement. The duty to indemnify City and its officers, officials, employees, agents and volunteers shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Consultant. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of Consultant, its principals, officers, employees, agents, persons under the supervision of Consultant, vendors, suppliers, invitees, subcontractors, or anyone employed directly or indirectly by any of them.

If Consultant should subcontract all or any portion of the services to be performed under this Agreement, Consultant shall require each subcontractor to provide insurance protection in favor of City and its officers, officials, employees, agents and volunteers in accordance with the terms of each of the preceding paragraphs, except that the subcontractors' certificates and endorsements shall be on file with Consultant and City prior to the commencement of any work by the subcontractor.

5.3 Indemnification, Hold Harmless, and Duty to Defend.

A. Indemnity for Design Professional Services. To the fullest extent permitted by law, Consultant shall, at its sole cost and expense, protect, indemnify, and hold harmless City and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, assigns and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees"), from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith, and reimbursement of attorney's fees and costs of defense (collectively "Liabilities"), whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to, in whole or in part, the negligence, recklessness or willful misconduct of Consultant, its officers, agents, servants, employees, subcontractors, material men, contractors or their officers, agents, servants or employees (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of design professional services under this Agreement by a "design professional," as the term is defined under California Civil Code Section 2782.8(c).

If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance as a "design professional" (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant. Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

B. Other Indemnities.

1) Other than in the performance of design professional services, and to the fullest extent permitted by law, Consultant shall, at its sole cost and expense, defend, hold harmless and indemnify the Indemnitees from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith and the payment of all consequential damages (collectively "Claims"), in law or equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant, its officers, agents, servants, employees, subcontractors, materialmen, contractors or their officers, agents, servants or employees (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Claims arising from the sole negligence or willful misconduct of the Indemnitees, as determined by court decision or by the agreement of the Parties. Consultant shall defend the Indemnitees in any action or actions filed in connection with any Claim with counsel of the Indemnitees' choice, and shall pay all costs and expenses, including all attorneys' fees and experts' costs actually incurred in connection with such defense. Consultant shall reimburse the Indemnitees for any and all legal expenses and costs incurred by the Indemnitees in connection therewith.

2) Consultant shall pay all required taxes on amounts paid to Consultant under this Agreement, and indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant shall fully comply with the workers' compensation law regarding Consultant and Consultant's employees. Consultant shall indemnify and hold City harmless from any failure of Consultant to comply with applicable workers' compensation laws. City may offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this subparagraph B.2).

3) Consultant shall obtain executed indemnity agreements with provisions identical to those in this Section from each and every subcontractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. If Consultant fails to obtain such indemnities, Consultant shall be fully responsible and indemnify, hold harmless and defend the Indemnitees from and against any and all Claims in law or equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant's subcontractor, its officers, agents, servants, employees, subcontractors, materialmen, contractors or their officers, agents, servants or employees (or any entity or individual that Consultant's subcontractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Claims arising from the sole negligence or willful misconduct of the Indemnitees, as determined by court decision or by the agreement of the Parties.

C. Workers' Compensation Acts not Limiting. Consultant's indemnifications and obligations under this Section, or any other provision of this Agreement, shall not be limited by the provisions of any workers' compensation act or similar act. Consultant expressly waives its statutory immunity under such statutes or laws as to City, its officers, agents, employees and volunteers.

D. Insurance Requirements not Limiting. City does not, and shall not, waive any rights that it may possess against Consultant because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. The indemnities in this Section shall apply regardless of whether or not any insurance policies are determined to be applicable to the Liabilities, tax, assessment, penalty or interest asserted against City.

E. Survival of Terms. Consultant's indemnifications and obligations under this Section shall survive the expiration or termination of this Agreement.

ARTICLE 6. RECORDS, REPORTS, AND RELEASE OF INFORMATION

6.1 Records.

Consultant shall keep, and require sub-consultants to keep, such ledgers books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and services performed hereunder (the "books and records"), as shall be necessary to perform the services required by this Agreement and enable the Contract Officer to evaluate the performance of such services. Any and all such documents shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such books and records at all times during normal business hours of City, including the right to inspect, copy, audit and make records and transcripts from such records. Such records shall be maintained for a period of three (3) years following completion of the services hereunder, and the City shall have access to such records in the event any audit is required. In the event of dissolution of Consultant's business, custody of the books and records may be given to City, and access shall be provided by Consultant's successor in interest.

6.2 Reports.

Consultant shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the services required by this Agreement as the Contract Officer shall require. Consultant hereby acknowledges that the City is greatly concerned about the cost of work and services to be performed pursuant to this Agreement. For this reason, Consultant agrees that if Consultant becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the work or services contemplated herein or, if Consultant is providing design services, the cost of the project being designed, Consultant shall promptly notify the Contract Officer of said fact, circumstance, technique or event and the estimated increased or decreased cost related thereto and, if Consultant is providing design services, the estimated increased or decreased cost estimate for the project being designed.

6.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the "documents and materials") prepared by Consultant, its employees, sub-consultants and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the termination of this Agreement, and Consultant shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of

ownership use, reuse, or assignment of the documents and materials hereunder. Any use, reuse or assignment of such completed documents for other projects and/or use of uncompleted documents without specific written authorization by the Consultant will be at the City's sole risk and without liability to Consultant, and Consultant's guarantee and warranties shall not extend to such use, revise or assignment. Consultant may retain copies of such documents for its own use. Consultant shall have an unrestricted right to use the concepts embodied therein. All sub-consultants shall provide for assignment to City of any documents or materials prepared by them, and in the event Consultant fails to secure such assignment, Consultant shall indemnify City for all damages resulting therefrom.

6.4 Confidentiality and Release of Information.

(a) All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the Contract Officer.

(b) Consultant, its officers, employees, agents or sub-consultants, shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

(c) If Consultant, or any officer, employee, agent or sub-consultant of Consultant, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorney's fees, caused by or incurred as a result of Consultant's conduct.

(d) Consultant shall promptly notify City should Consultant, its officers, employees, agents or sub-consultants be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

ARTICLE 7. ENFORCEMENT OF AGREEMENT AND TERMINATION

7.1 California Law.

This Agreement shall be interpreted, construed and governed both as to validity and to performance of the Parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Riverside, State of California, or any other appropriate court in such county, and Consultant covenants and agrees to submit to the personal

jurisdiction of such court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in Riverside.

7.2 Disputes; Default.

In the event that City determines Consultant is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Consultant for any work performed after the date of default. Instead, the City may give notice to Consultant of the default and the reasons for the default. The notice shall include the timeframe in which Consultant may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that Consultant is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. In the alternative, the City may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Consultant does not cure the default, the City may take necessary steps to terminate this Agreement under this Article. Any failure on the part of the City to give notice of the Consultant's default shall not be deemed to result in a waiver of the City's legal rights or any rights arising out of any provision of this Agreement.

7.3 Retention of Funds.

Consultant hereby authorizes City to deduct from any amount payable to Consultant (whether or not arising out of this Agreement) (i) any payment amount of which may be in dispute hereunder or which are necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, and (ii) all amounts for which City may be liable to third parties, by reason of Consultant's acts or omissions in performing or failing to perform Consultant's obligation under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by Consultant, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of the Consultant to insure, indemnify, and protect City as elsewhere provided herein.

7.4 Waiver.

Waiver by any Party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any Party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or services by Consultant shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either Party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

7.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or

different times, of any other rights or remedies for the same default or any other default by the other Party.

7.6 Legal Action.

In addition to any other rights or remedies, either Party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Notwithstanding any contrary provision herein, Consultant must file a statutory claim pursuant to Government Code Sections 905 et seq. and 910 et seq., in order to pursue a legal action against City under this Agreement.

7.7 Liquidated Damages.

Since the determination of actual damages for any delay in performance of this Agreement would be extremely difficult or impractical to determine in the event of a breach of this Agreement, the Consultant and its sureties shall be liable for and shall pay to the City the sum of Not Applicable ($0.00) as liquidated damages for each working day of delay in the performance of any service required hereunder, as specified in the Schedule of Performance (Exhibit "D"). The City may withhold from any monies payable on account of services performed by the Consultant any accrued liquidated damages.

7.8 Termination Prior to Expiration of Term.

This Section shall govern any termination of this Agreement except as specifically provided in the following Section for termination for cause. The City reserves the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days' written notice to Consultant, except that where termination is due to the fault of the Consultant, the period of notice may be such shorter time as may be determined by the Contract Officer. In addition, the Consultant reserves the right to terminate this Agreement at any time, with or without cause, upon sixty (60) days' written notice to City, except that where termination is due to the fault of the City, the period of notice may be such shorter time as the Consultant may determine. Upon receipt of any notice of termination, Consultant shall immediately cease all services hereunder except such as may be specifically approved by the Contract Officer. Except where the Consultant has initiated termination, the Consultant shall be entitled to compensation for all services rendered prior to the effective date of the notice of termination and for any services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 7.3. In the event the Consultant has initiated termination, the Consultant shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder. In the event of termination without cause pursuant to this Section, the terminating Party need not provide the non-terminating Party with the opportunity to cure pursuant to Section 7.2.

7.9 Termination for Default of Consultant.

If termination is due to the failure of the Consultant to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 7.2, take over the work and prosecute the same to completion by contract or otherwise, and the Consultant shall be liable to the extent that the total cost for completion of the services required hereunder exceeds the

compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Consultant for the purpose of set-off or partial payment of the amounts owed the City as previously stated.

7.10 Attorneys' Fees.

If either Party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees. Attorney's fees shall include attorney's fees on any appeal, and in addition the Party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

ARTICLE 8. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

8.1 Non-liability of City Officers and Employees.

No officer or employee of the City shall be personally liable to the Consultant, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Consultant or to its successor, or for breach of any obligation of the terms of this Agreement.

8.2 Conflict of Interest.

Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of services under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or sub-consultant without the express written consent of the Contract Officer. Consultant agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

No officer or employee of the City shall have any financial interest, direct or indirect, in this Agreement within the scope of Government Code section 1090, nor shall any such officer or employee make, participate in making, or use his or her official position to influence, any City decision relating to the Agreement which has a material financial effect on his or her financial interests or the financial interests of any corporation, partnership or association in which he or she is, directly or indirectly, interested, in violation of any State statute or regulation. The Consultant warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

8.3 Covenant Against Discrimination.

Consultant covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of,

any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, or ancestry in the performance of this Agreement. Consultant shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, marital status, national origin, or ancestry, or other protected class.

8.4 Unauthorized Aliens.

Consultant hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should the any liability or sanctions be imposed against City for such use of unauthorized aliens, Consultant hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

ARTICLE 9. MISCELLANEOUS PROVISIONS

9.1 Notices.

Any notice, demand, request, document, consent, approval, or communication either Party desires or is required to give to the other Party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the City, to the City Manager and to the attention of the Contract Officer, CITY OF BANNING, 99 East Ramsey Street, Banning, CA 92220 and in the case of the Consultant, to the person at the address designated on the execution page of this Agreement. Either Party may change its address by notifying the other Party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

9.2 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either Party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

9.3 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

9.4 Integration; Amendment.

This Agreement including the attachments hereto is the entire, complete and exclusive expression of the understanding of the Parties. It is understood that there are no oral agreements between the Parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the Parties, and none shall be used to interpret this Agreement. No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Consultant and by

the City Council. The Parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

9.5 Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the Parties hereunder unless the invalid provision is so material that its invalidity deprives either Party of the basic benefit of their bargain or renders this Agreement meaningless.

9.6 Corporate Authority.

The persons executing this Agreement on behalf of the Parties hereto warrant that (i) such Party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said Party, (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said Party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the Parties.

9.7 Electronic Signatures.

Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Agreement and such other documents transmitted by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF the Parties hereto have executed this Agreement the day and year first hereinabove written.

CITY OF BANNING

Douglas Schulze, Date
City Manager

ATTEST:

Caroline Patton Date
Deputy City Clerk

APPROVED AS TO FORM:

Date
City Attorney

CONSULTANT

NAME: Date
TITLE:

NAME: Date
TITLE:

Tax ID No.

Address:

City Council Approval: _____

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

EXHIBIT "A"
SCOPE OF SERVICES

I. Consultant will perform the following Services in connection with providing Professional Engineering Design Services for the Hargrave Grade Separation Project prepared in connection therewith:

II. As part of the Services, Consultant will prepare and deliver the following tangible work products and services to City:

SCOPE OF SERVICES

The following is provided as a guideline as to what the City of Banning expects in the scope of work for the project; however, this is just a guideline. Consultant shall provide services necessary to provide a complete (construction ready) project. Modifications to the scope below may be necessary and the information below does not constitute all the necessary work for the consultant to complete the project.

Roadway Design

- All pavement, sidewalk, and roadway redesign from Ramsey Street to Lincoln Street including I-10 E/W on and off ramps.
- Pedestrian Guardrails, impact attenuators and other safety barriers.

Bridge/Railroad Track Design

- Development of concept level Preliminary Bridge Plans.
- Design of all temporary track work, including any associated shoo-fly track alignment to serve as a temporary shoo-fly bypass to allow staged construction.
- Develop an acceptable staging scheme, including preliminary design of vertical shoring/sheet piling as necessary to stabilize a temporary shoo-fly alignment and adjacent embankments.
- Professional engineering design services to develop preliminary and final Design plans for the new UPRR track.

Geotechnical/Retaining Walls

- Geotechnical recommendations for all retaining walls.
- Geotechnical recommendations for temporary shoring for shoo-fly track.

Traffic

- Traffic Control plans including alternate pedestrian route plans.
- New permanent signing for all geometric changes.
- Traffic control signal system for the I-10 E/W on and off ramps.
- Street lighting for the new roadway.
- Pavement Marking (Striping).

Hydrology & Hydraulics

- Evaluation of existing drainage and development of preliminary and final Hydrology and Hydraulic reports.
- Erosion control and Stormwater Pollution Prevention Plan (SWPPP) design

The following Scope of Services tasks must be listed and addressed on the proposal submitted to the City:

1. PROJECT ADMINISTRATION

This task includes the day-to-day management of the Project. The Consultant Project Manager shall maintain ongoing liaison with the City Project Manager, agency contacts, railroad, regulatory agencies and utility companies to promote effective coordination during the course of project development. The following management and administrative duties shall be performed:

- Supervise project staff, subconsultants, coordinate, and monitor work for conformance with set standards and policies.
- Conduct internal meetings with project staff and subconsultants.
- Prepare, circulate, and file correspondence and memoranda, as appropriate.
- Maintain Project files using specified Project Filing System.

Applying for and obtaining permits necessary for design is included under Task 8.

1.1. GENERAL MEETINGS AND COORDINATION

Effort for day-to-day management of the project entails ongoing communication with the City Project Manager via email, phone, and focus meetings. We estimate up to 40 virtual meetings and 10 in-person meetings with the City.

1.2. PROJECT MANAGEMENT PLAN

A comprehensive Project Management Plan (PMP) will be prepared to communicate this scope of services and technical requirements to project participants. The PMP shall identify the procedures and technical requirements that are to be followed in developing project deliverables. The PMP shall also describe the responsibilities of each participant in the project. The following items shall be in the PMP:

- Scope of Services
- Log of Deliverables

  Consultant shall prepare a list of deliverables indicating the applicable Scope of Services section, dates submitted/approved, and file locations conforming to the Project's electronic filing system.
- Baseline Project Schedule

  A Critical Path Method (CPM) schedule shall be prepared by the Consultant and shall be updated on a monthly basis. The initial CPM schedule shall be provided within two (2) weeks from Notice to Proceed (NTP). This schedule shall be included in the PMP and will serve as the baseline schedule for the Project. The schedule shall include a list of tasks and sub-tasks, milestones, major activities and deliverables. Agency review times of each submittal shall be included in the schedule. Four (4) weeks shall be assumed for Caltrans, Kinder Morgan and agency review of each submittal package. Issuance of needed permits shall also be included.
- Project Electronic Filing System

  Project files shall be indexed in accordance with Caltrans' Project Development Uniform File System.
- CADD Procedures

  Plans shall be prepared in AutoCAD 2022 format or newer. All plans within Caltrans right-of- way will be prepared in conformance with the latest Caltrans CADD User's Manual and the Caltrans Drafting Manual. For items outside of Caltrans right-of-way, plans shall be prepared according to City Standards.
- Invoicing Instructions

  Consultant monthly invoices shall be reported by task and shall be

accompanied by a progress report. The City shall supply invoicing requirements for inclusion in the PMP.

- Design Standards

  Consultant shall prepare a list of applicable design standards. Plans and specifications shall be prepared in accordance with current AASHTO and Caltrans' regulations, policies, procedures, manuals, and standards. Compliance with American Railway Engineering and Maintenance of Way Association (AREMA), Union Pacific Railroad (UPRR) Guidelines for Railroad Grade Separation Projects and/or County or City Standards shall also be required, as appropriate. Plans, specifications, and estimates for the bridge shall be prepared in accordance with current Caltrans standards.

  Roadway, water, sewer, oil products pipeline, lighting, signal, landscape, traffic striping and signage, traffic control, erosion control and drainage plans shall be prepared on City/utility standard plan and profile sheets. Design of improvements within Caltrans right-of-way may need to be prepared per Caltrans respective standard drawings and plans.

- Health and Safety Plan
- General Prevailing Wage Determinations
- Risk Assessment Register

The PMP shall be distributed to each project participant at the beginning of the project.

Deliverables

- *Project Management Plan*
- *Baseline Project Schedule*

1.3.QUALITY CONTROL PLAN

As part of the Quality Control Plan, the Consultant shall prepare and maintain a Quality Management System (QMS) Manual throughout performance of services. The intent is to monitor quality to ensure that reports, plans, studies, estimates, and other deliverables submitted are complete, accurate, checked, conform to UPRR, Caltrans and City standards, and meet professional engineering practice standards in effect at the time of execution. The QMS Manual shall be submitted to the City within thirty (30) calendar days of NTP. Consultant shall hold a training session with all project participants responsible for the development and/or checking of deliverables to ensure the appropriate procedures are followed.

Deliverables:

- *Quality Management System Manual*

- We anticipate using Microsoft Project for the CPM Schedule.
- We generally anticipate using UPRR standards for the new underpass structure and Caltrans standards for the walls within Caltrans right-of-way.

1.4.PROJECT CONTROLS (BUDGETING, COST ACCOUNTING, AND PROGRESS REPORTING)

This task will establish the baseline project controls for which the project performance will be measured against on a monthly basis.

Consultant shall prepare budgets for each task and milestone for the Project. Such budgets will be entered into the Consultant's Management Information System along with actual costs incurred and used as a basis for cost monitoring and control.

Consultant shall prepare monthly reports of expenditures for the Project by task and milestone. Expenditures include direct labor costs, other direct costs, and subconsultant costs. These reports will be included as supporting data for invoices presented to the City every month and shall be in accordance with the City's invoicing requirements.

Progress reports shall also be prepared in accordance with City guidelines and shall accompany monthly invoices. The project schedule shall be updated on a monthly basis as well and shall show actual progress to date versus the baseline project schedule.

Deliverables:

- *Baseline Project Controls*
- *Monthly Invoices*
- *Monthly Progress Reports*
- *Monthly Project Schedule Updates*

1.5. PROJECT DEVELOPMENT TEAM MEETINGS

Project Development Team (PDT) meetings shall be conducted throughout the environmental, right-of-way, and PS&E phases of the Project. The City shall identify the members of the PDT, which shall include the City Project Manager, the Consultant team, and other representatives from affected agencies. PDT meetings will be held at least once a month and may be held on a bi-weekly basis as necessary. The Consultant shall provide the meeting agenda and will prepare exhibits (as needed) for discussion. The Consultant shall prepare meeting minutes and shall distribute the minutes to all attendees within seven (7) days after the meeting. Minutes shall include, at a minimum:

- A list of attendees with phone numbers and email.
- A synopsis of discussion items.
- Any pertinent information, action items, and all follow-ups to the action items.

Assumptions:

- *Up to thirty-six (36) PDT meetings*

Deliverables:

- *PDT Meeting Agendas*
- *PDT Meeting Minutes*

For attendees, we anticipate the project manager, key discipline leads that have active reporting items, and additional subject matter experts and support determined to be necessary for reporting to the PDT.

2. DATA COLLECTION

The Project will involve the review and assimilation of a large amount of existing data and the generation of new data. The Consultant shall perform research of agency records, as necessary, to secure the information, clearances, and/or plan review services required to identify, locate, and accurately layout improvements above and underground within City Right-of-Way (ROW), private properties affected by the Project, UPRR, County of Riverside, RCFC&WCD, Kinder Morgan, SoCal Gas, Edison, and within Caltrans ROW. Consultant shall layout easements, centerline, ROW, addresses and private property lines.

Consultant shall perform research of records including utilities, and other agency records as necessary to secure information required to identify, locate, and accurately layout existing utilities, improvements, easements, and rights-of-way within project limits that may interfere with the proposed improvements. The information to be researched includes the following:

- Review existing utility and street record drawing plans.
- Review existing, I-10 overpass bridge as-built plans and inspection reports.
- Perform utility investigation/utility coordination and provide utility relocation recommendations.
- Perform an existing utility easement investigation (Prior Rights for proposed relocation).
- Coordinate with the Right-of-Way Acquisition Consultant to perform field investigation and measurement to assess existing site conditions.
- Provide a copy of utility notification letters prior to first progress payment request.

Previous studies, relevant reports, and existing data will be evaluated to capture elements and information that can be useful in developing the project. Consultant shall make the best use of existing data to minimize waste and duplication of work efforts. Three (3) field visits are anticipated to accomplish the data collection tasks.

2.1. AERIAL MAPPING

The project alignment will be flown to produce topographic mapping with a 1-foot contour interval and current high resolution aerial photographs. The anticipated topographic Project limits are along Hargrave Street between Ramsey Street and Lincoln Street including the I-10 freeway bridge and ramps. Plan shall also include along the UPRR R/W for a distance necessary for the design of temporary shoo-fly tracks during the construction phase, and shall be consistent with UPRR survey requirements and standards.

The site will be flown twice, once to develop a base to be used in preliminary design and a second time, following approval by Caltrans of Consultant's ABC Mapping plan. Caltrans review and approval may take anywhere from 4 to 6 months, therefore the need for the initial base mapping in areas where information will be necessary for critical design.

Pre-ABC Mapping aerial topo will be collected per City Standards. The data will be collected and provided to the design team, while awaiting approval on the Caltrans ABC Mapping

submittals. Once Caltrans approves proposed ABC Mapping, Consultant will fly the larger proposed Caltrans ABC Mapping area to prepare an aerial that will adhere to Caltrans design standards. Consultant shall coordinate with the City and Caltrans staff to perform ABC Mapping based on Caltrans submittal requirements.

Deliverables:

- *Digital Terrain Model (.dtm) in CADD format*
- *Digital orthophoto in digital (.tif) format*

Surveys shall be performed by Consultant in accordance with the current Caltrans "Survey Manual" and its revisions, as well as UPRR requirements. Work not covered by the manual shall be performed in accordance with accepted professional surveying standards. The Consultant shall be responsible for verifying the data with the City. Consultant shall obtain applicable encroachment permits prior to beginning any field investigation. Consultant and Subconsultants shall obtain necessary training including applicable rail safety program prior to performing field investigations. All said training shall be at the sole cost of the Consultant and at no additional cost to the City.

Consultant shall perform design surveys including mapping and mapping updates, necessary to complete a constructible PS&E. This includes horizontal and vertical control, drainage surveys, topographical surveys, cross sections, grid grades, open-ended traverses, profile data sheets and required documentation. Surveys performed by Consultant shall conform to the requirements of the Land Surveyors Act and per Authority's direction. In accordance with the Act, "responsible charge" for the work shall reside with a Registered Civil Engineer registered prior to January 1, 1982, or a Licensed Land Surveyor, in the State of California.

The surveyor shall complete a topographic survey map of the site to prepare a base map for the street improvement demolition and construction plans, bridge plans, utilities existing and new and relocation plans (if any), landscape and irrigation plans, aesthetics plans, and right-of-way engineering. The field survey will also be required to provide existing property corners (for determination of right-of-way take), spot elevations, identify any unknown features, identify all known existing utilities in the street and on private property, cross sections, and add a greater level of detail for the Riverside County Flood Control and Water Conservation District (RCFC&WCD) storm drain connection. Develop a base map of the proposed alignment, including public right-of-way and proposed right-of-way take with new legal descriptions. Plats, Record of Survey, property lot lines, street centerlines, benchmarks, monuments, and control points shall be confirmed and shown on the plans. Conduct site visits to identify existing improvements and conditions that may affect the design and construction of the proposed project and existing site conditions. Provide one (I)-foot contours based on City of Banning vertical datum. Establish street centerlines, right-of-way lines existing and proposed, and all easements from available record information. Provide the basis-of-bearing and benchmark information used for the survey and necessary for construction. Consultant shall locate and tie

any features that would affect the design or construction.

Conduct a thorough independent field investigation of the project site to identify pre-existing site conditions and physical constraints of the project area. Consultant shall obtain Record of Surveys, benchmark and centerline tie information.

Site Control

Consultant shall establish a site-wide network of horizontal/vertical control to serve as the basis for any subsequent boundary, topographic, or construction staking surveys that may be required throughout the course of the project. Unless otherwise specified by the City, all horizontal control established for this project will be based on the North American Datum of 1983 (NAD83), Zone 6 State Plane Coordinates. Unless otherwise specified by the City, elevations will be based on the North American Vertical Datum of 1988 (NAVD 88).

If different coordinate systems are required by different agencies, Consultant shall provide detail on those systems and how the disparate work will tie together.

Tie Out Monument

Consultant will tie-out monuments for right-of-way and parcel line delineation.

Design level surveys provided within the proposed project limits shall include the following:

- Full cross sections within the street improvements
- Top of rail elevations
- Off-site survey to assist in restoration of impacted improvements.
- All surface utilities including overhead lines as necessary to verify clearances.
- Maintenance hole rim and inverts for all sewer and storm drain facilities.

Pothole and geotechnical boring locations shall be surveyed to the maximum extent feasible.

Assumptions:

- *Five (5) days of UPRR Flagmen services are included in this scope.*
- *Five (5) days of traffic control are included in this scope.*
- *Engineer Stamped Traffic Control Plans are not included. Any field survey requiring traffic control is assumed to be performed in accordance with the WATCH Manual. If required, Consultant can prepare Traffic Control Plans signed by a licensed Civil or Traffic Engineer for field survey work for an additional fee.*
- *Consultant shall be responsible, with City's assistance (as needed), for obtaining permits to survey within UPRR, Caltrans right-of-way.*
- *Aerial mapping shall be used as a base map and spliced with ground survey data.*

Deliverables:

- *Survey base map in CADD format*
- *Survey points in CADD format*

- *Aerial mapping limits along UPRR right-of-way are from 200 feet west of San Gorgonio Avenue*
- *to 5,000 feet east of Hargrave Street.*
- *Aerial mapping limits along Hargrave Street will be extended to the south to 200 feet south of*
- *Charles Street to cover the anticipated storm drain extension.*
- *We anticipate only one flight for the aerial mapping as we intend to obtain initial concurrence of flight path from Caltrans without delay. That way, adjustments based on approval of the ABC process can be made to the original flight data, if needed. We have included a second flight as optional if needed.*
- *Supplemental ground surveys encompass the following work with a two-man field crew:*
    - *Up to four field days for control.*
    - *Up to three field days for necessary boundary surveys.*
    - *Up to five field days of tie-in and supplemental surveys along Hargrave Street and the fronting properties. This also encompasses utility features and necessary manhole dips.*
    - *Up to two field days to obtain necessary filed shots and dips along the Hargrave Street between Charles Street and Lincoln Street for the storm drain extension.*
    - *Up to five field days for cross sections, topographic features, and utility features within UPRR right-of-way.*
    - *Up to two field days of field surveys to obtain tie-in and topographic features along the freeway interchange ramps up to the gore area.*
    - *Up to three field days to obtain pothole shots.*
- *Second Aerial Survey (Optional)*
    - *Provide second aerial survey flight of project per ABC process should approval not be acquired with the first survey.*

2.2. POTHOLING

The Consultant will perform utility investigation services (per ASCE 38-02, Level "B") using industry acceptable methods (i.e., electronic pipe and cable locating equipment, Ground Penetrating Radar (GPR), Pipeline Current Mapper (PCM), etc.) to determine the approximate horizontal position and count of existing utilities within the project limits. The Consultant's field crews will use a combination of water-based paint and pin flags (in the appropriate APWA color) to mark the results of the investigation on the ground surface. Consultant will compare any available utility record information with the results of field investigation services to ensure utilities have been accounted for. Utilities not identifiable by Consultant's field crews due to lack of utility record information or above ground appurtenances will be marked with pink paint on the ground surface and annotated as "Unknown" on project deliverables.

Gravity lines such as sewer, storm sewer, etc., typically cannot be located using the above methods due to lack of tracer wire or depth of the utility being beyond the limitations for GPR. In the event these utilities cannot be located, and precise location and depth is needed, vacuum excavation (potholing) will be provided from Potholing Task. If CCTV pipeline inspection is required, City of Banning staff will provide the videos.

The Consultant will perform utility potholes (per ASCE 38-02, Level "A") using air vacuum excavation at predetermined locations to document the precise horizontal and vertical position of existing utilities within the investigation area. Data collected as a result of potholing activities will be presented in a Portable Document Format (PDF) report that will include pothole number, utility type, size, material, depth and pictures of the exposed utility, and picture of the wooden lath with pothole information clearly visible. Pothole locations (in the field) will be marked with wooden lath and ribbon marked with the pothole number, utility size and depth or MAG nail with pertinent utility data annotated on the ground surface. Once the utility data has been collected the pothole will be restored to its previous condition using native backfill and in-kind surface restoration materials.

Once utilities have been marked, the Consultant will perform a topographic survey of the area of interest to document the utilities The Consultant will provide an AutoCAD 2022 (or later version) drawing with utility mapping. The Consultant will also provide a PDF or TIF file of the AutoCAD drawing printable to scale on standard title block.

Consultant shall coordinate the use of field survey crews to locate potholed utilities by coordinates and elevations based on the project's survey controls.

Assumptions

- *Up to 70 potholes are included in this scope.*
- *Right-of-entry to private properties shall be obtained by the City prior to commencing Utility locations activities.*
- *Engineer Stamped Traffic Control Plans are not included. Any potholing requiring traffic control is assumed to be performed in accordance with the WATCH Manual. If required, Consultant can prepare Traffic Control Plans signed by a licensed Civil or Traffic Engineer for potholing work for an additional fee.*
- *Complex traffic control and traffic calming devices beyond the use of arrow boards, traffic cones and advanced warning signage are not anticipated and are not included. Complex traffic control items include, but are not limited to:*
    - *Message Boards*
    - *Police Officers*
    - *Attenuators*
    - *Traffic Barrels*
    - *Concrete Barricades*
    - *Flaggers (UPRR Flagmen included under railroad permitting costs)*
- *Additional utility potholes and/or crew hours without written approval from the City will not be reimbursed.*
- *Special backfill and/or asphalt restoration requirements (e.g., hot patch asphalt, half-sack slurry, aggregate base backfill...etc.) are not*

included

Deliverables:

- *Matrix of Pothole Information*
- *Pothole Data Plan (to be included in milestone PS&E submittals)*
- *Potholes will be backfilled with material excavated and we assume there are no hazardous materials.*
- *Surface restoration will match existing with no special backfill. Do not anticipate impacting decorative features. Asphalt areas will be treated with cold patch asphalt concrete (AC). AC grinding and hot-patch AC is not included*

2.3. RIGHT-OF-WAY BASE MAPPING

The Consultant shall perform research of private development plans adjacent to or affecting the Project site, as necessary, to secure the information, clearances, and/or plan review services required to identify, locate, and accurately layout above and underground improvements and easements, centerline, ROW, and private property lines. Consultant shall research and review previous work performed to date in the Project vicinity that impacts the design of the improvements, including:

- Existing improvement plans/engineering reports of record
- Right-of-way mapping, ownership records (Title Reports)
- Preliminary engineering and reports for this Project
- Environmental clearance and mitigation measures
- City/other agency engineering design standards, codes, and plan processing procedures
- Existing topographic mapping, photos, reports, maintenance reports, "as-built" plans, record maps and surveys, study reports, assessor maps, contract documents, utility index maps, local street improvement/development plans and other pertinent data will be obtained and reviewed.

Cadastral research will be conducted at the County Surveyor's Office and the City to obtain copies of any available record maps, including Assessors Maps, Tract Maps, Parcel Maps, Records of Survey, Centerline Ties and Benchmark Data.

Key centerline monuments will be located along the street segments and calculate the centerline and record right-of-way alignments of the same. The centerline will be established from a combination of found monuments, centerline ties, and record data obtained during the data collection phase. Street and railroad rights-of-way and adjoining parcel lines will be established from record cadastral research and assessor data where applicable.

The Consultant shall prepare right-of-way base maps in accordance with Caltrans requirements. Base maps shall show existing features consisting of lots along Hargrave Street with all right-of-way and easement areas, assessor's parcel numbers, addresses, types of businesses, property lines, footprints of buildings, setback distances from right-of-way to buildings, vegetation, and improvements in the take areas and existing driveways. Utility easements and other encumbrances shall be identified and plotted on the Right-of-Way Base

Map.

Mapping of the existing residential tract shall extend to 4 lots westerly of Hargrave Street.

Assumptions:

- *Right-of-way base mapping shall be based on record data.*
- *Title Reports costs shall be included in this scope.*

Deliverables

- *Right-of-Way Base Map in CADD format*
- *Mapping will extend four lots westerly of Hargrave Street between Lincoln Street and John Street to cover the residential tract. The remaining areas will map only the lots directly adjacent to Hargrave Street.*
- *It is assumed that up to 14 title reports and an allowance of $13,300.*

2.4. UTILITY NOTIFICATION

Consultant will initiate the utility company notification process early in the design process and identify potential conflicts. Consultant will maintain a utility agency tracking matrix to indicate the status of communication and add a contact list for substructure and utility owner-operators for the specifications. Consultant will assist the city with utility notification letters consisting of the following:

- Utility Information requests including City owned utilities such as water, sewer, storm drain, and electric.
- Prepare to Relocate Notice/Final Utility Notice Form.
- Notice to relocate.

Assumptions:

- *Letters to be printed on City letterhead and signed by City official for distribution.*
- *All related fees from utility companies are included in this scope.*

Deliverables:

- *Utility Contact Matrix.*
- *PDF copies of correspondence and data provided in responses to letters.*
- *It is anticipated coordination with the following utility agencies: Southern California Edison, Southern California Gas Company, AT&T, City of Banning Electric, City of Banning Municipal Water and Wastewater, Kinder Morgan Energy Partners, Verizon, Spectrum, and Frontier.*

- *Anticipate preparing the utility letters in Microsoft Word format, which will be sent to the City for printing and signature by a City official. We will distribute signed utility notices to utility companies in PDF format by email.*
- *Provide an allowance of $2,000 for related fees requested from utility companies. This will be tracked in accordance with invoicing procedures.*

2.5.UTILITY BASE MAPPING

In addition to information provided by the owning utility companies and through research of other record maps, field surveys shall be used to locate utility surface features such as manholes, valves, fire hydrants, poles, risers, etc., which shall be reflected on the plans. Consultant shall prepare preliminary plans, which shall include existing utilities (above ground and below ground) identified by location, size, type, and owner, as appropriate.

Assumptions:

- *Content is based on readily available record drawings and field surveys.*

Deliverables:

- *Utility Base Map in CADD format.*
- *Field surveys for utilities is described above under the Aerial Mapping task.*

2.6.GEOTECHNICAL RECORDS RESEARCH & FINDINGS

Consultant will collect and review existing pertinent subsurface and groundwater data from nearby structures or published geologic maps to determine general subsurface conditions at the Project site.

Assumptions:

- *Borings are not needed at this stage. Borings shall be performed once the Project has been fully defined for the PS&E phase.*

Deliverables: None.

2.7.TRAFFIC ANALYSES

Preliminary Traffic Analysis

Consultant shall prepare preliminary traffic analysis using existing data to confirm the City of Banning Circulation Element requirements along Hargrave Street, and preliminary intersection analyses to confirm Level of Service (LOS) of proposed connector road concepts.

Assumptions: N/A

Deliverables: None

Update Traffic Analysis

Consultant shall:

- Collect traffic counts at intersections and roadway segments.
- Update traffic analysis confirming the ultimate six traffic lanes along Hargrave Street. NOTE: Project anticipates construction of 4-lane divided Hargrave from the EB I-10 Ramps to Lincoln. Ultimate 6-lane widening will be by a separate project at such a date (currently unprogrammed/unknown) that Caltrans reconstructs the overcrossing at Hargrave to accommodate additional lanes.
- Update intersection analysis along Hargrave Street for intersections including and between Ramsey Street and Lincoln Street.
- Evaluate existing, opening year, and future year analysis conditions.

A Draft and Final Traffic Analysis Report shall be prepared.

Assumptions:

- *Traffic counts include up to six (6) intersections and up to five (5) roadway segments.*
- *Future RIVTAM traffic model volumes to be obtained from County of Riverside to measure VMT performance.*
- *Consider programmed projects for future volume scenario, such as the I-10 Bypass.*
- *Update land use data for the airport redevelopment area in RIVTAM.*
- *VMT analysis is not required based on the proposed improvement to grade separate and remain Statutory Exempt (SE) under CEQA.*
- *Traffic counts will be collected at up to ten (10) intersections and up to five (5) roadway segments to accommodate analysis for both the traffic study and Traffic Management Plan (TMP).*
- *The Traffic Analysis Report (TAR) for the proposed project will be prepared based on discussion with City staff. The TAR will be prepared consistent with the City's Traffic Impact Analysis (TIA) guidelines for roadway projects. The TAR will evaluate existing traffic conditions, opening year conditions, and design year conditions for project alternatives. The analysis will be prepared for review and approval by City staff and will examine traffic operations under the following analysis scenarios:*
  - *Existing conditions*
  - *Opening Year No Build Alternative conditions*
  - *Opening Year with Build Alternative conditions (one design alternative)*
  - *Design Year No Build Alternative conditions*
  - *Design Year with Build Alternative conditions (one design alternative)*
- *Additionally, for purposes of this scope of work, study intersections affected due to the proposed project needs to be evaluated to demonstrate adequacy in intersection capacity during weekday AM/PM peak hour conditions. The TAR is anticipated to examine the following six intersections:*
  - *Hargrave Street/Ramsey Street*
  - *Hargrave Street/I-10 Westbound Ramps*
  - *Hargrave Street/I-10 Eastbound Ramps*

- *Hargrave Street/John Street*
- *Hargrave Street/Plaza Street*
- *Hargrave Street/Lincoln Street*

- *The TAR is also anticipated to examine the following five roadway segments:*
  - *Hargrave Street, between Ramsey Street and I-10 Westbound Ramps*
  - *Hargrave Street, between I-10 Westbound Ramps and I-10 Eastbound Ramps*
  - *Hargrave Street, between I-10 Eastbound Ramps and John Street*
  - *Hargrave Street, between John Street and Plaza Street*
  - *Hargrave Street, between Plaza Street and Lincoln Street*
- *The TAR will be subject to City review and approval only. Caltrans will review and approve the traffic documents outlined in the next section.*

Deliverables:

- *Draft Traffic Analysis Report*
- *Final Traffic Analysis Report*

2.8.CALTRANS TRAFFIC REPORTS

Consultant shall prepare traffic reports for Caltrans review and approval. The following reports are included in this scope:

- Intersection Control Evaluation
- Traffic Forecasting Volumes Report

Intersection Control Evaluation

Consultant shall prepare Caltrans Intersection Control Evaluation for the I-10 EB/WB ramps to identify effective intersection traffic control strategies. A separate analysis report shall be prepared to document the findings and recommendations to be submitted to Caltrans for review and approval.

Assumptions:

- *Traffic signal installations at the EB/WB ramps where none exist currently.*
- *Striping reconfiguration on Hargrave Street through the freeway intersection area.*

Deliverables:

- *Intersection Control Evaluation*

Traffic Forecasting Volumes Report

A Caltrans Traffic Forecasting Volumes Report will be prepared to be used for the Traffic Operations Analysis Report. The report will be submitted to Caltrans for review and approval. Caltrans updated the Intersection Control Evaluation (ICE) process to the Intersection Safety and Operational Assessment Process (ISOAP). We will prepare a Step 2 ISOAP analysis per the Caltrans ISOAP Guide dated September 2024.
Participate in a meeting with the Caltrans ICE/ISOAP Coordinator to develop performance

measures (qualitative and quantitative), as well as to establish the tools to be used in evaluating the predicted safety performance (e.g., intersection only vs. the entire interchange system, Caltrans simple calculator vs. the IHSDM). Consideration will also be given to benefit/cost methodology (e.g., Caltrans' standard split for personal and business travel vs. adjustments, if any.

Provide a Traffic Forecasting and Operations Assessment Methodology and Assumptions Memorandum per Caltrans requirements.

Provide a Traffic Forecasting Volumes Report that support the opening and future year analysis in the TAR and Traffic Operations Analysis Report (TOAR). The Traffic Volumes Report will be submitted to Caltrans for approval prior to preparation of the TAR and TOAR. The following tasks will be conducted as part of the Traffic Volumes Report:

- Data collection
- RIVCOM Travel Demand Model refinement
- Existing traffic volumes
- Opening year traffic volumes
- Design year traffic volumes

The limits for the TOAR study area are as follows:

- Intersections:
  - Hargrave Street/Ramsey Street
  - Hargrave Street/I-10 Westbound Ramps
  - Hargrave Street/I-10 Eastbound Ramps
  - Hargrave Street/Lincoln Street
- There will be no freeway analysis since the project does not propose improvements on I-10 or the way in which the ramps at Hargrave Street connect to the freeway. In addition, there will be no changes in traffic demand between no-build and build conditions.

Deliverables:

- *Traffic Forecasting Volumes Report*
- *Traffic Operations Analysis Report*

3. BASIS OF DESIGN DOCUMENT

The FRA grant requires the preparation of a Basis of Design document prior to initialization of the Preliminary Engineering Design per Task 3.1 Pre-Design Activities of the FRA agreement with the City of Banning.

Consultant shall prepare a Design Basis Memorandum indicating the applicable design standards for various items of work for the approved project concept. Plans and specifications shall be prepared in accordance with current AASHTO and Caltrans' regulations, policies, procedures, manuals, and standards. Improvements of local roads may be prepared in accordance with City standards in lieu of Caltrans standards as directed by the City. All documents shall be prepared using US standards and dimensions. Compliance with AREMA,

UPRR Guidelines for Railroad Grade Separation Projects and/or County or City Standards shall also be required, as appropriate.

Consultant shall prepare the Basis of Design Document based upon the research items in Section 2. Data Collection section of this Scope of Work. The Basis of Design shall be accepted by all project stakeholders prior to initiation of Concept Development and Project Approvals.

In the event that non-standard features become apparent during the initial design, the Consultant shall prepare the necessary design exceptions following Caltrans or UPRR and the respective city's guidelines.

Deliverables:

- *Design Basis Memorandum*

4. CONCEPT DEVELOPMENT & PROJECT APPROVAL

This task involves the development of the roadway and railroad track bridge geometrics to more accurately define project limits, right-of-way needs, and cost, among other items. It is assumed that City Council will approve the concept, permitting the project to move into the Plans, Specifications & Estimates task.

4.1. GEOMETRIC CONCEPTS

The consultant shall develop one conceptual exhibit of the roadway geometrics between Ramsey Street and Lincoln Street including the railroad overpass bridge for visual purposes.

Geometric Approval Drawing (Optional)

- Caltrans District 8 requires a separate GAD for improvements within Caltrans right-of-way as part of the PS&E approval process, which was not listed in the base scope of services and has been added as an optional task. The Consultant will prepare a GAD for project improvements in Caltrans right-of-way, which entails typical sections, horizontal roadway geometry and data tables, pavement delineation and lane dimensions, intersection traffic volumes, roadway design designation, and non-standard design features.

Deliverables:

- *One conceptual exhibit (Plan View)*
- *Geometric Approval Drawing*

4.2. BRIDGE AND RETAINING WALL CONCEPTS

Consultant shall develop preliminary structural design and layout to assess feasibility of different bridge types.

Prepare Advance Planning Studies (APS) for the I-10 Hargrave Undercrossing retaining wall that will be necessary to support the existing bridge abutments and for the proposed Hargrave Street Underpass that will carry the UPRR railroad over Hargrave Street. These will follow the guidelines of Caltrans Memo to Designers (MTD), Section 1-8 "Planning Studies", and Caltrans

Office of Special Funded Projects (OSFP) Information and Procedures Guide, Section 3-2 "Advance Planning Studies."

The purpose of an APS is to identify feasible types of structures and construction techniques for the project location. The APS will include cost, project risks, and potential impacts to surrounding environment and existing facilities and utilities. It will investigate the use of Accelerated Bridge Construction (ABC) techniques and their potential benefits to both cost and schedule. The APS will encompass the following:

- General Plan of the structure, which will include a Plan View, Elevation View, and Typical Section of the structure.
- Preliminary Foundation Report
- APS Checklist.
- Design memo discussing the suitable structure types and its benefits and challenges for each
- Itemized Cost Estimate

Deliverables:

- *I-10 Hargrave Street undercrossing retaining wall APS*
- *Hargrave Street underpass bridge APS*

4.3. PROJECT CONCEPT REPORT

A Project Concept Report will be prepared. This report will include roadway, right-of-way, utility, and structure exhibits.

Plan and Profile Exhibits

Plan and profile exhibits will be prepared for Hargrave Street and UPRR tracks bridge.

A review of the plan view exhibit is anticipated with City staff and then one meeting with Caltrans and UPRR for input. Input from the meeting will be incorporated and redistributed via pdf files.

Deliverables:

- *Plan and Profile Exhibits (to be included in the Project Concept Report)*

Right-of-Way Exhibits

Preliminary right-of-way exhibits shall be prepared depicting preliminary right-of-way needs for the Project.

Deliverables:

- *Right-of-Way Exhibits (to be included in the Project Concept Report)*

Utility Exhibits

Utility exhibits shall be prepared depicting existing utilities and conceptual relocation routes.

Deliverables:

- *Utility Exhibits (to be included in the Project Concept Report)*

Structure Exhibits

Consultant shall further define the bridge concept and shall prepare a plan exhibit depicting approximate type and length of retaining walls.

Structure exhibits shall include a plan, section, and elevation for the UPRR Tracks Overpass and a plan view depicting type and length of retaining walls.

Deliverables:

- *Bridge and Retaining Wall Exhibits (to be included in the Project Concept Report)*

Preliminary Geotechnical Report

Consultant shall prepare a Preliminary Geotechnical Report for the project to provide preliminary geotechnical information for the Project Concept Report and Type Selection process. This report will be prepared using the available subsurface data.

Deliverables:

- *Preliminary Geotechnical Report (to be included in the Project Concept Report)*

Preliminary Traffic Analysis Report

The Traffic Analysis Report prepared under Task 2.7 shall be included as part of the Project Concept Report.

Deliverables:

- *Preliminary Traffic Analysis Report (to be included in the Project Concept Report)*

Construction Cost Estimates

A rough order of magnitude costs shall be prepared based on the exhibits listed above to refine the project costs.

Deliverables:

- *Construction Cost Estimates (to be included in the Project Concept Report)*

Right-of-Way Cost Estimates

Rough order of magnitude right-of-way cost estimates shall be prepared based on the right-of-way exhibit to refine the project costs.

Deliverables:

- *Right-of-Way Cost Estimates (to be included in the Project Concept Report)*

Project Concept Report

The Project Concept Report shall include the exhibits, reports, and cost estimates included above. This report shall be submitted to the City for review. It is assumed that this report will be presented to City Council for approval.

Deliverables:

- *Draft Project Concept Report*
- *Final Project Concept Report*

4.4. PROJECT CONCEPT APPROVAL

The City shall present the Project Concept Report to the City Council. Consultant shall support the City at City Council meeting. City Council approval is anticipated prior to Environmental Technical Studies and proceeding with Plans, Specifications & Estimates.

Consultant shall organize meetings with Caltrans and UPRR to review the project concept report. Key functional units, such as geometrician shall be in attendance. Consultant shall present proposed concept and obtain confirmation that Caltrans and UPRR have no objection to the proposed concept.

Deliverables:

- *Meeting handouts and minutes*

5. ENVIRONMENTAL DOCUMENTATION

The Consultant will prepare a thorough project description defining the limits of project-related activities, which will be used as the basis for environmental technical studies conducted for this project. Pursuant to section 21080.13 of the California Environmental Quality Act (CEQA) and CEQA Guidelines Section 15282(g), the state legislature has determined that railroad grade separations shall be statutorily exempt from CEQA documentation and public disclosure requirements. Accordingly, a more formal CEQA environmental document is not required for this project. However, in certain instances and at the discretion of the sponsoring agency, it is sometimes prudent to undertake certain limited environmental studies in order to better understand and manage the consequences of a particular proposed railroad grade separation. Such is the case for the Project, for which the City and Caltrans have determined that certain selected studies should be undertaken.

5.1. CEQA STATUTORY EXEMPTION

Consultant shall prepare a Notice of Exemption (NOE) and provide it to the City for approval and submittal to the County of Riverside for recordation and State Clearinghouse.

- Statutory Exemption Memorandum (Optional)

The project involves the construction of a railroad grade separation, which is Statutorily Exempt (SE) under CEQA Guidelines Section 15282(g) and Public Resources Code (PRC) Section 21080.13. The consultant will assist the City of Banning in preparing the Notice of Exemption (NOE) and supporting memorandum for a Statutory Exemption under CEQA Guidelines Section 15282(g) and PRC 21080.13 for the project. The form and memorandum will be provided to the City for one round of review (each). The consultant team will assist the City by filing the NOE with the California State Clearinghouse. The City is responsible for filing the NOE with the County Clerk and paying the associated filing fee.

Deliverables:

- *CEQA Notice of Exemption*
- *Memorandum to support Statutory Exemption (one electronic copy)*

5.2.NEPA

The Project will receive federal funds and therefore NEPA compliance is required, and Caltrans Local Assistance involvement is anticipated. Unless otherwise specified, scope of work tasks will be completed by Consultant's staff. Consultant shall develop Project Vicinity and Project Location Maps, as well as a set of maps that clearly shows the location and features of the design under consideration. Additionally, base mapping of the environmental components/data including hazardous materials sites, and land uses and right-of-way sites. Data from publicly available sources will be used and adjusted, where appropriate, based on field surveys and observations conducted by the Consultant.

The following list includes the studies that may be included in this scope:

- Traffic Study
- Cultural Resources
- Biological
- Air Quality
- Noise Study
- Phase 1 Environmental Site Assessment (Hazardous Materials)

➢ Traffic Study
  - o Traffic Forecasting and Operations Assessment Methodology and Assumptions Memorandum:
  - o A Memorandum will be prepared to describe the methodology and approach for the traffic forecasting and traffic operations assessment for preparation of the Traffic Volumes Report, Traffic Study Report (TSR), TOAR and Intersection Control Evaluation (ICE). The Memorandum ensures the Traffic Volumes Report, TSR, TOAR and ICE will be completed according to the current Caltrans and City of Banning traffic analysis protocols for traffic studies and methodologies. As such, traffic volumes will be prepared consistent with the 2014 California Manual on Uniform Traffic Control Devices, Revision 7 (2014 CA MUTCD, Rev 7), Caltrans'

Traffic Signal Operations Manual, Caltrans' Transportation Impact Study Guide (TISG), Caltrans' Traffic Operations Policy Directive (TOPD) 21-14, along with the Caltrans' Engineering, Operational, and Safety Analysis (EOSA) Guidance for Interstate Access Control Modifications (November 2021), and the City's Traffic Impact Analysis Guidelines for Local Transportation Analysis and Vehicle Miles Traveled Analysis (TIA Guidelines), dated October 2021.

- The Memorandum will summarize the following assumptions for preparation of the Traffic Volumes Report and traffic study:
  - Identification of the study area
  - Analysis scenarios to be analyzed
  - Volume development methodology
  - Performance methodology and criteria

  It is anticipated that the following analysis scenarios would need to be included in the analysis:
  - Existing conditions
  - Opening Year No Build Alternative conditions
  - Opening Year with Build Alternative conditions (up to one design alternative)
  - Design Year No Build Alternative conditions
  - Design Year with Build Alternative conditions (up to one design alternative)
- **Identification of the Study Area**

  Based on the project understanding, the study area for the TSR shall include up to six intersections and five roadway segments along Hargrave Street between Ramsey Street and Lincoln Street. Additionally, the analysis will include evaluation of the Hargrave Street widening from two-lane undivided to four-lane divided between the I-10 eastbound ramps to Lincoln Street. It should be noted that the ultimate buildout of Hargrave Street will consist of six traffic lanes. However, this ultimate six-lane widening is considered a separate project in which the planned construction is currently unprogrammed/unknown and will also require reconstruction of the existing I-10 freeway overcrossing at Hargrave Street.

  However, as previously mentioned, the TOAR study area may need to examine traffic and operational analyses for the Hargrave Street interchange, as well as the adjacent interchanges. As such, traffic volumes will need to be developed for intersections and roadway segments at the adjacent I-10/8th Street interchange to the west and I-10/Ramsey Street interchange to the east. Additionally, traffic volumes for the freeway segments along the I-10 throughout the three interchanges will need to be developed. The final study area for the TOAR will be determined in consultation with project staff, City staff, and Caltrans staff.
- **Draft/Final Memorandum**

  The consultant team will prepare a draft Traffic Forecasting and Operations Assessment

Methodology and Assumptions Memorandum. The draft memorandum will be submitted to Caltrans staff as an Adobe Acrobat Portable Document Format (PDF) file for review.

Deliverables:

- *Traffic Forecasting and Operations Assessment Methodology and Assumptions Memorandum [Draft and Final]*

- **Caltrans Traffic Reports**

Traffic Volumes Report

The Traffic Volumes Report for the proposed project will be prepared based on methodologies outlined and approved in the Memorandum. The Consultant team will develop traffic volumes that will be included in the Traffic Volumes Report and submit the volumes to Caltrans for approval prior to preparation of the TSR and TOAR. It needs to be noted that the Traffic Volumes Report is also used for preparation of the air quality and noise analyses. The traffic, air quality, and noise analyses use different systems for categorizing vehicles. Traffic analyses categorize vehicles based on the number of axles. The air quality analysis is based on vehicle weight, while the noise analysis is based on the number of tires. The project team will utilize a correspondence table to convert the traffic forecasts from the Riverside County Model (RIVCOM), which uses the four-class system, into the eight-class system used for air quality analysis and the five-class system used for noise analysis based on recent experience working with Caltrans. Additionally, Caltrans may require collection of traffic counts Average Daily Trips (ADT)/Peak Hour by vehicle type and axle within the vicinity of Hargrave interchange for traffic index calculations. However, this is unknown at this time and volume development for this analysis has not been included as part of this scope of work.

The following tasks will be conducted as part of the Traffic Volumes Report:

- **Data Collection**

The following data will be required to prepare the traffic analysis for the proposed project:

Existing Counts. The Consultant team will contract with a qualified data collection company to obtain existing peak hour and roadway segment counts for areas identified in the TOAR and TSR. Based on prior experiences on similar projects, Caltrans may request for two days of 24-hour intersection turn volumes for study intersections. Freeway segment data will be collected from Caltrans Performance Measurement System (PeMS) data source or other approved sources.

Information on Cumulative Projects. Information about major approved or pending cumulative projects will be gathered from the City's Planning Division and the adjacent jurisdictions of County of Riverside and City of Beaumont so that traffic

generated by those projects may be incorporated into the TSR and TOAR. The socioeconomic data in the Riverside County Transportation Model (RIVCOM) will be reviewed to ensure that applicable cumulative projects are included in the forecast scenario of the model. Major development projects to be included are the remaining unbuilt portions of the Sundance Specific Plan, Butterfield Specific Plan, Sunset Crossroads Specific Plan, Rancho San Gorgonio Specific Plan, Banning Municipal Airport redevelopment, and applicable projects within County of Riverside and City of Beaumont.

- **RIVCOM Travel Demand Model Refinement**

  For purposes of this analysis, the RIVCOM will be utilized for developing forecast traffic volumes. As previously referenced, it should be noted that the adjacent vicinities of County of Riverside and City of Beaumont has many future development projects and roadway circulation network improvements (e.g., I-10 Bypass) that are currently either under planning or to be constructed prior tproject opening year. Based on prior experience on other projects within the City, the following would need to be included for analysis:

  Cumulative Projects: The model's socioeconomic data under the future scenario will be evaluated to ensure that all cumulative projects are appropriately included in the model. Based on our experience using RIVCOM, the model doesn't include full build-out of majority of projects in Riverside County. The model would need to be updated to appropriately include the socio-economic data for such projects prior to developing forecast traffic volumes for this analysis.

  I-10 Bypass: Banning to Cabazon Project: The project team had previously worked on the traffic analyses for the I-10 Bypass – Banning to Cabazon project. This project is located east of the City of Banning. There is currently no local roadway that connects the City of Banning to the unincorporated community of Cabazon to the east except for the I-10. The I-10 Bypass project will construct a new local roadway to connect Banning and Cabazon to provide an alternative route between the two jurisdictions.

  City of Banning Update of Traffic Fee Component of the Development Fee Program: The consultant team had previously prepared the update to the traffic fee component of the City's Development Impact Fee (DIF) Program. The fee program examined intersection operations and recommended planned capacity and signalization improvements for build-out of the General Plan. Consultant had previously examined the Hargrave Street corridor as part of the fee program update.

  The consultant team will discuss with Caltrans and City staff to confirm the updates required in RIVCOM within the project study area to ensure all projects and roadway circulation improvements are included in the future analysis scenarios.

- **Existing Traffic Volumes**

  As previously described, existing traffic volumes will be developed using existing peak hour intersection turn volumes for study intersections and daily traffic

volumes for roadway segments. Freeway segment volumes will be developed using PeMS data.

The methodology of developing existing traffic volumes will be finalized in consultation with Caltrans and City staff in the memo.

- **Opening Year Traffic Volumes**

  The consultant team will develop opening year traffic volumes for intersections, roadway segments, and freeway segments identified for analysis. It is anticipated that the opening year volumes will be developed based on forecast data obtained from updated RIVCOM and in consultation with Caltrans. The methodology of developing opening year traffic volumes will be finalized in consultation with Caltrans in the memo.

  Design Year Traffic Volumes

  The consultant team will develop design year traffic volumes for intersections, roadway segments, and freeway segments identified for analysis. It is anticipated that the design year volumes will be developed based on forecast data obtained from updated RIVCOM and in consultation with Caltrans. Design year volumes for intersections, roadway segments, and freeway segments will be developed by post-processing base year and future year traffic model volumes obtained from RIVCOM. Design year volumes will be developed by applying the National Cooperative Highway Research Program (NCHRP)

  procedures to obtain post-processed traffic volumes from the model. The methodology of developing design year traffic volumes will be finalized in consultation with Caltrans in the memo.

- **Draft/Final Traffic Volumes Report**

  The consultant team will prepare traffic volume summary tables and figures along with a volume development report for both the TSR and TOAR. The draft traffic volume report will be submitted to Caltrans and the City as an Adobe Acrobat PDF file for review. The consultant team will address up to one round of comments from Caltrans and City for finalizing the Traffic Volume Report. Upon addressing comments, the final Traffic Volume Report will be submitted to Caltrans for approval.

  Deliverables: Traffic Volumes Report [Draft and Final]

- **Cultural Resources**

  Prepare an Archaeological Survey Report (ASR), an Historical Resources Evaluation Report (HRER), and a Historic Property Survey Report (HPSR) for the proposed undertaking pursuant to Section 106 of the National Historic Preservation Act (NHPA), the National Environmental Policy Act (NEPA), and the California Environmental Quality Act (CEQA). The reports will be completed pursuant to Caltrans guidelines and formats. All efforts will be completed by, or under the supervision of, cultural resources management professionals that meet Secretary of the Interior and Caltrans Professional Qualifications Standards (PQS) for Archaeology and Architectural History. Efforts completed for this task are outlined

below:

Area of Potential Effect Delineation: Cultural resources management staff will develop an Area of Potential Effect (APE) Map and submit to Caltrans for review. For the purposes of this scope, the APE is generally defined as Hargrave St. and the associated ROW between Lincoln St. and Ramsey St., as well as the on/off-ramps and John Street between Florida Street and Hargrave Street and the shoofly limits within UPRR right-of-way as described herein. This scope includes up to two updates to the APE Map based upon Caltrans comments.

Research: As the cultural resources records for Riverside County are not currently available due to the closure of the Eastern Information Center (EIC) and as no updates have been provided by the Office of Historic Preservation (OHP) as to when they will become available at a new location, this scope does not include a record search within the California Historical Resources Information System (CHRIS). However, cultural resources management staff will submit a records search request for the approved APE to Caltrans and the City of Banning to obtain any cultural resources records the agencies may have on file.

Staff will additionally review applicable databases, such as the NRHP, CRHR, BERD, etc., to identify any listed cultural resources located within the APE plus a 0.5-mile buffer. Staff will further research geomorphology and land use history through resources such as historic aerials and topographic maps.

Outreach: Cultural resources management staff will request a tribal consultation list and records search of Sacred Lands Files (SLF) through the Native American Heritage Commission (NAHC) for the APE. Staff will contact the Native American Tribes listed on the NAHC's consultation list to request any information about cultural resources or sacred sites in or near the APE. Outreach will include one initial correspondence and up to one additional follow-up correspondence to the Tribes on the contact list. Staff will also contact up to two historical organizations or societies as part of the outreach effort for the ASR. Any additional outreach effort required by Caltrans will require an adjusted scope and fee.

Field Survey: Staff will conduct a pedestrian survey of the entirety of the APE. Survey methods will be non-collective, and all identified cultural resources will be recorded utilizing CA DPR 523 series forms. This scope also accounts for the evaluation of recorded historic resources for eligibility for listing in the California Register of Historical Resources (CRHR) and National Register of Historic Places (NRHP).

Reports: Upon conclusion of all research, outreach, and field survey efforts, an ASR, HRER, and HSPR will be produced that will follow Caltrans formats and guidelines.

Exclusions

- Due to the built environment of the project area, it is assumed that neither Extended Phase I Report (XPIR) nor an Archaeological Evaluation Report (AER) will be necessary and, therefore, not included in this scope
- This scope does not include any effort related to consultation with the State Historic

Preservation Officer (SHPO)

- This scope does not include any effort related to formal consultation with Native American Tribes. All outreach to Tribes outlined in the scope is for the purposes of gathering information for the report and does not constitute consultation required under AB52 (CEQA, as amended) or Section 106 of the NHPA

Deliverables:

- *Area of Potential Effect Map*
- *Archaeological Survey Report*
- *Historical Resources Evaluation Report*
- *Historic Property Survey Report*

o Biological

- Natural Environmental Study (Minimal Impacts) (NES-MI)

The consultant team will prepare a Natural Environment Study (Minimal Impacts) (NES-MI in accordance with the Caltrans Environmental Handbook, Volume 3. The NES-MI will document and evaluate the natural habitat and other land cover types in the project area and determine whether the proposed project would result in impacts to special-status species/habitat. The NES-MI will be prepared using the Caltrans prescribed format available on the Standard Environmental Reference (SER) website (August 12, 2022). If species have the potential to occur, a Biological Assessment (BA) report would be required; however, listed special-status species or their habitats are not expected to occur in the project area and are therefore excluded from this scope.

In order to determine the likelihood of special-status species occurrence on site, our team will conduct a literature search of publicly available biological resources lists and maps (e.g., the California Native Plant Society (CNPS) Inventory of Rare and Endangered Plants of California, the California Department of Fish and Wildlife (CDFW) California Natural Diversity Database (CNDDB), and the United States Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC) database). Our team biologists will also utilize their knowledge of southern California biological resources to determine the likelihood of any special-status species occurrence on site. If necessary and upon Caltrans request, we will prepare a formal inquiry letter for Caltrans to submit to the USFWS and the CDFW requesting identification of any State or federally listed species potentially occurring in the area.

Following the literature review, our team biologists will perform reconnaissance-level field surveys of the Biological Study Area to assess plant and wildlife habitats and to document existing conditions (including vegetation mapping and photographs). Two field visits by two biologists are assumed for this effort.
The consultant team will identify applicable permits necessary for implementation of the construction phase of the project. Coordination with the resource agencies

(i.e. USFWS, CDFW, Regional Water Quality Control Board [RWQCB]), may be necessary and would be conducted in coordination with and under the guidance of Caltrans. Many cities and counties in California have tree preservation ordinances and local land use policies with which transportation agencies and their agents must comply.
Focused surveys for Crotch's bumble bee (Bombus crotchii) are not anticipated to be required due to the condition of the project site based on a preliminary evaluation of aerial imagery and are not included in this scope of work.

- **Jurisdictional Delineation (JD)**
  The consultant team will conduct a routine wetland delineation and areas of potential jurisdiction will be evaluated according to the United States Army Corps of Engineers (USACE) Wetlands Delineation Manual (Environmental Laboratory, 1987), Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region (Environmental Laboratory 2008), and State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State (State Water Resources Control Board 2019). The jurisdictional limit of non-wetland waters will be identified following the procedures set forth in 33 Code of Federal Regulations (CFR) 328.3(e) and applicable resource agency guidelines. Further, the extent of any streambed and associated riparian areas subject to review by the CDFW under Section 1602 of the Fish and Game Code will be determined. The jurisdictional delineation will be conducted simultaneously with the reconnaissance-level field survey required for the NES-MI. Our team will prepare a Preliminary Jurisdictional Delineation (PJD) memo that will include an analysis of wetland features within the project boundary. This preliminary analysis will help determine whether there are USACE jurisdictional waters as early in the project review process as possible. The memo will be submitted directly to the City, will be informative in nature and is not anticipated to have comments or require revisions. The full results of the delineation will be presented in a Jurisdictional Delineation report that will include mapping of any wetland and jurisdictional areas. This report will define the project constraints associated with non-wetland waters, wetlands, and riparian habitat. The jurisdictional delineation report will be an attachment to the NES-MI. The results of the determination are subject to verification by the USACE, RWQCB, and CDFW. We have included up to four hours of coordination with the resource agencies and City regarding the jurisdictional status of delineated features.

- **Bat Habitat Assessment**
  A bat habitat assessment will be conducted within the project area to determine whether suitable trees or other roosting habitat for bats occur. If suitable roosting habitat is present within the project area and is anticipated to be impacted, this scope does not include the effort to cover the additional effort for nighttime bat surveys.

A Bat Habitat Assessment Report will be prepared following completion of the habitat assessment. The report will document the results of the habitat assessment. The locations of suitable trees or other roosting habitat and confirmed bat roosts, if present, will be clearly shown in map figures included with the report. The report will also provide recommendations for appropriate site- and species-specific avoidance and minimization strategies. One round of consolidated City review and comment is assumed for the Bat Habitat Assessment Report. The Bat Habitat Assessment Survey Report will be an attachment to the NES-MI. If focused surveys during maternity nesting season are required, a scope and budget adjustment would be required.

- **MSHCP Consistency Analysis**

  The following details the scope required to conduct a NES-MI and MSHCP consistency analysis. Additional species and biological resources surveys will be recommended if site conditions warrant and regulatory requirements mandate. We will conduct a literature review to identify sensitive species known or reported to occur within the project area. The literature review will include the California Natural Diversity Database, the California Native Plant Society Electronic Inventory, and MSHCP documents. Our team biologist familiar with the habitats and sensitive resources of the region will conduct a general on-site field survey. Additionally, a qualified biologist will conduct a habitat assessment for sensitive fairy shrimp. Based on the literature review and field survey, an assessment of the potential habitat value for survey species identified in the MSHCP and identification of any additional focused species surveys that may be necessary (including burrowing owl, narrow endemic plants, etc.). The Consistency Report will include discussion of: 1) the presence of jurisdictional wetlands, waters of the U.S., or streambeds/habitats as defined by the U.S. Army Corps of Engineers (USACE), Regional Water Quality Control Board (RWQCB), and California Department of Fish and Wildlife (CDFW), respectively: 2) results of any focused surveys, if needed; 3) project consistency with the conservation objectives of the MSHCP and recommendations of measures to achieve consistency, as necessary; and 3) impacts to sensitive biological resources, graphics, and maps as needed to show the project location and vicinity, the project relationship to designated critical habitat areas, and the project relationship to NEPA for any biological resources or habitat areas on the site that may require additional study for CEQA review or for compliance with the MSHCP.

  The report will be submitted electronically. Upon review/revision, we will submit a PDF of the final report. The PDF will include all text, graphics, and supporting appendices. If requested, hard copies may be provided on a time-and-materials basis. A copy of the NES-MI (and associated JD/Bat Assessment and MSHCP Consistency Analysis) will be sent to the City (MSHCP-permittee) as required under the MSHCP.

- **Determination of Biologically Equivalent or Superior Preservation (DBESP) Report (Optional)**
  The MSHCP requires preparation of a DBESP when Riverine/riparian resources, burrowing owl, or NEPSSA plants, and some other MSHCP-covered resources, are found to be present on site and would be impacted by the project. Based on initial review and potential for diversion of flows west of Hargrave Street, the proposed project may impact riverine/riparian resources as the feature present is assumed to also be jurisdictional by CDFW. If based on the field surveys that the sensitive resources described above or any other MSHCP-covered resources are identified onsite and will be impacted, a DBESP will be prepared consistent with the April 2023 template using the surveys, hydrology, drainage water quality and other technical information and reporting prepared as part of this scope of work and submit to the City for review and comment. Once comments have been addressed and revisions approved by the City, the City will submit the DBESP to the Western Riverside County Regional Conservation Authority (RCA), for agency review. The DBESP would be reviewed by the CDFW and USFWS during a 60-day review and response period. Upon receipt of comments, we will revise the draft DBESP and submit a final DBESP to the City for submittal to CDFW and USFWS. If further technical analysis is required by the agencies for inclusion in the DBESP, beyond that identified in this scope of work, amendment to this scope would be required. Also, under the MSCHP, impacts to resources maybe be achieved through one of the following mechanisms: 1) use of credits in an approved mitigation bank; 2) on-site mitigation or 3) off-site mitigation at an approved site. It is assumed that credits at an approved mitigation bank will be utilized for this project. Coordination and negotiation with mitigation banks, and identification and assessment of on- or off-site mitigation locations, are not included in this scope and would require an amendment. No additional MSHCP-related services are provided with the scope and cost included in this proposal (i.e. Joint Project Review).

- Focused Burrowing Owl Survey (Optional)
  The project site lies near an MSHCP burrowing owl survey area. If the project limits include the burrowing owl survey area and if suitable habitat is present, a qualified biologist will conduct a focused survey in accordance with the Burrowing Owl Survey Instructions for the MSHCP. A burrow survey will be conducted during the burrowing owl breeding season (March 1 through August 31) in search of natural burrows or suitable man-made structures within the project site and a 500-foot buffer around the site (collectively referred to as the “study area”).
  If potential owl burrows (natural or man-made) are found, or if owls are observed during the burrow survey, then we will conduct four additional site visits on separate days, either in the morning, one hour before sunrise to two hours after sunrise, or in the early evening, two hours before sunset to one hour after sunset. The locations of all

suitable burrowing owl habitat, potential owl burrows, burrowing owl sign, and any owls or sign observed will be recorded with a Global Positioning System device.

A focused burrowing owl survey is required for all sites with suitable burrowing owl habitat within 30 days prior to ground disturbing activities, whether initial survey results are positive or negative. If survey results are positive, additional follow-up surveys, avoidance, or relocation of owls in coordination with the CDFW, or monitoring may be required. In the event that it is determined that burrowing owls occupy the project site, prior to any on-site development, and are anticipated to be impacted, the City shall document proposed impacts and suitable compensatory mitigation, if required, to the RCA, CDFW and USFWS in a DBESP. The consultant team will prepare and submit a letter report to the City in electronic format describing the survey methodologies and results of the focused burrowing owl survey. One round of consolidated review and comment is assumed for the focused burrowing owl survey report. A copy of the report will be sent to the Western Riverside County MSHCP Biological Monitoring Program by the City as required under the MSHCP. The report will be included as an attachment to the NES-MI.

- Burrowing owl surveys can last anywhere from one to five months during the survey season but are recommended to be conducted evenly throughout the survey season if possible, to eliminate the probability that late and/or early season owls are not detected.
- This task and budget does not include the additional pre-construction survey or relocation services.

o Narrow Endemic Plant Species Survey Area (NEPSSA) Survey (Optional)

The project site lies near a NEPSSA study area for Marvin's onion (Allium marvinii) and many-stemmed dudleya (Dudleya multicaulis). Should the project limits include NEPSSA survey area and if suitable habitat is present, a qualified biologist will conduct two focused surveys in May/June 2025 and June/July 2025 to determine if any of the NEPSSA plants are present.

The objective of the survey will be to determine presence or absence of the target species and, if present, to quantify and map the distribution of the species on the project site. All plant species detected on the site during the survey will be identified to the extent necessary to determine rarity and listing status. The survey will consist of two site visits spanning the peak flowering season of the target species. These surveys must be conducted during this timeframe to avoid agency scrutiny. Surveys conducted outside of this time period may be rejected by the resource agencies (CDFW, USFWS, and/or Western Riverside County Regional Conservation Authority [RCA]), and additional surveys during the appropriate time period may be required by the resource agencies.

The consultant team will prepare a letter report describing the survey methodologies and results of the focused NEPSSA surveys to be submitted to the City. One round of consolidated review and comment is assumed for the focused NEPSSA survey report. A copy of the report will be sent to the MSHCP Biological

Monitoring Program by the City as required under the MSHCP. The report will be included as an attachment to the NES-MI.

Deliverables:

- *NES-MI [Draft and Final]*
- *JD [Draft and Final]*
- *Bat Habitat Assessment [Draft and Final]*
- *MSHCP Consistency Analysis [Draft and Final]*
- *DBESP Report [Draft and Final] (Optional)*
- *Focused Burrowing Owl Survey (Optional)*
- *NEPSSA Focused Survey (Optional)*

- **Air Quality**

Develop a work plan explaining the assumptions and methodology for the Air Quality Report to Caltrans Staff for review and approval prior to beginning the development of the report. The work plan will outline the construction, traffic data, and modeling assumptions.

- *Deliverables: Air Quality Report Work Plan (pdf)*

The Air Quality Report will be prepared in accordance with the Caltrans Standard Environmental Reference (SER) Chapter 11 (Air Quality) and the annotated outline. The Air Quality Report will address requirements under transportation conformity, NEPA, and CEQA criteria. The technical report will include the following discussions and analyses:

- Setting. The analysis will include discussions of the affected environment including meteorology/climate of the project area; existing air quality conditions; federal, state, and local air quality rules and regulations; and approved air quality plans.
- Transportation Conformity. The project area is in nonattainment for ozone and PM2.5. Transportation conformity requirements will be identified and evaluated for the project. Transportation conformity will be at regional and project levels:

  Regional Conformity. Regional conformity of the project will be demonstrated by the project inclusion in the latest conforming regional transportation plan (RTP) and the federal transportation improvement program (FTIP). This includes coordination with City, County, and Caltrans regarding project inclusion in the latest transportation plans and programs.

  Project Level Conformity (CO Hot Spot Analysis). The carbon monoxide (CO) hot spot analysis will be based on the CO protocol developed by UC Davis.

  Project Level Conformity (Particulate Matter Hot Spot Analysis). The project is exempt from project-level conformity under 40 CFR 93.126 (Railroad/Highway Crossing). Therefore, the analysis will document this exemption and explain that the project is a grade separation that does not

change the number of through lanes and does not change the channelization or signalization status of intersections.

- **Project Greenhouse Gas Emissions.** Greenhouse gas (GHG) emissions and impacts from the project would be evaluated following the current Federal and State guidance. The effects of transportation control measures in reducing project emissions will be described.
- **Mobile Source Air Toxics (MSAT).** MSAT analysis will be performed following the FHWA Interim Guidance Update on Mobile Source Air Toxic Analysis in NEPA Documents (January 2023).
- **Short-Term Construction Air Quality Impacts.** Air quality impacts due to short-term project construction activities will be evaluated. Project construction emissions will be quantified based on project construction information using agency approved emission calculation tools. The analysis will also identify appropriate control measures to minimize construction emissions.

Deliverables: Air Quality Report (pdf)

o Noise Study

Noise Study Report Work Plan: develop a work plan explaining the assumptions and methodology for the Noise Study Report to Caltrans Staff for review and approval prior to beginning the development of the report. The work plan will outline the noise measurement locations and modeling assumptions, including receiver locations and hourly traffic volume assumptions.

Deliverables: Noise Study Report Work Plan (pdf)

Noise Study Report: A traffic noise study will be conducted in accordance with the Traffic Noise Analysis Protocol developed by Caltrans to produce a Noise Study Report. The protocol requires identification of noise impacts at different types of activity areas affected by the project. The noise study will address both the State and Federal noise abatement criteria (NAC) to support the NEPA CE. The following tasks will be conducted to prepare the noise study:

- **Identify Potential Sensitive Receptors**. Based on aerial images and a field visit, potential sensitive receptors for noise impacts will be identified and mapped.
- **Measure Existing Noise Levels.** Existing noise levels will be measured at representative receiver locations within the study area to quantify existing worst-hour noise levels and to provide data for model calibration purposes. The field work plan and methodology memo will be provided to the City and Caltrans approval prior to

the collection of noise measurements. Within the noise study area, consultant will perform concurrent directional traffic counts by vehicle classification and determine speeds of all major roads during on-site short-term noise monitoring and collect one short-term (15 minute) noise measurements at six locations. Traffic noise will be modeled using TNM 2.5, as currently required per Caltrans' Standard Environmental Reference (SER) and FHWA guidance.

- Model Future Noise Levels. Modeling is required to calculate noise levels throughout the project corridor using FHWA's Traffic Noise Model (TNM) would be used to calculate existing noise levels and predict future noise levels with and without the project. The model will be calibrated to the measured noise and traffic conditions and then used to predict existing and future noise levels. Traffic noise modeling will be conducted in accordance with the Caltrans recommended procedures. Traffic noise will be modeled using TNM 2.5, as currently required per Caltrans' SER and FHWA guidance. It should be noted that TNM 3.0 may be required at the time of the noise analysis, and as such would be used by the project team.
- **Construction Noise.** Construction noise will be predicted using methods outlined in the protocol that utilize the Roadway Construction Noise Model. This task assumes that the Noise Study Report will not identify reasonable or feasible noise abatement and that a Noise Abatement Decision Report (NADR) will not be necessary.

Deliverables: Noise Study Report (pdf)

- **Phase 1 Environmental Site Assessment (Hazardous Materials)**

The Initial Site Assessment (ISA) scope of services described in this task addresses the due diligence procedures and methodology presented in the American Society for Testing and Materials (ASTM) Standard Method E 1527-13, Standard Practice for Environmental Site Assessments and Chapter 18 of the California Department of Transportation (The Department) document titled Project Development Procedures Manual (1999). The Project Development Procedures Manual states that "every project that includes excavation, structure demolition or modification, or the purchase of new right-of-way, will require an ISA to determine if known or potential hazardous waste is present within the project limits".

The Caltrans Handbook refers to conducting hazardous materials assessments consistent with ASTM 1527-21. This scope limits the Subject Property to Hargrave Street between Lincoln Street and Ramsey Street including the adjacent frontage properties, all four I-10 Interchange ramps up to the freeway gore areas, along the UPRR right-of-way between San Gorgonio Avenue and approximately 4,500 linear feet east of Hargrave Street.

- The ISA provides the following:
  - An identification of Recognized Environmental Conditions (RECs)
  - An opinion of the impacts on the property resulting from conditions identified during the investigation, by a qualified Environmental Professional (EP)
  - An opinion, by a qualified EP, on the need for additional investigations
  - A statement consistent with ASTM E 1527-21, 12.13, on the qualifications of the EP and the suitability of the ISA to meet the requirements of The All Appropriate Inquiry Rule, CFR 40 312.
- The assessments will reflect the general national standard of practice and the local customary practice as understood by the EP. The EP will use ASTM 1527-21 along with our judgment and experience when reviewing results of the assessment and in identifying findings and RECs.
- Findings relative to potential hazardous waste facilities within and adjacent to the project boundaries will be summarized in the final ISA report. The following tasks refer to only that information that is defined as reasonably ascertainable.
  - Records Review: This task will generally consist of an environmental database record search, aerial photograph review, and review of historical maps and sources.
  - Site Reconnaissance: Conduct a site reconnaissance at the subject property consistent with ASTM E 1527-21, Section 9. The site reconnaissance will be non-invasive.We will not collect or analyze any samples. We assume that we will be allowed appropriate access to areas of the site and that the site reconnaissance shall be conducted as a single event. Should an additional site reconnaissance be required due to access limitations, the additional site reconnaissance shall be considered additional services.
  - Interviews: Consistent with ASTM E 1527-21, the consultant team will make a reasonable attempt to conduct interviews with current and past property owners, neighboring property owners in the case of abandoned

properties, or local agency representatives with knowledge of the project area.

- ISA Report Preparation: Prepare a summary report for the subject property. The report will be formatted consistent with Appendix X4 of ASTM E 1527-21. The report will include conclusions and recommendations based on the findings of the ISA. The Caltrans ISA Checklist will be completed and included with the final report.
- Since results of the ISA are unknown, hazardous materials testing is excluded from this scope of services, with the exception of ADL, which is included as optional.
- Community Impacts (Optional)

- A Community Impact Assessment (CIA) will be prepared, consistent with the guidelines in the FHWATechnical Advisory T6640.8A, Caltrans CIA Handbook (October 2011), Caltrans CIA template (2024) and other applicable guidance from the FHWA and the Caltrans SER Web sites. The consultant team reviewed the Caltrans SER and determined that a mid-level CIA would be appropriate for this project. This was determined because of the likelihood of property acquisitions to accommodate for the widening of Hargrave Street. The CIA is anticipated to focus on land use impacts, consistency with applicable State, Regional, and Local Plans, community character and cohesion, relocations and real property acquisition, traffic and transportation/pedestrian and bicycle facilities, utilities, emergency services, and public involvement. The CIA will provide a description of existing, adopted, and proposed land uses on and in the immediate vicinity of the project site, including employment and activity centers. The CIA will also address the proposed project's consistency with relevant local, regional, and State regulations and land use, transportation, and air quality plans. Housing, employment, and population conditions, as well as the locations of important community facilities in the vicinity of the project site will be described. Relevant demographic and land use information for the project study area will be mapped. The project may require parcel acquisitions and relocations. An analysis of the project's potential right-of-way impacts and associated socioeconomic impacts will be discussed in the CIA. The CIA will also address federal environmental justice requirements and evaluate whether the project would increase/decrease transportation equity in the affected community of Banning. The project may include the closure and/or rerouting of several streets; therefore, a discussion of the project's impacts on community access will also be provided in the CIA.

The CIA will also provide recommendations to avoid, minimize, and/or mitigate potential adverse impacts of the proposed project where feasible and warranted.
One round of consolidated review and comment is assumed for the Community Impact Assessment.

Deliverables: Community Impact Assessment (CIA) [Draft and Final]

- Paleontological Resources (Optional)

To address the potential for the project to impact sensitive paleontological resources per CEQA and NEPA, as well as other State and local regulations and requirements regarding paleontological resources, the consultant team will prepare a combined Paleontological Identification Report/Paleontological Evaluation Report (PIR/PER) during PA&ED. The PIR/PER will follow the guidelines set forth by the California Department of Transportation (Caltrans) Standard Environmental Reference (SER) Environmental Handbook, Volume 1, Chapter 8 – Paleontology, as well as guidelines established by the Society of Vertebrate Paleontology and industry best practices. Completion of the PIR/PER will involve the following tasks:
Background Research. The consultant team will conduct a fossil locality search through the records of the Natural History Museum of Los Angeles County (NHMLAC). The fossil locality search is necessary to document the status and extent of previously recorded paleontological resources within the project area and within the same or similar deposits as those found in the project area. This information will help determine the types of paleontological resources that may be encountered during project development. The consultant team will examine current geologic maps of the project area and review relevant geological and paleontological literature to document which geologic units are present within the project area. The literature review will provide additional information regarding the types of paleontological resources that may occur in those deposits and their scientific significance, as well as the methods necessary to mitigate any impacts to those resources. Paleontological Identification Report/Paleontological Evaluation Report. The consultantteam will document the results of the fossil locality search through the NHMLA and the literature review in a PIR/PER. The PIR/PER will assess whether there are known or reasonably anticipated paleontological resources within the project footprint and based on the description of proposed work and excavation parameters, determine whether project excavation will impact those resources. If this research indicates

that significant resources may be impacted by project development, the PIR/PER will make recommendations regarding mitigation efforts and the preparation of a Paleontological Mitigation Plan (PMP). One round of consolidated review and comment is assumed for the Paleontological Identification Report/Paleontological Evaluation Report.

Deliverables: PIR/PER [Draft and Final]

- Water Quality (Optional)

The consultant team will prepare a Water Quality Assessment Report (WQAR) for the project that follows the Caltrans December 2022 Water Quality Assessment Report Content and Recommended Format. The WQAR will discuss watershed and drainage characteristics, surface receiving waters, groundwater hydrology, regulatory requirements, pollutants of concern, receiving waters conditions, objectives, and beneficial uses, and floodplains. The report will discuss construction site, Design Pollution Prevention, and Treatment Best Management Practices (BMPs) that are applicable to the project per Caltrans' Storm Water Quality Handbooks Project Planning and Design Guide. The WQAR will also discuss any Low Impact Development (LID) features that are included as part of the project to address water quality impacts. The project's impacts on water quality will be evaluated and pertinent regulations and/or avoidance, minimization, and/or mitigation measures, where appropriate and necessary to prevent adverse water quality impacts, will be identified.

Information to be obtained from the Storm Water Data Report (SWDR); and Hydrology Report and incorporated into the WQAR entails proposed construction and operational BMPs, disturbed soil area, new impervious surface area, additional impervious surface areas to be treated from the project, existing and proposed drainage patterns, existing and proposed rate and volume of stormwater runoff, and proposed construction and operational BMPs. Information on depth to groundwater, proposed depth of excavation or pile installation, the potential for groundwater dewatering during construction, soil types, and erosion potential will be obtained from project Geotechnical Report. Additionally, information on riparian habitat, jurisdictional waters, and aquatic-dependent species and impacts to those biological resources will be obtained from the natural resources evaluations. One round of consolidated review and comment is assumed for the Water Quality Assessment Report.

Deliverables: Water Quality Assessment Report [Draft and Final]

- Aerially Deposited Lead (ADL) Investigation (Optional)

The consultant team will prepare a workplan and submit to Caltrans for review.

Soil Samples: Caltrans requires ADL boring interval to be 300 feet or less, and depending on the lateral distance of the excavation, more than one-line of borings is sometimes required. We assume only one line of borings is required for this project. According to the Caltrans Guidance, samples for ADL testing should be obtained from depths extending to the bottom of proposed construction excavations. Since higher ADL concentrations are usually found near the ground surface and the ADL concentration usually diminishes with depth, we are proposing a two-phase program in an attempt to reduce costs. The boring and sampling depth for the first phase will be limited to 4 feet. If soils are determined to have high levels of lead, then a second phase field sampling would be required to collect samples from greater depths (to proposed excavation depths). The scope given below is for the first phase of work only.

We will excavate no more than 8 shallow borings, within Caltrans right-of-way, to collect near-surface material samples for ADL testing. Samples will be collected from borings excavated using a 3-inch stainless steel hand-auger. Near-surface soil samples will be collected approximately at 0.5, 1.5, 3 and 4-footdepths from each boring.

We will forward the soil samples to a California Certified analytical laboratory for testing:

- All samples shall be tested for total lead using U.S. EPA Method 6010B,
- Samples that contain greater than or equal to 80 mg/kg of total lead shall be analyzed for soluble lead using California Waste Extraction Test (citric acid extraction) for extractable lead,
- Samples that contain greater than or equal to 5 mg/l of extractable lead using CA-WET (citric acid), shall be analyzed using DE-WET (de-ionized extraction) for de-ionized extractable lead,
- Samples that contain greater than or equal to 1,000 mg/kg of total lead, or greater than or equal to 5 mg/l of extractable lead using CA-WET (citric acid) shall be analyzed using the EPA Toxic Characteristic Leaching Procedure (TCLP) for leachable lead, and
- Ten percent of soil samples collected shall be analyzed using U.S. EPA Method 9045C for pH.

Yellow Thermoplastic Traffic Stripping Samples: The yellow thermoplastic traffic striping will be sampled and tested for concentrations of lead and chromium. No more than 4 samples will be collected within
Caltrans right-of-way.

The retrieved paint samples will be immediately placed in clean glass jars with teflon lids. Jars will be labeled with project information including the project name and number, sample number, location from which the sample was collected, and date and time of sampling. All samples will be entered

on chain-of-custodyforms and transported to a certified laboratory for testing.

- Samples shall be analyzed for total lead using U.S. EPA Method 6010B,
- Samples shall be analyzed for Chromium using U.S. EPA Method 6010B,
- Samples that contain greater than or equal to 80 mg/kg total lead shall be analyzed for soluble lead using California Waste Extraction Test (citric acid extraction) for extractable lead,
- Samples that contain greater than or equal to 50 mg/kg total chromium shall be analyzed for soluble lead using CA-WET (citric acid extraction),
- Samples that contain greater than or equal to 100 mg/kg of total lead, or greater than or equal to 5 mg/l of extractable lead using CA-WET (citric acid) shall be analyzed using the EPA Toxic characteristic Leaching Procedure (TCLP) for leachable lead, and
- Samples that contain greater than or equal to 100 mg/kg of total chromium, or greater than or equal to 5 mg/l of extractable lead using CA-WET (citric acid) shall be analyzed using TCLP for leachable lead.

ADL Report: Following the ADL investigation, we will prepare a report for the project, summarizing the findings of the lead testing investigation. The report will include findings of the field sampling, results of laboratory tests and the statistical analysis, and recommendations for reuse of on-site soils excavated during construction.

Deliverables: ADL Report (pdf)

5.3.VISUAL IMPACT ASSESSMENT (VIA) OPTIONAL

VIA Work Plan: Develop a work plan explaining the assumptions and methodology for the Visual Impact Assessment to Caltrans Staff for review and approval prior to beginning the development of the VIA. The work plan will outline the level of VIA recommended for the project along with a preliminary outline, number of recommended visual simulations and key viewpoints recommended.

Visual Impact Assessment: We assume a VIA Memorandum, which analyzes the changes to the visual setting and aesthetics associated with construction and implementation of the project, shall be prepared. The analysis will be performed using methods and protocol developed by the Federal Highway Administration (FHWA) and adopted by the Caltrans and will utilize Caltrans' VIA Memorandum template. The principal components of the visual setting will be inventoried and shall include: views, viewsheds, viewer groups, visual resources and

the quality and character of the project corridor. We will consider and identify potential visual aesthetic treatments for the project which will enhance the project will also be identified and considered. A context sensitive solution approach shall be utilized and implemented in the preparation of the VIA Document.
As part of this task, we will attend up to three (3) meetings and coordinate with the Client, consultant, Caltrans and other key team members as requested and/or reasonably required to provide recommendations.

Deliverables:

- *VIA Work Plan (pdf)*
- *Memorandum Visual Impact Assessment Document (pdf)*

Assumptions:

A Sediment Transport Study is not required.

6. PLANS, SPECIFICATIONS & ESTIMATES (PS&E)

This task shall include detailed engineering calculations, design, construction plans, specifications and special provisions and engineer's construction cost estimate and bid schedule for the project that will enable the City to advertise and award the construction contract for the project.

The responsible Consultant/Engineer shall sign all Plans, Specifications, and Estimates (PS&E) and engineering data furnished by him/her, and where appropriate, indicate his/her California registration number. The Consultant shall prepare and furnish Special Provisions for items of work included in the plans which are not covered in the Standard Specifications, Caltrans-approved standard special provisions, and City approved standard special provisions.

Federal regulations require a Value Analysis study on all federal aided projects with a total cost (construction, right-of-way, and support) exceeding $50 million. The Hargrave Street Grade Separation will be federally funded and therefore a Value Analysis should be included in this scope.

6.1. REPORTS

Water Quality Management Plan

Consultant will prepare a Water Quality Management Plan (WQMP) for the project as required for urban runoff from municipal separate storm sewer systems (MS4 permit). The scope of the WQMP will include recommendations for post-construction permanent best management practices (BMPs), including source control (structural and non-structural) and treatment BMPs. Recommendations for BMPs will be incorporated into the project's PS&E. This work includes documentation and incorporation of environmental requirements and mitigation measures, NPDES, temporary and permanent BMPs, air/water quality, erosion/sediment control) into the Project construction documents.

Compliance with the Municipal Separate Storm Sewer Systems (MS4) Permit will be a dual process. Caltrans will require a Stormwater Data Report (SWDR) to comply with the MS4

Permit for work within their right-of-way. For the City portion, compliance with the Whitewater River Watershed MS4, a Water Quality Management Plan (WQMP) is required for Priority Development Projects. Since the grade separation project does not fit within one of the seven categories established in the guidance, a WQMP is not required; however, the MS4 Permit does require the project implement Best Management Practices to the Maximum Extent Practical (MEP), which will we document in the WQMP template format.

Assumptions:

- Consultant shall provide base Project data (areas, slopes, etc.) for the Storm Water Pollution Prevention Plan (SWPPP). The Contractor shall be required to engage a licensed engineer to prepare the SWPPP.

Deliverables:

- Water Quality Management Plan (WQMP)
- Storm Water Pollution Control Plans
- Storm Water BMP Plans
- Storm Water Pollution Plan Preparation (SWPPP)
- Notice of Intent

Hydrology & Hydraulics Reports

The Hydrology and Hydraulics Report shall quantify the magnitude and frequency of design flows from adjacent areas for the Project area, as well as the peak flows and volumes attributable to the proposed improvements. It will also include a description of the proposed on-site drainage improvements and any treatment Best Management Practices (BMPs) to be incorporated into the design to satisfy National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer Permit (MS4 Permit) requirements.

The Consultant will investigate hydrologic and hydraulic features of the site as necessary to accommodate the grade separation.

Design storm events to be analyzed are 10-year, 50-year, and 100-year storm events.

Deliverables:

- Draft Hydrology & Hydraulics Report
- Final Hydrology & Hydraulics Report

Traffic Management Plan

A Traffic Management Plan (TMP) will be developed with the objective of the TMP being to provide continuous traffic circulation and access, with adequate space for safe and efficient construction. The TMP will be coordinated with project stakeholders. Development of the staged construction and traffic detours, closures or alterations to traffic patterns will be

included.

Prepare Caltrans District 8 Transportation Management Plan (TMP) Data Sheet for Caltrans approvals. Lane closure charts for the I-10 ramps will be provided by Caltrans and incorporated into the specifications.

We assume analysis of one alternate detour route and up to 10 intersections.

Since results are unknown, design for intersection improvements is not anticipated. If design is needed, temporary design plans would be considered as additional services or be provided by the Contractor.

The TMP shall be developed according to Caltrans TMP Guidelines. TMP strategies include:

- Public Information
- Motorist Information
- Incident Management
- Construction Strategies
- Demand Management
- Alternate Routes (or Detours)

Assumptions:

- Although the TMP shall be prepared per Caltrans guidelines, it is anticipated that Caltrans review and approval of the TMP shall be limited to portions impacting their right-of-way only.

Deliverables:

- Draft Traffic Management Plan
- Final Traffic Management Plan

Geotechnical Investigations & Report

Consultant shall conduct geotechnical investigation, and shall report findings to support structures, pavement, and other portions of the Project requiring geotechnical support.

Consultant will provide geotechnical, geologic and seismic design recommendations. Consultant will provide geotechnical and foundation recommendations for roadway, bridge, retaining walls, and other structures, as required.

Consultant will prepare a geotechnical, materials and bridge foundation report with information gathered during the site visit and review of existing subsurface data, geotechnical borings, results obtained from the alternative analysis, and the preliminary bridge and retaining wall foundation data.

<u>Geotechnical Field Exploration & Laboratory Testing</u>

It will be the responsibility of the Consultant to notify Underground Service Alert (USA) and provide traffic control. The approved locations will be marked in the field and USA will be

notified. Traffic control in the City right-of-way (when required) for the field investigation will be performed in accordance with the California Joint Utility Traffic Control Manual, the Manual on Uniform Traffic Control Devices (MUTCD) and the Standard Specifications for Public Works Construction per City requirements. Traffic control in Caltrans right-of-way will be performed in accordance with Caltrans Standard Plans.

The deep boreholes will be excavated using a truck-mounted rotary-wash drill rig. Soil cuttings will be temporarily stored onsite in 55-gallon drums, tested for contaminants, then disposed offsite. The shallow boreholes will be excavated using a truck-mounted or track-mounted drilling rig equipped with 8-inch diameter hollow-stem augers. Spoils generated from the hollow-stem auger borehole excavations will be mixed with cement and water and used to backfill the boreholes. Asphalt concrete cold-patch will be used to replace asphalt that is removed by excavations, and quick-set cement will be used to replace concrete that is removed by excavations.

Laboratory Testing

Consultant field personnel will collect soil samples for laboratory testing, including bulk samples of near surface soils and small disturbed and relatively undisturbed ring samples of deeper soils. The small disturbed and relatively undisturbed soil samples will be collected using split-spoon samplers at a vertical interval of about 5 feet, alternating between the Standard Penetration Test (SPT) sampler and the Modified California Drive (MCD) sampler. Samples of subsurface soils will be logged during the field investigation, secured in their containers or collected in plastic bags, and transported to the Consultant laboratory.

Consultant will select representative soil samples for laboratory testing. Various laboratory tests will be performed to determine or derive physical and engineering characteristics of soils. Anticipated laboratory soil tests include: in-situ moisture content and density, grain size distribution, Atterberg limits, direct shear, consolidation, unconsolidated-undrained triaxial, R-value, maximum density and optimum moisture content, and soil corrosion tests. Tests will be conducted in general accordance with California Test methods or ASTM standards.

Preliminary Foundation Reports

PFRs are required for non-standard design elements located within Caltrans right-of-way only. Based on current project layout, Consultant will prepare a Preliminary Foundation Report (PFR) to provide preliminary geotechnical information to assist structural designers in the Type Selection process. These PFRs will be prepared using the available subsurface data and the format will be in accordance with the current Caltrans Guidelines.

Geotechnical Engineering Analyses

Results obtained from the field investigation and laboratory testing will be used to characterize subsurface soils and conditions and create idealized soil profiles for design purposes. The following analyses will be performed for the project:

- Evaluation of seismicity and estimation of Peak Ground Acceleration based on the Caltrans design criteria, and recommendations of an ARS curve for the bridge structural design.

- Assessment of soil liquefaction potential, seismic settlement, and lateral spreading.
- Foundation analysis for bridge and retaining walls.
- Assessment of global slope stability and settlement of embankments.
- Evaluation of soil corrosivity conditions and recommendations for mitigation measures.
- Design of pavement structural section in accordance with the Caltrans method.

Report Preparation

Consultant will analyze the results and present them in the geotechnical report. The geotechnical report will be prepared to include recommendations for design and construction of bridge foundations, bridge type selection, earth retaining structures, cut and fill slopes, pavement, and drainage facilities.

It is assumed that Caltrans will review only the improvements in their right-of-way; therefore, a Foundation Report will be prepared for retaining walls within Caltrans right-of-way. A Geotechnical Design Report and a Materials Report will be prepared for the improvements within Caltrans right-of-way. A Geotechnical Report will be prepared to include all other improvements within the project. The Foundation Report for non-standard retaining walls within Caltrans right-of-way will be prepared in accordance with the Caltrans Guideline-Foundation Reports for Earth Retaining Systems (ERS) dated June 2017. The Geotechnical Design Report (GDR) will be prepared in accordance with Caltrans guideline dated December 2006. The Materials Report will be prepared in accordance with Caltrans Highway Design Manual Topic 114 dated November 2017.

Assumptions:

- Geotechnical Investigation is allowed between 8am and 4pm on weekdays.
- Engineer Stamped Traffic Control Plans are not included. Any borings requiring traffic control are assumed to be performed in accordance with the WATCH Manual. If required, Consultant can prepare Traffic Control Plans signed by a licensed Civil or Traffic Engineer for geotechnical boring work for an additional fee.
- Infiltration testing is not anticipated.

Deliverables:

- Geotechnical Report
- Foundation Report (FR)
- Geotechnical Design Report (GDR)
- Materials Report (MR)

Landscape & Aesthetic Concepts

Based on input provided by the City, the stakeholders and the information gathered during the site reconnaissance, the Consultant shall define opportunities and constraints including site features and context, climatic influences, pedestrian and vehicular circulation systems,

landscape planting, and view corridors for use in the preparation of the landscape concept plan. Conceptual plans or exhibits shall be submitted. The landscape concept shall contain an initial plant palette, planting design, and median hardscape treatments. Consultant shall prepare an image board composed of relevant imagery. Proposed hardscape and softscape materials and finishes shall be included to further illustrate the design intent. Image boards may be presented at community outreach meetings, at the City's discretion.

Colored 2D exhibits shall be prepared for railroad bridge and retaining wall aesthetics. Aesthetic options may be presented at community outreach meetings for stakeholder input.

Assumptions:

- *Two (2) revisions to the landscape concepts is included in this scope.*
- *Bridge and retaining wall aesthetics/architectural features should be similar to those found at the Sunset Avenue Grade Separation in the City of Banning.*

Deliverables:

- *Landscape Concepts*
- *Bridge and Retaining Wall Aesthetic Concepts*
- *Existing Conditions Imagery*
- *Existing Context Diagram*
- *Opportunities and Constraints Diagram*
- *Design Narrative*
- *Site Features Inspiration Imagery*
- *Retaining Wall Aesthetic Concept Elevations*
- *Railroad Bridge Fencing Aesthetic Concept Elevations*
- *Pedestrian Fencing Aesthetic Concept Elevations*
- *Conceptual Hardscape Materials & Finishes Plan & Imagery*
- *Conceptual Planting Materials Plan, Palette List & Imagery*
- *Existing and Proposed Perspective Rendering Views*

Structure Type Selection Report

A Structure Type Selection Report will be prepared for the railroad bridge. The bridge type report will include a discussion of foundation and falsework requirements, seismic and aesthetic considerations, traffic handling requirements, staging, and construction cost. Anticipated construction methods for building the bridge off-site and moving it into place will be identified in the Type Selection process and coordinated with the project geometry. Consultant will submit Type Selection documents to the City, UPRR and CUPC for review and approval.

A Type Selection Report (TSR) will be required to be prepared for the Hargrave Undercrossing Retaining Wall and for the Hargrave Street Underpass bridge. The TSR will follow the guidelines of Caltrans Memo to Designers (MTD), Section 1-29 "Structure Type Selection",

and Caltrans Office of Special Funded Projects (OSFP) Information and Procedures Guide, Section 4-2 "Structure Type Selection".

The purpose of the TSR is to further evaluate the design of each structure and selected the appropriate structure and will conduct a constructability review to identify any potential challenges with the selected structure type. The TSR will encompass:

- Type Selection Memo: this will document the selection process used to choose the type of structure, it will discuss the pros and cons of the structure and potential construction challenges associated with the chosen structure, the design criteria that will be used including the seismic design criteria, and preliminary foundation recommendations that will be based off the Preliminary Geotechnical Report.
- General Plan of the proposed structure: This will include an Elevation View, Plan View, and Typical Section for each structure.
- General Plan Estimate: This will be the estimated construction cost for the proposed structure based on a high-level quantity takeoff for each structure.

The TSR for the underpass will be submitted to the City, UPRR, and CPUC for review and approval. The TSR for the undercrossing walls will be submitted to the City, and Caltrans. It is anticipated that a Type Selection Meeting (TSM) will be required for each structure. A TSM is expected with Caltrans for the Hargrave Street Undercrossing retaining wall, and a TSM is expected with UPRR for the Hargrave Street Underpass. Each of these meetings are expected to be virtual.

Deliverables:

- *Structure Type Selection Report*
- *I-10 Hargrave Street Undercrossing Retaining Wall TSR*
- *Hargrave Street Underpass Bridge TSR*
- *Virtual TSM with Caltrans for the I-10 Hargrave Street Undercrossing Retaining Wall*
- *Virtual TSM with UPRR for the Hargrave Street Underpass Bridge*

6.2. CALCULATIONS

All roadway calculations and structural analyses and design will be performed using Caltrans' current standards and requirements.

Civil/Survey Calculations

The Consultant shall provide the following roadway calculations:

- Geometric traverse and right-of-way
- Template notes and slope staking note.
- Profile
- Grid grades.

Survey calculations shall include measurements of square footage for certain fee takes and the associated closure reports necessary for PS&E.

Quantity calculations shall be submitted with the Cost Estimates.

Calculations shall be submitted at the 60% and 90% milestones and updated as required beyond the 90% milestone. The 60% calculations (Draft) shall undergo a cursory QA/QC review. The 90% (Final) calculations shall be fully checked and reconciled.

Assumptions:

- *Cross sections for proposed roadway features (CL, TC, FL) will be provided at 25- foot intervals and key points.*

Deliverables:

- *Draft Civil/Survey Calculations*
- *Final Civil/Survey Calculations*

Structural Calculations

Structural calculations shall be provided for the bridge and any retaining walls that are not covered by Caltrans Standard Plans or are manufacturer-/contractor-designed retaining walls. AASHTO and Caltrans criteria shall govern the design of the structures.

Calculations shall be submitted at the 65% and 95% milestones and updated as required beyond the 95% milestone. The 65% calculations (Draft) shall undergo a cursory QA/QC review. The 95% (Final) calculations shall be fully checked and reconciled with the Independent Checker. Supplemental calculations will be submitted at 100% as needed.

The design of the Hargrave Street Undercrossing Retaining Walls will utilize AASHTO LRFD Bridge Design Specifications 8th Edition with interims from Caltrans, Caltrans Memo to Designers, and Caltrans Seismic Design Criteria, along with Caltrans Standard Plans and Specifications.

The design of the Street Underpass will utilize the latest version of the American Railway Engineering and Maintenance-of-Way Association (AREMA) Code as required by UPRR.

Deliverables:

- *Draft Structural Calculations at 65%*
- *Final Structural Calculations at 95%*
- *Supplemental (or Updated) Structural Calculations at 100%*

Independent Check

Independent Structural Calculations shall be performed between the 65% and 95% milestones.

Assumptions:

- The bridge and retaining walls shall undergo a full independent check, and the deliverable shall include a second set of independent structural check calculations.

Deliverables:

- Independent Structural (Bridge) Calculations

6.3. PLAN PREPARATION

Plans shall be prepared and submitted for the 35%, 65%, 95%, 100% and Issued for Bid (IFB) (or Final) milestones. All plan checks, except Caltrans, UPRR and CUPC plan reviews, shall be submitted electronically through the City of Banning plan check portal. One (1) set of 24-inch x 36-inch original mylar signed/sealed plans shall be submitted for the IFB submittal.

Plans shall be prepared electronically according to the CADD Standards established in the approved Project Management Plan.

The following sections of this Scope of Services describe specific categories of plans (e.g. Roadway Plans). Consultant shall not submit plans separately; all plans noted shall be submitted as a combined set at each milestone submittal.

Based on feedback received during the Project Concept Report phase from the City, Caltrans, and UPRR, we will prepare 35%, 65%, 95%, and 100%, and Issue for Bid (IFB) Plans to the City for review and comment. The plans will include the necessary civil and structural modifications within the project area. The scope and fee are based on the attached sheet count.

The plans will be prepared in accordance with applicable City of Banning, County of Riverside, Caltrans, Standard Plans for Public Works Construction, and CA MUTCD, and UPRR standards.

General Plans

General plans may include title sheet, vicinity and location map, sheet index, location map, construction notes, construction legend, standard symbols, telephone numbers of utilities and other affected agencies and businesses, basis of bearing and benchmark, general notes and abbreviations.

Deliverables:

- 35%, 65%, 95%, 100% Plans

Survey Control Plan

Survey and horizontal control plan shall be developed to provide street and rail centerlines and bridge ties to establish project control points.

Deliverables:

- 65%, 95%, 100% Plans

Right-of-Way Plans

Sheets shall delineate the existing right-of-way, and the acquisitions and easements (specifically Temporary Construction Easements) that are available for the Contractor's use.

Assumptions:

- Temporary Construction Easements will not be shown elsewhere in the plans. If the City desires to show them in the plans, they will appear only on the Right-of-Way Plans.

Deliverables:

- 65%, 95%, 100% Plans

Roadway Plans

Roadway or related facilities plans shall be prepared in conformance with the current City Design and Standard Plans for roadway within City right-of-way and shall be per Caltrans standards and requirements within Caltrans right-of-way.

Roadway plans will include demolition and removal plans, typical sections, plan and profile, intersection details, off-site improvement plans, contour grading plans, temporary water pollution control plans, erosion control plans and construction details.

Working roadway cross sections will be prepared but we do not anticipate including these in the final plan set.

Roadway plans may include:

- Demolition and Removal Plans
- Typical Sections
- Cross Sections
- Plan and Profile
- Intersection Details
- Off-Site Improvement Plans
- Grading Plans
- Erosion Control Plans
- Construction Details

Deliverables:

- 35%, 65%, 95%, 100% Plans

Railroad Tracks Plans

Railroad tracks or related facilities plans shall be prepared in conformance with the current UPRR and CUPC standards and requirements within UPRR right-of-way.

Prepare railroad track plans in conformance with current UPRR and CPUC standard plans and formatting requirements that will include the following: general notes, details, construction phasing, shoofly typical sections, shoofly plan and profile, shoofly geometry table, shoofly cross sections, mainline track typical sections, mainline track plans and profile, mainline track geometry table, and mainline track cross sections. Railroad plans assume mainline track does not need to be raised.

Railroad plans may include:

- Mainline Tracks Plans
- Shoofly Tracks Plans
- Typical Sections (Mainline & Shoofly)
- Cross Sections (Mainline & Shoofly)
- Plan and Profile (Mainline & Shoofly)
- Geometric Data Table (Mainline & Shoofly)

Deliverables:

- 35%, 65%, 95%, 100% Plans

Traffic Plans

Traffic plans may include:

- Traffic Signal Plans
- Pavement Delineation & Signage Plans
- Traffic Handling Plans
- Stage Construction Plans
- Detour and Construction Area Sign Plans
- Street Lighting Plans

Traffic Signal Plans will be prepared for the intersections of Hargrave Street and I-10 EB On/Off ramps and Hargrave Street and I-10 WB On/Off ramps.

Pavement Delineation & Signage Plans will be prepared for Hargrave Street from Ramsey Street to Lincoln Street.

Traffic Handling Plans will be prepared for the project along Hargrave Street from Ramsey Street to Lincoln Street.

Stage Construction Plans shall identify the general sequence of work. The Construction Schedule shall be based on the stages shown in the plans.

Detour and Construction Area Signage Plans will be provided showing routing (detours) for any full closures (such as long term, overnight, or weekend closures). Detour Plans will be provided for Hargrave Street, Lincoln Street, I-10 EB/WB On-ramp closure, and I-10 EB/WB Off-ramp closure.

Street Lighting Plans shall be provided for Hargrave Street and I-10 ramps within the project limits. Lighting will be required under the railroad bridge structure. It is assumed that no temporary lighting will be required. Photometry will be developed, and the plans will depict pole and luminaire type and locations, pull box and power source locations, and wiring/circuit diagrams, schedules, and details (as necessary).

Traffic plans will include traffic signal plans, pavement delineation and signage plans, traffic handling plans, stage construction plans, detour and construction area signs, and street lighting plans. We anticipate three construction phases for the phasing plans.

Deliverables:

- 35%, 65%, 95% and 100% Plans

Utility Plans

Consultant shall identify existing utilities based on collected record, survey, and pothole data. Disposition (protect-in-place, abandon, relocate, relocate by others, etc.) of existing utilities shall be identified.

Proposed utility locations shall be based upon the Consultant's designed elements as well as information provided by third-party utility companies, including the undergrounding of electrical, telephone, cable facilities and petroleum transmission pipelines. Consultant shall design the City Utility relocations per the Cities' standards.

Consultant will develop a concept that relocates the sewer, water, and gas conflicting utilities along a new utility route. This concept will route the sewer lines along Livingston Street across the tracks to Florida Street and run east along John Street to tie back in at Hargrave Street. Water and other dry utilities will be relocated deeper within Hargrave during the excavation of the road. Data tables for each utility identifying size, material, class, bearings, lengths will be included on each plan sheet. Demolition or abandonment limits of existing utilities will be identified.

Sanitary Sewer Plans: Existing City sanitary sewer facilities are located along Hargrave Street. The existing sewer main along Hargrave Street between Ramsey Street and Lincoln Street will require lowering to provide clearance for the new railroad bridge abutments. The existing sewer main goes from 8-inch VCP sewer main from Ramsey Street to John Street to 15-inch VCP sewer main from John Street to Lincoln Street. There are also three sewer manholes that will need to be reconstructed. The Consultant shall consider the need for a sewer bypass to maintain uninterrupted service during the construction phase. The 15-inch VCP sewer main along John Street will need to be adjusted to tie into the sewer main on Hargrave Street. Private property sewer lateral detail plans will be provided for re-establishing sewer lateral connections for the existing commercial buildings and residential houses adjacent to Hargrave and John Street to the newly constructed sewer mains.

Water Plans: Existing City water line facilities are located along Hargrave Street. The existing 14-inch CMLWS water main along Hargrave Street between Ramsey Street and Lincoln Street will require lowering to provide clearance for the new railroad bridge abutments. Private property water service detail plans will be provided for re-establishing service connections for the existing commercial buildings and residential houses adjacent to Hargrave Street to the newly constructed water main.

Kinder Morgan Oil Pipeline: Existing 20" Kinder Morgan Oil pipeline is located 65 ft south of the train tracks. This pipeline runs along the train tracks within the project area limits. The Consultant shall coordinate with Kinder Morgan on the relocation plans to accommodate the new railroad bridge abutments.

Pothole Data Sheet(s): The potholes shall be identified on the plans. A pothole log shall be provided depicting station/offset, coordinates of pothole, utility information such as size, material, and depth, and elevations of existing ground and top of utility.

Assumptions:

- Existing utilities will be protected when possible.
- Sewer, oil and water proposed relocations will be done in-kind for pipe size and materials.

Deliverables:

- 35%, 65%, 95% and 100% Plans

Landscaping & Irrigation Plans

Landscape and Irrigation plans shall be prepared in conformance with City's Specific Plan, City's Water Conservation Ordinance and Caltrans standards and requirements.

Landscaping Plans shall indicate plant species, sizes, quantities and locations with notes, legends, detailed reference callouts and planting details.

Irrigation Plans shall indicate all components and facilities for a permanent automatic irrigation system to support the improvements. Irrigation systems include, but is not limited to, sprinkler head layout, piping, valves, water supply Point-of-Connection(s), irrigation controllers with notes and callouts. Irrigation system design shall incorporate current industry technology and installation methods to produce an efficient system operating within a public environment. Also included shall be the equipment and material legends, and installation details for proposed irrigation facilities.

Prepare landscape irrigation plans, details, notes and calculations portraying irrigation connection, backflow, controller, mainlines, sleeves, lateral lines, head layout and emitters for 100% coverage. The irrigation design will meet the specifications set forth in the State's Water Efficiency Ordinance. Irrigation system design shall incorporate current industry technology. Plans will provide notes for restoring existing landscape at the edges of the limits of work where there is disturbance due to the new irrigation design. It is understood that reclaimed water lines do not exist within the project limits.

Prepare landscape plans, schedule and details illustrating areas of planting, limits of planting, plant species, quantities, size, on-center spacing, water classification, details and notes. All proposed plantings will comply with the State's Water Efficiency Ordinance.

We do not anticipate any irrigation systems within UPRR or Caltrans right-of-way.

Assumptions:

- Off-site landscaping is limited to restoring existing landscaping within the areas of disturbance for the proposed improvements.
- Reclaimed Water lines do not currently exist within the project limits.

Deliverables:

- 35%, 65%, 95% and 100% Plans
- Irrigation Plans
- Irrigation Details
- Irrigation Schedule and Notes
- Planting Plans
- Planting Details
- Planting Schedule and Notes

Drainage Plans

Plans shall be provided for any proposed storm drain facilities, including Post Construction Structural BMPs. Plan and profile sheets shall be provided for all mainline storm drains. Plans shall include connector pipe profile sheets and miscellaneous construction detail sheets, as required, for detailing connections to existing facilities, and other miscellaneous details.

The primary conveyance system within the project area is surface flow that is collected in a ditch that runs along John Street, Banning Airport and eventually to the east into Smith Creek Channel. There is also an RCP that ranges in size from 30-inch to 54-inch owned by RCFC & WCD that collects stormwater along Hargrave Street and adjacent properties south of the train tracks all the way to Smith Creek Channel.

Drainage plans will depict the proposed system connecting to the existing system that exists as part of the City Master Plan at the intersection of Lincoln and Hargrave Street. We anticipate designing a new storm drain from the sump that extends to the south parallel to the existing storm drain due to grade differential. This will join the existing City maintained portion of the system at Barbour Street.

Deliverables:

- 35%, 65%, 95% and 100% Plans

Bridge Plans

Layout sheets, elevations and details shall be provided for the structure selected in the Structure Type Selection Report.

Prepare a UPRR format bridge plan for the Hargrave Street Underpass railroad structure selected in the Structure Type Selection Report.

The 35% plans shall consist of the General Plan and Foundation Plan.

Caltrans Standard Plans and City/County Standards may be referenced, where applicable.

Deliverables:

- 35%, 65%, 95% and 100% Plans

Retaining Wall Plans

Layout sheets, elevations and details shall be provided for the necessary retaining walls on the project. The analysis, design, and layout of retaining wall types are included in this scope. The Consultant shall coordinate with Caltrans on the type of retaining walls needed for this project.

Caltrans Standard Plans and City/County Standards may be referenced, where applicable.

35% plans shall show preliminary layouts but retaining wall details will not be included at that submittal milestone.

We anticipate the following:

- Two ground anchor walls under I-10

- Two Caltrans Standard Modified Type 1 walls along the south side of the westbound ramp intersection
- Two Caltrans Modified Type 1 walls along the north side of the eastbound ramp intersection
- Two cantilevered concrete retaining walls on the north side of the railroad bridge
- Two secant pile walls south of the UPRR bridge in the higher retained areas between Lincoln Street and the UPRR right-of-way
- Two Caltrans Standard Modified Type 1 walls near Lincoln Street in the shorter retained areas where these are more cost-effective.

The additional walls located outside of Caltrans and UPRR right of way, that are located south of the proposed UPRR underpass have been scoped to be modified Caltrans Standard Plan walls, with the exception of the wall that will be required to support the Banning Industrial Park. A total of 10 sheets have been assumed for these walls.

Deliverables:

- 35%, 65%, 95% and 100% Plans

Log of Test Borings

Log of Test Borings sheets will be included as part of the structure plans. The consultant shall prepare the Log of Test Borings sheets in accordance with Caltrans Standard Procedures.

Deliverables:

- 35%, 65%, 95% and 100% Plans

6.4. SPECIFICATIONS

The Consultant shall prepare and furnish Special Provisions for items of work included in the plans which are not covered in the Standard Specifications, Caltrans-approved standard special provisions, and City approved standard special provisions.

Technical Specifications and Special Provisions shall conform to the Greenbook and the City of Banning Department of Public Works latest and Caltrans Standard Specifications and standards for the bridge and retaining wall portions of the design.

The consultant team will prepare technical specifications based upon the boiler plate supplied by the City. Bid items will be described as reasonably required in the General Provisions and will be incorporated in the Contractor's bid list. References for the technical provisions to the City Standards and Standard Specifications for Public Works Construction (Greenbook), Caltrans, or other appropriate specifications will be shown. 35% specifications will take the City boiler plate and provide a draft version that identifies the technical sections needed for the project.

Assumptions:

- Technical Specifications and Special Provisions shall be prepared in Microsoft Word format.
- General Conditions (boilerplate) shall be provided by the City and shall be updated by the Consultant.

Deliverables:

- 35%, 65%, 95% and 100% Plans

6.5. COST ESTIMATES

Throughout the development of the PS&E, the Consultant shall update the preliminary cost estimate.

For construction costs, Consultant shall provide detailed project quantity estimates and cost estimates at the 65%, 95%, 100%. Bid Schedules shall also be provided with each line item referenced to a payment item in the Specifications. The 35% Cost Estimate shall be detailed but will not include cross-references with the Specifications and the Bid Schedule.

In addition to construction cost, overall capital costs (including right-of-way and soft costs) shall also be provided at each milestone. Costs other than construction costs will require input and direction from the City.

The consultant team will prepare an Opinion of Probable Construction Costs (OPCC) based on anticipated construction items and quantities for comparison to project budget and assistance during the Contractor's bidding process. Unit prices will be derived from readily available current bid information based on similar projects within the area. Backup will be generated for lump sum items. Contingencies will be shown, as agreed upon with City staff.

Assumptions:

- Cost Estimates shall be prepared in MS Excel format.

Deliverables:

- 35%, 65%, 95% and 100% Plans

6.6. CONSTRUCTION SCHEDULE

The Consultant shall prepare a minimally detailed construction Critical Path Method (CPM) schedule to support the calculation of the number of Working Days for the Project construction. The CPM schedule shall be provided at the 35%, 65%, 95%, and 100% milestones.

Deliverables:

- 35%, 65%, 95% and 100% Plans

6.7. VALUE ANALYSIS

The Consultant will provide a Value Analysis (VA) in accordance with Caltrans PDPM Chapter 19. This entails the following:

- Provide a qualified, independent Certified Value Specialist (CVS) team leader to lead a VA study in accordance with Caltrans value methodology.
- Provide VA study documentation in accordance with City of Banning guidance.

- Ensure that applicable data and correspondence and any other relevant information necessary for the VA study is collected, developed, and distributed.
- Facilitate VA Team Meetings.
- Develop the Draft VA Study Charter (Attachments A, B, and C per the Caltrans Team Guide).
- Leading VA study. Participants will include the City of Banning, project development team staff, and key outside project stakeholders (local transportation agencies, local government, and permitting agencies). It is assumed that the City will provide any independent VA team members.
- Complete the Preliminary VA Study Report with input/review of VA Team and technical reviewers in accordance with the VA Report Guide – Third Edition and with the following items:
- A distribution list for the VA reports must be developed with the City.
- Submit Preliminary VA Study Report as an electronic copy; no more than 2 weeks following Initial VA Presentation, as specified in the report distribution list.
- Coordinate with the City on the project stakeholders' responses to the Preliminary VA Study Report and prepare for an implementation meeting to resolve the disposition of the VA alternatives and finalize the VA study reportables (costs, performance, and value indices).
- Submit Final VA Study Report as specified in Caltrans VA Report Guide – Third Edition. Report should be submitted no more than 3 weeks following VA Final Presentation. Final VA Study Report will be an electronic copy in PDF format.
- Provide Caltrans HQ VA Program Manager electronic copies of the Preliminary and Final VA Study Reports so they can be included in their annual reports to FHWA.

Deliverables:

- Preliminary and Final VA Study Report

7. RIGHT-OF-WAY

Licensed land surveyors will perform right-of-way engineering, mapping, and field surveys required for this task. This Project will require the acquisition of additional right-of-way. The acquisition process shall be conducted in accordance with the California Government Code, Code of Civil Procedure, and corresponding Regulations. City will review and approve all right-of-way-related work and deliverables.

7.1. RIGHT-OF-WAY REQUIREMENTS

The Consultant shall determine right-of-way needs and prepare exhibit strip plot map for submittal to Caltrans Right-of-Way. The Consultant shall identify the need for new right-of-way, new access control, permanent easements, and temporary construction easements. The Consultant shall coordinate with affected agencies to determine right-of-way impacts (including utility right-of-way needs). Caltrans will approve right-of-way requirements prior to initiating preparation of right-of-way maps.

The consultant team will prepare Parcel Impact Memorandums for up to four (4) commercial businesses. The memorandums will summarize temporary and permanent impacts to these businesses to assist in negotiations, agency approvals, and documentation of right-of-way

requirements.

Deliverables:

- Right-of-Way Requirements Map

7.2. RIGHT-OF-WAY MAPS

The Right-of-Way Base Map prepared during the data collection phase shall serve as the base map indicating existing features. Right-of-Way Maps shall include the following:

- Consultant shall identify improvements including monument business signs etc. that will be removed and or relocated as a part of the Project.
- Consultant shall prepare right-of-way maps at a scale approved by Caltrans reflecting right-of-way for the Project, including acquisitions and easements required for maintenance access, drainage, material sites, utilities, and construction work areas, as necessary. The Consultant shall also show access control.
- Consultant shall perform the Pre-Construction Record of Survey.
- We anticipate providing right-of-way requirement mapping in our plan set and updating at each identified submittal.

Deliverables:

- Right-of-Way Map

7.3. APPRAISAL MAPS, PLATS, AND DESCRIPTIONS

- The Consultant shall hire a Right-of-Way Acquisition Consultant to prepare legal descriptions, plats, deeds, and maps for each parcel acceptable to Caltrans and the City for conveyance of marketable title interests and for accurate representation of right-of-way necessary for construction of the Project.
- The Consultant shall prepare legal descriptions, plats, and maps acceptable to utility companies (as required) and the City for conveyance of marketable title interests and accurate representation of easements necessary for construction of the Project.
- The Consultant shall prepare right-of-way maps acceptable to Caltrans.
- A licensed Appraiser hired by the Consultant will be responsible for the preparation of appraisals as required by Caltrans. The appropriately licensed appraiser shall be used for commercial/industrial buildings, private homes etc. Consultant shall provide the required documentation to the Right-of-Way Acquisition Consultant to allow them to prepare the necessary appraisals for any property required for the Project.
- An experienced Right-of-Way Acquisition Consultant shall be responsible for right-of-way negotiations and coordination with City representatives.
- The Consultant shall prepare the necessary Caltrans Local Assistance Paperwork associated with utility relocations.

Consultant shall prepare exhibits and descriptions for Temporary Construction Easements (TCE) to assist the City's Right-of-Way Consultant in performing appraisals and acquisitions.

Land Title Services

The consultant team has an acute understanding of the history of government patents and the determination of land grant ownership priority rights. We will secure Preliminary Title Reports and Litigation Guarantees early in the acquisition process. When reports are delivered, our team will review and create Exception Reports, noting any exceptions that need to be cleared during the acquisition process. Our title team reviews all California Code of Regulations (CC&R's) to ascertain any issues that need to be addressed during the acquisition process.

Real Estate Appraisal Services/Appraisal Reports

The consultant team will coordinate the preparation of appraisal reports that will be used for the proposed acquisition of the property rights required. Our team of appraisers will appraise the necessary permanent and temporary property rights required for project. Valuations will include a determination of the Highest and Best Use of Properties, an analysis and determination of the "larger parcel" (as defined by: Use, Contiguity, Common Ownership) as well as severance damages, if applicable to partial acquisitions. Appraisal reports will be used to establish the fair market value and become the basis for the determination of Just Compensation set by the County. All appraisals will be in compliance with Caltrans requirements and USPAP (Uniform Standards of Professional Appraisal Practice). For non-complex acquisitions with valuations less than $15,000, Paragon will provide Broker Opinions of Value/Waiver Valuations in lieu of appraisal reports.

Acquisition Services

The consultant team will perform the required acquisition services in accordance with the Caltrans Right of Way Manual; the Uniform Relocation and Real Property Acquisition Policies Act (49 CFR Part 24), as amended; Title 25 California Code of Regulations; California Code of Civil Procedures and the County own policies and procedures. The consultant team will prepare Receipt of Offer packages which list in detail all components of the offer delivered to the Owner. A thorough Quality Assurance /Quality Control (QA/QC) will be performed by the Project Manager.

The consultant team will meet with Owners or their representative, (typically 3 contacts or more) from the date the offer is tendered until the signing of a purchase and sale agreement. The consultant team will contact and negotiate in good faith with the property owner, owner's agent, tenants and/or lessees (as required and appropriate) at appointed times convenient for them to present the formal written offer. The offer will be delivered in person and the agent shall explain the relevant details of the acquisition. Paragon takes pride in its ability to successfully negotiate property and property rights agreements and settlements using good interpersonal skills, a sound understanding of the facts and issues, and solid technical prowess.

The consultant team will maintain a parcel diary of all pertinent information and contacts made with respect to the acquisition negotiations. The diary will be updated documenting every contact with each property owner, including a summary of the status of negotiations indicating the concerns of the owner and all relevant information about the status of negotiations. We will coordinate the acquisition process

with the County, legal counsel and property owners. The executed documents (acquisition agreements and executed deeds, etc.) will be promptly transmitted to your team for acceptance and processing.

Relocation Assistance Services

The consultant team will prepare and present the General Information Notice, Relocation Brochure, Notice of Eligibility and conduct interviews with the tenants immediately after the offer is presented.

For the relocations required, we will contact and interview site occupants to discuss the project and their relocation needs and preferences. This is when the agent needs to receive information from the displace in order to ascertain their needs and desires for a replacement site.

The consultant team will keep detailed, up to date and concise files for each displaced business, person or household and will personally inspect all referral and replacement properties to confirm they are decent, safe and sanitary (DS&S) and meet the needs of the displaced person(s). We will verify that move bid specifications are obtained for each commercial displace. A determination of furniture, fixture and equipment (FF&E) ultimate disposition will take place early. We will prepare and negotiate FF&E offers.

We assume that coordination and managing the disposition of Surplus Properties is excluded.

Assumptions:

- We anticipate up to 20 plats and legal descriptions.
- We assume no right-of-way transactions with Caltrans.

Deliverables:

- Plats and Legal Descriptions
- TCE Descriptions & Exhibits

8. COORDINATION, AGREEMENTS & PERMITS

This task encompasses coordination with the City and its various departments (such as Public Works, Community Development, Banning Electric Utility, Water and Wastewater, Transit, Police etc.), other involved agencies, private property owners and business owners for compatible design and phasing of construction with existing and proposed conditions. This task also encompasses the agreements and permits necessary to design and construct the Project.

Coordination may include:

a. Union Pacific Railroad (UPRR), Amtrak Sunset Limited, and the California Public Utilities Commission (CPUC)
b. Caltrans District 8 (Caltrans)
c. Riverside County Flood Control and Water Conservation District (RCFC&WCD)
d. United States Army Corps of Engineers (USACE)
e. Regional Water Quality Control Board (RWQCB)
f. California Department of Fish and Game
g. Non-City Affiliated Utility Companies (Gas, Frontier, Edison etc.)

h. Property and business owners, and residents

The Consultant shall provide technical support and prepare documents necessary for executing agreements and obtaining permits needed for the construction of the Project. Permits anticipated for the construction of the Project include:

i. UPRR Construction & Maintenance Agreement
j. CPUC General Order 88-B Application
k. Caltrans Encroachment Permit
l. RCFC&WCD Encroachment Permit

Permits necessary for the design of the project shall be obtained by the Consultant (with City assistance, as necessary). Permits anticipated for the design of the Project include:

m. UPRR Right-of-Entry Permit
n. RCFC&WCD No-Fee Access Permit
o. Caltrans Encroachment Permit (for surveying, potholing, etc.)

The Consultant shall provide technical support and required documentation to the Right-of-Way Acquisition Consultant for escrow agreements, temporary and permanent easements, County recordation, all required notices associated with the acquisitions and permits.

City shall pay for (or reimburse) any permit fees required for design and construction.

City shall waive (or pay other departments for) any permit fees related to survey, potholing, geotechnical investigation, etc. within City right-of-way.

We have assumed an allowance of $15,000 for permit fees.

Deliverables:

- Permits, as required for design and construction.

8.1. UNION PACIFIC RAILROAD (UPRR)

Coordination with UPRR Railroad will include a Right-of-Entry Agreement, the preparation and execution of a Construction & Maintenance Agreement, and plan submittals and review.

The Right-of-Entry Agreement will be executed between UPRR and the Consultant, permitting access for data collection (e.g. survey). All personnel entering UPRR's right-of-way shall complete Union Pacific Property Access Training (UP-PAT).

We have assumed an allowance of up to $15,000 for the UPRR License Fee, which will be determined by UPRR.

Assumptions:

- The Consultant shall pay the License Fee and shall be reimbursed by the City.
- Use of the UPRR right-of-way during design shall be limited to survey. and field inspection. Geotechnical investigations and potholing shall be performed outside of the UPRR right-of-way.

Deliverables:

- UPRR Right-of-Entry Agreement

Construction & Maintenance Agreement

Review and approval of the design by UPRR will be required. Formal approval is expected to be provided through execution of a Construction and Maintenance Agreement. The Consultant shall prepare the text and associated exhibits.

Deliverables:

- UPRR Construction & Maintenance Agreement

Submittals

The Consultant shall submit plans to UPRR via the City for review and approval. The requirements of the UPRR/BNSF Guidelines for Railroad Grade Separation Projects shall be followed, which includes the following submittals for Overpass structures:

- Concept Submittal
- 30% Submittal
- Final Plans Submittal

The Concept submittal shall include the following:

- Plan, Elevation, and Typical Section of proposed grade separation.
- Photo log with pictures of the proposed project location. Site pictures shall be in all controlling directions including North, East, South, and West. The plan view should show a reference location and direction for each picture.

The 30% submittal shall include the following:

- Applicant response to Railroad review comments on the concept submittal. The 30% submittal shall reflect concept review comments.
- Design Plans showing a Plan View, Elevation View, Typical Section, Construction Notes and Railroad Profile Grade Diagram.
- Project Specifications and/or Special Provisions, including Railroad coordination requirements.
- Shoofly Design Plans
- Drainage Report (as required).
- Construction Phasing Plans must show all required phasing, construction procedures, temporary shoring layout, controlling dimensions and elevations.

The Final Plans submittal shall include the following:

- Applicant response to Railroad review comments on the 30% submittal. The Final Plans submittal shall reflect all previous review comments.
- Design Plans showing a Plan View, Elevation View, Typical Section, Construction Notes and Railroad Profile Grade Diagram.
- Project Specifications and/or Special Provisions, including Railroad coordination requirements.

- Drainage Report (as required).
- Construction phasing plans must show all required phasing, construction procedures, temporary shoring layout, controlling dimensions and elevations.

At the conclusion of plan review and comment resolution, it is expected that UPRR will issue a letter of project acceptance.

Assumes UPRR will provide the initial construction and maintenance agreement, and our team will provide input. The City will provide necessary information not readily available to the consultant team. The City will take the lead in negotiating the agreement with UPRR.

Deliverables:

- UPRR Concept Submittal
- UPRR 30% Submittal
- UPRR Final Plans Submittal

8.2.CALIFORNIA PUBLIC UTILITIES COMMISSION (CUPC)

The Consultant shall provide the City will the necessary support, applications, drawings, exhibits, meetings, and other material required to obtain CPUC approval. For a General Order 88-B, the application package may include:

- Request to CPUC Staff for Authorization to Alter Highway-Rail Crossing Pursuant to General Order 88-B (Application Form)
- Vicinity Map
- General Plan & Profiles
- CEQA Notice of Exemption
- Traffic Handling Plans
- Interim Conditions

Deliverables:

- CPUC Field Diagnostic Meeting
- CPUC General Order 88- B Application
- The consultant team will provide the City with the necessary support, applications, drawings, exhibits, meetings, and other material required to obtain CPUC approval of the proposed grade separation of the Hargrave Street At-Grade Crossing (DOT#760695J, CPUC#001B-568.80). This scope assumes CPUC approval will be obtained through the General Order 88-B process, and that the existing grade crossing will be removed and there will not be a temporary grade crossing with the shoofly tracks. Crossing warning device relocations and pre-emption calculations are excluded from this scope. The consultant team will organize and facilitate one virtual diagnostic meeting, one field diagnostic meeting, and one review/coordination meeting during the application process. For a General Order 88-B, the application package encompasses:
- Request to CPUC Staff for Authorization to Alter Highway-Rail Crossing Pursuant to General Order 88-B (Application Form)

- Vicinity Map
- General Plan and Profiles
- Traffic Control Plans
- Construction Staging Plans
- CEQA Notice of Exemption

8.3. CALTRANS DISTRICT 8

Caltrans may exercise review and approval function through the City Project Manager at key points in the development process. All contacts with Caltrans will be directed through the City Project Manager.

The Consultant shall complete a Design Information Bulletin (DIB) 78-04 checklist for the geometric design. Once the DIB 78 is reviewed by Caltrans, Design Standard Decision Document (DSDD) for bold design exceptions and for underlined design exceptions will be prepared for Caltrans approval.

The Consultant shall complete the Design Engineering Evaluation Report (DEER) and shall support the City in obtaining an Encroachment Permit.

Deliverables:

- Caltrans Design Engineering Evaluation Report
- Caltrans Encroachment Permit
- The consultant team will obtain encroachment permits for geotechnical work, hazardous materials testing, and survey within Caltrans right-of-way.
- It is assumed that Caltrans approvals will be processed through the Design Engineering
- Evaluation Report (DEER)/Short Form Quality Management Assessment Process (QMAP). This encompasses preparing a DEER report per the Caltrans standard template which will summarize the project. The DEER report will be prepared in parallel with design development and while an encroachment permit is issued. We assume a dual permit is needed; one for applicable items in the design phase and another that the contractor will submit along with items that are required from them (i.e. SWPPP, insurance, etc.).
- If non-standard features are determined during design within Caltrans right-of-way, the consultant team will prepare a Caltrans Design Standard Decision Document (DSDD) to document and obtain approvals of non-standard features. For budgetary purposes, we have assumed up to ten nonstandard features will be documented.

8.4. RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

The Consultant shall coordinate with RCFC&WCD for access to their right-of-way during the design phase via an Access Permit. A No Fee Access Permit typically covers:

- Environmental or Engineer surveys
- Site reconnaissance

- Water sampling
- Temporary access for staging work

The Consultant shall assist the City in obtaining an Encroachment Permit (if required) for construction. An Encroachment Permit typically covers:

- Trenching for installation of water, sewer, storm drain, cable, and other utilities
- Aerial utility crossings
- Water monitoring and extraction wells, soil sample borings, and potholes
- Construction of trails, bridges, and other recreation/transportation features
- Installation of landscape/hard scape, curbs, driveways, sidewalk, pavements and fences or walls.

Deliverables:

- RCFC&WCD No Fee Access Permit
- RCFC&WCD Encroachment Permit (if required)

- A permit may not be issued since the impacted portion of the storm drain is maintained by the City; however, we assume that RCFC&WCD may want to review the Drainage Study to confirm there are no impacts to their portion downstream.

8.5. UTILITY COORDINATION

The Consultant shall provide utility coordination that entails coordinating the protection and relocation of existing facilities as described herein except for those procedures that must be performed by the City.

The Consultant shall coordinate with utility owners and the City with respect to utility related matters. Consultant shall provide copies of all correspondence with utility companies and other utility related information to the City. Correspondence, as described herein, shall be prepared by the Consultant for either Consultant or City signature, as appropriate, as directed by the City's Project Manager.

Consultant shall monitor responses of utility notices received and make recommendations for mitigating conflicts. Consultant shall provide written responses to utility companies regarding stated concerns and conduct design coordination meetings with utility companies as needed. Unresolved issues shall be brought to the attention of the City's Project Manager as early as practical. Utility conflict issues shall be resolved prior to the completion of the final design plans as follows:

- Consultant, through City staff, shall request and obtain a written acknowledgement of any conflicts from the respective utility owners.
- Reasonable efforts shall be made to accommodate utility company requests for minor design changes to accommodate their facilities. Consultant understands that the utility companies are generally operating within the City right-of-way but may have prior rights to that of the City in some cases.
- Consultant shall monitor each utility owner that has conflicting facilities and shall obtain relocation plans and other relevant information from utility owner. Consultant shall review relocation plans for conformance with the requirements of the project.

- Consultant will provide support to review and comment on third-party utility design plans provided by the utility companies (Kinder Morgan, SCE, SoCal Gas, Frontier, AT&T etc). Plan review will consider routes; conflicts with other utilities; impacts to existing and proposed improvements; and potential easements.
- Consultant shall coordinate inclusion of special provisions in City's bid documents for adjustments and relocations of utility facilities as alternate bid items, if requested by the owning utility. Said work may require that cooperative agreements be prepared by City between the City and the owning utility companies. Engineer shall provide information and exhibits as required to support the preparation of cooperative agreements, if needed.
- For utility conflicts that require relocating, City staff will submit the official notice to the utility companies to relocate conflicting facilities.
- Consultant shall make recommendations for special provision language regarding utility issues, recommendations for construction windows of time for utility relocation activities, recommendations for inclusion of utility bid items, etc.
- For utility conflicts with City owned water, sewer, or electricity that require relocating, Consultant shall prepare the required relocation plans or new installation plans as necessary to provide biddable Plans and Specifications. City staff will submit the official notice to the utility companies to relocate conflicting facilities.
- For utility conflicts or improvements within properties that will be affected by the Project, the Consultant is responsible for preparing the needed plans for relocation or demolitions and reestablishment (such as water, sewer, electrical services, gas services, and communication).

Consultant shall develop and maintain a master utility matrix throughout the life of the project as described in Task 2.4.

Assumptions:

- The City shall be responsible for any design fees assessed by third-party utility companies.
- This scope includes up to six (6) meetings with utility companies. (virtual Teams meetings is option, per City approval)
- For budgeting purposes, this scope anticipates three (3) review packages (plans and estimates) from each utility company (Kinder Morgan, SCE, Frontier and SoCal Gas) for a total of twelve (12) review packages.
- Utility Easement Agreements to be provided by the Utility Owner.

Deliverables:

- Utility Meeting Minutes
- Supporting documentation for cooperative agreements (as required)

8.6 COMMUNITY ENGAGEMENT

The Consultant shall coordinate and manage the community engagement component in conjunction with the City. Consultant shall prepare for, schedule, produce, and manage Community Engagement

Meetings at key decision points. Renderings for public meetings showing the selected plan shall be provided. The Consultant shall host and/or participate in community meetings, one-on-one meetings with property owners and/or business owners, as well as presentations to the City's Downtown Ad Hoc Committee, Planning Commission, and City Council during various progress phases. Based on input, the Consultant will incorporate changes to the design (when possible) and present the final schematic design to the Community and City Council using colored interactive viewing/navigation of project design alternatives and phases depicting overall look and feel to aide in stakeholders' and public's understanding of the proposed improvements.

The Consultant will work with the City to develop a detailed outreach approach, which is anticipated to include:

- *Public Outreach Plan:* A detailed Public Outreach Plan will serve as the guiding blueprint and document for informing and engaging the public and project stakeholders.
- *Public Meetings:* Up to four (4) public meetings will be coordinated at strategic times during the project such as when a project milestone is reached or when significant impacts to public safety are expected.
- *Stakeholder Database:* A comprehensive stakeholder database for the project will include elected officials, city offices, businesses, schools, civic groups, residents, emergency responders, and other sensitive receptors and interested stakeholders in the project area.
- *Notification:* Consultant will produce, with the City's input, notices to send out to all stakeholders.

  Assumptions:

  - Renderings for public meetings shall consist of photo simulations (rendering superimposed on photograph) from ground and aerial perspectives.
  - Up to four (4) Community Outreach Meetings are included in this scope.
  - Up to two (2) one-on-one meetings with property and business owners are included in this scope.
  - Up to two (2) presentations to the Planning Commission are included in this scope.
  - Up to two (2) presentations to the City Council are included in this scope.

  Deliverables:

  - Public Outreach Plan, Stakeholder Database
  - Community Outreach Meetings
  - City Council, Planning Commission Presentations
  - We assume up to four separate photo simulations / renderings will be provided.
  - Based on the environmental assumptions, community engagement is limited to public outreach and not a formal hearing. Therefore, a court reporter and transcribing are not necessary.

- We have assumed up to 1.5 mile radius for mailing of notices for public outreach.

8.7 RESOURCE/ REGULATORY PERMITTING (OPTIONAL)

Based on initial review and design clarification that includes the diversion of flows west of Hargrave Street, the following permits may be required: Section 404 Permit under the Clean Water Act as issued by the USACE, Section 401 Permit under the Clean Water Act as issued by the RWQCB, and a Streambed Alteration Agreement as issued by the CDFW under Section 1600 et seq. of the California Fish and Game Code. It is assumed that if a Section 404 Permit is required, the project will fall under a Nationwide Permit. If an Individual Permit under Section 404 is required instead, it will be prepared under a separate amendment. If a Section 404 Permit is not required due to absence of aquatic resources under the jurisdiction of the USACE, a Waste Discharge as issued by the RWQCB may still be required.

This task does not include verification of jurisdictional resources by the USACE or RWQCB because verification is expected to occur during the preparation of the jurisdictional delineation report. CDFW does not typically verify the results of jurisdictional waters until a complete Streambed Alteration Agreement application is submitted.

The consultant team will prepare the applications of all three anticipated permits with support from the project design team, including determining volumes of fill and dredged materials, impact areas, methods, and the Project Description. A complete Streambed Alteration Agreement requires a certified CEQA document or categorical exemption. If the project is changed after submittal to the CDFW, then the CDFW is no longer subject to their self-mandated processing deadlines. Permit packets are expected to be complete when submitted. Preparation of an on-site mitigation plan is not included in this Scope of Work as the mitigation requirement, if any, would likely be met through participation in a mitigation bank or in-lieu fee program, if available. Preparation of detailed sand transport studies or similar reports, if required by the regulatory agencies, are not included in this Scope of Work. A pre-application meeting with the RWQCB will be required as part of the permitting application preparation process. A field meeting with the USACE or RWQCB is not anticipated as part of the permitting process. The consultant team anticipates that additional required coordination will take place via telephone, email, and U.S. mail. The consultant team assumes the Client will pay any and all fees associated with regulatory agency permitting. The Section 401 Permit will include an Alternatives Analysis consistent with the State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State. The level of Alternatives Analysis for the project is anticipated to fall under the requirements of "Tier 2 Projects," which specify an analysis of on-site alternatives that would potentially reduce impacts to waters of the State. Tier 2 Projects are those that impact more than 0.1 acre to 0.2 acre or more than 100 linear feet and less than or equal to 300 linear feet of waters of the State. The specific tier will be determined once impacts are calculated.

Deliverables:

- 404 Nationwide Permit
- 401 Water Quality Certification
- Alternatives Analysis to support the 401
- 1602 Streambed Alteration Agreement

9. BIDDING SERVICES

9.1. RESIDENT ENGINEER (RE) PENDING FILE

The consultant shall provide the RE Pending File to the City for use by the Construction Management team during construction. It is assumed that the following will be provided:

- Permits
- Surveying Notes
- Copies of As-Built Data
- Geotechnical Report
- Drainage Report
- Relevant Correspondence and Memoranda
- Quantity Calculations
- Cross Sections
- Environmental Agreements & Reports
- Right-of-Way Agreements

Deliverables:

- Public Outreach Plan, Stakeholder Database

9.2. BIDDING PHASE SUPPORT

Consultant shall assist the City in providing clarification and prepare information to be used in addenda based on questions that may arise during the bidding process.

Consultant shall attend the pre-bid meeting and assist the City with bid evaluations and recommendation of bid award.

Assumptions:

- This scope includes two (2) addenda and one (1) pre-bid meeting.
- Clarification and addenda for up to fifteen (15) questions are included in this scope.
- The city shall prepare, and make available to plan holders, any required addenda.

9.3. CONFORMED PLANS AND SPECIFICATIONS

Consultant shall prepare conformed plans and specifications for use in constructing the project. The Issued for Construction (IFC) conformed plans and specifications shall reflect changes made during bidding and will be noted as a revision to the final design plans.

Assumptions:

- IFC Plans and specifications shall be provided in .pdf format.

Deliverables:

- IFC Plans
- IFC Specifications

10. CONSTRUCTION PHASE FUNDING

The consultant shall develop a funding strategy for construction phase. The consultant shall identify all the potential funding sources and associated requirements including deadlines and funding options to secure construction funding on behalf of the City.

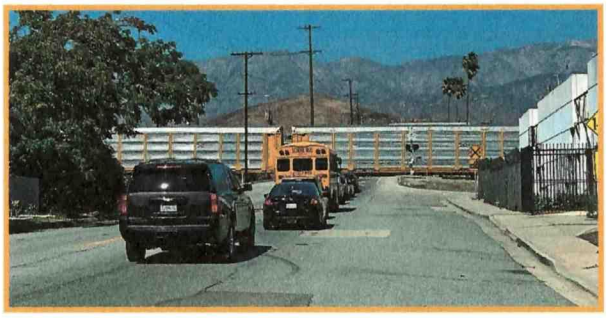
Deliverables:

- Construction Funding Source Strategy Memo
- Grant Funding Support (Optional)
  - As directed and approved by the City, we have allocated up to $100,000 to assist the City with Construction Phase Funding grant applications such as the Local and Regional Project Assistance Program (RAISE) Grant or the Reconnecting Communities Pilot (RCP) Discretionary Grant Program.

A. Statement of Understanding and Approach

Understanding

The Hargrave Street at-grade crossing (Hargrave Grade Separation) has been a top priority for the City since the early 2000s. It was part of the Grade Separation Priority Study for Alameda Corridor East in Riverside County and has consistently remained in the Priority 1 Group since 2012. With over 17 trains per day on the UP (Yuma Main) double track, traveling at speeds up to 60 mph on a steep railroad downgrade, safety is a big concern--this project will address these safety issues.



Conditions at the Hargrave St. crossing result in delays and significant safety issues.

Hargrave Street is currently a two-lane road classified as a Secondary Highway carrying over 25,000 AADT with no pedestrian facilities at the railroad crossing. The City's General Plan Street System shows a potential realignment of SR 243 through Hargrave Street, which would route additional traffic volumes to this area.

Project Benefits:

- Reduces congestion
- Improves traffic flow
- Lowers greenhouse gas emissions
- Improves safety
- Improves disaster preparedness
- Improves racial equity in poverty-stricken neighborhoods
- Increases job opportunities

The surrounding area has a mix of aging residential and industrial development with underserved racially diverse communities. In addition, these communities are bisected by the I-10 Freeway and railroad. These conditions create a hot-spot for vehicle, pedestrian, and train conflicts. They also impede emergency response access, creating concerns for the community as well as challenges addressing the wildfires which are a high risk in the Pass Area.

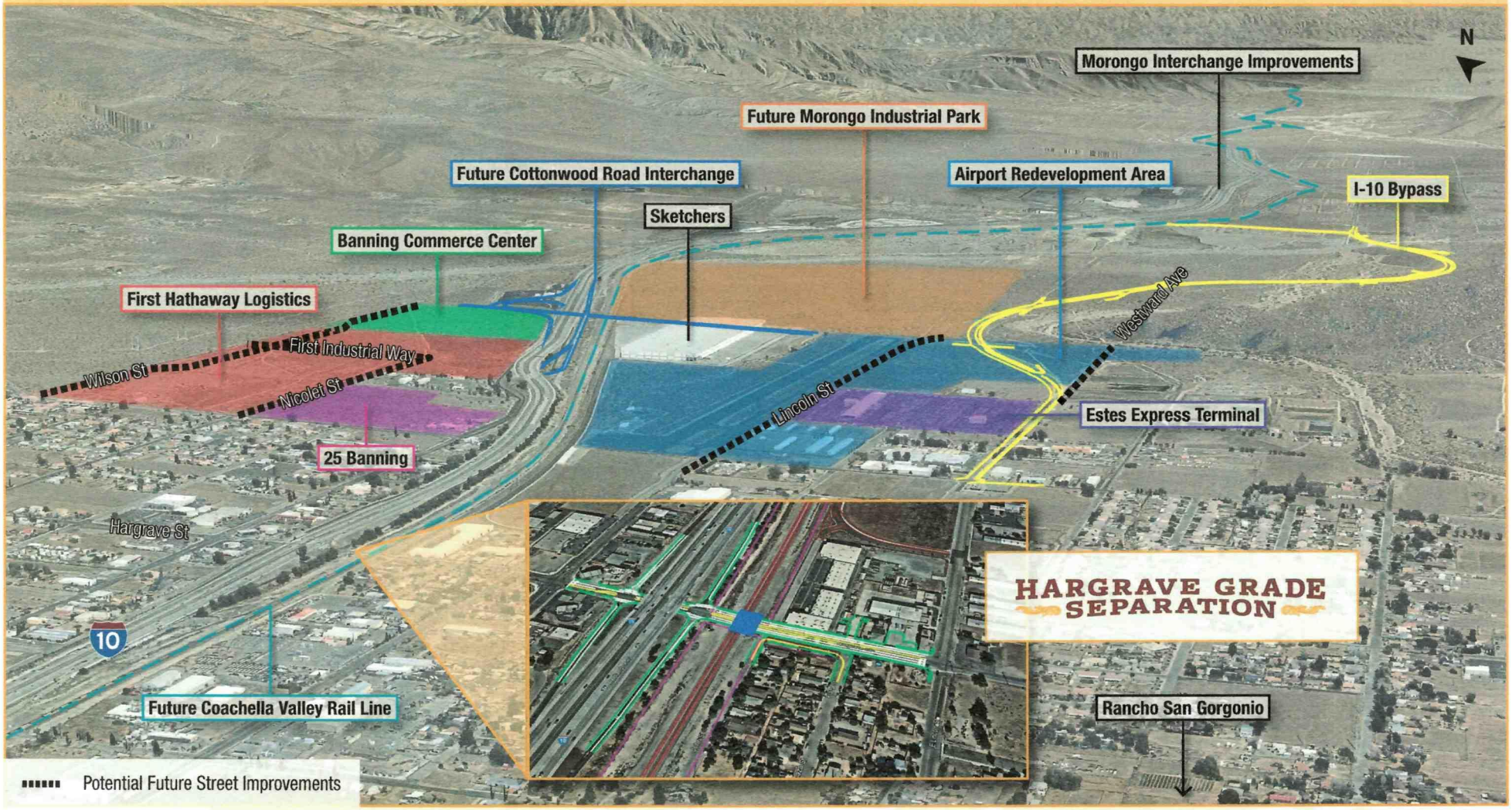
The City is moving forward with industrial redevelopment in this area, most notably the conversion of the airport. Adjacent stakeholders, such as the Morongo Band of Mission Indians (Morongo) and the County also have plans that include development and supporting transportation projects. All these planned developments depend on Hargrave Street as a primary access point to the I-10 freeway. These challenges will be addressed with the Hargrave Grade Separation. The City envisions the new grade separation will be similar to the recent successful grade separation at Sunset Avenue. This will require lowering Hargrave Street and the impacted freeway ramps between Ramsey Street and Lincoln Street. Impacts to the railroad, residents, and businesses in this area during construction need to be minimized. The project has funding through the design phase with the local WRCOG TUMF program, a Railroad Crossing Elimination (RCE) grant through the FRA, and SB 125 funds passed through the County of Riverside.

The City recognizes the complexity of the project and will require a team that can design the project and support the City with funding compliance, public outreach, and seeking construction funds.

The Kimley-Horn team will design a project that meets ALL your project goals:

Maintain an environmentally exempt project (SE/CE).
Coordinate with adjacent planned developments, especially the airport redevelopment area.
Deliver a grade separation that minimizes road closures and impacts to the residents and businesses.
Minimize impacts to the UPRR.
An aesthetically pleasing project that sets the trend to improve and revitalize the east side of Banning.
Provide effective public outreach to maintain public support.
Assist with funding compliance and seek construction funds.

Hargrave Grade Separation – *The Gateway to Redevelopment*



Approach and Methodology

To accomplish the project goals, Kimley-Horn offers the City a consultant team with a strong track record of design and approvals of similar projects, and understands the community, planned adjacent projects, and all the dynamics associated with redevelopment of the southeast side of the City. The following topics demonstrate the unique advantage the Kimley-Horn team brings that will make this project successful.

We have organized our approach to address the major topics within the Scope of Work. The following shows how this is ordered within this section.

GUIDE TO APPROACH

1. **Project Administration**
2. **Design (Data Collection, BODD, Concept Development, PS&E)**
3. **Environmental**
4. **Right-of-Way**
5. **Coordination, Agreements & Permits**

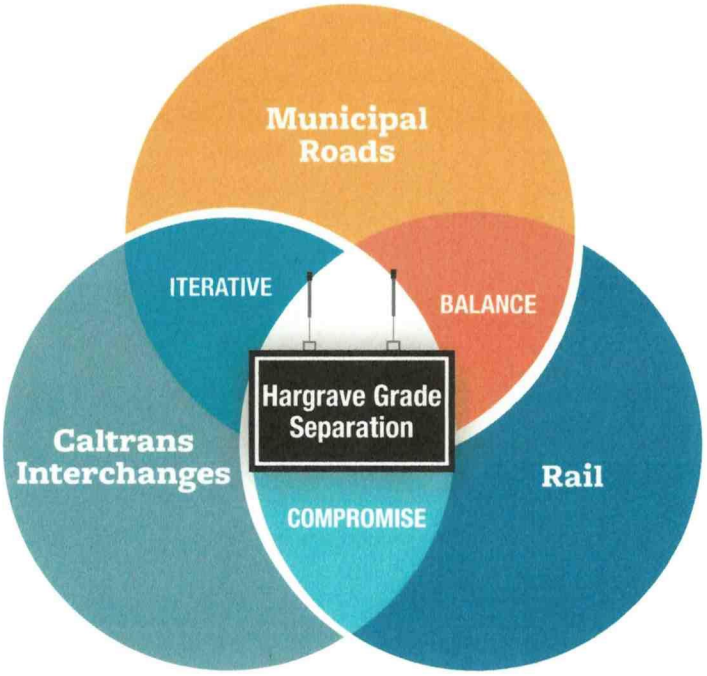
1. Project Administration

Project Manager with Strong Ties to the Pass Area

Having grown up in the City of Banning, Darren cares deeply about this community. His commitment to the project is as much personal as it is professional. He will leverage his 33 years of experience working on major transportation projects in Riverside County to efficiently manage and successfully deliver this project.

Our project manager **Darren Adrian, PE** knows that effective project management is critical to achieving project success. His extensive experience delivering similar grade separation projects requiring close coordination with UPRR and Caltrans is unmatched. Darren and his team will do the heavy lifting, serving as a true extension of City staff. His hands-on approach to managing this project is comprised of seven equally important functions that support the project's progress and ultimately, its success.

1. Effective and Ongoing Coordination with the City
2. Coordination with External Stakeholders
3. Coordination with the Internal Team
4. Workflow and Schedule Tracking
5. Budget Tracking
6. Risk Management
7. Quality Assurance/Quality Control (QA/QC)



Darren will proactively manage all three primary elements of the Hargrave Grade Separation, reducing schedule delays and preventing cost overruns.

Effective and Ongoing Coordination with the City – Darren and the team will maintain ongoing communication, including regular project updates, to Nate Smith, PE and his designated staff. This will include meetings, phone conversations, emails, schedule updates, and a deliverable tracking matrix.

Coordination with External Stakeholders – The monthly Project Development Team (PDT) meetings serve as a time for more formal project status reports to the PDT. Additionally, we will conduct focus meetings with specific stakeholders or City departments to proactively address and resolve any anticipated issues. Each meeting is planned with a specific strategy, goal, and outcome aligned with the project objectives. Below is a list of each key project stakeholder, their concerns, and Kimley-Horn's approach to addressing their concerns. *Our 15+ years of experience coordinating with stakeholders and delivering projects throughout the Pass Area provide a solid foundation for the success of this project.*

Darren has recently worked with all of these stakeholders, earning their trust. This offers distinct advantages for coordination, as he is not perceived as an "outsider" which is often a challenge when implementing major infrastructure improvements in a close-knit community.

Stakeholder	Project Role	Primary Interests	Kimley-Horn Team Approach
City of Banning	Owner/Sponsor	Completing the design and construction of the project on time and within budget. Avoiding impacts to the community during construction.	■ Implement our proven schedule and budget tracking ■ Leverage our knowledge of the community and adjacent projects
FRA	Federal Funding	Compliance with grant funding agreement.	Leverage our knowledge of FRA and previous FRA staff
Caltrans	Jurisdiction over I-10 and interchange	Remaining within proper Caltrans process and avoiding non-standard features.	Leverage our current experience with the new DEER process and reference the Sunset Grade Separation and other recent projects
UPRR	Approvals for all work within UPRR R/W	Avoiding impacts to train operations and not precluding future expansion/improvements.	Provide win-win solutions based on our current projects and the Sunset Grade Separation
Morongo	Adjacent jurisdiction with major development plan	Coordinate timing of their planned development for Section 12 West.	Leverage our current work with Morongo on Section 12 West to coordinate a win-win solution
Utility Agencies	Companies with jurisdiction over their utility	Obtain access to Section 12 West in coordination with the timing of their planned development.	■ Leverage relationships and knowledge of the area on adjacent projects. ■ Engage our staff who work with Kinder Morgan
Emergency Services (CHP, Police, Fire)	Use Hargrave Street for access to serve the community	Maintaining response times during construction. Providing a safe facility that allows emergency vehicle access.	■ Coordinate alternate/detour routes early. ■ Develop TMP measures in partnership with emergency services.
RCFC & WCD	Jurisdiction over Line G south of Westward Avenue	Changes upstream having an impact to their system downstream.	Confirm concept early and complete the drainage calculations for approvals
Environmental Resource Agencies	Jurisdiction over permitting	Impacts to environmental resources, such as bio, hazmat, noise, cultural, etc.	Leverage previous work in the area and agreed-upon solutions with resource agencies

Coordination with the Internal Team – Our internal team is comprised of Kimley-Horn staff and subconsultants with recent experience working together on similar projects. We will hold weekly all-hands meetings as needed through all project phases. For technical specialty items, we will hold internal workshops with key team experts.

The table below list the various meetings which will be scheduled to ensure the City and stakeholders remain fully informed throughout the project and have ample opportunities to provide input:

Meeting Type	Frequency	Objective
City Staff/PM	As Needed	Regular status updates, meeting prep, meeting debriefings, follow-up, etc.
PDT	Monthly	Report project status to the PDT, review Risk Matrix and Action Items.
Stakeholder Focus	As Needed	Accomplish established meeting objective to advance the project within the schedule and budget.
Internal Team Check-In	Weekly	Monitor work status and coordinate between disciplines.
Technical Focus	As Needed	Solve technical issues and identify cost and schedule savings.
FRA Update/Coordination	Monthly	Keep FRA up-to-date and coordinate any outstanding items.
Staff Planning	Weekly	Secure proper staff to meet the schedule and quality objectives.
Budget Tracking	Semimonthly	Review current budget status and cost-to-complete.
Project Review	Quarterly	Big picture review of project success and client satisfaction.
Quality Calls/Quality Visits	Semiannual	Independent check-in with client to verify client satisfaction and obtain input.

Our core team's preference to work collaboratively in the office offers many advantages on large, multidisciplinary projects like the Hargrave Grade Separation. By having all major engineering functions in-house, we foster seamless team collaboration, synergy, creativity, and coordination.

Workflow and Schedule Tracking – Understanding proper workflow to obtain input and keep the approval process on track is critical to the success of the project. We will manage the workflow and durations shown in our schedule at least monthly to assure the project follows the correct sequence that the process requires. One of the tools we use to assist with this is a Workflow Diagram. The condensed version on the following page will be expanded upon in our Project Work Plan (PWP) and reviewed with our Gant Chart Schedule at monthly PDT Meetings.

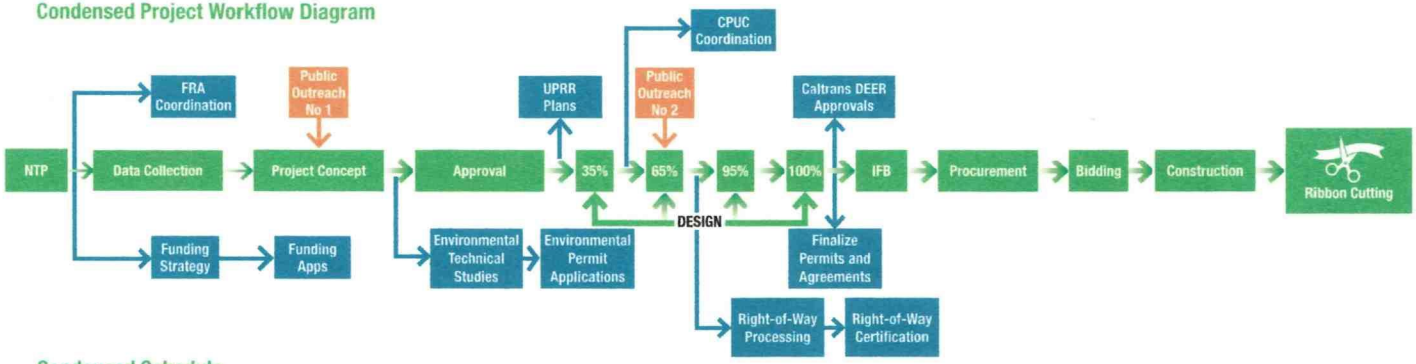
> Kimley-Horn's organized approach and adherence to the schedule, especially submittal milestones, stands out from the others.
>
> - SCRRA Staff

We have already developed a detailed project schedule showing tasks, subtasks, and agency reviews that can be found at the end of the Approach section. Our approach is to establish an agreed-upon Target Schedule, which includes obtaining concurrence from stakeholders on review periods. Our team track progress at least monthly. If a task can be started early, our team moves forward to help provide schedule contingency should something unforeseen come up. We also monitor schedule risks monthly as part of risk management.

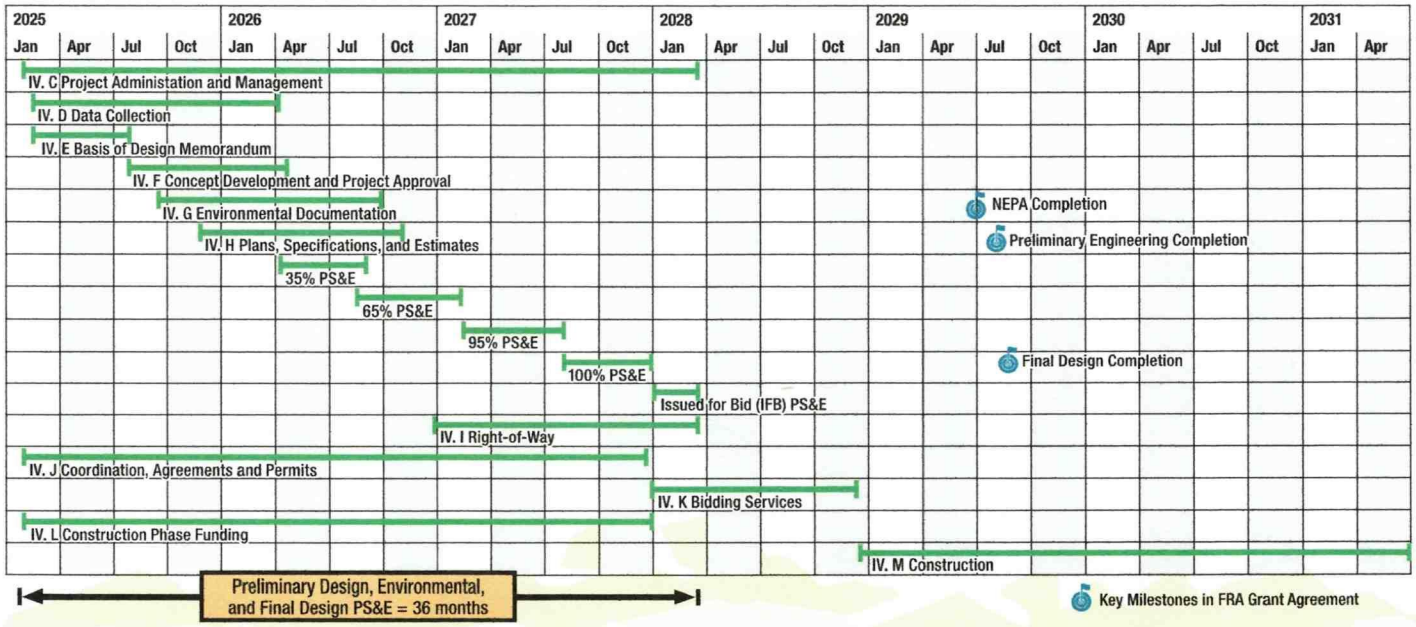
The following page shows a condensed version of the schedule along with the Workflow Diagram described above. This demonstrates major milestones and important items along the way for project success. The expanded schedule at the end of this section shows the details and identifies risks that will be managed according to our PWP.

Project Workflow and Schedule

Condensed Project Workflow Diagram



Condensed Schedule



Budget Tracking – Darren's approach to budget controls is thorough and effective, giving the City peace of mind that this project will be delivered without cost overruns. We utilize our internal MIS project management tool for staff assignments and cost tracking, which is updated semimonthly. This ensures our staff is committed for the project duration and evaluated regularly to confirm the level of effort required. Additional staff can be added as needed through this same process. There will be no surprises—we notify the City immediately of any potential changes to scope.

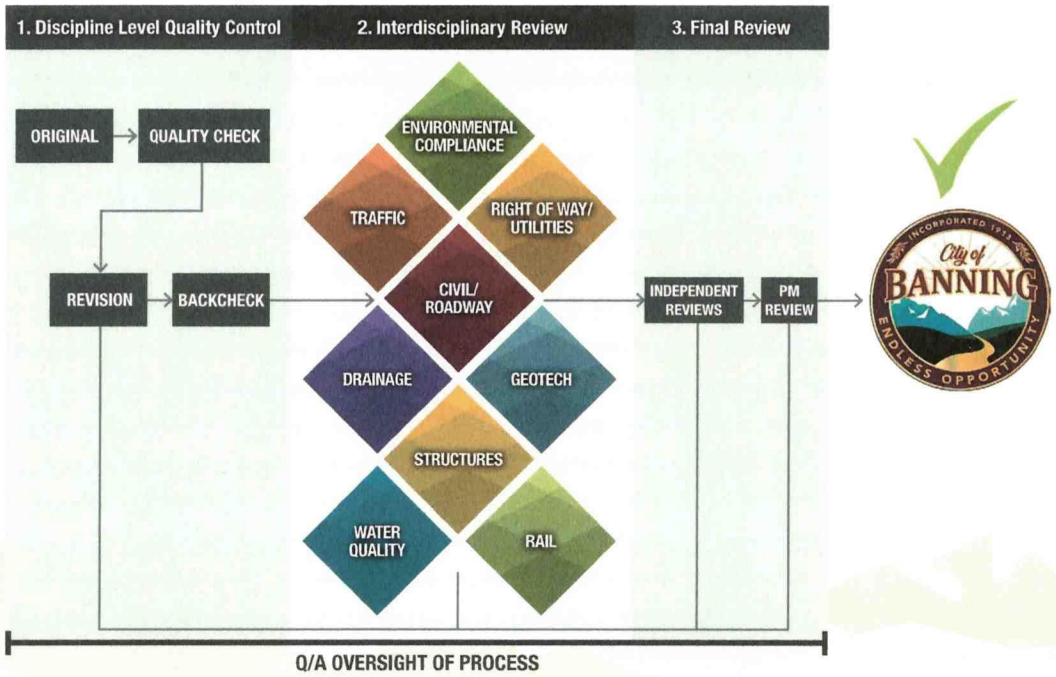
Risk Management – We will develop a Risk Register, provide regular status updates, and obtain input in the monthly PDT Meetings. We will also develop mitigation strategies and conduct a more formalized Risk Review Meeting at two key milestones: the concept development/environmental studies phase and at the 65% design milestone. In the following table, we have identified project risks along with our proposed approach to address them.

Title	Potential Impact	Risk Statement	Kimley-Horn Team Approach
NEPA Lead	Schedule	FRA funding is the trigger for NEPA; however, Caltrans is also involved as they have jurisdiction of I-10 and the interchange.	■ Confirm discussions with FRA and Caltrans. ■ Verify if formal delegation process is needed. ■ Clearly identify FRA actions and needs.
Not Compliant with SE/CE	Schedule Scope/Budget	Technical studies or other project elements showing a need to do higher level ED.	■ Use knowledge of the environmental concern with wildlife agencies to maintain a SE/CE. ■ Project features must only be what's required for the grade separation.
Not Compliant with Caltrans DEER Process	Schedule Scope/Budget	Not meeting an item on the DEER Checklist potentially kicks out of the process and into full oversight with PSR, PA/ED, and PS&E.	■ Obtain exception for non-standard structures early in the process. ■ Maintain all checklist items moving forward. ■ Discuss creative options if technically kicked out of process (i.e. modified full oversight process).
Environmental Resource Agency Concurrence	Schedule, Scope/ Budget	USFWS/CDFW request a Sediment Transport Study due to downstream MSHCP concerns.	■ Provide drainage study that shows the major runoff coming from the Ramsey Street Drain which is not being impacted.
Caltrans Approvals	Schedule Scope/Budget	Delays in obtaining approvals or expansion of scope.	■ Maintain schedule and hold workshops with Caltrans. ■ Layout the latest requirements with Caltrans at the beginning and maintain this course throughout.
UPRR Approvals	Schedule	Delays in obtaining approvals	■ Segregate other activities to keep the project moving forward. ■ Recognize that UPRR will be one of the last to provide approvals and work with them.
Kinder Morgan Line	Schedule Scope/Budget	Delays in getting Kinder Morgan to the table and establishing the solution	■ Engage our Kinder Morgan Designer's to assist with concept and contacts at Kinder Morgan. ■ Leverage our parallel coordination with relocations of Kinder Morgan facilities in tribal lands.

Title	Potential Impact	Risk Statement	Kimley-Horn Team Approach
Arco Station	Schedule Budget	Lowering of Hargrave Street having adverse impacts on access due to fuel pumps being directly adjacent to the street.	■ Narrow the southerly driveway to show that revised grades work. ■ Provide the option of additional circulation around the building as mitigation for narrowing the driveway.
Adjacent Development Timing	Schedule	Adjacent development needs and timing can have an adverse impact on the project and create doubt from the public.	■ Use our knowledge of adjacent developments to coordinate configuration and timing. ■ Seek features that present cost-savings and reduced impact to the community.
Coordination with Adjacent Transportation Projects	Schedule Quality	Adjacent project configuration and timing can have an adverse impact on the project and create doubt from the public.	■ Use our knowledge of projects to coordinate configuration and timing. ■ Seek cost-saving features that reduce impact to the community.
Contractor Availability	Budget	If adjacent projects run concurrent, available contractors may be limited, leading to increased bids and delays.	■ Monitor adjacent projects based on involvement and history. ■ Track these projects and coordinate with the Hargrave Grade Separation to optimize resources.
Lack of Construction Funds	Budget	Inability to obtain adequate construction funding.	■ Leverage our information and input for efforts on adjacent projects to maximize our funding chances. ■ Engage political support from Morongo and the other stakeholders in the Pass Area.

Quality Assurance and Control – We will compile a project-specific Quality Management System (QMS) Manual and execute our quality control procedures with internal team members and subconsultants. We will conduct the initial training upon initiating project work and implement quality assurance to confirm the process. The following graphic shows our comprehensive QA/QC review process which occurs before submitting deliverables.

Quality Assurance / Quality Control Process



2. Design (Data Collection, BODD, Concept Development, PS&E)

Adjacent Projects

We proactively resolve potential schedule and budget impacts

Our team has been involved with every major project which will influence the Hargrave Grade Separation—we will proactively identify and solve any challenges BEFORE they impact the schedule or future construction plans.

Understanding planned adjacent projects and their potential impacts is critical to the success of the Hargrave Grade Separation. These impacts include everything from the project basis of design and specific design features, to timing, interim conditions, and potential impacts to the community.

The recent Sketchers building on the south side of I-10 and the construction of the Banning Commerce Center just across the freeway on the north side will have near-term impacts on Hargrave Street at the grade crossing and freeway interchange.

Airport Redevelopment
Hillwood currently estimates that new development could be in the ground within four years. This will require close coordination with the grade separation project.

The airport redevelopment area will have the largest impact in the area. The airport closure has gone through legislative approvals and is moving faster than originally believed. If coordinated properly, this success could result in opportunities for the Hargrave Grade Separation. An example is the potential for coordinating the ultimate disposition of the adjacent Banning Industrial Park. If the long-term plan is to add this into the redevelopment area, this could be coordinated with the grade separation design to eliminate retaining walls and present a significant cost savings. ***The Kimley-Horn team is assisting Hillwood with processing for the airport closure which puts our team in the perfect position to help identify and coordinate opportunities such as this.***

Morongo Band of Mission Indians (Morongo) recently brought on a developer to implement a new industrial park in Section 12 (west) that is directly adjacent to the airport redevelopment area. This development is currently planned to move faster than the airport redevelopment area, but it has a critical need for access, whether temporary or permanent. As the City navigates potential access options, it will be important to align the Hargrave Grade Separation with respect to timing and expected traffic volumes.

To support these developments and other regional needs in the area, there are several planned adjacent transportation projects. These include the I-10 Bypass, potential reconfiguration of the I-10/Ramsey Street (Cottonwood interchange), I-10 mainline improvements, and the Morongo interchange improvements. All of these projects will need to be coordinated with respect to timing and the ultimate traffic circulation along Hargrave Street and the interchange. ***These projects will ultimately act as a system within the project area and will need to be accounted for in the basis of design and critical design decisions needed on the Hargrave Grade Separation.*** For example, the initial data indicates the need for a six-lane facility along Hargrave Street; however, impacts to the adjacent properties would be severe, and there will be a desire to show long-term benefit with four lanes. With the I-10 Bypass traffic redistribution, the long-term benefit with four lanes may be clear since a portion of traffic will use the new roadway and not need to use Hargrave Street. The Kimley-Horn team addressed this exact situation recently on the McKinley Grade Separation in Corona where our team was able to show an ultimate configuration of four lanes instead of six in order to avoid major impacts and keep the project moving forward.

Caltrans Topographic Mapping

The RFP describes a two-step aerial mapping process so that design can commence before obtaining ABC Mapping approvals from Caltrans since this can take 4 to 6 months. Our Surveyor works with Caltrans District 8 as part of an on-call contract and proposes to obtain initial input on flight path from Caltrans to reduce or eliminate the need for flying the project site twice. The final approved ABC mapping may require recompiling or adjusting the initial data but would likely not require flying the site twice. This will present a cost-savings for the project.

Roadway Design

We got a head start on design to save you time and money

Our team's initial design concept and drone scan for the Hargrave Grade Separation project will result in a three-month schedule savings and reduce the risk of design changes when the surveys come in.

The Kimley-Horn team assisted the City with an initial design concept for project scoping and funding applications. This was based on available mapping and indicated a potential need to raise the tracks to accomplish the grade separation similar to the Sunset Avenue project. Since the relationship of the proposed roadway profile to the track elevation is so critical to the final scope of work, we recently conducted a drone scan to obtain accurate 3D points and better determine whether it was necessary to raise the mainline UPRR double tracks.

We have already solved your biggest technical challenge!

The more accurate points revealed it is possible to obtain vertical clearance without extending the profile into Ramsey Street or raising the tracks. However, the existing foundations of the I-10 undercrossing structure are still a significant constraint.

Our team developed a concept that protects the existing footings and achieves the required vertical clearance without raising the tracks. This concept is consistent with Caltrans' acceptance of a similar approach for the Sunset Grade Separation project, addressing concerns regarding the roadway profile, retaining walls, and protection of existing footings. *(The Structures section below describes this approach in more detail.)*

Benefit to the City

- ✓ 6+ Month Schedule Savings
- ✓ $10M+ Construction Cost Savings

The exhibits on the following pages show the updated concept with additional information and notes indicating opportunities and constraints. Key elements of the concept are:

- Maintaining the lowering of Hargrave Street between Ramsey Street and Lincoln Street (i.e. not extending into the intersection of Ramsey Street).
- Railroad bridge footprint and orientation to match Sunset Avenue which has additional bridge space to the south of the double track.
- Minimize impacts to UPRR tracks.
- Only impact freeway ramps up to gore areas.
- Provide opportunities for hardscape and handrail/ fencing that aesthetically enhance the area.

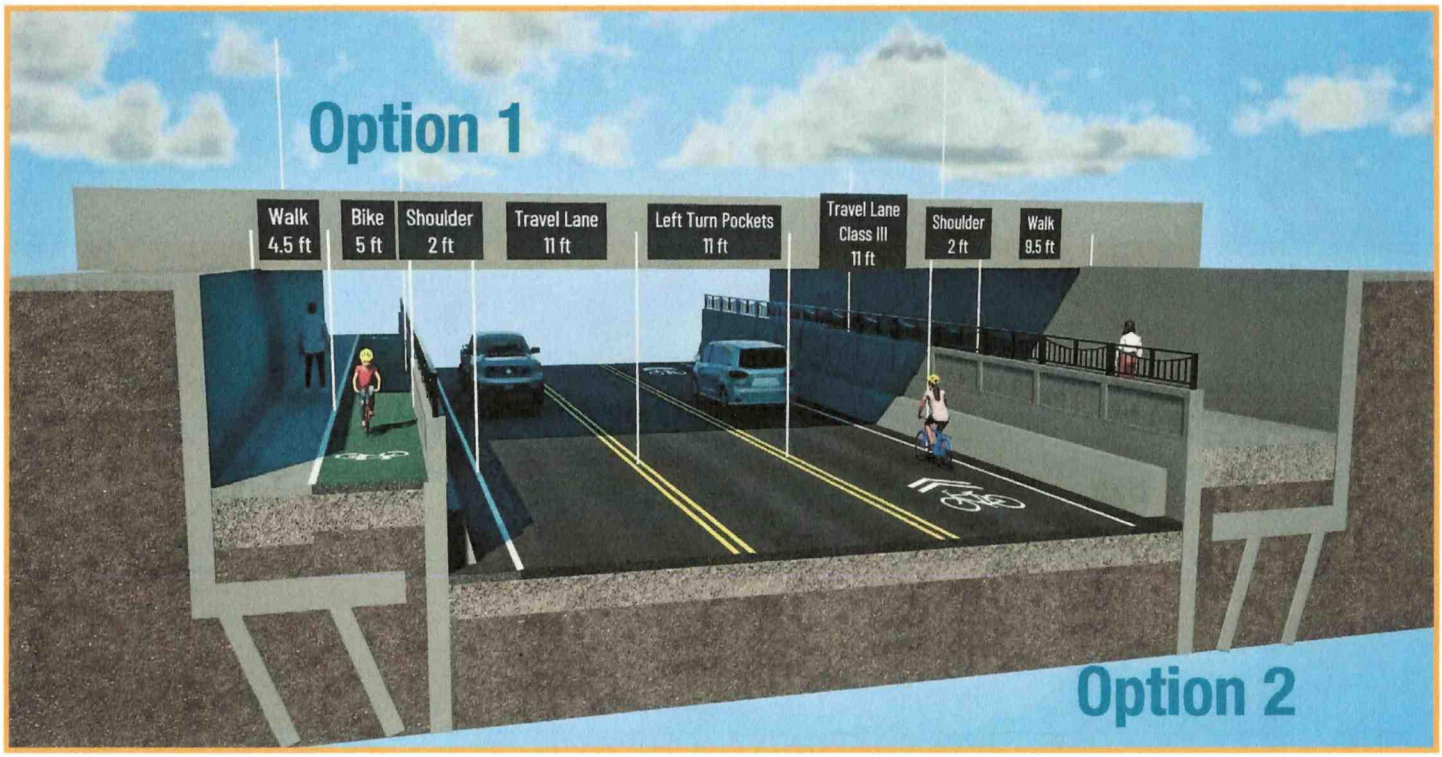
One of the challenges will be fitting necessary features for Hargrave Street within the constrained area under the freeway. The existing opening is only 60 feet. In addition, the existing abutment footings and angled piles create constraints for the location of walls.

Based on these constraints, lanes and shoulders will need to be narrowed (non-standard). Since there isn't enough room for a separate Class II bike facility, there will be a need for creative options so that both the avid and casual bicyclist can safely pass under the freeway. Our team has come up with three potential options:

Option 1 - Sharrow with separate raised pedestrian sidewalk.

Option 2 - Raised path shared by pedestrians and bicyclist.

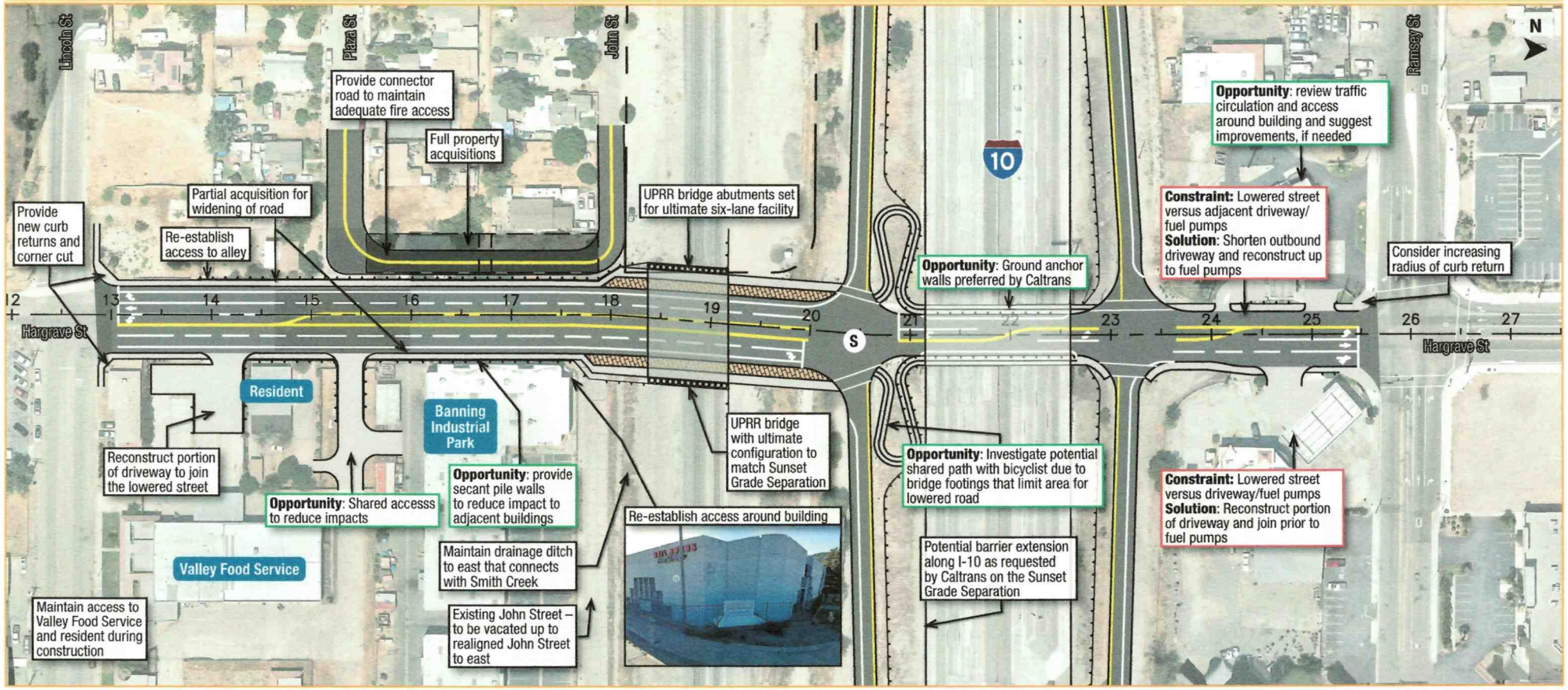
Option 3 - A combination of Options 1 and 2 to provide the avid and casual bicyclist the ability to take either path.



The existing I-10 Undercrossing structure does not allow room for the ultimate Class II bicycle facility. Our team has other viable options and will investigate with the City and Caltrans.

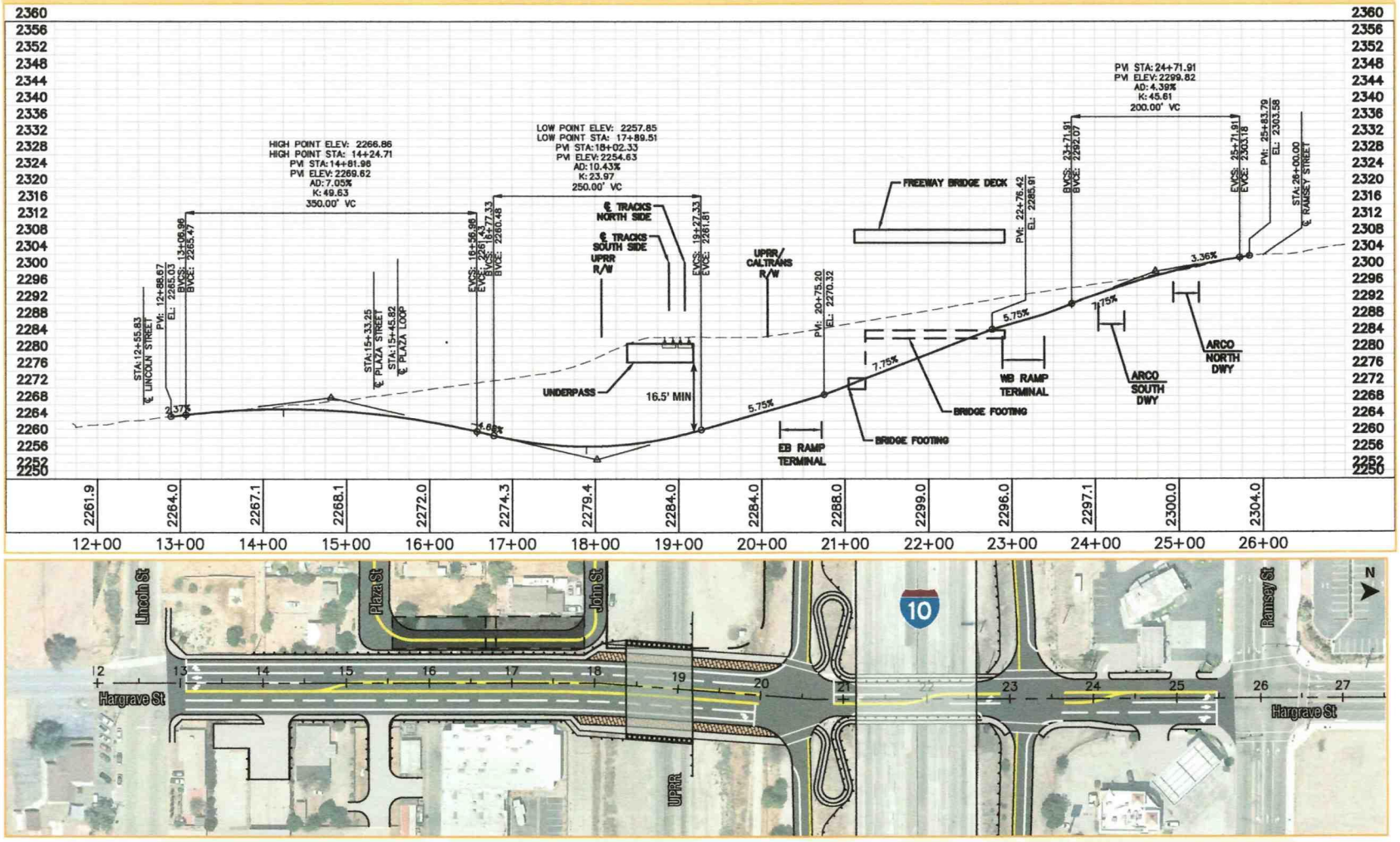
Our team was able to obtain Caltrans approvals for similar non-standard lane widths under the SR 60 freeway as part of the Fullerton Grade Separation project. We are also in process of obtaining approvals for bicycle use on sidewalks for a Caltrans facility along SR 90 in the City of Brea.

Opportunities and Constraints

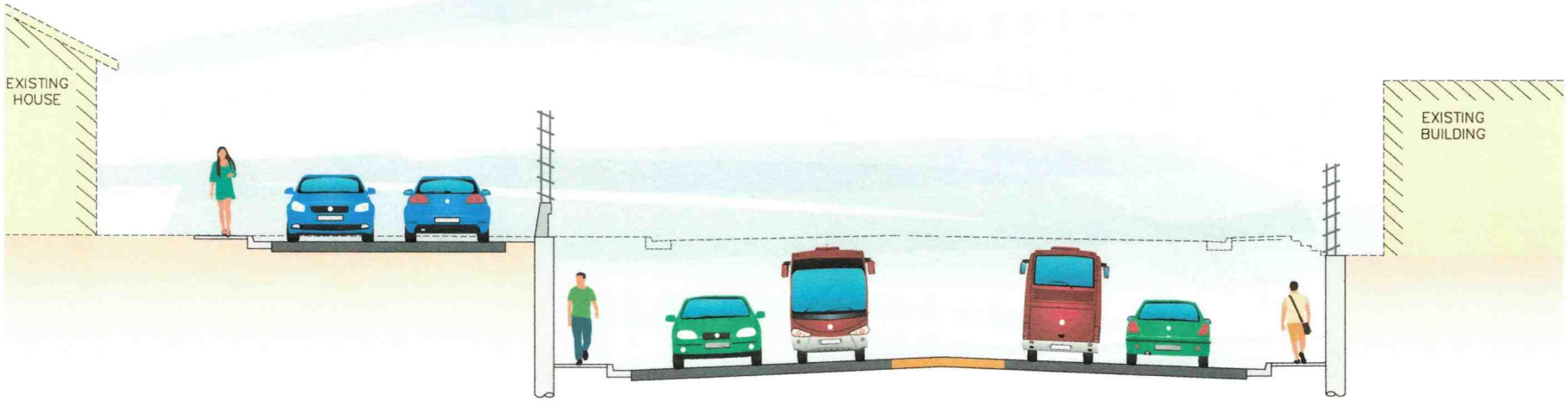


BACK TO RIGHT-OF-WAY

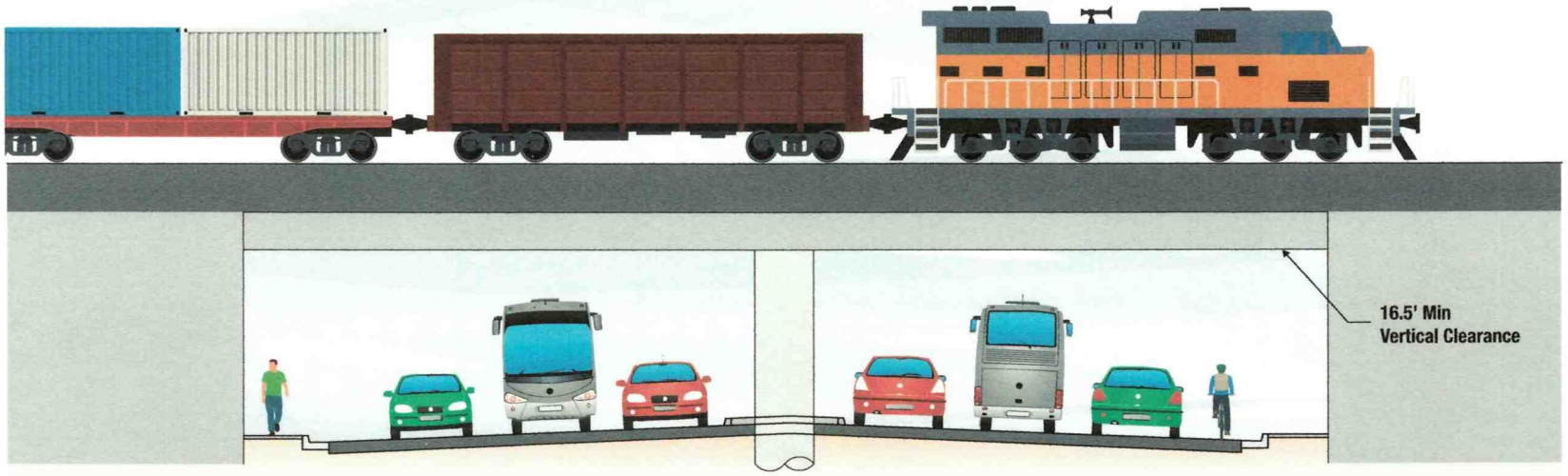
Hargrave Street Plan and Profile



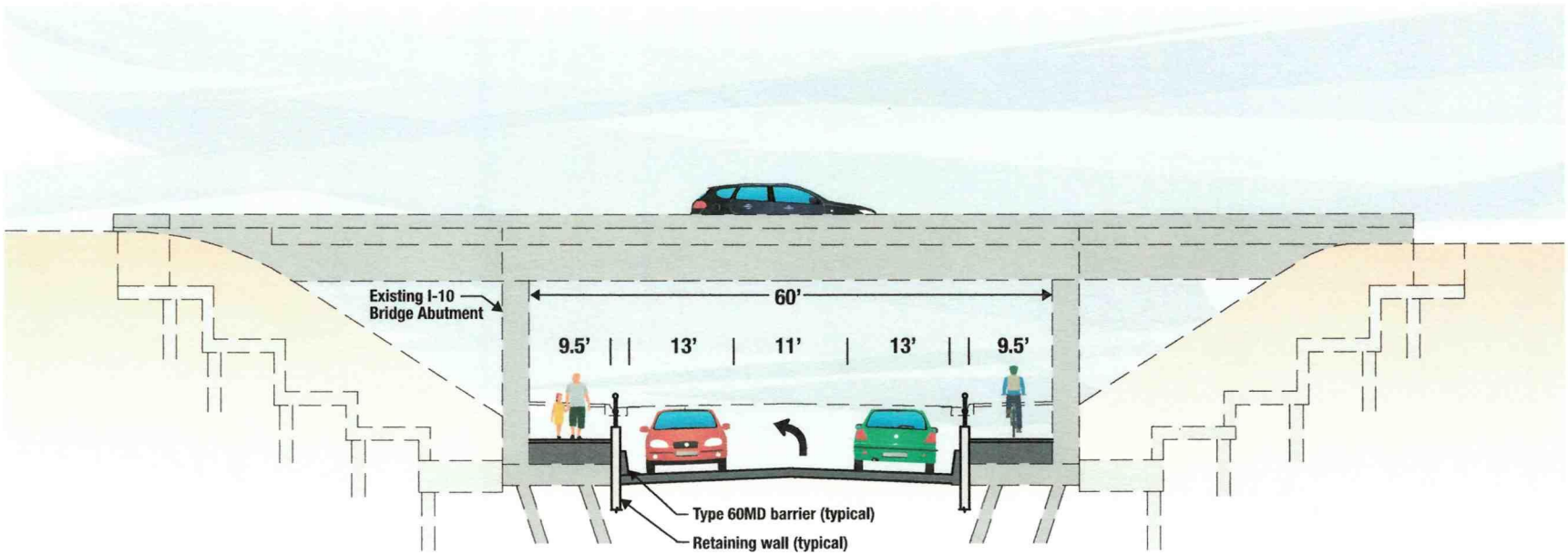
Hargrave Street and Connector Road – *Typical Section South of UPRR Bridge*



Hargrave Street – *Ultimate Section Under UPRR Bridge*



Hargrave Street – *Typical Section Under I-10 Freeway*



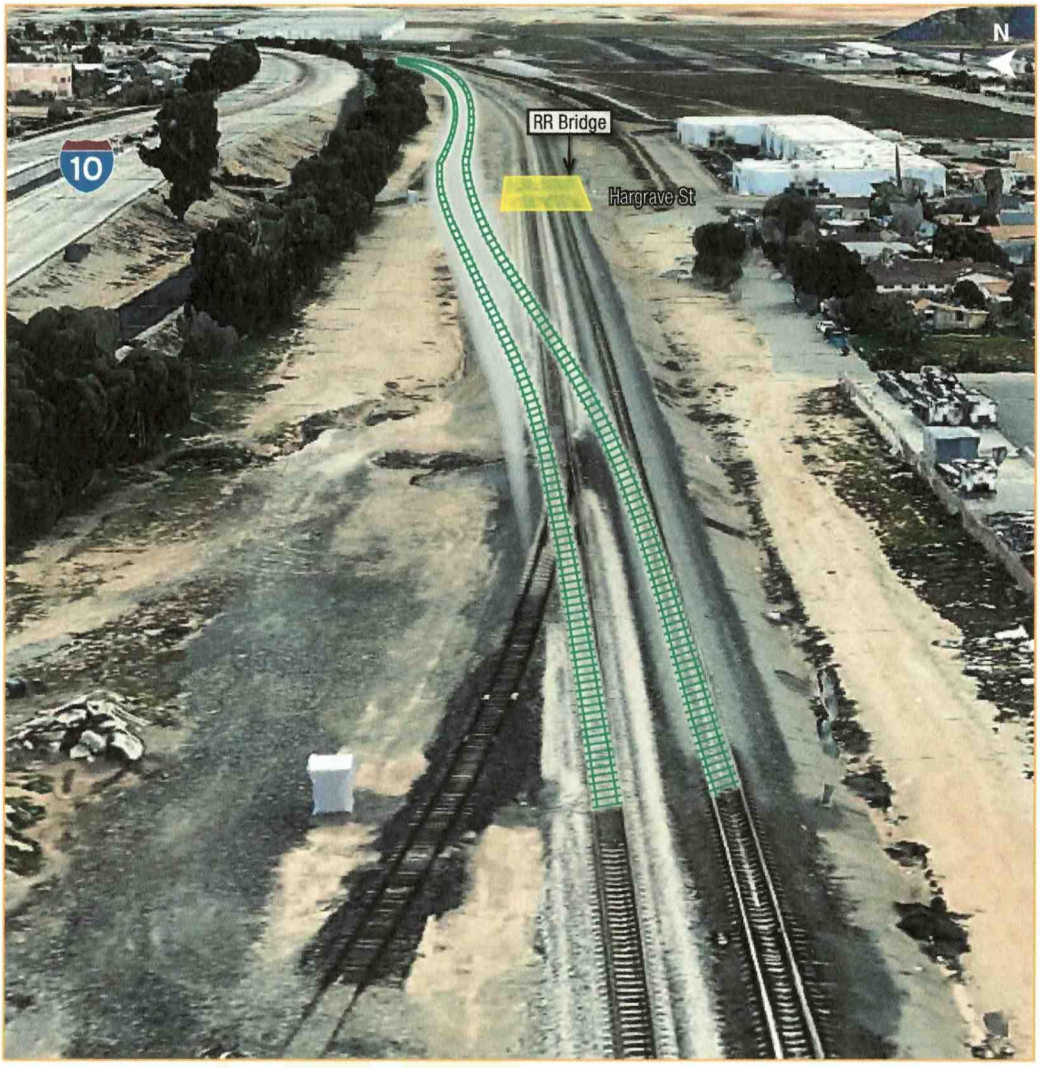
Rail Design

As mentioned previously, the Kimley-Horn team used the 3D drone data to engineer the relationship between the existing track elevations and the roadway concept profile. Our team is able to conclude that the existing track alignment (both horizontal and vertical) meets design standards and there is no need to raise or relocate the UPRR tracks. This approach accomplishes:

1. Simplified coordination with UPRR.
2. Minimized disturbance of UPRR Tracks.
3. Accelerated construction of Railroad Bridge.

Similar to our other railroad projects, we will design shoofly tracks that satisfy UPRR design standards. The shoofly track construction and removal will represent the bulk of the work required within UPRR right-of-way. Based on our initial evaluation, we have determined that the double shoofly tracks would be best routed to the north of the existing grade crossing. ***The benefits of constructing the shoofly tracks to the north include:***

- No impacts to adjacent residents along John Street. This avoids the need for a temporary sound wall that would likely present challenges for removing.
- Provides advantages for construction staging by allowing the entire bridge to be constructed adjacent to the shoofly tracks.
- Provides advantages for construction staging by combining the bridge area with the southerly excavation and the retaining walls to Lincoln Street.
- Maximizes time that the freeway interchange can remain open for access to the north.
- Addresses drainage issues that currently existing between the tracks and Caltrans right-of-way.



Placing the shoofly tracks to the north takes advantage of available space and has many advantages over the south.

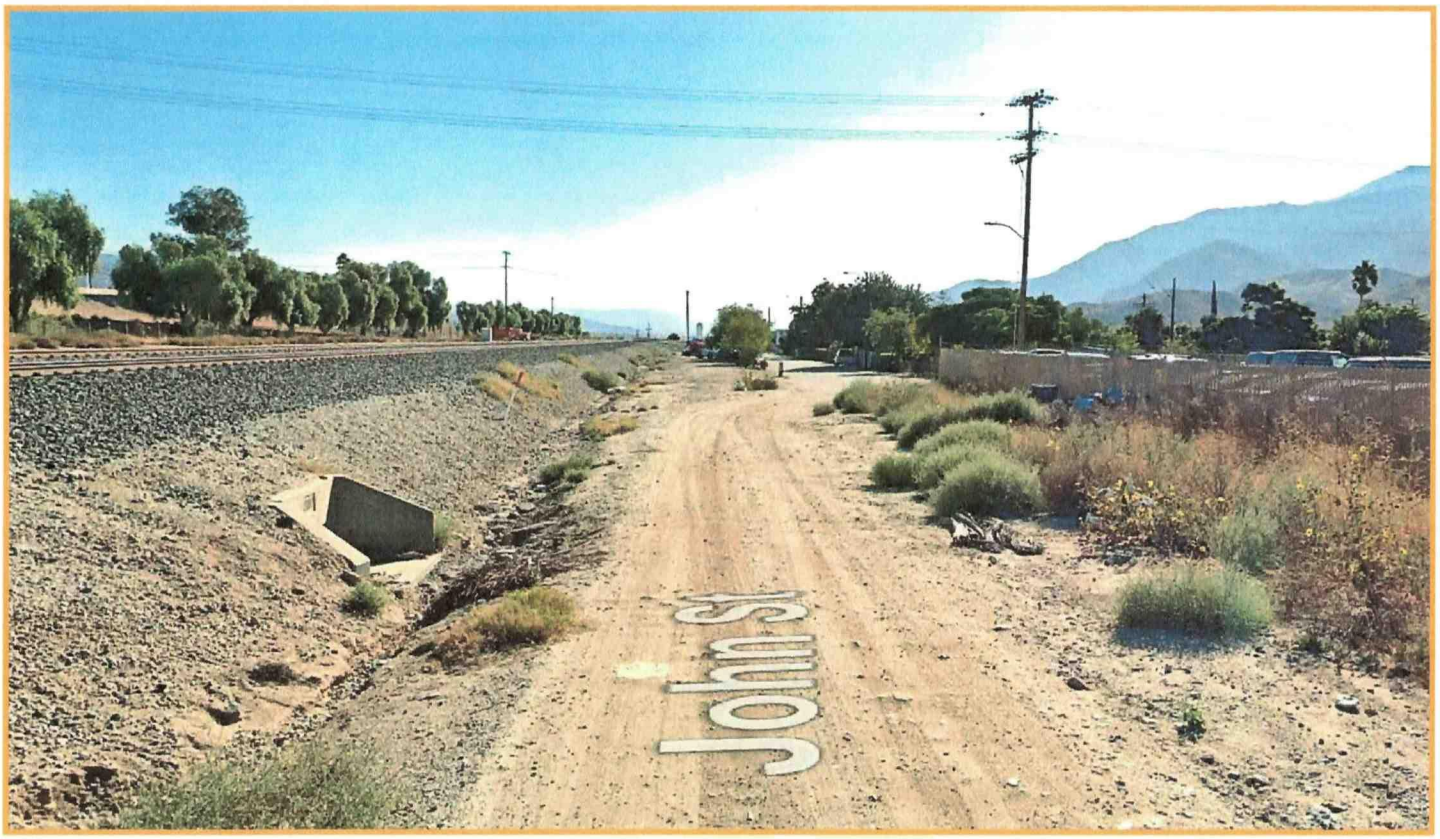
Our concept has the advantage of avoiding the universal crossover by tying into the mainline tracks east of the point of switch and still maintaining or exceeding the minimum clearance to shoring at the bridge. As shown, much of the shoofly tracks to the east of the bridge can utilize a track shift of the existing mainline tracks to minimize procurement of track materials. We implemented this recently on our ACE Fullerton Grade Separation project and understand UPRR's latest requirements for adjacent grading and allowable work windows for the shift.

In addition, there are existing drainage challenges on the north side of the tracks where runoff from culverts crossing the freeway are causing significant erosion in this area. This condition will be corrected with the shoofly tracks on the north by extending the existing track culverts and regrading for a more defined inlet condition. This can be left in place to improve drainage conditions within the UPRR right-of-way.

Our team will look for cost-effective ways to improve existing conditions. In this case, our shoofly concept will also correct a significant drainage issue for UPRR.

The existing hi-rail spur track to the north will be impacted by any shoofly configuration. UPRR will likely want to re-establish this upon removal of the shoofly tracks. If UPRR desires this to remain open during construction, there are options to permanently relocate the hi-rail spur track to the west of San Gorgonio. On the Sunset Grade Separation, the UPRR decided to remove a similar track altogether which ultimately presented a cost savings.

See Rail Shoofly Exhibit on the following page.

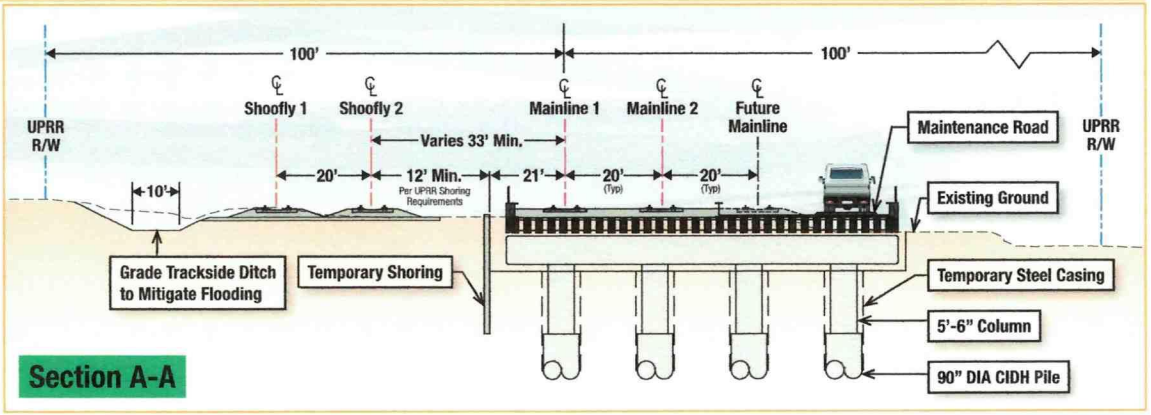


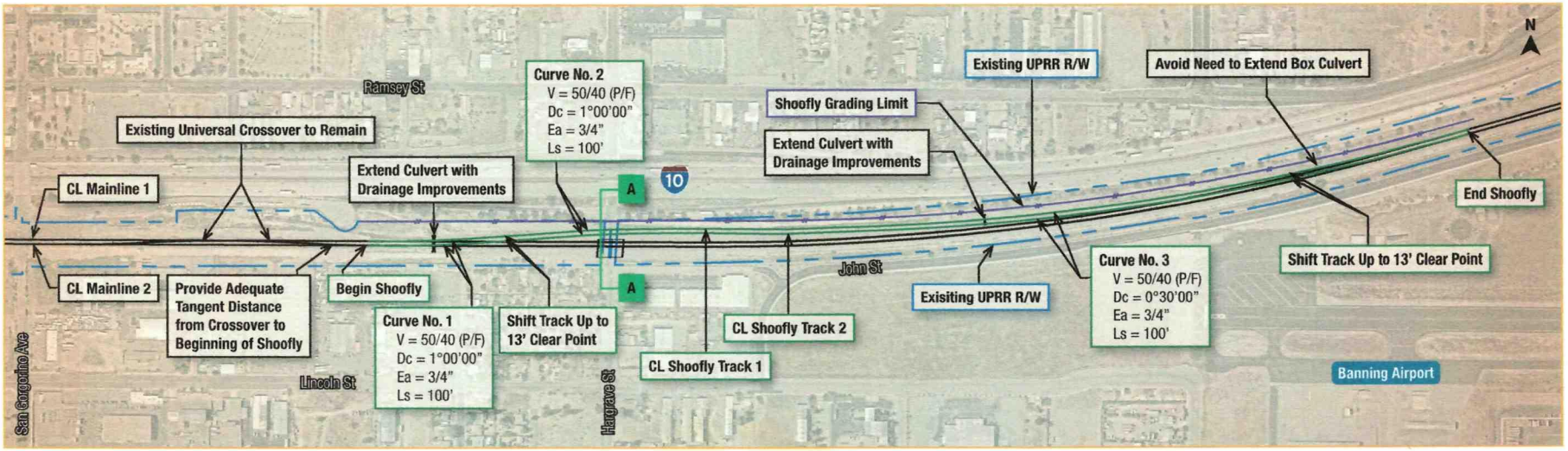
Fitting shoofly tracks to the south would be challenging given the constrained space, especially with the raised track configuration, adjacent road/residents, and parallel drainage ditch.

Rail Shoofly Exhibit



Our team was able to gain approval from UPRR for the similar Sunset Ave Railroad Bridge





Utilities

We've coordinated with all major utility companies in the project area, reducing risks and costs.

Our team designed sewer and reclaimed water lines for the City on the Sunset Grade Separation. We have also successfully coordinated with all the major utility companies in the project area for the I-10 Bypass project including Kinder Morgan, City Electric, SCE, and SoCal Gas. *This experience will help us reduce project risks and provide cost savings on Hargrave.*

Based on our field walk, the RFP and other available information, we understand there are City sewer (15-inch) and water (14-inch), SoCal Gas (2-inch), and OH electric lines along Hargrave Street. We also understand there is a 20"/22" Kinder Morgan line along the UPRR right-of-way.

The challenge with the utility relocation strategy is related to construction staging in the constrained area with a desire to minimize roadway closures and increased construction costs. Our team has come up with two options.

We have a solid approach to your biggest utility challenge

Option 1 – lower the sewer, water, and gas line in Hargrave Street. Since trenching depth are so deep, wider, stepped sections are required. The likely method would be to lower one side of the road under I-10 with shoring to protect the sewer line and place the new sewer, water and gas line within the lowered portion. Excavate the other side and remove the old sewer line after cutovers are complete. This operation requires jack-and-bore under the active UPRR tracks and high-lining the water and gas lines. Closure of the interchange would be prolonged with this option. See Utility Relocation Options Exhibit at the end of the section.

Option 2 – consider a new utility relocation corridor that crosses under the I-10 freeway to the west of Hargrave Street to intercept the existing 15-inch sewer line paralleling I-10 from Franklin Street. It would require jack-and-bore under the freeway but could be less costly than lowering utilities in Hargrave Street. It would also have less impacts on the community with shorter closure duration of the interchange than Option 1. The water line could be considered for jack-and-bore as well, but this has more flexibility for staging than the gravity sewer line and may not be needed. Our team recently received design approvals for a very similar situation on our Fullerton Grade Separation where we are using a UPRR minimum carrier pipe size of 30-inches for a 12-inch sewer line spanning the UPRR right-of-way. Our team will use this recent experience to expedite approvals. See Utility Relocation Options Exhibit at the end of the section.

Overhead Utility Lines

The Sunset Grade Separation project required early coordination with City Electric for relocation of major transmission lines along the west side of the street. Similarly, this early coordination and relocation will be required for the overhead lines along the west side of Hargrave Street. This facility can also be placed within the connector road between John Street and Plaza Street.

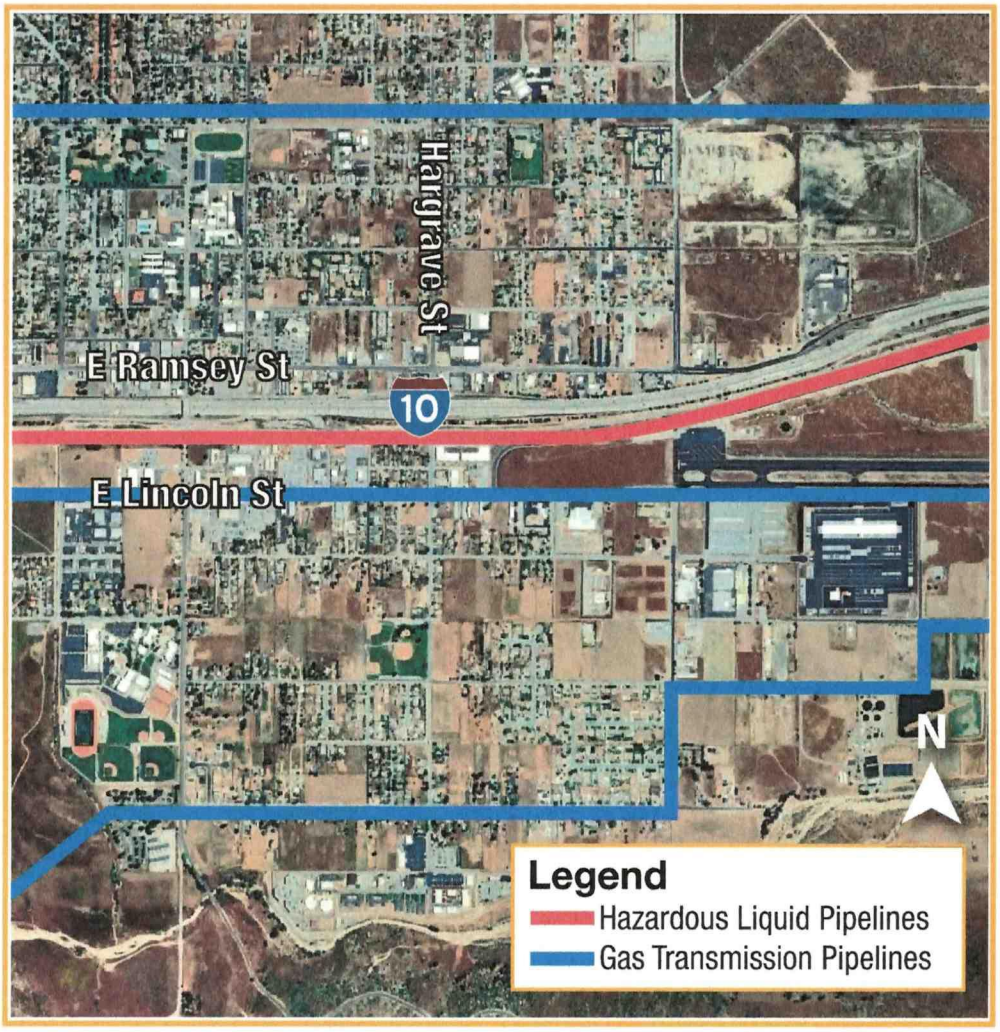
Utility contacts and working knowledge established by the Kimley-Horn team on the I-10 Bypass and Sunset Grade Separation projects will help reduce project risks and present cost savings for the Hargrave Grade Separation.

Kinder Morgan Line

Based on our experience with Kinder Morgan lines within railroad right-of-way, the likely solution is to relocate this line to go under the lowered Hargrave Street.

Kimley-Horn is currently contracted with Kinder Morgan to provide designs for relocations of their facilities very similar to what will be necessary on the Hargrave Grade Separation. We are currently doing this for a project in Arizona to go under a large drainage wash. Similar to this project, we anticipate doing a directional bore to lower the facility. This includes angling down on each side and maintaining a radius larger than 2,400 feet under the grade separation area.

One of the largest challenges with third party utility companies is getting their participation in a timely manner. The Kimley-Horn team offers a unique advantage with this, as our team will be working with the same utility companies for relocations within the adjacent tribal lands. This includes Kinder Morgan, SCE, SoCal Gas, and others. Not only will our team have current working relationships, but we will be in a unique position to consider bigger picture solutions, either temporary or permanent, which will benefit the project.

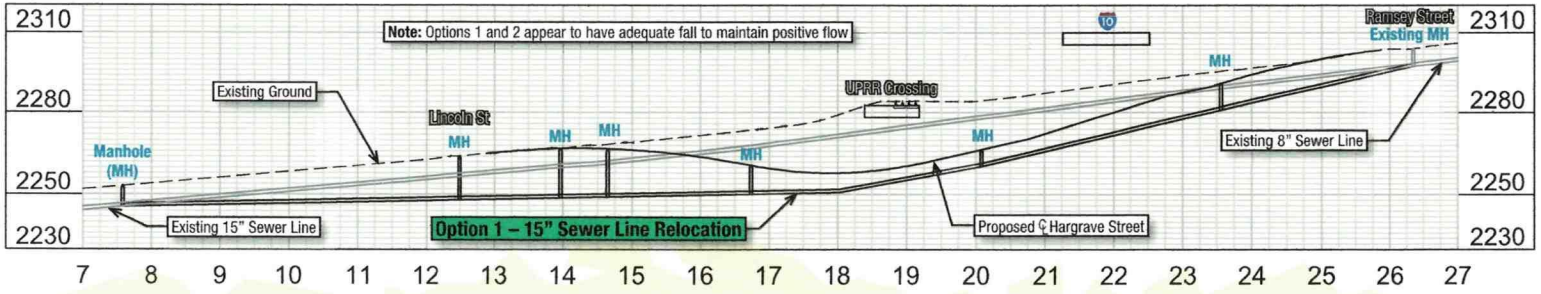


Kimley-Horn has staff who work directly with Kinder Morgan and will help our team coordinate and obtain approvals for relocation of the 20-inch oil line.

Utility Relocation Options



Option 1 – Section A-A



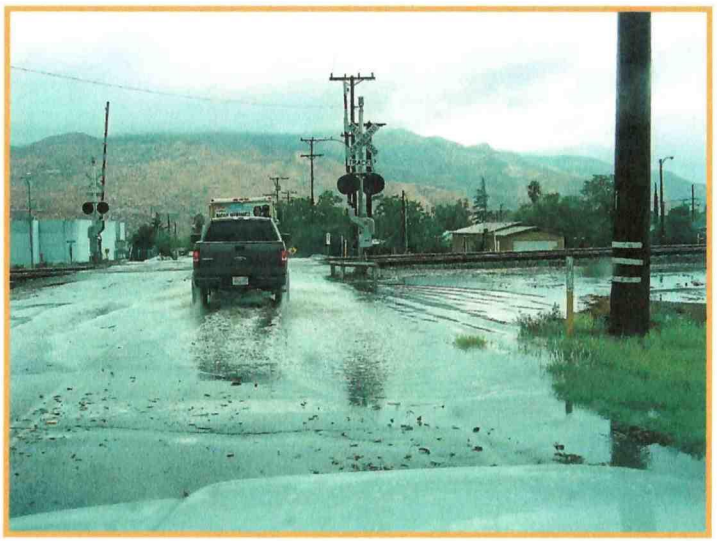
Drainage

We have tackled a wide range of drainage challenges in the Pass Area

Our team's extensive knowledge of the Pass Area's runoff patterns, coupled with our recent experience conducting drainage studies for the I-10 Bypass project, puts us in a strong position to address the drainage challenges on Hargrave.

Our team understands the nature of runoff in the Pass Area that generally flows to the south crossing under I-10 and routing within natural and graded ditches within railroad right-of-way. We evaluated this on the Sunset Grade Separation, and most recently at the Pennsylvania Grade Crossing in Beaumont. We are familiar with UPRR's latest standards and requirements for drainage and cross culverts as the Pennsylvania Avenue project required several new culverts in UPRR right-of-way. This included a new culvert crossing under the mainline double tracks using jack-and-bore method.





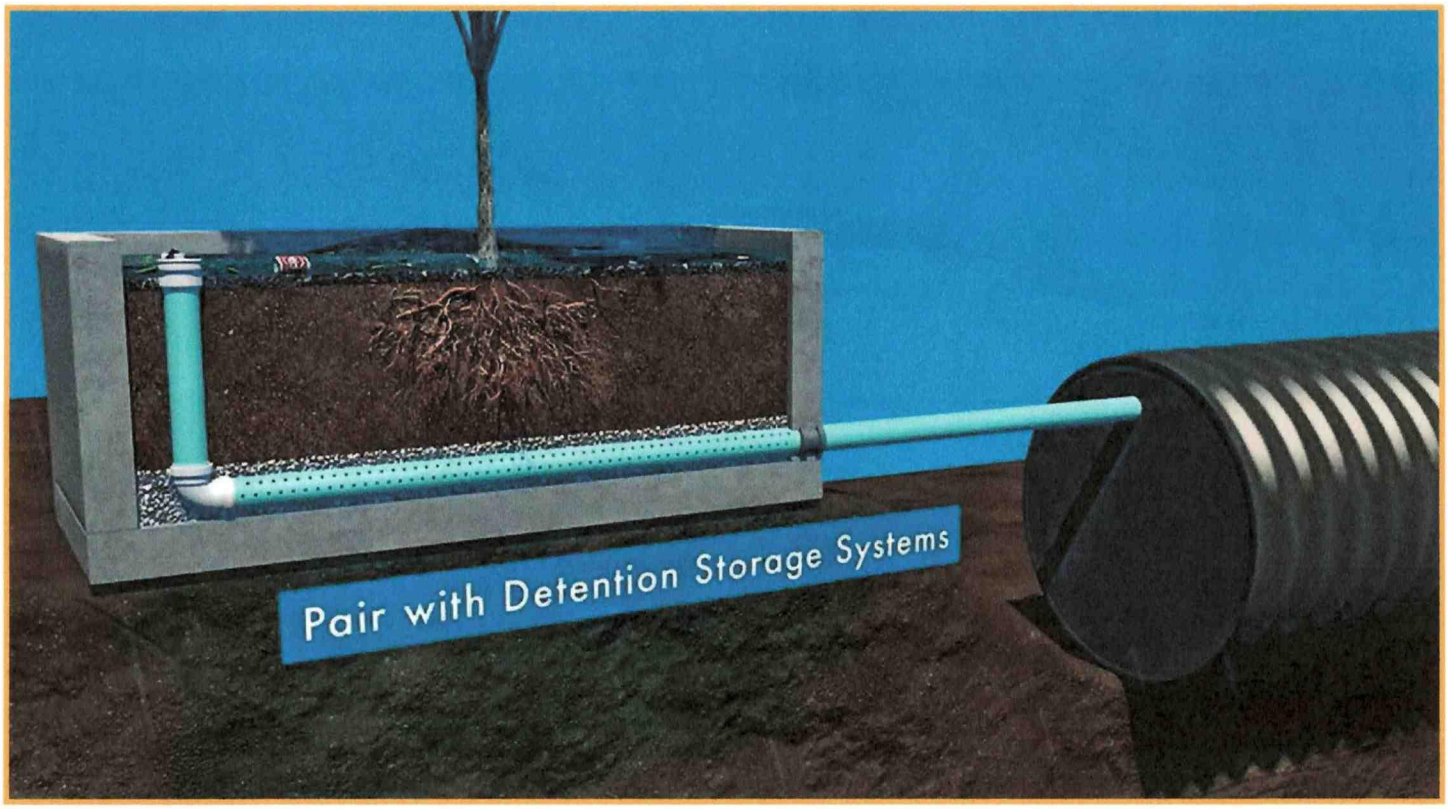
These photos were taken during the large storm event in 2010 when Kimley-Horn started evaluating constraints for the Hargrave Grade Separation. Note the significant runoff upstream at Ramsey Street that ponds on the north side of the grade crossing.

In addition, our team performed a hydrology and hydraulic analysis of Smith Creek and the San Gorgonio River as part of the I-10 Bypass Drainage Study. This required analysis of the tributary area for the Hargrave Grade Separation area for the runoff going to the east adjacent to John Street and around the airport (referred to as Ramsey Street Drain system on the FEMA map).

Similar to the Sunset Grade Separation, we propose avoiding a pump station and extending a storm drain to the south. Based on as-bult plans dated 1991 and 2005, Line G along Hargrave Street extends from the outlet at Smith Creek up to Lincoln Street where it is plugged for future extension/buildout. Line G currently has active catch basins between Smith Creek and Charles Street. The portion from Smith Creek to Westward Avenue is maintained by RCFC & WCD, while the remaining portion up to Lincoln Street is maintained by the City.

Since the new sump for the grade separation will be lower than Line G at Lincoln Street, we anticipate needing a parallel system that maintains positive flow from the sump. This will extend to Barbour Street and join to the existing 36-inch RCP (City maintained portion).

Since the new sump area will collect runoff from the interchange and the railroad right-of-way to the west, it is possible that Line G will not have the capacity for the design storm event. If that is the case, the parallel storm drain could be evaluated to extend further south to a larger pipe section or underground storage could be provided at the sump area to detain the additional runoff so that the system can handle the design storm event. Our team implemented this concept on the 17th Street Grade Separation project in the City of Santa Ana. The concept includes a level of water quality treatment combined with underground detention.



If Line G cannot handle the runoff area coming from the sump, underground storage could be considered below the sump area on Hargrave Street. The diagram above shows optional pairing with water quality treatment. Our team implemented this approach on the 17th Street Grade Separation project in Santa Ana.

Structures

Our "Top-Down" construction method minimizes community impacts

Our team designed the railroad bridge and tieback walls on the Sunset GS. We know the challenges posed by the existing I-10 structures in the Pass Area including potential construction impacts. For Hargrave, we recommend a "Top-Down" construction approach to minimize impacts to the community.

I-10 Hargrave Undercrossing Modification

The existing Hargrave Street Undercrossing was originally constructed in 1954, widened to the inside in 1965, and then widened to the outside in 1968. The 1968 outside widening considered the future lowering of Hargrave Street under this structure by lowering the south side foundations of the widening 12 feet below the adjacent original structure foundations. Even with this future forethought the profile necessary to lower Hargrave Street and provide the required vertical clearance under the proposed overhead structure, while also providing the required cross section for vehicles, bicyclist, and pedestrians is difficult.

This profile will result in a finished grade below a portion of the original 1954 spread footings, requiring the construction of a ground anchor wall, located in front of these footings, to provide support both vertically and laterally. The north 1968 widening is expected to have sufficient cover over the top of the footings to provide the necessary lateral support, but a small soldier pile wall will be required to support the pedestrian walkway with their vertical elements located in between the pile foundation.

The footing of the 1968 widening on the south side of the structure extends out the furthest at 6'-3" from the face of the abutment. This is the pinch point for the cross section that sets the location for the walls and limits space for traffic lanes. Vertical soldier pile elements will have to be positioned between the front battered pile and if necessary, ground anchors will be installed to provide lateral support.

This approach with carefully spaced pile elements and ground anchors is consistent with what Caltrans accepted on the Sunset Grade Separation. The construction method involves slot-cutting and CIDH pile placement before the road is excavated to assure the existing bridge footings are secure.

See I-10 Undercrossing Structure exhibit at the end of this section.

Grade Separation

The proposed grade separation will be located south of the I-10 freeway approximately 275 ft. south of the I-10 alignment. The grade separation will carry the existing UPRR double tracks over Hargrave Street and will provide for a future Hargrave Street geometry that will provide for three 12-foot lanes in each direction, one 12-foot median, two 6-foot shoulders and two 6-foot sidewalks. Columns that support the structure are anticipated to be located in the 12-foot median. With this geometry and high seat abutments located adjacent to the sidewalk, the result is a two-span structure with two equal spans of approximately 55'-5" each.

The grade separation will have an anticipated width of approximately 80 feet and will provide for the two existing UPRR tracks as well as a future track and maintenance road similar to what our team provided on the Sunset Grade Separation. The structure will cross Hargrave Street at a slight skew of approximately five degrees.

Based on the anticipated span lengths provided above, two superstructure types have been identified as suitable for this structure and include rolled steel girders; and precast prestressed concrete adjacent box beam girders. The UPRR Grade Separation Guidelines Section 6.9.1 identify both of these structure types as being suitable for use but prefer the use of the rolled steel girders with steel plate deck. Once the geometry of the structure is finalized, a Type Selection Report will be prepared to evaluate each structure type and provide a recommendation.

Top-Down Method

The Top-Down construction method would use a secant pile style wall for the construction of the abutments. This abutment style would utilize two different pile sizes that would intersect each other with a smaller diameter unreinforced pile and a larger diameter reinforced pile making up the cantilevered abutments and adjacent walls that will support the existing track. The benefit of this style of abutment is that it can be constructed from the top down, resulting in little to no shoring being required for the construction of these abutments.

The construction of the bent could also be completed from the existing grade using a similar top-down method. For the bent construction a temporary shoring box around the limits of the bent cap and temporary steel casings that would extend to below the level of the top of the pile foundations will be used. Use of these elements would allow for the construction of the larger diameter concrete piles, concrete columns and concrete bent cap with limited excavation, and shoring adjacent to the active shoofly tracks.

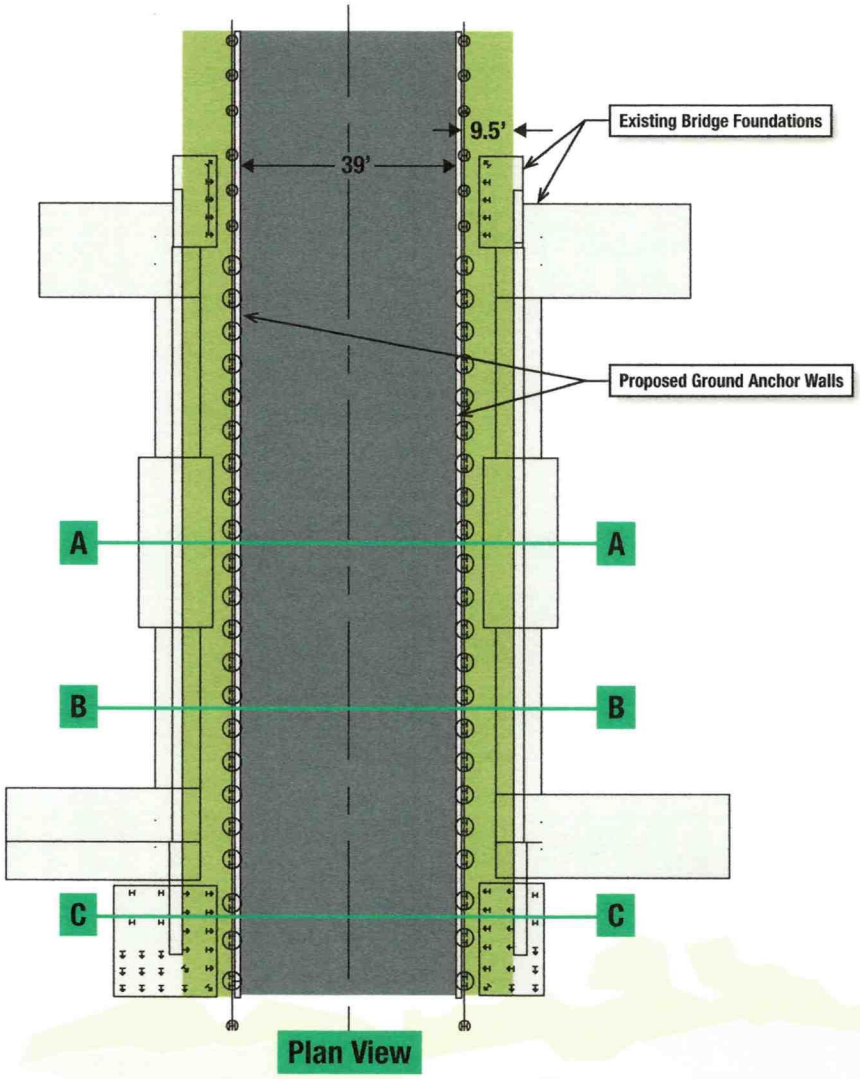
Once the bents and abutments are completed, the superstructure, with either rolled steel girder with steel deck plat or precast prestressed concrete girders could be placed. Once this is complete, the track can be reestablished back on its original alignment on the new structure. After the track is reopened on the structure then the excavation of Hargrave Street under the structure could begin.

This Top-Down construction method has the benefit to construct the bent and abutments without tall and expensive shoring directly adjacent to the active shoofly tracks.

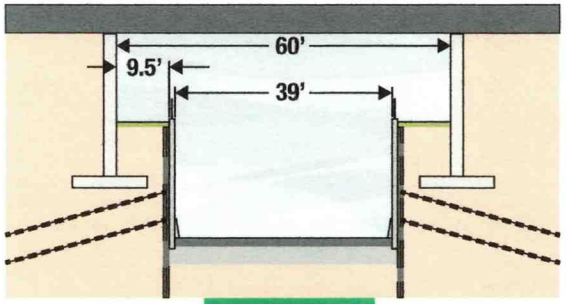
Retaining Walls

For retaining walls adjacent to the I-10 Undercrossing structure within Caltrans right-of-way, we generally anticipate a Caltrans style standard Type 1 Retaining Wall. For the large retaining walls to the south of the railroad bridge along Hargrave Street adjacent to existing development, we anticipate a similar secant pile wall configuration using top-down construction as described above for the railroad abutments. For shorter walls to the south, it is generally more cost-effective to go with Caltrans style Type 1 Retaining Walls or similar cast-in-place walls.

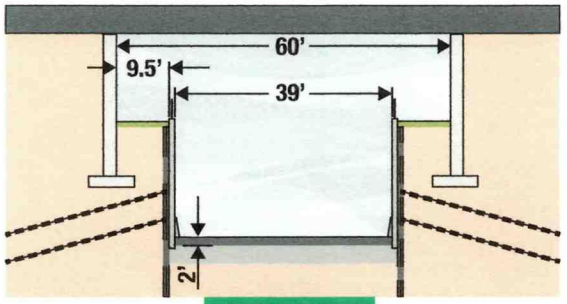
I-10 Undercrossing Structure



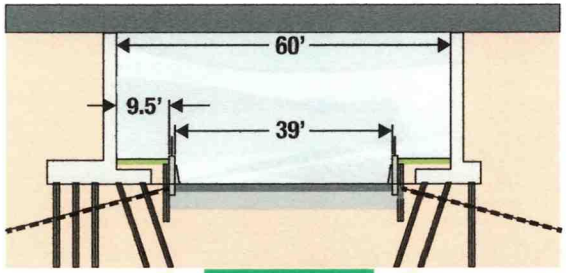
Plan View



Section A-A



Section B-B



Section C-C

Construction Staging

We will minimize community impacts and schedule delays—saving you money

The closure of Hargrave Street between the UPRR tracks and Lincoln Street has the potential to save approximately $20M and reduce the construction duration by 12 months.

The key to construction staging is to minimize impacts to residents and businesses while optimizing the ability for a contractor to accelerate construction since additional time has more impacts on the community, typically results in higher bids, as well as poses a higher risk for claims and change orders. At this time, residents are the larger concern (versus businesses) as the southeast side of the city is primarily single-family homes and the residents are outspoken. Many have relocated to the Pass Area to avoid heavy traffic and congestion, and generally oppose projects if they believe they will result in increased traffic.

Depending on timing, the planned developments in the airport redevelopment area and surrounding area could present an increased need to address significant truck traffic. This is also a concern of the residents in the area as they are sensitive to truck traffic cutting through their neighborhoods creating increased noise and pollution.

Given that there are multiple traffic rerouting options to the west of Hargrave Street, construction staging will likely be able to consider a closure of Hargrave Street between the UPRR tracks and Lincoln Street for an extended period of time. Our team's strategy will be to find the ideal balance for a street shutdown that minimizes impacts to the community while maximizing the contractor's efficiency to complete the work.

If a closure of Hargrave Street between the UPRR tracks and Lincoln Street is feasible, this will save the project approximately $20M and 12 months of construction duration.

If traffic forecast numbers come in higher than expected or if other concerns arise, such as response times for emergency vehicles through the adjacent detour routes, then a temporary detour road adjacent to Hargrave Street could be studied. This could be constructed just to the west of the excavation where the full property acquisitions are occurring. It would likely have additional impacts to properties, require a temporary grade crossing, and present challenges at the eastbound ramp intersection since the freeway bridge abutment is directly adjacent.

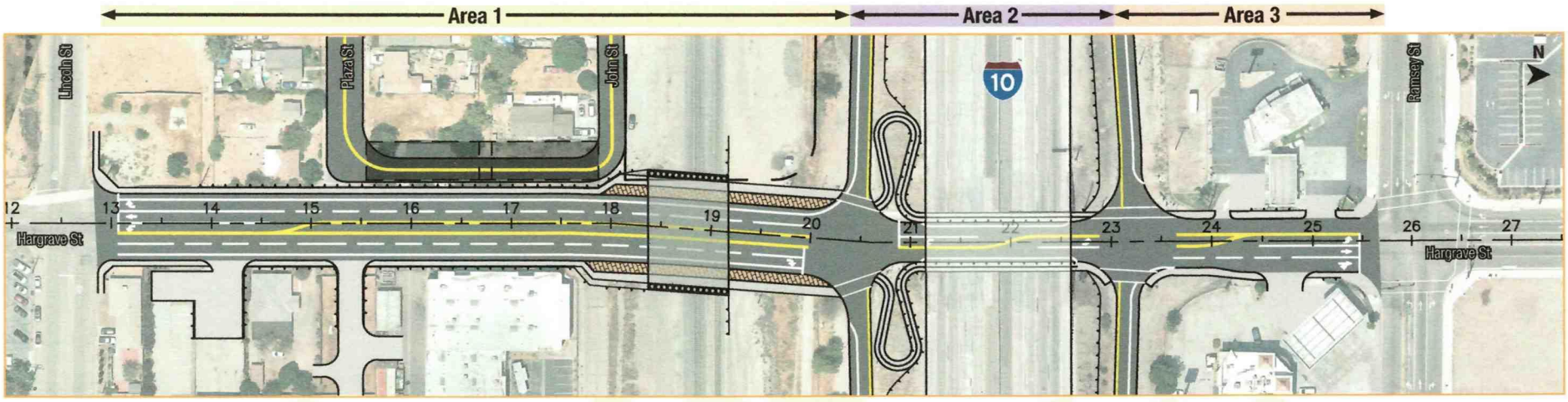
The work to the north at the interchange to lower Hargrave Street and the ramps will typically take less time than the work to the south that involves construction of the bridge, approach walls, and road lowering. For this reason, the interchange work can be overlapped with the south end work to minimize closures of both Hargrave Street and the interchange. Note that for the interchange work, the eastbound ramps can be closed first so the westbound ramps can remain open similar to how our team staged the Sunset Grade Separation. See Construction Staging exhibit on the following page which demonstrates the basic stages with timeline.

Construction Staging

Phase	Location	Year 1	Year 2	Year 3
Phase 1	Area 1	2 Months: Property Demolition/Clearing		
Phase 2	All	8 Months: Utility Relocations (Assumes Option 2 Sewer Relocation to the west)		
Phase 3	Area 1	6 Months: Construct Shoofly Tracks		
			HARGRAVE STREET CLOSURE = 15 MONTHS	
Phase 4	Area 1		Close Hargrave Street South of I-10 Interchange = 10 Months	
			9 Months: Bridge and Wall Construction South of I-10 Interchange	
Phase 5	Area 1		6 Months: Excavate and Construct Roadway South of I-10 Interchange	
			UPRR Operations on New Bridge	
Phase 6	Area 2		Close Eastbound I-10 Interchange Ramps	
			4 Months: Lower Eastbound Ramps	
Phase 7	Area 2		Potential to Open Eastbound Ramps for Access to/from the South	
			9 Months: Construct Walls Under Freeway and Lower Roadway	
Phase 8	Area 3		Close Westbound I-10 Interchange Ramps	
			4 Months: Finish Walls, Lower Westbound Ramps, Finish Hargrave Street Up to Ramsey Street	
				Open Westbound I-10 Interchange Ramps

= Task
= Construction Phase Duration
= Closure
= Open

TOTAL PROJECT CONSTRUCTION = 27 MONTHS



Aesthetics

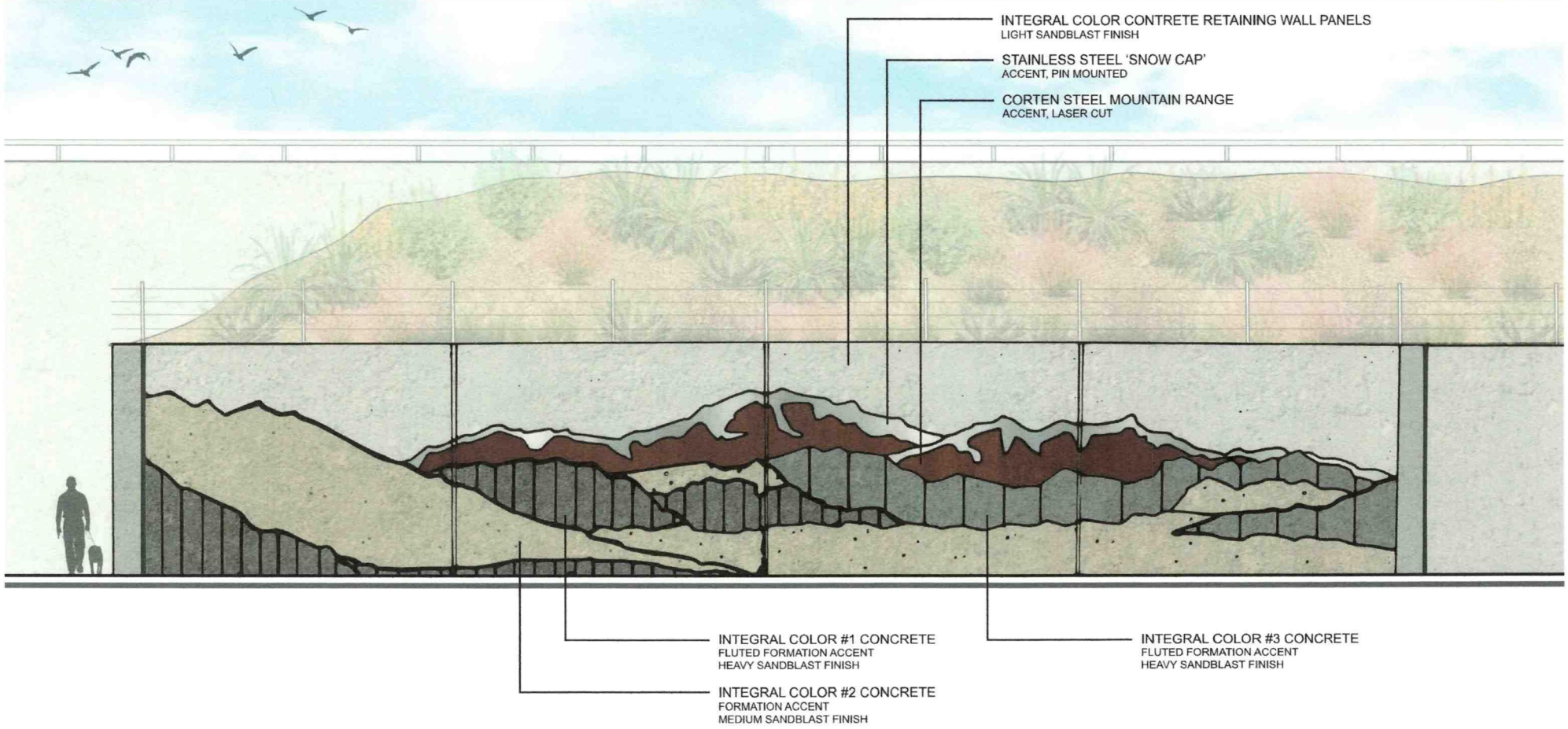
Our aesthetics will reflect Banning's scenic beauty, creating a memorable gateway to redevelopment.

Drawing inspiration from Banning's surrounding mountains and unique landscape, we will work closely with RCTC, the City, and community leaders to develop aesthetics that truly reflect the culture and spirit of Banning.

The Kimley-Horn team is excited to partner with the City in developing an aesthetic theme for the grade separation that truly captures the character and scenic beauty of Banning. Drawing from our successful approach to aesthetics on the Sunset Grade Separation, we will propose cost-effective features that instill a sense of pride in the community. This will greatly enhance the redevelopment area and its adjacent residential communities.

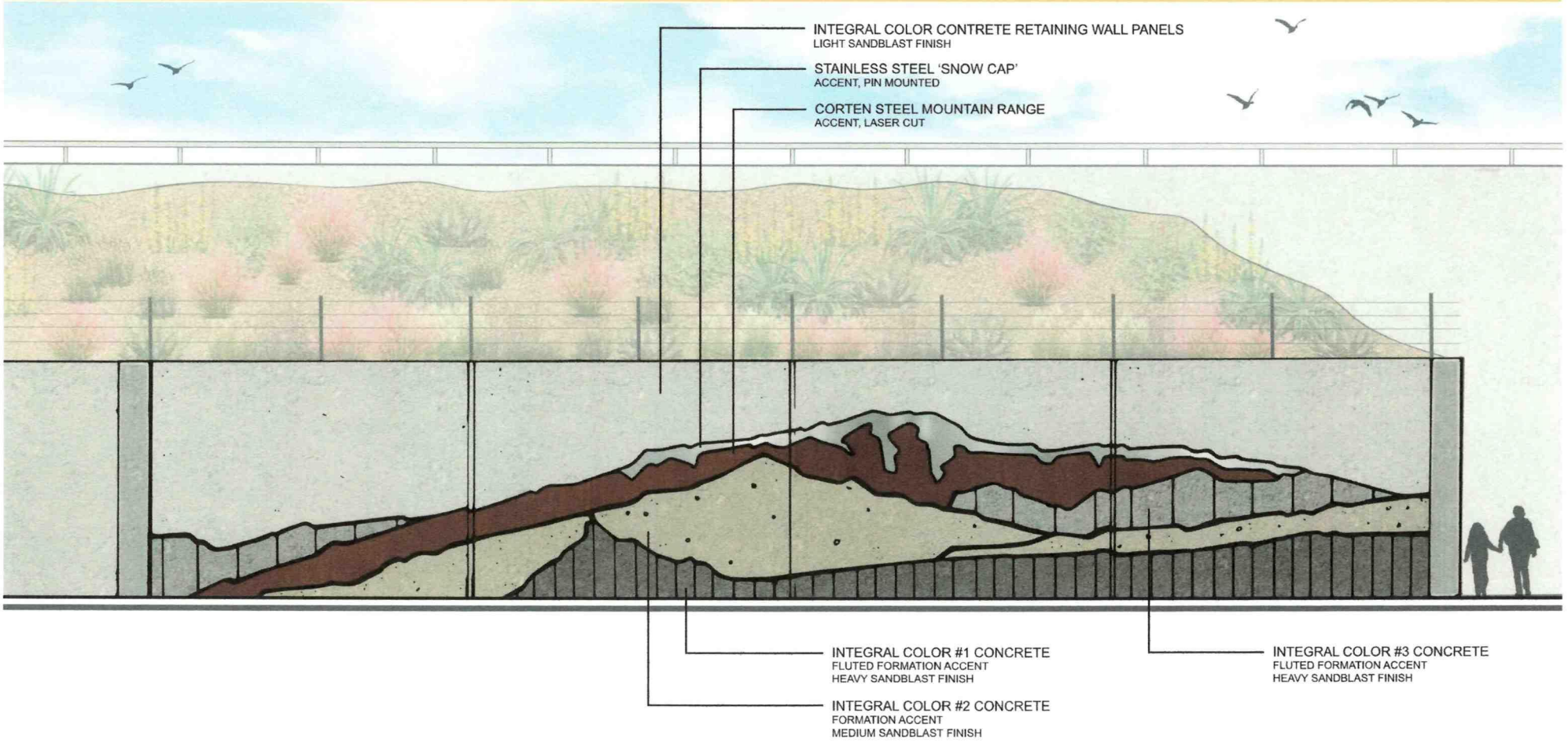
Situated in the heart of Banning, the Hargrave grade separation presents an opportunity to not only improve vehicular and pedestrian circulation, but also create a memorable experience for residents and visitors passing through this gateway. We have developed concepts on the following pages which showcase unique themes the City may consider incorporating into the grade separation retaining walls, railway barrier fencing, and pedestrian barrier fencing. Working closely with City staff, City Council, and the public, we are prepared to further develop these concepts or create new ones to create a welcoming and visually striking Gateway to Redevelopment, one that celebrates the City's rich heritage.

San Gorgonio Retaining Wall Theme – *Aesthetic Concept*



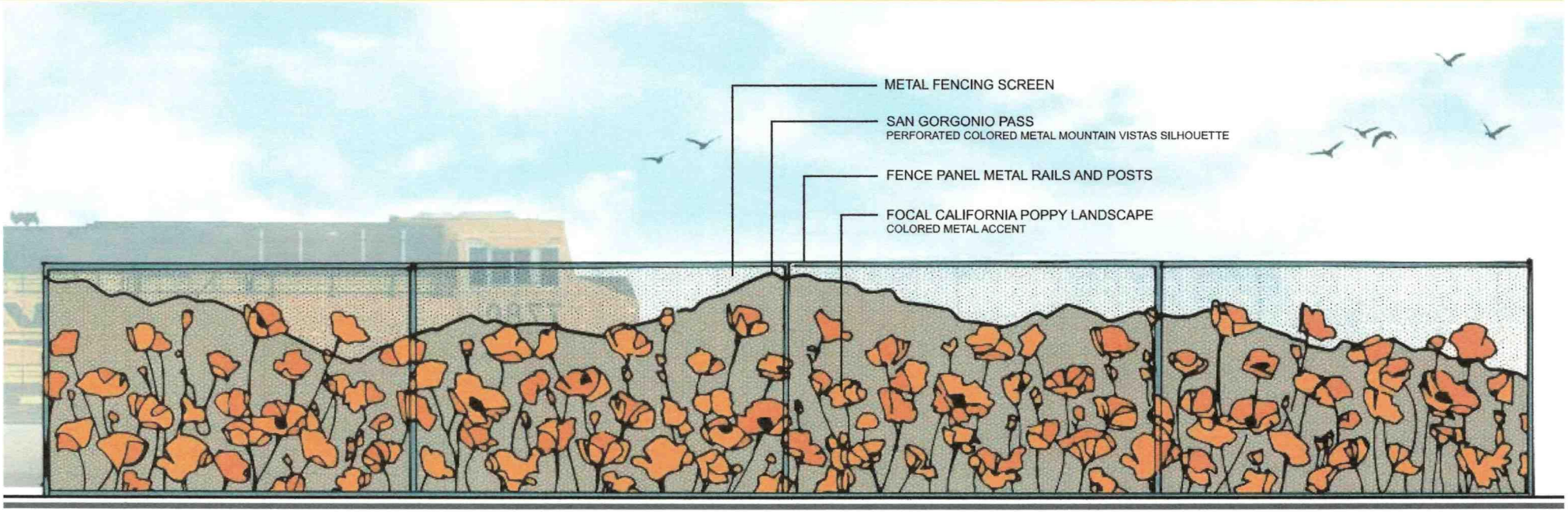
The City of Banning is situated in the picturesque San Gorgonio Pass between two significant mountain peaks, Mount San Gorgonio (to the north) and Mount San Jacinto (to the south). The aesthetic design features in this rendering showcases the snowcapped peaks of San Gorgonio Mountain, or Old Greyback, the highest peak in Southern California.

San Jacinto Retaining Wall Theme – *Aesthetic Concept*



This rendering beautifully showcases the mountain and desert landscapes of San Jacinto Mountain, highlighting its topographical prominence. These aesthetic wall treatments enhance both grade separation retaining walls and can be appreciated by travelers in either direction—this is where the "sense of place" comes to life.

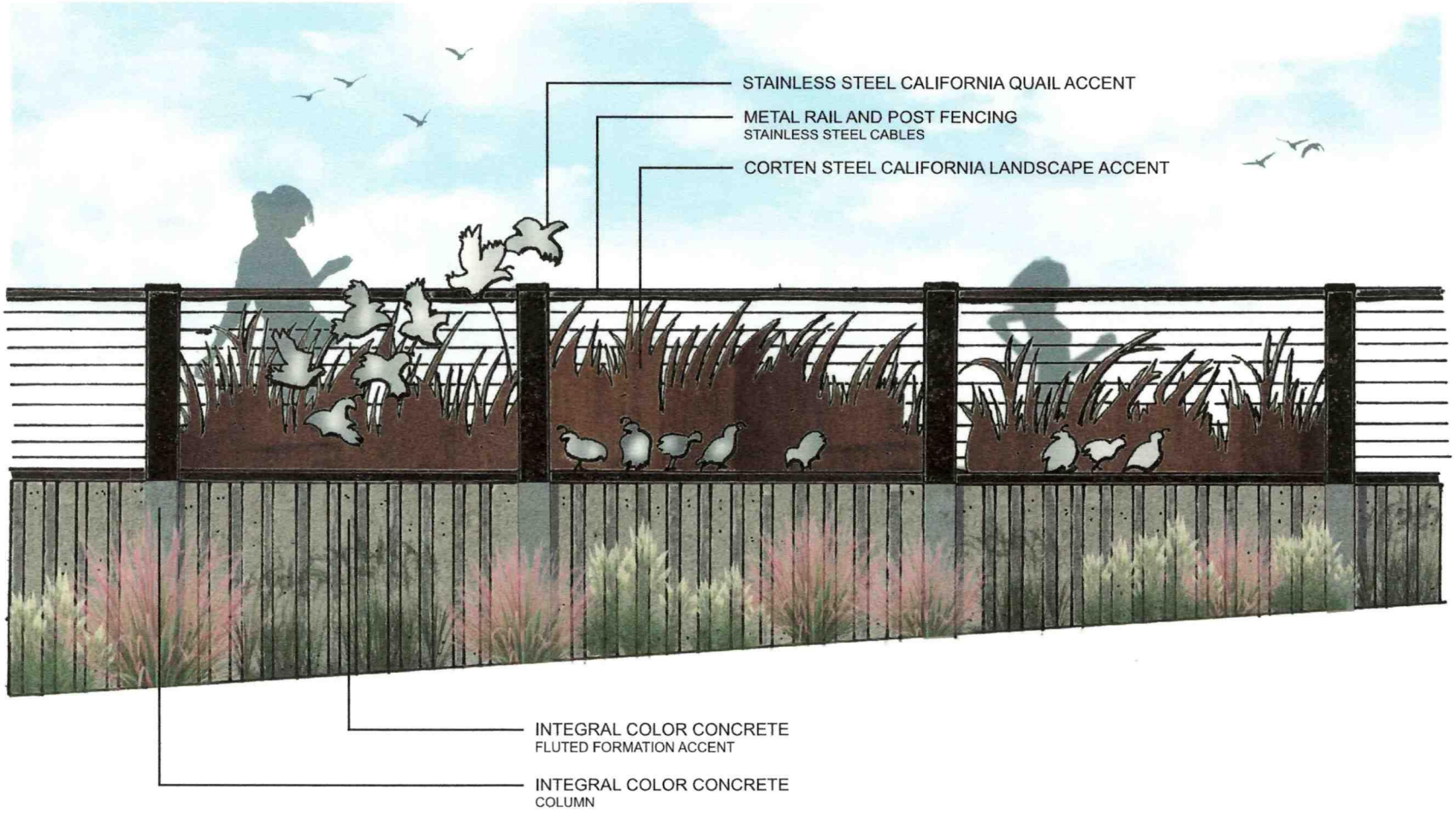
Railway Barrier Fencing – *Aesthetic Concept*



BRIDGE STRUCTURE

The foothills boast iconic California features, offering a glimpse into the California landscape. The aesthetic design in this rendering celebrates the California State Flower, the California Poppy.

Pedestrain Barrier Fencing – *Aesthetic Concept*



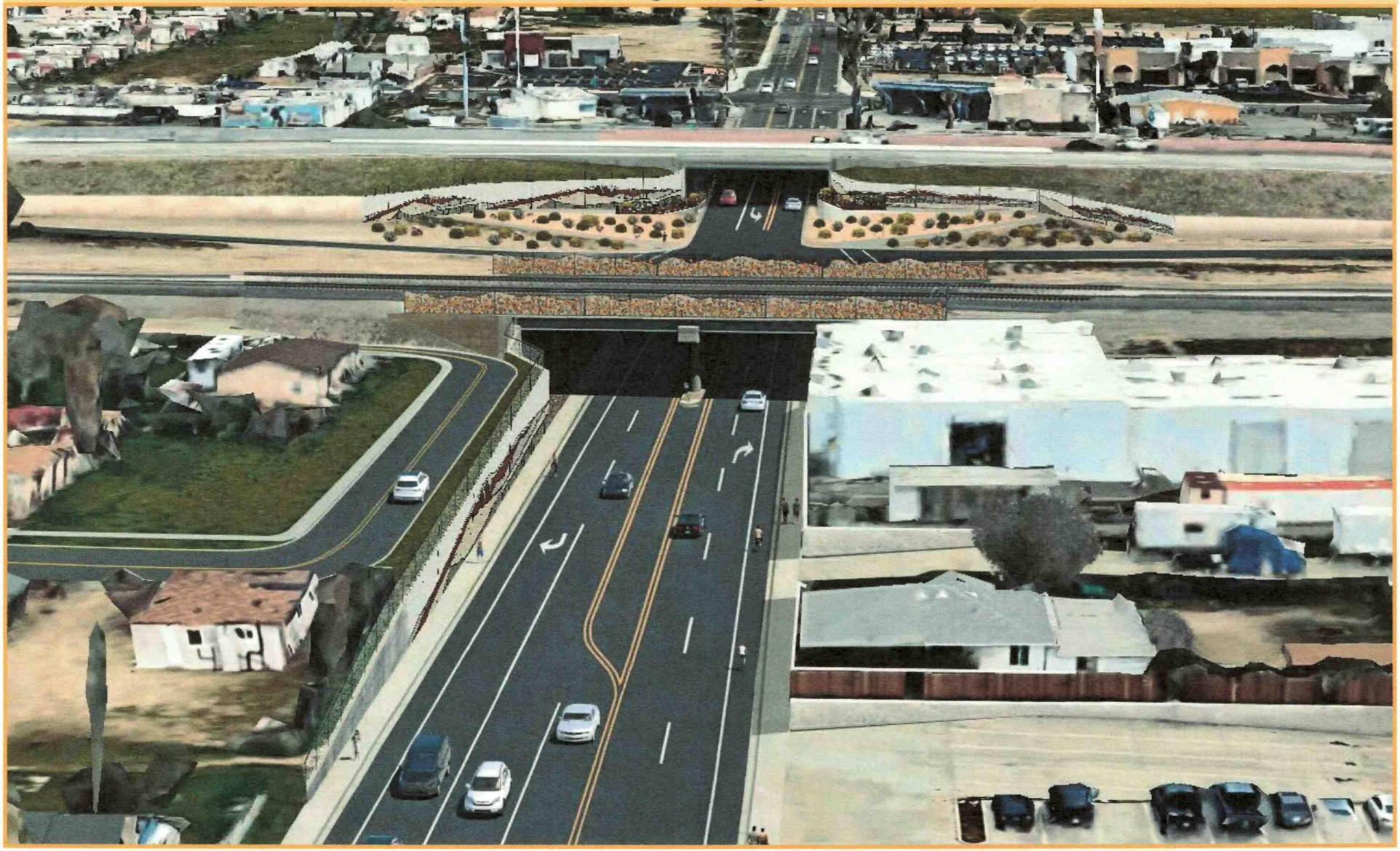
The aesthetic design in this rendering highlights the key natural and plant elements of the desert landscape, and the California State Bird, the California Quail, creating a serene and secure environment for pedestrians to enjoy.

Freeway Ramp Aesthetics



The aesthetic features of the Hargrave Grade Separation project are truly a celebration of the best aspects of Banning. They create a visually stunning display for both motorists and pedestrians passing through the gateway. Landscaping will play a vital role in seamlessly integrating the desert's drought-tolerant landscape into the project, with accent boulders inspired by the nearby foothills adding visual interest. This project will greatly enhance the community by honoring the area's unique setting, providing an attractive connection for vehicles and pedestrians, and celebrating the community's resilience and commitment to embracing new enhancements in the "City of Endless Opportunity".

Hargrave Street Rendering showing Aesthetic Opportunities



3. Environmental

Our NEPA approvals are efficient and quick

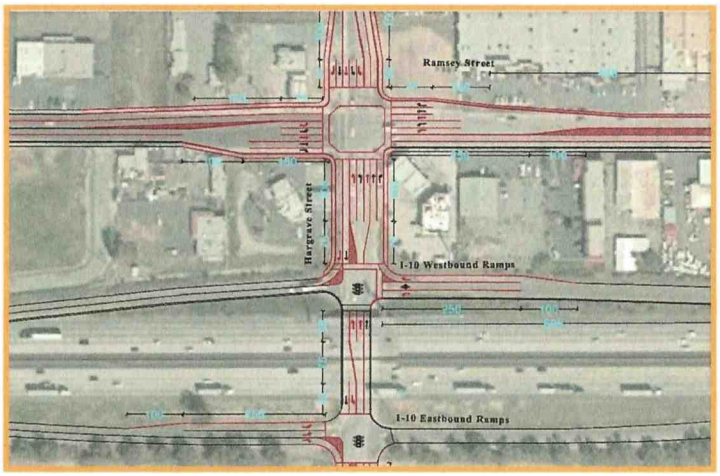
Our expertise in Caltrans and FRA-Led NEPA processes, along with deep knowledge of the project area, will help ensure efficient and quick NEPA approvals. We secured NEPA approvals for the Sunset Grade Separation in just six months. We also obtained NEPA approvals for the I-10 Bypass.

The Kimley-Horn team includes the same staff who have worked with the City on many projects in the past, and most recently obtained NEPA compliance for a Complex EA on the adjacent I-10 Bypass project. Our experience and deep knowledge of the project area will result in efficiencies and the ability to expedite the schedule.

This project is anticipated to be a Statutory Exemption (SE) under CEQA and a Categorical Exclusion (CE) under NEPA. The City will be the CEQA lead agency and will require our assistance in preparing a Notice of Exemption (NOE). As outlined in the RFP, the lead agency for NEPA will be Caltrans. As noted in Article 4, Subtask 2.1, of the Grant Agreement with the FRA, the lead agency for NEPA will be the FRA and they would determine appropriate class of action. Caltrans has jurisdiction over the impacted I-10 Freeway ramps and will need to approve work performed in their right-of-way regardless of the NEPA lead. The FRA may delegate the NEPA lead to Caltrans since they are already involved. This occurred on the Colton Crossing project for which our team member, LSA, led the environmental. The other possibility is that FRA is the NEPA lead and the City and the Kimley-Horn team complete all NEPA documentation consistent with FRA guidance. Our team would work with both Caltrans and FRA to prepare the technical documentation using a single acceptable format. We will help the City confirm the NEPA lead at the beginning of the project so the proper format and processing of environmental technical studies is known.

The following summarizes the primary environmental disciplines which will require technical studies and the approach our team will take.

Traffic Studies - Our teaming partner, LSA, has assisted the City with traffic analysis for previous general plan updates; helped update the traffic fee component of the City's Development Impact Fee (DIF) Program; and understands the General Plan Street System. LSA also helped the Kimley-Horn team with the traffic modeling for the redistribution of traffic on the I-10 Bypass project, which impacts traffic circulation along Hargrave Street. Our approach is to use this knowledge and extensive data to provide adjacent project coordination and make critical design decisions based on the temporary and ultimate traffic conditions planned for the area.



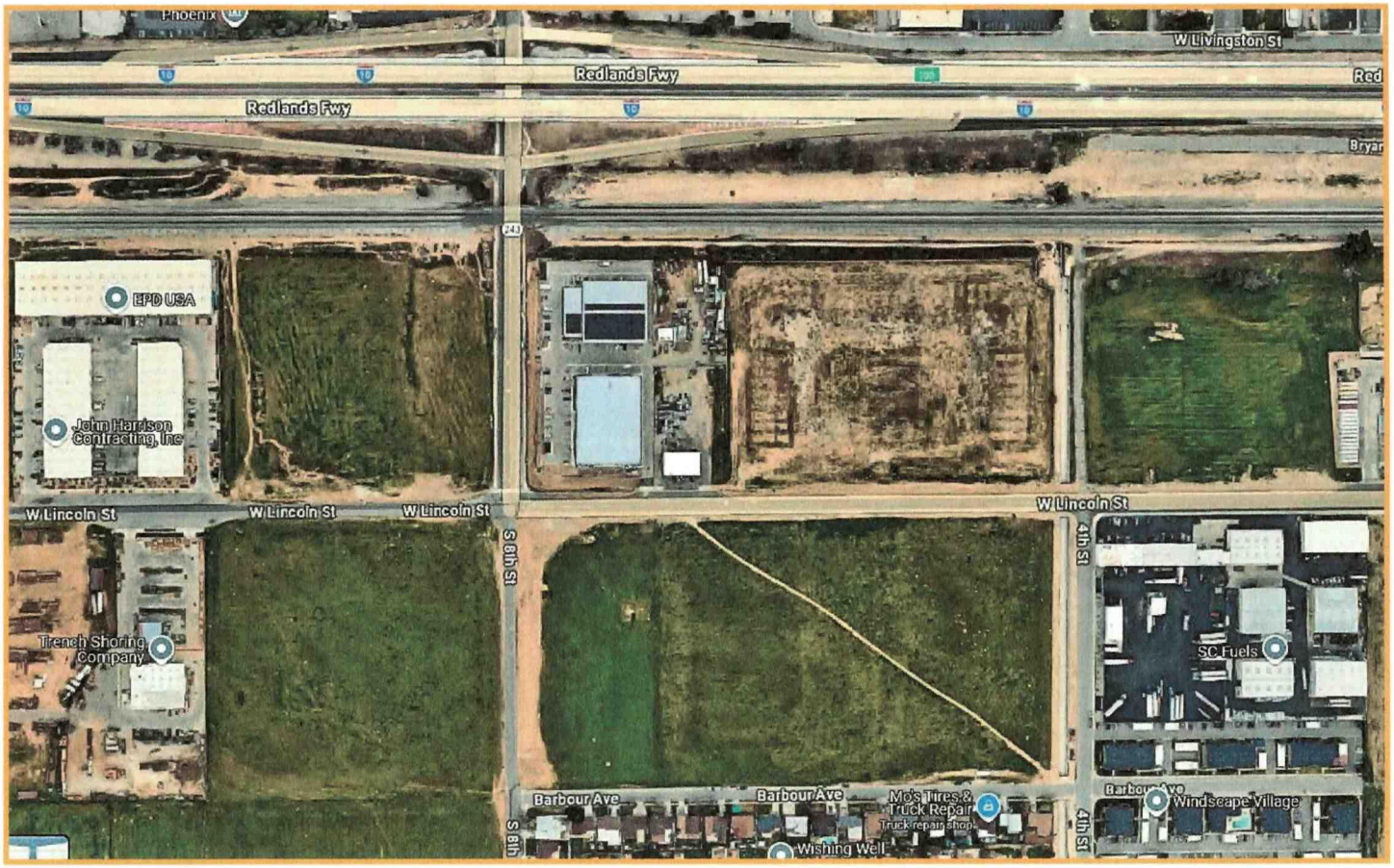


The information our team has on the project intersections, such as these for the Banning Fee Program, will present a cost savings and assure coordination with other City programs.

In addition, an effective Transportation Management Plan (TMP) is needed to address traffic conditions during construction. For detouring around the project area, local traffic not accessing the freeway can be routed to San Gorgonio Avenue. Traffic accessing the freeway can be routed to 8th Street. If peak hour volumes are excessive at 8th Street, the detour can be extended to 22nd Street or even alternate at Sunset Avenue. Our team already has a traffic analysis of these intersections as part of the I-10 Bypass studies and will just need to obtain new traffic counts for updates.

Understanding the unique situations in the City will result in better solutions and help reduce City staff efforts. Our team has history in the area and will serve as an extension of City staff. One example is the temporary detour route along Lincoln Street. The City is concerned about impacts to pavement along this route as well as assuring safe pedestrian access with the additional traffic and paths that high school students use near the intersection with 8th Street.

Our team's knowledge of the area will help reduce City staff time as we will truly serve as an extension of your staff.



Safety and pavement condition are concerns for detour routes. This aerial photo shows the trail used by High School students between Barbour Avenue and Lincoln Street for access to the other side of I-10. Our team will propose project features to assure pedestrian safety as part of the TMP.

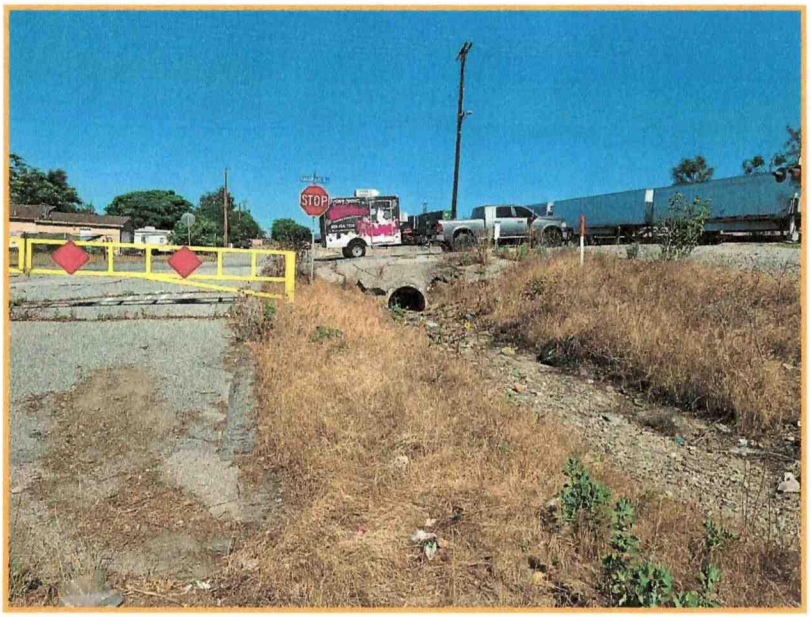
Cultural Studies - We will provide a routine Historic Property Survey Report (PSR) including an ASR, HRER, Native American Consultation, and associated documentation of coordination efforts pursuant to AB 52. Due to the deep excavations, there is a potential for paleontological impacts. To address this, we will provide a Paleontological Identification Report and Paleontological Evaluation Report (PIR/PER).

Biological Studies - While the project site is located within the Western Riverside Multi Species Habitat Conservation Plan (WR-MSHCP), based on our experience in this area and review of the WR-MSHCP, there is a concern for riverine/riparian habitat and downstream impacts in the Coachella Valley MSHCP related to sediment transport.

The drainage area that flows to the east along John Street/UPRR and then to the south into Smith Creek was studied extensively for our I-10 Bypass project. Additionally, our latest understanding of the airport redevelopment area as well as the Morongo Section 12 (west) development is that this natural channel through the respective properties will be maintained/protected.

We will minimize impacts to this drainage with the Hargrave Grade Separation and point out the primary source of flow which is the Ramsey Street Storm Drain. The objective is to show the wildlife agencies that the Hargrave Grade Separation will not result in impacts to sediment transport along this drainage based on the relatively minimal runoff contributing to this drainage from the project area (i.e. the majority is coming from the Ramsey Street Storm Drain).

There is the potential for the presence of habitat for burrowing owl (*Athene cunicularia*), Marvin's onion (*Allium marvinii*) and many-stemmed dudleya (*Dudleya multicaulis*) due to project's proximity to survey areas identified in the MSHCP. Early coordination with the Western Riverside Regional Conservation Authority (RCA) and the resource/regulatory agencies will confirm the level of analysis to be completed to demonstrate compliance with the MSHCP and identify appropriate mitigation, if required.



Our team has useful information on this drainage area that flows east and then south into Smith Creek.

Air Quality - As an exempt project we generally anticipate planning the benefits to air quality as it relates to removal of a grade crossing and associated idling traffic. Additionally, the project is exempt from conformity under 40 CFR 93.126 (Railroad/ Highway Crossing) as a grade separation that does not change the number of through lanes and does not change the channelization or signalization status of intersections at either end. Kimley-Horn will develop an air quality report consistent with the Caltrans SER to analyze the project's construction and operational air quality impacts and document that the project is exempt from federal conformity.

Noise and Vibration - Sensitive noise receptors generally exist in the southwest quadrant residential area. If the temporary shoofly tracks are constructed to the south of the mainline tracks closer to the residential area, there is a high likelihood that the noise threshold limits will be exceeded. This could result in a temporary noise wall that will likely be an attractive permanent feature by the local residents.

Our concept puts the shoofly tracks on the north side of the mainline tracks and will avoid noise and vibration impacts to the residents. This will also prevent the need for temporary or permanent sound walls.

The proposed project is considered a Type I project according to 23 CFR 772 and the Caltrans Noise Protocol because the grade separation consists of a vertical alteration. Therefore, a Noise Study Report following the Caltrans SER will be required. Kimley-Horn will prepare a work plan and coordinate with Caltrans District 8 noise staff to ensure the noise measurement locations and modeling assumptions are acceptable and to streamline the review process.

Hazardous Materials - The Kimley-Horn team will conduct a routine Initial Site Assessment (ISA) for the project area. Potential concerns are leaky underground storage tank (LUST) sites associated with the gas stations to the north as well as typical hazardous materials found within railroad right-of-way. The ISA will evaluate the potential for impacts to the project area from users along Hargrave Street and the rail corridor. Our team documented similar sites within the area as part of the I-10 bypass project.

Water Quality - The project area is contained entirely within the Whitewater River Watershed, which is part of the Colorado River Basin, with the nearest receiving waters being Smith Creek. Our team is familiar with the requirements of this watershed through our recent environmental work on the I-10 Bypass project, which showed that there are no existing or proposed Total Maximum Daily Loads (TMDLs) for any of the receiving waters within the project area.

Compliance with the Municipal Separate Storm Sewer Systems (MS4) Permit will be a dual process. Caltrans will require a Stormwater Data Report (SWDR) to comply with the MS4 Permit for work within their right-of-way. For the City portion, compliance with the Whitewater River Watershed MS4, a Water Quality Management Plan (WQMP) is required for Priority Development Projects. Since the grade separation project does not fit within one of the seven categories established in the guidance, a WQMP is technically not required; however, the MS4 Permit does require the project implement BMPs to the Maximum Extend Practical (MEP). Additionally, a Water Quality Assessment Report (WQAR) that follows the Caltrans December 2022 Water Quality Assessment Report Content and Recommended Format is proposed for work within the Caltrans right-of-way to support the DEER.

Based on the constrained project site, we will not be able to implement infiltration or larger scale bio-treatment. Instead, we will consider proprietary devices within Hargrave Street that treat pollutants from the paved surfaces (such as a Filterra system). We also anticipate providing measures to prevent erosion, such as rip-rap or rock slope protection, grading, and lined ditches/channels where appropriate. All of these features will be discussed with City staff to confirm the ability to provide maintenance.

4. Right-of-Way

Our ROW experts ensure compliance and secure certification

Our team successfully processed right-of-way needs for 14 grade separations projects including the Sunset GS. One of our team members is a former Caltrans HQ Chief of Real Estate and will help ensure overall compliance and secure the right-of-way certification.

Our team has a thorough and in depth understanding of the right-of-way elements for the project. These can be divided into different categories with our approach and implementation for each described below. For all right-of-way processing, we are keenly aware and familiar with the requirements for Caltrans Right-of-Way Certification which is a prerequisite to construction contract advertising and award.

The following describes our approach to each impacted property. The proposed features described are also shown on the Opportunities and Constraints exhibit provided in the Roadway Design section.

Commercial Properties

There are four impacted commercial properties. This includes the two gas stations (Arco, Mobil) with convenience stores at the intersection of Ramsey Street and Hargrave Street. The Mobil service station appears to be undergoing a rebranding. This site also has a Churches Chicken restaurant associated with its operation. Additionally impacted are the Banning Industrial Park and Valley Food Service properties.

Among the most challenging parcels is the Arco station on the southwest corner of Hargrave Street and Ramsey Street. The challenge is the profile grade versus the existing driveway and the directly adjacent fuel pumps. This leaves very little room for grade changes associated with the lowering of Hargrave Street. Rest assured that a concerted effort will be made to limit the interruption to business operations during and subsequent to construction, as well as limit the potential for a Loss of Business Goodwill claim – which in California is quite common. Communication and coordination with the owner/operator will take place to confirm petroleum and sundry delivery schedules to the site with the goal of maintaining a "window" providing maximum ingress/egress during construction.

Based upon site visits and accurate 3D data obtained by a drone scan flyover, we have determined that narrowing the southerly Arco station driveway on Hargrave Street will result in the ability to maintain outbound vehicular circulation and thereby minimize severance damages to the parcel. The driveway design will also enable continued usage of all existing fuel dispensers. Integrated in the design for this parcel will be improved circulation patterns around the primary building to assist with fuel delivery truck movements and vehicle movements in general. Designing and demonstrating a reconfiguration that works puts the City in a position that minimizes exposure for claims associated with Business Interruption, severance damages, and the aforementioned Loss of Business Goodwill.

The Mobile station on the east side of Hargrave Street has more room and the driveways can be reprofiled and lowered with adequate space to slope to the fuel dispensers. This property is similar to the Chevron station on the Sunset Grade Separation with respect to required grade changes adjacent to the fuel pumps.

The Banning Industrial Park also presents challenges due to the building located directly adjacent to the proposed retaining walls and a commercial driveway with truck loading dock roll up doors at 90 degrees to the subject driveway. The design concept we discussed with the City includes protecting the existing building with construction of a secant pile wall and shifting access to the south to be shared with Valley Food Service

and a residential property. This design solution maintains direct access to Hargrave Street and incorporates a reciprocal easement between the users of the maintained driveway which is quite common with a shared ingress/egress point.

Our initial approach is to investigate the potential for the airport redevelopment limits to extend and include this complex. If it does, there could be a cost savings with the building removed prior to construction of the project. If this does not occur, we will meet with the three property owners to explain how common use, security, and maintenance of the shared driveway will be accomplished. All information learned from property owners and/or tenants will be considered and evaluated as a means to optimize design and efficiency.

Our team uses 3D perspectives to show property owners what the final condition will look like. This visualization typically has a positive impact and helps with negotiations.

Modifications for the Valley Food Service property include the new shared access agreement for its existing northerly driveway and design of the existing southerly driveway apron which will align to the new gradient of Hargrave Street.

Residential Properties

All impacted residential properties are south of the UPRR railroad right-of-way. Four properties are impacted on the west side of Hargrave Street and two on the east side. Both of the east side properties are adjacent northerly and southerly to the Valley Food Service property. The one to the north will need the changed access that will be shared with Valley Food Service and Banning Industrial Park as previously described. The second property is on the northeast corner of Hargrave Street and Lincoln Street and will require partial acquisition to accommodate the widened road, and a temporary construction easement to construct the project.

Two single family residential properties on the west side of Hargrave Street will require full acquisition to connect John Street with Plaza Street. We understand that the City is already advancing one of those acquisitions on the vacant lot. The other will require valuation and acquisition along with a State required Relocation Plan addressing the details and accommodations as it pertains to the displacement of the residential occupant. State and Federal regulation required relocation advisory services and assistance will be administered to the displaced occupant(s), as appropriate.

The remaining two properties on the west side of Hargrave Street closest to Lincoln Street will require partial right-of-way acquisitions to accommodate the widening of Hargrave Steet, and a temporary construction easement to accommodate construction of the project.

Caltrans Right-of-Way

The approach with Caltrans (District 8) right-of-way is to keep the ramp improvements within the existing State right-of-way and thereby have no acquisitions – permanent or temporary. Similar to the Sunset Grade Separation, we have determined that there exists adequate space to construct the project. As a result, the request of Caltrans is that an encroachment permit be issued at the end of the DEER process to address temporary access for construction. Any permanent or temporary right-of-way acquisition involving Caltrans on- or off-system land has the potential to "kick" the project out of the DEER process. There are a host of reasons, the least of which is extended time and uncertainty that is introduced if this were to occur. Accordingly, the project design parameters and limits will avoid this pitfall.

UPRR Right-of-Way

Similar to the approach with Caltrans right-of-way, there should be no acquisition of UPRR right-of-way. The established relationships our team has with UPRR personnel in Operations, Real Estate, Maintenance, etc. will serve to expedite all necessary measures (flagging, coordination, design approval, etc.) that will need to take place. The new grade separation crossing of UPRR right-of-way is addressed with agreements, typically in the form of a Maintenance and Operations Agreement. It is anticipated that retaining wall touchdown points and footings will be designed and accepted by UPRR and ultimately referenced and memorialized in said agreement(s). If the UPRR wishes to address matters differently, we have ample experience in these dealings and will endeavor to provide the least costly, most time efficient, and prudent manner in accommodating the UPRR.

City Street Right-of-Way

The right-of-way for the widened Hargrave Street will be obtained through the acquisition of permanent roadway easements as indicated for the properties previously mentioned. A new roadway and utility easement will be needed for the new connector road between John Street and Plaza Street. Our team will work closely with the City to assist with incorporating the newly constructed road into the City's system of roads as well as provide recorded instruments (rights) to utility companies that have been relocated as part of the project. In addition, our team is experienced with municipal street vacations and will coordinate closely with the City so that an official and proper vacation of a portion of John Street, east of Hargrave Street up to the newly constructed John Street, is carried out efficiently – if it is determined to be the most appropriate course of action.

5. Coordination, Agreements & Permits

Caltrans Approvals

We are well-versed in Caltrans' new process

Our team's unmatched knowledge of Caltrans' new DEER process and strong relationships with District 8 staff will help us maintain the scope and stay ahead of schedule.

For approvals within Caltrans right-of-way, we anticipate the new Design Engineering Evaluation Report (DEER) process. This replaced the previous Permit Engineering Evaluation Report (PEER) process which we implemented on the Sunset Grade Separation. ***The Kimley-Horn team is one of the first in the state to implement the newer DEER process and we are currently implementing this process on four other projects in Southern California. We also led Caltrans approvals for the McKinley Grade Separation with Caltrans District 8 and the Fullerton Grade Separation with Caltrans District 7.*** The key to our strategy is keeping within the DEER process to prevent the project from being put into full oversight. This is determined through the DEER Checklist. The Hargrave Grade Separation will have no problems maintaining the first five criteria in the checklist. The challenge will be item no. 6 for the walls under I-10 that cannot be designed per Caltrans Standard Plans. The similar tie-back walls that our team designed for the Sunset Grade Separation were able to remain under the PEER process at that time. Our team had a similar situation come up recently with the DEER process on another project and were able to obtain an exception from Caltrans Headquarters. We will discuss this issue early in the process with Caltrans and point out the similar exceptions they have given on other projects. ***Our knowledge of the new process, and similar situations we have successfully navigated through with District 8 staff, will lead to a solution that maintains the planned scope and schedule of the project.***

Design Engineering Evaluation Report Application Checklist				
No.	**Criteria (as it pertains to Hargrave GS)**	**True**	**False**	**Notes**
1	Maintain Environmental SE/CE	✓		Only provide features needed for grade separation
2	Single Build Alternative	✓		Required for SE/CE
3	No CTC Action	✓		No impacts to mainline I-10
4	No Caltrans R/W Conveyance	✓		Keep lowered ramps within existing right-of-way
5	No FHWA Approvals	✓		Maintain existing access points to I-10
6	No Structures that are not per Caltrans Standard Plans		✓	Walls under I-10 for Hargrave lowering
Risk: being kicked out of the DEER process based on Item No. 6.				
Solution: Leverage our experience and knowledge of the new DEER process to obtain an exception and remain on schedule. Coordinate this with Caltrans early during the Concept Development stage and emphasize schedule constraints and project benefits, similar to our successful approach on the Sunset Grade Separation.				

FRA Approvals

We will streamline the FRA approval process

We achieved FRA approvals in under six months for a local project, leveraging our trusted relationships with FRA and the expertise of a former FRA staff member who is now on our team. This experience and our relationships will streamline the FRA approval process.

The Kimley-Horn team routinely processes projects through the FRA for approvals; we know their process and expectations. This involves grant funding compliance as well as NEPA Compliance if led by the FRA. NEPA compliance for a Categorical Exclusion (CE) with the FRA requires environmental technical study approvals similar to what Caltrans requires when they take the lead on NEPA as delegated from FHWA.

UPRR and CPUC Approvals

Results-driven approach to negotiations with UPRR and CPUC

We successfully negotiated with UPRR on the Sunset Grade Separation and are currently obtaining UPRR and CPUC approvals on four Metrolink projects including six grade crossings, two new grade separations, and over six miles of new double tracking. This approach will prove equally beneficial for Hargrave.

Our team routinely provides coordination with UPRR for approvals using a proven approach. We work through Nick Vineyard, the UPRR Area Manager, to obtain design approvals and other necessary coordination. Nick will provide comments and obtain input from his groups in Omaha including track, grading/drainage, structures and utilities/right-of-way. Our team already has insights of the types of comments and timeline from UPRR based on our recent work on our Metrolink projects and the ACE Fullerton Grade Separation currently in construction—this is part of Kimley-Horn's core practice which will assure coordination with design disciplines and maintain urgency.

Examples of Kimley-Horn team's current and past UPRR approvals:

1. **Metrolink Simi Double Tracking (Nick Vineyard)** – shared corridor with UPRR right-of-way for one track, five grade crossings, UPRR siding, industry spur track, and shared right-of-way at station platform.
2. **Fullerton Grade Separation (Nick Vineyard)** – raise UPRR double mainline tracks 8.5 feet, provide double mainline shoofly tracks.
3. **Sunset Grade Separation (Kenneth Tom)** – raise UPRR double mainline tracks 2.5 feet, provide double mainline shoofly tracks.

Similarly, our core staff routinely coordinates with the CPUC for similar GO88-B approvals which will be required for the Hargrave Grade Separation. In the project area, this involves Utilities Engineer, Sergio Licon. ***Our team has prepared five GO88-B applications for nearby projects in just the last 12 months.*** We will bring the CPUC in early with the virtual diagnostic meeting and then followed by the formal field diagnostic meeting. Through our Metrolink work, we have developed a process to obtain "informal" input from the CPUC on the GO-88B documents before the formal submittal which occurs later in the schedule so that the approval window does not expire. This informal input assures no delays in the process when approaching the Commission meeting date.

Community Engagement

We care about this community and have a deep understanding of their needs

As part of the I-10 Bypass, our team has worked closely with the communities in the project area—we know their concerns and priorities many of which are related to Hargrave. We will lead workshops to share project information and gather input to build consensus and support for the project.

Our team has engaged with City Council and the public about the Hargrave Grade Separation and understand that the project generally has support. Public outreach will still require a careful approach to maintain this support. There are currently many concerns about how the southeast side of the city will redevelop and how all of the supporting transportation projects will all fit in. The stakeholders, including landowners and developers involved with redevelopment, as well as emergency services and the school district are also concerned for how this will come together for proper access and timing.

With all of the projects in the southeast side of the city, it will be key to properly educate the community and understand them.

The approach that has worked effectively for the residents and stakeholders in this area is to hold workshops where the team can educate the public about the project and gain input. This is where technical information on the project is shown along with schedule and potential impacts. Just as important will be reporting the latest on the adjacent developments and transportation projects with their timing and how they will be effectively coordinated to reduce impacts to the community.

Another focus area is making sure the media has the right information to properly educate the community through their outlets. Our team worked closely with David Heiss when he was with the Record Gazette to make sure he had accurate information about the I-10 Bypass. This can now be done with Editors Hector Hernandez and Kristy Loufek of the Record Gazette. Other media outlets can follow a similar process.

Our Project Manager, Darren Adrian, is native to the Pass Area and is able to connect with the residents and stakeholders as he is not viewed as an outsider. This proved useful on the I-10 Bypass project when coordinating with the community in the southeast side of the city. Darren was able to gain the trust of local residents and landowners that were initially negative towards the project.

Public Comments/Concerns

- Hargrave Street at-grade Railroad Crossing
- Truck Traffic
- Cut-through Traffic
- Existing Pavement Conditions



Funding Support

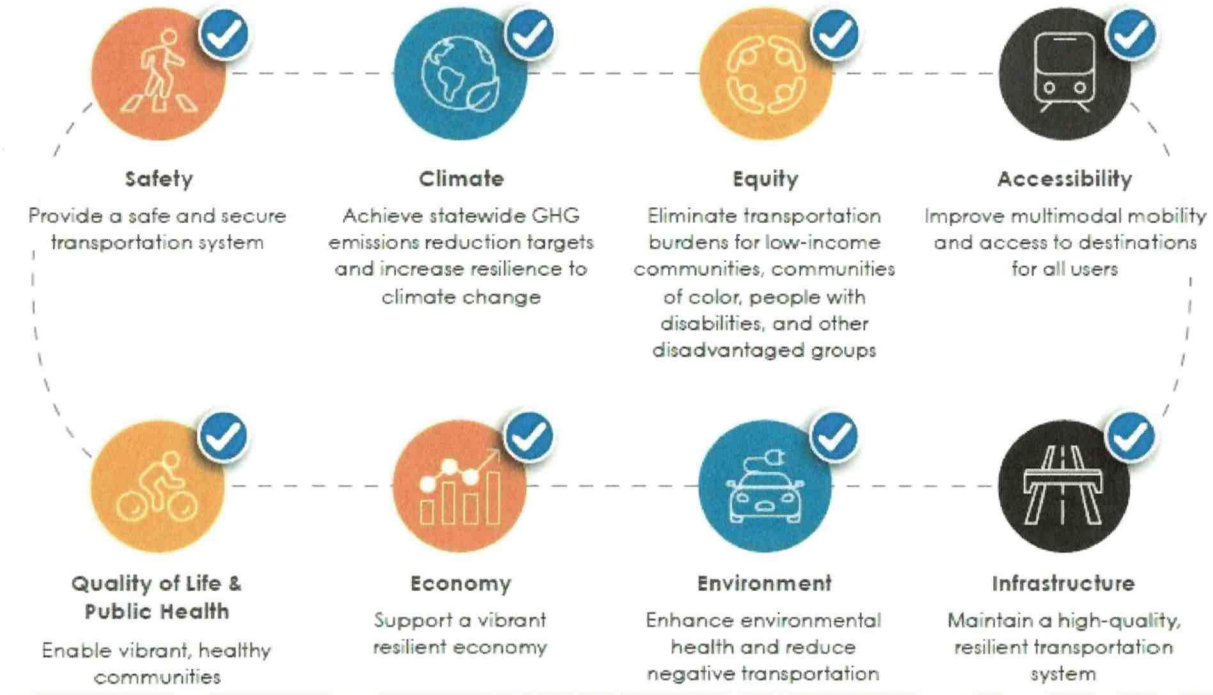
We are experienced in all levels of funding—our projects get built

Whether through local, state, or federal funding, our team already has an abundance of information to support funding applications for construction.

As a full-service national firm, we are involved with local, state, and federal funding programs. In addition, we have added a funding specialist with Avant-Garde, who focusses on applying for and processing grant and funding applications for large transportation projects. Avant-Garde specializes in working with smaller municipalities, such as Banning, to seek funding, and once received, manage compliance. In addition, Avant-Garde's staff works closely with Kimley-Horn as staff members have worked together for over 25 years. This relationship increases chances for success as the project needs and technical features are coordinated with the design team to attract funding.

Our team has all levels of funding covered. For local funds, Kimley-Horn is certainly familiar with the WRCOG TUMF program as we wrote the TUMF Credit and Reimbursement Manual and will use this knowledge to assure reimbursement is maximized in the program. The Kimley-Horn team has also remained close to the various City programs, including efforts to set up a funding district in the area.

State and federal funding are the larger sources, and our team is uniquely positioned. The Kimley-Horn team recently assisted the County with RAISE grant applications for the I-10 Bypass. This required pulling multiple sources of data to show the area's disadvantaged community, diversity, transportation deficiencies, safety concerns, and relevant future projects. It also included focusing in on project elements and features that attract funding. Our team led a similar effort for Morongo for their interchange improvements, also addressing key elements of climate action. These efforts will provide our team with the information and approach necessary to seek construction funds for the Hargrave Grade Separation.



Caltrans' climate action principles are key elements for attracting larger funding sources, and the east side of Banning shows very well for accomplishing all of these. Our team has this information from our other efforts in this area and will use it to obtain construction funding for the project.

One of the key elements for success with funding is garnering support from key stakeholders. Our team has the relationships and approach to obtain support from Morongo, the County, CHP, fire department, the Community of Cabazon, local businesses, and others. Our team even helped the previous District 5 Supervisor Hewitt with uniting the Pass Area to attract funding for major transportation projects as part of the Pass Area Mobility Projects effort. We recently helped engage Supervisor Gutierrez on projects in the Pass Area. Our team will implement all of these elements to obtain construction funding. As with many other elements of the project, we will truly act as an extension of City staff with these efforts.

Our team brings distinct advantages for managing existing funding sources and obtaining construction funding:

- Our team will maximize TUMF reimbursement as we wrote the TUMF Credit and Reimbursement Manual
- Our team will assist with FRA grant compliance and seeking additional funds using our previous FRA staff that oversaw the funding and compliance program
- Our team is familiar with TIRCP and the future plans for the Coachella Rail Line through this area and will assist with funding compliance and other coordination efforts
- We have recently applied for RAISE grant funding in this area and have all of the relevant data needed for the Hargrave Grade Separation
- We have proven relationships that will help with key stakeholder support, such as Morongo, the County, CHP, fire department, the Community of Cabazon, and local businesses
- We have necessary elements of the bigger picture as we assisted the County Supervisor to unite the Pass Area and attract funding

Pass Area Mobility Projects



LEGEND

1. Oak Hills Parkway/East Road (New City Road)
2. I-10/Wildwood Canyon Road Interchange (New)
3. I-10/County Line Road Interchange (Improvement)
4. Roberts Road Extension (New City Road)
5. I-10/Calimesa Boulevard - Sandalwood Drive Interchange (Improvement)
6. I-10/Singleton Road Interchange (Improvement)
7. I-10/Cherry Valley Boulevard Interchange (Improvement)
8. SR 60/Portrero Blvd Interchange (New)
9. I-10/Oak Valley Parkway Interchange (Improvement)
10. I-10/SR 60 Interchange (Improvement)
11. Pennsylvania Avenue Widening (1st St. to 6th St.)/Railroad Grade Separation
12. I-10/Pennsylvania Avenue Interchange (Improvement)
13. I-10/Highland Springs Avenue Interchange (Improvement)
14. Sun Lakes Boulevard Extension (New City Road)
15. Coachella Valley-San Gorgonio Pass Rail Corridor (Potential Location)
16. I-10/Hargrave Street Railroad Grade Separation
17. I-10/Cottonwood Avenue Interchange (New)
18. I-10 Bypass (New County Road)
19. I-10/Morongo Parkway Interchange (New)
20. I-10/Main St. Interchange (Improvement)
21. I-10/Truck Scales Relocation

RCTC RIVERSIDE COUNTY TRANSPORTATION COMMISSION
MORONGO BAND OF MISSION INDIANS
Caltrans

October 6, 2022

Scope of Work

Our team has reviewed the Scope of Work contained in the RFP and supplemented as requested. The following contains the complete list of tasks with a brief description of our proposed edits. Proposed edits include additional language to define items or better clarify what we intend and have based our fee upon. Items not included in the RFP scope but believed to be necessary, or potential to be necessary, are indicated as optional. For City convenience, we have included a complete redline version of these edits to the RFP scope of work in the Appendix of this proposal.

Our team has provided redline mode edits to the scope of work to help expedite completion of the agreement.

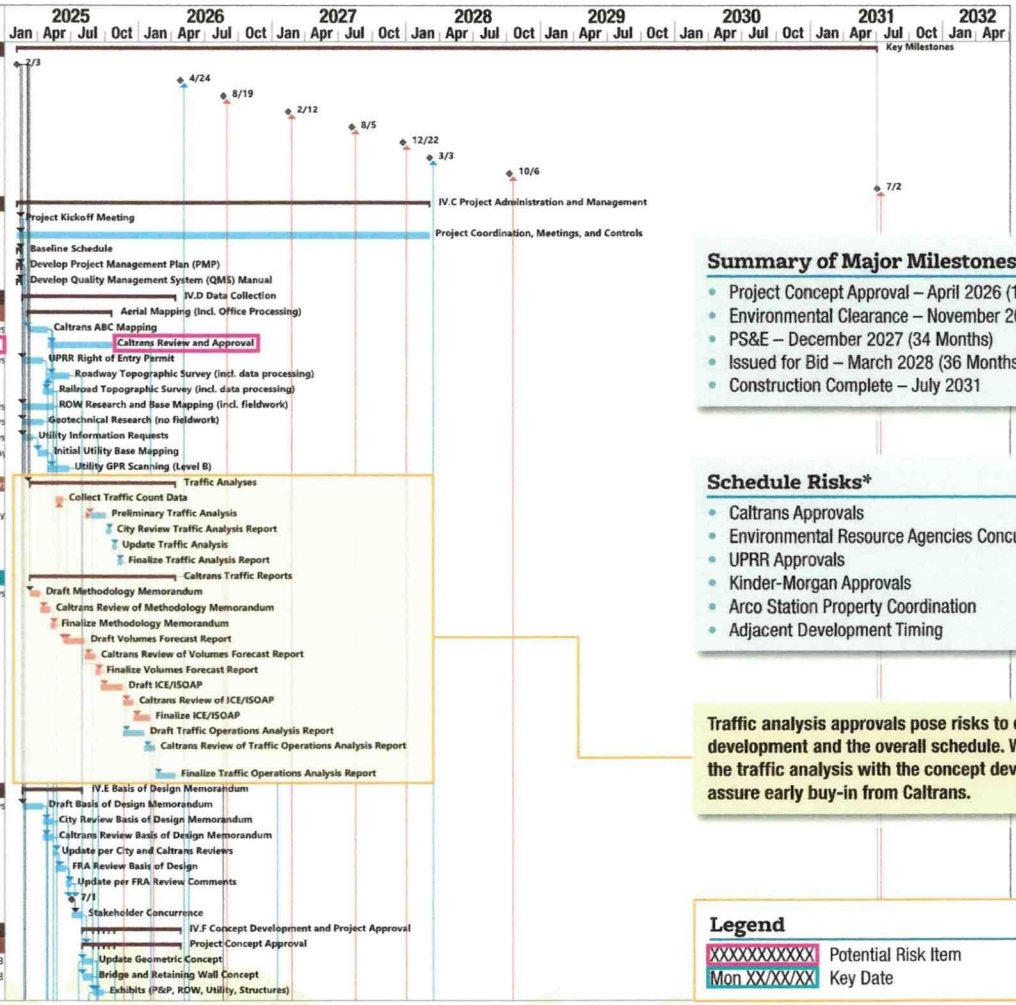
Task		Scope Edits
Task 1 - Project Administration		
1.1	General Meetings and Coordination	Additional subtask which defines scope for day-to-day management of the Project.
1.2	Project Management Plan	Added assumptions.
1.3	Quality Control Plan	No additions or modifications.
1.4	Project Controls	No additions or modifications.
1.5	Project Development Team Meetings	Added assumptions.
Task 2 – Data Collection		
2.1	Aerial Mapping	Added assumptions to define mapping limits and supplemental ground survey scope.
2.2	Potholing	Added assumptions for pothole repair.
2.3	Right-of-Way Base Mapping	Added assumptions for mapping.
2.4	Utility Notification	Added assumptions for agencies anticipated and notification process.
2.5	Utility Base Mapping	Added assumptions.
2.6	Geotechnical Records Research and Findings	No additions or modifications.
2.7	Traffic Analyses	Added assumptions to define analysis parameters and study areas.
2.8	Caltrans Traffic Reports	Added assumptions based on our updated knowledge of Caltrans requirements and defined limits of the Caltrans Traffic Reports.
Task 3 - Basis of Design Document		
3.1	Basis of Design Document	No additions or modifications.
Task 4 - Concept Development and Project Approval		
4.1	Geometric Concepts	Added optional task for Caltrans Geometric Approval Drawings (GADs).
4.2	Bridge and Retaining Wall Concepts	Added assumptions to define the Advanced Planning Studies (APS).
4.3	Project Concept Report	Added assumptions.
4.4	Project Concept Approval	No additions or modifications.
Task 5 - Environmental Documentation		
5.1	CEQA Statutory Exemption	No additions or modifications.
5.2	NEPA	Added assumptions to define each of the NEPA technical studies.
5.3	Visual Impact Assessment (VIA)	Added an optional task for a Visual Impact Assessment.

Task		Scope Edits
Task 6 - Plans Specifications and Estimates (PS&E)		
6.1	Reports	Added assumptions for the various technical reports.
6.2	Calculations	Added assumptions to define the structural calculations.
6.3	Plan Preparation	Added assumptions for the various sets of plans and to refer to the attached sheet count list.
6.4	Specifications	Added assumptions defining the Standard Specifications, technical specifications, 35% specifications, and format.
6.5	Cost Estimates	Added assumptions.
6.6	Construction Schedule	No additions or modifications.
Task 7 - Right-of-Way		
7.1	Right-of-Way Requirements	Added assumptions to define Parcel Impact Memorandums.
7.2	Right-of-Way Maps	No additions or modifications.
7.3	Appraisal Maps, Plats, and Descriptions	Added assumptions to clarify right-of-way services and define number of plat and legal descriptions.
Task 8 - Coordination, Agreements and Permits		
8.1	Union Pacific Railroad (UPRR)	Added assumptions related to agreements.
8.2	California Public Utilities Commission	Added assumptions to define anticipated approval requirements.
8.3	Caltrans District 8	Added assumptions to define anticipated approval requirements.
8.4	Riverside County Flood Control and Water Conservation District	Added assumptions to define anticipated approval requirements.
8.5	Utility Coordination	No additions or modifications.
8.6	Community Engagement	Added assumptions.
8.7	Resource/ Regulatory Permitting (Optional)	Added assumptions to define potential regulatory permit requirements and scope to obtain permits (if necessary).
Task 9 - Bidding Services		
9.1	Resident Engineer Pending File	No additions or modifications.
9.2	Bidding Phase Support	No additions or modifications.
9.3	Conformed Plans and Specifications	No additions or modifications.
Task 10 - Construction Phase Funding		
10.1	Construction Phase Funding	Added optional task to support the City in obtaining Construction Phase Funding.

Detailed Project Schedule

Project Schedule

ID	Task Name	Dur.	Start	Finish	Pred.
1	Key Milestones	1635 days	Mon 2/3/25	Wed 7/2/31	
2	NTP	0 days	Mon 2/3/25	Mon 2/3/25	
3	Project Concept Approval	0 days	Fri 4/24/26	Fri 4/24/26	78
4	35% PS&E	0 days	Wed 8/19/26	Wed 8/19/26	102
5	65% PS&E	0 days	Fri 2/12/27	Fri 2/12/27	114
6	95% PS&E	0 days	Thu 8/5/27	Thu 8/5/27	122
7	100% PS&E	0 days	Wed 12/22/27	Wed 12/22/27	129
8	Issued for Bid	0 days	Fri 3/3/28	Fri 3/3/28	133
9	Issued for Construction (Conformed Plans and Spec)	0 days	Fri 10/6/28	Fri 10/6/28	187
10	Project Complete	0 days	Wed 7/2/31	Wed 7/2/31	195
11	IV.C Project Administration and Management	774 days	Mon 2/3/25	Fri 3/3/28	
12	Project Kickoff Meeting	1 day	Mon 2/10/25	Mon 2/10/25	2FS+5 days
13	Project Coordination, Meetings, and Controls	774 days	Mon 2/3/25	Fri 3/3/28	2
14	Baseline Schedule	10 days	Mon 2/3/25	Fri 2/14/25	2
18	Develop Project Management Plan (PMP)	10 days	Mon 2/3/25	Fri 2/14/25	2
22	Develop Quality Management System (QMS) Manual	10 days	Mon 2/3/25	Fri 2/14/25	2
26	IV.D Data Collection	290 days	Tue 2/18/25	Fri 4/10/26	
27	Aerial Mapping (Incl. Office Processing)	160 days	Tue 3/4/25	Fri 10/17/25	
28	Caltrans ABC Mapping	40 days	Tue 3/4/25	Mon 4/28/25	2FS+20 days
29	Caltrans Review and Approval	120 days	Tue 4/29/25	Fri 10/17/25	28
30	UPRR Right of Entry Permit	40 days	Tue 2/18/25	Mon 4/14/25	2FS+10 days
31	Roadway Topographic Survey (incl. data processing)	40 days	Tue 4/29/25	Tue 6/24/25	28,163
32	Railroad Topographic Survey (incl. data processing)	20 days	Tue 4/15/25	Mon 5/12/25	30
33	ROW Research and Base Mapping (incl. fieldwork)	60 days	Tue 2/18/25	Mon 5/12/25	2FS+10 days
34	Geotechnical Research (no fieldwork)	40 days	Tue 2/18/25	Mon 4/14/25	2FS+10 days
35	Utility Information Requests	20 days	Tue 2/18/25	Mon 3/17/25	2FS+10 days
36	Initial Utility Base Mapping	20 days	Tue 4/1/25	Mon 4/28/25	35FS+10 days
37	Utility GPR Scanning (Level B)	40 days	Tue 4/29/25	Tue 6/24/25	36
38	Traffic Analyses	275 days	Tue 3/11/25	Fri 4/10/26	2FS+25 days
39	Collect Traffic Count Data	15 days	Tue 5/20/25	Mon 6/9/25	47
40	Preliminary Traffic Analysis	30 days	Thu 8/21/25	Thu 10/2/25	50FS-20 days
41	City Review Traffic Analysis Report	10 days	Fri 10/3/25	Fri 10/17/25	40
42	Update Traffic Analysis	10 days	Mon 10/20/25	Fri 10/31/25	41
43	Finalize Traffic Analysis Report	10 days	Mon 11/3/25	Mon 11/17/25	42
44	Caltrans Traffic Reports	275 days	Tue 3/11/25	Fri 4/10/26	
45	Draft Methodology Memorandum	20 days	Tue 3/11/25	Mon 4/7/25	2FS+10 days
46	Caltrans Review of Methodology Memorandum	20 days	Tue 4/8/25	Mon 5/5/25	45
47	Finalize Methodology Memorandum	10 days	Tue 5/6/25	Mon 5/19/25	46
48	Draft Volumes Forecast Report	40 days	Tue 6/10/25	Wed 8/6/25	47,39
49	Caltrans Review of Volumes Forecast Report	20 days	Thu 8/7/25	Thu 9/4/25	48
50	Finalize Volumes Forecast Report	10 days	Fri 9/5/25	Thu 9/18/25	49
51	Draft ICE/ISOAP	40 days	Fri 9/19/25	Mon 11/17/25	50
52	Caltrans Review of ICE/ISOAP	20 days	Tue 11/18/25	Tue 12/16/25	51
53	Finalize ICE/ISOAP	30 days	Wed 12/17/25	Fri 1/30/26	52
54	Draft Traffic Operations Analysis Report	40 days	Tue 11/18/25	Thu 1/15/26	43
55	Caltrans Review of Traffic Operations Analysis Report	20 days	Fri 1/16/26	Fri 2/13/26	54
56	Finalize Traffic Operations Analysis Report	40 days	Mon 2/16/26	Fri 4/10/26	55
57	IV.E Basis of Design Memorandum	115 days	Tue 2/18/25	Wed 7/30/25	
58	Draft Basis of Design Memorandum	40 days	Tue 2/18/25	Mon 4/14/25	2FS+10 days
59	City Review Basis of Design Memorandum	20 days	Tue 4/15/25	Mon 5/12/25	58
60	Caltrans Review Basis of Design Memorandum	20 days	Tue 4/15/25	Mon 5/12/25	58
61	Update per City and Caltrans Reviews	5 days	Tue 5/13/25	Mon 5/19/25	60,59
62	FRA Review Basis of Design	20 days	Tue 5/20/25	Mon 6/16/25	61
63	Update per FRA Review Comments	10 days	Tue 6/17/25	Tue 7/1/25	62
64	Final Basis of Design Memorandum	0 days	Tue 7/1/25	Tue 7/1/25	59,60,63
65	Stakeholder Concurrence	20 days	Wed 7/2/25	Wed 7/30/25	64
66	IV.F Concept Development and Project Approval	185 days	Thu 7/31/25	Fri 4/24/26	
67	Project Concept Approval	185 days	Thu 7/31/25	Fri 4/24/26	65
68	Update Geometric Concept	20 days	Thu 7/31/25	Wed 8/27/25	32,33,31,63
69	Bridge and Retaining Wall Concept	20 days	Thu 7/31/25	Wed 8/27/25	32,33,31,63
70	Exhibits (P&P, ROW, Utility, Structures)	20 days	Thu 8/28/25	Thu 9/25/25	68,69,37



Summary of Major Milestones

- Project Concept Approval – April 2026 (14 Months)
- Environmental Clearance – November 2026 (21 Months)
- PS&E – December 2027 (34 Months)
- Issued for Bid – March 2028 (36 Months)
- Construction Complete – July 2031

Schedule Risks*

- Caltrans Approvals
- Environmental Resource Agencies Concurrence
- UPRR Approvals
- Kinder-Morgan Approvals
- Arco Station Property Coordination
- Adjacent Development Timing

Traffic analysis approvals pose risks to concept development and the overall schedule. We will overlap the traffic analysis with the concept development to assure early buy-in from Caltrans.

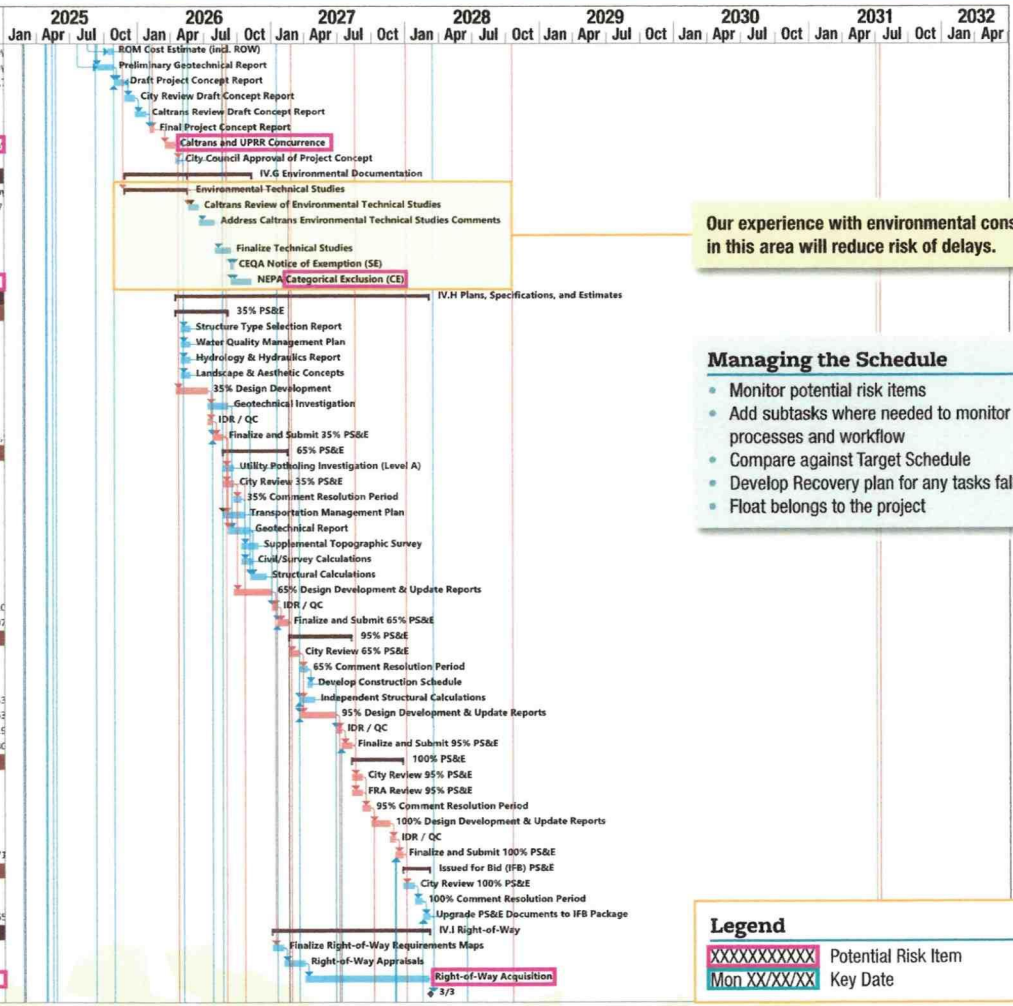
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XXXXXXXXXX Potential Risk Item
Mon XX/XX/XX Key Date

**See Risk Management Section on page 12 for additional details.

Project Schedule

ID	Task Name	Dur.	Start	Finish	Pred.
71	ROM Cost Estimate (incl. ROW)	10 days	Fri 10/10/25	Fri 10/24/25	70SS+30 da
72	Preliminary Geotechnical Report	30 days	Fri 9/12/25	Fri 10/24/25	68SS+30 da
73	Draft Project Concept Report	20 days	Mon 10/27/25	Mon 11/24/25	68,72,70FF,
74	City Review Draft Concept Report	20 days	Tue 11/25/25	Tue 12/23/25	73
75	Caltrans Review Draft Concept Report	20 days	Wed 12/24/25	Fri 1/23/26	74
76	Final Project Concept Report	10 days	Mon 2/2/26	Fri 2/13/26	75,53,29
77	Caltrans and UPRR Concurrence	20 days	Mon 3/16/26	Fri 4/10/26	76FS+20 da
78	City Council Approval of Project Concept	10 days	Mon 4/13/26	Fri 4/24/26	77
79	IV.G Environmental Documentation	240 days	Tue 11/25/25	Fri 11/6/26	
80	Environmental Technical Studies	120 days	Tue 11/25/25	Fri 5/15/26	50FS+45 da
88	Caltrans Review of Environmental Technical Studies	20 days	Mon 5/18/26	Mon 6/15/26	80,43,56,77
89	Address Caltrans Environmental Technical Studies Comments	30 days	Tue 6/16/26	Wed 7/29/26	88
90	Finalize Technical Studies	30 days	Thu 7/30/26	Thu 9/10/26	89
91	CEQA Notice of Exemption (SE)	5 days	Fri 9/11/26	Thu 9/17/26	89,90
92	NEPA Categorical Exclusion (CE)	40 days	Fri 9/11/26	Fri 11/6/26	89,90
93	IV.H Plans, Specifications, and Estimates	474 days	Mon 4/13/26	Fri 3/3/28	
94	35% PS&E	100 days	Mon 4/13/26	Wed 9/2/26	
95	Structure Type Selection Report	20 days	Mon 4/27/26	Fri 5/22/26	78
96	Water Quality Management Plan	20 days	Mon 4/27/26	Fri 5/22/26	78
97	Hydrology & Hydraulics Report	20 days	Mon 4/27/26	Fri 5/22/26	78
98	Landscape & Aesthetic Concepts	20 days	Mon 4/27/26	Fri 5/22/26	78
99	35% Design Development	60 days	Mon 4/13/26	Wed 7/8/26	77
100	Geotechnical Investigation	40 days	Thu 7/9/26	Wed 9/2/26	99
101	IDR / QC	10 days	Thu 7/9/26	Wed 7/22/26	99
102	Finalize and Submit 35% PS&E	20 days	Thu 7/23/26	Wed 8/19/26	101,143,95,
103	65% PS&E	120 days	Thu 8/20/26	Fri 2/12/27	
104	Utility Potholing Investigation (Level A)	20 days	Thu 8/20/26	Thu 9/17/26	102
105	City Review 35% PS&E	20 days	Thu 8/20/26	Thu 9/17/26	102
106	35% Comment Resolution Period	15 days	Fri 9/18/26	Thu 10/8/26	105
107	Transportation Management Plan	40 days	Thu 8/20/26	Fri 10/16/26	44,102
108	Geotechnical Report	40 days	Thu 9/3/26	Fri 10/30/26	102,100
109	Supplemental Topographic Survey	30 days	Fri 10/9/26	Mon 11/23/26	106
110	Civil/Survey Calculations	20 days	Fri 10/9/26	Fri 11/6/26	106
111	Structural Calculations	30 days	Mon 11/2/26	Tue 12/15/26	108,100
112	65% Design Development & Update Reports	70 days	Fri 9/18/26	Wed 12/30/26	105
113	IDR / QC	10 days	Thu 12/31/26	Thu 1/14/27	112,109,110
114	Finalize and Submit 65% PS&E	20 days	Fri 1/15/27	Fri 2/12/27	113,145,107
115	95% PS&E	120 days	Tue 2/16/27	Thu 8/5/27	
116	City Review 65% PS&E	20 days	Tue 2/16/27	Mon 3/15/27	114
117	65% Comment Resolution Period	15 days	Tue 3/16/27	Mon 4/5/27	116
118	Develop Construction Schedule	10 days	Tue 4/6/27	Mon 4/19/27	117
119	Independent Structural Calculations	30 days	Tue 3/16/27	Mon 4/26/27	116,104,153
120	95% Design Development & Update Reports	70 days	Tue 3/16/27	Wed 6/23/27	116,104,153
121	IDR / QC	10 days	Thu 6/24/27	Thu 7/8/27	120,118,119
122	Finalize and Submit 95% PS&E	20 days	Fri 7/9/27	Thu 8/5/27	121,147,180
123	100% PS&E	95 days	Fri 8/6/27	Wed 12/22/27	
124	City Review 95% PS&E	20 days	Fri 8/6/27	Thu 9/2/27	122
125	FRA Review 95% PS&E	20 days	Fri 8/6/27	Thu 9/2/27	122
126	95% Comment Resolution Period	15 days	Fri 9/3/27	Fri 9/24/27	124,125
127	100% Design Development & Update Reports	35 days	Mon 9/27/27	Tue 11/16/27	126
128	IDR / QC	10 days	Wed 11/17/27	Wed 12/1/27	127
129	Finalize and Submit 100% PS&E	15 days	Thu 12/2/27	Wed 12/22/27	128,149,171
130	Issued for Bid (IFB) PS&E	49 days	Thu 12/23/27	Fri 3/3/28	
131	City Review 100% PS&E	20 days	Thu 12/23/27	Fri 1/21/28	129
132	100% Comment Resolution Period	15 days	Mon 1/24/28	Fri 2/11/28	131
133	Upgrade PS&E Documents to IFB Package	14 days	Mon 2/14/28	Fri 3/3/28	132,159,165
134	IV.I Right-of-Way	294 days	Thu 12/31/26	Fri 3/3/28	
135	Finalize Right-of-Way Requirements Maps	20 days	Thu 12/31/26	Fri 1/29/27	112
136	Right-of-Way Appraisals	40 days	Mon 2/1/27	Mon 3/29/27	135
137	Right-of-Way Acquisition	230 days	Tue 3/30/27	Mon 2/28/28	136
138	Right-of-Way Certification	0 days	Fri 3/3/28	Fri 3/3/28	137,133



Our experience with environmental constraints in this area will reduce risk of delays.

Managing the Schedule

- Monitor potential risk items
- Add subtasks where needed to monitor processes and workflow
- Compare against Target Schedule
- Develop Recovery plan for any tasks falling behind
- Float belongs to the project

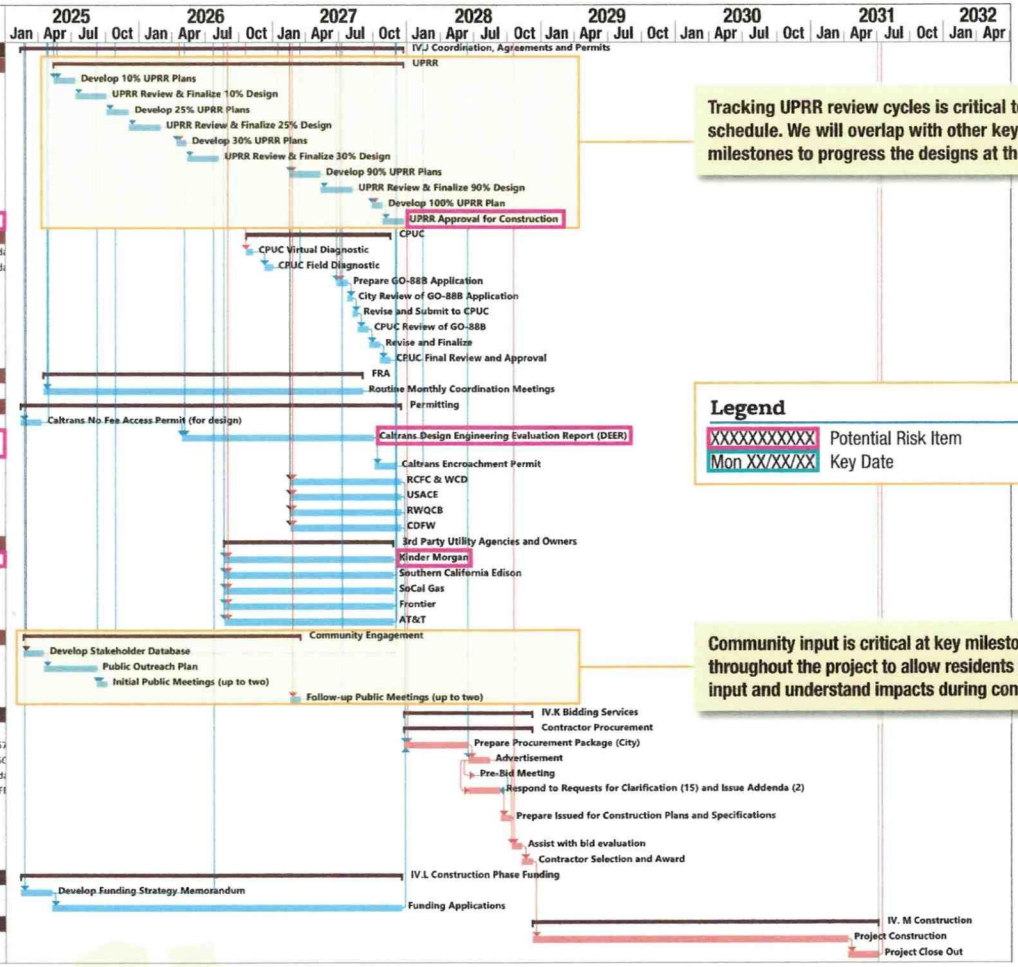
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XXXXXXXXXX Potential Risk Item

Mon XX/XX/XX Key Date

Project Schedule

ID	Task Name	Dur.	Start	Finish	Pred.
139	IV.J Coordination, Agreements and Permits	719 days	Tue 2/11/25	Wed 12/22/27	
140	UPRR	655 days	Tue 5/13/25	Wed 12/22/27	
141	Develop 10% UPRR Plans	40 days	Tue 5/13/25	Wed 7/9/25	28,32,33
142	UPRR Review & Finalize 10% Design	60 days	Thu 7/10/25	Thu 10/2/25	141
143	Develop 25% UPRR Plans	40 days	Fri 10/3/25	Tue 12/2/25	142
144	UPRR Review & Finalize 25% Design	60 days	Wed 12/3/25	Fri 2/27/26	143
145	Develop 30% UPRR Plans	20 days	Mon 4/13/26	Fri 5/8/26	77,144
146	UPRR Review & Finalize 30% Design	60 days	Mon 5/11/26	Wed 8/5/26	145
147	Develop 90% UPRR Plans	60 days	Tue 2/16/27	Mon 5/10/27	114,146
148	UPRR Review & Finalize 90% Design	60 days	Tue 5/11/27	Thu 8/5/27	147
149	Develop 100% UPRR Plan	20 days	Mon 9/27/27	Mon 10/25/27	126,148
150	UPRR Approval for Construction	40 days	Tue 10/26/27	Wed 12/22/27	149
151	CPUC	270 days	Mon 10/19/26	Tue 11/16/27	
152	CPUC Virtual Diagnostic	15 days	Mon 10/19/26	Fri 11/6/26	105FS+20 d
153	CPUC Field Diagnostic	15 days	Wed 12/9/26	Wed 12/30/26	152FS+20 d
154	Prepare GO-88B Application	20 days	Thu 6/24/27	Thu 7/22/27	120,119
155	City Review of GO-88B Application	10 days	Fri 7/23/27	Thu 8/5/27	154
156	Revise and Submit to CPUC	10 days	Fri 8/6/27	Thu 8/19/27	155
157	CPUC Review of GO-88B	20 days	Fri 8/20/27	Fri 9/17/27	156
158	Revise and Finalize	20 days	Mon 9/20/27	Mon 10/18/27	157
159	CPUC Final Review and Approval	20 days	Tue 10/19/27	Tue 11/16/27	158
160	FRA	600 days	Tue 4/15/25	Thu 9/2/27	
161	Routine Monthly Coordination Meetings	600 days	Tue 4/15/25	Thu 9/2/27	58
162	Permitting	714 days	Tue 2/11/25	Wed 12/15/27	
163	Caltrans No Fee Access Permit (for design)	40 days	Tue 2/11/25	Tue 4/8/25	12
164	Caltrans Design Engineering Evaluation Report (DEER)	360 days	Mon 4/27/26	Fri 10/1/27	78,163
165	Caltrans Encroachment Permit	40 days	Mon 10/4/27	Wed 12/1/27	164
166	RCFC & WCD	210 days	Tue 2/16/27	Wed 12/15/27	114,80
167	USACE	210 days	Tue 2/16/27	Wed 12/15/27	114,80
168	RWQCB	210 days	Tue 2/16/27	Wed 12/15/27	114,80
169	CDFW	210 days	Tue 2/16/27	Wed 12/15/27	114,80
170	3rd Party Utility Agencies and Owners	315 days	Thu 8/20/26	Tue 11/23/27	
171	Kinder Morgan	315 days	Thu 8/20/26	Tue 11/23/27	78,102
172	Southern California Edison	315 days	Thu 8/20/26	Tue 11/23/27	78,102
173	SoCal Gas	315 days	Thu 8/20/26	Tue 11/23/27	78,102
174	Frontier	315 days	Thu 8/20/26	Tue 11/23/27	78,102
175	AT&T	315 days	Thu 8/20/26	Tue 11/23/27	78,102
176	Community Engagement	520 days	Tue 2/18/25	Mon 3/15/27	
177	Develop Stakeholder Database	40 days	Tue 2/18/25	Mon 4/14/25	18
178	Public Outreach Plan	100 days	Tue 4/15/25	Thu 9/4/25	177
179	Initial Public Meetings (up to two)	20 days	Fri 9/5/25	Thu 10/2/25	68,178
180	Follow-up Public Meetings (up to two)	20 days	Tue 2/16/27	Mon 3/15/27	114
181	IV.K Bidding Services	740 days	Thu 12/23/27	Tue 12/5/28	
182	**Contractor Procurement**	**240 days**	**Thu 12/23/27**	**Tue 12/5/28**	
183	Prepare Procurement Package (City)	120 days	Thu 12/23/27	Tue 6/13/28	129,166,167
184	Advertisement	40 days	Wed 6/14/28	Thu 8/10/28	183,133,150
185	Pre-Bid Meeting	1 day	Thu 6/29/28	Thu 6/29/28	184SS+10 d
186	Respond to Requests for Clarification (15) and Issue Addenda (2)	60 days	Wed 6/14/28	Fri 9/8/28	184SS,185FF
187	Prepare Issued for Construction Plans and Specifications	20 days	Mon 9/11/28	Fri 10/6/28	186
188	Assist with bid evaluation	20 days	Tue 10/10/28	Mon 11/6/28	184,187
189	Contractor Selection and Award	20 days	Tue 11/7/28	Tue 12/5/28	188
190	IV.L Construction Phase Funding	715 days	Tue 2/11/25	Thu 12/16/27	
191	Develop Funding Strategy Memorandum	60 days	Tue 2/11/25	Tue 5/6/25	12
192	Funding Applications	655 days	Wed 5/7/25	Thu 12/16/27	191
193	IV. M Construction	670 days	Wed 12/6/28	Wed 7/7/31	
194	Project Construction	610 days	Wed 12/6/28	Wed 4/9/31	189
195	Project Close Out	60 days	Thu 4/10/31	Wed 7/2/31	194



Tracking UPRR review cycles is critical to maintaining schedule. We will overlap with other key submittal milestones to progress the designs at the same rate.

Legend

XXXXXXXXXX Potential Risk Item

Mon XX/XX/XX Key Date

Community input is critical at key milestones throughout the project to allow residents to provide input and understand impacts during construction.

BACK TO WORKFLOW SCHEDULE

Tasks Required from City Staff

Kimley-Horn will rely upon City staff to provide available project-related design documents, related engineering studies, as well as City staff's participation in project status meetings, agency coordination, and real estate transactions. Additionally, Kimley-Horn will rely on City staff's timely review and responses of work products to maintain the project schedule.

Specific tasks for City staff's participation are listed below. For each of these, Kimley-Horn will schedule and lead the meetings unless the City prefers otherwise. Kimley-Horn will provide documentation of meetings with minutes and action items.

- City staff to participate in monthly PDT Meetings.
- City staff to participate in separate update and focus meetings as needed.
- Utility Coordination Letters will be prepared by Kimley-Horn but sent out on City letterhead.
- City staff to participate in monthly FRA update meetings and the CPUC Diagnostic Meetings.
- City staff to participate in UPRR Coordination efforts.
- City staff to lead negotiations with UPRR on C&M Agreement.
- City staff to participate in Caltrans coordination efforts.
- City to provide contract provisions for solicitation and agreement with Contractor (i.e. front-end documents)

Innovative and Creative Approaches

Kimley-Horn has a long history of providing successful, innovative, and cost-efficient solutions and takes pride in thinking beyond preconceived notions to develop innovative solutions that exceed the expectations of our clients. Our professional team evaluates emerging technology and applies it where it can benefit our projects. We know how to think outside of the box and recognize what trends offer sound design advantages.

For the Hargrave Grade Separation, we offer the following creative approaches:

Adjacent Developments

Our knowledge of the adjacent developments and projects offers opportunities for cost savings. Two examples described earlier in the Approach are 1) the potential to identify redevelopment parcels and reduce costly retaining walls; and 2) the potential to show traffic distribution that justifies an ultimate four-lane facility versus six lanes.

In addition, our team can help coordinate a mutually beneficial arrangement with Morongo to establish access to Section 12 (West) for their development that includes Morongo's support on the Hargrave Grade Separation. This will also help attract federal funding for construction.

Utility Relocations

Our team will seek additional creative options for utility relocations. We present a jack-and-bore option in the Approach, and will also consider ultimate city facilities, and investigate partnerships with the adjacent developments.

UPRR Approvals

Our approach with UPRR approvals considers two elements for success: 1) providing permanent drainage improvements with the shoofly tracks that adds incentive for UPRR; and 2) based on past experience, develop a contractor work plan that keeps the project moving in the event that UPRR is late on providing approvals.

Schedule

The schedule shows a 36-month duration based on the Scope of Work in the RFP. We believe there are ways to expedite this if desired. We would like to discuss the Project Concept Approval process and potential overlap with design.

City Owned Facilities and Property

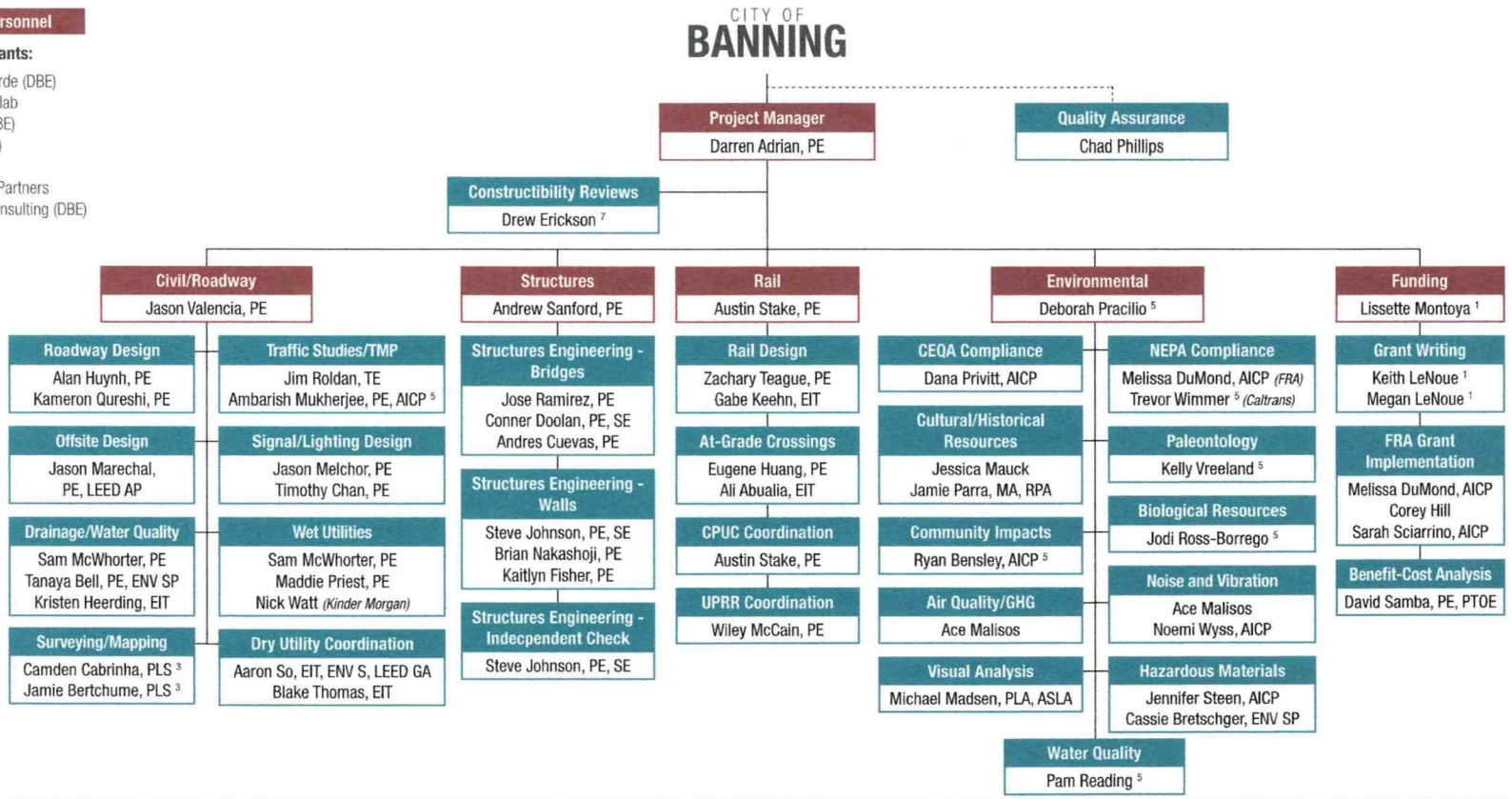
Kimley-Horn does not anticipate the need to utilize any City owned facility or property which we would use, lease, purchase, or rent from the City in connection with the services to be performed under this contract.

GUIDE TO EVALUATION CRITERIA

Key Personnel

Subconsultants:

1. Avant-Garde (DBE)
2. Bess Testlab
3. CH&A (DBE)
4. EMI (DBE)
5. LSA
6. Paragon Partners
7. Saylor Consulting (DBE)
8. VMS



Additional Support Services

Geotechnical	Right-of-Way	Landscape/Aesthetics	Specifications	Value Analysis
Alahesh Thurairajah, PE, GE, BC.GE 4 Pratha Ragavan, PE 4	Mark Mendoza, MRED 6 Dan Atkins, CRB 6	Matt Durham, ASLA Wade Ganes, ASLA	Pearse Melvin, PE	Eric Trimble, CVS, PMP 8
Potholing	**ADA Compliance**	**Construction Scheduling**	**Cost Estimating**	**Public Outreach**
Donald Whitman 2 Michael Horne 2	Kirk Ammerman, PE	Drew Erickson 7	Austin Stake, PE Ian Slight, CQS/CBS 7	Ana Marie LeNoue 1 Julianna Carrera 1 Adriana Robledo 1

Sheet Title	Scale	Sheet Count
Basic Roadway Plans		**80**
General Plans		**8**
Title Sheet and Location Map	*NTS*	*1*
Drawing Index, General Notes, Abbreviations	*NTS*	*1*
Key Map and Line Index	*NTS*	*1*
Survey Control	*NTS*	*1*
Right-of-Way Plans	*NTS*	*4*
Civil Sheets		**72**
Typical Sections	*NTS*	*5*
Layouts	*1" = 50'*	*5*
Profiles and Superelevation Diagrams	*H: 1" = 50' V: 1" = 10'*	*5*
Construction Details	*1" = 10'*	*20*
Offsite Improvements	*1" = 20'*	*6*
Intersection Details	*1" = 20'*	*4*
Contour Grading	*1" = 50'*	*5*
Cross Sections	*1" = 10'*	*10*
Temp Water Pollution Control	*1" = 50'*	*6*
Erosion Control	*1" = 50'*	*6*
Rail Plans		**62**
Rail Road General Notes	*NTS*	*1*
Rail Road Details	*NTS*	*2*
Rail Road Construction Phasing	*NTS*	*2*
Shoofly Typical Sections	*NTS*	*2*
Shoofly Plan and Profile	*1" = 50'*	*5*
Shoofly Grading Plans	*1" = 50'*	*5*
Shoofly Geom Table	*NTS*	*1*
Shoofly Cross Sections	*NTS*	*15*
Railroad Mainline Track Typical Sections	*NTS*	*2*
Railroad Mainline Track Plan and Profile	*1" = 50'*	*5*
Railroad Mainline Grading Plans	*1" = 50'*	*5*
Railroad Mainline Track Geom Table	*NTS*	*1*
Railroad Mainline Track Cross Sections	*NTS*	*15*
Spur Track Detail Sheet	*1" = 50'*	*1*
Traffic Plans		**45**
Stage Construction and Traffic Handling		***28***
Stage Construction Plans and Quantities	*NTS*	*4*
Traffic Handling and Quantities	*1" = 50'*	*20*
Detour Plans	*NTS*	*4*
Pavement Delineation and Sign Plan		**8**
Signing and Striping Plans	*1" = 50'*	*5*
Signing and Striping Details	*NTS*	*3*
Street Lighting Plans		***7***
Street Lighting Plans	*1" = 50'*	*5*
Street Lighting Details	*NTS*	*2*
Traffic Signal Plans		***2***
Traffic Signal	*1"=20'*	*2*

Utility Plans	1" = 20'	29
Sewer	*1" = 20'*	*9*
Water	*1" = 20'*	*6*
Composite Existing	*1" = 50'*	*4*
Composite Proposed	*1" = 50'*	*4*
Utility Details	*NTS*	*2*
Pothole Plans	*1" = 50'*	*4*
Landscape and Irrigation Plans		**18**
Landscape Plans and Details (City Limits)		***9***
Landscape Cover Sheet	*NTS*	*1*
Landscape Plans	*1" = 50'*	*5*
Landscape Schedule and Details	*NTS*	*3*
Irrigation Plans and Details (City Limits)		***9***
Irrigation Cover Sheet	*NTS*	*1*
Irrigation Plans	*1" = 50'*	*5*
Irrigation Schedule and Details	*NTS*	*3*
Drainage Plans, Profiles and Details		**20**
Drainage Layout	*1" = 50'*	*5*
Drainage Profiles	*1"=10'*	*8*
Culvert Crossing	*1" = 50'*	*2*
Drainage Details	*NTS*	*5*
Miscellaneous Plans		**54**
Underpass Bridge Plans	*1" = 20'*	*28*
Undercrossing Retaining Wall Plans	*1" = 20'*	*13*
Miscellaneous Retaining Wall Plans	*1" = 20'*	*10*
Log of Test Borings	*NTS*	*3*
	Total Sheet Count	**308**

III. In addition to the requirements of Parts I and II of this Scope of Services, during the performance of the services, Consultant will keep the City appraised through periodic status reports regarding the performance of the services under this Agreement by the following means:

A. In-person meetings.

B. Email updates/questions to applicant team and City while reviews are underway.

C. Conference calls.

IV. All work product is subject to review and acceptance by the City, and must be revised by the Consultant without additional charge to the City until found satisfactory and accepted by City.

EXHIBIT "B"
SPECIAL REQUIREMENTS

TERMS FOR COMPLIANCE WITH CALIFORNIA LABOR LAW REQUIREMENTS

1. This Agreement calls for services that, in whole or in part, constitute "public works" as defined in Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code ("Chapter 1"). Further, Consultant acknowledges that this Agreement is subject to (a) Chapter 1 and (b) the rules and regulations established by the Department of Industrial Relations ("DIR") implementing such statutes. Therefore, as to those Services that are "public works," Consultant shall comply with and be bound by all the terms, rules and regulations described in 1(a) and 1(b) as though set forth in full herein.

2. California law requires the inclusion of specific Labor Code provisions in certain contracts. The inclusion of such specific provisions below, whether or not required by California law, does not alter the meaning or scope of Section 1 above.

3. Consultant shall be registered with the Department of Industrial Relations in accordance with California Labor Code Section 1725.5, and has provided proof of registration to City prior to the Effective Date of this Agreement. Consultant shall not perform work with any subcontractor that is not registered with DIR pursuant to Section 1725.5. Consultant and subcontractors shall maintain their registration with the DIR in effect throughout the duration of this Agreement. If the Consultant or any subcontractor ceases to be registered with DIR at any time during the duration of the project, Consultant shall immediately notify City.

4. Pursuant to Labor Code Section 1771.4, Consultant's Services are subject to compliance monitoring and enforcement by DIR. Consultant shall post job site notices, as prescribed by DIR regulations.

5. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file at City Hall and will be made available to any interested party on request. Consultant acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and Consultant shall post such rates at each job site covered by this Agreement.

6. Consultant shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. The Consultant shall, as a penalty to City, forfeit $200.00 for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the DIR for the work or craft in which the worker is employed for any public work done pursuant to this Agreement by Consultant or by any subcontractor.

7. Consultant shall comply with and be bound by the provisions of Labor Code Section 1776, which requires Consultant and each subcontractor to: keep accurate payroll records and verify such records in writing under penalty of perjury, as specified in Section 1776; certify and make such payroll records available for inspection as provided by Section 1776; and inform City of the location of the records.

8. Consultant shall comply with and be bound by the provisions of Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code Title 8, Section 200 et seq. concerning the employment of apprentices on public works projects. Consultant shall be responsible for compliance with these aforementioned Sections for all apprenticeable occupations. Prior to commencing work under this Agreement, Consultant shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within 60 days after concluding work pursuant to this Agreement, Consultant and each of its subcontractors shall submit to City a verified statement of the journeyman and apprentice hours performed under this Agreement.

9. The Consultant shall not perform Work with any Subcontractor that has been debarred or suspended pursuant to California Labor Code Section 1777.1 or any other federal or state law providing for the debarment of contractors from public works. The Consultant and Subcontractors shall not be debarred or suspended throughout the duration of this Agreement pursuant to Labor Code Section 1777.1 or any other federal or state law providing for the debarment of contractors from public works. If the Consultant or any subcontractor becomes debarred or suspended during the duration of the project, the Consultant shall immediately notify City.

10. Consultant acknowledges that eight hours labor constitutes a legal day's work. Consultant shall comply with and be bound by Labor Code Section 1810. Consultant shall comply with and be bound by the provisions of Labor Code Section 1813 concerning penalties for workers who work excess hours. The Consultant shall, as a penalty to City, forfeit $25.00 for each worker employed in the performance of this Agreement by the Consultant or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code section 1815, work performed by employees of Consultant in excess of eight hours per day, and 40 hours during any one week shall be permitted upon public work upon compensation for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay.

11. California Labor Code Sections 1860 and 3700 provide that every employer will be required to secure the payment of compensation to its employees. In accordance with the provisions of California Labor Code Section 1861, Consultant hereby certifies as follows:

> "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."

Date_____ **Signature**_____

12. For every subcontractor who will perform work on the project, Consultant shall be responsible for such subcontractor's compliance with Chapter 1 and Labor Code Sections 1860 and 3700, and Consultant shall include in the written contract between it and each subcontractor a copy of those statutory provisions and a requirement that each subcontractor shall comply with those statutory provisions. Consultant shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractor's compliance, including, without limitation, conducting a periodic review of the certified payroll records of the subcontractor and upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages. Consultant shall diligently take corrective action to halt or rectify any failure.

EXHIBIT "C"
SCHEDULE OF COMPENSATION

I. Consultant shall perform the following tasks ("Tasks") at the following rates as attached as Exhibit C-1:

II. Within the budgeted amounts for each Task, and with the approval of the Contract Officer, funds may be shifted from one Task sub-budget to another so long as the Contract Sum is not exceeded per Section 2.1, unless Additional Services are approved per Section 1.8.

III. City will compensate Consultant for the Services performed upon submission of a valid invoice. Each invoice is to include:

A. Line items for all personnel describing the Services performed, the number of hours worked, and the hourly rate.

B. Line items for all materials and equipment properly charged to the Services.

C. Line items for all other approved reimbursable expenses claimed, with supporting documentation.

D. Line items for all approved sub-contractor labor, supplies, equipment, materials, and travel properly charged to the Services.

II. The Consultant's billing rates for all personnel are attached as Exhibit C-1.

EXHIBIT "C-1"
CONSULTANT'S BILLING RATE AND TASK SCHEDULE

CITY OF BANNING
RFP 24-085 HARGRAVE GRADE SEPARATION PROFESSIONAL DESIGN SERVICES

November 12, 2024

		SUMMARY OF COSTS																Total Project Hours	Total Project Labor
		Kimley-Horn and Associates, Inc.		Avant-Garde Corporation		Cabrinha, Hearn, & Associates		Earth Mechanics, Inc.		LSA Associates, Inc.		Paragon Partners Consultants, Inc.		Saylor Consulting		Value Management Strategies, Inc.			
Tasks		Hours	Labor	Hours	Labor	Hours	Labor	Hours	Labor	Hours	Labor	Hours	Labor	Hours	Labor	Hours	Labor		
Task 1	Project Administration	1,738	$ 485,411.95							149	$ 32,920.55	312	$ 39,456.36					2,199	$ 557,788.86
Task 2	Data Collection	1,112	$ 238,195.27			606	$ 96,501.03	24	$ 5,021.22	814	$ 128,980.27							2,556	$ 468,697.79
Task 3	Basis of Design Document	124	$ 28,652.68															124	$ 28,652.68
Task 4	Concept Development & Project Approval	1,543	$ 339,131.75					150	$ 28,280.11			62	$ 8,045.96	15	$ 3,376.30			1,770	$ 378,834.11
Task 5	Environmental Documentation	598	$ 136,439.12							702	$ 120,987.16	10	$ 1,295.84					1,310	$ 258,722.11
Task 6	Plans, Specifications & Estimates (PS&E)	15,412	$ 3,333,450.05					1,100	$ 197,686.81					220	$ 52,935.88	248	$ 74,651.80	16,980	$ 3,658,724.53
Task 7	Right-of-Way	450	$ 117,858.30			230	$ 39,627.06					739	$ 80,194.47					1,419	$ 237,679.83
Task 8	Coordination, Agreements & Permits	2,101	$ 534,363.38	182	$ 24,670.97													2,283	$ 559,034.35
Task 9	Bidding Services	445	$ 102,461.63															445	$ 102,461.63
Task 10	Construction Phase Funding	60	$ 15,544.39	140	$ 23,445.46													200	$ 38,989.85
	TOTAL HOURS	23,583		322		836		1,274		1,665		1,123		235		248		29,286	
	Subtotal Labor:		$ 5,331,508.52		$ 48,116.43		$ 136,128.09		$ 230,988.13		$ 282,887.99		$ 128,992.63		$ 56,312.18		$ 74,651.80		$ 6,289,585.77
	Other Direct Costs																		$ 1,039,648.62
	Labor Escalation		$ 568,649.04		$ 2,042.27		$ 1,361.28		$ 21,311.54		$ 25,394.50						$ 3,732.59		$ 622,491.22
	Expenses		$ 179,158.00		$ 12,800.00		$ 12,642.00		$ 84,595.00		$ 8,482.40		$ 119,480.00						$ 417,157.40
	TOTAL COST:		$ 6,079,315.56		$ 62,958.70		$ 150,131.37		$ 336,894.68		$ 316,764.89		$ 248,472.63		$ 56,312.18		$ 78,384.39		$ 7,329,234.39

Optional Tasks																			
All Tasks	Optional Tasks	1187	$ 272,404.18	275	$ 38,854.93	48	$ 8,149.16		$ 23,796.02	977	$ 163,627.49							2,212	$ 506,831.78
	Other Direct Costs		$ 29,054.14		$ 1,892.15		$ 10,316.49		$ 8,362.98		$ 44,083.14								$ 93,708.89
	Labor Escalation		$ 29,054.14		$ 1,892.15		$ 81.49		$ 2,195.48		$ 40,083.14								$ 73,306.39
	Expenses		$ -				$ 10,235.00		$ 6,167.50		$ 4,000.00								$ 20,402.50
	TOTAL COST for OPTIONAL TASKS		$ 301,458.32		$ 40,747.08		$ 18,465.65		$ 32,159.00		$ 207,710.62								$ 600,540.67
	TOTAL COST with Optional Tasks included:		$ 6,380,773.88		$ 103,705.78		$ 168,597.01		$ 369,053.68		$ 524,475.51		$ 248,472.63		$ 56,312.18		$ 78,384.39		$ 7,826,069.28

All travel costs charged to the City by Kimley-Horn or its Subconsultants, including, but not limited to, travel, lodging and subsistence, shall not exceed the current IRS rates.

EXHIBIT "C-1"
CONSULTANT'S BILLING RATE AND TASK SCHEDULE

CITY OF BANNING
RFP 24-085 HARGRAVE GRADE SEPARATION PROFESSIONAL DESIGN SERVICES

196.54%	Overhead%	Name	Kimley-Horn and Associates, Inc.											Subconsultants							
195.57%	Overhead% w/o FCCM	Category/Title	Darren Adrian Project Manager	Sr. Professional III	Sr. Professional II	Sr. Professional I	Professional III	Professional II	Professional I	Analyst II	Analyst I	Project Support	Kimley Horn Total Hours	Kimley-Horn Total Cost	Avant-Garde Total Cost	Cabrinha, Hearn, & Associates Total Cost	Earth Mechanics, Inc. Total Cost	LSA Total Cost	Paragon Total Cost	Saylor Total Cost	VMS Total Cost	TOTAL PROJECT COSTS
10%	Fee%	Direct Rate	$123.42	$115.67	$102.44	$92.21	$78.83	$69.16	$62.17	$55.73	$49.84	$38.71										
		Billing Rate	$402.47	$377.20	$334.05	$300.69	$257.06	$225.53	$202.73	$181.73	$162.53	$126.23										
Task 1	**PROJECT ADMINISTRATION**		**446**	**20**	**142**	**120**	**320**	**328**	**64**	**104**	**62**	**132**	**1,738**	**$ 485,411.95**				**$ 32,920.55**	**$ 39,456.36**			**$ 557,788.86**
1.1	General Meetings and Coordination		200	10	70	40	100	100	50	40	40	20	670	$ 194,368.16					$ 39,456.36			$ 233,824.52
1.2	Project Management Plan		20			40			10			10	80	$ 23,366.81								$ 23,366.81
1.3	Quality Control Plan		10	4	16	4	4	48	4	28	4	12	134	$ 31,999.12								$ 31,999.12
1.4	Project Controls (Budgeting, Cost Accounting and Progress Reporting)		72					144				72	288	$ 70,542.61				$ 17,680.51				$ 88,223.12
1.5	Project Development Team Meetings (36)		144	6	56	36	216	36		36	18	18	566	$ 165,135.26				$ 15,240.04				$ 180,375.30
Task 2	**DATA COLLECTION**		**46**		**104**		**214**	**60**	**40**	**200**	**424**	**24**	**1,112**	**$ 238,195.27**		**$ 96,501.03**	**$ 5,021.22**	**$ 128,980.27**				**$ 468,697.79**
2.1	Aerial Mapping		6				40			40	20		106	$ 23,217.19		$ 96,501.03						$ 119,718.22
2.2	Potholing		4				40				60	8	112	$ 22,653.83								$ 22,653.83
2.3	Right-of-Way Base Mapping		8		4			20		60			92	$ 19,970.57								$ 19,970.57
2.4	Utility Notification		4					40			60	12	116	$ 21,897.41								$ 21,897.41
2.5	Utility Base Mapping		2		12		6		40		80		140	$ 27,467.48								$ 27,467.48
2.6	Geotechnical Records Research and Findings		2				10					4	16	$ 3,880.49			$ 5,021.22					$ 8,901.71
2.7	Traffic Analyses																					
	Preliminary Traffic Analysis		4		12		8						24	$ 7,675.02				$ 57,788.68				$ 65,463.69
	Update Traffic Analysis		2		8		8						18	$ 5,533.87				$ 9,494.47				$ 15,028.34
2.8	Caltrans Traffic Reports																					
	Traffic Forecasting and Operations Assessment Methodology and Assumptions Memorandum		2		8		12				24		46	$ 10,462.76								$ 10,462.76
	Traffic Forecasting Volumes Report (LSA)		4		12								16	$ 5,618.52				$ 61,697.12				$ 67,315.64
	Traffic Operations Analysis Report (TOAR)		4		26		50			60	100		240	$ 50,305.09								$ 50,305.09
	Intersection Control Evaluation / Intersection Safety and Operational Assessment Process (ISOAP)		4		22		40			40	80		186	$ 39,513.04								$ 39,513.04
Task 3	**BASIS OF DESIGN DOCUMENT**		**8**	**8**	**5**	**5**	**30**			**40**	**20**	**8**	**124**	**$ 28,652.68**								**$ 28,652.68**
3.1	BASIS OF DESIGN DOCUMENT		8	8	5	5	30			40	20	8	124	$ 28,652.68								$ 28,652.68
Task 4	**CONCEPT DEVELOPMENT & PROJECT APPROVAL**		**59**	**2**	**130**		**199**	**197**	**243**	**568**	**133**	**12**	**1,543**	**$ 339,131.75**			**$ 28,280.11**		**$ 8,045.96**	**$ 3,376.30**		**$ 378,834.11**
4.1	Geometric Concepts		8	2	18		40	20	20	80	60		248	$ 53,125.18								$ 53,125.18
4.2	Bridge and Retaining Wall Concepts																					
	Retaining Wall APS		4		24				163	122			313	$ 64,844.42								$ 64,844.42
	Bridge Underpass APS		4		29			171		154			358	$ 77,849.85								$ 77,849.85
4.3	Project Concept Report																					
	Plan and Profile Exhibits		10		9		30		20	60			129	$ 29,701.76								$ 29,701.76
	Right-of-Way Exhibits		2		2		20			6	30		60	$ 12,580.50								$ 12,580.50
	Utility Exhibits		2		20		10			40			72	$ 17,325.99								$ 17,325.99
	Structure Exhibits				8		20			40			68	$ 15,083.03								$ 15,083.03
	Preliminary Geotechnical Report		2		2		10				8		22	$ 5,343.88			$ 28,280.11					$ 33,623.99
	Preliminary Traffic Analysis Report		2		10		6			6			24	$ 6,778.25								$ 6,778.25
	Construction Cost Estimates		2		6		20	6		40	20	6	100	$ 20,580.96						$ 3,376.30		$ 23,957.26
	Right-of-Way Cost Estimates		2				8				6		16	$ 3,836.60					$ 8,045.96			$ 11,882.56
	Project Concept Report		6		2		20		40		9	6	83	$ 18,553.68								$ 18,553.68
4.4	Project Concept Approval		15				15			20			50	$ 13,527.64								$ 13,527.64
Task 5	**ENVIRONMENTAL DOCUMENTATION**		**48**		**18**	**100**	**52**	**40**	**70**	**30**	**240**		**598**	**$ 136,439.12**				**$ 120,987.16**	**$ 1,295.84**			**$ 258,722.11**
5.1	CEQA Statutory Exemption		2				6						8	$ 2,347.31				$ 13,314.22				$ 15,661.53
5.2	NEPA													$ -				$ 34,477.51				$ 34,477.51
	Traffic Study		8		12								20	$ 7,228.40								$ 7,228.40
	Cultural Resources		4				6	30	40	30			110	$ 23,479.51								$ 23,479.51
	Biological Resources		20		6		20				20		66	$ 18,445.48				$ 73,195.43				$ 91,640.91
	Air Quality		4			40	6				60		110	$ 24,931.62								$ 24,931.62
	Noise Study		8			60	8				120		196	$ 42,821.10								$ 42,821.10
	Initial Site Assessment		2				6	10	30		40		88	$ 17,185.70					$ 1,295.84			$ 18,481.54
Task 6	**PLANS, SPECIFICATIONS & ESTIMATES (PS&E)**		**425**	**10**	**1,160**	**525**	**1,613**	**1,914**	**2,535**	**4,210**	**2,940**	**80**	**15,412**	**$ 3,333,450.05**			**$ 197,686.81**			**$ 52,935.88**	**$ 74,651.80**	**$ 3,658,724.53**
6.1	Reports																					
	Water Quality Management Plan / Base SWPPP		8	5	30	40			40	120		10	253	$ 58,334.87								$ 58,334.87
	Hydrology & Hydraulics Reports		10	5	40	80			40	180		10	365	$ 85,412.14								$ 85,412.14
	Traffic Management Plan		10		36		70				140	10	266	$ 58,061.05								$ 58,061.05
	Geotechnical Investigations & Report		4				25				10		39	$ 9,661.70			$ 197,686.81					$ 207,348.51
	Landscape & Aesthetic Concepts		10			80		70			125	5	290	$ 64,814.22								$ 64,814.22
	Structure Type Selection Report																					$ -
	I-10 Hargrave Undercrossing Retaining Wall				40				174	165			379	$ 78,624.04								$ 78,624.04
	Hargrave Street Underpass				55			231		175			461	$ 102,273.51								$ 102,273.51

EXHIBIT "C-1"
CONSULTANT'S BILLING RATE AND TASK SCHEDULE

CITY OF BANNING
RFP 24-085 HARGRAVE GRADE SEPARATION PROFESSIONAL DESIGN SERVICES

196.54% Overhead%
195.57% Overhead% w/o FCCM
10% Fee%

		Kimley-Horn and Associates, Inc.											Subconsultants							
	Name	Darren Adrian																		
	Category/Title	Project Manager	Sr. Professional III	Sr. Professional II	Sr. Professional I	Professional III	Professional II	Professional I	Analyst II	Analyst I	Project Support	Kimley Horn Total Hours	Kimley-Horn Total Cost	Avant-Garde Total Cost	Cabrinha, Hearn, & Associates Total Cost	Earth Mechanics, Inc. Total Cost	LSA Total Cost	Paragon Total Cost	Saylor Total Cost	VMS Total Cost	TOTAL PROJECT COSTS
	Direct Rate	$123.42	$115.67	$102.44	$92.21	$78.83	$69.16	$62.17	$55.73	$49.84	$38.71									
	Billing Rate	$402.47	$377.20	$334.05	$300.69	$257.06	$225.53	$202.73	$181.73	$162.53	$126.23									
6.2	Calculations																			
	Civil/Survey Calculations	20		10	10	20	40		100			200	$ 46,732.63								$ 46,732.63
	Undercrossing Retaining Wall Structural Calculations	5		70				445	140			660	$ 141,055.70								$ 141,055.70
	Undercrossing Retaining Wall Independent Check	5						200				205	$ 42,559.25								$ 42,559.25
	Underpass Bridge Structural Calculations	5		80			635		100			820	$ 190,120.75								$ 190,120.75
	Underpass Bridge Wall Independent Check	5				360						365	$ 94,554.76								$ 94,554.76
	Misc. Wall Design	5		57				456	90			608	$ 129,856.39								$ 129,856.39
	Misc. Wall Independent Check	5					190					195	$ 44,862.79								$ 44,862.79
6.3	Plan Preparation																			
	General Plans			5			20			50		75	$ 14,307.18								$ 14,307.18
	Survey Control Plans			5		8				15		28	$ 6,164.67								$ 6,164.67
	Right-of-Way Plans			5		20		50				75	$ 16,948.24								$ 16,948.24
	Roadway Plans	60		100		230	230	420	420	700		2,160	$ 443,794.86								$ 443,794.86
	Working Roadway Cross Sections	2		10			8	10	10	40		80	$ 16,295.46								$ 16,295.46
	Railroad Track Plans	60		55		100	150	210	230	550		1,355	$ 275,819.36								$ 275,819.36
	Traffic Plans	38		88		180		260	270	530		1,366	$ 278,880.05								$ 278,880.05
	Utility Plans	20		60		130		130		320		660	$ 139,874.74								$ 139,874.74
	Landscaping & Irrigation Plans	20		10	65	20	80			150	5	350	$ 79,128.74								$ 79,128.74
	Drainage Plans	20		30	60		40		100	100		350	$ 79,559.84								$ 79,559.84
	Underpass Bridge Plans	5		40			90		1,065			1,200	$ 229,218.64								$ 229,218.64
	Undercrossing Retaining Wall Plans	5		15				50	525			595	$ 112,570.15								$ 112,570.15
	Misc. Retaining Wall Plans	5		15				50	420			490	$ 93,488.10								$ 93,488.10
	Log of Test Borings			10		20				40		70	$ 14,982.85								$ 14,982.85
6.4	Specifications	60		190	150	250	50				40	740	$ 213,313.74								$ 213,313.74
6.5	Cost Estimates	20		50	30	60	80		100	150		490	$ 109,791.32						$ 23,198.68		$ 132,990.00
6.6	Construction Schedule	10		40		80						130	$ 37,951.82						$ 29,737.20		$ 67,689.02
6.7	Value Analysis	8		14	10	40				20		92	$ 24,436.47							$ 74,651.80	$ 99,088.27
Task 7	**RIGHT-OF-WAY**	**80**			**190**					**160**	**20**	**450**	**$ 117,858.30**		**$ 39,627.06**			**$ 80,194.47**			**$ 237,679.83**
7.1	Right-of-Way Requirements	50			100					100	5	255	$ 67,076.69					$ 3,026.43			$ 70,103.12
7.2	Right-of-Way Maps	10			30					40	5	85	$ 20,177.74								$ 20,177.74
7.3	Appraisal Maps, Plats, and Descriptions	20			60					20	10	110	$ 30,603.88		$ 39,627.06			$ 77,168.04			$ 147,398.98
Task 8	**COORDINATION, AGREEMENTS & PERMITS**	**295**	**35**	**211**	**95**	**461**	**168**	**260**	**110**	**426**	**40**	**2,101**	**$ 534,363.38**	**$ 24,670.97**							**$ 559,034.35**
8.1	Union Pacific Railroad (UPRR)	50	10	30	20	100	20			60		290	$ 79,899.31								$ 79,899.31
8.2	California Public Utilities Commission (CPUC)	15			25		36			60		136	$ 31,425.02								$ 31,425.02
8.3	Caltrans District 8																				
	Caltrans Coordination	100	5	35	30	160	20			60		410	$ 118,237.72								$ 118,237.72
	Encroachment Permits	5				20						25	$ 7,153.59								$ 7,153.59
	Design Engineering Evaluation Report (DEER)	10		10	10	20			30	20		100	$ 24,215.96								$ 24,215.96
	Design Standard Decision Document (DSDD)	10		20	10	50			80	60		230	$ 50,856.13								$ 50,856.13
8.4	Riverside County Flood Control and Water Conservation	10	20					40		10		80	$ 21,303.26								$ 21,303.26
8.5	Utility Coordination	40		80		60		160		40		380	$ 97,185.38								$ 97,185.38
8.6	Community Engagement	45		36		36	72			36	40	265	$ 66,529.59	$ 24,670.97							$ 91,200.56
	Renderings (Photo simluations)	10				15	20	60		80		185	$ 37,557.41								$ 37,557.41
Task 9	**BIDDING SERVICES**	**35**	**10**		**80**	**20**	**80**	**40**		**180**		**445**	**$ 102,461.63**								**$ 102,461.63**
9.1	Resident Engineer (RE) Pending File	5	10		40			40		80		175	$ 38,923.59								$ 38,923.59
9.2	Bidding Phase Support	20			40		40			20		120	$ 32,348.82								$ 32,348.82
9.3	Conformed Plans and Specification	10				20	40			80		150	$ 31,189.22								$ 31,189.22
Task 10	**CONSTRUCTION PHASE FUNDING**	**10**			**20**		**10**			**20**		**60**	**$ 15,544.39**	**$ 23,445.46**							**$ 38,989.85**
10.1	CONSTRUCTION PHASE FUNDING	10			20		10			20		60	$ 15,544.39	$ 23,445.46							$ 38,989.85
	TOTAL HOURS	**1,452**	**85**	**1,770**	**1,135**	**2,909**	**2,797**	**3,252**	**5,262**	**4,605**	**316**	**23,583**									
	Subtotal Labor:	**$584,384.87**	**$32,061.69**	**$591,275.17**	**$341,287.74**	**$747,794.13**	**$630,803.73**	**$659,292.61**	**$956,283.56**	**$748,435.66**	**$39,889.36**		**$ 5,331,508.52**	**$ 48,116.43**	**$ 136,128.09**	**$ 230,988.13**	**$ 282,887.99**	**$ 128,992.63**	**$ 56,312.18**	**$ 74,651.80**	**$ 6,289,585.77**
	Other Direct Costs												**$ 747,807.04**	**$ 14,842.27**	**$ 14,003.28**	**$ 105,906.54**	**$ 33,876.90**	**$ 119,480.00**		**$ 3,732.59**	**$ 1,039,648.62**
	Escalation												$ 568,649.04	$ 2,042.27	$ 1,361.28	$ 21,311.54	$ 25,394.50			$ 3,732.59	$ 622,491.22
	Traffic Counts (extra intersection counts for TMP)												$ 3,960.00								$ 3,960.00
	Permit Fees												$ 15,000.00								$ 15,000.00
	Travel/Mileage												$ 15,000.00								$ 15,000.00
	Outside Printing/Courier Services												$ 10,000.00								$ 10,000.00
	Utility Agency Fees												$ 2,000.00								$ 2,000.00
	UPRR License Fee												$ 15,000.00								$ 15,000.00
	Potholing Allowance (Up to 40)												$ 118,198.00								$ 118,198.00
	Subconsultant Expenses													*$ 12,800.00*	*$ 12,642.00*	*$ 84,595.00*	*$ 8,482.40*	*$ 119,480.00*			*$ 237,999.40*
	TOTAL COST:												$ 6,079,315.56	$ 62,958.70	$ 150,131.37	$ 336,894.68	$ 316,764.89	$ 248,472.63	$ 56,312.18	$ 78,384.39	$ 7,329,234.39

EXHIBIT "C-1"
CONSULTANT'S BILLING RATE AND TASK SCHEDULE

CITY OF BANNING
RFP 24-085 HARGRAVE GRADE SEPARATION PROFESSIONAL DESIGN SERVICES

196.54% Overhead%		Kimley-Horn and Associates, Inc.											Subconsultants							
	Name	Darren Adrian																		
195.57% Overhead% w/o FCCM	Category/Title	Project Manager	Sr. Professional III	Sr. Professional II	Sr. Professional I	Professional III	Professional II	Professional I	Analyst II	Analyst I	Project Support	Kimley Horn Total Hours	Kimley-Horn Total Cost	Avant-Garde Total Cost	Cabrinha, Hearn, & Associates Total Cost	Earth Mechanics, Inc. Total Cost	LSA Total Cost	Paragon Total Cost	Saylor Total Cost	VMS Total Cost	TOTAL PROJECT COSTS
10% Fee%	Direct Rate	$123.42	$115.67	$102.44	$92.21	$78.83	$69.16	$62.17	$55.73	$49.84	$38.71										
	Billing Rate	$402.47	$377.20	$334.05	$300.69	$257.06	$225.53	$202.73	$181.73	$162.53	$126.23										
Optional Tasks																					
2.1.1	2nd Aerial Survey	2				10		5		40		57	$ 10,890.30		$ 8,149.16						$ 19,039.46
4.1.1	Caltrans Geometric Approval Drawing (GAD)	8		2	10	40			40	120		220	$ 43,949.85								$ 43,949.85
5.1.1	CEQA SE Memorandum	2				4				2		8	$ 2,158.24				$ 7,730.91				$ 9,889.15
5.2.1	DBESP	8				6						14	$ 4,762.12				$ 18,750.94				$ 23,513.06
5.2.2	Focused Burrowing Owl Survey	2				3						5	$ 1,576.12				$ 9,792.15				$ 11,368.27
5.2.3	NEPSSA Survey	2				3						5	$ 1,576.12				$ 10,749.09				$ 12,325.21
5.2.4	Aerially Deposited Lead Investigation	6			8	12						26	$ 7,905.11			$ 23,796.02					$ 31,701.13
5.2.5	Community Impact Assessment	4				6				4		14	$ 3,802.36				$ 32,815.39				$ 36,617.74
5.2.6	Paleontological Assessment (PIR/PER)	1				4						5	$ 1,430.72				$ 11,710.03				$ 13,140.75
5.2.7	Water Quality Assessment Report	4				8				6		18	$ 4,641.53				$ 35,668.28				$ 40,309.81
5.3	Visual Impact Assessment																				
	VIA Work Plan			2	20	4			4		4	34	$ 8,942.10								$ 8,942.10
	Visual Impact Assessment	12		10	60	8			110		80	280	$ 58,357.60								$ 58,357.60
6.1	Storm Water Data Report (Long-Form)	6		15		40		80		40		181	$ 40,427.94								$ 40,427.94
8.7	Resource/Regulatory Permitting	20				40				20		80	$ 21,582.40				$ 36,410.71				$ 57,993.11
10.1.1	Grant Funding Support	40		10		60	70			60		240	$ 60,401.64	$ 38,854.93							$ 99,256.58
	OPTIONAL TASKS TOTAL HOURS	**117**		**39**	**98**	**248**	**70**	**85**	**154**	**292**	**84**	**1187**									
	Optional Tasks Subtotal Labor:	**$47,088.86**		**$13,028.10**	**$29,468.02**	**$63,751.44**	**$15,787.01**	**$17,232.43**	**$27,987.01**	**$47,457.81**	**$10,603.50**		**$ 272,404.18**	**$ 38,854.93**	**$ 8,149.16**	**$ 23,796.02**	**$ 163,627.49**				**$ 506,831.78**
	Other Direct Costs												**$ 29,054.14**	**$ 1,892.15**	**$ 10,316.49**	**$ 8,362.98**	**$ 44,083.14**				**$ 93,708.89**
	Escalation												$ 29,054.14	$ 1,892.15	$ 81.49	$ 2,195.48	$ 40,083.14				$ 73,306.39
	Expenses														$ 10,235.00	$ 6,167.50	$ 4,000.00				$ 20,402.50
	TOTAL COST for OPTIONAL TASKS												**$ 301,458.32**	**$ 40,747.08**	**$ 18,465.65**	**$ 32,159.00**	**$ 207,710.62**				**$ 600,540.67**
TOTAL COST with Optional Tasks included:													$ 6,390,773.68	$ 103,705.78	$ 168,597.01	$ 369,053.58	$ 524,475.51	$ 248,472.63	$ 56,312.18	$ 78,384.39	$ 7,929,775.06

EXHIBIT "C-1"
CONSULTANT'S BILLING RATE AND TASK SCHEDULE

CITY OF BANNING
Hargrave Grade Separation Professional Design Services

186.46%	Overhead %		Advanced Avant-Garde Corporation								
10%	Fee%	Name	Ana Marie LeNoue	Lissette Montoya	Megan LeNoue	Julianna Carrera	Keith LeNoue	Adriana Robledo	Antonio Solorzano		
		Category/Title	Program Director	Program Manager	Program Manager	Program Manager	Program Manager	Program Coordinator	Program Coordinator	Total Hours	Total Costs
		Direct Rate	$134.07	$140.19	$43.27	$45.67	$38.50	$34.00	$25.00		
		Billing Rate	$422.46	$441.75	$136.35	$143.91	$121.32	$107.14	$78.78		
Task 1	PROJECT ADMINISTRATION										
Task 2	DATA COLLECTION										
Task 3	BASIS OF DESIGN DOCUMENT										
Task 4	CONCEPT DEVELOPMENT & PROJECT APPROVAL										
Task 5	ENVIRONMENTAL DOCUMENTATION										
Task 6	PLANS, SPECIFICATIONS & ESTIMATES (PS&E)										
Task 7	RIGHT-OF-WAY										
Task 8	COORDINATION, AGREEMENTS & PERMITS	18			48		36	80	182	$	24,670.97
8.6	Community Engagement	18			48		36	80	182	$	24,670.97
	Develop Outreach Plan	10			6		2	2	20	$	5,459.90
	Organize and Attend 4 public meetings	4			24		24	8	60	$	8,345.14
	Maintain Stakeholder database	2			2			20	24	$	2,708.27
	Produce and send notices	2			16		10	50	78	$	8,157.65
Task 9	BIDDING SERVICES									$	-
Task 10	CONSTRUCTION PHASE FUNDING		15	65	30	30			140	$	23,445.46
	TOTAL HOURS	18	15	65	78	30	36	80	322		
	Subtotal Labor:	$7,604.33	$6,626.21	$8,862.51	$11,224.89	$3,639.47	$3,856.90	$6,302.12		$	48,116.43
	Other Direct Costs									$	14,842.27
	Escalation									$	2,042.27
	Full color Postcard production 5000 pcs									$	2,000.00
	Postage and handling (4500 postal customers)									$	10,800.00
	TOTAL COST:									$	62,958.70

Optional Tasks										
Task O										
10.1.1	Grant Funding Support	10	10	60	85		40	70	275	$ 38,854.93
	OPTIONAL TASKS TOTAL HOURS	10	10	60	85		40	70	275	
	Optional Tasks Subtotal Labor:	$ 4,224.63	$ 4,417.47	$ 8,180.78	$ 12,232.26	$ -	$ 4,285.44	$ 5,514.36		$ 38,854.93
	Other Direct Costs									
	Escalation									$ 1,892.15
	TOTAL COST for OPTIONAL TASKS									$ 40,747.08
TOTAL COST with Optional Tasks included:										$ 103,705.78

EXHIBIT "C-1"
CONSULTANT'S BILLING RATE AND TASK SCHEDULE

CITY OF BANNING
Hargrave Grade Separation Professional Design Services

		CABRINHA, HEARN & ASSOCIATES											
	Name	Camden Cabrinha	Jamie Bertchume	Edward Uribe	Imelda Torres	Christian Hidalgo	Michael Naylor	Jonathan Garcia	CAD Office surveyor	Surveyor	Admin Support	Total Hours	Total Costs
149.15%	Overhead %												
10%	Fee%												
	Category/Title	Survey Project Manager	PLS Party Chief	Party Chief	Party Chief	Chainman	Chainman	Chainman Apprentice					
	Direct Rate	$80.10	$73.50	$64.01	$64.01	$56.78	$56.78	$34.07	$50.00	$55.00	$55.00		
	Billing Rate	$219.53	$201.44	$175.43	$175.43	$155.61	$155.61	$93.37	$137.03	$150.74	$150.74		
Task 1	PROJECT ADMINISTRATION												
Task 2	DATA COLLECTION	64	16	88	80	100	24	60	100	54	20	606	$ 96,501.03
2.1	Aerial Mapping	64	16	88	80	100	24	60	100	54	20	606	$ 96,501.03
Task 3	BASIS OF DESIGN DOCUMENT												
Task 4	CONCEPT DEVELOPMENT & PROJECT APPROVAL												
Task 5	ENVIRONMENTAL DOCUMENTATION												
Task 6	PLANS, SPECIFICATIONS & ESTIMATES (PS&E)												
Task 7	RIGHT-OF-WAY	90							90	50		230	$ 39,627.06
7.3	Appraisal Maps, Plats, and Descriptions	90							90	50		230	$ 39,627.06
Task 8	COORDINATION, AGREEMENTS & PERMITS												$ -
Task 9	BIDDING SERVICES												$ -
Task 10	CONSTRUCTION PHASE FUNDING												$ -
	TOTAL HOURS	154	16	88	80	100	24	60	190	104	20	836	
	Subtotal Labor:	$33,807.01	$3,223.00	$15,437.75	$14,034.32	$15,561.41	$3,734.74	$5,602.44	$26,036.18	$15,676.52	$3,014.72		$ 136,128.09
	Other Direct Costs												$ 14,003.28
	Escalation												$ 1,361.28
	Aerial Mapping Services												$ 12,642.00
	TOTAL COST:												$ 150,131.37

Optional Tasks													
2.1.1	Aerial Mapping (Second Mobilization)	8		16		16			8			48	$ 8,149.16
	OPTIONAL TASKS TOTAL HOURS	8		16		16			8			48	
	Optional Tasks Subtotal Labor:	$ 1,756.21	$ -	$ 2,806.86	$ -	$ 2,489.83	$ -	$ -	$ 1,096.26	$ -	$ -		$ 8,149.16
	Other Direct Costs												$ 10,316.49
	Escalation												$ 81.49
	Aerial Mapping Services (Second Mobilization)												$ 10,235.00
	TOTAL COST for OPTIONAL TASKS												$ 18,465.65
TOTAL COST with Optional Tasks included:													$ 168,597.01

EXHIBIT "C-1"
CONSULTANT'S BILLING RATE AND TASK SCHEDULE

CITY OF BANNING

Hargrave Grade Separation Professional Design Services

		Earth Mechanics, Inc.										
	Name	Alahesh Thurairajah	Principal Engineer / Geologist	Senior Engineer / Geologist	Sr. Project Engineer / Geologist	Project Engineer / Geologist	Sr. Staff Engineer / Geologist	Staff Engineer / Geologist	Senior Technician	Technician		
170.68%	Overhead %	Principal										
10%	Fee%	Direct Rate	$101.60	$92.00	$69.70	$68.60	$58.30	$51.30	$38.50	$52.50	$27.20	Total Hours	Total Costs
		Billing Rate	$302.51	$273.93	$207.53	$204.26	$173.59	$152.74	$114.63	$156.32	$80.99		
Task 1	PROJECT ADMINISTRATION												
Task 2	DATA COLLECTION	4		10		10					24	$ 5,021.22
2.6	Geotechnical Records Research and Findings	4		10		10					24	$ 5,021.22
Task 3	BASIS OF DESIGN DOCUMENT											
Task 4	CONCEPT DEVELOPMENT & PROJECT APPROVAL	20	10	30		50		40			150	$ 28,280.11
4.3	Project Concept Reports											
	Preliminary Geotechnical Report	20	10	30		50		40			150	$ 28,280.11
Task 5	ENVIRONMENTAL DOCUMENTATION											$ -
Task 6	PLANS, SPECIFICATIONS & ESTIMATES (PS&E)	100	80	140	80	160	100	100	240	100	1,100	$ 197,686.81
6.1	Reports											$ -
	Geotechnical Investigations & Report	100	80	140	80	160	100	100	240	100	1,100	$ 197,686.81
Task 7	RIGHT-OF-WAY											
Task 8	COORDINATION, AGREEMENTS & PERMITS											
Task 9	BIDDING SERVICES											
Task 10	CONSTRUCTION PHASE FUNDING											
	TOTAL HOURS	124	90	180	80	220	100	140	240	100	1,274	
	Subtotal Labor:	$37,511.48	$24,653.53	$37,355.46	$16,340.41	$38,189.16	$15,274.47	$16,048.62	$37,516.25	$8,098.75		$ 230,988.13
	Other Direct Costs											$ 105,906.54
	Escalation											$ 21,311.54
	Drill Rig Rental											$ 60,000.00
	Traffic Control Rental											$ 12,000.00
	Soil Cutting Contaminants Testing											$ 2,520.00
	Soil Cutting (drums) Disposal											$ 6,400.00
	R-Value Tests											$ 2,000.00
	Mileage											$ 1,675.00
	TOTAL COST:											$ 336,894.68
Optional Tasks												
5.2.4	Aerially Deposited Lead Investigation	20		40		40			16		116	$ 23,796.02
	OPTIONAL TASKS TOTAL HOURS	20		40		40			16		116	
	Optional Tasks Subtotal Labor:	$6,050.24		$8,301.21		$6,943.48			$2,501.08			$ 23,796.02
	Other Direct Costs											$ 8,362.98
	Escalation											$2,195.48
	ADL Lab Tests											$ 6,167.50
	TOTAL COST for OPTIONAL TASKS											$ 32,159.00
TOTAL COST with Optional Tasks included:												$ 369,053.68

EXHIBIT "C-1"
CONSULTANT'S BILLING RATE AND TASK SCHEDULE

CITY OF BANNING
Hargrave Grade Separation Professional Design Services

		LSA Associates Inc.																		
	Name	Deborah Pracilio	Ambarish Mukherjee	Jodi Ross-Borrego	Ryan Bensley	Pam Reading	Technical Principal	Associate Planner/ Technical Specialist	Trevor Wimmer	Kelly Vreeland	Sr.Planner/ Technical Specialist	Planner/ Technical Specialist	Asst Planner/ Technical Specialist	Sr GIS/ Graphics	GIS/Graphics	Technical Editor	Document Management	Project Assistant	Total Hours	Total Costs
216.47%	Overhead %	Env. Task Mgr.	Traffic	Biology	Env.	Env.			Sr. Env. Planner	Sr. Paleontologist										
10%	Fee%	Direct Rate	$95.36	$91.68	$81.71	$83.56	$89.45	$84.60	$57.57	$45.31	$45.00	$47.62	$38.11	$33.61	$52.57	$34.61	$36.82	$36.82	$34.72		
		Billing Rate	$331.96	$319.15	$284.45	$290.89	$311.39	$294.51	$200.41	$157.73	$156.65	$165.77	$132.67	$117.00	$183.01	$120.48	$128.18	$128.18	$120.87		
Task 1	PROJECT ADMINISTRATION	40	12					12	85										149	$ 32,920.55
1.4	Project Controls (Budgeting, Cost Accounting and Progress	20							70										90	$ 17,680.51
1.5	Project Development Team Meetings	20	12					12	15										59	$ 15,240.04
Task 2	DATA COLLECTION	4	30					88	8		256	384		4	8	24	8		814	$ 128,980.27
2.7	Traffic Analysis																			$ -
	Preliminary Traffic Analysis	1	16					40	2		120	160		2	4	12	4		361	$ 57,788.68
	Update Traffic Analysis	1	2					8	2		16	24				4	2		59	$ 9,494.47
2.8	Caltrans Traffic Reports																			$ -
	Intersection Control Evaluation																			$ -
	Traffic Forecasting Volumes Report	2	12					40	4		120	200		2	4	8	2		394	$ 61,697.12
Task 3	BASIS OF DESIGN DOCUMENT																			
Task 4	CONCEPT DEVELOPMENT & PROJECT APPROVAL																			
Task 5	ENVIRONMENTAL DOCUMENTATION	41		26				115	108		67	160		77	10	58		40	702	$ 120,987.16
5.1	CEQA Statutory Exemption	2							6			10				2			20	$ 3,193.35
	Preliminary Environmental Study Form	8							16			24		4		8			60	$ 10,120.88
5.2	NEPA Categorical Exemption	24							72			80		8		24			208	$ 34,477.51
	Natural Environmental Study - Minimal Impacts (NES-MI)	4		12				46	8		12	46		38	6	14		24	210	$ 35,686.31
	Jurisdicitonal Delineation (JD)	1		4				10	2		34			10	2	4		8	75	$ 12,976.27
	Bat Habitat Assessment	1		2				38	2					5		3		8	59	$ 11,098.42
	MSHCP Consistency Analysis	1		8				21	2		21			12	2	3			70	$ 13,434.43
Task 6	PLANS, SPECIFICATIONS & ESTIMATES (PS&E)																			
Task 7	RIGHT-OF-WAY																			
Task 8	COORDINATION, AGREEMENTS & PERMITS																			
Task 9	BIDDING SERVICES																			
Task 10	CONSTRUCTION PHASE FUNDING																			
	TOTAL HOURS	85	42	26				215	201		323	544		81	18	82	8	40	1,665	
	Subtotal Labor:	$28,216.97	$13,404.45	$7,395.61				$43,088.36	$31,704.09		$53,544.78	$72,171.06		$14,823.41	$2,168.70	$10,510.49	$1,025.41	$4,834.65		$ 282,887.99
	Other Direct Costs																			$ 33,876.90
	Escalation																			$ 25,394.50
	Mileage																			$ 482.40
	Traffic Counts																			$ 8,000.00
	TOTAL COST:																			$ 316,764.89

Optional Tasks																				
5.1.1	CEQA SE Memorandum	2							14			30		2		4			52	$ 7,730.91
5.2.1	DBESP	2		8				28	8		28			18	3	5			100	$ 18,750.94
5.2.2	Focused Burrowing Owl Survey	1		3				4			20	19		8	1	3			59	$ 9,792.15
5.2.3	NEPSSA Survey	1		3				2			46			7		2			61	$ 10,749.09
5.2.5	Community Impact Assessment	2			24				4			46	100	20		24			220	$ 32,815.39
5.2.6	Paleontological Assessment (PIR/PER)	1					5		2	50				4		8			70	$ 11,710.03
5.2.7	Water Quality Assessment Report	8				28			8			130		12		28			214	$ 35,668.28
8.7	Permitting	4		27				54	8			51		24	9	24			201	$ 36,410.71
	OPTIONAL TASKS TOTAL HOURS	21		41	24	28	5	88	44	50	94	276	100	95	13	98			977	
	Optional Tasks Subtotal Labor:	$6,971.25		$11,662.30	$6,981.28	$8,718.94	$1,472.53	$17,636.16	$6,940.20	$7,832.63	$15,582.69	$36,616.20	$11,700.21	$17,385.49	$1,566.28	$12,561.31				$ 163,627.49
	Other Direct Costs																			$ 44,083.14
	Escalation																			$ 40,083.14
	Paleontological Records Search																			$ 4,000.00
	TOTAL COST for OPTIONAL TASKS																			$ 207,710.62
TOTAL COST with Optional Tasks Included:																				$ 524,475.51

EXHIBIT "C-1"
CONSULTANT'S BILLING RATE AND TASK SCHEDULE

CITY OF BANNING

Hargrave Grade Separation Professional Design Services

		Paragon Partners Consultants, Inc.								
	Name	Mark Mendoza	Dan Akins	Dioniso Marquez	Brett Brown	Laura Mascaranes	Sarah Riggs	Jennifer Benson		
	Category/Title	Project Director	Project Manager	Relocation Manager	Title Manager	Sr. Agent	Agent	Project Coordinator	TOTAL HOURS	TOTAL COST
	Billing Rate	$237.08	$148.00	$153.13	$112.28	$91.87	$81.65	$76.55		
Task 1	**PROJECT ADMINISTRATION**	**60**	**60**		**12**	**60**	**60**	**60**	**312**	**$ 39,456.36**
1.1	General Meetings and Coordination	60	60		12	60	60	60	312	$ 39,456.36
Task 4	**CONCEPT DEVELOPMENT & PROJECT APPROVAL**	**10**	**16**		**8**	**16**	**4**	**8**	**62**	**$ 8,045.96**
4.3	Projects Concept Report									
	Right-of-Way Cost Estimates	10	16		8	16	4	8	62	$ 8,045.96
Task 5	**ENVIRONMENTAL DOCUMENTATION**	**2**	**2**			**4**	**1**	**1**	**10**	**$ 1,295.84**
5.2	NEPA									$ -
	Initial Site Assessment	2	2			4	1	1	10	$ 1,295.84
Task 7	**RIGHT-OF-WAY**	**49**	**82**	**58**	**31**	**234**	**150**	**135**	**739**	**$ 80,194.47**
7.1	Right-of-Way Requirements		4		21			1	26	$ 3,026.43
7.3	Appraisal Maps, Plats, and Descriptions	49	78	58	10	234	150	134	713	$ 77,168.04
	TOTAL HOURS	**119**	**158**	**58**	**51**	**310**	**214**	**203**	**1,113**	
	Subtotal Labor:	**$28,212.52**	**$23,384.00**	**$8,881.54**	**$5,726.28**	**$28,479.70**	**$17,473.10**	**$15,539.65**		**$ 128,992.63**
	Other Direct Costs									**$ 119,480.00**
	Mileage									$ 2,900.00
	Postage									$ 780.00
	Subconsultant - Obtain & Review Appraisal Reports									$ 77,500.00
	Subconsultant - Obtain & Review Appraisal Reviews									$ 19,500.00
	Title Reports (14)									$ 13,300.00
	Phase 1 ESA (1)									$ 5,500.00
	TOTAL COST:									**$ 248,472.63**

Assumptions:

1.) 15 Parcels to be acquired (14 partital acquisitions - Permanent easement and/or temporary easements; 1 full acquisition)

2.) 1 SFR displacement requires a Relocation Plan and a residential relocation

3.) There is only one displacement (family) that will occur from the full acquisition.

4.) The property rights required from the State (Caltrans) will be in the form of an Encroachment Permit.

EXHIBIT "C-1"
CONSULTANT'S BILLING RATE AND TASK SCHEDULE

CITY OF BANNING

Hargrave Grade Separation Professional Design Services

114.55%	Overhead %	Name	Saylor Consulting									
10%	Fee%	Category/Title	Manager	Sr. Civil Estimator	Civil Estimator	Sr. Struct Estimator	Sr. Electrical / Systems Estimator	Technical Services	Sr. Scheduler	Constructability Engineer	Total Hours	Total Costs
		Direct Rate	$105.00	$125.00	$90.00	$91.34	$89.50	$35.21	$105.00	$135.00		
		Billing Rate	$247.81	$295.01	$212.40	$215.57	$211.22	$83.10	$247.81	$318.61		
Task 1	PROJECT ADMINISTRATION											
Task 2	DATA COLLECTION											
Task 3	BASIS OF DESIGN DOCUMENT											
Task 4	CONCEPT DEVELOPMENT & PROJECT APPROVAL	1	5		2	5	2			15	$	3,376.30
4.3	Project Concept Reports											
	Construction Cost Estimates (ROM)	1	5		2	5	2			15	$	3,376.30
Task 5	ENVIRONMENTAL DOCUMENTATION										$	-
Task 6	PLANS, SPECIFICATIONS & ESTIMATES (PS&E)	7	25	27	18	20	3	120		220	$	52,935.88
6.5	Cost Estimates	7	25	27	18	20	3			100	$	23,198.68
6.6	Construction Schedule							120		120	$	29,737.20
Task 7	RIGHT-OF-WAY										$	-
Task 8	COORDINATION, AGREEMENTS & PERMITS										$	-
Task 9	BIDDING SERVICES										$	-
Task 10	CONSTRUCTION PHASE FUNDING										$	-
	TOTAL HOURS	8	30	27	20	25	5	120		235		
	Subtotal Labor:	$1,982.48	$8,850.30	$5,734.80	$4,311.40	$5,280.50	$415.50	$29,737.20			$	56,312.18
	Other Direct Costs										$	-
	TOTAL COST:										$	56,312.18

EXHIBIT "C-1"
CONSULTANT'S BILLING RATE AND TASK SCHEDULE

CITY OF BANNING
Hargrave Grade Separation Professional Design Services

		VALUE MANAGEMENT STRATEGIES, INC.							
	Name	Robert Stewart	Eric Trimble	Linda Chia	Jessica Combs	Sandra Northrop	Angelina Chang		
222.12%	Overhead %								
	Category/Title	Principal	CVS Team Leader	Asst. Team Leader	Project Coordinator	Asst. Project Coordinator	Technical Editor	Total Hours	Total Costs
10%	Fee%								
	Direct Rate	$159.01	$109.04	$68.75	$62.60	$56.19	$37.74		
	Billing Rate	$563.42	$386.36	$243.60	$221.81	$199.10	$133.72		
Task 1	PROJECT ADMINISTRATION								$ -
Task 2	DATA COLLECTION								$ -
Task 3	BASIS OF DESIGN DOCUMENT								$ -
Task 4	CONCEPT DEVELOPMENT & PROJECT APPROVAL								$ -
Task 5	ENVIRONMENTAL DOCUMENTATION								$ -
Task 6	PLANS, SPECIFICATIONS & ESTIMATES (PS&E)	8	104	96	8	8	24	248	$ 74,651.80
6.7	Value Analysis	8	104	96	8	8	24	248	$ 74,651.80
Task 7	RIGHT-OF-WAY								$ -
Task 8	COORDINATION, AGREEMENTS & PERMITS								$ -
Task 9	BIDDING SERVICES								$ -
Task 10	CONSTRUCTION PHASE FUNDING								$ -
	TOTAL HOURS	8	104	96	8	8	24	248	
	Subtotal Labor:	$4,507.39	$40,181.82	$23,385.91	$1,774.49	$1,592.79	$3,209.40		$ 74,651.80
	Other Direct Costs								$ 3,732.59
	Escalation								$ 3,732.59
	TOTAL COST:								$ 78,384.39

EXHIBIT "D"
SCHEDULE OF PERFORMANCE

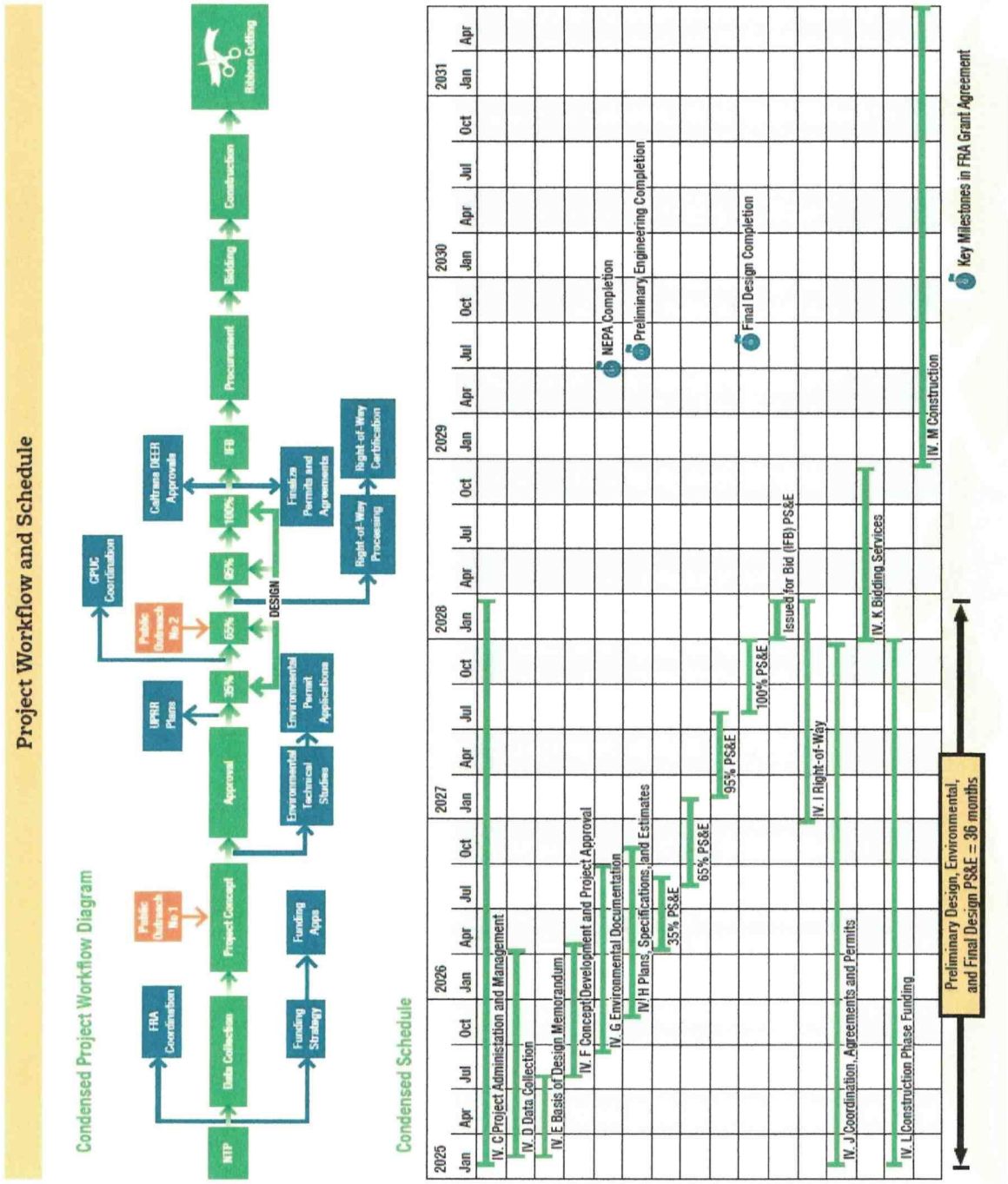
I. Consultant shall perform all services timely in accordance with the schedule to be developed by Consultant and subject to the written approval of the Contract Officer. Consultant will provide a written proposal within one week of the City's request for services, unless otherwise agreed to by the Contract Officer.

II. Consultant shall deliver the following tangible work products to the City by the following dates.

A. Proposed Project Schedule – Attached as Exhibit D-1 and included in Exhibit "A".

III. The Contract Officer may approve extensions for performance of the services in accordance with Section 3.2.

EXHIBIT "D-1"
PROPOSED PROJECT SCHEDULE



RESOLUTION 2024-161

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT FOR THE FUNDING OF SB 125 TRANSIT AND INTERCITY RAIL CAPITAL PROGRAM FUNDING FOR GRADE SEPARATION PLANNING AND DESIGN WORK FOR $5,000,000 FOR THE PLANNING AND DESIGN OF THE HARGRAVE GRADE SEPARATION PROJECT

WHEREAS, the Hargrave Grade Separation Project exists on the City's Capital Improvement Program; and

WHEREAS, the Hargrave Grade Separation Project exists within the Western Regional Council of Governments (WRCOG) Transportation Uniform Mitigation Fee (TUMF) network map for the Pass Zone; and

WHEREAS, the Riverside County Transportation Commission (RCTC) selected the project as an eligible project under the SB 125 Transit and Intercity Rail Capital Program to receive direct contribution from RCTC in the amount of $5,000,000; and

WHEREAS, the grant from RCTC is in addition to the previously awarded grant from the Federal Railroad Administration through the Rail Crossing Elimination grant program in the amount of $2,800,000.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The City Council approves the Agreement for the funding of SB 125 Transit and Intercity Rail Capital Program with the Riverside County Transportation Commission for the Hargrave Grade Separation Planning and Design Project in an amount of $5,000,000.

SECTION 2. The City Council authorizes the City Manager or their designee to execute the grant agreement with the Riverside County Transportation Commission on behalf of the City Council.

SECTION 3. The City Council authorizes the City Manager, or designee, to make necessary budget adjustments, appropriations, and transfers related to this resolution.

SECTION 4. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 8th day of October 2024.

Alberto Sanchez, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

Serita R. Young, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2024-161, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 8th day of October 2024 by the following vote, to wit:

AYES: Flynn, Minjares, Sanchez, and Wallace.

NOES:

ABSENT:

ABSTAIN: Happe.

Caroline Patton, Administrative City Clerk
City of Banning, California

EXHIBIT A

Agreement For the Funding Of Sb 125
Transit And Intercity Rail Capital Program Funding For Grade
Separation Planning and Design Work With The City Of Banning

AGREEMENT FOR THE FUNDING OF SB 125 TRANSIT AND INTERCITY RAIL CAPITAL PROGRAM FUNDING FOR GRADE SEPARATION PLANNING AND DESIGN WORK WITH THE CITY OF BANNING

1. Parties and Date.

1.1 This Agreement is made and entered into this ___ day of _____, 2024, by and between the RIVERSIDE COUNTY TRANSPORTATION COMMISSION ("RCTC") and CITY OF BANNING ("City"). RCTC and City are sometimes collectively referred to herein as the "Parties".

2. Recitals.

2.1 RCTC is a county transportation commission created and existing pursuant to California Public Utilities Code Sections 130053 and 130053.5.

2.2 Transit and Intercity Rail Capital Program (TIRCP) was created by the state as a competitive program in 2014 to provide grants from the Greenhouse Gas Reduction Fund (GGRF) via cap-and-trade proceeds to fund transformative capital improvements that will modernize California's intercity, commuter, and urban rail systems, and bus systems, to significantly reduce emissions of greenhouse gases, vehicle miles traveled, and congestion. In July 2023 AB 102 and SB 125 amended the Budget Act of 2023 to appropriate about $4 billion of state general funds to the TIRCP over the next two years.

2.3 SB 125 Formula-Based TIRCP establishes funding for transit operations and capital improvements, and grade separations and rail crossing improvements to be funded by the TIRCP.

2.4 RCTC intends, by this Agreement, to distribute TIRCP funding ("TIRCP Funds"), subject to the conditions provided herein, and to participate in the joint development of the Project, as defined herein.

2.5 The Parties acknowledge that certain state requirements apply to the TIRCP Funds, and City shall be obligated to comply with all TIRCP funding requirements as set forth in Exhibit "D" ("TIRCP Funding Requirements").

3. Terms.

3.1 Description of Work. This Agreement is intended to distribute TIRCP Funds to the City for the PA&ED – Project Approvals & Environmental Document and PS&E – Plans, Specifications and Estimates phases of the Hargrave Avenue/UPRR Grade Separation Project ("the Work"). The Work, including a timetable and a detailed scope of work, is more fully described in Exhibit "A" attached hereto and, pursuant to Section 3.15 below, is subject to modification as requested by the City and approved by RCTC. It is understood and agreed that the City shall expend

TIRCP Funds only as set forth in this Agreement and only for the Work. To this end, any use of funds provided pursuant to this Agreement shall be subject to the review and approval of RCTC.

3.2 RCTC Funding Amount. RCTC hereby agrees to distribute to the City, on the terms and conditions set forth herein, a sum not to exceed Five Million Dollars ($5,000,000), to be used exclusively for reimbursing the City for eligible Work expenses as described herein ("Funding Amount"). The City acknowledges and agrees that the Funding Amount may be less than the actual cost of the Work, and that RCTC shall not contribute TIRCP Funds in excess of the maximum authorized in this section.

3.2.1 Eligible Work Costs. The total Work costs ("Total Work Cost") may include the following items, provided that such items are included in the scope of work attached as Exhibit "A": (1) City and/or consultant costs associated with direct Work coordination and support; (2) funds expended for preparation of preliminary engineering studies; (3) funds expended for preparation of environmental review documentation for the Work; and (4) costs incurred in the preparation of plans, specification, and estimates by City or consultants.

3.2.2 Ineligible Work Costs. The Total Work Cost shall not include the following items which shall be borne solely by the City without reimbursement: (1) City administrative costs; (2) City costs attributed to the preparation of invoices, billings and payments; (3) any City fees attributed to the processing of the Work; (4) expenses for items of work not included within the scope of work in Exhibit "A"; (5) any costs that are not in compliance with the TIRCP Funding Requirements.

3.3 City's Funding Obligation to Complete the Work. In the event that the TIRCP Funds allocated to the Work represent less than the total cost of the Work, the City shall provide such additional funds as may be required to complete the Work as described in Exhibit "A".

3.3.1 City's Obligation to Repay TIRCP Funds to RCTC. In the event that: (i) the City, for any reason, determines not to proceed with or complete the Work; or (ii) the Work is not timely completed, subject to any extension of time granted by RCTC pursuant to Section 3.15; the City agrees that any TIRCP Funds that were distributed to the City for the Work shall be repaid in full to RCTC. The Parties shall enter into good faith negotiations to establish a reasonable repayment schedule and repayment mechanism. Notwithstanding the foregoing, if funding under this Agreement is provided for project approval and environmental documentation (PA&ED) and the City determines to not complete the Work based on findings made in the PA&ED, the City shall not be required to repay that portion of the TIRCP Funds that were distributed to the City for the PA&ED Work.

3.3.2 City's Local Match Contribution. There is no local match requirement for this award.

3.4 Work Responsibilities of the City. The City shall be responsible for the following aspects of the Work, in compliance with state and federal law provided that such items are included in the Project scope of work attached as Exhibit "A": PA&ED, and project specifications and engineer's estimate (PS&E).

3.5 Term/Notice of Completion. The term of this Agreement shall be from the date first herein above written until: (i) the date RCTC formally accepts the Work as complete, pursuant to Section 3.1; (ii) termination of this Agreement pursuant to Section 3.9; or (iii) the City has fully satisfied its obligations under this Agreement, "including full repayment of TIRCP Funds to RCTC as provided herein". All applicable indemnification provisions of this Agreement shall remain in effect following the termination of this Agreement.

3.6 Representatives of the Parties. RCTC's Executive Director, or his or her designee, shall serve as RCTC's representative and shall have the authority to act on behalf of RCTC for all purposes under this Agreement. The City hereby designates Art Vela, Director of Public Works, or his or her designee, as the City's representative to RCTC. The City's representative shall have the authority to act on behalf of the City for all purposes under this Agreement and shall coordinate all activities of the Work under the City's responsibility. The City shall work closely and cooperate fully with RCTC's representative and any other agencies which may have jurisdiction over or an interest in the Work.

3.7 Expenditure of Funds by City Prior to Execution of Agreement. Nothing in this Agreement shall be construed to prevent or preclude the City from expending funds on the Work prior to the execution of the Agreement, or from being reimbursed by RCTC for such expenditures. However, the City understands and acknowledges that any expenditure of funds on the Work prior to the execution of the Agreement is made at the City's sole risk, and that some expenditures by the City may not be eligible for reimbursement under this Agreement.

3.8 Review of Services. The City shall allow RCTC's Representative to inspect or review the progress of the Work at any reasonable time in order to determine whether the terms of this Agreement are being met.

3.9 Termination. This Agreement may be terminated for cause or convenience as further specified below.

3.9.1 Termination for Convenience.

3.9.1.1 Notice. Either RCTC or the City may, by written notice to the other party, terminate this Agreement, in whole or in part, for convenience by giving thirty (30) days' written notice to the other party of such termination and specifying the effective date thereof.

3.9.1.2 Effect of Termination for Convenience. In the event that the City terminates this Agreement for convenience, the City shall, within 180 days, repay to RCTC in full all TIRCP Funds provided to the City under this Agreement. In the event that RCTC terminates this Agreement for convenience, RCTC shall, within 90 days, distribute to the City TIRCP Funds in an amount equal to the aggregate total of all unpaid invoices which have been received from the City regarding the Work at the time of the notice of termination; provided, however, that RCTC shall be entitled to exercise its rights under Section 3.14.2, including but not limited to conducting a review of the invoices and requesting additional information. This Agreement shall terminate upon receipt by the non-terminating party of the amounts due it under this Section 3.9.1.2.

3.9.2 Termination for Cause.

3.9.2.1 Notice. Either RCTC or the City may, by written notice to the other party, terminate this Agreement, in whole or in part, in response to a material breach hereof by the other party, by giving written notice to the other party of such termination and specifying the effective date thereof. The written notice shall provide a 30-day period to cure any alleged breach. During the 30-day cure period, the Parties shall discuss, in good faith, the manner in which the breach can be cured.

3.9.2.2 Effect of Termination for Cause. In the event that the City terminates this Agreement in response to RCTC's uncured material breach hereof, RCTC shall, within 90 days, distribute to the City TIRCP Funds in an amount equal to the aggregate total of all unpaid invoices which have been received from the City regarding the Work at the time of the notice of termination. In the event that RCTC terminates this Agreement in response to the City's uncured material breach hereof, the City shall, within 180 days, repay to RCTC in full all TIRCP Funds provided to the City under this Agreement. Notwithstanding termination of this Agreement by RCTC pursuant to this Section 3.9.2.2, RCTC shall be entitled to exercise its rights under Section 3.14.2, including but not limited to conducting a review of the invoices and requesting additional information. This Agreement shall terminate upon receipt by the terminating party of the amounts due it under this Section 3.9.2.2.

3.9.3 Cumulative Remedies. The rights and remedies of the Parties provided in this Section are in addition to any other rights and remedies provided by law or under this Agreement.

3.10 Prevailing Wages. The City and any other person or entity hired to perform services on the Work are alerted to the requirements of California Labor Code Sections 1770 et seq., which would require the payment of prevailing wages were the services or any portion thereof determined to be a public work, as defined therein. The City shall ensure compliance with these prevailing wage requirements by any person or entity hired to perform the Work. The City shall defend, indemnify, and hold harmless RCTC, its officers, employees, consultants, and agents from any claim or liability, including without limitation attorneys, fees, arising from its failure or alleged failure to comply with California Labor Code Sections 1770 et seq.

3.11 Progress Reports. RCTC may request the City to provide RCTC with progress reports concerning the status of the Work.

3.12 Indemnification.

3.12.1 City Responsibilities. In addition to the indemnification required under Section 3.10, the City agrees to indemnify and hold harmless RCTC, the State of California, their officers, agents, consultants, and employees from any and all claims, demands, costs or liability arising from or connected with all activities governed by this Agreement including all design and construction activities, due to any act of the City or its subcontractors whatsoever, regardless of fault, including negligent acts, errors or omissions or willful misconduct, except that caused by the sole negligence of RCTC. The City will reimburse RCTC for any expenditures, including

reasonable attorneys' fees, incurred by RCTC, in defending against claims ultimately determined to be due to any act of the City or its subcontractors whatsoever, regardless of fault, including negligent acts, errors or omissions or willful misconduct, except that caused by the sole negligence of RCTC.

3.12.2 Effect of Acceptance. The City shall be responsible for the professional quality, technical accuracy and the coordination of any services provided to complete the Work. RCTC's review, acceptance or funding of any services performed by the City or any other person or entity under this agreement shall not be construed to operate as a waiver of any rights RCTC may hold under this Agreement or of any cause of action arising out of this Agreement. Further, the City shall be and remain liable to RCTC, in accordance with applicable law, for all damages to RCTC caused by the City's performance of this Agreement or supervision of any services provided to complete the Work.

3.13 Insurance. The City shall require, at a minimum, all persons or entities hired to perform the Work to obtain, and require their subcontractors to obtain, insurance of the types and in the amounts described below and satisfactory to the City and RCTC. Such insurance shall be maintained throughout the term of this Agreement, or until completion of the Work, whichever occurs last.

3.13.1 Commercial General Liability Insurance. Occurrence version commercial general liability insurance or equivalent form with a combined single limit of not less than $2,000,000.00 per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to the Work or be no less than two times the occurrence limit. Such insurance shall:

3.13.1.1 Name RCTC and City, and their respective officials, officers, employees, agents, and consultants as insured with respect to performance of the services on the Work and shall contain no special limitations on the scope of coverage or the protection afforded to these insured;

3.13.1.2 Be primary with respect to any insurance or self insurance programs covering RCTC and City, and/or their respective officials, officers, employees, agents, and consultants; and

3.13.1.3 Contain standard separation of insured provisions.

3.13.2 Business Automobile Liability Insurance. Business automobile liability insurance or equivalent form with a combined single limit of not less than $1,000,000.00 per occurrence. Such insurance shall include coverage for owned, hired and non-owned automobiles.

3.13.3 Professional Liability Insurance. Errors and omissions liability insurance with a limit of not less than $1,000,000.00 Professional liability insurance shall only be required of design or engineering professionals.

3.13.4 Workers' Compensation Insurance. Workers' compensation insurance with statutory limits and employers' liability insurance with limits of not less than $1,000,000.00 each accident.

3.14 Procedures for Distribution of TIRCP Funds to City.

3.14.1 Initial Payment by the City. The City shall be responsible for initial payment of all the Work costs as they are incurred. Following payment of such Work costs, the City shall submit invoices to RCTC requesting reimbursement of eligible Work costs. Each invoice shall be accompanied by detailed contractor invoices, or other demands for payment addressed to the City, and documents evidencing the City's payment of the invoices or demands for payment. The City shall submit invoices not more often than monthly and not less often than quarterly.

3.14.2 Review and Reimbursement by RCTC. Upon receipt of an invoice from the City, RCTC may request additional documentation or explanation of the Work costs for which reimbursement is sought. Undisputed amounts shall be paid by RCTC to the City within thirty (30) days. In the event that RCTC disputes the eligibility of the City for reimbursement of all or a portion of an invoiced amount, the Parties shall meet and confer in an attempt to resolve the dispute. If the meet and confer process is unsuccessful in resolving the dispute, the City may appeal RCTC's decision as to the eligibility of one or more invoices to RCTC's Executive Director. The City may appeal the decision of the Executive Director to the full RCTC Board, the decision of which shall be final. Additional details concerning the procedure for the City's submittal of invoices to RCTC and RCTC's consideration and payment of submitted invoices are set forth in Exhibit "C", attached hereto.

3.14.3 Funding Amount/Adjustment. If a post Work audit or review indicates that RCTC has provided reimbursement to the City in an amount in excess of the maximum TIRCP Funds provided for in section 3.2 of this Agreement, or has provided reimbursement of ineligible Work costs including, but not limited to, any costs not in compliance with TIRCP Funding Requirements, the City shall reimburse RCTC for the excess or ineligible payments within 30 days of notification by RCTC.

3.15 Work Amendments. Changes to the characteristics of the Work, including the deadline for Work completion, and any responsibilities of the City or RCTC may be requested in writing by the City and are subject to the approval of RCTC's Representative, which approval will not be unreasonably withheld, provided that extensions of time for completion of the Work shall be approved in the sole discretion of RCTC's Representative. Nothing in this Agreement shall be construed to require or allow completion of the Work without full compliance with the California Environmental Quality Act (Public Resources Code Section 21000 et seq.; "CEQA") and the National Environmental Policy Act of 1969 (42 USC 4231 et seq.), but the necessity of compliance with CEQA and NEPA shall not justify, excuse, or permit a delay in completion of the Work.

3.16 Conflict of Interest. For the term of this Agreement, no member, officer or employee of the City or RCTC, during the term of his or her service with the City or RCTC, as the case may be, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.17 Limited Scope of Duties. RCTC's and the City's duties and obligations under this Agreement are limited to those described herein. RCTC has no obligation with respect to the safety

of any Work performed at a job site. In addition, RCTC shall not be liable for any action of City or its contractors relating to the condemnation of property undertaken by City or construction related to the Work.

3.18 Books and Records. Each party shall maintain complete, accurate, and clearly identifiable records with respect to costs incurred for the Work under this Agreement. They shall make available for examination by the other party, its authorized agents, officers or employees and the State Auditor any and all ledgers and books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or related to the expenditures and disbursements charged to the other party pursuant to this Agreement. Further, each party shall furnish to the other party, its agents or employees and the State Auditor such other evidence or information as they may require with respect to any such expense or disbursement charged by them. All such information shall be retained by the Parties for at least three (3) years following termination of this Agreement, and they shall have access to such information during the three-year period for the purposes of examination or audit.

3.19 Equal Opportunity Employment. The Parties represent that they are equal opportunity employers, and they shall not discriminate against any employee or applicant of reemployment because of race, religion, color, national origin, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

3.20 Governing Law. This Agreement shall be governed by and construed with the laws of the State of California. Venue shall be in Riverside County.

3.21 Attorneys' Fees. If either party commences an action against the other party arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorneys' fees and costs of suit.

3.22 Time of Essence. Time is of the essence for each and every provision of this Agreement.

3.23 Headings. Article and Section Headings, paragraph captions or marginal headings contained in this Agreement are for convenience only and shall have no effect in the construction or interpretation of any provision herein.

3.24 Notification. All notices hereunder and communications regarding interpretation of the terms of the Agreement or changes thereto shall be provided by the mailing thereof by registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

CITY OF BANNING
99 E. Ramsey St
Banning, CA 92220
ATTN: City Manager

RCTC
Riverside County Transportation Commission
4080 Lemon Street, 3rd Floor
Mailing address: P.O. Box 12008
Riverside, CA 92501
ATTN: Executive Director

Any notice so given shall be considered served on the other party three (3) days after deposit in the U.S. mail, first class postage prepaid, return receipt requested, and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred regardless of the method of service.

3.25 Conflicting Provisions. In the event that provisions of any attached appendices or exhibits conflict in any way with the provisions set forth in this Agreement, the language, terms and conditions contained in this Agreement shall control the actions and obligations of the Parties and the interpretation of the Parties' understanding concerning the performance of the Services. Notwithstanding the foregoing, in the case of any conflict between the Funding Requirements set forth in Exhibit "D" and the terms of this Agreement, the Funding Requirements shall govern.

3.26 Contract Amendment. In the event that the Parties determine that the provisions of this Agreement should be altered, the Parties may execute a contract amendment to add any provision to this Agreement or delete or amend any provision of this Agreement. All such contract amendments must be in the form of a written instrument signed by the original signatories to this Agreement, or their successors or designees.

3.27 Entire Agreement. This Agreement constitutes the entire agreement between the Parties relating to the subject matter hereof and supersedes any previous agreements or understandings.

3.28 No Waiver. Failure of RCTC to insist on any one occasion upon strict compliance with any of the terms, covenants or conditions hereof shall not be deemed a waiver of such term, covenant or condition, nor shall any waiver or relinquishment of any rights or powers hereunder at any one time or more times be deemed a waiver or relinquishment of such other right or power at any other time or times.

3.29 Validity of Agreement. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

3.30 Independent Contractors. Any person or entities retained by the City or any contractor shall be retained on an independent contractor basis and shall not be employees of RCTC. Any personnel performing services on the Work shall at all times be under the exclusive direction and control of the City or contractor, whichever is applicable. The City or contractor shall pay all wages, salaries and other amounts due such personnel in connection with their performance of services on the Work and as required by law. The City or consultant shall be responsible for all reports and obligations respecting such personnel, including, but not limited to, social security taxes, income tax withholding, unemployment insurance and workers' compensation insurance.

3.31 Incorporation of Recitals and Exhibits. The recitals set forth above are true and correct and are incorporated into this Agreement by reference as if fully set forth herein. Exhibits "A" through "D" attached to this Agreement are incorporated herein by reference.

3.32 Survival. All rights and obligations hereunder that by their nature are to be performed after any expiration or termination of this Agreement shall survive any such expiration or termination.

3.33 No Third-Party Beneficiaries. There are no intended third-party beneficiaries of any right or obligation assumed by the Parties.

3.34 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.35 Electronically Transmitted Signatures. A manually signed copy of this Agreement which is transmitted by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement for all purposes.

[SIGNATURES ON FOLLOWING PAGE.]

SIGNATURE PAGE
TO
AGREEMENT FOR THE FUNDING OF SB 125
TRANSIT AND INTERCITY RAIL CAPITAL PROGRAM FUNDING FOR GRADE SEPARATION PLANNING AND DESIGN WORK

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

By: _____
Aaron Hake, Executive Director

APPROVED AS TO FORM:

By: _____
Best, Best & Krieger
Counsel to the Riverside County Transportation Commission

CITY OF BANNING

By: _____
Doug Schulze, City Manager

ATTEST:

By: _____
Marie Calderon, City Clerk

APPROVED AS TO FORM:

By: _____
Serita Young, City Attorney

EXHIBIT "A"

SCOPE OF WORK,
FUNDING AND TIMETABLE

SCOPE OF WORK: Preliminary Engineering, Environmental Documentation, and Plans, Specifications, and Estimates to construct a grade separation of Hargrave Ave and the Union Pacific Rail Road in the City of Banning. Project is located on Hargrave Ave from Lincoln Street to Ramsey Street, and includes lowering of Ramsey Street under the existing railroad, construction of a railroad overcrossing, freeway ramp modifications for both eastbound and westbound ramps, and roadway widening of Hargrave Street from Lincoln Street to the eastbound freeway ramps from 2-lanes to 4-lanes.

FUNDING:

PHASE	TIRCP Fund	FEDERAL (RCE GRANT)	LOCAL	TOTAL
Preliminary Engineering (PAED & PSE)	$5,000,000	$2,800,000	$500,000	$8,300,000
TOTAL	$5,000,000	$2,800,000	$500,000	$8,300,000

TIMETABLE: Provide at a minimum the beginning and ending dates for each phase of work including major milestones within a phase.

PHASE	START DATE	END DATE	COMMENTS
PAED	10/2024	7/2029	300 Working Days
NEPA Completion	6/2026	6/2029	300 Working Days
PSE	8/2027	8/2029	250 Working Days

EXHIBIT "B"

PROJECT LOCATION MAP

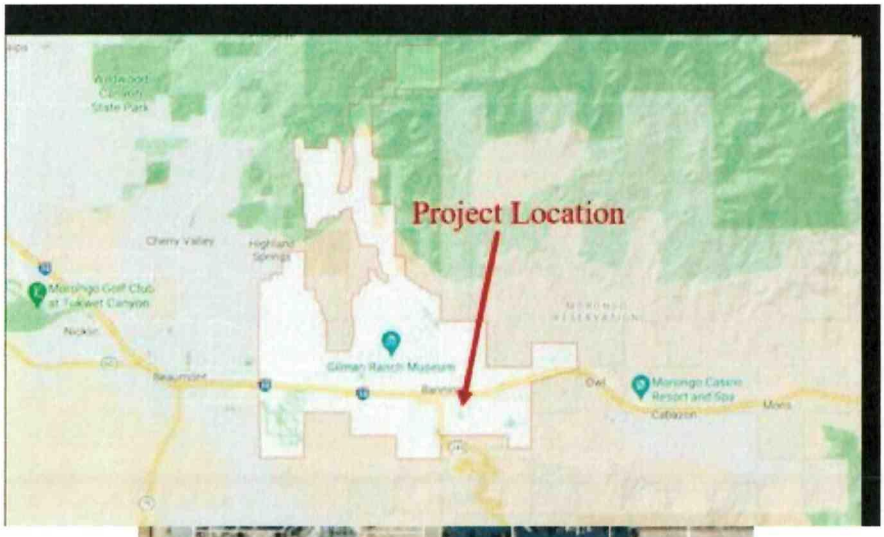




Exhibit B

EXHIBIT "C"

PROCEDURES FOR SUBMITTAL, CONSIDERATION AND PAYMENT OF INVOICES

1. RCTC recommends that the City incorporate Exhibit "C-1" into its contracts with any subcontractors to establish a standard method for preparation of invoices by contractors to the City and ultimately to RCTC for reimbursement of City contractor costs.

2. Each month the City shall submit an invoice for eligible Work costs incurred during the preceding month. The original invoice shall be submitted to RCTC's Executive Director with a copy to RCTC's Project Coordinator. Each invoice shall be accompanied by a cover letter in a format substantially similar to that of Exhibit "C-2".

3. Each invoice shall include documentation from each contractor used by the City for the Work, listing labor costs, subcontractor costs, and other expenses. Each invoice shall also include a monthly progress report and spreadsheets showing the hours or amounts expended by each contractor or consultant for the month and for the entire Work to date. A sample progress report is attached as Exhibits "C-4". All documentation from the City's contractors should be accompanied by a cover letter in a format substantially similar to that of Exhibit "C-3".

4. If the City is seeking reimbursement for direct expenses incurred by City staff for eligible Work costs, the City shall detail the same level of information for its labor and any expenses in the same level of detail as required of contractors pursuant to Exhibit "C" and its attachments.

5. Charges for each task and milestone listed in Exhibit "A" shall be listed separately in the invoice.

6. Each invoice shall include a certification signed by the City Representative or his or her designee which reads as follows:

   "I hereby certify that the hours and salary rates submitted for reimbursement in this invoice are the actual hours and rates worked and paid to the consultants or contractors listed.

   Signed _____

   Title _____

   Date _____

   Invoice No. _____

7. RCTC will pay the City within 30 days after receipt by the Commission of an invoice. If RCTC disputes any portion of an invoice, payment for that portion will be withheld, without interest, pending resolution of the dispute, but the uncontested balance will be paid.

8. The final payment under this Agreement will be made only after: (i) the City has obtained a Release and Certificate of Final Payment from each contractor or consultant used on the Work; (ii) the City has executed a Release and Certificate of Final Payment; and (iii) the City has provided copies of each such Release to RCTC.

EXHIBIT "C-1"

ELEMENTS OF COMPENSATION

For the satisfactory performance and completion of the Work under this Agreement, City will pay the Consultant compensation as set forth herein. The total compensation for this service shall not exceed (_____INSERT WRITTEN DOLLAR AMOUNT___) ($___INSERT NUMERICAL DOLLAR AMOUNT___) without written approval of City's City Engineer ("Total Compensation").

1. ELEMENTS OF COMPENSATION.

Compensation for the Work will be comprised of the following elements: 1.1 Direct Labor Costs; 1.2 Fixed Fee; and 1.3 Additional Direct Costs.

1.1 DIRECT LABOR COSTS.

Direct Labor costs shall be paid in an amount equal to the product of the Direct Salary Costs and the Multiplier which are defined as follows:

1.1.1 DIRECT SALARY COSTS

Direct Salary Costs are the base salaries and wages actually paid to the Consultant's personnel directly engaged in performance of the Work under the Agreement. (The range of hourly rates paid to the Consultant's personnel appears in Section 2 below.)

1.1.2 MULTIPLIER

The Multiplier to be applied to the Direct Salary Costs to determine the Direct Labor Costs is _____, and is the sum of the following components:

1.1.2.1 Direct Salary Costs _____

1.1.2.2 Payroll Additives _____

The Decimal Ratio of Payroll Additives to Direct Salary Costs. Payroll Additives include all employee benefits, allowances for vacation, sick leave, and holidays, and company portion of employee insurance and social and retirement benefits, all federal and state payroll taxes, premiums for insurance which are measured by payroll costs, and other contributions and benefits imposed by applicable laws and regulations.

1.1.2.3 Overhead Costs _____

The Decimal ratio of Allowable Overhead Costs to the Consultant Firm's Total Direct Salary Costs. Allowable Overhead Costs include general, administrative and overhead costs of maintaining and operating established offices, and consistent with established firm policies, and as defined in the Federal Acquisitions Regulations, Part 31.2.

Total Multiplier _____
(sum of 1.1.2.1, 1.1.2.2, and 1.1.2.3)

1.2 FIXED FEE.

1.2.1 A Fixed Fee of _____ shall be paid to Consultant for Consultant's complete and satisfactory performance of this Agreement and all Services required. The Fixed Fee shall be paid in monthly installments based upon the percentage of the Services completed at the end of each billing period, as determined in the sole discretion of the City. Consultant shall not be entitled to and shall forfeit any portion of the Fixed Fee not earned as provided herein.

1.2.2 A pro-rata share of the Fixed Fee shall be applied to the total Direct Labor Costs expended for services each month, and shall be included on each monthly invoice.

1.3 ADDITIONAL DIRECT COSTS.

Additional Direct Costs directly identifiable to the performance of the services of this Agreement shall be reimbursed at the rates below, or at actual invoiced cost.

Rates for identified Additional Direct Costs are as follows:

ITEM	REIMBURSEMENT RATE
	[___insert charges___]
Per Diem	$ /day
Car mileage	$ /mile
Travel	$ /trip
Computer Charges	$ /hour
Photocopies	$ /copy
Blueline	$ /sheet
LD Telephone	$ /call
Fax	$ /sheet
Photographs	$ /sheet

Travel by air and travel in excess of 100 miles from the Consultant's office nearest to City's office must have City's prior written approval to be reimbursed under this Agreement.

2. DIRECT SALARY RATES

Direct Salary Rates, which are the range of hourly rates to be used in determining Direct Salary Costs in Section 1.1.1 above, are given below and are subject to the following:

2.1 Direct Salary Rates shall be applicable to both straight time and overtime work, unless payment of a premium for overtime work is required by law, regulation or craft agreement, or is otherwise specified in this Agreement. In such event, the premium portion of Direct Salary Costs will not be subject to the Multiplier defined in Paragraph 1.1.2 above.

2.2 Direct Salary Rates shown herein are in effect for one year following the effective date of the Agreement. Thereafter, they may be adjusted annually to reflect the Consultant's adjustments to individual compensation. The Consultant shall notify City in writing prior to a change in the range of rates included herein, and prior to each subsequent change.

POSITION OR CLASSIFICATION	RANGE OF HOURLY RATES
[___sample___]	
Principal	$ .00 - $ .00/hour
Project Manager	$ .00 - $ .00/hour
Sr. Engineer/Planner	$ .00 - $ .00/hour
Project Engineer/Planner	$ .00 - $ .00/hour
Assoc. Engineer/Planner	$ .00 - $ .00/hour
Technician	$ .00 - $ .00/hour
Drafter/CADD Operator	$ .00 - $ .00/hour
Word Processor	$ .00 - $ .00/hour

2.3 The above rates are for the Consultant only. All rates for subconsultants to the Consultant will be in accordance with the Consultant's cost proposal.

3. INVOICING.

3.1 Each month the Consultant shall submit an invoice for Work performed during the preceding month. The original invoice shall be submitted to City's City Engineer with two (2) copies to City's Project Coordinator.

3.2 Charges shall be billed in accordance with the terms and rates included herein, unless otherwise agreed in writing by City's Representative.

3.3 Base Work and Extra Work shall be charged separately, and the charges for each task and Milestone listed in the Scope of Work, shall be listed separately. The charges for each individual assigned by the Consultant under this Agreement shall be listed separately on an attachment to the invoice.

3.4 A charge of $500 or more for any one item of Additional Direct Costs shall be accompanied by substantiating documentation satisfactory to City such as invoices, telephone logs, etc.

3.5 Each copy of each invoice shall be accompanied by a Monthly Progress Report and spreadsheets showing hours expended by task for each month and total project to date.

3.6 Each invoice shall indicate payments to DBE subconsultants or supplies by dollar amount and as a percentage of the total invoice.

3.7 Each invoice shall include a certification signed by the Consultant's Representative or an officer of the firm which reads as follows:

I hereby certify that the hours and salary rates charged in this invoice are the actual hours and rates worked and paid to the employees listed.

Signed _____

Title _____

Date _____

Invoice No. _____

4. PAYMENT

4.1 City shall pay the Consultant within four to six weeks after receipt by City of an original invoice. Should City contest any portion of an invoice, that portion shall be held for resolution, without interest, but the uncontested balance shall be paid.

The final payment for Work under this Agreement will be made only after the Consultant has executed a Release and Certificate of Final Payment.

EXHIBIT "C-2"

SAMPLE COVER LETTER TO RCTC

Date

Mr. Aaron Hake
Executive Director
Riverside County Transportation Commission
4080 Lemon Street, 3rd Floor
Riverside, CA 92501
ATTN: Accounts Payable

Re: Project Title - Invoice #__

Enclosed for your review and payment approval is the City of _____'s invoice for professional and technical services that was rendered by our contractors in connection with the _____ Agreement No. _____ effective (Month/Day/Year). The required support documentation received from each contractor is included as backup to the invoice.

Invoice period covered is from Month/Date/Year to Month/Date/Year.

Total Authorized Agreement Amount:	$0,000,000.00
Total Invoiced to Date:	$0,000,000.00
Total Previously Invoiced:	$0,000,000.00
Balance Remaining:	$0,000,000.00
Amount due this Invoice:	**$0,000,000.00**

I certify that the hours and salary rates charged in this invoice are the actual hours and rates worked and paid to the contractors listed.

By: _____
Name
Title

cc:

EXHIBIT "C-3"

SAMPLE LETTER FROM CONTRACTOR TO CITY/COUNTY

Month/Date/Year

_____
_____
_____

Attn: Accounts Payable Invoice #_____

For **[type of services]** rendered by **[contractor name]** in connection with **[name of project]** This is per agreement No. XX-XX-XXX effective Month/Date/Year.

Invoice period covered is from Month/Date/Year to Month/Date/Year.

Total Base Contract Amount:	$000,000.00
Authorized Extra Work (if Applicable)	$000,000.00
TOTAL AUTHORIZED CONTRACT AMOUNT:	$000,000.00
Total Invoice to Date:	$000,000.00
Total Previously Billed:	$000,000.00
Balance Remaining:	$000,000.00
Amount Due this Invoice:	$000,000.00

I certify that the hours and salary rates charged in this invoice are the actual hours and rates worked and paid to the employees listed,

By: _____
Name
Title

EXHIBIT "C-4"

SAMPLE PROGRESS REPORT

REPORTING PERIOD: Month/Date/Year to Month/Date/Year
PROGRESS REPORT: #1

A. Activities and Work Completed during Current Work Periods

TASK 01 – 100% PS&E SUBMITTAL

1. Responded to Segment 1 comments from Department of Transportation
2. Completed and submitted Segment 1 final PS&E

B. Current/Potential Problems Encountered & Corrective Action

Problems	Corrective Action
None	None

C. Work Planned Next Period

TASK 01 – 100% PS&E SUBMITTAL

1. Completing and to submit Traffic Signal and Electrical Design plans
2. Responding to review comments

TIRCP FUNDING REQUIREMENTS

As used herein, the term "Recipient" shall refer to the City.

Section 1. Third Party Contracting

1. Recipient shall not award a construction contract over $10,000 or other contracts over $25,000 [excluding professional service contracts of the type which are required to be procured in accordance with Government Code Sections 4525 (d), (e) and (f)] on the basis of a noncompetitive negotiation for work to be performed under this Agreement without the prior written approval of State. Contracts awarded by Recipient, if intended as local match credit, must meet the requirements set forth in this Agreement regarding local match funds.

2. Procurement of architectural and engineering services shall be in accordance with the requirements set forth in the Chapter 10 of the Caltrans Local Assistance Procedures Manual applicable to state funded agreements.

3. Any subcontract entered into by Recipient as a result of this Agreement shall contain the Provisions of Section 2. Audits and Reports and shall mandate that travel and per diem reimbursements and third-party contract reimbursements to subcontractors will be allowable as Project costs only after those costs are incurred and paid for by the subcontractors

3. In addition to the above, the preaward requirements of third party contractor/consultants with local transit agencies should be consistent with Caltrans Local Program Procedures (LPP-00-05).

Section 2. Audits and Reports

A. *Cost Principles*

1. Recipient agrees to comply with Title 2 Code of Federal Regulations 200 (2 CFR 200) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

2. Recipient agrees, and will assure that its contractors and subcontractors will be obligated to agree to follow 2 CFR 200 and it shall be used to determine the allowability of individual Project cost items. Every sub-recipient receiving Project funds as a contractor or sub-contractor under this Agreement shall comply with 2 CFR 200.

3. Any Project costs for which Recipient has received payment or credit that are determined by subsequent audit to be unallowable under 2 CFR 200, are subject to repayment by Recipient to Commission.

4. The Commission may terminate this Agreement for any reason at any time if it is determined by the Commission or the State, based on an audit under this section, that there has been a violation of any State or federal law or policy by the Recipient during performance under this Agreement. If

the Agreement is terminated under this section, the Recipient may be required to fully or partially repay funds.

B. *Record Retention*

1. Recipient agrees, and will assure that its contractors and subcontractors shall establish and maintain an accounting system and records that properly accumulate and segregate incurred Project costs and matching funds by line item for the Project. The accounting system of Recipient, its contractors and all subcontractors shall conform to Generally Accepted Accounting Principles (GAAP), enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices. All accounting records and other supporting papers of Recipient, its contractors and subcontractors connected with Project performance under this Agreement shall be maintained for a minimum of three (3) years from the date of final payment to Recipient under this Agreement and shall be held open to inspection, copying, and audit by representatives of the Commission, State, the California State Auditor, and auditors representing the federal government. Copies thereof will be furnished by Recipient, its contractors, and subcontractors upon receipt of any request made by State or its agents. In conducting an audit of the costs and match credits claimed under this Agreement. The Commission and State will rely to the maximum extent possible on any prior audit of Recipient pursuant to the provisions of federal and State law. In the absence of such an audit, any acceptable audit work performed by Recipient's external and internal auditors may be relied upon and used by Commission or State when planning and conducting additional audits.

2. For the purpose of determining compliance with Title 21, California Code of Regulations, Section 2500 et seq., when applicable, and other matters connected with the performance of Recipient's contracts with third parties pursuant to Government Code section 8546.7, Recipient, Recipient's contractors and subcontractors and Commission shall each maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of such contracts, including, but not limited to, the costs of administering those various contracts. All of the above referenced parties shall make such Agreement materials available at their respective offices at all reasonable times during the entire Project period and for three (3) years from the date of final payment to Recipient under this Agreement. The Commission, the State, the California State Auditor, or any duly authorized representative of State or the United States Department of Transportation, shall each have access to any books, records, and documents that are pertinent to the Project for audits, examinations, excerpts, and transactions, and Recipient shall furnish copies thereof if requested.

3. Recipient, its contractors and subcontractors will permit access to all records of employment, employment advertisements, employment application forms, and other pertinent data and records by the Commission, the State Fair Employment Practices and Housing Commission, or any other agency of the State of California designated by State, for the purpose of any investigation to ascertain compliance with this Agreement and the Act.

C. *Reporting Requirements*

1. Subject to the discretion of Commission, Recipient agrees to provide on a quarterly basis, Project Progress Reports that include the following information, as applicable:

a. Activities and progress made towards implementation of the project;

b. Identification of whether the Project is proceeding on schedule and within budget;

c. Identification of changes to the Project funding plan;

d. Any actual or anticipated problems which could lead to delays in schedule, increased costs or other difficulties for either the Project or other State funded projects impacted by the Projects scope of work;

e. Identify metrics and benefits achieved for disadvantaged communities, low income communities, and/or low income households;

f. Reporting requirements per California Air Resource Board Cap and Trade Auction Proceeds Funding Guidelines for Agencies that Administer California Climate Investments which may include, continued reporting following project implementation to identify benefits achieved.

2. Reporting requirements of Recipient will include whether reported implementation activities are within the scope of the Project and in compliance with State laws, regulations, and administrative requirements.

3. Within one year of the Project or reportable Project components becoming operable, the implementing agency must provide a final delivery report including at a minimum:

a. Scope of completed Project as compared to programmed Project;

b. Performance outcomes derived from the project as compared to outcomes described in the Project application and shall include but not be limited to before and after measurements and estimates for ridership, service levels, greenhouse gas reductions, updated estimated greenhouse gas reductions over the life of the project, benefits to disadvantaged communities, low income communities, and/or low income households, and project co-benefits as well as an explanation of the methodology used to quantify the benefits.

Section 3. Special Requirements

Non-Discrimination Clause

1. In the performance of work under this Agreement, Recipient, its contractor(s) and all subcontractors, shall not unlawfully discriminate, harass or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability, mental disability, medical condition, age, marital status, family and medical care leave, pregnancy leave, and disability leave. Recipient, its contractor(s) and all subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Recipient, its contractor(s) and all subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900 et seq.), and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, section 7285 et seq.). The applicable regulations of the Fair Employment and. Housing Commission implementing Government Code section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Each of Recipient's contractors and all subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreements, as appropriate.

2. Each of the Recipient's contractors, subcontractors, and/or subrecipients shall give written notice of their obligations under this clause to labor organizations with which they have collective bargaining or other labor agreements. The Recipient shall include the nondiscrimination and compliance provisions hereof in all contracts and subcontracts to perform work under this Agreement.

3. Recipient shall include the non-discrimination and compliance provisions of this clause in all contracts and subcontracts to perform work under this Agreement.

4. The Recipient shall comply with the nondiscrimination program requirements of Title VI of the Civil Rights Act of 1964. Accordingly, 49 CFR 21 (Nondiscrimination in Federally-Assisted Programs of The Department Of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964) and 23 CFR Part 200 (Title VI Program and Related Statutes—Implementation and Review Procedures) are made applicable to this Agreement by this reference. Wherever the term "Contractor" appears therein, it shall mean the Recipient.

5. The Recipient shall permit, and shall require that its contractors, subcontractors, and subrecipients will permit, access to all records of employment, employment advertisements, application forms, and other pertinent data and records by the State Fair Employment Practices and Housing Commission or any other agency of the State of California designated by Department to investigate compliance with this Section J.

M. Disabled Veterans Program Requirements

1. Should Military and Veterans Code sections 999 et seq. be applicable to Recipient, Recipient will meet, or make good faith efforts to meet, the 3% Disabled Veterans Business Enterprises goals (or Recipient's applicable higher goals) in the award of every contract for Project work to be performed under these this Agreement.

2. Recipient shall have the sole duty and authority under this Agreement to determine whether these referenced code sections are applicable to Recipient and, if so, whether good faith efforts asserted by those contractors of Recipient were sufficient as outlined in Military and Veterans Code sections 999 et seq.

U.S Department of Transportation

Federal Railroad Administration

Grant Agreement

1. RECIPIENT NAME AND ADDRESS
CITY OF BANNING
99 E Ramsey St
Banning, CA 92220-4837

2. AGREEMENT NUMBER: 69A36524420100RCECA

3. AMENDMENT NO. 0

4. PROJECT PERFORMANCE PERIOD: FROM 05/01/2024 TO 02/28/2030

5. FEDERAL FUNDING PERIOD: FROM 05/01/2024 TO 02/28/2030

1A. IRS/VENDOR NO. 956000674

1B. UEI. F996EVLCRCG3 1C. DUNS. 099169823

6. ACTION New

7. CFDA#: 20.327

8. PROJECT TITLE
Hargrave Grade Separation Planning Project

TITLE	FEDERAL	NON-FEDERAL	TOTAL
9. PREVIOUS AGREEMENTS	0.00	0.00	0.00
10. THIS AGREEMENT	2,800,000.00	1,500,000.00	4,300,000.00
11. TOTAL AGREEMENT	2,800,000.00	1,500,000.00	4,300,000.00

12. INCORPORATED ATTACHMENTS
THIS AGREEMENT INCLUDES THE FOLLOWING ATTACHMENTS, INCORPORATED HEREIN AND MADE A PART HEREOF:

General Terms and Conditions, Attachment 1; Project Specific Terms and Conditions, Attachment 2; Exhibits, Attachment 3

13. STATUTORY AUTHORITY FOR GRANT/ COOPERATIVE AGREEMENT

Sections 22104 and 22305 of the Infrastructure Investment and Jobs Act (IIJA), Public Law 117-58 (2021); 49 U.S.C. § 22909 / Advanced Appropriation in the IIJA, Division J, Title VIII, Public Law 117-58 (2021)

14. REMARKS

GRANTEE ACCEPTANCE		AGENCY APPROVAL	
15. NAME AND TITLE OF AUTHORIZED GRANTEE OFFICIAL Mr. Doug Schulze City Manager		17. NAME AND TITLE OF AUTHORIZED FRA OFFICIAL Jamie Rennert Director, Regional Outreach & Project Delivery	
16. SIGNATURE OF AUTHORIZED GRANTEE OFFICIAL Electronically Signed	16A. DATE 06/28/2024	18. SIGNATURE OF AUTHORIZED FRA OFFICIAL Electronically Signed	18A. DATE 06/28/2024

AGENCY USE ONLY

19. OBJECT CLASS CODE: 41010

20. ORGANIZATION CODE: 9000000000

21. ACCOUNTING CLASSIFICATION CODES

DOCUMENT NUMBER	FUND	BY	BPAC	AMOUNT
69A36524420100RCECA	27X0760722	2024	10030501AA	2,800,000.00

AWARD ATTACHMENTS

CITY OF BANNING 69A36524420100RCECA

1. General Terms and Conditions, Attachment 1
2. Project Specific Terms and Conditions, Attachment 2
3. Exhibits, Attachment 3

U.S. Department of Transportation
Federal Railroad Administration

Attachment 1

GENERAL TERMS AND CONDITIONS

Revision Date: February 15, 2024

General Terms and Conditions
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ATTACHMENT 1

This Grant Agreement (Agreement) is between the Federal Railroad Administration (FRA) and the Recipient identified in Attachment 2: Project-Specific Terms and Conditions. This Agreement, including the Agreement cover sheet, this Attachment 1, Attachment 2, and Exhibits A–C, constitutes the entire Agreement between FRA and the Recipient regarding the Project as defined in Attachment 2. All prior discussions and understandings concerning the scope and subject matter of this agreement are superseded by this Agreement.

This Agreement is governed by and subject to 2 C.F.R. part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, and the U.S. Department of Transportation (USDOT) implementing regulations at 2 C.F.R. part 1201.

ARTICLE 1: TERMS AND CONDITIONS

1.1 General Terms and Conditions

This Attachment 1: General Terms and Conditions, is part of the Agreement between FRA and the Recipient. This Attachment 1 contains the standard terms and conditions governing the administration of this Agreement and the execution of the Project. The General Terms and Conditions incorporate by reference the information contained in Attachment 2 and the Exhibits to this Agreement.

1.2 Project-Specific Terms and Conditions

Attachment 2: Project-Specific Terms and Conditions, is part of the Agreement between FRA and the Recipient. Attachment 2 contains Project-Specific Terms and Conditions, which may include special terms and conditions.

1.3 Program-Specific Clauses

Article 26 of this Attachment 1 contains the applicable program-specific clauses. The Recipient will comply with the program-specific clauses below that are associated with the grant program identified in Attachment 2 of this Agreement. In the event that the Recipient's grant is not authorized under a program listed below, Article 26 does not apply.

(a) For Projects funded under the Interstate Rail Compacts program (49 U.S.C. § 22910), the Recipient will comply with the program-specific clauses in Article 26.1.

(b) For Projects funded under the Railroad Crossing Elimination program (49 U.S.C. § 22909), the Recipient will comply with the program-specific clauses in Article 26.2.

(c) For Projects funded under the Consolidated Rail Infrastructure and Safety Improvements program (49 U.S.C. § 22907), the Recipient will comply with the program-specific clauses in Article 26.3.

(d) For Projects funded under the Restoration and Enhancement program (49 U.S.C. § 22908), the Recipient will comply with the program-specific clauses in Article 26.4.

(e) For Projects funded under the Federal-State Partnership for Intercity Passenger Rail program (49 U.S.C. § 24911) and Federal-State Partnership for State of Good Repair (as authorized in Sections 11103 and 11302 of the Passenger Rail Reform and Investment Act of 2015 (Title XI of the Fixing America's Surface Transportation (FAST) Act, Pub. L. No. 114-94 (2015))), the Recipient will comply with the program-specific clauses in Article 26.5.

1.4 Exhibits

Exhibits A–C are part of the Agreement between FRA and the Recipient. The Recipient will comply with Exhibits A–C.

ARTICLE 2: FRA ROLE AND RESPONSIBILITIES

2.1 FRA Role

(a) FRA is responsible for funding disbursements to the Recipient under this Agreement. FRA will also conduct oversight and monitoring activities to assess Recipient progress against established performance goals and to assess compliance with terms and conditions, including the Statement of Work and other requirements of this Agreement.

(b) If this award is made as a Cooperative Agreement, FRA will have substantial programmatic involvement. Substantial involvement means that, after award, technical, administrative, or programmatic staff will assist, guide, coordinate, or otherwise participate with the Recipient in Project activities.

(c) If this award is made as a Grant, FRA will not have substantial programmatic involvement.

2.2 FRA Professional Staff

FRA may provide professional staff to review work in progress, completed products, and to provide or facilitate access to technical assistance when it is available, feasible, and appropriate. FRA professional staff may include the following:

(a) Financial Analyst. The Financial Analyst will serve as the Recipient's point of contact for systems (e.g., GrantSolutions and the Delphi eInvoicing System) access and troubleshooting as well as for financial monitoring.

(b) Grant Manager. The Grant Manager will serve as the Recipient's point of contact for grant administration and will oversee compliance with the terms and conditions in this Agreement. The Grant Manager reviews financial reports, performance reports, and works with the Project Manager to facilitate effective Project delivery.

(c) Project Manager. The Project Manager will serve as the Recipient's point of contact for the technical aspects of Project delivery. The Project Manager coordinates Project deliverable review, provides technical assistance to the Recipient, and generally assesses Project progress and performance.

ARTICLE 3: RECIPIENT ROLE

3.1 Representations and Acknowledgments on the Project

(a) The Recipient represents that:

(1) all material statements of fact in the Application were accurate when the Application was submitted and now; and

(2) the Recipient read and understands the terms and conditions in Attachment 1 and Attachment 2 of this Agreement, the applicable program-specific clauses in Article 26 of this Attachment 1, and the information and conditions in the Exhibits.

(b) The Recipient acknowledges that:

(1) the terms and conditions impose obligations on the Recipient and that the Recipient's non-compliance with the terms and conditions may result in remedial action, including terminating the Agreement, disallowing costs incurred for the Project, requiring the Recipient to refund Federal contributions to FRA, and reporting the non-compliance in the Federal-government-wide integrity and performance system. Recipient acknowledges that the terms and conditions impose such obligations on the Recipient whether the award is made as a Cooperative Agreement, Grant Agreement, or Phased Funding Agreement.

(2) The Recipient acknowledges that the requirements of this Agreement apply to the entire Project, including Project costs satisfied from sources other than Agreement Federal Funds.

(c) By entering into this Agreement with FRA, the Recipient agrees to comply with the terms and conditions in Attachment 1 and Attachment 2, including applicable program-specific clauses in Article 26 of this Attachment 1, Exhibits A–C, and all applicable Federal laws and regulations, including those identified in this Agreement. The Recipient will ensure compliance with all terms of this Agreement and all of its parts for all tiers of subawards and contracts under this Agreement, as appropriate. The Recipient understands that the terms and conditions of this Agreement apply regardless of whether the award is made as a Cooperative Agreement, Grant Agreement, or Phased Funding Agreement.

3.2 Representations on Authority and Capacity

The Recipient represents that:

(a) it has the legal authority to receive Federal financial assistance under this Agreement;

(b) it has the legal authority to complete the Project;

(c) all representations and warranties made in the Federal System for Awards Management (SAM.gov) and in the Application are true and correct;

(d) it has the capacity, including legal, technical, institutional, managerial, and financial capacity, to comply with its obligations under this Agreement and complete the Project;

(e) the Non-Federal Funds listed in Article 6 of Attachment 2 of this Agreement are committed to fund the Project;

(f) it has sufficient funds available to ensure that equipment and infrastructure funded under this Agreement will be operated and maintained in compliance with this Agreement and applicable Federal law;

(g) it has sufficient funds available to ensure that operations funded under this agreement are conducted in compliance with this Agreement and applicable Federal law; and

(h) the individual executing this agreement on behalf of the Recipient has the legal authority to enter this Agreement and make the statements and certifications in this Agreement on behalf of the Recipient.

3.3 FRA Reliance

The Recipient acknowledges that:

(a) FRA relied on statements of fact in the Application and SAM.gov to select the Project to receive this award;

(b) FRA relied on statements of fact in the Application, SAM.gov, and this Agreement to determine that the Recipient and the Project are eligible to receive financial assistance under this Agreement;

(c) FRA relied on statements of fact in the Application, SAM.gov, and this Agreement to determine that the Recipient has the legal authority to implement the Project; and

(d) FRA relied on statements of fact in both the Application and this Agreement to establish the terms of this Agreement; and

(e) FRA's selection of the Project to receive this award may have prevented awards to other eligible applicants.

3.4 Project Delivery

(a) The Recipient will implement and complete the Project to FRA's satisfaction under the terms of this Agreement.

(b) The Recipient will ensure that the Project is financed, constructed, operated, and maintained in accordance with all applicable Federal laws, regulations, and policies.

3.5 Rights and Powers Affecting the Project

(a) The Recipient will not take or permit any action that deprives it of any rights or powers necessary to the Recipient's performance under this Agreement without written approval of FRA.

(b) The Recipient will act promptly, in a manner acceptable to FRA, to acquire, extinguish, or modify any outstanding rights or claims of right of others that would interfere with the Recipient's performance under this Agreement.

3.6 Notification of Changes to Key Personnel

The Recipient will notify the FRA Grant Manager in writing within 30 days of any change in key personnel who are identified in the Application, which may require an amendment to this Agreement.

ARTICLE 4: AWARD AMOUNT, OBLIGATION, AND TIME PERIODS

4.1 Federal Award Amount

Under this Agreement, FRA awards a Grant to the Recipient in the amount that is the Agreement Federal Funds in Article 6.1 of Attachment 2 of this Agreement.

4.2 Federal Obligations

This Agreement obligates for the budget period the amount that is the Agreement Federal Funds in Article 6.1 of Attachment 2 of this Agreement.

4.3 Maximum Funding Amount

This Agreement funds the Project at the lesser amount of the Agreement Federal Funds in Article 6.1 of Attachment 2 of this Agreement, or the FRA maximum contribution percentage of the total Project cost identified in Article 6.5 of Attachment 2 of this Agreement.

4.4 Budget Period

The budget period for this award begins on the date of this Agreement and ends on the end date that is listed in Section 5 on the Agreement cover sheet. In this Agreement, "budget period" is used as defined at 2 C.F.R. § 200.1.

4.5 Period of Performance

The Period of Performance for this award is listed in Section 4 on the Agreement cover sheet. In this Agreement, "Period of Performance" is used as defined at 2 C.F.R. § 200.1.

ARTICLE 5: STATEMENT OF WORK, SCHEDULE, AND BUDGET CHANGES

5.1 Notification Requirement

The Recipient will notify the FRA Grant Manager and Project Manager by electronic correspondence within 30 days of any change in circumstances or commitments that adversely affect the Recipient's plan to complete the Project, including change in authority. In that notification, the Recipient will describe the change and what actions the Recipient has taken or plans to take to ensure completion of the Project. This notification requirement under this Section 5.1 is separate from any requirements under this Article 5 that the Recipient request an amendment to this Agreement.

5.2 Scope and Statement of Work Changes

If the Project's activities differ from the activities described in Article 4 of Attachment 2 of this Agreement, then the Recipient will notify FRA in writing of the change, which may require an amendment to this Agreement.

5.3 Schedule Changes

If one or more of the following conditions are satisfied, then the Recipient will request an amendment to this Agreement to update the Estimated Project Schedule in Section 5.2 of Attachment 2 of this Agreement:

(a) a completion date for the Project or a component of the Project is listed in the Estimated Project Schedule in Section 5.2 of Attachment 2 of this Agreement and the Recipient's estimate for that milestone changes to a date that is more than six months after the date listed;

(b) a schedule change would require the budget period to continue after the end of the budget period defined in Section 4.4; or

(c) a schedule change would require the Period of Performance to continue after the end of the Period of Performance defined in Section 4.5. The Recipient must submit requests to extend the Period of Performance not later than 90 days before the end of the Period of Performance.

For other schedule changes, the Recipient will notify the Grant Manager in writing.

5.4 Budget Changes

(a) The Recipient acknowledges that if the cost of completing the Project increases:

(1) that increase does not affect the Recipient's obligation under this Agreement to complete the Project;

(2) any additional funds the Recipient contributes to complete the Project are subject to the requirements of this Agreement in the same manner as the Non-Federal Funds identified in Article 6.5 of Attachment 2 of this Agreement; and

(3) FRA will not increase the amount of this award to address any funding shortfall.

(b) The Recipient will notify FRA in writing if the total Project cost, as described in Table 6-A of Attachment 2 of this Agreement, amount increases, which may result in an amendment to this Agreement.

(c) The Recipient will notify FRA in writing if the Non-Federal Funds amount decreases, which may result in an amendment to this Agreement.

(d) For all other budget changes, the Recipient will follow the applicable procedures and document the changes in writing.

5.5 Project Cost Savings

(a) If there are Project Cost Savings, then the Recipient may notify FRA in writing of its intent to include in the Project and complete with the Project Cost Savings the additional activities within the scope of this award that are specified in the Additional Task(s) in Article 4 of Attachment 2 of this Agreement. The Recipient will complete the Additional Task(s) after FRA provides a written approval. An amendment to this Agreement is not required to proceed with the Additional Task(s).

(b) If there are Project Cost Savings, and there are not Additional Task(s) identified in Article 4 of Attachment 2 of this Agreement, then the Recipient may propose a new task that is within the scope of this award and request an amendment to add the new task to this Agreement and complete it with Project Cost Savings.

(c) In this Agreement, **"Project Cost Savings"** means the difference between the actual costs to complete the Project and the estimated total Project cost listed in Section 6.5 of Attachment 2 of this Agreement, if after the Recipient completes the tasks identified in Article 4 of Attachment 2 of this Agreement to FRA's satisfaction, the actual Project costs are less than the estimated total Project costs. There are no Project Cost Savings prior to completion of the Project or if the actual costs to complete the Project are equal to or greater than the total Project cost listed in Section 6.5 of Attachment 2 of this Agreement.

(d) If there are Project Cost Savings and either the Recipient does not make a proposal or FRA does not accept the Recipient's proposal under (a) of this Section 5.5, then:

(1) The Recipient will provide written notice to FRA and reduce the Federal Share by the Project Cost Savings, which may result in an amendment to this Agreement; and

(2) If the reduced Federal Share reduces this award and the Recipient received reimbursed costs exceeding the appropriate amount under the reduced award, the Recipient will refund the difference between the reimbursed costs and the reduced award.

(e) In this Agreement, "Federal Share" means the sum of the Agreement Federal Funds and Other Federal Funds amounts that are identified in the Approved Project Budget in Section 6.5 of Attachment 2 of this Agreement.

(f) The Recipient acknowledges that amounts that are required to be refunded under this Section constitute a debt to the Federal Government that FRA may collect under 2 C.F.R. § 200.346 and the Federal Claims Collection Standards (31 C.F.R. parts 900–999).

5.6 FRA Acceptance of Changes

FRA may accept or reject changes requested under this Article 5, and in doing so may elect to consider only the interests of the grant program and FRA. The Recipient acknowledges that any request under this Article 5 does not amend, modify, or supplement this Agreement unless FRA

accepts the request and the parties amend this Agreement under Section 15.1 of this Attachment 1.

ARTICLE 6: GENERAL REPORTING TERMS

6.1 Alternative Reporting Methods

FRA may establish processes for the Recipient to submit reports required by this Agreement, including electronic submission processes. If the Recipient is notified of those processes in writing, the Recipient will use the processes required by FRA.

6.2 Paperwork Reduction Act Notice

Under 5 C.F.R. § 1320.6, the Recipient is not required to respond to a collection of information that does not display a currently valid control number issued by the Office of Management and Budget (OMB). Notwithstanding any other term of this Agreement, the due date for any information collections required under this Agreement, including the reporting requirements in Articles 7 and 8, is the later of (1) the due date stated with the requirement and (2) the 30th day after OMB approves that information collection.

ARTICLE 7: PROGRESS AND FINANCIAL REPORTING

7.1 Quarterly Project Progress Reports and Recertifications

(a) On or before the 30th day of the first month of each quarter and until the end of the Period of Performance, the Recipient will submit to FRA through GrantSolutions a complete FRA Form 34[1] Quarterly Project Progress Report and Recertification that contains, for the previous quarter:

(1) a certification that the Recipient is in compliance with 2 C.F.R. § 200.303 (Internal Controls) and 2 C.F.R. part 200, Subpart F (Audit Requirements);

(2) the certification required under 2 C.F.R. § 200.415(a); and

(3) a certification that the Recipient is complying with any environmental mitigation commitments and Section 106 compliance obligations.

If the date of this Agreement is in the final month of a quarter, then the Recipient will submit the first Quarterly Project Progress Report and Recertification in the quarter that begins after the date of this Agreement.

(b) On or before the 30th day of the first month of each quarter and until the end of the Period of Performance, the Recipient will submit to FRA through GrantSolutions a Federal Financial Report (SF-425) covering the previous quarter.

[1] FRA Form 34 is available at https://railroads.dot.gov/grant-administration/reporting-requirements/fra-reports

7.2 Final Progress Reports and Financial Information

No later than 120 days after the end of the Period of Performance, the Recipient will submit:

(a) a final Quarterly Project Progress Report and Recertification in the format and with the content described in Section 7.1(a) of this Attachment 1 for each Quarterly Project Progress Report and Recertification;

(b) a final SF-425 through GrantSolutions;

(c) a Final Performance Report FRA Form 33 as provided by FRA[2] ; and

(d) any other information required under FRA's award closeout procedures.

7.3 Real Property Reporting

The Recipient will comply with the reporting obligations in 2 C.F.R. § 200.330, as directed by FRA.

ARTICLE 8: PERFORMANCE MEASUREMENT AND REPORTING

8.1 Baseline Performance Measurement

Within one year before the start of work on the Project, the Recipient will collect baseline data for each performance measure that is identified in Article 7 of Attachment 2 of this Agreement. Within six months of the start of the Period of Performance, the Recipient will submit to FRA a Baseline Performance Measurement Report that describes the data collected, the dates when the data were collected, the data sources, assumptions, variability, and estimated levels of precision for each performance measure. The Recipient will also provide FRA access to the data collected in machine-readable format.

8.2 Post-Project Performance Measurement

For each performance measure that is listed in Article 7 of Attachment 2 of this Agreement, the Recipient will collect data and submit to FRA a Post-Project Performance Measurement Report that describes the data collected, the dates when the data were collected, the data sources, assumptions, variability, and estimated levels of precision for each performance measure, at the frequency and for the duration identified in Article 7 of Attachment 2 of this Agreement. The Recipient will also provide FRA access to the data collected in machine-readable format. If an external factor affects a performance measure, the Recipient will identify that external factor in the Post-Project Performance Measurement Report and discuss the external factor's influence on the performance measure. In the Post-Project Performance Report, the Recipient will compare the actual project performance against the pre-project (baseline) performance and expected post-project performance as described in Table 7-A of Attachment 2 of this Agreement.

[2]FRA Form 33 is available at https://railroads.dot.gov/grant-administration/reporting-requirements/fra-reports

8.3 Project Outcomes Report

Where indicated in Article 7 of Attachment 2 of this Agreement, the Recipient will submit to FRA, not later than January 31st of the year that follows the final year during which data were collected, a Project Outcomes Report that contains:

(a) an analysis of the impacts of the Project, including a comparison of the baseline performance measurement data collected under Section 8.1 of this Attachment 1 with the post-project performance measurement data that the Recipient reported in the final Post-Project Performance Measurement Report required under Section 8.2 of this Attachment 1;

(b) for each performance measure that is identified in Article 7 of Attachment 2 of this Agreement, an analysis of the accuracy of the projected outcome; and

(c) all data collected under Sections 8.1 and 8.2 of this Attachment 1;

(d) additional information as directed.

8.4 General Performance Measurement Requirements

The Recipient will ensure that all data collection for each performance measure identified in Article 7 of Attachment 2 of this Agreement is completed in a manner consistent with the description, location, and other attributes associated with that performance measure.

8.5 Outcome Measurement and Reporting Survival

The data collection and reporting requirements in Article 8 of this Attachment 1 survive the termination of this Agreement. FRA may consider the Recipient's compliance with this requirement after closeout of the grant in its evaluation of future applications for Federal financial assistance.

ARTICLE 9: NONCOMPLIANCE AND REMEDIES

9.1 Noncompliance Determinations

(a) Notice of Proposed Determination. If FRA determines that the Recipient may have failed to comply with the United States Constitution, Federal law, or the terms and conditions of this Agreement, FRA will notify the Recipient of a proposed determination of noncompliance through a written notice that:

(1) explains the noncompliance;

(2) describes a proposed remedy that is consistent with Section 9.2 of this Attachment 1;

(3) describes the process and form in which the Recipient may respond to the notice that is consistent with Section 9.1(b) of this Attachment 1; and

(4) if applicable, provides the Recipient an opportunity to cure the noncompliance or take corrective action.

(b) Response to Notice of Proposed Determination. The Recipient may, not later than 7 days after receiving the notice of proposed determination of noncompliance, respond to that notice in the form and through the process described in that notice. In its response, the Recipient may:

(1) accept the proposed remedy;

(2) acknowledge the noncompliance, but propose an alternative remedy;

(3) acknowledge the noncompliance and agree to cure or take corrective action; or

(4) dispute the noncompliance.

To dispute the noncompliance, the Recipient must include in its response sufficient documentation or other information supporting the Recipient's compliance.

(c) Notice of Final Determination. After considering the Recipient's response or failure to timely respond under Section 9.1(b) of this Attachment 1, FRA will make a final determination. To make a final determination, FRA must provide a written notice to the Recipient that:

(1) states what the final determination is (e.g., noncompliance or compliance);

(2) states the basis for the final determination; and

(3) describes the remedy that FRA is imposing, if applicable, or if FRA is not imposing a remedy, describes the resolution to the proposed determination of noncompliance, including whether the Recipient has cured or corrected the noncompliance.

(d) If FRA determines the noncompliance is one that cannot be addressed while work on the Project is ongoing, in the notice of proposed determination or in the notice of final determination, FRA will direct the Recipient to stop work. The Recipient will stop work and will direct any Subrecipients or contractors to stop work immediately upon receipt of a notice to stop work from FRA.

(e) FRA may consider the public interest in making a determination of noncompliance and imposing a remedy.

9.2 Remedies

(a) If FRA makes a final determination of noncompliance under Section 9.1(c) of this Attachment 1, FRA may impose a remedy, including:

(1) additional conditions on the award;

(2) requiring the Recipient to prepare and implement a corrective action plan;

(3) directing the Recipient to stop work;

(4) any remedy permitted under 2 C.F.R. §§ 200.339–200.340, including withholding of payments; disallowance of previously reimbursed costs, requiring refunds from the Recipient to FRA; suspension or termination of the award; or suspension and disbarment under 2 C.F.R. part 180; or

(5) any other remedy legally available.

(b) The Recipient acknowledges that any amounts FRA requires the Recipient to refund to FRA under this Section 9.2 constitute a debt to the Federal Government that FRA may collect under 2 C.F.R. § 200.346 and the Federal Claims Collection Standards (31 C.F.R. parts 900–999).

(c) Other Remedies. The termination authority under Article 10 of this Attachment 1 supplements and does not limit FRA's remedial authority under this Article 9 or 2 C.F.R. part 200, including 2 C.F.R. §§ 200.339-200.240. FRA reserves the right to seek any appropriate remedy or otherwise enforce the terms and conditions of this Agreement as authorized by law.

9.3 Other Oversight Entities

Nothing in Article 9 of this Attachment 1 limits any party's authority to report activity under this agreement to the United States Department of Transportation Inspector General or other appropriate oversight entities.

ARTICLE 10: AGREEMENT SUSPENSION AND TERMINATION

10.1 Suspension of Award Activities

(a) If FRA determines that the remedy for noncompliance imposed under Article 9 of this Agreement does not achieve the desired result or is unlikely to improve compliance or performance, FRA may suspend activities under this Agreement pending corrective action by the Recipient or termination.

(b) If FRA suspends activities under this Agreement, FRA will notify the Recipient in writing of the following, which may be included in the determinations of non-compliance under Section 9.1 of this Attachment 1:

(1) what project activities, if any, will take place during the period of suspension;

(2) what costs FRA will reimburse if the suspension is lifted and the award resumed;

(3) what corrective actions must occur during the suspension; and

(4) FRA's intent to terminate the award under this Article 10 if the Recipient does not meet the conditions of the remedial action.

(c) The duration of the temporary suspension of activities under the Agreement should be commensurate with the corrective action needed, but should not exceed 120 days at the outset. If the Recipient is not making sufficient progress in correcting the noncompliance, FRA must consider both financial and programmatic requirements in determining the appropriate extension to avoid the need for termination.

10.2 FRA Termination

(a) FRA may terminate this Agreement and all its obligations under this Agreement if any of the following occurs:

(1) the Recipient fails to obtain or contribute the required Non-Federal Funds, or alternatives approved by FRA, as provided in this agreement and consistent with Article 6 of Attachment 2 of this Agreement;

(2) the Recipient fails to meet a milestone by six months after the completion date listed in Article 5 of Attachment 2 of this Agreement and the Recipient fails to request an amendment to this Agreement pursuant to Section 5.3 of this Attachment 1;

(3) the Recipient fails to comply with the terms and conditions of this Agreement;

(4) there are changes to the Project that FRA determines are inconsistent with FRA's basis for selecting the Project to receive the award; or

(5) FRA determines that termination of this Agreement is in the public interest.

(b) The Recipient may request that FRA terminate the Agreement, which may result in FRA determining noncompliance and imposing remedies pursuant to Article 9 of this Attachment 1.

10.3 Closeout Termination

(a) This Agreement terminates on Project Closeout.

(b) In this Agreement, "Project Closeout" means the date that FRA notifies the Recipient that the award is closed out. Under 2 C.F.R. § 200.344, Project Closeout should occur no later than one year after the end of the Period of Performance.

10.4 Post-Termination Adjustments

The Recipient acknowledges that under 2 C.F.R. §§ 200.345–200.346, termination of this Agreement does not extinguish FRA's authority to disallow costs, including costs that FRA reimbursed before termination, and recover funds from the Recipient.

10.5 Non-Terminating Events

(a) The end of the budget period described under Section 4.4 of this Attachment 1 does not terminate this Agreement or the Recipient's obligations under this Agreement.

(b) The end of the Period of Performance described under Section 4.5 of this Attachment 1 does not terminate this Agreement or the Recipient's obligations under this Agreement.

ARTICLE 11: MONITORING, FINANCIAL MANAGEMENT, CONTROLS, AND RECORDS

11.1 Recipient Monitoring and Record Retention

(a) The Recipient will monitor activities under this award, including activities under subawards and contracts, to ensure:

(1) that those activities comply with this agreement; and

(2) that funds provided under this award are not expended on costs that are not allowable under this award or not allocable to this award.

(b) If the Recipient makes a subaward under this award, the Recipient will monitor the activities of the Subrecipient in compliance with 2 C.F.R. §200.332(d).

(c) The Recipient will retain and provide access to records relevant to the award during the course of the Project and for three years after closeout or longer, as required under 2 C.F.R. § 200.334

(d) The Recipient will adhere to the recording and recordkeeping requirements set forth in 2 C.F.R. §§ 200.334–200.338. Project Closeout does not alter these requirements.

11.2 Financial Records and Audits

(a) The Recipient will keep all Project accounts and records that fully disclose the amount and disposition by the Recipient of the award funds, the total cost of the Project, and the amount or nature of that portion of the cost of the Project supplied by other sources, and any other financial records related to the Project.

(b) The Recipient will keep accounts and records described under Section 11.2(a) of this Attachment 1 in accordance with a financial management system that meets the requirements of 2 C.F.R. §§ 200.301–200.303 and 2 C.F.R. part 200, subpart F and will facilitate an effective audit in accordance with 31 U.S.C. §§ 7501–7506.

(c) The Recipient will separately identify expenditures under the award in financial records required for audits under 31 U.S.C. §§ 7501–7506. Specifically, the Recipient will:

(1) list expenditures separately on the schedule of expenditures of Federal awards required under 2 C.F.R. part 200, subpart F, including the fiscal year in the format "FY 202X" in the program name; and

(2) list expenditures on a separate row under Part II, Item 1 (Federal Awards Expended During Fiscal Period) of Form SF-SAC, including "FY 202X" in Column C (Additional Award Identification).

(d) If the Recipient expends $750,000 or more in Federal awards during the Recipient's fiscal year, a single or program audit will be conducted for that year, consistent with 2 C.F.R. §§ 200.501(a) and 200.512(c).

11.3 Internal Controls

The Recipient will establish and maintain internal controls as required under 2 C.F.R. § 200.303.

11.4 FRA Record Access

FRA may access Recipient records related to this award under 2 C.F.R. § 200.337.

11.5 Site Visits

FRA may conduct site visits to review Project activities, accomplishments, and management control systems and to provide technical assistance to the Recipient. The Recipient will provide or ensure reasonable, safe, and convenient access to FRA for any such site visit. FRA will conduct all site visits in such a manner as will not unduly delay work conducted by the Recipient, Subrecipient, or contractor.

ARTICLE 12: CONTRACTING AND SUBAWARDING

12.1 Buy America

(a) For infrastructure projects, steel, iron, manufactured goods, and construction materials used in the Project are subject to the domestic preference requirement at § 70914 of the Build America, Buy America Act (Buy American Act), Pub. L. No. 117-58, div. G, tit. IX, subtit. A, 135 Stat. 429, 1298 (2021) and 2 C.F.R. part 184, as implemented by OMB, USDOT, and FRA. The Recipient acknowledges that this Agreement is neither a waiver of § 70914(a) nor a finding under § 70914(b).

(b) For all other projects, the Recipient's acquisition of steel, iron, and manufactured goods with funding provided through this Agreement is subject to the requirements set forth in the Buy American Act, 41 U.S.C. §§ 8301-8305. The Recipient also represents that it has never been convicted of violating the Buy American Act nor will it make funding received under this Agreement available to any person or entity who has been convicted of violating the Buy American Act.

(c) Under this Section, "infrastructure project" has the definition provided in 2 C.F.R. § 184.3.

(d) Under 2 C.F.R. § 200.322, as appropriate and to the extent consistent with law, the Recipient should, to the greatest extent practicable under this award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. The Recipient shall include the requirements of 2 C.F.R. § 200.322 in all subawards including all contracts and purchase orders for work or products under this award.

12.2 Small and Disadvantaged Business Requirements

The Recipient will expend all funds under this award in compliance with the requirements at 2 C.F.R. § 200.321 (Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms), and to the extent applicable, 49 C.F.R. part 26 (Participation by disadvantaged business enterprises in Department of Transportation financial assistance programs).

12.3 Engineering and Design Services [Reserved]

12.4 Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment

The Recipient acknowledges that Section 889 of Pub. L. No. 115-232 and 2 C.F.R. § 200.216 prohibit the Recipient and all Subrecipients from procuring or obtaining certain telecommunications and video surveillance services or equipment under this award.

12.5 Pass-Through Entity Responsibilities

(a) If the Recipient makes a subaward under this award, the Recipient will comply with the requirements for pass-through entities under 2 C.F.R. parts 200 and 1201, including 2 C.F.R. §§ 200.331–200.333, regardless of whether the Recipient is also a Pass-Through Entity as defined in 2 C.F.R. § 200.1.

(b) The Recipient will report any subaward obligation of $25,000 or more in Federal funds in USASpending.gov consistent with the Federal Funding Accountability and Transparency Act, Pub. L. 109-282.

(c) The Recipient is accountable for performance under this award, the appropriate expenditure of funds, and other requirements under this Agreement. The Recipient is responsible for any non-compliance under the award and for compliance with any remedies imposed.

12.6 Local Hiring Preference for Construction Jobs

Under Section 25019 of the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, div. B, tit. V (2021), a Recipient or Subrecipient may implement a local or other geographical or economic hiring preference relating to the use of labor for construction of a project funded by this grant if funded under title 49 or 23 United States Code, including prehire agreements, subject to any applicable State and local laws, policies, and procedures. The use of such a local or other geographical or economic hiring preference in any bid for a contract for the construction of a project funded by this grant shall not be considered to unduly limit competition. Project labor agreements should be consistent with the definition and standards outlined in Executive Order 13502. The Recipient will document its consideration of Local Hiring Preference for Construction Jobs related to the Project in Article 11 of Attachment 2 of this Agreement. For additional information, see https://www.transportation.gov/sites/dot.gov/files/2023-05/Creating-Local-Construction-Workforce.pdf.

12.7 Procurement

The Recipient may acquire property, goods, or services in connection with the Project. If the Recipient is a State, then it will use its own procurement procedures that reflect applicable State laws and regulations in compliance with 2 C.F.R. § 200.317. A Subrecipient of a State will follow the policies and procedures allowed by that State when procuring property and services under this award consistent with 2 C.F.R. § 1201.317, notwithstanding 2 C.F.R. § 200.317. An entity that is not a State or Subrecipient of a State will comply with 2 C.F.R. §§ 200.318–200.327, and applicable supplementary USDOT or FRA directives and regulations. The Recipient will provide technical specifications and requirements to FRA for review upon request.

ARTICLE 13: COSTS, PAYMENTS, AND UNEXPENDED FUNDS

13.1 Limitation of Federal Award Amount

Under this award, FRA will not provide funding in an amount greater than the Agreement Federal Funds. The Recipient acknowledges that FRA is not liable for payments exceeding that amount, and the Recipient will not request reimbursement of costs exceeding that amount.

13.2 Project Costs

This award is subject to the cost principles at 2 C.F.R. part 200, subpart E, including provisions on determining allocable costs and determining allowable costs.

13.3 Timing of Project Costs

(a) The Recipient will not charge to this award costs that are incurred after the budget period.

(b) The Recipient will not charge to this award costs that were incurred before the date of this Agreement unless those costs are identified as approved pre-award costs in Section 6.6 of Attachment 2 of this Agreement and would have been allowable if incurred during the budget period. This limitation applies to pre-award costs under 2 C.F.R. § 200.458. This agreement hereby terminates and supersedes any previous FRA approval for the Recipient to incur costs under this award for the Project. Section 6.6 of Attachment 2 of this Agreement is the exclusive FRA approval of costs incurred before the date of this Agreement.

(c) The Recipient may request approval of pre-award costs in a written request that demonstrates the purpose and amount of the costs, compliance with 2 C.F.R. § 200.458, and whether such costs would otherwise serve as Non-Federal Funds.

13.4 Recipient Recovery of Federal Funds

The Recipient will make all reasonable efforts, including initiating litigation, if necessary, to recover Federal funds if FRA determines, after consultation with the Recipient, that those funds have been spent fraudulently, wastefully, or in violation of Federal laws, or misused in any manner. The Recipient will not enter a settlement or other final position, in court or otherwise, involving the recovery of funds under the award unless approved in advance in writing by FRA.

13.5 Unexpended Agreement Federal Funds

Any Agreement Federal Funds that are obligated but not expended on allocable, allowable costs remain the property of the United States.

13.6 Interest Earned

Interest earned on advances of Agreement Federal Funds is not program income.

13.7 Timing of Payments to the Recipient

(a) Reimbursement is the payment method, unless otherwise approved by FRA.

(b) The Recipient will not request reimbursement of a cost before the Recipient has entered into an obligation for that cost.

13.8 Payment Method

(a) The Recipient will use the DELPHI e-Invoicing System (https://www.dot.gov/cfo/delphi-einvoicing-system.html) to request reimbursement under this award. FRA will provide access to that system upon request by the Recipient.

(b) FRA may deny a payment request that is not submitted using the method identified in this Section.

13.9 Information Supporting Expenditures

(a) When requesting reimbursement of costs incurred or credit for cost share incurred, the Recipient will electronically submit the SF 270 (Request for Advance or Reimbursement) and will submit supporting cost detail to document clearly all costs incurred. As supporting cost detail, the Recipient will include a detailed breakout of all costs incurred and classify all costs by task and by Agreement Federal Funds and Agreement Non-Federal Funds.

(b) Unless FRA and the Recipient agree otherwise in writing, the Recipient will ensure that the proportion of expenditure of Agreement Federal Funds to Agreement Non-Federal Funds is not more than the maximum percent of total Project cost FRA will contribute identified in Section 6.5 of Attachment 2 of this Agreement. The Recipient will ensure the proportional expenditure of funds is reflected in the detailed breakout of costs supporting the SF 270.

(c) If the Recipient submits a request for reimbursement that FRA determines does not include or is not supported by sufficient detail, FRA may deny the request or withhold processing the request until the Recipient provides sufficient detail.

13.10 Reimbursement Request Timing Frequency

The Recipient will request reimbursement as needed to maintain cash flow sufficient to timely complete the Project. The Recipient will not submit any single payment request exceeding $99,999,999.99. The Recipient will not submit a payment request exceeding $50,000,000.00 unless the Recipient notifies FRA six days before submitting the request.

13.11 Program Income

The Recipient is encouraged to earn income to defray Project costs, where appropriate, and will work with FRA to determine how income may be applied to the grant, in accordance with 2 C.F.R. § 200.307 and 2 C.F.R. § 1201.80. Program income not deducted from total allowable costs may be used only for the purposes and under the terms and conditions established in this Agreement. The Recipient will maintain records of all program income.

ARTICLE 14: PROPERTY AND EQUIPMENT

14.1 General Requirements

The Recipient will comply with the property standards of 2 C.F.R. §§ 200.310–200.316 and will ensure compliance with these standards for all tiers of subawards and contracts under this award.

14.2 Relocation and Real Property Acquisition

The Recipient will comply with the land acquisition policies and relocation requirements in 42 U.S.C. § 4601 et seq. and 49 C.F.R. part 24, subparts A–F, as applicable. At a minimum, under this section, the Recipient will:

(a) comply with the land acquisition policies in 49 C.F.R. part 24, subpart B and will pay or reimburse property owners for necessary expenses as specified in that subpart;

(b) provide a relocation assistance program offering the services described in 49 C.F.R. part 24, subpart C and provide reasonable relocation payments and assistance to displaced persons as required in 49 C.F.R. part 24, subparts D–E; and

(c) make available to displaced persons comparable replacement dwellings in accordance with 49 C.F.R. part 24, subpart E.

(d) provide to FRA a real estate acquisition and management plan prior to beginning real property acquisition if the Project is designated a Major Project in Article 1 of Attachment 2 of this Agreement, or if the total Project cost in Section 6.5 of Attachment 2 of this Agreement is greater than $300 million and the Project is also receiving financial assistance from the Federal Transit Administration (FTA).

14.3 Use for Originally Authorized Purpose

The Recipient will ensure that property and equipment funded under this Agreement is used for the originally authorized purpose. If necessary to satisfy this obligation, the Recipient will enter into appropriate arrangements with the entity or entities using, or with the owner of right-of-way used by, the property and/or equipment funded under this Agreement.

14.4 Maintenance

The Recipient will ensure that any property, improvements to property, and any equipment funded under this Agreement are maintained in good working order and in accordance with FRA regulations, guidelines, and directives.

14.5 Real Property Disposition

In accordance with 2 C.F.R. § 200.311, when real property acquired or improved under this award is no longer used for its originally intended purpose, the Recipient will request disposition instructions from FRA.

14.6 Equipment Disposition

(a) In accordance with 2 C.F.R. §§ 200.313 and 1201.313, when equipment acquired under this award is no longer needed for the Project:

(1) if the entity that acquired the equipment is a State or a Subrecipient of a State, that entity will dispose of that equipment in accordance with State laws and procedures; and

(2) if the entity that acquired the equipment is neither a State nor a Subrecipient of a State, that entity will request disposition instructions from FRA.

(b) In accordance with 2 C.F.R. §200.443(d), the distribution of the proceeds from the disposition of equipment must be made in accordance with 2 C.F.R. §§ 200.313–200.316 and 2 C.F.R. § 1201.313.

14.7 Recordkeeping

The Recipient will keep records regarding the operation and maintenance of property, improvements to property, equipment, and supplies funded under this Agreement and will provide them to FRA upon request.

14.8 Encumbrance

The Recipient will not create an obligation, such as a transfer of title, lease, lien, mortgage, or encumbrance, that would dispose of or encumber the Recipient's title or other interest in property, improvements to property, equipment or supplies funded under this Agreement without prior written approval from FRA.

The Recipient will not take any action that would adversely affect FRA's interest or impair the Recipient's continuing control over the use of the property, improvements to property, equipment, or supplies funded under the Agreement without prior written approval from FRA.

ARTICLE 15: AMENDMENTS

15.1 Bilateral Amendments

The parties may amend, modify, or supplement this Agreement by mutual agreement in writing signed by FRA and the Recipient. Either party may request to amend, modify, or supplement this Agreement by written notice to the other party.

15.2 FRA Unilateral Amendments

(a) FRA may unilaterally amend this Agreement for the following reasons:

(1) to comply with Federal law;

(2) at closeout or in anticipation of closeout; and

(3) other non-substantive changes, such as to correct typographical errors, as deemed appropriate by FRA.

(b) To unilaterally amend this Agreement under Section 15.3 of this Attachment 1, FRA will provide a written notice to the Recipient that includes the amendment and the date that the amendment is effective.

(c) Except at closeout or in anticipation of closeout, FRA may not unilaterally amend the Statement of Work, this Agreement's monetary amount, the delivery schedule, the Period of Performance, or other terms or conditions of this Agreement.

15.3 Other Amendments

The parties will not amend, modify, or supplement this Agreement except as permitted under Sections 15.1, 15.2, or 15.3 of this Attachment 1. If an amendment, modification, or supplement is not permitted under Section 15.1, 15.2, or 15.3 of this Attachment 1, it is void.

ARTICLE 16: CLIMATE CHANGE AND ENVIRONMENTAL JUSTICE

16.1 Climate Change and Environmental Justice

Consistent with Executive Order 14008, "Tackling the Climate Crisis at Home and Abroad" (Jan. 27, 2021), the Recipient will document its consideration of climate change and environmental justice impacts of the Project in Article 9 of Attachment 2 of this Agreement.

ARTICLE 17: RACIAL EQUITY AND BARRIERS TO OPPORTUNITY

17.1 Racial Equity and Barriers to Opportunity

Consistent with Executive Order 13985, "Advancing Racial Equity and Support for Underserved Communities Through the Federal Government" (Jan. 20, 2021), the Recipient will document its activities related to the Project to improve racial equity and reduce barriers to opportunity in Article 10 of Attachment 2 of this Agreement.

ARTICLE 18: LABOR AND WORK

18.1 Labor and Work

Consistent with Executive Order 14025, "Worker Organizing and Empowerment" (Apr. 26, 2021), and Executive Order 14052, "Implementation of the Infrastructure Investment and Jobs Act" (Nov. 15, 2021) (IIJA), the Recipient will document its consideration of job quality and labor rights, standards, and protections related to the Project in Article 11 of Attachment 2 of this Agreement.

18.2 OFCCP Mega Construction Project Program

If the total eligible Project costs listed in Attachment 2 of this Agreement are greater than $35,000,000 and the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) selects this award for participation in the Mega Construction Project Program, then the Recipient shall partner with OFCCP, as requested by OFCCP.

ARTICLE 19: CRITICAL INFRASTRUCTURE SECURITY AND RESILIENCE

19.1 Critical Infrastructure Security and Resilience

(a) Consistent with Presidential Policy Directive 21, "Critical Infrastructure Security and Resilience" (Feb. 12, 2013), and the National Security Presidential Memorandum on Improving Cybersecurity for Critical Infrastructure Control Systems (July 28, 2021), the Recipient will consider physical and cyber security and resilience in planning, design, and oversight of the Project.

(b) If the Security Risk Designation in Section 1.3 of Attachment 2 of this Agreement is "Elevated," then not later that than two years after the date of this Agreement the Recipient will submit to FRA a report that:

(1) identifies a cybersecurity point of contact for the transportation infrastructure being improved in the Project;

(2) summarizes or contains a cybersecurity incident reporting plan for the transportation infrastructure being improved in the Project;

(3) summarizes or contains a cybersecurity incident response plan for the transportation infrastructure being improved in the Project;

(4) documents the results of a self-assessment of the Recipient's cybersecurity posture and capabilities; and

(5) describes any additional actions that the Recipient has taken to consider or address cybersecurity risk of the transportation infrastructure being improved in the Project.

ARTICLE 20: FEDERAL FINANCIAL ASSISTANCE, ADMINISTRATIVE, AND NATIONAL POLICY REQUIREMENTS

20.1 Uniform Administrative Requirements for Federal Awards

The Recipient will comply, and will ensure that other entities receiving funding under this agreement will comply, with the obligations on non-Federal entities under 2 C.F.R. parts 200 and 1201, regardless of whether the Recipient or other entity receiving funding under this agreement is a Non-Federal entity as defined in 2 C.F.R. § 200.1, except that subpart F of part 200 does not apply if the Recipient or Subrecipient is a for-profit entity.

20.2 Federal Law and Public Policy Requirements

(a) The Recipient will ensure that Federal funding is expended in full accordance with the United States Constitution, Federal law, and statutory and public policy requirements: including but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.

(b) The failure of this Agreement to expressly identify Federal law applicable to the Recipient or activities under this Agreement does not make that law inapplicable.

20.3 Federal Freedom of Information Act

(a) FRA is subject to the Freedom of Information Act (FOIA), 5 U.S.C. § 552.

(b) The Recipient acknowledges that the Application and materials submitted to FRA by the Recipient related to this Agreement will become FRA records that may be subject to public release under 5 U.S.C. § 552. If the Recipient submits any materials to FRA related to this Agreement that the Recipient considers to include trade secret or confidential commercial or financial information, the Recipient should note that the submission contains confidential business information, mark each affected page, and highlight or otherwise denote the portions of the submission that contain confidential business information.

20.4 History of Performance

Under 2 C.F.R. § 200.206, any Federal awarding agency may consider the Recipient's performance under this Agreement, when evaluating the risks of making a future Federal financial assistance award to the Recipient.

20.5 Whistleblower Protection

(a) The Recipient acknowledges that it is a "Recipient" within the scope of 41 U.S.C. § 4712, which prohibits the Recipient from taking certain actions against an employee for certain disclosures of information that the employee reasonably believes are evidence of gross mismanagement of this award, gross waste of Federal funds, or a violation of Federal law related this this award.

(b) The Recipient will inform its employees in writing of the rights and remedies provided under 41 U.S.C. § 4712, in the predominant native language of the workforce.

20.6 External Award Terms and Obligations

(a) In addition to this document and the contents described in Article 25 of this Attachment 1, this Agreement includes the following additional terms as integral parts:

(1) Appendix A to 2 C.F.R. part 25: System for Award Management and Universal Identifier Requirements;

(2) Appendix A to 2 C.F.R. part 170: Reporting Subawards and Executive Compensation;

(3) 2 C.F.R. § 175.15(b): Trafficking in Persons; and

(4) Appendix XII to 2 C.F.R. part 200: Award Term and Condition for Recipient Integrity and Performance Matters.

(b) The Recipient will comply with:

(1) 49 C.F.R. part 20: New Restrictions on Lobbying;

(2) 49 C.F.R. part 21: Nondiscrimination in Federally Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964;

(3) 49 C.F.R. part 27: Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance; and

(4) Subpart B of 49 C.F.R. part 32: Governmentwide Requirements for Drug-free Workplace (Financial Assistance).

20.7 Incorporated Certifications

The Recipient makes the representations in the following certifications, which are incorporated by reference:

(a) Appendix A to 49 C.F.R. part 20 (Certification Regarding Lobbying).

ARTICLE 21: ASSIGNMENT

21.1 Assignment Prohibited

The Recipient will not transfer to any other entity any discretion granted under this Agreement, any right to satisfy a condition under this Agreement, any remedy under this Agreement, or any obligation imposed under this Agreement.

ARTICLE 22: WAIVER

22.1 Waivers

(a) A waiver of a term of this Agreement authorized by law and granted by FRA will not be effective unless it is in writing and signed by an authorized representative of FRA.

(b) A waiver of a term of this Agreement granted by FRA on one occasion will not operate as a waiver on other occasions.

(c) If FRA fails to require strict performance of a term of this Agreement, fails to exercise a remedy for a breach of this Agreement, or fails to reject a payment during a breach of this Agreement, that failure does not constitute a waiver of that term or breach.

ARTICLE 23: ADDITIONAL TERMS AND CONDITIONS

23.1 Disclaimer of Federal Liability

FRA will not be responsible or liable for any damage to property or any injury to persons that may arise from, or be incident to, performance or compliance with this Agreement.

23.2 Environmental Review

(a) Except as authorized by law or under 23 C.F.R. § 771.113(d)(4), the Recipient will not begin final design activities; acquire real property, construction materials, or equipment, including rolling stock; begin construction; or take other actions that would have an adverse environmental impact or limit the choice of reasonable alternatives for the Project unless and until FRA complies with the National Environmental Policy Act, 42 U.S.C. § 4321 et seq. (NEPA), and any other applicable environmental laws and regulations. In addition, the Recipient will not begin project development that involves ground disturbing activity prior to FRA compliance with NEPA and any other applicable environmental laws and regulations.

(b) The Recipient acknowledges that:

(1) FRA's actions under Section 23.2(a) of this Attachment 1 may depend on the Recipient conducting necessary environmental analyses and submitting necessary documents to FRA; and

(2) applicable environmental statutes and regulations may require the Recipient to prepare and submit documents to other Federal, State, and local agencies.

(c) Consistent with 23 C.F.R. § 771.105(a), to the maximum extent practicable and consistent with Federal law, the Recipient will coordinate all environmental investigations, reviews, and consultations as a single process.

(f) The activities described in Article 4 of Attachment 2 of this Agreement and other information described in this Agreement may inform environmental decision-making processes, but the parties do not intend this Agreement to document the alternatives under consideration under those processes. If a build alternative is selected that does not align with Article 4 of Attachment 2 of this Agreement or other information in this Agreement, then FRA will either:

(1) amend this Agreement under Section 15.1 of this Attachment 1 for consistency with the selected build alternative; or

(2) if FRA determines that the condition at Section 10.1(a)(5) of this Attachment 1 is satisfied, terminate this Agreement under Section 10.1(a)(5) of this Attachment 1; or

(3) take other action as deemed appropriate by FRA.

(g) The Recipient will complete any mitigation activities described in the environmental document or documents for the Project, including the terms and conditions contained in the required permits and authorizations for the Project. Article 4 of Attachment 2 of this Agreement identifies documents describing mitigation activities, but the absence of a document from that section does not relieve the Recipient of any compliance obligations.

23.3 Project Maintenance Requirement

The Recipient will ensure that any property and equipment funded within this Agreement is operated and maintained in good operating order and in accordance with 2 C.F.R. §§ 200.310–200.316, 1201.313 and any guidelines, directives, or regulations that FRA may issue.

23.4 Appropriations Act Requirements

The Recipient will comply with applicable requirements of the appropriations act identified in Section 6.3 of Attachment 2 of this Agreement.

23.5 Standards of Conduct

The Recipient will comply with the following standards of conduct:

(a) Standards of Conduct. The Recipient will maintain a written code or standards of conduct governing the performance of its officers, employees, board members, or agents engaged in the award and administration of contracts or agreements supported by the Federal contribution provided through this Agreement. The code or standards will provide that the Recipient's officers, employees, board members, or agents may neither solicit nor accept gratuities, favors, or anything of monetary value from present or potential Subrecipients or contractors. The Recipient may set minimum rules where the financial interest is not substantial, or the gift is an unsolicited item of nominal intrinsic value. As permitted by state or local law or regulations, such code or standards will provide for penalties, sanctions, or other disciplinary actions for violations by the Recipient's officers, employees, board members, or agents, or by Subrecipients or their agents.

(b) Personal Conflict of Interest. The Recipient's code or standards must provide that no employee, officer, board member, or agent of the Recipient may participate in the selection, award, or administration of a contract supported by the Federal contribution if a real or apparent conflict of interest would be involved. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

(c) Organizational Conflicts of Interest. The Recipient's code or standards of conduct must include procedures for identifying and preventing real and apparent organizational conflicts of interests. An organizational conflict of interest exists when the nature of the work to be performed under a proposed contract, may, without some restrictions on future activities, result in an unfair competitive advantage to the contractor or impair the contractor's objectivity in performing the contract work.

(d) Existing Codes or Standards. This Section does not require the Recipient to implement a new code or standards of conduct where a state statute, or written code or standards of conduct, already effectively covers all of the required elements.

(e) Disclosure of Conflicts. The Recipient will disclose in writing any potential conflict of interest to FRA or pass-through entity.

23.6 Changed Conditions of Performance

The Recipient will notify FRA of any event that may affect its ability to perform the Project in accordance with the terms of this Agreement.

23.7 Litigation

The Recipient will notify FRA in writing of any decision pertaining to the Recipient's conduct of litigation that may affect FRA's interests in the Project or FRA's administration or enforcement of applicable Federal laws or regulations. The Recipient will inform FRA in writing before naming FRA as a party to any type of litigation for any reason in any forum.

23.8 Bipartisan Infrastructure Law Signage Guidelines

For projects funded by the Bipartisan Infrastructure Law, also known as the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (2021), the Recipient will ensure:

(a) signage is designed consistent with the guidelines and design specifications available at https://www.whitehouse.gov/wp-content/uploads/2023/02/Investing-in-America-Brand-Guide.pdf. Signs should include the official Investing in America logo and identify the project as "funded by President Biden's Bipartisan Infrastructure Law."

(b) signage displays the FRA logo and the Recipient logo, if any, along with the official Investing in America logo. The FRA logo should not be displayed in a manner that implies FRA itself is conducting the project.

(c) where applicable, the signage includes the project name (e.g., [Name of] Project funded by President Biden's Bipartisan Infrastructure Law.)

(d) the sign is placed at construction sites where it is clearly visible near the location of work and that the sign is maintained in good condition throughout the construction period.

(e) signs on equipment are placed in an easily visible location and maintained in good condition

23.9 Equipment and Supplies

The Recipient will maintain written policies and procedures that address acquisition, classification, and management of all equipment and supplies acquired or used under this award.

23.10 Safety and Technology Data

The Recipient will ensure that FRA has access to safety and technology relevant data generated by the Recipient under the award, in a machine-readable format, where specified in Article 4 of Attachment 2 of this Agreement.

23.11 Intellectual Property

The Recipient agrees to the standard patent rights clauses issued by the Department of Commerce at 37 C.F.R. Part 401, as applicable.

23.12 Liquidation of Recipient Obligations

(a) The Recipient will liquidate all obligations of award funds under this Agreement not later than 120 days after the end of the Period of Performance.

(b) Liquidation of obligations and adjustment of costs under this Agreement follow the requirements of 2 C.F.R. §§ 200.344–200.346.

ARTICLE 24: CONSTRUCTION AND DEFINITIONS

24.1 Agreement

This Agreement consists of the following:

(a) Agreement Cover Sheet

(b) Attachment 1: General Terms and Conditions

(c) Attachment 2: Project-Specific Terms and Conditions

(d) Exhibit A: Applicable Federal Laws and Regulations

(e) Exhibit B: Additional Standard Terms

(f) Exhibit C: Quarterly Project Progress Reports and Recertifications

24.2 Construction

(a) In these General Terms and Conditions, there are no references to articles or sections in project-specific portions of this Agreement that are not contained in Attachments or Exhibits listed in Section 24.1.

(b) If a provision in these General Terms and Conditions or the Exhibits conflicts with a provision in the Project-Specific Terms and Conditions in Attachment 2 of this Agreement, then the relevant portion in Attachment 2 prevails. If a provision in the Exhibits conflicts with a provision in these General Terms and Conditions, then the provision in these General Terms and Conditions prevails.

24.3 Integration

This Agreement constitutes the entire agreement of the parties relating to the Project and supersedes any previous agreements, oral or written, relating to the Project.

24.4 Definitions

This Section defines terms used in this Agreement. Additional definitions found in 2 C.F.R. § 200.1 are incorporated by referenced into this Agreement.

"Agreement Federal Funds" means the total amount of Federal funds obligated under this Agreement. This is the amount shown in Section 6.1 of Attachment 2 of this Agreement.

"Application" means the application identified in Article 3 of Attachment 2 of this Agreement, including Standard Form 424 and all information and attachments submitted with that form through Grants.gov.

"Construction Substantial Completion" means the stage of the Project when all construction tasks are complete such that the Recipient can use the Project for its intended use and only closeout activities remain. Activity to address or complete closeout activities will not prevent or disrupt use of the Project.

"Contingent Commitment" means the unobligated amounts of future available budget authority specified in law that FRA commits to obligate under the terms of this Agreement.

"Federal Share" means the sum of Agreement Federal Funds and Other Federal Funds. If there are no Other Federal Funds, the Federal Share is the same as the Agreement Federal Funds.

"General Terms and Conditions" means this Attachment 1.

"Other Federal Funds" means Federal funds that are part of the Approved Project Budget in Section 6.5 of Attachment 2 of this Agreement for the Project but are not obligated under this Agreement.

"Project" means the project proposed in the Application, as modified by the negotiated provisions of this Agreement, including Attachment 2 of this Agreement.

"Project Closeout" means the date that FRA notifies the Recipient that the award is closed out. Under 2 C.F.R. § 200.344, Project Closeout should occur no later than one year after the end of the Period of Performance.

"Project Cost Savings" means the difference between the actual costs to complete the Project and the estimated total Project cost listed in Section 6.5 of Attachment 2 of this Agreement, if after the Recipient completes the tasks identified in Article 4 of Attachment 2 of this Agreement to FRA's satisfaction, the actual Project costs are less than the estimated total Project costs.

"Rural Area" means any area that is not within an area designated as an urbanized area by the Bureau of the Census.

24.5 Calendar Dates

Unless otherwise specified, all dates and durations are in calendar days, calendar quarters, or calendar years, as appropriate.

24.6 Communication in Writing

Unless otherwise specified, all written communication may be provided by electronic mail.

ARTICLE 25: AGREEMENT EXECUTION AND EFFECTIVE DATE

25.1 Counterparts

This agreement may be executed in counterparts, which constitute one document. The parties intend each countersigned original to have identical legal effect.

25.2 Effective Date

The agreement will become effective when all parties have signed it. The date of this Agreement will be the date this Agreement is signed by the last party to sign it.

ARTICLE 26: PROGRAM-SPECIFIC CLAUSES

26.1 Interstate Rail Compacts Grant Program

The Recipient agrees to comply with the clauses in Section 26.1 of this Attachment 1.

Consistent with 49 U.S.C. § 22905(e), clauses (b) through (g) of Section 26.1 of this Attachment 1 do not apply to: 1) commuter rail passenger transportation (as defined in 49 U.S.C. § 24102(3)) operations of a State or local government authority (as those terms are defined in 49 U.S.C. § 5302) or its contractor performing services in connection with commuter rail passenger operations; 2) the Alaska Railroad or its contractors; or 3) Amtrak's access rights to railroad right of way and facilities under current law.

(a) Non-Federal Match. The Recipient will provide a Non-Federal match of not less than 50 percent of the eligible expenses under the grant.

(b) Buy America. In lieu of Section 12.1 of this Attachment 1, the Recipient will comply with the following clauses, as applicable:

(1) for infrastructure projects, steel, iron, and manufactured products used in the Project are subject to 49 U.S.C. § 22905(a), as implemented by FRA. The Recipient acknowledges that this agreement is neither a waiver of 49 U.S.C. § 22905(a)(1) nor a finding under 49 U.S.C. § 22905(a)(2). For infrastructure projects, construction materials used in the Project are subject to the domestic preference requirement at § 70914 of the Build America, Buy America Act, Pub. L. No. 117-58, div. G, tit. IX, subtit. A, 135 Stat. 429, 1298 (2021) and 2 C.F.R. part 184, as implemented by OMB, USDOT and FRA. The Recipient acknowledges that this agreement is neither a waiver of § 70914(a) nor a finding under § 70914(b).

(2) for non-infrastructure projects, steel, iron, and manufactured products used in the Project are subject to 49 U.S.C. § 22905(a), as implemented by FRA. The Recipient acknowledges that this agreement is neither a waiver of 49 U.S.C. § 22905(a)(1) nor a finding under 49 U.S.C. § 22905(a)(2).

(3) under Section 26.1 of this Attachment 1, "infrastructure project" has the definition provided in 2 C.F.R. § 184.3.

(4) for all projects, as appropriate and to the extent consistent with law, the Recipient should under 2 C.F.R. § 200.322, to the greatest extent practicable under this award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. The Recipient shall include the requirements of 2 C.F.R. § 200.322 in all subawards including all contracts and purchase orders for work or products under this award.

(c) Operators Deemed Rail Carriers. The Recipient recognizes and agrees that 49 U.S.C. § 22905(b) provides that persons conducting rail operations over rail infrastructure constructed or improved in whole or in part with funds provided under chapter 229 of Title 49, United States Code, will be considered a "rail carrier" as defined by 49 U.S.C. § 10102(5), for purposes of Title 49, United States Code, and any other statute that adopts that definition or in which that definition applies, including: the Railroad Retirement Act of 1974 (45 U.S.C. § 231 et seq.); the Railway Labor Act (45 U.S.C. § 151 et seq.); and the Railroad Unemployment Insurance Act (45 U.S.C. § 351 et seq.). The Recipient agrees to reflect this provision in its agreements (if any) with any entity operating rail services over such rail infrastructure.

(d) Railroad Agreements. In accordance with 49 U.S.C. § 22905(c)(1), if the Project funded by this Agreement uses rights-of-way owned by a railroad, then Recipient represents that it has entered into a written agreement with that railroad owner, which includes: compensation for such use; assurances regarding the adequacy of infrastructure capacity to accommodate both existing and future freight and passenger operations; an assurance by the railroad that collective bargaining agreements with railroad's employees (including terms regulating the contracting of work) will remain in full force and effect according to their terms for work performed by the railroad on the railroad transportation corridor; and an assurance that Recipient complies with liability requirements consistent with 49 U.S.C. § 28103.

By signing this Agreement, Recipient certifies that the written agreement referenced in this Section 26.1(d) has been executed or is not required.

Additional guidance on compliance with the Railroad Agreements provisions is available on FRA's website at: https://railroads.dot.gov/elibrary/frequently-asked-questions-about-rail-improvement-grant-conditions-under-49-usc-ss-22905c1.

(e) Labor Protective Arrangements. In accordance with 49 U.S.C. § 22905(c)(2)(B), if the Project funded by this Agreement uses rights-of-way owned by a railroad, then the Recipient will ensure compliance with the protective arrangements that are equivalent to

those established under Section 504 of the Railroad Revitalization and Regulatory Reform Act of 1976, 49 U.S.C. § 22404. Such protective arrangements are included herein as Exhibit B.5.

(f) Davis-Bacon and Related Acts Provisions. In accordance with 49 U.S.C. § 22905(c)(2)(A), if the Project funded by this Agreement uses rights-of-way owned by a railroad, the Recipient will ensure compliance with the standards of 49 U.S.C. § 24312 with respect to the Project in the same manner that Amtrak is required to comply with those standards for construction work financed under an agreement made under 49 U.S.C.§ 24308(a). For these purposes, wages in collective bargaining agreements negotiated under the Railway Labor Act are deemed to comply with Davis-Bacon Act requirements.

(g) Replacement of Existing Intercity Passenger Rail Service. If an intercity passenger rail transportation provider replaces Amtrak intercity passenger rail service through a Project funded by this Agreement, then such provider must comply with the provisions of 49 U.S.C. § 22905(d).

(h) Operator Limitation. Recipient's eligible expenses must be related to intercity passenger rail service to be operated by Amtrak.

(i) Reporting. As requested by FRA, the Recipient will report on:

(1) the status of the planning efforts and coordination funded by the grant award;

(2) plans for continued implementation of the interstate rail compact;

(3) the status of, and data regarding, any new, restored, or enhanced rail services initiated under the interstate rail compact; and

(4) other data and information as requested by FRA.

26.2 Railroad Crossing Elimination Program Clauses

The Recipient agrees to comply with the clauses in Section 26.2 of this Attachment 1.

Consistent with 49 U.S.C. §§ 22905(e) & 22909(j), clauses (b), (c), (d), and (g) of Section 26.2 of this Agreement 1 do not apply to: 1) commuter rail passenger transportation (as defined in 49 U.S.C. § 24102(3)) operations of a State or local government authority (as those terms are defined in 49 U.S.C. § 5302) or its contractor performing services in connection with commuter rail passenger operations; 2) the Alaska Railroad or its contractors; or 3) Amtrak's access rights to railroad right of way and facilities under current law. In addition, clause (f) does not apply to: 1) the Alaska Railroad or its contractors; or 2) Amtrak's access rights to railroad right of way and facilities under current law.

(a) Federal Share. The Federal Share of total Project costs shall not exceed 80 percent.

(b) Buy America. In lieu of Section 12.1 of this Agreement 1:

(1) for infrastructure projects, steel, iron, and manufactured products used in the Project are subject to 49 U.S.C. § 22905(a), as implemented by FRA. The Recipient acknowledges that this Agreement is neither a waiver of 49 U.S.C. § 22905(a)(1) nor a finding under 49 U.S.C. § 22905(a)(2). For infrastructure projects, construction materials used in the Project are subject to the domestic preference requirement at § 70914 of the Build America, Buy America Act, Pub. L. No. 117-58, div. G, tit. IX, subtit. A, 135 Stat. 429, 1298 (2021) and 2 C.F.R. part 184, as implemented by OMB, USDOT and FRA. The Recipient acknowledges that this Agreement is neither a waiver of § 70914(a) nor a finding under § 70914(b).

(2) for non-infrastructure projects, steel, iron, and manufactured products used in the Project are subject to 49 U.S.C. § 22905(a), as implemented by FRA. The Recipient acknowledges that this Agreement is neither a waiver of 49 U.S.C. § 22905(a)(1) nor a finding under 49 U.S.C. § 22905(a)(2).

(3) under this Section, "infrastructure project" has the definition provided in 2 C.F.R. § 184.3.

(4) for all projects, as appropriate and to the extent consistent with law, the Recipient should under 2 C.F.R. § 200.322, to the greatest extent practicable under this award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. The Recipient shall include the requirements of 2 C.F.R. § 200.322 in all subawards including all contracts and purchase orders for work or products under this award.

(c) Operators Deemed Rail Carriers. The Recipient recognizes and agrees that 49 U.S.C. § 22905(b) provides that persons conducting rail operations over rail infrastructure constructed or improved in whole or in part with funds provided under chapter 229 of Title 49, United States Code, will be considered a "rail carrier" as defined by 49 U.S.C. § 10102(5), for purposes of Title 49, United States Code, and any other statute that adopts that definition or in which that definition applies, including: the Railroad Retirement Act of 1974 (45 U.S.C. § 231 et seq.); the Railway Labor Act (45 U.S.C. § 151 et seq.); and the Railroad Unemployment Insurance Act (45 U.S.C. § 351 et seq.). The Recipient agrees to reflect this provision in its agreements (if any) with any entity operating rail services over such rail infrastructure.

(d) Railroad Agreements. In accordance with 49 U.S.C. § 22905(c)(1), if the Project funded by this Agreement uses rights-of-way owned by a railroad, then Recipient represents that it has entered into a written agreement with that railroad owner, which includes: compensation for such use; assurances regarding the adequacy of infrastructure capacity to accommodate both existing and future freight and passenger operations; an assurance by the railroad that collective bargaining agreements with railroad's employees (including terms regulating the contracting of work) will remain in full force and effect according to their terms for work performed by the railroad on the railroad transportation corridor; and an assurance that Recipient complies with liability requirements consistent with 49 U.S.C. § 28103.

By signing this Agreement, Recipient certifies that the written agreement referenced in this Section 26.2(d) has been executed or is not required.

Additional guidance on compliance with the Railroad Agreements provisions is available on FRA's website at: https://railroads.dot.gov/elibrary/frequently-asked-questions-about-rail-improvement-grant-conditions-under-49-usc-ss-22905c1.

(e) Impacted Rail Carrier or Real Property Owner Approvals. In accordance with 49 U.S.C. § 22909(e)(2)(A), prior to proceeding with the construction of the Project funded by this Agreement, if applicable, Recipient will obtain necessary approvals to commence construction from any impacted rail carriers or real property owners. If the Project is a planning project, as described in 49 U.S.C. § 22909(d)(6), the Recipient agrees to work collaboratively with rail carriers and right-of-way owners.

(f) Labor Protective Arrangements

(1) Notwithstanding 49 U.S.C. § 22905(e)(1), and in accordance with 49 U.S.C. § 22909(j)(3), any employee covered by the Railway Labor Act (45 U.S.C. § 151 et seq.) and the Railroad Retirement Act of 1974 (45 U.S.C. § 231 et seq.) who is adversely affected by actions taken in connection with the project financed in whole or in part by such grant shall be covered by employee protective arrangements required to be established under 49 U.S.C. § 22905(c)(2)(B). In accordance with 49 U.S.C. § 22905(c)(2)(B), the Recipient will ensure compliance with the protective arrangements that are equivalent to those established under Section 504 of the Railroad Revitalization and Regulatory Reform Act of 1976, 49 U.S.C. § 22404, as such protective arrangements are described in the final FRA guidance titled Equivalent Protections for Railroad Employees and effective December 28, 2022, included herein in Exhibit B.

(2) In accordance with 49 U.S.C. § 22909(j)(3), Recipient, and any successors, assigns, and contractors of Recipient:

i. shall be bound by the employee protective arrangements required under subparagraph (1); and

ii. shall be responsible for the implementation of such arrangements and for the obligations under such arrangements, but may arrange for another entity to take initial responsibility for compliance with the conditions of such arrangement.

(3) Labor protections required pursuant to Subsection (f) of Section 26.2 of this Attachment 1 shall be documented consistent with Article 18 of this Attachment 1.

(g) Davis-Bacon and Related Acts Provisions. In accordance with 49 U.S.C. § 22905(c)(2)(A), if the Project funded by this Agreement uses rights-of-way owned by a railroad, the Recipient will ensure compliance with the standards of 49 U.S.C. § 24312 with respect to the Project in the same manner that Amtrak is required to comply with

those standards for construction work financed under an agreement made under 49 U.S.C.§ 24308(a). For these purposes, wages in collective bargaining agreements negotiated under the Railway Labor Act are deemed to comply with Davis-Bacon Act requirements.

(h) Replacement of Existing Intercity Passenger Rail Service. If an intercity passenger rail transportation provider replaces Amtrak intercity passenger rail service through a Project funded by this Agreement, then such provider must comply with the provisions of 49 U.S.C. § 22905(d).

26.3 Consolidated Rail Infrastructure and Safety Improvements Grants Clauses

The Recipient agrees to comply with the clauses in Section 26.3 of this Attachment 1.

Consistent with 49 U.S.C. § 22905(e), clauses (b) and (c) through (g) of Section 26.3 of this Attachment 1 do not apply to: 1) commuter rail passenger transportation (as defined in 49 U.S.C. § 24102(3)) operations of a State or local government authority (as those terms are defined in 49 U.S.C. § 5302) or its contractor performing services in connection with commuter rail passenger operations; 2) the Alaska Railroad or its contractors; or 3) Amtrak's access rights to railroad right of way and facilities under current law.

(a) Federal Share. The Federal Share of total Project costs shall not exceed 80 percent.

(b) Buy America. In lieu of Section 12.1 of this Attachment 1:

(1) for infrastructure projects, steel, iron, and manufactured products used in the Project are subject to 49 U.S.C. §22905(a), as implemented by FRA. The Recipient acknowledges that this Agreement is neither a waiver of 49 U.S.C. § 22905(a)(1) nor a finding under 49 U.S.C. § 22905(a)(2). For infrastructure projects, construction materials used in the Project are subject to the domestic preference requirement at § 70914 of the Build America, Buy America Act, Pub. L. No. 117-58, div. G, tit. IX, subtit. A, 135 Stat. 429, 1298 (2021) and 2 C.F.R. part 184, as implemented by OMB, USDOT and FRA. The Recipient acknowledges that this Agreement is neither a waiver of § 70914(a) nor a finding under § 70914(b).

(2) for non-infrastructure projects, steel, iron, and manufactured products used in the Project are subject to 49 U.S.C. § 22905(a), as implemented by FRA. The Recipient acknowledges that this Agreement is neither a waiver of 49 U.S.C. § 22905(a)(1) nor a finding under 49 U.S.C. § 22905(a)(2).

(3) under this Section, "infrastructure project" has the definition provided in 2 C.F.R. § 184.3.

(4) for all projects, as appropriate and to the extent consistent with law, the Recipient should under 2 C.F.R. § 200.322, to the greatest extent practicable under this award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. The Recipient shall

include the requirements of 2 C.F.R. § 200.322 in all subawards including all contracts and purchase orders for work or products under this award.

(c) Operators Deemed Rail Carriers. The Recipient recognizes and agrees that 49 U.S.C. § 22905(b) provides that persons conducting rail operations over rail infrastructure constructed or improved in whole or in part with funds provided under chapter 229 of Title 49, United States Code, will be considered a "rail carrier" as defined by 49 U.S.C. § 10102(5), for purposes of Title 49, United States Code, and any other statute that adopts that definition or in which that definition applies, including: the Railroad Retirement Act of 1974 (45 U.S.C. § 231 et seq.); the Railway Labor Act (45 U.S.C. § 151 et seq.); and the Railroad Unemployment Insurance Act (45 U.S.C. § 351 et seq.). The Recipient agrees to reflect this provision in its agreements (if any) with any entity operating rail services over such rail infrastructure.

(d) Railroad Agreements. In accordance with 49 U.S.C. § 22905(c)(1), if the Project funded by this Agreement uses rights-of-way owned by a railroad, then Recipient represents that it has entered into a written agreement with that railroad owner, which includes: compensation for such use; assurances regarding the adequacy of infrastructure capacity to accommodate both existing and future freight and passenger operations; an assurance by the railroad that collective bargaining agreements with railroad's employees (including terms regulating the contracting of work) will remain in full force and effect according to their terms for work performed by the railroad on the railroad transportation corridor; and an assurance that Recipient complies with liability requirements consistent with 49 U.S.C. § 28103.

By signing this Agreement, Recipient certifies that the written agreement referenced in this Section 26.3(d) has been executed or is not required.

Additional guidance on compliance with the Railroad Agreements provisions is available on FRA's website at: https://railroads.dot.gov/elibrary/frequently-asked-questions-about-rail-improvement-grant-conditions-under-49-usc-ss-22905c1.

(e) Labor Protective Arrangements. In accordance with 49 U.S.C. § 22905(c)(2)(B), if the Project funded by this Agreement uses rights-of-way owned by a railroad, then the Recipient will ensure compliance with the protective arrangements that are equivalent to those established under Section 504 of the Railroad Revitalization and Regulatory Reform Act of 1976, 49 U.S.C. § 22404. Such protective arrangements are included herein as Exhibit B.5.

(f) Davis-Bacon and Related Acts Provisions. In accordance with 49 U.S.C. § 22905(c)(2)(A), if the Project funded by this Agreement uses rights-of-way owned by a railroad, the Recipient will ensure compliance with the standards of 49 U.S.C. § 24312 with respect to the Project in the same manner that Amtrak is required to comply with those standards for construction work financed under an agreement made under 49 U.S.C.§ 24308(a). For these purposes, wages in collective bargaining agreements

negotiated under the Railway Labor Act are deemed to comply with Davis-Bacon Act requirements.

(g) Replacement of Existing Intercity Passenger Rail Service. If an intercity passenger rail transportation provider replaces Amtrak intercity passenger rail service through a Project funded by this Agreement, then such provider must comply with the provisions of 49 U.S.C. § 22905(d).

26.4 Restoration and Enhancement Grants Clauses

The Recipient agrees to comply with the clauses in Section 26.4 of this Attachment 1.

Consistent with 49 U.S.C. § 22905(e), clauses (b) and (c) through (g) of Section 26.4 do not apply to: 1) commuter rail passenger transportation (as defined in 49 U.S.C. § 24102(3)) operations of a State or local government authority (as those terms are defined in 49 U.S.C. § 5302) or its contractor performing services in connection with commuter rail passenger operations; 2) the Alaska Railroad or its contractors; or 3) Amtrak's access rights to railroad right-of -way and facilities under current law.

(a) Maximum Funding Limitation. A grant authorized by 49 U.S.C. § 22908 may not exceed:

(1) 90 percent of the projected net operating costs for the first year of service;

(2) 80 percent of the projected net operating costs for the second year of service;

(3) 70 percent of the projected net operating costs for the third year of service;

(4) 60 percent of the projected net operating costs for the fourth year of service;

(5) 50 percent of the projected net operating costs for the fifth year of service; and

(6) 30 percent of the projected net operating costs for the sixth year of service.

(b) Buy America. In lieu of Section 12.1 of this Agreement 1:

(1) for infrastructure projects, steel, iron, and manufactured products used in the Project are subject to 49 U.S.C. § 22905(a), as implemented by FRA. The Recipient acknowledges that this Agreement is neither a waiver of 49 U.S.C. § 22905(a)(1) nor a finding under 49 U.S.C. § 22905(a)(2). For infrastructure projects, construction materials used in the Project are subject to the domestic preference requirement at § 70914 of the Build America, Buy America Act, Pub. L. No. 117-58, div. G, tit. IX, subtit. A, 135 Stat. 429, 1298 (2021) and 2 C.F.R. part 184, as implemented by OMB, USDOT, and FRA. The Recipient acknowledges that this Agreement is neither a waiver of § 70914(a) nor a finding under § 70914(b).

(2) for non-infrastructure projects, steel, iron, and manufactured products used in the Project are subject to 49 U.S.C. § 22905(a), as implemented by FRA. The

Recipient acknowledges that this Agreement is neither a waiver of 49 U.S.C. § 22905(a)(1) nor a finding under 49 U.S.C. § 22905(a)(2).

(3) under Section 26.4 of this Attachment 1, "infrastructure project" has the definition provided in 2 C.F.R. § 184.3.

(4) for all projects, as appropriate and to the extent consistent with law, the Recipient should under 2 C.F.R. § 200.322, to the greatest extent practicable under this award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. The Recipient shall include the requirements of 2 C.F.R. § 200.322 in all subawards including all contracts and purchase orders for work or products under this award.

(c) Operators Deemed Rail Carriers. The Recipient recognizes and agrees that 49 U.S.C. § 22905(b) provides that persons conducting rail operations over rail infrastructure constructed or improved in whole or in part with funds provided under chapter 229 of Title 49, United States Code, will be considered a "rail carrier" as defined by 49 U.S.C. § 10102(5), for purposes of Title 49, United States Code, and any other statute that adopts that definition or in which that definition applies, including: the Railroad Retirement Act of 1974 (45 U.S.C. § 231 et seq.); the Railway Labor Act (45 U.S.C. § 151 et seq.); and the Railroad Unemployment Insurance Act (45 U.S.C. § 351 et seq.). The Recipient agrees to reflect this provision in its agreements (if any) with any entity operating rail services over such rail infrastructure.

(d) Railroad Agreements. In accordance with 49 U.S.C. § 22905(c)(1), if the Project funded by this Agreement uses rights-of-way owned by a railroad, then Recipient represents that it has entered into a written agreement with that railroad owner, which includes: compensation for such use; assurances regarding the adequacy of infrastructure capacity to accommodate both existing and future freight and passenger operations; an assurance by the railroad that collective bargaining agreements with railroad's employees (including terms regulating the contracting of work) will remain in full force and effect according to their terms for work performed by the railroad on the railroad transportation corridor; and an assurance that Recipient complies with liability requirements consistent with 49 U.S.C. § 28103.

By signing this Agreement, Recipient certifies that the written agreement referenced in this Section 26.4(d) has been executed or is not required.

Additional guidance on compliance with the Railroad Agreements provisions is available on FRA's website at: https://railroads.dot.gov/elibrary/frequently-asked-questions-about-rail-improvement-grant-conditions-under-49-usc-ss-22905c1.

(e) Labor Protective Arrangements. In accordance with 49 U.S.C. § 22905(c)(2)(B), if the Project funded by this Agreement uses rights-of-way owned by a railroad, then the Recipient will ensure compliance with the protective arrangements that are equivalent to those established under Section 504 of the Railroad Revitalization and Regulatory Reform

Act of 1976, 49 U.S.C. § 22404. Such protective arrangements are included herein as Exhibit B.5.

(f) Davis-Bacon and Related Acts Provisions. In accordance with 49 U.S.C. § 22905(c)(2)(A), if the Project funded by this Agreement uses rights-of-way owned by a railroad, the Recipient will ensure compliance with the standards of 49 U.S.C. § 24312 with respect to the Project in the same manner that Amtrak is required to comply with those standards for construction work financed under an agreement made under 49 U.S.C.§ 24308(a). For these purposes, wages in collective bargaining agreements negotiated under the Railway Labor Act are deemed to comply with Davis-Bacon Act requirements.

(g) Replacement of Existing Intercity Passenger Rail Service. If an intercity passenger rail transportation provider replaces Amtrak intercity passenger rail service through a Project funded by this Agreement, then such provider must comply with the provisions of 49 U.S.C. § 22905(d).

(h) Route Reporting. The Recipient will provide similar information regarding the route performance, financial, and ridership projections, and capital and business plans that Amtrak is required to provide, and such other data and information as is required by Article 4 of Attachment 2 of this Agreement.

(i) Termination. In addition to the terms of this Attachment 1, FRA may terminate this Agreement upon the cessation of service, or the violation of any other term of this Agreement.

26.5 Federal-State Partnership for Intercity Passenger Rail and Federal-State Partnership for State of Good Repair Clauses

The Recipient agrees to comply with the clauses in Section 26.5 of this Attachment 1.

Consistent with 49 U.S.C. § 22905(e), clauses (b) through (g) of Section 26.5 of this Attachment 1 do not apply to: 1) commuter rail passenger transportation (as defined in 49 U.S.C. § 24102(3)) operations of a State or local government authority (as those terms are defined in 49 U.S.C. § 5302) or its contractor performing services in connection with commuter rail passenger operations; 2) the Alaska Railroad or its contractors; or 3) Amtrak's access rights to railroad right of way and facilities under current law.

(a) Federal Share. The Federal Share of total Project costs shall not exceed 80 percent.

(b) Buy America. In lieu of Section 12.1 of this Attachment 1:

(1) for infrastructure projects, steel, iron, and manufactured products used in the Project are subject to 49 U.S.C. § 22905(a), as implemented by FRA. The Recipient acknowledges that this Agreement is neither a waiver of 49 U.S.C. § 22905(a)(1) nor a finding under 49 U.S.C. § 22905(a)(2). For infrastructure projects, construction materials used in the Project are subject to the domestic preference requirement at § 70914 of the Build America, Buy America Act, Pub. L. No. 117-58,

div. G, tit. IX, subtit. A, 135 Stat. 429, 1298 (2021) and 2 C.F.R. part 184, as implemented by OMB, USDOT and FRA. The Recipient acknowledges that this Agreement is neither a waiver of § 70914(a) nor a finding under § 70914(b).

(2) for non-infrastructure projects, steel, iron, and manufactured products used in the Project are subject to 49 U.S.C. § 22905(a), as implemented by FRA. The Recipient acknowledges that this Agreement is neither a waiver of 49 U.S.C. § 22905(a)(1) nor a finding under 49 U.S.C. § 22905(a)(2).

(3) under this Section, "infrastructure project" has the definition provided in 2 C.F.R. § 184.3.

(4) for all projects, as appropriate and to the extent consistent with law, the Recipient should under 2 C.F.R. § 200.322, to the greatest extent practicable under this award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. The Recipient shall include the requirements of 2 C.F.R. § 200.322 in all subawards including all contracts and purchase orders for work or products under this award.

(c) Operators Deemed Rail Carriers. The Recipient recognizes and agrees that 49 U.S.C. § 22905(b) provides that persons conducting rail operations over rail infrastructure constructed or improved in whole or in part with funds provided under chapter 229 of Title 49, United States Code, will be considered a "rail carrier" as defined by 49 U.S.C. § 10102(5), for purposes of Title 49, United States Code, and any other statute that adopts that definition or in which that definition applies, including: the Railroad Retirement Act of 1974 (45 U.S.C. § 231 et seq.); the Railway Labor Act (45 U.S.C. § 151 et seq.); and the Railroad Unemployment Insurance Act (45 U.S.C. § 351 et seq.). The Recipient agrees to reflect this provision in its agreements (if any) with any entity operating rail services over such rail infrastructure.

(d) Railroad Agreements. In accordance with 49 U.S.C. § 22905(c)(1), if the Project funded by this Agreement uses rights-of-way owned by a railroad, then Recipient represents that it has entered into a written agreement with that railroad owner, which includes: compensation for such use; assurances regarding the adequacy of infrastructure capacity to accommodate both existing and future freight and passenger operations; an assurance by the railroad that collective bargaining agreements with railroad's employees (including terms regulating the contracting of work) will remain in full force and effect according to their terms for work performed by the railroad on the railroad transportation corridor; and an assurance that Recipient complies with liability requirements consistent with 49 U.S.C. § 28103.

By signing this Agreement, Recipient certifies that the written agreement referenced in this Section 26.5(d) has been executed or is not required.

Additional guidance on compliance with the Railroad Agreements provisions is available on FRA's website at: https://railroads.dot.gov/elibrary/frequently-asked-questions-about-rail-improvement-grant-conditions-under-49-usc-ss-22905c1.

(e) Labor Protective Arrangements. In accordance with 49 U.S.C. § 22905(c)(2)(B), if the Project funded by this Agreement uses rights-of-way owned by a railroad, then the Recipient will ensure compliance with the protective arrangements that are equivalent to those established under Section 504 of the Railroad Revitalization and Regulatory Reform Act of 1976, 49 U.S.C. § 22404. Such protective arrangements are included herein as Exhibit B.5.

(f) Davis-Bacon and Related Acts Provisions. In accordance with 49 U.S.C. § 22905(c)(2)(A), if the Project funded by this Agreement uses rights-of-way owned by a railroad, the Recipient will ensure compliance with the standards of 49 U.S.C. § 24312 with respect to the Project in the same manner that Amtrak is required to comply with those standards for construction work financed under an agreement made under 49 U.S.C.§ 24308(a). For these purposes, wages in collective bargaining agreements negotiated under the Railway Labor Act are deemed to comply with Davis-Bacon Act requirements.

(g) Replacement of Existing Intercity Passenger Rail Service. If an intercity passenger rail transportation provider replaces Amtrak intercity passenger rail service through a Project funded by this Agreement, then such provider must comply with the provisions of 49 U.S.C. § 22905(d).

(h) Northeast Corridor Cost Allocation. For projects located on the Northeast Corridor, as that term is defined in 49 U.S.C. § 24911(a)(4), Amtrak and the public authorities providing commuter rail passenger transportation at the Project location on the Northeast Corridor must remain in compliance with 49 U.S.C. § 24905(c)(2).

(i) Interest and Financing Costs. Pursuant to 49 U.S.C. § 24911(g)(2), interest and other financing costs of efficiently carrying out a part of the Project within a reasonable time are a cost of carrying out the Project under a Phased Funding Agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the Project at the time of borrowing. The Recipient will certify to FRA's satisfaction that the Recipient has shown reasonable diligence in seeking the most favorable financing terms.

###

Attachment 2

PROJECT-SPECIFIC TERMS AND CONDITIONS

Project-Specific Terms and Conditions
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ARTICLE 1: PROJECT-SPECIFIC DESIGNATIONS

1.1 Recipient

This Agreement (Agreement) is between the Federal Railroad Administration (FRA) and the City of Banning (the Recipient).

1.2 Project and Purpose

The purpose of this award is to fund a Fiscal Year (FY) 2022 Railroad Crossing Elimination Program grant for the Hargrave Grade Separation Planning Project (the Project), as described in Article 4 of this Attachment 2, to help achieve the goals identified in the Notice of Funding Opportunity for the Notice of Funding Opportunity for Railroad Crossing Elimination Program, 87 Fed. Reg. 40335, July 6, 2022, that solicited applications for Federal financial assistance. FRA and the Recipient will accomplish that purpose by timely completing the Project and ensuring that this award does not substitute for non-Federal investment in the Project, except as proposed in the Application.

1.3 Program Designations

(a) Research and Development. This award is not for research and development.

(b) Project Size. This award is for a non-Major Project as that term is defined in FRA Guidance on Development and Implementation of Railroad Capital Projects, January 11, 2023 (Railroad Capital Projects Guidance).

(c) Phased Funding. This award is not a phased funding agreement as further discussed in Section 6.7 of this Attachment 2.

(d) Grant or Cooperative Agreement. This award is made as a Grant Agreement.

(e) Security Risk. This award is for a Project that has a low security risk.

(f) Rural Area. The information the Recipient provided to FRA, including in the Application, demonstrates this award is not for a Project in a Rural Area.

ARTICLE 2: SPECIAL TERMS AND CONDITIONS

There are no special terms for this award.

ARTICLE 3: ADMINISTRATIVE INFORMATION

3.1 Application

Application Title: Hargrave Grade Separation Planning Project

Application Date: October 10, 2022

3.2 FRA Awarding Official

FRA Office of Railroad Development
Federal Railroad Administration
1200 New Jersey Ave, SE
Washington, DC 20590
FRA-Grants@dot.gov

3.3 Federal Award Date

The "Federal Award Date" is the effective date of this Agreement, as defined under Section 24.4 of Attachment 1 of this Agreement.

3.4 Program Name and Assistance Listings Number

For the FY22 Railroad Crossing Elimination Grant Program, the Assistance Listings Number is 20.327 and the Assistance Listings Title is Railroad Crossing Elimination.

3.5 Recipient's Unique Entity Identifier

The Recipient's Unique Entity Identifier, as defined at 2 C.F.R. § 25.415, is listed in Section 1B on the Agreement cover sheet.

3.6 Federal Award Identification Number

The Federal Award Identification Number is listed in Section 2 on the Agreement cover sheet as the "Agreement Number."

ARTICLE 4: STATEMENT OF WORK

4.1 General Project Description

The objective of this Project is to accomplish project development activities to prepare the City of Banning, California for a future proposed project for the construction of a grade separation and surface transportation infrastructure improvements on the Hargrave Street at-grade highway-rail crossing (U.S. Department of Transportation Crossing ID# 760695J). Project activities include: engineering, stakeholder engagement and agreements, environmental compliance and documentation, and design plans and specifications, bidding documents, cost estimates, financial plan, and procurement strategy. The Project will provide the foundation to eliminate an at-grade crossing at Hargrave Street through construction of a rail bridge and road undercrossing that will separate rail and motor vehicle traffic. All project elements are synergistic and essential to ensure a safer, more effective transportation system that will better serve the disadvantaged community of Banning.

4.2 Project Location

The Project will lay the groundwork for surface transportation infrastructure improvements in the vicinity of the Hargrave Street at-grade crossing at railroad milepost 0568.720, located at Latitude 33.923503 and Longitude -116.867964. This Union Pacific Railroad owned crossing is approximately 230 feet south of Interstate 10 in the City of Banning, California. Banning is located approximately 80 miles

east of downtown Los Angeles and 30 miles west of Palm Springs and is connected to these metropolitan areas by both I-10 and the railroad.

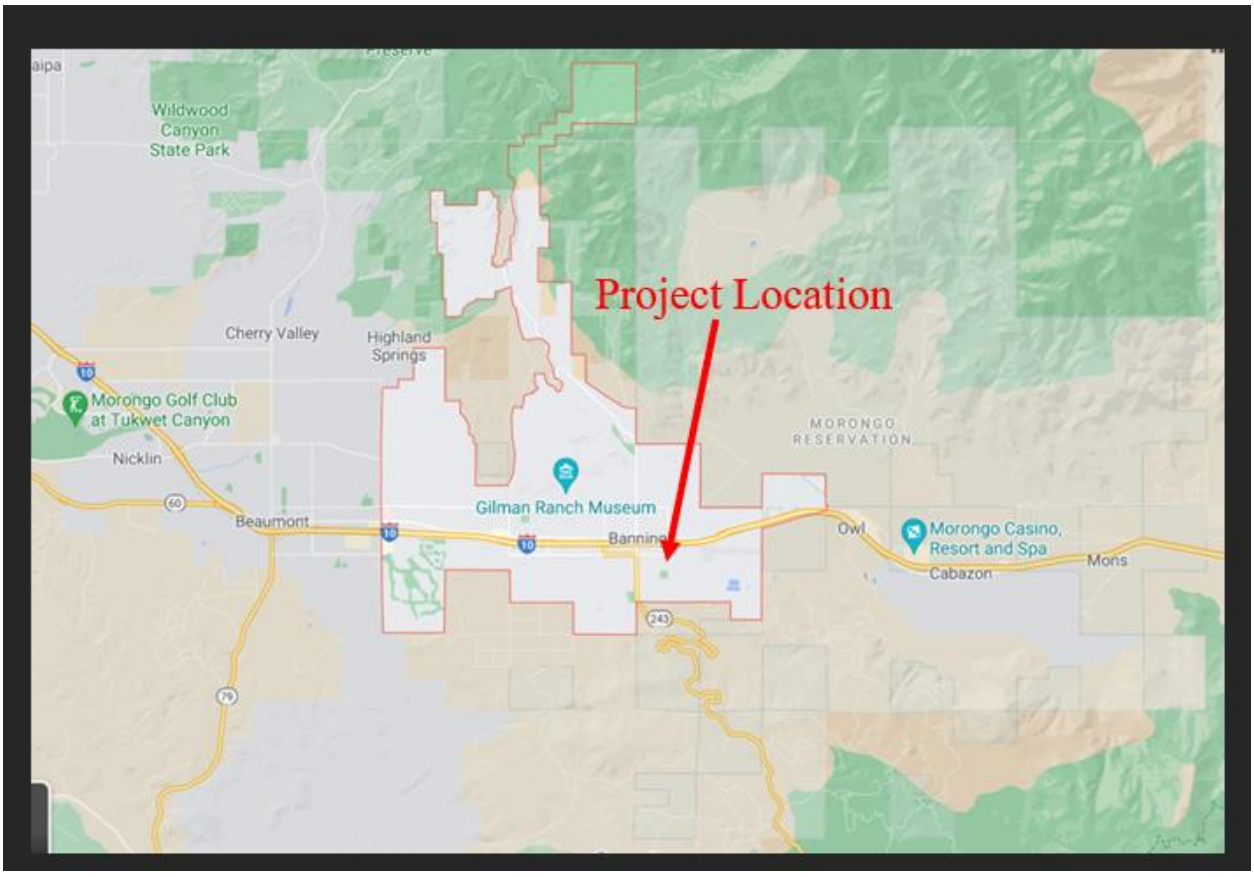


Exhibit A: Map depicting Project location and markets served.

4.3 Project Scope

The Recipient will notify FRA in writing of any requested changes in Project Scope and will not proceed with the changed scope unless approved by FRA in writing. If approved, changes to Project Scope may require additional environmental review or an amendment to this Agreement.

Task 1: Project Administration and Management

Subtask 1.1: Project Administration

The Recipient will perform all tasks required for the Project through a coordinated process, which will involve affected railroad owners, operators, and funding partners, including:

- Union Pacific Railroad – railroad/crossing owner
- California Department of Transportation (Caltrans) – manages nearby state highway/freeway lanes

- Riverside County Transportation Commission – will provide funding for this planning phase of the project
- Selected planning/design consultant – responsible for carrying out project tasks and activities
- FRA

The Recipient will facilitate the coordination of all activities necessary for implementation of the Project. The Recipient will:

- complete necessary steps to hire a qualified consultant/contractor to perform required Project work, as necessary;
- hold regularly scheduled Project meetings with FRA;
- inspect and approve work as it is completed; and
- participate in other coordination, as needed.

Subtask 1.2: Project Management Plan

The Recipient will prepare a Project Management Plan (PMP), that describes how the Project will be implemented and monitored to ensure effective, efficient, and safe delivery of the Project on time and within budget. The PMP will describe, in detail, the activities and steps necessary to complete the tasks outlined in this Statement of Work.

The PMP will include a Project Schedule and Project Budget for the work to be performed under this Agreement. The Project Schedule will be consistent with the Estimated Project Schedule in Section 5.2 of this Attachment 2, but provide a greater level of detail. Similarly, the Project Budget should be consistent with the Approved Project Budget in Section 6.5 of this Attachment 2, but provide a greater level of detail.

The Recipient will submit the PMP to FRA for review and approval. The Recipient will implement the Project as described in the approved PMP. The Recipient will not begin work on subsequent tasks until FRA has provided written approval of the PMP, unless FRA has provided pre-award authority for such work under Section 6.6 of this Attachment 2. FRA will not reimburse the Recipient for costs incurred in contravention of this requirement.

FRA may require the Recipient to update the PMP. The Recipient will submit any such updates to FRA for review and approval, and FRA will determine if updates to the PMP require an amendment to this Agreement. The Project Budget and Project Schedule may be revised consistent with Article 5 of Attachment 1 of this Agreement without amending this Agreement.

The Recipient will identify agreements governing the construction, operation, and maintenance of the Project in the PMP. If requested by FRA, the Recipient will provide FRA the final, executed copies of any agreements within ten business days of the request.

The PMP will be consistent with the FRA Guidance on Development and Implementation of Railroad Capital Projects (Railroad Capital Projects Guidance) and 49 U.S.C. § 22903, as applicable.

Subtask 1.3: Project Closeout

The Recipient will submit a Final Performance Report as required by Section 7.2 of Attachment 1 of this Agreement, which should describe the cumulative activities of the Project, including a complete description of the Recipient's achievements with respect to the Project objectives and milestones.

Task 1 Deliverables:

Deliverable ID	Subtask	Deliverable Name
1.1	1.2	Project Management Plan
1.2	1.3	Final Performance Report

Task 2: Environmental Documentation

Subtask 2.1: Draft and Final NEPA Document

The Recipient will complete environmental clearance documentation for the Project. The determination of the appropriate class of action and/or level of documentation and the Project's environmental impact will be made by FRA. If the Recipient concludes that the Project might qualify for a Categorical Exclusion (CE) in accordance with the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 et seq.), other environmental statutes, related regulatory requirements, and FRA's NEPA implementing regulations (23 CFR part 771, Environmental Impact and Related Procedures), the Recipient will complete the FRA CE worksheet including providing the current project description, appropriate project maps, and any other relevant background information and submit it to assist FRA in making a class of action and/or level of documentation determination. The Recipient will evaluate the Project with the use of qualified environmental professionals to determine its impact, including conducting a review of existing literature, contacting relevant agencies, and performing field reconnaissance.

If FRA determines the appropriate class of action is a CE, the Recipient will complete any additional studies and documentation for the FRA CE in accordance with applicable law. The Recipient will then document the findings and submit the CE worksheet with supporting documentation for FRA review and approval.

If FRA does not concur that a CE is appropriate for this Project, FRA will prepare an Environmental Assessment (EA) in accordance with NEPA, other environmental statutes, related regulatory requirements, and FRA's NEPA implementing regulations (23 CFR part 771, Environmental Impact and Related Procedures). To facilitate FRA's preparation of the EA, the Recipient will complete needed studies to evaluate potential effects of the action, and if determined appropriate in consultation with FRA, develop a public involvement plan. The Recipient will prepare and submit an EA to FRA for review

and approval. If, through the EA process, FRA confirms that no significant impacts are anticipated, the Recipient will prepare a Finding of No Significant Impact (FONSI) and submit it to the FRA for review and approval.

If there is an indication of potential for significant impact that cannot be mitigated and FRA determines that an Environmental Impact Statement (EIS) is required, the Recipient, in consultation with FRA, will develop a scope, schedule, and budget for the preparation of an EIS as well as additional public outreach activities.

The Recipient is responsible for identifying all necessary permits required for the Project's implementation.

Task 2 Deliverables:

Deliverable ID	Subtask	Deliverable Name
2.1	2.1	Draft and Final NEPA Document

Task 3: Preliminary Engineering and Final Design

Subtask 3.1 Pre-design activities

The Recipient will prepare and submit the following documents to FRA for acceptance before commencing work on the Preliminary Engineering Design.

- A Basis of Design that documents Roadway, Railroad, and other design standards used for all elements of the Project. The Basis of Design shall also include all assumptions, rationale, and considerations used for calculations and decisions required during subsequent engineering design.

Subtask 3.2: Preliminary Engineering

The Recipient will complete Preliminary Engineering for FRA review and approval, consistent with the FRA-approved NEPA document. Preliminary Engineering will include all design development and documentation to demonstrate the effectiveness, feasibility, and readiness of the project.

- Preliminary Engineering Plans must include at a minimum:
  - A title sheet; an index identifying various plan sheets comprising the drawing set; notation of design criteria referenced; and a legend of symbols and abbreviations.
  - A cover sheet signed by all stakeholders impacted by the proposed project.
  - Drawings prepared at an appropriate scale with the following information:
    - Survey and base mapping with topography.
    - Pertinent water surface elevations.

- Existing and proposed right-of-way limits.
- Property lines showing existing and proposed ownership of the roadway and railroad.
- Any temporary or permanent easement required for construction.
- Existing and proposed utility relocations.
- Limits of disturbance (must be within the approved NEPA limits of disturbance/area of potential effects).
- Passenger platforms, stations, vertical circulation, or other structures in the area with dimensions from track centers.
- Existing and proposed railroad horizontal and vertical alignments with geometry data.
- Existing and proposed vertical and horizontal geometry of the proposed roadway.
- Detail and extent of any retaining wall needed for the project.
- Proposed track changes, including removals and installations.
- Typical roadway and bridge section.
- Access for the contractor and staging areas.
- Critical components such as rail centerlines, track centers, turnout sizes, and railway dimensions.
- Layout of the proposed bridge, including superstructure, substructure, abutments, wingwalls, and foundations\control house (movable section), riprap, and fender system.

  - Typical approach and bridge cross sections with the following information:
    - Cross sections showing the proposed work to existing conditions and at other locations requiring easements, retaining walls, or right-of-way acquisitions, as needed.
  - Construction phasing and contractor access plans that include the following:
    - Maintenance of roadway and rail traffic during construction.
    - Any roadway detour or railroad shoofly needed for construction.
    - Proposed construction access, staging, and storage areas.

- Utility Coordination Plan identifying utility type, size, and owners in the area for which conflicts may occur and suggested utility relocation in case of conflict and approval of relocation by the utility owners. This includes all aerial and underground utilities affected by the construction.
- Geotechnical Report with investigation data and recommendations for type of support structures based on borings at proposed bridge support locations.
- Risk Register showing risks, risk owner, and mitigation strategies.
- A Preliminary Engineering Cost Estimate with detailed and itemized project costs, including any contingency to capture risks and separate itemized Force Account Work required by the railroad or the roadway owner, based upon FRA line items. Use FRA Capital Cost Estimating Guidance, available at the following link: Capital Cost Estimating Guidance (Final) | FRA (dot.gov)

The Recipient will not proceed to Final Design until NEPA is complete and both NEPA and Preliminary Engineering are approved by FRA.

Subtask 3.3: Final Design and Right-of-Way Engineering

The Recipient will submit a Final Design Package to FRA for review and acceptance. The Final Design Package will advance the approved Preliminary Engineering design and will include Final Design Plans, updated cost estimates based on Final Design quantities, and schedules. The Recipient will be responsible for ensuring the future proposed project is constructed in accordance with the FRA-approved NEPA document. In addition, the Final Design package shall include right of way map and parcel maps or other details required for property acquisition.

Task 3 Deliverables:

Deliverable ID	[Subtask]	Deliverable Name
3.1	3.1	Basis of Design Report
3.2	3.2	Preliminary Design documents
3.3	3.3	Final Design documents (including right of way acquisition plans)
3.4	3.3	Stakeholder approvals including roadway owner and Railroad
3.5	3.3	Copies of any local, state, or federal permits obtained

Additional Task: None.

4.4 Implement Required Environmental Commitments

Environmental commitments for the Project may be identified in the FRA-approved NEPA document, as described in Task 2. As applicable, the Recipient will ensure the Project's final design incorporates any required environmental commitments.

ARTICLE 5: AWARD DATES AND ESTIMATED PROJECT SCHEDULE

5.1 Award Dates

Budget Period End Date: 2/28/2030

Period of Performance End Date: 2/28/2030

5.2 Estimated Project Schedule

Milestones associated with this Agreement are identified in Table 5-A: Estimated Project Schedule. The Recipient will complete these milestones to FRA's satisfaction by the Schedule Date, subject to Article 5 of Attachment 1 of this Agreement. The Recipient will notify FRA in writing when it believes it has achieved the milestone.

Table 5-A: Estimated Project Schedule

Milestone	Schedule Date
NEPA Completion	6/30/2029
Preliminary Engineering Completion	7/31/2029
Final Design Completion	8/31/2029

ARTICLE 6: AWARD AND PROJECT FINANCIAL INFORMATION

6.1 Award Amount

Agreement Federal Funds: $2,800,000

6.2 Federal Obligation Information

Federal Obligation Type: Single

6.3 Federal Authorization and Funding Source.

Authorizing Statute: Sections 22104 and 22305 of the Infrastructure Investment and Jobs Act, Public Law 117-58 (November 15, 2021); 49 U.S.C. § 22909

Appropriation: Infrastructure Investment and Jobs Act, Division J, Title VIII (Public Law 117-58 (2021))

6.4 Funding Availability

Program funding that is obligated under this Agreement remains available until expended.

6.5 Approved Project Budget

The estimated total Project cost under this Agreement is $4,300,000.

FRA will contribute a maximum of 65.1 percent of the total Project cost, not to exceed the Agreement Federal Funds in Section 6.1 of this Attachment 2. FRA will fund the Project at the lesser amount of the Agreement Federal Funds or the FRA maximum contribution percentage of total Project costs.

The Recipient will contribute $1,500,000 in Agreement Non-Federal Funds. Recipient's Agreement Non-Federal Funds are comprised of $1,000,000 from the Riverside County Transportation Commission (RCTC) and $500,000 in Banning's local Transportation Impact Fee (TIF) funding.

The Recipient will complete the Project to FRA's satisfaction within the Approved Project Budget, subject to Article 5 of Attachment 1 of this Agreement.

Table 6-A: Approved Project Budget by Task

Task #	Task Title	Agreement Federal Funds	Agreement Non-Federal Funds		Total
			RCTC	TIF	
1	Project Administration and Management	$0	$50,000	$0	$50,000
2	Environmental Documentation	$800,000	$150,000	$0	$950,000
3	Preliminary Engineering and Final Design	$2,000,000	$800,000	$500,000	$3,300,000
Total		**$2,800,000**	**$1,500,000**		**Total Project Cost: $4,300,000**

Table 6-B: Approved Project Budget by Source

Funding Source	Total Amount	Percentage of Total Project Cost
Federal Share	**$2,800,000**	**65.1%**
Agreement Federal Funds	$2,800,000	65.1%
FRA Grant Program	$2,800,000	65.1%
Agreement Non-Federal Funds	**$1,500,000**	**34.9%**
Riverside County Transportation Commission (RCTC)	$1,000,000	23.3%
City of Banning Transportation Impact Fees (TIF)	$500,000	11.6%

6.6 Pre-Award Costs

None.

Consistent with 2 C.F.R. part 200, costs incurred before the date of this Agreement are not allowable costs under this award. FRA will neither reimburse those costs under this award nor consider them as a non-Federal cost-sharing contribution to this award.

6.7 Phased Funding Agreement

Not applicable.

ARTICLE 7: PERFORMANCE MEASUREMENT INFORMATION

Table 7-A: Performance Measurement Table identifies the performance measures that this Project is expected to achieve. These performance measures will enable FRA to assess the Recipient's progress in achieving grant program goals and objectives. The Recipient will report on these performance measures in accordance with the frequency and duration specified in Table 7-A.

Upon Project completion, the Recipient will submit reports comparing the actual Project performance of the new and or improved asset(s) against the pre-Project (baseline) performance and expected post-Project performance as described in Table 7-A. The Recipient will submit the performance measures report to the Project Manager in accordance with Table 7-A.

Table 7-A: Performance Measurement Table

Goal	Objective	Performance Measure	Description of Measure	Measurement	Reporting
Goal 1	Complete Project planning, approval, and environmental assessment tasks to advance project to construction	NEPA Documents	Completion of FRA accepted environmental clearance documentation for the project. Documentation includes the final environmental review document and the environmental clearance/decision document.	**Pre-Project (Baseline) Performance as of:** 1/1/2024	**Frequency:** One time
				Expected Post-Project Performance: Completion of FRA accepted environmental clearance/ decision documentation	**Duration:** During Period of Performance
Goal 2	Develop Plans, Specifications, and Engineering Estimates to advance project to construction	Final Design	Completion of FRA accepted Final Design documents to support future procurement and construction work activities.	**Pre-Project (Baseline) Performance as of:** 1/1/2024	**Frequency:** One time
				Expected Post-Project Performance: Completed 100% Plans/Specs/Estimates –	**Duration:**

				ready to proceed with construction	During Period of Performance

ARTICLE 8: ENVIRONMENTAL COMPLIANCE

In accordance with the National Environmental Policy Act (NEPA; 42 U.S.C. § 4321 et seq.), other environmental statutes, related regulatory requirements, and FRA's NEPA-implementing regulations (23 C.F.R. part 771), FRA has determined that the actions funded under this Agreement as described in this Attachment 2, Section 4.5, Tasks 1-3, are categorically excluded from detailed environmental review pursuant to 23 C.F.R. § 771.116 (c) (1) and (3). In accordance with Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108; 36 C.F.R. part 800), FRA has also determined that the actions funded under this Agreement have no potential to cause effects to historic properties. The actions do not require the use of property protected by Section 4(f) of the Department of Transportation Act (49 U.S.C. § 303; 23 C.F.R. part 774).

Categorical exclusions (CEs) are actions identified in an agency's NEPA-implementing procedures that do not normally have a significant impact on the environment and therefore do not require either an environmental assessment (EA) or environmental impact statement (EIS). See 40 C.F.R. § 1508.1(d). In analyzing the applicability of a CE, FRA also considered whether unusual circumstances are present that would warrant a more detailed environmental review through the preparation of an EA or EIS. In accordance with 23 C.F.R. § 771.116 (a) and (b), FRA has further concluded that no unusual circumstances exist with respect to development of the activities funded under this grant that might trigger the need for a more detailed environmental review.

Should conditions or the scope of the action change, the Recipient must notify FRA and receive written response and notice to proceed before proceeding. FRA will evaluate whether this determination remains applicable or if additional environmental review is necessary.

ARTICLE 9: CLIMATE CHANGE AND ENVIRONMENTAL JUSTICE IMPACTS

9.1 Consideration of Climate Change and Environmental Justice Impacts

This Section identifies how the Project addresses climate change and environmental justice priorities. The Recipient certifies that rows marked with "X" in the following table are accurate:

X	The Project directly supports a Local/Regional/State Climate Action Plan that results in lower greenhouse gas emissions. *(Identify the plan in the supporting narrative below.)*
	The Project directly supports a Local/Regional/State Equitable Development Plan that results in lower greenhouse gas emissions. *(Identify the plan in the supporting narrative below.)*

	The Project directly supports a Local/Regional/State Energy Baseline Study that results in lower greenhouse gas emissions. *(Identify the plan in the supporting narrative below.)*
X	The Recipient or a Project partner used environmental justice tools, such as the EJSCREEN, to minimize adverse impacts of the Project on environmental justice communities. *(Identify the tool(s) in the supporting narrative below.)*
X	The Project supports a modal shift in freight or passenger movement to reduce emissions or reduce induced travel demand. *(Describe that shift in the supporting narrative below.)*
	The Project utilizes demand management strategies to reduce congestion, induced travel demand, and greenhouse gas emissions. *(Describe those strategies in the supporting narrative below.)*
	The Project incorporates electrification infrastructure, zero-emission vehicle infrastructure, or both. *(Describe the incorporated infrastructure in the supporting narrative below.)*
	The Project supports the installation of electric vehicle charging stations. *(Describe that support in the supporting narrative below.)*
	The Project promotes energy efficiency. *(Describe how in the supporting narrative below.)*
	The Project serves the renewable energy supply chain. *(Describe how in the supporting narrative below.)*
X	The Project improves disaster preparedness and resiliency. *(Describe how in the supporting narrative below.)*
	The Project avoids adverse environmental impacts to air or water quality, wetlands, and endangered species, such as through reduction in Clean Air Act criteria pollutants and greenhouse gases, improved stormwater management, or improved habitat connectivity. *(Describe how in the supporting narrative below.)*
	The Project repairs existing dilapidated or idle infrastructure that is currently causing environmental harm. *(Describe that infrastructure in the supporting narrative below.)*
	The Project supports or incorporates the construction of energy- and location-efficient buildings. *(Describe how in the supporting narrative below.)*
	The Project includes recycling of materials, use of materials known to reduce or reverse carbon emissions, or both. *(Describe the materials in the supporting narrative below.)*
	The Project includes other actions or attributes that address climate change and environmental justice. *(Describe those actions in the supporting narrative below.)*

	The Project does not include actions or attributes that address climate change and environmental justice but, before beginning construction of the Project, the Recipient will take relevant actions described below to address climate change and environmental justice impacts of the Project. *(Identify the relevant actions in the supporting narrative below.)*

9.2 Supporting Narrative

This project directly **supports local, regional, and state climate action plans** that prioritize lowering greenhouse gas emissions including the State of California Climate Change Scoping Plan, the County of Riverside Climate Action Plan (2019), the Western Riverside Council of Governments Subregional Climate Action Plan, and 2019 and 2020 executive orders signed by California Governor Gavin Newsom that called for action to reverse the trend of increased fuel consumption and reduce greenhouse gas emissions associated with the transportation sector. This project is a response to significant growth and corresponding greenhouse gas emissions that would result, should proactive transportation infrastructure changes not be made. The project **supports a modal shift** in both freight and passenger movement, which will reduce greenhouse gas emissions through demand management strategies to reduce traffic congestion. The project will help address environmental concerns by mitigating traffic congestion, improving traffic flow, and adding non-motorized transportation infrastructure in the vicinity of the Hargrave Street at-grade crossing. The project will reduce vehicle idling, thus reducing congestion-related emissions in three important ways:

1) **Travel Mode Shift.** The construction project will include sidewalks and bicycle infrastructure to divert motor vehicle traffic to active transportation modes for short trips. The project will allow for safer routes for pedestrians, those with disabilities, and bicyclists to walk or bike to school, work, or shop and negate the need for fuel-burning vehicles.
2) **Reduced Congestion**. The separation of the railway from the street will expedite traffic flow, result in fewer traffic accidents due to congestion, traffic delays, and engine idling, both in the project location as well as along the interstate. Congestion along Interstate 10, Hargrave Street, and surrounding roadways will be reduced as train-related delays will no longer be an issue.
3) **Improved Traffic Flow**. Improved levels of service and Interstate-10/Hargrave Street interchange improvements will improve traffic flow. A recent Traffic Impact Analysis conducted in 2019 evaluated the system deficiencies and found that the Hargrave Street and I-10 interchanges operate at unacceptable Levels of Service (E or worse). Separating train traffic from vehicle traffic will remove backups from this location, improving traffic flow and reducing the number of cars waiting for trains to pass. As Interstate 10 is a significant truck route, reducing heavy truck idling will be an important benefit.

This project **improves disaster preparedness and resiliency** by reducing traffic congestion due to train crossings to drastically improve connectivity and mobility within Banning, the Interstate 10 interchange, and the region. This is very important for both emergency response and potential evacuations in this disadvantaged community that faces Very High and Relatively High risks of wildfire and earthquakes respectively, and to protect from potential annual monetary losses of over $1.3 million due to natural hazards (FEMA National Risk Index). Currently there is one fire station, located north of Interstate 10,

with two fire engines staffed for emergency response in Banning. The Fire Department provides the full range of emergency response capabilities to the city, including fire suppression, medical response (paramedic capability), HazMat response, and rescue. First responders face critical challenges with traffic backups and gridlock when at-grade train crossings limit circulation or stopped trains block crossings. Roadway–rail grade crossings lead to significant travel delays for emergency responders trying to reach an incident, especially in the southern portion of the city. The grade separation project will remove this barrier, allowing for improved access to these essential services, along with faster possible response times for all emergency responders.

The project directly supports regional and state equitable development plans including the California General Plan Equitable & Resilient Communities and the Strategic Health Alliance Pursuing Equity (SHAPE) Riverside County. SHAPE identifies four priority areas, all of which are supported by this project: Creation of Healthy Communities, Promoting Healthy Behaviors, Connecting and Investing in People, and Improving Access to Care. The Recipient has **utilized EJSCREEN** as a method to identify environmental justice communities in order to focus public outreach and gain resident feedback to ensure the Recipient takes the necessary actions **to minimize the adverse impacts of the project's implementation** and maximize benefits for the underserved members of these communities. EJSCREEN identifies the community in the 3.14 square mile area surrounding the project as having higher percentages of people of color (81%), low income (58%), linguistically isolated (14%), and persons with less than a high school education (30%), all of which are greater than both state and national averages. Public outreach will include bilingual materials to ensure the greatest reach.

ARTICLE 10: RACIAL EQUITY AND BARRIERS TO OPPORTUNITY

10.1 Efforts to Improve Racial Equity and Reduce Barriers to Opportunity

This Section identifies how the Project addresses efforts to improve racial equity and reduce barriers to opportunity. The Recipient certifies that rows marked with "X" in the following table are accurate:

	A racial equity impact analysis has been completed for the Project. *(Identify a report on that analysis or, if no report was produced, describe the analysis and its results in the supporting narrative below.)*
	The Recipient or a Project partner has adopted an equity and inclusion program/plan or has otherwise instituted equity-focused policies related to project procurement, material sourcing, construction, inspection, hiring, or other activities designed to ensure racial equity in the overall delivery and implementation of the Project. *(Identify the relevant programs, plans, or policies in the supporting narrative below.)*

X	The Project includes physical-barrier-mitigating land bridges, caps, lids, linear parks, and multimodal mobility investments that either redress past barriers to opportunity or that proactively create new connections and opportunities for underserved communities that are underserved by transportation. *(Identify the relevant investments in the supporting narrative below.)* **See Multimodal Mobility Investments paragraph in the supporting narrative below.**
X	The Project includes new or improved walking, biking, and rolling access for individuals with disabilities, especially access that reverses the disproportional impacts of crashes on people of color and mitigates neighborhood bifurcation. *(Identify the new or improved access in the supporting narrative below.)* **See Reversal of Crash Impacts and Mitigation of Neighborhood Bifurcation paragraph in the supporting narrative below.**
X	The Project includes new or improved freight access to underserved communities to increase access to goods and job opportunities for those underserved communities. *(Identify the new or improved access in the supporting narrative below.)* **See Increased Job Opportunities paragraph in the supporting narrative below.**
	The Recipient has taken other actions related to the Project to improve racial equity and reduce barriers to opportunity. *(Describe those actions in the supporting narrative below.)*
	The Recipient has not yet taken actions related to the Project to improve racial equity and reduce barriers to opportunity but, before beginning construction of the Project, the Recipient will take relevant actions described below to improve racial equity and reduce barriers to opportunity. *(Identify the relevant actions in the supporting narrative below.)*

10.2 Supporting Narrative

The proposed project will improve equity, mitigate barriers to opportunity, and improve quality of life in Banning by improving and expanding transportation options through developing multimodal transportation facilities; mitigating safety risks to reverse the impacts of crashes on underserved populations; and supporting economic development to improve access to job opportunities.

Multimodal Mobility Investments: This project includes multimodal mobility investments, including ADA compliant sidewalks and bicycle lanes where none currently exist. The project location is an older, poverty-stricken, residential neighborhood comprised of modest and aging homes. The mostly Hispanic population is often characterized as “working poor,” with approximately 76% of students attending area schools eligible for Free and Reduced-Price Lunch based on income. Low-income, minority and new immigrant communities (such as Banning) are especially vulnerable to transportation insecurity because they are less likely to own vehicles. As such, these residents are dependent on walking or biking to get to a job, doctor’s office, store, or school. By creating ADA compliant sidewalks and bicycle lanes, this project will directly impact residents who must walk or bike, and provide connectivity to destinations throughout the city, improving safety and quality of life for those of all abilities. The grade separation will allow for improved transportation options by removing pedestrian/bicycle hazards at the Hargrave

Street/UPRR railroad crossing. Instead of walking/biking along or across the rail line and road edge, pedestrians, individuals with disabilities, and bicyclists will now have access to sidewalks and bike lanes completely removed from the rail line. Furthermore, the Recipient operates two fixed route bus routes that cross over the UPRR crossing at Hargrave Street ten times each day. These buses are delayed every time they must wait for a train, hindering scheduled pick-ups and drop-offs. These delays increase transportation insecurity and leave transit riders at risk of suffering the critical repercussions of arriving late to work, school, or appointments.

Reversal of Crash Impacts and Mitigation of Neighborhood Bifurcation: The Hargrave Street crossing has been the site of both vehicle-train collisions and pedestrian train collisions. Unfortunately, these collisions have resulted in pedestrian deaths. A study published in the American Journal of Preventive Medicine (https://www.ajpmonline.org/article/S0749-3797(22)00155-6/fulltext) found that minority populations disproportionately suffer the impact of traffic accidents, with Black Americans suffering the highest fatality rates per mile traveled and across all travel modes followed by Hispanics, Whites, and Asians. The study's statistics were particularly bleak for individuals walking and cycling during evening hours. As EJSCREEN identified the project area as having high percentages of people of color (81%), this is an especially relevant statistic. Project infrastructure improvements will separate pedestrians and motor vehicles from rail traffic, eliminating contact points and drastically improving safety at this interchange and reversing the disproportionate impacts of crashes on people of color. Grade separation will also relieve train crossing-related traffic congestion, resulting in reduced secondary accidents on surrounding city streets and the nearby interstate. Furthermore, grade separation will help breach the north/south separation that naturally occurs in Banning due to the railroad and I-10 intersecting the city. This separation is magnified by stalled trains and traffic congestion that hinder mobility and emergency response.

Increased Job Opportunities: Project improvements will expedite goods movement and circulation, supporting local private business developments and strengthening I-10 infrastructure, one of the nation's busiest goods movement corridors. This project **will increase job opportunities** by supporting a future rail expansion project and numerous local developments that will bring more than 8,500 good-paying jobs to this disadvantaged community. The Riverside County Transportation Commission (RCTC), Caltrans, and the FRA are working to expand passenger rail service across Southern California inclusive of the Inland Empire and the City of Banning. This Amtrak expansion project will connect approximately 144 miles on an existing rail corridor – the same rail that passes through Hargrave Street. Preliminary environmental, design, and service studies are under way for this project. Additionally, the City of Banning is included in planning studies as a potential future station area due to its location along the preferred route midway between Coachella Valley and Riverside Banning. Separating the existing railway at Hargrave from the street is critical for train traffic enhancement to occur. The project's infrastructure investments directly support economic progress in Banning and in the rail industry. The project will advocate local hiring for all phases of planning, as well as future construction. Future rail expansion, with its additional train traffic and new station areas, will result in additional job opportunities within the rail industry and will support economic developments within Banning. Furthermore, the rail expansion will diversify transportation options and give greater access to the growing community of Banning. This project is a crucial element in ensuring the success of future rail

projects and other business ventures in the city, including logistics and entertainment developments at the adjacent Banning Airport site.

ARTICLE 11: LABOR AND WORK

11.1 Efforts to Support Good-Paying Jobs and Strong Labor Standards

This Section identifies the Recipient's efforts to support good-paying jobs and strong labor standards related to the Project. The Recipient certifies that rows marked with "X" in the following table are accurate:

	The Recipient or a Project partner has adopted the use of project labor agreements in the overall delivery and implementation of the Project. *(Identify the relevant agreements and describe the scope of activities they cover in the supporting narrative below.)*
	The Recipient or a Project partner has adopted the use of local and economic hiring preferences in the overall delivery and implementation of the Project, subject to all applicable State and local laws, policies, and procedures. *(Describe the relevant provisions in the supporting narrative below.)*
	The Recipient or a Project partner has adopted the use of registered apprenticeships in the overall delivery and implementation of the Project. *(Describe the use of registered apprenticeships in the supporting narrative below.)*
	The Recipient or a Project partner will provide training and placement programs for underrepresented workers in the overall delivery and implementation of the Project. *(Describe the training programs in the supporting narrative below.)*
	The Recipient or a Project partner will support free and fair choice to join a union in the overall delivery and implementation of the Project by investing in workforce development services offered by labor-management training partnerships or setting expectations for contractors to develop labor-management training programs. *(Describe the workforce development services offered by labor-management training partnerships in the supporting narrative below.)*
	The Recipient or a Project partner will provide supportive services and cash assistance to address systemic barriers to employment to be able to participate and thrive in training and employment, including childcare, emergency cash assistance for items such as tools, work clothing, application fees and other costs of apprenticeship or required pre-employment training, transportation and travel to training and work sites, and services aimed at helping to retain underrepresented groups like mentoring, support groups, and peer networking. *(Describe the supportive services and/or cash assistance provided to trainees and employees in the supporting narrative below.)*

	The Recipient or a Project partner has documented agreements or ordinances in place to hire from certain workforce programs that serve underrepresented groups. *(Identify the relevant agreements and describe the scope of activities they cover in the supporting narrative below.)*
	The Recipient or a Project partner participates in a State/Regional/Local comprehensive plan to promote equal opportunity, including removing barriers to hiring and preventing harassment on work sites, and that plan demonstrates action to create an inclusive environment with a commitment to equal opportunity, including: a. affirmative efforts to remove barriers to equal employment opportunity above and beyond complying with Federal law; b. proactive partnerships with the U.S. Department of Labor's Office of Federal Contract Compliance Programs to promote compliance with EO 11246 Equal Employment Opportunity requirements; c. no discriminatory use of criminal background screens and affirmative steps to recruit and include those with former justice involvement, in accordance with the Fair Chance Act and equal opportunity requirements; d. efforts to prevent harassment based on race, color, religion, sex, sexual orientation, gender identity, and national origin; e. training on anti-harassment and third-party reporting procedures covering employees and contractors; and f. maintaining robust anti-retaliation measures covering employees and contractors. *(Describe the equal opportunity plan in the supporting narrative below.)*
	The Recipient has taken other actions related to the Project to create good-paying jobs with the free and fair choice to join a union and incorporate strong labor standards. *(Describe those actions in the supporting narrative below.)*
X	The Recipient has not yet taken actions related to the Project to create good-paying jobs with the free and fair choice to join a union and incorporate strong labor standards but, before beginning construction of the Project, will take the relevant actions described below. *(Identify the relevant actions in the supporting narrative below.)*

11.2 Supporting Narrative

The Recipient is an Equal Opportunity Employer that does not discriminate on the basis of race, color, national origin, sex, sexual orientation, religion, age, or disability in employment or the provision of services. The Recipient complies with the requirements of the Americans with Disabilities Act with respect to hiring and any other term of employment. This policy also extends to professional services consultants who will be engaged for this project. The Recipient will utilize competitive procurement processes (which align with both state and federal procurement requirements) to identify qualified consultants for all project activities. These consultants will be compensated with market value prevailing rates.

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Exhibits

Revision Date: December 11, 2023

Exhibits
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EXHIBIT A: APPLICABLE FEDERAL LAWS AND REGULATIONS

By entering into this Agreement, the Recipient assures and certifies, with respect to this award, that it will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds for this Project. Performance under this Agreement shall be governed by and in compliance with the following requirements, as applicable, to the type of organization of the Recipient and any applicable sub-recipients. The applicable provisions to this Agreement include, but are not limited to, the following:

GENERAL FEDERAL LEGISLATION

a. Davis-Bacon Act - 40 U.S.C. § 3141 et seq.
b. Federal Fair Labor Standards Act - 29 U.S.C. § 201 et seq.
c. Hatch Act - 5 U.S.C. § 1501 et seq.
d. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 - 42 U.S.C. § 4601 et seq.
e. National Historic Preservation Act of 1966 – Section 106 - 54 U.S.C. § 306108
f. Archeological and Historic Preservation Act of 1974 - 54 U.S.C. §§ 312501–312508
g. Native American Graves Protection and Repatriation Act - 25 U.S.C. § 3001 et seq.
h. Clean Air Act, P.L. 90-148, as amended – 42 U.S.C. § 7401 et seq.
i. Section 404 of the Clean Water Act, as amended - 33 U.S.C. § 1344
j. Section 7 of the Endangered Species Act, P.L. 93-205, as amended – 16 U.S.C. § 1536
k. Coastal Zone Management Act, P.L. 92-583, as amended – 16 U.S.C. § 1451 et seq.
l. Flood Disaster Protection Act of 1973, Section 102(a) – 42 U.S.C. § 4012a
m. Age Discrimination Act of 1975 - 42 U.S.C. § 6101 et seq.
n. American Indian Religious Freedom Act, P.L. 95-341, as amended
o. Sections 523 and 527 of the Public Health Service Act of 1912, as amended, 42 U.S.C. §§ 290dd through 290dd-2
p. Architectural Barriers Act of 1968 - 42 U.S.C. § 4151 et seq.
q. Power Plant and Industrial Fuel Use Act of 1978, P.L. 100-42 - Section 403 - 42 U.S.C. § 8373
r. Contract Work Hours and Safety Standards Act - 40 U.S.C. § 3701 et seq.
s. Copeland Anti-kickback Act, as amended - 18 U.S.C. § 874 and 40 U.S.C. § 3145
t. National Environmental Policy Act of 1969 - 42 U.S.C. § 4321 et seq.
u. Wild and Scenic Rivers Act, P.L. 90-542, as amended – 16 U.S.C. § 1271 et seq.
v. Federal Water Pollution Control Act, as amended - 33 U.S.C. §§1251–1376
w. Single Audit Act of 1984 - 31 U.S.C. § 7501 et seq.
x. Americans with Disabilities Act of 1990 - 42 U.S.C. § 12101 et seq.
y. Title IX of the Education Amendments of 1972, as amended - 20 U.S.C. §§ 1681–1683 and §§ 1685–1687
z. Section 504 of the Rehabilitation Act of 1973, as amended - 29 U.S.C. § 794
aa. Title VI of the Civil Rights Act of 1964 - 42 U.S.C. § 2000d et seq.
bb. Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions – 31 U.S.C. § 1352
cc. Freedom of Information Act - 5 U.S.C. § 552, as amended
dd. Magnuson-Stevens Fishery Conservation and Management Act – 16 U.S.C. § 1801 et seq.
ee. Farmland Protection Policy Act of 1981 – 7 U.S.C. § 4201 et seq.
ff. Noise Control Act of 1972 – 42 U.S.C. § 4901 et seq.
gg. Fish and Wildlife Coordination Act of 1956 – 16 U.S.C. § 661 et seq.

hh. Section 9 of the Rivers and Harbors Act and the General Bridge Act of 1946 - 33 U.S.C. §§ 401 and 525
ii. Section 4(f) of the Department of Transportation Act of 1966, 49 U.S.C. 303
jj. Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended – 42 U.S.C. §§ 9601–9657
kk. Safe Drinking Water Act – 42 U.S.C. §§ 300f to 300j-26
ll. The Wilderness Act – 16 U.S.C. §§ 1131–1136
mm. Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 – 42 U.S.C. § 6901 et seq.
nn. Migratory Bird Treaty Act 16 U.S.C. § 703 et seq.
oo. The Federal Funding Transparency and Accountability Act of 2006, as amended (Pub. L. 109–282, as amended by section 6202 of Public Law 110–252)
pp. Cargo Preference Act of 1954 – 46 U.S.C. § 55305
qq. Section 889 of the John D. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. 115-232
rr. Efficient Environmental Reviews - 23 U.S.C. § 139
ss. Grant Conditions – 49 U.S.C. § 22905
tt. Build America, Buy America Act – Pub. L. No. 117-58, div. G, tit. IX, subtit. A, 135 Stat. 429, 1298

EXECUTIVE ORDERS

a. Executive Order 11246 – Equal Employment Opportunity
b. Executive Order 11990 – Protection of Wetlands
c. Executive Order 11988 – Floodplain Management
d. Executive Order 12372 – Intergovernmental Review of Federal Programs
e. Executive Order 12549 – Debarment and Suspension
f. Executive Order 12898 – Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
g. Executive Order 13166 – Improving Access to Services for Persons With Limited English Proficiency
h. Executive Order 13985 – Advancing Racial Equity and Support for Underserved Communities Through the Federal Government
i. Executive Order 14005 – Ensuring the Future is Made in All of America by All of America's Workers
j. Executive Order 14008 – Tackling the Climate Crisis at Home and Abroad

GENERAL FEDERAL REGULATIONS

a. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards – 2 C.F.R. Parts 200, 1201
b. Non-procurement Suspension and Debarment – 2 C.F.R. Parts 180, 1200
c. Investigative and Enforcement Procedures – 14 C.F.R. Part 13
d. Procedures for predetermination of wage rates – 29 C.F.R. Part 1
e. Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States – 29 C.F.R. Part 3
f. Labor standards provisions applicable to contracts governing federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act) – 29 C.F.R. Part 5
g. Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department

of Labor (Federal and federally assisted contracting requirements) – 41 C.F.R. Parts 60 et seq.

h. New Restrictions on Lobbying – 49 C.F.R. Part 20
i. Nondiscrimination in Federally Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964 – 49 C.F.R. Part 21
j. Uniform relocation assistance and real property acquisition for Federal and Federally assisted programs – 49 C.F.R. Part 24
k. Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance – 49 C.F.R. Part 25
l. Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance – 49 C.F.R. Part 27
m. DOT's implementation of DOJ's ADA Title II regulations compliance procedures for all programs, services, and regulatory activities relating to transportation under 28 C.F.R. Part 35
n. Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation – 49 C.F.R. Part 28
o. Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors – 49 C.F.R. Part 30
p. Governmentwide Requirements for Drug-Free Workplace (Financial Assistance) – 49 C.F.R. Part 32
q. DOT's implementing ADA regulations for transit services and transit vehicles, including the DOT's standards for accessible transportation facilities in Part 37, Appendix A – 49 C.F.R. Parts 37 and 38
r. Environmental Impact and Related Procedures – 23 C.F.R. Part 771
s. Procedures Implementing Section 4(f) of the Department of Transportation Act – 23 C.F.R. Part 774

Specific assurances required to be included in the Agreement by any of the above laws, regulations, or circulars are hereby incorporated by reference into this Agreement.

EXHIBIT B: ADDITIONAL STANDARD TERMS

EXHIBIT B.1: TITLE VI ASSURANCES

TITLE VI ASSURANCE
Implementing Title VI of the Civil Rights Act of 1964, as amended

ASSURANCE CONCERNING NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

(Implementing the Rehabilitation Act of 1973, as amended, and the Americans With Disabilities Act, as amended)

49 C.F.R. Parts 21, 25, 27, 37 and 38

The United States Department of Transportation (USDOT)

Standard Title VI/Non-Discrimination Assurances

DOT Order No. 1050.2A

By signing and submitting the Application and by entering into this Agreement, the Recipient **HEREBY AGREES THAT**, as a condition to receiving Federal financial assistance from the Federal Railroad Administration (FRA), it is subject to and will comply with the following:

Statutory/Regulatory Authorities

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq*., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled *Non-discrimination In Federally-Assisted Programs Of The Department Of Transportation—Effectuation Of Title VI Of The Civil Rights Act Of 1964*);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory cites hereinafter are referred to as the "Acts" and "Regulations," respectively.

General Assurances

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

> *"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity," for which the Recipient receives Federal financial assistance from DOT, including FRA.*

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these non-discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

Specific Assurances

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted program:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23 (b) and 21.23 (e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated, or will be (with regard to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.

2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with the Grant and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

   "*The Recipient, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.*"

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.

4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.

5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.

6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.

7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:

a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.

8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:

    a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
    b. the period during which the Recipient retains ownership or possession of the property.

9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.

10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the Recipient also agrees to comply (and require any sub-recipients, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing FRA's access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by FRA. You must keep records, reports, and submit the material for review upon request to FRA, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The Recipient gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the FRA under this Agreement. This ASSURANCE is binding on the Recipient, other recipients, sub-recipients, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the program or project funded under this Agreement.

APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally assisted programs of the U.S. Department of Transportation, Federal Railroad Administration (FRA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 C.F.R. Part 21.

3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.

4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or FRA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or FRA, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or FRA may determine to be appropriate, including, but not limited to:

    a. withholding payments to the contractor under the contract until the contractor complies; and/or
    b. cancelling, terminating, or suspending a contract, in whole or in part.

6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or FRA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the

contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

APPENDIX B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Specific Assurance 4:

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the Recipient will accept title to the lands and maintain the project constructed thereon in accordance with the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (Nov. 15, 2021), 23 U.S.C. § 117 and the policies and procedures prescribed by the Federal Railroad Administration (FRA) of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the Recipient all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto Recipient and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the Recipient, its successors and assigns.

The Recipient, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the Recipient will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended[, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

APPENDIX C

CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the Recipient pursuant to the provisions of Specific Assurance 7(a):

A. The (Recipient, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:

    1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (Recipient, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, Recipient will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*

C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the Recipient will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the Recipient and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX D

CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by Recipient pursuant to the provisions of Specific Assurance 7(b):

A. The (Recipient, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (Recipient, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.

B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, Recipient will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*

C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, Recipient will there upon revert to and vest in and become the absolute property of Recipient and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq*., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 C.F.R. Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq*.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq*.), as amended, (prohibits discrimination on the basis of disability); and 49 C.F.R. Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq*.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 C.F.R. Parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. § 1681 et seq).

EXHIBIT B.2: CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS -- PRIMARY COVERED TRANSACTIONS

2 C.F.R. Parts 180 and 1200

These assurances and certifications are applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FRA approval or that is estimated to cost $25,000 or more—as defined in 2 C.F.R. Parts 180 and 1200.

By signing and submitting the Application and by entering into this Agreement, the Recipient is providing the assurances and certifications for First Tier Participants and Lower Tier Participants, as set out below.

1. Instructions for Certification – First Tier Participants:

a. The prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "civil judgment," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 C.F.R. Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a Recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a Recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers to any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (https://www.sam.gov/), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment, including a civil settlement, rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust

statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FRA approval or estimated to cost $25,000 or more - 2 C.F.R. Parts 180 and 1200)

a. The prospective lower tier participant is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms “covered transaction,” “civil settlement,” “debarred,” “suspended,” “ineligible,” “participant,” “person,” “principal,” and “voluntarily excluded,” as used in this clause, are defined in 2 C.F.R. Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. “First Tier Covered Transactions” refers to any covered transaction between a Recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). “Lower Tier Covered Transactions” refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). “First Tier Participant” refers to the participant who has entered into a covered transaction with a Recipient or subrecipient of Federal funds (such as the prime or general contractor). “Lower Tier Participant” refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (https://www.sam.gov/), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

EXHIBIT B.3: REQUIREMENTS REGARDING DELINQUENT TAX LIABILITY OR A FELONY CONVICTION UNDER ANY FEDERAL LAW

As required by sections 744 and 745 of Title VII, Division E of the Consolidated Appropriations Act, 2022, Pub. L. No. 117-103 (Mar. 15, 2022), and implemented through USDOT Order 4200.6, the funds provided under this award shall not be used to enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to, any corporation that:

(1) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless a Federal agency has considered suspension or debarment of the corporation and made a determination that suspension or debarment is not necessary to protect the interests of the Government; or

(2) Was convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless a Federal agency has considered suspension or debarment of the corporation and made a determination that suspension or debarment is not necessary to protect the interests of the Government.

The Recipient therefore agrees:

1. **Definitions.** For the purposes of this exhibit, the following definitions apply:

   "**Covered Transaction**" means a transaction that uses any funds under this award and that is a contract, memorandum of understanding, cooperative agreement, grant, loan, or loan guarantee.

   "**Felony Conviction**" means a conviction within the preceding 24 months of a felony criminal violation under any Federal law and includes conviction of an offense defined in a section of the United States Code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony under 18 U.S.C. 3559.

   "**Participant**" means the Recipient, an entity who submits a proposal for a Covered Transaction, or an entity who enters into a Covered Transaction.

   "**Tax Delinquency**" means an unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

2. **Mandatory Check in the System for Award Management.** Before entering a Covered Transaction with another entity, a Participant shall check the System for Award Management (the "**SAM**") at http://www.sam.gov/ for an entry describing that entity.

3. **Mandatory Certifications.** Before entering a Covered Transaction with another entity, a Participant shall require that entity to:

(1) Certify whether the entity has a Tax Delinquency; and

(2) Certify whether the entity has a Felony Conviction.

4 **Prohibition.** If

(1) the SAM entry for an entity indicates that the entity has a Tax Delinquency or a Federal Conviction;

(2) an entity provides an affirmative response to either certification in section 3; or

(3) an entity's certification under section 3 was inaccurate when made or became inaccurate after being made

then a Participant shall not enter or continue a Covered Transaction with that entity unless the USDOT has determined in writing that suspension or debarment of that entity are not necessary to protect the interests of the Government.

5. **Mandatory Notice to the USDOT.**

(a) If the SAM entry for a Participant indicates that the Participant has a Tax Delinquency or a Felony Conviction, the Recipient shall notify the USDOT in writing of that entry.

(b) If a Participant provides an affirmative response to either certification in section 1, the Recipient shall notify the USDOT in writing of that affirmative response.

(c) If the Recipient knows that a Participant's certification under section 1 was inaccurate when made or became inaccurate after being made, the Recipient shall notify the USDOT in writing of that inaccuracy.

6. **Flow Down.** For all Covered Transactions, including all tiers of subcontracts and subawards, the Recipient shall:

(1) require the SAM check in section 2;

(2) require the certifications in section 3;

(3) include the prohibition in section 4; and

(4) require all Participants to notify the Recipient in writing of any information that would require the Recipient to notify the USDOT under section 5.

EXHIBIT B.4: RECIPIENT POLICY TO BAN TEXT MESSAGING WHILE DRIVING

(a) *Definitions.* The following definitions are intended to be consistent with the definitions in DOT Order 3902.10, Text Messaging While Driving (Dec. 30, 2009) and Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving (Oct. 1, 2009). For clarification purposes, they may expand upon the definitions in the executive order.

For the purpose of this Term B.4, "**Motor Vehicles**" means any vehicle, self-propelled or drawn by mechanical power, designed and operated principally for use on a local, State or Federal roadway, but does not include a military design motor vehicle or any other vehicle excluded under Federal Management Regulation 102-34-15.

For the purpose of this Term B.4, "**Driving**" means operating a motor vehicle on a roadway, including while temporarily stationary because of traffic congestion, a traffic signal, a stop sign, another traffic control device, or otherwise. It does not include being in your vehicle (with or without the motor running) in a location off the roadway where it is safe and legal to remain stationary.

For the purpose of this Term B.4, "**Text messaging**" means reading from or entering data into any handheld or other electronic device (including, but not limited to, cell phones, navigational tools, laptop computers, or other electronic devices), including for the purpose of Short Message Service (SMS) texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. The term does not include the use of a cell phone or other electronic device for the limited purpose of entering a telephone number to make an outgoing call or answer an incoming call, unless this practice is prohibited by State or local law. The term also does not include glancing at or listening to a navigational device that is secured in a commercially designed holder affixed to the vehicle, provided that the destination and route are programmed into the device either before driving or while stopped in a location off the roadway where it is safe and legal to remain stationary.

For the purpose of this Term B.4, the "**Government**" includes the United States Government and State, local, and tribal governments at all levels.

(b) *Workplace Safety.* In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving (Oct. 1, 2009) and DOT Order 3902.10, Text Messaging While Driving (Dec. 30, 2009), the Recipient, subrecipients, contractors, and subcontractors are encouraged to:

(1) adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving—

(i) Company-owned or -rented vehicles or Government-owned, leased or rented vehicles; or

(ii) Privately-owned vehicles when on official Government business or when performing any work for or on behalf of the Government.

(2) Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as—

(i) Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and

(ii) Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

(c) *Subawards and Contracts.* To the extent permitted by law, the Recipient shall insert the substance of this exhibit, including this paragraph (c), in all subawards, contracts, and subcontracts under this award that exceed the micro-purchase threshold, other than contracts and subcontracts for the acquisition of commercially available off-the-shelf items.

EXHIBIT B.5: EQUIVALENT LABOR PROTECTIONS UNDER 49 U.S.C. 22905(c)(2)(B)

This Exhibit provides guidance on the protective arrangements equivalent to the protective arrangements established under Section 504 of the Railroad Revitalization Reform Act of 1976, with respect to employees affected by actions taken in connection with a Project financed in whole or in part with financial assistance subject to 49 U.S.C. § 22905(c)(2)(B). Fluctuations and changes in volume or character of employment brought about solely by other causes are not within the scope of this Exhibit.

1. Definitions. Whenever used in this Exhibit, capitalized terms shall have the meanings below:

(a) "Average Monthly Compensation" means the total compensation received by a Displaced Employee or a Dismissed Employee during the last twelve (12) months in which they were employed immediately preceding the date of their displacement or dismissal, divided by twelve (12). The Average Monthly Compensation shall be adjusted to reflect subsequent general wage increases.

(b) "Average Monthly Time" means the total number of hours worked by a Displaced Employee during the last twelve (12) months in which they were employed immediately preceding the date of their displacement, divided by twelve (12).

(c) "Day" means one 24-hour calendar day (including holidays and weekends) for purposes of calculating deadlines and other timeframes in this Exhibit.

(d) "Displaced Employee" means a Protected Employee who remains employed by a Railroad but, as a result of a Project, is placed in a worse position with respect to compensation and rules governing working conditions. A Protected Employee's status as a Displaced Employee begins on the date said employee is harmed.

(e) "Dismissed Employee" means a Protected Employee who: (1) as a result of a Project, is deprived of employment with the Railroad because (i) the Railroad eliminates the Protected Employee's position, or (ii) the Railroad eliminates another employee's position (and that employee's exercise of seniority rights results in the Protected Employee's inability to secure another position by the exercise of the Protected Employee's seniority rights); and (2) is unable to secure another position by exercise of their seniority rights A Protected Employee's status as a Dismissed Employee begins on the date said employee is deprived of employment.

(f) "Project" means any action financed in whole or in part with financial assistance subject to 49 U.S.C. § 22905(c)(2)(B).

(g) "Protected Employee" means an employee of a Railroad who is affected by actions taken pursuant to a Project, whether the Project is initiated by a Railroad or a Recipient. If a Railroad rearranges or adjusts its forces in anticipation of a Project with the purpose or effect of depriving an employee of benefits to which they otherwise would have become entitled under this Exhibit, then that employee is a Protected Employee under this Exhibit. An employee's status as a Protected Employee shall continue for the duration of the applicable Protective Period. An employee who solely benefitted as a result of a Project shall not be a Protected Employee under this Exhibit.

(h) "Protective Period" means that period during which a Displaced Employee or a Dismissed Employee is provided the protections described in this Exhibit. The Protective Period begins

on the date an employee of a Railroad is displaced or dismissed and ends after six (6) years. However, the Protective Period for any particular employee shall not continue longer than the period of time the Railroad employed the employee prior to the date of their displacement or dismissal. For purposes of this Exhibit, an employee's length of service shall be determined in accordance with the provisions of Section 7(b) of the Washington Job Protection Agreement of May 1936, as amended.

(i) "Recipient" means any person or entity receiving financial assistance subject to the requirements of 49 U.S.C. § 22905(c), including grantees, subrecipients, contractors, and subcontractors.

(j) "Railroad" means (1) a railroad carrier as defined in 49 U.S.C. § 20102(3), or (2) any person deemed a rail carrier pursuant to 49 U.S.C. § 22905(b).

2. Flow Down.

(a) In accepting financial assistance for a Project, the Recipient is responsible for ensuring the compliance with the protections provided in this Exhibit. The Recipient shall make the acceptance of this Exhibit a condition of any new contract (or incorporate its terms into any existing contract by amendment) that uses funds subject to the requirements of 49 U.S.C. § 22905(c). These conditions shall apply to a Recipient, any Railroad and any contractor of any tier with which the Recipient contracts using funds subject to the requirements of 49 U.S.C. § 22905(c).

(b) The Recipient shall require in an agreement (either in a new agreement or as an amendment to an existing agreement) with a Railroad owning the right-of-way to be improved by a Project that the Railroad notify its employees (or their representatives) of the Project being funded with financial assistance subject to 49 U.S.C. § 22905(c) and the applicability of these protections.

(c) Any Railroad employee (or their representatives) may notify a Recipient of a dispute or controversy relating to the requirements of this Exhibit to ensure compliance with 49 U.S.C. § 22905(c)(2)(B).

3. Collective Bargaining Agreements.

(a) **Existing Agreements**. The rates of pay, rules, working conditions, and all collective bargaining and other rights, privileges, and benefits (including continuation of pension rights and benefits) of a Railroad's employees under applicable laws, regulations, and/or existing collective bargaining agreements shall be preserved and remain applicable unless changed by future collective bargaining agreements or applicable statutes or regulations. As applied to the regulation of subcontracting by the Railroads of a Project, the provisions of this section shall mean that a determination of whether or not such work validly may be subcontracted by a Railroad shall not be affected by the fact that the work is being financed by funds subject to the requirements of 49 U.S.C. § 22905(c)(2)(B). Nothing in this Exhibit shall be construed as depriving any Railroad employee of any rights or benefits or eliminating any obligations that such employee may have under any existing contractual or statutory arrangement, including job security agreements, protective conditions, or arrangements.

(b) **Election by Protected Employee**. Where a Protected Employee is eligible for protections under both this Exhibit and another contractual or statutory arrangement, the Protected Employee shall elect between the protection under this Exhibit and protection under such other arrangement. After

such an election, the Protected Employee shall be protected only by the arrangement that they elect. The Protected Employee shall not be entitled to any protection or benefit (regardless of whether such benefit is duplicative) under the arrangement that they do not elect. However, if the elected protection expires pursuant to the terms of the arrangement that governs the elected protection, the Protected Employee is entitled to protection under the arrangement not originally elected for the remainder, if any, of the Protective Period.

4. Change in Operations, Services, Facilities, or Equipment.

(a) **Notice**. When a Railroad contemplates a change or changes in its operations, services, facilities, or equipment as a result of a Project, which may cause the dismissal or displacement of Protected Employees or rearrangement of forces involving such employees, it shall give at least sixty (60) days' written notice of such intended changes to both Protected Employees and their duly authorized representatives (if applicable). Such notice shall contain a full and adequate description of the proposed changes, including an estimate of the number of Protected Employees of each class affected by the intended changes.

(b) **Negotiations**.

(i) Initiation of Negotiation. Within sixty (60) days after the Railroad issues a notice under Section 4(a) of this Exhibit, the Railroad or the Protected Employees (or their representatives) may, by written notice to the other party, request a meeting and opportunity to negotiate an agreement with respect to the application of the terms and conditions of this Exhibit. These negotiations shall commence within fourteen (14) days from the receipt of such request.

(ii) Subject of Negotiations. Each change to rail operations, services, facilities, infrastructure, or equipment (including rights-of-way, track, and signal and crossing systems) that may result in dismissal or displacement of Protected Employees or rearrangement of forces involving such employees shall be subject to review and negotiation by the parties, but only to the extent necessary to ensure compliance with this Exhibit. For any contemplated rearrangement of rail forces, the Railroad and the representative(s) of the Protected Employees shall agree on the method of selection of employees to be moved, and the assignment of those employees to new roles.

(c) **Arbitration**. If the Railroad and the representative(s) of the Protected Employees fail to agree within forty-five (45) days from the initial meeting and opportunity to negotiate, either party may submit the dispute for arbitration in accordance with the following procedures:

(i) Notice & Selection of Arbitrator. Within ten (10) days after either party has notified the other in writing of their desire to submit the dispute for arbitration, the parties shall select a neutral arbitrator. If the parties cannot agree upon the selection of said arbitrator, then the parties shall submit a request to the National Mediation Board to appoint an arbitrator. In either case, a hearing shall be scheduled no later than thirty (30) days after an arbitrator has been appointed.

(ii) Binding Decision. The decision of the arbitrator shall be final, binding, and conclusive and shall be rendered within thirty (30) days from the date of the commencement of the hearing of the dispute.

(iii) Expenses. The salary and expenses of the arbitrator shall be borne equally by the parties to the proceeding; all other expenses shall be paid by the party incurring them.

(d) **Implementation**. If a notice is issued under Section 4(a), the Railroad shall not implement such a change or changes until: (i) sixty (60) days after the notice in accordance with Section 4(a), if no party requests a meeting and opportunity to negotiate; (ii) the parties reach agreement pursuant to Section 4(b), if a party requests a meeting and opportunity to negotiate; or (iii) a referee has rendered a decision pursuant to Section 4(c).

5. Protections for Displaced Employees

(a) **Displacement Allowances**.

(i) In General. If a Displaced Employee is unable, in the normal exercise of such employee's seniority rights under existing agreements, rules and practices, to obtain a position that is compensated equal to or exceeding the compensation the Displaced Employee received in the position from which such employee was displaced, then the Displaced Employee shall, during the Protective Period, be paid a monthly displacement allowance equal to the difference between the monthly compensation received by the Displaced Employee in the position in which such employee is retained and the Average Monthly Compensation received by the Displaced Employee in the position from which such employee was displaced (the "Displacement Allowance").

(ii) Application of Displacement Allowance. If a Displaced Employee's compensation in that employee's retained position is less in any month in which such employee performs work than the Average Monthly Compensation, then the Displaced Employee shall be paid the difference between the current compensation and the Average Monthly Compensation. However, the Displacement Allowance shall be reduced by the Displaced Employee's time lost as a result of voluntary absences, to the extent that the Displaced Employee is not available for service equivalent to the Displaced Employee's Average Monthly Time. If, on the other hand, the Displaced Employee, in such employee's retained position, works in excess of the Average Monthly Time in any given month, then the Displaced Employee shall be additionally compensated for such excess time at the rate of pay of the employee's retained position. If a Displaced Employee fails to exercise their seniority rights to secure another position available to the employee which does not require a change in such employee's place of residence, to which the employee is entitled under the working agreement, and which carries a rate of pay and compensation exceeding those of the position that the employee elects to retain, then the Displaced Employee shall thereafter be treated for the purposes of this section as occupying the position such employee elects to decline.

(iii) Early Expiration. The Displacement Allowance shall cease prior to the expiration of the Protective Period in the event of the Displaced Employee's resignation, death, retirement, or dismissal for justifiable cause.

(b) **Moving Expenses**. Any Protected Employee retained in the service of a Railroad, or who is later restored to service after being entitled to receive a Dismissal Allowance, and is required to change the point of such employee's employment as a result of the Project, and within the employee's Protective Period is required to move the employee's place of residence, shall be reimbursed for all expenses of moving the employee's household and other personal effects, including travel expenses, temporary living expenses, and any actual wage loss during the time necessary to make the move, and for a reasonable time thereafter, not to exceed five (5) days.

(i) Prior Agreement. The exact extent of the responsibility of a Railroad under this Section and the ways and means of transportation shall be agreed upon in advance by the Railroad and the Protected Employee or their representatives.

(ii) Exception. Changes in residence that are not a result of a Project, which are made after the initial change and that grow out of the normal exercise of seniority rights, are not within the purview of this Section.

(iii) Furloughed Employees. The Railroad shall, to the same extent provided above, assume the moving expenses outlined in Section 5(b) for an employee furloughed within three (3) years after changing such employee's point of employment as a result of a Project, who elects to move their place of residence back to their original point of employment.

(iv) Reimbursement. A claim for reimbursement shall be paid under the provisions of this Section within sixty (60) days after it is submitted, unless disputed by the Railroad, but no claim shall be paid if presented to the Railroad more than ninety (90) days after the date on which the expenses were incurred.

(c) **Losses from Home Sale or Contract Termination**. Any Displaced Employee who is retained in the service of a Railroad (or who is later restored to service after being entitled to receive a dismissal allowance), and who is required to change the point of such employee's employment during the Protective Period as a result of a Project, is entitled to the following:

(i) Home Sale for Less Than Fair Market Value. If the Displaced Employee owns their place of residence in the locality from which such employee is required to move, then at the Displaced Employee's option, the Railroad shall reimburse the Displaced Employee for the difference between the actual sale price and the fair market value of the employee's place of residence. The Railroad shall pay such difference within sixty (60) days after the Displaced Employee has filed a claim for such loss in accordance with Section 5(c)(vi), unless a controversy arises as to which Section 5(c)(vii) applies. In each case, the fair market value of the home in question shall be determined without consideration of the Project. The Railroad shall in each instance be afforded an opportunity to purchase the home at such fair market value before it is sold by the Displaced Employee to any other person.

(ii) Election to Receive Closing Costs. The Displaced Employee may elect to waive the provisions of Section 5(c)(i) and to receive, in lieu thereof, an amount equal to the closing costs that are customarily paid for and assumed by a seller of real estate in the jurisdiction in which the employee's residence is located. Such costs shall include customary fees paid to a licensed realtor (not to exceed six percent (6%) of the final sale price) and any prepayment penalty required by any mortgagor or beneficiary of a deed of trust. Such costs shall not include

the payment of any mortgage discount points or similar interest discount fees by the Displaced Employee.

(iii) Pending Contract to Purchase. If a Displaced Employee has entered into a contract to purchase a place of residence, but due to a Project must cancel that contract, the Railroad shall indemnify the Displaced Employee against any losses due to such cancellation, and shall relieve the Displaced Employee from any further obligation under the contract.

(iv) Unexpired Lease. If the Displaced Employee holds an unexpired lease of a dwelling as the employee's primary place of residence, and the Displaced Employee must cancel the lease due to a Project, the Railroad shall indemnify the Displaced Employee from all costs and liability arising from said cancellation.

(v) Exclusions. Any change in residence that is not due to or caused by a Project, or that resulted from the normal exercise of a Protected Employee's seniority rights, shall not be within the purview of this Section.

(vi) Notification of Claims. A Displaced Employee shall notify, in writing, the Railroad of such employee's claim arising from this Section 5(c) within one (1) year of the date the Displaced Employee's claim accrues.

(vii) Home Value Disagreements. In the event of disagreement between a Railroad and a Displaced Employee as to the value of a Displaced Employee's claim, either party (or their representatives) may request, in writing, a joint conference to resolve the disagreement.

A. Real Estate Appraisers. If the parties are unable to resolve the disagreement, either party may refer the disagreement to two licensed real estate appraisers, one of whom shall be selected by the Displaced Employee (or such employee's representatives), and one of whom shall be selected by the Railroad. If the two selected real estate appraisers are unable to agree on a valuation within thirty (30) days, the selected real estate appraisers shall designate (or agree to a method by which to select) a third licensed real estate appraiser within ten (10) days. If unable to agree on a selection, either party may request the National Mediation Board to designate within twenty (20) days a third licensed real estate appraiser. A decision by two of the three licensed real estate appraisers shall be required to determine the value in dispute. Said decision shall be final and conclusive.

B. Payment of Expenses. The salary and expenses of the third or neutral appraiser shall be borne equally by the parties to the proceedings. All other expenses shall be paid by the party incurring them, including the compensation of the appraiser selected by such party.

(d) **Failure to Exercise Seniority Rights**. If a Displaced Employee is able but does not exercise such employee's seniority rights to secure another position that does not require a change in the employee's primary place of residence, the Displaced Employee shall not be entitled to moving expenses or protections due to the sale of a home outlined in Sections 5(b)&(c).

6. Protections for Dismissed Employees.

(a) **Dismissal Allowance**. A Dismissed Employee shall be paid a monthly dismissal allowance from the date they are deprived of employment through the Protective Period.

(i) Monthly Dismissal Allowance Calculation. The monthly dismissal allowance shall be equivalent to the Average Monthly Compensation received by the Dismissed Employee in the last twelve (12) months of employment prior to the employee's dismissal.

(ii) Submission of Claim. A claim for the initial month of a dismissal allowance shall be paid within ninety (90) days and a claim for a subsequent month shall be paid within sixty (60) days after the claim is filed by the Dismissed Employee, unless the claim is disputed by the Railroad pursuant to Section 8 of this Exhibit.

(iii) Reduction or Suspension of Dismissal Allowance. If a Dismissed Employee accepts new employment (or reemployment by the dismissing Railroad) during the Protective Period, the dismissal allowance shall be reduced such that the accepted monthly compensation at the then-current position (including any unemployment insurance compensation received) plus the dismissal allowance is equivalent to the Dismissed Employee's Average Monthly Compensation. If the compensation of the Dismissed Employee's then-current employment is greater than the dismissal allowance, the dismissal allowance shall be suspended. Such reduction or suspension shall continue for the duration of the Protective Period, unless and until the Dismissed Employee's then-current compensation is reduced or eliminated. Prior to dismissal, such Dismissed Employee (or their representative) and the dismissing Railroad shall agree upon a procedure by which such Railroad shall be informed of the earnings and benefits of such Dismissed Employee in their new position of employment.

(iv) Early Termination. The dismissal allowance shall cease prior to the expiration of the Protective Period in the event of the Dismissed Employee's resignation, death, retirement, dismissal for justifiable cause under existing agreements, failure without good cause to return to service after being notified in accordance with an applicable working agreement, or failure without good cause to accept a comparable position that does not require a change of residence, for which the Dismissed Employee is qualified and eligible with the Railroad from which such employee was dismissed after being notified, if the employee's return does not infringe upon employment rights of other employees under a working agreement.

(b) **Separation Allowance**. A Dismissed Employee may, at such employee's option, within seven (7) days of dismissal or an arbitration award establishing the employee's status as a Dismissed Employee, resign and (in lieu of all other benefits and protections provided in this Exhibit) accept a lump sum payment computed in accordance with Section 9 of the Washington Job Protection Agreement of May 1936, as amended.

(c) **Priority of Employment or Re-Employment**. Any Protected Employee whose employment is terminated or who is furloughed as a result of a Project shall, if they so request, be granted priority of employment or re-employment to fill a position comparable to that which they held on the Railroad (even if in a different craft or class), so long as they are qualified, or by training or retraining can become physically and mentally qualified, for the position. However, such priority of

employment or re-employment must not be in contravention of any relevant collective bargaining agreements.

(i) **Training or Re-Training**. In the event such training or retraining is requested by a Protected Employee pursuant to Section 6(c), the Railroad shall provide such training or retraining at no cost to the Protected Employee.

(ii) **Waiver of Protections**. If a Protected Employee who has made a request under Section 6(c) fails without good cause within ten (10) days to accept an offer of a comparable position for which such employee has satisfactorily completed such training, the Protected Employee shall, upon the expiration of such ten (10) day period, forfeit all rights and benefits under this Exhibit.

7. Fringe Benefits. No Protected Employee shall be deprived during the Protective Period of any (non-salary) rights, privileges, or benefits attached to such employee's previous employment under the terms and conditions of an existing employment agreement (including, but not limited to, free transportation, hospitalization, pensions, insurance, or vacation benefits), so long as such rights, privileges, or benefits continue to be accorded to other employees of the Railroad, in active service or on furlough as the case may be, to the extent that such rights, privileges, or benefits can be so maintained under present authority of law, corporate action, or through future authorization.

8. Arbitration of Disputes.

(a) **Scope**. Any dispute under these conditions not settled by the relevant parties will be resolved in arbitration as provided herein. In the event a Railroad and the Protected Employee(s) (or their representatives) cannot settle a dispute or controversy with respect to the interpretation, application, or enforcement of any provision of this Exhibit (other than those Sections of this Exhibit that provide for another means of dispute resolution) within thirty (30) days after the dispute arises, either party may refer the dispute to an arbitration committee. The affected Protected Employee(s) (or their representatives) may notify a Recipient of a dispute or controversy under this Section 8 to ensure compliance with 49 U.S.C. § 22905(c)(2)(B).

(b) **Notice**. The party referring the dispute to an arbitration committee shall notify the other party in writing of its intent to refer a dispute or controversy to an arbitration committee.

(c) **Selection of Members**. Within ten (10) days of receipt of the written notice, each party to the arbitration shall select one (1) member of the committee, and the members thus chosen shall select an additional, neutral member to serve as chairman. If any party fails to select its member of the arbitration committee within the prescribed time limit, the general chairman of the involved labor organization or a senior officer designated by the Railroad or the Recipient, as the case may be, shall be deemed the selected member. Should the members be unable to agree upon the appointment of the neutral member within ten (10) days, the parties shall then within an additional ten (10) days agree to a method by which a neutral member shall be appointed; failing such agreement, either party may request the National Mediation Board to designate within twenty (20) days the neutral member whose designation will be binding upon the parties.

(d) **Multiple Representatives**. In the event a dispute involves more than one labor organization, each will be entitled to a representative on the arbitration committee, in which event the Railroad or Recipient may appoint additional representatives equivalent to the number of labor

organization representatives; provided, however, that the decision in such case shall be made by the neutral member.

(e) **Decisions Binding**. The decision, by majority vote except as provided otherwise in paragraph (d) of this Section, of the arbitration committee shall be final, binding, conclusive, and rendered within forty-five (45) days after the hearing of the dispute or controversy has been concluded and the record closed.

(f) **Expenses**. The salaries and expenses of the neutral member shall be borne equally by the parties to the proceeding, and all other expenses shall be paid by the party incurring them.

9. Classification of a Protected Employee. In the event an employee (or their representatives) cannot settle a dispute or controversy with the Railroad or the Recipient as to whether or not a particular employee would be affected by a Project, either party may refer the dispute to an arbitration committee within thirty (30) days after the dispute arises pursuant to the arbitration procedures in Section 8. For any such dispute, the employee of a Railroad shall have the burden to identify, with reasonable specificity, the Project that allegedly affected them, and to specify the pertinent facts of that Project, including the change or changes resulting from the Project that allegedly affected them. The burden shall then shift to the Railroad or Recipient to show that factors other than a change resulting from the Project affected the employee. The employee shall prevail on this issue if it is established that the Project had an effect upon the employee, even if other factors also may have affected the employee.

10. Resolution of Disputes for Non-Bargaining Unit Protected Employees. Any Protected Employee who is not represented by a labor organization shall be afforded substantially the same levels of protection as are afforded to members of labor organizations under this Exhibit. In the event any dispute arises between a Railroad and an employee not represented by a labor organization with respect to the interpretation, application, or enforcement of any provision of this Exhibit that cannot be settled by the parties within thirty (30) days after the dispute arises, either party may, as an alternative to the dispute resolution procedures outlined in this Exhibit, refer the dispute within ninety (90) days after the dispute arises to the Secretary of Labor for determination. The determination of the Secretary of Labor, or their designated representative, shall be final and binding on the parties.

11. Severability. In the event any provision of this Exhibit is held to be invalid or otherwise unenforceable under applicable law, the remaining provisions of this Exhibit shall not be affected.

EXHIBIT C: QUARTERLY PROJECT PROGRESS REPORTS AND RECERTIFICATIONS

Expires 01/31/2025

OMB Control No. 2130-0615

Paperwork Reduction Act Burden Statement A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. The OMB Control Number for this information collection is 2130-0615. Public reporting for this collection of information is estimated to be approximately 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Information Collection Clearance Officer (RAD-20), Federal Railroad Administration, 1200 New Jersey Avenue, Washington, DC. 20590.

FRA GRANT/COOPERATIVE AGREEMENT
Quarterly Progress Report

A. Submission Information

1. Report Submission Date (mm/dd/yy): 2. Report Quarter: - 3. FFY: -

4. Agreement Number	5. Project Title		6. Project Type
7. Completed By (Name)	8. Title	9. Email	10. Phone

☐ 11. *Certification*: By checking this box, I certify that I have reviewed this report and that, to the best of my knowledge, the report is complete, accurate, and meets the terms and conditions of the award.

B. Overall Project Status

	a. Status	b. Explanation
12. Scope	Off-Track	
13. Schedule	Off-Track	
14. Budget	Off-Track	

15. Significant Activities this Quarter	16. Significant Activities Planned for Next Quarter

17. Amendment Request?	17 a. Status	17 b. Explanation
Yes	N/A	

C. Financial Status

Budget Status

18. Budget Changes?	18 a. Status	18 b. Explanation
Yes	N/A	

Expenditures and Reimbursement Status

Funding Source	Actual Expenditures this Quarter
19. FRA Grant:	
20. Grantee Match:	
21. Other Federal Funds:	
22. Total:	$ 0.00

23. Accomplishments Related to Expenditures in this Quarter	24. Accomplishments Related to Expenditures in other Quarters (if applicable)

Reimbursement Forecast

25. Planned Reimbursement Requests to FRA		26. Unliquidated Obligations	
25 a. Next Quarter	25 b. Next Four Quarters (Cumulative)	26 a. Any reported on this quarter's SF-425?	26 b. Explanation
		No	

D. Major Milestones

If your project contains one or more of the following components, please report on all that apply:

		Completion Date mm/dd/yy			
27. Milestone Name	28. Status	29. Planned	30. Actual	31. Change to Status?	32. Status Notes
All Projects					
27 a. Award of Sub-Contract(s)	Off-Track			N/A	
27 b. Project Work Begun	Off-Track			N/A	
27 c. Project Substantially Complete	Off-Track			N/A	
Projects with a Construction Component					
27 d. Construction Notice to Proceed Issued	Off-Track			N/A	
27 e. ROW Acquisition Complete	Off-Track			N/A	
27 f. Construction Ground-Breaking	Off-Track			N/A	
27 g. Construction Substantially Complete	Off-Track			N/A	
27 h. Environmental Mitigation Substantially Complete	Off-Track			N/A	
27 i. Ribbon-Cutting Ceremony	Off-Track			N/A	
27 j. Commencement of Service	Off-Track			N/A	
Projects with a Rolling Stock Component					
27 k. Test Vehicle Complete	Off-Track			N/A	
27 l. First Rolling Stock Delivery	Off-Track			N/A	

E. Statement of Work Task Status

33. Task #	34. Task Name	35. Status	36. Task Started?	Completion Date (mm/dd/yy) 37. Planned	38. Actual	39. Percent Complete (%)	40. Change to Status?
1	Pre-populated	Off-Track	N/A				N/A
		Off-Track	N/A				N/A
		Off-Track	N/A				N/A
		Off-Track	N/A				N/A
		Off-Track	N/A				N/A
		Off-Track	N/A				N/A
		Off-Track	N/A				N/A
		Off-Track	N/A				N/A
		Off-Track	N/A				N/A
		Off-Track	N/A				N/A
		Off-Track	N/A				N/A
		Off-Track	N/A				N/A
		Off-Track	N/A				N/A
		Off-Track	N/A				N/A
		Off-Track	N/A				N/A
		Off-Track	N/A				N/A
		Off-Track	N/A				N/A
		Off-Track	N/A				N/A
	Contingency (optional)						

E. Statement of Work Task Status (Continued)

41. Status Notes

REIMBURSEMENT AGREEMENT
PRELIMINARY ENGINEERING SERVICES

Effective Date:

Estimate: $450,000.00

THIS REIMBURSEMENT AGREEMENT (**Agreement**) is made and entered into as of the **Effective Date**, by and between UNION PACIFIC RAILROAD COMPANY, a Delaware corporation (**Railroad**), and CITY OF BANNING CALIFORNIA (**Agency**).

RECITALS

A. Agency desires to initiate the project more particularly described on Exhibit A attached hereto (**Project**).

B. The Project will affect Railroad's track and right of way at or near the Project area more particularly described on Exhibit A.

C. Railroad agrees to collaborate with Agency on the conceptualization and development of the Project in accordance with the terms and conditions of this Agreement.

AGREEMENT

NOW THEREFORE, the parties hereto agree as follows:

1. Railroad, and/or its representatives, at Agency's sole cost and expense, agrees to perform (or shall cause a third-party consultant to perform on Railroad's behalf) the preliminary engineering services work described on Exhibit B attached hereto (**PE Work**). Agency acknowledges and agrees that: (a) Railroad's review of any Project designs, plans and/or specifications, as part of the PE Work, is limited exclusively to potential impacts on existing and future Railroad facilities and operations; (b) Railroad makes no representations or warranties as to the validity, accuracy, legal compliance, or completeness of the PE Work; and (c) Agency's reliance on the PE Work is at Agency's own risk.

2. Notwithstanding the Estimate **(Estimate)**, Agency agrees to reimburse Railroad and/or Railroad's third-party consultant, as applicable, for one hundred percent (100%) of all actual costs and expenses incurred for the PE Work. During the performance of the PE Work, Railroad will provide (and/or will cause its third-party consultant to provide) progressive billing to Agency based on actual costs in connection with the PE Work. Within sixty (60) days after completion of the PE Work, Railroad will submit (and/or will cause its third-party consultant to submit) a final billing to Agency for any balance owed for the PE Work. Agency shall pay Railroad (and/or its third-party consultant, as applicable) within thirty (30) days after Agency's receipt of any progressive and final bills submitted for the PE Work. Bills will be submitted to the Agency using the contact information provided on Exhibit C. Agency's obligation hereunder to reimburse Railroad (and/or its third-party consultant, as applicable) for the PE Work shall apply regardless whether Agency declines to proceed with the Project or Railroad elects not to approve the Project.

3. Agency acknowledges and agrees that Railroad may withhold its approval for the Project for any reason in its sole discretion, including without limitation, impacts to Railroad's safety, facilities, or operations. If Railroad approves the Project, Railroad will continue to work with Agency to develop final plans and specifications, and prepare material and force cost estimates for any Project related work performed by Railroad.

4. If the Project is approved by Railroad, Railroad shall prepare and forward to Agency a Construction and Maintenance Agreement (**C&M Agreement**) which shall provide the terms and conditions for the construction and ongoing maintenance of the Project. Unless otherwise expressly set forth in the C&M Agreement, the construction and maintenance of the Project shall be at no cost to Railroad. No construction work on the Project affecting Railroad's property or operations shall commence until the C&M Agreement is finalized and executed by Agency and Railroad.

5. Neither party shall assign this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld, conditioned, or delayed.

6. No amendment or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties.

7. This Agreement sets forth the entire agreement between the parties regarding the Project and PE Work. To the extent that any terms or provisions of this Agreement regarding the PE Work are inconsistent with the terms or provisions set forth in any existing agreement related to the Project, such terms and provisions shall be deemed superseded by this Agreement to the extent of such inconsistency.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the Effective Date.

CITY OF BANNING CALIFORNIA	**UNION PACIFIC RAILROAD COMPANY,** a Delaware Corporation
_____	_____
Signature	Signature
_____	KENNETH TOM
Printed Name	Printed Name
_____	Manager I, Industry & Public Projects
Title	Title

Exhibit A
Project Description and Location

Project Description

The City of Banning, California, proposes to grade separate the existing crossing at the location referenced below

Location

Yuma Subdivision

DOT	Crossing Type	Milepost	Street Name
981688J	Public	568.722	Hargrave Street

Exhibit B
Scope of Project Services

Scope of work includes, but is not limited to the following

- Field diagnostic(s) and inspections
- Plan, specification, and construction review
- Project design
- Preparation of Project estimate for force account or other work performed by the Railroad
- Meetings and travel

Exhibit C
Billing Contact Information

Name	Patrick Safari
Title	CIP Manager
Address	99 E Ramsey Street, Banning CA 92220
Work Phone	(951) 922-3182
Cell Phone	
Email	psafari@banningca.gov
Agency Project No.	

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Robert Fisher, Acting City Manager**
PREPARED BY:	**Holly Stuart, Public Works Program Manager** **Art Vela, Director of Public Works**
MEETING DATE:	**May 27, 2025**
SUBJECT:	**Consideration of Resolution 2025-75, Approving Amendment No. 2 to the Custodial Services Agreement to Executive Facilities Services, Inc. for Custodial Services at City Facilities in the Amount of $224,512**

RECOMMENDATION:

Adopt Resolution 2025-75.

BACKGROUND:

On May 23, 2023, Resolution 2023-92 was approved awarding a Custodial Services Agreement to EFS in the amount of $184,752.42 with the option to renew four (4) additional single year periods. Upon annual review of services, staff recommends a contract extension for a one-year period.

On June 11, 2024, Amendment No. 1 to the agreement was approved extending the term for a one-year period and adding janitorial supplies (e.g., toilet paper, hands soap, paper towels, etc.) in the amount of $221,492.44.

At this time, staff evaluated and confirmed that the contractor continues to provide satisfactory services; therefore, recommends a term extension for FY 2025/2026. Overall, the increase in fees from the previous period is within the change in CPI and amounts to approximately 1.4%. If approved, Amendment No. 2 will increase compensation of the agreement by $224,511.56 and the total agreement will amount to $630,756.42 with the remaining option to renew two (2) additional single years.

The scope of work for services includes five (5) days per week facility maintenance of the Civic Center, City Yard and Banning Police Department. The Banning Water Shop and park restrooms require services three (3) days per week and the Community/Senior Centers shall be limited to quarterly floor and window cleanings as shown in the detailed specifications attached hereto under the original agreement. Additional compensation for Fiscal Year 2025/2026 services amount to $196,407.16 which includes $2,500 for services as needed.

In addition to custodial services and cleaning supplies, consumable janitorial supplies (e.g., toilet paper, hand soap, paper towels, etc.) are provided under the agreement which includes all labor for inventory maintenance, ordering, delivery and stocking of supplies for all City facilities serviced under the agreement. Additional compensation for this portion of the of the Agreement amount to $28,104.40 which includes $2,500 for services as needed.

In regard to janitorial supplies, it is also important to note that products that will be provided under this approval will meet State recycled-content paper requirements outlined by Senate Bill 1383

(CARecycling.ca.gov) and summarized below. Beginning January 1, 2022, SB 1383 requires jurisdictions to purchase recycled-content paper products that are recycled:

• Toilet paper shall consist of at least 45 percent, by fiber weight, postconsumer recycled content fiber
• Paper towels shall consist of at least 40 percent, by fiber weight, postconsumer recycled content fiber
• Toilet seat covers shall consist of at least 20 percent, by fiber weight, postconsumer recycled content fiber

JUSTIFICATION:

Custodial services are needed to provide regular scheduled custodial services to effectively, efficiently and safely maintain a high level of cleanliness for City facilities. Upon evaluating the existing services provided by EFS, staff recommends the contract renewal and processing of Amendment No 2 for FY 2025/2026. If approved, two (2) additional single-year renewals remain.

FISCAL IMPACT:

Amendment No. 2 will be funded by the operational budget of the Building and Maintenance Division, Account 704-3200-412.33-18 (Custodian Services).

ALTERNATIVES:

Do not adopt Resolution 2025-77 and provide alternative direction to staff. The City Council may choose to reject this action which would result in an interruption of services in custodial services of City properties. The City does not have staff resources to perform the janitorial maintenance tasks.

BUDGETED?:

Yes

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. Resolution 2025-75, Custodial Services City Hall.docx
2. Amend No.2 to CSA for Custodial Services C00845.docx
3. Attach2_LocationRateBreakdown.xlsx
4. Attach 3A_C00845_EFS.pdf
5. Attach 3B_Amend No.1 EFS.pdf

RESOLUTION 2025-75

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING AMENDMENT NO. 2 TO THE CUSTODIAL SEVICES AGREEMENT WITH EXECUTIVE FACILITES SERVICES IN THE AMOUNT OF $224,512 FOR FISCAL YEAR 2025/2026 CUSTODIAL SERVICES AT CITY FACILITIES

WHEREAS, on May 23, 2023, Resolution 2023-92 was approved awarding a Custodial Services Agreement to Executive Facilities Services (EFS) in the amount of $184,752.42 with the option to renew for four (4) additional single year periods; and

WHEREAS, on June 11, 2024 Amendment No. 1 was approved increasing the monthly custodial services agreement for FY 2024/2025 in the amount of $221,493; and

WHEREAS, under approval of this resolution, Amendment No. 2 will increase monthly costs for FY 2025/2026 in the amount of $224,511.56 which includes $5,000 for additional services and supplies as needed; and

WHEREAS, the total agreement amounts to $630,756.42; and

WHEREAS, operational costs have been included in the budget Building Maintenance Fund, Account 704-3200-412.33-15 and funds will be distributed to the appropriate area via an interfund transfer.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The City Council approves Amendment No. 2 to the City Properties Custodial Services Agreement with Executive Facilities Services in the amount of $224,512 for Fiscal Year 2025/2026.

SECTION 2. The City Council authorizes the City Manager, or designee, to make necessary budget adjustments, appropriations, and transfers related to this resolution.

SECTION 3. City Council authorizes the City Manager to make necessary non-substantive changes and to execute Amendment No. 2 with Executive Facilities Services for Fiscal Year 2025/2026.

SECTION 4. The City Clerk shall certify the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 27th day of May 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

John Pinkney, City Attorney
Slovak, Baron, Empey, Murphy & Pinkney, LLP

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-75, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 27th day of May 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

Exhibit A
Amendment No. 2 with Executive Facilities Services
FY 2025/2026 Custodial Services at City Facilities

AMENDMENT NO. 2 TO CONTRACT SERVICES AGREEMENT (C00845) FOR CUSTODIAL SERVICES AND BETWEEN CITY OF BANNING AND EXECUTIVE FACILITIES SERVICES, INC.

THIS AMENDMENT NO. 2 TO THE CONTRACT SERVICES AGREEMENT FOR SERVICES ("Amendment No. 2") by and between the **CITY OF BANNING** ("City") and **EXECUTIVE FACILITIES SERVICES, INC**., a California corporation ("Contractor") is effective as of this day: _____.

RECITALS

A. City and Contractor entered into that certain Contract dated June 7, 2023 for the purpose of providing Custodial Services ("Agreement") following Request for Proposals (RFP No. 23-023), as approved by City Council Resolution 2023-92.

B. City and Consultant have entered into an Amendment No. 1 to the Agreement dated June 11, 2024 to modify the Scope of Services, extend the Term of the Agreement to June 30, 2025, and increase the Contract Sum to Four Hundred Thousand Two Hundred Forty-Four Dollars and Eighty-Six Cents ($406,244.86), as approved by City Council Resolution 2024-90.

C. City and Contractor now desire to amend the Agreement to extend the Term of the Agreement to June 30, 2026, and increase the Contract Sum to Six Hundred Thirty Thousand Seven Hundred Fifty-Six Dollars and Forty-Two Cents ($630,756.42).

The Parties therefore agree follows:

1. Amended Terms. The Agreement is hereby amended as follows:

1.1 The Scope of Services as set forth in Section 1.1 of and Exhibit A to the Agreement is hereby amended to include the Services set forth in Attachment 1, attached hereto and incorporated herein.

1.2 The maximum compensation for the Services performed pursuant to this Amendment No. 1 shall not exceed Two Hundred Twenty-Four Thousand Five Hundred Eleven Dollars and Fifty-Six Cents ($224,511.56) thereby increasing the Contract Sum, as set forth in Section 2.1 of the Agreement, to Six Hundred

Thirty Thousand Seven Hundred Fifty-Six Dollars and Forty-Two Cents ($630,756.42).

1.3 The Term of the Agreement, as set forth in Section 3.4 of the Agreement, is hereby extended through June 30, 2026, unless sooner terminated or extended as provided in the Agreement.

1.4 Exhibit C-1 to the Agreement is hereby amended to include sites and rates as set forth in Attachment 1, attached hereto and incorporated herein.

2. Miscellaneous Provisions

2.1 Continued Effect of Agreement. Except as amended by this Amendment No. 2, all provisions of the Agreement as amended by Amendment No.1, shall remain unchanged and in full force and effect. From and after the date of this Amendment No. 2, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by Amendment No. 2. In the event of a conflict between the provisions of this Amendment No. 2 and the provisions of the Agreement, the provisions of this Amendment No. 2 shall control.

2.2 Consideration for Amendment. The parties hereby agree that they have each received adequate and independent consideration for the modifications to the Agreement set forth in this Amendment No. 2.

2.3 Authority. The persons executing this Amendment No. 2 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 2 on behalf of said party, (iii) by so executing this Amendment No. 2, such party is formally bound to the provisions of this Amendment No. 2, and (iv) entering into this Amendment No. 2 does not violate any provision of any other agreement to which said party is bound.

2.4 Counterparts. This Amendment No. 2 may be signed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument.

2.5 Electronic Signatures. Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Agreement and such other documents transmitted by the Parties.

[*SIGNATURE PAGE FOLLOWS*]

The Parties are signing this Amendment No. 2 on the date stated in the introductory clause.

CITY OF BANNING	CONTRACTOR
Robert Fisher, City Manager	NAME: TITLE:
City Council Approval: _____	NAME: TITLE:
ATTEST:	
Caroline Patton Administrative City Clerk	
APPROVED AS TO FORM: Solvak, Baron, Empey, Murphy & Pinkney LLP	
John O. Pinkney City Attorney	

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONTRACTOR'S BUSINESS ENTITY.

ATTACHMENT 1

Janitorial Services

Building		Current Monthly Rate	Increase Amount	New Rate
City Hall		$ 4,048.78	$ 102.43	$ 4,151.21
City Yard		$ 2,834.17	$ 71.70	$ 2,905.87
Police Dep.		$ 5,262.93	$ 133.15	$ 5,396.08
Fleet Management		$ 405.26	$ 10.25	$ 415.51
Water Shop		$ 728.28	$ 18.43	$ 746.71
Community & Senior Center		$ 535.90	$ 13.56	$ 549.46
Lions Park		$ 486.22	$ 12.30	$ 498.52
Repplier Park		$ 486.22	$ 12.30	$ 498.52
Roosevelt Park		$ 486.22	$ 12.30	$ 498.52
Sylvan Park		$ 486.22	$ 12.30	$ 498.52
		Total Current Rates	**Total Increase Amount / Month**	**New 2026 Rates**
		$ 15,760.20	**$ 398.73**	**$ 16,158.93**

Supplies

Building		Current Monthly Rate	Increase Amount	New Rate
City Hall		$ 534.68	$ 13.53	$ 548.21
City Yard		$ 374.26	$ 9.47	$ 383.73
Police Dep.		$ 695.03	$ 17.58	$ 712.61
Fleet Management		$ 53.47	$ 1.35	$ 54.82
Water Shop		$ 96.19	$ 2.43	$ 98.62
Community & Senior Center		$ 70.78	$ 1.79	$ 72.57
Lions Park		$ 64.16	$ 1.62	$ 65.78
Repplier Park		$ 64.16	$ 1.62	$ 65.78
Roosevelt Park		$ 64.16	$ 1.62	$ 65.78
Sylvan Park		$ 64.16	$ 1.62	$ 65.78
		Total Current Rates	**Total Increase Amount / Month**	**New 2026 Rates**
		$ 2,081.05	**$ 52.65**	**$ 2,133.70**

Janitorial Services

Building		Current Monthly Rate	Increase Amount	New Rate
City Hall		$ 4,048.78	$ 102.43	$ 4,151.21
City Yard		$ 2,834.17	$ 71.70	$ 2,905.87
Police Dep.		$ 5,262.93	$ 133.15	$ 5,396.08
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Total Current Rates	Total Increase Amount / Month	New 2026 Rates
$ 15,760.20	$ 398.73	$ 16,158.93

Supplies

Building		Current Monthly Rate	Increase Amount	New Rate
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Sylvan Park		$ 64.16	$ 1.62	$ 65.78

Total Current Rates	Total Increase Amount / Month	New 2026 Rates
$ 2,081.05	$ 52.65	$ 2,133.70

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AGREEMENT FOR CONTRACT SERVICES (C00845)

FOR CUSTODIAL SERVICES

By and Between

THE CITY OF BANNING,
A MUNICIPAL CORPORATION

and

EXECUTIVE FACILITIES SERVICES, INC.,

a California corporation

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AGREEMENT FOR CONTRACT SERVICES (C00845) FOR THE CITY-WIDE CUSTODIAL SERVICES BY AND BETWEEN CITY OF BANNING AND EXECUTIVE FACILITIES SERVICES, INC.

THIS AGREEMENT FOR CONTRACT SERVICES (herein" Agreement") is made and entered into this day: 6/7/2023, by and between the **CITY OF BANNING**, **a municipal corporation** ("City") and **EXECUTIVE FACILITIES SERVICES, INC., a California corporation** ("Contractor"). City and Contractor are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties."

RECITALS

A. City has sought, by issuance of a Request for Proposals (RFP No. 23-023), the performance of routine custodial services for City facilities, as defined and described particularly in Article 1 of this Agreement.

B. Contractor, following submission of a proposal or bid for the performance of the Services defined and described particularly in Article 1 of this Agreement, was selected by the City to perform those Services.

C. Pursuant to the City of Banning's Municipal Code, City has authority to enter into this Agreement.

D. The Parties desire to formalize the selection of Contractor for performance of those Services defined and described particularly in Section 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1. SERVICES OF CONTRACTOR

1.1 Scope of Services.

In compliance with all terms and conditions of this Agreement, the Contractor shall provide those Services specified in the "Scope of Services" attached hereto as Exhibit "A" and "A-1" and incorporated herein by this reference, which Services may be referred to herein as the "Services" hereunder. As a material inducement to the City entering into this Agreement, Contractor represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the Services required under this Agreement in a thorough, competent, and professional manner, and is experienced in performing the Services contemplated herein. Contractor shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all Services described herein. Contractor covenants that it shall follow the highest professional standards in performing the Services required hereunder. For purposes of this Agreement, the phrase "highest professional standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

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1.2 Order of Precedence.

The Scope of Services shall include the City's Request for Proposals ("RFP") and the Contractor's Response to the City's RFP ("Response"), which shall be incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the terms of this Agreement and the RFP or Response, the terms of this Agreement shall govern, including but not limited to any insurance and indemnification language. In the event of any inconsistency between the terms of the City's RFP and the Contractor's Response, the City's RFP shall govern. Sections XXII (Withheld Contract Funds), XXVII (Payroll), XXIX (Labor Standards Provision), XXX (Labor Discrimination) and XXXII (Anti-Trust Claims) of the RFP are hereby deleted from the Scope of Services.

1.3 Compliance with Law.

Contractor shall keep itself informed concerning, and shall render all Services hereunder in accordance with all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered.

1.4 Licenses, Permits, Fees and Assessments.

Contractor shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the Services required by this Agreement. Contractor shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Contractor's performance of the Services required by this Agreement, and shall indemnify, defend and hold harmless City, its officers, employees or agents of City, against any such fees, assessments, taxes penalties or interest levied, assessed or imposed against City hereunder.

1.5 Familiarity with Work.

By executing this Agreement, Contractor warrants that Contractor (i) has thoroughly investigated and considered the Scope of Services to be performed, (ii) has carefully considered how the Services should be performed, and (iii) fully understands the facilities, difficulties and restrictions attending performance of the Services under this Agreement. If the Services involve work upon any site, Contractor warrants that Contractor has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of Services hereunder. Should the Contractor discover any latent or unknown conditions, which will materially affect the performance of the Services hereunder, Contractor shall immediately inform the City of such fact and shall not proceed except at Consultant's risk until written instructions are received from the Contract Officer.

1.6 Additional Services.

City shall have the right at any time during the performance of the Services, without invalidating this Agreement, to order extra Services beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said Services. No such extra Services may be undertaken unless a written order is first given by the Contract Officer to the Contractor, incorporating therein any adjustment in (i) the Contract Sum, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Contractor. Any increase in compensation of up to $2,000.00; or in the time to perform of up to one hundred eighty

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(180) days may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively must be approved by the City Council. It is expressly understood by Contractor that the provisions of this Section shall not apply to Services specifically set forth in the Scope of Services or reasonably contemplated therein. Contractor hereby acknowledges that it accepts the risk that the Services to be provided pursuant to the Scope of Services may be more costly or time consuming than Contractor anticipates and that Contractor shall not be entitled to additional compensation therefor.

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, City agrees to pay Contractor the amounts specified in the "Schedule of Compensation" attached hereto as Exhibit "A" and "A-1", and incorporated herein by this reference. The total compensation, including reimbursement for actual expenses, shall not exceed One Hundred Eighty-Four Thousand Seven Hundred Fifty-Two Dollars and Forty-Two Cents ($184,752.42) (the "Contract Sum").

2.2 Method of Compensation.

On or about the first of each month the Contractor shall submit an invoice and all reports required by this Agreement for Services performed in the prior month.

(a) This invoice shall be in accordance with the Contract Sum and shall become the basis for payment.

(b) This invoice shall be subject to review and approval by the Public Works Director or designee.

(c) All submitted invoices, approved by the Public Works Director or designee, shall require four (4) weeks for processing by the City of Banning, Finance Department.

(d) Any charges in the invoice not approved by the Public Works Director or designee shall not be paid by the City.

(e) Compensation may be adjusted annually, on July 1st of each year commencing on July 1, 2021, during the term of the Agreement to reflect annual changes in the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index Riverside-San Bernardino-Ontario Area, or any successor index, as set forth over the previous available twelve (12) months prior to the date of adjustment.

(f) All Services are subject to review and acceptance by the City, and must be revised by the Contractor without additional charge to the City until found satisfactory and accepted by City.

ARTICLE 3. TERM

3.1 Term.

The Term of this Agreement shall be from the Effective Date through June 30, 2024, unless sooner terminated as provided in Article 6 of this Agreement. The Parties, by mutual written agreement, may extend the Term of this Agreement for up to four (4) succeeding terms of one (1)

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year each. Maximum term and any subsequent amendment or modification shall not exceed five (5) years.

ARTICLE 4. COORDINATION OF WORK

4.1 Representatives and Personnel of Contractor.

The following principal of Contractor ("Principal") is hereby designated as being the Principal and representative of Contractor authorized to act on its behalf with respect to the Services specified herein and make all decisions in connection therewith.

Art Ojeda, Director of Operations

4.2 Representative Name, Title.

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing Principal was a substantial inducement for City to enter into this Agreement. Therefore, the foregoing Principal shall be responsible during the term of this Agreement for directing all activities of Contractor and devoting sufficient time to personally supervise the Services hereunder. All personnel of Contractor, and any authorized agents, shall at all times be under the exclusive direction and control of the Principal. For purposes of this Agreement, the foregoing Principal may not be replaced nor may their responsibilities be substantially reduced by Contractor without the express written approval of City. Additionally, Contractor shall make every reasonable effort to maintain the stability and continuity of Contractor's staff and subcontractors, if any, assigned to perform the Services required under this Agreement. Contractor shall notify City of any changes in Contractor's staff and subcontractors, if any, assigned to perform the Services required under this Agreement, prior to and during any such performance.

4.3 Status of Contractor.

Contractor shall have no authority to bind City in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City. Contractor shall not at any time or in any manner represent that Contractor or any of Contractor's officers, employees, or agents are in any manner officials, officers, employees or agents of City. Neither Contractor, nor any of Contractor's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Contractor expressly waives any claim Contractor may have to any such rights.

4.4 Contract Officer.

The Contract Officer shall be such person as may be designated by the City Manager. It shall be the Contractor's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the Services and the Contractor shall refer any decisions which must be made by City to the Contract Officer. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of the City required hereunder to carry out the terms of this Agreement.

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4.5 Independent Contractor.

Neither the City nor any of its employees shall have any control over the manner, mode or means by which Contractor, its agents or employees, perform the Services required herein, except as otherwise set forth herein. City shall have no voice in the selection, discharge, supervision or control of Contractor's employees, servants, representatives or agents, or in fixing their number, compensation or hours of service. Contractor shall perform all Services required herein as an independent contractor of City and shall remain at all times as to City a wholly independent contractor with only such obligations as are consistent with that role. Contractor shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. City shall not in any way or for any purpose become or be deemed to be a partner of Contractor in its business or otherwise or a joint venturer or a member of any joint enterprise with Contractor.

4.6 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Contractor, its principals and employees were a substantial inducement for the City to enter into this Agreement. Therefore, Contractor shall not contract with any other entity to perform in whole or in part the Services required hereunder without the express written approval of the City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty-five percent (25%) of the present ownership and/or control of Contractor, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release the Contractor or any surety of Contractor of any liability hereunder without the express consent of City.

ARTICLE 5. INSURANCE, INDEMNIFICATION

5.1 Insurance Coverages.

Throughout the life of this Agreement, Contractor shall pay for and maintain in full force and effect all policies of insurance required hereunder with an insurance company(ies) that meet the standards specified in Section 5.5. The language of this Article 5 supersedes any indemnity and insurance language in Exhibits A or A-1. The following policies of insurance are required:

(i) COMMERCIAL GENERAL LIABILITY insurance which shall be at least as broad as the most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01 and include insurance for "bodily injury," "property damage" and "personal and advertising injury" with coverage for premises and operations (including the use of owned and non-owned equipment), products and completed operations, and contractual liability (including, without limitation, indemnity obligations under the Contract) with limits of liability of not less than the following:

$1,000,000 per occurrence for bodily injury and property damage

$1,000,000 per occurrence for personal and advertising injury

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$2,000,000 aggregate for products and completed operations

$2,000,000 general aggregate

(ii) COMMERCIAL AUTOMOBILE LIABILITY insurance which shall be at least as broad as the most current version of Insurance Service Office (ISO) Business Auto Coverage Form CA 00 01, and include coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1 Any Auto) with limits of liability of not less than $1,000,000 per accident for bodily injury and property damage.

(iii) WORKERS' COMPENSATION insurance as required under the California Labor Code.

(iv) EMPLOYERS' LIABILITY insurance with limits of liability of not less than $1,000,000 each accident, $1,000,000 disease policy limit and $1,000,000 disease each employee.

In the event Contractor purchases an Umbrella or Excess insurance policy(ies) to meet the minimum limits of insurance set forth above, this insurance policy(ies) shall "follow form" and afford no less coverage than the primary insurance policy(ies).

If this Agreement continues for more than three (3) years duration, or in the event the City Manager or his/her designee determines that the work or Services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Contractor agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from the City Manager, or his/her designee.

Contractor shall be responsible for payment of any deductibles contained in any insurance policies required hereunder and Contractor shall also be responsible for payment of any self-insured retentions.

Any deductibles or self-insured retentions must be declared to, and approved by, the City Manager or his/her designee. At the option of the City Manager or his/her designee, either: (i) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to City, its Council members, officers, officials, employees and agents; or (ii) Contractor shall provide a financial guarantee, satisfactory to the City Manager or his/her designee, guaranteeing payment of losses and related investigations, claim administration and defense expenses. At no time shall the City be responsible for the payment of any deductibles or self-insured retentions.

5.2 General Requirements.

All policies of insurance required hereunder shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after 30 calendar day written notice has been given to City. Upon issuance by the insurer, broker, or agent of a notice of cancellation, non-renewal, or reduction in coverage or in limits, Contractor shall furnish City with a new certificate and applicable endorsements for such policy(ies). In the event any policy is due to expire during the work to be performed for City, Contractor shall provide a new certificate, and applicable endorsements, evidencing renewal of such policy not less than 15 calendar days prior to the expiration date of the expiring policy.

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The General Liability and Automobile Liability insurance policies shall be written on an occurrence form. The General Liability (including ongoing and completed operations) and Automobile Liability shall name City and its officers, officials, employees, agents and volunteers as an additional insured. Such policy(ies) of insurance shall be endorsed so Contractor's insurance shall be primary and no contribution shall be required of City. The coverage shall contain no special limitations on the scope of protection afforded to the City and its officers, officials, employees, agents and volunteers. The Workers' Compensation insurance policy shall contain a waiver of subrogation as to City and its officers, officials, employees, agents and volunteers. Should Contractor maintain insurance with broader coverage and/or limits of liability greater than those shown above, City requires and shall be entitled to the broader coverage and/or the higher limits of liability maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.

Contractor shall furnish City with all certificate(s) and applicable endorsements effecting coverage required hereunder. All certificates and applicable endorsements are to be received and approved by the City Manager or his/her designee prior to City's execution of the Agreement and before work commences.

If at any time during the life of this Agreement or any extension, Contractor or any of its subcontractors fail to maintain any required insurance in full force and effect, all work under this Agreement shall be discontinued immediately, and all payments due or that become due to Contractor shall be withheld until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to City. Any failure to maintain the required insurance shall be sufficient cause for City to terminate this Agreement. No action taken by City hereunder shall in any way relieve Contractor of its responsibilities under this Agreement.

Upon request of City, Contractor shall immediately furnish City with a complete copy of any insurance policy required under this Agreement, including all endorsements, with said copy certified by the underwriter to be a true and correct copy of the original policy. This requirement shall survive expiration or termination of this Agreement.

The fact that insurance is obtained by Contractor shall not be deemed to release or diminish the liability of Contractor, including, without limitation, liability under the indemnity provisions of this Agreement. The duty to indemnify City and its officers, officials, employees, agents and volunteers shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Contractor. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of Contractor, its principals, officers, employees, agents, persons under the supervision of Contractor, vendors, suppliers, invitees, subcontractors, or anyone employed directly or indirectly by any of them.

If Contractor should subcontract all or any portion of the Services to be performed under this Agreement, Contractor shall require each subcontractor to provide insurance protection in favor of City and its officers, officials, employees, agents and volunteers in accordance with the terms of each of the preceding paragraphs, except that the subcontractors' certificates and endorsements shall be on file with Contractor and City prior to the commencement of any work by the subcontractor.

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5.3 Indemnification, Hold Harmless, and Duty to Defend.

A. Indemnities.

1) To the fullest extent permitted by law, Contractor shall, at its sole cost and expense, defend, hold harmless and indemnify City and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, assigns and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees"), from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith and the payment of all consequential damages (collectively "Liabilities"), in law or equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Contractor, its officers, agents, servants, employees, subcontractors, materialmen, Contractors or their officers, agents, servants or employees (or any entity or individual that Contractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties. Contractor shall defend the Indemnitees in any action or actions filed in connection with any Liabilities with counsel of the Indemnitees' choice, and shall pay all costs and expenses, including all attorneys' fees and experts' costs actually incurred in connection with such defense. Contractor shall reimburse the Indemnitees for any and all legal expenses and costs incurred by Indemnitees in connection therewith.

2) Contractor shall pay all required taxes on amounts paid to Contractor under this Agreement, and indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Contractor shall fully comply with the workers' compensation law regarding Contractor and Contractor's employees. Contractor shall indemnify and hold City harmless from any failure of Contractor to comply with applicable workers' compensation laws. City may offset against the amount of any fees due to Contractor under this Agreement any amount due to City from Contractor as a result of Contractor's failure to promptly pay to City any reimbursement or indemnification arising under this subparagraph A.2).

3) Contractor shall obtain executed indemnity agreements with provisions identical to those in this Section from each and every subcontractor or any other person or entity involved by, for, with or on behalf of Contractor in the performance of this Agreement. If Contractor fails to obtain such indemnity obligations, Contractor shall be fully responsible and indemnify, hold harmless and defend the Indemnitees from and against any and all Liabilities at law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Contractor's subcontractor, its officers, agents, servants, employees, subcontractors, materialmen, Contractors or their officers, agents, servants or employees (or any entity or individual that Contractor's subcontractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties.

B. Workers' Compensation Acts not Limiting. Contractor's indemnifications and obligations under this Section, or any other provision of this Agreement, shall not be limited by the provisions of any workers' compensation act or similar act. Contractor expressly waives

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its statutory immunity under such statutes or laws as to City, its officers, agents, employees and volunteers.

C. Insurance Requirements not Limiting. City does not, and shall not, waive any rights that it may possess against Contractor because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. The indemnities in this Section shall apply regardless of whether or not any insurance policies are determined to be applicable to the Liabilities, tax, assessment, penalty or interest asserted against City.

D. Survival of Terms. Contractor's indemnifications and obligations under this Section shall survive the expiration or termination of this Agreement.

5.4 Sufficiency of Insurer

Insurance required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the Risk Manager of the City ("Risk Manager") due to unique circumstances. If this Agreement continues for more than three (3) years duration, or in the event the Risk Manager determines that the work or Services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Contractor agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from the Risk Manager; provided that the Contractor shall have the right to appeal a determination of increased coverage by the Risk Manager to the City Council of City within ten (10) days of receipt of notice from the Risk Manager.

ARTICLE 6. RECORDS, REPORTS, AND RELEASE OF INFORMATION

6.1 Records.

Contractor shall keep, and require subcontractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and Services performed hereunder (the "Books and Records"), as shall be necessary to perform the Services required by this Agreement and enable the Contract Officer to evaluate the performance of such Services. Any and all such Books and Records shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such Books and Records at all times during normal business hours of City, including the right to inspect, copy, audit and make records and transcripts from such Books and Records. Such Books and Records shall be maintained for a period of 3 years following completion of the Services hereunder, and the City shall have access to such Books and Records in the event any audit is required. In the event of dissolution of Contractor's business, custody of the Books and Records may be given to City, and access shall be provided by Contractor's successor in interest.

6.2 Reports.

Contractor shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the Services required by this Agreement as the Contract Officer shall require. Contractor hereby acknowledges that the City is greatly concerned about the cost of Services to be performed pursuant to this Agreement. For this reason, Contractor agrees that if

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Contractor becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the Services contemplated herein, Contractor shall promptly notify the Contract Officer of said fact, circumstance, technique or event and the estimated increased or decreased cost related thereto and

6.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the "Documents and Materials") prepared by Contractor, its employees, subcontractors and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the termination of this Agreement, and Contractor shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership use, reuse, or assignment of the Documents and Materials hereunder. Any use, reuse or assignment of such completed Documents and Materials for other projects and/or use of uncompleted Documents and Materials without specific written authorization by the Contractor will be at the City's sole risk and without liability to Contractor, and Contractor's guarantee and warranties shall not extend to such use, revise or assignment. Contractor may retain copies of such Documents and Materials for its own use. Contractor shall have an unrestricted right to use the concepts embodied therein. All subcontractors shall provide for assignment to City of any Documents and Materials prepared by them, and in the event Contractor fails to secure such assignment, Contractor shall indemnify City for all damages resulting therefrom.

6.4 Confidentiality and Release of Information.

(a) All information gained or work product produced by Contractor in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Contractor. Contractor shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the Contract Officer.

(b) Contractor, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the Services performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Contractor gives City notice of such court order or subpoena.

(c) If Contractor, or any officer, employee, agent or subcontractor of Contractor, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Contractor for any damages, costs and fees, including attorney's fees, caused by or incurred as a result of Contractor's conduct.

(d) Contractor shall promptly notify City should Contractor, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the Services performed there under. City retains the right, but has no obligation, to represent Contractor or be present at any deposition, hearing or similar proceeding. Contractor agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests

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provided by Contractor. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

ARTICLE 7. ENFORCEMENT OF AGREEMENT AND TERMINATION

7.1 California Law.

This Agreement shall be interpreted, construed and governed both as to validity and to performance of the Parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Riverside, State of California, or any other appropriate court in such county, and Contractor covenants and agrees to submit to the personal jurisdiction of such court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in Riverside.

7.2 Disputes; Default.

In the event that Contractor is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Contractor for any Services performed after the date of default. Instead, the City may give notice to Contractor of the default and the reasons for the default. The notice shall include the timeframe in which Contractor may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that Contractor is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. In the alternative, the City may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Contractor does not cure the default, the City may take necessary steps to terminate this Agreement under this Article. Any failure on the part of the City to give notice of the Contractor's default shall not be deemed to result in a waiver of the City's legal rights or any rights arising out of any provision of this Agreement.

7.3 Retention of Funds.

Contractor hereby authorizes City to deduct from any amount payable to Contractor (whether or not arising out of this Agreement) (i) any amounts the payment of which may be in dispute hereunder or which are necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, and (ii) all amounts for which City may be liable to third parties, by reason of Contractor's acts or omissions in performing or failing to perform Contractor's obligation under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by Contractor, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of the Contractor to insure, indemnify, and protect City as elsewhere provided herein.

7.4 Waiver.

Waiver by any Party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any Party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any Services by Contractor shall not constitute a waiver of any of the

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provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either Party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

7.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

7.6 Legal Action.

In addition to any other rights or remedies, either Party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement.

7.7 Liquidated Damages.

Since the determination of actual damages for any delay in performance of this Agreement would be extremely difficult or impractical to determine in the event of a breach of this Agreement, the Contractor and its sureties shall be liable for and shall pay to the City liquidated damages for each working day of delay in the performance of any service required hereunder, as specified in Exhibit A, Section XX . The City may withhold from any monies payable on account of Services performed by the Contractor any accrued liquidated damages.

7.8 Termination Prior to Expiration of Term.

This Section shall govern any termination of this Agreement except as specifically provided in the following Section for termination for cause. The City reserves the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days' written notice to Contractor, except that where termination is due to the fault of the Contractor, the period of notice may be such shorter time as may be determined by the Contract Officer. In addition, the Contractor reserves the right to terminate this Agreement at any time, with or without cause, upon sixty (60) days' written notice to City, except that where termination is due to the fault of the City, the period of notice may be such shorter time as the Contractor may determine. Upon receipt of any notice of termination, Contractor shall immediately cease all Services hereunder except such as may be specifically approved by the Contract Officer. Except where the Contractor has initiated termination, the Contractor shall be entitled to compensation for all Services rendered prior to the effective date of the notice of termination and for any Services authorized by the Contract Officer thereafter in accordance with the Section 2.2 or such as may be approved by the Contract Officer, except as provided in Section 7.3. In the event the Contractor has initiated termination, the Contractor shall be entitled to compensation only for the reasonable value of the Work product actually produced hereunder. In the event of termination without cause pursuant to this Section, the terminating Party need not provide the non-terminating Party with the opportunity to cure pursuant to Section 7.2.

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7.9 Termination for Default of Contractor.

If termination is due to the failure of the Contractor to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 7.2, take over the Services and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable to the extent that the total cost for completion of the Services required hereunder exceeds the compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Contractor for the purpose of set-off or partial payment of the amounts owed the City as previously stated.

7.10 Attorneys' Fees.

If either Party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing Party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees. Attorney's fees shall include attorney's fees on any appeal, and in addition a Party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

ARTICLE 8. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

8.1 Non-liability of City Officers and Employees.

No officer or employee of the City shall be personally liable to the Contractor, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Contractor or to its successor, or for breach of any obligation of the terms of this Agreement.

8.2 Conflict of Interest.

Contractor covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Contractor's performance of Services under this Agreement. Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the Contract Officer. Contractor agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

No officer or employee of the City shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which effects his financial interest or the financial interest of any corporation, partnership or association in which he is, directly or indirectly, interested, in violation of any State statute or regulation. The Contractor warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

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8.3 Covenant Against Discrimination.

Contractor covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, or ancestry in the performance of this Agreement. Contractor shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, marital status, national origin, or ancestry.

8.4 Unauthorized Aliens.

Contractor hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Contractor so employ such unauthorized aliens for the performance of Services covered by this Agreement, and should the any liability or sanctions be imposed against City for such use of unauthorized aliens, Contractor hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

ARTICLE 9. MISCELLANEOUS PROVISIONS

9.1 Notices.

Any notice, demand, request, document, consent, approval, or communication that either Party desires or is required to give to the other Party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the City, to the City Manager and to the attention of the Contract Officer, CITY OF BANNING, 99 East Ramsey Street, Banning, CA 92220 and in the case of the Contractor, to the person at the address designated on the execution page of this Agreement. Either Party may change its address by notifying the other Party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

9.2 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either Party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

9.3 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

9.4 Integration; Amendment.

This Agreement including the attachments hereto is the entire, complete and exclusive expression of the understanding of the Parties. It is understood that there are no oral agreements between the Parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the Parties, and none shall be used to interpret this Agreement. No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Contractor and by the

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City Council. The Parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

9.5 Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the Parties hereunder unless the invalid provision is so material that its invalidity deprives either Party of the basic benefit of their bargain or renders this Agreement meaningless.

9.6 Time is of the Essence. Time is of the essence in every provision of this Agreement in which time for performance is a factor.

9.7 Corporate Authority.

The persons executing this Agreement on behalf of the Parties hereto warrant that (i) such Party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said Party, (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said Party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the Parties.

[SIGNATURES ON FOLLOWING PAGE]

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IN WITNESS WHEREOF the Parties hereto have executed this Agreement the day and year first hereinabove written.

CITY OF BANNING

6/7/2023

Douglas Schulze, Date
City Manager

ATTEST:

6/7/2023

Caroline Patton Date
Deputy City Clerk

APPROVED AS TO FORM:
Richards, Watson & Gershon

6/6/2023

Serita Young, Date
City Attorney

CONSULTANT

Jim Ferraro 6/7/2023

NAME: Jim Ferraro Date
TITLE: OWNER

NAME: Date
TITLE:

54-2445448

Tax ID No.

Address:
6865 Weaver St
Riverside, CA.
92504

City Council Approval: 2023-092

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

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EXHIBIT "A"
SCOPE OF SERVICES

I. Contractor will perform the following Services:

As specified in RFP No. 23-023.

II. Contractor will perform the services listed in RFP No.23-023 at the following rates:

Citywide Custodial Services

RFP 23-023

Location	Days per week	Cost per square Foot		Square Footage of Building	Totals per Month
Banning City Hall	5	0.1894	per Sq.Ft	20,600	3,902.11
City Yard	5	0.2227	per Sq.Ft	12,267	2,731.37
Banning Police Dept.	5	0.1812	per Sq.Ft	28,000	5,072.38
Fleet Maintenance Office	5	0.6751	per Sq.Ft	578	390.21
Water Shop	3	0.7020	per Sq.Ft	1,000	702.03
Park Restrooms	3	1.8010	per Sq.Ft	1,040	1,873.01
Communmity Center	Quarterly - Floors / Windows	0.0587	per Sq.Ft	8,800	516.58
			Monthly Total:	72,285	15,187.69
			Yearly Total:		182,252.28
			On-Call Services:		2,500.14
			Total Not to Exceed:		184,752.42

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EXHIBIT "A-1"
SCOPE OF SERVICES

I. Contractor will perform the following Services:

As specified in the RFP 23-023 City-wide Custodial Services and Contractor Proposal attached hereafter:

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B. Statement of Understanding and Approach

PROJECT SCHEDULE/ IMPLEMENTATION PLAN

for Night Janitorial, Day Janitorial and Additional Services

In order to fully develop our approach to servicing the City of Banning's facilities, EFS, Inc. will develop a Project Schedule/Implementation Plan. We have found this tool to be the most successful for ensuring excellent service for new and existing clients. The Project Schedule/Implementation Plan is adhered to by all members of our team. This Project Schedule/Implementation Plan was developed and has been tested by Jim Ferraro, Company Owner, who is actively involved in all aspects of the business. We view our Project Schedule/Implementation Plan as a "living document" that continues to evolve based upon our clients' site-specific requirements.

All of our Operations Managers, Supervisors, site-specific lead employees, on-site employees, and support staff play a role in our Project Schedule/Implementation Plan. If EFS, Inc. is awarded the contract to provide janitorial services at all of the City of Banning's buildings, a detailed Project Schedule/Implementation Plan for each location will be developed. EFS, Inc.'s Project Schedule/Implementation Plan will strictly adhere to the scope of services that has been provided in the Request for Proposal for janitorial services for all the City of Banning's facilities.

The Project Schedule/Implementation Plan will also include the site-specific needs and/ or requirements that are identified during our initial site visits with a representative from the City of Banning in order to understand all needs. We have learned from experience that this additional information is vital to a successful startup of services and for a seamless start-up for our clients.

It all begins with an initial meeting with the appropriate City of Banning representatives and the EFS, Inc. management team to thoroughly review and discuss all aspects of the scope of services. If EFS, Inc. is awarded the contract, we will work closely with the City of Banning staff to ensure that each location has been thoroughly cleaned and disinfected nightly.

Our Project Schedule/Implementation Plan will enable EFS, Inc. to create a detailed plan for performing the janitorial services that are required as per the Request for Proposal and scope of services that has been provided by the City of Banning.

EFS, Inc. has reviewed the scope of work listed page 30 to 39 in the Request for Proposal in order to make a detailed schedule for each building. Through our 19 years of experience, this process allows us to monitor, schedule, and perform regular additional services effectively and with little interruption to our clients. Performing additional services at each location on a semi-annual schedule will provide the City of Banning with janitorial services that exceed their staff and residents' expectations.

EFS, Inc. has performed similar services for cities like Thousand Oaks, Agoura Hills, Oxnard, and Costa Mesa. Each of our existing clients had detailed and itemized requirements in their scope of work which EFS, Inc. has responded to accordingly. Each of our clients has a city hall, council chambers, and water facility which required additional training and services to maintain and prepare the location for resident visibility.

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(Continued)

EFS, Inc. has provided a detailed breakdown of the estimated crew size and hours for each location in the work schedule provided following this section. We will utilize this work schedule to coordinate what time our employees will be at each site, and utilize the scope of work to train each employee on what each of the daily, weekly, and monthly services are that need to be completed.

Utilizing time tested and proven quality control processes, EFS, Inc. will continually monitor our employees through day and night supervision to ensure that each service is completed to a standard above the current expectations. We have implemented time tracking through an app based system that gives a clear indication of when our employees are on site, and the duration of the time on site.

EFS, Inc. has perform an in-depth wage analysis for the City of Banning and its surrounding areas, and will be paying its employees servicing its sites at $16.50 per hour, one dollar above the State of California's minimum wage.

EFS, Inc. clearly understands the importance of providing thorough janitorial services for these locations and maintains the same attention to detail day in and day out to ensure that the City of Banning staff and citizens can be confident that the areas they are visiting have been cleaned properly.

Christian Ferraro, Operations Manager, will serve as the main point of contact for the City of Banning and its staff. Christian Ferraro will be supported by Jim Ferraro, our management team members, and our administrative staff throughout the life of the contract. Christian Ferraro possesses excellent communication skills, and he has learned that ongoing communication is one of the keys to success in the service industry.

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CITY OF BANNING WORK SCHEDULE AND CLIENT LIST

EXECUTIVE FACILITIES SERVICES, INC. WORK SCHEDULE AND STAFFING PLAN

CREW SIZE / SERVICE DAYS	LOCATION	SERVICE HOURS	ESTIMATED LABOR HOURS
CREW 1 – (1-2 EMPLOYEES) 5 DAYS – MONDAY TO FRIDAY	CITY HALL 99 E RAMSEY ST.	AFTER 6:00 PM	4.5 – 5.5 LABOR HOURS
CREW 1 – (1-2 EMPLOYEES) 5 DAYS - MONDAY TO FRIDAY	POLICE DEPARTMENT 125 E. RAMSEY ST	8:00AM – 4:00PM	6 – 7 LABOR HOURS
CREW 2 – (1-2 EMPLOYEES) 5 DAYS - MONDAY TO FRIDAY	CITY YARD 176 E. LINCOLN ST.	AFTER 6:00 PM	1.5 – 2.5 LABOR HOURS
CREW 2 (1-2 EMPLOYEES) 5 DAYS – MONDAY TO FRIDAY	FLEET MAINTENANCE 176 E. LINCOLN ST.	AFTER 6:00 PM	5.5 – 6.5 LABOR HOURS
CREW 3 (1 EMPLOYEE) 3 DAYS – M, W, F	WATER SHOP 3333 BLUFF RD.	AFTER 6:00 PM	1 LABOR HOUR
CREW 3 (1 EMPLOYEE) 3 DAYS – M, W, F	PARK RESTROOMS 955 SOUTH HARGRAVE ST. 201 W. GEORGE ST. 1101 E. GEORGE ST. 789 N. SAN GORGONIO AVE.	AFTER 6:00 PM	4 LABOR HOURS

EXECUTIVE FACILITIES SERVICES, INC. Client List

Client Name	Duration of Contract	Total Square footage	Crew Size	CONTACT
CITY OF THOUSAND OAKS	2020- PRESENT	296,804	12 EMPLOYEES	ELIZABETH PEREZ
CITY OF AGOURA HILLS	2021 - PRESENT	21,098	2 EMPLOYEES	JOHN TRIECHLER
CITY OF COSTA MESA	2021 - PRESENT	170,013	15 EMPLOYEES	DANIEL JOJOLA
CITY OF OXNARD	2021 - PRESENT	110,524	6 EMPLOYEES	LUIS ORTEGA
PENNYMAC	2022 - PRESENT	223,598	19 EMPLOYEES	RUBEN FLORES
SAN BERNARDINO SUPERINTENDENT OF SCHOOLS	2004 - PRESENT	495,937	12 EMPLOYEES	RALPH ALBA
LIBRARY SYSTEMS & SERVICES	2004 - PRESENT	326,208	13 EMPLOYEES	SUE GOODWIN
WESTERN WATER MUNICIPLE WATER DISTRICT	2021 - PRESENT	89,256	6 EMPLOYEES	MONICA PEARSON

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CITY OF BANNING SCOPE OF WORK

Building Name	Address	Estimated Cleaning Square Footage
1. Banning City Hall (Civic Center)	99 E. Ramsey Street	20,600
2. Banning Police Department	125 E. Ramsey Street	28,000
3. City Yard	176 E. Lincoln Street	5,400
4. Fleet Maintenance Office	176 E. Lincoln Street	620
5. Water Shop	3333 Bluff Road	1,000
6. Community Center / Senior Center	789 N. San Gorgonio Avenue	8,800
7. Lion's Park Restroom	955 South Hargrave Street	200
8. Repplier Park Restroom	201 W. George Street	320
9. Roosevelt Williams Park Restroom	1101 E. George Street	280
10. Sylvan Park Restroom	789 N. San Gorgonio Ave.	240

Total Estimated Cleaning Square Footage:	**65,460**

The City is looking to contract for five (5) days a week custodial services for the City of Banning City Hall (Civic Center), City Yard, and Banning Police Department. as provided in the specifications. The Banning Water Shop will require three (3) days per a week custodial services only. The Community Center/Senior Center custodial services shall include quarterly floor and window cleaning per the specifications. The Park Restrooms require 3 days per week cleaning. All facilities are located in the City of Banning. **A Building Location Map is attached.**

SCOPE OF WORK AND SPECIFICATIONS:

The intent of these specifications is to secure a Contractor which shall provide **COMPLETE CUSTODIAL SERVICES** in a cost effective and professional

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manner.

a. The Contractor shall supply all licenses, permits and fees necessary to complete work. The Contractor agrees to indemnify, defend and hold harmless the CITY OF BANNING for any and all loss, liability, damages, claims or demands of employees, agents and workers of the Contractor, or of all provisions hereof.
b. The Contractor shall furnish all labor, tools, materials, and equipment to provide custodial services as set forth in the specifications.
c. The City shall provide trash liners and paper products; toilet tissue, seat liners, and paper towels, for the services set forth in the specifications.
d. All work shall be done in a thorough and workmanlike manner to the satisfaction of the Public Works Director or designee and comply with all legal generally accepted practices for custodial services. The premises shall be maintained at the level of service provided for in these specifications at all times.
e. The Contractor shall have the duty to provide complete custodial services of all work sites listed including, but not limited to duties listed in and any others added in the future. When additional services or portions thereof, are accepted by the City and become part of the custodial service contract, the City and Contractor shall negotiate a fair and reasonable cost to compensate the Contractor for the newly assigned work.
f. Employees of the Contractor shall not disturb papers on desks, open drawers of cabinets, use telephones, radios or television sets or tamper with personal or City property. Employees of the Contractor shall report anything out of the ordinary, such as cracked windows. Employees of the Contractor shall call the Banning Police Department immediately when they observe anyone destroying City property either inside or outside the building. Upon leaving, when applicable, the employees of the Contractor shall see that all doors and windows so designated are locked, and lights so designated are turned off.
g. **Coordination and Phasing** – The Contractor shall hereby be made cognizant of the fact that the Council Chambers, meeting rooms, and, at times, conferences rooms and office spaces will be in use by employees and residents before or after normal working hours. All work shall be performed in a phased operation so that these meetings are not disrupted. In no case shall work commence in an area occupied for meeting purposes. The City Hall Information Desk will supply the Contractor with LISTINGS of all scheduled meetings; however, department conferences and impromptu meetings are not scheduled and must be handled as they occur.
h. **Personnel Attire** – All employees shall be required to wear appropriate attire that readily identifies the individual as an employee of the Contractor. Additionally, the individual will wear a picture identification badge that identifies the individual and Contractor. All badges as required by this contract will be approved by the Public Works Director or designee

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and be provided by the Contractor at the Contractor's expense.

i. SPECIAL CONDITIONS
    i. The Contractor is to provide each of the items with the Bid Package as listed below:
        1. Organizational chart including executives.
        2. The contact of the assigned foreman or supervisor.
        3. Current number of employees of the company.
        4. Brief description of company personnel and training procedures.
    ii. Level of cleaning with frequency charts of each building. Service frequencies must be equal or exceed those specified.
    iii. Inventory of all equipment and adequate cleaning supplies to be kept on the premises.

j. QUALITY CONTROL:
    i. Inspection/Checklist:
        1. The Contractor shall create and provide an "Inspection/Checklist Form" for each facility location as approved by the Public Works Director or designee. The Contractor's personnel will use this form to reflect services performed and any exceptions to the requirements. Additionally, both the Contractor's Supervisor and Public Works Director or designee evaluating the effectiveness and adequacy of services performed, will use this form. This form will be completed daily and be maintained in the Janitor's closet in an appropriate binder. The Contractor will post a copy of the daily, weekly, monthly, quarterly, annual tasks as listed in these specifications in the Janitor's closet. A copy of the inspection/checklist will be forwarded to the Public Works Director or designee on a weekly basis.
        2. Shift Log Sheet: The Contractor shall create a "Shift Log Sheet" for its personnel to sign in and out at each shift. The Shift Log Sheet shall be provided and maintained by the Contractor and located in the Janitor's closet for each facility location.
        3. Service Log Sheet: The Contractor shall create a "Service Log Sheet" which will be maintained and checked daily for customer requests at each facility location. Items requiring completion will be so noted at the end of each shift.

k. The Janitor's closet will be kept in a neat, clean and orderly condition at all times, and securely locked when not in use. The Janitor's closet will be stocked with ample consumable items at all times. The Contractor will complete the "Inspection/Checklist", "Shift Log Sheet" and "Service Log Sheet" daily and file it in an appropriate binder located in Janitor's closet.

l. Requirements Subsequent to Contract Execution – The Contractor is hereby required to conform to the following:
    i. The Contractor shall furnish all labor, cleaning materials and

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equipment necessary to perform the specified work, with the *exception* of owner consumable items such as *toilet paper, paper towels, hand soap refills for dispenser units, sanitary napkins, toilet seat covers and waste container liners*. The Contractor shall be responsible to secure City supplied items and refill all containers and dispensers. The Contractor may propose as an alternative option the cost of these consumable items. This alternative proposal will include the individual cost of each item being proposed.

ii. The Contractor's equipment shall be new or in the best maintained working order for its intended function. Hepa type filtered vacuum cleaner must be used for all facilities. Equipment, which is faulty or does not perform to the satisfaction of the City, shall be replaced. Contractor equipment and supplies shall be stored only in the areas designated by the City.

m. The Contractor shall be available twenty-four (24) hours a day, seven (7) days a week to respond to all emergencies within two (2) hours of notification.

n. The Contractor will maintain photo identification badges for all individuals performing services under the said contract identifying the company's name, individual's name, title of the individual, and a picture image of the individual. Background checks and clearance will be performed by the contractor in a manner approved by the City and maintained in a binder utilized by the Contractor to log in and log out at each location. Badges and background check to be approved by City staff will be provided at the contractor's expense.

III. SPECIFICATIONS - FREQUENCY OF SERVICE:

The following is an itemized list by area of cleaning activities required five (5) times per week for the Civic Center, City Yard, and Police Department facilities, Monday through Friday. The Water Shop and Park Restrooms require cleaning activities (3) times per week to occur on Monday, Wednesday and Thursday of each week unless otherwise agreed upon by the Contractor and City.

a. GENERAL Procedure – ALL AREAS – DAILY

i. Empty all desk and area trash and recycling container bins; materials shall not be comingled.

ii. Replace container liners as required.

iii. Sweep all composition floors with chemically treated dust mops.

iv. Sweep all bar contrite floors with sweeping compound.

v. Spot mop or clean spillage on floors, bare concrete, vinyl-tile, or carpet.

vi. Spot clean interior office window as needed or requested.

vii. Remove all graffiti from walls and furniture. Notify the Director of Public Works or designee of any graffiti that cannot be removed with normal graffiti removal cleaning solutions.

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viii. Maintain custodial closets and storage areas clean and orderly.
ix. Disinfect all doorknobs / handles throughout City facilities.
x. Secure all exterior doors and turn off all but security night lighting when applicable.

NOTICE: Under no circumstances shall any papers, books, documents or equipment be touched, moved or displaced.
SPECIAL NOTE: Any suspiciously important envelope or other material found in the trash or recycling containers or on the floor shall be left in the area with a note.

b. RESTROOMS – DAILY
   i. Empty all trash containers, replace all liners.
   ii. Wash all consumable product containers.
   iii. Refill all consumable products with City-furnished supplies.
   iv. Sweep floor clear of all debris.
   v. Damp mop and disinfect all resilient and ceramic floors.
   vi. Wet wipe and disinfect toilet partitions with a cleaning and sanitizing solution.
   vii. Empty and sanitize all sanitary napkin disposal units.
   viii. Clean and polish all vitreous fixtures, including toilet bowls, tanks, urinals, and hand basins; clean tile and tile flooring in men's shower/restroom with a cleaning and sanitizing solution.
   ix. Clean and disinfect all flush rings, drain and overflow outlets.
   x. Clean and disinfect tops and underside of toilet seats.
   xi. Clean and polish all chrome fittings.
   xii. Clean and polish all glass and mirrors.
   xiii. Clean splash marks on walls adjacent to or over sinks.
   xiv. Remove spot, stain, and splash marks and all graffiti from walls and partitions. (Notify the City's Public Works Director or designee of any graffiti that cannot be removed with normal graffiti removal solutions.)
   xv. Dust metal partitions, wet wipe and clean both sides of restroom entry doors.
   xvi. Remove fingerprints from glass, doors, door frames, and light switches.
   xvii. Report any or all water leaks, plugged lavatories, etc., to the Public Works Director or designee.
c. ALL AREAS – WEEKLY
   i. Dust all high and low horizontal surfaces, including sills, ledges, moldings, shelves, locker tops, frames and file cabinets.

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ii. Empty all recyclable bins or as needed and place in recyclable bin. Contractor shall not commingle recyclable material with trash.
iii. Damp wipe plastic and leather furniture.
iv. Remove fingerprints from glass partitions, metal door frames and light switches in office areas.
v. Clean and polish bright metal to 70" height.
vi. Clean and sanitize waste containers in restrooms and break areas.
vii. Clean the interior of the microwave oven, toaster, and conventional stove in the employees' kitchen/lunchroom area.
viii. Enzyme clean all floors and walls.
ix. Disinfect all doorknobs.
x. Empty and wipe clean all desk and counters.
xi. Vacuum all carpeting with attention to high use areas. The contractor is responsible for moving and replacing items that are less than 50 pounds in order to thoroughly vacuum.
xii. Spot clean carpeting.
xiii. Spot mop or clean spillage on floors, bare concrete, vinyl-tile, or carpet.
xiv. Clean ducts and soft buff all counters, tables, chairs and furniture.
xv. Spot clean to remove fingerprints from glass and metal doorframes of entry doors and wall switches; including all conference rooms.
xvi. Clean customer service windows.
xvii. Clean, sanitize and polish all drinking fountains.
xviii. Clean interior and exterior of all glass panel doors and windows.
xix. Perform low dusting, defined as floor level to five feet above floor, including base molding or top set, sill ledges, chair and personnel rails, partitions, chairs, tables, desks, telephones, filing cabinets, and all office furniture.
xx. BI-WEEKLY- Polish buff hard and resilient floors in traffic areas. REMOVE HEEL MARKS.

d. ALL AREAS – MONTHLY
i. Clean entire interior/exterior glass partitions and metal doorframes.
ii. Thoroughly wash all restroom floors and detail corners to remove residual buildup.
iii. Clean entire desktops in a manner that does not disturb papers, folders, files, binders, etc.
iv. Dry dust wood paneled surfaces.
v. Remove dust and cobwebs from ceiling areas; vacuum all ceiling vents, taking care to not move directional vents.
vi. Spray buff entire resilient and hard surface floor areas.
vii. Spot clean all carpeted areas.
viii. Detail vacuum carpet edges and under desks and office furniture. The contractor is responsible for moving and replacing items that are less than 50 pounds in order to thoroughly vacuum.
ix. Completely clean the entire interior of the refrigerator. A "Notice" shall remain posted on the refrigerator at all times of the day of

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clean up. Therefore, any items such as expired food, containers, etc., within the refrigerator shall be discarded by the Contractor. The City shall notify staff internally and provide ample notice to them. The contractor shall notify the Public Works Director or designee one (1) week in advance of the cleaning or a set day of the month shall be determined. Any items labeled “Keep” by its owner shall remain after cleaning.

e. ALL AREAS – QUARTERLY
   i. Clean windows, interior and exterior including all windows that are located in high spaces.
   ii. Clean and polish office furniture.
   iii. Damp clean diffuser outlets in ceiling and walls.
   iv. Dry clean area adjacent to diffuser outlets.
   v. Wash all waste baskets.
   vi. Dust Venetian blinds.
   vii. Spray buff resilient and hard surface floors. Apply floor finish and ensure that all floors maintain a shine leaving no residual floor finish.
   viii. Completely clean the entire interior of the freezer portion of the refrigerator and discard all food items not labeled “keep” by its owner. Provide at least a two week notice to staff and post a notice of the date of cleaning. If additional cleaning is required, the Contractor will be notified.
   ix. Wash and sanitize chairs and tables in employee break rooms and conference rooms located in all buildings.
   x. Wash and sanitize metal partitions and wall surfaces in all restrooms.

f. SEMI-ANNUAL REQUIREMENTS
   i. Clean and polish all baseboards.
   ii. Dust lighting fixtures
   iii. Damp clean lobby and reception chairs.
   iv. Move all furniture, deep clean all carpeted surfaces using a water extraction method.
   v. Move all furniture, strip, wash and machine polish resilient and hard surface floors.
   vi. Steam clean showers and shower drainage trough.

g. ALL AREAS – ANNUALLY
   i. Clean and polish baseboards.
   ii. Dust lighting fixtures.
   iii. Damp clean lobby and reception chairs.
   iv. Move all furniture, deep clean all carpeted surfaces using a water extraction method.
   v. Move all furniture, strip, wash and machine polish resilient and hard surface floors.
   vi. Steam clean showers and shower drainage trough.

h. AREA SPECIFIC REQUIREMENTS

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i. **LOBBY AREAS AND MAIN CORRIDORS**

1. Daily spot cleaning of all glass, metal doorframes; interior and exterior, and main entrance door passageways/lobby area.
2. Daily remove all trash and place in bins at pickup area.
3. Daily clean and sanitize drinking fountains in the lobby/restroom areas.
4. Weekly dust mop/vacuum floor areas. The contractor is responsible for moving and replacing items that are less than 50 pounds in order to thoroughly vacuum.
5. Weekly damp mop resilient tile.
6. Monthly wash all glass partition, interior and exterior, and metal doorframes of passageway/front lobby entrance area.
7. Quarterly deep clean all high-traffic and carpeted areas.

ii. COUNCIL CHAMBER AND ADJACENT MEDIA ROOM AND CORRIDORS

1. Weekly dry wipe and buff microphones with extreme care.
2. Weekly clean stage chairs.
3. Monthly vacuum Council Chambers Media Room and clean glass window.
4. Monthly wash interior and exterior glass partition and metal doorframes in east entry lobby area.
5. DO NOT CLEAN any electronic buttons, switches or gears.
6. Quarterly deep clean all high-traffic and carpeted areas.

iii. PRIVATE OFFICE AREAS (i.e. City Manager, Directors, City Council Members Office)

1. Daily empty all trash and recycle containers; materials shall not be comingled, and liners shall be replaced as required.
2. Weekly dust and wipe clean desks and counters. Contractor shall not disturb paper, binders, folders etc.
3. Weekly vacuum carpet floor, as needed, minimum once a week. The contractor is responsible for moving and replacing items that are less than 50 pounds in order to thoroughly vacuum.
4. Monthly clean glass window interior.

iv. EMPLOYEE BREAK ROOMS AND KITCHENS

1. Daily empty, wash, disinfect and replace liners in all trash containers and place trash in bins at pickup area.
2. Daily empty, wash and disinfect all recycle containers in a manner that does not commingle recyclable materials with trash.
3. Daily clean and disinfect all counter tops, tabletops, and interior of sink.
4. No cleaning of dishes, silverware, or coffeepots will be required.
5. Do not clean coffee machines. Leave machines plugged in

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and in the same “on” or “off” position as left by staff, unless an empty coffee pot has been left on top of any “on” element, then it shall be removed and set aside.

6. Weekly clean exterior of all appliances; refrigerator, conventional oven, microwave oven, and toaster oven in the employee kitchen/lunchroom area.
7. Weekly dust mop/vacuum hard floor area, wet mop and disinfect all resilient/hard surface floor area and spot clean all carpet adjacent thereto.
8. Weekly dust miscellaneous furniture (chairs, couches, etc.).
9. Weekly damp mop resilient tile.
10. Weekly remove fingerprints from doors, frames, light switches, handles and push plates.
11. Monthly clean interior of refrigerator.
12. Restock paper towels containers as necessary.

v. COMMUNITY CENTER AND SENIOR CENTER

1. Quarterly buffing/waxing of all floors and shampooing of all carpets (excluding the multi-purpose room gym floors and the Community Center)
2. Quarterly window cleaning.

vi. WATER SHOP: Services provided to the Water Shop will be restricted to the administration offices, break room area and restroom.

vii. PARK RESTROOMS (LIONS, REPPLIER, ROOSEVELT WILLIAMS, SYLVAN)

1. Empty all trash containers, replace all liners.
2. Wash all consumable product containers.
3. Refill all consumable products with City-furnished supplies.
4. Sweep floor clear of all debris.
5. Damp mop and disinfect all resilient and ceramic floors.
6. Wet wipe and disinfect toilet partitions with a cleaning and sanitizing solution.
7. Empty and sanitize all sanitary napkin disposal units.
8. Clean and polish all vitreous fixtures, including toilet bowls, tanks, urinals, and hand basins; clean tile and tile flooring with a cleaning and sanitizing solution.
9. Clean and disinfect all flush rings, drain and overflow outlets.
10. Clean and disinfect tops and underside of toilet seats.
11. Clean and polish all chrome fittings.
12. Clean and polish all glass and mirrors.
13. Clean splash marks on walls adjacent to or over sinks.
14. Remove spot, stain, and splash marks and all graffiti from walls and partitions. (Notify the City’s Public Works Director or designee of any graffiti that cannot be removed with

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normal graffiti removal solutions.)

15. Dust metal partitions, wet wipe and clean both sides of restroom entry doors.
16. Remove fingerprints from glass, doors, door frames, and light switches.
17. Report any or all water leaks, plugged lavatories, etc., to the Parks and Recreation Director Director or designee.

viii. BUILDING SECURITY – DAILY

1. Turn off all lights (except security and night lights).
2. Close windows.
3. Lock all doors.
4. Set alarms.

IV. BASIC COMPENSATION:

OWNER shall pay Contractor, as compensation for the services to be performed, the sum of per month listed in the Contract Agreement with additional adjustments as specified thereinafter. Additional adjustments shall be made to the monthly compensation if new areas are included in the City of Banning, Custodial Services.

Compensation may be adjusted annually, on July 1st of each year commencing on July 1, 2024, during the term of the Contract Agreement to reflect annual changes in the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index Riverside-San Bernardino-Ontario Area, or any successor index, as set forth over the previous available twelve (12) months prior to the date of adjustment.

V. ADDITIONAL WORK

a. The Public Works Director or designee may authorize the Contractor to perform additional work. Additional work shall be defined as work not included in the specifications with the exception of additional sites, or portions thereof that may be added and shall be in writing.
b. Prior to the Contractor performing any additional work, the Contractor shall prepare and submit a written description of the work with an estimate of labor and materials cost. No work shall commence without written authorization from the Public Works Director, or designee. In the event that conditions exist where there is imminent danger of injury to the public or damage to property, the Public Works Director or designee may verbally authorize the work to be performed upon receiving a verbal estimate from the Contractor. Within twenty-four (24) hours after receiving verbal authorization, the Contractor shall submit a written estimate to the Public Works Director or designee for written approval.
c. The cost estimate for additional work shall consist of the following elements:
    i. Wholesale cost of materials including sales tax plus ten percent (10%).
    ii. Base cost of labor plus fifteen percent (15%) for overhead and

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PROJECT SCHEDULE/WORK PLAN

City of Banning

WORK PLAN / INITIAL SITE VISITS

STEP	DATE	ACTION	PERSON RESPONSIBLE	DUE DATE	STATUS
1		Initial site visits: develop building visitation schedule	J. Ferraro / C. Ferraro		
2		Complete site visit	C. Ferraro / F. Mendoza		
3		Identify site specific additional needs requirements if needed	C. Ferraro / F. Mendoza		
4		Identify point of contact at the site	C. Ferraro / F. Mendoza		
5		Identify important dates for the site special events, etc.	C. Ferraro / F. Mendoza		
6		Review scope of services with facility representative if needed	C. Ferraro / F. Mendoza		
7		Add agreed upon additional services requirements	J. Ferraro / City of Banning		

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City of Banning

WORK PLAN / SPECIFIC FACILITY INFORMATION

STEP	DATE	ACTION	PERSON RESPONSIBLE	DUE DATE	STATUS
1		Identify location of janitorial and storage closets	J. Ferraro / C. Ferraro		
2		Request alarm codes for facility, if needed	C. Ferraro / F. Mendoza		
3		Identify all entry and exit points for each location	C. Ferraro / F. Mendoza		
5		Discuss locked door and safety protocol with facility staff	C. Ferraro / F. Mendoza		
6		Develop equipment needs list for each facility	C. Ferraro / F. Mendoza		
7		Develop emergency contact list	C. Ferraro / F. Mendoza		
8		Determine if additional specialty cleaning products are required for the site	C. Ferraro / F. Mendoza		
9		Develop keys / key fob inventory the each location	C. Ferraro / F. Mendoza		

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City of Banning

WORK PLAN / EMPLOYEE AND LABOR

STEP	DATE	ACTION	PERSON RESPONSIBLE	DUE DATE	STATUS
1	TBD	Identify existing EFS, Inc. employees to transfer to the City of Banning	C. Ferraro / F. Mendoza		
2	TBD	Recruit and train additional employees to fill open positions	C. Ferraro / F. Mendoza		
3	TBD	New hire packages completed and new employee ID numbers issued	C. Ferraro / F. Mendoza		
4	TBD	ID badges made for all employees working at the City of Banning	C. Ferraro / F. Mendoza		
5	TBD	Train employees on facility safety procedures	C. Ferraro / F. Mendoza / Storm-Larsen		
6	TBD	Train employees on facility security procedures	C. Ferraro / F. Mendoza Storm-Larsen		
7	TBD	Review scope of work for each site with site specific employees	C. Ferraro / F. Mendoza R. Storm-Larsen		

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City of Banning

WORK PLAN / EQUIPMENT FOR EACH LOCATION

STEP	DATE	ACTION	PERSON RESPONSIBLE	DUE DATE	STATUS
1	TBD	Secure cleaning equipment / materials based upon list developed during initial site visit	J. Ferraro / C. Ferraro		
2	TBD	Secure special equipment	C. Ferraro / F. Mendoza		
3	TBD	MSDS binders placed in all janitorial closets	C. Ferraro / F. Mendoza		
4	TBD	Deliver all janitorial materials to each facility	C. Ferraro / F. Mendoza		
5	TBD	Store back-up janitorial and dayporter materials in Inland Empire facility	C. Ferraro / F. Mendoza		

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TRANSITION PLAN

Ensuring a smooth and seamless transition to a new service provider requires coordination and clear communication. Executive Facilities Services, Inc.'s Transition Plan begins well before the initiation of services. Once an award of contract occurs, EFS, Inc. will have already created a detailed list of items, meetings, and follow-up job-walks required to ensure a smooth transition on the first night of service.

Utilizing our Transition Plan strategy, we will identify key staff members at each client location to gather additional site information to enable EFS, Inc. to perform beyond the City of Banning' expectations. Our highly experienced management team reviews all information and develops a "start- up kit" listing equipment and chemicals for each location and site. EFS, Inc. supervisors use this information to provide day and night janitorial employees with thorough training and the right equipment.

The first week can be stressful for all parties during a transition to a new service provider. EFS, Inc. will provide additional supervision from all levels of the organization to ensure that the transition goes smoothly. Our Sample Project Schedule/ Work Plan contains each itemized step that will be used during the Transition Plan.

Below please find some of the key elements of our Transition Plan:

1. Review meetings of Scope of Work with all Key Personnel
2. Conduct facility inspections with Operation Manager and Key Personnel
3. Identify and secure replacement equipment (when necessary)
4. Train location specific employees on various entry times, locations, and security protocols
5. Provide continuous training for employees on safety protocols so knowledge matches state mandated requirements
6. Review meetings with site specific staff of the Scope of Work
7. Conduct facility inspections with site specific staff and/or site Supervisor
8. Review floor plans with employees to identify areas of service

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City of Banning

Transition Plan

STEP	DATE	ACTION	PERSON RESPONSIBLE	DUE DATE	STATUS
1	TBD	Develop building visitation for all City of Banning locations	C. Ferraro / F. Mendoza		
2	TBD	Complete all site visits	C. Ferraro / F. Mendoza		
3	TBD	Identify site specific additional needs and requirements if needed	C. Ferraro / F. Mendoza		
4	TBD	Identify point of contact at each site	C. Ferraro / F. Mendoza		
5	TBD	Identify important dates for each site special events, etc.	C. Ferraro / F. Mendoza		
6	TBD	Finalize the service agreement between EFS, Inc. and the City of Banning	J. Ferraro / City of Banning		
7	TBD	Add agreed to additional services requirements to scope of work	C. Ferraro / F. Mendoza		
8	TBD	Deliver equipment kits to each site	C. Ferraro / F. Mendoza	Start of service	

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BUSINESS PERFORMANCE AND QUALITY CONTROL

Executive Facilities Services, Inc. has learned from experience that the most effective method in ensuring quality service to our clients is through routine site visits. All sites serviced by EFS, Inc. are visited by supervisors on a bi-weekly basis in addition to regular supplies delivery and inspections. Also, the City of Banning sites will be visited by Jim Ferraro, Company Owner, Christian Ferraro, Operations Manager, Francisco Mendoza, Operations Manager, Vicky Rivera, Senior Night Supervisor, Melanie Lopez, Night Supervisor. All operations managers and supervisors carry a smart phone so they can respond quickly to requests for required or emergency services.

During nightly visits to various sites, our staff members review and assess all aspects of the buildings included in the scope of services. If any issues are noticed by a staff member, the employee is made aware and the issues are addressed and resolved that evening. We believe that this is a foundational business practice between EFS, Inc. and its clients. It creates a fast-track line of communication between EFS, Inc. and our clients to ensure that they are receiving the highest of quality service.

- Monthly inspection reports summarize any reported issues and how they were resolved.
- Site visit schedules are developed weekly and unannounced, enabling EFS, Inc. to monitor and control the quality of service as well as interact with onsite employees on a regular basis.
- A copy of our Building Inspection form can be found on the page following this one. Each time a site is visited by an EFS, Inc. supervisor, whether it be a service issue, a supply delivery or a weekly site visit, the form is completed by the supervisor. Operations Managers review all Building Inspection forms daily/ nightly to ensure that any issues are addressed and resolved.
- EFS, Inc. and its management team will ensure that each of the City of Banning buildings remains secure during provision of services. The EFS, Inc. Operations Manager will train each employee on the proper door locking etiquette and alarm system protocols, and verify that all protocols are being followed.
- EFS, Inc. has the responsibility of categorizing and storing highly specialized keys, access cards, and key fobs for clients. As can be seen from our current client list provided with the proposal, EFS, Inc. works with several cities, municipalities, and private and public entities. We store all client keys in a locked key box at our location in our headquarters's location in Riverside. This facility has 24-hour surveillance and an alarm system.
- EFS, Inc. will not duplicate keys to any of the City of Banning without permission.

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Janitorial Inspection Sheet

BUILDING INSPECTION FORM

EFS, Inc.

Site:	Cleaner:	Supervisor:

Custodial Services

(Place a check mark in the column after each entry to indicate the quality of work performance)

	AREAS AND OPERATIONS		RATING ABOVE	AVERAGE	BELOW
FLOORS	MOPPING				
	SWEEPING				
	WAXING				
TOILETS	FLOORS	MOPPING			
		SWEEPING			
	INTERIOR	SEATS			
		BOWLS			
		FIXTURES			
	SINKS	BOWLS			
		FIXTURES			
	URINALS	PORCELAIN			
		FIXTURES			
	SOAP DISPENSERS				
	TOWEL DISPENSERS				
	SANITARY NAPKIN DISPENSER				
	MIRRORS				
	STALL PARTITIONS				
	TOWEL DISPOSAL CAN				
	WALLS				
	DUSTING				
	LEDGES				
BLINDS	DUSTING				
	ACCESSORIES				
FURNITURE	DUSTING				
CUSTODIAL CLOSETS	DUSTING				
	WASHING				
	ORDERLINESS				
INTER GLASS	WASHING				
	DUSTING				
WALLS/CEILINGS	WASHING				
	DUSTING				
	GRILLS				
	PICTURES				
LIGHT FIXTURES	DUSTING				
	SWITCHES				

	AREAS AND OPERATIONS	RATING ABOVE	AVERAGE	BELOW
HALLWAY/CORRIDORS	DRINKING FOUNTAINS			
	RAILINGS			
	SIGNS			
	HARDWARE			
	DOORS			
	WALLS			
	CLOSETS			
	VENTILATOR GRILLS			
WINDOWS	WASHING			
	LEDGES			
ENTRANCES	DOORS			
	STEPS			
	SCRAPERS			
	RUGS & CARPET			
	PICTURES			
	SIGNS			
	KICK PLATES			
	HARDWARE			
STAIRWAYS	STEPS			
	RAILINGS			
	LANDINGS			
MISCELLANEOUS	SMOKING STANDS			
	SUPPLY STORAGE ROOMS			
	WORK ROOMS			
	LOCKER ROOMS			

REMARKS: *(Note incidents to which particular attention should be focused)*

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Has the Consultant, any officer of the Consultant, or any employee of the Consultant who has proprietary interest in the Consultant, ever been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of a violation of law or safety regulation?

Yes _____ No **X**

If the answer is yes, explain the circumstances in the following space.

DISCLOSURE OF GOVERNMENT POSITIONS

Each Proposer shall disclose below whether any owner or employee of the firm currently hold positions as elected or appointed officials, directors, officers, or employees of a governmental entity or held such positions in the past twelve months. List below or state "None."

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NONE

INDEMNITY AND INSURANCE STATEMENT

Summary of Indemnity and Insurance Requirements

1. These are the Indemnity and Insurance Requirements for Contractors providing services or supplies to the City. By agreeing to perform the work or submitting a proposal, you verify that you comply with and agree to be bound by these requirements. If any additional contract documents are executed, the actual Indemnity language and Insurance Requirements may include additional provisions as deemed appropriate by the City.

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2. You should check with your Insurance advisors to verify compliance and determine if additional coverage or limits may be needed to adequately insure your obligations under this agreement. These are the minimum required and do not in any way represent or imply that such coverage is sufficient to adequately cover the Contractor's liability under this agreement. The full coverage and limits afforded under Contractor's policies of insurance shall be available to the City and these Insurance Requirements shall not in any way act to reduce coverage that is broader or includes higher limits than those required. The Insurance obligations under this agreement shall be: 1 – all the Insurance coverage and limits carried by or available to the Contractor; or 2 – the minimum Insurance Requirements shown in this agreement, whichever is greater. Any insurance proceeds in excess of the specified minimum limits and coverage required, which are applicable to given loss, shall be available to the City.

3. Contractor shall furnish the City with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to the City before work begins. The City reserves the right to require full-certified copies of all Insurance coverage and endorsements.

I. INDEMNIFICATION

To the fullest extent permitted by law, Consultant shall, at its sole cost and expense, defend, hold harmless and indemnify City and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, assigns and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees"), from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith and the payment of all consequential damages (collectively "Liabilities"), in law or equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant, its officers, agents, servants, employees, subcontractors, materialmen, consultants or their officers, agents, servants or employees (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties. Consultant shall defend the Indemnitees in any action or actions filed in connection with any Liabilities with counsel of the Indemnitees' choice, and shall pay all costs and expenses, including all attorneys' fees and experts' costs actually incurred in connection with such defense. Consultant shall reimburse the Indemnitees for any and all legal expenses and costs incurred by Indemnitees in connection therewith. Contractor shall agree that their defense and indemnification obligations are in addition to, and are not limited by, the Insurance obligations in the agreement.

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Consultant shall pay all required taxes on amounts paid to Consultant under this Agreement, and indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant shall fully comply with the workers' compensation law regarding Consultant and Consultant's employees. Consultant shall indemnify and hold City harmless from any failure of Consultant to comply with applicable workers' compensation laws. City may offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this paragraph.

Consultant shall obtain executed indemnity agreements with provisions identical to those in this Section from each and every subcontractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. If Consultant fails to obtain such indemnity obligations, Consultant shall be fully responsible and indemnify, hold harmless and defend the Indemnitees from and against any and all Liabilities at law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant's subcontractor, its officers, agents, servants, employees, subcontractors, materialmen, consultants or their officers, agents, servants or employees (or any entity or individual that Consultant's subcontractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties.

II. INSURANCE

The City of Banning will require the following to approve insurance for your contract:

1) Insurance Limits:

(a) General Liability insurance with limits of not less than $1,000,000 for bodily injury and property damage; $1,000,000 for personal and advertising injury; $2,000,000 products and completed operations aggregate and $2,000,000 general aggregate.

(b) Auto Liability insurance endorsed for "any auto" with limits of liability of not less than $1,000,000 per accident for bodily injury and property damage.

(c) Professional Liability (Errors and Omissions) insurance appropriate to Consultant's profession, with limits of liability of not less than $1,000,000 per claim/occurrence and $1,000,000 policy aggregate The "Retro Date" must be shown for the Professional Liability insurance. **(only required if contract involves the rendering of a professional service).**

(d) Workers' Compensation insurance as required under the California Labor Code.

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(e) Employer's Liability insurance with limits of liability of not less than $1,000,000, each accident; $1,000,000 disease each employee; and $1,000,000 disease policy limit.

*Limits can be adjusted by the City based on services provided.

2.) Insurance Requirements:

(a) California Insurance Commissioner to do business in the State of California and rated not less than "A- VII" in Best's Insurance Rating Guide.

(b) Certificate holder should appear as follows:

City of Banning
Attn: Purchasing Division
99 E. Ramsey Street
Banning, CA 92220-4837

(c) The certificate of insurance should read "*The City of Banning, its officers, officials, employees and agents are additional insured with respects to General Liability and Auto Liability insurance. This insurance is primary, and our obligations are not affected by any other insurance carried by such additional insured whether primary, excess, contingent, or on any other basis. Waiver of subrogation for Workers' Compensation insurance with respects to the City of Banning, its officers, officials, employees and agents.*"

(d) The additional insured coverage under the contractor's policy shall be "primary and non-contributory" and will not seek contribution from the City's insurance or self-insurance and shall be at least as broad as CG 20 01 04 13.

3.) Insurance Documents:

(a) Include an Additional insured endorsement, with primary and non-contributory language or a primary insurance endorsement, for General Liability insurance **including ongoing operations and completed operations (i.e., CG 20 10, CG 20 33, or CG 20 38)**. The additional insured should read, "*The City of Banning, its officers, officials, employees, agents and volunteers". Examples of primary insurance language are "Such insurance as is afforded by the policy is primary and any other insurance shall be excess and not contribute to the insurance afforded by this endorsement" or "This insurance is primary, and our obligations are not affected by any other insurance carried by such additional insured whether primary, excess, contingent, or on any other basis*". The endorsement number needs to be included in the accord description of certificate of insurance.

(b) Include an Additional insured endorsement for Auto Liability insurance. The additional insured should read, "*The City of Banning, its officers, officials,*

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ADDIITONAL INFORMATION

Green Cleaning Program and Partner



WAXIE GPS® Green Partner Support™

Your Guide to More Sustainable Cleaning Solutions

&

EXECUTIVE FACILITIES SERVICES, INC.

PARTNERING TOGETHER

WAXIE GPS ® Green Partner Support is an ideal platform for customers who would like to implement a green cleaning program which combines low environmental impact cleaning products with good sound cleaning procedures, along with the training and consultative expertise needed in order to create a more effective and safe cleaning program.

WAXIE GPS ® identifies third-party certifications and guidelines whenever available to substantiate environmentally preferable product claims – such as EPA Comprehensive Procurement Guidelines (CPG), EPA Safer Choice (formerly known as DfE), UL Environment/EcoLogo, Green Seal, CRI Seal of Approval, Forest Stewardship Council (FSC), Scientific Certification Systems (SCS), Clean Air Choices Cleaner Certification (CACC), USDA BioPreferred Program and others – and includes the demonstrated knowledge of the LEED® Accredited Professionals and CIMS-GB ISSA Certification Experts employed by WAXIE.

WAXIE GPS® is a collaborationand partnership between WAXIE and its respective customer and manufacturer partners – and it is a comprehensive approach which addresses everything you will need to implement an effective green cleaning program.

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CHEMISTRY
Start with low environmental impact cleaning chemicals and dispensing systems, using products which are third-party certified to have a reduced impact on human health and the environment.

MECHANIZATION
Increase the effectiveness of your cleaning chemical system by combining them with microfiber cleaning tools, and utilize offer low environmental impact cleaning equipment to clean your building's floor and vertical surfaces.

DIVERSION
Divert waste from the landfill by instituting a recycling program complete with the appropriate recycling containers to hold divertable items such as paper, plastic, glass, light bulbs, batteries and compostables.

ENTRYWAYS
Reduce the amount of dirt entering your building by deploying entryway matting systems, and develop the associated strategies to keep your entryways and exterior walkways clean.

CONSUMABLES
Promote source reduction through controlled dispensing systems for paper products and right-sizing your trash liners. Use products which contain recycled content, and third-party certified, or are derived from renewable resources.

CONSERVATION
Conserve energy and water in your building by installing LED lighting and utilizing no-touch restroom fixture which regulate and reduce indoor water consumption.

WELLNESS
Develop strategies to fight the spread of germs in your workplace and promote improved hand hygiene through increased hand washing and the use of hand sanitizers.

STEWARDSHIP
Identify stewardship and sustainability goals address by your WAXIE GPS® green cleaning program – and commit to continued improvement in your ongoing cleaning maintenance operations.



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WAXIE Knows Clean

Since 1945, WAXIE has grown from one small store in San Diego, CA into America's largest independent family-owned sanitary maintenance supply distributor, and a cleaning industry leader – EXPERTS in the maintenance requirements of commercial, educational, institutional and industrial environments.

From the basics you use everyday – like cleaning chemicals, vacuums, sanitary paper products, trash liners and hand soaps – to more specialized items – like ride-on autoscrubbers, and no-touch restroom accessories – WAXIE is your SINGLE SOURCE for all your facility maintenance supply needs. We are uniquely qualified to deliver a customized cleaning solution that perfectly suits your needs.

WAXIE Knows Green

WAXIE is committed to being an industry leader in promoting RESPONSIBLE business practices that support more sustainable communities. SUSTAINABILITY has emerged as a global theme of the 21st century – it is a concept which balances the interconnectedness of the environment, the economy and our quality of life.

With its own LEED certified facilities, and LEED Accredited Professionals and CIMS-GB ISSA Certification Experts on staff, WAXIE understands how green cleaning fits into the broader scope of your overall sustainability goals, and offers the cleaning product solutions, training on cleaning best practices, and advanced procurement platforms to support a more sustainable approach to achieving CLEAN GREEN BUILDING ENVIRONMENTS.

WAXIE Knows Service

"Serving the Customer is the Focus of Everything We Do" is more than just our motto – it is our mission! Whether it's a crisis situation that demands a last-minute delivery, an all-night training, a timely equipment repair, or a bilingual training session, we have proven the extent of our dedication to our customers time and again by going far ABOVE AND BEYOND what most people would expect of us, in order to see that our customers' needs are met.

And because the WAXIE organization has been PURPOSE-BUILT from the ground up to serve those who are responsible for delivering clean and healthy buildings, you can count on WAXIE to come through with the help you need, when you need it.

WAXIE Pledge to Sustainability

WAXIE Sanitary Supply is committed to being a leader to promote responsible business practices that support sustainable communities which are secure, economically prosperous, environmentally responsible and healthy places in which to live and work.

WAXIE shares the goal of establishing partnerships to advance education, communication, business best practices, policies, research, technologies and programs to support a more sustainable region for all generations.

WAXIE is committed to adopting more sustainable business practices for the company, and to partnering with its stakeholders to identify and implement the most effective facility maintenance solutions to protect and enhance the triple bottom line of human health, environmental stewardship, and economic prosperity.

WAXIE is a member of these organizations:

ISSA MEMBER The Experts on Cleaning and Maintenance · BOMA International · IFMA · BSCAI Building Service Contractors Association International · PABSCO Pacific Association of Building Service Contractors

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COVID RESPONSE PLAN

COVID Experience and Disinfecting Cleaning Program

Immediately upon COVID-19 being declared a pandemic in March 2020, Jim Ferraro and the management team began to research and develop our Disinfecting Deep Cleaning Services plan as per the Centers for Disease Control and Prevention (CDC) guidelines. EFS, Inc. monitors both CDC and World Health Organization (WHO) websites for updates and additional information to assist us in the fight against COVID-19.

As of January 15, 2022, we have:

- Secured multiple EPA approved disinfecting cleaning chemicals
- Continue to review CDC guidelines for disinfecting procedures
- Trained over 80 employees to complete disinfecting/deep cleaning services
- Set up emergency response teams to complete this service upon request
- Incorporated Electrostatic Sprayers into our disinfection protocols and made additional Electrostatic sprayers available at each operating facility to respond immediately to client request
- Achieved GBAC COVID-19 Trained Technician status with ISSA
- Had an employee become a Certified Contract Tracer through the University of John's Hopkins

The management team and employees of EFS, Inc. continue to respond immediately to our clients' requests to provide facility "high touch" hand disinfecting and deep cleaning services at our numerous medical facilities, doctors' offices, public and private schools, banking institutions, commercial properties, and public agencies.

As of July 30, 2022, we have disinfected/deep cleaned approximately 7 million square feet of our clients' facilities. Our clients knowingly contact EFS, Inc. with confidence that their properties, cities, and schools will be disinfected and ready for the next day's use.

EFS, Inc. continues to respond to requests for special disinfecting/deep cleaning services from current and new clients. These include services for various facilities including public parks and restrooms, public and private schools, banking institutions, commercial properties, public agencies and non-contract clients for assistance in battling the COVID-19 pandemic.

Our current procedure for on-call disinfecting services includes a detailed pre-site review with client. This is then followed up with a description of the two types of disinfecting services that EFS, Inc. can provide for the client. Once the client has selected which disinfecting procedure they would like performed, our highly trained staff is then equipped with the correct PPE. Once on site, our team will work with the client to ensure that all areas that have come in contact with COVID–19 positive or suspected positive individuals is thoroughly disinfected.

We know that this situation is evolving daily, and we intend to continue to respond quickly and efficiently to all of our client requests to battle against the COVID-19 pandemic.

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Hand Touch Disinfecting Specifications

Facility Disinfecting Deep Cleaning Specifications for offices, hallways, common areas, restrooms, break rooms and kitchens:

- Clean and disinfect all “high touch” points
- Clean and disinfect all doors, door handles, and fixtures
- Clean and disinfect all kitchen equipment and cabinets
- Perform all high dusting and cleaning of light fixtures, air diffusers, and door frames
- Damp wipe all baseboards
- Thoroughly disinfect all vertical and horizontal surfaces, including but not limited to desks, windowsills, tables, built-in cabinets, lighting fixtures, shelves, walls, doors, door frames, doorknobs, door handles, light switches, telephones, handrails, etc.
- Vacuum all carpeted areas making sure to get underneath built-ins, into corners and along edges.

RESTROOMS:

- Scour and sanitize all basins, toilets, urinals, and showers inside and out
- Clean and disinfect all bright work
- Clean and disinfect all partitions
- Wash and disinfect all tile throughout restrooms with disinfectant
- Disinfect and polish mirrors in restrooms

WINDOWS:

- Clean and disinfect inside window ledges
- Clean and disinfect all window frames

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Hand Touch Disinfecting Deep Cleaning Specifications

1. Spray or apply with a towel hospital grade disinfectant to all touch points.
2. Let disinfectant dwell on the surface for the required kill time, usually one minute
3. After the disinfectant is on the surface for the required dwell time, wipe the surface clean and remove any streaks

The major touchpoints that need to be disinfected in offices or cubicles are as follows:

- Cabinet handles
- Door handles
- Desks or cubicle tops
- Light switches
- Phones
- Computer keyboards and mouse's
- Copiers and shredders
- Appliance buttons
- Grab rails
- Push plates
- Conference room tables and chairs
- Restroom partitions
- Restroom fixtures
- Switch plates
- File cabinets
- Opening edges of entry points
- Elevator buttons
- Door jambs
- Coffee stations
- Changing tables
- TP, towel and soap dispensers





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DISINFECTING PRODUCT INFORMA TION

CO VID-19 Electrostatic Disinfecting Spraying Solution

Protexus Electrostatic Sprayer System

EFS, Inc. implements a research-driven technique of disinfecting that will reduce disinfecting expenses and increase our efficiency, known as the Protexus Electrostatic Sprayer System. By using the Protexus Electrostatic Sprayer System paired with the hospital grade PuTab disinfecting chemical, we have reduced the kill time of the disinfectant to one minute. We have found that in utilizing this system, we can drastically increase our efficiency of disinfecting services to approximately 10,000 square feet per hour.

We understand the safety and health of our clients' staff members is key, so EFS, Inc. selected the PurTab chemical for its non-toxic, non-corrosive characteristics as an EPA-registered disinfectant. The PurT ab chemical can be applied at any time throughout the day and left on high touch surfaces with little to no residue. Depending on the saturation of the surface the PurTab disinfectant dries completely within minutes.

By utilizing these two disinfecting tools, we can dramatically increase the productivity of our staff and increase the frequency of disinfecting that can occur during a standard workday. EFS, Inc. believes that using this method of disinfecting services will greatly benefit the City of Banning as it will increase the frequency of disinfection and provide peace of mind to residents, staff, and visitors to all of the buildings within the City of Banning.

Link to Protexus Electrostatic Sprayer System
https/www.youtube.com/watch??v=k1agZEwcfLQ&feature=youtu.be





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Protexus Electrostatic Sprayer System

PRODUCT FEATURES

| Cordless
16.8 volt Lithium Ion Battery System Allows the Convenience of cord free cleaning for approx. 4 hours of use.

| Versatile
Ideal for sanitizing, disinfecting, odor control, pesticides, coatings, etc.

| Electrostatic On / Off Switch
Electrostatic charge can be disabled or enabled as needed.

| Tool Free Adjustable Nozzle
Allows the versatility of adjusting particle size for the required application.

| Quiet
Being only 60 db., its great for environments where noise is important.

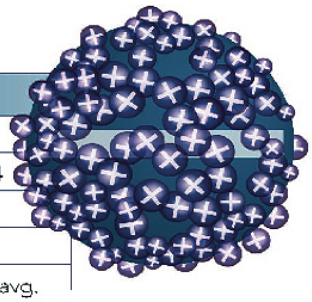


| Lightweight & Portable
Light enough at 3.8 lbs. to quickly navigate from surface to surface and room to room.

| Head Light
Illuminate work surface to provide a clear view of intended coverage.

| Trigger Lock
Trigger can be locked in place to prevent accidental spraying.

| Ergonomic Over Molded Handle
Provides a soft grip for added comfort.



PRODUCT SPECIFICATIONS: PX200ES			
Voltage	16.8v	Micron Size	40/60/100
Run Time	4 hrs	Flow Rate (oz/min)	3.35/3.62/4.34
Charge Time	1 hr	Spray Distance (ft)	3-6 ft
Weight	3.8 lbs	Coverage Per Tank	800 sq. ft.
Capacity	32 oz	Coverage Per Charge	54,000 sq. ft. avg.
Decibels	60 db		

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Evaclean



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EPA Certified Disinfectant



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DISINFECTING PRODUCT INFORMATION

EPA Certified Disinfectant



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WAXIE Letter of Recommendation

January 23, 2023

To whom it may concern,

WAXIE Sanitary Supply has had a long term partnership with Executive Facilities Services Inc. with both companies having like goals of helping customers keep buildings cleaner, safer and healthier. WAXIE provides multiple training classes on restroom care, Green Cleaning Practices, floor care, carpet care and COVID – 19 to our customers of which EFS Inc. participates in. Along with that, WAXIE prides itself on finding solutions for customers to meet all of their cleaning needs. Together with EFS Inc. we have been able to create cleaning protocols during the pandemic using electro-static sprayers, EPA N-List approved disinfectants and PPE, all while providing the other necessary products in a timely manner. I know if EFS Inc. is chosen for your facility, they will provide the same level of excellent service that other customers like yourself are receiving.

Sincerely,

Theresa Cummins
Regional Sales Manager
WAXIE – Ontario, CA
tcummins@waxie.com
Cell # 702-768-5696
www.waxie.com

Regional Inventory Center ▪ 905 N. Wineville Avenue ▪ Ontario, CA 91764-5595
(800) 443-3469 ▪ (909)942-4100 ▪ FAX (909) 942-3199 ▪ www.waxie.com

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EFS, Inc. Uniform: apron, employee badge, and t-shirt







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AMENDMENT NO. 1 TO CONTRACT SERVICES AGREEMENT (C00845) FOR CUSTODIAL SERVICES AND BETWEEN CITY OF BANNING AND EXECUTIVE FACILITIES SERVICES, INC.

THIS AMENDMENT NO. 1 TO THE CONTRACT SERVICES AGREEMENT FOR SERVICES ("Amendment No. 1") by and between the **CITY OF BANNING** ("City") and **EXECUTIVE FACILITIES SERVICES, INC.**, a California corporation ("Contractor") is effective as of this day: June 11, 2024.

RECITALS

A. City and Contractor entered into that certain Contract dated June 7, 2023 for the purpose of providing Custodial Services ("Agreement") following Request for Proposals (RFP No. 23-023), as approved by City Council Resolution 2023-92.

B. City and Contractor now desire to amend the Agreement to extend the Term of the Agreement to June 30, 2025, and increase the Contract Sum to Four Hundred Six Thousand Two Hundred Forty-Four Dollars and Eighty-Six Cents ($406,244.86).

The Parties therefore agree follows:

1. Amended Terms. The Agreement is hereby amended as follows:

1.1 The Scope of Services as set forth in Section 1.1 of and Exhibit A to the Agreement is hereby amended to include the Services set forth in Attachment 1, attached hereto and incorporated herein.

1.2 The maximum compensation for the Services performed pursuant to this Amendment No. 1 shall not exceed Two Hundred Twenty-One Thousand Four Hundred Ninety-Two Dollars and Forty-Four Cents ($221,492.44) thereby increasing the Contract Sum, as set forth in Section 2.1 of the Agreement, to Four Hundred Six Thousand Two Hundred Forty-Four Dollars and Eighty-Six Cents ($406,244.86).

1.3 The Term of the Agreement, as set forth in Section 3.4 of the Agreement, is hereby extended through June 30, 2025, unless sooner terminated or extended as provided in the Agreement.

1.4 Exhibit C-1 to the Agreement is hereby amended to read as set forth in Attachment 2, attached hereto and incorporated herein.

2. Miscellaneous Provisions

2.1 Continued Effect of Agreement. Except as amended by this Amendment No. 1, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment No. 1, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by Amendment No. 1. In the event of a conflict between the provisions

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of this Amendment No. 1 and the provisions of the Agreement, the provisions of this Amendment No. 1 shall control.

2.2 Consideration for Amendment. The parties hereby agree that they have each received adequate and independent consideration for the modifications to the Agreement set forth in this Amendment No. 1.

2.3 Authority. The persons executing this Amendment No. 1 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 1 on behalf of said party, (iii) by so executing this Amendment No. 1, such party is formally bound to the provisions of this Amendment No. 1, and (iv) entering into this Amendment No. 1 does not violate any provision of any other agreement to which said party is bound.

2.4 Counterparts. This Amendment No. 1 may be signed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument.

2.5 Electronic Signatures. Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Agreement and such other documents transmitted by the Parties.

[*SIGNATURE PAGE FOLLOWS*]

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The Parties are signing this Amendment No. 1 on the date stated in the introductory clause.

CITY OF BANNING

Douglas Schulze,
City Manager

City Council Approval: RESO # 2024-090

ATTEST:

Caroline Patton
Administrative City Clerk

APPROVED AS TO FORM:
Richards, Watson & Gershon

Serita R. Young
City Attorney

CONTRACTOR

Jim Ferraro

NAME: Jim Ferraro
TITLE: OWNER

NAME:
TITLE:

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONTRACTOR'S BUSINESS ENTITY.

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ATTACHMENT 2

The Contractor shall provide and stock soap for dispensers, trash liners and paper products: toilet tissue, seat liners, and paper towels, for the services set forth in the specifications of Exhibit A of the Agreement. Contractor shall provide an itemized list of the consumables utilized by service area as part of the monthly invoice for reimbursement.

The grade of consumable supplies in that contents shall meet SB 1383 requirements (summarized below) and be equitable or superior to City supplied stock in FY24.

- Toilet paper shall consist of at least 45 percent, by fiber weight, postconsumer recycled content fiber
- Paper towels shall consist of at least 40 percent, by fiber weight, postconsumer recycled content fiber
- Toilet seat covers shall consist of at least 20 percent, by fiber weight, postconsumer recycled content fiber

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ATTACHMENT 2

Rates and projected consumables

Qty	Unit	Items (Description, Size, Etc.)	Unit Price	Amount
12	Monthly	Banning City Hall (Civic Center) (5 days per week)	4048.78	$ 48,585.36
12	Monthly	City Yard (5 days per week)	2834.17	$ 34,010.04
12	Monthly	Banning Police Dept. - West (5 days per week)	5262.93	$ 63,155.16
12	Monthly	Fleet Maintenance Office (5 days per week)	405.26	$ 4,863.12
12	Monthly	Water Shop (3 days per week)	728.28	$ 8,739.36
12	Monthly	Community & Senior Center (Floors/windows)	535.90	$ 6,430.80
12	Monthly	Park Restrooms (3 days per week)	1944.88	$ 23,338.56
1	TBD	As Needed Services	2500.00	$ 2,500.00
12	Monthly	City Hall (Civic Center) consumable supplies	534.68	$ 6,416.16
12	Monthly	City Yard consumable supplies	374.26	$ 4,491.12
12	Monthly	PD consumable supplies	695.03	$ 8,340.36
12	Monthly	Fleet Maintenance consumable supplies	53.47	$ 641.64
12	Monthly	Water Shop consumable supplies	96.19	$ 1,154.28
12	Monthly	Community & Senior Center consumable supplies	70.78	$ 849.36
12	Monthly	Park Restroom consumable supplies	256.64	$ 849.36
1	TBD	Consumable supplies as needed	5000.00	$ 5,000.00

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CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Robert Fisher, Acting City Manager**
PREPARED BY:	**David Newell, Community Development Director** **David A. Newell, Community Development Director**
MEETING DATE:	**May 27, 2025**
SUBJECT:	**Consideration of Resolution 2025-76, Approving Amendment No. 1 to a Sole Source Agreement with CASC Engineering and Consulting, Inc. ("CASC") for Consulting Services Related to the Focused General Plan Update in an Amount of $229,268 for a Total Contract Amount Not to Exceed $415,753**

RECOMMENDATION:

Adopt Resolution 2025-76.

BACKGROUND:

In July 2020, the City issued a request for proposals to procure professional services to assist with updating the 2006 General Plan. The focused update was limited to the Land Use and Circulation elements of the General Plan with revisions to exhibits such as the Land Use Plan and Circulation Map and the preparation of an Initial Study to comply with the California Environmental Quality Act (CEQA). After the RFP evaluation process, CASC Engineering and Consulting, Inc. (CASC) was selected to provide these services. Below is summary of actions related to this effort:

- 10/27/2020 - the City Council adopted Resolution 2020-134 authorizing the contract with CASC for an amount of $115,482
- 07/12/2022 - the City Council adopted Resolution 2022-96 authorizing Amendment No. 1 to increase contract by $71,252 (total contract of $186,734) to complete an analysis of the project's vehicle miles travelled and revise the project management scope
- 11/08/2022 - the City Council adopted Resolution 2022-155 authorizing Amendment No. 2 to increase contract by $58,574 (total contract of $245,308) to complete an level of service study (by subcontractor, Urban Crossroads) and for additional project management/coordination services
- The contract expired and a new contract was required to continue work on the focused update to the General Plan
- 06/11/2024 - the City Council adopted Resolution 2024-93 authorizing a sole source agreement with CASC in a total amount not to exceed $186,485 to prepare additional GIS exhibits and revise the land plan and other exhibits

A summary of the work to date is included as an attachment.

Due to extent of changes to land uses to date, the project description has resulted in a need to expand the environmental analysis for the focused update. The previous contracts assumed an Initial Study/Mitigated Negative Declaration would be appropriate for the project. However, based on the proposed changes, the project will result in significant and unavoidable impacts to Air Quality and Greenhouse Gases, and consequently an Environmental Impact Report (EIR) is required. Under the proposed contract amendment, CASC will prepare an EIR. In addition, CASC will update GIS data,

enhance Chapter 1 of the General Plan, and allow for expanded coordination. The full scope of services is included as an attachment and requires appropriating $229,268. Staff would also recommend extending the contract through December 2026.

JUSTIFICATION:

A General Plan provides the vision and blueprint for the City's growth and requires updates and revisions to ensure it reflects the current values of the community, addresses changes in state law. Additionally, the California Governor's Office of Land Use and Climate Innovation (formerly known as the Office of Planning and Research) recommends cities and counties update their general plans every 10-15 years. The last time the Land Use and Circulation Element had comprehensive updates was 2006 and the proposed contract amendment will assist the City with ensuring its General Plan is reflects current community values while also addresses changes to state law.

FISCAL IMPACT:

Approving the proposed amendment requires City Council authorize the appropriation of funding from the General Fund to Account No. 001-2800-441.33-42. The approval would increase the existing contract amount ($186,485) by $229,268 during the two-year budget, 2024/2025 and 2025/2026, for a total contract amount not to exceed $415,753.

ALTERNATIVES:

Provide alternative direction to staff.

BUDGETED?:

No

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. Resolution 2025-76, CASC Engineering.docx
2. C01041 - CASC Amend 1.pdf
3. Scope of Services Addendum 4_040325
4. Banning Contract Summary from CASC

RESOLUTION 2025-76

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING AMENDMENT NO. 1 TO A SOLE SOURCE CONTRACT WITH CASC ENGINEERING AND CONSULTING, INC. FOR CONSULTING SERVICES ASSOCIATED WITH THE FOCUSED GENERAL PLAN UPDATE SERVICES FOR FISCAL YEARS 2024/2025 AND 2025/2026 IN THE AMOUNT OF $229,268

WHEREAS, City staff solicited a proposal consulting services to update the City's General Plan Elements for Land Use and Circulation for whereby Service Provider agreed to provide Project Management, Mapping, and Environmental Analysis; and

WHEREAS, on October 27, 2020, the City of Banning, on Resolution 2020-134, approved an agreement with CASC Engineering and Consulting, Inc. ("CASC"), in the amount of $115,482; and

WHEREAS, City and CASC amended the Agreement (Amendment No. 1) in accordance, with City Council approval of Resolution 2022-96 on July 12, 2022, to include additional compensation in an amount not to exceed Seventy-One-Thousand, Two-Hundred and Fifty-Two Dollars ($71,252) for a total of One-Hundred and Eighty-Six Thousand, Seven-Hundred and Thirty-Four Dollars ($186,734); and

WHEREAS, City and CASC amended the Agreement (Amendment No. 2) in accordance with City Council approval of Resolution 2022-155 on November 8, 2022, to include additional compensation in an amount not to exceed Fifty-Eight Thousand, Five-Hundred and Seventy-Four Dollars ($58,574) for a total of Two-Hundred and Forty-Five Thousand, Three-Hundred and Eight Dollars ($245,308); and

WHEREAS, the previously approved contract and subsequent amendments have expired prior to conclusion of the work effort; and

WHEREAS, City staff negotiated the Scope of Work with CASC Engineering and Consulting, Inc., to enter into a new sole source agreement to complete the tasks as indicated in the previously approved scope of work and to provide updates to the Land Use and Circulation Elements of the General Plan; and

WHEREAS, on June 11, 2024, the City Council adopted Resolution 2024-93, authorizing a sole source agreement with CASC in a total amount not to exceed $186,485 to prepare additional GIS exhibits and revise the land plan and other exhibits; and

WHEREAS, funding will be available in the City's Community Development Department accounts during Fiscal Year 24/25 in the amount of not-to-exceed One-Hundred Eighty-Six Thousand, Four-Hundred Eighty-Five Dollars ($186,485); and

WHEREAS, due to extent of changes to land uses to date, the project description has resulted in a need to expand the environmental analysis for the focused update, and CASC has provided a scope of services to prepare an Environmental Impact Report, technical studies, and other services to continue assisting the City with the focused update to the General Plan.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The City Council approves Amendment No. 1 to Agreement No. _____ with CASC, in a total contract amount not-to-exceed $415,753, authorizes the City Manager to make necessary non-substantive changes, and to execute said agreement included as Exhibit A and attached to this resolution.

SECTION 2. The City Council authorizes the City Manager, or designee, to make necessary budget adjustments, appropriations, and transfers related to this resolution.

SECTION 3. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 27th day of May, 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

John Pinkney, Interim City Attorney
Slovak, Baron, Empey, Murphy & Pinkney, LLP

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-76, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 27th day of May, 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

EXHIBIT A
Amendment No. 1 with CASC Engineering & Consulting, Inc.

AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT (C01041) FOR FOCUSED AMENDMENTS TO THE LAND USE AND CIRCULATION ELEMENT OF THE CITY'S GENERAL PLANS BY AND BETWEEN CITY OF BANNING AND CASC ENGINEERING AND CONSULTING, INC.

THIS AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT FOR SERVICES ("Amendment No. 1") by and between the **CITY OF BANNING** ("City") and **CASC ENGINEERING AND CONSULTING, INC.**, a California Corporation ("Consultant") is effective as of this day: _____.

RECITALS

A. City and Consultant entered into that certain Contract dated June 11, 2024 for the purpose of providing Focused Amendments to the Land Use and Circulation Element of the City's General Plans Consulting Services ("Agreement") following RFP 20-23, as approved by City Council Resolution 2024-93.

B. City and Consultant now desire to amend the Agreement to modify the Scope of Services, extend the Term of the Agreement to December 31, 2026, and increase the Contract Sum to Four Hundred Fifteen Thousand Seven Hundred Fifty-Three Dollars ($415,753.00).

The Parties therefore agree follows:

1. Amended Terms. The Agreement is hereby amended as follows:

1.1 The Scope of Services as set forth in Section 1.1 of and Exhibit A to the Agreement is hereby amended to include the Services set forth in Attachment A, attached hereto and incorporated herein.

1.2 The maximum compensation for the Services performed pursuant to this Amendment No. 1 shall not exceed One Hundred Eighty-Six Thousand Four Hundred Eighty-Five Dollars ($186,485.00) thereby increasing the Contract Sum, as set forth in Section 2.1 of the Agreement, to Four Hundred Fifteen Thousand Seven Hundred Fifty-Three Dollars ($415,753.00).

1.3 The Term of the Agreement, as set forth in Section 3.4 of the Agreement, is hereby extended through December 31, 2026, unless sooner terminated or extended as provided in the Agreement.

1.4 Exhibit C-1 to the Agreement is hereby amended to read as set forth in Attachment B, attached hereto and incorporated herein.

2. Miscellaneous Provisions

2.1 Continued Effect of Agreement. Except as amended by this Amendment No. 1, all provisions of the Agreement shall remain unchanged and in full force and

effect. From and after the date of this Amendment No. 1, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by Amendment No. 1. In the event of a conflict between the provisions of this Amendment No. 1 and the provisions of the Agreement or Amendment No. 1, the provisions of this Amendment No. 1 shall control.

2.2 Consideration for Amendment. The parties hereby agree that they have each received adequate and independent consideration for the modifications to the Agreement set forth in this Amendment No.1.

2.3 Authority. The persons executing this Amendment No. 1 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No.1 on behalf of said party, (iii) by so executing this Amendment No. 1, such party is formally bound to the provisions of this Amendment No. 1, and (iv) entering into this Amendment No. 1 does not violate any provision of any other agreement to which said party is bound.

2.4 Counterparts. This Amendment No. 1 may be signed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument.

2.5 Electronic Signatures. Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Agreement and such other documents transmitted by the Parties.

[*SIGNATURE PAGE FOLLOWS*]

The Parties are signing this Amendment No. 1 on the date stated in the introductory clause.

CITY OF BANNING	CONSULTANT
Douglas Schulze, City Manager	NAME: TITLE:
City Council Approval: _____	NAME: TITLE:
ATTEST:	
Caroline Patton Administrative City Clerk	
APPROVED AS TO FORM: Solvak, Baron, Empey, Murphy & Pinkney LLP	
John O. Pinkney City Attorney	

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

CASC Engineering and Consulting

1470 E. Cooley Dr.
Colton, CA 92324
Office: 909.783.0101
Fax: 909.783.0108

ATTACHMENT "A"

SCOPE OF SERVICES

Environmental Services/Focused EIR

A. UPDATE CEQA PROJECT DESCRIPTION

Casc will update the CEQA Project Description to reflect modifications to the Land Use Element Update Parcel Inventory. Modifications include:

- Change the proposed land use designation for thirteen (13) parcels from Industrial to Low Density Residential as requested by City staff on March 13, 2025.
- Add eleven (11) new parcels to the Parcel Inventory with a proposed land use designation of Low Density Residential as requested by City staff on March 20, 2025. Split zoning is proposed for APN: 541-271-004, as requested by City Staff.

The updated Project Description will be utilized in the Notice of Preparation (NOP), Initial Study and Focused Environmental Impact Report (EIR). The Project Description will include information required to define the project for purposes of an EIR, including a clear explanation of the development components of the proposed project; a description of the demolition, construction, and operational activities associated with the project and clearly illustrated project features. The PD will also list the required discretionary approvals.

Note: *Any revisions to the PD after City review and approval, may require separate authorization.*

B. UPDATE TECHNICAL STUDIES IN SUPPORT OF CEQA DOCUMENT

Casc's subconsultant, Urban Crossroads, will update the following technical studies based on the updated Project Description:

Task B.1 Air Quality & Greenhouse Gas Study Update

- Re-run CalEEMod 2022.1 based on the revised project description as noted in Task A and changes to the land uses.
- Prepare a revised air quality and greenhouse gas report that incorporates the findings and all supporting calculations.

Task B.2 Vehicle Miles Traveled (VMT)

- Urban Crossroads will modify the RIVCOM horizon year model to reflect the reflect the updated Land Use Element Parcel Inventory. As this model is based on socioeconomic data compiled by WRCOG with input from its member agencies, adjustments to the traffic analysis zones (TAZ) within the City and its sphere of influence.
- Run the RIVCOM model and with the appropriate model output files calculate project generated total VMT and VMT per service population (i.e. population and employment) for the updated Land Use Element Parcel Inventory. This will be done for both the base year and horizon year traffic models and for both the City of Banning and its sphere of influence.
- Calculate citywide VMT summing all VMT on roadways within the City boundary using the boundary method for the With Project, which includes Land Use Element Update Parcel Inventory condition.
- Compare VMT and VMT per service population results for the proposed General Plan with updated Land Use Element Parcel Inventory to the current baseline year and future year No Project conditions.
- Revise the draft report based on comments provided by the Lead agency for up to 1 review cycle.

Task B.3 Level Of Service (LOS)

- Based on the updated traffic model changes, traffic model forecasts will be generated for roadway segments within the study area. Update will include revising all applicable exhibits, trip generation, traffic volumes, and associated roadway segment operations analysis for the following analysis scenario:

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Fax: 909.783.0108

- General Plan Buildout With Project Conditions

- If applicable, recommend improvements necessary to maintain acceptable intersection performance at the study area intersections for each of the future traffic scenarios described in first bullet.
- Prepare a revised traffic report that incorporates the findings and all supporting calculations.

Task B.4 Noise Analysis Update

- Review the proposed updated land use plan.
- Update the off-site traffic noise analysis section based on the updated land use plan.
- Update results in the noise impact analysis report addressing the potential impacts associated with the Project and provide the appropriate measures to reduce the identified impacts.
- Revise the noise study report based on comments provided by the Client and Lead agency for one review cycle.

C. EIR SCOPING MEETING

During the public review period of the Notice of Preparation (NOP), Casc will attend and lead one (1) public scoping meeting. Casc will prepare a scoping meeting presentation, attend the meeting, monitor comments received, answer questions as directed by the City, and provide a summary of public comments with regard to any environmental concerns raised. Input will further identify the issues to be addressed in the EIR. The summary of comments received will be appended to the EIR. Meeting materials will be provided in English only. If the City should request the public scoping materials be printed by Casc, this will be a direct cost.

Note: *If additional scoping meetings are required, separate authorization may be required.*

D. PREPARE 1ST SCREENCHECK DRAFT ENVIRONMENTAL IMPACT REPORT (EIR)

Based on the results of the technical studies prepared by Urban Crossroads, it has been determined that the most appropriate CEQA document for the proposed Project is a Focused EIR. Casc will update the previously prepared Initial Study with the updated Project Description. The Initial Study will be used to screen out topics that don't require further analysis in the EIR in accordance with CEQA Guidelines. Casc will prepare a 1st Screencheck of the Draft EIR for the City's review. The Draft EIR will include required components of an EIR pursuant to CEQA Guidelines Article 9. The EIR will analyze up to ten (14) environmental factors in accordance with the City's CEQA checklist. If more topics are required to be covered in the Draft EIR, these will be completed under separate authorization.

Executive Summary

In accordance with CEQA Guidelines Section 15123, the Executive Summary will briefly describe the project's impacts, the appropriate mitigation measures that would reduce and/or avoid impacts, areas of known project controversy, and project alternatives.

Introduction & Purpose

Casc will prepare the "Introduction and Purpose" section of the EIR in accordance with CEQA Guidelines. This section will introduce the EIR's compliance with CEQA, the approach for preparing the EIR, the intended uses of the EIR, the scoping process, the format of the document, as well as identifying the City of Riverside's authority as the Lead Agency under CEQA.

Project Description

Casc will prepare a Project Description for the EIR in accordance with CEQA Guidelines Section 15124. This task includes incorporating the Project Description from the Initial Study with the information required to define a project within an EIR, including a statement of project objectives, precise project location, a description of the project's technical, economic and environmental characteristics, and a statement describing the intended uses of the EIR. Additionally, the project description will include a description of the physical environmental conditions in the vicinity of the project in accordance with CEQA Guidelines Section 15125.

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Cumulative Effects

In accordance with CEQA Guidelines Section 15130, the EIR will address the potential cumulative effects of the project in combination with other reasonably foreseeable projects within the Project area. Casc will use the cumulative project list identified in the Project's Traffic Impact Analysis that was developed through consultation with planning and engineering staff from the City of Riverside. As set forth in CEQA Guidelines Section 15130, the cumulative analysis will focus on impacts to which the project has made a significant incremental contribution. The analysis will reflect the severity of the impacts and their likelihood of occurrence and will be guided by standards of practicality and reasonableness.

Environmental Impact Analysis

The "Environmental Impact Analysis" section of the EIR will provide a detailed environmental analysis of the existing conditions, project impacts (including direct and indirect, short-term and long-term, and cumulative), recommended mitigation measures, and unavoidable adverse impacts. This section will include the approach to environmental analysis, identify the environmental topics to be discussed, the organization of each environmental issue section, identify the applicable thresholds and level of significance, as well as the format used for impact analysis and applicable mitigation measures. The environmental issues covered in this section will be determined based off the Project's Notice of Preparation and Initial Study. Casc anticipates up to ten (10) topics to be covered in the EIR.

Note: *If additional topics are required to be analyzed in the EIR, a separate authorization may be required.*

Alternatives

Pursuant to CEQA Guidelines Section 15126.6, the EIR will evaluate a range of reasonable alternatives to the Project, or to the location of the Project, which would feasibly attain most of the basic objectives of the Project but would avoid or substantially lessen any of the significant effects of the Project and evaluate the comparative merits of the alternatives. Casc will work with the City to identify and evaluate up to three (3) Project alternatives, including a "no project" alternative as required by CEQA Guidelines Section 15126.6 [e]. As required by CEQA Guidelines Section 15126.6, Casc will identify the Environmentally Superior Alternative.

Other CEQA Considerations

This section will address the CEQA-required issues of significant environmental effects that cannot be avoided (CEQA Guidelines Section 15126[b]), significant irreversible environmental changes (CEQA Guidelines Section 15126[c]), growth inducing impacts (CEQA Guidelines Section 15126[d]), and energy conservation (CEQA Guidelines Section 15126.4).

Effects Found Not to be Significant

This section will provide a brief description of each environmental topic found to not be significant or less than significant based on the NOP and Initial Study, or further evaluation in the EIR.

References and Preparers

This section will list all resources used in the preparation of the EIR. In accordance with CEQA Guidelines Section 15129, the EIR will identify all agencies, organizations, and individuals consulted during the preparation of the document, as well as the agency representatives and firms that were involved with EIR preparation.

Technical Appendices

Pursuant to CEQA Guidelines Section 15147, supporting technical information will be appended to the EIR. This includes but is not limited to technical studies, modeling data, and correspondence.

Deliverables:

- One (1) 1st Screencheck Draft Environmental Impact Report in Word format.
- One (1) 1st Screencheck Draft Environmental Impact Report in .pdf format.

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- One (1) Technical Appendices folder that includes all technical studies, modeling data and correspondence.

E. PREPARE 2ND SCREENCHECK DRAFT ENVIRONMENTAL IMPACT REPORT (EIR) - OPTIONAL*

Casc will respond to one (1) set of City comments on the 1st Screencheck Draft EIR. This scope of work assumes that comments will be provided either in written form or as tracked changes within the Word files. Upon receipt of the sets of comments, Casc will prepare the 2nd Screencheck Draft EIR, which will show changes made in underline/strikeout.

If extensive comments are received following the submittal of the 2nd Screencheck Draft EIR, separate authorization will be required.

Deliverables:

- One (1) 2nd Screencheck Draft Environmental Impact Report in Word format.
- One (1) 2nd Screencheck Draft Environmental Impact Report in .pdf format.
- One (1) Technical Appendices folder that includes all technical studies, modeling data and correspondence.

F. PREPARE CIRCULATION DRAFT ENVIRONMENTAL IMPACT REPORT (EIR)

Upon receipt of any final comments from the City, Casc will prepare the Circulation Draft EIR and issue it for public review. Casc will provide the Notice of Completion (NOC) to the State Clearinghouse to formally begin the 45-day public review process. Casc will provide electronic files to the City for posting on the City's website including the Draft EIR and Appendices.

Deliverables:

- One (1) Circulation Draft Environmental Impact Report in Word format.
- One (1) Circulation Draft Environmental Impact Report in .pdf format.
- One (1) Technical Appendices folder that includes all technical studies, modeling data and correspondence.

G. PREPARE RESPONSE TO COMMENTS RECEIVED DURING 45-DAY PUBLIC REVIEW PERIOD

Casc will prepare written Responses to Comments (RTC) received on the Draft EIR that raise significant environmental issues and submit them for City staff review after the close of the public comment period The responses to comments will be prepared in accordance with CEQA Guidelines Section 15088and the City's CEQA implementation procedures. Casc assumes up to forty (40) hours for Response to Comments and assumes an additional forty (40) hours to update the remaining sections of the Final EIR. If additional hours are required to complete this task, they will be provided under separate authorization. The following steps are proposed:

- The City will compile and transmit to Casc all written comments on the Draft EIR no later than the first business day after closure of the 45-day public review period. We strongly recommend that comments be forwarded to Casc as they arrive to allow an early start on response preparation.
- Casc will confer with City staff regarding comments received in order to develop a general framework and strategy for preparation of responses. The format of the Final EIR will be as an attachment of responses to comments to the text of the Draft EIR.
- Responses within this proposal's scope of work and budget consist of explanation, elaboration, or clarification of the data contained in the Draft EIR.

Deliverables:

- One (1) copy of Response to Comments in Word format.
- Once copy of Response to Comments in .pdf format.

Caveat: *If significant new information is added to the EIR based on public comments and recirculation of the EIR is required, separate authorization will be required for recirculating the draft EIR.*

CASC
Engineering and Consulting

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Fax: 909.783.0108

H. PREPARE 1ST SCREENCHECK FINAL ENVIRONMENTAL IMPACT REPORT (EIR)

Casc will prepare the Final EIR in accordance with CEQA Guidelines Section 15132. The intent of the 1st Screencheck Final EIR is to allow City staff to review the final changes to the Final EIR prior to certification. It is anticipated that any comments on the 1st Screencheck Final EIR would concern minor points and not require major revisions. Casc will respond to all of City comments on the Final EIR. This scope of work assumes that comments will be provided either in written form or as tracked changes on the Word files. Upon receipt of the consolidated set of comments, Casc will prepare the 1st Screencheck Final EIR, which will show revisions in track changes.

Deliverables:

- One (1) 1st Screencheck Final Environmental Impact Report in Word format.
- One (1) 1st Screencheck Final Environmental Impact Report in .pdf format.
- One (1) Technical Appendices folder that includes all technical studies, modeling data and correspondence.

I. PREPARE FINAL ENVIRONMENTAL IMPACT REPORT (EIR)

Once City staff provides final comments on the 1st Screencheck Final EIR, Casc will proceed with finalizing and producing the Final EIR for public review. Casc will provide electronic copies of the Final EIR to the City, which will be responsible for local distribution, noticing, and posting.

Deliverables:

- One (1) Final Environmental Impact Report in Word format.
- One (1) Final Environmental Impact Report in .pdf format.
- One (1) Technical Appendices folder that includes all technical studies, modeling data, and correspondence.

J. PREPARE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) NOTICES

Casc will prepare the Notice of Preparation (NOP), State Clearinghouse Forms (NOC, Summary Form), Notice of Availability (NOA) and Notice of Determination (NOD) for the project within five (5) business days of EIR certification. Additionally, Casc will mail the NOP and NOA to the City's distribution list. Casc assumes that the City will file the NOD with the Riverside County Clerk.

Deliverables:

- NOP, NOA, NOD, NOC & Summary Form
- Certified mailed NOP and NOA to the City's distribution list.

K. PREPARE FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS

Casc will prepare draft Findings and Facts in Support of Findings for each potentially significant unavoidable impact identified in the EIR and prepare a Statement of Overriding Considerations for the unavoidable significant impacts associated with the Project. As required by the CEQA Guidelines, one of three findings must be made for each significant effect and must be supported by substantial evidence in the record. The Statement of Overriding Considerations will rely on input from the Project Team regarding the benefits of the project. Casc's Project Director will consult with the City to review draft findings and to finalize the findings. Casc will submit the proposed Update final Findings of Fact and the Statement of Overriding Considerations to the City for review and approval.

Planning Services

L. LAND USE ELEMENT & CIRCULATION ELEMENT FORMATTING

The original budget did not include extensive formatting, extensive changes to the Land Use and Circulation Elements. Based on discussions with City staff, the existing land use and circulation elements were requested to be formatted into a horizontal template based on examples discussed between the consultant and the City. Casc prepared a preliminary style guide that served as a template for the Land Use Element to illustrate the page layout, headings and subsections,

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graphics, charts, maps, etc. that is clear and easy to use. Casc has incurred a total of forty (40) hours to this Task and includes an additional fifty (50) hours for formatting the Land Use and Circulation Element of the General Plan. If additional hours for formatting are requested, they will be provided under separate authorization.

M. CHAPTER 1 – INTRODUCTION AND VISION – OPTIONAL*

Casc proposes to merge the City's existing Chapter 1 (Vision Statement) and Chapter 2 (Introduction and Administration) into one (1) cohesive Chapter of the General Plan. This Chapter will be provided in the same format as the Land Use and Circulation Element and will include photos and any applicable graphics. The Introduction and Vision will include an introduction paragraph, updated vision statement, regional location of the City, community profile/demographics, a historical timeline, the vision, guiding principles, purpose of the plan, the need for the General Plan update, relationship to other planning documents, statutory requirements, organization of the Plan, and public involvement. This task includes up to one (1) review cycle. Minor comments are anticipated on this Section.

N. PUBLIC REVIEW DRAFT CHAPTER 1 – INTRODUCTION AND VISION – OPTIONAL*

Casc will incorporate comments received on the Administrative Draft and prepare the Public Review Draft. Casc will address one (1) set of minor comments before finalizing for public review. The City will be responsible for posting the Chapter on the City's website and will remain posted on the website for a period of 30-days. Once public comments have been received and addressed, Casc will prepare the final document for Planning Commission. If extensive comments are received on the document, separate authorization may be required.

O. FINAL CHAPTER 1 – INTRODUCTION AND VISION -OPTIONAL*

Casc will prepare the Introduction and Vision for Planning Commission and will respond to one (1) set of minor comments. Casc will then prepare the Final Introduction and Vision for City Council approval. If the Council has any comments on the Introduction and Vision, any updates to the Introduction and Vision will be provided under separate authorization.

GIS Services

P. LAND USE ELEMENT EXHIBITS

Casc will also update the existing land use and circulation exhibits and land use designation inventory to include the discrepancy identified in the City provided land use data based on discussions with City Staff on 03/13/2025. In addition, Casc will prepare three (3) exhibits for the Land Use Element (Redevelopment Areas, Focus Areas Exhibit, and Land Use Map) and two (2) additional exhibits for the Circulation Element (Bus Transit Route and Proposed Bicycle Facilities).

Q. EIR GIS EXHIBITS

Casc will update Exhibit 1-2, Proposed Amendment Areas and Exhibit 1-4, Proposed GPLU of the project description to reflect the proposed Project changes identified in Task A. This task also includes preparing any other required exhibits for the EIR in accordance with CEQA Guidelines Section 15124. This task includes twenty-five (25) hours of GIS Specialist time.

R. CHAPTER 1 – INTRODUCTION AND VISION (EXHIBITS AND FIGURES) – OPTIONAL*

Casc will prepare up to two (2) exhibits and one (1) infographic for Chapter 1 of the General Plan. This task assumes a Regional Exhibit and the City Boundary including the Sphere of Influence and Planning Areas. The infographic will provide a community profile summary including information such as the total land area, population, residential units, employees, and number of schools.

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Meetings and Coordination

S. WEEKLY AND BI-WEEKLY MEETINGS & COORDINATION – CITY (T&M) (NOVEMBER 2024 THRU MARCH 2026)

Addendum No. 3 dated March 13, 2024, included two (2) tasks for Meetings and Coordination from January 2024-March 2024 and from April 2024 to October 2024. Casc has exhausted the existing T&M task due to weekly meetings, changes to the Project Description and schedule delays, and now will be preparing a Focused EIR. This task covers weekly meetings from November 2024 to April 2025 and bi-weekly meetings from May 2025 to March 2026. Thus, to continue the regular meetings, Casc's Director of Planning, Frank Coyle, and two (2) Senior Planners will attend bi-weekly meetings and coordination time with the City of Banning in support of the scope of services identified in the contract and this addendum. Time for this item will be billed on a time and material (T&M) basis in accordance with our Standard Hourly Fee Rate Schedule. This Task includes a total of sixty (60) hours incurred between the months of November 2024 to April 2025. Casc will transition from weekly meetings to bi-weekly meetings beginning in May 2025 to economize on Project costs. It is anticipated that this Task will include approximately six (6) hours a month for approximately eleven (11) months for a total of sixty-six (66) hours. Thus, this task includes a total of 126 hours. If additional hours are required, they will be provided under separate authorization.

T. PROJECT MANAGEMENT COORDINATION

Casc will establish project management protocols to be maintained for the duration of the Project. This includes close collaboration with City staff, subconsultants, and applicable agencies via email and phone calls outside of weekly meetings; preparation of invoices; bi-monthly progress reports; cloud-based project folders; internal meetings to address potential obstacles; online time management, tracking, archiving, reviewing, assessing, and reporting; vetted draft deliverables are before submission; review upcoming deliverables; and meeting agendas. It is anticipated that this Task will include approximately four (4) hours a month for approximately twelve (12) months for a total of forty-eight (48)hours.

U. REFINEMENT OF PROJECT SCHEDULES

Casc has exhausted all of the budget allocated to the "Refinement of Project Schedules" under the original scope of work. Under the original scope, the budget allocated to this Task was based on an 18-month period. To economize on Project costs, Casc will update the Project schedule on a bi-monthly basis through March 2026. Casc has allocated a total of twelve (12) hours to this Task.

V. PUBLIC HEARING & COMMUNITY MEETING ATTENDANCE

Due to the preparation of a Focused EIR, Casc will attend one (1) Planning Commission and one (1) City Council hearing to answer any questions regarding the EIR. Additionally, Casc will attend one (1) community meeting during the 45-day public review period of the EIR. If additional attendance at hearing(s) are required, they will be provided under separate authorization.

W. ADDITIONAL GPAC MEETING

Casc will conduct one (1) additional virtual GPAC meeting to provide a recap of the project. This task does not include the preparation of a PowerPoint presentation, as this will be the City's responsibility to prepare, in an effort to economize on Project costs. If a PowerPoint presentation is requested, separate authorization will be required. Casc will attend this GPAC meeting and transcribe meeting minutes.

X. MEETINGS AND COORDINATION (ENVIRONMENTAL)

Casc will coordinate with subconsultants, the City and Project stakeholders during the CEQA process. Casc will provide regular weekly updates to Staff regarding Project status, schedule maintenance, and budget expenditures during the preparation of the EIR. Casc has allocated a total of sixty (60) hours to this task. If additional hours are needed due to revisions to the Project Description, additional services outside of this Scope, and/or delays that impact the schedule, they will be provided under separate authorization.

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Y. CONTINGENCY TASK – OPTIONAL*

Casc proposes a contingency task to cover additional hours incurred through the preparation of the Land Use and Circulation Element, creation of GIS exhibits, research and data gathering, and additional meetings internally and with City Staff. If tasks are requested by staff that are outside of the scope of services, Casc will notify the City prior to billing to this task. This task will be billed on a Time and Materials (T&M) basis in accordance with our standard hourly fee schedule.

**If the project extends past the March 2026 deadline, separate authorization may be required for completion of the above tasks prior to start of work.*

ATTACHMENT "B"

SCHEDULE OF FEES

ENVIRONMENTAL SERVICES/FOCUSED EIR

A.	**UPDATE CEQA PROJECT DESCRIPTION**	**$880.00**
B.	**UPDATE TECHNICAL STUDIES IN SUPPORT OF CEQA DOCUMENT**	**-**
	B.1 – Air Quality/Greenhouse Gas	**$8,400.00**
	B.2 - Vehicle Miles Traveled (VMT)	**$16,800.00**
	B.3 - Level Of Service (LOS)	**$9,800.00**
	B.4 - Noise	**$6,800.00**
C.	**EIR SCOPING MEETING**	**$2,800.00**
D.	**PREPARE 1st SCREENCHECK DRAFT ENVIRONMENTAL IMPACT REPORT (EIR)**	**$49,905.00**
E.	**PREPARE 2nd SCREENCHECK DRAFT ENVIRONMENTAL IMPACT REPORT (EIR) – OPTIONAL***	**$9,040.00**
F.	**PREPARE CIRCULATION DRAFT ENVIRONMENTAL IMPACT REPORT (EIR)**	**$5,960.00**
G.	**PREPARE RESPONSE TO COMMENTS RECEIVED DURING 45-DAY PUBLIC REVIEW PERIOD**	**$4,500.00**
H.	**PREPARE 1st SCREENCHECK FINAL ENVIRONMENTAL IMPACT REPORT (EIR)**	**$7,600.00**
I.	**PREPARE FINAL ENVIRONMENTAL IMPACT REPORT (EIR)**	**$6,000.00**
J.	**PREPARE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) NOTICES**	**$3,520.00**
K.	**PREPARE FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS**	**$6,000.00**

PLANNING SERVICES

L.	**LAND USE ELEMENT & CIRCULATION ELEMENT FORMATTING**	**$16,031.00**
M.	**CHAPTER 1 – INTRODUCTION AND VISION – OPTIONAL***	**$5,442.00**
N.	**PUBLIC REVIEW DRAFT CHAPTER 1 – INTRODUCTION AND VISION – OPTIONAL***	**$3,425.00**

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O.	**FINAL CHAPTER 1 – INTRODUCTION AND VISION – OPTIONAL***	**$2,950.00**
GIS SERVICES		
P.	**LAND USE ELEMENT EXHIBITS**	**$5,200.00**
Q.	**EIR GIS EXHIBITS**	**$3,500.00**
R.	**CHAPTER 1 – INTRODUCTION AND VISION (EXHIBITS & FIGURES) – OPTIONAL***	**$3,126.00**
MEETINGS AND COORDINATION		
S.	**WEEKLY AND BI-WEEKLY MEETINGS & COORDINATION – CITY (T&M) (NOVEMBER 2024 THRU MARCH 2026)**	**$24,400.00**
T.	**PROJECT MANAGEMENT COORDINATION**	**$6,270.00**
U.	**REFINEMENT OF PROJECT SCHEDULES**	**$1,794.00**
V.	**PUBLIC HEARING & COMMUNITY MEETING ATTENDANCE**	**$2,160.00**
W.	**ADDITIONAL GPAC MEETING**	**$1,365.00**
X.	**MEETINGS & COORDINATION (ENVIRONMENTAL)**	**$6,600.00**
Y.	**CONTINGENCY TASK – OPTIONAL***	**$8,000.00**
	TOTAL DIRECT COSTS:	**$1,000.00**
	TOTAL (Without Optional Tasks):	***$197,285.00***
	TOTAL (With Optional Tasks):	***$229,268.00***

REIMBURSABLE

Casc Engineering and Consulting (Casc) will invoice the Client for printing, binding, reproductions, plotting, deliveries, overnight delivery expenses, mileage, and overnight hotel stays, as incurred. Any additional costs incurred will be covered under a separate contract as approved and authorized by the Client. Casc has provided a Scope and Schedule of Fees in accordance with this representation. If, at any time, the Client determines that their representation is not correct, Client will be held liable for additional costs and will immediately notify Casc so that the appropriate cost adjustments can be made.

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AUTHORIZATION FOR ADDITIONAL WORK

CITY OF BANNING
Attn: David Newell, Community Development Director
Community Development Department
City of Banning
99 E. Ramsey St.
Banning, CA 92220
951-922-3131
dnewell@banningca.gov

Date: April 3, 2025
Job No.: 1345-0004
Addendum No.: 04
Description: Environmental Services/ Focused EIR, Planning Services, GIS Services, and Meetings/ Coordination

Casc Engineering and Consulting has developed the following Scope of Services and Schedule of Fees for additional services required on your project. These services are being provided to you outside of the original Scope of Services and Schedule of Fees. You will be invoiced for this work in accordance with the fee schedule below and our standard hourly fee rate schedule.

SCOPE OF SERVICE

See Attachment "A"

SCHEDULE OF FEES

See Attachment "B"

This additional work order is an addendum to the existing contract. The terms and conditions of the original contract are applicable to this addendum. Subsequent to your review of the above referenced Scope of Services, please sign and return this form to Casc Engineering and Consulting so that work efforts may commence. A faxed/emailed copy of the signed additional work order is acceptable.

Sincerely,

Casc Engineering and Consulting, Inc.

Frank Coyle
Director of Planning

Authorized by:

City of Banning

By: _____

Name/Title: _____

Date: _____

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ATTACHMENT "A"

SCOPE OF SERVICES

Environmental Services/Focused EIR

A. UPDATE CEQA PROJECT DESCRIPTION

Casc will update the CEQA Project Description to reflect modifications to the Land Use Element Update Parcel Inventory. Modifications include:

- Change the proposed land use designation for thirteen (13) parcels from Industrial to Low Density Residential as requested by City staff on March 13, 2025.
- Add eleven (11) new parcels to the Parcel Inventory with a proposed land use designation of Low Density Residential as requested by City staff on March 20, 2025. Split zoning is proposed for APN: 541-271-004, as requested by City Staff.

The updated Project Description will be utilized in the Notice of Preparation (NOP), Initial Study and Focused Environmental Impact Report (EIR). The Project Description will include information required to define the project for purposes of an EIR, including a clear explanation of the development components of the proposed project; a description of the demolition, construction, and operational activities associated with the project and clearly illustrated project features. The PD will also list the required discretionary approvals.

Note: *Any revisions to the PD after City review and approval, may require separate authorization.*

B. UPDATE TECHNICAL STUDIES IN SUPPORT OF CEQA DOCUMENT

Casc's subconsultant, Urban Crossroads, will update the following technical studies based on the updated Project Description:

Task B.1 Air Quality & Greenhouse Gas Study Update

- Re-run CalEEMod 2022.1 based on the revised project description as noted in Task A and changes to the land uses.
- Prepare a revised air quality and greenhouse gas report that incorporates the findings and all supporting calculations.

Task B.2 Vehicle Miles Traveled (VMT)

- Urban Crossroads will modify the RIVCOM horizon year model to reflect the reflect the updated Land Use Element Parcel Inventory. As this model is based on socioeconomic data compiled by WRCOG with input from its member agencies, adjustments to the traffic analysis zones (TAZ) within the City and its sphere of influence.
- Run the RIVCOM model and with the appropriate model output files calculate project generated total VMT and VMT per service population (i.e. population and employment) for the updated Land Use Element Parcel Inventory. This will be done for both the base year and horizon year traffic models and for both the City of Banning and its sphere of influence.
- Calculate citywide VMT summing all VMT on roadways within the City boundary using the boundary method for the With Project, which includes Land Use Element Update Parcel Inventory condition.
- Compare VMT and VMT per service population results for the proposed General Plan with updated Land Use Element Parcel Inventory to the current baseline year and future year No Project conditions.
- Revise the draft report based on comments provided by the Lead agency for up to 1 review cycle.

Task B.3 Level Of Service (LOS)

- Based on the updated traffic model changes, traffic model forecasts will be generated for roadway segments within the study area. Update will include revising all applicable exhibits, trip generation, traffic volumes, and associated roadway segment operations analysis for the following analysis scenario:

- General Plan Buildout With Project Conditions

- If applicable, recommend improvements necessary to maintain acceptable intersection performance at the study area intersections for each of the future traffic scenarios described in first bullet.
- Prepare a revised traffic report that incorporates the findings and all supporting calculations.

Task B.4 Noise Analysis Update

- Review the proposed updated land use plan.
- Update the off-site traffic noise analysis section based on the updated land use plan.
- Update results in the noise impact analysis report addressing the potential impacts associated with the Project and provide the appropriate measures to reduce the identified impacts.
- Revise the noise study report based on comments provided by the Client and Lead agency for one review cycle.

C. EIR SCOPING MEETING

During the public review period of the Notice of Preparation (NOP), Casc will attend and lead one (1) public scoping meeting. Casc will prepare a scoping meeting presentation, attend the meeting, monitor comments received, answer questions as directed by the City, and provide a summary of public comments with regard to any environmental concerns raised. Input will further identify the issues to be addressed in the EIR. The summary of comments received will be appended to the EIR. Meeting materials will be provided in English only. If the City should request the public scoping materials be printed by Casc, this will be a direct cost.

Note: *If additional scoping meetings are required, separate authorization may be required.*

D. PREPARE 1ST SCREENCHECK DRAFT ENVIRONMENTAL IMPACT REPORT (EIR)

Based on the results of the technical studies prepared by Urban Crossroads, it has been determined that the most appropriate CEQA document for the proposed Project is a Focused EIR. Casc will update the previously prepared Initial Study with the updated Project Description. The Initial Study will be used to screen out topics that don't require further analysis in the EIR in accordance with CEQA Guidelines. Casc will prepare a 1st Screencheck of the Draft EIR for the City's review. The Draft EIR will include required components of an EIR pursuant to CEQA Guidelines Article 9. The EIR will analyze up to ten (14) environmental factors in accordance with the City's CEQA checklist. If more topics are required to be covered in the Draft EIR, these will be completed under separate authorization.

Executive Summary

In accordance with CEQA Guidelines Section 15123, the Executive Summary will briefly describe the project's impacts, the appropriate mitigation measures that would reduce and/or avoid impacts, areas of known project controversy, and project alternatives.

Introduction & Purpose

Casc will prepare the "Introduction and Purpose" section of the EIR in accordance with CEQA Guidelines. This section will introduce the EIR's compliance with CEQA, the approach for preparing the EIR, the intended uses of the EIR, the scoping process, the format of the document, as well as identifying the City of Riverside's authority as the Lead Agency under CEQA.

Project Description

Casc will prepare a Project Description for the EIR in accordance with CEQA Guidelines Section 15124. This task includes incorporating the Project Description from the Initial Study with the information required to define a project within an EIR, including a statement of project objectives, precise project location, a description of the project's technical, economic and environmental characteristics, and a statement describing the intended uses of the EIR. Additionally, the project description will include a description of the physical environmental conditions in the vicinity of the project in accordance with CEQA Guidelines Section 15125.

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Cumulative Effects

In accordance with CEQA Guidelines Section 15130, the EIR will address the potential cumulative effects of the project in combination with other reasonably foreseeable projects within the Project area. Casc will use the cumulative project list identified in the Project's Traffic Impact Analysis that was developed through consultation with planning and engineering staff from the City of Riverside. As set forth in CEQA Guidelines Section 15130, the cumulative analysis will focus on impacts to which the project has made a significant incremental contribution. The analysis will reflect the severity of the impacts and their likelihood of occurrence and will be guided by standards of practicality and reasonableness.

Environmental Impact Analysis

The "Environmental Impact Analysis" section of the EIR will provide a detailed environmental analysis of the existing conditions, project impacts (including direct and indirect, short-term and long-term, and cumulative), recommended mitigation measures, and unavoidable adverse impacts. This section will include the approach to environmental analysis, identify the environmental topics to be discussed, the organization of each environmental issue section, identify the applicable thresholds and level of significance, as well as the format used for impact analysis and applicable mitigation measures. The environmental issues covered in this section will be determined based off the Project's Notice of Preparation and Initial Study. Casc anticipates up to ten (10) topics to be covered in the EIR.

Note: *If additional topics are required to be analyzed in the EIR, a separate authorization may be required.*

Alternatives

Pursuant to CEQA Guidelines Section 15126.6, the EIR will evaluate a range of reasonable alternatives to the Project, or to the location of the Project, which would feasibly attain most of the basic objectives of the Project but would avoid or substantially lessen any of the significant effects of the Project and evaluate the comparative merits of the alternatives. Casc will work with the City to identify and evaluate up to three (3) Project alternatives, including a "no project" alternative as required by CEQA Guidelines Section 15126.6 [e]. As required by CEQA Guidelines Section 15126.6, Casc will identify the Environmentally Superior Alternative.

Other CEQA Considerations

This section will address the CEQA-required issues of significant environmental effects that cannot be avoided (CEQA Guidelines Section 15126[b]), significant irreversible environmental changes (CEQA Guidelines Section 15126[c]), growth inducing impacts (CEQA Guidelines Section 15126[d]), and energy conservation (CEQA Guidelines Section 15126.4).

Effects Found Not to be Significant

This section will provide a brief description of each environmental topic found to not be significant or less than significant based on the NOP and Initial Study, or further evaluation in the EIR.

References and Preparers

This section will list all resources used in the preparation of the EIR. In accordance with CEQA Guidelines Section 15129, the EIR will identify all agencies, organizations, and individuals consulted during the preparation of the document, as well as the agency representatives and firms that were involved with EIR preparation.

Technical Appendices

Pursuant to CEQA Guidelines Section 15147, supporting technical information will be appended to the EIR. This includes but is not limited to technical studies, modeling data, and correspondence.

Deliverables:

- One (1) 1st Screencheck Draft Environmental Impact Report in Word format.
- One (1) 1st Screencheck Draft Environmental Impact Report in .pdf format.

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- One (1) Technical Appendices folder that includes all technical studies, modeling data and correspondence.

E. PREPARE 2ND SCREENCHECK DRAFT ENVIRONMENTAL IMPACT REPORT (EIR) - OPTIONAL*

Casc will respond to one (1) set of City comments on the 1st Screencheck Draft EIR. This scope of work assumes that comments will be provided either in written form or as tracked changes within the Word files. Upon receipt of the sets of comments, Casc will prepare the 2nd Screencheck Draft EIR, which will show changes made in underline/strikeout.

If extensive comments are received following the submittal of the 2nd Screencheck Draft EIR, separate authorization will be required.

Deliverables:

- One (1) 2nd Screencheck Draft Environmental Impact Report in Word format.
- One (1) 2nd Screencheck Draft Environmental Impact Report in .pdf format.
- One (1) Technical Appendices folder that includes all technical studies, modeling data and correspondence.

F. PREPARE CIRCULATION DRAFT ENVIRONMENTAL IMPACT REPORT (EIR)

Upon receipt of any final comments from the City, Casc will prepare the Circulation Draft EIR and issue it for public review. Casc will provide the Notice of Completion (NOC) to the State Clearinghouse to formally begin the 45-day public review process. Casc will provide electronic files to the City for posting on the City's website including the Draft EIR and Appendices.

Deliverables:

- One (1) Circulation Draft Environmental Impact Report in Word format.
- One (1) Circulation Draft Environmental Impact Report in .pdf format.
- One (1) Technical Appendices folder that includes all technical studies, modeling data and correspondence.

G. PREPARE RESPONSE TO COMMENTS RECEIVED DURING 45-DAY PUBLIC REVIEW PERIOD

Casc will prepare written Responses to Comments (RTC) received on the Draft EIR that raise significant environmental issues and submit them for City staff review after the close of the public comment period The responses to comments will be prepared in accordance with CEQA Guidelines Section 15088and the City's CEQA implementation procedures. Casc assumes up to forty (40) hours for Response to Comments and assumes an additional forty (40) hours to update the remaining sections of the Final EIR. If additional hours are required to complete this task, they will be provided under separate authorization. The following steps are proposed:

- The City will compile and transmit to Casc all written comments on the Draft EIR no later than the first business day after closure of the 45-day public review period. We strongly recommend that comments be forwarded to Casc as they arrive to allow an early start on response preparation.
- Casc will confer with City staff regarding comments received in order to develop a general framework and strategy for preparation of responses. The format of the Final EIR will be as an attachment of responses to comments to the text of the Draft EIR.
- Responses within this proposal's scope of work and budget consist of explanation, elaboration, or clarification of the data contained in the Draft EIR.

Deliverables:

- One (1) copy of Response to Comments in Word format.
- Once copy of Response to Comments in .pdf format.

Caveat: *If significant new information is added to the EIR based on public comments and recirculation of the EIR is required, separate authorization will be required for recirculating the draft EIR.*

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H. PREPARE 1ST SCREENCHECK FINAL ENVIRONMENTAL IMPACT REPORT (EIR)

Casc will prepare the Final EIR in accordance with CEQA Guidelines Section 15132. The intent of the 1st Screencheck Final EIR is to allow City staff to review the final changes to the Final EIR prior to certification. It is anticipated that any comments on the 1st Screencheck Final EIR would concern minor points and not require major revisions. Casc will respond to all of City comments on the Final EIR. This scope of work assumes that comments will be provided either in written form or as tracked changes on the Word files. Upon receipt of the consolidated set of comments, Casc will prepare the 1st Screencheck Final EIR, which will show revisions in track changes.

Deliverables:

- One (1) 1st Screencheck Final Environmental Impact Report in Word format.
- One (1) 1st Screencheck Final Environmental Impact Report in .pdf format.
- One (1) Technical Appendices folder that includes all technical studies, modeling data and correspondence.

I. PREPARE FINAL ENVIRONMENTAL IMPACT REPORT (EIR)

Once City staff provides final comments on the 1st Screencheck Final EIR, Casc will proceed with finalizing and producing the Final EIR for public review. Casc will provide electronic copies of the Final EIR to the City, which will be responsible for local distribution, noticing, and posting.

Deliverables:

- One (1) Final Environmental Impact Report in Word format.
- One (1) Final Environmental Impact Report in .pdf format.
- One (1) Technical Appendices folder that includes all technical studies, modeling data, and correspondence.

J. PREPARE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) NOTICES

Casc will prepare the Notice of Preparation (NOP), State Clearinghouse Forms (NOC, Summary Form), Notice of Availability (NOA) and Notice of Determination (NOD) for the project within five (5) business days of EIR certification. Additionally, Casc will mail the NOP and NOA to the City's distribution list. Casc assumes that the City will file the NOD with the Riverside County Clerk.

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- NOP, NOA, NOD, NOC & Summary Form
- Certified mailed NOP and NOA to the City's distribution list.

K. PREPARE FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS

Casc will prepare draft Findings and Facts in Support of Findings for each potentially significant unavoidable impact identified in the EIR and prepare a Statement of Overriding Considerations for the unavoidable significant impacts associated with the Project. As required by the CEQA Guidelines, one of three findings must be made for each significant effect and must be supported by substantial evidence in the record. The Statement of Overriding Considerations will rely on input from the Project Team regarding the benefits of the project. Casc's Project Director will consult with the City to review draft findings and to finalize the findings. Casc will submit the proposed Update final Findings of Fact and the Statement of Overriding Considerations to the City for review and approval.

Planning Services

L. LAND USE ELEMENT & CIRCULATION ELEMENT FORMATTING

The original budget did not include extensive formatting, extensive changes to the Land Use and Circulation Elements. Based on discussions with City staff, the existing land use and circulation elements were requested to be formatted into a horizontal template based on examples discussed between the consultant and the City. Casc prepared a preliminary style guide that served as a template for the Land Use Element to illustrate the page layout, headings and subsections,

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graphics, charts, maps, etc. that is clear and easy to use. Casc has incurred a total of forty (40) hours to this Task and includes an additional fifty (50) hours for formatting the Land Use and Circulation Element of the General Plan. If additional hours for formatting are requested, they will be provided under separate authorization.

M. CHAPTER 1 – INTRODUCTION AND VISION – OPTIONAL*

Casc proposes to merge the City's existing Chapter 1 (Vision Statement) and Chapter 2 (Introduction and Administration) into one (1) cohesive Chapter of the General Plan. This Chapter will be provided in the same format as the Land Use and Circulation Element and will include photos and any applicable graphics. The Introduction and Vision will include an introduction paragraph, updated vision statement, regional location of the City, community profile/demographics, a historical timeline, the vision, guiding principles, purpose of the plan, the need for the General Plan update, relationship to other planning documents, statutory requirements, organization of the Plan, and public involvement. This task includes up to one (1) review cycle. Minor comments are anticipated on this Section.

N. PUBLIC REVIEW DRAFT CHAPTER 1 – INTRODUCTION AND VISION – OPTIONAL*

Casc will incorporate comments received on the Administrative Draft and prepare the Public Review Draft. Casc will address one (1) set of minor comments before finalizing for public review. The City will be responsible for posting the Chapter on the City's website and will remain posted on the website for a period of 30-days. Once public comments have been received and addressed, Casc will prepare the final document for Planning Commission. If extensive comments are received on the document, separate authorization may be required.

O. FINAL CHAPTER 1 – INTRODUCTION AND VISION -OPTIONAL*

Casc will prepare the Introduction and Vision for Planning Commission and will respond to one (1) set of minor comments. Casc will then prepare the Final Introduction and Vision for City Council approval. If the Council has any comments on the Introduction and Vision, any updates to the Introduction and Vision will be provided under separate authorization.

GIS Services

P. LAND USE ELEMENT EXHIBITS

Casc will also update the existing land use and circulation exhibits and land use designation inventory to include the discrepancy identified in the City provided land use data based on discussions with City Staff on 03/13/2025. In addition, Casc will prepare three (3) exhibits for the Land Use Element (Redevelopment Areas, Focus Areas Exhibit, and Land Use Map) and two (2) additional exhibits for the Circulation Element (Bus Transit Route and Proposed Bicycle Facilities).

Q. EIR GIS EXHIBITS

Casc will update Exhibit 1-2, Proposed Amendment Areas and Exhibit 1-4, Proposed GPLU of the project description to reflect the proposed Project changes identified in Task A. This task also includes preparing any other required exhibits for the EIR in accordance with CEQA Guidelines Section 15124. This task includes twenty-five (25) hours of GIS Specialist time.

R. CHAPTER 1 – INTRODUCTION AND VISION (EXHIBITS AND FIGURES) – OPTIONAL*

Casc will prepare up to two (2) exhibits and one (1) infographic for Chapter 1 of the General Plan. This task assumes a Regional Exhibit and the City Boundary including the Sphere of Influence and Planning Areas. The infographic will provide a community profile summary including information such as the total land area, population, residential units, employees, and number of schools.

CASC
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Meetings and Coordination

S. WEEKLY AND BI-WEEKLY MEETINGS & COORDINATION – CITY (T&M) (NOVEMBER 2024 THRU MARCH 2026)

Addendum No. 3 dated March 13, 2024, included two (2) tasks for Meetings and Coordination from January 2024-March 2024 and from April 2024 to October 2024. Casc has exhausted the existing T&M task due to weekly meetings, changes to the Project Description and schedule delays, and now will be preparing a Focused EIR. This task covers weekly meetings from November 2024 to April 2025 and bi-weekly meetings from May 2025 to March 2026. Thus, to continue the regular meetings, Casc's Director of Planning, Frank Coyle, and two (2) Senior Planners will attend bi-weekly meetings and coordination time with the City of Banning in support of the scope of services identified in the contract and this addendum. Time for this item will be billed on a time and material (T&M) basis in accordance with our Standard Hourly Fee Rate Schedule. This Task includes a total of sixty (60) hours incurred between the months of November 2024 to April 2025. Casc will transition from weekly meetings to bi-weekly meetings beginning in May 2025 to economize on Project costs. It is anticipated that this Task will include approximately six (6) hours a month for approximately eleven (11) months for a total of sixty-six (66) hours. Thus, this task includes a total of 126 hours. If additional hours are required, they will be provided under separate authorization.

T. PROJECT MANAGEMENT COORDINATION

Casc will establish project management protocols to be maintained for the duration of the Project. This includes close collaboration with City staff, subconsultants, and applicable agencies via email and phone calls outside of weekly meetings; preparation of invoices; bi-monthly progress reports; cloud-based project folders; internal meetings to address potential obstacles; online time management, tracking, archiving, reviewing, assessing, and reporting; vetted draft deliverables are before submission; review upcoming deliverables; and meeting agendas. It is anticipated that this Task will include approximately four (4) hours a month for approximately twelve (12) months for a total of forty-eight (48)hours.

U. REFINEMENT OF PROJECT SCHEDULES

Casc has exhausted all of the budget allocated to the "Refinement of Project Schedules" under the original scope of work. Under the original scope, the budget allocated to this Task was based on an 18-month period. To economize on Project costs, Casc will update the Project schedule on a bi-monthly basis through March 2026. Casc has allocated a total of twelve (12) hours to this Task.

V. PUBLIC HEARING & COMMUNITY MEETING ATTENDANCE

Due to the preparation of a Focused EIR, Casc will attend one (1) Planning Commission and one (1) City Council hearing to answer any questions regarding the EIR. Additionally, Casc will attend one (1) community meeting during the 45-day public review period of the EIR. If additional attendance at hearing(s) are required, they will be provided under separate authorization.

W. ADDITIONAL GPAC MEETING

Casc will conduct one (1) additional virtual GPAC meeting to provide a recap of the project. This task does not include the preparation of a PowerPoint presentation, as this will be the City's responsibility to prepare, in an effort to economize on Project costs. If a PowerPoint presentation is requested, separate authorization will be required. Casc will attend this GPAC meeting and transcribe meeting minutes.

X. MEETINGS AND COORDINATION (ENVIRONMENTAL)

Casc will coordinate with subconsultants, the City and Project stakeholders during the CEQA process. Casc will provide regular weekly updates to Staff regarding Project status, schedule maintenance, and budget expenditures during the preparation of the EIR. Casc has allocated a total of sixty (60) hours to this task. If additional hours are needed due to revisions to the Project Description, additional services outside of this Scope, and/or delays that impact the schedule, they will be provided under separate authorization.

CASC Engineering and Consulting

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Y. CONTINGENCY TASK – OPTIONAL*

Casc proposes a contingency task to cover additional hours incurred through the preparation of the Land Use and Circulation Element, creation of GIS exhibits, research and data gathering, and additional meetings internally and with City Staff. If tasks are requested by staff that are outside of the scope of services, Casc will notify the City prior to billing to this task. This task will be billed on a Time and Materials (T&M) basis in accordance with our standard hourly fee schedule.

**If the project extends past the March 2026 deadline, separate authorization may be required for completion of the above tasks prior to start of work.*

ATTACHMENT "B"

SCHEDULE OF FEES

ENVIRONMENTAL SERVICES/FOCUSED EIR

A.	**UPDATE CEQA PROJECT DESCRIPTION**	**$880.00**
B.	**UPDATE TECHNICAL STUDIES IN SUPPORT OF CEQA DOCUMENT**	**-**
	B.1 – Air Quality/Greenhouse Gas	**$8,400.00**
	B.2 - Vehicle Miles Traveled (VMT)	**$16,800.00**
	B.3 - Level Of Service (LOS)	**$9,800.00**
	B.4 - Noise	**$6,800.00**
C.	**EIR SCOPING MEETING**	**$2,800.00**
D.	**PREPARE 1st SCREENCHECK DRAFT ENVIRONMENTAL IMPACT REPORT (EIR)**	**$49,905.00**
E.	**PREPARE 2nd SCREENCHECK DRAFT ENVIRONMENTAL IMPACT REPORT (EIR) – OPTIONAL***	**$9,040.00**
F.	**PREPARE CIRCULATION DRAFT ENVIRONMENTAL IMPACT REPORT (EIR)**	**$5,960.00**
G.	**PREPARE RESPONSE TO COMMENTS RECEIVED DURING 45-DAY PUBLIC REVIEW PERIOD**	**$4,500.00**
H.	**PREPARE 1st SCREENCHECK FINAL ENVIRONMENTAL IMPACT REPORT (EIR)**	**$7,600.00**
I.	**PREPARE FINAL ENVIRONMENTAL IMPACT REPORT (EIR)**	**$6,000.00**
J.	**PREPARE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) NOTICES**	**$3,520.00**
K.	**PREPARE FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS**	**$6,000.00**

PLANNING SERVICES

L.	**LAND USE ELEMENT & CIRCULATION ELEMENT FORMATTING**	**$16,031.00**
M.	**CHAPTER 1 – INTRODUCTION AND VISION – OPTIONAL***	**$5,442.00**
N.	**PUBLIC REVIEW DRAFT CHAPTER 1 – INTRODUCTION AND VISION – OPTIONAL***	**$3,425.00**

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O.	**FINAL CHAPTER 1 – INTRODUCTION AND VISION – OPTIONAL***	**$2,950.00**
GIS SERVICES		
P.	**LAND USE ELEMENT EXHIBITS**	**$5,200.00**
Q.	**EIR GIS EXHIBITS**	**$3,500.00**
R.	**CHAPTER 1 – INTRODUCTION AND VISION (EXHIBITS & FIGURES) – OPTIONAL***	**$3,126.00**
MEETINGS AND COORDINATION		
S.	**WEEKLY AND BI-WEEKLY MEETINGS & COORDINATION – CITY (T&M) (NOVEMBER 2024 THRU MARCH 2026)**	**$24,400.00**
T.	**PROJECT MANAGEMENT COORDINATION**	**$6,270.00**
U.	**REFINEMENT OF PROJECT SCHEDULES**	**$1,794.00**
V.	**PUBLIC HEARING & COMMUNITY MEETING ATTENDANCE**	**$2,160.00**
W.	**ADDITIONAL GPAC MEETING**	**$1,365.00**
X.	**MEETINGS & COORDINATION (ENVIRONMENTAL)**	**$6,600.00**
Y.	**CONTINGENCY TASK – OPTIONAL***	**$8,000.00**
	TOTAL DIRECT COSTS:	**$1,000.00**
	TOTAL (Without Optional Tasks):	***$197,285.00***
	TOTAL (With Optional Tasks):	***$229,268.00***

REIMBURSABLE

Casc Engineering and Consulting (Casc) will invoice the Client for printing, binding, reproductions, plotting, deliveries, overnight delivery expenses, mileage, and overnight hotel stays, as incurred. Any additional costs incurred will be covered under a separate contract as approved and authorized by the Client. Casc has provided a Scope and Schedule of Fees in accordance with this representation. If, at any time, the Client determines that their representation is not correct, Client will be held liable for additional costs and will immediately notify Casc so that the appropriate cost adjustments can be made.

Summary of City of Banning General Plan Update (Project)

RFP July 22, 2020: The City of Banning ("City") released an RFP on July 22, 2020, seeking a qualified consultant to amend the Land Use and Circulation Elements of its General Plan to align with Senate Bill 743, VMT Guidelines, and to reflect the 6th Cycle Housing Element/Regional Housing Needs Assessment (RHNA). Specific planning documents to be updated by the consultant are as follows:

1. General Plan Land Use Element
2. General Plan Land Use Map
3. Zoning Map
4. Circulation Element including exhibits showcasing the City's General Plan Street System

The RFP identified an Initial Study/Mitigated Negative Declaration (IS/MND) as the appropriate CEQA document for the proposed project. Additionally, the RFP states that the City's proposed list of parcel-specific land use changes is not finalized.

Casc Contract ($142,183) November 6, 2020: Casc submitted a proposal to amend the Land Use Element, Circulation Element, Land Use Plan and Zoning Map and to prepare an ISMND and associated technical studies including an Air Quality Impact Analysis, Greenhouse Gas Analysis and Noise Impact Analysis to be prepared by Casc's subconsultant Urban Crossroads. The proposal was for a total of $142,183 and was approved by City Council on November 6, 2020.

Deliverables

- Appendix A, Land Use Element Parcel Inventory
- Appendix B, Circulation Element Update Street Classifications
- Banning General Plan Update Noise and Vibration Analysis, Urban Crossroads March 6, 2025
- Banning General Plan Update Air Quality Analysis, Urban Crossroads April 1, 2025
- Banning General Plan Update Greenhouse Gas Analysis, Urban Crossroads April 1, 2025
- SB18/AB52 Consultation request letters and mailings.

Addendum No. 1 VMT Analysis & Meetings/Coordination ($71,252) June 17, 2022: Per the City's request, Casc provided a scope of work for the preparation of a Vehicle Miles Traveled (VMT) Analysis. Services were provided by Urban Crossroads, which included updating travel demand models, calculating VMT for both existing and proposed General Plan assumptions, and documenting findings in a technical report. Completion of the VMT Analysis required data from the Land Use Element Parcel Inventory. Casc originally allocated 60 hours, primarily used for meetings with City staff to revise the General Plan maps and circulation element. Due to the City's request for bi-weekly meetings, Casc proposed an additional 48 hours over eight months, covering Planning Director, Associate Planner, and GIS Specialist time. Additionally, Casc included a Contingency Task for unforeseen hours related to land use and circulation element preparation, GIS exhibits, data gathering, and further meetings, with prior notification to the City before billing.

Deliverables

- City of Banning General Plan Update Vehicle Miles Travelled (VMT) Analysis, Urban Crossroads, May 5, 2023
- Bi-weekly meetings with City staff

Addendum No. 2 LOS Traffic Study & Meetings/Coordination ($58,574) October 20, 2022: Pursuant to discussion with City Staff, Casc provided a scope of work for a Traffic Analysis, prepared by Urban Crossroads, to evaluate the roadway capacities of various roadway segments throughout the City. Data needed to complete the Traffic Analysis include finalized VMT Analysis, Parcel Inventory, and proposed Roadway Segment updates. For project

management, Casc proposed up to 8 hours of coordination between the Director of Planning and an Associate Planner with the City and Urban Crossroads, billed on a time-and-materials basis.

Deliverables

- Banning General Plan Update Traffic Analysis, Urban Crossroads, June 7, 2023
- Coordination with City Staff & Urban Crossroads

Addendum No. 3 GIS Exhibits, Meetings/Coordination, VMT & LOS Updates ($63,247) March 13, 2024: In January 2024, seven (7) new APNs (listed below) were added to the Project Description (Appendix A Land Use Element Parcel Inventory) requiring updates to text, exhibits, the VMT Analysis and Traffic Study.

7 New APNs Added to Project Description (Add. No. 3)

- 538-261-001: LDR to VHDR
- 540-250-012: MDR to VHDR
- 540-250-013: MDR to VHDR
- 540-250-015: MDR to VHDR
- 541-103-024: LDR to VHDR
- 541-103-026: HDR to VHDR
- 541-110-004: HDR to VHDR

Additionally, Casc exceeded the original budget for GIS exhibits, having spent additional hours updating the PD with numerous changes requested by Staff, including text and exhibits, coordination with City staff, and data corrections. This included the creation of a new Fire & Hazard Severity Zone exhibit and other updates requested by the City. Furthermore, from February 2023 to January 2024, additional hours were spent revisiting land use acreages and updating exhibits. Meetings and coordination also exceeded the existing budget, totaling 16 hours from January to March 2024, due to weekly meetings and schedule delays. For the period from April to October 2024, Casc anticipates approximately 96 additional hours for continued coordination.

Deliverables

- Updated CEQA Project Description
- Exhibit 1-2, Proposed Amendment Areas
- Exhibit 1-3, GPLU Overlays for Removal and Specific Plans
- Exhibit 1-4, Proposed GPLU Map
- Exhibit 1-6, Proposed GP Circulation Exhibit
- Exhibit 1-7, Proposed GP Truck Routes
- Exhibit 1-8, Fire Hazard Severity Zone
- Interactive GPLU Map Banning WebMap
- Appendix A Modified, Land Use Element Parcel Inventory
- Appendix B Modified, Circulation Element Update Street Classifications
- City of Banning General Plan Update Vehicle Miles Traveled (VMT) Analysis, Urban Crossroads, December 20, 2024
- Banning General Plan Update Traffic Analysis, Urban Crossroads, January 16, 2025
- Coordination with City Staff & Urban Crossroads
- Weekly meetings with City Staff

Addendum No. 4 Environmental Services/Focused EIR, Planning Services, GIS Services and Meetings/Coordination ($197,285 w/o Optional Tasks; $229,268 w/ Optional Tasks) April 3, 2025: On March 13th and March 20th of 2025, the City requested the Project Description (Appendix A Modified, Land Use Element Parcel Inventory) be updated to include eleven (11) new parcels and change the proposed zoning for thirteen (13) parcels, as listed below.

Existing Parcels Proposed Zoning Changed from Industrial to Low Density Residential

1. 541-280-009
2. 541-280-037
3. 541-280-011
4. 541-280-030
5. 541-280-031
6. 541-280-015
7. 541-280-016
8. 541-280-018
9. 541-280-020
10. 541-280-021
11. 541-280-022
12. 541-280-025
13. 541-280-024

New Parcels Added to Project Description (proposed zoning Low Density Residential)

1. 541-260-048
2. 541-260-025
3. 541-260-023
4. 541-260-015
5. 541-260-016
6. 541-271-026
7. 541-271-030
8. 541-271-029
9. 541-271-006
10. 541-271-007
11. 541-271-004 (proposed split zoning)

Addendum No. 4 addresses necessary updates to environmental analyses due to changes in the Land Use Element Parcel Inventory. The Project Description, exhibits, and technical studies—including VMT, Traffic, Air Quality, Greenhouse Gas, and Noise Impact Analyses—must be revised accordingly. As the Air Quality and Greenhouse Gas analyses have identified significant and unavoidable impacts, an IS/MND is no longer appropriate under CEQA. Instead, a Focused EIR with a Statement of Overriding Considerations will be prepared, utilizing an Initial Study to screen out topics not requiring further analysis.

In addition to CEQA compliance, Casc will update GIS data to reflect project modifications and enhance visual aids for Chapter 1 of the General Plan. The addendum also includes coordination efforts for the remainder of the project with as-needed/bi-weekly meetings with City staff, progress reporting, and participation in public hearings and community meetings during the 45-day review period. Casc will facilitate additional GPAC meetings to keep stakeholders informed, with any extra meetings requiring separate authorization.

Originally, Casc's contract aimed to update the Land Use and Circulation Elements with minimal restructuring to meet state mandates. However, the City later requested a modernized General Plan with improved accessibility and engagement. This addendum allows for a redesigned template, integration of graphics and maps, reformatting of key elements, and the addition of an introductory chapter outlining the City's vision. This expanded scope ensures the completion of Chapters 1-3 as Phase 1, with future updates dependent on additional funding. This Addendum also addresses Meetings & Coordination to the anticipated public hearings. This Addendum has not yet been approved by the City.

CITY OF BANNING
STAFF REPORT

TO: **CITY COUNCIL**

FROM: **Robert Fisher, Acting City Manager**

PREPARED BY: **Patrick Safari, Capital Improvement Projects Manager**
Art Vela, Director of Public Works

MEETING DATE: **May 27, 2025**

SUBJECT: **Consideration of Resolution 2025-77, Awarding a Construction Contract for Project No. 2022-05 Ramsey Street and Omar Street Intersection Improvements, to Van Engineering, Inc. in the Amount of $649,954 and approving a 10% contingency for a total budget of "Not-to-Exceed" $714,949.40**

RECOMMENDATION:

Adopt Resolution 2025-77.

BACKGROUND:

Based on collision data obtained from the UC Berkeley Transportation Injury Mapping System (TIMS) and existing site conditions, City staff determined that there is a significant traffic safety and operations issue at the unsignalized intersection of Ramsey Street and Omar Street. The intersection is a T-intersection, and it is one-way stop controlled on Omar Street. Ramsey Street is a four-lane roadway with two lanes in each direction separated by a large median. The two westbound lanes on Ramsey Street are at a higher elevation than the two eastbound lanes on Ramsey Street. There is no separated left-turn lane on Ramsey Street for the eastbound left-turn traffic to Omar Street. Vehicles making a left turn from Ramsey Street to Omar Street must wait in the eastbound travel lane creating a safety hazard for traffic traveling in the same eastbound direction.

On October 12, 2021, under Resolution 2021-91, the City Council approved Master Agreement 08-5214S21 and a corresponding Program Supplement Agreement No. HSIPL-5214(013). The agreements authorize the City of Banning to start the Preliminary Engineering (PE) phase.

On June 14, 2022, the City Council approved Resolution 2022-68 awarding a Professional Services Agreement for the Design of Ramsey Street and Omar Street Intersection Improvements to Albert A. Webb Associates, Inc. in the amount of $39,698.

On March 20, 2025, staff released an Invitation for Bids (IFB) for Ramsey Street and Omar Street Intersection Improvements Project on the City's public bidding platform. The bids were due on May 1, 2025. In response to the IFB, three (3) bids were received from the following consultants:

	Contractor	Amount
1)	LC Paving & Sealing, Inc.	$617,743
2)	Van Engineering, Inc.	$649,954
3)	Onyx Paving Company	$1,123,000

LC Paving & Sealing, Inc., the lowest bidder, was disqualified due to failure to submit the bid bond by the required deadline. A bid bond is a crucial requirement in the procurement process, ensuring that the bidder is serious and will honor their bid if selected. Failing to submit it on time typically leads to automatic disqualification of the bid as it is often a mandatory condition for bid validity.

JUSTIFICATION:

The Project will improve the safety of the intersection of Ramsey Street and Omar Street by providing a left turn pocket for eastbound traffic heading north on Omar Street. The project will also install access ramps on Omar Street and sidewalks on both Ramsey Street and Omar Street.

Staff evaluated the bid proposals based on qualifications, cost, experience with the requested scope of services and response to the request for proposals. As a result, staff recommend the award of a Construction Contract to Van Engineering, Inc. in the amount of $649,954.

FISCAL IMPACT:

Staff recommends awarding an agreement to Van Engineering, Inc. in the amount of $649,954 and approving a 10% contingency in the amount of $64,995.40 for a total "not-to-exceed" project budget of $714,949.40.

The project costs are eligible and expected to be reimbursed through the State of California Department of Transportation Cycle 10 Highway Safety Improvement Program (HSIP). Measure A and SB1 revenue will also be used as shown below:

Funding Source	Amount
Caltrans HSIP Funds	$485,730
Measure "A"	$90,000
SB1	$150,000
Total	$725,730

The project shall be funded through the following expenditure accounts:

Account No.	Amount
101-4900-431.93-16 (Street Improvements – Measure "A")	$324,977
102-4904-431.93-15 (Street Improvements – SB1)	$324,977

Appropriations from Measure A Street Fund 101 to Account No. 101-4900-431.93-16 in the amount of $324,977 and from SB1 Gas Tax Fund 102 to account 102-4904-431.93-15 in the amount of $324,977 are needed to fund the Construction Contract with Van Engineering, Inc.

The City of Banning will receive monthly reimbursements from the State of California.

ALTERNATIVES:

Do not adopt Resolution 2025-77 and provide alternative direction to staff.

BUDGETED?:

Yes

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. Resolution 2025-77, Omar Street Improvements.docx
2. C01158 Van Eng - Ramsey Omar Intersection Imp.docx
3. Resolution No. 2021-091.pdf

4. Resolution No. 2022-068.pdf
5. Caltrans HSIP Finance Letter.pdf
6. Van Engineering Bid Proposal.pdf

RESOLUTION 2025-77

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AWARDING A CONSTRUCTION CONTRACT FOR PROJECT NO. 2022-05 RAMSEY STREET AND OMAR STREET INTERSECTION IMPROVEMENTS TO VAN ENGINEERING, INC. IN THE AMOUNT OF $649,954 AND APPROVING A 10% CONTINGENCY FOR A TOTAL BUDGET OF "NOT-TO-EXCEED" $714,949.40

WHEREAS, the intersection of Ramsey Street and Omar Street poses safety issues to the motorists traveling eastbound on Ramsey Street; and

WHEREAS, on October 12, 2021, under Resolution 2021-91, the City Council approved Master Agreement 08-5214S21 and a corresponding Program Supplement Agreement No. HSIPL-5214(013); and

WHEREAS, on June 14, 2022, the City Council approved Resolution 2022-68 awarding a Professional Services Agreement for the Design of Ramsey Street and Omar Street Intersection Improvements to Albert A. Webb Associates, Inc. in the amount of $39,698; and

WHEREAS, On March 20, 2025, staff released an Invitation for Bids (IFB) for Ramsey Street and Omar Street Intersection Improvements Project on the City's public bidding platform.

WHEREAS, on May 1, 2025, in response to the IFB, three (3) bids were received ranging in costs from $617,743 to $1,123,000; and

WHEREAS, LC Paving & Sealing, Inc., the lowest bidder, was disqualified due to failure to submit the bid bond by the required deadline; and

WHEREAS, a bid bond is a crucial requirement in the procurement process, ensuring that the bidder is serious and will honor their bid if selected. Failing to submit it on time typically leads to automatic disqualification of the bid as it is often a mandatory condition for bid validity; and

WHEREAS, the Project will improve the safety of the intersection of Ramsey Street and Omar Street by providing a left turn pocket for eastbound traffic heading north on Omar Street. The project will also install access ramps on Omar Street and sidewalks on both Ramsey Street and Omar Street; and

WHEREAS, staff evaluated the bid proposals based on qualifications, cost, experience with the requested scope of services and response to the request for proposals. As a result, staff recommend the award of a Construction Contract to Van Engineering, Inc. in the amount of $649,954; and

WHEREAS, the total project budget of $714,949.40, which includes a 10% contingency, will be funded by Caltrans HSIP, SB1 and Measure A funds. The project costs are eligible and expected to be reimbursed by the State of California Department of Transportation Cycle 10 Highway Safety Improvement Program (HSIP); and

WHEREAS, appropriations from Measure A Street Fund 101 to Account No. 101-4900-431.93-16 in the amount of $324,977 and from SB1 Gas Tax Fund 102 to account 102-4904-431.93-15 in the amount of $324,977 are needed to fund the Construction Contract with Van Engineering, Inc.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The City Council approves the Construction Contract with Van Engineering, Inc. in the amount of $649,954 and approving a 10% contingency for a total budget of "not-to-exceed" $714,949.40 for the Design of Sun Lakes Boulevard Extension.

SECTION 2. The City Council authorizes the City Manager, or their designee, to execute the Construction Contract with Van Engineering, Inc.

SECTION 3. The City Council authorizes the City Manager to make necessary non-substantive changes and to execute the Construction Contract with Van Engineering, Inc.

SECTION 4. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 27th day of May 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

John Pinkney, City Attorney
Slovak, Baron, Empey, Murphy & Pinkney, LLP

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-77, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 27th day of May 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

EXHIBIT A
Construction Contract with Van Engineering, Inc.

CONTRACT (C01158)

CITY OF BANNING CONTRACT FOR
OMAR AND RAMSEY INTERSECTION IMPROVEMENTS & IFB 24-098

THIS CONTRACT ("Contract") is made and entered this _____ ("Effective Date"), by and between the CITY OF BANNING, a California municipal corporation ("City") and Van Engineering, Inc. ("Contractor"). Contractor's California State Contractor's license number is 1102034; Class A. Contractor's DIR registration number is 2000000589.

In consideration of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

1. Contract Documents. The Contract Documents consist of this Contract, the Notice Inviting Bids, Instructions to Bidders, Bid (including documentation accompanying the Bid and any post-Bid documentation submitted before the Notice of Award), the Bonds, permits from regulatory agencies with jurisdiction, General Provisions, Special Provisions, Plans, Standard Plans, Standard Specifications, Reference Specifications, Addenda, Change Orders, and Supplemental Agreements. The Contract Documents are attached hereto and incorporated herein by reference.

2. Scope of Services. Contractor shall perform the Work in a good and workmanlike manner for the project identified as Ramsey/Omar Intersection Improvements ("Project"), as described in this Contract and in the Contract Documents.

3. Compensation. In consideration of the services rendered hereunder, City shall pay Contractor a not to exceed amount of Six Hundred Forty-Nine Thousand Nine Hundred Fifty-Four Dollars ($649,954.00) in accordance with the prices as submitted in the Bid.

4. Incorporation by Reference. All of the following documents are attached hereto and incorporated herein by this reference: Workers' Compensation Certificate of Insurance, Additional Insured Endorsement (Comprehensive General Liability), Additional Insured Endorsement (Automobile Liability), and Additional Insured Endorsement (Excess Liability).

5. Antitrust Claims. In entering into this Contract, Contractor offers and agrees to assign to City all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. § 15) or under the Cartwright Act (Business and Professions Code Section 16700 *et seq.*) arising from purchases of goods, services, or materials pursuant to the Contract. This assignment shall be made and become effective at the time City tenders final payment to Contractor without further acknowledgment by the parties.

6. Prevailing Wages. City and Contractor acknowledge that the Project is a public work to which prevailing wages apply.

7. Workers' Compensation. Labor Code Sections 1860 and 3700 provide that every contractor will be required to secure the payment of compensation to its employees. In accordance with the provisions of Labor Code Section 1861, by signing this Contract, the Contractor certifies as follows:

> "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the Work of this Contract."

8. Titles. The titles used in this Contract are for convenience only and shall in no way define, limit or describe the scope or intent of this Contract or any part of it.

9. Authority. Any person executing this Contract on behalf of Contractor warrants and represents that he or she has the authority to execute this Contract on behalf of Contractor and has the authority to bind Contractor to the performance of its obligations hereunder.

10. Debarment or Suspension.

Contractor represents and warrants that, as of the Effective Date of this Agreement, Contractor is not debarred or suspended pursuant to any applicable Federal or State law providing for the debarment of contractors. Contractor shall not perform the Services with any subcontractor that has been debarred or suspended pursuant to any applicable Federal or State law providing for the debarment. Contractor and its subcontractors shall not be debarred or suspended throughout the Term of this Agreement pursuant to any applicable Federal or State law providing for the debarment of contractors. If Contractor or any subcontractor becomes debarred or suspended during the Term of this Agreement, Contractor shall immediately notify City.

11. Entire Agreement. This Contract, including the Contract Documents and any other documents incorporated herein by specific reference, represents the entire and integrated agreement between City and Contractor. This Contract supersedes all prior oral or written negotiations, representations or agreements. This Contract may not be modified or amended, nor any provision or breach waived, except in a writing signed by both parties that expressly refers to this Contract.

12. Counterparts. This Contract may be executed in counterpart originals, duplicate originals, or both, each of which is deemed to be an original for all purposes.

IN WITNESS WHEREOF, the parties hereto have executed the Contract the day and year first above written.

CITY OF BANNING

By: _____ .
Acting City Manager Date ("CONTRACTOR")

APPROVED AS TO FORM:

By: _____ By: _____
City Attorney Date Name: Date
Title:

ATTEST:

By: _____
Administrative City Clerk Date

City Council Approval: _____

RESOLUTION 2021-91

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AUTHORIZING THE EXECUTION OF THE CALIFORNIA DEPARTMENT OF TRANSPORTATION HIGHWAY SAFETY IMPROVEMENT PROGRAM STATE-AID MASTER AGREEMENT NO. 08-5214S21 AND PROGRAM SUPPLEMENT AGREEMENTS NO. HSIPSL-5214(013) AND NO. HSIPSL-5214(014)

WHEREAS, the City of Banning submitted a grant application to the State of California Department of Transportation Cycle 10 Highway Safety Improvement Program Benefit Cost Ratio category on October 15, 2020, for the purpose of making intersection improvements and installing sidewalks at the Omar/Ramsey Intersection; and

WHEREAS, the City of Banning submitted a grant application to the State of California Department of Transportation Cycle 10 Highway Safety Improvement Program Funding Set-asides category on October 15, 2020, for the purpose of installing/upgrading pedestrian crossings at four non-signalized intersections on Ramsey Street; and

WHEREAS, the City of Banning was notified on March 26, 2021, that the two grant applications were approved; and

WHEREAS, Master Agreement 08-5214S21 and the two corresponding Program Supplement Agreements HSIPSL-5214(013) (Ramsey-Omar Intersection Improvements and Sidewalk) for $18,800 and HSIPSL-5214(014) (Ramsey St. intersections) for $13,300 must be executed with Caltrans before grant funds may be claimed.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. Authorizes the City Manager or his designee to execute the Caltrans Master Agreement 08-5214S21, Program Supplement Agreement No. HSIPSL-5214(013), and Program Supplement Agreement No. HSIPSL-5214(014) and any related documents on behalf of the City of Banning.

PASSED, APPROVED AND ADOPTED this 12th day of October, 2021.

Colleen Wallace, Mayor
City of Banning

ATTEST:

Caroline Patton, Deputy City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

Kevin G. Ennis, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Caroline Patton, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2021-91, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 12th day of October 2021 by the following vote, to wit:

AYES: Council Members Hamlin, Happe, Pingree, Sanchez, and Mayor Wallace.

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Deputy City Clerk
City of Banning, California

RESOLUTION 2022-68

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AWARDING A PROFESSIONAL SERVICES AGREEMENT FOR DESIGN OF RAMSEY STREET AND OMAR STREET INTERSECTION IMPROVEMENTS TO ALBERT A. WEBB ASSOCIATES, INC. OF RIVERSIDE, CALIFORNIA IN THE AMOUNT OF $39,698 AND ESTABLISHING A TOTAL PROJECT BUDGET OF $43,667.80

WHEREAS, the intersection of Ramsey Street and Omar Street poses safety issues to the motorists traveling eastbound on Ramsey Street; and

WHEREAS, on October 12, 2021, under Resolution 2021-91, the City Council approved Master Agreement 08-5214S21 and a corresponding Program Supplement Agreement No. HSIPL-5214(013); and

WHEREAS, on April 12, 2022, staff released a Request for Proposals (RFP) for the Design of Ramsey Street and Omar Street Intersection Improvements to six (6) consultants on the on-call engineering list approved by City Council on September 10, 2019 under Resolution 2019-116; and

WHEREAS, on May 11, 2022, in response to the RFP, three (3) proposals were received ranging in costs from $39,698 to $164,366.75; and

WHEREAS, staff evaluated the proposals based on qualifications, cost, experience with the requested scope of services and response to the request for proposals. As a result, staff recommends the award of a professional services agreement to Albert A. Webb Associates, in the amount of $39,698; and

WHEREAS, the total project budget of $43,667.80, which includes a 10% contingency, will be funded by Measure A funds. The project costs are eligible and expected to be reimbursed by the State of California Department of Transportation Cycle 10 Highway Safety Improvement Program (HSIP).

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The Professional Services Agreement between Albert A. Webb Associates, Inc. and the City of Banning is hereby approved.

SECTION 2. The City Council hereby authorizes and directs the City Manager to execute the Professional Services Agreement on behalf of the City of Banning.

SECTION 3. The City Council hereby authorizes the City Manager to make necessary budget adjustments, appropriations and transfers related to the Professional Services Agreement and to approve change orders within the 10% contingency.

PASSED, APPROVED AND ADOPTED this 14th day of June 2022.

Kyle Pingree, Mayor
City of Banning

ATTEST:

Caroline Patton, Deputy City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

Kevin G. Ennis, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Caroline Patton, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2022-68, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 14th day of June 2022 by the following vote, to wit:

AYES: Happe, Pingree, and Wallace.

NOES:

ABSENT: Hamlin and Sanchez.

ABSTAIN:

Caroline Patton, Deputy City Clerk
City of Banning, California

DEPARTMENT OF TRANSPORTATION

Date: 12/30/2024 EA No:
D_CO_RT: 08-RIV-0-BAN
Project No: HSIPSL-5214(013)
Adv. Project Id: 0822000017
Project End Date:

FINANCE LETTER

To: City of Banning

Est Tot Proj Costs:

FINANCE ITEMS	PRO RATA OR LUMP SUM	TOTAL COST OF WORK	PART. COST	STATE (HSIP)	LOCAL	OTHER
Agency Preliminary Engineering	Lump Sum	$59,698.00	$59,698.00	$53,728.00	$5,970.00	$0.00
Contract Items: $490,600 Contingencies: $49,100 Total: $539,700						
Construction	Lump Sum	$539,700.00	$539,700.00	$485,730.00	$53,970.00	$0.00
Totals:		**$599,398.00**	**$599,398.00**	**$539,458.00**	**$59,940.00**	**$0.00**

Participation Ratio: 100%

This Finance Letter was created based on specific financial information provided by the responsible local agency. The following encumbrance history is prepared by Local Assistance Accounting Office and is provided here for local agency's information and action.

Signature: Raimund Yambao

Printed Name: Raimund Yambao

Title: HQ Sr. Area Engineer

Telephone No: (279) 599-3120

Remarks: REQ#4:Allocate $485,730 of HSIP state only HSIP ID: H10-08-001. Maximum reimbursement rate 90%. Max. ReigmCaltrans allocates an additional $18,000.00 of State HSIP funds for PE.

ACCOUNTING INFORMATION HSIPSL-5214(013)

ADV. PROJECT ID	APPROP. UNIT	STATE PROG.	FED/ STATE	ENCUMBRANCE AMOUNT	APPROP YEAR	EXPENDITURE AMOUNT	ENCUMBRANCE BALANCE	REVERSION DATE*	Cooperative Work Agreement APPROVED AMOUNT	Cooperative Work Agreement EXPIRATION DATE
0822000017	24102	2030010551		$485,730.00	2324	$0.00	$485,730.00	06/30/2029		
0822000017	22102	2030010551		$36,808.00	2122	$35,426.08	$1,381.92	06/30/2027		
0822000017	21102	2030010551		$16,920.00	2021	$16,920.00	$0.00	06/30/2026		

*Please submit invoices to the appropriate Districts by April 1st to avoid funds lapsing on the June 30th reversion date listed above and to allow sufficient time for Accounting and SCO year-end closing procedures.

1069

5214013 R4 FL 12.30.24

Final Audit Report 2024-12-31

Created:	2024-12-30
By:	Alberta Snowden (s140573@dot.ca.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAoh6mpkWaoNKMQ2mYUEFfGCbD19fjD2De

"5214013 R4 FL 12.30.24" History

Document created by Alberta Snowden (s140573@dot.ca.gov)
2024-12-30 - 6:31:18 PM GMT- IP address: 149.136.17.253

Document emailed to Raimund Yambao (raimund.yambao@dot.ca.gov) for signature
2024-12-30 - 6:31:28 PM GMT

Email viewed by Raimund Yambao (raimund.yambao@dot.ca.gov)
2024-12-31 - 6:22:33 PM GMT- IP address: 149.136.17.251

Document e-signed by Raimund Yambao (raimund.yambao@dot.ca.gov)
Signature Date: 2024-12-31 - 8:18:41 PM GMT - Time Source: server- IP address: 149.136.17.251

Agreement completed.
2024-12-31 - 8:18:41 PM GMT

Powered by Adobe Acrobat Sign

RAMSEY IFB 24-098 STREET AND OMAR STREET INTERSECTION				Van Engineering Inc	
Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total
1	Mobilization/Demobilization (including preliminary construction schedule, bonds, insurance, permits and shall not exceed 5% of the project total cost).	1	LS	$30,000.00	$30,000.00
2	Traffic Control	1	LS	$48,000.00	$48,000.00
3	SWPPP	1	LS	$5,000.00	$5,000.00
4	Dust Control	1	LS	$5,000.00	$5,000.00
5	Clearing and Grubbing	1	LS	$25,000.00	$25,000.00
6	Remove and Dispose of Existing Pavement Section	17812	SF	$2.25	$40,077.00
7	Remove and Dispose of Existing AC Curb	764	LF	$6.00	$4,584.00
8	Remove and Dispose of Existing Tree	5	EA	$4,650.00	$23,250.00
9	Remove Existing Pavement 0.12’	16547	SF	$1.00	$16,547.00
10	Asphalt Concrete Pavement Overlay 0.12’	143	TON	$200.00	$28,600.00
11	Adjust Sewer Manhole to Finish Grade	3	EA	$1,500.00	$4,500.00
12	Relocate Existing Water Meter	1	EA	$7,500.00	$7,500.00
13	Relocate Existing Street Light Base	2	EA	$13,200.00	$26,400.00
14	Relocate Existing Electric Pull Box	1	EA	$3,000.00	$3,000.00
15	Sawcut Existing AC Pavement	1412	LF	$2.00	$2,824.00
16	Construct 6” Asphalt Concrete Pavement	794	TON	$195.00	$154,830.00
17	Construct 8” A.B Class II	545	CY	$80.00	$43,600.00
18	Construct 6” Curb Type “D” per City of Banning Std. No. C-203	858	LF	$30.00	$25,740.00
19	Construct 6” Curb Type “A” per City of Banning Std. No. C-200	408	LF	$30.00	$12,240.00
20	Construct 6” Curb per City of Banning Std No. C-204	162	LF	$30.00	$4,860.00
21	Construct Access Ramp Type I per City of Banning Std. No. C-214	2	EA	$10,000.00	$20,000.00
22	Construct 4” PCC Sidewalk per City of Banning Std. No. C-213	1262	SF	$6.00	$7,572.00
23	Construct 10’ Wide Cross Gutter and Spandrel per City of Banning Std. No. C-211	919	SF	$20.00	$18,380.00
24	Signing and Striping	1	LS	$16,700.00	$16,700.00
25	Remove and Reinstall Existing Cabble Stone Paving	1	LS	$30,000.00	$30,000.00
26	Landscape and Irrigation	1	LS	$45,750.00	$45,750.00
	Total				**$649,954.00**

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Robert Fisher, Acting City Manager**
PREPARED BY:	**John Pinkney, Interim City Attorney**
MEETING DATE:	**May 27, 2025**
SUBJECT:	**Consideration of Resolution 2025-78, Adopting the Revised City of Banning Manual of Procedural Guidelines**

RECOMMENDATION:

Adopt Resolution 2025-78.

BACKGROUND:

The *City of Banning Manual of Procedural Guidelines* ("Manual") was last updated on October 8, 2024 with the adoption of Resolution 2024-164. To help streamline and make public meetings more efficient, the City Attorney suggested implementing Rosenberg's Rules of Order as a framework that makes running public meetings more simplified and efficient. Additional modifications were discussed at the Council's April 18, 2025, special meeting workshop. The proposed amendments are included in the agenda packet materials provided with this staff report.

JUSTIFICATION:

The proposed amendments to the Manual serve several important purposes intended to streamline and modernize the City's governance practices, improve legislative transparency, and ensure compliance with statutory requirements. These updates reflect best practices in municipal procedure and enhance the City's commitment to accountable and efficient public governance.

Adoption of Rosenberg's Rules of Order:

The revised Manual formally adopts Rosenberg's Rules of Order as a procedural framework for conducting meetings of all Brown Act bodies, including the City Council, Successor Agencies, and Commissions. This adoption: (i) promotes consistency and clarity in how meetings are conducted; (ii) provides a simplified and accessible structure for parliamentary procedure; and (iii) enhances meeting efficiency and decorum while preserving transparency.

Rosenberg's Rules are adopted as a guideline, rather than as a rigidly binding code, and serve to supplement the Manual, not replace it. In the event of a procedural conflict, the provisions of the Manual will govern.

Introduction of Legislative Workshops:

The Manual introduces a new section governing "Workshops", a meeting format that allows Legislative Bodies to convene in an informal setting to exchange information, explore complex issues, and engage in preliminary discussion without formal action. Workshops must still comply with the Brown Act and include public noticing and opportunities for public comment. However, the intent of the Workshop format is to create a deliberative space for members to receive staff briefings, ask clarifying questions, and discuss policy options in a collaborative environment, without pressure to take immediate action. This

addition increases transparency, improves decision-making, and allows the public to observe the full context of policy development.

Exhibit B – Banning City Council Meeting Presentation Policy:
The revised Manual now includes Exhibit B, a codified Presentation Policy for City Council meetings. This policy outlines the purpose, content standards, and logistical requirements for ceremonial and informational presentations conducted during City Council sessions. The Presentation Policy provides structure and clarity to ceremonial items, ensuring they remain consistent with the City's mission, professional in delivery, and respectful of meeting time.

Updated Motion Cheat Sheet:
The previous version of the Manual included a custom "cheat sheet" summarizing motion procedures and parliamentary actions. As part of the Manual's modernization, this document has been removed and replaced with the Rosenberg's Rules of Order Motions Cheat Sheet, now incorporated as Exhibit C.

Rosenberg's Rules offer a streamlined, legally sound, and easy-to-use reference for motions. The included motions guide provides clear instruction on how to introduce, second, debate, and vote on common actions such as adjournments, amendments, appeals, and calls for the question. This replacement ensures that all Legislative Body members and the public operate from a shared ,understandable and standardized procedural foundation, reducing confusion and increasing efficiency during public meetings. The replacement incorporates some of the original cheat sheet's motions.

Minor Edits:
In addition to the substantive changes, the Manual incorporates numerous minor edits aimed at improving clarity, consistency, and readability.

FISCAL IMPACT:
Currently there are no fiscal impact of the proposed changes.

ALTERNATIVES:
Do not adopt Resolution 2025-78 and provide staff alternate direction.

BUDGETED?:
No

CONTRACT/AGREEMENT:
No

ATTACHMENTS:
1. Resolution 2025-78, Procedural Manual.docx
2. Procedural Manual - Clean.pdf
3. Redline Banning Procedural Manual.pdf

RESOLUTION 2025-78

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, ADOPTING THE AMENDED CITY OF BANNING MANUAL OF PROCEDURAL GUIDELINES

WHEREAS, on October 23, 2012, this City Council adopted Resolution No. 2012-83 approving the Manual of Procedural Guidelines for the Conduct of City Council and Constituent Body/Commission Meetings ("Manual"); and

WHEREAS, on April 23, 2013, the City Council adopted Resolution 2013-48 amending Article VII – Public Comment and Presentations – of the Manual to encompass and provide guidance for groups making presentations to the City Council and amend the time limit to speak during public comments to allow for up to five minutes to speak during a noticed public hearing; and

WHEREAS, on November 12, 2013, the City Council adopted Resolution 2013-103 adopting amendments to the Manual relating to decorum at legislative body meetings; and

WHEREAS, on May 26, 2020, the City Council adopted Resolution 2020-67 adopting time limits for public comments on items not on the agenda; and

WHEREAS, on February 14, 2023, the City Council adopted Resolution 2023-34, amending the Manual to add a City Treasurer's Report under "Announcements and Reports" on the agendas of all regular meetings of the City Council; and,

WHEREAS, on October 8, 2024, the City Council adopted Resolution 2024-164, amending the Manual to address deficiencies identified during a previous revision, incorporating structural and language changes, refining agenda preparation and meeting procedures, clarified rules on abstentions, introduced curfew for City Council Meetings, and aligning the Manual with legal standards.

WHEREAS, the City Council held a special meeting – workshop to discuss and propose recommended changes to the Manual on April 18, 2025.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The City Council approves the amended City of Banning Manual of Procedural Guidelines attached hereto as Exhibit A.

SECTION 2. The City Clerk shall certify to the adoption of this Resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 27th day of May, 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

John Pinkney, Interim City Attorney
Slovak, Baron, Empey, Murphy & Pinkney, LLP

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-78, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 27th day of May, 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

EXHIBIT A
City of Banning Manual of Procedural Guidelines

CITY OF BANNING
MANUAL OF PROCEDURAL GUIDELINES

Adopted October 23, 2012, by City Council Resolution 2012-83
Amended April 23, 2013, by City Council Resolution 2013-48
Amended November 12, 2013, by City Council Resolution 2013-103
Amended May 26, 2020, by City Council Resolution 2020-67
Amended February 14, 2023, by City Council Resolution 2023-34
Amended October 8, 2024, by City Council Resolution 2024-164

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ARTICLE 1 – SCOPE OF MANUAL

ARTICLE 1 – SCOPE OF MANUAL

1.1 Application of Rules

This Manual (the "Manual") shall establish the procedures for the conduct of all meetings of Banning's City Council, Successor Agency to the Banning Community Redevelopment Agency, Housing Authority, Utility Authority, Financing Authority and other constituent governing bodies, and commissions including, but not limited to, the Planning Commission, Parks and Recreation Commission, Youth Council, Historic Preservation Commission, and Budget and Finance Committee.

For avoidance of doubt, this Manual shall apply to all City bodies subject to the Brown Act, including all standing committees and commissions established by the City Council.

This Manual rescinds and supersedes all prior City Council resolutions setting forth rules of procedure for the conduct of meetings by City Legislative Bodies (defined below). Wherever there is a conflict between this Manual and any prior City resolution, the terms and rules in this Manual shall govern. Resolutions more specifically superseded by this Manual include, without limitation, the following:

- City of Banning Resolution No. 2023-34;
- City of Banning Resolution No. 2020-67;
- City of Banning Resolution No. 2013-103;
- City of Banning Resolution No. 2013-48;
- City of Banning Resolution No. 2012-83
- City of Banning Resolution No. 2004-43;
- City of Banning Resolution No. 2003-06;
- City of Banning Resolution No. 2000-41;
- City of Banning Resolution No. 1999-31;
- Banning CRA Resolution No. 2010-13; and
- Banning CRA Resolution No. 1990-04.

1.2 Definitions

The following definitions shall apply to these rules and procedures:

Agenda	The document that outlines topics to be discussed during a meeting.
Staff Report	A document prepared by City Staff containing information and a recommendation about certain action(s) by the Legislative Body.
Agenda Packet	The agenda with accompanying staff reports for each agenda item.

Legislative Body	Any quorum of any council, board, commission or standing committee (as defined in Government Code § 54952), or other governing body of the City of Banning that is subject to the Brown Act (Government Code § 54950 *et seq.*). This includes the Banning City Council, Banning Successor Agency to the former Redevelopment Agency, Banning Housing Authority Board, Banning Utility Authority, Banning Financing Authority, Planning Commission, Parks and Recreation Commission, Youth Council, Historic Preservation Commission, and Budget and Finance Committee, and any standing committee subject to the Brown Act. The term "Legislative Body" does not include Non-Governing Bodies, as defined below.
Presiding Officer	The Chairperson of the Legislative Body. For example, this refers to the Mayor when read in the context of the City Council, the Board Chair in the cases of the Successor Agency to the Redevelopment Agency and/or the Housing Authority, and the Chair of any Commission.
Vice Chair	The vice chairperson to the Presiding Officer. For example, the Vice Chair means the Mayor Pro Tem in the case of the City Council, the Vice Chairperson in the cases of the Successor Agency to the former Redevelopment Agency and/or Housing Authority, and the Vice Chairperson of any Commission.
Clerk/Secretary	The person responsible for taking and maintaining the record of proceedings for all meetings, preparation of agendas, calendar clerk, and custodian of rules, resolutions, ordinances and Legislative Body records. For example, the Clerk/Secretary refers to the Administrative City Clerk in the case of the City and the Agency Secretary in the cases of the Successor Agency to the former Redevelopment Agency and/or the Housing Authority.
General Counsel	The legal advisor to the Legislative Body, such as the City Attorney in the case of a City Council meeting, or Agency Counsel in the cases of the Successor Agency to the former Redevelopment Agency and/or Housing Authority.
City Manager	The Chief Executive Officer of the City, the Successor Agency to the former Redevelopment Agency, Housing Authority, Financing Authority and Banning Utility Authority. The City Manager may serve as the Secretary to the Successor Agency or Housing Authority, and the City Manager can designate appropriate staff to serve as the Clerk/Secretary to any Commission of the City.

Non-Governing Bodies	Wholly advisory committees and bodies that are not subject to the provisions of the Brown Act.
Sub-Legislative Bodies	Such advisory committees which are subject to the Brown Act but are not "governing" Legislative Bodies.
Adjourned Meeting	A meeting that is the continuation of a regular or special meeting which deals with unfinished business of the regular or special meeting.

These rules and procedures are enacted pursuant to authority granted by Government Code Sections 36813 and 54954. The purpose of this Manual is to provide procedures for Legislative Bodies that are consistent with the Brown Act and also to establish procedures that are convenient for the public and contribute to the orderly conduct of any Legislative Body's business. The procedures herein are in addition to, and not in place of, Rosenberg's Rules of Order, attached hereto as Exhibit "A," and any applicable ordinances and statutes. Rosenberg's Rules of Order are to be used as a guideline for the Legislative Body and such use is not intended to be rigidly binding and only serves as a recommendation. Rosenberg's Rules of Order are intended to provide for constructive and efficient conduct of meetings. In the event of conflict between this Manual and applicable ordinances or statutes, the latter shall govern. In the event that any state statute referenced herein is renumbered, the reference herein shall be deemed to refer to the successor statute dealing with the same subject matter. If there is any conflict between Rosenberg's Rules of Order and this Manual, the provisions of this Manual shall govern.

ARTICLE 2 – MEETINGS

ARTICLE 2 – MEETINGS

2.1 General Guidelines for Conduct of Board Meetings – Rosenberg's Rules of Order

All noticed meetings of Brown Act bodies are conducted using Rosenberg's Rules of Order as a procedural guideline. Rosenberg's Rules of Order are intended to provide for constructive and efficient conduct of meetings.

2.2 Regular Meetings

Unless otherwise specified by a resolution or ordinance applicable to a specific Legislative Body, the regular meetings of all Legislative Bodies shall be held on the second and fourth Tuesday of each month at the time designated by the Legislative Body, in the Council Chambers at City Hall, 99 East Ramsey Street, Banning, California 92220, or at such other locations as the Legislative Body may from time to time designate by resolution, in the order of adjournment, or in the notice or call of any special meeting. In the event the day of a meeting shall be a legal holiday, said meeting shall be held on the next business day.

2.3 Special Meetings

The Presiding Officer may, when he or she deems it expedient, or upon the written request of a majority of the Legislative Body, call a special meeting of the Legislative Body for the purpose of transacting the business designated in the call. The means or method for calling such special meeting shall be as set forth in the Brown Act as it now exists or may hereafter be amended. At such special meeting, no business shall be considered other than as designated in the call.

2.4 Special Emergency Meetings

A special emergency meeting may be called by the Presiding Officer or by a majority of the Legislative Body where an emergency exists:

(a) A work stoppage, terrorist act or threat, crippling disaster or other activity which severely impairs public health or safety as determined by the majority of the Legislative Body; or

(b) Such other circumstance specified by State law as authorizing the conduct of an emergency meeting. Any special emergency meeting shall be called, noticed, and conducted only in accordance with the procedures set forth in State law.

2.5 Attendance

A majority of members of the Legislative Body shall constitute a quorum. Less than a majority may adjourn from time to time and may compel the attendance of absent members. Except for City Council, any member who fails to attend any of the meetings of the Legislative Body for 60 consecutive days, unless such absences are excused, shall surrender the office, and be deemed to have surrendered the office. An absence is "excused" in non-emergency circumstances if the member provides the Clerk/Secretary with at least forty-eight (48) hours advance written notice of the member's intended absence. In emergency circumstances, which is limited to a physical or family medical emergency that prevents a member from attending a meeting, an absence is

"excused" if the member provides written notice of the member's intended absence as soon as possible prior to the meeting.

2.6 Workshops

The Legislative Body may meet informally in conference or "workshops" regarding concerns of the Legislative Body to interchange information, provided that all discussions and conclusions shall be informal. Such meeting shall be called in the same manner as special meetings or adjourned meetings, as applicable, and shall be subject to the Brown Act. Each notice shall indicate that an opportunity for public comment shall be provided before any matter shall be determined. When a meeting has been designated a workshop, the Legislative Body will not take any action with respect to the matter under review except with prior public notice, appearing on a properly posted agenda, of such intent to take action.

ARTICLE 3 – NOTICE & AGENDA

ARTICLE 3–NOTICE AND AGENDA

3.1 Notice and Agenda for Regular Meetings

For every regular Legislative Body meeting, the Clerk/Secretary, or their designee, shall post a notice of the meeting, specifying the time and place at which the meeting will be held, and an agenda containing a brief description of all the items of business to be discussed at the meeting as set forth herein. The notice and agenda may be combined in a single document.

The notice and agenda must be posted at least seventy-two (72) hours before the regular meeting in a location freely accessible to the public twenty-four (24) hours a day during the seventy-two (72) hour period and where the notice and agenda is not likely to be removed or obscured by other posted material. Specifically, the notice and agenda shall be posted at the place indicated below, and/or at such other location(s) as the Clerk/Secretary may designate:

CITY HALL LOBBY
CITY OF BANNING WEBSITE

3.2 Notice and Agenda for Special Meetings

For every special meeting, the Clerk/Secretary, or their designee, shall post a written notice specifying the time and place of the special meeting and the business to be transacted must be sent to each member of the Legislative Body (unless the member has filed a written waiver of notice with the Clerk/Secretary) and to each local newspaper of general circulation, and radio or television station that has requested such notice in writing. The notice shall serve as the agenda for the special meeting and shall contain a brief description of all the items of business to be discussed at the meeting as set forth herein.

The notice for a special meeting shall be conspicuously posted at least twenty-four (24) hours prior to the special meeting in a location that is freely accessible to the public twenty-four (24) hours a day and where the notice is not likely to be removed or obscured by other posted material. Specifically, the notice shall be posted at the place indicated below, and/or at such other location(s) as the Clerk/Secretary may designate:

CITY HALL LOBBY
CITY OF BANNING WEBSITE

3.3 Notice and Agenda for Adjourned Meetings

The Legislative Body may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment. If a quorum is not present, less than a quorum may so adjourn. If all members are absent from any regular or adjourned regular meeting, the Clerk/Secretary may declare the meeting adjourned to a stated time and place and shall cause a written notice of the adjournment to be delivered personally to each member of the Legislative Body at least twenty-four (24) hours before the adjourned meeting. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special, or adjourned special meeting was held, within twenty-four (24) hours after the time of adjournment. When a regular or adjourned regular

meeting is adjourned as provided herein, the resulting adjourned regular meeting shall be a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings. If the subsequent meeting is conducted within five (5) days of the original meeting, matters properly placed on the agenda for the original meeting may be considered at the subsequent meeting. If the subsequent meeting is more than five (5) days from the original meeting, a new agenda must be prepared and posted pursuant to Government Code Section 54954.2.

3.4 Affidavit of Posting

Immediately following the posting of the notice and agenda, the Clerk/Secretary, or their designee, shall complete an Affidavit of Posting, in a form to be developed by the Clerk/Secretary. The Affidavit of Posting shall indicate the time of the posting, the location(s) of the posting, and shall be signed under penalty of perjury. The Clerk/Secretary shall retain all such affidavits, together with a copy of each notice and agenda so posted. The affidavit, notice, and agenda shall be retained at least two (2) years subsequent to the date of posting, and pursuant to Government Code Section 34090, shall not be destroyed by the Clerk/Secretary thereafter except in accordance with the City's record retention policies.

3.5 Preparation of Agendas

Barring insurmountable difficulties, the agenda shall ordinarily be delivered to the members of the Legislative Body on Friday (as an informal deadline) preceding the meeting to which it pertains. The agenda shall also be available to the general public at the time it is delivered to the members of the Legislative Body, or in any case as required by the Brown Act.

Any Legislative Body member may have the City Manager place any business on the agenda that should be discussed under the item of the regular meeting agenda titled "New Items." Any Legislative Body member desiring to present a subject for the Legislative Body's consideration shall advise the City Manager's office of that fact not later than **12:00 noon on the Tuesday** of the week preceding the meeting at which the member wishes the subject to be considered. The matter shall then be listed on the next agenda for discussion under Item 11 (New Items) of the regular meeting agenda. The Legislative Body shall then determine whether the proposed item should be a future agenda item for discussion and deliberation by consensus. The City Manager shall advise the Legislative Body member of constraints affecting staff's ability to produce an agenda report, and when the matter should be scheduled.

Notwithstanding the foregoing, the City Manager and the Mayor generally have responsibility for setting the agenda for the Legislative Body (except for any other legislative body where the responsibility may be assigned to the City Manager's designee and the Chair of the body).

3.6 Description of Matters

All items of business to be transacted or discussed at a meeting of the Legislative Body, shall be briefly described on the agenda. The description may, but need not, set out the specific action or alternatives which will be considered by the Legislative Body, but should contain sufficient detail so that a person otherwise unaware could determine the general nature or subject matter of the item by reading the agenda. The description of closed session matters shall meet the requirements of Government Code Section 54954.2 and, where applicable, Section 54954.5. Matters may be designated as "New Items" and listed for the sole purpose of determining if they will be on a future agenda.

3.7 Action Items

(a) Items may formally be adopted by an ordinance, a resolution, minute order, or other motion (thereafter recorded by minute entry). Technically, all three are equally as legally effective and binding but vary in the formality of respective memorialization. While most actions will be presented to the Legislative Body in a written form prior to, or at, the meeting, the Legislative Body may amend any proposed action as written by carried motion of the Legislative Body at the time of its presentation for adoption. If an action as written is amended by the Legislative Body, it shall be revised to reflect the Body's amendments for later execution by the Presiding Officer.

(b) Besides ordinances and resolutions, action can be taken by motion and recorded as a minute order. A "minute order" denotes a Legislative Body action which is recorded simply by an item entered in the minutes of the meeting at which it was accomplished, and no separate document is made to memorialize it.

(c) As a general rule, a recorded majority of the quorum for a Legislative Body may take an action. However, for the City Council, resolutions, orders or the payment of money, and all ordinances require a recorded majority vote of the total membership of the City Council. Some actions, such as the passage of an urgency ordinance or adoption of a resolution of necessity to condemn property, require a super-majority vote. Under the Political Reform Act of 1974, a member with a financial conflict of interest regarding a matter before the member's board must leave the room while that matter is being discussed, heard, or acted on, so that member cannot be counted towards the quorum for that matter.

3.8 Resolutions

(a) A "resolution" is a formal action with findings taken by the Legislative Body, generally pre-prepared in writing, designated by sequential number, and reference to which shall be inscribed in the minutes and an approved copy of each resolution filed in the official book of resolutions of the Legislative Body. Resolutions are used when specifically required by law, when needed as a separate evidentiary document to demonstrate findings or to be transmitted to another governmental agency, or where the frequency of future reference back to its contents warrants a separate document (with the additional "whereas" explanatory material it often recites) to facilitate such future reference and research.

(b) A resolution may be adopted at the same meeting it is presented. Where a resolution has been prepared in advance, the procedure shall be: motion, second, discussion, vote pursuant to methods prescribed in Article 10, and result declared. It shall not be necessary to read a resolution in full or by title except to identify it.

(c) Where a resolution cannot reasonably be prepared in advance of a meeting, the Legislative Body may instruct the City Manager or the General Counsel to prepare are solution for presentation at the next Legislative Body meeting. Where urgent, a resolution may be presented verbally in motion form together with instructions for written preparation for later execution. After the resolution has been verbally stated, the voting procedure in Article 10, shall be followed.

3.9 Ordinances (*City Council Only*)

(a) The City Council is the only Legislative Body empowered to amend the Banning Municipal Code by adoption of ordinances.

(b) Ordinances, other than urgency ordinances, require at least two readings at different meetings held at least five days apart with the first reading considered to be introduction of the ordinance and the second adoption.

(c) A waiver of further readings requires a majority vote of the Council members present and voting. The waiver of further reading may be accomplished by one vote for all ordinances presented on the agenda of the present meeting. Government Code Section 36934.

(d) The Clerk/Secretary shall prepare copies of all proposed ordinances for distribution to all members of the City Council at the meeting at which the ordinance is introduced, or at such earlier time as is expedient. Ordinances shall be numbered and kept by the Clerk/Secretary with the same formality as resolutions as described above in Section 3.8.

(e) An urgency ordinance is an ordinance adopted for the immediate preservation of the public peace, health, and safety, containing a declaration of facts constituting the urgency. An urgency ordinance takes effect immediately and requires a four-fifths vote of the City Council for passage pursuant to Government Code Section 36937.

3.10 Agreements

When any agreement is to be considered by the Legislative Body, the complete agreement, if complete in form for execution, shall be made a part of the agenda package presented to the Legislative Body and shall be made available for viewing by the public within the time frames required under the Brown Act and/or the California Public Records Act (Government Code Sections 7920.000 *et seq.*). The Legislative Body may choose to leave the final form of the contract to the discretion of General Counsel if the Legislative Body has determined the general conditions of the contract.

3.11 Limitation of Actions by Agenda

No action or discussion shall be taken by the Legislative Body, on any item not appearing on a posted agenda, subject only to the exceptions listed in Section 3.13 below. "Action taken" as used herein shall mean a collective decision made by a majority of the Legislative Body, a collective commitment or promise by a majority of the Legislative Body to make a positive or a negative decision, or an actual vote by a majority of the Legislative Body upon a motion, proposal, resolution, order, or ordinance.

3.12 Public Comment Period

Pursuant to Government Code Section 54954.3, every agenda posted for any meeting shall contain an item entitled "Public Comment" in order to provide for an opportunity for the public to address the Legislative Body on items of interest to the public within the Legislative Body's subject matter jurisdiction. The public comment period should be conducted in accordance with Article 6.

3.13 Exceptions to Agenda Requirement for Action Taken

The Legislative Body may take action at a meeting on an item not appearing on the agenda for that meeting only under one of the following circumstances:

(a) Upon a majority determination that an "emergency situation" exists that is either (i) a work stoppage, crippling activity, or other activity that severely impairs public health, safety, or both, or (ii) a dire crippling disaster, mass destruction, terrorist act, or threatened terrorist activity that poses peril so immediate and significant that requiring a Legislative Body to provide one-hour notice before holding an emergency meeting may endanger the public health, safety, or both. All discussion of such emergencies must be in open session.

(b) Upon a determination by a two-thirds (2/3) vote of the Legislative Body, or if less than two-thirds (2/3) of the Legislative Body are present by a unanimous vote of those members present, that the need to take action arose subsequent to the agenda posting. For the purposes of this subsection, the term "need to take action" shall mean those circumstances whose occurrence creates a situation which is materially different from that which existed at the time the agenda was posted, and which requires the immediate attention of the Legislative Body. The mere failure of any person to notify the Legislative Body or staff of a pre-existing situation requiring Legislative Body attention until after the time for the posting of the agenda shall not be deemed to constitute a "need to take action" hereunder. If the Legislative Body makes a determination pursuant to this subsection, the minutes of the meeting at which the determination is made shall reflect what circumstances gave rise to the "need to take action" and why the item could not be placed on the agenda.

3.14 Minutes and Recordings

(a) An account of the actions taken in all proceedings of the Legislative Body in open meetings shall be kept by the Clerk/Secretary. The Clerk/Secretary shall prepare a record of the actions taken by the Legislative Body during open meetings, which when adopted by the Legislative Body shall be the official Minutes of the meeting. Amendment of the Minutes may be

made only as to factual accuracy of the actions taken and not as to a change of intent. The Minutes of the meeting shall not be verbatim but rather shall be summary minutes. Only the best and most complete available audio recording of the meeting shall constitute the official record of the Legislative Body, but the Minutes shall constitute the official record of the Legislative Body meeting where a verbatim audio record of the meeting is not available.

(b) Any recording of a meeting made by or at the direction of the Legislative Body is a public record that must be retained and made available to the public in accordance with the Public Records Act. The Legislative Body must provide to the public, without charge, equipment to review the recording.

ARTICLE 4 – CLOSED SESSIONS

ARTICLE 4 – CLOSED SESSIONS

4.1 Generally

The Legislative Body may hold closed sessions during a regular or special meeting, or at any time otherwise authorized by law, to consider or hear any matter which it is authorized by State law to hear or consider in closed session. Public comment shall be permitted on closed session matters prior to the closed session. If a closed session is included on the agenda, the description of the item shall meet the requirements of and shall identify the statutory basis for the closed session. During closed session, the Legislative Body shall exclude all persons which it is authorized by State law to exclude from a closed session. There shall be no closed session during any special emergency meeting. Closed session may not be held regarding a matter not listed on a properly posted agenda for closed session except upon the Legislative Body first taking action to place the item on the agenda as a closed session item as permitted by law.

4.2 Persons Authorized

Persons present in the closed session shall be only those persons necessary to the discussion of the matter under consideration. All other persons shall be excused. The Council may request the Clerk/Secretary to attend closed session of the Legislative Body and may direct the Clerk/Secretary to enter into a minute book a record of any reportable decisions made at the meeting

4.3 Confidentiality

The minute book for any closed session is not a public record and shall be kept confidential and shall be available only to members of the Legislative Body or as otherwise provided by law. (Government Code § 54957.2(a).) No person attending a closed session shall publicly discuss or otherwise reveal the proceedings in the closed session unless such publication has been approved by the vote of the Legislative Body taken during the closed session or as otherwise required by law. Violation of this rule shall subject the violator to censure by the Legislative Body as provided in Section 9.5 herein.

4.4 Public Reports

Before recessing into closed session, the Presiding Officer or General Counsel shall announce that the Body is recessing into closed session and shall name each closed session topic that will be discussed in closed session.

Upon leaving closed session, the Presiding Officer or General Counsel shall report publicly any reportable actions taken on a closed session matter and, if any vote was taken, shall announce that the matter was put to a vote, the results of the vote, and how each Legislative Body member voted.

ARTICLE 5 – ORDER OF BUSINESS

ARTICLE 5 – ORDER OF BUSINESS

5.1 Order of Business

The order of business of each meeting shall be as contained in the agenda prepared by the Clerk/Secretary unless the majority of the Legislative Body members consent to take items out of order. The order of business at meetings of the Legislative Body may be as follows, in accordance with the procedures specified below:

1. Call Meeting to Order.
   - Pledge of Allegiance
   - Roll Call
2. Agenda Approval.
3. Presentations.
4. Closed Session Report, if applicable.
5. Public Comments, Correspondence, Appointments, and Reports.
6. Consent Items. (See Section 5.3 below.)
7. Public Hearings.
8. Reports of Officers.
9. Discussion Items.
10. Announcements from Legislative Body Members.
11. Items for Future Agendas (New Items; Existing Items).
12. Adjournment.

5.2 Call to Order

The meeting of the Legislative Body shall be called to order by the Presiding Officer, or the Vice-Chair in the Presiding Officer's absence. In the absence of both the Presiding Officer and Vice Chair, the meeting shall be called to order by the Clerk/Secretary and the three Legislative Body members present shall elect by majority vote a Presiding Officer for that meeting.

5.3 Consent Items

Matters of a routine or generally uncontested nature and non-controversial, shall be placed on the agenda as Consent Items and may be approved by the Legislative Body in a single motion by adoption of the Consent Calendar. Matters of a routine or generally uncontested nature and non-controversial may include a matter where the City Manager believes (i) the matter would most likely be unanimously approved by the Legislative Body, or (ii) there is not likely to be public comment on the matter, or (iii) a public presentation of the matter would not be particularly beneficial to the community or public interest. The approval of the Consent Calendar shall signify the approval of each matter or recommendation included therein. All matters on the Consent Calendar shall be the subject to public comment procedures in Article 6. Upon the request of any member of the Legislative Body or upon the request of a member of the public made through the Presiding Officer, a matter may be removed from the Consent Calendar for separate discussion and/or action. Any such item shall be considered as part of the Excluded Consent Calendar. Each matter proposed for consideration as part of the Consent Items, including any recommended action, shall be described on the notice and agenda posted for the meeting. Ordinances shall not be

placed on the Consent Calendar for approval unless the ordinance has first been read or the reading of the ordinance has been waived as required by law.

5.4 City Representatives and Advisory Bodies *(City Council Only)*

(a) From time to time the Council may be required to assign a representative of the City to non-City boards, commissions, or organizations (e.g., boards or commissions of another agency or joint powers authority). Except as otherwise required by law or by the policies of the non-City organization, the Mayor shall make all such appointments of City representatives on non-City organizations after consultation with the City Council. Council appointments to non-City organizations shall be considered and made with the goal of keeping the appointee in the organization for a long enough period of time that the appointee may gain seniority and/or a position of leadership within the organization. This goal shall be construed to mean that the same appointee should remain within a non-City organization for at least two years where reasonably possible and convenient for said appointee. Nothing herein, however, shall be construed to limit or waive the City Council's power to remove appointees pursuant to subsection (c) below.

(b) The City Council shall have the power to establish advisory committees, commissions, other Legislative Bodies and Non-Governing Bodies. Any committee which is (i) established by ordinance, resolution, or other formal action, (ii) has a fixed regular meeting schedule, (iii) has continuing subject matter jurisdiction over a non-temporary issue, (iv) which continues to conduct business in excess of 180 days, or (v) has a majority membership of officials from other Legislative Bodies, shall be subject to the provisions of the Brown Act.

Advisory bodies and committees may take the following form:

i) The Council may, as the need arises, authorize the appointment of "ad hoc" Council committees composed of two members. Except where otherwise specifically provided by law, the Presiding Officer shall appoint the members of the Council committees, subject to the approval of the Council. Any committee so created shall cease to exist upon the accomplishment of the special purpose for which it was created or when abolished by a majority vote of the Council.

ii) The Council may, subject to the Brown Act, create other committees, boards, and commissions, whether Legislative Bodies or Non-Governing Bodies, to assist in the conduct and operation of the City government with such jurisdiction and duties as the Council may specify. Except as otherwise required by law, the Mayor shall make appointments of members to such committees, boards, or commissions subject to the approval of the Council. The procedure of filling vacancies and provision of notice thereof shall be subject to the provisions of the Maddy Act (Government Code, Sections 54970-54974).

iii) Sub-Legislative Bodies, including Non-Governing Bodies, shall be responsible for reporting the Body's activities to the City Council. The members of a Sub-Legislative Body or Non-Governing Body shall operate within the jurisdiction established by the Council and shall not have authority to make subcommittees unless specifically granted such authority by action of the City Council. Staff members may be assigned to assist any Council-created committee by the City Manager; staff members so assigned shall not be members of the committee unless specifically appointed as such by action of the Council.

(c) Absent any other provision to the contrary, members of any non-City organization, or City committees, boards or commissions may be removed by the Council without cause by a majority vote of the City Council. Any member of the City Council may place the question of such removal on the agenda. Any committees, boards, or commissions so created may be abolished by a majority vote of the City Council by repeal of the enacting ordinance or resolution.

5.5 Budgets

The City Council shall have the power to approve the City budget, and each Legislative Body shall have the power to approve the budget of funds specifically apportioned to control of that Legislative Body (e.g., the Successor Agency Board shall approve the budget of the Agency and the Housing Authority Board shall approve the budget of the Authority). Approval of the budget constitutes approval of a proposed plan of expenditures and revenues. It does not constitute an authorization for expenditure. With respect to any given expenditure the applicable procedure shall be followed. Adoption of the budget does not, unless otherwise specified by resolution, constitute authorization for any specific employment class or position.

5.6 Items from Members, the City Manager, and the City Treasurer

(a) There is a specific item on the agenda - "Announcements from Legislative Body Members" - for receiving general comments, announcements, and/or suggestions from members of the Legislative Body. This can be used to inform the public concerning upcoming events, report on members' attendance at conferences and seminars, and for requests by members that staff look into specific matters. Legislative Body members shall report at this time on any conferences, seminars or other events they attended and for which they received compensation or reimbursement from the City. Such report should include the dates of attendance, and a brief description of the subject matter of topics covered at the events. These matters may not be discussed among the Legislative Body members, opined upon, or deliberated, and if they do not concern a matter on the agenda, shall be handled by the Presiding Officer according to the same procedures set out for Public Comment in Section 6.2. No action may be taken on such matters without being placed on a subsequent agenda.

(b) There is an agenda item referred to as "New Items." Matters are listed under this item pursuant to Section 3.5 where a member has asked that the matter be scheduled for discussion of whether a future staff report should be prepared. The listing of the matter allows a discussion of whether a staff report should be prepared, or it may be held in the "Existing Items" section of the agenda to keep track of if the City Council determines that a staff report should be prepared for a future agenda.

(c) There is an agenda item referred to as "City Manager's Report." This may be used by the City Manager similarly to the item for members of the Legislative Body in Subsection (a) above to make announcements without separately listing the matter on the agenda, and subject to the same restriction that there may be no discussion or action on such matter.

(d) There is an agenda item referred to as "City Treasurer's Report." The City Treasurer shall attend the meetings of the Legislative Body, unless excused. The City Treasurer may report on (i) the activities of the Budget and Finance Committee, and (ii) the duties of the City Treasurer as imposed under State law, except such duties otherwise delegated by the City Council to the City Clerk or the Administrative Services Director.

(e) There is an agenda item referred to as "City Council Committee Reports." Under this agenda item, City Council members may report on meetings of committees that City Council members are assigned to attend

ARTICLE 6 – PUBLIC COMMENT AND PRESENTATIONS

ARTICLE 6– PUBLIC COMMENT AND PRESENTATIONS

6.1 City Council Meeting Presentations

City Council presentations are for providing information to the Mayor and Council, City management, and the community about activities of interest and value, including activities, events and infrastructure projects relating to the City, honors and celebrations for organizations, corporations and residents which reflect their service to the Banning community, honors, and recognitions for City staff for outstanding service or commitment to the City's mission and goals. **Please Note:** This is not the appropriate time to seek funds from the City and/or endorsements from City Council or discuss politics.

All presentations are to be no more than five minutes in length, including all speakers for the group being recognized. Please see the attached "Exhibit B" for a complete copy of the Banning City Council Meeting Presentation Policy contained and incorporated as an exhibit to this Manual.

6.2 Public Comment

At the beginning of any Legislative Body meeting, the public shall be afforded the right to comment on any and all issues (not on the agenda) within the subject matter jurisdiction of the Legislative Body. Such general public comment on non-agendized issues shall be taken at the beginning of the meeting under a "Public Comments" heading. Each speaker will be limited to a maximum of three (3) minutes to provide comments on non-agendized issues. With regard to matters not on the agenda, the Legislative Body may ask questions of persons who raise new matters during the Public Comment period or otherwise. However, all Legislative Body questions must be limited to facts-only informational inquiries, and the Legislative Body may not discuss the merits, express any opinions, or ask questions that convey opinions or thought processes with respect to any non-agendized issue. The public shall also be afforded the right to comment on every item appearing on the agenda prior to the Legislative Body's consideration of that item, as provided in Section 6.5 below.

6.3 Time Limitations

The time limit to speak for public comments is five (5) minutes during a noticed public hearing and to provide comments on all other agendized items, provided that these limits do not apply to a project applicant speaking at a public hearing pursuant to Article 7. All such time limits shall be noticed on the agenda for the meeting. Notwithstanding these time limits, the Presiding Officer has the full prerogative to maintain meeting order and decorum as provided in Section 9.1 and Article 9 generally, and the Presiding Officer may reasonably reduce the time if there are a significant number of speakers or extend time if he/she finds such extension is reasonably necessary to allow the speaker to complete his/her message without repetition or unnecessary tangents.

6.4 Reserved

(a) Additional Procedures for Public Comment on Agenda Items. Members of the public shall have the opportunity to address the Legislative Body on each and every item listed on the agenda. Public comment on agenda items must be heard prior to the Legislative Body's consideration/discussion of the item. Public comments on an agenda item may be heard either in combination with the Public Comment period at the start of the meeting, or at the time the Legislative Body opens the item, or both, as determined by the Legislative Body and set forth in the agenda.

(b) The purpose of the public comment period is to receive input from the public, not to create a debate between the Members and the public. Members should generally refrain from debating members of the public during the period for public comment, but if Members desire to clarify comments by members of the public, they may ask factual questions, and if necessary, should do so during the public comment period.

(c) The Presiding Officer should clearly open and close the public comment period. After the close of the public comment period or after a motion has been made, no member of the public shall address the Legislative Body without first securing permission of the Presiding Officer.

ARTICLE 7 – NOTICED PUBLIC HEARINGS

ARTICLE 7– NOTICED PUBLIC HEARINGS

7.1 Public Hearings; Notice; Fairness

(a) Matters noticed to be heard by the Legislative Body shall commence at the time specified in the notice of hearing, or as soon thereafter as is reasonably possible, and shall continue until the same has been completed or until other disposition of the matter has been made.

(b) Legislative Body members shall not overtly or implicitly promise a particular action by City staff or by any Legislative Body. Where a Legislative Body member is contacted about an issue that will be presented to any Legislative Body of the City, it is appropriate to give a brief overview of City policy, to refer to City staff for further information, or to suggest that the concern be brought to the whole Council at the hearing or Council meeting, as appropriate.

(c) All public hearing notices shall be issued and published in compliance with any statutory notice requirements applicable to the particular hearing at issue and such notice shall inform interested persons of the statute of limitations to challenge the validity any action taken Legislative Body on such matter.

(d) Although every Legislative Body member has a right to their own personal opinions, Legislative Body members should by their demeanor show an ability to listen to a variety of viewpoints and demonstrate a reasonable willingness to consider all sides of an issue before them. For quasi-adjudicative matters involving public hearings, the members of the Legislative Body shall not prejudice the matter prior to the public hearing, shall be fair and impartial, and shall decide the matter based upon the evidence and the statutorily required findings.

(e) For such matters, Legislative Body members should avoid expressing an opinion or divulging their thought process until after the public hearing has been completed.

7.2 Continuance of Hearings

(a) Any hearing being held or noticed or ordered to be held by the Legislative Body may, by order or notice of continuance, be continued, or re-continued to any subsequent meeting in the manner provided for adjourned meetings.

(b) When it is the decision of the Legislative Body to continue an item, which appears on the agenda, prior to hearing any report, testimony or taking evidence on the item, the Legislative Body may make such intent known at the beginning of the meeting. At that time, the public shall be offered the opportunity to speak regarding the intent to continue the item. At the time regularly scheduled for the hearing of the item, the Legislative Body shall then take action to continue the item after again informing the public of the intent to continue the matter. No testimony or evidence shall be taken at that time unless the speaker will not be available at the continued hearing date.

When the Legislative Body has continued the public hearing on an item after its commencement, persons testifying at the first public hearing may be permitted by the Presiding Office to again address the Legislative Body on the item at the renewed hearing, provided the testimony is not redundant.

(c) Continuances of a public hearing to a date certain need not be re-noticed unless (i) the hearing has not been continued to a date certain, or (ii) has been continued three or more times and the Presiding Officer believe confusion may be created as to the time of the hearing.

7.3 Conduct of Hearings

(a) When a matter for public hearing comes before the Legislative Body, the Presiding Officer shall request that staff present the staff report and any other relevant evidence, but the presentation of the staff report prior to the formal opening of the public hearing shall not prevent its consideration as evidence. Any such evidence shall be made a part of the record of the public hearing. The Presiding Officer shall permit members of the Legislative Body to ask questions of staff but should prevent expressions of opinion by members of the Legislative Body before the conduct of the hearing.

(b) The Presiding Officer shall thereafter open the public hearing and inquire if there are any persons present who desire to address the Legislative Body on the matter. Any person desiring to speak or present evidence upon being recognized, may speak or present evidence relevant to the matter being heard. Any testimony shall be truthful.

(c) Members of the Legislative Body who wish to ask questions of the speakers, during the public hearing portion, may do so but should be mindful that the purpose of the public hearing is to obtain testimony and evidence from the speakers, and not to debate the merits of the matter with speakers. Members should avoid debate and expressions of personal opinion until after the close of the public hearing. Unlike public comment periods, generally there should be no response to speaker comments until after the close of the hearing. The Presiding Officer shall conduct the hearing in such a manner as to afford due process to all affected persons.

(d) All persons interested in the matter being heard by the Legislative Body shall be entitled to submit written evidence or remarks, as well as other graphic evidence. All such evidence presented shall be retained by the Clerk/Secretary as part of the record. Each speaker may only speak once during the public hearing unless the Legislative Body requests additional clarification later in the process.

(e) Upon closing of the public hearing by the Presiding Officer, no additional public testimony shall be solicited or received by the Legislative Body without reopening the public hearing. If, however, the Legislative Body receives relevant new evidence after the close of the public hearing and such new evidence may impact the Legislative Body motion or vote, the Legislative Body may re-open the public hearing to obtain public comments upon such new evidence.

(f) The Presiding Officer has the prerogative to establish special rules, such as to require group spokesmen, to limit the number of speakers, to limit the total time for testimony, to allow speakers to give time to others, or otherwise control the hearing, provided that (i) speakers are treated fairly, and that (ii) any such special rules are announced in advance of their application. The Presiding Officer always retains the prerogative to cut off speakers who are unduly repetitious, and to permit the extension of time to speakers.

7.4 Extra-Meeting Contacts on Matters Set for Public Hearing

(a) Legislative Body members should minimize their contacts with, applicants, or other persons who will be the subject of a quasi-adjudicative public hearing matter to be heard before the Legislative Body. Legislative Body members should avoid extra-meeting contacts with persons who will be the subject of a public hearing before the Body or with advocacy groups or special interests.

(b) If a Legislative Body member is contacted directly by such person outside the meeting setting, the member shall refrain from expressing any viewpoints or thought processes to the person until after the public hearing. The Legislative Body member may explain that they are unable to express any viewpoint on the matter until all evidence has been heard in the course of a public hearing and should encourage any such person to present their position in writing or orally at the public hearing.

(c) At the commencement of the public hearing, the Legislative Body member must disclose publicly any extra-meeting contacts or discussions had which may be relevant to the decision.

(d) The limitations set forth in this Section shall not be read as preventing a Legislative Body member from inspecting a site that will be relevant to a public hearing, although such sight inspection should be disclosed on the record at the beginning of the public hearing.

ARTICLE 8 – MEETING OFFICERS

ARTICLE 8 - MEETING OFFICERS

8.1 Presiding Officer

(a) The meeting shall be presided over and chaired by the Presiding Officer, or, in the Presiding Officer's absence, the Vice Chair. The Presiding Officer shall have the authority to rule any speaker out of order, including speakers during the public comment period if the subject raised is not within the subject matter jurisdiction of the Legislative Body, or during a public hearing if the speaker is not presenting testimony or evidence relevant to the matter which is the subject of the public hearing. The Presiding Officer shall have the responsibility for the conduct of meetings in an orderly manner and to prevent the obstruction of business, and in carrying out this responsibility shall have the authority to give the floor to any member of the Legislative Body or the public by recognizing them, to prevent the misuse of legitimate forms of motions or privileges, to take matters up out of order, to caution speakers as to disruptive behavior, and to order any persons willfully interrupting the meeting to be removed from the room, including as provided in Article 9.

(b) The Vice Chair shall generally take the place of the Presiding Officer in the absence of the Presiding Officer. In the absence of the Vice Chair, the Presiding Officer may call any other member to take his or her place as Presiding Officer; such substitution not to continue beyond adjournment.

(c) Any determination made by the Presiding Officer may be appealed by the making of a Motion to Appeal the Ruling by any other member of the Legislative Body. The Presiding Officer's determination will stand unless a majority of the Legislative Body members vote in favor of the Motion to Appeal the Ruling, in which case the ruling of the Presiding Officer will be overridden. The Motion to Appeal the Ruling is governed by the Rosenberg's Rules of Order attached hereto as Exhibit "A".

8.2 Representation of Legislative Body

(a) The Mayor is the designated representative of the City and the City Council for purposes of presenting and expressing the official City position on an issue. If individual members of the Council or other Legislative Bodies are contacted by the media for a statement of official City position, the member should refer such inquiries to the Mayor. Otherwise, public or media statements by a Legislative Body member should be clearly characterized as comments upon a personal viewpoint.

(b) Members of the City Council may use official City letterhead to correspond with other public officials and with consultants, but any such correspondence shall state that the views expressed therein are personal and not the position of the City unless the City Council has officially adopted such position. No other Legislative Body may take a position officially representing the City unless authorized to do so by the City Council.

8.3 Email and Social Media Policy

(a) Members of the Legislative Body are provided with City email accounts which may be utilized for the conduct of City business, including communications with constituents.

Members should be aware that all such communications may be subject to the Public Records Act (Government' Code Section 7920.000 *et seq.*). The use of private email accounts for City business may also make them subject to disclosure.

(b) Members of the Legislative Body are subject to the Brown Act in the use of email and social media.

(c) Email communications may not be used to develop a collective consensus or decision on any matter. Email communications to the entire Body should be avoided but may be permitted to provide factual information, such as arranging an event, where no discussion or exchange of opinions on a matter within the jurisdiction of the Legislative Body is initiated or occurs.

(d) Members of the Legislative Body may engage in separate conversations or communications on an internet-based social media platform to answer questions, provide information to the public, or to solicit information from the public regarding a matter that is within the subject matter jurisdiction of the Legislative Body. A majority of the Legislative Body members shall not use any internet-based social media platform to discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the Legislative Body. A Legislative Body member shall not respond directly to any communication on an internet-based social media platform regarding a matter that is within the subject matter jurisdiction of the Legislative Body that is made, posted, or shared by any other member of the Legislative Body.

8.4 Clerk/Secretary

The Clerk/Secretary, or their deputy, shall attend all meetings of the Legislative Body unless excused and shall keep the official minutes and perform such other duties as may be requested by the Legislative Body.

8.5 City Manager

(a) The City Manager, or designee, shall attend all meetings of the Legislative Body unless excused. The City Manager may make recommendations to the Legislative Body and shall have the right to take part in all discussions of the Legislative Body but shall have no vote. The City Manager shall provide the Legislative Body with a staff report providing sufficient information to be the basis for any action by the Legislative Body at its meeting. Any officer or employee of the City, when directed by the City Manager, shall attend any meeting of the Legislative Body, and may present information relating to matters before the Legislative Body.

(b) The City operates under the city manager form of government (Government Code Section 34851 *et seq.*). The City Manager has the power to: (i) administer the day-to-day affairs of the City; (ii) hire and fire City employees (except the City Attorney); and (iii) perform such other functions as the City Council chooses to authorize by ordinance. The City Manager shall carry out the City Council's policy direction through the day-to-day management of City functions.

8.6 General Counsel

(a) The General Counsel, or deputy, shall attend all meetings of the City Council unless excused and shall upon request of any member give an opinion, either written or oral, on questions of law. The General Counsel, or deputy, shall attend all meetings of such other Legislative Bodies as directed by the City Council or City Manager. The General Counsel serves as advisory parliamentarian for the City and is available to answer questions or interpret situations according to parliamentary procedures. Final rulings on parliamentary procedure are made by the Presiding Officer, subject to the appeal of the full Legislative Body pursuant to Section 8.1 above. All ordinances and resolutions, all contracts, deeds, and easements or other legal instruments shall be approved as to form by the General Counsel. Agreements may be approved as to form by the General Counsel when exceeding purchasing ordinance and policy guidelines. In any case of ambiguity or uncertainty in the interpretation or application of this Manual to any procedure, the Presiding Officer may direct such question to the General Counsel for a ruling.

(b) Any member of the Legislative Body may request from the General Counsel a legal opinion regarding any matter related to the interests of the City. Where a legal opinion involves substantial cost, the request for the opinion must first be approved by the City Manager or by a majority of the Legislative Body. The General Counsel is the legal representative of the City acting through its Legislative Body. There is a continuing legal question as to whether the General Counsel may have an attorney-client relationship with any individual member of the Legislative Body or the City staff. As a consequence, any discussion with the General Counsel which leads to the conclusion that the interests of the City are at risk must be revealed to all relevant members of the Legislative Body and the City staff by the General Counsel. The General Counsel shall not have an attorney-client relationship with individual Council members. The General Counsel is required to maintain the confidentiality of such communications from persons outside the City to the extent required or permitted by law and the code of ethics.

(c) The General Counsel has no statutory duty or authority under the Political Reform Act to provide Political Reform Act advice to any Legislative Body member but should provide advice to members when requested. However, a Legislative Body member may not rely on advice from the General Counsel to provide him or her with immunity from FPPC enforcement or prosecution. Such immunity may be obtained only through a written advice letter obtained from the FPPC, on the question in issue, by the Legislative Body member. A Legislative Body member enjoys no privilege of attorney/client confidentiality in reviewing these matters with the General Counsel. Any advice given to an individual member of a Legislative Body cannot be withheld from the rest of the City or Legislative Body. If, after receipt of an opinion of the General Counsel, the Legislative Body member wishes to participate in the decision-making process with immunity from prosecution or enforcement, the General Counsel shall assist the Legislative Body member in making direct contact with the FPPC for informal or formal advice upon which the Legislative Body member can rely.

(d) *[City Council Only].* It often happens that other jurisdictions or the League of California Cities or other regional or statewide association will ask the City to participate in the filing of a letter or brief before a court in a matter deemed to be of concern to all or a great many cities. These "friend of the court" or "amicus" briefs have the effect of informing the court how widespread will be its opinion and how that opinion will affect cities. Such participation is

normally without direct cost to the City. In considering whether to direct General Counsel to file an amicus brief, the City Council shall consider whether such brief would represent or propose a position that conflicts with, or causes strife amongst, other City- related interests such as, without limitation, the interests of employee organizations, law enforcement or public safety.

i) Upon receipt of the request, the General Counsel shall make the request available through the City Manager to the Council. Upon a determination by any Council member that there is an interest in participating in the action in the manner proposed, the Council member shall inform the City Manager or General Counsel who shall place the matter as an item for discussion in closed session on the agenda of the next Legislative Body meeting. The General Counsel may otherwise place an amicus request on the agenda on his or her initiative.

ii) In lieu of the foregoing process, where there is urgency to the matter, General Counsel is authorized to undertake the filing of the letter or brief where (i) in the opinion of General Counsel the legal matter significantly affects the interests of the City, (ii) the General Counsel has consulted with and received the approval of the City Manager, (iii) the cost to the City will not exceed $5,000, and (iv) the General Counsel makes a written report of the action to the Legislative Body.

iii) Approval given to the General Counsel to defend, or seek or refrain from seeking, appellate review or relief, or to enter as an amicus curiae in any form of litigation as the result of a closed session consultation shall be reported in open session at the public meeting during which the closed session is held. The report shall identify, if known, the adverse party or parties and the substance of the litigation. In the case of approval given to initiate or intervene in an action, the announcement need not identify the action, the defendants, or other particulars, but shall specify that the direction to initiate or intervene in an action has been given and that the action, the defendants, and the other particulars shall, once formally commenced, be disclosed to any person upon inquiry, unless to do so would jeopardize the agency's ability to effectuate service of process on one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

8.7 Conflicts of Interest

All Legislative Body members are subject to the provisions of California Law, such as Chapter 1, Title 9, of the California Government Code, relative to conflicts of interest, and to conflicts of interest codes adopted by the Legislative Body. Any Legislative Body member prevented from voting because of a conflict of interest shall refrain from in any way participating in the matter giving rise to the conflict. Where abstention from a matter is made on the basis of a conflict of interest arising from a financial interest in the decision, the Legislative Body member shall announce their abstention from the matter when it is first opened, and then shall set forth the reason for the abstention with the degree of specificity at least equal to the disclosure of the Legislative Body member's financial interests on the Legislative Body member's annual statement of financial interests; immediately after such announcements, the Legislative Body member shall leave the room. The Legislative Body member shall not overhear the staff report, participate in the discussion or deliberations, and shall not otherwise make or participate in making the decision or in any way attempt to use his or her official position to influence the decision. This shall not prevent the conflicted Legislative Body member from coming before the Legislative Body solely

during the public comment period as an affected citizen to state his/her opinion on how the matter impacts their disqualifying interests.

8.8 Reserved

8.9 No Financial Interest in Agreements

A member of a Legislative Body shall not have a financial interest in an agreement within the meaning of (Government Code Section 1090 *et seq.*) made in their official capacity. An agreement in which a Legislative Body member has a financial interest shall be null and void whether the member participates in the making of the contract or not, unless a remote or non-interest exception applies under Government Code Sections 1091 or 1091.5.

8.10 Ethical Standards

A member of a Legislative Body shall maintain the highest ethical standards and shall adhere to all laws and the ordinances and regulations of the City in carrying out their duties.

8.11 Confidential Information

No Legislative Body member may disclose confidential information to any unauthorized person. A violation of this rule shall subject the violator to censure by the Legislative Body as provided in Section 9.5 herein.

ARTICLE 9 – DECORUM AND ORDER

ARTICLE 9– DECORUM AND ORDER

9.1 Decorum and Order – Legislative Body Members

(a) Any member of the Legislative Body wishing to speak, or any member of the public wishing to address the Legislative Body must first obtain the floor by being recognized by the Presiding Officer. The Presiding Officer must recognize any member of the Legislative Body who seeks the floor when appropriately entitled to address the Legislative Body. The Legislative Body member shall confine himself or herself to the question under debate.

(b) Any member of the Legislative Body, including the Presiding Officer, may bring a matter of business properly before the Legislative Body for decision by making a motion. Any Legislative Body member, including the Presiding Officer, except the Legislative Body member making the motion, may second a motion. Once a motion is seconded, it may be opened for discussion and debate.

(c) The Presiding Officer shall determine all points of order, subject to the right of any member to appeal to the majority Legislative Body.

(d) A Legislative Body member, once recognized, shall not be interrupted while speaking unless called to order by the Presiding Officer, unless a Point of Order is raised by another Legislative Body member, or unless the speaker chooses to yield to questions from another Legislative Body member.

(e) Any Legislative Body member called to order while speaking shall cease speaking immediately until the question of order is determined. If ruled to be in order, the member shall be permitted to proceed. If ruled to be not in order, the member shall comply with ruling of the Presiding Officer.

(f) Legislative Body members shall accord the utmost courtesy to each other, to City or Legislative Body employees, and to the public appearing before the Legislative Body and shall refrain at all times from rude and derogatory remarks, reflections as to integrity, abusive comments, and statements as to motives and personalities, which disrupt, disturb, or otherwise impede the orderly conduct of the Legislative Body meeting.

(g) Any Legislative Body member may move to require the Presiding Officer to enforce the rules and the affirmative vote of a majority of the Legislative Body shall require the member to so act.

(h) The members of the Legislative Body shall not engage in communications during the Legislative Body meeting (including breaks) regarding matters being considered on the agenda unless and until the Legislative Body has opened that agenda item. In order to minimize exposure to a Brown Act violation, Legislative Body members are discouraged from discussing any City business during breaks or before and after meetings; City business may only be discussed by a quorum of Legislative Body members when it is opened as a duly noticed agenda item.

(i) The members of the Legislative Body shall always be attentive and show respect to those addressing the Legislative Body provided that nothing shall prevent the enforcement of the

rules of decorum herein.

(j) No Legislative Body member attending a meeting of another Legislative Body shall make any statement or, give the appearance or indicate in any way that they are representing the Legislative Body unless they have been authorized to do so by the Legislative Body. When making a comment at such a meeting, the Legislative Body member should make it clear that they are speaking solely as an individual. Unless officially appointed to participate on a committee, Legislative Body members should make an effort not to insert themselves into or take positions on matters which will ultimately be decided upon by the Legislative Body.

(k) The Legislative Body may punish its own members for misconduct pursuant to Section 9.5.

9.2 Decorum and Order – Employees

(a) Members of administrative staff and employees of the Legislative Body shall observe the same rules of procedure and decorum applicable to Legislative Body members. The City Manager shall ensure that all staff and employees observe such decorum. Any staff members, including the City Manager, desiring to address the Legislative Body or members of the public shall first be recognized by the Presiding Officer. All remarks shall be addressed to the Presiding Officer and not to any individual Legislative Body member or member of the public.

(b) Questions of City staff and/or requests for follow-up or additional background information should be directed only to the City Manager, General Counsel, Assistant City Manager, or Department Heads. The Office of the City Manager should be copied on any request, except those to the General Counsel. When in doubt about what staff contact is appropriate, Legislative Body members should ask the City Manager for direction. Materials supplied to a Legislative Body member in response to a request will be made available to all members of the Legislative Body so that all have equal access to information.

(c) Legislative Body members should not solicit any type of political support (financial contributions, display of posters or lawn signs, name on support list, etc.) from City staff. City staff may, as private citizens with constitutional rights, support political candidates but all such activities must be done away from the workplace.

9.3 Decorum and Order – Public

(a) Members of the public attending Legislative Body meetings shall observe the same rules of order and decorum applicable to the Legislative Body. All remarks and questions should be addressed to the Presiding Officer and not to any individual Legislative Body member, staff member or other person.

(b) Any person conducting their public remarks or behavior before the Legislative Body in such a way as to actually cause disruption to the conduct of the meeting may be removed from the room by the sergeant-at-arms as directed by the Presiding Officer. Unauthorized remarks from the audience, stamping of feet, whistles, yells, and similar disruptive demonstrations shall not be permitted by the Presiding Officer, who may direct the sergeant-at-arms to remove such offenders from the room or call a recess of the meeting. Aggravated cases may be prosecuted on

appropriate complaint signed by the Presiding Officer.

(c) Members of the public shall be allowed to video or audio record a public meeting unless such recording becomes an actual and unreasonable disruption to the Legislative Body's ability to carry-out the meeting.

9.4 Enforcement of Decorum

(a) The Banning Police Chief or designee shall be ex-officio sergeant-at-arms of the Legislative Body. He shall carry out all orders and instructions given him by the Presiding Officer for the purpose of maintaining order and decorum in the Legislative Body meeting. Upon instructions from the Presiding Officer, it shall be the duty of the sergeant-at-arms to eject any unruly person from the Legislative Body meeting chamber or place him or her under arrest or both for conduct actually disrupting to the Legislative Body proceedings. Such person may be barred from further participation in the meeting.

(b) Generally, if the Presiding Officer intends to eject a person for disruption of a meeting, a public warning should be issued. Examples of remarks or behavior that cause actual disruption of the Legislative Body proceedings include:

- Unauthorized remarks from the audience, stamping of feet, whistles, yells, outbursts, catcalls, cursing, applause, offensive or obscene gestures or similar demonstrations which disrupt, disturb, or otherwise impede the Legislative Body proceedings
- Interrupting speakers or speaking when not recognized
- Calling members of the audience names or threatening them
- Extended discussion of matters beyond the jurisdiction of the Legislative Body
- Physical threats to any person
- Shouting into the microphone
- Dumping objects on the floor of the chamber where the proceeding is held for symbolic or other reasons.
- Speaking beyond the time limits
- Being unduly repetitious

(c) Examples of non-disruptive conduct include:

- Silent gestures by members of the audience, such as a thumbs up or thumbs down that are not otherwise disruptive of the meeting.
- Catcalls or booing during a time allowed for applause that does not otherwise disrupt the meeting.
- Criticisms of public officials or staff during a time reserved for public comment that does not otherwise violate this Manual and does not disrupt the meeting.

(d) As set forth in Government Code Section 54957.9, in the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully

interrupting the meeting, the Legislative Body members may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in such a session. Duly accredited representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this Section. Nothing in this Section shall prohibit the Legislative Body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.

9.5 Censure of Legislative Body Members

(a) It shall be a violation of this section for any sitting member of a Legislative Body to violate any general law or regulation, and any, rule, law, ordinance, or resolution of the City of Banning. It shall also be a violation of this section for any sitting member of a Legislative Body to violate an administrative policy of the City which has been adopted following a vote of the Legislative Body or the City Council on the matter and which by its terms is expressly made applicable to the Legislative Body.

(b) Any violation of the foregoing paragraph by a Legislative Body member may be punished through the administration of a public censure of the member by the member's Legislative Body. Such censure may be in addition to any other punishment applicable to the violation. For purposes of this section, "censure" shall mean the adoption of a motion setting forth a statement of disapproval of a Legislative Body member's conduct.

(c) When evaluating a request for defense made by the censured member in litigation arising from the censured conduct, the record of the censure shall be considered by the Legislative Body. Such record shall not be determinative. Failure of the Legislative Body to censure the conduct of a member does not constitute waiver of the Body's right to refuse to defend the member in an action.

(d) A Legislative Body member may not be made the subject of a motion for censure without first being given notice of the violation and an opportunity to correct the violation if it can reasonably be corrected. Upon a continued violation or failure to correct, the charged member shall be given notice and an opportunity to be heard as follows:

(i) Only a sitting member of the Legislative Body whose member commits the violation may initiate proceedings for the censure of one of its members.

(ii) Proceedings shall be commenced by the presentation of a written statement of charges to the subject Legislative Body member with a copy delivered concurrently to the Clerk/Secretary by the member initiating the charge. Initiation shall not require the prior approval of the Legislative Body. The statement of charges shall be given at least ten (10) days prior to the meeting at which the censure motion is proposed to be brought. The notice shall contain, at a minimum, the designation of the specific rule, law regulation, etc. which the member is claimed to have violated and a statement of the date, place, and time at which the violation occurred. The statement shall further contain a description of the conduct of the member which is alleged to constitute the violation. The statement of charges shall be delivered to all

other Legislative Body persons.

(iii) Within seven (7) days after delivery of the statement of charges, the charged member should deliver a written response to the other members of the Legislative Body unless the charged member chooses to defer to response to the hearing.

(e) The motion for censure shall be agendized and considered at the first regular meeting occurring ten (10) days following the delivery of the statement of changes to the member and Clerk/Secretary. The hearing may not be continued except upon the absence from the meeting of a member of the Legislative Body other than the member bringing the charge or the member who is the subject of the charge.

(i) The hearing shall be conducted in an open session by the Presiding Officer unless the Presiding Officer is a party to the action, in which case the Vice Chair or some other member shall conduct the proceedings.

(ii) The hearing shall generally proceed by a reading of the charges by the charging member. The charging member may present witnesses; the charged member may answer in rebuttal; members of the public may speak in favor or opposed to the charge; and the remaining members may speak to the charges in that order.

(iii) Passage of the motion for censure shall require a majority vote of the members of the Legislative Body. The voting members shall not go into closed session for deliberation.

(f) If the motion for censure does not pass the proceedings shall be at an end. A new motion for censure on the same grounds of violation may not thereafter be commenced against the same Legislative Body member for a period of 1 calendar year from date of the vote. However, new proceedings may be commenced on the same charges within the 1-year period on the vote of 4 members of the Legislative Body.

(g) If the motion for censure does pass, such motion shall become a part of the public record a copy of which shall be made available upon demand to any member of the public and notice of same shall be placed in the administrative file of the Legislative Body member.

9.6 Persons Authorized To Be Within Platform/Dais

No person except Legislative Body officials or authorized Legislative Body staff shall be permitted behind the Legislative Body dais without permission or consent of the Presiding Officer.

9.7 Personal Privilege

If a Legislative Body member is personally offended by the remarks of another member, the offended Legislative Body member should make notes of the actual words used and call for a "point of personal privilege" that challenges the other member to justify or apologize for the language used. The Presiding Officer will maintain control of this discussion. The right of a

member to address the Legislative Body on a question of personal privilege shall be limited to cases in which his integrity, character, or motives are assailed, questioned, or impugned.

ARTICLE 10 – PARLIAMENTARY PROCEDURES

ARTICLE 10 – PARLIAMENTARY PROCEDURES

10.1 Procedures In Absence Of Rules

(a) Unless otherwise specified in this Manual or by ordinance or resolution, meetings of the Legislative Body shall be conducted with the most recently revised edition of Rosenberg's Rules of Order serving as a procedural guideline. In the event of any conflict between Rosenberg's Rules and this Manual, the provisions of this Manual shall govern.

(b) Any provision of these rules not governed by the Government Code may be temporarily suspended by a two-thirds (2/3) vote of all members of the Legislative Body. Such suspension may be moved at any time by a member. The vote on any such suspension shall be taken by yeas or nays and entered upon the record.

(c) Motions, motion procedures and precedence of motions shall be conducted in accordance with Exhibit "A" hereto.

10.2 Voting

(a) After a full opportunity for debate if it appears that there is a consensus of opinion among the members of the Legislative Body on the matter to be voted upon, the Presiding Officer may state the consensus of the Legislative Body and ask if there is any objection. If there is no objection, the consensus as so stated shall become the order of the Legislative Body. The Presiding Officer may also determine that a consensus exists following a call for a vote by any member of the Legislative Body by a Motion to Call the Question.

(b) Except as in Subsection (a) above, otherwise, all votes of the Legislative Body shall be taken by electronic vote. In the event the electronic voting machine is not functioning or otherwise unavailable, vote shall be by roll call vote. The order voting shall be alphabetical with the Presiding Officer voting last. The Clerk/Secretary shall call the names of all members seated when a roll call vote is ordered or required. Members shall respond 'aye', 'no' or 'abstain.' After every vote, the Legislative Body shall declare the result and, on all but consensus votes, shall note for the record the number of votes for or against the question. The ayes and noes shall be taken upon the passage of all ordinances and resolutions and entered upon the official record of the Legislative Body.

10.3 Votes Needed

(a) Usually, in the absence of a contrary statutory provision (such as urgency measures), a majority of a quorum which constitutes a simple majority of the Legislative Body may act for that body. However, resolutions, orders for the payment of money, and all ordinances require a recorded majority vote of the total membership of a Legislative Body.

(b) State law may dictate certain instances in which the number of votes required is greater than a majority of all Legislative Body members. As a matter of convenience, questions on which the voting requirement is varied by the State statutes and these rules, include, without limitation, the following:

(i) Levying Taxes - Ordinances providing for the Assessment and collection of taxes require the approval of two-thirds of the members of the whole Council.

(ii) Assessment - Assessments require a two-thirds vote of the whole Council.

(iii) Bonds and Certificates of Participation - Authorizing these financial instruments the issuing requires a two-thirds vote of the total Council.

(iv) Eminent Domain - The exercise of Eminent Domain requires a two-thirds vote of the total Council.

(v) Certain Parliamentary Motions – Motions requiring a supermajority vote are noted in Rosenberg's Rules of Order attached hereto.

(c) Any official with a conflict of interest is not counted for purposes of establishing a quorum, and must not vote on, make, participate in any way in, or attempt to influence the decision. A Legislative Body member abstaining on any other grounds than a conflict under the Political Reform Act shall be counted as present for purposes of a quorum and such abstentions are counted with the majority. The Legislative Body member who leaves the dais solely to avoid participating in a specific item shall, in absence of a conflict, be counted as if they were present but abstaining and such abstentions are also counted with the majority.

(d) Reconsider

Any Legislative Body member who voted with the majority may move to reconsider any action at the same meeting or at an adjourned meeting following the meeting at which the action was taken, provided that reconsideration shall not be permitted where a party other than the City has acted in reliance on the Legislative Body's action and would be substantially prejudiced by such reconsideration. The Clerk shall apprise the City Attorney of any facts constituting substantial prejudice and may rely upon the determination of the City Attorney.

- In the event that the subject of the reconsideration is a motion that failed as the result of a tie vote, any Legislative Body member who voted against the earlier motion may move for reconsideration at the following meeting. The member seeking reconsideration must have the matter agendized unless the motion will be made at the same meeting where the original action was taken.
- If the motion to reconsider passes, then the original item may be reconsidered at that time or agendized for the next meeting which meets any applicable noticing requirements.

After a motion for reconsideration has once been acted upon, no other motion for reconsideration thereof shall be made without unanimous consent of the Legislative Body.

(e) Adjournment

To adjourn a meeting, the Presiding Officer shall ask the Legislative Body members whether there is a consensus to adjourn the meeting. If a Legislative Body member makes a motion to adjourn, and this motion is followed by a second, then the Presiding Officer shall have

the Legislative Body members vote on the adjournment motion. The meeting is adjourned if there is a majority vote of the Legislative Body members on a motion or if there is a consensus to adjourn, at which time the Presiding Officer shall pronounce the time that the meeting is adjourned.

10.4 Tie Votes

Tie Votes shall be lost motions unless an additional Motion is made which obtains a majority vote to break the tie. When all Legislative Body members are present, a tie vote on whether to grant an appeal from official action shall be considered a denial of such appeal. In such case the findings in support of the decision shall be those of the lower body. If a tie vote results at a time when less than all members of the Legislative Body are present, the matter shall automatically be continued to the agenda of the next regular meeting of the Legislative Body, unless otherwise ordered by the Legislative Body.

10.5 Abstentions

Members of the Legislative Body are discouraged from abstaining from a vote for reasons other than a legally-disqualifying, financial conflicts of interest. However, if a member chooses to abstain from voting as a result of what he/she perceives as a personal or non-financial conflict of interest, the member may do so after stating for the record the nature of the perceived conflict. In the event of such a perceived conflict (as opposed to a legally disqualifying conflict), the member is not required to leave the dais.

(a) A Legislative Body member shall generally express their positions on all matters except those where they are required to abstain due to legally recognized conflict of interest.

(b) A Legislative Body member who has appealed the action of any person or body of the City on a matter which does not constitute a conflict of interest for the member under any law, may participate in the hearing on the appeal, unless there is clear and convincing evidence that such member is not objective or the member feels that they are unable to remain neutral, or as may be otherwise advised by the General Counsel. Notwithstanding any contrary provisions herein, in bringing an appeal, the Legislative Body member need not give reasons for making the appeal.

(c) A Legislative Body member may abstain from action on a matter where in the member's opinion, there might be a public perception that participation in the discussion or decision would be inappropriate even though the member has no disqualifying financial interest within the meaning of FPPC rules and regulations.

10.6 Votes Of Members Previously Absent

(a) A Legislative Body member who was not present at a meeting should generally not vote on the approval of minutes for that meeting, but the voting on such minutes shall have no effect on the validity of the minutes.

(b) A Legislative Body member may vote on a continued item after an absence from the earlier public hearing of the matter if, prior to the vote, the member affirms on the record that they have familiarized themselves with the record of the earlier meeting and are prepared to vote

on the issue. If the member shall abstain from the vote, the member shall be counted towards the quorum on the issue and the abstention shall be counted with the vote of the majority of the quorum.

(c) The forgoing shall not apply to the matter of a vote on the minutes of a meeting at which the member was not in attendance. In that instance, the member abstaining on the grounds of non-attendance at the meeting to which the minutes pertain shall not be counted towards the quorum on the issue and the abstention shall not be counted with the votes of the majority of the quorum.

10.7 Appeals by Members of Legislative Body

Except where otherwise provided, a member of the Legislative Body shall be deemed an interested person in any matter by a subordinate body and shall have standing to appeal to the Legislative Body any decision by a Sub-Legislative Body, or any determination made by any official of City by filing a written appeal. The appeal shall not state any grounds for the appeal and the resulting hearing shall be *de novo*. The appeal must be filed within 10 days of the making of the decision being appealed and shall be filed with the Clerk/Secretary who shall give written notice to the applicant and provide written notice to other persons as required for the original action. The hearing shall be held at the first regular meeting of the Council for which notice can be legally given. No appeal fee shall be required to be paid for such appeals.

10.8 Findings and Decisions

Decisions of a Legislative Body, when acting as a quasi-adjudicative body (public hearings) should be framed in terms of "findings" of fact, potentially relevant conclusions of law, and ultimate decisions showing the basis for the decision and the nexus between the findings, the conclusions, and the decision. The Legislative Body members must consider any legally-mandated findings applicable to a matter and consider the evidence presented to them in light of such findings in making their decisions.

10.9 Curfew

A 10:00 p.m. curfew is imposed upon City Council meetings. Matters taken up by the Council before 10:00 p.m. may be concluded, but no new matters shall be taken up after 10:00 p.m. except upon a unanimous vote of the Council members present, but such extension shall only be valid for one hour and each hour thereafter shall require a renewed action for the meeting to continue. The City Manager shall arrange the regular order of business on Council agendas to minimize any adverse effects this curfew may have regarding the timely conduct of important City business. This Section 10.9 shall supersede Resolution No. 2016-44.

ARTICLE 11 — PROCEDURES FOR CONSIDERATION OF DEMANDS FOR CORRECTIVE ACTION

ARTICLE 11- PROCEDURES FOR CONSIDERATION OF DEMANDS FOR CORRECTIVE ACTION

11.1 Requirement of Written Demand

Prior to any person commencing a judicial action for injunction or mandamus to declare any action taken by the Legislative Body void because of failure to observe Brown Act requirements, such person must first serve upon the Clerk/Secretary a written demand clearly describing the challenged action, the nature of the claimed violation, and the corrective action sought. Such demand must be served upon the Clerk/Secretary within ninety (90) days of the alleged violation or thirty (30) days if the action was taken in open session but in violation of Section 54952.2 of the Government Code. Failure to serve any such demand within this thirty (30) day period shall result in the loss of any right to challenge any action alleged to have been taken in violation of Sections 54953, 54954.2, 54954.5, 54954.6, 54956, or 54956.5 of the Government Code.

If the written demand is timely served, the Legislative Body has up to thirty (30) days to cure and correct its action. If the Legislative Body does not act, any lawsuit must be filed within the next fifteen (15) days.

11.2 Consideration of Corrective Action

Upon receipt of such a demand, consideration of the demand shall immediately be placed on the agenda for the next meeting of the Legislative Body. If the demand is received less than 72 hours prior to the time set for the next meeting, the Legislative Body may determine that the notice constitutes the initiation of litigation, and that the need to take action on the threatened litigation arose subsequent to the posting of the agenda and may consider it at that meeting pursuant to Article 3 Section 13, above. A description of any item so placed on the agenda shall include both consideration of the demand, and the possibility of corrective action by the Legislative Body.

In considering such demands, the Legislative Body shall first determine by motion whether to reconsider the prior action. The motion to reconsider shall be in order as long as made by a party on the prevailing side. If no motion to reconsider is carried the Clerk/Secretary shall inform the demanding party in writing of the Legislative Body's decision not to cure or correct the challenged action.

11.3 Implementing Corrective Action

If a motion to reconsider passes, the Presiding Officer may entertain a motion to take corrective action. Any motion taking corrective action shall address the concerns raised in the consideration of corrective action. The motion taking corrective action may include a motion to rescind prior action taken, as appropriate. Passage of a motion to rescind invalidates prior action only as of the time of the passage of the motion, and not from the date of the initial action. A motion implementing corrective action resulting from a written demand is out of order if the action complained of: (i) was in connection with the sale or issuance of notes, bonds, or other evidence of indebtedness, or any contract, agreement, or incident thereto; (ii) gave rise to a contractual obligation upon which a party has, in good faith, detrimentally relied; or (iii) was taken in connection with the collection of any tax.

In any event, the Legislative Body shall notify the party making the demand in writing of its decision to take corrective action and shall describe any corrective action taken. This notice shall be given to the demanding party as soon as possible after the meeting, but in no event more than 30 days after receipt of the demand.

ARTICLE 12 – MISCELLANEOUS

ARTICLE 12 – MISCELLANEOUS

12.1 Interpretation

This Manual shall be liberally construed to effectuate its purpose and no ordinance, resolution, proceeding or other action of the Legislative Body shall be invalidated, or the legality thereof otherwise affected by the failure or omission of the Legislative Body to technically comply with, observe or follow the within rules. The City Council may, by resolution, adopt further rules of interpretation or practice.

12.2 Amendments

This Manual may be amended from time to time as necessary by resolution passed by a majority vote of the City Council at any regular or special meeting, provided that no such amendment shall be adopted unless at least seven days' written notice thereof has been previously given to all Legislative Body members serving the City. Such notice shall identify the section or sections of the Manual proposed to be amended.

12.3 Power to Issue Subpoenas

The Legislative Body may issue subpoenas requiring attendance of witnesses or production of books or other document for evidence or testimony any action or proceeding pending before it. (Government' Code Section 37104.) Subpoenas shall be signed by the Presiding Officer and attested by the Clerk. They may be served as subpoenas are in civil actions.

EXHIBIT A

(ROSENBERG'S RULES OF ORDER)



Rosenberg's Rules of Order

REVISED 2011

Simple Rules of Parliamentary Procedure for the 21st Century

By Judge Dave Rosenberg

LEAGUE® OF CALIFORNIA CITIES

MISSION AND CORE BELIEFS

To expand and protect local control for cities through education and advocacy to enhance the quality of life for all Californians.

VISION

To be recognized and respected as the leading advocate for the common interests of California's cities.

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Established in 1898, the League of California Cities is a member organization that represents California's incorporated cities. The League strives to protect the local authority and automony of city government and help California's cities effectively serve their residents. In addition to advocating on cities' behalf at the state capitol, the League provides its members with professional development programs and information resources, conducts education conferences and research, and publishes Western City magazine.

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About the Author

Dave Rosenberg is a Superior Court Judge in Yolo County. He has served as presiding judge of his court, and as presiding judge of the Superior Court Appellate Division. He also has served as chair of the Trial Court Presiding Judges Advisory Committee (the committee composed of all 58 California presiding judges) and as an advisory member of the California Judicial Council. Prior to his appointment to the bench, Rosenberg was member of the Yolo County Board of Supervisors, where he served two terms as chair. Rosenberg also served on the Davis City Council, including two terms as mayor. He has served on the senior staff of two governors, and worked for 19 years in private law practice. Rosenberg has served as a member and chair of numerous state, regional and local boards. Rosenberg chaired the California State Lottery Commission, the California Victim Compensation and Government Claims Board, the Yolo-Solano Air Quality Management District, the Yolo County Economic Development Commission, and the Yolo County Criminal Justice Cabinet. For many years, he has taught classes on parliamentary procedure and has served as parliamentarian for large and small bodies.

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Introduction

The rules of procedure at meetings should be simple enough for most people to understand. Unfortunately, that has not always been the case. Virtually all clubs, associations, boards, councils and bodies follow a set of rules — *Robert's Rules of Order* — which are embodied in a small, but complex, book. Virtually no one I know has actually read this book cover to cover. Worse yet, the book was written for another time and for another purpose. If one is chairing or running a parliament, then *Robert's Rules of Order* is a dandy and quite useful handbook for procedure in that complex setting. On the other hand, if one is running a meeting of say, a five-member body with a few members of the public in attendance, a simplified version of the rules of parliamentary procedure is in order.

Hence, the birth of *Rosenberg's Rules of Order*.

What follows is my version of the rules of parliamentary procedure, based on my decades of experience chairing meetings in state and local government. These rules have been simplified for the smaller bodies we chair or in which we participate, slimmed down for the 21st Century, yet retaining the basic tenets of order to which we have grown accustomed. Interestingly enough, *Rosenberg's Rules* has found a welcoming audience. Hundreds of cities, counties, special districts, committees, boards, commissions, neighborhood associations and private corporations and companies have adopted *Rosenberg's Rules* in lieu of *Robert's Rules* because they have found them practical, logical, simple, easy to learn and user friendly.

This treatise on modern parliamentary procedure is built on a foundation supported by the following four pillars:

1. **Rules should establish order.** The first purpose of rules of parliamentary procedure is to establish a framework for the orderly conduct of meetings.
2. **Rules should be clear.** Simple rules lead to wider understanding and participation. Complex rules create two classes: those who understand and participate; and those who do not fully understand and do not fully participate.
3. **Rules should be user friendly.** That is, the rules must be simple enough that the public is invited into the body and feels that it has participated in the process.
4. **Rules should enforce the will of the majority while protecting the rights of the minority.** The ultimate purpose of rules of procedure is to encourage discussion and to facilitate decision making by the body. In a democracy, majority rules. The rules must enable the majority to express itself and fashion a result, while permitting the minority to also express itself, but not dominate, while fully participating in the process.

Establishing a Quorum

The starting point for a meeting is the establishment of a quorum. A quorum is defined as the minimum number of members of the body who must be present at a meeting for business to be legally transacted. The default rule is that a quorum is one more than half the body. For example, in a five-member body a quorum is three. When the body has three members present, it can legally transact business. If the body has less than a quorum of members present, it cannot legally transact business. And even if the body has a quorum to begin the meeting, the body can lose the quorum during the meeting when a member departs (or even when a member leaves the dais). When that occurs the body loses its ability to transact business until and unless a quorum is reestablished.

The default rule, identified above, however, gives way to a specific rule of the body that establishes a quorum. For example, the rules of a particular five-member body may indicate that a quorum is four members for that particular body. The body must follow the rules it has established for its quorum. In the absence of such a specific rule, the quorum is one more than half the members of the body.

The Role of the Chair

While all members of the body should know and understand the rules of parliamentary procedure, it is the chair of the body who is charged with applying the rules of conduct of the meeting. The chair should be well versed in those rules. For all intents and purposes, the chair makes the final ruling on the rules every time the chair states an action. In fact, all decisions by the chair are final unless overruled by the body itself.

Since the chair runs the conduct of the meeting, it is usual courtesy for the chair to play a less active role in the debate and discussion than other members of the body. This does not mean that the chair should not participate in the debate or discussion. To the contrary, as a member of the body, the chair has the full right to participate in the debate, discussion and decision-making of the body. What the chair should do, however, is strive to be the last to speak at the discussion and debate stage. The chair should not make or second a motion unless the chair is convinced that no other member of the body will do so at that point in time.

The Basic Format for an Agenda Item Discussion

Formal meetings normally have a written, often published agenda. Informal meetings may have only an oral or understood agenda. In either case, the meeting is governed by the agenda and the agenda constitutes the body's agreed-upon roadmap for the meeting. Each agenda item can be handled by the chair in the following basic format:

First, the chair should clearly announce the agenda item number and should clearly state what the agenda item subject is. The chair should then announce the format (which follows) that will be followed in considering the agenda item.

Second, following that agenda format, the chair should invite the appropriate person or persons to report on the item, including any recommendation that they might have. The appropriate person or persons may be the chair, a member of the body, a staff person, or a committee chair charged with providing input on the agenda item.

Third, the chair should ask members of the body if they have any technical questions of clarification. At this point, members of the body may ask clarifying questions to the person or persons who reported on the item, and that person or persons should be given time to respond.

Fourth, the chair should invite public comments, or if appropriate at a formal meeting, should open the public meeting for public input. If numerous members of the public indicate a desire to speak to the subject, the chair may limit the time of public speakers. At the conclusion of the public comments, the chair should announce that public input has concluded (or the public hearing, as the case may be, is closed).

Fifth, the chair should invite a motion. The chair should announce the name of the member of the body who makes the motion.

Sixth, the chair should determine if any member of the body wishes to second the motion. The chair should announce the name of the member of the body who seconds the motion. It is normally good practice for a motion to require a second before proceeding to ensure that it is not just one member of the body who is interested in a particular approach. However, a second is not an absolute requirement, and the chair can proceed with consideration and vote on a motion even when there is no second. This is a matter left to the discretion of the chair.

Seventh, if the motion is made and seconded, the chair should make sure everyone understands the motion.

This is done in one of three ways:

1. The chair can ask the maker of the motion to repeat it;
2. The chair can repeat the motion; or
3. The chair can ask the secretary or the clerk of the body to repeat the motion.

Eighth, the chair should now invite discussion of the motion by the body. If there is no desired discussion, or after the discussion has ended, the chair should announce that the body will vote on the motion. If there has been no discussion or very brief discussion, then the vote on the motion should proceed immediately and there is no need to repeat the motion. If there has been substantial discussion, then it is normally best to make sure everyone understands the motion by repeating it.

Ninth, the chair takes a vote. Simply asking for the "ayes" and then asking for the "nays" normally does this. If members of the body do not vote, then they "abstain." Unless the rules of the body provide otherwise (or unless a super majority is required as delineated later in these rules), then a simple majority (as defined in law or the rules of the body as delineated later in these rules) determines whether the motion passes or is defeated.

Tenth, the chair should announce the result of the vote and what action (if any) the body has taken. In announcing the result, the chair should indicate the names of the members of the body, if any, who voted in the minority on the motion. This announcement might take the following form: "The motion passes by a vote of 3-2, with Smith and Jones dissenting. We have passed the motion requiring a 10-day notice for all future meetings of this body."

Motions in General

Motions are the vehicles for decision making by a body. It is usually best to have a motion before the body prior to commencing discussion of an agenda item. This helps the body focus.

Motions are made in a simple two-step process. First, the chair should recognize the member of the body. Second, the member of the body makes a motion by preceding the member's desired approach with the words "I move … "

A typical motion might be: "I move that we give a 10-day notice in the future for all our meetings."

The chair usually initiates the motion in one of three ways:

1. **Inviting the members of the body to make a motion,** for example, "A motion at this time would be in order."
2. **Suggesting a motion to the members of the body,** "A motion would be in order that we give a 10-day notice in the future for all our meetings."
3. **Making the motion.** As noted, the chair has every right as a member of the body to make a motion, but should normally do so only if the chair wishes to make a motion on an item but is convinced that no other member of the body is willing to step forward to do so at a particular time.

The Three Basic Motions

There are three motions that are the most common and recur often at meetings:

The basic motion. The basic motion is the one that puts forward a decision for the body's consideration. A basic motion might be: "I move that we create a five-member committee to plan and put on our annual fundraiser."

The motion to amend. If a member wants to change a basic motion that is before the body, they would move to amend it. A motion to amend might be: "I move that we amend the motion to have a 10-member committee." A motion to amend takes the basic motion that is before the body and seeks to change it in some way.

The substitute motion. If a member wants to completely do away with the basic motion that is before the body, and put a new motion before the body, they would move a substitute motion. A substitute motion might be: "I move a substitute motion that we cancel the annual fundraiser this year."

"Motions to amend" and "substitute motions" are often confused, but they are quite different, and their effect (if passed) is quite different. A motion to amend seeks to retain the basic motion on the floor, but modify it in some way. A substitute motion seeks to throw out the basic motion on the floor, and substitute a new and different motion for it. The decision as to whether a motion is really a "motion to amend" or a "substitute motion" is left to the chair. So if a member makes what that member calls a "motion to amend," but the chair determines that it is really a "substitute motion," then the chair's designation governs.

A "friendly amendment" is a practical parliamentary tool that is simple, informal, saves time and avoids bogging a meeting down with numerous formal motions. It works in the following way: In the discussion on a pending motion, it may appear that a change to the motion is desirable or may win support for the motion from some members. When that happens, a member who has the floor may simply say, "I want to suggest a friendly amendment to the motion." The member suggests the friendly amendment, and if the maker and the person who seconded the motion pending on the floor accepts the friendly amendment, that now becomes the pending motion on the floor. If either the maker or the person who seconded rejects the proposed friendly amendment, then the proposer can formally move to amend.

Multiple Motions Before the Body

There can be up to three motions on the floor at the same time. The chair can reject a fourth motion until the chair has dealt with the three that are on the floor and has resolved them. This rule has practical value. More than three motions on the floor at any given time is confusing and unwieldy for almost everyone, including the chair.

When there are two or three motions on the floor (after motions and seconds) at the same time, the vote should proceed *first* on the *last* motion that is made. For example, assume the first motion is a basic "motion to have a five-member committee to plan and put on our annual fundraiser." During the discussion of this motion, a member might make a second motion to "amend the main motion to have a 10-member committee, not a five-member committee to plan and put on our annual fundraiser." And perhaps, during that discussion, a member makes yet a third motion as a "substitute motion that we not have an annual fundraiser this year." The proper procedure would be as follows:

First, the chair would deal with the *third* (the last) motion on the floor, the substitute motion. After discussion and debate, a vote would be taken first on the third motion. If the substitute motion *passed*, it would be a substitute for the basic motion and would eliminate it. The first motion would be moot, as would the second motion (which sought to amend the first motion), and the action on the agenda item would be completed on the passage by the body of the third motion (the substitute motion). No vote would be taken on the first or second motions.

Second, if the substitute motion *failed*, the chair would then deal with the second (now the last) motion on the floor, the motion to amend. The discussion and debate would focus strictly on the amendment (should the committee be five or 10 members). If the motion to amend *passed*, the chair would then move to consider the main motion (the first motion) as *amended*. If the motion to amend *failed,* the chair would then move to consider the main motion (the first motion) in its original format, not amended.

Third, the chair would now deal with the first motion that was placed on the floor. The original motion would either be in its original format (five-member committee), or if *amended*, would be in its amended format (10-member committee). The question on the floor for discussion and decision would be whether a committee should plan and put on the annual fundraiser.

To Debate or Not to Debate

The basic rule of motions is that they are subject to discussion and debate. Accordingly, basic motions, motions to amend, and substitute motions are all eligible, each in their turn, for full discussion before and by the body. The debate can continue as long as members of the body wish to discuss an item, subject to the decision of the chair that it is time to move on and take action.

There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire of the body to move on. The following motions are not debatable (that is, when the following motions are made and seconded, the chair must immediately call for a vote of the body without debate on the motion):

Motion to adjourn. This motion, if passed, requires the body to immediately adjourn to its next regularly scheduled meeting. It requires a simple majority vote.

Motion to recess. This motion, if passed, requires the body to immediately take a recess. Normally, the chair determines the length of the recess which may be a few minutes or an hour. It requires a simple majority vote.

Motion to fix the time to adjourn. This motion, if passed, requires the body to adjourn the meeting at the specific time set in the motion. For example, the motion might be: "I move we adjourn this meeting at midnight." It requires a simple majority vote.

Motion to table. This motion, if passed, requires discussion of the agenda item to be halted and the agenda item to be placed on "hold." The motion can contain a specific time in which the item can come back to the body. "I move we table this item until our regular meeting in October." Or the motion can contain no specific time for the return of the item, in which case a motion to take the item off the table and bring it back to the body will have to be taken at a future meeting. A motion to table an item (or to bring it back to the body) requires a simple majority vote.

Motion to limit debate. The most common form of this motion is to say, "I move the previous question" or "I move the question" or "I call the question" or sometimes someone simply shouts out "question." As a practical matter, when a member calls out one of these phrases, the chair can expedite matters by treating it as a "request" rather than as a formal motion. The chair can simply inquire of the body, "any further discussion?" If no one wishes to have further discussion, then the chair can go right to the pending motion that is on the floor. However, if even one person wishes to discuss the pending motion further, then at that point, the chair should treat the call for the "question" as a formal motion, and proceed to it.

When a member of the body makes such a motion ("I move the previous question"), the member is really saying: "I've had enough debate. Let's get on with the vote." When such a motion is made, the chair should ask for a second, stop debate, and vote on the motion to limit debate. The motion to limit debate requires a two-thirds vote of the body.

NOTE: A motion to limit debate could include a time limit. For example: "I move we limit debate on this agenda item to 15 minutes." Even in this format, the motion to limit debate requires a two-thirds vote of the body. A similar motion is a *motion to object to consideration of an item.* This motion is not debatable, and if passed, precludes the body from even considering an item on the agenda. It also requires a two-thirds vote.

Majority and Super Majority Votes

In a democracy, a simple majority vote determines a question. A tie vote means the motion fails. So in a seven-member body, a vote of 4-3 passes the motion. A vote of 3-3 with one abstention means the motion fails. If one member is absent and the vote is 3-3, the motion still fails.

All motions require a simple majority, but there are a few exceptions. The exceptions come up when the body is taking an action which effectively cuts off the ability of a minority of the body to take an action or discuss an item. These extraordinary motions require a two-thirds majority (a super majority) to pass:

Motion to limit debate. Whether a member says, "I move the previous question," or "I move the question," or "I call the question," or "I move to limit debate," it all amounts to an attempt to cut off the ability of the minority to discuss an item, and it requires a two-thirds vote to pass.

Motion to close nominations. When choosing officers of the body (such as the chair), nominations are in order either from a nominating committee or from the floor of the body. A motion to close nominations effectively cuts off the right of the minority to nominate officers and it requires a two-thirds vote to pass.

Motion to object to the consideration of a question. Normally, such a motion is unnecessary since the objectionable item can be tabled or defeated straight up. However, when members of a body do not even want an item on the agenda to be considered, then such a motion is in order. It is not debatable, and it requires a two-thirds vote to pass.

Motion to suspend the rules. This motion is debatable, but requires a two-thirds vote to pass. If the body has its own rules of order, conduct or procedure, this motion allows the body to suspend the rules for a particular purpose. For example, the body (a private club) might have a rule prohibiting the attendance at meetings by non-club members. A motion to suspend the rules would be in order to allow a non-club member to attend a meeting of the club on a particular date or on a particular agenda item.

Counting Votes

The matter of counting votes starts simple, but can become complicated.

Usually, it's pretty easy to determine whether a particular motion passed or whether it was defeated. If a simple majority vote is needed to pass a motion, then one vote more than 50 percent of the body is required. For example, in a five-member body, if the vote is three in favor and two opposed, the motion passes. If it is two in favor and three opposed, the motion is defeated.

If a two-thirds majority vote is needed to pass a motion, then how many affirmative votes are required? The simple rule of thumb is to count the "no" votes and double that count to determine how many "yes" votes are needed to pass a particular motion. For example, in a seven-member body, if two members vote "no" then the "yes" vote of at least four members is required to achieve a two-thirds majority vote to pass the motion.

What about tie votes? In the event of a tie, the motion always fails since an affirmative vote is required to pass any motion. For example, in a five-member body, if the vote is two in favor and two opposed, with one member absent, the motion is defeated.

Vote counting starts to become complicated when members vote "abstain" or in the case of a written ballot, cast a blank (or unreadable) ballot. Do these votes count, and if so, how does one count them? The starting point is always to check the statutes.

In California, for example, for an action of a board of supervisors to be valid and binding, the action must be approved by a majority of the board. (California Government Code Section 25005.) Typically, this means three of the five members of the board must vote affirmatively in favor of the action. A vote of 2-1 would not be sufficient. A vote of 3-0 with two abstentions would be sufficient. In general law cities in

California, as another example, resolutions or orders for the payment of money and all ordinances require a recorded vote of the total members of the city council. (California Government Code Section 36936.) Cities with charters may prescribe their own vote requirements. Local elected officials are always well-advised to consult with their local agency counsel on how state law may affect the vote count.

After consulting state statutes, step number two is to check the rules of the body. If the rules of the body say that you count votes of "those present" then you treat abstentions one way. However, if the rules of the body say that you count the votes of those "present and voting," then you treat abstentions a different way. And if the rules of the body are silent on the subject, then the general rule of thumb (and default rule) is that you count all votes that are "present and voting."

Accordingly, under the "present and voting" system, you would **NOT** count abstention votes on the motion. Members who abstain are counted for purposes of determining quorum (they are "present"), but you treat the abstention votes on the motion as if they did not exist (they are not "voting"). On the other hand, if the rules of the body specifically say that you count votes of those "present" then you **DO** count abstention votes both in establishing the quorum and on the motion. In this event, the abstention votes act just like "no" votes.

How does this work in practice?
Here are a few examples.

Assume that a five-member city council is voting on a motion that requires a simple majority vote to pass, and assume further that the body has no specific rule on counting votes. Accordingly, the default rule kicks in and we count all votes of members that are "present and voting." If the vote on the motion is 3-2, the motion passes. If the motion is 2-2 with one abstention, the motion fails.

Assume a five-member city council voting on a motion that requires a two-thirds majority vote to pass, and further assume that the body has no specific rule on counting votes. Again, the default rule applies. If the vote is 3-2, the motion fails for lack of a two-thirds majority. If the vote is 4-1, the motion passes with a clear two-thirds majority. A vote of three "yes," one "no" and one "abstain" also results in passage of the motion. Once again, the abstention is counted only for the purpose of determining quorum, but on the actual vote on the motion, it is as if the abstention vote never existed — so an effective 3-1 vote is clearly a two-thirds majority vote.

Now, change the scenario slightly. Assume the same five-member city council voting on a motion that requires a two-thirds majority vote to pass, but now assume that the body **DOES** have a specific rule requiring a two-thirds vote of members "present." Under this specific rule, we must count the members present not only for quorum but also for the motion. In this scenario, any abstention has the same force and effect as if it were a "no" vote. Accordingly, if the votes were three "yes," one "no" and one "abstain," then the motion fails. The abstention in this case is treated like a "no" vote and effective vote of 3-2 is not enough to pass two-thirds majority muster.

Now, exactly how does a member cast an "abstention" vote? Any time a member votes "abstain" or says, "I abstain," that is an abstention. However, if a member votes "present" that is also treated as an abstention (the member is essentially saying, "Count me for purposes of a quorum, but my vote on the issue is abstain.") In fact, any manifestation of intention not to vote either "yes" or "no" on the pending motion may be treated by the chair as an abstention. If written ballots are cast, a blank or unreadable ballot is counted as an abstention as well.

Can a member vote "absent" or "count me as absent?" Interesting question. The ruling on this is up to the chair. The better approach is for the chair to count this as if the member had left his/her chair and is actually "absent." That, of course, affects the quorum. However, the chair may also treat this as a vote to abstain, particularly if the person does not actually leave the dais.

The Motion to Reconsider

There is a special and unique motion that requires a bit of explanation all by itself; the motion to reconsider. A tenet of parliamentary procedure is finality. After vigorous discussion, debate and a vote, there must be some closure to the issue. And so, after a vote is taken, the matter is deemed closed, subject only to reopening if a proper motion to consider is made and passed.

A motion to reconsider requires a majority vote to pass like other garden-variety motions, but there are two special rules that apply only to the motion to reconsider.

First, is the matter of timing. A motion to reconsider must be made at the meeting where the item was first voted upon. A motion to reconsider made at a later time is untimely. (The body, however, can always vote to suspend the rules and, by a two-thirds majority, allow a motion to reconsider to be made at another time.)

Second, a motion to reconsider may be made only by certain members of the body. Accordingly, a motion to reconsider may be made only by a member who voted in the majority on the original motion. If such a member has a change of heart, he or she may make the motion to reconsider (any other member of the body — including a member who voted in the minority on the original motion — may second the motion). If a member who voted in the minority seeks to make the motion to reconsider, it must be ruled out of order. The purpose of this rule is finality. If a member of minority could make a motion to reconsider, then the item could be brought back to the body again and again, which would defeat the purpose of finality.

If the motion to reconsider passes, then the original matter is back before the body, and a new original motion is in order. The matter may be discussed and debated as if it were on the floor for the first time.

Courtesy and Decorum

The rules of order are meant to create an atmosphere where the members of the body and the members of the public can attend to business efficiently, fairly and with full participation. At the same time, it is up to the chair and the members of the body to maintain common courtesy and decorum. Unless the setting is very informal, it is always best for only one person at a time to have the floor, and it is always best for every speaker to be first recognized by the chair before proceeding to speak.

The chair should always ensure that debate and discussion of an agenda item focuses on the item and the policy in question, not the personalities of the members of the body. Debate on policy is healthy, debate on personalities is not. The chair has the right to cut off discussion that is too personal, is too loud, or is too crude.

Debate and discussion should be focused, but free and open. In the interest of time, the chair may, however, limit the time allotted to speakers, including members of the body.

Can a member of the body interrupt the speaker? The general rule is "no." There are, however, exceptions. A speaker may be interrupted for the following reasons:

Privilege. The proper interruption would be, "point of privilege." The chair would then ask the interrupter to "state your point." Appropriate points of privilege relate to anything that would interfere with the normal comfort of the meeting. For example, the room may be too hot or too cold, or a blowing fan might interfere with a person's ability to hear.

Order. The proper interruption would be, "point of order." Again, the chair would ask the interrupter to "state your point." Appropriate points of order relate to anything that would not be considered appropriate conduct of the meeting. For example, if the chair moved on to a vote on a motion that permits debate without allowing that discussion or debate.

Appeal. If the chair makes a ruling that a member of the body disagrees with, that member may appeal the ruling of the chair. If the motion is seconded, and after debate, if it passes by a simple majority vote, then the ruling of the chair is deemed reversed.

Call for orders of the day. This is simply another way of saying, "return to the agenda." If a member believes that the body has drifted from the agreed-upon agenda, such a call may be made. It does not require a vote, and when the chair discovers that the agenda has not been followed, the chair simply reminds the body to return to the agenda item properly before them. If the chair fails to do so, the chair's determination may be appealed.

Withdraw a motion. During debate and discussion of a motion, the maker of the motion on the floor, at any time, may interrupt a speaker to withdraw his or her motion from the floor. The motion is immediately deemed withdrawn, although the chair may ask the person who seconded the motion if he or she wishes to make the motion, and any other member may make the motion if properly recognized.

Special Notes About Public Input

The rules outlined above will help make meetings very public-friendly. But in addition, and particularly for the chair, it is wise to remember three special rules that apply to each agenda item:

Rule One: Tell the public what the body will be doing.

Rule Two: Keep the public informed while the body is doing it.

Rule Three: When the body has acted, tell the public what the body did.

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EXHIBIT B

BANNING CITY COUNCIL MEETING PRESENTATION POLICY

City Council presentations are for providing information to the Mayor and Council, City management, and the community about activities of interest and value including:

- Activities, events, and infrastructure projects relating to the City.
- Honors and celebrations for organizations, corporations and residents related to Banning.
- Honors and celebrations for organizations, corporations and resident which reflect their service to the Banning community.
- Honors and recognitions for City staff for outstanding service or commitment to the City's mission and goals.
- Please note this is not the appropriate time to seek funds from the City and/or endorsements from City Council or discuss politics.

Presentation Length
All presentations are to be no more than five minutes in length; this is to include all speakers for the group being recognized.

Presentation Schedule
City Council begins at 5:00 p.m. with an invocation and pledge to the American flag followed by presentations. All honorees or groups are to arrive no later than 4:45 p.m.

Presentation Location
Presentations take place in the Council Chambers inside Banning City Hall located at 99 E. Ramsey Street. Parking is available in the Police Department parking lot located at 125 E. Ramsey Street (just off Hays Street) adjacent to the Council Chambers, or in the City Hall parking lot located at the corner of Hays and San Gorgonio.

Presentation Technical Support
The City has the capability to display PowerPoint (or equivalent) during the presentation. If a PowerPoint is to be used during the presentation:

- The PowerPoint is to be no more than 10 slides with limited text; and
- To be submitted to the City Clerk's Office no later than the Thursday prior to the scheduled Tuesday City Council meeting (2nd and 4th Tuesdays of the month).
  - PowerPoints are subject to editing for appropriateness.
  - PowerPoints which do not meet these standards will not be used.

EXHIBIT C
ROSENBERG'S RULES OF ORDER
CHEAT SHEET

To:	You say:	Interrupt Speaker	Second Needed	Debatable	Amendable	Vote Needed
Adjourn	"I move that we adjourn" (Only needed prior to the end of the agenda)	No	Yes	No	No	Majority
Recess/intermission	"I move that we recess until…"	No	Yes	No	Yes	Majority
Complaint about noise, room temp., etc.	"Point of privilege"	Yes	No	No	No	Chair Decides
Motion to table	"I move that we table it"	No	Yes	No	No	Majority
End debate	"I move the previous question" or "Call the question"	No	Yes	No	No	2/3
Introduce a motion	"I move that…" or "I move to…"	No	Yes	Yes	Yes	Majority
Amend a motion	"I move that this motion be amended by…" (You can also ask for a friendly amendment, which is less formal; if mover and second concur, no vote needed)	No	Yes	Yes	Yes	Majority
Refer to a committee	"I move that the question be referred to a committee for more study"	No	Yes	Yes	Yes	Majority
Motion to Limit or Extend Debate	"I move to limit debate to _ minutes per speaker" or "I move to extend debate by _ minutes"	No	Yes	No	Yes	2/3
Motion to Withdraw a Motion	"I withdraw the motion."	Yes	No	No	No	None

To:	You say:	Interrupt Speaker	Second Needed	Debatable	Amendable	Vote Needed
Object to procedure or personal affront	"Point of order"	Yes	No	No	No	Chair decides
Request information	"Point of information"	Yes	No	No	No	None
Reconsider something already disposed of	"I move we now (or later) reconsider our action relative to…" (Only a member of the prevailing side can make a motion to reconsider)	Yes	Yes	Yes	No	Majority
Vote on a ruling by the Chair	"I appeal the Chair's decision"	Yes	Yes	Yes	No	Majority

CITY OF BANNING
MANUAL OF PROCEDURAL GUIDELINES

Adopted October 23, 2012, by City Council Resolution 2012-83
Amended April 23, 2013, by City Council Resolution 2013-48
Amended November 12, 2013, by City Council Resolution 2013-103
Amended May 26, 2020, by City Council Resolution 2020-67
Amended February 14, 2023, by City Council Resolution 2023-34
Amended October 8, 2024, by City Council Resolution 2024-164

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ARTICLE 1 – SCOPE OF MANUAL

ARTICLE 1 – SCOPE OF MANUAL

1.1 Application of Rules

This Manual (the "Manual") shall establish the procedures for the conduct of all meetings of Banning's City Council, Successor Agency to the Banning Community Redevelopment Agency, Housing Authority, Utility Authority, Financing Authority and other constituent governing bodies, and commissions including, but not limited to, the Planning Commission, Parks and Recreation Commission, Youth Council, Historic Preservation Commission, and Budget and Finance Committee.

For avoidance of doubt, this Manual shall apply to all City bodies subject to the Brown Act, including all standing committees and commissions established by the City Council.

This Manual rescinds and supersedes all prior City Council resolutions setting forth rules of procedure for the conduct of meetings by City Legislative Bodies (defined below). Wherever there is a conflict between this Manual and any prior City resolution, the terms and rules in this Manual shall govern. Resolutions more specifically superseded by this Manual include, without limitation, the following:

- City of Banning Resolution No. 2023-34;
- City of Banning Resolution No. 2020-67;
- City of Banning Resolution No. 2013-103;
- City of Banning Resolution No. 2013-48;
- City of Banning Resolution No. 2012-83
- City of Banning Resolution No. 2004-43;
- City of Banning Resolution No. 2003-06;
- City of Banning Resolution No. 2000-41;
- City of Banning Resolution No. 1999-31;
- Banning CRA Resolution No. 2010-13; and
- Banning CRA Resolution No. 1990-04.

1.2 Definitions

The following definitions shall apply to these rules and procedures:

Agenda	The document that outlines topics to be discussed during a meeting.
Staff Report	A document prepared by City Staff containing information and a recommendation about certain action(s) by the Legislative Body.
Agenda Packet	The agenda with accompanying staff reports for each agenda item.

Legislative Body	Any quorum of any council, board, commission or standing committee (as defined in Government Code § 54952), or other governing body of the City of Banning that is subject to the Brown Act (Government Code § 54950 *et seq.*). This includes the Banning City Council, Banning Successor Agency to the former Redevelopment Agency, Banning Housing Authority Board, Banning Utility Authority, Banning Financing Authority, Planning Commission, Parks and Recreation Commission, Youth Council, Historic Preservation Commission, and Budget and Finance Committee, and any standing committee subject to the Brown Act. The term "Legislative Body" does not include Non-Governing Bodies, as defined below.
Presiding Officer	The Chairperson of the Legislative Body. For example, this refers to the Mayor when read in the context of the City Council, the Board Chair in the cases of the Successor Agency to the Redevelopment Agency and/or the Housing Authority, and the Chair of any Commission.
Vice Chair	The vice chairperson to the Presiding Officer. For example, the Vice Chair means the Mayor Pro Tem in the case of the City Council, the Vice Chairperson in the cases of the Successor Agency to the former Redevelopment Agency and/or Housing Authority, and the Vice Chairperson of any Commission.
Clerk/Secretary	The person responsible for taking and maintaining the record of proceedings for all meetings, preparation of agendas, calendar clerk, and custodian of rules, resolutions, ordinances and Legislative Body records. For example, the Clerk/Secretary refers to the Administrative City Clerk in the case of the City and the Agency Secretary in the cases of the Successor Agency to the former Redevelopment Agency and/or the Housing Authority.
General Counsel	The legal advisor to the Legislative Body, such as the City Attorney in the case of a City Council meeting, or Agency Counsel in the cases of the Successor Agency to the former Redevelopment Agency and/or Housing Authority.
City Manager	The Chief Executive Officer of the City, the Successor Agency to the former Redevelopment Agency, Housing Authority, Financing Authority and Banning Utility Authority. The City Manager may serve as the Secretary to the Successor Agency or Housing Authority, and the City Manager can designate appropriate staff to serve as the Clerk/Secretary to any Commission of the City.

Non-Governing Bodies	Wholly advisory committees and bodies that are not subject to the provisions of the Brown Act.
Sub-Legislative Bodies	Such advisory committees which are subject to the Brown Act but are not "governing" Legislative Bodies.
Adjourned Meeting	A meeting that is the continuation of a regular or special meeting which deals with unfinished business of the regular or special meeting.

These rules and procedures are enacted pursuant to authority granted by Government Code Sections 36813 and 54954. The purpose of this Manual is to provide procedures for Legislative Bodies that are consistent with the Brown Act and also to establish procedures that are convenient for the public and contribute to the orderly conduct of any Legislative Body's business. The procedures herein are in addition to, and not in place of, ~~Robert's~~ Rosenberg's Rules of Order, attached hereto as Exhibit "~~B~~A," and any applicable ordinances and statutes. Rosenberg's Rules of Order are to be used as a guideline for the Legislative Body and such use is not intended to be rigidly binding and only serves as a recommendation. Rosenberg's Rules of Order are intended to provide for constructive and efficient conduct of meetings. In the event of conflict between this Manual and applicable ordinances or statutes, the latter shall govern. In the event that any state statute referenced herein is renumbered, the reference herein shall be deemed to refer to the successor statute dealing with the same subject matter. If there is any conflict between ~~Robert's~~ Rosenberg's Rules of Order and this Manual, the provisions of this Manual shall govern.

ARTICLE 2 – MEETINGS

ARTICLE 2 – MEETINGS

2.1 General Guidelines for Conduct of Board Meetings – Rosenberg's Rules of Order

All noticed meetings of Brown Act bodies are conducted using Rosenberg's Rules of Order as a procedural guideline. Rosenberg's Rules of Order are intended to provide for constructive and efficient conduct of meetings.

~~2.1~~2.2 Regular Meetings

Unless otherwise specified by a resolution or ordinance applicable to a specific Legislative Body, the regular meetings of all Legislative Bodies shall be held on the second and fourth Tuesday of each month at the time designated by the Legislative Body, in the Council Chambers at City Hall, 99 East Ramsey Street, Banning, California 92220, or at such other locations as the Legislative Body may from time to time designate by resolution, in the order of adjournment, or in the notice or call of any special meeting. In the event the day of a meeting shall be a legal holiday, said meeting shall be held on the next business day.

~~2.2~~2.3 Special Meetings

The Presiding Officer may, when he or she deems it expedient, or upon the written request of a majority of the Legislative Body, call a special meeting of the Legislative Body for the purpose of transacting the business designated in the call. The means or method for calling such special meeting shall be as set forth in the Brown Act as it now exists or may hereafter be amended. At such special meeting, no business shall be considered other than as designated in the call.

~~2.3~~2.4 Special Emergency Meetings

A special emergency meeting may be called by the Presiding Officer or by a majority of the Legislative Body where an emergency exists:

(a) A work stoppage, terrorist act or threat, crippling disaster or other activity which severely impairs public health or safety as determined by the majority of the Legislative Body; or

(b) Such other circumstance specified by State law as authorizing the conduct of an emergency meeting. Any special emergency meeting shall be called, noticed, and conducted only in accordance with the procedures set forth in State law.

~~2.4~~2.5 Attendance

A majority of members of the Legislative Body shall constitute a quorum. Less than a majority may adjourn from time to time and may compel the attendance of absent members. Except for City Council, any member who fails to attend any of the meetings of the Legislative Body for 60 consecutive days, unless such absences are excused, shall surrender the office, and be deemed to have surrendered the office. An absence is "excused" in non-emergency circumstances if the member provides the Clerk/Secretary with at least forty-eight (48) hours advance written notice of the member's intended absence. In emergency circumstances, which is limited to a physical or family medical emergency that prevents a member from attending a meeting, an absence is

"excused" if the member provides written notice of the member's intended absence as soon as possible prior to the meeting.

2.6 Workshops

The Legislative Body may meet informally in conference or "workshops" regarding concerns of the Legislative Body to interchange information, provided that all discussions and conclusions shall be informal. Such meeting shall be called in the same manner as ~~for~~ special meetings or adjourned meetings, as applicable, and shall be subject to the Brown Act. Each notice shall indicate that an opportunity for public comment shall be provided before any matter shall be determined. When a meeting has been designated a ~~W~~workshop, the Legislative Body will~~shall~~ not take any action with respect to the matter under review except with prior public notice, appearing on a properly posted agenda, of such intent to take action.

ARTICLE 3 – NOTICE & AGENDA

ARTICLE 3–NOTICE AND AGENDA

3.1 Notice and Agenda for Regular Meetings

For every regular Legislative Body meeting, the Clerk/Secretary, or their designee, shall post a notice of the meeting, specifying the time and place at which the meeting will be held, and an agenda containing a brief description of all the items of business to be discussed at the meeting as set forth herein. The notice and agenda may be combined in a single document.

The notice and agenda must be posted at least seventy-two (72) hours before the regular meeting in a location freely accessible to the public twenty-four (24) hours a day during the seventy-two (72) hour period and where the notice and agenda is not likely to be removed or obscured by other posted material. Specifically, the notice and agenda shall be posted at the place indicated below, and/or at such other location(s) as the Clerk/Secretary may designate:

CITY HALL LOBBY
CITY OF BANNING WEBSITE

3.2 Notice and Agenda for Special Meetings

For every special meeting, the Clerk/Secretary, or their designee, shall post a written notice specifying the time and place of the special meeting and the business to be transacted must be sent to each member of the Legislative Body (unless the member has filed a written waiver of notice with the Clerk/Secretary) and to each local newspaper of general circulation, and radio or television station that has requested such notice in writing. The notice shall serve as the agenda for the special meeting and shall contain a brief description of all the items of business to be discussed at the meeting as set forth herein.

The notice for a special meeting shall be conspicuously posted at least twenty-four (24) hours prior to the special meeting in a location that is freely accessible to the public twenty-four (24) hours a day and where the notice is not likely to be removed or obscured by other posted material. Specifically, the notice shall be posted at the place indicated below, and/or at such other location(s) as the Clerk/Secretary may designate:

CITY HALL LOBBY
CITY OF BANNING WEBSITE

3.3 Notice and Agenda for Adjourned Meetings

The Legislative Body may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment. If a quorum is not present, less than a quorum may so adjourn. If all members are absent from any regular or adjourned regular meeting, the Clerk/Secretary may declare the meeting adjourned to a stated time and place and shall cause a written notice of the adjournment to be delivered personally to each member of the Legislative Body at least twenty-four (24) hours before the adjourned meeting. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special, or adjourned special meeting was held, within twenty-four (24) hours after the time of adjournment. When a regular or adjourned regular

meeting is adjourned as provided herein, the resulting adjourned regular meeting shall be a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings. If the subsequent meeting is conducted within five (5) days of the original meeting, matters properly placed on the agenda for the original meeting may be considered at the subsequent meeting. If the subsequent meeting is more than five (5) days from the original meeting, a new agenda must be prepared and posted pursuant to Government Code Section 54954.2.

3.4 Affidavit of Posting

Immediately following the posting of the notice and agenda, the Clerk/Secretary, or their designee, shall complete an Affidavit of Posting, in a form to be developed by the Clerk/Secretary. The Affidavit of Posting shall indicate the time of the posting, the location(s) of the posting, and shall be signed under penalty of perjury. The Clerk/Secretary shall retain all such affidavits, together with a copy of each notice and agenda so posted. The affidavit, notice, and agenda shall be retained at least two (2) years subsequent to the date of posting, and pursuant to Government Code Section 34090, shall not be destroyed by the Clerk/Secretary thereafter except in accordance with the City's record retention policies.

3.5 Preparation of Agendas

Barring insurmountable difficulties, the agenda shall ordinarily be delivered to the members of the Legislative Body on Friday (as an informal deadline) preceding the meeting to which it pertains. The agenda shall also be available to the general public at the time it is delivered to the members of the Legislative Body, or in any case as required by the Brown Act.

Any Legislative Body member may have the City Manager place any business on the agenda that should be discussed under the item of the regular meeting agenda titled "New Items." Any Legislative Body member desiring to present a subject for the Legislative Body's consideration shall advise the City Manager's office of that fact not later than **12:00 noon on the Tuesday** of the week preceding the meeting at which the member wishes the subject to be considered. The matter shall then be listed on the next agenda for discussion under Item 11 (New Items) of the regular meeting agenda. The Legislative Body shall then determine whether the proposed item should be a future agenda item for discussion and deliberation by consensus. The City Manager shall advise the Legislative Body member of constraints affecting staff's ability to produce an agenda report, and when the matter should be scheduled.

Notwithstanding the foregoing, the City Manager and the Mayor generally haves responsibility for setting the agenda for the Legislative Body (except for any other legislative body where the responsibility may be assigned to the City Manager's designee and the Chair of the body).

3.6 Description of Matters

All items of business to be transacted or discussed at a meeting of the Legislative Body, shall be briefly described on the agenda. The description may, but need not, set out the specific action or alternatives which will be considered by the Legislative Body, but should contain sufficient detail so that a person otherwise unaware could determine the general nature or subject matter of the item by reading the agenda. The description of closed session matters shall meet the requirements of Government Code Section 54954.2 and, where applicable, Section 54954.5. Matters may be designated as "New Items" and listed for the sole purpose of determining if they will be on a future agenda.

3.7 Action Items

(a) Items may formally be adopted by an ordinance, a resolution, minute order, or other motion (thereafter recorded by minute entry). Technically, all three are equally as legally effective and binding but vary in the formality of respective memorialization. While most actions will be presented to the Legislative Body in a written form prior to, or at, the meeting, the Legislative Body may amend any proposed action as written by carried motion of the Legislative Body at the time of its presentation for adoption. If an action as written is amended by the Legislative Body, it shall be revised to reflect the Body's amendments for later execution by the Presiding Officer.

(b) Besides ordinances and resolutions, action can be taken by motion and recorded as a minute order. A "minute order" denotes a Legislative Body action which is recorded simply by an item entered in the minutes of the meeting at which it was accomplished, and no separate document is made to memorialize it.

(c) As a general rule, a recorded majority of the quorum for a Legislative Body may take an action. However, for the City Council, resolutions, orders or the payment of money, and all ordinances require a recorded majority vote of the total membership of the City Council. Some actions, such as the passage of an urgency ordinance or adoption of a resolution of necessity to condemn property, require a super-majority vote. Under the Political Reform Act of 1974, a member with a financial conflict of interest regarding a matter before the member's board must leave the room while that matter is being discussed, heard, or acted on, so that member cannot be counted towards the quorum for that matter.

3.8 Resolutions

(a) A "resolution" is a formal action with findings taken by the Legislative Body, generally pre-prepared in writing, designated by sequential number, and reference to which shall be inscribed in the minutes and an approved copy of each resolution filed in the official book of resolutions of the Legislative Body. Resolutions are used when specifically required by law, when needed as a separate evidentiary document to demonstrate findings or to be transmitted to another governmental agency, or where the frequency of future reference back to its contents warrants a separate document (with the additional "whereas" explanatory material it often recites) to facilitate such future reference and research.

(b) A resolution may be adopted at the same meeting it is presented. Where a resolution has been prepared in advance, the procedure shall be: motion, second, discussion, vote pursuant to methods prescribed in Article 10, and result declared. It shall not be necessary to read a resolution in full or by title except to identify it.

(c) Where a resolution cannot reasonably be prepared in advance of a meeting, the Legislative Body may instruct the City Manager or the General Counsel to prepare are solution for presentation at the next Legislative Body meeting. Where urgent, a resolution may be presented verbally in motion form together with instructions for written preparation for later execution. After the resolution has been verbally stated, the voting procedure in Article 10, shall be followed.

3.9 Ordinances (*City Council Only*)

(a) The City Council is the only Legislative Body empowered to amend the Banning Municipal Code by adoption of ordinances.

(b) Ordinances, other than urgency ordinances, require at least two readings at different meetings held at least five days apart with the first reading considered to be introduction of the ordinance and the second adoption.

(c) A waiver of further readings requires a majority vote of the Council members present and voting. The waiver of further reading may be accomplished by one vote for all ordinances presented on the agenda of the present meeting. Government Code Section 36934.

(d) The Clerk/Secretary shall prepare copies of all proposed ordinances for distribution to all members of the City Council at the meeting at which the ordinance is introduced, or at such earlier time as is expedient. Ordinances shall be numbered and kept by the Clerk/Secretary with the same formality as resolutions as described above in Section 3.8.

(e) An urgency ordinance is an ordinance adopted for the immediate preservation of the public peace, health, and safety, containing a declaration of facts constituting the urgency. An urgency ordinance takes effect immediately and requires a four-fifths vote of the City Council for passage pursuant to Government Code Section 36937.

3.10 Agreements

When any agreement is to be considered by the Legislative Body, the complete agreement, if complete in form for execution, shall be made a part of the agenda package presented to the Legislative Body and shall be made available for viewing by the public within the time frames required under the Brown Act and/or the California Public Records Act (Government Code Sections 7920.000 *et seq.*). The Legislative Body may choose to leave the final form of the contract to the discretion of General Counsel if the Legislative Body has determined the general conditions of the contract.

3.11 Limitation of Actions by Agenda

No action or discussion shall be taken by the Legislative Body, on any item not appearing on a posted agenda, subject only to the exceptions listed in Section 3.13 below. "Action taken" as used herein shall mean a collective decision made by a majority of the Legislative Body, a collective commitment or promise by a majority of the Legislative Body to make a positive or a negative decision, or an actual vote by a majority of the Legislative Body upon a motion, proposal, resolution, order, or ordinance.

3.12 Public Comment Period

Pursuant to Government Code Section 54954.3, every agenda posted for any meeting shall contain an item entitled "Public Comment" in order to provide for an opportunity for the public to address the Legislative Body on items of interest to the public within the Legislative Body's subject matter jurisdiction. The public comment period should be conducted in accordance with Article 6.

3.13 Exceptions to Agenda Requirement for Action Taken

The Legislative Body may take action at a meeting on an item not appearing on the agenda for that meeting only under one of the following circumstances:

(a) Upon a majority determination that an "emergency situation" exists that is either (i) a work stoppage, crippling activity, or other activity that severely impairs public health, safety, or both, or (ii) a dire crippling disaster, mass destruction, terrorist act, or threatened terrorist activity that poses peril so immediate and significant that requiring a Legislative Body to provide one-hour notice before holding an emergency meeting may endanger the public health, safety, or both. All discussion of such emergencies must be in open session.

(b) Upon a determination by a two-thirds (2/3) vote of the Legislative Body, or if less than two-thirds (2/3) of the Legislative Body are present by a unanimous vote of those members present, that the need to take action arose subsequent to the agenda posting. For the purposes of this subsection, the term "need to take action" shall mean those circumstances whose occurrence creates a situation which is materially different from that which existed at the time the agenda was posted, and which requires the immediate attention of the Legislative Body. The mere failure of any person to notify the Legislative Body or staff of a pre-existing situation requiring Legislative Body attention until after the time for the posting of the agenda shall not be deemed to constitute a "need to take action" hereunder. If the Legislative Body makes a determination pursuant to this subsection, the minutes of the meeting at which the determination is made shall reflect what circumstances gave rise to the "need to take action" and why the item could not be placed on the agenda.

3.14 Minutes and Recordings

(a) An account of the actions taken in all proceedings of the Legislative Body in open meetings shall be kept by the Clerk/Secretary. The Clerk/Secretary shall prepare a record of the actions taken by the Legislative Body during open meetings, which when adopted by the Legislative Body shall be the official Minutes of the meeting. Amendment of the Minutes may be

made only as to factual accuracy of the actions taken and not as to a change of intent. The Minutes of the meeting shall not be verbatim but rather shall be ~~or~~ summary minutes. Only the best and most complete available audio recording of the meeting shall constitute the official record of the Legislative Body, but the Minutes shall constitute the official record of the Legislative Body meeting where a verbatim audio record of the meeting is not available.

~~(b) If members of the Legislative Body make comments during a meeting of the legislative body, the members may not request that the Clerk/Secretary attach written comments to the Minutes that are verbatim of the comments made during the meeting.~~

~~(c)~~(b) Any recording of a meeting made by or at the direction of the Legislative Body is a public record that must be retained and made available to the public in accordance with the Public Records Act. The Legislative Body must provide to the public, without charge, equipment to review the recording.

ARTICLE 4 – CLOSED SESSIONS

ARTICLE 4 – CLOSED SESSIONS

4.1 Generally

The Legislative Body may hold closed sessions during a regular or special meeting, or at any time otherwise authorized by law, to consider or hear any matter which it is authorized by State law to hear or consider in closed session. Public comment shall be permitted on closed session matters prior to the closed session. If a closed session is included on the agenda, the description of the item shall meet the requirements of and shall identify the statutory basis for the closed session. During closed session, the Legislative Body shall exclude all persons which it is authorized by State law to exclude from a closed session. There shall be no closed session during any special emergency meeting. Closed session may not be held regarding a matter not listed on a properly posted agenda for closed session except upon the Legislative Body first taking action to place the item on the agenda as a closed session item as permitted by law.

4.2 Persons Authorized

Persons present in the closed session shall be only those persons necessary to the discussion of the matter under consideration. All other persons shall be excused. The Council may request the Clerk/Secretary to~~shall~~ attend ~~each~~ closed session of the Legislative Body and may direct the Clerk/Secretary to ~~keep and~~ enter into a minute book a record of any reportable decisions made at the meeting~~, unless attendance is excused.~~

4.3 Confidentiality

The minute book for any closed session is not a public record and shall be kept confidential and shall be available only to members of the Legislative Body or as otherwise provided by law. (Government Code § 54957.2(a).) No person attending a closed session shall publicly discuss or otherwise reveal the proceedings in the closed session unless such publication has been approved by the vote of the Legislative Body taken during the closed session or as otherwise required by law. Violation of this rule shall subject the violator to censure by the Legislative Body as provided in Section 9.5 herein.

4.4 Public Reports

Before recessing into closed session, the Presiding Officer or General Counsel shall announce that the Body is recessing into closed session and shall name each closed session topic that will be discussed in closed session. ~~in at least as much detail as provided on the agenda.~~

Upon leaving closed session, the Presiding Officer or General Counsel shall report publicly any reportable actions taken on a closed session matter and, if any vote was taken, shall announce that the matter was put to a vote, the results of the vote, and how each Legislative Body member voted.

ARTICLE 5 – ORDER OF BUSINESS

ARTICLE 5 – ORDER OF BUSINESS

5.1 Order of Business

The order of business of each meeting shall be as contained in the agenda prepared by the Clerk/Secretary unless the majority of the Legislative Body members consent to take items out of order. The order of business at meetings of the Legislative Body may be as follows, in accordance with the procedures specified below:

1. Call Meeting to Order.
    - Pledge of Allegiance
    - Roll Call
2. Agenda Approval.
3. Presentations.
4. Closed Session Report, if applicable.
5. Public Comments, Correspondence, Appointments, and Reports.
6. Consent Items. (See Section 5.3 below.)
7. Public Hearings.
8. Reports of Officers.
9. Discussion Items.
10. Announcements from Legislative Body Members.
11. Items for Future Agendas (New Items; Existing Items).
12. Adjournment.

5.2 Call to Order

The meeting of the Legislative Body shall be called to order by the Presiding Officer, or the Vice-Chair in the Presiding Officer's absence. In the absence of both the Presiding Officer and Vice Chair, the meeting shall be called to order by the Clerk/Secretary and the three Legislative Body members present shall elect by majority vote a Presiding Officer for that meeting.

5.3 Consent Items

Matters of a routine or generally uncontested nature and non-controversial, shall be placed on the agenda as Consent Items and may be approved by the Legislative Body in a single motion by adoption of the Consent Calendar. Matters of a routine or generally uncontested nature and non-controversial may include a matter where the City Manager believes (i) the matter would most likely be unanimously approved by the Legislative Body, or (ii) there is not likely to be public comment on the matter, or (iii) a public presentation of the matter would not be particularly beneficial to the community or public interest. The approval of the Consent Calendar shall signify the approval of each matter or recommendation included therein. All matters on the Consent Calendar shall be the subject to public comment procedures in Article 6. Upon the request of any member of the Legislative Body or upon the request of a member of the public made through the Presiding Officer, a matter may be removed from the Consent Calendar for separate discussion and/or action. Any such item shall be considered as part of the Excluded Consent Calendar. Each matter proposed for consideration as part of the Consent Items, including any recommended action, shall be described on the notice and agenda posted for the meeting. Ordinances shall not be

placed on the Consent Calendar for approval unless the ordinance has first been read or the reading of the ordinance has been waived as required by law.

5.4 City Representatives and Advisory Bodies *(City Council Only)*

(a) From time to time the Council may be required to assign a representative of the City to non-City boards, commissions, or organizations (e.g., boards or commissions of another agency or joint powers authority). Except as otherwise required by law or by the policies of the non-City organization, the Mayor shall make all such appointments of City representatives on non-City organizations after consultation with the City Council. Council appointments to non-City organizations shall be considered and made with the goal of keeping the appointee in the organization for a long enough period of time that the appointee may gain seniority and/or a position of leadership within the organization. This goal shall be construed to mean that the same appointee should remain within a non-City organization for at least two years where reasonably possible and convenient for said appointee. Nothing herein, however, shall be construed to limit or waive the City Council's power to remove appointees pursuant to subsection (c) below.

(b) The City Council shall have the power to establish advisory committees, commissions, other Legislative Bodies and Non-Governing Bodies. Any committee which is (i) established by ordinance, resolution, or other formal action, (ii) has a fixed regular meeting schedule, (iii) has continuing subject matter jurisdiction over a non-temporary issue, (iv) which continues to conduct business in excess of 180 days, or (v) has a majority membership of officials from other Legislative Bodies, shall be subject to the provisions of the Brown Act.

Advisory bodies and committees may take the following form:

i) The Council may, as the need arises, authorize the appointment of "ad hoc" Council committees composed of two members. Except where otherwise specifically provided by law, the Presiding Officer shall appoint the members of the Council committees, subject to the approval of the Council. Any committee so created shall cease to exist upon the accomplishment of the special purpose for which it was created or when abolished by a majority vote of the Council.

ii) The Council may, subject to the Brown Act, create other committees, boards, and commissions, whether Legislative Bodies or Non-Governing Bodies, to assist in the conduct and operation of the City government with such jurisdiction and duties as the Council may specify. Except as otherwise required by law, the Mayor shall make appointments of members to such committees, boards, or commissions subject to the approval of the Council. The procedure of filling vacancies and provision of notice thereof shall be subject to the provisions of the Maddy Act (Government Code, Sections 54970-54974).

iii) Sub-Legislative Bodies, including Non-Governing Bodies, shall be responsible for reporting the Body's activities to the City Council. The members of a Sub-Legislative Body or Non-Governing Body shall operate within the jurisdiction established by the Council and shall not have authority to make subcommittees unless specifically granted such authority by action of the City Council. Staff members may be assigned to assist any Council-created committee by the City Manager; staff members so assigned shall not be members of the committee unless specifically appointed as such by action of the Council.

(c) Absent any other provision to the contrary, members of any non-City organization, or City committees, boards or commissions may be removed by the Council without cause by a majority vote of the City Council. Any member of the City Council may place the question of such removal on the agenda. Any committees, boards, or commissions so created may be abolished by a majority vote of the City Council by repeal of the enacting ordinance or resolution.

5.5 Budgets

The City Council shall have the power to approve the City budget, and each Legislative Body shall have the power to approve the budget of funds specifically apportioned to control of that Legislative Body (e.g., the Successor Agency Board shall approve the budget of the Agency and the Housing Authority Board shall approve the budget of the Authority). Approval of the budget constitutes approval of a proposed plan of expenditures and revenues. It does not constitute an authorization for expenditure. With respect to any given expenditure the applicable procedure shall be followed. Adoption of the budget does not, unless otherwise specified by resolution, constitute authorization for any specific employment class or position.

5.6 Items from Members, the City Manager, and the City Treasurer

(a) There is a specific item on the agenda - "Announcements from Legislative Body Members" - for receiving general comments, announcements, and/or suggestions from members of the Legislative Body. This can be used to inform the public concerning upcoming events, report on members' attendance at conferences and seminars, and for requests by members that staff look into specific matters. Legislative Body members shall report at this time on any conferences, seminars or other events they attended and for which they received compensation or reimbursement from the City. Such report should include the dates of attendance, and a brief description of the subject matter of topics covered at the events. These matters may not be discussed among the Legislative Body members, opined upon, or deliberated, and if they do not concern a matter on the agenda, shall be handled by the Presiding Officer according to the same procedures set out for Public Comment in Section 6.2. No action may be taken on such matters without being placed on a subsequent agenda.

(b) There is an agenda item referred to as "New Items." Matters are listed under this item pursuant to Section 3.5 where a member has asked that the matter be scheduled for discussion of whether a future staff report should be prepared. The listing of the matter allows a discussion of whether a staff report should be prepared, or it may be held in the "Existing Items" section of the agenda to keep track of if the City Council determines that a staff report should be prepared for a future agenda.

(c) There is an agenda item referred to as "City Manager's Report." This may be used by the City Manager similarly to the item for members of the Legislative Body in Subsection (a) above to make announcements without separately listing the matter on the agenda, and subject to the same restriction that there may be no discussion or action on such matter.

(d) There is an agenda item referred to as "City Treasurer's Report." The City Treasurer shall attend the meetings of the Legislative Body, unless excused. The City Treasurer may report on (i) the activities of the Budget and Finance Committee, and (ii) the duties of the City Treasurer as imposed under State law, except such duties otherwise delegated by the City Council to the City Clerk or the Administrative Services Director.

(e) There is an agenda item referred to as “City Council Committee Reports.” Under this agenda item, City Council members may report on meetings of committees that City Council members are assigned to attend

ARTICLE 6 – PUBLIC COMMENT AND PRESENTATIONS

ARTICLE 6– PUBLIC COMMENT AND PRESENTATIONS

6.1 City Council Meeting Presentations

City Council presentations are for providing information to the Mayor and Council, City management, and the community about activities of interest and value, including activities, events and infrastructure projects relating to the City, honors and celebrations for organizations, corporations and residents which reflect their service to the Banning community, honors, and recognitions for City staff for outstanding service or commitment to the City's mission and goals. **Please Note:** This is not the appropriate time to seek funds from the City and/or endorsements from City Council or discuss politics.

All presentations are to be no more than five minutes in length, including all speakers for the group being recognized. Please see the attached "Exhibit ~~B~~B" for a complete copy of the Banning City Council Meeting Presentation Policy contained and incorporated as an exhibit to this Manual.

6.2 Public Comment

At the beginning of any Legislative Body meeting, the public shall be afforded the right to comment on any and all issues (not on the agenda) within the subject matter jurisdiction of the Legislative Body. Such general public comment on non-agendized issues shall be taken at the beginning of the meeting under a "Public Comments" heading. Each speaker will be limited to a maximum of three (3) minutes to provide comments on non-agendized issues. With regard to matters not on the agenda, the Legislative Body may ask questions of persons who raise new matters during the Public Comment period or otherwise. However, all Legislative Body questions must be limited to facts-only informational inquiries, and the Legislative Body may not discuss the merits, express any opinions, or ask questions that convey opinions or thought processes with respect to any non-agendized issue. The public shall also be afforded the right to comment on every item appearing on the agenda prior to the Legislative Body's consideration of that item, as provided in Section 6.5 below.

6.3 Time Limitations

The time limit to speak for public comments is five (5) minutes during a noticed public hearing and to provide comments on all other agendized items, provided that these limits do not apply to a project applicant speaking at a public hearing pursuant to Article 7. All such time limits shall be noticed on the agenda for the meeting. Notwithstanding these time limits, the Presiding Officer has the full prerogative to maintain meeting order and decorum as provided in Section 9.1 and Article 9 generally, and the Presiding Officer may reasonably reduce the time if there are a significant number of speakers or extend time if he/she finds such extension is reasonably necessary to allow the speaker to complete his/her message without repetition or unnecessary tangents.

6.4 Reserved

~~6.5~~ Additional Procedures for Public Comment on Agenda Items

(a) Members of the public shall have the opportunity to address the Legislative Body on each and every item listed on the agenda. Public comment on agenda items must be heard prior to the Legislative Body's consideration/discussion of the item. Public comments on an agenda item may be heard either in combination with the Public Comment period at the start of the meeting, or at the time the Legislative Body opens the item, or both, as determined by the Legislative Body and set forth in the agenda.

(b) The purpose of the public comment period is to receive input from the public, not to create a debate between the Members and the public. Members should generally refrain from debating members of the public during the period for public comment, but if Members desire to clarify comments by members of the public, they may ask factual questions, and if necessary, should do so during the public comment period.

(c) The Presiding Officer should clearly open and close the public comment period. After the close of the public comment period or after a motion has been made, no member of the public shall address the Legislative Body without first securing permission of the Presiding Officer.

ARTICLE 7 – NOTICED PUBLIC HEARINGS

ARTICLE 7– NOTICED PUBLIC HEARINGS

7.1 Public Hearings; Notice; Fairness

(a) Matters noticed to be heard by the Legislative Body shall commence at the time specified in the notice of hearing, or as soon thereafter as is reasonably possible, and shall continue until the same has been completed or until other disposition of the matter has been made.

(b) Legislative Body members shall not overtly or implicitly promise a particular action by City staff or by any Legislative Body. Where a Legislative Body member is contacted about an issue that will be presented to any Legislative Body of the City, it is appropriate to give a brief overview of City policy, to refer to City staff for further information, or to suggest that the concern be brought to the whole Council at the hearing or Council meeting, as appropriate.

(c) All public hearing notices shall be issued and published in compliance with any statutory notice requirements applicable to the particular hearing at issue and such notice shall inform interested persons of the statute of limitations to challenge the validity any action taken Legislative Body on such matter.

(d) Although every Legislative Body member has a right to their own personal opinions, Legislative Body members should by their demeanor show an ability to listen to a variety of viewpoints and demonstrate a reasonable willingness to consider all sides of an issue before them. For quasi-adjudicative matters involving public hearings, the members of the Legislative Body shall not prejudice the matter prior to the public hearing, shall be fair and impartial, and shall decide the matter based upon the evidence and the statutorily required findings.

(e) For such matters, Legislative Body members should avoid expressing an opinion or divulging their thought process until after the public hearing has been completed.

7.2 Continuance of Hearings

(a) Any hearing being held or noticed or ordered to be held by the Legislative Body may, by order or notice of continuance, be continued, or re-continued to any subsequent meeting in the manner provided for adjourned meetings.

(b) When it is the decision of the Legislative Body to continue an item, which appears on the agenda, prior to hearing any report, testimony or taking evidence on the item, the Legislative Body may make such intent known at the beginning of the meeting. At that time, the public shall be offered the opportunity to speak regarding the intent to continue the item. At the time regularly scheduled for the hearing of the item, the Legislative Body shall then take action to continue the item after again informing the public of the intent to continue the matter. No testimony or evidence shall be taken at that time unless the speaker will not be available at the continued hearing date.

~~(c)~~ When the Legislative Body has continued the public hearing on an item after its commencement, persons testifying at the first public hearing may ~~shall~~ be permitted by the Presiding Office to again address the Legislative Body on the item at the renewed hearing, provided the testimony is not redundant. ~~subject to the finding of the Presiding~~

~~Officer that the testimony is redundant. Upon such finding the time allotted for testimony by the individual may be summarily reduced.~~

~~(d)~~(c) Continuances of a public hearing to a date certain need not be re-noticed unless (i) the hearing has not been continued to a date certain, or (ii) has been continued three or more times and the Presiding Officer believe confusion may be created as to the time of the hearing.

7.3 Conduct of Hearings

(a) When a matter for public hearing comes before the Legislative Body, the Presiding Officer shall request that staff present the staff report and any other relevant evidence, but the presentation of the staff report prior to the formal opening of the public hearing shall not prevent its consideration as evidence. Any such evidence shall be made a part of the record of the public hearing. The Presiding Officer shall permit members of the Legislative Body to ask questions of staff but should prevent expressions of opinion by members of the Legislative Body before the conduct of the hearing.

(b) The Presiding Officer shall thereafter open the public hearing and inquire if there are any persons present who desire to address the Legislative Body on the matter. Any person desiring to speak or present evidence upon being recognized, may speak or present evidence relevant to the matter being heard. Any testimony shall be truthful.

(c) Members of the Legislative Body who wish to ask questions of the speakers, during the public hearing portion, may do so but should be mindful that the purpose of the public hearing is to obtain testimony and evidence from the speakers, and not to debate the merits of the matter with speakers. Members should avoid debate and expressions of personal opinion until after the close of the public hearing. Unlike public comment periods, generally there should be no response to speaker comments until after the close of the hearing. The Presiding Officer shall conduct the hearing in such a manner as to afford due process to all affected persons.

(d) All persons interested in the matter being heard by the Legislative Body shall be entitled to submit written evidence or remarks, as well as other graphic evidence. All such evidence presented shall be retained by the Clerk/Secretary as part of the record. Each speaker may only speak once during the public hearing unless the Legislative Body requests additional clarification later in the process.

(e) Upon closing of the public hearing by the Presiding Officer, no additional public testimony shall be solicited or received by the Legislative Body without reopening the public hearing. If, however, the Legislative Body receives relevant new evidence after the close of the public hearing and such new evidence may impact the Legislative Body motion or vote, the Legislative Body may re-open the public hearing to obtain public comments upon such new evidence.

~~(f)~~ The Presiding Officer has the prerogative to establish special rules, such as to require group spokesmen, to limit the number of speakers, to limit the total time for testimony, to allow speakers to give time to others, or otherwise control the hearing, provided that (i) speakers are treated fairly, and that (ii) any such special rules are announced in advance of their application. The Presiding Officer always retains the prerogative to cut off speakers who are unduly repetitious, and to permit the extension of time to speakers.

~~and to permit the extension of time to speakers.~~

7.4 Extra-Meeting Contacts on Matters Set for Public Hearing

(a) Legislative Body members should minimize their contacts with, applicants, or other persons who will be the subject of a quasi-adjudicative public hearing matter to be heard before the Legislative Body. Legislative Body members should avoid extra-meeting contacts with persons who will be the subject of a public hearing before the Body or with advocacy groups or special interests.

(b) If a Legislative Body member is contacted directly by such person outside the meeting setting, the member shall refrain from expressing any viewpoints or thought processes to the person until after the public hearing. The Legislative Body member may explain that they are unable to express any viewpoint on the matter until all evidence has been heard in the course of a public hearing and should encourage any such person to present their position in writing or orally at the public hearing.

(c) At the commencement of the public hearing, the Legislative Body member must disclose publicly any extra-meeting contacts or discussions had which may be relevant to the decision.

(d) The limitations set forth in this Section shall not be read as preventing a Legislative Body member from inspecting a site that will be relevant to a public hearing, although such sight inspection should be disclosed on the record at the beginning of the public hearing.

ARTICLE 8 – MEETING OFFICERS

ARTICLE 8 - MEETING OFFICERS

8.1 Presiding Officer

(a) The meeting shall be presided over and chaired by the Presiding Officer, or, in the Presiding Officer's absence, the Vice Chair. The Presiding Officer shall have the authority to rule any speaker out of order, including speakers during the public comment period if the subject raised is not within the subject matter jurisdiction of the Legislative Body, or during a public hearing if the speaker is not presenting testimony or evidence relevant to the matter which is the subject of the public hearing. The Presiding Officer shall have the responsibility for the conduct of meetings in an orderly manner and to prevent the obstruction of business, and in carrying out this responsibility shall have the authority to give the floor to any member of the Legislative Body or the public by recognizing them, to prevent the misuse of legitimate forms of motions or privileges, to take matters up out of order, to caution speakers as to disruptive behavior, and to order any persons willfully interrupting the meeting to be removed from the room, including as provided in Article 9.

(b) The Vice Chair shall generally take the place of the Presiding Officer in the absence of the Presiding Officer. In the absence of the Vice Chair, the Presiding Officer may call any other member to take his or her place as Presiding Officer; such substitution not to continue beyond adjournment.

(c) Any determination made by the Presiding Officer may be appealed by the making of a Motion to Appeal the Ruling by any other member of the Legislative Body. The Presiding Officer's determination will stand unless a majority of the Legislative Body members vote in favor of the Motion to Appeal the Ruling, in which case the ruling of the Presiding Officer will be overridden. The Motion to Appeal the Ruling is governed by the ~~Chart of Motions attached as Exhibit A~~Rosenberg's Rules of Order attached hereto as Exhibit "~~B~~A".

8.2 Representation of Legislative Body

(a) The Mayor is the designated representative of the City and the City Council for purposes of presenting and expressing the official City position on an issue. If individual members of the Council or other Legislative Bodies are contacted by the media for a statement of official City position, the member should refer such inquiries to the Mayor. Otherwise, public or media statements by a Legislative Body member should be clearly characterized as comments upon a personal viewpoint.

(b) Members of the City Council may use official City letterhead to correspond with other public officials and with consultants, but any such correspondence shall state that the views expressed therein are personal and not the position of the City unless the City Council has officially adopted such position. No other Legislative Body may take a position officially representing the City unless authorized to do so by the City Council.

8.3 Email and Social Media Policy

(a) Members of the Legislative Body are provided with City email accounts which may be utilized for the conduct of City business, including communications with constituents.

Members should be aware that all such communications may be subject to the Public Records Act (Government' Code Section 7920.000 *et seq.*). The use of private email accounts for City business may also make them subject to disclosure.

(b) Members of the Legislative Body are subject to the Brown Act in the use of email and social media.

(c) Email communications may not be used to develop a collective consensus or decision on any matter. Email communications to the entire Body should be avoided but may be permitted to provide factual information, such as arranging an event, where no discussion or exchange of opinions on a matter within the jurisdiction of the Legislative Body is initiated or occurs.

(d) Members of the Legislative Body may engage in separate conversations or communications on an internet-based social media platform to answer questions, provide information to the public, or to solicit information from the public regarding a matter that is within the subject matter jurisdiction of the Legislative Body. A majority of the Legislative Body members shall not use any internet-based social media platform to discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the Legislative Body. A Legislative Body member shall not respond directly to any communication on an internet-based social media platform regarding a matter that is within the subject matter jurisdiction of the Legislative Body that is made, posted, or shared by any other member of the Legislative Body.

8.4 Clerk/Secretary

The Clerk/Secretary, or their deputy, shall attend all meetings of the Legislative Body unless excused and shall keep the official minutes and perform such other duties as may be requested by the Legislative Body.

8.5 City Manager

(a) The City Manager, or designee, shall attend all meetings of the Legislative Body unless excused. The City Manager may make recommendations to the Legislative Body and shall have the right to take part in all discussions of the Legislative Body but shall have no vote. The City Manager shall provide the Legislative Body with a staff report providing sufficient information to be the basis for any action by the Legislative Body at its meeting. Any officer or employee of the City, when directed by the City Manager, shall attend any meeting of the Legislative Body, and may present information relating to matters before the Legislative Body.

(b) The City operates under the city manager form of government (Government Code Section 34851 *et seq.*). The City Manager has the power to: (i) administer the day-to-day affairs of the City; (ii) hire and fire City employees (except the City Attorney); and (iii) perform such other functions as the City Council chooses to authorize by ordinance. The City Manager shall carry out the City Council's policy direction through the day-to-day management of City functions. ~~City Councilmembers may not individually provide direction to the City Manager.~~

8.6 General Counsel

(a) The General Counsel, or deputy, shall attend all meetings of the City Council unless excused and shall upon request of any member give an opinion, either written or oral, on questions of law. The General Counsel, or deputy, shall attend all meetings of such other Legislative Bodies as directed by the City Council or City Manager. The General Counsel serves as advisory parliamentarian for the City and is available to answer questions or interpret situations according to parliamentary procedures. Final rulings on parliamentary procedure are made by the Presiding Officer, subject to the appeal of the full Legislative Body pursuant to Section 8.1 above. All ordinances and resolutions, all contracts, deeds, and easements or other legal instruments shall be approved as to form by the General Counsel. Agreements may be approved as to form by the General Counsel when exceeding purchasing ordinance and policy guidelines. In any case of ambiguity or uncertainty in the interpretation or application of this Manual to any procedure, the Presiding Officer may direct such question to the General Counsel for a ruling.

(b) Any member of the Legislative Body may request from the General Counsel a legal opinion regarding any matter related to the interests of the City. Where a legal opinion involves substantial cost, the request for the opinion must first be approved by the City Manager or by a majority of the Legislative Body. The General Counsel is the legal representative of the City acting through its Legislative Body. There is a continuing legal question as to whether the General Counsel may have an attorney-client relationship with any individual member of the Legislative Body or the City staff. As a consequence, any discussion with the General Counsel which leads to the conclusion that the interests of the City are at risk must be revealed to all relevant members of the Legislative Body and the City staff by the General Counsel. The General Counsel shall not have an attorney-client relationship with individual Council members. The General Counsel is required to maintain the confidentiality of such communications from persons outside the City to the extent required or permitted by law and the code of ethics.

(c) The General Counsel has no statutory duty or authority under the Political Reform Act to provide Political Reform Act advice to any Legislative Body member but should provide advice to members when requested. However, a Legislative Body member may not rely on advice from the General Counsel to provide him or her with immunity from FPPC enforcement or prosecution. Such immunity may be obtained only through a written advice letter obtained from the FPPC, on the question in issue, by the Legislative Body member. A Legislative Body member enjoys no privilege of attorney/client confidentiality in reviewing these matters with the General Counsel. Any advice given to an individual member of a Legislative Body cannot be withheld from the rest of the City or Legislative Body. If, after receipt of an opinion of the General Counsel, the Legislative Body member wishes to participate in the decision-making process with immunity from prosecution or enforcement, the General Counsel shall assist the Legislative Body member in making direct contact with the FPPC for informal or formal advice upon which the Legislative Body member can rely.

(d) *[City Council Only].* It often happens that other jurisdictions or the League of California Cities or other regional or statewide association will ask the City to participate in the filing of a letter or brief before a court in a matter deemed to be of concern to all or a great many cities. These "friend of the court" or "amicus" briefs have the effect of informing the court how widespread will be its opinion and how that opinion will affect cities. Such participation is

normally without direct cost to the City. In considering whether to direct General Counsel to file an amicus brief, the City Council shall consider whether such brief would represent or propose a position that conflicts with, or causes strife amongst, other City- related interests such as, without limitation, the interests of employee organizations, law enforcement or public safety.

i) Upon receipt of the request, the General Counsel shall make the request available through the City Manager to the Council. Upon a determination by any Council member that there is an interest in participating in the action in the manner proposed, the Council member shall inform the City Manager or General Counsel who shall place the matter as an item for discussion in closed session on the agenda of the next Legislative Body meeting. The General Counsel may otherwise place an amicus request on the agenda on his or her initiative.

ii) In lieu of the foregoing process, where there is urgency to the matter, General Counsel is authorized to undertake the filing of the letter or brief where (i) in the opinion of General Counsel the legal matter significantly affects the interests of the City, (ii) the General Counsel has consulted with and received the approval of the City Manager, (iii) the cost to the City will not exceed $5,000, and (iv) the General Counsel makes a written report of the action to the Legislative Body.

iii) Approval given to the General Counsel to defend, or seek or refrain from seeking, appellate review or relief, or to enter as an amicus curiae in any form of litigation as the result of a closed session consultation shall be reported in open session at the public meeting during which the closed session is held. The report shall identify, if known, the adverse party or parties and the substance of the litigation. In the case of approval given to initiate or intervene in an action, the announcement need not identify the action, the defendants, or other particulars, but shall specify that the direction to initiate or intervene in an action has been given and that the action, the defendants, and the other particulars shall, once formally commenced, be disclosed to any person upon inquiry, unless to do so would jeopardize the agency's ability to effectuate service of process on one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

8.7 Conflicts of Interest

All Legislative Body members are subject to the provisions of California Law, such as Chapter 1, Title 9, of the California Government Code, relative to conflicts of interest, and to conflicts of interest codes adopted by the Legislative Body. Any Legislative Body member prevented from voting because of a conflict of interest shall refrain from in any way participating in the matter giving rise to the conflict. Where abstention from a matter is made on the basis of a conflict of interest arising from a financial interest in the decision, the Legislative Body member shall announce their abstention from the matter when it is first opened, and then shall set forth the reason for the abstention with the degree of specificity at least equal to the disclosure of the Legislative Body member's financial interests on the Legislative Body member's annual statement of financial interests; immediately after such announcements, the Legislative Body member shall leave the room. The Legislative Body member shall not overhear the staff report, participate in the discussion or deliberations, and shall not otherwise make or participate in making the decision or in any way attempt to use his or her official position to influence the decision. This shall not prevent the conflicted Legislative Body member from coming before the Legislative Body solely

during the public comment period as an affected citizen to state his/her opinion on how the matter impacts their disqualifying interests.

8.8 Reserved

8.9 No Financial Interest in Agreements

A member of a Legislative Body shall not have a financial interest in an agreement within the meaning of (Government Code Section 1090 *et seq.*) made in their official capacity. An agreement in which a Legislative Body member has a financial interest shall be null and void whether the member participates in the making of the contract or not, unless a remote or non-interest exception applies under Government Code Sections 1091 or 1091.5.

8.10 Ethical Standards

A member of a Legislative Body shall maintain the highest ethical standards and shall adhere to all laws and the ordinances and regulations of the City in carrying out their duties.

8.11 Confidential Information

No Legislative Body member may disclose confidential information to any unauthorized person. A violation of this rule shall subject the violator to censure by the Legislative Body as provided in Section 9.5 herein.

ARTICLE 9 – DECORUM AND ORDER

ARTICLE 9– DECORUM AND ORDER

9.1 Decorum and Order – Legislative Body Members

(a) Any member of the Legislative Body wishing to speak, or any member of the public wishing to address the Legislative Body must first obtain the floor by being recognized by the Presiding Officer. The Presiding Officer must recognize any member of the Legislative Body who seeks the floor when appropriately entitled to address the Legislative Body. The Legislative Body member shall confine himself or herself to the question under debate.

(b) Any member of the Legislative Body, including the Presiding Officer, may bring a matter of business properly before the Legislative Body for decision by making a motion. Any Legislative Body member, including the Presiding Officer, except the Legislative Body member making the motion, may second a motion. Once a motion is seconded, it may be opened for discussion and debate.

(c) The Presiding Officer shall determine all points of order, subject to the right of any member to appeal to the majority Legislative Body.

(d) A Legislative Body member, once recognized, shall not be interrupted while speaking unless called to order by the Presiding Officer, unless a Point of Order is raised by another Legislative Body member, or unless the speaker chooses to yield to questions from another Legislative Body member.

(e) Any Legislative Body member called to order while speaking shall cease speaking immediately until the question of order is determined. If ruled to be in order, the member shall be permitted to proceed. If ruled to be not in order, the member shall comply with ruling of the Presiding Officer.

(f) Legislative Body members shall accord the utmost courtesy to each other, to City or Legislative Body employees, and to the public appearing before the Legislative Body and shall refrain at all times from rude and derogatory remarks, reflections as to integrity, abusive comments, and statements as to motives and personalities, which disrupt, disturb, or otherwise impede the orderly conduct of the Legislative Body meeting.

(g) Any Legislative Body member may move to require the Presiding Officer to enforce the rules and the affirmative vote of a majority of the Legislative Body shall require the member to so act.

(h) The members of the Legislative Body shall not engage in communications during the Legislative Body meeting (including breaks) regarding matters being considered on the agenda unless and until the Legislative Body has opened that agenda item. In order to minimize exposure to a Brown Act violation, Legislative Body members are discouraged from discussing any City business during breaks or before and after meetings; City business may only be discussed by a quorum of Legislative Body members when it is opened as a duly noticed agenda item.

(i) The members of the Legislative Body shall always be attentive and show respect to those addressing the Legislative Body provided that nothing shall prevent the enforcement of the

rules of decorum herein.

(j) No Legislative Body member attending a meeting of another Legislative Body shall make any statement or, give the appearance or indicate in any way that they are representing the Legislative Body unless they have been authorized to do so by the Legislative Body. When making a comment at such a meeting, the Legislative Body member should make it clear that they are speaking solely as an individual. Unless officially appointed to participate on a committee, Legislative Body members should make an effort not to insert themselves into or take positions on matters which will ultimately be decided upon by the Legislative Body.

(k) The Legislative Body may punish its own members for misconduct pursuant to Section 9.5.

9.2 Decorum and Order – Employees

(a) Members of administrative staff and employees of the Legislative Body shall observe the same rules of procedure and decorum applicable to Legislative Body members. The City Manager shall ensure that all staff and employees observe such decorum. Any staff members, including the City Manager, desiring to address the Legislative Body or members of the public shall first be recognized by the Presiding Officer. All remarks shall be addressed to the Presiding Officer and not to any individual Legislative Body member or member of the public.

(b) Questions of City staff and/or requests for follow-up or additional background information should be directed only to the City Manager, General Counsel, Assistant City Manager, or Department Heads. The Office of the City Manager should be copied on any request, except those to the General Counsel. When in doubt about what staff contact is appropriate, Legislative Body members should ask the City Manager for direction. Materials supplied to a Legislative Body member in response to a request will be made available to all members of the Legislative Body so that all have equal access to information.

(c) Legislative Body members should not solicit any type of political support (financial contributions, display of posters or lawn signs, name on support list, etc.) from City staff. City staff may, as private citizens with constitutional rights, support political candidates but all such activities must be done away from the workplace.

9.3 Decorum and Order – Public

(a) Members of the public attending Legislative Body meetings shall observe the same rules of order and decorum applicable to the Legislative Body. All remarks and questions should be addressed to the Presiding Officer and not to any individual Legislative Body member, staff member or other person.

(b) Any person conducting their public remarks or behavior before the Legislative Body in such a way as to actually cause disruption to the conduct of the meeting may be removed from the room by the sergeant-at-arms as directed by the Presiding Officer. Unauthorized remarks from the audience, stamping of feet, whistles, yells, and similar disruptive demonstrations shall not be permitted by the Presiding Officer, who may direct the sergeant-at-arms to remove such offenders from the room or call a recess of the meeting. Aggravated cases may be prosecuted on

appropriate complaint signed by the Presiding Officer.

(c) Members of the public shall be allowed to video or audio record a public meeting unless such recording becomes an actual and unreasonable disruption to the Legislative Body's ability to carry-out the meeting.

9.4 Enforcement of Decorum

(a) The Banning Police Chief or designee shall be ex-officio sergeant-at-arms of the Legislative Body. He shall carry out all orders and instructions given him by the Presiding Officer for the purpose of maintaining order and decorum in the Legislative Body meeting. Upon instructions from the Presiding Officer, it shall be the duty of the sergeant-at-arms to eject any unruly person from the Legislative Body meeting chamber or place him or her under arrest or both for conduct actually disrupting to the Legislative Body proceedings. Such person may be barred from further participation in the meeting.

(b) Generally, if the Presiding Officer intends to eject a person for disruption of a meeting, a public warning should be issued. Examples of remarks or behavior that cause actual disruption of the Legislative Body proceedings include:

- Unauthorized remarks from the audience, stamping of feet, whistles, yells, outbursts, catcalls, cursing, applause, offensive or obscene gestures or similar demonstrations which disrupt, disturb, or otherwise impede the Legislative Body proceedings
- Interrupting speakers or speaking when not recognized
- Calling members of the audience names or threatening them
- Extended discussion of matters beyond the jurisdiction of the Legislative Body
- Physical threats to any person
- Shouting into the microphone
- Dumping objects on the floor of the chamber where the proceeding is held for symbolic or other reasons.
- Speaking beyond the time limits
- Being unduly repetitious

(c) Examples of non-disruptive conduct include:

- Silent gestures by members of the audience, such as a thumbs up or thumbs down ~~or Nazi salute~~ that are not otherwise disruptive of the meeting.
- Catcalls or booing during a time allowed for applause that does not otherwise disrupt the meeting.
- Criticisms of public officials or staff during a time reserved for public comment that does not otherwise violate this Manual and does not disrupt the meeting.

(d) As set forth in Government Code Section 54957.9, in the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully

interrupting the meeting, the Legislative Body members may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in such a session. Duly accredited representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this Section. Nothing in this Section shall prohibit the Legislative Body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.

9.5 Censure of Legislative Body Members

(a) It shall be a violation of this section for any sitting member of a Legislative Body to violate any general law or regulation, and any, rule, law, ordinance, or resolution of the City of Banning. It shall also be a violation of this section for any sitting member of a Legislative Body to violate an administrative policy of the City which has been adopted following a vote of the Legislative Body or the City Council on the matter and which by its terms is expressly made applicable to the Legislative Body.

(b) Any violation of the foregoing paragraph by a Legislative Body member may be punished through the administration of a public censure of the member by the member's Legislative Body. Such censure may be in addition to any other punishment applicable to the violation. For purposes of this section, "censure" shall mean the adoption of a motion setting forth a statement of disapproval of a Legislative Body member's conduct.

(c) When evaluating a request for defense made by the censured member in litigation arising from the censured conduct, the record of the censure shall be considered by the Legislative Body. Such record shall not be determinative. Failure of the Legislative Body to censure the conduct of a member does not constitute waiver of the Body's right to refuse to defend the member in an action.

(d) A Legislative Body member may not be made the subject of a motion for censure without first being given notice of the violation and an opportunity to correct the violation if it can reasonably be corrected. Upon a continued violation or failure to correct, the charged member shall be given notice and an opportunity to be heard as follows:

(i) Only a sitting member of the Legislative Body whose member commits the violation may initiate proceedings for the censure of one of its members.

(ii) Proceedings shall be commenced by the presentation of a written statement of charges to the subject Legislative Body member with a copy delivered concurrently to the Clerk/Secretary by the member initiating the charge. Initiation shall not require the prior approval of the Legislative Body. The statement of charges shall be given at least ten (10) days prior to the meeting at which the censure motion is proposed to be brought. The notice shall contain, at a minimum, the designation of the specific rule, law regulation, etc. which the member is claimed to have violated and a statement of the date, place, and time at which the violation occurred. The statement shall further contain a description of the conduct of the member which is alleged to constitute the violation. The statement of charges shall be delivered to all

other Legislative Body persons.

(iii) Within seven (7) days after delivery of the statement of charges, the charged member should deliver a written response to the other members of the Legislative Body unless the charged member chooses to defer to response to the hearing.

(e) The motion for censure shall be agendized and considered at the first regular meeting occurring ten (10) days following the delivery of the statement of changes to the member and Clerk/Secretary. The hearing may not be continued except upon the absence from the meeting of a member of the Legislative Body other than the member bringing the charge or the member who is the subject of the charge.

(i) The hearing shall be conducted in an open session by the Presiding Officer unless the Presiding Officer is a party to the action, in which case the Vice Chair or some other member shall conduct the proceedings.

(ii) The hearing shall generally proceed by a reading of the charges by the charging member. The charging member may present witnesses; the charged member may answer in rebuttal; members of the public may speak in favor or opposed to the charge; and the remaining members may speak to the charges in that order.

(iii) Passage of the motion for censure shall require a majority vote of the members of the Legislative Body. The voting members shall not go into closed session for deliberation.

(f) If the motion for censure does not pass the proceedings shall be at an end. A new motion for censure on the same grounds of violation may not thereafter be commenced against the same Legislative Body member for a period of 1 calendar year from date of the vote. However, new proceedings may be commenced on the same charges within the 1-year period on the vote of 4 members of the Legislative Body.

(g) If the motion for censure does pass, such motion shall become a part of the public record a copy of which shall be made available upon demand to any member of the public and notice of same shall be placed in the administrative file of the Legislative Body member.

9.6 Persons Authorized To Be Within Platform/Dais

No person except Legislative Body officials or authorized Legislative Body staff shall be permitted behind the Legislative Body dais without permission or consent of the Presiding Officer.

9.7 Personal Privilege

If a Legislative Body member is personally offended by the remarks of another member, the offended Legislative Body member should make notes of the actual words used and call for a "point of personal privilege" that challenges the other member to justify or apologize for the language used. The Presiding Officer will maintain control of this discussion. The right of a

member to address the Legislative Body on a question of personal privilege shall be limited to cases in which his integrity, character, or motives are assailed, questioned, or impugned.

ARTICLE 10 – PARLIAMENTARY PROCEDURES

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10.1 Procedures In Absence Of Rules

(a) Unless otherwise specified in this Manual or by ordinance or resolution, meetings of the Legislative Body shall be conducted ~~in accordance~~ with the most recently revised edition of ~~Robert's~~ Rosenberg's Rules of Order serving as a procedural guideline. In the event of any conflict between ~~Robert's~~ Rosenberg's Rules and this Manual, the provisions of this Manual shall govern.

(b) Any provision of these rules not governed by the Government Code may be temporarily suspended by a two-thirds (2/3) vote of all members of the Legislative Body. Such suspension may be moved at any time by a member. The vote on any such suspension shall be taken by yeas or nays and entered upon the record.

(c) Motions, motion procedures and precedence of motions shall be conducted in accordance with Exhibit "~~A~~BA" hereto.

10.2 Voting

(a) After a full opportunity for debate if it appears that there is a consensus of opinion among the members of the Legislative Body on the matter to be voted upon, the Presiding Officer may state the consensus of the Legislative Body and ask if there is any objection. If there is no objection, the consensus as so stated shall become the order of the Legislative Body. The Presiding Officer may also determine that a consensus exists following a call for a vote by any member of the Legislative Body by a Motion to Call the Question.

(b) Except as in Subsection (a) above, otherwise, all votes of the Legislative Body shall be taken by electronic vote. In the event the electronic voting machine is not functioning or otherwise unavailable, vote shall be by roll call vote. The order voting shall be alphabetical with the Presiding Officer voting last. The Clerk/Secretary shall call the names of all members seated when a roll call vote is ordered or required. Members shall respond 'aye', 'no' or 'abstain.' After every vote, the Legislative Body shall declare the result and, on all but consensus votes, shall note for the record the number of votes for or against the question. The ayes and noes shall be taken upon the passage of all ordinances and resolutions and entered upon the official record of the Legislative Body.

10.3 Votes Needed

(a) Usually, in the absence of a contrary statutory provision (such as urgency measures), a majority of a quorum which constitutes a simple majority of the Legislative Body may act for that body. However, resolutions, orders for the payment of money, and all ordinances require a recorded majority vote of the total membership of a Legislative Body.

(b) State law may dictate certain instances in which the number of votes required is greater than a majority of all Legislative Body members. As a matter of convenience, questions on which the voting requirement is varied by the State statutes and these rules, include, without limitation, the following:

(i) Levying Taxes - Ordinances providing for the Assessment and collection of taxes require the approval of two-thirds of the members of the whole Council.

(ii) Assessment - Assessments require a two-thirds vote of the whole Council.

(iii) Bonds and Certificates of Participation - Authorizing these financial instruments the issuing requires a two-thirds vote of the total Council.

(iv) Eminent Domain - The exercise of Eminent Domain requires a two-thirds vote of the total Council.

(v) Certain Parliamentary Motions – Motions requiring a supermajority vote are noted in ~~the Motions Chart~~Rosenberg's Rules of Order attached hereto.

(c) Any official with a conflict of interest is not counted for purposes of establishing a quorum, and must not vote on, make, participate in any way in, or attempt to influence the decision. A Legislative Body member abstaining on any other grounds than a conflict under the Political Reform Act shall be counted as present for purposes of a quorum and such abstentions are counted with the majority. The Legislative Body member who leaves the dais solely to avoid participating in a specific item shall, in absence of a conflict, be counted as if they were present but abstaining and such abstentions are also counted with the majority.

(d) Reconsider

Any Legislative Body member who voted with the majority may move to reconsider any action at the same meeting or at an adjourned meeting following the meeting at which the action was taken, provided that reconsideration shall not be permitted where a party other than the City has acted in reliance on the Legislative Body's action and would be substantially prejudiced by such reconsideration. The Clerk shall apprise the City Attorney of any facts constituting substantial prejudice and may rely upon the determination of the City Attorney.

- In the event that the subject of the reconsideration is a motion that failed as the result of a tie vote, any Legislative Body member who voted against the earlier motion may move for reconsideration at the following meeting. The member seeking reconsideration must have the matter agendized unless the motion will be made at the same meeting where the original action was taken.
- If the motion to reconsider passes, then the original item may be reconsidered at that time or agendized for the next meeting which meets any applicable noticing requirements.

After a motion for reconsideration has once been acted upon, no other motion for reconsideration thereof shall be made without unanimous consent of the Legislative Body.

(e) Adjournment

To adjourn a meeting, the Presiding Officer shall ask the Legislative Body members whether there is a consensus to adjourn the meeting. If a Legislative Body member makes a motion to adjourn, and this motion is followed by a second, then the Presiding Officer shall have

the Legislative Body members vote on the adjournment motion. The meeting is adjourned if there is a majority vote of the Legislative Body members on a motion or if there is a consensus to adjourn, at which time the Presiding Officer shall pronounce the time that the meeting is adjourned.

10.4 Tie Votes

Tie Votes shall be lost motions unless an additional Motion is made which obtains a majority vote to break the tie. When all Legislative Body members are present, a tie vote on whether to grant an appeal from official action shall be considered a denial of such appeal. In such case the findings in support of the decision shall be those of the lower body. If a tie vote results at a time when less than all members of the Legislative Body are present, the matter shall automatically be continued to the agenda of the next regular meeting of the Legislative Body, unless otherwise ordered by the Legislative Body.

10.5 Abstentions

Members of the Legislative Body are discouraged from abstaining from a vote for reasons other than a legally-disqualifying, financial conflicts of interest. However, if a member chooses to abstain from voting as a result of what he/she perceives as a personal or non-financial conflict of interest, the member may do so after stating for the record the nature of the perceived conflict. In the event of such a perceived conflict (as opposed to a legally disqualifying conflict), the member is not required to leave the dais.

(a) A Legislative Body member shall generally express their positions on all matters except those where they are required to abstain due to legally recognized conflict of interest.

(b) A Legislative Body member who has appealed the action of any person or body of the City on a matter which does not constitute a conflict of interest for the member under any law, may participate in the hearing on the appeal, unless there is clear and convincing evidence that such member is not objective or the member feels that they are unable to remain neutral, or as may be otherwise advised by the General Counsel. Notwithstanding any contrary provisions herein, in bringing an appeal, the Legislative Body member need not give reasons for making the appeal.

(c) A Legislative Body member may abstain from action on a matter where in the member's opinion, there might be a public perception that participation in the discussion or decision would be inappropriate even though the member has no disqualifying financial interest within the meaning of FPPC rules and regulations.

10.6 Votes Of Members Previously Absent

(a) A Legislative Body member who was not present at a meeting should generally not vote on the approval of minutes for that meeting, but the voting on such minutes shall have no effect on the validity of the minutes.

(b) A Legislative Body member may vote on a continued item after an absence from the earlier public hearing of the matter if, prior to the vote, the member affirms on the record that they have familiarized themselves with the record of the earlier meeting and are prepared to vote

on the issue. If the member shall abstain from the vote, the member shall be counted towards the quorum on the issue and the abstention shall be counted with the vote of the majority of the quorum.

(c) The forgoing shall not apply to the matter of a vote on the minutes of a meeting at which the member was not in attendance. In that instance, the member abstaining on the grounds of non-attendance at the meeting to which the minutes pertain shall not be counted towards the quorum on the issue and the abstention shall not be counted with the votes of the majority of the quorum.

10.7 Appeals by Members of Legislative Body

Except where otherwise provided, a member of the Legislative Body shall be deemed an interested person in any matter by a subordinate body and shall have standing to appeal to the Legislative Body any decision by a Sub-Legislative Body, or any determination made by any official of City by filing a written appeal. The appeal shall not state any grounds for the appeal and the resulting hearing shall be *de novo*. The appeal must be filed within 10 days of the making of the decision being appealed and shall be filed with the Clerk/Secretary who shall give written notice to the applicant and provide written notice to other persons as required for the original action. The hearing shall be held at the first regular meeting of the Council for which notice can be legally given. No appeal fee shall be required to be paid for such appeals.

10.8 Findings and Decisions

Decisions of a Legislative Body, when acting as a quasi-adjudicative body (public hearings) should be framed in terms of "findings" of fact, potentially relevant conclusions of law, and ultimate decisions showing the basis for the decision and the nexus between the findings, the conclusions, and the decision. The Legislative Body members must consider any legally-mandated findings applicable to a matter and consider the evidence presented to them in light of such findings in making their decisions.

10.9 Curfew

A 10:00 p.m. curfew is imposed upon City Council meetings. Matters taken up by the Council before 10:00 p.m. may be concluded, but no new matters shall be taken up after 10:00 p.m. except upon a unanimous ~~majority~~ vote of the Council members present, but such extension shall only be valid for one hour and each hour thereafter shall require a renewed action for the meeting to continue. The City Manager shall arrange the regular order of business on Council agendas to minimize any adverse effects this curfew may have regarding the timely conduct of important City business. This Section 10.9 shall supersede Resolution No. 2016-44.

ARTICLE 11 — PROCEDURES FOR CONSIDERATION OF DEMANDS FOR CORRECTIVE ACTION

ARTICLE 11- PROCEDURES FOR CONSIDERATION OF DEMANDS FOR CORRECTIVE ACTION

11.1 Requirement of Written Demand

Prior to any person commencing a judicial action for injunction or mandamus to declare any action taken by the Legislative Body void because of failure to observe Brown Act requirements, such person must first serve upon the Clerk/Secretary a written demand clearly describing the challenged action, the nature of the claimed violation, and the corrective action sought. Such demand must be served upon the Clerk/Secretary within ninety (90) days of the alleged violation or thirty (30) days if the action was taken in open session but in violation of Section 54952.2 of the Government Code. Failure to serve any such demand within this thirty (30) day period shall result in the loss of any right to challenge any action alleged to have been taken in violation of Sections 54953, 54954.2, 54954.5, 54954.6, 54956, or 54956.5 of the Government Code.

If the written demand is timely served, the Legislative Body has up to thirty (30) days to cure and correct its action. If the Legislative Body does not act, any lawsuit must be filed within the next fifteen (15) days.

11.2 Consideration of Corrective Action

Upon receipt of such a demand, consideration of the demand shall immediately be placed on the agenda for the next meeting of the Legislative Body. If the demand is received less than 72 hours prior to the time set for the next meeting, the Legislative Body may determine that the notice constitutes the initiation of litigation, and that the need to take action on the threatened litigation arose subsequent to the posting of the agenda and may consider it at that meeting pursuant to Article 3 Section 13, above. A description of any item so placed on the agenda shall include both consideration of the demand, and the possibility of corrective action by the Legislative Body.

In considering such demands, the Legislative Body shall first determine by motion whether to reconsider the prior action. The motion to reconsider shall be in order as long as made by a party on the prevailing side. If no motion to reconsider is carried the Clerk/Secretary shall inform the demanding party in writing of the Legislative Body's decision not to cure or correct the challenged action.

11.3 Implementing Corrective Action

If a motion to reconsider passes, the Presiding Officer may entertain a motion to take corrective action. Any motion taking corrective action shall address the concerns raised in the consideration of corrective action. The motion taking corrective action may include a motion to rescind prior action taken, as appropriate. Passage of a motion to rescind invalidates prior action only as of the time of the passage of the motion, and not from the date of the initial action. A motion implementing corrective action resulting from a written demand is out of order if the action complained of: (i) was in connection with the sale or issuance of notes, bonds, or other evidence of indebtedness, or any contract, agreement, or incident thereto; (ii) gave rise to a contractual obligation upon which a party has, in good faith, detrimentally relied; or (iii) was taken in connection with the collection of any tax.

In any event, the Legislative Body shall notify the party making the demand in writing of its decision to take corrective action and shall describe any corrective action taken. This notice shall be given to the demanding party as soon as possible after the meeting, but in no event more than 30 days after receipt of the demand.

ARTICLE 12 – MISCELLANEOUS

ARTICLE 12 – MISCELLANEOUS

12.1 Interpretation

This Manual shall be liberally construed to effectuate its purpose and no ordinance, resolution, proceeding or other action of the Legislative Body shall be invalidated, or the legality thereof otherwise affected by the failure or omission of the Legislative Body to technically comply with, observe or follow the within rules. The City Council may, by resolution, adopt further rules of interpretation or practice.

12.2 Amendments

This Manual may be amended from time to time as necessary by resolution passed by a majority vote of the City Council at any regular or special meeting, provided that no such amendment shall be adopted unless at least seven days' written notice thereof has been previously given to all Legislative Body members serving the City. Such notice shall identify the section or sections of the Manual proposed to be amended.

12.3 Power to Issue Subpoenas

The Legislative Body may issue subpoenas requiring attendance of witnesses or production of books or other document for evidence or testimony any action or proceeding pending before it. (Government' Code Section 37104.) Subpoenas shall be signed by the Presiding Officer and attested by the Clerk. They may be served as subpoenas are in civil actions.

EXHIBIT A
Chart of Motions

1. Motions listed in order of precedence

MOTION	YOU SAY THIS	May you interrupt the speaker?	Do you need a second?	Is it debatable?	Can it be amended?	What vote is needed?	Can it be reconsidered?
Adjourn meeting	"I move to adjourn."	No	Yes	No	No	Majority	No
Call an intermission[1]	"I move to recess for…"	No	Yes	No	Yes	Majority	No
Register a complaint	"I rise to a question of privilege"	Yes	No	No	No	None	No (usually)
Temporarily suspend consideration of an issue[2]	"I move to table the motion"	No	Yes	No	No	Majority	No
Close debate	"I move the previous question"	No	Yes	No	No	2/3	No, unless the vote on question has not been taken
Limit or extend debate	"I move that the debate be limited [or "extended"] to…"	No	Yes	No	Yes	2/3	Yes
Give closer study of something[3]	"I move to refer the motion to the committee"	No	Yes	Yes	Yes	Majority	Yes, unless the board has already taken up the subject
Amend a motion	"I move to amend the motion by…"	No	Yes	Yes	Yes	Majority	Yes
Motion to continue to a certain time	"I move that the motion be continued to…"	No	Yes	Yes	No	Majority	Yes
Introduce business (bring a main motion)	"I move that [or "to"]…"	No	Yes	Yes	Yes	Majority	Yes

[1] Should specify period of recess.
[2] A motion to take up a matter previously tabled must be made at the same meeting as the motion to table, If not, the motion tabled dies.
[3] May contain specific instructions for board members and a date fir certain for reconsideration, If not date is not certain, restored by a motion to take up matter previously tabled" which is permissible in this case even if not same or next meeting,

2. Incidental Motions – no order or precedence. Arise incidentally and decided immediately.

MOTION	YOU SAY THIS	May you interrupt the speaker?	Do you need a second?	Is it debatable?	Can it be amended?	What vote is needed?	Can it be reconsidered?
Protest breach of rules (i.e., Point of Order)[4]	"I rise to a point of order…"	Yes	No	No	No	None	No
Motion to appeal the ruling[5]	"I appeal from the decision of the Presiding Officer [or "Chair"]"	Yes	Yes	Yes	No	Majority	Yes
Suspend rules temporarily	"I move to suspend the rules so that …"	No	Yes	No	No	2/3	No
Avoid considering an improper matter	"I object to the consideration of the question…"	Yes	No	No	No	2/3	No, only if the main question or motion was not in fact considered
Divide motion	"I move to divide the question"	No	Yes	No	Yes	Majority	No
Parliamentary law question	Parliamentary inquiry	Yes, if urgent	No	No	No	None	No
Motion to depart from the agenda	"I move to consider matter […] out of order"	No	Yes	Yes	Yes	Majority	Yes
Take up matter previously tabled[6]	"I move to take from the table …"	No	Yes	No	No	Majority	No
Cancel or change previous action[7]	"I move to rescind/amend something previously adopted…"	No	Yes	Yes	Yes	2/3 or majority with notice	No
Reconsider motion	"I move to reconsider the vote on…"	Yes	Yes	Only if motion is debatable[8]			

[4] Decision of the Presiding Officer is final, unless overturned by motion to appeal the ruling.
[5] Presiding Officer may participate in debate, Negative or tie vote sustains ruling.
[6] A motion to take up a matter previously tabled must be made at the same meeting as the motion to table. If not, the motion tabled dies.
[7] Does not void action *ab initio*, only from point of rescission. Motion is out of order if relates to contract upon which another party has detrimentally relied, relates to issuance of bonded indebtedness, or relates to the collection of any tax.
[8] Cannot be made on a quasi judicial matter or matters required a noticed public hearing. Can only ne made by a member who voted with the previously prevailing side, May be made at the same meeting or a subsequent meeting subject to the same restrictions as a motion to rescind.

EXHIBIT AB

(ROSENBERG'S RULES OF ORDER)

EXHIBIT B

BANNING CITY COUNCIL MEETING PRESENTATION POLICY

City Council presentations are for providing information to the Mayor and Council, City management, and the community about activities of interest and value including:

- Activities, events, and infrastructure projects relating to the City.
- Honors and celebrations for organizations, corporations and residents related to Banning.
- Honors and celebrations for organizations, corporations and resident which reflect their service to the Banning community.
- Honors and recognitions for City staff for outstanding service or commitment to the City's mission and goals.
- Please note this is not the appropriate time to seek funds from the City and/or endorsements from City Council or discuss politics.

Presentation Length

All presentations are to be no more than five minutes in length; this is to include all speakers for the group being recognized.

Presentation Schedule

City Council begins at 5:00 p.m. with an invocation and pledge to the American flag followed by presentations. All honorees or groups are to arrive no later than 4:45 p.m.

Presentation Location

Presentations take place in the Council Chambers inside Banning City Hall located at 99 E. Ramsey Street. Parking is available in the Police Department parking lot located at 125 E. Ramsey Street (just off Hays Street) adjacent to the Council Chambers, or in the City Hall parking lot located at the corner of Hays and San Gorgonio.

Presentation Technical Support

The City has the capability to display PowerPoint (or equivalent) during the presentation. If a PowerPoint is to be used during the presentation:

- The PowerPoint is to be no more than 10 slides with limited text; and
- To be submitted to the City Clerk's Office no later than the Thursday prior to the scheduled Tuesday City Council meeting (2nd and 4th Tuesdays of the month).
  - PowerPoints are subject to editing for appropriateness.
  - PowerPoints which do not meet these standards will not be used.

EXHIBIT C
ROSENBERG'S RULES OF ORDER
CHEAT SHEET

To:	You say:	Interrupt Speaker	Second Needed	Debatable	Amendable	Vote Needed
Adjourn	"I move that we adjourn" (Only needed prior to the end of the agenda)	No	Yes	No	No	Majority
Recess/intermission	"I move that we recess until…"	No	Yes	No	Yes	Majority
Complaint about noise, room temp., etc.	"Point of privilege"	Yes	No	No	No	Chair Decides
~~Suspend further consideration of~~Motion to table	"I move that we table it"	No	Yes	No	No	Majority
End debate	"I move the previous question" or "Call the question"	No	Yes	No	No	2/3
Introduce a motion	"I move that…" or "I move to…"	No	Yes	Yes	Yes	Majority
Amend a motion	"I move that this motion be amended by…" (You can also ask for a friendly amendment, which is less formal; if mover and second concur, no vote needed)	No	Yes	Yes	Yes	Majority
Refer to a Committee	"I move that the question be referred to a committee for more study"	No	Yes	Yes	Yes	Majority
Motion to Limit or Extend Debate	"I move to limit debate to _ minutes per speaker" or "I move to extend debate by _ minutes"	No	Yes	No	Yes	2/3
Motion to Withdraw a Motion	"I ~~ask permission to~~ withdraw the motion."	Yes	No	No	No	None
~~Call an Intermission~~	~~"I move to recess for…"~~	~~No~~	~~Yes~~	~~No~~	~~Yes~~	~~Majority~~

~~The above listed motions and points are listed in established order of precedence. When any one of them is pending, you may not introduce another that is listed below, but you may introduce another that is listed above it.~~

To:	You say:	Interrupt Speaker	Second Needed	Debatable	Amendable	Vote Needed
Object to procedure or personal affront	"Point of order"	Yes	No	No	No	Chair decides
Request information	"Point of information"	Yes	No	No	No	None
Reconsider something already disposed of	"I move we now (or later) reconsider our action relative to…" (Only a member of the prevailing side can make a motion to reconsider)	Yes	Yes	Yes	No	Majority
Vote on a ruling by the Chair	"I appeal the Chair's decision"	Yes	Yes	Yes	No	Majority
~~Suspend rules temporarily~~	~~"I move to suspend the rules so that…" (exclusive use for changing the agenda order or extending the meeting time)~~	~~No~~	~~Yes~~	~~No~~	~~No~~	~~2/3~~
~~Motion to depart from the agenda~~	~~"I move to consider matter […] out of order." (temporarily set aside the approved order of business to take up an item out of sequence)~~	~~No~~	~~Yes~~	~~Yes~~	~~Yes~~	~~Majority~~

~~The aforementioned motions, points, and proposals shall not be construed as having any established order of precedence. Any such item may be introduced at any time, except when the assembly is actively engaged in the consideration of one of the three highest-ranking matters as delineated in the initial chart, specifically, a Motion to Adjourn, a Motion to Recess, or a Point of Privilege.~~ ~~The motions, points and proposals listed above have no established order of preference; any of them may be introduced at any time except when meeting is considering one of the top three matters listed from the first chart (Motion to Adjourn, Recess or Point of Privilege).~~

CITY OF BANNING
STAFF REPORT

TO: **CITY COUNCIL**

FROM: **Robert Fisher, Acting City Manager**

PREPARED BY: **David Newell, Community Development Director**

MEETING DATE: **May 27, 2025**

SUBJECT: **Consideration of (1) Resolution 2025-59, Approving the Banning Commerce Center Project by Sansone Group, Including a Design Review Application, Case DR 21-7017, for the Construction of a 1,320,284-Square Foot Industrial Warehouse Building on 131.28-acres of Land Generally Located North of the I-10 Freeway/E. Ramsey Street, East of N. Hathaway Street and Bisected by Wilson Street ("Project Site") and a Tentative Parcel Map Application, Case TPM 38756, for the Subdivision of the 131-28-acre Project Site into Three Numbered Lots for Private Development Improvements and Four Lettered Lots for Right-of-Way and Other Improvements; (2) Resolution 2025-60, Certifying the Environmental Impact Report (SCH No. 2022090102), Adopting Findings and a Statement of Overriding Considerations, and Adopting a Mitigation Monitoring and Reporting Program for the Banning Commerce Center Project Consisting of a 1,320,284-Square Foot Industrial Warehouse Building on 131.28-acres of Land Located on the Project Site; and (3) Introduction and First Reading of Ordinance 1609, Approving a Development Agreement By and Between the City of Banning and JDJN Enterprises, LLC, a Missouri Limited Liability Corporation**

RECOMMENDATION:

1. Adopt Resolution 2025-59.
2. Adopt Resolution 2025-60.
3. Introduce and conduct first reading of, by title only, Ordinance 1609: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING A DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF BANNING AND JDNJ ENTERPRISES, LLC, A MISSOURI LIMITED LIABILITY CORPORATION

BACKGROUND:

At its regular meeting of May 13, 2025, the City Council held a public hearing and considered the subject applications. After closing the public hearing and deliberating, the Council continued the applications to its next regular meeting of May 27, 2025, with the following direction:

1. Include the EIR Findings/Statement of Overriding Considerations as an attachment to Resolution 2025-60 (rather than as a reference document held in the Clerk's office)
2. Provide additional clarifying information on Planning Commission concerns
3. Provide additional information on the Community Facilities District (CFD) fee ($.10 per sq. ft.) in the Development Agreement

As a result, staff has revised and included attachments to this report as follows:

- Revised Resolution 2025-60 to include Exhibit 2 (Findings of Fact and Statements of Overriding Considerations) and Exhibit 3 (Mitigation Monitoring and Reporting Program)
- Included the March 5, 2025 Planning Commission meeting minutes as an attachment
- Revised Exhibit B (Public Works Conditions) of Resolution 2025-59 to include conditions on improvements to Hathaway Street under Condition of Approval, PW.Street 42.
- Included a fiscal analysis report provided by the Applicant as an attachment

As noted in the fiscal impact analysis report, it is anticipated that the project would result in a net increase of recurring revenues amounting to $505,215 annually. The report cites total recurring revenues of $869,954 annually and total recurring expenditures of $364,739 annually, which results in the net increase of $505,215 to the City's annual revenues. The CFD would augment the annual revenue generated by the Project and provide an additional $132,000 annually toward maintenance and services within the boundary of the CFD once established, which further reduces impacts to the City's finances. Further, the developer will be paying $9-million toward transportation improvements and $357,000 per megavolt amperes based on the user's electrical load.

As shown in the attached meeting minutes, the Planning Commission had a majority support for the approval of the project. The Commission included conditions to require revisions to the development agreement to address City Attorney requests, improve Hathaway to minimize and reduce transportation/traffic safety impacts, and require local hiring. All of these items were addressed prior to City Council review on May 13th, as part of the revisions to the draft development agreement, and staff has further incorporated traffic improvements in the Public Works Conditions to further ensure Hathaway improvements are addressed prior to occupancy of the building. The Commissioners opposing the motion identified concerns with the Multiple Species Habitat Conservation Plan (MSHCP) compliance, Airport Land Use Commission (ALUC) review status, and the analysis of cumulative impacts traffic impacts. The Applicant has identified the steps taken to address MSHCP compliance, including meeting with various agencies having jurisdiction, providing on-site mitigation, and conducting additional mitigation as identified in the Final EIR and MMRP. Since the Planning Commission decision, the Applicant has completed the ALUC review process and the project has been found to be consistent with the County's Compatibility Plan. Lastly, the cumulative impacts analyzing traffic impacts did not include the existing warehouse south of the freeway, based on industry standards and normal practices for traffic analysis and due to the analysis accounting for future growth which would capture the increase in traffic upon occupancy of said warehouse.

JUSTIFICATION:

In order to approve the subject applications, the City Council is required to make findings pursuant to BZO Section 17.56.050 (Design Review), Section 66474 of the Subdivision Map Act (Tentative Map), and BZO Section 17.60.030(C) (Development Agreement). The Planning Commission recommended approval of these applications pursuant to the findings in Planning Commission Resolution 2025-04. The findings are included in the draft resolution and ordinance attached to this report.

Design Review:

BZO Section 17.56.050 requires that four findings be met to justify approval of a Design Review application. The Planning Commission found the following:

Finding A: The proposed use is consistent with the General Plan.

Finding of Fact: Proposed Design Review 21-7017 is consistent with the General Plan Land Use Element Policy, which states: “The land–use map shall provide for sufficient lands to provide a large range of products and services to the City and the region while carefully considering compatibility with adjacent residential lands.” The subject property is designated Business Park (BP) on the General Plan land use map. The proposed use is consistent with the BP land-use designation and is a permitted use within the zoning district. This land use designation includes industrial parks and freestanding industrial users. Examples of permitted uses include light and medium intensity manufacturing operations, warehousing and distribution, ministorage, and associated offices. Further, Design Review 21-7017 is

consistent with General Plan Economic Development Policy, which states: “The City shall take a proactive role in the retention of existing businesses and the recruitment of new businesses, particularly those that generate and broaden employment opportunities, increase discretionary incomes, and contribute to City General Fund revenues.” Approval of proposed Design Review 21-7017 would allow the applicant to promote business diversity, while providing an economic benefit to the City.

Finding B: The proposed use is consistent with the Zoning Ordinance, including the development standards and guidelines for the district in which it is located.
Finding of Fact: The proposed Project is an approximately 1,320,284 square-foot light industrial speculative warehouse facility and is consistent with the Zoning Ordinance and development standards. Warehousing and distribution are permitted uses in the Business Park zone and the Project will provide adequate parking and landscaping. Additionally, all setbacks, height requirements and other applicable standards and design guidelines have been satisfied.

Finding C: The design and layout of the proposed project will not unreasonably interfere with the use and enjoyment of neighboring existing or future development, and will not result in vehicular and/or pedestrian hazards.
Finding of Fact: The design and layout of the proposed Project is consistent with the development standards and design standards of the Banning Municipal Code. The proposed design and layout will not create any new interference with pedestrian or vehicular traffic paths of the neighboring properties or future development. Additionally, the Project proposes street frontage and circulation improvements with access to the street to be provided by driveways from Wilson Street and the intersection of Nicolet and O’Donnell Streets, and will not result in hazards for vehicles or pedestrians. The Project is conditioned to provide additional right-of-way fronting onto O’Donnell Street and to improve the roadway for Wilson Street into the site to its ultimate configuration.

Finding D: The design of the proposed project is compatible with the character of the surrounding neighborhood.
Finding of Fact: The Project is a new construction development with a proposed 1,320,284 square-foot light industrial speculative warehouse facility, which will be compatible with adjacent Industrial and other non-residentially zoned properties to the north, south, and east. The Project is considered an Industrial use. Landscaping is required to maintain the character of the surrounding neighborhood.

Tentative Parcel Map:
Pursuant to Section 66474 of the Subdivision Map Act, there are seven findings that must be met to justify approval of a Tentative Map application. The Planning Commission found the following:

Finding A: The proposed Tentative Tract Map or Tentative Parcel Map is consistent with all applicable general and specific plans.
Finding B: The design and improvements of the proposed Tentative Tract Map or Tentative Parcel Map is consistent with the zone in which the property is located.
Findings of Fact: The City’s General Plan land use designation and Zoning Map will continue to indicate the designation of the project site as “Business Park,” and the proposed Map provides for the accommodation of seven (7) new parcels, consisting of a variety of industrial and civic uses, lot types and sizes ranging from 1.34-acres to 89.5-acres, common open spaces, and circulation and other public improvements. The proposed map furthers the objectives and policies of the General Plan in that 89.5 acres of the project area is dedicated to industrial development, and 17.23-acres will be dedicated to new right-of-way improvements.

Finding C: The site of the proposed map is physically suitable for the type of development proposed.
Finding D: The subject site is physically suitable for the proposed density of development.
Finding of Fact: The 131.28-acre Project site is currently vacant and undeveloped. The Project site has gentle sloping and does not contain drastic elevation changes over short distances. The Project site has elevations ranging between 2,325 feet above mean sea level (amsl) on the northwest corner of the

Project site at the intersection of Hathaway Street and Morongo Road, and 2,152 ft amsl on the southeast corner of the Project site. There is approximately 173 ft of elevation difference across the Project site and the site gradient is approximately 3.8 percent. The existing drainage pattern for the Project site is characterized by sheet flows across the Project site to the southeasterly corner of the Project site. Runoff is captured by an existing earthen ditch on the southern boundary of the Project site and is conveyed easterly into the California Department of Transportation right-of-way. The Project site lies within the San Gorgonio River Watershed and ultimately discharges into the Salton Sea. The proposed map as conditioned, including the mitigation measures contained within the Final Environmental Impact Report and the Mitigation Monitoring Reporting Program will ensure that the Project's development is in accordance with and will implement the public improvements and mechanisms whereby the necessary facilities and resources will be available for future uses.

Finding E: The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
Finding of Fact: With the exception of the significant and unavoidable environmental effects of the project identified in the FEIR and the MMRP, the design of the subdivision and proposed improvements are not expected to cause substantial environmental damage or to substantially injure fish or wildlife or their habitat. The project site is not in a linkage designated under the MSHCP that is a connection between substantial habitat blocks with adequate size, configuration, and vegetation characteristics to generally provide for "live-in" habitat and/or provide for genetic flow for identified covered species. Significant cumulative effects of the project on the MSHCP-covered plans and wildlife, wildlife movement, riparian/riverine areas and habitat connectivity are fully mitigated by the City of Banning's signatory status under the MSHCP and the requisite measures for mitigation of project-specific impacts to the burrowing owl, Los Angeles pocket mouse and Stephens' kangaroo rat and these species' habitat. Cumulative effects not specially covered under the MSHCP are nevertheless mitigated to less than significant levels by the broad range of habitats covered by the MSHCP, project design features and mitigation measures required for the proposed project, and payment of the MSHCP mitigation fee.

Finding F: The design of the proposed map, and its proposed design and improvements, is not likely to cause serious public health problems.
Finding of Fact: The design of the subdivision is in conformance with the City's General Plan, Zoning Ordinance and Subdivision Ordinance. Moreover, the future construction of the Banning Commerce Center development project will comply with all applicable City of Banning Ordinances, codes, and standards including but not limited to the California Uniform Building Code, the City's Ordinances relating to Stormwater runoff management and controls. The design and construction of all improvements for the subdivision will be in conformance with the City of Banning General Plan Circulation Element which establishes the general layout and design standards or the major vehicular roadways and non-vehicular paths within the project area. The proposed street improvements and internal circulation have been created based on currently accepted standards and practices for the preservation of the public health, safety and welfare, and are in compliance with the General Plan Circulation Element. By means of the project's circulation design, the proposed street system throughout the Project area will not impede emergency vehicle access and response times throughout the neighborhoods.

Finding G: The design of the proposed map, and its proposed design and improvements, will not conflict with easements, acquired by the public at large, for access through or use of property, within the proposed subdivision.
Finding of Fact: The subdivision design with any easements acquired by the public at large for access through or use of the property. The design of the subdivision and type of improvements will maintain or reconfigure easements when necessary for public access and services, abandon those easements no longer needed for public purposes, and dedicate new easements as needed to provide for public access and services through the property within the proposed subdivision.

Development Agreement:
BZO Section 17.60.030(C) requires that two findings be met to justify approval of a Development

Agreement. The Planning Commission found the following:

Finding A: The proposed Development Agreement via adoption and certification of the Final Environmental Impact Report, and approval of the Design Review and Tentative Parcel Map will be consistent with the General Plan and Zoning Map.
Findings of Fact: In accordance with the Banning Municipal Code, the Development Agreement contains provisions that set forth a defined term, the specific types, density, and intensity of uses allowed, reservations or dedication of land for public purposes, a limited stay on future development fee increases; and processes for reviewing related future approvals and amending the Development Agreement. Approval of the Development Agreement would provide for the orderly development of the Project and necessary infrastructure improvements.

Finding B: The proposed Development Agreement would promote the welfare and the interest of the City.
Findings of Fact: The Development Agreement incorporates provisions for financing, acquisition, and construction of infrastructure, for the Banning Commerce Center Project, as well as acquisition and development of public street improvements. The DA would grant the applicant vested rights to development of the Project in accordance with a phasing plan and other City approvals in exchange for certain financial contributions, including a substantial public benefit fee, and other consideration to be received by the City.

FISCAL IMPACT:

Fiscal impacts will be offset by fees and improvement costs paid by the developer, including permit applications, impact fees, and roadway and other public improvements. In addition, the City will receive directly benefit financially by the following negotiated items, which are beyond the typical fees paid by a development application if the development agreement is approved:
1. $9,000,000 in payments to the City for funding transportation-related costs toward roadways/interchanges
2. $357,000 payment for per megavolt-amperes (MVA), based on the requested electrical load
3. $0.10 per sq. ft. annually (with annual CPI escalator) as part of a community facilities district to pay for on-going maintenance costs of public streets, public facilities and parks, and other related improvements and maintenance in the District; this would amount to over $132,000 in annual revenue to offset maintenance costs and other city services as specified in the CFD once established.

As noted in the fiscal impact analysis report, it is anticipated that the project would result in a net increase of recurring revenues amounting to $505,215 annually. The report cites total recurring revenues of $869,954 annually and total recurring expenditures of $364,739 annually, which results in the net increase of $505,215 to the City's annual revenues. The CFD would augment the annual revenue generated by the Project and provide an additional $132,000 annually toward maintenance and services within the boundary of the CFD once established, which further reduces impacts to the City's finances.

ALTERNATIVES:

1. Modify the conditions for approval based on evidence received during the hearing
2. Provide alternate responses to the required findings and direct staff to return with resolution ratifying a different decision

BUDGETED?:

No

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. CC Resolution 2025-59 (compiled)

2. CC Resolution 2025-60 (compiled)
3. Ordinance 1609
4. Draft Development Agreement
5. Applicant Response to PC Concerns
6. Riverside Co ALUC Approval Ltr
7. EIR and Appendices Links
8. Preliminary Site, Grading, and Street Plans
9. Floor Plan and Elevations
10. Landscape Plan
11. Tentative Parcel Map, TPM 38576
12. Aerial and Vicinity Maps
13. Public Hearing Notice - City Council 5-13-25 Meeting
14. Notice of Continuation - City Council 5-27-2025
15. Fiscal Impact Analysis 7-1-24
16. Planning Commission Meeting Minutes 3-5-25

RESOLUTION 2025-59

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE BANNING COMMERCE CENTER PROJECT BY SANSONE GROUP, INCLUDING A DESIGN REVIEW APPLICATION, CASE DR 21-7017, FOR THE CONSTRUCTION OF A 1,320,284-SQUARE FOOT INDUSTRIAL WAREHOUSE BUILDING ON 131.28-ACRES OF LAND GENERALLY LOCATED NORTH OF THE I-10 FREEWAY/E. RAMSEY STREET, EAST OF N. HATHAWAY STREET AND BISECTED BY WILSON STREET, WITHIN THE BUSINESS PARK ZONE.

WHEREAS, Sansone Group submitted applications for a Design Review (Case DR 2021-7017), Tentative Parcel Map (Case TPM 38756), and Development Agreement with the City of Banning, for the development of industrial uses within a proposed 1,320,204-square foot building on a 131.28-acre project site located north of I-10 Freeway/East Ramsey Street, East of N. Hathaway Street, and bisected by Wilson Street on assessor's parcel numbers (APNs) 532-030-008, 532-030-009, 532-080-008, 532-080-010, 532-090-026, 532-090-028, 532-090-030, 532-110-015 (collectively, the "Project"); and

WHEREAS, pursuant to Section 17.04.060.A. of the Banning Zoning Ordinance (BZO), the City Council has the authority to review and approve or conditionally approve the subject applications, including determinations on any associated environmental impacts in accordance with the California Environmental Quality Act (CEQA) for the Project; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA) and State CEQA Guidelines Sections 15064(f)(2) and 15070, the proposal constitutes a project as defined by CEQA and Community Development Department staff has determined that the Project is likely to have a significant effect on the environment; and

WHEREAS, based upon the complexity and magnitude of the proposed Project, staff determined that an Environmental Impact Report should be prepared for the Project. A Notice of Preparation (NOP) was subsequently completed and distributed to the State Clearinghouse, as well as agencies and organizations that may provide comment on the Project's potential impact(s) on the environment; and

WHEREAS, the State of California Clearinghouse issued a project number for the project, SCH No. 2022090102. The 30-day public comment period extended from September 2 to October 3, 2022. An electronic copy of the NOP was made available on the City's website. Comments received during the public review of the NOP were utilized to assist in identifying potential environmental impact; and

WHEREAS, the Public Scoping meeting was held in person at the City of Banning Council Chambers and virtually via Zoom on September 20, 2022. Notice of the Public Scoping Meeting was published in the Banning Record Gazette on September 2, 2022 providing the appropriate instructions for public participation in the Scoping Meeting. The Public Scoping Meeting included a presentation providing a summary of the Project,

required actions, and the environmental review process. No public comments were received during the Scoping Meeting; and

WHEREAS, the Banning Commerce Center development project would result in construction and operational activities upon a currently undeveloped, vacant site. Such activities could potentially uncover Native American historical or archaeological resources unknown prior to ground disturbing activities; therefore, Native American consultation pursuant to both SB 18 and Assembly Bill 52 (AB 52) was conducted. On September 14, 2022 the City reached out to Native American contacts to formally invite participation in tribal consultation pursuant to AB 52 and SB 18 required for the Project. The City received responses from the Morongo Band of Mission Indians (MBMI) requesting formal consultation with the City regarding the Development Project, and the Yuhaaviatam of San Manuel Nation (formerly known as the San Manuel Band of Mission Indians) with YSMN stating that the development project is outside of their ancestral territory; and

WHEREAS, a Notice of Availability (NOA) of the Draft EIR was provided to, responsible and trustee agencies, as well as the organizations, and persons who have previously requested notification. The NOA was distributed via priority mail with confirmed receipt. The NOA identified the State mandated 45-day public review period extending from June 17, 2024 to August 2, 2024 and included a weblink to the City's public noticing page providing further access to the Draft EIR, project material, and related technical appendices. Emails advising of the availability of the Draft EIR were sent by the City on June 17, 2024 to those parties requesting electronic notification. These emails provided the same weblink leading to the Draft EIR; and

WHEREAS, during the public review and comment period, the City received 14 letters from Resource Agencies, Trustee Agencies, and other interested parties. The City prepared a response to each comment letter received and prepared a Final Environmental Impact Report for the Project; and

WHEREAS, in accordance with the disclosure requirements of CEQA Guidelines Section 15072(g)(5), the Project site is not listed as a hazardous property as designated under Section 65962.5 of the Government Code; and

WHEREAS, in accordance with Government Code Sections 65353, 65854, 65090, and 65091, on February 21, 2025, the City provided public notice by advertisement in the Record Gazette newspaper of a public hearing concerning the Project, and Notice of Intent (NOI) to recommend that the City Council adopt a Final Environmental Impact Report (FEIR) for the Project. The public hearing notice/NOI was also mailed to the owners of the subject properties within 300-feet of the Project boundary on February 20, 2025; and

WHEREAS, in accordance with Government Code Sections 65353 and 65855, on March 5, 2025, the Planning Commission held the duly noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to the Project

and at which time the Planning Commission considered the entirety of the Project and voted 3-2 to recommend that the City Council approve the subject applications; and

WHEREAS, in accordance with Government Code Sections 65353, 65854, 65090, and 65091, on May 2, 2025, the City provided public notice by advertisement in the Record Gazette newspaper of a public hearing concerning the Project, and Notice of Intent (NOI) to adopt a Final Environmental Impact Report (FEIR) for the Project. Said public hearing notice/NOI was also mailed to the owners of the subject properties within 300-feet of the Project boundary on May 1, 2025; and

WHEREAS, in accordance with Government Code Sections 65353 and 65855, on May 13, 2025, the City Council held the duly noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to the Project and at which time the City Council considered the entirety of the Project, including the EIR, CEQA Findings, and the Mitigation Monitoring and Reporting Plan, and continued the matter to a date certain of May 27, 2025; and

WHEREAS, at its regularly scheduled meeting of May 27, 2025, the City Council continued its deliberation of the Project and further considered the entirety of the Project, including the EIR, CEQA Findings, and the Mitigation Monitoring and Reporting Plan.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. RECITALS. The foregoing recitals are true and correct and are incorporated herein by this reference.

SECTION 2. CEQA COMPLIANCE. The adoption of City Council Resolution 2025-60 serves as the environmental determination on the Project and the Applicant is required to comply with the MMRP.

SECTION 3. FINDINGS FOR DESIGN REVIEW APPLICATION, CASE DR 21-7017. BZO Section 17.56.050 requires that four findings be met to justify approval of a Design Review application. The Planning Commission found the following:

Finding A: The proposed use is consistent with the General Plan.
Finding of Fact: Proposed Design Review 21-7017 is consistent with the General Plan Land Use Element Policy, which states: “The land–use map shall provide for sufficient lands to provide a large range of products and services to the City and the region while carefully considering compatibility with adjacent residential lands.” The subject property is designated Business Park (BP) on the General Plan land use map. The proposed use is consistent with the BP land-use designation and is a permitted use within the zoning district. This land use designation includes industrial parks and freestanding industrial users. Examples of permitted uses include light and medium intensity manufacturing operations, warehousing and distribution, ministorage, and associated offices. Further, Design Review 21-7017 is consistent with General Plan Economic Development Policy,

which states: “The City shall take a proactive role in the retention of existing businesses and the recruitment of new businesses, particularly those that generate and broaden employment opportunities, increase discretionary incomes, and contribute to City General Fund revenues.” Approval of proposed Design Review 21-7017 would allow the applicant to promote business diversity, while providing an economic benefit to the City.

Finding B: The proposed use is consistent with the Zoning Ordinance, including the development standards and guidelines for the district in which it is located.

Finding of Fact: The proposed Project is an approximately 1,320,284 square-foot light industrial speculative warehouse facility and is consistent with the Zoning Ordinance and development standards. Warehousing and distribution are permitted uses in the Business Park zone and the Project will provide adequate parking and landscaping. Additionally, all setbacks, height requirements and other applicable standards and design guidelines have been satisfied.

Finding C: The design and layout of the proposed project will not unreasonably interfere with the use and enjoyment of neighboring existing or future development, and will not result in vehicular and/or pedestrian hazards.

Finding of Fact: The design and layout of the proposed Project is consistent with the development standards and design standards of the Banning Municipal Code. The proposed design and layout will not create any new interference with pedestrian or vehicular traffic paths of the neighboring properties or future development. Additionally, the Project proposes street frontage and circulation improvements with access to the street to be provided by driveways from Wilson Street and the intersection of Nicolet and O’Donnell Streets, and will not result in hazards for vehicles or pedestrians. The Project is conditioned to provide additional right-of-way fronting onto O’Donnell Street and to improve the roadway for Wilson Street into the site to its ultimate configuration.

Finding D: The design of the proposed project is compatible with the character of the surrounding neighborhood.

Finding of Fact: The Project is a new construction development with a proposed 1,320,284 square-foot light industrial speculative warehouse facility, which will be compatible with adjacent Industrial and other non-residentially zoned properties to the north, south, and east. The Project is considered an Industrial use. Landscaping is required to maintain the character of the surrounding neighborhood.

SECTION 4. FINDINGS FOR TENTATIVE PARCEL MAP APPLICATION, CASE TPM 38756, APPLICATION. Pursuant to Section 66474 of the Subdivision Map Act, there are seven findings that must be met to justify approval of a Tentative Map application. The Planning Commission found the following:

Finding A: The proposed Tentative Tract Map or Tentative Parcel Map is consistent with all applicable general and specific plans.

Finding B: The design and improvements of the proposed Tentative Tract Map or Tentative Parcel Map is consistent with the zone in which the property is located.

Findings of Fact: The City's General Plan land use designation and Zoning Map will continue to indicate the designation of the project site as "Business Park," and the proposed Map provides for the accommodation of seven (7) new parcels, consisting of a variety of industrial and civic uses, lot types and sizes ranging from 1.34-acres to 89.5-acres, common open spaces, and circulation and other public improvements. The proposed map furthers the objectives and policies of the General Plan in that 89.5 acres of the project area is dedicated to industrial development, and 17.23-acres will be dedicated to new right-of-way improvements.

Finding C: The site of the proposed map is physically suitable for the type of development proposed.

Finding D: The subject site is physically suitable for the proposed density of development.

Finding of Fact: The 131.28-acre Project site is currently vacant and undeveloped. The Project site has gentle sloping and does not contain drastic elevation changes over short distances. The Project site has elevations ranging between 2,325 feet above mean sea level (amsl) on the northwest corner of the Project site at the intersection of Hathaway Street and Morongo Road, and 2,152 ft amsl on the southeast corner of the Project site. There is approximately 173 ft of elevation difference across the Project site and the site gradient is approximately 3.8 percent. The existing drainage pattern for the Project site is characterized by sheet flows across the Project site to the southeasterly corner of the Project site. Runoff is captured by an existing earthen ditch on the southern boundary of the Project site and is conveyed easterly into the California Department of Transportation right-of-way. The Project site lies within the San Gorgonio River Watershed and ultimately discharges into the Salton Sea. The proposed map as conditioned, including the mitigation measures contained within the Final Environmental Impact Report and the Mitigation Monitoring Reporting Program will ensure that the Project's development is in accordance with and will implement the public improvements and mechanisms whereby the necessary facilities and resources will be available for future uses.

Finding E: The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

Finding of Fact: With the exception of the significant and unavoidable environmental effects of the project identified in the FEIR and the MMRP, the design of the subdivision and proposed improvements are not expected to cause substantial environmental damage or to substantially injure fish or wildlife or their habitat. The project site is not in a linkage designated under the MSHCP that is a connection between substantial habitat blocks with adequate size, configuration, and vegetation characteristics to generally provide for "live-in" habitat and/or provide for genetic flow for identified covered species. Significant cumulative effects of the project on the MSHCP-covered plans and wildlife, wildlife movement, riparian/riverine areas and habitat connectivity are fully mitigated by the City of Banning's signatory status under the MSHCP and the requisite measures for

mitigation of project-specific impacts to the burrowing owl, Los Angeles pocket mouse and Stephens' kangaroo rat and these species' habitat. Cumulative effects not specially covered under the MSHCP are nevertheless mitigated to less than significant levels by the broad range of habitats covered by the MSHCP, project design features and mitigation measures required for the proposed project, and payment of the MSHCP mitigation fee.

Finding F: The design of the proposed map, and its proposed design and improvements, is not likely to cause serious public health problems.

Finding of Fact: The design of the subdivision is in conformance with the City's General Plan, Zoning Ordinance and Subdivision Ordinance. Moreover, the future construction of the Banning Commerce Center development project will comply with all applicable City of Banning Ordinances, codes, and standards including but not limited to the California Uniform Building Code, the City's Ordinances relating to Stormwater runoff management and controls. The design and construction of all improvements for the subdivision will be in conformance with the City of Banning General Plan Circulation Element which establishes the general layout and design standards or the major vehicular roadways and non-vehicular paths within the project area. The proposed street improvements and internal circulation have been created based on currently accepted standards and practices for the preservation of the public health, safety and welfare, and are in compliance with the General Plan Circulation Element. By means of the project's circulation design, the proposed street system throughout the Project area will not impede emergency vehicle access and response times throughout the neighborhoods.

Finding G: The design of the proposed map, and its proposed design and improvements, will not conflict with easements, acquired by the public at large, for access through or use of property, within the proposed subdivision.

Finding of Fact: The subdivision design with any easements acquired by the public at large for access through or use of the property. The design of the subdivision and type of improvements will maintain or reconfigure easements when necessary for public access and services, abandon those easements no longer needed for public purposes, and dedicate new easements as needed to provide for public access and services through the property within the proposed subdivision.

SECTION 5. APPROVAL OF APPLICATIONS. Based on the foregoing recitals, facts, and findings, and the entirety of the administrative record, the City Council hereby approves the Banning Commerce Center Project Applications, including Design Review, Case DR 21-7017, and Tentative Parcel Map, Case TPM 38756, subject to the conditions contained in Exhibit A and Exhibit B.

SECTION 6. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 13th day of May, 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

John Pinkney, Interim City Attorney
Slovak, Baron, Empey, Murphy & Pinkney, LLP

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-59, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 13th day of May, 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

EXHIBIT A
Community Development Conditions

PROJECT: DR 21-7017, TPM 38756
SUBJECT: Conditions of Approval (City Council Resolution 2025-59)
APPLICANT: Sansone Group
LOCATION: TTM 38756 (North of I-10 Freeway/East Ramsey Street, east of N. Hathaway Street, and bisected by Wilson Street on Assessor's Parcel Numbers (APNs) 532-030-008, 532-030-009, 532-080-008, 532-080-010, 532-090-026, 532-090-028, 532-090-030, 532110-015)

EXHIBIT A
City Council Resolution 2025-59

***All fair share agreements, covenant agreements and agreements subject to recordation will be subject to review and approval by the City Attorney and will include appropriate enforcement provisions by the City and be properly securitized.**

Community Development Department

1. The construction and operation of the Banning Commerce Center Project ("Project") shall always comply with all federal, state, County and City laws, codes, regulations, and standards, including those that relate to hazardous materials.

2. The applicant shall indemnify, protect, defend, and hold harmless, the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, from any and all claims, demands, lawsuits, writs of mandamus, and other actions and proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolutions procedures (including, but not limited to, arbitrations, mediations, and other such procedures) (collectively "Actions"), brought against the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul, the action of, or any permit or approval issued by, the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City), for or concerning the Project, whether such actions are brought under the California Environmental Quality Act (CEQA), State Planning and Zoning Law, the Subdivisions Map Act, Code of Civil Procedure Sections 1085 or 1094.5, or any other state, federal, or local statute, law, ordinance, rule, regulation, or any decision of a competent jurisdiction. It is expressly agreed that the City shall have the right to approve, which approval will not be unreasonably withheld, the legal counsel providing the City's defense, and that applicant shall reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. City shall promptly notify the applicant of any Action brought and City shall cooperate with applicant in the defense of the Action.

3. Approval of these entitlements shall not waive compliance with any sections of the CA Government Code, Banning Municipal Code (BMC), or other applicable City ordinances, in effect at the time of building permit issuance.

4. A copy of the signed Resolution of approval and these conditions of approval imposed on the Banning Commerce Center development project and TPM 38756 shall be reproduced in legible form on the improvement plans submitted for review and approval as required by the reviewing department.

5. Prior to any occupancy/use of the Project site, or business activity being commenced thereon, the applicant shall complete these conditions of approval to the satisfaction of the Community Development Director.

6. The subject property shall be operated and maintained in accordance with the site plans stamped approved by the City and on file in the Planning Division, the conditions contained herein, and the applicable regulations within the BMC.

7. The Applicant shall complete any/all improvements to the site contained in the Subdivision Improvement Agreement for TM 38756, unless otherwise stated in the Development Agreement.

8. The Applicant shall be responsible for completion of all Performance and Labor and Material Bonds under the approval for TM 38756.

9. Prior to release of performance bonds, the developer shall complete all public improvements including street widening, sidewalks, connections to sidewalks and trails within the development, providing ease of access to common open spaces and amenities.

10. The Applicant shall provide evidence that the fully executed Development Agreement for the project has been recorded, and a perfected copy of the recorded documents shall be provided to the Community Development Department, Planning Division.

11. The Planning Division shall prepare and present to the City Council an annual performance report for the Development Agreement to ensure that project milestones have been completed pursuant to the terms of the Development Agreement.

12. All phases of site preparation, grading, construction, and operations shall adhere to the Mitigation Measures contained within the Mitigation Monitoring and Reporting Program.

The following mitigation measures are deemed feasible and are made binding through the MMRP. Imposition of these mitigation measures will reduce potentially significant impacts to less than significant and included as conditions of approval for the project as follows:

13. MM BIO-1 MSHCP Burrowing Owl 30-Day Preconstruction Surveys
In order to avoid Project-related impacts to burrowing owls potentially occurring on or in the vicinity of the Project site and violation of the Burrowing Owl Protocol and the California Fish and Game Code 3503, 3503.5, and 3513, a 30-day preconstruction survey presence/absence survey for burrowing owl within the Impact Site (and 500-foot survey buffer) in accordance with the March 2006 Burrowing Owl Survey Instructions for the Western Riverside County MSHCP Area shall be conducted by a qualified prior to initial ground disturbing activities (e.g., vegetation clearing, clearing and grubbing, grading, tree removal, site watering, equipment staging) to ensure that no owls have colonized the site in the days or weeks preceding the ground disturbing activities. In addition, a preconstruction survey for burrowing owl shall be conducted within 3 days prior to initiation of Project activities and reported to CDFW.

If no burrowing owls are observed during the survey, site preparation and construction activities may begin. If burrowing owls have colonized the project site prior to the initiation of ground-disturbing activities, the project proponent will immediately stop work and inform the City of Banning and the Wildlife Agencies (California Department of Fish and Wildlife [CDFW] and US Fish and Wildlife Service [USFWS]). In consultation with the Wildlife Agencies additional avoidance and minimization measures shall be undertaken including the possibility of preparing a Burrowing Owl Protecting and Relocation Plan, prior to initiating ground disturbance. CDFW shall be sent written notification within 48 hours of detection of burrowing owls. If active nests are identified on an implementing Project site during the pre-construction survey, the Project applicant shall not commence activities until no sign is present that the burrows are being used by adult or juvenile owls or following CDFW approval of a Burrowing Owl Plan as described below. If owl presence is difficult to determine, a qualified biologist shall monitor the burrows with motion-activated trail cameras for at least 24 hours to evaluate burrow occupancy. The on-site qualified biologist will verify the nesting effort has finished according to methods identified in the Burrowing Owl Plan.

The qualified biologist and Project Applicant shall coordinate with the City, CDFW, and USFWS to develop a Burrowing Owl Plan to be approved by the City, CDFW, and USFWS prior to commencing Project activities. The Burrowing Owl Plan shall describe proposed avoidance, relocation, monitoring, minimization, and/or mitigation actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites and details on proposed buffers if avoiding the burrowing owls or information on the adjacent or nearby suitable habitat available to owls for relocation. If no suitable habitat is available nearby for relocation, details regarding the creation and funding of artificial burrows (numbers, location, and type of burrows) and management activities for relocated owls shall also be included in the Burrowing Owl Plan. The City will implement the Burrowing Owl Plan following CDFW and USFWS review and approval.

If active burrowing owl burrows are detected within Impact Site(s) during Project implementation and construction, the Project applicant shall notify CDFW immediately in writing within 48 hours of detection. A Burrowing Owl Plan will be submitted to CDFW for review and approval within two weeks of detection and no Project activity will continue within 1,000 feet of the burrowing owls until CDFW approves the Burrowing Owl Plan. The City shall be responsible for implementing appropriate avoidance and mitigation measures, including burrow avoidance, passive or active relocation, or other appropriate mitigation measures as identified in the Burrowing Owl Plan. A final report shall be prepared by a qualified biologist documenting the results of the burrowing owl surveys and detailing avoidance, minimization, and mitigation measures. The final report will be provided to City of Banning and CDFW within 30 days of completion of the survey and burrow monitoring for mitigation monitoring compliance record keeping.

14. MM BIO-2 Nesting Bird Preconstruction Surveys

Regulatory requirement for potential direct/indirect impacts to nesting common and sensitive bird species will require compliance with the Migratory Bird Treaty Act and California Fish and Game (CDFG) Code Section 3503, 3503.5, and 3513. Site preparation activities (such as ground disturbance, construction activities, and/or removal of trees and vegetation) should be conducted, to the greatest extent possible, outside of the peak nesting season. Regardless of the time of year, a qualified biologist shall conduct a nesting bird survey within three days prior to any disturbance of the site, including disking, vegetation grubbing, and grading.

The survey(s) will focus on identifying any bird nests that would be directly or indirectly affected by construction activities. The survey area will include the Project impact footprint and a 500-foot buffer where legal access is granted around the disturbance footprint. Within 72 hours of the

nesting bird survey, all areas surveyed by the biologist will be cleared by the Contractor or a supplemental nesting bird survey is required. The survey results shall be provided to the City's Planning Department. The Project Applicant shall adhere to the following:

1. Applicant shall designate a biologist (Designated Biologist) experienced in: identifying local and migratory bird species of special concern; conducting bird surveys using appropriate survey methodology; nesting surveying techniques, recognizing breeding and nesting behaviors, locating nests and breeding territories, and identifying nesting stages and nest success; determining/establishing appropriate avoidance and minimization measures; and monitoring the efficacy of implemented avoidance and minimization measures.

2. Pre-activity field surveys shall be conducted at the appropriate time of day/night, during appropriate weather conditions, no more than 3 days prior to the initiation of Project activities. Surveys shall encompass all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures. Survey duration shall take into consideration the size of the Project site; density, and complexity of the habitat; number of survey participants; survey techniques employed; and shall be sufficient to ensure the data collected is complete and accurate. The qualified avian biologist will make every effort to avoid potential nest predation as a result of survey and monitoring efforts.

If no nesting birds are observed during the survey, site preparation and construction activities may begin. If active nests or nesting birds (including nesting raptors) are identified during the nesting bird survey, avoidance buffers shall be implemented as determined by a qualified biologist and approved by the City of Banning, based on their best professional judgement and experience. The buffer areas shall be avoided until the Project biologist determines the young have fledged and dispersed or it is confirmed that the nest has been unsuccessful or abandoned. The buffer shall be of a distance to ensure avoidance of adverse effects to the nesting bird by accounting for topography, ambient conditions, species, nest location, and activity type. All nests shall be monitored as determined by the qualified biologist until nestlings have fledged and dispersed or it is confirmed that the nest has been unsuccessful or abandoned. The Designated 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 buffer. The qualified biologist will serve as a construction monitor during those periods when construction activities occur near active nest areas to ensure that no inadvertent impacts on these nests occur. The qualified biologist shall halt all construction activities within proximity to an active nest if it is determined that the activities are disturbing the nest and may result in nest abandonment or take. The qualified biologist shall also have the authority to require implementation of avoidance measures related to noise, vibration, or light pollution if indirect impacts are resulting in harassment of the nest. Work can resume within these avoidance areas when no other active nests are found. Upon completion of the survey and nesting bird monitoring, a final monitoring report of the findings, prepared by a qualified biologist, will be submitted to the City of Banning documenting compliance with the CDFG Code.

15. MM BIO-3 USACE/CDFW/RWQCB Riverine Resources
Prior to the issuance of a grading permit, the Project applicant will obtain a USACE Section 404 Nation Wide Permit, RWQCB Section 401 Water Quality Certificate, and CDFW Section 1602 Streambed Alteration Agreement. The Applicant shall notify the California Department of Fish and Wildlife (CDFW) for impacts to Fish and Game Code section 1602 resources and obtain a CDFW-executed Lake and Streambed Alteration (LSA) Agreement authorizing impacts to Fish and Game Code section 1602 resources associated with the Project.

The notification to CDFW should provide the following information:

1. A stream delineation including the bed, bank, and channel;
2. Linear feet and/or acreage of streams and associated natural communities that would be permanently and/or temporarily impacted by the Project. This includes impacts as a result of routine maintenance and fuel modification. Plant community names should be provided based on vegetation association and/or alliance per the Manual of California Vegetation (Sawyer et al 2009);
3. A discussion as to whether impacts on streams within the Project site would impact those streams immediately outside of the Project site where there is hydrologic connectivity.
4. Potential impacts such as changes to drainage pattern, runoff, and sedimentation should be discussed; and 4. A hydrological evaluation of the 100-year storm event to provide information on how water and sediment is conveyed through the Project site.

Currently, the impacted drainages and overall watershed are not within a service area of an approved mitigation bank. Depending on the timing of impacts and issuance of regulatory permits, should a mitigation bank become approved for the Whitewater River watershed, at minimum 2.67-acres of habitat creation credits from an approved bank will be purchased. However, since at this time no mitigation bank is approved for the whitewater watershed, it is assumed at minimum 2.67-acres of on-site creation is required as outlined below. If it is determined that on-site mitigation is not feasible, creation of non-wetland waters at an off-site location would be required. The off-site location would be required to have a conservation easement or deed restriction placed over the mitigation area to ensure the site remains mitigation in perpetuity. Additionally, whether on or off-site, the mitigation site will require long-term maintenance and management by a qualified conservancy, including payment of a non-wasting endowment to fund the long-term maintenance.

To meet the criteria of a biologically equivalent or superior alternative, the applicant will offset permanent impacts to a minimum 0.54-acre of MSHCP Section 6.1.2 riverine resources (CDFW jurisdictional resource) as follows including the preparation of an MSHCP DBESP.

• Permanent impacts to a minimum of 0.54-acres of jurisdictional features will be mitigated at a minimum of a 5:1 ratio (2.67 acres) through the creation of in-kind habitat on-site along the eastern and northern most Project boundary. If it is determined that onsite mitigation or off-site is not feasible, additional alternatives could include, payment into an acceptable an approved mitigation bank should one become available at the time of impacts and permitting.
• A Habitat Mitigation and Monitoring Plan for the creation of in kind habitat will be prepared, reviewed and approved by the City of Banning, USACE, RWQCB and CDFW. The created habitat will be monitored by the Project proponent for a minimum of 5 years; monitoring reports shall be provided to the City of Banning and appropriate regulatory agency on an annual basis. The restoration area must meet standardized success criteria as described in a Habitat Mitigation and Monitoring Plan, which will be required as part of the permit process and approved by the Resource Agencies.
• A DBESP will be also prepared, reviewed and approved by the City of Banning and MSHCP wildlife agencies prior to the issuance of grading permits.

16. MM CUL-1 Prior to the issuance of a grading permit, an archaeological resource monitoring plan shall be developed by a qualified archaeologist. This plan shall include a grading observation schedule, to be maintained when initial mass grading occurs in upper soils, to identify and further evaluate any cultural resources that may be discovered in the Project area. A qualified archaeologist and/or Native American monitor(s) from Consulting Tribe(s) shall be retained to attend pre-grading meetings and to monitor earthmoving activities, including clearing, grubbing, cutting, and trenching at the site. The archaeologist and/or Native American monitor(s) from

Consulting Tribe(s) shall carefully inspect these areas to assess the potential for significant prehistoric or historic remains. If potential archaeological and historical resources are uncovered, the construction contractor shall cease grading operations in the vicinity of the find until further evaluation is undertaken to assess the discovery. Further subsurface investigation may be needed if the resource is determined unique or important for its prehistoric or historic information.

17. MM CUL-2 If archaeological remnants are discovered during monitoring, the archaeologist and/or Native American monitor(s) from Consulting Tribe(s) shall have the authority to divert construction in order to assess the significance of the find. Remnants shall be properly evaluated, documented, and deposited as applicable, consistent with State and local protocols.

18. MM CUL-3 If previously unknown cultural resources, including human remains, are identified during grading activities, a qualified archaeologist shall be retained to assess the nature and significance of the find. If human remains are encountered, State Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the County Coroner has made a determination of origin and disposition pursuant to Public Resources Code Section 5097.98. The County Coroner shall be notified of the find immediately. If the remains are determined to be prehistoric, the Coroner shall notify the Native American Heritage Commission (NAHC), which shall determine and notify a Most Likely Descendant (MLD). With the permission of the landowner or his/her authorized representative, the MLD may inspect the site of the discovery. The MLD shall complete the inspection within 24 hours of notification by the NAHC. The MLD may recommend scientific removal and nondestructive analysis of human remains and items associated with Native American burials.

19. MM GEO-1 The Project would comply with the grading guidelines and all recommendations provided in the Geotechnical Investigation prepared for the Project.

20. MM GEO-2 The Applicant will submit a Paleontological Resources Impact Mitigation Program (PRIMP) prepared by a qualified paleontologist to the City's Community Development Director, or designee, prior to the issuance of a grading permit to reduce impacts to sensitive paleontological resources during construction activities, and all other surface-disturbance activities. The PRIMP would include the following:
    • The PRIMP shall be prepared by a Qualified Paleontologist, based on Society of Vertebrate Paleontology (SVP) guidelines, and meet all regulatory requirements. The qualified paleontologist shall have a Master's Degree or Ph.D. in paleontology, shall have knowledge of the local paleontology, and shall be familiar with paleontological procedures and techniques.
    • The PRIMP shall include a site-specific investigation that will identify construction impact areas of ranging sensibility and approximate depths at which those resources are likely to be encountered. The Plan shall define monitoring procedures and methodology, and shall specify that sediments of undetermined sensitivity shall be monitored on a part-time basis (as determined by the Qualified Paleontologist).
    • The PRIMP shall state which resources will be avoided and which shall be recovered for their data potential. Where possible, recovery is preferred over avoidance in order to mitigate the potential for looting of paleontological resources. The Plan shall also detail methods of recovery, preparation and analysis of specimens, final curation of specimens at a federally accredited repository, data analysis, and reporting.

21. MM GEO-3 A qualified paleontologist will attend preconstruction meetings to consult with the grading and excavation contractors concerning planned depths, excavation schedules, paleontological field techniques, and safety issues. In addition, all on-site construction personnel

will receive Worker Education and Awareness Program (WEAP) training prior to the commencement of excavation work. All ground-disturbing activities associated with Project construction occurring within previously undisturbed fossil bearing formations will be monitored by a qualified paleontologist or qualified paleontological monitor. A paleontological monitor is defined as an individual who has experience in the collection and salvage of fossil materials and works under the direction of a qualified paleontologist. If fossils are discovered, the paleontologist (or paleontological monitor) will recover them. In most cases, this fossil salvage can be completed in a short period of time; however, some fossil specimens, such as a complete large mammal skeleton, may require an extended salvage period. In these instances, the paleontologist (or paleontological monitor) will be allowed to temporarily direct, divert, or halt grading to allow recovery of fossil remains, such as isolated mammal teeth, it may be necessary to set up a screen-washing operation on site.

22. MM GEO-4 Fossil remains collected during the monitoring and salvage portion of the program will be cleaned, repaired, sorted, and catalogued.

    Prepared fossils, along with copies of all pertinent field notes, photos, and maps, will be deposited (as a donation) in a scientific institution with permanent paleontological collections located within Riverside County (or, if no repository is available, adjacent Counties). A final data recovery report will be completed that outlines the results on the paleontological monitoring program. This report will include discussions of the methods used, stratigraphic section(s) exposed, fossils collected, and significance of recovered fossils. The report will be submitted to the City's Community Development Director, or designee, upon completion.

23. MM TCR-1 Native American Treatment Agreement. Prior to the issuance of grading permits, the applicant shall enter into a Tribal Monitoring Agreement with the Morongo Band of Mission Indians for the project. The Tribal Monitor shall be on-site during all ground disturbing activities (including, but not limited to, clearing, grubbing, tree and bush removal, grading, trenching, fence post placement and removal, construction excavation, excavation for all utility and irrigation lines, and landscaping phases of any kind). The Tribal Monitor shall have the authority to temporarily divert, redirect, or halt the ground-disturbing activities to allow identification, evaluation, and potential recovery of cultural resources.

24. MM TCR-2 Retention of Archaeologist. Prior to any ground disturbing activities (including, but not limited to, clearing, grubbing, tree and bush removal, grading, trenching, fence post replacement and removal, construction excavation, excavation for all utility and irrigation lines, and landscaping phases of any kind) and prior to the issuance of grading permits, the Applicant shall retain a qualified archaeologist who meets U.S. Secretary of the Interior Standards (SOI). The archaeologist shall be present during all ground disturbing activities to identify any known or suspected archaeological and/or cultural resources. The archaeologist will conduct a Cultural Resource Sensitivity Training, in conjunction with the Tribe[s] Tribal Historic Preservation Officer (THPO) and/or designated Tribal Representative. The training session will focus on what the archaeological and tribal cultural resources that may be encountered during ground disturbing activities, and the procedures to be followed in such an event.

25. MM TCR-3 Cultural Resource Management Plan. Prior to any ground disturbing activities the project archaeologist shall develop a Cultural Resource Management Plan (CRMP) and/or Archaeological Monitoring and Treatment Plan (AMTP) to address the details, timing and responsibility of all archaeological and cultural resource activities that occur on the project site. This Plan shall be written in consultation with the consulting Tribe[s] and shall include the following: approved Mitigation Measures (MM)/Conditions of Approval (COA), contact information for all

pertinent parties, parties' responsibilities, procedures for each MM or COA, and an overview of the project schedule.

26. MM TCR-4 Pre-Grade Meeting. The retained qualified archeologist and Consulting Tribe[s] representative shall attend the pre-grade meeting with the grading contractors to explain and coordinate the requirements of the monitoring plan.

27. MM TCR-5 On-site Monitoring. During all ground-disturbing activities the qualified archaeologist and the Native American monitor shall be on-site full-time. The frequency of inspections shall depend on the rate of excavation, the materials excavated, and any discoveries of Tribal Cultural Resources as defined in California Public Resources Code Section 21074. Archaeological and Native American monitoring will be discontinued when the depth of grading and soil conditions no longer retain the potential to contain cultural deposits. The qualified archaeologist, in consultation with the Native American monitor, shall be responsible for determining the duration and frequency of monitoring.

28. MM TCR-6 Inadvertent Discovery of Cultural Resources. In the event that previously unidentified cultural resources are unearthed during construction, the qualified archaeologist and the Native American monitor shall have the authority to temporarily divert and/or temporarily halt ground disturbance operation in the area of discovery to allow for the evaluation of potentially significant cultural resources. Isolates and clearly non-significant deposits shall be minimally documented in the field and collected so the monitored grading can proceed.

    If a potentially significant cultural resource(s) is discovered, work shall stop within 60-feet of the discovery and an Environmentally Sensitive Area (ESA) physical demarcation/barrier constructed. All work shall be diverted away from the vicinity of the find, so that the find can be evaluated by the qualified archaeologist and Tribal Monitor[s]. The archaeologist shall notify the Lead Agency and consulting Tribe[s] of said discovery. The qualified archaeologist, in consultation with the Lead Agency, the consulting Tribe[s] and the Native American monitor, shall determine the significance of the discovered resource. A recommendation for the Tribal Cultural Resource's treatment and disposition shall be made by the qualified archaeologist in consultation with the Tribe[s] and the Native American monitor[s] and be submitted to the Lead Agency for review and approval. Below are the possible treatment and dispositions of significant cultural resources in order of CEQAs preference:
    • Full avoidance.
    • If avoidance is not feasible, Preservation in place.
    • If Preservation in place is not feasible, all items shall be reburied in an area away from any future impacts and reside in a permanent conservation easement or Deed Restriction.
    • If all other options have been proven to be infeasible, data recovery through excavation and curated in a Curation Facility that meets the Federal Curation Standards (CFR s79.1).

29. MM TCR-7 Inadvertent Discovery of Human Remains. The Morongo Band of Mission Indians requests the following specific conditions to be imposed in order to protect Native American human remains and/or cremations. No photographs are to be taken except by the coroner, with written approval by the consulting Tribe[s].

    Should human remains and/or cremations be encountered on the surface or during any and all ground-disturbing activities (i.e., clearing, grubbing, tree and bush removal, grading, trenching, fence post placement and removal, construction excavation, excavation for all water supply, electrical, and irrigation lines, and landscaping phases of any kind), work in the immediate vicinity of the discovery shall immediately stop within 100-feet of the discovery. The area shall be

protected, project personnel/observers restricted. The County Coroner is to be contacted within 24 hours of discovery. The County Coroner has 48 hours to come to his/her determination pursuant to State and Safety Code Section 7050.5. and Public Resources Code (PRC) Section 5097.98.

In the event that the human remains and/or cremations are identified as Native American, the Coroner shall notify the Native American Heritage Commission within 24 hours of determination pursuant to subdivision (c) of HSC Section 7050.5.

The Native American Heritage Commission shall immediately notify the person or persons it believes to be the Most Likely Descendant (MLD). The MLD has 48 hours, upon being granted access to the Project site, to inspect the site of discovery and make their recommendation for final treatment and disposition, with appropriate dignity, of the remains and all associated grave goods pursuant to PRC Section 5097.98.

If the Morongo Band of Mission Indians has been named the Most Likely Descendant (MLD), the Tribe may wish to rebury the human remains and/or cremation and sacred items in their place of discovery with no further disturbance and reside in perpetuity. The place(s) of reburial will not be disclosed by any party and is exempt from the California Public Records Act (California Government Code Section 6254[r]). Reburial location of human remains and/or cremations will be determined by the Tribes Most Likely Descendant (MLD), the landowner, and the City Planning Department.

30. MM TCR-8 Final Report. The final report[s] created as a part of the project (AMTP, isolate records, site records, survey reports, testing reports, etc.) shall be submitted to the Lead Agency and Consulting Tribe[s] for review and comment. After approval from all parties, the final reports are to be submitted to the Eastern Information Center, and the Consulting Tribe[s].

31. MM FIRE-1 Fire Safety Requirements. The Project shall be required to comply with all Fire Safety Requirements as identified in Section 5 of the Fire Protection Plan prepared for the Project (Appendix M1). Conformance with these requirements shall be verified by the City of Banning Community Development Department during design review prior to the issuance of building and grading permits.

The Final Environmental Impact Report contains findings regarding environmental impacts that remain significant and unavoidable. To reduce these impacts to the maximum extent feasible, the following mitigation measures are required:

32. MM AQ-1
The Project shall utilize “Super-Compliant” low VOC paints which have been reformulated to exceed the regulatory VOC limits (i.e., have a lower VOC content than what is required) put forth by SCAQMD’s Rule 1113 for all architectural coatings. Super-compliant low VOC paints shall be no more than 10g/L of VOC. Prior to issuance of a building permit, the City Building and Safety Department shall confirm that plans include the following specifications:
• All architectural coatings will be super-compliant low VOC paints.
• Recycle leftover paint. Take any leftover paint to a household hazardous waste center; do not mix leftover water-based and oil based paints.
• Keep lids closed on all paint containers when not in use to prevent VOC emissions and excessive odors.
• For water-based paints, clean up with water only. Whenever possible, do not rinse the cleanup water down the drain or pour it directly into the ground or the storm drain. Set aside the can of cleanup water and take it to the hazardous waste center (www.cleanup.org).

• Use compliant low-VOC cleaning solvents to clean paint application equipment. • Keep all paint- and solvent-laden rags in sealed containers to prevent VOC emissions.
• Contractors shall construct/build with materials that do not require painting and use pre-painted construction materials to the extent practicable.
• Use high-pressure/low-volume paint applicators with a minimum transfer efficiency of at least 50 percent or other application techniques with equivalent or higher transfer efficiency.

33. MM AQ-2
Prior to issuance of tenant occupancy permits, the tenant/facility operator shall prepare and submit a Transportation Demand Management (TDM) program detailing strategies that would reduce the use of single occupant vehicles by employees by increasing the number of trips by walking, bicycle, carpool, vanpool, and transit. The TDM shall include, but is not limited to the following:
• Provide a transportation information center and on-site TDM coordinator to educate employers, employees, and visitors of surrounding transportation options.
• Provide on-site car share amenities for employees who make only occasional use of a vehicle, as well as others who would like occasional access to a vehicle of a different type than they use day-to-day.
• Promote and support carpool/vanpool/rideshare use through parking incentives and administrative support, such as ride matching service.
• Incorporate incentives for using alternative travel modes, such as preferential carpool/vanpool parking or others.
• Each building shall provide preferred parking for electric, low emitting and fuel-efficient vehicles equivalent to at least eight percent of the required number of parking spaces.

This mitigation measure applies only to tenant occupancy and not the building shell approvals.

34. MM AQ-3
Prior to the issuance of a building permit for the Shell Design, the Planning Department shall confirm that the Project is designed to include the following:
• The Project buildings' electrical room shall be sufficiently sized to hold additional panels that may be needed to supply power for the future installation of electric vehicle (EV) truck charging stations on the site.
• Conduit should be installed from the electrical room to tractor trailer parking spaces in a logical location(s) on the site determined by the Project Applicant during construction document plan check, for the purpose of accommodating the future installation of EV truck charging stations at such time this technology becomes commercially available and the buildings are being served by trucks with electric-powered engines.

This mitigation measure applies only to building shell approvals and not the tenant improvements.

35. MM AQ-4
Prior to the issuance of a tenant occupancy permit, the Planning Department shall confirm that all truck access gates and loading docks within the Project site shall have a sign posted that states:
• Truck drivers shall turn off engines when not in use.
• Truck drivers shall shut down the engine after two minutes of continuous idling operation (pursuant to Title 13 of the California Code of Regulations, Section 2485). Once the vehicle is stopped, the transmission is set to "neutral" or "park," and the parking brake is engaged.
• Telephone numbers of the building facilities manager and CARB to report violations.
• Signs shall also inform truck drivers about the health effects of diesel particulates, the California Air Resources Board diesel idling regulations, and the importance of being a good neighbor by not parking in residential areas.

This mitigation measure applies only to tenant improvements and not the building shell approvals.

36. MM AQ-5
Prior to the issuance of a tenant occupancy permit, the Planning Department shall confirm that the Project plans and specifications shall include requirements (by contract specifications) that vendor trucks for the industrial buildings include energy efficiency improvement features through the Carl Moyer Program— including truck modernization, retrofits, and/or aerodynamic kits and low rolling resistance tires—to reduce fuel consumption.

This mitigation measure applies only to tenant improvements and not the building shell approvals.

37. MM AQ-6
The Project shall include the necessary charging stations for cargo handling equipment. Prior to the issuance of a tenant occupancy permit, the Planning Department shall confirm that the Project plans and specifications show that all outdoor cargo handling equipment (including yard trucks, hostlers, yard goats, pallet jacks, and forklifts) are zero emission/powered by electricity. Note that SCAQMD Rule 2305 (Warehouse Indirect Source Rule) Warehouse Actions and Investments to Reduce Emissions (WAIRE) points may be earned for electric/zero emission yard truck/hostler usage.

This mitigation measure applies only to tenant improvements and not the building shell approvals.

38. MM GHG-1
Prior to issuance of tenant occupancy permits, the Project shall be required to install a solar photovoltaic (PV) system or otherwise acquire energy from the local utility that has been generated by renewable sources, sufficient to power the anticipated initial improvements for the warehouse (i.e., the Title 24 electricity demand and the plug-load). The final PV generation facility size requires approval by Southern California Edison (SCE). SCE's Rule 21 governs operating and metering requirements for any facility connected to SCE's distribution system. Should SCE limit the off-site export, the proposed Project may utilize a battery energy storage system (BESS) to lower off-site export while maintaining on-site renewable generation to off-set consumption. The building shall include an electrical system and other infrastructure sufficiently sized to accommodate the PV arrays. The electrical system and infrastructure must be clearly labeled with noticeable and permanent signage. In addition, to ensure that the Project's electrical room(s) is sufficiently sized to accommodate the potential need for additional electrical panels, either (1) a secondary electrical room shall be provided in the building, or (2) the primary electrical room shall be sized 25 percent larger than is required to satisfy the service requirements of the building or the electrical gear shall be installed with the initial construction with 25 percent excess demand capacity.

39. MM GHG-2
Prior to the issuance of a building permit, the Project Applicant or successor in interest shall provide documentation to the City of Banning demonstrating that the Project is designed to achieve Leadership in Energy and Environmental Design (LEED) standards or meet or exceed CALGreen Tier 2 standards in effect at the time of building permit application.

40. MM GHG-3
The development shall divert a minimum of 75 percent of landfill waste. Prior to issuance of certificate of tenant occupancy permits, a recyclables collection and load area shall be constructed in compliance with County standards for Recyclable Collection and Loading Areas, and the facility's operator shall be required to provide the City with a copy of the Project's recycling

program. This mitigation measure applies only to tenant permits and not the building shell approvals.

41. MM GHG-4
Prior to issuance of tenant occupancy permits, the Planning Department shall confirm that tenant lease agreements include contractual language that all landscaping equipment used onsite shall be 100 percent electrically powered. This mitigation measure applies only to tenant permits and not the building shell approvals.

42. MM GHG-5
Conduits for the installation of electrical hookups to allow future electric vehicle (EV) trucks and trucks with auxiliary power units (APU) shall be installed at a ratio of one charging station for every 50 dock high doors.

43. MM TRANS-1
Prior to the issuance of Certificate of Occupancy for future tenants, the future tenant shall demonstrate implementation of reasonable and feasible VMT reduction measures to the satisfaction of the City of Banning Planning Director. Measures to be considered include, but are not limited to VMT strategy reduction measures:

Potential VMT Reduction Strategies

The following are potential VMT reduction measures that could be implemented:
• The Project may implement a Voluntary Commute Trip Reduction (CTR) measure. The purpose of the CTR would be to encourage alternative modes of transportation such as carpooling, which would reduce VMT. A proposed CTR program for this Project could include providing on-site and/or online commute information services including information on available transit and ride coordination for employees.
• The Project could provide designated carpool/vanpool parking in desirable locations on-site, which could encourage employees to carpool/vanpool to work and reduce VMT.
• The Project could install end-of-trip facilities such as bicycle parking and lockers which could encourage employees to use alternative modes of transportation and thus reduce VMT.
• The Project could increase sidewalks along the Project frontage and provide connections to existing trails (if applicable) in order to improve pedestrian access. This measure could encourage employees to walk to nearby destinations and thus reduce VMT.
• The Project could implement employee parking cash-out policies. Cash-out is when employers provide employees with a choice of forgoing their current subsidized/free parking, provided by the employer, in lieu of a cash payment equivalent to or greater than the cost of the parking space. This encourages employees to use other modes of travel instead of single occupancy vehicles.

Building Department

44. Once submitted for official plan review full architectural and structural drawing plans shall be provided. Structural plans and calculations shall be provided by a California licensed engineer or licensed architect.

45. Please provide the following number of construction plans and documents listed below for the first review of the proposed project. The initial plan review time will take two weeks on most projects. The applicant will receive an application number at the time plans are submitted for Building & Safety's plan review. This number is needed to obtain information regarding your project:

(7) Precise Grading Plans
(7) Plot/Site Plans
(7) Site Disabled Access Plan
(7) Architectural Plans
(7) Structural Plans
(7) Electrical Plans
(7) Electrical Load Calculations
(7) Plumbing Plans/Isometrics
(7) Mechanical Plans
(2) Structural Calculations
(2) Roof and Floor Truss Calculations
(2) Title 24 Energy Calculations
(2) Geology Report
(2) Soils Report
(2) Condition of Approval Packages
(3) Temporary Fence Plan

46. Electronic plan submittal can be provided by building and safety. Please email CommunityDev@banningca.gov for additional information.

47. All structures shall be designed in accordance with the current version of the California Building Codes, including the California Green Building Standards Code. Design all structures to comply with Seismic Design Category D, basic wind speed should be site specific and determined from ATC at www.atcouncil.org/windspeed with exposure type "C", and Energy Calculations shall be designed per Climate Zone 10.

48. Where applicable, prior to issuance of building permits, provide a receipt from the appropriate Unified School District stating that all school fees have been paid. (Banning Unified School District)

49. Banning Electric does not release electric meters until final approvals are obtained from all agencies and departments.

50. Construction projects, requiring temporary electrical power, shall obtain an electrical permit from Banning Electric.

51. Construction projects requiring fire permits must apply and submit fire plans prior to the issuance of the building permit, including fire sprinkler submittals.

52. The Developer/Owner is responsible for the coordination of releasing any Deferral of Development Impact Fees or Bonds after such fees have been paid. The Developer/Owner should be aware, once the deferral notice is sent to the Riverside County Recorder's Office; the release process takes two to three weeks. This process will delay final Certificates of Occupancy.

53. The Developer/Owner is responsible for the coordination of the final occupancy. The Developer/Owner shall request clearances from each department and/or agency at least two weeks prior to requesting a final building inspection from Building and Safety. Each agency may

sign the Building and Safety Job Card, or provide agency approved signed documentation, and provide a copy of the signatures to Building and Safety at the time the final inspection is requested.

54. A security fence with screening shall protect all construction sites. The fencing and screening shall be maintained at all times to protect pedestrians. All development projects shall submit a construction fencing plan with the construction design plans. Construction projects that have phased occupancy shall be completely separated by a construction fence that is screened and show the adjusted fence locations at each phase.

55. The permittee shall utilize an anti-graffiti coating on trash enclosures and decorative block walls.

56. On site toilet facilities shall be provided for construction workers and such facilities shall be maintained in a sanitary condition. Construction toilet facilities of the non-sewer type shall conform to ANSI ZA.3 and on site per NPDS stormwater requirements.

57. All construction materials, which are not used, shall be recycled pursuant to the requirements per the California Green Building Standards Code. Receipts from the recycle company responsible for picking up the materials shall be kept in the construction office. After the construction is complete and before final occupancy, all trash receipts shall be forwarded to the City.

58. Prior to the issuance of Building Permits, on site water service shall be installed and approved by the responsible agency. On site fire hydrants shall be approved by the Riverside County Fire Department. No flammable materials will be allowed on the site until the fire hydrants are established and approved. No flammable construction materials shall be placed on the site without approvals by the Fire Department. All street and access roadways around the project shall be paved for emergency response vehicles before flammable materials are placed on the project.

59. Prior to issuance of building permits, site-grading certifications, compaction reports, and survey report shall be submitted to Building and Safety or to Public Works, as applicable.

60. All construction projects shall comply with the NPDES Stormwater Best Management Program. Prior to building permit issuance submit copy of the Water Quality Management Program Report. (WQMP)

61. All deferred plan items are to be identified on the cover sheet of the drawing plans.

62. Site development and grading shall be designed to provide access to all entrances and exterior ground floor exits and access to normal paths of travel. The accessible route(s) of travel shall be the most practical direct route.

63. Demolition of any onsite structures requires the following information or action.

    a. Submit copies of the property title at permit submittal.
    b. Provide copy of the hazardous materials survey (asbestos and lead) for each structure.
    c. Contact the City of Banning Building & Safety Department for current abatement and documentation requirements prior to performing demolition.

64. For the removal of fuel storage tanks, or other excavations involving backfill, a compaction shall be filed with the Building & Safety Department. Fuel storage tank removal will require notification of Riverside County Fire, Hazardous Materials and Riverside County Environmental Health Department.

65. All dead and removed trees and foliage is to be properly removed from the site.

66. The City enforces the State of California provisions of the California Building Code disabled access requirements. The Federal Americans with Disabilities Act (ADA) standards may differ in some cases from the California State requirements; therefore, it is the building owner's responsibility to be aware of those differences and comply accordingly.

67. Building and Safety inspection requests must be made by 4:00 pm. on the previous City working day to receive a next day inspection. Please contact (951) 922-4820

68. Plan review application approval is valid for a period of 180 days after application date (plan check submittal date)- if the permit is not obtained within that time period the approval expires and becomes null and void. The Building Official may extend the time for action by the applicant for a period of 90 days upon written request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. In order to renew action on an application after expiration the applicant shall resubmit plans and pay a new plan review fee.

69. Structural plans and calculations shall be provided by a California licensed engineer or California licensed architect.

70. Clearly identify distance to property lines to all sides of the proposed buildings and between each building.

71. Allowable Area should be in accordance with CBC Table 506.2, and unlimited building areas shall be in accordance with CBC Section 507.

72. Provide occupancy separations per CBC Table 508.4.

73. For new buildings 10,000 square feet and over, building commissioning shall be included in the design and construction processes of the building project to verify that the building systems and components meet the owner's or owner representative's project requirements. Please comply with all the requirements within CGBSC Section 5.410.2. Subject to further review.

74. Provide and identify on the site plan locations of designated parking spaces for any combination of low-emitting, fuel-efficient and car pool/ van pool vehicles per CGBSC Table 5.106.5.2. Provide calculations on the plans for the required number of spaces per CGBSC sec. 5.106.5.2. Low-emitting, fuel-efficient vehicle parking spaces shall be identified with the words "CLEAN AIR / VANPOOL / EV"". The bottom edge of the last word shall align with the end of the stall striping and be visible beneath a parked vehicle. Provide information on the site plans. CGBSC sec. 5.106.5.2.1.

75. Construction shall comply with CGBSC Section 5.106.5.3.1 or Section 5.106.5.3.2 to facilitate future installation of electric vehicle supply equipment (EVSE). Provide calculation accordingly for the number of electric vehicle charging stations per CGBSC Table 5.106.5.3.3. Please note per the 2022 California Codes, there are newer requirements for EV Parking Spaces.

76. Long Term: Provide and identify secure bicycle parking for buildings with more than (10) ten employees, or for additions or alterations that add 10 or more tenant vehicular parking spaces as outlined per CGBSC sec. 5.106.4.1.2. Bike rack spaces shall total 5% of vehicle parking spaces with a minimum of one space.

77. Accessible parking spaces and an accessible path of travel shall be provided from the public sidewalk to the main entrance of the office areas.

78. The accessible parking space(s) shall be located on the shortest accessible route of travel serving the accessible entrance. In buildings with multiple accessible entrances, assessable parking spaces shall be dispersed and located closest to the accessible entrances. (CBC Section 11B-208.3.1)

79. All entrances and exterior ground-floor exit doors to buildings and facilities shall be made accessible to persons with disabilities. (CBC 11B-206.4.1)

80. Provide a complete accessible path of travel to the street and to the accessible parking space. Identify all slopes and curb conditions along the accessible path of travel. Walks shall be a minimum of 48 inches in width with a maximum cross slope of 2% and a maximum slope in the direction of travel of 5%. Walks exceeding 5% shall conform to the requirements of a ramp. Curb ramps and truncated domes shall be detailed on the drawing plans. (CBC Section 11B-403.5.1)

Fire Department

81. Dock loading shall not impede fire department access lanes.

82. Fire Protection Water Supplies/Fire Flow - Minimum fire flow for the construction of all buildings is required per CFC Appendix B. Prior to building permit issuance for new construction, the applicant shall provide documentation to show there exists a water system capable of delivering the required fire flow. Specific design features may increase or decrease the required fire flow.
    a. Will Serve Letters from the responsible water purveyor are required prior to a map recordation.

83. Fire Protection Water Supplies/Hydrants - The minimum number of fire hydrants required, as well as the location and spacing of fire hydrants, shall comply with CFC Appendix C and NFPA 24. Fire hydrants shall be located no more than 400 feet from all portions of the exterior of the building along an approved route on a fire apparatus access road, unless otherwise approved by the fire department. In areas where new water mains are extended along streets and hydrants are not needed for protection of structures, standard fire hydrants shall be provided at spacing not to exceed 1,000 feet along streets for transportation hazards. Fire hydrants shall be at least 40 feet from the building it is serving. A fire hydrant shall be located within 20 to 100 feet of the fire department connection for buildings protected with a fire sprinkler system. The size and number of outlets required for the approved fire hydrants are 4 x 2 x 2 (super hydrant). Reference CFC as amended and NFPA 24.

84. Fire Department Access - Fire apparatus access roads shall be provided within 150 feet of all exterior portions of buildings, unless otherwise approved by the fire department. Fire apparatus access roads shall have an unobstructed width of no less than 24 feet. Dead-end fire apparatus access roads exceeding 150 feet in length shall provide an approved turn around. For developments within the SRA and within the LRA VHFHSZ, the minimum required turning radius of a fire apparatus access road is 74 feet outside radius and 50 feet inside radius. See California Code of Regulations Title 14 Section 1273.04. The construction of the fire apparatus access roads shall be all weather and capable of sustaining 80,000 lbs. Unless otherwise approved, the grade of a fire apparatus access road shall not exceed 16 percent and the cross slope shall not exceed 2.5 percent. The angles of approach and departure for fire apparatus access roads shall be a maximum of 6 percent grade change for 25 feet of approach/departure. Reference CFC as amended and Riverside County Fire Department Policies and Standards.

85. Fire Department Access Turn Around - On-parcel dead-end fire apparatus access roads exceeding 150 feet in length shall provide a bulb turnaround at the terminus measuring a minimum of 45 feet outside radius and 25 feet inside radius. For development within the SRA and within the LRA VHFHSZ, the bulb turnaround at the terminus shall be 40 feet outside radius and 16 feet inside radius. Parallel parking around the perimeter of the bulb is acceptable provided the bulb outside turning radius is increased by 8 feet. In-lieu of a bulb, a hammer-head type turnaround is acceptable where the top of the T dimension is 120 feet with the stem in the center. Additional turnaround designs may be acceptable as approved by the Fire Department. Reference CFC as amended and Riverside County Fire Department Policies and Standards.

86. Secondary Access. Unless otherwise approved by the Fire Department, dead end fire apparatus access roads shall not exceed 660 feet for Very High Fire Hazard Severity Zone and High Fire Hazard Severity Zone areas. 800 feet for Moderate Fire Hazard Severity Zone. 1,320 feet. Secondary egress/access fire apparatus access roads shall provide independent egress/access from/to the area or as otherwise approved by the Fire Department. Secondary egress/access fire apparatus access roads shall be as remote as possible from the primary fire apparatus access road to reduce the possibility that both routes will be obstructed by a single emergency. Additional fire apparatus access roads based on the potential for impairment by vehicle congestion, condition of terrain, climatic conditions, anticipated magnitude of a potential incident, or other factors that could limit access may be required by the Fire Department. Reference CFC as amended and Riverside County Fire Department Policies and Standards.

87. Fire Department Building Construction Plan Review - Submittal of construction plans to the Fire Department will be required. Final fire and life safety conditions will be addressed when the Fire Department reviews the plans. These conditions will be based on California Fire Code, California Building Code (CBC), and related codes/standards adopted at the time of construction plan submittal. Reference CFC as amended.

88. Fire Sprinkler System - All new commercial buildings and structures 3,600 square feet or larger will be required to install a fire sprinkler system. Reference CFC as amended.

89. Fire Alarm and Detection System - A water flow monitoring system and/or fire alarm system may be required as determined at time of building construction plan review. Reference CFC as amended.

90. Hazardous Vegetation and Fuel Management Plan - Projects in the Local Responsibility Area, Very High Fire Hazard Severity Zone, and the State Responsibility Area Very High, High, and Moderate Fire Hazard Severity Zones shall provide a Hazardous Vegetation and Fuel Management Plan to be reviewed and approved by the Fire Department. A preliminary plan shall be provided to and approved by the Fire Department prior to any new parcel map recordation. A final plan shall be provided prior to grading permit clearances. Reference CFC as amended.

91. Materials and Construction Methods for Exterior Wildfire Exposure - Projects in the Local Responsibility Area, Very High Fire Hazard Severity Zone, and the State Responsibility Area Very High, High, and Moderate Fire Hazard Severity Zones shall comply with Chapter 7A of the California Building Code and California Code of Regulations, Title 14 Fire Safety Regulations. Reference CFC as amended.

92. Unlimited Area Building - Based upon the building construction type and requirements of the California Building Code (CBC), 60 feet of open space (with some reductions permitted) may be required around the building. Consult with your architect for additional information. Reference CBC.

93. Traffic Calming Devices - Requests for installation of traffic calming designs/devices on fire apparatus access roads shall be submitted and approved by the Fire Code Official. Reference CFC as amended.

94. Gate Access - All electronically operated gates shall be provided with Knox key switches and automatic sensors for access. These gates shall be provided with access to gate equipment or another method to open the gate if there is a power failure. (Manual gates shall not be locked unless a Knox padlock or Knox Box containing the key to the lock is installed in an approved location on the approach side of the gate). A pedestrian gate, if used to provide access, shall be a minimum 3 feet wide and provided with a Knox Box/Padlock if locked. Reference CFC as amended and RVC Fire Guideline OFM-01A.

95. Fire Department Access Doors. If high piled storage will be utilized in the building, Fire Department Access Doors may be required every 150 feet along all portions of the interior of the building that are along the fire apparatus access road. Reference CFC as amended.

96. Water Plans - If fire hydrants are required to be installed, applicant/developer shall furnish the water system fire hydrant plans to the Fire Department for review and approval prior to building permit issuance. Plans shall be signed by a registered civil engineer, and shall confirm hydrant type, location, spacing, and minimum fire flow. Once plans are signed and approved by the local water authority, the originals shall be presented to the Fire Department for review and approval. Reference CFC as amended.

97. Emergency Responder Communication Coverage Systems - Projects that do not meet the exceptions set forth by the Riverside County Office of the Fire Marshal shall provide plans for an emergency responder radio coverage system. Reference CFC as amended and Riverside County Fire Department Policies and Standards.

98. Fire Command Center - A fire command center for fire department operations shall be provided in all buildings classified as high-rise buildings by the California Building Code, in buildings greater than 300,000 square feet, and in Group I-2 occupancies with occupied floors more than 75 feet above the lowest level of fire department vehicle access. This fire command center shall comply with Sections 508.1.1 through 508.1.7. Reference CFC as amended.

99. Knox Box and Gate Access: Buildings shall be provided with a Knox Box. The Knox Box shall be installed in an accessible location approved by the Office of the Fire Marshal. All electronically operated gates shall be provided with Knox key switches and automatic sensors for access. Ref. CFC 506.1.

100. Addressing: All commercial buildings shall display street numbers in a prominent location on the address side and additional locations as required. Ref. CFC 505.1 and County of Riverside Office of the Fire Marshal Standard #07-01.

Public Works Department

Please see attached Public Works Conditions beginning on next page

EXHIBIT B
Public Works Conditions

COA #	Condition of Approval	Completion Milestone	Status
PW.Grade.01	The applicant shall comply with Title 18 of the Banning Municipal Code "Grading, Erosion, and Sediment Control", the City of Banning Grading Manual, California Building Code related to excavation and grading, and State Water Resources Control Board orders, rules, and regulations.	Informational	
PW.Grade.02	Grading work shall be balanced on-site, wherever possible. If import or export is required as a result of the final grading plan, then measures will be taken to be in compliance with the applicable City of Banning Ordinances at time of final grading plan approval.	Informational	
PW.Grade.03	The project grading shall be designed in a manner that perpetuates the existing natural drainage patterns with respect to tributary drainage areas, outlet points and outlet conditions. Otherwise, a drainage easement shall be obtained for the release of concentrated or diverted storm flows. The project shall accept and convey storm flows from the adjacent property within the property boundaries, or within drainage devices and easements obtained by the applicant.	Informational	
PW.Grade.04	Rough grading plans shall include perimeter walls with top of wall and top of footing elevations shown. All footings shall have a minimum of 1-foot of cover, and/or sufficient cover to clear any obstructions. The Applicant shall submit design calculations and obtain permits for all perimeter and retaining walls from the Building and Safety Department.	Informational	
PW.Grade.05	Impacts to jurisdictional streams, creeks and drainages shall be reviewed and approved by the appropriate regulatory agencies with jurisdiction in this area and will require the appropriate required permits issued. Long term regular maintenance and operation of drainage improvements, such as detention basins, shall be included in the initial regulatory permitting applications. Proof of permits shall be provided to the Public Works Department prior to the issuance of any grading permit.	Prior to Issuance of a Grading Permit	
PW.Grade.06	A Grading Plan and Erosion Control Plan shall be submitted to the City Engineer for review and approval.	Prior to Issuance of a Grading Permit	
PW.Grade.07	The grading plan shall identify existing easements within the development area. If any grading work impacts easements outside of the City of Banning jurisdiction, a copy of the encroachment permit for the easement holder shall be provided to the City Engineer and noted on the grading plan.	Prior to Issuance of a Grading Permit	
PW.Grade.08	The grading plan shall identify environmental mitigation areas on the plan. Proof of permits from Army Corps of Engineers, California Department of Fish and Wildlife, and Regional Water Quality Control Board shall be provided prior to any grading work and noted on the grading plan.	Prior to Issuance of a Grading Permit	
PW.Grade.09	Temporary basins shall be constructed to meet detention requirements and earthen channels/berms shall be used to divert and convey flows during construction.	Prior to Issuance of a Grading Permit	

COA #	Condition of Approval	Completion Milestone	Status
PW.Grade.10	The applicant shall submit a PM10 Management Plan for construction operations to the City Engineer and/or SCAQMD for review and approval.	Prior to Issuance of a Grading Permit	
PW.Grade.11	If Import or Export is required, the applicant shall submit a construction haul route plan to the City Engineer for review and approval. Deviation during construction from the approved plan shall constitute a violation of the conditions of the grading permit.	Prior to Issuance of a Grading Permit	
PW.Grade.12	A soils report and geotechnical study shall be submitted in conjunction with the grading plan with further analyses of on-site soil conditions and appropriate measures to control erosion and dust. Any issues or recommendations provided in the report shall be addressed to the satisfaction of the City Engineer. The responsible geotechnical engineer shall sign and stamp all grading plans indicating the plan complies with the recommendations of the comprehensive soils and geotechnical report.	Prior to Issuance of a Grading Permit	
PW.Grade.13	A grading permit shall be obtained from the Public Works Department prior to the commencement of any grading work.	Prior to Issuance of a Grading Permit	
PW.Grade.14	Construction documents shall include language that requires all construction contractors to strictly control the staging of construction equipment and the cleanliness of construction equipment stored or driven beyond the limits of the construction work area. Construction equipment shall be parked and staged within the project site. Staging areas shall be screened from view from adjacent properties. Vehicles shall be kept clean and free of mud and dust before leaving the development site. Surrounding streets shall be swept daily and maintained free of dirt and debris.	Prior to Issuance of a Grading Permit	

COA #	Condition of Approval	Completion Milestone	Status
PW.Grade.15	As required in MMRP **MM BIO-1:** In order to avoid Project-related impacts to burrowing owls potentially occurring on or in the vicinity of the Project site and violation of the Burrowing Owl Protocol and the California Fish and Game Code 3503, 3503.5, and 3513, a 30-day preconstruction survey presence/absence survey for burrowing owl within the Impact Site (and 500-foot survey buffer) in accordance with the March 2006 Burrowing Owl Survey Instructions for the Western Riverside County MSHCP Area shall be conducted by a qualified prior to initial ground disturbing activities (e.g., vegetation clearing, clearing and grubbing, grading, tree removal, site watering, equipment staging) to ensure that no owls have colonized the site in the days or weeks preceding the ground disturbing activities. In addition, a preconstruction survey for burrowing owl shall be conducted within 3 days prior to initiation of Project activities and reported to CDFW. If no burrowing owls are observed during the survey, site preparation and construction activities may begin. If burrowing owls have colonized the project site prior to the initiation of ground-disturbing activities, the project proponent will immediately stop work and inform the City of Banning and the Wildlife Agencies (California Department of Fish and Wildlife [CDFW] and US Fish and Wildlife Service [USFWS]). In consultation with the Wildlife Agencies additional avoidance and minimization measures shall be undertaken including the possibility of preparing a Burrowing Owl Protecting and Relocation Plan, prior to initiating ground disturbance. CDFW shall be sent written notification within 48 hours of detection of burrowing owls. If active nests are identified on an implementing Project site during the pre-construction survey, the Project applicant shall not commence activities until no sign is present that the burrows are being used by adult or juvenile owls or following CDFW approval of a Burrowing Owl Plan as described below:	Prior to Issuance of a Grading Permit	

COA #	Condition of Approval	Completion Milestone	Status
PW.Grade.15 (cont'd)	If owl presence is difficult to determine, a qualified biologist shall monitor the burrows with motion-activated trail cameras for at least 24 hours to evaluate burrow occupancy. The on-site qualified biologist will verify the nesting effort has finished according to methods identified in the Burrowing Owl Plan. The qualified biologist and Project Applicant shall coordinate with the City, CDFW, and USFWS to develop a Burrowing Owl Plan to be approved by the City, CDFW, and USFWS prior to commencing Project activities. The Burrowing Owl Plan shall describe proposed avoidance, relocation, monitoring, minimization, and/or mitigation actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites and details on proposed buffers if avoiding the burrowing owls or information on the adjacent or nearby suitable habitat available to owls for relocation. If no suitable habitat is available nearby for relocation, details regarding the creation and funding of artificial burrows (numbers, location, and type of burrows) and management activities for relocated owls shall also be included in the Burrowing Owl Plan. The City will implement the Burrowing Owl Plan following CDFW and USFWS review and approval. f active burrowing owl burrows are detected within Impact Site(s) during Project implementation and construction, the Project applicant shall notify CDFW immediately in writing within 48 hours of detection. A Burrowing Owl Plan will be submitted to CDFW for review and approval within two weeks of detection and no Project activity will continue within 1,000 feet of the burrowing owls until CDFW approves the Burrowing Owl Plan. The City shall be responsible for implementing appropriate avoidance and mitigation measures, including burrow avoidance, passive or active relocation, or other appropriate mitigation measures as identified in the Burrowing Owl Plan. A final report shall be prepared by a qualified biologist documenting the results of the burrowing owl surveys and detailing avoidance, minimization, and mitigation measures. The final report will be provided to City of Banning and CDFW within 30 days of completion of the survey and burrow monitoring for mitigation monitoring compliance record keeping.	Prior to Issuance of a Grading Permit	

COA #	Condition of Approval	Completion Milestone	Status
PW.Grade.16	As required in MMRP **BIO-2:** Regulatory requirement for potential direct/indirect impacts to nesting common and sensitive bird species will require compliance with the Migratory Bird Treaty Act and California Fish and Game (CDFG) Code Section 3503, 3503.5, and 3513. Site preparation activities (such as ground disturbance, construction activities, and/or removal of trees and vegetation) should be conducted, to the greatest extent possible, outside of the peak nesting season. Regardless of the time of year, a qualified biologist shall conduct a nesting bird survey within three days prior to any disturbance of the site, including disking, vegetation grubbing, and grading. The survey(s) will focus on identifying any bird nests that would be directly or indirectly affected by construction activities. The survey area will include the Project impact footprint and a 500-foot buffer where legal access is granted around the disturbance footprint. Within 72 hours of the nesting bird survey, all areas surveyed by the biologist will be cleared by the Contractor or a supplemental nesting bird survey is required. The survey results shall be provided to the City's Planning Department. The Project Applicant shall adhere to the following: 1. Applicant shall designate a biologist (Designated Biologist) experienced in: identifying local and migratory bird species of special concern; conducting bird surveys using appropriate survey methodology; nesting surveying techniques, recognizing breeding and nesting behaviors, locating nests and breeding territories, and identifying nesting stages and nest success; determining/establishing appropriate avoidance and minimization measures; and monitoring the efficacy of implemented avoidance and minimization measures.	Prior to Issuance of a Grading Permit	

COA #	Condition of Approval	Completion Milestone	Status
PW.Grade.16 (cont'd)	2. Pre-activity field surveys shall be conducted at the appropriate time of day/night, during appropriate weather conditions, no more than 3 days prior to the initiation of Project activities. Surveys shall encompass all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures. Survey duration shall take into consideration the size of the Project site; density, and complexity of the habitat; number of survey participants; survey techniques employed; and shall be sufficient to ensure the data collected is complete and accurate. The qualified avian biologist will make every effort to avoid potential nest predation as a result of survey and monitoring efforts. If no nesting birds are observed during the survey, site preparation and construction activities may begin. If active nests or nesting birds (including nesting raptors) are identified during the nesting bird survey, avoidance buffers shall be implemented as determined by a qualified biologist and approved by the City of Banning, based on their best professional judgement and experience. The buffer areas shall be avoided until the Project biologist determines the young have fledged and dispersed or it is confirmed that the nest has been unsuccessful or abandoned. The buffer shall be of a distance to ensure avoidance of adverse effects to the nesting bird by accounting for topography, ambient conditions, species, nest location, and activity type. All nests shall be monitored as determined by the qualified biologist until nestlings have fledged and dispersed or it is confirmed that the nest has been unsuccessful or abandoned. The Designated 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 buffer. The qualified biologist will serve as a construction monitor during those periods when construction activities occur near active nest areas to ensure that no inadvertent impacts on these nests occur. The qualified biologist shall halt all construction activities within proximity to an active nest if it is determined that the activities are disturbing the nest and may result in nest abandonment or take. The qualified biologist shall also have the authority to require implementation of avoidance measures related to noise, vibration, or light pollution if indirect impacts are resulting in harassment of the nest. Work can resume within these avoidance areas when no other active nests are found. Upon completion of the survey and nesting bird monitoring, a final monitoring report of the findings, prepared by a qualified biologist, will be submitted to the City of Banning documenting compliance with the CDFG Code.	Prior to Issuance of a Grading Permit	

COA #	Condition of Approval	Completion Milestone	Status
PW.Grade.17	As required in MMRP **MM BIO-3:** Prior to the issuance of a grading permit, the Project applicant will obtain a USACE Section 404 Nation Wide Permit, RWQCB Section 401 Water Quality Certificate, and CDFW Section 1602 Streambed Alteration Agreement. The Applicant shall notify the California Department of Fish and Wildlife (CDFW) for impacts to Fish and Game Code section 1602 resources and obtain a CDFW-executed Lake and Streambed Alteration (LSA) Agreement authorizing impacts to Fish and Game Code section 1602 resources associated with the Project. The notification to CDFW should provide the following information: 1. A stream delineation including the bed, bank, and channel; 2. Linear feet and/or acreage of streams and associated natural communities that would be permanently and/or temporarily impacted by the Project. This includes impacts as a result of routine maintenance and fuel modification. Plant community names should be provided based on vegetation association and/or alliance per the Manual of California Vegetation (Sawyer et al 2009); 3. A discussion as to whether impacts on streams within the Project site would impact those streams immediately outside of the Project site where there is hydrologic connectivity. Potential impacts such as changes to drainage pattern, runoff, and sedimentation should be discussed; and 4. A hydrological evaluation of the 100-year storm event to provide information on how water and sediment is conveyed through the Project site.	Prior to Issuance of a Grading Permit	

COA #	Condition of Approval	Completion Milestone	Status
PW.Grade.17 (cont'd)	Currently, the impacted drainages and overall watershed are not within a service area of an approved mitigation bank. Depending on the timing of impacts and issuance of regulatory permits, should a mitigation bank become approved for the Whitewater River watershed, at minimum 2.67-acres of habitat creation credits from an approved bank will be purchased. However, since at this time no mitigation bank is approved for the whitewater watershed, it is assumed at minimum 2.67-acres of on-site creation is required as outlined below. If it is determined that on-site mitigation is not feasible, creation of non-wetland waters at an off-site location would be required. The off-site location would be required to have a conservation easement or deed restriction placed over the mitigation area to ensure the site remains mitigation in perpetuity. Additionally, whether on or off-site, the mitigation site will require long-term maintenance and management by a qualified conservancy, including payment of a non-wasting endowment to fund the long-term maintenance. To meet the criteria of a biologically equivalent or superior alternative, the applicant will offset permanent impacts to a minimum 0.54-acre of MSHCP Section 6.1.2 riverine resources (CDFW jurisdictional resource) as follows including the preparation of an MSHCP DBESP. • Permanent impacts to a minimum of 0.54-acres of jurisdictional features will be mitigated at a minimum of a 5:1 ratio (2.67 acres) through the creation of in-kind habitat on-site along the eastern and northern most Project boundary. If it is determined that on-site mitigation or off-site is not feasible, additional alternatives could include, payment into an acceptable an approved mitigation bank should one become available at the time of impacts and permitting. • A Habitat Mitigation and Monitoring Plan for the creation of in-kind habitat will be prepared, reviewed and approved by the City of Banning, USACE, RWQCB and CDFW. The created habitat will be monitored by the Project proponent for a minimum of 5 years; monitoring reports shall be provided to the City of Banning and appropriate regulatory agency on an annual basis. The restoration area must meet standardized success criteria as described in a Habitat Mitigation and Monitoring Plan, which will be required as part of the permit process and approved by the Resource Agencies. • A DBESP will be also prepared, reviewed and approved by the City of Banning and MSHCP wildlife agencies prior to the issuance of grading permits.	Prior to Issuance of a Grading Permit	

COA #	Condition of Approval	Completion Milestone	Status
PW.Grade.18	As required in MMRP **MM CUL-1**, please include the following note on Grading Plans: Prior to the issuance of a grading permit, an archaeological resource monitoring plan shall be developed by a qualified archaeologist. This plan shall include a grading observation schedule, to be maintained when initial mass grading occurs in upper soils, to identify and further evaluate any cultural resources that may be discovered in the Project area. A qualified archaeologist and/or Native American monitor(s) from Consulting Tribe(s) shall be retained to attend pre-grading meetings and to monitor earth-moving activities, including clearing, grubbing, cutting, and trenching at the site. The archaeologist and/or Native American monitor(s) from Consulting Tribe(s) shall carefully inspect these areas to assess the potential for significant prehistoric or historic remains. If potential archaeological and historical resources are uncovered, the construction contractor shall cease grading operations in the vicinity of the find until further evaluation is undertaken to assess the discovery. Further subsurface investigation may be needed if the resource is determined unique or important for its prehistoric or historic information.	Prior to Issuance of a Grading Permit	
PW.Grade.19	As required in MMRP **MM CUL-2**, please include the following note on Grading Plans: If archaeological remnants are discovered during monitoring, the archaeologist and/or Native American monitor(s) from Consulting Tribe(s) shall have the authority to divert construction in order to assess the significance of the find. Remnants shall be properly evaluated, documented, and deposited as applicable, consistent with State and local protocols.	During Excavation	
PW.Grade.20	As required in MMRP **MM CUL-3**, please include the following note on Grading Plans: Prior to the issuance of grading permits, the applicant shall enter into a Native American monitoring agreement with one of the Consulting Tribes for the Development Project. The Native American Monitor shall be on site during all initial ground-disturbing activities, including clearing, grubbing, vegetation removal, grading, and trenching, within native soils. The Native American Monitor shall have the authority to temporarily divert, redirect, or halt the ground-disturbing activities in accordance with MM CUL-5 to allow identification, evaluation, and potential recovery of cultural resources. The applicant shall meet and confer with the Tribe on the consideration of a "Sensitivity Workshop" training on possible things that could come up in case a Native American Monitor is not on site to monitor at certain times. Agreement Date:	Prior to Issuance of a Grading Permit	
PW.Grade.21	As required in MMRP **MM GEO-1**: The Project would comply with the grading guidelines and all recommendations provided in the Geotechnical Investigation prepared for the Project.	Prior to Issuance of a Grading Permit	

COA #	Condition of Approval	Completion Milestone	Status
PW.Grade.22	As required in MMRP **MM GEO-2:** The Applicant will submit a Paleontological Resources Impact Mitigation Program (PRIMP) prepared by a qualified paleontologist to the City's Community Development Director, or designee, prior to the issuance of a grading permit to reduce impacts to sensitive paleontological resources during construction activities, and all other surface-disturbance activities. The PRIMP would include the following: • The PRIMP shall be prepared by a Qualified Paleontologist, based on Society of Vertebrate Paleontology (SVP) guidelines, and meet all regulatory requirements. The qualified paleontologist shall have a Master's Degree or Ph.D. in paleontology, shall have knowledge of the local paleontology, and shall be familiar with paleontological procedures and techniques. • The PRIMP shall include a site-specific investigation that will identify construction impact areas of ranging sensibility and approximate depths at which those resources are likely to be encountered. The Plan shall define monitoring procedures and methodology, and shall specify that sediments of undetermined sensitivity shall be monitored on a part-time basis (as determined by the Qualified Paleontologist). • The PRIMP shall state which resources will be avoided and which shall be recovered for their data potential. Where possible, recovery is preferred over avoidance in order to mitigate the potential for looting of paleontological resources. The Plan shall also detail methods of recovery, preparation and analysis of specimens, final curation of specimens at a federally accredited repository, data analysis, and reporting.	Prior to Issuance of a Grading Permit	
PW.Grade.23	As required in MMRP **MM GEO-3**: A qualified paleontologist will attend preconstruction meetings to consult with the grading and excavation contractors concerning planned depths, excavation schedules, paleontological field techniques, and safety issues. In addition, all on-site construction personnel will receive Worker Education and Awareness Program (WEAP) training prior to the commencement of excavation work. All ground-disturbing activities associated with Project construction occurring within previously undisturbed fossil bearing formations will be monitored by a qualified paleontologist or qualified paleontological monitor. A paleontological monitor is defined as an individual who has experience in the collection and salvage of fossil materials and works under the direction of a qualified paleontologist. If fossils are discovered, the paleontologist (or paleontological monitor) will recover them. In most cases, this fossil salvage can be completed in a short period of time; however, some fossil specimens, such as a complete large mammal skeleton, may require an extended salvage period. In these instances, the paleontologist (or paleontological monitor) will be allowed to temporarily direct, divert, or halt grading to allow recovery of fossil remains, such as isolated mammal teeth, it may be necessary to set up a screen-washing operation on site.	Prior to Issuance of a Grading Permit and excavation	

COA #	Condition of Approval	Completion Milestone	Status
PW.Grade.24	As required in MMRP **MM GEO-4:** Fossil remains collected during the monitoring and salvage portion of the program will be cleaned, repaired, sorted, and catalogued. Prepared fossils, along with copies of all pertinent field notes, photos, and maps, will be deposited (as a donation) in a scientific institution with permanent paleontological collections located within Riverside County (or, if no repository is available, adjacent Counties). A final data recovery report will be completed that outlines the results on the paleontological monitoring program. This report will include discussions of the methods used, stratigraphic section(s) exposed, fossils collected, and significance of recovered fossils. The report will be submitted to the City's Community Development Director, or designee, upon completion.	During excavation	
PW.Grade.25	As required in MMRP **MM TCR-1:** Native American Treatment Agreement: Prior to the issuance of grading permits, the applicant shall enter into a Tribal Monitoring Agreement with the Morongo Band of Mission Indians for the project. The Tribal Monitor shall be on-site during all ground-disturbing activities (including, but not limited to, clearing, grubbing, tree and bush removal, grading, trenching, fence post placement and removal, construction excavation, excavation for all utility and irrigation lines, and landscaping phases of any kind). The Tribal Monitor shall have the authority to temporarily divert, redirect, or halt the ground-disturbing activities to allow identification, evaluation, and potential recovery of cultural resources.	Prior to Issuance of a Grading Permit	
PW.Grade.26	As required in MMRP **MM TCR-2:** Retention of Archaeologist: Prior to any ground-disturbing activities (including, but not limited to, clearing, grubbing, tree and bush removal, grading, trenching, fence post replacement and removal, construction excavation, excavation for all utility and irrigation lines, and landscaping phases of any kind) and prior to the issuance of grading permits, the Applicant shall retain a qualified archaeologist who meets U.S. Secretary of the Interior Standards (SOI). The archaeologist shall be present during all ground disturbing activities to identify any known or suspected archaeological and/or cultural resources. The archaeologist will conduct a Cultural Resource Sensitivity Training, in conjunction with the Tribe[s] Tribal Historic Preservation Officer (THPO) and/or designated Tribal Representative. The training session will focus on what the archaeological and tribal cultural resources that may be encountered during ground-disturbing activities, and the procedures to be followed in such an event.	Prior to Issuance of a Grading Permit	

COA #	Condition of Approval	Completion Milestone	Status
PW.Grade.27	As required in MMRP **MM TCR-3:** Cultural Resource Management Plan: Prior to any ground-disturbing activities the project archaeologist shall develop a Cultural Resource Management Plan (CRMP) and/or Archaeological Monitoring and Treatment Plan (AMTP) to address the details, timing and responsibility of all archaeological and cultural resource activities that occur on the project site. This Plan shall be written in consultation with the consulting Tribe[s] and shall include the following: approved Mitigation Measures (MM)/Conditions of Approval (COA), contact information for all pertinent parties, parties' responsibilities, procedures for each MM or COA, and an overview of the project schedule.	Prior to Issuance of a Grading Permit	
PW.Grade.28	As required in MMRP **MM TCR-4**: Pre-Grade Meeting: The retained qualified archeologist and Consulting Tribe[s] representative shall attend the pre-grade meeting with the grading contractors to explain and coordinate the requirements of the monitoring plan.	Prior to Issuance of a Grading Permit	
PW.Grade.29	As required in MMRP **MM TCR-5**: On-site Monitoring: During all ground-disturbing activities the qualified archaeologist and the Native American monitor shall be on-site full-time. The frequency of inspections shall depend on the rate of excavation, the materials excavated, and any discoveries of Tribal Cultural Resources as defined in California Public Resources Code Section 21074. Archaeological and Native American monitoring will be discontinued when the depth of grading and soil conditions no longer retain the potential to contain cultural deposits. The qualified archaeologist, in consultation with the Native American monitor, shall be responsible for determining the duration and frequency of monitoring.	During Excavation	

COA #	Condition of Approval	Completion Milestone	Status
PW.Grade.30	As required in MMRP **MM TCR-6:** Inadvertent Discovery of Cultural Resources: In the event that previously unidentified cultural resources are unearthed during construction, the qualified archaeologist and the Native American monitor shall have the authority to temporarily divert and/or temporarily halt ground disturbance operation in the area of discovery to allow for the evaluation of potentially significant cultural resources. Isolates and clearly non-significant deposits shall be minimally documented in the field and collected so the monitored grading can proceed. If a potentially significant cultural resource(s) is discovered, work shall stop within 60-feet of the discovery and an Environmentally Sensitive Area (ESA) physical demarcation/barrier constructed. All work shall be diverted away from the vicinity of the find, so that the find can be evaluated by the qualified archaeologist and Tribal Monitor[s]. The archaeologist shall notify the Lead Agency and consulting Tribe[s] of said discovery. The qualified archaeologist, in consultation with the Lead Agency, the consulting Tribe[s] and the Native American monitor, shall determine the significance of the discovered resource. A recommendation for the Tribal Cultural Resource's treatment and disposition shall be made by the qualified archaeologist in consultation with the Tribe[s] and the Native American monitor[s] and be submitted to the Lead Agency for review and approval. Below are the possible treatment and dispositions of significant cultural resources in order of CEQAs preference: • Full avoidance. • If avoidance is not feasible, Preservation in place. • If Preservation in place is not feasible, all items shall be reburied in an area away from any future impacts and reside in a permanent conservation easement or Deed Restriction. • If all other options have been proven to be infeasible, data recovery through excavation and curated in a Curation Facility that meets the Federal Curation Standards (CFR s79.1)	During Excavation	

COA #	Condition of Approval	Completion Milestone	Status
PW.Grade.31	**MM TCR-7**: Inadvertent Discovery of Human Remains: The Morongo Band of Mission Indians requests the following specific conditions to be imposed in order to protect Native American human remains and/or cremations. No photographs are to be taken except by the coroner, with written approval by the consulting Tribe[s]. Should human remains and/or cremations be encountered on the surface or during any and all ground-disturbing activities (i.e., clearing, grubbing, tree and bush removal, grading, trenching, fence post placement and removal, construction excavation, excavation for all water supply, electrical, and irrigation lines, and landscaping phases of any kind), work in the immediate vicinity of the discovery shall immediately stop within 100-feet of the discovery. The area shall be protected, project personnel/observers restricted. The County Coroner is to be contacted within 24 hours of discovery. The County Coroner has 48 hours to come to his/her determination pursuant to State and Safety Code Section 7050.5. and Public Resources Code (PRC) Section 5097.98. In the event that the human remains and/or cremations are identified as Native American, the Coroner shall notify the Native American Heritage Commission within 24 hours of determination pursuant to subdivision (c) of HSC Section 7050.5. The Native American Heritage Commission shall immediately notify the person or persons it believes to be the Most Likely Descendant (MLD). The MLD has 48 hours, upon being granted access to the Project site, to inspect the site of discovery and make their recommendation for final treatment and disposition, with appropriate dignity, of the remains and all associated grave goods pursuant to PRC Section 5097.98. If the Morongo Band of Mission Indians has been named the Most Likely Descendant (MLD), the Tribe may wish to rebury the human remains and/or cremation and sacred items in their place of discovery with no further disturbance and reside in perpetuity. The place(s) of reburial will not be disclosed by any party and is exempt from the California Public Records Act (California Government Code Section 6254[r]). Reburial location of human remains and/or cremations will be determined by the Tribes Most Likely Descendant (MLD), the landowner, and the City Planning Department.	During Excavation	
PW.Grade.32	A precise grading plan shall be submitted to the City Engineer for review and approval. A grading permit shall be obtained prior to commencement of any grading activity.	Prior to Issuance of a Building Permit	
PW.Grade.33	The applicant shall provide a lot pad certification. The pad certification shall include an elevation and compaction certification. The elevation certification shall be stamped and signed by a licensed civil engineer or land surveyor and shall list the pad elevation as shown on the approved grading plan, the actual pad elevation and the difference between the two, if any. The compaction certification shall list the relative compaction of the pad soil and shall be certified by a licensed geotechnical engineer.	Prior to Issuance of a Building Permit	

COA #	Condition of Approval	Completion Milestone	Status
PW.Grade.34	The applicant shall provide a Final Grade Certification. The certification shall be stamped and signed by a licensed civil engineer or land surveyor and shall show actual building setbacks, swales, drainage devices, and other items shown in conformance with the approved Precise Grading Plan.	Prior to Certificate of Occupancy	

COA #	Condition of Approval	Completion Milestone	Status
PW.General.01	The subject property shall substantially conform to the approved Banning Commerce Center Design Review (DR21-7017), Environmental Impact Report and Mitigation Monitoring and Reporting Program (ENV21-1524), Tentative Parcel Map 38576, and Banning Commerce Center Development Agreement. The City Engineer may approve minor design modifications to the project plans during the plan check process, if such modifications conform to the provisions of the Banning Municipal Code. Substantial changes shall not be permitted except upon application for, and approval of modification of this entitlement in compliance with all applicable procedures and requirements. Where conflict exists between these Conditions of Approval and the governing documents listed above, the more strict provision shall prevail.	Informational	
PW.General.02	Revisions to the approved Tentative Parcel Map 38576 during plan check process; including, but not limited to, lot line alignments, easements, improvement plan revisions, and similar minor changes that are in substantial compliance with the Tentative Map, or associated Conditions of Approval, shall be administratively approved through the plan check process with the mutual consent and approval of the Developer, the Community Development Director, and the City Engineer. Changes that are not administratively approved, through the process referenced above and herein shall be amended in accordance with the Subdivision Map Act, as amended and codified within the Banning Municipal Code (BMC).	Informational	
PW.General.03	All Ordinances, Policy Resolutions, and Standards of the City in effect at the time this project is approved shall be complied with as a condition of this approval.	Informational	
PW.General.04	The applicant shall comply with the Tentative Parcel Map, Conceptual Grading Plan, Preliminary Hydrologic and Hydraulic Analysis, Preliminary Water Quality Management Plan, Preliminary Geotechnical Investigations, Traffic Impact Analysis, and other relevant technical documents approved during project entitlement with the Environmental Impact Analysis. Any significant omission to the representation of the site conditions may require the plans to be resubmitted for further review and revision.	Informational	
PW.General.05	An Encroachment Permit shall be required prior to commencement of any work within the public right-of-way. The contractor working within the public right-of-way shall submit proof of a Class “A” State Contractor’s License, City of Banning Business License, and Liability Insurance.	Informational	
PW.General.06	If a CFD is considered for this Parcel Map, prior to first COO, the applicant shall either demonstrate that the CFD has already been created or that a CFD application has been submitted and accepted as complete by the City of Banning Financial Services Division and shall include all maps, related Engineers report, and the required information (CFD boundary maintenance areas by location and type, etc.) to the satisfaction of the City Engineer.	Informational	

COA #	Condition of Approval	Completion Milestone	Status
PW.General.07	The applicant is responsible for resolving any conflicts with existing or proposed easements. All easement(s) of record and proposed easements shall be shown on the final map, grading plan, and improvement plans where applicable.	Informational	
PW.General.08	Where survey monuments exist, such monuments shall be protected or shall be referenced and reset, pursuant to the Business and Professions Code, Sections 8700 to 8805 (Land Surveyors Act)	Informational	
PW.General.09	All future utility systems including gas, electric, telephone, water, sewer, and cable TV, shall be provided for underground (except SCE 115 kV Transmission Faculties), with easements provided as required, and designed and constructed in accordance with City codes and the utility provider. Telephone, cable TV, and/or security systems shall be pre-wired.	Informational	
PW.General.10	Any existing public improvements, or public improvements not accepted by the City that are damaged during construction shall be removed and replaced or repaired as determined by the City Engineer or his/her representative.	Informational	
PW.General.11	All weather vehicular access in accordance with Riverside County Fire Department Technical Policy #TP 22-002 shall be maintained at all times to all parts of the proposed subdivision, where construction work is in progress, for emergency vehicles.	Informational	
PW.General.12	All precautions shall be taken to prevent washouts, undermining and subsurface ponding, caused by rain or runoff to all surface structures (curbs, gutters, sidewalks, paving, etc.) within the Final Map and required improvement plan limits. The Engineering Division may order repair, removal and replacement, extra compaction tests, load tests, etc. or any combination thereof for any such structure that was damaged or appears to have been damaged. All of the additional work, testing, etc., shall be at the expense of the Applicant.	Informational	
PW.General.13	Prior to the release of surety and upon completion of construction, the Applicant shall furnish the City with reproducible record drawings on Mylar film of all improvement plans that were approved by the City Engineer. Each sheet shall be clearly marked "As-Built" or "As-Constructed" and shall be stamped and signed by the engineer or surveyor certifying the accuracy and completeness of the drawings. The applicant shall have all AutoCAD files submitted to the City, revised to reflect the “As-Built” conditions.	Informational	
PW.General.14	A Mitigation and Monitoring Reporting Program has been established for this project. All conditions in the MMRP shall be implemented with sign off and approvals by the milestones required in the MMRP.	Informational	

The following is a non-inclusive list of items that may be required by the Public Works Department. Unless otherwise authorized in writing by the City Engineer, plans shall utilize the minimum scale specified and shall be drawn on 24”x36” sized paper. Plans should be drawn at a larger scale if additional detail and/or clarity is desired (Note: The applicant may be required to prepare other improvement plans not listed here pursuant to improvement required by other agencies and utility purveyors). Other engineered improvement plans prepared for City approval that are not listed herein shall be prepared in formats approved by the City Engineer prior to commencing plan preparation.

The design of public infrastructure elements shall conform to the requirements of these Conditions of Approval, City General Plan, City/Regional Master Plans, City of Banning Grading Manual, City of Banning codes/standards, Standard Specifications for Public Works Construction (current edition), and Caltrans Standards and Specifications at no cost to any governmental agency as required by the City Engineer.

The design of private grading and improvements outside of public right of way shall comply with the City of Banning Grading Manual, Title 18 of the City of Banning Municipal Code, California Building Code, State Water Resources Control Board orders, rules, and regulations, and City of Banning standards and practices.

All off-site plan and profile, street improvement plans, and signing and striping plans shall show all existing improvements for a minimum distance of 200 feet longitudinally along the centerline of the street and within the existing right of way, and to a distance sufficient to show any required design transitions.

An index map shall be provided on the title sheet of all plan sets showing the overall view of the entire work area.

All plans shall be complete, to the satisfaction of the City Engineer, prior to final map recordation and determination of surety estimates.

Permit Type	Plan Set	Scale	Notes
Grading	Rough Grading Plan	1" = 40'	
	Precise Grading Plan	1" = 20'	
	Borrow Plan	1" = 40'	If Necessary
	Stockpile Plan	1" = 40'	If Necessary
	Retaining Walls	1" = 40'	May be included with any grading plan
	Haul Route	1" = 100'	May be included with any grading plan
	Clearing Plan	1" = 100'	May be included with any grading plan
	Demolition Plan	1" = 100'	May be included with any grading plan
	Erosion and Sediment Control	1" = 40'	Shall be included with any grading plan
Encroachment	Street Improvement Plan	1" = 40' Horiz/ 1" = 4' Vertical	
	Signing and Striping Plan	1" = 40'	
	Traffic Signal Plan	1" = 40'	
	Traffic Control Plan	1" = 40'	
	Storm Drain Improvement Plan	1" = 40' Horiz/ 1" = 4' Vertical	
	Channel Improvement Plan	1" = 40' Horiz/ 1" = 4' Vertical	
	Potable Water Plan	1" = 40' Horiz/ 1" = 4' Vertical	
	Non Potable Water Plan	1" = 40' Horiz/ 1" = 4' Vertical	
	Sewer Plan	1" = 40' Horiz/ 1" = 4' Vertical	
	Other Improvements	TBD	As pre-approved by City Engineer
Final Maps	Final Map	1" = 40'	
	Easement Dedications		
	Corner Records		

	Records of Survey
Technical Studies	Geotechnical Report
	Hydrologic and Hydraulic Report
	LOMR (as required by FEMA)
	Water Quality Management Plan (WQMP)
	Potable Water Hydraulic Assessment
	Sewer Lift Station Study
	Dust Control and Prevention Plan (PM10)
	Compaction Report
Permits and Agreements	Permission to Grade
	Construction Agreements
	BMP Agreement
	Landscape Maintenance Agreement
	Improvement Agreement
	Performance Bonds
	Labor and Material Bond
	Maintenance Bond
	Non-Interference Letter
	Regional Water Quality Control Board Permits
	USFWS/CDFW Permits
Certifications	Grading Certifications
	Pad Certifications

COA #	Condition of Approval	Completion Milestone	Status
PW.Map.01	The submittal, approval, and recordation of the Final Map shall be in accordance with the provisions of the State Subdivision Map Act and Title 16, Subdivisions, of the Banning Municipal Code.	Informational	
PW.Map.02	The Final Map shall have adequate reservations for public ingress and egress as well as public and/or private utility easements and abandonment of existing utility easements to the satisfaction of the City Engineer. The applicant shall be responsible for contacting all utility providers to establish appropriate easements required to provide services to each development area.	Informational	
PW.Map.03	The applicant shall file an Environmental Constraint Sheet. An Environmental Constraint Sheet means a duplicate of the final map on which are shown the Environmental Constraint Notes. This sheet shall be filed with the County Surveyor simultaneously with the final map and labeled ENVIRONMENTAL CONSTRAINT SHEET in the top margin. Applicable items will be shown under a heading labeled Environmental Constraints Notes. The Environmental Constraint Sheet shall contain the statement: THE ENVIRONMENTAL CONSTRAINT INFORMATION SHOWN ON THIS MAP SHEET IS FOR INFORMATIONAL PURPOSES DESCRIBING CONDITIONS AS OF THE DATE OF FILING, AND IS NOT INTENDED TO AFFECT RECORD TITLE INTEREST. THIS INFORMATION IS DERIVED FROM PUBLIC RECORDS OR REPORTS, AND DOES NOT IMPLY THE CORRECTNESS OR SUFFICIENCY OF THOSE RECORDS OR REPORTS BY THE PREPARER OF THIS MAP SHEET. As required by the City Engineer, the sheet shall delineate constraints involving, but not limited to, any of the following that are conditioned by the Advisory Agency: **archaeological sites**, **geologic hazard mapping**, grading, building, building setback lines, **flood hazard zones**, **seismic lines and setbacks**, **fire protection**, water availability, sewage disposal, **environmental easements**, **environmental reservations**.	Informational	
PW.Map.04	Prior to issuance of any permit(s), the applicant shall acquire or confer property rights necessary for the construction or proper functioning of the proposed project/development. Conferred rights may include right-of-way dedications, irrevocable offers to dedicate or grant of easements to the City for emergency services, maintenance, utilities, storm drain facilities, or temporary construction purposes including the reconstruction of essential improvements as directed by the City Engineer. All costs associated with acquiring rights-of-way or easements shall be borne by the applicant.	Informational	
PW.Map.05	In the event that the applicant in unsuccessful in acquiring necessary property rights outside the project/development, the City will consider and potentially act on the option to acquire through eminent domain. Permits (or portions of permits) that are not affected by ROW acquisition will not be held up during the property acquisition or eminent domain process.	Informational	

COA #	Condition of Approval	Completion Milestone	Status
PW.Map.06	During the improvement plan checking process, turning radius template checks shall be submitted for access to all storm drain facilities, open space, and other utility easements that are accessed from a publicly accessible paved street. These templates shall clearly show that the easements are sufficient for full access under emergency conditions. The City of Banning's review of the easements shall include appropriateness of the vehicle turning radius, easement slopes and easement widths. Additional easement widths shall be required when the design vehicle is likely to use outriggers or other means of load stabilization.	Informational	
PW.Map.07	Any public right-of-way or streets to be vacated from public use, pursuant to Street and Highway Codes Sections 8300 through 8363, shall conform to the complete vacation procedure and show specific circulation alternative, where required. All street vacations shall be shown on the final map.	Informational	
PW.Map.08	All public facilities including sewer, water, and drainage shall be located in a public right of way or public utility easement. All final maps shall include appropriate easements per the approved tentative map and as required by the City Engineer and/or other agency maintaining public facilities. All easements shall meet minimum width and access requirements as mandated by the City or governing agency.	Informational	
PW.Map.09	Submit a copy of the title report, closure calculations, and any separate instruments or necessary right-of-way documents to the Engineering Division prior to final map approval.	Informational	
PW.Map.10	A map of the proposed subdivision drawn at 1”=200’ showing the outline of the streets including street names shall be submitted to the City to update the city atlas map.	Informational	
PW.Map.11	The Applicant shall be responsible for research on private utility lines (Gas, Edison, Telephone, Cable, Internet, etc.) to ensure there are no conflicts with site development. All existing on-site utility lines that conflict with this project shall be relocated, removed, or sealed to the satisfaction of the City Engineer.	Informational	
PW.Map.12	The applicant shall not grant any easements over any property subject to a requirement of dedication or irrevocable offer of dedication to the City of Banning unless such easements are expressly made subordinate to the easements to be offered for dedication to the City or unless such easements do not conflict with the City’s intended purposes or uses. Prior to granting any of said easements, the applicant shall furnish a copy of the proposed easement to the City Engineer for review and approval. Further, a copy of the approved easement shall be furnished to the City Engineer prior to the issuance of any certificate of use and/or occupancy.	Informational	
PW.Map.13	The applicant, at its sole expense, shall obtain all right of way or easement acquisitions necessary to implement any portion of condition of this project, including public improvements, off-site grading and construction, offsite street requirements, offsite public utility requirements, storm drain improvements, or any other requirement of these conditions.	Prior to Final Map Recordation	

COA #	Condition of Approval	Completion Milestone	Status
PW.Map.14	The applicant shall provide an easement over, across, and which provides ingress and egress to all private water quality, stormwater, drainage basins, public water facilities, public sewer facilities, public electric facilities, and fire department access to be dedicated to the City, for ingress, egress, and right to inspect, repair, remove, and replace unless otherwise directed by the City Engineer.	Prior to Final Map Recordation	
PW.Map.15	The applicant shall offer for dedication on the Final Map, within Final Map boundaries, all public street right-of-way and public utility easements in conformance with project entitlement documents. The City may leave the dedications open for future acceptance when all required public street improvements for the map are installed by the applicant in the rights of way.	Prior to Final Map Recordation	
PW.Map.16	The Applicant shall dedicate right-of-way or provide temporary easements beyond Parcel Map boundary with adjacent property owner(s) as required to provide utility service, public and/or emergency vehicular ingress and egress access to the nearest paved and publicly maintained street along the proposed Nicolet Street	Prior to Final Map Recordation	
PW.Map.17	The Applicant shall offer to the City of Banning Lot C as shown on the Tentative Parcel Map for electrical utility purposes as defined in the project Development Agreement to the City of Banning.	Prior to Final Map Recordation	
PW.Map.18	The Applicant shall offer to the City of Banning Lot D as shown on the Tentative Parcel Map for a sewer lift station necessary for the site to provide sewer service as defined in the project Development Agreement to the City of Banning.	Prior to Final Map Recordation	
PW.Map.19	The applicant shall offer to dedicate to the City of Banning additional Right of Way as defined within the Final Map improvement limits as necessary to provide the total right of way described below: Wilson Street - 55' to 110' Right of Way (West of O'Donnell Street) Wilson Street - 110' Right of Way (East of O'Donnell Street) O'Donnell Road - Min. 39' Half Width Right of Way Cottonwood Road (South of Wilson Street) - 110' Right of Way All offers of dedication shall include the corner cut-back at all intersections. Corner cutbacks at intersections that will be utilized by trucks shall include truck turn templates to verify cutback dimensions. Additional right of way may be required for intersection configurations or roadway transitions as indicated on the TPM. Additional right of way shall be offered on the final map at no cost to the City of Banning. Where additional right of way is necessary, improvement plans shall be reviewed and approved showing these requirements prior to Final Map recordation.	Prior to Final Map Recordation	

COA #	Condition of Approval	Completion Milestone	Status
PW.Map.20	Security for the construction of public improvements in accordance with Government Code Section 66499 shall be as follows: Faithful Performance Bond [redacted] 100% of estimated cost Labor and Material Bond [redacted] 100% of estimated cost Monumentation Bond - In the amount as supplied by the Record Engineer/Land Surveyor and as approved by the City Engineer Securities for the public improvements shall be on file with the City Clerk prior to scheduling the final map for approval by City Council. Unit prices for bonding estimates shall be those specified or approved by the City Engineer.	Prior to Final Map Recordation	
PW.Map.21	The City and the applicant are to enter into a Public Improvement Agreement to guarantee the construction of the public improvements as listed in the Conditions of Approval and as shown on the approved plans.	Prior to Final Map Recordation	
PW.Map.22	The applicant shall obtain approval from the Fire Marshall in consultation with the City Engineer, for a conceptual fuel modification plan and program, unless the City of Banning Fire Marshall ("Fire Marshall") finds in writing to the City that such plan and program are not required for development of the property within the boundaries of this Final Map. Prior to the issuance of the first certificate of occupancy, within the lots affected by said fuel modification plans, the fuel modification shall be installed and completed under the supervision of the Fire Marshall with an approved plant palette. The CC&Rs or other approved documents shall contain provisions for maintaining the fuel modification zones, including the removal of all dead and dying vegetation.	Prior to Issuance of any Construction Permit	
PW.Map.23	The applicant shall verify and/or set all property corners, r/w corners, and centerline monuments. Subsequently, the applicant shall cause the surveyor to file the appropriate documents and records to the County of Riverside.	Prior to Release of Surety	
PW.Map.24	Public improvements shall be completed and accepted by City of Banning prior to release of Faithful Performance Bond and Labor and Material Bond for such improvements. Faithful Performance Bond for applicable public improvements shall be reduced to 10% once City accepts improvements into maintenance period. Final 10% to serve as the maintenance bond for the 1-year maintenance period.	Prior to Release of Surety	
PW.Map.25	The Applicant shall comply with Assembly Bill 1414, which was enacted on January 1, 1995, and amended Section 8771 of the Business and Professions Code of the Land Surveyors Act. Assembly Bill 1414 requires that two (2) corner records be filed when: - Monuments exist that control the location of subdivisions or tracts, streets or highways; or provides survey control. The monuments are located and referenced by a licensed Land Surveyor before any streets or highways are reconstructed or relocated. The corner record(s) of the references are filed with the County Surveyor. - Monuments are reset in the surface of the new construction and a corner record is filed with the County Surveyor before recording of a Certificate of Completion for the project.	Prior to Release of Surety	

COA #	Condition of Approval	Completion Milestone	Status
PW.Map.26	Permanent survey monuments shall be set at the intersection of street centerlines, beginning, and end of curves in centerlines, and at other locations designated by the Director of Public Works and City Engineer. All other centerline monuments shall be placed in accordance with standard survey practice. A complete set of street centerline ties shall be submitted to the Engineering Division upon completion of improvements or prior to release of the monumentation bond.	Prior to Release of Surety	

COA #	Condition of Approval	Completion Milestone	Status
PW.Storm.01	The applicant shall comply with Chapter 13.24 "Stormwater Management Systems" of the Banning Municipal Code.	Informational	
PW.Storm.02	The applicant shall submit a Drainage Study with hydrologic and hydraulic analysis for developed and undeveloped (existing) conditions to the Engineering Division for review and approval. The study and analysis shall be prepared by a civil engineer licensed by the State of California. Drainage design shall be in accordance with Banning Master Drainage Plan adopted by Riverside County Flood Control and Water Conservation District (RCFCD), RCFCD Hydrology Manual, and standard plans and specifications. The 10-year storm flow shall be contained within the street curbs, and the 100-year storm shall be contained within the street right-of-way; when this criteria is exceeded, additional drainage facilities shall be designed and constructed.	Informational	
PW.Storm.03	The proposed drainage improvement plans shall be designed such that drainage facilities will maintain or reduce the 100-year peak runoff rates presently exiting all Project boundaries. The Project will use on-site detention basins to reduce the storm water flows to or below the existing condition flows prior to their discharge to areas located downstream of the project. The project shall be designed to retain the 100 year 3 hour storm. Detention facilities shall have a maximum draw down time of 72 hours.	Informational	
PW.Storm.04	Applicant shall submit drainage improvement plans for the proposed subdivision with the accompanying hydrology and hydraulic analysis and shall be designed per the RCFC&WCD Hydrology Manual and the City of Banning flood control standards. Finalized studies shall verify the size of flood control facilities. Drainage facilities shall be in accordance with the approved tentative map and specific plan. Plans shall be submitted to RCFC&WCD and/or the City of Banning for review and approval for facilities that are to be owned and/or maintained by RCFC&WCD.	Informational	

COA #	Condition of Approval	Completion Milestone	Status
PW.Storm.05	Trash Capture Devices are designed to keep trash, sediment, and debris from entering the City's storm sewer system including its' curb and gutters. The proposed project is in a "Priority Land Use" area (defined as: high-density residential areas (starting from 10 dwellings units/acre), Industrial areas (manufacturers, storage warehouses, distribution centers, junkyards), Commercial areas (populated consumer areas where goods and services are exchanged), Mixed-use areas (areas where high-density residential, industrial, and commercial intermix), and Public Transportation areas (property drains to or from bus stops)). Therefore, the developer shall install, operate, and maintain a "Full Capture" trash treatment control device for all storm drain systems (catch basins, inlets, etc.) on the property that capture runoff from the Priority Land Use area to comply with Trash Amendments/Provisions as defined by the SWRCB. The full capture system/device shall be selected from the SWRCB's approved Certified "Full Capture Systems" list and shall also be approved by the City Engineer. If the project does not require a WQMP but is in a "Priority Land Use" area, a BMP Maintenance Agreement shall be prepared and executed with the City to ensure proper operation and maintenance of the full capture system/device and an annual self-inspection report shall be submitted to the Engineering Division.	Informational	
PW.Storm.06	Stormwater basins within the development shall be privately maintained. Any public storm drain with connection to a private stormwater basin shall include easements for public access and maintenance of the drainage device.	Informational	
PW.Storm.07	Any stormwater basin outlet pipe without a direct connection to a City of Banning accepted storm drain or culvert shall be privately maintained.	Informational	
PW.Storm.08	Easements to the City of Banning over storm drain basins and outlets shall be provided in accordance with the Stormwater Facilities Management Agreement.	Informational	
PW.Storm.09	The applicant shall prepare a Final Water Quality Management Plan in accordance with the California Regional Water Quality Control Board Colorado River Basin Region Order No. R7-2013-0011. The WQMP shall identify if the project meets the criteria of a Priority Development Project and identify project Site Design BMP's and Treatment Control BMP's as applicable. The WQMP shall be reviewed and approved by the City Engineer.	Prior to the Issuance of a Grading Permit	
PW.Storm.10	The applicant shall execute a Stormwater Management Facilities Agreement on terms agreed to by the parties guaranteeing the maintenance of stormwater pollution controls. Said agreement shall be recorded with the Riverside County Recorder and run with the land.	Prior to the Issuance of a Grading Permit	
PW.Storm.11	The applicant shall file a LOMR as required by FEMA to remove the project site from the mapped floodplain in accordance with the preliminary floodplain studies prepared during project entitlement.	Prior to the Issuance of a Grading Permit	

COA #	Condition of Approval	Completion Milestone	Status
PW.Storm.12	The applicant shall identify and include in its improvement plans structural and non-structural Best Management Practices (BMP's) as outlined in the Final Water Quality Management Plan (WQMP).	Prior to the Issuance of a Grading Permit	
PW.Storm.13	Drainage easements, as necessary, shall be shown and dedicated to the City of Banning on the Final Map.	Prior to Recordation of Final Map	
PW.Storm.14	As required in MMRP **MM BIO-3:** Prior to the issuance of a grading permit, the Project applicant will obtain a USACE Section 404 Nation Wide Permit, RWQCB Section 401 Water Quality Certificate, and CDFW Section 1602 Streambed Alteration Agreement. The Applicant shall notify the California Department of Fish and Wildlife (CDFW) for impacts to Fish and Game Code section 1602 resources and obtain a CDFW-executed Lake and Streambed Alteration (LSA) Agreement authorizing impacts to Fish and Game Code section 1602 resources associated with the Project. The notification to CDFW should provide the following information: 1. A stream delineation including the bed, bank, and channel; 2. Linear feet and/or acreage of streams and associated natural communities that would be permanently and/or temporarily impacted by the Project. This includes impacts as a result of routine maintenance and fuel modification. Plant community names should be provided based on vegetation association and/or alliance per the Manual of California Vegetation (Sawyer et al 2009); 3. A discussion as to whether impacts on streams within the Project site would impact those streams immediately outside of the Project site where there is hydrologic connectivity. Potential impacts such as changes to drainage pattern, runoff, and sedimentation should be discussed; and 4. A hydrological evaluation of the 100-year storm event to provide information on how water and sediment is conveyed through the Project site.	Prior to the Issuance of a Grading Permit	

COA #	Condition of Approval	Completion Milestone	Status
PW.Storm.14 (cont'd)	Currently, the impacted drainages and overall watershed are not within a service area of an approved mitigation bank. Depending on the timing of impacts and issuance of regulatory permits, should a mitigation bank become approved for the Whitewater River watershed, at minimum 2.67-acres of habitat creation credits from an approved bank will be purchased. However, since at this time no mitigation bank is approved for the whitewater watershed, it is assumed at minimum 2.67-acres of on-site creation is required as outlined below. If it is determined that on-site mitigation is not feasible, creation of non-wetland waters at an off-site location would be required. The off-site location would be required to have a conservation easement or deed restriction placed over the mitigation area to ensure the site remains mitigation in perpetuity. Additionally, whether on or off-site, the mitigation site will require long-term maintenance and management by a qualified conservancy, including payment of a non-wasting endowment to fund the long-term maintenance. To meet the criteria of a biologically equivalent or superior alternative, the applicant will offset permanent impacts to a minimum 0.54-acre of MSHCP Section 6.1.2 riverine resources (CDFW jurisdictional resource) as follows including the preparation of an MSHCP DBESP. • Permanent impacts to a minimum of 0.54-acres of jurisdictional features will be mitigated at a minimum of a 5:1 ratio (2.67 acres) through the creation of in-kind habitat on-site along the eastern and northern most Project boundary. If it is determined that on-site mitigation or off-site is not feasible, additional alternatives could include, payment into an acceptable an approved mitigation bank should one become available at the time of impacts and permitting. • A Habitat Mitigation and Monitoring Plan for the creation of in-kind habitat will be prepared, reviewed and approved by the City of Banning, USACE, RWQCB and CDFW. The created habitat will be monitored by the Project proponent for a minimum of 5 years; monitoring reports shall be provided to the City of Banning and appropriate regulatory agency on an annual basis. The restoration area must meet standardized success criteria as described in a Habitat Mitigation and Monitoring Plan, which will be required as part of the permit process and approved by the Resource Agencies. • A DBESP will be also prepared, reviewed and approved by the City of Banning and MSHCP wildlife agencies prior to the issuance of grading permits.	Prior to the Issuance of a Grading Permit	
PW.Storm.15	Applicant shall make pipeline repairs necessary within the required improvement limits as identified by the City Engineer or City Inspector for City acceptance of facilities.	Prior to Release of Surety	
PW.Storm.16	Applicant shall provide GIS shape files for all roadway centerlines to the City of Banning Public Works Department for inclusion in the GIS database.	Prior to Release of Surety	

COA #	Condition of Approval	Completion Milestone	Status
PW.Street.01	All street designs shall comply with City of Banning standard drawings where available. If no City standard is available applicant may select standards in the following order: 1 - City of Banning Standards 2 - Riverside County Standard Drawings 3 - 'Greenbook' Standard Drawings 4 - Caltrans Standard Drawing 5 - Other published standards, subject to approval from the City Engineer. Any standard drawing other than City of Banning standards shall be included on the improvement plan set as reference.	Informational	
PW.Street.02	All street designs shall provide pavement and lane transitions per City of Banning and Caltrans standards for transitions to existing street sections.	Informational	
PW.Street.03	Any public improvements damaged during the course of construction shall be replaced to the satisfaction of the City Engineer, or his/her designee.	Informational	
PW.Street.04	Grading and excavations in the public right-of-way shall be supplemented with a soils and geology report prepared by a professional engineer or geologist licensed by the State of California.	Informational	
PW.Street.05	Applicant's geotechnical engineer shall provide the design of the pavement section and field measured "R-Values" based upon the Caltrans Method.	Informational	
PW.Street.06	Street pavement design shall take into account the subgrade soil strength, the projected traffic loading, and have a design life of 20 years.	Informational	
PW.Street.07	Minimum AC Thickness for any roadway shall be 4" AC, completed in 2 lifts. Final lift shall be a 0.15-foot cap completed after onsite construction is completed.	Informational	
PW.Street.08	A minimum of 36' of asphalt pavement are required for all new roadways. For LOCAL, COLLECTOR, DIVIDED COLLECTOR, and ARTERIAL HIGHWAY S, applicant shall provide additional pavement opposite the street centerline of the project to meet the 36' pavement requirement.	Informational	
PW.Street.09	A minimum width of 20 feet for a paved or all weather emergency access in accordance with Riverside County Fire Department Technical Policy #TP 15-002.	Informational	

COA #	Condition of Approval	Completion Milestone	Status
PW.Street.10	Applicant shall provide horizontal and vertical site distance calculations for review and approval by the City Engineer. Safe horizontal traffic sight distances and vertical curve sight distances shall be maintained regardless of street intersection angles, street grades, landscaping, or the lot configuration shown on the approved tentative tract map, as follows: - All vertical curve sight line design shall be per the Caltrans Design Manual (Figures 201-latest, Topic 405-latest, et al). The vertical curve design speed along with the requisite vertical curve geometric data shall be shown on the improvement-drawing sheet where the curve occurs. - All horizontal curve sight line design shall be per Riverside County Standards (Plates 114, 821, et al). Horizontal curve design speeds along with the related geometric data shall be tabulated on the improvement drawing sheets where the curves occur. - Horizontal and vertical sight distances shall be maintained even if such compliance results in reconfigured lots and/or a reduction in the lot count shown on the approved tentative map. City of Banning Ordinances shall be met while achieving the required safety requirements.	Informational	
PW.Street.11	In accordance with the California Building Code, Title 24, and the requirements of the Americans with Disabilities Act (ADA), facilities for disabled persons shall be constructed in locations specified by the City Engineer (i.e., accessible paths of travel, curb ramps, etc.).	Informational	
PW.Street.12	Parking areas shall be designed and improved with grades not to exceed five percent slope. All applicable ADA standards will be adhered to.	Informational	
PW.Street.13	The street improvement plans shall include details for all ADA ramps, indicating elevations and grades in accordance with City of Banning standard drawings at a scale of 1”=5’ or larger if necessary.	Informational	
PW.Street.14	ADA Ramps shall comply with City of Banning Standards and adopted PROWAG guidelines, whichever is stricter.	Informational	
PW.Street.15	All streets shall have a maximum grade of 15 percent. Wherever feasible street grades should be kept to 10 percent or less.	Informational	
PW.Street.16	Access drives to the public right-of-way shall be restricted to those approved by the City Engineer as shown on the approved plans.	Informational	
PW.Street.17	Commercial/Industrial driveway grades shall not exceed eight percent unless approved by the City Engineer.	Informational	
PW.Street.18	Traffic improvements shall adhere to the criteria shown in the approved Traffic Impact Analysis, Environmental Impact Report, and Mitigation and Monitoring Reporting Program.	Informational	
PW.Street.19	Signing and Striping Plans shall show the following at a minimum: stop signs, limit lines and legends, no parking signs, raised pavement markers (including blue raise pavement markers at fire hydrants), and street name signs.	Informational	
PW.Street.20	All existing overhead utility lines located on or adjacent to the site shall be undergrounded prior to public improvement acceptance and surety release, to the satisfaction of the Public Works Director, including but not limited to, electrical distribution, telephone, and cable lines, with the exception of electric utility lines over 55 kV in accordance with Ordinance 1500.	Informational	

COA #	Condition of Approval	Completion Milestone	Status
PW.Street.21	Project shall incorporate facilities included the adopted Active Transportation Plan, including bike lane facilities.	Informational	
PW.Street.22	Wilson Street (East of O'Donnell Street): Complete full width street improvements for ARTERIAL HIGHWAY roadway per City of Banning Standard ST101.1 (110' ROW, 86' curb to curb) including the following: Curb and Gutter, AC Pavement, Driveways, Street Lighting, Sidewalk, Parkway Landscaping, Traffic Signs, Roadway Striping, Painted Median, Class 2 Bike Lanes.	Informational	
PW.Street.23	Wilson Street (West of O'Donnell Street): Construct half width street improvements for ARTERIAL HIGHWAY roadway per City of Banning Standard ST101.1 (55' half width ROW, 43' curb to curb) including the following: Curb and Gutter, AC Pavement, Driveways, Street Lighting, Sidewalk, Parkway Landscaping, Traffic Signs, Roadway Striping, Painted Median, Class 2 Bike Lane.	Informational	
PW.Street.24	O'Donnell Street: Construct partial width street improvements for DIVIDED COLLECTOR roadway per City of Banning Standard ST100 (min. 39' half width ROW, 28' curb to CL) including the following: Curb and Gutter, AC Pavement, Driveways, Street Lighting, Sidewalk, Parkway Landscaping, Traffic Signs, Roadway Striping, Painted Median, Class 2 Bike Lanes	Informational	
PW.Street.25	Nicolet Street: Construct Nicolet Street from Hathaway Street to O'Donnell Street as an offsite access road in accordance with Riverside County Fire Department Technical Policy TP22-002 with a minimum 24' AC Paving with a structural section designed to carry project truck traffic. Applicant shall provide right of way or easement rights associated with this offsite roadway improvement.	Informational	
PW.Street.26	Cottonwood Ave is designated as an Arterial Highway in the City of Banning Circulation Element, with a future interchange connection to Interstate 10, and shall be designed in such a manner to allow for the ultimate overcrossing of Interstate 10. Cottonwood Ave: Half width street improvements for ARTERIAL HIGHWAY roadway per City of Banning Standard ST101.1 (110' ROW, 86' curb to curb) including the following: Curb and Gutter, AC Pavement, Driveways, Street Lighting, Sidewalk, Parkway Landscaping, Traffic Signs, Roadway Striping, Painted Median, Class 2 Bike Lanes. THIS CONDITION SHALL NOT APPLY, BASED ON THE PROJECT DEVELOPMENT AGREEMENT NEGOTIATIONS AND THE PUBLIC BENEFITS PROVIDED THEREIN.	Informational	

COA #	Condition of Approval	Completion Milestone	Status
PW.Street.27	Applicant shall submit and obtain written approval from the City Fire Marshall for the plans for all public or private access drives or streets. The plans shall include plan view and sectional views and indicate the grade and width of the road measured from flow-line to flow-line. When a dead end access exceeds 150-feet or when otherwise required, a clearly marked fire apparatus access turnaround must be provided and approved by the City Fire Marshall. Applicable covenant, conditions or restrictions (CC&R's) or other approved documents shall contain provisions which prohibit obstructions such as speed bumps/humps, control gates, or other modifications within said easement or access road unless prior approval from the Fire Marshall is granted.	Prior to Grading Permit	
PW.Street.28	COTTONWOOD AVE ALIGNMENT STUDY: Applicant shall process an alignment study for the ultimate plan and profile for Cottonwood Ave along the project's frontage that would accommodate the ultimate overcrossing and interchange at I-10. Study shall be concurrently processed by Caltrans and the City of Banning. THIS CONDITION SHALL NOT APPLY, BASED ON THE PROJECT DEVELOPMENT AGREEMENT NEGOTIATIONS AND THE PUBLIC BENEFITS PROVIDED THEREIN.	Prior to Grading Permit	
PW.Street.29	Applicant shall prepare plans to fully implement requirements in the Traffic Impact Analysis for the project. Intersection improvements shall be designed for the ultimate condition. Improvement Plans shall indicate any right of way requirements that exceed the minimum City of Banning standards. THIS CONDITION SHALL BE BASED ON THE PROJECT DEVELOPMENT AGREEMENT NEGOTIATIONS AND THE PUBLIC BENEFITS PROVIDED THEREIN.	Prior to Recordation of Final Map	
PW.Street.30	Applicant shall provide proposed development plans to the City of Banning Transit Department for review and consideration of bus routing and bus stops. If a bus stop is required Wilson Street, applicant shall provide a Bus Turnout per Riverside County Standard Plan 814, necessary rights of way, bus shelter, trash receptacles, and signage.	Prior to Recordation of Final Map	
PW.Street.31	A line item shall be included in the Construction Security Worksheet for the personnel needed for twenty-four hours a day, seven days per week for tending and maintaining all construction signage and safety apparatus. To the best extent possible, a person should be available twenty-four hours a day and seven days a week. The police department and fire department shall have access to the phone number. If there is a public concern, any person can contact the police/fire department who will be able to get a hold of the personnel. The personnel shall be available as on-call and the telephone number for the on-call person shall be publicly available at the Banning Police and Fire Departments. The City of Banning's construction inspectors shall have the authority to stop the work in progress until the safety signage/lighting has been restored to a condition acceptable to said inspector.	Prior to Recordation of Final Map	

COA #	Condition of Approval	Completion Milestone	Status
PW.Street.32	HARGRAVE STREET AND I-10 WESTBOUND RAMPS: The project traffic impact analysis indicates that the intersections of Hargrave Street and Interstate-10 will operate below acceptable levels with the additional of project traffic, and that the impact can be mitigated with the installation of a traffic signal. Applicant shall prepare and process plans with Caltrans for the installation of a traffic signal at this intersection. Issuance of an encroachment permit by Caltrans is required prior to the issuance of a building permit. Applicant shall construct the traffic signal at this intersection and have it operational prior to a Certificate of Occupancy. THIS CONDITION SHALL NOT APPLY, BASED ON THE PROJECT DEVELOPMENT AGREEMENT NEGOTIATIONS AND THE PUBLIC BENEFITS PROVIDED THEREIN.	Prior to Building Permit - Prior to Certificate of Occupancy	
PW.Street.33	HARGRAVE STREET AND I-10 EASTBOUND RAMPS: The project traffic impact analysis provides that the project contributes to the ultimate traffic at this intersection, with 32.2% fair share cost for the installation of a traffic signal and 29.5% for the addition of a southbound left turn lane. Applicant shall prepare and process plans with Caltrans for the installation of a traffic signal and striping at this intersection. Issuance of an encroachment permit by Caltrans is required prior to the issuance of a building permit. Applicant shall construct the traffic signal at this intersection and have it operational prior to a Certificate of Occupancy. Applicant is eligible for DIF reimbursement for project costs above the stated fair share requirements and may enter into a Reimbursement Agreement with the City of Banning for this work. THIS CONDITION SHALL NOT APPLY, BASED ON THE PROJECT DEVELOPMENT AGREEMENT NEGOTIATIONS AND THE PUBLIC BENEFITS PROVIDED THEREIN.	Prior to Building Permit - Prior to Certificate of Occupancy	
PW.Street.34	FAIR SHARE IMPROVEMENTS: The project traffic impact analysis provides that the project contributes to the ultimate traffic at Hathaway and Nicolet. The study assumes 67.9% fair share cost for the installation of a traffic signal and 71.6% to restripe the southbound approach to provide one left turn lane and one shared through-right turn lane. Applicant shall prepare and construct the improvements listed above, and may enter into a reimbursement agreement with the City of Banning for the balance of the project costs to be reimbursed to the developer as other fair share contributions for the intersection are received by the City of Banning.	Prior to Certificate of Occupancy	

COA #	Condition of Approval	Completion Milestone	Status
PW.Street.35	A Traffic Control Plan shall be submitted for review and approval by the City Engineer. The Traffic Control Plan shall be prepared by a California Registered Traffic Engineer or Civil Engineer experienced in this type of plan preparation. Traffic control shall be included as a line item in the Engineer's Estimate for bonding purposes. No construction shall be allowed prior to the approval of this plan.	Prior to Encroachment Permit	
PW.Street.36	Street lights shall be installed in accordance with the City of Banning Electric Department Standards. A detailed lighting plan shall be submitted for review and approval by the City's Electric Department and City Engineer prior to recordation of Final Maps. The plan shall indicate style, illumination, location, height and length of mast arm.	Prior to Encroachment Permit	
PW.Street.37	FRONTAGE IMPROVEMENT CONDITIONS FOR COTTONWOOD AVE - THIS CONDITION SHALL NOT APPLY, BASED ON THE PROJECT DEVELOPMENT AGREEMENT NEGOTIATIONS AND THE PUBLIC BENEFITS PROVIDED THEREIN.	Prior to Certificate of Occupancy	
PW.Street.38	As required in MMRP **GHG-1**, please include the following note on Street Improvement Plans: Prior to issuance of tenant occupancy permits, the Project shall be required to install a solar photovoltaic (PV) system or otherwise acquire energy from the local utility that has been generated by renewable sources, sufficient to power the anticipated initial improvements for the warehouse (i.e., the Title 24 electricity demand and the plug-load). The final PV generation facility size requires approval by Southern California Edison (SCE). SCE's Rule 21 governs operating and metering requirements for any facility connected to SCE's distribution system. Should SCE limit the off-site export, the proposed Project may utilize a battery energy storage system (BESS) to lower off-site export while maintaining on-site renewable generation to off-set consumption. The building shall include an electrical system and other infrastructure sufficiently sized to accommodate the PV arrays. The electrical system and infrastructure must be clearly labeled with noticeable and permanent signage. In addition, to ensure that the Project's electrical room(s) is sufficiently sized to accommodate the potential need for additional electrical panels, either (1) a secondary electrical room shall be provided in the building, or (2) the primary electrical room shall be sized 25 percent larger than is required to satisfy the service requirements of the building or the electrical gear shall be installed with the initial construction with 25 percent excess demand capacity.	Prior to Certificate of Occupancy	
PW.Street.39	All fire hydrants shall have a blue reflective pavement marker indicating the hydrant location on the street/access driveway as approved by the Fire Marshall and must be maintained in good condition by the property owner until the street is accepted for maintenance.	Prior to Certificate of Occupancy	
PW.Street.40	All required public improvements for the project shall be completed, tested, and approved by City of Banning and/or other governing agency to the satisfaction of the City Engineer or their designee.	Prior to Certificate of Occupancy	

COA #	Condition of Approval	Completion Milestone	Status
PW.Street.41	Applicant shall install all street name signs, striping, and related signage as shown on the approved plans to the satisfaction of the City Engineer and Public Works Director.	Prior to Certificate of Occupancy	
PW.Street.42	HATHAWAY STREET IMPROVEMENTS: The following shall be completed to the satisfaction of the City Engineer: • Along the west side of N Hathway Street between E Williams Street and E George Street, install City standard sidewalk behind curb and gutter, and install city standard curb ramps at intersections. Install new residential driveways as necessary to maintain access to existing driveway locations. • Within the existing right-of-way and pavement along the west side of N Hathway Street between E Williams Street and future Wilson Street, install striping for a new 6 ft. bike lane. • Within the existing right-of-way and pavement along the east side of N Hathway Street between E Williams Street and existing Nicolet Street, install striping for a new 6 ft. bike lane. • At the intersection of E Jacinto View Road and N Hathway Street, provide traffic measure to restrict Project traffic from access to E Jacinto View Rd • At the intersection of E Nicolet Street and N Hathway Street, provide traffic measure to restrict Project traffic from access to E Nicolet Street • At the intersection of E George Street and N Hathway Street, provide traffic measure to restrict Project traffic from access to E George Street	Prior to Certificate of Occupancy	

COA #	Condition of Approval	Completion Milestone	Status
PW.LS.01	The applicant shall be required to enter into a Landscape Maintenance Agreement for the perpetual maintenance of landscaping within the public right-of-way fronting the project sites.	Informational	
PW.LS.02	Prior to laying of the aggregate base layer for any new streets, all landscaping irrigation services (or sleeves to accommodate said services) shall be installed. Street cut permits may be denied and alternate methods may be required for any construction within a street that was accepted by the City within the prior five years.	Informational	
PW.LS.03	The applicant shall plant and maintain trees, shrubs, and ground cover placed in the parkway, slopes adjacent to public rights-of-way, and median islands constructed in connection with the project in accordance with applicable City standards until maintenance of such area is turned over to Property Owners Association. This includes ensuring that irrigation systems are operating properly, the clearing of debris, and regular weed removal.	Informational	
PW.LS.04	Landscape and irrigation plans for all required facilities shall be submitted for approval. The final design of the parkways, walls, landscaping, and sidewalks shall be included in the plans and shall be subject to approval by the Community Development Director and City Engineer.	Informational	
PW.LS.05	All landscape improvements within public right of way shall be compliant with the City of Banning MWELO guidelines.	Informational	
PW.LS.06	Applicant shall prepare and submit to the City of Banning Public Works Department landscape and irrigation for approval	Prior to Encroachment Permit	
PW.LS.07	An automatic sprinkler system and landscaping shall be installed, within the common areas including perimeter slopes and perimeter streets. Each system shall include a smart landscape irrigation controller (including remote communication), a separate water meter and electric meter, and plantings as approved by the Community Development Director. Landscaping plans and specifications shall be reviewed and approved by the City Engineer.	Prior to Certificate of Occupancy	
PW.LS.08	As required in MMRP **MM GHG-4**, please include the following note on Landscape and Irrigation Plans: Prior to the to issuance of Certificate of Occupancy, the Planning Department shall confirm that tenant lease agreements include contractual language that all landscaping equipment used on-site shall be 100 percent electrically powered. This mitigation measure applies only to tenant permits and not the building shell approvals.	Prior to Certificate of Occupancy	
PW.LS.09	Landscape improvements shall be certified by a licensed landscape architect or licensed landscape contractor as having been installed in accordance with the approved detailed plans and specifications. The applicant shall furnish said certification, including an irrigation management report, for each landscape irrigation system and any other required implementation report determined applicable, to the City Engineer for review and approval.	Prior to Surety Release	
PW.LS.10	Applicant shall provide GIS shape files for all irrigation lines and appurtenances including street crossings to the Public Works Department for inclusion in the GIS Database.	Prior to Surety Release	

COA #	Condition of Approval	Completion Milestone	Status
PW.Wat.01	All public potable water improvements shall be constructed per City of Banning Standards and Specifications, Standard Specifications for Public Works Construction, current edition, or as otherwise approved in writing by the City Engineer.	Informational	
PW.Wat.02	All private potable water improvement shall be designed and constructed per California Building Code, California Plumbing Code, and California Fire Code, latest editions. All private improvements shall be concurrently reviewed by the Building and Safety Department.	Informational	
PW.Wat.03	All private fire suppression systems shall be reviewed and approved by the City Fire Marshall.	Informational	
PW.Wat.04	Applicant shall install facilities within public rights of way. Where public right of way is not available, applicant shall provide easement rights to the City of Banning covering existing and proposed facilities necessary for the project.	Informational	
PW.Wat.05	A water improvement plan shall be submitted, separate from grading or site plans, showing proposed water service connection sizes and locations, including separate laterals for irrigation and fire protection. Both the domestic and irrigation water services will require the installation of a RP backflow protection device.	Informational	
PW.Wat.06	Applicant shall provide detail water demand and hydraulic calculations for use in sizing laterals, meters, backflows, and booster pumps as necessary, and for annual indoor and outdoor usage.	Informational	
PW.Wat.07	All water mains and fittings shall be a minimum of 8-inch in diameter and shall be DIP. Water line easements shall be a minimum width of 20 feet if installed outside of right-of-way or public utility easement.	Informational	
PW.Wat.08	Fire hydrants shall be installed within the right of way of the Parcel Map boundaries as per approved plans, at a 300-foot maximum spacing.	Informational	
PW.Wat.09	The fire service with require a RPDA backflow protection device. Private fire hydrants shall be painted red, and approval of location and materials to be coordinated with the Fire Department.	Informational	
PW.Wat.10	A backflow device must be installed on all common-area buildings and at each irrigation water connection. The backflow device must be in compliance with City of Banning standards and specifications.	Informational	
PW.Wat.11	Any utility work associated with the development that disturbs roadways constructed in the previous 5 years shall include full cross section grind and overlay for trench repair tasks.	Informational	
PW.Wat.12	Prior to recordation of the final parcel map, associated improvement plans for potable water facilities shall be submitted to the City for review and approval and shall be substantially complete to the satisfaction of the City Engineer.	Prior to Recordation of Final Map	
PW.Wat.13	Potable water easements, as necessary, shall be shown and dedicated to the City of Banning.	Prior to Recordation of Final Map	

COA #	Condition of Approval	Completion Milestone	Status
PW.Wat.14	Submit a hydraulic analysis report demonstrating adequate pressures throughout the project's water system during max day demand (MDD) with fire flow conditions. The hydraulic analysis, based on the City's latest calibrated water model, shall identify when and if additional facilities would be required to meet Project water demands. The study shall assume that 2 sources of water are necessary, and identify any offsite water improvements required to meet required project flows.	Prior to Encroachment Permit	
PW.Wat.15	All required water lines and fire hydrants shall be installed and made operable before any building permits are issued. This may be done in phases if the construction work is in progress for emergency vehicles.	Prior to Building Permit	
PW.Wat.16	Applicant shall make pipeline repairs within the required improvement plans necessary as identified by the City Engineer or City Inspector for City acceptance of facilities.	Prior to Release of Surety	
PW.Wat.17	Applicant shall provide GIS shape files for all potable water lines and appurtenances including service laterals to the Public Works Department for inclusion in the GIS Database.	Prior to Surety Release	

COA #	Condition of Approval	Completion Milestone	Status
PW.Sew.01	All public sewer improvements shall be constructed per City of Banning Standards and Specifications, Standard Specifications for Public Works Construction, current edition, or as otherwise approved in writing by the City Engineer.	Informational	
PW.Sew.02	Applicant shall install facilities within public rights of way. Where public right of way is not available, applicant shall provide easement rights to the City of Banning covering existing and proposed facilities necessary for the project.	Informational	
PW.Sew.03	All sewer lines to be constructed within the public right-of-way shall be extra strength Vitrified Clay Pipe (VCP). All sewer mains shall be minimum of 8 inches in diameter. Any sewer main greater than 15-inches (15”) shall be extra strength VCP. Any sewer with more than 15’ cover (FG/FS to top of pipe) shall be extra strength VCP. Final sizes shall be approved by the City Engineer based on calculations submitted by the design engineer accounting for ultimate discharge flows for phase and all upstream areas. Sewer line easements shall be a minimum of 20 feet wide if installed outside of right-of-way or public utility easement.	Informational	
PW.Sew.04	Any sewer force main shall be Ductile Iron Pipe with internal epoxy coating. Sizing to be determined by hydraulic analysis of the proposed lift station.	Informational	
PW.Sew.05	Each developed parcel shall have its own sewer lateral and shall be PVC SDR 26.	Informational	
PW.Sew.06	A sewer check valve shall be provided for each building with a finish pad elevation lower than the rim elevation of the immediate up-stream sewer manhole.	Informational	
PW.Sew.07	Any pad with an elevation lower than the nearest upstream manhole rim elevation shall require a backwater valve.	Informational	
PW.Sew.08	Sewer mains shall maintain a straight alignment from manhole to manhole whenever feasible. The required radius, when necessary, shall be achieved by use of deflection at the joint with VCP pipe, following manufacturer’s guidelines.	Informational	
PW.Sew.09	The City of Banning will not permit any forced sewer system maintained by any entity other than the City of Banning within City of Banning rights of way. Private sewer pumps to public force main is not permitted.	Informational	
PW.Sew.10	Any utility work associated with the development that disturbs roadways constructed in the previous 5 years shall include full cross section grind and overlay for trench repair tasks.	Informational	
PW.Sew.11	Prior to recordation of the final parcel map, associated improvement plans for sewer facilities shall be submitted to the City for review and approval and shall be substantially complete to the satisfaction of the City Engineer.	Prior to Recordation of Final Map	
PW.Sew.12	Sewer easements within the required improvement plans and as necessary, shall be shown and dedicated to the City of Banning on the Final Map.	Prior to Recordation of Final Map	
PW.Sew.13	Applicant shall provide plans and capacity studies for a sewer pump station to be located on Lot D as shown on the Tentative Parcel Map. The sewer lift station shall be designed to municipal standards and will be dedicated and operated by the City of Banning Wastewater Utility.	Prior to Encroachment Permit	

COA #	Condition of Approval	Completion Milestone	Status
PW.Sew.14	Applicant will construct sewer force main from the proposed sewer lift station to a connection point on the existing City of Banning gravity sewer main.	Prior to Encroachment Permit	
PW.Sew.15	Applicant shall fill out and submit an Industrial User Survey form and an Industrial Waste Permit application.	Prior to Encroachment Permit	
PW.Sew.16	Submit Sewer Improvement Plans along with the infrastructure phasing plan to the City Engineer for review and approval.	Prior to Encroachment Permit	
PW.Sew.17	The applicant shall inspect with CCTV all new public sewer mains and submit to the City for review and approval prior to surety release and acceptance of sewer improvements.	Prior to Release of Surety	
PW.Sew.18	Applicant shall make pipeline repairs within the required improvement plans as identified by the City Engineer or City Inspector for City acceptance of facilities.	Prior to Release of Surety	
PW.Sew.19	Applicant shall provide GIS shape files for all sewer lines and appurtenances including service laterals to the Public Works Department for inclusion in the GIS Database.	Prior to Release of Surety	

COA #	Condition of Approval	Completion Milestone	Status
PW.Electric.01	The Developer will be responsible for the cost of all electric distribution facilities and related infrastructure needed to serve the development's project. The Developer may be required to execute one or more line extension agreements with the City of Banning Electric Utility ("Utility") providing for the installation, construction, improvement, and dedication of the utility system following approval of Tentative Parcel Map.	Informational	
PW.Electric.02	Areas/Locations will be required for onsite electric distribution equipment, pad mounted transformer(s), vault(s) & service equipment etc. The areas/locations must be sufficient for safe operation and maintenance of the electric utility equipment. The infrastructure installed shall be adequate to support power delivery to each facility within the project. The Developer shall provide and install all conduits, vaults, and other materials associated with electric utility installations. The Utility will provide pad-mounted equipment, cables, and their terminations at the Developer's cost.	Informational	
PW.Electric.03	All electric utility equipment including but not limited to poles, substructures, transformers, pad mounted switch(es), meter(s) and/or metering equipment shall have adequate working clearances per Utility requirements. Some trees and bushes shown on the landscape plan might be eliminated.	Informational	
PW.Electric.04	The Utility own and operates several electric facilities consisting of 69/34.5kV delivery, 12.47kV distribution, and fiber optic communication facilities that surround this project. It will be the Developer's responsibility to facilitate a design and construction for interconnection, relocation, and undergrounding of these utility assets within the Final Map improvement limits and coordination with the Electric Utility will be required for any said interconnection and relocation to accommodate new building/facility placement or new right-of-way alignment/setback.	Informational	
PW.Electric.05	Streetlight and streetlight infrastructure required by Public Works and/or the City shall be installed by the developer, including any necessary metering equipment, and are assumed to be publicly owned and to be maintained by the Utility.	Informational	
PW.Electric.06	The Developer will be required to adhere to all requirements and guidelines within the City of Banning Electric Utility General Commercial Service Requirements.	Informational	
PW.Electric.07	Prior to the issuance of a grading permit, electric utility infrastructure backbone plans for this project must be completed.	Prior to Grading Permit	
PW.Electric.08	Prior to constructing the Utility's electric distribution system, the developer shall submit a detailed engineering plan showing design, location and schematics for the utility system to be approved by the Utility. It will also be required that the developer follow the Electric Utility Maps & Records requirements. This will allow the utility to assist with the review of distribution plans completed by the Developer and provide a cost estimate(s) to service the project. Design conditions and requirements to serve the project with electricity shall be discussed and reviewed following approval of the Parcel Map.	Prior to Encroachment Permit	

COA #	Condition of Approval	Completion Milestone	Status
PW.Electric.09	The Utility will require adequate easements needed to serve the project. An easement is described as an area behind sidewalk and outside of the boundaries of the right-of-way (R/W). Easements will be required for vaults, conduits, streetlights and pad mounted transformers and switches and any other electric distribution equipment outside of the R/W. Adequate easements will be required to serve all parcels of this project. These easements shall be offered for dedication to the City of Banning for public utility purposes. A non-exclusive easement shall be provided to the City of Banning to include the installation of electric distribution facilities within all common areas.	Prior to Encroachment Permit	
PW.Electric.10	Prior to the issuance of a building permit, electric utility infrastructure (conduits, vaults, etc.) must be completed as well as any temporary or permanent electric infrastructure to supply power to each parcel as constructed. The developer will be required to submit load calculations and execute one or more Electric Service Agreements for each building or parcel.	Prior to Building Permit	
PW.Electric.11	All plans for electric vehicle charging station infrastructure and distributed energy resources must be discussed with the Utility for review and approval.	Prior to Building Permit	
PW.Electric.12	Applicant shall provide GIS shape files for all potable water lines and appurtenances including service laterals to the Public Works Department for inclusion in the GIS Database.	Prior to Surety Release	

COA #	Condition of Approval	Completion Milestone	Status
PW.Refuse.01	Effective January 1, 2022, all businesses shall subscribe to City's three-container (trash, recycling, organics), Collection Services per Banning Municipal Code, Title 8.28, "Garbage Collection and Disposal" unless a City approved exemption is granted. Information on the program is available on the City of Banning website and made available at the following link: https://library.municode.com/ca/banning/codes/code_of_ordinances.	Informational	
PW.Refuse.02	Applicant shall comply with the City of Banning Trash and Recycling Enclosure Design Guide	Informational	
PW.Refuse.03	Applicants are required to use the City's exclusive franchise hauler (Waste Management) unless otherwise approved in writing by the Public Works Department.	Informational	
PW.Refuse.04	Construction debris shall be disposed of at a certified recycling site. It is the responsibility of the developer to contact the City's franchised solid waste hauler, Waste Management of the Inland Valley, at 1-800-423-9986 for disposal of construction debris.	Informational	
PW.Refuse.05	Applicants are encouraged to review the referenced sections in the 2019 California Green Building Standard Code: HTTPs://calgreenenergyservices.com/wp/wp-content/uploads/2019_california_green_code.pdf	Informational	
PW.Refuse.06	Applicants shall submit a Construction and Demolition Waste Diversion Plan to the City's Solid Waste Program Coordinator (SWPC) prior to commencement of construction or demolition. Contact the SWPC at hstuart@banningca.gov or 951.922.3193 for further details and to obtain a plan template.	Prior to Demolition AND/OR Prior to Building Permit	
PW.Refuse.07	The developer shall participate in the City's recycling and diversion programs by providing a solid waste enclosure to accommodate necessary solid waste containers.	Prior to Building Permit	
PW.Refuse.08	All new development projects including, but not limited to, industrial and business buildings and facilities, as well as multi-family complexes shall provide a solid waste enclosure to accommodate trash, recycle and organics waste bins and/or containers. Solid waste enclosures for multiple tenant properties, such as a shopping center, must design the enclosure to accommodate all waste containers of the property.	Prior to Building Permit	
PW.Refuse.09	Solid waste enclosures shall be located on the site to be serviced.	Prior to Building Permit	
PW.Refuse.10	The enclosure shall be designed for the exclusive use of housing solid waste containers including trash, recyclable and organics materials.	Prior to Building Permit	
PW.Refuse.11	Enclosures shall be lockable and/or contain locking bins. Locking mechanisms on enclosures and/or bins shall be approved by the City of Banning Solid Waste Franchise Hauler.	Prior to Building Permit	

COA #	Condition of Approval	Completion Milestone	Status
PW.Refuse.12	As required in MMRP **GHG-3**, please include the following note on Building Plans: The development shall divert a minimum of 75 percent of landfill waste. Prior to issuance of certificate of tenant occupancy permits, a recyclables collection and load area shall be constructed in compliance with County standards for Recyclable Collection and Loading Areas, and the facility's operator shall be required to provide the City with a copy of the Project's recycling program. This mitigation measure applies only to tenant permits and not the building shell approvals.	Prior to Certificate of Occupancy	
PW.Refuse.13	As required in MMRP **RCM AIR-4**, please include the following note on Building Plans: Materials and Spoils Control. Development Project materials will not be cast from the Development Site, and Development Project related debris, spoils, and trash will be contained daily and removed to a proper disposal facility.	Prior to Building Permit	
PW.Refuse.14	As required in MMRP **MM GHG-1**, please include the following note on Building Plans: Provide separate recycling bins within each commercial/industrial building and provide large external recycling collection bins at central locations in the commercial and industrial land uses for collection truck pickup. Provide a commercial recycling/composting program that provides 70 percent diversion of waste for the commercial land uses. Provide an industrial recycling program that provides 80 percent diversion of waste for the industrial land uses.	Prior to Building Permit	
PW.Refuse.15	Pursuant to CAL Green Building Standards Code section code 5.408. Construction and demolition wastes must be recycled and or salvaged for a reuse minimum of 65% of nonhazardous construction demolition waste materials. All projects require construction waste reduction, disposal and recycling services that comply with the 2019 California Green Building Standards Code (CALGreen) as described in the Non-Residential (5.408).	Prior to Certificate of Occupancy	
PW.Refuse.16	187.Applicants shall submit a Construction and Demolition Waste Diversion Reporting Form to the City's Solid Waste Program Coordinator upon completion of the project to obtain diversion approval prior to final sign-off. Contact the SWPC at hstuart@banningca.gov or 951.922.3193 for further details and to obtain a report form template.	Prior to Certificate of Occupancy	

COA #	Condition of Approval	Completion Milestone	Status
PW.Fees.01	All fees must be paid in full at the thresholds identified below. Plan check fees for professional report review and all improvement plan reviews shall be paid at the time of submittal of said documents in accordance with the fee schedule in effect at the time of the submittal.	Informational	
PW.Fees.02	Applications submitted without full payment of fees are deemed incomplete. Plan review will not commence until all fees are paid.	Informational	
PW.Fees.03	Evidence of paid fees to agencies outside the City of Banning is required prior to the issuance of any applicable permit.	Informational	
PW.Fees.04	Public Works Grading Permit fees (including fees for NPDES inspections) shall be paid prior to the issuance of any permits in accordance with the fee schedule in effect at the time of scheduling.	Prior to Grading Permit	
PW.Fees.05	Public Works Encroachment Permit and Inspection fees shall be paid prior to the issuance of any permits in accordance with the fee schedule in effect at the time of scheduling.	Prior to Encroachment Permit	
PW.Fees.06	Water Meter fees and installation fees shall be paid in full prior to installation of any water meter in accordance with the fee schedule in effect at that time.	Prior to Installation	
PW.Fees.07	Water connection fees shall be paid in accordance with the fee schedule in effect at that time, unless otherwise specified in the Development Agreement.	Prior to Building Final/C of O	
PW.Fees.08	Sewer connection fees shall be paid in accordance with the fee schedule in effect at that time, unless otherwise specified in the Development Agreement.	Prior to Building Final/C of O	
PW.Fees.09	Traffic Impact fees shall be paid in accordance with the Development Impact Fee schedule in effect at that time, unless otherwise specified in the Development Agreement.	Prior to Building Final/C of O	

RESOLUTION 2025-60

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, CERTIFYING AN ENVIRONMENTAL IMPACT REPORT ("EIR"), ADOPTING FINDINGS AND A STATEMENT OF OVERRIDING CONSIDERATIONS, AND ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM ("MMRP") FOR THE BANNING COMMERCE CENTER PROJECT INVOLVING A DESIGN REVIEW APPLICATION, CASE DR 21-7017, FOR THE CONSTRUCTION OF A 1,320,284-SQUARE FOOT INDUSTRIAL WAREHOUSE BUILDING ON 131.28-ACRES OF LAND GENERALLY LOCATED NORTH OF THE I-10 FREEWAY/E. RAMSEY STREET, EAST OF N. HATHAWAY STREET AND BISECTED BY WILSON STREET, WITHIN THE BUSINESS PARK ZONE.

WHEREAS, Sansone Group submitted applications for a Design Review (Case DR 2021-7017), Tentative Parcel Map (Case TPM 38756), and Development Agreement with the City of Banning, for the development of industrial uses within a proposed 1,320,204-square foot building on a 131.28-acre project site located north of I-10 Freeway/East Ramsey Street, East of N. Hathaway Street, and bisected by Wilson Street on assessor's parcel numbers (APNs) 532-030-008, 532-030-009, 532-080-008, 532-080-010, 532-090-026, 532-090-028, 532-090-030, 532-110-015 (collectively, the "Project"); and

WHEREAS, pursuant to Section 17.04.060.A. of the Banning Zoning Ordinance (BZO), the City Council has the authority to review and approve or conditionally approve the subject applications, including determinations on any associated environmental impacts in accordance with the California Environmental Quality Act (CEQA) for the Project; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA) and State CEQA Guidelines Sections 15064(f)(2) and 15070, the proposal constitutes a project as defined by CEQA and Community Development Department staff has determined that the Project is likely to have a significant effect on the environment; and

WHEREAS, based upon the complexity and magnitude of the proposed Project, staff determined that an Environmental Impact Report should be prepared for the Project. A Notice of Preparation (NOP) was subsequently completed and distributed to the State Clearinghouse, as well as agencies and organizations that may provide comment on the Project's potential impact(s) on the environment; and

WHEREAS, the State of California Clearinghouse issued a project number for the project, SCH No. 2022090102. The 30-day public comment period extended from September 2 to October 3, 2022. An electronic copy of the NOP was made available on the City's website. Comments received during the public review of the NOP were utilized to assist in identifying potential environmental impact; and

WHEREAS, the Public Scoping meeting was held in person at the City of Banning Council Chambers and virtually via Zoom on September 20, 2022. Notice of the Public Scoping Meeting was published in the Banning Record Gazette on September 2, 2022

providing the appropriate instructions for public participation in the Scoping Meeting. The Public Scoping Meeting included a presentation providing a summary of the Project, required actions, and the environmental review process. No public comments were received during the Scoping Meeting; and

WHEREAS, the Banning Commerce Center development project would result in construction and operational activities upon a currently undeveloped, vacant site. Such activities could potentially uncover Native American historical or archaeological resources unknown prior to ground disturbing activities; therefore, Native American consultation pursuant to both SB 18 and Assembly Bill 52 (AB 52) was conducted. On September 14, 2022 the City reached out to Native American contacts to formally invite participation in tribal consultation pursuant to AB 52 and SB 18 required for the Project. The City received responses from the Morongo Band of Mission Indians (MBMI) requesting formal consultation with the City regarding the Development Project, and the Yuhaaviatam of San Manuel Nation (formerly known as the San Manuel Band of Mission Indians) with YSMN stating that the development project is outside of their ancestral territory; and

WHEREAS, a Notice of Availability (NOA) of the Draft EIR was provided to, responsible and trustee agencies, as well as the organizations, and persons who have previously requested notification. The NOA was distributed via priority mail with confirmed receipt. The NOA identified the State mandated 45-day public review period extending from June 17, 2024 to August 2, 2024 and included a weblink to the City's public noticing page providing further access to the Draft EIR, project material, and related technical appendices. Emails advising of the availability of the Draft EIR were sent by the City on June 17, 2024 to those parties requesting electronic notification. These emails provided the same weblink leading to the Draft EIR; and

WHEREAS, during the public review and comment period, the City received 14 letters from Resource Agencies, Trustee Agencies, and other interested parties. The City prepared a response to each comment letter received and prepared a Final Environmental Impact Report for the Project; and

WHEREAS, in accordance with the disclosure requirements of CEQA Guidelines Section 15072(g)(5), the Project site is not listed as a hazardous property as designated under Section 65962.5 of the Government Code; and

WHEREAS, in accordance with Government Code Sections 65353, 65854, 65090, and 65091, on February 21, 2025, the City provided public notice by advertisement in the Record Gazette newspaper of a public hearing concerning the Project, and Notice of Intent (NOI) to recommend that the City Council adopt a Final Environmental Impact Report (FEIR) for the Project. The public hearing notice/NOI was also mailed to the owners of the subject properties within 300-feet of the Project boundary on February 20, 2025; and

WHEREAS, in accordance with Government Code Sections 65353 and 65855, on March 5, 2025, the Planning Commission held the duly noticed public hearing at which

interested persons had an opportunity to testify in support of, or opposition to the Project and at which time the Planning Commission considered the entirety of the Project and voted 3-2 to recommend that the City Council approve the subject applications and certify the EIR; and

WHEREAS, in accordance with Government Code Sections 65353, 65854, 65090, and 65091, on May 2, 2025, the City provided public notice by advertisement in the Record Gazette newspaper of a public hearing concerning the Project, and Notice of Intent (NOI) to adopt a Final Environmental Impact Report (FEIR) for the Project. Said public hearing notice/NOI was also mailed to the owners of the subject properties within 300-feet of the Project boundary on May 1, 2025; and

WHEREAS, in accordance with Government Code Sections 65353 and 65855, on May 13, 2025, the City Council held the duly noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to the Project and at which time the City Council considered the entirety of the Project, including the EIR, CEQA Findings, and the Mitigation Monitoring and Reporting Plan, and continued the matter to a date certain of May 27, 2025; and

WHEREAS, at its regularly scheduled meeting of May 27, 2025, the City Council continued its deliberation of the Project and further considered the entirety of the Project, including the EIR, CEQA Findings, and the Mitigation Monitoring and Reporting Plan.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. RECITALS. The foregoing recitals are true and correct and are incorporated herein by this reference.

SECTION 2. CEQA DETERMINATION. The City Council, based on its independent judgement and analysis, has reviewed and considered the proposed Project and determined, based on the whole record before it, including the EIR, that the proposed Project will have a significant impact on environment, and hereby makes the CEQA Findings, including the approval of a Statement of Overriding Considerations, as set forth in Exhibit 2; hereby certifies the EIR as set forth in Exhibit 1; and hereby adopts the MMRP as set forth in Exhibit 3, in full compliance with the requirements of CEQA for the Project.

SECTION 3. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 27th day of May, 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

John Pinkney, Interim City Attorney
Slovak, Baron, Empey, Murphy & Pinkney, LLP

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-60, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 27th day of May, 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

EXHIBIT 1
Environmental Impact Report

(This document is on file with the City Clerk and currently available online here:

https://engagebanning.civilspace.io/en/projects/banning-commerce-center

)

EXHIBIT 2
Statement of Overriding Considerations

Banning Commerce Center
CEQA Findings of Fact and Statement of Overriding Considerations
SCH No. 2022090102

1.0 STATEMENT OF FACTS AND FINDINGS

1.1 Introduction

The California Environmental Quality Act ("**CEQA**") requires that a Lead Agency issue two sets of findings prior to approving a project that will generate a significant impact on the environment. The Statement of Facts and Findings is the first set of findings where the Lead Agency identifies the significant impacts, presents facts supporting those conclusions reached in the analysis, makes one or more findings supporting the conclusions reached in the analysis, makes one or more findings for each impact, and explains the reasoning behind the agency's findings.

The following statement of facts and findings has been prepared in accordance with the CEQA and Public Resources Code Section 21081. CEQA Guidelines Section 15091(a) provides that:

> *No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding.*

There are three possible finding categories available for the Statement of Facts and Findings pursuant to Section 1509(a) of the CEQA Guidelines.

(1) Changes or alterations have been required in or incorporated into the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

(2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

(3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

The Statement of Overriding Considerations is the second set of findings. Where a project will cause unavoidable significant impacts, the Lead Agency may still approve a project where its benefits outweigh the adverse impacts. Further, as provided in the Statement of Overriding Considerations, the Lead Agency sets forth specific reasoning by which benefits are balanced against effects and approves the project.

Based upon its review of the Environmental Impact Report ("**EIR**"), the Lead Agency finds that the EIR is an adequate assessment of the potentially significant environmental impacts of the Project, represents

the independent judgment of City of Banning ("**City**"), and sets forth an adequate range of alternatives to this project.

The Final EIR is composed of the following elements:

- Banning Commerce Center Project Draft Environmental Impact Report, State Clearinghouse No. 2022090102 (June 2024);
- Mitigation Monitoring and Reporting Program;
- Response to Comments; and
- Corrections and Changes from the Draft EIR to the Final EIR.

2.0 PROJECT SUMMARY

2.1 Description of Project Proposed for Approval

The Banning Commerce Center Project ("**Project**") is generally located within the eastern portion of the City of Banning, within the County of Riverside. Regional access to the Project site is available from Interstate 10 (I-10) via Hargrave Street and Ramsey Street. Local access is provided by Hathaway Street, located east of the Project site; Wilson Street would be extended eastward as part of the Project and would bisect the northerly portion of the Project site. The Project site comprises eight Assessor's Parcel Numbers (APNs): 532-030-008, 532-030-009, 532-080-008, 532-080-010, 532-090-026, 532-090-028, 532-090-030, and 532-110-015.

The Project proposes the development of approximately 1,320,284 square feet of warehouse space (including office space) within one concrete tilt-up building. The Project also proposes associated facilities and improvements of the Project site including loading dock doors, on-site landscaping, and related on-site and off-site improvements.

The Project includes various discretionary approvals including applications for a Tentative Parcel Map (No. 38576), Design Review (21-7017), Development Agreement, and a Major Land Use Action Review.

2.2 Project Goals and Objectives

The fundamental purpose and goal of the Project is to implement the vision laid out in the Project objectives, by providing development standards and design guidelines to direct future development within the Project area. In order to promote a high-quality development, as well as the functional integrity, economic viability, environmental sensitivity, and positive aesthetic impact of the Project, specific planning and development objectives for the Project were identified:

Objective 1: Develop an industrial project that conforms to the City's General Plan and Municipal Code.

Objective 2: Provide a new development that will generate a positive fiscal balance for the City moving forward.

Objective 3: Design and build a Class-A institutional quality industrial project that will attract high end tenants and increase the City's tax base.

Objective 4: Generate employment opportunities within the City while improving the local balance of housing to job ratio.

Objective 5: Facilitate the movement of goods and services for the benefit of local and regional economic growth.

Objective 6: Develop a warehouse project adjacent to transportation corridors, truck routes, local amenities, and the nearby Interstate 10 Freeway for employee convenience and efficiencies of transporting goods.

Objective 7: Develop a warehouse project which efficiently uses the property, while conforming with all City regulatory policies.

Objective 8: Improve public safety and traffic flow in eastern Banning with roadway and infrastructure improvements.

Objective 9: Provide enhanced landscaping along City designated corridors with the construction of wide streets and landscaped setbacks.

Objective 10: Provide the required infrastructure for Project operation for future growth and prosperity of the surrounding benefit area that will serve the immediate and long term needs of the community.

3.0 ENVIRONMENTAL REVIEW AND PUBLIC PARTICIPATION

The City has conducted an extensive review of this Project which included a Draft EIR and a Final EIR, including technical reports, along with a public review and comment period. The following is a summary of the City's environmental review of the Project:

- Pursuant to the provisions of Section 15082 of the CEQA Guidelines, the City published a Notice of Preparation ("**NOP**") and filed a copy with the California Office of Planning and Research State Clearinghouse to inform the general public, trustee and responsible agencies, and other interested parties that an EIR would be prepared for the Project. The NOP was distributed on August 29, 2022, with a 30-day public review period ending on September 28, 2022.
- The NOP was distributed for a 30-day public review period, which began on August 29, 2022. The NOP was recirculated on September 2, 2022. In addition, the City held a publicly-noticed EIR scoping meeting in person and remotely via Zoom on September 20, 2022. A total of eight comment letters were received in response to the NOP. The comment letters received during the NOP comment period along with the NOP are included in Appendix A of the Draft EIR.
- The scope of the Draft EIR was determined through the NOP and scoping meeting process, as well as through the preparation of an Initial Study. Through these processes, the environmental resource areas included in the State CEQA Guidelines, Appendix G that were found to not be significant were Agriculture and Forestry Resources, Land Use and Planning, Mineral Resources, Population and Housing, Public Services, and Recreation. Public Services was analyzed within the

Draft EIR upon request by the Lead Agency. All remaining environmental resources areas included in the State CEQA Guidelines, Appendix G were analyzed in the Draft EIR.

- The City circulated the Draft EIR for the Project from June 14, 2024 to August 19, 2024. The City received a total of 14 comment letters from responsible agencies and other interested parties. The City prepared responses to all written comments received during the public review period. The comments and responses are contained in Section 2.0 of the Final EIR.
- In accordance with the provisions of Public Resources Code Section 21092.5, the City has provided a written proposed response to each commenting public agency no less than 10 days prior to the proposed certification date of the Final EIR.

4.0 INDEPENDENT JUDGMENT AND FINDING

The Project Applicant retained the independent consulting firm of Kimley-Horn and Associates, Inc. ("**Kimley-Horn**") to prepare the EIR for the Project. Kimley-Horn has prepared the EIR under the supervision, direction and review of the City. The City is the Lead Agency for the preparation of the EIR, as defined by California Public Resource Code Section 21067, as amended. The City of Banning City Council ("**Council**") has received and reviewed the EIR prior to certifying the EIR and prior to making any decision to approve or disapprove the Project. All findings set forth herein are based on substantial evidence in the record as indicated with respect to each specific finding.

4.1 Finding

The EIR for the Project reflects the City's independent judgment. The City has exercised independent judgment in accordance with Public Resources Code Section 21082.1(c)(3) in retaining its own environmental consultant to review the EIR and directing the consultant in preparation of the EIR. The City has independently reviewed and analyzed the EIR and accompanying studies and finds that the report reflects the independent judgment of the City.

The Council has considered all the evidence presented in its consideration of the Project and the EIR, including, but not limited to, the Final EIR and its supporting studies, written and oral evidence presented at hearings on the Project, and written evidence submitted to the City by individuals, organizations, regulatory agencies, and other entities. On the basis of such evidence the Council finds that with respect to each environmental impact identified in the review process (except those described in the following paragraph), the impact is: (1) less than significant and would not require mitigation; (2) potentially significant but would be avoided or reduced to less than a significant level by implementation of identified mitigation measures; or (3) would be significant and not fully mitigatable but would be, to the extent feasible, lessened by implementation of identified mitigation measures.

The EIR also identifies certain significant adverse environmental effects of the Project which cannot be avoided or substantially lessened. Prior to approving this project, the Council also adopts a Statement of Overriding Considerations which finds, based on specific reasons and substantial evidence in the record (as specified in Section 6.0), that certain identified economic, social, or other benefits of the Project outweigh such unavoidable adverse environmental effects.

5.0 ENVIRONMENTAL IMPACTS AND FINDINGS

5.1 Effects Determined to be No Impact/Less Than Significant Impact in the EIR

The Council hereby finds that the following potential environmental impacts of the Project are less than significant or would result in no impact and therefore do not require the implementation of mitigation measures.

AESTHETICS

Impact 4.1-1: Would the Project have a substantial adverse effect on a scenic vista?

Basis for Conclusion: Scenic views from the City and Project site include the San Bernardino Mountains and San Gorgonio Peak located to the north, as well as the San Jacinto Mountains located to the south. These views provide an aesthetically pleasing natural backdrop for the City's residents. Buildout of the Project has the potential to obstruct views of the San Bernardino Mountains to motorists on I-10; however, considering that the Project would be within foreground views from 1-10, in addition to the dominating visual panoramic views of the San Bernardino Mountains, the disruption would be minimal and in short duration. As shown in the visual simulations contained in **Draft EIR Figures 4.1-1a-d**, Project buildings would not significantly impede the visibility of scenic vistas from street level or at various distances around the Project. Furthermore, the closest residences would be at a higher elevation than the top of the Project building and would be at a large distance away from the Project site, therefore making it impossible for the Project to obstruct views of nearby scenic resources. Through adherence to the City's Municipal code, distance between the Project and sensitive viewers, and the dominating panoramic scale of nearby mountain ranges, impacts to scenic vistas would be less than significant **(Draft EIR, p. 4.1-7)**.

Impact 4.1-2: Would the Project substantially damage scene resources, including, but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway?

Basis for Conclusion: There are no officially designated state scenic highways within the City. Moreover, the Project site is not located close to a State-designated or eligible scenic highway, and thus the provisions of the California Scenic Highway Program do not apply. The nearest designated state scenic highway is a portion of State Route 243 (SR-243), approximately 1.6 miles southwest of the Project site. Although the Project's development would alter the landscape and natural vistas, construction and operation of the Project site would not substantially damage or obstruct a scenic resource (i.e., trees, rock outcroppings, or historic buildings) within a state scenic highway. As such, impacts that would occur are less than significant. **(Draft EIR, p. 4.1-12)**.

Impact 4.1-3: Would the Project, in non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

Basis for Conclusion: The Project site is located in a nonurbanized area. Construction activities would result in a temporary change to the visual characteristics of the Project site as viewed from the surrounding uses from temporary grading, equipment staging, and associated building activities. Construction would be visible to distant residents on Hathaway Street and motorists on I-10. Residents to the west of the Project site would experience changes in the visual character during the Project site preparation, utility construction, and paving portions of construction while Wilson Street and parking lots on the western portion of the Project site are constructed. These disturbances would be temporary in nature and would cease upon completion of construction.

Regarding operations, the Project would be designed and constructed compliant with the City General Plan land use designations and zoning ordinances for Business Park, which include building height and setback requirements. Additionally, the Project would be characteristic of the adjacent industrial uses, public services, and airport uses. While the Project would alter the existing visual character of the Project site, it would be minimized by compliance with the General Plan, General Plan Final EIR, zoning ordinances, and municipal development standards. As such, Project implementation would have a less than significant impact. (**Draft EIR, p. 4.1-13**).

Impact 4.1-4: Would the Project create a new source of substantial light or glare which will adversely affect day or nighttime view in the area?

Basis for Conclusion: The Project site is primarily undeveloped and surrounded by mostly vacant land. Existing sources of light and glare exist primarily from activity associated with I-10 to the immediate south of the Project site, such as vehicle headlights. Construction of the Project would be limited to the daytime hours of construction permitted (as stated in the Banning Code of Ordinances Standards (Section 8.44.090 and 18.09.200.) (unless otherwise approved by the City of Banning). During operations, the Project would use interior lighting and exterior security and parking lot lighting. All lighting on-site would be consistent with the general standards of the development standards for lighting, Section 17.24.100 of the City's Code of Ordinances, and general design principles identified in Section 17.12.090. As such, both short-term and long-term impacts associated with light and glare would be less than significant. (**Draft EIR, p. 4.1-13 through 4.1-14**).

AGRICULTURAL AND FORESTRY RESOURCES

Impact 7.2-1: Would the Project convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?

Basis for Conclusion: Based on review of the California Department of Conservation (DOC) Important Farmland maps, neither the Project site nor any adjacent land is designated as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance. The Project site and adjacent land are designated as Grazing Land. As such, the Project would not involve converting any Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland) to a non-agricultural use, and no impact would occur. (**Draft EIR, p. 7-1**).

Impact 7.2-2: Would the Project conflict with existing zoning for agricultural use, or a Williamson Act contract?

Basis for Conclusion: According to the City's Land Use and Zoning Map, no portion of the Project site is zoned or designated for agricultural use. The Project site is not in use for agricultural activities, nor is it subject to a Williamson Act contract. Therefore, the Project would not conflict with existing zoning for agricultural use, or a Williamson Act contract, and there is no impact. (**Draft EIR, p. 7-2**).

Impact 7.2-3: Would the Project conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?

Would the Project result in the loss of forest land or conversion of forest land to non-forest use?

Basis for Conclusion: The Project site has no lands located within the vicinity that are zoned forest land, timberland, or timberland zoned for timberland production. Additionally, the Project would not result in the rezoning of any forest land or conversion of forest land to non-forest use, and therefore no impact would occur. (**Draft EIR, p. 7-2**).

Impact 7.2-4: Would the Project Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?

Basis for Conclusion: There is no existing active farmland, forest lands, timberlands, or areas zoned for agriculture on the Project site or immediately surrounding areas. As such, development of the Project site would not involve changes to the existing environment which would result from conversion of farmland to non-agricultural use or conversion of forest land to non-forest use. Therefore, no impact would occur. (**Draft EIR, p. 7-2 to 7-3**).

AIR QUALITY

Impact 4.3-4: Would the Project result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

Basis for Conclusion: During construction, emissions from construction equipment, such as diesel exhaust, and application of asphalt and architectural coatings would temporarily generate odors. However, these odors would be not anticipated to affect a substantial number of people and would disperse rapidly. The South Coast Air Quality Management District ("**SCAQMD**") CEQA Air Quality Handbook identifies certain land uses as sources of odors. These land uses include agriculture (farming and livestock), wastewater treatment plants, food processing plants, chemical plants, composting facilities, refineries, landfills, dairies, and fiberglass molding. The Project would not include any of the land uses that have been identified by the SCAQMD as odor sources. Therefore, impacts related to odors associated with the Project's construction-related and operational activities would have no impact. **(Draft EIR, p. 4.2-30)**.

BIOLOGICAL RESOURCES

Impact 4.3-4: Would the Project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

Basis for Conclusion: The Project site is expected to provide for local wildlife foraging and breeding habitat. However, the Project site does not serve as a regional travel route, wildlife corridor, or wildlife crossing for large or medium-sized mammals between open space habitats located north and south of I-10. Small mammals, reptiles and amphibians may occasionally use off-site culverts, but the culverts are considered significantly strained and provide low quality for wildlife movement and connectivity. Any proposed development within the Project site would be required to comply with all Multiple Species Habitat Conservation Plan (MSHCP) urban/wildlands interface guidelines. Through implementation of associated guidelines and specific best management practices (BMPs), a less than significant impact would occur with respect to Project interference with wildlife movement and corridors. (**Draft EIR, p. 4.3-20**).

Impact 4.3-5: Would the Project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

Basis for Conclusion: The City Municipal Code Section 17.32.060 discourages the removal of healthy, shade providing, and aesthetically valuable trees. A tree removal and replacement plan would be required for the removal and replacement of all trees over 50 years in age unless their removal is required to protect public health and safety. No trees are located within or adjacent to the Project site that meet the criteria for the City's tree removal ordinance outlined in Section 17.32.060 of the City's Municipal Code. Therefore, the Project would not conflict with any local policies or ordinances protecting biological resources and no impact would occur. (**Draft EIR, p. 4.3-21)**.

CULTURAL RESOURCES

Impact 4.5-1: Would the Project cause a substantial adverse change in the significance of a historical resource pursuant to Section 150645?

Basis for Conclusion: Construction of the Project would not cause a substantial adverse change in the significance of a historical or archaeological resource pursuant to CEQA Guidelines Section 15064.5. Six undocumented historic-era sites were recorded within the Project area. CRM TECH evaluated each of the six resources and concluded that all six resources did not qualify as "historical resources" under CEQA. Therefore, the Project would not significantly impact any historical resources pursuant CEQA Guidelines, and a less than significant impact would occur. (**Draft EIR, p. 4.4-10 to 4.4-11**).

ENERGY

Impact 4.5-1: Would the Project result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during Project construction or operation?

Basis for Conclusion: The Project is anticipated to be constructed in one phase and over a duration of approximately 18 months. The energy associated with construction includes electricity use associated with water utilized for dust control, diesel fuel from on-road hauling trips, vendor trips, and off-road

construction diesel equipment, as well as gasoline fuel from on-road worker commute trips. Project construction use of electricity was estimated to represent less than one percent of the current electricity use in Riverside County. Additionally, construction diesel fuel and gasoline fuel would represent a negligible amount of the County's fuel. As such, the Project would not substantially affect existing energy fuel supplies or resources, nor would the Project demand new capacity or additional sources of construct fuel. Project-related construction energy use would be less than significant (**Draft EIR, p. 4.5-11** through **4.5-13**).

The energy consumption associated with Project operations would occur from building energy (electricity and natural gas) use, water use, and transportation-related fuel use. The estimated energy demand for electricity, natural gas, diesel, and gasoline would each represent less than one percent of the Countywide use for each resource. Additionally, the Project would install solar photo-voltaic (PV) panels that would help to offset its electricity demand. As such, Project operations would not substantially affect existing energy of fuel supplies or resources. The Project would also comply with applicable energy standards and new capacity would not be required. Project related operation energy use would be less than significant (**Draft EIR, p. 4.5-14** through **4.5-15**).

Overall, construction and operations energy demand for the Project represent a negligible amount compared to the Countywide demand. Additionally, the Project would comply with the California Building Code, which have incorporated California Energy Efficiency Standards for residential and non-residential buildings. As such, the Project would not be wasteful or inefficient, and a less than significant impact would occur (**Draft EIR, p. 4.5-15**).

Impact 4.6-2: Would the Project conflict with or obstruct a State or Local plan for renewable energy or energy efficiency?

Basis for Conclusion: The energy conservation policies and plans relevant to the Project include the California Title 24 energy standards and the CALGreen Building Code. The Project would be required to comply with these existing energy standards and any updates to these standards that come into existence prior to construction. Compliance with state and local energy efficiency standards would ensure that the Project meets all applicable energy conservation policies and regulations. As such, the Project would not conflict with applicable plans for renewable energy or energy efficiency. The Southern California Association of Governments (SCAG) 2020-2045 Regional Transportation Plan/Sustainable Communities Strategy (Connect SoCal) (RTP/SCS), integrates transportation, land use, and housing to meet GHG reduction targets set by CARB. The document establishes greenhouse gas (GHG) emissions goals for automobiles and light-duty trucks, as well as an overall GHG target for the region consistent with both the target date of Assembly Bill (AB) 32 and the post-2020 GHG reduction goals of Senate Bill (SB) 375. The Project would not conflict with the stated goals of the RTP/SCS. Project impacts would be less than significant. (**Draft EIR, p. 4.5-15**).

GEOLOGY AND SOILS

Impacts 4.6-1 to 4.6-3: Would the Project directly or indirectly cause potential substantial adverse effects, including risk of loss, injury or death involving: (i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault?; (ii) Strong seismic ground shaking?; (iii) Seismic-related ground failure, including liquefaction?; and/or (iv) Landslides?

***Basis for Conclusion: Rupture of Known Earthquake Fault and Strong Seismic Ground Shaking*.** According to the Geotechnical Study prepared for this Project, the Project site is not within an Alquist-Priolo Earthquake fault zone nor was any evidence of faulting identified during field investigation. The nearest fault to the Project site is the San Gorgonio Pass Fault. It was determined that the possibility of significant fault rupture on the Project site would be low. Therefore, the impacts associated with the surface rupture of a known fault would be less than significant, and no mitigation would be required.

In addition, each future building and Project component constructed would be designed and constructed in conformance with all applicable standards governing such development and would use the latest building standards, as adopted by the Building Standards Commission, to minimize impacts from seismic activity. The Project would not cause or exacerbate adverse effects related to rupture of an earthquake fault, nor from fault ruptures. Additionally, the Project would not cause or exacerbate adverse effects related to seismic shaking and future development of habitable structures within the Project site would be conducted in accordance with the CBC requirements and City grading code which would reduce impacts from seismic ground shaking to a less than significant level. Therefore, impacts associated with the rupture of a known earthquake fault and strong seismic ground shaking would be less than significant. (**Draft EIR, p. 4.6-12 to 4.6-13)**.

Seismic-Related Ground Failure (Liquefaction). The Project site is located within an area of susceptibility for liquefaction but is considered to be low risk due to the in-situ soil strength and a groundwater depth that exceeds 50 feet. Furthermore, on-site subsurface conditions encountered at the boring locations indicated that conditions would not be considered to be conducive to liquefaction. Following the design parameters of the geotechnical study and all relevant building codes would reduce any potential issues due to liquefaction and no mitigation measures would be necessary. Impacts would be less than significant. (**Draft EIR, p. 4.6-13 to 4.6-14)**.

Landslides. The Project site has a gentle slopes and does not contain drastic elevation changes over short distances. There are no large, exposed, loose or unrooted boulders on the Project site, nor is the Project site located within close proximity to mountain foothills where landslides are most common. Therefore, the risk of landslides impacting the Project site is considered low to negligible. Therefore, impacts associated with landslides would be less than significant. (**Draft EIR, p. 4.6-13)**.

Impact 4.6-5 Would the Project be located on a geological unit or soil that is unstable, or that would become unstable as a result of the Project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?

Basis for Conclusion: As previously discussed, liquefaction and landslides are not considered to be a significant design concern for the Project. The potential for liquefaction-mediated lateral spreading and subsidence appears to be effectively zero. Subsidence in the City area is closely associated with groundwater levels; groundwater was not encountered during drilling at any boring locations. Subsidence is likely to occur if rapid groundwater extraction occurs in response to increased water demands, resulting from population growth or prolonged drought. However, the alluvial sediments within the basin would not be subject to subsidence risk as there has not been detectable elevation loss, according to California's Groundwater Live: Land Subsidence GIS data. Additionally, the City would minimize potential impacts to subsidence through participation in local and regional efforts to conserve and recharge groundwater. Therefore, compliance with all federal, state, and local policies and regulations, the Project would have a less than significant impact concerning on- or off-site landslides, lateral spreading, ground subsidence, liquefaction, or collapse and no mitigation measures are required (**Draft EIR, p. 4.6-15** through **4.6-16**).

Impact 4.6-6: Would the Project be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?

Basis for Conclusion: The near-surface soils encountered during the field study for the Geotechnical Study investigation consisted of silty sands, gravelly sands, and well-graded sands with varying amounts of gravel, cobbles, and boulders; the materials were classified as non-expansive. As such, the Geotechnical Study does not anticipate expansive soils to adversely impact the design, construction, or operation of the Project. Furthermore, all grading and fill placement activities would be completed in accordance with the requirements of the CBC and the City's grading code. Therefore, the Project site would not be impacted by significant soil expansion and a less than significant impact would occur. (**Draft EIR, p. 4.6-16**).

Impact 4.6-7: Would the Project have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

Basis for Conclusion: The Project does not propose septic tanks or other alternative wastewater disposal systems. Accordingly, no impact would occur. **(Draft EIR, p. 4.6-16)**.

HAZARDS AND HAZARDOUS MATERIALS

Impact 4.8-1: Would the Project create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

Basis for Conclusion: Construction activities would include the use of materials such as fuels, lubricants, and greases in construction equipment and coatings used in construction. However, the materials used would not be in such quantities or stored in such a manner as to pose a significant hazard. The use of the materials would also be temporary and short-term or single-use in nature and would cease upon completion of the Project's construction phase. Additionally, grading activities conducted during the construction phase could lead to the disturbance of on-site soils and expose contaminated soils. Since Project construction would involve the use, storage, transport, and disposal of hazardous materials, including potentially contaminated soils, the Project would be required to comply with all applicable federal, state, and local agencies and regulations, including the U.S. Environmental Protection Agency (EPA), the California Department of Toxic Substance Control (DTSC), the California Occupational Safety

and Health Administration (CalOSHA), California Department of Transportation (Caltrans), the Resource Conservation Recovery Act (RCRA), and the Riverside County Department of Environmental Health Hazardous Materials Branch. Compliance with applicable laws and regulations would ensure that all potentially hazardous materials are used and handled in an appropriate manner and would minimize the potential for safety impacts. As such, associated Project construction impacts would be less than significant.

Operations of the Project would involve the use of small amounts of hazardous materials, such as industrial cleaners, greases, and oils for cleaning and maintenance purposes. Additionally, the Project would require various outdoor landscape maintenance, which would include the storage and periodic use of pesticides, herbicides, and fertilizers. If equipment needed for such activities are used and housed on-site, the Project may require the storage of fuels and solvents on-site. Project operations may also involve the transport, use, and disposal of hazardous materials. As with Project construction, Project operations would be required to comply with applicable laws and regulations governing the use, storage, transportation, and disposal of hazardous materials. Compliance with applicable laws and regulations concerning hazardous materials would ensure that all potentially hazardous materials are used and handled in an appropriate manner and would minimize the potential for significant hazards to the public or the environment. As such, impacts from hazardous materials associated with Project operations would be less than significant.

Overall, the Project operations and construction would be required to comply with all applicable federal, state, and local regulations governing the routine use, transport, storage, and disposal of hazardous materials. As such, impacts from hazardous materials resulting from Project implementation would be less than significant, and no mitigation is required (**Draft EIR, p. 4.8-15** through **4.9-16**).

Impact 4.8-2: Would the Project create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

Basis for Conclusion: The construction of the Project site could result in hazards to the public or the environment through the accidental upset or release of hazardous materials caused by accidental spillage of hazard materials used during construction phases, or as a result of the exposure of contaminated soil during grading activities. However, as previously discussed, the Project would be required to comply with applicable laws and regulations concerning hazardous materials to ensure that all potentially hazardous materials are used and handled in an appropriate manner and to minimize potential for safety impacts. This is also with respect to any spills or leakages that may occur during construction, so that safety impacts are reduced and the release of hazardous materials into the environment are maintained and do not create a significant hazard to the environment or the public. Furthermore, strict adherence to all emergency response plan requirements set forth by Riverside County Fire Department would be required through the duration of Project construction. As such, construction-related impacts to accidental release of hazardous materials into the environment and exposure to the public would be less than significant.

Project operations would involve typical hazardous materials and chemicals including but not limited to solvents and cleaning products associated with operations of industrial and warehouse types uses.

Additionally, the Project would require various outdoor landscape maintenance during operations that may include storage of, and periodic application of pesticides, herbicides, and fertilizers. Prior to Project approval, a Hazardous Materials Business Plan (HMBP) would be required to show Project conformance with all applicable materials handling protocols. As such, compliance with the aforementioned regulations would reduce significant impacts associated with accidental releases of hazardous materials into the environment and exposure to the public and a less than significant impact would occur.

Overall, Project construction and operations would be required to adhere to emergency response plan requirements and applicable laws and regulations governing the use, storage, and disposal of hazardous materials in addition to the proper protocol for any spills or leakages of such materials. With compliance with the aforementioned regulations and requirements associated with accidental release of hazardous materials into the environment and exposure to the public, the Project would have a less than significant impact and no mitigation is required.

Impact 4.8-3 Would the Project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

Basis for Conclusion: The nearest school to the Project site is Hoffer Elementary School approximately 0.27 mile to the west. At their closest points, the western boundary of the Project site and the eastern boundary of Hoffer Elementary School are approximately 0.27 mile apart. However, the majority of the Project site is located at least 0.75 mile from the nearest school. Due to the shape of the Project site the proposed structures would be located at least 0.75 mile away from the nearest school. The northwestern portion of the Project site, the area nearest the school, would include infrastructure improvements, such as the extension of Wilson Street and possible parking areas to serve the Project. Therefore, the Project would not emit hazardous emissions or include the handling of hazardous or acutely hazardous materials, substances, and/or wastes within one-quarter mile of an existing or proposed school. Additionally, the transport of hazardous substances or materials to-and-from the Project site during construction and long-term operational activities would be required to comply with applicable federal, state, and local regulations, as previously mentioned, to reduce public safety hazards.

It was concluded in the Project's Air Quality Impact Analysis that the Project would not exceed the SCAQMD localized significance thresholds during construction. As such, sensitive receptors would not be exposed to substantial pollutant concentrations during Project construction. It was also determined that the Project would not exceed SCAQMD thresholds during operational activities of the Project. Therefore, the impacts would be less than significant. (**Draft EIR, p. 4.8-17** through **4.8-18**).

Impact 4.8-4: Would the Project be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code § 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

Basis for Conclusion: The Project site is not included on the hazardous sites list compiled pursuant to California Government Code Section 65962.5 (Cortese List). The greater Project site was found to be without violations. No hazardous materials sites were located within or in the immediate vicinity of the

Project site. Therefore, no significant adverse impacts relative to Cortese List sites would occur with Project implementation. No impact would occur. (**Draft EIR, p. 4.-18**).

Impact 4.8-5: For a project located within an airport land use plan, or, where such a plan has not been adopted, within 2 miles of a public airport or public use airport, would the Project result in a safety hazard or excessive noise for people residing or working in the Project area?

Basis for Conclusion: The Project site is located within 2.0 miles of a public airport, the Banning Municipal Airport approximately 1,750 feet south of the Project site, on the opposite side of I-10. However, Exhibit V-7 of the Banning General Plan Noise Element shows that the Project is located outside the 55 dBA CNEL noise contour. Additionally, there are no private airstrips located within the Project vicinity. Thus, the Project would not result in a safety hazard impact to people residing or working in the area and a less than significant impact would occur. (**Draft EIR, p. 4.8-18**).

Impact 4.8-6: Would the Project impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?

Basis for Conclusion: The majority of the proposed worked to be done during the construction phase of the Project would occur within the boundaries of the Project site and would not impede access to nearby roadways. The City does not designate any roads as emergency evacuation routes within the Project site and any future construction on-site would not impede evacuation routes or interfere with the City's emergency management program. Potential impediments to traffic flows may occur temporarily during the transport of heavy equipment and materials to and from the Project site but would be localized and would end after construction is completed.

Neither construction or operations of the Project site would interfere with emergency access or impede access to nearby roadways, nor would the Project interfere with the City's emergency operations plan. The Project would comply with design standards for emergency services and would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. Impacts would be less than significant and no mitigation is required. (**Draft EIR, p. 4.8-19**).

Impact 4.8-7: Would the Project expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires?

Basis for Conclusion: According to CAL FIRE's Fire and Resource Assessment Program, the Project site is not located in or near a State Responsibility Area (SRA). The Project site is located in a Local Responsibility Area (LRA) and is designated as a very high fire hazard severity zone (VHFHSZ). Considering the presence of area roadways, lack of steep slopes, and concrete construction of the Project, it is not anticipated that the Project site and associated structures would be affected by a wildfire during construction or operations. Additionally, as part of the Project site development, adjacent roadways would be improved which would serve to provide emergency ingress and egress to the Project site in the event of an emergency. Lastly the Project would comply with all applicable local and state regulations related to fire safety as evaluated through the City's standard development review process. As such, a less than significant impact would occur and no mitigation is required. (**Draft EIR, p. 4.8-20**).

HYDROLOGY & WATER QUALITY

Impact 4.9-1: Would the Project violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?

Basis for Conclusion: The Project would include the construction of an industrial warehouse with associated truck parking and loading docks. Associated construction activities include clearing, grading, paving, utility installation, building construction, and the installation of landscaping. All activities could result in the generation of potential water quality pollutants that may consequently adversely affect water quality. As such, short-term water quality impacts have the potential to occur during construction activities in the absence of any protective or avoidance measures. However, pursuant to the requirements of the Colorado River Regional Water Quality Control Board (RWQCB) and the City of Banning, the Project would be required to obtain a National Pollutant Discharge Elimination System (NPDES) Permit for construction activities. Compliance with the NPDES permit and Colorado River Basin Water Quality Control Program involves the preparation and implementation of a Stormwater Pollution Prevention Plan (SWPPP) for construction-related activities. The SWPPP would specify the Best Management Practices (BMPs) that the Project would be required to implement during construction activities to ensure that all potential pollutants of concern are prevented, minimized, and/or otherwise appropriately treated prior to being discharged from the Project site.

In addition to the NPDES permit, a Water Quality Management Plan (WQMP) is required for managing the quality of stormwater or urban runoff that flows from a developed Project site after construction is completed and the Project site becomes occupied or operational. The WQMP would implement its own BMPs that would be maintained throughout the life of the Project to minimize and/or prevent water pollution caused by stormwater or urban runoff. The Project would also be required to comply with Waste Discharge Requirements as governed by the Colorado River RWQCB to regulate discharges that are not made to surface water, but which may impact the region's water quality by affecting underlying groundwater basins. Since the Project would connect to the sanitary sewer system maintained by the City, the wastewater discharges into the sanitary sewer system would be treated and adequate operations would prevent wastewater discharges into the groundwater.

Lastly, the proposed drainage patterns and infrastructure would align with the existing drainage pattern on-site and runoff discharge rates would not experience a significant change.

Overall, associated Project construction and operations would not violate any water quality standards, waste discharge requirements or otherwise substantially degrade surface or groundwater quality following compliance with the City's Municipal Code, NPDES requirements, and Colorado River RWQCB requirements. As such, a less than significant impact would occur and no mitigation is required. (**Draft EIR, p. 4.9-9** through **4.9-11**).

Impact 4.9-2: Would the Project substantially decrease groundwater supplies or interfere substantially with the groundwater recharge such that the Project may impede sustainable groundwater management of the basin?

Basis for Conclusion: The Project's water demand would require, at most, 0.28 percent of the total water supply that is available to the City. According to the 2020 Urban Water Management Plan (UWMP) for the City, the City produces an average of 7,513 acre feet (AF) of groundwater per year. Assuming that all water consumed by the Project comes from groundwater, the Project's annual water demand of 79 AF would consist of a one percent increase in the total amount of groundwater produced. This does not constitute a significant increase in consumptions and would not decrease the groundwater supply for the San Gorgonio Pass Groundwater Basin.

While the development of the Project site would increase the impervious surface area within the City, the Project would construct on-site stormwater infrastructure that would capture on-site stormwater flows only and direct them into on-site stormwater detention basins. These basins would allow surface water in infiltrate through the substrate and into the groundwater basin for recharge. A total of six basins would be constructed on-site and would have the capacity to detain 21.76 AF of storm flows on the Project site. Additionally, the Project does not propose to alter the existing drainage pattern of the Project site and would discharge stormwater in its existing locations.

As such, the Project would not significantly decrease groundwater supply in the basin or substantially limit the ability for stormwater and surface water to infiltrate and recharge the aquifer. A less than significant impact would occur, and no mitigation is required. (**Draft EIR, p. 4.10-12** through **4.10-13**).

Impacts 4.9-3, 4.9-4, 4.9-5 and 4.9-6: Would the Project substantially alter the existing drainage pattern of the site or area, including the alteration of the course of a stream or river, or through the addition of impervious surfaces, in a manner which will: (i) Result in substantial erosion or siltation on- or off-site?; (ii) Substantially increase the rate or amount of surface runoff in a manner which will result in flooding on- or off-site?; (iii) Create or contribute runoff which will exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?; or (iv) Impede or redirect flood flows?

Basis for Conclusion: 4.9-3 (Erosion and Siltation). The Project would be designed to accommodate the size of the development and would consist of retaining walls and other grading operations. However, the Project site would be designed, and stormwater infrastructure would be constructed, in a manner that generally maintains the overall existing drainage pattern of the Project site. Project construction would involve substantial ground disturbance, clearing, and grading of the Project site, and on-site erosion could occur. The proposed grading activities would generate fair amounts of silt which could be carried off-site during a heavy rainfall event and result in erosion and/or siltation downstream without any preventative measures. However, as previously discussed, the Project would be required to obtain a NPDES permit for construction activities on-site. Compliance with the NPDES permit involves the implementation of a SWPPP for construction related activities and associated BMPs to minimize erosion and siltation impacts and to protect water quality. Once operational, the Project would reduce the Project site's existing potential for generating substantial amounts of erosion or siltation because the previously undeveloped site that contributed to erosion and siltation would be replaced with a building, paving, landscaped areas, and other stabilized ground covers. Additionally, a Project-specific WQMP would be implemented along

with the associated WQMP BMPs that would treat common surface water pollutants during Project operations.

With adherence to the NPDES permit requirements, including the implementation of SWPPP and associated BMPs, and adherence to the Project's WQMP and associated BMPs, Project implementation would have a less than significant impact on erosion and siltation and no mitigation is required (**Draft EIR, p. 4.9-13** through **4.9-14**).

4.9-4 (On- or Off-Site Flooding). Project runoff calculations for the 100-year storm event were performed and it was determined that the Project's runoff flow rate, volume, velocity, and duration would not exceed the pre-development conditions for the 2-year, 24-hour and 10-year, 24-hour rainfall events through implementation of Site-Design BMP concepts and low impact development (LID)/Site Design BMPSs. Additionally, the City's Municipal Code requires land development activities to include provisions for the management of stormwater runoff from the property, which is to include volumetric or flow-based treatment control BMP design criteria, which shall consist of constructing storage and/or infiltration facilities including basins and make provision to store runoff from rainfall events up to and including the 100-year 3-hour duration event. As previously discussed, the Project would include six detention basins that would have the capacity to detain 21.76 AF of storm flows on the Project site. Post-development peak urban runoff discharge rates would not exceed pre-development peak urban runoff discharge rates. With the implementation of BMPs to minimize impacts from runoff and compliance with existing regulatory framework associated with flood management, Project implementation would have a less than significant impact to on- and off-site flooding and no mitigation is required. (**Draft EIR, p. 4.9-14** through **4.9-15**).

4.9-5 (Stormwater Drainage System Capacity and Polluted Runoff). As previously discussed, the Project's post-development peak runoff discharge rates would not exceed pre-development peak urban runoff and applicable BMPs would be implemented to reduce impacts. The BMPs would not only minimize runoff from the Project site, but would help improve water quality as well and manage pollutants in stormwater runoff. Additionally, the six proposed detention basins would help to manage stormwater flows on- and off-site. With the implementation of the associated BMPs, compliance with NPDES requirements, and the inclusion of the six detention basins on-site, the Project would have a less than significant impact to the stormwater drainage system capacity and polluted runoff, and no mitigation is required (**Draft EIR, p. 4.9-16** through **4.9-17**).

4.9-6 (Impede or Redirect Flood Flows). The Project would capture stormwater flows originating on the Project site which would account for and capture the entirety of the 100-year 3-hour duration event. The Project would also follow existing flow patterns after construction. While a portion of the Project site is located within a mapped flood hazard area (Zone A and Zone X), the Project site would be designed such that the development would be above the flood elevation. As a result, the Project would be required to complete a Federal Emergency Management Agency (FEMA) conditional letter of map revision (CLOMR) and a letter of map revision (LOMR) process prior to grading/construction and prior to building occupancy. This process would alter the FEMA Flood Insurance Rate Map (FIRM) flood zones for the portions of the Project that are within these areas. As the overall drainage flow pattern would not change across the

Project site after construction, flood flows that may occur on the Project site would similarly not be altered. As such, impacts would be less than significant and mitigation is not required (**Draft EIR p. 4.9-18**).

Impact 4.9-7: Would the Project result in flood hazard, tsunami, or seiche zones, or risk release of pollutants due to project inundation?

Basis for Conclusion: The Pacific Ocean is located more than 50 miles from the Project site. The San Jacinto Mountains and Santa Ana Mountains lie between the Project site and the Pacific Ocean. Considering this distance, there is no potential for the Project site to be impacted by a tsunami. Additionally, there are no standing bodies of water, such as lakes, ponds, reservoirs, or inland seas, on or adjacent to the Project site such that seiche would occur in the event of an earthquake, periods of high wind, or other seiche causing event.

The Project site resides within FEMA Flood Zone A and Zone X and would complete a FEMA CLOMR and LOMR process. The Preliminary Off-site Hydrology and Flood Hazard Assessment conducted for the Project site confirmed the Project site is subject to a portion of flows emanating from the west of the San Gorgonio River along with a portion of the breakout flows from the main bank of the San Gorgonio River. Existing flood depths within the Project site and surrounding area directly north are less than 0.25 feet (three inches) during the 100-year flood event. Although the runoff rate and volume levels were determined to be significant, the flows are dispersed over a large enough area to result in a shallow depth, with flow velocity generally less than 2 feet per second, which is considered "low damage" according to the U.S. Bureau of Reclamation Downstream Hazard Classification Guidelines. As the overall flood depth would be less than three inches, flow velocities would be less than 2 feet per second, and the Project would be designed to intercept and accommodate the 100-year 3-hour duration event, impacts would be less than significant, and no mitigation is required. (**Draft EIR, p. 4.9-18** through **4.9-19**).

Impact 4.9-8: Would the Project conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

Basis for Conclusion: The Project site is located within the Coachella Valley-San Gorgonio Pass Basin and is classified as "medium" priority per the Sustainable Groundwater Management Act (SGMA). As such, the basin is required to develop a groundwater sustainability agency (GSA) and a groundwater sustainability plan (GSPs) to manage groundwater for long-term sustainability. The City, in conjunction with the San Gorgonio Pass Water Agency, Banning Heights Municipal Water Agency, Cabazon Water District, Desert Water Agency, and the Mission Springs Water District, would comply with the San Gorgonio Pass Subbasin GSP. Additionally, as previously mentioned, the Project would be required to obtain a NPDES permit and adhere to the requirements of the permit to ensure impacts to water quality during Project implementation are minimized. By abiding to the San Gorgonio Pass Subbasin GSP and the NPDES permit, the Project would not obstruct with a water quality control plan or sustainable groundwater management plan and a less than significant impact would occur. (**Draft EIR, p. 4.9-19** through **4.9-20**).

LAND USE & PLANNING

Impact 7.3-1: Would the Project physically divide an established community?

Basis for Conclusion: The Project site would be developed on vacant and undeveloped land that is designated as Business Park by the City's General Plan Land Use and Zoning Map. The immediate surrounding area consists of General Plan designations such as Business Park, Public Facilities, High Density Residential, as well as the Morongo Reservation. No established communities exist within the Project site, nor does the Project propose or require elements or operations that would divide an existing off-site community. Therefore, the Project would not physically divide an established community and a less than significant impact would occur. (**Draft EIR, p. 7-3**).

Impact 7.3-2: Would the Project cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

Basis for Conclusion: The Project would be required to comply with any applicable state, regional, and local land use plans, policies, and regulations, including the City's land use plans, policies and regulations. The General Plan Land Use designation for the Project site is Business Park, which permits light industrial manufacturing and office/warehouse buildings. The proposed development includes approximately 1,320,284 square feet of industrial space with office space, loading docks, tractor-trailer parking stalls, passenger vehicle parking spaces, and landscaping. Additionally, the construction and design of the buildings would comply with the development standards and design guidelines contained in the Banning Municipal Code. Therefore, implementation of the Project would not conflict with any land use plan, policy, or regulation, and a less than significant impact would occur. (**Draft EIR, p. 7.3-3**).

MINERAL RESOURCES

Impact 7.4-1: Would the Project result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?

Would the Project result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?

Basis for Conclusion: The Project site is located on lands designated as Mineral Resource Zone 2 (MRZ-2), which designates land that may contain significant mineral deposits. The Project site is currently undeveloped and is not utilized for mineral resource extraction and no mineral extraction has occurred on the Project site. Additionally, mineral extraction would result in incompatible uses with the Business Park zoning and land use designations on-site and in the immediate surroundings. Therefore, the Project would have a less than significant impact on the loss of availability of a locally important mineral resource, and no mitigation is required. (**Draft EIR, p. 7.3 to 7.4**).

NOISE

Impact 4.10-1: Would the Project result in the generation of substantial temporary or permanent increase in ambient noise levels in the vicinity of the Project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

Basis for Conclusion: Following the Federal Transit Administration's (FTA) methodology for quantitative construction noise assessments, construction-generated noise levels associated with the Project were calculated using the Federal Highway Administration's (FHWA) Roadway Construction Noise Model (RCNM) computer program. The noise levels calculated show that construction-related noise levels to the nearest sensitive receptor would not exceed the City's 70 dBA threshold. Off-site construction traffic noise was also calculated and was also determined to not exceed the City's threshold. Additionally, construction activities would only be permitted during the hours of 7:00 a.m. and 6:00 p.m. As such, on- and off-site construction noise would have a less than significant impact (**Draft EIR, p. 4.10-6** through **4.10-9**).

During operations, the major noise sources associated with the Project would include stationary noise equipment; truck and loading docks; parking areas; and off-site traffic noise. Noise from the associated sources were calculated to determine the Project's associated operational noise impacts. It was determined that noise associated with mechanical equipment, warehouse truck and loading docks, parking, and off-site traffic are all below the City's noise standards. As such, noise associated with Project operations would have a less than significant impact (**Draft EIR, p. 4.10-9** through **4.10-12**).

Overall, associated Project construction and operation noise levels would not exceed the City's noise standards. Project construction would be limited to daytime hours as to not adversely impact nearby sensitive receptors. Additionally, the Project would be required to comply with the General Plan and Municipal Code noise standards. As such, Project construction and operations would not generate noise levels in excess of City standards, and a less than significant impact would occur.

Impact 4.10-2: Would the Project result in generation of excessive groundborne vibration or groundborne noise levels?

Basis for Conclusion: Vibration generated both from construction- and operation-related sources were both determined to not exceed the FTA thresholds for disturbance. The nearest structure to the Project site (a multi-family residential structure) is approximately 400 feet to the west of the Project site and associated construction equipment would not generate ground vibration that exceeds the FTA thresholds for both building damage and annoyance based on the distance of the Project site to the nearest structure. Associated operational vibration include truck movement activity at the Project site. These movements would generally be low-speed and would occur over new, smooth surfaces. As such, it is not anticipated that truck activity would result in excessive groundborne vibrations. The Project would not result in generation of excessive groundborne vibration or noise levels and a less than significant impact would occur (**Draft EIR, p. 4.10-13** through **4.10-14**).

Impact 4.10-3: For a project located within the vicinity of a private airstrip or an airport land use plan, or, where such a plan has not been adopted, within two miles of a public airport or public use airport, will the Project expose people residing or working in the Project area to excessive noise levels?

Basis for Conclusion: The closest airport to the Project site is the Banning Municipal Airport located approximately 1,750 feet to the south. Although the Project is within two miles of a public airport, Exhibit V-7 of the Banning General Plan Noise element shows that the Project is located outside the 55 dBA CNEL

noise contour. Additionally, there are no private airstrips located within the Project vicinity. Therefore, the Project would not expose people working in the Project area to excessive airport- or airstrip-related noise levels, and a less than significant impact would occur. (**Draft EIR, p. 4.10-14**).

POPULATION AND HOUSING

Impact 7.5-1: Would the Project induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

Basis for Conclusion: The Project does not include new residential development on- or off-site and would not directly contribute to population growth within the City in this regard. The Project would remain designated and zoned as Business Park, which allows land uses such as light industrial manufacturing, office/warehouse buildings, professional offices, restaurants, and retail uses ancillary to a primary use. It is anticipated that existing residents within the City and neighboring communities within Riverside County would likely fill Project-related employment demands. Additionally, SCAG forecasts that the City's employment will increase to 11,400 jobs by 2045. As Project buildout is estimated for 2045, the Project's estimated 2,841 employees is within the employment forecasts for the City.

The extension of roadways to serve the Project site would only extend roadways from the existing City of Banning network to the furthest extent needed to serve the Project. The Project would not construct roads or provide roadway improvements to areas of the City where the is no existing development or planned projects. As such, the Project would not contribute to direct or indirect unplanned population growth and impacts would be less than significant (**Draft EIR, p. 7-4 to 7-5**).

Impact 7.5-2: Would the Project displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

Basis for Conclusion: No housing currently exists within the Project site and the Project does not propose uses or activities that would otherwise displace housing assets or persons. Based on the preceding, the Project would have no impact related to displacement of housing or displacement of people (**Draft EIR, p. 7-5**).

PUBLIC SERVICES

Impact 4.11-1: Would the Project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

Basis for Conclusion: Fire Protection. The City contracts with the Riverside County Fire Department (RCFD), and the Project would be served by the nearest RCFD fire station, Station 89. The RCFD operates under a Regional Fire Protection Program, which allows its fire stations to actively support one another regardless of geographic or jurisdictional boundaries. The Morongo Reservation Fire Department is also nearby, located 2.4 miles northeast of the Project site, and has a standing mutual aid agreement with the County of Riverside. Based on the Project's close proximity to Station 89 as well as the

Morongo Reservation Fire Department, the Project would be adequately served by fire protection services. Furthermore, the City General Plan proposed additional fire stations, one of which is in the vicinity of the Banning Municipal Airport, which is south of the Project site on the opposite side of I-10 **(Draft EIR, p. 4.11-12)**.

The Project would also be required to comply with requirements for emergency lane width, vertical clearance, and distance which would ensure that adequate emergency access is available on the Project site. The Project would also comply with the City Municipal Code Section 12.12.070 which prescribes protective measures and routing of traffic during construction that closes lanes or roadway segments temporarily. The Project would provide adequate emergency vehicle access and evacuation routes through multiple points of ingress/egress. The Project would not alter or impact any existing emergency access roads or evacuation routes as identified in the Western Riverside Council of Governments (WRCOG) Community Vulnerability Profile Map 1: Banning's Regional Evacuation Route. The Project would provide access to the identified evacuation routes through street and access improvements.

Lastly, the Project would be required to pay development impact fees as a condition of approval. With payment of these fees, the Project would receive adequate fire protection service and would not result in adverse physical impacts associated with the provision of or need for new or physically altered fire protection facilities. Additionally, the Project would not adversely affect service ratios, response times, or other performance objectives. The Project would comply with the RCFD Technical Policies and Standards, California Fire Code (CFC), and CBC, including Project features that aid in fire safety and support fire suppression activities.

Considering that the Project would be adequately serviced by existing fire services and would comply with all federal, state, and local policies governing fire safety, the Project would not significantly impact the existing fire services and associated infrastructure and a less than significant impact would occur. (**Draft EIR, p. 4.11-12** through **4.11-13**).

***Police Protection*.** As previously mentioned, the Project would comply with City Municipal Code Section 12.12.070. Emergency services, including the Banning Police Department (BPD), would be consulted to ensure construction and design document compliance with the City of Banning Municipal Code and that adequate public safety and circulation would be maintained during construction. As previously discussed, compliance with the requirements for emergency lane width, vertical clearance, and distance would ensure that adequate emergency access is available for all new development and redevelopment projects. The Project would provide adequate emergency vehicle access and evacuation routes through multiple points of ingress/egress and would not alter or impact any existing emergency access roads. Additionally, the Project would be required to pay development impact fees that would ensure police protection services are not significantly impacted by new development. As such, the Project would not significantly impact the existing police protection services and associated infrastructure, and a less than significant impact would occur. (**Draft EIR, p. 4.11-14**).

Schools. The Project site would not create a direct demand for public school services, as the proposed development does not contain residential uses that could generate any school-aged children requiring

public education. Employment demands for the Project are anticipated to be filled by the existing unemployed population residing in the City and surrounding communities within the County. The Project would not directly generate a student population increase or indirectly draw students to the area, prompting the need for construction or physical alteration of existing public school facilities. Additionally, the Project applicant would be required to pay development impact fees to the Banning Unified School District to offset costs associated with increasing school capacity needs. As such, the Project would not result in substantial adverse physical impacts associated with the construction of new or physically altered school facilities and would therefore not cause significant environmental impacts and a less than significant impact would occur. **(Draft EIR, p. 4.11-15)**.

Parks. No park facilities currently exist on the Project site and Project development would not conflict with any nearby park facilities or require modification or construction of park facilities. Additionally, the Project does not propose residential uses that would generate an increase in population requiring new park facilities. As such, the Project would not cause or contribute to a need to construct new or physically alter existing park facilities. Therefore, a less than significant impact would occur and no mitigation is required **(Draft EIR, p. 4.11-16)**.

Other Public Facilities. The Project would not create a direct demand for other public facilities considering the proposed use does not include residential uses that would generate population growth requiring other public facilities. Therefore, the Project would not cause or contribute to a need to construct new or physically alter existing public facilities. Furthermore, no public facilities exist on the Project site and Project development would not conflict with existing public structures or require modification of any public facility. As such, the Project would result in a less than significant impact to other public facilities and no mitigation is required **(Draft EIR, p. 4.11-16)**.

RECREATION

Impact 7.6-1: Would the Project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

Basis for Conclusion: No park facilities exist on the Project site and Project development would not conflict with any nearby park facilities or require the modification or construction of park facilities. The Project would not contain residential uses that would generate population growth requiring park facilities. Although the Project would create additional jobs in the area, it is expected that the Project employment demands would be filled by existing residents in the City, Riverside County, and surrounding area. As such, the Project would not increase the use of existing neighborhood and regional parks or substantially deteriorate existing park facilities and a less than significant impact would occur **(Draft EIR, p. 7-5** through **7-6)**.

Impact 7.6-2: Would the Project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

Basis for Conclusion: The Project consists of an industrial use, which does not generally result in significant amounts of park usage. The Project does not propose or require the construction of any new on- or off-site recreational facilities, nor would it require the expansion of any existing recreational facilities. Therefore, environmental effects related to the construction or expansion of recreational facilities would not occur with implementation of the Project and a less than significant impact would occur. **(Draft EIR, p. 4.16-6)**.

TRANSPORTATION

Impact 4.12-1: Would the Project conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?

Basis for Conclusion: The Project would adhere to the City General Plan goals and policies outlined in the Circulation Element. In fact, the Project's circulation network would be designed consistently with the existing transportation system by adhering to the transportation guidelines set in the City's General Plan. If applicable, the Project would comply with the City's Development Impact Fee program, which would require a payment of fees to ensure that the Project's impact would not significantly impact the regional circulation and/or arterial expansions planned by the City and County.

While the City does not currently have a bicycle or pedestrian circulation plan, the development impact fees would go toward any future bicycle or pedestrian plans or future improvements to existing facilities. Additionally, the Project would improve pedestrian walkways adjacent to the Project site and be designed to ensure pedestrian safety. Additionally, the Project would support public transit use by improving roadway circulation and pedestrian walkways near the Project site. This would allow employees to utilize public transit, especially the bus routes nearest the Project site, Banning Routes 1 and 6. The development impact fees would also support the expansion of public transit near the Project site.

Overall, the Project would not conflict with the relevant goals, policies, and ordinances, addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities and a less than significant impact would occur **(Draft EIR, p. 4.12-10** through **4.12-12)**.

Impact 4.12-3: Would the Project substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

Basis for Conclusion: The Project site does not currently have direct access to the roadway network of the City of Banning. Wilson Drive and Nicolet Street east of Hathaway Street and O'Donnell Street are platted roadway rights-of-way within the City that would be constructed to serve the Project. The Project would also include roadway improvements along the Project frontages. The design of all roadway improvements would not include geometric designs that would increase hazards or incompatible uses. The Project's design features would include the creation of new driveways, improvements of adjacent/nearby roadways, and development of internal circulation pathways. Specifically, these improvements would be designed in conformance with the development and design standards of the Banning General Plan and Banning MC design standards, which include but is not limited to Banning MC Section 17.24.040, "Each structure or use shall maintain direct access to a public right-of-way. Where a structure or use is

part of a larger project, such as shopping center, all structures shall maintain reciprocal access easements through parking lots. Wherever possible, circulation systems shall interconnect between projects, and limit access onto arterial roadways."

As such, the Project site would have safe and efficient movement of traffic within and throughout the Project site. Furthermore, this would ensure that the Project would not introduce any sharp curves for the public and Project uses, or create dangerous intersections, or design hazards. Lastly, the Project does not propose incompatible land uses that would result in a potential significant traffic safety hazard. Therefore, the Project would not substantially increase hazards due to a geometric design feature or incompatible land use, and impacts would be less than significant (**Draft EIR, p. 4.12-22 to 4.12-23**).

Impact 4.12-4: Would the Project result in inadequate emergency access?

Basis for Conclusion: As previously stated, Wilson Street and Nicolet Street are platted roadway rights-of-way within the City that would be constructed to serve the Project east of Hathaway Street and O'Donnell Street. Wilson Street and Nicolet Street intersect Hathaway Street and would be constructed as part of coordination between the development of this Project, developers of adjacent properties, and the City. Should the construction of Nicolet Street be delayed for any reason, the Project would be required to provide a secondary access to the Project site. This extension would not be a permanent roadway improvement and would occur through already disturbed areas. This secondary access would only be required as conditioned by the City upon Project approval.

Project site ingress and egress for the warehouse building would be via two driveways: one 44-foot driveway at the intersection of Nicolet Street and O'Donnell Street; one 52-foot driveway along Wilson Drive. Additionally, while not considered part of the Project, the City has currently proposed a roadway alignment on the eastern portion of the Project site. This road would connect the Project to a proposed interchange with I-10. At such a point when the proposed interchange and roadway are constructed, there would be an additional location for regional access to the Project site. Emergency access to the Project site would be provided by the proposed driveways located at the intersection of Nicolet Street and O'Donnell Street and at the driveway along Wilson Drive.

Furthermore, design of any needed roadway improvement and subsequent construction due to increased traffic volumes on local roadways would comply with the applicable federal, state, and local requirements related to emergency access and evacuation plans. The proposed design and construction plans for any future construction and roadway improvement, including potential mitigation to accommodate any future increase in traffic volume, would be reviewed and approved by the City engineering department and fire marshal (if needed) during the plan review and prior to Project approval. As such, the Project would not result in inadequate emergency access and would comply with design standards for emergency services and impact would be less than significant and no mitigation is required (**Draft EIR p. 4.11-23** through **4.11-24**).

UTILITIES & SERVICE SYSTEMS

Impact 4.14-1: Would the Project require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction of which could cause significant environmental effects?

Basis for Conclusion: Water Use. Potable water to the Project site would be provided by the City of Banning Public Works and Utilities Department. The City of Banning Public Works and Utilities Department provides water to its service area primarily via groundwater. The majority of Project water facilities would be installed below ground and installed within existing or future road rights-of-way, and as such the only physical impacts would be associated with temporary impacts during construction. Additionally, compliance with the NPDES permit, Waste Discharge Order (WDR), BMPs, and the City's Municipal Code would ensure the Project meets all mandatory construction stormwater management requirements. All Project water facilities would be constructed and operated in accordance with applicable guidelines and regulations in the City. This includes the stipulation that a Project-specific WQMP be prepared that identifies BMPs that would be implemented during operation that would treat common surface water pollutants, including silts. In consideration of existing requirements, no significant impacts are anticipated with respect to Project water facilities (**Draft EIR, p. 4.14-14**).

Wastewater. The Project would utilize the City of Banning Public Works – Wastewater Division's existing wastewater infrastructure along with new proposed infrastructure meant to serve the Project area. To provide a conservative estimate of wastewater generation, it is assumed that the Project would generate the same amount of wastewater as water demanded. Therefore, it should be assumed that the Project would generate approximately 1.9 percent of the Banning Wastewater Treatment Plant (WWTP) daily capacity. Originally, the Draft EIR calculated the percentage to be 1.08 percent, however this percentage has been updated to 1.9 percent to reflect the correctly estimated percentage of daily capacity of wastewater of the Banning WWTP that the Project would generate and is included in the **Section 3.0 Errata** of the Final EIR. Therefore, no new wastewater treatment facilities would need to be constructed for the Project.

A sanitary sewer lift station would be required to be constructed to serve the Project. However, this sanitary lift station would serve all other projects in the vicinity to the Project. As this area of the City has been identified by the City for development and was analyzed within the General Plan EIR, this new infrastructure would not have been previously unknown. Further, the lift station, and associated force main and gravity main, would be constructed within already established right-of-way or within easements to be dedicated to the City on land previously disturbed. As the expansion of these services would have previously been analyzed and the areas in which the infrastructure would be installed would be in previously disturbed areas, there would not be significant impacts related to the expansion of these services and a less than significant impact would occur in this regard. (**Draft EIR, p. 4.14-14** through **4.14-15**).

Stormwater and Drainage. The Project's proposed storm drain infrastructure would include infrastructure installed as part of the roadway improvements of Wilson Street and O'Donnell Street, and

along the Project frontages. These storm drains would be conveyed into existing City storm conveyance infrastructure. In addition, on-site storm sewer infrastructure would be constructed to intercept and store the 100-year 3-hour duration event storm flows pursuant to the City MC Section 13.24.110. The Project's stormwater and drainage facilities would be constructed and operated in accordance with applicable guidelines and regulations of the Coachella Valley Water District (CVWD), the Clean Water Act (CWA), and City. Lastly, the Project would also follow the Project-specific WQMP prepared for the Project that identifies BMPs what would be implemented during operation that would treat for common surface water pollutants, including silts. Therefore, the Project would not require or result in the relocation or construction of new or expanded stormwater and drainage facilities that would result in significant environmental effects and impacts would be less than significant (**Draft EIR, p. 4.14-15** through **4.14-16**).

Electricity. Existing on-site Southern California Edison (SCE) transmission lines would be relocated to accommodate the Project. These transmission lines would be rerouted and installed underground within the right-of-way of Nicolet Street, O'Donnell Street, and Wilson Street as part of the off-site roadway improvements along the Project frontages. Furthermore, the new infrastructure would be completely underground, pursuant City MC Section 17.24.170. Therefore, the Project would not require or result in the relocation or construction of new or expanded electricity facilities that would result in significant environmental effects and impacts would be less than significant (**Draft EIR, p. 4.14-16**).

The Project would not require or result in the relocation or construction of new or expanded utility infrastructure and facilities such that relocation or construction would result in substantial adverse impacts to the environment. All design and construction would adhere to applicable standards, policies, and regulations as outlined in associated regulatory documents including but not limited to the City's Municipal Code, CVWD, CWA, and requirements associated with NPDES permitting, WQMP, BMPs, and WDRs. As such, a less than significant impact would occur and no mitigation is required.

Impact 4.14-2: Would sufficient water supplies be available to serve the Project and reasonably foreseeable future development during normal, dry, and multiple dry years?

Basis for Conclusion: The Water Supply Assessment (WSA) that was prepared for the Project determined that the Project's water demand would be less than one percent of the total available water supply and consumption. Furthermore, the WSA would be more conservative that the City's 2020 UWMP, and the Project's water demand would still only be less than one percent of the available supply. Since water consumption rates would be decreased as a result of an increase in efficiencies of water appliances and use of water, daily water generated by the Project site would be minimal. Additionally, the Project, along with other future industrial projects, have been incorporated into the projected water demands for the City's 2020 UWMP and were reasonably accommodated into future water supplies during normal, dry-, and multiple dry-years. Since these water demands have been incorporated and accounted for, and do not directly necessitate the further development of water infrastructure, a less than significant impact would occur, and no mitigation is required. (**Draft EIR, p. 4.14-16** through **4.14-17**).

Impact 4.14-3: Would the Project result in a determination by the wastewater treatment provider which serves or may serve the Project determined that it has adequate capacity to serve the Project's projected demand in addition to the provider's existing commitments?

Basis for Conclusion: The Project's proposed industrial uses would be consistent with the City's current land use and zoning designations of Business Park for the Project site, and thus, would have been accounted for in the City's General Plan and UWMP. Additionally, as previously stated, the Project would generate approximately 1.9 percent of the Banning WWTP daily capacity. According to the City's General Plan FEIR, average industrial wastewater generation in 2018 was calculated to be 750 gallons per acre per day (gpd). Using the 2018 generation rates for industrial uses, a less conservative approach, the WSA found that the Project could generate approximately 22,727 gallons per day (gpd), which would account for 0.6 percent of the Banning WWTP daily capacity. Originally, the Draft EIR had miscalculated the percentage as 1.7 percent; however, this error has been updated to 0.6 percent to reflect the Project's correctly estimated percentage of wastewater generation of Banning WWTP daily capacity and is included in **Section 3.0 Errata** of the Final EIR. As such, even with the conservative estimates, the Banning WWTP would have adequate capacity to serve the Project's projected demand. As such, impacts to wastewater treatment flows and capacity would be less than significant and no mitigation is required (**Draft EIR, p. 4.14-18 to 4.14-19**).

Impact 4.19-4: Would the Project generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

Basis for Conclusion: While the Project is anticipated to generate solid waste during both construction and operational phases, it is not anticipated that generated solid waste would result in inadequate landfill capacity. The Project would comply with applicable local, state, and federal regulations regarding solid waste, including state and local solid waste standards and reduction goals. All solid waste within the City would be deposited at the Lamb Canyon Sanitary Landfill, El Sobrante Landfill, and/or the Badlands Landfill for disposal. Combined, the three landfills have a remaining capacity of 171,020,120 cubic yards with a daily throughput of 26,054 tons per day. The Project is estimated to generate approximately 7,920 pounds per day, or approximately 3.96 tons per day for the 1,320,284 square foot building area of the Project. As such, the Project's waste generation would be 0.02 percent of the combined daily throughput of all landfills. The Project would not result in excess capacity of local infrastructure or impair attainment of solid waste reduction goals and a less than significant impact would occur. (**Draft EIR, p. 4.14-19** through **4.14-20**).

Impact 4.14-5: Would the Project comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

Basis for Conclusion: The Project would comply with all applicable local, state, and federal regulations regarding solid waste, including those of the County. The Project is anticipated to generate solid waste during both construction and operational phases but not in excess resulting in inadequate landfill capacity. As such, The Project would be compliant with all applicable local, state, and federal regulations and reduction strategies related to solid waste and a less than significant impact would occur **(Draft EIR, p. 4.14-20)**.

WILDFIRE

Impact 4.15-1: If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the Project substantially impair an adopted emergency response plan or emergency evacuation plan?

Basis for Conclusion: According to the CAL FIRE's Fire and Resource Assessment Program, FHSZ Viewer, the Project site is not located in or near an SRA; the nearest SRA to the development site is located approximately 1.5 miles east of the Project site. The Project site is located within an LRA designated as a VHFHSZ, as identified on the latest FHSZ maps prepared by CAL FIRE (**Draft EIR, p. 4.15-13**). The Project site is adjacent to vacant land that extends to the base of the San Bernardino Mountains, where high wind conditions periodically occur that have the potential to dramatically spread wildland fires. The proposed parking areas and Wilson Street extension within the northern portion of the Project site would provide buffer between vacant lands to the north and the proposed structure in a way that could reduce wildfire risk to structures. The Project would also be required to incorporate wildfire prevention design techniques in accordance with the City of Banning General Plan Program 3.A, such as the use of "defensible space," fire retardant sidings, optimal site planning and building orientation, landscaping orientation, and other design approaches to reduce wildfire hazards.

Additionally, the Project site would comply with the City of Banning General Plan Program 3.B and would provide adequate emergency vehicle access and evacuation routes through multiple points of ingress/egress. The Project would not alter or impact any existing emergency access roads or evacuation routes as identified in the WRCOG Community Vulnerability Profile Map 1: Banning's Regional Evacuation Route. The Project site would provide access to the identified evacuation routes through street and access improvements. A Wildfire Fire Evacuation Plan (WEP) was prepared specifically for the Project and focuses on wildland fire evacuations. Ultimately, the WEP will be used to educate the evacuation approach during wildfires and other similar emergencies and links to important citizen preparedness information. The City of Banning Police Department would be the primary law enforcement agency responsible for evacuations within the City's jurisdiction. The City also contracts with the Riverside County Fire Department/ CAL FIRE for fire protection.

The proposed construction, along with the removal of any brush, trees, and grasses would limit the potential for wildfire spreading by removal of source materials. Since there will be multiple points of ingress/egress and building designs would be compliant with state, regional, and local regulations, buildout of the Project would not interfere with emergency response and evacuation plans for the City. Lastly, in accordance with the City of Banning General Plan Program 3.C, the City shall adopt standard requirements for all development proposal in High Fire Hazard Areas, including requirements for the preparation of Fire Protection Plans (FPP) prior to the approval of Tentative Tract Maps, Tentative Parcel Maps, or other land use permits. Therefore, a less than significant impact would occur associated with the substantial impairment of an adopted emergency response plan (**Draft EIR, p. 4.15-13** through **4.15-15**).

Impact 4.15-2: If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the Project, due to slope, prevailing winds, and other factors, exacerbate wildlife risks, and thereby expose Project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?

Basis for Conclusion: The Project site does not currently have direct access to the roadway network of the City. However, the improvements to Wilson Street and Nicolet Street east of Hathaway Street and O'Donnell Street and associated roadway improvements would improve access to the City's evacuation routes. The addition of these new and improved roadways would also act as fuel breaks, further preventing the uncontrolled spread of wildfire.

Wildfire may occur in wildland areas that surround the Project site, but would not be meaningfully increased in frequency, duration, or size with the construction of the Project. The Project's on-site fire potential will be much lower than its current condition due to conversion of wildland fuels to a building, parking areas, managed landscapes, fuel modification areas, improved accessibility for fire personnel, and structures built to the latest ignition and ember resistant fire codes. Additionally, the Project would comply with applicable City policies mitigating or minimizing wildfire hazard risks. In accordance with the City of Banning General Plan Program 3.A, the Project would be required to incorporate wildfire prevention design techniques, such as the use of "defensible space," retardant sidings, optimal site planning and building orientation, landscaping orientation, and other design approaches to reduce wildfire hazards. The Project would also build all structures consistent with the latest CBC which also includes features to minimize fire hazards. Due to the presence of area roadways, lack of steep slopes, and concrete construction of the Project, it is not likely to be affected by a wildfire during construction or operations. As such, the Project would not exacerbate wildfire risks or expose Project occupants to pollutant concentrations or the uncontrolled spread of a wildfire, and a less than significant impact would occur (**Draft EIR, p. 4.15-18 to 4.15-20**).

Impact 4.15-4: If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the Project expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

Basis for Conclusion: The Project site is on relatively flat ground and not adjacent to steep slopes. The Project site is surrounded by suburban development and vacant land that is also relatively flat. According to FEMA's National Flood Hazard Layer (NFHL), much of the Project site exists within Zone X, indicative of areas of minimal flood hazard. However, the northeast portion of the Project site, an area encompassing approximately 47.5 acres, is designated as Zone A, a hazard area with a one percent annual chance of flooding (100-year flood hazard area). However, the WQMP and Preliminary Hydrology Calculations Reports concluded that the proposed drainage improvements would adequately convey flows to the proposed basins and would also capture runoff adequately. As such, the Project is not anticipated to expose people or structures to significant risks resulting from runoff, post-fire slope instability, or drainage change. Therefore, a less than significant impact would occur and no mitigation is required (**Draft EIR, p. 4.15-21**).

5.2 EFFECTS DETERMINED TO BE MITIGATED TO LESS THAN SIGNIFICANT LEVELS

The City of Banning, having reviewed and considered the information contained in the Final EIR, the Technical Appendices and the administrative record, finds, pursuant to California Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1) that changes or alterations have been required in, or incorporated into the Project, which would avoid or substantially lessen to below a level of significance the following potentially significant environmental effects. The City finds that these potentially significant adverse impacts can be mitigated to a level that is considered less than significant after implementation of mitigation measures identified in the Final EIR.

AIR QUALITY

Impact 4.2-3 Would the Project expose sensitive receptors to substantial pollutant concentrations?

Findings: The Council adopts CEQA Finding 1 (CEQA Guidelines Section 15091(a)(1)). The Council finds that **MM AQ-6** is feasible, is adopted, and will reduce the potential sensitive receptor impacts of the Project to less-than-significant levels. Accordingly, the Council finds that, pursuant to PRC Section 21081 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid potentially significant sensitive receptor impacts of the Project identified in the FEIR.

Basis for Conclusion: Land uses considered sensitive receptors include residences, schools, playgrounds, childcare center, long-term health care facilities, rehabilitation centers, convalescent centers, and retirement homes. The Project is surrounded mainly by vacant and undeveloped land. Some residential uses are located west of Hathaway Street, and the Morongo Reservation is located to the north of the Project site. The nearest sensitive receptor is a multi-family residential apartment complex located approximately 400 feet to the west of the Project site (**Draft EIR, p. 4.2-24**).

Project emissions for both construction and operations were estimated using CalEEMod and SCQAMD Final Localized Significance Threshold (LST) Methodology to determine the Project's impacts to nearby sensitive receptors. The results of the analysis determined that Project construction emissions would be below the SCAQMD LST at each nearby sensitive receptor. Additionally, LSTs were estimated for Project operations using a worst-case scenario including all on-site Project-related stationary sources and three percent of mobile sources. It was determined that Project operations would not result in significant concentrations of pollutants at nearby sensitive receptors (**Draft EIR, p. 4.2-25**).

The Project's carbon monoxide (CO) emissions would not result in excess CO generation such that a CO hotspot would be created. CO exceedances are caused by vehicular emissions, primarily when vehicles are idling at intersection. As part of the SCAQMD's CO Hotspot Analysis, the Wilshire Boulevard and Veteran Avenue intersection, one of the most congested intersections in southern California with an average daily traffic volume (ADT) of approximately 100,000 vehicles per day, was modeled for CO concentrations. The Banning General Plan Circulation Element shows existing and future traffic volumes for major roadways. Access to I-10 would be from Ramsey Street, which would have a maximum of 22,418 ADT near the Project site. The Project is estimated to induce ADT to 27,801 vehicles per day. As the CO hotspots were not experienced at the Wilshire Boulevard and Veteran Avenue intersection even

as it accommodates approximately 100,000 vehicles daily, it can be reasonably inferred that the CO hotspots would not be experience at any Project vicinity intersections. Therefore, impacts with respect to CO exceedances would be less than significant (**Draft EIR, p.4.2-29**).

A chronic hazard was calculated based on the highest annual average concentration at the maximally exposed individual receptor. The highest maximum chronic hazard index associated with unmitigated diesel particulate matter (DPM) emissions from the Project would be 0.022. The chronic hazard index threshold is one (1). Therefore, even without mitigation, non-carcinogenic hazards are calculated to be within acceptable limits. With mitigation, the chronic hazard would be reduced to 0.011. Therefore, impacts associated with non-carcinogenic risk would be less than significant (**Draft EIR, p. 4.2-30**).

A Health Risk Assessment (HRA) was prepared for the Project and conducted based on the SCAQMD's Health Risk Assessment Guidance for Analyzing Cancer Risks from Mobile Source Diesel Idling Emissions for CEQA Air Quality Analysis and the SCAQMD Risk Assessment Procedures and the guidance from the Office of Environmental Health Hazard Assessment (OEHHA). Construction-related activities would result in Project-generated emissions of DPM from off-road, heavy-duty diesel equipment exhaust; paving; architectural coating application; on-road truck travel; and other miscellaneous activities. Accordingly, the Project would result in a maximum cancer risk of 6.53 in one million for residents and 6.12 in one million for workers which is below SCAQMD's threshold of 10 in one million. SCAQMD Rule 2305 requires warehouse operators to earn Warehouse Actions and Investments to Reduce Emissions (WAIRE) points by completing actions off the WAIRE Menu. As such the Project would implement **MM AQ-6**, which would require charging stations for cargo handling equipment. **MM AQ-6** allows the Project to be in compliance with Rule 2305 as part of the WAIRE program. Additionally, with the implementation of **MM AQ-6**, the maximum cancer risk from the Project would decrease to 4.30 per million for residents and 3.00 per million for workers. Therefore, impacts associated with carcinogenic risk would be mitigated with the implementation of **MM AQ-6** to less than significant levels (**Draft EIR, p. 4.2-30**).

Mitigation Measures

MM AQ-6 The Project shall include necessary charging stations for cargo handling equipment. Prior to the issuance of a tenant occupancy permit, the Planning Department shall confirm that the Project plans and specifications show that all outdoor cargo handling equipment (including yard trucks, hostlers, yard goats, pallet jacks, and forklifts) are zero emission/powered by electricity. Note that SCAQMD Rule 2305 (Warehouse Indirect Source Rule) Warehouse Actions and Investments to Reduce Emissions (WAIRE) points may be earned for electric/zero emission yard truck/hostler usage. This mitigation measure applies only to tenant improvements and not the building shell approvals.

BIOLOGICAL RESOURCES

Impact 4.3-1: Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

Findings: The Council adopts CEQA Finding 1 (CEQA Guidelines Section 15091(a)(1)). The Council finds that **MM BIO-1** and **MM BIO-2** are feasible, are adopted, and will reduce the potential species/habitat impacts of the Project to less-than-significant levels. Accordingly, the Council finds that, pursuant to PRC Section 21081 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid potentially significant sensitive receptor impacts of the Project identified in the FEIR.

Basis for Conclusion: The Project site occurs partially within a predetermined Survey Area for two Multiple Species Habitat Conservation Plan (MSHCP) Narrow Endemic Plan Species (NEPS), including Yucaipa (Marvin's) onion (*Allium marvinii*) and many-stemmed dudleya (*Dudleya multicaulis*). According to the MSHCP guidelines, focused surveys are required during the appropriate flowering season to document the presence/absence of these species if suitable habitat is present and if the property is located within a predetermined Survey Area. Focused surveys for both MSHCP NEPS were conducted during the Spring of 2023 to determined presence/absence and neither of the two MSHCP NEPS were detected during the Project surveys and are therefore not expected to occur due to lack of observation (**Draft EIR, p. 4.3-12**).

Although the Project site possess suitable habitat for three MSHCP covered plant species, including Payson's jewelflower (*Caulanthus simulanus*), Perry's spineflower (*Chorizanthe parryi* var. *parryi*), and slender-horned spineflower (*Dodecahema leptoceras*), the Project site is not located within a survey area for these species and the MSHCP has determined that all these sensitive species potentially occurring on-site have been adequately covered and no surveys are required (**Draft EIR, p. 4.3-12**).

Additionally, the Project site is not located within an MSHCP criteria area Species Survey Area, and no surveys are required. Further, the Project site possesses suitable habitat for two MSHCP non-covered plant species including chaparral sand-verbena (*Abronia villosa* var. *aurita*) and Robinson's pepper-grass (*Lepidium virginicum* var. *robinsonii*). Focused surveys for sensitive plants were conducted during the Spring of 2023 to determine presence/absence. No sensitive plants including other California Native Plant Society (CNPS) special-status plants, or species of local concern were observed or expected onsite. Therefore, a less than significant impact would occur concerning sensitive plant species (**Draft EIR, p. 4.3-12**).

An initial Burrowing Owl habitat assessment was conducted during the winter of 2022. Eight focused Burrowing Owl surveys were also conducted on March 8, 9, 20, April 12, and 19, May 3, 30, and 31 of 2023. Suitable burrowing owl burrows potentially utilized for refugia and/or nesting were documented adjacent to the property including foraging habitat documented throughout the Project site. No burrowing owl or characteristic sign such as white-wash, feathers, tracks, or pellets were detected within or immediately adjacent to the Project site during the 2023 survey efforts. Mitigation measures have been identified to reduce potentially significant impacts to less than significant levels. As such, **MM BIO-1** would be implemented to ensure a 30-day pre-construction survey for burrowing owls is conducted prior to initial ground-disturbing activities. During visual surveys, all potentially suitable burrow or structure entrances are investigated for signs of owl occupation and carefully observed to determine if burrowing owls utilize these features, when present. No burrowing owl or characteristic signs were detected within or immediately adjacent to the Project site during the 2023 survey effort (**Draft EIR, p. 4.3-12** through **4.3-13**).

A total of six MSHCP Planning Species, Bell's sage sparrow (*Artemisiospiza belli belli*), Southern California rufous-crowned sparrow (*Aimophila ruficeps canescens*), white-tailed kite (*elanus leucurus*), loggerhead shrike (*Lanius ludovicianus*), and Stephen's kangaroo rat (*Dipodomys stephensi*), have the potential to occur within the Project site. While the MSHCP had determined that these sensitive species potentially occurring within the Project site have been adequately covered, and no surveys are required, the Project would still be required to comply with **Standard Condition (SC) BIO-1**, which would require the payment of the MSHCP Local Development Mitigation Fee. While the payment of these fees is not mitigation of Project impacts in it of themselves, these fees would allow the MSHCP to implement the plan (**Draft EIR, p. 4.3-13**).

Although the Crotch's bumble bee (*Bombus crotchii*) is not covered by the MSHCP and no suitable habitat was identified on the Project site for the species, the prevalence and ubiquitous nature of Crotch's bumble bee habitat throughout the state and region would provide for a reasonable, and conservative, assumption that suitable scattered foraging habitat for the species is present. The purpose of the **SC BIO-1** would allow MSHCP to acquire and preserve higher quality habitat than those currently present for special-status species, such as the Crotch's bumble bee (**Draft EIR, p. 4.3-13**).

A total of 14 sensitive species has the potential to occur within the Project site. Potential impacts to MSHCP planning species would be mitigated following implementation of **MM BIO-1** and compliance with **SC BIO-1**. Furthermore, **MM BIO-2** would implement a nesting bird pre-construction survey, that would also be implemented to reduce impacts to important biological resources. (**Draft EIR, p. 4.3-13** through **4.3-14**).

Standard Conditions:

SC BIO-1 **MSHCP Local Development Mitigation Fee**. The Project Applicant shall pay MSHCP Local Development Mitigation fees, as a standard condition, as established and implemented by the City of Banning. Five categories of the fee are defined and include: Residential, density less than 8.0 dwelling units per acre $4,236 per dwelling unit; Residential, density between 8.0 and 14.0 dwelling units per acre $1,766 per dwelling unit; Residential, density greater than 14.1 dwelling units per acre $781 per dwelling unit; Commercial $19,066 per acre; and Industrial $19,066 per acre. The Project proposes industrial uses and would utilize the $19,066 per acre fee.

Mitigation Measures

MM BIO-1 **Burrowing Owl 30-Day Pre-Construction Surveys.** In order to avoid Project-related impacts to burrowing owls potentially occurring on or in the vicinity of the Project site and violation of the Burrowing Owl Protocol and the California Fish and Game Code 3503. 3503.5, and 3513, a 30-day preconstruction survey presence/absence survey for burrowing owl within the Impact Site (and 500-foot survey buffer) in accordance with the March 2006 Burrowing Owl Survey Instructions for the Western Riverside County MSHCP Area shall be conducted by a qualified biologist prior to initial ground disturbing activities (e.g., vegetation clearing, clearing and grubbing, grading, tree removal, site watering, equipment staging) to ensure that no owls have colonized the Project site in the days or

weeks preceding the ground disturbing activities. In addition, a preconstruction survey for burrowing owl shall be conducted within 3 days prior to initiation of Project activities and reported to CDFW.

If no burrowing owls are observed during the survey, site preparation and construction activities may begin. If burrowing owls have colonized the Project site prior to the initiation of ground-disturbing activities, the project proponent will immediately stop work and inform the City of Banning and the Wildlife Agencies (California Department of Fish and Wildlife [CDFW] and US Fish and Wildlife Service [USFWS]). In consultation with the Wildlife Agencies additional avoidance and minimization measures shall be undertaken including the possibility of preparing a Burrowing Owl Protecting and Relocation Plan, prior to initiating ground disturbance. CDFW shall be sent written notification within 48 hours of detection of burrowing owls. If active nests are identified on an implementing Project site during the pre-construction survey, the Project applicant shall not commence activities until no sign is present that the burrows are being used by adult or juvenile owls or following CDFW approval of a Burrowing Owl Plan as described below. If owl presence is difficult to determine, a qualified biologist shall monitor the burrows with motion-activated trail cameras for at least 24 hours to evaluate burrow occupancy. The on-site qualified biologist will verify the nesting effort has finished according to methods identified in the Burrowing Owl Plan.

The qualified biologist and Project Applicant shall coordinate with the City, CDFW, and USFWS to develop a Burrowing Owl Plan to be approved by the City, CDFW, and USFWS prior to commencing Project activities. The Burrowing Owl Plan shall describe proposed avoidance, relocation, monitoring, minimization, and/or mitigation actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites and details on proposed buffers if avoiding the burrowing owls or information on the adjacent or nearby suitable habitat available to owls for relocation. If no suitable habitat is available nearby for relocation, details regarding the creation and funding of artificial burrows (numbers, location, and type of burrows) and management activities for relocated owls shall also be included in the Burrowing Owl Plan. The City will implement the Burrowing Owl Plan following CDFW and USFWS review and approval.

If active burrowing owl burrows are detected within Impact Site(s) during Project implementation and construction, the Project applicant shall notify CDFW immediately in writing within 48 hours of detection. A Burrowing Owl Plan will be submitted to CDFW for review and approval within two weeks of detection and no Project activity will continue within 1000 feet of the burrowing owls until CDFW approves the Burrowing Owl Plan. The City shall be responsible for implementing appropriate avoidance and mitigation measures, including burrow avoidance, passive or active relocation, or other appropriate mitigation measures as identified in the Burrowing Owl Plan.

A final report shall be prepared by a qualified biologist documenting the results of the burrowing owl surveys and detailing avoidance, minimization, and mitigation measures.

The final report will be provided to City of Banning and CDFW within 30 days of completion of the survey and burrow monitoring for mitigation monitoring compliance record keeping.

MM BIO-2 **Nesting Bird Preconstruction Surveys**. Regulatory requirement for potential direct/indirect impacts to nesting common and sensitive bird species will require compliance with the Migratory Bird Treaty Act and California Fish and Game (CDFG) Code Section 3503, 3503.5, and 3513. Site preparation activities (such as ground disturbance, construction activities, and/or removal of trees and vegetation) should be conducted, to the greatest extent possible, outside of the peak nesting season. Regardless of the time of year, a qualified biologist shall conduct a nesting bird survey within three days prior to any disturbance of the site, including disking, vegetation grubbing, and grading.

The survey(s) will focus on identifying any bird nests that would be directly or indirectly affected by construction activities. The survey area will include the Project impact footprint and a 500-foot buffer where legal access is granted around the disturbance footprint. Within 72 hours of the nesting bird survey, all areas surveyed by the biologist will be cleared by the Contractor or a supplemental nesting bird survey is required. The survey results shall be provided to the City's Planning Department. The Project Applicant shall adhere to the following:

- Applicant shall designate a biologist (Designated Biologist) experienced in: identifying local and migratory bird species of special concern; conducting bird surveys using appropriate survey methodology; nesting surveying techniques, recognizing breeding and nesting behaviors, locating nests and breeding territories, and identifying nesting stages and nest success; determining/establishing appropriate avoidance and minimization measures; and monitoring the efficacy of implemented avoidance and minimization measures.
- Pre-activity field surveys shall be conducted at the appropriate time of day/night, during appropriate weather conditions, no more than 3 days prior to the initiation of Project activities. Surveys shall encompass all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures. Survey duration shall take into consideration the size of the Project site; density, and complexity of the habitat; number of survey participants; survey techniques employed; and shall be sufficient to ensure the data collected is complete and accurate. The qualified avian biologist will make every effort to avoid potential nest predation as a result of survey and monitoring efforts.

If no nesting birds are observed during the survey, site preparation and construction activities may begin. If active nests or nesting birds (including nesting raptors) are identified during the nesting bird survey, avoidance buffers shall be implemented as determined by a qualified biologist and approved by the City of Banning, based on their best professional judgement and experience. The buffer areas shall be avoided until the

Project biologist determines the young have fledged and dispersed or it is confirmed that the nest has been unsuccessful or abandoned. The buffer shall be of a distance to ensure avoidance of adverse effects to the nesting bird by accounting for topography, ambient conditions, species, nest location, and activity type. All nests shall be monitored as determined by the qualified biologist until nestlings have fledged and dispersed or it is confirmed that the nest has been unsuccessful or abandoned. The Designated 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 buffer. The qualified biologist will serve as a construction monitor during those periods when construction activities occur near active nest areas to ensure that no inadvertent impacts on these nests occur. The qualified biologist shall halt all construction activities within proximity to an active nest if it is determined that the activities are disturbing the nest and may result in nest abandonment or take. The qualified biologist shall also have the authority to require implementation of avoidance measures related to noise, vibration, or light pollution if indirect impacts are resulting in harassment of the nest. Work can resume within these avoidance areas when no other active nests are found. Upon completion of the survey and nesting bird monitoring, a final monitoring report of the findings, prepared by a qualified biologist, will be submitted to the City of Banning documenting compliance with the CDFG Code.

Impact 4.3-2: Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

Findings:

1. Changes or alternatives have been required in, or incorporated into the Project, which avoid or substantially lessen the significant environmental effect as identified in the EIR.

The Council adopts CEQA Finding 1 (CEQA Guidelines Section 15091(a)(1)). The Council finds that **MM BIO-3** is feasible, is adopted, and will reduce the riparian impacts of the Project to less-than-significant levels. Accordingly, the Council finds that, pursuant to PRC Section 21081 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid potentially significant sensitive receptor impacts of the Project identified in the FEIR.

Basis for Conclusion: No riparian scrub, forest, or woodlands habitat are located within the Project site. Also, no vegetation communities listed by the California Department of Fish and Wildlife (CDFW) as sensitive were documented within or adjacent to the Project site. A total of 131.28 acres of desert scrub, non-native grassland, Riversidean sage scrub, and disturbed/developed vegetation communities will be directly and permanently impacted by Project implementation. As such, the Project would implement **MM BIO-3**. **MM BIO-3** would require either the creation of 1.62-acres of habitat or purchase of a minimum of 1.62-acres of habitat creation credits from an approved mitigation bank. However, there is not current existing mitigation bank approved for the Whitewater River watershed. If a mitigation bank

were to be approved for the Whitewater River watershed, a minimum purchase of 1.62-acres of habitat creation credits would be required. Additionally, if mitigation is not feasible, creation of non-wetland waters at an off-site location would be required. Any on- or off-site mitigation would require long-term maintenance and management by a qualified conservancy, including payment of a non-wasting endowment to fund the long-term maintenance. Further, to meet the criteria of a biologically equivalent or superior alternative, the applicant would offset permanent impacts to a minimum of 0.54-acre of MSHCP Section 6.1.2 riverine resources (CDFW jurisdictional resource) as outlined in **MM BIO-3** in the MMRP for the Project. Lastly, a Habitat Mitigation and Monitoring Plan (HMMP) would prepared and implemented. With the implementation of **MM BIO-3** and preparation and implementation of a HMMP, the Project would have a less than significant (**Draft EIR, p. 4.4-27**).

Mitigation Measures

MM BIO-3 **USACE/CDFW/RWQCB Riverine Resources**. Prior to the issuance of a grading permit, the Project applicant will obtain a USACE Section 404 Nation Wide Permit, RWQCB Section 401 Water Quality Certificate, and CDFW Section 1602 Streambed Alteration Agreement. The Applicant shall notify the California Department of Fish and Wildlife (CDFW) for impacts to Fish and Game Code section 1602 resources and obtain a CDFW-executed Lake and Streambed Alteration (LSA) Agreement authorizing impacts to Fish and Game Code section 1602 resources associated with the Project.

The notification to CDFW should provide the following information:

1. A stream delineation including the bed, bank, and channel;

2. Linear feet and/or acreage of streams and associated natural communities that would be permanently and/or temporarily impacted by the Project. This includes impacts as a result of routine maintenance and fuel modification. Plant community names should be provided based on vegetation association and/or alliance per the Manual of California Vegetation (Sawyer et al. 2009);

3. A discussion as to whether impacts on streams within the Project site would impact those streams immediately outside of the Project site where there is hydrologic connectivity. Potential impacts such as changes to drainage pattern, runoff, and sedimentation should be discussed; and

4. A hydrological evaluation of the 100-year storm event to provide information on how water and sediment is conveyed through the Project site.

Currently, the impacted drainages and overall watershed are not within a service area of an approved mitigation bank. Depending on the timing of impacts and issuance of regulatory permits, should a mitigation bank become approved for the Whitewater River watershed, at minimum 2.67-acres of habitat creation credits from an approved bank will be purchased. However, since at this time no mitigation bank is approved for the whitewater watershed, it is assumed at minimum 2.67-acres of on-site creation is

required as outlined below. If it is determined that on-site mitigation is not feasible, creation of non-wetland waters at an off-site location would be required. The off-site location would be required to have a conservation easement or deed restriction placed over the mitigation area to ensure the Project site remains mitigation in perpetuity. Additionally, whether on or off-site, the mitigation site will require long-term maintenance and management by a qualified conservancy, including payment of a non-wasting endowment to fund the long-term maintenance.

To meet the criteria of a biologically equivalent or superior alternative, the applicant will offset permanent impacts to a minimum of 0.54-acre of MSHCP Section 6.1.2 riverine resources (CDFW jurisdictional resource) as follows including the preparation of an MSHCP DBESP.

- Permanent impacts to a minimum of 0.54-acres of jurisdictional features will be mitigated at a minimum of a 5:1 ratio (2.67 acres) through the creation of in-kind habitat on-site along the eastern and northern most Project boundary. If it is determined that on-site mitigation or off-site is not feasible, additional alternatives could include, payment into an acceptable an approved mitigation bank should one become available at the time of impacts and permitting.
- A Habitat Mitigation and Monitoring Plan for the creation of in-kind habitat will be prepared, reviewed and approved by the City of Banning, USACE, RWQCB and CDFW. The created habitat will be monitored by the Project proponent for a minimum of 5 years; monitoring reports shall be provided to the City of Banning and appropriate regulatory agency on an annual basis. The restoration area must meet standardized success criteria as described in a Habitat Mitigation and Monitoring Plan, which will be required as part of the permit process and approved by the Resource Agencies.
- A DBESP will be also prepared, reviewed and approved by the City of Banning and MSHCP wildlife agencies prior to the issuance of grading permits.

Impact 4.3-3 Would the Project have a substantial adverse effect on state or federally protected wetlands (including but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

Findings:

1. Changes or alternatives have been required in, or incorporated into the Project, which avoid or substantially lessen the significant environmental effect as identified in the EIR.

The Council adopts CEQA Finding 1 (CEQA Guidelines Section 15091(a)(1)). The Council finds that **MM BIO-3** is feasible, is adopted, and will reduce the wetland impacts of the Project to less-than-significant levels. Accordingly, the Council finds that, pursuant to PRC Section 21081 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid potentially significant sensitive receptor impacts of the Project identified in the FEIR.

Basis for Conclusion: The Project would result in a total of 0.18 acre of permanent impacts to U.S. Army Corps of Engineers (USACE)/RWQCB jurisdictional resources. However, no wetlands are located within or adjacent to the Project site. As such, no wetlands would be impacted as a result of Project implementation (**Draft EIR, p. 4.3-15**).

Prior to the issuance of a grading permit, the Project Applicant would obtain a CWA Section 404 permit, Section 1602 Streambed Alteration Agreement from the CDFW, and Waste Discharge Requirements (WDR) permit issued by the RWQCB pursuant to the California Water Code Section 13260 as outlined in **MM BIO-3**, refer to the MMRP.

The Project would result in a total of 0.54 acre of permanent impacts to CDFW/MSHCP Section 6.1.2 Riverine Jurisdictional Resources. However, no riparian habitat would be directly impacted by Project implementation. Currently, the impacted drainages and overall watershed are not within a service area of an approved mitigation bank. Depending on the timing of impacts and issuance of regulatory permits, should a mitigation bank become approved for the Whitewater River watershed, purchase of 2.67 acres of habitat creation credits from an approved bank will be purchased. However, since at this time no mitigation bank is approved for the Whitewater River watershed, it is assumed 2.67 acres of on-site creation is required as outlined in **MM BIO-3**. As a result of the impacts to jurisdictional features, two mitigation areas have been identified for the Project site. These mitigation areas will consist of two non-contiguous parcels totaling 2.67 acres (2.20 acres and 0.547 acres) on the northeast and eastern portions of the Project site. This would mitigate the impacted area through reestablishment of habitat at a ratio of 5:1. This proposed creation area would be designed to meander within the mitigation area creating a natural looking braided drainage and vegetated with alluvial fan sage scrub habitat. Further a deed restriction would be placed on all or a portion of the 2.67-acre mitigation area(s) and a HMMP would be prepared to direct the habitat restoration process for the mitigation area. This HMMP would be reviewed and approved by the relevant permitting agency or agencies (**Draft EIR, p. 4.3-16**).

Additionally, the Project would comply with all water quality regulations, including compliance with NPDES regulations and MS4 permit requirements. The MS4 permit places pollution prevention requirements on planned developments, construction sites, commercial and industrial businesses, municipal facilities and activities, and residential communities. Both these permits include the treatment of all surface runoff from paved and developed areas and include the implementation of BMPs during construction activities, along with installation and maintenance of structural BMPs that ensure adequate long-term treatment of water before entering any stream course or municipal system. As such, with the compliance of all applicable water quality regulations and implementation of **MM BIO-3**, the Project would have a less than significant impact (**Draft EIR, p. 4.3-16**).

Mitigation Measures

Refer to **MM BIO-3** above.

Impact 4.3-6 Would the Project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approve local, regional, or State habitat conservation plan?

Findings:

1. Changes or alternatives have been required in, or incorporated into the Project, which avoid or substantially lessen the significant environmental effect as identified in the EIR.

The Council adopts CEQA Finding 1 (CEQA Guidelines Section 15091(a)(1)). The Council finds that **MM BIO-3, MM BIO-2,** and **MM BIO-3** are feasible, are adopted, and will reduce the potential MSHCP impacts of the Project to less-than-significant levels. Accordingly, the Council finds that, pursuant to PRC Section 21081 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid potentially significant sensitive receptor impacts of the Project identified in the FEIR.

Basis for Conclusion: The Project is located within the Western Riverside County MSHCP: The Pass Plan Area and is not located within an MSHCP Criteria Area Cell or Cell Group. Following implementation of the MSHCP Urban/Wildlands Interface Guidelines and BMP's the proposed action would be consistent with MSHCP goals and objectives for The Pass-Special Linkage Area (SLA). At a minimum, an MSHCP 30-day preconstruction survey will be required immediately prior to the initiation of construction to ensure protection for this species and compliance with the conservation goals as outlined in the MSHCP. As documented above, Project implementation would be consistent with all provisions, guidelines and objectives of The SLA following implementation of **MM BIO-1**, **MM BIO-2**, and **MM BIO-3** (**Draft EIR, p. 4.3-21**).

Additionally, the Project site is not located within the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP). However, the collection, and transfer of flows from the Project site through earthen bottom, concrete channels with dissipaters and culverts are expected to have significantly reduced natural sediment deposits to the San Gorgonio River and therefore, no new or additional downstream impacts to fluvial conditions respective of altering sediment load within the CVMSHCP is expected. Therefore, Project development would not conflict with the CVMSHCP, and a less than significant impact would occur (**Draft EIR, p. 4.3-21** through **4.3-22**).

MSHCP Urban/Wildlands Interface Guidelines

The Project site occurs partially within a predetermined Survey Area for two MSHCP NEPS including Yucaipa (Marvin's) onion and many-stemmed dudleya. No suitable habitat or clay substrates were documented on-site, and the species are not expected to occur on-site. However, to ensure MSHCP NEPS are adequately addressed, focused surveys were conducted during the Spring of 2023 and neither species was documented on-site during these surveys. As such, the Project would be consistent with MSHCP Section 6.1.3 The Project site is not located adjacent to an existing or proposed MSHCP Conservation Area. However, the Project site is located approximately 1,700 feet (0.32 mile) southwest of a regional wildlife movement corridor (San Gorgonio River). Therefore, all proposed Urban/Wildlands Interface Guidelines and BMPs would be implemented. As such, the Project would be consistent with MSCHP Section 6.1.4. The Project site is not located within or adjacent to an existing or proposed MSHCP Conservation Area. However, the Project site is located approximately 1,700 feet (0.32 mile) southwest of a regional wildlife movement corridor (San Gorgonio River).

Additionally, the Project would include fuel modification zones to create defensible space and reduce risks associated with wildfire. Fuel modification would be provided as needed around the perimeter of the Project site as required by RCFD and would be a minimum of 100 feet wide. At least 100 feet is provided between the perimeter of the structure and the property line allowing this minimum 100-foot fuel modification to be obtainable on property owned by the owners of the structure. Further, all portions of the 100-foot perimeter are either paved or landscaped, and any landscaping would comply with the applicable fuel modification zone requirements, as outlined in ***Draft EIR Section 4.14 Wildfire*** (**Draft EIR, p. 4.15-11** through **4.15-13**). Therefore, all fuels management guidelines would be implemented. (**Draft EIR, p. 4.3-22**).

Overall, the Project would be consistent with the aforementioned guidelines of the Western Riverside County MSHCP and would not conflict with the CVMSHCP. Additionally, the Project would implement **MM BIO-1** through **BIO-3**, which would reduce potentially significant impacts and the Project would have a less than significant impact.

Mitigation Measures

Refer to **MM BIO-1** through **BIO-3** above.

CULTURAL RESOURCES

Impact 4.4-2: Would the Project cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?

Findings: The Council adopts CEQA Finding 1 (CEQA Guidelines Section 15091(a)(1)). The Council finds that **MM CUL-1**, and **MM CUL-2** are feasible, are adopted, and will reduce potential impacts to identified historic resources from construction of the Project to less-than-significant levels. Accordingly, the Council finds that, pursuant to PRC Section 21081 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid potentially significant sensitive receptor impacts of the Project identified in the FEIR.

Basis for Conclusion: The Project area has a low sensitivity for prehistoric archaeological resources, and it is unlikely that intact, subsurface prehistoric archaeological deposits would be uncovered during Project construction. A previously recorded isolate in the Project area, a circa 1917 USGS survey marker designated 33-022297, was not found during the field survey that was performed on February 10 and 11, 2022, although finding this artifact was not considered a focal point of the fieldwork. Isolates such as this, or localities with fewer than three artifacts, do not constitute archaeological sites due to the lack of depositional context and thus of information potential.[1] None of the six cultural resources identified during the field survey demonstrated any historical or archaeological interest. Sensitivity for encountering historic-age archaeological resources is considered low to moderate. However, the Project would still implement **MM CUL-1** and **MM CUL-2** to ensure that any potentially unknown archaeological resources would not be adversely affected by Project construction. As such, with implementation of **MM CUL-1** and

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MM CUL-2, a less than significant impact concerning archaeological resources would occur. (**Draft EIR, p. 4.4-11** through **4.4-12**).

Mitigation Measure

MM CUL-1 Prior to the issuance of a grading permit, an archaeological resource monitoring plan shall be developed by a qualified archaeologist. This plan shall include a grading observation schedule, to be maintained when initial mass grading occurs in upper soils, to identify and further evaluate any cultural resources that may be discovered in the Project area. A qualified archaeologist and/or Native American monitor(s) from Consulting Tribe(s) shall be retained to attend pre-grading meetings and to monitor earth moving activities, including clearing, grubbing, cutting, and trenching at the site. The monitor(s) shall carefully inspect these areas to assess the potential for significant prehistoric or historic remains. If potential archaeological and historical resources are uncovered, the construction contractor shall cease grading operations in the vicinity of the find until further evaluation is undertaken to assess the discovery. Further subsurface investigation may be needed if the resource is determined unique or important for its prehistoric or historic information.

MM CUL-2 If archaeological remnants are discovered during monitoring, the monitor(s) shall have the authority to divert construction in order to assess the significance of the find. Remnants shall be properly evaluated, documented, and deposited as applicable, consistent with State and local protocols.

Impact 4.5-3: Would the Project disturb any human remains, including those interred outsides of dedicated cemeteries?

Findings:

1. Changes or alternatives have been required in, or incorporated into the Project, which avoid or substantially lessen the significant environmental effect as identified in the EIR.

The Council adopts CEQA Finding 1 (CEQA Guidelines Section 15091(a)(1)). The Council finds that **MM CUL-3** is feasible, is adopted, and will reduce potential impacts to human remains from construction of the Project to less-than-significant levels. Accordingly, the Council finds that, pursuant to PRC Section 21081 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid potentially significant sensitive receptor impacts of the Project identified in the FEIR.

Basis for Conclusion: The Project site does not contain a cemetery and no known formal cemeteries are located within the immediate site vicinity. If human remains are discovered during Project grading or other ground disturbing activities, the Project would be required to comply with the applicable provisions of California Health and Safety Code Section 7050.5 as well as PRC Section 5097 et. seq. California Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the County Coroner has made the necessary findings as to origin. Pursuant to California Public Resources Code (PRC) Section

5097.98(b), remains shall be left in place and free from disturbance until a final decision as to the treatment and disposition has been made by the Coroner.

If the Coroner determines the remains to be Native American, the California Native American Heritage Commission (NAHC) must be contacted and the NAHC must then immediately notify the "most likely descendant(s)" of receiving notification of the discovery. The most likely descendant(s) shall then make recommendations within 48 hours and engage in consultations concerning the treatment of the remains as provided in PRC Section 5097.98. As such, **MM CUL-3** would be implemented to ensure the Project is compliant with the above policies and that a qualified archaeologist would assess the significance of the find. With the implementation of **MM CUL-3**, the Project would have a less than significant impact on human remains (**Draft EIR, p. 4.4-13**).

Mitigation Measure

MM CUL-3 If previously unknown cultural resources, including human remains, are identified during grading activities, a qualified archaeologist shall be retained to assess the nature and significance of the find. If human remains are encountered, State Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the County Coroner has made a determination of origin and disposition pursuant to Public Resources Code Section 5097.98. The County Coroner shall be notified of the find immediately. If the remains are determined to be prehistoric, the Coroner shall notify the Native American Heritage Commission (NAHC), which shall determine and notify a Most Likely Descendant (MLD). With the permission of the landowner or his/her authorized representative, the MLD may inspect the site of the discovery. The MLD shall complete the inspection within 24 hours of notification by the NAHC. The MLD may recommend scientific removal and nondestructive analysis of human remains and items associated with Native American burials.

GEOLOGY AND SOILS

Impact 4.6-4: Would the Project result in substantial soil erosion or the loss of topsoil?

Findings: The Council adopts CEQA Finding 1 (CEQA Guidelines Section 15091(a)(1)). The Council finds that **MM GEO-1**, are feasible, are adopted, and will reduce the potential erosion impacts of the Project to less-than-significant levels. Accordingly, the Council finds that, pursuant to PRC Section 21081 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid potentially significant sensitive receptor impacts of the Project identified in the FEIR.

Basis for Conclusion: Construction activities have the potential to expose soils to short-term wind and water erosion. However, reduction of potential erosion can be accomplished through implementation of a SWPPP, which specified BMPs for temporary erosion controls. Further, the Geotechnical Engineer must be informed of water seepage encountered during grading or foundation construction for possible revision to the recommended construction procedures and/or installation of subdrains. The Project would also be required to follow the requirements of the NPDES permit, which contains measures to control impacts to erosion.

Along with all required permits and the erosion control plan verified by the City prior to initiation of any ground disturbing activity or grading permit, **MM GEO-1** would ensure Project buildout would not lead to a substantial loss of topsoil or erosion through compliance with all grading guidelines and all recommendations provided in the Geotechnical Investigation Proposed Banning Commerce Center (**Draft EIR, Appendix F1**) prepared for the Project. Implementation of **MM GEO-1** and conformance to these requirements and verification by the City as part of the development approval process would ensure that potential impacts from construction of the warehouse is less than significant (**Draft EIR, p. 4.6-14** through **4.6-15**).

Project operations would not involve procedures which would result in substantial soil erosion. Following construction, the Project site would be covered with hardscape and landscaping which would not contribute to erosion. Landscaping would include drought-tolerant shrubs, ground cover, and trees. The storm water basin(s) would be planted with grasses and shrubs tolerant of seasonal water inundation. Ground cover would reduce erosion and loss of on-site soils post-construction. This would ensure that Project operation would not result in the loss of topsoil or sedimentation into local drainage facilities and water bodies. Therefore, the potential for substantial soil erosion or the loss of topsoil is considered less than significant with mitigation. (**Draft EIR, p. 4.6-15**).

Mitigation Measures

MM GEO-1 The Project would comply with the grading guidelines and all recommendations provided in the Geotechnical Investigation prepared for the Project.

Impact 4.6-8: Would the Project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

Findings:

1. Changes or alternatives have been required in, or incorporated into the Project, which avoid or substantially lessen the significant environmental effect as identified in the EIR.

The Council adopts CEQA Finding 1 (CEQA Guidelines Section 15091(a)(1)). The Council finds that **MM GEO-2, MM GEO-3,** and **MM GEO-4** are feasible, are adopted, and will reduce the potential paleontological resource impacts of the Project to less-than-significant levels. Accordingly, the Council finds that, pursuant to PRC Section 21081 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid potentially significant sensitive receptor impacts of the Project identified in the FEIR.

Basis for Conclusion: Unique geologic features are not common in the City of Banning or surrounding San Gorgonio Pass area. The geologic processes that formed landforms within the Project area are generally the same processes as in other parts of California.

A Paleontological Resources Assessment (PRA) was completed as part of the Project on May 20, 2024. As part of the PRA, a paleontological record search was conducted on May 28, 2024 for the Project area, with a 1-mile buffer, through the Los Angeles County Natural History Museum (LACNHM) and the Western Science Center (WSC). No paleontological resources were identified within the Project area as part of the

study. However, the age and composition of soils and sediments across the Project area, combined with the knowledge of paleontological resources identified within similar sediment deposits in California, indicate a high sensitivity for paleontological resources. In addition to the above records search and sensitivity review conducted by LACNHM and WSC, a review of the Riverside County Land Information System paleontological sensitivity layer was conducted for the Project area. The Project area is mapped as having Low Potential (L) for paleontological resources, though this is likely a mapping error, as the County of Riverside has identified areas with Pleistocene-aged alluvial sediments as High A or High B based on documented significant Pleistocene-age fossils in the broader region. As such, based on the age and composition of the soils, a sensitivity analysis conducted by LACNHM and WSC, and guidance provided by Riverside County, the Project area retains a high sensitivity for paleontological resources.

Further, as only a very small percentage of the Project area has been subject to prior disturbance, the likelihood of intact paleontological resources, which would be considered scientifically significant if discovered, being present within the Project area and inadvertently impacted by the Project remains high. As such, in order to mitigate impacts to paleontological resources, the Project would implement **MM GEO-2** through **MM GEO-4**. Therefore the Project would have a less than significant impact with mitigation. (**Draft EIR, p. 4.6-17**).

Mitigation Measures

MM GEO-2 The Applicant will submit a Paleontological Resources Impact Mitigation Program (PRIMP) prepared by a qualified paleontologist to the City's Community Development Director, or designee, prior to the issuance of a grading permit to reduce impacts to sensitive paleontological resources during construction activities, and all other surface-disturbance activities. The PRIMP would include the following:

- The PRIMP shall be prepared by a Qualified Paleontologist, based on Society of Vertebrate Paleontology (SVP) guidelines, and meet all regulatory requirements. The qualified paleontologist shall have a Master's Degree or Ph.D. in paleontology, shall have knowledge of the local paleontology, and shall be familiar with paleontological procedures and techniques.
- The PRIMP shall include a site-specific investigation that will identify construction impact areas of ranging sensibility and approximate depths at which those resources are likely to be encountered. The Plan shall define monitoring procedures and methodology, and shall specify that sediments of undetermined sensitivity shall be monitored on a part-time basis (as determined by the Qualified Paleontologist).
- The PRIMP shall state which resources will be avoided and which shall be recovered for their data potential. Where possible, recovery is preferred over avoidance in order to mitigate the potential for looting of paleontological resources. The Plan shall also detail methods of recovery, preparation and analysis of specimens, final curation of specimens at a federally accredited repository, data analysis, and reporting.

MM GEO-3 A qualified paleontologist will attend preconstruction meetings to consult with the grading and excavation contractors concerning planned depths, excavation schedules,

paleontological field techniques, and safety issues. In addition, all on-site construction personnel will receive Worker Education and Awareness Program (WEAP) training prior to the commencement of excavation work. All ground-disturbing activities associated with Project construction occurring within previously undisturbed fossil bearing formations will be monitored by a qualified paleontologist or qualified paleontological monitor. A paleontological monitor is defined as an individual who has experience in the collection and salvage of fossil materials and works under the direction of a qualified paleontologist. If fossils are discovered, the paleontologist (or paleontological monitor) will recover them. In most cases, this fossil salvage can be completed in a short period of time; however, some fossil specimens, such as a complete large mammal skeleton, may require an extended salvage period. In these instances, the paleontologist (or paleontological monitor) will be allowed to temporarily direct, divert, or halt grading to allow recovery of fossil remains, such as isolated mammal teeth, it may be necessary to set up a screen-washing operation on-site.

MM GEO-4 Fossil remains collected during the monitoring and salvage portion of the program will be cleaned, repaired, sorted, and catalogued.

Prepared fossils, along with copies of all pertinent field notes, photos, and maps, will be deposited (as a donation) in a scientific institution with permanent paleontological collections located within Riverside County (or, if no repository is available, adjacent Counties). A final data recovery report will be completed that outlines the results on the paleontological monitoring program. This report will include discussions of the methods used, stratigraphic section(s) exposed, fossils collected, and significance of recovered fossils. The report will be submitted to the City's Community Development Director, or designee, upon completion.

TRIBAL CULTURAL RESOURCES

Impact 4.13-1: Would the Project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site feature place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is: (i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k); or (ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resources to a California Native American tribe.

Findings: The Council adopts CEQA Finding 1 (CEQA Guidelines Section 15091(a)(1)). The Council finds that **MM CUL-1** through **MM CUL-3** and **MM TCR-1** through **MM TCR-8** are feasible, are adopted, and will reduce the potential tribal cultural impacts of the Project to less-than-significant levels. Accordingly, the Council finds that, pursuant to PRC Section 21081 21081(a)(1) and CEQA Guidelines Section 15091(a)(1),

changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid potentially significant sensitive receptor impacts of the Project identified in the FEIR.

Basis for Conclusion: Project-related construction activities could potentially uncover Native American historical or archaeological resources. However, the Project area appears to have low sensitivity for prehistoric archaeological resources, and it is unlikely that intact, subsurface prehistoric archaeological deposits would be uncovered during Project construction.

On October 13, 2021, CRM TECH submitted a written request to the State of California NAHC for a records search in the commission's Sacred Lands File. In response to CRM TECH's inquiry, the NAHC states in a letter dated November 19, 2021, that the Sacred Lands File (SLF) search did not return any information of Native American cultural resources (e.g., traditional use or gathering area, place of religious or sacred activity, etc.) within the immediate vicinity of the Project.

The Planning Department notified the following California Native American Tribes per the requirements of AB 52 on September 14, 2022, to initiate Tribal Consultation. The following tribes were contacted for consultation: Cahuilla Band of Indians, Morongo Band of Mission Indians (MBMI), Ramona Band of Cahuilla Mission Indians, Santa Rosa Band of Mission Indians, Serrano Nation of Indians, and the Yuhaaviatam of San Manuel Nation (YSMN). During the 30-day consultation period, only the YSMN responded. YSMN sent a response by email on October 11, 2022. YSMN indicated that the Project was located outside of their ancestral territory and did not wish to consult. MBMI provided a response after the 30-day consultation period on September 3, 2023. MBMI requested a formal consultation and provided mitigation measures they wished to have included as part of consultation. While consultation with MBMI fell outside the 30-day consultation period, the City wished to maintain good faith relations with the MBMI and as such, MBMI requested that mitigation measures are included as part of the Draft EIR.

To ensure that any potential tribal cultural resources would not be adversely affected during Project construction, MBMI requested that Project developer retain a Tribal Monitor during ground disturbing activities and that the developer would initiate a Native American Treatment Agreement (**MM TCR-1**). Additionally, the City of Banning through continued good-faith consultation with several Tribal Governments have established a suite of mitigation measures to be implemented in Projects that may have the opportunity to impact tribal cultural resources, which includes tribal monitoring. These mitigation measures, including those provided by MBMI, are provided below as **MM TCR-1** through **MM TCR-8** (**Draft EIR p. 4.13-10** through **4.13-11**). Therefore, with the implementation of these mitigation measures, impacts would be less than significant.

Mitigation Measures

Refer to **MMs CUL-1** through **CUL-3**.

MM TCR-1 **Native American Treatment Agreement**: Prior to the issuance of grading permits, the applicant shall enter into a Tribal Monitoring Agreement with the Morongo Band of Mission Indians for the project. The Tribal Monitor shall be on-site during all ground-disturbing activities (including, but not limited to, clearing, grubbing, tree and bush

removal, grading, trenching, fence post placement and removal, construction excavation, excavation for all utility and irrigation lines, and landscaping phases of any kind). The Tribal Monitor shall have the authority to temporarily divert, redirect or halt the ground-disturbing activities to allow identification, evaluation, and potential recovery of cultural resources.

MM TCR-2 **Retention of Archaeologist:** Prior to any ground-disturbing activities (including, but not limited to, clearing, grubbing, tree and bush removal, grading, trenching, fence post replacement and removal, construction excavation, excavation for all utility and irrigation lines, and landscaping phases of any kind) and prior to the issuance of grading permits, the Applicant shall retain a qualified archaeologist who meets U.S. Secretary of the Interior Standards (SOI). The archaeologist shall be present during all ground-disturbing activities to identify any known or suspected archaeological and/or cultural resources. The archaeologist will conduct a Cultural Resource Sensitivity Training, in conjunction with the Tribe[s] Tribal Historic Preservation Officer (THPO) and/or designated Tribal Representative. The training session will focus on what the archaeological and tribal cultural resources that may be encountered during ground-disturbing activities, and the procedures to be followed in such an event.

MM TCR-3 **Cultural Resource Management Plan:** Prior to any ground-disturbing activities the project archaeologist shall develop a Cultural Resource Management Plan (CRMP) and/or Archaeological Monitoring and Treatment Plan (AMTP) to address the details, timing and responsibility of all archaeological and cultural resource activities that occur on the project site. This Plan shall be written in consultation with the consulting Tribe[s] and shall include the following: approved Mitigation Measures (MM)/Conditions of Approval (COA), contact information for all pertinent parties, parties' responsibilities, procedures for each MM or COA, and an overview of the project schedule.

MM TCR-4 **Pre-Grade Meeting:** The retained qualified archeologist and Consulting Tribe[s] representative shall attend the pre-grade meeting with the grading contractors to explain and coordinate the requirements of the monitoring plan

MM TCR-5 **On-site Monitoring:** During all ground-disturbing activities the qualified archaeologist and the Native American monitor shall be on-site full-time. The frequency of inspections shall depend on the rate of excavation, the materials excavated, and any discoveries of Tribal Cultural Resources as defined in California Public Resources Code Section 21074. Archaeological and Native American monitoring will be discontinued when the depth of grading and soil conditions no longer retain the potential to contain cultural deposits. The qualified archaeologist, in consultation with the Native American monitor, shall be responsible for determining the duration and frequency of monitoring.

MM TCR-6 **Inadvertent Discovery of Cultural Resources:** In the event that previously unidentified cultural resources are unearthed during construction, the qualified archaeologist and the Native American monitor shall have the authority to temporarily divert and/or temporarily halt ground disturbance operation in the area of discovery to allow for the

evaluation of potentially significant cultural resources. Isolates and clearly non-significant deposits shall be minimally documented in the field and collected so the monitored grading can proceed.

If a potentially significant cultural resource(s) is discovered, work shall stop within 60-feet of the discovery and an Environmentally Sensitive Area (ESA) physical demarcation/barrier constructed. All work shall be diverted away from the vicinity of the find, so that the find can be evaluated by the qualified archaeologist and Tribal Monitor[s]. The archaeologist shall notify the Lead Agency and consulting Tribe[s] of said discovery. The qualified archaeologist, in consultation with the Lead Agency, the consulting Tribe[s] and the Native American monitor, shall determine the significance of the discovered resource. A recommendation for the Tribal Cultural Resource's treatment and disposition shall be made by the qualified archaeologist in consultation with the Tribe[s] and the Native American monitor[s] and be submitted to the Lead Agency for review and approval. Below are the possible treatment and dispositions of significant cultural resources in order of CEQAs preference:

- Full avoidance.
- If avoidance is not feasible, Prevention in place.
- If Preservation in place is not feasible, all items shall be reburied in an area away from any future impacts and reside in a permanent conservation easement or Deed Restriction.
- If all other options have been proven to be infeasible, data recovery through excavation and curated in a Curation Facility that meets the Federal Curation Standards (CFR s79.1).

MM TCR-7 **Inadvertent Discovery of Human Remains:** The Morongo Band of Mission Indians requests the following specific conditions to be imposed in order to protect Native American human remains and/or cremations. No photographs are to be taken except by the coroner, with written approval by the consulting Tribe[s].

Should human remains and/or cremations be encountered on the surface or during any and all ground-disturbing activities (i.e., clearing, grubbing, tree and bush removal, grading, trenching, fence post placement and removal, construction excavation, excavation for all water supply, electrical, and irrigation lines, and landscaping phases of any kind), work in the immediate vicinity of the discovery shall immediately stop within 100-feet of the discovery. The area shall be protected, project personnel/observers restricted. The County Coroner is to be contacted within 24 hours of discovery. The County Coroner has 48 hours to come to his/her determination pursuant to State and Safety Code Section 7050.5. and Public Resources Code (PRC) Section 5097.98.

In the event that the human remains and/or cremations are identified as Native American, the Coroner shall notify the Native American Heritage Commission within 24 hours of determination pursuant to subdivision (c) of HSC Section 7050.5.

The Native American Heritage Commission shall immediately notify the person or persons it believes to be the Most Likely Descendant (MLD). The MLD has 48 hours, upon being granted access to the Project site, to inspect the site of discovery and make their recommendation for final treatment and disposition, with appropriate dignity, of the remains and all associated grave goods pursuant to PRC Section 5097.98.

If the Morongo Band of Mission Indians has been named the Most Likely Descendant (MLD), the Tribe may wish to rebury the human remains and/or cremation and sacred items in their place of discovery with no further disturbance and reside in perpetuity. The place(s) of reburial will not be disclosed by any party and is exempt from the California Public Records Act (California Government Code Section 6254[r]). Reburial location of human remains and/or cremations will be determined by the Tribes Most Likely Descendant (MLD), the landowner, and the City Planning Department.

MM TCR-8 **Final Report:** The final report[s] created as a part of the project (AMTP, isolate records, site records, survey reports, testing reports, etc.) shall be submitted to the Lead Agency and Consulting Tribe[s] for review and comment. After approval from all parties, the final reports are to be submitted to the Eastern Information Center, and the Consulting Tribe[s].

WILDFIRE

Impact 4.15-3: If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the Project require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?

Findings: The Council adopts CEQA Finding 1 (CEQA Guidelines Section 15091(a)(1)). The Council finds that **MM FIRE-1**, is feasible, is adopted, and will reduce potential fire hazard impacts of the Project to less-than-significant levels. Accordingly, the Council finds that, pursuant to PRC Section 21081 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid potentially significant sensitive receptor impacts of the Project identified in the FEIR.

Basis for Conclusion: Currently, the Project site is composed of vacant land, and does not contain special infrastructure such as fuel breaks or emergency water sources. Construction and operation of the Project would not increase the risk of fire, nor would it require the installation/maintenance of infrastructure that would exacerbate fire risk. The Project would include improvements to adjacent roadways that would serve to provide emergency ingress and egress to the Project site in the event of an emergency. Additionally, vegetation management shall be performed pursuant to the Project's Fire Protection Plan (FPP) prior to the start of work and prior to import of combustible construction materials. Adequate fuel breaks shall be created around all grading, site work, and other construction activities in areas where there is flammable vegetation. Landscape planting would not utilize prohibited plants that have been found to be highly flammable. To ensure that the Project reduces fire risk, the Project would implement **MM FIRE-1,** which requires compliance with all Fire Safety Requirements as identified in the FPP prepared

for the Project. With the combination of adherence to relevant fire and building codes and implementation of the Project Design Features (PDFs), and mitigation measures, a less than significant impact would occur. (**Draft EIR, p. 4.15-21**).

Mitigation Measures

MM FIRE-1 **Fire Safety Requirements.** The Project shall be required to comply with all Fire Safety Requirements as identified in Section 5 of the Fire Protection Plan prepared for the Project (**Appendix M1**). Conformance with these requirements shall be verified by the City of Banning Community Development Department during design review prior to the issuance of building and grading permits.

5.3 EFFECTS WHICH REMAIN SIGNIFICANT AND UNAVOIDABLE AFTER MITIGATION

The City of Banning having reviewed and considered the information contained in the Final EIR, Technical Appendices and the administrative record, finds, pursuant to California Public Resources Code Section 21081(a)(3) and CEQA Guidelines Section 15091(a)(3), that specific economic, legal, social, technological, or other considerations, makes infeasible the mitigation measures identified in the Final EIR, and therefore, the Project would cause significant and unavoidable impacts to the categories of:

AIR QUALITY

Impact 4.2-1: Would the Project conflict with or obstruct implementation of the applicable air quality plan?

Basis for Conclusion: To determine the Project's consistency with the SCAQMD Air Quality Management Plan (AQMP), the Project must demonstrate that:

1. The Project will not result in an increase in the frequency or severity of existing air quality violations, or cause or contribute to new violations, or delay the timely attainment of air quality standards or the interim emissions reductions specified in the AQMP
2. The Project will not exceed assumptions in the AQMP, or increments based on the years of the Project buildout phase.

The Project would be consistent with the second criterion, as the proposed industrial development and uses are consistent with the City's General Plan land use designation for the Project site of Business Park, which allows for light industrial manufacturing and office/warehouse buildings (**Draft EIR, p. 4.2-16**).

However, the Project is not consistent with the first criterion. The Project would not exceed construction emission standards with implementation of **MM AQ-1**, which ensures the Project utilizes "Super Compliant" low volatile organic compounds (VOC) paints; however, the Project's operational emissions would exceed the operational standard for nitrogen oxides (NO_x) of 55 pounds per day and would remain above the SCAQMD threshold. Further, unmitigated reactive organic gas (ROG) operational emissions would be 83.6 pounds per day, which exceeds the SCAQMD threshold of 55 pounds per day. With implementation of mitigation measures, identified below, operational ROG emissions would be reduced to 54.6 pounds per day. **MM AQ-2** through **MM AQ-6** would reduce operational emissions to the greatest

amount feasible; however, implementation would not reduce operational emissions enough to be below threshold, as shown in **Draft EIR, Table 4.2-9**. Since the Project would result in air pollutant emissions that exceed SCAQMD's operational emissions thresholds, even with mitigation implemented, the Project would be inconsistent with the AQMP, and would result in a significant and unavoidable impact. No feasible mitigation measures are available which would reduce impacts to the SCAQMD AQMP to less than significant (**Draft EIR, p. 4.2-16** through **4.2-17**).

Therefore, the Project would be inconsistent with the AQMP and would result in a significant and unavoidable impact.

While the Project would not reduce impacts to less than significant levels, the Project would still be required to comply with applicable plans, programs, and policies (PPP) based on local, state, or federal requirements that are frequently independent of CEQA review and typically include compliance with the provisions of the Building Code, SCAQMD Rules, etc. The City may impose additional requirements during the approval process, as appropriate. Because PPPs are neither Project specific nor a result of development of the Project, they are not considered to be either project design features or mitigation measures. The Project would comply with the PPPs listed below (**Draft EIR, p. 4-2-17**).

The Project has incorporated all reasonable and feasible mitigation measures to reduce this impact, and would comply with all applicable local, state, and federal regulations related to air quality. As previously mentioned, the Project would adhere to all applicable policies, ordinances, and regulations relating to GHG emissions. However, despite compliance with applicable state, federal, and local regulation governing GHG emissions and implementation of feasible mitigation measures the Project will still result in a significant and unavoidable impact with respect to Project and cumulative GHG emissions.

PPP-1 Prior to the issuance of grading permits, the City Engineer shall confirm that the Grading Plan, Building Plans and Specifications require all construction contractors to comply with SCAQMD's Rules 402 and 403 to minimize construction emissions of dust and particulates. The measures include, but are not limited to the following:

PPP-1a Portions of a construction site to remain inactive longer than a period of three months will be seeded and watered until grass cover is grown or otherwise stabilized.

PPP-1b All on-site roads will be paved as soon as feasible or watered periodically or chemically stabilized.

PPP-1c All material transported off-site will be either sufficiently watered or securely covered to prevent excessive amounts of dust.

PPP-1d The area disturbed by clearing, grading, earthmoving, or excavation operations will be minimized at all times.

PPP-1e Where vehicles leave a construction site and enter adjacent public streets, the streets will be swept daily or washed down at the end of the work day to remove soil tracked onto the paved surface.

In addition, for projects greater than 50 acres, additional requirements include, but are not limited to, the following:

PPP-1f Maintain a daily record of specific dust control actions taken and maintain records for a minimum of three years.

PPP-1g Install signage with contact information.

PPP-1h Identify a dust control supervisor.

PPP-2 Pursuant to SCAQMD Rule 1113, the Project applicant shall require by contract specifications that the interior and exterior architectural coatings (paint and primer including parking lot paint) products used would have a volatile organic compound rating of 50 grams per liter or less.

PPP-3 Require diesel powered construction equipment to turn off when not in use per Title 13 of the California Code of Regulations, Section 2449.

PPP-4 The Project shall be designed in accordance with the applicable Title 24 Energy Efficiency Standards for Residential and Nonresidential Buildings (CRR, Title 24, Part 6). These standards are updated, nominally every three years, to incorporate improved energy efficiency technologies and methods. The Building Official, or designee shall ensure compliance prior to the issuance of each building permit. The Title 24 Energy Efficiency Standards (Section 110.10) requires buildings to be designed to have 15 percent of the roof area "solar ready" that will structurally accommodate later installation of rooftop solar panels. If future building operators pursue providing rooftop solar panels, they will submit plans for solar panels prior to occupancy.

PPP-5 The Project shall be designed in accordance with the applicable CALGreen Code (CCR, Title 24, Part 11). The Building Official, or designee shall ensure compliance prior to the issuance of each building permit. These requirements include, but are not limited to, the following:

PPP-5a Design buildings to be water-efficient. Install water-efficient fixtures in accordance with Section 4.303 (residential) and Section 5.303 (nonresidential) of the California Green Building Standards Code Part 11.

PPP-5b Recycle and/or salvage for reuse a minimum of 65 percent of the nonhazardous construction and demolition waste in accordance with Section 4.408.1 (residential) and Section 5.408.1 (nonresidential) of the California Green Building Standards Code Part 11.

PPP-5c Provide storage areas for recyclables and green waste and adequate recycling containers located in readily accessible areas in accordance with Section 4.410 (residential) and Section 5.410 (nonresidential) of the California Green Building Standards Code Part 11.

PPP-5d To facilitate future installation of electric vehicle supply equipment (EVSE), nonresidential construction shall comply with Section 5.106.5.3 (nonresidential electric vehicle charging) of the California Green Building Standards Code Part 11.

PPP-6 The Project tenants shall comply with the SCAQMD Indirect Source Rule (Rule 2305). This rule is expected to reduce NO_x and PM_{10} emission during construction and operation. Emission reductions resulting from this rule were not included in the Project analysis. Compliance with Rule 2305 is enforced by the SCAQMD through their reporting process and is required for all warehouse projects greater than 100,000 sf.

Mitigation Measures

MM AQ-1 The Project shall utilize "Super-Compliant" low VOC paints which have been reformulated to exceed the regulatory VOC limits (i.e., have a lower VOC content than what is required) put forth by SCAQMD's Rule 1113 for all architectural coatings. Super-compliant low VOC paints shall be no more than 10g/L of VOC. Prior to issuance of a building permit, the City Building and Safety Department shall confirm that plans include the following specifications:

- All architectural coatings will be super-compliant low VOC paints.
- Recycle leftover paint. Take any leftover paint to a household hazardous waste center; do not mix leftover water-based and oil-based paints.
- Keep lids closed on all paint containers when not in use to prevent VOC emissions and excessive odors.
- For water-based paints, clean up with water only. Whenever possible, do not rinse the cleanup water down the drain or pour it directly into the ground or the storm drain. Set aside the can of cleanup water and take it to the hazardous waste center (www.cleanup.org).
- Use compliant low-VOC cleaning solvents to clean paint application equipment.
- Keep all paint- and solvent-laden rags in sealed containers to prevent VOC emissions.
- Contractors shall construct/build with materials that do not require painting and use pre-painted construction materials to the extent practicable.
- Use high-pressure/low-volume paint applicators with a minimum transfer efficiency of at least 50 percent or other application techniques with equivalent or higher transfer efficiency.

MM AQ-2 Prior to issuance of tenant occupancy permits, the tenant/facility operator shall prepare and submit a Transportation Demand Management (TDM) program detailing strategies that would reduce the use of single occupant vehicles by employees by increasing the number of trips by walking, bicycle, carpool, vanpool, and transit. The TDM shall include, but is not limited to the following:

- Provide a transportation information center and on-site TDM coordinator to educate employers, employees, and visitors of surrounding transportation options.
- Provide on-site car share amenities for employees who make only occasional use of a vehicle, as well as others who would like occasional access to a vehicle of a different type than they use day-to-day.
- Promote and support carpool/vanpool/rideshare use through parking incentives and administrative support, such as ride-matching service.
- Incorporate incentives for using alternative travel modes, such as preferential carpool/vanpool parking or others.
- Each building shall provide preferred parking for electric, low-emitting and fuel-efficient vehicles equivalent to at least eight percent of the required number of parking spaces.

This mitigation measure applies only to tenant occupancy and not the building shell approvals.

MM AQ-3 Prior to the issuance of a building permit for the Shell Design, the Planning Department shall confirm that the Project is designed to include the following:

- The Project buildings' electrical room shall be sufficiently sized to hold additional panels that may be needed to supply power for the future installation of electric vehicle (EV) truck charging stations on the site.
- Conduit should be installed from the electrical room to tractor trailer parking spaces in a logical location(s) on the site determined by the Project Applicant during construction document plan check, for the purpose of accommodating the future installation of EV truck charging stations at such time this technology becomes commercially available and the buildings are being served by trucks with electric-powered engines.

This mitigation measures applies only to building shell approvals and not the tenant improvements.

MM AQ-4 Prior to the issuance of a tenant occupancy permit, the Planning Department shall confirm that all truck access gates and loading docks within the Project site shall have a sign posted that states:

- Truck drivers shall turn off engines when not in use.
- Truck drivers shall shut down the engine after two minutes of continuous idling operation (pursuant to Title 13 of the California Code of Regulations, Section 2485).

Once the vehicle is stopped, the transmission is set to "neutral" or "park," and the parking brake is engaged.

- Telephone numbers of the building facilities manager and CARB to report violations.
- Signs shall also inform truck drivers about the health effects of diesel particulates, the California Air Resources Board diesel idling regulations, and the importance of being a good neighbor by not parking in residential areas.

This mitigation measure applies only to tenant improvements and not the building shell approvals.

MM AQ-5 Prior to the issuance of a tenant occupancy permit, the Planning Department shall confirm that the Project plans and specifications shall include requirements (by contract specifications) that vendor trucks for the industrial buildings include energy efficiency improvement features through the Carl Moyer Program—including truck modernization, retrofits, and/or aerodynamic kits and low rolling resistance tires—to reduce fuel consumption. This mitigation measure applies only to tenant improvements and not the building shell approvals.

MM AQ-6 The Project shall include the necessary charging stations for cargo handling equipment. Prior to the issuance of a tenant occupancy permit, the Planning Department shall confirm that the Project plans and specifications show that all outdoor cargo handling equipment (including yard trucks, hostlers, yard goats, pallet jacks, and forklifts) are zero emission/powered by electricity. Note that SCAQMD Rule 2305 (Warehouse Indirect Source Rule) Warehouse Actions and Investments to Reduce Emissions (WAIRE) points may be earned for electric/zero emission yard truck/hostler usage. This mitigation measure applies only to tenant improvements and not the building shell approvals.

Findings: The Council adopts CEQA Finding 1 (CEQA Guidelines Section 15091(a)(1)). The Council finds that **MM AQ-1** through **MM AQ-6** are feasible, have been adopted, and will reduce, but not eliminate, potential air quality impacts from operations of the Project. Although the Project's long-term influence will be consistent with the SCAQMD's AQMP second criterion, the Project's exceedance of operation ROG and NO_x thresholds will potentially result in a long-term impact on the region's ability to meet state and federal air quality standards. Although construction emissions will not exceed SCAQMD thresholds and would be consistent with the assumptions in the AQMP, impacts associated with AQMP compliance will be significant and unavoidable due to Project implementation. Accordingly, the Council finds that, pursuant to PRC Section 21081(a)(1) and CEQA Guidelines section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid potentially significant air quality impacts from the proposed Project identified in the FEIR.

However, even with compliance with all applicable policies, ordinances, and regulations, and with the incorporation of the mitigation measures noted above, the Project will still have a significant and unavoidable impact with respect to consistency with the SCAQMD AQMP through the exceedance of operational ROG and NO_x thresholds. All reasonable and feasible mitigation measures have been adopted for the Project, and there are no feasible alternatives to avoid the identified unavoidable significant impact (see **Section 5.4, Alternatives to the Project** of these Findings). Therefore, the Council also adopts

CEQA Finding 3 (CEQA Guidelines Section 15091(a)(3)). Pursuant to Section 21081(a)(3) of the California PRC, as described in the SOC, the Council has determined that specific economic, legal, social, technological, or other considerations make infeasible the alternatives identified in the EIR, and the identified air quality impacts are thereby acceptable because of specific overriding considerations (see Findings **Section 6.0**).

Impact 4.2-2: Would the Project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or State ambient air quality standard?

Basis for Conclusion: As shown in ***Draft EIR Table 4.2-8***, construction of the Project would exceed the SCAQMD threshold for the O_3 precursors ROG (VOC) (**Draft EIR, p. 4.2-22**). However, implementation of **MM AQ-1** would require the Project to use "Super-Compliant" low VOC paints to reduce ROG emissions from to less than significant levels, from 109.73 pounds per day to 33.7 pounds per day, which is under the SCAQMD threshold of 75 pounds per day. As such, impacts would be less than significant with mitigation incorporated in regard to construction (**Draft EIR, p. 4.2-21**).

The Project would implement **MM AQ-2** through **MM AQ-6** to reduce operational emissions to the greatest extent feasible, reducing ROG emissions from 83.6 pounds per day to 54.6 pounds per day, which is below the SCAQMD threshold of 55 pounds per day; however, Project operations would still exceed SCAQMD emissions thresholds for NO_x, even with mitigation incorporated. Emissions from motor vehicles are controlled by State and federal standards and the Project would have no control over these standards. The Project would comply with PPP-3 requiring diesel powered construction equipment to turn off when not in use per Title 13 of the California Code of Regulations, Section 2449 (**Draft EIR, p. 4.2-22**).

The Project operator would directly reduce NO_x and particulate matter emissions to otherwise facilitate emission and exposure reductions of these pollutants in nearby communities in accordance with Rule 2305. Alternatively, warehouse operators can choose to pay a mitigation fee. Funds from the mitigation fee will be used to incentivize the purchase of cleaner trucks and charging/fueling infrastructure in communities nearby. Furthermore, warehouse owners and operators are required to earn Warehouse Actions and Investments to Reduce Emissions (WAIRE) points each year. WAIRE points are a menu-based system earned by emission reduction measures. Warehouse operators are required to submit an annual WAIRE Report which includes truck trip data and emission reduction measures. WAIRE points can be earned by completing actions from a menu that can include acquiring and using natural gas, Near-Zero Emissions and/or Zero-Emissions on-road trucks, zero-emission cargo handling equipment, solar panels or zero-emission charging and fueling infrastructure, or other options.

A preliminary WAIRE calculation has been conducted for the Project. The Project would include five zero-emission yard trucks that would operate for approximately eight hours per day, 365 days per year. Based on the SCAQMD WAIRE User Calculator the Project would have a Warehouse Points Compliance Obligation (WPCO) of 927.1 and would earn 5,133.6 points. As a result, the Project more than fulfills its WPCO and would bank 4,206.5 points. However, based on a preliminary WAIRE calculation estimated for the Project, Project operational emissions would still exceed the SCAQMD threshold despite implementing mitigation measures. Operational NO_X impacts associated with mobile sources would

remain significant, no additional feasible mitigation measures are available that can reduce mobile NO_X emission impacts to less than significant. Project impacts would be significant and unavoidable. (**Draft EIR, p. 4.2-23** through **4.2-24**).

As previously mentioned, the Project would adhere to all applicable policies, ordinances, and regulations relating to criteria pollutant emissions. The Project would implement **MM AQ-1** through **MM AQ-6** and to reduce Project criteria pollutant emissions to the greatest extent feasible. However, despite compliance with applicable state, federal, and local regulation governing GHG emissions and implementation of feasible mitigation measures the Project will still result in a significant and unavoidable impact with respect to Project criteria pollutants.

Findings: The Council adopts CEQA Finding 1 (CEQA Guidelines Section 15091(a)(1)). The Council finds that **MM AQ-1** through **MM AQ-6** are feasible, have been adopted, and will reduce, but not eliminate, potential air quality impacts from operations of the Project. Despite implementation of mitigation measures, the Project's operational emissions will remain above SCAQMD thresholds for NO_x resulting in a significant and unavoidable impact. Accordingly, the Council finds that, pursuant to PRC Section 21081(a)(1) and CEQA Guidelines section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid potentially significant air quality impacts from the Project identified in the FEIR. Additionally, the SCAQMD and CARB have the purview and authority to regulate criteria air pollutants and thus, the Council also adopts CEQA Finding 2 (CEQA Guidelines Section 15091(a)(2)).

However, even with compliance with all applicable policies, ordinances, and regulations, and with the incorporation of the mitigation measures noted above, the Project will still have a significant and unavoidable impact with respect to cumulatively considerable criteria pollutant emissions through the exceedance of operational ROG and NO_x thresholds. All reasonable and feasible mitigation measures have been adopted for the Project, and there are no feasible alternatives to avoid the identified unavoidable significant impact (see **Section 5.4, Alternatives to the Project** of these Findings). Therefore, the Council also adopts CEQA Finding 3 (CEQA Guidelines Section 15091(a)(3)). Pursuant to Section 21081(a)(3) of the California PRC, as described in the SOC, the Council has determined that specific economic, legal, social, technological, or other considerations make infeasible the alternatives identified in the EIR, and the identified air quality impacts are thereby acceptable because of specific overriding considerations (see Findings **Section 6.0**).

Mitigation Measures

Refer to **MM AQ-1** to **MM AQ-6** above.

Cumulative Impacts: In accordance with SCAQMD's methodology, any project that produces a significant project-level regional air quality impact in an area that is in nonattainment contributes to the cumulative impact. Due to the extent of the area potentially impacted from cumulative project emissions, the SCAQMD considers a project cumulatively significant when project-related emissions exceed the SCAQMD regional emissions thresholds. As discussed above, the Project's operational emissions would exceed the SCAQMD regional emissions thresholds, causing a significant and unavoidable impact. As such, the Project would have a cumulatively considerable impact (**Draft EIR, p. 4.2-31**).

GREENHOUSE GAS EMISSIONS

Impact 4.7-1: Would the Project generate greenhouse gas emission, either directly or indirectly, that may have a significant impact on the environment?

Basis for Conclusion: GHG emissions associated with the Project are summarized in **Draft EIR, Table 4.7-3**. Total area and indirect sources would be reduced with mitigation from 6,471 $MTCO_2e$ to 2,392 $MTCO_2e$. However, the Project's mitigated emissions for mobile sources would be approximately 27,048 $MTCO_2e$ annually from both construction and operations for mobile sources. Even with mitigation, Project-related GHG emissions would exceed the City's 3,000 $MTCO_2e$ per year threshold. The majority of the GHG emissions (76 percent of unmitigated emissions and 86 percent of mitigated emissions) are associated with non-construction related mobile sources. Emissions of motor vehicles are controlled by State and federal standards, and the Project has no control over these standards.

MM GHG-1 through **MM GHG-5** would reduce GHG emissions associated with Project development. **MM GHG-1** would require the installation of solar PV panels or the acquisition of energy from renewable sources. **MM GHG-2** would require the Project to provide "EV ready" employee parking stalls. **MM GHG-3** would mandate diverting at least 75 percent of landfill waste produced. **MM GHG-4** would require 100 percent electric landscaping equipment, and **MM GHG-5** would require electrical hookups for future electric trucks and trucks with auxiliary equipment. Additionally, implementation of **MM AQ-2** through **MM AQ-6**, located in **Section 4.2: Air Quality**, would reduce the Project's operational emissions through appropriate signage for on-site circulation, limiting idling emissions, and utilizing all-electric cargo handling equipment

As previously discussed, the Project would be required to comply with SCAQMD Rule 2305 which would directly reduce emissions or to otherwise facilitate emissions reduction. Warehouse operators can also choose to pay a mitigation fee, where the funds would be used to incentivize the purchase of cleaner trucks and charging/fueling infrastructure in neighboring communities. Additionally, warehouse owners and operators would be required to earn WAIRE points each year. WAIRE points are a menu-based system earned by emission reduction measures. Warehouse operators are required to submit an annual WAIRE Report which includes truck trip data and emission reduction measures. WAIRE points can be earned by completing actions from a menu that can include acquiring and using natural gas, Near-Zero Emissions and/or Zero-Emissions on road trucks, zero-emission cargo handling equipment, solar panels or zero-emission charging and fueling infrastructure, or other options.

A preliminary WAIRE calculation has been conducted for the Project. The Project would include approximately five zero emission yard trucks. Based on the SCAQMD WAIRE User Calculator, with implementation of LOR-5, the Project would have a WPCO of 927 and would earn 5,134 points. As a result, the Project more than fulfills its WPCO and would bank 4,207 points.

As demonstrated in **Draft EIR, Table 4.7-3**, mitigation measures would reduce Project GHG emissions by approximately 15 percent; however, total mitigated emissions would continue to exceed the City's threshold of 3,000 $MTCO_2e$ per year. Additional mitigation to reduce the Project's mobile emissions is not feasible due to the limited ability of the City to address emissions resulting from trucks, cars, and/or emissions generated by trucks outside of the City's limits. As with all land use projects, the Project's mobile

and transportation related GHG emissions are a function of two parameters: emissions control technology and vehicle miles traveled (VMT). CARB is directly responsible for regulating mobile and transportation source emissions in the State. The State is also implementing legislation and regulations to address the second parameter affecting transportation related GHG emissions by controlling for VMT. However, the state has determined that VMT regulations are not applicable to heavy trucks, such as those that will utilize the Project and generate the majority of the Project's GHG emissions.

As such, the City of Banning has no regulatory control over emissions control technology and therefore has limited ability to control or mitigate emissions associated with vehicle emissions associated with this Project. Additional mitigation to further reduce the Project's non-mobile emissions is also not feasible. The Project's mitigation measures and laws, ordinances, and regulations (LORs) address non-mobile emissions to the extent possible, by requiring on-site renewable energy (**MM GHG-1**), requiring the Project to meet or exceed CALGreen Tier 2 standards (**MM GHG-2**), diverting 75 percent landfill waste (**MM GHG-3**), requiring 100 percent electric landscape equipment (**MM GHG-4**), and requiring electric hookups for future electric trucks (**MM GHG-5**). Additionally, the City has no enforcement authority over offset credits that fund carbon reduction projects outside of the City. Therefore, the use of carbon offsets has not been considered for the Project as a conservative measure.

Existing requirements based on local, State, and federal laws and regulations are frequently required independently of CEQA review. Typical requirements include compliance with the provisions of the Building Code, CalGreen Code, local municipal code, SCAQMD Rules, etc. Laws, orders, and regulations (LORs) are neither Project specific nor a result of Project development and are therefore not considered to be project design features or MMs. The Project would comply with the following LORs:

LOR-1 Pursuant to SCAQMD Rule 1113, the Project applicant shall require by contract specifications that the interior and exterior architectural coatings (paint and primer including parking lot paint) products used would have a volatile organic compound rating of 50 grams per liter or less.

LOR-2 Require diesel powered construction equipment to turn off when not in use per Title 13 of the California Code of Regulations, §2449.

LOR-3 The Project shall be designed in accordance with the applicable Title 24 Energy Efficiency Standards for Residential and Nonresidential Buildings (California Code of Regulations [CCR], Title 24, Part 6). These standards are updated, nominally every three years, to incorporate improved energy efficiency technologies and methods. The Building Official, or designee shall ensure compliance prior to the issuance of each building permit. The Title 24 Energy Efficiency Standards (§110.10) require buildings to be designed to have 15 percent of the roof area "solar ready" that will structurally accommodate later installation of rooftop solar panels. If future building operators pursue providing rooftop solar panels, they will submit plans for solar panels prior to occupancy.

LOR-4 The Project shall be designed in accordance with the applicable California Green Building Standards (CALGreen) Code (24 CCR, Part 11). The Building Official, or designee shall

ensure compliance prior to the issuance of each building permit. These requirements include, but are not limited to:

- Design buildings to be water-efficient. Install water-efficient fixtures in accordance with §4.303 (residential) and §5.303 (nonresidential) of the California Green Building Standards Code Part 11.
- Recycle and/or salvage for reuse a minimum of 65 percent of the nonhazardous construction and demolition waste in accordance with §4.408.1 (residential) and §5.408.1 (nonresidential) of the California Green Building Standards Code Part 11.
- Provide storage areas for recyclables and green waste and adequate recycling containers located in readily accessible areas in accordance with §4.410 (residential) and §5.410 (nonresidential) of the California Green Building Standards Code Part 11.
- To facilitate future installation of electric vehicle supply equipment (EVSE), nonresidential construction shall comply with §5.106.5.3 (nonresidential electric vehicle charging) of the California Green Building Standards Code Part 11.

LOR-5 The Project tenants shall comply with the SCAQMD Indirect Source Rule (Rule 2305). This rule is expected to reduce NO_X and PM_{10} emissions during construction and operation. Emission reductions resulting from this rule were not included in the Project analysis. Compliance with Rule 2305 is enforced by the SCAQMD through their reporting process and is required for all warehouse projects greater than 100,000 square feet.

Mitigation Measures

Refer to **MM AQ-2** through **MM AQ-6** above.

MM GHG-1 Prior to issuance of tenant occupancy permits, the Project shall be required to install a solar photovoltaic (PV) system or otherwise acquire energy from the local utility that has been generated by renewable sources, sufficient to power the anticipated initial improvements for the warehouse (i.e., the Title 24 electricity demand and the plug-load. The final PV generation facility size requires approval by Southern California Edison (SCE). SCE's Rule 21 governs operating and metering requirements for any facility connected to SCE's distribution system. Should SCE limit the off-site export, the proposed Project may utilize a battery energy storage system (BESS) to lower off-site export while maintaining on-site renewable generation to off-set consumption. The building shall include an electrical system and other infrastructure sufficiently sized to accommodate the PV arrays. The electrical system and infrastructure must be clearly labeled with noticeable and permanent signage.

In addition, to ensure that the Project's electrical room(s) is sufficiently sized to accommodate the potential need for additional electrical panels, either (1) a secondary electrical room shall be provided in the building, or (2) the primary electrical room shall be sized 25 percent larger than is required to satisfy the service requirements of the building or the electrical gear shall be installed with the initial construction with 25 percent excess demand capacity.

MM GHG-2 Prior to the issuance of a building permit, the Project Applicant or successor in interest shall provide documentation to the City of Banning demonstrating that the Project is designed to achieve Leadership in Energy and Environmental Design (LEED) standards or meet or exceed CALGreen Tier 2 standards in effect at the time of building permit application.

MM GHG-3 The development shall divert a minimum of 75 percent of landfill waste. Prior to issuance of certificate of tenant occupancy permits, a recyclables collection and load area shall be constructed in compliance with County standards for Recyclable Collection and Loading Areas, and the facility's operator shall be required to provide the City with a copy of the Project's recycling program. This mitigation measure applies only to tenant permits and not the building shell approvals.

MM GHG-4 Prior to issuance of tenant occupancy permits, the Planning Department shall confirm that tenant lease agreements include contractual language that all landscaping equipment used on-site shall be 100 percent electrically powered. This mitigation measure applies only to tenant permits and not the building shell approvals.

MM GHG-5 Conduits for the installation of electrical hookups to allow future electric vehicle (EV) trucks and trucks with auxiliary power units (APU) shall be installed at a ratio of one charging station for every 50 dock high doors.

Findings: The Council adopts CEQA Finding 1 (CEQA Guidelines Section 15091(a)(1)). The Council finds that **MM AQ-2** through **MM AQ-6** and **MM GHG-1** through **MM GHG-5** are feasible, have been adopted, and will reduce, but not eliminate, potential air quality impacts from operations of the Project. Despite implementation of mitigation measures, the Project' GHG emissions would remain above the SCAQMD thresholds, resulting in a significant and unavoidable impact. Accordingly, the Council finds that, pursuant to PRC Section 21081(a)(1) and CEQA Guidelines section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid potentially significant air quality impacts from the proposed Project identified in the FEIR. Additionally, the SCAQMD and CARM have the purview and authority to regulate GHG emissions from mobile sources and thus, the Council also adopts CEQA Finding 2 (CEQA Guidelines Section 15091(a)(2)).

However, even with compliance with all applicable policies, ordinances, and regulations, and with the incorporation of the mitigation measures noted above, the Project will still have a significant and unavoidable impact with respect to Project and cumulative GHG emissions. All reasonable and feasible mitigation measures have been adopted for the Project, and there are no feasible alternatives to avoid the identified unavoidable significant impact (see **Section 5.4, Alternatives to the Project** of these Findings). Therefore, the Council also adopts CEQA Finding 3 (CEQA Guidelines Section 15091(a)(3)). Pursuant to Section 21081(a)(3) of the California PRC, as described in the SOC, the Council has determined that specific economic, legal, social, technological, or other considerations make infeasible the alternatives identified in the EIR, and the identified GHG impacts are thereby acceptable because of specific overriding considerations (see Findings **Section 6.0**).

Impact 4.7-2 Would the Project conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

Basis for Conclusion: As demonstrated in ***Draft EIR Table 4.7-4***, the Project would be consistent with the stated goals of the SCAG RTP/SCS and would not interfere with SCAG's ability to achieve the region's post-2020 mobile source GHG reduction targets. Additionally, ***Draft EIR Table 4.7-3*** indicates that 90 percent of the Project's mitigated GHG emissions are from mobile sources, which would be further reduced by the 2022 CARB Scoping Plan measures for GHG emissions reductions and associated strategies. The City has no control over mobile emissions, and these emissions would decline in the future due to measures discussed above, as well as cleaner technology and fleet turnover. Statewide GHG emissions reduction strategies in the latest 2022 Scoping Plan include implementing SB 100, which would achieve 100 percent clean electricity by 2045; achieving 100 percent zero emission vehicle sales in 2035 through Advanced Clean Cars II; and implementing the Advanced Clean Fleets regulation to deploy zero-emission vehicle (ZEV) buses and trucks. Several of the State's plans and policies would contribute to a reduction in mobile source emissions from the Project. Although these measures are not directly applicable to the Project, any commercial activity associated with goods movement would be required to comply with these measures as adopted. The Project would not obstruct or interfere with efforts to increase ZEVs or state efforts to improve system efficiency. As such, the Project would not interfere with their implementation (**Draft EIR, p. 4.7-25** through **4.7-28**).

Despite plan consistency, the Project's long-term operational GHG emissions would exceed the 3,000 $MTCO_2e$ per year threshold despite the implementation of **MM AQ-2** through **MM AQ-6** located in **Section 4.2: Air Quality**, and **MM GHG-1** through **MM GHG-5**; thus, the Project could impede California's Statewide GHG reduction goals for 2030 and 2050. Therefore, a significant and unavoidable impact would occur as a result of the Project.

Findings: The Council adopts CEQA Finding 1 (CEQA Guidelines Section 15091(a)(1)). The Council finds that **MM AQ-2** through **MM AQ-6** and **MM GHG-1** through **MM GHG-5** are feasible, have been adopted, and will reduce, but not eliminate, potential air quality impacts from operations of the Project. Despite implementation of mitigation measures, the Project's GHG emissions would conflict with the City's emissions thresholds. Accordingly, the Council finds that, pursuant to PRC Section 21081(a)(1) and CEQA Guidelines section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid potentially significant air quality impacts from the proposed Project identified in the FEIR. Additionally, the SCAQMD and CARB have the purview and authority to regulate GHG emissions from mobile sources and thus, the Council also adopts CEQA Finding 2 (CEQA Guidelines Section 15091(a)(2)).

However, even with compliance with all applicable policies, ordinances, and regulations, and with the incorporation of the mitigation measures noted above, the Project will still have a significant and unavoidable impact with respect to Project and cumulative GHG emissions. All reasonable and feasible mitigation measures have been adopted for the Project, and there are no feasible alternatives to avoid the identified unavoidable significant impact (see **Section 5.4, Alternatives to the Project** of these Findings). Therefore, the Council also adopts CEQA Finding 3 (CEQA Guidelines Section 15091(a)(3)). Pursuant to Section 21081(a)(3) of the California PRC, as described in the SOC, the Council has determined that specific economic, legal, social, technological, or other considerations make infeasible the

alternatives identified in the EIR, and the identified GHG impacts are thereby acceptable because of specific overriding considerations (see Findings **Section 6.0**).

Mitigation Measures

Refer to **MM AQ-2** through **MM AQ-6** and **MM GHG-1** through **MM GHG-5** above.

Cumulative Impacts: GHGs are global pollutants, unlike criteria air pollutants and TACs, which are pollutants of regional and local concern. Whereas pollutants with localized air quality effects have relatively short atmospheric lifetimes (about one day), GHGs have much longer atmospheric lifetimes of one year to several thousand years that allow them to be dispersed around the globe. It is generally the case that an individual project of this size and nature is of insufficient magnitude by itself to influence climate change or result in a substantial contribution to the global GHG inventory. The State CEQA Guidelines generally address GHG emissions as a cumulative impact because of the global nature of climate change. As such, GHG impacts are recognized as exclusively cumulative impacts; there are no non-cumulative GHG emission impacts from a climate change perspective. The additive effect of Project-related GHGs would not result in a reasonably foreseeable cumulatively considerable contribution to global climate change. In addition, the Project as well as other cumulative related projects would also be subject to all applicable regulatory requirements, which would further reduce GHG emissions. As discussed above, the Project-related GHG emissions would exceed the City's 3,000 $MTCO_2e$ threshold of significance despite implementation of **MM AQ-2** through **MM AQ-6** from the Air Quality Assessment and **MM GHG-1** through **MM GHG-5** and could impede statewide 2030 and 2050 GHG emission reduction targets. As such, the Project would result in a potentially significant cumulative GHG impact.

TRANSPORTATION

Impact 4.12-2: Would the Project conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?

Basis for Conclusion: To comply with CEQA, the City adopted Traffic Impact Analysis Guidelines for Local Transportation Analysis and Vehicle Miles Traveled Analysis (City Guidelines). The City Guidelines documents the City's VMT analysis methodology and adopted VMT impact thresholds.

VMT Screening

Consistent with City Guidelines, projects that meet certain screening criteria based on their location, land use, or other attributes may be presumed to result in a less than significant transportation impact. As the City has not developed their own City VMT screening tool, the WRCOG VMT Screening Tool (Screening Tool) was alternatively used to aid in the screening process and offers screening attributes consistent with the screening criteria listed in the City Guidelines. The following screening criteria for land development projects were selected for further evaluation based on their applicability to the Project:

- Proximity to Transit
- Low VMT Area
- Small/Low Trip Generating Projects

Land development projects that have one or more of the following attributes may be presumed to have a less than significant VMT impact.

Proximity to Transit

According to City Guidelines, projects that meet the following criteria may be presumed to have a less than significant VMT impact:

- Located within a Transit Priority Area (TPA) (i.e., within ½ mile of an existing "major transit stop" or an existing stop along a "high-quality transit corridor"),
- Consistent with the City's General Plan and zoning,
- Have a floor-to-area ratio (FAR) greater than 0.75
- Projects that provide parking less than or equal to the City's Municipal Code requirements,
- And projects that do not replace any affordable residential units with moderate- or high-income residential units.

Based on the Screening Tool results, the Project site is not located within ½ mile of an existing major transit stop, or along a high-quality transit corridor, and TPA screening criteria is not met.

Low VMT Area

As noted in the City Guidelines, "Projects located in areas with low VMT will be eligible to be screened out as long as they are consistent with the City's General Plan." The City recognizes any net increase in VMT per employee for uses consistent with General Plan Guidelines as exceeding the threshold for Low VMT.

The Screening Tool is used to determine if a Project is in a low VMT Area. It uses the sub-regional Riverside County Transportation Model (RIVCOM) to measure VMT performance within individual traffic analysis zones (TAZs) in the region. First, the Project's physical location is identified on the map, then the Screening Tool provides VMT data for the TAZ in which the project resides to determine existing VMT for that zone. The Project was located and selected by parcel location. The Screening Tool was then run for production-attraction (PA) VMT per employee. The Project TAZ 41 was shown to generate 26.9 VMT per employee, which is below the WRCOG regional average 30.4 VMT per employee for industrial land uses.

The Project was determined to be located in a low VMT area. However, after further examination of the Project's TAZ within the RIVCOM model it was determined that the Project's TAZ contained mostly agricultural use types, which is not consistent with the proposed industrial land use of the Project. Therefore, the Project does not qualify for this screening criteria and the Low VMT screening criteria is not met.

Small/Low Trip Generating Projects

The City Guidelines recognizes those projects generating fewer than 1,000 daily vehicle trips to result in a less than significant VMT impact. The Project is estimated to generate 5,384 daily vehicle trips, exceeding the City's 1,000 daily vehicle trip threshold for projects consistent with the City's General Plan land use designations. Therefore, the Project type screening criteria is not met.

VMT Analysis

VMT Metric and Significance Threshold

According to the City Guidelines, the appropriate efficiency metric used to measure VMT for purposes of determining a potential transportation impact for non-residential land use projects in the City is VMT per employee. In addition, the City Guidelines have identified the following impact threshold:

- For other land uses (for example, industrial, manufacturing, etc.), any net increase in VMT per employee (for the WRCOG regional average) would indicate a significant impact for uses consistent with the General Plan.

The WRCOG regional threshold was calculated using WRCOG's latest RIVCOM model version 3.5. Results from this calculation yielded the same base year results of 30.4 VMT per employee for the WRCOG regional average.

Project's VMT Calculation and Comparison to Impact Threshold

Draft EIR, Table 4.12-4 show the Project-generated VMT per employe for home-based work and **Table 4.12-5** provides the comparison of the Project's anticipated VMT generation to the City's threshold; Project generated VMT per employee was estimated as 33.3 while the City's threshold is 30.4. As such, the Project would exceed the City threshold and the Project's VMT impact is considered significant.

Upon completion of the VMT Screening and Analysis, Project was not found to meet any available screening criteria, the Project's VMT analysis was found to exceed the City's VMT per employee threshold by 9.5 percent, and implementation of feasible VMT reduction measures would not definitively reduce Project VMT or Project VMT impacts. Reductions in commute VMT through feasible reduction measures such as those described below would be provided by the Project and would be implemented as part of future Certificates of Occupancy for future tenants as noted in **MM TRANS-1**. However, even with implementation of the potential VMT reduction measures and **MM TRANS-1**, the Project VMT impact is assumed to exceed the City VMT threshold. Potential commute trip reduction strategies have been considered for the purposes of reducing Project related VMT impacts (i.e., commute trips) determined to be significant. As the future building tenants are not known for the Project, the effectiveness of each commute trip reduction measures cannot be known at this time. The Project can, however, consider the following measures that have the potential to reduce work/commute VMT, although no quantified benefit can be taken at this time. The Project VMT impact is therefore considered significant and unavoidable.

Mitigation Measures

MM TRANS-1 Prior to the issuance of Certificate of Occupancy for future tenants, the future tenant shall demonstrate implementation of reasonable and feasible VMT reduction measures to the satisfaction of the City of Banning Planning Director. Measures to be considered include, but are not limited to VMT strategy reduction measures:

Potential VMT Reduction Strategies

The following are potential VMT reduction measures that could be implemented:

- The Project may implement a Voluntary Commute Trip Reduction (CTR) measure. The purpose of the CTR would be to encourage alternative modes of transportation such as carpooling, which would reduce VMT. A proposed CTR program for this Project could include providing on-site and/or online commute information services including information on available transit and ride coordination for employees.
- The Project could provide designated carpool/vanpool parking in desirable locations on-site, which could encourage employees to carpool/vanpool to work and reduce VMT.
- The Project could install end-of-trip facilities such as bicycle parking and lockers which could encourage employees to use alternative modes of transportation and thus reduce VMT.
- The Project could increase sidewalks along the Project frontage and provide connections to existing trails (if applicable) in order to improve pedestrian access. This measure could encourage employees to walk to nearby destinations and thus reduce VMT.
- The Project could implement employee parking cash-out policies. Cash-out is when employers provide employees with a choice of forgoing their current subsidized/free parking, provided by the employer, in lieu of a cash payment equivalent to or greater than the cost of the parking space. This encourages employees to use other modes of travel instead of single occupancy vehicles.

Findings: The Council adopts CEQA Finding 1 (CEQA Guidelines Section 15091(a)(1)). The Council finds that **MM TRANS-1** is feasible, is adopted, and will reduce, but not eliminate, potential traffic impacts from operations of the Project. Despite the implementation of mitigation measures, Project will still exceed the City's VMT thresholds. Accordingly, the Council finds that, pursuant to PRC Section 21081(a)(1) and CEQA Guidelines section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid potentially significant air quality impacts from the proposed Project identified in the FEIR.

Impacts associated with VMT were calculated pursuant to the City Guidelines. However, variables considered as part of the VMT analysis are not City or Project specific. Nor are the impacts attributable only to the Project, as VMT impacts are a regionwide issue. Therefore, the City, as lead agency, does not hold sole responsibility for the impacts. VMT impacts are not borne by one agency alone (the City), but by a multitude of local, regional, and state agencies who are working together collectively to address impacts associated with VMT. Therefore, the Council also adopts CEQA Finding 2 (CEQA Guidelines Section 15091(a)(2)).

However, even with compliance with all applicable policies, ordinances, and regulations, and with the incorporation of the mitigation measures noted above, the Project will still have a significant and unavoidable impact with respect to Project traffic impacts. All reasonable and feasible mitigation measures have been adopted for the Project, and there are no feasible alternatives to avoid the identified unavoidable significant impact (see **Section 5.4, Alternatives to the Project** of these Findings). Therefore, the Council also adopts CEQA Finding 3 (CEQA Guidelines Section 15091(a)(3)). Pursuant to Section

21081(a)(3) of the California PRC, as described in the SOC, the Council has determined that specific economic, legal, social, technological, or other considerations make infeasible the alternatives identified in the EIR, and the identified air quality impacts are thereby acceptable because of specific overriding considerations (see Findings **Section 6.0**).

Cumulative Impacts: The Project's VMT analysis provides an analysis of the Project's cumulative impacts on VMT. The VMT analysis concludes that Citywide VMT increases with the Project resulting in a significant and unavoidable cumulative VMT impact. Even with implementation of reasonable and feasible VMT reduction measures, the VMT analysis concludes that Citywide VMT increases from the Project would result in a significant and unavoidable cumulative VMT impact.

5.4 ALTERNATIVES TO THE PROJECT

Section 6.0 of the Draft EIR analyzes the following three (3) alternatives to the Project as proposed, and evaluates these alternatives for their ability to meet the Project's goals and objectives. CEQA requires the EIR to include in its evaluation a No Project Alternative. Additionally, CEQA requires the EIR to describe a reasonable range of alternatives to the Project which would feasibly attain the basic Project objectives but would avoid or substantially lessen any of the identified significant impacts.

Alternatives considered within this analysis include:

- No Project Alternative (No Warehouse Development or Off-Site Improvements)
- Reduced Building Intensity
- Two Building Alternative

A fourth alternative, the Alternative Site Alternative, was considered but rejected. While it is feasible that an alternative site could be selected for the Project, an alternative site would entail either the same or new significant environmental effects when compared to the Project. Furthermore, viable alternative locations for the Project are limited to those that would feasibly attain most of the Project objectives. There are no other properties of sufficient size and owned or reasonably acquired by the Project applicant that are located in the City, and along a major transportation corridor that would satisfy the Project objectives and eliminate or reduce impacts from the Project. It should be noted that comments on the Draft EIR did not identify any other alternatives requested for consideration.

The analysis included in the Draft EIR describes each alternative, analyzes the impacts of the alternative as compared to the Project, identifies significant impacts of the Project that would be avoided or lessened by the alternative, assesses the alternative's ability to meet most of the Project objectives, and evaluates the comparative merits of the alternative and the Project. In making the following findings relating to Project alternatives, the City certifies that it has independently reviewed and considered the information included in the Draft EIR.

Significant and Unavoidable Impacts of the Project

Sections 4.1 through **4.15** of the Draft EIR address the environmental impacts of implementation of the Project. The analyses contained in these sections identified the following significant and unavoidable environmental impacts resulting from the Project:

Air Quality. The Project would result in the following significant and unavoidable air quality impacts, despite the implementation of all feasible mitigation measures: (1) conflict with or obstruct implementation of the applicable air quality plan, due to operational emissions; (2) result in a cumulatively considerable net increase in criteria pollutants for which the region is non-attainment, due operational emissions; and (3) although localized impacts would be less than significant for both Project-related construction and operational emissions, a significant and unavoidable cumulative impact would occur due to regional criteria pollutant emissions.

Greenhouse Gas Emissions. The Project would result in the following significant and unavoidable greenhouse gas (GHG) emissions impacts, despite the implementation of feasible mitigation measures: (1) generation of 22,969 $MTCO_2e$ per year (mitigated) of GHG emissions that could have a significant impact on the environment, 76 percent of which are from mobile sources which are subject to State and Federal standards and therefore cannot be reduced by the Project; (2) the Project would conflict with applicable policies, plans, or regulations reducing emissions of greenhouse gas emissions; and (3) the Project would result in a potentially significant cumulative GHG emissions impact.

Transportation. The Project would result in the following significant and unavoidable transportation impacts: (1) The Project would exceed the City's VMT per employee threshold by 9.5 percent, and (2) result in a Citywide cumulative VMT impact that would not be able to be definitively reduce by proposed VMT reduction mitigation measures.

Alternative 1 No Project Alternative (No Warehouse Development or Off-Site Improvements)

Findings: The No Project/No Build Alternative allows decision-makers the ability to compare the impacts of approving the Project with impacts of not approving the Project by leaving the Project site in its existing condition with the existing development. No development would occur under this alternative. (**Draft EIR, p. 6-5**). Alternative 1 would avoid all potential significant impacts that could occur from Project construction and operation as, by definition, it assumes that no development would occur and therefore no grading, construction or operational traffic and related impacts such as air quality, GHG emissions, and transportation would occur. The lack of significant impacts associated with Alternative 1 would also remove the significant and unavoidable impacts associated with Project implementation.

All impact areas which were anticipated to result in a less than significant impact, less than significant with mitigation measures, or a significant and unavoidable impact due to implementation of the Project would be eliminated under the No Project Alternative. The No Project Build Alternative would avoid all potential significant impacts and significant and unavoidable impacts that would occur from Project construction and operation. The lack of significant impacts associated with the No Project Alternative would fail to meet any of the Project objectives, as the Project site would remain in its current state of development (**Draft EIR, p. 6-10**).

Aesthetics. Under the No Project, the Project site would remain in its vacant and undeveloped state. However, as previously discussed, the land use designation and zoning for the Project site is Business Park, and as such, those uses could be developed on the Project site in the future. Until such time though, this Alternative assumes that the Project site would remain in its current undeveloped state. Therefore, under

this Alternative, there would be no impacts regarding aesthetics, light, and glare and would be environmentally superior when compared to the Project (**Draft EIR, p. 6-6**).

Air Quality. Significant and Unavoidable impacts to air quality were anticipated to occur with Project development with respect to the Project's ability to comply with established air quality plans for the region and pollution generation. The No Project Alternative would result in no construction or operational emissions from the Project as it would not be developed and would presumably continue the existing uses (vacant land) in the Project site. The continued use of the Project site in its current state would lead to no change in anticipated emissions and would therefore remain at the current level of emissions generated. Therefore, under this Alternative, there would be no impact regarding air quality; this alternative would be environmentally superior when compared to the Project (**Draft EIR, p. 6-6**).

Biological Resources. The Project would result in a less than significant environmental impacts to special-status species, riparian habitats, and wetlands with mitigation measures implemented. Under this Alternative, none of the Project's impacts would occur, and no habitat modification would occur. Therefore, under this Alternative, there would be no impact regarding biological resources as no habitat, or plant or wildlife species would be impacted. Impacts would be reduced compared to the Project. This alternative is environmentally superior when compared to the Project (**Draft EIR, p. 6-6**).

Cultural Resources. The Project would result in less than significant impact to archeological resources and human remains with mitigation incorporated. Under the No Project Alternative, these potential Project impacts would be avoided, as no ground disturbing activities would occur. This Alternative would also avoid the Project's potential for disturbing human remains, which is concluded to be less than significant through compliance with the established regulatory framework as outlined in MM CUL-3. Therefore, under this Alternative, there would be no impact regarding cultural resources; this alternative is environmentally superior when compared to the Project (**Draft EIR, p. 6-6**).

Energy. Under the No Project Alternative, the Project would not be developed. The Project site is currently undeveloped, and as such, would not require or consume energy. Therefore, when compared to the Project, no energy impacts associated with the No Project Alternative would occur. Therefore, under this Alternative, impacts regarding energy would be less than that of the Project. This alternative is environmentally superior when compared to the Project (**Draft EIR, p. 6-6**).

Geology and Soils. The Project would result in a less than significant impact regarding the loss of topsoil, strong seismic activity, development on an unstable soil, and paleontological resources with mitigation measures implemented. Mitigation measures apply to the inadvertent find of previously unknown paleontological resources. However, under the No Project Alternative, there would be no impact regarding geology and soils; reduced compared to the Project. While there is a low likelihood of Project construction having the potential to impact unknown paleontological resources, mitigation would be required to reduce potentially significant impacts. Under the No Project Alternative, impacts as described would be fully avoided, with the exception being located in an area of strong seismic ground shaking. The No Project Alternative would be environmentally superior to the Project regarding geological, soils, and paleontological resources. The exposure of people to seismic, geologic, and soil hazards under the No

Project Alternative would be non-existent as there would be no development under this alternative, whereas the Project would expose people and structures to geologic hazards (**Draft EIR, p. 6-7**).

Greenhouse Gas Emissions. The Project's significant and unavoidable GHG impacts were associated with the potential to generate harmful emissions at levels that would exceed established thresholds and conflict with GHG regulations. The Project would exceed the City's allowable threshold of 3,000 $MTCO_2e$. The primary source of the Project's $MTCO_2e$ emissions would stem from mobile source emissions. Although mitigation is proposed to minimize the potential emissions impacts associated with Project implementation, emissions are still anticipated to exceed the City's 3,000 MTCO2e maximum threshold. Because emissions are anticipated to exceed allowable levels, the Project's emissions would also conflict with air quality goals in a manner that would be significant and unavoidable. The No Project Alternative would result in no operations emissions as a result of the Project since the Project would not be developed in this Alternative and would be environmentally superior when compared to the Project. Under existing conditions, no emissions occur. Therefore, under this Alternative, impacts regarding GHG would be less than the Project (**Draft EIR, p. 6-7**).

Hazards and Hazardous Materials. Associated Project impacts to hazards including 1) increased safety risk to workers due to the transport, handling, and disposal of hazardous materials and waste 2) foreseeable or accidental release of hazardous materials 3) emissions of hazardous emissions to nearby schools 4) location on Cortese List of known hazardous material sites and 5) location near a nearby airport would all be mitigated to a less than significant level. Under the No Project Alternative, all Project impacts would be avoided since short-term construction and long-term operations associated with the Project would not be implemented. No warehouse, landscape improvements, and other associated on-site and off-site improvements would occur which would eliminate any potential for release of hazardous materials off-site. Therefore, the "No Project" Alternative would be environmentally superior to the Project regarding hazards and hazardous materials, since no ground disturbing activities would occur, and no buildings or structures would be constructed or operated. Therefore, under this Alternative, impacts regarding hazards would be less than the Project (**Draft EIR, p. 6-7** to **6-8**).

Hydrology and Water Quality. The No Project Alternative would eliminate both short-term and long-term impacts to water quality, since there would be no grading, excavation, or construction activities associated with the Project. This Alternative would not alter or substantially change current hydrologic conditions compared to the development of the Project, nor increase the rate of stormwater runoff that would adversely affect the water quality. This Alternative would be environmentally superior to the Project regarding hydrology and water quality, since no increase in stormwater capacity would occur, impervious surfaces would not increase, and land uses would not be added. Therefore, under the No Project Alternative, impacts regarding hydrology and water quality would be less than the Project (**Draft EIR, p. 6-8**).

Noise. The Project would implement mitigation measures to reduce excess noise levels from construction machinery, demolition, site preparation, grading, and building construction, as well as operational noise. Additionally, the Project would have less than significant impacts regarding vibration from construction or operational uses largely in part due to the Project's distance to existing structures or

sensitive receptors. Further, the activities to occur on-site would not require operations that would produce large amounts of vibration. Under the No Project Alternative on-site noise levels would be eliminated since no short-term construction activity or Project operations would occur. Therefore, the No Project Alternative would be environmentally superior to the Project regarding noise and vibration during short-term construction activity (**Draft EIR, p. 6-8**).

Public Services. Under the No Project Alternative, no warehouse or associated improvements would be developed, and no employment activity or visitors would be generated resulting in the need for fire or police services. In addition, no Development Impact Fees would be paid to the City for various City services. Although the Project's impacts related to fire and police services were determined to be less than significant, the public services impacts would be reduced under this alternative compared to the Project. The No Project Alternative would be environmentally superior when compared to the Project (**Draft EIR, p. 6-8**).

Transportation. Under No Project Alternative, no new employees or industrial warehouse uses would be introduced on the Project site, and existing VMT would be maintained. Therefore, there would be no impacts under this Alternative, and the significant and unavoidable traffic impacts that would occur from the Project would be avoided. Impacts under this alternative would be less compared to the Project. The No Project Alternative is environmentally superior when compared to the Project (**Draft EIR, p. 6-9**).

Tribal Cultural Resources. The Project would require mitigation measures, including on-site monitoring during ground disturbance, to reduce impacts to tribal cultural resources. The No Project Alternative would not involve the construction of uses that could potentially disturb tribal cultural resources. Therefore, under this Alternative, impacts regarding tribal cultural resources would be reduced compared to the Project. The No Project Alternative would be environmentally superior when compared to the Project (**Draft EIR, p. 6-9**).

Utilities and Service Systems. The No Project Alternative would avoid the Project's temporary increased demand upon utilities and service systems during construction and permanent demands during operations. Given the Project's scope and nature (i.e., warehouse construction and landscape maintenance), Project operations would create a demand for water, and increase wastewater or solid waste generation. This Alternative would maintain the existing demand for all utilities, which is none. The No Project Alternative would retain the Project site in its current condition. Temporary increases in utility demand and construction of utilities would not occur during construction, and neither would increase in services and utilities demand resulting from operation of the warehouse. Therefore, under this Alternative, impacts regarding utilities and service systems would be less compared to the Project. The No Project Alternative would be environmentally superior when compared to the Project (**Draft EIR, p. 6-19**).

Wildfire. The No Project Alternative would not involve the construction of warehouse uses, and rather, keep the vacant Project site in its current state. The Project site is not located in or near an SRA. However, the located within an LRA and is designated as a Very High FHSZ zone. The Project would include the development of a warehouse with a fire suppression system and the Project would construct roadway improvements which would serve as fire breaks. This in turn would reduce the potential for fires to occur

on-site and then spread off of the Project site. In the Project site's existing conditions and under the No Project Alternative there would be no development of the property or of the roadways. The risks of wildfires would remain with no opportunity, other than fire service response, to control or abate a fire on the Project site. Therefore, the No Project Alternative would be environmentally inferior when compared to the Project (**Draft EIR, p. 6-9**).

Attainment of Project Objectives. The No Project Alternative would not meet any of the Project objectives, as identified in **Draft EIR, Section 3.0 Project Description**, as the Project site would remain in its current state of development (vacant).

Alternative 2 Reduced Building Intensity

Findings: Alternative 2 would entail the development of a single warehouse building at a smaller square footage than what was proposed for the Project. The Alternative would involve the development of a 1,122,000 square foot warehousing building which would include approximately 33,660 square feet of office space. A 15 percent reduction in building intensity was selected as it represents the largest decrease in building size that would remain financially and economically feasible for the Applicant considering the current Project site and location. A much larger reduction in size would be required to reduce significant and unavoidable impacts to less than significant. A reduction of more than 80 percent in the building footprint would be required to reduce the significant unavoidable greenhouse gas emissions of the Project to be less than significant with mitigation incorporated. However, this reduction in size would not be financially or economically feasible nor would it meet any of the Project objectives and therefore was not considered.

Alternative 2 would minimize impacts related to the scale of the Project. Therefore, environmental impact areas such as aesthetics, energy, utilities and service systems, and wildfire hazards may see a nominal improvement regarding potential impact significance. However, these resource areas are anticipated to have a less than significant impact under the Project. The Project was able to achieve a less than significant impact with mitigation incorporated in all environmental impact areas except air quality, greenhouse gas emissions, and transportation. These resources were anticipated to create significant and unavoidable impacts (**Draft EIR, p. 6-10 to 6-11**).

Aesthetics. Under Alternative 2, the building footprint and building elevations would be nominally reduced. The smaller size of the warehouse building proposed in Alternative 2 would create similar impact to aesthetic resources. There would be no overall reduction or increase in the impacts to views scenic vistas. When compared to the Project, aesthetics impacts associated with the Alternative 2 would be nominally reduced. However, impacts associated with both the Project and Alternative 2 would be less than significant. The Reduced Building Intensity Alternative would be environmentally equivalent when compared to the Project **(Draft EIR, p. 6-11)**.

Air Quality. As previously stated, the Project would conflict with established air quality plans for the region and pollutant generation. Specifically, the Project would exceed NOx, emissions thresholds during its operational phase. Alternative 2 would propose the same business park land use as the Project although the business park building space would be reduced by 198,000 square feet (15 percent) for the

Alternative. This would reduce potential operational emissions through the reduced building area. However, the majority of operational emissions would result from mobile sources such as vehicles and construction equipment. The vehicular traffic generated from the Project is not anticipated to be significantly reduced in Alternative 2; however, vehicular traffic would be slightly reduced commensurate with the reduction in building footprint. Operations of Alternative 2 are expected to be similar to the Project. The emissions generated from this Alternative would be slightly reduced when compared to the Project; however, it would remain significant and unavoidable. The Reduced Building Intensity Alternative would be environmentally equivalent when compared to the Project **(Draft EIR, p. 6-11)**.

Biological Resources. Both Alternative 2 and the Project would disturb the same footprint for construction, and as such, would result in similar biological resource impacts. As with the Project, mitigation measures would be required to reduce biological resource impacts to a level of less than significant. As such, similar impacts would occur with implementation of the Reduced Building Intensity Alternative. However, impacts associated with both the Project and Alternative 2 would be less than significant with mitigation incorporated The Reduced Building Intensity Alternative would be environmentally equivalent when compared to the Project **(Draft EIR, p. 6-11)**.

Cultural Resources. Both Alternative 2 and the Project would disturb the same footprint for construction, and as such, would result in similar potential impacts to cultural resources. As with the Project, mitigation measures would be required to reduce cultural resource impacts to a level of less than significant. As such, similar impacts would occur with implementation of Alternative 2. However, impacts associated with both the Project and Alternative 2 would be less than significant. The Reduced Building Intensity Alternative would be environmentally equivalent when compared to the Project **(Draft EIR, p. 6-11 to 6-12)**.

Energy. Both Alternative 2 and the Project would require energy during the construction and operations phases of the Project, although Alternative 2 would require approximately 15 percent less energy to build and operate when compared to the Project. When compared to the Project, Alternative 2 would result in fewer energy-related impacts than the Project. However, impacts associated with both the Project and Alternative 2 would be less than significant. The Reduced Building Intensity Alternative would be environmentally superior when compared to the Project. **(Draft EIR, p. 6-12)**.

Geology and Soils. Both Alternative 2 and the Project would be located on the same site and disturb the same footprint for construction, and as such, would result in similar geology and soils impacts. As with the Project, mitigation measures would be required to reduce geology and soils, and paleontological impacts to a level of less than significant. As such, similar impacts would occur with implementation of Alternative 2. However, impacts associated with both the Project and Alternative 2 would be less than significant. The Reduced Building Intensity Alternative would be environmentally equivalent when compared to the Project **(Draft EIR, p. 6-12)**.

Greenhouse Gas Emissions. The Project's significant and unavoidable GHG impacts were associated with the potential to conflict with GHG emissions regulations through the generation of excess $MTCO_2e$. The Project's GHG emissions stem largely from mobile source emissions, which would be slightly reduced when compared to the Project. For this impact, mitigation is proposed to reduce potential impacts, however, the Project was still found to exceed thresholds with mitigation. Alternative 2 would likely

reduce emissions impacts through a reduction in energy use due to the reduced building size. Even with a reduction in energy use emissions, the mobile source emissions associated with vehicular travel would be slightly reduced, commensurate with the reduction in traffic. While Alternative 2 would result in fewer GHG emissions, it would be unlikely to reduce emissions such that they would not exceed the City's GHG emissions thresholds. The impact would be expected to remain a significant and unavoidable impact. The Reduced Building Intensity Alternative would be environmentally equivalent when compared to the Project **(Draft EIR, p. 6-12)**.

Hazards and Hazardous Materials. Both Alternative 2 and the Project would disturb the same footprint for construction and operation of a landscaped warehouse building, and as such, would result in similar hazards impacts. As with the Project, no mitigation measures would be required to reduce hazards impacts to a level of less than significant. As such, similar impacts would occur with implementation of Alternative 2. However, impacts associated with both the Project and Alternative 2 would be less than significant. The Reduced Building Intensity Alternative would be environmentally equivalent when compared to the Project **(Draft EIR, p. 6-12 to 6-13)**.

Hydrology and Water Quality. Both Alternative 2 and the Project would disturb the same footprint for construction and operation of a landscaped warehouse building with implementation of a stormflow detention system, and as such, would result in similar hydrology and water quality impacts. However, impacts associated with both the Project and Alternative 2 would be less than significant. The Reduced Building Intensity Alternative would be environmentally equivalent when compared to the Project **(Draft EIR, p. 6-13)**.

Noise. Both Alternative 2 and the Project would generate noise during the construction and operations phases of the Project, although the Reduced Building Intensity Alternative would generate approximately 15 percent less noise when compared to the Project given the reduction in building size. As with the Project and due to a lack of nearby sensitive receptors as well as proximity to I-10, no mitigation measures would be required to reduce noise impacts to a level of less than significant. As such, similar impacts would occur with implementation of Alternative 2. However, impacts associated with both the Project and Alternative 2 would be less than significant. The Reduced Building Intensity Alternative would be environmentally equivalent when compared to the Project **(Draft EIR, p. 6-13)**.

Public Services. Both Alternative 2 and the Project would require similar public services needs, even with 15 percent reduction in size. When compared to the Project, Alternative 2 would result in similar public services impacts related impacts than the Project. However, impacts associated with both the Project and Alternative 2 would be less than significant. The Reduced Building Intensity Alternative would be environmentally equivalent when compared to the Project **(Draft EIR, p. 6-13)**.

Transportation. The Project was not found to meet any available VMT screening criteria and therefore was found to exceed the City's VMT per employee threshold by 9.5 percent. Implementation of feasible VMT reduction measures would not definitively reduce Project VMT or Project VMT impacts to less than significant levels.

Alternative 2 would involve the development of a smaller warehouse building which would utilize a smaller portion of the Project site and the number of dock doors and employees would be reduced under this Alternative. Alternative 2 business park uses would be approximately 15 percent less than the Project. It is anticipated that a 15 percent reduction of projected employment would occur with this Alternative. VMT impacts associated with the Project were found to be significant and unavoidable. While the Reduced Building Intensity Alternative includes a building that is 15 percent smaller, it is anticipated that this Alternative would still exceed City VMT thresholds and realize a significant and unavoidable impact. As such, the Alternative 2 would result in a lessened impacts but would remain significant and unavoidable. The Reduced Building Intensity Alternative would be environmentally equivalent when compared to the Project **(Draft EIR, p. 6-13)**.

Tribal Cultural Resources. Both Alternative 2 and the Project would disturb the same footprint for construction, and as such, would result in similar potential impacts to tribal cultural resources. As with the proposed Project, mitigation measures would be required to reduce tribal cultural resource impacts to a level of less than significant. As such, similar impacts would occur with implementation of Alternative 2. However, impacts associated with both the Project and Alternative 2 would be less than significant. The Reduced Building Intensity Alternative would be environmentally equivalent when compared to the Project **(Draft EIR, p. 6-11 to 6-12)**.

Utilities and Service Systems. Both Alternative 2 and the Project would require additional utilities and service system infrastructure to be constructed to serve them. While Alternative 2 would require approximately 15 percent fewer utility needs when compared to the Project given the reduction in size. The Project would not cause significant impacts with respect to utilities and service systems. All utilities would be able to serve the Project after adequate infrastructure would be constructed as part of the Project. Overall, when considering the scale of Alternative 2, Alternative 2 would result in similar utility and service system impacts related impacts than the Project. Impacts associated with both the Project and Alternative 2 would be less than significant. The Reduced Building Intensity Alternative would be environmentally equivalent when compared to the Project **(Draft EIR, p. 6-14)**.

Wildfire. Under Alternative 2, the development of the Project site would occur similar to the Project, but business park use would be reduced 15 percent. Existing development in the Project area includes roadways, public facilities, and vacant land planned for business park uses. The Project site is not located in or near an SRA. However, the located within an LRA and is designated as a Very High FHSZ zone. Similar to the Project, Alternative 2 is with an LRA zone, provision of fire protection services would continue under contract to the Riverside County Fire Department. Similar to the Project, the Alternative 2 warehouse structure would be predominantly concrete which is not typically susceptible to fire. Neither Alternative 2, nor the Project, would interfere with any emergency plan or evacuation plan. This Alternative also would not exacerbate any existing fire hazards associated with slopes or spreading of wildfire. Lastly, neither the Project nor this Alternative would require construction of any infrastructure that could exacerbate fire hazards. Furthermore, under this Alternative, as with the Project, roadways would be constructed which would serve as fire breaks and help prevent the spread of active wildfires. As such, similar impacts would occur with implementation of Alternative 2. The Reduced Building Intensity Alternative would be environmentally equivalent when compared to the Project **(Draft EIR, p. 6-14)**.

Attainment of Project Objectives. Alternative 2 would meet all of the objectives of the Project despite the smaller building size. However, Alternative 2 does not maximize the City's benefits realized or achievement of the Project Objectives when compared to the Project. Implementation of Alternative 2 would achieve the Project objectives, but not to the extent as would be achieved by the Project. Alternative 2 would: develop an industrial project that conforms to the City's General Plan and Municipal Code (Objective 1); provide a new development that will generate a positive fiscal balance for the City moving forward (Objective 2); facilitate the movement of goods and services for the benefit of local and regional economic growth (Objective 5); develop a warehouse project adjacent to transportation corridors, truck routes, local amenities, and the nearby Interstate 10 Freeway for employee convenience and efficiencies of transporting goods (Objective 6); improve public safety and traffic flow in eastern Banning with roadway and infrastructure improvements (Objective 8); provide enhanced landscaping along City designated corridors with the construction of wide streets and landscaped setbacks (Objective 9); and provide the backbone infrastructure for future growth and prosperity of the surrounding benefit (Objective 10). However, the reduction of 198,000 square feet would lower the City's potential tax revenue (Objective 3) and provide fewer employment opportunities to area residents (Objective 4). Additionally, the Project would not fully or efficiently utilize the entirety of the property in which the Project is situated (Objective 7). This alternative would not meet Objective 3, Objective 4, or Objective 7.

Alternative 3 Two Building Alternative

Findings: Alternative 3 would maintain similar impacts related to the scale of the Project since Alternative 3 proposes an approximately 2 percent decrease in the warehouse building footprint. Therefore, environmental impact areas such as energy and utilities and service systems may see a nominal decrease regarding potential impact significance. However, these resource areas are anticipated to have a less than significant impacts under the Project. The Project was able to achieve a less than significant impact with mitigation incorporated in all environmental impact areas except air quality, GHG emissions, and transportation. These resources were anticipated to create significant and unavoidable impacts. (**Draft EIR, p. 6-16**).

Aesthetics. Alternative 3 would develop two buildings, compared to the one building under the Project. The development of two buildings would cause lesser visual impacts on the surrounding area, scenic vistas, and the visual character of the Project site when compared to the Project. As the building footprint would be nominally decreased by 2 percent with this Alternative, the general mass and scale of the Project site would appear to have a lesser visual impact for two buildings on-site as opposed to one. This would be due to the increased green space and landscaping that would be required when taking setbacks, building spacing, and required landscaping areas into account. Furthermore, with a two building alternative, there would be additional site planning criterion to meet and may provide a more flexible layout when considering the amount of earthwork that may be required. Each building final floor elevations could be different and would eliminate the need for grading, this would help ensure that the general visual character would remain. Further, the two building alternative would allow separate screening to occur to prevent views of operations that some individuals may find unappealing. When compared to the Project, aesthetics impacts associated with Alternative 3 would be less when compared

to the Project. The Two Building Alternative would be environmentally superior when compared to the Project (**Draft EIR, p. 6-16**).

Air Quality. As previously stated, the Project would conflict with established air quality plans for the region and pollutant generation. Specifically, the Project would exceed NO_x thresholds during its operational phase from vehicular trips. Alternative 3 would propose the same warehousing land use as the Project, although the warehousing building space would be divided into two buildings totaling 1,293,600-square-feet of building space. This is a decrease in warehouse footprint by 26,400 square feet from the Project. This would slightly reduce potential operational emissions through the reduced building area. However, the majority of operational emissions stem from mobile sources such as vehicles and construction equipment. The vehicular traffic generated from the Project is not anticipated to be significantly reduced in Alternative 3. Operations of Alternative 3 is expected to be similar to the Project. Because the usage would be similar, the emissions generated from Alternative 3 would be similar to the Project and would also likely create a significant and unavoidable impact. The Two Building Alternative would be environmentally equivalent when compared to the Project. (**Draft EIR, p. 6-16**).

Biological Resources. Both the Alternative 3 and the Project would disturb a similar footprint for construction, and as such, would result in similar biological resource impacts. As with the Project, mitigation measures would be required to reduce biological resource impacts to a level of less than significant. As such, similar impacts would occur with implementation of the Two Building Alternative. The Two Building Alternative would be environmentally equivalent when compared to the Project (**Draft EIR, p. 6-17**).

Cultural Resources. Both the Alternative 3 and the Project would disturb similar footprint for construction, and as such, would result in similar cultural resource impacts. As with the Project, mitigation measures would be required to reduce tribal cultural resource impacts to a level of less than significant. As such, similar impacts would occur with implementation of the Two Building Alternative. The Two Building Alternative would be environmentally equivalent when compared to the Project (**Draft EIR, p. 6-17**)

Energy. Both Alternative 3 and the Project would require energy during both the construction and operations phases of the Project. Construction and operation of two buildings would require similar energy usage compared to the one building proposed under the Project. When compared to the Project, Alternative 3 would result in similar energy-related impacts than the Project. The Two Building Alternative would be environmentally equivalent when compared to the Project (**Draft EIR, p. 6-17**).

Geology and Soils. Both Alternative 3 and the Project would disturb a similar footprint for construction of a warehouse facility on the same site, and as such, would result in similar geology and soils impacts. As with the Project, mitigation measures would be required to reduce geology and soils, including paleontological resources, impacts to a level of less than significant. As such, similar impacts would occur with implementation of Alternative 3. The Two Building Alternative would be environmentally equivalent when compared to the Project (**Draft EIR, p. 6-17**).

Greenhouse Gas Emissions. The Project's significant and unavoidable GHG impacts were associated with the potential to conflict with GHG regulations through the generation of excess $MTCO_2e$. The Project's

GHG emissions stem largely from mobile source emissions. For this impact, mitigation was proposed to reduce potential impacts, however, the Project was still found to exceed thresholds with mitigation.

Alternative 3 would likely reduce emissions impacts through a reduction in energy use commiserated with the reduction in building footprint. Additionally, these interior spaces would be more energy efficient in terms of environmental control (HVAC). However, the usage rate of the Project site would remain similar. Even with a reduction in energy use emissions, the mobile source emissions associated with vehicular travel would not be largely reduced, any reduction would be too small to account for it. Therefore, Alternative 3 would likely remain in excess of the City's GHG thresholds. The impact would be expected to remain a significant and unavoidable impact. The Two Building Alternative would be environmentally equivalent when compared to the Project (**Draft EIR, p. 6-17 to 6-18**).

Hazards and Hazardous Materials. Both Alternative 3 and the Project would disturb a similar footprint for construction of a landscaped warehouse facility, and as such, would result in similar hazards impacts. The Two Building Alternative would be environmentally equivalent when compared to the Project (**Draft EIR, p. 6-18**).

Hydrology and Water Quality. Both Alternative 3 and the Project would disturb a similar footprint for construction of a landscaped warehouse building with implementation of a stormflow detention system, and as such, would result in similar hydrology and water quality impacts. The Two Building Alternative would be environmentally equivalent when compared to the Project (**Draft EIR, p. 6-18**).

Noise. Both the Alternative 3 and the Project would generate noise and vibration during both the construction and operations phases of the Project. As this Alternative would consist of construction over the same Project footprint and would result in identical operational uses, the noise and vibration generated from the construction and operation of this Alternative would be similar to that of the Project. While this Alternative does represent a 2 percent reduction in building footprint, it is unlikely that this would result in a meaningful reduction in noise. Therefore, noise impacts would be similar under Alternative 3 compared to the Project. The Two Building Alternative would be environmentally equivalent when compared to the Project (**Draft EIR, p. 6-18**).

Public Services. Both Alternative 3 and the Project would require additional public service needs. With the development of two buildings, provision of public services would be required. When compared to the Project, the Alternative 3 would result in similar public services impacts related to the Project. The Two Building Alternative would be environmentally equivalent when compared to the Project (**Draft EIR, p. 6-18**).

Transportation. Despite the nominal footprint size reduction, Alternative 3 would likely remain similar to the Project in usage intensity. Further, the number of employees would be largely the same. Alternative 3 would be approximately 2 percent smaller than the Project. A 2 percent reduction of projected employment would lead to nominal decrease in employees. This would not drastically change the projected number of vehicular trips for Alternative 3 especially since large amounts of traffic would come from operations-based truck transportation which is not proposed to be reduced. As the intensity of development between Alternative 3 and the Project would be similar and the uses would be identical,

traffic-based impacts would be similar. Because the vehicular travel would be largely the same between alternatives, a significant and unavoidable impact would occur with either the Project or Alternative 3. The Two Building Alternative would be environmentally equivalent when compared to the Project (**Draft EIR, p. 6-18 to 6-19**).

Tribal Cultural Resources. Both the Alternative 3 and the Project would disturb a similar footprint for construction, and as such, would result in similar tribal cultural resource impacts. As with the Project, mitigation measures would be required to reduce tribal cultural resource impacts to a level of less than significant. As such, similar impacts would occur with implementation of the Two Building Alternative. The Two Building Alternative would be environmentally equivalent when compared to the Project (**Draft EIR, p. 6-17**).

Utilities and Service Systems. Both the Alternative 3 and the Project would require additional utilities and service system needs. Although the Two Building Alternative would require approximately 2 percent less utility needs when compared to the Project given the reduction in size. When compared to the Project, the Two Building Alternative would result in slightly reduced utility and service system related impacts than the d Project; however, it is anticipated these reductions would be nominal and impacts would be similar. The Two Building Alternative would be environmentally equivalent when compared to the Project (**Draft EIR, p. 6-19**).

Wildfire. Under Alternative 3, the development of the Project site would occur similar to the Project, however, building footprint would be reduced by 2 percent and would result in two buildings rather than one. The Project site is not located in or near an SRA. However, the located within an LRA and is designated as a Very High FHSZ zone. Similar to the Project, Alternative 3 is within an LRA zone, and the provision of fire protection services would continue under contract to the Riverside County Fire Department. Similar to the Project, the Alternative 3 warehouse structures would be predominantly concrete which is not typically susceptible to fire. Both Alternative 3 and the Project would disturb a similar footprint for construction, and as such, would result in similar wildfire impacts. As with the Project, development of Alternative 3 would include fire suppression methods that would reduce the potential for fire. Furthermore, under this Alternative, as with the Project, roadways would be constructed which would serve as fire breaks and help prevent the spread of active wildfires. As such, similar impacts would occur with implementation of the Two Building Alternative. The Two Building Alternative would be environmentally equivalent when compared to the Project (**Draft EIR, p. 6-19**).

Attainment of Project Objectives. Implementation of Alternative 3 would achieve each of the Project objectives, but not to the fullest extent as would be achieved by the Project. Alternative 3 would: develop an industrial project that conforms to the City's General Plan and Municipal Code (Objective 1); provide a new development that will generate a positive fiscal balance for the City moving forward (Objective 2); design and build a Class-A institutional quality industrial project that will attract high end tenants and increase the City's tax base (Objective 3); generate employment opportunities within the City while improving the local balance of housing to job ratio (Objective 4); facilitate the movement of goods and services for the benefit of local and regional economic growth (Objective 5); develop a warehouse project adjacent to transportation corridors, truck routes, local amenities, and the nearby Interstate 10 Freeway

for employee convenience and efficiencies of transporting goods (Objective 6); develop a warehouse project which efficiently uses the property, while conforming to all City regulatory policies (Objective 7); improve public safety and traffic flow in eastern Banning with roadway and infrastructure improvements (Objective 8); provide enhanced landscaping along City designated corridors with the construction of wide streets and landscaped setbacks (Objective 9); and provide the backbone infrastructure for future growth and prosperity of the surrounding benefit (Objective 10). While this Alternative would meet all of the Project objectives, developing two cumulatively smaller buildings compared to the one warehouse Project site would not meet these Project objectives to the fullest extent possible.

Environmentally Superior Alternative

Based on the summary of information presented in **Draft EIR, Table 6-1, Comparison of Project Alternatives Environmental Impacts with the Project**, the environmentally superior Alternative is Alternative 3: Two Building Alternative. Because Alternative 3 would result in reduced impacts related to aesthetic resources due to the increase in landscaping on the Project site which would protect the visual character of the City of Banning's interface with undeveloped areas. However, the Two Building Alternative would still result in significant and unavoidable impacts related to air quality, GHG emissions, and transportation. Impacts related to biological resources, cultural resources, energy, geology and soils, hazardous and hazardous materials, hydrology and water quality, noise, public services, tribal cultural resources, utilities and service systems, and wildfire would be similar to the Project. Additionally, the Two Building Alternative would meet all of the Project objectives.

CEQA does not require the lead agency (the City of Banning) to choose the environmentally superior alternative. Instead, CEQA requires the City to consider environmentally superior alternatives, weigh those considerations against the environmental impacts of the Project, and make findings that the benefits of those considerations outweigh the harm.

After the No Project Alternative, the environmentally superior Alternative to the Project is the one that would result in the fewest or least significant environmental impacts. Based on the evaluation undertaken, Alternative 3: "Two Building" is the environmentally superior Alternative. This is an environmentally superior project alternative because it would have the least environmental impacts, because although the impacts would not be entirely avoided, the impacts would be decreased when compared to the Project. While Alternative 3 would satisfy all of the Project objectives, Alternative 3 does not maximize the City's benefits realized or achievement of the Project Objectives when compared to the Project, and it would still cause the same significant and unavoidable impacts as the Project (**Draft EIR, p. 6-20 to 6-21**).

6.0 STATEMENT OF OVERRIDING CONSIDERATIONS

6.1 INTRODUCTION

The California Environmental Quality Act (CEQA) and the CEQA Guidelines provide in part the following:

(a) CEQA requires that the decision maker balance the benefits of a Project against its unavoidable environmental risks in determining whether to approve the project. If the benefits of the project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."

(b) Where the decision of the public agency allows the occurrence of significant effects that are identified in the Final EIR but are not mitigated, the agency must state in writing the reasons to support its action based on the Final EIR and/or other information in the record. This statement may be necessary if the agency also makes the findings under Section 15091(a)(2) or (a)(3) of the CEQA Guidelines.

(c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the Notice of Determination (Section 15093 of the CEQA Guidelines).

The City of Banning, having reviewed and considered the information contained in the Final EIR for the Project, which includes Comments and Responses to Draft EIR (Final EIR Section 2.0), and the public record, adopts the following Statement of Overriding Considerations that have been balanced against the unavoidable adverse impacts in reaching a decision on this Project.

6.2 OVERRIDING CONSIDERATIONS

To the extent that the significant effects of the Project are not avoided or substantially lessened to below a level of significance, the City of Banning, having reviewed and considered the information contained in the EIR and the public record, and having balanced the benefits of the Project against the unavoidable effects which remain, finds that such unmitigated effects to be acceptable in view of the following overriding considerations. The City finds that any one of these Project benefits standing alone would be sufficient to sustain the Statement of Overriding Considerations:

1. All feasible mitigation measures have been imposed to lessen Project impacts to less than significant levels; and furthermore, that alternatives to the Project are infeasible because while they have similar or less environmental impacts, they do not provide the benefits of the Project, or are otherwise socially or economically infeasible when compared to the Project, as described in the Statement of Facts and Findings.

2. The Project is consistent with and will contribute to achieving the goals and objectives established by the General Plan. Implementing the City's General Plan as a policy is a legal and social prerogative of the City. The Project will be consistent with General Plan Goals and Policies through the implementation of mitigation measures, and adherence to plans, programs, and policies and laws, ordinances, and regulations that are based on local, state, or federal requirements.

3. The Project that will generate a positive fiscal balance for the City moving forward. Approval of the Project will contribute towards maximizing employment opportunities within the City to improve the jobs-housing balance and to reduce systemic unemployment within the City. The Project will attract businesses that can expedite the delivery of essential goods to consumers and businesses in the City and region.

4. Approval of the Project will create maximum local and regional employment-generating opportunities for citizens of the City and surrounding communities. Specifically, approval of the Project will create approximately 2,841 new jobs, in addition to temporary construction jobs.

5. Construction spending will create a one-time stimulus to the local and regional economies.

6. The Project will employ local members of the Carpenter's, Plumbers and Pipefitter's, Ironworker's, and Laborer's unions to ensure the presence of a well-trained, high-quality construction workforce at the Project.
7. The Project will facilitate the movement of goods and services for the benefit of local and regional economic growth. The Project is strategically located adjacent to transportation corridors, truck routes, local amenities, including the adjacent Interstate 10, thereby ensuring employee convenience and efficient movement of goods and a reduction in vehicle miles traveled.
8. The Project will pay fair share contributions towards future local circulation improvements.
9. The Project will include the creation of new driveways, improvements of adjacent/near-by roadways, and development of internal circulation pathways, thereby improving public safety and traffic flow in eastern Banning with roadway and infrastructure improvements.
10. Approval of the Project will result in improved infrastructure to keep pace with development and will enhance the quality of life for the City's residents by linking land use, transportation, and infrastructure development.
11. The Project will provide enhanced landscaping along City designated corridors with the construction of wide streets and landscaped setbacks.
12. The Project will provide electric passenger car charging infrastructure, including charging infrastructure for a future autonomous truck charging area.

Although significant impacts will remain, the City will mitigate any significant adverse impacts to air quality, greenhouse gas (GHG) emissions, and transportation (vehicle miles traveled) to the maximum extent practicable. In its decision to approve the Project, the City has considered the Project benefits to outweigh the environmental impacts.

7.0 CERTIFICATION OF THE FINAL EIR

7.1 FINDINGS

The City certifies that the Final EIR was prepared in compliance with CEQA and the CEQA Guidelines and that the City has complied with CEQA's procedural and substantive requirements.

The City further certifies that it has reviewed and considered the EIR in evaluation the Project and that the EIR reflects the independent judgment and analysis of the City. The City further finds that no new significant information as defined by CEQA Guidelines Section 15088.5, has been received by the City after the circulation of the Draft EIR that would require further recirculation.

Accordingly, the City certifies the Final EIR for the Banning Commerce Center Project.

As the decision-making body for approval, the City has reviewed and considered the information contained in the Findings and supporting documentation. The City determines that the Findings contain a complete and accurate reporting of the unavoidable impacts and benefits of the Project as detailed in the Statement of Overriding Considerations.

7.2 SIGNIFICANT UNAVOIDABLE IMPACTS

The Project will have significant adverse impacts even following adoption of all feasible mitigation measures which are required by the City. The following significant environmental impacts have been identified in the Final EIR and will require mitigation but cannot be mitigated to a level of insignificance:

AIR QUALITY

The Project would result in the following significant and unavoidable air quality impacts, despite the implementation of all feasible mitigation measures: (1) the Project would conflict with or obstruct implementation of the applicable air quality plan, due to construction and operational emissions and (2) the Project would result in a cumulatively considerable net increase in criteria pollutants for which the region is non-attainment, due to construction and operational NO_x emissions.

GREENHOUSE GAS EMISSIONS

The Project would result in the following significant and unavoidable GHG emissions impacts, despite the implementation of all feasible mitigation measures: (1) the Project would generate long-term operational GHG emissions in excess of the City's adopted 3,000 $MTCO_2e$ per year threshold. Therefore, the Project's GHG emissions that could have a significant impact on the environment; (2) the Project would conflict with an applicable plan, policy or regulation adopted for the purpose of reducing GHG emissions, namely the Project's long-term operational GHG emissions would exceed the City's 3,000 $MTCO_2e$ per year threshold. Mitigated Project-related GHG emissions total 22,969 $MTCO_2e$ annually. Thus, the Project could impede California's Statewide GHG reduction goals for 2030 and 2050; and (3) the Project would result in a potentially significant cumulative GHG impact.

TRANSPORTATION

The Project would result in significant and unavoidable transportation impacts, despite the implementation of all feasible mitigation measures: the Project would conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b). Project Buildout is estimated to exceed the City's adopted VMT threshold. Regardless of potential reductions in VMT through feasible reduction measures, reductions in VMT cannot be accurately estimated or guaranteed. Even with implementation of regulatory requirements, and consideration of mitigation, the Project would result in significant and unavoidable impacts.

Details of these significant unavoidable adverse impacts were discussed in the Final EIR and are summarized, or were otherwise provided in Section 5.3, Environmental Effects Which Remain Significant and Unavoidable After Mitigation and Findings, in the Statement of Facts and Findings.

The City has eliminated or substantially reduced environmental impacts where feasible as described in the Statement of Facts and Findings, and the City determines that the remaining unavoidable significant adverse impacts are acceptable due to the reasons set forth in the Statement of Overriding Considerations (see Section 6.0).

CONCLUSIONS

1. Except as to those impacts stated above relating to air quality, GHG emissions, and transportation, all other significant environmental impacts from the implementation of the Project have been identified in the EIR and, with implementation of the mitigation measures identified, will be mitigated to a level of insignificance.
2. Alternatives to the Project, which could potentially achieve the basic objectives of the Project, have been considered and rejected in favor of the Project.
3. Environmental, economic, social, and other considerations and benefits derived from the development of the Project override and make infeasible any alternatives to the Project or further mitigation measures beyond those incorporated into the Project.

8.0 ADOPTION OF MITIGATION MONITORING AND REPORTING PROGRAM

Pursuant to *Public Resources Code* Section 21081.6, the City hereby adopts, as conditions of approval of the Project, the Mitigation Monitoring and Reporting Plan (MMRP). In the event of any inconsistencies between the mitigation measures set forth herein and the attached MMRP, the MMRP shall control, except to the extent that a mitigation measure contained herein is inadvertently omitted from the MMRP, in which case such mitigation measure shall be deemed as if it were included in the MMRP.

PLACEHOLDER FOR MMRP AS ATTACHMENT A.

Exhibit 3
Mitigation Monitoring and Reporting Program

Mitigation Monitoring and Reporting Program

Banning Commerce Center Project

Section 1: Authority

This environmental Mitigation Monitoring and Reporting Program (Program) has been prepared pursuant to Section 21081.6 of the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000 et seq.), and CEQA Guidelines (14 Cal. Code Regs. Section 15000 et seq.) Sections 15091(d) and 15097, to ensure implementation of and provide for the monitoring of mitigation measures required of the Banning Commerce Center (Project), as set forth in the Environmental Impact Report (EIR) prepared for the Project. This report will be kept on file in the office of the CEQA Lead Agency, the City of Banning (City).

As noted in the EIR, the Project has been designed to avoid sensitive resources. The EIR also addresses the potential environmental impacts of the Project, and, where appropriate, recommends mitigation measures to avoid or substantially lessen significant environmental impacts. The Program, detailed in the matrix table below, is designed to monitor and ensure implementation of all mitigation measures that are adopted for the Project.

The City is the Lead Agency for the Project and assumes ultimate enforcement responsibilities for implementation of all mitigation measures listed in this Program. The City may assign responsibility for implementation or monitoring to appropriate designees such as a construction manager or third-party monitor. However, as the Lead Agency, the City remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with this Program. In some cases, the City is required to secure permits or approvals from third-party agencies in order to implement a mitigation measure. In these cases, the City is responsible for verifying that such permits or approvals have been obtained in accordance with the conditions stipulated in the mitigation measure. The City's existing planning, engineering, operations, and procurement review and inspection processes will be used as the basic foundation for the Program procedures and will also serve to provide the documentation for the reporting program.

Section 2: Monitoring Schedule

Prior to construction, while detailed design plans are being prepared by City staff or its agents, City staff will be responsible for ensuring compliance with mitigation monitoring applicable to the Project construction, development, and design phases. Once construction has begun and is underway, monitoring of the mitigation measures associated with construction will be included in the responsibilities of City staff, who shall prepare or cause to be prepared periodic monitoring reports, as appropriate. Regulatory agencies will have to harmonize CEQA mitigation with regulatory permit conditions and monitoring/reporting as part of the regulatory permitting process and will likely require submittal of formal monitoring reports. Once construction has been completed, the City will monitor the Project as specified in the mitigation measures.

Section 3: Support Documentation

Findings and related documentation supporting the findings involving modifications to mitigation measures shall be maintained in the Project file with the Program and shall be made available to the public upon request.

Section 4: Format of Mitigation Monitoring Matrix

The mitigation monitoring matrix on the following pages identifies the environmental issue areas for which monitoring is required, the required mitigation measures, the time frame for monitoring, and the responsible implementing and monitoring agencies.

Section 5: Definitions

The following list provides definitions for acronyms used in the mitigation monitoring and reporting program.

Acronyms/Abbreviation	Description
AQ	Air Quality
AMTP	Archaeological Monitoring and Treatment Plan
APU	Auxiliary Power Unit
BESS	Battery Energy Storage System
BIO	Biological Resources
CALGreen	California Green Building Standards Code
CARB	California Air Resources Board
CDFG	California Department of Fish and Game
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
COA	Conditions of Approval
CRMP	Cultural Resource Management Plan
CTR	Commute Trip Reduction
CUL	Cultural Resources
DBESP	Determination of Biologically Equivalent or Superior Preservation
EIR	Environmental Impact Report
ESA	Environmentally Sensitive Area
EV	Electric Vehicle
FIRE	Wildfire
GEO	Geology and Soils
GHG	Greenhouse Gas
HSC	Health and Safety Code
LEED	Leadership in Energy and Environmental Design
MLD	Most Likely Descendant
MM	Mitigation Measure
MSHCP	Multiple Species Habitat Conservation Plan
NAHC	Native American Heritage Commission
PRC	Public Resources Code
PRIMP	Paleontological Resources Impact Mitigation Program
PV	Photovoltaic
RWQCB	Regional Water Quality Control Board

SCAQMD	South Coast Air Quality Management District
SCE	Southern California Edison
SOI	Secretary of the Interior Standards
TDM	Transportation Demand Management
THPO	Tribal Historic Preservation Officer
TRANS	Traffic and Transportation
USFWS	United States Fish and Wildlife Service
VMT	Vehicle Miles Traveled
VOC	Volatile Organic Chemical
WAIRE	Warehouse Actions and Investments to Reduce Emissions
WDR	Wastewater Discharge Requirement
WEAP	Worker Education and Awareness Program

Mitigation Measures	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
AIR QUALITY				
MM AQ-1: The Project shall utilize "Super-Compliant" low VOC paints which have been reformulated to exceed the regulatory VOC limits (i.e., have a lower VOC content than what is required) put forth by SCAQMD's Rule 1113 for all architectural coatings. Super-compliant low VOC paints shall be no more than 10g/L of VOC. Prior to issuance of a building permit, the City Building and Safety Department shall confirm that plans include the following specifications: • All architectural coatings will be super-compliant low VOC paints. • Recycle leftover paint. Take any leftover paint to a household hazardous waste center; do not mix leftover water-based and oil-based paints. • Keep lids closed on all paint containers when not in use to prevent VOC emissions and excessive odors. • For water-based paints, clean up with water only. Whenever possible, do not rinse the cleanup water down the drain or pour it directly into the ground or the storm drain. Set aside the can of cleanup water and take it to the hazardous waste center (www.cleanup.org). • Use compliant low-VOC cleaning solvents to clean paint application equipment. • Keep all paint- and solvent-laden rags in sealed containers to prevent VOC emissions. • Contractors shall construct/build with materials that do not require painting and use pre-painted construction materials to the extent practicable. • Use high-pressure/low-volume paint applicators with a minimum transfer efficiency of at least 50 percent or other application techniques with equivalent or higher transfer efficiency.	Project Applicant	Prior to issuance of building permit	City of Banning, Community Development Department, Building and Safety Division	

Mitigation Measures	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
MM AQ-2: Prior to issuance of tenant occupancy permits, the tenant/facility operator shall prepare and submit a Transportation Demand Management (TDM) program detailing strategies that would reduce the use of single occupant vehicles by employees by increasing the number of trips by walking, bicycle, carpool, vanpool, and transit. The TDM shall include, but is not limited to the following: • Provide a transportation information center and on-site TDM coordinator to educate employers, employees, and visitors of surrounding transportation options. • Provide on-site car share amenities for employees who make only occasional use of a vehicle, as well as others who would like occasional access to a vehicle of a different type than they use day-to-day. • Promote and support carpool/vanpool/rideshare use through parking incentives and administrative support, such as ride-matching service. • Incorporate incentives for using alternative travel modes, such as preferential carpool/vanpool parking or others. • Each building shall provide preferred parking for electric, low-emitting and fuel-efficient vehicles equivalent to at least eight percent of the required number of parking spaces. This mitigation measure applies only to tenant occupancy and not the building shell approvals.	Tenant/ facility operator	Prior to issuance of tenant occupancy permits	City of Banning, Community Development Department, Building and Safety Division	
MM AQ-3: Prior to the issuance of a building permit for the Shell Design, the Planning Department shall confirm that the Project is designed to include the following: • The Project buildings' electrical room shall be sufficiently sized to hold additional panels that may be needed to supply power for the future installation of electric vehicle (EV) truck charging stations on the site. • Conduit should be installed from the electrical room to tractor trailer parking spaces in a logical location(s) on the site determined by the Project Applicant during construction document plan check, for the purpose of accommodating the	Project applicant	Prior to issuance of building permit	City of Banning, Community Development Department, Building and Safety Division	

Mitigation Measures	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
future installation of EV truck charging stations at such time this technology becomes commercially available and the buildings are being served by trucks with electric-powered engines. This mitigation measure applies only to building shell approvals and not the tenant improvements.				
MM AQ-4: Prior to the issuance of a tenant occupancy permit, the Planning Department shall confirm that all truck access gates and loading docks within the Project site shall have a sign posted that states: • Truck drivers shall turn off engines when not in use. • Truck drivers shall shut down the engine after two minutes of continuous idling operation (pursuant to Title 13 of the California Code of Regulations, Section 2485). Once the vehicle is stopped, the transmission is set to "neutral" or "park," and the parking brake is engaged. • Telephone numbers of the building facilities manager and CARB to report violations. • Signs shall also inform truck drivers about the health effects of diesel particulates, the California Air Resources Board diesel idling regulations, and the importance of being a good neighbor by not parking in residential areas. This mitigation measure applies only to tenant improvements and not the building shell approvals.	Tenant/ facility operator	Prior to issuance of tenant occupancy permit and periodically after development	City of Banning, Community Development Department, Building and Safety Department	
MM AQ-5: Prior to the issuance of a tenant occupancy permit, the Planning Department shall confirm that the Project plans and specifications shall include requirements (by contract specifications) that vendor trucks for the industrial buildings include energy efficiency improvement features through the Carl Moyer Program—including truck modernization, retrofits, and/or aerodynamic kits and low rolling resistance tires—to reduce fuel consumption. This mitigation measure applies only to tenant improvements and not the building shell approvals.	Tenant/ facility operator	Prior to issuance of tenant occupancy permit and periodically after development	City of Banning, Community Development Department, Building and Safety Department	

Mitigation Measures	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
MM AQ-6: The Project shall include the necessary charging stations for cargo handling equipment. Prior to the issuance of a tenant occupancy permit, the Planning Department shall confirm that the Project plans and specifications show that all outdoor cargo handling equipment (including yard trucks, hostlers, yard goats, pallet jacks, and forklifts) are zero emission/powered by electricity. Note that SCAQMD Rule 2305 (Warehouse Indirect Source Rule) Warehouse Actions and Investments to Reduce Emissions (WAIRE) points may be earned for electric/zero emission yard truck/hostler usage. This mitigation measure applies only to tenant improvements and not the building shell approvals.	Tenant/ facility operator	Prior to issuance of tenant occupancy permit and periodically after development	City of Banning, Community Development Department, Building and Safety Department	
BIOLOGICAL RESOURCES				
MM BIO-1: MSHCP Burrowing Owl 30-Day Preconstruction Surveys In order to avoid Project-related impacts to burrowing owls potentially occurring on or in the vicinity of the Project site and violation of the Burrowing Owl Protocol and the California Fish and Game Code 3503, 3503.5, and 3513, a 30-day preconstruction survey presence/absence survey for burrowing owl within the Impact Site (and 500-foot survey buffer) in accordance with the March 2006 Burrowing Owl Survey Instructions for the Western Riverside County MSHCP Area shall be conducted by a qualified prior to initial ground disturbing activities (e.g., vegetation clearing, clearing and grubbing, grading, tree removal, site watering, equipment staging) to ensure that no owls have colonized the site in the days or weeks preceding the ground disturbing activities. In addition, a preconstruction survey for burrowing owl shall be conducted within 3 days prior to initiation of Project activities and reported to CDFW. If no burrowing owls are observed during the survey, site preparation and construction activities may begin. If burrowing owls have colonized the project site prior to the initiation of ground-disturbing activities, the project proponent will immediately stop work and inform the City of Banning and the Wildlife Agencies (California Department of Fish and Wildlife [CDFW] and US Fish and Wildlife Service [USFWS]). In consultation with the Wildlife Agencies additional avoidance and minimization measures shall be undertaken	Project applicant Qualified Biologist	30 days prior to issuance of a Grading Permit or other construction-related vegetation removal, and ground disturbance	City of Banning, Community Development Department, Planning Division in conjunction with construction contractor and qualified biologist approved by the City and retained by the Project Applicant	

Mitigation Measures	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
including the possibility of preparing a Burrowing Owl Protecting and Relocation Plan, prior to initiating ground disturbance. CDFW shall be sent written notification within 48 hours of detection of burrowing owls. If active nests are identified on an implementing Project site during the pre-construction survey, the Project applicant shall not commence activities until no sign is present that the burrows are being used by adult or juvenile owls or following CDFW approval of a Burrowing Owl Plan as described below. If owl presence is difficult to determine, a qualified biologist shall monitor the burrows with motion-activated trail cameras for at least 24 hours to evaluate burrow occupancy. The on-site qualified biologist will verify the nesting effort has finished according to methods identified in the Burrowing Owl Plan. The qualified biologist and Project Applicant shall coordinate with the City, CDFW, and USFWS to develop a Burrowing Owl Plan to be approved by the City, CDFW, and USFWS prior to commencing Project activities. The Burrowing Owl Plan shall describe proposed avoidance, relocation, monitoring, minimization, and/or mitigation actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites and details on proposed buffers if avoiding the burrowing owls or information on the adjacent or nearby suitable habitat available to owls for relocation. If no suitable habitat is available nearby for relocation, details regarding the creation and funding of artificial burrows (numbers, location, and type of burrows) and management activities for relocated owls shall also be included in the Burrowing Owl Plan. The City will implement the Burrowing Owl Plan following CDFW and USFWS review and approval. If active burrowing owl burrows are detected within Impact Site(s) during Project implementation and construction, the Project applicant shall notify CDFW immediately in writing within 48 hours of detection. A Burrowing Owl Plan will be submitted to CDFW for review and approval within two weeks of detection and no Project activity will continue within 1,000 feet of the burrowing owls until CDFW approves the Burrowing Owl Plan. The City shall be responsible				

Mitigation Measures	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
for implementing appropriate avoidance and mitigation measures, including burrow avoidance, passive or active relocation, or other appropriate mitigation measures as identified in the Burrowing Owl Plan. A final report shall be prepared by a qualified biologist documenting the results of the burrowing owl surveys and detailing avoidance, minimization, and mitigation measures. The final report will be provided to City of Banning and CDFW within 30 days of completion of the survey and burrow monitoring for mitigation monitoring compliance record keeping.				
MM BIO-2: Nesting Bird Preconstruction Surveys: Regulatory requirement for potential direct/indirect impacts to nesting common and sensitive bird species will require compliance with the Migratory Bird Treaty Act and California Fish and Game (CDFG) Code Section 3503, 3503.5, and 3513. Site preparation activities (such as ground disturbance, construction activities, and/or removal of trees and vegetation) should be conducted, to the greatest extent possible, outside of the peak nesting season. Regardless of the time of year, a qualified biologist shall conduct a nesting bird survey within three days prior to any disturbance of the site, including disking, vegetation grubbing, and grading. The survey(s) will focus on identifying any bird nests that would be directly or indirectly affected by construction activities. The survey area will include the Project impact footprint and a 500-foot buffer where legal access is granted around the disturbance footprint. Within 72 hours of the nesting bird survey, all areas surveyed by the biologist will be cleared by the Contractor or a supplemental nesting bird survey is required. The survey results shall be provided to the City's Planning Department. The Project Applicant shall adhere to the following: 1. Applicant shall designate a biologist (Designated Biologist) experienced in: identifying local and migratory bird species of special concern; conducting bird surveys using appropriate survey methodology; nesting surveying techniques, recognizing	Project Applicant Qualified Biologist	Three days prior to grading or other construction-related vegetation removal, and ground disturbance, if these activities occur between January 15th and September 15th	City of Banning, Community Development Department, Planning Division in conjunction with construction contractor and qualified biologist approved by the City and retained by the Project Applicant	

Mitigation Measures	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
breeding and nesting behaviors, locating nests and breeding territories, and identifying nesting stages and nest success; determining/establishing appropriate avoidance and minimization measures; and monitoring the efficacy of implemented avoidance and minimization measures. 2. Pre-activity field surveys shall be conducted at the appropriate time of day/night, during appropriate weather conditions, no more than 3 days prior to the initiation of Project activities. Surveys shall encompass all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures. Survey duration shall take into consideration the size of the Project site; density, and complexity of the habitat; number of survey participants; survey techniques employed; and shall be sufficient to ensure the data collected is complete and accurate. The qualified avian biologist will make every effort to avoid potential nest predation as a result of survey and monitoring efforts. If no nesting birds are observed during the survey, site preparation and construction activities may begin. If active nests or nesting birds (including nesting raptors) are identified during the nesting bird survey, avoidance buffers shall be implemented as determined by a qualified biologist and approved by the City of Banning, based on their best professional judgement and experience. The buffer areas shall be avoided until the Project biologist determines the young have fledged and dispersed or it is confirmed that the nest has been unsuccessful or abandoned. The buffer shall be of a distance to ensure avoidance of adverse effects to the nesting bird by accounting for topography, ambient conditions, species, nest location, and activity type. All nests shall be monitored as determined by the qualified biologist until nestlings have fledged and dispersed or it is confirmed that the nest has been unsuccessful or abandoned. The Designated 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 buffer. The qualified biologist will serve as a construction monitor during those periods when construction activities occur near active nest areas to ensure				

Mitigation Measures	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
that no inadvertent impacts on these nests occur. The qualified biologist shall halt all construction activities within proximity to an active nest if it is determined that the activities are disturbing the nest and may result in nest abandonment or take. The qualified biologist shall also have the authority to require implementation of avoidance measures related to noise, vibration, or light pollution if indirect impacts are resulting in harassment of the nest. Work can resume within these avoidance areas when no other active nests are found. Upon completion of the survey and nesting bird monitoring, a final monitoring report of the findings, prepared by a qualified biologist, will be submitted to the City of Banning documenting compliance with the CDFG Code.				
MM BIO-3: USACE/CDFW/RWQCB Riverine Resources: Prior to the issuance of a grading permit, the Project applicant will obtain a USACE Section 404 Nation Wide Permit, RWQCB Section 401 Water Quality Certificate, and CDFW Section 1602 Streambed Alteration Agreement. The Applicant shall notify the California Department of Fish and Wildlife (CDFW) for impacts to Fish and Game Code section 1602 resources and obtain a CDFW-executed Lake and Streambed Alteration (LSA) Agreement authorizing impacts to Fish and Game Code section 1602 resources associated with the Project. The notification to CDFW should provide the following information: 1. A stream delineation including the bed, bank, and channel; 2. Linear feet and/or acreage of streams and associated natural communities that would be permanently and/or temporarily impacted by the Project. This includes impacts as a result of routine maintenance and fuel modification. Plant community names should be provided based on vegetation association and/or alliance per the Manual of California Vegetation (Sawyer et al 2009); 3. A discussion as to whether impacts on streams within the Project site would impact those streams immediately outside of the Project site where there is hydrologic connectivity.	Project applicant	Prior to issuance of grading permit	City of Banning, Community Development Department, Planning Division in coordination with the Public Works Department, Engineering Divisions and the California Department Fish and Wildlife and Regional Water Quality Control Board	

Mitigation Measures	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
Potential impacts such as changes to drainage pattern, runoff, and sedimentation should be discussed; and 4. A hydrological evaluation of the 100-year storm event to provide information on how water and sediment is conveyed through the Project site. Currently, the impacted drainages and overall watershed are not within a service area of an approved mitigation bank. Depending on the timing of impacts and issuance of regulatory permits, should a mitigation bank become approved for the Whitewater River watershed, at minimum 2.67-acres of habitat creation credits from an approved bank will be purchased. However, since at this time no mitigation bank is approved for the whitewater watershed, it is assumed at minimum 2.67-acres of on-site creation is required as outlined below. If it is determined that on-site mitigation is not feasible, creation of non-wetland waters at an off-site location would be required. The off-site location would be required to have a conservation easement or deed restriction placed over the mitigation area to ensure the site remains mitigation in perpetuity. Additionally, whether on or off-site, the mitigation site will require long-term maintenance and management by a qualified conservancy, including payment of a non-wasting endowment to fund the long-term maintenance. To meet the criteria of a biologically equivalent or superior alternative, the applicant will offset permanent impacts to a minimum 0.54-acre of MSHCP Section 6.1.2 riverine resources (CDFW jurisdictional resource) as follows including the preparation of an MSHCP DBESP. • Permanent impacts to a minimum of 0.54-acres of jurisdictional features will be mitigated at a minimum of a 5:1 ratio (2.67 acres) through the creation of in-kind habitat on-site along the eastern and northern most Project boundary. If it is determined that on-site mitigation or off-site is not feasible, additional alternatives could include, payment into an acceptable an approved mitigation bank should one become available at the time of impacts and permitting.				

Mitigation Measures	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
• A Habitat Mitigation and Monitoring Plan for the creation of in-kind habitat will be prepared, reviewed and approved by the City of Banning, USACE, RWQCB and CDFW. The created habitat will be monitored by the Project proponent for a minimum of 5 years; monitoring reports shall be provided to the City of Banning and appropriate regulatory agency on an annual basis. The restoration area must meet standardized success criteria as described in a Habitat Mitigation and Monitoring Plan, which will be required as part of the permit process and approved by the Resource Agencies. • A DBESP will be also prepared, reviewed and approved by the City of Banning and MSHCP wildlife agencies prior to the issuance of grading permits.				
CULTURAL RESOURCES				
MM CUL-1: Prior to the issuance of a grading permit, an archaeological resource monitoring plan shall be developed by a qualified archaeologist. This plan shall include a grading observation schedule, to be maintained when initial mass grading occurs in upper soils, to identify and further evaluate any cultural resources that may be discovered in the Project area. A qualified archaeologist and/or Native American monitor(s) from Consulting Tribe(s) shall be retained to attend pre-grading meetings and to monitor earth-moving activities, including clearing, grubbing, cutting, and trenching at the site. The archaeologist and/or Native American monitor(s) from Consulting Tribe(s) shall carefully inspect these areas to assess the potential for significant prehistoric or historic remains. If potential archaeological and historical resources are uncovered, the construction contractor shall cease grading operations in the vicinity of the find until further evaluation is undertaken to assess the discovery. Further subsurface investigation may be needed if the resource is determined unique or important for its prehistoric or historic information.	Project applicant Qualified Archaeologist	Prior to issuance of grading permit	City of Banning, Community Development Department, Planning Division; and qualified archaeologist, and tribal representative	

Mitigation Measures	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
MM CUL-2: If archaeological remnants are discovered during monitoring, the archaeologist and/or Native American monitor(s) from Consulting Tribe(s) shall have the authority to divert construction in order to assess the significance of the find. Remnants shall be properly evaluated, documented, and deposited as applicable, consistent with State and local protocols.	Project Applicant Qualified Archaeologist Native American Monitor	During project ground disturbing activities	City of Banning, Community Development Department, Planning Division; and qualified archaeologist, and tribal representative	
MM CUL-3: If previously unknown cultural resources, including human remains, are identified during grading activities, a qualified archaeologist shall be retained to assess the nature and significance of the find. If human remains are encountered, State Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the County Coroner has made a determination of origin and disposition pursuant to Public Resources Code Section 5097.98. The County Coroner shall be notified of the find immediately. If the remains are determined to be prehistoric, the Coroner shall notify the Native American Heritage Commission (NAHC), which shall determine and notify a Most Likely Descendant (MLD). With the permission of the landowner or his/her authorized representative, the MLD may inspect the site of the discovery. The MLD shall complete the inspection within 24 hours of notification by the NAHC. The MLD may recommend scientific removal and nondestructive analysis of human remains and items associated with Native American burials.	Project applicant Qualified archaeologist	During project ground disturbing activities	Project Contractor, County Coroner, Native American Heritage Commission, City of Banning, Community Development Department, Planning Division	
GEOLOGY AND SOILS				
MM GEO-1: The Project would comply with the grading guidelines and all recommendations provided in the Geotechnical Investigation prepared for the Project.	Project developer	Prior to issuance of grading permit	City of Banning, Community Development Department, Building and Safety Division	
MM GEO-2: The Applicant will submit a Paleontological Resources Impact Mitigation Program (PRIMP) prepared by a qualified paleontologist to the City's Community Development Director, or designee, prior to the issuance of a grading permit to reduce impacts	Project applicant Qualified paleontologist	Prior to issuance of grading permit	City of Banning, Community Development	

Mitigation Measures	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
to sensitive paleontological resources during construction activities, and all other surface-disturbance activities. The PRIMP would include the following: • The PRIMP shall be prepared by a Qualified Paleontologist, based on Society of Vertebrate Paleontology (SVP) guidelines, and meet all regulatory requirements. The qualified paleontologist shall have a Master's Degree or Ph.D. in paleontology, shall have knowledge of the local paleontology, and shall be familiar with paleontological procedures and techniques. • The PRIMP shall include a site-specific investigation that will identify construction impact areas of ranging sensibility and approximate depths at which those resources are likely to be encountered. The Plan shall define monitoring procedures and methodology, and shall specify that sediments of undetermined sensitivity shall be monitored on a part-time basis (as determined by the Qualified Paleontologist). • The PRIMP shall state which resources will be avoided and which shall be recovered for their data potential. Where possible, recovery is preferred over avoidance in order to mitigate the potential for looting of paleontological resources. The Plan shall also detail methods of recovery, preparation and analysis of specimens, final curation of specimens at a federally accredited repository, data analysis, and reporting.			Department, Planning Division	
MM GEO-3: A qualified paleontologist will attend preconstruction meetings to consult with the grading and excavation contractors concerning planned depths, excavation schedules, paleontological field techniques, and safety issues. In addition, all on-site construction personnel will receive Worker Education and Awareness Program (WEAP) training prior to the commencement of excavation work. All ground-disturbing activities associated with Project construction occurring within previously undisturbed fossil bearing formations will be monitored by a qualified paleontologist or qualified paleontological monitor. A paleontological monitor is defined as an individual who has experience in the collection and salvage of fossil materials and works under the direction of a qualified	Project applicant Qualified Paleontologist	Prior to commencement of grading and excavation	City of Banning, Community Development Department, Planning Division	

Mitigation Measures	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
paleontologist. If fossils are discovered, the paleontologist (or paleontological monitor) will recover them. In most cases, this fossil salvage can be completed in a short period of time; however, some fossil specimens, such as a complete large mammal skeleton, may require an extended salvage period. In these instances, the paleontologist (or paleontological monitor) will be allowed to temporarily direct, divert, or halt grading to allow recovery of fossil remains, such as isolated mammal teeth, it may be necessary to set up a screen-washing operation on site.				
MM GEO-4: Fossil remains collected during the monitoring and salvage portion of the program will be cleaned, repaired, sorted, and catalogued. Prepared fossils, along with copies of all pertinent field notes, photos, and maps, will be deposited (as a donation) in a scientific institution with permanent paleontological collections located within Riverside County (or, if no repository is available, adjacent Counties). A final data recovery report will be completed that outlines the results on the paleontological monitoring program. This report will include discussions of the methods used, stratigraphic section(s) exposed, fossils collected, and significance of recovered fossils. The report will be submitted to the City's Community Development Director, or designee, upon completion.	Qualified Paleontologist	During excavation	City of Banning, Community Development Department, Planning Division	
GREENHOUSE GAS EMISSIONS				
MM GHG-1: Prior to issuance of tenant occupancy permits, the Project shall be required to install a solar photovoltaic (PV) system or otherwise acquire energy from the local utility that has been generated by renewable sources, sufficient to power the anticipated initial improvements for the warehouse (i.e., the Title 24 electricity demand and the plug-load). The final PV generation facility size requires approval by Southern California Edison (SCE). SCE's Rule 21 governs operating and metering requirements for any facility connected to SCE's distribution system. Should SCE limit the off-site export, the proposed Project may utilize a battery energy storage system (BESS) to lower off-site export while maintaining on-site renewable generation to off-set consumption. The building shall	Tenant/ facility operator	Prior to issuance of tenant occupancy permit	City of Banning, Community Development Department, Building and Safety Division	

Mitigation Measures	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
include an electrical system and other infrastructure sufficiently sized to accommodate the PV arrays. The electrical system and infrastructure must be clearly labeled with noticeable and permanent signage. In addition, to ensure that the Project's electrical room(s) is sufficiently sized to accommodate the potential need for additional electrical panels, either (1) a secondary electrical room shall be provided in the building, or (2) the primary electrical room shall be sized 25 percent larger than is required to satisfy the service requirements of the building or the electrical gear shall be installed with the initial construction with 25 percent excess demand capacity.				
MM GHG-2: Prior to the issuance of a building permit, the Project Applicant or successor in interest shall provide documentation to the City of Banning demonstrating that the Project is designed to achieve Leadership in Energy and Environmental Design (LEED) standards or meet or exceed CALGreen Tier 2 standards in effect at the time of building permit application.	Project applicant/successor in interest	Prior to the issuance of a building permit	City of Banning, Community Development Department, Building and Safety Division	
MM GHG-3: The development shall divert a minimum of 75 percent of landfill waste. Prior to issuance of certificate of tenant occupancy permits, a recyclables collection and load area shall be constructed in compliance with County standards for Recyclable Collection and Loading Areas, and the facility's operator shall be required to provide the City with a copy of the Project's recycling program. This mitigation measure applies only to tenant permits and not the building shell approvals.	Tenant/ facility operator Project developer	Prior to issuance of tenant occupancy permit	City of Banning Public Works Department	
MM GHG-4: Prior to issuance of tenant occupancy permits, the Planning Department shall confirm that tenant lease agreements include contractual language that all landscaping equipment used on-site shall be 100 percent electrically powered. This mitigation measure applies only to tenant permits and not the building shell approvals.	Project applicant	Prior to issuance of tenant occupancy permit	City of Banning, Community Development Department, Planning Division	
MM GHG-5: Conduits for the installation of electrical hookups to allow future electric vehicle (EV) trucks and trucks with auxiliary power units (APU) shall be installed at a ratio of one charging station for every 50 dock high doors.	Project applicant	Prior to issuance of building permit	City of Banning, Community Development	

Mitigation Measures	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
			Department, Building and Safety Division	
TRANSPORTATION				
MM TRANS-1: Prior to the issuance of Certificate of Occupancy for future tenants, the future tenant shall demonstrate implementation of reasonable and feasible VMT reduction measures to the satisfaction of the City of Banning Planning Director. Measures to be considered include, but are not limited to VMT strategy reduction measures: **Potential VMT Reduction Strategies** The following are potential VMT reduction measures that could be implemented: • The Project may implement a Voluntary Commute Trip Reduction (CTR) measure. The purpose of the CTR would be to encourage alternative modes of transportation such as carpooling, which would reduce VMT. A proposed CTR program for this Project could include providing on-site and/or online commute information services including information on available transit and ride coordination for employees. • The Project could provide designated carpool/vanpool parking in desirable locations on-site, which could encourage employees to carpool/vanpool to work and reduce VMT. • The Project could install end-of-trip facilities such as bicycle parking and lockers which could encourage employees to use alternative modes of transportation and thus reduce VMT. • The Project could increase sidewalks along the Project frontage and provide connections to existing trails (if applicable) in order to improve pedestrian access. This measure could encourage employees to walk to nearby destinations and thus reduce VMT. • The Project could implement employee parking cash-out policies. Cash-out is when employers provide employees with a choice of forgoing their current subsidized/free parking, provided by the employer, in lieu of a cash payment equivalent to or greater than	Tenant/ facility operator	Prior to issuance of tenant occupancy permit	City of Banning, Community Development Department, Planning Division City of Banning, Public Works Department, Engineering Division	

Mitigation Measures	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
the cost of the parking space. This encourages employees to use other modes of travel instead of single occupancy vehicles.				
TRIBAL CULTURAL RESOURCES				
MM TCR-1: Native American Treatment Agreement: Prior to the issuance of grading permits, the applicant shall enter into a Tribal Monitoring Agreement with the Morongo Band of Mission Indians for the project. The Tribal Monitor shall be on-site during all ground-disturbing activities (including, but not limited to, clearing, grubbing, tree and bush removal, grading, trenching, fence post placement and removal, construction excavation, excavation for all utility and irrigation lines, and landscaping phases of any kind). The Tribal Monitor shall have the authority to temporarily divert, redirect, or halt the ground-disturbing activities to allow identification, evaluation, and potential recovery of cultural resources.	Project applicant	Prior to issuance of grading permit	Morongo Band of Mission Indians City of Banning Community Development Department, Planning Division Qualified archaeologist	
MM TCR-2: **Retention of Archaeologist**: Prior to any ground-disturbing activities (including, but not limited to, clearing, grubbing, tree and bush removal, grading, trenching, fence post replacement and removal, construction excavation, excavation for all utility and irrigation lines, and landscaping phases of any kind) and prior to the issuance of grading permits, the Applicant shall retain a qualified archaeologist who meets U.S. Secretary of the Interior Standards (SOI). The archaeologist shall be present during all ground disturbing activities to identify any known or suspected archaeological and/or cultural resources. The archaeologist will conduct a Cultural Resource Sensitivity Training, in conjunction with the Tribe[s] Tribal Historic Preservation Officer (THPO) and/or designated Tribal Representative. The training session will focus on what the archaeological and tribal cultural resources that may be encountered during ground-disturbing activities, and the procedures to be followed in such an event.	Project applicant Qualified Archaeologist	Prior to issuance of grading permit and prior to any ground disturbance	THPO and/or Tribal representative(s) City of Banning Community Development Department, Planning Division Qualified Archaeologist	
MM TCR-3: Cultural Resource Management Plan: Prior to any ground-disturbing activities the project archaeologist shall develop a Cultural Resource Management Plan (CRMP) and/or Archaeological Monitoring and Treatment Plan (AMTP) to address the details, timing and responsibility of all archaeological and cultural resource activities	Project applicant Qualified Archaeologist	Prior to any ground disturbance	Tribal representative(s) City of Banning Community	

Mitigation Measures	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
that occur on the project site. This Plan shall be written in consultation with the consulting Tribe[s] and shall include the following: approved Mitigation Measures (MM)/Conditions of Approval (COA), contact information for all pertinent parties, parties' responsibilities, procedures for each MM or COA, and an overview of the project schedule.			Development Department, Planning Division Qualified Archaeologist	
MM TCR-4: Pre-Grade Meeting: The retained qualified archeologist and Consulting Tribe[s] representative shall attend the pre-grade meeting with the grading contractors to explain and coordinate the requirements of the monitoring plan.	Project developer Qualified Archaeologist	Prior to commencement of ground disturbing activity	Tribal representative(s) City of Banning Community Development Department, Planning Division Qualified Archaeologist Grading Contractor	
MM TCR-5: **On-site Monitoring**: During all ground-disturbing activities the qualified archaeologist and the Native American monitor shall be on-site full-time. The frequency of inspections shall depend on the rate of excavation, the materials excavated, and any discoveries of Tribal Cultural Resources as defined in California Public Resources Code Section 21074. Archaeological and Native American monitoring will be discontinued when the depth of grading and soil conditions no longer retain the potential to contain cultural deposits. The qualified archaeologist, in consultation with the Native American monitor, shall be responsible for determining the duration and frequency of monitoring.	Qualified Archaeologist Native American Monitor Project applicant	During all ground-disturbing activities	Tribal representative(s) City of Banning Community Development Department, Planning Division Qualified Archaeologist	

Mitigation Measures	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
MM TCR-6: Inadvertent Discovery of Cultural Resources: In the event that previously unidentified cultural resources are unearthed during construction, the qualified archaeologist and the Native American monitor shall have the authority to temporarily divert and/or temporarily halt ground disturbance operation in the area of discovery to allow for the evaluation of potentially significant cultural resources. Isolates and clearly non-significant deposits shall be minimally documented in the field and collected so the monitored grading can proceed. If a potentially significant cultural resource(s) is discovered, work shall stop within 60-feet of the discovery and an Environmentally Sensitive Area (ESA) physical demarcation/barrier constructed. All work shall be diverted away from the vicinity of the find, so that the find can be evaluated by the qualified archaeologist and Tribal Monitor[s]. The archaeologist shall notify the Lead Agency and consulting Tribe[s] of said discovery. The qualified archaeologist, in consultation with the Lead Agency, the consulting Tribe[s] and the Native American monitor, shall determine the significance of the discovered resource. A recommendation for the Tribal Cultural Resource's treatment and disposition shall be made by the qualified archaeologist in consultation with the Tribe[s] and the Native American monitor[s] and be submitted to the Lead Agency for review and approval. Below are the possible treatment and dispositions of significant cultural resources in order of CEQAs preference: • Full avoidance. • If avoidance is not feasible, Preservation in place. • If Preservation in place is not feasible, all items shall be reburied in an area away from any future impacts and reside in a permanent conservation easement or Deed Restriction. • If all other options have been proven to be infeasible, data recovery through excavation and curated in a Curation Facility that meets the Federal Curation Standards (CFR s79.1)	Qualified Archaeologist	During all ground-disturbing activities	Tribal representative(s) City of Banning Community Development Department, Planning Division Qualified Archaeologist	

Mitigation Measures	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
MM TCR-7: **Inadvertent Discovery of Human Remains**: The Morongo Band of Mission Indians requests the following specific conditions to be imposed in order to protect Native American human remains and/or cremations. No photographs are to be taken except by the coroner, with written approval by the consulting Tribe[s]. Should human remains and/or cremations be encountered on the surface or during any and all ground-disturbing activities (i.e., clearing, grubbing, tree and bush removal, grading, trenching, fence post placement and removal, construction excavation, excavation for all water supply, electrical, and irrigation lines, and landscaping phases of any kind), work in the immediate vicinity of the discovery shall immediately stop within 100-feet of the discovery. The area shall be protected, project personnel/observers restricted. The County Coroner is to be contacted within 24 hours of discovery. The County Coroner has 48 hours to come to his/her determination pursuant to State and Safety Code Section 7050.5. and Public Resources Code (PRC) Section 5097.98. In the event that the human remains and/or cremations are identified as Native American, the Coroner shall notify the Native American Heritage Commission within 24 hours of determination pursuant to subdivision (c) of HSC Section 7050.5. The Native American Heritage Commission shall immediately notify the person or persons it believes to be the Most Likely Descendant (MLD). The MLD has 48 hours, upon being granted access to the Project site, to inspect the site of discovery and make their recommendation for final treatment and disposition, with appropriate dignity, of the remains and all associated grave goods pursuant to PRC Section 5097.98.	Project applicant Morongo Band of Mission Indians Qualified Archaeologist	Upon discovery of Human remains	Project Contractor, County Coroner, Native American Heritage Commission, City of Banning, Community Development Department, Planning Division, Tribal Representative(s)	

Mitigation Measures	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
If the Morongo Band of Mission Indians has been named the Most Likely Descendant (MLD), the Tribe may wish to rebury the human remains and/or cremation and sacred items in their place of discovery with no further disturbance and reside in perpetuity. The place(s) of reburial will not be disclosed by any party and is exempt from the California Public Records Act (California Government Code Section 6254[r]). Reburial location of human remains and/or cremations will be determined by the Tribes Most Likely Descendant (MLD), the landowner, and the City Planning Department.				
MM TCR-8: Final Report: The final report[s] created as a part of the project (AMTP, isolate records, site records, survey reports, testing reports, etc.) shall be submitted to the Lead Agency and Consulting Tribe[s] for review and comment. After approval from all parties, the final reports are to be submitted to the Eastern Information Center, and the Consulting Tribe[s].	Project applicant Qualified Archaeologist	Upon cessation of ground disturbing activities	City of Banning, Community Development Department, Planning Division	
WILDFIRE				
MM FIRE-1: Fire Safety Requirements. The Project shall be required to comply with all Fire Safety Requirements as identified in Section 5 of the Fire Protection Plan prepared for the Project (Appendix M1). Conformance with these requirements shall be verified by the City of Banning Community Development Department during design review prior to the issuance of building and grading permits.	Project applicant	Prior to the issuance of building and grading permits	City of Banning, Community Development Department, Planning Division City of Banning, Community Development Department, Building and Safety Division	

ORDINANCE 1609

AN ORDINANCE OF THE CITY OF BANNING, CALIFORNIA, APPROVING A DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF BANNING AND JDNJ ENTERPRISES, LLC, A MISSOURI LIMITED LIABILITY CORPORATION

WHEREAS, the City of Banning, California, ("City") is a general law city and a municipal corporation of the State of California; and

WHEREAS, Article 2.5 of Chapter 4 of Division 1 of Title 7 of the California Government Code ("Development Agreement Statute") and Chapter 17.60 of the Banning Municipal Code authorize City to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property; and

WHEREAS, JDNJ Enterprises, LLC, a Missouri Limited Liability Corporation ("Owner") is proposing to develop an approximately 1,320,284 square-foot tilt-up industrial building with on- and off-sit related improvements on approximately 131.28-acres of real property located entirely within the City of Banning, comprised of three parcels having seven Assessor's Parcel Number (Assessor's Parcel Numbers (APNs): 532-030-008, 532-030-009, 532-080-008, 532-080-010, 532-090-026, 532-090-028, 532-090-030, 532-110-015.), and more specifically depicted and described in Exhibit A (hereinafter the "Property"); and

WHEREAS, the Subject Property is, or will be made, subject to the following entitlements: Resolution No. 2025-59 approving Tentative Parcel Map No. 38756 to reconsolidate all existing parcels on the Site into two (3) parcels and Design Review No. 21-7017 for construction of one concrete tilt-up industrial building; and Resolution No. 2025-60 certifying an Environmental Impact Report (EIR), SCH Number 2022090102, Adopting Findings and a Statement of Overriding Considerations, and Adopting a Mitigation Monitoring and Reporting Program (collectively the "Entitlements"); and

WHEREAS, the Project will provide jobs and industry in the City; and

WHEREAS, the Project will provide a community benefit to the residents of the City; and

WHEREAS, the Developer is not requesting from the City, nor is the City providing, any form of financial assistance to locate, develop, construct and/or operate the Project in the City of Banning, and Developer agrees to comply with all conditions of approval; and

WHEREAS, to strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted Sections 65864 et seq. of the California Government Code, (the "Development Agreement Statute") which authorizes cities to enter into property development agreements with any person(s) or entity(ies) having a legal or equitable interest in real property for the development of such real property in order to establish certain development rights in the real property; and

WHEREAS, the Development Agreement is intended to provide assurances to Developer that an approved Project may proceed subject to the specified policies, rules, regulations, and

conditions of approval applicable to the Project at the time of approval, regardless of any changes to City policies, rules, and regulations after project approval; and

WHEREAS, this Agreement will eliminate uncertainty in planning for and securing orderly development and occupancy of the Property, assure installation of necessary improvements, and ensure attainment of the maximum effective utilization of resources within the City at the least economic cost to its citizens; and

WHEREAS, the City Planning Commission held a public hearing on the Project on March 5, 2025 and passed a resolution recommending approval subject to certain specific recommendations; and

WHEREAS, the City prepared the Final Revised EIR (the "FEIR") and, pursuant to Public Resources Code section 21092.5, the City provided copies of the FEIR to all commenting agencies and persons requesting copies of the responses; and

WHEREAS, the City Council of the City of Banning (the "City Council"), at its regularly scheduled public meeting on May 13, 2025, held a public hearing on the Project; and

WHEREAS, based on the foregoing recitals, City has determined that this Agreement is appropriate under the Development Agreement Statute and Chapter 17.60 of the Banning Municipal Code and consistent with the policies and programs of the City of Banning General Plan, any applicable specific plan and the zoning ordinances; and

WHEREAS, this Agreement is voluntarily entered into in consideration of the benefits to and the rights created in favor of each of the parties hereto and in reliance upon the various representations and warranties contained herein; and

WHEREAS, City, as "Lead Agency" under the California Environmental Quality Act ("CEQA") and the CEQA Guidelines, has determined that the "Project," as more fully described in this Agreement, has been fully analyzed per CEQA under the FEIR for the Project dated October 2024 and all other legal prerequisites to the adoption of this Ordinance have occurred.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BANNING DOES ORDAIN AS FOLLOWS:

SECTION 1. RECITALS
That the above Recitals are true and correct and are incorporated as though fully set forth herein.

SECTION 2. APPROVAL OF DEVELOPMENT AGREEMENT
That the City Council hereby approves the Development Agreement by and between the City of Banning and JDNJ ENTERPRISES, LLC, A MISSOURI LIMITED LIABILITY CORPORATION ("Development Agreement"), a copy of which is attached hereto as Exhibit "B" and incorporated herein by this reference, subject to the terms and conditions stated therein.

SECTION 3. SEVERABILITY
The City Council declares that, should any provision, section, paragraph, sentence or word of this Ordinance be rendered or declared invalid by any final action in a court of competent jurisdiction

or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this Ordinance as hereby adopted shall remain in full force and effect.

SECTION 4. EFFECTIVE DATE OF ORDINANCE
That this Ordinance shall take effect thirty (30) days after its second reading by the City Council.

SECTION 5. EFFECTIVE DATE OF DEVELOPMENT AGREEMENT
The Development Agreement shall not be executed by the City until on or after the effective date of the Ordinance.

SECTION 6. RECORDATION OF DEVELOPMENT AGREEMENT
The City Clerk is hereby directed to record the fully executed Development Agreement with the Riverside County Recorder no later than ten (10) days after its execution.

SECTION 7. CERTIFICATION
The City Clerk is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of Banning's book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within fifteen (15) days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

PASSED, APPROVED AND ADOPTED this 27th day of May, 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

John Pinkney, Interim City Attorney
Slovak, Baron, Empey, Murphy & Pinkney, LLP

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that Ordinance 1609 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 13th day of May, 2025, and was duly adopted at a regular meeting of said City Council on the 27th day of May, 2025, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

EXHIBIT A
Legal Description

EXHIBIT B
Development Agreement

RECORDING REQUESTED BY,
AND WHEN RECORDED MAIL TO:

CITY OF BANNING
99 E. RAMSEY STREET
BANNING, CA 92220
BANNING, CALIFORNIA
ATTN: CITY CLERK

SPACE ABOVE THIS LINE FOR RECORDER'S USE

EXEMPT FROM RECORDING FEE PER GOVERNMENT CODE SECTION 6103

DEVELOPMENT AGREEMENT

BETWEEN

THE CITY OF BANNING

AND

JDNJ ENTERPRISES, LLC

CONCERNING

BANNING COMMERCE CENTER

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THIS DEVELOPMENT AGREEMENT (the "Development Agreement") is made and entered into this **{DATE OF AGREEMENT}**, by and between the City of Banning, a California municipal corporation (the "City"), and JDNJ Enterprises, LLC, a Missouri limited liability corporation qualified to do business in the state of California ("Developer"). City and Developer may be referred to in this Development Agreement collectively as the "Parties" or each individually as a "Party."

RECITALS

1. Article 2.5 of Chapter 4 of Division 1 of Title 7 of the California Government Code ("Development Agreement Statute") and Chapter 17.60 of the Banning Municipal Code authorizes City to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property.

2. Developer is proposing to develop an approximately 1,320,000 square-foot tilt-up industrial building consisting of 39,600 square feet of office space and 1,280,400 square feet of warehousing, and trailer parking on approximately 131.33 acres of real property located entirely within the City of Banning, comprised of three parcels having seven Assessor's Parcel Number (Assessor's Parcel Numbers (APNs): 532-030-008, 532-030-009, 532-080-008, 532-080-010, 532-090-026, 532-090-028, 532-090-030, 532-110-015.), and more specifically depicted and described in Exhibit A (hereinafter the "Site").

3. City and Developer mutually desire to enter into this Development Agreement pursuant to the Development Agreement Statute in order to implement the Project.

4. On _____, 2025, the City Council adopted Resolution No. _____ approving Tentative Parcel Map No. 38576 to reconsolidate all existing parcels on the Site into two (2) parcels; and Design Review No. 21-7017 for construction of one concrete tilt-up industrial building as described in the preceding recitals. Resolution No. _____ and any attachments and exhibits thereto is hereby incorporated by this reference.

5. For purposes of this Development Agreement, the approvals granted by Resolution No. _____ are referred to herein as the "Project Approvals."

6. On _____, 2025, the City Council adopted Ordinance No. _____ approving this Development Agreement between the City and Developer and finding this Development Agreement to be consistent with the City's General Plan and Zoning Code.

7. The terms and conditions of this Development Agreement have undergone extensive review by City staff and the City Council and have been found to be fair, just and reasonable. By electing to enter into this Development Agreement, the City agrees to bind future City Councils by the obligations specified herein and limit the future exercise of certain governmental and proprietary powers of the City; and

further finds that the best interests of the citizens of the City and the public health, safety and welfare will be served by entering into this Development Agreement.

8. As set forth in the Project Approvals and this Development Agreement, development of the Site in accordance with this Development Agreement will further important policies and goals of the City, eliminate uncertainty in planning, provide for the orderly development of the Site, ensure progressive installation of necessary improvements, provide for public services appropriate to the development of the Project, and provide substantial community benefits.

9. Developer has incurred and will in the future incur substantial costs in order to assure development of the Site in accordance with this Development Agreement, and has incurred and will in the future incur substantial costs in excess of the generally applicable requirements in order to assure vesting of legal rights to develop the Site in accordance with this Development Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, the Parties do hereby agree as follows:

AGREEMENT

SECTION 1. RECITALS

The Recitals are part of this Development Agreement and shall be enforceable as any other provision.

SECTION 2. DEFINITIONS

The following defined terms shall have the meanings set forth in this Section 2 unless a different meaning is clearly intended by the context in they are used.

A. “Development Agreement” means this Development Agreement.

B. “City” means the City of Banning.

C. “City Council” means the City Council of the City of Banning.

D. “City Manager” means the City Manager of the City of Banning.

E. “Developer” means JDN Enterprises, LLC, a Missouri limited liability corporation.

F. “Development Impact Fee Program” or “DIF Program” means City’s program of collection and use of development impact fees, including fees for Police Facilities, Fire Facilities, Parkland and Park Facilities, General City Facilities, Transportation Facilities, Wastewater Facilities, and Water Facilities (collectively “DIF”) as set forth in Banning City Council Resolutions 2019-112, as it may be amended or superseded, City’s Update of Traffic Fee Component of the Development Fee

Program dated May 2019 and Development Impact Fee Update Study, dated August 7, 2019.

G. "Effective Date" shall mean the date that Ordinance No. _____ approving this Development Agreement becomes effective.

H. "Existing Development Regulations," subject to the exclusions and reservations set forth in Section 7, means all ordinances, resolutions, codes, rules, regulations and official policies of the City in force as of the Effective Date and governing the development of the Project and use of the Site; including, without limitation, the permitted use of land, the density or intensity of use, subdivision requirements, timing and phasing of development, the maximum height and size of buildings, the provisions for reservation or dedication of land for public purposes, and the design, improvement and construction standards and specifications.

I. "Municipal Code" means the Banning Municipal Code, as amended from time to time.

J. "Project" means the proposed development of the Site with 1,320,284 square-foot tilt-up industrial building consisting of 39,600 square feet of office space and 1,312,284 square feet of warehousing and trailer parking in a manner consistent with the Project Approvals and the terms and conditions of this Development Agreement.

K. "Project Approvals" means EIR (XXXX), SCH Number XXXX, Tentative Parcel Map No. 38576 and Design Review No. 21-7017.

L. "Second Transportation Payment" shall have the meaning ascribed to it in Section 9(B) below.

M. "Site" means the real property that is the subject of the Project Approvals and as legally described in Exhibit A to this Development Agreement.

N. "Term" shall have the meaning ascribed to it in Section 6 below.

O. "Transfer" means any sale, lease, encumbrance, or other transfer of all or any portion of the Project or any interest therein.

P. "Transferee" means any person, partnership, limited liability company, joint venture, firm, or corporation who acquires an interest in the Site pursuant to a Transfer and assumes, or is deemed to assume, Developer's obligations hereunder with respect to such interest.

Q. "Transportation Public Benefit Fee" shall have the meaning ascribed to it in Section 9(B) below.

SECTION 3. DEVELOPER'S REAL PROPERTY INTEREST

Developer warrants and represents that, as of the Effective Date, it has or will have legal title to or an equitable interest in the Site; that it has full legal right to enter into this Development Agreement; and that the persons executing this Development Agreement on behalf of each Developer have been duly authorized to do so.

SECTION 4. RELATIONSHIP OF THE PARTIES

It is hereby specifically understood and acknowledged that the Project is a private development and that neither the City nor Developer will be deemed to be the agent of the other for any purposes whatsoever.

SECTION 5. BINDING EFFECT OF DEVELOPMENT AGREEMENT

A. Covenants, Reservations, and Restrictions. Developer hereby subjects the Project and the Property to the covenants, reservations, and restrictions as set forth in this Development Agreement. The City and Developer hereby declare their specific intent that the covenants, reservations and restrictions as set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon each of Developer's successors and assigns in title or interest to the Site. The Parties hereby further declare their understanding and intent that the benefit of such covenants, reservations, and restrictions touch and concern the land by enhancing and increasing the enjoyment and use of the Site by Developer and the future occupants of the Site, the intended beneficiaries of such covenants, reservations, and restrictions, and by furthering the public purposes for which this Development Agreement is adopted. Each and every contract, deed, or other instrument hereinafter executed, covering, or conveying the Site or any portion thereof shall conclusively be held to have been executed, delivered, and accepted subject to the covenants, reservations, and restrictions expressed in this Development Agreement, regardless of whether such covenants, reservations, and restrictions are set forth in such contract, deed, or other instrument.

B. Recordation. The City Clerk shall record this Development Agreement in the Official Records of the County Recorder of the County of Riverside within ten (10) days following the Effective Date. Upon the expiration or termination of this Development Agreement and the request of Developer, the City will execute and deliver, in recordable form, an instrument confirming that this Development Agreement is of no further force or effect.

SECTION 6. TERM

The Term of this Development Agreement shall commence on the Effective Date and shall expire fifteen (15) years thereafter (the "Initial Term") unless terminated sooner as provided in this Development Agreement. Unless Developer is in default under this Agreement, the Term shall automatically be extended for an additional five (5) years if prior to the expiration of the Initial Term, the Developer has provided City with the initial Transportation Public Benefit Fee in the amount of Two Million Five Hundred Thousand Dollars ($2,500,000) as specified in Section 9.B. Unless otherwise specified in this

Development Agreement, the respective rights and obligations of the Parties hereto shall remain in full force and effect throughout the Term. Notwithstanding any provision to the contrary herein, in the event that, for any reason whatsoever, Developer fails to acquire fee simple title to the Property ("Fee Title") within 180 days following the Effective Date ("Fee Title Deadline"), Developer may elect, in its sole and absolute discretion, with the written approval of the fee title owner, and upon written notice to the City within sixty (60) days following the Fee Title Deadline, to terminate this Agreement and the Project Approvals. Effective upon such termination by Developer and fee title owner, this Agreement and the Project Approvals shall be of no further force or effect. After the Fee Title Deadline, if Developer has failed to acquire Fee Title and the fee title owner does not issue written approval of termination of this Agreement within five (5) days after the Fee Title Deadline, Developer shall no longer be subject to any of the obligations created in this Agreement or in the Project Approvals.

SECTION 7. VESTING OF DEVELOPMENT RIGHTS

A. General Statement. As a material inducement to Developer and its lenders to continue with diligent efforts to promote the development of the Property, Developer shall have the vested right to develop the Project on the Site in accordance with the terms and conditions of the Project Approvals**,** this Development Agreement, and the Existing Development Regulations, and City shall have the right to control development of the Site in accordance with the provisions of the Project Approvals**,** this Development Agreement, and the Existing Development Regulations.

B. Existing Development Regulations. In accordance with the terms of Gov. Code, § 65866, City and Developer agree the development of the Project on the Site shall be subject to all ordinances, resolutions, codes, rules, regulations and official policies of the City in force as of the Effective Date and governing the development and of the Site, including, without limitation, the permitted use of land, the density or intensity of use, subdivision requirements, timing and phasing of development, the maximum height and size of buildings, the provisions for reservation or dedication of land for public purposes, and the design, improvement and construction standards and specifications applicable to the development of the Site (collectively “Existing Development Regulations”) except as otherwise provided in this Development Agreement.

C. Exclusions and Reservations.

1. “Existing Development Regulations” excludes, and nothing in this Development Agreement shall preclude the application of, any municipal ordinance, resolution, code, rule, regulation or official policy, laws, and regulations that do not conflict with Developer’s vested rights to develop and use the Property in accordance with this Development Agreement. Developer shall comply with such nonconflicting laws and regulations as may from time to time be enacted or amended hereafter.

2. Without limitation to the foregoing exclusions or any nonconflicting law, City hereby expressly reserves its right with regarding to the Project and the Site to apply and enforce any municipal ordinance, resolution, code, rule, regulation or official policy, laws, or regulations regarding: (i) the conduct of businesses, professions, and occupations; (ii) taxes, fees, charges, and assessments; (iii) the control and abatement of nuisances; (iv) the granting of encroachment permits and the conveyance of similar rights and interests that provide for the use of or the entry upon public property; (v) the exercise of the power of eminent domain; (vi) any and all new health and safety regulations (e.g., fire, building, and seismic, plumbing, and electric codes) made applicable in the City, inclusive of any similar such codes based upon uniform codes and incorporated by reference into the Banning Municipal Code; and (vii) procedural rules of general city-wide application, provided that City agrees to nevertheless process any Minor Modifications to Tentative Parcel Map No. 38576 or Design Review No. 21-7017 pursuant to the Chapter 17.84 of the Banning Municipal Code as that Chapter reads as of the Effective Date regardless of any later Municipal Code amendment. Such Minor Modifications may include modifications which do not: (a) alter the permitted uses of the Site; (b) increase the maximum height and size of permitted buildings or structures in excess of the originally approved Project; or constitute a project requiring a subsequent or supplemental environmental impact report pursuant to Public Resources Code § 21166.

D. Superior Law. Nothing in this Development Agreement shall preclude the application to the Project and the Site of those changes in City ordinances, regulations, plans, or specifications that are: (i) specifically mandated and required by changes in state or federal laws or regulations as provided in Government Code § 65869.5 or any successor provision or provisions; (ii) required to ensure public safety and are made applicable throughout the City; or (iii) required to ensure access under the Americans with Disabilities Act. In the event such changes prevent or preclude compliance with one or more of the provisions of this Development Agreement, such provisions of this Development Agreement shall be modified or suspended or performance thereof delayed, to the extent necessary to comply with such changes in the law.

SECTION 8. DEVELOPMENT TIMING; PERMIT PROCESSING

A. Developer's Discretion. Because the California Supreme Court held in *Pardee Construction Co. v. City of Camarillo*, 37 Cal.3d 465 (1984), that failure to provide for the timing of development resulted in a later adopted initiative restricting the timing of development, it is the Parties' intent to avoid that deficiency by acknowledging and providing that Developer shall have the right (without obligation), subject to the provisions of this Development Agreement, to complete the Project in such order and at such rate and at such times as Developer deems appropriate within the exercise of its subjective business judgment.

B. Permit Processing. The City and its officers, agencies and departments shall not unreasonably delay the processing of any application for any permit or approval necessary to commence or complete the Project.

C. Provision of Real Property Interests by City. In any instance where Developer is required to construct any public improvement on land not owned by Developer, Developer shall at its sole cost and expense provide or cause to be provided, the real property interests necessary for the construction of such public improvements. In the event Developer is unable, after exercising reasonable efforts over a period of at least 180 days to acquire the real property interests necessary for the construction of such public improvements ("Offsite Interests"), and if so requested by Developer and upon Developer's provision of adequate security for costs City may reasonably incur as determined by City in its discretion, City may negotiate to attempt to purchase the Offsite Interests in order to allow Developer to construct the public improvements as required by the Project Approvals or this Development Agreement. If City is unable to acquire the Offsite Interests through a voluntary transaction, City shall consider acquiring the Offsite Interests through using its power of eminent domain to acquire such required real property interests. If City does elect in its discretion to exercise its power of Eminent domain, Developer shall pay all reasonable costs associated with such acquisition or condemnation proceedings as determined by City in its discretion and shall enter into a land acquisition agreement ("LAA") with City in a form approved by the City Attorney. The LAA shall provide among other things, that the Developer shall provide a deposit in an amount determined by the City to cover the City's staff, legal and other expenses associated with the condemnation proceedings. This Section is not intended by the Parties to impose upon the Developer an enforceable duty to acquire land or construct any public improvements on land not owned by Developer, except to the extent that the Developer elects to proceed with the development of the Project, and then only in accordance with valid conditions imposed by City upon the development of the Project under the Subdivision Map Act or other legal authority. If after using good faith efforts to acquire the Offsite Interests, Developer is unable to acquire the Offsite Interests, and City, in its reasonable discretion, refuses to use its power of eminent domain to acquire the Offsite Interests, City shall waive the requirement for Developer to acquire the Offsite Interests, or if development of the Project cannot proceed without acquisition of the Offsite Interests, the Parties shall meet and confer in good faith to attempt to devise alternatives to allow the Project to proceed without acquisition of the Offsite Interests.

D. Subdivision Map Extension and Other Development Approvals. As permitted by Government Code § 66452.6, each subdivision or parcel map, heretofore or hereafter approved in connection with development of the Site or the Project shall be extended and shall remain in effect for the term provided by this Agreement. If Developer, in its sole and absolute discretion, chooses to process vesting tentative maps, City shall process such vesting maps subject to and in accordance with the Existing Land Use Regulations, the Subdivision Map Act. Subject to and in accordance with the Existing Land Use Regulations, and the Subdivision Map Act any tentative map, either vesting or non-vesting, may be processed in phases. In

addition, Design Review No. 21-7017 and all subsequently adopted discretionary project approvals shall remain in effect for the term provided by this Development Agreement.

E. Development Impact Fees. Development Impact Fees ("DIF") currently imposed are identified in Ordinance No. ___ adopted by the City Council on _____, 20 __. A schedule showing the DIF in place as of the Effective Date is attached as Exhibit "B". DIF and sewer and water connection and capacity fees shall be those in effect at the time of the issuance of a building permit and due and payable by Developer prior to the issuance of the building permit for the building in question. For the sake of clarity, as a condition to building permit issuance for each building, Developer shall pay the development impact fees listed on Exhibit "B" for such building in the amount in effect at the time the building permit for such building is issued, as well as any new or increased DIF authorized by this Agreement. The City may apply subsequently adopted new categories of DIF to the Project if the same are applied uniformly to development either throughout the City or with a defined area of benefit that includes the Property if the subsequently adopted DIF is not applied on an ad hoc basis solely to the Project and the subsequently adopted fee does not physically prevent development of the Property for the uses and to the density and intensity of development set forth in this Agreement. Notwithstanding the foregoing, if Developer is not in default under this Agreement and has made the initial Transportation Public Benefit Fee of Two Million Five Hundred Thousand Dollars ($2,500,000) as specified below, prior to first anniversary of the Effective Date, the City agrees not impose any new category of DIF on the Project for a period of Five Years after the Effective Date.

SECTION 9. PUBLIC BENEFITS

A. Intent. This Section sets forth the terms and conditions under which Developer agrees to provide public benefits in consideration of the of the benefits conferred on Developer and the Site by this Development Agreement.

B. Transportation Public Benefit Fee. Developer shall pay City a Transportation Public Benefit Fee in the amount of Nine Million Dollars ($9,000,000) ("Transportation Public Benefit Fee").Two Million Five Hundred Thousand Dollars ($2,500,000) of the Transportation Public Benefit Fee will be paid no later than one (1) year from the Effective Date and the remaining amount of Six Million Five Hundred Thousand Dollars ($6,500,000) ("Second Transportation Payment") prior to the issuance of the Project's first building permit. If the Second Transportation Payment is not paid prior to the second anniversary of the Effective Date, the amount of the Second Transportation Payment will increase annually equal to the annual percentage change in the Consumer Price Index published by the U.S. Bureau of Labor Statistics for "All Urban Consumers" in the Riverside-San Bernardino-Ontario Area, measured as of the month of April in the previous Fiscal Year, but not less than one percent (1%) and not greater than five percent (5%) . The City shall solely use the Ramsey Interchange Fee for the design and construction of the Ramsey-Interstate 10 interchange and or the Hargrave Street interchange. The City acknowledges and agrees that the City shall not impose

any other fee or exaction upon Developer for the Ramsey-Interstate 10 interchange.

C. Electrical Facilities Fee. Developer shall pay City an Electrical Facilities Fee equal to Three Hundred and Fifty-Seven Thousand Dollars ($357,000) per megavolt-amperes (MVA) of requested electrical load due and payable pro rata prior to issuance of any building permit ("Electric Facilities Fee"). City shall use the proceeds of the Electrical Facilities Fee solely for the design or construction of new or expanded electrical facilities, which can include reimbursement to the City for part of the cost of an existing electrical facility substation which the City has funded.

D. Electrical Substation Land Dedication. Developer shall reserve and offer to dedicate to City lettered-lot "C" on the proposed Tentative Parcel Map No. 38576 for the Banning Electrical Utility to have the option to construct a new electrical substation ("Substation Property"). Such offer of dedication shall occur at the time final Parcel Map No. 38576 is recorded. If the City accepts the offer of dedication and undertakes construction of the electrical substation on the Substation Property, construction of the electrical substation shall be undertaken by the City at no cost to Developer. If the City accepts the offer of dedication for the Substation Property, City or its successors shall not use the Substation Property for any purpose other than a substation and related uses. If the City accepts the offer of dedication for the Substation Property, within thirty (30) days of City's acceptance of the dedication, City shall pay the amount of the fair market value ("FMV") of the Substation Property to the Developer, with the amount of the payment capped at the amount of the Electric Facilities Fee Acquisition of the Substation Property shall be at the sole discretion of the City and the City may in its sole discretion elect not to acquire the Substation Property.

E. Prior to the issuance of the first certificate of occupancy within the Project, the Developer shall be required to take all actions required to improve Hathaway Street, as depicted in Exhibit "C".

F. The Developer shall use reasonable efforts to hire residents of the City of Banning. Developer will hold at least one local job fair with the City for the purpose of recruiting workers from the City.

G. Sanitary Lift Station Land Construction and Dedication. Developer shall construct a sanitary lift station ("Lift Station") on lettered lot "D" on the proposed Tentative Parcel Map No. 38576 ("Lift Station Property") subject to plans and specifications approved by the Public Works Director and as contemplated by the Sewer Master Plan dated ___-. City shall issue DIF credits against the wastewater DIF which includes the Lift Station and Lift Station Property in the amounts of (i) the cost of designing and constructing the Lift Station, and (ii) the FMV of the Lift Station Property (collectively, "Lift Station Costs") in an amount not to exceed the Developer's wastewater DIF obligation. Developer shall complete construction of the Lift Station prior to the issuance of the first certificate of occupancy for the Project. Developer is aware that the sewer force main near the Project running to Nicolet was installed by a previous developer on its property, and Developer must

obtain the consent of the property owner to use this sewer force main for the Project and to undertake any additional improvements to the sewer force main at its sole cost and expense.

H. FMV Process. In order to determine the FMV of the Substation Property and the Lift Station Property, City shall commission an appraisal for each property, which shall be addressed to City and Developer, at Developer's sole expense, prepared by a licensed appraiser holding a MAI designation from the Appraisal Institute ("Developer's Appraiser") with at least 15 years' experience in appraising similar properties in the same geographical region. The FMV shall be based upon the the assumption the Property has in place all needed discretionary approvals to develop a project similar in nature to the Project. The appraiser shall use a date of valuation which is the current date of the appraisal. Developer's Appraiser shall deliver a written report as to their opinion of FMV for each property within sixty (60) days after such appraiser has been retained by Developer. Upon receipt of Developer's appraisal, the City shall have thirty (30) days to review the appraisal and agree or dispute the determination of FMV. In the event that the City disputes the FMV determined by Developer's appraisal, the City shall be entitled to commission a second appraisal, at the City's own expense, prepared by a licensed appraiser having the qualifications provided above ("City's Appraiser"). The City's Appraiser shall deliver a written report as to their opinion of FMV for the property within sixty (60) days after such appraiser has been retained by the City. If the higher appraisal is equal to or less than 120% of the lower appraisal, the two appraisals will be added together and their total divided by two; the resulting quotient will be the FMV of the property in question. If the higher appraisal is greater than 120% of the lower appraisal, the Parties shall have sixty (60) days after Developer's receipt of the City's appraisal to reach a negotiated resolution. If the Parties are unable to reach a negotiation resolution, the Parties shall reasonably cooperate to select a third licensed appraiser having the qualifications provided above("Review Appraiser") to make a final determination of FMV. If the Parties are unable to agree on the selection of the Review Appraiser, the Parties shall jointly petition the Riverside County Superior Court to select a Review Appraiser. The Parties will equally share the fees and expenses associated with the Review Appraiser, including but not limited to, the Parties' joint petition to select a Review Appraiser and the Review Appraiser's fees. The Review Appraiser shall review the two appraisals and then make a determination of FMV, which shall be no less than the value of the lower appraisal and no greater than the value of the higher appraisal. The Review Appraiser's determination of FMV shall be binding on all Parties.

I. Community Facilities Districts.

1. Service CFD. Developer agrees, pursuant to the Mello Roos Act, to petition the City or, alternatively, California Statewide Communities Development Authority ("CSCDA") to form a community facilities district, the boundaries of which shall be coextensive with those of the Site (the "Service CFD") for the purpose of financing City services and ongoing maintenance of public improvements provided by the City to the parcels within the boundaries of

the Service CFD the cost of which shall be solely borne by the Developer, provided such services qualify as authorized services under the Mello Roos Act (collectively, "Authorized Services"). The Service CFD shall be a condition to the City's issuance of the first certificate of occupancy for the Project.

2. If City sponsors the formation of the Service CFD, City shall initiate the process promptly following submission of Developer's petition and compliance with Section 53318(d) of the Mello-Roos Act and shall use good faith, diligent efforts to form the Service CFD, including the scheduling of necessary public hearings at the cost of Developer. If requested, Developer will execute a reimbursement agreement providing for the advance deposit of monies to reimburse City for the cost of its implementing the CFD. Developer agrees to cooperate in the formation and agrees that it will not contest and will exercise all of its voting power in favor of the formation of the Service CFD. Should Developer request CSCDA to sponsor the formation of the Service CFD, City shall cooperate in process and agrees to use good faith efforts to take all necessary and appropriate actions to assist Developer and CSCDA in the formation of the Service CFD in accordance with Section 9.H.1, including the issuance of necessary consents in the formation process.

3. Developer and City shall reasonably cooperate in developing the rate and method of apportionment of special taxes for the Service CFD ("Service RMA"), which the Parties agree shall provide, in part: (a) the maximum Service Special Tax rate in the first year that there is a levy of the Service Special Tax shall be at a rate of $0.10 per building square foot, which amount shall be subject to an "Annual Escalation Factor" equal to the annual percentage change in the Consumer Price Index published by the U.S. Bureau of Labor Statistics for "All Urban Consumers" in the Riverside-San Bernardino-Ontario Area, measured as of the month of April in the previous Fiscal Year, but not less than three percent (3%) and not greater than five percent (5%); (b) the levying of the Service Special Tax shall commence in the first fiscal year following the issuance of a certificate of occupancy by May 1 of the preceding Fiscal Year, (c) the adoption of an annual budgeting process to establish the annual actual Service Special Tax rate, and (d) the Service Special Tax cannot be prepaid.

4. Facilities CFD At the discretion of the Developer, Developer may, pursuant to the Mello Roos Act, petition the City or, alternatively, pursue other financing alternatives, including requesting CSCDA to form a community facilities district, the boundaries of which shall be coextensive with those of the Site ("Facilities CFD," collectively with Service CFD, the "CFDs") for the purpose of financing (i) public infrastructure required under the Development Agreement, including without exception, public streets, highways, and bridges, and other related improvements such as grading, paving, curbs and gutters, sidewalks, street signalization and signage, street lights and parkway landscaping related thereto, water facilities, storm

drain facilities, sewer facilities, public parks, landscaping, electrical facilities, (collectively, "Facilities"), and (ii) Development Impact Fees, including, without exception, the Public Benefit Fees described in Section B and C above ("Fees," collectively with Facilities, "Authorized Facilities and Fees"). If City agrees to sponsor the formation of the Facilities CFD, City shall initiate the process promptly following submission of Developer's petition and compliance with Section 53318(d) of the Mello-Roos Act, and shall use good faith, diligent efforts to form the Facilities CFD and timely issue bonds ("CFD Bonds"), including the scheduling of necessary public hearings related to formation and issuance of CFD Bonds. Any costs incurrent in establishing the Facilities CFD and issuing the CFD Bonds shall be paid from the CFD Bond proceeds, or failing that by the Developer. Developer agrees to cooperate in the formation and agrees that it will not contest and will exercise all of its voting power in favor of the formation of the Facilities CFD and issuance of CFD Bonds. Should Developer request CSCDA to sponsor the formation of the Facilities CFD and be the issuer of the CFD Bonds, City shall cooperate in process and agrees to use good faith efforts to take cooperate with Developer and CSCDA in the formation of the Facilities CFD and the issuance of the CFD Bonds, including the issuance of necessary consents in the formation and bond issuance processes. Developer and City shall reasonably cooperate in developing the rate and method of apportionment of special taxes for the Facilities CFD ("Facilities RMA").

5. In the event Developer conveys or grants an easement to any portion of the Site to City or any other government agency and the property so conveyed is subject to payment of special taxes under the Facilities CFD formed pursuant to this Development Agreement and CFD Bonds have been issued and are outstanding, Developer shall prepay the special taxes pursuant to the terms of the Facilities RMA with respect to the portion of the Site subject to an easement or being conveyed prior to completion of any such conveyance or easement. Upon completion of the conveyance or grant of easement, Developer's obligation to pay special taxes pursuant to the Facilities RMA and the Services RMA for the conveyed property shall terminate. Alternatively, the RMA may exclude the forgoing conveyance or grant of easement from the imposition of the special taxes to accomplish the goals of this paragraph.

6. Notwithstanding the foregoing, it is acknowledged and agreed by the Parties that nothing contained in this Development Agreement shall be construed as committing or requiring the City Council to authorize and approve the formation of the CFDs and/or the issuance of the CFD Bonds. Further, City and Developer agree that the practical ability to issue CFD bonds is subject to marketability and therefore, Developer and City will first consult with a mutually agreed upon public finance consultant, at Developer's cost prior to forming a Facilities CFD.

7. Except as expressly set forth or reserved in this Development Agreement, City shall not, without the prior written consent of Developer, initiate the formation of any new financing district or assessment district involving the levy of special taxes or assessments for facilities or services applicable to the Project or any portion thereof during the term of this Agreement or prior to the substantial completion of the Project.

SECTION 10. COMPLIANCE REVIEW

Within ten (10) days of each anniversary of the Effective Date, Developer shall file a report with City containing sufficient evidence to demonstrate Developer's good faith compliance with this Development Agreement, and City will review Developer's report in good faith. Pursuant to Gov. Code § 65865.1, if City finds and determines, as a result of its review, that there is substantial evidence that Developer has not complied in good faith with terms or conditions of this Development Agreement, City may terminate or modify the agreement. City does not waive any claim of defect in performance by Developer if after any annual review, City does not enforce this Development Agreement.

SECTION 11. TRANSFERS AND ASSIGNMENTS

A. Transfers. Developer shall have the right to sell, transfer or assign the Site in whole or in part (provided that no such partial transfer shall violate the Subdivision Map Act, Government Code § 66410 et seq.) to any person, partnership, limited liability company, joint venture, firm or corporation at any time during the Term of this Development Agreement without the prior consent of City. City acknowledges and agrees it is likely in the future that Developer may transfer its interest in the Site to an affiliated entity. Developer and Transferee shall execute and record an Assignment and Assumption Agreement whereby the assignee agrees to perform all of the obligations of the Developer under this Development Agreement, a copy of which shall be delivered to the City contemporaneously upon the closing of such sale, transfer or assignment. Upon recordation of the Assignment and Assumption Agreement, Developer shall be released from its obligations with respect to such portion of, or interest in, the Project that was the subject of such Transfer.

B. Conditions Applicable to Transfers. Notwithstanding whether a Transferee has executed an Assignment and Assumption Agreement, a Transferee shall be deemed upon transfer or assignment to have assumed all Developer's obligations and to have been assigned all of Developer's rights under this Development Agreement, and will be deemed the Developer hereunder. This Development Agreement may only be transferred to a person or entity who acquires fee title to the Site or any portion of the Site. Notwithstanding anything herein to the contrary, in no event shall any Lender (as defined in Section 12 below) have any obligation under this Development Agreement unless and until such Lender purchases at a foreclosure sale, or accepts a deed in lieu of foreclosure, the portion of the Site that was subject to a mortgage.

C. Release of Transferring Developer. Notwithstanding any transfer, a transferring Developer shall continue to be obligated under this Development Agreement until

the full satisfaction by such transferring Developer of the following conditions and upon such satisfaction shall be released from the obligations under this Development Agreement: (i) Developer no longer has a legal or equitable interest in all or any part of the Site; (ii) Developer is not then in default under this Development Agreement; and (iii) Developer has provided City with the notice and executed agreement required under Section 11(A) above. If requested by transferring Developer, the City shall promptly memorialize such release in writing upon satisfaction of the foregoing conditions. A default under this Development Agreement by Developer shall not be considered or acted upon by the City as a default by the transferee and shall not affect the transferee's rights or obligations hereunder,. Likewise, a default by a transferee relating to the transferred portion(s) of the Site shall not be considered or acted upon by the City as a default by Developer and shall not affect Developer's rights and obligations hereunder. Notwithstanding the forgoing, if a default of this Development Agreement is of a continuing nature that affects continued development of the Project including, but not limited to a failure to complete public improvements in accordance with the Project Approvals as needed to provide service to the Project or the payment of any tax, fee or assessment such default shall be the continuing responsibility of the transferee, if the transferee has accepted the obligation to complete public improvements.

SECTION 12. LENDERS

A. Rights of Lender. Should Developer place or cause to be placed any encumbrance or lien on the Project, or any part thereof, the beneficiary ("Lender") of such encumbrance or lien shall have the right at any time during the Term of this Development Agreement and the existence of such encumbrance or lien to: (i) do any act or thing required of Developer under this Development Agreement, or cure any default of Developer under this Development Agreement within the time limits set forth in this Development Agreement, and any such act or thing done or performed by Lender or cure shall be as effective as if done by Developer; (ii) realize on the security afforded by the encumbrance or lien by exercising foreclosure proceedings or power of sale or other remedy afforded in law or in equity or by the security document evidencing the encumbrance or lien (hereinafter referred to as "a trust deed"); (iii) transfer, convey or assign the title of Developer to the Site to any purchaser at any foreclosure sale, whether the foreclosure sale be conducted pursuant to court order or pursuant to a power of sale contained in a trust deed; and (iv) acquire and succeed to the interest of Developer by virtue of any foreclosure sale, whether the foreclosure sale is conducted pursuant to a court order or pursuant to a power of sale contained in a trust deed. Should any Lender request an amendment of this Development Agreement in respect of the rights and remedies granted to a Lender, the City shall consider such an amendment in good faith and in accordance with state and local law so long as the proposed amendment does not materially and adversely affect the rights, powers, and remedies of the City in respect of a default by Developer hereunder.

B. Notice to Lender. City shall give written notice of any default or breach under this Development Agreement by Developer to Lender (if known by the City)

simultaneously with such notice of default the City gives to Developer and afford Lender the opportunity after receipt of service of the notice to: (i) cure the breach or default within thirty (30) days after service of such notice, where the default can be cured by the payment of money; (ii) cure the breach or default within thirty (30) days after service of such notice where the breach or default can be cured by something other than the payment of money and can be cured within that time; or (iii) cure the breach or default in such reasonable time as may be required where something other than payment of money is required to cure the breach or default and cannot be performed within thirty (30) days after such notice, provided that acts to cure the breach or default are commenced within a thirty (30) day period after service of such notice of default on Lender by the City and are thereafter diligently completed by Lender.

C. Action by Lender. Notwithstanding any other provision of this Development Agreement, a Lender may forestall any action by the City for a breach or default under the terms of this Development Agreement by Developer by commencing proceedings to foreclose its encumbrance or lien on the Site. The proceedings so commenced may be for foreclosure of the encumbrance by order of court or for foreclosure of the encumbrance under a power of sale contained in the instrument creating the encumbrance or lien. The proceedings shall not, however, forestall any such action by the City for the default or breach by Developer unless: (i) they are commenced within thirty (30) days after service on Developer (and on Lender if Lender's address is provided by notice to the City pursuant this Development Agreement) of the notice described hereinabove; (ii) they are, after having been commenced, diligently pursued in the manner required by law to completion within one year; and (iii) lender keeps and performs all of the terms, covenants, and conditions of this Development Agreement requiring the payment or expenditure of money by Developer until the foreclosure proceedings are complete or are discharged by redemption, satisfaction, or payment.

SECTION 13. NOTICES

Any notice or instrument permitted or required under this Development Agreement shall be deemed made when personally delivered or when mailed 72 hours after deposit in the United States Mail, certified mail postage prepaid and addressed to the party at the following addresses:

If to City: City of Banning
99 E. Ramsey Street
Banning, CA 92220
Attn: City Manager

If to Developer JDNJ ENTERPRISES, LLC
120 South Central Avenue, Suite 500
St. Louis. MO 63105

Attn: John C. Condas
Allen Matkins Leck Gamble Mallory & Natsis LLP

2010 Main Street, Suite 800
Irvine, CA 92614

Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

SECTION 14. EVENT OF DEFAULT

Developer is in default under this Development Agreement upon the occurrence of one or more of the following events or conditions:

A. A material warranty, representation, or statement made or furnished by Developer to City set forth herein or in any document incorporated by reference herein is false or proved to have been false in any material respect when it was made.

B. City finds and determines upon the basis of substantial evidence following an annual review pursuant to this Development Agreement, that Developer has not complied in good faith with any material term and/or condition of this Development Agreement, subject to notice and opportunity to cure as provided by this Development Agreement.

C. Developer breaches any of the terms or conditions of this Development Agreement, after notice and opportunity to cure as provided in this Development Agreement.

SECTION 15. ENFORCEMENT

A. Notice; Cure. In the event of a default under the provisions of this Development Agreement by Developer or City, the non-breaching party shall give written notice to the defaulting party (or its successor) by registered or certified mail addressed at the address stated in this Development Agreement, and if such violation is not corrected to the reasonable satisfaction of the non-breaching party within thirty (30) days after such notice is served on the defaulting party, or if such breach or default cannot be cured within such thirty (30) days (excluding monetary defaults) and provided that acts to cure the breach or default must be commenced within such thirty (30) days and must thereafter be diligently pursued to completion by the defaulting party, then the non-breaching party may, without further notice, declare a default under this Development Agreement and, upon any such declaration of default, if the City is the defaulting party, Developer may bring any action necessary to specifically enforce the obligations of City. If Developer is the defaulting party, then City may give notice to Developer of its intent to terminate or modify this Development Agreement, in which event the matter shall be scheduled for consideration and review by the City Council.

B. Remedies. The Parties acknowledge that money damages and remedies at law generally are inadequate and specific performance and other non-monetary relief are particularly appropriate remedies for the enforcement of this Development Agreement and should be available to the Parties for the following reasons: due to the size, nature, and scope of the Project, it may not be practical or possible to

restore the Property to its natural condition once implementation of this Development Agreement has begun. After such implementation, Developer may be foreclosed from other choices it may have had to utilize the Site or portions thereof. Developer has invested significant time and resources and performed extensive planning and processing of the Project in agreeing to the terms of this Development Agreement and will be investing even more significant time and resources in implementing the Project in reliance upon the terms of this Development Agreement, and it is not possible to determine the sum of money which would adequately compensate Developer for such efforts. Accordingly, it is expressly recognized that injunctive relief and specific enforcement of this Development Agreement are proper and desirable remedies, and it is agreed that in any claim by Developer against City for an alleged breach of this Development Agreement may avail itself to injunctive relief or an appropriate action for specific enforcement of this Development Agreement. It is agreed that specific performance is not available to City against Developer, although City can seek the remedy of injunctive relief, declaratory relief or any other appropriate remedy against Developer.

C. Nonperformance by Developer. Nonperformance by Developer shall not be excused because performance by Developer of the obligations herein contained would be unprofitable, difficult, or expensive, or because of a failure of any third party or entity, other than City.

SECTION 16. PARTIES NOT LIABLE FOR DAMAGES

It is acknowledged by the Parties that the City and Developer would not have entered into this Development Agreement if either could be held liable in damages under or with respect to this Development Agreement or the application thereof. Consequently, and except for the payment of attorneys' fees in accordance with this Development Agreement, the City shall not be liable in damages to Developer, or to any assignee, transferee, or any other person, and Developer shall not be liable in damages to City. Developer and City jointly covenant on behalf of itself and its successors in interest not to sue for or claim any damages: (i) for any breach of this Development Agreement; (ii) for the taking, impairment or restriction of any right or interest conveyed or provided hereunder or pursuant hereto; (iii) arising out of or connected with any dispute, controversy, or issue regarding the application or interpretation or effect of the provisions of this Development Agreement; or (iv) for any injury to or interference with the rights of Developer, allegedly or actually arising out of, or incurred in connection with, the Parties entering this Development Agreement, or their exercise of any rights under this Development Agreement. Notwithstanding the forgoing, City shall not be excluded from seeking money damages for non-payment of the Electric Facilities Fee or the Transportation Public Benefit Fee, including attorney fees. In addition, Developer shall not be excluded from seeking its attorneys fees in the case of a breach of this Agreement by City.

SECTION 17. INDEMNIFICATION AND LEGAL CHALLENGE

A. Claims For Damage For Personal Injuries. To the maximum extent permitted by law, Developer must defend, indemnify, and hold the City and its elected officials, officers, contractors serving as City officials, agents, and employees ("Indemnitees") harmless from liability for damage and/or claims for damage for personal injuries, including death, and claims for property damage, and with respect to all other actions and liabilities for damages caused or alleged to have been caused by reason of Developer's activities in connection with the development and/or construction of the Project, and which may arise from the direct or indirect operations of Developer or those of Developer's contractors, agents, tenants, employees, or any other persons acting on Developer's behalf, which relate to the development and/or construction of the Project. This indemnity provision applies to all damages and claims for damage, as described above, regardless of whether or not the City prepared, supplied, or approved the plans, specifications, or other documents for the Project, including any associated public or private improvements.

B. Prevailing Wages. Without limiting the generality of the preceding paragraph (A), Developer shall defend, indemnify, and hold the Indemnitees harmless from and against any and all claims, liabilities, losses, damages, costs, and expenses arising from or related to any claims that Developer or Developer's contractors are required to pay prevailing wages pursuant to Labor Code Section 1720 et seq., in connection with the development of the Project or any public improvements.

C. Third Party Legal Challenge. Without limiting the generality of preceding paragraph A, in the event of any legal action challenging the validity, applicability, or interpretation of any provision of this Development Agreement, any of the entitlement documents pertaining to the Project including, without limitation, the City's General Plan, Zoning Code, or any other supporting document relating to the Project, Developer shall also indemnify, defend, and hold harmless the Indemnitees with respect to all liability, costs, and expenses incurred by, and/or awarded against, the City or any of the Indemnitees in relation to such action.

D. Legal Counsel; Cash Deposit. With respect to any legal action or claim falling within Developer's defense, indemnity, and hold harmless obligations, the City shall have the right to select counsel of its choice and the Parties shall cooperate in the defense. The City's separate counsel billing rates shall be identical to the rates City pays for its typical municipal litigation rates for legal challenges of the variety being defended. Developer shall provide, and maintain for the duration of such action or claim, a cash deposit to City in an amount or amounts determined by the City Attorney to be reasonably necessary to cover the City's legal fees, costs, and expenses. Developer shall not be entitled to a refund of funds expended from the deposit regardless of the outcome of the action or claim. The City shall refund to Developer any unexpended funds from the deposit within thirty (30) days of any final disposition or full and complete settlement of the action or claim.

E. Continued Effect of Development Agreement. In the event of any litigation challenging the effectiveness of this Development Agreement, or any portion hereof, this Development Agreement shall remain in full force and effect while such litigation, including any appellate review, is pending, unless otherwise ordered by the court. Absent issuance of an injunction, Developer may elect to continue development of the Project under this Development Agreement pending completion of the litigation but it shall do so at its sole risk, and the City shall not be liable for any loss suffered as a result thereof. City shall perform all obligations under this Development Agreement, including the timely processing of all applications submitted by Developer in connection with the Project.

F. Survival. This Section shall survive this the expiration or earlier termination of this Development Agreement. Notwithstanding the foregoing, Developer's obligation to indemnify any Indemnitee due to personal injury or property injury suffered in connection with Developer's design and construction of any public facility, shall terminate one (1) year after City accepts Developer's dedication of such public facility.

SECTION 18. ENTIRE AGREEMENT

This Development Agreement and the Exhibits therein contain the entire agreement between the Parties, and is intended by the Parties to completely state the Development Agreement in full. Any agreement or representation respecting the matters dealt with herein or the duties of any Party in relation thereto, not expressly set forth in this Development Agreement, is null and void.

SECTION 19. AMENDMENT OR CANCELLATION

Except as otherwise provided for herein, this Development Agreement may be amended or canceled in whole or in part only by mutual consent of the Parties, or their successors in interest, and in the manner provided in Gov. Code, §§ 65865.1, 65867, 65867.5.

SECTION 20. OPERATING MEMORANDA

The provisions of this Development Agreement require a close degree of cooperation between the City and the Developer. It is anticipated due to the term of this Development Agreement that non-substantive interpretation of the Development Approvals may be appropriate with respect to the details of performance of the City and the Developer. To the extent allowable by law and this Development Agreement, the City and Developer shall retain a certain degree of flexibility with respect to all matters, items and provisions covered in general under this Development Agreement. The Developer may request minor changes, adjustments or clarifications under this Agreement and the City and Developer may effectuate such changes, adjustments or clarifications through operating memoranda ("Operating Memoranda") approved by the Parties in writing, which reference this Section of the Development Agreement. Operating Memoranda shall not constitute an amendment to this Development Agreement but mere ministerial interpretations or clarifications; therefore, public notices and hearings shall not be required. The City Attorney shall be authorized, upon consultation with the Developer, to determine whether

a requested interpretation or clarification may be effectuated pursuant to this Section or whether the requested clarification is of such character to constitute an amendment to the Development Agreement which requires compliance with the provisions of this Development Agreement pertaining to amendments. The authority to enter into such Operating Memoranda is hereby delegated to the City Manager, and the City Manager is hereby authorized in his or her discretion to execute any Operating Memoranda permitted hereunder without Planning Commission or City Council action and without public hearing.

SECTION 21. MISCELLANEOUS PROVISIONS

A. Binding Effect. This Development Agreement shall bind, and the benefits and burdens hereof shall inure to, the respective Parties hereto and their legal representatives, executors, administrators, successors and assigns, wherever the context requires or admits.

B. Headings. Headings used in this Development Agreement are for reference purposes only and shall not be deemed a part of this Development Agreement.

C. Exhibits. Each exhibit referenced in this Development Agreement is hereby incorporated into the Development Agreement as if set forth in full herein. In the event of any material discrepancy between the terms of any exhibit so incorporated and the terms of this Development Agreement, the terms of this Development Agreement shall control.

D. Time of Essence. Time is of the essence in every provision hereof in which time is a factor.

E. Force Majeure. In the event that any party hereto shall be delayed or hindered or prevented from performance of any act required hereunder by reason of acts of God, strikes, lockouts, labor troubles, riots, insurrection, terrorism, war, pandemics, epidemics or other reason of similar nature not the fault of the party delayed in performing the work or doing the acts required under the terms of this Development Agreement, then the performance of such act shall be excused for the period of the delay caused by the foregoing. Financial inability shall not be deemed an excuse for delay under this Section.

F. Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a party shall give the other party any contractual rights by custom, estoppel, or otherwise.

G. Cooperation. Each of the Parties shall cooperate with and provided reasonable assistance to the other to the extent contemplated hereunder in the performance of all obligations under this Development Agreement and the satisfaction of the conditions of this Development Agreement.

H. City Manager Authority. Any consent, approved or other instrument described in this Development Agreement may be granted, given or executed on behalf of the

City by the City Manager or their written designee without the need for further authorization from the City Council; provided, however that, notwithstanding the foregoing, the City Manager or their designee may, in their sole discretion, refer to the City Council any item for which the City Manager has authority to act hereunder.

I. Conflicts of Interest; Prohibited Interests. Developer warrants and maintains as of the Effective Date of this Development Agreement that it has no knowledge that any officer or employee of City has any interest, whether contractual, noncontractual, financial, proprietary, or otherwise, in this transaction or in the business of Developer. If any information regarding an officer of employee of the City having an interest in this transaction or in the business of Developer as of the Effective Date of this Development Agreement comes to the knowledge of Developer at any time during the Term of this Development Agreement, Developer shall immediately make a complete, written disclosure of such interest to the City, even if such interest would not be deemed a prohibited "conflict of interest" under applicable laws. If the City subsequently is provided information that Developer had knowledge but failed to disclose knowledge of any such interest, and Developer fails to acknowledge such interest within 14 days of notification by the City, Developer's failure shall constitute a breach of the Development Agreement subject to the provisions of Section 14 of this Development Agreement.

J. Applicable Law and Venue. This Development Agreement shall be construed in accordance with and governed by the laws of the State of California. Venue for any action or litigation brought for breach or to enforce any provision of this Development Agreement shall be the County of Riverside, California.

K. Partial Invalidity. If any provisions of this Development Agreement shall be deemed to be invalid, illegal, or unenforceable, the validity, legality, or enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

L. Attorneys' Fees. In any proceedings arising from the enforcement of this Development Agreement or because of an alleged breach or default hereunder, the prevailing party shall be entitled to recover its costs and reasonable attorneys' fees and experts' fees incurred during the proceeding (including appeals) as may be fixed within the discretion of the court.

M. Corporate Authority. Each person executing this Development Agreement on behalf of Developer warrants that he or she is duly authorized to execute this Development Agreement on behalf of Developer and that by his or her execution, Consultant is formally bound to the provisions of this Development Agreement.

N. Counterparts. This Development Agreement may be executed by the Parties in counterparts, which counterparts shall be construed together and have the same effect as if all of the Parties had executed the same instrument.

O. No Third-Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the Parties and their successors and assigns. No other person shall have any right of action based upon any provision of this Development Agreement.

P. Legally Binding Contract; Enforceability. It is the intent of City and Developer that this Development Agreement is a legally binding contract which shall prevail over the provisions of any subsequently enacted moratoria, statutes, ordinances, limitations, or other measures, enacted by City, or under the authority of City by voter initiative or referendum, and which initiative, moratorium, referendum, statute, ordinance, limitation, or other measure relates, in whole or in part, to the rate, timing, sequence, or phasing of the development or construction of all or part of the Project or the improvements or affecting parcel or subdivision maps, building permits, occupancy certificates, or other entitlement to use the Site which are issued by City, subject only to the rights and powers reserved to City under the terms of this Development Agreement and the requirements of California law

IN WITNESS WHEREOF, the undersigned have executed this Development Agreement as of the day and year first above-written.

CITY

CITY OF BANNING,
a California municipal corporation

By: _____

Mayor

ATTEST:

By: _____
Marie Calderon
City Clerk

APPROVED AS TO FORM:

By: _____

City Attorney

DEVELOPER

JDN ENTERPRISES, LLC,
a Missouri limited liability corporation

By: _____
{Name}
{Title}

By: _____
{Name}
{Title}

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EXHIBIT A

SITE LEGAL DESCRIPTION

{INSERT LEGAL DESCRIPTION}

EXHIBIT B

DIF SCHEDULE AS OF EFFECTIVE DATE

EXHIBIT C

HATHAWAY IMPROVEMENTS

The following shall be completed to the satisfaction of the City Engineer:

- Along the west side of N Hathway Street between E Williams Street and E George Street, install City standard sidewalk behind curb and gutter, and install city standard curb ramps at intersections. Install new residential driveways as necessary to maintain access to existing driveway locations.

- Within the existing right-of-way and pavement along the west side of N Hathway Street between E Williams Street and future Wilson Street, install striping for a new 6 ft. bike lane.

- Within the existing right-of-way and pavement along the east side of N Hathway Street between E Williams Street and existing Nicolet Street, install striping for a new 6 ft. bike lane.

- At the intersection of E Jacinto View Road and N Hathway Street, provide traffic measure to restrict Project traffic from access to E Jacinto View Rd

- At the intersection of E Nicolet Street and N Hathway Street, provide traffic measure to restrict Project traffic from access to E Nicolet Street

- At the intersection of E George Street and N Hathway Street, provide traffic measure to restrict Project traffic from access to E George Street

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St. Louis, MO 63105

April 2, 2025

David Newell, Community Development Director
City of Banning
99 E. Ramsey Street
Banning, CA 92220

Re: Banning Commerce Center – Planning Commission Questions

David,
In response to the questions asked by several members of the Planning Commission during our project's public hearing on 3/5/25, We are providing the following responses:

1. The was a question as to whether the project adequately addressed the MSHCP Criteria Cell and Special Linkage.

   MSHCP: The Project site is not located in a criteria area or cell, so a HANS process is not required. The EIR and Bio reports address the special linkage area (SLA). The City of Banning's General Plan defers to the CEQA process Guidelines where MSHCP guidelines are silent about the SLA. As such, the Project analyzed its impact on wildlife movement consistent with Appendix G to the State CEQA Guidelines. All regional wildlife movements of large mammals are generally constrained to the San Gorgonio River due to physical obstructions existing elsewhere. While not required for the mitigation of impact to wildlife movements (which are less than significant) the Project is providing the mitigation area (for impacts to jurisdictional features) and the undercrossing of Wilson which would provide connectivity through the Project site.

   Additionally, the Project met with members of the RCA, USACE, RWQCB, EPA, USFWS, CDFW, and RCFCWCD ("the Agencies") for two pre-app meetings on February 7, 2023, and December 13, 2023, to seek input from the Agencies on the proposed on-site mitigation for impacts to jurisdictional features. The Agencies provided input and asked for the provision of an undercrossing of Wilson Street with the adequate openness ratio to support wildlife movement and for the preparation of a sediment transport study. The Project provides both.

2. A member of the commission asked of the status of the project's Riverside County Airport Land Use Commission (ALUC) review.

   ALUC Review: The Riverside County Airport Land Use Commission issued a Director's Determination on April 1, 2025, finding that the Project is consistent with the 2004 Banning Municipal Airport Land Use Compatibility Plan, as amended in 2016. This letter was sent to the City Community Development Department – Planning Division. Refer to ALUC File No. ZAP1053BA25.

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St. Louis, MO 63105

3. There was a question from a Planning Member about the cumulative traffic impacts as it relates to the existing warehouse at 2600 John Street.

   Traffic: The cumulative projects list did not need to include the Banning Distribution Center project since it was already constructed and any traffic from that site would have been captured in the counts. The TA then applied an escalation/yearly increase of traffic to account for growth. The methodology was appropriate and is consistent with the City's traffic analysis guidelines and industry standards.

Thank you for the opportunity to address these concerns. We are looking forward to being heard before City Council in May to Present our project for further review and approval. If there is any additional information required from the project's design team, please let us know.

Sincerely,



Ryan D. Hodges
Development Services Director

RIVERSIDE COUNTY
AIRPORT LAND USE COMMISSION

April 1, 2025

David Newell, Planning Director
City of Banning Community Development Department – Planning Division
99 E. Ramsey Street
Banning, CA 92220

RE: AIRPORT LAND USE COMMISSION (ALUC) DEVELOPMENT REVIEW – DIRECTOR'S DETERMINATION

File No.:	ZAP1053BA25
Related File No.:	DR21-7014 (Development Review), TPM38756 (Tentative Parcel Map)
APN:	532-030-008, 532-030-009, 532-080-008, 532-080-010, 532-090-026, 532-090-025, 532-090-030, 532-110-015

Dear Mr. Newell,

Under the delegation of the Riverside County Airport Land Use Commission (ALUC) pursuant to ALUC's general delegation as per Policy 1.5.2(d) of the Countywide Policies of the 2004 Riverside County Airport Land Use Compatibility Plan, staff reviewed City of Banning Case Nos. DR21-7014 (Development Review), TPM38756 (Tentative Parcel Map), a proposal to establish 1,320,128 square foot industrial building with office area on 131.28-acres, located southerly of Wilson Street, easterly of O'Donnell Street, northerly of Interstate Highway 10, and westerly of Future Cottonwood Road. The applicant also proposes splitting the site into three separate parcels.

The site is located within Airport Compatibility Zone D of the Banning Municipal Airport Influence Area (AIA). Zone D restricts non-residential intensity to 200 people per average acre and 800 people per single acre. The project proposes 1,280,684 square feet of warehouse area (2,561), 19,800 square feet of first floor office area, and 19,800 square feet of second floor office mezzanine (198), accommodating 2,930 people, resulting in an average acre intensity of 21 people and a single acre intensity of 206 people, both of which are consistent with the Zone D intensity criteria.

The elevation of Runway 8-26 at its westerly terminus is 2,119 feet above mean sea level (AMSL). At a distance of approximately 2,715 feet from the runway to the site, Federal Aviation Administration Obstruction Evaluation Service (FAA OES) review would be required for any structures with top of roof exceeding 2,147 feet AMSL. The site's finished floor elevation is 2,205 feet AMSL and the proposed building height is 50 feet, for a top point elevation of 2,255 feet AMSL. Therefore, FAA Obstruction Evaluation Service review for height/elevation reasons was required. The applicant submitted Form 7460-1 to the FAA OES. A "Determination of No Hazard to Air Navigation" letter for Aeronautical Study No. 2023-AWP-760-OE was issued on November 8, 2022. The study revealed that the proposed facility would not exceed obstruction standards and would not be a hazard to air navigation provided conditions are met. These FAA OES conditions have been incorporated into this finding.

Land use practices that attract or sustain hazardous wildlife populations on or near airports significantly increase the potential of Bird Aircraft Strike Hazards (BASH). The FAA strongly recommends that storm water management systems located within 5,000 or 10,000 feet of the

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County Administrative Center
4080 Lemon St., 14th Floor
Riverside, CA 92501
(951) 955-5132

www.rcaluc.org

Airport Operations Area, depending on the type of aircraft, be designed and operated so as not to create above-ground standing water. To facilitate the control of hazardous wildlife, the FAA recommends the use of steep-sided, rip-rap lined, narrow, linearly shaped water detention basins. All vegetation in and around detention basins that provide food or cover for hazardous wildlife should be eliminated. (FAA Advisory Circular 5200-33B). The project is located 2,715 feet from the runway, and therefore would be subject to the above requirement. The project would utilize Infiltration basins, which are permitted when necessary. Pursuant to the study "Wildlife Hazard Management at Riverside County Airports: Background and Policy", October 2018, by Mead & Hunt, which is the basis of the brochure titled "Airports, Wildlife and Stormwater Management", such basins are permitted in Zone D but must provide for a 48-hour drawdown and propose landscaping that is not attractive to hazardous wildlife. The project has been conditioned to be consistent with these standards in order to reduce bird attractant: 1) new basins are to be designed so as to provide for a maximum 48-hour detention period following the conclusion of a storm event, and to remain totally dry between rainfalls, and 2) any landscaping proposed in the detention basin shall be in accordance with the ALUC "Landscaping Near Airports" and "Airports, Wildlife and Stormwater Management" brochures.

Pursuant to the Banning Land Use Compatibility Plan, the project site is located within Compatibility Zone D. The Compatibility Plan requires projects 10 acres or larger to designate 10% of project area as ALUC qualifying open area that could potentially serve as emergency landing areas.

Based on the project size (131.28 acres) located within Compatibility Zone D, the project is required to provide a minimum 13 acres of open area consistent with ALUC open area criteria. The applicant has provided a total of 15.19 acres of open area within the drive aisles and parking areas. These areas are conditioned to maintain a minimum shape of 75 feet in width and 300 feet in length, and shall be kept obstacle and obstruction free per ALUC open area definition (no objects greater than four feet in height with a diameter of four inches or greater).

As ALUC Director, I hereby find the above-referenced project **CONSISTENT** with the 2004 Banning Municipal Airport Land Use Compatibility Plan, as amended in 2016, provided that the City of Banning applies the following recommended conditions:

CONDITIONS:

1. Any outdoor lighting installed shall be hooded or shielded to prevent either the spillage of lumens or reflection into the sky. Outdoor lighting shall be downward facing.

2. The following uses shall be prohibited:

   (a) Any use which would direct a steady light or flashing light of red, white, green, or amber colors associated with airport operations toward an aircraft engaged in an initial straight climb following takeoff or toward an aircraft engaged in a straight final approach toward a landing at an airport, other than an FAA-approved navigational signal light or visual approach slope indicator.

   (b) Any use which would cause sunlight to be reflected towards an aircraft engaged in an initial straight climb following takeoff or towards an aircraft engaged in a straight final approach towards a landing at an airport.

   (c) Any use which would generate smoke or water vapor or which would attract large concentrations of birds, or which may otherwise affect safe air navigation within the area. (Such uses include landscaping utilizing water features, aquaculture, outdoor production of cereal grains, sunflower, and row crops, composting operations, wastewater management facilities, artificial marshes, trash transfer stations that are open on one or more sides, recycling centers containing putrescible wastes, construction and demolition debris facilities, fly

ash disposal, and incinerators.)

(d) Any use which would generate electrical interference that may be detrimental to the operation of aircraft and/or aircraft instrumentation.

(e) Highly noise-sensitive outdoor nonresidential uses.

(f) Any use which results in a hazard to flight, including physical (e.g., tall objects), visual, and electronic forms of interference with the safety of aircraft operations.

3. The attached "Notice of Airport in Vicinity" shall be provided to all prospective purchasers and occupants of the property and be recorded as a deed notice. In the event that the Office of the Riverside County Assessor-Clerk-Recorder declines to record said notice, the text of the notice shall be included on the Environmental Constraint Sheet (ECS) of the final parcel map, if an ECS is otherwise required.

4. Any proposed stormwater basins or facilities shall be designed and maintained to provide for a maximum 48-hour detention period following the design storm, and remain totally dry between rainfalls. Vegetation in and around the basins that would provide food or cover for birds would be incompatible with airport operations and shall not be utilized in project landscaping. Trees shall be spaced so as to prevent large expanses of contiguous canopy, when mature. Landscaping in and around the basin(s) shall not include trees or shrubs that produce seeds, fruits, or berries.

   Landscaping in the stormwater basin, if not rip-rap, should be in accordance with the guidance provided in ALUC "LANDSCAPING NEAR AIRPORTS" brochure, and the "AIRPORTS, WILDLIFE AND STORMWATER MANAGEMENT" brochure available at RCALUC.ORG which list acceptable plants from Riverside County Landscaping Guide or other alternative landscaping as may be recommended by a qualified wildlife hazard biologist.

   A notice sign, in a form similar to that attached hereto, shall be permanently affixed to the stormwater basin with the following language: "There is an airport nearby. This stormwater basin is designed to hold stormwater for only 48 hours and not attract birds. Proper maintenance is necessary to avoid bird strikes". The sign will also include the name, telephone number or other contact information of the person or entity responsible to monitor the stormwater basin.

5. This project has been evaluated as an industrial building consisting of a proposal to establish 1,320,128 square foot industrial building with office area on 131.28-acres. Any increase in building area or change in use will require an amended review by the Airport Land Use Commission.

6. At least 13 acres of ALUC-eligible open areas (at least 75 feet in width and 300 feet in length), as depicted on the Open Space exhibit, shall be kept obstacle and obstruction free per ALUC open area definition (no objects greater than four feet in height with a diameter of four inches or greater).

7. The Federal Aviation Administration has conducted aeronautical studies of the proposed structure (Aeronautical Study No. 20223-AWP-760-OE) and has determined that neither marking nor lighting of the structures is necessary for aviation safety. However, if marking and/or lighting for aviation safety are accomplished on a voluntary basis, such marking and/or lighting (if any) shall be installed in accordance with FAA Advisory Circular 70/7460-1 L Change 2 and shall be maintained in accordance therewith for the life of the project.

8. The maximum height of the proposed structures to top point shall not exceed 50 feet

above ground level, and the maximum elevation at the top of the structures shall not exceed 2,255 feet above mean sea level.

9. The maximum height and top point elevation specified above shall not be amended without further review by the Airport Land Use Commission and the Federal Aviation Administration; provided, however, that reduction in structure height or elevation shall not require further review by the Airport Land Use Commission.

10. Temporary construction equipment used during actual construction of the structures shall not exceed 50 feet in height and a maximum elevation of 2,255 feet above mean sea level, unless separate notice is provided to the Federal Aviation Administration through the Form 7460-1 process.

11. Within five (5) days after construction of each structure reaches its greatest height, FAA Form 7460-2 (Part II), Notice of Actual Construction or Alteration, shall be completed by the project proponent or his/her designee and e-filed with the Federal Aviation Administration. (Go to https://oeaaa.faa.gov for instructions.) This requirement is also applicable in the event the project is abandoned or a decision is made not to construct the applicable structure.

12. The project does not propose rooftop solar panels at this time. However, if the project were to propose solar rooftop panels in the future, the applicant/developer shall prepare a solar glare study that analyzes glare impacts, and this study shall be reviewed by the Airport Land Use Commission and Riverside County – Aviation Division as owner and operator of French Valley Airport. In the event of any reasonable complaint about glare related to aircraft operations, the applicant shall agree to such specific mitigation measures as determined or requested by Riverside County Aviation Division.

If you have any questions, please contact me at (951) 955-6893.

Sincerely,
RIVERSIDE COUNTY AIRPORT LAND USE COMMISSION

Paul Rull, ALUC Director

Attachment: Notice of Airport in Vicinity
Aeronautical Study No. 2023-AWP-760-OE

cc: Sansone Group (applicant)
Ryan Hodges (representative)
Lloyd L. Fields & Vulcan Iron and Steel Co. Inc. (property owner)
Art Vela, P.E., City of Banning Director of Public Works
Carl Szoyka, Manager, Banning Municipal Airport
ALUC Case File

\\tlma-22fsp02\ALUC\AIRPORT CASE FILES\Banning\ZAP1053BA25\ZAP1053BA25.LTR.doc

Banning Commerce Center Project_Final EIR
https://www.banningca.gov/DocumentCenter/View/14673/Banning-Commerce-Center-Project-FEIR_October-2024

Banning Commerce Center Project_FEIR Appendices
https://www.banningca.gov/DocumentCenter/View/14676/Banning-Commerce-Center-Project-FEIR_Appendices

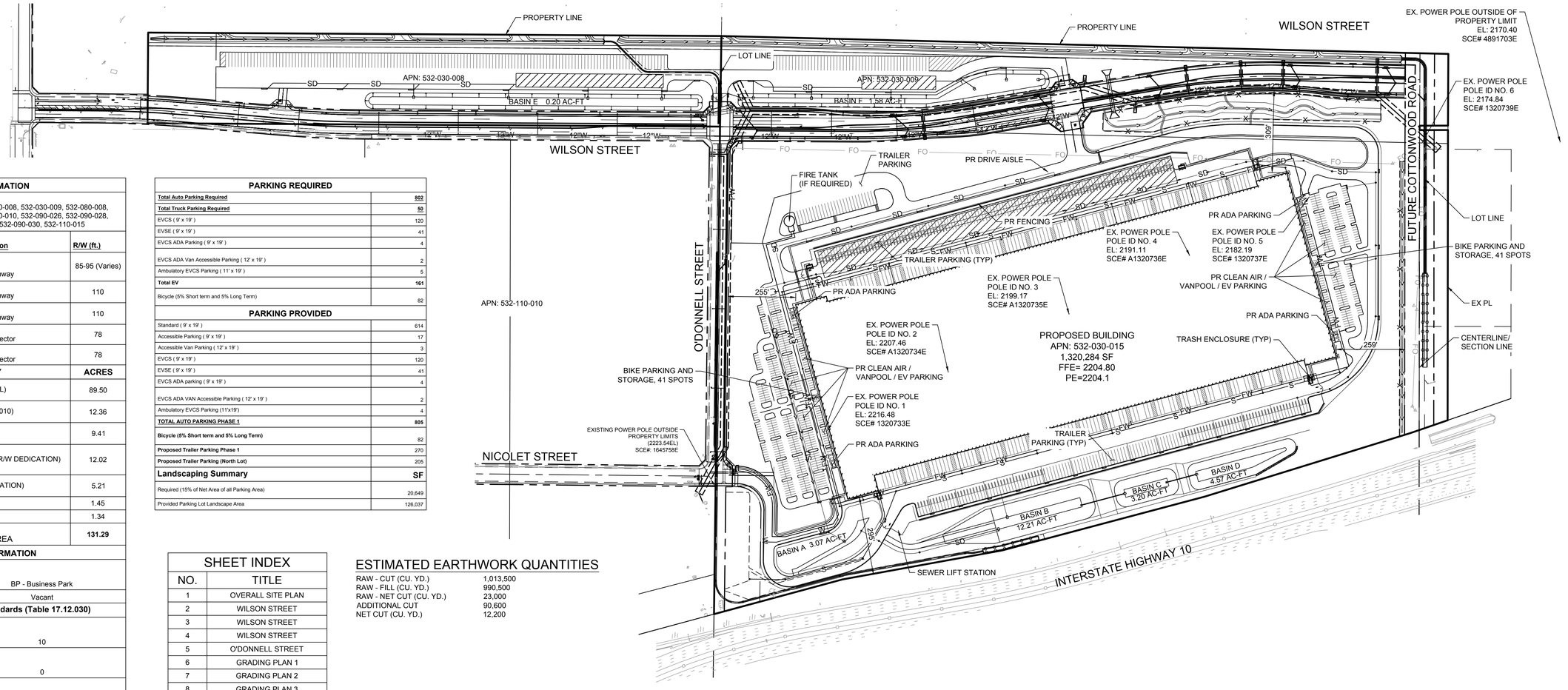
Banning Commerce Center Project_FOF and SOOC
https://www.banningca.gov/DocumentCenter/View/14674/Banning-Commerce-Center-Project_FOF-and-SOOC_20241025

Banning Commerce Center Project_MMRP
https://www.banningca.gov/DocumentCenter/View/14675/Banning-Commerce-Center-Project_MMRP

Banning Commerce Center Project_Draft EIR
https://www.banningca.gov/DocumentCenter/View/14414/Banning-Commerce-Center-Project-Draft-EIR

Banning Commerce Center Project_Draft EIR Appendices
https://www.banningca.gov/DocumentCenter/View/14415/Banning-Commerce-Center-Project-Draft-EIR-Appendices

BANNING COMMERCE CENTER
PRELIMINARY DESIGN (30%)
DESIGN REVIEW DR21-7017



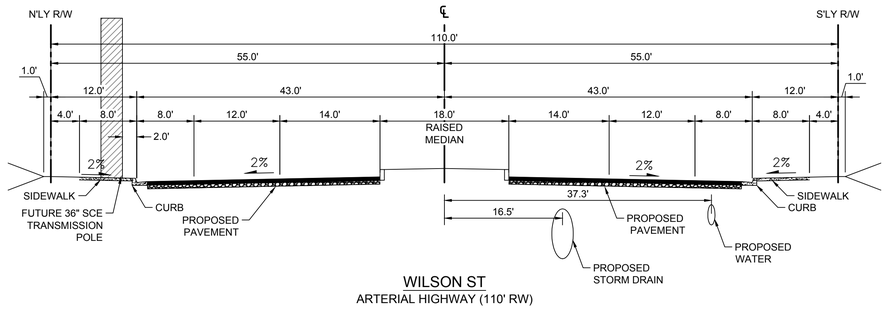
SITE INFORMATION		
ASSESSOR'S PARCEL NUMBER (APN)	532-030-008, 532-030-009, 532-080-008, 532-080-010, 532-090-026, 532-090-028, 532-090-030, 532-110-015	
Public Roads	**Classification**	**R/W (ft.)**
N HATHAWAY ST	Arterial Highway	85-95 (Varies)
Cottonwood Rd	Arterial Highway	110
Wilson St	Arterial Highway	110
E Nicolet St	Divided Collector	78
O'Donnell St	Divided Collector	78
PARCEL SUMMARY		**ACRES**
PARCEL 1 (PROPOSED BUILDING PARCEL)		89.50
PARCEL 2 (N'LY OF APN 532-110-001,009,010)		12.36
PARCEL 3 (WEST OF APN 532-080-008)		9.41
LOT "A" / WILSON ST. & O'DONNELL ST. (R/W DEDICATION)		12.02
LOT "B" / COTTONWOOD RD. (R/W DEDICATION)		5.21
LOT "C" CITY UTILITY LOT		1.45
LOT "D" CITY UTILITY LOT		1.34
TOTAL AREA		**131.29**
ZONING INFORMATION		
General Plan Land Use & Zoning	BP - Business Park	
Existing Use	Vacant	
Industrial Development Standards (Table 17.12.030)		
Min. Front Setback (Feet)	10	
Min. Rear Setback (Feet)	0	
Min. Side Yard Setback (Feet)	0	
Min. Street Side (Feet)	10	
Max. Bldg. Coverage (%)	75	
Maximum Height (stories/feet)	50	
Fence/Wall Height (ft.)	8	
Industrial Parking Requirements (Table 17.28.040B)		
General Offices	For up to 2000 square feet of gross floor area, one space for each 200 sq. ft. For 2001 to 7500 square feet of gross floor area, one space for each 250 sq ft. For over 7500 square feet of gross floor area, one space for each 300 sq ft.	
Industrial warehousing		
1—20,000 sq ft	Minimum of two spaces plus one space for each 1,000 sq. ft. of gross floor area	
Over 20,000 sq ft	22 spaces plus one space per 2,000 sq. ft. for portion over 20,000 sq ft	
Trucks	One tractor trailer space per 4 high dock doors	
Parking Stall Min (W x L)	9' x 19'	
Parking Lot Aisle Min	24'	

PARKING REQUIRED	
Total Auto Parking Required	**502**
Total Truck Parking Required	**50**
EVCS (9' x 19')	120
EVSE (9' x 19')	41
EVCS ADA Parking (9' x 19')	4
EVCS ADA Van Accessible Parking (12' x 19')	2
Ambulatory EVCS Parking (11' x 19')	5
Total EV	**161**
Bicycle (5% Short term and 5% Long Term)	82
PARKING PROVIDED	
Standard (9' x 19')	614
Accessible Parking (9' x 19')	17
Accessible Van Parking (12' x 19')	3
EVCS (9' x 19')	120
EVSE (9' x 19')	41
EVCS ADA parking (9' x 19')	4
EVCS ADA VAN Accessible Parking (12' x 19')	2
Ambulatory EVCS Parking (11'x19')	4
TOTAL AUTO PARKING PHASE 1	**805**
Bicycle (5% Short term and 5% Long Term)	82
Proposed Trailer Parking Phase 1	270
Proposed Trailer Parking (North Lot)	205
Landscaping Summary	**SF**
Required (15% of Net Area of all Parking Area)	20,649
Provided Parking Lot Landscape Area	126,037

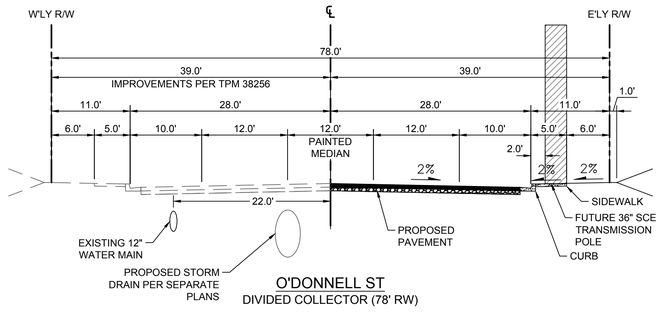
SHEET INDEX	
NO.	TITLE
1	OVERALL SITE PLAN
2	WILSON STREET
3	WILSON STREET
4	WILSON STREET
5	O'DONNELL STREET
6	GRADING PLAN 1
7	GRADING PLAN 2
8	GRADING PLAN 3
9	GRADING PLAN 4
10	GRADING PLAN 5
11	GRADING PLAN 6
12	GRADING PLAN 7
13	GRADING PLAN 8
14	GRADING PLAN 9
15	GRADING PLAN 10
16	GRADING PLAN 11
17	GRADING PLAN 12
18	UTILITY PLAN 1
19	UTILITY PLAN 2
20	UTILITY PLAN 3
21	UTILITY PLAN 4
22	UTILITY PLAN 5
23	UTILITY PLAN 6
24	UTILITY PLAN 7
25	UTILITY PLAN 8
26	UTILITY PLAN 9
27	UTILITY PLAN 10
28	UTILITY PLAN 11
29	UTILITY PLAN 12

ESTIMATED EARTHWORK QUANTITIES

RAW - CUT (CU. YD.)	1,013,500
RAW - FILL (CU. YD.)	990,500
RAW - NET CUT (CU. YD.)	23,000
ADDITIONAL CUT	90,600
NET CUT (CU. YD.)	12,200



WILSON ST
ARTERIAL HIGHWAY (110' RW)



O'DONNELL ST
DIVIDED COLLECTOR (78' RW)

NORTH

GRAPHIC SCALE IN FEET
0 100 200 400

UNDERGROUND SERVICE ALERT
call: TOLL FREE
1-800-422-4133
TWO WORKING DAYS BEFORE YOU DIG

REVISIONS

No.		APPR	DATE

PLANS PREPARED BY:
Kimley»Horn
KIMLEY-HORN AND ASSOCIATES, INC.
3801 UNIVERSITY AVE., SUITE 300
RIVERSIDE, CA 92501
PHONE: 951-543-9868
WWW.KIMLEY-HORN.COM
PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN
EUGENE D. COWAN III, RCE # 86803 — 11/5/2024 DATE

SUBMITTED BY:
SANSONE GROUP
120 S. CENTRAL AVENUE, SUITE 500
ST. LOUIS, MO 63105

FOR REVIEW ONLY
Prepared for Concept Plan submittal
Not for construction purposes or permits.
Kimley»Horn
Engineer: EUGENE D. COWAN III
P.E. No. 86803 Date: 11/5/2024

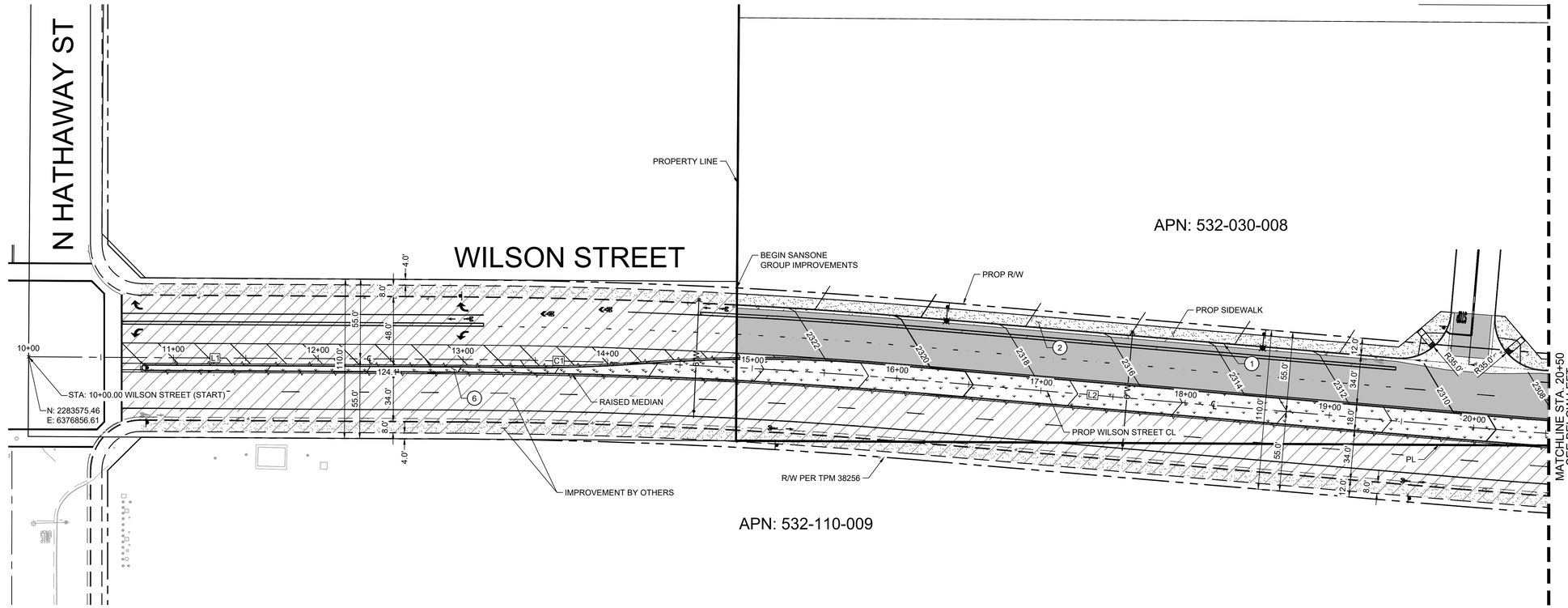
CITY OF BANNING
RECOMMENDED BY:
KEVIN SIN, RCE #71299, EXP 12/31/23 — DATE
SENIOR CIVIL ENGINEER
APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24 — DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

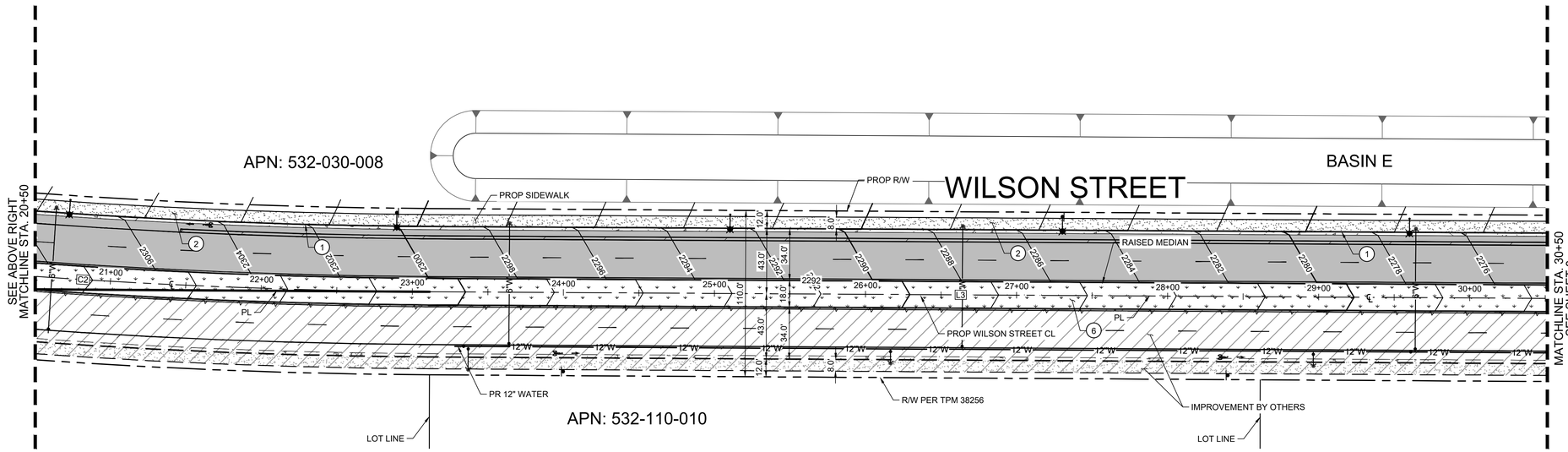
BANNING COMMERCE CENTER
PRELIMINARY DESIGN DR21-7017
OVERALL SITE PLAN

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 1 OF 29

1443

Plotted By: Cowan, Davie Sheet Set:BANNING LOGISTICS PRELIM Layout:1 PIG November 05, 2024 09:02:28am K:\RIV_LDEV\194455002 - Banning Logistics\CAD\Preliminary\Grading Plan - Cover.dwg
This document, together with the concepts and designs presented herein, as an instrument of service, is intended only for the specific purpose and client for which it was prepared. Reuse of and improper reliance on this document without written authorization and adaptation by Kimley-Horn and Associates, Inc. shall be without liability to Kimley-Horn and Associates, Inc.


N HATHAWAY ST
WILSON STREET
PROPERTY LINE
APN: 532-030-008
BEGIN SANSONE GROUP IMPROVEMENTS
PROP R/W
PROP SIDEWALK
10+00
11+00
12+00
13+00
14+00
15+00
16+00
17+00
18+00
19+00
20+00
STA: 10+00.00 WILSON STREET (START)
N: 2283575.46
E: 6376856.61
RAISED MEDIAN
PROP WILSON STREET CL
IMPROVEMENT BY OTHERS
R/W PER TPM 38256
APN: 532-110-009
MATCHLINE STA. 20+50
SEE BELOW LEFT
PL
55.0'
48.0'
34.0'
8.0'
4.0'
110.0'
18.0'
12.0'
835.0'


APN: 532-030-008
BASIN E
WILSON STREET
PROP SIDEWALK
PROP R/W
RAISED MEDIAN
SEE ABOVE RIGHT
MATCHLINE STA. 20+50
MATCHLINE STA. 30+50
SEE SHEET 3
21+00
22+00
23+00
24+00
25+00
26+00
27+00
28+00
29+00
30+00
PL
PROP WILSON STREET CL
PR 12" WATER
R/W PER TPM 38256
IMPROVEMENT BY OTHERS
APN: 532-110-010
LOT LINE
LOT LINE
43.0'
34.0'
18.0'
12.0'
8.0'
110.0'

LEGEND

- PROPERTY BOUNDARY
- PROPERTY LINE / RIGHT-OF-WAY
- CENTERLINE
- EASEMENT
- FENCE
- PROPOSED CONTOUR
- EXISTING CONTOUR
- RIDGE LINE
- STORM LINE
- WATER LINE
- ASPHALT PAVEMENT - BY OTHERS
- ASPHALT PAVEMENT
- CONCRETE PAVEMENT
- CONCRETE SIDEWALK
- LANDSCAPE
- STORM DRAIN STRUCTURE
- SEWER MANHOLE
- FIRE HYDRANT

PRELIMINARY STREET IMPROVEMENT NOTES

1. PROPOSED CURB AND GUTTER PER CITY OF BANNING STANDARD DRAWING C-200.
2. PROPOSED SIDEWALK PER CITY OF BANNING STANDARD DRAWING ST-100 & ST-101.1.
6. PROPOSED CENTER ROAD MEDIAN LANDSCAPE.

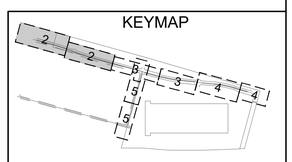
WILSON STREET GEOMETRIC DATA

	LENGTH	LINE/CHORD DIRECTION	R	T
L1	300.00'	S89°39'27"E		
C1	317.17'	S87°23'10"E	4,000.00'	158.67'
L2	377.15'	S85°06'52"E		
C2	317.12'	S87°23'09"E	4,000.00'	158.64'
L3	1,340.65'	S89°39'25"E		

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP



UNDERGROUND SERVICE ALERT
call: TOLL FREE
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REVISIONS

No.		APPR.	DATE

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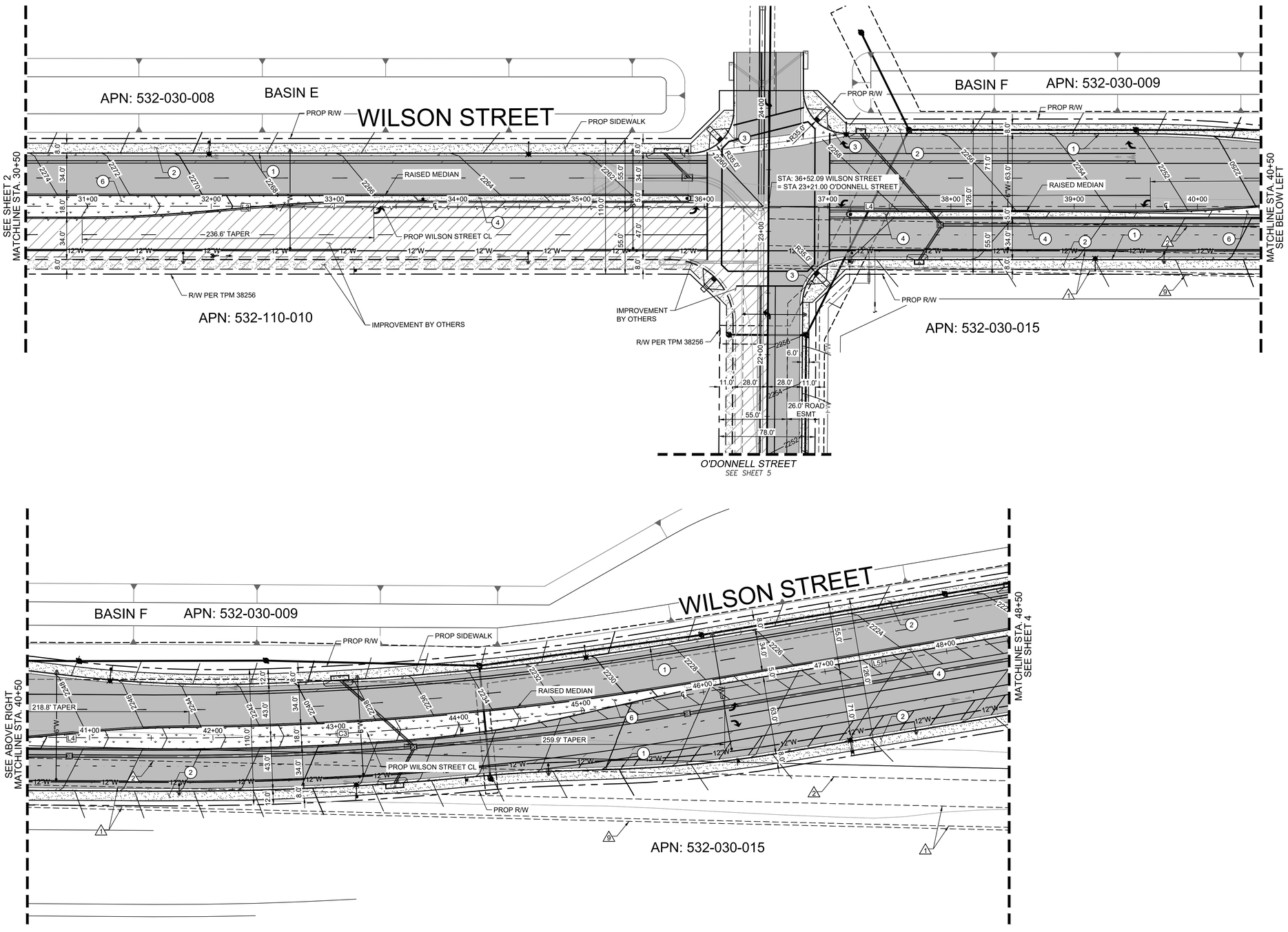
PRELIMINARY
FOR REVIEW ONLY
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Not for construction purposes.
Kimley»Horn
Engineer EUGENE D. COWAN III
P.E. No. 86803 Date 7/3/2024

CITY OF BANNING
RECOMMENDED BY:
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SENIOR CIVIL ENGINEER
APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24 DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

BANNING COMMERCE CENTER
PRELIMINARY DESIGN DR21-7017
WILSON STREET
STA 10+00 - STA 30+50

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 2 OF 29

Plotted By: Perez, Luis Sheet Set:BANNING LOGISTICS PRELIM Layout:13 WILSON ST July 03, 2024 04:56:59pm K:\RIV_LDEV\194455092 - banning logistics\CAD\preliminary\Preliminary Street Improvements - Wilson.dwg
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LEGEND

- PROPERTY BOUNDARY
- PROPERTY LINE / RIGHT-OF-WAY
- CENTERLINE
- EASEMENT
- FENCE
- PROPOSED CONTOUR
- EXISTING CONTOUR
- RIDGE LINE
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- ASPHALT PAVEMENT
- CONCRETE PAVEMENT
- CONCRETE SIDEWALK
- LANDSCAPE
- STORM DRAIN STRUCTURE
- SEWER MANHOLE
- FIRE HYDRANT

PRELIMINARY STREET IMPROVEMENT NOTES

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2. PROPOSED SIDEWALK PER CITY OF BANNING STANDARD DRAWING ST-100 & ST-101.1.
3. PROPOSED ADA SIDEWALK RAMPS PER RIVERSIDE COUNTY STD NO. 403.
4. PROPOSED CENTER ROAD MEDIAN PER CITY OF BANNING STANDARD DRAWING ST-101.1.
6. PROPOSED CENTER ROAD MEDIAN LANDSCAPE.

EASEMENTS

1. EXISITING 16' EASEMENT FOR SOUTHERN CALIFORNIA GAS COMPANY AND SOUTHERN COUNTIES GAS COMPANY.
2. EXISITING COMMUNICATION SYSTEMS EASEMENT FOR US SPRINT COMMUNICATIONS COMPANY.
9. EXISITING EASEMENT NO. 2018-0219574.

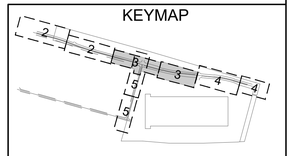
WILSON STREET GEOMETRIC DATA

	LENGTH	LINE/CHORD DIRECTION	R	T
L3	1,340.65'	S89°39'25"E		
L4	500.00'	S89°39'25"E		
C3	431.74'	N85°23'44"E	2,500.00'	216.41'
L5	745.52'	N80°26'54"E		

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP



UNDERGROUND SERVICE ALERT
call: TOLL FREE
1-800-422-4133
TWO WORKING DAYS BEFORE YOU DIG

REVISIONS

No.		APPR.	DATE

PLANS PREPARED BY:
KIMLEY-HORN AND ASSOCIATES, INC.
3801 UNIVERSITY AVE., SUITE 300
RIVERSIDE, CA 92501
PHONE: 951-543-9868
WWW.KIMLEY-HORN.COM
PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN
EUGENE D. COWAN III, RCE # 86803 — 7/3/2024 DATE

SUBMITTED BY:
SANSONE GROUP
120 S. CENTRAL AVENUE, SUITE 500
ST. LOUIS, MO 63105

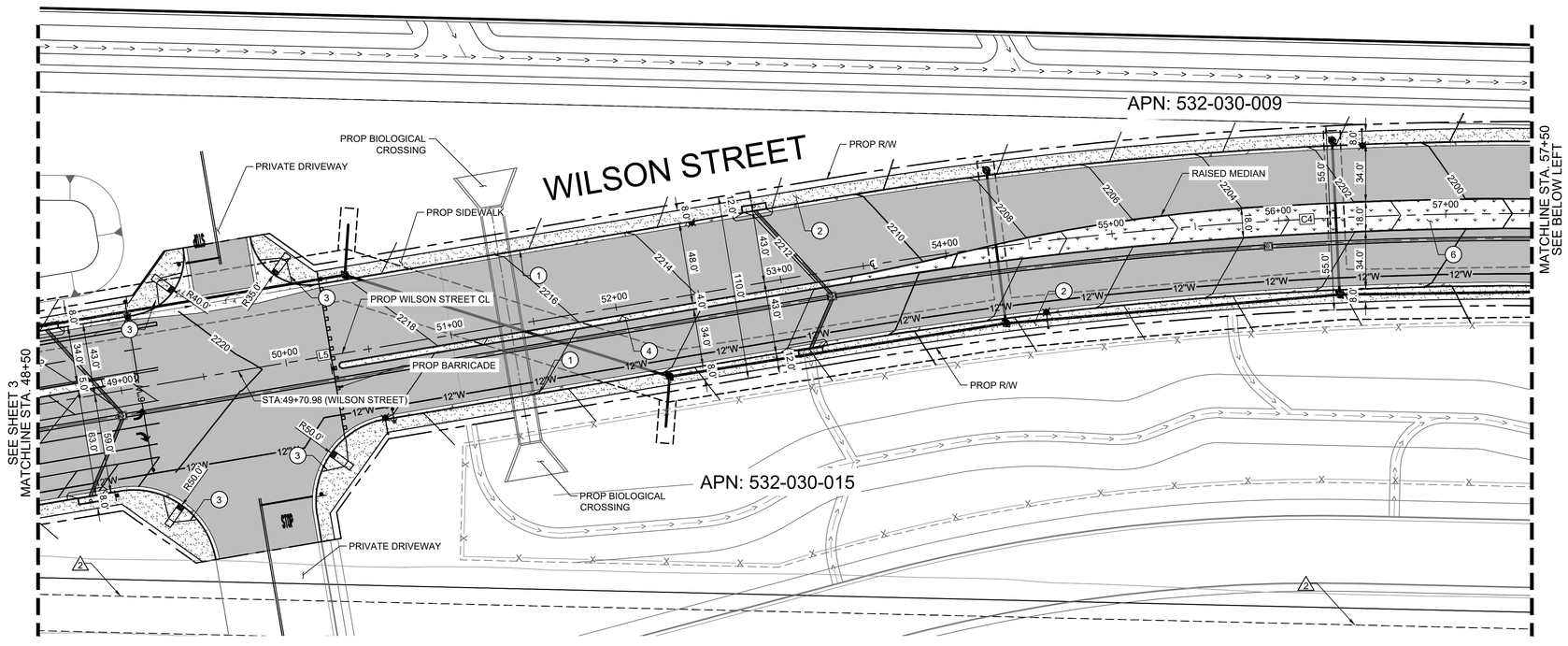
PRELIMINARY
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Prepared for Concept Plan submittal
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Kimley»Horn
Engineer EUGENE D. COWAN III
P.E. No. 86803 Date 7/3/2024

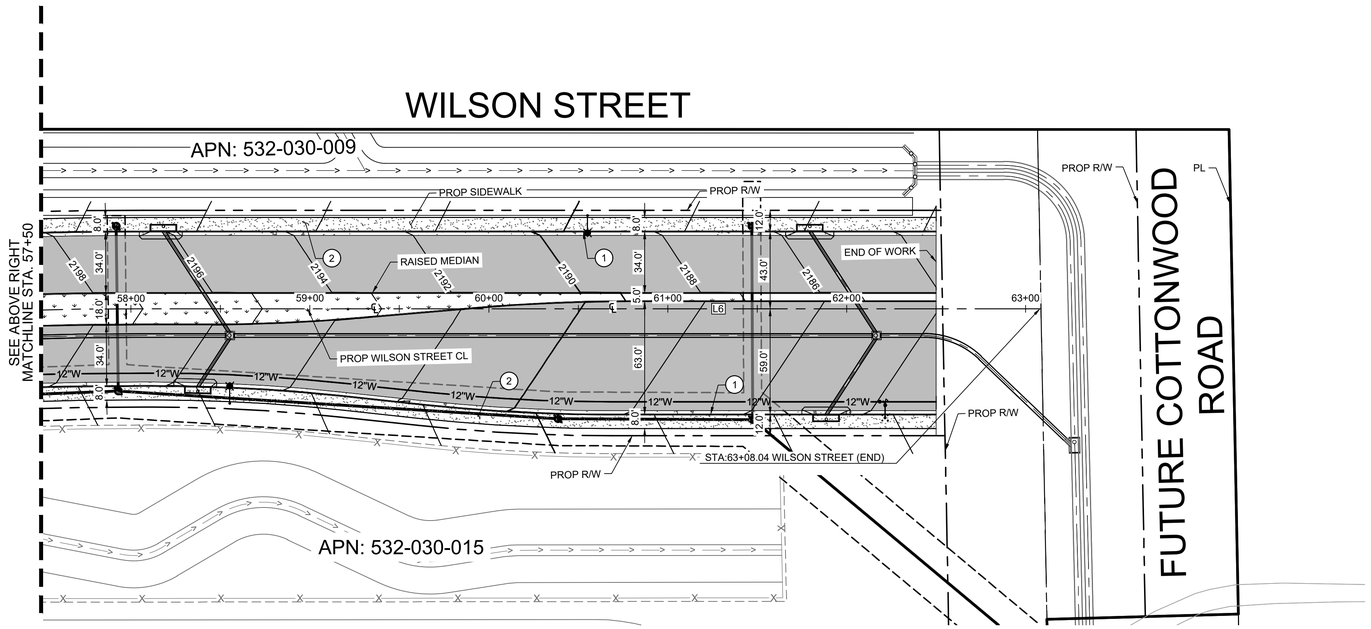
CITY OF BANNING
RECOMMENDED BY:
KEVIN SIN, RCE #71299, EXP 12/31/23 — DATE
SENIOR CIVIL ENGINEER
APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24 — DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

BANNING COMMERCE CENTER
PRELIMINARY DESIGN DR21-7017
WILSON STREET
STA 30+50 - STA 48+50

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 3 OF 29

Plotted By:Perez, Luis Sheet Set:BANNING LOGISTICS PRELIM Layout:14 WILSON ST July 03, 2024 04:57:14pm K:\RIV_LDEV\119445\002 - banning logistics\CAD\preliminary\Preliminary Street Improvements - Wilson.dwg
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LEGEND

- PROPERTY BOUNDARY
- PROPERTY LINE / RIGHT-OF-WAY
- CENTERLINE
- EASEMENT
- FENCE
- PROPOSED CONTOUR
- EXISTING CONTOUR
- RIDGE LINE
- STORM LINE
- WATER LINE
- ASPHALT PAVEMENT - BY OTHERS
- ASPHALT PAVEMENT
- CONCRETE PAVEMENT
- CONCRETE SIDEWALK
- LANDSCAPE
- STORM DRAIN STRUCTURE
- SEWER MANHOLE
- FIRE HYDRANT

PRELIMINARY STREET IMPROVEMENT NOTES

1. PROPOSED CURB AND GUTTER PER CITY OF BANNING STANDARD DRAWING C-200.
2. PROPOSED SIDEWALK PER CITY OF BANNING STANDARD DRAWING ST-100 & ST-101.1.
3. PROPOSED ADA SIDEWALK RAMPS PER RIVERSIDE COUNTY STD NO. 403.
4. PROPOSED CENTER ROAD MEDIAN PER CITY OF BANNING STANDARD DRAWING ST-101.1.
6. PROPOSED CENTER ROAD MEDIAN LANDSCAPE.

EASEMENTS

2 EXISITING COMMUNICATION SYSTEMS EASEMENT FOR US SPRINT COMMUNICATIONS COMPANY.

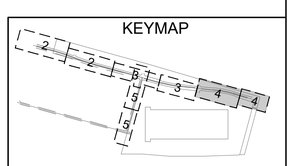
WILSON STREET GEOMETRIC DATA

	LENGTH	LINE/CHORD DIRECTION	R	T
L5	745.52'	N80°26'54"E		
C4	477.73'	N85°55'22"E	2,500.00'	239.60'
L6	501.56'	S88°36'10"E		

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP



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EUGENE D. COWAN III, RCE # 86803 — 7/3/2024 DATE

SUBMITTED BY:
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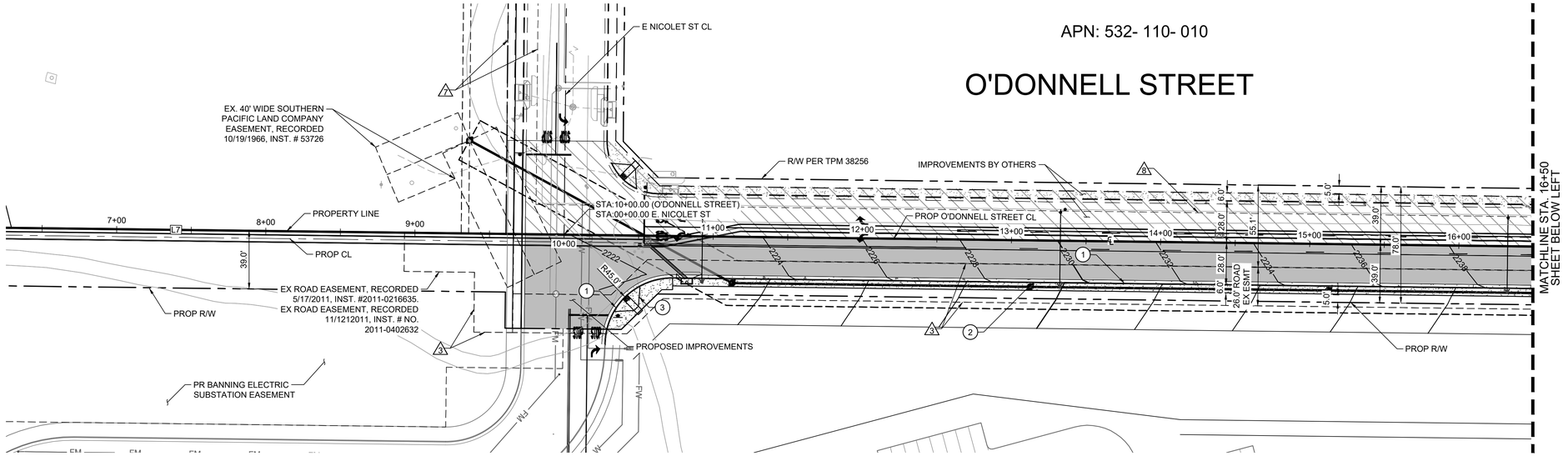
FOR CITY & DISTRICT ONLY
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Prepared for Concept Plan submittal
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Kimley»Horn
Engineer: EUGENE D. COWAN III
P.E. No. 86803 Date: 7/3/2024

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SENIOR CIVIL ENGINEER
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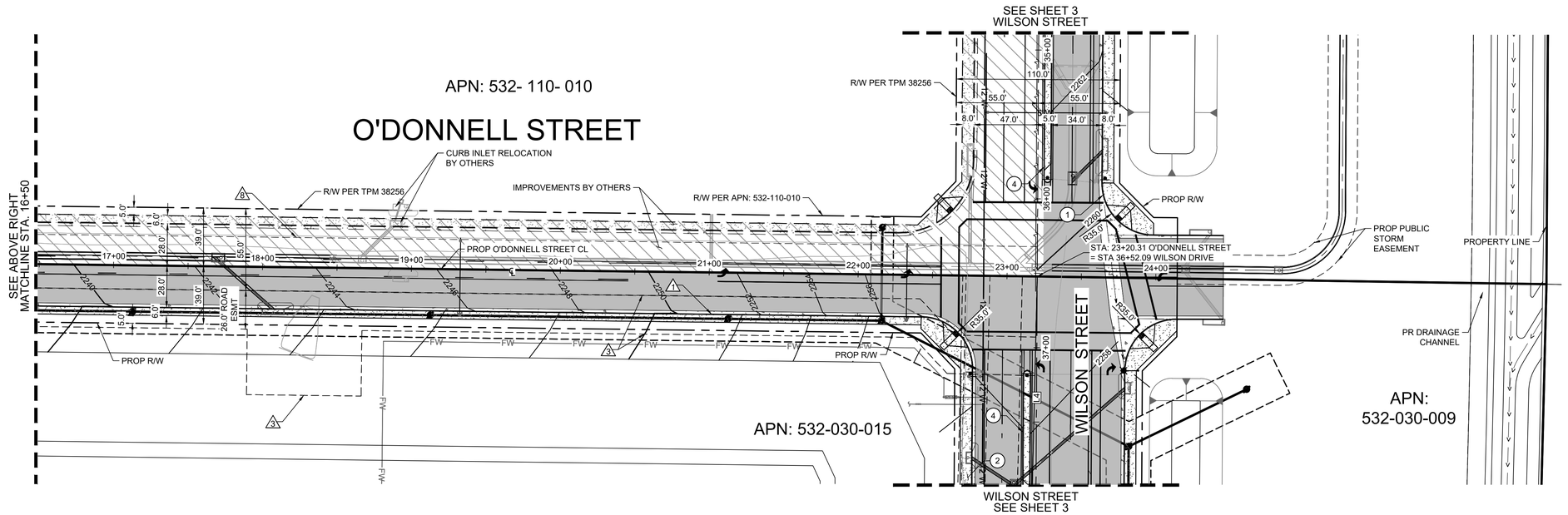
BANNING COMMERCE CENTER
PRELIMINARY DESIGN DR21-7017
WILSON STREET
STA 48+50 - STA 63+08.04

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 4 OF 29

Plotted By:Perez, Luis Sheet Set:BANNING LOGISTICS PRELIM Layout:15 WILSON ST July 03, 2024 04:57:29pm K:\RIV_LDE\V19445\002 - banning logistics\CAD\preliminary\Preliminary Street Improvements - Wilson.dwg
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SEE SHEET 3
WILSON STREET



LEGEND

- PROPERTY BOUNDARY
- PROPERTY LINE / RIGHT-OF-WAY
- CENTERLINE
- EASEMENT
- FENCE
- PROPOSED CONTOUR (100 / 99)
- EXISTING CONTOUR (100 / 99)
- RIDGE LINE (R)
- STORM LINE (SD)
- WATER LINE (W)
- ASPHALT PAVEMENT - BY OTHERS
- ASPHALT PAVEMENT
- CONCRETE PAVEMENT
- CONCRETE SIDEWALK
- LANDSCAPE
- STORM DRAIN STRUCTURE
- SEWER MANHOLE
- FIRE HYDRANT

PRELIMINARY STREET IMPROVEMENT NOTES

1. PROPOSED CURB AND GUTTER PER CITY OF BANNING STANDARD DRAWING C-200.
2. PROPOSED SIDEWALK PER CITY OF BANNING STANDARD DRAWING ST-100 & ST-101.1.
4. PROPOSED CENTER ROAD MEDIAN PER CITY OF BANNING STANDARD DRAWING ST-101.1.

EASEMENTS

1. EXISIITING 16' EASEMENT FOR SOUTHERN CALIFORNIA GAS COMPANY AND SOUTHERN COUNTIES GAS COMPANY.
3. EXISTING 20.0'(VARIES) STREET CONSTRUCTION AND MAINTENANCE EASEMENT AGREEMENT.
7. EXISTING 20.0' ELECTRICAL EASEMENT FOR SOUTHERN CALIFORNIA EDISON COMPANY.
8. EXISIITING 16' ROAD DEDICATION TO THE CITY OF BANNING.

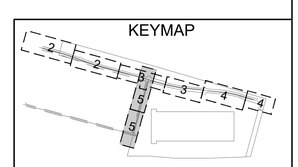
WILSON STREET GEOMETRIC DATA

	LENGTH	LINE/CHORD DIRECTION	R	T
L4	500.00'	S89°39'25"E		

O'DONNELL STREET GEOMETRIC DATA

	LENGTH	LINE/CHORD DIRECTION	R	T
L7	520.52'	N0°42'27"E		

GRAPHIC SCALE IN FEET
0 20 40 80



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REVISIONS

No.		APPR.	DATE

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EUGENE D. COWAN III, RCE # 86803 — 7/3/2024 DATE

SUBMITTED BY:
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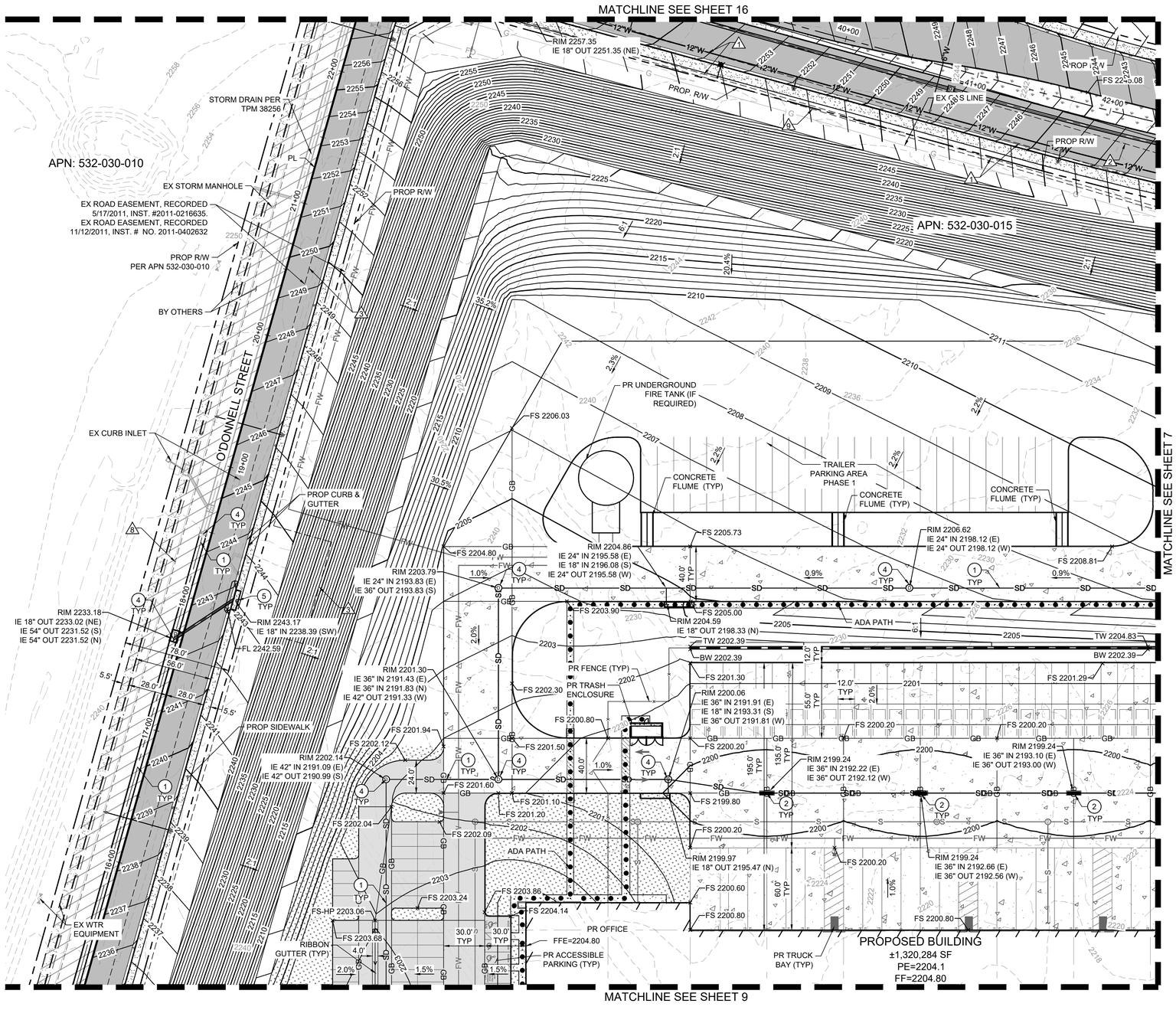
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Kimley»Horn
Engineer: EUGENE D. COWAN III
P.E. No. 86803 Exp. 7/3/2024

CITY OF BANNING
RECOMMENDED BY:
KEVIN SIN, RCE #71299, EXP 12/31/23 — DATE
SENIOR CIVIL ENGINEER
APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24 — DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

BANNING COMMERCE CENTER
PRELIMINARY DESIGN DR21-7017
O'DONNELL STREET
STA 10+00 - STA 23+21

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 5 OF 29

Plotted By:Perez, Luis Sheet Set:BANNING LOGISTICS PRELIM Layout:16 O'DONNELL STREET July 03, 2024 04:57:46pm K:\RIV_LDEV\194456002 - banning logistics\CAD\preliminary\Preliminary Street Improvements - Wilson.dwg
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LEGEND

- PROPERTY BOUNDARY
- PROPERTY LINE / RIGHT-OF-WAY
- CENTERLINE
- SETBACK
- EASEMENT
- PATH OF TRAVEL
- FENCE
- RETAINING WALL
- BUILDING OUTLINE
- PROPOSED CONTOUR
- EXISTING CONTOUR
- GRADING DAYLIGHT
- GRADE BREAK LINE
- RIDGE LINE
- STORM LINE
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- CONCRETE PAVEMENT - HEAVY
- CONCRETE SIDEWALK
- LANDSCAPE
- LANDSCAPE
- STORM DRAIN STRUCTURE
- SEWER MANHOLE
- FIRE HYDRANT

PRELIMINARY STORM IMPROVEMENT NOTES

1. PROPOSED STORMDRAIN PIPE
2. PROPOSED STORM INLET
4. PROPOSED STORMDRAIN MANHOLE
5. PROPOSED STORM CURB INLET

EASEMENTS

1. EXISITING 16' EASEMENT FOR SOUTHERN CALIFORNIA GAS COMPANY AND SOUTHERN COUNTIES GAS COMPANY.
2. EXISITING COMMUNICATION SYSTEMS EASEMENT FOR US SPRINT COMMUNICATIONS COMPANY.
3. EXISTING 20.0'(VARIES) STREET CONSTRUCTION AND MAINTENANCE EASEMENT AGREEMENT.
8. EXISITING 16' ROAD DEDICATION TO THE CITY OF BANNING.
9. EXISITING EASEMENT NO. 2018-0219574.

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP
14/26 15/27 16/28 17/29
6/18 7/19 8/20
9/21 10/22
11/23 12/24 13/25

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REVISIONS

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EUGENE D. COWAN III, RCE # 86803 — 7/3/2024 DATE

SUBMITTED BY:
SANSONE GROUP
120 S. CENTRAL AVENUE, SUITE 500
ST. LOUIS, MO 63105

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Kimley»Horn
Engineer EUGENE D. COWAN III
P.E. No. 86803 Date 7/3/2024

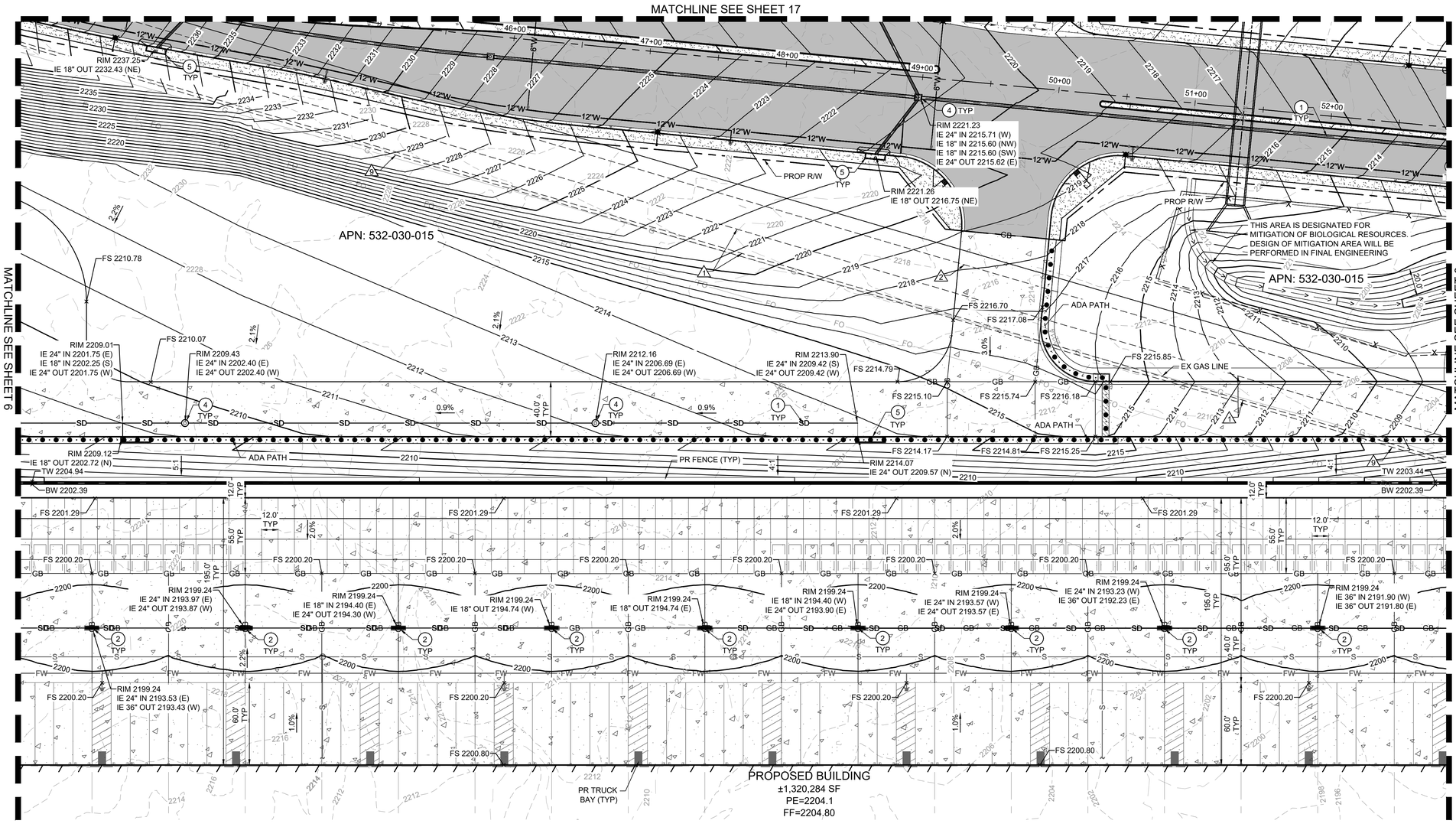
CITY OF BANNING
RECOMMENDED BY:
KEVIN SIN, RCE #71299, EXP 12/31/23 — DATE
SENIOR CIVIL ENGINEER
APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24 — DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

BANNING COMMERCE CENTER
PRELIMINARY DESIGN DR21-7017
GRADING PLAN 1

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 6 OF 29

Plotted By:Perez, Luis Sheet Set:BANNING LOGISTICS PRELIM Layout:1 PG July 03, 2024 03:03:40pm K:\RIV_LDEV\194456002 - banning logistics\CAD\preliminary\Grading Plan.dwg
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- PROPOSED CONTOUR
- EXISTING CONTOUR
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- GRADE BREAK LINE
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- STORM LINE
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- ASPHALT PAVEMENT - MEDIUM
- ASPHALT PAVEMENT - HEAVY
- CONCRETE PAVEMENT
- CONCRETE PAVEMENT - HEAVY
- CONCRETE SIDEWALK
- LANDSCAPE
- LANDSCAPE
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- SEWER MANHOLE
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PRELIMINARY STORM IMPROVEMENT NOTES

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2. PROPOSED STORM INLET
4. PROPOSED STORMDRAIN MANHOLE
5. PROPOSED STORM CURB INLET

EASEMENTS

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2. EXISITING COMMUNICATION SYSTEMS EASEMENT FOR US SPRINT COMMUNICATIONS COMPANY.
3. EXISITING EASEMENT NO. 2018-0219574.

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP
14/26 15/27 16/28 17/29
6/18 7/19 8/20
9/21 10/22
11/23 12/24 13/25

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PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN
EUGENE D. COWAN III, RCE # 86803 — 7/8/2024 DATE

SUBMITTED BY:
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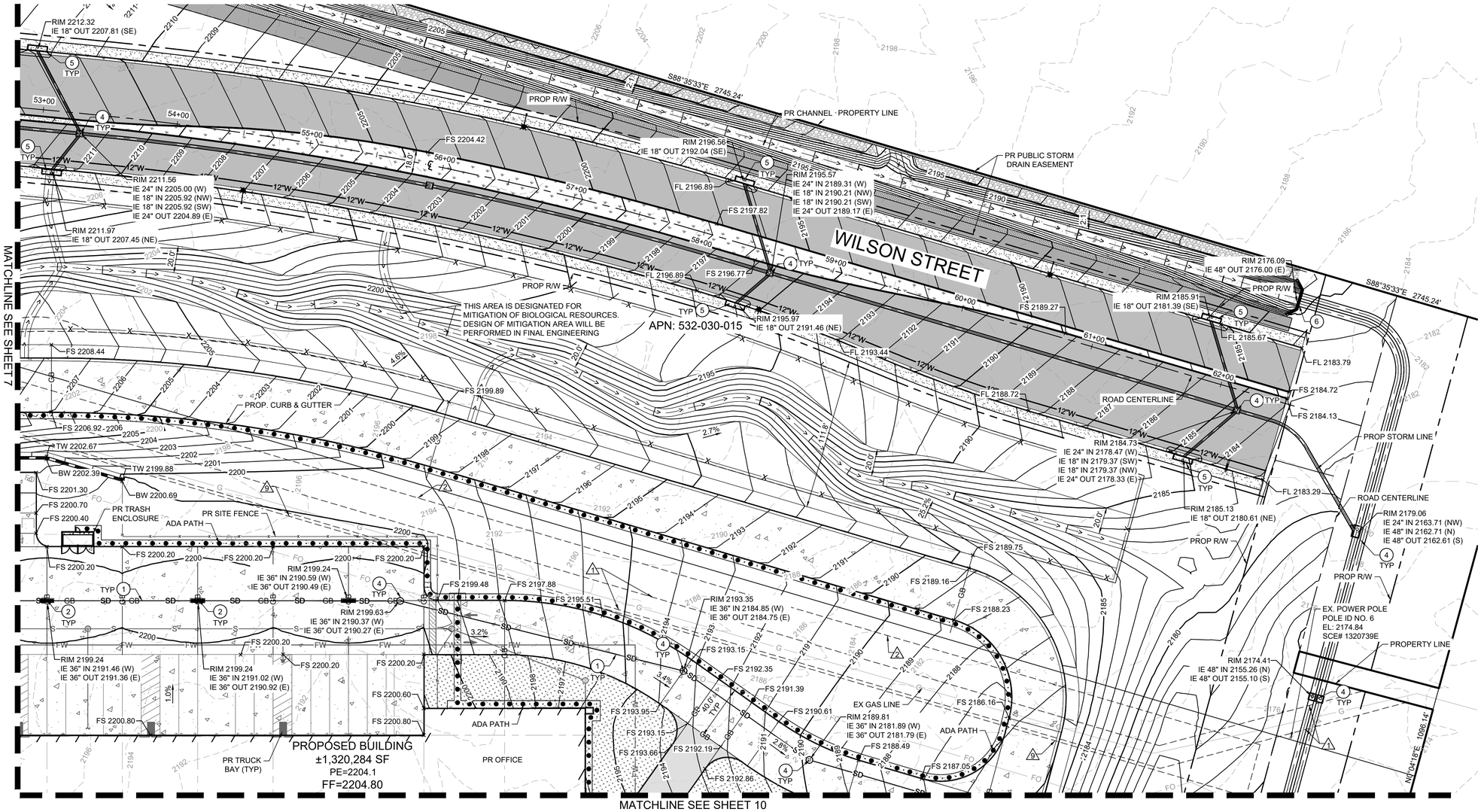
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PUBLIC WORKS DIRECTOR/CITY ENGINEER

BANNING COMMERCE CENTER

PRELIMINARY DESIGN DR21-7017

GRADING PLAN 2

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 7 OF 29



LEGEND

- PROPERTY BOUNDARY
- PROPERTY LINE / RIGHT-OF-WAY
- CENTERLINE
- SETBACK
- EASEMENT
- PATH OF TRAVEL
- FENCE
- RETAINING WALL
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4. PROPOSED STORMDRAIN MANHOLE
5. PROPOSED STORM CURB INLET
6. PROPOSED HEADWALL

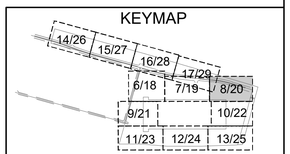
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NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP



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P.E. No. 86803 Date: 7/8/2024

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APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24 — DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

BANNING COMMERCE CENTER
PRELIMINARY DESIGN DR21-7017
GRADING PLAN 3

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 8 OF 29

Plotted By:Perez, Luis Sheet Set:BANNING LOGISTICS PRELIM Layout:3 PG July 09, 2024 01:20:47pm K:\RIV_LDEV\194456002 - banning logistics\CAD\preliminary\Grading Plan.dwg
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MATCHLINE SEE SHEET 6

APN: 532-030-010

ODONNELL STREET

PROP R/W

EX ROAD EASEMENT, RECORDED 5/17/2011, INST. #2011-0216635. EX ROAD EASEMENT, RECORDED 11/12/2011, INST. # NO. 2011-0402632

PROP R/W

PL

IMPROVEMENTS BY OTHERS

EX ROAD EASEMENT, RECORDED 10/08/2010, INST. #2010-0485664.

EXISTING POWER POLE OUTSIDE PROPERTY LIMITS (2223.54EL) SCE#: 1645758E

EX. 40' WIDE SOUTHERN PACIFIC LAND COMPANY EASEMENT, RECORDED 10/19/1966, INST. # 53726

PROPOSED BUILDING
±1,320,284 SF
PE=2204.1
FF=2204.80

PR ACCESSIBLE PARKING (TYP)
FFE=2204.80

PR EV PARKING (TYP)
FFE=2204.80

ADA PATH
FFE=2204.80

PR EV PARKING (TYP)
FFE=2204.80

PR ACCESSIBLE EV PARKING (TYP)
FFE=2204.80

PR ACCESSIBLE PARKING (TYP)
FFE=2204.80

RIBBON GUTTER (TYP)

EX. POWER POLE
POLE ID NO. 1
EL: 2216.48
SCE# 1320733E

RIM 2202.48
IE 42" IN 2190.41 (N)
IE 18" IN 2195.97 (NW)
IE 42" OUT 2190.31 (S)

RIM 2202.25
IE 18" OUT 2196.20 (SE)

RIM 2202.02
IE 18" OUT 2195.80 (SE)

RIM 2202.29
IE 42" IN 2189.82 (N)
IE 18" IN 2195.58 (NW)
IE 48" OUT 2189.72 (S)

RIM 2202.02
IE 18" OUT 2195.73 (SE)

RIM 2202.30
IE 48" IN 2189.10 (IN)
IE 18" IN 2195.50 (NW)
IE 48" OUT 2189.00 (S)

FL 2222.23
FL 2222.64
FL 2221.88
FS 2221.35
FS 2220.49
FS 2206.16
FS 2204.87
FS 2204.92
FS 2205.67
FS 2204.74
FS 2204.07
FS 2204.57
FS 2204.56
FS 2203.05
FS 2203.99
FS 2204.62
FS 2204.53
FS 2203.68
FS 2203.38
FS 2203.05
FS 2203.41
FS 2204.14
FS 2202.55
FS 2203.86
FS 2202.75
FS 2203.06
TG 2202.02
FS-HP 2203.04
FS-HP 2203.05

MATCHLINE SEE SHEET 11

LEGEND

- PROPERTY BOUNDARY
- PROPERTY LINE / RIGHT-OF-WAY
- CENTERLINE
- SETBACK
- EASEMENT
- PATH OF TRAVEL
- FENCE
- RETAINING WALL
- BUILDING OUTLINE
- PROPOSED CONTOUR
- EXISTING CONTOUR
- GRADING DAYLIGHT
- GRADE BREAK LINE
- RIDGE LINE
- STORM LINE
- ASPHALT PAVEMENT - BY OTHERS
- ASPHALT PAVEMENT - LIGHT
- ASPHALT PAVEMENT - MEDIUM
- ASPHALT PAVEMENT - HEAVY
- CONCRETE PAVEMENT
- CONCRETE PAVEMENT - HEAVY
- CONCRETE SIDEWALK
- LANDSCAPE
- LANDSCAPE
- STORM DRAIN STRUCTURE
- SEWER MANHOLE
- FIRE HYDRANT

PRELIMINARY GRADING IMPROVEMENT NOTES

1. PROPOSED STORMDRAIN PIPE
2. PROPOSED STORM INLET
4. PROPOSED STORMDRAIN MANHOLE
5. PROPOSED STORM CURB INLET

EASEMENTS

3. EXISTING 20.0'(VARIES) STREET CONSTRUCTION AND MAINTENANCE EASEMENT AGREEMENT.
7. EXISTING 20.0' ELECTRICAL EASEMENT FOR SOUTHERN CALIFORNIA EDISON COMPANY.
8. EXISIITING 16' ROAD DEDICATION TO THE CITY OF BANNING.

GRAPHIC SCALE IN FEET
0 20 40 80

NORTH

KEYMAP
14/26 15/27 16/28 17/29
6/18 7/19 8/20
9/21 10/22
11/23 12/24 13/25

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3801 UNIVERSITY AVE., SUITE 300
RIVERSIDE, CA 92501
PHONE: 951-543-9868
WWW.KIMLEY-HORN.COM
PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN
EUGENE D. COWAN III, RCE # 86803 — 7/3/2024 DATE

SUBMITTED BY:
SANSONE GROUP
120 S. CENTRAL AVENUE, SUITE 500
ST. LOUIS, MO 63105

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CITY OF BANNING

RECOMMENDED BY:
KEVIN SIN, RCE #71299, SENIOR CIVIL ENGINEER — EXP 12/31/23 — DATE

APPROVED BY:
ARTURO VELA, RCE # 75696, PUBLIC WORKS DIRECTOR/CITY ENGINEER — EXP. 05/30/24 — DATE

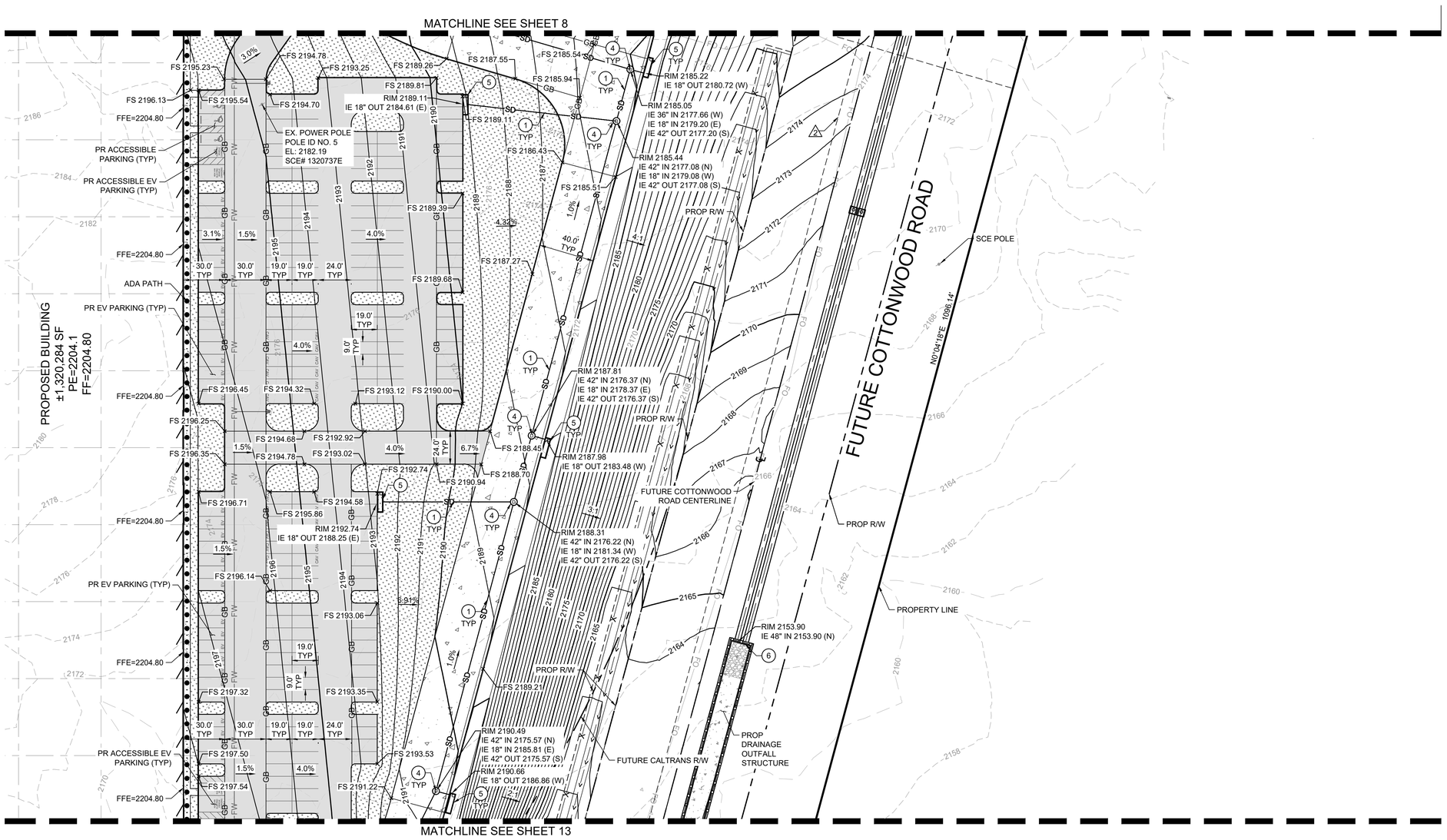
BANNING COMMERCE CENTER

PRELIMINARY DESIGN DR21-7017

GRADING PLAN 4

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 9 OF 29

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LEGEND

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- LANDSCAPE
- LANDSCAPE
- STORM DRAIN STRUCTURE
- SEWER MANHOLE
- FIRE HYDRANT

PRELIMINARY STORM IMPROVEMENT NOTES

1. PROPOSED STORMDRAIN PIPE
4. PROPOSED STORMDRAIN MANHOLE
5. PROPOSED STORM CURB INLET
6. PROPOSED HEADWALL

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP
14/26 15/27 16/28 17/29 6/18 7/19 8/20 9/21 10/22 11/23 12/24 13/25

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WWW.KIMLEY-HORN.COM
PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN
EUGENE D. COWAN III, RCE # 86803 — 7/8/2024 DATE

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Engineer EUGENE D. COWAN III
P.E. No. 86803 Date 7/8/2024

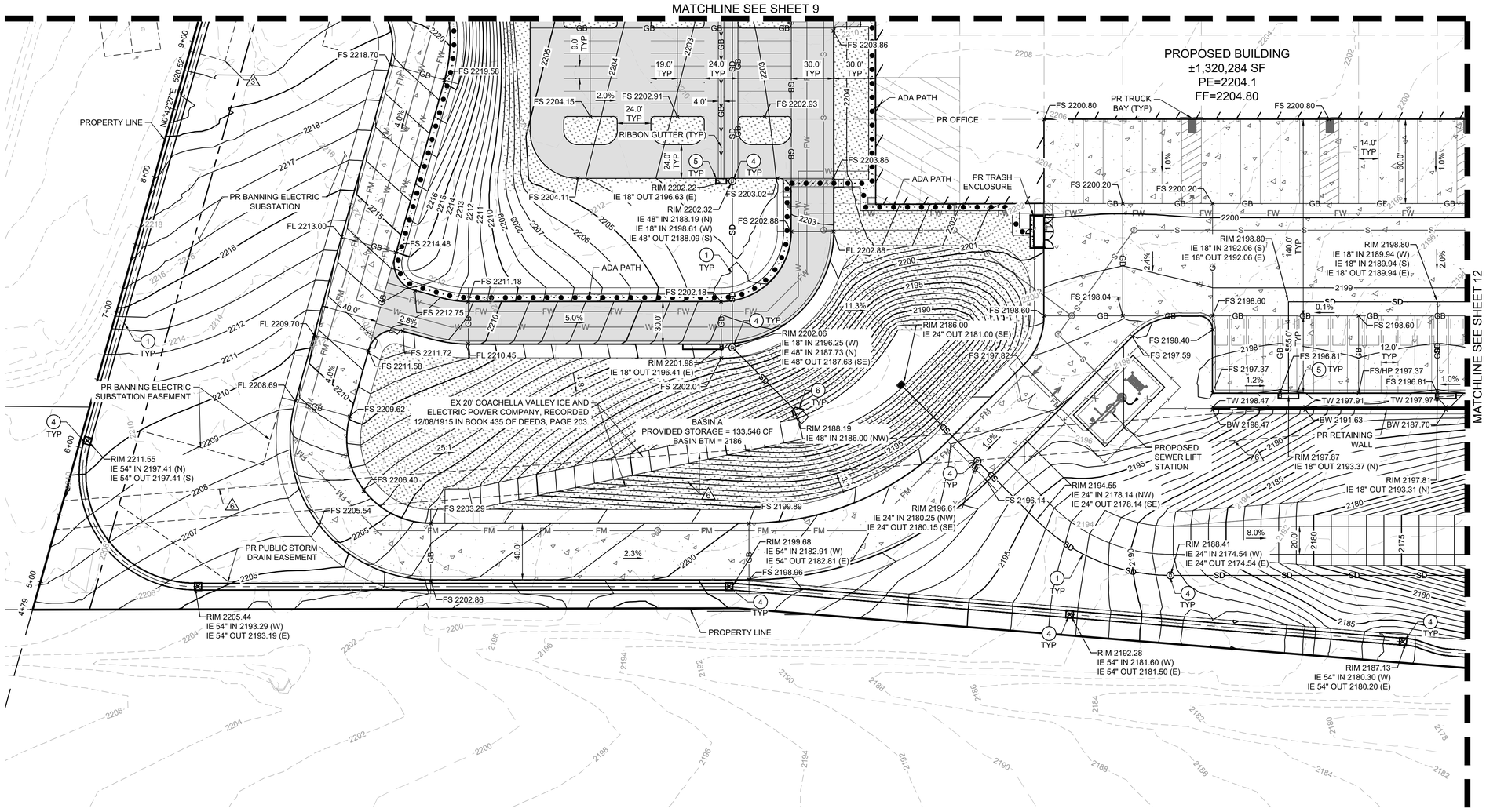
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SENIOR CIVIL ENGINEER
APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24 — DATE
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BANNING COMMERCE CENTER
PRELIMINARY DESIGN DR21-7017
GRADING PLAN 5

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 10 OF 29

1452

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- CONCRETE SIDEWALK
- LANDSCAPE
- LANDSCAPE
- STORM DRAIN STRUCTURE
- SEWER MANHOLE
- FIRE HYDRANT

PRELIMINARY STORM IMPROVEMENT NOTES

1. PROPOSED STORMDRAIN PIPE
4. PROPOSED STORMDRAIN MANHOLE
5. PROPOSED STORM CURB INLET
6. PROPOSED HEADWALL

EASEMENTS

3. EXISTING 20.0'(VARIES) STREET CONSTRUCTION AND MAINTENANCE EASEMENT AGREEMENT.
6. EXISTING 20' PUBLIC UTILITY EASEMENT FOR COACHELLA VALLEY ICE AND ELECTRIC POWER COMPANY.

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP
14/26 15/27 16/28 17/29
6/18 7/19 8/20
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11/23 12/24 13/25

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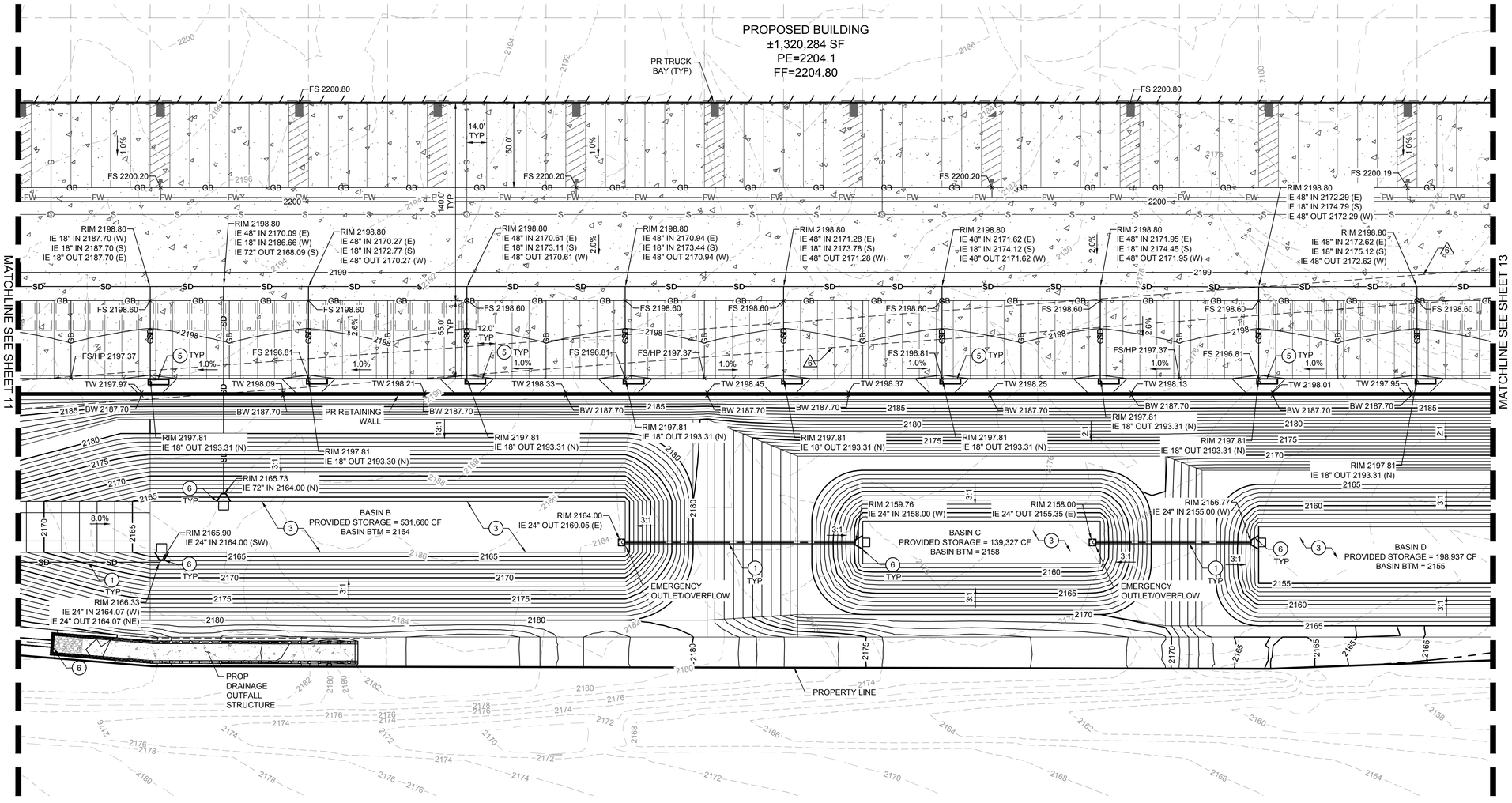
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SENIOR CIVIL ENGINEER
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BANNING COMMERCE CENTER
PRELIMINARY DESIGN DR21-7017
GRADING PLAN 6

W.O. No. DR21-7017
CIP No.
PROJECT No.
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- LANDSCAPE
- STORM DRAIN STRUCTURE
- SEWER MANHOLE
- FIRE HYDRANT

PRELIMINARY STORM IMPROVEMENT NOTES

1. PROPOSED STORMDRAIN PIPE
3. PROPOSED INFILTRATION BASIN
5. PROPOSED STORM CURB INLET
6. PROPOSED HEADWALL

EASEMENTS

6. EXISTING 20' PUBLIC UTILITY EASEMENT FOR COACHELLA VALLEY ICE AND ELECTRIC POWER COMPANY.

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP
14/26 15/27 16/28 17/29
6/18 7/19 8/20
9/21 10/22
11/23 12/24 13/25

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7/8/2024
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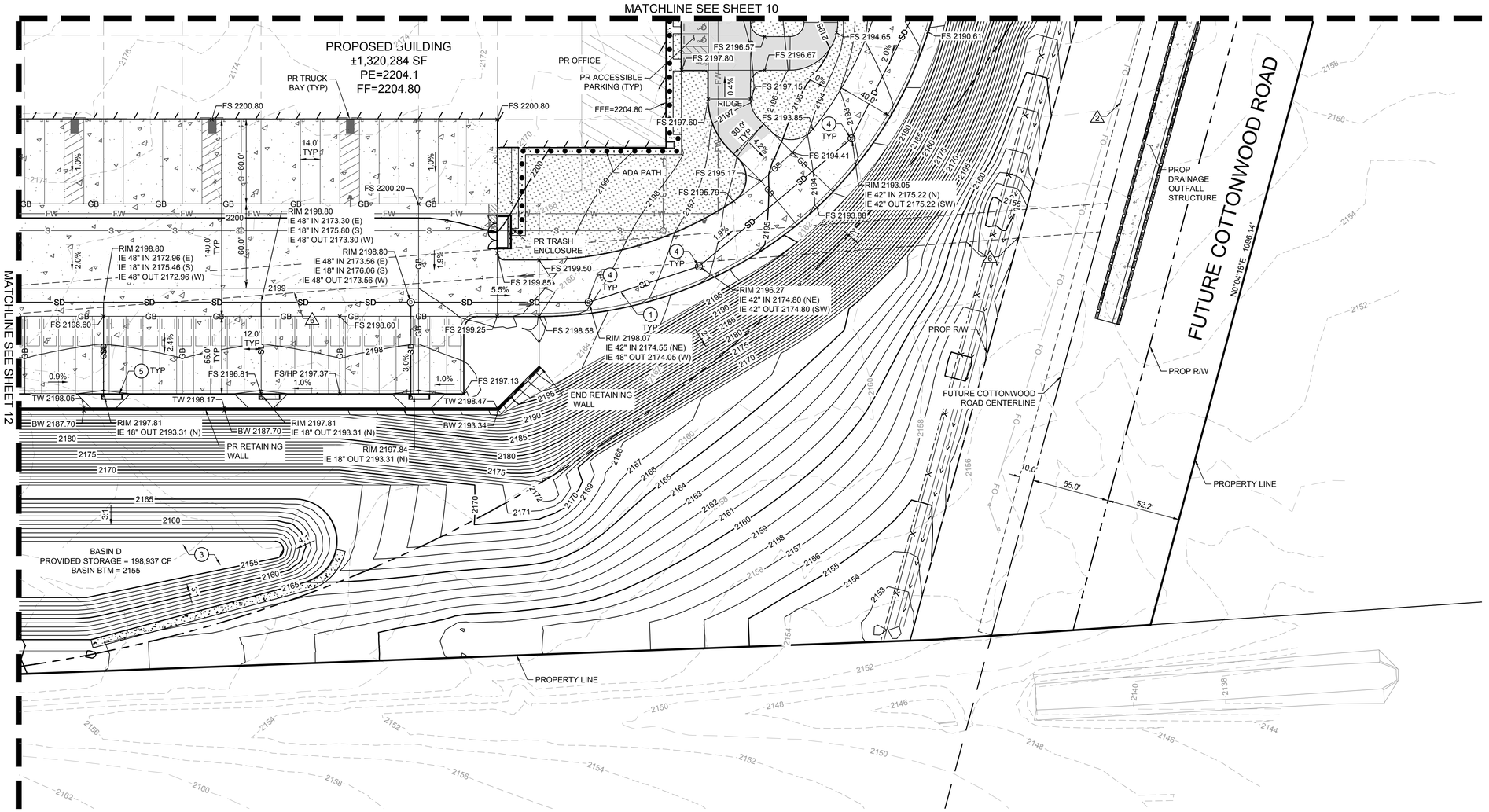
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BANNING COMMERCE CENTER
PRELIMINARY DESIGN DR21-7017
GRADING PLAN 7

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 12 OF 29

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1454



LEGEND

- PROPERTY BOUNDARY
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- CENTERLINE
- SETBACK
- EASEMENT
- PATH OF TRAVEL
- FENCE
- RETAINING WALL
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- EXISTING CONTOUR
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- GRADE BREAK LINE
- RIDGE LINE
- STORM LINE
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- CONCRETE PAVEMENT
- CONCRETE PAVEMENT - HEAVY
- CONCRETE SIDEWALK
- LANDSCAPE
- LANDSCAPE
- STORM DRAIN STRUCTURE
- SEWER MANHOLE
- FIRE HYDRANT

PRELIMINARY STORM IMPROVEMENT NOTES

1. PROPOSED STORMDRAIN PIPE
3. PROPOSED INFILTRATION BASIN
4. PROPOSED STORMDRAIN MANHOLE
5. PROPOSED STORM CURB INLET

EASEMENTS

2. EXISITING COMMUNICATION SYSTEMS EASEMENT FOR US SPRINT COMMUNICATIONS COMPANY.
6. EXISTING 20' PUBLIC UTILITY EASEMENT FOR COACHELLA VALLEY ICE AND ELECTRIC POWER COMPANY.

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP
14/26 15/27 16/28 17/29
6/18 7/19 8/20
9/21 10/22
11/23 12/24 13/25

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WWW.KIMLEY-HORN.COM
PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN
11/5/2024
EUGENE D. COWAN III, RCE # 86803 DATE

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P.E. No. 86803 Date 11/5/2024

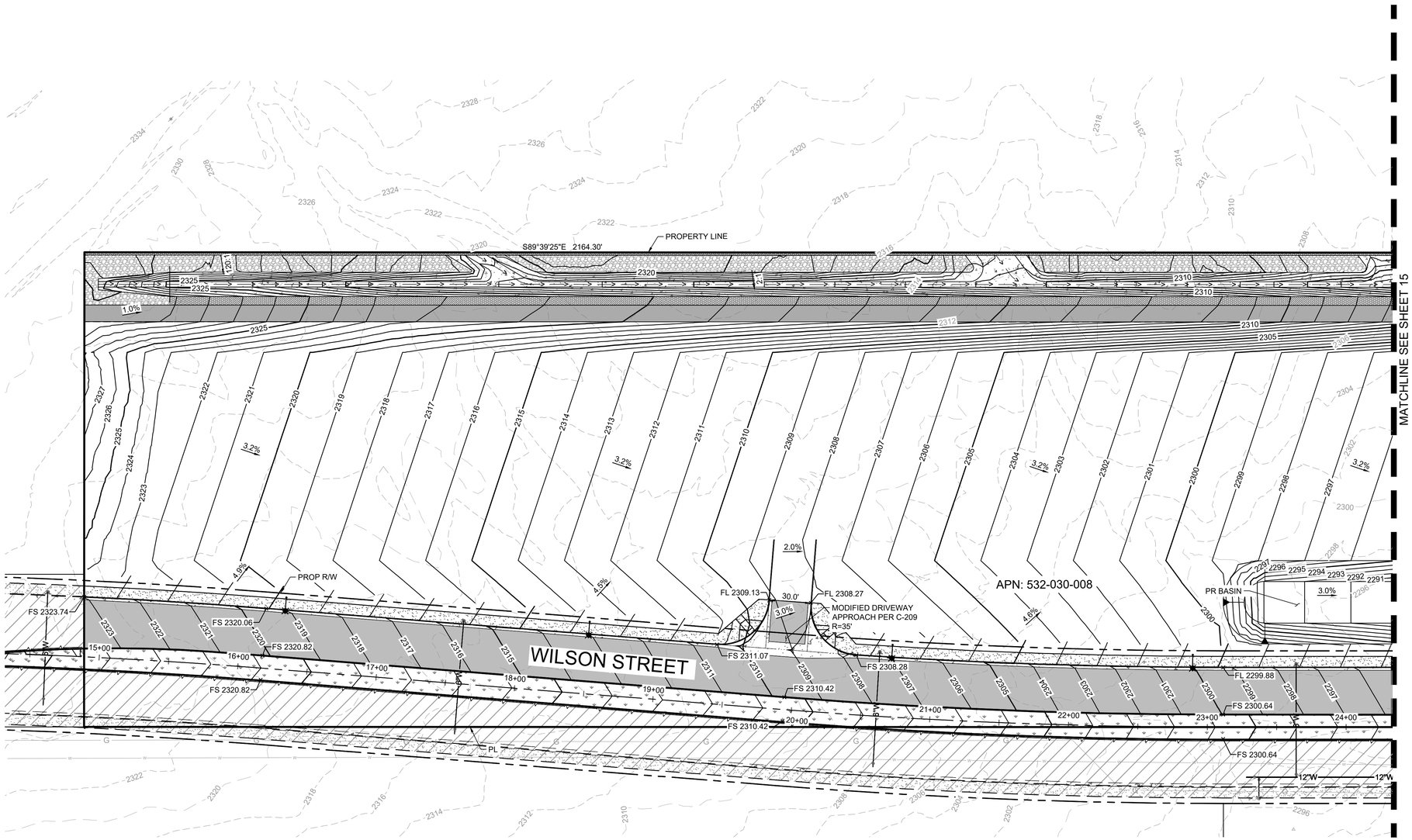
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BANNING COMMERCE CENTER
PRELIMINARY DESIGN DR21-7017
GRADING PLAN 8

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 13 OF 29

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- LANDSCAPE
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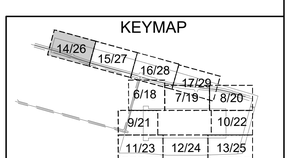
PRELIMINARY STORM IMPROVEMENT NOTES

1. PROPOSED STORMDRAIN PIPE
5. PROPOSED STORM CURB INLET

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP



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EUGENE D. COWAN III, RCE # 86803 — 7/15/2024 DATE

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ST. LOUIS, MO 63105

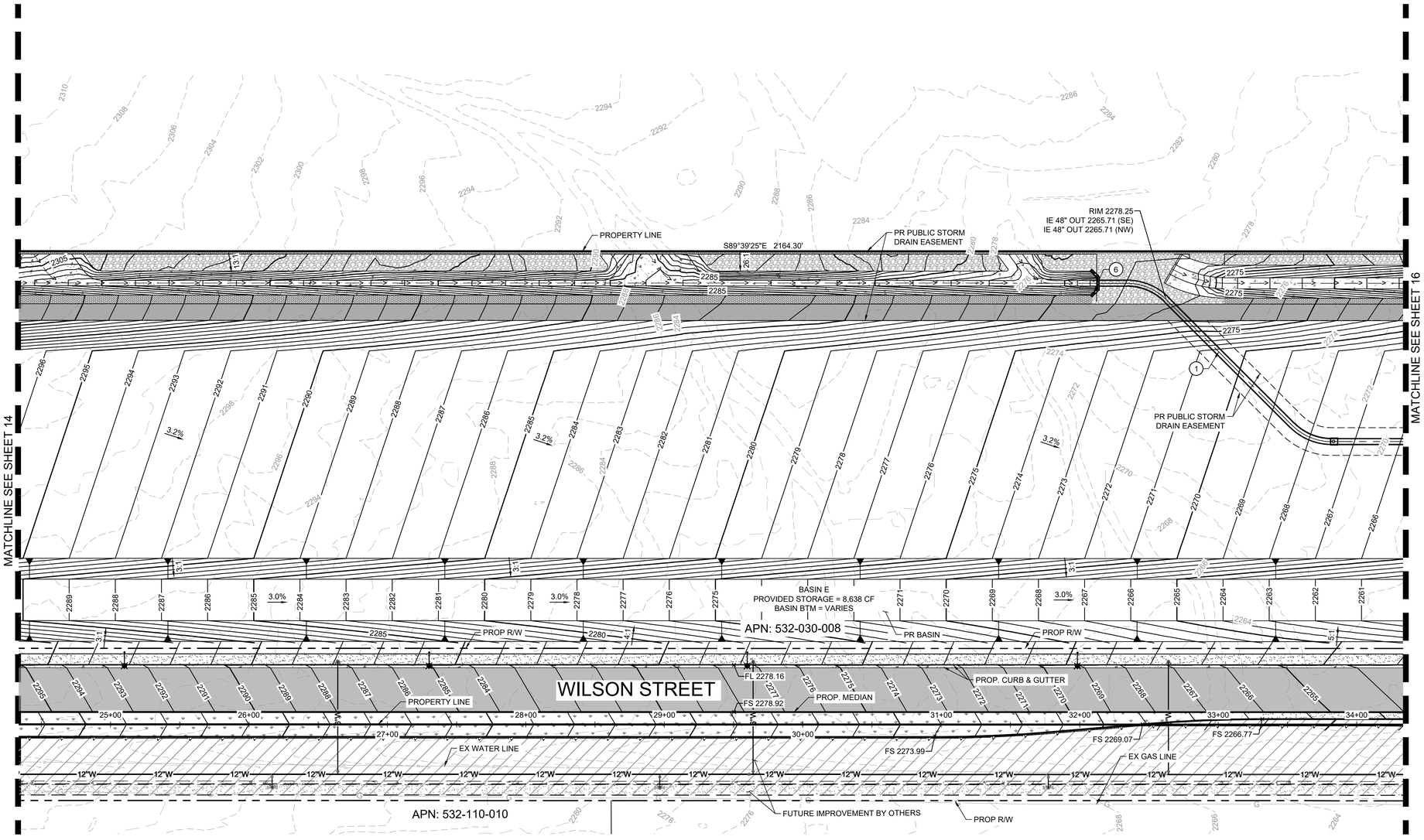
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BANNING COMMERCE CENTER
PRELIMINARY DESIGN DR21-7017
GRADING PLAN 9

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 14 OF 29

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PRELIMINARY STORM IMPROVEMENT NOTES

1. PROPOSED STORMDRAIN PIPE
5. PROPOSED STORM CURB INLET
6. PROPOSED HEADWALL

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP
14/26 15/27 16/28 17/29
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EUGENE D. COWAN III, RCE # 86803 — 7/15/2024 DATE

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ARTURO VELA, RCE # 75696, EXP. 05/30/24 — DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

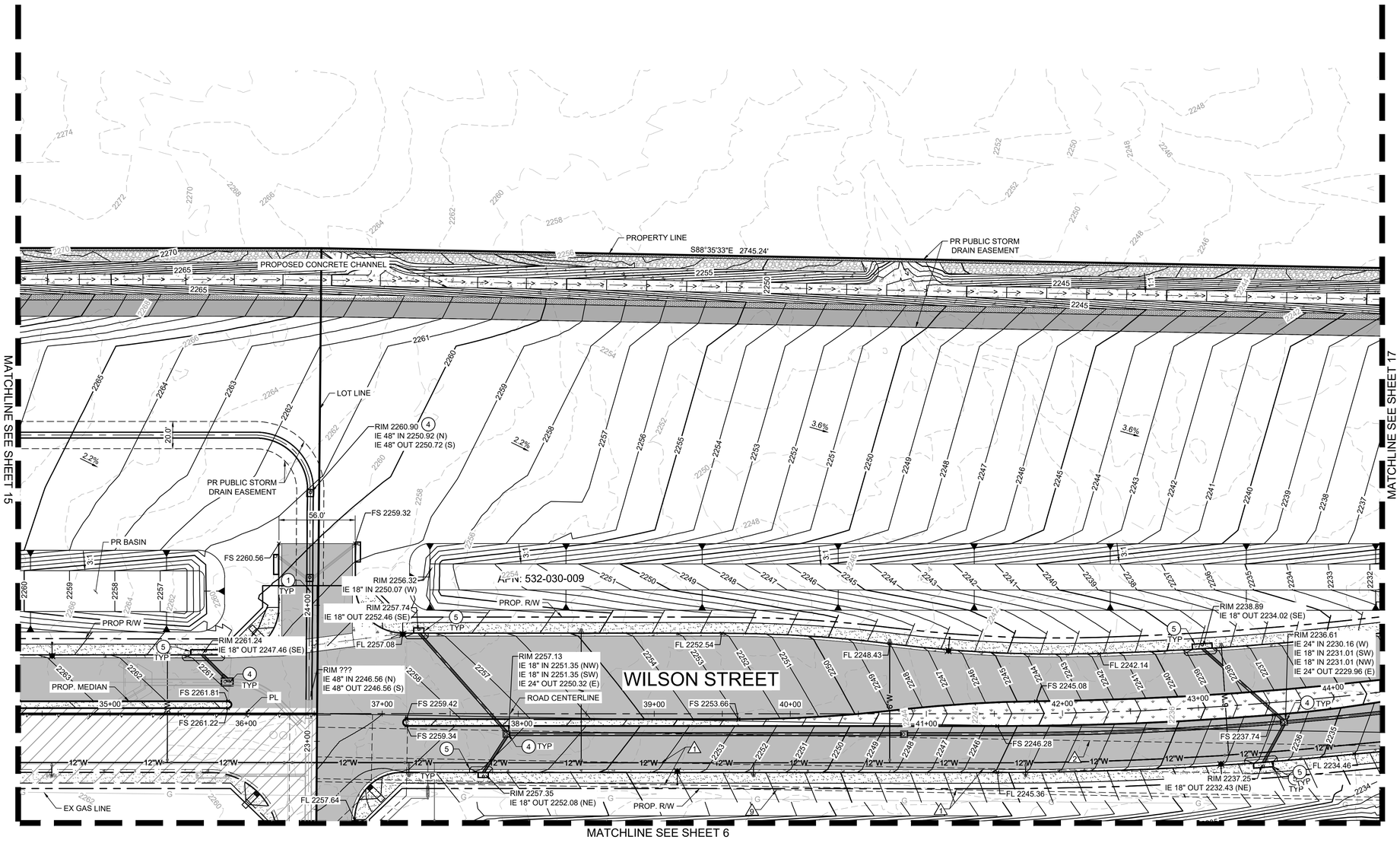
BANNING COMMERCE CENTER

PRELIMINARY DESIGN DR21-7017

GRADING PLAN 10

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 15 OF 29

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LEGEND

- PROPERTY BOUNDARY
- PROPERTY LINE / RIGHT-OF-WAY
- CENTERLINE
- SETBACK
- EASEMENT
- PATH OF TRAVEL
- FENCE
- RETAINING WALL
- BUILDING OUTLINE
- PROPOSED CONTOUR
- EXISTING CONTOUR
- GRADING DAYLIGHT
- GRADE BREAK LINE
- RIDGE LINE
- STORM LINE
- ASPHALT PAVEMENT - BY OTHERS
- ASPHALT PAVEMENT - LIGHT
- ASPHALT PAVEMENT - MEDIUM
- ASPHALT PAVEMENT - HEAVY
- CONCRETE PAVEMENT
- CONCRETE PAVEMENT - HEAVY
- CONCRETE SIDEWALK
- LANDSCAPE
- LANDSCAPE
- STORM DRAIN STRUCTURE
- SEWER MANHOLE
- FIRE HYDRANT

PRELIMINARY STORM IMPROVEMENT NOTES

1. PROPOSED STORMDRAIN PIPE
4. PROPOSED STORMDRAIN MANHOLE
5. PROPOSED STORM CURB INLET
6. PROPOSED HEADWALL

EASEMENTS

1. EXISIITING 16' EASEMENT FOR SOUTHERN CALIFORNIA GAS COMPANY AND SOUTHERN COUNTIES GAS COMPANY.
2. EXISIITING COMMUNICATION SYSTEMS EASEMENT FOR US SPRINT COMMUNICATIONS COMPANY.
3. EXISIITING EASEMENT NO. 2018-0219574.

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP
14/26 15/27 16/28 17/29 6/18 7/19 8/20 9/21 10/22 11/23 12/24 13/25

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No.		APPR.	DATE

PLANS PREPARED BY:
Kimley»Horn
KIMLEY-HORN AND ASSOCIATES, INC.
3801 UNIVERSITY AVE., SUITE 300
RIVERSIDE, CA 92501
PHONE: 951-543-9868
WWW.KIMLEY-HORN.COM
PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN
7/8/2024
EUGENE D. COWAN III, RCE # 86803 DATE

SUBMITTED BY:
SANSONE GROUP
120 S. CENTRAL AVENUE, SUITE 500
ST. LOUIS, MO 63105

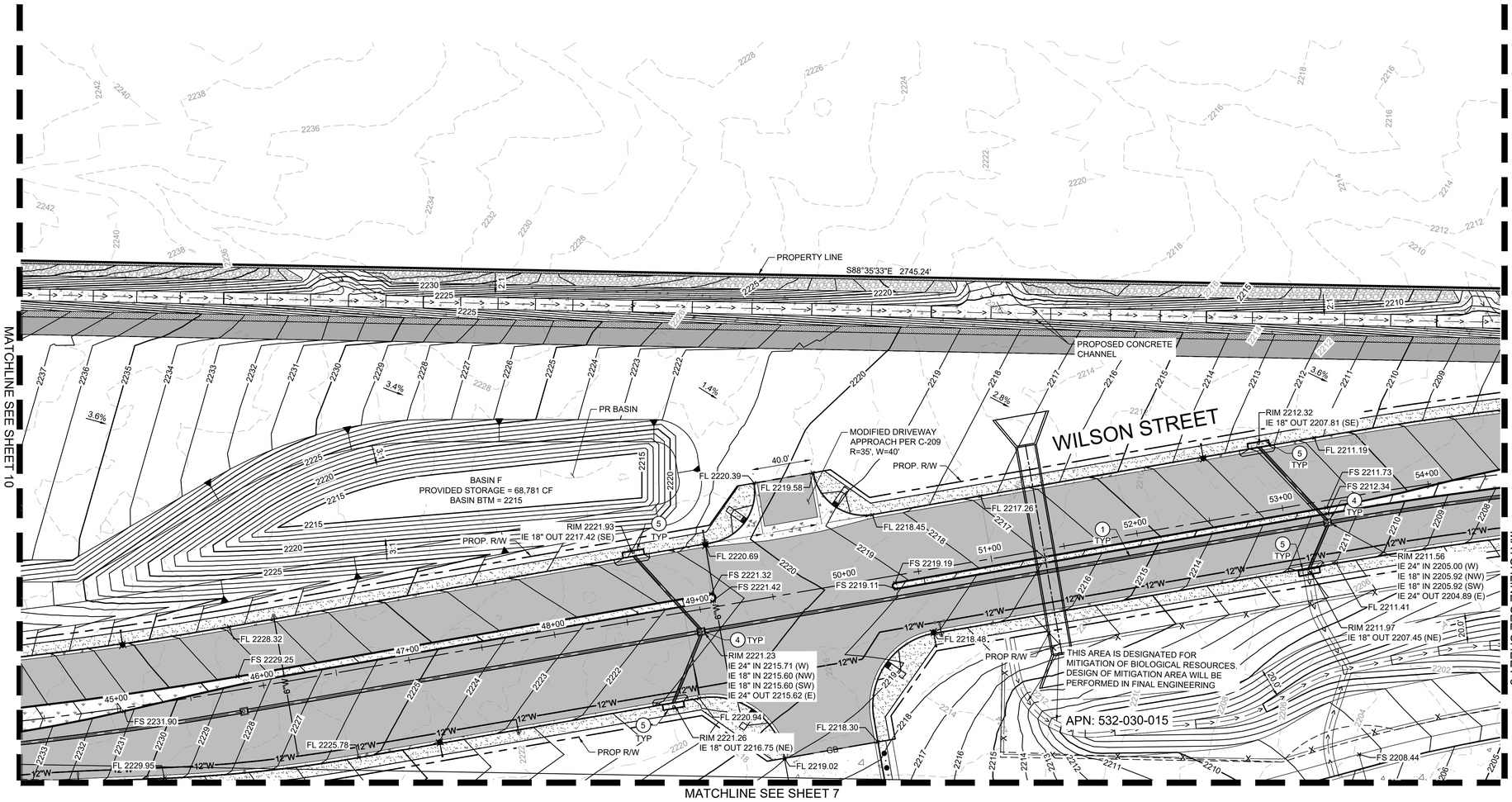
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Kimley»Horn
Engineer: EUGENE D. COWAN III
P.E. No. 86803 Date: 7/8/2024

CITY OF BANNING
RECOMMENDED BY:
KEVIN SIN, RCE #71299, EXP 12/31/23 DATE
SENIOR CIVIL ENGINEER
APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24 DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

BANNING COMMERCE CENTER
PRELIMINARY DESIGN DR21-7017
GRADING PLAN 11

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 16 OF 29

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- CONCRETE PAVEMENT - HEAVY
- CONCRETE SIDEWALK
- LANDSCAPE
- LANDSCAPE
- STORM DRAIN STRUCTURE
- SEWER MANHOLE
- FIRE HYDRANT

PRELIMINARY STORM IMPROVEMENT NOTES

1. PROPOSED STORMDRAIN PIPE
4. PROPOSED STORMDRAIN MANHOLE
5. PROPOSED STORM CURB INLET

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP
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WWW.KIMLEY-HORN.COM
PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN
7/8/2024
EUGENE D. COWAN III, RCE # 86803 — DATE

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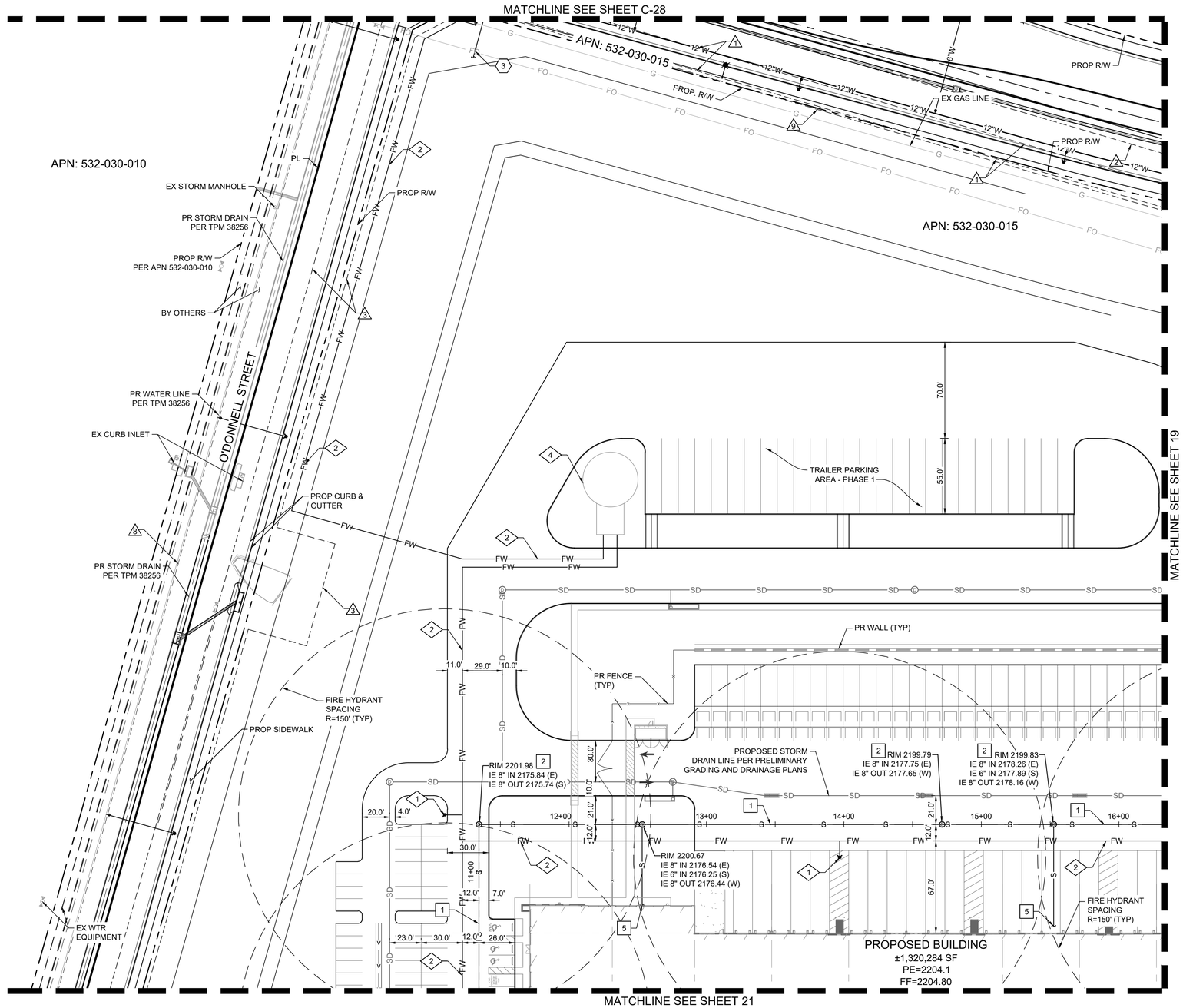
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Engineer EUGENE D. COWAN III
P.E. No. 86803 Date 7/8/2024

CITY OF BANNING
RECOMMENDED BY:
KEVIN SIN, RCE #71299, SENIOR CIVIL ENGINEER — EXP 12/31/23 — DATE
APPROVED BY:
ARTURO VELA, RCE # 75696, PUBLIC WORKS DIRECTOR/CITY ENGINEER — EXP. 05/30/24 — DATE

BANNING COMMERCE CENTER
PRELIMINARY DESIGN DR21-7017
GRADING PLAN 12

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 17 OF 29

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- STORM LINE
- SEWER LINE
- WATER LINE
- FIRE WATER LINE
- IRRIGATION LINE
- PROPOSED INFILTRATION BASIN
- STORM DRAIN STRUCTURE
- STORM DRAIN INLET
- SEWER MANHOLE
- SEWER CLEANOUT
- FIRE HYDRANT
- BACKFLOW PREVENTOR
- FIRE DEPARTMENT CONNECTION
- FIRE POST INDICATOR VALVE
- SECTIONAL CONTROL VALVE
- WATER VALVE
- BENDS
- BUILDING CONNECTION
- POINT OF CONNECTION

WATER NOTES

3. PROPOSED 2" IRRIGATION WATER METER AND BACKFLOW
5. PROPOSED 12" WATER PIPE

FIRE WATER NOTES

1. PROPOSED FIRE HYDRANT
2. PROPOSED FIRE PIPE
4. PROPOSED FIRE TANK (IF REQUIRED)

SANITARY SEWER NOTES

1. PROPOSED SEWER PIPE
2. PROPOSED SEWER MANHOLE
5. PROPOSED SEWER POINT OF CONNECTION

EASEMENTS

1. EXISITING 16' EASEMENT FOR SOUTHERN CALIFORNIA GAS COMPANY AND SOUTHERN COUNTIES GAS COMPANY.
2. EXISITING COMMUNICATION SYSTEMS EASEMENT FOR US SPRINT COMMUNICATIONS COMPANY.
3. EXISTING 20.0'(VARIES) STREET CONSTRUCTION AND MAINTENANCE EASEMENT AGREEMENT.
8. EXISITING 16' ROAD DEDICATION TO THE CITY OF BANNING.
9. EXISITING EASEMENT NO. 2018-0219574.

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP
14/26 15/27 16/28 17/29
6/18 7/19 8/20
9/21 10/22
11/23 12/24 13/25

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KIMLEY-HORN AND ASSOCIATES, INC.
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RIVERSIDE, CA 92501
PHONE: 951-543-9868
WWW.KIMLEY-HORN.COM
PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN
EUGENE D. COWAN III, RCE # 86803 — 7/8/2024 DATE

SUBMITTED BY:
SANSONE GROUP
120 S. CENTRAL AVENUE, SUITE 500
ST. LOUIS, MO 63105

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Kimley»Horn
Engineer: EUGENE D. COWAN III
P.E. No. 86803 Date: 7/8/2024

CITY OF BANNING
RECOMMENDED BY:
KEVIN SIN, RCE #71299, EXP 12/31/23 — DATE
SENIOR CIVIL ENGINEER
APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24 — DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

BANNING COMMERCE CENTER
PRELIMINARY DESIGN DR21-7017
UTILITY PLAN 1

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 18 OF 29

1460

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MATCHLINE SEE SHEET 29

MATCHLINE SEE SHEET 18

MATCHLINE SEE SHEET 20

PROP R/W

PROPOSED STORM DRAIN LINE PER PRELIMINARY GRADING AND DRAINAGE PLANS

PR WALL (TYP)

2 RIM 2200.01
IE 8" IN 2179.88 (E)
IE 6" IN 2179.51 (S)
IE 8" OUT 2179.78 (W)

2 RIM 2199.85
IE 8" IN 2181.50 (E)
IE 8" OUT 2181.40 (W)

2 RIM 2199.97
IE 8" IN 2182.97 (E)
IE 6" IN 2182.60 (S)
IE 8" OUT 2182.87 (W)

FIRE HYDRANT SPACING R=150' (TYP)

12"W 6"W 34.0' 4.0' 21.0' 12.0' 67.0'

17+00 18+00 19+00 20+00 21+00 22+00 23+00 24+00 25+00 26+00

LEGEND

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- SEWER LINE
- WATER LINE
- FIRE WATER LINE
- IRRIGATION LINE
- PROPOSED INFILTRATION BASIN
- STORM DRAIN STRUCTURE
- STORM DRAIN INLET
- SEWER MANHOLE
- SEWER CLEANOUT
- FIRE HYDRANT
- BACKFLOW PREVENTOR
- FIRE DEPARTMENT CONNECTION
- FIRE POST INDICATOR VALVE
- SECTIONAL CONTROL VALVE
- WATER VALVE
- BENDS
- BUILDING CONNECTION
- POINT OF CONNECTION

FIRE WATER NOTES

1. PROPOSED FIRE HYDRANT
2. PROPOSED FIRE PIPE

SANITARY SEWER NOTES

1. PROPOSED SEWER PIPE
2. PROPOSED SEWER MANHOLE
5. PROPOSED SEWER POINT OF CONNECTION

EASEMENTS

1. EXISITING 16' EASEMENT FOR SOUTHERN CALIFORNIA GAS COMPANY AND SOUTHERN COUNTIES GAS COMPANY.
2. EXISITING COMMUNICATION SYSTEMS EASEMENT FOR US SPRINT COMMUNICATIONS COMPANY.
9. EXISITING EASEMENT NO. 2018-0219574.

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP
14/26 15/27 16/28 17/29 6/18 7/19 8/20 9/21 10/22 11/23 12/24 13/25

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3801 UNIVERSITY AVE., SUITE 300
RIVERSIDE, CA 92501
PHONE: 951-543-9868
WWW.KIMLEY-HORN.COM
PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN
EUGENE D. COWAN III, RCE # 86803 — 7/8/2024 DATE

SUBMITTED BY:
SANSONE GROUP
120 S. CENTRAL AVENUE, SUITE 500
ST. LOUIS, MO 63105

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Kimley»Horn
Engineer EUGENE D. COWAN III
P.E. No. 86803 Date 7/8/2024

CITY OF BANNING
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KEVIN SIN, RCE #71299, EXP 12/31/23 — DATE
SENIOR CIVIL ENGINEER
APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24 — DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

BANNING COMMERCE CENTER

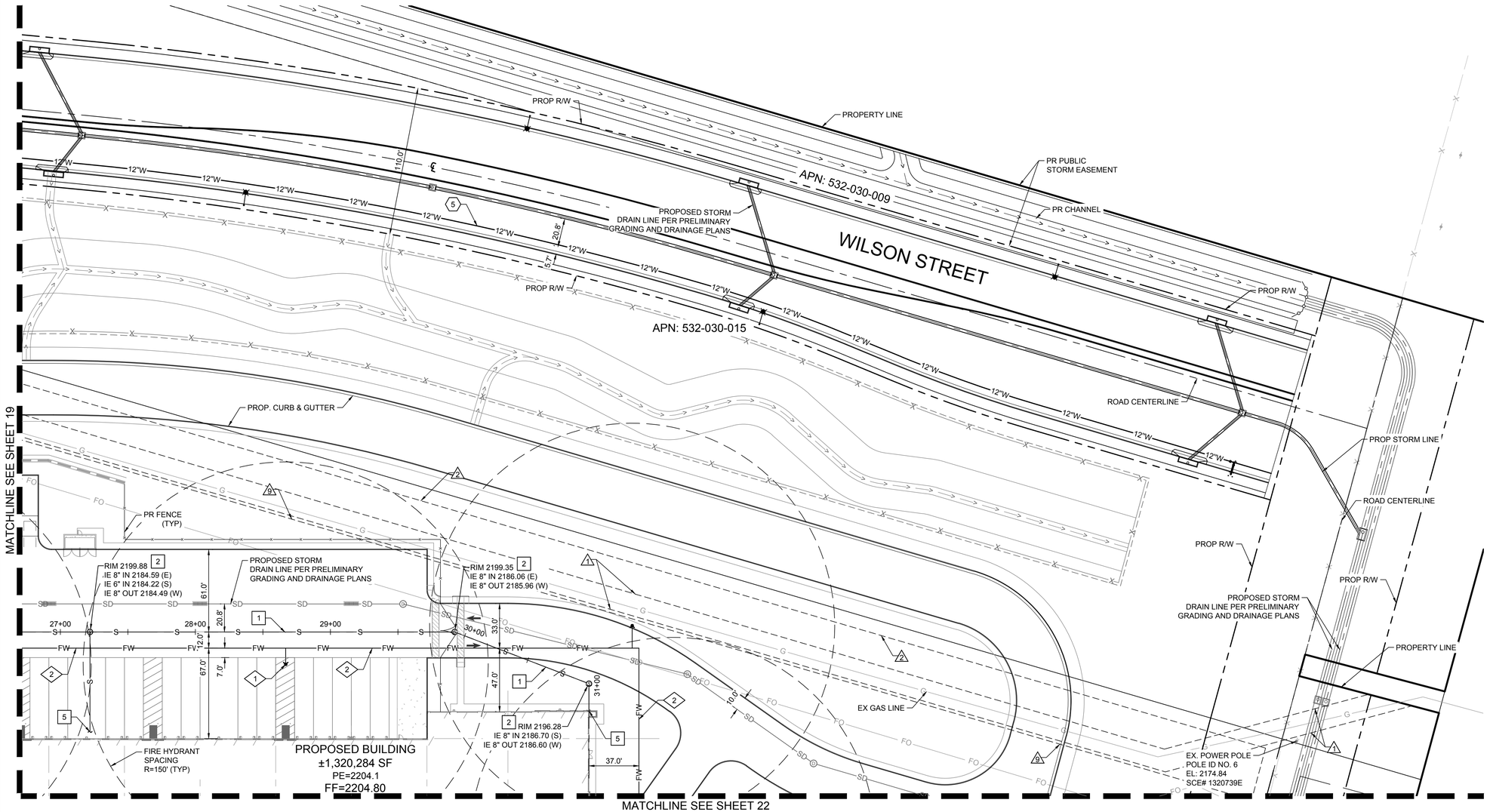
PRELIMINARY DESIGN DR21-7017

UTILITY PLAN 2

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 19 OF 29

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- FIRE WATER LINE
- IRRIGATION LINE
- PROPOSED INFILTRATION BASIN
- STORM DRAIN STRUCTURE
- STORM DRAIN INLET
- SEWER MANHOLE
- SEWER CLEANOUT
- FIRE HYDRANT
- BACKFLOW PREVENTOR
- FIRE DEPARTMENT CONNECTION
- FIRE POST INDICATOR VALVE
- SECTIONAL CONTROL VALVE
- WATER VALVE
- BENDS
- BUILDING CONNECTION
- POINT OF CONNECTION

FIRE WATER NOTES

1. PROPOSED FIRE HYDRANT
2. PROPOSED FIRE PIPE

SANITARY SEWER NOTES

1. PROPOSED SEWER PIPE
2. PROPOSED SEWER MANHOLE
5. PROPOSED SEWER POINT OF CONNECTION

EASEMENTS

1. EXISITING 16' EASEMENT FOR SOUTHERN CALIFORNIA GAS COMPANY AND SOUTHERN COUNTIES GAS COMPANY.
2. EXISITING COMMUNICATION SYSTEMS EASEMENT FOR US SPRINT COMMUNICATIONS COMPANY.
9. EXISITING EASEMENT NO. 2018-0219574.

WATER NOTES

5. PROPOSED 12" WATER PIPE

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP
14/26 15/27 16/28 17/29
6/18 7/19 8/20
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P.E. No. 86803 Date: 7/8/2024

CITY OF BANNING
RECOMMENDED BY:
KEVIN SIN, RCE #71299, EXP 12/31/23 — DATE
SENIOR CIVIL ENGINEER
APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24 — DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

BANNING COMMERCE CENTER
PRELIMINARY DESIGN DR21-7017
UTILITY PLAN 3

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 20 OF 29

MATCHLINE SEE SHEET 18

APN: 532-030-010

O'DONNELL STREET

PR WATER LINE PER TPM 38256

PROP R/W

PL

IMPROVEMENTS BY OTHERS

PR SEWR LINE PER TPM 38256

EXISTING POWER POLE OUTSIDE PROPERTY LIMITS (2223.54EL) SCE#: 1645758E

RIM 2222.66 IE 8" IN 2219.40 (E)

RIM 2217.47 IE 8" IN 2216.74 (SE) IE 8" OUT 2216.74 (W)

RIM 2203.73 IE 8" IN 2174.22 (N) IE 8" OUT 2174.12 (S)

RIM 2203.79 IE 8" IN 2172.60 (N) IE 8" OUT 2172.50 (S)

PROPOSED STORM DRAIN LINE PER PRELIMINARY GRADING AND DRAINAGE PLANS

PROPOSED BUILDING ±1,320,284 SF PE=2204.1 FF=2204.80

FIRE HYDRANT SPACING R=150' (TYP)

EX. POWER POLE POLE ID NO. 1 EL: 2216.48 SCE# 1320733E

10+00 9+00 8+00 7+00 6+00 5+00

23.0' 30.0' 12.0' 26.0'

MATCHLINE SEE SHEET 23

LEGEND

PROPERTY BOUNDARY
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FENCE
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BUILDING OUTLINE
STORM LINE
SEWER LINE
WATER LINE
FIRE WATER LINE
IRRIGATION LINE
PROPOSED INFILTRATION BASIN
STORM DRAIN STRUCTURE
STORM DRAIN INLET
SEWER MANHOLE
SEWER CLEANOUT
FIRE HYDRANT
BACKFLOW PREVENTOR
FIRE DEPARTMENT CONNECTION
FIRE POST INDICATOR VALVE
SECTIONAL CONTROL VALVE
WATER VALVE
BENDS
BUILDING CONNECTION
POINT OF CONNECTION

WATER NOTES

1. PROPOSED 4" WATER PIPE
2. PROPOSED 4" WATER METER AND BACKFLOW

FIRE WATER NOTES

1. PROPOSED FIRE HYDRANT
2. PROPOSED FIRE PIPE
3. PROPOSED FIRE BACKFLOW PREVENTOR

SANITARY SEWER NOTES

2. PROPOSED SEWER MANHOLE
3. PROPOSED FORCE MAIN
6. PROPOSED SEWER CLEANOUT

EASEMENTS

3. EXISTING 20.0'(VARIES) STREET CONSTRUCTION AND MAINTENANCE EASEMENT AGREEMENT.
7. EXISTING 20.0' ELECTRICAL EASEMENT FOR SOUTHERN CALIFORNIA EDISON COMPANY.
8. EXISITING 16' ROAD DEDICATION TO THE CITY OF BANNING.

NORTH

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KEYMAP
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PRELIMINARY
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E No. 86803 Date 7/8/2024

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APPROVED BY:
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PUBLIC WORKS DIRECTOR/CITY ENGINEER

BANNING COMMERCE CENTER

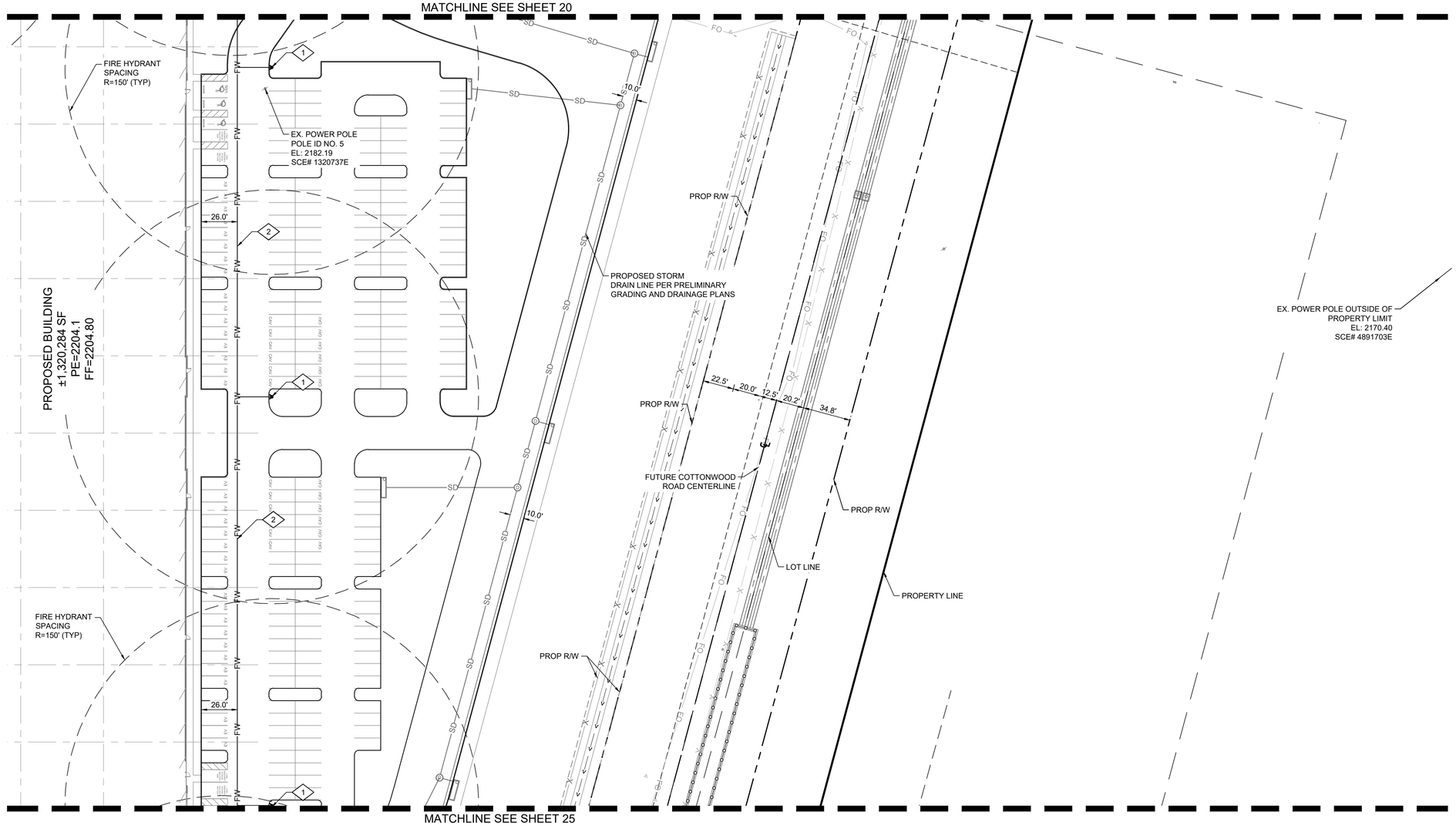
PRELIMINARY DESIGN DR21-7017

UTILITY PLAN 4

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 21 OF 29

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MATCHLINE SEE SHEET 20



MATCHLINE SEE SHEET 25

LEGEND

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- WATER VALVE
- BENDS
- BUILDING CONNECTION
- POINT OF CONNECTION

FIRE WATER NOTES

1. PROPOSED FIRE HYDRANT
2. PROPOSED FIRE PIPE

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP
14/26 15/27 16/28 17/29 6/18 7/19 8/20 9/21 10/22 11/23 12/24 13/25

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3801 UNIVERSITY AVE., SUITE 300
RIVERSIDE, CA 92501
PHONE: 951-543-9868
WWW.KIMLEY-HORN.COM
PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN
7/8/2024
EUGENE D. COWAN III, RCE # 86803 — DATE

SUBMITTED BY:
SANSONE GROUP
120 S. CENTRAL AVENUE, SUITE 500
ST. LOUIS, MO 63105

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Engineer EUGENE D. COWAN III
P.E. No. 86803 Date 7/8/2024

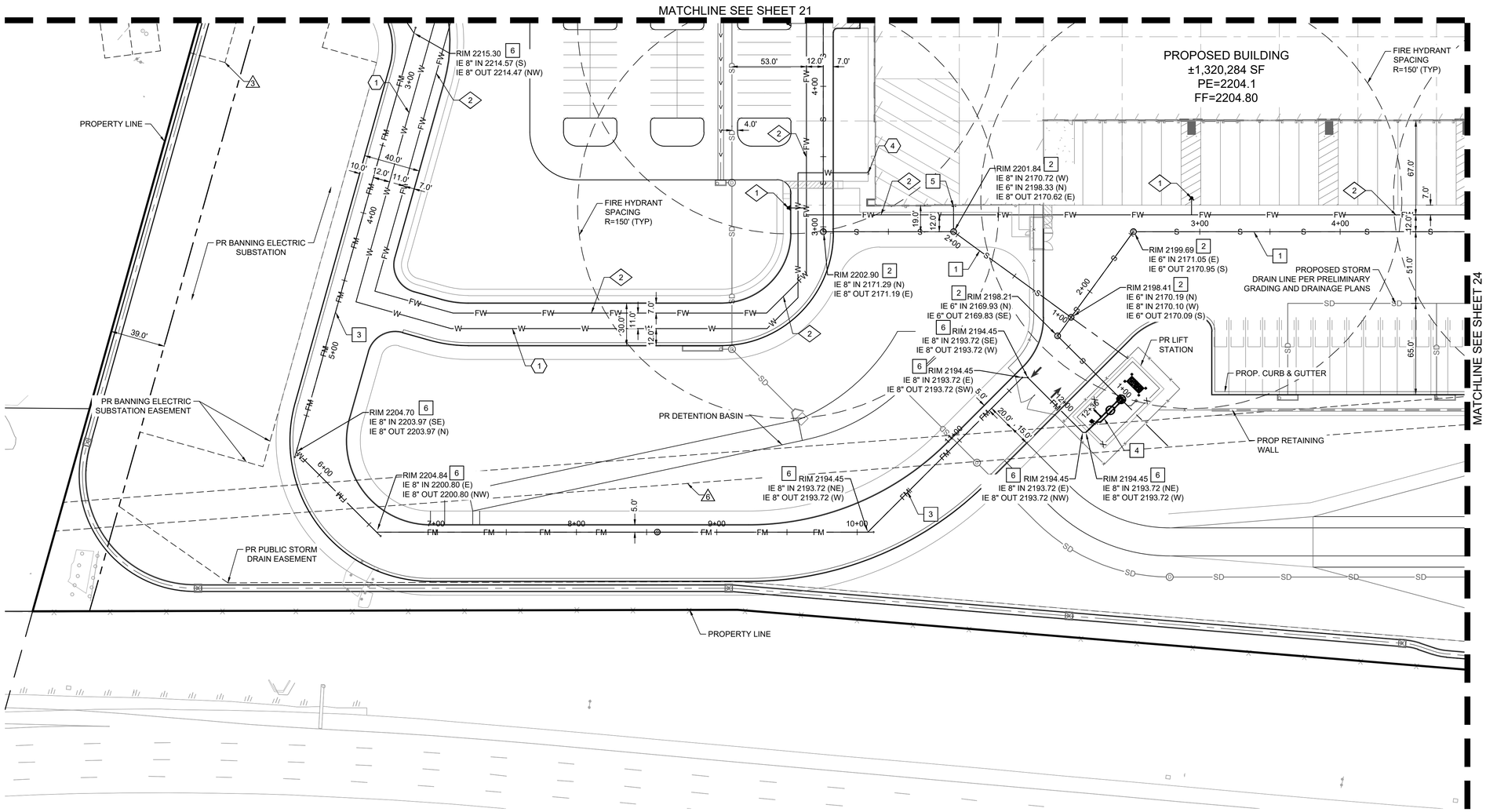
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SENIOR CIVIL ENGINEER
APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24 — DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

BANNING COMMERCE CENTER
PRELIMINARY DESIGN DR21-7017
UTILITY PLAN 5

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 22 OF 29

1464

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LEGEND

- PROPERTY BOUNDARY
- PROPERTY LINE / RIGHT-OF-WAY
- CENTERLINE
- SETBACK
- EASEMENT
- FENCE
- RETAINING WALL
- BUILING OUTLINE
- STORM LINE
- SEWER LINE
- WATER LINE
- FIRE WATER LINE
- IRRIGATION LINE
- PROPOSED INFILTRATION BASIN
- STORM DRAIN STRUCTURE
- STORM DRAIN INLET
- SEWER MANHOLE
- SEWER CLEANOUT
- FIRE HYDRANT
- BACKFLOW PREVENTOR
- FIRE DEPARTMENT CONNECTION
- FIRE POST INDICATOR VALVE
- SECTIONAL CONTROL VALVE
- WATER VALVE
- BENDS
- BUILDING CONNECTION
- POINT OF CONNECTION

WATER NOTES

1. PROPOSED 4" WATER PIPE
4. PROPOSED WATER POINT OF CONNECTION

FIRE WATER NOTES

1. PROPOSED FIRE HYDRANT
2. PROPOSED FIRE PIPE

SANITARY SEWER NOTES

1. PROPOSED SEWER PIPE
2. PROPOSED SEWER MANHOLE
3. PROPOSED FORCE MAIN
4. PROPOSED SEWER LIFT STATION
5. PROPOSED SEWER POINT OF CONNECTION
6. PROPOSED SEWER CLEANOUT

EASEMENTS

3. EXISTING 20.0'(VARIES) STREET CONSTRUCTION AND MAINTENANCE EASEMENT AGREEMENT.
6. EXISTING 20' PUBLIC UTILITY EASEMENT FOR COACHELLA VALLEY ICE AND ELECTRIC POWER COMPANY.

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP
14/26 15/27 16/28 17/29 6/18 7/19 8/20 9/21 10/22 11/23 12/24 13/25

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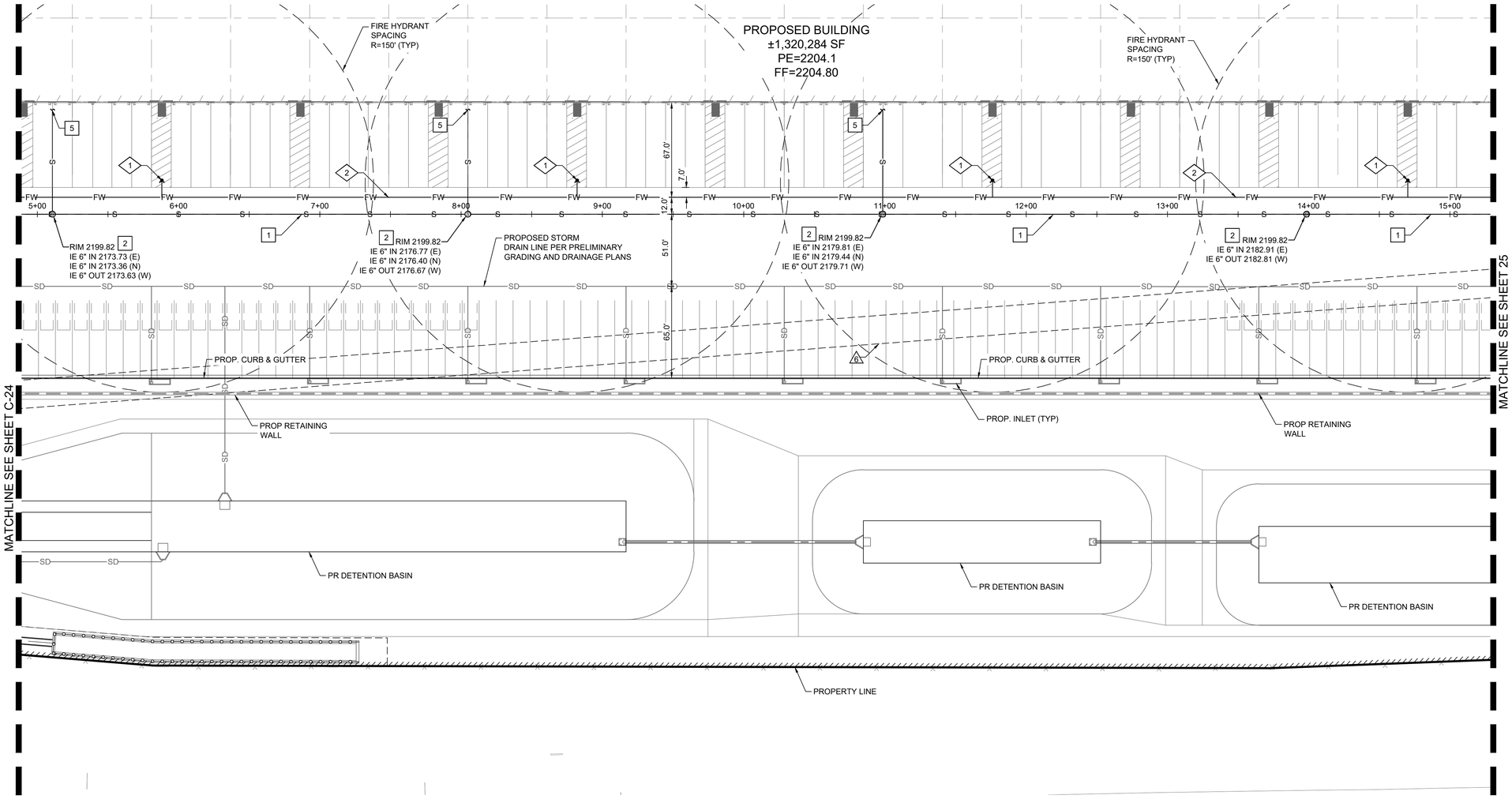
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P.E. No. 86803 Date 7/8/2024

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APPROVED BY:
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BANNING COMMERCE CENTER
PRELIMINARY DESIGN DR21-7017
UTILITY PLAN 6

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 23 OF 29

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- WATER LINE
- FIRE WATER LINE
- IRRIGATION LINE
- PROPOSED INFILTRATION BASIN
- STORM DRAIN STRUCTURE
- STORM DRAIN INLET
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- SEWER CLEANOUT
- FIRE HYDRANT
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- SECTIONAL CONTROL VALVE
- WATER VALVE
- BENDS
- BUILDING CONNECTION
- POINT OF CONNECTION

FIRE WATER NOTES

1. PROPOSED FIRE HYDRANT
2. PROPOSED FIRE PIPE

SANITARY SEWER NOTES

1. PROPOSED SEWER PIPE
2. PROPOSED SEWER MANHOLE
5. PROPOSED SEWER POINT OF CONNECTION

EASEMENTS

6. EXISTING 20' PUBLIC UTILITY EASEMENT FOR COACHELLA VALLEY ICE AND ELECTRIC POWER COMPANY.

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP
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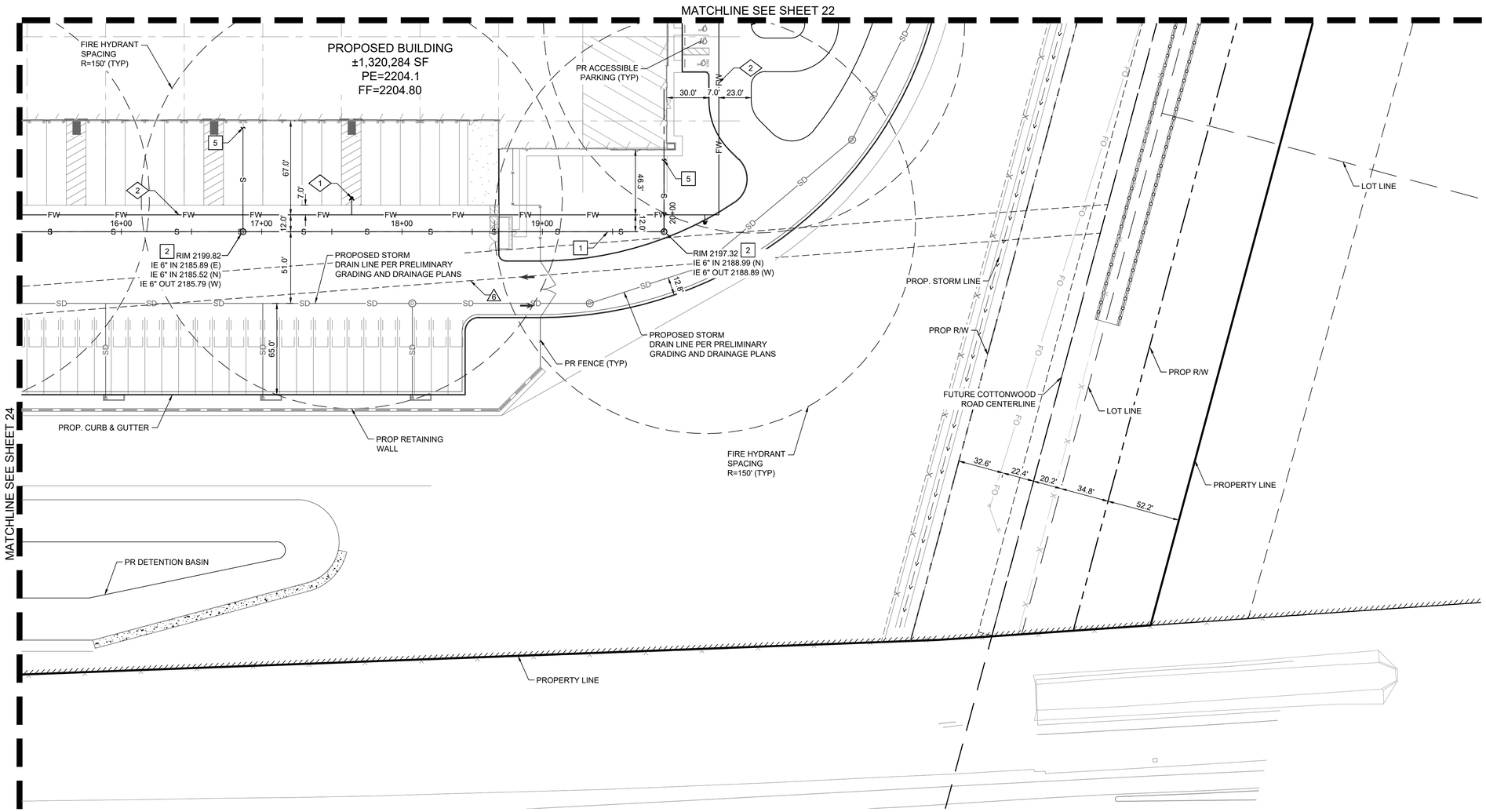
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PRELIMINARY DESIGN DR21-7017
UTILITY PLAN 7

W.O. No. DR21-7017
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- STORM DRAIN INLET
- SEWER MANHOLE
- SEWER CLEANOUT
- FIRE HYDRANT
- BACKFLOW PREVENTOR
- FIRE DEPARTMENT CONNECTION
- FIRE POST INDICATOR VALVE
- SECTIONAL CONTROL VALVE
- WATER VALVE
- BENDS
- BUILDING CONNECTION
- POINT OF CONNECTION

FIRE WATER NOTES

1. PROPOSED FIRE HYDRANT
2. PROPOSED FIRE PIPE

SANITARY SEWER NOTES

1. PROPOSED SEWER PIPE
2. PROPOSED SEWER MANHOLE
5. PROPOSED SEWER POINT OF CONNECTION

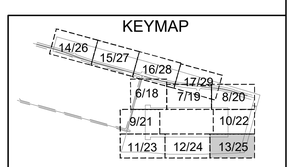
EASEMENTS

6. EXISTING 20' PUBLIC UTILITY EASEMENT FOR COACHELLA VALLEY ICE AND ELECTRIC POWER COMPANY.

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP



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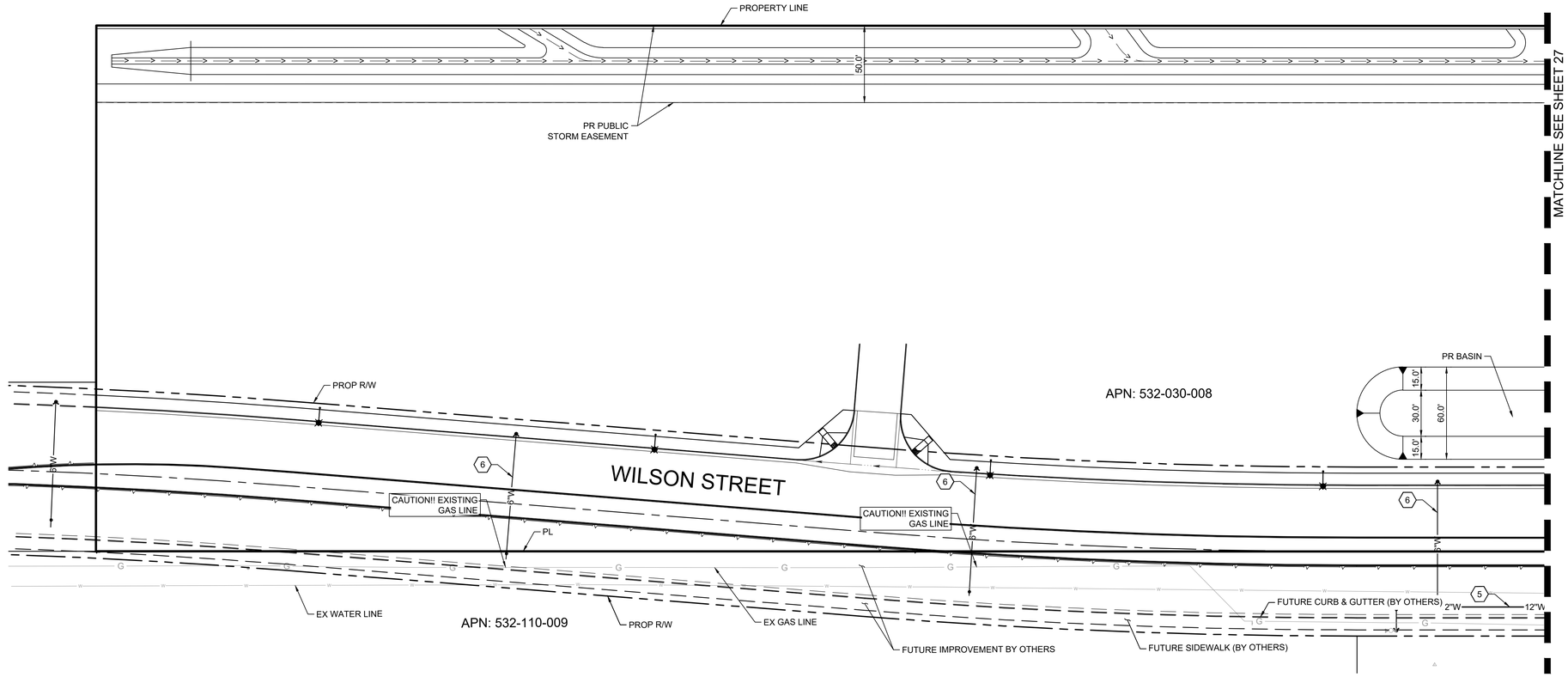
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Engineer EUGENE D. COWAN III
P.E. No. 86803 Date 7/8/2024

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APPROVED BY:
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BANNING COMMERCE CENTER
PRELIMINARY DESIGN DR21-7017
UTILITY PLAN 8

W.O. No. DR21-7017
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PROJECT No.
SHEET 25 OF 29

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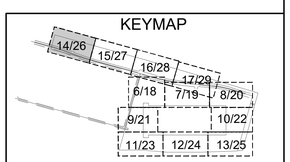
WATER NOTES

5. PROPOSED 12" WATER PIPE
6. PROPOSED 6" WATER PIPE

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP



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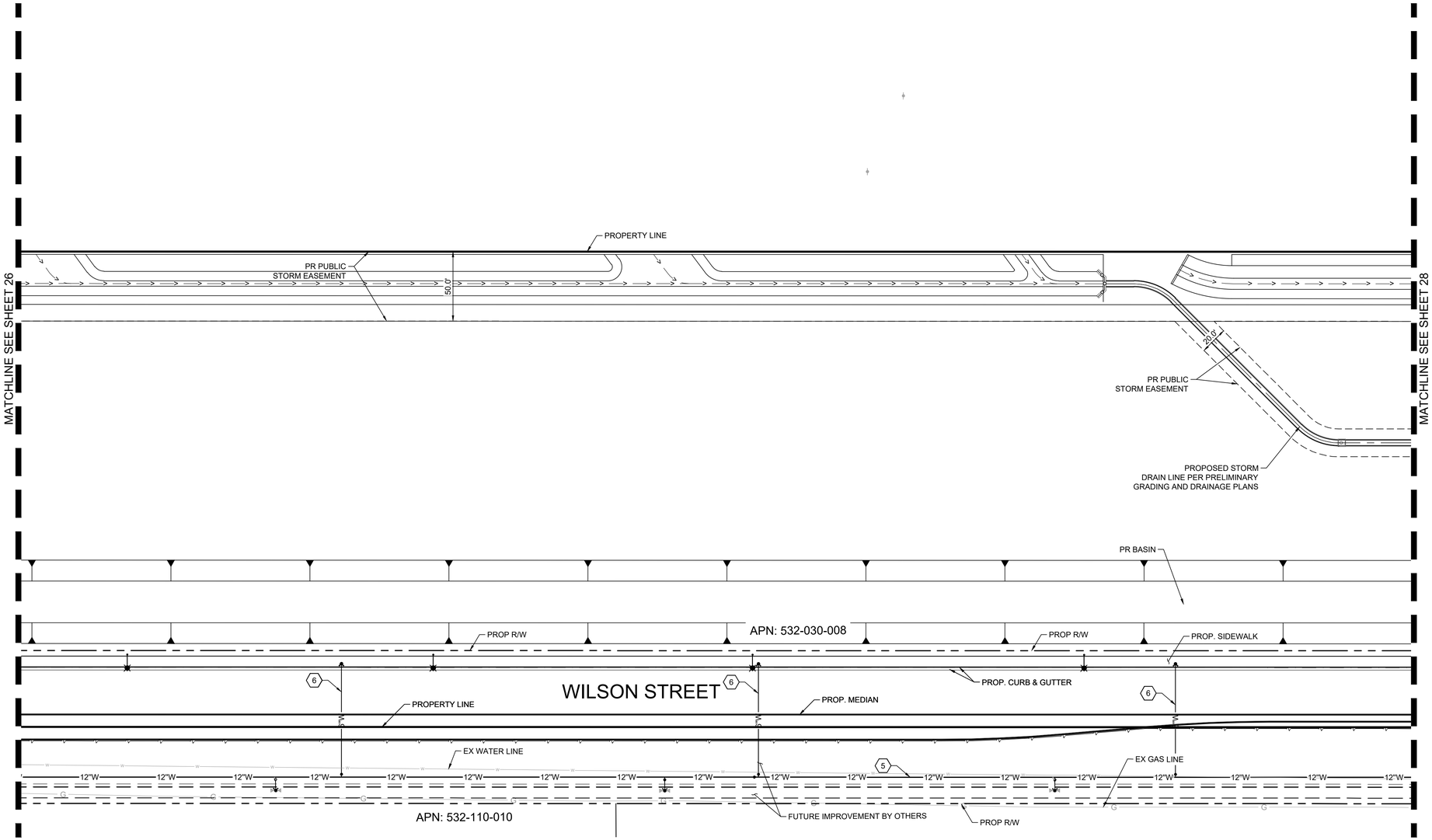
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BANNING COMMERCE CENTER
PRELIMINARY DESIGN DR21-7017
UTILITY PLAN 9

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 26 OF 29

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- WATER VALVE
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- POINT OF CONNECTION

WATER NOTES

5 PROPOSED 12" WATER PIPE

6 PROPOSED 6" WATER PIPE

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP
14/26 15/27 16/28 17/29 6/18 7/19 8/20 9/21 10/22 11/23 12/24 13/25

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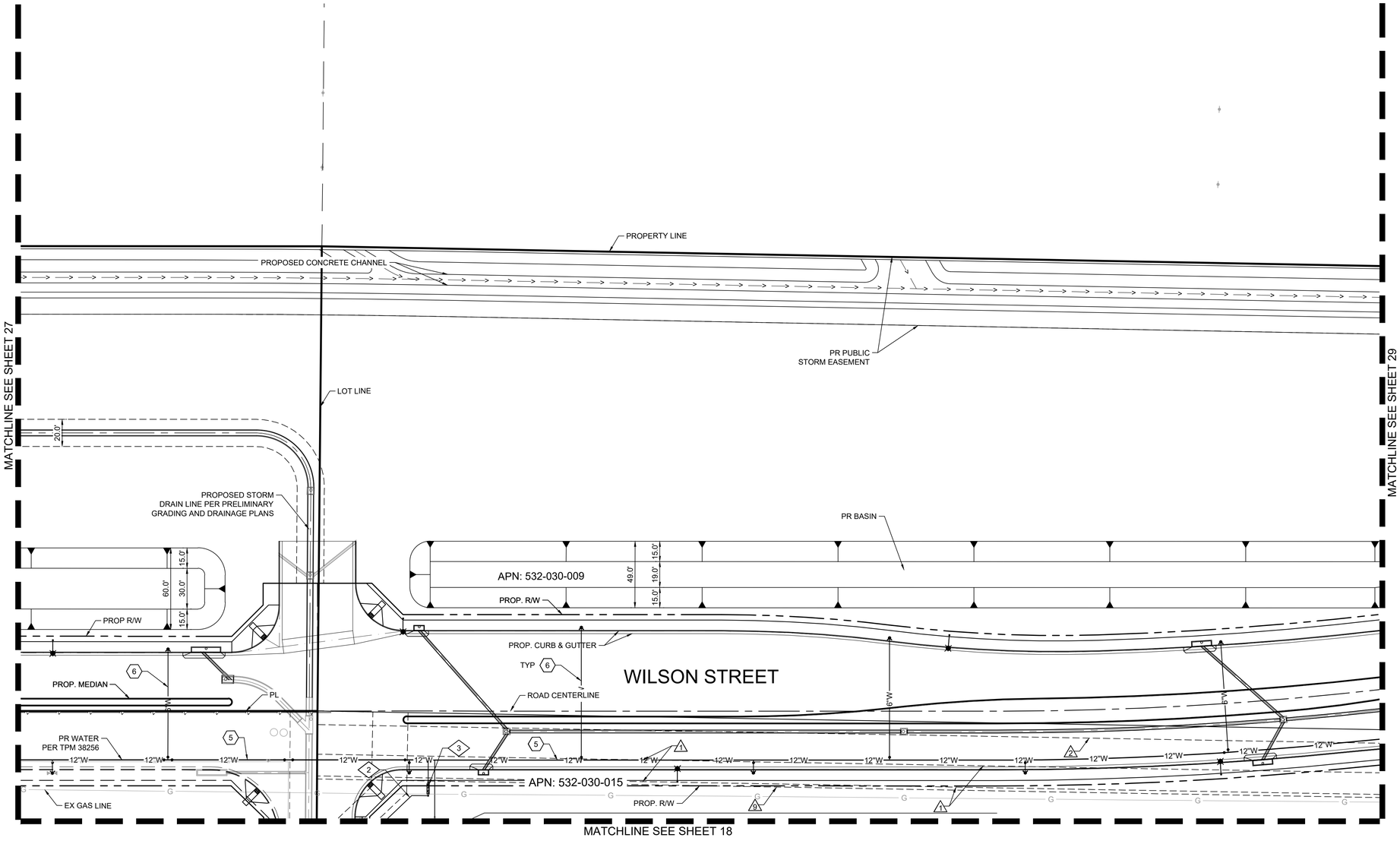
BANNING COMMERCE CENTER

PRELIMINARY DESIGN DR21-7017

UTILITY PLAN 10

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 27 OF 29

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EASEMENTS

1. EXISITING 16' EASEMENT FOR SOUTHERN CALIFORNIA GAS COMPANY AND SOUTHERN COUNTIES GAS COMPANY.
2. EXISITING COMMUNICATION SYSTEMS EASEMENT FOR US SPRINT COMMUNICATIONS COMPANY.
9. EXISITING EASEMENT NO. 2018-0219574.

WATER NOTES

5. PROPOSED 12" WATER PIPE
6. PROPOSED 6" WATER PIPE

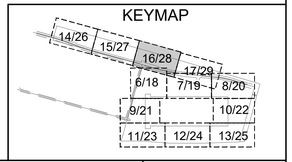
FIRE WATER NOTES

2. PROPOSED FIRE PIPE
3. PROPOSED FIRE BACKFLOW PREVENTOR

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP



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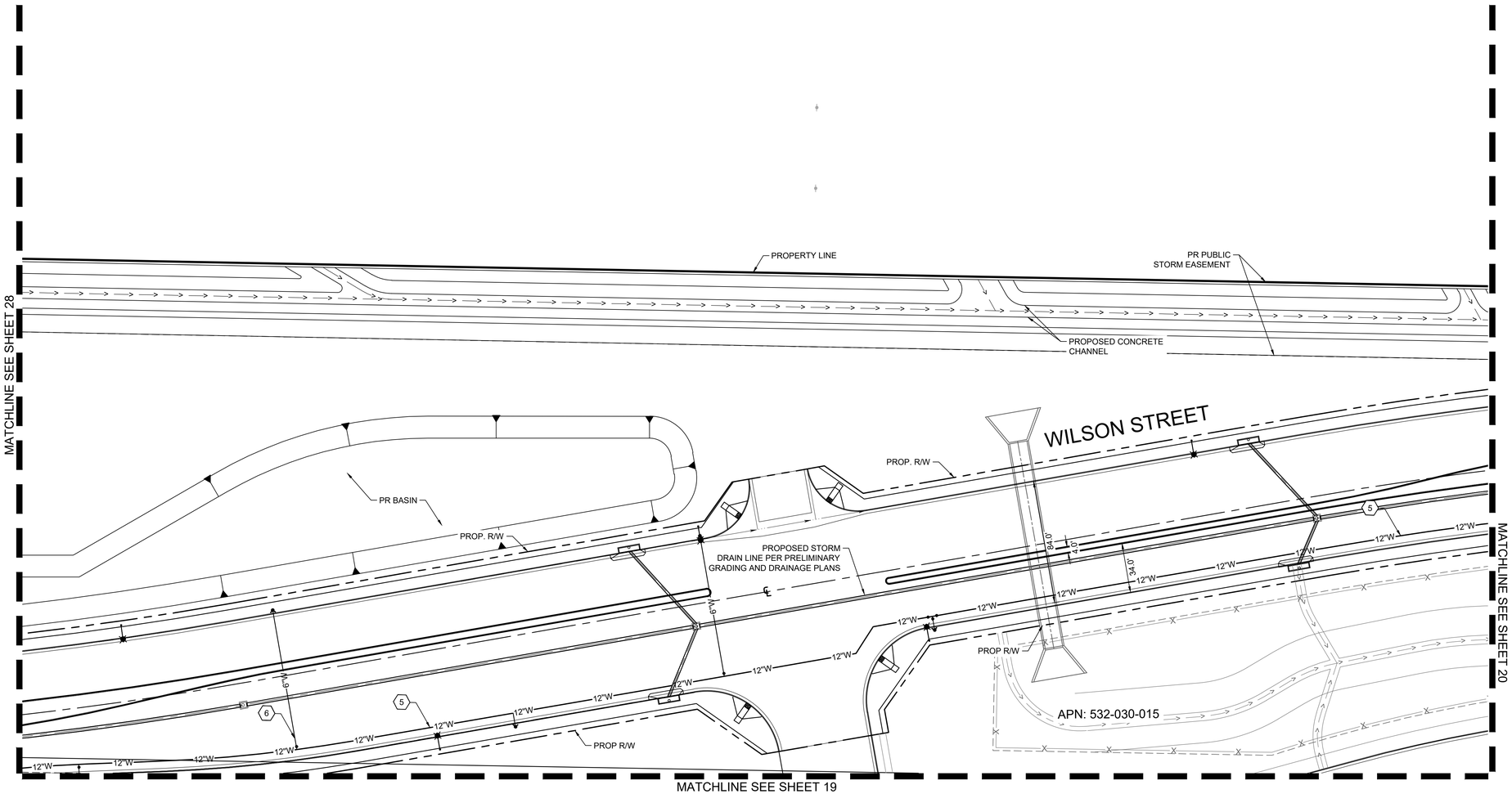
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BANNING COMMERCE CENTER
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UTILITY PLAN 11

W.O. No. DR21-7017
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- WATER VALVE
- BENDS
- BUILDING CONNECTION
- POINT OF CONNECTION

WATER NOTES

5 PROPOSED 12" WATER PIPE

6 PROPOSED 6" WATER PIPE

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP
14/26 15/27 16/28 17/29
6/18 7/19 8/20
9/21 10/22
11/23 12/24 13/25

UNDERGROUND SERVICE ALERT
call: TOLL FREE
1-800-422-4133
TWO WORKING DAYS BEFORE YOU DIG

REVISIONS

No.		APPR.	DATE

PLANS PREPARED BY:
Kimley»Horn
KIMLEY-HORN AND ASSOCIATES, INC.
3801 UNIVERSITY AVE., SUITE 300
RIVERSIDE, CA 92501
PHONE: 951-543-9868
WWW.KIMLEY-HORN.COM
PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN
7/8/2024
EUGENE D. COWAN III, RCE # 86803 DATE

SUBMITTED BY:
SANSONE GROUP
120 S. CENTRAL AVENUE, SUITE 500
ST. LOUIS, MO 63105

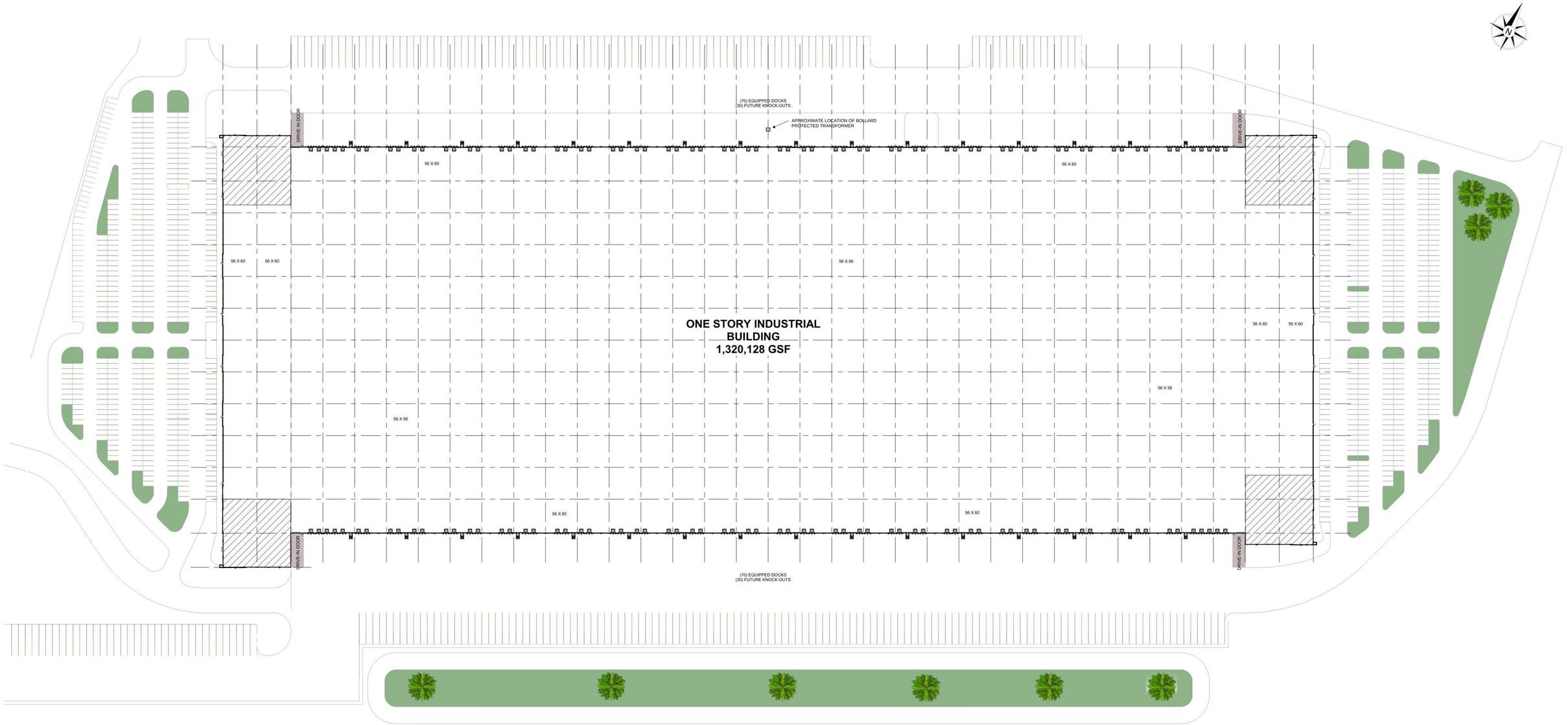
PRELIMINARY
FOR REVIEW ONLY
Prepared for Concept Plan submittal
Not for construction purposes or permits.
Kimley»Horn
Engineer EUGENE D. COWAN III
P.E. No. 86803 Date 7/8/2024

CITY OF BANNING
RECOMMENDED BY:
KEVIN SIN, RCE #71299, EXP 12/31/23 DATE
SENIOR CIVIL ENGINEER
APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24 DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

BANNING COMMERCE CENTER
PRELIMINARY DESIGN DR21-7017
UTILITY PLAN 12

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 29 OF 29

Plotted By:Perez, Luis Sheet Set:BANNING LOGISTICS PRELIM Layout:12 PG July 08, 2024 12:41:38pm K:\RIV_LDEV\194456002 - banning logistics\CAD\preliminary\Utility Plan.dwg
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FLOOR PLAN - SCALE 1" = 70'-0"

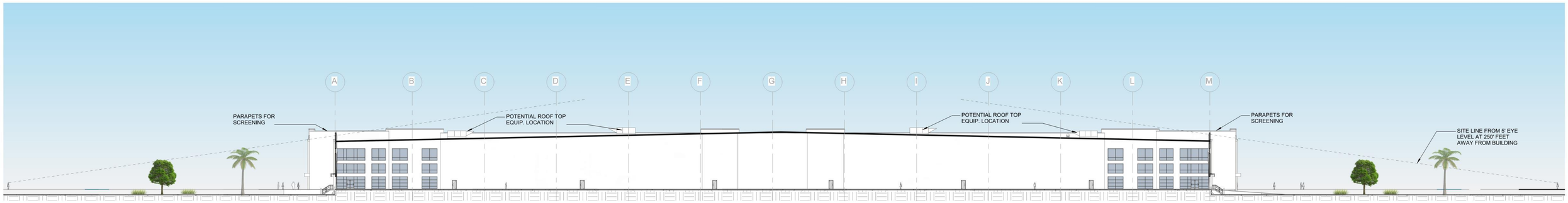
Banning Commerce Center

First Industrial Way and Wilson Street; Banning, CA 92220

FLOOR PLAN	22383.00	12 / 08 / 2022

SANSONE group

gray



NORTH / SOUTH BUILDING SECTION - SCALE 1" = 30'-0"

SW 7005
Pure White
Interior / Exterior
Location Number: 255-C1

PT-1
WALLS / VERTICAL ACCENTS

SW 6256
Serious Gray
Interior / Exterior
Location Number: 234-C5

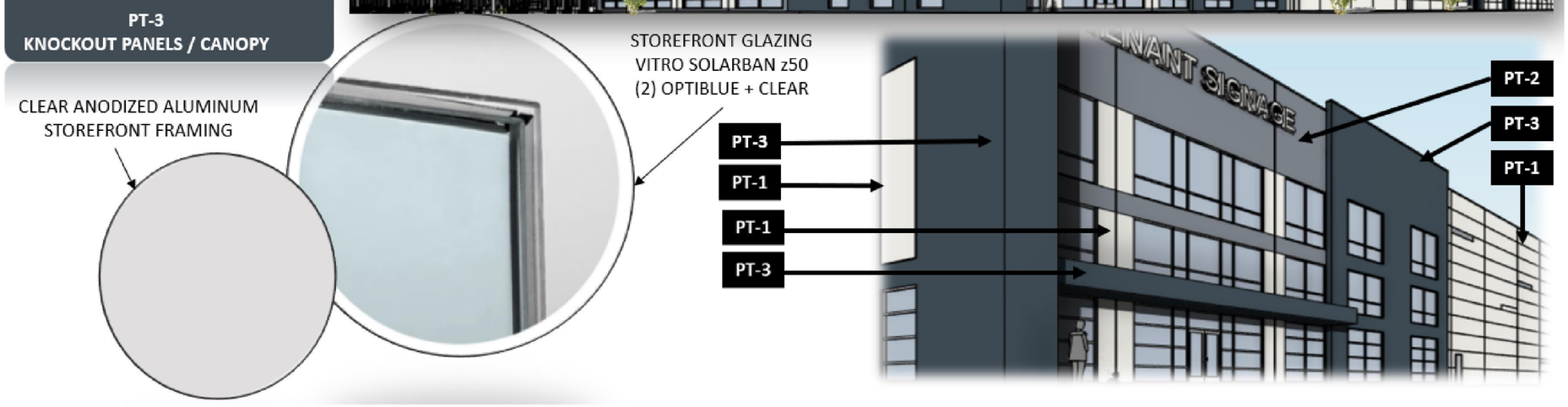
PT-2
ACCENT WALLS / BANDS

SW 7615
Sea Serpent
Interior / Exterior
Location Number: 234-C7

PT-3
KNOCKOUT PANELS / CANOPY

BANNING COMMERCE CENTER
EXTERIOR FINISH BOARD
12.08.2022





Banning Commerce Center

First Industrial Way and Wilson Street; Banning, CA 92220

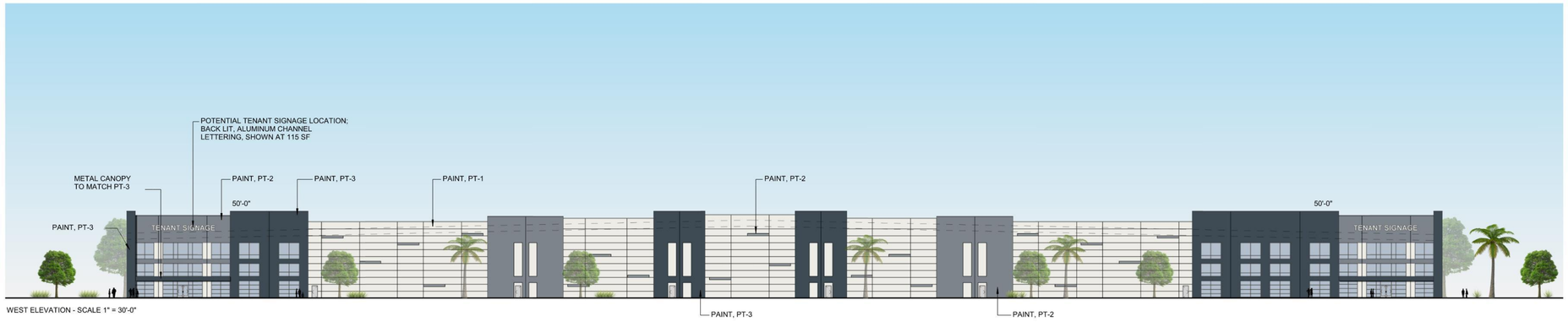
BUILDING SECTION & FINISH BOARD

22383.00

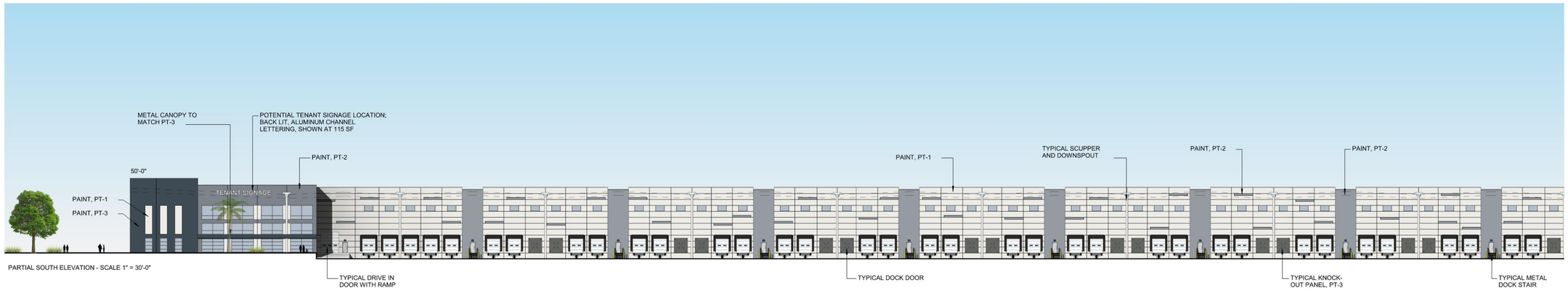
12 / 08 / 2022

SANSONE group

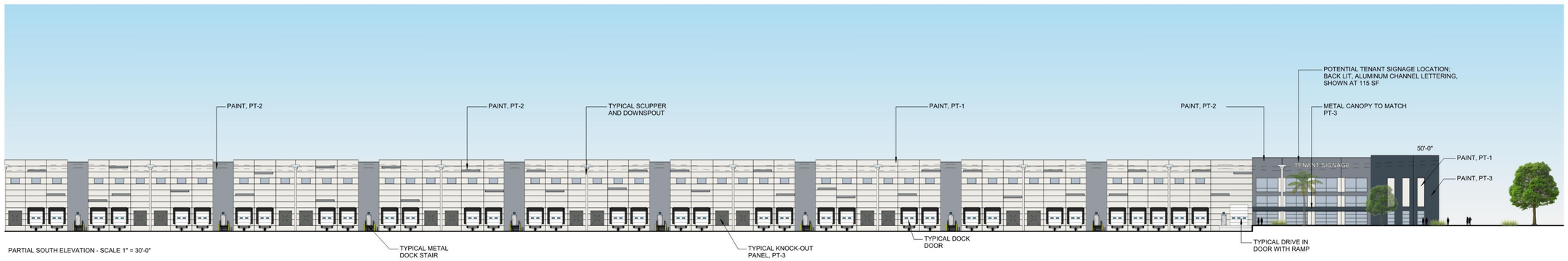
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WEST ELEVATION - SCALE 1" = 30'-0"



PARTIAL SOUTH ELEVATION - SCALE 1" = 30'-0"



PARTIAL SOUTH ELEVATION - SCALE 1" = 30'-0"

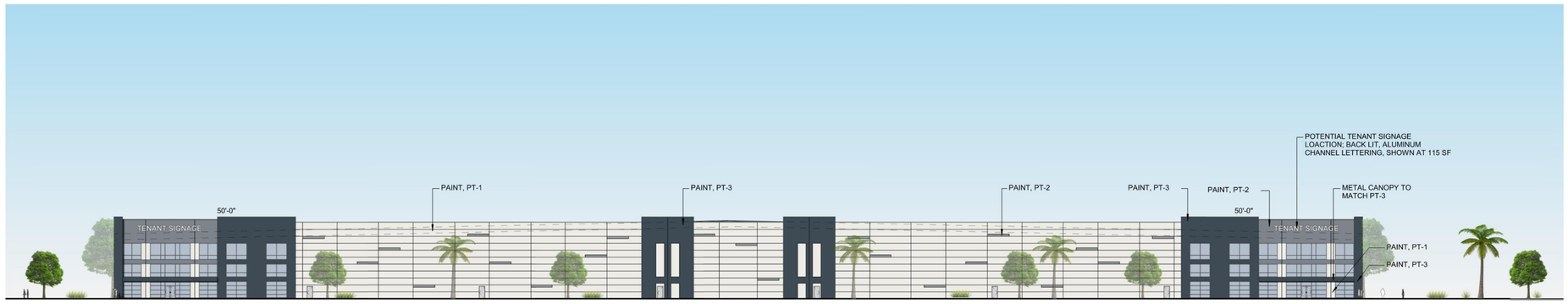
Banning Commerce Center

First Industrial Way and Wilson Street; Banning, CA 92220

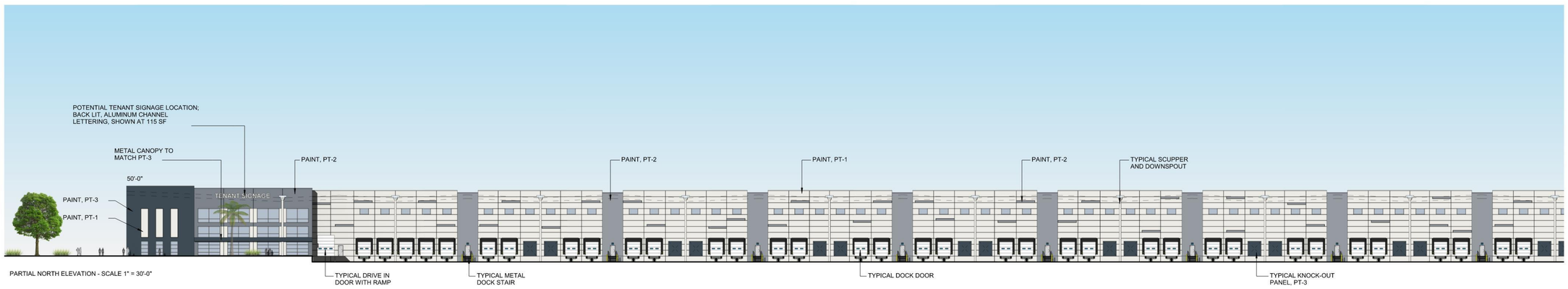
ELEVATIONS | 22383.00 | 12 / 08 / 2022

SANSONE group

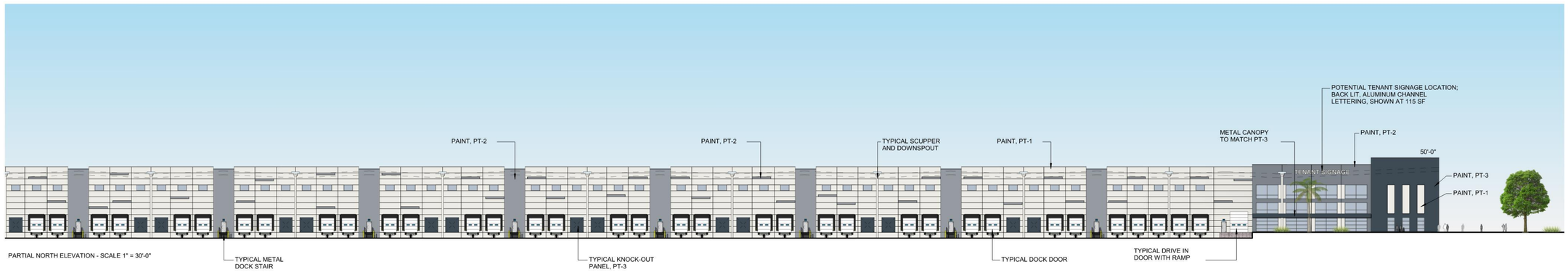
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EAST ELEVATION - SCALE 1" = 30'-0"



PARTIAL NORTH ELEVATION - SCALE 1" = 30'-0"



PARTIAL NORTH ELEVATION - SCALE 1" = 30'-0"

Banning Commerce Center

First Industrial Way and Wilson Street; Banning, CA 92220

ELEVATIONS | 22383.00 | 12 / 08 / 22

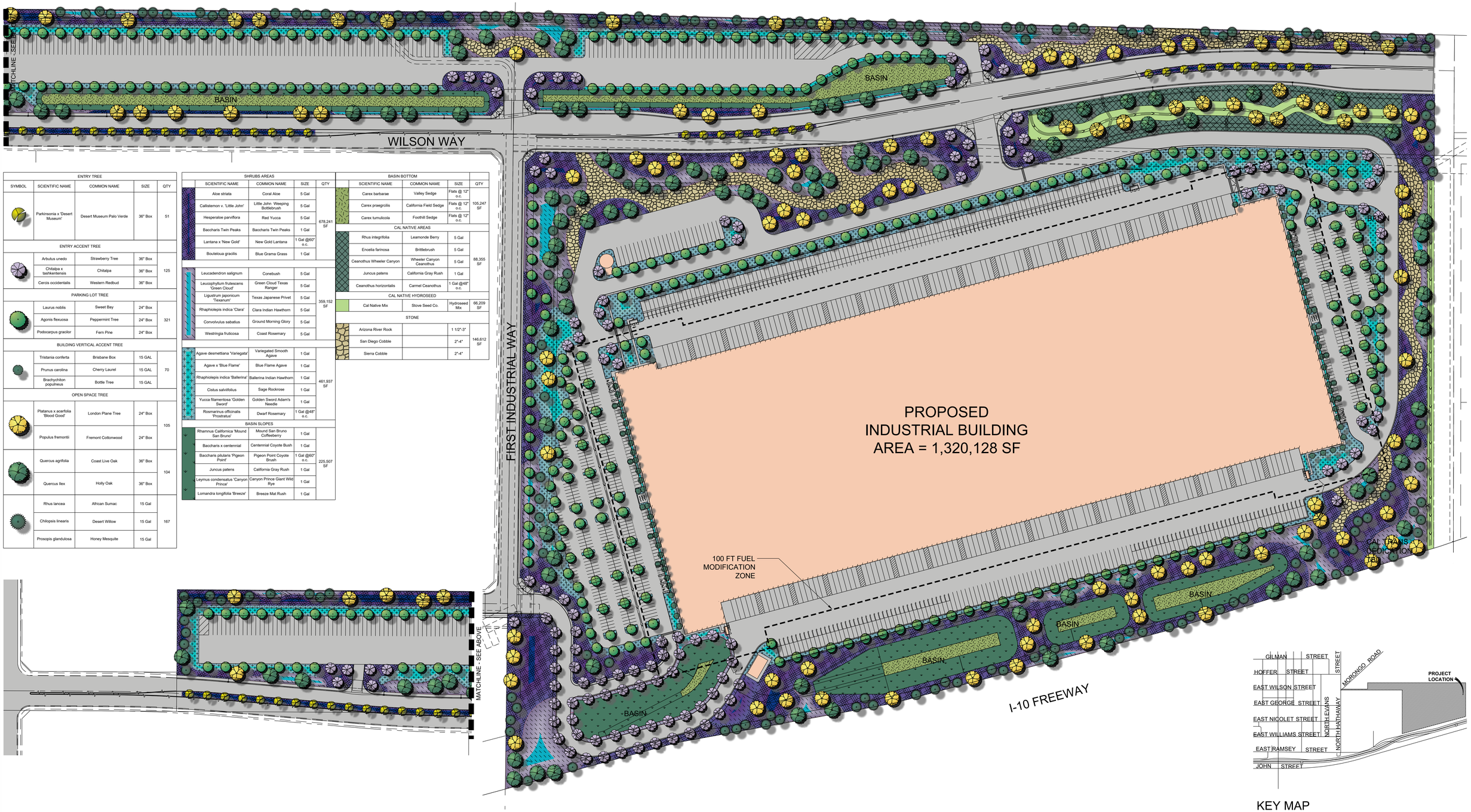
SANSONE group

gray

ENTRY TREE				
SYMBOL	SCIENTIFIC NAME	COMMON NAME	SIZE	QTY
	Parkinsonia x 'Desert Museum'	Desert Museum Palo Verde	36" Box	51
ENTRY ACCENT TREE				
	Arbutus unedo	Strawberry Tree	36" Box	125
	Chitalpa x tashkentensis	Chitalpa	36" Box	
	Cercis occidentalis	Western Redbud	36" Box	
PARKING LOT TREE				
	Laurus nobils	Sweet Bay	24" Box	321
	Agonis flexuosa	Peppermint Tree	24" Box	
	Podocarpus gracilor	Fern Pine	24" Box	
BUILDING VERTICAL ACCENT TREE				
	Tristania conferta	Brisbane Box	15 GAL	70
	Prunus carolina	Cherry Laurel	15 GAL	
	Brachychiton populneus	Bottle Tree	15 GAL	
OPEN SPACE TREE				
	Platanus x acerfolia 'Blood Good'	London Plane Tree	24" Box	105
	Populus fremontii	Fremont Cottonwood	24" Box	
	Quercus agrifolia	Coast Live Oak	36" Box	104
	Quercus Ilex	Holly Oak	36" Box	
	Rhus lancea	African Sumac	15 Gal	167
	Chilopsis linearis	Desert Willow	15 Gal	
	Prosopis glandulosa	Honey Mesquite	15 Gal	

SHRUBS AREAS				
	SCIENTIFIC NAME	COMMON NAME	SIZE	QTY
	Aloe striata	Coral Aloe	5 Gal	678,241 SF
	Callistemon v. 'Little John'	Little John 'Weeping Bottlebrush	5 Gal	
	Hesperaloe parviflora	Red Yucca	5 Gal	
	Baccharis Twin Peaks	Baccharis Twin Peaks	1 Gal	
	Lantana x 'New Gold'	New Gold Lantana	1 Gal @60" o.c.	
	Bouteloua gracilis	Blue Grama Grass	1 Gal	
	Leucadendron salignum	Conebush	5 Gal	359,152 SF
	Leucophyllum frutescens 'Green Cloud'	Green Cloud Texas Ranger	5 Gal	
	Ligustrum japonicum 'Texanum'	Texas Japanese Privet	5 Gal	
	Rhaphiolepis indica 'Clara'	Clara Indian Hawthorn	5 Gal	
	Convolvulus sabatius	Ground Morning Glory	5 Gal	
	Westringia fruticosa	Coast Rosemary	5 Gal	
	Agave desmettiana 'Variegata'	Variegated Smooth Agave	1 Gal	461,937 SF
	Agave x 'Blue Flame'	Blue Flame Agave	1 Gal	
	Rhaphiolepis indica 'Ballerina'	Ballerina Indian Hawthorn	1 Gal	
	Cistus salvifolius	Sage Rockrose	1 Gal	
	Yucca filamentosa 'Golden Sword'	Golden Sword Adam's Needle	1 Gal	
	Rosmarinus officinalis 'Prostratus'	Dwarf Rosemary	1 Gal @48" o.c.	
BASIN SLOPES				
	Rhamnus Californica 'Mound San Bruno'	Mound San Bruno Coffeeberry	1 Gal	225,507 SF
	Baccharis x centennial	Centennial Coyote Bush	1 Gal	
	Baccharis pilularis 'Pigeon Point'	Pigeon Point Coyote Brush	1 Gal @60" o.c.	
	Juncus patens	California Gray Rush	1 Gal	
	Leymus condensatus 'Canyon Prince'	Canyon Prince Giant Wild Rye	1 Gal	
	Lomandra longifolia 'Breeze'	Breeze Mat Rush	1 Gal	

BASIN BOTTOM				
	SCIENTIFIC NAME	COMMON NAME	SIZE	QTY
	Carex barbarae	Valley Sedge	Flats @ 12" o.c.	105,247 SF
	Carex praegricilis	California Field Sedge	Flats @ 12" o.c.	
	Carex tumulicola	Foothill Sedge	Flats @ 12" o.c.	
CAL NATIVE AREAS				
	Rhus integrifolia	Leamonde Berry	5 Gal	88,355 SF
	Encelia farinosa	Brittlebrush	5 Gal	
	Ceanothus Wheeler Canyon	Wheeler Canyon Ceanothus	5 Gal	
	Juncus patens	California Gray Rush	1 Gal	
	Ceanothus horizontalis	Carmel Ceanothus	1 Gal @48" o.c.	
CAL NATIVE HYDROSEED				
	Cal Native Mix	Stove Seed Co.	Hydroseed Mix	66,209 SF
STONE				
	Arizona River Rock		1 1/2"-3"	146,612 SF
	San Diego Cobble		2"-4"	
	Sierra Cobble		2"-4"	



KEY MAP

NORTH 0' 120' 240' 360'

SANSONE BANNING INDUSTRIAL

CONCEPTUAL LANDSCAPE PLAN

PREPARED FOR SANSONE GROUP

bmla LANDSCAPE ARCHITECTURE

310 NORTH JOY STREET | CORONA, CA 92879
T: 951.737.1124 | F: 951.737.6551

120 SOUTH CENTRAL, SUITE 500 ST. LOUIS, MO 63105 PH:(314) 727-6664

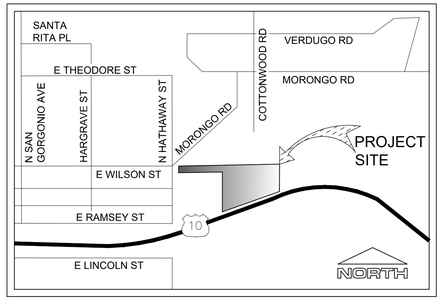
12/06/22

TENTATIVE PARCEL MAP NO. 38576

BANNING COMMERCE CENTER

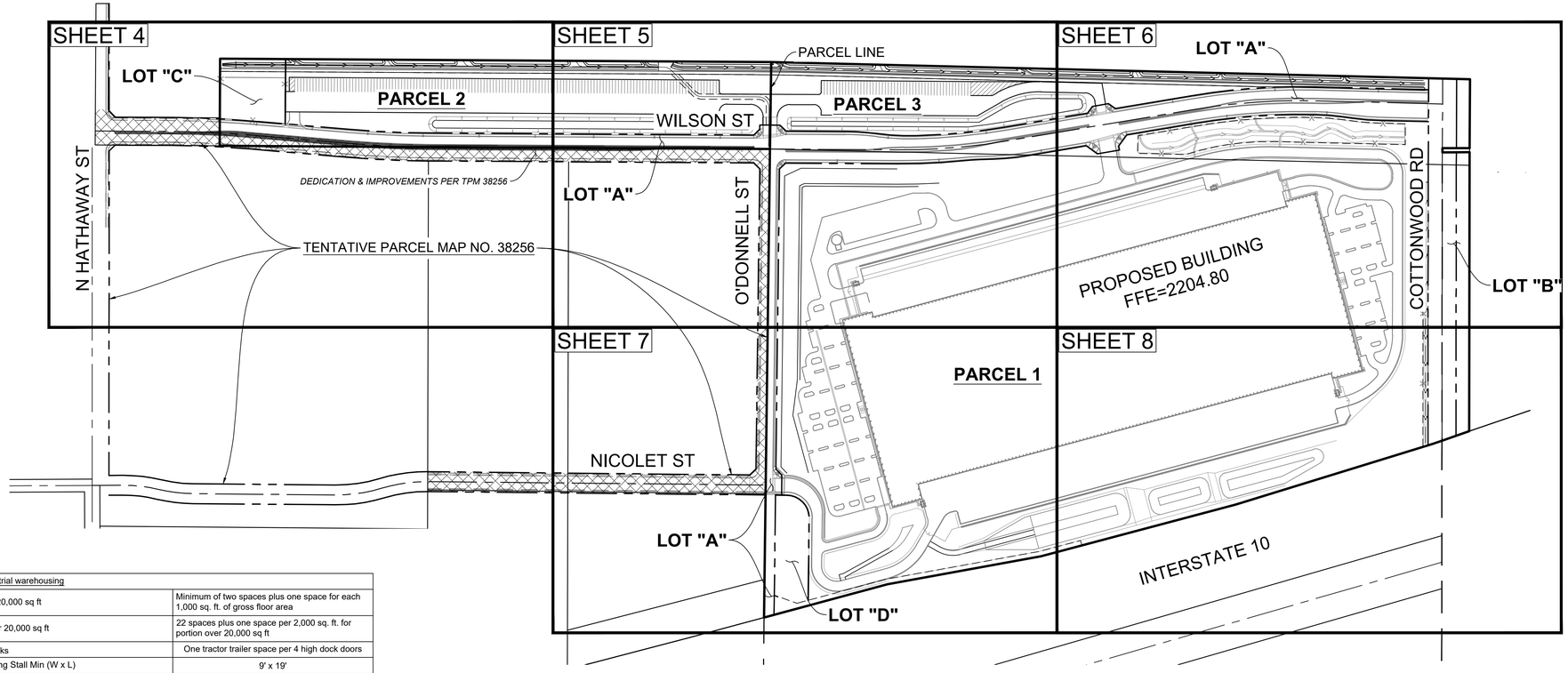
CITY OF BANNING, CA

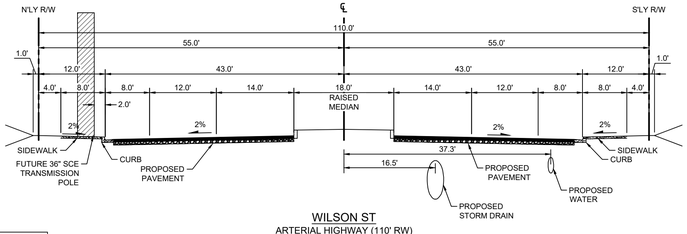
November 4, 2024



VICINITY MAP

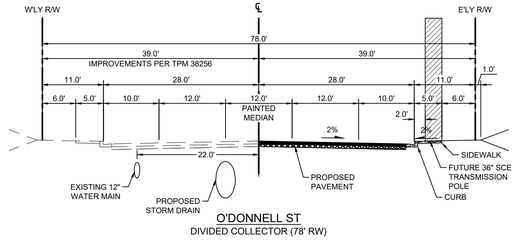
NOT TO SCALE





WILSON ST

ARTERIAL HIGHWAY (110' RW)



O'DONNELL ST

DIVIDED COLLECTOR (78' RW)

OWNER(S):

PARCEL 1:
LLOYD L. FIELDS
PARCEL 2 & 3:
VULCAN IRON & STEEL CO INC.
425 CASTLE PL
BEVERLY HILLS, 90210

DEVELOPER

SANSONE GROUP
120 S. CENTRAL AVENUE, SUITE 500
ST. LOUIS, 93105

SURVEYOR:

KIMLEY-HORN AND ASSOCIATES, INC.
1100 TOWN AND COUNTRY RD., SUITE 700
ORANGE, CA 92868
PH: 657.452.0200
CONTACT: JEFF LENHER, PLS.

CIVIL ENGINEER:

KIMLEY-HORN AND ASSOCIATES, INC.
3880 LEMON ST, SUITE 420
RIVERSIDE, CA 92501
PH: 619.744.0144
CONTACT: DAVIE COWAN, P.E.

BENCHMARK NOTE:

NATIONAL GEODETIC SURVEY (NGS)
BENCHMARK NO. DX1081, BEING A 3-1/2"
BRASS DISK IN 6"X6" CONCRETE POST
STAMPED "CA603 91 681968" AT 41 FEET
NORTH OF THE NORTH RAIL OF RAILROAD.
ELEVATION: 2242.57'
DATUM: NAVD 88

UTILITY INFORMATION:

STORM:	CITY OF BANNING	(951) 922-3185
SEWER:	CITY OF BANNING	(951) 922-3185
TELECOMM:	SPRINT	(800) 521-0579
WATER:	CITY OF BANNING	(951) 922-3185
ELECTRIC:	SOUTHERN CALIFORNIA EDISON	(800) 611-1911
ELECTRIC:	CITY OF BANNING	(951) 922-3185
GAS:	SOUTHERN CALIFORNIA GAS COMPANY	(800) 858-5601

SITE INFORMATION

ASSESSOR'S PARCEL NUMBER (APN)	532-030-008, 532-030-009, 532-080-008, 532-080-010, 532-090-026, 532-090-028, 532-090-030, 532-110-015	
Public Roads	**Classification**	**R/W (ft.)**
N HATHAWAY ST	Arterial Highway	85-95 (Varies)
Cottonwood Rd	Arterial Highway	110
Wilson St	Arterial Highway	110
E Nicolet St	Divided Collector	78
O'Donnell St	Divided Collector	78
PARCEL SUMMARY		**ACRES**
PARCEL 1 (PROPOSED BUILDING PARCEL)		89.50
PARCEL 2 (N'LY OF APN 532-110-001,009,010)		12.36
PARCEL 3 (WEST OF APN 532-080-008)		9.41
LOT "A" / WILSON ST. & O'DONNELL ST. (R/W DEDICATION)		12.02
LOT "B" / COTTONWOOD RD. (R/W DEDICATION)		5.21
LOT "C" CITY UTILITY LOT		1.45
LOT "D" CITY UTILITY LOT		1.34

ZONING INFORMATION

General Plan Land Use & Zoning	BP - Business Park
Existing Use	Vacant
Industrial Development Standards (Table 17.12.030)	
Min. Front Setback (Feet)	10
Min. Rear Setback (Feet)	0
Min. Side Yard Setback (Feet)	0
Min. Street Side (Feet)	10
Max. Bldg. Coverage (%)	75
Maximum Height (stories/feet)	50
Fence/Wall Height (ft.)	8
Industrial Parking Requirements (Table 17.28.040B)	
General Offices	For up to 2000 square feet of gross floor area, one space for each 200 sq. ft. For 2001 to 7500 square feet of gross floor area, one space for each 250 sq ft. For over 7500 square feet of gross floor area, one space for each 300 sq ft.

Industrial warehousing	
1—20,000 sq ft	Minimum of two spaces plus one space for each 1,000 sq. ft. of gross floor area
Over 20,000 sq ft	22 spaces plus one space per 2,000 sq. ft. for portion over 20,000 sq ft
Trucks	One tractor trailer space per 4 high dock doors
Parking Stall Min (W x L)	9' x 19'
Parking Lot Aisle Min	24'

PARKING REQUIRED

Total Auto Parking Required	**802**
Total Truck Parking Required	**50**
EVCS (9' x 19')	120
EVSE (9' x 19')	41
EVCS ADA Parking (9' x 19')	4
EVCS ADA Van Accessible Parking (12' x 19')	2
Ambulatory EVCS Parking (11' x 19')	5
Total EV	**161**
Bicycle (5% Short term and 5% Long Term)	82

PARKING PROVIDED

Standard (9' x 19')	614
Accessible Parking (9' x 19')	17
Accessible Van Parking (12' x 19')	3
EVCS (9' x 19')	120
EVSE (9' x 19')	41
EVCS ADA parking (9' x 19')	4
EVCS ADA VAN Accessible Parking (12' x 19')	2
Ambulatory EVCS Parking (11'x19')	4
TOTAL AUTO PARKING PHASE 1	**805**
Bicycle (5% Short term and 5% Long Term)	82
Proposed Trailer Parking Phase 1	270
Proposed Trailer Parking (North Lot)	205
Landscaping Summary	**SF**
Required (15% of Net Area of all Parking Area)	20,649
Provided Parking Lot Landscape Area	126,037

SHEET INDEX

NO.	TITLE
1	COVER SHEET
2	LEGAL DESCRIPTION & EX EASEMENTS
3	EX PROJECT BOUNDARY
4	MAP SHEET - 1
5	MAP SHEET - 2
6	MAP SHEET - 3
7	MAP SHEET - 4
8	MAP SHEET - 5
9	SITE PHASING

NORTH

GRAPHIC SCALE IN FEET

0 125 250 500

UNDERGROUND SERVICE ALERT

CALL BEFOR YOU DIG

call: TOLL FREE

1-800-422-4133

TWO WORKING DAYS BEFORE YOU DIG

REVISIONS

No.		APPR.	DATE

PLANS PREPARED BY:

Kimley»Horn

KIMLEY-HORN AND ASSOCIATES, INC.
3801 UNIVERSITY AVE., SUITE 300
RIVERSIDE, CA 92501
PHONE: 951-543-9868
WWW.KIMLEY-HORN.COM

PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN

EUGENE D. COWAN III, RCE # 86803

11/4/2024
DATE

SUBMITTED BY:

REGISTERED PROFESSIONAL ENGINEER — EUGENE DAVIS COWAN III — No. 86803 — CIVIL — STATE OF CALIFORNIA

City of BANNING — INCORPORATED 1913 — ENDLESS OPPORTUNITY

CITY OF BANNING

RECOMMENDED BY:

KEVIN SIN, RCE #71299, EXP 12/31/23
SENIOR CIVIL ENGINEER — DATE

APPROVED BY:

ARTURO VELA, RCE # 75696, EXP. 05/30/24
PUBLIC WORKS DIRECTOR/CITY ENGINEER — DATE

BANNING COMMERCE CENTER

TENTATIVE PARCEL MAP NO. 38576

COVER SHEET

W.O. No. DR21-7017

CIP No.

PROJECT No.

SHEET 1 OF 9

Plotted By:Cowan, Davis Sheet Set:BANNING LOGISTICS PRELIM Layout:Layout 1 November 04, 2024 04:10:07pm K:\RIV_LDEV\194456002 - Banning Logistics\CAD\TPM\BANNING-TPM-COVER.dwg
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LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

THOSE CERTAIN PARCELS OF LAND LOCATED WITHIN THE MORONGO INDIAN RESERVATION, LOCATED IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, BEING THOSE PORTIONS OF SECTION 1, 2 AND 12 OF TOWNSHIP 3 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN, AS SHOWN ON THE OFFICIAL PLAT THEREOF, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 2;

THENCE ALONG THE SOUTHERLY LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 2 SOUTH 89°40'06" EAST 489.00 FEET TO A LINE PARALLEL WITH AND 489.00 FEET EASTERLY OF THE WESTERLY LINE OF SAID SECTION 2, SAID POINT BEING THE TRUE POINT OF BEGINNING;

THENCE ALONG SAID PARALLEL LINE NORTH 00°21'44" EAST 342.00 FEET TO A LINE PARALLEL WITH AND 342.00 FEET NORTHERLY OF SAID SOUTHERLY LINE OF THE SOUTHWEST QUARTER OF SECTION 2;

THENCE ALONG SAID PARALLEL LINE SOUTH 89°40'06" EAST 2164.30 FEET TO THE EASTERLY LINE OF SAID SECTION 2;

THENCE CONTINUING ALONG THE EASTERLY PROLONGATION OF SAID PARALLEL LINE SOUTH 88°36'14" EAST 107.02 FEET TO A LINE PARALLEL WITH AND 107.00 FEET EASTERLY OF THE WESTERLY LINE OF SAID SECTION 1;

THENCE ALONG SAID PARALLEL LINE SOUTH 00°17'18" WEST 270.81 FEET TO THE NORTHERLY LINE OF A STRIP OF LAND 16.50 FEET IN WIDTH, EXCEPTED FROM GRANT DEED REC. 10/7/2004 AS DOC. NO. 2004-0797131, OFFICIAL RECORDS OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA (DEPT. OF INT. FILING 582 173Y07);

THENCE ALONG SAID NORTHERLY LINE SOUTH 89°47'09" WEST 107.00 FEET TO THE WESTERLY LINE OF SAID SECTION 1;

THENCE ALONG SAID WESTERLY LINE SOUTH 00°17'18" WEST 16.50 FEET TO THE SOUTHERLY LINE OF THE AFOREMENTIONED 16.50 FOOT STRIP;

THENCE ALONG SAID SOUTHERLY LINE NORTH 89°47'09" EAST 107.00 FEET TO A LINE PARALLEL WITH AND 107.00 FEET EASTERLY OF THE WESTERLY LINE OF SAID SECTION 1;

THENCE ALONG SAID PARALLEL LINE SOUTH 00°17'18" WEST 52.58 FEET TO THE SOUTH LINE OF SAID SECTION 1, SAID POINT IS LOCATED ON A LINE PARALLEL WITH AND 107.00 FEET EASTERLY OF THE WESTERLY LINE OF SAID SECTION 12;

THENCE ALONG SAID PARALLEL LINE SOUTH 00°03'26" WEST 1044.17 FEET TO THE NORTHERLY LINE OF THAT CERTAIN FINAL ORDER OF CONDEMNATION RECORDED AUGUST 19, 1963 AS INST. NO. 87113 AND THAT CERTAIN FINAL ORDER OF CONDEMNATION RECORDED SEPTEMBER 26, 1967 AS INST. NO. 84776, BOTH OF OFFICIAL RECORDS OF SAID COUNTY OF RIVERSIDE. SAID NORTHERLY RIGHT OF WAY LINE BEING DEPICTED CALTRANS RIGHT-OF-WAY MAP NO. 984524 FILED IN BOOK 204 PAGE 91 OF CALTRANS RIGHT-OF-WAY MAPS AND CALTRANS RIGHT-OF-WAY MAP NO. 452194 FILED IN BOOK 205 PAGE 263 OF CALTRANS RIGHT-OF-WAY MAPS, BOTH ON FILE IN THE MISC. RECORDS OF THE OFFICE OF THE COUNTY SURVEYOR OF SAID COUNTY OF RIVERSIDE;

THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY SOUTH 71°02'58" WEST 113.17 FEET TO THE WESTERLY LINE OF SAID SECTION 2;

THENCE ALONG SAID WESTERLY LINE OF SECTION 12 NORTH 00°03'26" EAST 1081.36 FEET TO THE SOUTHEAST QUARTER OF THE AFOREMENTIONED SECTION 12;

THENCE ALONG THE AFOREMENTIONED SOUTHERLY LINE OF THE SOUTHEAST QUARTER OF SECTION 2 NORTH 88°36'14" WEST 2641.66 FEET TO THE SOUTH QUARTER CORNER OF SECTION 2;

THENCE ALONG THE AFOREMENTIONED SOUTHERLY LINE OF THE SOUTHWEST QUARTER OF SECTION 2 NORTH 89°40'06" WEST 2161.30 FEET TO THE TRUE POINT OF BEGINNING;

RESERVING THEREFROM AN EASEMENT FOR INGRESS, EGRESS AND UTILITIES, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 2;

THENCE ALONG THE SOUTHERLY LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 2 SOUTH 89°40'06" EAST 2583.30 FEET TO A POINT 67.00 FEET WESTERLY OF THE SOUTH QUARTER CORNER OF SAID SECTION 2, SAID POINT IS THE TRUE POINT OF BEGINNING;

THENCE NORTH 00° 21'44" EAST 342.00 FEET TO A LINE PARALLEL WITH 342.00 FEET NORTHERLY OF SAID SOUTHERLY LINE OF THE SOUTHWEST QUARTER OF SECTION 2;

THENCE ALONG SAID PARALLEL LINE SOUTH 89°40'06" EAST 69.98 FEET TO A LINE PARALLEL WITH AND 342.00 FEET NORTHERLY OF THE SOUTHERLY LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 2;

THENCE ALONG SAID PARALLEL LINE SOUTH 88°36'14" EAST 30.02 FEET;

THENCE SOUTH 00°21'44" WEST 342.06 FEET TO THE AFOREMENTIONED SOUTHERLY LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 2;

THENCE ALONG SAID SOUTHERLY LINE NORTH 88°36'14" WEST 33.02 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 2;

THENCE ALONG THE SOUTHERLY LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 2 NORTH 89°40'06" WEST 66.98 FEET TO THE TRUE POINT OF BEGINNING.

APN: 532-030-008, 532-030-009, 532-080-008, 532-080-010, 532-090-026, 532-090-028 AND 532-090-030

PARCEL 2:

THAT PORTION OF THE NORTHEAST ¼ OF SECTION 11, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SAN BERNARDINO BASE AND MERIDIAN, ACCORDING TO UNITED STATES GOVERNMENT SURVEY, LYING NORTHERLY OF THAT CERTAIN PORTION OF SAID NORTHEAST ¼ CONVEYED TO THE STATE OF CALIFORNIA BY DEED RECORDED OCTOBER 11, 1961, AS INSTRUMENT NO. 87046 IN BOOK 2997, PAGE 542, OFFICIAL RECORDS.

EXCEPTING THEREFROM, ALL RIGHT, TITLE AND INTEREST IN AND TO ALL HYDROCARBONS, MINERALS, GEOTHERMAL RESOURCES, AND MINERAL ORES OF EVERY KIND AND CHARACTER, METALLIC OR OTHERWISE, SOLID, LIQUID OR GAS AND WHETHER OR NOT HEREAFTER KNOWN TO SCIENCE OR INDUSTRY, NOT KNOWN TO EXIST OR HEREAFTER DISCOVERED UPON, WITHIN OR UNDERLYING THE SURFACE OF SAID LAND AS SHOWN IN DEED RECORDED JANUARY 28, 1987 AS INSTRUMENT NO. 24458 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

APN: 532-110-015

PARCEL 3:

A NON-EXCLUSIVE EASEMENT FOR ROAD PURPOSES UPON, OVER AND ACROSS THAT PORTION OF THE EAST ½ OF THE NORTHWEST ¼ OF SECTION 11, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SAN BERNARDINO BASE AND MERIDIAN, INCLUDED WITHIN A STRIP OF LAND 20 FEET WIDE, THE NORTHERLY LINE OF WHICH IS DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE EAST LINE OF THE SAID NORTHWEST ¼, DISTANT ALONG SAID EAST LINE SOUTH 0°41'41" WEST 1359.31 FEET FROM A ¾ INCH IRON PIPE AND BRASS CAP MARKED "U.S.G.L.O. 1917" SET FOR THE NORTH ¼ CORNER OF SAID SECTION;

THENCE NORTH 89°25'57" WEST, 1319.31 FEET TO THE WEST LINE OF THE SAID EAST ½.

ALSO THAT PORTION OF THE WEST 20 FEET OF SAID EAST ½ LYING SOUTHERLY OF THE SOUTHERLY LINE OF THE ABOVE DESCRIBED 20 FOOT STRIP.

EXCEPT THAT PORTION LYING SOUTHERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT A POINT IN THE WEST LINE OF SAID EAST ½, DISTANT ALONG SAID WEST LINE SOUTH 0°25'01" WEST 1041.97 FEET FROM THE POINT OF INTERSECTION THEREOF WITH THAT CERTAIN LINE HEREINABOVE DESCRIBED AS HAVING A BEARING OF NORTH 89°25'57" WEST;

THENCE NORTHEASTERLY ALONG 545 FOOT RADIUS CURVE CONCAVE NORTHWESTERLY FROM A TANGENT BEARING NORTH 56°01'51" EAST, THROUGH AN ANGLE OF 1°46'36", A DISTANCE OF 16.90 FEET;

THENCE NORTH 54°15'15" EAST 50 FEET, AS CREATED IN DEED RECORDED JUNE 10, 1968 AS INSTRUMENT NO. 53726, OFFICIAL RECORDS.

ASSESSOR'S PARCEL NUMBER:

PARCEL 1: 532-030-008, 532-030-009, 532-080-008, 532-080-010, 532-090-026, 532-090-028, 532-090-030
PARCEL 2: 532-110-015

GROSS LAND AREA:

PTR PARCEL 1: 41.11AC.
PTR PARCEL 2: 90.22 AC.
TOTAL: 131.33 AC.

EASEMENTS/EXCEPTIONS/ENCUMBRANCES

SEE TITLE COMMITMENT BY FIRST AMERICAN TITLE INSURANCE COMPANY, ORDER NO. NCS-1070768-STLO, DATED FEBRUARY 22, 2022. ITEMS LISTED BELOW ARE SHOWN IN THE TITLE COMMITMENT AND PLOTTABLE ITEMS ARE DENOTED THUS: # WITH LOCATIONS KEYED THE SAME HEREON.

16. THE TERMS, PROVISIONS AND EASEMENT(S) CONTAINED IN THE DOCUMENT ENTITLED "AMENDMENT TO EASEMENT" RECORDED MAY 19, 1998 AS INSTRUMENT NO. 201617 OF OFFICIAL RECORDS.
AFFECTS: PARCELS 1 AND 2Y; BLANKET IN NATURE.

17. THE TERMS AND PROVISIONS CONTAINED IN THE DOCUMENT ENTITLED "RESOLUTION NO. 2000-287 (SUMMARILY VACATING ALL THOSE STREETS WITHIN THE MORONGO BAND OF MISSION INDIAN RESERVATION IN THE CABAZON AREA)" RECORDED DECEMBER 21, 2000 AS INSTRUMENT NO. 2000-507556 OF OFFICIAL RECORDS.
AFFECTS: PARCEL 1; ILLEGIBLE, NOT PLOTTED.

18. THE TERMS AND PROVISIONS CONTAINED IN THE DOCUMENT ENTITLED DEED TO RESTRICTED INDIAN LAND RECORDED MAY 30, 2018 AS INSTRUMENT NO. 2018-0219571 OF OFFICIAL RECORDS.
AFFECTS: PARCEL 1; BLANKET IN NATURE.

19. THE TERMS AND PROVISIONS CONTAINED IN THE DOCUMENT ENTITLED DEED TO RESTRICTED INDIAN LAND RECORDED MAY 30, 2018 AS INSTRUMENT NO. 2018-0219572 OF OFFICIAL RECORDS.
AFFECTS:PARCEL 1; BLANKET IN NATURE.

20 RIGHTS, RIGHT OF WAY, RESERVATIONS AND EXCEPTIONS IN THE PATENT RECORDED MAY 30, 2018 AS INSTRUMENT NO. 2018-0219574 OF OFFICIAL RECORDS.
AFFECTS: PARCEL 1; PLOTTED HEREON.

21 AN EASEMENT IN FAVOR OF THE CITY OF BANNING, A MUNICIPAL CORPORATION, AND ITS SUCCESSORS AND ASSIGNS, FOR THE PURPOSE OF GRANT OF RIGHT OF WAY AND INCIDENTAL PURPOSES, RECORDED MAY 30, 2018 AS INSTRUMENT NO. 2018-0219575 OF OFFICIAL RECORDS.
AFFECTS: PARCEL 1; PLOTTED HEREON.

25 AN EASEMENT IN FAVOR OF COACHELLA VALLEY ICE AND ELECTRIC POWER COMPANY FOR THE PURPOSE OF PUBLIC UTILITIES AND INCIDENTAL PURPOSES, RECORDED DECEMBER 08, 1915 IN BOOK 435 OF DEEDS, PAGE 203.
AFFECTS: PARCEL 2; PLOTTED HEREON.

26. AN EASEMENT IN FAVOR OF METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA FOR THE PURPOSE OF PUBLIC UTILITIES AND INCIDENTAL PURPOSES, RECORDED DECEMBER 21, 1933 IN BOOK 147, PAGE 561 OF OFFICIAL RECORDS.
AFFECTS: PARCEL 2; BLANKET IN NATURE.

27 AN EASEMENT IN FAVOR OF SOUTHERN CALIFORNIA GAS COMPANY FOR THE PURPOSE OF EITHER OR BOTH POLE LINES, CONDUITS, OR UNDERGROUND FACILITIES AND INCIDENTAL PURPOSES, RECORDED OCTOBER 13, 1950 IN BOOK 1210, PAGE 543 OF OFFICIAL RECORDS.
AFFECTS: PARCEL 2; PLOTTED HEREON.

28 ABUTTERS RIGHTS OF INGRESS AND EGRESS TO OR FROM INTERSTATE HIGHWAY 10 HAVE BEEN RELINQUISHED IN THE DOCUMENT RECORDED OCTOBER 11, 1961 AS INSTRUMENT NO. 87046 OF OFFICIAL RECORDS.
AFFECTS: PARCELS 1 AND 2; PLOTTED HEREON.

29 AN EASEMENT IN FAVOR OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION FOR THE PURPOSE OF BOTH POLE LINES, CONDUITS OR UNDERGROUND FACILITIES AND INCIDENTAL PURPOSES, RECORDED OCTOBER 19, 1966 AS INSTRUMENT NO. 103125 OF OFFICIAL RECORDS,
AFFECTS: PARCELS 1 AND 2; PLOTTED HEREON.

30 AN EASEMENT IN FAVOR OF SOUTHERN PACIFIC LAND COMPANY, A CORPORATION FOR THE PURPOSE OF PRIVATE ROADS AND INCIDENTAL PURPOSES, RECORDED JUNE 10, 1968 AS INSTRUMENT NO. 53726 OF OFFICIAL RECORDS.
AFFECTS: PARCEL 2; PLOTTED HEREON.

31. COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS IN THE DOCUMENT RECORDED JANUARY 28, 1987 AS INSTRUMENT NO. 24458 OF OFFICIAL RECORDS, WHICH PROVIDE THAT A VIOLATION THEREOF SHALL NOT DEFEAT OR RENDER INVALID THE LIEN OF ANY FIRST MORTGAGE OR DEED OF TRUST MADE IN GOOD FAITH AND FOR VALUE, BUT DELETING ANY COVENANT, CONDITION, OR RESTRICTION, IF ANY, INDICATING A PREFERENCE, LIMITATION, OR DISCRIMINATION BASED ON RACE, COLOR, RELIGION, SEX, GENDER, GENDER IDENTITY, GENDER EXPRESSION, SEXUAL ORIENTATION, FAMILIAL STATUS, MARITAL STATUS, DISABILITY, MILITARY STATUS, DISABILITY, HANDICAP, VETERAN OR MILITARY STATUS, GENETIC INFORMATION NATIONAL ORIGIN, SOURCE OF INCOME AS DEFINED IN SUBDIVISION (P) OF SECTION 12955, OR ANCESTRY, TO THE EXTENT THAT SUCH COVENANTS, CONDITIONS OR RESTRICTIONS VIOLATE APPLICABLE STATE OR FEDERAL LAWS. LAWFUL RESTRICTIONS UNDER STATE AND FEDERAL LAW ON THE AGE OF OCCUPANTS IN SENIOR HOUSING OR HOUSING FOR OLDER PERSONS SHALL NOT BE CONSTRUED AS RESTRICTIONS BASED ON FAMILIAL STATUS.

32 AN EASEMENT IN FAVOR OF US SPRINT COMMUNICATIONS COMPANY, NEW YORK FOR THE PURPOSE OF COMMUNICATION SYSTEM, INGRESS AND EGRESS AND INCIDENTAL PURPOSES, RECORDED JANUARY 30, 1987 AS INSTRUMENT NO. 26358 OF OFFICIAL RECORDS.
AFFECTS: PARCEL 2; PLOTTED HEREON.

33 THE TERMS AND PROVISIONS CONTAINED IN THE DOCUMENT ENTITLED "NOTICE OF PERMISSION TO USE REAL PROPERTY" RECORDED FEBRUARY 24, 2009 AS INSTRUMENT NO. 2009-0086755 OF OFFICIAL RECORDS.
AFFECTS: PARCELS 1 AND 2; PLOTTED HEREON.

34 AN OFFER OF DEDICATION IN FAVOR OF THE CITY OF BANNING, A POLITICAL SUBDIVISION OF THE STATE OF CALIFORNIA, AND ITS SUCCESSORS OR ASSIGNS FOR THE PURPOSE OF PUBLIC ROAD STREET, HIGHWAY, AND UTILITY PURPOSES AND INCIDENTAL PURPOSES, RECORDED OCTOBER 08, 2010 AS INSTRUMENT NO, 2010-0485664 OF OFFICIAL RECORDS.
AFFECTS: PARCEL 2; PLOTTED HEREON.

35 THE TERMS, PROVISIONS AND EASEMENT(S) CONTAINED IN THE DOCUMENT ENTITLED "STREET CONSTRUCTION AND MAINTENANCE AGREEMENT" RECORDED MAY 17, 2011 AS INSTRUMENT NO. 2011-0216635 OF OFFICIAL RECORDS.
DOCUMENT(S) DECLARING MODIFICATIONS THEREOF RECORDED SEPTEMBER 12, 2011 AS INSTRUMENT NO. 2011-0402632 OF OFFICIAL RECORDS

36. AFFECTS: PARCEL 2; PLOTTED HEREON.

THE FACT THAT THE LAND LIES WITHIN THE BOUNDARIES IF THE MERGED DOWNTOWN AND MIDWAY REDEVELOPMENT PROJECT AREA, AS DISCLOSED BY VARIOUS DOCUMENTS OF RECORD.
AFFECTS: PARCELS 1 AND 2; BLANKET IN NATURE.

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WWW.KIMLEY-HORN.COM
PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN
Eugene D. Cowan III
11/4/2024
EUGENE D. COWAN III, RCE # 86803 — DATE

SUBMITTED BY:

REGISTERED PROFESSIONAL ENGINEER — EUGENE DAVIS COWAN III — No. 86803 — CIVIL — STATE OF CALIFORNIA

CITY OF BANNING
RECOMMENDED BY:
KEVIN SIN, RCE #71299, SENIOR CIVIL ENGINEER — EXP 12/31/23 — DATE
APPROVED BY:
ARTURO VELA, RCE # 75696, PUBLIC WORKS DIRECTOR/CITY ENGINEER — EXP. 05/30/24 — DATE

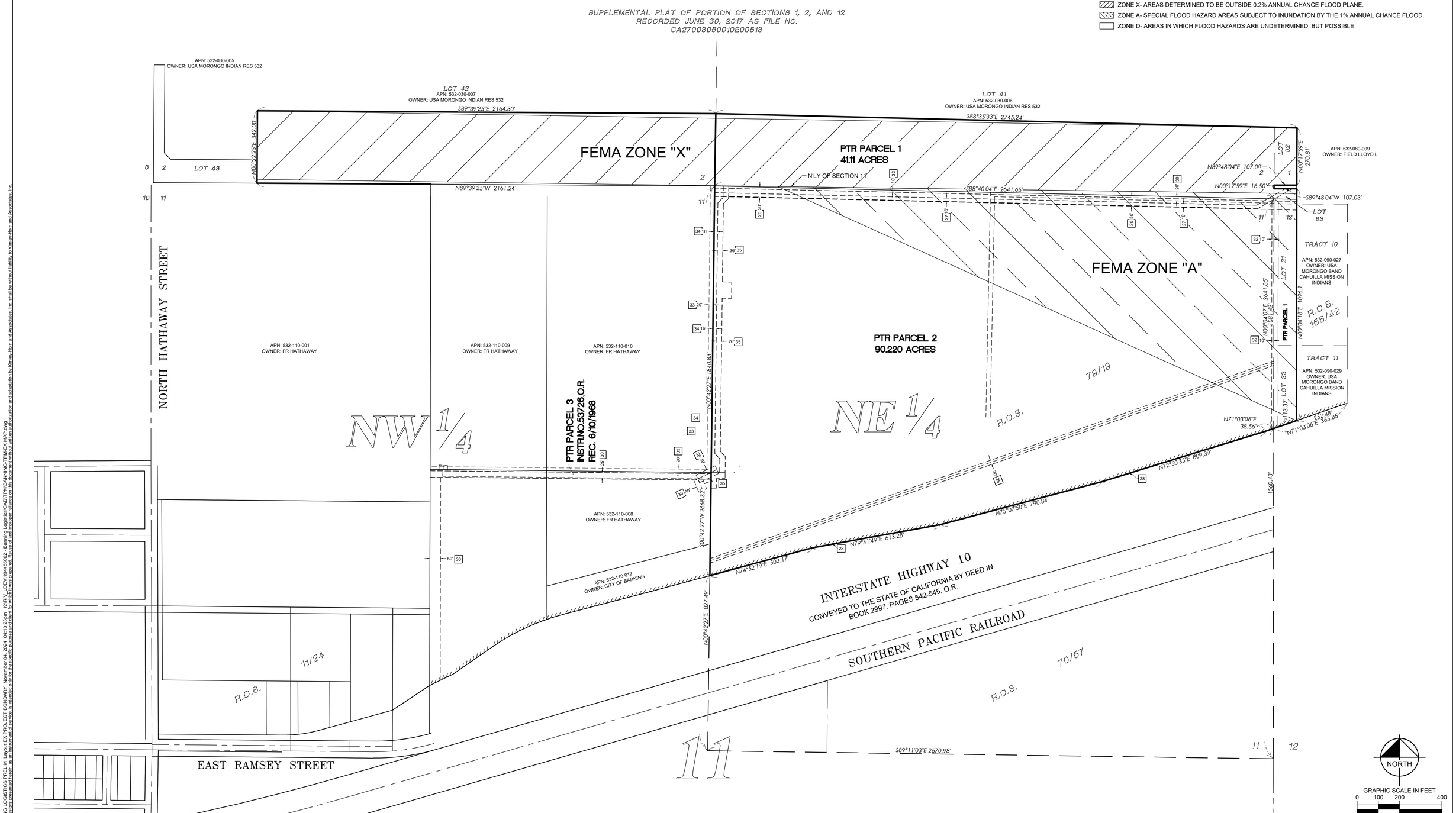
BANNING COMMERCE CENTER
TENTATIVE PARCEL MAP NO. 38576
LEGAL DESCRIPTION & EX EASEMENTS

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 2 OF 9

FLOOD NOTE:

FEMA FLOOD PANEL NO. 06065C0837G, BEARING EFFECTIVE DATE OF AUGUST 28, 2008, AND COMMUNITY NUMBER 060246 SHOWS THE FOLLOWING FLOOD ZONES TO BE WITHIN PROPERTY:

- ZONE X- AREAS DETERMINED TO BE OUTSIDE 0.2% ANNUAL CHANCE FLOOD PLANE.
- ZONE A- SPECIAL FLOOD HAZARD AREAS SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD.
- ZONE D- AREAS IN WHICH FLOOD HAZARDS ARE UNDETERMINED, BUT POSSIBLE.



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EUGENE D. COWAN III, RCE # 86803 — 11/4/2024 DATE

SUBMITTED BY:

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CITY OF BANNING

RECOMMENDED BY:
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SENIOR CIVIL ENGINEER

APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24 — DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

BANNING COMMERCE CENTER

TENTATIVE PARCEL MAP NO. 38576

EX PROJECT BOUNDARY

W.O. No.	DR21-7017
CIP No.	
PROJECT No.	
SHEET	3 OF 9

APN: 532-030-007
OWNER: USA MORONGO INDIAN RES 532

LOT "C"
1.45 AC

PARCEL 2
12.36 AC

LOT "A"
12.02 AC

PR BANNING ELECTRIC SUBSTATION

S89°39'25"E 2164.24'
1907.21'
257.04'
N00°22'25"E 206.41'
N00°19'32"E 254.68'
S89°39'27"E 222.74'
S89°39'27"E 300.00'
S89°39'27"E 221.87'
R=4055.00' L=189.13'
R=4055.00' L=132.40'
R=4000.00' L=317.17'
R=3945.00' L=312.81'
R=3945.00' L=312.76'
R=4000.00' L=317.12'
R=4055.00' L=321.48'
125.50' N
251.65'
S85°06'52"E 377.15'
S89°39'25"E 820.59'
S89°39'25"E 1277.65'
S89°39'25"E 1340.65'
S89°39'25"E 1277.15'
105.50'
110.0'
55.0'
3.2%
2.8%
3.4%
CL
RW
PR WATER
PR RW
PR 12" WATER LINE
EX SO. CAL GAS LINE
EX WATER LINE
12"W

DEDICATION & IMPROVEMENTS PER TPM 38256

WILSON STREET
Arterial Highway (110' RW)

N HATHAWAY ST
Arterial Highway (110' RW)

APN: 532-110-001
OWNER: FR HATHAWAY

APN: 532-110-009
OWNER: FR HATHAWAY

TENTATIVE PARCEL MAP NO. 38256

LEGEND

- PROPERTY BOUNDARY
- PROPERTY LINE / RIGHT-OF-WAY
- CENTERLINE
- EASEMENT
- FENCE
- PROPOSED CONTOUR
- EXISTING CONTOUR
- STORM LINE
- SEWER LINE
- WATER LINE
- FIRE WATER
- IRRIGATION LINE
- STORM DRAIN STRUCTURE
- STORM DRAIN INLET
- EXISTING OVERHEAD LINE
- EXISTING UNDERGROUND ELECTRIC LINE
- EXISTING SEWER LINE
- EXISTING STORM DRAIN LINE
- EXISTING WATER LINE
- EXISTING NATURAL GAS LINE
- EXISTING SEWER STRUCTURE
- EXISTING STORM DRAIN STRUCTURE
- EXISTING FIRE HYDRANT
- TPM 38256 - BY OTHERS

NORTH

GRAPHIC SCALE IN FEET
0 30 60 120

CONCEPTUAL GRADING & UTILITIES SHOWN FOR REFERENCE ONLY

MATCHLINE. SEE SHEET 5

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PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN
EUGENE D. COWAN III, RCE # 86803 — 11/4/2024 DATE

SUBMITTED BY:

REGISTERED PROFESSIONAL ENGINEER — EUGENE DAVIS COWAN III — No. 86803 — CIVIL — STATE OF CALIFORNIA

CITY OF BANNING
RECOMMENDED BY:
KEVIN SIN, RCE #71299, EXP 12/31/23 — DATE
SENIOR CIVIL ENGINEER
APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24 — DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

BANNING COMMERCE CENTER
TENTATIVE PARCEL MAP NO. 38576
MAP SHEET - 1

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 4 OF 9

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APN: 532-030-007
OWNER: USA MORONGO INDIAN RES 532

APN: 532-030-006
OWNER: USA MORONGO INDIAN RES 532

EX BOUNDARY LINE

PR PUBLIC STORM DRAIN EASEMENT

PR BASIN

PARCEL 2
12.36 AC

PARCEL 3
9.41 AC

PR BASIN

WILSON STREET
Arterial Highway (110' RW)

PR RW

RW

CL

PR 12" WATER LINE

EX SCE GAS LINE

PR WATER

PR STORM DRAIN

EX 50' RIGHT OF WAY, RESERVATIONS, RECORDED 5/30/2018, INST. # 2018-0219574

EX 10' SPRINT COMMUNICATIONS COMPANY, RECORDED 01/30/1987, INST. # 26358

EX 16' SOUTHERN CALIFORNIA GAS COMPANY EASEMENT, RECORDED 12/13/1950 IN BOOK 1210, PAGE 543.

LOT "A"
12.02 AC

DEDICATION & IMPROVMENTS PER TPM 38256

EX ROAD EASEMENT, RECORDED 10/08/2010, INST. #2010-0485664.

EX ROAD EASEMENT, RECORDED 5/17/2011, INST. #2011-0216635.
EX ROAD EASEMENT, RECORDED 11/12/2011, INST. # NO. 2011-0402632

O'DONNELL STREET
Divided Collector (78' RW)

PARCEL 1
89.50 AC

ADA PATH

PR STORM DRAIN

PROPOSED BUILDING
FFE=2204.80

CONCEPTUAL GRADING & UTILITIES SHOWN FOR REFERENCE ONLY

MATCHLINE. SEE SHEET 4

MATCHLINE. SEE SHEET 6

MATCHLINE. SEE SHEET 7

TENTATIVE PARCEL MAP NO. 38256

APN: 532-110-010
OWNER: FR HATHAWAY

LEGEND

- PROPERTY BOUNDARY
- PROPERTY LINE / RIGHT-OF-WAY
- CENTERLINE
- EASEMENT
- FENCE
- PROPOSED CONTOUR
- EXISTING CONTOUR
- STORM LINE
- SEWER LINE
- WATER LINE
- FIRE WATER
- IRRIGATION LINE
- STORM DRAIN STRUCTURE
- STORM DRAIN INLET
- EXISTING OVERHEAD LINE
- EXISTING UNDERGROUND ELECTRIC LINE
- EXISTING SEWER LINE
- EXISTING STORM DRAIN LINE
- EXISTING WATER LINE
- EXISTING NATURAL GAS LINE
- EXISTING SEWER STRUCTURE
- EXISTING STORM DRAIN STRUCTURE
- EXISTING FIRE HYDRANT
- TPM 38256 - BY OTHERS

NORTH

GRAPHIC SCALE IN FEET
0 30 60 120

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PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN

EUGENE D. COWAN III, RCE # 86803 — 11/4/2024 DATE

SUBMITTED BY:

REGISTERED PROFESSIONAL ENGINEER — EUGENE DAVIS COWAN III — No. 86803 — CIVIL — STATE OF CALIFORNIA

CITY OF BANNING

RECOMMENDED BY:
KEVIN SIN, RCE #71299, EXP 12/31/23, SENIOR CIVIL ENGINEER — DATE

APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24, PUBLIC WORKS DIRECTOR/CITY ENGINEER — DATE

BANNING COMMERCE CENTER

TENTATIVE PARCEL MAP NO. 38576

MAP SHEET - 2

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 5 OF 9

1481

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APN: 532-030-006
OWNER: USA MORONGO INDIAN RES 532

EX BOUNDARY LINE

PARCEL 3
9.41 AC

PR BASIN

PR PUBLIC STORM DRAIN EASEMENT

RW

WILSON STREET
Arterial Highway (110' RW)

PR RW

PR STORM DRAIN

LOT "A"
12.02 AC

PR WATER

EX 10' SPRINT COMMUNICATIONS COMPANY, RECORDED 01/30/1987, INST. # 26358

EX 16' SOUTHERN CALIFORNIA GAS COMPANY EASEMENT, RECORDED 12/13/1950 IN BOOK 1210, PAGE 543.

ADA PATH

EX SCE GAS LINE

EX 50' RIGHT OF WAY, RESERVATIONS, RECORDED 5/30/2018, INST. # 2018-0219574

LOT "B"
3.57 AC

PARCEL 1
89.50 AC

PR SEWER

PR FIRE WATER

PROPOSED BUILDING
FFE=2204.80

MATCHLINE. SEE SHEET 8

LOT "B"
0.32 AC

EX PROPERTY LINE

APN: 532-080-009

LOT "B"
1.32 AC

COTTONWOOD RD
Arterial Highway (110' RW)

APN: 532-090-027
OWNER: USA MORONGO BAND CAHUILLA MISSION INDIANS

PR PUBLIC STORM DRAIN

MATCHLINE. SEE SHEET 6

LEGEND

- PROPERTY BOUNDARY
- PROPERTY LINE / RIGHT-OF-WAY
- CENTERLINE
- EASEMENT
- FENCE
- PROPOSED CONTOUR
- EXISTING CONTOUR
- STORM LINE
- SEWER LINE
- WATER LINE
- FIRE WATER
- IRRIGATION LINE
- STORM DRAIN STRUCTURE
- STORM DRAIN INLET
- EXISTING OVERHEAD LINE
- EXISTING UNDERGROUND ELECTRIC LINE
- EXISTING SEWER LINE
- EXISTING STORM DRAIN LINE
- EXISTING WATER LINE
- EXISTING NATURAL GAS LINE
- EXISTING SEWER STRUCTURE
- EXISTING STORM DRAIN STRUCTURE
- EXISTING FIRE HYDRANT
- TPM 38256 - BY OTHERS

CONCEPTUAL GRADING & UTILITIES SHOWN FOR REFERENCE ONLY

NORTH

GRAPHIC SCALE IN FEET
0 30 60 120

UNDERGROUND SERVICE ALERT
call: TOLL FREE
1-800-422-4133
TWO WORKING DAYS BEFORE YOU DIG

REVISIONS

No.		APPR.	DATE

PLANS PREPARED BY:
KIMLEY-HORN AND ASSOCIATES, INC.
3801 UNIVERSITY AVE., SUITE 300
RIVERSIDE, CA 92501
PHONE: 951-543-9868
WWW.KIMLEY-HORN.COM

PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN

EUGENE D. COWAN III, RCE # 86803 — 11/4/2024 DATE

SUBMITTED BY:

REGISTERED PROFESSIONAL ENGINEER — EUGENE DAVIS COWAN III — No. 86803 — CIVIL — STATE OF CALIFORNIA

CITY OF BANNING

RECOMMENDED BY:
KEVIN SIN, RCE #71299, EXP 12/31/23, SENIOR CIVIL ENGINEER — DATE

APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24, PUBLIC WORKS DIRECTOR/CITY ENGINEER — DATE

BANNING COMMERCE CENTER
TENTATIVE PARCEL MAP NO. 38576
MAP SHEET - 3

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 6 OF 9

MATCHLINE. SEE SHEET 5

TENTATIVE PARCEL MAP NO. 38256

LEGEND

PROPERTY BOUNDARY	
PROPERTY LINE / RIGHT-OF-WAY	
CENTERLINE	
EASEMENT	
FENCE	X — X
PROPOSED CONTOUR	100 — 99
EXISTING CONTOUR	100 99
STORM LINE	SD
SEWER LINE	S
WATER LINE	W
FIRE WATER	FW
IRRIGATION LINE	IRR
STORM DRAIN STRUCTURE	
STORM DRAIN INLET	
EXISTING OVERHEAD LINE	OHE
EXISTING UNDERGROUND ELECTRIC LINE	E
EXISTING SEWER LINE	S
EXISTING STORM DRAIN LINE	SD
EXISTING WATER LINE	W
EXISTING NATURAL GAS LINE	G
EXISTING SEWER STRUCTURE	
EXISTING STORM DRAIN STRUCTURE	
EXISTING FIRE HYDRANT	
TPM 38256 - BY OTHERS	

TENTATIVE PARCEL MAP NO. 38256

APN: 532-110-008
OWNER: FR HATHAWAY

APN: 532-110-012
OWNER: CITY OF BANNING

LOT "A"
12.02 AC

LOT "D"
1.34 AC

PARCEL 1
89.50 AC

PROPOSED BUILDING
FFE=2204.80

O'DONNELL STREET
Divided Collector (78' RW)

NICOLET ST
Divided Collector (78' RW)

DEDICATION & IMPROVEMENTS PER TPM 38256

RW PER TPM 38256
CL PER TPM 38256
RW PER TPM 38256
78.0'
39.0'
39.0'
N89°25'11"W 1264.69'
N89°25'11"W 1327.55'
N89°25'11"W 1327.46'

EX. 30' WIDE SOUTHERN PACIFIC LAND COMPANY EASEMENT, RECORDED 10/19/1966, INST. # 53726

EX. 40' WIDE SOUTHERN PACIFIC LAND COMPANY EASEMENT, RECORDED 10/19/1966, INST. # 53726

EX ROAD EASEMENT, RECORDED 5/17/2011, INST. #2011-0216635.
EX ROAD EASEMENT, RECORDED 11/12/2011, INST. # NO. 2011-0402632

EX ROAD EASEMENT, RECORDED 10/08/2010, INST. #2010-0485664.

EX ROAD EASEMENT, RECORDED 5/17/2011, INST. #2011-0216635.
EX ROAD EASEMENT, RECORDED 11/1212011, INST. # NO. 2011-0402632

PR SEWER
PR STORM DRAIN
PR FIRE WATER
PR STORM DRAIN
PR FIRE WATER
ADA PATH
ADA PATH
PR BANNING PUBLIC SEWER LIFT STATION
PR BANNING PUBLIC SEWER LIFT STATION
PR RW
PR WATER
PR BASIN
PR BASIN
PR PUBLIC STORM DRAIN EASEMENT
PR PUBLIC STORM DRAIN EASEMENT

EX 20' COACHELLA VALLEY ICE AND ELECTRIC POWER COMPANY, RECORDED 12/08/1915 IN BOOK 435 OF DEEDS, PAGE 203.

EX 20' COACHELLA VALLEY ICE AND ELECTRIC POWER COMPANY, RECORDED 12/08/1915 IN BOOK 435 OF DEEDS, PAGE 203. TO BE VACATED

S45°38'38"W 33.90'
S44°21'22"E 33.98'
S00°34'49"W 77.98'
R=559.00'
L=139.52'
N89°18'39"W, 19.88'
S89°25'11"E 24.23'
S00°42'27"W 1179.06'
S00°42'27"W 1320.31'
S00°42'27"W 1179.57'
S00°42'27"W 481.52'
S00°42'27"W 470.54'
N00°42'27"E 243.86'
N74°52'19"E 502.17'
323.24'
138.39'
40.54'
460.5'
39.0'
N75°07'50"E 790.84'
N79°41'49"E 613.28'

INTERSTATE 10

MATCHLINE. SEE SHEET 8

NORTH

GRAPHIC SCALE IN FEET
0 30 60 120

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REVISIONS

No.		APPR.	DATE

PLANS PREPARED BY:
Kimley»Horn
KIMLEY-HORN AND ASSOCIATES, INC.
3801 UNIVERSITY AVE., SUITE 300
RIVERSIDE, CA 92501
PHONE: 951-543-9868
WWW.KIMLEY-HORN.COM
PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN
EUGENE D. COWAN III, RCE # 86803 — 11/4/2024 DATE

SUBMITTED BY:

REGISTERED PROFESSIONAL ENGINEER — EUGENE DAVIS COWAN III — No. 86803 — CIVIL — STATE OF CALIFORNIA

CITY OF BANNING
RECOMMENDED BY:
KEVIN SIN, RCE #71299, EXP 12/31/23, SENIOR CIVIL ENGINEER — DATE
APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24, PUBLIC WORKS DIRECTOR/CITY ENGINEER — DATE

BANNING COMMERCE CENTER
TENTATIVE PARCEL MAP NO. 38576
MAP SHEET - 4

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 7 OF 9

1483

Plotted By:Cowan, Davie Sheet Set:BANNING LOGISTICS PRELIM Layout:MAP SHEET - 4 November 04, 2024 04:11:47pm K:\RIV_LDEV\194455002 - Banning Logistics\CAD\TPM\BANNING-TPM-MAPSHEETS.dwg
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MATCHLINE. SEE SHEET 6

MATCHLINE. SEE SHEET 7

PROPOSED BUILDING
FFE=2204.80

PARCEL 1
89.50 AC

LOT "B"
3.57 AC

LOT "B"
1.32 AC

COTTONWOOD RD
Arterial Highway (110' RW)

APN: 532-090-029
OWNER: USA MORONGO BAND CAHUILLA MISSION INDIANS

ADA PATH

PR STORM DRAIN

PR SEWER

EX 20' COACHELLA VALLEY ICE AND ELECTRIC POWER COMPANY, RECORDED 12/08/1915 IN BOOK 435 OF DEEDS, PAGE 203. TO BE VACATED

EX 10' SPRINT COMMUNICATIONS COMPANY, RECORDED 01/30/1987, INST. # 26358

EX PROPERTY LINE

FUTURE CALTRANS R/W (NO FORMAL APPROVALS)

PR RW

CL

PR BASIN

EX. PROPERTY LINE

INTERSTATE 10

N72°50'35"E 809.39'

N75°07'50"E 790.84'

N00°04'07"E 1099.85'

N00°04'07"E 1081.42'

N00°04'07"E 1062.36'

N00°04'18"E 1096.14'

N71°03'06"E 151.93'

789.98'

258.7'

110.0'

55.0'

55.0'

58.18'

38.56'

19.41'

LEGEND

PROPERTY BOUNDARY	
PROPERTY LINE / RIGHT-OF-WAY	
CENTERLINE	
EASEMENT	
FENCE	X — X
PROPOSED CONTOUR	100 — 99
EXISTING CONTOUR	100 — 99
STORM LINE	SD — SD
SEWER LINE	S — S
WATER LINE	W — W
FIRE WATER	FW — FW
IRRIGATION LINE	IRR — IRR
STORM DRAIN STRUCTURE	
STORM DRAIN INLET	
EXISTING OVERHEAD LINE	OHE
EXISTING UNDERGROUND ELECTRIC LINE	E — E
EXISTING SEWER LINE	S — S
EXISTING STORM DRAIN LINE	SD — SD
EXISTING WATER LINE	W — W
EXISTING NATURAL GAS LINE	G — G
EXISTING SEWER STRUCTURE	S
EXISTING STORM DRAIN STRUCTURE	D
EXISTING FIRE HYDRANT	
TPM 38256 - BY OTHERS	

NORTH

GRAPHIC SCALE IN FEET
0 30 60 120

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REVISIONS

No.		APPR.	DATE

PLANS PREPARED BY:
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3801 UNIVERSITY AVE., SUITE 300
RIVERSIDE, CA 92501
PHONE: 951-543-9868
WWW.KIMLEY-HORN.COM

PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN

EUGENE D. COWAN III, RCE # 86803 — 11/4/2024 DATE

SUBMITTED BY:

REGISTERED PROFESSIONAL ENGINEER — EUGENE DAVIS COWAN III — No. 86803 — CIVIL — STATE OF CALIFORNIA

City of BANNING — INCORPORATED 1913 — ENDLESS OPPORTUNITY

CITY OF BANNING

RECOMMENDED BY:
KEVIN SIN, RCE #71299, EXP 12/31/23 — DATE
SENIOR CIVIL ENGINEER

APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24 — DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

BANNING COMMERCE CENTER

TENTATIVE PARCEL MAP NO. 38576

MAP SHEET - 5

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 8 OF 9

1484

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PHASE 1

PHASE 1

PHASE 2

WILSON ST

DEDICATION & IMPROVEMENTS PER TPM 38256

TENTATIVE PARCEL MAP NO. 38256

O'DONNELL ST

COTTONWOOD DR

PHASE 1

PROPOSED BUILDING

NICOLET ST

INTERSTATE 10

LEGEND

PHASE 1

PHASE 2

NOT A PART

NORTH

GRAPHIC SCALE IN FEET

0 75 150 300

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REVISIONS

No.		APPR.	DATE

PLANS PREPARED BY:

KIMLEY-HORN AND ASSOCIATES, INC.
3801 UNIVERSITY AVE., SUITE 300
RIVERSIDE, CA 92501
PHONE: 951-543-9868
WWW.KIMLEY-HORN.COM

PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN

EUGENE D. COWAN III, RCE # 86803 — 11/4/2024 DATE

SUBMITTED BY:

REGISTERED PROFESSIONAL ENGINEER — EUGENE DAVIS COWAN III — No. 86803 — CIVIL — STATE OF CALIFORNIA

CITY OF BANNING

RECOMMENDED BY:

KEVIN SIN, RCE #71299, EXP 12/31/23 — DATE
SENIOR CIVIL ENGINEER

APPROVED BY:

ARTURO VELA, RCE # 75696, EXP. 05/30/24 — DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

BANNING COMMERCE CENTER

TENTATIVE PARCEL MAP NO. 38576

SITE PHASING

W.O. No. DR21-7017

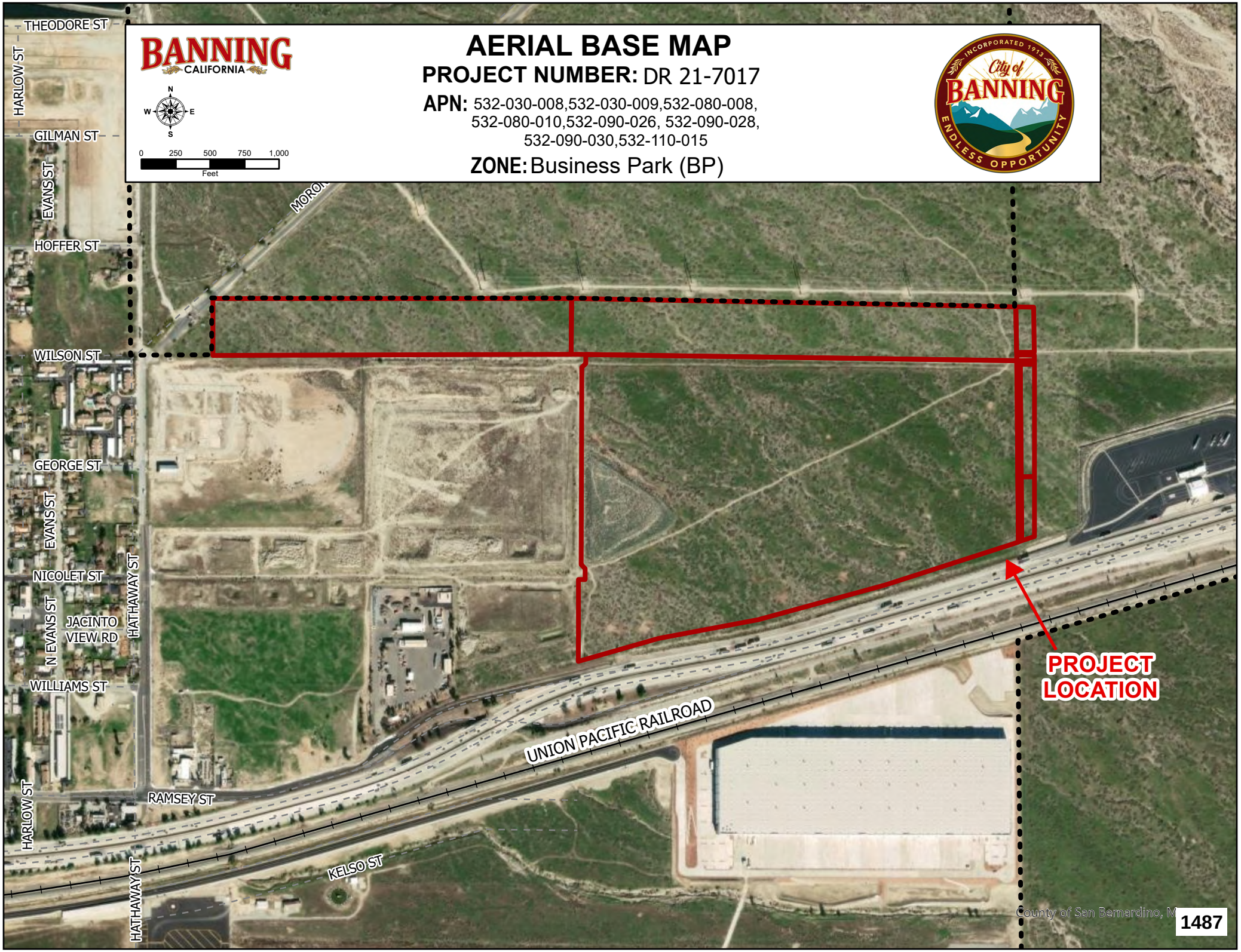
CIP No.

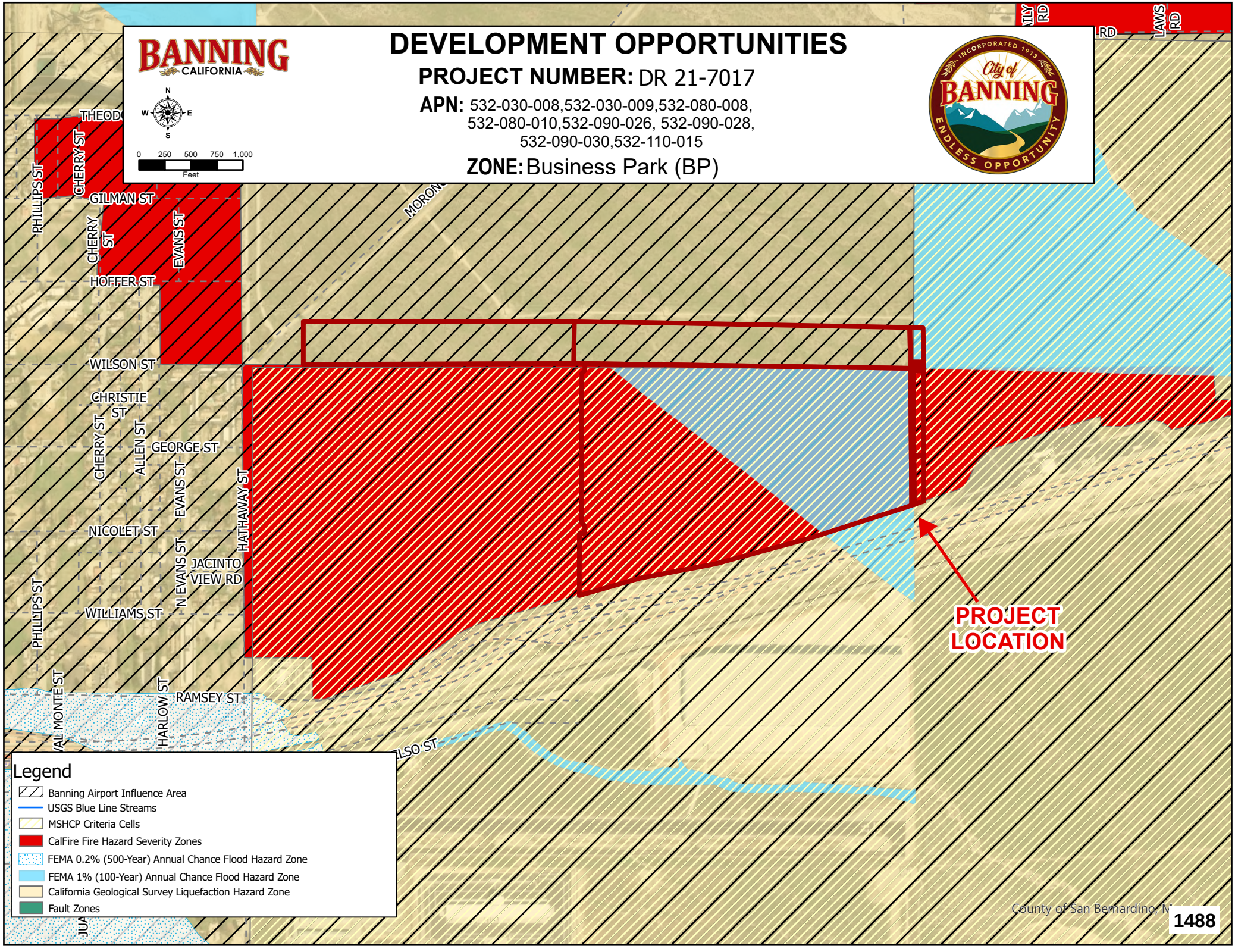
PROJECT No.

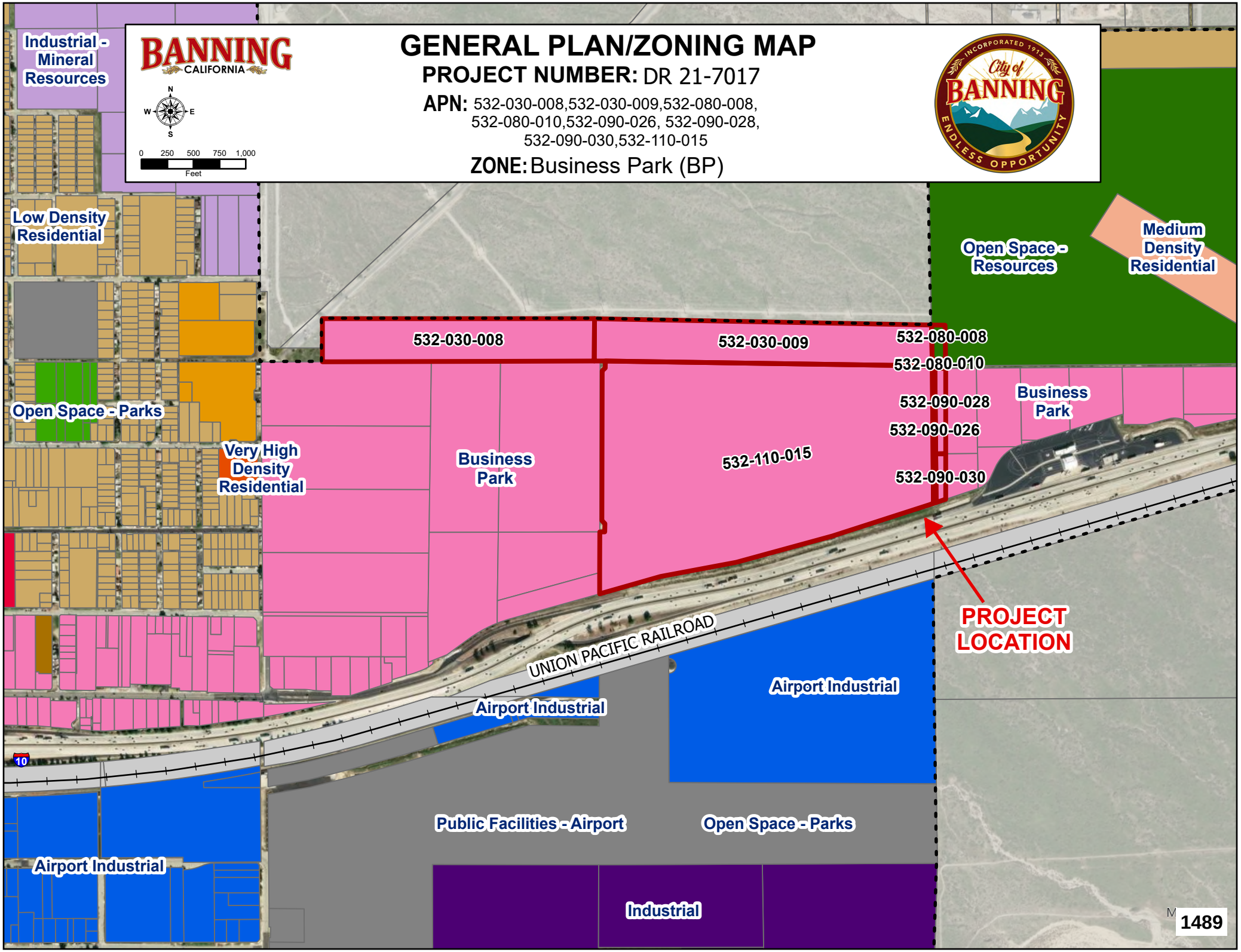
SHEET 9 OF 9

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BANNING
CALIFORNIA
VICINITY MAP
PROJECT NUMBER: DR 21-7017
APN: 532-030-008,532-030-009,532-080-008,
532-080-010,532-090-026, 532-090-028,
532-090-030,532-110-015
ZONE: Business Park (BP)
City of BANNING
INCORPORATED 1913
ENDLESS OPPORTUNITY
N
W
E
S
0 250 500 750 1,000
Feet
REPP
SANTIAGO RD
SULLIVAN RD
MORONGO RD
THEODORE ST
GILMAN ST
HOFFER ST
WILSON ST
CHRISTIE ST
NICOLET ST
WILLIAMS ST
RAMSEY ST
KELSO ST
JOHN ST
LINCOLN ST
ALMOND ST
BLANCHARD ST
PHILLIPS ST
CHERRY ST
HARLOW ST
EVANS ST
ALLEN ST
ALMOND WAY
HATHAWAY ST
JUAREZ ST
10
PROJECT LOCATION
County of San Bernardino, M
1486


BANNING
CALIFORNIA
AERIAL BASE MAP
PROJECT NUMBER: DR 21-7017
APN: 532-030-008,532-030-009,532-080-008,
532-080-010,532-090-026, 532-090-028,
532-090-030,532-110-015
ZONE: Business Park (BP)
0 250 500 750 1,000
Feet
City of BANNING
INCORPORATED 1913
ENDLESS OPPORTUNITY
THEODORE ST
HARLOW ST
GILMAN ST
EVANS ST
HOFFER ST
WILSON ST
GEORGE ST
EVANS ST
NICOLET ST
N EVANS ST
JACINTO VIEW RD
HATHAWAY ST
WILLIAMS ST
HARLOW ST
RAMSEY ST
HATHAWAY ST
KELSO ST
UNION PACIFIC RAILROAD
PROJECT LOCATION
County of San Bernardino, M
1487


BANNING
CALIFORNIA
DEVELOPMENT OPPORTUNITIES
PROJECT NUMBER: DR 21-7017
APN: 532-030-008,532-030-009,532-080-008,
532-080-010,532-090-026, 532-090-028,
532-090-030,532-110-015
ZONE: Business Park (BP)
City of BANNING
INCORPORATED 1913
ENDLESS OPPORTUNITY
N
W
E
S
0 250 500 750 1,000
Feet
THEODORE ST
CHERRY ST
PHILLIPS ST
GILMAN ST
CHERRY ST
EVANS ST
HOFFER ST
WILSON ST
CHRISTIE ST
CHERRY ST
ALLEN ST
GEORGE ST
EVANS ST
HATHAWAY ST
NICOLET ST
N EVANS ST
JACINTO VIEW RD
PHILLIPS ST
WILLIAMS ST
MONTE ST
HARLOW ST
RAMSEY ST
LAWS RD
PROJECT LOCATION
Legend
Banning Airport Influence Area
USGS Blue Line Streams
MSHCP Criteria Cells
CalFire Fire Hazard Severity Zones
FEMA 0.2% (500-Year) Annual Chance Flood Hazard Zone
FEMA 1% (100-Year) Annual Chance Flood Hazard Zone
California Geological Survey Liquefaction Hazard Zone
Fault Zones
County of San Bernardino, M
1488


BANNING
CALIFORNIA
GENERAL PLAN/ZONING MAP
PROJECT NUMBER: DR 21-7017
APN: 532-030-008,532-030-009,532-080-008,
532-080-010,532-090-026, 532-090-028,
532-090-030,532-110-015
ZONE: Business Park (BP)
0 250 500 750 1,000
Feet
City of BANNING
INCORPORATED 1913
ENDLESS OPPORTUNITY
Industrial - Mineral Resources
Low Density Residential
Open Space - Resources
Medium Density Residential
532-030-008
532-030-009
532-080-008
532-080-010
532-090-028
532-090-026
532-090-030
532-110-015
Business Park
Open Space - Parks
Very High Density Residential
Business Park
UNION PACIFIC RAILROAD
PROJECT LOCATION
Airport Industrial
Airport Industrial
10
Public Facilities - Airport
Open Space - Parks
Airport Industrial
Industrial
1489

City of Banning

Community Development Department

NOTICE OF PUBLIC HEARING
BEFORE THE CITY COUNCIL

Design Review, Case PLN 21-7017/Tentative Parcel Map, Case TPM 38576/Development Agreement
Banning Commerce Center Project by Sansone Group
Project Site: APNs 532-030-008, 532-030-009, 532-080-008, 532-080-010, 532-090-026, 532-090-028, 532-090-030, 532-110-015, Banning, CA 92220

NOTICE IS HEREBY GIVEN that the City Council of the City of Banning, California, will hold a public hearing at its meeting of May 13, 2025. The City Council meeting begins at 5:00 p.m., in the Council Chambers at City Hall, 99 East Ramsey Street, Banning, CA 92220. To observe the live meeting through your personal computer or smart phone enter the following link: https://banninglive.viebit.com or view on the Banning Government Channel on Cable Television.

The purpose of this hearing is to consider entitlement applications by Sansone Group (Applicant) for the Banning Commerce Center Project (Project). Specifically, the Applicant seeks approval of a Design Review application, Case PLN 21-7017, for a proposed development of an approximately 1,320,284-square foot industrial warehouse building (including office space within) on approximately 131.28 acres of vacant land located within the eastern portion of the City of Banning that is north of the I-10 freeway and east of Hargrave St. on the Project Site specified above. The Project would include loading docks, trailer parking stalls, passenger vehicle parking stalls, drive aisles, landscaping, and stormwater detention. The Applicant also seeks approval of a Tentative Parcel Map, Case TPM 38576, for the subdivision of the 131.28-acre Project Site into three numbered lots for the Project and related improvements and four lettered lots for rights-of-way and public utility purposes. The Applicant also seeks approval of a Development Agreement with the City to establish terms and obligations for both parties related to PLN 21-7017, TPM 38576 and infrastructure on- and off-site. The City Council will consider approving case PLN 21-7017, TPM 38576 and a Development Agreement between the City and Applicant, Sansone Group/JDNJ Enterprises, LLC; certifying the associated Final Environmental Impact Report (SCH No. 2022090102); and adopting findings, a Statement of Overriding Considerations (SOOC), and a Mitigation Monitoring and Reporting Program pursuant to the California Environmental Quality Act.

The Planning Commission reviewed the subject project at its meeting of March 5, 2025, and voted 3 to 2 to recommend City Council approval of the above applications.

ENVIRONMENTAL DETERMINATION: The Project has been reviewed in accordance with the California Environmental Quality Act (CEQA) and an Environmental Impact Report has been prepared for the project, together with Findings of Fact and a Statement of Overriding Consideration (SOOC), including Findings in support of the SOOC, and a Mitigation Monitoring and Reporting Program for the Project, to be considered by the City Council.

A Notice of Availability to review the draft Environmental Impact Report for the Banning Commerce Center EIR (SCH No. 2022090102) was published in June 2024, with the 45-day public review and comment period for the Project beginning on June 17, 2024, and ending on August 2, 2024, and a Final Environmental Impact Report was prepared.

REVIEW OF PROJECT INFORMATION: The proposed application, site plan, and related documents are available for public review by contacting the Community Development Department during normal business hours (Monday – Friday, 8:00am to 5:00pm) by telephone at (951) 922-3125. Additional project information is also available on the City's website by visiting the following link:
https://engagebanning.civilspace.io/en/projects/banning-commerce-center

COMMENT ON THIS APPLICATION: Response to this notice may be made verbally at the Public Hearing and/or in writing before the hearing:

- You may provide oral comments at the in-person hearing. Agendas are available at least 72 hours in advance of the meeting online: https://banningca.granicus.com/ViewPublisher.php?view_id=1
- Written comments may be submitted to the City Council by email at CityClerks@banningca.gov or letter to the address below. Transmittal prior to the start of the meeting is required. Any correspondence received during or after the meeting will be distributed to the City Council as soon as practicable and retained for the official record.

City Clerk's Office
PO Box 998
99 E. Ramsey St
Banning, CA 92220

Any challenge of the proposed project in court may be limited to raising only those issues raised at the public hearing described in this notice, or in written correspondence delivered to the City Clerk at, or prior, to the public hearing (Government Code Section 65009[b][2]).

Si necesita ayuda con esta carta, por favor llame a la Ciudad de Banning y puede hablar con Sandra Calderon, teléfono (951) 922-3125.

BY ORDER OF THE COMMUNITY DEVELOPMENT DIRECTOR OF THE CITY OF BANNING, CALIFORNIA.
David A. Newell, AICP — Dated: April 24, 2025
Community Development Director — Publish: May 2, 2025


BANNING
CALIFORNIA
VICINITY MAP
PROJECT NUMBER: DR 21-7017
APN: 532-030-008,532-030-009,532-080-008,
532-080-010,532-090-026, 532-090-028,
532-090-030,532-110-015
ZONE: Business Park (BP)
City of BANNING
INCORPORATED 1913
ENDLESS OPPORTUNITY
N
W
E
S
0 250 500 750 1,000
Feet
REPP
THEODORE ST
GILMAN ST
HOFFER ST
WILSON ST
CHRISTIE ST
NICOLET ST
WILLIAMS ST
RAMSEY ST
JOHN ST
LINCOLN ST
ALMOND ST
ALMOND WAY
BLANCHARD ST
PHILLIPS ST
CHERRY ST
HARLOW ST
EVANS ST
ALLEN ST
HATHAWAY ST
JUAREZ ST
MORONGO RD
SULLIVAN RD
SANTIAGO RD
KELSO ST
10
PROJECT LOCATION
County of San Bernardino, M
1492

CITY OF BANNING
OFFICE OF THE CITY CLERK

CITY COUNCIL
NOTICE OF CONTINUATION OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that at its regular meeting of May 13, 2025, the City Council continued the following noticed public hearing listed on its agenda to its regularly scheduled City Council meeting of May 27, 2025:

Consideration of (1) Resolution 2025-59, Approving the Banning Commerce Center Project by Sansone Group, Including a Design Review Application, Case DR 21-7017, for the Construction of a 1,320,284-Square Foot Industrial Warehouse Building on 131.28-acres of Land Generally Located North of the I-10 Freeway/E. Ramsey Street, East of N. Hathaway Street and Bisected by Wilson Street ("Project Site") and a Tentative Parcel Map Application, Case TPM 38756, for the Subdivision of the 131-28-acre Project Site into Three Numbered Lots for Private Development Improvements and Four Lettered Lots for Right-of-Way and Other Improvements; (2) Resolution 2025-60, Certifying the Environmental Impact Report (SCH No. 2022090102), Adopting Findings and a Statement of Overriding Considerations, and Adopting a Mitigation Monitoring and Reporting Program for the Banning Commerce Center Project Consisting of a 1,320,284-Square Foot Industrial Warehouse Building on 131.28-acres of Land Located on the Project Site; and (3) Introduction and First Reading of Ordinance 1609, Approving a Development Agreement By and Between the City of Banning and JDJN Enterprises, LLC, a Missouri Limited Liability Corporation

Said continuance was passed by the following vote:

AYES:	Barrington, Flynn, Miller, and Royce.
NOES:	Wallace.
RECUSED:	None
ABSENT:	None

The May 27, 2025 Regular Meeting of the City Council begins at 5:00 p.m. in the Council Chambers at City Hall, 99 E. Ramsey Street, Banning, CA 92220.

I, Caroline Patton, Administrative City Clerk, City of Banning, certify this Notice of Continuance was posted within 24 hours of the City Council's action, as required by California Government Code 54955.1.

Caroline Patton
Administrative City Clerk, City of Banning

FISCAL IMPACT ANALYSIS
FOR
BANNING COMMERCE CENTER

June 2024

Prepared By:

DPFG
DEVELOPMENT PLANNING & FINANCING GROUP

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1. Project Description

Banning Commerce Center ("Project") is a proposed industrial development of approximately 127 acres. The Project is currently located in the City of Banning, adjacent to the Interstate 10 Freeway. The Project is anticipated to be comprised of approximately 1,300,000 square feet of industrial warehouse and distribution. A table detailing the Land Use Assumptions for the Project is included below and a Project Site Plan has been included in Appendix A for the reader's reference.

LAND USE ASSUMPTIONS

Industrial			
Probable Tenant Type	**Bldg. SF**	**Estimated Assessed Value per SqFt (a)**	**Total Assessed Value**
Building 1	1,320,284	$ 213	$ 281,220,492
Subtotal Industrial	**1,320,284**	**$ 213**	**$ 281,220,492**

Total Project Assessed Value	$ 281,220,492

Footnote:
(a) Estimated assessed value per SqFt per Appendix B Table 3.

2. Purpose of Fiscal Impact Analysis

This Fiscal Impact Analysis ("FIA") has been prepared to determine the estimated fiscal impacts on the City of Banning ("City") general fund in connection with the proposed development of the Project. The reader should be aware that the FIA contains estimates or projections of the Project's future revenue and cost impacts on the City and actual fiscal results may vary from estimates because events and circumstances may occur in a manner that is different than projected in the FIA. The primary purpose of this FIA is to estimate the Project's net fiscal impact on the City's General Fund upon build-out, as further detailed in the report and appendices. In addition to estimating the net fiscal impacts of the Project, this FIA provides includes an Economic Benefit Analysis ("EBA") which uses IMPLAN. The IMPLAN model is used to predict the economic consequences of a development project within a local economy and measures the direct, indirect and induced effects in terms of economic output, employment, and earnings within the local region.

3. Benefits Summary

The Project will result in multiple types of benefits to the City, both in the form of recurring benefits, which will continue to occur annually beyond the Project's buildout, as well as non-recurring benefits in the form of one-time payments and the creation of additional construction jobs during the Project's construction period. In addition to these

benefits, which are discussed and elaborated on later in this FIA, it should be noted that there are potentially other various benefits that this report does not address.

3.1 Temporary (Construction Related) Jobs Created

In addition to the recurring and non-recurring revenues generated by the Project, the site is also estimated to generate approximately **1,926** annual full time equivalent construction related jobs during the 1-year construction period, per the IMPLAN analysis. These temporary construction jobs are in addition to the estimated permanent employees generated at buildout by the Project.

3.2 FIA Summarization

At buildout, the Project is anticipated to generate a surplus of **$505,215** to the City's General Fund (in 2024 dollars) on an annual recurring basis, as detailed in Section 6.

4. FIA Limiting Conditions

The FIA is subject to the following limiting conditions:

- The FIA contains an analysis of recurring revenues and costs to the City from development of the Project. The FIA is based on estimates, assumptions, and other information developed from DPFG's research and experience.

- The sources of information and basis of the estimates are stated herein. While we believe the sources of information are reliable, DPFG does not express an opinion or any other form of assurance on the accuracy of such information.

- The analysis of recurring revenues and cost impacts to the City contained in the FIA is not considered to be a "financial forecast" or a "financial projection" as technically defined by the American Institute of Certified Public Accountants. The word "projection" used within this report relates to broad expectations of future events or market conditions.

- Since the analyses contained herein are based on estimates and assumptions which are inherently subject to uncertainty and variation depending on evolving events, DPFG cannot represent that results will definitely be achieved. Some assumptions inevitably will not materialize and unanticipated events and circumstances may occur; therefore, the actual results achieved may vary from the projections.

5. General Sources of Information and Methodology Used in FIA

The FIA was prepared to estimate the allocable revenue and cost impacts to the City's general fund ("General Fund") as a result of the Project's development. The FIA uses a combination of case study methods and multiplier methods to estimate Project impacts.

When projecting fiscal impacts using a multiplier method, the FIA determines per capita/employee impacts by applying the appropriate multiplier to the Project's land use assumptions. The Per Capita-and-Employee-Multiplier Method involves dividing a cost or revenue figure by the number of residents and 50% of all employees working in the

City, and then multiplying that number by the number of residents projected for the Project at buildout. This method assumes that recurring costs and revenues will result from the Project at the same rates that currently prevail within the City, with each employee counted as one-half of a resident to reflect the relative significance of employees (i.e. non-residential land uses) in generating City public services costs or City revenues. This multiplier method is a widely accepted standard of estimating per capita and employee impacts. The multipliers were calculated using data from the City and the U.S. census. Where appropriate, City Budget data is adjusted to account for expected marginal increases when the nature of the cost or revenue item contains a fixed component that is not anticipated to change based on population growth from the Project. All cost and revenue factors are projected in 2024 dollars, and are not adjusted for inflation, based on the assumption that the relative impacts of inflation in future years will be offsetting.

Information used in preparing the FIA was obtained from the following primary sources: (1) City of Banning Recommended Budget FY 2024-25 and 2025-26; (2) Sansone Group ("Developer"); (3) California Employment Development Department (employment information); (4) County of Riverside Auditor-Controller's Office (Fiscal Year 2023-2024 share of the basic tax information and assessments); (5) U.S. Census Bureau (population data); (6) U.S. Bureau of Labor Statistics (household expenditure data and persons per household); (7) Landvision; (8) Urban Land Institute's Dollars & Cents of Shopping Centers; and (9) CBRE Research (Market Data).

The FIA Appendix B is organized as follows:

Appendix	Table	Description
B	1	Fiscal Impact Analysis Summary
B	2	Population and Employment Data
B	3	Estimated Commercial Uses Property Value Using Income Method
B	4	Land Use and Assessed Value Assumptions
B	5	Post-ERAF Share of the Basic Tax Calculation
B	6	Property Taxes In Lieu of Vehicle License Fee ("VLF")
B	7	Other Recurring Revenues
B	8	Recurring Expenditures
B	9	Permanent Employment

The EBA Appendix C is organized as follows:

Appendix	Table	Description
B	1	Economic Benefit Analysis Summary
B	2	Construction Period Impacts
B	3	Ongoing Annual Impacts
B	4	Top 10 Industries Affected during Construction Period
B	5	Top 10 Industries Affected from Ongoing Annual Operations from Commercial Site

The following table shows the key demographic assumptions used in the FIA:

	City	Project
Population	31,213 (a)	-
Employees	10,600 (b)	880
Residents + 50% Employees	36,513 (c)	440 (c)

Footnotes:

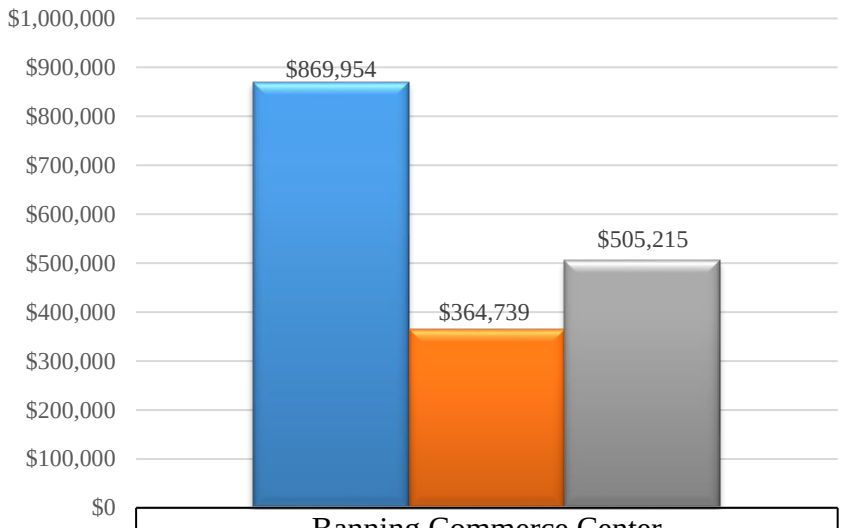
(a) Per the E-5 City / County Population and Housing Estimates report published by the California Department of Finance dated 1/1/2024.

(b) Per State of California, Employment Development Department April 2024 estimate.

(c) The Per Capita-and-Employee Multiplier Method represents the total service population for the City and Project respectively, as each employee is counted as one-half of a resident to reflect their relative impact in generating City public service costs or City revenues. This multiplier method is a widely accepted standard of estimating per capita and employee impacts.

6. FIA Summary and Conclusions

The FIA examines the financial impact the Project will have at buildout on the General Fund. The Project will generate additional revenue for the General Fund primarily through increased property taxes, property taxes in-lieu of vehicle license fees, and sales taxes. The additional costs incurred to the General Fund as a result of the Project are less than the additional revenues generated and consist primarily of police and fire services. The Project's direct impact to the General Fund at buildout is summarized in the chart below:



	Banning Commerce Center
Total Recurring Revenues	$869,954
Total Recurring Expenditures	$364,739
Net Fiscal Surplus (Deficit)	$505,215

As seen in the chart, the Project is anticipated to generate a **$505,215** surplus to the City on an annual basis once the Project is fully developed.

OVERALL ANNUAL RECURRING SUMMARY

Fiscal Impact Annual Summary			
Annual Recurring Revenues:			
Property Tax	$	455,179	Table 5
Property Tax in-lieu of Vehicle License Fees		335,565	Table 6
Other Revenues		79,210	Table 7
Total Recurring Revenue	**$**	**869,954**	
Annual Recurring Expenditures:			
City Council	$	1,893	Table 8
City Manager		7,667	Table 8
Economic Development		2,446	Table 8
Personnel		3,266	Table 8
City Clerk		1,365	Table 8
Elections		343	Table 8
City Attorney		4,427	Table 8
TV Government Access		1,309	Table 8
Fiscal Services		12,246	Table 8
Purchasing		4,212	Table 8
Police		146,236	Table 8
Dispatch		16,544	Table 8
Animal Control		6,184	Table 8
Animal Shelter		796	Table 8
Fire		48,010	Table 8
Building and Safety		24,853	Table 8
Code Enforcement		8,582	Table 8
Planning		19,581	Table 8
Engineering		23,574	Table 8
Building Maintenance		2,884	Table 8
Parks		7,454	Table 8
Recreation		3,107	Table 8
Aquatics		10,848	Table 8
Day Care		454	Table 8
Senior Center		2,122	Table 8
Central Services		-	Table 8
Community Enhancement		771	Table 8
Public Information		1,453	Table 8
Grants Management		2,113	Table 8
Total Recurring Expenditures	**$**	**364,739**	
Net Annual Fiscal Surplus (Deficit)	**$**	**505,215**	

7. FIA Recurring Revenues

7.1 Property Tax

In addition to other ad valorem charges imposed by various local agencies, land owners in the State of California ("State") are required to pay annual property taxes of 1% on the assessed value of their property pursuant to Proposition 13. Each City in California is divided into tax rate areas ("TRA"). After the basic 1% property tax is collected by the County, the tax is allocated to various local agencies based on each agency's share of the basic tax within the property's applicable TRA.

The TRA's the Project is located within is TRA 001-004. Per the Riverside County Auditor-Controller the City is entitled to 16.18582804% of the base 1.00% ad-valorem property tax. The breakdown and estimated assessed value by TRA is detailed in Appendix B, Table 5. In total, the Project is anticipated to generate **$455,179** per year in property taxes.

7.2 Property Tax In-Lieu of Vehicle License Fees ("VLF")

In May 2004, Governor Schwarzenegger proposed a swap of City and City VLF revenue for additional property tax share as part of a budget agreement between the State and local governments. The swap was included in the 2004 budget package. Under this legislation, property tax in-lieu of VLF is allocated to Cities and Counties pursuant to a complex formula involving each agency relative share of assessed value. For new development which is projected to occur after annexation, VLF will be accrued by the City. The property tax in-lieu of VLF revenue that will be generated by the Project can be estimated by determining the (i) percentage growth in the total assessed value of the City attributable to the Project, and multiplying by (ii) the property tax in-lieu of VLF revenue of $4,150,349 expected to be received by the City in fiscal year 2024/25 per the Recommended 2024/25 Budget. Based on these calculations, the Project is anticipated to generate **$335,565** annually in property tax in-lieu of VLF revenue per Appendix B, Table 6.

Annual City Property Taxes In Lieu of VLF			
FY 2024/25 In Lieu VLF Allocation to City	$	4,150,349	(a)
FY 2023/24 City Assessed Value		3,478,202,536	(b)
Total Project Assessed Value		281,220,492	(c)
AV Growth from Project		8.085%	(d)
Annual City Property Taxes In Lieu of VLF	$	335,565	

Footnotes:

(a) Per City of Banning Preliminary FY 2024-25 and 2025-26 two year budget.

(b) Per County of Riverside Assessor's Office 2023/2024 Assessment Roll published 7/10/2023.

(c) Per Table 4.

(d) Estimated increase to City assessed value due to construction of site.

7.3 Other Revenues

The City receives various other revenues analyzed under the FIA. These include (i) Franchise Fees, (ii) Fines and Forfeitures, (iii) Licenses and Permits, and (iv) Charges for Services, among other recurring revenues. These revenues have been estimated using the appropriate multiplier against the City budgeted revenues for each respective revenue category. Accordingly, total annual "other" revenues are anticipated to be **$79,210** at build-out per Appendix B, Table 7.

8. FIA Recurring Costs

8.1 General Government

General Government services cost includes City Council, City Manager, Economic Development, Human Resources, City Clerk, Elections, City Attorney, and TV Government Access. The FIA assumes an estimated 50% marginal increase for these costs as they do not have a 1:1 relationship with population growth (i.e., majority of costs are fixed, not variable). Accordingly, using a Per Capita & 50% Employee Multiplier general government costs are anticipated to be **$22,716** at buildout as shown Appendix B, Table 8.

8.2 Finance

The Finance cost category includes services related to the collection and investment of City monies, accounting, budgeting, and financial reporting. Using a Per Capita & 50% Employee Multiplier, total Finance costs are anticipated to be **$16,459** at buildout as shown in Appendix B, Table 8.

8.3 Law Enforcement

The Sheriff department will be responsible for providing police protection services to the Project. To estimate the Project's impact on police service costs, the FIA uses a Per Capita & 50% Employee Multiplier of $332.28 for Police and $37.59 for Dispatch based on the City's police service budget. Based on this multiplier, total annual police service costs for the Project are estimated to be **$162,780** at buildout as shown Appendix B, Table 8.

8.4 Animal Control

The Animal Control cost category includes services related to the shelter and care for animals. Using a Per Capita & 50% Employee Multiplier, total Animal Control costs are anticipated to be **$6,979** at buildout as shown in Appendix B, Table 8.

8.5 Fire and Life Safety

It is anticipated that the current station's service area will be capable of serving the Project. To estimate the Project's impact on fire service costs the FIA uses a Per Capita & 50% Employee Multiplier of $109.09 for Fire and $56.47 for Building Safety. Based on this multiplier, total annual fire service costs are estimated to be **$72,864** at buildout as shown in Appendix B, Table 8.

8.6 Development Services

The Development Services cost category includes services related to Code Enforcement, Planning, Engineering, Building Maintenance, Parks and Recreation. Using a Per Capita

& 50% Employee Multiplier, total Development Services costs are anticipated to be **$65,181** as shown in Appendix B, Table 8.

8.7 Community Services

The Community Services cost category includes services related to Aquatics, Day Care, Senior Center, Central Services, and Community Enhancement. Using a Per Capita Multiplier, total Community Services costs are anticipated to be **$17,760** at buildout as shown in Appendix B, Table 8.

9. Economic Benefit Analysis

We have also analyzed the Project using IMPLAN. IMPLAN is the most widely employed and accepted regional economic analysis software for predicting economic impacts. The IMPLAN model is used to predict the economic consequences of a development project within a local economy and measures the direct, indirect and induced effects in terms of economic output, employment, and earnings within the local region.

A key concept to understand about the IMPLAN economic impact analysis is that one form of economic activity almost always stimulates other economic activities. The total economic impact of a specific project or event on a study area is the sum of the direct, indirect and induced impacts. The direct economic activity stemming from the Project stimulates subsequent indirect and induced impacts to the local economy.

The three components of economic impact are further described below:

1. *Direct Impact*: Represents the initial change in the economy attributable to the development of the Project which occurs directly on the Project site.

2. *Indirect Impact*: Represents the impact on local industries as a result of inter-industry purchases as the economy responds to new demand of the directly affected industries. This impact represents the additional rounds of economic activity that occur as a consequence from the direct impacts, specifically through the production of goods and services required to support businesses directly impacted. For example, as it relates to jobs, if a direct impact of a Project is the creation of construction jobs on-site as a result of building new homes, then an indirect impact would be the creation of jobs in the lumber industry as result of the contractor's purchase of lumber to construct those homes.

3. *Induced Impact*: Represents the impact to the local economy as a result of the increased household spending due to additional labor income generated, specifically through the purchase of goods and/or services required to meet consumer demand generated by the Project's residents and employees.

The specific economic impacts evaluated in this analysis are **employment** and **labor income**.

Employment: Represents the number of jobs produced in the economy.

Labor Income: Represents the total value of all forms of employment income paid throughout the local economy.

These economic impacts are driven by economic activity generated directly at the Project site as well as the related flow of economic activity in the specified region. In this case, the defined geographic region is the County of Riverside and the economic activities generating impacts are the construction of the Project, the annual ongoing activities of the new businesses located in the Project, and new local spending by the Project's residents. Accordingly, this analysis evaluates the direct, indirect and induced effects of the Project at two separate times: (i) a one-time evaluation of direct, indirect, and induced effects during the construction of the Project ("**Construction Period Impacts**") and (ii) the ongoing annual direct, indirect, and induced effects at buildout ("**Ongoing Annual Impacts**"). The IMPLAN data set used for this analysis is in 2024 dollars.

The "Construction Period" commences upon initial site development and ends upon completion of all industrial structures. Per the Developer, the Construction Period is expected to be approximately 1 year. Direct inputs were comprised of Hard Costs of approximately $138,629,820 which includes the vertical construction and Soft Costs of approximately $59,412,780 which includes other costs associated with the Project for a total anticipated development cost of approximately $198,042,600. Construction of the Project will contribute to the creation of new direct, indirect, and induced jobs County-wide. Direct jobs created during the Construction Period consist of the employees constructing the Project, whereas the indirect and induced jobs created during this phase relate to (i) the other industries that need to produce additional goods and services to meet the demand from contractors/businesses directly involved in the construction of the Project and (ii) discretionary spending of the construction employees.

Labor income during the construction period includes employment compensation and benefits paid to workers. The direct effect on labor income during the Construction Period is comprised of labor income paid to construction employees on site. The indirect effect on labor income includes the income of those employees of businesses providing goods and services to the contractors/businesses working directly on the site. The induced effect on labor income is comprised of the income of employees working at businesses that experience growth from the discretionary spending of the direct and indirect employees. Overall, the Project is estimated to generate $118,786,000 in labor income over the Construction Period.

Ongoing annual direct effects represent the anticipated economic effects of the Project once the site is stabilized. Ongoing annual direct effects on employment relate to the employees working at the Project, whereas the indirect and induced jobs created during this phase relate to the other industries that produce goods and services that support the new businesses of the Project and local spending by the new employees and residents of the Project. The project is anticipated to create approximately 880 full-time equivalent employees. Full-time equivalent employees for the Project were based on occupancy and

the square feet per employee estimates according to the anticipated tenant type. Because IMPLAN's definition of employment includes "all jobs" (i.e., full-time, part-time, and seasonal), IMPLAN industry sector conversion factor of .938 for warehousing. This resulted in a total direct employee (i.e., total "headcount" jobs) of approximately 939 employees.

The direct effect on labor income during the Permanent Ongoing Period includes the labor income paid to on-site employees of the Project. The indirect and induced effects on labor income consist of the income of those employees associated with businesses that service the Project, as well as the income of the new employees generated by the increased demand for goods and services from the Project. Overall, the Project is estimated to generate approximately $86,032,000 annually in labor income.

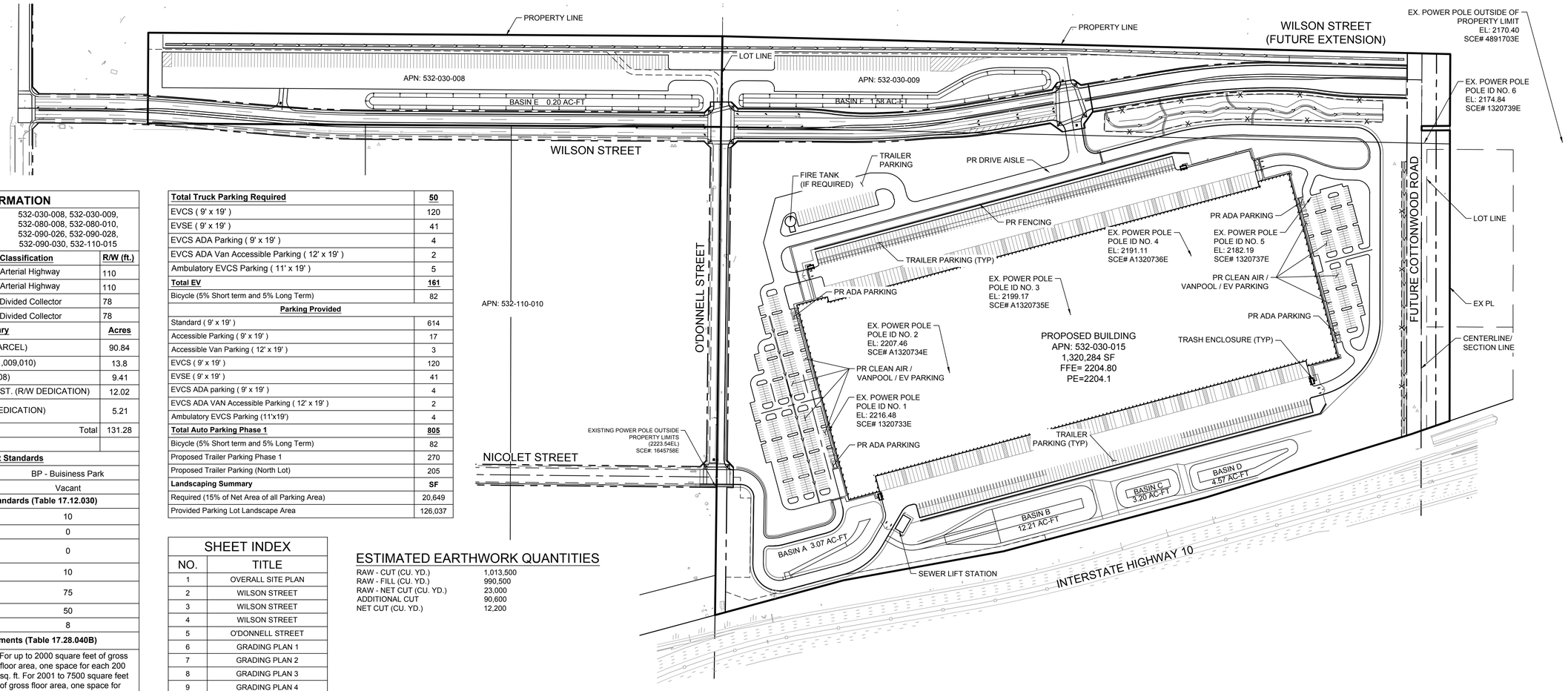
Our analysis uses conservative metrics drawn from the County of Riverside market conditions and our industry knowledge and experience. It should be noted, however, that market conditions may change between now and when the Project is anticipated to open. Accordingly, as the information, estimates, and assumptions used in the analysis are inherently subject to uncertainty and variation depending on evolving events (e.g., market conditions, government regulations, etc.), the estimates presented herein are subject to change.

10. Glossary of Defined Terms and Acronyms

Budget	City of Banning Recommended Budget FY 2024/25 and 2025/26
City	City of Banning
Developer	Sansone Group
DPFG	DPFG, LLC
FIA	Fiscal Impact Analysis
General Fund	City of Banning General Fund
Project	Banning Commerce Center
State	State of California
TRA	Tax Rate Area
VLF	Vehicle License Fees

Appendix A

BANNING COMMERCE CENTER
PRELIMINARY DESIGN (30%)
DESIGN REVIEW DR21-7017



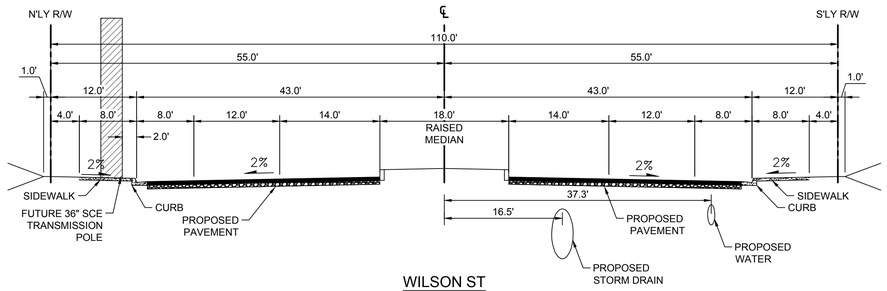
SITE INFORMATION		
ASSESSOR'S PARCEL NUMBER (APN)	532-030-008, 532-030-009, 532-080-008, 532-080-010, 532-090-026, 532-090-028, 532-090-030, 532-110-015	
Public Roads	**Classification**	**R/W (ft.)**
Cottonwood Rd (Future)	Arterial Highway	110
Wilson St	Arterial Highway	110
E Nicolet St (By Others)	Divided Collector	78
O'Donnell St (By Others)	Divided Collector	78
Parcel Summary		**Acres**
PARCEL 1 (PROPOSED BUILDING PARCEL)		90.84
PARCEL 2 (N'LY OF APN 532-110-001,009,010)		13.8
PARCEL 3 (WEST OF APN 532-080-008)		9.41
LOT "A" / WILSON ST. & O'DONNELL ST. (R/W DEDICATION)		12.02
LOT"B" / COTTONWOOD RD. (R/W DEDICATION)		5.21
	Total	131.28
Development Standards		
Zone	BP - Buisiness Park	
Existing Use	Vacant	
Industrial Development Standards (Table 17.12.030)		
Min. Front Setback (Feet)	10	
Min. Rear Setback (Feet)	0	
Min. Side Yard Setback (Feet)	0	
Min. Street Side (Feet)	10	
Max. Bldg. Coverage (%)	75	
Maximum Height (stories/feet)	50	
Fence/Wall Height (ft.)	8	
Industrial Parking Requirements (Table 17.28.040B)		
General Offices	For up to 2000 square feet of gross floor area, one space for each 200 sq. ft. For 2001 to 7500 square feet of gross floor area, one space for each 250 sq ft. For over 7500 square feet of gross floor area, one space for each 300 sq ft.	
Industrial Warehousing		
1—20,000 sq ft	Minimum of two spaces plus one space for each 1,000 sq. ft. of gross floor area	
Over 20,000 sq ft	22 spaces plus one space per 2,000 sq. ft. for portion over 20,000 sq ft	
Trucks	One tractor trailer space per 4 high dock doors	
Parking Stall Min (W x L)	9' x 19'	
Parking Lot Aisle Min	24'	
Landscaping		
Landscaping, Screening and Shading. A minimum of 15 percent of the net area of all parking areas shall be landscaped		
At least one 24 inch box tree for every four spaces shall be included in the development of the overall landscape program.		
Parking Required		
Total Auto Parking Required		**802**

Total Truck Parking Required	**50**
EVCS (9' x 19')	120
EVSE (9' x 19')	41
EVCS ADA Parking (9' x 19')	4
EVCS ADA Van Accessible Parking (12' x 19')	2
Ambulatory EVCS Parking (11' x 19')	5
Total EV	**161**
Bicycle (5% Short term and 5% Long Term)	82
Parking Provided	
Standard (9' x 19')	614
Accessible Parking (9' x 19')	17
Accessible Van Parking (12' x 19')	3
EVCS (9' x 19')	120
EVSE (9' x 19')	41
EVCS ADA parking (9' x 19')	4
EVCS ADA VAN Accessible Parking (12' x 19')	2
Ambulatory EVCS Parking (11'x19')	4
Total Auto Parking Phase 1	**805**
Bicycle (5% Short term and 5% Long Term)	82
Proposed Trailer Parking Phase 1	270
Proposed Trailer Parking (North Lot)	205
Landscaping Summary	**SF**
Required (15% of Net Area of all Parking Area)	20,649
Provided Parking Lot Landscape Area	126,037

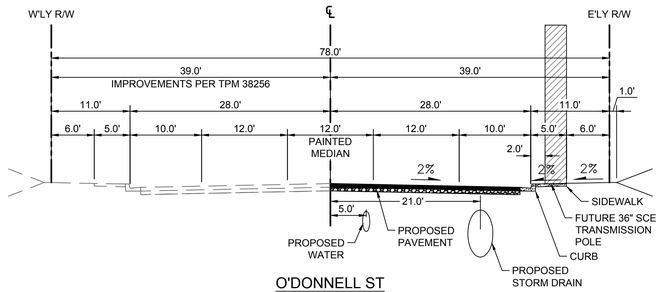
SHEET INDEX	
NO.	TITLE
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3	WILSON STREET
4	WILSON STREET
5	O'DONNELL STREET
6	GRADING PLAN 1
7	GRADING PLAN 2
8	GRADING PLAN 3
9	GRADING PLAN 4
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11	GRADING PLAN 6
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26	UTILITY PLAN 9
27	UTILITY PLAN 10
28	UTILITY PLAN 11
29	UTILITY PLAN 12

ESTIMATED EARTHWORK QUANTITIES

RAW - CUT (CU. YD.)	1,013,500
RAW - FILL (CU. YD.)	990,500
RAW - NET CUT (CU. YD.)	23,000
ADDITIONAL CUT	90,600
NET CUT (CU. YD.)	12,200



WILSON ST
ARTERIAL HIGHWAY (110' RW)



O'DONNELL ST
DIVIDED COLLECTOR (78' RW)

NORTH
GRAPHIC SCALE IN FEET
0 100 200 400

UNDERGROUND SERVICE ALERT
call: TOLL FREE
1-800-422-4133
TWO WORKING DAYS BEFORE YOU DIG

REVISIONS

No.		APPR.	DATE

PLANS PREPARED BY:
Kimley»Horn
KIMLEY-HORN AND ASSOCIATES, INC.
3801 UNIVERSITY AVE., SUITE 300
RIVERSIDE, CA 92501
PHONE: 951-543-9868
WWW.KIMLEY-HORN.COM
PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN
EUGENE D. COWAN III, RCE # 86803 — 10/5/2023 DATE

SUBMITTED BY:
SANSONE GROUP
120 S. CENTRAL AVENUE, SUITE 500
ST. LOUIS, MO 63105

PRINTED ON 10/05/2023
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Not for construction purposes or permits.
Kimley»Horn
Engineer: EUGENE D. COWAN III
P.E. No. 86803 Date: 10/5/2023

CITY OF BANNING
RECOMMENDED BY:
KEVIN SIN, RCE #71299, SENIOR CIVIL ENGINEER — EXP 12/31/23 — DATE
APPROVED BY:
ARTURO VELA, RCE # 75696, PUBLIC WORKS DIRECTOR/CITY ENGINEER — EXP. 05/30/24 — DATE

BANNING COMMERCE CENTER
PRELIMINARY DESIGN DR21-7017
OVERALL SITE PLAN

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 1 OF 29

1508

Plotted By:BackJurd, Mandy Sheet Set:BANNING LOGISTICS PRELIM Layout:1 PG October 05, 2023 04:44:04pm K:\RIV_LDEV\194455002 - banning logistics\CAD\preliminary\Grading Plan - Cover.dwg
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Appendix B

Table 1
Banning Commerce Center
Fiscal Impact Analysis Summary

Preliminary Draft

Fiscal Impact Annual Summary			
Annual Recurring Revenues:			
Property Tax	$	455,179	Table 5
Property Tax in-lieu of Vehicle License Fees		335,565	Table 6
Other Revenues		79,210	Table 7
Total Recurring Revenue	**$**	**869,954**	
Annual Recurring Expenditures:			
City Council	$	1,893	Table 8
City Manager		7,667	Table 8
Economic Development		2,446	Table 8
Personnel		3,266	Table 8
City Clerk		1,365	Table 8
Elections		343	Table 8
City Attorney		4,427	Table 8
TV Government Access		1,309	Table 8
Fiscal Services		12,246	Table 8
Purchasing		4,212	Table 8
Police		146,236	Table 8
Dispatch		16,544	Table 8
Animal Control		6,184	Table 8
Animal Shelter		796	Table 8
Fire		48,010	Table 8
Building and Safety		24,853	Table 8
Code Enforcement		8,582	Table 8
Planning		19,581	Table 8
Engineering		23,574	Table 8
Building Maintenance		2,884	Table 8
Parks		7,454	Table 8
Recreation		3,107	Table 8
Aquatics		10,848	Table 8
Day Care		454	Table 8
Senior Center		2,122	Table 8
Central Services		-	Table 8
Community Enhancement		771	Table 8
Public Information		1,453	Table 8
Grants Management		2,113	Table 8
Total Recurring Expenditures	**$**	**364,739**	
Net Annual Fiscal Surplus (Deficit)	**$**	**505,215**	

Table 2
Banning Commerce Center
Population and Employment Data

Preliminary Draft

	City	Project
Population	31,213 (a)	-
Employees	10,600 (b)	880
Residents + 50% Employees	36,513 (c)	440 (c)

Footnotes:

(a) Per the E-5 City / County Population and Housing Estimates report published by the California Department of Finance dated 1/1/2024.

(b) Per State of California, Employment Development Department April 2024 estimate.

(c) The Per Capita-and-Employee Multiplier Method represents the total service population for the City and Project respectively, as each employee is counted as one-half of a resident to reflect their relative impact in generating City public service costs or City revenues. This multiplier method is a widely accepted standard of estimating per capita and employee impacts.

Table 3
Banning Commerce Center
Estimated Commercial Uses Property Value Using Income Method

Preliminary Draft

		Industrial
Gross Square Feet		1,320,284
Less: Non-leasable Space @ 10%	(a)	-
Leasable Square Feet		1,320,284
REVENUE		
Average Monthly NNN Rental Rate per s.f.	(b)	$ 1.36
Total Scheduled Annual NNN Rents		$ 21,547,035
EXPENSES		
Vacancy (%)	(b)	5.90%
Vacancy ($)		$ 1,271,275
Unreimbursed Expenses (vacant space)	(c)	4,055,152
Total Expenses		$ 5,326,427
NET OPERATING INCOME		$ 16,220,608
CAP RATE	(d)	5.75%
TOTAL VALUE		**$ 282,097,528**
VALUE PER GROSS SQUARE FOOT		**213.66**
VALUE PER GROSS SQUARE FOOT (ROUNDED)		**213.00**

Footnotes:
(a) Analysis estimates that all of the building will be leaseable.
(b) Industrial rental rate per CBRE Inland Empire Industrial, Q1 2024 Report.
(c) Operating Expenses for Warehouse and Office estimated at 20.0% of revenue.
(d) Commercial Retail cap rate per CBRE North America Cap Rate Survey Second Half 2023 for Stabilized Retail property in the Inland Empire. Industrial cap rate per CBRE North America Cap Rate Survey First Half 2023 for Class A Stabilized Industrial property in Southern California

Table 4
Banning Commerce Center
Land Use and Assessed Value Assumptions

Preliminary Draft

Industrial			
Probable Tenant Type	**Bldg. SF**	**Estimated Assessed Value per SqFt (a)**	**Total Assessed Value**
Building 1	1,320,284	$ 213	$ 281,220,492
Subtotal Industrial	**1,320,284**	**$ 213**	**$ 281,220,492**

Total Project Assessed Value	$ 281,220,492

Footnotes:
(a) Commercial estimated value per square foot per Table 3.

Table 5
Banning Commerce Center
Post-ERAF Share of the Basic Tax Calculation

Preliminary Draft

Within City of Banning - Agency	TRA (a) 001-004
01-1001 General Fund	11.40688011%
02-2051 City of Banning	**16.18582804%**
03-0801 Banning Unified School	31.30536200%
03-9201 Mt San Jacinto Jr College	3.16649900%
03-9896 Riv. Co. Office of Education	3.26869100%
04-1351 Flood Control Admin	0.18757802%
04-1365 Flood Control Zone 5	3.91467110%
04-4005 Summit Cemetery District	1.49751903%
04-4391 San Gorgonio Pass Mem Hospital	1.61320200%
04-4455 Banning Library District	3.55788820%
04-5171 San Gorgonio Pass Water Agency Debt Service	2.83346403%
ERAF Fund	21.06241747%
Total	100.00000000%
Project Acres (b)	127
% of Total	100.00%
Total City General Fund	**16.1858%**
Total Assessed Value	**$ 281,220,492**
Base 1% Ad-Valorem Tax	**1.00%**
Base Commercial Ad-Valorem Revenue	**$ 2,812,205**
City of Banning Allocation	**$ 455,179**

Footnotes:

Source: Fiscal Year 2023-24 Share of the Basic Tax per Riverside County Auditor-Controller's Office, Property Tax Division.

(a) Shares of the basic tax that are received by the City highlighted in bold print.

(b) TRA and acreage data per LandVision, 6/3/2024.

Table 6
Banning Commerce Center
Property Taxes In Lieu of Vehicle License Fee ("VLF")

Preliminary Draft

Annual City Property Taxes In Lieu of VLF			
FY 2024/25 In Lieu VLF Allocation to City	$	4,150,349	(a)
FY 2023/24 City Assessed Value		3,478,202,536	(b)
Total Project Assessed Value		281,220,492	(c)
AV Growth from Project		8.085%	(d)
Annual City Property Taxes In Lieu of VLF	$	335,565	

Footnotes:
(a) Per City of Banning Preliminary FY 2024-25 and 2025-26 two year budget.
(b) Per County of Riverside Assessor's Office 2023/2024 Assessment Roll published 7/10/2023.
(c) Per Table 4.
(d) Estimated increase to City assessed value due to construction of site.

Table 7
Banning Commerce Center
Other Recurring Revenues

Preliminary Draft

Revenue Category	City FY 2024/2025 Preliminary Operating Budget (a)	Marginal Increase	Adjusted Budget	Multiplier	Factor	Project Equivalent Persons	Project Revenues
Property Taxes	$ 4,470,859	100%	$ 4,470,859	Case Study - Table 5	N/A	-	$ -
Property Taxes In-Lieu of VLF	4,150,349	100%	4,150,349	Case Study - Table 8	N/A	-	-
Sales and Use Tax	6,374,284	100%	6,374,284	Case Study - Table 9	N/A	-	-
Franchise Tax	545,000	100%	545,000	Per Capita & 50% Employee	14.93	440	6,569
Transient Occupancy Tax	1,250,000	100%	1,250,000	N/A	N/A	-	-
Other Taxes	645,000	100%	645,000	Per Capita & 50% Employee	17.66	440	7,774
Business License	210,000	100%	210,000	Per Capita & 50% Employee	5.75	440	2,531
Licenses and Permits	7,047,655	0%	-	Per Capita & 50% Employee	0.00	440	-
Transfers In	4,029,280	0%	-	Per Capita & 50% Employee	0.00	440	-
Sales and Service Charges	1,224,480	100%	1,224,480	Per Capita & 50% Employee	33.54	440	14,759
Miscellaneous Income	2,180,315	100%	2,180,315	Per Capita & 50% Employee	59.71	440	26,280
Intergovernmental	1,401,924	50%	700,962	Per Capita & 50% Employee	19.20	440	8,449
Charges for Services	785,631	100%	785,631	Per Capita & 50% Employee	21.52	440	9,469
Contributions	280,400	100%	280,400	Per Capita & 50% Employee	7.68	440	3,380
Use of Money and Property	307,600	0%	-	Per Capita & 50% Employee	0.00	440	-
Fines and Forfeitures	261,830	0%	-	Per Capita & 50% Employee	0.00	440	-
Other Income	350,000	0%	-	Per Capita & 50% Employee	0.00	440	-
Total	$ 35,514,607		$ 22,817,280				$ 79,210

Footnotes:
(a) Per City of Banning FY 24-25 and 25-26 Biennial Budget Report dated June 25, 2024 on the City of Banning OpenGov Budget webpage.

Table 8
Banning Commerce Center
Recurring Expenditures

Preliminary Draft

Expenditure Category	City FY 2024/2025 Preliminary Operating Budget (a)	Marginal Increase	Adjusted Budget	Multiplier	Factor	Project Equivalent Persons	Project Cost
City Council	$ 314,176	50%	$ 157,088	Per Capita & 50% Employee	4.30	440	$ 1,893
City Manager	1,272,226	50%	636,113	Per Capita & 50% Employee	17.42	440	7,667
Economic Development	405,808	50%	202,904	Per Capita & 50% Employee	5.56	440	2,446
Personnel	541,931	50%	270,966	Per Capita & 50% Employee	7.42	440	3,266
City Clerk	226,563	50%	113,282	Per Capita & 50% Employee	3.10	440	1,365
Elections	56,923	50%	28,462	Per Capita & 50% Employee	0.78	440	343
City Attorney	734,531	50%	367,266	Per Capita & 50% Employee	10.06	440	4,427
TV Government Access	217,149	50%	108,575	Per Capita & 50% Employee	2.97	440	1,309
Subtotal - General Government	3,769,307		1,884,654				22,716
Fiscal Services	2,032,056	50%	1,016,028	Per Capita & 50% Employee	27.83	440	12,246
Purchasing	698,953	50%	349,477	Per Capita & 50% Employee	9.57	440	4,212
Subtotal - Finance	2,731,009		1,365,505				16,459
Police	12,132,673	100%	12,132,673	Per Capita & 50% Employee	332.28	440	146,236
Dispatch	1,372,582	100%	1,372,582	Per Capita & 50% Employee	37.59	440	16,544
Subtotal - Law Enforcement	13,505,255		13,505,255				162,780
Animal Control	513,060	100%	513,060	Per Capita & 50% Employee	14.05	440	6,184
Animal Shelter	66,000	100%	66,000	Per Capita & 50% Employee	1.81	440	796
Subtotal - Animal Control	579,060		513,060				6,979
Fire	3,983,246	100%	3,983,246	Per Capita & 50% Employee	109.09	440	48,010
Building and Safety	2,061,968	100%	2,061,968	Per Capita & 50% Employee	56.47	440	24,853
Subtotal - Fire and Life Safety	6,045,214		6,045,214				72,864
Code Enforcement	712,005	100%	712,005	Per Capita & 50% Employee	19.50	440	8,582
Planning	1,624,538	100%	1,624,538	Per Capita & 50% Employee	44.49	440	19,581
Engineering	1,955,816	100%	1,955,816	Per Capita & 50% Employee	53.56	440	23,574
Building Maintenance	239,301	100%	239,301	Per Capita & 50% Employee	6.55	440	2,884
Parks	1,236,855	50%	618,428	Per Capita & 50% Employee	16.94	440	7,454
Recreation	515,548	50%	257,774	Per Capita & 50% Employee	7.06	440	3,107
Subtotal - Development Services	6,284,063		5,407,862				65,181
Aquatics	900,009	100%	900,009	Per Capita & 50% Employee	24.65	440	10,848
Day Care	75,278	50%	37,639	Per Capita & 50% Employee	1.03	440	454
Senior Center	352,043	50%	176,022	Per Capita & 50% Employee	4.82	440	2,122
Central Services	-	100%	-	Per Capita & 50% Employee	-	440	-
Community Enhancement	127,979	50%	63,990	Per Capita & 50% Employee	1.75	440	771
Public Information	241,166	50%	120,583	Per Capita & 50% Employee	3.30	440	1,453
Grants Management	350,539	50%	175,270	Per Capita & 50% Employee	4.80	440	2,113
Subtotal - Community Services	2,047,014		1,177,659				17,760
Total	$ 34,960,922		$ 29,899,208				$ 364,739

Footnotes:
(a) Per the City of Banning Citywide Preliminary Biennial Budget FY 2024-25 and FY 2025-26 on the City Council agenda dated May 28, 2024.

Table 9
Banning Commerce Center
Permanent Employment

Preliminary Draft

Industrial			
Tenant Type (a)	**Bldg. SqFt / Acre**	**Estimated SqFt per Employee (b)**	**Estimated Employees**
Building 1	1,320,284	1,500	880
Subtotal Industrial	**1,320,284**	**1,500**	**880**

Total Employees	**880**

Footnotes:

(a) Per Table 4.

(b) Estimated employees per square foot per the United States Green Building Council default occupancy count and review of various data sources. Estimated employees represent full time equivalent ("FTE") employees. Actual employee count, including part-time and seasonal employees, may result in a potentially higher total headcount value.

Table 1
Banning Commerce Center
Fiscal Revenue and Economic Benefit Analysis Summary

Draft

IMPLAN Results Summary

Average Annual Construction Period Impacts 2-Year Construction Period (a)

Jobs	Labor Income
Direct Effect: 1,372	Direct Effect: $ 89,527,000
Indirect Effect: 214	Indirect Effect: $ 12,922,000
Induced Effect: 340	Induced Effect: $ 16,337,000
Average Annual Number of Jobs: 1,926	**Average Annual Labor Income: $ 118,786,000**

Permanent Annual Ongoing Impact (b)

Jobs	Labor Income
Direct Effect: 939	Direct Effect: $ 59,677,000
Indirect Effect: 289	Indirect Effect: $ 14,826,000
Induced Effect: 239	Induced Effect: $ 11,529,000
Average Annual Number of Jobs: 1,467	**Average Annual Labor Income: $ 86,032,000**

Cumulative Construction Period Impacts 2-Year Construction Period

Cumulative Labor Income
$ 118,786,000

Footnotes:
(a) See Table 2 for support and detailed description of categories.
(b) See Table 3 for support and detailed description of categories.

Table 2
Banning Commerce Center
Construction Period Impacts

Average Annual Jobs Created During Construction Period (a)

Employment Impact	Jobs	Description
Direct Effect	**1,372**	Represents direct onsite construction-related jobs.
Indirect Effect	**214**	Represents jobs created as a result of new business to business spending in the local economy.
Induced Effect	**340**	Represents jobs created as a result of spending by new direct and indirect employees in the local economy.
Total	**1,926**	

Average Annual Labor Income Generated During Construction Period (a)

Labor Income Impact	Labor Income	Description
Direct Effect	**$ 89,527,000**	Represents direct onsite construction labor income.
Indirect Effect	**12,922,000**	Represents labor income generated as a result of new business to business spending in the local economy.
Induced Effect	**16,337,000**	Represents labor income generated as a result of spending by new direct and indirect employees in the local economy.
Total	**$ 118,786,000**	

Cumulative Labor Income Generated During Construction Period (a)

Labor Income Impact	Labor Income	Description
Direct Effect	**$ 89,527,000**	Represents direct onsite construction labor income.
Indirect Effect	**12,922,000**	Represents labor income generated as a result of new business to business spending in the local economy.
Induced Effect	**16,337,000**	Represents labor income generated as a result of spending by new direct and indirect employees in the local economy.
Total	**$ 118,786,000**	

Footnotes:
(a) Calculated using IMPLAN, a nationally recognized economic modeling system. San Bernardino is the study area. Jobs are reported as all jobs (full-time, part-time, and seasonal).

Table 3
Banning Commerce Center
Ongoing Annual Impacts

Total Ongoing Annual Number of Jobs Created (a)

Employment Impact	Total Jobs	Description
Direct Effect (b)	**939**	Represents direct onsite jobs created by the operations of the new facilities.
Indirect Effect	**289**	Represents jobs created as a result of new business to business spending in the local economy.
Induced Effect	**239**	Represents jobs created as a result of spending by new direct and indirect employees in the local economy.
Total	**1,467**	

Total Ongoing Annual Labor Income Generated (a)

Labor Income Impact	Total Labor Income	Description
Direct Effect	**$ 59,677,000**	Represents labor income generated by the operations of the new facilities
Indirect Effect	**14,826,000**	Represents labor income generated from new business to business spending in the local economy.
Induced Effect	**11,529,000**	Represents labor income generated by spending of new direct and indirect employees in the local economy.
Total	**$ 86,032,000**	

Footnotes:
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Table 4
Banning Commerce Center
Top 10 Industries Affected during Construction Period

Top 10 Industries Affected during Construction Period Annually (a) (b)

Rank	Industry	Jobs
1	51 - Construction of new manufacturing structures	1,372
2	472 - Employment services	28
3	417 - Truck transportation	21
4	447 - Other real estate	27
5	396 - Wholesale - Other durable goods merchant wholesalers	16
6	477 - Landscape and horticultural services	13
7	453 - Commercial and industrial machinery and equipment rental and leasing	11
8	395 - Wholesale - Machinery, equipment, and supplies	9
9	421 - Couriers and messengers	13
10	455 - Legal services	9

Footnotes:

(a) Calculated using IMPLAN, a nationally recognized economic modeling system. Riverside County is the study area. Jobs are reported as all jobs (full-time, part-time, and seasonal).

(b) Jobs by Top Ten industries affected annually by the new construction and local spending during the construction period of 1 year.

Table 11
Banning Commerce Center
Top 10 Industries Affected from Ongoing Annual Operations from Commercial Site

Top 10 Industries Affected during Construction Period Annually (a)

Rank	Industry	Jobs
1	422 - Warehousing and storage	1,028
2	447 - Other real estate	69
3	472 - Employment services	36
4	421 - Couriers and messengers	18
5	476 - Services to buildings	9
6	534 - Other local government enterprises	8
7	475 - Investigation and security services	6
8	477 - Landscape and horticultural services	5
9	60 - Maintenance and repair construction of nonresidential structures	5
10	519 - Dry-cleaning and laundry services	5

Footnotes:

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Appendix C

Table 1
Banning Commerce Center
Fiscal Revenue and Economic Benefit Analysis Summary

Draft

IMPLAN Results Summary

Average Annual Construction Period Impacts 2-Year Construction Period (a)		Permanent Annual Ongoing Impact (b)	
Jobs	**Labor Income**	**Jobs**	**Labor Income**
Direct Effect: 1,372	Direct Effect: $ 89,527,000	Direct Effect: 939	Direct Effect: $ 59,677,000
Indirect Effect: 214	Indirect Effect: $ 12,922,000	Indirect Effect: 289	Indirect Effect: $ 14,826,000
Induced Effect: 340	Induced Effect: $ 16,337,000	Induced Effect: 239	Induced Effect: $ 11,529,000
Average Annual Number of Jobs: 1,926	**Average Annual Labor Income: $ 118,786,000**	**Average Annual Number of Jobs: 1,467**	**Average Annual Labor Income: $ 86,032,000**

Cumulative Construction Period Impacts 2-Year Construction Period
Cumulative Labor Income: $ 118,786,000

Footnotes:
(a) See Table 2 for support and detailed description of categories.
(b) See Table 3 for support and detailed description of categories.

Table 2
Banning Commerce Center
Construction Period Impacts

Average Annual Jobs Created During Construction Period (a)

Employment Impact	Jobs	Description
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Total	**1,926**	

Average Annual Labor Income Generated During Construction Period (a)

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Induced Effect	**16,337,000**	Represents labor income generated as a result of spending by new direct and indirect employees in the local economy.
Total	**$ 118,786,000**	

Cumulative Labor Income Generated During Construction Period (a)

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Total	**$ 118,786,000**	

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Banning Commerce Center
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Total	**1,467**	

Total Ongoing Annual Labor Income Generated (a)

Labor Income Impact	Total Labor Income	Description
Direct Effect	**$ 59,677,000**	Represents labor income generated by the operations of the new facilities
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(b) Jobs by Top Ten industries affected annually by the new construction and local spending during the construction period of 1 year.

Table 11
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Top 10 Industries Affected during Construction Period Annually (a)

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3	472 - Employment services	36
4	421 - Couriers and messengers	18
5	476 - Services to buildings	9
6	534 - Other local government enterprises	8
7	475 - Investigation and security services	6
8	477 - Landscape and horticultural services	5
9	60 - Maintenance and repair construction of nonresidential structures	5
10	519 - Dry-cleaning and laundry services	5

Footnotes:

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PLANNING COMMISSION - REGULAR MEETING

Council Chambers, 99 E Ramsey Street, Banning, CA

Wednesday, March 5, 2025 - 5:30 PM

MINUTES

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1. **CALL TO ORDER at 5:34 p.m.**
   1.1 PLEDGE OF ALLEGIANCE
   1.2 ROLL CALL

COMMISSIONERS	PRESENT	ABSENT
Castorena, Chris	X	
Dale, Kathleen	X	
Krick, Richard	X	
Rodriguez, Nathaniel	X	
Wilcox, Robert	X	

2. **SWEARING IN OF NEWLY APPOINTED OFFICIALS:**
   Kathleen Dale and Nathaniel Rodriguez were sworn in by the Administrative City Clerk and took the oath of office.

3. **PUBLIC COMMENTS:**
   - Stephen Beers, resident of Banning, asked for consideration to rebuild his home that was destroyed due to a fire in November 2023 in the Industrial Airport (AI) zone or to allow for a zone change to residential use considering that the majority of the street block consists of residential homes. He requested clarification on whether the property qualifies under the provisions of BMC Sec. 17.88.030 regarding non-conforming uses.
   - Inge Schuler, resident of Banning, said she was a member of the General Plan Advisory Committee. She said during the last Housing Element Update a portion of the City was changed without proper notification re-zoning a residential area to Industrial. She hopes that a change will be made and rectified with the new Housing Element update.
   - Council Member Miller and Council Member Barrington congratulated the newly appointed commissioners.
   - Council Member Barrington expressed support for Mr. Beers request, stating that she would like to see him rebuild his house.

4. **ELECTION OF OFFICERS AND APPOINTMENTS:**
   4.1 Planning Commission Selection of Presiding Officers.

A. Nominations for Chairperson

Commissioner Krick nominated Commissioner Wilcox to serve as Chairperson, which was second by Commissioner Rodriguez.

ACTION: Motion/Second (Krick/Rodriguez); Motion Carried 5-0 to select Wilcox for Chair.

B. Nominations for Vice-Chairperson

Commissioner Castorena nominated Commissioner Dale to serve as Vice-Chairperson, which was second by Commissioner Dale.

Commissioner Wilcox nominated Krick to serve as Vice-Chairperson, which was second by Commissioner Rodriguez.

ACTION: Motion/Second (Wilcox/Rodriguez); Motion Carried 3-2 (Commissioners Castorena and Dale opposed by vote in support of Commissioner Dale) passed to select Krick for Vice-Chair.

4.2 Discuss and Assign Two Planning Commissioners to Serve on the General Plan Advisory Committee (GPAC) for One Year.

ACTION: Motion/Second (Dale/Wilcox) to assign Commissioner Castorena to serve on the General Plan Advisory Committee (GPAC) for one year.

COMMISSIONERS	*YES*	*NO*	*ABSTAIN*	*RECUSE*	*ABSENT*
Castorena	*X*				
Dale	*X*				
Krick	*X*				
Rodriguez	*X*				
Wilcox	*X*				

(Motion Carried 5-0) passed.

ACTION: Motion/Second (Wilcox/Rodriguez) to assign Commissioner Krick to serve on the General Plan Advisory Committee (GPAC) for one year.

COMMISSIONERS	*YES*	*NO*	*ABSTAIN*	*RECUSE*	*ABSENT*
Castorena	*X*				
Dale	*X*				
Krick	*X*				
Rodriguez	*X*				
Wilcox	*X*				

(Motion Carried 5-0) passed.

5. <u>CONSENT AGENDA:</u>

5.1 Approval of the meeting minutes for February 5, 2025, Regular Planning Commission meeting.

Chair Wilcox opened public comments at 6:01 p.m.
No public comments

Chair Wilcox closed public comments at 6:02 p.m.

ACTION: Motion/Second (Wilcox/Krick) to approve the minutes.

COMMISSIONERS	*YES*	*NO*	*ABSTAIN*	*RECUSE*	*ABSENT*
Castorena	*X*				
Dale	*X*				
Krick	*X*				
Rodriguez	*X*				
Wilcox	*X*				

(Motion Carried 5-0-0) passed.

6. PUBLIC HEARINGS:

6.1 Consideration of a Conditional Use Permit (CUP) Application, Case No. CUP 24-0129, by KDR LLC to Allow a Religious Institution Located Within an Existing Commercial Building at 1735 W. Ramsey Street, Unit 101, Banning, CA 92220, in the Highway Serving Commercial (HSC) Zoning District (APN: 538-150-048).

Recommendation: Adopt Resolution 2025-02, Approving the Conditional Use Permit, Case CUP 24-0129, Subject to Conditions.

Commissioner Krick recused himself from this item due to owning a property adjacent to the project.

Mary Yaryan, Associate Planner, provided the staff report and she recommended the following revisions to the conditions of approval.

8. Sunday service attendance shall not exceed ~~57~~ 40 attendees unless additional parking is provided. If attendance exceeds this limit~~, the applicant shall either implement multiple service times or obtain an amendment to the Conditional Use Permit (CUP) to address the parking deficiency.~~

   8a. The applicant shall either implement multiple service times; or

   8b. Obtain an amendment to the Conditional Use Permit (CUP) to address the parking deficiency; or

   8c. Submit a Shared Parking Agreement, subject to the approval of the Community Development Director.

~~9. Upon approval, all conditions of approval shall be included on the front sheet of the plan set submitted for permit issuance.~~

Commissioners clarifying questions were addressed by staff.

Chair Opened Public Comments: 6:25 PM

- Dorrie Gartzke, Resident of Banning asked for clarification on the total square footage of unit 101. She said vehicles parking on Hays Street every Sunday may lead to potential problems.

Chair Closed Public Comments: 6:27 PM

ACTION: Motion/Second (Castorena/Dale) to Adopt Resolution 2025-02, Approving Conditional Use Permit 24-0129, with recommended revisions to the conditions of approval.

COMMISSIONERS	*YES*	*NO*	*ABSTAIN*	*RECUSE*	*ABSENT*
Castorena	*X*				
Dale	*X*				
Krick				*X*	
Rodriguez	*X*				
Wilcox		*X*			

(Motion Carried 3-1-1) passed.

6.2 Consideration of a Design Review Application (DR), Case No. PLN 24 -0010, to Allow for Office and Shop Space Within an Existing Building Located at 1910 E. Westward Avenue, and Including an Outdoor Heavy Equipment and Material Storage Lot Located on a Vacant Parcel at 1856 E. Westward Avenue, Within the Industrial Zoning District. The Two Parcels are Approximately 4.25 Net Acres (5.48 gross acres) in Combined Area (APN 532-160-006, - 007).

Recommendation: Continue this item to the next regularly scheduled Planning Commission Meeting on April 2, 2025

Emery Papp, Planning Manager, said the applicant has concerns on the conditions of approval by the Engineering Division regarding frontage improvements that need to be resolved, and issues related to the water quality management plan.

Staff recommend continuing this item to a date certain without noticing.

Chair Opened Public Comments: 6:41PM

No public comments

Chair Closed Public Comments: 6:41 PM

George Burrough, Applicant said they're working though minor comment responses with City staff and should be fully prepared by April 2nd.

ACTION: Motion/Second (Dale/Krick) to continue this item to the next regular scheduled Planning Commission Meeting on April 2, 2025.

COMMISSIONERS	*YES*	*NO*	*ABSTAIN*	*RECUSE*	*ABSENT*
Castorena	*X*				

Dale	*X*
Krick	*X*
Rodriguez	*X*
Wilcox	*X*

(Motion Carried 5-0-0) passed.

6.3 Consideration of an Application by Sansone Group for the Banning Commerce Center Project Including Design Review, Case No. DR 21-7017, Tentative Parcel Map 38756 (Case No. TPM 38756), and a Development Agreement to Allow the Construction of an Approximately 1,320,284-Square -Foot (SF) Industrial Warehouse Building on Approximately 131.28 Acres of Land Located North of I-10 Freeway/East Ramsey Street, East of N. Hathaway Street, and Bisected by Wilson Street on Assessor's Parcel Numbers (APNs) 532-030-008, 532-030-009, 532-080-008, 532-080-010, 532-090-026, 532-090-028, 532-090-030, 532-110-015. The Planning Commission Will Consider Whether to Recommend That the City Council Approve Case DR 21-7017, TPM 38756 and a Development Agreement Between the City and Sansone Group; Certify Final Environmental Impact Report (SCH No. 2022090102); and Adopt Findings, a Statement of Overriding Considerations, and a Mitigation Monitoring and Reporting Program Pursuant to the California Environmental Quality Act

Recommendation: Adopt Planning Commission Resolution 2025-04, Recommending that the City Council Approve the Banning Commerce Center Project, including Design Review, Case No. DR 21- 7017, Tentative Parcel Map (TPM) No. 38756, and a Development Agreement to allow for the construction of an approximately 1,320,284 square-foot industrial warehouse building on approximately 131.28 acres of land located north of the I-10 Freeway/East Ramsey Street, east of N. Hathaway Street, and bisected by Wilson Street on Assessor's Parcel Numbers (APNs) 532-030-008, 532-030-009, 532-080-008, 532-080-010, 532-090-026, 532-090-028, 532-090-030, and 532- 110-015; certify Final Environmental Impact Report (SCH NO. 2022090102); and adopt Findings, a Statement of Overriding.

Emery Papp, Planning Manager, provided the staff report.

Commissioners clarifying questions were addressed by staff and the applicant team.

Jeff Greenwalt and Dave Hagan, Applicants with Sansone Group, presented the project to the Commission and introduced his group.

Chair Opened Public Comments: 10:26PM

- Robert Ramos, Jack Daily, Zack Strauss, Ralph, Salvador Armenta from LIUNA and Carpenter's Union spoke in support of the project, stating that Banning is a good place for this project, it will create local jobs, provide opportunities for good wages and benefits.

Chair Closed Public Comments: 10:36 PM

Commissioner Dale said she would not be in support of the motion, because she

does not have the information necessary to support the findings required to vote in favor of the motion. The missing items are: General Plan consistency regarding the Community Development Element Policies about a Specific Plan for this area, General Plan Vision Statement Policies regarding respecting the established neighborhoods and protecting wildlife habitat. There are concerns with the Design Review, compliance with Multiple Species Habitat Conservation Plan (MSHCP), findings regarding vehicular and pedestrian hazards, Airport Land Use Commission (ALUC) review not being complete, and the Environmental Impact Report (EIR) does not have true indication of cumulative impacts to the interchanges that will be used for this project and by the existing warehouse east of the airport.

ACTION: Motion/Second (Wilcox/Krick) to Adopt Resolution 2025-04, Recommending that the City Council conditionally approve the Banning Commerce Center Project, including Design Review, Case No. DR 21- 7017, Tentative Parcel Map (TPM) No. 38756, and a Development Agreement with added conditions of approval.

1. Negotiate City Attorney concerns on development agreement, including CFD credits, and other concerns.

2. Improve Hathaway St. to four lanes with parking (or wide shoulder) on westside of street and turn pockets at each intersection,

3. Best efforts to do local hire.

COMMISSIONERS	*YES*	*NO*	*ABSTAIN*	*RECUSE*	*ABSENT*
Castorena		*X*			
Dale		*X*			
Krick	*X*				
Rodriguez	*X*				
Wilcox	*X*				

(Motion Carried 3-2-0) passed.

7. ANNOUNCEMENTS AND REPORTS

7.1 DIRECTOR'S REPORT

Director Newell welcomed the new commissioners and announced that Emery Papp, Planning Manager, is leaving the City of Banning to accept a job promotion in another City.

7.2 COMMISSIONER REPORTS
None

8. DISCUSSION ITEMS

Commissioner Castorena – Increase notification radius and extend noticing to renters.

Director Newell said he will bring back these items for discussion and direction.

9. ANNOUNCEMENTS FROM LEGISLATIVE BODY MEMBERS

10. ITEMS FOR FUTURE AGENDAS

11. ADJOURNMENT

The meeting was adjourned at 12:22 AM

Minutes prepared by:

Sandra B. Calderon
Sandra B. Calderon
Planning Commission Secretary

These minutes have been prepared as Summary Minutes in accordance with City Council Resolution 2025-22 and Government Code Sections 36814, 40801, and 54953(c)(2).

The entire discussion of this meeting may be viewed here:
https://banninglive.viebit.com/watch?hash=E1ub3xeuPP5fcyEz

All documents related to this meeting are available here:
https://d3n9y02raazwpg.cloudfront.net/banningca/6d78dac7-76d8-11ef-9b71-005056a89546-38305488-93fe-4918-9dd7-c67857e7b6c7-1740705486.pdf

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Robert Fisher, Acting City Manager**
PREPARED BY:	**Nate Smith, Deputy Director of Public Works/City Engineer** **Art Vela, Director of Public Works**
MEETING DATE:	**May 27, 2025**
SUBJECT:	**Update of the ATP Cycle 7 Grant Application "City of Banning Downtown Active Transportation Improvement Project" Submittal and Seeking Concurrence to reapply for Cycle 8**

RECOMMENDATION:

Staff are seeking City Council concurrence with regard to reapplying for the Cycle 8 ATP (Active Transportation Plan) grant program administered by the California Transportation Commission (CTC), due in June of 2026.

BACKGROUND:

Active Transportation Plan:

In 2021, the City of Banning obtained a SCP Active Transportation and Safety grant award to develop the City's first Active Transportation Plan. This extensive plan was developed over the course of almost two years and was adopted by the City Council on June 25, 2024, with the staff report, resolution and presentation shown in Attachment 1.

The final Plan includes a practical implementation strategy with preliminary design schematics and concepts, and data that can be used in grant applications for fifteen (15) priority projects, and six (6) safe routes to schools projects. Additionally, existing conditions, a summary of public outreach and grant funding opportunities are summarized in the Plan and Appendix.

Active Transportation Plan Cycle 7 Grant:

On March 22, 2024 a call for projects was announced by Caltrans soliciting applications for active transportation related projects that were due on June 17, 2024. Engineering Division staff and a grant writing consultant worked on the grant application, and it was submitted to the CTC on June 17, 2024. The project entitled "City of Banning Downtown Active Transportation Improvement Project" was developed taking elements from the approved ATP, and the application is shown herein as Attachment 2.

The Project Location Map, included as Attachment 3, shows the project located along Ramsey St. between 4th and Martin Streets; 1st St. from Livingston St. to Hays St.; and San Gorgonio Ave. from Wesley St. to Wilson St. The Scope of Work includes reducing the motorized lane width; constructing paved cycletrack, sidewalks, handicap ramps, curb extensions, and crosswalks; installing gutters, storm drains, lighting, bus shelters, landscaping, and other amenities such as bike racks, shade trees, and trash receptacles.

The Project will create safer conditions for students and families with wider, more connected lighted

walkways on Ramsey Street and designated bikeways separated from motorized vehicle traffic on Ramsey Street and San Gorgonio Avenue. It includes constructing sidewalk curb extensions at intersections to reduce the roadway width and force vehicles to slow down when turning. Pedestrians on the curb extensions and crossing the street will be more visible. The extensions shorten the crossing distance, making it safer and more convenient to navigate intersections. The project will install chicanes, alternating curb extensions to create a zigzag/serpentine pattern. This design forces slower driving in narrower passages thereby improving pedestrian/cyclist safety.

On December 5 and 6 of 2024 the CTC awarded funding to thirteen (13) projects, of which nine (9) were statewide components and four (4) were small urban and rural components. Of the nine awarded projects, the scores ranged from 96 to 100 and a total of $84.35 million was awarded. The rest of the funding went to Metropolitan Planning Organizations (MPOs). Our project received a score of 92.

CTC Debriefing/Review of Submitted Application:
The Deputy Director of Public Works/City Engineer and Engineering Division staff met with CTC staff on April 29, 2025 to discuss the comments made by the evaluators who reviewed the ATP Cycle 7 application. It was noted that the City submitted an admirable application that scored very high, 92 points. The CTC staff commended the City on an excellent application and stated that they were very impressed with our application, especially considering that it was the City's first submittal. In previous cycles with the typical State funding, this project would have been awarded. They noted that in the fall of 2024, the CTC had announced that there was a $400 million reduction in state grant funding to the previously approved $568.7 million stated in the initial Call for Projects.

The CTC discussed two areas whereby the application could be improved to potentially achieve a few more points: Community Outreach to students and Map/Exhibit revisions to simplify them. They suggested that staff hold 1-2 more workshops to touch base with the community to keep them updated and engaged. Additionally, CTC staff said we need to have more engagement activities with students and to perform more outreach at the schools. Lastly, some exhibits were deemed to be too detailed and thus should be simplified.

In order to do this work, Engineering Division staff may need to hire a consultant to assist with the community outreach (for flyers, newsletters) and Exhibits (grant writing consultant). This scope of work will be discussed and prepared by the Engineering division for a future RFP in accordance with the adopted purchasing policy. The application revision and updating it to reflect outreach performed this year may be done by staff in-house. Additionally, Engineering Division staff and the Public Information Officer can continue to work together to perform outreach and attend workshops and outreach activities with the community and students.

JUSTIFICATION:

The CTC met with the Deputy Director of Public Works/City Engineer and Engineering Division staff on April 29, 2025 and suggested that additional public outreach is needed prior to the next grant submittal, along with simplified maps. This work would commence in the fall; thus, City Council direction is needed to continue with the efforts required to improve upon the grant application.

FISCAL IMPACT:

None at this time. Engineering division would have some staff time expended to update maps, exhibits, cost estimates, response to questions, and attendance at CTC hosted events to provide information on the next application cycle.

A future action may consider utilizing a grant writer to assist in the formal application preparation and submittal and assistance with public outreach efforts.

ALTERNATIVES:

Do not provide staff concurrence to continue to work on the Cycle 8 ATP grant.

BUDGETED?:

No

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. Att. 1 Reso. 2024-111, CC Meeting 6.25.24.pdf
2. Att. 2 ATP Cycle 7 Grant Application Narrative, 6.17.24.pdf
3. Att. 3 Project Location Maps, Attch. C of Grant Application.pdf

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Douglas Schulze, City Manager**
PREPARED BY:	**Nate Smith, Deputy Director of Public Works/City Engineer** **Art Vela, Director of Public Works**
MEETING DATE:	**June 25, 2024**
SUBJECT:	**Consideration of Resolution 2024-111, Adopting the Banning Active Transportation Plan (ATP)**

RECOMMENDATION:

Adopt Resolution 2024-111.

BACKGROUND:

In 2019, the City of Banning embarked on a project to add bike lanes throughout the City. However, a comprehensive ATP is needed to guide active transportation decisions affecting local streets and roads, sidewalks, ADA compliance, school routes and business corridors and improve transportation infrastructure for pedestrians and bicyclists.

Active Transportation Plan

On March 31, 2022, SCAG staff released a Request for Proposals (RFP) No. 22-050 for the project through the electronic bidding system "PlanetBids" and directly to SCAG's Solicitation Management System website. In response to these efforts, forty-four (44) firms downloaded the RFP, and three (3) proposals were received. The RFP included: a detailed Consultant Scope of Services/Tasks, submittal requirements, and a description of the evaluation criteria and selection process for the RFP. The Proposal Review Committee (PRC) consisted of four staff members: two from SCAG, one from the City of Lynwood and one from the City of Banning's Engineering Division of the Public Works Department. The PRC evaluated each proposal in accordance with the criteria set forth in the RFP and conducted the selection process in a manner consistent with all applicable federal and state contracting regulations. After evaluating the proposals, the PRC interviewed all three (3) offerors. The highest ranked consultant was KTUA and SGAC approved Contract No. 22-050-C01 in an amount not-to-exceed $448,056, with KTUA, to develop one comprehensive Active Transportation Plan (ATP) for the City of Banning among other projects administered by SCAG with this award. This project was entirely funded by SCAG.

JUSTIFICATION:

The purpose of this project is to create a comprehensive citywide Active Transportation Plan. While the planning effort was comprehensive and evaluated bike/pedestrian infrastructure citywide, there are specific focus areas of concern. These include school routes, crash and injury hot spots, and the eastern portion of town that lacks infrastructure to support walking and biking. The Consultant identified and created maps for proposed pedestrian and bicycle facilities and non-infrastructure programs based on community, stakeholder, and stakeholder advisory committee feedback. The planning process identified improvements for active transportation, safe routes to schools, and ADA compliance including sidewalks, roadway safety improvements (high visibility crosswalks, markings, speed cushions/tables) and Class I,

II, III and IV bicycle facilities/routes.

Through stakeholder workshops and evaluation of current conditions, the assessment phase of planning resulted in a better understanding of where critical barriers to mobility and infrastructure gaps exist. The draft Plan includes a practical implementation strategy with preliminary design schematics and concepts, and data that can be used in grant applications for fifteen (15) priority projects, including six (6) safe routes to schools projects. Additionally, existing conditions, public outreach and grant funding opportunities are summarized in the Plan. The Consultant coordinated with City staff to create an extensive and effective public participation approach engaging the community with proven approaches for finding consensus amongst stakeholders, which is essential to public policy development and long-term implementation of the Plan. All residents of Banning were encouraged to attend community meetings.

The purpose of this ATP is to provide the City of Banning with a comprehensive document outlining the existing inventory of bicycle and pedestrian infrastructure and travel habits of the community. An analysis of the City's current infrastructure highlights areas of opportunity to be prioritized for future improvements and recommendations are presented within this plan as fifteen (15) priority projects. This ATP will guide the development and implementation of active transportation infrastructure programs and policies for the City.

The consultant prepared a Community Engagement Plan in order to provide outreach activities that included participation from the public and from key stakeholders to ensure the Plan's concepts reflect the community's needs and wishes. The outreach activities engaged local and regional representatives to obtain feedback, provided presentations covering the project background, goals, scope, preliminary and draft concepts, and the final Plan, as the project progressed.

The purpose of project stakeholders' meetings was to advise key stakeholders of the goals of the project, and keep them informed on the project progress, while also allowing the stakeholders to provide input on the Plan and concepts. Nine (9) project Stakeholder Advisory Group (SAG) meetings occurred with the final meeting held on April 29, 2024. Additional outreach activities, including three (3) community events, a project website, surveys, and social media posts are included. In total, the following activities have been completed:

- October 27, 2022 Engagement Day
    - Community pop-ups at Banning High School, Nicolet Middle School, and Central Elementary School
    - Banning Civic Center Open House
- April 15, 2023 Disaster Expo, presentation boards soliciting community feedback
- May 5, 2023 Market Night, Kit of Parts demonstration of five infrastructure elements
- November 7, 2023 ATP Plan Update and Public Outreach:
    - Sun Lakes HOA presentation
    - Banning Civic Center Open House
- March 19, 2024 Community Workshop/Open House at Banning Public Library
- May 7, 2024 Sun Lakes HOA Presentation #2
- Nine bimonthly Stakeholder Advisory Group (SAG) Meetings
- Public Surveys and Project Website
- Presentation of the Draft ATP
- May 1, 2024 Planning Commission Workshop
- Meeting May 7, 2024 Second Sun Lakes HOA presentation

The Planning Commission presentation led to a discussion about Nicolet Middle School and the cycle track, regarding the merits of a one way versus a two way traffic cycle track. The Sun Lakes presentation led to a discussion regarding parking along Sun Lakes Boulevard.

The item was presented to City Council at a workshop session at 4:00 PM on June 11, 2025 where a summary of the project was provided, comments received during the presentations to other bodies, and questions from council were answered. The Final Draft is included as attachment to this agenda item and will be posted on the City's website under the Engineering section.

FISCAL IMPACT:

The consultant contract for the ATP project is being paid through a Caltrans ATP Cycle 5 grant that SCAG administers. There were no hard costs to the City of Banning for this project.

ALTERNATIVES:

1. Adopt Resolution 2024-111 as recommended.
2. Adopt Resolution 2024-111 with modifications.
3. Do not adopt Resolution 2024-111 and provide alternative direction to staff.

ATTACHMENTS:

1. Resolution 2024-111, ATP.docx
2. DRAFT_Banning_ATP_042524.pdf
3. DRAFT_Banning_ATP_Appendix_042324.pdf

2025 ATP Large Infrastructure Application

Due June 17, 2024
This application should be used for projects that:

- Have a **total project cost** greater than $10 million; and
- Include infrastructure improvements only.

Is the total project cost of the proposed project over $10 million? This response should be based on **total project cost**, not ATP request. Yes or No.
Yes

Is this project only proposing infrastructure improvements? As opposed to a project proposing infrastructure improvements in combination with non-infrastructure education and encouragement programs. Yes or No.
Yes

Part A: General Application Questions

Part A1: Applicant Information

Implementing Agency Name Limit: 300 characters
The Implementing Agency must enter into a Master Agreement with Caltrans and will be financially and contractually responsible for the delivery of the project within all pertinent Federal and State funding requirements, including being responsible and accountable for the use and expenditure of program funds. This agency is responsible for the accuracy of the technical information provided in the application and is required to sign the application.
City of Banning

Implementing Agency's LOCODE If your LOCODE is not listed, select "Not listed" (drop down list): 5214, Banning

Implementing Agency's Address
County. Riverside
Address 99 E. Ramsey Street
City Banning
State, Province, or Region. California
Zip or Postal Code 92220

Implementing Agency's Primary Contact Person
First Name Nathan
Last Name Smith
The primary contact must be available to answer questions from the CTC and Caltrans.
Primary Contact Person's Title Deputy Director, Public Works
Primary Contact Person's Phone Number 951-922-3182
Primary Contact Person's Email Address nsmith@banningca.gov

Implementing Agency's Secondary Contact Person
First Name Ann Marie
Last Name Loconte
The primary contact must be available to answer questions from the CTC and Caltrans.
Primary Contact Person's Title Associate Civil Engineer, Public Works
Primary Contact Person's Phone Number 951-922-3130
Primary Contact Person's Email Address amloconte@banningca.gov

Does the implementing agency currently have a Master Agreement with Caltrans?
Implementing Agencies that do not currently have a Master Agreement with Caltrans must be able to meet the requirements and enter into a Master Agreement with Caltrans prior to the allocation of funds. The Master Agreement approval process can take 6 to 12 months to complete, and there is no guarantee the agency will meet the requirements necessary for the State to enter into a Master Agreement with the agency. Delays could also result in a failure to meet CTC allocation deadlines and the loss of ATP funding.
Yes or No. Yes.

If yes, Implementing Agency's Federal Caltrans Master Agreement Number Not applicable.

If yes, Implementing Agency's State Caltrans Master Agreement Number 08-5214S21

Does this project have a Project Partnering Agency? The "Project Partnering Agency" is defined as an agency, other than the Implementing Agency, that will assume the responsibilities for the ongoing operations and maintenance of the improved facility. Yes or No.
No
If yes, Partner information:
Project Partnering Agency Name Not applicable
Project Partnering Agency's Contact Person Not applicable
Attach a letter of intent or other documentation here: Not applicable.

Part A2: General Project Information

Project Name: To be used on the CTC project list.
City of Banning Downtown Active Transportation Improvement Project

Summary of Project Scope:
Limit: 299/300 words
Summary of existing conditions, project scope, and expected benefits.

In Banning (pop. 29,505), a historically underserved community, the existing Downtown conditions are barriers to active transportation with sidewalk gaps, lack of bicycle and ADA-compliant facilities, and speeding motorized vehicle traffic. The City of Banning Downtown Active Transportation Improvement Project (Project) includes the design and installation of:

- 34,800 square feet (SF) of sidewalk;

- 4,600 linear feet (LF) of Class IV six feet wide cycletrack;
- 6,442 LF of Class IV ten-feet-wide, bi-directional cycletrack with flex divider;
- 8,200 LF of Class II six-feet-wide cycletrack;
- 10,560 LF of motorized vehicle lane width reductions;
- 98 high visibility crosswalks;
- 9 raised crosswalks;
- 36 ADA curb ramps;
- 26 intersection curb extensions;
- 126 street and pedestrian/bike lights;
- 2 modified traffic signals;
- 240 shade trees;
- 11 bike racks
- 11 trash receptacles;
- 4 bus stop shelters; and
- 1 bicycle repair station.

Ramsey Street (east/west) and San Gorgonio Avenue (north/south) are arterials through Downtown. San Gorgonio Avenue connects destinations north of Interstate-10 (Central Elementary and Nicolet Middle Schools, the Senior Center, and Repplier Aquatic Center) to destinations south of I-10 such as Banning High School. The Project will create safer conditions for students and families with wider, more connected lighted walkways on Ramsey Street and designated bikeways separated from motorized vehicle traffic on Ramsey Street and San Gorgonio Avenue.

The City will construct sidewalk curb extensions at intersections to reduce the roadway width and force vehicles to slow down when turning. Pedestrians on the curb extensions and crossing the street will be more visible. The extensions shorten the crossing distance making it safer and more convenient to navigate intersections. The City will install chicanes, alternating curb extensions to create a zigzag/serpentine pattern. This design forces slower driving in narrower passages thereby improving pedestrian/cyclist safety.

Summary of Outcomes/Outputs:
Limit: 35/35 words
This outcome/output will appear on your vote boxes when you allocate for funds with the CTC. (Example: Construct 12 curb extensions, 26 crosswalks, 33 curb ramps, 255 feet of widened sidewalk, and 2 speed humps to provide added safety for pedestrians and/or bicyclists.) The **listed outputs for major improvements should match the outputs in Part A4: Project Details**. Additional outputs may be listed in Part A4: Project Details.

34,800 SF sidewalk, 19,242 LF cycletrack, 107 crosswalks, 36 ramps, 26 curb extensions, 126 lights, 11 bike racks, 4 bus stop shelters, 240 shade trees, 11 bike racks, 11 trash receptacles; 235 LF storm drains.

Federal Transportation Improvement Program (FTIP) Project Description:

Limit: 180 characters

The project description should convey the types of work and/or the major elements that are proposed, without going into details like construction quantities. If the application is an infrastructure project that is only requesting pre-construction (PA&ED, PS&E, and/or R/W) funds, this must be stated in the project description. If funded, this description will be used in the FSTIP programming document. Example: "Install Rectangular Rapid Flashing Beacons, pavement markings and signing" or "PS&E and R/W funding for the eventual construction of curb, gutter, sidewalk, and curb ramps."

174/180 characters

Reduce motorized lane width; construct paved cycletrack, sidewalk, curbs, crosswalks; install gutter, storm drains, lighting, bus shelters, landscaping, and other amenities.

Project Location:

Limit: 177/180 **characters**

The project location should convey the road names, intersection cross street names, and/or geographical references of where the project is located, without defining the limits of work in terms of "feet" offsets.

The Project is in the City of Banning on **Ramsey St.** between 4th and Martin Streets; **1st St.** from Livingston St. to Hays St.; and **San Gorgonio Ave.** from Wesley St. to Wilson St.

Attach a project location map here. Application Attachment C

List all cities that the project will affect. All cities must be located within the State of California. (City Codes can be found in the ATP Folder – Solicitation)
BAN

Infrastructure Project Coordinates – Latitude
Latitude in decimal format. For example, the State Capitol's latitude is 38.576572°N. Include just the number - you do not need to include "°N."
33.92549837722602

Infrastructure Project Coordinates – Longitude
Longitude in decimal format For example, the State Capitol's longitude is -121.493411°W. Include just the number - you do not need to include "°W."
-116.8744314124376

Is this project located within 500 feet of a freeway or roadway with a traffic volume over 125,000 annual average daily traffic (AADT)? (California State Geoportal for traffic volumes can be found at this link: Traffic Volumes AADT | Traffic Volumes AADT | California State Geoportal). Yes or No.
No

If yes, Please describe any project design elements intended to minimize exposure to air pollution and circumstances that make locating project components in close proximity to heavily travelled freeways or roadways unavoidable, and explain why this project location was chosen. Limit: 300 words
Not applicable.

Enter the 2010 Census 11-digit census tract Geographic Identifier (i.e., 06XXXXXXXXX) for each census tract that the project benefits. (Census tract Geographic Identifiers can be found using the US Census Bureau Geocoder tool.) *Pick an address to use.*
6065043813
6065044101
6065044102
6065044200
6065044300

Enter the 2020 Census 11-digit census tract Geographic Identifier (i.e., 06XXXXXXXXX) for each census tract that the project benefits. *Pick an address to use.*
6065043813
6065044101
6065044102
6065044200
6065044300

Caltrans District: (A map of Caltrans Districts can be found here.) If more than one district is impacted, select the district where the majority of the work will occur.
Eight
Congressional Districts 36 and 41
State Senate District(s) 23
State Assembly District(s) 47
County If the project covers multiple counties, select the county where the majority of the work will occur Riverside

Metropolitan Planning Organization (MPO)
Small urban and rural projects located outside of the listed MPOs should select Caltrans.
Southern California Association of Governments (SCAG)
Regional Transportation Planning Agency (RTPA) None
~~Riverside County Transportation Commission (RCTC)~~ *Not in drop down menu*
Urbanized Zone Area (UZA) Population
This Project is located within one of the ten large MPOs
~~Riverside – San Bernardino, CA Urbanized Area~~ *Not in drop down menu*

Within the last ten years, have there been any previous State or Federal Active Transportation Program (ATP), federal Safe Routes to School (SRTS), state Safe Routes to School (SR2S), Bicycle Transportation Account (BTA), or other ped/bike funding awards for a project(s) that are adjacent to or overlap the limits of the project scope of this application? Yes or No. Yes

If yes, please list the projects in the chart in Submittable. In the project type column, indicate whether the project is:

- Infrastructure (I)
- Combination Infrastructure/Non-Infrastructure (I/NI)
- Non-Infrastructure (NI)
- Plan

Project	Project #	Funding program	Amount Funded	Project Type	Overlapping limits and Scope of Work Y/N	Adjacent project limits w/minor overlapping scope or limits of work Y/N	Adjacent project Limits w/no overlapping scope or limits of work Y/N	Previous ATP Project Phase Funded Y/N
HSIP Cycle 10: Ramsey Street Pedestrian Safety Improvements	HSIPSL-5214(014)	Highway Safety Improvement Program	$250,000	I	Y	Y	N	N
HSIP Cycle 11: Citywide Pedestrian Safety Improvements	HSIPSL-5214(017)	Highway Safety Improvement Program	$585,000	I	Y	**Y**	**Y**	**N**
SRTS Cycle 2	ATPL-5214(012)	ATP Cycle 2 MPO Project ATP02-08-171M	$1,082,000	I	Y	**Y**	**Y**	**N**
Section 130: San Gorgonio Avenue and Union Pacific Railroad Crossing	STPLR-7500(288)	California Public Utilities Commission Section 130 Grade Crossing Hazard Elimination Program	$337,000	I	Y	**N**	**N**	**N**

Part A3: Project Type

Select the plans your agency currently has (select all that apply):

- Bicycle Plan
- Pedestrian Plan
- X Safe Routes to School Plan
- X Active Transportation Plan
- Vision Zero
- X Other
- None

If other, List other plans that include bicycle and/or pedestrian improvements: Limit:87/100 words

- 2024 City of Banning Active Transportation Plan
- 2023 Banning Downtown Revitalization and Complete Streets Plan
- 2022 Banning Local Road Safety Plan (LRSP) established by the California Department of Transportation (Caltrans) in alignment with the California Strategic Highway Safety Plan (SHSP)
- City of Banning General Plan 2013 Circulation Element Amendment
- 2018 Western Riverside County of Government (WRCOG) Active Transportation Plan
- 2015 Rancho San Gorgonio Specific Plan (RSGSP)
- City of Banning Long Range Transportation Plan
- County of Riverside Climate Action Plan

Is the proposed project in a current plan? Yes or No.
Yes

Project Sub-Types
Note: For each choice, charts and/or questions pop up

Bicycle Transportation Yes Percent of Project 50% of Project

Pedestrian Transportation Yes Percent of Project 50% of Project

Trails (Multi-Use and Recreational) Applicants intending to pursue federal Recreational Trails Program funding must submit the required information to the California Department of Parks and Recreation prior to the ATP application submissions deadline. See the Application Instructions for details. *Recreational Trail funding can only fund work outside of the roadway right-of-way.Do you feel a portion of your project is eligible for federal Recreational Trail funding? Yes or No. No

If yes, estimate total project costs that are eligible for Recreational Trail funding. Not applicable.

Estimate the percentage of total project costs that serve transportation uses. Not applicable.

Safe Routes to Schools: For a project to qualify for Safe Routes to School designation, the project must directly increase safety and convenience for public school students to walk and/or bike to school. Safe Routes to Schools infrastructure projects must be located within two miles of a public school or within the vicinity of a public school bus stop and the students must be the intended beneficiaries of the project. For Safe Routes to School non-infrastructure, the program must benefit school students/parents and primarily be based at the school. **Yes or No**. No.

Safe Routes for Seniors: These projects increase walking, biking, and safety among older adults and create routes that connect to activities that improve quality of life. **Yes or No**. Yes

Part A4: Project Details

Note: When quantifying the active transportation improvements proposed by the project, **do not double-count improvements — list each planned improvement in only one category**. For example, please do not list a new Class I trail as both a Bicycle and Multi-Use Improvement. Please use the optional "Other Improvements" fields to provide specific details for improvements already listed in existing categories. For example, if constructing 10,000' of Class II bike lanes — of which 2,000' is buffered and the rest is standard — input 10,000 in the New Bike Lanes/Routes Class II field, and enter "Class II buffered bike lane: 2000 linear feet" in the Other Bike Improvements field.

Indicate the project improvement types included in the project/program/plan:

- X Bicycle Improvements
- X Pedestrian Improvements
- Multi-Use Trail Improvements (including bridges and undercrossings)
- X Crossing & Intersection Improvements
- X Other Amenities (e.g., benches, shade trees, wayfinding, etc.)
- X Vehicular-Roadway Traffic-Calming Improvements

Bicycle Improvements

What percentage of the bicycle-related project costs are going towards closing a gap in infrastructure? (As opposed to cost going towards *improving* existing bicycle infrastructure (e.g., Class 2 to Class 4). 50%

Please complete the table below. Note: The New Class I Bicycle Improvement refers to a path for bicyclist use only. Please use the Class I Trail fields in the Multi-Use Improvements category for infrastructure designed for both pedestrian and bicyclist use.

Category	Improvement	Quantity	Unit
New Bike Lanes/Routes:	Class I:	0	LF
	Class II:	8,200	LF
	Class III:	0	LF
	Class IV:	11,042	LF
Bike Share Programs:	New Stations:	0	#
	New Bikes:	0	#
Bike Racks/Lockers:	New Racks:	11	#
	New Secured Lockers:	0	#
Bike Counters	Bike Counters and Displays:	0	#
Other Bike Improvements	Bike Repair Station	1	#

Pedestrian Improvements

What percentage of pedestrian-related project costs are going towards closing a gap in infrastructure? (As opposed to cost going towards *improving* existing pedestrian infrastructure.). 50%

Please complete the table below. (**Note:** Sidewalks differ from Class I bicycle infrastructure; sidewalk outputs refer to improvements geared towards pedestrian use.)

Category	Improvement	Quantity	Unit
Sidewalks:	New (4' to 8' wide):	0	LF
	New (over 8'wide):	0	LF
	Reconstruct/Enhance Existing:	3000	LF
	Widen Existing:	X	LF
	New Barrier Protected:	X	LF
ADA Improvements:	New Ramp (none exist):	34	#
	Reconstruct Ramp to Standard:	2	#
Other Ped Improvements:	ADA Drive Approach	4,300	SF
	Pedestrian Refuge Island	7	#

Multi-Use Trail Improvements Not applicable.

Crossing and Intersection Improvements

Enhance Existing Crosswalk refers to visual improvements such as **high-visibility paint** or reflectors. Crossing Surface Improvements refer to physical improvements such as pedestrian refuge islands or **raised crosswalks**. For Un-Signalized Intersections, New Traffic Signal refers to signalizing the previously un-signalized intersection, while New Beacon/Signal refers to a pedestrian indicator such as an RRFB or Hawk Signal.)

Category	Improvement	Quantity	Unit
Signalized Intersections:	New Crosswalks:	0	#
	Enhance Existing Crosswalks:	8	#
	Shortened Crossings:	6	#
	Crossing Surface Improvements:	2	#
	Ped-Heads:	2	#
	Upgrade Ped Push Buttons:	0	#
	Timing Improvements:	2	#
	Bike/Toucan Crossings:	1	#
	Bicycle Detection:	2	#
	New Bike Boxes:	0	#
Unsignalized Intersections:	New traffic Signals:	0	#
	New Crosswalks:	12	#
	New Roundabouts:	0	#
	Crossing Surface Improvements:	4	#
	Shortened Crossings:	20	#
	Enhance Existing Crosswalks:	78	#
	New Beacons/Signals:	0	#
Mid-Block Crossings:	New Beacons/Signals:	0	#
	Crossing Surface Improvements:	0	#
	New Crosswalks:	0	#
	Enhance Existing Crosswalks:	0	#
Lighting:	Intersection Lighting:	7	#
Other Crossing/Intersection Improvements:		0	#

Other Amenities

Please complete the table below.

Category	Improvements	Quantity	Unit
Lighting:	Roadway Segments:	2,900	LF
Amenities:	Benches: (bus benches, bus shelter benches and street benches)	28	#
	Trash Cans:	15	#
	Bike/Ped Wayfinding Signage:	1	#
	Shade Trees (list type of trees in cell below)	240	#
	Native Shade trees such as Palo Blanco and Ghost Gum trees		
Other Amenities: (limit 2)	Storm drain improvements with trash capture as required by State Water Resources Control Board along active transportation network	27	#
	Landscape and Irrigation	34,505	SF

Vehicular-Roadway Traffic-Calming Improvements

Please complete the table below. (**Note:** Do not double-count the crossing/intersection improvements that are already listed above.)

Category	Improvements	Quantity	Unit
Road Diets:	Remove Travel Lane:	0	LF
	Remove Right-Turn Pocket	0	LF
Speed Feedback Signs:	New Signs:	0	#
Signalized Intersection:	Timing Improvements:	2	#
	New Roundabout:	0	#
Unsignalized Intersections	New Roundabout:	0	#
	New Traffic Signal:	0	#
Other Roadway Improvements: (Limit 2)	**Road Diet/ Narrow Existing travel lane**	10,560	LF
	Curbs, median curbs, and gutters	5,600	LF

Right-of-Way (R/W) Impacts

Is 100% of the project within the Implementing Agency's R/W and/or is within their control at the time of application? Yes or No

Yes.

Part A5: Project Schedule

1. Per the 2025 ATP Guidelines, all project applications must be submitted with the expectation of receiving federal funding. Therefore, the schedule below must account for the extra time needed for federal project delivery requirements and approvals, including NEPA environmental clearance. Each CTC allocation must also have a Notice to Proceed with Federally Reimbursable Work.

2. Prior to estimating the duration of the project delivery tasks below, applicants are highly encouraged to review the appropriate chapters of the Local Assistance Procedures Manual and work closely with District Local Assistance Staff.

3. The proposed CTC Allocation dates must be between July 1, 2025 and June 30, 2029 to be consistent with the available ATP funds for Cycle 7.

4. PS&E and R/W phases can be allocated at the same CTC meeting.

Project Approval & Environmental Document (PA&ED) Project Delivery Phase:

Applications showing the PA&ED phase as complete must attach the signature pages for the CEQA and NEPA documents, including project descriptions covering the full scope here.
Will ATP funds be used in the PA&ED phase of the project? Yes or No. Yes
If yes, Proposed CTC PA&ED allocation date: 7/1/2025
Date must be between 07/01/2025 and 06/30/2029.

Notice to Proceed with Federally Reimbursable ATP Work: 9/01/2025
To determine the Notice to Proceed with Federally Reimbursable ATP Work date, applicants must add two months to the CTC PA&ED allocation date above.

Expected or past start date for PA&ED activities: 9/7/2025
For projects requesting ATP funds for PA&ED, this date must be after the Notice to Proceed with Federally Reimbursable Work date.

Number of months to complete CEQA and NEPA studies and approval: 6 months

Expected or past completion date for the PA&ED phase: 3/7/26
To calculate the expected/past completion date, add the number of months to complete CEQA/NEPA provided above to the expected or past PA&ED start date. .

Plans, Specifications, and Estimates(PS&E) Project Delivery Phase:

Will ATP funds be used in the PS&E phase of the project? Yes or No. Yes
If yes, proposed CTC PS&E allocation date: 3/14/26
This date **must** be after the PA&ED completion date and be between 07/01/2025 and 06/30/2029.

Notice to Proceed with Federally Reimbursable ATP Work: 5/14/26
To determine the Notice to Proceed with Federally Reimbursable ATP Work date, applicants must add two months to the CTC PS&E allocation date above.

Expected or Past Start Date for PS&E Activities: 5/21/26
For projects requesting ATP funds for PS&E, this date must be after the Notice to Proceed with Federally Reimbursable ATP Work date.

Number of months to complete PS&E: 12 months

Expected or past completion date for the PS&E phase: 5/21/27
To calculate the expected/past completion date, add the number of months to complete PS&E provided above to the expected or past PS&E start date.

Right-of-Way (R/W) Project Delivery Phase:

Will ATP funds be used in the R/W phase of the project? Yes or No. No

Expected or past start date for R/W activities: 5/1/2024 * A date is required.
For projects requesting ATP funds for R/W, this date must be after the Notice to Proceed with Federally Reimbursable Work date.

Number of months to complete the R/W engineering, acquisition, and utilities: 0

Expected or past completion date for the R/W phase: 5/1/2024 * A date is required.
To calculate the expected/past completion date, add the number of months to complete R/W provided above to the expected or past R/W start date.

Applications showing the R/W phase as complete must attach the Caltrans approved R/W Certification here. Not applicable.

Construction (CON) Project Delivery Phase:

Will ATP funds be used in the CON phase of the project? Yes or No. Yes
If yes, proposed CTC CON Allocation Date: 6/1/27
This date **must** be after the PS&E and R/W completion dates and be between 07/01/2025 and 06/30/2029.

Notice to Proceed with Federally Reimbursable ATP Work: 8/1/27
To determine the Notice to Proceed with Federally Reimbursable ATP Work date, applicants must add two months to the CTC R/W allocation date above

Expected start date for construction activities: 8/8/27
For projects requesting ATP funds for CON, this date must be after the Notice to Proceed with Federally Reimbursable Work date.

Number of months needed to complete construction activities: 22 months

Expected completion date for the CON phase: 6/8/29
To calculate the expected completion date, add the number of months to complete CON provided above to the expected or past CON start date.

Part A6: Project Funding

(Note: The total project cost must represent the total funding required to complete all activities and improvements of all phases of the project. This amount is expected to include all funding types connected to the project required to deliver the project as presented in the application. **The amount should be represented in thousands.** For example:$1,000 should be shown as 1, $1,000,000 should be shown as 1,000, and **$10,000,000 should be shown as 10,000.)**

Total Project Cost: $24,419

Total ATP Request: $23,266

Please complete the table below in thousands.

2. The ATP allocation year should match the schedule provided in Part A5.

3. Applicants must ensure that the "Total Non-ATP Funding" values show in this table match the overall Non-ATP Funding values they enter into the Project Programming Request (PPR) later in the application.

We will list a total for Leveraging Funds including:
$19,740: City Cash- Expended City Match HSIP Cycle 10
$468,000: City Cash- Expended City Match HSIP Cycle 11
$61,216: City Cash- Expended City Match CPUC Section 130
$548,956 TOTAL LEVERAGED FUNDS

Project Phase	Total Project Costs Auto Populates	Total ATP Funding	ATP Allocation Year (25/26, 26/27, 27/28, or 28/29)	Total Non-ATP Funding Auto populates	Non-Participating Funding (Ineligible Costs)	Prior ATP Funding	Leveraging Funding	Future Local Identified funding
PA&ED	1,385	815	25/26	570	21	0	549	0
PS&E	3,345	3260	26/27	85	85	0	0	0
R/W	0	0	N/A	0	0	0	0	0
CON		19,191	27/28, 28/29	498	498	0	0	0
CON NI/PLAN	0	0	N/A	0	0	0	0	0
Total	24,419	23,266	N/A	1,153	604	0	549	0

ATP Funding Type Requested

Per the 2025 ATP Guidelines, all ATP projects with construction capital values of $1 million or more must be eligible to receive federal funding. Agencies with projects under this threshold, especially ones being implemented by agencies who are not familiar with the federal funding process, are encouraged to request State-Only funding. A request for state-Only funds does not guarantee it will be granted.

Do you believe your project warrants receiving state-only funding? Yes or No. No

If yes, provide a brief explanation. Limit: 50 words. Not applicable.

If requesting state-only funds must attach a completed Exhibit 25-F. Not applicable.

ATP Project Programming Request (PPR)
Attached as a PDF.

Part A7: Screening Criteria

The following Screening Criteria are requirements for applications to be considered for ATP funding. Failure to demonstrate a project meets these criteria will result in the disqualification of the application.

Demonstrated fiscal needs of the applicant:

Is all or part of the project currently (or has it ever been) formally programmed in an RTPA, MPO, and/or Caltrans funding program? Yes or No.

Yes

If yes, Why the project is not considered fully funded? Limit: 200 words. 144/200

The City of Banning's Active Transportation Plan is included in its MPO's current regional transportation plan. The Southern California Association of Governments' (SCAG's) 2024-2050 Regional Transportation Plan/Sustainable Communities Strategy lists Banning's Active Transportation Plan (page 70) as one of its Sustainable Communities Program Projects Approved since 2020. See attached SCAG Regional Active Transportation Alignment Document. Banning's approved project was a planning project, to create an Active Transportation Plan (see Attachment K-8), and did not include funding for design and construction. Banning's Active Transportation Plan is complete and the City anticipates its City Council will adopt the Plan at its meeting on June 28, 2024 following a workshop session that was conducted on June 11, 2024. The City's Plan has prepared Banning to implement the proposed Project, as the Plan includes the proposed active transportation improvements, and the City needs funding to implement the Plan.

Are any elements of the proposed project directly or indirectly related to the intended improvements of a past or future development or capital improvement project? Yes or No.

Yes

If yes, why can the other project not fund the proposed project? Limit: 200 words. 168/200

The City has been awarded California Public Utilities Commission (CPUC) Section 130 Grade Crossing Hazard Elimination Program funding which is for preliminary engineering and design of a grade separation and related active transportation (lanes and sidewalks) over the railroad tracks on San Gorgonio Avenue south of Bryant Street, and not for all of San Gorgonio Avenue or all Downtown active transportation improvements. It does not fund active transportation lane construction over the railroad tracks. Funding for construction phases of the grade separation and active transportation elements have not been secured.

Banning was awarded Highway Safety Improvement Program (HSIP) Cycle 10 and Cycle 11 funds to improve pedestrian and bicycle safety. The City made improvements on Ramsey Street (HSIP Cycle 10) and citywide ramp, crosswalk, and signage upgrades (HSIP Cycle 11). Both cycles have some components that overlap with the proposed Active Transportation Program (ATP) Project area. The City is leveraging cash matches for active transportation funds the City has expended as of June 10, 2024 for HSIP project elements in the proposed Project area.

Are adjacent properties undeveloped or under-developed where standard "conditions of development" could be placed on future adjacent redevelopment to construct the proposed project improvements? Yes or No.
Yes
If yes, explain why the development cannot fund the proposed project. Limit: 200 words.
There are limited undeveloped parcels within the planned improvement areas of San Gorgonio Avenue, but not including them in the project would provide a disjointed project where certain improvement may not exist rather than a comprehensive active transportation project. The projects are generally within existing paved areas and fully within existing dedicated rights of way.

Consistency with an adopted regional transportation plan:
Is the project consistent with the relevant adopted regional transportation plan that has been developed and updated pursuant to Government Code Section 65080? Yes or No.
Yes

If yes, provide relevant pages of the Regional Transportation Plan showing that the proposed project is consistent. Attach a copy of ONLY the following elements of the plan: cover page and pages linking the proposed project to the plan. Highlighted and/or mark the attachment to clearly identify the connection. Projects not providing proof will be disqualified and not be evaluated.
See Attachment SCAG Regional Active Transportation Alignment Document.

If no, Document why the project should still be considered as being "consistent with the Regional Plan". Projects not providing proof will be disqualified and not be evaluated. Limit: 200 words.
Not applicable.

Is the implementing agency Caltrans? Yes or No. No
If yes, per the CTC Guidelines, Caltrans must document the need to address this project with ATP funds, versus other funding streams available for complete streets through existing Caltrans funding. Attach the necessary documentation.
If yes, per the CTC Guidelines, Caltrans nominated projects must illustrate coordination with the corresponding local and regional agencies. Caltrans is required to show assurance that local communities are supportive of and have provided feedback on the proposed Caltrans ATP project. Attach the necessary documentation.

Part B: Narrative Questions

QUESTION #1: DISADVANTAGED COMMUNITIES (0-10 POINTS)

Does this project qualify as benefitting a Disadvantaged Community? Yes or No.
Yes

A. Disadvantaged Community Map (0 points)

Attach a map of the project boundaries, disadvantaged community access points, and destinations. Attachment 1: Disadvantaged Communities (DAC) Map
Provide a scaled map showing the boundaries of the proposed project, the geographic boundaries of the disadvantaged community, and disadvantaged community access point(s) and destinations that the project benefits.

- Applicants using Median Household Income, CalEnviroScreen, Healthy Places Index, the Climate and Economic Justice Screening Tool, or the US DOT Equitable Transportation Community Explorer to identify the disadvantaged community must clearly label all census tracts with a census tract number or geographic identifier.
- Applicants using Free or Reduced Price School Meal data to identify the disadvantaged community must clearly label all schools.
- Applicants using a different disadvantaged community definition should ensure that the disadvantaged community is clearly outlined and labeled in the map.

B. Identification of Disadvantaged Community (0 points)

Select one of the following tools to identify the disadvantaged community:

X Median Household Income (MHI)
- CalEnviroScreen (CES) 4.0
- Free or Reduced Price School Meals (FRPM)
- Healthy Places Index (HPI) 3.0
- Climate & Economic Justice Screening Tool (CEJST)
- USDOT Equitable Transportation Community (ETC) Explorer
- Regional Definition
- Project Submitted by Tribal Government or Project on Tribal Lands
- Other

Median Household Income:
(Table ID B19013) is less than 80% of the statewide median based on the most current Census Tract (ID 140) level data from the **2018-2022 American Community Survey (<$73,524)**. Communities with a population of less than 15,000 may use data at the Census Block Group (ID 150) level. Unincorporated communities may use data at the Census Place (ID 160) level. Data is available at the United States Census Bureau Website.

Data can be obtained from the US Census Bureau website. Applicants must use data from the 2018-2022 American Community Survey 5-Year Estimates Detailed Tables for Median Household Income (Table ID B19013) and Total Population (Table ID B01003).

Census Tract/ Block Group/Place #	Population	MHI
442	6,077	$48,777
441.01	2,682	$52,699
443	4,799	$55,555
441.02	3,389	$59,611
438.13	3,983	$77,875

Lowest median household income from table above: $48,777

MHI for census tract(s) that the project benefits (calculated in the form in cell B38: 58125.31275680841): (Used for severity calculation only according to table below) Banning should receive 4 points based on MHI.

Points	Median Household Income (MHI) | Statewide MHI = $91.905, 80% = $73,524	
0 Points	80% or greater of the statewide MHI	$73,524.00 or greater
1 Point	75% to <80% of the statewide MHI	$68,928.75 to $73,523.99
2 Points	70% to <75% of the statewide MHI	$64,333.50 to $68,928.74
3 Points	65% to <70% of the statewide MHI	$59,738.25 to $64,333.49
4 Points	Less than 65% of the statewide MHI	$59,738.24 or less

Please attach copies of Tables B19013 and B01003 for all census tracts listed above. Attach all pages as one pdf. Attachment 2: Census Tract Profiles

C. Direct Benefit (0-4 Points)

C1. Explain how the project closes a gap, provides connections to, and/or addresses a deficiency in an active transportation network and how the improvements meet an important need of the disadvantaged community. Limit: 500 words. 477/500.

Ramsey Street, First Street, and San Gorgonio Avenue are major arterial roadways that provide access to schools, community and senior centers, churches, municipal swimming pool, the only library, Banning Civic Center, the Police Station, Post Office, and County Courthouse. These roadways are used to access important local destinations, which underscores the need for active transportation facilities that safely and comfortably accommodate non-motorized forms of travel along these multi-lane, high speed and volume, car-oriented corridors. While developing its 2023 Downtown Revitalization Complete Streets Plan and the 2024 City of Banning Active Transportation Plan, the City analyzed its roadways and engaged disadvantaged community (DAC) members to identify and prioritize the best streets to improve with active transportation facilities in order to address the community's needs. The proposed Project is directly informed by the City's Complete Streets and Active Transportation Plans.

<u>Active Transportation Network Gaps</u>

Sidewalk gaps affect pedestrian safety and appear to have a strong coincident relationship with pedestrian collisions. The following primary project corridors have sidewalk gaps on both sides of the street:

- Ramsey Street;
- First Street; and
- San Gorgonio Avenue (north and south of I-10).

<u>Active Transportation Deficiencies</u>

The Project area has active transportation deficiencies in DAC Census Tracts (CTs) that must be resolved to provide a safer and more equitable multimodal environment that encourages pedestrians and bicyclists to use active transportation. The deficiencies identified in Banning's 2024 Active Transportation Plan that this Project will mitigate include:

- **Lack of bike lanes and racks** on San Gorgonio Avenue. Project will install Class 2 and 4 east/west separated bicycle lanes along Ramsey Street and north/south on San Gorgonio Avenue (including over Interstate 10 and the railroad tracks) to connect Downtown.
- **Sidewalks missing in all four DAC CTs** (44101, 44102, 44200 and 44300). The Project will fill sidewalk gaps and expand walkway widths to better accommodate people of all abilities, provide pathway connectivity, and address primary community walking concerns.
- **Low visibility crosswalks and lack of active transportation signals at intersections** in all five CTs (four are DACs). The redesigned Project area prioritizes pedestrian safety, with vehicles yielding the right of way. Tabletop crosswalks will slow traffic, ensuring safer crossings. These improvements prioritize pedestrian and cyclist movement, fostering a safer multimodal environment.

Banning analyzed these deficiencies during its Active Transportation Planning process, and studied the City's Downtown core along Ramsey Street when creating its 2023 Banning Downtown Revitalization and Complete Streets Plan. The 2023 Plan considered ways to slow traffic, expand space for people walking and bicycling, and provide a safer walking environment surrounding and leading to a new community event plaza in the heart of Downtown. In alignment with both Plans, this Project will increase connectivity and safety with improved bike lanes, pavement markers, sidewalks, lighting, crosswalks, crossing signals, wayfinding signs, and amenities including shade trees, benches, bicycle racks, and new shelters at transit stops on the active transportation network.

C2. Explain how disadvantaged community residents will have physical access to the project**.** Limit: 469/500 words

Nearly the entire Project area is designated as a DAC based on median household income as well as CalEnviro Screen 4.0 data. Banning is a historically underserved community nestled between more affluent areas, such as the Palm Springs resort area to the east and areas of greater means to the west. Banning's DAC residents will have direct access to the Project in their downtown neighborhoods. The bikeways and sidewalks that will be constructed in the Project area are immediately adjacent to the disadvantaged neighborhoods of these Census Tracts. Many residents in and near the Project area do not own vehicles and walking is their only mode of transportation to access schools, City amenities, and bus stops. The Project will also increase connectivity to local transit at four existing bus stops in the Project Area that will be enhanced with shelter and connected to active transportation improvements.

The proposed Project also provides active transportation improvements that will benefit the students and families that attend Central Elementary School, Nicolet Middle School, Banning High School. (See Attachment C for a map of active transportation improvements.) According to the Unduplicated Student Poverty – Free or Reduced -Price Meal Data for 2022-2023, 89.0% of Central Elementary (enrollment 783), 89.6% of Nicolet Middle (enrollment 975), and 87.1% of Banning High School (enrollment 1,146) are eligible for free or reduced-price meals. The Project will serve these disadvantaged students and families.

The new active transportation facilities will connect north and south neighborhoods and destinations that are currently split by Interstate-10 and the insufficient, narrow walking lane on the overpass along San Gorgonio Avenue. A new bike lane on the overpass can significantly enhance connectivity between the north and south parts of a City and foster an integrated active transportation network. By bridging the physical barrier of the Interstate, the bike lane provides a safe, direct route for cyclists and pedestrians, encouraging more people to choose biking or walking over driving. This reduces traffic congestion, lowers carbon emissions, and promotes healthier lifestyles.

The bike lane acts as a critical link, connecting existing bike paths, residential areas, business districts, parks, and public facilities on both sides of the City. It facilitates seamless, non-motorized travel across the City, making daily commutes, errands, and recreational activities

more accessible and appealing. As a visible commitment to sustainable infrastructure, the bike lane can attract support for further active transportation projects.

The success of the bike lane can spur additional investments in similar projects, such as expanding bike lanes, adding bike-sharing stations, and improving pedestrian pathways. Future capital and maintenance projects can build on this foundation, progressively creating a comprehensive, city-wide network by 'chasing the pavers' and installing bike facilities on surrounding roads after paving or slurry maintenance projects. This network will enhance mobility, improve public health, and contribute to a greener, more connected City.

C3. Illustrate and provide documentation for how the project was requested or supported by disadvantaged community residents. Address any issues of displacement that may occur as a result of this project, if applicable. If displacement is not an issue, explain why it is not a concern for the community. Limit: 495/500 words

The Project stems from the City's 2024 Active Transportation Plan, crafted through extensive public engagement efforts. The City and its Active Transportation Plan (Plan) team's engagement efforts included nine Stakeholder Advisory Meetings, four community meetings, and surveys garnering hundreds of responses. Public engagement is further described in Question 4 in this application.

Public engagement events were held in disadvantaged areas to ensure feedback from their residents. Banning talked with the public at various City locations, including in front of City Hall where a *Go Human* Kit of Parts demonstrated potential and planned street design treatments and safety infrastructure. The *Go Human* Kit of Parts showcased five street treatments—a parklet, curb extension (bulb-out), median refuge island, artistic crosswalk, and separated bike lane.

<u>Engaging Banning's Disadvantaged Students and Families</u>

Disadvantaged families and students attending Project area schools participated in three community events in October 2022, held at Central Elementary School, Nicolet Middle School, and Banning High School. These events provided ideal opportunities for the community, specifically students, to discuss sustainable transportation modes. As part of this outreach, an interactive activity showcased potential types of treatments and infrastructure the City could install to promote safe and comfortable active transportation. A Banning high school student expressed concerns with active transportation for "safety reasons" stating, "I don't feel comfortable biking on the road" in a City survey.

On May 23, 2023, City officials met with Banning Unified School District (BUSD) staff to learn more about existing active transportation challenges around schools and discuss solutions. The BUSD expressed safety concerns for students commuting to and from school, emphasizing needs for safer crossings, completed sidewalks, and reduced vehicle speeds. While officials felt improved active transportation facilities would encourage multimodal commuting, **families need to feel that active transportation is a safe alternative**. Wider walkways, protected bikeways, and enhanced lighting for pre- and post-school commuting would improve safety.

BUSD recommended prioritizing challenges at Central Elementary School, Nicolet Middle School, Banning High School, and Hemmerling Elementary School, recommending a fully-separated two-way cycle track around Nicolet Middle School and south to Banning High School, and improvements on First Street near the busy Ramsey Street intersection.

Subsequentially, the BUSD attended the nine Stakeholder Advisory Group (SAG) meetings, along with students, and the final Plan meeting at the Banning Library on March 20, 2024.

The City received 301 responses to its 2023 Downtown Revitalization Complete Streets Plan public survey and 250 responses to its 2024 Active Transportation Plan survey. City residents provided the following reasons for using or not using active transportation:

"We need more shelters on bus stops and more street lights."
– Manual and Susan Morales, City residents

"I use active transportation because I am in a wheelchair."
– Four-month Banning resident

"It is too unsafe to ride a bike because we don't have bike paths, etc."
– Shelby's Mom, Banning resident

Displacement is not an issue because the new active transportation facilities will be constructed within the existing footprint of the roadways.

Attach documentation to show **disadvantaged** community support. See Attachment 3: DAC Participation Documentation.

D. Project Location (0-2 Points)

Select the option that best describes the project location:

- Fully located in a DAC
- X Partially located in a DAC
- Not located in a DAC

E. Severity (0-4 Points) Severity is calculated by the CTC , based on the information provided in *B. Identification of Disadvantaged Community*.

QUESTION #2: POTENTIAL FOR INCREASED WALKING AND BIKING (0-38 POINTS)

Potential for increased walking and bicycling, especially among students, including the identification of walking and bicycling routes to and from schools, transit facilities, community centers, employment centers, and other destinations; and including increasing and improving connectivity and mobility of nonmotorized users.

A. Statement of Project Need (0-19 points)

Describe the community and the issue(s) that this project will address. How will the proposed project benefit the non-motorized users of all ages and varying abilities, including students, older adults, and persons with disabilities? What is the project's desired outcome and how will the project best deliver that outcome?
Limit: 899/900 words
Discuss:

- Destinations and key connectivity the project will achieve.
- How the project will increase walking and/or biking.
- The lack of mobility. Does the population have limited access to cars, bikes, and transit? Does the project have an unserved or underserved demand?

Local health concerns responses should focus on:

- Specific local public health concerns, health disparity, and/or conditions in the built and social environment that affect the project community and can be addressed through the proposed project. Please provide detailed and locally relevant answers instead of general descriptions of the health benefits of walking and biking (i.e., "walking and biking increases physical activity").
- Local public health data demonstrating the above public health concern or health disparity. Data should be at the smallest geography available (state or national data is not sufficient). One potential source is the Healthy Places Index (HPI).

Project Need

The City is committed to creating transformational multimodal facilities that benefit all residents and visitors. Current infrastructure hinders safe pedestrian and cyclist travel with barriers caused by missing sidewalk, narrow walkways, lack of designated bike lanes, hazardous railroad crossings, limited visibility and crossings, and high-speed vehicle traffic in Downtown Banning.

Project Benefits for Students and Families

The Project benefits non-motorized travelers of varying abilities. The Project prioritizes active transportation improvements around Central Elementary, Nicolet Middle and Banning High Schools, totaling 2,904 students. By improving walkways and bikeways with greater separation

from vehicles, wider pathways, lighting, shade, and benches, the Project will provide safer access to schools for students and families. Improvements will reduce traffic congestion during peak school hours when long car lines form on First Street and San Gorgonio Avenue. The proposed Class IV cycle track along San Gorgonio Avenue, featuring a protective vehicle barrier, will boost confidence and accessibility for young students, wheelchair users, and those with limited mobility to use the facilities.

The community also requested active transportation improvements to increase physical activity. Despite being below state averages, significant portions of Banning's population, according to 2018 California Health Interview Survey, are diagnosed with conditions like asthma (13.4%), diabetes (8.5%), and heart disease (7.9%). Promoting healthy habits in childhood minimizes risk of chronic diseases in adulthood. For students, walking or biking to school daily can fulfill the American Academy of Pediatrics' recommended 60 minutes of physical activity for children ages 6 to 17. With average walking times of 15-20 minutes per mile, walking to school could provide over 50% of this recommendation, improving overall health in Banning.

Project Benefits for Seniors

Seniors (age 65+) comprise 27.6% of residents, the largest Banning age bracket. The Project meets seniors' active transportation needs, as evidenced by their 29% participation the Active Transportation Plan survey (see Attachment K-5: Public Surveys). Seniors requested street lighting, signaled pedestrian crossings, protected or painted bike lanes, and better walkability to the Community and Senior Center located at the north end of the Project area along San Gorgonio Avenue. Infrastructure features such as curb extensions for shorter crossings, ramps, and well-marked crossings enhance accessibility and minimize hazards. Improving active transportation conditions facilitates safer travel to the Senior Center, fostering connections, reducing social isolation, and improving health, which is crucial as seniors drive less and rely more on active transportation as they age.

Local Health Concerns

Banning's California Healthy Places Index (HPI) score, developed by the Public Health Alliance of Southern California to predict life expectancy, is 11.6%—indicating the City is only healthier than 11.6% of other California cities. (See Attachment K-4: Disadvantaged Community Map: Healthy Places Index (HPI)). This low score is influenced by several factors.

Transportation: Only 2.6% of workers in Banning (16 years and older) commute to work by transit, walking, or bicycling. Active commuting offers physical activity, provides transportation options for carless individuals, encourages social cohesion, and reduces climate impact and air pollution.

Economic Conditions: In Banning, 21% of residents live below poverty. Research indicates that economic opportunity strongly predicts good health and health disparities for people in or near poverty.

Neighborhood Conditions: Only 2% of Banning's land has a tree canopy (weighted by the number of people per acre). Trees provide shading and cooling, reduce stress, and promote health, wellness, and physical activity. Trees are essential for mitigating climate impacts and extreme heat events.

The Project aims to tackle health concerns highlighted by the HPI by enhancing walkways and bike lanes to promote walking and biking, and planting native shade trees throughout the disadvantaged Project area to address health disparities.

Project Goals

The City's overarching goal is to increase safety and active transportation use by implementing improvements requested by the Banning community. The Active Transportation Plan was informed by a public survey conducted from October 2022-March 2023 (See Attachment K-5: Public Surveys.) The top five preferences for walking enhancements were: add missing sidewalks, street lighting, multi-use paths, wider sidewalks, and signalized pedestrian crossings. For biking, the top five preferences were: separated bike paths, protected or painted bike lanes, street lighting, bike parking, and a bikeshare program. This resident input set the foundation for the Project.

Increase Walking and Biking

The Project will increase active transportation facilities along Ramsey and First Streets and San Gorgonio Avenue, providing a safer and more visible environment to walk and bike. Curb extensions, pavement markings, ADA-compliant ramps, and walkways will support increased active transportation for people of all abilities and ages. This will connect Ramsey Street to side streets and perpendicular avenues, providing access to key destinations in the Project area:

- Nicolet Middle School
- Central Elementary School
- Banning High School
- Community and Senior Center
- Repplier Aquatic Center
- Banning Library
- Dorothy Ramon Learning Center
- Banning Village Market
- Banning Police Department
- Post Office
- Banning Justice Center
- Riverside County Court
- Historic Fox Theater
- Jitterz Coffee Shop
- Churches
- Boys and Girls Club
- Public bus/transit stops

Lack of Mobility to Destinations and Key Connections
Due to limited connectivity and multimodal options, the Banning community heavily relies on cars for daily travel to essential services and schools. The proposed active transportation improvements will connect the community to key destinations (listed above) with an east/west artery on Ramsey Street and a north/south route on San Gorgonio Avenue, providing more inclusive transportation infrastructure for all residents.

Does the proposed project close a gap? Yes or No. No
Does this project create new routes? Yes or No. No
Does this project remove a barrier to mobility? Yes or No. Yes
If yes, type of barrier(s) (select all that apply):

- X Freeway
- Waterway
- X Safety
- X Railroad tracks
- X Other: Lack of facilities

Please provide a map identifying the barrier location(s) and improvement(s) here.
Attachment 4.1

Describe the existing negative effects of the barrier(s) to be removed and how the project addresses the existing barrier(s). Limit: 149/150 words.
The San Gorgonio Avenue railroad crossing south of Bryant Street was designed primarily for motor vehicles. It has wide tracks and gaps difficult for pedestrians, cyclists, and wheeled active transportation users to navigate. The crossing has uneven surfaces that pose mobility and tripping hazards and are not accessible to people of all abilities, including those using wheelchairs or mobility devices. The proposed bike lanes and will provide smooth, even surfaces to improve conditions and encourage active transportation use.

Interstate-10 divides the north and south portions of the City creating community detachment and barriers to connectivity. The current I-10 overpass walkway is narrow and does not provide sufficient active transportation space, especially for people using mobility devices, and does not provide protection from motorized vehicle traffic. The proposed Project will decrease the motorized vehicle travel lane width and add wider, protected bike lanes on the overpass along San Gorgonio Avenue.
Describe how the project links, connects to, or encourages the use of existing routes to transportation-related and community-identified destinations where an increase in active transportation modes can be realized, including but not limited to: schools, school facilities, transit facilities, community, social service or medical centers, employment centers, high-density or affordable housing, regional, state, or national trail systems, recreational and visitor destinations or other community-identified destinations. Specific destination must be identified. Limit: 150/150 words.
Improving active transportation on San Gorgonio Avenue (north/south) through Downtown Banning will enhance access to destinations on both sides of the Interstate, including Nicolet

Middle, Central Elementary, and Banning High Schools. The railroad crossing on San Gorgonio Avenue south of Bryant Street, designed primarily for motor vehicles, is challenging for pedestrians, cyclists, and wheeled transportation users due to wide tracks and uneven surfaces. These pose mobility hazards and are not accessible for people using wheelchairs or mobility devices.

The proposed bike lanes will offer smooth, even surfaces, improving conditions and encouraging active transportation in the area. Currently, Interstate-10 divides the north and south parts of the city, creating barriers to connectivity. The narrow walkway on the I-10 overpass does not adequately accommodate active transportation users. The Project will narrow motor vehicle lanes and add a wider, protected bike lane on the overpass along San Gorgonio Avenue, enhancing safety and connectivity.

Does this project add improvements to other existing routes? Yes or No.Yes
Please provide a map of the new improvement location. Attachment 4.2
Explain the improvement. Limit: 150/150 words. (Word says 134 words and Submittable says 150; It was counting some bullet points and spaces after bullet points)
The City will narrow vehicle traffic lanes add bike lanes on Ramsey and First Streets and San Gorgonio Avenue, and add sidewalks with lighting on Ramsey Street. By narrowing vehicle traffic lanes and installing traffic calming, the City will prioritize pedestrian/cyclist needs and create safer environments for active transportation. The improvements include:

- 34,800 square feet (SF) of sidewalk;
- 4,600 linear feet (LF) of Class IV six feet wide cycletrack;
- 6,442 LF Class IV ten-feet-wide, bi-directional cycletrack with flex divider;
- 8,200 LF Class II six-feet-wide cycletrack;
- 10,560 LF motorized vehicle lane width reductions;
- 98 high visibility crosswalks;
- 9 raised crosswalks;
- 36 ADA curb ramps;
- 26 intersection curb extensions;
- 126 street and pedestrian/bike lights;
- 2 modified traffic signals;
- 240 shade trees;
- 11 bike racks
- 11 trash receptacles;
- 4 bus stop shelters; and
- 1 bicycle repair station.

Describe how the project links, connects to, or encourages the use of existing routes to important or community-identified destinations where an increase in active transportation modes can be realized, inducing but not limited to: schools, school facilities, transit facilities, community, social service or medical centers, employment centers, high-density or affordable

housing, regional, state, or national trail system, recreational and visitor destinations or other community-identified destinations. Specific destinations must be identified. Limit: 145/150
Improving active transportation on San Gorgonio Avenue (north/south) and Ramsey Street (east/west) through Downtown will enhance access to destinations on both sides of the Interstate, including Nicolet Middle, Central Elementary, and Banning High Schools and community facilities. The railroad crossing on San Gorgonio Avenue is challenging for pedestrians and cyclists due to wide tracks and uneven surfaces, posing mobility hazards. The proposed project will narrow motor vehicle lanes and add a wider, protected bike lane on the overpass along San Gorgonio Avenue, enhancing safety and connectivity. Improved facilities will encourage the use of existing routes to Downtown key destinations (Jitterz coffee shop, Banning Village Market, historic Fox Theater, Boys and Girls Club, Dorothy Ramon learning center, schools, Senior and Community Center, Banning Civic Center, Riverside County Department of Social Services, and Banning Police Station) increasing active transportation modes and promoting healthier, more sustainable urban mobility.

QUESTION #3: POTENTIAL FOR REDUCING THE NUMBER AND/OR RATE OF PEDESTRIAN AND BICYCLIST FATALITIES AND INJURIES, INCLUDING THE IDENTIFICATION OF SAFETY HAZARDS FOR PEDESTRIANS AND BICYCLISTS. (0-20 POINTS).

A. Describe the project location's history of pedestrian and bicycle collisions resulting in fatalities and injuries to non-motorized users, which this project will mitigate. (0-10 points)

Applicants are encouraged to use the UC Berkeley SafeTREC TIMS tool as the safety data source, which was specifically designed for the ATP to produce these documents in an efficient manner**.** Applicants with access to alternative collision data tools can utilize their choice of methods/tools. Applicants must respond to question 1 or 2, and have the option to respond to both.

1. For applicants using the TIMS ATP tool, attach the items listed below:

The ATP TIMS tool can be accessed here.

- Collision heat map of the area surrounding the project limits - demonstrating the relative collision history of the project limits in relation to the overall jurisdiction/community's collision history.
- Project Area Collision Map - identifying the past crash locations within the project limits.
- Collision Summaries and collision lists/reports - demonstrating collision trends, collision types, and collision details.

Combine all documents into one PDF file. See Narrative Attachment 5: TIMS Maps and Data.

2a. For applicants using another data source, attach relevant documents below. Applicants that do not have the collision data above or that prefer to provide additional collision data and/or safety in a different format can provide this data below. (Examples include: Collision Rates, Community Observations, surveys, Street Story (https://streetstory.berkeley.edu), crowd-sourced maps, etc.) The data and corresponding methodologies can be included in written form using the text box below. Not applicable.

2b. Data and corresponding methodologies in written form can be included here (optional): Limit: 200 words. Not applicable.

3. From the project-area collision summaries/data provided in questions 1 and/or 2, enter the total reported pedestrian and/or bicycle collisions using the most recent 5 to 11 years of available data

How many years of collision data were used in the Heat Maps and collision summaries: 10				
	Pedestrian	**Bicycle**	**Total**	**Average Per Year**
Fatalities	**1**	**0**	**1**	***Auto Fills**
Injuries	**15**	**3**	**18**	***Auto Fills**
Total	16	3	**19**	***Auto Fills**

4. Referencing the project-area collision summaries/data provided in questions 1 and/or 2, discuss the extent to which the proposed project limits represents one of the agency's top priorities for addressing ongoing safety and discuss how the proposed safety improvements correspond to the types and locations of the past collisions. Consider the safety concerns of students, older adults, and persons with disabilities in your response.
Limit: 900/900 words

Project Priority

While creating the Banning Active Transportation Plan, Banning analyzed pedestrian and bicycle collision data for the City. They learned the highest density of total bicycle and pedestrian collisions that occurred between 2011 and 2021 and resulted in injuries occurred on arterial roadways like Ramsey Street. The City then looked at Census Tracts (CTs) to review demographic and socioeconomic information to help them prioritize active transportation projects. The City considered that the data did not include property damage and near misses that did not result in collisions.

The City found that pedestrian violations were the main factor in pedestrian collisions in all CTs, possibly involving crossing outside designated areas or against signals. Violating pedestrian right-of-way was also common, possibly due to drivers entering crosswalks with pedestrians present. Bicycle collisions were primarily caused by traffic signal and sign violations in all CTs. Most collisions occurred on multi-lane collector roads near busy commercial areas with high traffic volumes and speed limits. Research published in the Journal for Transport and Land Use notes that deceased pedestrians or bicyclists are not able to give their perspective on the collision and the person reporting the collision usually has the perspective of a motorist. These points tend to skew the data resulting in pedestrians and cyclists being blamed for a disproportionate number of collisions, which Banning considered when developing active transportation and traffic safety countermeasures.

This proposed Project was developed to include streets with multiple pedestrian/bicycle collisions and because safety has been raised as a concern by community members. The Project

and its locations were planned in response to safety concerns and connectivity needs identified during public engagement for the City's Active Transportation Plan and Downtown Revitalization complete Streets Plan.

Project Collision Data

The Project area collision summaries and data (see Attachment 5:TIMS Maps and Data) include San Gorgonio Avenue from Wilson Street to just south of Banning High School and along Ramsey Street from 8th Street to just east of Martin Street. This covers most of Downtown Banning and includes data from 2012 to 2022, ten years of available data in the TIMS ATP Tool. Between 2012 and 2022, there were 19 collisions, including 16 pedestrian collisions and three bicycle collisions in the Project area. All three of the bicycle crashes resulted in visible injuries. Of the 16 pedestrian incidents, 10 resulted in visible injuries, five in a severe injury, and one fatality. Within the Project area boundaries, five collisions were on Ramsey Street, two collisions were at the intersection of 8th and Ramsey Streets, and four collisions were on San Gorgonio Avenue.

Safety of Overburdened Community Members

Nearly all of the Project area is identified as a DAC based on CTs with a U.S. Census Bureau median household income of less than 80% of the statewide median income (<$73,524). According to the Journal of Public Health, social inequalities in pedestrian, cyclist, and motorist injuries are more pronounced in poor urban areas where the number of vulnerable roadway users exceeds those in other locations. A recent study published in the Journal of Preventive Medicine found that people of color face disproportionate risk of traffic-related deaths, with traffic fatalities twice the rate of white Americans. Contributing factors include higher traffic volumes, higher numbers of people walking and biking, and higher volumes of people crossing more roads in high-density communities. DACs often lack safe infrastructure, hindering seamless connectivity to jobs, schools, services, and essential destinations, heavily impacting vulnerable roadway users.

Minority and low-income communities often reside near highways and major arterials, which is pertinent to the Project area due to high traffic volumes, multiple freeway and arterial intersections, and inadequate connections for pedestrians and cyclists to transit or active transportation routes.

Project Improvements

The existing conditions in Downtown Banning are significant barriers to active transportation with sidewalk gaps, lack of bicycle and ADA-compliant facilities, and speeding motorized vehicle traffic. The Project includes the design and installation of:

- 34,800 square feet (SF) of sidewalk;
- 4,600 linear feet (LF) of Class IV six feet wide cycletrack;
- 6,442 LF Class IV ten-feet-wide, bi-directional cycletrack with flex divider;
- 8,200 LF Class II six-feet-wide cycletrack;

- 10,560 LF motorized vehicle lane width reductions;
- 98 high visibility crosswalks;
- 9 raised crosswalks;
- 36 ADA curb ramps;
- 26 intersection curb extensions;
- 126 street and pedestrian/bike lights;
- 2 modified traffic signals;
- 240 shade trees;
- 11 bike racks
- 11 trash receptacles;
- 4 bus stop shelters; and
- 1 bicycle repair station.

Project elements will implement traffic calming techniques to slow down vehicle traffic and prioritize pedestrian and cyclist needs to create safer environments for active transportation. The City will construct sidewalk curb extensions at intersections to reduce the roadway width available to vehicles and force vehicles to slow down when turning. Pedestrians on the curb extensions will be more visible as they cross the street. The extensions also shorten the crossing distance making it safer and more convenient for pedestrians to navigate intersections. Where speeding is a concern, the City will install chicanes, a series of alternating curbing extensions along the streets to create a zigzag/serpentine pattern, which by design makes drivers to slow down in narrower passages, thereby improving cyclist and pedestrian safety.

The Project will address the accident data and reduce accidents by redesigning and constructing the Project area to give deference to pedestrians and bicyclists by creating conditions for vehicle traffic to slow down and yield the right of way.

B. Safety Countermeasures (0-10 points)

Describe how the project improvements will remedy (one or more) potential safety hazards that contribute to pedestrian and/or bicyclist injuries or fatalities. Referencing the information you provided in Part A, demonstrate how the proposed countermeasures directly address the underlying factors that are contributing to the occurrence of pedestrian and/or bicyclist collisions.

1. Reduces speed or volume of motor vehicles in the proximity of non-motorized users? Yes or No.
Yes

If yes, current speed and/or volume: Limit: 200 words 42/200
Ramsey Street and San Gorgonio Avenue are high-volume traffic corridors and have 25 mph posted speed limits. While the streets have posted speed limits of 25 mph, reported operating speeds are often much higher, which make them viable for traffic calming improvements.

If yes, anticipated speed and/or volume after project completion: Limit: 200 words
The Project elements will reduce vehicles speeds with chicanes/traffic calming techniques. With the traffic calming features, speeds will be better maintained at 25 mph, rather than the higher speeds that are present today in the posted 25 mph zones.

2. Improves sight distance and visibility between motorized and non-motorized users?
Yes or No. Yes

If yes, current sight distance and/or visibility issue: Limit:139/200 words
Drivers often expect to see other vehicles rather than pedestrians or cyclists, especially in areas dominated by car traffic. This expectation can lead to a failure to notice non-motorized users. Other factors that lead to active transportation visibility issues are the following:

- Insufficient street lighting or poorly placed lights can make it difficult for drivers to see pedestrians and cyclists, especially at night or during dawn and dusk;

-Insufficient or unclear signage indicating pedestrian crossings and bike routes can lead to confusion and missed cues for drivers;

-In areas where cars, bikes, and pedestrians share the road without clear separation, it can be difficult for drivers to anticipate the movements of non-motorized users; and

- Driving at high speeds reduces the time a driver has to notice, recognize, and react to pedestrians and cyclists. Higher speeds also increase stopping distances.

If yes, anticipated sight distance and/or visibility issue resolution: Limit: 194/ 200 words
The redesigned and constructed Project area will ensure that vehicle traffic yields the right of way to pedestrians. The active transportation improvements will slow down and stop vehicles to allow pedestrians to cross the street more safely at the tabletop crosswalk and with enhanced traffic signals for active transportation users. The Project area prioritizes pedestrian movement, encouraging walking and bicycling as modes of transportation by fostering a more pedestrian, bicycle friendly environment by promoting their safety. The City will construct sidewalk curb extensions to make pedestrians more visible before they cross the street. A tabletop crosswalk, enhanced traffic signals for active transportation, overhead string lights, and pedestrian level walkway lights will also increase active transportation users' visibility.

The Project will meet pedestrian daylighting requirements by designing streets to enhance visibility at crosswalks and intersections. This will be achieved through traffic calming elements like curb extensions and raised crosswalks, which slow down vehicles and create safer pedestrian environments. Additionally, ensuring clear sightlines by limiting obstructions such as parked cars near crosswalks improves pedestrian safety. These measures will help pedestrians be more visible to drivers, reducing accidents and promoting a safer, more walkable Downtown.

3. Eliminates potential conflict points between motorized and non-motorized users, including creating physical separation between motorized and non-motorized users? Yes or No
Yes

If yes, current conflict point description: Limit: 56/200 words
The current conflict points occur because bicyclists and pedestrians share space with motorized vehicles and, most often, when entering traffic to cross intersections. The majority of the collisions include right-of-way violations by pedestrians and bicyclists. Inadequate pavement markings and lack of designated spaces for pedestrians and bicyclists results in right-of-way confusion for vehicles, pedestrians, and bicyclists.

If yes, improvement that addresses conflict point:
Limit: 160/200 words
The proposed Project eliminates conflict points between motorized and non-motorized users by creating a physical separation between them. The Project will provide separate bicycle facilities to mitigate and prevent interactions, conflicts, and crashes between bicyclists and motor vehicles, and create a network of safer pathways for bicycling, walking, and other active transportation methods for people of all abilities. The Project aligns with the Safe System Approach principle of recognizing human vulnerability—where separating user spaces can enhance safety for all road users.

The active transportation improvement Project will add wider sidewalks on Ramsey Street and enhance traffic signal operations at San Gorgonio Avenue and Ramsey Street, prioritizing bicyclists and pedestrians. By closing motorized vehicle conflict points, the Project will reduce the need for pedestrians to enter the roadway, enhancing safety. These improvements will create a more pedestrian- and cyclist-friendly environment, encouraging active transportation and reducing vehicle-pedestrian conflicts, ultimately promoting a safer, more accessible urban area for all residents and visitors.

4. Improves compliance with local traffic laws for both motorized and non-motorized users? Yes or No.
Yes

If yes, which law(s)? (Select all that apply)

- X Speeding
- X Jaywalking
- • Wrong way travel of non-motorized users
- • Failure to yield
- X Other: Right-of-Way Violations

If yes, describe how the project will improve compliance: Limit: 144/200 words
The proposed Project will reduce pedestrian violations by more clearly defining pedestrian and bicycle lanes, who has right-of-way priority, and by removing the conflict points between

motorized vehicles and non-motorized active transportation users by separating them with the additions of a Class IV cycle track and wider, more prominent sidewalks/walkways.

The City will implement traffic calming techniques to slow down vehicle traffic and prioritize pedestrian and cyclist needs to create safer environments for active transportation. The City will construct sidewalk curb extensions at intersections and at mid-block crossings to reduce the roadway width available to vehicles and will force vehicles to slow down when turning. The City will install chicanes, a series of alternating curbing extensions along the streets to create a zigzag/serpentine pattern, where speeding is a concern. This design forces drivers to slow down in narrower passages to improve cyclist and pedestrian safety.

5. Addresses inadequate vehicular traffic control devices? Yes or No.
No
If yes, List traffic controls that are inadequate: Limit: 200 words
Not applicable.

If yes, how are they inadequate? Limit: 200 words
Not applicable.

If yes, how does the project address the inadequacies? Limit: 200 words
Not applicable.

6. Addresses inadequate or unsafe bicycle facilities, trails, crosswalks, and/or sidewalks? Yes or No.
Yes

If yes, list bicycle facilities, trails, crosswalks, and/or sidewalks that are inadequate: 67/200

- Bicycle facilities, crosswalks, and intersections on Ramsey Street (east/west) from 4th to Martin Streets, 1st Street (north/south) from Livingston to Hays Streets, and San Gorgonio Avenue (north/south) from Wilson to Wesley Streets
- Sidewalks on Ramsey Street from 4th to Martin Streets
- Bus stops on Ramsey Street at 2nd Street, 3rd Street and the Banning Civic Center (both sides of the street) near Martin Street.

If yes, how are they inadequate? Limit: 192/200 words.
The existing conditions for active transportation users in Downtown Banning are inadequate, including bike facilities, crosswalks, intersections, and sidewalks in the Project area. The sidewalks on Ramsey Street are incomplete and narrow. The sidewalks and bike lanes lack lighting, shade, and do not accommodate people of all abilities. The existing bike lanes do not provide the separation and protection needed for cyclists of all skill levels and ages to confidently use the bike network facilities. The active transportation route lacks benches and sheltered transit/bus stops. Currently bicyclists and pedestrians must navigate areas in the

active transportation network that are not ADA-compliant. This is challenging for people using mobility devices.

Intersections do not prioritize pedestrians and cyclists. Permissive turning signals allow vehicles to turn while pedestrians are crossing, increasing the risk of collisions, and large intersections unnecessarily expose pedestrians and cyclists to traffic. Some intersections lack clearly marked crosswalks or any pedestrian crossing infrastructure, forcing pedestrians to navigate through vehicle traffic. Insufficient lighting and obstructions can make pedestrians less visible to drivers. Absence of traffic calming measures, like the proposed curb extensions or chicanes, result in higher vehicle speeds, endangering pedestrians and cyclists.

If yes, how does the project address the inadequacies? Limit: 114/200 word
The Project will add a protected intersection at Ramsey Street and San Gorgonio Avenue so bicyclists are not forced to merge into mixed traffic. Instead, the bikeway will be set back from the parallel vehicle traffic and bicyclists will have a dedicated lane through the intersection and have the right of way over turning motor vehicles. The dedicated setback will create a waiting zone for turning vehicles, with motorists yielding right-of-way to oncoming bicyclists. There will be better visibility between people on bikes and people driving and more predictable paths of travel. The Project will also add a raised intersection at 1st and Ramsey Streets, which will make drivers more aware of bicyclists and pedestrian activity and slow driving speeds. These Downtown intersections will be safer for active transportation users and drivers.

7. Eliminates or reduces behaviors that lead to collisions involving non-motorized users? Yes or No.
Yes

If yes, list of behaviors: Limit: 149/200 words

- Pedestrian violations: Pedestrian violations on roadways may include jaywalking, crossing streets outside of designated crosswalks, and ignoring traffic signals. These behaviors increase the risk of accidents, as pedestrians may unexpectedly enter vehicle paths. Such violations stem from inadequate pedestrian infrastructure, making it difficult for pedestrians to navigate safely. Improving walkways, crosswalks, and signal systems can reduce these violations by providing safer, more accessible routes for pedestrians.
- Violating right-of-way: Violating right-of-way on streets occurs when drivers, pedestrians, or cyclists fail to yield as required, leading to dangerous conflicts. This includes drivers not yielding to pedestrians at crosswalks, cyclists ignoring traffic signals, and pedestrians crossing against signals. Such violations disrupt the orderly flow of traffic, increasing the risk of accidents and injuries. Clear signage, more visible crossings, and improved active transportation infrastructure will help ensure that all road users understand and respect right-of-way rules, enhancing safety and efficiency on the streets.

If yes, how will the project eliminate or reduce these behaviors? Limit: 120/200 words

The proposed Project will remove right-of-way conflicts and confusion by removing pedestrians and bicyclists from roadways and separating them from motorized vehicles. Additionally, improved pavement markings and crossing facilities will help define spaces for pedestrians, bicyclists, and motor vehicles and encourage safer crossing behaviors.

New sidewalks, bike lanes, crosswalks, and high-visibility intersections improve pedestrian safety by providing clear, designated spaces for walking and cycling. These features reduce the likelihood of pedestrians jaywalking or crossing unsafely by offering convenient, visible, and accessible pathways. Enhanced infrastructure encourages compliance with traffic laws, as pedestrians feel safer using designated crossings. Additionally, high-visibility intersections increase driver awareness, further reducing the risk of accidents and promoting a safer, more orderly flow of foot and bike traffic.

8. Does this project propose new or improved bike facilities? Yes or No.

Yes

If yes, Describe the issues that were considered when evaluating and selecting the project's bikeway facility type (i.e., Class I, II, III, and/or IV). Limit: 453/500 words

Potential considerations include, but are not limited to:

- Community input
- Place type (e.g., rural, suburban, urban)
- Posted speed limits
- Traffic volume
- Proposed operating speed
- Safety concerns outlined in Part A
- Traffic calming measures
- Roadway cross section
- Right-of-way, utility, and environmental constraints
- Other considerations

Community Input: Through public engagement, residents asked for safer, protected bicycle lanes, more lighting, space, easier crossings and intersections and a more complete active transportation network.

Place Type: Banning is a developed urban area, with an incomplete active transportation network. The City reviewed current urban countermeasures and researched successful active transportation implementations in similar cities. The City determined a dedicated Class IV cycle track and filling in active transportation gaps would be the most appropriate action to address community needs.

Posted Speed Limits: Banning's high-volume corridors include Ramsey Street and San Gorgonio Avenue with 25 mph posted speed limits (see Attachment K-7: Posted Speed Limits) and reported operating speeds which are much higher. Posted speed limits and operating speeds

along primary and secondary streets combined with vulnerable populations utilizing active transportation in these areas make a protected Class IV bike lane the most appropriate elements to install.

Traffic Calming Measures: The City will implement traffic calming to slow vehicle traffic and prioritize pedestrian/cyclist needs to create safer environments for active transportation. The City will construct sidewalk curb extensions at intersections to reduce the roadway width available to vehicles and will force vehicles to slow down when turning. The City will install chicanes, alternating curbing extensions along the streets to create a zigzag/serpentine pattern, where speeding is a concern.

Average Daily Traffic Volume: According to Banning's General Plan Update, Ramsey Street has an average daily traffic (ADT) volume of 11,615 vehicles east of San Gorgonio Avenue and 7,198 west of it. The San Gorgonio Avenue ADT north of Lincoln Street (where it crosses Ramsey Street) is 2,594 vehicles and 4,899 vehicles south. Traffic volume influences bike lane types by determining safety needs: high-traffic areas require protected bike lanes for added safety. Proper lane type selection ensures cyclist safety and encourages bike use. The high (and growing) traffic count requires a separate active transportation network to ensure current and future sustainability of biking in the Project area.

Right of Way, Utility, and Environmental Constraints: All active transportation project elements will be designed and installed in the existing right-of-way. As the Project will take place in existing right-of-way, environmental considerations will be minimal. The City will follow all CEQA approval processes and ensure construction activities address dust mitigation and stormwater control measures. The City of Banning has its own sewer, water, and electric departments and will work within its departments to ensure that utilities are designed in a manner consistent with the goals of active transportation and utility delivery to customers. The City of Banning typically has medium to high groundwater infiltration rates. Stormwater devices and landscaping will be designed to utilize that capacity of water quality treatment, debris removal, as well as groundwater replenishment opportunities.

QUESTION #4: PUBLIC PARTICIPATION AND PLANNING (0-10 POINTS)

Describe the community-based public participation process that culminated in the project.

A. What is/was the process of defining future policies, goals, investments and designs to prepare for future needs of users of this project? How did the applicant analyze the wide range of alternatives and impacts on the transportation system to influence beneficial outcomes? (0-3 points) Limit: 395/400 words

Project objectives were identified through public engagement, facilitated by approved Community Engagement/Public Participation plans for both the Active Transportation Plan and Downtown Revitalization Complete Streets Plan. The City ensured diverse residents and stakeholder involvement to collect information about existing active transportation conditions and community needs. The City gave special attention to strategies engaging vulnerable right-of-way users (e.g., people aged 60 and older, children, minorities, low-income individuals, and those with disabilities and mobility challenges). These populations, often overlooked in decision-making processes, are most impacted by transportation planning and policy.

Community engagement focused on the following objectives:

Vulnerable Users
Children, older adults, those with disabilities, and non-vehicle owners represent a large percentage of traffic fatalities and injuries, with pedestrians and cyclists being disproportionately affected. The City ensured these populations were included in discussions about active transportation goals, challenges, designs, and mobility equity in Banning.

Comprehensive Communication
Outreach was conducted in residents' primary languages (English and Spanish) using easily understandable methods. This included using graphics for technical topics, avoiding jargon and acronyms, and explaining process stages. Community involvement was emphasized throughout planning and will continue during implementation to ensure the Project meets current and future needs.

Varied Engagement Strategies
Citywide events garnered diverse participation and facilitated two-way communication with vulnerable residents. The Project website was/is regularly updated with progress reports and participation opportunities while the City's social media platforms were used to promote active transportation planning, projects, and engagement. Stakeholder workshops and community events were held in-person to encourage face-to-face idea sharing, including meetings with six stakeholder groups such as BUSD and the Morongo Band of Mission Indians. The Stakeholder Advisory Group (SAG), comprised of 10 representative partners, met nine times throughout the planning period.

Collected feedback on key components of the Active Transportation Plan
Resident and stakeholder feedback on the Active Transportation Plan was integral to the proposed Project. This involved three stakeholder workshops, three community events, and various other feedback opportunities, including a "Kit of Parts" demonstration at Market Night in the Project area, where participants selected preferred active transportation improvements for installation in the City of Banning.

Caltrans' active transportation best practices influenced the analysis and selection of improvement options. Banning's Transit Manager actively participated in planning and evaluating proposed active transportation enhancements to avoid negative impacts on traffic flow. For instance, the City found that curb extensions would decrease speeding without disrupting traffic flow.

B. Who: Describe who was/will be engaged in the identification and development of this project and how they were engaged. Describe and provide documentation of the type, extent, and duration of outreach and engagement conducted with relevant stakeholders. Describe any unique engagement challenges that the community faced and how they were addressed. (0-3 points) Limit: 600 words 597/600 .

The entire Banning community was engaged through various channels to gather feedback and shape the Project scope. Outreach efforts targeted all population segments and included public workshops, community events, stakeholder and SAG meetings, social media and website posts, and distribution of surveys at community events, employment fairs, on City buses, in utility bill mailings, online platforms, Banning Parks and Rec monthly newsletter, and at the Senior Center. (See Attachment K-5: Public Surveys).

Public Workshops

Three public stakeholder workshops were hosted at various stages of the planning process, strategically timed to present new information and solicit varied input. Summaries of the three stakeholder workshops are provided below:

#1:Banning Civic Center – 10/27/22

The first stakeholder workshop allowed for conversations about sustainable transportation modes and informed attendees about City planning. Participants provided feedback on potential infrastructure improvements and were also asked to identify problem areas to focus on as priority projects.

#2:Sun Lakes Country Club and Banning Civic Center – 11/7/23 and 5/7/24

The second stakeholder workshop was held in two parts. The first workshop consisted of a presentation for the Sun Lakes Country Club, a 55+ community, to solicit commentary regarding challenges that older adults face and their vision for the future.

The second workshop was an open house and presentation at the Banning Civic Center. A brief presentation was followed by casual conversations about analysis maps, draft priority project corridors, and opportunities for feedback on project recommendations.

#3:Banning Public Library – 3/20/24

The final workshop was held at the Banning Public Library. The venue attracted library visitors that otherwise did not hear about the event and families with young children, providing a safe learning space for the kids while parents spoke with the Project Team. Workshop attendees were excited about the proposed active transportation improvements and started discussions about traffic calming near schools, raised crosswalks, and inquired about next steps.

Community Events

The City engaged residents by participating in citywide events, expanding outreach beyond workshops and online engagement. Below are summaries of the community events:

School Outreach: On October 27, 2022 three community events were held at Central Elementary School, Nicolet Middle School, and Banning High School providing ideal opportunities to speak with the community, specifically students, about more sustainable transportation modes including walking and bicycling.

Banning Disaster Expo: The second community event, held at the annual Banning Disaster Expo on April 15, 2023, provided an ideal platform to discuss existing challenges and opportunities for enhancing walking, biking, and rolling conditions citywide. In addition to garnering input, the Team displayed a remote-controlled traffic calming course designed to teach users about various traffic calming treatments to slow vehicular traffic.

Banning Market Night**:** The third and final community event was hosted with the Banning Chamber of Commerce at the monthly Banning Market Night on May 5, 2023. The City set up a "Kit of Parts" demonstration of five infrastructure improvements and the residents walked through them and voted on the improvements they liked.

Stakeholder Advisory Group Meetings

The City, its Active Transportation Plan expert/consultant, and Southern California Association of Governments (SCAG) identified a diverse and representative group of partners to comprise the SAG. The group includes City departments like Public Works, Parks and Recreation, Community Development, Economic Development, Transit, Police, Fire, Public Relations and the City Manager's Office; the City Council Ad Hoc Downtown Business Owners Committee; BUSD; Western Riverside Council of Governments; Riverside County Transportation Commission; Caltrans; SCAG; Healthy Riverside County Initiative; and Adventure Cycling Association and Inland Empire Bicycle Alliance, both bicycle-oriented organizations. There were nine one-hour stakeholder meetings held online throughout Banning's active transportation planning process.

C. What: Describe the feedback received during the stakeholder engagement process and describe how the public participation and planning process has improved the project's overall effectiveness at meeting the purpose and goals of the ATP. (0-2 points) Limit: 386/400 words

Meeting ATP Goals

By hearing directly from community members about what will motivate them to increase trips accomplished by biking and walking, the City is confident that the active transportation improvements it implements will have the desired effect. By prioritizing a Project location that includes three schools and meeting with the students, parents, and staff of those schools, the City is assured that the Project will benefit children and increase their physical activity, which in turn will reduce childhood obesity and enhance public health. Nearly the entire Project area is a disadvantaged community, helping accomplish the Program goal to ensure that disadvantaged communities fully share in the benefit. The Project prioritizes increased safety and mobility which also aligns with ATP purposes and goals.

Banning Engagement Feedback

The following summary of the active transportation plan survey results represents, but is not inclusive of, the valuable public feedback received.

Community Active Transportation Needs: Respondents were asked to state when they walk, bike, skate, or scooter, do they do it for recreation/health, out of necessity to run errands, for commuting, or other. Feedback indicated 79% of respondents utilize active transportation for recreation/health benefits, 24% out of necessity, and 18% for commuting.

Infrastructure Improvements to Encourage Walking and Bicycling: The next pair of questions asked respondents to state what features would encourage them to walk and bike more in their community. A follow up question was also asked asking respondents to state which infrastructure improvements would facilitate them to reach transit stops. The five most selected options that would make it easier for survey respondents to walk more were: adding missing sidewalks, street lighting, multi-use paths, wider sidewalks, and signalized pedestrian crossings. For bicycle infrastructure improvements that would make it easier to bike more the five most selected options were: bike paths away from the street, protected or painted bike lanes, street lighting, bike parking, and a bikeshare program.

Other Methods of ATP/Travel Used: To get a better sense of other methods people use for active transportation, the next question asked respondents what alternate methods they use to move around actively. Fifty-nine percent of respondents chose "not applicable" meaning they primarily utilize walking and biking when choosing active transportation. Seventeen percent stated that they move around using scooters, 11% stated that they push strollers, and 11% stated that they rollerblade/ skate.

D. Describe how stakeholders will continue to be engaged in the implementation of the project. (0-1 points) Limit: 194/400 words Attach any applicable public participation & planning

documents. Attachment: Continued Stakeholder Engagement and Public Participation Documentation

The City will develop a public information campaign for students and families focused around the three schools in the Project area. The City will educate the public about the new active transportation infrastructure, rights-of-way, and safety precautions, and ask for public input on the new project elements. The City will execute the campaign with a multifaceted approach involving coordination with the local schools to distribute information through newsletters, social media, and parent-teacher meetings, ensuring that families are aware of the new facilities.

Additionally, the City will install informative signage around the new infrastructure and collaborate with local media to run features highlighting the benefits and safety aspects of active transportation. The City will also engage business owners in the Project areas to receive their ongoing feedback about the active transportation changes and slower traffic in the project area.

Hosting community events and workshops, where students, residents, and visitors can learn about and experience the new infrastructure firsthand will further enhance awareness and engagement. By leveraging these diverse channels, the City will effectively communicate the advantages of active transportation, such as improved safety, health benefits, and reduced traffic congestion, thereby encouraging widespread adoption and support.

E. Is this project specifically listed in an approved Active Transportation Plan or similar plan? Provide a brief description of the plan and the public engagement process used to develop the plan. (0-1 points)

Limit: 293/300 words

Description

The Banning Downtown Revitalization and Complete Streets Plan analyzed Downtown Banning to understand how people interact with and experience the area and it outlines the existing conditions in the proposed Project area. It identifies many opportunities to improve accessibility, safety, and comfort for active transportation users, and to elevate daily travelling experiences. The Plan calls out that addressing critical pedestrian and bicycle safety issues is an important need and the challenges of varied right of way segments, missing pedestrian elements, and constrained conditions that do not meet ADA requirements. The Plan also identifies opportunities to redistribute the public right of way for assets such as wider sidewalks, street trees, and bicycle facilities.

Public Engagement

Engagement with community members was a vital part of the planning and design process and it guided decisions for how to best implement new infrastructure to meet community needs. Throughout the plan there were several engagement events with community and stakeholder groups both to gain initial insights and later to get feedback on several design concepts. The

community identified reducing traffic speed and making space for all active transportation users top priorities. People of all ages shared this sentiment but especially students who mentioned the desire for safer routes from schools to Downtown. Public engagement from this Plan is described earlier in more detail under Question 4.B.

Banning's Active Transportation Plan is complete and the City anticipates its City Council will adopt the Plan at its meeting on June 28, 2024. The City's Active Transportation Plan has prepared Banning to implement the proposed Project, as the Plan includes the proposed active transportation improvements. See Attachment K-1.

QUESTION #5: CONTEXT SENSITIVE BIKEWAYS/WALKWAYS AND INNOVATIVE PROJECT ELEMENTS (0-5 POINTS)

A. How are the recognized best solutions employed in this project appropriate to maximize user comfort and for the local community context?

Limit: 678/700 words

As you address this question, consider the following:

- The posted speed limits and actual speed;
- The existing and future motorized and non-motorized traffic volume;
- The widths for each facility;
- The adjacent land use; and
- How the project is advancing a low(er) stress environment on each facility or a low stress network: What is the current stress level? (low, medium, or high?) If the stress level is medium or high, is the project going beyond minimum design standards to maximize and abilities? What features are included to promote low-stress, comfortable, and safe walking and/or biking conditions? Does the project expand on or create a low-stress network?

The City's roadways were analyzed to select improvements that maximize user comfort and community by considering traffic speeds, volume, rights-of-ways and active transportation lane widths.

Posted Speed Limit

The speed limits range from 25 mph on Ramsey, 1st, and San Gorgonio north of Lincoln, and 40 mph on the portion of San Gorgonio south of Lincoln to Banning High School. (See Attachment K-6: Posted Speed Limits.) Posted speed limits and operating speeds along the Project streets played an important role in choosing traffic calming methods and Class IV bike lanes to promote safety and fit community needs.

Traffic Volume According to Banning's General Plan Update, the following are traffic counts and predicted counts for Project streets.

Street	Segment	Existing ADT	Future ADT
Ramsey	8th to San Gorgonio	11,615	15,832
Ramsey	San G Gorgonio to Hargrave	7,198	10,160
San Gorgonio	Ramsey to Lincoln	2,594	4,909
San Gorgonio	Lincoln to Westward	4,899	7,625

The high and growing traffic count requires a separate active transportation network to ensure current and future sustainability of biking in the Project area and to reduce traffic volume. Traffic volume influenced bike lane types by determining safety needs as high-traffic areas on Ramsey Street require protected bike lanes for added safety.

Active Transportation Widths

The Project will narrow vehicle traffic lanes and add the following:

- 34,800 SF of sidewalk on both sides of Ramsey Street that is from 10 feet to 17 feet wide;
- 4,600 LF of Class IV six-feet wide cycletrack on part of San Gorgonio Avenue;
- 6,442 LF of Class IV ten-feet-wide, bi-directional cycletrack with flex divider on part of San Gorgonio Avenue;
- 8,200 LF of Class II six-feet-wide cycletrack on Ramsey Street; and
- traffic-calmed, pedestrian prioritized space north/south along 1st Street between Livingston and Hays, creating a plaza-like space and providing opportunities for community connections and activities to help activate downtown Banning.

Adjacent Land Use

Downtown Banning has limited multifamily housing options. The City has not developed new multifamily rental properties in over twenty years, and currently only has 471 market-rate multifamily rental units. Since 2020 there has been a surge of development permits issued in the City, but most of these permits were issued for single family structures.

New multifamily and high-density development is critical to creating a vibrant Downtown. In 2023, the Banning's City Council approved an ordinance to rezone underutilized commercial, office, and industrial space to facilitate use for alternative housing types. The housing designs will prioritize affordability with more efficient, flexible living spaces, and innovative housing structures, such as micro units and new shared, intergenerational housing models to help meet the needs of aging adults, students, and lower income individuals citywide. See the Ordinance in Attachment K.

There are exciting, planned land uses in the Project area including affordable housing at Ramsey and Alessandro Streets; the Civic Center at San Gorgonio Avenue and Hays Street; mixed use residential development on Ramsey Street between San Gorgonio Avenue and Alessandro Street; new retail along both San Gorgonio Avenue and 1st Street; multifamily residential development at Ramsey and 4th Streets; and new neighborhood shopping on Ramsey, 4th, and Livingston Streets. The Project area will be transformed over the next ten years into a vibrant, mixed-use community with active transportation promoted as the primary method to get around as Banning's Downtown Revitalization Complete Streets Plan is implemented. This Project is critical for supporting these future developments.

Bicycle Level of Traffic Stress (LTS)

A map of Banning's Project area bicycle level of traffic stress (LTS) rankings are shown in Attachment K-7. Nearly all main corridors have a high level of traffic stress (LTS 4). This means that only the most confident, experienced, and capable bicyclists are willing to ride on in the

Project area, while other users may not feel safe and comfortable. Having identified the LTS, high stress areas in the network that need to be mitigated, and infrastructure preferences of different bicyclists through public engagement, the City planned bicycle facilities using a variety of improvements, from traffic calming to separated facilities. The proposed improvements will accommodate as many user types as possible and to provide a comfortable and safe experience for the greatest number of cyclists.

B. Innovative Project Elements: Does this project propose any solutions that are new to the region? Were any innovative elements considered, but not selected? Explain why they were not selected. Limit: 499/ 500 words.

The Project brings several new and innovative active transportation features to the Southern California region including cycle tracks, Class 4 bike lanes, chicanes, a one-way couplet, a woonerf, and potential future expansions with residential neighborways.

Cycle Track and Class 4 Bike Lanes
The cycle track and Class 4 bike lanes are significant advancements in safe, dedicated cycling infrastructure. Unlike traditional bike lanes, these features provide physical separation between cyclists and motor vehicle traffic through the use of curbs for barriers. This design reduces the risk of collisions and creates a more secure environment for cyclists, encouraging more residents to use bicycles for daily commutes and recreational activities. In Southern California, where such infrastructure is relatively new, these enhancements set a precedent for other cities to follow, promoting healthier lifestyles and reducing traffic congestion.

Chicane as a Traffic Calming Measure
The implementation of a chicane—a series of alternating curb extensions that create a winding path for vehicles—is a unique traffic calming measure for the region. Chicanes effectively slow down vehicle speeds by requiring drivers to navigate the curves, thereby enhancing safety for all road users, including pedestrians and cyclists. This method is innovative for Southern California, where traditional traffic calming measures like speed bumps and stop signs are more common. The introduction of chicanes not only improves safety but also adds aesthetic value to the streetscape, making the area more attractive and pedestrian-friendly.

One-Way Couplet Around Nicolet Middle School
The one-way couplet around Nicolet Middle School is another distinctive feature of the Project. This design involves converting two parallel streets into one-way roads that move traffic in opposite directions. This approach can significantly reduce traffic congestion around the school, enhance safety for students during peak hours, and improve traffic flow. By creating a more organized and predictable traffic pattern, the couplet reduces the likelihood of accidents and makes the area more navigable for pedestrians and cyclists.

Woonerf on 1st Street

A woonerf is a shared space designed to prioritize pedestrians/cyclists over motor vehicles. It includes narrowing the vehicle lanes, adding textured surfaces, landscaping, and street furniture to encourage slower vehicle speeds and create a more livable, community-focused environment. This multi-purpose space encourages active transportation use and fosters social interaction making it a valuable addition to Downtown Banning. The introduction of a woonerf is unprecedented in the region, setting a new standard for urban design that prioritizes people over cars.

Future Expansions with Residential Neighborways

The potential future expansions involving residential neighborways, as outlined in Banning's Active Transportation Plan, are low-traffic streets optimized for walking and cycling, often featuring traffic calming measures, improved signage, and enhanced crossings. These expansions will connect residential areas to the proposed core active transportation network along Ramsey Street and San Gorgonio Avenue to bring more users to the cycle track, widened sidewalks and new pedestrian Downtown spaces. By creating a comprehensive network of safe, accessible routes, Banning can significantly boost active transportation usage, reduce reliance on cars, and promote a healthier, more sustainable community.

QUESTION #6: TRANSFORMATIVE PROJECTS (0-5 POINTS)

A. Describe how your project will transform the non-motorized environment:
Limit: 632/750 words
Address the potential for this project to support existing and planned housing, especially affordable housing. Applicants are encouraged to apply for the California Department of Housing and Community Development's (HCD) Prohousing Designation Program and to describe how local policies align with prohousing criteria. If housing is not an issue for the community, explain why it is not a concern.
New bike lanes and sidewalks transform the non-motorized environment in Banning by making it safer, more accessible, healthier, economically vibrant, environmentally sustainable, socially engaging, and less congested. By prioritizing active transportation Downtown, this Project will significantly transform the non-motorized environment of the City in the following impactful ways:

Enhanced Safety: Bike lanes and sidewalks provide dedicated spaces for bicyclists and pedestrians, reducing the risk of conflicts with motor vehicles. Traffic calming features will slow traffic by reducing road space for cars and encouraging slower driving speeds. Improved crosswalks and intersections that prioritize bicyclists and pedestrians will make streets safer for all users and less stressful for active transportation users.

Improved Accessibility: Well-designed bike lanes and sidewalks create a connected network that allows people to travel safely and conveniently throughout Downtown without relying on motorized transport. New infrastructure will have inclusive designs to be accessible for all users, including those with disabilities, improving mobility options for everyone.

Promoted Health and Well Being: By making walking and cycling safer, less stressful, and more attractive, these facilities will encourage more people to engage in physical activity, which can lead to improved public health outcomes and decrease health disparities. Increased walking and cycling can lead to fewer cars on the road, reducing air pollution and contributing to a cleaner environment – especially important in this community that suffers the burdens of high instance of asthma and cardiovascular disease.

Economic Benefits: Enhanced non-motorized infrastructure will boost local downtown business by increasing foot and bike traffic in commercial areas. Neighborhoods and businesses on active transportation networks with bike lanes and sidewalks in good condition often experience increased property values due to the improved quality of life.

Environmental Sustainability: Promoting cycling and walking helps reduce reliance on fossil fuels, contributing to lower greenhouse gas emissions. The Project includes native plantings for shade, cooling, and green spaces, which improve urban biodiversity and aesthetics.

Social Interaction and Community Building: Sidewalks and bike lanes act as public spaces where people can interact, fostering a sense of community. They can be used for events like street fairs, bike rallies, and walking tours, further enhancing community engagement. The 1st Street woonerf or "living street" considers that street is for the community and not just for moving vehicles. It is designed to bring the community together in the heart of Downtown in the center of the Project area.

Incorporating bike lanes and sidewalks into urban planning can lead to more aesthetically pleasing streetscapes, with features such as benches, trees, and public art enhancing the visual appeal of the City.

Housing
The City controls many opportunity sites where development can be incentivized and to encourage potential public benefit elements (e.g. open space or affordable housing). A potential new residential artist living development concept for a five-acre City-owned property along Ramsey and San Gorgonio includes a three-story artist loft building flanked by a multi-story live/work development to the south. The western side of the site includes retail infill along Ramsey and larger hybrid industrial/creative office blocks on Livingston. Smaller lots are vacant at San Gorgonio Avenue and Hays Street and present opportunities for development, including possible Downtown housing. At Ramsey and Martin Streets there is an open three-to-four-acre lot where affordable housing options are being considered. A housing development on the City-owned lot could turn this district into a newer civic/mixed-use area to complement the Downtown core. It is one of the few opportunities to create a development of sufficient size to create its own environment in support of the revitalized Downtown that prioritizes and encourages active transportation. City planners are evaluating the options to find the most beneficial use of the space for the City and its residents. All possible development options would be supported by this Project's active transportation improvements.

B. Describe how other new or proposed funded projects or policies in the vicinity of this project will contribute to the transformative nature of this project.
Limit: 255/600 words
As you address this question, consider items like the following:

- Transit
- The overall non-motorized network
- Land Use
- Local policies and/or ordinances

Transit Connectivity: The Project includes active transportation access to public transit/bus stops and shelter waiting areas. This integration with public transit makes it easier for people to combine active transportation and transit for their journeys. The Project enhances existing transit routes to civic and government facilities and services.

Supports Other Initiatives, Projects, and Policies: The Project will coordinate with ongoing and anticipated opportunities as outlined in Banning's 2023 Downtown Revitalization Complete Streets Plan and its 2024 Active Transportation Plan.

Downtown Revitalization Land Use: Key areas of Downtown land use interest that are a part of the proposed Project area include:

- Near the intersection of Ramsey and San Gorgonio – This area is the center of Downtown, with existing entertainment-oriented businesses including the Fox Theater. It presents the clearest opportunity to build upon assets to revitalize Downtown.
- Ramsey near 4th and 3rd Streets – This area presents a number of opportunity sites, including a potential open space next to the Boys and Girls Club. New development and open space could complement social service uses.
- City-Owned Large Development Site – The large development site is a unique opportunity to build a new section of Downtown, connected to City Hall, to complement the historic Downtown core.
- San Gorgonio North – This area also has cultural, educational and recreational assets and a pleasant street character. The area could be strengthened in its function as a neighborhood corridor connecting downtown to residential areas further north.
- 8th St and Ramsey – This area is an important arrival point to the City and vehicular gateway to downtown.

Please attach documentation that supports the transformative nature of the project.

Attachment: Transformative Project Documentation: Banning Ordinance 1596: Downtown Commercial Zoning District Update and Downtown Revitalization Complete Streets Plan

QUESTION #7: SCOPE AND PLAN LAYOUT CONSISTENCY AND COST EFFECTIVENESS (0-7 POINTS)

The evaluators will consider the following:

- Consistency between the layouts/maps, Engineer's Estimate, and proposed scope
- Compliance with the Engineer's Checklist and cost effectiveness
- Complete project schedule

No response is needed/allowed here.

QUESTION #8: LEVERAGING FUNDS (0-5 POINTS)

A. Is this project being submitted by a federally-recognized Tribal Government and/or is it on federally-recognized Tribal Lands? Yes or No.
No

B. Does the applicant have any leveraging funds? Yes or No.
Yes

C. Based on the project funding information provided earlier in the application (Part A6: Project Funding), the following Leveraging amounts are designated for this project. These amounts should match the amounts shown in Part A6: Project Funding. Non-ATP funding can only be considered "Leveraging" funding if it goes towards ATP eligible costs. If the project includes ineligible costs, the application must confirm the leveraging funding shown below does not include the non-ATP funds for ineligible items.

Phase	Leveraged Funding	Funding Type
PA&ED	$19,740 $468,000 $61,216 PA&ED TOTAL: $548,956	City Cash- Expended City Match HSIP Cycle 10 City Cash- Expended City Match HSIP Cycle 11 City Cash- Expended City Match CPUC Section 130
PS&E		
ROW		
CON		
Total Leveraging	$548,956	

D. Please complete the table below:

	Amount
Total project Costs from Part A6:	**$24419**
Total Leveraging from Table Above:	$549
Leveraging Percent of Total Project Cost:	***Auto fills: 0.0224852555701**

Attach Leveraging Letter of Commitment.

Other leveraging documentation (optional) attach here.

Optional: If desired, clarifications can be added to explain the leveraging funding and its intended use on the ATP project.
Limit: 100 words

QUESTION #9: USE OF CALIFORNIA CONSERVATION CORPS (CCC) OR CERTIFIED LOCAL COMMUNITY CONSERVATION CORPS (CALCC) (0 OR -5 POINTS)

Under statute, applicants are required to seek CCC and CALCC (or Tribal Corps, if applicable) participation in their ATP project. Points will be deducted if an applicant does not seek Corps participation or if an applicant intends not to utilize a Corps in a project in which the Corps can participate. Applicants who are not requesting construction (or non-infrastructure) funds are not required to consult with the Corps.

Applicants must consult with the Corps every ATP cycle and for each application submitted. Applicants may not use Corps consultation from previous ATP cycles or from other ATP applications to satisfy this requirement.

Step 1: Corps Consultation

The applicant must submit the ATP Corps Consultation Form to both the CCC and CALCC at least ten (10) business days prior to application submittal. The CCC and CALCC will respond within ten (10) business days from receipt of the form.

The ATP Corps Consultation Form and additional instructions can be found at:

- California Conservation Corps ATP website
- Certified Local Conservation Corps ATP website

Please select one of the following:

- Applicant has consulted with the CCC and CALCC (or Tribal Corps, if applicable). Provide documentation below. (0 points)
- Applicant has NOT consulted with the CCC and CALCC (or Tribal Corps, if applicable). (-5 points)
- Applicant is not requesting construction funds from the ATP, so Corps consultation is not required. (0 points)

Attach submittal email, response email, and any attachment(s) from the CCC.
See Attachment 10

Attach submittal email, response email, and any attachment(s) from the CALCC.
See Attachment 11

Attach submittal email, response email, and any attachment(s) from the Tribal Corps (If applicable). Not applicable.

Step 2: Use of Corps

The applicant has coordinated with the CCC AND CALCC, or Tribal Corps if applicable, and determined the following:

- No corps can participate in the project (0 points)
- The applicant intends to utilize the CCC, CALCC, or the Tribal Corps for the project (0 points)
- At the time that the application was submitted, the applicant had not received a response from the Corps (0 points)
- The CCC, CALCC, and/or Tribal Corps can participate in the project, but the applicant intends not to use the Corps (-5 points)
- Applicant did not request corps participation (-5 points)

How will the Corps participate? Limit 100 words From CCC form:

The CCC and LCC may be able to carry out the following Banning Downtown Active Transportation Improvement Project tasks:

• demolition;

• sidewalk removal and replacement;

• sign installation; and

• irrigation and landscaping.

QUESTION #10: APPLICANT'S PERFORMANCE ON PAST ATP FUNDED PROJECTS (0 TO -10 Points):

Points may be deducted for poor past performance on an ATP project. Poor past performance includes, but is not limited to, the non-use of the Corps as committed to in a past ATP award or adverse audit findings on a past ATP project that is the fault of the applicant. The Commission will assess the need to deduct points for the failure to deliver any phases of an ATP project programmed in a prior cycle.

No response is needed/allowed here.

Part C: Application Attachments

Applicants must ensure all data in this part of the application is fully consistent with the other parts of the application. See the Application Instructions and Guidance document for more information and requirements related to Part C.

Depending on project type, some attachment fields will not be available to the applicant.

Application Attachments A-K

Attachment A: Application Signature Page
Attachment B: Engineer's Checklist
Attachment C: Project Location Map
Attachment D: Project Layouts/Plans (Proposed Conditions)
Attachment E: Photos of Existing Conditions
Attachment F: Project Estimate
Attachment G: Non-Infrastructure Work Plan *Not applicable for this project type*
Attachment H: Plan Scope of Work *Not applicable for this project type*
Attachment I: Letters of Support
Attachment J: State-Only Funding Request Exhibit 25-F *Not applicable for this project*
Attachments K: Additional Attachments
- K-1: 2024 City of Banning Active Transportation Plan (Link and Full Document)
- K-2: 2023 Downtown Revitalization and Complete Streets (DRCS) Plan Link
- K-3: Disadvantaged Community Map: CalEnviroScreen 4.0
- K-4: Disadvantaged Community Map: Healthy Places Index (HPI)
- K-5: Public Surveys
- K-6: Posted Speed Limits
- K-7: Bicycle Level of Traffic Stress (LTS)

Narrative Attachments

Project Programming Request Exhibit 25-I
Regional Active Transportation Alignment Document
DAC Map
Census Tract Profiles
Select Pages of DRCS Plan with Project Highlights
Barrier and New Improvement Maps
TIMS Maps and Data
Continued Stakeholder Engagements and Public Participation Documentation
Transformative Project: Ordinance 1596 Downtown Commercial Zoning District Update and DRCS Plan (Full Document)
Leveraging Letter of Commitment
California Conservation Corp Response
Certified Local Community Conservation Corp Response

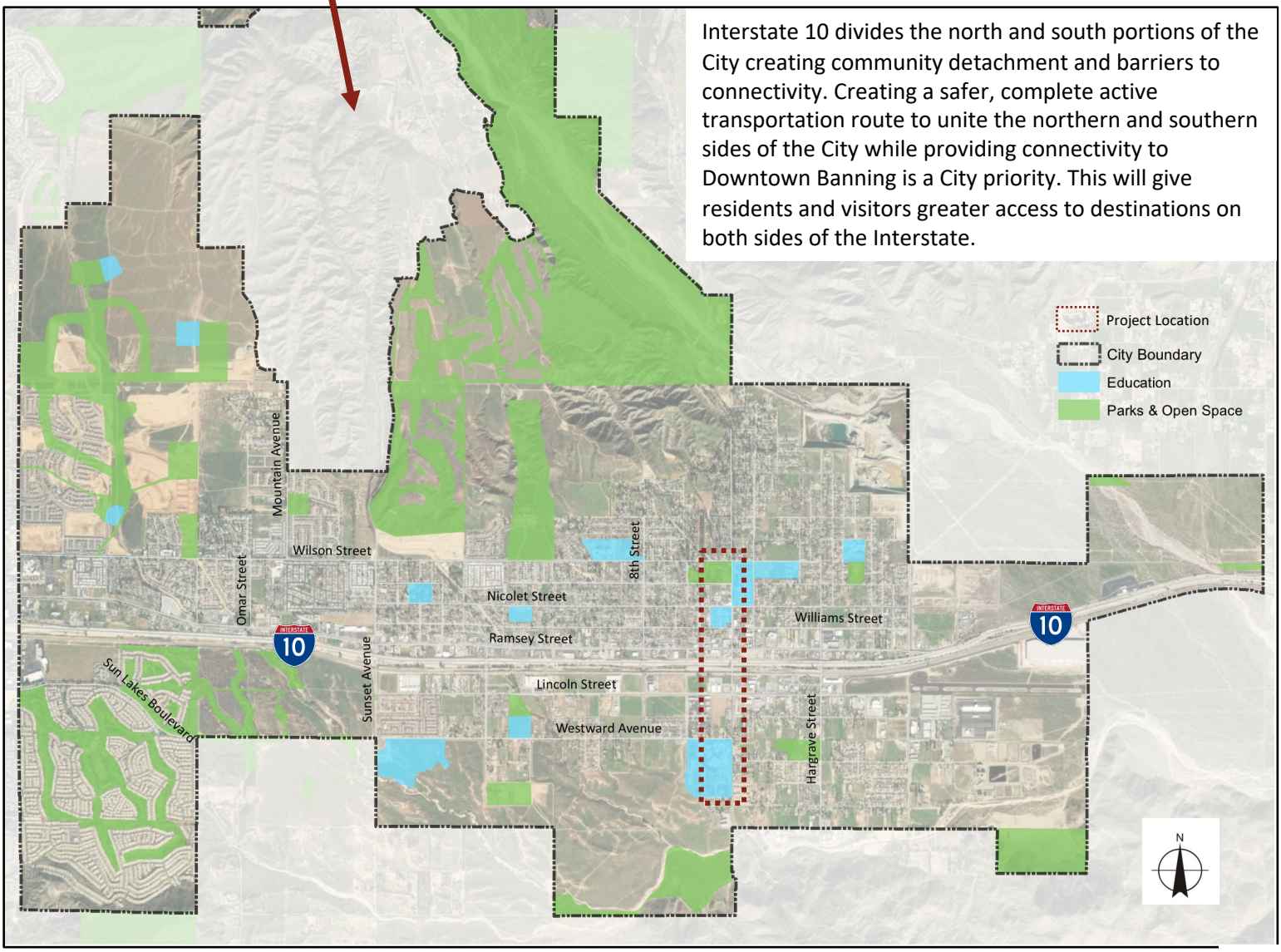
Figure C.1



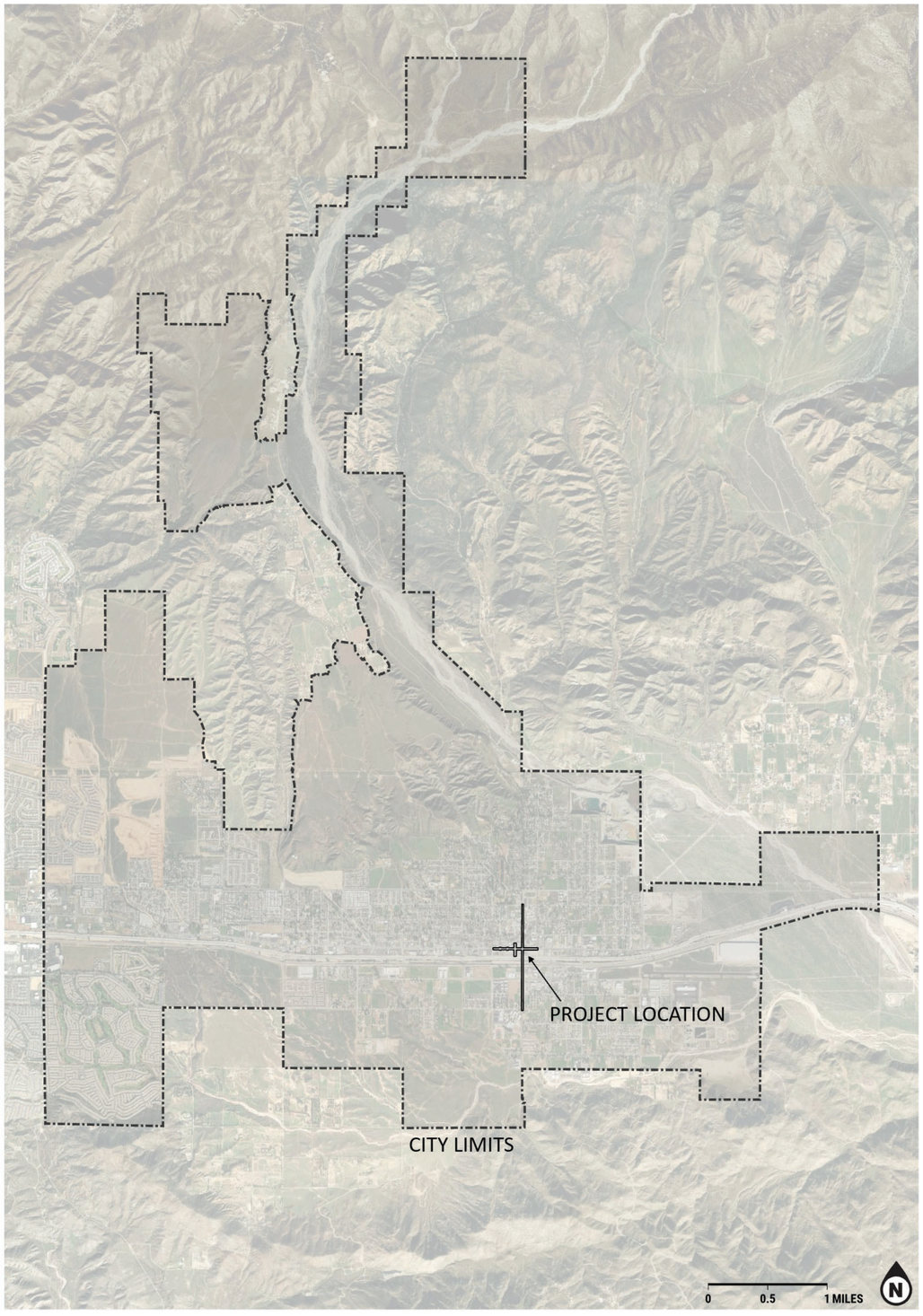
The City of Banning is located in Riverside County, California approximately 84 miles east of the City of Los Angeles and spans 23.2 square miles. Banning is a historically underserved community nestled between more affluent areas, such as the Palm Springs resort area to the east and areas of greater means to the west.

Figure C.2

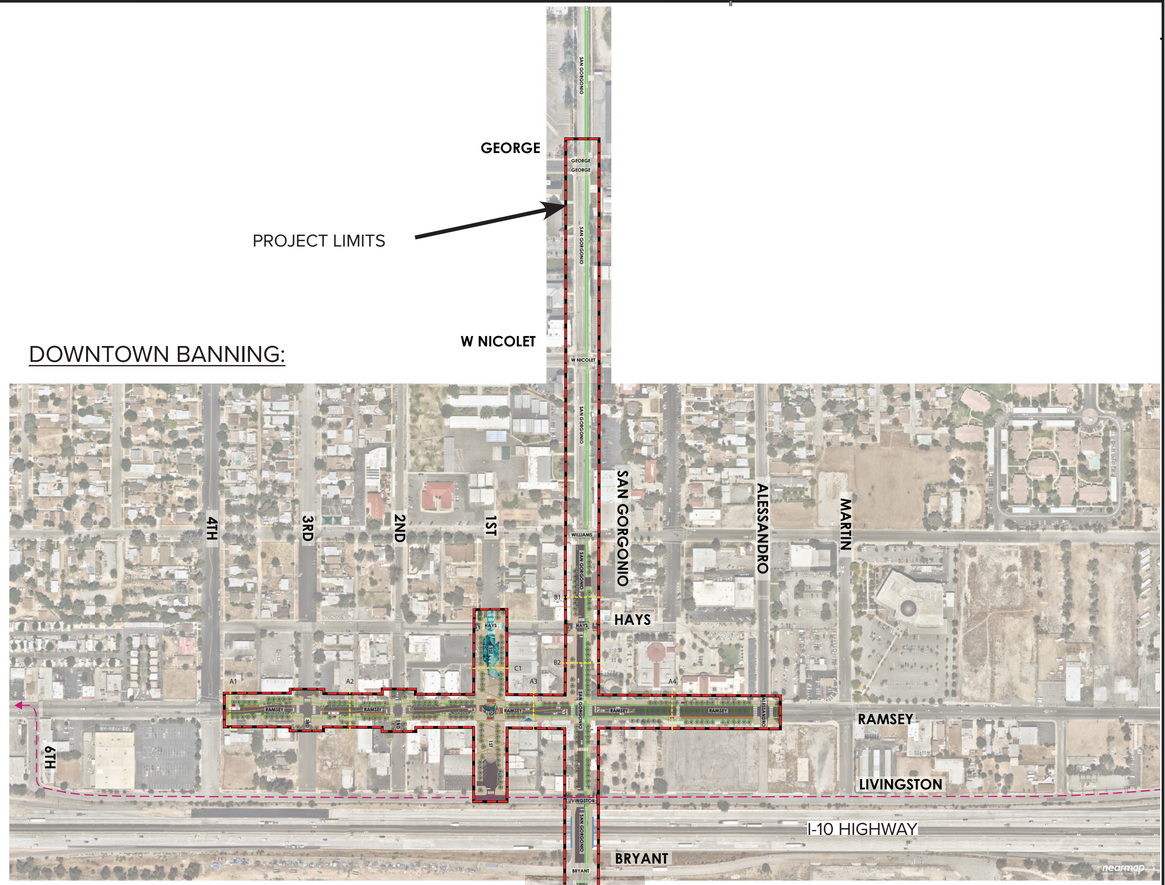
Interstate 10 divides the north and south portions of the City creating community detachment and barriers to connectivity. Creating a safer, complete active transportation route to unite the northern and southern sides of the City while providing connectivity to Downtown Banning is a City priority. This will give residents and visitors greater access to destinations on both sides of the Interstate.



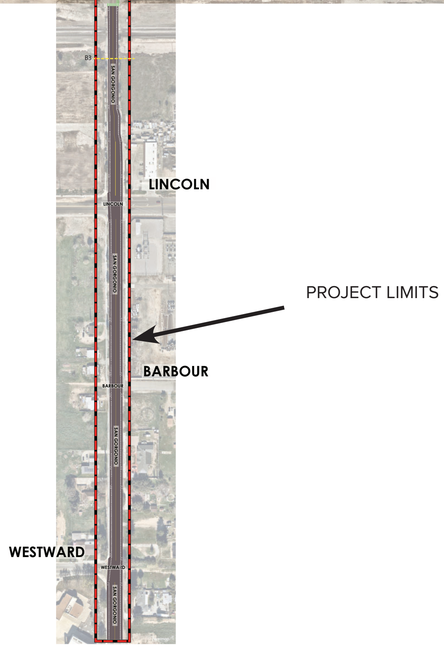
CITY OF BANNING



DOWNTOWN BANNING:



Ramsey Street is the vibrant “Main Street” of Downtown Banning, running east-west, while San Gorgonio Avenue runs north-south through Downtown, connecting key spots on both sides of Interstate-10. From Central Elementary, Nicolet Middle, and Banning High Schools, and vital places like the Senior Center, Police Station, Post Office, Civic Center, and the only library, these roads are lifelines for the disadvantaged Banning community. Currently dominated by vehicular traffic, these streets will undergo a dramatic transformation. The Downtown Active Transportation Improvement Project will revolutionize these car-centric roads, creating safer, more welcoming spaces for pedestrians and cyclists. This bold initiative will reshape Downtown Banning, bringing significant benefits to the community, which has historically been underserved.



PROJECT NO:
DESIGNED BY: JR
DRAWN BY: JR
REVIEWED BY: --
DATE: 6.11.2024
SCALE: 1"=20'

ISSUE

MARK	DESCRIPTION	DATE	INITIAL

alta
711 SE Grand Avenue | Portland, OR 97214
503-230-9862 | altago.com

BANNING, CA
ATP CYCLE 7 GRANT
2024.086

City of Banning

SHEET TITLE
ATP SUPPORT EXHIBIT
PROJECT
LOCATION MAP

SHEET NO.
102

SHEET 2 OF 25

Dwg filename: N:\Shared\PROJECTS\2022\00-2022-112 Banning, CA Downtown Revitalization\Products\ATP Support\products\CAD\2022-112-EXH-BanningROW.dwg Last saved by: joelramirez Plot date: 6/4/2024 2:09 PM Plotstyle table: ALTA.NCS
tb 1605 st

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Robert Fisher, Acting City Manager**
PREPARED BY:	**Nicole Jews, Human Resources Manager** **Robert Fisher, Interim City Manager**
MEETING DATE:	**May 27, 2025**
SUBJECT:	**Consideration of Resolution 2025-72, Amending Administrative Policy (AP) No. B-35 – Grant Management/Administration**

RECOMMENDATION:

Adopt Resolution 2025-72.

BACKGROUND:

The Administrative Policies provide a guide for the administrative operation of the City. These policies are regulatory in nature and adopted by the City Council. From time to time, it is necessary to amend the City's Administrative Policies to maintain a current plan that reflects new and amended regulations/laws, organizational structure, and department needs.

JUSTIFICATION:

Approve requested amendment to the Grant Management/Administration policy.

FISCAL IMPACT:

None

ALTERNATIVES:

Do not adopt Resolution 2025-72 and provide alternative direction to staff.

BUDGETED?:

Yes

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. Resolution 2025-72, Grant Policy Update.docx
2. B-25_Grant_Management - Revised.pdf
3. B-25 Grant Management Policy.pdf

RESOLUTION 2025-72

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, TO APPROVE THE REVISION TO ADMINISTRATIVE POLICY B-25 GRANT MANAGEMENT/ ADMINISTRATION

WHEREAS, the Administrative Policies provide a guide to the administrative operation of the city and at times need revision, deletions and/or additions; and

WHEREAS, the Administrative Policy, B-25 Grant Management/Administration, needed a revision to language in the policy; and

WHEREAS, the City Council desires to authorize the City Manager, or designee, to execute the proposed plan documents on behalf of the City, along with any future amendments that contain only non-substantive and/or administrative changes to the plan documents.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The City Council adopts the Administrative Policy, B-25 - Grant Management/ Administration.

SECTION 2. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 27th day of May, 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

John Pinkey, Interim City Attorney
Slovak Baron Empey Murphy & Pinkney, LLP

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-72, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 27th day of May, 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

Exhibit A
Administrative Policy B-25
Grant Management/Administration

City of Banning Grant Management / Administration		**Policy No:** B-25
		ORIGINATING DEPARTMENT: Administrative Services
		Reference: Administrative Policy
SUPERSEDES: 3/2015	**EFFECTIVE DATE:** ~~4/22/2025~~ 05/27/2025	**PAGE** 1 of 7
REFERENCE: Approved By Resolution No. 2025-XX on ~~April 22~~May 27, 2025		

Attached is Grant Management / Administration Policy

City of Banning
Grant Management / Administration

Effective Date: 5/2025
Review Date: 4/2025
Prepared by: Office of the City Manager

PURPOSE:

The City of Banning recognizes that grant funding provides significant resources to enhance the City's ability to provide and activities that are not otherwise available. The City will seek grant funding for activities that are determined to further City functions or that provide activities which are in the best interest of City residents. The City will examine the benefits of grant funding prior to application and decline funding determined not to meet the above criteria. The purpose of this policy is to:

- Provide procedures related to the requirements for application and contracts for Federal/State grants; and
- Ensure that City departments are accountable for proper grant documentation, administration and activities.

Policy:

Grant Contract/Requirements for Approval

Prior to acceptance of any funding or expenditure of funds on any grant activity, a written contract is required. A resolution and approval by the City Council is required before a grant award can be accepted by the City.

Grant Application

Timely grant application/submission to agencies is the responsibility of the department/division. If a grant requires matching City funds, in any amount, or if the grant application requires the approval of the City Council, all grant applications must be submitted to the City Council for consideration and approval to prior to submittal to the funding agency. ~~Otherwise, the grant application may be signed by the City Manager/Deputy City Manager.~~ All grant applications/submissions must be approved by the City Manager and/or City Council, under the provisions of the limits established in the City of Banning Purchasing Policy, B-30. This action may involve preparation of a City Council agenda item for inclusion on the next regular meeting agenda for consideration. In the event that a grant cannot be presented at City Council due to a short timeline, staff is required to bring the grant to city Council at the first available meeting for consideration.

Compliance with Grant Requirements

The City department/division is responsible for compliance with all aspects of grant requirements (terms), including monitoring to ensure that:

- Grant activities/projects are properly accomplished;
- Grant accounting/recording is accurate
- Performance reports are complete and submitted according to the terms of the grant; and
- Requests for reimbursement (drawdown) are accurate and submitted on schedule (or as soon as possible after completion of related grant activities).
- Sub-recipients are in compliance with OMB circular A-133 regulations and provisions of the grant program requirements per city policies and procedures.

Maintenance and Monitoring of Grants Files

The official grant file including a copy of the signed contract and all documents associated with the grant, including but not limited to the contract and amendments, application, activity reports, request for reimbursement, fiscal reports, and other correspondence will be professionally maintained by the initiating department/division.

Grant monitoring is a critical management tool to determine whether departments/grantees have implemented the funded program, achieved the outlined objectives, and properly expended funds. Active grant files are subject to review by the Administrative Services Division, without prior notification to the appropriate department/division.

Grant Revenues/Expenditures

The City Council must authorize acceptance of grant funds, approve matching funds, and authorize the City Manager (or designee) to execute all necessary documents. The Finance Department upon direction from the City Council is responsible for increasing revenues and increasing an appropriation of the same amount to the proper accounts.

All grant revenues will be deposited to revenue accounts specific to the grant and grant year. The Finance Department will create and maintain grant identification specific to each grant and provide tracking of activity (revenue, expenses, and accruals).

For reimbursement-based, multi-year grants, both revenues and expenditures are budgeted in the year during which the grant activity will be performed. Reimbursements for grant activities performed in one fiscal year and not actually received until the next fiscal year will be accrued.

The department/division and the Finance Department are responsible for ensuring that grant revenues are deposited into the proper revenue accounts immediately upon receipt. The department/division is responsible for monitoring and ensuring that grant expenses are recorded in the proper expenditure accounts.

Matching Funds

Funds provided for match may come from existing program funds, however, overall budget/fund allocations, for the stated program purpose, cannot be reduced below the original allocation amount as a result of receiving the grant funding. Matching funds be obligated by the end of the grant period.

Procurement

When goods or services must be procured in order to accomplish the goals of the grant program, City procurement policies and procedures will be followed.

Grant Reimbursement Procedures

Grant and contact billings will be prepared monthly or as needed. Project managers will review project expense detail, noting all eligible project costs based on grant requirements. Identified costs will be forwarded by the Project Manager to the Principal Analyst for verification and preparation of the appropriate documents (i.e., invoices and related backup, contracts) along with a summary listing of all identified eligible expenses.

The principal Analyst will deliver the entire billing package to the Sr. Accountant in the Finance Department. The Sr. Accountant will verify the mathematical accuracy of the summary listing and that all listed items are supported with backup documentation. The Sr. Accountant will prepare the actual grant reimbursement billing and forward the entire reimbursement request package to the Deputy Finance Director for final review and signoff. The Deputy Finance Director will verify that all appropriate signatures are present on the summary listing, perform a review of the underlying documentation, and sign off on the reimbursement request package. The package will be returned to the Sr. Accountant for mailing or electronic submittal to the appropriate federal or state granting agency.

Close Out

Official close out of a grant should occur when the awarding agency determines that the City (grantee) has completed all applicable administrative actions and work required under the grant. Grants should be closed out when the grant has expired (reached the end date) and all open administrative, compliance, legal and audit issues have been resolved. A federal awarding agency may choose to close a grant administratively if the grantee fails to provide the required documents, is no longer a valid operating entity, is non-responsive or fails to cooperate. Within 90 days after the end date of the award or any approved extension (revised end date), the department grant administrator must submit the required close-out documents (final progress/financial report) to the grantor (funding agency). Prior to submission of these documents, the department grant administrator should request final payment for reimbursement of expenditures made within the approved period in conjunction with the final financial status report.

The grant recipient (department/division) must promptly refund any balances of unobligated cash that the grantor has advanced or paid and that is not authorized to be retained by the recipient for use in other projects. If award funds must be returned to the grantor at award close-out, the department grant administrator shall remit a check (via the Finance Department) with cover letter indicating the grant award number and the unobligated balance.

Retention and Maintenance of Records

In accordance with the requirements set forth in the Federal Office of Management & Budget (OMB) administrative requirements circulars, all financial records, supporting documents, statistical records and all records pertinent to the award shall be retained by the department/division for at least three (3) from the date of submission of the final expenditure report. Retention is required for purposes of State/Federal examination and audit.

PROCEDURE:

Responsibility	Action

Dept/Division

- ☐ Identify and seek grant funding to further City Services/activities.
- ☐ Prepare grant application.
- ☐ If grant application includes matching funds, request approval from City Council prior to submission to funding agency.
- ☐ Acquire grant signature authorization(s).
- ☐ Submit grant application to funding agency.
- ☐ Acquire written contract from funding agency.
- ☐ Upon award of grant, request approval from City Council.
- ☐ Monitor and comply fully with grant requirements (terms).
- ☐ Maintain comprehensive files for each awarded grant.
- ☐ Follow City procurement policies to accomplish goals of grant program/project.
- ☐ Monitor revenue/expenditures monthly to ensure accuracy of financial transactions.
- ☐ Prepare grant status report(s) for City management upon request.
- ☐ Ensure timely close out of grant (within 90-days after end date of award).
- ☐ Return unobligated funds (if applicable) to funding agency.
- ☐ Retain files/records per retention policy.

City Manager (or Designee)

- ☐ Complete grant signature authorization form.

City Council

- ☐ Approve/deny requesting grant matching funds.
- ☐ Approve acceptance of grant funds.
- ☐ Authorize the City Manager (or designee) to execute all necessary documents.
- ☐ Direct Finance/Accounting Division to increase revenues and increase appropriation of expenses to proper general ledger accounts.

Finance/Accounting

- ☐ Upon approval by City Council, increase revenues and increase appropriation of expenses to proper financial system accounts.
- ☐ Create unique grant identification for tracking grant activity (revenues, expenditures, accruals).
- ☐ Assist department grant administrator in preparation/submission of draw downs, financial performance reports, close out, etc.
- ☐ Prepare annual Single Audit report for external auditors.

CITY OF BANNING ADMINISTRATIVE POLICY		
Subject: Grant Management/Administration		Policy No. **B-25**
Reference:	**Effective: 3/2015** **Review Date: 7/2018**	Page No. 1 of 4

Attached is Grant Management/Administration Policy

City of Banning

Grant Management/Administration

Effective Date: 3/2015
Review Date: 7/2018
Prepared by: Administrative Services

Approved: _____ Department

_____ City Manager

PURPOSE:

The City of Banning recognizes that grant funding provides significant resources to enhance the City's ability to provide services and activities not otherwise available. The City will seek grant funding for activities that are determined to further City functions or that provide activities which are in the best interest of City residents. The City will examine the benefits of grant funding prior to application and decline funding determined not to meet the above criteria. The purpose of this policy is to:

- Provide procedures related to the requirements for application and contracts for Federal/State grants; and
- Ensure that City departments are accountable for proper grant documentation, administration and activities.

POLICY:

Grant Contract/Requirements for Approval

Prior to acceptance of any funding or expenditure of funds on any grant activity, a written contract is required. A resolution and approval by the City Council is required before a grant award can be accepted by the City.

Grant Application

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Compliance with Grant Requirements

The City department/division is responsible for compliance with all aspects of grant requirements (terms), including monitoring to ensure that:

- grant activities/projects are properly accomplished;
- grant accounting/recording is accurate;
- performance reports are complete and submitted per terms of the grant; and
- request for reimbursement (drawdown) are accurate and submitted on schedule (or as soon as possible after completion of related grant activities).
- Sub-recipients are in compliance with OMB circular A-133 regulations and provisions of the grant program requirements per city policies and procedures.

Maintenance and Monitoring of Grant Files

The official grant file including a copy of the signed contract and all documents associated with the grant, including but not limited to the contract and amendments, application, activity reports, request for reimbursement, fiscal reports, and other correspondence will be professionally maintained by the initiating department/division.

Grant monitoring is a critical management tool to determine whether departments/grantees have implemented the funded program, achieved the outlined objectives, and properly expended funds. Active grant files are subject to review by the Administrative Services Division, without prior notification to the appropriate department/division.

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The department/division and the Finance Department are responsible for ensuring that grant revenues are deposited into the proper revenue accounts immediately upon receipt. The department/division is responsible for monitoring and ensuring that grant expenses are recorded in the proper expenditure accounts.

Matching Funds

Funds provided for match may come from existing program funds, however, overall budget/fund allocations, for the stated program purpose, cannot be reduced below the original allocation amount as a result of receiving the grant funding. Matching funds must be obligated by the end of the grant period.

Procurement

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Grant Reimbursement Procedures

Grant and contract billings will be prepared monthly or as needed. Project managers will review project expense detail, noting all eligible project costs based on grant requirements. Identified costs will be forwarded by the Project Manager to the Principal Analyst for verification and preparation of the appropriate documents (i.e., invoices and related backup, contracts) along with a summary listing of all identified eligible expenses.

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summary listing, perform a review of the underlying documentation, and sign off on the reimbursement request package. The package will be returned to the Sr. Accountant for mailing or electronic submittal to the appropriate federal or state granting agency.

Close Out

Official close out of a grant should occur when the awarding agency determines that the City (grantee) has completed all applicable administrative actions and work required under the grant. Grants should be closed out when the grant has expired (reached the end date) and all open administrative, compliance, legal and audit issues have been resolved. A federal awarding agency may choose to close a grant administratively if the grantee fails to provide the required documents, is no longer a valid operating entity, is non-responsive or fails to cooperate. Within 90 days after the end date of the award or any approved extension (revised end date), the department grant administrator must submit the required close-out documents (final progress/financial report) to the grantor (funding agency). Prior to submission of these documents, the department grant administrator should request final payment for reimbursement of expenditures made within the approved period in conjunction with the final financial status report.

The grant recipient (department/division) must promptly refund any balances of unobligated cash that the grantor has advanced or paid and that is not authorized to be retained by the recipient for use in other projects. If award funds must be returned to the grantor at award close-out, the department grant administrator should remit a check (via the Finance Department) with a cover letter indicating the grant award number and the unobligated balance.

Retention and Maintenance of Records

In accordance with the requirements set forth in the Federal Office of Management & Budget (OMB) administrative requirements circulars, all financial records, supporting documents, statistical records and all records pertinent to the award shall be retained by the department/division for at least three (3) years from the date of submission of the final expenditure report. Retention is required for purposes of State/Federal examination and audit.

PROCEDURE:

Responsibility	Action
Dept/Division	❑ Identify and seek grant funding to further City services/activities. ❑ Prepare grant application. ❑ If grant application includes matching funds, request approval from City Council prior to submission to funding agency. ❑ Acquire grant signature authorization(s). ❑ Submit grant application to funding agency. ❑ Acquire written contract from funding agency. ❑ Upon award of grant, request approval from City Council. ❑ Monitor and comply fully with grant requirements (terms). ❑ Maintain comprehensive files for each awarded grant. ❑ Follow City procurement policies to accomplish goals of grant program/project. ❑ Monitor revenue/expenditures monthly to ensure accuracy of financial transactions. ❑ Prepare grant status report(s) for City management upon request. ❑ Ensure timely close out of grant (within 90-days after end date of award). ❑ Return unobligated funds (if applicable) to funding agency. ❑ Retain files/records per retention policy.
City Manager (or designee)	❑ Complete grant signature authorization form.
City Council	❑ Approve/deny requesting grant matching funds. ❑ Approve acceptance of grant funds. ❑ Authorize the City Manager (or designee) to execute all necessary documents. ❑ Direct Finance/Accounting Division to increase revenues and increase appropriation of expenses to proper general ledger accounts.
Finance/Accounting	❑ Upon approval by City Council, increase revenues and increase appropriation of expenses to proper financial system accounts. ❑ Create unique grant identification for tracking grant activity (revenues, expenditures, accruals). ❑ Assist department grant administrator in preparation/submission of draw downs, financial performance reports, close out, etc. ❑ Prepare annual Single Audit report for external auditors.

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Robert Fisher, Acting City Manager**
PREPARED BY:	**Robert Fisher, Acting City Manager**
MEETING DATE:	**May 27, 2025**
SUBJECT:	**Consideration of Homeless Services**

RECOMMENDATION:

Provide staff direction for wraparound services.

BACKGROUND:

Both the Social Work Action Group and the Pass Area Faith in Action gave presentations. The strategic plan for SWAG specifically targets unsheltered individuals, families, and encampments to reduce the number of visible homeless residing in the City of Banning. With the assistance of the Banning Police Department, SWAG will identify and address individual and geographical areas of concern to prioritize our efforts. SWAG will provide consistent outreach and case management services to those most in need, with the ultimate goal of mitigating an individual's root cause(s) of their homelessness and to live a fulfilling and meaningful life. SWAG will reduce the homeless population both visibly and documented through the annual Point-in-Time Count.

Faith in Action's mission is committed to helping low-income, at-risk and unhoused individuals obtain resources to meet their health, educational housing and workforce development needs. Through the partnership with IEHP, they aim to enhance the health and well-being of the community. Faith in Action seeks to take over Opportunity Village.

JUSTIFICATION:

Homeless Encampments pose a serious public safety risk, often causing fires and exposing encampment residents to increased risk of sexual violence and criminal activity, to property damage and break-ins, and unsanitary conditions affecting both residents and neighbors. And they dampen and deter both commercial and recreational activity through the accumulation of hazardous material and excessive debris, harming downtowns and depriving Californians of their public spaces. Large encampments and those with semi-permanent structures exacerbate and perpetuate these harms.

FISCAL IMPACT:

The Social Work Action Group is seeking $48,502 per month ($582,024 per year). The term of services will be July 1, 2025-June 30, 2026. SWAG will provide the following activities and services:

- Assist with the organization and facilitation of the Point-in-Time Count for January 2026.
- Respond to homeless service requests made by city staff, and law enforcement in a timely manner.
- All individuals encountered will be included in the by-name census for the City of Banning.
- Provide immediate crisis stabilization to those experiencing behavioral health, physical crisis and

emergencies and connection to behavioral health and substance abuse treatment services.
- Case manage individuals that are in treatment and temporary living situations to help ensure they do not return to the streets.
- Facilitate trips home/family reunification utilizing bus trips for individuals wanting to reunite with an identified support system that is out of the Banning area.
- Provide support to the City of Banning through training, presentations and sharing updates related to trends in regional homeless efforts.
- Attend and participate in City Council meetings, as requested.

Faith in Action is seeking $400,000 annually from the City's remaining Emergency Relief and COVID Response funds to cover: Salaries for staff, security, and case management. Along with site maintenance, utilities and operational overhead. Faith in Action will also be responsible for program reporting and compliance monitoring.

ALTERNATIVES:

1. Contract with the Social Work Action Group for services at $582,024 per year for services.
2. Contract with Faith in Action to take over Opportunity Village for $400,000 per year.

Other alternatives not discussed:

1. Hire a Banning Police Officer to work full time as a homeless liaison ($273,242 per year).
2. Rent other housing in the Pass area and dismantle Opportunity Village.

BUDGETED?:

No

CONTRACT/AGREEMENT:

Yes

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Robert Fisher, Acting City Manager**
PREPARED BY:	**Marisol Lopez,** **Robert Fisher, Acting City Manager**
MEETING DATE:	**May 27, 2025**
SUBJECT:	**Consideration of an Agreement with Wanderlust Events for a Summer Food Truck Event Series located at City-Owned Property located at 150 E. Ramsey Street, Banning, CA 92220**

RECOMMENDATION:

City Council is requested to provide direction and approval regarding the proposed event series' costs and logistics as outlined in this report.

BACKGROUND:

At the May 13, 2025, Item 9.2 regular meeting of the City Council, staff were directed to bring back information regarding a Summer Food Truck event series. Staff have worked with the desired vendor to compile the information provided here.

Banning Food truck business owners that are permitted with Riverside County Health and City of Banning Business Tax Certificate (Banning Business License) shall be allowed to participate in food truck city events, provided they possess a valid City of Banning business license. This will ensure compliance with local regulations while supporting local businesses and enhancing the variety of food options available to residents and visitors.

JUSTIFICATION:

Overview

This report serves to provide an update and seek direction from the City Council regarding the proposed Wanderlust Summer food truck event to be held on city-owned property at 150 E. Ramsey St., Banning, CA 92220. The event is set to commence on Sunday, June 1, 2025, and will run every Sunday for eight weeks, concluding on July 18, 2025.

Temporary Use Permit

In compliance with Riverside County health regulations, a temporary use permit is required and has been processed the associated fee of $1,103 has been waived per the direction of the City Manager via email. This permit is essential to ensure that health and safety standards are met during the event.

Event Logistics

1. *Event Schedule:*
   - **Dates: Every Sunday from June 1, 2025, to July 18, 2025.**
2. *Portable Restroom Options*

Staff has evaluated several options for portable restrooms, essential for the comfort and convenience of attendees. Below are the proposed options along with their associated costs:

- **Option #1:**
  - **Weekly Cost:** $370 to $400
  - **Details:** 2 portable restrooms (including 1 handicap) and a handwashing station. Delivered on Fridays with a 4-hour delivery window and picked up on Monday mornings.
  - **Total for 8 Weeks:** Up to $3,200.
- **Option #2:**
  - **Weekly Cost:** $525 (includes an additional Saturday delivery charge of $175).
  - **Details:** Units delivered on Saturdays. This option may be reduced to $125 each week for multiple weeks.
  - **Total for 8 Weeks:** Up to $4,150.
- **Option #3:**
  - **Monthly Fee:** $625 for the entire event period (includes $150 to $200 initial delivery charge).
  - **Details:** Units would remain on site for the entire duration with weekly service on Fridays. However, there are significant risks of vandalism and damage if left unattended.
  - **Recommendation:** Not a viable option based on past incidents.

Security and Support Services
To mitigate potential issues, staff has reached out to the Banning Police Department for occasional patrols during the event days. Additionally, staff is in discussions with Alexander from the Wanderlust food truck festival company to cover costs associated with trash service, security, tables, porta potties and chairs.

Recommendations
1. *Portable Restroom Selection:* Staff recommends Option #1 for the portable restrooms due to lower costs and manageable logistics. The potential for vandalism with longer-term placement (as seen in past events) supports this recommendation.
2. *Approval of Costs:* Staff requests City Council approval for the associated costs of the event, including portable restroom services, security, trash service, and any additional necessities.
3. *Recommended Action:* Staff recommends the event coordinator (Wanderlust Events) cover the City's costs of portable restrooms, tables, chairs and security officers to reduce financial pressure on the city from these events.

Conclusion
The Wanderlust Summer food truck event is an exciting opportunity for community engagement and local business support. With the City Council's direction and approval, staff will proceed with the necessary arrangements to ensure a successful event.

FISCAL IMPACT:
Currently there are no funds allocated by City Council to these events. Therefore, money would need to be identified in the General Fund to fund any event components.

	Who Is Responsible	Cost to Provide
Temporary Use Permit	City - Fees Waived by City Council	(-1,103 in revenue)
Rental/Lease Agreement	City - Fees Waived by City Council	(-$1,500 in revenue)
Portable Restrooms		$3,200 to $4,150 total (City quote) $1,605.48 (Wanderlust quote)
Security	City	$1,298.64/night or **$10,389.12** total
Trash Service	Wanderlust Events	$0

Tables & Chairs	Wanderlust Events	Grand Party Rentals: $458.95 x 8 = **$3,671.60** Wow Party Rentals: $280.00 x 7.75%= $21.70 + tax= $301.70 x 8 = **$2,413.60**
Public Works Labor & Lighting Costs	City	$6,114.40
Insurance	City	**TBD**
Total Minimum Cost:	**City**	**$22,117.12**

ALTERNATIVES:

The City Council may choose any combination of options provided above.

BUDGETED?:

No

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. TUP Processing Times
2. Light Towers
3. Insurance Coverage
4. TUP Cost
5. Security Cost Estimates.pdf
6. Porta Potty Rentals Information
7. Porta Potties Alternative
8. Tables and Chairs Quote: Grand Party Rentals
9. Tables and Chairs Quote: Wow Party Rentals
10. Wanderlust Email - Tables, Chairs, Trash
11. Copy of Wonderlust Food Truck PW Costs 5.22.25.xlsx

From: David Newell
Sent: Friday, May 16, 2025 10:08 AM
To: Marisol Lopez; Robert Fisher; Ralph Wright
Cc: Caroline Patton
Subject: Re: Hemet Food Truck Temporary Use Permit and waiver of all costs discussion

The TUP process typically takes 4 weeks **if application is complete upon first submittal** (I emphasize this because an incomplete application can delay the process longer than 4 weeks). Because this is a Council priority, we can expedite the TUP and shorten that timeframe to two weeks, but the application should be submitted to SmartGov application portal ASAP.

Here is the TUP application and list of requirements: https://banningca.gov/DocumentCenter/View/5455
Here is an example of a site plan: https://banningca.gov/DocumentCenter/View/13994/Sample-Site-Plan--City-of-Banning

David A. Newell, AICP
Director, Community Development Department
City of Banning
Direct Line: 951-922-3131
dnewell@banningca.gov
99 E. Ramsey Street
Banning, CA 92220
www.banningca.gov

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From: Marisol Lopez <marisol.lopez@banningca.gov>
Sent: Thursday, May 15, 2025 7:11 PM
To: Robert Fisher <rfisher@banningca.gov>; David Newell <dnewell@banningca.gov>; Ralph Wright <rwright@banningca.gov>
Cc: Caroline Patton <cpatton@banningca.gov>
Subject: Re: Hemet Food Truck Temporary Use Permit and waiver of all costs discussion

Hi @Robert,

I sent Alexander the link to apply for the business license.

Riverside County is requiring a Temporary Use Permit (TUP) in order to issue the necessary county permit for hosting the event.
These are the logistical challenges I anticipated, especially given the tight timeline. I'm more than happy to assist in moving things forward; however, with ICSC and a fully booked schedule this week, my availability is limited. I'll do as much as I can to support the process.

The county has stated that a copy of the TUP submittal or approval be issued/emailed by tomorrow. To proceed, Riverside County needs either the issued permit or confirmation from the City of Banning in an email confirming that Alexander from Wanderlust Events to Rebecca Barraza Riverside County—stating that a TUP application has been submitted. At this point, I cannot provide that confirmation because the TUP has not been submitted.

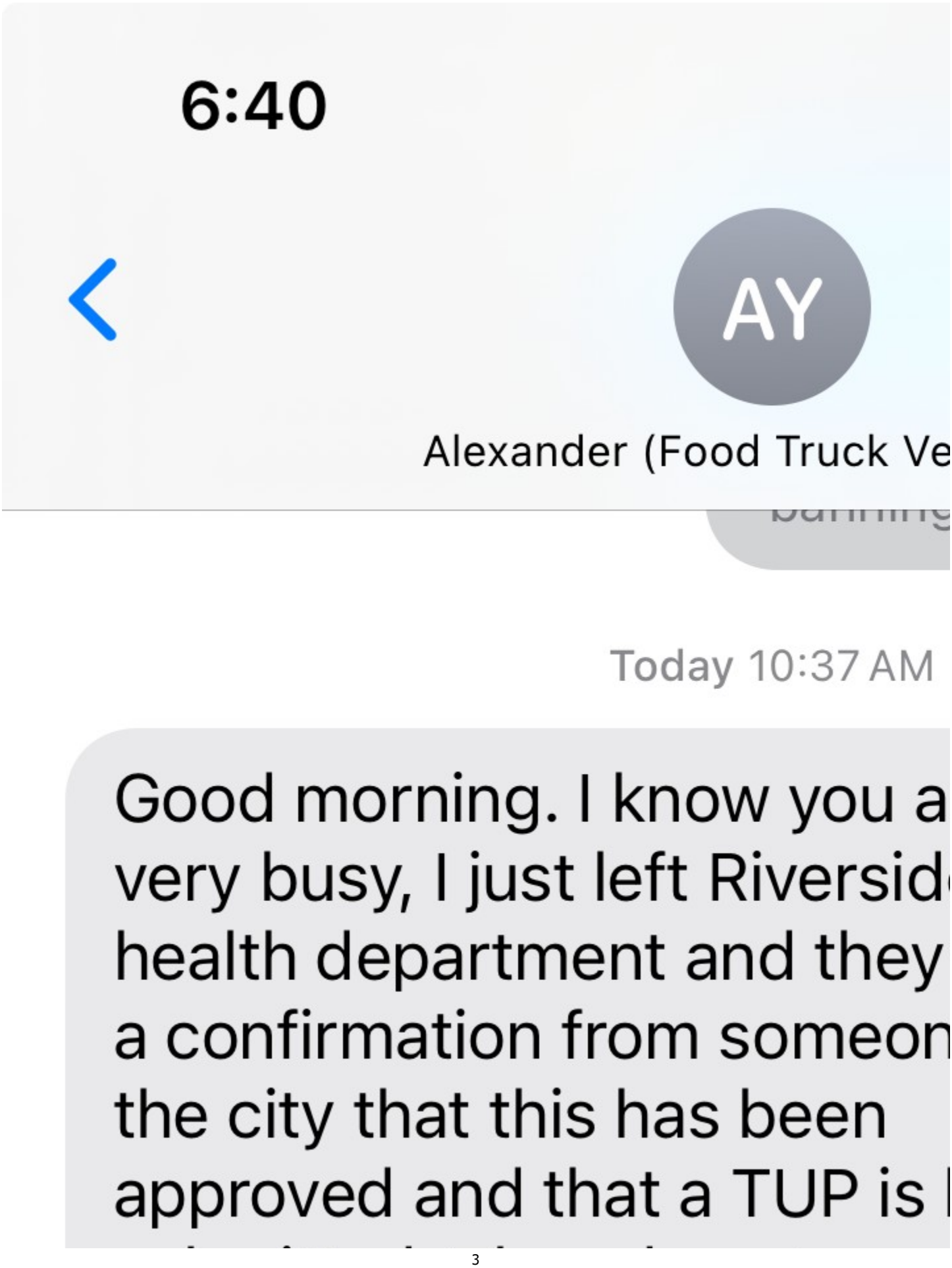
@Robert, if you'd like to move forward, please send an email to:

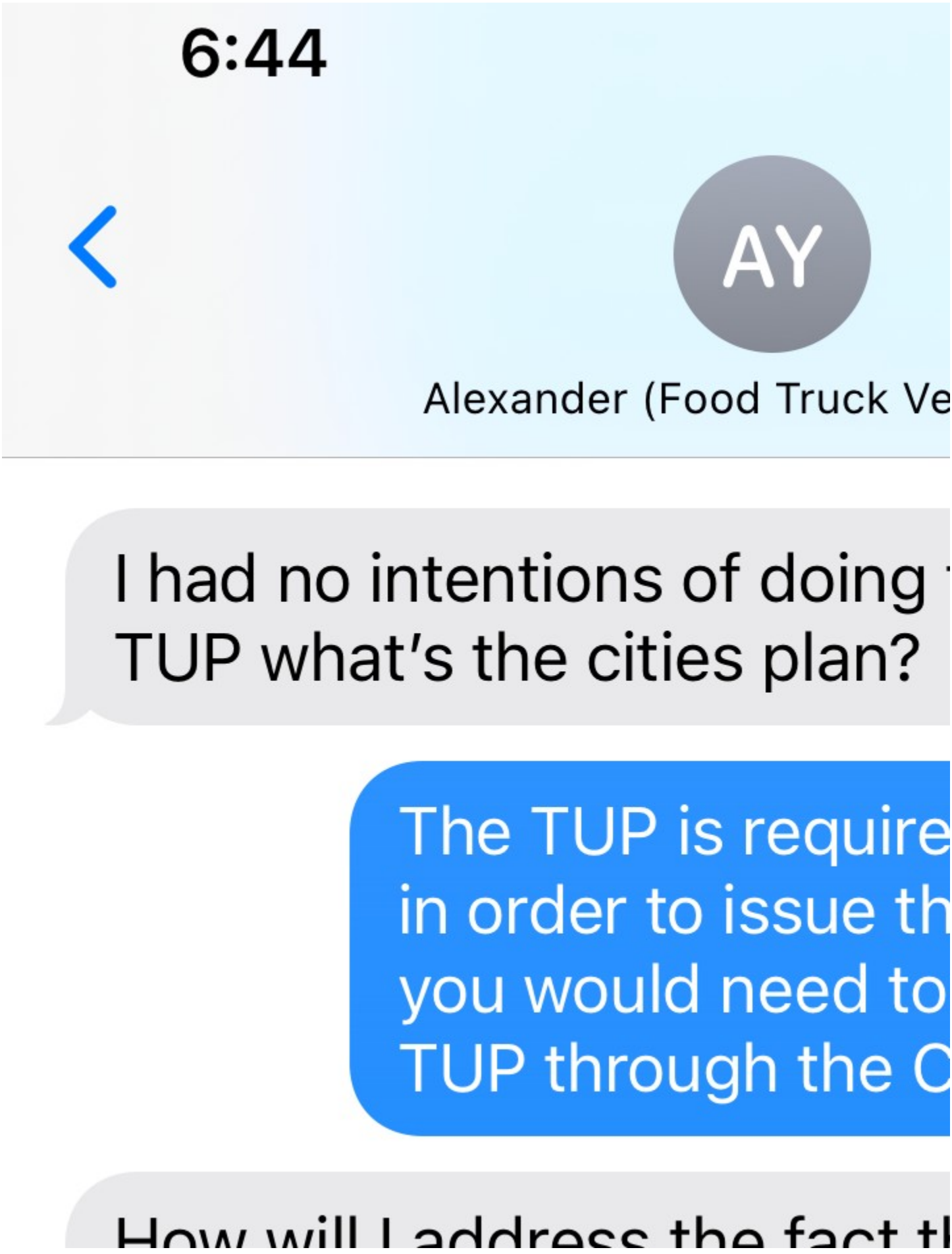
Rebecca Barraza
Riverside County
rbarraza@rivco.org

The county requires a copy of the issued permit due to life and safety concerns related to the event.

@David, what's the fastest your team can process the TUP?

Alexander from Wanderlust Events
sent me the text messages attached below for your reference. The gray boxes contain his messages, and the blue boxes are my responses.


6:40
AY
Alexander (Food Truck Ve
Today 10:37 AM
Good morning. I know you a
very busy, I just left Riversid
health department and they
a confirmation from someon
the city that this has been
approved and that a TUP is


6:44
AY
Alexander (Food Truck Ve
I had no intentions of doing
TUP what's the cities plan?
The TUP is require
in order to issue th
you would need to
TUP through the C
How will I address the fact th

Marisol Lopez
Economic Development Manager
City of Banning
Direct Line: (951) 922-3181
City Cell : (909) 222-8235
marisol.lopez@banningca.gov
99 E. Ramsey Street
Banning, CA 92220
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From: Robert Fisher <rfisher@banningca.gov>
Sent: Thursday, May 15, 2025 9:16:06 AM
To: Marisol Lopez <marisol.lopez@banningca.gov>
Subject: RE: Hemet Food Truck Temporary Use Permit and waiver of all costs discussion

I think that was the only item Council was requiring them to obtain. Have you looked into the costs for bathrooms, picnic tables & chairs, along with trash cans?

Robert Fisher
Police Lieutenant
(Acting City Manager)

Banning Police Department
Direct Line: 951-849-1669
Direct Fax: 951-922-0039
rfisher@banningca.gov
P.O. Box 1177
125 E. Ramsey Street
Banning, CA 92220
www.banningca.gov

From: Marisol Lopez <marisol.lopez@banningca.gov>
Sent: Wednesday, May 14, 2025 6:34 PM
To: Robert Fisher <rfisher@banningca.gov>
Cc: Ralph Wright <rwright@banningca.gov>
Subject: RE: Hemet Food Truck Temporary Use Permit and waiver of all costs discussion

Just to confirm the Food Truck Wanderlust Events will need to obtain a business license for the entire event or each food truck obtain a business licenses?

Best regards,

My core working hours are Monday to Thursday from 7:30 AM to 5:30 PM. I will respond to your email as soon as possible.

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From: John O. Pinkney <pinkney@sbemp.com>
Sent: Wednesday, May 14, 2025 10:06 AM
To: Robert Fisher <rfisher@banningca.gov>
Subject: Hemet Food Truck Temporary Use Permit and waiver of all costs discussion

https://citizenportal.ai/Search/View?dp=1&key=2836391-6872af066493d00e7c79771ca5dff61a&start=12515&end=13944

From: Arturo Vela
Sent: Saturday, May 17, 2025 8:34 AM
To: Marisol Lopez
Cc: David Newell; Robert Fisher; Ralph Wright; Caroline Patton
Subject: Re: Hemet Food Truck Temporary Use Permit and waiver of all costs discussion

I just learned that the water department's light tower is not working. We have parts on order. In the meantime we are going to see if we can make the parking lots brighter.

Sent from my iPhone

> On May 16, 2025, at 7:50 PM, Marisol Lopez <marisol.lopez@banningca.gov> wrote:
>
> Update, I just got off the phone with Alexander the Food Truck Coordinator and convinced him to take care of the trash cans and clean up himself. One more item off our list.
>
> @Arturo Vela we will need the light towers for the events.
>
> Best regards,
>
> ***My core working hours are Monday to Thursday from 7:30 AM to 5:30 PM. I will respond to your email as soon as possible.***
>
> **Marisol Lopez**
> ***Economic Development Manager***
> **City of Banning**
> P: (951) 922-3181
> *C*: (909) 222-8235
> marisol.lopez@banningca.gov
> 99 E. Ramsey Street
> Banning, CA 92220
> www.banningca.gov
>
> <image002.png>
>
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> **Thank you!**
>
> **From:** Marisol Lopez <marisol.lopez@banningca.gov>
> **Sent:** Friday, May 16, 2025 7:37 PM
> **To:** David Newell <dnewell@banningca.gov>; Robert Fisher <rfisher@banningca.gov>; Ralph Wright <rwright@banningca.gov>; Arturo Vela <avela@banningca.gov>

Cc: Caroline Patton <cpatton@banningca.gov>
Subject: Re: Hemet Food Truck Temporary Use Permit and waiver of all costs discussion

@Robert, we need you to provide direction as to approval for the costs of the portapotties and what budget will be paying for the cost.

@Ralph if @Robert approves can you order and setup the delivery of the portapotties?

As for the tables, I asked Alexander the Food Truck Event Coordinator, set-up and pay for the tables and he agreed.

I also emailed Holly regarding the trash cans and she connected me with Alexa I will coordinate the box trashcans, but we will need you @Robert to approve City Staff to work and pick up trash cans at the end of the event.

@Arturo Vela I'm assuming it will be overtime for Public Works staff or @Ralph do you have any suggestions? Who do I coordinate with to work the events picking up at the end of the event?

Thank you @David and team for getting the TUP moving at lightning speed.

Kind regards,

Marisol Lopez

Economic Development Manager

City of Banning
Direct Line: (951) 922-3181

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From: David Newell <dnewell@banningca.gov>
Sent: Friday, May 16, 2025 10:07:30 AM

To: Marisol Lopez <marisol.lopez@banningca.gov>; Robert Fisher <rfisher@banningca.gov>; Ralph Wright <rwright@banningca.gov>
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<image005.png>
<image006.png>

Marisol Lopez

Economic Development Manager

City of Banning
Direct Line: (951) 922-3181

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marisol.lopez@banningca.gov

99 E. Ramsey Street

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<image003.png>

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<image007.png>

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Cc: Ralph Wright <rwright@banningca.gov>
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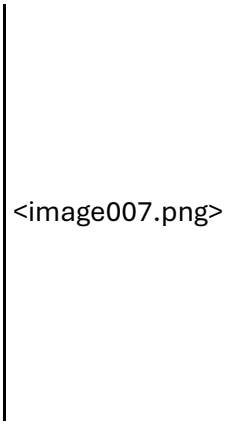


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Robert Fisher
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From: Marisol Lopez <marisol.lopez@banningca.gov>
Sent: Wednesday, May 21, 2025 6:26 PM
To: HR Department; Robert Fisher
Subject: Just to confirm liability insurance for 150 East Ramsey St., Banning, CA 9220 property

Good evening,

Per the request of the City Council and Acting City Manager @Robert, I am writing to confirm that the City of Banning holds liability insurance coverage for the property located at 150 East Ramsey Street, Banning, California.

The City Council has approved the development of a summer food truck event in collaboration with Wanderlust Events. For reference, this was discussed under agenda item 9.2 during the May 13, 2025, City Council meeting. If you have any questions or require further information, please feel free to contact @Robert.

Thank you for your attention to this matter.

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Robert Fisher, Acting City Manage**
PREPARED BY:	**Robert Fisher, Acting City Manage**
MEETING DATE:	**May 13, 2025**
SUBJECT:	**Discuss and Provide Direction to Food Truck Event on City-Owned Street**

RECOMMENDATION:

Requested by Mayor Flynn.

BACKGROUND:

Requested by Mayor Flynn.

JUSTIFICATION:

Requested by Mayor Flynn.

FISCAL IMPACT:

Requested by Mayor Flynn.

ALTERNATIVES:

Requested by Mayor Flynn.

BUDGETED?:

Marisol Lopez
Economic Development Manager
City of Banning
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From: David Newell
Sent: Wednesday, May 21, 2025 5:09 PM
To: Marisol Lopez; Caroline Patton; Cornelio Datuin; Arturo Vela; Robert Fisher
Cc: Ralph Wright; Michelle Green
Subject: Re: Hemet Food Truck Temporary Use Permit and waiver of all costs discussion

Hi Marisol,
The TUP fee that was waived is $1,103.

David A. Newell, AICP
Director, Community Development Department
City of Banning
Direct Line: 951-922-3131
dnewell@banningca.gov
99 E. Ramsey Street
Banning, CA 92220
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From: Marisol Lopez <marisol.lopez@banningca.gov>
Sent: Tuesday, May 20, 2025 6:18 PM
To: Caroline Patton <cpatton@banningca.gov>; Cornelio Datuin <cdatuin@banningca.gov>; Arturo Vela <avela@banningca.gov>; Robert Fisher <rfisher@banningca.gov>
Cc: David Newell <dnewell@banningca.gov>; Robert Fisher <rfisher@banningca.gov>; Ralph Wright <rwright@banningca.gov>; Michelle Green <mgreen@banningca.gov>
Subject: Re: Hemet Food Truck Temporary Use Permit and waiver of all costs discussion

Good afternoon team,

Please provide a total cost of what it will cost to rent the Porta potties, lighting and any other cost for this event to occur. Council is requesting the full financial impact of the food truck event be reported back to city council in the next city council meeting as an agenda item. With a full fiscal impact to the City of Banning. @Robert Fisher please provide direction as to what is needed. You sent me a text message, but I need clarification and so does the staff. I will be driving back from Las Vegas tomorrow. so I will have limited to no reception or communication.

Sincerely,

Marisol Lopez
Economic Development Manager
City of Banning
Direct Line: (951) 922-3181
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---

From: Caroline Patton <cpatton@banningca.gov>
Sent: Monday, May 19, 2025 9:19:16 AM
To: Cornelio Datuin <cdatuin@banningca.gov>; Arturo Vela <avela@banningca.gov>; Robert Fisher <rfisher@banningca.gov>
Cc: David Newell <dnewell@banningca.gov>; Robert Fisher <rfisher@banningca.gov>; Ralph Wright <rwright@banningca.gov>; Marisol Lopez <marisol.lopez@banningca.gov>; Michelle Green <mgreen@banningca.gov>
Subject: Re: Hemet Food Truck Temporary Use Permit and waiver of all costs discussion

Reminder that the current budgets for these accounts are likely already dedicated to purchases. We will need to allot new monies for anything connected to this event.

Caroline Patton, MPA, CMC
Administrative City Clerk
City of Banning
Direct Line: 951-922-3102
cpatton@banningca.gov
99 E. Ramsey Street
Banning, CA 92220
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From: Cornelio Datuin <cdatuin@banningca.gov>
Sent: Monday, May 19, 2025 9:01:20 AM
To: Arturo Vela <avela@banningca.gov>; Robert Fisher <rfisher@banningca.gov>
Cc: David Newell <dnewell@banningca.gov>; Robert Fisher <rfisher@banningca.gov>; Ralph Wright <rwright@banningca.gov>; Marisol Lopez <marisol.lopez@banningca.gov>; Caroline Patton <cpatton@banningca.gov>; Michelle Green <mgreen@banningca.gov>
Subject: RE: Hemet Food Truck Temporary Use Permit and waiver of all costs discussion

Good morning.

Please use CE2501 – Summer Food Truck Event to track all expenses connected to the event.

For the expenses connected to the event, which fund/account number will we be charging them to? Currently, these are the account numbers connected to community promotions:
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Thank you,
Cornelio M Datuin Jr
Budget and Financial Analyst
Finance Department
City of Banning
Direct Line: (951) 922-2663
E-mail: cdatuin@banningca.gov
99 E Ramsey St
Banning, CA 92220
www.banningca.gov

From: Arturo Vela <avela@banningca.gov>
Sent: Saturday, May 17, 2025 8:36 AM
To: Cornelio Datuin <cdatuin@banningca.gov>
Cc: David Newell <dnewell@banningca.gov>; Robert Fisher <rfisher@banningca.gov>; Ralph Wright <rwright@banningca.gov>; Marisol Lopez <marisol.lopez@banningca.gov>; Caroline Patton <cpatton@banningca.gov>
Subject: Re: Hemet Food Truck Temporary Use Permit and waiver of all costs discussion

Cornelio,
Can we get a project code to track staff time?
Sent from my iPhone

On May 16, 2025, at 7:36 PM, Marisol Lopez <marisol.lopez@banningca.gov> wrote:

@Robert, we need you to provide direction as to approval for the costs of the portapotties and what budget will be paying for the cost.

@Ralph if @Robert approves can you order and setup the delivery of the portapotties?

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I also emailed Holly regarding the trash cans and she connected me with Alexa I will coordinate the box trashcans, but we will need you @Robert to approve City Staff to work and pick up trash cans at the end of the event.

@Arturo Vela I'm assuming it will be overtime for Public Works staff or @Ralph do you have any suggestions? Who do I coordinate with to work the events picking up at the end of the event?

Thank you @David and team for getting the TUP moving at lightning speed.

Kind regards,

Marisol Lopez
Economic Development Manager
City of Banning
Direct Line: (951) 922-3181
City Cell : (909) 222-8235
marisol.lopez@banningca.gov
99 E. Ramsey Street
Banning, CA 92220
www.banningca.gov

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To: Marisol Lopez <marisol.lopez@banningca.gov>; Robert Fisher <rfisher@banningca.gov>; Ralph Wright <rwright@banningca.gov>
Cc: Caroline Patton <cpatton@banningca.gov>
Subject: Re: Hemet Food Truck Temporary Use Permit and waiver of all costs discussion

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Here is the TUP application and list of requirements:
https://banningca.gov/DocumentCenter/View/5455
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David A. Newell, AICP
Director, Community Development Department
City of Banning
Direct Line: 951-922-3131
dnewell@banningca.gov
99 E. Ramsey Street
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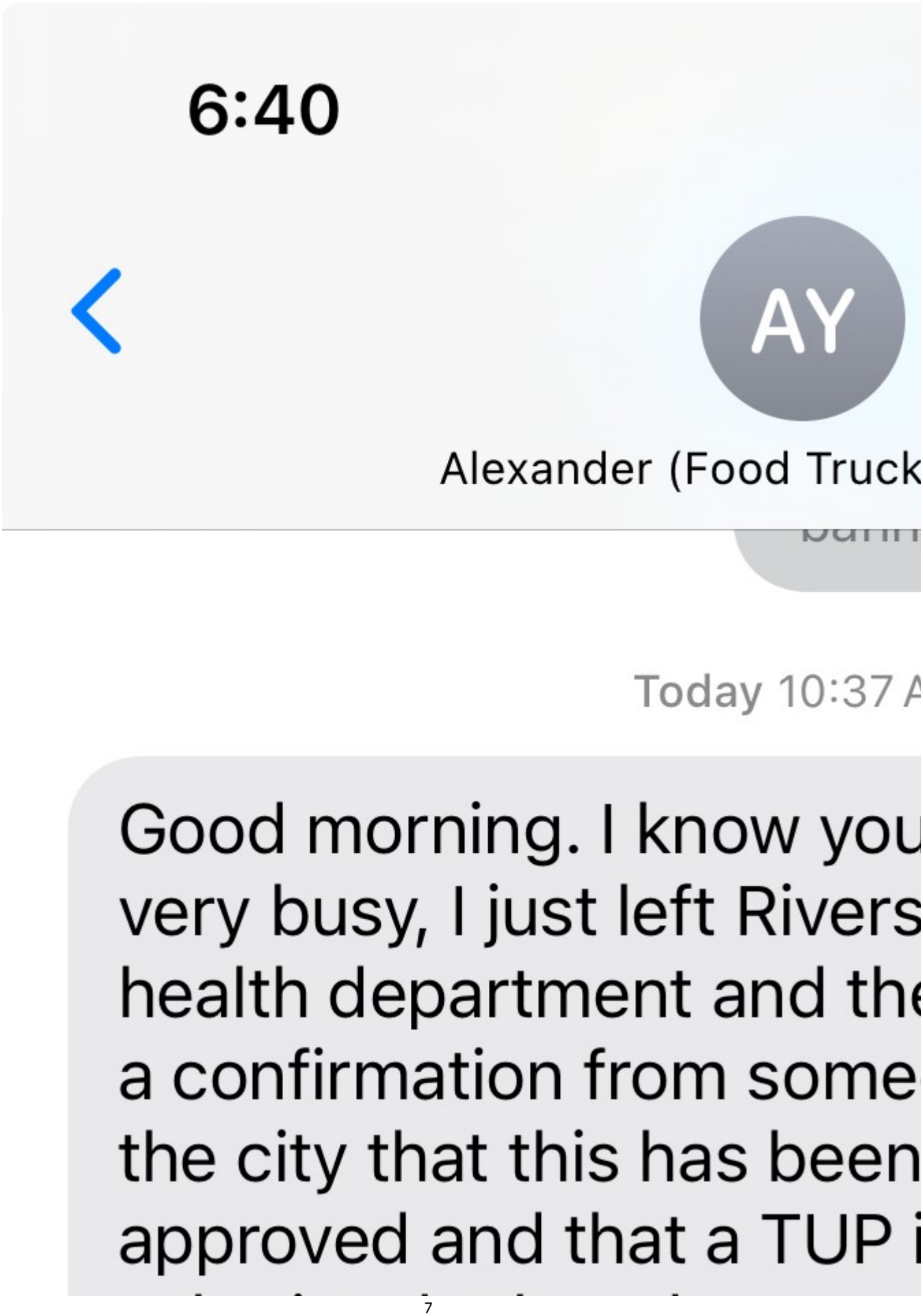
From: Marisol Lopez <marisol.lopez@banningca.gov>
Sent: Thursday, May 15, 2025 7:11 PM
To: Robert Fisher <rfisher@banningca.gov>; David Newell <dnewell@banningca.gov>; Ralph Wright <rwright@banningca.gov>
Cc: Caroline Patton <cpatton@banningca.gov>
Subject: Re: Hemet Food Truck Temporary Use Permit and waiver of all costs discussion

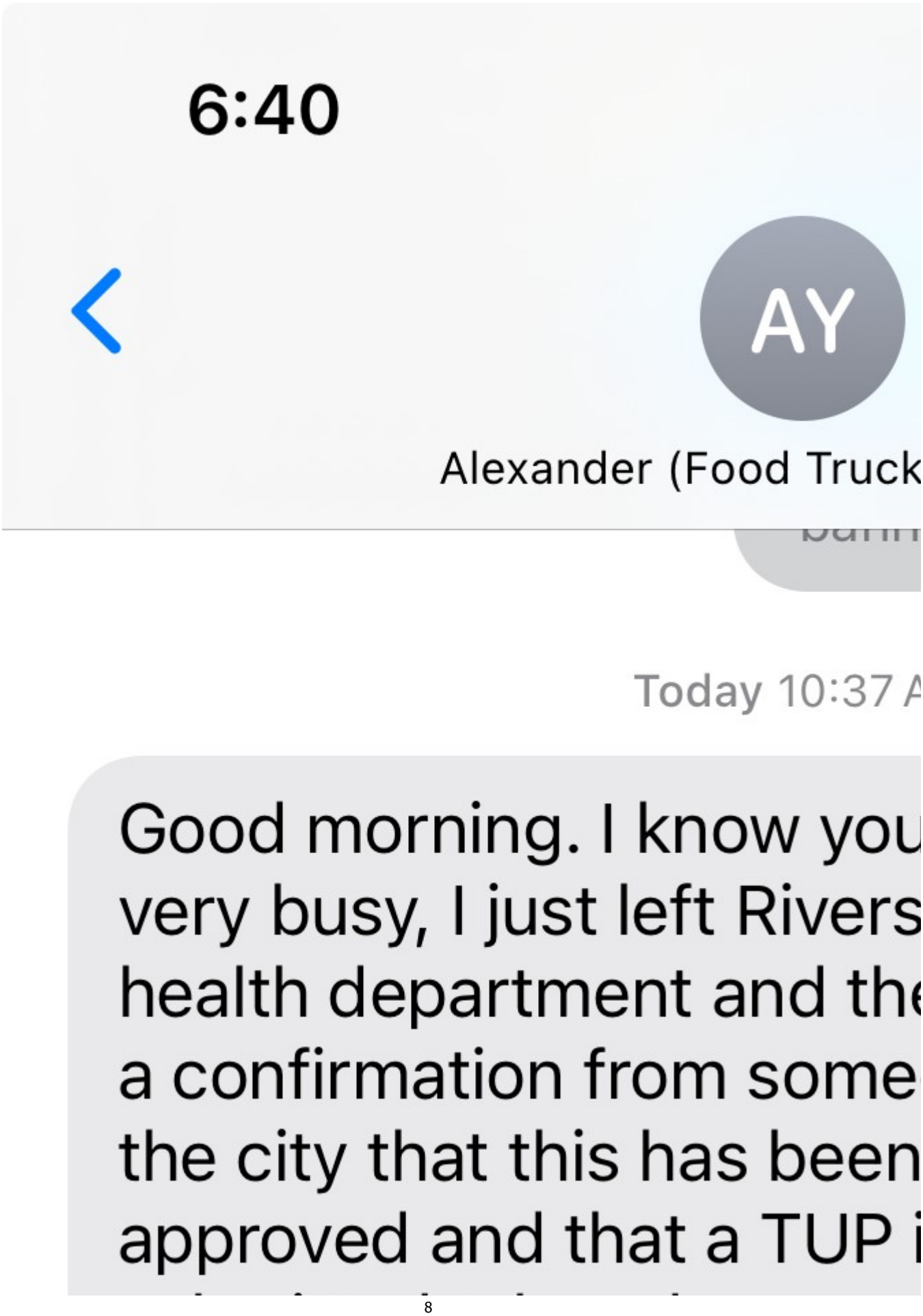
Hi @Robert,

I sent Alexander the link to apply for the business license.

Riverside County is requiring a Temporary Use Permit (TUP) in order to issue the necessary county permit for hosting the event.
These are the logistical challenges I anticipated, especially given the tight timeline. I'm more than happy to assist in moving things forward; however, with ICSC and a fully booked schedule this week, my availability is limited. I'll do as much as I can to support the process.
The county has stated that a copy of the TUP submittal or approval be issued/emailed by tomorrow. To proceed, Riverside County needs either the issued permit or confirmation from the City of Banning in an email confirming that Alexander from Wanderlust Events to Rebecca Barraza Riverside County—stating that a TUP application has been submitted. At this point, I cannot provide that confirmation because the TUP has not been submitted. @Robert, if you'd like to move forward, please send an email to:

Rebecca Barraza
Riverside County
rbarraza@rivco.org
The county requires a copy of the issued permit due to life and safety concerns related to the event.
@David, what's the fastest your team can process the TUP?
Alexander from Wanderlust Events
sent me the text messages attached below for your reference. The gray boxes contain his messages, and the blue boxes are my responses.


6:40
AY
Alexander (Food Truck
Today 10:37 A
Good morning. I know you
very busy, I just left Rivers
health department and the
a confirmation from some
the city that this has been
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From: Robert Fisher <rfisher@banningca.gov>
Sent: Thursday, May 15, 2025 9:16:06 AM
To: Marisol Lopez <marisol.lopez@banningca.gov>
Subject: RE: Hemet Food Truck Temporary Use Permit and waiver of all costs discussion

I think that was the only item Council was requiring them to obtain. Have you looked into the costs for bathrooms, picnic tables & chairs, along with trash cans?

Robert Fisher
Police Lieutenant
(Acting City Manager)

Banning Police Department
Direct Line: 951-849-1669
Direct Fax: 951-922-0039
rfisher@banningca.gov
P.O. Box 1177
125 E. Ramsey Street
Banning, CA 92220
www.banningca.gov

From: Marisol Lopez <marisol.lopez@banningca.gov>
Sent: Wednesday, May 14, 2025 6:34 PM
To: Robert Fisher <rfisher@banningca.gov>
Cc: Ralph Wright <rwright@banningca.gov>
Subject: RE: Hemet Food Truck Temporary Use Permit and waiver of all costs discussion

Just to confirm the Food Truck Wanderlust Events will need to obtain a business license for the entire event or each food truck obtain a business licenses?

Best regards,

My core working hours are Monday to Thursday from 7:30 AM to 5:30 PM. I will respond to your email as soon as possible.

Marisol Lopez
Economic Development Manager
City of Banning
P: (951) 922-3181
C: (909) 222-8235
marisol.lopez@banningca.gov
99 E. Ramsey Street
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Thank you!

From: Robert Fisher <rfisher@banningca.gov>
Sent: Wednesday, May 14, 2025 5:53 PM
To: Marisol Lopez <marisol.lopez@banningca.gov>
Subject: FW: Hemet Food Truck Temporary Use Permit and waiver of all costs discussion

Robert Fisher
Police Lieutenant
(Acting City Manager)

Banning Police Department
Direct Line: 951-849-1669
Direct Fax: 951-922-0039
rfisher@banningca.gov
P.O. Box 1177
125 E. Ramsey Street
Banning, CA 92220
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From: John O. Pinkney <pinkney@sbemp.com>
Sent: Wednesday, May 14, 2025 10:06 AM
To: Robert Fisher <rfisher@banningca.gov>
Subject: Hemet Food Truck Temporary Use Permit and waiver of all costs discussion

https://citizenportal.ai/Search/View?dp=1&key=2836391-6872af066493d00e7c79771ca5dff61a&start=12515&end=13944

From: Vincent Avila
Sent: Wednesday, May 21, 2025 9:58 AM
To: Michelle Green; Arturo Vela; Marisol Lopez
Subject: FW: Overtime estimate
Attachments: Burden Rate - 2200_Police Officer-as of 05.11.25.pdf

Importance: High

Morning Michelle,

See attached for overtime rate for an officer. I was going to have officers work 6 hours overtime from 4:30 PM to 10:30 PM. Which would be a total cost of $1, 298.64 ($108.22 an hour) for two officers working the food truck event every Sunday.

Thank you,

From: Austin Flint <aflint@banningca.gov>
Sent: Wednesday, May 21, 2025 9:28 AM
To: Vincent Avila <vavila@banningca.gov>
Cc: Payrollstaff <Payroll@banningca.gov>
Subject: RE: Overtime estimate
Importance: High

Hey Vince – **$108.22** is the hourly OT rate at top step/classic/multiple add pays.

Thanks!

Austin Flint, MBA
Senior Accountant
Finance Department
City of Banning
Direct Mobile: 951-590-2065
Direct Office: 951-922-3115
Direct Fax: 951-846-8615
aflint@banningca.gov
99 E. Ramsey Street
Banning, CA 92220
www.banningca.gov

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From: Vincent Avila <vavila@banningca.gov>
Sent: Tuesday, May 20, 2025 2:59 PM
To: Austin Flint <aflint@banningca.gov>
Subject: Overtime estimate

Austin,

Can you give me a top step overtime rate for an officer working overtime.

Vincent Avila
Chief of Police
Banning Police Department
Direct Line: 951-849-1281
Direct Fax: 951-922-0039
vavila@banningca.gov
P.O. Box 1177
125 E. Ramsey Street
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POLICE OFFICER
Burden Rate
Fiscal Year 2024-2025

POLICE OFFICER

HOURLY RATE: $ 127.06 **ANNUAL: $ 273,424.17**

SALARY:		Rate per Hour	Annual Salary
Regular	84	54.57	119,177.60
Comp Time Payoffs (max 100/yr)	100	2.50	5,456.85
Holiday Payoffs (max 120/yr)	120	3.00	6,548.22
Sick Payoffs (max 50/yr)	50	0.02	2,728.43
Vacation Payoffs (max 80/yr)	80	2.00	4,365.48
TOTAL SALARY:		**$ 62.09**	**$ 138,276.58**

ADDITIONAL PAYS:			
Benefit Allowance	$2,266	13.08	27,197.76
Bilingual Pay	5%	2.86	5,958.88
Educ Incent	$350	2.02	4,200.00
FTO	5%	2.86	5,958.88
Special Assignment	5%	2.86	5,958.88
Uniform Allowance	$150	0.87	1,800.00
TOTAL ADD PAYS:		**$ 24.56**	**$ 51,074.40**

CITY PAID BENEFITS:			
EPMC	4.00%	2.75	5,722.17
FICA-Medicare	1.45%	1.32	2,745.59
FICA-Regular	6.20%	5.64	11,739.76
Life Insurance	$7.80	0.05	93.60
PERS Safe ER TIER I	29.30%	20.15	41,914.89
SUI	0.61%	0.35	726.98
Workers Comp	17.73%	10.16	21,130.19
TOTAL CITY PD BENEFITS:		**$ 40.42**	**$ 84,073.19**
			$ 273,424.17 TOTAL ANNUAL

BURDEN HOURLY RATE $ 127.06

BURDEN OVERTIME RATE $ 108.22

***LESS PAYOFFS, BENE, RES, UNI, EMPC, LIFE, PERS, SUI, WC.**

Based on MOU dated March 28, 2024 -March 27, 2027

From: Ralph Wright
Sent: Wednesday, May 21, 2025 11:14 AM
To: Marisol Lopez; Caroline Patton; Cornelio Datuin; Arturo Vela; Robert Fisher
Cc: David Newell; Robert Fisher; Michelle Green
Subject: RE: Hemet Food Truck Temporary Use Permit and waiver of all costs discussion

Marisol,

There are a couple of scenarios on portable toilets and some concerns with whichever direction we go. If we have portables out there, we can be provided with a lock to better secure them until the scheduled event. However, in the past these have often been broken into , locks cut, hasp broken etc. Additionally, I have seen port a pots tipped over, vandalized partially and or completely. If they are damaged, it would be the City's responsibility to pay for the damages. For that reason, I believe the shorter the time the are left on site, the better.

They do not delivery or pick up on Sundays but there is a delivery option for Saturdays with an additional cost.

Here is the information for portable toilets for the cost breakdown:

Option # 1 - Weekly cost for 2 portable restrooms(1 handicap) and a handwashing station – delivered on Friday with a 4 hour delivery window(We might be able to tighten that for an ongoing use. Picked up on Monday mornings**. $370 to $400 per week. For an 8-week series, up to $3,200.**
Option # 2 – Weekly cost to have the units delivered on Saturdays there is an additional cost of $175 per week. (For multiple weeks, they will reduce this Saturday charge to $125 each week) - **Weekly cost up to $525.00 per week. For an 8-week series, up to $4,150.**
Option # 3 – Monthly fee with weekly service. This would have the units stay on site the entire event timeframe. Service could take place on Friday each week. This option is considerably less expensive but I believe the chance of vandalism or units unable to properly be available for the Sunday event is very high if these units are left for any unattended length of time.
Delivered prior to first event and left on site. Services once a week on Friday – Monthly cost of 2 portable restrooms(1 handicap) and a handwashing station $**625 includes $150 to $200 initial delivery charge.** I want to reiterate that I don't believe this is a viable option. When we have had portables delivered at the Community Center one day before scheduled events, they have been vandalized and tipped over at least twice in the last two years.

If you have any questions or need further clarification, please let me know.

Best Regards,
Ralph

Ralph Wright
Parks and Recreation Director
City of Banning
Direct Line: 951-922-3241
Cell: 909-219-0980
rwright@banningca.gov
789 N. San Gorgonio
Banning, CA 92220
www.banningca.gov

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Sent: Tuesday, May 20, 2025 6:18 PM
To: Caroline Patton <cpatton@banningca.gov>; Cornelio Datuin <cdatuin@banningca.gov>; Arturo Vela <avela@banningca.gov>; Robert Fisher <rfisher@banningca.gov>
Cc: David Newell <dnewell@banningca.gov>; Robert Fisher <rfisher@banningca.gov>; Ralph Wright <rwright@banningca.gov>; Michelle Green <mgreen@banningca.gov>
Subject: Re: Hemet Food Truck Temporary Use Permit and waiver of all costs discussion

Good afternoon team,

Please provide a total cost of what it will cost to rent the Porta potties, lighting and any other cost for this event to occur. Council is requesting the full financial impact of the food truck event be reported back to city council in the next city council meeting as an agenda item. With a full fiscal impact to the City of Banning. @Robert Fisher please provide direction as to what is needed. You sent me a text message, but I need clarification and so does the staff. I will be driving back from Las Vegas tomorrow. so I will have limited to no reception or communication.

Sincerely,

Marisol Lopez
Economic Development Manager
City of Banning
Direct Line: (951) 922-3181
City Cell : (909) 222-8235
marisol.lopez@banningca.gov
99 E. Ramsey Street
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To: Cornelio Datuin <cdatuin@banningca.gov>; Arturo Vela <avela@banningca.gov>; Robert Fisher <rfisher@banningca.gov>
Cc: David Newell <dnewell@banningca.gov>; Robert Fisher <rfisher@banningca.gov>; Ralph Wright <rwright@banningca.gov>; Marisol Lopez <marisol.lopez@banningca.gov>; Michelle Green <mgreen@banningca.gov>
Subject: Re: Hemet Food Truck Temporary Use Permit and waiver of all costs discussion

Reminder that the current budgets for these accounts are likely already dedicated to purchases. We will need to allot new monies for anything connected to this event.

Caroline Patton, MPA, CMC
Administrative City Clerk
City of Banning
Direct Line: 951-922-3102
cpatton@banningca.gov
99 E. Ramsey Street
Banning, CA 92220
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>
> Kind regards,

Marisol Lopez

Economic Development Manager

City of Banning
Direct Line: (951) 922-3181

City Cell : (909) 222-8235

marisol.lopez@banningca.gov

99 E. Ramsey Street

Banning, CA 92220

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https://banningca.gov/DocumentCenter/View/13994/Sample-Site-Plan--City-of-Banning

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Director, Community Development Department
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Direct Line: 951-922-3131
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Hi @Robert,

I sent Alexander the link to apply for the business license.

Riverside County is requiring a Temporary Use Permit (TUP) in order to issue the necessary county permit for hosting the event.

These are the logistical challenges I anticipated, especially given the tight timeline. I'm more than happy to assist in moving things forward; however, with ICSC and a fully booked schedule this week, my availability is limited. I'll do as much as I can to support the process.

The county has stated that a copy of the TUP submittal or approval be issued/emailed by tomorrow. To proceed, Riverside County needs either the issued permit or confirmation from the City of Banning in an email confirming that Alexander from Wanderlust Events to Rebecca Barraza Riverside County—stating that a TUP application has been submitted. At this point, I cannot provide that confirmation because the TUP has not been submitted.

@Robert, if you'd like to move forward, please send an email to:

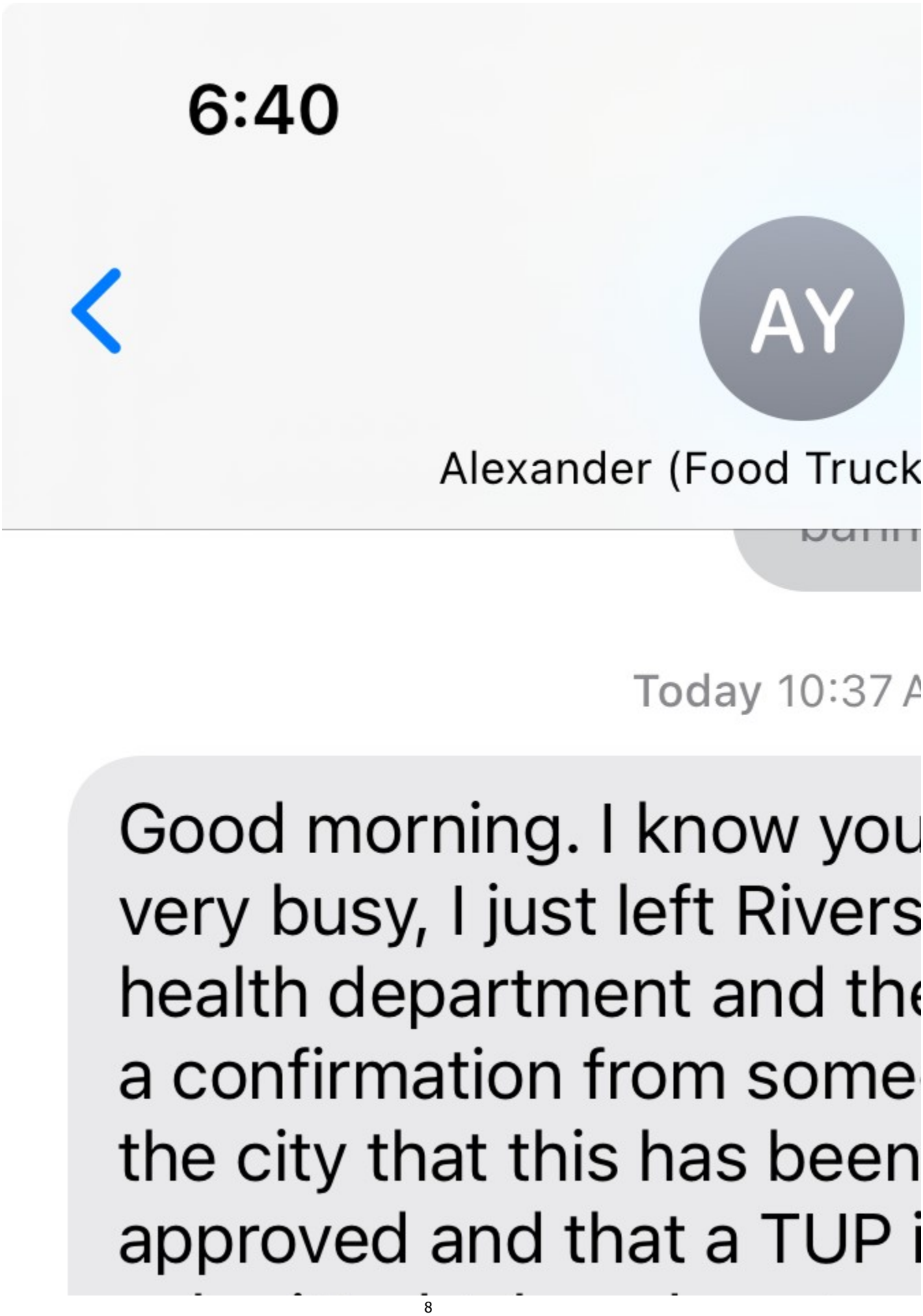
Rebecca Barraza
Riverside County
rbarraza@rivco.org

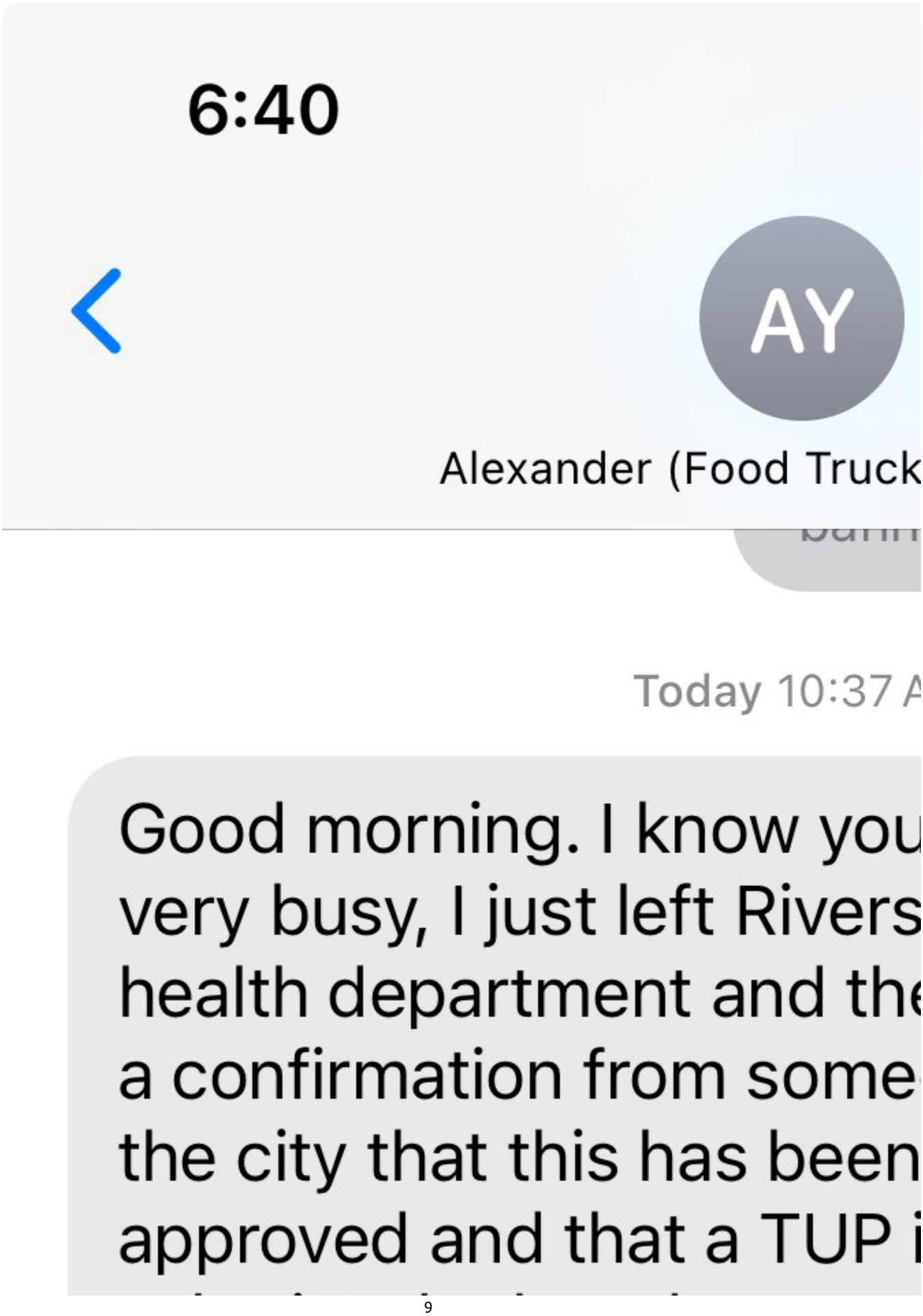
The county requires a copy of the issued permit due to life and safety concerns related to the event.

@David, what's the fastest your team can process the TUP?

Alexander from Wanderlust Events

sent me the text messages attached below for your reference. The gray boxes contain his messages, and the blue boxes are my responses.


6:40
AY
Alexander (Food Truck
Today 10:37 A
Good morning. I know you
very busy, I just left Rivers
health department and the
a confirmation from some
the city that this has been
approved and that a TUP i


6:40
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a confirmation from some
the city that this has been
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Marisol Lopez

Economic Development Manager

City of Banning
Direct Line: (951) 922-3181

City Cell : (909) 222-8235

marisol.lopez@banningca.gov

99 E. Ramsey Street

Banning, CA 92220

www.banningca.gov

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From: Robert Fisher <rfisher@banningca.gov>
Sent: Thursday, May 15, 2025 9:16:06 AM
To: Marisol Lopez <marisol.lopez@banningca.gov>
Subject: RE: Hemet Food Truck Temporary Use Permit and waiver of all costs discussion

I think that was the only item Council was requiring them to obtain. Have you looked into the costs for bathrooms, picnic tables & chairs, along with trash cans?

Robert Fisher
Police Lieutenant
(Acting City Manager)

Banning Police Department
Direct Line: 951-849-1669
Direct Fax: 951-922-0039
rfisher@banningca.gov
P.O. Box 1177
125 E. Ramsey Street
Banning, CA 92220
www.banningca.gov

From: Marisol Lopez <marisol.lopez@banningca.gov>
Sent: Wednesday, May 14, 2025 6:34 PM
To: Robert Fisher <rfisher@banningca.gov>
Cc: Ralph Wright <rwright@banningca.gov>
Subject: RE: Hemet Food Truck Temporary Use Permit and waiver of all costs discussion

Just to confirm the Food Truck Wanderlust Events will need to obtain a business license for the entire event or each food truck obtain a business licenses?

Best regards,

My core working hours are Monday to Thursday from 7:30 AM to 5:30 PM. I will respond to your email as soon as possible.

Marisol Lopez
Economic Development Manager
City of Banning
P: (951) 922-3181
C: (909) 222-8235
marisol.lopez@banningca.gov
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Thank you!

From: Robert Fisher <rfisher@banningca.gov>
Sent: Wednesday, May 14, 2025 5:53 PM
To: Marisol Lopez <marisol.lopez@banningca.gov>
Subject: FW: Hemet Food Truck Temporary Use Permit and waiver of all costs discussion

Robert Fisher
Police Lieutenant
(Acting City Manager)

Banning Police Department
Direct Line: 951-849-1669
Direct Fax: 951-922-0039
rfisher@banningca.gov
P.O. Box 1177
125 E. Ramsey Street
Banning, CA 92220
www.banningca.gov

From: John O. Pinkney <pinkney@sbemp.com>
Sent: Wednesday, May 14, 2025 10:06 AM
To: Robert Fisher <rfisher@banningca.gov>
Subject: Hemet Food Truck Temporary Use Permit and waiver of all costs discussion

https://citizenportal.ai/Search/View?dp=1&key=2836391-6872af066493d00e7c79771ca5dff61a&start=12515&end=13944

From: Wanderlust Events <wanderlustevents951@gmail.com>
Sent: Wednesday, May 21, 2025 2:16 PM
To: Marisol Lopez
Cc: Robert Fisher; Ralph Wright; Arturo Vela; David Newell; Vincent Avila; John Garside; Caroline Patton
Subject: Re: Toilet UPDATE Banning Food Truck Festival

Good Afternoon All,
I have just gotten off the phone with a Portable Toilet Rental company that is willing to rent 1 Portable Toilet, 1 ADA Toilet and 1 Hand Wash Sink at $802.74 Per Month. If this is too much for the City, we would be willing to cover these costs.

We are working hard to make this event a success, without putting too much stress on the City of Banning's Staff and Purse.

Please let me know your thoughts.
Alexander Yepremian

On Wed, May 21, 2025 at 1:02 PM Marisol Lopez <marisol.lopez@banningca.gov> wrote:

> Good morning, Alexander,
>
> Per the request of the City Manager, @Robert, a full accounting of all costs incurred by the City of Banning related to the Banning Food Truck Festival of the following items:
>
> - Setup and removal of temporary restrooms
> - lighting
> - Staff time
> - Processing of the Temporary Use Permit (TUP)
> - Confirm event dates
>
> This cost analysis will be presented as an agenda item at the City Council Meeting scheduled for May 27, 2025, at 5:00 PM, which city council will then provide direction to staff of next steps. The direction Council provided in the City Council meeting May 13, 2025, was to develop the plan for the event.
>
> Best regards,

My core working hours are Monday to Thursday from 7:30 AM to 5:30 PM. I will respond to your email as soon as possible.

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Economic Development Manager

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Thank you!

From: Wanderlust Events <wanderlustevents951@gmail.com>
Sent: Monday, May 19, 2025 7:45 AM
To: Marisol Lopez <marisol.lopez@banningca.gov>
Cc: Robert Fisher <rfisher@banningca.gov>; Ralph Wright <rwright@banningca.gov>; Arturo Vela <avela@banningca.gov>; David Newell <dnewell@banningca.gov>; Vincent Avila <vavila@banningca.gov>; John Garside <jgarside@banningca.gov>
Subject: Re: Banning Food Truck Festival

Good Morning Banning,

We want to extend our gratitude for your support in helping to make the Wanderlust Food Truck Festival a resounding success. Your collaboration and dedication will play a pivotal role in bringing this community event to life.

As previously discussed, Wanderlust will take care of the table rentals and trash removal. We appreciate the city's commitment to managing the lights, restrooms, and police patrol, ensuring a smooth and enjoyable experience for everyone involved.

Thank you once again for your invaluable support and partnership. We look forward to continuing this successful collaboration.

For any questions, please feel free to reach out to us.

Alexander Yepremian & Ben Smith

760-755-9711



On Fri, May 16, 2025 at 8:26 PM Marisol Lopez <marisol.lopez@banningca.gov> wrote:

> Good evening, Alexander,

Thank you for your email. As the Wanderlust/City of Banning Food Trucks events is two weeks away June 1st event. Please email me and the staff attached in this email the flyer so my Colleague @John Garside Multimedia Specialist can start sharing on City of Banning Social Media sites.

I am confirming per our conversations via text and phone calls you will organize/coordinate and pay for the security officers, tables, chairs, trash cans service set up, pick up, and empty.

The city will cover the costs/set up and removal of the @Ralph Wright restrooms, @Arturo Vela lighting and Chief @Vincent Avila will have officers patrol the area occasionally, and @David Newell and his team are processing the temporary use permit (TUP).

Best regards,

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Thank you!

From: Wanderlust Events <wanderlustevents951@gmail.com>
Sent: Thursday, May 15, 2025 7:56 AM

To: Robert Fisher <rfisher@banningca.gov>
Cc: Marisol Lopez <marisol.lopez@banningca.gov>; Ralph Wright <rwright@banningca.gov>
Subject: Banning Food Truck Festival

Good Morning Mr Fisher,

It was very nice to meet you on Tuesday at the City Council Meeting and I really appreciate everyone's support to make this a great community event.

As we are just over two weeks away from the June 1st event, we want to make it all happen with as little stress on the city's staff as possible, we will take care of renting the tables and chairs as well as have our team set as security.

If we could still have Banning PD pass by a few times in the night, that would be great.

We ask that the portable toilets, lighting and trash removal be set up for Sundays, starting June 1st, we will take care of the rest.

Please let me know if there is anything else you would need from us.

Thank you all again for your support.

Alexander Yepremian

Wanderlust Events

760-755-9711s

GRAND
PARTY RENTALS

(https://www.facebook.com/grandpartyrentals) (https://www.yelp.com/grandpartyrentals) (https://www.instagram.com/grandpartyrentals)

(/)

951-845-5545 (tel:951-845-5545)
contact@grandpartyrentals.com
(mailto:contact@grandpartyrentals.com)

1 Cart (/cart/) 2 Customer Info (/checkout/1/) 3 Event Info (/checkout/2/) 4 Payment Options (https://grand.ourers.com/pay/?otoken=112977-2fk2s8no8uhi3-189423-rt7rbp3qllt9l-167292)

Order #20858

Sun, Jun 15 5:00 → 11:00 pm

One More Step! Please review your order and complete the form below to confirm your order and finish.

Cart



8' Rectangle Table

$12.00 x 7 = $84.00

Set Up and Tear Down $1.00 x 7



White Plastic Folding Chair

$1.85 x 70 = $129.50

Set Up and Tear Down $1.00 x 70

SubTotal		$290.50
Same day pick up - YES	$50.00	$340.50

Liability Insurance - Yes -NOTE: we need at least 1-2 weeks in advance for the insurance.	$30.00	$370.50
Damage Waiver - Yes	$25.94	$396.44
Travel Fee for Banning	$40.00	$436.44
Tax: 7.75% of $290.50	$22.51	$458.95
Total		$458.95
Min Payment Req'd		$229.48
Due		$458.95

Payment Options

Credit Card (Visa, MC, Disc, Amex)

OR

Submit Quote

- (•) Pay All ($458.95)
- ( ) Pay Deposit Due ($229.48)

Edit Billing Info

I'm not a robot

reCAPTCHA
Privacy - Terms

Click to Enter Card Info

Read our Terms of Use (https://www.eventrentalsystems.com/terms-of-use/) and Privacy Policy (https://www.eventrentalsystems.com/privacy-policy/)

Submit

ONLINE BOOKING

1. Select your event date & time of arrival
2. Add items to cart
3. Checkout

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Powered by Event Rental Systems (https://www.eventrentalsystems.com/?el=customer-site-grand)

(888) 960-3006 (tel:8889603006)

Checkout

Returning customer? Click here to login

Have a coupon? Click here to enter your code

Billing details

First name * Marisol

Last name * Lopez

Company name (optional) City of Banning

Country / Region * United States (US)

Street address * 99 E Ramsey St. Banning, Ca 92220

Apartment, suite, unit, etc. (optional)

Town / City * Banning

State * California

ZIP Code * 92220

Phone *

Ship to a different address?

Order notes (optional)

Notes about your order, e.g. special notes for delivery.

Contact us

19092228235

English

Email address *

marisol.lopez@banningca.gov

☐ **Subscribe to our newsletter**

☐ **Create an account?**

Your order

Product	Subtotal
Table Rectangular 6 feet **× 10**	$100.00
Plastic Folding White Chair **× 80**	$160.00
Subtotal	**$260.00**
Shipping	**Postcode Shipping(postcode): $20.00**
Total	**$280.00**

◉ **Cash on Delivery**

Pay with cash upon delivery.

○ **PayPal** **What is PayPal? (https://www.paypal.com/us/webapps/mpp/paypal-popup)**

○ **Credit card**

NOTE: All Paypal payments are final. In case of cancellation, store credit for the full amount is good for 1 year from the date of payment

Your personal data will be used to process your order, support your experience throughout this website, and for other purposes described in our privacy policy (https://wowpartyrental.com/terms-and-conditions/).

Place order

It all started with a great idea and a little hard work. Today we're proud to provide quality products direct to your doorstep through an experience you'll enjoy. And most of all, we hope you'll enjoy the products as much as we do. Call or email us today to let us know what you think We'd love to hear from you!

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(https://www.instagram.com/wowpartyrental.ca/)

Facebook

(https://www.facebook.com/InfoWowpartyrental)

Contact us

Contact us

1

From: Wanderlust Events <wanderlustevents951@gmail.com>
Sent: Wednesday, May 21, 2025 1:13 PM
To: Marisol Lopez
Cc: Robert Fisher; Ralph Wright; Arturo Vela; David Newell; Vincent Avila; John Garside; Caroline Patton
Subject: Re: Banning Food Truck Festival

Good afternoon all,
Thank you for letting me know. We will be at the city council meeting on the 27th.

Thank you.
Alexander Yepremian

On May 21, 2025, at 1:02 PM, Marisol Lopez <marisol.lopez@banningca.gov> wrote:

Good morning, Alexander,

Per the request of the City Manager, @Robert, a full accounting of all costs incurred by the City of Banning related to the Banning Food Truck Festival of the following items:

1. Setup and removal of temporary restrooms
2. lighting
3. Staff time
4. Processing of the Temporary Use Permit (TUP)
5. Confirm event dates

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Marisol Lopez

Economic Development Manager

City of Banning
P: (951) 922-3181

C: (909) 222-8235

<image001.png>

marisol.lopez@banningca.gov

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Please let me know if there is anything else you would need from us.

Thank you all again for your support.

Alexander Yepremian

Wanderlust Events

760-755-9711s

Wonderlust - Public Works Labor Cost

Street Maintenance Workers	2
Number of Events	8

Fully Burden (O.T. w/ Standby)	Hours/Event	Event Cost	Total Cost Based on Number of Workers and Events
$ 76.43	5	$ 382.15	$ 6,114.40

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AMENDMENT NO. 1 TO CONTRACT SERVICES AGREEMENT (C00845) FOR CUSTODIAL SERVICES AND BETWEEN CITY OF BANNING AND EXECUTIVE FACILITIES SERVICES, INC.

THIS AMENDMENT NO. 1 TO THE CONTRACT SERVICES AGREEMENT FOR SERVICES ("Amendment No. 1") by and between the **CITY OF BANNING** ("City") and **EXECUTIVE FACILITIES SERVICES, INC.**, a California corporation ("Contractor") is effective as of this day: June 11, 2024.

RECITALS

A. City and Contractor entered into that certain Contract dated June 7, 2023 for the purpose of providing Custodial Services ("Agreement") following Request for Proposals (RFP No. 23-023), as approved by City Council Resolution 2023-92.

B. City and Contractor now desire to amend the Agreement to extend the Term of the Agreement to June 30, 2025, and increase the Contract Sum to Four Hundred Six Thousand Two Hundred Forty-Four Dollars and Eighty-Six Cents ($406,244.86).

The Parties therefore agree follows:

1. Amended Terms. The Agreement is hereby amended as follows:

1.1 The Scope of Services as set forth in Section 1.1 of and Exhibit A to the Agreement is hereby amended to include the Services set forth in Attachment 1, attached hereto and incorporated herein.

1.2 The maximum compensation for the Services performed pursuant to this Amendment No. 1 shall not exceed Two Hundred Twenty-One Thousand Four Hundred Ninety-Two Dollars and Forty-Four Cents ($221,492.44) thereby increasing the Contract Sum, as set forth in Section 2.1 of the Agreement, to Four Hundred Six Thousand Two Hundred Forty-Four Dollars and Eighty-Six Cents ($406,244.86).

1.3 The Term of the Agreement, as set forth in Section 3.4 of the Agreement, is hereby extended through June 30, 2025, unless sooner terminated or extended as provided in the Agreement.

1.4 Exhibit C-1 to the Agreement is hereby amended to read as set forth in Attachment 2, attached hereto and incorporated herein.

2. Miscellaneous Provisions

2.1 Continued Effect of Agreement. Except as amended by this Amendment No. 1, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment No. 1, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by Amendment No. 1. In the event of a conflict between the provisions

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of this Amendment No. 1 and the provisions of the Agreement, the provisions of this Amendment No. 1 shall control.

2.2 Consideration for Amendment. The parties hereby agree that they have each received adequate and independent consideration for the modifications to the Agreement set forth in this Amendment No. 1.

2.3 Authority. The persons executing this Amendment No. 1 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 1 on behalf of said party, (iii) by so executing this Amendment No. 1, such party is formally bound to the provisions of this Amendment No. 1, and (iv) entering into this Amendment No. 1 does not violate any provision of any other agreement to which said party is bound.

2.4 Counterparts. This Amendment No. 1 may be signed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument.

2.5 Electronic Signatures. Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Agreement and such other documents transmitted by the Parties.

[*SIGNATURE PAGE FOLLOWS*]

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The Parties are signing this Amendment No. 1 on the date stated in the introductory clause.

CITY OF BANNING

Douglas Schulze,
City Manager

City Council Approval: RESO # 2024-090

ATTEST:

Caroline Patton
Administrative City Clerk

APPROVED AS TO FORM:
Richards, Watson & Gershon

Serita R. Young
City Attorney

CONTRACTOR

Jim Ferraro

NAME: Jim Ferraro
TITLE: OWNER

NAME:
TITLE:

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONTRACTOR'S BUSINESS ENTITY.

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ATTACHMENT 2

The Contractor shall provide and stock soap for dispensers, trash liners and paper products: toilet tissue, seat liners, and paper towels, for the services set forth in the specifications of Exhibit A of the Agreement. Contractor shall provide an itemized list of the consumables utilized by service area as part of the monthly invoice for reimbursement.

The grade of consumable supplies in that contents shall meet SB 1383 requirements (summarized below) and be equitable or superior to City supplied stock in FY24.

- Toilet paper shall consist of at least 45 percent, by fiber weight, postconsumer recycled content fiber
- Paper towels shall consist of at least 40 percent, by fiber weight, postconsumer recycled content fiber
- Toilet seat covers shall consist of at least 20 percent, by fiber weight, postconsumer recycled content fiber

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ATTACHMENT 2

Rates and projected consumables

Qty	Unit	Items (Description, Size, Etc.)	Unit Price	Amount
12	Monthly	Banning City Hall (Civic Center) (5 days per week)	4048.78	$ 48,585.36
12	Monthly	City Yard (5 days per week)	2834.17	$ 34,010.04
12	Monthly	Banning Police Dept. - West (5 days per week)	5262.93	$ 63,155.16
12	Monthly	Fleet Maintenance Office (5 days per week)	405.26	$ 4,863.12
12	Monthly	Water Shop (3 days per week)	728.28	$ 8,739.36
12	Monthly	Community & Senior Center (Floors/windows)	535.90	$ 6,430.80
12	Monthly	Park Restrooms (3 days per week)	1944.88	$ 23,338.56
1	TBD	As Needed Services	2500.00	$ 2,500.00
12	Monthly	City Hall (Civic Center) consumable supplies	534.68	$ 6,416.16
12	Monthly	City Yard consumable supplies	374.26	$ 4,491.12
12	Monthly	PD consumable supplies	695.03	$ 8,340.36
12	Monthly	Fleet Maintenance consumable supplies	53.47	$ 641.64
12	Monthly	Water Shop consumable supplies	96.19	$ 1,154.28
12	Monthly	Community & Senior Center consumable supplies	70.78	$ 849.36
12	Monthly	Park Restroom consumable supplies	256.64	$ 849.36
1	TBD	Consumable supplies as needed	5000.00	$ 5,000.00

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Docusign Envelope ID: 91D24BDE-E988-4287-8DE0-63580DCE6119

AMENDMENT NO. 5 TO AGREEMENT FOR PROFESSIONAL SERVICES (C00763) FOR LANDSCAPE MAINTENANCE BETWEEN THE CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

1. PARTIES AND DATE

THIS AMENDMENT NO. 5 TO THE PROFESSIONAL SERVICES AGREEMENT ("Amendment No. 5") by and between the **CITY OF BANNING** ("City") and **MARIPOSA LANDSCAPES, INC.**, a California corporation ("Consultant") is effective this day of: 3/26/2025 _____.

2. RECITALS

2.1 City and Consultant entered into an agreement dated July 6, 2022 for the purpose of providing Landscape Maintenance Services ("Master Agreement") following Request for Proposals, RFP #2022-86 and approved by City Council Resolution No.2022-86.

2.2 City and Consultant have entered into an Amendment No.1 to the Master Agreement dated May 8, 2023, for the purpose of modifying the Scope of Services and increasing the compensation by an amount not to exceed Seven Thousand Two-Hundred Forty-Eight Dollars ($7,248.00) to the Master Agreement.

2.3 City and Consultant have entered into an Amendment No.2 to the Master Agreement dated, June 7, 2023 to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2024, and to provide compensation for the additional one-year term in an amount not to exceed One Hundred Thirty-Nine Thousand Seven Hundred Ninety-Three Dollars and Sixty-Four Cents ($139,793.64) as approved by City Council Resolution No. 2023-095.

2.4 City and Consultant have entered into an Amendment No.3 to the Master Agreement dated, September 14, 2023 to exercise the option to extend the Agreement for an additional services and to provide compensation in an amount not to exceed Four Thousand Two Hundred Twenty-Four Dollars ($4,224.00).

2.5 City and Consultant have entered into an Amendment No.4 to the Master Agreement dated, June 25, 2024 to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2025, and to provide compensation for the additional one-year term in an amount not to exceed One Hundred Forty-Eight Thousand Three Hundred Seventy-One Dollars and Forty-Eight Cents ($148,371.48) as approved by City Council Resolution No. 2024-081.

2.6 City and Consultant now desire to amend the Master Agreement to exercise the option to provide additional compensation for the as needed services in amount not to exceed Fifteen Thousand Dollars ($15,000.00).

Docusign Envelope ID: 91D24BDE-E988-4287-8DE0-63580DCE6119

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants, conditions, and promises contained in the Master Agreement, the Parties mutually agree follows:

3. INCORPORATION OF RECITALS

3.1 The recitals listed above are true and correct and are hereby incorporated herein by this reference.

4. AMENDMENT TERMS

4.1 The maximum compensation for services performed pursuant to this Amendment No. 5 to the Master Agreement, is hereby amended and shall not exceed Fifteen Thousand Dollars ($15,000.00) thereby increasing the total not to exceed compensation of the Master Agreement to the amount of Four Hundred Fifty-Five Thousand Four Hundred Forty-Four Dollars and Twelve Cents ($455,444.12). Work shall be performed at the rates set forth in the Master Agreement.

4.2 Continuing Effect of Agreement. Except as amended by this Amendment No. 5, all provisions of the Master Agreement as amended by Amendment No. 1, Amendment No. 2, Amendment No. 3, and Amendment No.4, shall remain unchanged and in full force and effect.

4.3 The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment No. 5.

4.4 The persons executing this Amendment No. 5 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 5 on behalf of said party, (iii) by so executing this Amendment No. 5, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Amendment No. 5 does not violate any provision of any other Agreement to which said party is bound.

4.5 This Amendment No. 5 may be signed in counterparts, each of which shall constitute an original.

4.6 Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Agreement and such other documents transmitted by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

Docusign Envelope ID: 91D24BDE-E988-4287-8DE0-63580DCE6119

IN WITNESS WHEREOF the Parties hereto have executed this Amendment No. **5** to the Master Agreement the day and year first hereinabove written.

CITY OF BANNING

Robert Fisher 3/26/2025

Robert Fisher, Date
Acting City Manager

ATTEST:

3/26/2025

Caroline Patton Date
Administrative City Clerk

MARIPOSA LANDSCAPES, INC.

3/17/2025

NAME: Terry Noriega Date
TITLE: President

3/11/2025

NAME: Antonio Valenzuela Date
TITLE: Secretary

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO THE CONSULTANT'S BUSINESS ENTITY.

Docusign Envelope ID: 91D24BDE-E988-4287-8DE0-63580DCE6119

ATTACHMENT "A"

RATE SCHEDULE FOR LANDSCAPE MAINTENANCE SERVICES OF CITY PROPERTIES

Line Item	Location	Quantity	Unit of Measure	FY 2024 Monthly Rate	FY 2024 Annual Rate	CPI 2.90%	New Monthly Rate	FY 2025 Annual Rate
1	Ramsey Street Medians from Highland Springs Avenue to Highland Home Avenue	12	Month	$1,908.10	**$22,897.20**	$55.33	$1,963.43	$ 23,561.16
2	Banning City Hall (Civic Center)	12	Month	$1,272.07	**$15,264.84**	$36.89	$1,308.96	$ 15,707.52
3	Banning Police Station (125 E. Ramsey Street)	12	Month	$1,484.08	**$17,808.96**	$43.04	$1,527.12	$ 18,325.44
4	Banning Police Station Northeast Parking Lot (125 E. Ramsey Street)	12	Month	$318.02	**$3,816.24**	$9.22	$327.24	$ 3,926.88
5	Fire Station (5261 W. Wilson Street)	12	Month	$636.03	**$7,632.36**	$18.44	$654.47	$ 7,853.64
8	Former Army National Guard Property (2041 W. Nicolet Street)	12	Month	$848.05	**$10,176.66**	$24.59	$872.64	$ 10,471.68
9	Brinton Reservoir (1700 N. Mountain Avenue)	12	Month	$1,060.06	**$12,720.72**	$30.74	$1,090.80	$ 13,089.60
10	Sunset Reservoir (1202 N. Sunset Avenue)	12	Month	$848.05	**$10,176.60**	$24.59	$872.64	$ 10,471.68
11	San Gorgonio Parking Lot	12	Month	$212.01	**$2,544.12**	$6.15	$218.16	$ 2,617.92
12	Fire Station 89 (172 N. Murray St) (added Amend 1)	12	Month	$906.00	**$10,872.00**	$26.27	$932.27	$ 11,187.24
13	Fire Administration building (4900 W. Wilson St) (addeded Amend 1)	12	Month	$906.00	**$10,872.00**	$26.27	$932.27	$ 11,187.24
14	West Ramsey Street Medians	12	Month	$626.00	**$7,512.00**	$18.15	$644.15	$ 7,729.80
15	Higland Spring Avenue Underpass (added Amend 3)	12	Month	$384.00	**$4,224.00**	$11.14	$395.14	$ 4,741.68
16	Services As Needed (Locations to be determined)				**$7,500.00**			$ 7,500.00
			Totals >>>	$11,408.47	$144,017.70	$330.82	$11,739.29	$148,371.48

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AMENDMENT NO. 4 TO AGREEMENT FOR PROFESSIONAL SERVICES (C00763) FOR LANDSCAPE MAINTENANCE BETWEEN THE CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

1. PARTIES AND DATE

THIS AMENDMENT NO. 4 TO THE PROFESSIONAL SERVICES AGREEMENT ("Amendment No. 4") by and between the **CITY OF BANNING** ("City") and **MARIPOSA LANDSCAPES, INC.**, a California corporation ("Consultant") is effective this day of: 6/25/2024 _____.

2. RECITALS

2.1 City and Consultant entered into an agreement dated July 6, 2022 for the purpose of providing Landscape Maintenance Services ("Master Agreement") following Request for Proposals, RFP #2022-86 and approved by City Council Resolution No.2022-86.

2.2 City and Consultant have entered into an Amendment No.1 to the Master Agreement dated May 8, 2023, for the purpose of modifying the Scope of Services and increasing the compensation by an amount not to exceed Seven Thousand Two-Hundred Forty-Eight Dollars ($7,248.00) to the Master Agreement.

2.3 City and Consultant have entered into an Amendment No.2 to the Master Agreement dated, June 7, 2023 to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2024, and to provide compensation for the additional one-year term in an amount not to exceed One Hundred Thirty-Nine Thousand Seven Hundred Ninety-Three Dollars and Sixty-Four Cents ($139,793.64) as approved by City Council Resolution No. 2023-095.

2.4 City and Consultant have entered into an Amendment No.3 to the Master Agreement dated, September 14, 2023 to exercise the option to extend the Agreement for an additional services and to provide compensation in an amount not to exceed Four Thousand Two Hundred Twenty-Four Dollars ($4,224.00).

2.5 City and Consultant now desire to amend the Master Agreement to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2025, and to provide compensation for the additional one-year term in an amount not to exceed One Hundred Forty-Eight Thousand Three Hundred Seventy-One Dollars and Forty-Eight Cents ($148,371.48).

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants, conditions, and promises contained in the Master Agreement, the Parties mutually agree follows:

3. INCORPORATION OF RECITALS

3.1 The recitals listed above are true and correct and are hereby incorporated herein by this reference.

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4. AMENDMENT TERMS

4.1 The maximum compensation for services performed pursuant to this Amendment No. 4 to the Master Agreement, is hereby amended and shall not exceed One Hundred Forty-Eight Thousand Three Hundred Seventy-One Dollars and Forty-Eight Cents ($148,371.48) thereby increasing the total not to exceed compensation of the Master Agreement to the amount of Four Hundred Forty Thousand Four Hundred Forty-Four Dollars and Twelve Cents ($440,444.12). Work shall be performed at the rates set forth in the Master Agreement.

4.2 The Term of the Agreement, as set forth in Section 3.4 of the Agreement, is hereby extended through June 30, 2025, unless sooner terminated or extended as provided in the Agreement.

4.3 Exhibit C-1 to the Agreement is hereby amended to read as set forth in Attachment "A", attached hereto and incorporated herein.

4.4 Continuing Effect of Agreement. Except as amended by this Amendment No. 4, all provisions of the Master Agreement as amended by Amendment No. 1, Amendment No. 2, and Amendment No. 3, shall remain unchanged and in full force and effect.

4.5 The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment No. 4.

4.6 The persons executing this Amendment No. 4 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 4 on behalf of said party, (iii) by so executing this Amendment No. 4, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Amendment No. 4 does not violate any provision of any other Agreement to which said party is bound.

4.7 This Amendment No. 4 may be signed in counterparts, each of which shall constitute an original.

4.8 Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Agreement and such other documents transmitted by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

DocuSign Envelope ID: C12E458B-514C-4AD8-9BBF-16BA2E6A9489

IN WITNESS WHEREOF the Parties hereto have executed this Amendment No. **4** to the Master Agreement the day and year first hereinabove written.

CITY OF BANNING

6/25/2024

Douglas Schulze, Date
City Manager

City Council Approval: 2024-081

ATTEST:

6/25/2024

Caroline Patton Date
Administrative City Clerk

APPROVED AS TO FORM:

6/14/2024

Serita R. Young
City Attorney

CONSULTANT

Terry Noriega 6/21/2024

NAME: Terry Noriega Date
TITLE: President

6/21/2024

NAME: Antonio Valenzuela Date
TITLE: Secretary

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO THE CONSULTANT'S BUSINESS ENTITY.

DocuSign Envelope ID: C12E458B-514C-4AD8-9BBF-16BA2E6A9489

ATTACHMENT "A"

RATE SCHEDULE FOR LANDSCAPE MAINTENANCE SERVICES OF CITY PROPERTIES

Line Item	Location	Quantity	Unit of Measure	FY 2024 Monthly Rate	FY 2024 Annual Rate	CPI 2.90%	New Monthly Rate	FY 2025 Annual Rate
1	Ramsey Street Medians from Highland Springs Avenue to Highland Home Avenue	12	Month	$1,908.10	**$22,897.20**	$55.33	$1,963.43	$ 23,561.16
2	Banning City Hall (Civic Center)	12	Month	$1,272.07	**$15,264.84**	$36.89	$1,308.96	$ 15,707.52
3	Banning Police Station (125 E. Ramsey Street)	12	Month	$1,484.08	**$17,808.96**	$43.04	$1,527.12	$ 18,325.44
4	Banning Police Station Northeast Parking Lot (125 E. Ramsey Street)	12	Month	$318.02	**$3,816.24**	$9.22	$327.24	$ 3,926.88
5	Fire Station (5261 W. Wilson Street)	12	Month	$636.03	**$7,632.36**	$18.44	$654.47	$ 7,853.64
8	Former Army National Guard Property (2041 W. Nicolet Street)	12	Month	$848.05	**$10,176.66**	$24.59	$872.64	$ 10,471.68
9	Brinton Reservoir (1700 N. Mountain Avenue)	12	Month	$1,060.06	**$12,720.72**	$30.74	$1,090.80	$ 13,089.60
10	Sunset Reservoir (1202 N. Sunset Avenue)	12	Month	$848.05	**$10,176.60**	$24.59	$872.64	$ 10,471.68
11	San Gorgonio Parking Lot	12	Month	$212.01	**$2,544.12**	$6.15	$218.16	$ 2,617.92
12	Fire Station 89 (172 N. Murray St) (added Amend 1)	12	Month	$906.00	**$10,872.00**	$26.27	$932.27	$ 11,187.24
13	Fire Administration building (4900 W. Wilson St) (addeded Amend 1)	12	Month	$906.00	**$10,872.00**	$26.27	$932.27	$ 11,187.24
14	West Ramsey Street Medians	12	Month	$626.00	**$7,512.00**	$18.15	$644.15	$ 7,729.80
15	Higland Spring Avenue Underpass (added Amend 3)	12	Month	$384.00	**$4,224.00**	$11.14	$395.14	$ 4,741.68
16	Services As Needed (Locations to be determined)				**$7,500.00**			$ 7,500.00
			Totals >>>	$11,408.47	$144,017.70	$330.82	$11,739.29	$148,371.48

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AMENDMENT NO. 3 TO AGREEMENT FOR PROFESSIONAL SERVICES (C00763) FOR LANDSCAPE MAINTENANCE BETWEEN THE CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

1. PARTIES AND DATE

THIS AMENDMENT NO. 3 TO THE PROFESSIONAL SERVICES AGREEMENT ("Amendment No. 3") by and between the **CITY OF BANNING** ("City") and **MARIPOSA LANDSCAPES, INC.**, a California corporation ("Consultant") is effective this day of: 9/14/2023.

2. RECITALS

2.1 City and Consultant entered into an agreement dated July 6, 2022 for the purpose of providing Landscape Maintenance Services ("Master Agreement") following Request for Proposals, RFP #2022-86 and approved by City Council Resolution No.2022-86.

2.2 City and Consultant have entered into an Amendment No.1 to the Master Agreement dated May 8, 2023, for the purpose of modifying the Scope of Services and increasing the compensation by an amount not to exceed Seven Thousand Two-Hundred Forty-Eight Dollars ($7,248.00) to the Master Agreement.

2.3 City and Consultant have entered into an Amendment No.2 to the Master Agreement dated, June 7, 2023 to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2024, and to provide compensation for the additional one-year term in an amount not to exceed One Hundred Thirty-Nine Thousand Seven Hundred Ninety-Three Dollars and Sixty-Four Cents ($139,793.64) as approved by City Council Resolution No. 2023-095.

2.4 City and Consultant now desire to amend the Master Agreement to modify the scope and to include additional compensation in an amount not to exceed of Four Thousand Two Hundred Twenty-Four Dollars ($4,224.00).

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants, conditions, and promises contained in the Master Agreement, the Parties mutually agree follows:

3. INCORPORATION OF RECITALS

3.1 The recitals listed above are true and correct and are hereby incorporated herein by this reference.

4. AMENDMENT TERMS

4.1 The Services are hereby amended to include the additional Services set forth in Attachment "A", attached hereto and incorporated herein.

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4.2 The maximum compensation for services performed pursuant to this Amendment No. 3 to the Master Agreement, is hereby amended and shall not exceed Four Thousand Two Hundred Twenty-Four Dollars ($4,224.00) thereby increasing the total not to exceed compensation of the Master Agreement to the amount of Two Hundred Ninety-Two Thousand Seventy-Two Dollars and Sixty-Four Cents ($292,072.64). Work shall be performed at the rates set forth in the Master Agreement.

4.3 Continuing Effect of Agreement. Except as amended by this Amendment No.3, all provisions of the Master Agreement as amended by Amendment No.1 and Amendment No.2, shall remain unchanged and in full force and effect.

4.4 The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment No. 3.

4.5 The persons executing this Amendment No. 3 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 3 on behalf of said party, (iii) by so executing this Amendment No. 3, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Amendment No. 3 does not violate any provision of any other Agreement to which said party is bound.

4.6 This Amendment No. 3 may be signed in counterparts, each of which shall constitute an original.

4.7 Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Agreement and such other documents transmitted by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

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IN WITNESS WHEREOF the Parties hereto have executed this Amendment No. **3** to the Master Agreement the day and year first hereinabove written.

CITY OF BANNING

9/14/2023

Douglas Schulze, Date
City Manager

City Council Approval: 2023-095

ATTEST:

9/14/2023

Caroline Patton Date
Deputy City Clerk

CONSULTANT

Terry Noriega 9/10/2023

NAME: Terry Noriega Date
TITLE: President

9/11/2023

NAME: Antonio Valenzuela Date
TITLE: Secretary

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO THE CONSULTANT'S BUSINESS ENTITY.

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ATTACHMENT "A"

MARIPOSA
LANDSCAPES INC

PROPOSAL

31813

Tuesday, July 18, 2023

Carl Szoyka – Public Works Superintendent

City of Banning
99 E Ramsey St
Banning, CA 92220
Phone 951-922-3286

Re: Landscape Maintenance at Highland Springs Avenue Underpass

Description	This proposal provides for all labor, material, and equipment to perform the following landscape maintenance services on the slope at Highland Springs Avenue underpass. Service will be performed according to current contract #C00763 specifications. This project has been discussed with Randy Chavez. 1. Provide biweekly maintenance including trimming and weed control. 2. Tree clearance as needed. 3. Check irrigation and trash removal.
Price	Total monthly price for above-described work..... $384.00 Three Hundred Eighty-Four And 00/100
Terms:	Net 30 days with monthly billing.
Exclusions:	Construction prevailing wages, any unforeseen underground obstacles, and anything not mentioned.
Time	Project start date is currently 5 days after acceptance.
Limits	Time limit for the acceptance of this proposal is 30 calendar days from the above date.

TEL 800 • 794 • 9458 • FAX 626 • 960 • 8477 • www.mariposa-ca.com
6232 SANTOS DIAZ ST., IRWINDALE, CA 91702 • CA CONTRACTOR'S LIC # 592268 A, C-27, D-49
Our Core Values – Safety • Teamwork • Quality • Integrity

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AMENDMENT NO. 2 TO AGREEMENT FOR CONTRACT SERVICES (C00698) FOR LANDSCAPE MAINTENANCE SERVICES FOR CITY PARKS BETWEEN CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

THIS AMENDMENT NO. 2 TO THE AGREEMENT FOR LANDSCAPE MAINTENANCE SERVICES FOR CITY PARKS ("Amendment No. 2") by and between the **CITY OF BANNING** ("City") and **MARIPOSA LANDSCAPES, INC.** ("Contractor") is effective as of this day: 6/15/2023.

RECITALS

A. On February 23, 2021, the City awarded a Landscape Maintenance Agreement to Mariposa Landscapes, Inc. The Agreement provided that Contractor would provide those services specified in the Agreement and in the Scope of Services attached to the Agreement as Exhibit "A-1". The Agreement included a Schedule of Compensation attached as Exhibit "C" which specified that Contractor's total compensation would not exceed One Hundred and Six Thousand Three Hundred and Fifty-Two Dollars ($106,352.00), which included a 10% contingency for additional work.

B. On March 22, 2021, the City and Contractor, executed the Landscape Maintenance Agreement for City Parks – (C00698).

C. On May 10, 2022, the City and Contractor amended the Agreement ("Amendment No. 1") to extend the term for an additional one-year term to expire June 30, 2023 and increase the compensation for services provided under the Agreement in an amount not to exceed One Hundred One Thousand Six Hundred Thirty-Eight Dollars and Eighty Cents ($101,638.80), as approved by City Council Resolution No. 2022-56.

D. City and Contractor now desire to amend the Agreement ("Amendment No. 2") in accordance with City Council approval to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2024, modify the scope of services to include additional landscape sites and to provide compensation for the additional one-year term and additional services in an amount not to exceed One Hundred and Thirty-Five Thousand Eight Hundred and Forty-Seven Dollars and Ninety-Seven Cents ($135,847.97) for a total not to exceed Contract Sum of Three Hundred Forty-Three Thousand Eight Hundred Thirty-Eight Dollars and Seventy-Seven Cents ($343,838.77).

TERMS

1. **Contract Changes**. The Agreement is amended as follows:

   a) Section 1.1 and Exhibit "A" to the Agreement is amended to include the amended scope of services attached as Attachment "1" to this Amendment 2.

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b) Section 2.1 ("Contract Sum") of the Agreement is amended to provide that the City agrees to pay Contractor a monthly amount of Ten Thousand Two Hundred Ninety-One Dollars and Fifty-One Cents ($10,291.51) for twelve (12) months through June 30, 2024. Additionally, the City may authorize extra work for services not included in the agreed Scope of Services of a not to exceed amount of Twelve Thousand Three Hundred and Forty-Nine Dollars and Eighty-Five Cents ($12,349.85) for a total not to exceed amount of One Hundred and Thirty-Five Thousand Eight Hundred and Forty-Seven Dollars and Ninety-Seven Cents ($135,847.97). The total compensation, including reimbursement for actual expenses shall not exceed Three Hundred Forty-Three Thousand Eight Hundred Thirty-Eight Dollars and Seventy-Seven Cents ($343,838.77) (the "Contract Sum").

c) Section 3.1 ("Term") of the Agreement is hereby amended to extend the Term of the Agreement to June 30, 2024.

2. **Continuing Effect of Agreement.** Except as amended by this Amendment No. 2, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment No. 2, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by Amendment Nos. 1 through 2. In the event of a conflict between the provisions of this Amendment No. 2 and the provisions of the Agreement or Amendment No. 1, the provisions of this Amendment No. 2 shall control.

3. **Affirmation of Agreement; Warranty Re Absence of Defaults.** City and Contractor each ratify and reaffirm each and every one of the respective rights and obligations arising under the Agreement. Each party represents and warrants to the other that there have been no written or oral modifications to the Agreement other than as provided herein. Each party represents and warrants to the other that the Agreement is currently an effective, valid, and binding obligation.

Contractor represents and warrants to City that, as of the date of this Amendment No. 2, City is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

City represents and warrants to Contractor that, as of the date of this Amendment No. 2, Contractor is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

4. **Adequate Consideration.** The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment No. 2.

5. **Authority.** The persons executing this Amendment No. 2 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 2 on behalf of said party, (iii) by so executing this Amendment No. 2, such party is formally bound to the provisions of this Amendment No. 2, and (iv) the

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entering into this Amendment No. 2 does not violate any provision of any other Agreement to which said party is bound.

6. **Electronic Signatures**. Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Amendment and such other documents transmitted by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

DocuSign Envelope ID: ABB0887B-E27D-4297-A050-CF5DF618481D

IN WITNESS WHEREOF the Parties hereto have executed this Amendment No. 2 the day and year first hereinabove written.

CITY OF BANNING

6/15/2023

Douglas Schulze, Date
City Manager

ATTEST:

6/15/2023

Caroline Patton Date
Deputy City Clerk

APPROVED AS TO FORM:
Richards, Watson & Gershon

Serita Young 6/5/2023

Serita Young Date
City Attorney

CONSULTANT

6/12/2023

NAME: Antonio Valenzuela Date
TITLE: Secretary

Terry Noriega 6/13/2023

NAME: Terry Noriega Date
TITLE: President

95-4245898

Tax ID No.

Address:
Mariposa Landscapes, Inc.
6232 Santos Diaz St.
Irwindale, CA 91702

City Council Approval: 2023-099

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

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ATTACHMENT "1"

Park's Landscape Maintenance - Per Site Cost Breakdown

Line Item	Location	Quantity	Unit of Measure	Orginal Monthly Rate	CPI 7.50%	New Monthly Rate	Annual Rate
1	Dysart Equestrian Park - 2101 Victory Ave	12	Month	$862.39	$64.68	$927.07	$11,124.83
2	Lion/s Park - 955 S. Hargrave Street	12	Month	$2,001.98	$150.15	$2,152.13	$25,825.54
3	Repplier Park - 201 W. George Street	12	Month	$2,032.78	$152.46	$2,185.24	$26,222.86
4	Roosevelt Williams - 1101 El George Street	12	Month	$831.59	$62.37	$893.96	$10,727.51
5	Sylvan Park - 2798 W. George Street	12	Month	$1,971.17	$147.84	$2,119.01	$25,428.09
6	Community Center & Senior Center (769 & 789 N. San Gorgonio Avenue)	12	Month	$887.49	$66.56	$954.05	$11,448.62
7	Aquatic Center (749 N. San Gorgonio)	12	Month	$986.10	$73.96	$1,060.06	$12,720.69
8	Repplier Park and Community Center Parkway. 749, 769 & 789 N. San Gorgonio Ave.	12	Month	Included in Line Items 6 & 7.	$0.00	$0.00	$0.00
			Totals >>>	$9,573.50	$718.01	$10,291.51	$123,498.15